

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending the )  
 Columbia County Comprehensive Plan )  
 and the Columbia County Zoning )  
 Ordinance regarding the Implemen- )      ORDINANCE NO. 2000-04  
 tation of Statewide Goal 5 and )  
 OAR 660-023-0180, and ORS 836.623 )  
 \_\_\_\_\_ )

The Board of County Commissioners for Columbia County, Oregon, ordains as follows:

SECTION 1.      TITLE.

This ordinance shall be known as Ordinance No. 2000-04.

SECTION 2.      AUTHORITY.

This ordinance is adopted pursuant to ORS 203.035, 197.628 through 197.646 and OAR 660-023-180(7).

SECTION 3.      PROCEDURAL HISTORY.

A. On April 2, 1998, the Board of County Commissioners (the "Board") adopted Ordinance No. 98-01 in accordance with the requirements of OAR 660-023-0180(7) and ORS 197.628 through 197.646. Ordinance No. 98-01 became effective on June 30, 1998.

B. On July 27, 1998, the Land Conservation and Development Commission ("LCDC") issued its Work Task Remand and Approval Order 98-WKTASK-00951 which directed Columbia County to "adopt an ordinance revising its comprehensive plan and land use regulations (Ordinance 98-01; Attachments D, E, and F) \* \* \*" by August 31, 1998.

C. Subsequently, the Port of St. Helens, City of Scappoose, and Transwestern Aviation, Inc., filed a Petition for Judicial Review of LCDC Order 98-WKTASK-00951 with the Court of Appeals. The Court of Appeals affirmed LCDC on February 23, 2000 (Port of St. Helens v. LCDC, 165 Or App 487 (2000)).

D. The Port, City and Transwestern then filed a Petition for Review of the Court of Appeals decision with the Supreme Court. On

June 20, 2000, the Supreme Court issued its Order Denying Review of the Petition for Review (Port of St. Helens v. LCDC, 330 Or 363 (2000)). The Court of Appeals entered its Appellate Judgment on August 24, 2000.

E. On August 30, 2000, the Board, through its Office of County Counsel, notified the Department of Land Conservation and Development ("DLCD") of its intent to comply with the requirements of LCDC Order 98-WKTASK-00951. In addition, the Board notified DLCD of its intent to adopt an exception to Goal 5 to prohibit new or expanded mineral or aggregate mining operations within 5,000 feet of a runway at the Scappoose Industrial Airpark.

F. On August 30, 2000, the Department of Land Development Services of Columbia County ("LDS") faxed a notice, and on September 12, 2000, mailed a notice, entitled "DLCD Notice of Proposed Amendment" to DLCD giving notice of a proposed amendment to adopt an exception relating to the Scappoose Industrial Airpark. The DLCD Notice stated the first evidentiary hearing on the proposed amendment would be held on October 16, 2000.

G. On September 27 and October 4, 2000, LDS published a Notice of Public Hearing indicating that the Columbia County Planning Commission would be considering the proposed amendment on October 16, 2000, in *The Chronicle* and *The Spotlight*, newspapers of general circulation within Columbia County and within the proposed exception area, respectively, and in the *Longview Daily News*.

H. On October 16, 2000, the Planning Commission held a hearing on the proposed amendments and, after considering the staff report, and evidence and testimony, voted to recommend approval of the proposed amendments to the Board of County Commissioners.

I. On October 25 and November 1, 2000, the Board published a Notice of Public Hearing indicating that the Board of County Commissioners would be considering the proposed Ordinance No. 2000-4, including compliance with LCDC Order 98-WKTASK-00951, and adopting the proposed Goal 5 exception, on November 13, 2000, in *The Chronicle*, *The Spotlight*, the *Clatskanie Chief*, the *Independent* and the *Longview Daily News*.

#### SECTION 4. PURPOSE.

The purpose of this ordinance is to comply with the requirements of LCDC Order #98-WKTASK-00951. In addition, the purpose is to adopt an exception to Goal 5 to prohibit new or expanded mineral or aggregate mining operations within 5,000 feet

of the edge of a runway at the Scappoose Industrial Airpark. Finally, the purpose is to prohibit new or expanded water impoundments greater than or equal to one-quarter (1/4) acre in size, individually or cumulatively, within 5,000 feet of the edge of a runway at the Scappoose Industrial Airpark.

SECTION 5. FINDINGS AND CONCLUSIONS.

The Board of County Commissioners adopts the Findings and Conclusions from the November 9, 2000, Amended Staff Report of the Department of Land Development Services (the "Staff Report"), a copy of which is attached hereto, labeled Attachment "A" and is incorporated herein by this reference.

In addition, the Board adopts the Supplemental Findings which are attached hereto, labeled Attachment "B" and are incorporated herein by this reference.

SECTION 6. AMENDMENT AND AUTHORIZATION.

A. The Columbia County Comprehensive Plan, as amended by Ordinance No. 98-01, is further amended as follows:

1. Comprehensive Plan Part XII, Industrial Siting, Industrial Development, Policies, Policy 13, is deleted.

2. Comprehensive Plan Part XII, Industrial Siting, Industrial Development, is amended to include the exception and ESEE analysis, entitled "Scappoose Industrial Airpark, Findings of Fact and Statement of Reasons to Support an Exception to Goal 5 to Prohibit Aggregate Mining Within 5000 feet of a Runway at the Scappoose Industrial Airpark", which is attached hereto as Attachment "C", and is incorporated herein by this reference.

3. Comprehensive Plan Part XVI, Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Areas; Surface Mining; Goals and Policies, Policy 17, is deleted.

4. Comprehensive Plan Part XVI, Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Areas; Surface Mining; Goals and Policies, is amended to adopt a new Policy 17 which reads as follows:

"Prohibit new or expanded mineral or aggregate mining operations within 5,000 feet of the edge of a runway at Scappoose Industrial Airpark;"

5. Comprehensive Plan Part XVI, Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Areas; Surface Mining; Goals and Policies, is amended to adopt a new Policy 18 which reads as follows:

"Prohibit new or expanded water impoundments greater than or equal to one-quarter (1/4) acre in size, individually or cumulatively, within 5,000 feet of the edge of a runway at the Scappoose Industrial Airpark."

6. Comprehensive Plan Part XVI, Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Areas; Surface Mining, is amended to include the Meier site in its inventory of significant aggregate sites.

B. The Columbia County Zoning Ordinance ("CCZO"), as amended by Ordinance No. 98-01, is further amended as follows:

1. CCZO Section 1036.6 is deleted.
2. CCZO Section 1035.5 is amended to read as follows:

"Notwithstanding subsections .1 through .3 of this section, an aggregate site is not significant if more than 35 % of the proposed mining area consists of soil classified as Class I on Natural Resource and Conservation Service (NRCS) maps as of September 1, 1996, unless the average width of the aggregate layer within the mining area exceeds 60 feet."

3. CCZO Section 1036.4 is amended to read as follows:

"Determine reasonable and practicable measures which can be required of the mining activity which minimize the conflicts identified in paragraph 1036.3, above. If reasonable and practicable measures are identified to minimize all identified conflicts ... ."

4. CCZO Section 1036 is amended to add a new subsection 6 as follows:

"Notwithstanding any other provision of this section, new or expanded mineral or aggregate mining operations shall not be allowed within 5,000

feet of the edge of a runway at the Scappoose Industrial Airpark."

5. CCZO Section 1036 is amended to add a new subsection 7 as follows:

"Notwithstanding any other provision of this section, new or expanded water impoundments greater than or equal to one-quarter (1/4) acre in size, individually or cumulatively, shall not be allowed within 5,000 feet of the edge of a runway at the Scappoose Industrial Airpark."

SECTION 7. SEVERABILITY.

If for any reason any court of competent jurisdiction holds any portion of this ordinance invalid, or any portion of the attached Attachments "A", "B" or "C", such portion shall be deemed a separate, distinct and independent portion, and any such holdings shall not affect the validity of the remaining portions thereof.

SECTION 8. EMERGENCY; EFFECTIVE DATE.

This ordinance being immediately necessary to maintain the public health, safety and welfare, an emergency is declared to exist and this ordinance shall take effect upon its adoption.

DATED this 13<sup>th</sup> day of November, 2000.

Approved as to form

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By: *Sarah Tyson*  
Office of County Counsel

By: *Jack R. Gusterson*  
Chair

Attest:

By: *Jeta M. Richard*  
Commissioner

By: *Jan Suenkelgh*  
Recording Secretary

By: \_\_\_\_\_  
Commissioner

First Reading: 11.13.00  
Second Reading: 11.13.00  
Effective Date: 11.13.00

Attachment A

**COLUMBIA COUNTY BOARD OF COMMISSIONERS**

**STAFF REPORT**

**Comprehensive Plan & Zoning Ordinance Text Amendments**

**DATE:** November 9, 2000

**FILE NUMBER:** TA 01-01 / TA 98-06

**APPLICANT:** Columbia County Department of Land Development Services

**REQUEST:** Response to Work Task Remand Order #98-WKTASK-00951, regarding Work Task 1 (Mineral & Aggregate) originally submitted to LCDC on April 10, 1998. This response will include an exception to State Planning Goal 5 and amendments to Part XII and XVI of the Columbia County Comprehensive Plan and amendments to Section 1036 of the Columbia County Zoning Ordinance.

**BACKGROUND:** (A more complete history is found in Findings of Fact and Statement of Reasons to Support an Exception to Goal 5 to Prohibit Aggregate Mining Within 5,000 feet of a Runway at Scappoose Industrial Airpark, hereinafter referred to as "Exception Statement," Pages 2-7.)

The Department of Land Conservation and Development (DLCD) approved Columbia County's Amended Work Program (Periodic Review) on November 24, 1997, resulting in five tasks including Task 1, where the County would, among other things, develop a local ordinance for Mineral and Aggregate uses that was in compliance with state law. To be in compliance, the Land Conservation and Development Commission (LCDC) issued Remand Order #98-WKTASK-00951 which directed the County to revise plan policies and ordinance provisions in Work Task 1, Ordinance 98-01, relating to prohibiting new or expanded mines within 3,000 feet of light industrial uses.

These proposed response amendments will accomplish the directive from LCDC by complying with #98-WKTASK-00951. However, the Columbia County Board of Commissioners believe strongly that the application of the goal 5 rule alone, specifically OAR 660-023-0180, to lands close to the Scappoose Industrial Airpark, will not make good planning sense and will be detrimental to the citizens of Columbia County.

Ordinance 2000-04 would adopt a Goal 5 Exception, which would allow the County to consider

additional conflicting uses, and if considered, the ESEE consequences would lead to the conclusion that it is in the County's and City's best interest to prohibit new and expanded surface mining within 5,000 feet of the Scappoose Airpark runway. Justification for such goal 5 exception comes from a "reasons" exception to Statewide Planning Goal 5, which indicates that there are significant conflicts between mining uses and future land uses that have been planned for the area around the Scappoose Airpark. The proposed goal 5 exception statement and amendments to the Columbia County Comprehensive Plan and Zoning Ordinance can be found in the Exception Statement.

The question has come up as to whether the amendments are a "Post Acknowledgment Plan Amendment" (PAPA) requiring a 45 day notice to DLCD; or, are they a "Periodic Review" amendment which would not require the longer more thorough review and comment period? The Board of Commissioners has discussed this issue at length and because of the extent of the amendment including its scope and content, it was decided that these amendments should go back and receive the complete citizen involvement and public hearing process. These amendments would, however, complete the Task 1 Periodic Review once adopted.

Ordinance 2000-04 would also prohibit new or expanded water impoundments greater than or equal to one-quarter (1/4) acre in size, individually or cumulatively, within 5,000 feet of a runway at the Scappoose Industrial Airpark, in accordance with ORS 836.623(2)(b), to reduce bird strike hazards around the Airport.

#### **REVIEW CRITERIA:**

This request is being processed under Sections 1606, 1607 and 1611 of the Columbia County Zoning Ordinance as well as relevant state statutes and administrative rules. The following sections of the Zoning Ordinance are applicable to this application:

#### **COLUMBIA County ZONING ORDINANCE**

**1606 Legislative Hearing:** Requests to amend the text of the Zoning Ordinance...are legislative hearings. Legislative hearings shall be conducted in accordance with the following procedures:

- .1 A legislative amendment to the Zoning Ordinance Text or Map may be initiated at the request of the Board of Commissioners, a majority of the Commission, or the Director, or any citizen of the County may petition the Commission for such a change.

**Finding 1:** These amendments were initiated by the Columbia County Board of Commissioners.

Continuing with Section 1606 of the Columbia County Zoning Ordinance:

- .2 Notice of a Legislative Hearing shall be published at least twice, 1 week apart in newspapers of general circulation in Columbia County. The last of these notices shall be published no less than 10 calendar days prior to the Legislative Hearing. The mailing of notice to individual property owners is not required but shall be done if ordered by the Board of Commissioners.

**Finding 2:** A hearing notice was published in the Longview Daily News, the St. Helens Chronicle, and the Scappoose Spotlight newspapers on September 27 and October 4, 2000, both of which are more than 10 days prior to the Planning Commission hearing date of October 16, 2000. Notice was sent to the Scappoose-Spitzenberg Citizen Planning Advisory Committee (CPAC) and other affected agencies. Individual property owners located in the County, within the affected area, 5,000 feet from the airport, were also notified. Owners of property within city limits were not notified since they are not part of the County's jurisdiction. The Board of Commissioners advertised for the November 13, 2000 hearing in the November 1 and November 8, 2000, issues of the same papers.

Continuing with Section 1607 of the Columbia County Zoning Ordinance:

**1607 Consistency with the Comprehensive Plan:** All amendments to the Zoning Ordinance Text and Map shall be consistent with the Comprehensive Plan Text and Maps.

- .1 The Commission shall hold a hearing to consider the proposed amendments and shall make a recommendation to the Board of Commissioners with regard to the proposed amendments. The Board of Commissioners shall hold at least one hearing to consider the proposed amendments. Both the Commission and the Board of Commissioners hearings will require notice in the manner outlined in Section 1611.

**Finding 3:** The Columbia County Planning Commission held a public hearing on October 16, 2000. The Commission meeting was noticed according to CCZO 1611. After hearing testimony and considering evidence, the Commission voted to recommend to the Board of Commissioners approval of taking the Goal 5 exception, with a few changes. On November 8, 2000, Final Order TA 01-01/TA 98-06 was signed by the Commission Vice-Chair, recommending such approval. The Commission recommended the following changes:

1. Staff will amend the staff report to clarify that the prohibition on new and expanded mineral and aggregate operations will extend 5,000 feet from the existing runway at the Scappoose Industrial Airpark and will not include future expansions of the Airpark.
2. Staff will amend the staff report and incorporate throughout the report, specific



reference to "near the airport" or "within 5,000 feet" specifically means within 5,000 feet of the existing runway at the Scappoose Industrial Airpark.

3. Staff will modify and more fully develop the staff report findings 18, 24, 25, and 26, addressing ORS 197.732 (1)(c)(B, C, and D) and OAR 660004-0020(b, c, and d).
4. Staff will include in the record the Schlicker Report, which concludes that the Bates & Roth and the Ellis sties are both significant aggregate resource sites.

Staff has addressed recommendations Numbers 2 and 3, and 4 in this staff report. However, to allow for expansion of the Scappoose Airpark runway without having to adopt an additional Goal 5 exception, Staff recommends that the language referencing, "a runway," as opposed to "the existing runway," be maintained in the exception statement.

The Board will hold a public hearing and make a final decision regarding the adoption of the proposed amendments. Notice of the Board of Commissioners hearing will meet the requirements of CCZO1611.

#### **ORS 836.623(2)(b).**

A local government may adopt regulations that that limit the establishment of new water impoundments of one-quarter acre or larger for areas outside an approach corridor and within 5,000 feet of a runway only where the local government adopts findings of fact supported by substantial evidence in the whole record, that the impoundments are likely to result in a significant increase in hazardous movements of birds feeding, watering or roosting in areas across the runways or approach corridors. The local government shall consider the effects of mitigation measures or conditions that could reduce safety risks and incompatibility.

**Finding 4:** Substantial evidence has been entered into the record that water impoundments are likely to result in a significant increase in hazardous movements of birds feeding, watering or roosting in areas across the runways or approach corridors at the Scappoose Airpark. See Exception Statement.

## **COLUMBIA County COMPREHENSIVE PLAN**

### **Part I      Administrative Procedures**

It is essential the citizens of Columbia County be provided with a comprehensive plan that will accommodate the changing needs of the communities in which they live, work and play. While this plan is the result of considerable public input, study and analysis of existing physical, economic, environmental, and social conditions, and a projection of what future condition are likely to be, it recognizes the importance of providing a framework for

changing the plan periodically or as the need arises.

Goals:

1. To assure the goals and policies of this plan are implemented.
2. To provide review and revision procedures which include provisions for participation by citizens and affected interest groups.
3. To provide an understandable framework for reviewing and revising this plan.

Policies:

4. Formally update the Comprehensive Plan every five (5) years.
5. Provide a framework by which the Comprehensive Plan may be reviewed, revised and amended. Amendments to the Comprehensive Plan and its implementing ordinance(s) shall be in accordance with the following procedures and guidelines:
  - A. Amendments may be initiated by the Board of Commissioners, the Planning Commission, the Planning Director or the owner(s) of the affected property.
  - B. A Citizen Planning Advisory Committee may, upon a majority vote of its members, formally request either the Board of commissioners or the Planning Commission initiate an amendment.
  - C. Revisions or amendments will follow the same process as initial adoption - CPAC review, Planning Commission public hearing and recommendation, and Board hearing and adoption of revisions or amendments.
  - D. For quasi-judicial amendments, all property owners within two hundred and fifty (250) of the affected area shall be notified of the hearing date and the requested amendment at least ten (10) calendar days prior to the first scheduled public hearing.
  - E. For legislative amendments, notice of the public hearing and a copy of the proposed amendment, will be mailed to all Citizen Planning Advisory Committees and interested parties at least ten (10) days prior to the first scheduled public hearing.
7. Existing ordinances and regulations will be amended and new ordinances and regulations shall be adopted to implement this plan as appropriate.
8. All land use approvals shall be consistent with this plan.

9. Revisions or amendments proposed within an urban growth boundary shall be in accordance with the Urban Growth Area Management Agreement adoption for that area.
10. The County will continue coordination with affected governmental agencies in future reviews and revisions of the comprehensive plan and its implementing ordinances.

**Finding 5:** Policy 4 mandates that the County update the comprehensive Plan as part of the periodic review process. Policy 5 allows for amendments to be initiated by the Board of Commissioners or Planning Director. In this case the Director, through the board, as part of the formal periodic review process, has initiated changes to the Comprehensive Plan and Zoning Ordinance as part of Work Task 1 regarding Mineral and Aggregate resources.

Policy 7 allows amendments to the zoning ordinance to implement the comprehensive plan. The applicant is requesting to amend the zoning ordinance so that it is consistent with the periodic review updated comprehensive plan and the goal 5 exception which prohibits new and expanded surface mining within 5,000 feet of the Scappoose Airpark runway.

Policy 8 states that the proposed zoning ordinance amendments must be consistent with the comprehensive plan. The proposed zoning ordinance amendments are consistent with the proposed comprehensive plan amendments. New land use applications for surface mining will be reviewed against the relevant parts of the zoning ordinance and comprehensive plan.

Policy 9 is regarding joint management of the urban growth area (UGA). This amendment will affect the UGA. The City of Scappoose has invested heavily in the airport as part of their economic plan. Protecting the airport from conflicting uses is consistent with the city's planning efforts for the airpark.

Policy 10 requires Columbia County to coordinate with other affected governmental agencies. Notice and an opportunity to comment on the proposed amendments was sent to governmental agencies which may be affected by the outcome of the decision, including the Port of St. Helens and the City of Scappoose, which have a primary interest regarding the approval of the proposed amendments.

#### Continuing with the Columbia County Comprehensive Plan:

#### **Part II Citizen Involvement**

It is Columbia County's policy to MAINTAIN A CITIZEN PLANNING ADVISORY COMMITTEE SYSTEM to offer opportunities for citizens to be involved in all phases of the

features of a comprehensive plan. Primary coordination occurs by involving all affected people and agencies during the development of the plan. Plan coordination activities include:

1. The County and the seven incorporated cities in the County are each responsible for the preparation of the plan for their own jurisdiction. The cities and the County work together in the preparation of urban growth boundaries.
2. The County, under ORS Chapter 197, is given the responsibility of coordinating the plans of cities and special districts.
3. Each special district is also responsible for working with the cities and the County to achieve mutual plan consistency.
4. Each state and federal agency has the responsibility of working with the County and each city to coordinate their planning.

**Finding 7:** The proposed goal 5 exception and water impoundment limitations, and subsequent amendments are designed to protect the Scappoose Airpark from conflicting uses that may negatively impact the airpark's ability to function effectively. By taking these protection measures the County is coordinating with the city of Scappoose and the special district of the Port of St. Helens. The proposal to prohibit new and expanded surface mining opportunities within 5,000 feet of the airpark runway is consistent with the planning and development efforts of the City and the Port. Both of these agencies have invested significant public funds to install the basic infrastructure needed to create a light industrial park at the airport. Furthermore, the city of Scappoose has made the airport a primary focus in its economic development planning and has brought the area into its urban growth boundary. The City's comprehensive plan was amended to reflect the airport area in its overall plan. This plan was reviewed and acknowledged by LCDC.

Continuing with the Columbia County Comprehensive Plan:

**Part V      Agriculture**

Goal: To preserve agricultural land for agricultural uses.

**Finding 8:** Agricultural practices near the Scappoose Airpark are not considered a conflicting use since they have not created any negative impacts in the past. Allowing surface mining in this area would not preserve agricultural land for agricultural uses and therefore would be inconsistent with this comprehensive planning goal. The proposed goal 5 exception and amendments would

prohibit mining on agricultural land within 5,000 feet of the Airpark runway, and most agricultural uses would continue to be allowed. This proposal would be consistent with the comprehensive plan goal of preserving agricultural land, at least on an interim basis. (Note: the water impoundment limitation may prohibit agricultural water impoundments greater than 1/4 acre in size, within 5,000 feet of a runway at the Scappoose Industrial Airpark.)

Continuing with the Columbia County Comprehensive Plan:

**Part IX Urbanization**

Goal: To create and maintain the urban growth boundaries based upon the consideration of the following factors:

1. Demonstrated need to accommodate long range urban population growth requirements consistent with LCDC goals.
2. Need for housing, employment opportunities, and livability.
3. Orderly and economic provision for public facilities and services.
4. Maximum efficiency of land uses within and on the fringe of the existing urban area.
5. Environmental, energy, economic, and social consequences.
6. Retention of agricultural lands as defined, with Class I being the highest priority for retention and Class VI the lowest priority.
7. Compatibility of the proposed urban uses with nearby agricultural activities.

Policies:

1. Provide an orderly and efficient transition for rural to urban land use.
2. Utilize the area in the urban growth boundaries with the most efficient manner of service expansion.
4. Accommodate the growth projected for urban areas to the year 2000.
5. Minimize the conflicts between urban and rural land uses.
7. Develop managing techniques with the incorporated cities.
9. Provide direction for developers to utilize land within the boundary in the most efficient manner.
12. Have mutually agreed upon land use designations with each city.
16. Coordinate the development of facilities by existing special districts to insure coordination with city plans.

**Finding 9:** The proposed goal 5 exception and these ordinance and comprehensive plan amendments are consistent with the above goals and policies regarding urbanization. The proposal to prohibit surface mining within 5,000 feet of the airpark provides an orderly transition from the urban industrial uses of the airport to the natural resource extraction uses conducted on

es providing extensive public  
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or that use.

expanding and diversifying its  
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. Helens, City of Scappoose,  
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inning efforts between the City of Scappoose, the Port of St. Helens  
ead to service expansion within the city's UGB to accommodate past  
wth at the airport. Allowing a conflicting use such as surface mining,  
re the ability of the airport to grow and use the public services that  
ia, would not be an efficient use of the land or the public facilities and  
hibit surface mining within 5,000 feet of the airport is a management  
he conflicts between urban and rural land uses. This long range plan  
rse development opportunities that are within the city of Scappoose  
e water impoundment limitation will also help to protect the Airport  
es.

Columbia County Comprehensive Plan:

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ngthen and diversify the economy of Columbia County and insure  
onomic growth.

Columbia County's natural resources and advantages for expanding  
sifying the economic base.

je the creation of new and continuous employment opportunities.  
je a stable and diversified economy.

e County in the position of being able to respond to market  
ities by providing technical assistance in locating available sites for  
rent.

je the activity of the community organizations which work for sound  
; development.

identified aggregate resources until they are extracted and plan for the  
on and future productive uses of those sites.

valuable industrial sites for industrial use.

mprovements in local conditions in order to make the area attractive  
; capital investment. Consideration of such factors as the following  
ndertaken:

Tax incentives.

land use controls and ordinances.

Capital improvements programming.

je new industrial growth within the urban areas so as to utilize  
ublic facilities.

**Finding 10:** Protecting the airport from conflicting uses will benefit the airport in general, thus increasing the stability of the economy that is dependant upon the airport. This would be consistent with the goals of the Urbanization section of the Comprehensive Plan. Maintaining a strong and economically healthy airport and light industrial park will encourage the creation of new employment opportunities which will help diversify the local economy. The proposed amendments would be considered a land use control ordinance which would make the airport area more attractive for private capital investment. The airport is located within the city limits of Scappoose. By protecting the airport from conflict, the proposed amendments would encourage growth and the creation of jobs within the urban area and subsequent light industrial zone. Additionally, there are aggregate resources available in the near vicinity which would not be effected by these amendments. This proposal would allow for new light industrial development at the airport while continuing to provide aggregate resources from other locations. Thus the local economy benefits from both development opportunities.

Continuing with the Columbia County Comprehensive Plan:

**Part XII Industrial Development**

Goals:

1. To strengthen and diversify the economy of Columbia County and insure stable economic growth.
2. To utilize Columbia County's natural resources and advantages for expanding and diversifying the industrial base.
3. To encourage industrial growth in Columbia County to diversify its economy. New industry should locate to take maximum advantage of existing public and private investments.

Policies:

1. Encourages the creation of new and continuous employment opportunities.
2. Encourages a stable and diversified economy.
4. Place the County in the position of being able to respond to market opportunities by providing technical assistance in locating available sites for development.
6. Reserves valuable industrial site for industrial use.
7. Supports improvements in local conditions in order to make the area attractive to private capital investment. Consideration of such factors as the following shall be undertaken:
  - A. Tax incentives.
  - B. Land use controls and ordinances.
  - C. Capital improvements programming.

10. Directs labor intensive industries and/or industries needing extensive public facilities to sites within urban growth boundaries.
11. Directs industries that are either land extensive, resource related, marine related, and/or incompatible with urban populations to those sites which are appropriate to the use and are currently zoned for that use.

**Finding 11:** One advantage that Columbia County has for expanding and diversifying its industrial base is the development of the Scappoose Industrial Airpark. Columbia County is also blessed with ample amounts of aggregate resources. The Port of St. Helens, City of Scappoose, and Columbia County have coordinated a long range planning effort to direct industrial uses toward the airpark which is located within the city limits and has public facilities. The adjacent property (Meier site) has significant amounts of aggregate however it is in a location that is incompatible with the existing and proposed urban uses. Fortunately, there are nearby sites that also have significant amounts of aggregate. By directing surface mining, which is a land intensive, resource based use, toward lands that are more appropriate, the public benefits by allowing both airport related light industrial uses, and aggregate uses to operate and thrive in the local community. Protecting the Airport from negative impacts of surface mining and water impoundments furthers the goal of diversifying the economy by promoting new, non-polluting light industrial uses to the area. This will help reduce the County's historic reliance on natural resource related industry, while continuing to allow those resource based industries to operate. The proposed amendments will be consistent with the above goals and policies as they are a land use control ordinance which will increase the stability of the airport, making it more attractive for private capital investment in new industrial uses.

Continuing with the Columbia County Comprehensive Plan:

**Part XIII Transportation**

Goal: The creation of an efficient, safe, and diverse transportation system to serve the needs of Columbia County residents.

Objectives:

1. To utilize the various modes of transportation that are available in the County to provide services for the residents.
2. To encourage and promote an efficient and economical transportation system to serve the commercial and industrial establishments of the County.
3. To improve the existing transportation system.

Policies:

8. The two existing airports, in Scappoose and vernonia, will be zoned with a landing field overlay zone that incorporates the height restrictions set by the



Federal Aviation Administration. It will allow the development of airport related industrial uses.

10. The County will study proposals, when presented, to develop modes of transportation as an alternative to the automobile. If these proposals prove to be feasible, the County will work to implement them.

**Finding 12:** The proposed amendments will protect the airport from conflicting uses that have the potential to significantly reduce the Airport's ability to operate and limit its effectiveness in recruiting new business to invest in the local community. By promoting these protective measures, the County is supporting the Airport and helping to develop alternative modes of transportation such as aviation. The County is working to implement this proposal which will promote efficient use of the Scappoose Airpark and encourage the establishment of new industrial uses. Protecting the airport from conflicts with surface mining and water impoundments is consistent with the goals, objectives and policies of the Transportation section of the Comprehensive Plan.

Continuing with the Columbia County Comprehensive Plan:

**Part XIV Public facilities and Services**

Goal: To plan and develop a timely, orderly, and efficient arrangement of public services as a framework for urban and rural development.

Policies: It shall be County policy to:

1. Require that adequate levels of public facilities and services be provided in advance of or concurrent with development.
4. Encourage development on lands within urban growth boundaries or built and committed exception areas.
5. Coordinate public facilities and services planning with affected service districts and/or agencies.
9. Direct new development into areas where services exist or are proposed within a reasonable time -frame.
11. Review facility plans for urbanizable areas to assure proper coordination of facilities consistent with the long range plans and procedures established within the urban growth management agreements.

**Finding 13:** The Scappoose Airpark has been planned and developed for light industrial uses as part of the long range planning efforts of the Port of St. Helens, city of Scappoose, and Columbia County. The proposed amendments are consistent with this coordinated development effort because they will encourage development within the urban growth boundary to areas that

have been provided with public infrastructure such as city water.

Continuing with the Columbia County Comprehensive Plan:

**Part XVI Goal 5: Open Space, Scenic and Historic Areas, and Natural Areas**

Surface Mining

Goal: To protect and utilize appropriately the mineral and aggregate resources of Columbia County.

Policies: It is the policy of the County to:

2. Consider the preservation of aggregate material in all its land use actions.
3. Pay special attention to any development adjacent to mineral and aggregate resources and take the necessary steps to minimize the impacts of development on these resources.

**Finding 14:** The proposed amendments would prohibit new and expanded surface mining within 5,000 feet of the Scappoose Airpark runway. This would remove a significant aggregate resource site (The Meier Property) from potential aggregate production. Fortunately, Columbia County contains many significant aggregate resource sites, including other sites close to the Meier property, in the Columbia River gravelly plain also known as the Scappoose Bottomlands. The County feels it is appropriate to direct surface mining efforts towards even larger aggregate resource sites (the Bates & Roth site and the Ellis site) in order to preserve the functionality of the major airport in the County. A goal 5 exception has been prepared in order to evaluate additional conflicts that are not reviewed as part of the current goal 5 process (See the Exception Statement).

Continuing with the Goal 5 section of the Comprehensive Plan:

Fish and Wildlife Habitat

Goal: To protect and maintain important habitat areas for fish and wildlife in Columbia County.

Policies: It is the policy of the County to:

2. Protect significant nesting habitat from the adverse effect of logging and other land use practices.
6. Cooperate with the Oregon Department of Fish and Wildlife to better identify sensitive habitat areas for fish and wildlife and adopt

implementing measures for their protection.

**Finding 15:** Prohibiting surface mining activities within 5,000 feet of the airport runway is not expected to have any adverse impacts on fish and wildlife. To the contrary, by limiting surface mining activities, the agricultural use of the property will be allowed to continue, which has provided waterfowl with abundant habitat.

Continuing with the Goal 5 section of the Comprehensive Plan:

Water Resources

Goal: To protect and maintain the quality of water resources in Columbia County.

Policies: It shall be the policy of Columbia County to:

1. Cooperate and coordinate with State and Federal agencies in assuring the maximum beneficial use of all water areas in the County.
3. Protect areas significant for the recharge of groundwater resources such as wetlands and riparian areas.
10. Maintain rivers and streams in their natural state to the maximum extent practicable through sound land and water management practices...
14. Protect marshes, swamps, and other wetlands from filling, draining, or other alterations which would destroy or reduce their biological value.

**Finding 16:** The area within 5,000 feet of the Scappoose Airpark runway includes significant wetlands, as well as a riparian area associated with Jackson Creek. Wetlands provide functions such as water purification, flood storage, and habitat. Prohibiting surface mining in this area allows for the continued existence of these natural functions. Therefore, the proposed amendments are consistent with this section of the Comprehensive Plan.

Continuing with Section 1611 of the Columbia County Zoning Ordinance:

**1611** Notice of Legislative Hearing: The notice of a legislative hearing shall contain the following items:

- .1 Date, time and place of the hearing;
- .2 A description of the area to be rezoned or the changes to the text;
- .3 Copies of the statement for the proposed changes are available in the Planning Department. These proposed changes may be amended at the public hearing;
- .4 Interested parties may appear and be heard;
- .5 Hearings will be held in accordance with the provisions of the Zoning Ordinance.

**Finding 17:** All of the above were included in the Notice of Public Hearing published twice in the local news media. See finding 2.

**Oregon's Statewide Planning Goals:**

**Goal 2: Land Use Planning**

Part II Exceptions

**Finding 18:** The exception criteria found in Goal 2, Part II of the Statewide Planning Goals are the same as criteria listed in Oregon Revised Statute 197.732. Findings of fact are made with respect to this criteria as follows:

**Oregon Revised Statutes**

**ORS 197.732 Goal exceptions; criteria; rules; review.**

- (1) A local government may adopt an exception to a goal if:
  - (c) The following standards are met:
    - (A) Reasons justify why the state policy embodied in the applicable goals should not apply;
    - (B) Areas which do not require a new exception cannot reasonably accommodate the use;
    - (C) The long term environmental, economic, social and energy consequences resulting for the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result for the proposal being located in areas requiring a goal exception other than the proposed site; and
    - (D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

**Finding 19:** Columbia County assumes that it is proper for local government to take an exception to a goal to disallow a use that would otherwise be allowed. The County takes this position for several reasons. There is no statutory language which precludes an exception for this purpose. If the legislature wanted to disallow the exception process in this manner then it would have expressly done so by statute. The language of ORS 197.732 is plain and unambiguous, and the

County may take it at its face value. ORS 197.732 speaks in terms of justifying "why the state policy embodied in the applicable goals should not apply." That is exactly what the Goal 5 Exception addresses. In addition if you examine a usual exception, let's take a Goal 3 (Farm Lands) exception to allow rural residential, the exception effectively prohibits agricultural use on the effected property. In this scenario, the protected use is farming which becomes effectively prohibited. In the County's case, Goal 5, the protected use is aggregate mining which is effectively prohibited if the County can examine a broader range of conflicting uses. To clarify, the County is not taking an exception to prohibit a use, but to allow consideration of additional factors in whether to allow, limit or prohibit the use under the Goal 5 ESEE analysis.

The primary reason the County is requesting an exception to goal 5 is because the current review criteria under OAR 660-023-0180 is too limited in its review of conflicting uses. Specifically it does not allow the review of impacts on planned industrial development inside of the City. In addition, it does not allow for consideration of the consequences that surface mining may have on the significant public expenditure that has been invested to provide infrastructure to the Airport according to the City of Scappoose's acknowledged Comprehensive Plan. Furthermore, it is important to consider the adverse impacts surface mining would have on future users of the Scappoose Airpark. Finally, it is important that the County consider the totality of the aggregate resource in the Scappoose Bottoms and Deer Island area. A more detailed discussion of these reasons is found on Page 10 of the Exception Statement.

Alternative locations exists where aggregate mining can occur in the vicinity of, but outside, the 5,000 feet of the Scappoose Airpark exception area. H.G. Schlicker & Associates produced a June 1995 report, "Columbia County Goal 5 Mineral and Aggregate Periodic Review Inventory and Conflicting Uses", incorporated herein by this reference. This Schlicker report identifies three (3) significant aggregate sites in the Scappoose bottom lands: Meier Property (adjacent to the Scappoose Airpark) with 70 million in-place cubic yards of sand and gravel, Bates and Roth Property (more than 5,000 feet from the Scappoose Airpark) with 80 million cubic yards of in-place sand and gravel, and Ellis Property (more than 5,000 feet from the Scappoose Airpark) with 102 million cubic yards of in-place sand and gravel. In the Schlicker report analysis of conflicting uses, only the Meier Property conflicted with the Scappoose Airpark. The Bates & Roth and the Ellis properties had minimal existing conflicts which included a few houses and the Drainage District due to potential increase in required pumping. Although these two alternative sites have not been thoroughly analyzed and approved for the protection of the aggregate resource and mining through the Goal 5 process, the Schlicker Report is the best information available to the County and substantiates many million cubic yards of in-place sand and gravel which has minimal existing conflicting uses. See page 15 of The Exception Statement.

The ESEE consequences of this exception are outlined on pages 18 and 19 of the Exception Statement. In summary, economically, the resource use (mining) should be prohibited and the Airpark and associated light industrial uses should be allowed fully because of the number and

diversity of potential jobs and economic vitality associated with them. Socially, the consequences of allowing or limiting mining within the exception area are significantly more adverse than prohibiting mining and allowing Airpark light industrial uses. Environmentally, the consequences of allowing mining are far worse than the small potential of negative environmental problems associated with airpark light industrial. Finally, in general, mining has few positive energy consequences. However, mining alternative sites addressed above would have more positive energy consequences because they are nearer the existing aggregate processing plant. To the contrary, the energy consequences of locating Airpark light industrial at the Industrial Airpark are very positive. Such siting would save energy and transportation costs because of the proximity to the Airport. See page 18 of the Exception Statement.

Industrial uses are compatible with uses adjacent to the Industrial Airpark. Staff concludes that allowing mining within 5,000 feet of the airpark would be incompatible with existing and future airport industrial uses. However, Airpark light industrial uses would be directly compatible with the airport property. See the Exception Statement.

### Oregon Administrative Rules:

#### **Chapter 660, Division 004 Interpretation of Goal 2 Exception Process**

##### **QAR 660-004-0000 Purpose**

- (2) An exception is a decision to exclude certain land from the requirements of one or more applicable statewide goals in accordance with the process specified in Goal 2, Part II, Exceptions. The documentation for an exception must be set forth in a local government's comprehensive plan. Such documentation must support a conclusion that the standards for an exception have been met. The conclusions shall be based on findings of fact supported by substantial evidence in the record of the local proceeding and by a statement of reasons which explain why the proposed use not allowed by the applicable goal should be provided for. The exceptions process is not to be used to indicate that the jurisdiction disagrees with a goal.
- (3) The intent of the exceptions process is to permit necessary flexibility in the application of the Statewide Planning Goals. The procedural and substantive objectives of the exceptions process are to:
  - (a) Assure that citizens and governmental units have an opportunity to participate in resolving plan conflicts while the exception is being developed and reviewed; and
  - (b) Assure that findings of fact and a statement of reasons supported by

substantial evidence justify an exception to a statewide Goal.

- (4) When taking an exception, a local government may rely on information and documentation prepared by other groups or agencies for the purpose of the exception or for other purposes, as substantial evidence to support its findings of fact. Such information must be either included or properly incorporated by reference into the record of the local exception proceeding. Information included by reference must be made available to interested persons for their review prior to the last evidentiary hearing on the exception.

**Finding 20:** Columbia County is requesting to exclude property near the Scappoose Airpark from the requirements of Goal 5 regarding Surface Mining, in point, OAR 660-023-0180(4)(b) limits consideration to just certain conflicts. Specifically, the existing rules could allow surface mining in an area that the County feels is inappropriate due to explicit reasons. Substantial evidence in the record backs up the County's conclusions made as to why surface mining should be prohibited within 5,000 feet of the Scappoose Airpark runway. The County would like the flexibility to plan for the uses near the Airpark because of conflicts with the Comprehensive Planning of the area near the Airpark. The exception is not proposed because the County disagrees with the Goal, but only to protect the Scappoose Airport and Airpark from conflicts that may not otherwise be considered. An exception to Goal 5 has been prepared. See the Exception Statement.

**QAR 660-004-0010 Application of the Goal 2 Exception Process to Certain Goals**

- (2) The exceptions process is generally not applicable to those statewide goals which establish planning procedures and standards which do not prescribe or restrict certain uses of resource land because these goals contain general planning guidance or their own procedures for resolving conflicts between competing uses. However, exceptions to these goals, although not required, are possible and exceptions taken to these goals will be reviewed when submitted by a local jurisdiction. These statewide goals are:

- (a) Goal 5 "Natural Resources";

**Finding 21:** State Planning Goal 5 is specifically listed as a goal that may have an exception taken against it. Furthermore, Lane County, in 1986 successfully adopted an exception to Goal 5 which was not challenged by the state and became formally acknowledged.

**QAR 660-004-0015 Inclusion as Part of the Plan**

- (1) A local government approving a proposed exception shall adopt as part of its

comprehensive plan findings of fact and a statement of reasons which demonstrate that the standards for an exception have been met. The applicable standards are those in Goal 2, Part II(c), OAR660-004-0020(2), and 660-004-0022. The reasons and facts shall be supported by substantial evidence that the standard has been met.

- (2) A local government denying a proposed exception shall adopt findings of fact and a statement of reasons which demonstrate that the standards for an exception have not been met. However, the findings need not be incorporated into the local comprehensive plan.

**Finding 22:** Findings of fact have been made to the above referenced OAR in this report and in the exception document. If approved, the County will adopt these findings of fact and a statement of reasons justifying the goal 5 exception as part of the comprehensive plan amendments. These findings and reasons will be included as a portion of the periodic review Work Task Remand Order 98-WKTASK-00951 and submitted to DLCD as a post acknowledgment plan amendment.

#### **OAR 660-004-0018      Planning and Zoning for Exception Areas**

(4) "Reasons" Exceptions:

- (a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;
- (b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required.

**Finding 23:** The proposed goal exception and text amendments are to allow the County to evaluate additional conflicting uses under the existing rules. The Scappoose Airpark is within the City limits of Scappoose. Public facilities have been installed to the area at significant public expense as part of an acknowledged comprehensive plan. This exception will not change the type or intensity of uses. To the contrary, it will allow agricultural land to be continued to be used for farm uses, but will prohibit intensifying the use of the land to surface mining. No new uses will be authorized by this exception.

#### **OAR 660-004-0020      Goal 2, Part II(c), Exception Requirements**



- (1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception.
- (2) The four factors in Goal 2 Part II (c) required to be addressed when taking an exception to a Goal are:
  - (a) "Reasons justify why the state policy embodied in the applicable goals should not apply": the exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;

**Finding 24:** This request is to add an exception to goal 5 as part of the comprehensive plan periodic review process and to respond to LCDC work task remand order 98-WKTASK-00951. The proposal will prohibit conflicting uses, such as new and expanded surface mining, from operating within 5,000 feet of the Scappoose Airpark runway. The reasons justifying this request have been discussed in detail in the Exception Statement and summarized in Finding 19 of this report. Briefly, they consist of the need to consider a broader range of impacts when reviewing goal 5 resources and conflicting uses. Second, there is a need to recognize the significant public investment of urban infrastructure to the area that has come about due to coordinated comprehensive planning efforts of the Port of St. Helens, City of Scappoose, and Columbia County. Another reason for this exception is to analyze adverse impacts to existing and future industrial users of the airpark. A fourth reason for the Exception to goal 5 is to allow Columbia County to plan for future uses near the airpark, taking into consideration the alternative locations for extracting significant aggregate resources that will not adversely effect the planning efforts of the airport.

Continuing with OAR 660-004-0020(2):

- (b) "Areas which do not require a new exception cannot reasonably accommodate the use":
  - (A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;
  - (B) To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be

considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:

- (i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?
  - (ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural center, or by increasing the density of uses on committed lands? If not, why not?
  - (iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why, not?
- (C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.

**Finding 25:** This criteria provides for review of alternative locations, see Finding 19 and the Exception Statement. It should be noted that it would be unreasonable to move an airport, its existing infrastructure such as water lines, and all of its public and private facilities to another location. On the other hand, it would not be unreasonable to expect land adjacent to an airport to not be used in a manner that negatively effects the operation and future growth of that airport. This expectation seems particularly reasonable when you evaluate the proposed conflicting use (surface mining) and determine there are alternative locations in the near vicinity that can provide aggregate resources without adversely affecting the Airport. Making the responsible planning choice to prohibit mining near the Airport presents a win-win solution for the community, where new and diverse industries at the airport blossom and aggregate mining efforts in the near vicinity continue.

Continuing with OAR 660-004-0020(2)

- (c) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

**Finding 26:** A detailed discussion of economic, social, environmental and energy consequences can be found beginning on page 18 of the Exception Statement. After review of this analysis, it is the County's position that aggregate mining is a conflicting use with nearby residential uses, and airpark industrial and commercial uses.

Continuing with OAR 660-004-0020(2):

- (d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

**Finding 27:** Since there are conflicting uses between aggregate mining, water impoundments and the Airport, and the Airpark's light industrial uses, the County has developed measures that are designed to reduce adverse impacts. This will be done by adopting a program to achieve goal 5 that includes prohibiting new and expanded surface mining, and water impoundments within 5,000 feet of a Scappoose Airpark runway. This program is done in conjunction with periodic review and LCDC work task remand 98-WKTASK-00951 and specifically includes taking the actions as set forth in Ordinance 2000-04.

**QAR 660-004-0022      Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)**

An exception Under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

- (1) For uses not specifically provided for in subsequent sections of this rule or OAR 660, Division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:
  - (a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Statewide Goals 3 to 19; and either
  - (b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or
  - (c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

**Finding 28:** There is a demonstrated need for the Scappoose Airport and related industrial development at the Airpark. Substantial evidence has been presented that the Airpark has special qualities that warrant consideration of additional conflicts, and the protection afforded by actions taken in Ordinance 2000-04. As of October 16, 2000, the following evidence and comments were received into the record of this proceeding:

COMMENTS			
Item #	Date Received	Received From	Comment

1	9/18/00	Lonny Welter CC Transportation Planner	No objections.
2	9/20/00	Carla J. Cudmore CC Surface Mining Administrator	No objections.
3	9/20/00	Shirley J. Parsons Port of St. Helens Operations Manager	See comments. Letter with 3 binders as exhibits
4	9/22/00	Karen Vaughn, Secretary Scappoose Drainage District	Board does not meet prior to hearing date, however, will get comment to you by then.
5	9/25/00	Robert and Rita Edwards 2111 S. Warren Road Maricopa, AZ 85239	In favor of Exception & Amendments. <i>See letter</i>
6	9/25/00	Carolyn Novick, Redmond Airport Mgr. 138 N. 12 <sup>th</sup> Street Redmond, OR 97756	In favor of Exception & Amendments. <i>See letter</i>
7	10/6/00	E. Andrew Jordan, Tarlow, Jordan & Shrader Representing City of Scappoose PO Box 230669 Portland, OR 97281	In favor of Exception & Amendments. <i>See letter</i>
8	10/6/00	Letter from Glen Higgins to Vera Roth	Letter confirms that Bates & Roth Property is not in the affected 5,000' area.
9	10/13/00	Scappoose-Spitzenberg CPAC Recommendation	In favor of Exception & Amendments. <i>See letter</i>

10	10/16/00	Don Rice, President Scappoose Drainage Improvement Co.	Concerned. <i>See letter</i>
11	10/16/00	Peter K. Williamson, General Manager Port of St. Helens	<i>See letter</i>
12	10/16/00	Steven W. Abel, Attorney Stoel Rives LLP Representing Glacier Northwest, Inc. Standard Insurance Center 900 SW Fifth Avenue, Suite 2600 Portland, OR 97204-1268	<i>See letter</i>
13	10/16/00 Submitted at hearing	Christopher P. Thomas, Attorney Representing Transwestern Aviation, Inc. 2611 NE 12 <sup>th</sup> Avenue Portland, OR 97212	<i>See letter</i>
14	10/16/00 Submitted at hearing	Jeff Bennett, Attorney Tarlow, Jordan & Shrader Representing City of Scappoose PO Box 230669 Portland, OR 97281	<i>Several documents submitted at hearing</i>

15	10/16/00 Submitted at hearing	Mark J. Greenfield, Attorney Representing the Port of St. Helens 2121 SW Broadway, Suite 100 Portland, OR 97201	<i>See letter</i>
17	10/16/00 Submitted at hearing	Tim Ramis Representing Bates/Roth property 1727 NW Hoyt Portland, OR 97219	<i>See submittal</i>

No other evidence has been received into the record from property owners or government agencies as of October 16, 2000. A letter was received from the Department of Land Conservation and Development on October 16, 2000. The submission was untimely, and is not part of the record.

**STAFF COMMENTS, CONCLUSION AND RECOMMENDATION:**

To summarize, it is Staff's position that there are multiple places in Columbia County and the Scappoose Bottoms area where significant mineral and aggregate resources can be mined without adversely affecting the operation of the Scappoose Airpark. It does not make good planning sense to place a conflicting use directly adjacent to the primary aviation facility in the County. The Scappoose Industrial Airpark has seen considerable growth in the last decade, much of which is due to a coordinated planning effort to initiate expansion and provide basic infrastructure needs to the users and future users of the airport. The City of Scappoose has annexed the Airpark and has made it a key component of the city's economic development plan which includes developing an industrial park in the area. Substantial public investment has been made to achieve the coordinated planning effort that has been undertaken by the Port of St. Helens, the City of Scappoose, and Columbia County. Local jurisdictions should have the ability to make long range planning decisions that will affect the citizens of Columbia County for years to come. By protecting the ability of the airport to function appropriately, the general public wins in the long run. This community has the resources to offer both diverse employment options near the airport and high quality aggregate materials. It all comes down to making good decisions. Sound planning choices made now, will provide for a healthy economic future later.

Based on the findings found in the above report (TA 01-01 / TA 98-06), Staff recommends **APPROVAL** of this request and finds this application to respond to LCDC Work Task Remand 98-WKTASK-00951 by requesting a Goal 5 exception and Comprehensive Plan and Zoning Ordinance Text Amendments satisfies the applicable State and County rules.

11/09/00

GH/ML/mos



## Attachment B

### SUPPLEMENTAL FINDINGS

1. The Board of County Commissioners finds that pursuant to Work Task Remand #98-WKTASK-00951, the Department of Land Conservation and Development and the Land Conservation and Development Commission have ordered Columbia County to amend its Comprehensive Plan Policies and Zoning Ordinance to delete reference to a prohibition against aggregate mining within 3000 feet of an industrial area. The Board of County Commissioners disagrees with the policy behind this Remand Order, but is forced to comply with such order pursuant to state law.
2. The Board of County Commissions finds that there is substantial evidence in the record that the impacts specifically allowed in consideration of an application for aggregate mining pursuant to OAR 660-023-023-180(4)(b), are not broad enough for the County to consider several important impacts that aggregate mining would have on land at the Scappoose Airpark. Such consideration appropriately should include an analysis of conflicts with planned uses at the Scappoose Industrial Airpark. Land at the Scappoose Industrial Airpark has been designated for light industrial use in the City's Acknowledged Comprehensive Plan. Consideration of an application to mine within 5,000 feet of the Airpark should include an analysis of impacts on such industrial use; air navigational safety; the City's ability to implement its economic strategy by attracting light industrial uses to adjoining or nearby lands planned and zoned under acknowledged comprehensive plans for diverse, employment generating, non-polluting light industry; the amount of public and private infrastructure invested in the land in conjunction with these planned uses; and other conflicts that aggregate mining would have with the planned use of the land for light industrial purposes, as set forth in the Exception Statement. This Goal 5 exception is adopted to allow the County to consider such conflicts that are not permitted by Goal 5, OAR 660-023-0180(4)(b), in determining whether or not to permit aggregate mining within 5,000 feet of the Scappoose Airpark. Having considered these additional conflicts, and having done an Environmental, Economic, Social, and Energy analysis, the Board of County Commissioners finds that new or expanded aggregate mining should be prohibited within 5,000 feet of a runway at the Scappoose Industrial Airpark.
3. The Board of Commissioners finds that pursuant to ORS 836.623(2), the Board is authorized to impose limitations on water impoundments, including water impoundments resulting from wet mining without taking a Goal 5 Exception. ORS 836.623(2)(b), states in pertinent part, "A local government may adopt regulations that limit the establishment of

new water impoundments of one-quarter acre or larger for areas outside an approach corridor and within 5,000 feet of a runway only where the local government adopts findings of fact, supported by substantial evidence in the whole record, that the impoundments are likely to result in a significant increase in hazardous movements of birds feeding, watering or roosting in areas across the runways or approach corridors.” The Board of County Commissioners finds that there is substantial evidence in the record to establish that prohibiting wet mining associated with aggregate extraction within 5,000 feet of a runway at the Airpark is consistent with ORS 836.623(2)(b). Specifically, the exhibits submitted by the Port of St. Helens provide substantial evidence that wet mining should be prohibited within 5,000 feet of a runway at the Scappoose Airpark. These exhibits include a letter from the former Chief of the Pentagon’s Bird Aircraft Strike Hazard (BASH) Team concluding that new open water impoundments resulting from mining within 5,000 feet of a runway at the Scappoose Industrial Airpark would “very likely result in a significant increase in bird strike hazards in the approach corridors and the middle of the airfield compared to the current level of hazards.” They also include letters and other documents from FAA, USDA Wildlife Services (formerly Animal Damage Control) and ODOT officials, as well as others, that support this conclusion. Additionally, the Board finds that the safety risk associated with water impoundments within 5,000 feet of a runway at the Airpark cannot reasonably be mitigated, for the reasons set out in Section B.2 of the Port of St. Helens’ letter to the Columbia County Planning Commission dated September 20, 2000. The Board incorporates Section B.2 of that letter herein by this reference. By adopting this Ordinance, the County is imposing limitations on water impoundments consistent with state statute, and further limiting water impoundments resulting from wet mining as part of the County’s Goal 5 mineral and aggregate program.

4. The Board of County Commissioners finds that there is substantial evidence establishing the importance of Statewide Goal 2, requiring the County to accommodate the needs of the City of Scappoose as much as possible. Because the City’s Acknowledged Comprehensive Plan calls for the area around the Scappoose Airpark to be preserved for light industrial uses, it would be inconsistent for the County to neglect to accommodate the City’s planned use by allowing an incompatible use on nearby lands.
5. The Board of County Commissioners find that there is substantial evidence that Aggregate Mining Uses within 5,000 feet of a runway at the Scappoose Airpark conflict with existing and approved uses within said perimeter, and said conflicts are sufficient justification to prohibit wet and dry mining within 5,000 feet of a runway at the Scappoose Airpark even without taking a Goal 5 Exception. Significant evidence exists that dust from mining activity within 5,000 feet of a runway at the Scappoose Airpark will travel over a distance of 5,000 feet when the wind is blowing. Such dust and particulate from mining activity will have a substantial affect on existing light industrial companies in operation at the Scappoose Industrial Airpark. For example, Sherpa Manufacturing Inc., Composites Unlimited and

SportCopter, which are corporations in business at the Airpark, have presented substantial evidence that dust or particulates emanating from mining pits on the Meier property would substantially interfere with their sensitive manufacturing processes. In addition, substantial evidence has been presented that wet mining and the resulting water impoundments, of any size (whether 1/4 acre or larger), constitute water fowl attractants, and endanger aircraft approaching and taking off from the Airpark. The Board finds that such conflicts cannot be minimized, and that they would justify denial of an application to perform wet and dry mining within 5,000 feet of a runway at the Scappoose Airpark.

6. The Board of County Commissioners finds that despite the conclusion that a Goal 5 Exception is not necessarily required to limit aggregate mining around the Scappoose Airpark, the Board of County Commissioners finds that there is substantial evidence to suggest that it is appropriate to consider additional impacts to allow for fully comprehensive planning for this area, including impacts to the City of Scappoose's ability to implement its acknowledged comprehensive plan, especially given the significant history of planning for the Airpark as well as the significant public and private investment in the Airpark, by the City, the Federal Aviation Administration, the Port of St. Helens, and existing Airpark users. The Board of County Commissioners finds that taking such an exception is not inconsistent with the Court of Appeals opinion in Port of St. Helens v. LCDC, 165 Or App 487, 494, n. 3 (2000), which states, "Petitioners are incorrect insofar as they suggest that LCDC's order requires the County to allow mining uses in the relevant area. Rather, the order rejects the County's attempt to prohibit mining uses categorically. Whether a particular use will or not be allowed depends, inter alia, on numerous criteria in LCDC's rule (or eventually, the County's legislation after it is in compliance) that are not directly at issue here." By adopting this Ordinance, the Board finds that it is acting consistently with the Court of Appeals opinion in that it is complying with LCDC's Work Task Remand Order, and at the same time, legislating a prohibition of aggregate mining in within 5,000 of a runway at the Scappoose Airpark, as opposed to prohibiting mining uses categorically.
7. The Board of County Commissioners finds that taking a Goal 5 exception in this instance is a novel, but appropriate and legally valid way to protect the Scappoose Airport from conflicting mining uses. The Goal 5 exception in this case is taken not to allow a use in an area in which Goal 5 would normally prohibit the use. Rather, the exception is taken to allow the Board of Commissioners to consider conflicts that are not permitted under Goal 5, and OAR 660-023-00180, as interpreted by the Department of Land Conservation and Development, the Land Conservation and Development Commission, in determining whether to allow, limit or prohibit a use under the Goal 5 analysis. The Exception is not taken to prohibit mining outright. However, the Board of County Commissioners further finds that even if this exception were taken to prohibit a use outright, no statutory language precludes an exception taken for that purpose. ORS 197.732 allows a local government to take a goal exception if reasons justify why the state policy embodied in the applicable goals

should not apply. The Board of County Commissioners finds that there is substantial evidence to support the fact that the state policy of allowing aggregate mining, embodied in this aggregate mining goal should not apply within 5,000 feet of a runway at the Scappoose Airpark insofar as the policy limits the County's ability to consider essential conflicts with planned industrial uses, and other Airport related uses or impedes the City of Scappoose's ability to successfully implement its Comprehensive Plan. The Board finds that there is no case law which prevents such an exception, the language of ORS 197.732 is plain and unambiguous, and the County may take such language at its face value.

8. The Board of County Commissioners finds that as a matter of procedure, it is appropriate to adopt this Goal 5 exception despite the fact that it might be possible to deny an application to mine based on the Goal 5, OAR 660-023-0180(4) permissible conflicts. See Supplemental Finding 5. However, the Board of County Commissioners finds that it is not legally required to apply the Goal 5 rule with its limited factors prior to adopting this Goal 5 exception. The Board of County Commissioners is not aware of any law, statutory or otherwise, which requires the Board to exhaust other alternatives prior to taking an exception.
9. The Board of County Commissioners finds that the Exception Statement, adopting the Goal 5 exception, adequately addresses ORS 197.732 "reasons" goal exception standards. The Board of County Commissioners finds that all 4 such standards apply. Given the nature of the exception taken to allow consideration of additional conflicts, three of the four exception standards apply in a manner more indirect than direct, and such standards are addressed in the exception statement accordingly. However, the Board of County Commissioners finds that even if any such standard were not applicable at all, the County would not be waiving such standard. Under ORS 197.175(2)(a), plan amendments must comply with the statewide planning goals. However, a finding that one or more goals does not apply to the amendment neither waives the goal nor prohibits the amendment under state law. The same would be true here if one or more standards were found not to apply.
10. The Board of County Commissioners finds that substantial evidence has been submitted showing that there is an adequate supply of mineral aggregate on sites outside of the 5,000 feet area referred to in the Goal 5 exception to allow for continuing mining in Columbia County for many decades. The Board of Commissioners finds that the County is not required to amend its acknowledged inventory or plan with regard to mineral and aggregate resources except in response to an application for a Post Acknowledgment Plan Amendment. If the County were to inventory its resources, then ORS 660-023-0180(2)(a) would require that the County complete an entire Goal 5 conflict identification, ESEE analysis and program selection process for those resources, a very time consuming and expensive process. Nevertheless, the record contains substantial evidence showing that other areas can meet aggregate needs. The analysis of quality, quantity and location of aggregate sources at other sites identified in the Schlicker report is sufficient to demonstrate the presence of the

resource in sufficient quantities to satisfy the Board that adopting a Goal 5 exception would not unduly restrict mining opportunities in Columbia County. Other substantial evidence presented to the Board of County Commissioners also establishes that significant enough amounts of aggregate resources are present in Columbia County to satisfy local and regional area needs for many decades to come.

11. The Board of County Commissioners finds that the Land Conservation and Development Commission has adopted Goal 5 rules which in effect “supersite” aggregate mining. The rules, as interpreted by LCDC and the Department of Land Conservation and Development, disallow weighing of Goal 5 with other equally important State Wide Goals. The County finds that such supersiting is inconsistent with its ability to engage in coordinated comprehensive planning, which was and remains the purpose of Senate Bill 100. The County finds nothing in the current or prior planning statutes indicating that aggregate mining should be supersited. In fact, aggregate mining was not listed as a matter for priority consideration under former ORS 197.230(1), and it is not currently listed as an activity warranting consideration under that statute as amended. In contrast, economic needs are specifically addressed in ORS 197.712, and it is appropriate for the County to take planning actions that are consistent with the City of Scappoose’s planning actions taken pursuant to that statute. Although the County must abide by the Land Conservation and Developments Work Task Remand, #98-WKTASK-00951, the importance of the Airpark for the economic and social development of the City of Scappoose warrants a Goal 5 exception to be taken around the Airpark. The Board of County Commissioners, therefore, finds that it is appropriate to adopt this Goal 5 exception. The Board of County Commissioners finds that substantial evidence has been presented showing that although the future industrial uses at the Airpark are, to some extent, speculative, all planning is based on considerations of compatible and incompatible uses that requires the exercise of judgment based, in large measure, on adverse impacts that by nature are speculative. Under State law, comprehensive plans, including the County’s and the City’s, (which are plans for future uses based on best guesses of needs and impacts) are not only required, but have the force of law. The Board of County Commissioners finds that it is imperative, with respect to planning around the Scappoose Airpark, to be able to consider such needs and impacts. The negative consequences of losing what is considered to be the best industrial siting in Scappoose, are too great, to warrant disregard of the City’s planned needs and impacts.
12. The Board of County Commissioners finds that there is substantial evidence in the record to show that the conflicts associated with the aggregate mining interest on light industrial uses are unique to such industry. Although there are existing agricultural uses around the Scappoose Airpark, nothing in the record indicates that the Agricultural Uses near the Airpark have created dust or other problems for existing industrial uses that would render those uses incompatible, and neither the airport nor its users have indicated that these agricultural uses are incompatible with industrial uses. In addition, dust from mining is a

year-long occurrence, whereas dust from farm operations is episodic and seasonal. In addition, from an aesthetic standpoint, evidence suggests that industrial operators have found open mine pits to be aesthetically distasteful, and have decided against moving their operations to the Scappoose Airpark for that reason. No similar evidence has been presented with regard to other surrounding uses, such as agricultural uses.

13. The Board of County Commissioners finds that there is substantial evidence in the record that both wet and dry mining within 5,000 feet of a runway at the Scappoose Airpark would constitute a historic and commonly recognized intentional nuisance. Substantial evidence has been presented in the record that dust, and particulate emanating from mining pits would substantially interfere with existing and planned sensitive light industrial manufacturing and light industrial occupants of the Scappoose Airpark, as well as with the Airport itself. (See Supplemental Finding 5). It has been shown that such nuisance would harm existing businesses and would dissuade other such businesses from leasing property at the Airpark. Substantial interference with the use and enjoyment of land is not in doubt where such land is physically invaded by the nuisance. Substantial evidence has been presented that dust and particulate will travel 5,000 feet into the Scappoose Airpark when the wind is blowing. The Board of County Commissioners finds that because of the sensitivity of the Airpark occupants' use and because of the extent of the harm involved with having such dust, and particulate enter upon the property, mining should be prohibited within 5,000 feet of a runway at the Airpark.

In addition, the risk of water fowl bird strikes created by water impoundments will interfere with the use and enjoyment of the Airport by public and private aircraft, causing potentially serious public safety issues. The Board of Commissioners finds that there is immense social value to having an airport in Scappoose that is not only safe, but able to attract light industrial businesses, thereby creating non-polluting, and diverse employment opportunities for citizens of Columbia County. This fact coupled with the fact that the record shows that there are substantial amounts of aggregate sited outside of the 5,000 feet perimeter and that aggregate miners, could therefore avoid the harm, and the fact that it would be extremely impracticable to move the airport, and surrounding industrial site to another location, leads the Board of County Commissioners to conclude that prohibiting mining within 5,000 feet of a runway of the Scappoose Airpark is in the Airpark's and the public's best interest. The Board of County Commissioners finds that Oregon case law supports its position that prohibiting mining within 5,000 feet of a runway at the Scappoose Airpark will avoid one or more historic and commonly recognized nuisances. Smejkal v. Empire Lite-Rock, Inc., 274 OR 571, 547 P2d 1363 (1976)(emission of slate dust as a nuisance); Lunda v. Matthews, 46 Or App 701, 613 P2d 63 (1980)(cement dust and noise as a nuisance); York v. Stallings, 217 Or 13, 341 P2d 529 (1959)(sawdust exudate as a nuisance).

14. The Board of County Commissioners finds that there is substantial evidence in the record

that there are several measures that can be taken to reduce the amount of dust and particulate from becoming airborne, which may mitigate their affect on the Scappoose Industrial Airpark. However, the Board finds that there is substantial evidence in the record that despite attempts to mitigate the movement of dust and particulate onto the Scappoose Airpark property, thereby harming existing and planned industrial businesses, none of these methods will completely mitigate such dust and particulate or their affects on the Airpark. The Columbia County Board of Commissioners finds a letter dated November 8, 2000, and attached table, from LPG Associates, Inc., in which R. Bruce Snyder, Environmental Scientist, states that despite mitigation attempts, "the Scappoose Industrial Park is almost certain to be impacted by dust generated during the development, operation, and closure of any dry extraction operation in the area to the Northeast, East and South of the Park," to be credible and persuasive.

Likewise, the Board of County Commissioners finds that there is substantial evidence in the record that measures can be taken to mitigate the risk of bird strikes from water impoundments. However, the Board of County Commissioners finds that there is substantial evidence that such measures are impracticable and unreasonable to take, and that such measures are not guaranteed to fully mitigate the bird strike problem. The Board of County Commissioners finds that because dust, particulate and bird strike conflicts cannot be fully mitigated, it is in the City of Scappoose's and Columbia County's best interests to prohibit aggregate mining within 5,000 feet of a runway at the Scappoose Industrial Airpark.

## Attachment C

### SCAPPOOSE INDUSTRIAL AIRPARK

#### Findings of Fact and Statement of Reasons to Support an Exception to Goal 5 to Prohibit Aggregate Mining Within 5,000 feet of a Runway at the Scappoose Industrial Airpark

##### A. Introduction.

This document sets forth findings of fact and reasons to support a "reasons" exception to Goal 5 and the mineral and aggregate provisions of the Goal 5 rule, OAR 660-023-0180, as they relate to properties containing significant aggregate resources that are located near the Scappoose Industrial Airpark (Airpark). The exception is taken to support a decision prohibiting mineral and aggregate mining within 5,000 feet of a runway at the Airpark, and to justify new Comprehensive Plan policies and land use regulations implementing that decision.

Goal 5 and OAR 660-023-0180 provide that in determining whether to permit mining at a significant aggregate site, the County may consider only impacts to existing or approved land uses. Furthermore, the County must limit the scope of its consideration of impacts to just six specified types of impacts. See OAR 660-023-0180(4)(b). This exception is taken to allow the County (1) to consider impacts on planned land uses and (2) to consider other impacts than those listed in OAR 660-023-0180(4)(b) in determining whether to allow, limit or prohibit mining near the Airpark. Consistent with OAR 660-004-0015(1), the exception and these findings are made part of the Columbia County Comprehensive Plan.

This exception focuses on the Scappoose Industrial Airpark. The Airpark, which is owned and operated by the Port of St. Helens (Port), is located within the city limits and urban growth boundary of the City of Scappoose (City). Under the City's acknowledged Comprehensive Plan and land use regulations, the Airpark has been designated and zoned for light industrial development. City comprehensive plan policies encourage and promote the development of diverse, labor-intensive, non-polluting industries at the Airpark that are compatible with airport development. These policies are based on the assumption, consistently acted upon by the City, that most industrial development will occur in the area around the airport. In short, protecting the Airpark for non-polluting, labor-intensive industrial uses in order to expand and diversify the local economy is a principal economic objective of the City. It is an objective that the Port, many area residents and Columbia County share. This exception is deemed necessary and appropriate to protect and ensure the future economic viability and attractiveness of the Airpark and to enhance air navigational safety there.

Under the prior Goal 5 rule, OAR 660, Division 16, a Goal 5 exception would not have been necessary to achieve the results this exception provides. Under the old rule, Columbia County could have considered the economic, social, environmental and energy (ESEE) consequences of allowing, prohibiting or limiting mining within 5,000 feet of an Airpark



runway, taking into consideration issues such things as air navigational safety, impacts on present and future industrial users, and the availability of alternative aggregate sites, and then developed a program prohibiting mining near the airport. However, things are different under the new rule. As noted, the new rule prohibits consideration of impacts on planned or allowed uses, including planned industrial development identified and acknowledged in the City's Comprehensive Plan in accordance with Goal 9, OAR 660, Division 9, and ORS 197.712. This exception is taken to allow for such considerations, and to allow the County, proactively, to engage in comprehensive planning to protect future industrial development at the Airpark. The County recognizes it already has the ability to consider potential bird strike hazard issues associated with "wet mining" under ORS 836.623(2) without this exception. Through this exception, the County considers those issues together with aggregate mining impacts on planned economic development at the Airpark.

An exception is a decision to exclude certain land from the requirements of one or more goals. OAR 660-004-0000(2). This exception is being taken to provisions in OAR 660-023-0180 and, most particularly, OAR 660-023-0180(4). While exceptions to Goal 5 are uncommon, the ability to take a Goal 5 exception is recognized in OAR 660-004-0010(2)(a), and at least one Goal 5 exception has been taken, by Lane County, for highway improvements in the West Eugene area. Because changes in the Goal 5 rule render the rule more substantive and less procedural than before, Goal 5 exceptions may become more common in the future.

The standards applicable to this "reasons" exception are set out in ORS 197.732(1)(c), Goal 2 Part II(c), OAR 660-004-0020 and OAR 660-004-0022. See OAR 660-004-0015(1). Compliance with those standards is addressed below, as is compliance with other statewide planning goals.

## **B. Background.**

The Scappoose Industrial Airpark is located within a large geographic area identified as containing significant volumes of high quality aggregate resources. As described in a report dated March 13, 2000, prepared by David J. Newton Associates, Inc., and entitled "Aggregate Resource Evaluation and Significance Determination, Lone Star Northwest, Pit E, Columbia County, Oregon", the area immediately east of Airpark has substantial reserves of high quality aggregate. In some portions, the ancestral Columbia River deposited sands and gravels in excess of 200 feet.

Many years ago, aggregate mining operations were approved on properties west and north of the Airpark. One of those mines, the Parker property, is no longer in operation, and Northwest Aggregates, Inc. has indicated that its Santosh operation is approaching the end of its useful life. With local and regional needs for aggregate, Columbia County and mining companies have been looking at new sites to meet future needs.

Several potential mining sites have been identified near the Airpark. These include the Meier site, located immediately east of the Airpark; the Bates & Roth site, located about a mile northeast of the Airpark; and the Ellis site, located east and north of the Bates and Roth site. As described in a report prepared by Herbert Schlicker & Associates, Inc., the Meier, Bates & Roth

and Ellis sites contain, respectively, about 70 million, 80 million and 102 million in-place cubic yards of sand and gravel. The David Newton report estimates approximately 75 million cubic yards of material at the Meier site, extending as far as 215 feet below the surface. The Board finds both of these reports to be credible as to these matters, and it accepts their findings. It also finds, as stated in the Schlicker report, that the quantity of aggregate resource contained at each of these sites greatly exceeds the 2 million cubic yard minimum requirement for significance status.

Moreover, the Board finds that these sites are not the only places containing significant quantities of high quality aggregate that are located in the lowlands of "Scappoose Bottoms" between the cities of Scappoose and St. Helens. Northwest Aggregates, Inc. asserts, and the Board believes and finds, that there is general uniformity of the composition, depth and lateral extent of the sand and gravel deposit across the larger Scappoose Bottoms region. Furthermore, significant aggregate resources have been identified in the Deer Island area north of St. Helens. The Schlicker report identifies Parcels A, B, and C of the Reichhold site near Columbia City as containing, respectively, 73.9 million, 13.2 million and 62.9 million in-place cubic yards of aggregate. It also estimates that the Brown and Hoffman expansion to the Morse Brothers, Inc. Deer Island site contain about 9.2 million cubic yards of aggregate. The Board finds the Schlicker report to be credible as to these matters, and it accepts these findings.

The Board concludes from this information that the portions of the southern Columbia County within the historic flood plain of the Columbia River are blessed with an abundance of aggregate resource that appears to be spread uniformly throughout the area. It concludes that there are substantial aggregate reserves to meet local needs and contribute to regional needs for many years to come.

The presence of these large quantities of high quality aggregate has attracted mining interests to the area, which in turn has resulted in controversies due to various conflicts between mining and other uses. From experience, the Board knows that proposals for mining are often controversial, frequently due to their impacts on rural residents in the area. However, proposals for mining near the Airpark have been particularly controversial in recent years as the City of Scappoose has grown, industrial development at the Airpark has expanded, and air operations at the Airpark have increased. The controversies have centered over issues including potential adverse impacts on air navigational safety posed by increased bird movements caused by water impoundments, and compatibility conflicts between mining and current and future light industrial development at the Airpark.

Disputes over mining the Meier property have been ongoing since at least 1981, when a conditional use application to mine portions of the Meier property and other nearby properties was brought before the Board of Commissioners. Following conditional approval by the Board, the application was appealed to the Land Use Board of Appeals (LUBA), where it was remanded to the County. *Olsen v. Columbia County*, 8 Or LUBA 152 (1983). On remand, the application died.

Thereafter, in April, 1991, Lone Star Northwest sought a plan amendment and zone change to allow surface mining on approximately 386 acres of the Meier property. On July 24,

1991, the Chairman of the Columbia County Planning Commission signed Order 4-91 recommending denial of that application on the grounds that "immediate and long term conflicts of the Zone Change could not satisfactorily be mitigated" and "it has not been absolutely established that the benefits of the Zone Change will outweigh the detriments suffered as a result of said unresolved conflicts." The Board of Commissioners tentatively upheld the Planning Commission decision recommending denial, but Lone Star withdrew its application prior to the issuance of a final order.

Then in 1996, Lone Star Northwest filed yet another plan amendment and zone change application to allow mining on approximately 422.8 acres of the Meier site, which it now owned. The proposal would have created an approximately 360-acre open water impoundment. Following very lengthy hearings that involved the Federal Aviation Administration, the United States Department of Agriculture, Animal Damage Control, and the Aeronautics Division of the Oregon Department of Transportation, and that resulted in a very large record submitted by the applicant and opponents (including the City, the Port and many area residents), the Planning Commission recommended denial of the application for failure to include an exception to Goal 3, as required by Agriculture Policy 2 of the Columbia County Comprehensive Plan. Again, Lone Star withdrew the application before Board action.

In 1998, in the context of periodic review and with the intent to put the controversy to rest, the County adopted Ordinance 98-01, adopting comprehensive plan policies and land use regulations prohibiting new or expanded mining operations within 3,000 feet of areas designated by acknowledged comprehensive plans for future diverse, employment-intensive, non-polluting industrial uses. That ordinance would have given protection to industrial lands at the Airpark and in the City of Columbia City. On review, however, the Land Conservation and Development Commission (LCDC) ordered the County to delete these policies and regulations, finding that they exceeded planning requirements in OAR 660-023-0180(4)(b). LCDC's order led to an appeal filed by the Port, City and Transwestern Aviation, facially challenging the validity of the rule used to overturn the County's policies and regulations. The Court of Appeals upheld the rule on appeal, and the Supreme Court declined to accept review. *Port of St. Helens v. LCDC*, 165 Or App 487, *rev. den.* 330 Or 363 (2000). However, in a footnote, the Court of Appeals stated that the issue of whether mining uses would discourage or interfere with future industrial development at the Airpark "is an issue that may bear on whether particular mining operations that may be applied for will be allowed by the county." *Port of St. Helens* at 494, n. 3. While the court's statement creates some confusion as to the validity of the mineral and aggregate rule as applied to this circumstance, the courts' affirmance of the rule results in the need to take an exception to OAR 660-023-0180 to assure that all impacts are considered.

Subsequent to issuance of the decision in *Port of St. Helens*, Northwest Aggregates filed with the County an application to "dry-mine" the Meier site, *i.e.* mine aggregate material that is above the water table. That application currently is pending before the County. Because that application was filed prior to adoption of this exception, and because it is a different proceeding based on a different evidentiary record, this exception will have no impact on that application. The Board finds that the dry-mining application can and will be judged on its own merits based on the standards applicable to it, including but not limited to the standards contained in OAR

660-023-0180, and it finds that it can make an impartial decision based on the record before it in that matter.<sup>1</sup>

The history of mining applications near the Airpark is not the only history relevant to this Goal 5 exception. For over 20 years, the County and its cities have been required to prepare and adopt comprehensive land use plans and implementing regulations in compliance with the statewide planning goals. Both Columbia County and the City of Scappoose have acknowledged comprehensive plans. The County and City also have signed an Urban Growth Area Management Agreement that requires, among other things, (1) that they "preserve land around the City of Scappoose for economical and efficient development and public services"; (2) that they "cooperate in the development of a Comprehensive Plan and in the Zoning of the Urban Growth Area" (which now includes the Airpark); and (3) that "the Comprehensive Plans of the City of Scappoose and Columbia County shall not conflict." (Emphasis in original.)

Consistent with this Agreement and LCDC Goal 2, the County and City have worked together to protect the City's current and long-term development interests and ensure compatible land uses. In 1992, as part of its periodic review, the City of Scappoose, in coordination with the County, adopted Ordinance 581, amending the City of Scappoose Comprehensive Plan by expanding the City's urban growth boundary (UGB) to include the Airpark and adjoining properties. Ordinance 581 also amended the Scappoose Comprehensive Plan text to add new findings and policies relating to the Airpark and industrial development. Section 3 of Ordinance No. 581 amended the Comprehensive Plan Preface for Urban Growth Boundary goals and Policies by adding the following language:

"The airport section of the urban growth boundary exists to serve the present and future industrial needs of the City of Scappoose."

Section 4 of that Ordinance amended the Comprehensive Plan Findings on Urban Growth Boundary in relevant part to include the following language:

"The airport section of the urban growth boundary contains 414 acres available for industrial land use. This area is intended to be used for employment generating uses which require larger lot sizes.

"\* \* \*

"East of West Lane Road and North of the Crown Z Logging Road are approximately 367 acres identified as industrial in the Plan and

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<sup>1</sup> If Northwest Aggregate's dry-mining application is "complete", then this exception will not affect that application because it was not in effect at the time the application was filed. Under ORS 215.427(3), the dry-mining application, if complete, must be judged on its own merits against the applicable standards in effect when the application was filed. The Board of Commissioners recognizes that the dry-mining application, and this Goal 5 exception, involve two separate proceedings involving different evidentiary records and based on different review criteria. The Board finds and concludes that its action on this goal exception does not bias, prejudice or in any way influence its ability to fully and fairly decide the dry-mining application based on the evidence and criteria applicable to that land use action.

containing the Scappoose Industrial Airpark and pre-existing agricultural uses. A few residential dwellings are also found within this area.

"The purpose of including the airport within the urban growth boundary was to provide employment generating industrial developments for the community. Some of the anticipated uses in the area east of West Lane Road would be the manufacturing, compounding, processing, and packaging of various goods and materials, distribution center for parcel delivery, machine shops, wholesale distributing and storage, and airport support services. This listing provides examples of anticipated uses and is not exhaustive.

"\* \* \*

"Uses that are land intensive but generate little or no employment opportunities for the community are not targeted for the long term plans to develop an industrial park near the airport. The City included the airport within the urban growth boundary to develop an industrial area that will provide employment opportunities for Columbia County and the City of Scappoose."

Section 5 of Ordinance 581 amended the Comprehensive Plan Goal of the Urban Growth Boundary by adding the following two new goals:

"4) Promote employment generating uses within the airport section of the urban growth boundary. The amount of land required for the use should not dominate the amount of employment generated by the use."

"5) Develop the airport area in a manner to create an industrial park."

These amendments to the City's Comprehensive Plan, which LCDC subsequently acknowledged, supplemented existing acknowledged plan policies promoting diverse, labor-intensive, non-polluting industries, including Economic Policy 7, which states that it is the policy of the City to

"Assist in programs to attract desirable industries in terms of diversification, labor-intensiveness, and non-pollution rather than accept any industry which may wish to locate here; additionally, to prohibit industries with excessive levels or [sic] pollution or other undesirable effects which could cancel possible economic benefits or threaten the existing quality of life."

In summary, while the controversy over mining dragged on, the City was developing and implementing an economic strategy to expand and diversify its economy that focused on the Airpark. LCDC acknowledged that policy, and Columbia County committed itself to work cooperatively with the City to support and help achieve the City's planning and economic development policies and objectives.

Meanwhile, during the late 1980s and 1990s, there was significant growth at the airport and a significant increase in airport operations. The Board finds that between 1985 and 2000, over \$7.1 million has been invested by the public and private sectors to upgrade and expand the Airpark and extend urban facilities to it. By 1994, the Airpark had an estimated worth of about \$10-\$12 million. Figures approved by the Federal Aviation Administration indicate that aircraft operations at the Airpark will nearly double in 20 years, from 43,143 takeoffs and landings in 1994 to nearly 74,500 in 2013. This increase reflects not only economic and population growth and development in the City and County, but also pressures resulting from the closure of Portland Metro Area general aviation airports (like the Clark County Aerodome) and increased congestion at airports like Hillsboro.

Between 1990 and 1996, employment at the Airpark increased from 15 to 65 employees, most of whom worked full time. Annual payroll in 1996 exceeded \$1,225,000, with 90 percent of employees living in Columbia County. Total 1996 economic contributions to the community were estimated at \$1.7 million. And the prospects for continued Airpark industrial development look bright, with companies looking to add hundreds of new employees. However, as the Board finds below, those prospects will dim significantly if mining is permitted within 5,000 feet of the Airpark.

### **C. Overview of OAR 660-023-0180.**

An exception is a decision to exclude certain land from the requirements of one or more applicable statewide goals in accordance with the process specified in Goal 2, Part II, Exceptions. OAR 660-004-0000(2). The intent of the exceptions process is to permit necessary flexibility in the application of the statewide goals. OAR 660-004-0000(3).

A "reasons" exception must set forth the reasons justifying "why the state policy embodied in the applicable goals should not apply." ORS 197.732(1)(c)(A); OAR 660-004-0020(2)(a). For this exception, the applicable goal is Goal 5. Goal 5 requires local governments to determine significant sites for inventoried resources and develop programs to achieve the goal "following procedures, standards and definitions contained in commission rules". OAR 660-023-0180 contains the procedures, standards and definitions relevant to mineral and aggregate resources.

LCDC amended Goal 5 and its implementing rule in 1996. Under the former goal and rule (OAR 660, Division 16), local governments were required to identify uses that conflict with inventoried resource sites (including mineral and aggregate resource sites), and to determine the ESEE consequences of (1) protecting the resource site fully; (2) allowing conflicting uses fully;

or (3) limiting conflicting uses. The analysis extended both to existing uses and uses allowed by zoning.

For many inventoried significant Goal 5 resources, the new Goal 5 rule, OAR 660, Division 23, requires an approach very similar to that in OAR 660, Division 16, with respect to identification of conflicting uses and determination of ESEE consequences. For example, under OAR 660-23-040(2), local governments must "identify conflicting uses that exist, or could occur, with regard to significant resource sites" This rule also requires local governments to "examine land uses allowed outright or conditionally within the zones applied to the resource site and in its impact area". When conflicting uses are identified, OAR 660-023-040(4) requires local governments to "analyze the ESEE consequences that could result from decisions to allow, limit or prohibit a conflicting use."

However, for inventoried significant mineral and aggregate resources, the rule operates in a different manner. Initially, the rule does not require local governments themselves to inventory and plan for these resources. Instead, local governments can amend their acknowledged inventories or plans on a case by case basis in response to a post-acknowledgment plan amendment ("PAPA") application filed by a property owner. OAR 660-023-0180(2). Review of a PAPA application would be in accordance with the policies and processes established by the local government, such as those adopted by Columbia County in Ordinance 98-01.

Additionally, the rule changes the methods by which local governments identify conflicting uses and analyze ESEE consequences. Under OAR 660-23-0180(4)(b)<sup>2</sup>, and in

<sup>2</sup>OAR 660-023-0180(4)(b) provides in full:

"(4) For significant mineral and aggregate sites, local governments shall decide whether mining is permitted. For a PAPA application involving a significant aggregate site, the process for this decision is set out in subsections (a) through (g) of this section. For a PAPA involving a significant aggregate site, a local government must complete the process within 180 days after receipt of a completed application that is consistent with section (6) of this rule, or by the earliest day after 180 days allowed by local charter. The process for reaching decisions about aggregate mining is as follows:

" \* \* \*

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

"(A) Conflicts due to noise, dust, or other discharges with regard to those *existing and approved uses* and associated activities (e.g., houses and schools) that are sensitive to such discharges;

"(B) Potential conflicts to local roads used for access and egress to the mining site within one mile of the entrance to the mining site unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan. Conflicts shall be determined based on clear and objective standards regarding sight distances, road capacity, cross section elements, horizontal and vertical alignment, and similar items in the transportation plan

marked contrast to OAR 660-23-040(2) and (4), local governments may consider only conflicts with "existing or approved land uses" within the impact area. The rule prohibits consideration of conflicts with future land uses that are planned for and allowed outright or conditionally within acknowledged zoning districts applied to the impact area. Further, the determination of conflicts is limited just to six specific conflict categories identified by LCDC, with local government consideration of all other conflicts forbidden.

Under OAR 660-023-0180(4)(d), a local government decision to allow, not allow or limit mining at the site may be based only on the conflicts identified in 660-023-0180(4)(b). Other conflicts, such as the adverse impacts of proposed mining operations on a city's ability to implement its economic strategy by attracting light industrial uses to adjoining or nearby lands planned and zoned under acknowledged comprehensive plans for diverse, employment generating, non-polluting light industry, cannot be considered.

This exception to OAR 660-023-0180 is taken to allow Columbia County to consider conflicts with future land uses that are planned for and allowed outright or conditionally at the Scappoose Airpark under the City of Scappoose's acknowledged Comprehensive Plan and land use regulations. It is taken to allow Columbia County to consider the entire range of potential conflicts between mining, on one hand, and urban light industrial development and air navigational safety on the other hand, including adverse impacts on the Port's and City's abilities to attract and maintain diverse, employment-generating, non-polluting light industry at the Airpark if mining operations are occurring near (i.e., within 5,000 feet of) the Airpark. And, ultimately, it is taken to allow the Board to adopt and justify a Goal 5 program prohibiting new or expanded mining operations within 5,000 feet of a runway at the Scappoose Industrial Airpark, which the Board concludes is the most appropriate action based on all of its considerations in this proceeding.

By adopting this exception and prohibiting mining within 5,000 feet of an Airpark runway, the Board recognizes, respects and honors the City's planning process and its acknowledged plan. It also recognizes, respects and honors the master planning efforts taken by the Port of St. Helens and the substantial infrastructure investment in the Airpark made by the

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and implementing ordinances. Such standards for trucks associated with the mining operation shall be equivalent to standards for other trucks of equivalent size, weight, and capacity that haul other materials;

"(C) Safety conflicts with existing public use airports due to bird attractants, i.e., open water impoundments. This paragraph shall not apply after the effective date of commission rules adopted pursuant to Chapter 285, Oregon Laws 1995;

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

"(E) Conflicts with agricultural practices; and

"(F) Other conflicts for which consideration is necessary in order to carry out ordinances that supersede Oregon Department of Geology and Mineral Industries (DOGAMI) regulations pursuant to ORS 517.780;" (Emphasis added.)



City, the Port and the FAA. Further, through this action, the Board acknowledges the citizen involvement that went into development of the City's comprehensive plan, and it seeks to balance the City's economic needs with local and regional needs for aggregate in a manner that considers and accommodates as much as possible the needs of all levels of government, semipublic and private agencies and the citizens of Oregon.

**D. Compliance with OAR 660-004-0020 and 660-004-0022.**

ORS 197.732(1)(c), Goal 2 Part II(c), Exceptions, and OAR 660-004-0020(2) require that the following four standards be addressed when taking an exception to a goal:

"(1) Reasons justify why the state policy embodied in the applicable goals should not apply;

"(2) Areas which do not require a new exception cannot reasonably accommodate the use;

"(3) The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

"(4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts."

OAR 660-004-0020 and OAR 660-004-0022 then expand on the type of information necessary to support a goal exception.

**1. Reasons Supporting Goal 5 Exception.**

The Board finds ample reasons supporting this Goal 5 exception. First and foremost among them is the need to consider a broader range of impacts, including impacts on planned industrial development inside the City, that allows the County to make truly "comprehensive" planning decisions that recognize, respect and honor Scappoose's planning efforts and the integrity of its acknowledged Comprehensive Plan and ensure that any development occurring within 5,000 feet of the Airpark completely considers potential impacts on the City's ability to fully implement and achieve its planning objectives. A second reason is to recognize the significant investment in public funds that the City and Port have made in extending infrastructure to the Airport to encourage and support a healthy and diversified industrial park, and to ensure that such expenditures were not made in vain. A third reason is to provide full and fair consideration to all impacts on present and future industrial users at the Airpark, and to the Port in its efforts to expand existing uses and attract new industry. A fourth reason is to allow

the County to determine future uses within 5,000 feet of the Airpark taking into consideration the totality of the aggregate resource in Scappoose Bottoms and Deer Island.

As described above, the City of Scappoose has identified the Airpark as the focal point of its economic strategy. It is the City's desire, shared by the County, to diversify its economy beyond one that is heavily dependent on natural resources. It is also the City's desire to become something more than a bedroom community for the Portland metropolitan area, and indeed, this is consistent with LCDC's Transportation Planning Rule, which encourages people to live near their places of employment. The Board finds that presence of the Airpark places the City in a very favorable position to expand and diversify its economy, as many light industries prefer to locate near an airport. And given the Airpark's location inside an urban growth boundary, a broad range of light industrial users may do so, as opposed to just airport related or dependent uses. Further, industrial growth at the Airpark will provide more opportunities for area residents to work near their homes.

The City's economic policies are the means the City has chosen to promote economic development through encouragement of diverse, employment intensive, non-polluting industrial uses. The City adopted these policies following the analysis required by ORS 197.712(2) and OAR 660, Division 9. Its policies have been acknowledged by LCDC as in compliance with the statewide goals.

In furtherance of these economic policies, the City, together with the Port, negotiated a \$1.5 million loan/grant from the Oregon Economic Development Department for the construction of a water facility expansion and water line extension to the Airpark. The purpose of that project was to facilitate industrial development at the Airpark. The water line extension, which is an urban facility, will allow the continuation of existing industrial uses and help attract new industrial uses. A condition of the loan/grant is the creation of jobs. For reasons described below, the Board finds that new or expanded mining operations in the vicinity of the Airpark would inhibit the City's and Port's ability to attract jobs to the Airpark and undermine the condition of the loan/grant.

As noted, many millions of dollars have been invested in the Airpark by the Port and the FAA. These investments have resulted in an airport that today is one of the busiest non-towered airports in Oregon. The Board finds that the Scappoose Industrial Airpark plays a significant role in the state's air transportation network, and it believes that the growth the Airpark has experienced will continue. For reasons described below, the Board finds that aggregate mining is not compatible within 5,000 feet of an Airpark runway. It also believes that it would be legally very difficult, and a waste of public funds, to relocate the Airpark to another location due to adverse impacts resulting from mining within this distance from a runway.

The Board also finds that the Airpark is an attractive location for businesses and that, as planned, the Airpark is attracting light industrial users and expanding and diversifying the local economy. The Board finds this to be a very positive development, and it believes and accepts testimony it received that continued growth will occur if surrounding uses remain compatible with light industrial development and airport operations. The Board shares the City's interest in reducing local dependence on resource-based industries.

At the same time, the Board finds that mining in close proximity to the Airpark would likely have significant detrimental impacts on Airpark industrial users. The Board finds credible and believes testimony from several existing Airpark users that mining near the Airpark is incompatible with their operations and may jeopardize their continued presence at the Airpark. The Board accepts and believes testimony from Sherpa Aircraft Manufacturing, Inc., which has designed and manufactured a single-engine airplane, that once this aircraft is certified, Sherpa anticipates beginning full-scale production with a workforce starting at 140 people with plans to reach 210 people. The Board finds that this would have a substantial positive effect on the local economy. However, it believes Sherpa's testimony, and finds, that mining near the Airpark jeopardizes Sherpa's continued presence in Scappoose and will encourage other businesses to locate elsewhere. It accepts and believes Sherpa's testimony that the beauty of the area was a major factor in Sherpa's locating at the Scappoose airport, but that it would be very reluctant to bring potential buyers to a site that is surrounded by surface mining. The Board also accepts and believes Sherpa's testimony, and finds, that Sherpa needs a clean and dust-free environment, and thus is reluctant to make the substantial investment necessary to manufacture the aircraft in such close proximity to any activity known to generate dust and particulates.

The Board also believes and accepts similar testimony from Composites Unlimited, a composite fiber manufacturer located at the Airpark; Sport Copter, which manufactures gyrocopters; and Oregon Aero, which manufactures specialized aviation products, that a clean and attractive environment is critical to the success and well-being of those companies, and that those companies cannot tolerate levels of particulate matter higher than they are currently experiencing. The Board finds that these companies have growth potential and growth plans which will contribute significantly to the local economy. It also finds that they like their location at the Scappoose Airpark, but that they will look elsewhere to expand if mining is permitted next to the Airpark.

The Board does not take lightly the potential relocation of these businesses if mining occurs next to the Airpark. To the contrary, it finds that the impacts of mining may have already lost business for the Airpark. The Board finds credible and accepts the testimony of Pacific-Coast Avionics that when it moved from the Seattle area to Oregon in 1996, it came down to a choice between the Scappoose Airpark and the Aurora airport, and the company decided against Scappoose due to the prospect of mining right next to the airport, even though Scappoose was competitive in every aspect of its decision matrix. The Board also believes this company's testimony to the effect that, in addition to but separate from dust and particulate considerations, it was greatly concerned with the aesthetics of locating its business near an active surface mine. In its words, "Like Scappoose, Aurora is located conveniently to the Portland area and is in a rural setting amid pleasant surroundings. Aurora, however, is not threatened by an adjacent open pit mine." The Board takes seriously this company's warning that "I can not stress to you enough how detrimental approving this application would be on the regional airport system generally and on your community specifically."

The Board acknowledges that there are companies and people in the community who feel that the impacts and conflicts between mining and industrial development are less severe and less significant than indicated by this testimony. However, the Board believes and finds that competition to attract industrial development is significant, and it finds that the aesthetics and

attractiveness of an area is a very important consideration for companies in determining where to locate. Moreover, even if dust and particulate matter can be fully controlled, which the Board finds questionable outside of a fully enclosed environment, the Board finds that the perception of potential adverse impacts from dust can be enough to influence potential businesses to locate elsewhere, or to cause existing users to minimize future investments at the Airpark. And it concludes that none of this is good for the community, the City, the Port, or the County.

Were there a shortage of potential aggregate sites in Columbia County, then allowing mining in some limited capacity within 5,000 feet of the Airpark might merit further consideration. But the Board finds and concludes that there is no shortage of aggregate reserves in Columbia County. As noted above, Scappoose Bottoms contains tremendous deposits of high quality aggregate resources. With reserves estimated at 182 million cubic yards, the Bates & Roth and Ellis sites alone can be mined for many years. Located beyond 5,000 feet from the Airpark, these sites would have substantially less adverse impact on the Airpark than sites located within 5,000 feet of the Airpark, not only in terms of impacts on industrial users, but in terms of potential impacts to air navigation from increased bird strike hazards. And because these alternative sites exist, mining can continue in the County without jeopardizing jobs associated with mining.

In summary, there is a need for both aggregate and light industrial manufacturing in Columbia County. The need for aggregate can be met at many locations. However, an airport and its associated industrial park cannot easily be picked up and relocated, and given the significant investment in the Airpark, moving the Airpark makes no sense. The City has engaged in a substantial planning process that resulted in policies focusing urban industrial development at the Airpark. The Port and County supported that policy, and LCDC acknowledged it. The Board concludes that undermining the City's ultimate policy choice by allowing an incompatible use to be located next to the Airpark is bad planning and bad policy, especially when the need for aggregate can be satisfied elsewhere in Columbia County. The Board concludes that the public's need to protect public investments and encourage and promote a diversified economy at the Airpark greatly outweigh any private need of nearby property owners to mine their properties. Accordingly, it adopts this exception prohibiting mining within 5,000 feet of a runway at the Scappoose Airpark.

In selecting a distance of 5,000 feet from a runway at the Airpark, the Board acknowledges difficulty in predicting exactly how far away mining sites need to be from Airpark industrial uses to avoid conflicts with such uses. The Board finds that this is a judgment call, and it concludes that a distance of 5,000 feet is reasonable and appropriate for several reasons. First, the Board is persuaded by the testimony of existing Airpark users that a clean environment is absolutely essential to their businesses, and it believes and finds that a distance of 5,000 feet from mining operations will be adequate to protect these highly dust-sensitive uses. Second, the Board recognizes that the Scappoose area will grow over time, and it finds that this distance should allow for some light industrial expansion in future decades. Third, the Board finds that a distance of 5,000 feet from an airport runway is a distance for which ORS 836.623(2)(b) authorizes local governments to adopt regulations limiting new water impoundments where there is substantial evidence indicating that such impoundments are likely to result in a significant increase in hazardous movements of birds feeding, watering or roosting in areas across airport

runways or approach corridors. Here, the Board finds that the record contains substantial evidence indicating that open water impoundments within 5,000 feet of a runway are not just likely, but very likely to significantly increase hazardous movements of birds feeding, watering or roosting in areas across Airpark runways or approach corridors.

The Board is impressed with and believes the evidence demonstrating a likelihood that new water impoundments within 5,000 feet of an Airpark runway would significantly increase the potential bird strike hazard across runways and approach corridors. In particular, the Board is impressed by an August 25, 1999 letter to John Helm, Transwestern Aviation, from the former Chief of the Pentagon's Bird Aircraft Strike Hazard team, Ronald Merritt, concluding that new open water impoundments resulting from mining within 5,000 feet of the runway at Scappoose Industrial Airpark would "very likely result in a significant increase in bird strike hazards in the approach corridors and the middle of the airfield compared to the current level of hazard." The Board views Mr. Merritt as a bird strike expert of national caliber, and it finds his testimony and his conclusions to be credible and convincing. It also finds strong evidentiary support and confirmation for Mr. Merritt's conclusions in testimony provided by other bird strike experts, including USDA Wildlife Services officials (Thomas Hoffman, Rod Krischke), FAA officials (Ed Cleary, Harold Handke, James Laird), and the Oregon Department of Aviation (Thomas Highland).

In reaching his conclusions, Mr. Merritt indicates that he reviewed documents written by EnviroScience, Inc. and the US Department of Agriculture (USDA) Animal Plant Health Inspection Service Animal Damage Control (APHIS-ADC), now known as USDA Wildlife Services, including a wildlife assessment and wildlife mitigation plan associated with Lone Star's 1996 application to allow surface mining at the Meier site. These documents addressed factual information on both the existing ambient levels of bird flight activity in the vicinity of the Airpark and the effects of water impoundments on bird flight activity in that area. In support of his conclusions, Mr. Merritt determined that (1) changing the proposed site from pasture/cropland to a 360-acre lake would likely result in a significant increase in the attractiveness of the surrounding habitats and alter bird movement patterns in the vicinity of the Airpark; (2) while active wildlife control methods would reduce the number of birds at the impoundment site, they would increase the number of birds in the air around the airport and in the traffic pattern, especially when birds are being harassed at the impoundment site; and (3) like the Meier site, lands south, east, north and northwest of the Airpark are either agricultural lands or pasture, and if the Meier site is converted to open water, birds currently feeding there will concentrate in nearby crop and pasture lands to forage, including lands within and across the airport runway and approach corridor. The Board believes and accepts these findings and so finds. It finds also that USDA Wildlife Service's analysis of the EnviroScience wildlife assessment and mitigation reports is consistent with the findings and conclusions of Mr. Merritt.

The Board further finds that this likelihood of a significant increase in bird strike hazards results even when taking into account mitigation measures and conditions. The Board agrees with the conclusion of the USDA Wildlife Services, in its undated report entitled "Wildlife Management Plan Review for Lone Star Mining Expansion Project, Scappoose, Oregon" and in a letter to Mark Greenfield dated October 25, 1996, that a new water impoundment on the Meier property would require a full range of active wildlife measures applied in perpetuity, including

scare devices such as pyrotechnics and noisemakers, visual and audio detractants and physical barriers such as cables or netting and chemical applications onto the water, and implementation of an on-going and aggressive integrated bird management and hazing program including human patrols and the ability to use lethal control of specific bird species. The Board finds, however, that the costs of employing such techniques in perpetuity would be very expensive; that Lone Star never expressed a willingness to employ an integrated bird management and hazing program in perpetuity as part of its 1996 application; that noise makers, exploders, pyrotechnics, and chemical retardants on the water are not acceptable when located within sight and sound of an urban growth boundary; that using lethal control techniques could endanger migratory species protected under federal law; and that the presence of netting or wires immediately under flight path areas could themselves ensnare aircraft in emergency situations. It concludes that the standards in ORS 836.623(2)(b) allowing it to prohibit new open water impoundments within 5,000 feet of an airport runway are met.

In summary, the Board finds that there is very strong evidence indicating that wet mining within 5,000 feet of an Airpark runway very likely would significantly increase the level of bird strike hazard; that most of the aggregate resource located within 5,000 feet of the Airpark would require the creation of new water impoundments for mining to occur; that dry mining near the Airpark will have a significant negative impact on industrial development at the Airpark; and that numerous sites beyond 5,000 feet from an Airpark runway enable the County to continue to provide significant quantities of high quality aggregate locally and to the region. The Board concludes that these findings justify a prohibition on mining within 5,000 feet of an Airpark runway.<sup>3</sup>

## **2. Alternative Locations.**

The next inquiry under the exceptions test is whether areas not requiring goal exceptions can reasonably accommodate the proposed use. Because the exception here is merely to allow the Board to consider impacts from aggregate mining that it otherwise could not consider under the Goal 5 rule, this criterion is not directly on point. Nonetheless, the Board deems it appropriate to address this standard in the broader contexts of availability and protection of the aggregate resource in the County and light industrial development in Scappoose.

Based on the inventories and testimony described above addressing the quality, quantity and location of aggregate in Columbia County, the Board first finds that there are many other locations in the Scappoose Bottoms and Deer Island areas containing high quality aggregate where the need for aggregate can be met. These include, but are not limited to, the Bates &

<sup>3</sup> Under ORS 215.283(2)(b)(B), aggregate mining "may be established, subject to the approval of the governing body of its designee", in areas zoned for exclusive farm use, such as those areas beyond the City's urban growth boundary. As explained in *Brentmar v. Jackson County*, 321 Or 481 (1995), uses listed under subsection (2) of ORS 215.283 are "conditional uses" for which Columbia County is free to enact and apply legislative criteria of its own. The Board finds that its adoption of this prohibition on mining to protect the Airpark and air navigation is consistent with ORS 215.283(2)(b)(B). It also finds that its existing conditional use standards in Columbia County Zoning Ordinance (CCZO) Section 1503.5(E) and (G), which apply to aggregate mining and processing under CCZO 303.2, require that mining "not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district" and "not create any hazardous conditions", and it finds and concludes that mining close to the Airpark could not satisfy these standards for all of the reasons set out in this exceptions document.

Roth, Ellis, Reichold and Morse Brothers Deer Island sites which, collectively, contain over 340 million cubic yards of aggregate. The Board finds and concludes that these sites, by themselves, contain a tremendously large quantity of aggregate that will serve the region for a very long time. At the same time, it finds that many other areas in Scappoose Bottoms and Deer Island similarly contain large quantities of high quality aggregate. Redesignated and rezoning all of these areas for surface mining would not require goal exceptions under Goal 5 and the Goal 5 rule.

Second, the Board finds that these alternative locations are generally more distant from urban growth boundaries than lands within 5,000 feet of an Airpark runway, and hence would have much less of an adverse impact on urban light industrial uses and other urban uses. Third, it finds that relocating the Airpark would require a Goal exception under OAR 660-012-0065(3) (the Transportation Planning Rule). Fourth, it finds that if the City had to expand its urban growth boundary in a different direction to provide other lands for industrial development, the UGB expansion process would require analysis under the Goal 2, Part II Exceptions standards.

The Board recognizes that the City of Scappoose went through a detailed and comprehensive planning process to determine appropriate and suitable lands for light industrial development. That process included County coordination with the City of Scappoose and the Port of St. Helens and resulted in an acknowledged plan. Since the completion of that planning process, urban public facilities have been extended to the Airpark, and industrial development has taken hold. The City and Port cannot now simply relocate these uses in other areas of the City that are already occupied with other uses. That alternative is unreasonable and impracticable for many reasons, including cost, traffic impacts, and incompatibilities with existing uses, and also because the need for aggregate can be met at so many other locations not requiring goal exceptions.

### **3. ESEE Consequences.**

The third exception criterion asks whether the long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.

Given the nature of this exception, this criterion does not appear to be directly on point. This exception is not being taken to justify locating a use on land where it would otherwise be prohibited, because aggregate mining does not require an exception to be located on resource lands. Instead, as noted above, this exception is taken to allow the Board to consider additional factors beyond the limits of the Goal 5 rule in determining under Goal 5 whether opportunity for mining should be permitted or disallowed within 5,000 feet of the Airpark. Nonetheless, the Board finds that mining at sites like the Bates & Roth and Ellis sites would have significantly less adverse impacts on airport safety and future industrial development than mining on the Meier property or on other lands within 5,000 feet of the Airpark, for the reasons stated in the "reasons" analysis above and in the Goal 5 ESEE analysis below, incorporated herein by this reference. In other words, mining within 5,000 feet of the Airpark would have significantly

greater adverse impacts to the Airpark and to the City's economic development strategy than mining beyond that distance from the Airpark.

#### **4. Compatibility.**

The fourth exception criterion requires a demonstration that the proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. Because this exception is being taken not for the purpose of allowing a use that could create compatibility concerns, but to allow the Board to consider factors beyond those listed in LCDC's Goal 5 rule in determining under Goal 5 whether or not to allow future opportunity for mining within 5,000 feet of the Airpark, it does not appear to be on point. Nonetheless, the Board addresses the issue of compatibility between mining and industrial uses.

For the reasons described in the "reasons" analysis above and the ESEE analysis below, the Board finds that dust generated by mining activities threatens and jeopardizes the financial well-being of dust-sensitive industries already located at the Airpark and the ability of the Port to attract similar types of manufacturing uses in the future, and it concludes that aggregate mining and light industrial manufacturing are not compatible uses and that these uses should be separated. The Board further finds, for the reasons stated elsewhere in this exception document, that open water impoundments within 5,000 feet of an Airpark runway would be likely to significantly increase the bird strike hazard across runways and approach corridors, even with mitigation, and it concludes that new or expanded open water impoundments should not be permitted within 5,000 feet of an Airpark runway.

Regarding conflicts between mining and light industrial development, the Board finds that adverse impacts could be avoided if the mining pits were fully enclosed. However, an approval condition requiring all mining activities to be enclosed, to avoid adverse dust and particulate impacts, would be neither reasonable nor practicable. And even if dust and particulates could be controlled, the adverse aesthetic impacts of mining cannot be mitigated. It follows that the incompatibility of aggregate mining with dust-sensitive industries at the Airpark justifies planning policies that separate those uses. Compatibility is achieved through a policy prohibiting aggregate mining within 5,000 feet of an Airpark runway.

#### **5. Compliance with OAR 660-004-0022.**

OAR 660-004-0022 addresses the types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands. Because the use at issue, aggregate mining, is allowed on resource lands, this rule is inapplicable.

The Board finds, however, that there is a demonstrated need both for the airport and for industrial development at the Airpark. It further finds that LCDC has recognized this need by acknowledging the City's Comprehensive Plan and land use regulations. The need for the airport is also recognized in ORS 836.600. Moreover, the Board believes it would be difficult to relocate the Airpark, thus allowing mining to occur near the City, and it finds that the Airpark has special qualities, in terms both of providing for the area's air transportation needs and



attracting diverse, labor-intensive industrial development to the City and County, that warrant its preservation and its protection from incompatible uses.

#### **E. ESEE Consequences and Program to Achieve Goal 5.**

The Board finds that the Meier site identified in both the Schlicker report and the David J. Newton Associates Inc. Report (March 13, 2000) is a significant mineral and aggregate site, and it amends its mineral and aggregate inventory to recognize and include this site.

In the event it is necessary under OAR 660-023-0180 to address the economic, social, environmental and energy consequences of allowing, prohibiting or limiting aggregate uses within 5,000 feet of an Airpark runway, then the Board finds as follows:

#### **Conflicting Uses**

The Board finds that uses near the Meier site that could conflict with aggregate mining include residential uses (both rural and urban) and Airpark industrial and commercial uses, including aircraft manufacturing, airport operations and air recreational activities. Except for the loss of agricultural land from the resource base, the Board concludes that mining and agricultural activities are not in conflict.

#### **Economic**

Positive economic impacts of allowing or limiting mining include the direct continued employment of about 40 to 50 workers in the mining business, indirect employment of other workers in the community, and continued contributions by the mining company to local and regional governments. Mining provides monies in the form of property taxes, extraction taxes and recapture of farm deferral payments, all of which benefit the County. However, as described in the exception analysis above, allowing mining near the Airpark has the very negative consequence of creating serious conflicts with light industrial uses because mining generates dust and particulates that discourage industrial users from locating or expanding at the Airpark, and it severely undermines the City's ability to attract new businesses and diversify its economy due both to dust generation and aesthetic and livability concerns. These adverse impacts result whether all mining is allowed or whether mining is limited to dry mining. The record contains evidence that dust emissions can be controlled to a significant degree, but the Board finds that this is not sufficient given occurrences of strong winds and the very low dust tolerances of uses existing or likely to locate at the Airpark. Moreover, the Board finds and concludes that the presence of a dust-generating use is likely to discourage companies from locating at the Airpark in the first place.

The Board finds that the location of new industrial uses at the Airpark, and the expansion of existing uses there, ultimately will provide many more jobs than mining and help to improve and diversify the local economy. It finds that a significant increase in jobs in the area provides an overall greater economic benefit to the City, the community, and the County. The only negative economic effect of allowing industrial uses at the Airpark is that it might impede

mining near the Airpark. However, the Board finds that aggregate mining can occur at many other locations in the Scappoose Bottoms and Deer Island areas, such as the Bates & Roth and Ellis sites, without the harmful economic effects that result from its location closer to the Airpark. Hence, the economic benefits of mining can still be achieved, although at other locations. Accordingly, any harmful impacts are not public impacts, but impacts to individual property owners. Those owners, however, may continue to use their properties for other economic purposes allowed by zoning, such as farming, as they have until now.

The Board concludes that the economic consequences of allowing or limiting mining within 5,000 feet of an Airpark runway are significantly more adverse than the economic consequences of prohibiting the use in that area, such that the conflicting use (light industrial development) should be allowed fully and the resource use should be prohibited.

### **Social**

Positive social consequences of allowing or limiting mining within 5,000 feet of an Airpark runway include helping to maintain a stable regional economy; providing jobs for local residents; and providing money for roads and schools. Negative social consequences include noise (both from daily operations and the use of wildlife management techniques), dust, traffic, wear and tear on roadways, and increased safety hazard to air navigation. Noise impacts would likely extend to residential, commercial and industrial properties inside the urban growth boundary. Other negative impacts include reductions in the property values of rural residential sites near the mining sites, perceived losses of quality of life and livability by area residents, and adverse aesthetic impacts. Where water impoundments are involved, additional negative impacts include the noise from the use of active wildlife management techniques, their impact on livability and quality of life, the possible taking of migratory bird species, and the permanent presence of a large water pit, probably crossed by netting or cables, that many would consider ugly.

In contrast, fully allowing clean, diverse employment-generating light industrial development at the Airpark has the positive effects of providing jobs, helping to maintain a stable regional economy, and providing taxable income to help schools and the community, without the negative components of dust, noise, pollution, heavy traffic and wear and tear on roadways, or adverse impacts on aesthetics, livability or quality of life. Moreover, expanding light industrial development in Scappoose should provide greater protection against difficult economic times that can plague overly resource-dependent communities, and it poses no danger to air navigational safety.

Again, the positive consequences of allowing mining can still be achieved if mining is located beyond 5,000 feet from an Airpark runway. However, the positive consequences of allowing light industrial development are severely jeopardized if mining is permitted within that distance. The Board concludes that the social consequences of allowing or limiting mining within 5,000 feet of an Airpark runway are significantly more adverse than the economic consequences of prohibiting mining in that area, such that light industrial development should be allowed fully at the Airpark, and the aggregate resource use should be prohibited.

## **Environmental**

There are few positive environmental consequences associated with allowing or limiting mining within 5,000 feet of an Airpark runway. Negative impacts include the generation of dust and particulate matter into the air and possible adverse impacts on water quality. Negative impacts associated with wet mining also include noise pollution from mining and employing active mitigation measures, the loss of agricultural land and wildlife habitat, routine harassment of wildlife and the potential loss of wildlife, including migratory bird species, from lethal killings or from wildlife flying into cables or netting.

There also are few positive environmental consequences associated with allowing or limiting light industrial uses. However, placing such uses on lands already identified for industrial uses does not reduce the agricultural land base, create significant noise pollution, or result in the harassment or destruction of wildlife. Negative impacts could result from accidental release of fuels, chemicals or pollutants into the groundwater, but truck usage associated with mining also can release oils and fuels into the soil or groundwater. Also, new industrial uses would increase the amount of impervious surfaces and require control of runoff. However, stormwater runoff is regulated, so adverse effects should be minimal.

## **Energy**

Allowing or limiting mining within 5,000 feet of an Airpark runway has few positive energy consequences. Mining operations require energy use to move the aggregate from the site to the processing location and to markets. Even if barging is used to transport rock to markets, dry mining would require significant numbers of truck trips to bring in fill to replace the removed aggregate. It is recognized that mining the Meier site would allow for processing of mined materials at less cost than may result at other sites due to the proximity of processing equipment at Northwest Aggregate's existing Santosh site. However, the same may be true of mining at the Bates & Roth site, which is also in close proximity to the Santosh site. Hence, prohibiting mining within 5,000 feet of an Airpark runway does not necessarily have fewer adverse energy impacts. It may be that hauling, transportation and production costs will increase, but this is speculative.

Allowing or limiting light industrial uses at the Airpark also has few positive energy consequences, as those uses will expend energy creating their products and bringing them to market. However, for airport dependent and related uses that rely on air transportation, locating these industries at the Airpark, rather than farther away, will save energy costs in transportation.

## **Program to Achieve Goal**

Based on the findings and conclusions set out in the Goal 5 exception and ESEE analysis, which is included in and made part of this exception, the Board concludes that all mining should be prohibited within 5,000 feet of a runway at Scappoose Industrial Airpark. This will encourage and support the continued growth and expansion of diverse, non-polluting, labor intensive light industrial development at the Airpark, consistent with the City's acknowledged Comprehensive Plan, and it will promote and improve air navigational safety.

In summary, the Board finds that protecting the Airpark for future light industrial development, thus encouraging economic diversification and expansion in Scappoose, and protecting air navigational safety at the Airpark, are of much greater importance to the City, the County and the community than allowing mining within 5,000 feet of an Airpark runway. The Board finds that any new mining within 5,000 feet of an Airpark runway will significantly increase the level of hazard to air navigational safety, possibly create significant adverse social and environmental impacts as described in the ESEE analysis, and seriously undermine the City's and Port's investment in the Airpark and their ability to realize the City's economic strategy. The Board also finds that there are many other aggregate sites beyond 5,000 feet from an Airpark runway that contain very large quantities of high quality aggregate that can be used to meet local and regional aggregate needs, thus negating any public need to mine within 5,000 feet of an Airpark runway.

To implement its findings and program, the Board takes the following actions:

1. It amends Columbia County Comprehensive Plan, Part XII, Industrial Siting, Scappoose Industrial Airpark Exception Statement, to include this exception and ESEE analysis.
2. It amends Columbia County Comprehensive Plan, Part XVI, Goal 5: Open Spaces, Scenic, and Historic Areas, and Natural Areas; Surface Mining, to include the Meier site in its inventory of significant aggregate sites.
3. It amends Columbia County Comprehensive Plan Part XVI; Goal 5: Open Space, Scenic, and Historic Areas, and Natural Areas; Surface Mining; Goals and Policies, to add new Policy 17, reading as follows:

"Prohibit new or expanded mineral or aggregate mining operations within 5,000 feet of a runway at Scappoose Industrial Airpark."

4. It amends Columbia County Zoning Ordinance, Section 1036, to add new subsection .6, reading as follows:

"Notwithstanding any other provision of this section, new or expanded mineral or aggregate mining operations shall not be allowed within 5,000 feet of a runway at the Scappoose Industrial Airpark."

## **F. Conclusion**

It is time to bring closure to the long-standing controversy over mining in close proximity to the Scappoose Industrial Airpark. The Board finds that there are competing legitimate interests. The Board recognizes the significant local and regional need for aggregate, and the abundance of large reserves of high quality aggregate in the Scappoose Bottoms area. It also recognizes the local and regional significance of the Scappoose Airpark for air navigation, the legitimate interests of the City in creating a more diverse, labor-intensive local economy focused at the Airpark, and the significant investment of public funds in infrastructure made by

the Port and the City at the Airpark. Further, the Board is aware of and recognizes quality of life and livability concerns raised by people living near the Airpark.

In 1992, Columbia County, together with the City of Scappoose, made a conscious and deliberate planning decision to encourage and support the creation and expansion of a light industrial park at the Scappoose Industrial Airpark. The City amended its Comprehensive Plan, expanding its UGB to include the Airpark and adopting new policies to bring that policy choice to fruition. At that time, no mining was occurring on the Meier site, and no mining of that site had been approved. To the contrary, an application to mine that area had been denied. The Department of Land Conservation and Development participated in this planning decision by the City and County, and LCDC acknowledged it as in compliance with the goals. Thereafter, the Port began attracting industrial uses to the Airpark, and Scappoose's local economy began to grow and diversify.

The Board continues to support the planning choice it made with the City in 1992. With the growth of the Airpark as an industrial park; with the increase in the numbers of air operations there; and with the significant financial investments made in the Airpark by the City, the Port and the FAA, the degree of incompatibility with proposed aggregate mining on lands near the Airpark has increased substantially. The Board finds and concludes that mining within 5,000 feet of the Airpark is not compatible with air navigational safety at the Airpark and detrimental to existing and future Airpark light industrial development, even when mitigation measures are employed. It finds and concludes that both wet and dry mining would have a significant detrimental effect on the Airpark's ability to attract and maintain businesses, and that wet mining will have an additional detrimental impact on air navigational safety by significantly increasing the potential for bird strikes over existing levels. It also finds and concludes that there are many other nearby locations where aggregate mining can occur without harming the Airpark, but that it would be much more difficult and expensive to relocate the Airpark.

Statewide Planning Goal 2 requires coordination with affected local governments and districts in land use planning and the consideration and accommodation of their needs as much as possible. For many years now, the City and Port have advised the County of the need to protect the Airpark from the adverse impacts caused by mining within 5,000 feet of an Airpark runway. Repeatedly they have claimed that mining would undermine and impede economic growth and diversification at the Airpark and endanger air navigational safety. As part of this proceeding, they have provided a record providing strong and convincing evidence supporting their positions. At the same time, they have demonstrated that the region's needs for aggregate can be met at other locations beyond 5,000 feet from the Airpark, thus minimizing any adverse impacts to that industry. In short, employment in aggregate extraction can continue, and the County can continue to gain the economic benefits resulting from such activity, without jeopardizing air safety or industrial development at the Airpark. The County finds this to be a very positive result and the most prudent and practical of planning solutions.

Accordingly, the Board adopts this Goal exception and ESEE analysis, and the comprehensive plan and land use regulation amendments set out herein.