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BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of an Application by Morse)	
Bros., Inc., for a Post-Acknowledgment Plan)	
Amendment, a Major Map Amendment, and)	ORDINANCE NO. 2002-1
a Comprehensive Plan Text Amendment to)	
Designate the Subject Property as a Significant)	
<u>Aggregate Site</u>)	

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

SECTION 1. TITLE.

This ordinance shall be known as Ordinance No. 2002-1.

SECTION 2. AUTHORITY.

This ordinance is adopted pursuant to ORS 215.050, 215.060, 215.223, and OAR 660-023-180(4).

SECTION 3. PROCEDURAL HISTORY.

A. On June 29, 1998, Morse Bros., Inc. filed an application for a post-acknowledgment plan amendment ("PAPA") under the provisions of OAR 660-023-180, including a Major Map Amendment under the provisions of Sections 1502.1 and 1605 of the Columbia County Zoning Ordinance ("CCZO" or "Zoning Ordinance") and a Comprehensive Plan Text Amendment. The property subject to the application ("subject property") consisted of 190 acres, including 112 acres of Tax Account No. 5117-000-00300 and 78 acres of Tax Account No. 5117-000-00200.

B. On December 23, 1998, the Board of County Commissioners adopted Order No. 185-98 denying the application.

C. On January 11, 1999, Morse Bros., Inc., filed a Notice of Intent to Appeal with the Land Use Board of Appeals (LUBA). On January 26, 1999, Deer Island Preservation Society and the City of Columbia City filed Motion to Intervene in Morse Bros., Inc.'s, appeal before LUBA. On February 23, 1999, Morse Bros., Inc. filed its Petition for Review with LUBA. On April 2, 1999, Columbia County filed its Brief with LUBA. On April 5, 1999, the Department of Land Conservation and Development ("DLCD") filed its State Agency Brief with LUBA. On July 1,

1999, oral argument was held before LUBA.

D. On October 25, 1999, LUBA issued its Final Opinion and Order (Morse Bros. Inc. v. Columbia County, 37 Or LUBA 85 (1999)). LUBA's order reversed Order No. 185-98 and ordered Columbia County to "take any additional measures required to perform its obligations under OAR 660-023-0180(4)(e) and (f), consistent with [LUBA's] opinion."

E. On November 12, 1999, Columbia County filed its Petition for Judicial Review with the Oregon Court of Appeals. On November 18, 1999, Morse Bros., Inc., filed a Cross-Petition for Judicial Review with the Court of Appeals. On November 24, 1999, Columbia County filed its Petitioner's Brief and Abstract of Record with the Court of Appeals. On December 8, 1999, Morse Bros., Inc., filed its Response Brief and Brief on Cross-Petition with the Court of Appeals. On December 8, 1999, DLCD filed its Amicus Curiae Brief with the Court of Appeals. On December 15, 1999, Columbia County filed its Answering Brief on Cross-Petition for Judicial Review with the Court of Appeals. On January 19, 2000, oral argument was held before the Court of Appeals.

F. On February 23, 2000, the Court of Appeals issued its opinion affirming LUBA (Morse Bros. Inc. v. Columbia County, 165 Or App 512 (2000)).

G. On March 29, 2000, Columbia County filed its Petition for Review with the Oregon Supreme Court. On April 19, 2000, Morse Bros., Inc., filed its Response to Petition for Review of Columbia County with the Supreme Court.

H. On June 6, 2000, the Supreme Court issued its Order Denying Review of Columbia County's Petition for Review (Morse Bros. Inc. v. Columbia County, 330 Or 363 (2000)). The Court of Appeals entered its Appellate Judgment effective July 25, 2000. On July 28, 2000, LUBA issued its Notice of Appellate Judgment.

I. On August 26, 2000, the Board of County Commissioners published notice of its intent to consider the adoption of Ordinance No. 2000-1, in compliance with the Final Opinion and Order of LUBA dated October 25, 1999.

J. On September 15, 2000, the Board of County Commissioners adopted Ordinance No. 2000-1.

K. Morse Bros., Inc. filed a Notice of Appeal of Ordinance No. 2000-1 at LUBA and a Writ of Mandamus in Columbia County Circuit Court. The Circuit Court determined that LUBA, not it, had jurisdiction over the matter. The LUBA appeal is still pending.

L. Columbia County and Morse Bros., Inc. have mediated their dispute and, after a public hearing on February 27, 2002, entered into a Mediation Agreement dated March 6, 2002. This Ordinance is adopted pursuant to the Mediation Agreement and amends and supercedes

Ordinance No. 2000-1.

SECTION 4. PURPOSE.

The purpose of this ordinance is to approve the application of Morse Bros., Inc., for a PAPA under the provisions of OAR 660-023-180, including a Major Map Amendment under the provisions of CCZO Sections 1502.1 and 1605, and a Comprehensive Plan Text Amendment, and to “take any additional measures required to perform its obligations under OAR 660-023-0180(4)(e) and (f), consistent with [LUBA’s] opinion” and to repeal Ordinance No. 2000-1.

Specifically, the requested PAPA would determine an impact area for the purpose of identifying conflicts with proposed mining on the subject property; determine existing or approved land uses within the impact area that will be adversely affected by proposed mining operations and specify the predicted conflicts; determine reasonable and practicable measures that would minimize the conflicts identified and approve the proposed mining; amend the plan and implementing ordinances to allow such mining on the subject property subject to clear and objective measures to minimize conflicts; and determine the post-mining use and provide for this use in the comprehensive plan and land use regulations. For significant aggregate sites on Class I, II and Unique farmland, post-mining uses are limited to those uses listed in OAR 660-023-180(4)(f).

The requested Major Map Amendment would amend the Comprehensive Plan Map designation for the subject property from Rural Industrial to Mineral and Aggregate Resource, and amend the Zoning Map designation for the subject property from Resource Industrial-Planned Development (RIPD) to Surface Mining (SM).

The requested Comprehensive Plan Text Amendment would amend the Comprehensive Plan text to add the subject property to the inventory of significant aggregate sites, and to provide for the post-mining use of the subject property in the Comprehensive Plan and land use regulations.

SECTION 5. FINDINGS AND CONCLUSIONS.

The Board of County Commissioners adopts the following Findings from the July 28, 2000 Staff Report of the Department of Land Development Services (the “Staff Report”), a copy of which is attached hereto, labeled Attachment “A” and incorporated herein by this reference: Finding Nos. 1, 2, 3 (except as qualified in Attachment “B”), 4 (except the last sentence, and except as qualified in Attachment “B”), 5 (to the extent it identifies the minimization measures proposed by Applicant, except the last paragraph, and except as qualified in Attachment “B”), 6 (as restated in Attachment “B”), 7, 9, 10 (as restated in Attachment “B”), 12 (as restated in Attachment “B”), 14, 15, 16, 17, 18 (as restated in Attachment “B”), 19, 20, and 21 (as restated in Attachment “B”).

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

The Board reaches the following ultimate conclusions: The applicant has presented substantial evidence, considering the record as a whole, to show that the application meets all applicable criteria, as determined by Morse Bros. Inc. v. Columbia County, 37 Or LUBA 85 (1999), except with regard to the proposed post-mining use of the subject property, and except as may be otherwise provided in this ordinance, including Attachments "A", "B" and "C" hereof. As provided by OAR 660-023-180(4)(f), the post-mining use of the property shall be as determined by the Board in Section 6 below.

SECTION 6. AMENDMENT AND AUTHORIZATION.

A. The Comprehensive Plan Map designation for the subject property is hereby changed from Rural Industrial to Mineral and Aggregate Resource.

B. The subject property is added to the list of Statewide Planning Goal 5 significant aggregate sites as set forth in the County Comprehensive Plan and shall be added to Map 43, Mineral, Aggregate and Energy Resources of Columbia County, on page 217 of the Comprehensive Plan.

C. The Comprehensive Plan is amended to reflect that, taking into account the conceptual mining and reclamation plans of applicant (as found at pp 967-973, Record of Decision), the post-mining comprehensive plan designation for the property is RURAL Industrial (RI) and the post mining zone designation is Resource Industrial Planned Development (RIPD). These designations are conditioned on the following: (1) 46 acres at the south of the mined area may be mined to within two feet above the highest recorded ground water level; in the reclamation process, the southerly 46 acre portion of the aggregate extraction area shall be made level at an elevation of at least two feet above the highest recorded ground water level in the gravel aquifer; (2) the 75 acre portion of the aggregate extraction north of the 46 acre portion of the aggregate extraction area shall be reclaimed with an unengineered fill to an elevation of at least two feet above the highest recorded ground water level in the gravel aquifer; and (3) subject to approval by the Oregon Department of Transportation and as an alternative, the mining plan may include construction and use of a conveyor and tunnel under Highway 30 to the east side of highway 30 and a loading facility on the east side of Highway 30. Upon completion of the tunnel, MBI shall cease using the railroad crossing of Highway 30 for routine transfer of rock from the site.

D. The Zoning Map designation for the subject property is hereby changed from RIPD to SM.

E. Mining is allowed on the subject property, subject only to further Design Review and Operating Permit Application Review consistent with the limitations of OAR 660-023-0180(4)(e) and (f) and subject to the Conditions of Approval attached hereto.

F. This approval is subject to the Conditions of Approval attached hereto, labeled Attachment "C", and incorporated herein by this reference.

SECTION 7. RECISSION AND REPEAL.

Order No. 185-98 is rescinded. Ordinance No. 2000-1 is repealed.

SECTION 8. 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 9. 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 6th day of March, 2002.

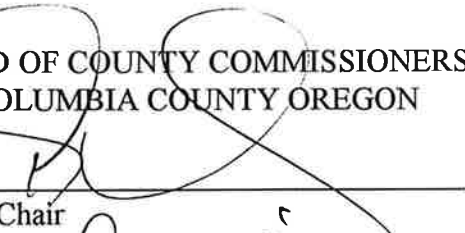
Approved as to form by

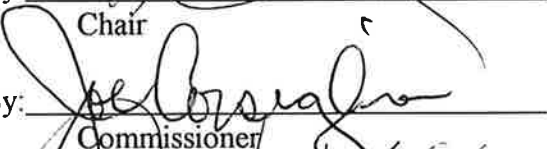
By: 
Office of County Counsel

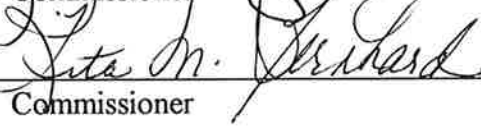
Attest:
By: 
Recording Secretary

First Reading: 3-6-02
Second Reading: 3-6-02
Effective Date: 3-6-02

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY OREGON

By: 
Chair

By: 
Commissioner

By: 
Commissioner

Columbia County Board of County Commissioner
STAFF REPORT

Major Map Amendment
July 28, 2000

FILE NUMBER: PA 98-3

APPLICANT: Morse Bros., Inc.
32260 Highway 34,
Tangent, OR 97389

PROPERTY OWNER: Morse Bros., Inc.
PO Box 7
Lebanon, OR 97355

PROPERTY LOCATION: North of Columbia City, between the Coastal Chemical plant and the Columbia River PUD building, on the west side of Highway 30.

REQUEST: To change the Comprehensive Plan map and zoning designations on 190 acres, and to add the site to the list of Significant Aggregate Sites in the Comprehensive Plan text (p.217). This is a Post-Acknowledgment Plan Amendment ("PAPA") as defined in OAR 660-23-010(5).

PRESENT COMP. PLAN DESIGNATION: RURAL INDUSTRIAL

PROPOSED COMP. PLAN DESIGNATION: MINERAL AND AGGREGATE RESOURCE

PRESENT ZONING: Rural Industrial - Planned Development (RIPD)

PROPOSED ZONING: Surface Mining (SM)

TAX ACCOUNTS: 5117-000-00200 (part - 78 acres) and 00300 (112 acres)

APPLIC'N. COMPLETE: 6-29-98 Local Decision Date: 12-26-98
(Order No. 185-98)

LUBA Decision Date: 10-25-99 Court of Appeals: 2-23-00
(No. 99-017) (CA A108334)

Supreme Ct Action: 6-21-00 (received)

INTRODUCTION:

The Board of County Commissioners (Board) held a hearing on this matter on November 10, 1998, deliberated on December 16, 1998 and signed an order to DENY this request on December 23, 1998. Subsequently, the Land Use Board of Appeals REVERSED the county's decision, which was affirmed by the Court of Appeals as finalized by the Supreme Court. The county must abide by the LUBA decision of reversal.

The Board decision of December 23, 1998, in LUBA's opinion, relied on identifying conflicts to mining that were beyond the permissible scope of inquiry, and thereby erred by not allowing mining. This staff report reviews only the correct criteria, as per LUBA decision, makes findings of fact and concludes with a recommendation for the Board to consider. The record is closed; no additional evidence, for or against, this application is to be submitted.

The Columbia County Planning Commission's hearings on this application encompassed two meetings for oral testimony, and approximately eight weeks for interested parties to add information into the record for the Commission to consider. After receiving information, both in support of and in opposition to the application, the Planning Commission voted 7-0 to recommend to the Board of Commissioners that the application be approved, subject to seventeen conditions. A summary of the information submitted into the record is included in this staff report. The conditions of approval are also attached.

BACKGROUND:

Applicant wishes to change the Comprehensive Plan map designation from RURAL INDUSTRIAL to MINERAL AND AGGREGATE RESOURCE, and concurrently to change the zoning from "Rural Industrial - Planned Development" (RIPD) to "Surface Mining" (SM), on 190 acres, more or less, owned by Reichhold Chemicals, Inc. on the west side of the Columbia River Highway, north of Columbia City between the Coastal Chemical plant and Chaney Road.

Morse Bros is also applying to have the parcel added to the list of Significant Aggregate Sites on p.217 of the Columbia County Comprehensive Plan.

Applicant intends to operate a gravel mine on the property, and transport the gravel by truck or to their processing facility north of Deer Island. The Supplemental Application, dated September 15, 1998, commits the applicant to shipping 95% of the mined materials by rail, leaving 5% (mostly oversized rocks) to be shipped by truck. Two trains per day of 15 cars each, approximately 1000 feet long, would transport the mined material to the Deer Island processing facility. These trains would cross Hwy. 30 at the spur crossing, south of Coastal Chemical, blocking traffic for approximately 3 to 4 minutes per crossing. The applicant does not anticipate the train transportation to block or impede traffic in any RR Crossing in Columbia City.

This transportation system will require that primary crushing occur on-site. As the rock at this site is alluvial sand and gravel deposits, no blasting will occur. The loose material will be excavated to a depth of 90 feet below ground level. The extraction will occur continually during an expected life of 35 to 60 years, and be done incrementally on 10 to 20 acre plots.

Soils on the 190-acre property are as follows:

	Approx. % of Area	Ag.Cap. Class
1A - Aloha silt loam, 0-3% slope	18	IIw
2 - Aloha Variant silt loam	1	IIw
27A - Latourell silt loam, 0-3% slope	15	I
34A - Multnomah Loam, 0-3% slope	62	III s
69 - Wollent silt loam	4	IIIw

All of the soils are in Agricultural Capability Classes I, II or III and are designated Prime Agricultural lands (p.75, Soil Survey of Columbia County, Oregon, USDA, Soil Conservation Service, 1986). The property is well suited to farm use. The Multnomah loam, comprising 62% of the parcel,

the only soil well suited to timber production (Douglas-fir site index of 161, site class II).

Notwithstanding the value of the soils, the acknowledged Columbia County Comprehensive Plan took an exception to the forest and agricultural goals to permit the parcels to be used for rural industrial purposes, and the parcels were subsequently zoned RIPD.

The property is currently in pasture, unmanaged woodlands and blackberries. There are no structures on the property, which has direct access to Highway 30.

There are four identified wetlands on the 190-acre property (National Wetlands Inventory, Deer Island quad map), as follows:

1. A permanent pond near the southwest corner, designated PUBH (Palustrine, Unconsolidated Bottom, Permanently Flooded).
2. A short watercourse feeding into the permanent pond from the south, designated PUBF (Palustrine, Unconsolidated Bottom, Semipermanently Flooded).
- 3./4. A low area in the northwest corner and, a watercourse along the west side leading northerly from the pond, both designated PEMC (Palustrine, Emergent, Seasonally Flooded).

None of these sites are listed or identified as significant wetlands on the Columbia County Comprehensive Plan.

The pond and its feeder (1. and 2. above) are not included in the area to be mined; the two areas designated PEMC were originally proposed to be mined, but during the course of the proceedings before the Planning Commission, the applicant indicated that it would increase the setbacks from the wetlands so they would not be disturbed.***

There is one area in a 100-year flood plain, a swale in the northwest corner of the property which drains north through Deer Island to a permanently flooded wetland pond north of Deer Island on the west side of the Columbia River Highway (FEMA maps 41009C0330 C and 41009C0340 C). This low area is not included in the area proposed to be mined. This low area in the northwest corner is the same as that identified as a PEMC wetland, above. The applicant proposes to maintain a 50 feet setback from the wetland/floodplain area, as required for Goal 5 protection.

The property is not within an Urban Growth Boundary (UGB), but is within the St. Helens Rural Fire Protection District.

The applicant proposes to reclaim approximately ½ of the mined site for wildlife habitat purposes, with the remaining portion being reclaimed for resource/rural industrial use. In addition, the applicant has stated that the remaining Reichhold property (that parcel lying east of Highway 30) will not be mined, and will remain available for rural industrial use.

FINDINGS:

The focus of review for this application is in the following Oregon Administrative Rules:

OAR 660-23-180(7) Local governments shall amend the comprehensive plan and land use regulations to include procedures and requirements consistent with this rule for consideration

of PAPAs concerning aggregate resources. Until such local regulations are adopted, the procedures and requirements of this rule shall be directly applied to local government consideration of a PAPA concerning mining authorization, unless the local plan contains specific criteria regarding the consideration of a PAPA proposing to add a site to the list of significant aggregate sites, provided:

- (a) Such regulations were acknowledged subsequent to 1989; and
- (b) Such regulations shall be amended to conform to the requirements of this rule at the next scheduled periodic review, except as provided under OAR 660-023-250(7).

Finding 1: Columbia County must apply the Rule (OAR 660-23-180) directly to this application. The criteria and requirements established in the County Comprehensive Plan and implementing ordinances regarding plan amendments of an aggregate site were acknowledged prior to 1989, and OAR 660-023-250 (7) above relates to DLCD exempting a local government from a work task in the Periodic Review. Amending the county plan to conform to state rule was included in the County Periodic Review Work Plan.

Columbia County amended its Comprehensive Plan and implementing ordinances during the present Periodic Review, on April 1, 1998 by Ordinance No. 98-01, to conform with the requirements of the Rule. Morse Bros. application was submitted to the County on June 29, 1998, one day before the effective date of the ordinance. Therefore, Ordinance No. 98-01 is not applicable to this action.

Other applicable criteria:

Oregon Statewide Planning Goals are applicable to this application. A recent case, Turner Community Association v. Marion County, LUBA No. 99-024, has provided some direction relating to use of and criteria for applying the Goal 5 Rule (OAR 660-023-0180) to other Statewide Planning Goals. ORS 197.175(2)(a) requires counties to amend and revise comprehensive plans in compliance with goals approved by LCDC.

Legitimate concerns about the application that are expressed by government agencies and citizens through the county's coordination and administration of the planning process, are applicable to this application. ORS 197.015(5) requires that comprehensive plans be "coordinated" with all levels of government, semipublic and private agencies and the citizens of Oregon; their legitimate concerns are to be considered and accommodated as much as possible.

Columbia County Surface Mining Ordinance (SMO) is applicable to this application under the Rule OAR 660-023-0180(4)(b)(F). LUBA and the Courts said the County could only rely on the four corners of the SMO itself, not other ordinances referenced within the SMO. Nevertheless, within the four corners of the SMO are criteria which address setbacks, visual impacts, access roads, parking, water quality and erosion control. The water quality provision prohibits contamination of groundwater.

OAR 660-23-180(3) Goal 5 process, determination of significance, states in part:

Determine the significance of the aggregate resource site, "...if adequate information regarding the quantity, quality and location of the resource demonstrates that the site meets any one of the [following] criteria..."

- a) Samples meet Oregon Department of Transportation (ODOT) specifications for base rock, and the estimated amount of material is more than 2,000,000 tons (in the Willamette Valley, including Columbia County).
- b) The material meets local government standards with a lower threshold for significance.
- c) The site is on an inventory of significant aggregate sites in an acknowledged Comprehensive Plan.

Notwithstanding the above, a site is not significant if more than 35% of the mining area has soils in Agricultural Capability Classes I or II or is a "Unique" soil, unless the aggregate layer is more than 60' thick.

Finding 2: See pp.18-21 of the application. The application includes a geological report from Environmental Science Associates, Inc., (see application, Exhibit 1) with a report from Carlson Testing, Inc. showing that the aggregate material meets ODOT specifications for abrasion, soundness, degradation, and specific gravity and absorption. There are no Columbia County standards lower than these. The geologists calculated the volume of minable materials to be 33.9 million tons.

The site is not on the Comprehensive Plan inventory of significant sites. Applicant has included a request to place the 190 acres on the SIGNIFICANT AGGREGATE SITES list (p.217) in Columbia County Comprehensive Plan.

An estimated 34% of the site has Class I and II soils, and the aggregate layer is about 75' thick. The site meets the criteria to be considered a significant aggregate site.

None of the information regarding significance was contradicted by the opponents. Therefore, the Board of Commissioners find that this site is significant based on the above standards. This criterion is satisfied.

OAR 660-23-180(4) (a) Continuing with the Goal 5 process, states in part:

The County must determine an impact area, not to exceed 1500' unless there is factual information indicating potential conflicts beyond 1500'.

Finding 3: Applicants propose and assume a 1500' impact area, since "[n]o factual information is present which would indicate significant potential conflicts beyond this distance." (application, p.23). The Board and the Planning Commission received testimony from concerned citizens in the unincorporated community of Deer Island, about 2500' north of the proposed mining area, that the mining activity would adversely affect their properties. The testimony centered around six main issues: the increase in dust from the Deer Island processing facility, the increase in noise and traffic because of the new source of rock; the loss of prime industrial land, the impact on historic sites near the site, the effect of mining on the groundwater and the effect of mining on an established bald eagle's nesting site. The Board of Commissioners find that mitigation measures proposed to protect the existing houses north of the site within the impact area of 1500' (berms, equipment housings, watering, etc.) will also mitigate the any direct effects of the mining on the residents of Deer

d. Based on testimony presented, the Board finds that there was insufficient information in the record to support an expansion of the impact area for determining conflicting uses.

OAR 660-23-180 (4) (b) Continuing with the Goal 5 process states in part :

The County must determine "... existing or approved land uses within the impact area that will be adversely affected by proposed mining operations and...specify the predicted conflicts." This can include dwellings and other uses approved by the local government. Consideration of possible conflicts can only include:

- 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..."
- C) "Safety conflicts with existing public airports due to bird attractants,..."
- 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;"

Finding 4: The following conflicts within the 1500' impact area were considered: conflicts due to noise, dust and other discharges, the impact of the transport of rock on Highway 30 and via rail, conflicts with regard to the identified wetlands, conflicts with regard to a bald eagle nesting site and other wildlife resources, and conflicts regarding potential groundwater contamination. The potential groundwater contamination is from three possible sources: Coastal Chemical or past farming practices as the possible source of nitrates, and the placement of polyaromatic hydrocarbons (PAHs) on the old racetrack by car owners. Mitigation measures were proposed (pp.38-58, esp. 38-50). The applicant voluntarily considered impacts on areas outside of the mandatory 1500 feet impact area in their PAPA Supplemental Application of September 15, 1998. Some of their proposed conditions of approval address the impacts of their operations on the Deer Island neighborhood.

The conflicts as a result of noise and dust are mitigated by conditions of approval which require compliance with DEQ standards. The County may enforce these standards as part of an agency-ordered compliance program, or independently.

The applicant provided information to show that it has direct access onto Highway 30, and therefore, it is only required to comply with ODOT access permit standards. Nevertheless, the applicant proposes to construct turning refuges for both the subject site and the Deer Island processing site. In addition, the use of a rail spur will greatly lessen the traffic impact of the proposed activity. As a result approximately 5 trucks per day will be on the Highway. The rail cars will make approximately 2-3 trips per day, affecting vehicular traffic for no more than 5 minutes per interval. The Planning Commission recommends that the applicant consider rail transport during off-peak vehicular traffic times. (See condition #17)

The applicant provided evidence to show that 1) the wetlands are not listed on a county comprehensive plan inventory, and 2) even if it was, there will be no effect on the wetlands, as the applicant does not intend to disturb the site.

The applicant provided evidence to show that the bald eagle is not listed on an existing county inventory. However, it does recognize that it does have obligations under the Endangered Species Act to avoid a "take" of a threatened or endangered species. The applicant is working with the U.S. Department of Fish and Wildlife to create a habitat conservation plan to protect the bald eagle nesting site. The Planning Commission and staff recommends a condition of approval which requires that a site specific management plan for the bald eagle be in place prior to approval of Site Design Review and a surface mining operating permit. (See condition #1)

The county has received comments from Water Resources Department which indicate that mining operations below the water table could pose a threat of contaminating additional aquifers. By mining below the water table, a vehicle for transmission of upper level pollutants is created to lower aquifers. The polluted water in the lower aquifers could travel more than 1500 feet from site. Environmental Science Associates, a consultant for the applicant, studied the ground water conditions at the Reichhold site and the impact of mining below the water table. While the information supplied by Environmental Science Associates tends to support the theory that no transmission of contaminants will occur, the Planning Commission and staff prefers to recommend a condition of approval to include review by WRD before the applicant mines below 50 feet to ensure that the proposed action will not cause an adverse impact on groundwater. (See conditions #4, 12 and 16)

Notwithstanding the fact that the county has not listed wetlands, ground water resources or the bald eagle nest near the subject site on an acknowledged list of significant Goal 5 resources, the county must exchange information and attempt to accommodate the legitimate concerns of all government agencies and citizens of the State. (Goal 2) The board finds that the recommended conditions imposed, specifically condition 1 for the bald eagle and conditions 2,4,11,12 and 16 for ground water are clear and objective and will mitigate the impacts of the proposed mining on these resources.

The Board finds no other impacts have been identified or are reviewable under this rule.

OAR 660-23-180 (4) (c) Continuing with the Goal 5 process states in part:

- c. The County must determine reasonable and practicable measures that would minimize the identified conflicts. If reasonable and practical measures are identified to minimize all identified conflicts, mining must be allowed. If identified conflicts can not be minimized, subsection (d) of this section applies.

Finding 5: A series of measures has been proposed by the applicant to minimize identified conflicts. They include:

NOISE minimization measures:

Only primary rock crushing will take place on the mining site.

A 200 foot setback from Chaney Road will be maintained.

Only one scraper will be used at a time when removing overburden within 1000 feet of residences.

A 10 foot high barrier of overburden soils to be constructed along the north and northeast border during mining phase, and around the entire boundary during phase 2.

DUST minimization measures:

Time construction activities associated with overburden removal and transport, stockpile, building and management, and berm building and management to coincide with high soil moisture.

Water unpaved roads on a specified schedule, based on road activity and weather conditions. Flush paved roads on a specified schedule to prevent particulate build-up. Pave main access road to at least 300 feet from the highway, surface unpaved roads with crushed rock.

Prepare, maintain and use a trackout control with drive-through pans or spray washing to remove material from tires and wheels.

Water active areas during overburden removal, berm, and stockpile construction and during stockpile reclamation.

Partially enclose the crusher.

Utilize water sprays at crushers and screens; at transfer points on conveyors, and at stackout and loadout points.

Minimize drop height at transfer and stackout or loadout points.

Establish a 10 mph site speed limit.

Refrain from conducting gravel washing or other water uses on site except as to dust suppression and for domestic purposes.

TRAFFIC minimization measures:

Provide both a dedicated northbound left turn lane on US 30 into the mining area and a dedicated southbound right turn lane on US 30 into the mining area.

Provide a southbound right turn lane and a northbound left turn lane at the Deer Island processing plant.

Construct a rail crossing safety system at the spur line crossing.

RESOURCE LANDS minimization measures:

Provide standard setback and protection requirements in existing state law for wildlife

habitat, wetlands and riparian areas.

Provide a vegetated berm, or plant sight-obscuring trees, along the northeast boundary of the site adjacent to the main entrance to Deer Island, to block the view of aggregate operations from the Deer Island historic area.

Reclaim ½ of the subject site for wildlife habitat.

RURAL INDUSTRIAL minimization measures:

Reclaim ½ of the site for resource industrial development purposes.

Make available the site east of Highway 30 for industrial purposes.

Retain at least ½ of the subject site at any one time for resource industrial development purposes.

Other mitigation measures are more thoroughly outlined in the conditions of approval. The administrative rule defines "minimize" as "reduc[ing] an identified conflict to a level that is no longer significant. For those types of conflicts addressed by local, state, or federal standards...to minimize a conflict means to ensure conformance to the applicable standard." The Planning Commission determined that the conditions contain reasonable and practical measures to minimize adverse impacts. Therefore, mining should be allowed.

OAR 660-23-180 (4)(d) Continuing with the Goal 5 process, states in part:

d. The County shall determine any significant conflicts identified under the requirements of subsection above that can not be minimized. Based on these conflicts only, the county shall determine the ESEE consequences of either allowing, limiting, or not allowing mining at the site. The county shall reach this decision by weighing these ESEE consequences, with consideration of the following:

(A) The degree of adverse effect on existing land uses within the impact area;

(B) Reasonable and practical measures that could be taken to reduce the identified adverse effects; and

(C) The probable duration of the mining operation and proposed post-mining use of the site.

Finding 6: The Board finds the mitigation measures presented as conditions of approval are sufficient to eliminate identified conflicts, and therefore an economic, social, environmental and energy (ESEE) analysis is not required.

OAR 660-23-180 (4) (e) Continuing with Goal 5 process, states in part:

e. Where mining is allowed, the plan and implementing ordinances shall be amended to allow such mining. Any required measures to minimize conflicts, including special conditions and procedures regulating mining, shall be clear and objective. Additional land use review (e.g. site plan review), if required by

the local government, shall not exceed the minimum review necessary to assure compliance with these requirements and shall not provide opportunities to deny mining for reasons unrelated to these requirements, or to attach additional approval requirements, except with regard to mining or processing activities:

- (A) For which the PAPA application does not provide information sufficient to determine clear and objective measures to resolve identified conflicts;
- (B) Not requested in the PAPA application; or
- (C) For which a significant change to the type, location, or duration of the activity shown on the PAPA application is proposed by the operator.

Finding 7: As stated in Finding 6, the Board finds and concludes that the proposed conditions of approval are clear and objective, and are the minimum necessary to ensure that identified conflicts are minimized. Additional land use reviews for this proposal includes a Site Design Review and a Surface Mining Permit. Morse Bros., Inc. applied for a Site Design Review (DR) at the same time as the PAPA, but agreed to hear the DR after a final decision on this PAPA. A Surface Mining Permit application was returned to the applicant; and, it still needs to be submitted for timely review as stated herein. The Board will hold a hearing under Section 1612 Special Hearings of the zoning ordinance to consider the site DR application as soon as approval of this Plan Amendment and Zone Change has occurred. The process established for the Surface Mining Permit review should be accomplished at the same time as the Design Review.

OAR 660-23-180 (4) (f) Continuing with Goal 5 process, states in part:

(f) Where mining is allowed, the local government shall determine the post-mining use and provide for this use in the comprehensive plan and land use regulations. For significant aggregate sites on Class I, II, and Unique farmland, local governments shall adopt plan and land use regulations to limit post-mining use to farm uses under ORS 215.203, uses listed under ORS 215.213(1) or 215.283(1), and fish and wildlife habitat uses, including wetland mitigation banking.

Finding 8: Sixty five acres of Class I and Class II soils are located on the property. The entire site is currently zoned Rural Industrial and a reasons exception to the Goals III and IV is acknowledged. Reclaiming 76 acres for fish and wildlife habitat as proposed, satisfies this requirement. The remainder of the property will be reclaimed for rural industrial use as planned in the Comprehensive Plan. The Board determines that this criterion is satisfied.

OAR 660-23-180 (4) (g) Continuing with Goal 5 process, states in part:

(g) Local governments shall allow a currently approved aggregate processing operation on an existing site to process material from a new or expanded site without requiring a reauthorization of the existing processing operation unless limits on such processing were established at the time it was approved by the local government.

Finding 9: The county must allow the applicant to process the material mined at the Reichold site at the currently operating Deer Island processing plant. Any violations which may exist at the Deer Island site must be resolved through code enforcement procedures, and not through this amendment process. The applicant proposes to improve Hwy. 30 with a northbound right turn lane, a southbound left turn lane and a southbound acceleration lane for trucks leaving the plant.

OAR 660-23-180 (5) Continuing with Goal 5 process, states in part:

(Once mining is allowed)

(5) directs the local government to follow OAR 660-23-040(2)-(4) to determine any potential new uses that could occur in the impact area and whether these potential new uses would conflict with mining. Perform an ESEE analysis if they do...

Finding 10: The applicant states (pg 71) that the proposed measures of controlling noise, dust and visual impacts minimizes current uses, and thus "no limitation on these possible conflicting future uses is necessary." The applicant will work with U.S. Fish and Wildlife to adopt a site specific management plan to ensure that the bald eagle nesting site does not adversely affect mining operations. No ESEE analysis is necessary.

Applicable Sections of the Columbia County Surface Mining Ordinance (SMO) as follows:

An Operating Permit is required before any landowner or operator may engage in surface mining.

ARTICLE VI RECLAMATION PLAN

0 Section 6.1 Contents

- ...(1) A definitive statement of the present use of the proposed surface mining site and the planned subsequent beneficial use of the site following the surface mining. The planned subsequent use must be in conformity to and consistent with the Columbia County Zoning Ordinance and the Comprehensive Plan and implementing regulations;...
- ...(10) The time schedule for the initiation and project completion of the surface mining and reclamation. If reclamation is to be concurrent with surface mining the schedule must be included. Reclamation must be completed within three (3) years of the completion of surface mining on any parcel but does not apply to any parcel being used as plant site, stockpile, or work area for an ongoing surface mining operation.

Finding 11: The applicant has proposed that the site will be mined in phases of 10 to 20 acres each, and, that the reclamation will be continuous and incremental. That is, while proceeding to phase 2 mining area, the overburden will be used for the purposes of reclaiming phase 1. The

licant also proposes to reclaim approximately ½ of the mined area to fish and wildlife habitat and future industrial development sites. The Board determines that this conceptual reclamation plan is acceptable for the PAPA and further finds that the plan meets the requirements of OAR 660-023-0180(4)(f) for uses listed, given the Class I, II or and Unique farm soils of the site. The Board also finds that the conceptual reclamation plan is consistent with the counties Comprehensive Plan, implementing ordinances and related documents which designate this site for future rural industrial uses because of its exceptional site characteristics. The mining area site shall continuously have available at least ½ its area for immediate use for siting new industrial uses.

The applicable sections of the Columbia County Zoning Ordinance are as follows:

"1605 Zone Change - Major Map Amendment: The hearing for a major map amendment shall follow the procedure established in Sections 1502, 1502.1, 1502.1A and 1502.1B. This hearing cannot result in the approval of a major map amendment. The Commission may make a recommendation to the Board of Commissioners that such a zone change be granted. Approval by the majority of the Commission is necessary in order to make recommendation to the Board of Commissioners. The Board of Commissioners hearing on the proposed zone change - major map amendment will be on the record unless a majority of the Board votes to allow the admission of new evidence."

"1502 Zone Changes (Map Amendments): There are two types of Zone Changes which will be considered by the Commission: Major Map Amendments and Minor Map Amendments.

- .1 Major Map Amendments are defined as a Zone Change which requires the Comprehensive Plan Map to be amended in order to allow the proposed Zone Change to conform with the Comprehensive Plan. The approval of this type of Zone Change is a two step process:
 - A. The Commission shall hold a hearing on the proposed Zone Change, either concurrently or following a hearing, on the proposed amendment to the Comprehensive Plan which is necessary to allow the proposed zoning to conform with the Comprehensive Plan. The Commission may recommend approval of a Major Map Amendment to the Board of Commissioners provided they find adequate evidence has been presented at the hearing substantiating the following:
 1. The proposed Zone Change is consistent with the policies of the Comprehensive Plan;
 2. The proposed Zone Change is consistent with the Statewide Planning Goals (ORS 197); and
 3. The property and affected area is presently provided with adequate facilities, services, and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided

concurrently with the development of the property.

B. Final approval of a Major Map Amendment may be given by the Board of Commissioners. The Commissioners shall hold a hearing on the proposed Zone Change either concurrently or following a hearing on the proposed Comprehensive Plan Amendment which is necessary to allow the proposed zoning to conform with the Comprehensive Plan. The Board may approve a Major Map Amendment provided they find adequate evidence has been presented substantiating the following:

1. The proposed Zone Change is consistent with the policies of the Comprehensive Plan;
2. The proposed Zone Change is consistent with the Statewide Planning Goals (ORS 197); and
3. The property and affected area is presently provided with adequate facilities, services, and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.

.2 Minor Map Amendments are defined as a Zone Change which does not require an amendment to the Comprehensive Plan. The Commission may grant a Minor Map Amendment provided they find adequate evidence has been presented at a hearing substantiating the following:

- A. The Zone Change is consistent with the Comprehensive Plan: and
- B. The property and affected area is presently provided with adequate facilities, services, and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property."

Finding 12: This is a Major Map Amendment, as the Comprehensive Plan and Zoning Maps must both be changed to remain in agreement, and a Comprehensive Plan text amendment is proposed. LUBA Opinion No. 99-017, Morse Bros. Inc. v. Columbia County ruled that Columbia County Comprehensive Plan Policies are beyond the permissible scope of inquiry in this application. However, ORS 197.175(2)(a) requires that this amendment be in compliance with Statewide Planning Goals. The subject site adjoins Hwy. 30, a major arterial, and the applicant proposes improvements to better accommodate the new use.

Continuing with Section 1048 of the Zoning Ordinance:

- ".2 That approval of the zone change will not cause immediate or long-term land use conflicts that cannot be satisfactorily mitigated. If conflicts are identified which cannot be satisfactorily mitigated, findings shall be made concerning the

economic, social, environmental, and energy consequences of allowing the SM use; and a determination shall be made that the benefits to the public outweigh the detriments suffered as a result of said conflict."

Finding 13: The conflicts between the gravel mine and existing and approved uses are discussed in the ESEE analyses on pages 38 to 58 of the application. It appears that all conflicts with the mining operations within the 1500' impact area can be mitigated through the provision of berms, setbacks, special permitting, monitoring wells, equipment housing, dust control and highway improvements.

Continuing with Section 1048 of the Zoning Ordinance:

".3 The site(s) proposed for zone change shall comply with all of the requirements outlined in Section 1044.10A of this ordinance."

Section 1044.10A of the Zoning Ordinance requires the following:

".10 Archeological Sites:

- A. Prior to excavation - All sites proposed for excavation shall be inventoried for their archaeological significance in accordance with standards set by the State Archaeologist. If an area proposed for excavation is found to contain an archaeological site(s), the Planning Commission shall hold a public hearing, in accordance with Section 1603, to review testimony regarding the site(s) and establish measures to mitigate potential conflicts as necessary.
The State Archaeologist shall be notified of such public hearings."

Finding 14: Condition #5 requires that the applicant conduct an archeological inventory of the site prior to the commencement of mining.

Section 1608 of the Zoning Ordinance requires the following:

"**1608 Contents of Notice:** Notice of a quasijudicial hearing shall contain the following information:

- .1 The date, time and place of the hearing;
- .2 A description of the subject property, reasonably calculated to give notice as to the actual location, including but not limited to the tax account number assigned to the lot by the Columbia County Tax Assessor;
- .3 Nature of the proposed action;
- .4 Interested parties may appear and be heard;

.5 Hearings will be held according to the procedures established in the Zoning Ordinance."

Finding 15: All of the above were included in the Notice of Public Hearing published twice in the Chronicle and Spotlight newspapers not less than 10 days prior to the Board of Commissioner's hearing.

Applicable Statewide Planning Goals:
(If not listed the Board considered them not applicable)

Goal 1: Citizen Involvement

Finding 16: The county followed the procedures prescribed in the Comprehensive Plan and implementing ordinances concerning citizen involvement. The Board determines that the review of this application was in compliance with Goal 1.

Goal 2: Land Use Planning

Finding 17: The county followed the procedures outline for the administration of land use planning in the Comprehensive Plan and implementing ordinances. The Board determines that the review of application was in compliance with Goal 2.

Goal 3: Agricultural Lands

Finding 18: An exception to the Agricultural Lands Goal was taken for this site and acknowledged by LCDC. The subject site was designated for industrial lands because of it's location and suitability for industrial use.

Goal 4: Forest Lands

Finding 19: An exception to the Forest Lands Goal was taken for this site and acknowledged by LCDC. The subject site was designated for Industrial Lands because of it's ideal location for industrial uses.

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

Finding 20: Review of these particular resources is limited to the Goal 5 framework. See OAR 660-23-180(4)(b) and (c), above. Significant Goal 5 resources (identified in the Comprehensive Plan) have been identified by the applicant. The applicant proposes to use standard setback and

Protection requirements in existing state and federal law for wildlife habitat, wetlands and riparian areas. Some additional measures are recommended in their application to minimize resources not identified as significant but are found on site, which include developing a Storm Water Management Plan in accordance with DEQ, submitting a 404 Clean Water Act Permit to consolidate and enhance wetlands within the mining site and develop a reclamation enhancement plan for integrating surrounding natural features with the end beneficial use of fish and wildlife habitat coupled with industrial uses.

However not identified as significant, the ground water resource needs consideration. The PAPA Supplement / September 15, 1998 addresses the contaminants found at the site and concludes that extracting below ground water table would actually help alleviate the problem. The applicant has also agreed to follow any restrictions which State Water Resources deems appropriate.

The applicant states that the natural characteristics of the native sub-surface sand and aggregate materials between the down-gradient wells and the mining area will effectively filter any turbidity created on site. In addition, 6 new monitoring wells have been constructed, to be monitored quarterly by ESA, to ensure water quality and hydrology values. The Board would like to see a condition whereby participating property owners may have their wells monitored. In addition, Condition #16 requires the applicant to post a bond to cover the cost of drilling new wells for those participating property owners, if redrilling is necessary to prevent contamination of domestic water supplies. Comments from State Water Resources (WRD) recommend dry mining until assurance is realized that mining under the water table will not threaten other aquifers.

The U. S. Fish and Wildlife has identified an active bald eagle nest within the vicinity of the proposed mine. The bald eagle is a protected species under the Endangered Species Act of 1973. The applicant has considered this conflict in the PAPA Supplement / September 15, 1998. Condition #16 addresses this issue.

Goal 5 resource impacts have either been shown not to exist or are addressed through mitigation measures contained in the conditions.

Goal 6: Air, Water, and Land Resources Quality

Finding 21: The Board concurs with the applicant that most of the resources protected under this Goal are done so with standards, i.e. noise, dust and riparian areas have standards which can not be exceeded or setbacks which must be adhered to.

COMMENTS: The following comments are part of the record, which were submitted to the Planning Commission or the Board of Commissioners:

ITEMS

Item #	Date Received	Received From	Comment
1	7/21/98	Dorian Kuper David Newton & Associates 1201 SW 12th Avenue, Suite 400 Portland, OR 97205	Would like to be on interested parties list.
2	7/21/98	Barbie Windsor Deer Island Preservation Society 64475 Columbia River Highway Deer Island, OR 97054	See file for written comment.
3	7/29/98	Hal Wilson, County Sanitarian	No objection to PA 98-3. No objection to DR 98-14.
4	7/30/98	Peter Williamson, Port of St. Helens	Delay comment. Port of St. Helens Board to meet 8/14/98.
5	7/30/98	Darrell Hedin, County Watermaster	See file for written comment regarding PA 98-3. No objection to DR 98-14.
6	8/3/98	Larry Potter, Division of State Lands	See file for written comment regarding PA 98-3. See file for written comment regarding DR 98-14.
7	8/3/98	Blanche Bangsund Deer Island Preservation Society 64383 Second Street Deer Island, OR 97054	See file for written comment.
8	8/3/98	Evelyn Sanders Deer Island Preservation Society 34979 Fawn Lane, #54 Deer Island, OR 97054	See file for written comment.
9	8/6/98	Jay Tappan, Fire Marshal St. Helens Fire District	No objection to PA 98-3. No objection to DR 98-14.
10	8/6/98	Fergus Pilon, Columbia River PUD	See file for written comment.
11	8/6/98	Greg Nelson, Water Resources Dept.	See file for written comment.
12	8/6/98 Fax	Columbia City ADHOC Committee	August 5, 1998 meeting minutes.

3	8/11/98	Dee Loyd, City of Columbia City	Delay comment on PA 98-3 and DR 98-14. City Council does not meet until 9/3/98.
14	8/11/98	Jane Estes, ODOT-District 2A	No objection to PA 98-3. See file for comment.
15	8/18/98	Blanche Bangsund	See file for written comment.
16	8/21/98	Lonny Welter, Transportation Planner	See file for written comment.
17	8/21/98	Bill Thorpe, Master Deer Island Grange #947 33562 Tide Creek Road Deer Island, OR 97054	Opposed. See file for written comment.
18	8/24/98 Received by Carla Cudmore	Evelyn Sanders	See file for written comment.
19	8/25/98	Mike and Marge Murphy 34955 Fawn Lane Deer Island, OR 97054	Opposed. See file for written comment.
20	8/25/98	Walter and Maxine Loyd 64556 Columbia River Highway Deer Island, OR 97054	See file for written comment.
21	8/25/98 Fax	Columbia City ADHOC Committee	Final recommendation.
22	8/26/98	Barbie Windsor	Opposed. See file for written comment.
23	8/26/98 Received by Carla Cudmore	Mike and Marge Murphy	Opposed. See file for written comment.
24	8/31/98	Darlene Granger 214 Crouse Way St. Helens, OR 97051	Opposed. See file for written comment.
25	8/31/98	Larry R. Smith 285 Crouse Way St. Helens, OR 97051	Opposed. See file for written comment.
26	8/31/98	Merle Brackenbrough 65921 McDermott Road Deer Island, OR 97054	Opposed. See file for written comment.
27	8/31/98	Steve Strobel 65318 Olson Road Deer Island, OR 97054	Opposed. See file for written comment.

	8/31/98	Evelyn Sanders	See file for written comment.
29	9/1/98	Don Coin Walrod 64300 Columbia River Hwy. Deer Island, OR 97054	See file for written comment.
30	9/1/98	Bill Hildebrand, Owner HH-DC-LP 8435 N. Crawford St. Portland, OR 97203	Opposed. See file for written comment.
31	9/2/98	Harry Krueger PO Box 433 Rainier, OR 97048	Opposed. See file for written comment.
32	9/2/98	Kurt Roseler PO Box 635 Deer Island, OR 97054	Supportive. See file for written comment.
33	9/2/98	Wayne Weigandt 365 S. Highway St. Helens, OR 97051	See file for written comment.
34	9/3/98	Fred Bernet	See file for written comment.
35	9/8/98	Tamara Maygra 34319 Canaan Road Deer Island, OR 97054	See file for written comment.
36	8/12/98	Richard Lyon, Land Planning Manager Morse Bros., Inc.	Responses to 7/21/98 letter from Glen Higgins
37	9/3/98 Fax Original rec'd 9/8/98	Steven Schell, Attorney for Morse Bros. Black Helterline LLP 1200 Union Bank of CA. Tower 707 SW Washington Street Portland, OR 97205	Request to continue September 9, 1998 hearing to September 30, 1998
38	9/4/98 Fax Original rec'd	Richard Lyon Morse Bros., Inc.	Confirmation of hearing continuance
39	9/4/98	Dee Loyd City of Columbia City	Clarification of recommendation from Ad Hoc Committee
40	9/9/98	Joanna Jauron	Opposed. See file for written comment.

41	9/9/98	John Junkin, Attorney for Deer Island Preservation Society Bullivant Houser Bailey Attorneys at Law 300 Pioneer Tower 888 SW 5th Avenue Portland, OR 97204	Confirmation of hearing continuance
42	9/9/98	St. Helens-Columbia City Citizen Planning Advisory Committee	Concerned. See file for written comment.
43	9/11/98	Ray Belling 34880 N. Buck Way Deer Island, OR 97054	Opposed.
44	9/11/98	Jody Cheek 31731 Canaan Road Deer Island, OR 97054	Opposed.
45	9/11/98	Jean Cheek 31731 Canaan Road Deer Island, OR 97054	Opposed.
46	9/11/98	Lloyd Ebert 66283 Meissner Road Deer Island, OR 97054	Opposed.
47	9/11/98	Margie Ebert 66283 Meissner Road Deer Island, OR 97054	Opposed
48	9/11/98	Vivian Guida 36050 Pittsburg Road #8 St. Helens, OR 97051	Opposed.
49	9/11/98	Rudolph Larson 245 Little Street St. Helens, OR 97051	Opposed.
50	9/11/98	Lois McCallum 134 N. 21st Street St. Helens, OR 97051	Opposed.
51	9/11/98	Carol Ann Randolph 65830 McDermott Road Deer Island, OR 97054	Opposed.
52	9/11/98	Dan Randolph 65830 McDermott Road Deer Island, OR 97054	Opposed.

3	9/11/98	John Ritenour 58601 Childs Road St. Helens, OR 97051	Opposed.
54	9/11/98	May Ritenour 58601 Childs Road St. Helens, OR 97051	Opposed.
55	9/11/98	Evelyn Sanders	Opposed.
56	9/11/98	Dan VanDyke 65830 McDermott Road Deer Island, OR 97054	Opposed.
57	9/11/98	Marie Vocana 64740 Vocana Lane Deer Island, OR 97054	Opposed.
58	9/11/98	Steve Vocana 64740 Vocana Lane Deer Island, OR 97054	Opposed.
59	9/11/98	Kristi Albright 2544 Gable Road #31 St. Helens, OR 97051	Opposed.
60	9/11/98	Donald Miller 30 Cowlitz #23 St. Helens, OR 97051	Opposed.
61	9/11/98	Dennis Hummer 2544 Gable Road St. Helens, OR 97051	Opposed.
62	9/11/98	Owen Zielaskowski 34914 Bachelor Flat Road St. Helens, OR 97051	Opposed.
63	9/11/98	Lesley Dawdy 495 S. Columbia River Hwy. #36 St. Helens, OR 97051	Opposed.
64	9/11/98	Diane Bach 30 Cowlitz St. Helens, OR 97051	Opposed.
65	9/11/98	Vickie Espinoza 33048 Stone Road Warren, OR 97053	Opposed.

6	9/11/98	Maryann Yarmer 33955 Young Road St. Helens, OR 97051	Opposed.
67	9/11/98	Lynnda Kays 32411 Tide Creek Road Deer Island, OR 97054	Opposed.
68	9/11/98	Donna Monson 405 S. 2nd #102 St. Helens, OR 97051; and Tamara Maygra; and Andria Hansen 58130 Fisher Lane St. Helens, OR 97051	Opposed.
69	9/11/98	Teresa Thorpe Deer Island Community Church	Concerned.
70	9/11/98	William Thorpe 33562 Tide Creek Road Deer Island, OR 97054	Opposed.
71	9/15/98	Cindy & Tom McCartney 2900 6th Street Columbia City, OR 97018	Opposed. See file for written comment.
72	9/16/98	Gary Miller, Acting State Supervisor United State Dept. of the Interior Fish and Wildlife Service Oregon State Office 2600 SE 98th Avenue, Suite 100 Portland, OR 97266	See file for written comment.
73	9/16/98	Peter K. Williamson Port of St. Helens PO Box 598 St. Helens, OR 97051	See file for written comment.
74	9/16/98	Tim Marshall, Land Planning Manager Morse Bros., Inc.	Letter with response to staff concerns and supplement to PAPA application.
75	9/17/98	Ronald and Janis Fletcher 32124 Highland Road Rainier, OR 97048	Opposed.
76	9/17/98 Fax Original rec'd 9/21/98	Tim Marshall, Land Planning Manager Morse Bros., Inc.	Additions/Corrections to supplement.

	9/21/98	Linda Kielblock 32541 Tide Creek Road Deer Island, OR 97054	Opposed.
78	9/21/98	Irene Luttrell	Concerned. See file for written comment.
79	9/21/98 Fax Original rec'd 9/21/98	Carla Cudmore, Surface Mining Admin. Ridgeline Resource Planning 14860 Orchard Knob Road Dallas, OR 97338	See file for written comment.
80	9/23/98	M.L. McElroy 32525 Highland Road Rainier, OR 97048	Opposed.
81	9/23/98	Lois M. Smith Deer Island Resident	Opposed.
82	9/23/98	Citizens of Deer Island Mobile Home Court	Opposed.
83	9/23/98	Citizens of Deer Island Mobile Home Court	Opposed.
	9/25/98	David Brian Williamson, Attorney	Short note regarding length of proponent's testimony.
85	9/24/98 Fax Original rec'd 9/25/98	Marah Danielson, Planner ODOT-Region 1 123 NW Flanders Portland, OR 97209-4037	See file for written comment.
86	9/28/98	Lois M. Smith Deer Island	Opposed.
87	9/29/98	Barbie Windsor	Request for postponement. See file for written comment.
88	9/30/98 Fax	Kenneth J. Reynolds, President Reynolds Farms Inc. 4715 NE Hwy. 20 Corvallis, OR 97330	Supportive. See file for written comment.
89	9/30/98 Fax	Tim Marshall, Land Planning Manager Morse Bros., Inc.	Copies of letters in support from Reynolds Farms Inc. and Stahlbush Island Farms, Inc.

90	9/30/98 Fax	Tim Marshall, Land Planning Manager Morse Bros., Inc.	Submittal of revised figures. See file for written documents.
91	9/30/98 Fax	Kurt Roseler	Copy of letter dated 8-30-98 and received on 9-2-98.
92	9/30/98	Dave Freytag PO Box 216 36083 Liberty Hill Road St. Helens, OR 97051	Opposed. See file for written comment.
93	9/30/98 Fax	Jim Grimes, Urban Habitat Biologist Oregon Department of Fish and Wildlife 17330 SE Evelyn Street Clackamas, OR 97015-9514	Request for additional time to review the proposed actions. See file for written comment.
94	9/30/98 Fax	Bill Eagle, Resources Conservationist USDA Natural Resources Conservation Service 2514 Sykes Road St. Helens, OR 97051	Comments regarding soils on subject property. See file for written comment.
95	9/30/98 at hearing	Tim Marshall, Manager of Land Planning Morse Bros., Inc.	Submittal of revised figures. See file for written documents.
96	9/30/98 at hearing	Steven Schell, Attorney for Morse Bros. Black Helterline LLP	Legal Considerations in 9/18/98 Staff Report. See file for written documents.
97	9/30/98 at hearing	Morse Bros., Inc.	Presentation material.
98	9/30/98 at hearing	Blanche Bangsund	Testimony in opposition. See file for written testimony.
99	9/30/98 at hearing	Don Walrod	Opposed. See file for written testimony.
100	9/30/98 at hearing	Barbara Johnson 64739 McDermott Road Deer Island, OR 97054	Opposed. See file for written testimony.
101	9/30/98 at hearing	Tamara Maygra 34319 Canaan Road Deer Island, OR 97054	Opposed. See file for written testimony.
102	9/30/98 at hearing	Frank Morse, President Morse Bros., Inc.	Proposed Reichold Neighbors Land Use Agreement.

3	10/1/98	Norman & Barbara Baer 69711 Marcott Road Rainier, OR 97048	Opposed.
104	10/1/98	Darryl & Wendy Jones 69802 Marcott Road Rainier, OR 97048	Opposed.
105	10/5/98	Norma Brink 32625 Tide Creek Road Deer Island, OR 97054	Opposed.
106	10/6/98	John Junkin, Attorney for Deer Island Preservation Society	Unable to attend 10/7 hearing. Submitted copies of 9/30 verbal testimony.
107	10/7/98	Malcolm Hiatt PO Box 404 Columbia City, OR 97018	Supportive. See file for written testimony.
108	10/7/98 Fax	Marc Norton, Hydrogeologist Oregon Department of Water Resources Commerce Building 158 12th Street NE Salem, OR 97310-0210	Comment regarding ground water table.
9	10/7/98 Fax	Brian Puncocher St. Helens Resident	Opposed. See file for written comment.
110	10/7/98 at hearing	John Junkin, Attorney for Deer Island Preservation Society	Summary of Society's position.
111	10/7/98 at hearing	Steven Schell, Attorney for Morse Bros. Black Helterline LLP	Copy of OARs regarding Mineral and Aggregate Resources.
112	10/7/98 at hearing	Steven Schell, Attorney for Morse Bros. Black Helterline LLP	Copy of Urban Growth Area Management Agreement between Columbia City and Columbia County.
113	10/7/98 at hearing	Steven Schell, Attorney for Morse Bros. Black Helterline LLP	Legal Rebuttal. See file for written rebuttal.
114	10/7/98 at hearing	Morse Bros., Inc.	Presentation material.
115	10/7/98 at hearing	Peter Coffey, P.E., Principal DKS Associates 921 SW Washington Street, Suite 612 Portland, OR 97205-2824	Rebuttal on traffic impact. See file for written testimony.

6	10/7/98 at hearing	Douglas Wilson, Ph.D. Archaeology Consulting 435 NE Floral Place Portland, OR 97232	Rebuttal on status of Columbia County historic lists. See file for written testimony.
117	10/7/98 at hearing	K.C. Klosterman Morse Bros., Inc.	Copy of letter from Malcolm Hiatt received by County earlier in day.
118	10/7/98 at hearing	K.C. Klosterman Morse Bros., Inc	Copy of minutes from 7/16/97 Ad Hoc Committee meeting.
119	10/7/98 at hearing	K.C. Klosterman Morse Bros., Inc.	Copy of notifications made to newspapers and neighbors.
120	10/7/98 at hearing	Tim Marshall, Manager of Land Planning Morse Bros., Inc.	Rebuttal on soil types on Reichhold site. See file for written testimony.
121	10/7/98 at hearing	R. Bruce Snyder, Sr. Environmental Scientist LPG Associates, Inc. 537 SE Ash Portland, OR 97214	Rebuttal on air quality issues. See file for written testimony.
122	10/7/98 at hearing	JD White Company Inc.	Testimony regarding Bald Eagle Management Plan. See file for written testimony.
123	10/7/98 at hearing	Kerrie G. Standlee, P.E. Daly-Standlee & Associates, Inc. 4900 SW Griffith Drive, Suite 216 Beaverton, OR 97005	Rebuttal on noise issues. See file for written testimony.
124	10/7/98 at hearing	Morse Bros., Inc.	Rebuttal. See file for written testimony.
125	10/7/98 at hearing	Morse Bros., Inc.	Copy of rebuttal regarding wetlands and eagle nesting habits from Richard Shepard. See file for written testimony.
126	10/7/98 at hearing	Richard B. Shepard, Ph.D., President Applied Ecosystems Services, Inc. 2404 SW 22nd Street Troutdale, OR 97060-1247	Reichhold Project Compliance with Columbia County's Comp. Plan and the Endangered Species Act. See file for written testimony.
127	10/7/98 at hearing	Richard B. Shepard, Ph.D., President Applied Ecosystems Services, Inc.	Rebuttal regarding wetlands and eagle nesting habits from Richard Shepard. See file for written testimony.

8	10/7/98 at hearing	Bob Price Mitchell Nelson Group, Inc. 233 SW Naito Parkway Portland, OR 97204	Rebuttal to opposition testimony. See file for written testimony.
129	10/7/98 at hearing	Bob Price Mitchell Nelson Group, Inc.	Discussion of suitability of parcel C of the Reichhold Property for Industrial Development. See file for written testimony.
130	10/7/98 at hearing	Bob Price Mitchell Nelson Group, Inc.	Rebuttal. See file for written testimony.
131	10/7/98 at hearing	Bob Price Mitchell Nelson Group, Inc.	Copy of Morse Bros. Industrial Lands Sites Analysis of Columbia County dated August, 1996.
132	10/7/98 at hearing	Morse Bros., Inc.	Large map of north view of subject property.
133	10/7/98 at hearing	Morse Bros., Inc.	Large map of south view of subject property.
134	10/7/98 at hearing	Morse Bros., Inc.	Large map of perspective view looking north on Highway 30.
135	10/7/98 at hearing	Morse Bros., Inc.	Large map of cross-section view looking north on Highway 30.
136	10/14/98 Fax Original rec'd 10/16/98	Peter Coffey, P.E., Principal DKS Associates	Resume
137	10/14/98 Fax	R. Bruce Snyder, Sr. Environmental Scientist LPG Associates, Inc.	Resume
138	10/14/98 Fax	Douglas Wilson, Ph.D. Archaeology Consulting	Resume
139	10/14/98 Fax	Ian Sinks, Associate Ecologist Emily Teachout, Associate Ecologist The JD White Company Inc. 1111 Main Street, Suite 300 Vancouver, WA 98660	Qualifications
140	10/14/98	Morse Bros., Inc.	CD-Rom from applicant's presentations

1	10/15/98	Anne Briggs Assistant County Counsel	"Goal 5 Rules for Aggregate Summarized" - from the 10/7/98 hearing
142	10/15/98	Anne Briggs Assistant County Counsel	Letter to Steve Schell confirming adjusted schedule.
143	10/16/98 Fax Original rec'd 10/20/98	Russell Peterson, State Supervisor US Department of the Interior Fish and Wildlife Service 2600 SE 98th Avenue, Suite 100 Portland, OR 97266	Clarification letter. See file for written comment.
144	10/16/98 Fax	Eric J. Tenbrook, Esq. Black Helderline LLP	Copies of resumes from consultants who testified for Morse Bros.
145	10/19/98	Frank Morse Morse Bros., Inc.	Soil Contamination Issue. See file for written comment.
146	10/19/98	Steven Schell, Attorney for Morse Bros. Black Helderline LLP	Soil Contamination Issue. See file for written comment.
147	10/19/98	Steve LaFranchi, RG, President Environmental Science Associates, Inc. 1450 Flintridge Avenue Eugene, OR 97401	Soil Contamination Issue. See file for written comment.
148	10/19/98	Allen Martin, RG Environmental Science Associates, Inc.	Research documentation regarding soil contamination issue. See file for written comment.
149	10/19/98	John Junkin, Attorney for Deer Island Preservation Society	DIPS's written rebuttal and evidence to applicant testimony. See file for written comment.
150	10/19/98	Evelyn Sanders	Copy of Zoning Ordinance pages 55-58 regarding Resource Industrial Planned Development (RIPD) zone.
151	10/19/98 Fax	Jim Grimes, Oregon Fish and Wildlife	Review of application. See file for written comment.
152	10/20/98 Fax Original rec'd 10/23/98	Allen Martin, RG Environmental Science Associates, Inc.	Clarifications of laboratory results on soil contamination issue. See file for written comment.

53	10/23/98	John Junkin, Attorney for Deer Island Preservation Society	Withholding presentation of its response to the soil contamination report and recent USFWS letter until BOC hearing. See file for written comment.
154	10/26/98	Steven Schell, Attorney for Morse Bros. Black Heltterline LLP	Letter dated 10/20/98 to John Junkin stating the hand-deliverance of the ESA's report. See file for written comment.
155	10/26/98 Fax	Steven Schell, Attorney for Morse Bros. Black Heltterline LLP	Document submittal: (1)Written rebuttal (2)LaFranchi rebuttal statement re: aquitard issue (3)LaFranchi rebuttal to arguments presented orally at 9/30 hearing See file for written comment.

COMMENTS Received During Board review

#	Date Received	Received From	Comment
156	10/22/98	Harry Krueger P.O. Box 433 Rainier, OR 97048	Opposed.
157	10/29/98	Peter K. Williamson Port of St. Helens P.O. Box 598 St. Helens, OR 97051	Port has taken no position on the application. See file for written comment.
158	11/6/98	Mike and Marge Murphy 34955 Fawn Lane Deer Island, OR 97054	Opposed.
159	11/6/98	Lois Smith 34960 Doe Lane Deer Island, OR 97054	Opposed.
160	11/6/98	Ann Elizabeth Fitzsimmons Scott Asphaug 33186 Canaan Road Deer Island, OR 97054	Opposed.

	11/9/98	Lois Smith 34960 Doe Lane Deer Island, OR 97054	Opposed.
162	11/9/98	Carol Everman, Secretary Columbia County Pomona Grange #18 74642 Larson Road Rainier, OR 97048	Opposed.
163	11/9/98	Deer Island Preservation Society Evelyn Saunders	See file for written comment.
164	11/6/98 by fax	Brian Puncocher brian-p@ados.com	Opposed. See file for written comment.
165	11/9/98	Barbara Johnson Deer Island Preservation Society 64739 McDermott Road Deer Island, OR 97054	Opposed. See file for written comment.
166	11/10/98	Deer Island Preservation Society	Opinion Poll submitted by DIPS.
167	11/3/98	LDS Staff Report to the Board Land Development Services	Staff Report.
168	11/3/98	Planning Commission Final Order Land Development Services	Final Order.
169	11/10/98	Morse Bros., Inc. 32260 Highway 34 Tangent, OR 97389	Executive Summary. See written file.
170	11/10/98	Lindberg Road Neighborhood Committee P.O. Box 273 Clatskanie, OR 97016	Supportive. See file for written comments.
171	11/10/98	Morse Bros., Inc. 32260 Highway 34 Tangent, OR 97389	Conceptual sketch (Oversized)
172	11/10/98	Environmental Sciences, Inc. 1450 Flintridge Avenue Eugene, OR 97401	Environmental Report sponsored by Morse Bros. See written file.
173	11/10/98	Tammy Maygra 34319 Canaan Road Deer Island, OR 97054	Copy of testimony presented to BOC.

174	11/10/98	Blanche Bangsund 64383 Second Street Deer Island, OR 97054	Copy of testimony presented to BOC.
175	11/10/98	Don Walrod 64700 Columbia River Ave. Deer Island, OR 97054	Copy of Corvallis <u>Mid-Valley</u> newspaper article, dated 11/8/98.
176	11/10/98	Don Walrod 64700 Columbia River Ave. Deer Island, OR 97054	Copy of testimony presented to BOC.
177	11/10/98	Marge Murphy 34955 Fawn Lane Deer Island, OR 97054	Copy of testimony presented to BOC.
178	11/10/98	Marge Murphy 34955 Fawn Lane Deer Island, OR 97054	Copy of property taxes paid by Morse Bros.
179	11/10/98	Marge Murphy 34955 Fawn Lane Deer Island, OR 97054	Excerpt from CC Comprehensive Plan (Noise Policies).
180	11/10/98	Lois Smith 34960 Doe Land Deer Island, OR 97054	Copy of testimony presented to BOC.
181	11/10/98	Lois Smith 34960 Doe Land Deer Island, OR 97054	Excerpt from CC Comprehensive Plan (Rural Centers).
182	11/10/98	Christine Weiss 34920 Canaan Road Deer Island, OR 97054	Copy of testimony presented to BOC.
183	11/10/98	William Eagle USDA/NRCS 2514 Sykes Road St. Helens, OR 97051	Copy of letter addressed to Tammy Maygra. Read to the BOC by Christine Weiss.
184	11/10/98	Cindy Tiller 64468 Second Street Deer Island, OR 97054	Copy of testimony presented to BOC.
185	11/10/98	Marlin J. (Jim Miles) 33530 Rodney Road Warren, OR 97053	Copy of testimony presented to BOC.

6	11/10/98	Thelma Bonar 56734 Way Lane Warren, OR 97053	Excerpt from CC Comprehensive Plan (Reichhold Chemicals, Inc. Exception Statement)
187	11/10/98 (by fax)	Diana Hwang USFWS/Dept. of Interior Oregon State Office 2600 SE 98th Avenue, Suite 100 Portland, OR 97266	See file for written comment.
188	11/10/98		Photocopy of Reichhold site.
189	11/13/98	Anne Corcoran Briggs Assistant County Counsel	Submittal Timeline.
190	11/26/98	John Junkin Bullivant, Houser 300 Pioneer Tower 888 SW Fifth Avenue Portland, OR 97204-2089	See file for written comment.
191	10/30/98 (by fax)	Steven R. Schell Black, Helterline 1200 The Bank of CA Tower 777 SW Washington Street Portland, OR 97205-3529	Re: Timeline for DR 98- 14. See file for written comment.
192	11/5/98	Deer Island Preservation Society 34319 Canaan Road Deer Island, OR 97054	See file for written comment.
193	11/6/98	Tammy Maygra 34319 Canaan Road Deer Island, OR 97054	Copy of handwritten notes/testimony to BOC.
194	11/10/98	Evelyn Sanders	Notes in opposition to Morse Bros. application
195	11/10/98	Joe Cernac Scappoose, OR	Opposes. See file for written comment.
196	8/18/98	Blanche Bangsund	Opposes. See file for written comment.
197	11/16/98 (by fax)	Tim Marshall, Morse Bros.	Rebuttal to testimony given during BOC hearing. (Hard copy rec'd 11/18/98)
198	11/16/98	Lois Smith	Opposes. See file for written comment.

	11/16/98	Evelyn Saunders Deer Island Preservation Society	Copy of written testimony in opposition. See file for written comment.
200	11/24/98	City of Columbia City Office of the Mayor P.O. Box 189 Columbia City, OR 97018	Letter supporting Hal Hewitt's testimony in opposition, with supporting documentation.
201	11/24/98	John Junkin Bullivant, Houser	Final comments on behalf of DIPS in opposition.
202	11/10/98	Russell D. Peterson State Supervisor USFWS 2600 SE 98th Avenue, Suite 100 Portland, OR 97266	Letter regarding status of bald eagle site survey.
203	11/30/98 (by fax)	Steven Schell Black, Helterline	Final comments on behalf of Morse Bros.
204	11/25/98	Board of County Commissioners Columbia County	Excerpt of 11/25/98 minutes where the BOC decided to postpone deliberations until 12/16/98.
205	11/25/98 (by email)	Anne Corcoran Briggs cc: BOC	Gives notice to Steve Schell and John Junkin of postponement of deliberations.
206	9/8/98	Gregory Green, Administrator Air Quality Division Oregon DEQ 811 SW Sixth Avenue Portland, OR 97204-13990	Copy of letter to Marge Murphy, regarding DEQ Air Quality regulation of surface mining activities.
207	12/10/98	Todd Dugdale, LDS	Memorandum regarding Columbia City UGB and Comprehensive Plan Growth Policy
208	12/10/98	Columbia County BOC	11/10/98 Meeting Minutes

Note: A copy of Item 111 was presented to the Board of Commissioners by Steve Schell at the November 10 1998 meeting.

CONCLUSIONS AND RECOMMENDATIONS:

Planning Commission and Staff Recommends APPROVAL to the Board of Commissioners of this Major Map Amendment to change the Comprehensive Plan map designation from "Rural Industrial" to "Mineral and aggregate resource", and concurrently to change the zoning from "Rural Industrial - Planned Development" (RIPD) to "Surface Mining" (SM), on 190 acres owned by Reichhold Chemicals, Inc. on the west side of the Columbia River Highway north of Columbia City between the Coastal Chemical plant and the Columbia River PUD building, and to also add the property to the list of Significant Aggregate Sites, p.217 of the Columbia County Comprehensive Plan, WITH THE FOLLOWING CONDITIONS:

1. Final approval of the operating permit shall be subject to Applicant preparing a site-specific management plan for Bald Eagle conservation, and obtaining and submitting evidence of concurrence by the U. S. Fish and Wildlife Service ("USFWS") with the management plan, including submittal of any copies of the monitoring reports to the county.
2. Prior to receipt of an operating permit, Applicant shall provide the Surface Mining Administrator with a letter from the Department of Environmental Quality approving Applicant's remedial action plan for polyaromatic hydrocarbons (PAHs) on the site.
3. A determination from ODOT is received, based on an acceptable traffic impact analysis that the proposed transportation improvements and facilities are adequate.
4. Applicant must consult with, and obtain approval from, the Oregon Water Resources Department before mining below a depth of 50' below ground level. These approvals must be in writing with a copy to Land Development Services.
5. In accordance with Section 1603 and Section 1044.10A of the Zoning Ordinance, prior to any mining activities commencing on the property the site shall be inventoried for any significant archaeological artifacts, in accordance with standards set by the State Archaeologist. If the property to be excavated contains any significant archaeological sites, the Planning Commission shall hold a public hearing to review testimony regarding the sites and establish measures to mitigate potential conflicts as necessary. The State Archaeologist shall be notified of the public hearing.
6. After the first year of full operations or at operating permit renewal, after approval of the Site Design Review (DR 98-14), the Site Design Review for the gravel mine shall be reviewed by the Surface Mining Administrator, with specific attention to noise and dust levels along Chaney Road, and traffic, noise and dust problems along Highway 30 between the mine and the processing facility. As the Board of County Commissioners is the final approval authority for renewals of operating permits, if the Surface Mining

Administrator has determined the need for a public hearing and so recommends, the Board shall hold a public hearing to determine whether setbacks, dust and noise control measures, equipment housing, landscaping, berms, and other mitigation measures have sufficiently reduced the adverse effects of the mining operation on the dwellings on the north side of Chaney Road and in Deer Island.

If the Surface Mining Administrator or Board determines that mitigation measures are sufficient to reduce the adverse effects to acceptable levels, for the Chaney Road and Deer Island residents, the Site Design Review approval may be extended indefinitely. If the Board determines that mitigation measures are not sufficient, the Site Design Review approval may be revoked or suspended until additional mitigation measures are completed. Additional measures may include different operating hours, higher berms, more landscaping, watering trucks, etc.

7. The applicant must comply with any requirements by ODOT for improvements to Highway 30 and must provide Land Development Services with a copy of their access permit from ODOT.
8. The mining site shall be continuously protected by a 6' high chain link or equivalent fence to protect the public.
9. All activities and storage of materials associated with the operation of the mine shall be conducted entirely inside the setbacks of the property. Only plantings and berms shall be permitted within setback areas, and plantings shall be, as much as practical, made with native grass, shrubs and trees. There shall be a 10 feet berm along the eastern and northern boundary.
10. The drawings for any buildings or signs to be erected on the site shall be approved by Land Development Services through a design review process before construction.
11. The applicant shall not dewater the site.
12. Water Quality/ Quantity: The applicant shall develop and obtain approval from DEQ for a Water Monitoring Program, including but not limited to the following:
 - a) Quarterly monitoring of on-site wells;
 - b) Quarterly monitoring of the PUD well, at the northerly edge of the site;
 - c) Install monitoring wells north of Chaney Road within one year, with permission of property owner;
 - d) Bi-annual monitoring of participating property owners within 1500 feet of the site;
 - e) Quarterly report to County Sanitarian with copy to DEQ and WRD regarding nitrates, coliform, turbidity and draw down for tested wells.
 - f) Adhere to any actions deemed appropriate by DEQ or WRD and ordered by Columbia County in the event conditions deteriorate.
13. Dust/Particulate Emissions:

- a) Time construction activities associated with overburden removal and transport, stockpile building and management, and berm building and management to coincide with high soil moisture;
 - b) Water unpaved roads on a specified schedule, based on road activity and weather conditions. Flush paved roads on a specified schedule to prevent particulate buildup.
 - c) Pave main access road to at least 300 feet from highway, surface unpaved roads with crushed rock;
 - d) Prepare, maintain and use a trackout control with drive-through pans or spray washing to remove material from tires and wheels;
 - e) Water active areas during overburden removal, berm, and stockpile construction and during stockpile reclamation;
 - f) Partially enclose the crusher;
 - g) Utilize water sprays at crushers and screens, at transfer points on conveyors, and at stackout and loadout points;
 - h) Minimize drop height at transfer and stackout or loadout points;
 - i) Establish a 10 mph site speed limit.
 - j) Applicant shall not conduct gravel washing or other water uses on site except as to dust suppression and for domestic purposes.
14. Applicant shall construct at Deer Island processing access (voluntary);
- a) Construct a southbound left turn and southbound acceleration lane;
 - b) Construct a northbound right turn lane/ deceleration lane;
 - c) Construct a rail crossing safety system;
15. Applicant shall limit activity on site to primary crushing only (voluntary).
16. Applicant shall provide and maintain a bond, amount set on a per well basis by the Water Master, sufficient to assure all cooperating well holders within the 1500 feet impact area against the mining activity causing a deterioration in either the content or quality of water for domestic purposes. The Applicant shall provide an adequate offer and notice to all the well owners in the 1500 feet impact area to participate as cooperating well holders; specific wording to be determined by the Board.
17. Consideration shall be given to limit rail crossing at Highway 30 to only non-peak traffic hours; wording to be determined by the Board.
18. Applicant shall comply with all applicable DEQ noise standards. In addition, the applicant shall comply with the minimization measures described in Finding 5.
19. The final reclamation of the property shall be for fish and wildlife habitat (76 acres) and for resource industrial planned development (remainder). The proposed activity shall be subject to site design review. Conditions of approval for site design shall be incorporated into the surface mining operating permit. The final reclamation plan shall

also be incorporated into the comprehensive plan amendment for this site.

* (Voluntary) While the County may not require these conditions to be placed on the property as a result of the zone amendment process, the applicant has voluntarily agreed to these conditions, and to having them added to this permit so that, if necessary, the County may enforce them.

ATTACHMENT "B"

SUPPLEMENTAL FINDINGS

1. Finding 3 of Attachment "A" is qualified as follows:

In Order No. 185-98, the Board found that the impact area should be expanded an additional 1500 feet (for a total of 3000 feet) from the southern boundaries of the mining area as a result of the impact on traffic and economic development of the area. However, LUBA ruled that these conflicts "were beyond the permissible scope of inquiry under OAR 660-023-0180(4)(b)(B) and (F)." Therefore, the Board adopts an impact area which is limited to 1500 feet from the boundaries of the mining area.

2. Finding 4 of Attachment "A" is qualified as follows:

The Columbia County Surface Mining Ordinance supersedes DOGAMI regulations pursuant to ORS 517-780. Applicants's proposed mining operations are subject to operating permit review under the Surface Mining Ordinance. The Surface Mining Ordinance also requires approval of a reclamation plan, financial security to be provided, and compliance with operating requirements. Applicant submitted an application for a surface mining operating permit along with this application for a post-acknowledgment plan amendment, but it was returned. Applicant is invited to resubmit the application after adoption of this Ordinance No. 2002-1. Assuming the requirements for issuance are met by Applicant, the proposed mining operations would not appear to conflict with the Surface Mining Ordinance. Conflicts as a result of the proposed post-mining use of the property are not within the scope of OAR 660-023-180(4)(b) and are not addressed here.

3. Finding 5 of Attachment "A" is qualified as follows:

The Board notes that the traffic minimization measures listed in Finding 5 for the Deer Island plant should be corrected to provide for a southbound left turn and southbound acceleration lane, and a northbound right turn and deceleration lane, as provided in Attachment "C", Conditions of Approval (No. 14).

Applicant has proposed a series of minimization measures, as required under OAR 660-023-180(4)(c), which are listed in Finding 5. Paragraph (4)(c) of the rule requires such measures to be identified to minimize all conflicts identified under paragraph (4)(b) of the rule, which requires the identification of conflicts as a result of the proposed mining operations.

The Board finds that reasonable and practical measures have been identified to minimize all conflicts identified within the scope of paragraph (4)(b). These minimization measures are more thoroughly described in the Conditions of Approval attached as Attachment "C".

Therefore, mining shall be allowed at the site and OAR 660-023-180(4)(d) is not applicable.

4. Finding 6 of Attachment "A" is restated as follows:

The Board finds that the minimization measures presented as Conditions of Approval in Attachment "C" are sufficient to minimize identified conflicts within the scope of OAR 660-023-180(4)(b), and therefore an economic, social, environmental and energy (ESEE) analysis is not required.

5. Finding 8 of Attachment "A" is rejected. The following finding is adopted in its place:

Pursuant to OAR 660-023-180(4)(f), the Board shall determine the post-mining "use" of the subject property and provide for the "use" in its comprehensive plan and land use regulations. In addition, the Board shall adopt plan and land use regulations to limit post-mining use on Class I, II and Unique farmland to farm "uses" under ORS 215-203, "uses" listed under ORS 215.213(1) or 215.283(1), and fish and wild life habitat "uses", including wetland mitigation banking. Under the acknowledged Reichhold site exception in the Comprehensive Plan, the property has been designated as Rural Industrial (RI) under the Comprehensive Plan and Resource Industrial Planned Development (RIPD) under the Zoning Code. The Board interprets the requirement to allow a continuation of the RIPD designation as a post-mining use.

In addition, the Board has interpreted OAR 660-023-180 as not superseding the Comprehensive Plan when considering the post-mining use of the subject property (See Supplemental Finding No. 8 below).

The Board finds that the post-mining use of the subject property should be, as much as is allowed by OAR 660-023-180, Rural Industrial under the Comprehensive Plan and Resource Industrial-Planned Development under the Zoning Ordinance.

6. Finding 10 of Attachment "A" is restated as follows:

Applicant's Goal 5 PAPA Application's ESEE analysis pursuant to OAR 660-023-180(5) identified three categories of conflicting future uses (page 71): dwelling uses, parks uses, and research and development laboratories. In each case, it concluded that no limitation on these future uses is needed or appropriate to protect the subject property. In addition, the application concluded certain Goal 5 resources could be allowed without conflict. However, the Board interprets this criterion as continuing to apply after adoption of this ordinance in determining whether to allow, limit, or prevent new conflicting uses within the impact area of the proposed mining area.

7. Finding 11 of Attachment "A" was accepted in the Board's Order No. 185-98. It is here

modified as follows:

The applicant has agreed not to mine below two feet above the highest recorded water table on the southerly 46 acres of the mining area and to mine to approximately 90 feet below grade on the northerly 75 acres of the mined area and to reclaim the below the water mined area with unengineered fill to the same grade as the southerly 46 acres. Thus, the entire mined area would be reclaimed to the at least two feet above highest ground water. The mined area as reclaimed will be available for RIPD uses as practicable. The Board determines that this conceptual reclamation plan is acceptable for the PAPA and further finds that the plan meets the requirements of OAR 660-023-0180(4)(f) for uses listed. The Board also finds that the conceptual reclamation plan is consistent with the county's Comprehensive Plan, the acknowledged exception in the Comprehensive Plan for the Reichhold site, and the implementing ordinances and related documents which designate this site for future rural industrial uses because of its exceptional site characteristics.

There is added the following:

OAR 660-023-180(6) provides that an application for a PAPA concerning a significant aggregate site shall be adequate if it includes:

- (a) Information regarding quantity, quality, and location sufficient to determine whether the standards and conditions in section (3) of OAR 660-023-180 are satisfied;
- (b) A conceptual site reclamation plan;
- (c) A traffic impact assessment within one mile of the entrance to the mining area pursuant to OAR 660-023-180(4)(b)(B);
- (d) Proposals to minimize any conflicts with existing uses preliminarily identified by the applicant within a 1500 foot impact area; and
- (e) A site plan indicating the location, hours of operation, and other pertinent information for all proposed mining and associated uses.

The Board finds that the application includes all of the information required. Therefore, the application is adequate. However, that determination does not constitute an approval or disapproval of the information contained in the application. Review of the information in the application is covered by other subsections of OAR 660-023-180.

Subsection (6) further notes that “[f]inal approval of reclamation plans resides with DOGAMI rather than local governments, except as provided in ORS 517.780.” Pursuant to ORS 517.780, Columbia County has approval authority over reclamation plans, rather

than DOGAMI. While applicant has submitted an application for an operating permit under the County's Surface Mining Ordinance, it was returned and consideration of the operating permit, and accompanying reclamation plan is not now before the Board of County Commissioners.

8. Finding 12 is restated as follows:

This is a Major Map Amendment, as the Comprehensive Plan and Zoning Maps must both be changed to remain in agreement and a Comprehensive Plan text amendment is proposed.

LUBA noted in Morse Bros. Inc. v. Columbia County, 37 Or LUBA 85 (1999), that "except with regard to OAR 660-023-0180(4)(b)(F), there is no dispute in this appeal that OAR 660-023-0180(7) has the legal effect of preempting county comprehensive plan and land use regulation provisions that would otherwise apply to a post-acknowledgment plan amendment", until such plan and land use regulations have been amended to comply with OAR 660-023-0180. While that statement is *dicta*, and not expressly binding, the Board recognizes that OAR 660-023-180 supersedes local comprehensive plan provisions and land use regulations which conflict with the rule. However, those provisions and regulations which do not conflict with the rule, obviously, remain in effect.

For purposes of applying CCZO 1502.1B.1, it is clear that the Board may not consider policies of the Comprehensive Plan which are inconsistent with OAR 660-023-180, since they are superseded. Therefore, the only policies which the Board may consider are the ones which are consistent. Therefore, this criterion is met. However, the Board rejects the statement that it may not consider its Comprehensive Plan policies at all in this application. Obviously, as discussed above in Supplemental Finding No. 5, the Board believes its Comprehensive Plan policies must be considered when determining the post-mining use of the subject property, to the extent such policies are not inconsistent with the rule.

Notwithstanding the effect of LUBA's decision on CCZO Section 1502.1B.2, ORS 197.175(2) requires that this ordinance be in compliance with the Statewide Planning Goals. The Statewide Planning Goals are addressed in Findings 16 through 21 below.

The Board finds that, pursuant to LUBA's decision, OAR 660-023-180 probably supersedes separate consideration of facilities, services, and transportation networks under CCZO Section 1502.1B.3, to the extent that such consideration is inconsistent with the rule. To the extent it is consistent, it has been addressed under the discussion of OAR 660-023-180(4)(b) and (c) above.

9. Finding 13 is accepted as written in accordance with Order No. 185-98.

10. Finding 18 is restated as follows:

An exception to the Agricultural Lands Goal was taken for this site and acknowledged by LCDC. The subject property was designated for industrial lands because of its location and suitability for industrial use.

11. Finding 21 is restated as follows:

The Board concurs with the Applicant that most of the resources protected under this Goal are done so with standards, i.e., noise, dust and riparian areas have standards which cannot be exceeded or setbacks which must be adhered to.

REVISED ATTACHMENT "C"
2/20/02

CONDITIONS OF APPROVAL

1. Final approval of the operating permit shall be subject to Applicant preparing a site-specific management plan for bald eagle conservation, and obtaining and submitting evidence of concurrence by the U.S. Fish and Wildlife Service ("USFWS") with the management plan, including submittal of any copies of the monitoring reports to the county.
2. Prior to receipt of an operating permit, Applicant shall provide the Surface Mining Administrator (or DOGAMI if the State takes jurisdiction over surface mining in the County) with a letter from the Department of Environmental Quality approving Applicant's remedial action plan for polycyclic aromatic hydrocarbons (PAHs) on the site.
3. A determination from ODOT shall be received, with a copy provided to County, based on an acceptable traffic impact analysis that the proposed transportation improvements and facilities are adequate. As an alternative and subject to ODOT approval, Applicant may construct a tunnel from the mining site under Highway 30 to a loading or transfer facility in the railroad right of way and convey aggregates to it.
4. Applicant must consult with, and obtain approval from, the Oregon Water Resources Department before mining below a depth of 50' below ground level. These approvals must be in writing with a copy, sent by certified or registered mail, return receipt requested, to Land Development Services.
5. Prior to Applicant mining into the water table, the concentrations of suspected chemical contaminants (including nitrate, PAHs, and PCBs) in the ground water within the proposed lake area will be shown to be below the Maximum Contaminant Levels set by Oregon Division of Health and based on the National Primary Drinking Water Standards or other applicable agencies and standards that may have replaced the current agencies or standards.
6. Annually, after mining commences into the water table, MBI shall present water quality monitoring data from all monitoring locations on the Subject Property, conducted by an independent testing company, to demonstrate that the nitrate levels, and levels of other suspected chemical contaminants within the lake area or within a lateral distance of 100 feet thereof, remain below the applicable standard or standards. All data and reporting shall be conducted under the supervision of a Registered Professional Geologist with current registration in

the State of Oregon. If the data indicates nitrate or other contaminant levels within such area to be above the applicable standard or standards, MBI shall immediately cease and desist mining operations within such area until compliance is achieved and take immediate steps to assure compliance with such standard or standards. (Nothing in this paragraph shall be construed to prevent MBI from performing reclamation activities that do not adversely affect water quality.)

7. Present water quality monitoring data to the Board of County Commissioners demonstrating that the suspected contaminant levels remain below the applicable standard set by EPA or DEQ. If the data indicates nitrate levels to be above the applicable standard, Applicant shall forthright take steps to assure compliance with such standard.
8. In accordance with Section 1603 and Section 1044.10A of the Zoning Ordinance, prior to any mining activities commencing on the property the site shall be inventoried for any significant archaeological artifacts, in accordance with standards set by the State Archaeologist. If the property to be excavated contains any significant archaeological sites, the Planning Commission shall hold a public hearing to review testimony regarding the sites and establish measures to mitigate potential conflicts as necessary. The State Archaeologist shall be notified of the public hearing.
9. After the first year of full operations or at operating permit renewal, after approval of the Site Design Review (DR 98-14), the Site Design Review for the gravel mine shall be reviewed by the Surface Mining Administrator, with specific attention to noise and dust levels along Chaney Road, and traffic, noise and dust problems along Highway 30 between the mine and the processing facility and suspected contaminants (as the time for entering into the water table approaches). As the Board of County Commissioners is the final approval authority for renewals of operating permits, the Surface Mining Administrator shall review the mining operation annually (even if the surface mining ordinance is changed to allow longer periods between renewal permit reviews) and if the Administrator determines the need for a public hearing and so recommends, the Board shall hold a public hearing to determine whether setbacks, dust and noise control measures, equipment housing, landscaping, berms, and other mitigation measures have sufficiently reduced the adverse effects of the mining operation on the dwellings on the north side of Chaney Road and within 1500 feet of the northerly property line. (If the State takes jurisdiction over surface mining in Columbia County, DOGAMI will be asked to perform these functions.)

If the Surface Mining Administrator or Board (or DOGAMI if the State takes jurisdiction over surface mining in the County) determines that mitigation

measures are sufficient to reduce the adverse effects to acceptable levels, for the Chaney Road and Deer Island residents, the Site Design Review approval may be extended indefinitely. If the Board determines that mitigation measures are not sufficient, the Site Design Review approval may be revoked or suspended until additional mitigation measures are completed. Additional measures may include different operating hours, higher berms, more landscaping, watering trucks, etc.

10. Prior to commencement of mining, the Applicant must comply with any requirements by ODOT for improvements to Highway 30 and must provide Land Development Services with a copy of their access permit form ODOT. However, if a new processing facility is approved at Waterview and ODOT approves construction and use of a tunnel for conveyance of aggregates from the mining site under Highway 30 to its east side, then the access permit may cover both the mining site and the Waterview site.
11. The mining site shall be continuously protected by a 6 foot high chain link or equivalent fence to protect the public.
12. All activities and storage of materials associated with the operation of the mine shall be conducted entirely inside the setbacks of the property. Only plantings and berms shall be permitted within setback areas, and plantings shall be, as much as practical, made with native grass, shrubs and trees. There shall be a 10 foot berm along the eastern and northern boundaries.
13. The drawings for any buildings or signs to be erected on the site shall be approved by Land Development Services through a design review process before construction.
14. The Applicant shall not dewater the site.
15. Water Quality/Quantity: The Applicant shall develop and obtain approval from DEQ for a Water Monitoring Program, including but not limited to the following:
 - a) Quarterly monitoring of on-site wells;
 - b) Quarterly monitoring of the PUD well, at the northerly edge of the site;
 - c) Install monitoring wells north of Chaney Road within one year, with permission of property owner;
 - d) Bi-annual monitoring of participating property owners within 1500 feet of the site;
 - e) Quarterly report to County Sanitarian with copy to DEQ and WRD regarding nitrates, coliform, turbidity and draw down for tested wells;
 - f) Adhere to any actions deemed appropriate by DEQ or WRD and ordered

by Columbia County in the event conditions deteriorate.

16. Dust/Particulate Emissions:

- a) Time construction activities associated with overburden removal and transport, stockpile building and management, and berm building and management to coincide with high soil moisture;
- b) Water unpaved roads on a specified schedule, based on road activity and weather conditions. Flush paved roads on a specified schedule to prevent particulate buildup;
- c) Pave main access road to at least 300 feet from highway, surface unpaved roads with crushed rock;
- d) Prepare, maintain and use a trackout control with drive-through pans or spray washing to remove material from tires and wheels;
- e) Water active areas during overburden removal, berm, and stockpile construction and during stockpile reclamation;
- f) Partially enclose the crusher;
- g) Utilize water sprays at crushers and screens, at transfer points on conveyors, and at stackout and loadout points.
- h) Minimize drop height at transfer and stackout or loadout points;
- i) Establish a 10 mph site speed limit.
- j) Applicant shall not conduct gravel washing or other water uses on site except as to dust suppression and for domestic purposes.

17. Unless Applicant has ceased processing of aggregates at the Deer Island facility, then prior to commencement of mining, Applicant shall construct at the Deer Island processing site the following access improvements (voluntary):*

- a) Construct a southbound left turn and southbound acceleration lane;
- b) Construct a northbound right turn land/deceleration land;
- c) Construct a rail crossing safety system.

18. Applicant shall limit activity on-site to primary crushing only (voluntary).*

19. Applicant will provide and maintain a bond in the amount of \$15,000 (2002 dollars) per well, such amount to be adjusted every three (3) years (based on the CPI-U for Portland, 1982-84 = 100) to assure all cooperating well holders within the northerly 1500-foot impact area against the mining activity causing a deterioration in either the content or quality of water for domestic purposes. The Applicant shall provide an offer and notice to all well owners within the northerly impact area to participate as cooperating well holders, with wording substantially as provided to the Board by Applicant at its November 10, 1998 hearing. Bond amounts shall be set and based upon the rates of inflation so sufficiently to

protect the participating landowners within the northerly impact area from the adverse effects set forth in this condition. This condition shall apply and extend to all existing and future residents within the northerly impact area.

20. Regarding the rail crossing at Highway 30, Applicant agrees: (1) to give consideration to reducing peak traffic hour track usage or to discovering an alternative, more publicly advantageous solution; and (2) to discuss this matter with the Board within six months after the operating permits are granted to Applicant, and annual review thereafter. As an alternative, Applicant, subject to ODOT approval, may construct and use a tunnel for conveyance of aggregates from the mining site under Highway 30 to its east side.
21. Applicant shall comply with all applicable DEQ noise standards. In addition, the Applicant shall comply with the noise minimization measures, dust minimization measures, traffic minimization measures, resource lands minimization measures, and rural industrial minimization measures described in Finding 5 of the July 28, 2000, Staff Report (Attachment "A"), except so far as such measures propose reclamation of one-half of the subject property as wildlife habitat and one-half for resource industrial development, or are otherwise inconsistent with this ordinance, Attachment "B" or these Conditions of Approval (Attachment "C").
22. The post-mining use for the entire mining site shall be designated Resource Industrial (RIPD) under the Columbia County Zoning Ordinance. Applicant shall submit an operating permit application that includes a detailed plan, which provides for reclamation of the Subject Property after mining as follows:

Existing Industrial Land	30 acres
Reclaimed Industrial Land (not mined below water table)	46 acres
Reclaimed Industrial Land (mined (below water table and partially refilled)	75 acres
Riparian, ponds, wetlands in mining setback area	20 acres
<u>Slopes, Misc.</u>	<u>19 acres</u>
TOTAL	190 acres*

*Acreages will vary somewhat when surveys are done

23. The southerly 46 acre portion of the aggregate extraction area shall not be mined below the water table. In the reclamation process, the southerly 46 acre portion of the aggregate extraction area shall be made level at an elevation of at least two feet above the highest recorded ground water level in the gravel aquifer. The sides of the area shall also be sloped to a grade that will be safe for subsequent public and industrial use activities within the level portion of the

site. The elevation and design configuration of the reclaimed site must be such that, in the opinion of an independent engineer, registered as a Professional Engineer in the State of Oregon, the development of at least one of the industrial (not farm) uses authorized in the RIPD zone (CCZO Section 682 and 683), can be accomplished reasonably, safely, and cost-effectively.

24. The 75 acre portion of the aggregate extraction area north of the southerly 46 acre portion of the aggregate extraction area shall be reclaimed with an unengineered fill to an elevation of at least two feet above the highest recorded ground water level in the gravel aquifer and the sides of the area shall also be sloped to a grade that will be safe for subsequent public and industrial use activities within the level portion of the site. The elevation and design configuration of the reclaimed site must be high enough such that, in the opinion of an independent engineer, registered as a Professional Engineer in the State of Oregon, to reasonably, safely, and cost-effectively allow temporary parking areas, and other uses accessory to at least one of the industrial (not farm) uses authorized in the RIPD zone, taking into consideration the nature of the unengineered fill.

* (Voluntary) While the County may not require these conditions to be placed on the property as a result of the zone amendment process, the Applicant has voluntarily agreed to these conditions, and to having them added to this permit so that, if necessary, the County may enforce them.

ATTACHMENT "D"
(ON MORSE BROS. LETTERHEAD)

[date]

Mr. and Mrs. XYZ
_____ Chaney Rd.
Deer Island, OR 97054

Reference: Notice to Neighbors of Morse Bros. at its Reichhold Site

Dear Mr. and Mrs. XYZ:

Morse Bros. has applied for and received authority from Columbia County to mine the sand and gravel under the Northern part of the Reichhold site consisting of the parcels of land between Chaney Road and the Coastal Chemical plant.

1. Background. While it will not occur for several years, Morse Bros. intends to mine to a depth in excess of 90 feet and as such will then be extracting material from below the water table, which lies more than 50 feet beneath the current ground surface. Morse Bros. does not intend to and is, in fact, prohibited from dewatering the mining site. Thus, no impact on water quantity is anticipated. However, preliminary tests show that, before any mining has occurred, there were some concentrations of nitrate currently in the water under the site, and that the amount of nitrate exceeded the maximum contaminant levels in some areas.

2. Landowner Concerns. In the hearings on the mining authorizations, several people within 1500 feet of the mining site expressed concern about the impact of the mining on the quality and quantity of their wells. Morse Bros. believes, based on the studies and reports of its professional geologists, that there will be no additional impact on these wells. However, to assure that a remedy exists, Morse Bros. has agreed to a condition in final approval which reads as follows:

"Applicant will provide and maintain a bond in the amount of \$15,000 (2002 dollars) per well, such amount to be adjusted every three (3) years (based on the CPI-U for Portland, 1982-84 = 100) sufficient to assure all cooperating well holders within the northerly 1500-foot impact area against the mining activity causing a

deterioration in either the content or quality of water for domestic purposes. The Applicant shall provide an offer and notice to all well owners within the northerly 1500-foot impact area to participate as cooperating well holders, with wording substantially as provided to the Board by Applicant at its November 10, 1998 hearing. Bond amounts shall be set and based upon the rates of inflation so sufficiently to protect the participating landowners within the northerly impact area from the adverse effects set forth in this condition. This condition shall apply and extend to all existing and future residents within the northerly impact area.”

The purpose of this letter is to implement that condition and establish a cordial and predictable relationship between us.

3. Baseline. Before Morse Bros. can determine whether it is causing problems for your well, some baseline information must be established. The well and water quality experts need to know some basic facts including what the quality of water and the water level in your current well is. Morse Bros. is willing to cause your well to be tested (at no cost to you) before it does any work on site to determine the well=s present condition. Specifically, tests are needed of the coliforms, nitrate, turbidity, and static water level. This will provide baseline information for both you and us. We will make the results of these tests available to you as we file them with the County.

4. Bond. To provide an additional remedy to cooperating landowners (beyond whatever remedy might be available under the common law or through the Oregon Water Resources Department or the Department of Environmental Quality), Morse Bros. has agreed to post a bond to cover the costs of well repair, replacement or treatment as deemed necessary, if Morse Bros. causes a deterioration in water quality or quantity.

5. Plan for Monitoring. Morse Bros. would like to monitor your well and may want to discuss the possibility of installing a test well on your property. Initially, we would like to monitor it once a quarter for eight quarters to establish a baseline. After that, we hope to be able to decrease the testing to a less frequent schedule, but in any case no less than once per year. We will need to establish a schedule so that all the wells Morse Bros. is monitoring can be sampled at the same time. The samples will be carefully controlled and sent to a lab for testing. The test results will be provided to the County and to you shortly thereafter.

6. Cooperation. Morse Bros. cannot test your well if you do not want it to. The County has recognized this fact by providing the coverage of the bond only to those landowners who choose to cooperate in providing access for the tests when needed. If you want to participate and be covered under the bond, we need your agreement to participate and continuing cooperation. We are enclosing a copy of this letter and ask that you date and sign the copy in the space provided at the end and return to us in the enclosed envelope. We will provide a copy of the cooperation letter to the County. Upon its receipt we will see that you are named on the bond. To include you, we will need to receive the signed copy back by _____, 2002.

Yours very truly,

MORSE BROS., INC.

John DeLong, President

I/We agree to cooperate and will provide access when required.

Dated: _____, 2002.

By: _____

By: _____

Address: _____
