

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance Amending )  
 the Yamhill County Comprehensive Plan )  
 (1974) to Change the Designation from )  
 "Agriculture/Forestry Large Holding" to )  
 "Quarry", to Amend the Official Zoning )  
 Map from "AF-20 Agriculture/Forestry" )  
 to "MR-2 Mineral Resource" on )  
 Approximately 80 Acres, Tax Lot )  
 5423-1202; Applicant C.C. Meisel Co. )  
 Inc.; Planning Docket PAZ-5-93; )  
 and Declaring an Emergency. )

ORDINANCE 679

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in formal session on March 9, 2000, Commissioners Ted Lopuszynski and Thomas E. E. Bunn being present, and Commissioner Robert Johnstone excused.

THE BOARD MAKES THE FOLLOWING FINDINGS:

- A. An application was made by C.C. Meisel Co. Inc. ("Applicant") to the Department of Planning and Development (Planning Docket PAZ-5-93) for a Comprehensive Plan Map amendment from "Agriculture/Forestry Large Holding" to "Quarry", and a zone change from "AF-20 Agriculture/Forestry" to "MR-2 Mineral Resource" on approximately 80 acres, tax lot 5423-1202 approximately three miles east of the city of Amity on the north side of Amity Road (State Highway 153); and
- B. On April 6, 1995 the Yamhill County Planning Commission held a public hearing to consider the application and continued the matter to May 4, 1995, at which time the Planning Commission voted unanimously to recommend denial of the application, and referred the matter to the Board of Commissioners; and
- C. On October 18, 1995, the Board held a public hearing on the application at which testimony and evidence was received and the Board remanded the application back to the Planning Commission to consider additional information submitted by the applicant regarding the water issue; and
- D. On January 4, 1996, the Yamhill County Planning Commission held a public hearing on

reconsideration and voted 4-3 in favor of recommending approval of the application and referred the matter to the Board of Commissioners; and

E. On January 31, February 7, February 21, and April 3, 1996, the Board held public hearings on the application at which testimony and evidence was received and following the close of the hearing and the record, the Board deliberated and voted unanimously to tentatively approve the application for the comprehensive plan amendment and zone change, and directed staff to prepare an Ordinance and Findings in support of approval; and

F. On August 28, 1996, the Board adopted the Findings of Approval and Ordinance 614 approving the application with conditions, and this Ordinance with its accompanying Findings are hereby incorporated by reference; and

G. The Board's decision was appealed to the Land Use Board of Appeals and remanded to the County by LUBA's decision in *Sanders, et al v. Yamhill County*, LUBA No. 96-173, 34 Or \_\_\_\_\_ (February 5, 1998). The LUBA decision provided eight specific points that the County needed to address in a remand proceeding; and

H. The County sent out notice regarding the remand proceeding in November 1999 and then re-sent notice in December 1999, setting the hearing for January 27, 2000, and

I. The duly noticed public remand hearing was held and appropriate facts and arguments were heard from all parties and their representatives; and the Findings and conclusions attached hereto as Exhibit "A" and incorporated herein by this reference provide a justification for approval of this application.

WHEREAS, the attached Exhibit "A" demonstrates that the proposed amendment to the Yamhill County Comprehensive Plan, Plan Map, and Official Zoning Map of Yamhill County are in the best interests of the citizens of Yamhill County; Now Therefore,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. The Yamhill County Comprehensive Plan and Plan Map (1974) are hereby amended as specified in the attached Exhibit "B", made part of this ordinance by reference, to reflect a plan designation of "Quarry" on the 80 acres known as tax lot 5423-1202 as more particularly described and shown in Exhibit "B".

Section 2. The Official Zoning Map of Yamhill County is hereby amended to add the limited use overlay as specified in the attached Exhibit "B" to reflect a zoning designation of "MR-2 Mineral Resource".

Section 3. The Findings attached as Exhibit "A" and incorporated herein by reference are hereby adopted in support of this ordinance.

Section 4. This ordinance being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective upon passage.

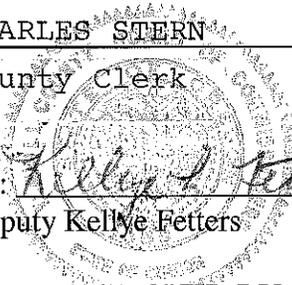
DONE at McMinnville, Oregon this 9th day of March, 2000.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN

County Clerk



By: Kellye Fetters  
Deputy Kellye Fetters

Ted Lopuszynski  
Chairman TED LOPUSZYNSKI

Thomas E. E. Bunn  
Commissioner THOMAS E.E. BUNN

FORM APPROVED BY:

Rick Sanai  
Rick Sanai  
Assistant County Counsel

Not available  
Commissioner ROBERT JOHNSTONE

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**Exhibit "A"**

Findings for Approval; C.C. Meisel (Stephens Quarry), LUBA No. 96-173, Docket PAZ-05-93

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**REMAND HEARING DATE:** January 27, 2000

**DOCKET NO:** PAZ-5-93

**REQUEST:** Amendment to the Comprehensive Plan Map from "Agriculture/Forestry Large Holding" to "Quarry", and a zone change from "AF-20 Agriculture/Forestry" to "MR-2 Mineral Resource" as indicated in the map appended as Exhibit "B".

**APPLICANT:** C.C. Meisel Company, Inc.

**OWNERS:** C.C. Meisel Company, Inc.

**TAX LOT:** 5430-1202

**LOCATION:** Approximately 3 miles east of the city of Amity, to the north of Amity Road (Highway 153) and Burch Hill Road.

**LOT SIZE:** About 80 acres

**CRITERIA:** YCZO 904.04; Goal 6, solely as related to water availability for dust suppression at petitioner's portable rock crusher, as described above; Transportation Planning Rule; Goal 12; OAR 660-12-060(1); OAR 660-16-000(3) (limited to the comparison and quality and quantity issues outlined above); Goal 5 and OAR 660-16-005 (limited to noise impacts on resources within the impact area as described above); YCZO 404.08; and ORS 215.296(1).

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**FINDINGS:****Background Facts**

The original findings are found in Yamhill County Ordinance #614 and are incorporated here by reference. The original decision was remanded by the Land Use Board of Appeals (LUBA). These findings will deal only with the eight subjects of the remand.

The matter was remanded to the County by LUBA's decision entitled *Sanders, et al v. Yamhill County*, LUBA No. 96-173, 34 OR LUBA \_\_\_\_\_ (February 5, 1998). The LUBA decision provided eight specific points that the County needed to address in a remand proceeding. The County sent out notice regarding the remand proceeding in November 1999 and then resent notice in December 1999, setting the hearing for January 27, 2000. The hearing notice limited the remand proceeding solely to those items which LUBA, in its remand decision,

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indicated were incorrectly implemented (*e.g.*, lacked proper findings) by the County in its initial 1996 decision. The County's hearing notice stated:

"The hearing will be limited to accepting evidence and argument regarding only the following issues that formed the basis of the LUBA remand: [issues listed]."

Prior to the hearing, the applicant, C.C. Meisel, provided additional evidence addressing each of the eight issues set out in the LUBA decision and the County's notice. C.C. Meisel submitted additional evidence at the hearing. Also at the hearing, opponents, Steve and Jamie Sanders, represented by attorney Corinne Sherton, provided additional testimony. Also testifying were Mr. George Moraru and Ms. Robin Wheeler. Testimony at the hearing was limited to the eight issues identified in the LUBA opinion and identified in the County's public hearing notices. Evidence not directed to the eight issues was not accepted.

**Remand Issue No. 1: Amendment Of County's Official Zoning Map To Show Limited Land Use Overlay.**

We find that one basis for LUBA's remand of our prior decision was that the limited use overlay district on the application site had not been clearly placed on the County's official zoning map. *Sanders, et al v. Yamhill County*, LUBA No. 96-173, 34 OR LUBA \_\_\_\_\_ (February 5, 1998) Slip Op. at 19. We find that C.C. Meisel has requested that the official zoning map be annotated to reflect the limited land use overlay. We also find that the opponents (the Sanders, through their attorney Ms. Sherton), also agree that adding the zoning designation to the map is appropriate. We find that our planning staff advised us orally at the hearing that the County's normal policy is to list limited land use overlay on the zoning map and provide a brief description of the limited use overlay to provide basic information about the overlay to individuals who may be reviewing the zoning map. As part of our decision, we specifically order that the limited land use overlay be placed on the official zoning map of the county in conformance with the County's standard practice, as indicated in the attached map, marked Exhibit "B".

**Remand Issue No. 2: Water Availability For Dust Suppression At The Petitioner's Portable Rock Crusher.**

In its remand order, LUBA stated that it could not find sufficient evidence to support the County's conclusion that there was adequate water for dust suppression. LUBA specifically stated that to determine whether adequate water was available to protect air quality (related to the portable rock crusher), the County must "compare the amount of water it finds will be available and the amount of water it finds will be needed." *Sanders, et al v. Yamhill County*, LUBA No. 96-173, 34 OR LUBA \_\_\_\_\_ (February 5, 1998) Slip Op. at 23. We find that C.C. Meisel conducted substantial rock crushing operations during the summer of 1998. We find that the crushing was significant, used C.C. Meisel's portable crushing equipment and lasted over a period of approximately four months. We further find that C.C. Meisel observed its specific

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water quality needs for dust suppression as well as the amount of water necessary to satisfy those needs in a manner sufficient to ensure the necessary quantity of water was available for adequate dust suppression to meet DEQ standards. We find that the use of the existing Stephens Quarry processing and the use of actual equipment installed at the site provide an accurate basis for determining the amount of water necessary for dust suppression at the portable rock crusher. We find that water usage for dust suppression averaged 500 gallons per operating hour. We find that this was a worst case scenario. We find that the applicant has a 10,000-gallon water storage tank on site, that the tank is functional in all respects and that the tank is specifically provided for the purpose of supplying water for dust suppression on site. We further find that the company has significant backup tank capacity. We find the applicant owns one water truck with a 2,500-gallon capacity and has an affiliate with two additional trucks, with a combined capacity in excess of 7,000 gallons. We find that these trucks are available at all times to C.C. Meisel. We further find that C.C. Meisel purchases water from a municipal source at the McMinnville airport. We find that the source of water is a 45-minute roundtrip from Stephens Quarry, including filling the truck and transferring the water to the storage tank at the Stephens Quarry site. We find that at 500 gallons per operating hour, the existing 10,000-gallon tank can provide adequate water for dust suppression on site for a period of approximately 20 hours. We find that in that 20-hour period, C.C. Meisel can deliver an additional 26 2,500-gallon refills to the 10,000-gallon tank using just one of the available water trucks. We find that C.C. Meisel's smallest-capacity single truck has the ability, during the 20-hour reserve "life" of the tank, to deliver more than 65,000 gallons of water to the site. We further find that this 65,000 gallons can be delivered without using additional tanks or trucks that are available to the company. Opponents argue that more water is necessary for dust suppression (up to 6,000 gallons per hour). We find that the opponents' figures are taken from older air quality permit applications and are not as reliable as the company's own on-site "actual operating method-actual operating equipment" observations during a four-month crushing season. We find C.C. Meisel's actual operating experience to be persuasive and we find the actual need for water at the site to protect air quality averages 500 gallons per operating hour. We further find that C.C. Meisel has credibly demonstrated that it has the ability to deliver many times the actual amount of water necessary to protect air quality to the site. Even if the highest number used by the opponents (6,000 gallons per hour) was deemed to be the actual water need on the site, we find that C.C. Meisel has more than enough available truck capacity and available tank capacity to meet this "need." We find that the company has more than 9,000 gallons of truck capacity and more than 20,000 gallons of water storage tank capacity that is available to it. We find that the available truck capacity can deliver more than 9,000 gallons of water per hour at the site, given a 45-minute roundtrip from the available municipal water source. We further find that if necessary, the company could take, without a permit, up to 5,000 gallons of groundwater each day to supplement water available for dust suppression purposes. We find that the company has not proposed to use groundwater, but we make this finding only to show that there is an additional "reserve" of on-site water that could be applied to dust suppression purposes. Based

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on the above findings, we conclude that adequate water will be available to protect air quality at the site.

**Remand Issue No. 3: Access To The South Of The Site.**

In the initial application, the applicant did not request additional access to the subject property from the south. In our initial decision, we did not grant such access. However, LUBA found that County's findings must address Goal 12 and the Transportation Planning Rule (as they would apply to access to the subject property to the south) in the event that additional access would be allowed to the south. In the alternative, LUBA stated that the County may impose a condition that requires that access be via the "intended" route through Stephens Quarry and require review under Goal 12 and the TPR when access to the subject property from the south is requested. *Sanders, et al v. Yamhill County*, LUBA No. 96-173, 34 OR LUBA \_\_\_\_ (February 5, 1998) Slip Op. at 29-30. We find that the applicant has provided a condition which would require access from the south portion of the site to be reviewed under Goal 12 of the Transportation Planning Rule. We find that the opponents, through their attorney Corinne Sherton, requested that the condition be implemented as a comprehensive plan amendment. We further find that no one offered additional evidence related to the transportation planning rule or Goal 12 and no party argued that additional Goal 12 analysis or transportation planning rule analysis would be necessary in the event the County adopted the condition. We find that the opponents' request for the condition to be implemented as a comprehensive plan amendment is not necessary and it is specifically rejected. We adopt the following condition as part of our approval which requires additional access to be subject to review under Goal 12 and the transportation planning rule:

"Access to the site will be from the existing access road to the northeast of the site, which connects to Walnut Hill Road. Additional access from Burch Hill Road to the south portion of the property shall not be developed at this time. In the event the applicant or the operator would require additional access from the south to Burch Hill Road, such additional access shall be subject to review under Goal 12 and the transportation planning rule."

**Remand Issue No. 4: Comparison Of Quantity And Quality Of Aggregate Resources On The Subject Property Relative To Other Aggregate Resource Properties In Yamhill County.**

In its opinion, LUBA stated:

"[T]he relevant question, which is not addressed by the challenged decision and which must be answered to the extent information is available or obtainable, is whether the aggregate resource on the subject property is comparable or superior in quality or quantity (or both) to the aggregate resource on properties already included in the County's Goal 5 inventory, regardless of their immediate availability for surface mining." *Sanders, et al v. Yamhill County*, LUBA No. 96-173, 34 OR LUBA \_\_\_\_ (February 5, 1998) Slip Op. at 33.

We find that the County received a detailed report related to the relative quality and quantity of mineral and aggregate resource sites in Yamhill County, prepared by David J.

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Newton & Associates, dated November 12, 1999 ("Newton Report"). We find that the Newton Report was prepared by two certified engineering geologists. We find the Newton Report, its exhibits and appendices, provide significant information about available mineral and aggregate resource sites in Yamhill County. We find that this information has been gathered from a number of sources including the County, the Oregon Department of Geology and Mineral Industries and various publications related to mineral and aggregate. We further find that the authors of the study conducted additional research to provide on-site reviews of quality and quantity issues. We find that the sites visited and considered by the authors were geographically distributed throughout the county. We find that the Newton Report assists us to understand the type of mineral and aggregate material available or produced at various sites within the County (e.g., basalt, sand and gravel, clay, etc.), the estimated quantity at various sites (in cubic yards), the estimated quality at various sites, and provides us with a description of the type of products that are produced or could be produced at the various sites. We find that the Newton Report reviewed more than 50 sites within the county. We find the Newton Report to be informative, credible and persuasive. In addition, we find a separate letter report from Kuper Consulting LLC ("Kuper Report") dated January 25, 2000. We find that the Kuper Report is of significant assistance to us in understanding the quality and quantity issue. We find that the Kuper Report follows up with the Newton Report and discusses the 56 aggregate resource sites listed on the Yamhill County inventory.

We note that although individual sites have numbers up through "76," there are not 76 sites on the County inventory. Rather, the sites are not numbered consecutively (e.g., there are no Nos. 15-19 or Nos. 33-38, etc.) and there are only 56 sites on the county inventory. We find that the Newton and Kuper Reports discuss these sites and provide assessment of the quality and quantity of these mineral and aggregate resource sites in the county. We also find that the Kuper Report provides a map showing the County's inventory sites that have been visited by the report's author. We found that the sites that have been visited are geographically dispersed throughout the county. We find that the Kuper Report also reviews an exhibit placed before the county in the prior proceeding showing "potential" aggregate sites on a map. We find that many of the "potential" sites shown on this map are clay-mining sites which is a different type of mineral resource than aggregate and, therefore, not comparable to the Stephens Quarry site. We find that the Kuper Report's author visited at least 18 sites in the county that are active mine sites and five other sites in the county that are closed. The Kuper Report concludes, and we find, that there are three sites in the county that are comparable to the Stephens Quarry expansion site in terms of quantity.

We base our quality findings in part on the Newton Report and the Newton Quantity Report (addressed below) which include core drilling data demonstrating that samples taken from the expansion area site significantly exceed the ODOT specifications for rock quality. We find this additional evidence, together with the evidence initially submitted, supports our conclusion that the quality of the Stephens Quarry expansion area is in the high/extremely high quality category.

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We find that opponents offered little additional evidence on rock quality and simply stated that there was "not great rock" at this site (Mr. Moraru). Mr. Moraru requested that the County have the Stephens site remain small in size. We find that Ms. Wheeler provided testimony that there were "alternative" sources of rock but provided no additional evidence for our consideration. We find Ms. Sherton's memorandum on behalf of Mr. and Mrs. Sanders did not address this quality issue.

We find that the County and the applicant are not charged under Goal 5 with creating voluminous and extensive evidence about alternative sites. The Goal 5 rule requires consideration of available and obtainable evidence in the determination of whether aggregate resource quality and quantity at an application site is comparable to, or superior to, the quality and quantity of other inventoried aggregate resource sites in the county. We find that there is sufficient information that is available to us, and that has been obtained for us, to allow us to make sufficient comparison of the quality and quantity of the resource at the Stephens Quarry expansion site vis-a-vis other Goal 5 mineral and aggregate resources within the county. We find, as stated in the Newton and Kuper Reports, that the quality of the Stephens Quarry expansion site to be high to extremely high. We find that this places the Stephens Quarry expansion site in the top category of relative quality of inventoried sites in the county and we find that it has a higher quality than at least 32 other sites in the county. We would reach this same finding even if the sites for which there is no available quality data turned out to have high-quality or extremely high-quality rock. This is because the Stephens Quarry expansion site would continue to have "high/extremely high quality" material even if all the other sites had high or extremely high quality rock. We find that the Stephens Quarry expansion site has quality that is superior to 32 sites in the county and is at least comparable in quality to the other sites in the county. We find that the relative high-quality of the Stephens Quarry expansion site, compared to other sites in the county, convinces us that, on a quality basis, our initial decision was correct and we so conclude.

With regard to quantity, we find that the quantity of rock at the Stephens Quarry expansion site, reduced for setbacks for potential water protection areas as discussed below, is approximately 4.4 million cubic yards. We find that the Stephens expansion quarry ranks among the top sites in the county (on a quantity basis), as only a few of the sites within the county have more than one million cubic yards of material. We find that on a relative basis, the quantity of the Stephens Quarry expansion site is significantly greater than 36 other sites in the county that each have reserves of less than one million cubic yards. We find that these 36 sites represent approximately two-thirds of the inventoried sites in the county (36 of 56). Even if the sites for which there is no quantity data were included in the highest quantity category (category 4 as set out in the Newton Report), we find that the proposed site would be among the top third of sites in the county with regard to available quantity of material. Again, we emphasize that in making this determination, we are making allowances, as discussed below, for setbacks for potential groundwater protection at the Stephens Quarry expansion site. Based on our review of the facts,

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we find and conclude that the Stephens Quarry expansion site is one of the highest quantity sites within the county as compared to other aggregate resource properties included in the County's Goal 5 inventory regardless of their immediate availability. On a quantity basis, we find that the site, at a minimum, is comparable to all other sites in the county and that it is superior in quantity to 36 other inventoried sites (or approximately two-thirds of the other sites) in the county.

Accordingly, we find and conclude that the Stephens Quarry expansion site, with regard to quality and quantity of the aggregate resource, is comparable to all sites in the county and superior to most sites in the county that are included in the county's Goal 5 inventory, regardless of their immediate availability for surface mining.

**Remand Issue No. 5: Quantity Of Rock That Is Actually Available On The Extraction Site And Explanation Of Availability Of Rock On The Southern Portion Of The Site.**

In its decision, LUBA raised two issues. First, LUBA expressed concern that the County's findings as to the quantity of rock that could be removed from the site might not be correct because the County did not make finding to show how much rock on site might need to be preserved to protect groundwater resources. Second, LUBA expressed concern about the lack of borings at the southern portion of the property and stated that the County's findings were not adequate to establish a uniform quantity of resources throughout the subject property because there were no borings on the southern portion of the property. *Sanders, et al v. Yamhill County*, LUBA No. 96-173, 34 OR LUBA \_\_\_\_ (February 5, 1998), Slip Op. at 37-38.

With regard to the quantity of rock issue (both the quantity available for mining while preserving water resources and the quantity available on the southern portion of the site), we find that the applicant provided significant additional information in the form of a study entitled "Additional Quality and Quantity Evidence, Stephens Quarry Expansion Area, Yamhill County, Oregon" prepared by David Newton and Associates, dated November 12, 1999 ("Newton Quantity Report"). We find this study to be persuasive and credible. We find that the applicant engaged in a two phase exploratory program including numerous core borings and air track drillings. We find that in re-evaluating the quantity available for mining the site, the applicant has taken into account restrictions that may be placed on the mining operation including physical limitations for extraction setbacks and significant setbacks for existing residences. We also find that the extraction area was not assumed to go to the full depth of the basalt resources even when the borings indicated there was significant basalt below the probable extraction level. We further find that a significant buffer was left around the MW-4 area to avoid intercepting potential groundwater, in the event that such groundwater would be significant and would need protection. We further find that the marine sediments area was not included in the volume calculation nor was overburden.

We find that the applicant has provided persuasive and credible information which reaches LUBA's first issue, that the County address actual mineable quantity versus

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in-place quantity at the site. We further find that the quantity estimates provided by the applicant are conservative in that they assume less thickness for basalt, that is actually present on site, create large setback areas around a potential perched groundwater area, include perimeter setbacks, and are calculated as in-place volumes which reduces the "swell" due to excavation or processing which may typically increase the volume of rock by 25 percent to 30 percent. Finally, we find that the estimated quantity does not include the southern portion of the site where marine sediments are located. We further find that the maps accompanying the report show the areas of additional exploratory borings and drillings and also delineate the portion of the site in which marine sediments are located (approximately the southerly and most 10 percent of the site). We find the report to be persuasive and credible evidence and based on this evidence, we conclude, notwithstanding the requirement to protect significant groundwater resources (if present), that there is a substantial and significant quantity of rock at the Stephens Quarry expansion site that can be actually mined. We find that this quantity exceeds 4 million cubic yards and this is a significant amount of rock material.

With regard to the second issue presented by LUBA (that there is no basalt at the southern end of the property), we find that the applicant understood all along that there was tertiary marine sediment at the southern end of the expansion property and had not calculated that into its initial quantity estimates. We further find that significant additional testing has been done over the southern portion of the expansion site to demonstrate the extent of the basalt resource. We find that the basalt resources extend nearly all the way to the southern portion of the expansion site and only approximately the southernmost 10 percent of the expansion site contains tertiary marine sediment. We find that the borings at the northern end of the expansion site are consistent with the borings at the southern end of the expansion site and allow us to determine the location of the basalt and tertiary marine sediments. We find that applicant is not proposed to mine the tertiary marine sediments. We further find that the basalt resource the applicant does intend to mine covers the vast majority of the expansion site. We further find the material to be of high quality and of significant quantity, in excess of 4 million cubic yards. We find that the applicant has explained to our satisfaction the issue raised by LUBA related to the existence of basalt on the entire expansion site. We find that the test holes and borings have been representative and they are based along the entire expansion site, including the southern portion of the expansion site. We find that the evidence leads us to conclude that the expansion site is significant, has high quality rock and that it has rock that is actually mineable that exceeds 4 million cubic yards.

Opponents offer no contrary evidence or information but attempt to argue three points. First, they argue that there is no information about the size of the buffer around MW4. We find that in oral testimony, the applicant's representatives indicated that the buffer had a 150-foot radius from MW4 or 300-foot circumference. We find that in the professional opinion of geologists, which we accept, this is a conservative buffer that is sufficient to protect potential groundwater resources at MW4 (if such groundwater resource exists, is significant and ultimately needs protection). We find this evidence credible and persuasive. Based on this evidence, we

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conclude that there is a significant quantity of rock that may be actually extracted at the site, approximately 4 million cubic yards even if significant water protection is necessary. We find this is consistent with our prior conclusions that were accepted by LUBA when it stated: "there appears to be a consensus among the expert witnesses that if appropriate conditions are imposed, it is feasible to mine the subject property while protecting groundwater resources in compliance with Goal 6" *Sanders, et al v. Yamhill County*, LUBA No. 96-173, 34 OR LUBA \_\_\_\_\_ (February 5, 1998), Slip Op. at 25. Additional evidence shows that even if such conditions need to be implemented, there is still sufficient and significant rock resource to be mined at the expansion site and we so find.

Opponents also make the point that there was groundwater present at four specific boring locations on the expansion parcel site other than MW4. We find that the borings referred to at the Record citation indicated by the opponents are four borings on the extreme westerly boundary of the expansion site. We find that the locations of these borings is shown at Record p. 371. We further find that the quantity estimates in the Newton Quantity Report, the Newton Report and the Kuper Report assume significant setbacks from the boundaries at the site. We further find that four test holes are right on the property line and that there was some controversy in the Record by opponents that the boring holes may have been drilled on the Sanders' adjoining Tax Lot 5423-1300. Accordingly, we find that consistent with the vibration analysis and suggested setbacks under the scaled distance formula provided by Dr. Michael Feves, and consistent with the setbacks assumed by the Newton Report, Newton Quantity Report and Kuper Report, these four boring holes, even if found to have water which would need additional protection, have been adequately considered in the quantity analysis and do not materially change our analysis or conclusion that there is significant mineral and aggregate resource on the site that must be protected. In addition, we question that groundwater was present in the four boring holes and find there is significant evidence in the record to show that the holes were not properly abandoned in a manner that did not prevent vertical movement of water in the bore hole. We find this could include surface water moving into the bore holes which could then be characterized as groundwater. We find that when the holes were first dug, they were described by a professional drilling company and geologist as "dry holes" and that the drilling company was later required to seal the holes with bentonite rather than concrete grout to prevent vertical movement of water. At least one individual expressed a risk of contamination of groundwater resources by surface water because of inadequacy of the concrete grout that capped the four bore holes in question. We make these findings only to highlight that "groundwater" contained in the holes may, in fact, be surface water that accumulated within a boring in that it was not properly sealed. In any event, as stated above, we find and conclude that the setbacks assumed in the quantity studies are sufficient to protect the area, in the event that groundwater would be demonstrated at this portion of the site with the advanced air track drilling process. We emphasize that geological reports submitted to us demonstrate creation of large and adequate setbacks both for the MW4 area and perimeter areas such as the area where the four wells in question are located. We find and conclude that the 300 foot diameter protective zone around MW4 and setbacks along the location of the four boring holes provide us with a sufficient buffer

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to protect potential water to the extent that we have a sufficient factual basis to make a determination that there is a significant amount of aggregate available at the site for extraction. We agree with the Newton Report and Kuper Report that there is a significant amount of extractable rock resource at the site (approximately 4 million cubic yards) and we so find and conclude.

Opponents also argue that the County failed to coordinate with the Water Resources Division. As indicated by our staff at the hearing, Water Resources was given notice of the hearing and responded in writing. We are aware of a second letter from Mr. Norton at the Water Resources Division. We find that letter states that Mr. Norton will not be able to comment within the time constraints and would be unable to attend that hearing due to prior commitments. We find that the letter does not request additional time in which to comment nor request a change in the hearing date. We believe that under these circumstances, where County staff has notified and received comment from the Water Resources Division, the County has properly coordinated with WRD as required by Goal 2. We further find that our initial conditions of approval require further coordination with WRD related to on-site water resource issues.

**Remand Issue No. 6: Analysis Of Noise Impact Related To The ESEE Consequences Of An Increased Noise Environment On Houses Within The Impact Area.**

We find that LUBA agreed with our noise analysis with regard to Goal 6, but with regard to economic consequences of the ESEE analysis, LUBA found that because economic impact may depend on actual noise levels, the potential for an increased noise level may have an economic impact on houses in the impact area and the County must address this impact in its ESEE analysis. *Sanders, et al v. Yamhill County*, LUBA No. 96-173, 34 OR LUBA \_\_\_\_\_ (February 5, 1998) Slip Op. at 53-54.

LUBA indicated in its opinion that some evidence in the record shows that noise associated with drilling could be as much as four times as loud as DEQ standards at an existing house. We find that in the remand proceeding, the applicant provided new noise data. We find that the data are based on actual measurements made during the summer of 1998 when excavating equipment, crushing equipment, screening equipment and other heavy equipment was in operation at the existing quarry. We find that using this actual and existing noise data, the noise study modeled the noise environment produced on the expansion site. We find that the noise study indicates that all DEQ standards can be met at residences around the Stephens Quarry expansion area if certain conditions are met. We find the study has been prepared by a Registered Professional Engineer (Acoustical Specialty), Mr. Kerrie Standlee. We find the noise study to be credible and persuasive. We find that the study concludes, and we concur, that noise at residences in the impact area will be in compliance with DEQ noise regulations if certain conditions are adopted. We specifically adopt these conditions as part of our approval. The conditions are as follows:

1. A 15-foot high berm is constructed along the north boundary of the excavation area prior to moving a pneumatic rock drill into the north end of the extension area to break the line of sight between the rock drill and the Hodgson residence. Once the rock drill is more than 1,500 feet from the Hodgson residence, the noise from the drill should be at or below the DEQ maximum allowable level without a berm. Or,

2. A hydraulic drill is used and a 9' high berm is constructed along the west end of the north boundary of mining extension area to break the line of sight between the drill and the Hodgson residence when the drill is located within 750 feet of that residence. Once the hydraulic drill is moved 750 feet from the Hodgson residence, there will be no need for a berm. Once the rock drill is 1,500 feet from the Hodgson residence, a pneumatic drill can be used in the extension area. Or,

3. Movable barriers are used to block the noise radiating from either a pneumatic drill or hydraulic drill to the residences north of the site.

Once the rock drill is at the highest point in the extension area, one of the following steps shall be taken:

1. A 5 foot high berm can be constructed along the east boundary of the area between a pneumatic rock drill and the residence when the drill is at an elevation of 630 feet or higher. The berm needs to be approximately 300 feet long. Or,

2. A hydraulic drill can be used when the rock drill is above 630 feet elevation and no berm is required. Or,

3. Movable barriers are used to block the noise radiating from a pneumatic drill to the residence when the drill is at 630 feet elevation or higher.

With regard to the economic prong of the ESEE analysis, we find that LUBA previously accepted our economic impact analysis with regard to dust, water, vibration, traffic, site alteration and visual impacts, but expressed concern that noise levels for houses in the impact area could increase. LUBA directed us to consider the economic impact of increased noise on these houses. As we have stated above, we find that the noise at the houses in the impact area will meet DEQ standards. We have imposed conditions to ensure that DEQ standards will be met. We find that DEQ standards are designed to protect human habitation including uses for sleeping, hospitals and libraries. We find that compliance with DEQ standards is evidence that the significant economic impact on the houses that LUBA described will not occur because noise levels will be in compliance with levels considered by the state to be appropriate for human habitation, libraries, hospitals and other similar uses. Opponents make two arguments with regard to the Daly-Standlee & Associates noise study. First, they make the statement that the quarry was operating "illegally" when the noise readings were taken. We find that the judgment they have provided was signed in April 1999 and the noise measurements were made during the summer of 1998. Second, as pointed out by the applicant, the specific decision

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referred to by the opponents (Sanders v. Department of Geology and Mineral Industries) was overruled by the 1999 legislature with House Bill 2419 which retrospectively eliminated the allegation of illegality raised by the opponents, Mr. and Mrs. Sanders. Finally, the Sanders, through Ms. Sheraton, argue that a noise study itself does not examine the ESEE impacts of increased noise. We find it is the County's responsibility to review the ESEE impacts based on the evidence that has been submitted. We find that the Daly-Standlee & Associates report is a credible and persuasive portion of the evidence on which we have relied to analyze the economic impacts of the proposed use, as required by LUBA, under the Goal 5 rule.

Moreover, we find that significant additional evidence was provided in the record relating to the financial or economic impacts of quarry operations, including noise on surrounding residences. We find that since the Stephens Quarry has been in operation, significant new residential uses have moved into the general area. We find that many of these houses have been built within the last few years after land use proceedings for this specific quarry expansion had been underway. We find it unlikely that individuals would invest in a new home near the quarry if there was a significant adverse economic impact associated with the quarry's operations, including noise therefrom. We also find that property values in the area, including houses immediately adjacent to the quarry, have increased significantly over the last few years. We find that the County's property values must be based on what a willing buyer would pay a willing seller and, therefore, are a good economic indicator that the economic effects of the quarry, including noise, would not have significant adverse economic effect on the houses that LUBA identified. We find that one neighbor indicated the property values had gone up, but it was because there were no operations at the quarry during the time the property values were examined by the county. We find this to be incorrect as C.C. Meisel operated for the full summer season during 1998. Contrary to the opponents' position, we find that the 1998 property values and subsequent 1999 property values increased significantly. Finally, we find persuasive evidence provided by the applicant which indicates that in similar situations in Washington County, high-value homes, have encroached on operating quarries notwithstanding potential negative economic effects related to noise. We find that high-value homes surrounding these quarries have values in the range of \$200,000 to \$400,000 and they are built close to existing quarries which have an operating environment similar to the Stephens Quarry. We find this is additional evidence which leads us to conclude that the economic effects on the conflicting housing uses that LUBA identified will not be so overwhelming or negative as to change our conclusion about approving the proposed expansion site. We find that there could be other economic issues related to the housing uses that LUBA has identified including the enjoyment of outdoor activity which might have an economic value that could be adversely affected by noise. However, we find that the evidence presented, that property values are going up, that houses are locating closer to this quarry and other quarries in the region, and that noise generated by the site will be within DEQ standards, lead us to find and conclude that noise will not be a significant and negative economic impact on the uses identified by LUBA. We also find that the Goal 5 ESEE analysis does not require the absence of any noise impact that might have an economic effect on the adjoining use such as houses in the impact area. We find that the Goal 5 ESEE

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analysis is intended to force a local jurisdiction to think about the potential impacts that are created by land use decisions that it makes relating to the siting of mineral and aggregate resources. We find that Goal 5 does not dictate a specific outcome even if, as not present here, economic impacts of a noise environment would be very, very high. The quarry expansion will provide a significant economic advantage to the County in that high quality rock is available close to market using the existing road network. However, this economic value must be balanced against other economic issues including the potential effects on houses within the impact area. For the reasons set forth above, we find and conclude that the economic impact to these houses will not be so great as to force abandonment of the houses or to materially interfere with the use of the houses and their economic value. We find that we have carefully considered the evidence regarding noise and conclude, as in our previous determination, that the economic factor tips in favor of the approval of the quarry expansion.

To the extent that LUBA would require examination of the social, environmental and energy consequences related to noise and the specific uses it identifies (houses within the impact area), we make the following findings. As we have discussed above, it is possible that noise could have a social impact (e.g., outdoor activities). However, we find that the ability of the applicant to conduct its operations within DEQ standards will reduce social impacts related to noise. As we previously indicated, the social value to the county as a whole of having a high-value mineral and aggregate resource available for future use is a significant social value which offsets potential social impacts related to noise which we find will not be significant. With regard to environmental consequences, our prior analysis does not change. We find that the operation can be conducted in compliance with all environmental regulations, including noise regulations. We find that there is a substantial environmental benefit to allow protection and use of this Goal 5 resource, given that environmental standards related to noise can be complied with. Finally, with regard to energy consequences, our prior analysis does not change. Again, protection of this site close to major market areas in Yamhill County will reduce the energy consumption by reducing the truck travel necessary to deliver the product to local markets. We do not find any corresponding energy disadvantage related to the operation of the quarry including noise produced by the quarry. For all these reasons, we find and conclude that the ESEE analysis related to noise tips in favor of protecting the site for mining extraction uses.

**Remand Issue No. 7: Site Plan.**

We find that the applicant has submitted a complete site plan as required by LUBA. *Sanders, et al v. Yamhill County*, LUBA No. 96-173, 34 OR LUBA \_\_\_\_ (February 5, 1998) Slip Op. at 58. We find that none of the opponents make any objection with regard to the site plan that has been submitted. We further find that our staff report carefully reviewed the site plan on a point-by-point basis and concluded that all aspects of the site plan requirements and the county ordinance have been satisfied. We further find that the applicant submitted a road profile at the time of the hearing. Accordingly, we find and conclude that the site plan, meeting all of the requirements of the Yamhill County Zoning Ordinance and being sufficient for us to evaluate

the proposed use, has been submitted. Accordingly, we find that any and all standards related to the site plan have been satisfied.

The LUBA remand states: "YCZO 404.08 states detailed requirements for the submission of a site plan. The challenged decision finds that these requirements are procedural and may be satisfied by various maps and plans already submitted, in combination with the narrative descriptions of the proposed activity, hearing testimony and a site visit." LUBA disagreed with the county's position and found that "Unless there is a demonstration in the findings that the compilation of the listed submissions satisfies the site plan requirement, we cannot affirm this part of the decision."

### **B. Ordinance Provisions and Analysis**

1. Section 404.08 of the Yamhill County Zoning Ordinance states that application for a zone change to the Mineral Resource District the application shall contain the following:
  - A. *The documentation, as applicable, required for any application for a site design review as set forth in Section 1101;*
  - B. *Plans 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, and all intended uses, including estimates of the total volume of the resource to be mined and initial contours for the proposed site.*
  - C. *Provisions for landscaping and screen-planting of all parts of the site;*
  - D. *Provisions for preventing the collection and stagnation of water at all stages of the operation;*
  - E. *Plans, profiles and cross-sections of all access roads; and*
  - F. *Plans for the reclamation of the site.*
  - G. *All plans prepared and submitted shall be prepared at a scale no smaller than one (1) inch to two hundred (200) feet, with five (5) foot contours, and such information shall be furnished for a distance beyond the site sufficient to determine the impact of the operation on adjacent and surrounding lands.*
2. Criterion A will be discussed in Section C.
3. Regarding criterion B, sheet one of the site map shows the location of the property. Sheets 2 and 3 of the oversized maps shows the area and dimensions of the site. These maps contain a north point (arrow), scale and date of the map. The acreage and legal description are contained in the six standard size pages stapled to the site plan labeled Northwest Title Report. With the site plan is an oversized document showing the tax lots

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in the area. The intended use of the property is described on Sheet 3 by estimating the amount of resource to be mined. This map also illustrates the existing contours and anticipated dimensions of the mined area. This information satisfies criterion B above.

4. Regarding criterion C, sheet 3 of the site map shows the intended landscaping and screen planting for the site. The berm and landscaping are planned for the northern boundary of the subject parcel. The berm is to be planted to grasses with trees used as screening. Although the detail of the berm and landscaping is not to scale, it is shown to scale on the larger site map. The width of the berm is approximately 30 feet. This information satisfies criterion C above.
5. Regarding criterion D, sheet 3 of the site plan describes under paragraph 5 of the notes section how the storm water runoff will be dealt with. It states:

*Storm water runoff from the surrounding properties will be handled in accordance with current operations at the existing site. Storm water runoff generated within the site will be directed back to the existing operations area where it will be treated. If property gradients cannot be achieved accumulated storm water will be pumped. No stagnant water will be allowed to persist.*

This information satisfies criterion D above.

6. Regarding criterion E, sheet 2 of the site plan shows the existing access road drawn to scale. The road is illustrated from Walnut Hill Road to the existing quarry. The statement on sheet 2 indicates:

*The existing access road will be used for mining operations in the expansion area. No new access roads are being proposed. The existing access road is a two lane paved roadway that intersects with Walnut Hill Road.*

Sheet 3 of the site plan has a typical cross section of this road. The information submitted satisfies the requirement for plans and cross section of the access road. The applicant has addressed the requirement for a road profile with a separate schematic submitted at the hearing.

7. Regarding criterion F, sheet 3 contains illustrations of the mine benching and mine reclamation. The notes indicate:

*1. The depth of the soils used in the reclamation will be determined by the volume of soils that actually exist on-site and that can be practically stripped and saved.*

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2. *The reclaimed land use of the site is for forestry use. The species used and density of the plantings will be determined with the consultation of DOGAMI at the time of the reclamation planning.*

This information satisfies criterion F above.

8. Sheet 2 and 3 of the plans submitted are at a scale consistent with the requirement in criterion G of 1 inch to 200 feet, with five foot contours. These sheets have information presented which extends to a distance of approximately 170 feet north of the site, 370 feet west of the site, at least 100 feet south of the site and at least 500 feet east of the site. The area south of the site is not covered as extensively because the mined area is planned to be more than 300 feet from the southern property line. The submitted site map, along with other information in the file, is sufficient it determine the impact of the operation on adjacent and surrounding lands.

### C. Site Design Review

1. Section 1101.02 of the YCZO partly governs the evaluation of site development plans. It states:

*All development applications for site design review are subject to the development standards of the underlying zoning district and may be modified pursuant to satisfaction of the considerations provided in subsection 1101.02(A). The Director may waive submittal requirements consistent with the scale of the project being reviewed, upon determining that requirements requested to be waived are not necessary for an effective evaluation of the site development plan. (Underline added)*

Section 404.08(A) also states that the applicant shall submit, "The documentation, as applicable, required for any application for a site design review as set forth in Section 1101 (underline added)." We find that the information submitted is appropriate and adequate to comply with this section of the YCZO. The documentation for site design review is set forth in Section 1101.04 of the YCZO which lists the following requirements:

*The following site design information shall be represented at a scale of 1"=5', or an appropriate scale as may be approved by the Director:*

A. *Existing site conditions as follows:*

1. *Site topography at the following minimum intervals:*

- a. *Two (2) foot intervals for slopes of up to 15%;*
- b. *Five (5) or ten (10) foot intervals for slopes in excess of 15%; and*
- c. *Identification of areas exceeding 35% slopes.*

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2. *Site drainage, creeks, ponds or areas of standing water, potential flooding and soil or geologic hazard;*
3. *Major trees 8" in diameter at five (5) feet height, together with areas of significant natural vegetation. Where the site is heavily wooded, an aerial photograph, not to exceed 1"=400' may be submitted; and only those trees that will be affected by the proposed development need be sited accurately;*
4. *Classification of soil types within the site and discussion of their suitable uses;*
5. *Existing structures, improvements, roadway access and utilities, together with the film volume and page number of all easements affecting the property; and*
6. *Existing land uses, ownerships, property lines and building locations on adjoining and adjacent property within three hundred and fifty (350) feet of the subject property.*

*B. Proposed changes and improvements to the site as follows:*

1. *Proposed site improvements, including:*
  - a. *Boundary lines and dimensions for the property and proposed topographical changes;*
  - b. *All proposed structures, including finish floor elevations and setbacks;*
  - c. *Vehicular and pedestrian circulation patterns and parking, loading and service areas;*
  - d. *Site drainage plan, including location of sumps or settling ponds; and*
  - e. *A boundary survey and cross sections, and profiles as may be required by the Director.*
2. *Proposed utilities, including subsurface sewerage, water supply system and electrical services. Inverse elevations shall be shown for all underground transmission lines.*
3. *Proposed access to public roads and highways, railroads or other commercial or industrial transportation systems.*
4. *Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses.*
5. *Proposed on-premise signs, fencing or other fabricated barriers, together with their heights and setbacks.*

*C. A written statement to accompany the site development plan, containing the following:*

1. *A statement of present ownership of all lands included within the proposed development; and*

2. *A schedule of expected development.*

2. Regarding the introduction and requirement A.1. above, the plans are of a sufficient scale and detail to satisfy the requirements of 404.08(G). Therefore, the maps and site plans are of a sufficient scale and detail to evaluate the proposed activity and the requirements in this section should be waived.
3. Regarding requirement A.2., the site map shows the topography in sufficient detail to identify the site drainage. There are no ponds or areas of standing water on the subject. There is no identified soil or geologic hazard.
4. The property is 80 acres and has a number of trees and underbrush. A drawing of the entire site with 8" diameter trees and natural vegetation would be excessive. The record contains a number of aerial photos. One aerial photo submitted on January 4, 1996, is at a scale greater than 1"=400'. The aerial photo is sufficient to address requirement A.3.
5. The applicant provided, on sheet 4 of the site map the soil types and a listing of their description and suitable uses. This addresses requirement A.4.
6. Regarding requirement A.5, there are no structures or improvements on the site. The roadway access and utilities will be provided by the existing Stephens Quarry to the east which is identified on the site plan. There have been no easements identified affecting the property. This information satisfies requirement A.5.
7. Regarding requirement A.6, the ownerships and property lines of the subject lot and surrounding area are identified on an oversized map submitted with the site plan. The residences within the area were previously identified on a map attached to a letter from Richard L. Jones received on April 7, 1995. The residences close to the proposed quarry site have also been discussed at various hearings regarding this request. The information submitted and existing in the record is sufficient to satisfy requirement A.6.
8. Regarding requirement B.1-3, there are no site improvements proposed. Therefore, these need not be shown on the site map.
9. Regarding requirement B.4, sheet 3 of the site map shows an area of proposed landscaping along a berm that is located on the northern property line. This satisfies the requirement of B.4.
10. Regarding requirement B.5, there is no request for additional signs. Sheet 3 of the site map notes fencing will be installed on an as needed basis. This information satisfies requirement B.5.

11. Regarding requirement C.1 and 2, the applicant has attached to the site plans documentation from the Northwest Title Company with the ownership information and a separate sheet with the schedule of expected development.

**Remand Issue No. 8: Impact On Farm And Forestry Practices.**

LUBA found that the County had failed to properly consider effects on farm and forest uses and practices. *Sanders, et al v. Yamhill County*, LUBA No. 96-173, 34 OR LUBA \_\_\_\_\_ (February 5, 1998) Slip Op. at 62-66. On remand, applicant has provided a significant amount of information and detail related to farm and forestry uses and practices. Particularly helpful to us are the letter report of a consulting forester, the letter report of a vineyard owner and wine maker, and the letter report of Mr. Raymond McNeiland, Retired Professor and Extension Agent Emeritus, Oregon State University Extension Service. We find that these combined reports specifically and thoroughly address farm and forest uses and specific farm and forestry practices in the area. We find that the McNeiland report contains an extensive listing of the types of crops that are grown and the types of practices that are commonly used in the surrounding area to produce the crops. We adopt Mr. McNeiland's list and incorporate it herein by reference. We find that Mr. McNeiland provides a substantial and sufficient analysis of how the proposed use would impact farming uses and farming practices in the surrounding area. We find that the only concern raised by Mr. McNeiland with regard to any negative impact on accepted farming practices and farming uses is dust. We find that Mr. McNeiland states, and we accept, that given the availability of water for dust suppression in compliance with DEQ operating permits for air discharges, there is no foreseeable agricultural crop problems related to dust from the mining activities. Because we find that there will not be agricultural crop problems, we further find and conclude that expansion of the site would not force a significant change in accepted farm practices on surrounding lands devoted to farm use nor will it significantly increase the cost of accepted farm practices on surrounding land devoted to farm use.

With regard to forestry uses, we find that a consulting forester examined the potential for rock quarries to effect common forest uses and forest practices. We find that these uses and practices include all of the forest practices listed in ORS 527.620(9). As with the analysis of farm uses and practices, the consulting forester states that dust "could" have an effect on tree transpiration. However, the consulting forester concludes, and we accept, that normal dust control, such as use of water trucks and paving of access roads eliminates the largest potential for dust and, therefore, eliminates the potential for adverse effects on forest uses and practices from the quarry expansion operation. In addition, we find that the quarry expansion operation may have many significant advantages for forest uses in the area, including availability of roads, reduction of fire potential and reduction of vandalism.

We also find that there is significant evidence from an authoritative source that vineyard crops in the area will not be adversely effected. We find that the opponents attempted to draw into question the qualifications of Mr. Levinthal, the vineyard owner and wine maker. However, we find that his analysis is persuasive and credible. Particularly valuable are the

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pictures of high-value vineyard crops immediately adjacent to large quarry operations with similar operational characteristics in other parts of the world. We find this provides us with an excellent example of how rock excavation activities can co-exist with high-value specialty farm activities and not force significant changes nor increase significantly the cost of accepted farming practices. We find and conclude that we have adequately described the farm and forest practices on surrounding lands that are devoted to farm and forest uses. Based on the evidence related to the effects of rock extraction operations on farm and forest uses and practices, we are satisfied that the proposed use will not force a significant change in those practices nor significantly increase the cost of those practices on surrounding lands. The only significant issue that has been raised with regard to farm and forest practices is dust and we find and conclude that dust will be adequately controlled at the expansion site. We further find that with controls in place, dust will not significantly adversely effect farm or forest uses or accepted farm or forest practices nor force changes or increase in cost of those farm or forest practices on surrounding lands.

For these reasons we approve the application in PAZ-05-93, with the application of the limited use overlay zone.

