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BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending Ordinance No. 2005 - 1 )  
Approving Comprehensive Plan Map and Zoning )  
Map Amendments for the Bates & Roth Site )  
to Correct Scrivener's Errors )  
\_\_\_\_\_ )

**ORDINANCE NO. 2009 - 11**

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

SECTION 1. TITLE.

This Ordinance shall be known as Ordinance No. 2009 - 11.

SECTION 2. AUTHORITY.

This Ordinance is enacted pursuant to ORS 203.035.

SECTION 3. PURPOSE.

The purpose of this Ordinance is to amend Ordinance No. 2005 - 1, *In the Matter of the Application of Vera Roth, Roth L.L.C and Chester M. Bates Irrevocable Trust for a Comprehensive Plan Amendment from Agricultural Resource to Mineral and Aggregate Resource and Zone Change from Primary Agriculture (PA-38) to Surface Mining (SM)* to correct scrivener's errors.

SECTION 4. FINDINGS.

The Board of County Commissioners finds that this Ordinance is adopted only to correct scrivener's errors, and does not change the substance of Ordinance 2005 - 1.

SECTION 5. HISTORY.

On February 9, 2005, the Columbia County Board of Commissions adopted Ordinance No. 2005 - 1, *In the Matter of the Application of Vera Roth, Roth L.L.C and Chester M. Bates Irrevocable Trust for a Comprehensive Plan Amendment from Agricultural Resource to Mineral and Aggregate Resource and Zone Change from Primary Agriculture (PA-38) to Surface Mining (SM)*, which became effective February 9, 2005. Ordinance No. 2005 - 1 was recorded in the Commissioners' Journal at Book 89, page 001.

In September 2009 it was discovered that Attachment 2 to Ordinance No. 2005 - 1, the January 12, 2005, Staff Report, was missing pages 53, 54 and 55.

SECTION 6. AMENDMENT AND AUTHORIZATION.

The Board of County Commissioners hereby adopts Ordinance No. 2009 - 11 correcting the

scrivener's error in Attachment 2 to Ordinance No. 2005 - 1. A copy of the complete Attachment 2 to Ordinance No. 2005 - 1 is attached hereto as Exhibit A and is incorporated herein by this reference. Pages 53, 54 and 55 from Exhibit A hereto shall be inserted, as appropriate, into Attachment 2 of Ordinance No. 2005 - 1.

SECTION 7. SEVERABILITY.

The provisions of this Ordinance are severable. If any provision of this Ordinance is determined to be invalid by a court of competent jurisdiction, such provision shall be considered a separate, distinct and independent provision and the decision shall not effect the validity of the remaining portions hereof.

SECTION 8. EMERGENCY.


An emergency having been declared, this Ordinance shall go into effect immediately.

Approved as to form

By:   
Office of County Counsel


BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By:   
Rita Bernhard, Chair

By:   
Anthony Hyde, Commissioner

By:   
Earl Fisher, Commissioner

Attest:

By:   
Jan Greenhalgh, Recording Secretary

Dated: December 30, 2009

First Reading: 12-30-09  
Second Reading: 12-30-09  
Effective Date: 12-30-09

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# COLUMBIA COUNTY BOARD OF COMMISSIONERS

Staff Report

01/12/05

## Plan Amendment and Zone Change

**PC HEARING DATE:** November 1, 2004

**FILE NUMBER:** PA 05-01  
ZC 05-01

**APPLICANT/OWNER:** Bates & Roth  
35361 N. Honeyman Road  
Scappoose, Oregon 97056

**PROPERTY LOCATION:** Approximately 2½ miles northeast of Scappoose, Oregon

**REQUEST:** A post acknowledgment plan amendment ("PAPA") pursuant to Statewide Planning Goal 5 designating the site (303.91 acres) as a significant mineral and aggregate resource site in the Columbia County Comprehensive Plan, and authorizing the mining of this 303.91-acre site. This request will amend the Columbia County Comprehensive Plan Map and Zoning Ordinance Map for the identified site.

**APPLICATION RECEIVED:** July 7, 2004

**DEEMED COMPLETE:** August 7, 2004

**180-DAY DECISION DATE:** February 3, 2005

**PRESENT COMPREHENSIVE PLAN DESIGNATION:** Agricultural Resource

**PROPOSED COMPREHENSIVE PLAN DESIGNATION:** Mineral and Aggregate Resource

**PRESENT ZONING:** (PA-38) Primary Agriculture

**PROPOSED ZONING:** (SM) Surface Mining

### SUBJECT PROPERTY:

"Site" - 303.91 acres to be considered a significant aggregate resource for Goal 5 protection.

Tax Account Numbers

Zoning

Acreage

**Bates Roth**

**PA 05-01**

4132-000-00600	PA-38	3.95
4132-000-00700	PA-38	43.40
4132-000-00800	PA-38	3.56
4132-000-00801	PA-38	14.00
4132-000-00901	PA-38	45.00
4133-000-00400	PA-38	194.00

Tax Lot Total =303.91 Acres



**BACKGROUND:**

Bates & Roth, hereinafter known as the applicant, have submitted this application for a post acknowledgment plan amendment ("PAPA") to authorize mineral extraction in 8 phases on a portion of the site consisting of approximately 284 acres of the total 300 acres. Sixteen acres will be reserved as a wetland mitigation area where no aggregate extraction will occur.

The applicant requests that the County's inventory of significant Goal 5 aggregate resource sites include the applicant's site composed of 303.91 acres and to authorize mining on the site under section 1030 of the Zoning Ordinance. The rock that is mined on the site will be transported by conveyor under Honeyman Road to the existing adjacent Northwest Aggregates Processing Facility where the rock will be processed and shipped.

Once mining has ceased, the applicant proposes to reclaim the site to fish and wildlife habitat. The expected duration of the project is conservatively estimated at 28 years or more, however the exact life of the operation will be determined by market demand.

The subject property is located approximately 2½ miles northeast of the City of Scappoose and is bounded by Honeyman Road on portions of the western, northern, and eastern boundaries of the site. The existing Santosh Mining operation run by Northwest Aggregates and located immediately to the west of the subject property. Besides mining operations, large agricultural parcels generally characterize the area with some homes located along Honeyman Road to the northeast and southwest of the subject property.

Vehicle access to and from the mining site will be provided via a new driveway on Honeyman Road. Ninety percent of the processed material will be transported to market via barges and ten percent via trucks. For outgoing aggregate material to reach the closest major arterial (U.S. Hwy. 30) by truck, the truck traffic will be routed from the main entrance of the Northwest Aggregate Santosh processing and loading facility down Honeyman Road to its intersection with West Lane. The majority of trucks will proceed south down West Lane Road to its intersection with the Crown Zellerbach Road (Forest Road) where the trucks will turn right and proceed to Hwy 30.

Topographically, the site is a flat plain that slopes gently to the north and east towards Santosh Slough. Vegetation on the subject property is composed of agricultural grassland in the western portion of the property, mixed woodlands in the northwestern portion of the property, a hybrid-poplar plantation in the northeastern portion of the property and some riparian around wetlands on the property. There is a significant Goal 5 riparian corridor surrounding identified wetlands on the property. Wetlands have been mapped on the subject property according to the National Wetland Inventory, St. Helens Quadrangle, dated 1988.

The applicant indicates that they will avoid mining into the riparian corridor. The site is also partially within the Scappoose Drainage District. Emergency Services are provided by the Scappoose Rural Fire Protection District and the Columbia County Sheriff.

**SOILS:**

<u>Soils on the Site are as follows:</u>	<u>Ag.Capability Class</u>
42 - Rafton Silt Loam, Protected	IIIw
48 - Sauvie Silty Clay, loam, Protected	IIw
51 - Sifton Loam	III s

Source: Soil Survey of Columbia County, OR. SCS Issued November 1986, Field work by Soil Conservation Service of the United States Department of Agriculture, in cooperation with Oregon Agriculture Experiment Station.

This document discusses details of the soil types listed above and classifies all 3 as **Prime Farmland** soils.

**CURRENT GOAL 5 AGGREGATE INVENTORY STATUS:**

The subject site is not listed in the 1985 Comprehensive Plan and is not listed in the 1998 amendment (Ord. 98-01) and update of the Mineral and Aggregate Inventory, approved by the County Commissioners and effective on June 29, 1998. The Comprehensive Plan has a Table XVI-2 Significant Aggregate Sites and Post Mining Uses, and a process for adding any new sites

**REVIEW CRITERIA:**

<u>Columbia County Zoning Ordinance</u>		<u>Page</u>
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COLUMBIA COUNTY ZONING ORDINANCE

**Section 1030 Amendments to Permit Surface Mining**

**1031 Purpose:**

- .1 To protect mineral and aggregate resources for present and future use.
- .2 To provide for the development and utilization of deposits of aggregate and resource materials.
- .3 To provide a process to consider amendments to the comprehensive plan and implementing ordinances to permit surface mining consistent with OAR 660 Division 23 (1996).
- .4 To insure that aggregate resource sites which have been determined to be significant and which, based on the evidence in the record, the County finds suitable for protection from other conflicting uses, are zoned for surface mining.
- .5 This section does not apply to property located within the boundaries of incorporated cities, absent specific provisions in an agreement between the City and the County to apply some or all of the County's ordinance.

**1032 Definitions:** The following definitions of terms are applicable for Section 1030.

- .1 "Aggregate Resources" are natural occurring concentrations of stone, rock, sand and gravel, decomposed granite, lime, pumice, cinders, and other naturally occurring solid materials used in road building.
- .2 "Conflicting use" is a use or activity that is subject to land use regulations and that would interfere with, or be adversely affected by, mining or processing activities at a significant mineral or aggregate resource site, as specified in 1034.4, 1036.2 and 1037.5.
- .3 "ESEE consequences" are the positive and negative economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use.
- .4 "Existing site" is a significant aggregate site that is lawfully operating, or is included on an inventory in an acknowledged plan, on or before September 1, 1996.
- .5 "Expansion area" is an aggregate mining area contiguous to an existing site.

- .6 “Mining” is the extraction and processing of mineral or aggregate resources, in the manner provided under ORS 215.298(3).
- .7 “Minimize a conflict” means to reduce an identified conflict to a level that is no longer significant. For those types of conflicts addressed by local, state, or federal standards (such as the Department of Environmental Quality standards for noise and dust levels) to “minimize a conflict” means to ensure conformance to the applicable standard.
- .8 “Mining area” is the area of a site within which mining is permitted or proposed, excluding undisturbed buffer areas or areas on a parcel where mining is not authorized.
- .9 “Processing” means the activities described in ORS 517.750(11).
- .10 “Protect” means to adopt land use regulations for a significant mineral or aggregate site in order to authorize mining of the site and to limit or prohibit new conflicting uses within the impact area of the site.
- .11 “Width of aggregate layer” means the depth of the water-lain deposit of sand, stones, and pebbles of sand-sized fraction or larger, minus the depth of the topsoil and non-aggregate overburden. (“Width” is thickness; thickness is measured by subtracting the depth of the bottom of the overburden layer from the depth of the bottom of the aggregate layer.)
- .12 “Impact area” is a geographic area within which conflicting uses could adversely affect a significant Goal 5 resource.

**Finding 1:** The above-mentioned purpose and definitions will apply to the following review.

Continuing with the Columbia County Zoning Ordinance:

**1033 Process:** The following process shall be used to designate a site for surface mining activity:

1. All applications requesting a designation for surface mining activities must follow the requirements of Subsections 1033, 1034, 1035 and 1036.
- .2 Three zones specifically permit surface mining activity through a conditional use process: the Primary Agriculture Zone (PA-38), the Forest-Agriculture Zone (FA-19), and the Primary Forest Zone (PF-76). Surface mining may be permitted, but only conditionally, in these three zones, if the applicant does not wish to seek the Surface Mining Zone (SM) and Goal 5 protection.
- .3 Nothing in this section shall prevent the County from adopting additional



clear and objective standards to protect significant Goal 5 resources included in an acknowledged inventory from some or all-conflicting uses in addition to the minimum required standards in the surface mining zone.

.4 The County may update its inventory of significant aggregate sites and amend the Comprehensive Plan by following the process contained in OAR 660-23-180 and the Columbia County Comprehensive Plan.

.5 The County shall follow the process described in this Section to determine whether an aggregate site is significant.

.6 The County shall follow the process described in this Section to decide whether or not to authorize the mining of a significant mineral or aggregate site.

.7 For a significant mineral and aggregate site where mining is allowed, the County shall decide on a program to protect the site from new off-site conflicting uses by following the standard ESEE process in OAR 660-23-040 and 660-23-050 with regard to such uses.

**Finding 2:** The site is zoned primary agriculture, which allows surface mining as a conditional use. However, the applicant is requesting to have the site protected as a significant aggregate resource site and the site to be re-zoned to surface mining according to the process in CCZO Section 1033.

Continuing with the Columbia County Zoning Ordinance:

1034 Application for Plan Amendment and Zone Change to Surface Mining (SM) Requesting Goal 5 Protection:

An application submitted pursuant to this section may be scheduled for review after the Director has determined it complete. An application for a SM zone requesting Goal 5 protection shall contain the following information:

.1 Information regarding location, quality and quantity of the resource, sufficient to determine whether the standards and conditions in Section 1035 are satisfied.

**Finding 3:** The applicant has submitted information regarding quantity, quality and location of the aggregate resource in a report prepared by Kuper Consulting LLC titled, Significance Evaluation, Bates & Roth Property, Scappoose Area, Columbia County, Oregon dated June 22, 2004, which updates a prior significance evaluation prepared for the site in 1995 by David Newton & Associates, Inc. (See Exhibit A of Application). The Kuper report characterization of the site-specific geologic investigations on the Bates & Roth property indicate there is a continuous sand and gravel resource deposit exceeding 2 million tons and at least 60 feet in thickness that underlies the Bates & Roth property. The report concludes that the quantity to be

mined is in excess of approximately 43 million cubic yards; and that the quality of the deposits are of course grained flood deposits, which are the materials being mined in the adjacent Lone Star Northwest operation, and which have been targeted for mining by the Bates & Roth owners. The report goes on to state that the location of the resource is in glacio-fluvial flood deposits to depths in excess of 124 feet with overburden from 6 to 20 feet in depth. Staff find that the applicant has submitted information regarding location, quality and quantity of the gravel resource necessary for review under Section 1035.

Continuing with Columbia County Zoning Ordinance Section 1034:

- .2 Plans for the reclamation of the site.

**Finding 4:** The 'Table of Contents' for the application package submitted indicates under Section VI.C. Reclamation Plan that, "The site will be reclaimed as an open water body." The 'List of Exhibits' submitted with the application package includes a mapped 'Conceptual Reclamation Plan' submitted as Plate 4 of the application. This map indicates the areas to be reclaimed as well as a profile of the contouring that will take place.

Continuing with Columbia County Zoning Ordinance Section 1034:

- .3 A traffic impact assessment within one mile of the entrance to the mining area sufficient to address criteria in Section 1036(3)(b).

**Finding 5:** The applicant has submitted as 'Exhibit F' to the application package a Traffic Impact Assessment, Bates & Roth Property, Scappoose, Oregon, prepared by Kittelson & Associates, Inc. dated June 2004. The analysis looks at traffic impacts within one mile of the entrance to the mining site. Regarding traffic safety no safety deficiencies are apparent and no mitigation measures are suggested. Regarding weight limits, the trucks associated with the existing and the proposed operation would be within the allowed weight limits. The report concludes that line of sight distances are adequate for the amount of traffic if some vegetation to the north is removed. The analysis determined that all of the study intersections are forecast to operate with acceptable levels of service during weekday a.m. and p.m. peak hours; and that as indicated by the relatively low volume to capacity ratios for the critical movements, there is still additional capacity to accommodate the year 2005 total traffic demand. The analysis concludes that the application complies with State Transportation Goal 12 and that there were no Goal 5 conflicts regarding road capacity, alignment or other truck related conflicts and that the proposed use will not significantly affect the transportation facility. Staff finds that this criteria is met and that applicable criteria in 1036(3)(b) have been met per Finding 19.

Continuing with Columbia County Zoning Ordinance Section 1034:

- .4 Identification of all existing and approved conflicting uses within the

impact area(s) proposed to satisfy the purposes of 1036.1 and 1037.5. Identification of all proposals to minimize any conflicts with approved uses within the impact area(s).

**Finding 6:** The applicant has inventoried existing and approved uses within the 1500' foot impact area and identified potential conflicting uses.

The application includes the Bates & Roth Mining Site Noise Study which includes an inventory and analysis of possible noise sources and noise mitigation measures. The study looks at Goal 5 regulations which require the applicant to identify and minimize noise conflicts within 1,500 feet of a mining site. The study concludes that noise mitigation measures must be included with the mining plan to ensure the noise radiating from the mining operations in the Bates & Roth site will meet DEQ noise regulation criteria. The noise mitigation measures include a noise control berm which, when constructed, will meet the DEQ noise criterion to minimize noise levels consistent with Goal 5 rule and Section 1030 of the Zoning Ordinance. Therefore staff finds that the applicant's noise study which is included as part of this staff report has addressed noise related conflicts within the impact area proposed to satisfy the purposes of 1036.1 and 1037.5 and has identified noise mitigation measures to minimize any conflicts with approved uses within the impact area.

The application includes a report on Potential Ground Vibrations From Mining Activities at the Bates & Roth Property, Columbia County, Oregon, prepared by Earth Dynamics and dated June 28, 2004. The purpose of the study was to determine the impact area for ground vibrations caused by extraction activities at the site and to determine if any mitigation measures are needed. The report stated that the excavation vibration impact area for mining operations at the Bates & Roth property is no greater than forty-five feet from the point of excavation of in situ material. The vibration impact area for other proposed operations and equipment is expected to be less than the excavation impact area. The mining plan indicates that the mining boundary is at least fifty feet away from the property boundary. The report concluded that mining operations at the Bates & Roth property will not have any vibration impact beyond the property boundary. Staff find that this criteria is met.

The applicant has submitted a report on water levels and impacts from the mining operation; Hydrology Impacts Evaluation, Goal 5 Bates & Roth Property, Scappoose, Oregon dated June 25, 2004. The report considers surface water impacts, ground water impacts, flood threats and flood risk, and discusses a Ground Water Monitoring Program and Action Plans. The report concludes that surface water impacts from the mining will be controlled by the Scappoose Drainage District managed system for controlling water levels behind the dike and that neither the Santosh Slough nor any natural surface streams will be directly affected by the mining plan, and therefore no impacts should occur. The report concludes that mining is not expected to perceptibly alter existing ground water conditions or behavior. Turbidity will exist in the ponded excavations due to mining however because there is no connection beyond the site no turbidity changes should occur in offsite ditches or the Santosh Slough. The report states that existing wells are present in the impact area but are not expected to experience impacts due to the proposed mining. Ground water quantity will be unaffected as ground water levels will not be altered; and ground water quality will not experience degradation. The report concludes that flood threats and flood risk are minimal and have been reduced by Scappoose Drainage District

pumping and, Columbia and Willamette River flood control dams. The report also concludes that pit flooding due to high river stages, extended high rainfall events, adjacent Glacier Pit A flooding, and Drainage District flood risk are all minimal have been addressed in this proposal and have provided a ground water monitoring program and action plan that will be made a condition of approval of this application. Staff finds that this criteria is met.

The applicant has submitted a Traffic Impact Analysis, Bates & Roth Property, Scappoose, Oregon, dated June 2004, for the impact area that concludes that the project complies with the State Transportation planning rule, Goal 12 and no Goal 5 conflicts were found with regard to roadway capacity, roadway cross-section and alignment, or other truck-related conflicts. Also, it found that weight limits, specific traffic safety issues, and the number of additional trips added to the roadway network will not be significant enough to merit significant mitigation measures. However the report assumes a 50 foot mining setback whereas a 200 foot setback is required for abutting PA-38 and RR-5 properties without a variance to the CCZO and SMO. The report does conclude that existing vegetation along Honeyman Road in the vicinity of the proposed site access driveway should be removed and routinely trimmed and maintained to allow adequate sight distance to the north and south and that "TRUCKS" warning signs be placed in both directions in advance of the proposed site driveway along Honeyman Road to alert drivers that there are trucks in the area. Staff finds that this criteria is met.

The application includes an archaeology section with a Cultural Resource Survey of the Bates & Roth Property, Scappoose Vicinity, Columbia County, Oregon dated July 24, 2004. The survey concluded that, "No prehistoric or historic site were identified on the Bates & Roth property and, accordingly, use of the property as an aggregate site will have no known effect on cultural resources. The report does include a caveat that in the event that cultural resources are discovered that appropriate courses of action should be made to address the discovery which would include a stop to mining activity and notification of the archaeology consultant and tribes. Staff finds that this criteria is met.

The applicant submitted a Goal 5 Natural Resource Assessment for the Bates & Roth Property report dated June 2004 by David Evans & Associates. The report addresses Goal 5 resources of Wildlife Habitat, Wetlands and Riparian Corridors on the subject property within 1,500 feet of the impact area.

The report finds that none of the wildlife habitats within the impact area have been designated as significant by the Columbia County Comprehensive Plan and Zoning Ordinance. There are no direct or secondary impacts to listed or sensitive species from the proposed mining operation, and there are no anticipated direct or secondary impacts to significant waterfowl habitat. The report goes on to state that for these reasons, no conflicts with significant wildlife habitat are identified. Therefore staff finds that, based on this report, there are no anticipated wildlife habitat conflicts with significant Goal 5 resources as a result of the proposed action.

Six wetland areas were delineated and identified within the boundary of the subject property. Three of the identified wetlands were determined to be significant based upon the County Comprehensive Plan and Zoning Ordinance and identified on the County wetland inventory maps (NWI). The three significant wetlands identified on the subject Bates and Roth property include the Santosh Slough drainage channel and related wetland area, a V-shaped linear wetland

south of Honeyman Road and south of the properties north property boundary, and an east-west ditch that has an associated wetland area with it on the southern boundary of the property. The applicant intends mitigation for the three significant wetlands from the mining operation. The plan calls for a 50-foot setback from significant wetland areas. According to the applicant, "Wetland areas will not be subject to groundwater changes as a result of the proposed mining operation."

According to the County Comprehensive Plan, part XVI, Article X, (B)(1)(d.) ;and Zoning Ordinance, Section 1172(A.)(4. & 5.), the Santosh Slough and the 3 significant wetlands on the Bates and Roth property are required to have a 25 foot riparian corridor. The applicant proposes a 50 foot riparian corridor along the Santosh Slough and around all significant wetlands identified on the NWI.

In summary the submitted application finds no conflicts with vibration levels, surface-water and groundwater conditions or traffic conditions. The application does identify conflicts with noise and potential air quality conflicts due to dust. The applicant proposes to mitigate the potential conflicts by imposing a ground water program, constructing noise berms, providing setbacks from riparian areas, mitigating disturbed jurisdictional wetlands, avoiding cultural resources and following a dust control plan (see pages 24 - 25 of the application).

Continuing with Columbia County Zoning Ordinance Section 1034:

.5 A site plan showing the location, area, dimensions, acreage, and legal description of the parcel to be developed or used, together with north point, scale, date of application, contours for all intended uses and phases, including incremental and total volumes of the resources to be mined.

**Finding 7:** The applicant has submitted a series of maps and figures that show the location, area, dimensions, acreage, and legal description of the parcels subject to this PAPA. The maps and figures include: a north arrow, scale, date of application, contours, and mention of phases but does not specifically note incremental and total volumes of aggregate to be mined per phase per area per acreage.

Specifically the application includes Exhibit 4: Mining Plan with Conceptual Reclamation Plan. This plan includes a Site Plan of Existing Conditions. Different 'Plates' are within the Mining Plan which show the following information: Plate 1, 'Cover Sheet' showing the location, proximity, area of the property to be mined; Plate 2, 'Existing Conditions Plan' showing existing property boundary, wetlands, and water features on an aerial photo; Plate 3, 'Phasing & Mining Operating Plan' indicating phasing as follows:

<u>Area</u>	<u>Acres</u>	<u>Volume (Tons)</u>	<u>Area</u>	<u>Acreage</u>	<u>Volume (Tons)</u>
Phase 1A	17	(See 1B Below)	Phase 5	31	4,693,662
Phase 1B	17	5,147,887	Phase 6	38	5,753,521
Phase 2	11	1,665,493	Phase 7	51	7,721,831

Phase 3	40	6,056,493	Phase 8	38	5,753,521
Phase 4	41	6,207,747	Mitigation Area	16	No Removal

Note: All figures are approximate. Total acreage of the subject property is 300 acres. Total acreage of phases 1 - 8 is 284 acres. Total volume to be mined is Approximately 43,000,000 tons.

Note: The applicant's Attorney submitted a letter dated October 1, 2004 which states approximate volume in tons per mining phase.

Plate 4, 'Conceptual Reclamation Plan' shows contours at 10' intervals, visual and sound berm locations, cross section locations A-A and B-B; Plate 5 are the 'Mining Cross Sections' A-A and B-B; Plate 6, is the 'Stormwater Control Plan'.

Exhibit 5: Excerpts from "Significance Determination" includes: Plate 1, 'Regional Map and Previous Investigations' shows who conducted studies and when the studies were conducted on properties in the area surrounding the subject property; Plate 2; 'Geologic Site Plan' shows the approximate location of test borings that were made on the property for determination of quality and quantity.

Staff asked for and received supplemental information from the applicant on October 1, 2004 that included phases 1 through 8 of the mining plan with their acreage per phase and volume to be mined per phase. The applicant's mining plan states that approximately 43 million tons of aggregate resource will be mined in the 28 + year life span of the resource.

Continuing with Columbia County Zoning Ordinance Section 1034:

.6 The documentation, as applicable, required for any application for a site design review as set forth in Section 1550.

**Finding 8:** The applicant proposes to submit a site design review application at a later date if the PAPA application is approved. The applicant has not submitted documentation addressing site design review criteria, Section 1550 of the Zoning Ordinance, with this application. OAR 660-23-180(4)(e) allows local governments to require additional land use review, such as site plan review, once mining is allowed. If this mining application is allowed, a site design review application is required to evaluate other factors associated with mining that are not reviewed in the Goal 5 process.

Continuing with Columbia County Zoning Ordinance Section 1034:

.7 Provisions for landscaping and screen planting of all parts of the site.

**Finding 9:** Exhibit "4" Plate 3 provides details of the landscaping and screen-planting of the site. The applicant proposes to construct Visual and Noise berms with the overburden of the site. The visual berms will be approximately 6 foot average height and constructed along Honeyman Road to eliminate views into the site. Noise berm height will be approximately 0 to 17 feet. Berm Notes, Plate 3, states, "Berms will be planted with groundcover, shrubs and/or trees to protect against erosion." Plate 3 also states, "Perimeter fence to be 6' high chain link at

property line protecting active mining areas.” Staff find that the proposed landscaping and screen plantings for this PAPA proposal are adequate, however, a more detailed landscaping and screen planting detail will be required for review and approval of the operating permit application to be submitted at a later date.

Continuing with Columbia County Zoning Ordinance Section 1034:

.8 Provisions for preventing the collection and stagnation of water in all stages of the operation.

**Finding 10:** The applicant will avoid creating stagnant water by excavating the pit to minus 110 below ground level, creating a pond that is approximately 100 feet deep, thus exceeding the 8' minimum depth requirement. The application states in Exhibit E, Hydrology, that, “Water levels in the mined excavations will reflect surrounding ground water levels and will respond to SDIC pumping as they do now. Mining is not expected to perceptibly alter existing ground water conditions or behavior.” The criterion is met.

Continuing with Columbia County Zoning Ordinance Section 1034:

.9 Plans, profiles, and cross-sections of all access roads.

**Finding 11:** Access to and from the proposed site will be obtained via a new access driveway along Honeyman Road. The new access road will be used for front end loader, maintenance, and water truck access to the site. The applicant proposes to transport the mined resource over the Santosh Slough, above ground and through a tunnel under Honeyman Road via a conveyor system thereby eliminating the need for an engineered roadway out onto the property. The aggregate resource will then be processed at the NW Aggregates Facility across Honeyman Road from the western boundary of the subject property where it will then either be loaded onto barges or trucks for transport to the market. Ninety percent of the mined resource from the Bates & Roth property will be transported via barge from the Santosh Barge Facility at NW Aggregates while ten percent of the mined resource from the Bates & Roth property will be trucked from the NW Aggregates processing facility. A plan, profile, and cross-section of the proposed access road was not provided since a road will not really be needed to mine the site other than for a front end loader, maintenance, and water trucks. It is for these reasons that plans, profiles, and cross-sections of the access road were not submitted. Staff agrees that at this point in the review process the plans, profiles, and cross-sections of the access road are not needed. This criterion is met.

Continuing with Columbia County Zoning Ordinance Section 1034:

.10 All plans prepared and submitted shall be at a scale no smaller than one inch to 200 feet, with 5 foot contours, and such information shall be furnished for a distance of not less than 1500 feet beyond the site to determine the impact of the operation on adjacent and surrounding lands.

**Finding 12:** Plate 2: Existing Conditions - Aerial Photo; and Plate 3: Phasing & Mining Operating Plan; Plate 4: Conceptual Reclamation Plan; all have a scales of 1" = 400'. The requested 1 inch equals 200 feet scale was not feasible for this project given the large size of the mining area. The Stormwater Control Plan has a scale of 1" = 800' which is adequate for information portrayed. Since the elevation difference of the site is very minimal and the site area at approximately 300 acres is very large the applicant has used 10' contour intervals to indicate the pit water's edge, pit slope, and pit bottom. Staff finds that 10' contour intervals are adequate for the area covered for the Bates & Roth Mining site. This criterion is met.

Continuing with Columbia County Zoning Ordinance Section 1034:

.11 A proposal to comply with the operating standards described in Section 1044 and the Columbia County Surface Mining Ordinance.

**Finding 13:** The applicant has submitted a statement in the Bates & Roth Application; Volume 1 of 2, VII Amendments to Surface Mining; D. Application for Post Acknowledgment Plan Amendment and Zone Change to Surface Mining (SM) Requesting Goal 5 Protection; on Page 16 under "Applicant's Response" .11 "The applicant has provided a proposal to comply with the operating standards described in Section 1044 and the Columbia County Surface Mining Ordinance as set forth in the Applicant's response to sections 1040 - 1047 (surface Mining Ordinance)." See staff findings 36 through 53 below addressing compliance with this criterion.

Continuing with Columbia County Zoning Ordinance Section 1034:

.12 A proposal to allow, limit or prevent future conflicting uses. The proposal may include, but is not limited to, a surface mining impact overlay zone as provided by Subsection 1038; site agreements with the owners of neighboring property within the impact area; or, other enforceable conditions on approval of post acknowledgment plan amendment to allow mining, which would address the impacts of future conflicting uses.

**Finding 14:** The applicant has conducted an ESEE analysis and discusses a program to achieve Goal 5 in Exhibit K of the application. The ESEE analysis submitted with the application suggests, "that limiting future conflicting uses provide adequate protection to the Site (*sic* Site) while placing the least amount of restriction on future development". The applicant has provided 6 specific recommendations (See page 12- 13 of Exhibit K) that propose a means to allow, limit or prevent future conflicting uses that are necessary to formalize the County's determination that the site is a significant Goal 5 mineral and aggregate site and to implement the County's decision to allow mining of the site. Staff finds that the proposed conditions adequately address the criterion. Staff finds that the criterion is met.



Continuing with Columbia County Zoning Ordinance:

1035 **Criteria for Determining Significance:** An aggregate site shall be considered significant if adequate information regarding the quantity, quality, and location of the resource demonstrates that the site meets the following criteria:

- .1 A representative set of samples of aggregate material in the deposit on the site meets Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and sodium sulfate soundness; AND,
- .2 The estimated amount of material is more than 2,000,000 tons; OR,
- .3 The aggregate site is on an inventory of significant aggregate sites in the Comprehensive Plan, as of September 1, 1996; OR,
- .4 The operator of a site which is on the surface mining inventory wishes to expand the existing site, and on March 1, 1996 had an enforceable property interest in the expansion area.
- .5 Notwithstanding subsections .1 through .3 of this section, an aggregate site is not significant if more than 35% of the proposed mining area consists of soil classified as Class I on Natural Resource and Conservation Service (NRCS) maps as of September 1, 1996; OR, if more than 35% of the proposed mining area consists of soil classified as Class II, or of a combination of Class II or Class I or Unique soil on NRCS maps available as of September 1, 1996, unless the average width of the aggregate layer within the mining area exceeds 60 feet.

**Finding 15:** The applicant has submitted information regarding quantity, quality and location of the aggregate resource in a report titled Significance Evaluation Bates & Roth Property, Columbia County, Oregon. (See Exhibit A) prepared by Kuper Consulting LLC dated June 22, 2004. The application includes information indicating that tests conducted find that the aggregate resource underlying the Bates & Roth Property meets ODOT's specifications for base rock (inasmuch as ODOT does not have soundness criteria for base aggregate) air degradation, abrasion, and sodium sulfate soundness. The applicant goes on to state that there was an error in the Goal 5 Significance criteria in that there are no ODOT specifications for testing sodium sulfate for base rock.

The consultant's report states that there are in excess of 43 million tons of aggregate resource estimated to occur on the Bates & Roth Property. Therefore, the property exceeds the quantity criteria of 2,000,000 tons required in CCZO section 1035(.2).

The proposed site is not listed as a significant aggregate site in the Columbia County Comprehensive Plan. According to the Columbia County Soil Survey the Bates & Roth Site contains Rafton Silt Loam, Protected Capability Class IIIw; Sauvie Silty Clay, loam, Protected IIw; Sifton Loam Capability Class IIIs. The Sauvie Silty Clay loam, is an agricultural soil while the Rafton Silt Loam Protected. Staff finds the site meets the criteria to be considered a significant Goal 5 aggregate resource because the aggregate resource meets ODOT quality

standards and the site contains greater than 2 million tons of aggregate. The average width (depth) of the aggregate layer exceeds 60 feet; so, the soil classifications of prime farmland or unique soils are irrelevant. The criterion is met.

Continuing with Columbia County Zoning Ordinance:

1036 **Criteria for Decision:** For a significant site, the County will make its decision whether mining is permitted based on the following process and criteria after receipt of a complete application:

.1 An impact area large enough to include uses listed in subsection .3 below will be established for the purpose of identifying existing and approved conflicts with proposed mining and processing activities. An impact area established for the purposes of this subsection shall be 1500 feet from the proposed mining area unless:

A) It can be demonstrated by the applicant that all existing conflicting uses are located within a lesser distance, an impact area with an irregular distance may be established if it is found to be capable of accurately depicting the presence of existing conflicting uses suitable for the purposes of this section; OR,

B) Factual data and information indicates a significant potential conflict exists beyond this distance. In that case, a larger area may be established for that conflicting use. The factual data and information for the expanded impact area must be submitted within 14 days after the first evidentiary hearing on the application.

**Finding 16:** Staff finds the applicant has established an impact boundary of 1500 feet. Staff finds that no factual data or other information indicates a significant conflict exists beyond this distance. The criterion is met.

Continuing with Columbia County Zoning Ordinance Section 1036:

.2 All existing and approved land uses in the impact area shall be determined that will be adversely affected by the proposed mining operations, and the predicted conflict will be specified for each use.

**Finding 17:** The applicant has inventoried existing and approved uses within the 1500-foot impact area and identified potential conflicting uses. (Exhibit 3, Impact Area). The 1500' impact area was measured from the perimeter of the site and does not include the Santosh Canal but does include the Santosh Slough. According to the applicant, "The technical studies did not result in any factual information indicating that significant potential conflicts would exist more than 1,500 feet from the Site." (Application, Pages 21-31). The submitted application including

technical studies found no conflicts with vibration levels, surface-water and groundwater conditions, traffic conditions, cultural resources, Goal 5 resources, and agricultural practices. The application did identify noise and potential air quality conflicts due to dust.

Continuing with Columbia County Zoning Ordinance Section 1036:

- .3 For determination of conflicts from the proposed mining of a significant aggregate site, only the following will be considered:
  - 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.

**Finding 18:** The application includes a list of existing and approved land uses within the impact area. The applicant states that the existing land uses in the impact area are aggregate mining, rural residential and agriculture. The applicant has submitted technical studies conducted by registered professional engineers identifying potential conflicts with noise, air quality, vibration, and hydrology. (See Exhibits B, C, D, and E). Conflicts with noise and a potential conflict with air quality due to dust (application p.23 - 25) were identified in Exhibit B, Bates & Roth Mining Site Noise Study, June 24, 2004; and Exhibit C, Air Quality Evaluation Report, June 2004. The applicant proposes to mitigate these impacts to within DEQ acceptable standards by implementing noise berms and dust-control measures as stated in the application on pages 23-25. This criteria is met.

Continuing with Columbia County Zoning Ordinance Section 1036.3:

- B) Potential conflicts to local roads used for access and egress to the site within one mile of the entrance to the site unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan. Transportation conflicts shall be determined based on clear and objective standards regarding sight distances, road capacity, cross section elements, horizontal and vertical alignment, and similar items in the transportation plan and implementing ordinances. Such standards for trucks associated with the mining operation shall be equivalent to standards for other trucks of equivalent size, weight, and capacity that haul other materials.

**Finding 19:** A Traffic Impact Analysis, Bates & Roth Property, dated June 2004 by Kittelson & Associates, Inc. can be found as Exhibit "F" in the application. This analysis looked at potential conflicts within the one-mile intersection impact area as well as intersections outside the one-mile impact area. The analysis looked at the following intersections:

- U.S. 30/West Lane Road
- West Lane Road/Honeyman Road
- Honeyman Road/Hogan Ranch Road
- Honeyman Road/Proposed Site Access Driveway

The application also discusses transportation impacts on page 25-26. The Applicant intends to maintain existing production levels. Therefore the report concludes "the project would not add additional vehicles to the roads but would instead maintain existing levels of truck traffic". The traffic study assumes that "90 percent of the processed aggregate would still be shipped via barge and the remaining 10 percent transported by haul trucks". The study also notes that a conveyor system would be used to transport the mined resource from the site, over Santosh Slough and under Honeyman Road to the NW Aggregates Santosh Site west of Honeyman Road for processing. The traffic study finds that a reasonable maximum of 15 vehicle trips during the weekday am peak hour and 5 trips during the weekday pm peak hour is expected for the new site access.

Staff finds that the mining of the site will add additional trucks hauling aggregate mined from the site and therefore will add additional vehicles to the roadway network, in addition to "up to 15 vehicles" that will use the new access point. The applicant shall follow the recommendations of the traffic engineer to provide safe visual distance at the Honeyman Road/Site Access Driveway intersection. Site distance shall be maintained by trimming of vegetation to maintain sight distance at the proposed new access point as necessary in each direction and meet AASTO sight distance standards".

The traffic impact study does analyze potential conflicts for all of the roads used as a result of the extraction of the aggregate resource from the Bates & Roth property. The traffic study addressed the long-term traffic generation for this site through 2025 and concluded that the transportation conditions are the same because the project does not add vehicle trips to the roadway network. Staff finds that the criterion is met provided the site is mined as proposed in this application.

Continuing with Columbia County Zoning Ordinance Section 1036.3:

- C) Safety conflicts with existing public airports due to bird attractants, i.e., open water impoundments, shall be addressed according to the processes established in statute or administrative rule, or in local ordinances enacted to implement statute and administrative rule.

**Finding 20:** The Columbia County Board of Commissioners adopted Ordinance No. 2000 - 04 which takes an exception to Goal 5 to prohibit aggregate mining within 5,000 feet of a runway at the Scappoose Industrial Airpark. This exception is included in the Goal 5 Exception Statement on page 182 of the County Comprehensive Plan. The applicant states that, "The Site is more than 5,000 feet from the end of the nearest runway at Scappoose Industrial Airpark. Therefore, subsection 1036.3© does not apply to this PAPA application." Staff finds that this

criteria does not apply to this application.

Continuing with Columbia County Zoning Ordinance Section 1036.3:

- 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 application are initiated.

**Finding 21:** The applicant has submitted, Goal 5 Natural Resources Assessment for the Bates & Roth Property, dated June 2004. The application also includes Plate 2, 'Existing Conditions - Aerial Photo' which indicates 6 wetlands on the subject Bates & Roth property. The Comprehensive Plan identifies a significant Goal 5 wetland, Wetland Area Site 4, located within the impact area in T4N, R1W, Sections 20, 29-32. This area is the Santosh Slough as it runs north to south through the subject Bates & Roth property. Exhibit H concludes, "Wetland impacts total 18.71 acres including excavation of Wetlands 1, 2, 3, and 4. Wetlands 5 and 6 are higher in quality than the other on-site wetlands and will not be impacted by this project. The National Wetland Inventory Map, "St. Helens" indicates the presence of 2 wetlands on the subject property. These 2 wetlands coincide with wetlands 5 and 6 indicated on Plate 2 of the Existing Conditions - Aerial Photo. The Santosh Slough is designated R2UBH which is Riverine @, Lower Perennial (2), Unconsolidated Bottom (UB), Permanently Flooded (H); While another wetland in the upper northern portion of the property immediately south of Honeyman Road is designated PEMC which is Palustrine (P), Emergent (EM), Seasonally Flooded © . The applicant states that these two significant Goal 5 wetlands will be preserved . The Santosh Slough is required to have a 25' riparian buffer as an identified in CCZO, Sec. 1172A.2 Riparian Corridor Standards: Fish-Bearing Streams, Rivers and Sloughs (Less than 1,000 cfs); and in CCZO, Section 1184 A.3 Wetland Area Overlay; Riparian Corridor Standards for Wetlands; 3. Fish-Bearing Streams, Rivers and Sloughs (Less than 1,000 cfs). The applicant has stated in the application that a 50' buffer will be applied to the Santosh Slough. This criterion is met for wetland/riparian resources.

The application includes an assessment of wildlife habitat on agricultural fields, rural residential, hybrid poplar plantations, upland woodland, wetland and riparian areas, and developed/disturbed areas and the wildlife species that utilize these areas. The applicant states that, "There are no anticipated direct or secondary impacts to listed or sensitive species from the proposed mining operation. For these reasons, no conflicts with significant wildlife habitat are identified."

The proposed mining operation "does not pose a conflict with other aggregate resource sites, as the aggregate resource is not sensitive to any mining discharges and is not disturbed by mining activities at the other nearby NW Aggregates site to the west of and across Honeyman Road from the subject property. This criterion is met for aggregate resources.

The Cultural Resource Survey of the Bates & Roth Property has not identified any Native American archaeological sites that might be affected by mining the site (Exhibit G). This report was prepared by Heritage Research Associates, Inc. and dated July 24, 2001. The report , which

includes a Records Search and a Cultural Resource Survey revealed no evidence of prehistoric or historic occupation on the Bates & Roth property and stated that, "...it does not appear that any cultural resources will be affected by use of the property as an aggregate mining site." The report also states that although cultural resources were not found on the site, there is always the possibility that cultural resources may be uncovered during mining and that appropriate measures should be taken per State Law regarding their discovery and subsequent courses of action for preservation. The criterion is met.

Continuing with Columbia County Zoning Ordinance Section 1036.3:

- E) Conflicts with agricultural practices; and

**Finding 22:** Thirteen of the twenty nine existing and approved tax lots and their land uses are agricultural practices within the 1500 foot impact area including farm use, pasture, and poplar tree production. This information is provided on Exhibit 3, titled "Impact Area Within 1500 Feet of Mining Site". The applicant has provided technical studies to consider the potential effects on the activities, including agricultural use, within the impact area from the proposed mining of the Bates & Roth site. These studies include: Noise, Air Quality, Vibration, Hydrology, Traffic, Archaeology, Goal 5 Resources, Economic, Agricultural, and ESEE. The technical study on Agricultural Impacts concluded that the installation of noise control berms will keep noise levels at or below DEQ noise regulation standards; a dust control program will reduce the level of dust emissions within applicable regulatory standards; ground water will not experience changes due to mining and no significant changes to the aquifer recharge are anticipated; no new vehicle trips and therefore no significant traffic impacts are anticipated. Therefore it is not anticipated that there will be conflicts to agricultural practices within or beyond the 1500 foot impact area. The technical studies did not identify any conflicts with agricultural uses. Staff concurs with these assessments, that, "The proposed mining operation will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices currently in place within the 1500-foot impact area surrounding the Bates & Roth property." There were no comments to date from nearby property owners who conduct farm practices. The Oregon Department of Agriculture has not commented on this proposal as of the date of this staff report. Staff does not expect any conflicts between mining and agricultural uses. The criterion is met for agricultural practices.

Continuing with Columbia County Zoning Ordinance Section 1036.3:

- F) Other conflicts for which consideration is necessary in order to carry out the provisions of the Columbia County Surface Mining Ordinance or ordinances pursuant to ORS 517.780.

**Finding 23:** Regarding this application the applicant has identified no other conflicts associated with other ordinances that supersede DOGAMI regulations. The applicant has submitted a Phasing & Mining Plan, Conceptual Reclamation Plan, Mining Cross Sections, and a Stormwater Control Plan as set forth in the application which demonstrates the feasibility of

compliance with applicable requirements of the Surface Mining Ordinance.

Staff finds a conflict associated with the proposed Bates & Roth mining application and applicable standards of the Columbia County Zoning Ordinance (CCZO), Section 1044.4 B, Operating Setbacks; and the Columbia County Surface Mining Ordinance (SMO), Section 8.3.2, Operating Setbacks. The Bates & Roth application proposes a 50 foot setback. The CCZO states, "No extraction or removal of aggregate is permitted within 50 feet of another property, nor within two hundred (200) feet of a residence or zoning district which allows a residence as a permitted or conditional use without prior written consent of the property owners(s)."; while the SMO states that, "No extraction or removal of minerals is permitted within fifty (50 feet of another property, nor within two hundred (200) feet of a residence or zoning district which allows a residence as a permitted or conditional use without prior written consent of the affected property owners(s)."

Continuing with Columbia County Zoning Ordinance Section 1036:

.4 Determine reasonable and practicable measures which can be required of the mining activity, which minimize the conflicts identified in paragraph 1036.3, above. If reasonable and practical measures are identified to minimize all identified conflicts, mining shall be allowed at the subject site with the required conditions. If identified conflicts cannot be minimized then Subsection .5 applies and ESEE analysis is required.

To determine whether proposed measures would minimize conflicts to agricultural practices, findings must be made that the mining activity would not:

- A) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
- B) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm and forest use.

**Finding 24:** The applicant reviews the criteria on page 24-25 of the application. Staff finds that mining activity will not force a significant change or significantly increase the cost of farm or forest practices in the area. Staff finds there are no forest uses in the area and that hybrid poplar plantations are a farm use. Staff finds no conflicts with surrounding forest and farm uses. The submitted application finds no conflicts with vibration levels, surface-water and groundwater conditions or traffic conditions. The application's technical studies do identify potential conflicts with noise and potential air quality conflicts due to dust. The applicant proposes to minimize the potential conflicts by constructing noise berms, setbacks from riparian areas, and following a dust control plan.

The applicant states that all potential conflicts can be minimized; therefore an ESEE analysis is not required, however the applicant did submit an ESEE analysis anyway for the mining site as

Exhibit K. If the Planning Commission finds conflicts that have not been minimized, the applicant would be required to complete an adequate ESEE analysis of the impacted use. The applicant has proposed reasonable and practicable measures to minimize identified noise and air quality conflicts. These measures will be required as a condition of mining. The criterion is met.

Continuing with Columbia County Zoning Ordinance Section 1036:

.5 For any existing conflicts that cannot be minimized, the ESEE consequences of either allowing, limiting, or not allowing mining at the site will be determined and analyzed. A determination shall be made that the benefits to the public outweigh the detriments suffered as a result of said conflicts. Using the ESEE analysis, a final decision will be made by determining:

- A) The degree of adverse effect on existing land uses in the impact area;
- B) Reasonable and practicable measures that could be taken to reduce the identified adverse effects; and
- C) The probable duration of the mining operation and the proposed post-mining use of the site.

**Finding 25:** The applicant has provided data and analysis demonstrating that there are no conflicts that cannot be minimized, see page 25 of the application. Staff finds that no conflicts have been raised that the applicant has not addressed and that there are no conflicts that cannot be minimized by measures proposed by the applicant and required as a condition of mining being allowed.

Continuing with Columbia County Zoning Ordinance:

1037 **Protection of Mining Activities Where Mining is Allowed**

.1 Where mining is allowed through the process outlined in this ordinance, the plan map and zoning map 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.

**Finding 26:** If mining is allowed at this site, the plan and zoning maps will be amended and conflict minimization measures will be implemented. The applicant addresses these criteria on pages 32 - 33 of the application.

The application states that, "Clear and objective measures to minimize conflicts are summarized in this applications technical studies and the applicant's response to subsection 1036.4" which



identify potential conflicts with noise and potential air quality conflicts due to dust. The applicant proposes to mitigate the potential conflicts by constructing noise berms, setbacks from riparian areas, and following a dust control plan.

The Planning Commission may recommend other clear and objective special conditions and procedures to minimize conflicts. Further conditions may be attached as part of the operating permit authorized by the Surface Mining Ordinance.

Staff finds that the measures to minimize conflict identified by the applicant in pages 32 - 33 of the application and noted in the above finds are clear and objective.

Continuing with Columbia County Zoning Ordinance Section 1037:

.2 Any additional land use review processes, like Site Design Review, shall not exceed the minimum review necessary to assure compliance with this Section and OAR 660 Division 23, and shall not provide opportunities to deny mining for reasons unrelated to this Section, or attach additional approval requirements, except with regard to mining or processing activities:

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

**Finding 27:** If the PAPA application is approved and mining is allowed at the subject site, the applicant will be required to obtain a site design review approval prior to beginning mining activities at the site. This will allow staff and citizens to review information that may not have been included in the PAPA application, address issues that are not part of the Goal 5 process, and evaluate any proposed changes in activity. This review and resulting conditions shall be only those necessary to comply with Section 1550, Design Review, and OAR 660 Division 23.

Continuing with Columbia County Zoning Ordinance Section 1037:

.3 Where mining is allowed under the process included in this Section, a post mining use shall be determined and provided for in Table XVI-2 of the Comprehensive Plan and land use regulations. For significant aggregate sites on Class I, II and Unique farmland, the County 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 28:** If mining is allowed at this site, Table XVI-2 will be amended to include this particular site. The site is comprised of prime farmland soils (See page 3 above). The proposed post-mining use of this site will include open water body features such as fish and wildlife habitat. Staff finds that the criterion is met.

Continuing with Columbia County Zoning Ordinance Section 1037:

.4 The County shall allow a currently approved aggregate processing operation at an existing site to process material from a new or expansion 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 County.

**Finding 29:** The mined Bates & Roth resource will be processed at the NW Aggregate/Santosh processing facility that is to the west of the subject property and across Honeyman Road. Any violations, which may exist at the NW Aggregates/Glacier NW Santosh processing plant, must be resolved through code enforcement procedures, not through this amendment process. The existing NW Aggregates/Glacier NW Santosh processing facility will not require reauthorization.

Continuing with Columbia County Zoning Ordinance Section 1037:

.5 Where mining is allowed under the process included in this Section, for a significant mineral and aggregate site, new conflicting uses proposed within the specified impact area surrounding the mine shall be allowed, limited or not allowed, by following the standard ESEE process in OAR 660-23-040 and 660-23-050. For the purposes of this subsection, the impact area shall be a minimum of 1500 feet from the boundaries of the mining area unless a greater distance is identified and allowed under 1036.1.

**Finding 30:** The applicant performed an ESEE analysis on new and permitted conflicting uses and concluded that limiting new conflicting uses within the 1500 foot impact area would be the most appropriate way to achieve Goal 5 and protect the site. See Exhibit K and p.28 of the application. The applicant proposes to limit conflicting uses within the 1500-foot impact area by applying a Surface Mining Impact Overlay zone (SMIO) to be administered by the County.

Continuing with Columbia County Zoning Ordinance Section 1037:

.6 Where mining is allowed under the process of this Section and a Surface Mining (SM) designation is approved for the site, a Surface Mining Impact Overlay (SMIO) zone shall be created surrounding the

surface mining zone, except when the impact area(s) are located in an Urban Growth Boundary, and except where the County has no jurisdiction. The Surface Mining Impact Overlay Zone (SMIO) shall, at a minimum, encompass the same boundary as determined under 1036.1. The County shall establish specific conditions of approval for sites, and their designated impact areas that extend into an Urban Growth Area.

**Finding 31:** If mining is allowed, a Surface Mining Impact Overlay zone shall be created to encompass all land within 1500 feet of the perimeter of the site. The impact area is not within an urban growth boundary.

Continuing with Columbia County Zoning Ordinance Section 1037:

.7 In lieu of having a Surface Mining Impact Overlay zone imposed on the impact area of an approved mining activity, the owner or operator of the mine and the property owners of the impact area may propose agreement(s) or other enforceable conditions on approval of mining activity, the provisions of which satisfy any and all negative impacts of the conflicting use to the mutual satisfaction of the operator and owners of properties with future conflicting uses. Such agreements or conditions shall be recorded with the County Clerks Office and run with the land, and shall be binding on all future owners, until reclamation is realized and mining activity ceases.

**Finding 32:** The applicant does not propose private agreements with property owners within the 1500-foot impact area. The applicant has proposed conflict minimization measures to reduce conflicts with adjacent uses to a level that is no longer significant. The applicant requests that one of the limitations to new discharge sensitive users would be the requirement that they record a waiver of remonstrance stating that they will not object to lawful mining activities.

Continuing with Columbia County Zoning Ordinance:

1038 Surface Mining Impact Overlay Zone (SMIO)

.1 The purpose of the Surface Mining Impact Overlay Zone is to provide for the development and utilization of lands within the area of impact of a significant mineral and aggregate resource site, zoned Surface Mining (SM), in order to maintain that unique deposit of material for extraction and future uses of the SM Zone, to encourage compatible uses and to avoid the establishment of incompatible uses through location, design and notification.

.2 The location of a Surface Mining Impact Overlay Zone will be designated at the time of designation of SM Zoned site. It will be the area defined as the impact area under Subsection 1032.2 and determined under 1034.4, 1036.1 and

1037.5. For existing SM Zoned sites the owner or operator of the site shall apply for such designation within 2 years of enactment and final approval of this amendment.

**Finding 33:** If this mining application is approved, the County will limit uses that conflict with significant aggregate resource sites by implementing a Surface Mining Impact Overlay (SMIO) zone within 1500 feet of the Site as defined on Exhibit 3, "Impact Area".

Continuing with Columbia County Zoning Ordinance Section 1038:

.3 Relationship to the standards of the underlying zoning districts: The provisions of the Surface Mining Impact Overlay District are intended to supplement the provisions of the underlying zoning districts. In addition to the development standards of the primary district, the establishment of noise, dust and vibration sensitive uses and the creation of new parcels within the Surface Mining Impact Overlay District (SMIO) shall be subject to the following:

A) Setbacks:

The location of new noise, dust or vibration sensitive uses, constructed after the establishment of the SMIO district, shall be situated on the parcel to minimize potential adverse effects of noise, dust or vibration. Their location shall take into consideration the surrounding topography and transportation system and, if necessary, setbacks greater than those required by the underlying district may be imposed by the review authority.

B) Noise, Dust and Vibration Reduction Measures:

Measures may be required of owners of new noise, dust or vibration sensitive uses constructed after the establishment of the SMIO district when determined by the review authority to be necessary to ensure compliance by surface mining operator with applicable regulations and conditions of the Operating Permit. Reduction measures may include, but not limited to, berms, walls, vegetative buffers, insulation, double pane windows, reflective siding, foundation washer insulation, orientation of windows. The nature and extent of the reduction measures shall be determined by the review authority.

C) Covenant Not To Sue:

Prior to issuance of any building permits for new noise, dust or vibration sensitive uses after the establishment of a SMIO District, the owner shall sign and record in the County Clerk's Office, a "Covenant Not To Sue" or other instrument which restricts present and future owners from remonstrating against or objecting to permitted mining activities allowed in the nearby SM District.

D) Creation of New Lots or Parcels:

A notation shall be placed on an instrument creating a new lot or parcel which states that the lot or parcel is within a Surface Mining Impact Overlay District (SMIO) and is subject to the standards of Columbia County Zoning Ordinance Subsection 1038.

**Finding 34:** Any new uses in the SMIO District shall minimize potential adverse effects of noise, dust or vibration. Setbacks for new uses shall be allowed after consideration to minimize potential adverse effects of noise, dust or vibration. Their location shall take into consideration the surrounding topography and transportation system and, if necessary, setbacks greater than those required by the underlying district may be imposed by the review authority.

Any new uses in the SMIO District will be required to implement noise, dust and vibration reduction measures that may include, but not be limited to, berms, walls, vegetative buffers, insulation, double pane windows, reflective siding, foundation washer insulation, and orientation of windows.

The applicant for new uses and or the owner of land in the SMIO district will be required to sign and record a waiver of remonstrance (“Covenant Not to Sue”) which states that present and future owners of property within the SMIO District shall not remonstrate against or object to permitted mining activities allowed in the nearby SM District.

Any new lots or parcels created in the SMIO District shall have a notation placed on the deed and plat which states that the lot or parcel is within a Surface Mining Impact Overlay District (SMIO) and is subject to the standards of Columbia County Zoning Ordinance Subsection 1038.

Staff finds that if this application is approved, by the County requiring that the new uses follow all of the above limitations in order to protect the significant Goal 5 aggregate resource. The criteria are met.

Continuing with Columbia County Zoning Ordinance Section 1038:

.4 Land Use Approval and Permit Review:

Prior to the commencement of any development activity involving the construction of new structures or substantial modification of existing structures requiring a building permit for a use that is noise, dust or vibration sensitive and is allowed in the SMIO and its underlying district, the development activity must first be reviewed for compliance with applicable standards of this Section 1030 and underlying zoning district and be granted approval by the Director. The Director shall review plans submitted for a building permit and may request additional or amended plans, specifications or analysis prepared by an engineer or other qualified person, showing that the applicable standards are met or can be met by

specified development standards. Review by the Director shall follow Section 1600 Staff Approval, subject to its notifications and appeal.

**Finding 35:** If this application is approved, the Director will be required to administratively review any discharge sensitive uses within the site impact area as indicated in Exhibit 3 "Impact Area".

Continuing with Columbia County Zoning Ordinance Section 1038:

.5 Required Findings:

The Director shall make the decision for approval with conditions within the Surface Mining Impact Overlay Zone (SMIO) based on the following findings:

- A) The proposed use will not interfere with or cause an adverse impact on the lawfully established and lawfully operating mining operations;
- B) The proposed use will not cause or threaten to cause the mining operation to violate any applicable standards of this section, or terms of any approved Surface Mining Zoning conditions, or terms of the Surface Mining Operating Permit.
- C) Any setbacks or other requirements of this subsection shall be clear and objective.

**Finding 36:** If this application is approved, the Director will review any new discharge sensitive uses in the site impact area according to the criteria above.

Continuing with Columbia County Zoning Ordinance Section 1038:

.6 Nonconforming uses and structures:

Nonconforming uses and structures legally existing on or before the effective date of this Section may continue provided that, should the uses or structures be modified so as to become more nonconforming, the owner of such structures or uses first obtain land use approval pursuant to this Subsection.

**Finding 37:** If this application is approved, the Director will review any proposed modifications of nonconforming uses and structures pursuant to the criteria found in this subsection.

**Section 1040 SURFACE MINING**

SM

1041 Purpose:

- .1 To provide for development and utilization of deposits of aggregate and resource materials.
- .2 To provide for the protection and utilization of these resources in a manner which does not conflict with other land uses.
- .3 To assure economy in handling and transportation costs by locating removal, processing, and storage activities in as close proximity to the point of end use as feasible.

**Finding 38:** The applicant has requested a PAPA application to amend the County Comprehensive Plan and Zoning Code to allow for the development and utilization of the aggregate resource at the Bates & Roth site, while providing Goal 5 protection. This process is required to provide for the protection and utilization of this resource in a manner which does not conflict with other land uses. The existing NW Aggregates/Glacier NW Santosh processing and shipping facility will be utilized to assure economy in handling and transportation costs of the mined aggregate from the Bates and Roth site since the removal, processing and storage will take place in close relative proximity to the Portland Metropolitan Area.

Continuing with Columbia County Zoning Ordinance:

1042 Permitted Uses: The following uses shall be permitted subject to compliance with Section 1044 and all other applicable rules, standards, or statutes governing such uses, including the Columbia County Comprehensive Plan, the Surface Mining and Land Reclamation Ordinance, the Zoning Ordinance of Columbia County, and Oregon Department of Environmental Quality rules governing sewage disposal, air, and water quality:

- .1 Removal, excavation, and processing of aggregate materials.
- .2 Equipment and structures, except residences, which are necessary or accessory to the operation of an aggregate site.
- .3 Storage of heavy equipment necessary for operation.
- .4 Agricultural practices.
- .5 Aggregate stockpiling.
- .6 Sedimentation ponds when used in conjunction with aggregate removal operations.

- .7 The managing, growing, and harvesting of timber and forest products, including the operation of accessory equipment used in the manufacturing, growing, and harvesting of forest products.
- .8 Concrete and asphalt batch plant on a temporary basis not to exceed 60 days.

**Finding 39:** The applicant responds to this criteria on page 33 of the application as follows: The applicant proposes to excavate aggregate below the water table at the site, and transport aggregate via a conveyor system to the NW Aggregates/Glacier NW Santosh facility for processing. Accessory mining activities will include removal of overburden, construction of berms, watering for dust control, and reclamation of disturbed areas. Equipment used on-site will include an electric dragline, bulldozer, front-end loader(s), conveyor system, water truck, and service vehicles. Staff agrees that the applicant's proposed use of the site is compatible with the requirements of subsection 1042.

Continuing with Columbia County Zoning Ordinance:

- 1043 **Conditional Uses:** The following uses may be permitted if found in conformance with Section 1044 and Section 1503 of this Ordinance:
- .1 All permitted uses within the designated 100-year floodplain identified in Section 1042 (except item .2, if such uses are portable in nature; items .4 agricultural, and .7 forest uses) shall be reviewed by the Planning Commission to ensure floodplain requirements are met.
  - .2 Sanitary landfill, landfill, or solid waste transfer station.
  - .3 Public or private parks and recreation areas may be permitted only in conjunction with reclamation of the site.
  - .4 Buildings, structures, and uses of a public works, public service, or public utility nature when not necessary to the operation of an aggregate site.
  - .5 A residence for the caretaker, operator, or property owner. No more than one residence may be permitted.
  - .6 Manufacture and fabrication of concrete and aggregate products if accessory to removal, processing, or excavation of aggregate materials.
  - .7 Sale of products such as concrete pipe, concrete forms, and the like related to aggregate materials in conjunction with the removal, processing, or excavation of aggregate materials or in conjunction with the manufacture and fabrication of concrete and aggregate products.



- .8 Concrete or asphalt batch plant.

**Finding 40:** The applicant has not applied for a conditional use permit for any of the above uses. This criteria does not apply.

Continuing with Columbia County Zoning Ordinance:

- 1044 Operating Standards: All mineral resource operations, either permitted or allowed by conditional use, shall conform to the following standards:
  - .1 The landowner and operator shall be jointly responsible for signing the application.
  - .2 The operator and landowner must remain in compliance with, and be responsible for, all the requirements of affected agencies.
  - .3 Lot or parcel size: The minimum parcel size for a permitted or conditional use shall be 2 acres.

**Finding 41:** The Bates & Roth Attorney, Tim Ramis, has been granted special power of attorney by Bates & Roth to sign the application PA 05-01 for the property owners and operators. The application states that, "The applicant understands that the landowner and operator will be required to jointly sign the application for a mining permit." The landowner and operator will be required to remain in compliance with all affected agencies. The site is approximately 300 acres in size, thus exceeding the 2-acre minimum parcel size.

Continuing with Columbia County Zoning Ordinance Section 1044:

- .4 Operating Setbacks: Each aggregate site within the district shall observe the following minimum setbacks:
  - A. No extraction or removal of aggregate is permitted within 50 feet of the right-of-way of public roads or easements of private roads.
  - B. No extraction or removal of aggregate is permitted within 50 feet of another property, nor within 200 feet of a residence or zoning district, which allows a residence as a permitted use, without written consent of the property owner(s).
  - C. Processing equipment, batch plants, and manufacturing and fabricating plants shall not be operated within 50 feet of another property, without written consent of the property owner(s). Processing equipment, batch plants, and manufacturing and fabricating plants shall not operate within 50 feet of a public road right-of-way.

**Finding 42:** CCZO Section 1044(A) does not permit extraction or removal of aggregate within 50 feet of the right-of-way of public roads or easements of public roads. The Applicant's mining plan (plate 3) shows that the Applicant proposes to comply with this 50' setback restriction.

CCZO Section 1044(B) does not permit extraction or removal of aggregate within 50 feet of another property, nor within 200 feet of a residence or zoning district which allows a residence as a permitted use, without written consent of the property owners. The Applicant's mining plan (plate 3) shows that the Applicant proposes to comply with a 50' setback from all adjacent property. However, the proposed mining site is adjacent to one RR-5 zoned property. Residences are permitted outright within the RR-5 zone. Therefore, the Applicant is required to comply with a 200' setback from the RR-5 zoned property absent consent from the adjacent property owners. The Applicant has not supplied evidence that the Applicant has received consent of the adjacent property owners. Therefore, the application does not comply with this criteria. A condition of approval will be that no aggregate will be extracted or removed within 200' of the RR-5 property.

Columbia County Surface Mining Ordinance, Section 8.3 prohibits the extraction and removal of aggregate within 50 feet of another property, nor within two hundred (200) feet of a residence or zoning district which allows a residence as a permitted or conditional use. Pursuant to CCZO 1036.3(F), in determining whether to add a mining site as a significant mining site in the Comprehensive Plan and allow surface mining, the County is required to consider as conflicts "other conflicts for which consideration is necessary in order to carry out the provisions of the Columbia County Surface Mining Ordinance or ordinances pursuant to ORS 517.780." Therefore, the County must consider the setback provisions found in the Surface Mining Ordinance. The proposed mining site is surrounded by RR-5 zoned property, PA-38 zoned property, and SM zoned property. As indicated above, the RR-5 zoned property allows residences as a permitted use. Both PA-38 and SM zoned property allow residences as conditional uses. Therefore, the Applicant is required to comply with a 200' setback from all adjacent property. Therefore, the applicant does not comply with SMO 8.3. A condition of approval will be that no aggregate will be extracted or removed within 200 feet of the RR-5 property, the SM property, or the PA-38 property. (For additional discussion of the Surface Mining Ordinance's applicability please see Finding 23)

CCZO Section 1044© does not permit processing equipment, batch plants, and manufacturing and fabricating plants within 50 feet of another property, without written consent of the property owners. Furthermore, processing equipment, batch plants, and manufacturing and fabricating plants shall not operate within 50 feet of a public road right-of-way. The Applicant does not propose to have processing equipment, batch plants, and manufacturing and fabricating plants on the property. If the Applicant later proposes to have such equipment or plants on the property, the Applicant must comply with the 50' setback from another property or public road right-of-way.

Continuing with Columbia County Zoning Ordinance Section 1044:

.5 Operating Hours: Operation shall not start before 7:00 a.m., nor continue after 6:00 p.m. daily. The Department may exempt isolated aggregate sites from

the established operating hours. Notice of the proposed change in operating hours must be provided to all property owners within a 1,000-foot radius of the aggregate site and to owners of property adjacent to private aggregate site access road. If no request for a public hearing is made within ten calendar days of mailing said notice, the operating hours shall be changed as requested by the aggregate operator. The Commission may, at any time, require resumption of standard operating hours. If a request is made for a public hearing, adjustment of standard operating hours shall be determined by the County. The Department may approve one period of extended operation beyond the 7:00 a.m. to 6:00 p.m. operating hours once every six months, not to exceed a two-week period.

**Finding 43:** The applicant proposes standard operating hours of 7:00 a.m. to 6:00 p.m. seven days a week.

Continuing with Columbia County Zoning Ordinance Section 1044:

.6 **Visual Impacts:** Existing trees and other natural vegetation adjacent to any public park, residential development, public road, or residential zoning district shall be preserved for a minimum width of 25 feet. Screening shall be provided at the boundary of the property on which the surface mining operation is located. If such trees and other vegetation are insufficient to provide a screen, such screening may be accomplished by one or more of the following:

- A. A sight-obscuring fence or wall;
- B. A landscaped berm or preservation of a natural slope;
- C. Use of native vegetation, or plants and trees with demonstrated ability to thrive under the anticipated conditions.

**Finding 44:** All trees and vegetation within 25 feet of a public road that provide adequate screening of the site will be preserved as a visual buffer. The applicant will be required to maintain all existing trees for this purpose. Noise and visual berms will be constructed as depicted of Exhibit 4; Plate 3.

Continuing with Columbia County Zoning Ordinance Section 1044:

.7 **Access:** The operation shall have access to a public road with two-way capacity. The County may impose weight/load restrictions and/or require the operator to post an adequate surety bond for road repairs. An on-site access or serve road used for mining shall be dust-free at all points within 300 feet of a public road or residence off the property being mined.

**Finding 45:** The site will have access to Honeyman Road through a new access point on the east side of Honeyman Road. Aggregate from the site will be moved by conveyor belt under Honeyman Road west to the NW Aggregates/Glacier NW Santosh processing plant. Once

processed, 90% of the aggregate will leave the area via barge, however, the remaining 10% will be trucked off the site via the Honeyman Road public right-of-way. Honeyman Road is a two-lane, paved public right-of-way. The applicant has included a dust control plan with this application that includes watering and graveling the road to keep dust down

Continuing with Columbia County Zoning Ordinance Section 1044:

.8 Noise: Each aggregate site shall operate with the applicable noise standards required by the Department of Environmental Quality or other state or federal agencies.

**Finding 46:** The applicant has included a technical noise study analysis conducted by a registered professional engineer. (See Exhibit B). The study determined that under a worst case scenario, the site would not comply with applicable DEQ noise standards, therefore creating a conflict (application, p. 42). Mitigation measures (i.e., berm construction) have been proposed that would bring the noise levels at all noise sensitive receivers to within DEQ maximum allowable limits at locations and elevations set forth in Exhibit B to screen noise-sensitive receivers. Staff finds that there is a noise conflict associated with this application. Staff finds that the applicant proposes to mitigate this impact to within DEQ acceptable standards by implementing noise-control measures that minimize conflicts (Exhibit B, Bates & Roth Mining Site Noise Study, and pages 23, 24 of the application). The applicant will be required as a condition of approval to provide an annual report based on noise level meter readings to insure compliance with noise standards.

Continuing with Columbia County Zoning Ordinance Section 1044:

.9 Water Quality: All aggregate sites in the district shall be operated in a manner which will not create turbidity, cause siltation, deposit undesirable materials, or adversely affect water temperatures in any stream, drainage, or river. In addition, the operator shall not cause contamination of groundwater or change a stream channel unless the channel change has previously been approved by all applicable state and federal agencies. Provisions for settling ponds, diversion dikes, channels, and other structures may be required to protect these water resources.

**Finding 47:** The applicant has included a technical report; Hydrology Impacts Evaluation, Goal 5 Bates & Roth Property; conducted by a registered professional geologist. (See Exhibit E). The report indicates that the Santosh Slough bisects the site and that wetlands exist within the property boundary. Excavation will not occur within 50 feet of the slough, significant wetlands, or property boundaries and the mining plan indicates that all on-site stormwater will be directed to the pit through grading.

The report concludes that, "... the existing monitoring, past investigations, and analysis indicate mining will not result in an elevated threat of ground water seepage, surface water flooding or increased pumping within the SDIC drained area." Staff finds no water quality conflicts

associated with this application.

Continuing with Columbia County Zoning Ordinance Section 1044:

.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.

B. During Excavation - If an archaeological site(s) is found during excavation, all work which would impact the site shall halt immediately and the requirements outlined in Section 1044.10A shall be met.

**Finding 48:** This application includes a report titled, Cultural Resource Survey of the Bates & Roth Property (See Exhibit G). The report states that prior to excavation the applicant had the consultant inventory the Bates & Roth property for archaeological significance in accordance with standards set by the State Archaeologist. The report concluded that, "No cultural resources have been identified on the Bates & Roth property. Staff finds that this application provides adequate information and meets the above criteria to address cultural resources if they are found on the property. A condition of approval per B above that, "If an archaeological site(s) is found during excavation, all work which would impact the site shall halt immediately and the requirements outlined in Section 1044.10A shall be met."

Continuing with Columbia County Zoning Ordinance Section 1044:

.11 Erosion: The erosion of surfaces affected by mining activities shall be controlled by plantings of ground cover and other modes, which protect these surfaces.

**Finding 49:** The applicant has included a Stormwater Control Plan which is part of the Mining Plan, Exhibit 4, Plate 6. According to the plan, all disturbed and reclaimed areas will be graded to drain toward the pond(s) and all disturbed areas will be plated to protect against erosion. The applicant states that the plan proposes to manage all stormwater on-site, where it will be directed into the excavation ponds. Berms will be constructed on portions of the north, east and west sides of the site to further protect stormwater from leaving the site. The berms will be planted with groundcover, shrubs, and/or trees to enhance soil stability and prevent erosion. Staff finds that erosion of surfaces affected by mining activities have been adequately addressed.

Continuing with Columbia County Zoning Ordinance Section 1044:

.12 Slopes and Grading: Excavations, both above and below water level, shall be maintained in an operationally and environmentally safe condition by complying with standards established by the Oregon Safe Employment Act (ORS 654.001 to 654.295 and 654.991), the Oregon Safety and Health Act of 1970 (19 U.S.C. 651 et. seq.), the Department of Geology and Mineral Industries, and the regulations of other affected agencies.

**Finding 50:** The applicant has provided plans, Exhibit 4, Mining Plan, which includes Plate 3, Phasing and Mining Operating Plan; Plate 4, Conceptual Reclamation Plan; and Plate 5, Mining Cross Sections that indicate slopes and grading will be maintained in safe condition. Slope gradients will be constructed to provide slope stability and safe egress from the excavated ponds. The slopes will be contoured (cut) during the excavation process rather than by deposition of fill material. The slopes of the pond will be contoured with slopes set forth in exhibit 4 plate, plate 3.

Continuing with Columbia County Zoning Ordinance Section 1044:

.13 Land Reclamation: A land owner or operator of an aggregate site shall, in advance of any excavation of aggregate materials, prepare and submit a site reclamation plan in accord with the requirements of the Surface Mining and Land Reclamation Ordinance. Reclamation must return the land to natural condition or return it to a state compatible with the livability, value, and appropriate development of the affected land and adjacent property. Reclamation shall begin within 12 months after mining activities cease on any segment of the area where mining has occurred and shall be completed within 3 years after mining activities cease. This does not apply to any land being used as plant site, stockpile, or work area for ongoing extracting mining operation.

**Finding 51:** The applicant has submitted a graphic Conceptual Reclamation Plan as Plate 4 of Exhibit 4 of the Mining Plan. Section VI. Site Operation Descriptions, includes discussion on 'Reclamation Plan' on page 9 of the application. The application states, "The site will be reclaimed as an open water body. The reclaimed ponds will be shaped to have irregular shorelines and underwater slopes designed in accordance with Columbia County regulations.

The slopes of the pond will be contoured, with slopes set forth in Exhibit 4 (Plate 4). Overburden may be used for a variety of purposes, including use in an upland area, approved disposal site, construction of berms, or, if suitable, incorporation into planting areas. The slopes will be planted for stabilization in consultation with federal, state, and/or local agencies.

Berms that were created and vegetated during the operational life of the mine will be retained as part of the reclamation. Staff finds that adequate conceptual reclamation information has been provided with this application. Compliance will be verified in review of the Operating Permit application should the PAPA be approved.

Continuing with Columbia County Zoning Ordinance:

- 1045 Modification of Standards: The above standards may be modified by the Planning Commission after public hearing and notification to property owners within 1,000 feet of the subject property and to owners adjacent to private aggregate site access roads. A Site Design Review for a Conditional Use in this zone may be processed concurrently with the Conditional Use Permit with a single hearing and a single fee, which will be the higher of the 2 permit fees.

**Finding 52:** The applicant has not requested any modification of standards with this application. The Planning Commission may modify standards with a public hearing and proper notice. The applicant intends to apply for a site design review upon approval of this request.

Continuing with Columbia County Zoning Ordinance:

- 1046 Emergency Exceptions: The Department may permit the immediate initiation of a temporary aggregate operation which ordinarily would require an approved Conditional Use Permit, if necessary to prevent potentially serious damage to property or threat to human life. The Department may permit the initiation of such an aggregate operation only when affected state agencies have issued necessary permits and have attested to the urgency of the situation. The Department may adjust operation standards as contained in Section 1044 to ensure the protection of human life and property. An aggregate operation approved under this section shall cease once the threat to human life and property is no longer serious or imminent.

**Finding 53:** The applicant has not requested an emergency exception. This criterion is not applicable.

Continuing with Columbia County Zoning Ordinance:**Section 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 Zone Changes, which require 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 2-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.

.3 Alternate Zones: If the Commission determines that a zone other than the one being proposed will adequately allow the establishment of the proposed use, the Commission may substitute the alternate zone for the proposed zone in either the Major Map Amendment or the Minor Map Amendment procedures.

**Finding 54:** The applicant is requesting approval of a Post Acknowledgment Plan Amendment (PAPA) application, which will change the Comprehensive Plan Map from Agricultural Resource to Aggregate Resource and the Zoning Map from Primary Agriculture to Surface Mining for the site. This proposed zone change is being processed as a Major Map Amendment because the request will require the official Comprehensive Plan Map to be amended in order for the official Zoning Map and the Comprehensive Plan to be in agreement. The applicant has also requested that the site (Approximately 300 acres) be listed on the Inventory of Significant Mineral Resources. Goals and policies of the Comprehensive Plan will be reviewed later in this report. The applicant has addressed the Comprehensive Plan in Exhibit L and the Statewide Planning Goals in Exhibit M. Staff finds that the site is currently provided with adequate facilities and services for the proposed use as noted in Exhibit N.



Continuing with Columbia County Zoning Ordinance:

**Section 1603      Quasi judicial Public Hearings:**

As provided elsewhere in this ordinance, the Hearings Officer, Planning Commission, or Board of Commissioners may approve certain actions, which are in conformance with the provisions of this ordinance. Zone Changes, Conditional Use Permits, Major Variances, and Temporary Use Permits shall be reviewed by the appropriate body and may be approved using the following procedures:

.1      The applicant shall submit an application and any necessary supplemental information as required by this ordinance to the Planning Department. The application shall be reviewed for completeness and the applicant notified in writing of any deficiencies. The application shall be deemed complete upon receipt of all pertinent information. If an application for a permit or zone change is incomplete, the Planning Department shall notify the applicant of exactly what information is missing within 5 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of this section upon receipt by the Planning Department of the missing information. *[effective 7-15-97]*

.2      Once an application is deemed complete, it shall be scheduled for the earliest possible hearing before the Planning Commission or Hearings Officer. The Director will publish a notice of the request in a paper of general circulation not less than 10 calendar days prior to the scheduled public hearing. Notices will also be mailed to adjacent individual property owners in accordance with ORS 197.763. *[effective 7-15-97]*

**[Note:** ORS 197.763 requires 20 days notice (or 10 days before the first hearing if there will be 2 or more hearings), and that notice be provided to property owners within 100' (inside UGBs), 250' (outside UGBs), or 500' (in farm or forest zones).]

.3      At the public hearing, the staff, applicant, and interested parties may present information relevant to the criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved, or what modifications are necessary for approval. *[effective 7-15-97]*

.4      Approval of any action by the Planning Commission at the public hearing shall be by procedure outlined in Ordinance 91-2. *[effective 7-15-97]*

**Finding 55:** This application, PA 05-01, for a Post Acknowledgment Plan Amendment (PAPA) will be scheduled for two public hearings: one before the County Planning Commission, scheduled for November 1, 2004; and the other before the Board of County Commissioners at a

date yet to be determined.

The applicant submitted the PAPA application on July 7, 2004. The application was deemed complete on August 5, 2004. A public hearing was scheduled for November 1, 2004 in front of the Planning Commission. Notice of the application and hearing date was mailed to the Scappoose CPAC, nearby property owners, and affected agencies on September 3, 2004. Notice of the request and public hearing will be published in local newspapers of general circulation not less than 10 calendar days prior to the scheduled public hearings. Staff finds it is not possible to determine the exact date for the second public hearing, notifications, and notice to newspapers, therefore all of the above standards have been met or will be met by the time of the 1<sup>st</sup> and 2<sup>nd</sup> public hearings.

Continuing with Columbia County Zoning Ordinance:

**Section 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.

**Finding 56:** The hearing for this PAPA application, which is a major map amendment, will follow the above mentioned procedures. The Planning Commission will hold a quasi-judicial hearing and make a recommendation to the Board of Commissioners. The Board of Commissioners will then hold a hearing and make a formal decision to allow, allow with conditions, or prohibit surface mining at this site.

Continuing with Columbia County Zoning Ordinance:

**Section 1607                    Consistency with the Comprehensive Plan:**

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

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

**Finding 57:** The applicant proposes to amend the Comprehensive Plan designation of the site to Aggregate Resource and the Zoning designation of the site to Surface Mining. These amendments would allow the Comprehensive Plan and Zoning Ordinance to be consistent with each other. The applicant proposes to designate the site (Approximately 300 acres) as a significant Goal 5 mineral and aggregate resource site on the county's inventory of aggregate resources. The Board will hold a hearing after receiving a recommendation from the Planning Commission after their public hearing scheduled for November 1, 2004.

Continuing with Columbia County Zoning Ordinance:

**Section 1608            Contents of Notice:**

Notice of a quasi-judicial 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 or parcel by the Columbia County Tax Assessor;
- .3 Nature of the proposed action;
- .4 Interested parties may appear and be heard;
- .5 Hearing to be held according to the procedures established in the Zoning Ordinance.

**Finding 58:** The notice was published in the local newspapers containing all of the above mentioned information and was published in the local news media at least 10 days prior to the hearing. Individual notice containing the above information was provide to surrounding property owners within 1,500 feet of the subject property line.

**COLUMBIA COUNTY COMPREHENSIVE PLAN:**

**Part X            ECONOMY**

**GOALS:**

1. To strengthen and diversify the economy of Columbia County and insure stable economic growth.
2. To utilize Columbia County's natural resources and advantages for expanding and diversifying the economic base.

POLICIES: It shall be a policy of the County to:

1. Encourage the creation of new and continuous employment opportunities
2. Encourage a stable and diversified economy.
3. Reflect the needs of the unemployed and of those persons who will enter the labor market in the future.
4. Place the County in the position of being able to respond to market opportunities by providing technical assistance in locating available sites for development.
5. Encourage the activity of the community organizations, which work for sound economic development.
6. Preserve prime maritime industrial sites from pre-emptive uses until needed for industrial uses.
7. Protect identified aggregate resources until they are extracted, and plan for the reclamation and future productive uses of those sites.
8. Reserve valuable industrial sites for industrial uses.
9. Encourage the trade and service sectors and the recreation industry to insure greater revenue spending locally.
10. Support improvements in local conditions in order to make the area attractive to private capital investment. Consideration of such factors as the following shall be undertaken:
  - A. Tax incentives
  - B. Land use controls and ordinances
  - C. Capital improvements programming
11. Coordinate with public utility companies to insure energy supplies are available to areas programmed for development and redevelopment.
12. Encourage new industrial growth within the urban areas so as to utilize existing public facilities.
13. Encourage industry, which needs or can benefit from the locational advantages of an airport and its facilities, to locate adjacent to one of the airports in the County. Create an Airport Industrial district to facilitate this policy. *[added 7-93]*

Finding 62: The applicant addresses the Economy section of the Comprehensive Plan in

Exhibit L, pages 5-6. Staff finds that allowing the expansion onto the site would encourage continuous employment opportunities for 45 full time jobs. Expansion of the site will encourage local economic stability that will continue to encourage a stable and diversified economy. An indirect employment in supporting industries such as local merchants, trucking and construction further enhances the economy of the area. Continued mining operations would generate property taxes, extraction tax, and recapture of farm deferral payments, as well. Policy 7 applies to the entire site; specifically it states that identified aggregate resources should be protected until they are extracted. Staff finds no conflicts with the Economy section of the Comprehensive Plan.

Continuing with the Columbia County Comprehensive Plan:

Part XIII TRANSPORTATION

GOAL:

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

OBJECTIVES:

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

POLICIES:

1. The County shall undertake the development of a detailed transportation plan that should contain the following minimum elements:
  - A. The development of a road classification system.
  - B. The development of road standards for all different types of roads over which the County has jurisdiction.
  - C. The location of future arterial streets inside the urban growth boundaries.
  - D. Review the status of all county roads.
  - E. A review of all incorporated rights-of-way and a determination of whether or not the County should pursue the vacation of them.

- F. A study of ways to maintain and upgrade the current county road system.
2. The dedication of adequate rights-of-way to meet the standards set in the Transportation Plan shall be required of any person seeking a Zone Change, Conditional Use Permit, Subdivision, or Partition. The developer of a subdivision in an urban growth area will be required to make the appropriate improvements to any related street to meet the standards set in a Transportation Plan.
  3. Appropriate off-site improvements to county roads shall be required whenever a development results in a major increase in traffic on an existing county road.
  4. The County will work with the State Highway Department to limit the number of access points onto arterial roads. Direct access to U.S. Highway 30 will be limited as much as is practical in order to reduce the potential for congestion and conflicting traffic patterns, which would disrupt the flow of traffic.
  5. Industrial uses shall be encouraged to locate in such a manner that they may take advantage of the water and rail transportation systems, which are available to the County.
  6. The County will support reducing the number of rail crossings.
  7. The County will work with the Port of St. Helens to encourage the establishment and use of dock facilities.
  8. The two existing airports, in Scappoose and Vernonia, will be zoned with a landing field overlay zone that incorporates the height restrictions set by the Federal Aviation Administration. It will allow the development of airport related industrial uses.
  9. Restriction of the location of new pipelines and high voltage transmission lines to within existing rights-of-way will be encouraged whenever possible.
  10. The County will study proposals, when presented, to develop modes of transportation as an alternative to the automobile. If these proposals prove to be feasible, the County will work to implement them.
  11. Columbia County will continue to support the efforts of COLCO Transportation to supply public transit to the citizens of the County.
  12. Special attention will be given to the needs of the handicapped whenever the County considers a proposal for the provision of public transit.

**Finding 63:** The applicant has addressed this section of the Comprehensive Plan in Exhibit L, pages 7 - 8. The applicant's Traffic Impact Analysis was conducted in June 2004. The applicant provided additional data that concludes that the traffic has not changed appreciably since that time period. The applicant finds that since the site will not generate an increase in traffic, it is

consistent with this section.

Staff disagrees with the applicant because additional tonnage of aggregate extracted and processed results in more aggregate being shipped either via barge on the canal and river, or by truck on the highway. Therefore, Staff find that the applicants assumptions are not stated clearly for modeling purposes. For these reasons staff does not agree that the applicant meets the transportation section of the Comprehensive Plan. Based on the County Public Works Director's memo 10/21/04 (See Attachment 14) and the Director's memo of 11/01/04 (See Attachment 13) the County will require additional road improvements to Honeyman and West Lane Roads as specified by the County Public Works Director or make a payment of cash in lieu of those improvements as detailed in condition of approval 35..

Continuing with the Columbia County Comprehensive Plan:

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

**SURFACE MINING**

**GOAL:**

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

**POLICIES:** It is the policy of the County to:

1. Develop an on-going program to determine the quality, quantity, location, and type of mineral and aggregate resources in the County so that up-to-date material will be available to make informed decisions.
2. Consider the preservation of aggregate material in all its land use actions.
3. Pay special attention to any development adjacent to mineral and aggregate resources and take the necessary steps to minimize the impacts of development on these resources.
4. Recommend the establishment of an ad hoc committee to review inactive and undeveloped sites identified in the surface mining inventory and make recommendations as to whether or not the sites should be zoned Surface Mining (SM) and protected upon application of the Goal 5 process.
5. Designate as Surface Mining (SM) those sites with current active mining and land reclamation permits as of January 20, 1984 and the one inactive but proposed 700-acre site in the Scappoose area. Change, upon completion of mining activities, those sites that will revert to uses as indicated in the reclamation plan or to uses compatible with surrounding lands.
6. Designate new mining deposits not shown on the existing inventory as Surface Mining when a report is obtained from a certified geologist, engineer/geologist, or qualified engineering testing firm verifying the location, type, quality, and quantity of the material

- and when other steps of the Goal 5 process are satisfied.
- 7. Encourage timely utilization of mining resources to protect the site from incompatible development on adjacent lands.
- 8. Require that all sites proposed for surface mining be inventoried for their archaeological significance in accordance with standards set by the State Archaeologist. If an archaeological site(s) is discovered, the Planning Commission shall hold a public hearing to review the site(s) and establish measures to mitigate potential conflicts as necessary.
- 9. Retain in its possession lands it now owns which contain aggregate material. The County may permit private operators to mine county materials.
- 10. Require that proposals for new extraction operations be accompanied by detailed plans of the method of operation and assurances that the area will be suitably reclaimed for uses designated by the plan.
- 11. Require that once mining and/or associated activities (i.e. rock crushing) have begun they shall be in accordance with state standards and any more stringent standards that the County may enact. In particularly sensitive areas, such as forestry, residential, agricultural, or wildlife habitat, the mining and associated operations shall be subject to more restrictive standards to keep noise, dust, erosion, and other hazards to a level compatible with the adjacent uses. Such standards may include requirements for barrier isolation, setbacks, operating times, concomitant reclamation, limits to active mining area, mining lifetime, water quality, and restrictions on on-site processing.
- 12. Prohibit extraction of sand and gravel from rivers and streams unless appropriate regulating agencies such as the Oregon Department of Environmental Quality, Department of Fish and Wildlife, Oregon State Land Board, Division of State Lands, Corps of Engineers, and Columbia County are in agreement and there is no other economically feasible alternative.
- 13. Make all possible efforts to insure the retention of riparian habitat, the prevention of erosion and sedimentation, and maintenance of water quality, which exists prior to extraction operations.
- 14. Insure that extraction operations approved by the County and other regulating agencies do not screen and wash within any river or stream. In addition, settling ponds shall not discharge directly into any watercourse.
- 15. Require, as a minimum standard, that extractive industries have access to a public road with two-way capability. As allowed by ORS 487.905, the County may impose weight/load restrictions and may also require the operator to post an adequate surety bond for road repairs.
- 16. Encourage DOGAMI to conduct a comprehensive inventory of the mineral resources. Upon completion of this study, the County shall up-date zoning and other implementing ordinances to accommodate newfound resources.



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

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

**Finding 64:** The applicant addresses the surface mining policies of the Comprehensive Plan in Exhibit L, pages 8 - 13. Staff finds that the site is a significant aggregate site considering quality, quantity and location. Detailed plans describing the methods of operation and reclamation of the site are included in the application in the Mining Plan, Exhibit 4. These are preliminary in nature however the applicant commits to providing more detailed reclamation plan, especially showing the setbacks of mining from the riparian corridor and the associated berm along Santosh Slough, with the surface mining application for the site. Staff finds the application is consistent with all of the surface mining policies of the Comprehensive Plan.

Continuing with the Columbia County Comprehensive Plan:

**Part XVIII AIR, LAND, AND WATER RESOURCES**

**GOAL:**

To maintain and improve land resources and the quality of the air and water of the County.

**POLICIES:** It shall be the policy of Columbia County to:

1. Work with the appropriate State and Federal agencies to insure that State and Federal water, air, and land resource quality standards are met.
2. Comply with all applicable State and Federal standards and regulations regarding noise pollution.

**Finding 65:** There is a conflict with noise and a conflict with air quality, 'dust' as a result of the project. The applicant has addressed these criteria in Exhibit B ,Noise Study; Exhibit C, Air Quality Study; Exhibit L, Comp Plan Policy; as well as in Exhibit H ,Goal 5 Resource. Staff finds the site would be consistent with the above standards with the proposed mitigation measures in place.

**Following with the Surface Mining Ordinance (SMO):**

**Section 8.3. Operating Setbacks.**

Each surface mining site shall be in compliance with the following setbacks:

- (1) No extraction or removal of minerals is permitted within fifty (50) feet of the rights-of-way of public roads or easements of private roads.

(2) No extraction or removal of minerals is permitted within fifty (50) feet of another property, nor within two hundred (200) feet of a residence or zoning district which allows a residence as a permitted or conditional use without the prior written consent of the affected property owner(s).

(3) Processing equipment, batch plants, and manufacturing and fabricating plants shall not operate within fifty (50) feet of the rights-of-way of public roads or easements of private roads.

(4) Processing equipment, batch plants, and manufacturing and fabricating plants shall not be operated within fifty (50) feet of another property, nor within one hundred and fifty (150) feet of a residence or zoning district which allows a residence as a permitted or conditional use, without the prior written consent of the affected property owner(s).

(5) Stockpiling of materials and sedimentation ponds shall not be located closer than twenty-five (25) feet to the boundary line of the surface mining site or the right-of-way of any existing public road.

(6) Conveying and transporting equipment are exempt from these setback requirements.

(7) When excavation is completed adjoining a setback, the setback area shall be smoothed, all excavation debris removed, and all trees which are in an unsafe condition removed.

(8) Wherever an excavation site is within two hundred (200) feet of a public road, or within two hundred (200) feet of a residence or zoning district which allows a residence as a permitted or conditional use, a fence to control access shall be maintained in accordance with the conditions prescribed by the Board upon the recommendation of the Administrator.

[Enacted by Ordinance No. 90-11]

**Finding 66:** Staff finds that the application indicates there will be no excavation or removal of aggregate within fifty (50) feet of the rights-of-way of public roads or easements of private roads or another property. Staff finds that the application does indicate aggregate excavation and removal within two hundred (200) feet of zoning district which allows a residence as a permitted or conditional use, therefore this proposal does not meet the criteria in 8.3(2) above. There will be no processing of aggregate on the subject property. All processing of mined aggregate will take place at the NW Aggregate facility to the west of the subject property across Honeyman Road. The application does not indicate stockpiling of materials or sedimentation ponds therefore these features will not be located within 25 feet to the boundary line of the surface mining site or the right-of-way of any existing public road. The mined aggregate will be transported off-site by an electric drag line conveyor, located in the center of the subject property, to the NW Aggregates processing facility where it will be processed and transported to market. Conveying and transporting equipment are exempt from the setback requirements. The application states that the 50 foot setback area will have constructed berms and, "The slopes will be planted for stabilization ... ." and "Berms that were created and vegetated during the operational life of the mine will be retained as part of the reclamation." The application states that active mining areas will be protected by a perimeter 6' high chain link fence. The criterion is not met and must be complied with should the application be approved.

#### Section 8.4. Variances to Setback Requirements.

Subject to the procedures set forth in Section 2.5 above:

(1) The Board may grant a variance to the setback requirement when adjoining property is zoned for surface mining and no flood hazard would result.

(2) The Board may grant a variance to the setback requirement whereby the

excavated area will be refilled with other material which will neither decompose nor pollute underground waters.

(3) The Board may grant a variance to the setback requirement in order to reduce the elevation of a surface mining site to the grade of an adjoining public street or road.

(4) Notwithstanding the above, all operators shall allow for the widening of existing public roads when the excavation is at a lower level than the public road right-of-way.

[Enacted by Ordinance No. 90-11]

**Finding 67:** The applicant has not applied for a variance to setbacks at this time.

#### **Section 8.5. Visual Impacts.**

Existing trees and other natural vegetation adjacent to any public park, residential development, public road, or residential zoning district shall be preserved for a minimum width of twenty-five (25) feet. Screening shall be provided at the boundary of the surface mining site. If such trees and other vegetation are insufficient to provide a screen, such screening may be accomplished by one or more of the following:

(1) A sight-obscuring fence or wall;

(2) A landscaped berm or preservation of a natural slope; or

(3) Use of native vegetation, or plants and trees with demonstrated ability to thrive under the anticipated conditions.

[Enacted by Ordinance No. 90-11]

**Finding 68:** The "Phasing & Mining Operating Plan", Plate 3, indicates visual berms of an average 6 feet in height along the northeast corner, entire east side, and southwest corner of the subject property. The applicant indicates that, "berms will be planted with groundcover, shrubs, and/or trees to protect against erosion." Staff finds that several natural wetland areas will remain which will also help to mitigate visual impacts from mining. Staff finds that this criteria is met.

#### **Section 8.6. Access.**

The surface mining site shall have access to a public road with two-way capacity. The Board may impose weight/load restrictions and/or require the landowner or operator to post an adequate surety bond for road repairs. Any access or service road used for mining shall be dust-free at all points within three hundred (300) feet of a public road or residence off the surface mining site. If surface mining is the primary cause of traffic on an unpaved public road, that road shall be kept dust-free within three hundred (300) feet of any such residences.

[Enacted by Ordinance No. 90-11]

**Finding 69:** The applicant indicates a new access to the subject property from Honeyman Road. Honeyman Road is a public right-of-way with 2-way access. The proposed new access and service road will provide access for 1 - 2 front-end loaders, a bulldozer, water truck, and a service truck. The site access point will be located close to the place where the conveyor system goes under Honeyman Road which is near the northern corner of the western boundary of the subject property (See Figure 6 of 'Traffic Impact Analysis' report regarding 'Site Access/Sight Distance') fronting on Honeyman Road. A condition of approval shall be that the applicant shall keep the access/service road dust-free at all points within three hundred (300) feet of a public road or residence off the surface mining site. The Board of Commissioners may impose weight/load restrictions and/or require the landowner or operator to post an adequate surety bond for road repairs per the Board's discretion. The applicant does not intend to utilize the access

road to transport mined aggregate since a drag-line conveyor belt system will be used to transport the mined aggregate across the subject property, under Honeyman Road, to be processed at the Northwest Aggregates processing facility where it will then be transported via barge or truck to the marketplace. The applicant's Air Quality Evaluation Report suggests dust control measures to include: gravel the access road and periodically water to control dust; Mine is phases to minimize the size of disturbed areas; post a 10 mph speed limit for all on-site vehicles; use conveyors to transport aggregate off-site; water disturbed areas during dry-weather operations as necessary to control dust; vegetate stored overburden as necessary; periodically wash away any dust or mud tracked onto Honeyman Road; vegetate any perimeter berms constructed to minimize dust movement; and maintain 200 foot setbacks from residences. The criteria are met provided dust control within the 300 feet of a public road and residence off of the mining site consistent with the applicant's Air Quality Report is carried out.

**Section 8.7. Parking.**

Vehicular parking off public roads shall be available for employees, customers, and visitors at the surface mining site. All parking facilities for employees, customers and visitors shall be located within the boundaries of the surface mining site.

[Enacted by Ordinance No. 90-11]

**Finding 70:** The applicant does not intend to park vehicles on-site other than for the operators of equipment on-site.

**Section 8.8. Water Quality.**

All surface mining sites shall be operated in a manner which meets current D.E.Q. regulations with respect to water quality. In addition, the landowner or operator shall not cause contamination of groundwater or change a stream channel unless the channel change has previously been approved by all applicable state and federal agencies.

[Enacted by Ordinance No. 90-11]

**Finding 71:** The applicant has submitted a 'Hydrology Impacts Evaluation, Goal 5' report addressing water quality and potential mining impacts to surface water and ground water; and flood threats and flood risk. In a letter from DEQ, Water Quality Division, to the US Corps of Engineers dated 05/04/04 in regards to this application DEQ has stated that, "Based on information provided by the applicant, DEQ does not anticipate any long-term violations of State Water Quality standards..." A condition of approval of this Plan Amendment shall be that the applicant meet all D.E.Q. regulations with respect to water quality.

**Section 8.9. Erosion Control.**

The erosion of surfaces affected by mining activities shall be controlled during the surface mining by plantings of ground cover and other modes which protect these surfaces as provided by an approved reclamation plan.

[Enacted by Ordinance No. 90-11]

**Finding 72:** The applicant has addressed erosion control on both Plate 3, Phasing & Mining Operating Plan; and Plate 4, Conceptual Reclamation Plan, which indicate that, "The Shoreline will be planted to protect against erosion." and that "Berms will be planted with groundcover, shrubs and/or trees to protect against erosion." The applicant has also addressed erosion of overburden storage piles and states in Exhibit C, 'Air Quality', Section 3.4 Dust Control. Measures, that the applicant will, "Vegetate stored overburden as necessary." Staff find that the applicant has adequately addressed provisions for erosion control.

The following are comments that have been received from citizen groups, government agencies or nearby property owners.

**CORRESPONDENCE OF RECORD:**

NO	Date Rec'd.	FROM	COMMENT
1	06/17/04	DLCD	Periodic Review Goal 5 Order 001638 Approval
2	09/09/04	Port of St. Helens	Letter of Support
3	09/14/04	County Sanitarian	Septic Systems Must be Decommissioned
4	09/15/04	Watermaster, Dist.18	No Objection
5	09/09/04	Roadmaster	Conditions of Approval
6	09/15/04	Scappoose Drainage Co.	Recommended Conditions
7	10/04/04	Soil & Water Con. Dist.	No Objection
8	10/04/04	Tim Ramis	Additional Information
9	10/13/04	DOGAMI	Potential Flooding Discussion
10	10/12/04	Scappoose CPAC	Recommend Denial or Conditions met
11	10/20/04	Tim Ramis	Update 10/5 Ltr RE: 200 ft. Setbacks Ltr.
12	10/21/04	Vera Roth & TimRamis	Special Power of Attorney
13	11/01/04	Public Works Director	Traffic Impacts & Condition
14	10/21/04	Dave Hill	Traffic Impacts & Condition
15	01/12/05	Scappoose CPAC	CPAC Comments

No other comments have been received from citizen groups, government agencies or nearby property owners as of the Planning Commission deliberations and recommendation, November, 1, 2004, or the date of this staff report January 12, 2005.

**STAFF AND PLANNING COMMISSION COMMENTS, CONCLUSIONS AND RECOMMENDATIONS:**

Based upon the findings of this report, the major decision points associated with the Goal 5 process and this particular PAPA application are as follows:

Determine whether the PAPA application is complete and adequately addresses the criteria in the County Comprehensive Plan and all Goal 5 amendments as stated in Ordinance No. 2003-5.

Staff and Planning Commission finds the application is complete and adequately addresses the relevant criteria.

Determine whether the aggregate resource is significant. Staff and Planning Commission finds the aggregate resource site meets the criteria in the County Comprehensive Plan and Amendments regarding quantity, quality and location of the resource and is a significant aggregate site.

For significant aggregate sites, local governments shall decide whether mining is permitted by evaluating the criteria in the County Comprehensive Plan. Staff and Planning Commission finds that mining should be permitted according to the above criteria.

Assuming mining is approved, the applicant must identify future conflicting uses and conduct a second ESEE analysis. (See Exhibit K). The local government must then decide to allow, limit, or prohibit new off-site uses within the impact area that may conflict with mining. Staff and Planning Commission finds that conflicting uses would be limited within the 1500-foot impact area from the site by the implementation of a Surface Mining Impact Overlay zone (SMIO) to be administered by the County.

Assuming mining is approved and future conflicting uses are limited, the applicant must establish a program for achieving Goal 5. The applicant has included a program for achieving Goal 5 in Exhibit H.

**PLANNING COMMISSION CONCLUSION & RECOMMENDATION**

The Planning Commission reviewed and discussed the application during a public hearing on November 1, 2004 and finds the PAPA application is complete and the Goal 5 process has been sufficiently satisfied. Therefore the Planning Commission forwards their recommendation of APPROVAL to the Board of County Commissioners of this Bates and Roth Post Acknowledgment Comprehensive Plan Amendment and Zone Change to allow surface mining on the subject property, with the following conditions:

**PROPOSED CONDITIONS  
BATES & ROTH SITE**

- 1) The Applicant shall reclaim the site in accordance with County standards as depicted in the Conceptual Reclamation Plan or as approved by the Board of Commissioners. The required post mining use shall be fish and wildlife habitat with pond(s).
- 2) Prior to mining, the Applicant shall obtain an Operating Permit and Site Design Review for the site, as required to satisfy the requirements of the Columbia County Surface Mining Ordinance and Zoning Ordinance.
- 3) The Applicant shall provide vegetated berms and fencing on the site as depicted on the Mining and Reclamation Plan and Conceptual Reclamation Plan. Six-foot chain link fences shall be installed, protecting active mining areas.
- 4) The Applicant shall surface the access road with gravel.
- 5) The Applicant shall water the access road to control dust as needed.

- 6) The Applicant shall post a 10-mph speed limit for all on-site vehicles.
- 7) The Applicant shall water all disturbed areas during dry-weather operations when bulldozers and/or front-end loaders are operating.
- 8) The Applicant shall spray water on the conveyor at all transfer points, as needed.
- 9) The Applicant shall maintain existing trees within 25 feet of a residential zoning district (excluding hybrid cottonwood trees, agricultural crops or berm areas) and shall vegetate perimeter berms when constructed. The applicant shall vegetate overburden stored on site, as needed.
- 10) The Applicant shall wash away any dust or mud tracked onto Honeyman Road as needed.
- 11) The Applicant shall limit hours of operation to 7:00 a.m. to 6:00 p.m., Monday through Sunday.
- 12) The Applicant shall observe minimum extraction setbacks of 50 feet from public rights-of-way (Honeyman Road) and from the riparian corridor along the Santosh Slough on the east side of the site. Extraction setbacks shall be 200 feet from any zone which allows residences as permitted or conditional uses, unless a variance to these setbacks is applied for and approved or consent to reduce the setback received from adjoining property owners.
- 13) The Applicant shall not allow stormwater to be discharged offsite. For purposes of this condition, "stormwater" shall include "upwelling groundwater".
- 14) The applicant shall provide for stormwater/erosion considerations along the Santosh Slough in accordance with the U.S. Army Corps of Engineers and Oregon Division of State Lands permit requirements. The Applicant will be required to install a silt fence for protection of stormwater/erosion considerations along both sides of the Santosh Slough in accordance with Exhibit H in the application.
- 15) The Applicant shall not store fuels or other contaminants onsite.
- 16) In the event that prehistoric or historic cultural materials are encountered on the site the archaeology consultant, SHPO and the appropriate tribes shall be notified, and a qualified archaeologist shall be called in to evaluate the discovery and recommend subsequent courses of action in consultation with the tribes and SHPO.
- 17) Operations at the site shall comply with the applicable noise standards of the Department of Environmental Quality. The applicant shall submit an annual report based upon noise level meter readings.
- 18) The Applicant shall be required to construct noise berms along the north and east sides of the site boundaries in accordance with Exhibit B, and Plates 3 and 4 in the application.
- 19) The Applicant shall be required to construct an six-foot-high visual berm along both sides of Honeyman Road on the west end of the subject property; and along Honeyman Road on the northern and eastern boundaries of the site, and all locations as depicted on Exhibit B, and Plates 3 and 4 in the application.

- 20) The slopes of the ponds will be contoured (cut) during the excavation process rather than deposition of fill material, with a safety bench that will be excavated to allow safety egress from the ponds. Gradients shall be constructed to provide slope stability and safe egress from excavated ponds in accordance with the Phasing & Mining Operating Plan in Exhibit 4 (Plate 3) of the application as follows - Slopes will be 2:1 (horizontal to vertical) above the water, with a 5-foot wide bench in shallow water, slopes of 1 1/2:1 (horizontal to vertical) from the bench to -75 MSL, and 1:1 (horizontal to vertical) from -75 MSL to approximately -100 MSL.
- 21) Applicant shall provide a legal description of the subject property to be rezoned to Surface Mining, prior to final approval of the Board of County Commissioners.
- 22) Applicant shall follow the recommendations of the traffic consultant to provide a safe visual distance at the access point on Honeyman Road. (Exhibit F); and shall place "Trucks" warning signs in both directions in advance of the proposed site driveway along Honeyman Road in accordance with the traffic engineer's recommendations in Exhibit F of the application.
- 23) Any required berms near riparian or wetland areas pursuant to this plan amendment shall be located in accordance with U.S. Army Corps of Engineers and Oregon Division of State Lands permit requirements. Any berms required pursuant to this plan amendment shall be located outside any applicable riparian or wetland setback areas as depicted in exhibit 4, plate 3.
- 24) The applicant shall comply with all requirements of the U.S. Army Corp of Engineers and Oregon Division of State Lands, and obtain any permits required by such agencies.
- 25) Prior to beginning mining operations on the site, the Applicant shall provide and implement a ground water monitoring program required and approved by U.S. Army Corps of Engineers and described in the Hydrology Impact Evaluation in Exhibit E of the application. The monitoring program includes: measurement of groundwater elevations in on-site wells; surface water elevation in Santosh Slough on or adjacent to the site; mine pool water levels; and automated readings at approximately 1-hour intervals. The monitoring program further includes accumulation and management of data, including precipitation and river levels, and analysis of the data to evaluate whether mine water levels behave differently than ground water levels. The monitoring program provides for annual reporting to the U.S. Army Corps of Engineers. When mining commences, the monitoring program also provides for the Applicant to compensate the SDIC for demonstrated increase in costs for pumping caused by mining of the site.
- 26) A construction permit will need to be obtained for any work being completed within the County road right of way and under the County right of way.
- 27) Construction plans will need to be submitted prior to the start of any work within the County right of way, these plans will need to detail the planned construction of a tunnel under Honeyman Road. No construction shall begin until these plans have been approved by the County Roadmaster.
- 28) All access points for this property will need to have access permits issued for them. As the points of access will involve commercial operations and large trucks, each access point will be evaluated for its usage to determine proper size over and above the normal driveway access apron.



- 29) During Construction., the applicant will need to keep Honeyman Road clear of debris and other construction related materials.
- 30) All septic systems must be decommissioned as per OAR 340-71-185 before operations are to begin.
- 31) Maintenance and work on mining equipment, creating significant off-site noise, will be limited to hours of operation 7:00 AM to 6:00 P.M Monday through Sunday.
- 32) The applicant will comply with Department of Environmental Quality (DEQ) regulations regarding water quality.
- 33) If it is determined that any portion of the Bates Roth mining site area is within the 1500 foot impact area of any existing mining sites in the area, the Applicant shall record a covenant agreeing not to sue for impacts related to the lawful conduct of mining on those sites.
- 34) The applicant shall construct a berm 15' above MSL on the west side of Santosh Slough and in the Phase 1B area of the property.
- 35) Within two (2) years from commencement of aggregate mining on the site, the Applicant shall pay the County \$60,000 in cash or usable rock for road improvements to West Lane Road and/or Honeyman Road. The Director of the Columbia County Road Department shall make a written determination of the amount of rock from the Bates Roth Pit that will be useful in the planned improvements to West Lane Road and/or Honeyman Road. The Applicant may provide to the County the amount of rock as the Director determined would be useful, which shall be valued at the then current market rate. The value of the usable rock supplied to the County shall be deducted from the \$60,000 road improvement fee.

At the time that Applicant pays the \$60,000 road impact fee the Applicant shall also prepay fees which will become due under the County's Natural Resources Depletion Fee Ordinance in the amount of \$60,000.00. These fees will be placed in the County's Road Fund and dedicated to the repair and improvement of West Lane Road and/or Honeyman Road. Applicant shall not be entitled to interest on the pre-paid depletion fees. Applicant shall continue to make monthly reports as required by the Natural Resources Depletion Fee Ordinance and shall otherwise comply with all provisions of the Natural Resources Depletion Fee Ordinance. Such payment shall be used for road improvements to West Lane Road and/or Honeyman Road. The Director of the Columbia County Road Department shall make a written determination of the amount of rock from the Bates Roth Pit that will be useful in the planned improvements to West Lane Road and/or Honeyman Road. The Applicant may provide to the County the amount of rock, or portion thereof, as the Director determined would be useful, which shall be valued at the then current market rate. The value of the usable rock supplied to the County shall be deducted from the \$60,000 depletion fee credit.

CC:

Bates & Roth  
Tim Ramis, Attorney  
Assistant County Counsel, Sarah Tyson

Attachments: Application Packet  
Correspondence of Record