

#1 & #8

PLEASE PRINT LEGIBLY!

MEETING DATE

7/26/94

NAME

ARNOLD ROCHLIN

ADDRESS

PO BOX 83645

STREET

PORTLAND, OR. 97283

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

P-1

SUPPORT

APPEAL

OPPOSE

SUBMIT TO BOARD CLERK

#2

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MEETING DATE

7/26/94

NAME

JON RHODES

ADDRESS

STREET

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

P-1

SUPPORT

OPPOSE

SUBMIT TO BOARD CLERK

#3 & #9

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MEETING DATE

July 26 94

NAME

MICHAEL CARLSON

ADDRESS

5151 NW CORNELL

STREET

POX, OR. 97210

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

C1-94A
~~32-94A~~

P-1

SUPPORT

OPPOSE

SUBMIT TO BOARD CLERK

#4

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MEETING DATE 7-26-94

NAME LYN MATTER - ONRC

ADDRESS 522 SW 5TH SUITE 1050

STREET

PORTLAND OR 97204

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # P-1

SUPPORT W Hilly **OPPOSE** ☒

SUBMIT TO BOARD CLERK

#5

PLEASE PRINT LEGIBLY!

MEETING DATE 7/26/94

NAME JODEANNE BELLANT

ADDRESS 14956 NW MILL ROAD

STREET

PORTLAND, OREGON 97231

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # P-1

SUPPORT _____ OPPOSE _____

SUBMIT TO BOARD CLERK

5

PLEASE PRINT LEGIBLY!

MEETING DATE

7.26.94

NAME

DONNA MATRAZZO

ADDRESS

19300 NW SAUVIE ISLAND RD

STREET

PORTLAND OR 97231

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

P-1

SUPPORT

APPEAL

OPPOSE

☒

REPORT

SUBMIT TO BOARD CLERK

#7

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MEETING DATE

7.26.94

NAME

DAVID YAMASHITA

ADDRESS

2052 SE ELLIOTT

STREET

PORTLAND

97214

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

P-1

SUPPORT

Support
Agenda

OPPOSE

☒

SUBMIT TO BOARD CLERK

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MEETING DATE 7-26-94

NAME Sue Beilke

ADDRESS 11755 SW 114th PL

STREET

Tigard OR 97223

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # West Hills
Rec Report

SUPPORT _____ OPPOSE X

SUBMIT TO BOARD CLERK

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MEETING DATE 7/26/94

NAME Charles Henderson

ADDRESS Elm Pt Bx 945 A

STREET

Seaside Ave. 97138

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # ~~24~~

SUPPORT

QUESTION RE ZONING
OPPOSE IN WEST HILLS -

SUBMIT TO BOARD CLERK R. SCOTT TO
HELP

#12

PLEASE PRINT LEGIBLY!

MEETING DATE 7/26/94

NAME Charles Crecko

ADDRESS 600 NE GRAND

STREET

PDX

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # West Hills

SUPPORT _____ OPPOSE X R-1

SUBMIT TO BOARD CLERK

#13

PLEASE PRINT LEGIBLY!

MEETING DATE 7/26/94

NAME SETH TANE

ADDRESS 13700 NW NEWBERRY RD

STREET

PORTLAND OR 97283

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # P-1

SUPPORT _____ OPPOSE _____

SUBMIT TO BOARD CLERK

#14

PLEASE PRINT LEGIBLY!

MEETING DATE

July 26 '94

NAME

Chris Foster

ADDRESS

15400 NW McNamee Rd

STREET

Portland OR

97231

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

P-1

SUPPORT

OPPOSE

SUBMIT TO BOARD CLERK

PLEASE PRINT LEGIBLY!

MEETING DATE

7/27

NAME

JOHN SHERMAN

ADDRESS

1912 NW ASPEN

STREET

PORTLAND, OR 97210

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

P-1

SUPPORT

OPPOSE

SUBMIT TO BOARD CLERK

MEETING DATE: July 26, 1994

AGENDA NO: P-1

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: C 1-94a Public Hearing - DeNovo

BOARD BRIEFING Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: July 26, 1994

Amount of Time Needed: 2 hours

DEPARTMENT: DES DIVISION: Planning

CONTACT: R. Scott Pemble TELEPHONE #: 3182
BLDG/ROOM #: 412/103

PERSON(S) MAKING PRESENTATION: _____

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☐ APPROVAL ☐ OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

C 1-94a DeNovo Public Hearing - 1:30 p.m.

In the matter of the West Hills Reconciliation Report
and Periodic Review Work Program requirements for
Goal 5 Resources

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: Betsy Williams

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

**DECISION OF THE
MULTNOMAH COUNTY PLANNING COMMISSION**

In the Matter of the West Hills Reconciliation)
Report and Periodic Review Work Program)
requirements for Goal 5 resources)

**RESOLUTION
C 1-94a**

WHEREAS, Periodic Review Remand Order 93-RA-876 required Multnomah County to complete additional work related to Statewide Planning Goal 5 resources in the West Hills; and

WHEREAS, On March 9, 1994, the Land Conservation and Development Commission approved the county's Work Program (WKPROG - 0038) which indicated work tasks that must be completed to fulfill the requirements of the Remand Order; and

WHEREAS, The West Hills Reconciliation Report contains findings and makes recommendations concerning protection of Goal 5 resources, pursuant to OAR 660-16, for wildlife habitat, scenic views, streams, and the Angell Brothers mineral and aggregate site as required by WKPROG - 0038; and

WHEREAS, Notice and the opportunity for public comment were provided during several steps of the Work Program, and a joint public hearing with the Planning Commission and Board of County Commissioners was conducted on June 13, 1994, to consider additional testimony on the West Hills Reconciliation Report; and

WHEREAS, The Planning Commission met for deliberation of the West Hills Reconciliation Report on June 21, 1994 and June 27, 1994.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission hereby recommends that the Board of County Commissioners adopt the West Hills Reconciliation Report and appended West Hills Reconciliation Report Addenda and Errata dated June 13, 1994 and June 21, 1994, as partial fulfillment of Periodic Review Remand WKPROG - 0038.

BE IT FURTHER RESOLVED that the Planning Commissions recommends that Planning Division staff be directed to prepare Comprehensive Plan and zoning code amendments in accordance with WKPROG - 0038.

Approved this 27th day of June, 1994

By Leonard Yoon, Jr.
Leonard Yoon, Chair
Multnomah County Planning Commission

TRANSCRIPTION OF PLANNING COMMISSION MEETING OF

June 27, 1994

COMMISSIONERS: Chairman Yoon, Hunt, Diack, Craghead
and Ingle

STAFF: S. Cowley, Pemble, Hall, Howard,
Clifford and Mathewson

Yoon: Okay, today is June 27, 1994. Call to order the
meeting of Multnomah County Planning Commission.
I'll turn the meeting over to Staff to walk us through
the document West Hills.

Good evening. Let me just say one thing for the
record. Present are Commissioners Hunt, Ingle,
Craghead, Diack and Yoon.

This evening we have before you as the first item a
resolution we are asking you to adopt. It's a
resolution that would do two things. It would
recognize the May 23, 1994 West Hills Reconciliation
Report and the addenda and errata sheet that were
considered on two different dates. One was the 13th
of June, a Errata Sheet was submitted to you to
define the condition that dealt with basically and
typos. One June 21st, you, the Planning Commission
went through a series of motions and gave directions
to the Staff to make corrections to the Reconciliation
Report. Attached to the Resolution for the West Hills
Reconciliation Report, are five pages that summarize
your motions of the June 21st meeting as we
interpreted them. Each of the pages is noted at the
bottom of the page as June 21, 1994 Planning
Commission Modifications to West Hills Report.
Following that what you have begins with a page
entitled West Hills Reconciliation Report Addenda and
Errata, June 13th and 21st, 1994. This is actually the
exhibit we are referencing in the resolution. So the
first four pages are just a quick summary of those
motions that you asked us to make on June 21st. The
following pages, identified on the bottom right hand
corner as Addenda and Errata, is the actual exhibit

that includes the June 13th Errata Sheet and the recommendations that you see on the first four pages that you asked us to include in our modifications to the report.

So, this evening what we are not asking you to do is to vote again on each issue about whether you agreed or disagreed because we have that as part of the record. What we are asking you to do as the Planning Commission is to vote on is essentially if the first four pages following the resolution capture the recommendations that the Planning Commission gave too the Staff. Is that clear?

I have a question. So in a sense, the Addenda and Errata Sheets are just repeats of the first four pages. I don't see much difference in the wording.

Yes, there is no difference. The first four pages of the Addenda and Errata Sheet are exactly the same verbatim. It's just the official version that gets attached to the resolution. The first four pages, again, are for your quick perusal because we've numbered the Errata and the Addenda sequentially. We think that is easier for the reader to be able to read through them sequentially. So we didn't want to try and sort out which ones were your recommendations and which ones were just simply corrections that we handed you on June 13th, so we combined them all into the Addenda and Errata Sheet. Okay?

Okay, thank you.

So, given that as an explanation, I can go through quickly and summarize what we believe to be your intent or you can simply read through them and tell us if we got it right.

Yoon: I think we can just do that.

The latter?

Yoon: Yes. But we can ask some questions for clarification around that?

Sure.

Yoon:

Great. I've already read it, but.....

3

On page B1-30, Addenda and Errata, it's not a big issue but,

If you work off the first four pages, that will keep it straight so we're not talking about an issue that was already an Errata that was handled back on June 13th.

Okay. This is a non-issue. It says "if all streams in the West Hills are significant, then they are no longer significant in relation to the others." So what you are saying is that if they are significant then one stream isn't more significant than another.

Actually, that line is there because it was inadvertently left out of the report. So it's actually an issue brought up by someone which we've tried to refute.

Yoon:

Where is that?

It's the third paragraph down on page B1-30.

Yoon:

Okay, I've got it.

Maybe it would be helpful to explain our numbering system here. And again if you would, restrict your comments to the first four pages. The numbering, or our notation system, is simply a reference. For example, page 3-7 you will find is page 3-7, paragraph 5. So if you were to turn to the West Hills Report and just find that page number and then go down to the fifth paragraph, you would find this language. That is how we've numbered all of the samples.

Yoon:

Does everybody need more opportunity to finish reading? Okay, read on.

Several:

.....(Garbled conversation while everyone reads.)

Hunt:

I have one question.

Yoon:

Commissioner Hunt go ahead.

Hunt:

On the fourth page that we're discussing on Chapter 6-6, paragraph 5, the last sentence of it where it talks about that you craft new rules. I'm not sure that that was our intent. I inferred that the Staff would work with the State Forestry Department to encourage them to enforce existing rules better, not craft new rules. Because I don't think they even have right to craft new rules. What I was inferring is that on a Class 2 stream, which most of these significant streams are, they can enforce or require a repairing area be set aside but they don't have to do that. That's up to the State Forester's power to make that decision. But that is not a new rule, it's under existing rules. It's subjective on his part.

4

I thought we discussed the possibility of crafting new rules if necessary. I think that the "if necessary" language also encompasses "if legally possible".

Hunt:

It is not legally possible, I don't think.

Well, if that opens the door for us, the County, to adopt.....I think it's an advantage. Not necessarily the State Forestry people.....perhaps it's unnecessary.

Hunt:

I think we are pushing it too much to say craft new rules. But that's just, maybe, my opinion.

Yoon:

Well, Commissioner Hunt, I understand where you are coming from and we certainly don't want to jump over another department, but I'm just sitting here readings and it says "and work with the Department of Forestry to craft new rules, if necessary,.....". This working with them, I mean, they're going to set new rules, but they're going to come to the County for advice. "Multnomah County should urge Oregon Public Forestry to effectively enforce the Forestry practices and provisions for the protection of fish and wildlife and habitat in the West Hills", which is basically what you want.

Yea.

".....and work with the Department of Forestry to craft new rules, if necessary, which better protects significant scenic views, wildlife habitat and streams in the West Hills." You're right. The Forestry

Department can say "go to Hell" and everything else. But all they are saying is that they are trying to promote this collegial working together.

5

That's what you said Gordon, right? Just say yes.

Hunt:

Well, if you want to look at that way.....

Let me put your mind at ease because on page 5, section 6-21 at the bottom it says "The County should work with the West Multnomah Water Conservation District to adopt and properly fund a program". I don't think that we are going to appropriate any funds from the County to the West Multnomah Water Conservation District.

Well, they already get funds.

From the County.

Yes.

Oh, I thought it was individual participants.

No.

Oh, I'll take that comment back.

Yoon:

Commissioner Craghead.

Craghead:

The wording on VI, Section 6, Paragraph 5, the sentence that starts "Logging causes only a temporary interruption...". I think we need the wording like we have in the next sentence which is temporary in a long-term sense. Because I think we took issues as to whether or not it was a temporary issue, if I recall. And, also, talking about enhancing wildlife habitats greatly over the current practices in terms of wanting it clarified that it is not enhancing wildlife habitat values greatly better than what they would be naturally without any logging. In terms of it enhances wildlife habitat values greatly if they use these proper logging practices to ensure it versus if they don't use the logging practices, not making it better than what is already there. I guess, the sentence the way it reads makes it sound like logging will improve wildlife habitat in any case.

We could change that sentence to read, "While logging causes only a temporary interruption (in the long-term) to wildlife habitat, modification of logging practices to ensure maintenance of some Forestry covered areas would enhance wildlife habitat values greatly over current Forestry practices."

Craghead: I like that.

Yoon: Does anybody have any disagreement with that? Mr. Diack.

Diack: I was just going to comment on possible funding sources for the SCS programs. I think if you look in your submission pile, if you haven't used them for scrap paper yet, Metro had some fairly imaginative possibilities for funding sources.

Because I use to be Chair of the Board for them, they have gotten a lot of funds from Metro in the past through their, oh I can't even remember which grant it was, but they're available.

Well Metro has just received some Clinton Forestry Plan-type money. Quite a bit, as a matter of fact, and a lot of that will go into programs like this.

As long as they don't just have an urban view of what Forestry is, I don't have a problem with it.

Yoon: Commissioner Craghead.

Craghead: I had a question on VI, Section 6-21, the new paragraph after Paragraph 3, that provide a minimum setback. Is that to cover what we were talking about having a minimum amount? We were going to go back and study a minimum amount for the streams.

Yoon: That's correct because we didn't come up with a hard number.

Yoon: Commissioner Diack.

Diack: When do we address the minimum setbacks then. At what point and in what manner. How do we get to that?

That will be addressed under the Protection Program when we come back to you and the caveat is that the Columbia Castings case will be the one we'll use as a yardstick. Essentially, Columbia Castings tried to come up with the uniform setback from the slue twenty-five or fifty feet. It didn't work because it wasn't applicable to the resource and the rational nixes "what is the correlation between the so-called consequence and the remedy of consequence". No one could argue that a uniform explanation would be appropriate given that.....

Different portions of the same site would have had different impacts. I remember reading that one.

Right. So well will address that during the Protection Program phase which will be in August. The caveat here is that we have to be careful how we craft that because we already have a(garbled)..... on what not to do.

For those of you have not received copies of the Columbia Castings case, we'll forward those to you.

Yoon: I'll have a motion to.....

Craghead: So moved. To accept the Addenda and Errata Sheet as the Staff has provided to the Commission?

Yoon: No. As amended. Do I have a second?

Hunt: I'll second.

Yoon: Commissioner Craghead made the motion and Commissioner Hunt seconded it. Discussion? All in favor.

Several: Eye, eye.

Yoon: So moved. Pass.

Your quick work on that makes the West Hills Reconciliation Team very happy. They are going home.

What about the resolution?

Oh, yea. The resolution. Thank you. I guess the motion for the resolution. Essentially, you've accepted the Errata Sheet and Addenda.....

8

Yoon: Right, so I need a motion on the resolution.

.....and the resolution references that and the reconciliation report. So if you just adopt the resolution, then.....

Craghead: So moved.

Ingle: Second.

Yoon: So moved by Commissioner Craghead, seconded by Commissioner Ingle. All in favor.

Several: Eye.

Okay, now they're all happy.

We'd better finish this next one before Peter comes.

Yoon: We now move to Howard Canyon. I haven't read it all.

There is no Errata Sheet for Howard Canyon.

Has he in fact applied for a mining permit?

No, but it's coming, I'm sure.

Just a personal comment. Since I wasn't quoted on it, it didn't bother me too much. I actually liked the fact that you give attribution to source questions that were raised in the original document.

Craghead: I'm curious. What was County Counsel's response on that?

County Counsel agreed with me. There is no law that requires us either to report it or to preclude it. The comments are part of record so if somebody wants to come in and peruse the record and find out who made what statements, they certainly entitled to. But with respects to the requirement to summarize that in any of these reports, there's no requirement to do that either. Again, as I explained the other night, we just did it as a way of being somewhat responsive and

credible. This is what we thought we heard you say or interpreted and this how we react to that.

9

Have you been in discussion with LCDC on the findings of the Planning Commission for the modification of these two reports?

No, I haven't. For the most part, they've pretty well advised us that they won't be making any official comments until they get the(garbled).....

Craghead: As far as all the West Hills stuff that has been done, the rural jungle drums have been quite positive as to Staff involving the Community. I've only heard one complaint which is just absolutely remarkable. Usually, I hear lots of complaints that you're trying to pull the wool over their eyes. I think it was nice that those names were included because it made them see the involvement they had gotten.

It's kind of like the 30 days war -- or 30 years -- after awhile both sides get tired and they all.....

Yoon: Any commissioner who has questions, go ahead and ask Staff and just identify yourself for the record.

Ingle: Another question on page 4-24. It's more an issue of clarification. Paragraph 3-27..... regarding economic effects. What I want to do is propose some different wording. The bottom sentence of that paragraph is a little too wordy so this is what I would propose. It starts off "this analysis" -- is this a footnote or a paragraph to follow?

Paragraph to follow that section.

Ingle: Well, this is my own personal bias, but instead of "This", "The". "The analysis of the economic trends does not attempt to evaluation.....", and then it's fine from that point forward. Obviously, when you read the first sentence, you have an extra "the" in there, so can at least eliminate that. I guess my preference is to start the sentence with "The" instead of "This". Then the second part is where I have a lot of problems. I think it would read better if you just instituted the following. "Recognize that a complete economic analysis would include a study of

extranalties, the evaluation of costs of using, impacts on, different transportation alternatives."

10

Several: All talking at one -- garbled.

Yoon: I don't want to start a war at this time.

Craghead: No, no, I want to resolve it and go home.

Yoon: Right. I think if you can just make those cosmetic changes, that's fine.

Unless the author has a problem?

No. Can you read the second part.

Okay. "It is recognized that" and then you delete "there is a body of theory" and then it starts again with "in a complete economic analysis" you strike out "it is appropriate to" and put in "would" continuing "would include the study of extranalties in the evaluation of costs, using, and impacts on, different transportation alternatives".

Yoon: Of which I don't subscribe to. No, I'm just being facetious.

Motion?

Yoon: Well, I'll just look around and just have unanimity. We just basically say "Commission agrees". That's what we've been doing. It makes it easier. Don't worry, we're not going to get hung up on legalese.

Diack: I have a question.

Yoon: Commissioner Diack.

Diack: In the case of the new wording, John, would that not essentially require that sort of an analysis?

Ingel: I guess my thought was that, in parenthesis, you would put at the very back of that sentence "beyond the scope of this analysis" or whatever. When we originally raised this issue, there are those extranalties which should be considered in a more complete analysis but that was beyond the scope of Staff requirements.

My understanding was that fundamentally, you thought that you had enough information to make a comment about the economic impact part of the economic consequences of the ??(easing)?? analysis. However, you recognize that much later volume of work can be generated to respond to that same question. The question I have is that after you said that, you have a disclaimer, which this paragraph really is saying we didn't do everything that a purest would do, your bias about economists is showing through.....

No. No.

.....The gist of it was that you put the disclaimer on it. You should have some degree of confidence that the statement that was made is sufficient to draw the conclusion under this type of analysis called an easing (????) analysis.

No, I do not agree with that. We essentially did vote that in the process.

But I think Bill talked about it as more of a footnote. It kind of gets buried in the text as opposed as a paragraph.

We could change the location?

A footnote doesn't make it.....

Well, it's not so black and white. The first paragraph is here's what we've done and the second paragraph is.....(garbled).

Peter just wanted it mentioned somewhere. He agreed to footnote it.

On this 4-15 new paragraph after paragraph 3 -- where you say West Multnomah Soil and Water Conservation District, do you really mean East?

East, yes.

Yoon:

Go ahead Commissioner Craghead.

Craghead: I was going back that. I don't think there is a problem wherever it is put, but it says there is body of theory and we're just saying at this point we're not using that body of theory. So I don't think it matters whether it's in the text or whether it is in a footnote.

Yoon: Footnote.

Okay.

I'm happy. I'd like to vote but I'll wait for everybody else to finish reading it.

Yoon: Okay, will someone make a motion.....

Okay. I will make a motion to adopt the addenda as amended to the Howard Canyon Reconciliation Report and the Resolution.

Seconded.

Yoon: Discussion? All in favor.

Several: Eye, eye.

Yoon: Pass.

For your information, there is no Planning Commission Meeting in July. The first opportunity we will have to meet and talk about protection programs will be in August. August 1st.

When will this go before the Board?

This will be reported to the Board on July 12th. The way this works is that we will file this with the Clerk of the Board on th 28th, tomorrow.

Start that over again, Scott.

On this particular piece of business, the Reconciliation Report, will be reported to the Clerk of the Board tomorrow, the 28th. The 10 day appeal period will begin period will begin. Notices will be sent to 2,000 people, at least. The 10 day appeal period will begin and on July 12th your decision will be reported to the Board. If there is no appeal, if the Board does not

decide to take it up on their own motion, your decision stands as approved on July 12th.

13

Craghead: If there's no appeal. Do we get to place bets on it.

In anticipation that there will be a Board Hearing on your recommendation, that's tentatively scheduled for July 26th. The Board will have a hearing, they'll set the scope of their review at their July 12th meeting for the type of hearing they will hold and then they'll close and deliberate. Some time in August. Okay?

Meanwhile, at the beginning of August, you'll start through your protection programs.

So the last day for appeal is on the 8th, Friday. Is that correct?

They start counting the ten days the day after it has been filed. So the 29th.....

Yoon: Well, I appreciate everybody's effort. Especially Scott's.

Adjourned.

**MULTNOMAH COUNTY
PLANNING COMMISSION MEETING**

JUNE 21, 1994

Chairman: The first day of summer will call to order Multnomah County Planning Commission. For the courtesy of the audience, the staff we will begin with Howard Canyon and we will definitely not start the West Hills aspect before 7:30 - that is not to say we are going to finish Howard Canyon by 7:30 but we will not start before 7:30.

The public testimony part is closed.

The record was closed at 4:30 p.m. yesterday afternoon. All the material we have is here. Have all of you had a chance to read the letter from counsel as far as the role of staff? I think it is important for you to note that because I don't want us to get in the situation of introducing new evidence in this. They can explain previous things, they are there as a technical resource, and they are definitely going to help us through this process. So, let them do that.

Leader: Okay, role call. Everybody is here except for Commissioner Foster. It is the easiest way for me to say it. Okay, I am sorry. Present are Commissioners Craghead, Diack, Fritz, Fry, Hunt, Ingle, Kunkel and Yoon. Okay, any questions of county counsel on his letter?

county counsel on his letter?

Kunkel:

I will declare this I don't know if it is exparte contact or not, but following the meeting last week, I talked originally with Scott Pemble and then following discussion with him I talked to the soil conservation service and recommended that they read the staff report and call the evidence that took place at that meeting and feel free to write any letters or comments on it and so.

Other Voice:

Is there anybody else that would like to make any declarations to make sure we all have clean backs on this? Okay. So we have gone through the formalities. Does everybody have a copy of the Howard Canyon report here? Because what I propose we will do with the consent with the rest of the commission is we will take this chapter by chapter. We will skip Chapter 1 right, and move on to Chapter 2 and go through this and what I would suggest we do is any changes we want to make we will do on a chapter by chapter basis. I will just look at the counsel say if anybody has got a problem with, okay, we will make that change, or if doesn't have a problem, I will look at staff to make sure that that is consistent with what we are suppose to be doing and we will move on and at the end of the thing then we will adopt the report with the amended changes.

Fry:

Can I ask a question up front. Okay, this is

directed at staff. The letter from the attorney for Howard Canyon made a lot of, talked a lot about their willingness to restrict the use of the quarry to a certain amount of basically uh and this is what they presented to the community that they are willing to go with I think a certain amount of trips and a certain amount of area bla bla bla. It is my understanding that none of that is relevant to this process that all of that information, all of those conditions, all those recommendations, all that is only relevant to the conditional use process that this process is simply to determine if this resource is significant generically 1) if there are other resources significant generically to and then come to a conclusion and then in the future conditional use process if this conclusion were to be a balancing act. Is that my....

Chairman: I can even answer that.

Fry: Well, I want staff to understand. Is that true?

Chairman: Yes. We are not going through a mine application process right now.

Fry: Right.

Chairman: Your right. And, that whole letter dealt with that.

Fry: Well, I want this clear because there is some confusion about the Protection Plan and what is relevant in the conditional use and what is not.

Scott: The specifics of the operation, again you are

working with the best available information. The specifics of the operation are not particularly germane if you consider typical impacts associated with the operation as a way to consider the conflicting use aspect of the easy analysis and then subsequently you, in the protection program through the Goal 5 process should be clear of with respects to the parameters if you will, about those conflicting uses and those consequences that you are trying to respond to, be very clear about how you want them responded to at the time that the conditional use is considered, the land use application, whatever land use application is considered at a later date. So, by way of illustration on an aggregate site, it is perfectly appropriate for the Planning Commission to be very clear about what they want the reclaim site to be at some future date after the mining activity were concluded.

Fry: Right, but it would not be appropriate for this commission at this time to place conditions on the actual operation or use of any of these sites.

Scott: Only to the extent that you can relate them to consequences of the use of the resource.

Hunt: Can the commission limit the worked on site at the, like that site that they are working on at the time can you limit the size of it before it is reclaimed. Since that would part of the scream of

another, if we would found there was another Goal 5 conflict?

Scott: To the extent you are dealing with the consequences of the use of the resource and that is appropriate.

Chairman: That is both for existing and preexisting uses.

Hunt: Yea.

Scott: What you are dealing with now is essentially the anticipated use of the resource.

Hunt: Okay, the other question I had for staff on the Howard Canyon which is what we are discussion now, a portion of the side is considered exempt and in the letters written by their representative, they basically put that exempt sign aside and have basically said that they would continue to mine the exempt part of it as they always had and that the rest of the site would then become a Goal 5 protected resource and my understanding is that this process essentially eliminates their exemption and brings the entire site in as a single unit.

Scott: Correct. You consider this site as a resource site.

Fry: So the issue of exemption and non-exemption goes away because of this process.

Scott: Exemption aspect only pertains to Dogammi's regulatory authority...what you are considering is the extent to which that resource should be protected.

Fry: Okay. So, there are not two sites here as the

representative Howard Canyon applicated.

Scott: No, I would not characterize is as two sites.

Chairman: Right.

Kunkel: The 50,000 cubic yards of material per year at this point is meaningless to us. We are not approving that.

Chairman: No, we are just identifying in fact whether the Howard Canyon site is a significant resource.

Kunkel: Okay.

Chairman: We are going to determine more than that. Whether or not we can allow conflicting resources.

Chairman: We are not dealing with a mine permit itself.

Other Voice: For instance, if we said you know the staff report is great, it is a significant resource, tomorrow they can start mining 50,000 cubic yards of material.

Fry: We could continue under their exemption forever too, because that is permitting issue. I was just, because in their representation they basically created two sites and one site being the exempt site and one site being the rest of the site and I just want to make clear that for the purposes of our deliberation there is only one site - that there is not an exempt site and another site is just one geologic formation and I think that needs to be part of the record.

Other Voice: To answer your question, if the end result, a yardage less than some given amount is settled does

Dogammi not get into the picture? Part of our safeguards for other resources on the site are Dogammi's you know..their input.

Other Voice: Perhaps the best way to consider this is again you are just considering the resource itself. Dogammi's authority plays in after you have determined the resource to be significant and a level of protection identified and at that point in time Dogammi then is responsible for considering the reclamation plan and giving some overseeing of the actual mining plan. For right now you are just basically talking at the policy level whether the resource of minimal aggregate is significant and whether in fact given its significance what level of protection, if any, is to be accord this side.

Hunt: I have one more question. In this black halter line submission they talk about a lot of compromising as far as how much they would mine you know truck loads and etc. Now I can't see how that would be appropriate for us to look at but is there any of that that we could look at or put into the conditional use if we found them appropriate to weigh against the other Goal 5 resources? I mean it seems like they are trying to work with the community in this report.

Fry: That was my question. That is what I just asked. I asked if any of this information was relevant to our proceeding.

Hunt: Well, I was asking staff if there is anything in particular in here that they saw in here that might be appropriate. I mean you don't have to answer me now and then get back to me in five minutes.

Other Voice: Again, the answer is the extent to which basically again the Planning Commission ----- identification and use analysis process and then determine the level of protection and then after you determine the level of protection if you are going to protect the resource, then the extent to which you need, you view a protection program to insure the resource can be used and the extent to which perhaps consequences of the use of the resource will impact other uses that you deem to be appropriate.

Hunt: For example, we know that residential use is a conflicting use. And, they are recommending that they have limited hours of operation, could we put that in there since there is a conflicting use between the two. Could you put that in your as part of the...

Scott?: If you find that as a consequence, that is in fact a consequence, the hours of operation on the residential use is a consequence and an impact and for instance hypothetically if you were to consider it as 3-C designation, Andy felt that there is a factual basis than to argue the Protection Program to establish that as kind of a sideboard for any

subsequent land use permit for the actual mining operation to that extent it is arguable that you can include that kind of a statement in your Protection Program. But, again it has to be all linked up to your consequences and the extent to which the facts afford that.

Chairman: Let me ask the same question in a different way.

Scott: I think your probably maybe talking about a lot of hypotheticals and it might be easier for you to ask those questions in the context as you move through the report.

Chairman: The only question that I want to ask is that we are basing all of this on best information available of what is going on right now with that particular resource. But, if you take

Other Voice: (Interrupts) Your basing that on the record that you have. Not necessarily the best information...

Chairman: Well, everything on the record which this case is suppose to be the best information we have. But, that we have concerns that that is not enough information or that there is conflicting information that I mean lets just talk about the 5,000 yards. I mean we are trying to make a decision based upon that is an aggregate that something we think is valuable and it should be protected under particular conditions or whatever. But, we are basing that on what is going on now I mean future use. You know like we don't have

anything to hold on to of what is real necessarily. I think ---- therefore this letter from Black lays certain things up they are willing to do. I realize we are not in the mine permit process and everything.

Hunt: But, I can see where some of those things might balance Goal 5 resources or conflicting resources that could balance.

Chairman: Well, maybe Scott is right. Since, the first thing we are going to go through is the streams anyway. Maybe we could just go through that and maybe that will start to answer how we are going to approach this.

Ingle: Just two quick questions. The first question is there seems to be, well there are two letters from DLCD and they appeared to kind of direct the reader in two different directions. One appears to be very supportive of the county's process whereas the other one kind of raises issues that perhaps certain things haven't been addressed or what have you. And, I guess I was interested in the process itself. If Steve for example....is basically the liaison between the county and DLCD and he will explain the process that has gone on and what he finds favorable and not favorable about the county's report and really pitch the county's position.

Scott: Steve Olowman is a staff person at LCDC is assigned

to review our, our periodic review submittal and he will be critiquing that in light of his interpretation of the role.

Ingle?: Okay, how much weight does his penney carry in the overall decision making process?

Scott: The analogy of ----- would be the extent to which you believe staff here influences your decision and he is to the LCDC commission as we are to you.

Ingle: The second question I had was this was a point that was raised in one of the letters and I just wanted to know if this was a feasible alternative for the county and that was that somebody had mentioned I think it was ODF&W about the possibility of mediation process. They were specifically addressing it to the West Hills issue but it probably would be appropriate as well for Howard Canyon. Is that a suitable alternative for Multnomah County at this juncture?

Scott: Again, you are responding to Dick Benner's letter where he has offered the services of a mediation process as perhaps a way to come to resolution. My, I think, albeit a generous offer, I am not sure it is an appropriate kind of process for Goal 5. Again, the process isn't spelled out in the rule. And, that is your job to go through the process and consider the evidence before you make decisions. I don't know how the mediation works into the Goal 5

process. It is a little bit of a mystery to me.

Chairman: I don't think that would work because they are basically holding the county responsible and you know the mediation is just....Why don't we start with the streams, Chapter 2 - Howard Canyon Streams Resources and we can go through this maybe one of the, skip, we are not going to move to the West Hills till at least 7:30 and it looks like it is going to be about 8:00 now. So, Scott do you want to just start going through it and do a recap on some things on this particular resource and then we will start to go through this.

Scott: I think perhaps the best way to start at this point and time, you have heard it all, several times, is just to have you dive in if you will and start giving some feedback about what you believe is properly stated or needs to be changed.

Other Voice: I will jump in. I would like to address the impact areas that the study has included on the streams. The most ---- one to me obviously is a statement about Big Creek that doesn't flow into a wildlife habitat area or any other sensitive area. The Sandy River is a state scenic wildway of federal wild and scenic river. It goes past Oxfield Park, Dabney....I feel that the downstream reaches of all these creeks should be included in the impact area. Actually, when you get right down to it I think the entire water shed of all these should be included

in the impact area. I think it make a lot of difference in the overall weight given to the finding of significance for those streams as a matter for discussion.

Chairman: The staff recommendation was that this is 3-C that they do find these fumes are signifcation of 1-C and that the --- residential community service and conditional use and transportation public improvement conflicts by regulating proposed development of the ----- significant streams. That is what the staff recommendation is.

Other Voice: Mr. Chairman, I just want to point out on page Roman numeral 2-9 under impact areas number three impact areas - the second paragraph states, "For streams that flow through are contribute water to public parks or to recreation areas used by the public. The impact area includes the downstream park or recreational facility." And, for the three streams involved, that going back for instance to page 2-51 under Nerum Creek Recreation it was stated that they were significant for their recreational values because they did drain into the Sandy River and as you can see the first paragraph under roman numeral 2-51 which states, "Nerum Creek flows into Big Creek which drains into the Sandy. Big Creek meets the Sandy....." It goes through and lists Camp Colins, Oxbow Park, Daphne State Park, Lewis and Clark State Park so there is some

acknowledgement of the downstream of Sandy River's significance stated and that was included in the impact area.

Other Voice: Okay, I guess it is just a conflicting statement back on 2-14 then. The creek does flow into another wildlife habitat area or another sensitive area, that being the Sandy River. I would suggest that line be deleted on that paragraph on Big Creek.

Chairman: 2-14 last sentence of the first paragraph.

Other Voice: Big Creek is an important

Chairman: Let me ask before we change that. Is when we say other sensitive area...okay, by saying it there is that inconsistent with what was stated before at 2-51 or it is another definition of what sensitive area is. That is,

Scott?: I think it could be construed as being inconsistent with...

Chairman: It would be best to say to change that sentence.

Scott?: I believe so.

Chairman: Or, why don't you just cross out "not" because it does flow in.

Is that fine with everybody. Sam, you got any other?

Sam: I only need a draft page, so there it is.

Chairman: You're doing fine if you got other pages. Any

other commissioners have any other comments on this whole section of 2 that rather than take it page through page. I mean we can go through this page by page but if you have something on your mind I don't mind skipping ahead either.

Other Voice: Okay, I will jump in again. I guess I do take to heart the effects of agriculture on stream degradation. And, I really don't feel that the report is, is.... I don't know whether it is in our purview at this point to try and establish policy for our agricultural uses around these significant streams but I think as part of the Goal 5 process maybe we ought to be thinking about that in more serious terms.

Chairman: Well, I was going to bring that up at some point.

Other Voice: Well, I will leave it to you then.

Chairman: With the site inspection I was struck by the existing conditions of those streams had been damaged in the rock---- area by existing use and specifically on grazing. And, I don't even know about logging because obviously we didn't get into the upper ridges of some of those tricks so I wouldn't know that. And, I would like to head something off at the pass. Before someone brings it up, we don't need to see that there is fish in there for it to say that it basically is a resource that you don't have to do a survey on that and I think that it was brought up in one of the

testimonies that it is capable of holding fish and I think that is all we have to identify. But, what I was concerned about was okay, now we are getting to an area where we have got DEQ and other people who are suppose to basically be response...I mean they have existing standards, I guess what I am saying is I think that existing standards that DEQ has for water quality are probably appropriate. The concern is as far as enforcement, precisely measurement and that is not something the planning staff can do. All we can say is basically that we believe that and it's their responsibility so, I am hoping to something that is saying I agree with you. I think that there has been a lot of damage to those streams by existing use. I don't think the constituency out there realize that we would go out from that particular direction and I thought they would think that we would look at it in terms of the aggregate and when we get to the aggregate I would want to say I don't see what the aggregate even impacts these streams.

Other Voice: Correct. But if I might ask staff, having come in to this whole thing pretty late in the game, I understand that SRI was the organization responsible for compiling all the data on the streams in the Howard Canyon. Is that correct?

Scott: That is correct. Well, no the actual field work for that area was done by a contract biologist

hired by the East Multnomah Soil and Water Conservation District with funds they had gotten. That contractor provided the work to SRI Shapira who then did the ESE analysis. So, in fact the actual grunt work if you will, on the stream was done by a contract employee of the East Multnomah Soil and Water Conservation.

Other Voice: So, it actually wasn't done by SRI. SRI simply took the data then and compiled it for staff?

Scott?: Yes, I would say though that SRI and the contract person did work very closely. They did use the same methods, they did some sample work together so that there was coordination between the two.

Other Voice: Well, I guess the question isn't so much what they did, but what did they present to you? Did they present staff with recommendations regarding protection, right riparian areas and streams in general?

Scott?: No, they didn't. The contract that they did stopped at completing the ESE analysis and then it was the job of the staff to come forward with recommendations to deal with these situations.

Other voice: I guess this is a basic problem I have. You're planners, correct? Or are you habitat people or stream biologists? What expertise do you have as staff to make protection recommendations for these streams?

Scott: Well, I think.

Other Voice: Any more than I would.

Scott: Our work is to take the information from the technical experts, which we got, and come forward with policy recommendations, and that's what we've done. Um certainly we are not stream biologists or technical experts, we relied on the technical expertise from the work done by our contractor.

Other voice: Was there any input from ODSW or DEQ or BLM or any other agencies state or federal to your to the protection, development of the protection program? For the streams.

Scott: No, not directly to us. We took the information and brought it forward and then through the public process we hoped to get the information as to whether it was adequate or not.

Other voice: I think in that public process, I think we all have some fairly good input from a couple of sources who would bear looking at as far as recommendations for policy directions. That's about all I have, I just want to bring the question up so people can think about

Other voice: I don't want us to get in a trap of getting into a goal 6 type of ... but I was very curious about that.

Other voice: Can I ask ... Corrine's got. Question also, Corrine, you might want to tell us what the responsibility of the soil conservation districts

are too.

Corrine:

Um, I would but the past year the West Multnomah Soil and Water Conservation district and one of the suggestions I could make to the board, is when we used to have MUF 19 somebody wanted to get a house site on a building permit they had to implement a conservation plan on their property. This is free service through the Soil Conservation service is someone chooses to be a cooperator through the Soil and Conservation service. What I've found is that people don't realize that they're damaging the streams, their land erosion, overgrazing, or whatever and possibly through that we could at least ... I don't think we should make anything mandatory, except maybe them having to write a plan up whether it be through SCS or and independent person or whatever, but they might learn through that process that there is cost sharing for fencing along the streams through ASCS that there is alternatives and options out there for them if they choose to do so. Um, I was also on the Tualatin Watershed Agriculture Task Force and DEQ is coming down on agriculture for non-??? source pollution, so it's something that somebody sooner or later is going to make agriculture address it. Um, and this might be a way to do it if they want to get a building permit or something that they have to have a management plan on file.

Other voice: Of course, that doesn't address the existing ...
Did you have a question ...

Corrine: No it doesn't, but it at least it starts in the
right direction. At least you're approaching
something. I'm not saying you're going to resolve
the issue, because you're not.

Other voice: Did you have a question also?

Corrine: No, that was ...

Other voice: O.K. go ahead, Peter.

Peter: I, we're not discussing protection plan tonight. I
believe that's coming in the future. Right?

Corrine: Well, we're talking about ...

Peter: Well, I guess I don't, you know we have a limited
amount of time, and I respect that that issue is
very important, but there's things to talk about
this report and I want to ...

Corrine: It is the same resource that we're talking about
agriculture ...

Peter: But, we're not defining protection now, I mean what
I would raise, I have some issues I'd like to raise
about this report not the protection plan, because
I expect that we will spend a lot of time on that
in the Fall. That is my understanding of the
schedule, Scott is that true?

Scott: Now, what chance do we have to amend this
protection plan if we feel like ...

Peter: I'm not adopting a protection plan tonight, my
understanding is that all we are doing.

Scott: Sure we are.

Other voice: Yes, it's part of this.

Peter: No.

Other voice: The objection is to protect the significant resources here. (Many argumentative voices.)

Peter: O.K., I resume. I thought we were doing that later, that's what I was told by staff.

Other voice: Go ahead Scott. (Mumbling)

Scott: Protected, Chapter 4, this conflict resolution of protection.

Other voice: Let me restate what we stated at the hearing the other night and you're both right. The jest of it is that our strategy here for the goal 5 process is that we have to obviously come up with a protection program for significant resources to be designated from 3a to 3c. What we explained at the hearing the other night was that the, we gave you some general guidelines about where we're heading with the protection program to give you kind of a flavor, if you will. We haven't invested a lot of time and energy, because we didn't know exactly whether the planning commission board would conclude the same thing we concluded as a staff. So there's no sense in getting in detail, if you will, about a protection program if we have basic disagreement about if this is significant or whether it needed to be protected in the first place. So we didn't invest a lot of time or energy

trying to tailor a protection program to a specific resource, we gave you a general guideline and that's what you see for instance in this report under Roman numeral four. The concept is to get agreement on the significance and the level of the ease analysis, conflicting uses, impact area, all of that and conclusion on 3a, 3b, 3c identify if you will the general direction you want to go with the protection program, realize that we are going to be funding that over time, and you will have to come back to that and we will probably be amending this section at a later date to be more specific. But right now, you should be giving us general direction about how you would envision a protection program working.

Other voice: Well, to me it's kind of scary if we for some reason followed this reconciliation report right up to the protection plan, fine and dandy, and everybody said yes, all of a sudden we would be sitting on top of this report with a weak protection plan. Now, do we have the option to come back at will and amend this protection plan?

Other voice: We don't think what you have in this report represents an acceptable in product for protection plan.

Other voice: O.K. thank you.

Other voice: We think it gives you general direction about where the staff thinks you could go to get an idea what a

protection program might entail.

Other voice: Which we will not put in at this time.

Other voice: Right. O.K.

Other voice: The identification, or the agreement with you and it is 3c also implies then that existing conditions or deterioration will be dealt with in the protection plan.

Other voice: If that's from the consequences you agree on.

Other voice: Yeah. O.K. That's good. That's good. In fact, commissioner Hunt.

Hunt: Um, on page 221 where it says Goal's agriculture lands, I wonder if we should change the wording a little bit because basically all it states in the last sentence is this designation is intended to preserve and maintain ----- land's limitations of agriculture uses in order to protect streams with the result in a direct conflict between implementation of Goal 4 and 5.

It doesn't really talk about that we should do something to

Chairman: Resolve it.

Hunt: Yes. And, maybe there is a place in here that I can't find right now.

Other Voice: I don't know if you want to get into Chapter 4 now but, it is the reconciliation section.

Hunt: Yes, that is what I disagree with. Because you say don't do anything. Don't address agriculture.

Other Voice: On pages 8, 9 and 10 is the discussion of

agriculture and really what it boils down to is three options in dealing with agriculture as a conflict of streams. One is to so the county essentially wash our hands of the matter if you will, and say we don't want to regulate agriculture activity. The second which is the staff recommendation is not to get into the actual zoning restrictions on existing agricultural lands but instead to try to work cooperatively and with the program with the U.S. Soil Conservation Service and East Multnomah Soil and Water Conservation District in kind of the things that you were talking about earlier and the third option actually for the county to institute in a zoning program for agricultural uses and that would be existing or proposed. And, you know those are the three basic options and the staff is recommending the middle option if you will, but that is a subject for discussion in the Protection Program section.

Fry: Which will happen in the Fall. Is that?

Other Voice: Well, I think the idea is that if the staff recommendation is not correct at this point and we get general direction that know the county should look at actual zoning protection for agriculture county zoning then that is something that we would need to know in order to draft actual zoning regulations for agricultural practices.

Chairman: And, we can't weight one goal over the other.

Fry: Well, I guess my point is that this is such a huge thing and we are being asked to do so much that I can't deal with figuring out is this valuable, figuring out the other uses in relationship to it and developing a protection for three different resources in one process in one night. I mean, its.....and I've got some problems with the report itself that I want to deal with as opposed to I mean you know we could sit here and spend a lot of time giving staff correction (or direction) on a protection program and not get to basic things in the report. I don't mean to be difficult but I would like to talk about some things in the report that I see.

Chairman: Obviously they are not in Chapter Two that you want to talk about.

Fry: Yes they are. If I could get into it. One problem I have is Sandy River, to my understanding it is a natural scenic resource and it is a wildlife corridor, yet I don't find any reference in the report to that fact and I would like to see anytime the Sandy River is mentioned that because these streams come in above that and into it and it seems to me that that is a significant thing under Federal law which overcomes state or local law and for us not to mention it seems to be a major omission. And, I don't know the exact words so you are going to have to look it up. I think it says

Snake River National Scenic Area or whatever.

Other Voice: A designated state scenic waterway and a federal wild and scenic river. Isn't that correct Chair?

Other Voice: Do you have a specific location in the report?

Fry: Every place Sandy River appears I would like parenthesis and this included in those parenthesis so that when someone reads the report they realize Sandy River is more than just the Willamette River.

Other Voice: Or less.

Fry: Or less. Well the Willamette River doesn't have federal -----.

Chair: What is the purpose?

Fry: The purpose is accuracy and I believe it is a major omission in the report to ignore that reality. Because that is not just an arbitrary designation. That is a designation made after much thinking and process.

Other Voice: I would suggest if the reference were made at one obvious point here that every other place for the Sandy, if it were, if the reference were made at one obvious point here, that every other place where the Sandy if the reference were made at the first introduction of the discussion of the Sandy River to

Fry: That would definitely work for me if there is some paragraph explaining that reality that would work as well.

Chairman: Well, 2-3 would be a good place where it says

Location. The --- stream surveyed are located east of the Sandy River and they empty into the Sandy River that would be a very good place to put it.

Fry: Right, explain what the Sandy River is.

Chairman: So, you would be happy if we put in a clean sentence that described all of the official designations for the Sandy River.

Other Voice: How about 2-8 as well because that is the start of the resource analysis report description of resources, Chapter 2.

Chairman: Okay, #2 Description of Resource. Somewhere in there. Okay we are talking about page 2.3, #2 location and you have a paragraph there that describes it and at that point the appropriate place you would describe the Sandy River and all of its designations and also under 2.A Description of Resource to reiterate it.

Fry: I mean I have literally seen bald eagles, I have seen a lot of wildlife, I have seen actually deer, I have seen.

Chairman: Move on.

Fry: Okay, testimony

Chairman: That's two places. I am putting my initials on both of those so that we know that they are there.

Fry: Okay, that is kind of my warm fuzzy. The next three are going to controversial. I can't find it again in the report but there was reference in the report that said that clear cut areas adversely

effect wildlife as a generic statement. In my experience that is not necessarily true, that they do adversely impact some types of wildlife but other types of wildlife benefit from the increased vegetation of what happens in a clear cut area so I think there needs to be....

Chairman: So if you put the word can and some in that...

Fry: I lost it. Actually, there is something read it actually a while ago and I can't find it again.

Chairman: So, if you put the words can and some in it, it would work.

Fry: Well, it can enhance, in some cases, for some animals it enhances their ability.

Chairman: Yes, but we could say that clear cutting can adversely effect some wildlife.

Fry: Right, that would be an accurate statement. Or species, because definitely it impacts some. There is no question. In the old days forests use to burn to create new wildlife.

Chairman: Unfortunately you can't tell where it is in here.

Other Voice: Mr. Chairman, I know that there are definite statements to that effect in the West Hills Wildlife Report but I don't....the only thing is 2-12 of this report under Forestry Use, the second sentence, "The standard process of clearcutting increases run-off and turbidity in the streams. This results in a reduction of water c-- and loss of fish habitat." And I am not aware of other

places in the Stream Report.

Fry: That is not the statement I was talking about. I am sorry I can find it again. I actually read it a 1/2 hour ago and I can't find it again. I should have written it down. That is not the statement I was talking about.

Chairman: Well it is in the West Hills Report but you are sure it is in the Howard Canyon Report?

Fry: I thought I saw it but anyway.

Chairman: Well, as we turn these pages and we see it we can jump on it.

Fry: Okay, the third issue that is not a warm fuzzy issue is you see I would argue that in some cases that in certain types of agricultural practices they enhance streams. Other types of agricultural practices don't enhance streams and predominantly a problem I have in the entire reports, all the reports, is this kind of black and white situation looking at wildlife is kind of one thing and streams is one thing and it just doesn't get into a depth that I would prefer. In other words, I think certain agricultural practices can enhance streams and enhance habitat and make fish healthier and happier. I certainly agree that agricultural practices can destroy streams as well. There is no question about it.

Chairman: The only thing I would say in response to that without finding it in this is that none of the

streams that I see that any of those places were enhancing the quality of those streams. So, if the staff was putting a broad general statement I would have to agree with them on that because in actual practice there isn't anybody out there trying to product a stream.

Fry: Right, but that is people, not agriculture. I think most of those were probably grazing which is nationally shown as very damaging to streams.

Chairman: The only point I am trying to make Peter, was on these three particular streams you could make that blanket statement because there isn't anybody practicing anything to protect those streams right now.

Fry: I don't know, I haven't been on the stream.

Other Voice: Mr. Chairman, I believe I found both the forestry reference earlier and this agricultural on 2-16 under Environmental Consequences of Allowing Conflicting Uses. The last sentence of the first paragraph has a reference to clear cut areas. And, the next paragraph talks about the environmental consequences of agricultural uses on streams.

Other Voice: Faint.

Chairman: Here they do go Peter.

Fry: I don't believe that is true but, then that is just my own uneducated opinion.

Chairman: Your saying that is an unsubstantiated observation.

Fry:

I think it is true about certain types of wildlife. I mean for example, and I hate to admit this publicly, but we have a lot of black areas which are prohibited species in Portland, and I have more rabbits and foxes and I have literally seen them on my property and they are multiplying like mad because they have lots of ground cover to hide under. They have got lots of things to eat and if we didn't have these kind of species growing on our property we would have a different kind of wildlife.

Chairman:

Let me just say something about this whole section of environmental of allowing conflicting uses. I would not necessarily want to change any of this because all they are bringing up is the possibility of any one of these conflicting uses could negatively impact and they are talking about each of different things.... I mean logging, agriculture, residential, transportation and mining. They are not at no point in here do they say any of these are p---- since they may in fact cause some problems. In legal terms, or whatever, this is a boiler plate page right here that essentially has been extracted out of some tax with no problem at all, I mean you know what I am saying Peter?

Fry:

Well, I am not going to blame the point as one would expect clear cut areas contain less habitat

and less wildlife. I believe that statement is inaccurate. So, I am not going to, I will go into my next issue because I don't want to spend a lot of time.

Chairman:something to say about this?

Fry: That, for the record I believe that statement is inaccurate and as we move on to the Protection Plan. Okay, the last statement which I feel is inaccurate since no one else agrees, this is a quarry issue. In regards to Howard Canyon Quarry it is one of the very limited number of known aggregates.

Chairman: Where are we?

Fry: Page 219.

Chairman: Thank you.

Other Voice: Third Paragraph?

Chairman: Third paragraph.

Fry: Is one of very limited number of known aggregate resource in Multnomah County. That statement is clearly inaccurate. It is definitely true that most of the aggregate resources of Multnomah County is undevelopable since Southeast Portland and Northeast Portland lays over it. But, the state, and this is important because this gets into my fundamental problem with this whole process is we are not dealing with specific things, we are kind of dealing with this political macro process and so it would be true to say is 1) a very limited number

of known aggregate sources available for development in Multnomah County. Now that statement I believe would be true and at this time. I think in the future you are going to see changes in the way people might aggregate and there is a pit right in Gresham that is active right now in the middle of housing.

Chairman: Well, according to the LCDC, there are nine sites that have been identified in the County. So, one of nine is not very high.

Engle: I just want to make reference to a letter that Skip Anderson sent us where he mentions that he had reviewed a letter and there is eight suppliers listed for Multnomah County as being rock quarries and he makes the distinction that Angel Brothers is the only rock quarry and the other is sand and gravel operations. Unfortunately, I can't remember what, oh I guess it is in the West Hills reconciliation report.

Fry: Let me make my point more clear. I think it is accurate in terms of what is available for extraction development today. In our technology at least for the next twenty years. So, I think that is accurate. But, I think it is accurate. But, I think it is inaccurate in terms of a comprehensive view for Multnomah County and the resources available in Multnomah County in a generic comprehensive way and so, that is fundamentally my

whole problem with this process is that in my opinion it does not deal with science, it is this political science and so I feel this statement should be modified to state that it is one of a very limited number of known aggregate sources available for development in Multnomah County. That statement is true. But, to say that it is one of a very limited number of known aggregate sources in Multnomah County is in my opinion clearly inaccurate.

Other Voice: I can live with that. No problem with that.

Fry: I will shut up now.

Chairman: I have a basic problem with that. I mean you could basically say that if everything was paved over you know we would have a hell of a lot more seagulls and other different varieties of birds. But, we are dealing with what we are right now. There might be aggregate underneath these buildings but so what.

Fry: Okay, if this were to play out over time the state would say to Multnomah County, you have to provide all your market within your county and Portland being the largest urban area in the state covering the majority of the county and you could not import any material into this county as the state has been saying in other counties then what that would do is drive the cost of the product dramatically up. Draw construction costs up. On the other hand it

also allowed companies to buy large areas in Northeast Portland because of the value of the product now is so high that the cost of mitigation of extracting that product works under that economic scenario. So, my own view of this process was to look at a county, look at the resources within the county and then identify what resources are available to develop in under the economic reality of that time. And, I believe that it is what the state law requires. However, we can't do that because we don't have enough time and money to do it and we don't have in my personal opinion enough information to do it and so we do it this way which is the way it is.

Chairman: Well, the only place they are going to get information is either from Dogammi or from current operators.

Fry: All you have to do is look at geological maps of Multnomah County and you will see that there is a lot of resources you will see as undevelopable.

Chairman: Yes, but as said before this is the Planning Staff. The planning staff are not geologists, planning are not ...

Fry: You already explained the used experts to augment.

Other Voice: Unclear what is being - I don't see any difference in the outcome.

Chairman: Again, two stick ---- environmental ---- conflicting uses. All those in favor of the

changes that Peter requests, raise your right hands. Well we either like or we don't, okay?

Hunt: I call for the question.

Chairman: Okay, all in favor.

Hunt: Of that.

Chairman: No, we are going motion, all I am saying, procedurally the way we are going to handle this is if we agree on any particular point or disagree on changes, we will make those changes and we will vote on all the changes ----- So, now Peter wants to make some changes under Section Three, Environmental Consequences of Allowing Conflicting Use as specific dealing with the last sentence of the first paragraph. Dealing with ---

Other Voice: Peter, you would prefer just to delete that sentence.

Fry: Excuse me.

Other Voice: The sentence in the first paragraph. You think it is false so you would like to delete it. Is that right?

Fry: Okay, just...

Chairman: Yes or no, yes or no.

Fry: There are certain points of impact if you will within the report that I think are critical to be accurate. These are two points of impact that I feel accuracy is important. I think there is other aspects important that could be reprieved but I am only saying these two areas...

Chairman: That was kind of the discussion I was having with them, a philosophical thing, not the specifics. I mean,

Fry: Okay, so specifically, clear cut areas contain less habitat and less wildlife for certain types of species or something. I would just as soon delete it.

Other Voice: Well, the only thing I was going to bring up is that it was mentioned on a couple occasions during the West Hills Rural Area Planning Process that some people felt that clear cutting actually promoted certain types of wildlife and they saw more deer. So, and I, guess it is not a totally mute point so to some extent I support Peter in his process here.

Chairman: It is a pretty clear statement that clear cut areas contain less habitat.

Other Voice: Oh yea.

Chairman: I mean, how the hell can you argue with that?

Other Voice: Well, I guess what I am saying is it is not as black and white as we may think.

Hunt: Then can the commission conclude this and move on?

Chairman: Yea, right.

Hunt: Another question.

Chairman: So, all of those in favor in removing that particular statement, raise your right hand. Okay, on to 19. All those in favor of making the changes on that deals with the Howard Canyon that wants to

eliminate this ---- number of aggregate resources in the county.

Fry: No, what I wanted to say is one of a very limited number of known agrisources developable in Multnomah County or available for development in Multnomah County.

Other Voice: Excuse me. Do you want to insert the word developable?

Fry: Available for development would be more accurate.

Hunt: How about currently identified?

Chairman: Developable. I will go with that.

Other Voice: Consensus. Okay.

Chairman: Commissioner Hunt, you have a couple things?

Hunt: Yes, when it talks about the right riparian areas it says anywhere from 0 - 200 feet.

Chairman: Where are we?

Hunt: Well it talks about it on 2-9 and 2-10. And, I realize in your study that is what you came up with. Now, I don't understand how a riparian area can be 0 feet. That I would like to have explained to me. Now, on 4-14 where it talks about streams and I think we can go back and forth on this. Your way of dealing with it is to give it definition for the riparian area and then leave it up to the parties to define what their riparian area is. I think that is kind of flimsy. I would like to at least see a minimum riparian area. Because a lot of people have argued that there should be a water

shed and not even a riparian area so to recognize a zero riparian area I find pretty flaky.

Chairman: There has been a lot of evidence that has been submitted that had very good suggestions as far as specific requirements for defining that riparian area and I would suggest that the commissioners look at those suggestions and direct staff to think about that if this is the appropriate time to define the riparian zone.

Hunt: Well, I think we need to define it more than is in this definition.

Chairman: Maybe we should let staff respond to your question first about how they came that definition.

Scott?: Where is the definition.

Hunt: The definition is on 414, third paragraph. Chapter 4, page 14.

Scott: Okay, yes, that is the definition that was used.

Hunt: Yes, I can see where it would be a problem of

leaving it up to, it is not very definable to me as far as when you get a party in there and they say well my repairing is such and such. I don't think the criteria is defined enough. And, also, like with the Forestry Practices Act, they always have at least a minimum riparian area. Not zero.

Scott?: In response, there is two points. We do have, and I, it is referenced in the document in the background field surveys that do have some of these figures you know 0-160 feet. They did take surveys of the width of different areas. So, we do have more information than that. And, so we can, and we show that an area has 160 feet and someone came in with a permit request and said no, it is ten feet, we have some data and some mapping information that would indicate that it is not right. So I think that the problem is we didn't so precisely map it to the point where we could say that Mile 1.7 on Neerum Creek the repairing is 187 feet wide.

Hunt: But I guess when I

Scott: So, the point is to give people an opportunity to consider.

Hunt: I guess what I am saying is when your saying that possibly part of it would be a zero riparian area, somebody could do damage within next to a stream bank. And, we are calling that stream significant. I think you have to have a minimum level.

Other Voice: Mr. Chairman, to the vice chair, back on page 414

if you would, look at the paragraph right under the definition of riparian area.

Hunt: Yes.

Other Voice: It states just what staff has said; that this was a very generalized measurement in the stream study and then when it gets down to an applicant who wants to do something under the SCC provisions, they would then have to come up with a much more precise boundary. That is number 1.

Hunt: I guess my argument is we should have at least a minimum..

Other Voice: Then we are going to have to go out and measure it all right now you are saying. The disclaimer here is that it is a generalized measurement for this study. But, before anything could be done in here, there would have to be a more accurate, a more precise boundary of the riparian zone on the property that seeks some sort of development.

Craghead: I disagree with that in given the information that was submitted by METRO, they give what the federal government uses as centering guidelines for riparian areas and they give a minimum or general for each type of stream kind of thing. And, I think that is what Commissioner Hunt is getting at - having that kind of minimum and it is not specific to the stream.

Other Voice: Okay, let me throw something else in here. Did everybody see the Department of Fish and Wildlife

letter? The habitat conservation division where they said that what is being proposed in here protects, does protect it, adequately protects it. And, I don't understand where we end up with a conflict.

Hunt: Well, there is a lot of evidence presented that it is not adequate, too.

Chairman: Not adequate only in the sense that there hasn't been any enforcement you know. It is not because we haven't said this is what the riparian zone is where, only because there hasn't been any enforcement or any measurement of what is going on right now. It is nothing..

Hunt: There is some letters that were presented that talked that the riparian area should be defined.

Chairman: I tend to disagree a little bit where Metro is going on that because I think you get to a certain point where we are almost overlegislating the landowners on these things. A remarkably different position than they usually have.

Hunt: The other thing is as since I was on the commission when this all came up originally, they told us that we had to identify the streams that were significant is because we did put 100 foot SEC overlay around Class I streams, and they said if we had to do that we had to define what sites are Goal 5 streams.

Chairman: So, maybe we should ask staff to respond to that.

Hunt: That was the county commission's original intent was to have 100 foot.

Other Voice: Would that automatically that an SEC overlay establish the 100 foot bamm and SEC is automatic on a Class I stream, I don't know if it is or not, then we are covered for the 100 feet.

Kunkle: The fear I have of putting a minimum on it, I mean I have spent a lot of time outdoors, I have looked at a lot of things that one arm or another the government is designated as a significant deal and tried to do it on a broad base. And, there are definitely some areas that need that protection and there are also some areas very possibly 500 feet down that don't need those protection. And, I would hate to, I understand the minimum and I think we are taking the easy way out. I mean it is going to take some work as somebody applies for something to go out there and if they say they are zero and staff has evidence that there is 180 feet there is going to be some conflict there and they are going to have to resolve that. But, I think that is the more fair way to do it.

Chairman: Yes, on a case by case basis.

Kunkle: Yes, on a case by case basis. You know, the minimum is good but it can also be terrible.

Chairman: I don't what is magic about 100 feet you know; given the streams.

Diack: One thing that might be magic and staff could

address this also. Won't we get in trouble with DLCD if we don't get some definitive terms down here that land owners can deal with themselves and that the county can deal with in establishing further zoning regulations for residential use or road building or bridge building. If we don't define those aren't we mandate it to define?

Scott: Well, in response to that I think that is the attempt of this definition is to define the area that is being regulated. And, in fact is that the question is the current SEC designation of --- says 100 feet and it is a standard thing and the question is I mean the repairing area be less in some areas, maybe more in other areas. And so this is an attempt to actually further define what the area, the impact area and the area with a potential SEC type regulations would be.

If we went just a little further, could this end up being a question we could bring up in fine tuning the Protection Program rather than here. I don't know.

Scott: Where you are -- right now deals with the Protection Program. And, again that is an area that we expect to do more work on.

Hunt: Can I get one clarification? If had fairly even slopes, or not very steep slopes along a creek and in one area it had lots of vegetation, conifer forest around it, and versus where it had been

raised all the way up to the creek ----. Is that going to be, even though they have the same slopes, soil types etc., would those riparian areas be defined differently as how this study was done.

Scott: No, the way this study was done those areas would be included in the riparian zone. It was an area that whether it was grazed or not it would clearly be impacted by the water using this definition and so if, it was really, in other words if an area was flat along the stream in talking in fact I specifically questioned the biologist about this. If an area, if the area was flat along the stream and it was grazed but clearly it was the same level as the stream and would have riparian and associated upland areas exposed to the effect by the water if the grazing weren't taking place then it was included in the riparian zone area.

Ingle: Well, I was just going to make a comment. Rather than define what the riparian zone is this one paragraph on 14-4 where it talks about the burden of proof of the applicant on some wording to the effect that the applicant would examine the area within 100 yards, 200 yards, whatever.....for possible repairing and impact.

Scott: Your backing for the plan, I mean ...

Ingle: ??? and implementing, sort of...

Scott: Yeah, you're at the implementing level again.

Ingle: I'm not really hung up on it, but ...

Scott: So, so what takes precedence the FCC or ours? You know, does the 100 or the 80/20, 80/200 or do are we replacing that?

Scott: The FCC...

Other voice: Excuse me, which definition?

Scott: Wait a minute, wait a minute.

Other voice: We using this definition?

Ingle: I think this definition allows much, much, much broader definition on a much broader definition on a case by case basis. You know the... I think, in fact what we heard in some places there really isn't a need for more than 5-10 feet, but in other places it may need to be, you know, huge.

Other voice: Yeah, this is not the place for regulation, this is the place for planning guidance so to speak, number 1. Number 2, ...

Ingle: This is a much better definition

Chairman: Right, and the other thing is I just don't, can't see us over laying another thing over the property owner at this point.

Scott: What our intent is in terms of the Protection Program, just to give you a feel for this is the SEC Section Zone Code will have a number of subsections, one that deals scenic, one that deals with wildlife, one that deals with streams. And, part of what we had envisioned is, that the riparian definition would be used as the guiding consideration for the SEC protection to that

stream.

Chairman: So, could we basically quote that and say that this is a side bar?

Scott: I mean that is what we are intending to suggest here.

Other Voice: But, it is a direct, but, that is what they do.

Other Voice: Nothing really happens until somebody wants to do something within the SEC, and then you really have to look at what is the right pertinent area of a significant ...

Chairman: Right. The point that I am making is that is we would make note of exactly what Scott said, now is a ---- or whatever that when they get into the SEC thing that is included as part of the process, we can direct that. Because, at some point limitation.

Kunkel: Address Corin. I understand what she is also saying in a "0", maybe a better number would be 10, or 5 to understand.

Chairman: So, Corin.

Hunt: I mean when you are talking thermal regulation how can you have a 0 riparian area and not have any thermal regulation?

Scott: I think Mr. Chairman, maybe on that particular issue, I can go back and look at the field work that has been done.

Hunt: Yes, I would appreciate it.

Scott:justify it how that number has come about.

Chairman: That is a good point, but do you want to make it a minimum of 10 or something at this point?

Hunt: I would like to leave it open and make sure we go back to it. If we don't conclude tonight and he can come back with more information, I might drop it entirely.

Chairman: We are going to conclude the Streams tonight.

Hunt: Then I feel we need some type of minimum.

Chairman: Just to get the process forward we are going to conclude this. We are not going to continue this over at any point. Okay, so give me a number and we will all say yay.

Hunt: Well, since your talking 5 or 10, I'll recommend 20.

Chairman: No, I didn't say 5 or 10....Now, will you keep it at 10 or 20.

Hunt: Well, I would recommend 20, you can see what the Board says.

Other Voice: I am terribly confused. You are talking about a page 2-10 where it says 0. All this does is describe is what is.

Chairman: Not what should be or what is best.

Hunt: I am just saying there should be at least a minimum impact area.

Chairman: This is the result of the field work, is it not?

Scott: That is correct, yes.

Other Voice: This isn't a recommendation.

Hunt: I know it is not a recommendation. But, what I am

concerned about is since they found that there was zero riparian areas that somebody could go back in there and say, well I want to put something right on the creek bank. Or, do something right up to the creek bank. And, I know from my own experience that it is going to have effect on the stream.

Other Voice: It says they can't do that on page 414.

Fry: Right. Isn't a riparian area a thing that we are not trying to keep it the way it is, we are trying to enhance it through the protection program.

Chairman: But, we are not in the Protection Program.

Fry: But, I meant the theory being that we are not saying that the riparian areas going to be zero along the streams. We are saying that as we analyze these streams and determine what the appropriate riparian area is along the stream then that, which is what that paragraph is on....

Chairman: Absolutely.

Fry: So, I think that we might want to say that in our judgment doesn't work, but beyond that it seems to me that they.

Chairman: We could say that we don't agree that could possibly any place that it is 0.

Fry: Yes, if we could say that, I think that is.

Chairman: Yes, as carried out by Commissioner Fritz it is an existing rather than.

Other Voice: It is just a piece of scientific data.

Other Voice: At one site on the Neerum Creek.

Fry: Was this a road overpass or something?

Other Voice: I don't know.

Chairman: Cows up close or something....whatever.
It just happens to be that way, we are not zoning.

Other Voice: All this does describe what was found. Not
what should be and not what is perfect.

Fry: The paragraph describes what should be. The
paragraph you were referring to Commissioner Fritz.
I am kind of curious why that is.

Chairman: And, it is repeated three or four places in the
document too.

Hunt: I still am asking that on paragraph 4, somewhere in
there we put "with a minimum of 20 feet" on 414.
Now, you folks can say yay or nay. The paragraph
where it says that the applicant must provide a
more precise boundary, I say we put in there with a
minimum of ---

Fry: Can I say...

Hunt: You can say no, vote on it like you did with Mr.
Fry and we can move along. But, that is what I
would feel best with.

Fry: What I am reading now, is the areas with 0 with our
areas where cattle come down to the stream and
drink and kill all the vegetation.

Scott: Actually, in looking at it, it appears that was
part of Neerum Creek where the plate, the stream
was actually channelized. So, I think that
explains why they came up with that number.

Fry: So, there is actually concrete in the stream?

Scott: Well, no.

Chairman: You didn't say ----- culture.

Fry: Because it said the first two sections starting with ----- animals have direct access streams and there is little or no riparian vegetation and the stream also looks channelized. So, that is why I am assuming you came up with a zero.

Chairman: However, Corin, I don't see where putting a definitive number ---- changes the intent. Because, they are still going to have to provide evidence through the precise boundary. They are going to have to provide the evidence.

Hunt: Yes they are. But, staff doesn't always have the time to confirm that evidence. You know that and I know that.

Other Voice: (female) And, if we are trying to set policy, we are trying to repair that area and if it is at zero now, that doesn't mean that is acceptable. We want at least a minimum up there so even though its at zero now, we want it protected at 20 feet out so that it hasn't maybe a chance to grow back or something to that effect.

Chairman: Okay, Corin has suggested 20 feet from, give us a definition of that, Corin.

Hunt: 20 feet from the water's edge.

Other Voice: What season, what hour of the day?

Other Voice: Generally we go from the center of the stream.

Chairman: We go from the center line, Corin.

Hunt: Oh.

Scott: Or top of bank is a possibility.

Chairman: It is not a very big creek. Remember this. I can step over it with one leg. You saw the creek.

Hunt: Umm.

Other Voice: 20 feet from the center.

Fry: Can I ask a quick question again. If were to say 20 feet, would that preclude any nonrepairing area anywhere along the creek ever under any circumstance? And, that may not be a smart idea because there may be places where animals have to cross a creek. We may not want to drink from the creek plus...or people...I mean I hear what Corin's saying, I kind of agree with her that we need to have a st--, but I am concerned that if we make it to specific....

Hunt: I think within the rules and regulations people will be able to do things within the --- overnight, but they will have to meet environmental concerns to do that. I am sure they will be able to put a congrade in or a bridge across the creek, but they will have to meet this criteria, which they will then later set up goals and regulations for. I am not saying nothing is going to happen. But, I am just saying that we should recognize that all streams have had a riparian area in the past, even

if they don't now.

Hunt: Just say yay or nay so we can move on to the next one please.

Chairman: Okay, 20 feet from the center of the creek.

Other Voice: Is that what we are using?

Fry: That is not realistic. Some of these streams are twenty feet wide so,

Chairman: But Neerum Creek is not.

Fry: During the winter when it is pouring down I am sure there are places along some of these creeks that

Chairman: Well, that is the point that we are trying to make. You know, what you are worried about that is that you know....

Hunt: How does the forestry practice ----, do you know? I know that they don't go from the center line of the creek.

Scott: The Forest Practices Act I believe is 100 feet from the ----- of the creek? for a Class I stream?

Other Voice: It is not a Class I stream, right?

Scott?: The point here is that we are going to be bringing back something to you and your instructions so far is that you want a minimum setback from the bank of the stream and we will faired out what the appropriate terminology would be.

Other Voices: Touchdown....Thank You!

Chairman: So, the wording is is basically that staff will come back with a minimum setback.

Hunt: From the bank of the stream.

Other Voice: They have shifted the responsibility.

Chairman: No, they volunteered it, there is a difference.
All in favor?

Everyone: I

Chairman: Okay, let us put that in 1450. Good Corin....

Hunt: No, somebody elses turn now.

Other Voice: I have got some numbers for setback.

Chairman: Okay, if no one has any other questions about this chapter, do you want to move on?

Other Voice: We were in two chapters at that point.

Chairman: Yes, but like I said move to chapter two.
Maybe we should conclude the creeks part first before we go to the aggregate. I want you to go through 4 to make sure that there is nothing else in there that a....

Hunt: On 413 then,

Chairman: Yes, thank you. We will continue on the creeks.

Hunt: Where it talks about conflicting uses to be allowed fully and it talks about forestry and farm use, could we just put a paragraph or a sentence saying that the county will encourage, umm, yea B. Conflicting Uses to Be Allowed Fully. And then it says forestry, timber and farm use. Can't we put a paragraph in that the county recognizes that these are conflicts with the stream resource and will encourage landowners to do best management practices or something on that order and then maybe

later on when we make our rules we can have something in there. Especially on the agriculture one I am more concerned about.

Chairman: I think you are being kind of mild.

Other Voice: Yes.

Hunt: Well, I want to put something there.

Chairman: You could almost say that it needs to be unconditionally.

Other Voice: I would like to see a 3-C designation for agriculture. And, then deal with it later in...

Chairman: Given the site inspection I would have to agree with that. Philosophically I don't. But, given the site inspection I have to agree with that is my problem.

Fry: I would also include forestry because I think forestry is more damaging to streams than agriculture is except for grazing.

Chairman: Did staff recap why we went to a 3-A on these two uses?

Other Voice: Well, regarding farm use, we have talked about that. But, regarding forestry on lands that are designated forest lands, and those are commercial forest use lands, we have no regulatory authority and that is the state forest practices act. So therefore, we have no regulatory authority to regulate forest practices on forest lands.

Hunt: Has the county ever approached the state forester for the westside or the eastside to see if they

would work with us on this, if we found a stream significant? Has anybody ever asked them? Because, you know they are very subjective on what they do. The state forester can allow or not allow depending on what he feels is appropriate. And, if he knew about these...he might be cooperative. I know John Kraus can be cooperative out on the westside.

Chairman: I mean addressing the same thing, if we say we are going to allow it fully even though we don't have any authority over it, we send no signals at all to the state forester. Basically just saying is that there is a problem.

Hunt: Well, that is why I am suggesting a paragraph in there saying we do see the conflicts. We don't have any....

Chairman: We don't have the authority, but we recognize there is a conflict.

Hunt: No, but we are going to work with other agencies to encourage...

Chairman: We also know that they negatively impact streams as has been demonstrated.

Kunkle: I have a little problem with the agriculture, the whole idea. I think you will find, I have not seen the sites, I am unfamiliar with the West Hills, that most of the ag uses that are up there that are causing the damage, umm, in my mind really aren't agriculture. They are more the hobby farmers, things like that, that don't really have the full

understanding. I would...west and eastside water and Soil Conservation Services - SCS do really a pretty good job in the commercial agriculture. I think funding is limited, but I think they have the expertise and if anything were to come out of this thing, there is some definite problems up there; both places, I am sure. But, I think it needs to be taken care of through those existing agencies and if it means some additional funding through the county level to help that out then I think we ought to try to pursue those manners. But, I am against putting a blanket designation that Metro or Multnomah County is trying to get into the regulating of these ag related deals. You are just opening up a can of worms.

Chairman: I have a response, but I am going to wait till Commissioner is....

Hunt: I am concurring that. I am just saying we put a paragraph in there saying that the county will work with the existing agencies, whether it be the Soil Conservation Service, the State Forester to encourage that these streams be recognized and protected through those agencies. What SCS would be on a volunteer basis with the State Forester. He could, if he wanted to, say you have got to have a fifty foot riparian area around the straight one. I mean he can either go and say you can clear cut if it is not a Class I or he can say no, leave a

fifty foot buffer. If we educate him that we are concerned about it, he might do the fifty foot buffer. All I am asking is a paragraph there. I am not saying move it to a conflicting.

Fry:

I think it is relevant to remember the levels of jurisdiction in my continued impression here and my point about Protection Plan wasn't just an arbitrary point. My understanding is what we are doing is amending the comprehensive plan that then becomes acknowledged by LCDC and then becomes a part of the state law framework and that applies to all jurisdiction within that state law and I would assume in a restrictive, in ----, and I could be unruly here that if a county were to say that it streams through this process we are being damaged by state practices that the state agencies would certainly have to acknowledge that through LCDC's acknowledgement and then deal with it. So, I think it is completely appropriate for a county or a city to say through a comprehensive planning process, HELP, basically you are destroying our streams. That is one issue. The second issue is the issue of implementing the help. And, I think that on that issue there is clear jurisdictions here where the state has their jurisdictions and we can't do what state can't do but it seems to me that is a whole separate issue later. Do you see what I am saying?

Chairman: No, I agree with you.

Fry: Like right now, what Corin is saying, and I don't exactly agree with her language, but I certainly think that we might want to point out here a little more clearly that our streams are being damaged by forest practices and farm practices, and that is it. And, allow the protection process at the state and local level to mitigate the damage that is being caused to us on the local level...

Chairman: I don't disagree with you or what Corin says, and I don't think Dave does. I don't want to just pull that thing out of there and say, "Okay this is a 3-C or deal with the forestry timber which we don't have any jurisdiction of. But, I think it is important in this report that it does go for everything else that we do have degradation there, we do have threats type of.

Other Voice: Chairman, I think the report says that very clearly. I think when you get in, I mean the whole area of the Section B, this is all conflict resolution. If you look and if you start on, well, let us just look at Agriculture. If you start on page 48, 49, 410 it is very clear throughout this that in fact there is some serious problems and especially when you get to the top of page 4-10, the conclusion and what the county should be doing in cooperation with the U.S. Soil Conservation Service and the East Multnomah Soil Water

Conservation District. Then, in fact, they are looking at the development of some fencing to keep domestic livestock from degrading streams of adjacent by preparing habitat. It is very clear that is what they are doing. While not blocking passage for a wildlife species. Dealing with the application of fertilizers and pesticides and a riparian buffered area. So, I think clearly the report recognizes what is going on and proposes some very positive action in cooperation with the two agencies that have some very definite jurisdiction in this area. So, it says the county is concerned. The county recognizes and the county wants to work with these two agencies to clean this up.

Chairman: Go ahead.

Other Voice: I would just point out that I think a lot of the complaint in submissions has to do with the lack of positive stance here. It is an advisory stance as a conclusion and it really is not, when you get right down to it the complaint and submission is that this really is no protection whatsoever, bottom line. Communications with the gentlemen at SCS, personal communication with Charlie Seaco was indicated by the gentleman from SCS who's name I can't remember that in effect they were concentrating on urban stream situations rather than rural were definitely not in an urban

situation out here where we are talking. And that there is very little money. So, in fact, by the time you get right down to it, yes, it is not an effective operation here for protection. I think the county has a responsibility, if the not the ability to go ahead and institute a protection program. If we could do that with simply some stronger language here, I would like to see it. I would not like to spend the rest of the night discussion what it should be.

Chairman: I think the SCS is kind of an awkward position here because they have to depend upon funding from all these other groups and they probably would like to more strongly disagree with the Metro representatives as far as the parks. Because they are a rural constituency rather than an urban constituency. Dave, why don't you say something and then I am going to try and do a wrap up.

Dave: Okay, I am going to twist my hat here just a little bit here on what I said. Kind of along those lines, and that is I in theory agree with this. That is where it should go; where the responsibility should go but I think I deal with SCS weekly on issues, or monthly and I think that the commissioners should understand that in their present state, they probably cannot do this and I think that it is important that everybody understand that. I think that it is

irresponsibility and I dead against agriculture 3-C, but I just want everybody to know that there should be some attempts made and I don't know if this is the place to do it or not to make sure that those people have the money to do their job.

Chairman:

Well, let me address with Commissioner Fritz that too. You are right. It is all here but I agree with Sam in the sense that it said in a somewhat, I don't want to say theoretical, but these are going to happen. And, somewhere between all of these things here and where we are know, there is a gap missing about this is really what is going on and there is just no damn way it can get done. And if we just go forth with the 3-C without saying anything. Basically saying allow the conflict and everything else then everybody is going to refer back to this damn document and say "you guys said, you know, unconditional use". And, so I think we are right, we have got to say that we recognize the conflict here, we recognize the jurisdiction, but there are serious conflict problems here that need to be dealt with and some type of plan. Is there a way we can do that that....I know this is not Peter's favorite word but in a political manner that gets the point across. And, I think that is what we are dealing with here.

Other Voice:

I think what we as staff had in mind here if

this were adopted that we would go work with the Soil and Water Conservation Service to develop a better educate farmers, and whatever power they have and to provide a, find a funding source to implement that program properly. I think that is the intent. I mean the implementation of this in terms of a specific protection program isn't just to stop and say, "Okay, we will let you guys do your job now. It is to work with them to see if they have the proper funding and resources to actually carry out a program to educate farmers and owners of lands along streams about these points and other points that protect streams.

Chairman:

Okay, let me just give you one example of, I don't know how we do this different. In the paragraph on 4-10 it says, "Fencing should be used to keep domestic livestock from the grading systems..." Which is kind of mother and apple pie and everything and obviously everybody would agree with that. And, what I think you are dealing with here is an actual situation where it is not being done. Do you know what I am saying? I mean it needs to be recognized that it is not being done. That is there is no fencing now and therefore there is this degradation. And, I don't know how we do this Scott.

Scott:

What, if you turn to page 4-13 to the top of the page. The reference to the level of protection is

to the resource streams, when we identify the three streams. What we are trying to convey in this section and following that statement is there is certain uses that we would say are uses allowed outright for which we would not consider some sort of application, be it administratively or through a quassy judicial manner and we have uses listed under C, that are conflicting uses that we would consider through some sort of quassy judicial land use application process. Then we have a statement about none of the conflicting uses that we analyzed would not be allowed. And, then we get down to the program. And, in the program statement it seems to me that perhaps we can craft some of the language. And, again it is difficult for me to figure out what your intent is here. But, using the staff recommendation as a model to show how this could be done.

Chairman: Are we all listening?

Scott: The subsection E, you could take, for instance the staff recommendation is with respects to agricultural practices don't do it as a land use regulatory scheme where somebody would have to submit an application on fencing, what have you and try and find funding. In the context of the report what you do then is beef up some language under E to be very reflective of what you want done as an action. But, what we are trying to be clear about

here is that in the context of the staff recommendation the streams are designated 3-C, the uses that would be allowed outright would be the forest and farm uses where we would not require any land use permit per say to engage in forest or farm use. Conflicting uses would require some sort of land use permit process under C. D) There are no conflicting uses. It would not be allowed and E) what are some of the other things that we need to do to make sure that the issues, that we have raised in the report - for instance fencing, agricultural, protecting repairing area, dealing with fertilizers and implications do that in some sort of education program which is what our strategy. Perhaps we haven't stated that for instance, clearly enough under "E".

Chairman: Yes.

Hunt: I agree, but it should be forestry as well.

Scott: But, I am not sure that is where the rest of you are thinking we need to be but I am just using an example.

Chairman: No, that is where we are all coming from. We don't want to put any restrictive or conditional uses on those things.

Hunt: I would recommend under E we put in a paragraph, that we worked with other state and federal agencies to encourage better management practices in forestry and agriculture zones.

Other Voice: Sure. That is better practice.

Chairman: Yes, because we have already got the preservation...

Hunt: I don't know that you could insure them, but you could encourage them.

Fry: Can I just say one thing? Out in East County we are having a lot of people cutting down trees and they are not getting replanted so that the reality is there is no enforcement. So, I like the word insure because it creates a liability where the county or the state could actually go after these. That is my only point. I would just like the word insure because it is the liability.

Chairman: Well, I think the staff should look at the word insure and look at both the forest practices and the agricultural practice and craft some languages on the E that deals more strongly on the Protection Plan. That is a real vague paragraph but right now I can't come up with any thing specific.

Fry:

Chairman: Well, encourage is not a good word.

Scott: Well for purposes of agricultural uses. Under the conclusion section - on the top of the page 4-10. We have three dashes about....

Chairman: Mmhm.

Scott: Is that what you want us to do with respects to writing stronger..

Chairman: This can be interpreted as theoretical rather than

the fact that we really got some ongoing problems that need to be dealt with by those.

Chairman: Would the commission agree with that?

Hunt: Yes, but the only thing that I want to clarify is that it is not just agriculture. I would encourage staff to work with the state Forestry agencies too to encourage better...

Chairman: Can we agree on the agriculture one and we will move on to the forestry. Okay?

Hunt: Okay, yea, okay.

Chairman: If you could take those and just and we are dealing with real life here not with the fact that Gee I hope you guys do fencing type of thing. Now Corin, talk about the forest practice.

Hunt: Under E, on Chapter 4, I would request that we put in there - work with state forestry department to encourage better management practices along the significant streams. That doesn't mean that they are going to have to do anything but at least it puts in there that we are encouraging it to happen.

Other Voice: But all this boils down to is the original question of enforcement. If somebody comes up to us and give us a whole bunch of money we can put a couple, three people out in the field all of the time, we'll take care of the problem.

Chairman: No, I think that, we haven't even got to that. First we are going to come up with a plan then we will deal the practicalities of whether they can be

enforced or when. At least want to put them on notice that those are going to be included.

Fry: See, I slightly disagree because I deal with a lot of enforcement issues and you can make enforcement self-financing Madras and other places Oregon has discovered in terms of --- and tickets. The problem with land use is that we don't enforce land use issues effectively. So, I agree with you, there is no enforcement that I believe the state and the county could if they had a little more courage to create enforcement programs and actually fine and jail people as allowed under federal and state law and generate enough money to do it, but they don't have enough best interest.

Chairman: But, to deal with this on a practical manner, we are really on 4.6 which is the conclusions of the forestry section. I know 2.14 but you really ought to go back to 4.6 and do something with that part too. The top of 4.6.

Hunt: Okay, you could put it there and the conclusion.

Chairman: Yes. That is what I am saying. Okay? Corin, now why don't you shape what you want to put in there and then we can all say yea that is a good idea.

Hunt: I will give staff some direction. Maybe not the exact wording, but work with state and federal agencies to encourage better forestry practices, management, in the significant stream area or along the significant streams.

Chairman: The way that might be saying that is is the way that it is characterized in the report is they basically say that this all falls under the Oregon Forest Practices Act bla bla bla bla bla. And, that provides all these protections bla bla bla, but what we probably should say is that we should, you know we don't have a stream, an irrigation district, but I guess to work with the state forester to insure that the Forest Practices Act is and hereto or whatever in the significant streams. Do you see what I am saying. But, I don't know how to word it either.

Hunt: Well, staff knows what I am talking about. They can come back with some language.

Other Voice: I think we can come back with some wording to your consideration.

Chairman: Maybe they can read our minds.

Fry: I got a simple idea. Can't we just put in a paragraph saying that in the development of this report it is very clear that the Oregon Forest Practice Act has not been effective in protecting...

Chairman: Why don't we say must be...

Fry: No, has not been effective...we are making a finding that the state law has not been effective in protecting these streams. I think there is enough information to prove that.

Chairman: Now, Peter I hate to disagree with you because I

don't want to prolong with that. But, I don't think this report in here or anything that we have read that is in the record that is in fact information available to now has basically said that forestry has degraded these streams. I am not trying to argue, I am just saying that we don't have any of that as evidence right now.

Fry: Right, but there is a report under the forestry discussion about the impact of soil runoff in these and there is a discussion of the state of the streams, which are very poor. I see a clear link in the record personally. But, I don't want to bring everyone else forward to that conclusion if they don't feel comfortable.

Hunt: I think our language should be positive and not negative.

Chairman: Yes, that is what I am saying.

Hunt: Okay, because I am a nice person.

Chairman: I think we just say something to the fact the Forest Practices Act must be addressed better.

Other Voice: The Forest Practices Act is being updated in strength.

Chairman: Yea.

Other Voice: If we could just concur to go along with that and encourage that...

Chairman: Given that, I am willing to accept the motion to accept the recommendations of staff for the Howard Canyon Reconciliation Report on the Significant

Streams Resource.

Fry: Can I make one minor change?

Other Voice: No.

Fry: It bothers me that it is called Howard Canyon Stream Resources. Are these streams unique to Howard Canyon?

Other Voice: Well, the three streams that we researched are all related to the Howard Canyon area. I mean you can call it whatever you want to call it.

Fry: Okay, there is a reason for this. It seemed like we talked about the streams because we were forced-- with it because Howard Canyon, you know...I don't really care that much you know, I just, Howard Canyon Streams doesn't really tell

Other Voice: We are going ahead with work on the rest of the streams east of the Sandy River.

Fry: And, so then they would become part of the rest of the stream process?

Chairman: Okay. I am looking for a motion.

Hunt: I'll make that motion.

Chairman: What we are moving second is to accept the staff reconciliation report and recommendations on the significant streams in the Howard Canyon as amended.

Other Voice: Chapter two.

Chairman: Chapter 2-4. Well I am giving you the specific resource..

Other Voice: I got you.

Chairman: Okay, moved and seconded to discussion.

Other Voice: On the stuff the staff is crafting on agriculture and timber, umm,

Chairman: Well, we think we are going to look at it next week here but if we keep on going it may be a long time.

Other Voice: Well, the intent is, I think that what you are trying to reach closure on that you agreed to the instructions you have given staff and we will prepare some responses given those instructions and bring them back to you for your final review.

Chairman: All in favor.

Voices: I

Chairman: All opposed. Okay. Commence. Five minute break and then aggregate.

Chairman: Okay, on to the aggregate. Howard Canyon Quarry. The staff recommendation is that 3-C they find significant 1-C and three points is conflicts with residential uses which can be resolved by adopting plan and overlay bla bla. Conflicts with significant streams can be resolved by requiring the -----meet DEQ standards and Multnomah County require independent --- verification and noise and water pole standards are being met by the mining operations. Let me just find out a couple of ground rules. Does anybody at this table not agree that it is a significant resource? I mean at least that is a positive point to start with.

Good. Given that, so all of you agree that it meets quality, quantity, and location? I am learning as I go through this the quickest way to do this. Okay we are not dealing with the mine permit application. Okay, everybody has had the chance to read the read man noter on this? Okay, we know what some of the major concerns that were raised in the report. Okay, given that, would anybody like to start off on this?

Hunt: Steve Alman sent us the recent letter and I can't even find it right now. He talked about the transportation concern.

Chairman: Dated June 20th.

Hunt: Right. And, he clarified more as to how we can address the transportation concern. And, I would like to see the report have better language as far as, not saying there is an impact but like either say, we have to address it so that maybe if they ever do apply for a conditional use permit that the area that they send the gravel to is limited or something on that order. But, I think we need to put it in the report here. And, I am not sure where you would put it or what type of language.

Chairman: Okay.

Hunt: But, Mr. Alman did seem to clarify that for me at least.

Chairman: We are dealing with another state goal here, right, also Goal 12 - dealing with transportation. And,

one of the things that we would have to do is we would have to be very specific about identifying what the conflict is and transportation to be...and we could say lamas and trucks or whatever. But, you know if there is a conflict and we have identified or that we are concerned about then we can do that. One of the things that we could probably ask staff for clarification on is the designation of those roads out there right now and what does that mean. Rural, local....and what is the normal mix considered on that rural local road of trucks v. private vehicles or do we have anything like that? I mean does it suppose at 65% automobiles v. 35% trucks or something like that?

Other Voice: No.

Chairman: I think there is an ODOT definition for that. Let's see.

Hunt: Well, it seems like how Mr. Alman talks about it we could say describe you know how much more impact there would be to the roads by a gravel truck v. regular transportation or something on that order.

Chairman: Right, but this is where I am going to come from on this is that we will stick it to a gravel truck and a logging truck to begin with and the only reason I say that, I mean we do have use on that road now. And, so I mean, in the volume of the, and I don't want to hear about breaks or anything. I mean we have large trucks on there already and they are not

all gravel trucks as it is and is there a conflict now?

Fry:

I think the state is moving towards recognition of roads are more than just things for automobile traffic. There is a recognition of road right of ways, not roads, are for the use of pedestrians and for use of people with horses they are for the use of industrial traffic they are for use of automobiles, they are for use of all human movement cross private property which are these easements and so I don't see it here. There is some discussion about the bicycle ways and there is some discussion about pedestrian but there isn't really a discussion about the need to balance these uses to protect all the rights of people to utilize these roads. And, to answer your specific question, logging trucks are not coming from a single point. You cut the trees down and then you move to another point. And, you are not getting a stream of traffic from a single point day in day out, you are getting a logging truck coming down Larch Mountain. You are getting a logging truck coming up Little Page Road, although I have never seen one but I am sure it will happen. You see, there is a real difference to me.

Chairman:

Peter, I agree with what you are saying about what right of ways are, but that isn't in the Goal 5 situation, that is Goal 12, right? It deals with

transportation.

Fry: Right. So basically where I deal with the transportation issue because I was just sidetracking..

Chairman: Good..

Fry: ...to deal with your logging question, because I figured out the answer after an hour of thinking about it. But, I think that we need to recognize under Goal 12 and the impact of Goal 5 to Goal 12 that the state is clearly saying in urban areas now and in rural areas I think subsequently that we need to move away to/from roads being exclusively for vehicle movement to roads for all uses. Now, why is that important to this case and this place? There is testimony in the record about the concern of pedestrians and people with horses bla bla bla and the impact of industrial traffic under their health and safety. I don't personally believe this is a fatal flaw that prevents the pit from operating but I feel that as you go forward in a conditional use process, you have to recognize in this report that there is a need to balance the impact of this use with the other legitimate and supportive uses of these right of ways. And, we went through this on the bicycle and Nasiam, by the way, those of you that remember, the people said we should not have bicycles on the roads because they should be only for cars. And, if you prevailed and

did designate certain roads in fact Durham and Little Page as bicycle pathways as well. Do you see that these roads have a legitimate purpose for bicycle use. As one example, I think they have a legitimate purpose for pedestrians. I can't walk off my property without crossing private property unless I walk on the roads. I am land locked, do you see what I am saying unless I use the road. And, I can't ride off my property unless I use the road. So, the roads become pathways for all uses and I think the report, I failed in numerous areas. This is an area that I don't think it really, spend enough time discussing that.

Chairman: Okay. Before we go any further. Maybe we can hit this off. We are going all have things to talk about on this transportation thing. Maybe we could cover any other problems we have on this particular report first then we can go into transportation. That is what I am suggesting.

Hunt: You know and what I am saying is from page 38 it addresses it enough. I would just like staff to reassure me that it could be something that would be addressed during a conditional use permit from what they say.

Chairman: I mean we... okay lets finish transportation.

Hunt: Because staff does talk about it a lot in here but I would just like to be reassured that when Mr. Alman stated we are doing here.

Other Voice: I would like to get back to Mr. Alman's letter and just reiterate a couple of points he made in the letter. He talks about transportation systems, in particular, he says gravel truck traffic is no different than other vehicle traffic. It must meet standards established by local governments to protect public safety ---- on the --- roads. This is page two of this letter. He says that he would encourage Multnomah County identifies strategy for making necessary improvements to Corbett area roads. Other strategies such as fazing development, establishing improvement ---, or imposing vehicle weight limits should be examined as well. So, it is very specific about implementing procedures or policies.

Hunt: I wonder if we could put that language in the report. Just take it out of there and put it somewhere in the report.

Kunkel: I guess my question in the remand order. It indicates second paragraph down issue 4 tells why we were remanded. Goal 12 requires development of transportation plans to serve the land uses. So, is Goal 12 where this should be dealt with? Well, when we are reviewing. If we designated the mineral site as significant, the transportation issue is a problem. I think everybody here would agree with that. 12 - when we go through that process, you know that will be singled out as an

area that has some transportation problems. And, that is where that will be handled.

Scott:

In the Goal 5 process it indicates that the easy analysis phase you consider other goal conflicts. And, I think statements will be made tonight to select what Goal 12 is about. It is a consideration of a system type of approach providing for the movement of people goods and services and those are my words. But the just of it is what Mr. Alman in his letter is attempting to point out is those are kind of system level considerations that he has raised, if you will, and that is that all types of truck traffic needs to be considered, the county need to resolve not only issues of how we get log trucks through the area, but farming produce to the area, garbage pick up, how we provide for pedestrians, do we provide for pedestrians, do we provide for horse paths, do we provide for bicycle routes...and all of that is in fact addressed in the county's current plan. It designates functional classifications and as Gary has pointed out in the plan it is referred to as local or all that has with that - an anticipation of a kind of cross section, 50 foot right of way, 24 foot pavement in the plan, in the transition policy we have designated that we are part of the bicycle plan portion of it. Which routes are to be set aside for, if you will, bicycle purposes. Who

would identify those? In the county's procedures there is....Also, in the policy document, if you will, there is a requirement that the county develop the Kaplan Improvement Program for the improvement of roads that are below the standards anticipated for its function and classification and that is how the county approaches the improvement of roads countywide. They have a system that the transportation division uses to prioritize how they are going to spend money and on what roads. And, further, the transportation has also as part of their standards and regulations the means by which the county goes about improving roads on a case by case basis if you will through local improvement districts and so forth. And, those are all system approaches. In other words, what is the road system design of it, that is the functional classification system. Are there any special kinds of uses or transportation needs are we dealing with. Have a component for bicycles and where we are going to focus our public dollars for the expenditure of bicycle improvements. And, we also have provisions for how we improve roads. And, I think that is what I think Mr. Alman is talking about. I don't know if that answers your question. But, we have Goal 12 that is kind of the general goal about the transportation systems and --- planning goal. Mr. Alman is saying we need to

address those concerns in a system wide approach, not singularly a type of truck on a segment of road per say. Under the Goal 12 discussion, I don't know if I clarified...

Chairman: Can we say something to the fact that, maybe I am behind here. I guess no we don't want to do that. I was just thinking that any increased activity, full use of a protection of this particular Goal 5 resources, aggregate and everything else requires an updating of the Goal 12 and there will be a probable conflict. I know I am not making sense in one sense.

Fry: I want to point out that Portland prohibits industrial traffic in their neighborhoods and that is the law. Portland, because I have dealt with this on behalf of industry. Portland, on behalf of their comprehensive plan, identifies areas that are truck districts and identifies that access into the interstate system and prohibits truck movement through the neighborhoods except trucks are moving to delivery of goods or trucks that are moving to a point. So, if you buy Portland's theory, what Portland is saying. What I am saying now is Corbett is a neighborhood, the county has not gotten to a level of sophistication to deal with the fact that there is an industrial use in the neighborhood. That we will like essentially site industrial district, or Swan Island, or a river

gate. If county does not have any policy framework in place to deal with the impact of an industrial district within the neighborhood. And, I personally did not have a problem with that industrial use working. My problem is that there is no safe framework in place, particularly in the issue of transportation and it becomes an enforcement issue which we have already talked about. You know, where kind of this idealistic land that enforcement is not our problem although I have had uses denied outright that were permitted in the zoning because basically the public was incapable of enforcing the transportation system. This is out in southeast Portland where it was upheld by Oregon Supreme Court where the public was able to deny a zone change in conformance of plan based on the fact that the city could not provide the services necessary to mitigate the impact of that situation. So, I think there is two issues here in conclusion. 1) I think is the issue of what Scott is talking about, Goal 12 and providing the right of ways for all uses safely and then I think the second issue is where I believe the LCDC is wrong where they say that this traffic is just like any other vehicle traffic. I don't agree with that. It is not any other vehicle traffic. It is traffic generated by industrial district within a neighborhood area. So, I think both issues are

legitimate. Both should be addressed in this report.

Fritz:

I think what I read from Steve Alman and what I heard from the director is that there needs to be a system wide strategy for dealing with...how do you pay for necessary improvements to county roads. And, that means a change in the code. And, that is something that if we do legislatively we are not going to do tonight, or next week, but it is something we can do and make recommendations to the county commission on. One of the strategies could be placing weight limitations which in fact would basically eliminate the mining of this resource. That is one end of the spectrum. The other end is here the county has identified, the staff has identified in this report what type of improvements need to be made to roads and what are the limitations of the bridges we know and can put some dollar figures there. How do we raise the money. That is what we need to do. It isn't just how do we effect the changes in Corbett's roads, but how do we deal with this countywide, both in this instance and any place else where we need to make needed improvements, how do we raise the revenue.

Fry:

The county could require transportation plans of the operator.

Chairman:

Yes, there is going to have to be a change in the code.

Hunt:

I have a recommended amendment. That on 4-20 where it says Program to Achieve the Goal; we put in some language to the effect that roads be addressed. Because when you look at this, roads aren't addressed as one of the programs to achieve the goal. And, you could use Mr. Alman's language to some degree because he does come up with some good solutions, or suggestions.

Chairman:

Is it inappropriate at this time to say something about the issuance of a permit that there needs to be a transportation fee connected with that that deals with payment by the operator of transportation? Or is that going too far?

Scott:

Let me answer the question in a different way. Let me answer a different question. We have in the county practices and procedures and standards. Our road standards document that the transportation Division uses currently. And, that document stipulates about how we go about assigning improvement costs to a project. And, that is now under the auspices of the Transportation Director. Okay, that document. And, it gets to the business that document relies on a rational mixes test approach that you assign to the benefiting parties their fair share of the value of the cost of improvement and that is how that document is generated...and the extent to which that would be changed or modified by whatever we do here...

Yoon: Yea, it's going to have to be a change in the code.

Hunt: I have a recommended amendment that on 4-20, where it says "Program to Achieve the Goal", we put in some language to the effect that roads be addressed because when you look at this, roads aren't addressed in one of the programs to achieve the goal. You could use Mr. Ulman's language to some degree because he does come up with some good solutions or suggestions.

Is it inappropriate at this time to say something that at the issuance of the permit there needs to be a transportation plan connected that deals with payments by the Operator of Transportation? Or is that going too far?

Let me answer a different question -- it gets to your question.

Okay.

We have, in the County practices, procedures and standards, a roads standards document that the Transportation Division uses currently, and that document stipulates how we go about assigning improvement costs to a project. That is now under the auspices of the Transportation Director....that document. It gets to the business that that document relies on a rational access test approach that you assign to the benefitting parties their fair share of the value of the cost of the improvement. That is how that document is generated. That is one of the underlying principles of that document.

That's in place?

That is in place and the extent to which that would be changed or modified by whatever we do here is something that would have to then be reconciled between the Standards Document and what you would do as a measure under the protection program dealing with the land use issue. Do you understand my point?

Yea, I do, but let me ask you a follow-up question. Right now we are going to allow full use of that

resource, right? It is not conditional use -- it's full use?

2

Right.

The Staff is recommending 3-C, which is a conditional use.

Okay, but we can put the conditions in. I don't want to say play with the conditions, but we can deal with some of those conditions that need to go into place, add, subtract, multiply or divide.

The point here is that if, just kind of walking down the path of the discussion you are having, if for instance the conclusion is that some improvements have to be made to this system to accommodate traffic, the notion is there are benefitting parties not only with respects to the aggregate but there are benefitting parties for other users that have trucks on the road and for car users and possibly bicycle users and automobile users. That improvement then, is a portion but there are other ways of dealing with the business of the impact of truck traffic in terms of the amount of truck traffic at any one time until a certain road condition is achieved. You could identify that as a strategy, if you will, for how you mitigate or address the problem. So the point I am trying to make here is that the box isn't one of just saying necessarily there is a full improvement because we have examples throughout the County where we have a street system that isn't fully improved to the standard but we still allow for traffic and activity to occur given that it is operating at acceptable levels which is what the Transportation Division does when we have proposals for projects that generate traffic. How much impact does that have on the existing facility? And they make some sort of assessment of that.

Is there some way to shape that into an amendment to this report?

Fry:

I think that Scott is solving part of the problem and that is that they are in fact in the County areas where people are unable to develop their property because the roads are substandard and that because they are substandard without emergency access they

are not being allowed to partition or divide their property and they are being denied it. So I think that what Scott is arguing in one part of it, which I agree with because I have to pay these things all the time, is that it is appropriate for the County to charge impact fees -- they are called Off-site Impact Fees -- when there is an access between your fast-food restaurant and the impact on the intersection. We have had to build roads before, you see, to divert traffic away from the intersection around another way.

Draw a straighter line. Peter, you're wandering a lot.

Fry:

I'm sorry. You're right. That's one piece. I think the one piece is the issue of the access and the impact fees. Okay. The second piece, I believe, is the issue of disbursing the impact on the neighborhood in a way that doesn't destabilize the surrounding area and that piece, I believe, is dealt with through the requiring of the Operator to develop a transportation plan so that.....

The Operator develops the Transportation Plan or the County.....?

Fry:

No, the Operator, at least in my experience the burden has always been on the applicant to provide a parking management plan or a operations management plan and I've seen numerous ones of these things go through different jurisdictions. The Operator, whether it is a battered women's facility or an aggregate line or whatever, has to develop a management plan to deal with their impact on the system which is separate from paying for their impact. Do you see what I am saying?

Yes.

Fry:

It is trying to get people in buses, you know get people off cars, providing bike racks, all that kind of stuff. So that is one issue. The second issue and the third issue.....

You had two.

Fry:

No, I had three. The first issue is paying your way, the second issue is taking responsibility for your

impact and the third issue is the fact that there is definite underlying assumption here in the record that this resource will be utilized for large state projects or large public projects which are different from serving people in. That if this, say, were to be used, and this was in the record I believe it was about 1984, and also the issue when they got their exemption.....

Okay, we have to move on from that.

Fry: Okay, that is an issue that is of much greater magnitude, you see, than just a transportation pact to deal with their impact to bring gravel.....

It is not counted as part of their total that they have in mind.

Fry: Well, they pointed out that, and this is irrelevant, you know that this is a nice friendly neighborhood place and we are going to give gravel to our neighbors. And that is one issue but there is also underlying this in the record the fact that this may utilized for large public work projects which have a much different pattern because you are going the same way every day constantly. Do you see what I am saying? It is a different kind of impact than an impact just serving a scattered community.

Yea but that is in the mining permit fines. Commissioner Crankon has a few things to add.

Fry: Okay, to end. I feel those three elements need to be acknowledged in the Goal 12 section of this report.

That was my question to the Staff in terms of how do we deal with this transportation issue and the fact that we have to access between the transportation issue and the protection of the aggregate as a resource. That would have to be under the permitting part.

There are two sections where we discuss the road issue. One is Subsection B on Page 3-14 "Area Road Limitations on Resource Protection," and Page 3-38.

Yea, Page 3-38 is where they really go into this.

I think the ?????? is very clever, by the way. I mean, I don't like beating up on Staff all the time, but....

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I think the Staff does a very good job in 3-38 and 3-39 in describing the problem. And I think that on 4-20 -- please go to -- it talks about program to achieve the goal and it has "I", double, you know. In these it says that blasting shall be restricted to hours between 9 and 5. It has all kinds of conditions. I think one of them should address transportation. Let Staff come up with something and we can move on.

In support of the three things that Peter said, we need to put them into four word things, boom, boom, boom. It has to be added that those are going to be different facts on the transportation section.

Right. And then when it goes to conditional use permit time, that will be addressed because it is one of the programs to achieve the goal.

My only concern in what I read in Ulman's letter is that we deal with transportation and the costs of making improvements to roads in a system-wide approach. Not just looking at Howard Canyon. So I am hesitant to put anything more into the "Program to Achieve the Goal". I am not hesitant at all to looking at an amendment to the Multnomah County code and how we deal with this in general.

Yea, I think the way to characterize it under 4-20 "Program to Achieve the Goal".....

Well, in that you could just say "the County shall"...

Yea, that's what I was about to say.

Not just as it affects Howard Canyon.

No. Review the whole transportation plan taking into consideration the three points that Peter made.

Peter, I wish you would repeat them for Staff in five word sentences for each one of those.

Fry:

The first is paying for your impact. Second is dealing with a management plan for your daily operation, and third is dealing with a management plan for large

public work projects. And I do have to say that I disagree with Commissioner Pierce in that I believe that the County has to deal with this as a system-wide approach and they have to deal with this use. We've had before some truck operation was shipping ?????? whatever.....I think that the reality is that this is a specific use that is of such magnitude that it is appropriate.....

Well, that's what I was saying....

We don't have it in the code yet.

Fry: Right, I agree with that.

Peter, if we put it on the program to achieve the goal that they have to review the county-wide transportation given this particular Goal 5 resource and the three issues that you raised that go with it. Then we are dealing with it system-wide but we are identifying in it the specific impact which we are dealing with.

Fry: That goes a long way. The only concern I have on transportation, because I disagree with Commissioner Hunt, I don't think Goal 12 adequately addresses the uses of right-of-ways for pedestrian, just normal bicyclists and horseback riding and it is a severe problem out there.

Yea, but we are not looking at that now.

We're not dealing with that now, Peter. We are at Goal 5 and we are only dealing with the aggregate.

Fry: I am talking about this report and conflicting uses and I did not agree with the State saying that a gravel truck is not dangerous to someone riding a horse.

Okay, you made your point, but I don't think you've got.....

Peter, to set the record straight, a bicyclist can be more scary to a horse than a gravel truck. Particular horses -- you know, you have got to balance the whole thing.

They've identified some Goal 12 things here that deal with this particular goal but they are not dealing with the whole Goal 12. Do you understand?

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Fry:

Okay, now this is important to me. I think that they should, in this dialog, discuss the fact that these roads or the right-of-ways have other uses besides moving vehicles. I don't think they adequately discuss that at all in this report. And we have gone down this road in East County so many times before. I can remember a conditional use to allow.....

Okay, let's move on. We are going to vote.

Can we vote on both recommendations please?

We are going to vote on both recommendations. Does anybody on this. Does anybody not agree that we will have those things that we have said on here? To deal with the fact that we have to have a system-wide plan to deal with the three specific issues that deal with this Goal 5 resource?

All in favor???

All:

Eye, eye.

Okay. Now, Scott's got something to say and then we are going to get on with this.

Just clarification. One of the things you just stated was a management plan for large public works projects. I am not clear where that was.

That is in at least two places....in several places here they talk about these public work projects. I can't lay my hands on it.

Are these public works projects the aggregate supply of large public works projects.

Yea, yea, they talk about that.

So, what you're envisioning here, Peter, is that there is some sort of discussion here of a traffic management plan for the mineral aggregate site under normal operating conditions and then what would be another plan that they would have for these

extraordinary demand periods where they have large amounts of aggregate moving all at one time?

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Fry: To a single site or single point.

Okay, that's your focus?

Fry: I'd like to separate those two because I think they are different issues in terms of how you manage that.

Okay, now at this point I'd like to have a couple of recommendations on the Program to Achieve the Goal and then you guys can all vote me down on this.

Okay.

In the Program to Achieve the Goal, Gary laid out very well there. He talks about two things there both on the DEQ noise standards as well as the water quality and he talks about getting a contractor consultant hired by the aggregate with the approval of the Plan Director to review that. My view on that is that if it is done that particular way, it will always be suspect of who this particular consultant works for. I would like to re-word it to the sense that the owner and the Planning Director will agree upon the cost and the scope of the studies done by these consultants and then they will be chosen by the Department of Planning and paid for by the Operator. It's a standard For Service practice that is done. It is no different but I think it will take the onus of partiality out of this and it will look much more important.

Fry: Wilsondale(???) does that too but they require you to pay for it and then they hire.....

Right, but what you gotta do before that is the Operator and the Director have got to agree on two things: cost, because it can't be an open book and scope.

Like blank checks, thought.

Yea, right. And as far as scope, I think that's real simple because I think we can lift from both DEQ water quality as well as noise the basic standards that have to be met. Okay?

Before we continue the discussion can we vote on it because we may all be in concurrence?

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Yea, I was going to say, is there anybody who disagrees?

All Soft:

Agreed.

Okay, next. I have no other recommended changes for this document. I would hate to tell you that but.....Sam?

Not a change. Just a matter of clarification. On the Program to Achieve the Goal, I just want to be awfully convinced when I leave here this evening that, as you said to us Scott, this was a direction that we are heading and not necessarily a final determination of all the points involved in the Program to Achieve the Goal.

That's the Staff's intent because your recommendation will go the Board of County Commissioners and they may or may not agree with what you have. After they conclude that, then whatever their conclusion is, we will have to do some additional work on refining the Protection Program so that it is a bit more specific.

Will we as a panel have a chance to think about refining and suggest to Staff further stages in the program to achieve the goal between now and say when?

Our intent is to take your general direction comments to the Board of County Commissioners, let them agree on the basic concepts of significance, impact areas, conflicting uses, conclusion about level of protection and the general direction that you are moving in. They may alter some of that or part of it. Once they come to their conclusion, we will have to do a little more work on refining the Protection Program so that it will deal with the specific issues that will be coming back to you. Now, given that scenario or that process, what may be coming back to you is something that you may have a philosophical disagreement with their bottom line. So that's where your starting point is in terms of refining the Protection Program.

We will reconcile that.

Peter, last question.

Fry: Well, I have a question. Scott, is the last stuff in the report going to be carried forward. It's the impedancy which identified some of the things that I and other people wrote in the County's response to those issues -- is that being carried forward in this report?

It is our intent that not only the comments that have been entered today, that the additional comments that we have received since then be incorporated in that appendix. So it is kink of a living document.

Fry: So how would you recommend that I proceed if I personally believe that the County has misunderstood the issues that I raised and has not responded to them accurately. What should I do. Just silent or should I write a note. The Staff is the one who wants to carry this piece forward.

My recommendation is you go ahead and clarify those points now.

Fry: We'll be here all night and I don't want to do that cause I am getting cut off. I can't write a letter because the record is closed. I just don't want a report going forward with my name in it and issues that were misunderstood by the Staff presented in a report that goes forward. I don't feel comfortable and I don't take our time to go through this.

You can discuss things with Staff.

You can send a letter to Staff.

Fry: There is a solution. Can I give you a simple solution? Eliminate my name from the report. I don't think there is any reason why these issues raised by ...why should I....there's a whole bunch of issues raised. Many of these issues were raised.....

Okay, hold it. So Peter, stop a minute. So you want to disown those particular questions that were in the report, right?

Fry: Some of them don't accurately reflect my true questions so I don't like this report going forward with my name on it.

May I make a comment? How do you know that some of the other people who have submitted questions didn't have their questions adequately addressed as well? I think the intent was that you raised an issue, other people raised issues and the Staff responded to those issues with their understanding of what they read.

Fry: Okay, they did not respond to all the issues I raised, they responded to about half of them.

Okay, now hold it.

I would object to anything being removed from the Public Record for appeal reasons or anything else. I mean, it has already been submitted as part of the Public Record.

Fry: I am not talking about that.

This is a question of form. The Staff, in preparing these comments was trying to indicate to the public that we did read what they submitted and attempted to respond to them as best we could straightforwardly and interpret what they said. It is agreed that we don't all have the same interpretation of how we write something and would want it restated and that's fine. We were trying to be somewhat credible in terms of saying we didn't fabricate this question, this is where we think the source of this question came from and put it in the document. Now there is nothing here in the rules that requires that we put names. The point is, is it as valuable to you, the Planning Commission, to have the recognition of who the issue is raised by or is that not of particular concern to you? That is kind of a question that in part Peter is asking. It is not all of it, but is it of concern that we have an issue raised by -- I am looking at Page 2-55, it's an example where the format has the issue raised and then the discussion and response. Is it important for the Planning Commission to have the identification of the person that this issue was raised by?

Well, here's my point. We've read the report, we looked at the questions. If we wanted clarification of a question, individual Commission members would have raised a particular question on that. They didn't have a question and I think that we can move on. I agree with Corrine's point that we can't take anything out of the Public Record. Peter has voice objections. The rest of the Commission can say that's fine and we're going to move forward anyway.

Fry:

I think that I am suffering retribution by saying certain things. I think that other members who get identified, I think that personally it is unprofessional and unethical to identify by name citizens who express concern about report. I am a strong person, I don't get threatened easily, but I definitely believe that it is not appropriate to include individual people's names in a document like this. I have no problem with associations or organizations but to call out individuals, and not all individuals because there are numerous people who have not been included in here. There are points that I raised that were not included in here. I have no problem with issues raised. I have no problem with organizations -- being identified....

So what do you want us to do Peter?

Compromise.

Fry:

I want the individual's names deleted from this section.

I don't think that we can eliminate anything out of the Public Record at this point.

Fry:

It is not eliminating for the Public Record. It is part of the Public Record. This is only a portion of the Public Record and this is a report that reflects our deliberation and I personally believe that if this report goes forward with individual's names in it, I believe that is violation, personally.

There's an idea. What about some generalized issue raised by Respondent #1 or Citizen #1, Citizen #2, Citizen #3 and then you still maintain a catalog of going through however many people have been

identified with their name available upon request.
The Planning Director releases that information based
on

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The Report is already out there.

And there might be several people who are happy
that their names are here and their problems, their
questions have been addressed.

Well, I vote for someone making a suggestion on that
and we can vote or not vote on it because we are
going to close the discussion on this.

I'd like to do two things. First of all, I'd like a motion
to accept the Staff recommendations on the Howard
Canyon aggregate.

Fry:

Wait, wait, wait. Okay, you can cut off debate but I
want the record to show that I had issues that I
wanted raise about the Report and that you have shut
me out of that discussion and that is fine if you want
to go home but there are other things about the
report that I wanted to discuss. I didn't want to
spend all the time talking about my name in the
Report. I just feel very upset about it but I want to
deal with substantive issues and I don't want to lose
all my time because we want to get home on things
that I think are pretty important that need to be
discussed. And if you want too shut me down that's
fine.

We are not shutting you down. We can always vote
against it.

Hunt:

Can we -- just like we voted on other things -- Peter
has suggested that names be removed, let's say yea
or nay.

Fry:

Let me just be clear that I think that the legal
counsel should make a decision on that because I
believe that

Okay, let me make a motion.

May I be recognized to the purposes of making a
motion?

Mr. Chairman, I move that subject to approval by County Counsel that under the Appendices Response to Comments in individual chapters within this Report that the whole category of "Issue Raised By" be eliminated from each comment for that whole category which includes individual names.

Second.

Yoon Discussion.

Yoon: All in favor.

Several: Eye.

Yoon: Raise your right hand please. Four for, all against. Subject to County Counsel....

Fry: Well, wait a minute.

Clarification. Let me just interpret what I think I heard you say. If County Counsel says it's okay to have identification of individuals by issue, it is okay with you?

No, no. If the County Counsel says at this point we can remove that whole line from each issue, you know those comments -- "Issue Raised By" including the name. If we can eliminate it from this report as it goes forward to the County Commission, then we would do it. If he says no, it's part of the Record then it

Yoon: All in favor of that motion, please raise your hand.

Yoon: It's five/three.....

Fry: Okay, because of time.....

Yoon: There is no time Peter. We're going to stay here til this is done.

Fry: Okay, good. So I should get my memo back and go through that.

Yoon: If you are going to spend quite a period of time, though, I am going to excuse the West Hills people

because I am not going to have them sit here for another hour or so and then we not get to them.

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Diack: Mr. Chair? Through the Chair to Commissioner Fry. Peter, do you have some specific amendments to the aggregate section or is it Section 4?

Fry: I've got two little things and then I've got two larger things in this section and I have two larger things in the production section. So the little things probably could be dealt with fairly easily. I wish I had a photographic memory.

Hunt: Didn't we already address the Stream Section?

Yoon: Yes, Stream Section is closed.

Hunt: The only section left is the Aggregate Section.

Fry: Right, that's what I meant.

Talking about Chapter 3 and Chapter 4.

Yoon: Give me thirty seconds.

Alright.

Yoon: I am in pretty good shape and I could probably stay here all night but I am speaking only as an individual. And I would stay here until we got both of these reports done. The next time that is available is the 27th which is next Monday. Now, it's your pleasure, but I think we better stop here and think about what we're going to do before we go forth.

Pemble: I won't be here on the 27th.

Hunt: I would request that Commission Fry put the amendments on the table and if we have any discussion that we need to discuss them about, we'll discuss them and give ourselves fifteen more minutes and see what happens.

Yoon: Okay.

Hunt: Raise the amendments and hopefully we can resolve it quickly.

Yoon: Okay, thank you.

Fry: Are you saying....the other thing. How long do you think the West Hills is going to take? A couple of hours?

Yoon: Well, this thing is three times longer and it is a much more complex issue.

Fry: I think it's appropriate at this time for us to briefly discuss how long we want to stay because I'm personally, in recognition of Commissioner Fritz's problem, don't necessarily want to stay here until 1:00 or 2:00 at night and I don't want to get started on a new issue until we concluded.

Well I know that Commissioner Cothell(??) isn't going to be here either. So I know that we are going to lose two Commissioners for the 27th.

Hunt: I'm committed to staying.

Fry: Okay, forget Howard Canyon. We're talking about the next issue and how long it is going to take. So we are all willing to get into it and stay to the bitter end. Is that what everybody is saying?

Yoon: Right. So the way we're going to deal with this Peter is, you raise the issue, we'll put it in a motion to amend the document, we'll vote on it and we'll move forth to the next one. Okay? Go.

Well, I don't think anybody else has any amendments. I've been formally told by everybody.

Fry: Okay, the first one is 3-14. These are the little ones okay?

Yoon: Hit it.

Fry: State DEQ noise standards do not apply to trucks engaging in interstate commerce but would apply to trucks and equipment that were permanently on site during extraction processing activity. I first raised this issue because there was never any discussion if these trucks were involved in interstate commerce and so the Staff has then dealt with the fact that they are permanently on site. What has not been

discussed is the issue of noise standards for intrastate commerce and maybe that could be clarified. I agree that State DEQ standards address interstate commerce. We're talking about intrastate.

Hunt: Does DEQ address intrastate?

Fry: Intra.

Hunt: That's what I said.

Fry: Okay.

Hunt: Are they concerned about on-site?

You're talking about noise regulations on County roads?

Fry: Right.

Hunt: He's asking about noise regulation in the area but not in the immediate impact area.

I understand that they're also exempt from DEQ standards.

Hunt: Can you change the wording? Or clarify the wording.

Normal trucks of that size that are not permanently on-site are not regulated by DEQ.

The question is is it a point source regulatory issue versus local jurisdiction.

Fry: One of the real life problems in the Record was that these trucks make more noise when they come down the roads with heavy loads they're jack brakes make a huge sound that you can hear throughout the valley. So you can kind of time yourself to that. If we can't regulate it, than that's the way it goes. Although I'd like some discussion of that impact on the neighborhood. You're talking about interstate commerce and you're talking about trucks on the site. And then talk about what happens intrastate. Maybe we can't regulate it. I don't know but it is an issue.

Okay, so your recommendation is that we include some noise impact discussion about trucks traveling

to and from the site and whether, in fact, we can regulate that?

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Fry: Yes. Well, ideally, I'd like to have us be able to regulate that, but if we can't regulate it then I'd like to raise it as an issue.

Yoon: We can't regulate it.

Hunt: Can we vote on this?

Yoon: Yes.

Hunt: Thank you. And then if we vote agree than Staff can write something up.

Yoon: All in favor of some language that deals with measuring the noise of trucks going to and from the site say eye.

Fry: Eye.

Yoon: Okay. All opposed...

Fry: Well can I just say. I mean, am I just going to bring stuff forward and then you're just going to vote it down. I mean there's no point.....

Hunt: No. When you bring it forward, if I feel it's appropriate or another Commissioner does, we'll vote yes.

Fry: Okay.

Yoon: Next issue.

Fry: Well, I feel frustrated Corinne, because you took a huge amount of time and now we are dealing with this issue and I feel boxed but that's the reality of the situation. I think the discussion on the roads -- talking about their existing condition -- is basically dealing with.....

Yoon: What page are you on Peter?

Fry: I'm on Page 13-16 -- 3-16, I'm sorry. I believe that this work is good in determining the ideal situation but I think we need to go out and look at what's

really happening. And I think that Staff did a very good job on the bridge and culverts and the point of impact stuff but some of these roads are not improved at this level as described by the report. At least in my experience.

Yoon: Where did you get the information on that?

It's all footnoted. They did a coring just for this at my request. It's in the appendix.

Hunt: Would this not be addressed with the amendment we added?

For instance, 3-44 #9 it's talking about I have in the record, in the file, memorandums from, current ones dated March of this year, describing the coring that they did on those -- at least Nearum(???) and Little Page is current.

Fry: Mumbled.....For example Nearum, I don't know if this is a site problem but I've driven down Nearum and Nearum has been, for whatever reason, has huge ruts in it. At least last summer, and I don't see that discussed here. In my limited experience, Nearum has been pushed down dramatically on the south side creating huge ruts. It appears to me that Nearum has been destabilized dramatically by some time of traffic and so my concern about the road analysis is that it deals with kind of generic points and not with the way the roads really are.

Hunt: Peter, the condition -- the amendment that we added to 4-20 are Programs to Achieve the Goal in transportation. I think that will address your concerns here because they will have to be looking at roads and the impact.

Fry: That's right and I agree with you on that. I just feel that the report should be a little more specific on what I perceive to be the actual circumstances -- the roads themselves as they are.

Yoon: So can we just have Staff verify again with the sources as far as the exact conditions of the roads?

Fry:

And specifically to look at Nearum and why it was giving away on the southern side of the travel lane and it was filled in with some kind of a

20

Just a clarification. Gary explained that the data that you see here is an actual coring sample where they went out and drilled holes in the pavement using rule practice for sampling technique and came back and explained that what typically would be expected for that road section structural section. Commissioner Fry, what you are describing is a visual assessment of the various characteristics of the surface of the road and what I believe Gary was getting to was the capability of the road to support loaded vehicles given the typical type of loaded vehicle one would have associated with the coring site. The basic conclusion here is that the structural cross-section of the road is deficient for the type vehicle that would be associated with the type of aggregate activity, mining activity that was explained by the site owner.

Fry:

Okay.

Page 3-39, it states exactly "all three of the closest roads must be traveled from the Howard Canyon aggregate resource site are classified local roads and are inadequate in their structural sections to accommodate forecasted type 3 truck traffic at rate of extraction of one acre per year.

Fry:

Right and all of that is good. I think that the Staff did a good job on that. The thing that I didn't see in here was the fact that it's more than a visual inspection. These roads are experiencing stress fractures, particularly Nearum and I didn't see it in the report that the actual fact that it appears from this driveway on that this road has been experiencing stress fractures. Okay, I just feel that there should be a little more information.

Peter, I would disagree with you and the reason that I would disagree with you is that we can study and study the roads. The best way is a core sample. The core sample encompasses an area this big taken 200 feet apart. I think for realism that is the best we can do. We could look at every crack and every stress fracture and settle bar but I don't think we can deal

with that. I think that we have to deal with just the basics.

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Fry: Okay, I understand what you're saying. All I'm saying is that if I were to go out and do this work professionally, I'd take a visual survey of the road and locate the stresses in the road and then I'd develop a core sampling program to address what I saw from the visual survey whether it's 200 feet apart or 10 feet apart. I don't see any evidence that a visual survey has been done to help you define where you would take your core sampling. So I'm not comfortable that the core sampling has been done even though it's considered deficient. I don't want to belabor the point.

Hunt: Do you want to vote on this or shall we move to the next point.

Fry: I don't want to vote on anything Corinne, but if you want to move us on, that's fine with me.

Hunt: Well I mean you've got it on record, you know. We want to try and resolve this tonight, We will be spending at least four hours on this issue plus we have the West Hills still to do.....(some lost as tape ended) but you've made your point so either move on or vote on it.

Fry: So what do you want to do.

Hunt: Do you want to vote on it? It's up to you.

Yea, it's up to you. Do you want us to vote on it or do just want to say that you've noted it for the record and we can move on?

Fry: So the answer is that the Staff will not put in this report evidence of

Hunt: Well you can request that and we can vote on it.

Fry: Okay, let's just vote it.

Yoon: So you are requesting that visual impact should have been included in the analysis of the road as well as the core samples.

Fry: Right. That there should have been some evidence in this report that a visual survey was done to define where the core samples

Yoon: Okay, let me stop you. We're under the assumption that they did not do a visual impact survey.

Fry: I don't know. Maybe they did. Who knows.

Did anybody walk the road?

Walk it?

Look at it. Drive it.

That would be new information and we can't enter it in the report.

That's what we're asking for was it in fact left out of the report. New information(garbled).....So I would say that we probably can't include it if no one knows if the visual was done or not. So how could we include a visual and we can't enter new information. But you would like to say that a visual was not included.

Fry: Well it was not done.

Yoon: No. The easiest way to say this is that you look at the analysis and a visual report should have done also.

Fry: Well okay.

Yoon: Okay. We can vote on that. Okay. All in favor. Pass. Next?

Fry: Okay, now these are the two big areas. Wildlife and in the older report, basically we are not doing with the wildlife what we're doing with the West Hills because we have no evidence of a goal of protected wildlife. Remember in the West Hills we are dealing with a balance of a lot of different things. Here we're only dealing with the balance of complan(???), the streams and the pit and no wildlife.

It has not been identified as a significant resource in this area.

Fry:

I don't want to belabor the point. I object to it. I think that there is evidence in the record that there is wildlife here, that the reality of the wildlife needs to be dealt with and in the earlier report, the report basically argued that the ecology was degraded so badly that the elk didn't use it anymore. Therefore, we don't have to worry about the elk which really bothered me a lot because I felt that if we just deal with an existing condition of degradation and don't acknowledge the fact that we need to restore habitat for elk and recognizing that, unlike the West Hills, and this I want in the record, what we have backing up against us is Larch Mountain, we have the wilderness area, we have various endangered species, we have spotted owl habitat in the area behind this. We have the entire Mt. Hood National Forest spreading out behind this.

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Wait, wait, wait. Can I interrupt you just briefly? In the Remand Order they dealt directly with the West Hills with the fish and wildlife. Not excusing it, but that was not discussed in the Remand Order to discuss the wildlife as a significant resource of this particular area.

Fry:

Right, and all I'm staying is that I can't change it now. The State's theory is ignorance is bliss and we don't have any information about the wildlife and I've been told by Staff that as we go forward in our planning process in Corbett -- God willing Multnomah County continues to have a planning department in the next two or three years, which is an issue that has been raised in the past, I just want that clearly to be part of the record. I'd like to have some better information.....

Yoon:

So Staff when we expand the review and examination in the East County, especially in the Corbett area, we will be looking at that particular resource to see if it is significant. Right? Right. Okay, so that's on the record Peter.

Fry:

And we will come back and deal with this goal

Yoon:

Right. We'll take it through the Goal 5 process.

Fry:

And if Metro becomes our planning department, hopefully, this will carry forth to there.

Yoon: Yea, well don't bet on that.

Fry: I don't want to get on that.

Yoon: Okay, next?

Fry: Okay, the EFC analysis -- part of that analysis -- is dealing with social effects and I basically believe that in social effects we are predominantly dealing with the impact there in terms of noise and that kind of stuff. The Staff really didn't agree with the issue of property values.

Yoon: Where are you Peter?

Fry: I am on Page 3-30.....And see, the big thing that is happening here -- to give you a little sense of history -- originally these uses went through a criteria called Compatibility with the Neighborhood essentially. I mean, you looked through the conditional use process and determined if it is compatible with the neighborhood. That is a big piece that is missing because the the State has determined that is not an appropriate criteria in terms of looking at these types of conditional uses, i.e., its compatibility with the character of the neighborhood. So that has gone away forever and it just seems like these social effects need to address the issue of compatibility with the neighborhood, the issue of property values, the issue of neighborhood character. All these issues that were raised in earlier processes are no longer allowed to be raised now and in the conditional use process the issue of character of the neighborhood is not going to be a legitimate issue to be raised. And I understand that but I don't believe that it is consistent with State law because I think State law does still open the door on those issues through the special effects of the EFC analysis and I don't believe that this report adequately addresses the issue of neighborhood character. But.....

Yoon: But, on page 4.6 and 4.7 deals with residential uses of homes, communities, services and conditional services. You don't think that they have not discussed the (garbled).

Fry: Only in relationship to the protection of the aggregate source itself and the protection plans essentially to limit the residential uses so they do not adversely impact the operation of the aggregate source. That's part of it. Second is that I actually don't agree with some of the analysis and I haven't gone into this part of it yet. I am still in the first part. 25

Yoon: Yea, well, I guess the point that I am trying to make is that the two significant resources we are evaluating are the aggregate and the streams and then we are basically comparing that to all the other things of how they conflict with that particular significant resource. I mean, it's not the other way around, Peter. The significant resources are the aggregate and the streams and now we ask ourselves "how to these other things adversely affect it?".

Fry: Exactly, and I disagree with that.....

Yoon: But that's what this whole thing is about. It's not about whether the fact that the social thing was a significant resource. They haven't been directed to do that. They've been directed to look at these two significant resources. See, I guess where you and I may be coming from different things is they are directed to do certain things and they'd be crazy to expand it. And they have to deal with the two significant resources that they have. Basically, the State has remanded that "you'd better do these things or you are not in compliance".

Fry: Right, and so I am not going to belabor this point. I am just pointing out that, in my opinion, it's not only balancing these two issues, it's balancing it within the framework of the comprehensive plan and within the framework of the State goals. And I think the State goals, the housing goal for example, and there are other State goals that directly deal with neighborhood livability and these kind of issues are relevant windows of where you should balance the resource against the neighborhood character. And I just want it in the record, at least, that I feel that these things are fatally flawed because we are not adequately dealing with all the State goals and the issue of neighborhood character and these kinds of issues.

Yoon: Yea, but your thinking is too global for us. We are only dealing with Goal 5.

Fry: Right, and Goal 5 as it relates to the other goals and as it relates to the comprehensive framework.

Yoon: No, Goal 5 is how these things effect the Goal 5 resources.

Fry: We are making a plan amendment and the criteria for making a plan amendment is to balance it within and to the comprehensive plan. We can't make a plan amendment without it being consistent to the State goals without it being consistent to the State goals have to be addressed, and they are addressed, in this report. What I am saying, in my personal opinion, is the issues of social effects, 3-30, do not adequately deal with all the legitimate issue of social effects. It only deals with noise and physical effects and it doesn't deal with these enormous issues like character and so we don't have.....

Yoon: So what do we do Peter?

Fry: Well, ideally, I would like to have a section added, three, under Social Effects dealing with the issue of neighborhood character and dealing with the importance of maintaining and promoting a healthy environment to live, work, raise kids, do all the things you want to do.

Yoon: And that's not included in any State bill right now?

Fry: In my opinion it is protected. I believe that I am protected under the State goal framework under different goals.

Yoon: Can you give me the goal number.

Fry: Housing, for one. I have look at the goals andso I don't expect anyone to agree with me because we are so closely confined on this. I just raising my issues. Okay?

Yoon: Okay.

Fry: Okay. The last issue in the first part is the issue of economic effect and predominantly it talks about the

hauling costs start to add up in Multnomah County where we have the high quality aggregate. I don't feel that this report adequately addresses the issue of economics. For example....

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Yoon: What page are you on now?

Fry: 326. I'll try and hurry up. I understand that we have a lot things to deal with.

Yoon: Just talk about this one.

326, see the situation is that if you basically bring a product on the market without paying for your externalities(????), you know what externalities are, okay? You can bring a product on the market cheaper and so this doesn't deal with that at all because I would argue that this gravel is cheaper because it is not addressing its externalities, i.e., the impacts of the road system. In other words, the taxpayer is paying to support the profit of this pit while other aggregate that comes in by barge that are more expensive and more environmentally sound means are at a higher value because they are not creating as many externalities as this would. I don't feel that there is any discussion of externalities in the economic section. There is no recognition of this issue and I think that it is a fundamental issue that we are addressing in this whole process. I personally believe that it should be mined. I think that it should be mined professionally and at the full cost of what it should be mined at, which means mitigating all the externalities of its activity. And so I believe that there should be at least some discussion of that issue in the economic section because I think that is a core economic issue.

Hunt: You could argue that wherever the rock is barged in from had the same problems or issues from the site that they came from. So it seems like the two would eventually balance each other.

Fry: No, I don't agree at all. I think that water-bourne, which is how most aggregate is moved because of costs, has much less environmental impact. For example....

Hunt: They have to get it to the barge.

Yoon: But don't they pay for it through gasoline taxes? I mean, we could go on and on about the philosophy of taxing and such....

Fry: No, they would not argue. A good example, I did a report on why should aggregate facilities be in downtown Portland or downtown Vancouver. The reason is because it is cheaper to bring it by barge to Ross Island, in fact Ross Island is actually getting barged in as opposed to mining it because it is cheaper to barge it to downtown and disperse it through downtown with few truck movements than bringing it in by truck. Most of it actually comes from the coast of Washington and other places outside of St. Helens. All I am saying is that there is no discussion of the issue of externalities. It appears that because....okay, I don't want to belabor this point. I just feel that there should have been more discussion of the issue of externalities which then further supports the case for impact fees.

What about just expanding on Footnote 12 with an additional paragraph. You know, it's on page 345. Assuming that Footnote 12 is really the gist of your concern and that these statistics do not reflect addition costs, i.e., some of the things that you mentioned. It is noted that there's other externalities that have been considered.

Fry: I think that's good. I just feel that in this, the County-wide Effects section.....

Well, they could put a qualifier on this section that externalities were not considered and

It's for illustrative purposes only.

Right, and other considerations have not been included, such as versus ship-bourne and water-bourne, etc.

Fry: Right and I don't want to put it in here, but basically, just environmentally correct industry. You know, that's what I am talking about. Just having industry operating -- I have, in the Central East side, boundaries where they have to pay a million and a

Yoon: So why don't we let Staff put in a disclaimer here that says basically they did not, in developing this cost, basically as an example, they did not take into consideration other forms of transportation or externalities and the costs and everything, but they are using this only as a sample.

Fry: Okay, well my preference is along those lines. There would be a paragraph in here that recognizes that industrial uses create externalities that a proper-- that the way we are moving is to internalize all the externalities. Okay, along that line. Just a little paragraph here because this is basic economics. I mean, I'm frustrated because that should have been a major point of discussion in any economic analysis.

Yoon: Commissioner Hunt?

Hunt: Can we vote on this? I mean, I understand the issue that Peter has raised and if everybody else does....

Yoon: So there is a two point ??????. They can put a disclaimer in the sense that this was basically just an example and externalities and other forms of transportation were not evaluated plus that there is a growing body of theory that assumes externalities as part of the actual costs.

Fry: Right. Exactly, externalities should be internalized....

Yoon: Okay. All in favor. Move on.

Fry: Okay, well we get into the last section. Okay, in the interest of time, am to understand that the last section is not going to be adopted tonight at all?

Hunt: The last section was already addressed. Streams and we're only looking at the last section for aggregate at this point.

Yoon: The streams part is already done.

Fry: I'd just as soon beg off of this because my understanding is that we are going to revisit this section later.

Several: Right.

Fry: So I will only make the three points that, when we discuss it in the future, the issue of neighborhood character to be addressed, the issue of externalities to be addressed and then that's the end of it for me.

Yoon: They are already in there.

Fry: Right, I want make sure that it is part of the production

Yoon: Okay, now can I have a motion too accept the amended Staff recommendations on the Goal 5 resource.

I will make that motion.

Second.

Yoon: Second by Commissioner Pierce. All in favor. Pass unanimously.

Fry: No, I voted against it.

Yoon: Commissioner Fry changed his vote to be against it.

Fry: I didn't change it. I do appreciate everybody's patience. Thank you.

Yoon: Can we just take this through order? Start with streams and do it the same process again since that is the order that this is in. Stream Resources, Angel Brothers and Wildlife Habitat. Does anybody want to change to order on that?

Well that was the previous.

Yoon: We've got more on this one, though.

Excuse me, we need about five minutes with the Staff to confer. We're tallying up how much time it is going to take just to factor in what you've given us already and that running tally will be added to the end of the Angel Brothers discussion.

Yoon: Okay. We'll have a discussion here if whether we

One clarification. Your future issues Commissioner Fry -- neighborhood character, externalities and what was the third one?

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Fry: Ah, neighborhood character, externalities and....

Yoon: And social transportation issues.

Several: Garbled discussion of order.

Hunt: I think we should either do aggregate first or last because it overlaps all of the others.

Yoon: Either use it as an umbrella or basically as the conclusion.

Hunt: Who wants to do it first?

Yoon: Okay, just for everybody's information, we are going to start with the aggregate because that will give us an overview for the other three resources.

They're going to take five?

Yoon: You guys need five more minutes?

No, we're ready.

Okay, we are too. Turn to 4.1 please.

Is this material you have not received?

No. It's the program.

Yoon: Do you want to say something at the start on this?

No, go ahead.

Yoon: Okay. We're going to start with the aggregate.

Fry: I guess I should say one last thing. I promise to move so that you guys can do the planning in Corbett without me causing a lot of trouble.

Yoon: None of us will be on the Commission by then.

Fry: I just want to assure the staff so there is no delay on the Corbett planning.

They're going to run you out of there.

Okay. Just to refresh everybody's mind. The northern half was designated 3C and the southern half was designated 3B and we find that it is significant at 1C and then they've addressed under the raw conclusions some of the conflicts that have been handed out to you as something that was requested at the last meeting of the program to achieve those goals which we didn't have before.

Yoon: To begin with. I don't want to get into a long, protracted discussion here. Does anybody have any problem with.....we only have so much data on the record, if anybody's got a question about any of those basic premises on the data we received, I guess we'd better start there.

Hunt: What's the question.

Yoon: Let me give you an example. I'm not sure I want to raise this as an issue.

Hunt: Go for it.

Yoon: Okay. This is unbelievable, given the size of this resource, that there have been enough core samplings to really accurately measure the significance and quality of that resource to be reflect the quantity, quality and such. I'll give you an example. There were 42 measurements at Howard Canyon, there have been two here. And those two have been contested as being inadequate. I'm giving you an example of a baseline data that I am having a little bit of problem with to begin with.

Hunt: If you had asked me about quantity, quality and things, I would have brought up that same issue only because there seems to be conflict in testimony and I don't how we address that.

I would agree in general that there are a number of areas that are very weak in the baseline date, especially in the north.

Yoon: Yea, but we are not going to get anymore new to make the decision.

Hunt: No, but I'm wondering. I'm not disagreeing with their results but I wonder if part of the report would request more clarification of the quantity and quality.

Fry: That's kind of peculiar because this resource is like ten times.....

Yoon: A hundred times.

Fry: A hundred times the Howard Canyon material.

Hunt: Yes, but they didn't do the tests.

Yoon: They only did two drillings versus 42.

Fry: So the magnitude is completely different. Maybe they just thought it was so big that it's just there.

Yoon: One is two million and the other is 200 million.

Hunt: Staff, could we, how do we go about resolving that issue?

You have information from Mr. Schlicker regarding the quantity and quality and you have a statement from Dr. Beason questioning some of the methodology and the final conclusions of Mr. Schlicker's report. You have to weigh those two statements and come up with a conclusion.

Yoon: Okay. And I guess I can't really put you on the spot but you were persuaded based upon the findings that was presented to you about these two drillings. That it was significant and that there was quantity, quality, etc.?

I guess so because obviously you've come up with the conclusion that it is.

Fry: There's really two issues. In relation you have determined that Howard Canyon is significant at 2.2, then a resource that comes in around 220 million has to be significant. That's one issue. Now the second issue is where is it. Do you see what I'm saying?

Yea.

Fry: So, I can't see how we can't say it is significant. As you say, Howard Canyon is significant at 2.2 and this is like 200 times that.

Well, that's a good point there.

Fry: And then the second issue, though, I do think is legitimate. So, I would argue that it is significant.

Yoon: Okay.

Fry: But the second issue is where is it. We don't know. I think you've raised a good point there. You may not really know where it is.

Hunt: I just think that the record should show, since we're suppose to define quality and quantity that the record should have more detailed information. I'm not saying stop it, I'm just saying....I'm not trying to stop it, I'm just trying to save it. I think two core samples and some well logs is not enough evidence and I would like to see more core samples done for the record in case somebody appeals it that there wasn't enough quantity or quality.

Yoon: In follow-up to that, Commissioner Diack.

Diack: I too am not trying to stop it. I just feel that with a resource of this known size right now, we certainly have breathing room and by Skip's own admission, and I certainly wouldn't hold you to the figures Skip. On the 13th you did come out at your best estimate to say, I think it was an 8% per annum increase in production and sales, the existing site had a capacity to the best of your knowledge and we couldn't hold you to it, extending into the year 2005. That's 11 years away. Given that circumstance, I would feel that we do have room to progress slowly and for that reason I'm very much opposed to the 3B designation on North Angel Creek until we have more baseline data. We do have conflicting ideas on the importance of North Angel Creek to Grafton Burlington Bottoms.

Yoon: Wait a minute. The southern part, 3B, there isn't going to be any work done. You're talking about....

Diack: I'm talking about the designation of North Angel Creek, 3B. I'm sorry, I'm off the aggregate.

Fry: Can I point out a dilemma? We're in a plan amendment process now. The first test is to determine if it is significant and then you go through A., B., C. analysis. We can't really stop this now. The issues you raised seems to me the only way we could legally deal with them is to reopen the record because these issues should have been raised earlier. Not after the record is closed. I mean, essentially what you are saying is, let me try and work through this logically, you're saying that this body does not feel that there is evidence in the record to support that portions of the site or the site is significant. Is that the argument that you are making?

Yoon: Well no. You made a good point and I've actually backed off. Obviously, if the thing is 100 times larger than Howard Canyon, even if the north part was a zero, it's still a significant resource. All I'm saying is that I think it's suspect that we came -- it is just by its size significant -- but the fact is that of the quality and location of that, how can you do a two sampling thing of this is how much we're really going to have over in this north park when you really don't know. All I'm saying is that we're not going to stop but that at some point, when they go into the north part, there really needs to be some program or plan that really gets more samples and more drillings to really more accurately measure the projected size of that aggregate in there.

Fry: Right because what you're basically saying is that in portions of the site, there may, in fact, not be a significant resource.

Yoon: Right.

Hunt: And there might be an overlapping resource that could then be protected.

Yoon: Exactly. Yes Corinne would bring up that part too.

Fry: Well that's a separate issue about.....

Yoon: Wildlife. Exactly, but still.

Fry: There is one issue saying that maybe its not significant on a portion of the site.

Yoon: Here's the point that Corinne would make. If it's not significant then.....

Fry: It doesn't make the balance.

Yoon: Right and another significant resource may be effected drastically because it isn't a conflict because one isn't significant anymore.

Fry: If it's not significant it's like they'll be digging a whole bunch of dirt and disturbing the resource and they'll keep searching for the goal and they won't find it.

Yoon: Right.

Hunt: Perhaps before expansion of the site was approved or at the time a conditional permit is requested for expansion, we can have some kind of language in here that some additional core samples be taken to be presented in evidence at that point.

Fry: See, I perceive a fatal flaw in the process. I hate to say it because I think that we can't proceed if there are questions raised as to the area of the resource because the area of the resource defines impact. It defines every aspect of this process.

Yoon: And we did raise it before on the record.

Fry: So that's kind of a pretty big flaw. I mean I

I was just going to raise the point that I think it would be encumbrant upon the Operator before he goes out and just bulldozes the side of a hill, he's probably going to do some core samples to make certain that it's going to be worth his time economically to mine that particular area so that during the course of the operation he'll do the core samples.

Fry: No. This is a Staff failure, no offense to the Staff, because the operator is not making this application. This application is a County application -- the County is doing this, right? So the County in making an application has to adequately provide evidence as to the significance of the site and members of the

Planning Commission are raising the fact that maybe adequate information was not presented.

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Can I respond to that?

Of course, good, please.

A little history that's part of this long protracted record.

Yoon:

Okay.

There are two ways to approach the Goal 5 process. One is to do a comprehensive inventory County-wide for every resource. Another approach is to take it on a case-by-case basis. Multnomah County did not approach it on a comprehensive inventory basis. We took it on a case-by-case basis and the first discussion that was before the County was initiated by the property owner. They were the applicant. Subsequently, in the periodic review process, as pointed out in the Remand Order, it was determined that the type of analysis that was completed was inadequate to respond to the Goal 5 process. The Remand Order said County go forward and do good things and do it again and we did. So then at that point, if you will, the County became the party responsible for initiating the analysis. So we kind of moved from historically to how things got started to new kind of responsibility for the County. Given that starting point, then what we used was again the best reliable information and we did not have the resources to go out and do a full-fledged core analysis. So what you have, then again, is based on the record and the best available information. Based on this information, you have two decisions to make: one, you think you have enough information to make a decision with the location, quality, quantity and classified either 1A or 1C; or if you do not think you have enough information to make a determination on location, quality, quantity, your decision, then you classify it 1B. If you classify it 1B with respects to the aggregate piece, the work stops here. If you classify it 1C, then you proceed through the rest of the Goal 5 process. If you classify it 1A, it's not significant, the work stops here.

Yoon: Good point. They are not going to go out there and blow that stuff off.....on the other hand, Corinne's got a good point. That could drastically impact other resources while they are trying to figure it out.

Hunt: Question. In a Section 6 where you balance the different resources, could one of the Program to Achieve Goals could it be that core samples be taken in an area to verify adequate resources at that site if there is an overlapping Goal 5 resource in that area. For example, the scenic views. If we found that scenic views were a resource and the aggregate site and the scenic view were both in the same area, before they continued developing that area for aggregate, they would have to clarify or substantiate that there is adequate aggregate to remove. I mean they might do that anyway but I don't know that and I can't bring new information into the record. I'm going on what's been presented to us and there was conflicting evidence. So I'm trying to resolve it so we can continue.

Yoon: Well, on the other Corinne, as Peter said, it's a hundred times larger than Howard Canyon.....so it's got to be significant in some way.

Well we have another piece too and that was the testimony of Mr. Anderson who suggested that at an 8% growth rate, he's got an inventory of 11 years worth of aggregate material. In my opinion, that represents a significant resource.

But that's just in the that's not the whole thing.

May I say something? There was also testimony both by Ogami(??) and by Mr. Anderson that in order for him to really properly be able to reclaim that area, he needs to know what the limits of his resource is going to be so that he can plan it inward and if he doesn't know that, and he's got 11 years, then he cannot come up with an adequate reclamation project as Ogami and Skip said.

By conjecture, if he has an 11 year inventory.....

Fry: I guess I would say one is that we are protecting this resource for our children so that the current use is not really relevant. Secondly, I'm personally

convinced that this is a significant resource period. Third is that I am convinced that no one would mind dirt. I mean that they are not going to, I just don't believe that an operator would identify an area that is dirt to use as mining and so I understand what you're saying about coring but I don't believe it would have ever proceeded this far unless there was rock there to the full extent. Now maybe you're raising this issue that the rock is substandard or something on the edges of it. I guess the bottom line is that it is significant and second is it is probably as large as they've described because they've used geological data to describe the flows and then third is that it seems like the only platform you have left to stand on is that at the edges of this it may pretty substandard.....

Yoon: I guess what I'm saying is yes it's significant but I'm not very happy with the amount testing that was done to try to determine what the overall quantity was going to be.

Fry: It may be overstated.

Yoon: Commissioner Conkall.

Conkall: I think the general site itself is probably -- I think there is substantial gravel there. We don't have all the core samples we would like to have but I think it's there. I think now we ought to go from this point. We would be doing an injustice if we said it was a 3B.

Several: Oh no.

Hunt: No. Nobody is trying to say that.

Conkall: Let's assume now that there is a substantial amount of this property that we want to save. Now I think maybe we can move the discussion because we are going to have three perimeters. You're going to have wildlife and you're going to have streams and scenic and try and come up with a configuration of land.

Yoon: No. I just wanted to basically say that we should have stated in the report that the quantity, quality was based upon what the Commission feels was minimal effort to really establish quantity, quality of that. That's all I'm saying.

I think the quality was well established though by Los Angeles Task.

Yoon: Yea and that's all I wanted. I think that should have been included in the report that they were taking the word of certain people and everything but in fact there had been somewhat....as compared to measuring other aggregates because at some point in here they look at the other aggregates and they say yea, those are significant but they don't qualify that one had 42 test and they only had two and I think that should be in the record.

Fry: Corings are only one of three methods to determine, I don't want to get hung up on the borings, there are material tests and seismic studies.

Yoon: Right. So why don't we just move on and all I would like entered into the record is the fact that it should have been a little bit more three-dimensional in describing this particular aggregate versus the others and the testing that was done to come up with these evaluations.

Fry: Okay. I want to raise the same issue about Howard Canyon because I don't feel that it.....

Yoon: Howard Canyon has got the most beautiful rock in the world. What are you talking about?

Fry:for driveways, there's no question about it. This is a different kind of rock and it's a good rock in its own way.

Yoon: Yea, okay. So that's the only part. So to follow the procedure, would everybody approve that that basically be put in the report?

Several: What?

Yoon: The fact that I don't feel that

What should have been in the report was how they came about determining the quantity and quality as compared to other aggregates in the area as this is a signifcation resource. I mean they should have

stated very clearly that although we had two tests, we had some seismic blah, blah, blah.

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Hunt: Well, you also have to remember that since Staff did the report we had a lot of testimony and some of the testimony that was given to us was raising that issue so I thought that it was only appropriate that the issue be addressed.

Yoon: I guess what I'm looking for is that there is some type of standard process set up for people to evaluate that particular resource. I mean, if they are going to use the same type of model to go out and measure the wildlife in the West Hills as they are in Corbett, then there ought to be a standard tool for measuring these things.

Fry: It's simply not possible because each geological coordination is different so you've got your seismic and boring. You've got to use these different tools depending on the characteristics of the geology that you are measuring. So I don't think it's appropriate to take one tool and say that on one geology you use a whole lot of it and on this other geology you use a little bit but you use the other tools. I mean I just think that this is kind of -- I think the issue about periphery and the quality of the periphery is relevant but I can't agree with you on the issue of the quantity, quality of the bulk of the resource. I think the record is pretty darn clear -- it's there.

Hunt: I guess the

Fry: We've already done that in adopting the report. You adopted the report and all this other stuff where significant issues were raised about the validity of that data. Now, I don't want to spend a lot of time on this but I don't believe this is a relevant issue. I think it is significant. It is there and I think at the periphery there is some question about his full extent of the area, but there's been a lot of work done on this, it's been going on for some time and I don't quite why we're discussing this.

Hunt: The Planning Commission and County Commissioners denied the expansion of the site previously.

Yoon: Exactly.

Fry: Well they did that on the other one too that we've just gone ahead and approved.

Hunt: I know but I'm just.....

Yoon: But we did not -- and this is one of the issues that been raised then which has not been adequately addressed in this report yet to move on with it.

Hunt: We did see more core samples since it has been remanded to us. Okay?

Yoon: So. So. Let's move on.

Fry: There are two issues going on. One is the report itself, but this side unlike the other side is divided up into sector or district areas and I don't really understand why this side is in three sections and the other side is one section and I feel that's kind of a fundamental flaw. But be that as it may, this site is in three sections and one section is actively mined under a permit, one section is being proposed by Staff as 3B, the southeastern section, and then the southwestern

Northwestern.

Fry:section is being proposed as 3C to be expansion of the mine. I think that significant issues were raised in my mind about that as an appropriate strategy for two reason. Now one reason being the impact on Burlington Bottoms of allowing the expansion to go in

that direction and second is the testimony presented, which I kind of agreed with, about getting it over with and mining from the limited resource back into the resource and allowing reclamation to take place because I do agree with the thought that -- I know people don't like aggregate but I personally believe the 3B section should be mined first and the 3C should not be mined at this time. That's my own personal opinion based on the record and the information to date. I think there is a very logical argument built as to why the 3B should go next so that the reclamation can take place and I think that there is a real question in my mind about the impact of Burlington Bottoms allowing that 3C. So I guess we only have two legitimate choices. One is to put those sections into 3B, which is something the Commission can do, or another would be to put the 3B into 3C and the 3C into 3B which is my preference.

Sacrifice play both ways.

Fry: Yea, and I think there is some logic to it in my mind. But I'm just discussing the big picture now. I mean, we can go 3B with everything. Do you see what I'm saying Jerry?

Yoon: No. I understand what you are saying but we also understand why they designated one 3B and one 3C. Because they did identify wildlife as a significant resource and therefore designated that area 3B because there was a major conflict there whereas on the northwest part, Staff has recommended that the streams part is not significant and so therefore it can be mined.

Mr. Chairman, that's actually not correct. We recommended that the North Angel Brothers Stream is significant but that in the balance it was not as significant as the (garbled).

Fry: See, I think that the wildlife can be balanced. I think that the wildlife is significant in other areas too, but I don't think that the wildlife is so significant and I don't believe it would happen in the other area. I just want it explicit so that as the resource goes forward in extraction and as the reclamation place takes place that the issues of wildlife are addressed which is a 3C classification, not a 3A. 3A would just

say that the wildlife has no significance and that they 44
should just be able to extract with unlimited
recourse. 3B says that wildlife is so significant that
extraction cannot occur without fatally damaging
that and 3C says that a balance can take place and I
believe that a balance can take place.

Yoon: Well, does anybody else have something to say?

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say that the wildlife has no significance and that they should just be able to extract with unlimited recourse. 3B says that wildlife is so significant that extraction cannot occur without fatally damaging that and 3C says that a balance can take place and I believe that a balance can take place. 44

Yoon: Well, does anybody else have something to say? I'm searching for a little direction on this.

In the submission that we got here this evening that Sharon gave to us, we now have a claim of reasonably stable production extending out twenty years. Now, I don't know if this is new information. This was on the record? Submitted June 20 from Arnold.

That's from Arnold, that's not from Angel Brothers.

No but it is a submission and based on

Well, the question I'd ask is how would he know since the amount of production they have is proprietary?

Yea, he uses the figures that Skip gave.

Fry: But that's not even relevant either because we're talking about protecting this resource for our children's children. I mean I am just frustrated by making a political solution basically saying we'll make them happy for a short term.....

Yoon: No, no, no. But protecting the resource we're allowing usage of this particular resource. By protecting the resource we're identifying it as a resource and then therefore they can mine it.

Fry: Okay, I guess I misunderstood.

Yoon: Commissioner Hunt?

Hunt: I'd like to talk about impact area for a minute. Burlington Bottoms would be adjacent to Angel Brothers so it would be, as I can figure, in the impact area. I know we haven't identified it as a Goal 5 resource and you identify it here only to look at under the conservation goal. There's been a lot of evidence presented to us about the importance of Burlington Bottoms. That there might be a public demonstration

area there or a park eventually. I'd like Staff to comment on are wetlands automatically a Goal 5 resource or do you have to identify them first?

Did I understand you to say that Burlington Bottoms was not a Goal 5?

Hunt: Well here it talks about Burlington Bottoms when it talks about MUA20 lands, it says that its all enrapped in Burlington Bottoms and that the only thing you are going to look at is the conservation uses considered in discussions of rapped in Burlington Bottoms. I was wondering if we should look at more than just the conservation of it.

Yoon: What page are you on?

Hunt: Oh, 411, the second paragraph under A.

Yoon: Oh, I see what you're saying.

Hunt: There was a lot of evidence presented about Burlington Bottoms and as far as I can tell it would be impacted. It would be in the 1200 foot impact area surrounding the site and I'm just trying to figure out how we address that. Can we address it more than just conservation? Is wetlands considered a Goal 5 resource or do we have to identify it as such?

Burlington Bottoms is a Goal 5 resource and designated 3C.

Hunt: Okay, then we would have to look at the impact.

Let me ask you a question.

It was not included in the streams analysis.

Hunt: Well that's why I needed some clarification.

But let me say something about this particular paragraph that Corinne has pointed out. If in fact that paragraph should have been reworked to identify that the Burlington Bottoms is a 3C area rather than classifying it as a MUA area under the ownership of the Bonnaville(???) Power Authority because that somewhat misleads people or desensitizes the special nature of that area.

- Hunt:** Just like on the Howard Canyon when we.....
- Fry:** Can we move to fix that now -- move on?
- Yoon:** Yea, yea.
- Fry:** Cause I agree, I mean, I'm not alone here but it seems like that's a pretty relevant issue. Just like what I raised about the Sandy River basically. Why can't we just amend the report and include that here?
- On page 418 there is a discussion under the subheading of Other Goal 5 Resources.
- Hunt:** Is that part of the impact area discussion?
- Yes, and that discussion is divided into the uses allowed by zone and other Goal 5 resources.
- Hunt:** Oh. Okay. Then you do address it.
- Fry:** It's just too bad that they are at the end of the chapter instead of.....
- Several:** Garbled conversation.
- Yoon:** I guess that as with most readers you are going to read this section first so you kind of skip over whether Burlington is very important or not and then you get over here to 418 and you may not connect it.
- Fry:** Can we just move to make link here and move on? It's getting late.
- Yoon:** Okay, Commission suggests that even though you are talking about zoning districts in this particular paragraph that maybe Burlington Bottoms does need to be noted as a special area in there. Rather, yes, we know it is MUA but I think something should be added about the special character and zoning of usage of that. All in favor?
- Several:** Eye, eye.
- Okay, but that doesn't answer all of Corinne's.

Hunt: No, but we can move on.

Well keep going.

Hunt: Well, somebody else can have a turn.

Yoon: No. No.

Hunt: One I had, and there might be something in between, is on 420 where it discusses residential uses. It talks about how mining would have an effect on reducing construction and maintenance costs but then it says that there has been no information submitted regarding the effect of mining and property values. It seems to me that we need to address it both ways.

Fry: And there was information in the record addressing this generically. On Howard Canyon there were letters in the record addressing this issue in a generic sense.

Hunt: If we're going to address the issues, I think that does need to be addressed.

Yoon: So what do you suggest we do Corinne?

Hunt: I don't know. Staff has to come up with some information as to whether values would be increased, decreased.....

That would be new information in the record.

Fry: No, it's in the record and we can act on what is in the record.

We can apply the model that was provided under Howard Canyon for this.

Fry: The report on Howard Canyon doesn't actually address the values. I think there is clearly an impact on property values.

Hunt: I think it was addressed in the West Hills study. I think Neil Cagon(??) or one of them has addressed it. In all of their issues they brought that up. Staff could review the record and if they find it, or I could look for it -- not tonight.

Yoon: So, Commission feels that there is information that was submitted regarding the effect of mining on property values and it should be included at this particular spot. Right?

Fry: And I would argue that the information included should be ones submitted by professionals because there is testimony both ways. But as I remember, the people who were putting information on professional stationery said there was an adverse impact on property values. There were comments from people in the record saying that there was not but we have to decide who to listen to.

Yoon: Okay. All in favor?

Several: Eye.

May I ask one question. What if there is no information in the record?

Well, we'll bring back to you what we're able to find.

Hunt: I'll look for it.

Fry: Are you saying that if it was applied to Howard Canyon in a generic sense, then it would not be applicable to this site?

It's a question as to whether its a part of the record for this hearing.

Fry: There's more than one record? Is that what you are saying?

You have two subject areas, yes.

You have two reconciliation portions you're considering. You took testimony on one reconciliation report and you took testimony on the other reconciliation report.

Yoon: You can't cross reference those, right?

They are two separate records.

Fry: Can we take a break before one o'clock?

Yoon: Before one, but too soon before.

Fry: Okay.

Yoon: Anybody can jump in at this time because obviously we are not following a straight line on this one.

Hunt: Well I was trying to fold the pages -- but you're right, it's hard to do.

We're still on aggregate, right?

Did you all come up with something on how the aggregate would effect the view?

We summarized the information as you requested.

Several: Garbled conversation in background -- searching for information regarding view.

We have copies of a topographic map -- just a copy of the Angel Brothers section of that map if you want to see it. As far as reaching conclusions as to what could be seen and what couldn't, it would all depend on the method of mining.

Hunt: On 427, third paragraph, Staff says that accommodations for fishing is not needed to be addressed and since Angel Brothers is right next to the Multnomah Channel, I did not understand why that was an item not needed to be addressed.

Fry: Where are you talking about?

Hunt: Third paragraph on 427. "The third real criteria is not applicable to aggregate resources. It only applies to parks and campgrounds, reservoirs and water impoundments, home occupations and temporally occupied accommodations for fishing."

Fry: So what's the third real criteria again?

Hunt: These are just things that I have circled.

Fry: I have a seven a.m. Boarding Meeting this morning.

Yoon: Well, we'll keep you up.

Well, as long as you're on 427, under 2, Goal 6 requires "all wastes and processed discharges from future development when combined with such discharges from existing developments shall not threaten to violate applicable State or Federal Environmental Quality Statutes." Well, I think that the record is going to show there is a threat of violation. As a matter of fact there is a photograph of violation right there.

I have a problem with that in the existing operation.

Yoon:

But maybe we shouldn't be talking about the specific problems. I'm getting a little tired in trying to figure out what direction we're heading here.

Fry:

It's in the record that they were bad and that they've become born again and they are doing things differently and they're going to be perfect in the future.

Yoon:

Not according to the 13th meeting.

Fry:

Well that's why I was cross examining Mr. DEQ wondering why he was here.

Well, in fact that have done quite a bit on that little stream in the aggregate rock now. I can't address whether that's six days old or six years old but on the site visit we did see where they had set up the filtration and everything.

The DEQ guy said that it didn't meet standards but that they were still working on it.

Fry:

Quote "The existing operation is conducting compliance with all applicable State and" And you would say that is not true based on the record?

From DEQ.

Fry:

And that probably is not a true statement. It may be that in the future, like tomorrow or next week, meeting all the standards. That's one of those kinds of definitive statements.

I think that the conclusion of that paragraph is false, that's all. 51

Fry: Any expansion plans to satisfy those.....?

Yoon: No, because it's implying that its already been satisfied and that's not true.

Fry: The question would be raised "could any expansion satisfy...?"

Mr. DEQ said he had no idea how it would take place in the northern section.

It's an art, not a science.

Fry: The northern section is Burlington Bottoms area?

Right. North Angel Creek.

Fry: Yea, I'm concerned about that too. I've already expressed that concern up front.

Although we're talking about aggregate now.

Fry: In fact, the Operator expressed concern about that as well when he made his recommendation.

Hunt: On 427, Goal 15, Willamette River Greenway. I guess I'm talking about scenic and the aggregate site at the same time. This talks about protecting the scenic qualities along the Willamette River Greenway. When we address the issue, are we talking about specific sites or are we looking at the whole Willamette Greenway?

Fry: We haven't gotten to that yet.

Hunt: I know that but it is here in the 427 aggregate section. That's why I wanted to clarify it.

Fry: We have to discuss it because that's a significant issue that we have a difference of opinion on.

Yoon: Right now she's looking at it as compared to the aggregate. Later we'll look at it as its own resource.

Hunt: If it is part of the scenic designation, I leave it for now. But if the Willamette Greenway is not part of the scenic resource to be observed from, I want to address it now.

Fry: You mean the Willamette Greenway Trail. The Greenway is supposed to be for wildlife not humans. So you're saying the Trail which runs along the Willamette River.....

Hunt: Well that would include the Multnomah Channel, I would image.

Fry: No, the Channel is not part of the.....

Several: Yes it is.

The Willamette Greenway is entirely east of Highway 30. The significant scenic area is entirely west of Highway 30. So the two areas do not overlap.

Fry: Corrine, are you saying that the ability for a person to stand in the Trail anywhere along it and see the operation versus a view point. Is that ...?

Hunt: Well it says here that the scenic view should be protected from the Greenway and if you were boating down the Channel, which is the Greenway, I'm asking if that is part of the scenic resource that we will be considering or is this another scenic resource that we have to look at separately? Does that make sense? Are we looking at the Multnomah Channel as part of the scenic resource to look up at the West Hills?

No, my understanding of the scenic aspects of the Greenway is looking at the Channel itself and the area around it. That was brought out a couple of times in testimony.

The Channel is an area from where you can view the West Hills scenic resource but it is not part of the West Hills significant scenic resource.

Hunt: Okay, but we will be looking at as a site to view?

Yes.

Fry: We've discussed whether you can view it along the entire length of the trail versus the view point strategy where you look at it from certain view points. That's a significant issue.

Yoon: Let me characterize where we are. People are stumbling a little here. We've agreed it's a significant resource. As Peter pointed out, we are not looking at that area that Staff has recommended as 3B and 3C. What we've been doing is going through each paragraph to make sure we understand them. Now we can move on.

There was in the last public testimony, I remember both Skipp and John Sherman making suggestions to trade 3B and 3C. So the question is does the Commission agree with the 3B, 3C designation for the specific areas mentioned in the report? Let's have a vote on the demarcation of what is 3B and 3C.

Fry: I don't agree.

Neither do I.

Some further discussion. When this specific issue of the expansion of the Angel Brothers Quarry came up, it was dealt with here and we made recommendations to the County Commission. My primary concern was the wildlife corridor. I'm not convinced that a half mile is going to do, however, I'm willing to go with it. So from the wildlife corridor aspect, I would go with this. I think that there are some other concerns here that has to do with the North Angel Brothers Creek and feeding into the Burlington Bottoms. Is there enough protection there so that the expansion of the Quarry into the northern half won't result in increased silt flow into Burlington Bottoms. Everyone is aware of that potential. We've seen a little of what's gone on in the past and they have done a lot of work on the middle fork to reduce the silt flow both into the Burlington Bottom and into the Multnomah Channel. But I think that there are some real reservations. It's a very sensitive area.

Let me interject one thing. The Staff has recommended as a condition of approval of any future operational permit a required ongoing program of verifying the DEQ noise and water quality

standards are being met for existing homes and run off into Burlington Bottoms and Multnomah Channel. Which I would think would be all encompassing for the North Angel Brothers Creek.

I'm looking at it a little differently. I've seen what's been done so far on the Central. They still aren't meeting the water quality standards but they've certainly come a long way. We get back into this enforcement issue again. Five months ago when we turned down this permit we were not persuaded that they were doing any inspections whatever at that time. We probably have those same concerns now. Is somebody really going to go out there and make sure this happens? And that's what it really comes down to.

It's not the State or the County or the Feds suddenly got more money.

Exactly, or that some behavior pattern is going to change overnight. And that's where we are on this issue.

Fry: But this Commission has made a decision, which I voted against, assuming that that was not an issue. On Howard Canyon, which has similar problems, you have gone ahead and said that it could be balanced out. I feel it's really inconsistent that you would then turn around and make the same argument to justify a different thing.

There's a difference there, Peter. Those creeks over there do not run through the aggregate.

Fry: They run next to it.

This is going to run right through it.

The operation would be in the drainage.

Hunt: Since Burlington Bottoms is in the impact area, its 3C designation.....I feel we need to look at whether North Angel Stream runs into Burlington Bottoms or not. That water shed feeds into Burlington Bottoms and I have a real problem with that. I want to resolve it.

Fry:

Do you think that putting the entire expansion are in 3B will cause this all to go away and is it a defensible position. That's the direction you're moving. Staff has said one area is 3C and one area is 3B which is given a path for the future. The operators provided another path for the future making a case that we need to switch 3B and 3C. As a third path for the future, is this Commission saying everything is 3B -- which is the direction I see you moving and it's not going away. All that will do is cause us to continue on and be back to us.

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You misread me. There's no way I'm going that way.

No, I'm not going that way either. My philosophy on this is that I'd like to see -- the City of Portland metropolitan area is suppose to incur this tremendous this growth -- I would like to make every effort to make that growth from within. I don't think it's fair to burden another community with the needs of this community. I think we've done that in the past and I don't like the impacts that its had. I think this site has a couple of things going for it in that whatever we decided it no doubt will be watch closely for any DEQ violations. Mining in an ecological manner is in its infancy. It's an ongoing process and we've seen violations but we've also seen some work done toward those violations. We've got an operator who is willing to comply with all the regulations. If there is a chance to do this without sacrificing all these other things, I think we ought to proceed.

Yoon:

Commission Diack.

Diack:

In all this conversation I've been trying to decide if I've run across anything on phasing. Any really specific language directed toward phasing here. That's what we're talking about: long-term protection of this resource. We're not going to take it all out tomorrow but I haven't seen any comprehensive information on the operators project phasing. Are you going to increase crushing capacity and, if so, by how much? What's your expected market?

Fry:

In the record there is that information. What the operator said that their preference was to start at the periphery of the area, extract that and move down the hill so that they could reclaim as they move

down. That was their argument as to how it should phase. The Staff's idea is to protect the far reaches of 3B because of the wildlife impact and allow the growth to incur. I think that the phasing issue is one of the key issues we need to discuss tonight. Do we agree with the operator?

I think that's got to be in the plan that he has to submit as a condition of approval for a future operational permit. We don't have to discuss that now. We can set some guidelines.

We've had to balance four resources. Scenic was the weakest in my mind and I'm basically still there. I don't entirely agree with Staff on the streams but I'm willing to go along with everything they do with some provisos that in the proposed plan that there's got to be phasing plan and number 2, we borrow from what we said about Howard Canyon, put the burden on the owner a little bit. Go through a bid process, get a consultant who does an independent verification that they are meeting DEQ and water and noise quality standards and works with them on that. They must bring the Central stream up to DEQ standards and a program that North Angel Brothers Creek will also be maintained at the DEQ standards. That's basically where we are with this. We have not given Howard Canyon the scrutiny that we have this issue. We have a whole history on this -- it's been sitting on our desk for the last year.

Fry:

For the record, I would have voted 3C for Howard Canyon but I just felt that there was not a strong enough framework there to have it work. You're saying here that there is a stronger framework for this one with four identified resources as opposed to one for Howard Canyon.

Whether we like it or not, because of the pain we've gone through this past year on this, lots of things have happened. There's been agreement between the operator and the neighbors on things like noise, there's been improvement on the streams. The awareness is high -- including other State agencies. I agree that people will be watching this thing. But if we feel more comfortable with it, we should say that the operators should pay for individual consultants -- you know, the same process we did with Howard

Canyon -- to meet DEQ standards. I think everyone will feel more comfortable. I think we just basically adopt the program proposed for Howard Canyon but make another condition that the Central Stream has got to be brought up to DEQ standards before there can be any additional expansion. The only other alternative is to 3B it all and then move on and I don't think we can do that. It's too much of a significant resource. I think that Staff has done a good job of trying to get some conflict resolution on this. I would move that we basically accept the Staff report with the amendment. I will ask for a motion that we approve the recommendations of Staff on the aggregate with the additions that before any expansions can be made that the middle stream needs to be brought to DEQ standards and that independent consultants be brought on to monitor the noise and water standards.

I'll move so that we can have some discussion.

I wanted to point out that there is a very specific letter dated March 1, 1994 from Dogami(???) to Skipp which specifically states the various conditional things that he has to do before mining. He has to come up with geotechnical landslide potential. He has to do a longitudinal and cross-sectional profile of each stream. It goes on and on and on. I think that safeguards are in place.

We're dealing with the enforcement again.

I would imply that this letter suggests quite strongly that is not going to be a problem. They've identified.....

Fry: We live in a complaint system. That's the reality and we just don't have enough complainers out in this County.

Yoon: It's so much better when you're objective, Peter.

I think this is a different issue. A tremendous amount of tension has been focused on this one particular site and I concur with Commissioner Conkall that I have no concern that this won't be implemented to the fullest extent possible.

Hunt: I guess I'm a long ways from everyone else. I can't look at the aggregate one without looking at the other resources that we're going to look at. Number 1, if we concur that the scenic resource is there or find that resource, I feel that when looking at the aggregate site we're going to have to look at a reclamation plan so that only part of it is going to be mined. There's going to be a part reclaimed when they are working on another part before they go to the other part. It's going to be this overlapping process. Otherwise, you're going to have a conflict with scenic.

Fry: That's one issue -- Protection Plan Staff. Just so we don't get lost.

Yoon: That would also be true of the wildlife.

Hunt: The wildlife one I can accept the way we've got it.

Yoon: Okay.

Hunt: The stream or the Burlington Bottoms 3C classification -- I don't know if I concur that Angel Brothers should be expanded to the North Angel Brothers Stream. I'm not against being on the other side of it with the repairing area winding around it with a large buffer around it. We're looking at a very valuable resource and we have to weigh the two. That's where I'm coming from.

Yoon: Would you be comfortable if the whole stream was essentially -- right now they're saying it's significant but the only parts they're going to worry about are in the middle rather than what goes out or what comes into it. Would you be more comfortable if the complete stream was protected?

I will not vote for this the way it stands with a 3B designation on North Angel Brothers Creek. I don't feel that has any place here. If it's given a 3C then we can work out the differences between the 3C and North Angel Brothers Creek and any expansion.

Fry: I agree with that. Are we dealing with that separately in the streams?

Yoon: Yes.

Hunt: Peter, it was you who said let's move on to aggregate and I can't go on that.

We can put these conditions into here and when we get over to streams we can refer back to it. We have designed the stream completely 3C. We're building here and we can build some things on here as well as on the scenic.

Hunt: Right, but when we're adopting the aggregate report, we're adopting this map or a map of the area.

With conditions.

Hunt: Okay, and I just gave you my conditions.

Fry: I'd like to make a friendly motion to the person who made the motion -- well maybe not so friendly -- that this motion is based on the assumption that the entire stream will be 3C. I'll make that motion.

Wait, wait, wait. There are two things that she brought up. That's one part that can be added. The second thing that can be added is the fact that deals with the scenery part. That is that a reclamation plan has to be in place that deals with the scenic aspect.

Fry: That maybe should be a protection plan issue.

Yoon: Oh, I see what you're saying.

Hunt: From what I understand, the existing site has not been recorded.

Fry: I made a motion. Did we have a.....

I don't have a clear understanding on what you mean when you're saying 3C. Where's the balance there?

Fry: That the entire portion of the stream in the Staff proposal which is our motion on the table is a 3B and a portion of the stream is 3C. Okay.

No. The stream isn't but the upper portion is in 3C and the lower part is in a 3B area.

Hunt:

It feeds in a 3C. The only part that's not 3C currently is through the aggregate.

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Let's define it because you're not really talking about the stream being 3C.

Here's what the report now says under the stream section that the North Angel Brothers Stream is 3C, 3B and 3C again. Within the aggregate it is 3B which allows conflicting uses.

Are you saying the stream is? It runs through? What you're saying is that a portion of this upper part of this land.....

Severall:

No. The middle part.

Okay, let's look at the land that is being leased, the 397 or say acres -- the northern part above the expanded quarry area. Are you saying the stream is 3C or the land?

No. The stream. Listen to us here. We've got four different significant Goal 5 resources we're dealing with here. In order for us to get through the aggregate, one of the situations the Staff put through is that this stream is 3B in the permit area. But before it comes into the permit area and after it leaves the permit area it is 3C. What we're asking you to add to your motion is that the stream is changed to 3C all the way through which means you have to limit conflicting uses rather than to allow full uses.

I understand that the stream can't be 3C but if you're talking about a buffer on either side of that stream....

The stream is 3C.

Then what you're saying is that the mining could go right up to the edge of the stream.

Hunt:

In the reclamation plan that would be addressed on how to protect the stream and still allow.....

The reclamation?

Hunt:

Yes. You could in the reclamation....

No, no. You're not talking about reclamation. What you're talking about is when they mine what happens to the dirt, what happens to silt. It gets into the stream and goes into the Bottoms. That's what you're concerned with. You don't designate the stream as 3C. That doesn't provide any protection at all.

Hunt: Yes it does.

For what?

Hunt: Because we can give Dogami guidance as to what is or is not important and if we classify this stream as 3C and they have to protect that resource, they have to work around it. I don't care how they work around it.

3C allows full conflicting uses. 3B limits conflicting uses. We can't go to 3A which preserves the resource, which is a shame.

All we're saying is that there has to be a balance of the usage of the stream.

But right now they're saying 3B allows full use of the conflicting resources.

Fry: See, 3B says wash the stream with the mine and 3C says balance the stream with the mine. 3A says forget the mine and protect the stream. So what I'm saying as a friendly amendment is that the stream should be one consistent 3C from start to finish. That brings on board, hopefully, some members of the Commission onto this consensus building process.

Hunt: And I could even Staff some guidance as to the reasons for the 3C designation.

On page 6-30 of the Rada(??) Sheet is where we say the language about that portion of North Angel Brothers Stream within the mineral resource site be designated 3B. I guess that the main question is that if you allow mining where the creek is, it seems to me that it is rather difficult to say that you're going to protect both. I am a little unclear. It seems to me that if you say the stream is 3C and therefore you're going to protect the repairing zone on the stream then you are essentially saying that the mining in

that area is 3B. It's unclear to me how you could have them both be 3C in that area.

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Fry: Because, using that same logic, we have said things are 3C. In the Howard Canyon they said the Howard Canyon was 3C and we said the stream was 3C. So we had to do that balancing act. You're arguing that since this spatial definition is identical -- in other words, you're not talking about spread out -- it's not possible to balance it. I think we're disagreeing.

If you could explain how you would see that kind of a balance going ahead that would allow mining in that area and also would protect the stream and the repairing zone of the stream. It is unclear.

Fry: I think it gets back to the issue of what is a repairing zone, which we haven't really gotten clear on. For instance, zero versus 100 feet and the fact that you have to have trails that cross rivers. It's going to be a special hassle. The operator is going to have to be very careful.

And he's going to have to have a plan.

Fry: Yes, a plan. It seems to me that it has to be all 3B or all 3C so I'm making this motion not just for the sense of consensus but for also making sense. You can't have it 3B, 3C, 3B.

The only way it would make sense is if that's the only area where you have this.

Fry: Or if there is a spring coming up when it started 3C again. So I think the bottom line has got to be either 3C or 3B.

Hunt: Yes, but I can see Staff's argument that the actual stream site can't have a balance with the aggregate site. There is going to be a specific site that will have to be protected. Maybe a hundred feet away or so. Or maybe you do have to say 3A. I don't know. All I'm saying is I think Burlington Bottoms.....

Fry: Frankly, Corinne, if you are right, this process has no point. If we cannot balance 3C designations with protection plans and make it work, there's no point in doing this.

Hunt: Well, I would like to find a balance where they could mine up to a certain point of it.

Yoon: If we're going allow full conflicting uses and we're going to call it 3B in that particular area, when they come up with a plan, whether it be the mining plan or the reclamation plan, are they going to have to include the stream as part of the consideration when it's a 3B.

I think that the intent was that they wouldn't necessarily have to protect the stream in that repairing zone of that stream as it runs through the site but that they would still have to protect the quality of the water leaving the site to Burlington Bottoms.

Yoon: So they would have to reconstruct it so that it would be of the same quality as when it came into the area.

That's correct, yes.

But with evidence presented, that's going to be real....I mean, if you protect the stream, you're going to have a better chance of where it feeds into Burlington Bottoms.....

Fry: Okay. I'll withdraw my friendly motion.

Yoon: Okay, do we have further discussion. The amendment has been withdrawn.

I'm confused about the motion. Commissioner Fritz? Was his motion pertaining to page 623, subsection E, "Provisions to be Included in the Protection Program to Achieve the Goal"? Wasn't that what your.

Fry: My understanding of the motion was that he moved that the Staff report with one addition that we would have a program where the operator would pay for an independent consultant who would work for the County to ensure that DEQ, water, noise standards and the middle Angel Brothers Stream would be brought up to DEQ standards first.

Would that be stuck under Subsection E?

Right and we would accept the recommendations with the minor changes that were made in the report.

Okay, so your amendment deals with Subsection E of Section 6-23?

Right

But isn't Commissioner Hunt's amendment dealing with that same section about the concern that the aggregate be mined. You complete one phase first and the reclamation for the scenic be completed and then you go on and mine the next section.

Yoon: Okay. Peter has withdrawn his motion. Corinne would like that wording added to the amendment that was made by Mr. Fritz and we would like a second to the amendment.

Second.

Could I point out the third bullet under mining there. It talks about simultaneous reclamation and mining?

Well that certainly shut us all up.

Good going Bob.

Hunt: I guess what we're trying to do is make it more explicit because it hasn't been happening in the past.

Yoon: The reason that has been given for why reclamation hasn't been done up to now is that they didn't know what the limits were going to be for the whole area. Now we given them the area and we'd like to see the enforcement of that number 3. If we knew that was going to happen, we could withdraw that addition to the amendment.

Hunt: Some clarification on my part. The original approved site has been mined. That should be reclaimed.

They've got a ways to go on that site.

Hunt: I thought that site was finished. I thought they moved.

Hunt: That's the one we recently approved. Clarify Staff. Help. There was the original approval and then the one in 1990 or whatever. But the original site still has to be reclaimed as I understand it.

The answer is that Mr. Anderson stated that the reason that they hadn't done that was because of the mining method they had been using going up.

Hunt: That's not my problem. I mean, we are approving new sites before the past sites have been reclaimed and that's my problem.

Yoon: Right and the answer is that now that they know what the limits are they can start mining from top down and therefore reclaim that bottom part. Now what you're looking for is some reassurance that it's going to be done.

I think that there was one other issue that I can recall Mr. Anderson testifying about it. The reason that the old was not going to be reclaimed was because they were going to be using it as part of the new because the rock had to come down into the old as well. So it could not be reclaimed before going on to the other one.

Until they know the upper limits it is almost impossible to do it. Once you know the upper limits of what can be quarried, you go ahead and quarry it and come down and reclaim what's on top.

In the new part. But they can't reclaim the old part because they're still going to use it.

Maybe we could address it this way. We could deal with this particular motion and then in the protection plan we should tell Staff that the reclamation plan criteria was set up.

Hunt: I'm satisfied.

Yoon: Okay. Are you all in favor of the motion made by Mr. Fritz and seconded by Mr. Engle? Please raise your right hand. Okay. All opposed?

Yoon: Yes.

So can we now move to scenic?

Fry: How many more things do we have to do?

Yoon: Three.

Fry: Scenic, streams and wildlife? Can I take five minutes?

Yoon: Sure.

What do we have to get into. Do people have specific points under those issues?

Yoon: Well let me ask the question. Are there going to be any differences of opinion on the wildlife section?

Does anybody want to make some changes on wildlife?

Hunt: My only question on the wildlife is -- I know there was the half mile quarter but I think that animals don't move around ?????

Yoon: Oh yea, John Sherman made that point, too.

Hunt: It seemed that it should have been a straight line. I can live with it.

Yoon: Why don't we take three minutes to break and then we'll run through these.

All: Garbled break conversation.

Yoon: I just like to bring up a couple of points about wildlife before we dive into it. In order for you all to do a line adjustment and get out that square thing that deals with the wildlife at 3C, we'll have to go back and change the aggregate report. I thought I might mention that to you. And the second thing is that Corinne?

Hunt:(Tape garbled).....once the mining area was reclaimed reclaimed for a substantial amount then possible the area that is the Goal 5 protected site could then become the aggregate site. This would be a real long-term process. I think it is a good idea. The mining area would have to be reclaimed substantially but once that happened I don't see why you couldn't have the wildlife corridor be where it had been lined if it was reclaimed and then go through the process again and allow mining some place else.

Fry: That's what I actually proposed...(too soft -- away from mike)...I agree with you 100%.

Hunt: I'll ask Staff. There's a section here where you talk about where Goal 5 processes can change? Here it is, page 52, chapter 5. Under 18 you say that the Goal 5 implementing rules contemplate that the resource site and conflicting use identification will be an ongoing process subject to adjustment as new information appears. SoI thought that meant that maybe ten years down the road.....

If you look at the map we provided showing the 3B 3C areas and look at the half-mile contiguous area for wildlife -- unless the secondary habitat areas to the south were eliminated and that became primary habitat mining in that area would cut into that half-mile contiguous area even if the north area were completely mined and then reclaimed because that is not were the critical habitat is. It is on the south side of the Angel Brothers site.

So, you couldn't have some of it going in one direction and some going around the other way? Couldn't here be a study later on like that?

Fry: What is the 3B area zone as?

That's commercial forest.

Fry: What's the lot size on that?

To be determined.

Fry: But theoretically someone could build houses in that area?

Theoretically.

Fry: Could that area be developed -- could houses be build there.

We're going to have that discussion this fall.

There is one comment to the Chair through the Vice Chair I wanted make. You have that map in front of you showing the 3C and 3B. The west is the high point and the western-most boundary area is what is going to be mined next up at the top. In order to go through a rapid reclamation as they move down then this area (must be pointing to map) starts becoming reclaimed and restores back to wildlife habitat. So this area just keeps expanding. The problem is down here, that becomes secondary habitat area and unless that becomes primary to ever mine this area means you basically just shut off the whole corridor back down to Forest Park. You can't do it but you can keep expanding it after they mine that top part of the new quarry resource site.

Fry: On the forestry section there's something I'd like on this the Social Consequences of Limiting Timber Harvest of CFLand within the West Hills Wildlife Forest and Habitat Area (page 542). We've already discussed that we have no jurisdiction over forestry practices so this isn't really -- we can't limit forestry practices in this wildlife corridor, right?

We cannot but we still need to discuss the consequences even if we aren't statutorially able to take any action based on those consequences.

Several: All talking at once.

Fry: It's slightly inconsistent.

Hunt: I was going to propose when we get to the stream part that we have the same language that we had in the Howard Canyon as far as encouraging forestry and agriculture to implement protections. I think it is only fair that the whole County.....

Yoon: Adhear to the forest practices.

Fry: So you are not going to hold us to a higher standard, that's nice.

Yoon: So, I would accept a motion to approve the wildlife resource.

So moved.

Yoon: Moved by Commissioner Fritz. A second please. Commissioner Conkall. Discussion?

Fry: I'm going to vote for this because I actually am very biased toward wildlife, unlike what people may think. But my problem with this is that I believe that it does not deal with wildlife. It deals with people's perception of perception what wildlife would mean. It's called etrocentric, I think is the word for it. Basically, it seems to impose upon wildlife human values and that bothers me about this whole thing and I will be particularly careful about this whole protection plan process.

Yoon: If there is no further discussion.....all in favor. Unanimous.

Scenic Views of the West Hills is next.

Yoon: If you look at 6-17, and you also have this document which is the program, it will basically lay out the program and the standards for protection.

Hunt: I have a question for Staff. There was evidence presented that we are only looking from key viewing areas but that's not how I interpreted the standards. Can you clarify that.

The Planning Commission and the Board identified a number of pubic places, by the Owl House, Virginia Lakes, and public corridors, like all the roads on the Island, Multnomah Channel, Highway 30. All those public areas are areas where you can get views of the West Hills.

Hunt: Okay, but it would include all those. The Multomah Channel.....okay.

Fry: Okay I was wrong. But I think that viewing is so subjective that it gets into extremely thorny

problems that become huge hassles. Some people, like me, like the industrial river, other people like the trees. Everyone has different kinds of things they like to see. My sense was always that the value of this was a green background to an urban area. In that sense, I can support the concept of this being a scenic area, but that's pretty generic.

Yoon: I voted against the scenic views before. I'm inclined to vote with it as a 3C because of the program that's been suggested as well as the fact that we already have given it a 3C designation to the aggregate. The only part I was worried about before was whether the aggregate was going to be able to operate. I still am not convinced people look up at those mountains but I'm willing to go along. I know how many times I look up there and don't look up there. And I also know how many times bicyclists and runners do because they are all my friends, they come out and visit and they don't even think about it.
Commissioner Engle.

Engle: I just have a minor point. On page 211 it talks about mining and the very last sentence it talks about a third quarry called hidden valley which is directly north of Angel Brothers. It says that the rock resource at that sight has been depleted and the quarry was converted to a landfill. The next sentence reads that the potential remaining for "these, as well as others, yet unidentified sites to be mined in the future". My question is how does the depleted site become a potential mining site, especially given the fact that it is converted to a landfill. It just seems inconsistent.

Remove the garbage and start over?

It also talks about inactive sites.

Engle: Well, I know. I think it is mixing apples and oranges. It just appears to be inconsistent.

Yoon: So what do you suggest we do? Give me a recommendation.

Engle: Well, let's see. I would think that the site is depleted if, in fact, the quarry was converted into a landfill so Hidden Valley is no longer a potential site for future

mining. I think Hidden Valley should be excluded from the sentence.

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Yoon: Do you want it in the report or out of it?

Engle: No, it's fine. I can live with it. I just pointed it out as being somewhat peculiar.

Hunt: I had a question for Staff? It one of the things I got it was talking about Portland's identification of enforceable examples. I'm not sure that I agree. Do think our language was vague -- so we need to be more explicit? The City of Portland was definitely more explicit.

What you need to remember is that in Chapter 6 we are offering suggested methods that will be used for protection when we get down to the very specific standards and code language, that's going to be another set of hearings.

Hunt: So when you set up the rules and regulations, you'll get more specific?

We'll attempt to make it as clear and objective as possible.

Yoon: Further questions.

Fry: I just wanted to say that Staff really improved this dramatically since we first dealt with it.

Yoon: That's why I'm willing to vote along with it this time.

Fry: I also loved the part about the National Scenic Area but I still have a hard time figuring out what would destroy the scenic value of this.

Yoon: I was comparing it to Queen Anne Hill in Seattle, wondering if all those houses were on would it change the environment? It probably wouldn't, but I'll go along with the Staff report.

Yoon: Plus part of it is water shed, part of it is that they can't build on that side of the hill anyway and logging is going to happen anyway.

Hunt: I've got one more question. When we addressed mining we talked about the scenic overlap. Do we need to bring that up in the scenic portion.

Yoon: I think you can do that.

Hunt: I know I can do that but we need to do that?

Yoon: I think it doesn't hurt to reiterate it.

Let's review -- it was about an hour ago.

Hunt: It was about the reclamation.....

The initial discussion you had pertained to the Protection Program. On page 6-18.....

I have one observation that I haven't seen in here on the scenic. Would it be possible to insert a suggestion that the County actively pursue incentives for land owners in the West Hills whose land would affect scenic views to come up with conservation easements to affect that?

Yoon: So there should be a carrot and a whip on this stuff?

That's exactly right. I'm thinking of tax incentives specifically.

Yoon: Maybe the words should be that incentives should also be examined as a way to mitigate scenic disturbances.....or something like that.

Fry: That's a really good point. What was troubling me was the economics of the reality that people have to go through permitting processes in the scenic view and wildlife quarter which translates out to no affordable housing in the West Hills and it's just a place for wealthy people to live. If there is anything would can put in place to allow people who do not have wealth to get through these things it would be.....

Yoon: So if we put it in that wording they can examine it.

Fry: Right.

Explore incentives to(garbled)....for the scenic use.

Yoon: Does everybody approve that? Okay, fine. Go ahead Commissioner Engle.

Fritz: Okay, I'll entertain a motion to accept an amended document that deals with the scenic views resource.

Engle: Second.

Yoon: Okay. We have a motion by Commissioner Fritz with a second by Commissioner Engle. Discussion? All in favor. Okay, unanimous.

Okay, Streams.

Hunt: Okay, on Streams. The language we had for Howard Canyon as far as agriculture and forestry where we would encourage agencies in better land use management.....I think the language should be consistent.

Yoon: Right. I bring you to 6.20 which shows you the basic protection measures that deal with the streams.

On page 3-20 under Other Uses, 5.. Those other uses: "aircraft landing areas are likely to locate in this area due to topography constraints". I think what you need there is "are not" likely.

All: Right.....you're so good.

Hunt: I am assuming that on 2.12 we would remove the last sentence which says "Since agricultural use is unlikely to increase, it will not be considered a conflicting use". We already talked about the language.....

That was done for the Scenic section -- not for Streams.

Hunt: Oh, but I want it for Streams, too.

No, it is in the Streams section.

Hunt: Oh, excuse me. I'm getting tired. I'm in the wrong section.

Yoon: Now we all did agree with Corinne that we will have the same wording as far the forest practices and agricultural? Okay.As we said in Howard Canyon?

Yoon: Okay. Down to the last page. Don't blow it.

Fry: Well I was going to ask one question to blow it. This seems to set pretty high standards. On this we're basically preserving everything and so I'm assuming that when we get out of the East County we'll apply the same level of protection.

We're going to expect you to lead us in that discussion. But if we massage it as much as we've massaged this in the last three years, we won't have a problem because we'll all be experts.

Fry: But do you feel that we are protecting too much?

....(Mumbled).....That's an understatement.

Yoon: I don't think so.

One more clarification. I hesitate to bring it up but I don't know if we got any clarification on whether the Angel Brothers North Stream was entirely 3C or split.

Hunt: I was going to bring it up. The only thing that I see that we still need to resolve on the Streams issue is the North Angel Brothers Stream site. I feel that because it met three criteria and it flows into Burlington Bottoms, a very significant and fragile wetland, that the whole stream be 3C.

I agree with you but we get back to our dilemma of everything then being restricted except for the existing quarry site. If I could get some assurance that any operation in the North would not effect water quality whatsoever going into Burlington Bottoms, I would go along with it. I'm afraid I don't have that assurance right now so I.....

It's a condition.

Yoon:what happens after the fact?

Well if they haven't met the condition they're shut down.

- Yoon:** Okay, I'm going to have to live with that.
- Several:**Garbled.....
- Yoon:** I just want to ensure an ongoing monitoring program.
- Hunt:** I'll make that motion.
- Yoon:** There's been a motion and a second to change the designation of the North Angel Brothers Stream to be a 3C through its entirety. Discussion? Commissioner Conkall?
- Conkall:** I understand what you're trying to do but I don't think we can do it. Unless someone could persuade me, I'd have to vote against that. If I considered them both significant, which they both are, then I have to weigh the significance and I feel that the aggregate is more significant than that portion of the stream. Assuming that through operation of the quarry, we meet DEQ requirements down below. I'd have vote against that motion for that reason. Otherwise, you cannot mine up to 20 feet to the stream, jump over the stream and mine the other 20 feet in the other direction. You will change the stream course through mining. In my mind it's a tradeoff.
- Yoon:** We have testimony in the record that in fact that stream has been degraded by commercial forest practices above the aggregate site. That's already been done -- the trees have been cut. That's why they say that this area is probably not as high a classification as it was before. I think we're dealing with a resource that is not as significant as it use to be. What I want to zero in on is what assurances are we going to get that will protect the other resource which is the Burlington Bottoms -- that's the part we're really dealing with here.
- Hunt:** Yea. I would give you a choice. I'd say either the water shed impacts Burlington Bottoms because it's in the impact area. I'm trying to resolve it.....hopefully, it can be mined to a certain point closer to the stream, but I don't think that stream.....

Yoon: Maybe this is unrealistic, but the stream when it goes out of the quarry area needs to be better than when it goes in. If we have silt going in there now coming from the forest practices.....wait a minute, I just got the answer. If we're saying that it has to meet certain DEQ standards, it really doesn't matter what quality it comes into the quarry, it's going to have to be raised to a level that's going to meet the standards that should protect the Burlington Bottoms. Right?

Hunt: I weigh the Burlington Bottoms site as a more significant resource than the aggregate site. That's my personal opinion.

Yoon: I interpret it as if it has to meet certain DEQ standards, than those standards are going to be higher than how the stream is right now in its degraded condition. A little guidance from Staff -- is it true that if DEQ enforces standards will it be the same level of quality as is coming into the site now or is going to be independent level quality standards that will be higher than what it is?

The condition would be that under the aggregate that there would be independent monitoring as well as DEQ monitoring but as to the actual standards, I don't have knowledge of what those are.

Yoon: I'd like some language in there that would bring it up to a level that protects the other resource, Burlington Bottoms.

I'm under the assumption that that is in there.

Hunt: Yea, DEQ standards say that the water that comes in can't leave any dirtier than what's there to begin with, but I'm not convinced that that criteria is met.

Yoon: Well that's what I'm trying to say, Corinne. The water is already dirty and if the operator only brings it up to the quality it is now, I don't think that it protects the Burlington Bottoms. They have to do a standard that is higher than what the water coming into the quarry is now -- raise the standard and I will feel comfortable.

Let me throw something out. That North Angel Brothers Creeks runs into that half mile stretch of wildlife habitat and we've got a herd of 3000 elk sitting right there and the people count going into the quarry site is too high. And going out it is too high, but the quarry is responsible for cleaning that up..... sounds like

Hunt: I'm not saying that the mining can't be expanded, I'm concerned about this particular stream that goes into Burlington Bottoms.

Yoon: Corinne, I'm trying to bring it to a higher standard.

Fry: The perfect allegory is that Portland is going to spend about a billion dollars to deal with a combined sewer overflow in the river through the center of the urban area when it's been shown that the majority of the problem is created upstream. So the river is going to be very clean in the urban area at a cost to us of a significant amount of money while upstream the elk and the.....

To get to the heart of your question, we have no evidence in the record about the water quality of the stream entering onto the site.

Hunt: There isn't much in the way of agriculture above there and, as far as forestry, most of it has been logged so the stream quality is going to improve. The logging is a short-term process where after a couple of years stream sedimentation rate usually goes back to normal.

In this case, however, if timber is taken off of that site to the north, it is not going to have a chance to regenerate because the overburden is going to be gone and they are going to be quarrying the aggregate.

Yoon: That whole area has not been logged yet.

Hunt: We are addressing that because we are asking Staff to work with forestry agencies, etc., to hopefully mediate that.

Yoon: We can't hold up the operator to maintain a standard that he has control over coming in. We do have a

motion and a discussion. Corinne will you restate your motion and then we can have a vote on it?

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Hunt: My motion is that we adopt the whole North Angel Brothers Creek be 3C. Do you want to just vote on that one stream and then vote on the whole?

Yoon: We should just vote on that one stream first.

Hunt: Okay, my motion is that that stream site be 3C and the findings be that it met three criteria and that it flows into a very sensitive and fragile wetland, Burlington Bottoms.

Yoon: Okay, so all in favor.....all opposed? Peter is abstaining again. Okay so it's three for and one.....Do I have a motion to accept Staff recommendations for Streams.....

Second.

Yoon: Discussion?

Fry: If a stream meets a single criteria, it's considered 3C. Is that correct.

That's correct. If it meets any one of the five criteria.

Fry: Is this going to set a precedence as we move into East County.....

If it meets one of the five, it's 1C which makes it significant but the way the Comprehensive Framework Plan Policy was met, that same policy was used for the three Howard Canyon area streams.

Fry: I just want consistency.

Yoon: Okay, all in favor?

Hunt: Wait, wait, wait. No, we have more discussion. I need a clarification as far as the protection of Burlington Bottoms -- if that's going to be a 3B designation. I feel that in the reclamation plan, we need to make more explicit the importance of that area or that the water quality is a more important issue for that particular stream.

Well, Burlington Bottoms is a 3C.

If Angel Brothers brings it up to the quality it was when it comes into their site, which they don't have any control over, and it goes into the Burlington Bottoms -- but it may be a degraded quality -- but the fact is that the operator has fulfilled their obligation. How do we deal with that?

Hunt: I'm saying what happens if the quarry operator is not fulfilling his obligations.

It's real simple, they can't operate. It's a condition of use.

Yoon: So Corinne, do you want any wording added to this?

Hunt: No.

Yoon: Okay, all in favor of adoption.....all opposed.... Is there anything else? Staff, we stand adjourned.

Hold it. Can we have a few moments here? We need to confer to make sure we can get the material back to you by next month.....Okay, our issue here is that we have three and one-half working days to get it back to you. We'll get them to you Monday but we will not give them to you in advance of the meeting. You'll get them at the meeting so you'll have to review them at the meeting.

Hunt: Will they be ready at the office that day?

No guarantees.

They'll be here at 6:00.

Yoon: Thank you.

TRANSCRIPT OF A PORTION OF THE BOARD OF COUNTY COMMISSIONERS

MEETING OF

June 13, 1994

COMMISSIONERS: Sharron Kelley, Gary Hansen and Dan Saltzman

STAFF: Stein, Collier, Yoon, Hunt, Craghead, Diack,
Fritz, Fry, Ingle and Kunkel

STEIN: This is a joint meeting of the Board of County Commissioners and the Planning Commission, I will be presiding over the meeting and occasionally turning over to Leonard Yoon, the Chair of the Planning Commission, which is above us here. The subject of the hearing tonight is the Howard Canyon and West Hills Reconciliation Reports. These two reports represent proposed amendments to the Multnomah County Comprehensive Framework Plan for certain Goal 5 Resources in the Howard Canyon and West Hills rural areas of the County. I am Beverly Stein, Chair of the Board of County Commissioners. I am going to ask each person at this table to introduce themselves and then the planning commission and then staff: D. Boxstein, T. Collier, Sharron Kelley, Gary Hansen, D. Saltzman, B. Fritz, C. Hunt, L. Yoon, J. Ingle, D. Kunkel, L. Craghead, S. Diack, S. Pemple, J. Dubay, S. Mattison, G. Clifford, B. Hall, G. Howard. We are going to start now with the staff summarizing the Goal 5 Administrative Rules, the SCDC Remand Order and the Reconciliation Reports. After the staff presentation we will consider procedural challenges

and then we will begin to take testimony and I will describe how we would like to do that.

PEMPLE:

We are going to use some overheads so that we can all see the screen for a five minute presentation. This evening we will convene a quasi-judicial hearing for the record the applicable approval criteria for this hearing of the State wide planning Goal 5 in its interpretive rule OR 6601600. All testimony and evidence at the hearing must directed toward these criteria. If any issues not presented with sufficient detail to allow the Board and Planning Commission or the opposing parties to respond than that issue may not be raised and an appeal to the Land Use Board of Appeals (LUBA). This means any issue of fact, procedure or law not clearly addressed here at the county is not available as a grounds for appeal to LUBA. Having said that, why are we here? In April 1993 the Land Conservation Development Commission issued Multnomah County a remand order to complete additional Goal 5 work. They required the county to proceed through a Goal 5 process. The view graph that you are looking at depicts the Goal 5 process. Essentially it has three steps:

1. You must consider whether the Goal 5 resource is significant based on location, quality and quantity. Goal 5 resources that we are considering this evening are mineral aggregate, streams, wild life and scenic

views.

If you determine the Goal 5 process, Step 1, that the resource is significant, then you go to Step 2.

2. Requires the Planning Commission to determine essentially impact area and conflicting uses.

Conflicting uses are those uses that would negatively impact the Goal 5 resource. After that piece of work is done, you will notice that between Step 2 and Step 3 there is some language on the view graph that states to be: Yes due EESS go to Step 3. That small statement that is not in a box is actually a critical point in the process. Step 3 or Step 2 1/2 requires that the Planning Commission and the Board consider the economic, environmental, social energy consequences of conflicting uses impact on the resource and conversely the use of the resource impact on the conflicting usage. Final Step that we have referenced on the bottom of the view graph is Step 3.

3. The Board and Planning Commission must decide whether in fact the resource is to be preserved in its entirety, we refer to that as 3.A, bottom left hand corner of the view graph. Decide whether other resources should be allowed to conflict with the resource, essentially not protect the resource. Designated 3.B, bottom center of the view graph. Or, should the resource be designated

3.C, allow the resource to exist and allow conflicting uses and try to obtain a balance. Next view graph, please. This evening the Board and Planning Commission at the joint hearing will be taking testimony on two reconciliation reports. One is entitled the "Howard Canyon Reconciliation Report" and it includes a discussion of Howard Canyon mineral everett site and three streams associated with the aggregate site Merman, Howard Canyon and Big Creek. Also the Board and Planning Commission will take testimony on a second reconciliation report called the "West Hills Reconciliation Report". Four Goal 5 resources are considered within that text, scenic resources, stream resources, wild life habitat and the Angel Brothers mineral aggregate site. Generally speaking there are three decisions associated with the adoption of the reconciliation report:

1. A determination of significance, you will notice the labels on the side of the book icons, first decision significant is the resource significant, secondly what level of protection 3.A, 3.B or 3.C. And thirdly, defining a protection program, if the resource is identified either 3.A or 3.C.

Staff has prepared the Reconciliation Reports they have been developed incrementally. We solicited comment from interested parties and public. Through the process we concluded several

recommendations for the Planning Commission and the Board to consider. General conclusion: Howard Canyon streams designate them 3.C, Merman, Howard Canyon and Big Creek. For Howard Canyon aggregate designate it 3.C. For West Hills, in the West Hills Reconciliation Report the four Goal 5 resources considered: Staff recommends designating scenic view 3.C, streams 3.C, wild life 3.C and on the aggregate site, Angell Brothers aggregate site designate the approximate northern one-half of the site 3.C and the southern one-half of the site 3.B. We would like to discuss the protection program associated with the recommended designations. For the Howard Canyon streams near Howard Canyon, Merman and Big Creek find that these streams are significant and limited residential, community service and condition uses and transportation public improvement conflicts by regulating proposed development in the repairing zones of each stream. Repairing zones differ in size, vary in size depending on vegetation, stream quality and associated wild life habitat value. For the Howard Canyon aggregate site the protection would be conflicts with residential uses can be resolved by adopting plan and overlay zoning designations which require some restrictions on new homes, such as setbacks from potential mining areas and require some restrictions on mining operations in order to meet DEQ noise and dust standards for existing

residence and minimize visual impacts and minimize lasting impacts. Secondly, conflicts with significant streams can be resolved by requiring that mining run off meet DEQ standards for water quality and prohibiting construction of holding ponds in the repairing zones. Comment three, Multnomah County require independent on going verification that noise, dust and water quality standards are being met by mining operations.

Overall conclusions concerning the West Hills Reconciliation Report staff recommendations:

(1) With respect to designated scenic views in 3.C find that scenic views are significant and limit residential, community service and conditional use conflicts by reviewing and regulating the citing and design of new structures within the scene areas.

(2) With respect to streams: 26 streams in the west hills were inventoried. We find that 26 streams are significant, limit residential, community service and condition use and transportation public facilities improvement conflicts by regulating proposed development and repairing zone of each significant stream except for North Angell Brothers Creek within the Angell Brothers aggregate site which is not protected. Find that the wild life habitat in the West Hills is significant and limit residential and summer uses by reviewing and regulating citing proposed development to have

minimal impact upon wild life and its habitat. Aggregate: Again the northern one-half of the Angell Brothers site would be designated 3.C, the southern one-half 3.B. Find that it is significant and that: (1) Conflicts with residential uses can be resolved by adopting plan and overlay designations which require some restrictions on new homes, such as set backs from potential mining areas, and requires some restrictions on mining operations in order to meet DEQ noise and dust standards for existing residence. Minimize visual impacts, minimize blasting impacts. (2) Conflicts with the streams can be resolved by allowing quarry operation on a portion of the northern Angell Brother stream, but protecting water quality into Burlington Bottoms by DEQ standards. (3) Conflicts with scenic views can be resolved by requiring quarry operation to use berming and reclamation techniques which minimize the amount of unclaimed mined area of visible at any one time. (4) Conflicts with wild life habitat can be resolved by not allowing quarry operations on the souther half of the Angell Brothers aggregate cite in order to preserve the minimum of one half mile wide contiguous wild life habitat area through the west hills. (5) Multnomah County will require independent on going verification that noise, dust and water quality standards can be met by mining operations.

depicts

I would like to show you a view graph that visually some of the aspects of the Angell Brothers recommendation. One the view graph you will note that there are approximately 400 some acres on the aggregate cite. There is already existing approval for portion of the aggregate cite, that's depicted in the dark shaded area. The staff recommendation reconciliation report is to expand that area to include the medium gray shaded area. And then to protect the lightly shaded area for wild life habitat where you would allow no mining to occur. Three streams run through the site, we refer to them as the northern, southern, middle stream. We are recommending that again, only one stream is deemed significant and that would be the northern stream and we would suggest that only the outfall of Burlington Bottoms in the stream above the aggregate site have protections for the repairing zone. What you don't see is the scenic overlay in this view graph, we did not depict that because it would become a bit too confusing, but the jest of it is that Angell Brothers site is all within the significant scenic view area of the West Hills, which is essentially the east side of the West Hills minus an area on McMandy Road. You will notice in the far corner of the hearing room a number of maps that are displayed. Those depict, the larger ones on the far left that has the orange and yellow color, are actually the scene areas and

on that particular map the Angell Brothers site is highlighted on the overlay acetate in black. Next to that is the wild life habitat map, its green and yellow colored. Then you have a series of maps 1, 2, 3, 4 that illustrate the finding that we have made on the streams. Next to those two maps, you will see a map with Angell Brothers site depicted. So if you get a chance during the hearing you should take a look at the maps on the wall, they are part of the evidence of this hearing. As well as the aerial photo. Between the scene area and the aerial photo in the front here, we have a map that shows the Howard Canyon site and impact area the staff used for that analysis. Those are introduced as part of the record.

Notice has been given to some 4,000 property owners in the rural West Hills and the rural east county. In fact to property owners within one mile of the Howard Canyon site. In the notice we indicated that written comments were to be received by June 10th, or 30 at the Multnomah County Planning Office. As of June 10th or 30 at the Multnomah County Planning Office we have received the following comments that are now entered as part of the record. We received a comment from Angell Brothers, Inc. dated June 10th. We received a comment from Applied Ecosystems Services, dated June 10th. We received a comment from Metro Forestry, Inc. dated September 21st. We received a

comment from Department of Fish and Wildlife, dated May 19th. We received a comment from Neal Kagen, representing Friends of Forest Park, dated June 10th, 1994. We received another comment from Neal Kagen representing Howard Canyon Committee and Friends of Forest Park, dated June 10th. And we received a comment from the Department of Land Conservation Development Commission, dated June 10th. Those are all entered as part of the record. We also have here present here this evening files on comments that were received throughout the Reconciliation Report Development process, and those are available in the back of the room. That concludes our staff comment, unless there are any questions by the Planning Commission or Board Members?

STEIN: The Planning Commission needs to adopt the rules for this evening, so I am going to turn the gavel over to Leonard Yoon to develop this.

YOON: I am going to call to order any of the Multnomah County Planning Commission for June 13, 1994. The reason is to adopt the rules of context with the particular joint meeting, which I handed out a copy to you. Just for the record present Commissioners: Fritz, Hunt, Yoon, Ingle, Kunkel, Craghead, Diack and Fry. I'll have a motion to accept the rules as they appear in exhibit A. So moved. Moved by Commissioner Fritz. Second. Second by Commissioner Kunkel.

FRY: Can we discuss it?

YOON: Sure discussion Commissioner Fry?

FRY: My name is Peter Fry and I want the record to show that in my own personal opinion this is not a quasi-judicial process it is a legislative process, so I will abstain from this vote.

YOON: Thank you, any other questions? All in favor say "I". Pass-Seven with one abstain. I will turn over to the Chair.

STEIN: I want to say that some of us will be eating dinner during this proceeding. This does not mean that we do not take this seriously, but I think you would probably like us fed and happy, instead of hungry and cranky. We apologize for that but we do have a long day and we expect a long evening, hope you will indulge us with that. It is at this point that I want any Board Member or any Planning Commission member to disclose and declare any of the following: bias or prejudgment of this case, potential or actual conflict of interest, exparta context and site visits. We will have a statement from Sharon Temple and Bob Hall about the site visits. Are there any Board Members who want disclose anything other than a site visit at this point? Commissioner Kelley.

KELLEY: Thank you. I disclosed what could probably be looked at an exparta meeting, but my staff person reminded me that I need to turn into Scott the actual documents on.

STEIN: OK Is there any Planning Commission member that needs to declare any of the bias, conflict of interest, or exparta context other than the site visit?

HUNT: Yes there is a neighborhood association that covers all of Multnomah County northwest of Newberry Road. I volunteer and do a layout of their newsletter. In their newsletter was an announcement stating that this hearing was going to be here and some excerpts quoted out of Reconciliation Report for the West Hills. Its not going to effect my decision and if anybody from that area testified it would not effect my decision. As a bias.

KUNKEL: In my farming operation we buy rock from Angell Brothers quarry, on average probably, five to eight loads a year. It is no big deal, but I thought it should be known. I also had a brief conversation on the telephone with the owner of Wildwood Golf Course, and he was interested in how the significant streams might effect him. At that time I had not read the staff report so I had nothing to say about that.

UNKNOWN: I also buy about four or five truck loads of gravel from Angell Brothers, but I don't think it will effect anything.

FRY: My potential conflict is that I live on tax lot 26, which is shown on the Howard Canyon map that is right at the corner of Little Page Road, where Little Page Road goes up to Crown Point Highway. I

have used gravel from the Howard Canyon quarry, but for the last four years I have not been allowed access to that gravel. So I have been forced to buy it from Gresham Sand and Gravel. I work with the aggregate industry. I have been an advocate for the aggregate industry for more than fifteen years. In the central city plan for Portland, I wrote the aggregate issue paper regarding the downtown area and the plants in the downtown. I have worked with Lone Star Northwest for over ten years now, which is an aggregate company. I am currently working for Columbia Sand and Gravel, which is not a competitor to either of these quarries, but they do work with them. They utilize product that is taken out of the river which you should know or will know a fundamental different kind of product than the product that is in these quarries. So that is the extent of my potential conflicts and lastly, but not least. I am married to Susan Fry who is very active in the neighborhood organization and who will speak on her own behalf. It is hard to share a house with a person, and say don't talk about this and we tried our best to do that. But there is a fact of life that we do live together.

SALTZMAN:

I had a meeting, I believe it was in December, with Skip Anderson with Angell Brothers. And I also had a subsequent communication with John Sherman. Both discussions were about wild life habitat. I don't

believe either of those meetings or discussions will influence my discission.

TIMCO:

I will disclose the site visits on Friday, June 13th at approximately 3:30. County Commissioner Chair B. Stein, Commissioner T. Collier, Planning Commission Members, L. Yoon, J. Ingle, S. Diack, C. Hunt, Board Assistants S. Farmer, myself. I conducted this tour at the Howard Canyon site. And we had an engineering staff from Transportation who video taped the site. We have narratives that are available at the door that show the route and the sites that were stopped at for the Howard Canyon site. On Friday, June 10th we did a site visit to the West Hills. That was approximately at 2:00. Attending that site visit was County Commissioner Chair B. Stein, Commissioner T. Collier, Planning Commissioners Members, L. Yoon, L. Craghead, J. Ingle, C. Hunt, Board Staff assistants, myself, K. Burke and S. Farmer. We also had D. Noell who typed it, once again, we have a narrative available in the back of the room that details where we stopped. And for the record I would like to enter a videotape that actually shows what was seen at the site visit.

STEIN:

Is there anybody who needs to declare a site visit or any other matter?

UNKNOWN:

I might point out that one of the streams that has been identified as possibly being significant is located on my property. But that will not bias my

decision, as well as I am located within the wild life significant area that has been proposed.

STEIN: Is there anybody here in the audience who wishes to challenge any member of the Board or the Planning Commission on any of these grounds? Let the record show that no one has raised any objection to the ... come forward.

BROCKLAND: Arnold Brockland, P.O. Box 83645, I'll submit a card later. I just wanted to enter for the record my objection to Rule Section 2.D which incorporates Rule 2.C which does not allow a reply or rebuttal. Thank you

STEIN: I'll ask one more time than, is there anybody here who wishes to challenge any of the Board or Planning Commission members on the basis of bias, prejudice, potential or actual conflict of interest, exparta context, or site visit?

Hribernack: Members of the Board and members of the Planning Commission, I am Paul Hribernack and I represent Ray Smith in this matter. We believe that Commissioner Fry should disclose his letter in opposition to the Howard Canyon site that was submitted into the record, I don't believe that he did that. Without that objection, I guess we object to him proceeding. Without the disclosure.

STEIN: Our rules permit Commissioner Fry to respond to this challenge to be entered into the record and is not subject to cross examination or rebuttal.

FRY: The letter which was not a letter, but a

memorandum, he spoke to, was not in opposition to any position. I wrote a memorandum because of my concern about staff reports and I raised issues regarding what I felt were not accurate within the staff report. And that were not fully developed. I do not believe that letter is in fact opposition to any of the issues before us. Which is the reason I did not disclose, the letter is a matter of public record. My understanding is that everyone had the opportunity to read it and it is also been responded to by the staff in the Reconciliation Report.

STEIN:

Thank you. Is there anyone else who wants to raise one of these issues? We will continue with the proceeding then. Does anyone want to make any procedural challenges? There will be an opportunity at the end to raise the issue of continuances. At the conclusion. Is there anyone else? Let the record show that no one has entered any procedural challenges to this proceeding.

Let me outline the order of proceeding for tonight. We are going to take testimony on the Howard Canyon Reconciliation Report first, and then on the West Hills Reconciliation Report. We are going to take a testimony in the order prescribed by the Rules in Section 5.H and 5.I. If anybody needs a copy of these Rules the Board clerk does have copies of these Rules at the back table. If you would like that. We are going to limit testimony to three

minutes per person, and the following order will be used as per those rules. We will ask that proponents first and ask for government representatives (people who receive notice, neighborhood associations, and other representative groups, and interested individuals) Then the opponents will have the same order. So we will ask people to come up and sort of prepare themselves in little groups. We would like for you to state your name and your address for the record. Please fill out a card and when you testify give the card to Debra so that she can properly enter you name in the record. We would certainly appreciate it, as I think everyone here would be, to avoiding repetitive testimony and try to focus in on something perhaps, that we haven't heard. Although, of course, you can use your three minutes any way you please. During the hearing we would ask that people in the audience refrain from any demonstrations of support or opposition, so that we can proceed in an orderly fashion. I am going to request of the Board and the Planning Commission that you ask questions of clarification only, and retain any discussion about the testimony you are hearing until later in the proceeding when we have a chance to discuss this. So clarification questions are welcome. Also, in the same regard, except for clarifications, we want to refrain from asking staff to comment on what we are hearing.

Again to save that for the time when we have our discussions. Are there any questions on the proceeding from the floor? We are going to start then with Howard Canyon testimony. Just to get a sense of sort of planning this evening, how many people here are here to testify on Howard Canyon? Who many are testify on the West Hills? OK We are going to start with the proponents on Howard Canyon. Are there any people who are government representatives? Please come up. No government representatives. Charley do you want to testify? There are only two classifications, proponent and opponent, there is no neutral testimony. No government representatives are proponents.

KELLEY: A constituent from the Gorge did submit to me a letter that she want me to submit as part of the record. So I will do that. This is from Bob and Nev Scott, 31700 Columbia River Highway, Troutdale Oregon 97060.

STEIN: Lets give this to Deb and she can prepare all the written material we get today, if you could take it all and copy it and give it to us in a packet. That would be the best way to handle that. People who received official notice about this hearing who are proponents of the Howard Canyon, are there any present? Are there any neighborhood associations, or other representative groups who are proponents? Any just generally interested individuals who are proponents? There are maps over there to see where

the locations are, I think that would help you a lot. Any interested individuals who are proponents, if so please stand up. Are you proponents, please come on up. Why not just line up behind the microphone, if you are a proponent. Debra has a timer that will go off in three minutes.

DAVIS: My name is Sherwood Davis and I live at 36250 SE Gordon Creek Road, and I am a proponent for the rock pit. I guess my comment would be that there is definitely a need for rock in the east county area and I would hope that you commissioners would see that need and that the pit wouldn't be denied while on your watch. The it wouldn't go down in the records that you were the folks that denied the rock quarry and I want you to think that would you rather have a rock quarry out in east county area on the end of a dead end road that only us locals know about or would you rather have another rock quarry in Portland somewhere? That is my comment.

STEIN: Just as a process here Leonard if any of the Planning Commissioners have questions they should signal you and you could get my attention. I can't see that way. I won't ask for questions each time. Is there anybody else who is a proponent of the Howard Canyon Reconciliation Report?

DAVIS: My name is Clint Davis, that was my father that was just up here. My address is 40601 Larch Mountain Road, Corbett. We provide a lot of service to the

local community out there in terms of excavation and delivering rock for their driveways and such. As you are aware, there is a dying supply in this area, especially in Multnomah County. Our rock is trucked from Washington, because its the only supplier big enough to give us the rock at a reasonable rate. You can imagine the amount of cost involved in the freight to get that rock to our area. So for one thing the local community can benefit from a supply of rock that local, the freight would not be nearly as much, the other thing that I think about is my tax dollars that are going for the county and state to haul rock from Washington or over at Angell Brothers from the other side of town, or out of Hood River, wherever it is they are going to get it from. To the local area for road maintenance and such. There has been many times that there has been the comment that the county would like to pull right in and get a load of rock locally and then they wouldn't have the freight involved either. That's my comment.

STEIN: Thank you very much.

UNKNOWN: Madam Chair, we have one question. How long does it take you to go from the quarry site to Corbett by truck?

DAVIS: Take us to travel, with a full load of rock from the quarry site to the high school in Corbett. It would take us approximately eight to ten minutes.

UNKNOWN: How long would it take you to get to the Stark

Street Bridge?

DAVIS: Maybe 15 minutes

UNKNOWN: Thanks

BAKER: Madam Chair and Board Members, my name is Allan Baker, I reside at 41301 SE Gordon Creek Road. Which is about seven miles from the pits site. I'm a contract logger, I work for Longview Fiber and they own the land that used to belong to Publishers Paper Co. and they own 33,000 acres from the Columbia to Clackamas River. We fix there roads that need patching in some of the areas that they have, even with all the land that they have, in that area in Larch Mountain, they do not have good rock. Its hard to find rock to haul and right now when I need rock on my own place and sometimes I fix roads of my own. I'm hauling it now from Estacada, which is about 22 miles. Against 7 miles. So you can see that I would appreciate having that rock available to us and this is very good rock. You don't find pits everywhere in the county. It seems to me that where we have an opportunity to have rock that is available to us, and its on a road that doesn't have people that are that close to it. It wouldn't hurt to have it developed so that we locally use it. I can buy rock in Estacada cheaper than I can in Gresham because of the way they have to transport there rock in. The transportation of it is the real vital thing. Thank you.

STEIN: Would you like to come back, there is a question for you?

UNKNOWN: I'm curious about what route the haul from Estacada would take to your site?

BAKER: Well have you ever traveled from the Bull Run area,

UNKNOWN: Yes sir I have.

BAKER: I travel from Eagle Creek to Mining Hill Road through Rosalyn Lake and cross, it takes me about 40 minutes. It would take me about 15-20 minutes the other way. Plus the fuel costs.

WELCH: I'm Gerard Welch, 38695 Trout Creek Road. I'm a proponent of this for several reasons. I've read the booklet and the part of logic that I don't understand here or just as a discussion goes is most everybody that lives out in our area has rock on their road. I've just built another house on my land and had to have the road rocked to get back to that house. Let alone the rock that was put down for my foundation as all of my neighbors. There is very few driveways out there that have a tar base. Tar base also needs a rock foundation. So I loose the concept of an idea of a rock pit in our neighborhood opposed to the environmental impacts of hauling rocks from Washington or let's say from the West Hills. We have to have rock for our road will fail on us and our cars will fail also. As Mr. Fry said, he cannot get rock from this pit and he has go somewhere else to get rock. So the question for me is not about having rock or not

having rock, we need to have rock. So it becomes to me an economical question of can I continue to pay an amount for the rock I have to have. I'm going to have to haul that rock from somewhere, even if I tared my driveway I would have to put a base of rock down. This is a community of workers out here, we have loggers, we have the Mocks that have been there many a time to help me and I support them completely in this. But it has been in rock that they have helped me, and they have been there at 7:00 a.m. if I needed them. If I would have needed the rock it would of had to come from somewhere else and again I don't understand the whole logic of it come from twice the distance. When it can come from Howard Canyon. That's about all I have to say.

UNKNOWN: I'd like to clarify that I know my neighbors are getting rock but I'm not getting rock because they will not sell it to me personally.

STEIN: Any other interested individuals who are proponents?

WINDUST: Hello my name is John Windust, I live on 2207 Northeast Corbett Hill Road, Corbett. I have lived there for about five years. It is one of the noisiest and busiest streets probably in that county. But I knew that when I moved out there and I knew that it would probably get noisier with the changes we have had in the Gorge with the Gorge Commission and the things associated with that. I know this applicant has said that he was going to

restrict the uses of that and week-ends would not be a time when a lot of the hauling was going to be done out of this proposed quarry pit. The noise that I hear is on the week-ends. It is noise from things not associated with our community, tour buses, cars visiting the Gorge. Again I knew that going in, I have no complaints, I can live with it just to be able to look at the river and the Gorge. That's the reason that I live there. Previous to the last five years, I lived on a forty-five acre parcel which was nestled between Howard Canyon and Loudon Road. It was one of the closer houses to the quarry site. During the ten year that I lived there was limited operations going on through Mr. Smith and Mr. Muck, as far as a limited use permit. Howard Creek ran through the northeast corner of my property and we used it a lot as far as fishing and recreational uses with my kids. At no time did I notice noise or pollution or anything like that. I have been to many of these meetings over the years, I've lived in the Corbett area for fifty years and I continually hear in previous meeting and in meeting we had in Corbett that the environment was so impacted. Again I live very close to it and it was not a major problem. Thank you.

STEIN: Any other interested individuals who are proponents?

HRIBERNICK: Chairman Yoon and members of the Boards, My name is Paul Hribernack. My address is 1200 The Bank of

California Tower, Portland 97205. I'm hear representing Ray Smith who is owner of the Howard Canyon site. I have some additional letters of support that were given to me today I would like those entered into the record now. Three minutes is not much time to try to summarize what this process is all about. LCDC said to the county about a year and a half ago that, "you didn't follow the process correctly". Following the process requires you to balance perceived conflicts and protect all resources. Inherent in what LCDC said is I think three points (1) Is that just like wetland, just like scenic resources, just like open space resources, gravel is a resource that needs to be protected. It is not something to be avoided. The reasons for that, and if anyone had come out to the community meeting S. Timco one of the staff members was out about three weeks ago, there was a lot of support in the community. That is what you have heard tonight a little bit is that we need this resource in the area. It is very expensive to go down across the Sandy River to product. The second thing that is inherent in the LCDC remand order is that if the process if properly followed it reaches the proper result. And that is what the staff work has done here, the staff has said alright lets go back and look at what really went on. Let's cut the emotion out of it and lets see what the facts are. And they came up with a

recommendation that says balance the resource. And that's what Goal 5 says, balance this resource, balance the stream resources they can live together. The third thing, that I think is inherent in the LCDC order is that the County did not do this right in 1990. We can't go back and relive that process, we have to do it correctly this time. Just a couple of points about the environment which is a big concern of ours, a big concern of everyone who lives in the Corbett Community. Five years ago we conceded that the two streams that are on either side of this quarry are significant. And as anyone who has been to this site or anyone who has looked at the description of the site can tell, those streams are a long ways away from where mining will occur. Most places more than one quarter of a mile. There is plenty of buffer zone natural diffusion areas, if we want to use old technology, settling ponds. There are plenty of places to protect that water quality and that is what the staff is recommended as part of the balancing and we agree with that. The second thing that you may not be aware of is that we provided an idea about a community project. We don't want unlimited operations at this site. We have sized it, and have requested sizing it and discussed with the neighborhood and the community of making it a site that serves the area east of the Sandy River. Staff is concerned that we get on

I-84 and go down the freeway and serve Portland. There is not enough material to do that, and it doesn't due justice to the community. This is a pit that is designed for this community there is no intention to send loads across Stark Street because we can't compete there that's not where we can profitably deliver the material and its not where the community needs the material. Having that site in that area limits the truck traffic overall. Its a big concern, but it has to come into area now, and it comes from Washington and travels all the way into the area. If you have a site that is in the interior of the area it travels less distance. Just a couple of brief things and then I'll set, because I did hear the buzzer go off. At the community meeting three weeks ago, there were about 75 people there, I would say that there were 10 people who were very opposed and those are the same 10 people who have been opposed all along. They have there reasons and we respect those reasons. I think there were 50 people there that were in favor and more significantly I think that there were 15 people there that came to listen. And what they said when they listened was, "we didn't realize that you wanted this to be a community pit, that you are not going to send it off and compete in the other markets". We like that idea. We think that we can run this things responsibility and at a level that doesn't impact people and that the

trucks on the road will be safe. There was testimony at the hearing from a substitute school bus driver who said she passes the gravel trucks all the time, and that the gravel trucks know where she is knows where they are and it is not a problem. We think that with that kind of community involvement we can run the pit and make it work. We are not asking for something that would send hundred thousand yards in a two week period out into the community, we want something that will serve the Corbett community for the next 50 to 80 years. I will be happy to answer any questions if there are any. Thank you.

UNKNOWN: Did I understand you to say that you have no intention of marketing in the Gresham area.

HRIBERNICK: That is not the plan. We sent out some proposed conditions at the community meetings. I know that they will find there way into the record, I'll make sure that the decision makers get those. But the idea is to serve the Corbett area, east of the Sandy River. There are weight limit bridges over the Sandy River, only real proper way to get across is to go by Lewis and Clark and get on I-84 and go that way. We are going to run into a reality that says, it can come from Gresham Sand and Gravel, it can come from Tombes and from those areas. We also are not going to be producing the quantities that allow us to serve that kind of a market. We asked for an overall operational cap in our proposed

conditions of 50,000 yards. This is not enough to serve anything but the local area. Now if you ask me would a truck load of material ever go across into Gresham, well probably every once in awhile yes. Because you could serve a customers order effectively, but that is not where it is supposed to go the way we have set it up. To give you an example: The Corbett School District is going to build a new high school. They are going to need about 35,000 yards of rock, well if it comes from this site, it saves the Corbett tax payers about \$2.00 per yard somewhere between \$50,000 and \$100,000. in savings, if it has to come from someplace else, its trucked in at additional costs. That is the kind of market we want to serve.

FRY: Would you like more time to testify? The reason I'm asking that you are the representative of the quarry in questions. It seems to me that if you need more time to testify I would move that we suspend the rules to allow you to have more time.

FRY: I would request that if you are willing to do that and I think that is fair, then you allow us to rebut.

YOON: Commissioner Fry, I think that you should address that to Madam Chair not to ..

STEIN: If you have questions of him, you can ask questions and he can respond to them.

FRY: I understand that, I just feel that since he is the representative of the property in question that it

seems that it should be only fair because in most processes they are given more time than everyone else. I didn't want to spend a lot of time on this I just wanted to raise the issue.

YOON: Peter we are just dealing with basically whether this is a significant resource or not, not dealing with ownership on this.

FRY: I'm just arguing that he has more knowledge than anyone else regarding this.

STEIN: Were you planning to submit anything in writing.

HRIBERNICK: I suppose that we plan during the process to submit things in writing. I guess, I don't agree with Arnold on too many things, but I agree with him that rebuttal makes sense, but only in the sense that there may be information that helpful. We can submit things in writing that I think sew things up, and I read the rules that said three minutes and we were prepared to go that three minutes. I believe that is very short in terms of what we could offer in terms of information, but that is your decision.

STEIN: If you would agree, I would prefer to keep thing body at three minutes, but if anyone has questions of Peter, then you can reply in whatever length you desire. Are there any questions?

UNKNOWN: I have a comment. I want to follow up on the comment that you made, in that part of the issue that we are dealing with is protecting county identified resources. But all the testimony from

proponents has been that this is a local demand, local need, will serve a local community. I am wondering how I can bridge that gap, because obviously

HRIBERNICK: I'm really glad that you asked that question because people of Corbett are estranged from your community because of that attitude. And if you had been out at the public hearings, you would have heard one person say that, "oh I thought the county was forcing this one us, and if the county is for this than I'm against it, because they treat us like crap out here. The point is that they are part of the community too. And it is a community wide resource that can be protected and used there and there was an interesting undercurrent out in that community saying that we don't count, we are not part of the community. Your question gets right to the heart of that, it is part of the community and they do count.

STEIN: Are there any other questions? Thank you very much, we would appreciate anything that you can offer us in writing. Any additional

TOMBES: I'm Dave Tombers, I live on SE Willamette Road, and I own this quarry site. I have another quarry site on Brauer Road, we still have a permit with the State for 5,000 yards out of each quarry. But the one on Brauer Road is in the scenic area and can not longer sell rock out of it. So now that we are cut to 5,000 yards a year your neighbors come along

and wonder why you sell rock to one neighbor and not to another. Well we just don't have enough to go around. We probably furnish less than 1/5th of the rock that is used in our area. We need a bigger supply, the 5,000 yards isn't enough to make it worthwhile to run the crusher site.

STEIN: Thank you, are there any questions? Since only 1/5th comes from your site, where does most of the rock come from for the Corbett area presently?

HRIBERNICK: Mr. Tombes is hard of hearing, Hribernack is answering for him. It comes from Gresham Sand & Gravel, it comes from the Fisher quarry which is in a residential development in Vancouver. It is right across the river, you can see it from I-84. Some of it comes from Estacada. It is driven by price, and the Gresham Sand & Gravel rock is transshipped there. It comes through Lone Star people from the Santosch pit in Columbia county by barge.

STEIN: So it doesn't go over the bridges at all?

HRIBERNICK: Yes it comes over the bridges to go up there now. It has to come the Corbett viaduct, and they don't want to pull up that hill because its a 10% grade. Or it comes over Stark Street, or the I-84 bridge and then down and up into the community. And that's part of the problem of not having it located in the community in terms of transportation effects.

TOMBES: These other quarries, Gresham Sand & Gravel, do not have a heavy rock that we use mostly on the logging

roads. We crush a 3 or 4 inch minus and you can't get that from any of the other quarries around here. I think you can get that from Brightwood, but that's another expensive haul.

STEIN: Thank you, is there anyone else who is an interested party who is a proponent? We will move on then to opponents. We will start with any government representatives who are opponents. Come forward if you are a government representative. Welcome back to the county.

CIECKO: Madam Chair, members of both commissions, my name is Charles Ciecko, I'm Director of Regional Parks in Greenspaces for METRO. I don't want to give the wrong impression that I'm here tonight to oppose the Howard Canyon aggregate site, that's really not the focus of my comments and I do have some prepared comments that I want to go through very quickly. We have already submitted some detailed written comments on the Reconciliation Report in general. I will go through these comments and then try to answer any questions you might have. First of all we believe that issues before you tonight are extremely important not only because of the obvious implications to specific natural resources of local, regional, state wide and national significance, but also because your decisions on these test cases will set a precedence for how natural resources will be treated in future rural planning processes. Our written comments provide

more detail than I can cover in my allocated time here tonight, but I hope you will take a few minutes and review our comments and recommendations. And hopefully give some serious consideration them. In particular I'd like to draw your attention to three sections of the report, which we especially feel need more work. First the ESEE analysis on significant streams which is found on pages Section 214 to Section 226. As you probably know this section concludes that consequences of not protecting significant streams are primarily environmental in nature while the consequences of prohibiting or limiting conflicting uses in order to preserve significant streams are primarily economic, social and energy in nature. We must respectfully by vigorously disagree. As you will note in our comments, we believe this conclusions is faulty because the analysis failed to consider the economic, social and energy consequences of conflicting uses. A few examples include water quality as it relates to fish. You are all familiar with the huge sums of money that we are investing right now as a region trying to restore our salmon and steelheads runs. Secondly, reduced populations of wild life and reduce wild life diversity. These are both huge attractors in our tourist industry throughout the state. Third, the impacts on reduced flows in water quality on recreational uses of the Sandy River and

particular. Finally, flooding and flood control. All these things have dollar and cent costs associated with them as well as social and energy consequences as well. We are confident that a thorough analysis of these issues would conclude that poorly regulated conflicting uses, not only damage the environment but also have significant economic, social and energy consequences. And we would urge you to direct staff to correct this deficiency in the report. Secondly, I would like to direct attention to the ESEE analysis on the Howard Canyon aggregate sites, pages Section 325 - 343. Again I want to stress that we are not opposing your finding of significance on that particular site. But we are somewhat shocked that staff apparently did not consult with either DEQ or ODF & W. To obtain their opinion regarding the ability to prevent negative impacts on significant streams related to a mining operation. I have about 30 more seconds. We would urge you to direct staff to consult with these agencies and include the results of that consultation in the report. Third, and finally we are unable to support staff recommendations in the section on conflict resolution. Quite frankly we don't believe that staff has proposed a creditable plan which will result in protection or restoration of significant streams. In reviewing the stream profiles contained in Appendix A, it is apparent that more

stream degradation has resulted from residential and agricultural uses than has resulted from timber harvest or mining for that matter. None the less the protection program proposes to continue allowing these uses along with community service and conditional uses within the riparian zones. With a variety of vague conditions which are neither measurable nor enforceable. We urge you to reject this approach, and land owners deserve more certainty and so does the public about how their streams are going to be protected. Pages 8, 9 and part of 10 contain our recommendations for residential, agricultural and aggregate mining uses. We believe that these are the minimum restrictions which are needed to provide a basic level of protection and start a process for restoration. Upon review we hope you will agree that these restrictions are not inconsistent with those for timber harvesting nor do they prevent economic use of private land. Again, thanks for this opportunity, and I would be happy to answer any questions.

STEIN: So this is the position of METRO.

CIECKO: This is the position of METRO Regional Parks and Greenspace Department. And our policy direction on this comes from the Greenspaces master plan which was approved by the Council in July 1992.

STEIN: Do you feel if there is stricter standards in protecting the streams that there can be a balance

between the Howard Canyon site and the stream resource site?

CIECKO: If you take a look at our recommendations I would like to have some additional eyes on that specifically the folks who are charged with taking care of water quality in this State and those that are charged with managing the fish and wild life resources within the State. And it doesn't appear to us at this point that they have even been consulted and that seems to be a pretty major omission at this point. But we would like to have a closer look at that and see a mining plan and if those two agencies say yes this can be done, then we would certainly be willing to go along with it. Agricultural uses and residential uses are a different story though I think that there is adequate documentation in the report to suggest that these uses have and are contributing to degradation of the stream and we would like to see them prohibited within the riparian zones.

STEIN: Thank you, are there any other government representatives who are opposed. OK The next category is people who have received notice, is there anyone here who received notice and wishes to testify. Neighborhood association and other representative groups? Anybody?

KAGAN: Good evening, my name is Neil Kagan. I represent The Friends of Howard Canyon, a group of residents who live in the Howard Canyon area. We have

outlines what we want you to do and why, in comments that I submitted to the Planning Department on Friday. I have extra copies here along with a brief summary on top for each one of you and some extra for the record and for others who might be interested. In short, what we want you to do is to direct the planning department to revise the Reconciliation Reports to correct a number of significant errors and omissions. We also want you to defer actions on the recommendations in the Reconciliation Report until the report is revised and redistributed to you and to the public for comment. Tonight I want to draw your attention to two of the many significant problems with the Reconciliation Report. First citing LCDC the planning staff said, "you cannot deny protection to the aggregate resource on the ground that mining will not have a zero impact on conflicting uses, that's a bit twisted and hard to understand. The important thing for you to take into account here is that its not true. LCDC never said that and if it had said that it would be contrary to Goal 5. The staffs misinterpretation lead it to believe that impacts on conflicting uses such as residents and wild life have to be significant before you can protect uses like wild life, instead of the aggregate resource. Goal 5 however, says the only prerequisite to protecting conflicting uses is the existing of reasons to

justify your decision. If, for example, you explain that the effect of noise on existing residence would be substantial, you could prohibit mining. Even if the economic loss of the aggregate resource were greater than the reduction in property values of the current residence. The second problem I want to discuss tonight, also stems from the staffs misinterpretation of LCDC order. According to the staff, LCDC said, "you cannot deny protection to aggregate on the ground that mining will conflict with transportation". Again LCDC never said that, and if it had again it would be contrary to Goal 5. All LCDC said was, "the county had no basis for discussing transportation conflicts, because the area roads had not been included in the impact area for Howard Canyon". If you define the impact area to include the roads leading from the site as you should, it would be appropriate to discuss transportation conflicts. And if you so chose to deny protection to the aggregate resource if the impacts are substantial. In conclusion, the staffs misinterpretations invalidated its identification of impact area and of the conflicting uses. Since, in the Goal 5 process, every step builds on the previous one those defects invalidate the whole report. And tilted the staffs recommendation toward the protection of the aggregate resource. These and the other errors I discussed in my

letter, but obviously don't have time to go into tonight, necessitate a revised report. As a last point, I just want to ask that the record be kept open for seven days so that we may submit additional evidence and finally if you have any questions, I'll try to answer them for you.

STEIN: Thank you very much.

UNKNOWN: Madam Chair, I have a question. Neil I was hit several times with the thought, that you believe that staff misinterpreted what LCDC wanted. Do you have anything in writing from LCDC that basically verifies that, I'm not saying that I don't believe you, but I am caught between the rock and a hard place here of who to believe as far as interruption. It would be nice if one or the other side had some letters from LCDC says what is their position on that.

KAGAN: Yes we do have something in the record that says what LCDC position is and that's the remand order. If you read the remand order and I've reproduced that in my letters for you. You will see that the language, the words that they used, simply don't support the staffs interruption. I just ask you to read the remand order for yourself, and make your own conclusion about what LCDC said and didn't say.

YOON: Well maybe I didn't say it clearly. Given the fact that staff has interrupted it differently than you have does either you or staff, we now gone past the stuff with the remand order, so has anybody gone

back to LCDC and said, "obviously staff is not interrupting you right, or is staff saying is this what you want". Is there any other correspondence from LCDC clarifying this, it doesn't seem to be a very difficult thing to ask them to clarify either your position or staffs position on this?

KAGAN: I am not aware of any other correspondence, the only thing that is binding at this point, and could have any effect in your decision, is what LCDC said in its remand order. Contrary to what I have done in my letter, the staff has not pointed to any specific language in the remand order that supports its interruption. So that's my answer to your question.

HEYNE: Klaus Heyne, Guardians of Larch Mountain, P.O. Box 185, Corbett. Madam Chair, Commissioners, I would like to focus in my three minutes on the impact area and the crucial role it plays for the determination of whether the Howard Canyon mining site should be protected. Meaning whether rock should be extracted in the future in excess of the 5,000 cubic yards which is taken out every year now. It is central to the Goal 5 process to define the impact area for a resource. In this case the quarry site. Because other uses nearby, which might in conflict with the site need to be defined, cataloged and analyzed in order to be evaluated in the process. The County Planners adopted the current 1,200 ft. impact area around the mining

site from a 1990 noise study by an acoustic consultant which was commissioned and paid for the quarry owner. This study was submitted during the 1990 periodic review process and its purpose was to show the County, that if you go a certain distance from the center of the site, the noise generated from the mining equipment located at that center would be within acceptable DEQ noise limits for residential areas. The consultant did not actually measure any noise generated by any real equipment, but predicted noise levels mathematically with the help of a computer program. As noise source on the site, he estimated, "typically processing equipment like crushers, screens, front end loaders, dozers, etc. The noise study did not indicate whether noise levels of several pieces of machinery operated at the same time were considered or just one machine at a time. The noise study did not consider the topography of a deep canyon and its reflective sound propagation, vegetative buffers or their absence and any other variations germane the site. In summary, the results of the study were very favorable to the quarry owners intentions to expand into a fully commercial operation. Because it seemed to indicate an acceptable noise impact on the surmounting residences. However, in 1990 Goal 5 inventory report, the County planning staffing dismissed the conclusions of the noise study. It voiced critical comments on page 16 of that report

and on page 17 concluded, "the noise generated by blasting machinery and rock crushing is considerable". Four years later it now comes as a great surprise that the same noise study by the same noise consultant for the quarry owner was exclusively used by staff in the current Howard Canyon reports to define a 1,200 ft. impact area. Yes, the State in its remanet order found flaws with the County's previous method of evaluating noise impacts on residences. But why didn't the planning staff in the last year and a half, independently verify whether the consultant's methods and conclusions were correct. Why did it not offer to commission an objective study by an independent noise consultant who would not have any benefits by skewing the results one way or the other. We are not asking to draw an impact area around the mining site unnecessarily wide which benefits the residents, or narrow which benefits the quarry owner. But is it too much to ask the planning staff to independently and objectively define an impact area when so many vital conclusions regarding the Howard Canyon site rest on the precise extent of the impact area. In conclusion, we are simply asking you today to spend the \$2,000 or so for an independent noise study of the Howard Canyon site in order to guarantee an objective and defensible impact area definition. Thank you. Do you have any questions?

UNKNOWN: Have any of the opponents gone to the owners of the Howard Canyon site and asked them if they could do any noise test or screening?

HEYNE: No we have not and we believe that the quarry owner had a particular result in mind and he got that result from the noise study and it would probably be a little out of line to ask him to redo it to maybe come out with results that might not be as beneficial as the ones that he got.

STEIN: Anyone else who received notice?

GAMA: Good evening Madam Chair and County Commissioners and Planning Commission. My name is Michael Gama and I reside at 37737 SE Howard Canyon Road. I appreciate this opportunity to address the meeting. I'm against the proposed expansion of this open pit mine in East Multnomah County for a number of reasons, but I would like to speak about one specific issue tonight and one that has only tangentially be mentioned by our friend from Metro. That happens to be a tourism. In the early 1980's, we all remember, as the rest of the nation was suffering through a recession, Oregon unfortunately, was really in the nadir of a horrible depression. Interest rates were high, housing starts were low, demand for timber was way down. As a consequence there were many of us who were not have a good time economically, so to speak. Out of that experience, I think, thank God and thanks to some good planning and so forth, we

have be able to diversify our economic base and I would like to draw your attention to one I would call, "Rising Star" out of that pantheon of new industries and that would specifically be tourism. As a matter of fact in 1987, according the Oregon Economic Development Department, Tourism generated \$1.8 billion. In 1992, a few short years later, that same revenue impact on the County and State as a whole had jumped up to \$3.1 billion representing a 72% increase. Not only that, in addition, in terms of Oregonians receiving their livelihood, that is dollars generated in terms of payroll just from this new Rising Star industry, which by the way is in the top 3 Oregon industries, has jumped from \$355,000 million to \$596,000 million and that's a 68% increase. What I would like to suggest tonight is that after we have seen the negative effects of being a one-industry state and after we've been able to expand that to include clean, renewable and green industries like tourism, I'd like to suggest that if in fact this open pit mine is allowed to expand by 10 times that we would literally unleash a title wave of trucks into the gateway to the Columbia River Gorge which is a huge green magnet for us in more ways than one, and perhaps undercut, shoot ourselves in the foot, vitiate or maybe even nip in the bud this green, this clean, still nascent but very profitable industry we can tourism. The other thing I would

like to say in conclusion is that just a few moments ago the hired attorney representing Mr. Smith, had mentioned something to the effect that "we don't want unlimited mining". I would like to call your attention to the public testimony the other night in Corbett in which it was publically mentioned by Mr. Smith, by the Attorney and also by the mine operator that if the proposed expansion of this open pit mine goes through as they would wish that they would see this volume coming out of the mining for the next 80 years. I would like to suggest, at least for all of us in the room, if that's unlimited, I'm not sure what might be. Finally, I'd like to suggest that now is not the time, that we've worked hard to develop clean, green and renewable industries like tourism to again shoot ourselves in the foot by dumping onto Howard Canyon, onto Nerum, on Little Page, the scenic highway, trucks that would amount to, perhaps as many as one every 10 minutes and possibly in terms of truck trips out in back, one every 5 minutes, competing with our tourists and people who visit us every year. Thank you very much for the opportunity to speak.

UNKNOWN: What is your tax lot number or can you tell me on this map where your house is?

GAMA: Yes, I believe that I can. I believe that it is 63, Sir. Finally, if I may, can I submit this report by the Oregon Development Council which

indicate these.....

STEIN: Give it to Deborah and she get all of us copy. Any other people who have received notice? No one else has received notice. Neighborhood Association and other represented groups. Any representatives from Neighborhood Associations or other represented groups. Okay, moving onto interested individuals. Anybody who would want to testify, you can just line up.

UNKNOWN: Madam Chair, I have one question. Do we know if ODFW, LCDC or DEQ are in the audience.

STEIN: Are any representatives from agencies in the audience?

UNKNOWN: Because, we might want to ask them a couple of questions after testimony on clarification if that's possible.

BLACK: Madam Chair, Mr. Chair and members of the Commission, Dave Black is the name, 2025 SE Little Page Road, Corbett, 97019. Thank you for this opportunity to present testimony this evening. I will focus on the monitoring and enforcement of potential violations at the open pit mine at Howard Creek. I believe that we need to look at the present and the past to determine the ability of the County and State agencies to monitor and enforce violations and not to some lofty notion of enhanced future capacity that does not now exist. The fact is the County, which would be the primary monitoring and enforcement body, does not have the

funding or the trained personnel to carry out these responsibilities. I will now give you a current example that fully reinforces this statement. I would like to make available for the record this notice of zoning violation certificate P426968046, issued by the zoning enforcement branch of Multnomah County and Department of Environmental Services. As you know, this is the same office that would be responsible for the monitoring and enforcement of the Howard Creek open pit mine. After approximately one year of extraordinary effort on the part of 17 local neighbors here in Corbett, whereby the County and State offices were contacted countless times, signatures gathered documenting the evidence, photos and testimonials taken, the notice mentioned, just given to you, was issued on November 2, 1993. This notice is an 8 page long document detailing 6 major areas of violation. Several of them impacting Big Creek, the same creek impacted by the Howard Creek open pit mine. Many of them, I might add, that would be similar type violations as could occur with the pit mine. These violations include land disturbing activity resulting in the siltation of Big Creek which is a Class I stream, which as you know, means that is fish-bearing year round. Large land berms, using top quality top soil were put in so close to Big Creek that the stream came within a few feet of them this winter. Run-off and stream turbidity are

increased by this type of activity. The notice further states that "failure to remedy violation will result in a fine of up \$500 for each day the violation continues beyond this 30-day notice period. In fact what has happened, now that we are some 190 days beyond this 30-day notice period, and in spite of a virtual avalanche of community outcry, while these violations go on unevaded. The County has not taken the clear and firm action that they promised in their notice of November 2, 1993. Now why would that be? The answer seems to be that even though they apparently have the will to resolve this issue as is evidenced by the issuing of the original notice. They do not have the funding or the trained personnel to monitor and enforce zoning laws currently on the books. How, we might ask ourselves in a moment of responsible reflection, could Multnomah County Department of Environmental Services monitor and enforce zoning violations of a major enterprise such as the Howard Creek open pit mine when they are currently unable to monitor and enforce another impact on Big Creek of a much smaller scale. The answer is they don't have the funding or the trained personnel to do so, please vote sensibly and vote no on the full establishment of the Howard Creek open pit mine. Any questions?

UNKNOWN:

Madam Chair, I'd just like to say that the recommendation is that Do??? would be monitoring

any mine permit applications not the County.

STEIN: Thank you for the clarification.

CAROL GAMA: Madam Chair and Commissioners, My name is Carol Gama and I live on Howard Canyon Road, 37737 SE Howard Rd. and my family and I, we have three children and I home school my kids, I have constant access to knowing what's happening on Howard Rd. We're very aware of gravel trucks that are on our road and we have been dealing with them the best that we've have been able to at this point. We've been coping okay. Every time my children go walking or biking we have to be extremely cautious because we know that almost every time encounter a gravel truck. Let me give you an idea of how regular the traffic is. Last Friday I had this on my mind, we are so used to seeing gravel trucks but Friday I kind of kept track a little bit more. I had to go into Corbett downtown at 10:00 and it takes me about 2 minutes on our road to get to end of Howard Road. I met a gravel truck as I went out. When I returned 45 minutes later, I met another gravel truck. At 1:00 p.m. I went to take my son to a party which is a mile away so I dropped him off and returned and in that 5 minute little round trip I met 2 more gravel trucks. These are just at random on a random day. There's a lot of activity right now already and we have not complained, we know a lot of guys that drive the trucks. They are our neighbors. We've tried to

cope with it. This is the amount that is going out of there now. There is a lot of gravel going out of there now, and that's okay, we're coping. But when I begin to think of that fact that there may be 10 to 15 times that number of trucks it makes very very wary for our road. There are more than 15 children who live on our road.....curve that we always have to watch very carefully. It's block by the side of hill where you can't see around it at all. If we increase the amount of truck traffic there will be trucks going and coming and that would be pretty fearsome. I would have to tell my children, "you cannot ride your bike on this road, it's too dangerous".....little community can handle. Also, I might ask how do we monitor the number of trucks? How do we keep track? From all that I can tell there is no record kept of the amount of trucks that go in and out Howard Canyon Road. Thank you.

UNKNOWN: Madam Chair, I have a question...Do you know that these trucks are from Howard Canyon site or are they just other gravel trucks in the area.

CAROL GAMA: Oh yea, I recognize the trucks because these are trucks.....

UNKNOWN: ..And were they all seen on Howard Road or some of them were in Corbett?

CAROL GAMA: Yes, 2 of them were seen on Howard, the others were making trips up Mirum.

UNKNOWN: We have more questions....actually this is an

observation. We went on a field trip on a Friday afternoon and I guess what I was in..I don't want to refute your comment..but we saw no gravel trucks at all, I'm not even certain I saw a gravel truck at the quarry site.

CAROL GAMA: That's okay you never know when their coming. It isn't like there is a scheduled time. I'm just saying that I went out at random times and this is what I saw and that it was unusual that we frequently..it's frequent. I'm not even telling you about the ones when I was out spraying the weeds in my field and there was some that went by then. Or I'm in my bedroom and I'm looking out and I saw some.

UNKNOWN: I was just informed that the quarry was not operating that day, which I was not aware of.

CAROL GAMA: I don't know, it may be that there is dirt coming out of there. I don't know, but there is still a lot of traffic coming out of Howard Road.

UNKNOWN: I have a question, when you moved there or built your residence was the mine already in operation?

CAROL GAMA: Yes, but we were not notified. My husband and I have discussed this a length, we may not have bought that house if we had known the gravel pit was going to be in operation at an expanded level. That would have been an issue that would have kept us out of that area.

KUNKEL: I had one question. What are the roads like? I've never been there. Are they two lane roads, gravel

roads, stripes down the middle?

CAROL GAMA: There are two vehicles that pass on Howard Road when you get farther down, it's narrow enough that only one vehicle can be there.

KUNKEL: So they are gravel roads.

CAROL GAMA: No, I think someone was going to do a study, it's...there's a term. I think it's oil and gravel. It's not paved.

HANSEN: You may be able to answer this or anybody else this evening. Typically, how many yards of gravel are carried in a truckload?

UNKNOWN: It depends on the truck.

CARLEY: Madam Chair, Commissioners, my name is Ron Carley. I represent the over 7,000 members of Portland Audabon Society and we have reviewed the West Hills Reconciliation Report and have the following comments and concerns

STEIN: You know we're on the Howard Canyon ..

CARLEY: You're specifically on Howard Canyon .. I came in late and I apologize for that.

STEIN: I'm sorry I have to ask you to wait until we get there.

CARLEY: Okay, then I can give you my comments on Howard Canyon. I'm not going to get away that easy. Specifically regarding Howard Canyon. I would just briefly say that we are deeply concerned about potential impacts of Howard Canyon quarry site on wildlife. Apparently there have been no baseline studies on the current status of fish and wildlife

or on water quality. Neither the DEQ or ODFW have been consulted about this impacts in writing the ESEE analysis. Without this information how can the County speculate on the impacts of quarry expansion. We support testimony already submitted by Metro, June 13th by Charlie Ciecko and Ralph Rogers regarding the quarry. That's all I have to say on Howard Canyon. Are there any questions?

MATTEI: Good Evening Madam Chair, Multnomah County Commissioners and Planning Commission. I'm Lyn Mattei, I'm with the Oregon Natural Resources Council at 522 SW 5th, Ste. 1050, Portland, OR 97204. We wrote our comments together but I will extract the Howard Canyon ones. If I'm a little bit segmented, it's because I am. We will commend the County for the major efforts that you have made to comply with the Department of Land Conservation and Development. We feel complicated and sometimes unreasonable and sometimes out and out punitive, compliance directives that have been associated with the remand order. We are pleased that the County.. the reconciliation report has gone a long ways in many aspects. We have just a few considerations in terms of Howard Canyon. First, agriculture uses in Howard Canyon really need to be addressed. Agriculture uses need affirmative regulation to maximize the protection of the repairing areas and minimize the sedimentation, erosion and turbidity and the non point pollution

in the adjacent streams. Reliance on the small conservation service, for example, to regulate rural agricultural practices is misplaced and inadequate. The County really needs to take a stronger look, not only at the small buffer area but the uses beyond it and also to strengthen regulation within that buffer area. We feel that without this that the protection will not be adequate. We also feel that the other rural streams are very important. I think that's on the list possibly to do later, but if it's not, do it and if you can do it, do it now, it's very important. In terms of fish and wildlife resources, we have similar comments with Metro and Audubon. The reconciliation reports ESEE analysis for Howard Canyon, apparently omits any consideration of ESEE consequences for wildlife. In addition, the report fails to include fishery resources in its ESEE analysis of any uses that conflict with the proposed quarry expansion. Proposed stream protection for the streams designated 3C in Howard Canyon is also inadequate. At a minimum, the County should adopt protection which is at least as strong as that provided under Clinton's new forestry plan or in the alternative, under the relatively weaker protection of our own forest practices act which will have new regulations which go into effect in September, 1994. To be easy, the County could tier to those

regulations for a little bit more protection. We have other later so we will see you in part 2. Thank you.

HARWOOD-LONG: My name is Kathy Harwood-Long. I live on 432 NE Salzman Road and if you notice on your map that is just right over the hillside from where the quarry is and I want to thank Madam Chair and the Commissioners and the Planning Commission for having this opportunity to share my comments this evening. It was represented earlier that there was a small group, maybe 10 people at the Community meeting and there were at least over 7 very concerned people just from my road and Alder Meadow Road which adjoins it and we left more concerned. I'm representing my family, my husband and son are in the back and I just wanted to share with you that since we have lived in this area for 3 1/2 years we have consistently heard the noise of the quarry. For every comment that's been represented here this evening, it seems like there is an opposite, it am here to say that we hear the noise. I contacted our realtor because we have an opportunity to invest in the home that we have been renting and our realtor represented to us that most definitely, as an investment, if this quarry is allowed increased operation our value would go down. This is a concern that I have obviously. We also have been striving to invest in this property for a lot of different reasons and have our home

there. To look at our world right now as a place where there are limited resources, I am interested in supporting the use of unlimited resources, such as agriculture and it was also represented that homes and agriculture have been a degradation to the environment there. The type of agriculture that I am interested in investing in and have been working with is organic and has a permaculture philosophy behind which is working with the land as it is instead of invading it and tearing it apart for just a specific purpose. We have, of course, a limited resource in the quarry, there is only so much rock, it could go on for 80 years. The concern that I left the meeting with to say quite frankly, is that the proposal that is before you has in fact 50,000 yards but it also has an opportunity for public works projects which would be unlimited usage and would not be contained within that 50,000 yards. So just because we are multiplying by a factor of 10 the number of cars and everything else and even the machinery, public works projects would multiply that exponentially without any control. I'm very concerned about that. In addition, with that I also ask that the community, what would that mean in terms of the machinery because I'm affected by the noise where I'm at. It was represented that the machinery that was there would be adequate for 50,000 yards, however, if more was done and I'm not sure what

that level would be, maybe another machine would have to be brought in or obviously a larger machine. The size of trucks that are used may be would not be adequate. If we are talking about large public works projects, I have in fact worked on State of Alaska, Department of Transportation road jobs, worked with rock and I'm familiar with trucking and rock projects. I thank you for your time.

UNKNOWN: Are you on the map here? Which tax lot are you?

HARWOOD-LONG: Yes, there is a large section here... Number 36.

UNKNOWN: So are you the house in the impact area that is shown on the map or are you out of the impact area. That's the dark circle around here.

HARWOOD-LONG: I am outside of it, just over the hill.

UNKNOWN: And you're tax lot 36. And you can here it?

HARWOOD-LONG: For a long time I thought it was a construction project until I figured out what was going on.

COONS: My name is Carolyn Coons, I live at 41101 SE Loudon Road in Corbett. Madam Chair, Commissioners, what I have to say is a bit dry but I appreciate your attention tonight. I'd like to express to the Board my belief that the reconciliation report of the Howard Canyon aggregate site is deficient and must be reworked by the planning staff. The States' remand order to the County addresses 4 specific issues; the central issue, No. 4 concerns transportation as a conflict with protection of the aggregate site. In response to issue No. 4 of the

remand order, the County and planning staff made a choice not to include transportation effects in the recent resource analysis and reconciliation reports. In other words, in looking at the conflicting uses to protecting the aggregate, they did not consider the impacts of rock transportation. And you and I know, ladies and gentlemen, that rock aggregate is only valued once it is transported. In this respect, rock aggregate is fundamentally different from other resources protected under Goal 5. The County planning staff argued in the reports that under the remand order they couldn't discuss or analyze the transportation impacts as a conflicting use. To quote the County, "from the remand order language in subsequent discussions with DLCD staff the directive is that protection of the resource in the Goal 5 analysis cannot be denied by transportation concerns." Mr. Pemble reiterated this point when he showed you a flow chart at the briefing on June 7th, that outlined the 4 Howard Canyon issues of the remand order. He referred to the transportation issues as follows: and I quote, "We cannot deny the protection of a Goal 5 resource for future generations based on the current transportation situation. Well we know we have to protect resources for future generations according to Goal 5, but Madam Chair and Commissioners, nowhere in the remand order does it state that transportation

issues cannot be used to deny protection of an aggregate resource nor does the remand order say that no conflict exists between aggregate protection and transportation. The remand order simply states, "The County has not shown how the use of area roads is a conflict to protecting the aggregate resource. If a conflict does exist, Goal 5 requires resolution of the conflict. In other words, the State practically invited the County to make a credible case of transportation issues along the appropriate administrative guidelines. That is if you want to include transportation issues in your discussions of aggregate resource protection, under the economic, social, environmental and energy consequences, which is the same method of evaluation that is used for other conflicting uses under the Goal 5 framework. In 1990 the county did bring up transportation impacts as a major conflicting use, but then didn't follow the states administrative rules. Thus the state rightfully called the county to task with Issue 4 as a remand order. Now in 1994 the country chooses to totally eliminate transportation impacts instead of incorporating them into the EC analysis. While we understand the county is overburdened and strapped for resources, the planning staff is doing a great injustice to the Goal 5 process by not analyzing one of the most important conflicting uses associated with aggregate sites. They may argue

that existing transportation is not effected by the aggregate remaining untouched and protected. But by its nature this aggregate resource only has value and only has interest in conjunction with extraction and transportation. Thus the impacts of extraction and the impacts of transportation must be considered now at this point in the process. In summary, to use an analogy, you take your car to a car mechanic where the hood needs to be opened for proper diagnosis. In 1990 the county as mechanic pried open the hood, in 1993 the state came back and said. "you must use the proper release lever to open the hood". Now in 1994 in response to the state the county refuses to open the hood at all, thereby robbing us of a fair diagnosis. I urge you to insist that transportation issued be included in the EC Goal 5 analysis of the Howard Canyon site. Thank you.

ROGERSON: My name is Jeff Rogerson, I live at 38228 Nerum Road, Corbett. My family will be the most affected by the operation. We share the same portion of the driveway that the trucks use. It is a narrow road that only one vehicle can use at a time, there are blind spots with no room to turn out of if you get caught in the middle. There have been a number of occasions when my wife and four kids have met a dump truck face to face in the van. When this happens, she has to back up to let the truck pass. So far it has only been a nuisance but with an

increase of truck traffic sooner or later there could be a collision where someone will get hurt and it won't be the driver of the dump truck. At the beginning of the school year my wife would walk my daughter to Nerum to catch the bus. However, after the first week having to run out of the way to avoid the trucks coming or going scaring my family, it was decided it would be safer to drive my daughter to school rather than time their walk to the bus stop to avoid dump trucks. Even though we live only 700 feet from the bus stop. Besides the noise from the trucks there is a great amount of dust that build down from the hill when the trucks come or go during the dry days. My son Alex has asthma that worsens when the dust comes down. He breathes it in and starts coughing and gets very congested and making it hard for him to breathe. When we moved in a year ago, we knew there would be a few trucks a day. Had we been told that a year from then that there would be as many as fifty we would not have bought the house. With the increase in the number of trucks my families health and welfare will be at stake, that is why I am opposed to the increase at the facility. May I make a note, there is error in the map. My lot is number 49 and the creek actually run just to the south of my house on the property.

STEIN: The creek runs south of your house?

ROGERSON: Yes

STEIN: Thank you very much.

DIXON: My name is Steve Dixon, and I live at 32950 Bell Road, Corbett. I have been a resident for three and a half years. I am a property owner. I have several letters that I would like to read into the record tonight. The first from Douglas Dodd, who is the director of the Corbett Water District Board, dated June 11th. The Corbett Water District operates under a domestic water supply permit. Commercial and industrial customers, like a commercial/industrial rock mining operation can only receive surplus water from the Corbett Water District. As specified in Oregon State Regulation ORS 264.310 water supply can not be guaranteed to commercial/industrial operations. If supplied it must be immediately canceled when no surplus water exists. Please evaluate and include the EESE consequences of this information in the Howard Canyon aggregate site analysis. Signed Douglas Dodd and Jim Masseny, Directors Corbett Water District Board. The second letter that I would like to read into the record is from Mike Grover, he is a real estate agent for 20/20 Properties. I am a licensed realtor with 20/20 Properties. I am a long time resident of Corbett and I also list and sell property in Corbett. In general, a rock quarry will reduce the value of homes in the vicinity of the quarry. If two homes are exactly the same in all respects, but one is located in the

vicinity of a rock quarry and the other isn't, the one near the rock quarry will worth less. In particular I know about the Howard Canyon rock quarry and I am familiar with the surrounding area. If the quarry expands into a commercial quarry, my opinion is that the property values will drop. As an example of the impact that a quarry has on sales I remember showing some buyers a home close to a rock quarry in Scappose. The buyers liked the home and the buyers liked the rural setting, but when they were told about the rock quarry they were no longer interested. The rock quarry was not even in sight of the home, but the fear of having to compete with large dump trucks on the same small road, and the fear of the noise they might hear was enough to kill their interest. A seller will have to compensate for these problems by adjusting the price down. Signed Mike Grover, 20/20 Properties. And I would like to ask for a day to get this on his letterhead, we had a power outage in the Corbett area this afternoon and he will mail you a copy on 20/20 letterhead. We would ask that you include this information in you ESEE analysis for Howard Canyon. And we would also like you to keep the record open for one week in order to have time to submit additional written testimony by real estate professionals which attest to the provable reduction in value of existing homes next to the industrial mining and quarry operations. That

letter will be forthcoming.

STEIN: Why don't you give us this copy as the official copy, then if you want to submit one on letterhead that would be fine. Thank you.

OKADA: Hello my name is Kerrie Okada, I live at 37925 East Nerum, that Tax Lot 10 Houston Acres. Its about a quarter mile from the entrance to the quarry and I just want to reiterate some of the points already brought up that the truck traffic is already having an impact, noise wise in the area. Safety wise the trucks are not creeping along those roads, they are rushing down those road, you have to be careful when you are pulling out, because they are just barreling down the roads. I hear the truck traffic at my property, I'm about 1/2 mile from the road and I still hear the truck traffic. So I can't imagine having more traffic than that. We haven't set out and actually watched how many trucks, but when we have gone for a walk within a half hour there can be two of them barreling down the road. So I don't know how much is going out of there now, but to increase it would greatly increase the area, not only that it I don't think the roads are built to withstand that kind of traffic. I looked in the report and I didn't quite understand, but it seemed to me that the roads would have to be greatly improved to hold that traffic, which of course effects our taxes to pay for improvement of the road. And also, the point of decreasing our

property tax values in that area. So it does effect us economically in that respect. Another factor is the noise and operation effecting the wild life. There is deer, coyotes, eagles, hawks, there is all sorts of things. Its right within about a mile of the Columbia Gorge scenic area which is an area that I think all of use for recreation and enjoy its aesthetic value. To have that quarry so close to the scenic area can of course have some impact on the esthetics. Also if the trucks are going to be going down the Corbett Hill that is road that everyone comes up to the scenic highway. Its a narrow very windy road and I just can't imagine how that will impact it. A truck every ten minutes going down that road trying to pass. I think that is an unsafe aspect also. I guess I just want to stress that its a beautiful area. The quarry isn't in operation and I think its important, not necessarily to shut it down, but just to limit it because it is going to effect that whole area the esthetics of the scenic area.

STEIN:

Can you clarify something for me? Because a lot of people have been stating that you see a lot of traffic going through, loads of gravel. Are you seeing this every weekday, or are you just seeing this on Mondays, that you see all these truck loads going through. Because from what I understand they are not supposed to be exporting very much rock out of there. So I can't understand how all these

loads are leaving there.

OKADA: Yes that is what I am unclear about also. If there is

STEIN: How often do you see trucks?

OKADA: Every time I drive down that road, I'll see a truck. So, I go to work four days a week, I'll see a truck each time. I can't say how many there are, I'm surprised that there are that many if there is only 5,000 yards allowed each year. And each truck carries ten yards, its only two trucks a day.

STEIN: That would be four round trips. And these are trucks that you fell are coming from the Howard site.

OKADA: Well that's the only place that there is, it a one way down that and down the Howard Canyon road.

STEIN: Thank you

WEBB: My name is Nancy Webb, I live at 745 SE Little Page Road. I have been a resident of Corbett since 1979. And I know that there are some confusion about the number of trucks that you are hearing from the community about the ones we are hearing and seeing. But we are, I hear J-rigs, I hear a lot of noise on a regular basis. And it raises some questions for me about, again, who is monitoring and who will be able to monitor? The amount of traffic, the safety for children, the noise pollution. There seems to be a natural echo in the Howard Canyon area that differently would effect the quality of life there. Again I wonder

who will be able to monitor the traffic, who will be able to monitor the transportation that goes back and forth. We do have very narrow roads. They are not set up for trucks, they are set up for small rural community. It would really impacts our liveability and I would really like to have you please reconsider expanding the gravel pit. You have already heard considerable testimony about why we feel this way and I don't think I need to add any more than that. Thank you very much for your time.

TRIBE:

I am Diane Tribe, I live at 41905 SE Lowden Road. My issues and concerns are about transportation also. I have looked at the list of proposed conditions that was at the meeting in Corbett and my concerns are, as other peoples, that because of the lack of resources of the county. To be able to monitor this 5,000 cubic yards per year going and coming. That we have no control, and if you will look at this quarry and if you will look at the map in the reports that is a mining pit. There is a vast difference a mining pit and a quarry. We have people saying that we are going to just do 5,000 cubic yards per year, and I noticed that in this report that we are looking at using a type 3 truck we would be expected to be used. Not one road cited in this report could handle that weight of these trucks. And I noticed that Corbett Hill viaduct, Stark Street Bridge, Stark Street viaduct,

Gordon Creek viaduct and Little Page over Big Creek each one of these road have at least one creek that passes that you have to use culverts. Culverts with this kind of weight have not been made, therefore they will have to change the culverts out which is going to impact all the streams. Anywhere these trucks go you are going to have to change things. Therefore, I ask that the commissioners ask the planning committee to go back and look at the transportation issues that were remanded back to the county to look at because it is very important we are looking at. From the calculations from the last meeting, 90 trucks per week, 6 days a week and I doubt that this is a true mining operations, and its commercial. That we are going to be able to control the size of trucks that are going to be coming in for loading. The amount of time that they are in there, back and forth. I would hope that you will go back and look at these issues, they impact the fish, streams, the whole Corbett area in general. You are looking at tourism, quality of life. My family has been in Corbett for four generations and I have two generations after me, so its six generations. Thank you for your time.

STEIN: I believe there is a question.

YOON: Could you give an indication of where on Lowden Road you live?

WEBB: I live at the top of Lowden Road about one mile

from, its not on this map. I can indicate on the map. I live way up here.

STEIN: Thank you very much.

ANDERSON: Hello, my name is James Donald Anderson, I live on Howard Road, 37915. My Tax Lot is 60. I realize that a lot of people have said they have seen trucks, where we live if you look at our house, we are up on the hill a little bit, so we are not right on the road. What I do for a living is that I am a foreman for Wilhelm Trucking and Rigging. We deal with rigging and heavy transportation, trucking. My concern is the road and the trucks on it. I have only come across a couple of guys, I usually come home from work late at night. Everybody has concerns of how much weight is on the road, if it goes as large as they say it can go, then you are going to have trucks running they say ten minutes. That asphalt or whatever that road is made out of is going to start wearing, especially in the hot month. As far as hearing Jake brakes, anybody who drives a truck, when he uses his jake brakes to slow down, then he is a fool, especially on curves. Unless you got your turning gear first, you are slowing down for you curve. As far as any vehicle that is over 16,000 pounds, you do have to have to have a CDL license. What I am trying to get to is how many trucks are going to be on the road? How much is going to be in that truck? I've never talked to these gentlemen. I don't know if

they have portable scales, or if they have scales there. Or do they weigh by the bucket? How do you know how much weight is going down the road? You are allowed on your rear drivers 34,000 pounds. That is two axles. In the front you are allowed 12,000 pounds. If you have the large tires, like on cement mixers, you are good for 16,500. How do we know how much is in those trucks? I have seen two axle trucks going down the road, which are only good for 32,000 pounds. Has DOT ever set up scales. NO So how much weight do we have going down the road? I live right on the road. As far as people talking about the drivers, they have been great. The size of people going in and out, how large scale the jobs are, whatever they may be. But if it get larger and we have the outside people coming in, because I don't think we have enough drivers in the area to keep servicing it. The guys that do live in the area are courteous. But how about the drivers coming outside? They are getting paid by the load. So as soon as they drop that load they come back. And as far as not seeing a truck for three days, well your job sites may not go for three days and all of a sudden you need 60 ton of rock right now. As far as my driveway, I just put 60 tons on in, and I brought in slag from Oregon Steel Mill. We thank you very much, I thank you.

STEIN:

Thank you for coming.

FRY: You said that you live in Tax Lot 60?

ANDERSON: Yes sir.

FRY: Didn't you receive a written notice. My assumption would be that the property within the impact area would have received a written notice and in this process the people that received written notice have direct standing in the process. So do you remember if you received a written notice.

ANDERSON: Like I said, I'm a foreman for Wilhelm and I get up early and I come home late, so if there was a notice, sometimes we really don't get to talk. Jane, was there a notice?

FRY: Just to be clear, are you in Tax Lot 60 that goes into Howard Canyon?

ANDERSON: Yes, 60. You'll see a little strip going up, that's my driveway.

FRY: I would be curious to know if you were actually notified or not, I'm sorry you didn't know about it. But I would assume that you were.

REAVIS: Hello, my name is Jim Reavis and I live on 33045 SE Hurlbert Road and it's probably 5 or 6 miles from the quarry site. Basically, I thought this was an opportunity to speak my peace and I don't want to repeat a lot of the information. I've lived in Corbett for 18 years and I move out there because I wanted a certain quality of life and I've tried to maintain and protect that. So, that's what I'm here for is just to say when I think about the common sense or the lack of common sense of

increasing the size of these vehicles on these little country roads it really disturbs me just from the standpoint of why I went out and what happens because its been mentioned that kids walk on these roads and my kids walk on the scenic highway. They are just roads and little country and I'd like to keep it that way and I appreciate you listening to all of us tonight. Thank you.

FRY:

My name is Susan Fry, I live at 123 NE Little Page in Corbett. I'm on the board of our neighborhood association and on ????? committee. I would like to address the issue of enforcement of compliance to the regulations set up to safeguard the impact of the rock quarry in the middle of our neighborhood. For example, on June 7th, planning commissioner Hunt asked planning staff, "who currently monitors DEQ's noise compliance to the quarry site?" The staff answered that Dogamee visits the site once a year and monitors DEQ noise compliance. That simply is not true. Here are the facts. The last time the quarry site had a scheduled by one of only two state wide Dogamee officials was in December, 1986. The next scheduled visit would have been 1995 if they had not been called by many Corbett residents and County Commission staff who insisted they check out suspected violations because of the large volume of truck traffic coming from the rock quarry last fall. Even with many calls, they were reluctant to

come out and check because of their tight time schedule. I understand the County agencies don't have the money or staff to accomplish the monitoring at the level in which the rock quarry is currently operating. What kind of monitoring and enforcement can we expect in the future when the quarry operation is asking to expand to at least 10 times its current level. DEQ terminated their noise control program in 1991 because of budget constraints. Is the County willing and able to take over this job? It doesn't appear that way. The planning staff assumed wrongly the job was already being done. I also feel that the easy analysis for Goal 5 is fatally flawed because it does not address the social and economic impact of the people of our community. The gravel doesn't just float out of the quarry. It must be trucked out through our neighborhoods, small, narrow rural roads. Which does indeed directly impact everyone in our community and also the many tourists, bicyclists and equestrians on the road. Therefore, because of the problems and the lack of enforcement and monitoring of regulations, I ask that you please do the right thing for our community and figure out funding and require the appropriate agencies to do their jobs correctly or if that cannot be assured, please designate the Howard Canyon Road quarry 3B status. Thank you.

DAFOE:

Members of the Board and Commission. Good evening,

I hope. I don't know what's going on back there. My name is Vera Dafoe, I live at 9449 SW 62nd Drive, Portland, OR. I am a retired land use planner. Former member of the Oregon Gorge Commission. My interest in the Columbia Gorge area and the large mountain Corbett area continues. I want to speak a little bit on the neighborhood this goes through, although I don't live there. At this time there is approximately 12 residences along the Howard Canyon Road being served by a school bus. The entire road is one and one third miles long. It is windy and it has no shoulders and there are no turnouts. The last 1/2 miles of the road is one lane wide. I drove down it yesterday to look it over and be sure about this and I wouldn't really want to meet oncoming car traffic much less trucks. In order to accommodate future industrial type level gravel pit operation, tax payers would need to pay for widening the road, improving it to a standard that would handle that kind of traffic. This would be a cost, getting this road fit for the kind of use that I believe could well happen in the future if this permission is given. The traffic would create a major change in that neighborhood and these are kinds of impact you really do need to deal with in your consideration of this issue. The present permit of exemption which allows 5,000 cubic yards per year, which is some 500 loads of gravel or other aggregates, that comes down to

about 2 truck loads a day, five days a week. But the neighborhood members here seem to be saying that there is a lot more traffic than that. This seems to be something that the County is not able to monitor. There doesn't seem to be much enforcement of agreements or rules or permits which is happening in a lot of other areas too of course, but it is something to consider. There has been no defined impact area which is necessary to make the kind of termination. People mentioned that there is three year-round streams. The conflicting uses of these combinations of the residential and industrial uses would out weigh the Goal 5 requirements for protection of resources. If you really got all the parts together in this I do believe that to be the case. Thank you.

HAMMELL:

My name is Lloyd Hammell, I live at 501 Salzman Road and if your looking at the map it would be plot number 90. A small 9.1 acre parcel up on Salzman. The quarry is currently audible from our home and having a commercial so near our home would be very disturbing to us. An increase in operation would lower our quality of life and enjoyment of our home. It in turn would greatly reduce the property value. We just spent a lot of money remodeling it and planned on living there a long time. I believe that the 1,200 ft. impact area is inadequate as I can see part of the proposed quarry from my home and as stated before I can hear it

now. I strongly support an independent noise assessment study. Thank you very much.

SWENSON:

I'm Len Swenson, I live at 38909 Historic Columbia River Highway, as known as the Scenic Highway. I've been there for 26 years now and have come to appreciate the value of the Columbia River Gorge, so much so that I have been very active in trying to preserve it. I think that the Howard Canyon quarry is probably in the worst location one could choose to put it in, environmentally. Those of you who have visited the site can see how fragile the area is. The transportation in and out of the area is totally inadequate for what is being requested by the applicants here. I cannot imagine the ten-fold increase in the number of dump trucks going up through that area. I have seen now assurance whatsoever that the rock coming out of this quarry is going to be supplied east of the Sandy River. I hear the attorney hedging on this every time the question comes up while we might send a load across the river once in awhile. There we have no assurances. Number one there must be some sort of a ruling here that they don't haul it across the river. The Reconciliation Report really doesn't address the issue of energy. If the rock out of the quarry is only supplied, used locally, then obviously we are not increasing the rural truck traffic for the total area. But as soon as they cross over the Sandy River and start supplying out

of the area now we have additional traffic in the Corbett area they we didn't have before. So that needs to be addressed in the report. There are a number of area in the report relating to transportation and to the scenic area. The additional traffic on the scenic area due to dump trucks will be considerable. And that is becoming more and more important as the tourist traffic is increasing everyone of you who have been watching what has been going on in the Gorge ever since it became a National Scenic Area. Knows how important economically that is to the area and how important it is considered to be all the people, in fact, many people across the United States. Because this is becoming one of the favorite places to visit. And to put a continuous stream of dump trucks on that road now, even on the west end of it, is almost unthinkable and yet this is exactly what is going to happen. Now we have additional traffic in the Corbett area that we did not have before. So that needs to be addressed in the report. There are a number of other areas in the report relating to transportation and the scenic area. The additional traffic in the scenic area due to the dump trucks will be considerable. And that has becoming more and more important as the tourist traffic is increasing. Its not by 5,000 yards per year, we know there are going to be public works projects. Maybe we are talking 100,000 or 200,000

yards, right at this very moment, there is a large widening project underway on I-84 between 181st and Troutdale. I suppose that if they gain approval soon enough and they can supply the rock cheap enough, they could get in on that and perhaps haul a couple of 100,000 yards out of Howard Canyon and supply that. And what road is all that going down, well the scenic highway obviously, right down to the Troutdale area to get onto the I-84. It is the only route available for heavy trucks. Unless they are going to go down Corbett Hill Road, which does have some load limit limitations. But you wouldn't know it to see the heavy log trucks going down there all the time. So I urge everyone of you who is involved in this process to out there and personally look at the area, not just do an academic research project on this thing where you write up what the law requires and pay no attention to the reality of the situation. Thank you

STEIN: Is there anyone else who wishes to speak on Howard Canyon?

GOODWIN: I'm Priscilla Goodwin and I live on Bell Road. There is just a few things that I would like to comment on. You have had questions about the truck traffic and they are taking a lot of top soil out right now. There is a lot of trucks coming in and out, I don't know why that is going on. And the other things that has been discussed is not taking anything away from west of the Sandy River. Just

this year we had truck traffic after truck traffic filling in some fill on the other side of the river under the bridge. I think that exceeded what they had, because it was already a special works project, so there was an increase of trucks already doing that. That's all I have to say.

STEIN: Is there anyone else here on Howard Canyon?

YOON: Madam Chair, there has been a propondrance of discussion about the transportation issue which staff has said is not part of the analysis and several people have brought up good points about the fact that maybe it should have been considered. They are both giving different interruptions of what they think LCDC wants. It would be helpful for us in making a decision either if LCDC gave testimony one way or the other or gave us something in writing concerning that, because I think it is going to make it very difficult for Planning Commission and the Board to make any decisions without something from them.

STEIN: Scott do you want to comment on that, have you requested LCDC.

PEMBLE: The question, have we requested a comments from resource agencies. Throughout the beginning of the process we have involved the Department of Land Conservation development staff in review of our work, and they have done so. From the beginning of the process we have requested information from a number of different resource agencies. We also

have coordinated the development of our report with the Department of Land Conservation Development Commission staff. They have reviewed and commented on our work as we produced it. We have received DLCDC staff comments, we have received comments from our own Multnomah County transportation division on transportation issues with respects to road cross section and traffic. We have requested, as well DLCDC staff has requested, information from ODF & W, DEQ, DOGAMEE, and a number of other resource agencies which are included in the report. So we have attempted to solicit comments, which you have before you in essence is the best available information that we could gather.

STEIN: Thank you

UNKNOWN: The follow up question on that, I guess being a little simple. I guess I need to have a yes or no, whether LCDC agrees or disagrees with staff that transportation can or cannot be used as part of our process in making a decision.

FRY: I can't answer that question for you.

UNKNOWN: Can LCDC answer that for us?

FRY: The DLCDC could answer that for you. You will have to direct that question to them.

STEIN: I have one question Scott, if I during the week contact DLCDC and ask them questions to clarify some of the issues I have, that is not exparta contact, is it? Can I talk DLCDC staff just as I would you as staff?

SCOTT: I will let county counsel field that question.

COUNSEL: Madam Chair, the question is whether a member of the Planning Commission that is going to make the decision can solicit comments from the State agency about their views about this. My view on that would be soliciting new evidence, because there is a statute that says comments between the deciding body and the planning staff are not ex parte contacts, but that is the only exclusion allowed. So for you to get additional information from some other source would be in effect, it wouldn't be ex parte contact, I guess it would be called that, but it is really getting new information that should only come to you in the normal hearing process in which everyone has a right to hear and refute the testimony.

UNKNOWN: Well could be ask them tonight for that question, or would be that be considered new evidence too.

COUNSEL: You can ask them tonight, but if you get the answer tonight that is not within the seven day extension times, then you can't consider it.

STEIN: Are you from LCDC? Would you like to come and ask some questions?

OULMAN: Good evening, my name is Steve Oulman with the Department of Land Conservation and Development. Sorry I do not have a card, I was not anticipating testifying. I often can learn more and contribute more by listening. Our mailing address is 1175 Court Street NE Salem 97310. I support the staffs

work to date, I've been meeting with the staff on a regular basis. I drove up from Salem at the crack of dawn, set and work with them in the mornings. I think they have done a commendable job given the constraints placed on them in this very difficult process. I know we are going to take a lot of hits at the agency for our directive, but our hope is that we could set up a planning process to find creative solutions to some very difficult issues. I think the staff has done the best that they can. Obviously I wish we had better coordination or better input from the public at earlier stages. We are doing what we can. Again I think the staff has done a good job, they are addressing transportation to get to the burning question. The department does not feel that it is a poison pill, so to speak, to deny use of any aggregate site. However, as we discussed staff to staff, and what Gary Clifford has done is a good planning approach. He has identified constraints in the physical infrastructure of Multnomah roads system and I think that its a reasonable response. I don't view it as part of the Goal 5 process. I'm sure I will be challenged on that, that's fine, we will get it resolved at some point. But the point is that Gary and the staff, Scott, all of them have done a good job. They approached an issue head on, they said we have transportation issues, there is no getting around that. Lets see if we can find a solution,

and I think they are working towards that. End of speech, I'll answer questions.

STEIN: Mr. Neil Kagan commented that in the remand order that if the staff included the impact area of the roads that the roads could be identified as a conflict. Is that true or not in your opinion?

OULMAN: He has read it a portion very narrowly and he read it correctly in a very narrow sense. Again I'm looking at this as a planning perspective. I'm not a lawyer, with all do respect from the attorneys here, we're trying to find a planning solution here. Yes, we said impact area was important, that's why Gary has gone back and identified a second impact area, he's called it outside the Goal 5 process. I scratch my head and go, "how's that land?" It's difficult, but's a solution that I'm willing to see play out and maybe we'll get a solution out of it. The other side of the story is, in our required amendments order previously, we also said that the County has not shown how the use of area roads is a conflict to protecting aggregate. That's different than the impact area question. So I want to make sure the whole picture gets out there, Mr. Kagan is correct as far as he goes. I believe that there are other factors that can contribute to the transportation question.

STEIN: Can the County have stricter regulations in the reclamation plan than what Dogamee would require or DEQ. DEQ looks at the water quality off-site. If

we wanted to look at the water quality while it was still on-site, for an example, does the County have the power to do that? Or is DLCD going to come back to us and say, "you can't do that".

OULMAN: To answer the second question, what we want to see is a coordinator response. If Dogamee is the Agency charged with administering reclamation we feel local government should go to them as the experts. The same applies to DEQ, as the experts. The issue of can the County be more restrictive? I'm going to respectfully defer to your County Council. I think that is a legal question of jurisdictions.

STEIN: I've already asked and didn't get a clear answer. I guess what I'm asking is, we would work through Dogamee, but let's say that we found that we wanted stricter reclamation plans than what Dogamee normally requires. Can we say that in our conditional use permit or in the ESCE analysis and our balancing of the 3C classification and clarify that and know that those things are going to happen and not just turn it over the Dogamee and wait and see what happens. Because then we don't feel like the public has control.

OULMAN: Obviously we can't give a quick answer, and obviously appreciate that there isn't a simple answer to it. I believe the local government can, in partnership with Dogamee, identify what they want to see for post-mining use. The County should

work to identify what a subsequent beneficial use, which I believe is a statutory definition Dogamee works under, Mr. Schnitzer can deal with that. The County's land use plan should identify what it would like to see, given the statutory constraints the geology is under. They do reclamation to a subsequent beneficial use. That's different, I believe they feel, than restoration or rehabilitation. It's an initiative we need to discuss, but to approach it and say, "yes, the County should have an active role in it", absolutely, we'll support that 100%.

FRYE:

I really appreciate you being at this hearing tonight and unfortunately LCDC or DLCDC, since you're not LCDC, you're DLCDC, would have been here we probably would have had these answers before. Two things that have confused me during this entire process. The first one is that as we go forward in the future and gain more information, for example the Natural Scenic Highway, or for example wildlife, and we determine through future planning processes that these are in fact protected resources, does that mean that we come back to this and amend this to reflect our new knowledge.

OULMAN:

You may?

FRYE:

So this is an open situation as we go into the ...

OULMAN:

Our administrative rule is written currently for the Goal 5 planning process talks about periodic review as the appropriate place to revisit issues

previously decided. So yes, you can.

FRYE:

The second issue that I haven't understood clearly is: Is this resource on a balance more important than the other goals related to forestry and to agriculture and in other words: If you were have to balance this resource and its impact on farming activity that may emerge. I would point out an Oregonian ad that talked about one of the largest nurseries in East County started on only 10 acres, that's in today's Oregonian. So we're looking at today's situation, okay, but as property is developed in the future, and putting in wineries and things like that, which I already know ??? has their opinion, State has their opinion, do we balance these things equally or does the operation of this resource or any other resource like streams and its impact on agricultural runoff are they balanced equally or not?

OULMAN:

You've posed sort of a global questions for me, Peter. We're talking value judgements about the use of natural resources. I'm not going to stand before you tonight and say one is more important than other. That's crazy.

FRY:

You do say that it is an equal balance.

OULMAN:

I think we all strive for balance in our lives as opposed to taking extreme positions to the extent that we can find solutions to resource conflict. Our agency is an agency of land use planners promotes that as a mission. Yes, I will support

that as much I can.

STEIN: Are you going to be here for the West Hillside too because I have some questions that would be more appropriate to that.

OULMAN: I bet you can guess my answer can't you.

STEIN: Is there anyone else who wants to testify on Howard Canyon?

HANSON: Madam Chair, Commissioners, my name is Lori Hanson. I live on 37925 Nerum. I just recently moved there from Beaverton, to get away from the traffic and the noise, and I'm in the process of buying lot 9, Huston Acres. If you can see, I don't know if anyone understands the name "Howard Canyon", it is a canyon. You can literally hear, I can hear every gear that those trucks are making up and down the road. I live probably a quarter of mile up from Nerum. This is a little country road. I wanted to raise my daughter in Corbett. I wanted her to attend the Corbett school and be active in that community. I wanted to live in a nice quiet neighborhood. The air traffic from PDX has already been rerouted from Northwest Portland to fly right over Corbett, so now we have all of the air traffic along with all the trucks. I did an informal survey myself, I have a couple baby llamas that I'm trying to train. I take them walking every morning and we walk down the driveway and onto Nerum Road. Cars don't frighten them because cars are traveling at a normal speed. I have to tell you, I'm at the

point where I will get license plates because I can't even walk my llamas on that nice, quiet country road which is why I wanted to live there, because of the truck traffic right now. They are going fast, they are loaded, they're are frightening my llamas and my baby, who is with me, to the point that we don't walk the street anymore. This is just what is the 5,000 cubic yards that are leaving now. I can't imagine how much of an impact that this going to make on the livability, no much less the noise. I'm just simply reiterating a few points. Thanks.

STEIN: Is there anybody else who wants to testify on Howard Canyon? We are going to take a very short 5 minute break.....

Can I have the Commission members of all the Commissions up here? We're going to reconvene now and take testimony on the West Hills. For those of you who may not be clear about the process, we will not be making a decision tonight. The planning commission will be the first group to take this issue up and will make a recommendation and then depending on whether someone appeals it or not it would come to the full Board. So tonight is just testimony. We will proceed with the same arrangement.

UNKNOWN: When will the decision be made?

STEIN: It is hard to say because it depends if someone appeals it or not. The Planning Commission is

scheduled to make a decision next Tuesday. From there it is hard to judge the time frame.

UNKNOWN: Will there be a time for the proponent of the Howard Canyon site to rebut what was said tonight by the opponent?

STEIN: If there are critical issues that need to be rebutted and people raise the need for providing more information, there is the possibility of leaving the record open. We will decide at the end of this evening.

Okay, we are going to start with the proponents. Are there any government representatives here who are proponents of the reconciliation plan. Do you want to come forward?

SCHNITZER: Madam Chairman and Commission members, County Commissioners, my name is Frank Schnitzer. I'm Reclamations for the Department of Geology. I'm the lead worker for the aggregate division of the mine land reclamation program. It's a position I've held for 11 years. I'm here to testify as a neutral party to clarify our agencies role in this process and to answer any questions that anybody may have. The intent of our regulations is to provide for proper mine development to assure the site can be returned to a subsequent beneficial use after mining, compatible with zoning. The statutes that direct us, protect natural resources during and after mining. Our statutory authority is not just how it ends up but how it gets there. You have

to have proper mine development to have proper reclamation. Our authority includes initial permitting, compliance, bonding and reclamation. Our regulatory responsibilities are not limited to reclamation. I noted in the reconciliation report, on page 217, it was stated that DEQ establishes buffers and screens and that Dogamee takes care of reclamation. I don't know if that was a typo or what, but Dogamee is the agency responsible for mine development. DEQ regulates air quality and water quality leaving the site. We are responsible for establishing screen buffers, property line setbacks, visual screens and other mine development and restrictions such as stable storage or overburden. I'm hear to tell you that reclamation can be accomplished without the benefit a suitable slope angle or a ?? cover. Look at the vegetation of volunteers on road cuts in Western Oregon. Without ??? cover flat benches, vegetation is beginning to encroach upon the Rivergate rock quarry that was closed a number of years ago in Multnomah County. In Clatsop Country right now we have 20-30 ft. tall repod growing on reclaimed mine sites. State-wide Dogamee has released nearly 3,000 acres of bonded ground because the reclamation had been completed. Well over 2/3 of this, the reclamation was established under a stable vegetative cover. The remainder of the sites were put to other uses such as industrial or

residential use or things of that nature. Slope stability and surface water quality during mining are the two concerns that Dogamee has. Our permit has been drafted to ensure that those things are adequately addressed. I would like to submit to the record a copy of our draft permit conditions. DEQ and Dogamee have been working with the Operator to improve water quality at the site by the installation of silt fences, diversions and apiaries to minimize run-off and the construction of sub-drains, vertical drains and dry wells in the better isolation of the creek through the mine area have all improved water quality. Paul Keiran will talk more about this in a few minutes. The slope stability issues are related to potential concerns that impact water quality. If a slope failure occurred it would be located in the interior of the mine, it would not affect anything off-site, except water quality. To prevent this from occurring, a geotechnical evaluation is required to determine suitable slope angles for the silt overburden and to determine if there are any potential slip planes located in the ??????. In regards to finding a reclamation, Dogamee is concerned about making the site visually compatible with the surrounding land forms. For this reason we ask the Angell Brothers to include construction of tallis slopes and rock chutes in the reclamation plan to make the benches discontinuous, so they are masked during

reclamation. Some of the benches will also be buried by 20 ft. or more of overburden. The benching will eventually be screened from view by the reclamation, the construction of the tallis slopes, the planting, and the replacement of overburden. The statutes require that reclamation be completed three years after mining is completed. I'm sure there will be the immediate question of, "how come there is no reclamation done on the site?". What the statutes say is 3 years after mining is completed. Mining is not completed until the mineral available is exhausted. So, when you are mining from the bottom to the top, you can't do any reclamation. But if you are starting at the top, now the new proposal of the Angell Brothers, and you build those upper benches up there, well then those can reclaimed right away. The State statute says that vegetation has to be in place within 3 years after completion of the mining. So once those upper benches are built, there will be 3 years to vegetate them. With exception of nesting rafters or other sensory species, it is my experience that animals and mining can co-exist. I have witnessed it many times. Animals, particularly deer, will prefer the benches and ramps for movement rather than up and down those steep slopes. I've observed deer tracks on-site, deer on-site. Once the reclamation of the upper benches is completed, and they are tied into

existing land forms, this will actually compliment the wildlife corridor and may serve to increase the width of it. That was all of my testimony.

KELLEY: There was some testimony previously about compliance, and I am assuming that's the permit compliance and who does that and the frequency of Dogamee and your getting out to these operations.

SCHNITZER: We attempt to do annual inspections. If there is a problem, we go to the site more often. This year I have been to Angell Brothers about 4 times. The reasons for these visits were to improve the storm water quality leaving the site and provide recommendations for the operator for that. State-wide we have 4 inspectors and with 700 permits you can't realistically get to all the sites on a very regular basis so we have to prioritize things. My job position has recently changed so that I'm responsible for the regional quarries, so we'll have a higher profile or presence at the larger operations in the Willamette Valley.

KELLEY: The allegation came from the Howard Canyon folks, and that was that there was 7 years between one inspection and the last.

SCHNITZER: That's not under permit with us. It's a registration with us called an exemption. If it had a permit, certainly it would have been inspected more often. There's no bond, there's no plan, there's requirements from us at all at this time. Because we haven't been able to determine

that more than 5,000 yards have left the property for non-forest use. That's our threshold for operations, 5,000 yards used off-site, commercially.

KELLEY: So in other words, a site that had a permit of 50,000 would be one that you would inspect every year.

SCHNITZER: I'm sure that we would be there very often. I think we would be there every year. Particularly if there are any concerns. We certainly respond to public concerns. We would certainly do an initial inspection and a follow-up inspection and we would certainly attempt to be there every year.

UNKNOWN: You received these in order to finance your enforcement activities.

SCHNITZER: Our program is funded entirely by the operators. There is no general fund available for the work we do. I honestly believe that we should have general fund money available to deal with some of the issues such as test find and a public hearing, but at present there is no funding mechanism available. Measure 5 took away our general fund money.

UNKNOWN: Second question is, you mentioned regional sites, how are they different from non-regional sites.

SCHNITZER: They are likely to produce a million yards a year or more. Those kinds of site can have impacts significantly larger than a 50,000 year operation.

UNKNOWN: So you statutorily deal differently with what you would call "regional sites" as opposed to sub-

regional.

SCHNITZER: No, they have to meet the same requirements.

UNKNOWN: Lastly, I continue to be a little confused about who has jurisdiction over what and the confusion is basically, you're at an accident and nobody knows who's responsible. My understanding is that State agencies are predominately responsible for State law, like DEQ would be responsible for inspecting and taking care of impacts on streams, wetlands, wildlife and on and on. So how does the County fit into this terms of a conditional use process which is the outcome or the next phase of these things. What jurisdiction does the County really have to do a conditional use process? What is left?

SCHNITZER: The biggest decision of all. The technical decisions are sometimes easy to make if the politics aren't there. The hardest decision at all to make is a siding issue.

UNKNOWN: So the Counties do have jurisdiction over whether or not this not like say a Federal Post Office, where County has no jurisdiction over the deciding, or the County Court. The Federal Courthouse is another example, that is not the same here.

SCHNITZER: We do not site mine operations. The local land use authority does that.

UNKNOWN: So Counties and Cities do have jurisdiction over whether or not these things should exist within, regardless State law.

SCHNITZER: Most definitely. Our permit is not a finding in

compliance with land use requirements, it is technical permit saying that this operation is in compliance with State reclamation standards.

HUNT: With what you just said, clarify something for me. On the Howard Canyon site there was testimony that there's more rock going out of there. When Multnomah County pursued that, were you notified? How does the process work?

SCHNITZER: Yes, we were notified and we did a inspection. I didn't personally do it myself or I would have maybe got up and testified earlier. An inspector looked at it last fall and we couldn't come up with any evidence that they were exceeding to 5,000 per year commercial removal. It's very difficult to do, particularly when some of the rock is going into the woods for forced access roads. If it was all going into the public use, public sector, it would be easier to determine if they were over the 5,000 yard limit, but it is very difficult.

HART: Now going over the West Hill reconciliation report. Obviously there's all of these Goal 5 resources that are looked at up on the Angell Brothers site. If the County found that certain things need to be done in the reclamation, for instance, an example would be there is a scenic Goal 5 resource that we're looking at. Angell Brothers has been mining 1958 or I guess the original permit was 1958. How much of that has been reclaimed and reclaimed in Douglas Fir trees? How often is it reclaimed?

What would be the outcome?

SCHNITZER: You have two questions there, I think. The first one dealing with what reclamation would look like if the County wanted to beef up reclamation requirements. It is up to the County. You tell us what you want for the post-mined land use.

HART: Would we do that in this part or would we do that at the point in time when we're looking at their actual application for a conditional use permit.

SCHNITZER: I would suggest that it be at the time of the conditional use permit. What's also going to occur is that we're approving the site, as you'll see in this letter, in phases. Each phase, we want detailed information on benching configuration, where the tallis slopes are going to be created, which benches are going to be backfilled and that's going to give us direction on how that landscape is going to be sculpted after mining. Input from the County when we're going that review, it would be an important point.

HART: Can you tell me on the past history of Angell Brothers, how much has been reclaimed and what type of vegetation has been reclaimed in since 1958?

SCHNITZER: There has been no reclamation on that site except for vegetation of some of the spoil dumps. The reason for that is like I described earlier, they are working from the bottom up and they can't get reclamation done in that manner until they have reached the last part where they are doing the

mining. If they are allowed to go up on top, and carve those benches down, those upper benches are just going to have a small amount removed from them and then they'll be slicing the hill a little bit steeping. So reclamation can occur a lot quicker if they mine in that manner. But because of the physical constraints and the very steep ground there, at this point they really are in a corner on reclamation.

HART: On the future site that we're looking at, would this continue to be a problem? Could it be reclaimed every 3 years or are we looking at the whole thing being opened up and then we reclaim it?

SCHNITZER: The way I understand it is if this larger area is approved, the mining will start along the upper areas and then proceed down. That will allow the most visual sensitive areas at the top to get quick fix or quicker reclamation.

HART: The original site, would that be reclaimed before they could move to the next site? Or is that a County decision?

SCHNITZER: It could be a County decision. I don't know, they are going to need a facilities area. I don't think they'll be setting a crusher up on the hillside anywhere. They will want to keep it down where it is, so they'll be trucking down to that site. Right now, you all have been down there?

EVERYONE: Yes

SCHNITZER: It has a relatively flat floor but it is very very

steep all the way around it. There is not much possibility of reclamation until we get the final boundaries of the site figured out.

HART: The stream that was culverted on the existing site, is that a common practice? How would they reclaim that stream?

SCHNITZER: The culvert would have to be removed and the stream opened up. That is fairly common for intermittent streams, not for perennial streams, but for non-fish bearing streams, that's not that unusual to have a situation like that.

UNKNOWN: I have one question that is a follow-up of Commissioner Kelly and Hunt's. It seems to me that 5,000 yards is kind of a major demarkation line. Is that what I'm getting? If someone says, "I'm only doing 5,000 yards, not our problem" but if they're going 6,000 or 7,000 yards then you're interested?

SCHNITZER: Honesty has something to do with it. We regulate from 2,000,000 yards per year to 5,000 yards a year. Those lower sites don't get the same amount of attention as the other ones do.

UNKNOWN: So you are being reassured whether it be by the operator or anybody else that they're really only doing about 5,000. You have no reason not to believe them, so you're going to believe them.

SCHNITZER: Unless we get a lot of calls from the neighbors. Believe me, lots of neighbors have counted trucks for me. We rely on the neighbors a lot for help.

UNKNOWN: This has come to your attention recently.

FRY: This is about the West Hills, and as I read the reconciliation report, essentially staff is recommending 3B or a portion of the quarry based on the balance with the wildlife corridor. What you basically said is that after reclamation the wildlife corridor can be improved. So does that mean that we come back in the future when the first part is done and reclaimed and have the ability to change from 3B to 3C based on a changed condition.

SCHNITZER: That's your decision.

FRY: So that is not something, in terms of your expert opinion, as realistic.

SCHNITZER: It's not realistic. The amount of rock that would be taken out....I just don't think it's realistic to come back in later and look at the rest of the site.

FRY: You didn't understand what I meant. I meant that through reclamation, the wildlife order, based on your testimony, could shift so that it would have another area to move through because that area would be reclaimed with benches, and so on. So basically, in order to protect this area, this area should now be mined. What I'm wondering is, in your expert view, in the future, when more land is available for the movement of wildlife, would that change the basis for recommending a 3B or a portion that apparently impacts wildlife.

SCHNITZER: I'm not sure if I exactly follow you. What you're

stating is that if the reclamation on the upper benches increases wildlife uses of the site, should that designation be changed to what???

FRY: I'm saying that one of the basis for a 3B designation is the fact, apparently, that the wildlife corridor would be constructed to unrealistic tightness and that what I'm wondering is if the reclamation takes place, and the wildlife can move through what used to be the quarry area. Would there be enough wildlife moving through that old quarry area to cause us to rethink the 3B on the remaining site.

SCHNITZER: I'm not a wildlife biologist so maybe I can't answer that for you, but, its been my experience state-wide, wherever I've worked, growing up on a farm too, is wildlife acclimate to equipment. They don't acclimate to people and dirt bikes and dogs, but farm equipment and bulldozers. There is a site in Sweet Home where it's inside the City limits where dogs chase deer onto this property, it's a very large property. The deer have learned to run up to the bulldozer operator because they know the bulldozer operator will chase the dogs off.

FRY: I seem to have had the same experience myself.

TAPE ENDED: NEW TAPE

...achieving a program goal. There are three points I had question marks about. The simultaneous reclamation of the mining site while continuing the ongoing operation. I thought I

heard you say that that was not possible.

SCHNITZER: Mining from the bottom up. Start at the top down, it is. Angell Brothers is too steep. If you develop benches like the ones Angell Brothers has right now, you have that wide upper bench and they're going up the hill from there, there are still using that bench to bring rock down, to push equipment across. You cannot do a reclamation on that because it's inbetween the mine area and the process area. And if you start at the top and work down, there won't be anything in the way or any problems with doing the upper work.

UNKNOWN: Why wasn't it originally set up that way?

SCHNITZER: That's generally the way we encourage people to start. Sometimes it's due to property acquisition. Sometimes it's due to economic constraints. I can't tell you the reason in this situation.

UNKNOWN: In your opinion, can a Douglas Fir forest be established in that reclaimed area once it has been mined?

SCHNITZER: Yes, if enough overburden is replaced on the benches, yes.

UNKNOWN: You have seen that on other sites.

SCHNITZER: Yes.

FRY: The second was being able to support forest vegetation and you said yes. What about the minimumization of the area mined at any given time to reduce visual impact when working from the top down.

SCHNITZER:

A technique that has been out now for 5 or 10 years that I think is real applicable to this site, I didn't bring it up in my testimony because I was trying to keep my testimony short, is artificial weathering of rock faces. It's been used quite a bit in Colorado, California and Arizona and up in Washington also. There are some in place at the entrance to Veneer Park. Where you come in and paint the rock to make it dark. You use iron and manganese salts. I know it sounds funny, but were getting ready to do some of that work up in the Columbia River Gorge Scenic Area. Where you can take a fresh cored face and spray the stuff on it with just a typical garden sprayer, this iron and magnesium salts and in a matter of week it will turn a dark color. I think that this quarry is a good place to use that.

KEIRAN:

Madam Chair, Commissioners, Planning Commission people. My name is Paul Keiran and excuse my voice I'm just getting over from a two-day bug. My name is Paul Keiran and I'm the storm water engineer for DEQ. I work in the 6 County Northwest Region. I deal with a variety of quarry and mine operations in the Portland area, in the Clackamas River and DEQ is neutral in terms of the expansion proposal regarding Angell Brothers. What I'm about the mention and the implements that Angell Brothers has gone through in the past few months is dealing with existing quarry. Any expansion that would be

approved would require additional storm water review by the Department and additional approval of storm water treatment systems, if additional systems were needed for the expansion. I deal with water quality, basically keeping sediments out of water. It's been a fairly hot topic with respect to the Angell Brothers' site. They certainly have had problems there. They have been acknowledged. Since mid-December, a period of which Angell Brothers was cited by DEQ for having some fairly significant water quality violations, they have put into place the following best management practices for storm water run off. First of all the intermittent stream that was the middle stream that was shown in the slide before. Originally, the stream and the storm water treatment system were one in the same. In other words, the stream would come down off that waterfall area, go right through a series of five ponds and discharge off site. What Angell Brothers has done is they have separated, for the most part the stream from the storm water system. So now the stream itself flows free of the storm water system until the final sedimentation pond and Angell Brothers has indicated to me that this summer they plan to fully separate the intermittent stream from the storm water treatment pond system. What this does is fairly basic. If you reduce the amount of storm water you need to treat you have a better shot of

treating it. You are basically reducing the volume by leaving the intermittent stream out of the picture, you can then slow down the velocity of water in the ponds without worrying about the ponds being overwhelmed by a huge volume of water, meaning the stream water, mixing in with the storm water. When you slow down the velocity, you get better ??? characteristics and you get better treatment. So they have done that. They have dug a number of dry wells, three specifically on the processing floor of the site. What the dry wells do is they basically allow storm water to percolate down into the strata beneath the floor of the quarry and basically allows soil treatment of the storm water. Soil acts, even fractured rock can act as a fairly good treatment system for storm water. Basically running it down under the ground. They dug a number of sub surface drains into the same processing floor. These are basically shallow drains that run along the perimeter of the site and behind the crusher. Again, storm water will drain in through the drain rock and these drains go directly to the storm water ponds. So basically what you are doing is you're taking the storm water and putting underground quickly. You are conveying underground to the storm water ponds as opposed to having the water run sheet flow across the site and into the ponds. Obviously, the quicker you get it down under the ground away from any mud, truck

traffic or dust you have on site, the cleaner the water is going to be in the ponds, obviously you have less dirty water to treat. Much of the storm water from the upper pit floor, that is the active pit site, has been routed into the ground and also into a large sump northeast of the pit. This is water that originally came down the upper pit road and into the last storm water pond. It was a fairly significant amount of water. What it did was it upset the last treatment pond, in that a lot of water was rushing into the last pond which obviously was interrupting the ponds ability to treat the water. By rerouting they have again, removed a significant amount of storm water from the storm water treatment system. They have run it into a sump. It is basically a dead-end sump. It runs into the ground and it seems to be working fairly well. They have also employed the use of filter fabric on site. They've basically buried the intermittent stream, one side of the stream, to prevent any sheet flows that occur on the pit floor from running directly into the stream. They've done quite a bit. The system as it exists certainly employs many of the best management practices related to storm water on aggregate sites. In the few marginal storms that have occurred in the past several months, the system has shown to improve water quality. The problem is there has not been a big storm since many of these

implements have been put into place. I would have like to have seen a nice 3-inch storm in 24 hours so I can go out there and watch this thing work. It just hasn't happened. In my opinion, the situation as it exists now is heads and tails over what was existing back in December and January. Angell Brothers has gone the extra mile. They spent a lot of money and a lot of time working on storm water. They have been up front in acknowledging that they have had problems in the past. They have worked diligently in trying to correct the problems. Whether it has worked or not, I guess in a sense remains to be seen. It has worked for the small storms, it's the big storms we're worried about. It's the big storms that cause a lot of the big turbidity problems in Multnomah Channel and so that's the reality of the situation right now. DEQ has some concerns regarding some of the fine materials that are left on the slope between the upper pit and the rock crushing area. What happens is this fine material sort of gets hung up when the rock is mined and dumped over the side of the hill, the bigger pieces obviously fall because of their mass, the smaller ones are left behind. At the end of the season you get a fairly thick mat of fine material that is left on the hillside that is going to be a real problem in the winter because obviously when it rains that stuff gets washed down. It is a

difficult situation. Angell Brothers has indicated they are dealing with it. It's a creative situation in trying to get it down, whether you use cables or whether you use rock to push it down. I'm not really sure. They have indicated that they understand the problem and that they are working on it. There is another consideration that we have thrown around. It's a little bit extreme, but in the event that what they have done to date really doesn't work, if the stuff is so fine coming off site that they are really having some problems meeting their discharge requirements, there is the option of going to a clarifier, similar to a waste water clarifier in treatment plant. There you add chemical flocculants. Try to build a clarifier big enough to treat the water on-site. Basically batch treatment and discharge it. I've been made aware that that has been brought up and that it was not been an approved method at that time. I know that Angell Brothers is constricted in terms of the site or the size of the floor they have and where would they put a clarifier if indeed they needed to put one in there. It's a very tight area, so whether than happens or not remains to be seen. So in summary I guess I would say; they've had problems in the past, I can on board in October. It seems to have been a period of time where a lot of quarries were realizing what they needed to do in terms of storm water quality. Angell Brothers is

not the only one who has had to really get on the ball in terms of implementing storm water best management practices. But they've done a good job and the program is fairly new. A lot of sites I go on, operators are still in the dark about storm water treatment. It's still a non-issue, so education is half my job. So when I deal with quarries that realize they have a problem and deal with it in a logical manner, that's all we can ask for.

UNKNOWN:

I was surprised that the Howard Canyon, I actually did not know that they were in violation of DEQ requirements on this storm water, are responsible for East Multnomah County? Do you know anything about this? We heard testimony that you weren't showing up and you haven't been there for 7 years and I didn't quite understand that. That was a mistake, I think we made a mistake in understanding who was responsible for storm water run off in the creeks.

KEIRAN:

We handle all of Multnomah County. I've only been in the storm water program since October of 1993, so I can't speak for what happened prior to that point. A lot of my job is related to complaint response too. If there is a problem in a stream, and I get a call, I go right out. That's our number 1 priority.

UNKNOWN:

Have you ever gone out to Howard Canyon.

KEIRAN:

I've never gotten a call on Howard Canyon.

UNKNOWN: So you've never been out there and to your knowledge there's never been a complaint filed with DEQ.

KEIRAN: Not to my knowledge, no.

UNKNOWN: I guess, lastly, who invited you to the hearing tonight?

KEIRAN: Who invited me to the hearing? I was aware of the hearing. I have been coming to a number of hearings over the past months just to lend my two cents.

UNKNOWN: I appreciate your pro activeness. It's something we need more of.

KEIRAN: Well, it certainly hasn't been a boring job. It's been a very interactive, dynamic, exchange. Storm water is a real tricky beast. It's an art, not a science. It's something that, we've talked about before, it's something that the lowest totem pole operators or workers on a quarry site can give the best advice to the owner. He is the person up at the top of the hill. He sees a particular drainage that looks kind of quirky, and that is carrying a lot of sediment, he can relay the information down to other people and that's where it is right now. It's a lot of give and take. The only time that DEQ is in an enforcement mode is if there is real lethargic action on the part of an operator. If people don't want to do anything, we get real tough. If they are willing to work with us, even if they are not exacting doing a wonderful job, we

are willing to work with them on it. Because nobody has the answers. This is something that only has about in the last couple of years and it's a mad rush to learn about what it's all about.

UNKNOWN: That would be the same as if we asked you to go out and view the site too. Like in talking about Howard Canyon, we would say that we're concerned about the streams run off on those....

KEIRAN: Then I would be glad to go out there.

HUNT: Are you in charge of air quality too?

KEIRAN: No, just storm water quality.

HUNT: So it would go the Dogamee?

KEIRAN: No, it would be another DEQ person.

HUNT: Oh, a different department of DEQ. So DEQ is still in charge of air quality. And one other question, if an operator does not comply, what's the incentive to comply.

KEIRAN: Well, the possibility of a fine is always there.

HUNT: Are the fines steep? Is there a lot of incentive?

KEIRAN: There is a lot more incentive, not so much because of fine but because of public relations. Like an article in the paper will have a lot more weight than any kind of \$1,500 fine will in terms of a quarry's future. It's funny, my job, the fine is less of a pill than someone's neighbor tattletelling having it get in the paper.

DIACK: Would it be fair to say that no one knows the final resting place for the storm water that goes through these various corrective procedures.

KEIRAN: Exactly where it discharges?

DIACK: Where it winds up.

KEIRAN: It winds up in Multnomah Channel.

DIACK: Exclusively in Multnomah Channel?

KEIRAN: Exclusively in Multnomah Channel.

DIACK: And you can say that with assurity that none goes into Burlington Bottoms.

KEIRAN: It is my understanding that the only stream that could impact Burlington Bottoms is the Number 1 stream and I don't see any indication of any storm water being able to get into there from the active quarry site.

DIACK: If the expanded quarry is expanded to encompass that stream would you see the same sort of operations necessary in that area as are necessary.

KEIRAN: I'm not familiar enough with the expansion area to be able to answer that question. I'm told that it will not impact Burlington Bottoms. I don't know.

STEIN: Thank you very much for being here. Okay we're going to resume our standard testimony here. Are there any government representatives or people who have received notice who are proponents? Are there any neighborhood association or other represented groups who are proponents? Are there any interested individuals? Okay, we'll move the opponents. Are there any government representatives who are opponents?

HART: Madam Chair, Mr. Chair and Commissioners, thank you

for the opportunity to comment. My name is Jane Hart, I'm an environmental planner with Metro Parks and Greenspaces Department. I've provided copies of my testimony to each of the Commissioners. I'm making these comments on behalf of the authors, Ralph Thomas Rogers, who is a wetland biologist, and Charlie Ciecko who commented earlier this evening. I'm choosing two issue from a list of several that we've provided to you in writing. The issues are the concern for the protection of Burlington Bottom Wetland and the inconsistent and faulty reasoning used by the County for designating one segment of the North Angell Brother's creek significant and another not. I think Mr. Pemble's earlier comment provides the context for our comments. To paraphrase, I believe he said, "The County is recommending the Upper Segment of North Angell Brothers Creek and its associated downstream wetland to receive riparian protection, but the segment that connects will not. We do not believe the reconciliation report, as written, provides any protection for Burlington Bottom. We say this because the stream resources report points out, right up front, that it does not directly address the associated wetlands or the watershed outside the riparian zone. We believe this is seriously flawed for not identifying Burlington Bottom wetland as a part of the inventory of significant stream resources. Multnomah County Comprehensive

Plan ranks Burlington Bottom the third highest for wildlife habitat of all Goal 5 wetlands. Burlington Bottom is a 428 acre wildlife mitigation site owned by Bonneville Power Administration and provides habitat rare, threatened and endangered species. Burlington Bottom should have been considered as Goal 5 resource for equal weight as the other Goal 5 resources in the West Hills Goal 5 review process. Underscoring this point is the fact that LCDC's position in court has been that all Goal 5 resources in the impact area have to be considered together in the analysis. The entire decision making process has been skewed and a vital element omitted by not considering the economic, social, environmental and energy consequences of Burlington Bottom and the stream resources EC analysis. The only possible protection program for this state and federally acknowledged valuable natural resource is to prohibit mining activities in the watershed that drains into it which includes the watershed of the North Angell Brothers Creek. With respect to the North Angell Brothers Creek, we believe the declaration of the significance is inconsistent and understated. We disagree with the County's statement that the significance of the North Angell Brothers Creek is minor compared with the other streams in the West Hills area. This reasoning is apparently the basis for not protecting its lower segment. This reasoning if

faulty. The lower reach has inherent wildlife habit value and acts as an connection between two areas that the County has recognized as significant. The upper reach of the Angell Brothers Creek and the downstream wetlands of Burlington Bottom. Compromising any part of North Angell Brothers Creeks means to compromise all of its parts, especially downstream segments and receiving waters. The entire link of the North Angell Brothers Creek and those associated wetlands, i.e. Burlington Bottom, warrant the same protection allowed the other designated significant streams. A Portland hydrologist, John Rhodes, provided testimony back when the conditional use permit was opened up for expansion of the quarry and some of his predictions for the expansion would be that the sediment delivery to North Angell Brothers Creek would rise by 950% or approximately 430 tons per year. The average annual stream flow would increase by 130%. The present proposal is to have only half of the quarry expanded, but I had a conversation with Mr. Rhoades recently and he said even if the numbers in half that the magnitude would still be at the point where it would cause severe damage to Burlington Bottom. So in summary, we believe that absolutely no quarry activity should be allowed in the watershed of the North Angell Brothers Creek or the watersheds that drain into Burlington Bottom.

UNKNOWN: I think one of the criteria for Multnomah County, whether a stream is significant is if they are outfalls to where there is a park. Is there any parts on the Multnomah Channel?

HART: First of all, Burlington Bottom is owned by a public agency and its objectives are for recreational.

UNKNOWN: And isn't there one on Sauvie Island?

HART: There is Multnomah Channel and that itself is recreational resource that is used by the public.

STEIN: Are there any other government representatives?

UNKNOWN: There is testimony submitted to the secretary, one specific was the ?????? order on Howard Canyon. Is that going to be circulated amongst us so that we can read it tonight.

STEIN: We weren't planning on doing it tonight. Did you want it tonight? We don't have a way to make copies. Would like to take a look at it?

UNKNOWN: That goes back to the DEQ testimony and I need that information.

STEIN: Why don't we just pass it around and let everyone look at it. You will get copies later. Is there someone here, an opponent, who has received notice? Any neighborhood Association or other represented groups? Do you just want to line up and come on up.

KAGAN: Good evening, again. For the record, my name is Neil Kagan and now I'm representing Friends of Forest Park. Once again, in comments submitted to

the County last Friday I outlined what we want you to do and why and I have provided that again here tonight along with a one page summary of the specific action we would like you to take. I'll pass this in so that it can be included in the record. In short, what we want you to do is to reject the Planning Department's recommendation to designate the Angell Brothers site as a significant Goal 5 inventory resource site. We also want you to protect the wildlife habitat, North Angell Brothers stream and the Burlington Wetlands by prohibiting mining on the Angell Brothers site. I address the significance issue first. In this process you do have the opportunity to reassess whether the Angell Brothers site is significant. If you do, the record will show insufficient evidence to establish the site's quality and quantity and therefore significance. Just to review the record for you, you are being asked to make a determination of significance on the scantiest of data. The estimate that the remain in unused portion of the quarry contains 220,000,000 cubic yards is based on two shallow boreholes. An eminent, expert geologist, Marvin Beesome with Portland State University, has testified, this is in the record, that that data is insufficient to make a determination of significance. The last time this went to LCDC, it was assumed the site was significant. You have the opportunity now in

redoing the Goal 5 analysis to redecide if in fact this site is significant. And we submit the evidence in the record that it does not establish that it is. I was also going to talk about the need to have more than 1/2 mile width to protect the significant wildlife habitat in the West Hills area but that has been discussed in detail on other occasions. I'd like to use the balance of my time to comment on some of the testimony from Mr. Schnitzer and Mr. Keiran. We have the undocumented, unsupported conclusion given to you by Mr. Schnitzer that it's perfectly feasible to reclaim this site for Douglas Fir forest of equal wildlife quality as exists now. There is absolutely nothing in the record to support that except what he said. He has not provided any credentials of being a wildlife biologist or of being a forester, someone who is qualified to make an evaluation of that kind. On the contrary, there is evidence in the record, from a forester, that no evidence has been provided that this site can be reclaimed. We also have the testimony from Mr. Keiran that he was told that none of the streams on this site would have any impact on Burlington Bottoms. He didn't say who told him that, but the fact is that the record shows that a qualified hydrologist has testified that there will be significant impact on the Burlington Bottoms as a result of the loading of sediment in one of the

streams that flows through the Angell Brother site. To wrap up I just want to reiterate that we want you to reject the staff's recommendation to deem this site significant for mineral and aggregate resources and we want you to prohibit mining on the whole site in order to protect the outstanding wildlife values that exist there. Once again, I would like to ask that the record be kept open for seven days so we can submit additional evidence.

STEIN: We will consider that at the end of the hearing.

UNKNOWN: I'm a little confused. The 3B issue significance is the quantity, quality argument. The 3B designation basically says that although this resource is significant that it cannot be mined because of its adverse impact that cannot be mitigated on other Goal 5 resources. So I wasn't quite clear on why you would argue against this being significant utilizing the basic arguments as to why it's 3B. Are you saying that this does not have any quantity or quality.

KAGAN: Yes, I'm saying the evidence does not establish that this site is significant. Therefore you never get to the 3B decision. In other words, if this is not a significant Goal 5 resource it is deserving of no special protection whatsoever under Goal 5.

UNKNOWN: Exactly, so that's basically your argument. That this portion site is not significant in quantity or quality.

KAGAN: Yes.

UNKNOWN: Neil, are you aware of the testimony we have in writing, one is from the Oregon Department of Fish and Wildlife, which does address the significance of the North Angell Brothers having 5 representatives from the State who are recommending that is not significant for Burlington Bottoms.

KAGAN: No I have not seen that.

UNKNOWN: That's May 19th, but here's one dated September 21, 1992 from Metro Forestry, who basically affirms to Angell Brothers that their reforestation efforts would be successful. I'm just pointing out that you said there wasn't any and that you might want to check the records. The Forestry one says that it would be able plant trees which affirms what the representative from the Geology Department said tonight and the letter of May 19, basically is a recommendation from the FW that the stream not be considered significant.

KAGAN: Significance, is determined by the County's criteria. I don't know if ODF&W has addressed what the County has established what

UNKNOWN: Yes, they that it does not go into Burlington Bottoms.

KAGAN: That is only one of the issues that determines significance.

UNKNOWN: But I'm just saying that you might want to...

KAGAN: Thank you and I was aware of the earlier letter. Perhaps what I should have said, there is no convincing evidence on the record that this site

can be reclaimed.

MATROZZO: Madam Chair, Commissioners. I'm Donna Matrozzo, representing the Sauvie Island Conservancy. I live at 19300 NW Sauvie Island Road. First I'd like to say that we feel the Planning Staff did a lot of good work in preparing the West Hills Reconciliation report and we commend the report for its protection of primary wildlife habitat. However, we have two major concerns with regard to resource protection, Angell Brothers quarry and scenic views. Angell Brothers quarry, we quite frankly found it outrageous that a couple of years ago the staff wanted to allow this entire proposed Angell Brothers expansion both the Planning Commission and the Board of Commissioners overwhelmingly said, No Expansion, and now here we are with half this expansion proposed again. You've heard testimony describing the devastating effect that such an expansion would have on Burlington Bottoms and we would just like to add to that any harm done to Burlington Bottoms and the wildlife at Burlington Bottoms has an effect on the wildlife of Sauvie Island as well. Smith and Bybee lakes the Bottoms and Sauvie Island wildlife areas are all interconnected parts of the Pacific Flyway. If you denigrate Burlington Bottoms, you have an effect on Sauvie Island wildlife. To answer Commissioner Hunt's questions, yes, there is State Park on Sauvie Island on the Multnomah Channel.

It's is Oregon State Park Wapato Access Greenway. Next, we feel that the Scenic Views Resource Protection Plan offers essentially no protection at all of the resource. First, there is no protection of scenic corridors. If you look at your map, you'll see that there are approximately 52 miles of key view corridor identified and 5 little pin point viewing sites. The 5 pin point viewing sites have some protection, but the 52 miles of corridors have nothing. Compare that to the City of Portland Scenic Resources Protection Plan in which all development and vegetation with a scenic corridor designation are subject to the same regulation as the key viewing sites. So if you say one of these pin points is a 1/2 mile then you see the Portland Plan actually protects 100% of scenic views while this proposal less than 5%. Number two, some key viewing corridors are totally excluded. All the higher scenic roads extending from Skyline Blvd. to Route 30 have been excluded totally, unlike comparable roads on the Portland side of the UGB that are all protected. We disagree with this designation and there is much public testimony on record regarding the significance of these scenic views. Number 3, Burlington is excluded from any protection. The report states that Burlington should be exempted because it is already developed. Burlington is developed to a pretty minimal degree. We think a standard should be established to

provided appropriate scenic compatibility and that new development would have to meet these standards. Then, the protection proposed is in language that is simply unenforceable. This verbiage was described to us as "the stuff that litigation is made of". There is no translation of concepts into enforceable standards. Here's an example, the exterior colors of structure should be natural or dark earth tone colors. How do you enforce that? Do you make painting a house a permitted activity?

So with what little concept of protection that is written here at all is again, no protection because it is not written is standards that are enforceable. So in closing we request that the proposed Angell Brother quarry expansion be denied and that the entire scenic views resource protection plan be rewritten. Protection should include viewing corridors, all connecting roads between Skyline and Route 30 be designated key viewing areas, standards should be established for development in Burlington and all protection should be written in language that describe standards that are enforceable. The City of Portland Scenic Resources Protection Plan is a good model. It adequately protects 100% of the designated scenic resource. This County plan inadequately protects less than 5%. We think the West Hills deserve much more. Any questions?

UNKNOWN: My understanding is that Portland takes a single

point and then goes out as a triangle and a scenic resource. For example, the Willamette River is not protected as scenic resource, it's only protected from points. So I guess I'm not really clear on what you're saying Portland does. What you're saying is inconsistent with what I understand it to be and I was involved in writing those regulations.

MATRAZZO:

The advice that was given to me and the things that I read in the Portland Plan say just what I am describing, the scenic corridors are protected. And just the whole basis of this, that you have this map and you see 52 miles of scenic corridor, we have these discussion when we did the scenic views before. I talked about taking people out. I took a group out to Blue Heron, Smith and Bybee Lakes. We were out there the whole day. The mountains are there. You take people out bicycling all day. You take Portland Parks and Recreation people out. You take people out all day and their looking out there and what you're talking about is saying is, "we'll take these 5 little places and we'll protect the view that you have from these 5 little places and totally ignore the 52 miles where millions of people come every year and look up at the mountains.

UNKNOWN:

That is how Portland does it. Portland takes a single point a triangulates away from that point. It protects the area within that trianglization.

So I don't understand why what the County is doing is any different from what the City of Portland is doing?

MATRAZZO: Well, I have to say that that was not my understanding of the situation and then I would say that even if it was the situation, that key wildlife corridors should be protected.

WRENCH: My name is Chris Wrench and I am President of Friends of Forest Park and Friends of Forest Park was prepared to send out an emergency flyer getting a hundred folks here tonight, but we were so pleased with the protection of the wildlife corridor in the reconciliation report that we decided not to do that and spare you the testimony from the 160 people who wrote to the Governor who asked for the remand order extension. Unfortunately, the concern we have with the reconciliation report is that it doesn't protect Burlington Bottoms and you heard Paul Keiran tonight talking about how if the quarry did expand into the Burlington Bottoms watershed, the same protections would be needed that they are asking the quarry to put in now. The protections that they are asking the quarry to put in now are really very extensive and going to help a lot. But for years and years and years the quarry polluted wetlands and the Multnomah Channel. There is already some video on the records. These pictures were taken in February and I don't know how many of

the protective measures had been put into place by February, but is what had been going on for a long long time, in the way of sediment filled run off. In the first picture you can see the quarry at the top of the frame and turbid water from it standing in a small wetland. Sediment from the quarry is almost filled this wetland up. The second picture shows the turbid water moving through this wetland. The third picture shows sediment filled run off from the quarry flowing into Multnomah Channel. The picture is dark and you have to look at the contrast between the gray water and the dark blue water at the lower right. DEQ did issue a citation to the quarry owner because of this pollution. What worries us is what the expansion will do. ODF&W contracted with WNH Pacific to do a hydrology report on Burlington Bottoms. I talked to Jim Lenhart, the senior engineer who signed the report, and he said there would no doubt be heavy impact on Burlington Bottoms if the quarry expansion were allowed. However, it was a controversial subject, so this report stayed away from the whole issue of the quarry. I should have said, "Oh, why was that?". I'd like to enter into the record the report by John Rhoades, the hydrologist who studied for us the Burlington Bottoms hydrology. Clearly the job of preventing sediment laid in quarry water from entering priceless waterways and wetlands is a very heavy burden on our State agencies. It may be

too much for them in fact. Our recommendation is designate the entire expansion area 3B. Don't let the quarry expand. Thank you.

UNKNOWN: Could you tell me again, you say as a result of this particular incident, there was a citation for violation. Who issued that citation and to whom.

WRENCH: DEQ issued it to Angell Brothers quarry.

LEV: Madam Chair, Commissioners, my name is Esther Lev, I am here tonight for Rosemary Furvey who's the Board President of the Wetland Conservancy, a non-profit land trust. Rosemary unfortunately is in Poland giving a talk on water quality efforts in the Metro region here. Instead of reading this I will submit it and just give you some of the key points here. It is about the stream section of the West Hills Reconciliation Report. The Wetlands Conservancy is very happy to see Multnomah County taking these steps to protect these significant resources. We see this as an opportunity to do overall comprehensive watershed planning and we feel the way that it's been done that the resource itself was identified as the channel, the adjacent riparian areas, the impact area. It would really be better that the riparian area be included as part of the resource site and that the entire watershed is the impact area because we can see if you go out to any of these water sheds here that activities that occur several miles away from the stream can still have major impacts with

sedimentation, erosion and impacts on the stream quality. Secondly, Goal 5 requires you to identify significant and insignificant resources. That's all well and fine but when it comes to a stream it doesn't work that way. You can't take a part of the stream and just take a chunk out and say this is insignificant. A stream works as a whole and what happens in the head waters and all the way down along affects it until it enters into wherever it's going to enter. Other things that weren't addressed is that with logging activities. They are temporary. We wouldn't like to see much logging along these streams, but you can restore them. There is a lot opportunity and potential for restoration along these stream corridors. To identify something as insignificant just because it's been logged. Five years from now with some restoration efforts, that can have valuable habitat as well as water quality benefits. We feel that SCC zoning standards are weak in terms of saying if these water sheds are significant. So we would like to see stronger standards for whatever zoning is placed on these resources and the Wetland Conservancy would be happy to work with the County staff to develop some stricter standards that we feel would protect these water sheds and also identify potential restoration opportunities.

Thank you.

MATTEI: Good evening again, Lyn Mattei with the Oregon

Natural Resources Council, 522 SW 5th, Ste. 1050, Portland, Oregon. We again want to commend the County for the major efforts you have made to comply with the Department of Land Conservation and Development remand order. We would like to reiterate our view that this order we think is complicated and unreasonable and punitive. We are pleased that the County's May 23, 1994 reconciliation report recommends protection of the major wildlife corridor which is part of Forest Park. We find however, that the report is lacking in the following areas. First of all we think that stream protection should be heightened and we would adopt Esther Lev's comments for the Wetland Conservancy as our own. The proposed stream protection in the West Hills should be stronger and we've already noted that as a minimum, the County could adopt the protection from the Clinton Forestry Plan or the rules from our own Forest Practices Act which will into effect in September and will have a little better buffer protection. We also are concerned about Burlington Bottoms. We are concerned that sedimentation from the run off and the expansion will adversely affect Burlington Bottoms is a very significant wetland. Those in Portland and in the region are very proud of this wetland. It was purchased by the Bonneville Power Administration and mitigated in order to mitigate for wildlife lost elsewhere. The wetland was given

to Multnomah County and it is my understanding that the County turned it over to Metro and entrusted Metro with its care. We are very concerned that Metro will not be able to carry out its duty to protect this wetland. If the County does not protect the upland impacts, that could harm it. There has been conflicting testimony on whether this wetland will be harmed or not. I would urge caution on the part of the Council and the Planning Commission. We need to find out what the effects might be and do something about it before some order is signed that could harm it and that you couldn't look at again until a periodic review 5 or 10 years from down the road. It's like reclamation, if the mine can be reclaimed, it's going to help the natural resources that are destroyed for the next 40 or 80 years along the way. Lastly, we are very concerned by some of the questions asked tonight. Particularly by the Planning Commission, which seem to infer that the Commission has believed that they must put aggregate resources on a higher priority than other Goal 5 resources. This assumption would be false and would in fact violate Goal 5 and the rules. We are also troubled that the LCDC has possibly helped to perpetrate this erroneous view because Steve Allman is paid by the Oregon Department of Transportation who is the biggest aggregate user in this State. In short, we do not feel that some of

the advice given to Multnomah County has been straightforward. We ask you to keep your eyes open and to make caution decisions.

SHERMAN:

John Sherman, Friends of Forest Park. I will try not to repeat anything. There are a lot good things in the reconciliation plan, some things we don't completely agree with. I want to call your attention specifically to which I think are some of the most important parts for wildlife which are the recommendations for an eventual SEC zone which you will be asked to enact or even construct based on these recommendations and they are in Section 6, pages 25 and 26, they are very important. One that I think is very important and innovative is the call for a 38-acre based zone which would go into effect and supersede any downsizing of the current forest zone. We all know that that is in tremendous flux. Right now the forest zone is what is going to hold that as habitat, Lord knows what's going to happen to that in the next few years. So I think it's important if the County values this resource to put something in place, saying no matter what the State does, we'll never make parcels smaller than this because we have a pretty good sense that we need this size to preserve this as forest habitat. The other thing I want to call your attention to is the quarry expansion itself. I'm in good company with the construction foreman, I guess we have something in common. The line was

drawn in Old Testament criteria, following the letter of the law. It's an half mile from this secondary habitat area and so you took a circle and scrolled it there. And it's a half mile from this secondary habitat area..well, if we're going to preserve this, I think instead of following the exact letter of the law, when all the biological reports said a half mile was the bare minimum that was needed that we ought to at least follow the spirit of the law. So, being a realist and knowing that everybody wants to compromise in this, and I'm not calling for it. If you do go for a compromise let's at least preserve the spirit of a half mile corridor and take this and essentially take it across like that and not play around with this silly little compass scroll here. I mean this is cutting it real close as it is. We've got the road here, we've got some residents, we've got the secondary habitat areas, and to be playing games, Lord knows if they are even enforceable, who's going to get out there and determine this line here. Let's just take the current line and continue it straight across, I don't think that there is a whole lot of quarry lost and what is potentially gained for the wildlife corridor makes a lot of sense. I'll pull this off and enter it into the record.

ROCHLIN: Arnold Rochlin representing the Forest Park Neighborhood Association. I'd like to address

briefly, one point that Commissioner Frye raised on the Portland scenic protection. Commissioner Frye, Portland has two different types of scenic protection. One is scenic views and one is scenic corridors. Both of you are right. There are many nice things in the report, but unfortunately with the very short time limit I'm going to go for the bad parts. My testimony is going to be on the streams. The report says; "This analysis does not directly address the watershed outside the riparian zone". It is impossible that development in the watershed, roads, driveways and whatever, would not impact the streams. We all know that. Why were the watersheds excluded. What was the scientific principle behind it. I quote again from the report, "The impact area was limited to the riparian zones along each stream in order to make the report manageable". I thank the authors for making it manageable. That is Section 3, page 45. That is not a legal reason. The Oregon Administrative Rule 66016005 on Goal 5 implementation absolutely requires you to consider all uses where they would impact the resource. This is not a choice. You can decide that the resource isn't important, but you must consider it if you know its there. For 5 years your staff has tried short-cuts and for 5 years they have failed. We will be in periodic review purgatory forever if you don't order them to stop the short-cuts and do

the complete analysis and not make the report manageable. The report wrongly assumes that the impact in the watershed would be small because development will only affect a small fraction of the watershed. Driveways and roads generally rise gradually along a cut into the hillside. The cut passes entirely through the permeable soil layers, severing the watershed. Water above the cut that would normally have seeped down the slope for weeks, feeding the streams, keeping them alive during the summer and water that would have been stored and prevented flooding in the winter is instead channeled directly into ditches and from there into the streams. That is why Balch Creek is near collapse, only a fraction of the watershed is developed. It used to run clear in the rain and now it's a muddy torrent. It had good summer flow and now it gets down to 5 gallons a minute which is about the same as a sprinkler on the end of a garden hose. Conflicting uses in the watershed must be regulated. For the narrow riparian strips that staff does consider, the staff proposes a variation of the SCC zone, which does next to nothing. SCC regulation 6404A say, "All uses permitted under the provision of the underlying zone are permitted on lands designated SEC. Your SEC zone gives complete and absolute priority to the uses allowed in the zone before it will protect a resource. With SEC type protection, now this is

the literal truth, you may find it hard to believe, you can mine coal in Balch Creek, if you do it nicely. Check MCC6420J. You'll need other permits, but it is allowed. We need a regulation that allows only acceptable development in the watersheds and that prevents development in streambeds and narrow riparian strips all together. On the quarry, they said mining will result in temporary adverse stream impacts including rerouting the stream channel and stream channel destruction. Ask Mr. Schnitzer, who testified earlier, and the staff, to give you one report describing any pit mine in the world, covering 100 acres or more that has been restored to good watershed function. Or any stream through such a pit mine that has ever been reclaimed as more than a storm sewer. Reclamation has been debated before these commissions for 5 years. If there was substantial evidence that the mine could be restored to good quality forest, good quality watershed and natural like streams, you would have it in front of you. Mr. Yoon you have that in front of you, that letter talks about reforestation of a very small area. Not reforestation of a completely destroyed watershed. You don't have reclamation on this scale. It does not exist, except for uses completely unlike the natural uses that preexisted. Such reclamation is a fantasy, a pacifier, not a fact. The middle Angell Brothers

Stream was arbitrarily designated, it is not significant because the contract didn't walk it. That's in the report, that's the reason given. You issued a mandate to study that stream, you paid for it. On what authority do they write it off because they didn't walk it. If there was an access problem, if the Angell Brothers wouldn't let them on the site, Regulation 1105100F gives authority to enter private land on planning commission business. Each section of the report has a part that purports to answer public comments. With some exceptions, staff misstates and trivializes my comments and evades their substance. The staff should be apprising you of the evidence and advising you of reasonable conclusions. Instead staff acts as an advocate for a result, selecting information not to inform, but to carry an argument. I've handed out for your later consideration, responses to the non-responses of staff. I conclude and I get out of your way, thank you.

BALANT:

I'm Jody Balant I live at 14956 NW Mill Road, which is directly below the Angell Brothers site. I'm here to speak on behalf of Friends of Retaining Channel Environment, which is a citizens non-profit group interested in preserving the unique scenic and natural features of Multnomah channel and surrounding areas. We would like to respond to the ESEE analysis in particular with regards to scenic values and the Angell Brothers site. We

would like to oppose recommendations to expand mining operations and our opposition is based on the following: scenic degradation of the West Hills, Multnomah County recently designated the East face of the Tualatin Hills as a scenic resource doubling the size of the Angell Brothers site will cause a scenic blight in one of the most scenic and prominent areas of the West Hills. It is visible from Sauvie Island, Highway 30 Washington State, almost the entire area around. In addition we would like to agree with the Multnomah staff report from November 1992. At that time the county concurred that proper reclamation plan would not be feasible for a extended operation, and for that reason it was denied. I would like to give you a few quotes:

1. The proposed Angell Brothers reclamation plan would not "allow the property to be used as envisioned by the comprehensive plan and the underlying district".
2. The County was unconvinced that despite the applicants evidence the site could be successfully reclaimed for forestry use.
3. "The applicant did not show that its reclamation plan includes a time table for continually reclaiming the land." As is required, "the applicant claimed it was impossible to develop such a time table".

4. "The applicant did not show that the reclaimed surfaces would blend into the natural land forms of the immediately surrounding terrain". For these reasons we believe that the expansion of the Angell Brothers site would compromise the scenic quality of the West Hills. In addition, we have concerns about the environmental impacts, we agree with much of what has been said about Burlington Bottoms. Again, quoting from the November 1992 findings, "The applicant did not show that sedimentation erosion would comply with DEQ standards" and the applicant provided no proof that it would comply with those standards. I think that we've heard from DEQ tonight that they are not even sure that the present operations comply with their own standards. Secondly, the County found that that the applicant, "will not meet the standards established in the existing wastewater permit. Discharges of turbid water into Multnomah Channel which already occur commonly are likely to increase in frequency and magnitude." These are all quotes from Multnomah County. We disagree again that the degradation of the North Angell Brothers Creek would have minimal impact on significant wetlands. I'm going to introduce some testimony a little bit later under the individuals about that particular point, so I won't belabor it here. Thank you.

STEIN:

Any more people here who are to testify as a representative of a neighborhood association or

Multnomah channel and Burlington bottoms originating from the quarry is a serious threat to the integrity of this very valuable wild life resource. We support the comments of Sauvie Island Conservancy and METRO in regards to this issue. Portland Audubons opposes quarry expansion and we also request that the comment period remain open for at least the next seven days as we're in the process of preparing more detailed comments. Thank you for the opportunity to comment.

STEIN:

Anyone else here who is here to as a representative of a neighborhood association, or representing a group? We are going to move on to anyone else who wishes to testify on the West Hills. Please line up and then come up.

HOAVE:

My name is Gordon Hoave, I live at 15729 NW Sheltered Nook Road, it in the West Hills area. I have been there twenty seven years. My philosophy is a little bit different than all the rest of the testimony. It is basically this, as a property owner for that long every time I come to a public meeting, starting in about 73, I don't care who does it they always say it was the other guy who did it. It usually ends up that the property owner has been losing. He has been losing quite a bit, in 73' I went from 5 acres per household to 19, now I'm at 80. I don't agree with this staff that says if you are going to protect the wild life area the minimum should be 38, 19 should be fine. The point

other represented group?

CARLEY:

Madam Chair and Commissioners again I am Ron Carley representing Portland Audabon Society. And in the interest of avoiding redundancy I will try to keep my comments brief. Much of what has been said Audabon agrees with. The Country staff identifies important scenic corridors but apparently does not use them in the EC analysis or in policy recommendations. The language in the policy recommendations specifically on Section 6, pages 17-18 is so broad that ultimately no protection will be provided scenic views. Phrases such as, "vegetation should be retained where ever possible or reduce grading to maximum extent practible" are too subjective. They should be quantifiable and objective. For example, 75% trees that act as a scenic buffer must be retained, which is very specific. The impact area for the stream study should be the entire water shed, not just the riparian corridor. We heard continual reassurances and a commitment to water shed based planning from the county. We are please to see the fine work done to afford protection to the contiguous band of forested habitat through the Tualatin Mountains particularly close to the Angell Brothers quarry and support the proposed limit on quarry activity in this critical region. We are deeply concerned about the potential impacts of quarry expansion proposed to the north. Sedimentation into the

is this wild life corridor sort of scares me. It is going to cost somebody some money, now are you going to buy it or are you just going to take it. Because that is what's happening to the land use planning in the State of Oregon for twenty years. Is if you can't figure out what else to do, you change the rules and the land owner is normally the one that is left holding the bag. He is out. To be truthfully with you at my age I'm getting a little bit disturbed, I don't care what group it is, whether it is LCDC, planning commission, but when you put it all together the property owner is the loser and the somewhere along the line that trend for the last twenty years has to change. I don't agree with the wild life corridors are more important than people. The deer and elk they have four legs and if they don't like it there they can walk over the hill to Vernonia. But the people that live in houses don't have that way of life, they have to commute to say downtown Portland everyday. They earn a living, they pay their taxes and so forth. So building a home and having a reasonable cost for the land in a reasonable commuting distance, that's important. It costs money if you have to drive thirty versus, you can come up to my place fifteen miles from downtown Portland. Now why are you precluding, with all of this planning, that people cannot build a house. I do not understand it, it does not make economic

sense and it never will. Thank you.

TANE:

My name is Seth Tane, I live at 1700 NW Newberry Road. I had the good fortune to be on the citizens advisory committee for this West Hills rural area plan. I also am on the board of the Linton neighborhood association thou I am not speaking for them tonight. I am also a member of the Linton neighborhood land use planning committee. Listening to all this testimony, a couple of things have come to mind, the first is: I haven't seen any evidence anywhere that the quarry has run out of rock at this point, and I would submit to you that there no reason to rush to this judgment. I would also submit to you that the resources other than the aggregate resource, the wild life, the scenic views, the stream qualities are irreplaceable and are in an area that there will be no substitute for. I would recommend to you that a careful consideration of the fact that much of the "science" that has been supplied to the members of the commission and the county staff under a very rushed time table because you had a remand order to comply with are just that, the rushed results to comply with a particular deadline. I think the goal was valiant. I think that the work that was is worthy of applause but it is incomplete and everyone here knows that that work could be much more complete. What we have seen is initial base line studies. I don't think anyone feels that

looking back at this all in hindsight five years or ten years from now is going to be a more difficult situation than what we have right now. And what I would ask you all to do is to look for some way in which this work can be expanded upon. I would urge you to deny the application for any expansion whatsoever, because there is no need for any expansion at this time. I have seen no evidence whatsoever that one-half mile is an adequate protection for the wild life. This is a fall back position, and I think everyone here knows that. I live on the southern border of this impact area right in the way of the Forest Park Wild Life Corridor connection. I can assure you that this is a very live connection, there is no question whatsoever that further narrowing a very tenuous thread is a mistake. It is irreplaceable, we will not be able to go back ten years from now and say "oops we blew it". Lets fill in the quarry. Lets stop now, lets not go back and have to use hindsight and say well the experts told us thus and such. The experts told us Hanford was safe, the experts told us lots of things. Lets pause a moment, this is a resource we cannot afford to lose. I think it is also important to realize that we are not making judgments for the entire state. We are looking at a very small narrow area. And it is irreplaceable. Thank you

SHEPARD:

Madam Chair, commissioners, I am Richard Shepard,

2404 SW 22nd, Troutdale. I am a consulting ecologist who has been supplying technical expertise to Angell Brothers. There are a number of serious technical deficiencies in the West Hills Reconciliation Report. Specifically there is a lack of data for several conclusions, a lack of logic in deriving conclusions from earlier reports and inconsistent assumptions used to compare potential impacts on the resources. We cannot accept the conclusions regarding the amount and placement of the quarry expansion area. Resolution of these includes moving the expansion area further up the hill or to the south. This could maintain the visual buffer in the northern channel by not mining that area. One of the data and logical shortcoming that a half-mile wide forested swath near the quarry cannot be technically supported. Two reasons: First, in a 1992 letter to Angell Brothers, Ester Love suggested a much smaller conservation easement. Second, there is no forested buffer in the area because of the residential development which has occurred in the past few years. Third, there is no forested region west of the quarry which would meet wildlife habitat requirements as mentioned in the report. Another shortcoming is the idea of low quality habitat bottleneck. First, the reconciliation report acknowledges that the West Hills not a migratory corridor, therefore, there cannot be a

bottleneck to movement. Second, if there truly is habitat degradation because of logging, the report assumes that a decade is sufficient time to restore whatever forest habitat quality was lost when the trees were cut. Mining operations could be scheduled so that the areas nearest the property boundary would not be disturbed for seven years. This would provide the ten year growth period which the Reconciliation Report says is adequate. Such a schedule could be reasonably accommodate. There are just not enough data to support the imposition of restrictions on the size or placement of the expansion area. We are very will to discuss both present and future wild life habitat needs with the county. However, these needs would have to refer to particular animal species and for defined functions during their life cycle. We strongly endorse recreation of wild life habitat during post mining reclamation. That is why it is discussed in detail in the program proposed to Del Gammy. How animals or their habitat is helped by prohibiting mining is neither explained nor justified in the Reconciliation Report or any of the documents that preceded it. Unfortunately neither identified species or their life history requirements have been related to proposed restrictions on the expansion of the quarry. Quarrying rock is compatible with forestry, wild life and streams when the operations and reclamation are based on an

understanding of the specific site and the dynamics of ecosystems. Angell Brothers has proposed expansion based on sound engineering, geologic, ecologic and biologic principles and we would welcome the opportunity to work with you and your staff to resolve concerns and increase your confidence that existing and future operations are performed with sensitivity and care. Thank you for the opportunity to address you.

BELLANT: Hi, I am Jodeanne Bellant, again at 14956 NW Mill. I'm here to speak on behalf of my neighborhood. I'm a houseboat person, who lives directly below the Angell Brothers site, and my neighbors requested that I come tonight and speak a bit about dust and noise, traffic problems. I will let you read that. What I would like to focus on is the effects of the quarry operations on wetlands. Our property is a U-shape, and there are wetlands on both ends of the U, and in the middle in an area that was placed on fill. It is the Burlington wrecking yard. The current Angell Brothers run off, runs off the site and into our up river wetlands. When I moved to the moorage thirteen years ago, the two wetland the up-river and down-river separated by the wrecking yard were essentially equal, they had standing water much of the year. The up river wetlands receives the water and silt run off from current operations. Which is currently not a wetlands anymore, its for the most

part filled. And there is not standing water for most of the year. What has happened is the carry capacity of the land has been exceeded and that's why we are having such silt runoffs into Multnomah Channel. The DEQ is primarily concerned with water quality and one the mitigations that was offered as a possible was to damn up that creek. Which would place more silt into the wetland, so that to protect water quality we are diminishing wetland by putting the silt on the land. So I just wanted to bring that up in essence, it is a very complex problem, but when you are eroding that much soil to get down upwards of 70 feet to get down to the rock and you are doing this in the watershed that feeds Burlington Bottoms, that silt is going to end up eventually in Burlington Bottoms, and when the carrying capacity of Burlington Bottoms is exceeded it will end up in the Channel. Come down to our site and take a look, it is very obvious what the affects are. I would like that entered into the record along with the comments from our neighborhood.

ADAMS: Good evening I'm Jean Adams and I live at 13014 NW Marina Way. I would like to introduce a three minute video for Jack Saunders who could not be here this evening.

STEIN: Did you want us to see that right now?

ADAMS: If you can, yes. Video is showing.

STEIN: Are there any other people who wish to testify?

ANDERSON:

I'm Skip Anderson, President of Angell Brothers, my business address is 83449, Portland, 97283. It seems that nobody is completely happy with this staff report, and you can include myself. The attempts by the planning staff to balance various Goal 5 resources in the West Hills creates more problems than it resolves. Since mining began in the mid-50's the mining plan has been have a narrow entrance to the quarry and expand behind the large buff that had been preserved for 25 years. Now the staff is proposing that we mine the lower part of the quarry, including these buffers we've been trying to save. The consequences of this is that the quarry will be much more visible from Sauvie Island. The rationale for this recommendation by the staff, to mine the part of the quarry adjacent to Hwy. 30 is that an imaginary wildlife habitat connection can be preserved. Shepherd touched on a letter we have from 1992. Let me reiterate part of what she says. Her recommendation was that 200 meter or 625 foot wide conservation easement be provided at the south end of the quarry. Her recommendation to leave this 200 meter conservation easement at the top of the quarry is something that would work. It would allow us to move the expansion area, as the staff as suggested, to the south. It would preserve the buff areas adjacent to Hwy. 30. It would keep the North Angell Brothers Stream intact, unlogged and unmined. It

would preserve the 200 meter conservation easement that she wrote about. I might add that the conservation easement would be much wider than 200 meters except for a short period of time where we're mining the upper most part of the quarry. Once this phase is mined and reclaimed, the conservation easement will again be much wider than 200 meters. And will continue to get wider as you mine down the hillside to the north. In any case, it will never be narrower than the 200 meters that she recommended would be adequate. Mining will be conducted in phases which is the least obtrusive way to mine and the fastest way to accommodate wildlife. Once the phase has been mined and reclaimed, it could also be donated as a conservation easement. By mining in phases, the conservation easements will continue to get larger which will ensure the wildlife will be protected for the future. In conclusion, I believe that this approach to mining and our willingness to convert the entire property to conservation easements makes this a win/win situation for wildlife, for the County, for the people on Sauvie Island and Angell Brothers. END OF TAPE.

HUNT?:

.....the request that you are requesting versus what staff has requested before forwarded...could you get a map to us showing the different overlays and what you're recommending?

ANDERSON:

Yes, we can get a map to you. It's on that map

that you've got in front of you showing Newberry Road, the residences on Newberry. You have about a 1/2 mile now.

HUNT: Right, but if I could visualize, like they did with the other maps.

ANDERSON: Would you like me to show you on the map the County has over here.

HUNT: Okay, I'm curious to see.

ANDERSON: Under the staff recommendation, they recommended that we mine this lower part adjacent to Hwy. 30, the north part. What we need to do is slide this thing up some. Preserve this buffer down here because it hasn't been logged. Let's just move this up, save part of this buffer, maybe not all of it, but save part of this buffer and move this whole thing up a little bit. Still leave the 200 meters, 625 foot wildlife easement up there in the top. Once this is mined and reclaimed, the this wildlife easement will get bigger as it goes down and eventually encompasses the whole thing. Does that answer your question?

HUNT: Now I have another question. The original application was in 1958 and how much rock is left? I guess the reasons I have to ask these questions is because I have a couple questions for Mr. Oulman in the end. How many years do you consider you have left on the existing site? The prior site, I know LCDC is asking us to decide all of this stuff, but I noticed in the Howard Canyon report there was

a point somewhere where it talks about these Goal 5 resources can change. We can continue to weigh the Goal 5 resources. To me it is imperative that I get an idea as to a time frame so that I know that something could be reclaimed before something else is developed.

ANDERSON: So you're asking me what the life of the mine might be.

HUNT: Of the current mine and of the one that you started in 1958. Of the recent conditional use approval and the prior one.

ANDERSON: The best I can do is go back over a number of years, get some averages, and make a projection. If there are changes five years from now I don't want saying, "Hey, your projections were off by 2%". In 114 acres of which is permitted to mine now, is about 35 acres that has been unmined. These calculations are probably not going to be precise or they're not going to be the same as projections you have heard before and the reason being, it's real easy to block it off, an engineer can do this in five minutes and give you yardage over a certain number of acres. But you have to figure in the benches, the reclamation, the buffer zones. So you use about 40% of your useable rock and benches. So you take the total, take 60% of that, leaves about 16,800,000 cubic yards to mine in the area we now have permitted. To decide how long that will last. I took an average, base year

1992 and the amount of cubic yards we sold in 1992. The previous 10 years we have grown at an average of 8% a year, project 1992 through the next 10 years at an 8% growth rate. The material we have and original 114 acres will be depleted in 2,003, 11 years. The first permitted area has been mined out already.

HUNT: The original site has been mined out already. Now you are working on the recent expansion. And that will be mined until when?

ANDERSON: 2003, at an 8% per year growth factor that was our average the last 10 years.

HUNT: The original site that was mined has not been reclaimed yet as I understand it.

ANDERSON: Exactly, now you want to know why.

HUNT: It's difficult for me to see this continuing on when the past hasn't been corrected.

ANDERSON: Let me explain that to you. Frank Schnitzer tried, but he didn't do a very good job. It's difficult to understand. What's happened, is that originally it was 33 acres permitted. When that 33 acres was out the County granted another 40 acres. What they are doing is expanding out. Whatever we would have reclaimed in the first 33 acres would have been consumed in the next 40 acres. What we would have reclaimed in that 40 acres would be consumed in the last 42 acres that was permitted 2 to 3 years ago. What we've been trying to do since it started this whole problem is define the outer limits of the

quarry so we know where the outer limits are so you're going to expand back behind them, start on top and work down, so you can reclaim every year and be done with it.

HUNT: But you are the one who applied for the original permit.

ANDERSON: But at that time, if you would have said, "Okay, this is the outer limits of the quarry". Don't just give me 40 acres, because 40 acres will just last 5 or 6 years. You need a longer term plan than that. You need to know where the quarry is going to go and the end of it, the very outer limits of the quarry. Define the outer limits, from the top down and the wildlife corridor will be getting wider as it goes down.

HUNT: Okay, as a Planning Commissioner, my problem with looking at another expansion is I'd like to see one permit taken care of and reclaimed before you continue on with another one. What do you say to me so that I can understand why that shouldn't happen.

ANDERSON: I would say it is an engineering impossibility. For example, you have a 12 x 12 room, you reclaim 3 sides of it. They all of a sudden you decide you want to expand. Now you have to make a 16 by 16 foot room. Everything you have done on those 12 foot is gone.

HUNT: Yes, I know, but we're talking about 113 acres. We're not talking a 12 x 12 foot room. I can't

imagine that you can't reclaim part of 113 acres.

ANDERSON:

You can reclaim the sides once you establish the outer sides. You never can reclaim the back parts you keep on expanding into, until you decide where the back part is going to end up. It's hard to explain, but that's the way it works.

MCARDLE:

My name is Donis McArdle, the address is 17405 NW Skyline. The protection and/or the conservation overlays all have a price and I don't believe that that has been properly addressed. I will use the City of Portland as an example. The City has two overlays for which I am very familiar, the EC and EP. Those overlays affect what one can and cannot do on their property and they affect everyone whether they have a house on it or whether they do not have a house on it. If an owner with an overlay wants to replace a deck, add a room, add a shop, the owner must apply for a permit. That overlay requires an additional application. The cost of that application is approximately \$800, plus the fees of the consultant, the engineer and/or for the plans for mitigation with no certainty that that applicant would prevail. Each overlay, protection, restriction, conservation, has a price tag. All properties which is subject to governmental restrictions making it necessary for an applicant to get a variance or go through a special studies, will be discounted by the market. This discount will reflect the expense, time, risk

inconvenience and other problems involved in obtaining the government's authorization. It also has a monitoring affect on every citizen of the County. For example, Cox vs. the Department of Revenue and Multnomah County. The lot owner, Mr. Cox, went the City for a building permit. Only to find, without notice, the City had placed the EP overlay on all but an 18 foot strip of his property and strip had the EC overlay. The 1991 assessed value was \$49,500 on that lot with taxes of \$1,658.50. The judge found that the lot had no value based on the development, but a \$2,000 value based on speculation is someone wanted to buy it. The County's loss of tax revenues in this case alone for 1991/92/93 total \$3,817.70. The revenue taxes would have been \$4,113.50 based on the \$49,500 assessment, if this assessment had stayed the same for 1991/92/93. The County actually collected \$295.80 total based on the \$2,000 assessed value ordered by the Court. To this \$3,817.70 loss you must also add the County Court costs, Attorney fees and Appraiser fees. Plus the plaintiff was awarded all of his costs and disbursements. These lost revenues as well as the related costs must be made up somewhere. This property owner has set an example for others to follow and they undoubtedly will. Each of the proposed restrictions will each have a price tag which will have a diminishing value on the property

owner. I don't believe that the County can afford this. If you don't stop somewhere we're going to protect ourselves right out of existence. Unfortunately, I came from work and rest of my file needs to be issued and I will do so. Thank you.

WAGNER:

My name is Art Wagner and I'm a resident of 12941 Newberry Road. I sympathize with Skip and his quarry situation but I'm also a citizen and I see things that you must know about. You've got a real tough job making this kind of decision with the evidence you've been presented, it cannot really be done. But you've got time. Skip can win this battle, you can win it, the residents can win it and the wildlife can win it. The decision to expand the quarry doesn't have to be made by September. This review process is going to take place again in 1997 and he's not going to run out of rock by then and that will protect everybody's interest.

STEIN:

Is there anyone else who wishes to testify? Is there any party who requests time to respond to new evidence in support of either the reconciliation reports? And if you wish for us to continue or open the record, I'd like to hear what specific evidence you need to respond to.

KAGAN:

I'm not asking for a continuance, I'm asking that you hold the record open for 7 days and I don't wish to identify at this time, what it is I wish to respond to. I assert that I have right to this

continuance, unconditionally, under ORS 1977636.

STEIN: You're asking to leave the record open, right? Not for additional time. Is there anybody else who is going to want to submit additional testimony?

KAGAN: I just wanted to reiterate. I earlier made requests for both Friends of Howard Canyon and Friends of Forest Park and I agree with Mr. Rockland.

STEIN: What we'll do is we will leave the record open to accept written responses until June 20th at 4:30 p.m. so you may submit that additional record. Delivered to the Planning Office.

UNKNOWN: I would just like to reiterate for the record too, that at our briefing we had requested a couple of things.

1. That a program to achieve the Goal for the Angell Brothers West Hills be given to us just like they had done for Howard Canyon.
2. That we be given, from the 5 view sites, on the West Hills that we be given overviews on that that show the impacted expanded 3C area.

PEMBLE: Let's walk through your checklist again so I'm clear.

UNKNOWN: The first thing was that in our briefing you gave us a one page, on page 18, it was a program to achieve the Goal for Howard Canyon and we had requested the same thing for the Angell Brothers/West Hills summary. We don't have one for the Angell Brothers/West Hills that actually lays

out a program. The second thing was that from the 5 designated key viewing areas that we be given overviews that show the proposed expanded 3C area overlay of the Angell Brothers quarry site be given to us too.

PEMBLE: That's scenic views, you want something more than what we have here this evening.

UNKNOWN: Are you telling me from on that map over these that from these 5 viewing points, if we're looking at the new expanded 3C area, what we will see if that is fully mined.

PEMBLE: You're changing the parameters on me again. If you're talking about taking it down to ground zero and looking at it, what areas would be impacted.

UNKNOWN: What is missing on this report on the scenic part is in fact if you are essentially going to let them mine that new expanded area, how it's going to affect the five view areas.

PEMBLE: Which assumptions do you wish us to use. That they retain the existing hills that block the view from Hwy. 30, that they bring that down to ground zero, do they bench?

UNKNOWN: Whatever you think will convince me that it's fine.

2ND UNKNOWN: If under the expansion they are allowed to take out the burm, then I guess that should be part of the overlay.

PEMBLE: We don't know what the decision is going to be on the expansion of the site.

2ND UNKNOWN: But is that not the recommended.

PEMBLE: We have not given you a specific strategy for how to mitigate against the visual impact because it can be done in any number of ways. It depends on your conclusions about wildlife, streams and the aggregate site itself. So we haven't given you a specific strategy and that's what I'm trying to get to. Is if you have some ideas that you wanted tested out we'll try to map them. If you don't, we're kind of shooting in the air about...

2ND UNKNOWN: Let's assume worst case scenario as we can now see the existing quarry.

PEMBLE: Okay, we'll map that.

KUNKEL: Could we get an overlay as far as scenic. Skip Anderson testified that he had a plan that might make it less obtrusive. Could be see something that uses his proposed plan versus something

PEMBLE: I think that what you just asked for is Skip was talking about, and that was that you would leave the knolls that exist now, in place and that would provide us clean for the area to be mined behind. So I think that's what you just asked for.

FRY: This process is really short in terms of time and it's getting real late and my primary concern is I did write a fairly long memorandum not expressing bias to one decision or another. But in relationship to the reconciliation report, and I did raise stacks of questions in the last couple of weeks. I'm wondering, when is the opportunity for

us to write this report if it is going to be product of the Board of County Commissioners and the Planning Commission is theoretically in an advisory position to the Board. Is there going to be a period here, after the decision is made in concept, that we will have an opportunity to address the specifics as to the report that gets transmitted to LCDC. Or is that totally out of our hands and therefore it can...

PEMBLE: The process for considering the report. You will convene as a planning commission on the 21st of June. You will begin your deliberations. You'll staff instruction about additional work that you want done. You will have a second meeting and we'll bring back that additional work. At that second meeting you'll say, "We got it right or we don't have it right". You will conclude your business at some point, be it at the second meeting or the third meeting. At the close of that meeting you will recommend to the Board of County Commissioners, a proposal on both Reconciliation Reports. The Board will then begin their process. Their process may entail a hearing, it may not.

FRY: Okay, that's great.

UNKNOWN: There was a letter submitted by a Richard Brenner and he thought that this shouldn't be a quasi-judicial hearing. What is Multnomah County's council response to that?

PEMBLE: At the briefing we had on June 7th, John DuBay

provided a rather extensive explanation about why Multnomah County is classifying this a quasi-judicial case. Do you want him to repeat that now?

UNKNOWN: No. What I'm asking is even with that letter, you still haven't changed your position.

PEMBLE: That's correct.

UNKNOWN 1: In the process of deliberation, just like I can ask staff questions, if I give a written question to you to ask to them for you to respond back to me. Is that okay?

UNKNOWN 2: COULD NOT HEAR VOICE

UNKNOWN 3: Also, just for the record, you have in your hand, the rata sheets for the West Hills Reconciliation Report. That rata sheet should be dated June 13, 1994. It does not have a date on it now.

OULMAN: Steve Oulman, DLCD in Salem.

UNKNOWN 1: Since we're trying to find a balance between these final 3 items on the West Hills. Can the County, in its balancing act, require that parts of the area be reclaimed or other areas are allowed to be mined. We're under this gun to fulfill a remand order by a certain date and yet that rock is going to be there indefinitely, until it's mined. As long as we protect the source. Isn't there a way that we can continue this process without having to have all the answers by September?

OULMAN: I'm not sure what specific question your asking?

UNKNOWN 1: I guess, if we're going to protect the scenic resource at all, we're going to have to find a

balance somewhere. From the testimony tonight, the other areas can't be reclaimed until they expand into the third site.

OULMAN: My suggestion is that you get some discussion going with the Department of Geology and other interested and affected people to see what is possible. I think at this point we're probably just guessing and we need to have a sit down.

UNKNOWN 1: Exactly, but I can't talk to anyone else now.

OULMAN: As I've said to the staff, if there's some closure that looks acceptable to all parties, the Department included, I'll make a pitch to our Commission personally, for a time extension. I'm willing to go to the mat if we've got everybody on board in some sort of mediation or whatever you call it. I'll support the County for that. Otherwise, it's the County's deadline that it set for itself.

UNKNOWN 1: I think everybody wants to resolve it, but you want to make the right decision.

STEIN: We're adjourned. Thank you very much everyone for your patience tonight.



DEPARTMENT OF ENVIRONMENTAL SERVICES
DIVISION OF PLANNING AND DEVELOPMENT
2115 SE MORRISON STREET
PORTLAND, OREGON 97214 (503) 248-3043

NOTICE OF REVIEW

11H
ZONING

800.00

1. Name: Rochlin, Arnold
2. Address: P.O. Box 83645, Portland, OR 97205-0845
3. Telephone: (503) 289-2657
4. If serving as a representative of other persons, list their names and addresses:
5. What is the decision you wish reviewed (e.g., denial of a zone change, approval of a subdivision, etc.)?
6. The decision was announced by the Planning Commission on June 28, 1994
7. On what grounds do you claim status as a party pursuant to MCC 11.15.8225?

TOTAL 800.00
CASH 800.00
0000-001 7/ 8/94
1858 SHARON 2:59PM

Arnold Rochlin
Friends of Forest Park
Audubon Society of Portland
Donna Matrazzo
Sauvie Island Conservancy
(Addresses are on attachment)

Planning Commission Approval of West Hills Reconciliation Report with amendments

See attachment

2/1-94a
See #800.00
Last day to file notice of Review
Tuesday July 8, 1994
4:30pm
pd

8. Grounds for Reversal of Decision (use additional sheets if necessary):

See attachment

9. Scope of Review (Check One):

(a) ☒ On the Record

(b) ☐ On the Record plus Additional Testimony and Evidence

(c) ☐ De Novo (i.e., Full Rehearing)

10. If you checked 9(b) or (c), you must use this space to present the grounds on which you base your request to introduce new evidence (Use additional sheets if necessary). For further explanation, see handout entitled Appeal Procedure.

90 minutes of argument per side requested
Hearing is requested to be 2 weeks after transcript
of Planning Commission Hearing is available, or later,
(see letter of July 8, 1994)

Signed:

Arnold Rocklin

Date:

July 8, 1994

For Staff Use Only

Fee:

Notice of Review = \$300.00

Transcription Fee:

Length of Hearing ✓ x \$3.50/minute = \$ —

Total Fee = \$ 800.00

Received by:

Date:

Case No. 01-94a

July 8, 1994

Arnold Rochlin
P.O. Box 83645
Portland, Or 97283-0645
289-2657

Multnomah County Board of Commissioners, and
Director, Multnomah County Division of Planning

Re.: Notice of Review filed July 8, 1994, concerning
Planning Commission Decision Approving West Hills Reconciliation Report

On behalf of the appellants, I respectfully request the following concerning the appeal proceedings:

We would like to have the appeal scheduled as soon as legally possible, but not sooner than 2 weeks from the date the transcript of the Planning Commission hearing is made available to the Board and the parties. We are required by the county code to pay a substantial fee for the transcript, and, if that requirement serves a meaningful purpose other than as an impediment to exercise of the right to appeal, the transcript must be available in time to be of use to appellants and others. Resolution of many of the issues, as a matter of law, must depend on whether or not there is substantial evidence in the record to support the findings and conclusions of the Planning Commission decision. That will require careful scrutiny of the transcript.

Please allow 90 minutes per side of oral argument for witnesses authorized by appellants to speak on their behalf and for witnesses opposing the appeal. This request is made because of the number of issues, and because of the complexity and significance of the issues. The decision will determine the future of a large part of the county, and should not be based on less than reasonably full discussion. The request that time be designated for persons "authorized" to speak for appellants, is necessary because of the number of issues and complexity. A person may seem to support the appeal on a small part of one issue, but, overall may oppose it, or may oppose it on some particulars, or may otherwise not be a witness for the appeal or, on balance may be a witness against the appeal. We have no objection to allowing all persons who appeared before the Planning Commission to appear before the Board, but we believe those who file the appeal are entitled to a certain and adequate opportunity to make their case.

Sincerely yours,



Attachment to Notice of Review filed July 8, 1994
re: Planning Commission Decision Approving West Hills Reconciliation Report

4. Appellants, Arnold Rochlin, P.O. Box 83645, Portland, Or 97283
Friends of Forest Park, c/o Arnold Rochlin
Audubon Society of Portland, 5151 NW Cornell Rd. Portland, Or 97210
Donna Matrazzo, 19300 Sauvie Island Rd., Portland, Or 97231
Sauvie Island Conservancy, c/o Donna Matrazzo

7. On what grounds do you claim status as a party pursuant to MCC 11.15.8225?

Status as parties for all appellants is claimed under MCC 11.05.280, OAR 660-25-080(2), the Rules for the Conduct of Planning Commission and Board of County Commissioners Joint Quasi-Judicial Hearing (the Rules), Section 1(B)(2) as well as MCC 11.15.8225. Appellants gave testimony to the Planning Commission, as interested persons, both orally and in writing. As there a right to participate, failure to recognize that right would deprive appellants of the substantial right to a full and fair hearing and to standing to appeal a final county decision to state administrative agencies and courts. Appellants have shown a long standing interest in land use regulations and preservation of natural resources and are aggrieved by the adverse decision of the Planning Commission.

8. Grounds for Reversal of Decision:

- a. The plan, as it concerns each and all of the resources under consideration (streams, wildlife, scenic resources and mineral resources) does not comply with the OAR 660-16-010. It is not based on "overall ability to protect and conserve each Goal 5 resource." And it does not comply with the requirement of "specific standards or limitations" for activities.
- b. Omission of watersheds from the impact area of significant streams is in violation of OAR 660-16-005. Over 95% of the stream impact areas are omitted. All of the substantial evidence in the record on the subject was ignored.
- c. Determination of the location of impact areas of significant streams was insufficient to allow implementation of a lawful protection plan. The decision itself includes acknowledgment of the deficiency.
- d. The conclusion that the Angell Brothers Middle stream is not significant is not based on substantial evidence and violates the requirement of OAR 660-16-000 that the county to see out the necessary evidence..
- e. The determination of significance of the entire 283 acre rock quarry "expansion area" does not comply with OAR 660-16-000. The significance of quantity, quality and location were improperly determined by reliance on insufficient information, which was proven to be unreliable, of the quality and quantity of resource on the site. The commission should have relied on the only substantial evidence, which indicated insufficient information and lesser quality and quantity than was determined by the Commission. The Commission ignored substantial evidence of widespread occurrence of the resources throughout the West Hills (Tualatin Range) and it ignored evidence of substantial aggregate and rock resource sites in current production very close to the Angell Brothers site. Conclusions of location value were based on unwarranted assumptions, without substantial evidence. The significance of the proposed quarry expansion area was made without findings based on substantial evidence, of the available quantity of resource in the presently approved mining area. The procedure was flawed by a failure to comply with the requirement to seek data from as many sources as possible.

f. The designation of the off-site impact area of the aggregate resource as a perimeter 1200 feet from the site boundaries, was based on nothing but a conclusion about how far quarry noise is carried. Substantial and uncontradicted evidence in the record proves significant impacts on conflicting uses far outside the 1200 foot perimeter. Without including all significantly affected areas, the plan fails to comply with OAR 660-16-005 and with order # 4(b)(2) and 4(c) of Remand Order 93-RA-876 (Remand Order).

g. Determinations of economic and social consequences of restricting mining were made contrary to accepted practices of evaluation of future resource production, and were based on a false assumption that the only alternative to quarry expansion is quarry closure, or that the negative consequences of a determination that there should be no expansion of the more than 110 acres presently approved for mining would be the same as total near future shutdown. Assumptions having no basis in substantial evidence were used as a basis for conclusions about consequences of no expansion.

h. The Commission unlawfully determines that transportation on Highway 30 is not a conflicting use. All substantial evidence in the record requires a contrary conclusion.

i. Substantial evidence, not contradicted by other substantial evidence, requires a conclusion that Rafton/Burlington Bottoms, a rare and highly significant identified Goal 5 resource, would suffer severe damage from expanded quarry operations. Damage from siltation would approach total destruction of the wetland character and would, as a practical matter, be irreversible.

j. The decision on scenic areas does not comply with OAR 660-16-010. The proposed resource protection plan for the scenic view does not "achieve the goal" of protecting the resource. The limitation of consideration of scenic resources to views from distant key viewing areas fails to comply with order #4(a) of the Remand Order.

k. The decision, by determining to protect only 5 "key" scenic viewing areas by arbitrarily excluding approximately 50 miles of scenic corridors from scenic designation and protection, does not comply with OAR 660-16-000, 660-10-005 and 660-10-010. It does not comply with the goal 5 requirement of "overall ability to protect and conserve" the resource, and it does not comply with the Remand Order.

l. The decision is to protect the scenic resource but fails to enable required protection by a failure to "limit conflicting uses so as to protect the resource site."

m. Because the language regarding scenic protection is so vague, it does not meet the requirement of "clear and objective conditions or standards."

n. The findings do not address the significant and permanent destruction of scenic resource that will result from allowing expansion of pit mining into 140 additional acres.

o. The decision to limit protection of the identified wildlife habitat area to a 1/2 mile width is based on a warning that the minimum width that could work to protect the resource would be 1/2 mile. It ignores the substantial evidence that considerably more width is required. The minimal decision does not insure, based on the substantial evidence, that the resource determined to need protection will be protected.



DEPARTMENT OF ENVIRONMENTAL SERVICES
DIVISION OF PLANNING AND DEVELOPMENT
2115 SE MORRISON STREET
PORTLAND, OREGON 97214 (503) 248-3043

NOTICE OF REVIEW

1. Name: Parisi M. Frank TOTAL 800.00
0000-001 7/ 8/94
1044 SHARON 7:51AM
2. Address: 520 SW Yamhill, Suite 800 Portland OR 97204
3. Telephone: (503) 778 - 2116
4. If serving as a representative of other persons, list their names and addresses:
- Skip Anderson
- Angell Bros. Rock
- PO Box 83449
- Portland, OR 97283
5. What is the decision you wish reviewed (e.g., denial of a zone change, approval of a subdivision, etc.)?
- Planning Commission approval of the May 23, 1994 West Hills Reconciliation Report with some changes, as identified via the West Hills Reconciliation Report Addenda and Errata Sheets.
6. The decision was announced by the Planning Commission on June 28, 1994
7. On what grounds do you claim status as a party Angell Bros. is the operator of a surface mine in the West Hills, subject to the West Hills Reconciliation Report.

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JUL - 7 1994

Multnomah County
Zoning Division

8. Grounds for Reversal of Decision (use additional sheets if necessary):

See additional comments, attached.

9. Scope of Review (Check One):

(a) ☒ On the Record

(b) ☐ On the Record plus Additional Testimony and Evidence

(c) ☐ De Novo (i.e., Full Rehearing)

10. If you checked 9(b) or (c), you must use this space to present the grounds on which you base your request to introduce new evidence (Use additional sheets if necessary). For further explanation, see handout entitled *Appeal Procedure*.

Signed: Frank M. Parisi Date: July 7, 1994

For Staff Use Only

Fee:

Notice of Review = \$300.00

Transcription Fee:

Length of Hearing _____ x \$3.50/minute = \$ _____

Total Fee = \$ 800.00

Received by: R. Scott Pankle Date: 7/7/94 Case No. C1-94a

8. Grounds for Reversal or Modification of Planning Commission Recommendation

1. The Reconciliation Reports recommend that each of three Goal 5 resources (mineral and aggregate resources, scenic resources, and wildlife habitat resources) be designated "significant", and be protected to some degree. The Reconciliation Reports fail, however, to consider methods of reconciling conflicts between Goal 5 resources that could permit nearly full protection of all three significant Goal 5 resources.

This is a big mistake. Goal 5 requires that the County adopt a "program to achieve the goal". The "goal" referred to is to "protect natural resources". The Reconciliation Reports overprotect wildlife habitat and underprotect mineral and aggregate resources and scenic resources. There is a better solution.

The area designated for mining is contiguous to Highway 30. This means that Angell Bros. will have to mine the scenic buffer area that protects highway users from views of the quarry. The area designated for mining is also set back one-half mile from MacNamee Road to protect a maximum amount of habitat. (The habitat value of the one-half mile area is thought to be weak at present because of recent clearcutting in the area.)

A better solution would be to move the extraction area further up the hill. This will leave the scenic buffer area intact. To protect the wildlife habitat area, mining on the upper portions of the hill should be phased so that a) it does not occur in the higher elevations until the surrounding forests are regenerated (in approximately five years), and b) conservation easements are conveyed after mining to protect habitat in perpetuity.

This solution would permit some limited amount of mining further up the hill, would give wildlife habitat better long-term protection by virtue of the conservation easements, and would give permanent protection to the scenic resource. It is certainly a more defensible Program to Achieve the Goal.

Another item that needs attention is the map designations of "primary habitat" and "secondary habitat" at the south end of the Angell Bros. property. As currently proposed, there is no real distinction between the two areas. For instance, there are at least two residences in the "secondary habitat" area, yet there are approximately 11 residences in the "primary habitat" area. If a small portion of the "secondary habitat" area is redesignated as "primary habitat", an extra 1,000 feet of land will be available for mining, and the one-half mile of protected habitat can still be maintained.

2. The provisions on pages V1-24 through V1-27 requiring a paid consultant to review DEQ and DOGAMI inspectors is probably unlawful and would be impossible to administer. For one thing, the DEQ and DOGAMI permits contain a method of assessing fees on Angell Bros. for all inspectors' time. Is Angell Bros. supposed to pay twice for the same

services? Also, what does Angell Bros. do if the County's inspector approves a measure, but the DEQ or DOGAMI inspector does not approve it?

3. The statement on page IV-27 to the effect that Angell Bros. is "not in full compliance" with agency permits is no longer true. All the measures recommended by DEQ for storm water compliance have been implemented.

RECEIVED
JUL - 7 1994
Multnomah County
Zoning Division

MEETING DATE: July 12, 1994

AGENDA NO: P-1

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Resolution C 1-94a

BOARD BRIEFING Date Requested:

Amount of Time Needed:

REGULAR MEETING: Date Requested: July 12, 1994

Amount of Time Needed: 30 Minutes

DEPARTMENT: DES DIVISION: Planning

CONTACT: R. Scott Pemble TELEPHONE #: 3182
BLDG/ROOM #: 412/103

PERSON(S) MAKING PRESENTATION: Planning

ACTION REQUESTED:

[] INFORMATIONAL ONLY [] POLICY DIRECTION [x] APPROVAL [] OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

C. 1-94a In the matter of reporting to the Board the Multnomah County Planning Commission's recommendation on the West Hills Reconciliation Report, a quasi-judicial plan amendment to the Multnomah County Comprehensive Framework Plan, Volume I Findings Documents.

SIGNATURES REQUIRED:

ELECTED OFFICIAL:

OR

DEPARTMENT MANAGER: Betty Williams

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

**DECISION OF THE
MULTNOMAH COUNTY PLANNING COMMISSION**

In the Matter of the West Hills Reconciliation)
Report and Periodic Review Work Program)
requirements for Goal 5 resources)

**RESOLUTION
C 1-94a**

WHEREAS, Periodic Review Remand Order 93-RA-876 required Multnomah County to complete additional work related to Statewide Planning Goal 5 resources in the West Hills; and

WHEREAS, On March 9, 1994, the Land Conservation and Development Commission approved the county's Work Program (WKPROG - 0038) which indicated work tasks that must be completed to fulfill the requirements of the Remand Order; and

WHEREAS, The West Hills Reconciliation Report contains findings and makes recommendations concerning protection of Goal 5 resources, pursuant to OAR 660-16, for wildlife habitat, scenic views, streams, and the Angell Brothers mineral and aggregate site as required by WKPROG - 0038; and

WHEREAS, Notice and the opportunity for public comment were provided during several steps of the Work Program, and a joint public hearing with the Planning Commission and Board of County Commissioners was conducted on June 13, 1994, to consider additional testimony on the West Hills Reconciliation Report; and

WHEREAS, The Planning Commission met for deliberation of the West Hills Reconciliation Report on June 21, 1994 and June 27, 1994.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission hereby recommends that the Board of County Commissioners adopt the West Hills Reconciliation Report and appended West Hills Reconciliation Report Addenda and Errata dated June 13, 1994 and June 21, 1994, as partial fulfillment of Periodic Review Remand WKPROG - 0038.

BE IT FURTHER RESOLVED that the Planning Commissions recommends that Planning Division staff be directed to prepare Comprehensive Plan and zoning code amendments in accordance with WKPROG - 0038.

Approved this 27th day of June, 1994

By Leonard Yoon, Jr.
Leonard Yoon, Chair
Multnomah County Planning Commission

WEST HILLS RECONCILIATION REPORT

ADDENDA & ERRATA

June 13, 21 & 27, 1994

(Note: Struck through language is deleted and bolded language is added).

Page & paragraph #

II-22-25

The Planning Commission acted to remove those portions of the Comment-Response section which identify the group or individual who made the comment (ISSUE RAISED BY).

III-7 ¶5

Based upon the inventory of streams conducted by SRI/Shapiro and contained in the Appendix, all but ~~two~~ **three** of the streams inventoried meet at least one of the criteria for significance stated in Policy 16-G of the Multnomah County Comprehensive Plan. The ~~two~~ **three** streams which did not meet any of the criteria are the **"Angell Brothers Middle"**, "Angell Brothers South" and "Newberry" Streams – these streams are discussed in the separate report on the McNamee-Harborton streams.

III-8, TABLE B

STREAM	CRITERIA MET
Rock Creek - North Reach	5
Rock Creek - Middle Reach	5
Rock Creek - South Reach	5
Balch Creek	5
South "Wildwood" Creek	4
Miller Creek	4
Jackson Creek	3
Joy Creek	3
Jones Creek	3
"Rocky Point" Creek	3
Scappoose Creek	3
North "Wildwood" Creek	3
Middle "Wildwood" Creek	3
South "Rainbow" Creek	3
North Bronson Creek	3
South Bronson Creek	3
"North Angell Bros." Creek	3
East Fork McKay Creek	2
North Jackson Creek	2
"Wildwood" Creek - Main Stem	2
North "Rainbow" Creek	2
"Holbrook" Creek	2
South Jackson Creek	2
McCarthy Creek	2
Saltzman Creek	1
"Burlington" Creek	1
"South Angell Bros." Creek	0
"Newberry" Creek	0
"Middle Angell Bros." Creek	0

III-9 ¶2 and ¶3

All of the West Hills rural area streams inventoried, with ~~two~~ ~~three~~ exceptions (see below) are significant streams based upon the above description of location, quantity and quality and are designated "1-C."

"Angell Brothers Middle", "Angell Brothers South" Creek and "Newberry" Creek are not significant streams based upon the above description of location, quantity, and quality and are designated "1-A."

III-20 ¶5

vii. Other uses – Aircraft landing areas are **not** likely to locate in this area due to topography constraints. If a landing area were to be sited, it would most likely be located away from a stream channel due to slope and vegetation constraints.

III-43-51

The Planning Commission acted to remove those portions of the Comment-Response section which identify the group or individual who made the comment (ISSUE RAISED BY).

III-45, ¶1

5. ISSUE: If all streams in the West Hills are significant, then they are no longer significant in relation to the others.

III-46, ¶4

As for the actual reclamation plan, there is no doubt that even the best reclamation plan will not result in the return of a stream to the exact physical condition that existed prior to the quarrying that caused the need for reclamation. The goal of a reclamation plan is the return of the land to a condition that will **not** cause negative impacts, be they to water resources, scenic qualities, wildlife habitat, or other attributes, that will affect the surrounding area.

III-175, ¶1

Stream Description:

Its origin has been clear cut on the south side and a mixed conifer deciduous forest is on the North. It then flows into an area where both sides of the stream have been clear cut and only a few overstory trees remain; however in several areas buffer strips up to 100 feet wide have been maintained. The buffers are primarily red alder but some Douglas fir and western red cedar are also present. These buffers are very open and many of the conifers have been removed. Dense salmonberry and himalayan blackberry are in the stream channel. At ¼'s of a mile from the headwaters the stream goes under ground and flows under a road (culvert has been removed, re-surfaces and enters another mixed conifer/deciduous forest). Overstory is primarily red alder and big-leaf maple with western red cedar, western hemlock, and Douglas fir becoming more common upslope. The stream is joined by a second stream from the south and forms a delta of transported sediment and debris against the embankment of a powerline access road. Water is ponded in this area and drains subsurface under and through a grated culvert that is 90% blocked by silt and debris. **The stream remains sub-surface under fill associated with a Bonneville Power Administration Line – at the time of observation in early May, no**

water was flowing into the grated culvert. According to County Planning staff, the culvert's outlet is immediately east of the Burlington Northern's Cornelius pass railroad grade. ~~unknown. Immediately east of the road is a channel overgrown with himalayan blackberry but no water was flowing at the time of observation.~~ At the time of observation in early May, water which was stained a rust color flowed out the culvert outlet – the probable source of the additional water is underground drains associated with the Bonneville Power Association Line fill. This channel was overgrown with himalayan blackberry. The water then entered a culvert under the Cornelius Pass railroad grade, Highway 30, and the Astoria railroad grade and exited into Burlington Bottoms.

IV-11 ¶2

The Multiple Use Agriculture portion of the impact area is within the Rafton/Burlington Bottoms which is a recognized Goal 5 resource and designated "3-C". It is in the ownership of the Bonneville Power Administration and serves as a wetland mitigation area for which a management plan is being developed. That plan calls for the area to be maintained in a natural state, with no development of any kind allowed. Since there is no development potential within that portion of the impact area designated MUA-20, MUA-20 uses other than the conservation use will be excluded from the following analysis of conflicting uses allowed by zoning district. The conservation use is considered in discussions of the Rafton/Burlington Bottoms.

IV-27 ¶5

ii. Goal 6-Air, Water and Land Resources

Goal 6 requires "All waste and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality statutes, rules or standards." The existing operation is ~~conducted~~ not in full compliance with all applicable state and federal regulations, **but measures are being taken to achieve compliance.** Any expansion would ~~also~~ be required to ~~satisfy~~ **to be in full compliance with** those regulations.

IV-49-52

The Planning Commission acted to remove those portions of the Comment-Response section which identify the group or individual who made the comment (ISSUE RAISED BY).

V-42

The social consequences of limiting timber harvesting on CFU lands within the West Hills Wildlife Forested Habitat Area are mixed. Clearly, the loss of ~~\$48,000~~ **\$48 mil-**

lion in net timber receipts would negatively affect job opportunities in the area, with attendant social problems. On the other hand, retention of forested areas in the West Hills Wildlife Forested Habitat Area would have open space and aesthetic value to residents of the area (with the probable exception of those who are dependent on the timber economy).

V-80-91

The Planning Commission acted to remove those portions of the Comment-Response section which identify the group or individual who made the comment (ISSUE RAISED BY).

VI-6 ¶5

CONCLUSION: The County cannot regulate or prohibit forest activities on forest lands. On exception lands, forestry activities are unlikely to occur on a scale that would impact significant resources. ~~the Forest Practices Act provides adequate safeguards to protect streams, and logging causes only a temporary interruption to wildlife habitat and scenery. For these reasons, forestry activities should be allowed fully within all four significant resource areas.~~ **The conflicting use analysis shows, however, that forest practices, if not carried out in a manner which provides effective buffer areas for streams, can result in significant adverse impacts to streams. While logging causes only a temporary interruption (in the long term) to wildlife habitat, modification of logging practices to ensure maintenance of some forested cover areas would enhance wildlife habitat values greatly over current forestry practices. Similarly, the scenic aspects of the West Hills would be enhanced by more selective logging practices, even if the impacts of clear-cutting are temporary in a long-term sense. Multnomah County should urge the Oregon Department of Forestry to effectively enforce the Forest Practices Act provisions for protection of fish and wildlife habitat in the West Hills, and work with the Department of Forestry to craft new rules, if necessary, which better protect significant scenic views, wildlife habitat, and streams in the West Hills.**

VI-17

d. Program to Achieve the Goal

The Comprehensive Framework Plan must be amended to include Scenic Views of the West Hills as a significant scenic resource. An overlay zone should be applied to the resource area, and standards to protect the scenic resource need to be incorporated into the zoning code. **In addition, tax incentives or other methods of encouraging conservation easements to protect scenic values should be explored.**

VI-19 ¶2

- b. **Conflicting Uses to be allowed fully**

Forestry/timber (however, see discussion under 2.e. below)

Farm Use (however, see discussion under 2.e. below)

VI-21 new ¶ after ¶ 3

- **Provide for a minimum setback from the ordinary high water mark of each stream which will protect the stream's resources.**

VI-21 new ¶ after ¶ 3

As discussed earlier, agricultural and forestry activities adjacent to streams can have significant negative environmental consequences. While Multnomah County cannot (forestry on forest lands) or should not (forestry on "exception" lands) institute zoning regulation of these uses, the County must work to ameliorate and if possible eliminate the conflicts between these uses and significant streams. As regards forestry, the County should monitor the Oregon Department of Forestry's effective enforcement of the State Forest Practices Act, and work with the Department of Forestry to adopt and implement standards which may more effectively protect significant streams. As regards Agriculture, the County should work with the West Multnomah Soil and Water Conservation District to adopt and properly fund a program of education and assistance to farmers in order to better protect significant streams from the negative impacts of some agricultural practices such as livestock damage to streams, misuse of fertilizers and pesticides, and cultivation adjacent to streams which negatively impacts fish & wildlife habitat and water quality.

VI-24, ¶1

Add the following items

- **Adopt a plan and overlay zoning designation within the 1,200 foot impact area in which new conflicting uses such as new homes would be subject to some restrictions, such as setbacks, so as to not cause any future mining activity to violate state standards for noise, etc.**
- **As a condition of approval of any future operational permit, require an ongoing program of verifying that DEQ noise standards are being met at all homes in the impact area. This would be at the expense of the mining operator with the contracted consultant subject to the approval of the Planning Director.**

- Middle Angell Brothers stream shall be proven to be in conformance with DEQ water quality standards prior to any mine expansion beyond the existing approved boundary.
- A condition of any mine expansion beyond the existing approved boundary shall be a verification that DEQ water quality standards are continually satisfied. Water quality studies shall be periodically required. The studies shall be by an independent consultant and paid for by the mine operator. The mine operator and the Planning Director shall agree on the cost and scope of the studies and the Planning Director shall select the consultant.
- Restrict days and hours of blasting and require advance notice.

VI-27, ¶ 6

~~All four significant resources in the West Hills should be designated "3-C".~~ The West Hills Scenic, Wildlife, Streams and Wetland (except as noted below), and that portion of the Angell Brothers site more than one-half mile from secondary wildlife habitat areas should be designated "3-C". That portion of the Angell Brothers site within one-half mile of secondary wildlife habitat areas and that portion of the "North Angell Brothers" stream within the mineral resource site should be designated "3-B". This will provide a level of protection that recognizes and protects the attributes that make each resource significant, while preventing the economic and social consequences that would occur if conflicting uses were prohibited.

VI-27, ¶ 8 & 9

Protection and utilization of the Angell Brother's aggregate site will be accomplished through zoning restrictions for uses within the impact area and Comprehensive Plan amendments detailing operating standards. This would allow expansion of mining ~~northern half of the site within the "3-C" area,~~ provided that the mining plan **can be found to meet** certain standards designed to protect the other significant resources such as compliance with DEQ and DOGAMI regulation regarding water quality, screening requirements, and demonstration that reclaimed areas are capable of supporting forest vegetation.

The "3-C" and "3-B" designations and proposed protection standards provide overall protection to all four of the significant resources in the West Hills. This program complies with Statewide Planning Goal 5.



MULTNOMAH COUNTY OREGON

DIVISION OF PLANNING & DEVELOPMENT/2115 S.E. MORRISON/PORTLAND, OREGON 97214

C 1-94a June 13, 1994 Hearing Exhibits West Hills

- #1. Statewide Planning Program Goal 5 Process Chart
- #2. Oregon Department of Fish and Wildlife (Patricia Snow)
- #3. Department of Land Conservation and Development (Richard P. Benner)
(Including Rules of Procedures)
- #4. Department of Land Conservation and Development (Richard P. Benner)
- #5. Angell Brothers, Inc. (F. H. "Skip" Anderson)
- #6. Applied Ecosystem Services (Richard B. Shepard)
- #7. Neil S. Kagan
- #8. West Hills Site Visit
- #9. Oregon Department of Fish and Wildlife (Jill Zarnowitz)
- #10. Oregon Department of Geology and Mineral Industries (E. Frank Schnitzer)
- #11. Portland Parks and Recreation (Jim Sjulin)
- #12. Metro (Charles Ciecko and Ralph Rogers)
- #13. Neil S. Kagan
- #14. Sauvie Island Conservancy (Donna Matrazzo)
- #15. Declaration of Jon Rhodes, M.Sc.
- #16. Urban Streams Council (Rosemary Furfey)
- #17. Oregon Natural Resources Council (Lyn Mattei)

#18. Arnold Rochlin

#19. Friends of Retaining Channel Environment (Mark Valeske, FORCE)

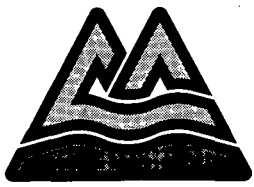
#20. Jodeanne Bellant

#21. Neil S. Kagan

#22. Neil S., Kagan (Including June 10, 1994 Correspondence)

#23. Sue Beilke

#24. Portland Parks and Recreation (Duplication of #11)



MULTNOMAH COUNTY OREGON

DIVISION OF PLANNING & DEVELOPMENT / 2115 S.E. MORRISON / PORTLAND, OREGON 97214

C 1-94a June 14 thru June 20, 1994 Open Record Exhibits West Hills

- #25. Friends of Forest Park (Chris Wrench)
- #26. United States Department of Agriculture (Steven Fedje)
- #27. Metro (Charles Ciecko)
- #28. Sauvie Island Conservancy (City of Portland Scenic Resources Plan)
- #29. Department of Land Conservation and Development (Steve Oulman)
- #30. Department of Geology and Mineral Industries (E. Frank Schnitzer)
- #31. Arnold Rochlin
- #32. O'Donnell, Ramis, Crew, Corrigan and Bachrach (Jeff Bachrach)
- #33. Northwest Power Planning Council (Peter Paquet)
- #34. Oregon Department of Fish and Wildlife (Jill Zarnowitz)
- #35. Donis McCardle
- #36. West Multnomah Soil and Water Conservation District (Elmer Peterson)
(Received June 22, 1994, After Closing date of June 20th.)

STATEWIDE PLANNING PROGRAM

GOAL 5 PROCESS CHART

OPEN SPACE
MINERAL & AGGREGATE
ENERGY SOURCES
FISH & WILDLIFE
SIGNIFICANT NATURAL AREAS
SCENIC VIEWS & SITES
WATER AREAS
WILDERNESS AREAS
HISTORIC SITES
CULTURAL AREAS
RECREATION TRAILS
SCENIC WATERWAYS

**STEP ONE -
IS THE RESOURCE
SIGNIFICANT?
(USING MEASURES OF
LOCATION, QUALITY,
AND QUANTITY)**

1A - NO

1B - NOT ENOUGH INFORMATION

1C - YES

GO TO STEP TWO

**NO FURTHER
ACTION**

**ESTABLISH TIME FRAME
FOR OBTAINING INFORMATION**

**STEP TWO - ARE
THERE CONFLICTING
USES?
(EITHER OTHER
RESOURCES OR
ALLOWED BY ZONING)**

2A - NO

**PRESERVE THE
RESOURCE**

2B - YES

**DO "ESEE" ANALYSIS
GO TO STEP THREE**

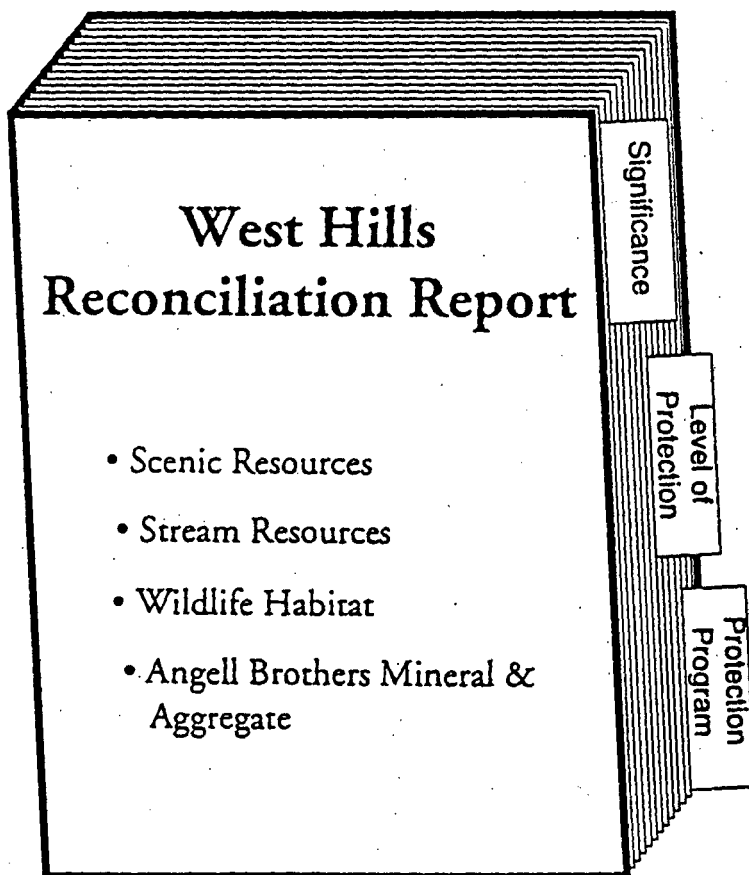
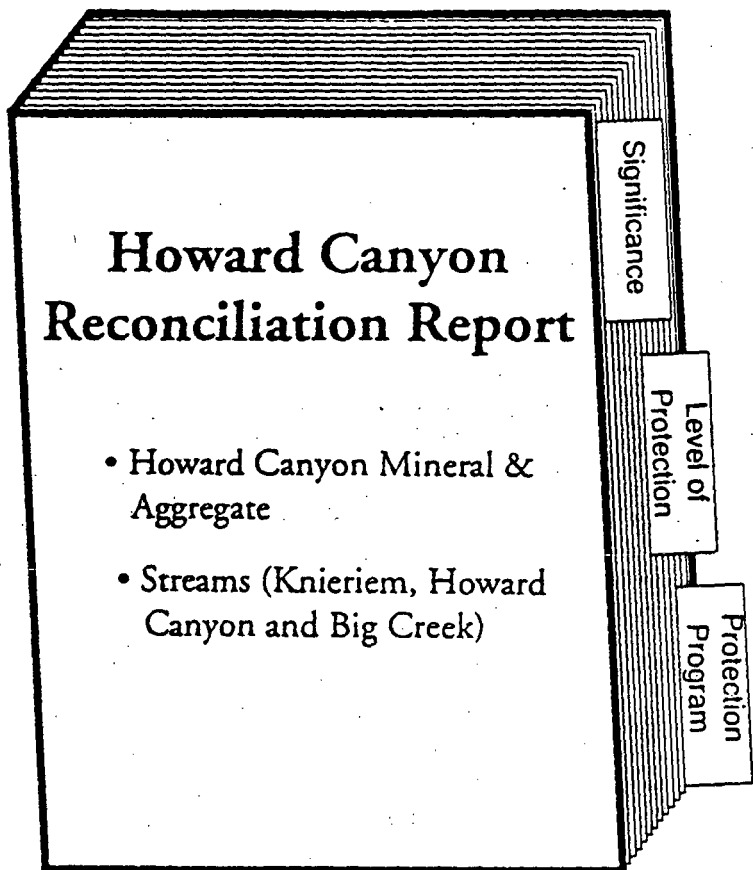
**STEP THREE - HOW
SHOULD CONFLICTS
BETWEEN USES BE
RESOLVED?**

3A - PRESERVE THE RESOURCE

3B - ALLOW CONFLICTING USES

**3C - LIMIT CONFLICTING USES
(BALANCE)**

C1-94
**RESPONDENT'S
EXHIBIT**



OVERALL CONCLUSIONS

Howard Canyon

- Streams (Knieriem, Howard Canyon & Big Creeks) — "3-C"
- Aggregate — "3-C"

West Hills

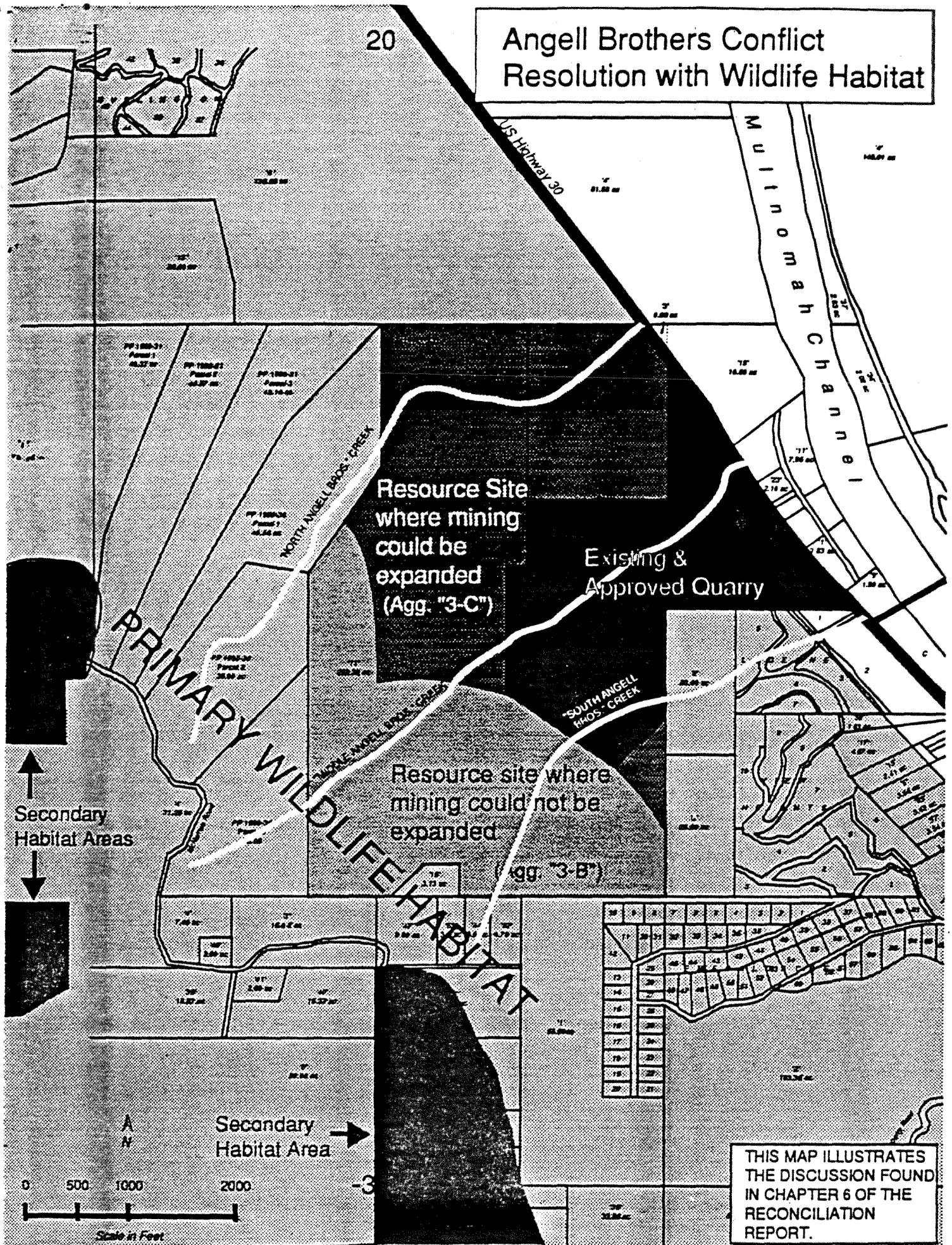
- Scenic — "3-C"
- Streams — "3-C"
- Wildlife — "3-C"
- Aggregate — "3-B" for approximately south one-half
"3-C" for approximately north one-half

OVERALL CONCLUSIONS

HOWARD CANYON

- Streams (Knierem, Howard Canyon & Big Creeks "3C") -- Find that these streams are significant ("1-C"), and limit residential, community service and conditional use, and transportation/public improvement conflicts by regulating proposed development in the riparian zone of each significant stream.
- Aggregate (Howard Canyon Quarry "3C") -- Find that it is significant ("1-C") and that:
 - 1) Conflicts with residential uses can be resolved by adopting plan and overlay zoning designations which require some restrictions on new houses, such as setbacks from potential mining areas, and require some restrictions on mining operations in order to meet DEQ noise and dust standards for existing residences, minimize visual impacts, and minimize blasting impacts.
 - 2) Conflicts with significant streams can be resolved by requiring that mining runoff meet DEQ standards for water quality and prohibiting construction of holding ponds in the riparian zone.
 - 3) Multnomah County will require independent ongoing verification that noise, dust, and water quality standards are being met by mining operations.

Angell Brothers Conflict Resolution with Wildlife Habitat



OVERALL CONCLUSIONS

WEST HILLS

- **Scenic** (East face of the West Hills "scene areas" "3C") -- Find that scenic views are significant ("1-C") and limit residential, community service and conditional use conflicts by reviewing and regulating the siting and design of new structures within the scene areas.
- **Streams** (26 West Hills Streams "3C") -- Find that 26 West Hills streams are significant ("1-C") and limit residential, community service and conditional use, and transportation/public improvement conflicts by regulating proposed development in the riparian zone of each significant stream except for "North Angell Brothers" Creek within the Angell Brothers aggregate site, which is not protected ("3-B").
- **Wildlife** (West Hills "3C") -- Find that wildlife habitat in the West Hills is significant ("1-C") and limit residential and similar uses by reviewing and regulating the siting of proposed development to have minimal impact upon wildlife and its habitat.
- **Aggregate** (Angell Brothers Quarry, Northern 1/2 "3C" and southern 1/2 "3B") -- Find that it is significant ("1-C") and that:
 - 1) Conflicts with residential uses can be resolved by adopting plan and overlay zoning designations which require some restrictions on new houses, such as setbacks from potential mining areas, and require some restrictions on mining operations in order to meet DEQ noise and dust standards for existing residences, minimize visual impacts, and minimize blasting impacts.
 - 2) Conflicts with streams can be resolved by allowing quarry operations on a portion of the North Angell Brothers stream, but protecting water quality into Burlington Bottoms to DEQ standards.
 - 3) Conflicts with scenic views can be resolved by requiring quarry operations to use berming and reclamation techniques which minimize the amount of unreclaimed mined area visible at any one time.
 - 4) Conflicts with wildlife habitat can be resolved by not allowing quarry operations on the south half of the Angell Brothers aggregate site, in order to preserve a minimum one-half mile wide contiguous wildlife habitat area through the West Hills
 - 5) Multnomah County will require independent ongoing verification that noise, dust, and water quality standards are being met by mining operations

Oregon

DEPARTMENT OF
FISH AND
WILDLIFE



HABITAT
CONSERVATION
DIVISION

June 9, 1994

Scott Pemble, Director
Multnomah County Division of Planning
and Development
2115 SE Morrison Street
Portland, OR 97214

RE: West Hills Reconciliation Report

Dear Scott:

The Department has just received today, the Multnomah County West Hills Reconciliation Report dated May 23, 1994. We understand that comments are due Friday, June 10. We would like to request that the record remain open for an additional seven days to allow our staff opportunity to review and comment on the document. Thank you for your consideration of our request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Patricia Snow".

Patricia Snow
Land Use Coordinator
Habitat Conservation Division

c Gail McEwen
Steve Oulman, DLCD

C 1-94

RESPONDENT'S
EXHIBIT

2



2501 SW First Avenue
PO Box 59
Portland, OR 97207
(503) 229-6967

• June 10, 1994

Multnomah County Board of Commissioners
Multnomah County Planning Commission
2115 SE Morrison Street
Portland, OR 97214

DEPARTMENT O
LAND
CONSERVATION
AND
DEVELOPMENT

Dear Chair Stein, County Commissioners, Chair Yoon and Planning Commissioners:

Since LCDC approved Multnomah County's periodic review work program for resolving Goal 5 issues, the department has worked closely with the county planning staff. We have offered advice about the requirements of the statewide planning goals. We have suggested approaches and opportunities available to Multnomah County to make the policy decisions before you. Please consider these comments in your deliberations.

First, we are concerned with the county treating these hearings as quasi-judicial proceedings. To our knowledge, you have treated no other aspect of periodic review in this way. The issues before you are complex and affect significant areas of the county. The department believes a satisfactory conclusion to this controversy demands a broad view that cannot be achieved by focussing on one or two specific land uses in the narrow confines of a quasi-judicial proceeding.

Second, we are continuing to review and analyze the county's written reports. We will watch how the analyses evolve as the county works towards its September 6, 1994 deadline to submit a completed product. After this date, the department will review the work for compliance with Goal 5.

Finally, we ask you to consider three comments about the analyses. One, the county should be clear about its identification of significant resources, and why the resources are significant. Two, the level of protection for any resource must be commensurate with the identified conflicts and the consequences of these conflicts on protection of the resource. Three, the county needs to examine thoroughly opportunities to mitigate conflicts between resources.

We are able to help your staff with the Goal 5 analyses and development of appropriate implementation tools. Steve Oulman is the department's lead staff person for this project. Call him at 378-5144 if you have questions.

Sincerely,



Richard P. Benner
Director

Barbara Roberts
Governor



1175 Court Street NE
Salem, OR 97310-0590
(503) 373-0050
FAX (503) 362-6705

C1-94

RESPONDENT'S
EXHIBIT

3

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

In the Matter of Adopting Hearing Rules)
for the Conduct of a Joint Planning)
Commission and Board Quasi judicial)
Hearing on June 13, 1994)

RESOLUTION
94 -95

WHEREAS, ORS 197 requires the Land Conservation and Development Commission to Review the Multnomah County Comprehensive Framework Plan periodically to determine consistency with the State Land Use Goals; and

WHEREAS, the Land Conservation and Development Commission reviewed in April 1993 the Multnomah County Comprehensive Framework Plan and determined it did not comply with State Land Use Goal 5; and

WHEREAS, the Land Conservation and Development Commission required Multnomah County to complete Goal 5 work by December 31, 1993 and subsequently approved a detailed work Program extending the County's deadline to September 6, 1994; and

WHEREAS, the Land Conservation and Development Commission approved a work program which requires the Multnomah County Planning Commission and Board to conduct a Hearing to consider two "Reconciliation Reports"; and

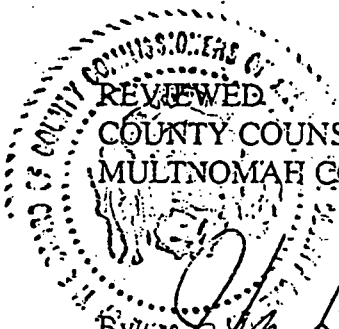
WHEREAS, both the Multnomah County Planning Commission and Board have adopted rules for the conduct of quasi judicial hearings; and

WHEREAS, the Board must amend their rules to hold a hearing with the Planning Commission;

NOW, THEREFORE, IT IS RESOLVED for the June 13, 1994, joint hearing of the Planning Commission and Board of County Commissioners on the two Reconciliation Reports, or any continuation thereof, the **RULES FOR THE CONDUCT OF PLANNING COMMISSION AND BOARD OF COUNTY COMMISSIONERS JOINT QUASI-JUDICIAL HEARING** as set forth in Exhibit "A" are hereby adopted.

APPROVED this 24th day of May, 1994

MULTNOMAH COUNTY, OREGON



COUNTY COUNSEL FOR
MULTNOMAH COUNTY, OREGON

By *John L. Dubay*
John L. Dubay, Deputy County Counsel

By *Beverly Stein*
Beverly Stein
Multnomah County Chair

Exhibit "A"
RULES FOR THE CONDUCT OF PLANNING
COMMISSION AND BOARD OF COUNTY
COMMISSIONERS JOINT QUASI-JUDICIAL HEARING

SECTION 1. NATURE AND CONDUCT OF HEARING

A. Parties are entitled to an opportunity to appear, in person or by a representative or Counsel, to present and rebut testimony and evidence to an impartial approval authority, to have the proceedings recorded and to receive a written decision which includes Findings of Fact and Conclusions based on the record made at the hearing.

B. The following persons are parties and shall be entitled, either themselves or through their representatives or Counsel, to make an appearance of record before the Board of Commissioners and the Planning Commission:

1. All persons entitled to individual mailed notice under the applicable Ordinance; and
2. Other persons who demonstrate an interest in the proposed action.

C. The Board of Commissioners or the Planning Commission may call as a witness a person with technical or specialized knowledge regarding an issue in an action.

D. No person shall testify without:

1. Receiving recognition from the Chair of the County Commissioner;
2. Stating his or her full name and residence address; and
3. If requested, stating the basis on which he or she is entitled to status as a party, pursuant to these Rules or as a witness on behalf of a party pursuant to these Rules.
 - (a) A challenge to the party or witness status of a person, and a ruling thereon by the Chairperson, shall be made at the time the person requests recognition to testify.
 - (b) A challenge to the party or witness status of a person may be made only by a party.

E. There shall be no audience demonstration, such as applause, cheering, display of signs, or other conduct disruptive of the hearing. Disruptive conduct may be cause for expulsion from the hearing, termination of the hearing, or other appropriate action.

F. The term person includes an individual, partnership, corporation, association, governmental unit or public or private organization.

SECTION 2. CONFLICT OF INTEREST: BIAS, EX PARTE CONTACT

A. Any actual or potential conflicts of interest, bias or partiality shall be disclosed at the hearing where the action is considered.

B. Any party may challenge the impartiality of any member before or during the hearing. A challenge must include the facts relied on by the challenging party, relating to the member's alleged bias, prejudice, or personal interest, or other facts from which the party has concluded that the member cannot participate in a decision in an impartial manner.

C. In the event of a challenge for bias, the challenged member shall respond in a statement which shall be part of the record. The statement shall refer to the challenge and include the reasons why the member has elected to participate or abstain. The statement shall not be subject to cross examination or rebuttal.

D. In the event any member has pre-hearing *ex parte* contact with a party, the member shall publicly disclose the occurrence and the substance of such contact and the persons involved. The statement shall also indicate any interest or independent knowledge of the member. The term independent knowledge refers to facts received by other than public means which are not capable of judicial or official notice, are not in the record of the action and are not a matter of general knowledge. The statement shall be made at the beginning of the hearing on the action or at such time during the course of the hearing that the member becomes aware of the existence of an *ex parte* contact or independent knowledge. The statement regarding *ex parte* contact shall be subject to the same Rules as for a statement of bias in paragraph (C) in this section.

SECTION 3. QUORUM and PRESIDING OFFICER

A. A quorum of the Planning Commission and a quorum of the Board of Commissioners shall constitute a quorum for the joint meeting.

B. The Presiding Officer of a joint meeting shall be the Chair of the County Commission or a person designated by the Chair.

SECTION 4. RULES OF EVIDENCE

A. Evidence received at a hearing shall be of the quality that reasonable persons rely on in the conduct of everyday affairs.

B. Irrelevant, immaterial or repetitious testimony or evidence shall not be admitted.

SECTION 5. ORDER OF PROCEDURE

The order of procedure shall be as follows.

A. Call the session to order.

B. Call for the Staff Report relating to actions previously decided, if appropriate. And list the applicable and substantive criteria governing the action.

C. Summarize the nature and conduct of the hearing as described in these Rules and explain where the public can obtain copies of the Rules of Procedure and the Agenda.

D. Explain the sequence of events to be followed at the hearings as described in Subsections (F) through (O) of this Section.

E. Instruct the audience that only testimony or evidence directed to the approval criteria will be accepted and that failure to raise an issue with sufficient specificity to afford the Commission and the parties an opportunity to respond to the issue precludes appeal to LUBA on that issue.

F. Call the first Agenda item and describe the Action.

G. Request a representative of the Division of Planning and Development to describe the nature of the proposal, explain any graphic or pictorial displays which are to be part of the record and summarize the Staff Report and Recommendation.

H. Call for the presentation by Proponents of the Action.

1. Those testifying in support of an action have three minutes per person, exclusive of time used by the Board and Planning Commission for questions. Additional time shall only be granted if the evidence/testimony is not repetitious, irrelevant, or immaterial.

2. Proponents shall be heard in the following order.

- (a) Representatives of agencies or interested governments,
- (b) Persons receiving notice of the hearing.
- (c) Neighborhood associations, organizations or other groups.
- (d) Persons not entitled to receive notice of the hearing but who demonstrate to the Approval Authority that they have an interest in the action.

I. Call for the presentation by opponents of the Action.

- 1. Those testifying in opposition to an application have three minutes per person, exclusive of time used by the Board and Planning Commission for questions. Additional time shall only be granted if the evidence/testimony is not repetitious, irrelevant, or immaterial.
- 2. Opponents shall be heard in the following order.
 - (a) Representatives of agencies or interested governments,
 - (b) Persons receiving notice of the hearing.
 - (c) Neighborhood associations, organizations or other groups.
 - (d) Persons not entitled to receive notice of the hearing but who demonstrate to the Approval Authority that they have an interest in the action.

J. Provide opportunity for a representative of the Division of Planning and Development to add to or clarify the factual information presented.

K. Close the public portion of the hearing and accept requests for continuances and the opportunity to submit additional evidence as provided in ORS 197.763(4)(b) and (6).

SECTION 6. RECORD OF PROCEEDINGS

A. The proceedings of the Board and Planning Commission shall be electronically or stenographically recorded.

B. In the manner provided by ORS 192.105-192.170, the Division of Planning and Development may dispose of physical and documentary evidence not claimed by the person identified sixty days after notice that the evidence may be claimed has been mailed to such person.

SECTION 7. PUBLICATION OF RULES

These Rules shall be placed on record with the Division of Planning and Development and the Clerk of the Board of County Commissioners and copies shall be made available to the public at all joint hearings of the Board and Planning Commission.

SECTION 8. AMENDMENT AND SUSPENSION OF RULES

A. Any Rule of Procedure not required by law may be amended, suspended, or repealed at any hearing by majority of those present.

B. A procedural rule may be adopted to regulate a situation not provided for in these Rules or in County Ordinances.

SECTION 9. RELATIONSHIP WITH OTHER RULES

These Rules supercede other Board and Planning Commission rules.

SECTION 10. DECISIONS

Following the joint hearing, the Planning Commission and Board of County Commissioners will make their separate decisions in accordance with MCC §11.05.300 through MCC §11.05.400.

Exhibit "A"
RULES FOR THE CONDUCT OF PLANNING
COMMISSION AND BOARD OF COUNTY
COMMISSIONERS JOINT QUASI-JUDICIAL HEARING

SECTION 1. NATURE AND CONDUCT OF HEARING

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B. The following persons are parties and shall be entitled, either themselves or through their representatives or Counsel, to make an appearance of record before the Board of Commissioners and the Planning Commission:

1. All persons entitled to individual mailed notice under the applicable Ordinance; and
2. Other persons who demonstrate an interest in the proposed action.

C. The Board of Commissioners or the Planning Commission may call as a witness a person with technical or specialized knowledge regarding an issue in an action.

D. No person shall testify without:

1. Receiving recognition from the Chair of the County Commissioner;
2. Stating his or her full name and residence address; and
3. If requested, stating the basis on which he or she is entitled to status as a party, pursuant to these Rules or as a witness on behalf of a party pursuant to these Rules.
 - (a) A challenge to the party or witness status of a person, and a ruling thereon by the Chairperson, shall be made at the time the person requests recognition to testify.
 - (b) A challenge to the party or witness status of a person may be made only by a party.

E. There shall be no audience demonstration, such as applause, cheering, display of signs, or other conduct disruptive of the hearing. Disruptive conduct may be cause for expulsion from the hearing, termination of the hearing, or other appropriate action.

F. The term person includes an individual, partnership, corporation, association, governmental unit or public or private organization.

SECTION 2. CONFLICT OF INTEREST: BIAS, EX PARTE CONTACT

A. Any actual or potential conflicts of interest, bias or partiality shall be disclosed at the hearing where the action is considered.

B. Any party may challenge the impartiality of any member before or during the hearing. A challenge must include the facts relied on by the challenging party, relating to the member's alleged bias, prejudice, or personal interest, or other facts from which the party has concluded that the member cannot participate in a decision in an impartial manner.

C. In the event of a challenge for bias, the challenged member shall respond in a statement which shall be part of the record. The statement shall refer to the challenge and include the reasons why the member has elected to participate or abstain. The statement shall not be subject to cross examination or rebuttal.

D. In the event any member has pre-hearing *ex parte* contact with a party, the member shall publicly disclose the occurrence and the substance of such contact and the persons involved. The statement shall also indicate any interest or independent knowledge of the member. The term independent knowledge refers to facts received by other than public means which are not capable of judicial or official notice, are not in the record of the action and are not a matter of general knowledge. The statement shall be made at the beginning of the hearing on the action or at such time during the course of the hearing that the member becomes aware of the existence of an *ex parte* contact or independent knowledge. The statement regarding *ex parte* contact shall be subject to the same Rules as for a statement of bias in paragraph (C) in this section.

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D. Explain the sequence of events to be followed at the hearings as described in Subsections (F) through (O) of this Section.

E. Instruct the audience that only testimony or evidence directed to the approval criteria will be accepted and that failure to raise an issue with sufficient specificity to afford the Commission and the parties an opportunity to respond to the issue precludes appeal to LUBA on that issue.

F. Call the first Agenda item and describe the Action.

G. Request a representative of the Division of Planning and Development to describe the nature of the proposal, explain any graphic or pictorial displays which are to be part of the record and summarize the Staff Report and Recommendation.

H. Call for the presentation by Proponents of the Action.

1. Those testifying in support of an action have three minutes per person, exclusive of time used by the Board and Planning Commission for questions. Additional time shall only be granted if the evidence/testimony is not repetitious, irrelevant, or immaterial.

2. Proponents shall be heard in the following order.

6/13/94 BCC/PC JOINT HEARING

SHARON TIMKO SUBMITTAL

6/3/94 HOWARD CANYON QUARRY
SITE VISIT

6/10/94 ANGELL BROTHERS QUARRY
SITE VISIT

6/13/94 BCC/PC JOINT HEARING

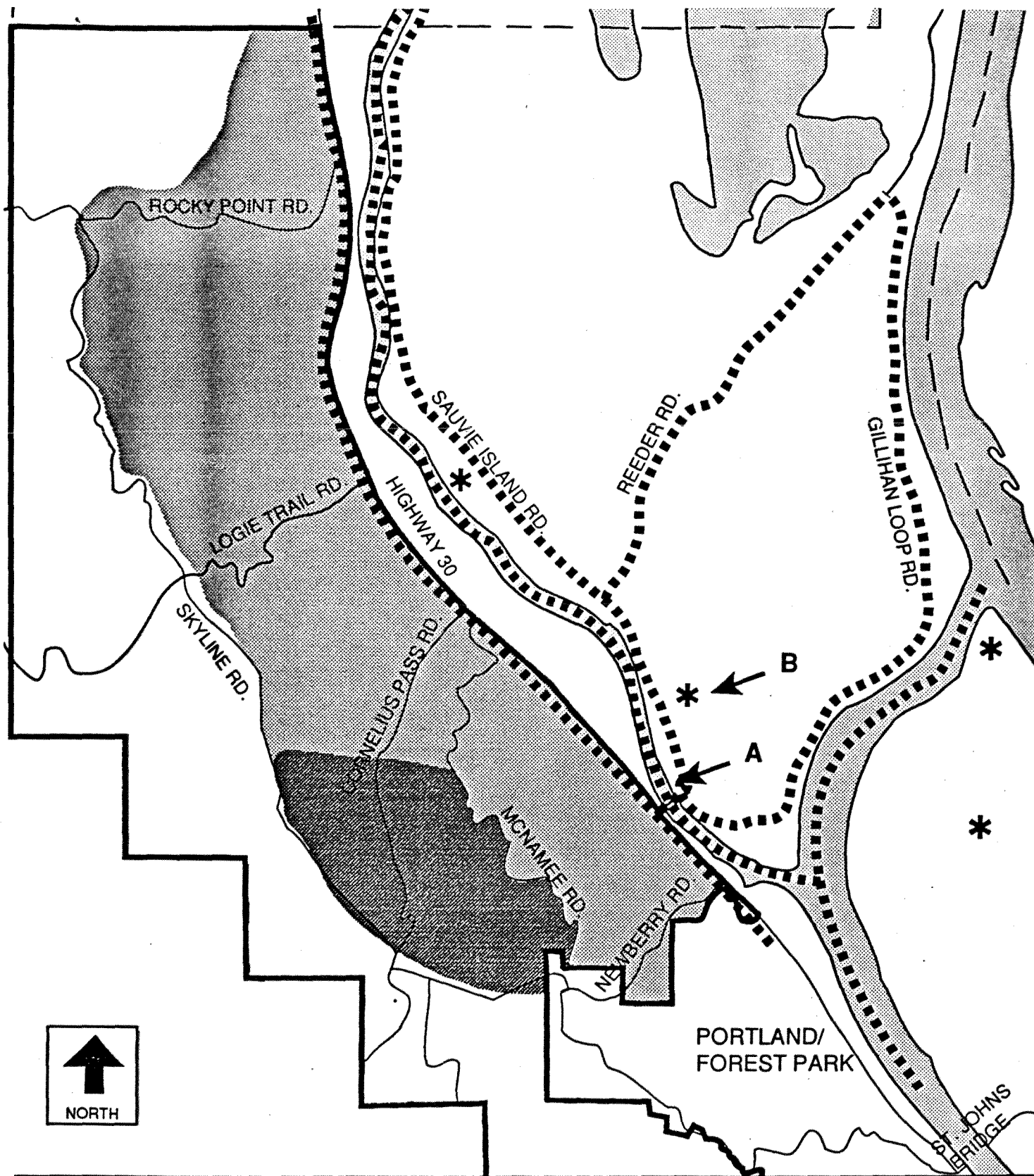
JEAN ADAMS SUBMITTAL ON BEHALF
OF JACK SANDERS

ANGELL BROTHERS QUARRY

WEST HILLS SITE VISIT

On Friday, June 10, 1994 at approximately 2:00pm County Commission Chair Beverly Stein, Commissioner Tanya Collier, Planning Commission members Leonard Yoon, Laurie Craghead, John Ingle and Karin Hunt, Board assistants Sharon Timko, Katherine Burke and Stuart Farmer, Engineering staff member Don Newell (who was responsible for video taping the trip), and Planning staff member Bob Hall (who conducted the tour) made the following visit of a portion of the West Hills (stops indicated refer to attached maps):

- The group, with the exception of Yoon and Hunt, assembled at the Portland Building, travelled downtown streets to US Highway 30, and north on that highway to the Sauvie Island Bridge. Crossed the bridge and met Yoon and Hunt at the parking area near the bridge (stop A).
- At the turnaround the group observed the Angell Brothers aggregate site, and the scenic, stream and wildlife resource areas were described and pointed out (stop A).
- Travelled north on Sauvie Island Road to the Bybee/Howell House where it again observed the scenic, wildlife and Angell Brothers resource sites (stop B).
- Travelled south on Sauvie Island Road, crossed the Sauvie Island Bridge, and north on US 30, and entered the Angell Brothers site.
- Skip Anderson of Angell Brothers met and led the group in a separate vehicle for the remainder of the trip. The only contact Anderson had with the group was with Hall and Timko who twice asked that he lead the group to viewpoints requested by other members of the group.
- Travelled westerly along the pit floor to the point where Middle Angell Brothers Creek enters the pit floor (stop C).
- Drove to the upper portion of the operation where active mining was occurring (stop D).
- Stopped on the way down from the upper area to observe the Rafton/Burlington Bottoms, Sauvie Island, and the location of North Angell Brothers Creek (stop E).
- Left the mine site and travelled north along US 30 to McNamee Road, and southerly along McNamee Road to an access road into the southerly portion of the Angell Brothers site. A secondary wildlife habitat area was observed along McNamee Road.
- Entered the site and travelled along a logging road to a point approximately mid center of the south one-half of the site. Along the way observed a residence to the east of the site (stop F).
- Observed the basin of South Angell Brothers Creek, the primary wildlife habitat area, and viewable portions of Angell Brothers site.
- Returned north along McNamee Road and south along US 30 and observed the point where North Angell Brothers Creek passes under US 30 (stop G).
- Pointed out where South Angell Brothers Creek passes under US 30 (no stop made).
- Dropped off Yoon and Hunt at the Sauvie Island turnaround and returned to Portland Building at approximately 4:40pm via US 30 and downtown streets.
- A video was made of all stops during the visit.
- With the exception of pointing out the secondary wildlife habitat area along McNamee Road, the residence to the east of the Angell Brothers site, and the point where South Angell Brothers Creek passes under US 30, there was no discussion regarding particulars of the visit except at the above identified stops.



WEST HILLS SCENIC RESOURCES STUDY AREA



STUDY AREA



AREA REMOVED FROM STUDY

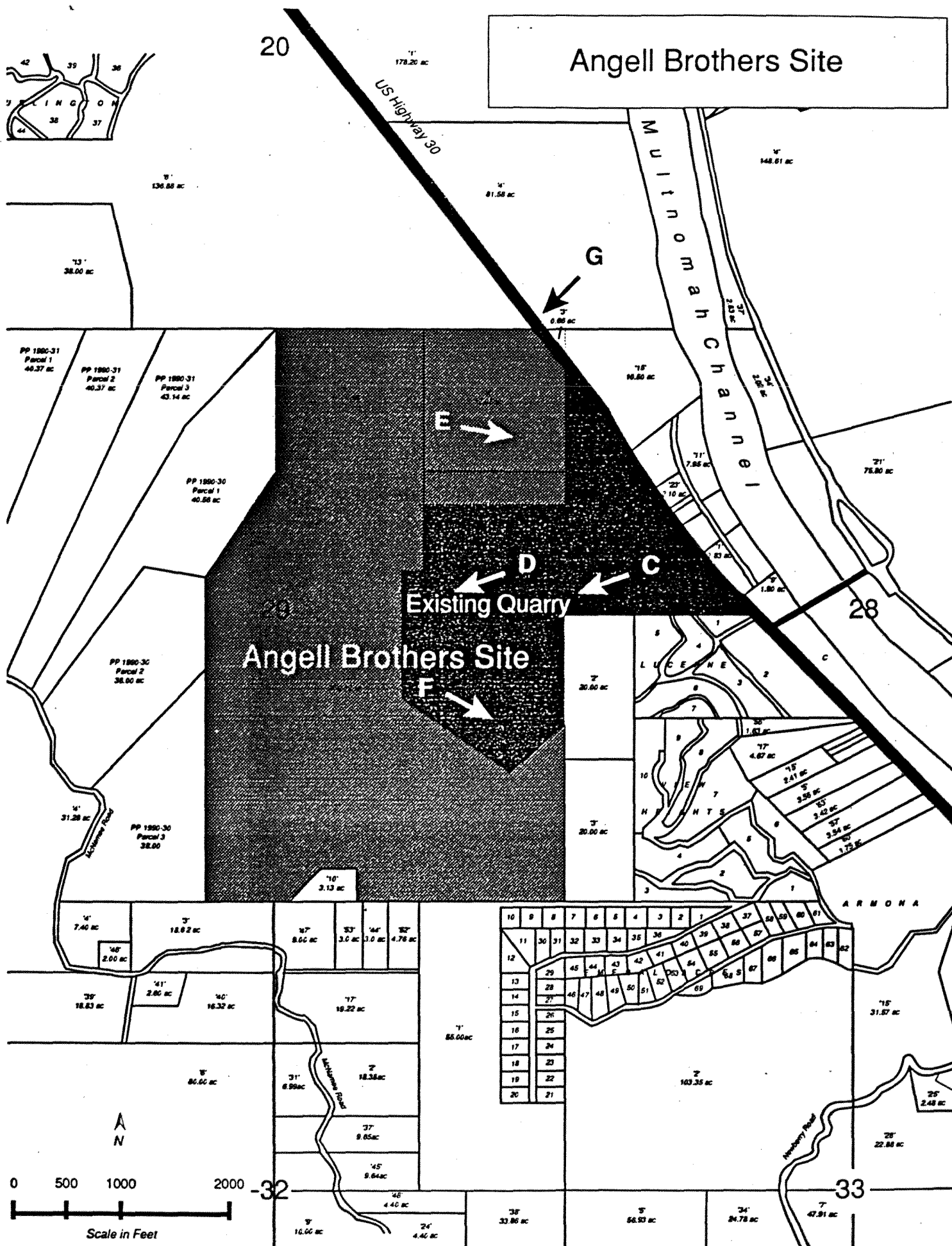


KEY VIEWING AREA



KEY VIEWING CORRIDOR

Angell Brothers Site



WEST HILLS RECONCILIATION REPORT

ADDENDA & ERRATA

(Note: Struck through language is deleted and bolded language is added).

Page & paragraph

III-8, TABLE B

STREAM	CRITERIA MET
Rock Creek - North Reach	5
Rock Creek - Middle Reach	5
Rock Creek - South Reach	5
Balch Creek	5
South "Wildwood" Creek	4
Miller Creek	4
Jackson Creek	3
Joy Creek	3
Jones Creek	3
"Rocky Point" Creek	3
Scappoose Creek	3
North "Wildwood" Creek	3
Middle "Wildwood" Creek	3
South "Rainbow" Creek	3
North Bronson Creek	3
South Bronson Creek	3
"North Angell Bros." Creek	3
East Fork McKay Creek	2
North Jackson Creek	2
"Wildwood" Creek - Main Stem	2
North "Rainbow" Creek	2
"Holbrook" Creek	2
South Jackson Creek	2
McCarthy Creek	2
Saltzman Creek	1
"Burlington" Creek	1
"South Angell Bros." Creek	0
"Newberry" Creek	0
"Middle Angell Bros." Creek	0

III-45, ¶1

5. **ISSUE: If all streams in the West Hills are significant, then they are no longer significant in relation to the others.**

III-46, ¶4

As for the actual reclamation plan, there is no doubt that even the best reclamation plan will not result in the return of a stream to the exact physical condition that existed prior to the quarrying that caused the need for reclamation. The goal of a reclamation plan is the return of the land to a condition that will **not** cause negative impacts, be they to water resources, scenic qualities, wildlife habitat, or other attributes, that will affect the surrounding area.

III-175, ¶1

Stream Description:

Its origin has been clear cut on the south side and a mixed conifer deciduous forest is on the North. It then flows into an area where both sides of the stream have been clear cut and only a few overstory trees remain; however in several areas buffer strips up to 100 feet wide have been maintained. The buffers are primarily red alder but some Douglas fir and western red cedar are also present. These buffers are very open and many of the conifers have been removed. Dense salmonberry and himalayan blackberry are in the stream channel. At 1/4's of a mile from the headwaters the stream goes under ground and flows under a road (culvert has been removed, re-surfaces and enters another mixed conifer/deciduous forest). Overstory is primarily red alder and big-leaf maple with western red cedar, western hemlock, and Douglas fir becoming more common upslope. The stream is joined by a second stream from the south and forms a delta of transported sediment and debris against the embankment of a powerline access road. Water is ponded in this area and drains subsurface under and through a grated culvert that is 90% blocked by silt and debris. **The stream remains sub -surface under fill associated with a Bonneville Power Association Line -- at the time of observation in early May, no water was flowing into the grated culvert.** According to County Planning staff, the culvert's outlet is immediately east of the Burlington Northern's Cornelius pass railroad grade. ~~unknown. Immediately east of the road is a channel overgrown with himalayan blackberry but no water was flowing at the time of observation.~~ **At the time of observation in early May, water which was stained a rust color flowed out the culvert outlet -- the probable source of the additional water is underground drains associated with the Bonneville Power Association Line fill.** This channel was overgrown with himalayan blackberry. The water then entered a culvert under the Cornelius Pass railroad grade, Highway 30, and the Astoria railroad grade and exited into Burlington Bottoms.

Rocklin should be spelled Rochlin

VI-24, ¶ 1

Add the following items

- **Adopt a plan and overlay zoning designation within the 1,200 foot impact area in which new conflicting uses such as new homes would be subject to some restrictions, such as setbacks, so as to not cause any future mining activity to violate state standards for noise, etc.**
- **As a condition of approval of any future operational permit, require an ongoing program of verifying that DEQ noise standards are being met at all homes in the impact area. This would be at the expense of the mining operator with the contracted consultant subject to the approval of the Planning Director.**
- **As a condition of approval of any future operational permit, require an ongoing program of verifying that DEQ water quality standards are being met for any runoff from the site into the streams. This information could be from an approved consultant or state DEQ reports.**
- **Restrict days and hours of blasting and require advance notice.**

VI-27, ¶ 6

~~All four significant resources in the West Hills should be designated "3-C".~~ The West Hills Scenic, Wildlife, Streams and Wetland (except as noted below), and that portion of the Angell Brothers site more than one-half mile from secondary wildlife habitat areas should be designated "3-C". That portion of the Angell Brothers site within one-half mile of secondary wildlife habitat areas and that portion of the "North Angell Brothers" stream within the mineral resource site should be designated "3-B". This will provide a level of protection that recognizes and protects the attributes that make each resource significant, while preventing the economic and social consequences that would occur if conflicting uses were prohibited.

VI-27, ¶ 8 & 9

Protection and utilization of the Angell Brother's aggregate site will be accomplished through zoning restrictions for uses within the impact area and Comprehensive Plan amendments detailing operating standards. This would allow expansion of mining ~~northern half of the site within the "3-C" area,~~ provided that the mining plan can be found to meet certain standards designed to protect the other significant

resources such as compliance with DEQ and DOGAMI regulation regarding water quality, screening requirements, and demonstration that reclaimed areas are capable of supporting forest vegetation.

The "3-C" and "3-B" designations and proposed protection standards provide overall protection to all four of the significant resources in the West Hills. This program complies with Statewide Planning Goal 5.

June 10, 1994

Multnomah County Board of Commissioners
Multnomah County Planning Commission
2115 SE Morrison Street
Portland, OR 97214

DEPARTMENT OF
LAND
CONSERVATION
AND
DEVELOPMENT

Dear Chair Stein, County Commissioners, Chair Yoon and Planning Commissioners:

Since LCDC approved Multnomah County's periodic review work program for resolving Goal 5 issues, the department has worked closely with the county planning staff. We have offered advice about the requirements of the statewide planning goals. We have suggested approaches and opportunities available to Multnomah County to make the policy decisions before you. Please consider these comments in your deliberations.

First, we are concerned with the county treating these hearings as quasi-judicial proceedings. To our knowledge, you have treated no other aspect of periodic review in this way. The issues before you are complex and affect significant areas of the county. The department believes a satisfactory conclusion to this controversy demands a broad view that cannot be achieved by focussing on one or two specific land uses in the narrow confines of a quasi-judicial proceeding.

Second, we are continuing to review and analyze the county's written reports. We will watch how the analyses evolve as the county works towards its September 6, 1994 deadline to submit a completed product. After this date, the department will review the work for compliance with Goal 5.

Finally, we ask you to consider three comments about the analyses. One, the county should be clear about its identification of significant resources, and why the resources are significant. Two, the level of protection for any resource must be commensurate with the identified conflicts and the consequences of these conflicts on protection of the resource. Three, the county needs to examine thoroughly opportunities to mitigate conflicts between resources.

We are able to help your staff with the Goal 5 analyses and development of appropriate implementation tools. Steve Oulman is the department's lead staff person for this project. Call him at 378-5144 if you have questions.

Sincerely,

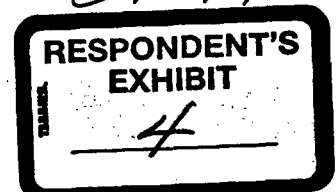


Richard P. Benner
Director

Barbara Roberts
Governor



1175 Court Street NE
Salem, OR 97310-0590
(503) 373-0050
FAX (503) 362-6705



Angell Brothers, Inc.

P.O. Box 83449 • Portland, OR 97283-0449
286-4201



June 10, 1994

R. Scott Pemble, Planning Director
Multnomah County Department of Environmental Services
2115 SW Morrison Street
Portland, OR 97214

Subject: West Hills Reconciliation Report (May 23, 1994)

Dear Scott:

Exhibit A, attached, is in response to concerns raised about the ability of Angell Bros. to reclaim the quarry after mining. The site inspection attached found topsoil accumulations in the undisturbed areas of the quarry to be shallow in the 12-30" depth range. William C. Gilmore also notes that he has had a survivability rate of 90% in planting acreages much larger than the Angell Bros. Quarry with soil depths of 6" and less.

Angell Bros. reclamation plan on file with DOGMI shows a minimum of 2 ft of topsoil to be placed over benches when finished. In addition, some of the benches will be engineered and constructed with 40 ft of overburden and topsoil. This greatly increases the opportunities for successful reclamation.

By using test plots to determine the proper planting techniques, seed mixture, fertilization types and rates, and by monitoring the results, we believe a survivability rate of 90% is very achievable.

Attached is a report from ODFW's Habitat Conservation Division (Exhibit B) regarding Multnomah County's determination of significance for the Middle Angell Bros., Creek and North Angell Bros. Creek. Much of the concern with Angell Bros. North Creek stems from the supposition that the creek is a "significant" contributor to Burlington Bottoms. The report states that ODFW clearly has an interest in the conservation of Burlington Bottoms since it was purchased by Bonneville Power Administration for wildlife mitigation and is managed by the Department. The conclusion of ODFW was that they do not believe that either North or Middle Angell Bros. Creek warrant a

C1-94

RESPONDENT'S
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R. Scott Pemble, Planning Director
June 10, 1994
Page 2

determination of significance, and they recommend the County reconsider the determination of "significant" for both streams.

On page V-46 "table 7" of the West Hills Reconciliation Report is a list of Aggregate Suppliers in Multnomah, Clackamas, Washington, and Columbia counties in Oregon and Clark county in Washington. Of the eight suppliers listed for Multnomah county, Angell Bros., Inc. is the only rock quarry. The remaining seven are all sand & gravel operations. It should be understood that there is a distinct difference between quarry rock and sand & gravel rock. Quarry mined rock is used for base rock, railroad ballast, rip rap, and rock to make asphalt. Sand & gravel rock is primarily used for concrete and base rock. Of the seven sand & gravel operations listed in table 7 under Multnomah County, only Ross Island, Gresham Sand & Gravel and Estacada Rock Products actually produce aggregate in Multnomah County. Portland Sand & Gravel and Porter Yett have been depleted and no longer produce aggregate. Lone Star NW does not produce in Multnomah County but imports sand and gravel from Columbia County. This difference in material makes it even more important to continue providing rock from this quarry well into the future.

Aggregate costs are directly related to the length of the haul. Moving aggregate 15 to 20 miles from the manufacturing site doubles its cost. That's why it's important to have the manufacturing site as close to the market area as possible. Rock prices hauled to a specific project, such as the new Trailblazer arena can vary substantially. For instance, rock hauled from Angell Bros. to the Blazer Arena would cost \$8.50 per cubic yard. Rock hauled to the same place from Gresham Sand & Gravel would be between \$11.50 and \$12.00 a cubic yard. Rock hauled from Estacada Rock Products to the same location would cost \$13.00 per cubic yard. The savings on this one project equal hundreds of thousands of dollars. It is not hard to understand why it is important to have the aggregate site as close as possible to the market place.

ANGELL BROS. INC.



F.H. "Skip" Anderson, President

FHA/tls

RECEIVED

JUN 10 1994

Multnomah County
Zoning Division



We Care For Trees (& People Too!)

7276 S.W. Beaverton-Hillsdale Hwy. #252
Portland, OR 97225 ♦ (503) 297-6608



Mr. F.H. "Skip" Anderson
Angell Bros., Inc.
Hwy. 30, W. Sauvie Island Bridge
Portland, OR 97231

September 21, 1992

Dear Mr. Anderson,

I enjoyed meeting with you recently to tour and review the feasibility of reforestation of the current and future planned quarrying operations at your quarry located on Hwy 30 across the West Sauvie Island Bridge in Multnomah County, Oregon. The legal description of the property is Township 2 North, Range 1 West, Section 29.

In reforestation of reclaimed land, soil type is the dominating factor in determining what species can be planted, growth potential (Site Index- total height of trees in 50 years), and survivability. The predominant soil type in this area is in the Goble (silty loam) Series with a smaller amount (approx. 10-15%) in the Wauld (very gravelly loam) Series. In an undisturbed situation, these soils are found on slopes of 30-70% have an annual precipitation of 35-50" of rain per year and a Site Index as high as 135 to 155 feet in height over a 50 year period of time.

My tour of the area showed the current topsoil accumulation in the undisturbed areas to be shallow in the 12-30" depth range before grading into the fractured basalt rock and deposited soil. The current tree and plant growth has adapted well to this rocky environment, and gives me every indication of a high success in reforesting the quarried areas now, and in the future.

Your plan to add two feet of topsoil to the terraced flats will enable the trees planted to have an even better environment for survivability. Each terraced area will have specific requirements as to what species can be planted there, and whether additional water will be needed during hot periods for the first three years after planting.

My experience with the U.S. Forest Service in Eastern Oregon included planting acreages much larger than this (1MM+) trees in one year in arid areas (10-24" precipitation per year) with soil depths of 6" and less. I had survivability rates of 90% and better for these planting. We planted in totally rocky areas with similar rates of success.



Complete Tree Care ♦ Pruning ♦ Removals ♦ Stump Grinding



I have included copies of studies of strip mined reforestation in Southwest Virginia by J.L. Torbert, et.al., to show that there scientific backing to substantiate my findings and opinions. In a phone conversation with Mr. Torbert, he stated that high survival rates were consistently encountered in blasted bedrock as long as soil was filled into the planting hole. I will provide a more complete bibliography upon request.

In summary, your needs to reforest the bench areas in concert with wildlife habitat needs are very realistic for a high level of success, and documented evidence from other projects in much harsher conditions demonstrate that your plans to quarry and reclaim the terraced lands should encounter a high success and meet all concerns of Multnomah County Planning Department and all other agencies involved. If you have any questions or concerns regarding my findings, please contact me at your earliest convenience.

Sincerely,



William C. Gilmore
Urban Forester, B.S., VPI&SU '77
Certified Arborist, ISA-PNW #31

RECEIVED BY FAX

DATE 7-6-92

TIME 5:15 PM

Frank PA

July 1, 1992

RECEI

JUN 10 1992

Multnomah County
Zoning Division



To: Skip Anderson

From: Esther Lev

Re: Wildlife Habitat Recommendations for Angell Brothers Quarry

After reviewing the Comprehensive Plan Amendment and the Conditional Use Permit for the Angell Brothers Quarry, I have the following recommendations as how the quarry expansion can best fit the goals and objectives of the West Hills Wildlife Study.

The recommendations of the Study of Forest Wildlife Habitat in the West Hills report suggest that at all times a band of contiguous forest habitat a minimum of .5 mile wide be maintained between the Multnomah County Line on the north, Highway 30 on the east, Newberry Road on the south and the ridgeline on the east. The .5 mi. minimum is suggested as a good estimate which can provide some habitat that can contribute to the life needs of the largest mammals as well as supporting the home territories for many smaller species. It also provides contiguous habitat for some species that have short dispersal distances, while connecting long range dispersers to patches of suitable habitat.

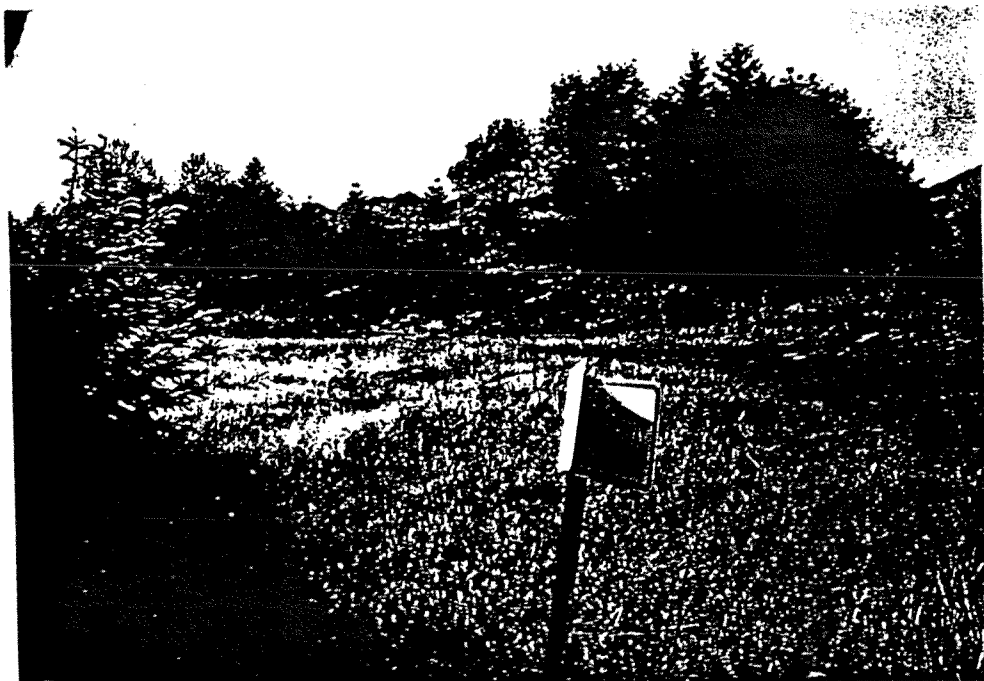
The proposed quarry extension is located within this area. In order to insure a contiguous forested habitat I suggest that a 625 ft. or 200 meter conservation easement be drawn from the edge of the property directly south of the extension boundary. The 625 ft. will provide for a minimum of 225 ft. of interior forest habitat with 200 ft. of edge habitat on either side. Interior habitat is critical for many of the species residing within this forested habitat area. Studies of interior species requirements, especially birds, in other northwest forested areas have shown that a minimum of 200 ft. of interior habitat is necessary, in order to sustain many of the forest dwelling wildlife species. The conservation easement line should be drawn parallel to the existing quarry boundary or Highway 30, whichever allows for a wider entry to the habitat area at the eastern end of the quarry boundary.

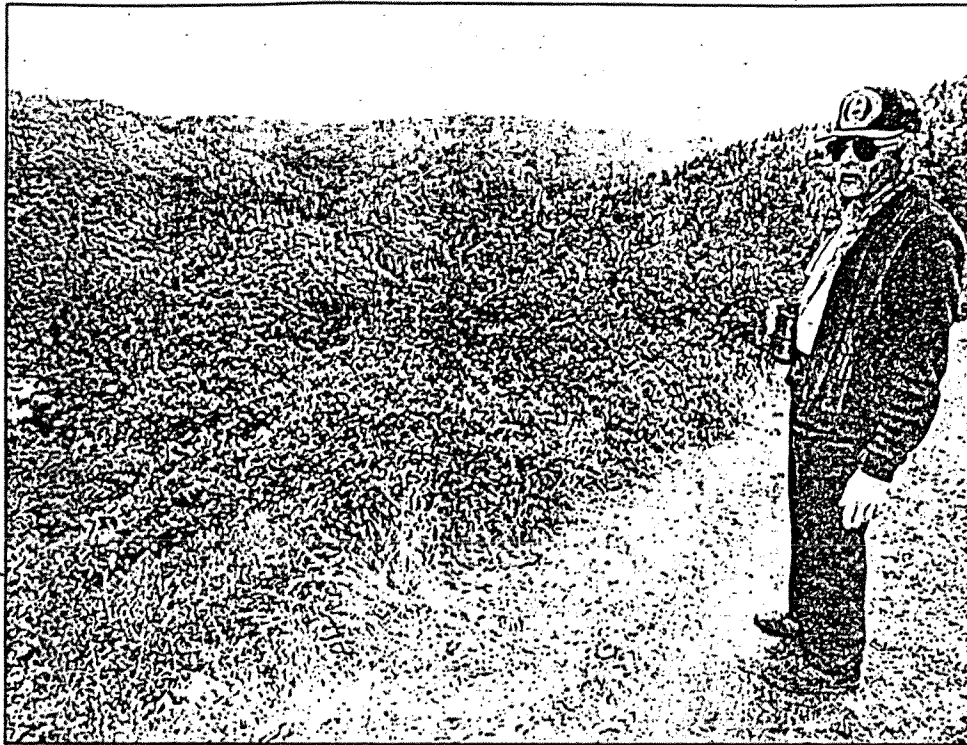
The reclamation plan for the site will be reviewed and modified by Oregon Department of Fish and Wildlife, Esther Lev, David Evans and Associates and any other interested parties. Bench width may vary from greater to lesser than 20 ft. to accommodate mining needs, as far as possible, maximize wildlife benefits and use. The benches will be vegetated with native species with a composition similar to those growing in the least disturbed areas of Forest Park. An on-going research and monitoring program will be established to monitor wildlife use changes during quarry activity and after reclamation of the site.

Esther Lev
729 SE 33rd
Portland, Oregon
97211
503/279-4065

Environmental
Consulting

Exhibit D. Two views (looking west and east, respectively) of the old ODOT rock quarry along Interstate 205. The quarry is located at mile 7.5 on the north side, just past the exit road from the West Linn rest area. Closed about 20 years ago, it has revegetated naturally. The only planned reclamation activity was slope stabilization.





Ken Starbird, security chief of a nearby housing development, scans the area in California's Auburn State Recreation Area where a cougar killed jogger Barbara Schoener last weekend. Her mutilated body was found Sunday.

BOB GALBRAITH/Associated Press

Mountain lion that killed jogger now the hunted in Sierra foothills

■ A legislator calls for repeal of the California law banning hunting of cougars in the wake of Barbara Schoener's death

By JOHN HOWARD
The Associated Press

COOL, Calif. — In the final, terror-filled moments of her life, Barbara Schoener was ambushed by a mountain lion that knocked her down a hillside and sank its teeth into her neck.

The 40-year-old housewife and marathon runner is believed to be the first person killed by a mountain lion in California in 85 years.

Hunters with dogs and shoot-to-kill orders have been sent to scour the rugged Sierra Nevada foothills for the animal, and a state lawmaker is calling for the repeal of Califor-



SCHOENER

nia's 1990 ban on hunting cougars, which are being sighted more and more as California's population expands into rural areas.

"Because they are no longer hunted they no longer fear us," said Assemblyman David Knowles, in whose district the attack took place. "They are now hunting us."

Schoener was reported missing Saturday when she didn't return from a morning jog. Searchers found her body Sunday.

Pete Schoener said he initially thought his wife had been murdered.

"A mountain lion never crossed my mind," he said.

Schoener, the mother of two young children, was jogging along a popular trail in the Auburn State Recreation Area about 45 miles from Sacramento.

Based on tracks and blood marks, investigators determined that the lion pounced onto a steep, brush-covered stretch of trail about 20 feet behind her.

The first attack knocked the 5-foot-8, 120-pound Schoener off the path and sent her tumbling down the slope. She struggled to her feet and tried to shield her face with her

arms when the lion struck again, slashing with its claws.

She fell farther down the slope and apparently stood up again before the lion made the final attack, biting her neck and crushing her skull.

Later, the animal dragged her partially eaten body about 100 yards and covered it with leaves. Experts say mountain lions often hide their kill and return when they get hungry.

Officials want to kill the cat because they think it could attack again. They also want to examine its carcass to find out if the animal was rabid, which could explain the rare attack.

Searchers looked for a mature male cougar, which could weigh as much as 140 pounds.

The animals roam over as much as 150 square miles but are extremely territorial, with only one male to an area. So once searchers have found a mature male, they will track it to see if it returns to the site of the attack and or shows signs of being rabid. Once they think they have the right animal, they will kill it, the Fish and Game Department said.

Oregonian May 1994



More people, more cougars and more confrontations in Oregon

Residents are reporting incidents at an increasing rate as the big cats' territory shrinks while their numbers rise

The Associated Press

LOWELL — Face-to-jowl meetings between humans and cougars are becoming more common as an increasing number of big cats prowl the hills and rural areas of Oregon.

"The cat population is growing," said Bruce Campbell, a state Fish and Wildlife Department biologist,

who picked up a cougar carcass last week for research after a homeowner shot the animal to protect his dog.

The shooting occurred Wednesday night, after Corky Wright saw a cougar's paws wrapped around his 5-month-old dog. The cat's jaws clamped on the husky's skull about to crush it.

Wright used his .22-caliber semi-automatic from about four feet away to save Buffy, a 5-month-old he had rescued from the pound a few months earlier.

"Bang! Bang! I give her two bullets right in the chest cavity and

killed her," Wright, 60, said the day after the attack. "Then, out of anger, I give her five more."

It wasn't the first cougar Wright had ever shot.

"I killed quite a few," he said. "We got \$50 from the county and \$30 from the state for each one."

The bounty program resulted in dwindling cougar ranks during the 1950s, when the animals were hunted to the brink of extinction. After the government outlawed cougar hunting, the mountain lions began a comeback.

State Fish and Wildlife officials es-

timate the Oregon cougar population at about 2,500, up from 200 statewide before the animal gained protection and bounties were dropped.

Last year, the Oregon Department of Fish and Wildlife logged 222 cougar damage complaints, up from 151 complaints in 1992, 86 in 1990 and 36 in 1986.

Now, once rare sightings and reports of cougar-caused livestock damage have become more and more common, wildlife officials said. The largest increases are in the Willamette Valley.

"What we're seeing now is there are a lot of cougars just living in areas where they didn't live before," said wildlife biologist Bill Castillo.

Cougars are extremely territorial animals — loners that fear each other as much or more than they fear humans. A single cougar can claim hundreds of acres.

"We've got enough cougars now that all the good habitat is being occupied," Castillo said. "Young animals are being displaced and taking up residence around people, because that's the only unoccupied area."

The attack on Wright's dog was

the second such Lane County attack in as many years. In February 1993, a cougar killed a chained-up dog in Veneta.

Two months ago, a cougar startled a 17-year-old Cheshire boy as he walked through a Christmas tree farm.

On April 22, a woman jogging on a California mountain trail was attacked and killed by a cougar.

"It's a trend that concerns us," Castillo said. "These animals are adaptable, they're intelligent and they're becoming bolder and more visible."

Applied Ecosystem Services

2404 SW 22nd Street
CompuServe: 73557,2367

Troutdale, OR 97060-1247

(503) 669-6672
Internet: rshepard@novalink.com

June 10, 1994

R. Scott Pemble, Planning Director
Multnomah County Department of Environmental Services
2115 SW Morrison Street
Portland, OR 97214

RECEIVED
JUN 10 1994
Multnomah County
Zoning Division

Subject: West Hills Reconciliation Report (May 23, 1994)

Dear Scott:

I will summarize my comments and concerns first, then provide more specific examples.

Summary:

The West Hills Reconciliation Report dated May 23, 1994 recognizes many of the limitations in the Goal 5 resource inventories/significance determinations and the associated ESEE analyses. However, it is deficient in three categories:

1. lack of data to support several conclusions;
2. lack of logic in deriving conclusions from earlier reports; and
3. inconsistent assumptions have been made for impacts associated with resources.

The lack of data is illustrated by the second paragraph on page V-37. The authors state that expansion of the quarry to the requested size "would obstruct the principal connection between Forest Park and the northern portion of the West Hills". While the County likes to cite the Lev *et al.* 1992 study, they continue to have difficulty in understanding what that report says and the biological base upon which it is built. The County's contractors did not have a study transect within a mile of this so-called "critical area" so there are no data (other than aerial photographs manually interpreted) to support this claim. Further, neither the County nor its contractors explain (or support with data) for which of the species/guilds listed in Table 4 (page V-10) this unexamined area is a critical bottleneck or why loss of this area could lead to local extinction in another area, the 4,700 acre Forest Park. Finally, there are no data which support the classification of areas into primary habitat and secondary habitat; it is strictly subjective. However, there is a workable solution which will be discussed below.

The lack of logic pervades this reconciliation report. The most significant errors arise from the conclusions drawn from the myth that the West Hills is a wildlife corridor. Because the County agrees that the concept of a wildlife corridor is a myth (page V-90, issue 18) the concept of a movement bottleneck and the requirement for forested swaths of a defined minimum size also become irrelevant. Without the demonstrated existence of a movement bottleneck there

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is no reason to restrict the expansion of the Angell Brothers quarry along the south and west of the property or to maintain a 0.5-mile swath of forest for movement of large mammals. There is not a 0.5-mile wide forested swath anywhere in the vicinity of Newberry Road, McNamee Road, and Skyline Road, nor has there been such a forested swath for a long while. There is absolutely no data or justification for a swath of any predetermined width at any place within the West Hills (see, for example, Esther Lev's suggestion of a 200 meter buffer in Exhibit A and the color infrared aerial photograph marked as Exhibit B).

The new approach is to consider the entire Tualatin Mountains as a peninsula with the City of Portland's Forest Park at the eastern end. Despite the new approach, there is still no biological or ecological basis for believing that the present and proposed mixes of land use and land cover pose any measurable threat to any animal species known to inhabit the area. There are also no data to alter this belief. Denying future quarrying on the southern and western portions of the Angell Brothers property cannot be justified or defended. If, in the future, there is evidence that habitat of specified character and size is required for a specific wildlife need, it is most probable that those needs could be met. Examination of the 1991 color infrared aerial photograph of the area (scale 1:1,000; Exhibit B) illustrates two important points. First, there is a wide forested band which arcs to the west around the Angell Brothers property. Second, there are quite a few residential developments throughout the area. Considering that most of the visible clearcut areas will be adequately revegetated within the next seven years, there is (and will continue to be) abundant wildlife habitat of many types.

Other aspects of the logical lapses in this report include the demonstration of relevance to the West Hills of observations made in other areas and under different situations. This applies to the size of clearcuts, the ratio of edges to interiors, the distribution of animals within the West Hills and Forest Park, and the use of areas by animals which would permit classification into primary and secondary habitat areas. The author's logic is most egregiously flawed in the statements associated with issue 15 (page V-88). Black bears and mountain lions do not determine what other animals can exist in an area. Birds fly into and out of and small mammals can readily maintain self-sustaining populations in the 4,700 acres of Forest Park whether or not black bears or mountain lions are present there.

Assumptions assigned to Goal 5 resources, specifically minerals and rock, timber, and wildlife habitat are inconsistent. The Conflict Resolution and Protection Program section, Chapter VI, also contains oxymorons; for example, the North Angell Brothers Creek is *significant* because of its *minor contribution* to Burlington Bottoms. Different assumptions are applied to impacts of mining on wildlife, impacts of timber harvest on wildlife, and the impacts of mining on timber harvest. These inconsistencies do not contribute to the resolution of conflicts nor do they lead to balanced — and equal — protection of all Goal 5 natural resources.

Specifics:

There are still no data to support conclusions of wildlife habitat loss. "The best available information" requirement of Goal 5 means that there be *some* data to support conclusions. Many of these data gaps have been detailed in previous letters I have submitted to you containing comments on the West Hills inventories, significance determinations, and ESEE analyses for scenic, streams, aggregate, and wildlife resources. For example, the water quality significance of high BOD levels and the definition of riparian zone are both wrong and lead to invalid conclusions. Neither definition can be scientifically supported.

The continued lack of data is illustrated by the ODF&W wildlife habitat definition which you include on page V-3 of the Reconciliation Report. This definition is in terms of particular species, guilds, and life history requirements. None of the wildlife-related reports (inventory, significance determination, ESEE, or this report) associate particular species or guilds to the habitat generalizations presented. This is not technically defensible. In my previous comments on your wildlife efforts (including my letter of April 25, 1994), I have repeatedly pointed out the superficial nature of the data presented by Marcy Houle and Esther Lev, *et al.*, in the previous work they did for the County. Their own reports acknowledge the limits of their efforts because of the insufficient funding level. For example, the Lev, *et al.* report states that they found no differences in animals among their six transects and collected so few data that the report is useful for only limited baseline information in a few areas of the Tualatin Mountains.

In the Reconciliation Report there is no discussion of what benefits will accrue to wildlife from what you are proposing. In all the materials which have been presented by the County, there is no evidence that restricting rock quarrying will help animals or their habitat. As I mentioned in earlier comments, the risk to the health of large, wild animals increases when they try to inhabit urbanized areas (or any area with growing human populations and presence). It is unfair to the animals to lure them into unsafe areas. Concurrently, such practices increase the risk of harm to humans by these animals (Exhibit C).

It is disappointing to note that your contractors have ignored the effects of terrain on wildlife use and movement. Larger mammals will not cross a draw by going down one side and up the other unless they are frightened or feel threatened. Game trails in most areas are on or just below ridgelines above the heads of draws unless they lead to a drinking water source. The expansion area on the Angell Brothers quarry property is very steep and the suggested restricted areas will not be used by wildlife nearly as much as will other areas. For example, there is a wide, fairly well forested band of land west of the quarry property which would be of higher wildlife habitat values and could be preserved by the County for that use until the upper reaches of the quarry have been mined and reclaimed (Exhibit B).

The report is incorrect in concluding that agricultural areas are lower quality wildlife habitat than are forested areas. Foods are abundant and concentrated, access is relatively easy, and the open areas facilitate watching for predators. While the food values vary with season and

the crops in production, farmers can tell you about damage caused by deer, mice, birds, and insects. Animals will also use farmlands when moving around because the terrain is easy to navigate and predators cannot stalk them as easily as in more dense cover. Because the 1992 Lev *et al.* report found no significant differences in animal abundance among transects, it is most reasonable to conclude that all areas in the West Hills are of equal wildlife habitat value.

In the revised discussions of scenic resources in the West Hills, the term "outstanding" has been inserted without any definition of this criterion or data to support such a designation. Saying that the Board *feels* that the scenic resources are outstanding is not defensible as "best available data" in terms of Goal 5 compliance. Further, any perceived degradation in scenic quality due to mining at the highest elevations of the quarry expansion area will be temporary. These bands could be mined and reclaimed within approximately five years to the point that viewers on Sauvie Island, the Columbia River, or any other view point or route would not be able to notice any intrusive difference in the landscape pattern.

To illustrate quarry reclamation in this immediate area, examine the photographs of the closed Oregon Department of Transportation (ODOT) rock quarry at mile 7.5 of Interstate 205 (Exhibit D). According to ODOT Maintenance Supervisor Jim Samson (personal communications, June 10, 1994), this site was closed as a quarry approximately 20 years ago. The only deliberate reclamation efforts, to the best of his knowledge, was slope stabilization and hydroseeding for erosion control. In this highly visible location, the former quarry does not stand out from the adjacent landscape. It should be obvious that planned reclamation based on both solid ecological expertise and defined use objectives (e.g., wildlife habitat) has a very high probability of success.

The response to stream issue 1 (page III-43) neither addresses the issue raised by both Steve Oulman and me, nor provides the data which support the conclusions presented. To be technically defensible you need to present the data you have. For example, if a stream passes through an agricultural area, the specific impacts of local agricultural practices on that local stream must be described along with the supporting data.

Logical lapses are found throughout the reconciliation report but are the most severe in Chapter V, wildlife. The first full sentence at the top of page V-9 reads, "This study [referring to the 1992 Lev, *et al.* West Hills wildlife report] found that species diversity depends upon both the quantity and the quality of habitat". However, the referenced report does not support this conclusion. The third paragraph of page iii notes that some differences were discernible for birds but not for mammals, and their section 3.3.4 (page 6) states that "[i]t cannot be inferred that a significant difference exists between any two specific transects".

Another logical inconsistency is found on page V-9 of the Reconciliation Report. The author states that Forest Park is not large enough to support mammals such as elk, bobcats, mountain lions and black bears which need a migratory corridor to the west. This statement, which is probably correct, conflicts with both the acknowledgement that there is no migratory

corridor in the area and the obvious fact that self-sustaining populations of mountain lions and black bears in Forest Park and the southern portions of the Tualatin Mountains is not desirable because of human population growth in these areas (Exhibit C).

The reason provided in the report for the temporary nature of logging's impact on wildlife habitat is that "values" are restored to pre-cut conditions in 10 years. Applying this logic to the southeastern portions of the Angell Brothers quarry property, which was clearcut three years ago, means that in another seven years the amount of habitat will be greatly increased in the so-called "bottleneck" area. Scheduling mining activities to accommodate this growth could be done. On the same topic, the reconciliation report acknowledges that mitigation for mining impacts can be done but the conclusions do not offer the opportunity to negotiate mitigation measures as the most practical approach to maximizing protection for both mineral and wildlife habitat resources. It is also illogical to state that mining and forestry are incompatible when each use is permitted in the other use's zones. Obviously, they can — and do — coexist in many places, and they could in the West Hills.

The relationship between quarrying and forestry can be best illustrated by forest practices in Oregon west of the Cascade Mountains. A timber company cannot cut trees without building roads for access and to remove the cut timber. Roads cannot be built and maintained (including meeting water quality standards for sedimentation in streams) without rock. Therefore, rock quarries are a necessity in forest lands. Most timber companies do not deliberately reclaim their quarries because they will need to obtain more rock in the future. However, the normal ecological processes of primary terrestrial succession leads to the buildup of soils from lichens and mosses, and sequential stages of vegetation from grasses and forbs to hardwoods and, ultimately, conifers. This process was verified during a telephone conversation with Robert Burnham, Cavenham Forest Industries Land Manager on June 9, 1994.

The assumptions of potential impacts related to use of sites for wildlife habitat, forestry, and mining are inconsistent. On page VI-6 there is no environmental impact to the Angell Brothers quarry if forestry is fully allowed yet section 7 (mining) does not address forestry from this perspective. This is also not correct. If mining is prohibited or restricted there will be air quality degradation from the increased traffic required to import rock from greater distances. Because the state is trying to increase air quality to attract new business relocations, this environmental impact could also have detrimental economic impacts. Further, the forestry section (number 1, beginning on page VI-5) lists consequences to wildlife habitat areas while the wildlife habitat section (number 4, beginning on page VI-10) states that the only potential for impact is at the quarry site.

If forestry is fully allowed (page VI-5) the environmental impacts are numerous from habitat loss and "diminishment" but these impacts are temporary (page VI-6). Regrowth, it is implied, immediately restores pre-cut values related to scenery, wildlife habitat, and riparian value. No time scale is presented. However, on page VI-16, the report states that a forest habitat would not be re-established on a mined area for at least 10 years following reclamation.

Not only is this assertion not supported by anything presented in this (and earlier) reports, but it is not correct. This latter section also refers to the "vital connection between Forest Park and large tracts of forest land to the north and west", a reference not found in the sections on forestry (number 1) or wildlife habitat (number 4).

There are also computational errors in the report. For example, logging has a cycle of 60 to 80 years. Therefore, the value of the timber must be amortized over this time and not credited to the present. All Goal 5 natural resources have monetary values which are based on time periods which vary but are relatively long. It is necessary to compare these resource's values either by the fraction representing their present worth or by their worth per year during their lifetime. Mixing the two methods yields incorrect values and can result in bad decisions.

In summary, I commend you for making significant progress toward complying with Goal 5. However, there is no technically defensible rationale for restricting the expansion of the Angell Brothers quarry within the western and southern portions of their property. If you objectively consider the available data, are logically consistent in evaluating natural resources in the area, and apply uniform assumptions to potential impacts you will see that mining is not inconsistent with forestry or wildlife habitat. For that matter, state regulations administered by DOGAMI will most likely result in a reclaimed quarry which far exceeds existing conditions for both forestry opportunities and wildlife habitat values. This is an opportunity to plan for the future in a manner which compensates for projected increased human population growth during the next decades.

Accepting the reasoning presented above could result in many benefits to other Goal 5 values in this area of the West Hills. For example, by offering the full expansion area for mining the north channel drainage area may not be needed for extracting rock. This would enhance the visual barrier from that direction. In addition, the reclamation proposal for the entire area submitted to DOGAMI offers specific wildlife habitat values to be incorporated into the post-mined area. This would provide valuable amenities in an area which is projected to experience highly significant human population growth in the coming decades.

Sincerely,

Richard B. Shepard

Richard B. Shepard, Ph.D.
Principal

Enclosures: Exhibits A, B, C, D

c: Steve Oulman/DLCD

RECEIVED BY FAX

DATE 7-6-92
TIME 5:15 AM

Frank Parisi

July 1, 1992

RECEIVED

JUN 10 1994

Multnomah County
Zoning Division

To: Skip Anderson
From: Esther Lev
Re: Wildlife Habitat Recommendations for Angell Brothers Quarry

After reviewing the Comprehensive Plan Amendment and the Conditional Use Permit for the Angell Brothers Quarry, I have the following recommendations as how the quarry expansion can best fit the goals and objectives of the West Hills Wildlife Study.

The recommendations of the Study of Forest Wildlife Habitat in the West Hills report suggest that at all times a band of contiguous forest habitat a minimum of .5 mile wide be maintained between the Multnomah County Line on the north, Highway 30 on the east, Newberry Road on the south and the ridgeline on the east. The .5 mi. minimum is suggested as a good estimate which can provide some habitat that can contribute to the life needs of the largest mammals as well as supporting the home territories for many smaller species. It also provides contiguous habitat for some species that have short dispersal distances, while connecting long range dispersers to patches of suitable habitat.

The proposed quarry extension is located within this area. In order to insure a contiguous forested habitat I suggest that a 625 ft. or 200 meter conservation easement be drawn from the edge of the property directly south of the extension boundary. The 625 ft. will provide for a minimum of 225 ft. of interior forest habitat with 200 ft. of edge habitat on either side. Interior habitat is critical for many of the species residing within this forested habitat area. Studies of interior species requirements, especially birds, in other northwest forested areas have shown that a minimum of 200 ft. of interior habitat is necessary, in order to sustain many of the forest dwelling wildlife species. The conservation easement line should be drawn parallel to the existing quarry boundary or Highway 30, whichever allows for a wider entry to the habitat area at the eastern end of the quarry boundary.

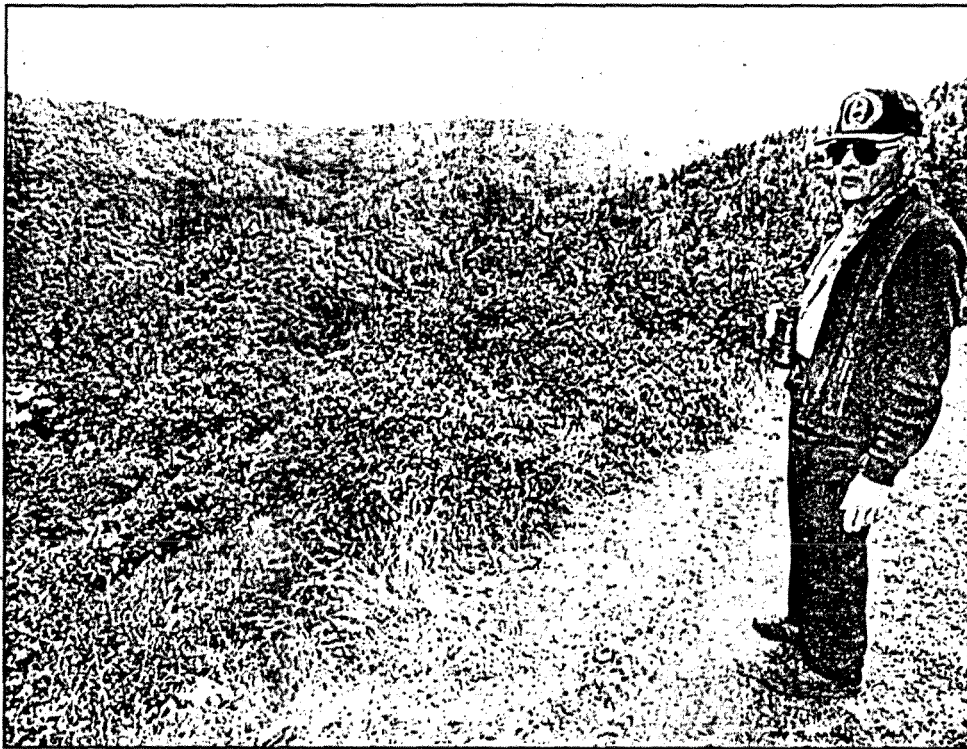
The reclamation plan for the site will be reviewed and modified by Oregon Department of Fish and Wildlife, Esther Lev, David Evans and Associates and any other interested parties. Bench width may vary from greater than 20 ft. to accommodate mining needs, as far as possible, maximize wildlife benefits and use. The benches will be vegetated with native species with a composition similar to those growing in the least disturbed areas of Forest Park. An on-going research and monitoring program will be established to monitor wildlife use changes during quarry activity and after reclamation of the site.

Esther Lev
729 SE 33rd
Portland, Oregon
97211
503/229-4065

Environmental
Consulting

Exhibit D. Two views (looking west and east, respectively) of the old ODOT rock quarry along Interstate 205. The quarry is located at mile 7.5 on the north side, just past the exit road from the West Linn rest area. Closed about 20 years ago, it has revegetated naturally. The only planned reclamation activity was slope stabilization.





BOB GALBRAITH/Associated Press

Ken Starbird, security chief of a nearby housing development, scans the area in California's Auburn State Recreation Area where a cougar killed jogger Barbara Schoener last weekend. Her mutilated body was found Sunday.

Mountain lion that killed jogger now the hunted in Sierra foothills

■ A legislator calls for repeal of the California law banning hunting of cougars in the wake of Barbara Schoener's death

By JOHN HOWARD
The Associated Press

COOL, Calif. — In the final, terror-filled moments of her life, Barbara Schoener was ambushed by a mountain lion that knocked her down a hillside and sank its teeth into her neck.

The 40-year-old housewife and marathon runner is believed to be the first person killed by a mountain lion in California in 85 years.

Hunters with dogs and shoot-to-kill orders have been sent to scour the rugged Sierra Nevada foothills for the animal, and a state lawmaker is calling for the repeal of Califor-



SCHOENER

nia's 1990 ban on hunting cougars, which are being sighted more and more as California's population expands into rural areas.

"Because they are no longer hunted they no longer fear us," said Assemblyman David Knowles, in whose district the attack took place. "They are now hunting us."

Schoener was reported missing Saturday when she didn't return from a morning jog. Searchers found her body Sunday.

Pete Schoener said he initially thought his wife had been murdered.

"A mountain lion never crossed my mind," he said.

Schoener, the mother of two young children, was jogging along a popular trail in the Auburn State Recreation Area about 45 miles from Sacramento.

Based on tracks and blood marks, investigators determined that the lion pounced onto a steep, brush-covered stretch of trail about 20 feet behind her.

The first attack knocked the 5-foot-8, 120-pound Schoener off the path and sent her tumbling down the slope. She struggled to her feet and tried to shield her face with her

arms when the lion struck again, slashing with its claws.

She fell farther down the slope and apparently stood up again before the lion made the final attack, biting her neck and crushing her skull.

Later, the animal dragged her partially eaten body about 100 yards and covered it with leaves. Experts say mountain lions often hide their kill and return when they get hungry.

Officials want to kill the cat because they think it could attack again. They also want to examine its carcass to find out if the animal was rabid, which could explain the rare attack.

Searchers looked for a mature male cougar, which could weigh as much as 140 pounds.

The animals roam over as much as 150 square miles but are extremely territorial, with only one male to an area. So once searchers have found a mature male, they will track it to see if it returns to the site of the attack and or shows signs of being rabid. Once they think they have the right animal, they will kill it, the Fish and Game Department said.

Oregonian May 1994

More people, more cougars and more confrontations in Oregon

■ Residents are reporting incidents at an increasing rate as the big cats' territory shrinks while their numbers rise

The Associated Press

LOWELL — Face-to-jowl meetings between humans and cougars are becoming more common as an increasing number of big cats prowl the hills and rural areas of Oregon.

"The cat population is growing," said Bruce Campbell, a state Fish and Wildlife Department biologist,

who picked up a cougar carcass last week for research after a homeowner shot the animal to protect his dog.

The shooting occurred Wednesday night, after Corky Wright saw a cougar's paws wrapped around his 5-month-old dog. The cat's jaws clamped on the husky's skull about to crush it.

Wright used his .22-caliber semi-automatic from about four feet away to save Buffy, a 5-month-old he had rescued from the pound a few months earlier.

"Bang! Bang! I give her two bullets right in the chest cavity and

killed her," Wright, 60, said the day after the attack. "Then, out of anger, I give her five more."

It wasn't the first cougar Wright had ever shot.

"I killed quite a few," he said. "We got \$60 from the county and \$30 from the state for each one."

The bounty program resulted in dwindling cougar ranks during the 1950s, when the animals were hunted to the brink of extinction. After the government outlawed cougar hunting, the mountain lions began a comeback.

State Fish and Wildlife officials es-

timate the Oregon cougar population at about 2,500, up from 200 statewide before the animal gained protection and bounties were dropped.

Last year, the Oregon Department of Fish and Wildlife logged 222 cougar damage complaints, up from 151 complaints in 1992, 86 in 1990 and 36 in 1986.

Now, once rare sightings and reports of cougar-caused livestock damage have become more and more common, wildlife officials said. The largest increases are in the Willamette Valley.

"What we're seeing now is there are a lot of cougars just living in areas where they didn't live before," said wildlife biologist Bill Castillo.

Cougars are extremely territorial animals — loners that fear each other as much or more than they fear humans. A single cougar can claim hundreds of acres.

"We've got enough cougars now that all the good habitat is being occupied," Castillo said. "Young animals are being displaced and taking up residence around people, because that's the only unoccupied area."

The attack on Wright's dog was

the second such Lane County attack in as many years. In February 1993, a cougar killed a chained-up dog in Veneta.

Two months ago, a cougar startled a 17-year-old Cheshire boy as he walked through a Christmas farm.

On April 22, a woman jogging on a California mountain trail was attacked and killed by a cougar.

"It's a trend that concerns us," Castillo said. "These animals are adaptable, they're intelligent and they're becoming bolder and more visible."

NEIL S. KAGAN
ATTORNEY AT LAW

1050 Yeon Building
522 S.W. Fifth Avenue
Portland, Oregon 97204

Telephone
(503) 223-4272
Fax
(503) 225-0811

June 10, 1994

R. Scott Pemble
Planning Director
Department of Environmental Services
Division of Planning and Development
2115 S. E. Morrison Street
Portland, Oregon 97214

RECEIVED
JUN 10 1994

Multnomah County
Zoning Division

Re: West Hills Reconciliation Report

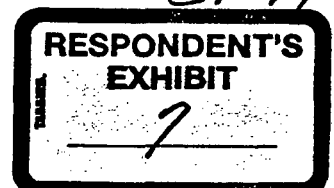
Dear Mr. Pemble:

On behalf of Friends of Forest Park, I am writing to comment on your staff's West Hills Reconciliation Report of May 23, 1994 ("the report"). The report justifiably recommends full protection of the half-mile band of significant wildlife habitat between McNamee Road and the Angell Bros. mineral and extraction site. The report unjustifiably recommends protection of the balance of the Angell Bros. aggregate resource, however, at the expense of inventoried significant wildlife habitat and streams on the site, and inventoried significant wetlands in Burlington Bottoms.

The evidence does not support the recommendation that the Angell Bros. mineral and aggregate resource site should be added to the Goal 5 inventory

A fundamental problem with the report's recommendation of protection of the Angell Bros. aggregate resource is its uncritical conclusion that the resource is significant. This conclusion was based largely on evidence submitted by H. G. Schlicker & Associates to the effect that the site contains approximately 220 million cubic yards of very good aggregate material. Report at IV-5. Yet Schlicker's evidence has been convincingly contradicted. See Exhibit 101 to Friends of Forest Park's Brief in Opposition to Angell Bros.'s Applications for a Comprehensive Plan Amendment and a Conditional Use Permit ("Brief"), which Friends of Forest Park re-submitted in commenting on the West Hills Significant Resources Analysis Reports, on April 25, 1994 ("Beeson Statement").

Beeson, a highly reputable expert on geology, said Schlicker's evidence, "without deep bore hole data, [is] . . . insufficient to adequately address the questions of rock quality and quantity." Beeson Statement, second page. More particularly, Beeson said:



Mr. Pemble
June 10, 1994
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"The estimate of the quantity and quality of rock in the proposed quarry is apparently based on surface observations, two shallow (84 ft) bore holes, and the assumption that the same quality of rock exists to the base of the proposed quarry floor hundreds of feet below the surface. While it is possible this assumption is correct, there are several potential problems that could decrease this estimate: 1) The thickness of the CRBG [, "Columbia River Basalt Group",] is variable (400 to 800 ft) in the Portland Hills and the base of these flows could lie above the proposed quarry floor toward the back of the quarry. 2) The quality of the rock and its suitability for crushing is not the same in all CRBG flows due to differences in the thickness of vesicular zones, the possible presence of flow top breccia, and the nature of the texture and jointing. 3) Although no faults have been mapped at this site, faults and fault breccia are not uncommon in the Portland Hills and the rock quality may be poor along these zones due to alteration and a high clay content. The uncertainty in the estimates of rock quality and quantity could be greatly reduced with several core holes distributed over the proposed quarry area that penetrate to the depth of the proposed quarry floor."

Beeson Statement, first page.

Later, Beeson discredited well log evidence introduced by Angell Bros. to establish the quantity and quality of the aggregate resource. In oral testimony to the Planning Commission on October 5, 1992, Beeson said:

"First of all with respect to quality and quantity. Mr. Parises [sic] pointed out that these water well logs indicated it was all solid rock. I would like to read just a couple lines from some of these. Mr. Rupel's well. Let us go through a few of these. It says soft, decomposed brown basalt, firm gray brown basalt, firm gray brown basalt, soft brown basalt and so on on the way down the hole. It is not all uniform quality and characteristics [sic]. Here is another one from Tony Well and is in the vicinity also. This is down at three hundred fifty something feet. Conglomerate broken brown rock, conglomerate brown soft rock and clay, weather basalt, wood soft cole basalt mix. Not exactly all solid rock all the way. I don't know exactly the nature of this. I don't think they do either since there has been no drill holes for that purpose. And, I might say after having used these is that most geologists or engineers do not put much reliance in these. They are done by

Mr. Pemble
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drillers. They are not either engineers nor geologists and I have a lot of experience with them. They should be used with great caution in any case."

Transcript of October 5, 1992, Item 2 - CU 14-92, Angell Brothers Rock Quarry at 42 (emphasis added).

Since the Schlicker evidence was the only evidence of quantity and quality, Report at IV-5 through IV-6, and since that evidence was rejected by Beeson, the county has no credible evidence to conclude the site is significant. Consequently, the report should drop the recommendation that the aggregate resource should be protected, to the detriment of the significant Goal 5 resources on and off the site. Instead, the report should recommend protecting the significant Goal 5 resources completely.

The county should protect more than the half-mile band of significant wildlife habitat between McNamee Road and the Angell Bros. mineral and extraction site

Whether or not the county deems the Angell Bros. site significant, it should afford complete protection to the significant wildlife habitat over the entire site. Only complete protection provides any certainty that the ecological integrity of Forest Park can be sustained.

The "Study of Forest Wildlife Habitat in the West Hills [, "Wildlife Study,"] recommended maintenance of a continuous, 1.5 mile peninsula of forested habitat extending from Forest Park to the Coast Range . . . to compensate for the temporary loss of forest habitat that results from clear-cutting." Report at V-9. The Wildlife Study also recommended maintenance of a minimum band of contiguous forest habitat one half-mile in width. Wildlife Study at 26. But the study did not say maintenance of a half-mile band would be sufficient to sustain the ecological integrity of Forest Park.

Rather, the Wildlife Study said a half-mile band of habitat "may suffice." Wildlife Study at 26. The Wildlife Study readily conceded that a half-mile band of habitat might be too narrow. In fact, it said the band should perhaps be three-quarters of a mile wide and, moreover, that discussions with recognized wildlife experts justified a band as wide as one and a half miles. Wildlife Study at 26.

In the face of such uncertainty, recommending a mere half-mile band of wildlife habitat is far too risky a gamble when Forest Park, a resource of unparalleled quality and significance to the region, is at stake. As Friends of Forest Park established in its Brief, and in its April 25, 1994, comments on the West Hills

Mr. Pemble
June 10, 1994
Page 4

Significant Resources Analysis Reports, Forest Park is critical to the region's identity, and a magnet for residents, businesses, and tourists. Nothing less than full protection of its unique values is warranted, and nothing more than a half-mile band of wildlife habitat is insufficient. For this reason, the report should recommend designating the entire Angell Bros. site under consideration "3B."

The county should fully protect the "North Angell Brothers" stream to ensure the preservation of the irreplaceable Burlington Bottoms wetlands

The North Angell Brothers stream running through the Angell Bros. site flows into the Burlington Bottoms wetlands. Report at III-24, 48. The Burlington Bottoms wetlands represents one of the state's largest remaining wapato wetlands, and provides habitat for a number of important wildlife species, including bald eagles and many other waterfowl, shorebirds, and songbirds.

Were Angell Bros. permitted to expand its quarry operations to include the area through which the North Angell Brothers stream flows, the quality of Burlington Bottoms would suffer from an enormous, approximate 950% increased rate of sedimentation. Brief, Exhibit 107 ("Rhodes Declaration") at 9. As a result, the sedimentation of the wetlands will accelerate, destroying its open water character and reducing its ability to store water. Rhodes Declaration at 9.

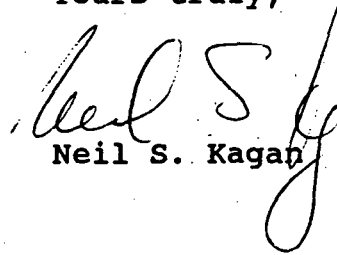
Given the county's obligation to protect significant streams and wetlands for future generations, the report should not recommend allowing the immediate and future harm to either resource that quarry operations would cause. Instead, the report, at the very least, should recommend designating "3B" that portion of the Angell Bros. site within the watershed of the North Angell Brothers stream.

Conclusion

The county should bear in mind that it has broad discretion to decide what level of protection to extend to Goal 5 resources. It may extend full, partial, or no protection, so long as reasons support its decision. Here, the unique value of the wildlife habitat, streams, and wetlands provide more than ample reasons to justify extending no protection to the Angell Bros. site. If any more reasons were necessary, the huge supply of aggregate the existing Angell Bros. site is capable of producing has to be the clincher. Therefore, the report should recommend designating the Angell Bros. site "3B" if, indeed, it is deemed significant at all.

Mr. Pemble
June 10, 1994
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Yours truly,


Neil S. Kagan

NSK/gmm
Enc.

cc: Steve Oulman, DLCD

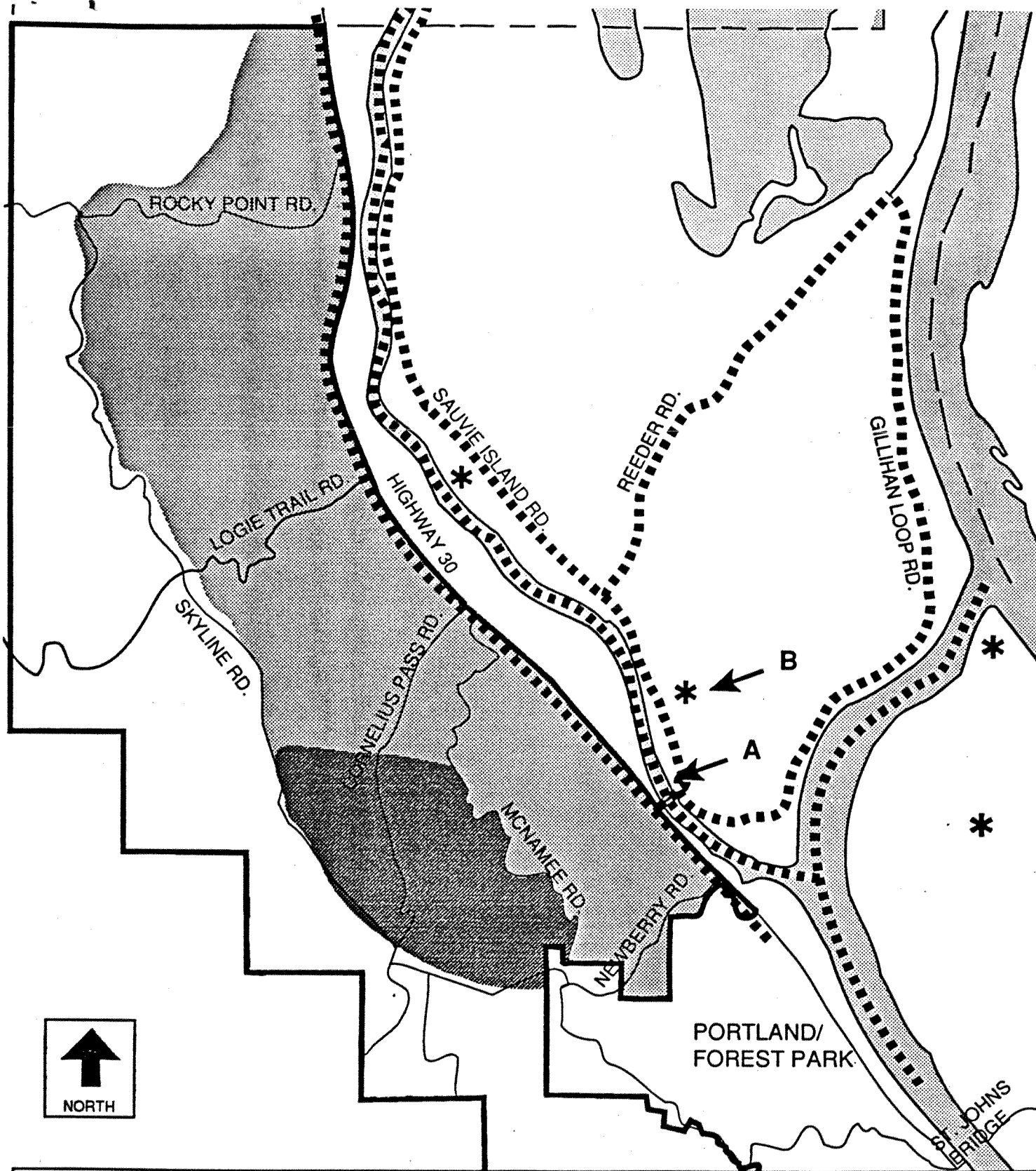
WEST HILLS SITE VISIT

On Friday, June 10, 1994 at approximately 2:00pm County Commission Chair Beverly Stein, Commissioner Tanya Collier, Planning Commission members Leonard Yoon, Laurie Craghead, John Ingle and Karin Hunt, Board assistants Sharon Timko, Katherine Burke and Stuart Farmer, Engineering staff member Don Newell (who was responsible for video taping the trip), and Planning staff member Bob Hall (who conducted the tour) made the following visit of a portion of the West Hills (stops indicated refer to attached maps):

- The group, with the exception of Yoon and Hunt, assembled at the Portland Building, travelled downtown streets to US Highway 30, and north on that highway to the Sauvie Island Bridge. Crossed the bridge and met Yoon and Hunt at the parking area near the bridge (stop A).
- At the turnaround the group observed the Angell Brothers aggregate site, and the scenic, stream and wildlife resource areas were described and pointed out (stop A).
- Travelled north on Sauvie Island Road to the Bybee/Howell House where it again observed the scenic, wildlife and Angell Brothers resource sites (stop B).
- Travelled south on Sauvie Island Road, crossed the Sauvie Island Bridge, and north on US 30, and entered the Angell Brothers site.
- Skip Anderson of Angell Brothers met and led the group in a separate vehicle for the remainder of the trip. The only contact Anderson had with the group was with Hall and Timko who twice asked that he lead the group to viewpoints requested by other members of the group.
- Travelled westerly along the pit floor to the point where Middle Angell Brothers Creek enters the pit floor (stop C).
- Drove to the upper portion of the operation where active mining was occurring (stop D).
- Stopped on the way down from the upper area to observe the Rafton/Burlington Bottoms, Sauvie Island, and the location of North Angell Brothers Creek (stop E).
- Left the mine site and travelled north along US 30 to McNamee Road, and southerly along McNamee Road to an access road into the southerly portion of the Angell Brothers site. A secondary wildlife habitat area was observed along McNamee Road.
- Entered the site and travelled along a logging road to a point approximately mid center of the south one-half of the site. Along the way observed a residence to the east of the site (stop F).
- Observed the basin of South Angell Brothers Creek, the primary wildlife habitat area, and viewable portions of Angell Brothers site.
- Returned north along McNamee Road and south along US 30 and observed the point where North Angell Brothers Creek passes under US 30 (stop G).
- Pointed out where South Angell Brothers Creek passes under US 30 (no stop made).
- Dropped off Yoon and Hunt at the Sauvie Island turnaround and returned to Portland Building at approximately 4:40pm via US 30 and downtown streets.
- A video was made of all stops during the visit.
- With the exception of pointing out the secondary wildlife habitat area along McNamee Road, the residence to the east of the Angell Brothers site, and the point where South Angell Brothers Creek passes under US 30, there was no discussion regarding particulars of the visit except at the above identified stops.

RESPONDENT'S
EXHIBIT

8
C1-94



WEST HILLS SCENIC RESOURCES STUDY AREA



STUDY AREA



AREA REMOVED FROM STUDY



KEY VIEWING AREA



KEY VIEWING CORRIDOR



20

Angell Brothers Site

US Highway 30

Multnomah Channel

G

E

D

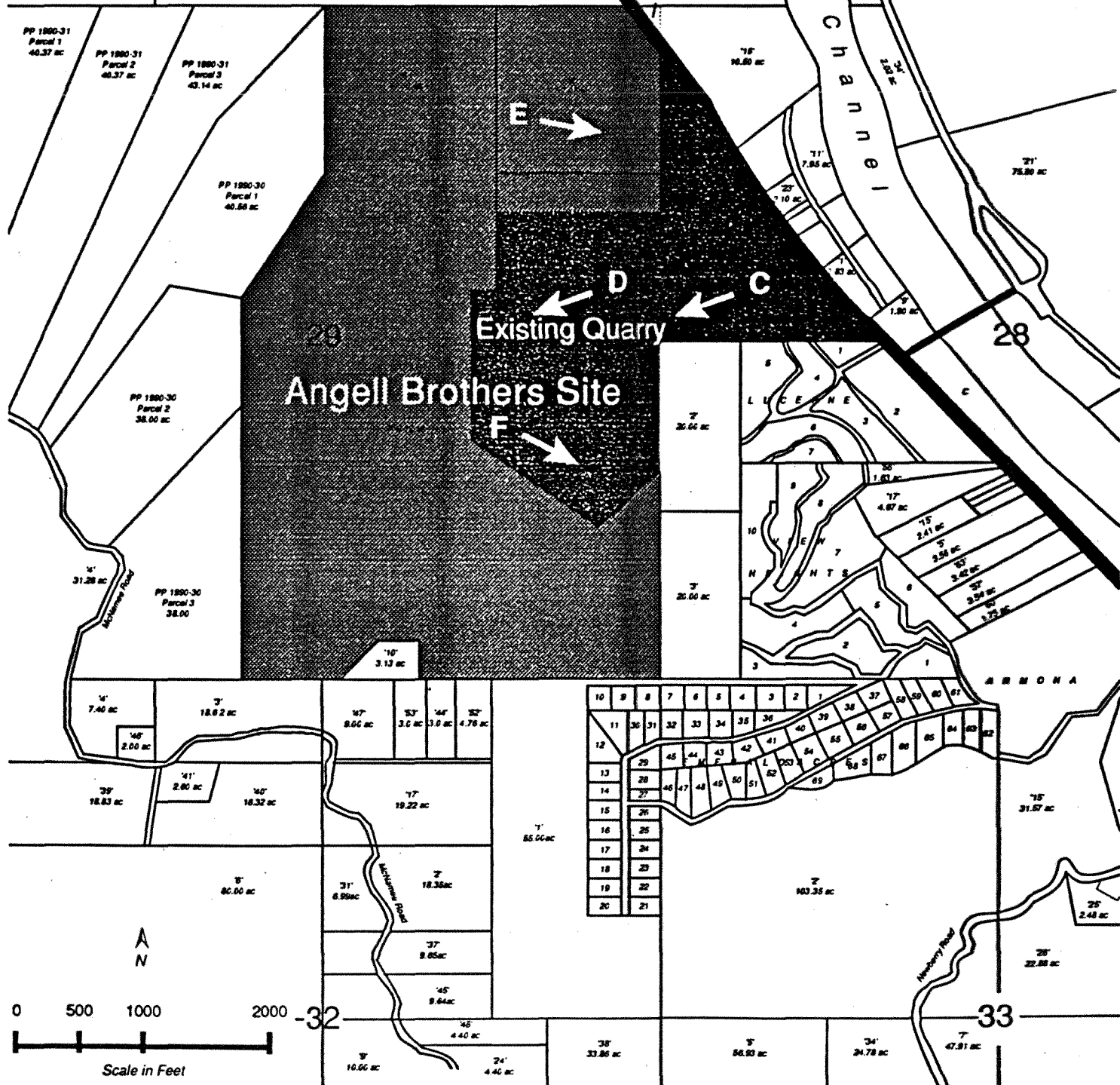
C

Existing Quarry

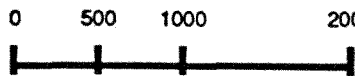
Angell Brothers Site

F

28



N



Scale in Feet

32

33

6/13/94



DEPARTMENT OF
FISH AND
WILDLIFE

HABITAT
CONSERVATION
DIVISION

May 19, 1994

Scott Pemble, Planning Director
Multnomah County Department of
Environmental Services
2115 S.W. Morrison Street
Portland, OR 97214

Subject: Additional comments on Multnomah County's significant Streams
Study for the McNamee-Harborborn Area--North and Middle Angell
Brothers Creeks

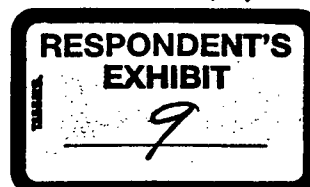
Dear Mr. Pemble:

The following comments are based on the May 4, 1994 site visit attended by Jay Massey (ODFW Lower Willamette Fish District Biologist), Gail McEwen (ODFW Land Use coordinator), Steve Oulman and Mel Lucas (DLCD), Rich Shepherd (Applied Ecosystems Services), Gordon Howard (Multnomah County), and Skip Anderson (Angell Brothers).

The County has designated North Angell Brothers Creek as "significant" per three of the study criteria; Recreation, Public Safety, and natural Area Value. Middle Angell Brothers Creek was designated "significant" under the Recreation and Natural Area Value Criteria. The Department of Fish and Wildlife recommends the County reconsider the determination of "significance" for both the North and Middle Angell Brothers Creeks.

Recreation

Per Strategy B of Multnomah County Policy 16-G: A water resource is "significant" if the resource contributes water to a park or recreation facility, and diversion or degradation of the resource would significantly diminish the recreational value of the resource.



2501 SW First Avenue
PO Box 59
Portland, OR 97207
(503) 229-6967

Scott Pemble
May 19, 1994
Page Three

Riparian vegetation clearly maintains water quality for fish by shading streams and thus reducing water temperatures, and by contributing to woody debris which improves fish habitat. However, neither North nor Middle Angell Brothers Creek is fish-bearing. Per the County planning department staff, Strategy D (4) relates only to the value of riparian vegetation for maintaining potable water quality. The Department recommends the County re-evaluate the criteria as it relates to potable water. Neither stream is within a watershed management unit or a ground water recharge for municipal water system.

Natural Area Value

Per Strategy E of Multnomah County Policy 16-G: A water resource or wetland area that scores between 35-44 points on the "Wildlife Habitat Assessment" (WHA) rating form may be determined "significant" if it provides an essential connection between or demonstrably enhances higher rated adjacent resource areas.

Both North and Middle Angell Brothers Creeks were designated "significant" on this basis in the Significance Matrix for the McNamee Harborton subarea. Although not specifically identified in the Significant Streams Study, County staff indicated the two "higher rated adjacent resource areas" are the West Hills Wildlife Habitat Area and Burlington Bottoms.

Highway 30 and the two railroad grades separate the West Hills Wildlife Habitat Area from Burlington Bottoms. Although the highway and railroad grades do not form a complete barrier to wildlife passage, they are significant impediments. In addition, Middle Angell Brothers Creek flows through the Angell Brothers quarry. The quarry headwall is an additional barrier to wildlife passage. For this reason, the Department does not believe the North and Middle Angell Brothers Creeks form an "essential connection between" or "demonstrably enhance" the adjacent West Hills Wildlife Habitat Area and Burlington Bottoms.

Conclusion

The Department of Fish and Wildlife does not believe the North and Middle Angell Brothers Creeks warrant a determination of "significant" based on the comments herein. We recommend the County reconsider the determination of "significance" for both streams.

Scott Pemble
May 19, 1994
Page Two

North Angell Brothers Creek was designated "significant" on the basis of its contribution to Burlington Bottoms. Participants in the May 4 site visit walked a segment of North Angell Brothers Creek from a culvert drain about 100 feet west of the BPA transmission line to the concrete culvert on the east side of the lower railroad grade, which drains into Burlington Bottoms. They saw no clearly defined creek channel.

Although water could be heard in the culvert drain west of the BPA transmission line, there was no surface flow into the culvert. Participants walked down the east facet of the hillside to the culvert outlet above the upper railroad grade. Water was flowing out of the culvert at this point. However, the absence of surface flow at the culvert drain indicated that much of the water flowing from the culvert outlet comes from subsurface flow. Lateral drains under the BPA power line road fill are one possible source for this subsurface flow.

The culvert in the hillside above the upper railroad grade drained into another culvert below the upper railroad grade. From that point, water flowed through the culvert under Highway 30 and the lower railroad grade. The outlet of the culvert was a ditch that drained into Burlington Bottoms. The current of the water at the outlet of the culvert was negligible.

The Department clearly has an interest in the conservation of Burlington Bottoms, since it was purchased by Bonneville Power Administration for wildlife mitigation and is managed by the Department. However, based on the May 4 site visit, we could not conclude that North Angell Brothers Creek warrants a "significant" designation due to its contribution of water Burlington Bottoms.

Public Safety

Per Strategy D(4) of Multnomah County Policy 16-G: "The riparian or watershed vegetation associated with a water resource shall be considered part of the water resource area if that vegetation substantially contributes to the protection of water quality by reducing sedimentation and erosion, removing nutrients, or lowering water temperature/increasing BOD."

Both North and Middle Angell Brothers Creeks were designated "significant" under this criteria. North Angell Brothers Creek riparian corridor benefits are described as: "There exists sufficient canopy cover and woody debris in stream to improve water quality." Middle Angell Brothers Creek benefits were stated as: "Riparian vegetation remaining from clear cut is sufficient to improve water quality."

Scott Pemble
May 19, 1994
Page Four

Thank you for the opportunity to make additional comments on the Significant Streams Study for the McNamee--Harborton Area following our participation in the site visit. If you have any questions, please contact me or Gail McEwen.

Sincerely,

for Stephanie Burdfield

Jill Zarnowitz
Assistant Director
Habitat Conservation Division

cc: (by fax)

Frank Peresie
Skip Anderson
Dick Angstrom

RECEIVED
MAY 21 1994

Multnomah County
Zoning Division

Oregon

March 31, 1994

DEPARTMENT OF
GEOLOGY AND
MINERAL
INDUSTRIESMINED LAND
RECLAMATIONSkip Anderson
Angell Bros. Inc.
PO Box 03449
Portland, OR 97203

RE: ID No. 26-0019

Dear Skip,

Based on the February 3, 1994 agency meeting at your quarry, the DOGAMI permit conditions have been slightly revised and are listed below. These conditions are specific to all post 1972 areas and then to all areas outside of the 1990 disturbance boundary. Permit conditions 1.a. through 1.g. apply to the 42 acre expansion area approved by Multnomah County in 1990.

Since you have begun to quarry in the 42 acre expansion area, compliance with these conditions is needed at this time. Some of these permit conditions require submission of detailed information regarding slope stability, overburden placement, and reclamation of the stream drainages. Since the field season is almost upon us, you should plan to accomplish this in the near future. After a final decision is made by Multnomah County on your pending application for expansion, you will know the scope of the field work necessary to maintain compliance with the DOGAMI permit.

Within the next 30 days, please submit a time schedule for completion so that we can agree on a reasonable time frame.

1. The following conditions apply to all areas outside of the 1990 disturbance boundaries:
 - a. Prior to mining, a geotechnical landslide potential investigation by a professional engineering geologist of the entire site must be conducted. This geotechnical report will be consulted periodically during the life of the mine to ensure that sedimentation plans, safety considerations, bench height, overall slope, and mine sequencing can properly accommodate any perceived risk as the mining operation proceeds. Supplements to the geotechnical investigation may be required during mining as the situation warrants.
 - b. Prior to mining, longitudinal and cross-sectional profiles of each stream drainage to be impacted are required. Pre- and post-mining profiles must be submitted to insure that channel carrying capacity and sinuosity are maintained. The design must also include energy dissipation structures, construction of sediment ponds, silt basins and other structures designed to isolate the disturbed areas from the drainages plus a plan to re-establish riparian vegetation.

RESPONDENT'S
EXHIBIT10
C1-94

- c. Prior to mining in each expansion stage, a materials balance calculation must be done using drilling data to estimate volumes of soil and overburden to be relocated. A plan addressing how these materials will be handled and stored must be submitted, including amounts to be placed on mined out benches, in permanent and temporary stockpiles or sold. A map showing the location of storage areas must be submitted.
- d. Prior to mining in each expansion stage, benching schematics must be submitted for approval. Benching schematics must describe overall height and width of benches constructed for mining and reclamation. For final reclaimed surfaces or benches a summary of the amount of scree slopes, backfill areas, and exposed highwalls is needed. It is recognized that field conditions or other factors may require modification to the submitted plan.
- e. The maximum cut slope angle for the silt overburden that would be stable during life of mine must be determined by a qualified professional and then implemented as site expansion occurs.
- f. All new soil stockpiles and spoil dumps created after January 1, 1994 must receive written approval, prior to construction, from DOGAMI. Generally, fill slopes steeper than 2:1 are not approved without a stability analysis. Required information to be submitted to obtain approval includes: a description of pre-mined topography; method of removal for vegetation and unconsolidated soils; construction of shear key, or other technique to construct a stable toe; the method of placement and compaction; the height of lifts; the final height and slope. Small soil stockpiles may be approved with less information, but they must be stable.
- g. A buffer strip of approximately 600 feet along the south boundary of stage 4 and the southern and western boundary of stage 3 shall be established by mutual agreement between the permittee and ODFW.

2. The following conditions apply to all areas outside of the 1972 boundary:

- a. Maximum cut slope angle for any slopes left in the silt overburden after mining is 2:1.
- b. Minimum property line setback for rock extraction shall be 200 feet or greater as indicated by findings of the landslide geotechnical report.
- c. Soil and overburden movement for the placement on benches or in stockpiles is restricted to the dry season of each year. Removal for off site use may occur at anytime, providing all necessary measures are taken to protect water quality.
- d. Annually, prior to November 1st, all bare areas where soil or overburden is exposed shall be mulched and seeded. This requirement does not pertain to stockpiles of processed material.

Skip Anderson
Angell Brothers
March 31, 1994
Page 3 of 3

- e. No activity shall be allowed in the drainage channels after October 1st of each year. Annually, all activity shall be isolated from the drainage channels by a one hundred foot buffer while they are active. No turbid water shall be allowed off site. The intermittent stream channels shall be isolated from all storm water ponds and sediment traps.
 - f. For any drainage that will not be mined through, the minimum undisturbed buffer strip shall be 100 feet.
 - g. If the situation occurs where ground water de-watering is necessary to continue mining, the DOGAMI Operating Permit must be modified by submission of an amended application to allow de-watering of the excavation.
3. As described in the plan prepared by Applied Ecosystem Services, test plots will be implemented if expansion occurs outside of 1990 Multnomah County CUP boundary. The test plots, including the statistical design, type of treatments, and objectives, must receive prior approval from DOGAMI.

I spoke to Paul Keiran, DEQ, regarding some recent water quality sampling results of your storm water runoff. The recent data suggests that the improvements made in your storm water control system have significantly improved the water quality of your runoff, particularly the berm construction which isolated your upper storm water pond from the creek. As more subdrains and dry wells are constructed along the northwest highwall after stockpile removal, as we discussed during our last site visit, I expect to see additional improvements in the system.

Now that I have completed field measurements of your highwalls, I will soon be forwarding a new reclamation bond estimate and a request for a bond increase. Thank you for your cooperation.

Sincerely,



E. Frank Schnitzer
Reclamationist
Mined Land Reclamation

- c: Steve Oulman - DLCD
Bob Hall - Multnomah Co
Gail McEwen - ODFW Portland
John Beaulieu - DOGAMI
Gary Lynch - DOGAMI
Paul Keiran - DEQ NW Region

PORTLAND PARKS AND RECREATION



1120 SW FIFTH AVE, SUITE 1302, PORTLAND, OREGON 97204-1933

TELEPHONE (503) 823-2223

FACSIMILE (503) 823-5297



CHARLIE HALES, COMMISSIONER

CHARLES JORDAN, DIRECTOR

June 13, 1994

Multnomah County Board of Commissioners
1120 S.W. 5th Avenue
Portland, Oregon 97204

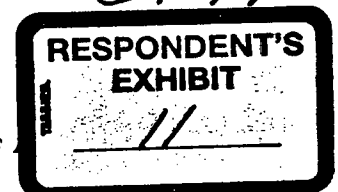
Dear Commissioner:

As much as time has allowed, I have reviewed the *West Hills Reconciliation Report* dated May 23, 1994. Based on my review and on my interest in the protection of Goal 5 resources important to Forest Park and to other Portland parks, I submit the following observations and recommendations.

First, the scenic resource inventory and evaluation work is much improved. Hopefully, the result will be fair consideration of these important resources as they will be given some weight during land use decision making.

Second, for purposes of determination of significance, the stream resource inventory information is adequate in its identification of streams in the West Hills running through Forest Park.

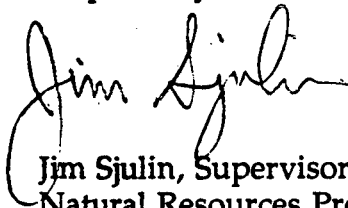
Worth reconsidering, however, is the ESEE analysis. While the matrix correctly states that there are numerous impacts from existing and potential conflicting uses, the ESEE conclusions and summary appear to consistently favor economic over environmental consequences. For example, when consequences of protecting the environment are stated they may be accompanied by a reminder that the impacts are "transferred to another site" (four times on pages 40-41, Chapter III). However, when there is an economic consequence such as loss of property value or loss of a job, there is no mention of the possibility of increased property value at other sites, or jobs created elsewhere if use of the site is limited. Also questionable in the ESEE summary is the statement that there is a "reduced availability of amenities" if residential use is not allowed or limited. The only place where that statement may be true is on the parcel so regulated. The remainder of the watershed and downstream areas would enjoy enhanced amenities. I suggest that ESEE analysis be done on a more consistent basis and that a more global view be considered before such conclusive statements are made. Policy made from statements having such a constrained viewpoint may not be in the best interest of all.



Having said that, I cannot predict how the result of a revised ESEE analysis would play out in terms of recommended policy. However, I would suggest that you may be more inclined to consider some meaningful regulation of residential use, and regulation of agriculture, and you may be less distracted by assertions of "transferring environmental impacts", "reduced property value", "reduced availability of amenities", and "regulatory burden".

The City is having some success with a more broadly applied environmental zone. The e-zone places the responsibility of resource protection with all property in the watershed and with all property in significant wildlife habitat areas. I believe that this approach is both more fair and more effective in the long run. Please consider it as opposed to a narrow band along streams which may ultimately fail.

Respectfully,

A handwritten signature in cursive script, appearing to read "Jim Sjulín".

Jim Sjulín, Supervisor
Natural Resources Program
Portland Parks and Recreation



METRO

June 13, 1994

Multnomah County Board of
Commissioners
1120 S.W. Fifth Avenue
Portland, Oregon 97204

Multnomah County
Planning Commission

Re: "West Hills Reconciliation Report", May 23, 1994.

Dear Commissioners:

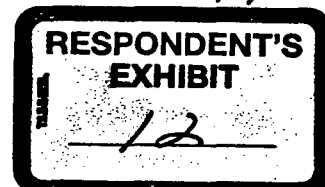
We are writing on behalf of the Metro Regional Parks and Greenspaces Department. We appreciate this opportunity to share our thoughts and concerns regarding the "West Hills Reconciliation Report".

Comments:

I. Stream Resources

Chapter III, Stream Resources, B., 1., Introduction, Pg. III-9 states that the "significant streams analysis does not directly address associated wetlands or the watershed outside the riparian zone." We believe that this Chapter is seriously flawed for not identifying Burlington Bottom wetland, a significant Goal 5 resource, as part of the inventory of significant streams resources. Multnomah County Comprehensive Plan ranks Burlington Bottom the 3rd highest for wildlife habitat of all Goal 5 wetlands. Burlington Bottom is a 428 acre wildlife mitigation site owned by Bonneville Power Administration and provides habitat for rare, threatened and endangered species. Burlington Bottom should have been considered as a Goal 5 resource of equal weight as the other goal 5 resources in the West Hills Goal 5 review process. Underscoring this point is the fact that LCDC's position in court has been that all Goal 5 resources in the impact area have to be considered together in the analysis. The entire decision making process has been skewed and a vital element omitted by not considering the economic, social, environmental and energy (ESEE) consequences for Burlington Bottom in the Stream Resources ESEE analysis.

At the very least, Burlington Bottom should have been considered as part of the resource of North Angell Brothers Creek due to its downstream hydrological



connection with the creek.

Chapter III, Stream Resources, B. 3., Impact Areas, Pg. III-10 states that the impact area for streams includes downstream public parks or recreational facilities. Potential impacts to Burlington Bottom are discussed but the County's statement that these impacts could be avoided by the owner's voluntary compliance with DOGAMI and DEQ standards is a totally unsatisfactory plan for protection. **The only responsible protection program for Burlington Bottom is to prohibit mining activities in the watershed that drains into it.**

A serious omission was made not to include Multnomah Channel as a publicly used recreational resource in the impact area for Stream Resources.

We agree with your findings for those streams in the West Hills Rural Area that are designated significant. However, with respect to the North Angell Brothers Creek we believe your declaration of significance is inconsistent and understated. We disagree with the County's statement in Chapter VI Reconciliation, B., 7., Mining, Pg. VI-15 and 16, that the significance of North Angell Brothers Creek is minor compared with the other streams on the West Hills. This reasoning is apparently the basis for not protecting its lower segment in the area of the proposed quarry expansion. This reasoning is faulty. The lower reach has inherent wildlife habitat value and acts as a connection between two areas that the County has recognized as significant, e.g. the upper reach of North Angell Brothers Creek and the downstream wetlands of Burlington Bottoms.

The statement in Chapter VI, Reconciliation, b., 7., Mining, Pg. VI-16 that "the contribution of water from the North Angell Brothers Creek to Burlington Bottom has been found to be minor compared to other water sources such as Multnomah Channel" does not take into account that inflow from Multnomah Channel may be temporarily interrupted during low flow summer months. Decreased inflow from Multnomah Channel would put more importance on the perennial flows from the North Angell Brothers Creek.

Compromising any part of the North Angell Brothers Creek means to compromise all of its parts, especially the downstream segments and receiving waters. The entire length of the North Angell Brothers Creek and those associated wetlands, i.e. Burlington Bottom, warrant the same protection allowed the other designated significant streams.

Furthermore, no stream flowing into Burlington Bottom should be compromised by conflicting uses. We strongly disagree with the County's conclusion in Chapter VI, Reconciliation, B., 7, Mining, Pg. VI-16 that "Expansion of the Angell Brothers quarry site into the watershed of the significant North Angell Brothers" stream should be allowed". Absolutely no quarry activities should be allowed in the watershed of the

North Angell Brothers Creek.

A Portland hydrologist, Jon Rhodes, provided testimony (September 1992) in response to the proposed Angell Brothers quarry expansion that outlined the likely impacts on the North Angell Brothers Creek and its downstream environs. Mr. Rhodes asserted that the proposed expansion would "increase streamflow, erosion, and downstream sedimentation" and that these increases would "probably be extremely significant." Burlington Bottom, miscellaneous wetlands and Multnomah Channel would be subject to the impacts noted above.

In an effort to quantify the increases, Mr. Rhodes estimated that annual erosion and sediment delivery in the North Angell Brothers Creek would rise by 950% or approximately 430 tons/year while average annual streamflow would increase by 130%. The implications of accelerated sedimentation include a loss of Burlington Bottom's open water areas and a reduction in the site's ability to store water.

Mr. Rhodes' study assumed full expansion, and the current proposal by the County is for expansion in the approximate lower half of the proposed expansion area. Absent another study, one can reasonably assume that the estimates for sediment and streamflow would be reduced by about half, which are still of a magnitude to cause severe and irreparable impact (pers. comm. Jon Rhodes 6/9/94). Mr. Rhodes also stated that any quarrying activity would carry a significant amount of risk to the longevity and ecological health of Burlington Bottom.

The potential impacts from the proposed quarry expansion are counter to the purpose for which Burlington Bottom was acquired. Currently, BPA is finalizing a management plan for Burlington Bottom that is the culmination of a two year cooperative effort with the Oregon Department of Fish and Wildlife, The Nature Conservancy and Metro Parks and Greenspaces Department (previously Multnomah County Parks). Objectives include the enhancement of wetland areas for the benefit of wildlife and provision of opportunities for wildlife observation and education.

In several locations throughout the West Hill Reconciliation Report the County states that "water quality and quantity flowing into Burlington Bottoms should be maintained by the quarry operator pursuant to standards set by the Oregon Department of Environmental Quality". This statement violates Statewide Planning Goal 6 to maintain and improve the quality of the air, water and land resources of the state. Goal 6 requires that all wastes and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality statutes, rules and standards. As the above mentioned study of the quarry expansion determined that increased streamflow, erosion and downstream sedimentation would probably be extremely significant. Quite simply, allowing quarry expansion within any part of the streams feeding Burlington Bottoms will cause an unacceptable impact. Furthermore,

requiring the operator to maintain water quality and quantity flowing into Burlington Bottoms pursuant to DEQ standards is an irrelevant requirement. The County's solution of maintaining water quality and quantity is not to allow quarry activities in the watershed(s) that feeds Burlington Bottom.

Full protection (3A) of significant streams in our view, would require prohibition of all conflicting uses throughout the entire watersheds of the significant streams. We concede that this course of action is unrealistic. However, we strongly believe that the proposed conclusions and protection strategies fall short of what is required to achieve even limited protection of the stream resources:

The following comments are in response to the conclusions drawn in Chapter VI, Reconciliation, B. Conflict Resolution, Pgs. VI-5 through VI-17. In addition to our recommendation that no quarry activities be allowed in the watershed of the North Angell Brothers Creek and Burlington Bottom, we also recommend the following measures to fully protect significant stream values throughout the West Hills Rural Area:

Forestry Uses - Although the Forest Practices Act (FPA) has been updated and improved, there is still considerable room for further improvement, particularly in the area of stream protection. Protection standards on federal lands have recently been amended and strengthened in response to considerable evidence regarding the negative impacts of timber harvest and road construction on Class I streams and their tributaries. By assuming that the FPA protects these significant streams, the County is shirking its responsibility to the Goal 5 resources and missing an opportunity to help shape timber harvest guidelines by participating in the process.

It is recommended that the County advise the State Forestry Department of its determinations relative to this and other "resource reconciliation" efforts and recommend the implementation of appropriate protection measures. Additionally, it would be advantageous to assign County Staff to monitor and participate in various issues and processes initiated by the Board of Forestry which impact timber harvest activities adjacent to Class I streams and their tributaries.

Residential Uses - It is recommended that residential uses be prohibited within 100 feet of significant streams, 50 feet of their tributaries, and all riparian vegetation protected except for hazard trees. It is further recommended that access drives in the riparian zone be avoided whenever practical and in the event crossing a significant stream cannot be avoided, a bridge or arch culvert should be required and installed in a manner that is approved by the Oregon Department of Fish and Wildlife.

Soil disturbing activities should be restricted to typically dry months, erosion

prevention measures should be required for all soil distributing activities and revegetation required prior to the rainy season.

Agricultural Uses - We strongly disagree with the report's reasoning for concluding that the County should not regulate agricultural activities. It is widely accepted that agricultural activities have and continue to be a major factor in the degradation and destruction of riparian habitat, decline in wildlife diversity, degradation of water quality, destruction of fish resources and introduction and spread of exotic plant species and, in some cases, disease.

You have the authority and ability to begin a process of restoration. We urge you to use it.

At a minimum, it is recommended that livestock and crop cultivation be prohibited within 100 feet of significant streams and 50 feet of their tributaries. Where streams have been degraded, landowners should be required to repair the damage they've done. Roads associated with agricultural activities should be treated per 'Residential Uses' above.

It is further recommended that the County limit its annual appropriation to the West County Soil and Water Conservation District to restoration activities on streams and wetlands which have been degraded by agricultural activities. These funds should be earmarked to assist landowners with restoration effort

Community Service and Conditional Uses - It is recommended that these uses be prohibited within 100 feet of significant streams and 50 feet of their tributaries. Access roads, riparian vegetation and soil disturbing should be restricted as noted above in 'Residential Uses'.

Mining - (Not applicable for watersheds for North Angell Brothers Creek and Burlington Bottom)

It is recommended that mining activity be prohibited within 200 feet of a significant stream and that all riparian vegetation be protected except for hazard trees. It is further recommended that:

No mining be permitted within 100 feet of any tributary to a significant stream and that all riparian vegetation be protected except for hazard trees.

- Roads associated with aggregate mining be treated per 'Residential Uses' above and strictly limited to one (1) crossing.
- That the mine operator be required to complete fish, wildlife and water

quality inventories prior to an expansion of mining activity.

- That a mining and reclamation plan require specific approval of the Oregon Department of Fish and Wildlife and DEQ in addition to DOGAMI.
- That the mine operator be required to test water quality downstream of the mine at a frequency which is adequate to capture the full range flows expected in the significant streams.
- That exposed earth never exceed two (2) acres at any time.

II. Wildlife Habitat

We agree with the conclusion in Chapter VI, Reconciliation, B., 7. Mining, Pg. VI-16 that quarry expansion should not be allowed inside of a continuous one-half mile wide primary forested habitat area located between the quarry on the northeast and the identified secondary habitat areas along McNamee Road to the southwest. Furthermore we agree with the analysis that indicates that the minimum half mile wide protection area be maintained as undisturbed forested habitat.

We do not agree with the County's finding in Chapter VI, Reconciliation, B., 1. Forestry, Pg. VI-6, that the Forest Practices Act will adequately protect this resource for its recognized values as a wildlife corridor linking Forest Park with the Coast Range. We believe the county understated the impacts of logging on wildlife habitat as "temporary in nature". Logging practices typically allowed under the Forest Practices Act are more appropriately characterized as severe and long term on wildlife species dependent on a forested environment. We recommend that the County work with the State Department of Forestry and the State Forestry Board to devise more stringent protection measures for this valuable resource. Furthermore, we disagree with the statement that Forestry activities should not be prohibited from exception lands. The county should take all steps necessary to restrict forest activities on identified exception lands in the West Hills.

We do not support the County's assessment in Chapter VI, Reconciliation, B., 2., Agriculture, Pg. VI-7 that most primary wildlife habitat areas are protected from agricultural impacts simply because the soils in those areas are generally unsuitable for agricultural uses. Since the potential for agricultural activities in those poor soils areas is still a possibility and given that agricultural activities conflict with wildlife habitat values, the County should take all regulatory steps necessary to assure long term protection in "primary", "secondary" and "impacted" habitat areas in the West Hills area.

As discussed above in the Streams Resources section, residential uses should not be allowed within 100 feet of significant streams, or within 50 feet of their tributaries. This condition will help protect wildlife corridors which occur along the streams.

III. Scenic Views of the West Hills

Scenic and aesthetic values must be protected from all conflicting activities. The protection measures discussed above for stream resources and wildlife habitat would serve to protect the scenic resources from negative impacts associated with agricultural, residential, forestry, community service and conditional uses and mining.

In closing, the "Multnomah County Natural Areas Protection and Management Plan" adopted by the Board in June 1992 states:

"Although the Board of County Commissioners is mindful of concerns regarding the rights of property owners, it also recognizes the responsibility of all land owners to develop and manage property in a manner which is consistent with the conservation of 'publicly-owned' resources such as fish, wildlife, scenery, air and water."

We believe our recommendations represent the minimum actions required to protect the streams, wildlife and scenic resources that have been found to be significant. We appreciate your consideration of our comments and recommendations.

Again, thank you for the opportunity to share our views.

Sincerely,

Charles Ciecko
(gah)

Charles Ciecko
Director

Ralph Thomas Rogers
(gah)

Ralph Thomas Rogers
EPA Biologist

c.c.

Multnomah County Board of Commission:
Beverly Stein, Chair of the Board
Dan Saltzman, District 1
Gary Hansen, District 2
Tanya Collier, District 3
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Multnomah County Planning Commission:

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Jill Zarnowitz, Oregon Department of Fish and Wildlife

Neil Mullane, Oregon Department of Environmental Quality

Rena Cusma, Metro

Judy Wyers, Metro

Merrie Waylett, Metro

NEIL S. KAGAN
ATTORNEY AT LAW

1050 Yeon Building
522 S.W. Fifth Avenue
Portland, Oregon 97204

Telephone
(503) 223-4272
Fax
(503) 225-0811

June 13, 1994

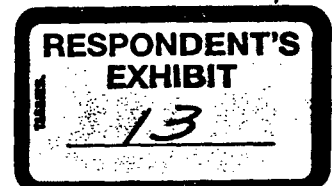
MEMORANDUM

TO: Multnomah County Board of Commissioners
Multnomah County Planning Commission

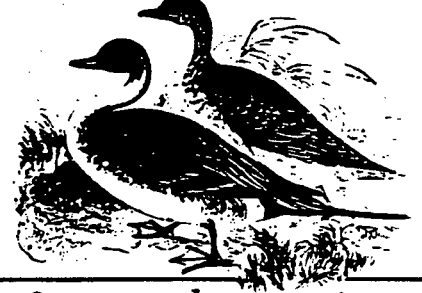
RE: West Hills

The Friends of Forest Park ask the Board and the Commission:

- to reject the planning department's recommendation that the Angell Bros. mineral and aggregate resource site be deemed significant and added to the Goal 5 inventory;
- to reject the planning department's recommendation that the northern portion of the Angell Bros. mineral and aggregate resource site be designated "3C";
- to protect wildlife habitat completely by prohibiting mining on the entire unused Angell Bros. mineral and aggregate resource site (by designating the mineral and aggregate resource site "3B" if it is deemed significant and added to the Goal 5 inventory);
- to protect the North Angell Brothers stream and the Burlington Bottoms wetlands completely by prohibiting mining within the watershed of the North Angell Brothers stream (by designating that portion of the mineral and aggregate resource site "3B" if it is deemed significant and added to the Goal 5 inventory); and
- to revise the West Hills Reconciliation Report to explain the reasons for making the foregoing decisions



SAUVIE ISLAND Conservancy



dedicated to the preservation of island rural life, wildlife & natural recreation areas

13 June 1994

Multnomah County Board of Commissioners
Multnomah County Planning Commission
1021 SW Fourth Ave.
Portland, OR 97204

To the Commissioners:

We agree with other testimony that the Planning Staff has done much good work in preparing the West Hills Reconciliation Report, and we commend the report for its protection of primary wildlife habitat.

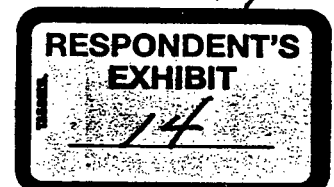
However, we have two major concerns with regard to RESOURCE PROTECTION -- for the Angell Brother Quarry and for Scenic Views.

ANGELL BROTHERS QUARRY

First I'd like to say that we were stunned to see -- after having been involved in the Quarry hearings two years ago, when both the Planning Commission and the Board of Commissioners overwhelmingly denied Angell Brothers any expansion -- to see that the Planning Department has recommended allowing Angell Brothers half of the expansion they wanted. And then to see that the suggested expansion site would enlarge the already garish gaping scar directly across from Sauvie Island.

Other testimony describes the devastating impact that such an expansion would have on Burlington Bottoms. We would like to add that any harm done to Burlington Bottoms harms the wildlife on Sauvie Island as well. Smith and Bybee Lakes, the Bottoms, and the Sauvie Island wildlife areas are all interconnected parts of the Pacific Flyway; they are interconnected habitat; they are interconnected pathways for waterfowl and other wildlife. The bald eagles, the peregrine falcons, the sandhill cranes are unaware of our political lines of demarcation and ownership. Denigrate Burlington Bottoms and the effect will be felt on the wildlife of Sauvie Island.

C1-94



SCENIC VIEWS

We feel that the Scenic Views Resource Protection Plan proposed by the staff offers essentially no protection at all of the resources.

1. NO PROTECTION FOR SCENIC CORRIDORS

There are approximately 52 miles of key viewing corridor identified on the map. Yet the report offers protection for views from only 5 tiny sites. Essentially, the resource is almost totally unprotected.

Compare that to the City of Portland Scenic Resources Protection Plan, in which all development and vegetation with a "scenic corridor" designation are subject to the same regulations as the key viewing sites. So, even if you describe a key viewing site as half a mile, it comes down to this: Portland's Protection Plan actually protects 100% of the scenic views, while this proposal protects less than 4%. By excluding the viewing corridors, it's no protection at all.

2. SOME KEY VIEWING CORRIDORS ARE TOTALLY EXCLUDED.

All of the highly scenic roads extending from Skyline Blvd to Route 30 have been excluded totally.★ We disagree with this designation and there's much public testimony on record regarding the significance of those scenic views.

3. BURLINGTON IS EXCLUDED FROM ANY PROTECTION.

The report states that Burlington should be exempted because it is already developed. We disagree. Burlington is "developed" only to a minimal degree. We believe that standards should be established in keeping with the existing development, and that any new development would have to meet these standards.

4. THE PROTECTION PROPOSED IS UNENFORCEABLE.

The protection proposed is in language that is imprecise, and therefore unenforceable. This verbiage was described to us as "the stuff that litigation is made of." There is no translation of these concepts into enforceable standards. Here's one example: It says "the exterior colors of structures should be natural or dark earthtone colors." How do you enforce that? How do you regulate painting? Do you make painting a house become a permitted activity?

So that what little concept of protection that is written here, is, again, no protection at all because it's not written in standards that are enforceable.

★ Unlike comparable roads on the Portland side of the USB.

In closing, we request that the proposed Angell Brothers Quarry expansion be denied, and that the entire Scenic Views Resources Protection Plan be rewritten:

- a) Protection should include all viewing corridors.
- b) All connecting roads between Skyline and Route 30 should be designated key viewing corridors.
- c) Standards should be established for development in Burlington.
- d) All protection must be written in language that describes standards that are enforceable.

The City of Portland's Scenic Resources Protection Plan is a good model. It adequately protects 100 percent of the designated scenic resource. This county plan inadequately protects less than 4 percent. The Board of County Commissioners voted unanimously to protect the scenic values of the West Hills. We ask you to recognize that this plan offers practically no protection at all.


Thank you.

Debra M. Arzoo
for
the Seaside Island Conservancy

6/13/94

CHRIS WREACH

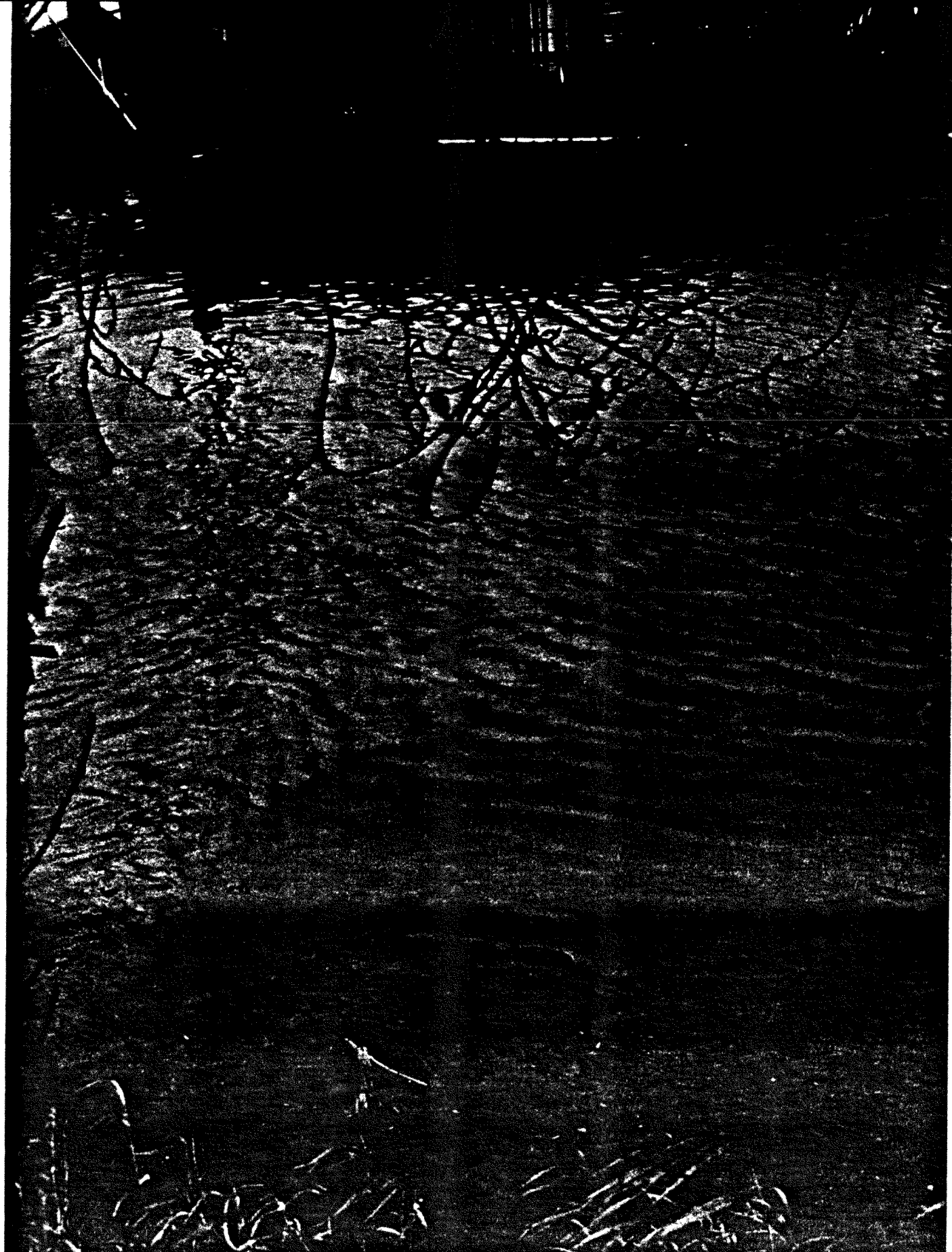
SUBMITTAL



February 1994. Quarry runoff in wetland, laden with sediments.
Quarry can be seen at top of photo



February 1994. Runoff laden with sediments from quarry moves through wetland



February 1994. Quarry runoff carries sediment plume into Multnomah Channel at Bridgeview Moorage. This violated Federal and State water quality standards.

Gray area in water is sediment plume.

3/94
Chris Whence
Submitted

DECLARATION OF

JON RHODES, M. Sc.

1 I. QUALIFICATIONS

2 1. My name is Jon Rhodes. I am a hydrologist with 11 years of experience.

3 2. I received a Bachelor of Science degree in hydrology and water resources in 1981 from
4 the University of Arizona. In 1985, I received a Master of Science degree in hydrogeology from the
5 University of Nevada-Reno. I received a degree for Candidacy for Doctor of Philosophy in forest
6 hydrology from the University of Washington in 1989. I have completed all requirements for my
7 doctorate except the dissertation, which is in progress.

8 3. For the past three years, I have been employed by the Columbia River Inter-Tribal Fish
9 Commission. In this capacity, I have examined silvicultural, agricultural, roadbuilding, mining, and
10 other activities that alter streamflow or water quality. I have developed monitoring programs to
11 measure changes in channel condition and water quality caused by various land uses, and evaluated
12 extant channel morphology and water quality data. I have also served as a technical adviser on water
13 quality monitoring as a member of several technical committees addressing nonpoint source issues in
14 the Columbia basin.

15 4. Prior to my current position, I worked on a wide variety of issues related to nonpoint
16 pollution for the University of Washington, the Tahoe Regional Planning Association, the U.S.
17 Geological Survey, and the University of Nevada-Reno. In addition, over the past few years, I have
18 also been employed as consulting hydrologist, by several groups and agencies, including Multnomah
19 County.

20 5. I have published several scientific papers in peer-reviewed science journals and have

1 co-authored numerous technical reports on my research findings. The subject of most of these papers
2 has been the effects of nonpoint sources on water quality.

3 6. For the past three years, my work has focused on analyzing the effects of current and
4 proposed uses of land and water on nonpoint sources of pollution, water quality, channel morphology,
5 and anadromous fish habitat. Much of my work has involved the development of measures to protect
6 existing stream conditions from further degradation and to restore forested watersheds and their
7 streams consistent with the regional efforts to rebuild the anadromous fish runs of the Columbia River
8 basin.

9 II. INFORMATION REVIEWED

10 7. I have reviewed the Conditional Use Application by the Angell Brothers, Inc. to
11 Multnomah Planning Commission, for expansion of the existing quarry (hereinafter: "Application").
12 I also reviewed the Oregon Department of Environmental Quality's (hereinafter: "ODEQ") General
13 Permit No. 1000 (hereinafter: "Permit No. 1000") which covers the disposal of waste water and storm
14 water runoff from gravel mining activities. I reviewed water quality standards for the Willamette basin
15 in Oregon Administrative Rule 340-41-445 (hereinafter: "OAR-340-41-445"). I inspected and
16 evaluated the area downstream and adjacent to the quarry, including the discharge site on July 18,
17 1992. I also reviewed other pertinent scientific literature. The list of this literature is too lengthy to
18 list here, so I have listed it separately and attached it to this declaration.

19 III. SUMMARY

20 8. The Application proposes the expansion of the Angell Brother's rock quarry by 283
21 acres. The purpose of my review of the Application has been to evaluate: 1) the effect of the
22 proposed expansion on downstream water quality, water quantity and downstream wetlands; 2) whether
23 water quality control measures proposed in the application are adequate to protect water quality and

1 the public interest; and, 3) whether the quarry expansion will cause violations of Permit No. 1000 or
2 OAR-340-41-445.

3 9. Based on my review of available information I have concluded the following:

4 a) Quarry expansion will increase streamflow, erosion, and downstream
5 sedimentation. The increases in annual erosion, downstream sedimentation, and
6 turbidity that will be caused by the quarry expansion will probably be extremely
7 significant.

8 b) It is unlikely that the proposed water quality control measures will adequately
9 protect water quality from deleterious increases in stream turbidity. It is highly
10 unlikely that a detention ponds can be constructed which would be capable of insuring
11 there is no downstream discharge of storm runoff from the quarry into the downstream
12 wetlands and the Multnomah Channel. The pond currently used to collect quarry
13 runoff is completely ineffective for preventing discharge of quarry runoff into the
14 Multnomah Channel.

15 c) Discharge from the quarry to the Multnomah Channel is already common
16 occurrence during storm periods because the wetland which receives quarry runoff has
17 been completely filled in by sediment from the existing quarry operations and the
18 sediment load from the stream passing through the quarry. This discharge violates
19 Permit No. 1000, because the permit requires that there be no direct discharge of
20 quarry runoff to the Multnomah Channel. Therefore, Permit No. 1000 is already
21 being violated on a regular basis.

22 d) Seepage from proposed and existing detention ponds will be negligible.
23 Precipitation inputs to the ponds exceed evaporation. Neither seepage nor evaporation

1 from detention ponds will be very effective in disposing, or reducing the amount, of
2 runoff from the quarry.

3 e) The frequency and magnitude of the discharges of quarry runoff to the Multnomah
4 Channel are likely to be increased by quarry expansion. This will worsen the
5 violations of Permit No. 1000. Coupled with expected increases in downstream
6 turbidity, quarry expansion will reduce downstream water quality and probably violate
7 water quality standards for turbidity in the Multnomah Channel.

8 f) Waste water discharge into one downstream wetland has already significantly
9 affected the wetland by filling it with sediment. Continued discharges coupled with
10 increased sedimentation that can be expected from quarry expansion will worsen this
11 impact.

12 g) Quarry expansion will also increase sedimentation of the Burlington Bottoms, a
13 highly significant wetland. Over time, this will accelerate the loss of the open water
14 character of this important wetland, counter to the public interest.

15 IV. DISCUSSION

16 A. Aquatic Resources and Beneficial Uses Affected

17 10. The area proposed for quarry expansion in the Application is drained by three
18 intermittent streams, named "Stream A," "Stream B," and "Stream C" in the Application (Exhibit B).
19 Stream B drains the southwestern part of the proposed expansion and flows into Multnomah Channel.
20 Stream A drains central part of the quarry property and flows into the Multnomah Channel after
21 passing through a wetland which has been filled in by runoff from the quarry. Stream C drains the
22 northeastern part of the property and flows into the "Burlington Bottoms" which has been recognized
23 as a significant wetland by Multnomah County.

1 11. The designated beneficial uses of the Multnomah Channel include anadromous fish
2 passage and the rearing and spawning of cold water salmonids (OAR-340-41-422). These beneficial
3 uses are adversely affected by increases in turbidity and sedimentation (Reiser and Bjornn, 1991).

4 12. The Oregon Department of Environmental Quality (hereinafter: "ODEQ") has made
5 the assessment that sedimentation in the Multnomah Channel is already moderately impairing the
6 beneficial use of the river by cold-water fish (1988 Oregon Statewide Assessment of Nonpoint Sources
7 of Water Pollution (hereinafter: ODEQ, 1989), such as steelhead and chinook salmon.

8 B. Probable Effect of the Quarry Expansion on Streamflows, Erosion, Turbidity,
9 Sedimentation and Downstream Wetlands

10 13. Standard methods from available scientific and technical literature were used to estimate
11 the likely magnitude of changes in runoff, erosion, sedimentation, and turbidity that are likely to be
12 caused by quarry expansion. While these methods are generally accepted as useful estimation tools,
13 they are not necessarily accurate forecasts of the actual magnitude of change in runoff and
14 sedimentation that will be caused by the quarry expansion. Therefore, the estimates presented here
15 are not given for any sort of engineering purposes because the accuracy of estimates is uncertain. The
16 estimates of changes in runoff and sedimentation are presented only as a reasonable indication of the
17 likely magnitude of changes caused by quarry expansion as predicted by conventional, and widely
18 used, estimation methods.

19 14. It is probable that quarry expansion will increase runoff within the watersheds draining
20 the quarry due to the removal of vegetation and soil and increases in compaction caused by heavy
21 machinery (Dunne and Leopold, 1978). Rainfall-runoff curves from U.S. Soil Conservation Service
22 National Engineering Handbook (1972) were used together with average monthly precipitation data for
23 Portland, and the area of quarry expansion to estimate average monthly streamflow for the three

1 streams draining the quarry. The results of this approach indicates that quarry expansion will increase
2 average annual streamflows over estimated natural flows by about 190% in Stream A, 150% in Stream
3 B, and 130% in Stream C. Increases in annual peak storm runoff in these streams is expected to be
4 increased by about the same magnitude. Although the estimation method is crude, a more
5 sophisticated approach is not warranted given a general dearth of hydrologic data from the area.

6 15. Quarry expansion will increase soil erosion by removing vegetation, increasing runoff,
7 and steepening slopes (Dunne and Leopold, 1978). Virtually all studies indicate that removal of
8 vegetation greatly increases erosion (Dunne and Leopold, 1978; USEPA, 1980). Activities such as
9 the proposed quarry expansion typically increase erosion by about 50 to 100 times encountered under
10 natural vegetative cover in the Pacific Northwest (Dunne and Leopold, 1978). Increases in erosion,
11 sedimentation, and turbidity that will be caused by quarry expansion were estimated by use of the
12 Modified Soil Loss Equation (USEPA, 1980). The amount of area that will be disturbed by quarry
13 expansion was determined for each of the three watersheds via maps of the expansion in the
14 Application (Exhibit B). It was also assumed that 50% of the expansion and existing quarry area had
15 received successful reclamation and erosion control; erosion control will be much higher absent this
16 level of successful reclamation and erosion control. Subject to these assumptions and the accuracy of
17 the method and available data, it appears that quarry operations will increase annual erosion and
18 sediment delivery to streams by about 2600% in Stream A, 1400% in Stream B, and 950% in Stream
19 C. These estimated increases in annual sediment delivery to streams correspond to increases of about
20 1100 tons/yr in Stream A, 250 tons/yr in Stream B, and 430 tons/yr in Stream C. These estimates
21 appear reasonable when compared to the results of studies of erosion increases caused by land use
22 similar to that anticipated under quarry expansion (Dunne and Leopold, 1978).

23 16. These estimates of likely increases in sediment delivery are probably conservative,

1 because the Modified Soil Loss equation does not account for gully and channel erosion or mass
2 failures. Gully and channel erosion are common and significant sources sediment in unvegetated areas
3 in the Pacific Northwest (Swanson et al, 1987). My field evaluation also indicated that gully erosion
4 is a significant source of erosion in unvegetated areas in the vicinity of the quarry operation.
5 Vegetation removal associated with quarry expansion will increase the probability mass failures
6 (Furniss et al., 1991). Channel erosion and expansion is a common consequence of increases in runoff
7 in small watersheds (Dunne and Leopold, 1978); increased runoff is expected with quarry expansion.
8 Mass failures greatly increase sediment delivery when they occur. Further, it was also assumed that
9 vegetation removal and quarry expansion does not increase the efficiency of the delivery of eroded
10 sediment to streams. Vegetation loss typically increases the efficiency of the delivery of eroded
11 sediment (USEPA, 1980). Therefore, it is probable that sediment delivery caused by quarry expansion
12 will exceed the estimates given above.

13 17. Within given a watershed, stream turbidity is generally proportional to suspended
14 sediment. Stream turbidity can be roughly estimated by assuming that increases in sediment delivery
15 proportionally increase both suspended sediment and stream turbidity. Therefore, quarry expansion
16 may increase stream turbidity by about 2600% in Stream A, 1400% in Stream B, and 950% in Stream
17 C.

18 18. Case studies provide some indication that the estimated increases in turbidity associated
19 with quarry expansion are reasonable. Andersen and Potts (1987) found that logging and road
20 construction in a small fraction of a forested watershed increased suspended sediment seven times the
21 background yield in the first year after the activity and at two times the background in the second year.
22 Since suspended sediment is correlated to turbidity within a given watershed, it is probable that
23 increases in turbidity were similar to those found in suspended sediment. It can be expected that

1 quarry operations will have a cause much greater increases in suspended sediment than that found by
2 Andersen and Potts (1987) because a quarry operations will disturb a much larger percentage of the
3 watersheds, the level of disturbance will be more intense, and rainfall is higher than in the area studied
4 by Andersen and Potts (1987). Fowler et al. (1987) documented that the construction of a single road
5 crossing increased turbidity by more than 50 times (5000%) relative to an upstream site. Again, the
6 quarry expansion and operation will have much greater effect on erosion and sediment delivery than
7 a single road. These case histories and the estimated increases in turbidity associated with quarry
8 expansion indicate that there is a high likelihood that the quarry expansion will violate state water
9 quality standards for turbidity, because Oregon's state water quality standards allow only a 10 percent
10 increase in turbidity over background (OAR-340-41-455).

11 19. Increased turbidity in the Multnomah Channel is not the only impact associated with
12 increased runoff and sediment transport that can be expected with quarry expansion. Increases in
13 sediment delivery will also increase the amount of sedimentation in downstream wetlands. Stream A
14 drains into a small, unnamed wetland adjacent to the Multnomah Channel which the Application (p.
15 11) describes as a "...diked settlement pond." Stream C drains into the Burlington Bottoms which has
16 been recognized as a significant wetland by Multnomah County. The Application (p. 11) notes that
17 quarry runoff is currently piped into the "settlement pond."

18 20. During my field evaluation of the "pond" it was clear that the "pond" is actually
19 wetland because it had very strong indications of wetland hydrology, including hydric soils and
20 vegetation. My inspection also indicated that sedimentation in this wetland has already been
21 significant. Inspection of sediment accumulation between layers of leaves dropped annually by
22 endemic trees indicate that about one inch of sediment accumulates annually in the wetland. Given
23 the size of the wetland, this deposition is roughly equivalent to about 280 cubic yards/yr. If it is very

1 conservatively assumed that only about 50% of this annual sediment deposition is due to quarry
2 operation, the existing quarry operation is filling the wetland at a rate of about 0.5 inches/yr or 140
3 cubic yards/year. In contrast, it is estimated that the natural rate of sediment deposition in the wetland
4 was on the order of about 0.1 inch/yr. Plainly, this accelerated sedimentation of the wetland has
5 already greatly changed its character and altered the historic ability of this wetland to store water.
6 Estimated increases in sediment delivery associated with quarry expansion indicate that this rate of
7 sediment deposition and wetland filling will more than double the rate of sedimentation currently
8 observed in the wetland.

9 21. Quarry expansion will also accelerate the deposition of sediment in the Burlington
10 Bottoms. Based on increases in estimated sediment delivery, the rate of sedimentation in the
11 Burlington Bottoms will be increased by about 950%. If it is conservatively assumed that only 50%
12 of the annual sediment delivery to Stream C estimated under quarry expansion reaches the Bottoms,
13 the expansion can still be expected to cause an additional 170 cubic yards of sediment to be deposited
14 in the Bottoms annually. This will greatly accelerate the sedimentation of the wetland, which will
15 result in a much more rapid loss of the wetland's open water character over time. It will also reduce
16 the Burlington Bottoms ability to store surface water.

17 22. The estimates given above indicate that the quarry expansion is likely to significantly
18 increase runoff, erosion and sediment delivery. Case studies from scientific literature also indicate that
19 the expansion will have these same effects. The estimated impacts and field evaluation indicate that
20 the quarry expansion will accelerate the filling of downstream wetlands. The Application does not
21 adequately address these effects of quarry expansion, nor does it consider the consequences of these
22 effects. Full analysis of these effects and their consequences needs to be made before any reasonable
23 decision on the Application can be made.

1 C. Water Quality Control Measures Are Unlikely To Be Effective

2 23. The Application (p. 11) states water quality will be protected by compliance with
3 Permit No. 1000 which requires that no turbid runoff from the quarry operations can be discharged
4 into public waters. The Application (p. 11) proposes that it will comply with the permit by expanding
5 existing detention/settling ponds and then piping water into the small wetland below Stream A. The
6 Application (p. 11) notes that it is intended that water percolate from the pond into the ground, but that
7 a local resident has noted that silty water does flow into the Multnomah Channel.

8 24. It is unlikely that the Application's proposed sediment control measures will function as
9 described in the Application. It is more likely that discharge situation observed by the local resident
10 will not only continue, but worsen.

11 25. Based on estimated average annual runoff from the quarry operations, the detention of
12 all estimated annual quarry runoff would require about 700 acre-feet of storage capacity, assuming that
13 only quarry runoff is stored and that runoff from the rest of the watersheds is not stored. The storage
14 of 700 acre-feet would require a detention pond with an area of 100 acres and a depth of 7 feet. In
15 contrast, the existing operation has an area of 113 acres; with expansion, the operating area is expected
16 to be about 400 acres. The wetland currently used as a detention "pond" has an area of about 3 acres.
17 Although the application fails to provide any sort of engineering specifications or dimensions for the
18 proposed detention ponds, it is doubtful that the quarry will be able to construct ponds with the
19 dimensions needed to collect the water accrued during a single year of average precipitation.
20 Detention ponds would actually have to provide considerable more storage in order to comply with
21 Permit No. 1000, because years of above average precipitation are relatively common, and because
22 water will accrue over several years in the absence of downstream discharges; neither pond
23 evaporation nor seepage will be effective in reducing the amount of storm water held in ponds.

1 26. My field inspection of the wetland currently used as a detention pond indicates that
2 seepage in sediment detention ponds will be negligible. The wetland bottom is entirely composed of
3 thick layers of very tight clay deposited by storm waters. These clays were cracked, indicating a high
4 level of swelling when saturated. Such clays typically have extremely low infiltration rates, on the
5 order of about 0.1 foot/month. Given the results of my field evaluation, I would expect that any
6 additional detention ponds that collect storm runoff will be rapidly lined with similar deposits, and that
7 any percolation will soon be negligible in reducing the magnitude of stored storm water.

8 27. Surface evaporation from detention ponds will not cause a net reduction in storm water
9 in storage, because average annual precipitation exceeds average annual evaporation. Average annual
10 evaporation in Portland is about 24 inches (Dunne and Leopold, 1978) while average annual
11 precipitation is about 37 inches. Therefore, the very existence of a ponded surface should result in
12 a net annual increase of about 13 inches of pond depth per year.

13 28. Mere detention of storm water runoff from quarry operations will not be effective in
14 significantly reducing turbidity so that discharge water can be released without increasing downstream
15 turbidity. The clays in the wetland are comprised predominantly of colloidal material. Colloidal
16 material remains in suspension in water; it does not settle out under the influence of gravity. Most
17 of the deposited clay in the wetland is probably only deposited when the wetland is periodically de-
18 watered by discharges into the Multnomah Channel.

19 29. The wetland currently used as a detention pond has no ability to provide any long term
20 storage of surface water. All significant storage areas in the pond have been completely filled in.
21 Although the Application (p. 11) describes the wetland as diked pond, I found no evidence that the
22 wetland had any remaining static storage capacity, nor could I find any evidence of a dike. There is
23 evidence that there is significant runoff of water from this wetland. A heavily eroded channel about

1 four feet deep and three feet wide leads from the wetland surface to the Multnomah Channel. Based
2 on my field evaluation, I conclude that the wetland has very limited utility as a detention pond and that
3 the discharge of turbid quarry runoff into the Multnomah Channel is a common occurrence. This is
4 a violation of Permit No. 1000.

5 30. Based on my analysis, I also conclude that violations of Permit No. 1000 are likely to
6 worsen with quarry expansion, because the discharge of turbid storm runoff from the quarry to the
7 Multnomah Channel are likely to increase, with quarry expansion.

8 V. CONCLUSION

9 31. Based on my review of available information and accepted models, quarry expansion
10 will increase streamflow, erosion, and downstream sedimentation. Increases in annual erosion,
11 downstream sedimentation, and turbidity are likely to highly significant.

12 32. The frequency and magnitude of the discharges of quarry runoff to the Multnomah
13 Channel are likely to be increased by quarry expansion. This will worsen the violations of Permit No.
14 1000. Coupled with expected increases in downstream turbidity, quarry expansion will reduce
15 downstream water quality and probably violate water quality standards for turbidity in the Multnomah
16 Channel.

17 33. Storm runoff from the quarry has already significantly affected one wetland by filling
18 it with sediment. Continued discharges, coupled with increased sedimentation that can be expected
19 from quarry expansion, will exacerbate this situation. Quarry expansion will also increase
20 sedimentation of the Burlington Bottoms. Over time, this will accelerate the loss of the open water
21 character of this important wetland.

22 34. Proposed water quality control measures are unlikely to adequately protect water quality
23 from deleterious increases in stream turbidity. It is highly unlikely that a detention ponds can be

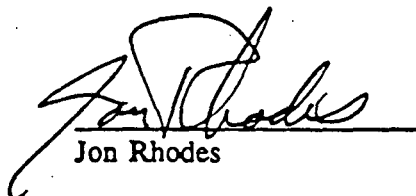
1 constructed which would be capable of insuring there is no downstream discharge of turbid runoff from
2 the quarry into downstream wetlands and the Multnomah Channel. The wetland currently used to
3 collect quarry runoff is completely ineffective for preventing discharge of quarry runoff into the
4 Multnomah Channel. Field inspection indicates that discharge from the quarry to the Multnomah
5 Channel is already a common occurrence in violation of Permit No. 1000 which requires that there
6 be no direct discharge of quarry runoff to public waters.

7 35. Neither seepage nor evaporation from detention ponds will be effective in reducing
8 of turbid runoff from the quarry. Seepage from proposed and existing detention ponds will be
9 negligible. Precipitation inputs to the ponds exceed evaporation.

I declare under penalty of perjury that I believe the foregoing is true and correct.

DATED

8/28/92


Jon Rhodes

Literature Cited

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- Fowler, W.B., Anderson, T.D. and Helvey, J.D., 1987. Changes in Water Quality and Climate After Forest Harvest in Central Washington State. USFS Res. Paper PNW-RP-388.
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Urban Streams Council

a program of
The **Wetlands** Conservancy

6/13/94
Esther Lee
Submittal

June 13, 1994

Multnomah County Board of Commissioners
Multnomah Planning Commission
1120 SW 5 th Avenue
Portland, Oregon 97201

To The Multnomah County Board of Commissioners and Planning Commission;

The Urban Streams Council a program of The Wetlands Conservancy, a non-profit land trust, is pleased that Multnomah County is taking steps to recognize the significance and protect the streams of Multnomah County. We see this Goal 5 process as an opportunity to look at the ecology and health of entire watersheds in the county rather than just the stream itself. We are disappointed that the Chapter 3 Stream Resources of The West Hills Reconciliation Report limits the Goal 5 stream analysis to the stream channel itself, and identifies the adjacent riparian area as the area of impact. The riparian zone is a critical portion of the stream channel ecology, lack of vegetation and in turn shade over the creek, increased sediments from erosion, flows and contaminants entering the stream all negatively impact the health of the stream and in turn fish and wildlife habitat values. A healthy riparian zone will promote higher fish and wildlife habitat, water quality and quantity values.

The Goal 5 process requires clear delineation of the resource area and designation of the area impact. In order to identify the resource area boundary of the stream system, the entire stream must be visited in order to identify and quantify the amount and health of the riparian area. We are concerned with the quantity and quality analyses of the stream inventories. In addition, we feel that it is critical that the riparian zone be designated as part of the resource area and that the area of impact is the entire watershed. Within a watershed activities several miles from the stream, such as development, agriculture, logging and mineral aggregate if done improperly can have irreversible negative impacts on the health of the stream. The activities within the headwaters or upper reaches of a watershed can impact the entire stream corridor. It is difficult to separate out reaches of a stream corridor, as some portions being significant and others insignificant, as the streams functions as an entire system. In many cases, the areas that were determined insignificant have a high restoration potential which would increase the values and significance of the site within the next five to ten years. It is impossible to cut out a section of stream and have the up and downstream portions function as a healthy stream. In addition to improving the fish and wildlife habitat and water quality values, restoration opportunities within a watershed promote opportunities for neighbors, residents of the watershed and schools to be involved in rehabilitation of an important resource with their community.

Page III-9 states that wetland values were not considered as part of the stream resources inventory. Wetlands within these stream corridors are critically linked hydrologically to the streams, and often provide increased wildlife habitat and water quality values. Conflicting use impacts within the watershed, will negatively impact the wetlands in the same ways as the stream corridors. We do not understand how these two resources can be separated from one another.

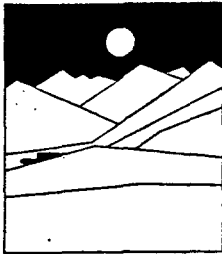
The County recommendation is to apply the current SEC zoning to the significant stream areas. We feel that the current SEC standards are not strong enough to protect these valuable streams resources. We would encourage a minimum of 100 foot vegetated buffer



from the top of the stream bank to any residential, forestry, mineral and aggregate and agricultural uses. We also encourage the County to promote restoration opportunities within the watersheds whenever possible. We thank you for the opportunity to comment on the West Hills Reconciliation Report, and would be happy to work with Multnomah County on reviewing future documents and developing restoration strategies.

Thank you,

Rosemary Furfey
Rosemary Furfey
Board President
The Wetlands Conservancy



**OREGON
NATURAL
RESOURCES
COUNCIL**

MAIN OFFICE

YEON BUILDING, SUITE 1050
522 SOUTHWEST FIFTH AVENUE
PORTLAND, OREGON 97204
503-223-9001

Protecting Oregon's lands,

water and natural resources.

TO: Honorable Chair Stein and Multnomah County Commissioners

FR: Lyn Mattei, ONRC Land Use Director *Lyn Mattei*

DT: June 13, 1994

RE: Multnomah West Hills and Howard Canyon Reconciliation
Hearing, June 13, 1994

The Oregon Natural Resources Council has been involved in Multnomah County's Goal 5 Periodic Review process for at least two years. We commend the County for the major efforts it has made to comply with the Department of Land Conservation and Development's (LCDC's) complicated, sometimes unreasonable, and seemingly punitive compliance directives. We are pleased that the County's May 23, 1994 Reconciliation Report recommends protection of the major wildlife corridor which is part of Forest Park. We find, however, that the Report is lacking in the following areas:

1. Agricultural Uses

Agricultural uses in the West Hills and especially Howard Canyon need affirmative regulation to maximize protection of riparian areas and to minimize sedimentation, erosion, turbidity, high temperatures, and non-point pollution in adjacent streams. Reliance on the Soil Conservation Service to regulate rural agricultural activities is misplaced and inadequate. Rural stream identification and protection need to be a priority.

2. Fish and Wildlife Resources

The Reconciliation Report's ESEE analysis for Howard Canyon apparently omits any consideration of ESEE consequences for wildlife. This is unacceptable. In addition, the Report fails to include fisheries resources in its ESEE analysis of uses that conflict with mining. Fish and wildlife resources are critical natural resources expressly included under Goal 5 and must be factored into any ESEE analysis of aggregate uses.

Proposed stream protection in both the West Hills and Howard Canyon are inadequate. At a minimum, the County should adopt protection at least as strong as that provided under Clinton's new forestry plan. In the alternative, the

C1-94

**RESPONDENT'S
EXHIBIT**

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County could even adopt the weaker stream protection rules which will go into effect in September 1994 under our Forest Practices Act regulations.

3. Burlington Bottoms

Burlington Bottoms is a significant wetland of local and regional concern and is recognized as a wildlife mitigation area of state-wide concern. The wetlands area was purchased and enhanced by Bonneville Power as a major mitigation site. BPA gave Burlington Bottoms to the County to protect and maintain, and the County turned it over to Metro.

Although the County has been entrusted with the maintenance and protection of Burlington Bottoms, its designation in the impact area found in the reconciliation Report eliminates almost all protection for this critical wetland. Although we are happy that the County has decided to protect the wildlife corridor adjacent to Forest Park, this does not justify the sacrifice of Burlington Bottoms. As proposed, the wetland will be degraded and probably eventually destroyed by excess sedimentation and polluted runoff from Angel Brothers Quarry activities. No mining activity should be allowed in the North Angel Brothers Creek watershed or in any other watershed that empties into Burlington bottoms.

Thank you for your time and consideration.

June 13, 1994

Arnold Rochlin
P.O. Box 83645
Portland, OR 97283-0645
(503) 289-2657

Testimony on West Hills Reconciliation Report

UNRESPONSIVE STAFF RESPONSES

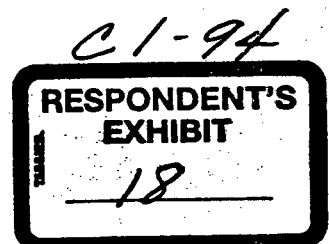
Aggregate, Section IV

Page IV-49, Issues 1(a), 1(b), and 1(c) concerning **state requirements to consider other resource sites in evaluation location, quantity and quality**. Staff says the issue is that these factors "should be compared against other know resource sites." But the issue is that staff deliberately ignored quarries operating across the Columbia County line from the Angell Brothers quarry. Staff's answer on each issue is that they looked at the resources in Multnomah County. The law requires that, at a minimum, you must consider sites in Multnomah County. It neither allows nor encourages you to close your eyes to the most relevant resources in terms of quantity, quality and location, just because they're across the line. Why should you want to ignore this important information. It's notable that the authors of the Wildlife Habitat report showed more sophistication on the quarry issue than your aggregate expert. See pages V 43-47. They considered quarries in all of the surrounding areas, and their findings are significant. The same data used for the wildlife habitat report was rejected for the aggregate analysis because it's inconsistent with predetermined support for quarry expansion.

Page IV-49, Issue 1(d) and IV-50, Issue 2(a) concerning **impact area of the proposed aggregate mining expansion**. Staff alleges that I said the impact area is not defined. I said it was illegally defined. Staff considers only noise impact, ignoring other factors, to 1200 foot perimeter as the impact area. Rafton-Burlington Bottoms wetland would be profoundly affected by stream impacts. Other resources that would be affected beyond 1200 feet are the Multnomah Channel and the wildlife habitat corridor. Staff does not explain why the wetlands and the other resources identified by the public are excluded from the impact area. They ignored the scenic impact on Sauvie Island and they ignored the wildlife impact area identified in the report you commissioned.

Page IV-49, Issue 1(e) concerning **slope stability**. Staff implies that the issue was raised as a safety issue. It in fact concerns the quality of the site. A deep overburden requires that cuts be made at shallow angle and creates other increased mining costs for moving and storing overburden .

Page IV-50, Issue 2(b) concerning **traffic impacts**. I did not say that "traffic impacts were not considered". I said that staff wrongly rejected Highway 30 as a conflicting use. Staff responds by saying "traffic impacts were considered and determined not to [be] a conflict based on information received for the Oregon Department of Transportation." Staff's conclusion is based on information supplied by Angell Brothers, that there will be a maximum of 250 trucks a day (p. IV-9, ¶3-5). It's interesting that, in responding on another issue, the contention that the existing approved quarry site has a 60 year supply of aggregate, p. V-85, Issue 11, the staff rejects reliance on the Angell Brothers statement that rock crushing is limited to 810,000 tons per year. I'm willing to reject all of Angell Brothers assurances. But it is not tolerable for staff to accept them when they support expansion and reject them when they show no need for expansion.



Page IV-51, Issue 2(h), concerning **DEQ and DOGAMI standards**. Staff claims that it never intended to say that DEQ and DOGAMI standards assure no impact. But it did. In the undated resource analysis of Aggregate Resource Site #4, C 1-94, the staff said:

"The Rafton/Burlington Bottoms is a "3C" Goal 5 resource site. The existing mining operation is conducted in compliance with state regulations that insure no adverse impact that site [sic], as would be the case for any expanded operation." (p.16)

and,

"There would be no environmental effect on the Rafton/Burlington bottoms by an expanded mining activity since any expansion must be conducted under environmental control measures that result in no conflicts with the identified wetland resource." (p.20-21)

Streams, Section III

Page III-45, Issue 6, concerning criticism for **omitting the watersheds from stream impact areas**. Staff says "Impacts to streams beyond the riparian zone are much reduced, and unless practiced at a large scale are in fact negligible." This is a gross error caused by bias or ignorance. It takes very little development to destroy watershed function. Staff obviously assumes that watershed function is affected in proportion to impervious surface. But the effect is actually far greater than mere reduction of absorbing soil. The staff has chosen to ignore the Booth and Reinelt paper attached to my May 11, 1994 comments on the Significant Streams Studies of 4/8/94 and 4/28/94.

Page III-46, Issue 7, concerning **affect of quarry on watershed**. The staff response needs to be quoted to see the implications of word choices. Key words are underlined:

"Staff does not believe that the Angell Brothers mining operation will necessarily lead to the permanent total destruction of any watershed in which they quarry. Staff believes that the regulatory state agencies are able to do their job to control impacts and require for [sic] a good reclamation plan for the Angell Brothers quarry. For staff to take a position based upon the opposite conclusion (what is that?) would be to take a cynical position on the issue which is not appropriate."

The word "necessarily" is used as a cover; that is, staff can say we didn't say it wouldn't destroy watershed, only that it wouldn't necessarily destroy it. "Total" watershed destruction would, of course, occur only if a watershed is totally mined. I concede that if only 70% or 90% of a watershed is mined, there will be some watershed function left. State agencies, of course, "are able" to regulate effectively. But we have seen the evidence that regulation cannot be relied on. No criticism is intended or implied. Regulators are like police. They may be doing a good job when then apprehend a criminal though they had no power to prevent a particular crime and its impact. If the prosecution and penalties are sufficient, they may have an important deterrent effect. But a prudent person doesn't leave the door unlocked out of respect for the police.

Page III-50, Issue 15, concerning **property values**. In criticizing the report for considering only those effects of regulation that lower property values, and not considering how values are enhanced by regulation, I used an extreme example of prohibiting a steel mill in a residential zone. The staff belittles my comments because there isn't an actual proposal to allow steel mills in the stream impact area. The staff reply is an insult to the intelligence of the members of the commissions. The point is, that regulation that preserves healthy streams increases the value of riparian property. Where it supports an argument for

the economic importance of allowing development on streams, the staff is happy to talk about increased property values. "According to Rick Walker, a residential appraiser with Palmer Groth and Pietka, a stream will generally increase the value of any nearby dwelling." (page III-19). I'm sure Mr. Walker does not mean a stream that's dry all summer and that floods in the rainy season enhances value as a healthy stream does.

Wildlife Habitat, Section V

Note: Unlike the issues discussed above, the staff responses in this part of the report attempt to seriously address the issues and do not belittle or evade them. The staff shows respect and here deserves respect.

Page V-85, Issue 11, concerning **recoverable aggregate, number of years supply will last, value**, etc. In general, the staff here shows more sophistication regarding the quarry issues than is shown in the aggregate report. But there are some shortcomings. As discussed above, if we are to rely on Angell Brothers' statement in their application that maximum truck traffic will be 250 a day, why are we not to rely on maximum rock crushing of 810,000 tons a year? Values of extractable rock, whether the low of \$42 million or absurdly higher figures of nearly \$100 million, omit recovery costs, including wages, insurance, equipment, taxes, and other expenses. The economic significance of the resource for the ESEE analysis, is its *in situ* value, not its value after mining crushing and loading on a truck. As Mr. Parisi, Angell Brothers' counsel, frankly and helpfully pointed out in his Letter to the Planning Commission of October 12, 1992, calculations of value of aggregate in the ground must include a factor for the years that it would take to extract it. If the expansion area contains \$40 million dollars worth of aggregate, it has a different present value if it takes 5 years to extract or 100 years. In the former case, it would be worth nearly "face value", while in the latter case, it would be worth only a small fraction of the \$40 million. Its as if someone were to offer you \$40 million in cash, or offered to dole out \$40 million in annual installments over 100 years. Obviously the cash is worth far more because you could immediately invest it and, without touching the principal, get income that would exceed the principal payments from the 100 year dole. The result is that Mr. Parisi's estimate of \$42 million value of recoverable rock should be reduced to a small fraction of that, probably under \$10 million.

Page V-91, Issue 20, concerning **value of residential lots**. The staff response is exemplary. It examines the criticism, finds it to be valid, and uses it to improve the report.

Scenic Resources, Section II.

Page II-22, Location, Issues 1 and 2, concerning **scenic drives and "not seen" area**. The issue, as I presented it, was that the Board of Commissioners designated the east face of the hills as a significant scenic resource. Much public testimony included views of the hills as seen from roads and from viewing points within the hills themselves. These views of the hills must now be the subject of the ESEE analysis. Neither staff nor the Planning Commission has a right to exclude them without Board action. Staff has opposed the scenic designation entirely, from the beginning, and now seeks to minimize it. Staff does not make policy, and the Board should make that clear.



June 13, 1994
Friends of Retaining Channel Environment
Inc. (F.O.R.C.E.)
13010 N.W. Marina Way
Portland, Oregon 97231

Multnomah County Planning Commission and Board of County Commissioners
c/o 2115 S.E. Morrison
Portland, Oregon 97231

Dear County Commission/Commissioners:

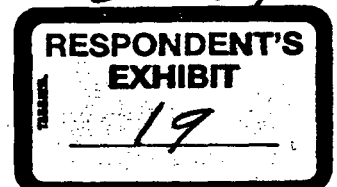
We are a group of Multnomah County citizens who are members of a non-profit group, F.O.R.C.E., whose primary focus is the preservation of the unique scenic and natural features of Multnomah Channel and surrounding areas. We are writing in response to the Multnomah County ESEE analysis of the Angell Brothers Rock Quarry site, and we would to oppose their recommendations to allow expansion the operation beyond the current site. Our opposition is based on the following concerns:

1. SCENIC DEGRADATION OF THE WEST HILLS

Multnomah County recently designated the east face of the West Tualatin Hills as a scenic resource. Doubling the size of the Angell Brothers site will cause a scenic blight in one of the most visible and prominent areas of the West Hills, visible from Sauvies Island, Highway 30 and Washington state. We agree with the Multnomah County staff findings from the November 16, 1992 hearing before the Multnomah County Commissioners regarding the Angell Brothers expansion plans, which concurs that a proper reclamation plan would not be feasible for an expanded operation. The County stated:

- a. The proposed Angell Brothers reclamation plan would not "allow the property to be used as envisioned by the comprehensive plan and the underlying district."
- b. The County remained unconvinced that, despite the applicant's evidence, that the site could be successfully reclaimed for forestry uses.
- c. "The applicant did^{not} show that its reclamation plan includes a timetable for continually reclaiming the land," as is required. "The applicant claimed it was impossible to develop such a timetable."
- d. "The applicant did not show that reclaimed surfaces will blend into the natural landforms of the immediately surrounding terrain."

For these above reasons, any plans to expand the Angell Brothers site would severely compromise the scenic qualities of the West Hills and surrounding areas, and these problems are not capable of being mitigated. An expansion should therefore be disallowed.



2. ENVIRONMENTAL IMPACTS

We believe that any expansion of mining activities at this site will severely affect water quality of Multnomah Channel, and degrade low lying wetlands below the site. The November 16, 1992 findings by Multnomah County regarding the Angell Brothers expansion confirmed the following problems:

- a. "The applicant did not show that sedimentation and erosion would comply with DEQ standards" and the applicant provided "no proof that it will comply with those standards."
- b. In fact, the County found "that the applicant will not meet the standards established in its existing waste water permit."
"Discharges of turbid water into Multnomah Channel, which already occur commonly, are likely to increase in frequency and magnitude."

We disagree that the degradation of North Angell Brothers Creek would have a minimal impact on the significant wetlands on Rafton-Burlington Bottoms. A similar wetlands habitat beneath the current Angell Brothers site has slowly filled in over the past 15 years as a result of runoff from current mining activities. This turbid runoff occurs in spite of current "environmental control measures", which are inadequate to protect either water quality or existing wetlands. To further protect water quality, the DEQ is proposing damming of the creek that flows into this wetlands, which will further destroy the wetland habitat. It is impossible to move the quantities of soil necessary to mine on these hillsides, without creating massive turbid runoff during the winter rainy season. This silty runoff will deposit inevitably into Burlington Bottoms or adjacent wetlands, and then into Multnomah Channel. An expansion of the mining site will only exacerbate current problems.

Overall, we feel that adequate measures to preserve scenic values, water quality, and wildlife/wetlands habitat are not possible given expanded mining operations at this site. We urge that the County reconsider the current ESEE analysis at the Angell Brothers Site to exclude expansion of mining activities.

Sincerely,



Mark Valeske, President
F.O.R.C.E.

June 13, 1994
Jodeanne Bellant MD
14956 N.W. Mill Road
Portland, Oregon 97231

Multnomah County Planning Commission and Board of County Commissioners
c/o 2115 NE Morrison
Portland, Oregon 97231

Dear County Commission and Commissioners:

I am writing to express concern regarding the current Multnomah County ESEE analysis, which would allow the Angell Brothers Quarry to expand their quarry operations to approximately double the current area. The Multnomah County Report and Findings regarding the Angell Brothers Site from November 16, 1992 outlined some serious problems with such an expansion, and noted numerous unmitigatable conflicts with other Goal 5 resources. I and many of my neighbors seriously oppose any mining expansion at this site, and we believe that it is in the best interests of Multnomah County to do likewise.

Currently, as houseboat neighbors located directly below the quarry site, we are exposed to high levels of dust and noise from the current quarry operations. Blasts from the site have disrupted our residences and dust from quarry operations coats our cars and homes, and presents an airborne health hazard, especially to residents with respiratory ailments. Expanding this operation will increase these detrimental effects on our community, as well as on neighboring homes and homesites in the West Hills.

We are also concerned regarding the safety of increased truck traffic on Highway 30. There have already been several fatal and near fatal accidents involving dump trucks traveling to or from Angell Brothers onto Highway 30 in the recent past. Reports from the Department of Transportation indicate that there is approximately one fatality or injury per month due to accidents on Highway 30 between the Sauvie Island Bridge and the Angell Brothers Quarry. Numbers of moorage residents, including myself, have been nearly rearended or side swiped by trucks exiting the Angell Brothers Road. Increasing truck traffic to this site would increase the public hazard along this already dangerous section of Highway 30.

The environmental impact of expanding this quarry site are substantial, and are not adequately protected by this ESEE analysis.

The Burlington Bottoms wetlands is a significant site which would be negatively impacted by silt runoff from the North Angell Brothers stream. Other wetlands not on the Burlington site, but on our adjacent moorage property, have already been negatively impacted by current operations, and would be further impacted with an expansion. The current silt runoff from quarry operations is carried by a stream that empties onto our upriver wetland property and the small but cumulative negative effects of quarry operations are clearly evident there. This wetland has been filled with silt from quarry operations over the past 13 years that I have lived on the moorage. Silt now flows directly into Multnomah Channel because the holding capacity of the land has been surpassed. Our once identical downriver wetlands still maintain standing water for most of each year. Because of this problem, the quarry cannot currently meet DEQ requirements for water quality; in no way could they meet them for an expanded site.

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Expanded quarry operations will affect runoff into the two streams which feed our downriver wetlands and the wetlands of Burlington Bottoms. Hydrologists project, conservatively, that stream and silt flows would increase by 2 to 20 times current values with the original expanded quarry operation (283 acres). Settling ponds to control such an increase in runoff would require an 100 acre lake that was 7 feet deep (an impossibility for this site). It is obvious to me that expanded quarry operations would mean increased silt run off and consequently the demise of the downriver wetlands on our property and on Burlington Bottoms. These off-site effects were not adequately addressed in the ESEE analysis, and deserve more thorough investigation.

Lastly, I would like to reiterate some of Multnomah County's concerns on how an expansion of mining activities at the Angell Brothers site would negatively impact scenic values and may increase geologic hazards to neighboring properties. These items are quoted from the November 16, 1992 Multnomah County Decision on the Angell Brothers application for expansion of their mining site:

1. "The applicant has not produced a proposed reclamation plan that will allow the property to be used as envisioned by the comprehensive plan and the underlying district". "Despite the applicant's evidence, the Planning Commission remains unconvinced the site could be successfully reclaimed for forestry"
2. "The applicant did not show that its reclamation plan includes a timetable for continually reclaiming the land." "The applicant claimed it was impossible to develop such a timetable. The code does not excuse compliance with this requirement".
3. "The applicant did not show that reclaimed surfaces will blend into the natural landforms of the immediately surrounding terrain."
4. "The applicant did not show that the proposed operation will not result in the creation of a geologic hazard to surrounding properties".

It seems, based on Multnomah County's own review of testimony and on the Angell Brothers application, that a legal, adequate reclamation plan is impossible and expansion plans in this steeply forested site cannot rule out the creation of geological hazards. To allow any expansion under such circumstances, seems illogical and irresponsible.

In sum, please review the ESEE analysis carefully, and don't accept its approval of an expanded mining operation at the Angell Brothers site. Expanded mining at this site will impart too many negative impacts to scenic values, water quality, wetland and wildlife habitat, and neighboring properties. These impacts are potentially unmitigatable, by the County's own admission, and should never be allowed to occur.

Sincerely,


Jodeanne Bellant M.D.

NEIL S. KAGAN
ATTORNEY AT LAW

1050 Yeon Building
522 S.W. Fifth Avenue
Portland, Oregon 97204

Telephone
(503) 223-4272
Fax
(503) 225-0811

June 13, 1994

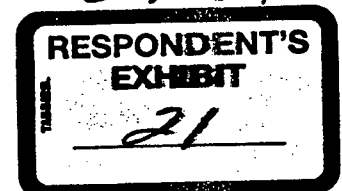
MEMORANDUM

TO: Multnomah County Board of Commissioners
Multnomah County Planning Commission

RE: West Hills

The Friends of Forest Park ask the Board and the Commission:

- to reject the planning department's recommendation that the Angell Bros. mineral and aggregate resource site be deemed significant and added to the Goal 5 inventory;
- to reject the planning department's recommendation that the northern portion of the Angell Bros. mineral and aggregate resource site be designated "3C";
- to protect wildlife habitat completely by prohibiting mining on the entire unused Angell Bros. mineral and aggregate resource site (by designating the mineral and aggregate resource site "3B" if it is deemed significant and added to the Goal 5 inventory);
- to protect the North Angell Brothers stream and the Burlington Bottoms wetlands completely by prohibiting mining within the watershed of the North Angell Brothers stream (by designating that portion of the mineral and aggregate resource site "3B" if it is deemed significant and added to the Goal 5 inventory); and
- to revise the West Hills Reconciliation Report to explain the reasons for making the foregoing decisions



NEIL S. KAGAN
ATTORNEY AT LAW

1050 Yeon Building
522 S.W. Fifth Avenue
Portland, Oregon 97204

Telephone
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June 13, 1994

MEMORANDUM

TO: Multnomah County Board of Commissioners
Multnomah County Planning Commission

RE: West Hills

The Friends of Forest Park ask the Board and the Commission:

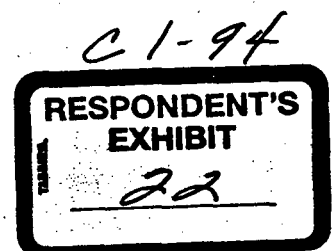
- to reject the planning department's recommendation that the Angell Bros. mineral and aggregate resource site be deemed significant and added to the Goal 5 inventory;

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- to protect the North Angell Brothers stream and the Burlington Bottoms wetlands completely by prohibiting mining within the watershed of the North Angell Brothers stream (by designating that portion of the mineral and aggregate resource site "3B" if it is deemed significant and added to the Goal 5 inventory); and

- to revise the West Hills Reconciliation Report to explain the reasons for making the foregoing decisions



NEIL S. KAGAN
ATTORNEY AT LAW

1050 Yeon Building
522 S.W. Fifth Avenue
Portland, Oregon 97204

Telephone
(503) 223-4272
Fax
(503) 225-0811

June 10, 1994

R. Scott Pemble
Planning Director
Department of Environmental Services
Division of Planning and Development
2115 S. E. Morrison Street
Portland, Oregon 97214

Re: West Hills Reconciliation Report

Dear Mr. Pemble:

On behalf of Friends of Forest Park, I am writing to comment on your staff's West Hills Reconciliation Report of May 23, 1994 ("the report"). The report justifiably recommends full protection of the half-mile band of significant wildlife habitat between McNamee Road and the Angell Bros. mineral and extraction site. The report unjustifiably recommends protection of the balance of the Angell Bros. aggregate resource, however, at the expense of inventoried significant wildlife habitat and streams on the site, and inventoried significant wetlands in Burlington Bottoms.

The evidence does not support the recommendation that the Angell Bros. mineral and aggregate resource site should be added to the Goal 5 inventory

A fundamental problem with the report's recommendation of protection of the Angell Bros. aggregate resource is its uncritical conclusion that the resource is significant. This conclusion was based largely on evidence submitted by H. G. Schlicker & Associates to the effect that the site contains approximately 220 million cubic yards of very good aggregate material. Report at IV-5. Yet Schlicker's evidence has been convincingly contradicted. See Exhibit 101 to Friends of Forest Park's Brief in Opposition to Angell Bros.'s Applications for a Comprehensive Plan Amendment and a Conditional Use Permit ("Brief"), which Friends of Forest Park re-submitted in commenting on the West Hills Significant Resources Analysis Reports, on April 25, 1994 ("Beeson Statement").

Beeson, a highly reputable expert on geology, said Schlicker's evidence, "without deep bore hole data, [is] . . . insufficient to adequately address the questions of rock quality and quantity." Beeson Statement, second page. More particularly, Beeson said:

"The estimate of the quantity and quality of rock in the proposed quarry is apparently based on surface observations, two shallow (84 ft) bore holes, and the assumption that the same quality of rock exists to the base of the proposed quarry floor hundreds of feet below the surface. While it is possible this assumption is correct, there are several potential problems that could decrease this estimate: 1) The thickness of the CRBG [, "Columbia River Basalt Group",] is variable (400 to 800 ft) in the Portland Hills and the base of these flows could lie above the proposed quarry floor toward the back of the quarry. 2) The quality of the rock and its suitability for crushing is not the same in all CRBG flows due to differences in the thickness of vesicular zones, the possible presence of flow top breccia, and the nature of the texture and jointing. 3) Although no faults have been mapped at this site, faults and fault breccia are not uncommon in the Portland Hills and the rock quality may be poor along these zones due to alteration and a high clay content. The uncertainty in the estimates of rock quality and quantity could be greatly reduced with several core holes distributed over the proposed quarry area that penetrate to the depth of the proposed quarry floor."

Beeson Statement, first page.

Later, Beeson discredited well log evidence introduced by Angell Bros. to establish the quantity and quality of the aggregate resource. In oral testimony to the Planning Commission on October 5, 1992, Beeson said:

"First of all with respect to quality and quantity. Mr. Parises [sic] pointed out that these water well logs indicated it was all solid rock. I would like to read just a couple lines from some of these. Mr. Rupel's well. Let us go through a few of these. It says soft, decomposed brown basalt, firm gray brown basalt, firm gray brown basalt, soft brown basalt and so on on the way down the hole. It is not all uniform quality and characteristics [sic]. Here is another one from Tony Well and is in the vicinity also. This is down at three hundred fifty something feet. Conglomerate broken brown rock, conglomerate brown soft rock and clay, weather basalt, wood soft cole basalt mix. Not exactly all solid rock all the way. I don't know exactly the nature of this. I don't think they do either since there has been no drill holes for that purpose. And, I might say after having used these is that most geologists or engineers do not put much reliance in these. They are done by

drillers. They are not either engineers nor geologists and I have a lot of experience with them. They should be used with great caution in any case."

Transcript of October 5, 1992, Item 2 - CU 14-92, Angell Brothers Rock Quarry at 42 (emphasis added).

Since the Schlicker evidence was the only evidence of quantity and quality, Report at IV-5 through IV-6, and since that evidence was rejected by Beeson, the county has no credible evidence to conclude the site is significant. Consequently, the report should drop the recommendation that the aggregate resource should be protected, to the detriment of the significant Goal 5 resources on and off the site. Instead, the report should recommend protecting the significant Goal 5 resources completely.

The county should protect more than the half-mile band of significant wildlife habitat between McNamee Road and the Angell Bros. mineral and extraction site

Whether or not the county deems the Angell Bros. site significant, it should afford complete protection to the significant wildlife habitat over the entire site. Only complete protection provides any certainty that the ecological integrity of Forest Park can be sustained.

The "Study of Forest Wildlife Habitat in the West Hills [, "Wildlife Study,"] recommended maintenance of a continuous, 1.5 mile peninsula of forested habitat extending from Forest Park to the Coast Range . . . to compensate for the temporary loss of forest habitat that results from clear-cutting." Report at V-9. The Wildlife Study also recommended maintenance of a minimum band of contiguous forest habitat one half-mile in width. Wildlife Study at 26. But the study did not say maintenance of a half-mile band would be sufficient to sustain the ecological integrity of Forest Park.

Rather, the Wildlife Study said a half-mile band of habitat "may suffice." Wildlife Study at 26. The Wildlife Study readily conceded that a half-mile band of habitat might be too narrow. In fact, it said the band should perhaps be three-quarters of a mile wide and, moreover, that discussions with recognized wildlife experts justified a band as wide as one and a half miles. Wildlife Study at 26.

In the face of such uncertainty, recommending a mere half-mile band of wildlife habitat is far too risky a gamble when Forest Park, a resource of unparalleled quality and significance to the region, is at stake. As Friends of Forest Park established in its Brief, and in its April 25, 1994, comments on the West Hills

Significant Resources Analysis Reports, Forest Park is critical to the region's identity, and a magnet for residents, businesses, and tourists. Nothing less than full protection of its unique values is warranted, and nothing more than a half-mile band of wildlife habitat is insufficient. For this reason, the report should recommend designating the entire Angell Bros. site under consideration "3B."

The county should fully protect the "North Angell Brothers" stream to ensure the preservation of the irreplaceable Burlington Bottoms wetlands

The North Angell Brothers stream running through the Angell Bros. site flows into the Burlington Bottoms wetlands. Report at III-24, 48. The Burlington Bottoms wetlands represents one of the state's largest remaining wapato wetlands, and provides habitat for a number of important wildlife species, including bald eagles and many other waterfowl, shorebirds, and songbirds.

Were Angell Bros. permitted to expand its quarry operations to include the area through which the North Angell Brothers stream flows, the quality of Burlington Bottoms would suffer from an enormous, approximate 950% increased rate of sedimentation. Brief, Exhibit 107 ("Rhodes Declaration") at 9. As a result, the sedimentation of the wetlands will accelerate, destroying its open water character and reducing its ability to store water. Rhodes Declaration at 9.

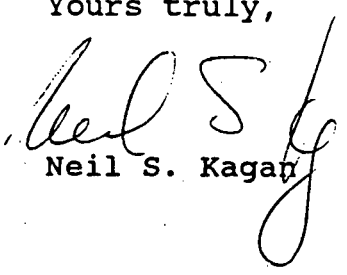
Given the county's obligation to protect significant streams and wetlands for future generations, the report should not recommend allowing the immediate and future harm to either resource that quarry operations would cause. Instead, the report, at the very least, should recommend designating "3B" that portion of the Angell Bros. site within the watershed of the North Angell Brothers stream.

Conclusion

The county should bear in mind that it has broad discretion to decide what level of protection to extend to Goal 5 resources. It may extend full, partial, or no protection, so long as reasons support its decision. Here, the unique value of the wildlife habitat, streams, and wetlands provide more than ample reasons to justify extending no protection to the Angell Bros. site. If any more reasons were necessary, the huge supply of aggregate the existing Angell Bros. site is capable of producing has to be the clincher. Therefore, the report should recommend designating the Angell Bros. site "3B" if, indeed, it is deemed significant at all.

Mr. Pemble
June 10, 1994
Page 5

Yours truly,


Neil S. Kagan

NSK/gmm
Enc.

cc: Steve Oulman, DLCD

June 09, 1994

RECEIVED
JUN 13 1994

Multnomah County Planning Division
Dept. of Environmental Services
Division of Planning and Development
2115 SE Morrison Street
Portland, OR 97214

Multnomah County
Zoning Division

To Multnomah County Planning Staff:

I am writing in regard to the West Hills Reconciliation Report and the resource protection and conflict resolutions for wildlife habitat contained in this report. As the project coordinator for the Burlington Bottoms area, I am concerned about the proposed Angell Bros. quarry expansion and it's effects on fish and wildlife habitat in the surrounding area. Burlington Bottoms was purchased by the Bonneville Power Administration in 1991 for mitigation of wildlife habitat lost due to the construction of hydroelectric facilities on the Willamette and lower Columbia Rivers.

As a result of this purchase, important fish and wildlife habitat will be protected. In conjunction with protecting this area, it is also important that wildlife habitat in the surrounding lowlands and uplands also be protected, since many species utilize not one but many areas to meet their habitat requirements. Protecting habitat also is important in maintaining the diversity of plants and animals that are present. Allowing the quarry expansion in the North Angell Bros. Creek would conflict with habitat protection since it would destroy habitat and have negative impacts on water quality for the Burlington Bottoms area.

Approving the quarry expansion would also conflict with the intentions of Goal 5, which: requires cities and counties to develop comprehensive plans that will 1) ensure open space; 2) protect scenic and historical areas and natural resources; and 3) promote healthy and visually attractive environments in harmony with the natural landscape. Allowing the Angell Bros. Quarry to expand into the area that includes the North Angell Bros. Creek, which you have found to be "significant", would be:

1) in conflict with the requirements of Goal 5, since it would not protect the area's natural resources. The North Angell Bros. Creek that is said in the report to be of low quality downstream would be further degraded, thus having a detrimental impact on water quality, particularly to Burlington Bottoms. Since the upstream portion of this creek has been found to be of "high quality", it would be far better to give protection to the entire creek and enhance the lower area, thus protecting and enhancing habitat for wildlife and fish, and maintaining the "significance" of the stream as a whole.

C1-94
RESPONDENT'S
EXHIBIT

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Page 2 continued

2) in conflict with maintaining an environment that is in harmony with the land. The results of allowing mining expansion would not be in harmony with the land, and would destroy valuable wildlife habitat in this area. Though claims are made that the area could eventually be reclaimed, this has not been proven to be accurate as evidenced in past cases, and does not compensate for the loss of habitat and the degradation of water quality in the present.

The expansion of the Angell Bros. Quarry is not justified economically, as stated in your report, and when weighed against what it would do to the resources it certainly cannot be allowed. Your report states that the 3-C resource areas, including the Rafton/Burlington Bottoms area, "must be protected by limiting conflicting uses, of which mining is one". If we as stewards of the land do not protect our natural resources, who will?

Sincerely,



Sue Beilke



PORTLAND PARKS AND RECREATION

1120 SW FIFTH AVE, SUITE 1302, PORTLAND, OREGON 97204-1933

TELEPHONE (503) 823-2223

FACSIMILE (503) 823-5297



CHARLIE HALES, COMMISSIONER

CHARLES JORDAN, DIRECTOR

June 13, 1994

Multnomah County Board of Commissioners
1120 S.W. 5th Avenue
Portland, Oregon 97204

Dear Commissioner:

As much as time has allowed, I have reviewed the *West Hills Reconciliation Report* dated May 23, 1994. Based on my review and on my interest in the protection of Goal 5 resources important to Forest Park and to other Portland parks, I submit the following observations and recommendations.

First, the scenic resource inventory and evaluation work is much improved. Hopefully, the result will be fair consideration of these important resources as they will be given some weight during land use decision making.

Second, for purposes of determination of significance, the stream resource inventory information is adequate in its identification of streams in the West Hills running through Forest Park.

Worth reconsidering, however, is the ESEE analysis. While the matrix correctly states that there are numerous impacts from existing and potential conflicting uses, the ESEE conclusions and summary appear to consistently favor economic over environmental consequences. For example, when consequences of protecting the environment are stated they may be accompanied by a reminder that the impacts are "transferred to another site" (four times on pages 40-41, Chapter III). However, when there is an economic consequence such as loss of property value or loss of a job, there is no mention of the possibility of increased property value at other sites, or jobs created elsewhere if use of the site is limited. Also questionable in the ESEE summary is the statement that there is a "reduced availability of amenities" if residential use is not allowed or limited. The only place where that statement may be true is on the parcel so regulated. The remainder of the watershed and downstream areas would enjoy enhanced amenities. I suggest that ESEE analysis be done on a more consistent basis and that a more global view be considered before such conclusive statements are made. Policy made from statements having such a constrained viewpoint may not be in the best interest of all.

C1-94

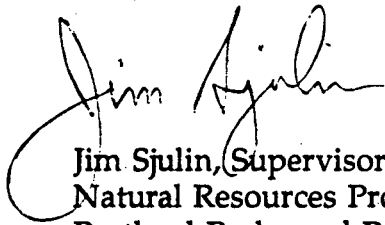
RESPONDENT'S
EXHIBIT

24

Having said that, I cannot predict how the result of a revised ESEE analysis would play out in terms of recommended policy. However, I would suggest that you may be more inclined to consider some meaningful regulation of residential use, and regulation of agriculture, and you may be less distracted by assertions of "transferring environmental impacts", "reduced property value", "reduced availability of amenities", and "regulatory burden".

The City is having some success with a more broadly applied environmental zone. The e-zone places the responsibility of resource protection with all property in the watershed and with all property in significant wildlife habitat areas. I believe that this approach is both more fair and more effective in the long run. Please consider it as opposed to a narrow band along streams which may ultimately fail.

Respectfully,

A handwritten signature in cursive script, appearing to read "Jim Sjulín". The signature is written in dark ink and is positioned above the printed name and title.

Jim Sjulín, Supervisor
Natural Resources Program
Portland Parks and Recreation



Friends of Forest Park

P. O. Box 2413
Portland, OR. 97208

Dedicated to protecting and enhancing Portland's Forest Park

June 14, 1994

Planning Commissioners, Multnomah County
2115 SE Morrison
Portland, Oregon 97214

Dear Planning Commissioners:

There seemed to be some confusion at the hearing last night on the part of Chairman Yoon as to whether or not the Angell Bros. Quarry expansion area drained to Burlington Bottoms. He referred to some letter from ODF&W. I hereby submit into the record the Final Report on Burlington Bottoms Hydrology and Hydraulics Assessment Prepared for The Oregon Department of Fish and Wildlife by W&H Pacific. On page 7 it says:

"Stream B conveys perennial flows from an area of 270 acres and enters the upper lakes of Burlington Bottoms through a 30" concrete pipe. The northwestern end of the Angell Brothers quarry is a part of the watershed that drains through stream B. A site investigation showed that an access road belonging to the Angell Brothers Quarry is within this watershed."

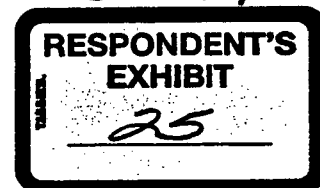
Personal communication from Jim Lenart, the signer of the Report, to me, included the information that there would NO DOUBT be heavy impact on Burlington Bottoms if the quarry were to expand. He said the Report avoided discussion of this issue. Certainly to avoid pollution of the Bottoms, extraordinary measures would be needed for removing sediment from stormwater. You heard Paul Kieren of DEQ last night say that flocculation tanks might be needed and that it was unclear where they could be located.

Thank you for your attention.

Sincerely,

Chris Wrench, President Friends of Forest Park

Enclosures



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JUN 14 1994

Multnomah County
Zoning Division

August 27, 1993

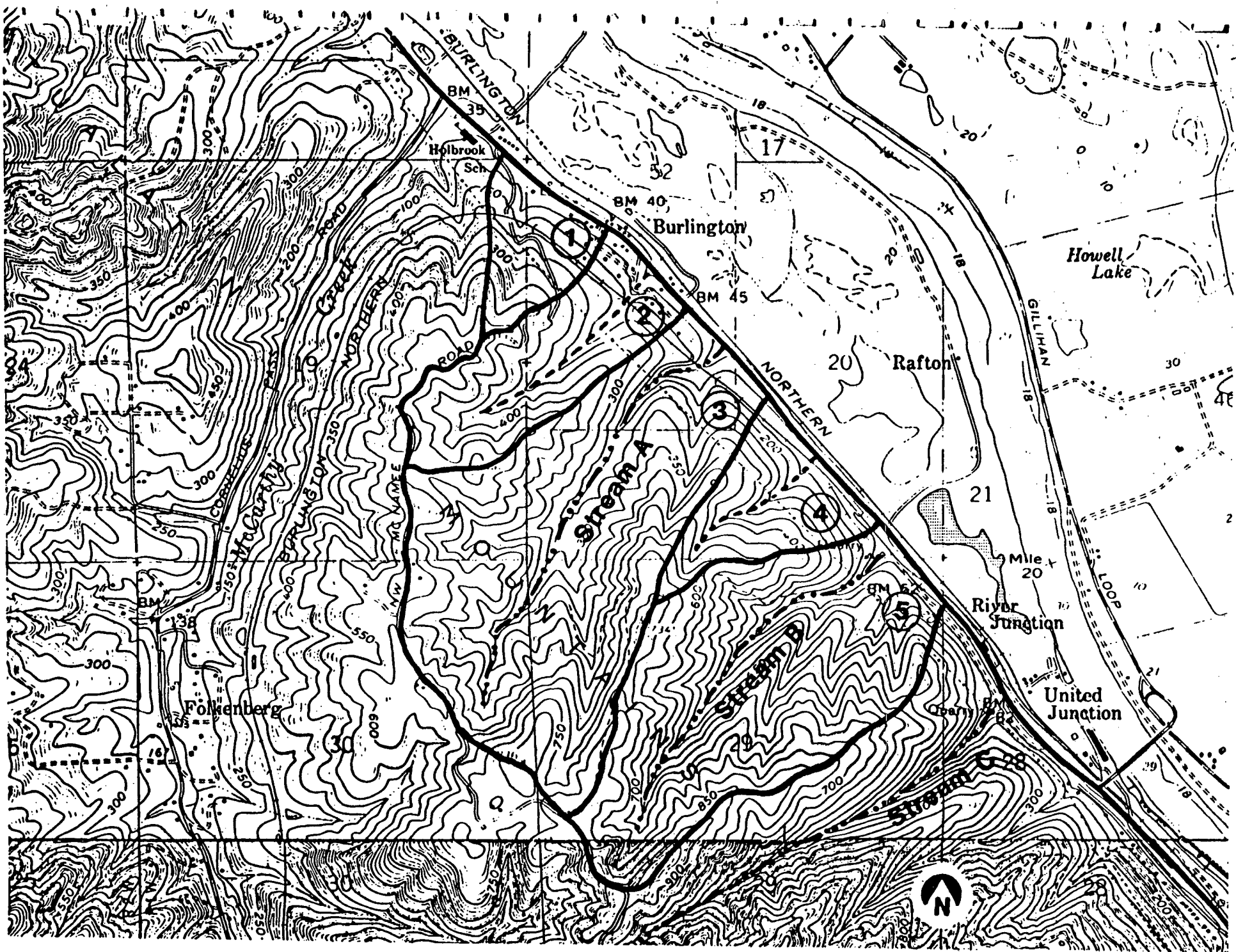
FINAL REPORT

**Burlington Bottoms
Hydrology and Hydraulics Assessment**

Prepared for

**The Oregon Department of
Fish and Wildlife**

By



Contributing Sub-Basin Map

WH PACIFIC

To get an understanding of this 900 acre watershed it was divided into five sub-basins as shown Figure 3. Data are presented in Table 1.

Table 1

Calculated Areas of Watersheds
Contributing to Burlington Bottoms

Sub-Basin	Drainageway Name	Area (AC)
1	Ephemeral Stream 1	40
2	Ephemeral Stream 2	141
3	Stream A	351
4	Ephemeral Stream 4	95
5	Stream B	270
Total		897

Sub-Basins 1, 2 and 4 contribute a small amount of flow via culvert crossings to the project site during rainstorm events only.

From field investigations, it was determined that both McCarthy Creek and Stream C do not contribute flows to the Burlington Bottom area. McCarthy Creek flows directly to the Multnomah Channel, however during periods of high stage in the Multnomah Channel there is a hydraulic connection between the McCarthy Creek Slough and the isolated slough. The direction of flow is dependent on the relative surface elevations of the sloughs.

Stream C may have, at one time, contributed flows to the project area. However, constructed drainage ways of U.S. 30 and the BN railroad have diverted the drainage south through United Junction. Stream C is the principal drainage way of the existing Angell Brothers Quarry. Since it does not discharge to Burlington Bottoms it appears that there are no direct water quality impacts.

Stream A conveys perennial flows from sub-basin 3. It drains an area of approximately 350 acres and enters the lower lakes of Burlington Bottoms through two 48" corrugated metal pipes passing beneath the railroad. Stream A has a reach of about 6,200 feet with an average stream gradient of 8.1 percent.

Stream B conveys perennial flows from an area of 270 acres and enters the upper lakes of Burlington Bottoms through a 30" concrete pipe. The northwestern end of the Angell Brothers quarry is a part of the watershed that drains through stream B. A site investigation showed that an access road belonging to the Angell Brothers Quarry is within this watershed. At the time of the site visits it was difficult to establish if the roadway is contributing sediment to the stream reach. Stream B's reach is about 5,400 feet in length with an average stream gradient of 14.0 percent.

Jim Lenhart - "they deliberately stayed away from quarry issue."



United States
Department of
Agriculture

Conservation
Service

2115 S. E. Morrison
Portland, Oregon 97214
Phone 231-2270

Date: June 17, 1994

Multnomah County Board
of Commissioners
1120 SW Fifth Ave.
Portland, OR 97204

C 2-94

Dear Commissioners,

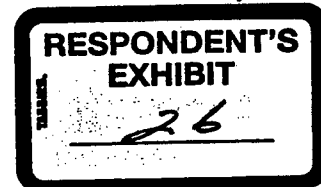
I wish to respond to written testimony submitted by Metro at the joint Board of Commissioners and County Planning Commission meeting held on 13 June 1994. In that testimony Metro disagrees with the planning staffs recommendation to not regulate agriculture and to limit the Soil and Water Conservation Districts appropriations to restoration activities, exclusively.

I agree with staffs recommendation to allow the Soil and Water Conservation Districts to handle the water quality issue related to agriculture. More regulation has not demonstrated itself as the answer to water quality issues related to any landuse. If recommending appropriations is part of this testimonial process I recommend appropriating the money the county would waste trying to figure out how to regulate agriculture to the Soil and Water Conservation Districts to bolster their program which actually achieves results.

I admire the Metro Greenspaces program and the fine work they do; and I appreciate the opportunity to present my view

Sincerely,

Steven Fedje
District Conservationist



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JUN 20 1994



The Soil Conservation Service
is an agency of the
Department of Agriculture

Multnomah County
Zoning Division



METRO

Multnomah County Board of Commissioners
c/o The Clerk of the Board
1120 S.W. Fifth Avenue
Portland, OR 97204

Multnomah County Planning Commission
c/o Scott Pemble, Director
2115 SE Morrison
Portland, OR 97214

June 17, 1994

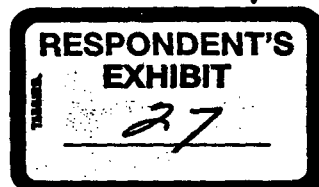
Re: "West Hills Reconciliation Report", May 23, 1994

Dear Commissioners:

We appreciate the opportunity to submit these additional comments to the file for the "West Hills Reconciliation Report".

At the June 13, 1994 joint hearing of the Multnomah County Board of Commissioners and the Multnomah County Planning Commission, it came to our attention that the Oregon Department of Fish and Wildlife (ODFW) has submitted two conflicting opinions to the file regarding the level of protection necessary for the North Angell Brothers Creek, which drains into the downstream Goal 5 wetland, Burlington Bottom.

A May 19, 1994 letter concluded that ODFW does not believe the North Angell Brothers Creek warrants a determination of "significance", i.e. no protection, while a June 9, 1994 letter (attached) from Sue Beilke, Burlington Bottom Project Coordinator for ODFW, recommended protection of the entire length of the North Angell Brothers Creek, including enhancing the habitat of the lower section.



ODFW's Habitat Conservation Division did not advise Metro, nor the owner (Bonneville Power Administration) of the site visit they conducted to Burlington Bottom on May 4, 1994, on which the May 19, 1994 letter was based.

Metro's testimony and written comments (provided at the June 13 public hearing) regarding protection for the North Angell Brothers Creek were based on the reasoning of Sue Beilke's June 9, 1994 letter and my personal involvement in the Burlington Bottom management planning team. The two year cooperative management planning effort coordinated by Ms. Beilke for ODFW, involved the expert advice of several other resource agencies including Bonneville Power Administration (the current owner of Burlington Bottom), The Nature Conservancy and U.S. Fish and Wildlife Service. The Burlington Bottom Management Plan/Environmental Assessment document is in its final preparation phase prior to federal National Environmental Policy Act (NEPA) review. The joint management plan/environmental assessment reflects hundreds of hours of expert knowledge and recommends appropriate protection measures, including protection and enhancement of watersheds contributing to the Burlington Bottom wetland.

Technical appendices to the document include a hydrological report (W&H Pacific, 1993), which confirms that there is high erosion potential associated with the clear cut section of the North Angell Brothers Creek. A well-reputed Portland Hydrologist, Jon Rhodes prepared a statement (September 1992) regarding the quarry expansion (entered into the file at the June 13 joint hearing) that predicts significant risk to the longevity and ecological health of Burlington Bottom from increased streamflow, erosion and sedimentation of the North Angell Brothers Creek.

ODFW's May 19 letter stated that ODFW manages the Burlington Bottom wildlife mitigation area, which is not true. In a recent discussion between Metro planner Jane Hart and Burlington Bottom Coordinator for BPA Charlie Craig (pers. comm. 6/10/94), Mr. Craig said that ODFW is under contract with BPA for Sue Beilke to prepare the joint Burlington Bottom Management Plan/Federal Environmental Assessment document. However, no contract or agreement exists at this time between BPA and ODFW for management of Burlington Bottom. BPA has yet to determine a strategy for who will manage the wildlife habitat mitigation area, but ODFW and Metro are being considered.

As mentioned previously, BPA is the owner and responsible for management of Burlington Bottoms as a wildlife habitat mitigation area. We have inquired whether they were consulted or notified of the West Hills Goal 5 review process which has implications for Burlington Bottom. Their response was that they were unaware that this process had been initiated. It is recommended that their comments be requested. Charlie Craig is the appropriate contact. He can be reached at 231-6964.

For the reasons stated above, we believe our June 13, 1994 letter recommending no quarry activities in the watersheds that drain into the Burlington Bottom wetland are based on sound, thorough and credible scientific studies and judgement. We believe we have proposed the minimum requirements to achieve protection of the North Angell Brothers Creek and the downstream Burlington Bottom and hope that you will incorporate them into the West Hills Reconciliation Report.

Thank you again for considering our comments.

Sincerely,

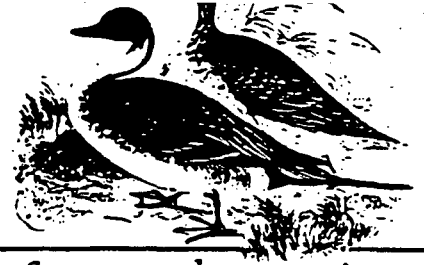


Charles Ciecko
Director
Metro Regional Parks and Greenspaces

enclosure

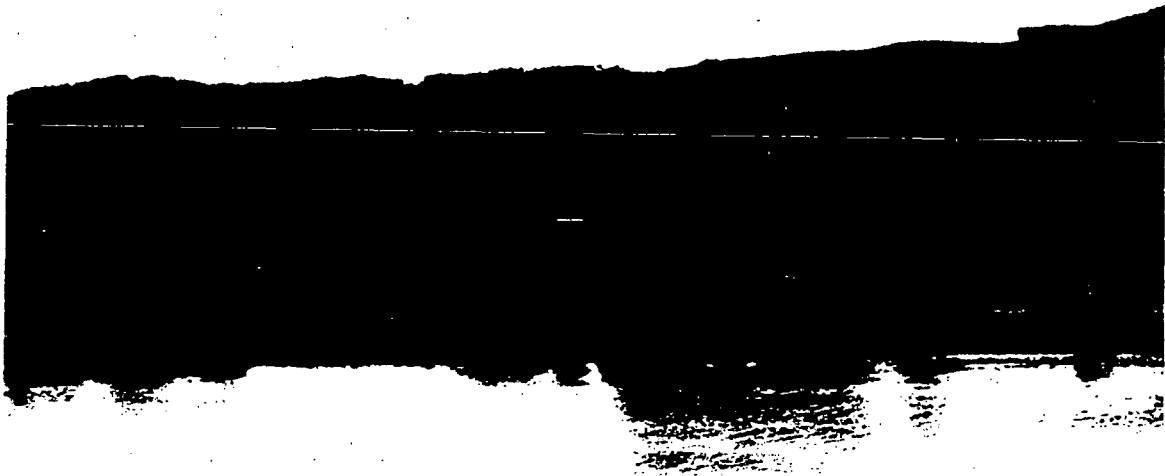
CC: Steve Oulman, Department of Land Conservation and Development
Robert Walker, Bonneville Power Administration
Jill Zarnowitz, Oregon Department of Fish and Wildlife
Neil Mullane, Oregon Department of Environmental Quality
Rena Cusma, Metro
Judy Wyers, Metro
Merrie Waylett, Metro

SAUVIE ISLAND Conservancy



dedicated to the preservation of island rural life, wildlife & natural recreation area

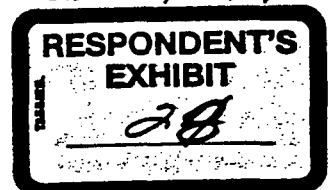
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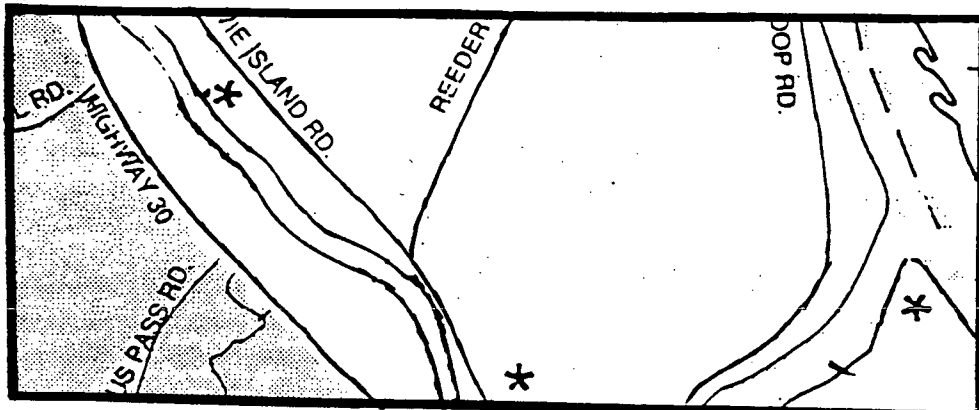
Scenic Corridor from Sauvie Island Rd

City of Portland
Scenic Resources Plan
VS
Multnomah County
Proposed West Hills Scenic Resource Plan

... inside ...
highlights of the most significant differences C1-94



MULTNOMAH COUNTY PROPOSED WEST HILLS SCENIC RESOURCE PROTECTION PLAN ENCOMPASSES



SCENIC VIEWS
[5 spots]



KEY VIEWING AREA

[Note: None of the approximately 50 miles of Scenic Corridors is protected]

CITY OF PORTLAND SCENIC RESOURCES PLAN

FULLY PROTECTS

SCENIC VIEWS

- C **Scenic view:** A scenic view is a view that may be framed, wide angle, or panoramic and may include natural and/or manmade structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway or path. A view may be to a far away object such as a mountain or of a nearby object such as a city bridge.

MULTNOMAH COUNTY PROPOSED WEST HILLS SCENIC RESOURCE AND PROTECTION PLAN

RESTRICTS PROTECTION OF

SCENIC VIEWS

- a) by proximity of viewer
- b) by length of time the view is experienced from a car

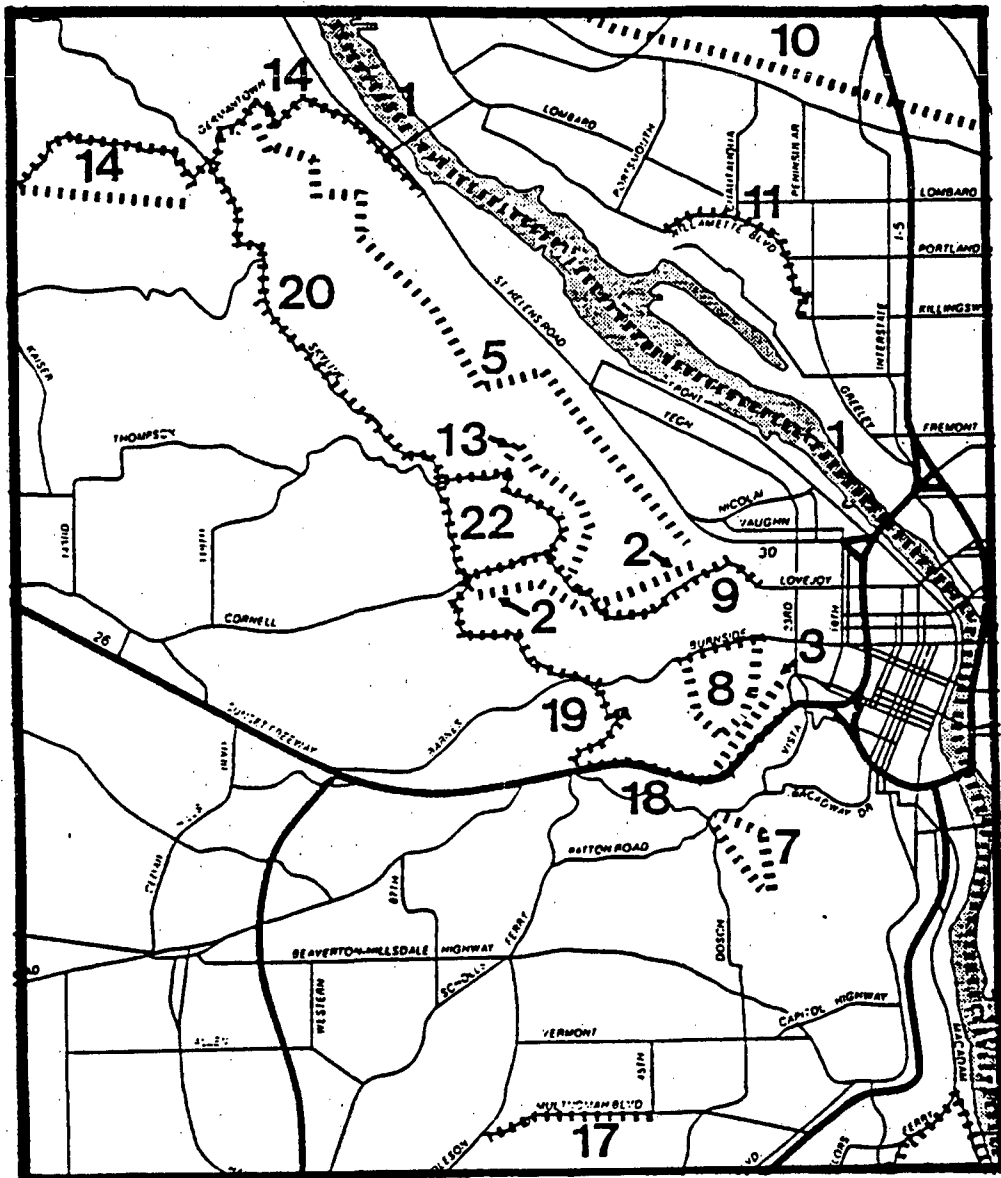
However, it is logical to assume that almost any development will be visible from foreground views, while a larger area must be disturbed to be visible from middle or background views.

A third viewing parameter relates to the time span during which a specific view can be seen from key viewing corridors - Highway 30 in particular but also Sauvie Island Roads. It may not be important to protect views that are seen for only a few seconds from a passing car.

CITY OF PORTLAND SCENIC RESOURCES PLAN

includes as scenic corridors:

The Winding Wooded Roads Between Skyline Blvd & Route 30



Zone Code 33.910.000 Definitions

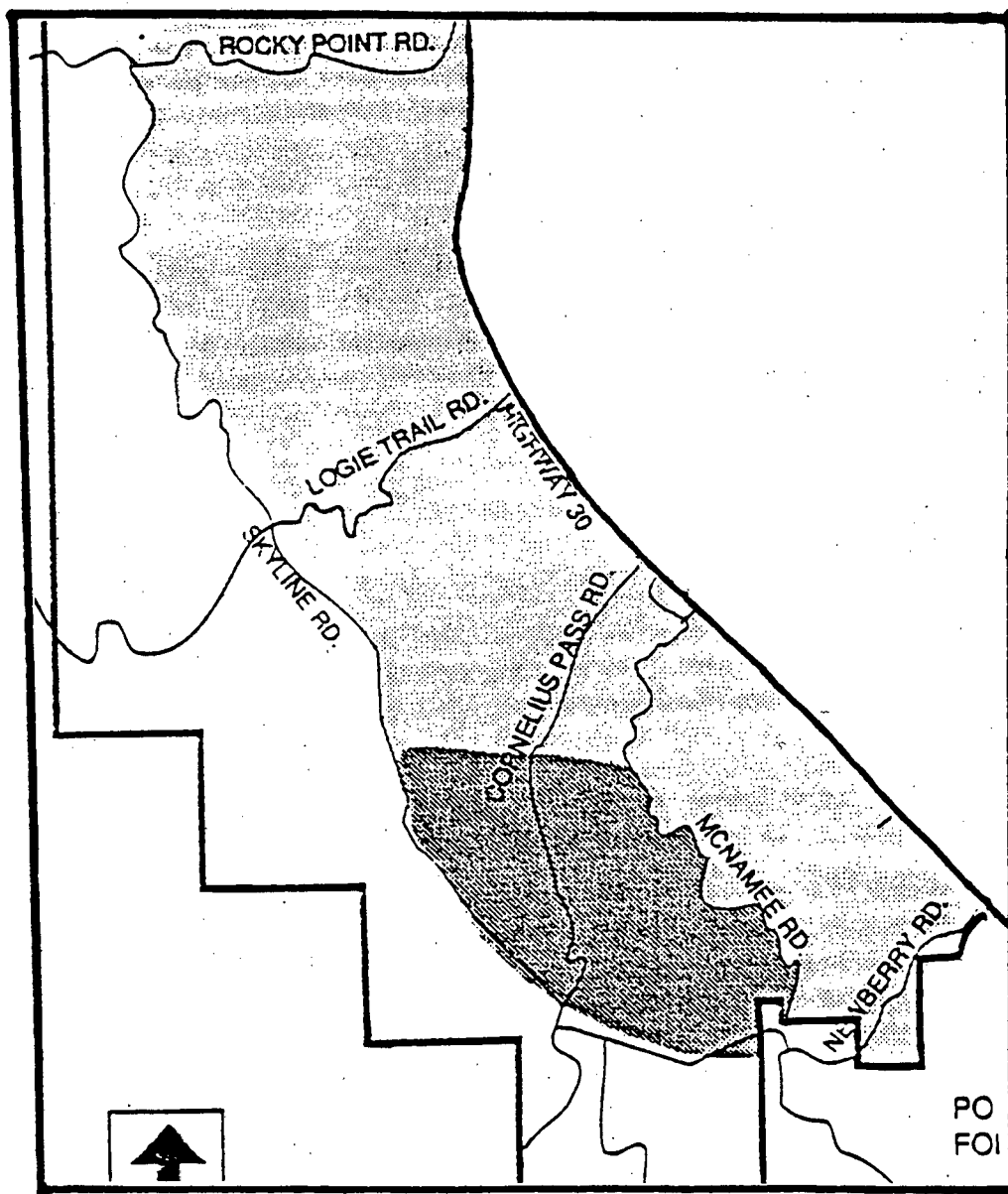
A. Scenic Corridor

"... The corridor may be valued for its intrinsic scenic qualities such as a winding road through a wooded area."

MULTNOMAH COUNTY PROPOSED WEST HILLS SCENIC RESOURCE PROTECTION PLAN

excludes as scenic corridors:

The Winding Wooded Roads Between Skyline Blvd & Route 30



CITY OF PORTLAND SCENIC RESOURCES PROTECTION PLAN

is written in language that is
SPECIFIC AND ENFORCEABLE

Example:

"Two rows of trees, one deciduous and one evergreen, must be planted on 30-foot centers along the length of the building between the structure and the protected resource."

Example:

"All trees over 6 inches in diameter measured at 5 feet above the ground must be retained."

Example:

"Mirrored glass with a reflectance greater than 20% is prohibited."

MULTNOMAH COUNTY PROPOSED WEST HILLS SCENIC RESOURCE AND PROTECTION PLAN

is written in language
that is **VAGUE AND UNENFORCEABLE**

Example:

"New vegetation should be planted to provide additional screening when any portion of new development will be visible from a key viewing area."

Example:

"Existing vegetation that screens the development should be retained wherever possible."

Example:

"Reflective materials should not be allowed."

RECOMMENDATIONS

The Proposed West Hills Scenic Resource Plan should be rewritten:

- 1) Protection should include all viewing corridors (as does the Portland Plan)
- 2) All winding wooded roads between Skyline Blvd and Route 30 should be protected as Scenic Viewing Corridors (as they are in the Portland Plan)
- 3) All protection must be written in language that describes standards that are enforceable (as they are in the Portland Plan)
- 4) Standards should include all new and future development in Burlington

Filed 6/20/94 pc

Oregon

June 20, 1994

R. Scott Pemble, Planning Director
Multnomah County Planning Division
2115 SE Morrison Street
Portland, OR 97214

DEPARTMENT OF
LAND
CONSERVATION
AND
DEVELOPMENT

Dear Scott:

Testimony to the planning commission and board of county commissioners on June 13 about the Howard Canyon aggregate site emphasized the possible effects of truck traffic on roads near Corbett. I said at the meeting that the staff so far has done an adequate job with the revised Goal 5 analysis. You asked that I clarify the department's interpretation of Goal 5 requirements and LCDC's expectations of Multnomah County's response to the commission's April 1993 required amendments order. I've organized this response around three questions.

1. What does Goal 5 require?

Statewide Planning Goal 5 directs local governments to conserve open space and protect natural and scenic resources. Local governments approach this goal by inventorying resources, analyzing land use conflicts, and developing programs to carry out local decisions about resource protection.

The Goal 5 administrative rules (OAR Chapter 660, Division 16) explain the process local governments follow to develop Goal 5 protection programs. One of the steps is an analysis of the economic, social, environmental and energy consequences of conflicts with resource protection. OAR 660-16-005(2) states, "The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate, at this stage of the process [the ESEE analysis]."

Based on the analysis of ESEE consequences, a local government must resolve conflicts in one of three ways explained in OAR 660-16-010. LCDC judges compliance with a local government's Goal 5 program based on the plan's overall ability to protect and conserve each Goal 5 resource. The department consistently has told local governments not to use transportation conflicts to withhold protection of a significant aggregate resource. We have advised, however, that they may enact reasonable restrictions to mitigate demonstrated effects of truck traffic.

C1-94
**RESPONDENT'S
EXHIBIT**

29

Barbara Roberts
Governor



1175 Court Street NE
Salem, OR 97310-0590
(503) 373-0050
FAX (503) 362-6705

R. Scott Pemble

- 2 -

June 20, 1994

2. What has LCDC said about Multnomah County's compliance with Goal 5?

Multnomah County's 1992 final periodic review order contained a decision about the Howard Canyon Goal 5 aggregate resource site. The county decided to allow conflicting uses fully, irrespective of the effects on the resource. Among its reasons, the county stated that land use conflicts arising from quarry truck traffic precluded protection of the significant resource. It did so on the basis of Statewide Planning Goal 12's direction to provide and encourage a safe, convenient and economic transportation system.

In its review of the county's decision, LCDC found that the county inappropriately conducted its Goal 5 analysis. LCDC did not say that transportation was not a factor in the Goal 5 analysis. Instead, it found that the county made errors in its analysis.

- a. Goal 12, like Goal 5, requires planning solutions. Goal 12 is not an independent standard used to deny protection of significant resources.
- b. The county had not shown how the use of area roads conflicted with protecting a significant resource site. The county did not explain how trucks were more hazardous than autos or why trucks required special prohibition.
- c. Goal 5 requires resolution of conflicts. The county had not identified an area in which to assess traffic concerns. Therefore, it had no basis for making conclusions about truck traffic. The county also did not show why local ordinance provisions for developer financed road improvements could not mitigate alleged conflicts.

3. Is the county's response adequate?

In its reevaluation of the Goal 5 analysis for the Howard Canyon aggregate site, the county has approached transportation conflicts differently. It has not looked at road use conflicts as a limitation for resource protection. Instead, it has assessed the conflicts as transportation issues.

This is an appropriate planning response. Our view is that local governments must develop programs to protect resources from conflicting uses. Having done so, a local government may impose restrictions on the mining activity consistent with its comprehensive plan and land use regulations. Gravel truck traffic is no different than other vehicle traffic. It must meet standards established by local governments to protect public safety and ensure long life of roads.

We encourage Multnomah County to identify a strategy for making necessary improvements to Corbett area roads. We note that the county code (MCC 11.15.7325(C)(1)(d)) allows aggregate operators to contribute to needed improvements. A similar provision could apply to other land uses that affect the road system. Other strategies such as phasing development, establishing an improvement district, or imposing vehicle weight limits should be examined.

R. Scott Pemble

- 3 -

June 20, 1994

Summary

Goal 5 requires local governments to identify significant resources. Based on an analysis of conflicts, they must resolve conflicts and carry out a program to protect Goal 5 resources. LCDC directed Multnomah County to reexamine its decisions for a variety of resources.

The planning staff has followed the proper steps of the Goal 5 planning process. In its analysis of the Howard Canyon aggregate site, the staff noted transportation conflicts apart from the question of protecting this resource from conflicting uses. This approach has merit. The county should follow through and identify a strategy to resolve conflicts among road users.

I hope these comments are helpful. The department remains committed to helping conclude Multnomah County's periodic review for this and other issues. Call me at 378-5144 if you have questions.

Sincerely,



Steve Oulman, AICP

Community Assistance & Review Division

*Original Filed on 6/20/94 -
was not clear - re-filed on 6/21/94
pc*

June 20, 1994

Oreg

DEPARTMENT
GEOLOGY AND
MINERAL
INDUSTRIES

MINED LAND
RECLAMATION

Scott Pemble
Planning Director
Multnomah County Department Environmental Services
Planning Division
2115 SE Morrison
Portland OR 97232

SENT VIA FAX 248-3389

RE: ID No. 26-0065, Howard Canyon Site

Dear Mr. Pemble,

Please accept this letter as part of the record for the above referenced site which is under consideration for aggregate zoning.

If approval is granted from Multnomah County for the proposed 50,000 yard a year operation, this would require an Operating Permit from DOGAMI. This would involve obtaining approval for an operational and reclamation plan for the quarry site plus filing a reclamation bond.

DOGAMI's operational concerns for this site are stable storage of overburden and isolating turbidity from public waters. There is adequate room to establish buffers to protect drainages and locations for the safe storage of overburden. There is no technical reason why this site can't be developed well.

As I explained in my testimony at the June 13 hearing, DOGAMI's inspection frequency has been irregular because this site has been recognized as being exempt. If an Operating Permit is required DOGAMI will attempt to inspect the site annually. If natural resource impacts develop, DOGAMI will conduct frequent inspections until the problem is resolved. *C1-94*

Sincerely,

E. Frank Schnitzer

E. Frank Schnitzer
Reclamationist
Mined Land Reclamation

RESPONDENT'S
EXHIBIT

30

EFS/cc:26-00650694.lct

c: Raymond Smith

Post-It™ Fax Note	7671	Date	6/21	# of pages	1
To	Scott Pemble	From	EFFS		
Co./Dept.	MuH.Co	Co.	DOGAMI		
Phone #		Phone #			
Fax #	248-3389	Fax #	967-2075		



1536 Queen Avenue
Albany, OR 97321
(503) 967-2039

June 20, 1994

Arnold Roehlin
P.O. Box 83645
Portland, OR 97283-0645
(503) 289-2657

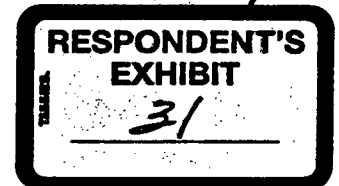
Multnomah County Planning Commission, and
Multnomah County Board of Commissioners

Testimony on West Hills Reconciliation Report

SUPPLY OF ROCK IN ANGELL BROTHERS QUARRY.

Skip Anderson testified that Angell Brothers would exhaust the currently approved quarry area in eleven years. He based the calculation on an assumption that he should increase production by 8% compounded each year, because he's done so in the past. There is no substantial evidence that such an increase in production is necessary or desirable, considering the multiplication of undesirable impacts. Nor is there any evidence of demand for such increased production.

An 8% annual increase **would more than double production.** Mr. Anderson, at long last, has gone on the record with testimony that is reasonably interpreted to mean that, with stable production, the existing quarry area would last over 20 years. There is substantial evidence that a more accurate figure is 60 years, but the essential point is that we don't need to destroy the hills now. We can wait and see what actual needs are.



RECEIVED

JUN 20 1994

Multnomah County
Zoning Division

**O'DONNELL RAMIS CREW
CORRIGAN & BACHRACH**

JEFF H. BACHRACH
PAMELA J. BERRY
MARK L. BUSCH
CHARLES F. CORRIGAN*
STEPHEN F. CREW
GARY FRIESTONE
G. FRANK HAMMOND*
WILLIAM A. MONAHAN
MARK P. O'DONNELL
TIMOTHY V. RAMIS
WILLIAM J. STALNAKER
TY K. WYMAN

ATTORNEYS AT LAW
1727 N.W. Hoyt Street
Portland, Oregon 97209

TELEPHONE: (503) 222-4402
FAX: (503) 243-2944

PLEASE REPLY TO PORTLAND OFFICE

June 20, 1994

CLACKAMAS COUNTY OFFICE
181 N. Grant, Suite 202
Canby, Oregon 97013
(503) 266-1149

JAMES M. COLEMAN
Special Counsel

ALSO ADMITTED TO PRACTICE IN WASHINGTON

Multnomah County Planning
2115 S.E. Morrison St.
Portland, Or. 97214

RE: West Hills Reconciliation Report

This office represents Susan Widder and Jeff Bachrach. They own property on the north side of McNamee Road, within the study area.

The property has received a clearing permit, and thus should be removed from any proposed scenic or other Goal 5 overlays.

Further, the Reconciliation Report does not comply with the Goal 5 implementing rule in numerous respects, in particular it violates OAR 660-16-010 and -020 and Goal 10.

Please be sure to include this letter in the record. Thank you.

Very truly yours,


Jeff Bachrach

RECEIVED

JUN 20 1994

Multnomah County
Zoning Division

C1-94

RESPONDENT'S EXHIBIT
32

R. TED BOTTIGER
CHAIRMAN
Washington

Ken Casavant
Washington

Ted Hallock
Oregon

Angus Duncan
Oregon

NORTHWEST POWER PLANNING COUNCIL

851 S.W. SIXTH AVENUE, SUITE 1100
PORTLAND, OREGON 97204-1337

Phone: 503-222-5161

Toll Free: 1-800-222-3355

FAX: 503-795-3370

June 20, 1994

JAY L. WEBB
VICE CHAIRMAN
Idaho

Robert (Bob) Saxvik
Idaho

Stan Grace
Montana

John N. Etchart
Montana

Multnomah County Planning Commission
c/o Scott Pemble, Director
2115 SE Morrison
Portland, OR 97214

Re: "West Hills Reconciliation Report"

Dear Mr. Preamble:

I have recently become aware of actions that the Board of Commissioners may take that could affect the long term value of the Burlington Bottom Wildlife Mitigation Site. This project is being implemented and funded by the Bonneville Power Administration under the Northwest Power Planning Council's Columbia River Basin Fish and Wildlife Program. The project serves as partial mitigation for wildlife habitat lost due to construction of the federal hydropower system. As stated in the Fish and Wildlife Program, the Council expects mitigation projects, funded by the regions electric ratepayers, to provide permanent mitigation.

Over the past several days, I have been provided with a number of comments to your agency regarding the status of North Angell Brothers Creek and how possible uses may affect the Burlington Bottom Site. It is clear that there is a technical dispute on this issue. Since I have only become aware of this issue and have not had time to discuss it with the other parties, including the Bonneville Power Administration, I would request that you would allow us until June 30, 1994 to try and resolve this matter.

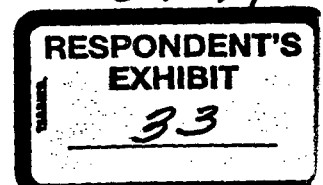
Thank you for your consideration. If you have any further questions, please contact me at the above telephone number.

Sincerely,

Peter J. Paquet, Ph.D.

RECEIVED
JUN 20 1994

Multnomah County
Zoning Division



Oregon

DEPARTMENT OF
FISH AND
WILDLIFE



HABITAT
CONSERVATION
DIVISION

June 20, 1994

Scott Pemble, Planning Director
Multnomah County Department of Environmental Services
2115 SW Morrison St.
Portland, OR 97214

Dear Scott:

The Oregon Department of Fish and Wildlife (Department) has reviewed the West Hills Reconciliation Report, and offers the following comments.

The County's objective for the West Hills Wildlife Habitat Area (WHWHA) is to maintain continuous forested habitat between Forest Park and the Coast Range. The Reconciliation Report (page V-9) states that:

"A minimum half-mile wide corridor of forested habitat is necessary to maintain a forested connection at any given location. The half-mile wide forest strip allows for animals to travel and seek cover in dense forests, and to compensate for edge effects that diminish wildlife habitat where forests meet clear cuts, agricultural land, roads, rural development and mining operations."

The County's response to Issue 16 on Pages V-88 - V-89 of the Reconciliation Report provides clarification on the County's objective:

"The critical area of habitat which would assure or destroy contiguity between Forest Park and the Coast Range lies between Newberry and Cornelius Pass Roads to the east of Skyline Blvd. Maintenance of a one-half mile area of continuous forest habitat (not cover) in this area is considered essential. Forested habitat includes areas of varying levels of forest canopy, ranging from cleared brushy areas to old-growth forest. A Study of Forest Wildlife Habitat in the West Hills (Lev et. al., 1992)



RESPONDENT'S
EXHIBIT

34

2501 SW First Avenue
PO Box 59
Portland, OR 97207
(503) 229-6967

recommends maintenance of minimum 200-foot wide forested canopy areas running throughout the half-mile width in order to provide cover for those animals which require it in order to survive, range and feed."

The Department believes that the distinction between forest habitat and forest cover is very important. We are glad that the County has clarified its objectives for the WHWHA. In our opinion, maintenance of a one-half mile area of continuous forest cover in the area between Newberry and Cornelius Pass Roads to the east of Skyline Boulevard is not an achievable objective, given the County's inability to regulate forestry on lands zoned Commercial Forest Use and the level of existing and potential residential development allowed within the Folkenberg and McNamee-Harberton subareas (see chart on Page V-35 of the Reconciliation Report). Maintenance of a one-half mile area of continuous forest habitat, with 200-foot wide forested canopy areas running throughout the half-mile width is a more achievable objective, and would benefit wildlife in the WHWHA.

The County's program for management of the WHWHA proposes to regulate rather than prohibit additional residential development. The Reconciliation Report (Page VI-25) contains siting standards, fencing regulations, limitations on size of lawns and gardens, and prohibition of introduced vegetation. These measures would not be adequate to ensure the maintenance of a one-half mile area of continuous forest cover, or eliminate the deleterious effects of residential development on wildlife. However, they could be used to achieve the objective of a one-half mile area of continuous forest habitat, with 200 foot-wide forested canopy areas running throughout the half-mile width.

Similarly, the County could meet their stated objective with respect to mining without prohibiting expansion of the Angell Brothers quarry within a one-half mile wide primary forest habitat area located between the existing quarry on the northeast, and secondary cleared habitat areas along McNamee Road to the southwest (Reconciliation Report, Page V-21). If the County's objective is to achieve a one-half mile area of continuous forest

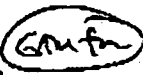
habitat, with 200-foot wide forested canopy areas running through the half-mile width, there are other options which should be considered.

We believe that long-term benefits to wildlife could be gained through conscientious reclamation of the quarry site and subsequent establishment of conservation easements in areas adjacent to McNamee Road. Mining could be allowed for an interim period within portions of this half-mile area. Expansion of the mining operation into this half-mile area could be phased so that mining does not begin until forest cover has been reestablished in the clearcuts adjacent to and northwest of the quarry. Topsoil could be stockpiled for use during reclamation. Expansion of the mining operation could be conditioned to require that areas nearest to McNamee Road be mined first, and that the mining be phased to provide for sequential reclamation so as to minimize non-vegetated areas and provide a maximum of regenerating wildlife habitat. The County, in conjunction with DOGAMI, could require a demonstration that reclaimed areas are capable of supporting forest vegetation. Conservation easements could be obtained to ensure that reclaimed areas are set aside in perpetuity as wildlife habitat.

In closing, we suggest that the County consider entering into mediation to resolve planning issues in the West Hills area. The Department believes that a mediation process could be very beneficial, and would be willing to participate.

Thank you for your consideration of these comments. Please enter this letter into the record of your June 21 Planning Commission hearing.

Sincerely,

Jill Zarnowitz 

Jill Zarnowitz
Assistant Director
Habitat Conservation Division

RECEIVED
JUN 20 1994

Multnomah County
Zoning Division

BCC✓

BOARD OF
COUNTY COMMISSIONERS

TO: Board of County Commissioners

1994 JUN 20 PM 3:54

FROM: Donis McArdle

MULTNOMAH COUNTY
OREGON

DATE: June 17, 1994

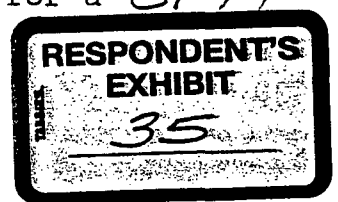
It is my opinion that the Board should reverse its decision for a number of reason, not the least of which is Goal 1. Goal 1 requires that there be citizens involvement of a cross section of affected citizens in all phases of planning process. The Deceased Commissioner McCoy cautioned the Planning Department and Commission in the last meeting on Goal 4 that she did not want this to ever happen again. She's dead and it is happening, again and again. There are 19 Goals--are you going to enact Goals 2 thru 19 before you get around to Goal 1? Goal 1 should have been firmly in place before you began on any of the other goals. I have attached a notice that was sent out with a tax statement. If the the County has the funds with which to include this kind of notice in their tax statements, it is hard for me to believe that they do not have the money or the time to properly notify its citizens that they are taking their property rights. You have made these designations without properly notifying the citizens directly affected.

The Board should be aware that almost all those ordinary citizens that were present at the October 12, 1993 hearing would have spoken out against the scenic designation had they not believed that the Staff Report which was approved and adopted by the Planning Commission would have been approved and adopted by you. Those citizens are aware that 95 to 97% of the time, the Staff's recommendation is approved and adopted by the Planning Commission and then adopted by you. That is a statistic furnished me by the Planning Department.

If you review your tapes of the October 12, 1993 hearing you will find that none of the proponents for the LC Scenic designation were citizens who live in the West Hills outside the Urban Growth Boundary except Commissioner Hunt and if you review her testimony, you will understand that if the Angell Brothers expansion was not still around, she would not have reversed her vote.

You are not properly notifying the citizens of the ramifications of your actions. The protection and/or conservation overlays all have a price tag and I do not believe that has been properly addressed. I will use the City of Portland as an example. The City has two overlays with which I am very familiar, the EC and EP. Those overlays affect what one can and cannot do with and on their property and they affect everyone whether or not they already have a home on their property. If an owner with an overlay wants to replace a deck, add a room, put up a fence, etc., that owner must apply for a

C1-94



permit. That overlay would require an additional application, cost of which is approximately \$800 plus fees paid to consultants, engineers, and other professionals for plans of mitigation with absolutely no certainty the applicant would prevail. Each and every overlay, protection, conservation, and restriction has a price tag. All property which is subject to governmental restrictions making it necessary for an application to get a variance or go through special studies will be discounted by the market. This discount will reflect the expense, time, risk, inconvenience and other problems involved in obtaining the governmental authorization. It also has a monetary affect on every citizen of the County. For example in Cox vs. Oregon Department of Revenue and Multnomah County, the lot owner, Cox, went to the City for a building permit only to find the City, without notice to him, had placed the EP overlay on all but an 18 foot strip of his property and that 18 foot strip had an EC overlay. The 1991 assessed value was \$49,500 with taxes due for that assessed value of \$1,658.50. The Judge found that the lot had no value based on development but had a speculative value of \$2,000. The County's loss of tax revenues, in this case alone, for 1991, 1992, and 1993 totals \$3,817.70 (\$4,113.50 taxes based on \$49,500 assessment value for all three years, less the \$295.80 actually received on the \$2,000 value ordered by the Court.) To that \$3,817.50 loss you must also add the County's court cost, attorney fees, appraiser's fees, PLUS the Court ordered the County to pay plaintiff's costs and disbursements. These lost revenues must be made up somewhere. This property owner has set an example others will undoubtedly follow. Each of the proposed restrictions will have a price tag, each will diminish the property owner's rights thereby ultimately diminish his value. I do not believe this was properly addressed.

If you don't stop this you are going to protect us right into the poor house.

You are elected by the people. I am enclosing copies of the response I received to a mailout which I previously forwarded to you through the Planning Commission. I sent this to every landowner in the West Hills outside the UGB. PLEASE LISTEN TO YOUR CONSTITUENTS AND NOT JUST TO THE SPECIAL INTEREST GROUPS WHO PAY NO TAXES.

A handwritten signature in cursive script, reading "Jonis McArdle". The signature is written in dark ink and is positioned below the typed text.

YOUR PROPERTY RIGHTS ARE IN DANGER!!

PROFESSIONALS 100

PROFESSIONALS 100. REALTORS®

January 25, 1994

Dear West Hills Property Owner:

July 21, 1993, I sent you a notice regarding Multnomah County Planning action regarding Goal 5, specifically the significant wildlife and significant scenic designations. Planning Staff recommended that the West Hills be designated "Significant Wildlife Habitat Area" and not be designated "Significant Scenic Resource." The matter was considered by the Planning Commission on July 26, 1993 and time for written comments was extended to September 3, 1993. At the September 7, 1993 Planning Commission meeting, the Planning Commission adopted Staff's recommendations. However, at the Board of County Commissioner's meeting on October 12, 1993, there was additional testimony from Arnold Rochlin, Oregon Parks and Recreation Department, Sauvie Island Conservancy, Friends of Forest Park, Audubon Society, Richard Shaffer, and others. One Planning Commissioner testified that she now favored the scenic designation she had opposed on September 7th. The "emerald arms embracing the City" greatly appealed to the artistic side of Chair Commissioner Beverly Stein and the Board of Commissioners voted to designate the West Hills as "Significant Scenic Resource."

December 31, 1993, I received notice that on January 3, 1994 the Multnomah County Planning Commission was to hear Staff's Report on the West Hills Scenic Resources, ESEE Analysis and Conclusions. Sorry, insufficient time to notify you. Wildlife & streams studies are in the process of being done. Planning Commission voted "unanimously to designate the West Hills Scenic Resource as "3-C". limit conflicting uses." They adopted the Staff Report with the following changes: "(1) Include a definition/description of the scenic resource. (2) Designate the McNamee Road area (that staff had suggested be removed from the significant area) as "3-B", which allows all conflicting uses. (3) All conflicting uses should be regulated to protect scenic values, including residences, businesses and industry." Planning Commissioner Chris Foster stated that all uses (including forestry practices) should be restricted to protect the scenic value. He was reminded that the County has no jurisdiction over forestry practices. He said that should also be looked into. He also recommended design review on residences. The Planning commission meets the first Monday of every month at 6:00 p.m., Multnomah County Courthouse, Room 602. Multnomah County Board of Commissioners meets the second and fourth Tuesday of each month at 1:30 p.m. in the same room. Please attend these meetings whenever possible!!

A Citizens Advisory Committee was appointed by Chair Commissioner Beverly Stein to work with County Staff to study and resolve the land use issues of the rural West Hills area. That Committee roster includes Holly Bona, Helen Sherman Cohen, Kimberly Marcellus, Arthur Marx, Donis McArdle, James McGrew, Vernon Munson, Tom Nash, George Sowder, Seth Tane, Art Wagner, Chris Wrench. John Ingle is the Multnomah County Planning Commission Liaison. Our introductory meeting was held November 30, 1993 and the first working meeting was January 11. Future meetings are set for February 8, March 8, April 5, and May 3, 1994 from 7:00 pm to 9:00 pm at the Sauvie Island School, 1445 NW Charlton Road. For your convenience. I am attempting to change the meeting place to Skyline School beginning with the March 8th meeting. At our meeting on January 11th, one or two of us voted for no further restrictions on residential use, however, others thought such restrictions as to placement on the lot, possible design review, restrictions on exterior building materials e.g., no reflective materials, no house should extend above skyline instead of the ridgeline referred to in the Staff Report. If we are to be of any use to you, we need your input. One suggestion made to me was to put the question of further restrictions to the landowners that were going to be directly affected by the restrictions. Therefore, on the back of this notice I have printed a ballot. All you need to do is mark the ballot, make comments, fold and staple it, then stamp and mail it. Please let us hear from you!

Sincerely, Donis McArdle

* -

Dear Citizens Advisory Committee:

Thank you for the opportunity to provide some thoughts of mine. I am limited by time so I'll make this short and to the point. Multnomah County does an absolutely miserable job when it comes to enforcing "existing ordinances, policies & guidelines, and land-use related conditions. I have pointed out past violations to the planning and zoning staff with little success and absolutely no follow-up to ensure the violations were corrected. On NW Morgan Rd. there currently exists multiple land-use violations and because of past practices by the planning staff I am reluctant to get get involved. It appears that zoning and land-use conditions/restrictions are for those who choose to abide by them and those that do not receive no sanctions nor are they required to correct the violations in spite of some "threatening letter" from Multnomah county. There just isn't any follow-up. The other factor seems that if you're "connected" or have enough money to hire the "right" consultant there is an exception for every rule, ordinance, zoning requirement or condition.

I do not want to see the northwest hills turned into what the southwest hills are BUT until Multnomah county can get its sh__ together and enforce its existing laws I am against more restrictions.

Thank You.

☒ I recommend no further restrictions be placed on landowners in the West Hills.

☐ I recommend no further restrictions on residential uses.

☐ I recommend the following restrictions on:

☒ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

TINA LOUISE MILLER
21230 NW GILKISON RD
SCAPPOOSE, OR 97056

DONIS McARDLE
 PROFESSIONALS 100
 1800 NW 167th Place, Suite 100
 Beaverton, Oregon 97006



DONIS McARDLE
 PROFESSIONALS 100
 1800 NW 167th Place, Suite 100
 Beaverton, Oregon 97006

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Greg J. Miller
22230 NW Gilkison Rd -
Scappoose, OR 97056

Greg J. Miller



97886-4846 82

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

Just nice places, Related looking places, Not over run on cars, trucks & raising heads of barking dog.
☒ I recommend no further restrictions be placed on landowners in the West Hills.

☒ I recommend no further restrictions on residential uses. *to a point*

☒ I recommend the following restrictions on:

Some ugly sheds (all the cars on Back Creek Rd. Johnson Rd. Shet Metal fence & illegal homes being built over the E. side hill at on bottom of Wilson Hill (left side) East & Johnson road. People living in garages on Back Rd. ^{Wilson}

Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

all shots & license for dogs. No Dog kennels.

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

YOUR PROPERTY RIGHTS ARE IN DANGER!!



January 25, 1994

Dear West Hills Property Owner:

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Sincerely, Donis McArdle

X I recommend no further restrictions be placed on landowners in the West Hills.

 I recommend no further restrictions on residential uses.

 I recommend the following restrictions on:

X Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning. **PATRICIA BATES**

9431 SW 12th DRIVE, PORTLAND OR 97219 .

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

*Donis - Thank you for all your hard work & communication.
I'm simply unable to attend these meetings & appreciate
info.*

|||||

97006-4546 83

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

YOUR PROPERTY RIGHTS ARE IN DANGER!!

PROFESSIONALS 100

PROFESSIONALS 100. REALTORS®

Dear West Hills Property Owner:

January 25, 1994

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Sincerely, Donis McArdle

☒ I recommend no further restrictions be placed on landowners in the West Hills.

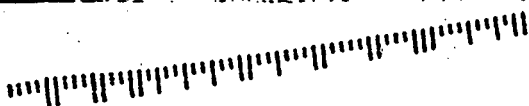
☒ I recommend no further restrictions on residential uses.

☒ I recommend the following restrictions on: *unrelated officials.*
All restrictions shall be abolished until ratified by
vote of property owners affected.

☒ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

Mrs. James C. Nelson (Eleanor) & James C. Nelson (Chet)



DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

I recommend no further restrictions be placed on landowners in the West Hills.

 X I recommend no further restrictions on residential uses.

 I recommend the following restrictions on:

 X Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning. *Donald H. & Janet E.L. Wilson*

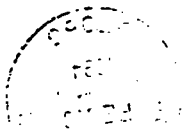
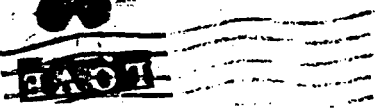
HCR 2 Box 13-530 Keady - HI 96749
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|||||

" "

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

usa
29



DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

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PROFESSIONALS
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January 25, 1994

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Sincerely, Donis McArdle

2 I recommend no further restrictions be placed on landowners in the West Hills.

X I recommend no further restrictions on residential uses.

 I recommend the following restrictions on:

X Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

Lewis E. Myatt
2939 NW 53rd Drive
Portland OR 97210



DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

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PROFESSIONALS 100
1800 NW 167th Place, Suite 100
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X I recommend no further restrictions be placed on landowners in the West Hills.

 I recommend no further restrictions on residential uses.

 I recommend the following restrictions on:

X Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning. Eric Stollberg

6140 NW Skyline Blvd, Portland, Or 97229

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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January 25, 1994

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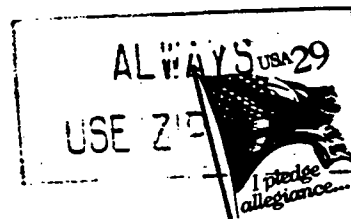
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Christiansen
J.W. Lindlaw
97229



Donis McArdle
Professionals 100
1800 N.W. 167th Place, Suite 100
Beaverton, OR 97006

I recommend no further restrictions be placed on landowners in the West Hills.

I recommend no further restrictions on residential uses.

I recommend the following restrictions on:

NO RESTRICTIONS
NO PEOPLE IN MOUNTAINS
KEEP WEST HILLS LIKE THEY ARE NOW

Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

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97006-4846 03

DONIS MARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



DONIS MARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

IF YOU WISH TO ADD
MORE TO THE INFOMITE
LIST YOURS YOUR OWN
GOOD JUDGE MENT
AND DO IT.
I BELIEVE YOU ARE
RIGHT.

BRACIET BARRETT

May this year
and the coming
year in which you
and your loved
ones with all
that is good

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WALTER C. BOWEN
President & CEO

2260 U.S. Bancorp Tower
111 S.W. Fifth Avenue
Portland, Oregon 97204

(503) 274-8400 voice
(503) 274-4685 fax

.....
DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

Place
Stamp
Here

YOUR PROPERTY RIGHTS ARE IN DANGER!!



PROFESSIONALS 100. REALTORS®

January 25, 1994

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 I recommend no further restrictions on residential uses.

 I recommend the following restrictions on:

X Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning. **PATRICIA BATES**

9431 SW 12th DRIVE, PORTLAND OR 97219.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

Donis - Thank you for all your hard work & communication. I'm simply unable to attend these meetings & appreciate info.



97886-4546 B3

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

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Donis McArdle

yes I recommend no further restrictions be placed on landowners in the West Hills.

yes I recommend no further restrictions on residential uses.

I recommend the following restrictions on:

~~People that have no connection to~~
~~our property, having too much to~~
~~say and the County adapting their~~
~~input and ignoring us.~~
Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

Dorothy English
13100 N.W. McNamee Rd.

Dorothy English
13100 N.W. McNamee Rd.
Port Land, OR 97231

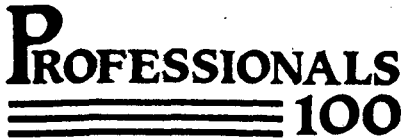
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Sincerely, Donis McArdle

☒ I recommend no further restrictions be placed on landowners in the West Hills.

☐ I recommend no further restrictions on residential uses.

☐ I recommend the following restrictions on:

*Restrictions on build
design and design review
is a little picky. Different
can't be seen at a distance
by someone enjoying the
view.*

☒ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

*Tom Chanley
12305 NW McNamara, Portland OR 97231*

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.



97006-4246 03

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

YOUR PROPERTY RIGHTS ARE IN DANGER!!

PROFESSIONALS
100

PROFESSIONALS 100, REALTORS®

January 25, 1994

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Sincerely, Donis McArdle

☒ I recommend no further restrictions be placed on landowners in the West Hills.

☒ I recommend no further restrictions on residential uses.

☒ I recommend the following restrictions on:

Non Residential Uses.

Bury Power Lines and Telephone Lines

☒ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning. James Zollner

16300 N.W. Sheltered Nook Rd. Portland, OR 97231

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

Note to Donis McArdle: Thank you for your efforts.
I will call you if I ever sell my home

Jim Zollner
16300 N.W. Sheltered Nook Rd.
Portland, OR 97231

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

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January 25, 1994

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Sincerely, Donis McArdle

☒ I recommend no further restrictions be placed on landowners in the West Hills.

☒ I recommend no further restrictions on residential uses.

☐ I recommend the following restrictions on:

NEW House on small lot (across from Holly Farm) on McNamee. This is supposed to be MUP-19.

☒ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

*Don Fry 15203 NW McNamee
621-3569*

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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Dear West Hills Property Owner:

January 25, 1994

FF 2/8/94

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Sincerely, Donis McArdle

Sunset Corridor Branch • 1800 NW 167th Place • Suite 100 • Beaverton, OR 97006
(503) 645-7433 FAX: (503) 645-3049

X I recommend no further restrictions be placed on landowners in the West Hills.

X I recommend no further restrictions on residential uses.

 I recommend the following restrictions on:

 Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

*April L Smith
19003 NW Columbia
Portland, OR 97231*

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

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PROFESSIONALS 100
1800 NW 167th Place, Suite 100
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Place
Stamp
Here

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PROFESSIONALS 100. REALTORS®

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☒ I recommend no further restrictions be placed on landowners in the West Hills.

☒ I recommend no further restrictions on residential uses.

☐ I recommend the following restrictions on:

people trying to tell me what I can & can't
do with my land

☒ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

Chiffon B. Smith
19003 NW Columbia St
Portland OR 97231

DONIS MCARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

DONIS MCARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

Place
Stamp
Here

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Sincerely, Donis McArdle

Sunset Corridor Branch

• 1800 NW 167th Place

• Suite 100

• Beaverton, OR 97006

(503) 645-7433

FAX: (503) 645-3049

☒ I recommend no further restrictions be placed on landowners in the West Hills.

☒ I recommend no further restrictions on residential uses.

I recommend the following restrictions on:

Too many restrictions already on the landowners
who have been paying taxes on this property for
forty five years.

Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

Mr & Mrs A.E. Hammack

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

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1800 NW 167th Place, Suite 100
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(503) 645-7433

• Suite 100
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• Beaverton, OR 97006

☒ I recommend no further restrictions be placed on landowners in the West Hills.

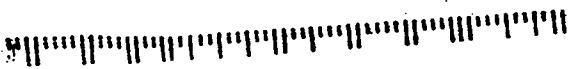
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☐ I recommend the following restrictions on:

☒ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

Gary Sears
1800 NW 216 St
Hillsboro OR 97124



97086-4846-03
12/17/94
1220
1220

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



DONIS McARDLE
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Dear West Hills Property Owner:

January 25, 1994

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Sincerely, Donis McArdle

Sunset Corridor Branch

• 1800 NW 167th Place

• Suite 100

• Beaverton, OR 97006

(503) 645-7433

FAX: (503) 645-3049

_____ I recommend no further restrictions be placed on landowners in the West Hills.

_____ I recommend no further restrictions on residential uses.

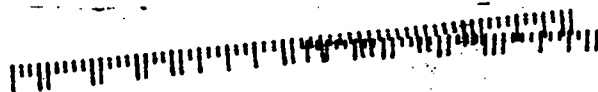
_____ I recommend the following restrictions on:

DAVID FLING
12931 NW SPRINGVILLE
PORTLAND OR 97229

☒ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

69



DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

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PROFESSIONALS
100

PROFESSIONALS 100. REALTORS®

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Sincerely, Donis McArdle

Sunset Corridor Branch •

1800 NW 16th Place •

Suite 100 •

Beaverton, OR 97006

(503) 645-7433

FAX: (503) 645-3049

I recommend no further restrictions be placed on landowners in the West Hills.

I recommend no further restrictions on residential uses.

I recommend the following restrictions on:

Dear Ms. McArdle - Please let's not get personal - I believe you have maliciously misquoted me here in an attempt to attack my credibility. Please retract the inaccuracies and refrain from further tactics. Let's be civil and fair! Thanks. Chris Foster.

Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

DONIS MCA RDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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(503) 645-7433

• Suite 100

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• Beaverton, OR 97006

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 I recommend no further restrictions on residential uses.

 ✓ I recommend the following restrictions on:

Design review on residences so that they
contribute to the beauty of the area -

Forestry: Restrict clear cutting - promote selective cutting,
if at all possible

 ✓ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

→ Carl and Mary Kittelson
10575 NW Skyline Blvd.
Portland, OR. 97231



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PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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 I recommend no further restrictions on residential uses.

 I recommend the following restrictions on:

Increased authority given to Friends of Forest Park and the Committee supervised by Portland Park Bureau (Jim Sjulín) in their long-range study for uses of Forest Park. I am particularly interested in our area which is N. W. 53rd Drive and N. W. Forest Lane or Fire Lane #1.

X Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

Dear Mrs. McArdle:

Thank you for your mailings.

My husband died in 1992, and I am slowly getting my affairs in order and am beginning to realize that Multnomah County, the City of Portland and the State of Oregon are all contriving to limit our rights of use of our property, even though the county assessor increases its value each year.

Last Monday, February 7, I attended a neighborhood meeting at which a committee from Portland Park Bureau presented a long-range study of increased uses of Forest Park. In this increased use they are considering closing N. W. 53rd Drive, or parts of it.

At the same meeting planners for the many new developments on Skyline presented future plans. Considering all the possible cars, people, etc. I should think we would not improve the neighborhood by closing any roads. As you know, there is over-use now.

Sincerely,

*Virginia C. Atkinson
2950 N.W. 53rd Drive
Portland, Oregon 97210
292-6362*

Beaverton, Oregon 97006
1800 NW 167th Place, Suite 100
PROFESSIONALS 100
DONIS McARDLE

Place
Stamp
Here

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

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PROFESSIONALS 100

PROFESSIONALS 100, REALTORS®

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Sincerely, Donis McArdle

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XXXXXX I recommend no further restrictions on residential uses.

I recommend the following restrictions on:

Dennis & Fran Trettin, Skyline & Ash

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Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

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☐ I recommend the following restrictions on:

M.A.K. Khalil
9961 N.W. Kaiser Rd
Portland, OR 97231

☒ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

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Beaverton, Oregon 97006

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• Beaverton, OR 97006

X I recommend no further restrictions be placed on landowners in the West Hills.

X I recommend no further restrictions on residential uses.

 I recommend the following restrictions on:

X Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning. *Don Gladden, P.O. Box 57, Gaston, OR 97119*

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

(We previously lived in Clinton, MO)



97006-4846 03

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

YOUR PROPERTY RIGHTS ARE IN DANGER!!

PROFESSIONALS 100

PROFESSIONALS 100. REALTORS®

January 25, 1994

Dear West Hills Property Owner:

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Sincerely, *Donis McArdle*

Sunset Corridor Branch

• 1800 NW 167th Place •
(503) 645-7433

Suite 100

FAX: (503) 645-3049

• Beaverton, OR 97006

I recommend no further restrictions be placed on landowners in the West Hills.

☒ I recommend no further restrictions on residential uses.

I recommend the following restrictions on:

NO design review on Houses !!

☒ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Stephanie G. Pierce 219 SW Anthony Portland 97204

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

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Sincerely, Donis McArdle

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☒ I recommend no further restrictions on residential uses.

☐ I recommend the following restrictions on:

☐ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

I am on the county's mailing list.

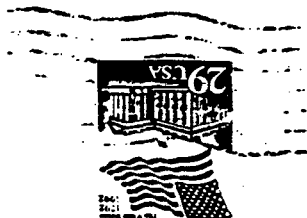
MR. WESLEY A. KNAUF
3300 NE. 164TH ST. #T-2
RIDGEFIELD, WA. 98642-8932



Thank You
W. A. Knauf



DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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PROFESSIONALS
100

PROFESSIONALS 100, REALTORS®

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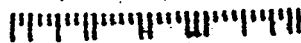
2 I recommend the following restrictions on:

neither land development and
deforestation. keep the forests and
open areas / scenic areas

Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

DR D.R. Illingworth, 2129 NW 81st Place
Portland OR 97225

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.



DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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Sunset Corridor Branch

• 1800 NW 167th Place

• Suite 100

• Beaverton, OR 97006

(503) 645-7433

FAX: (503) 645-3049

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Cherie Sprando
Fred's Marina 12800 NW Marina Way 97231



97006-4546 03

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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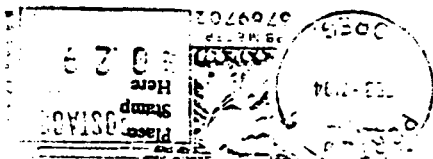
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☒ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning. **J. E. BARTELS, 520 S.W. YAMHILL, STE. 800, PORTLAND, OR. 97204**

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.



DONIS MARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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☒ I recommend no further restrictions on residential uses.

☒ I recommend the following restrictions on:

Any actions under consideration now or for the future until all due process has been provided to the property owners impacted. Properties (areas) under discussion for alteration to current designation should be posted, all owners of that and adjacent properties notified and a sufficient time (say, 90 days) for comment, and/or request for additional hearing.

Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

N.F. Byrkit
10843 N.W. Laidlaw Rd.
Portland, Or. 97229

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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_____ I recommend no further restrictions be placed on landowners in the West Hills.

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☒ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

Dennis Reynolds
Holly Reynolds
11660 NW Plainview Rd.
Portland, OR 97231

|||||

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

YOUR PROPERTY RIGHTS ARE IN DANGER!!

PROFESSIONALS
100

PROFESSIONALS 100. REALTORS®

January 25, 1994

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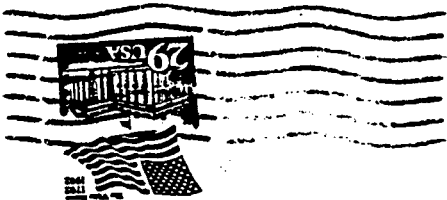
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One L. Roth trustee - Chester M. Leona L. Bates

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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Sincerely, Donis McArdle

EUGENE OSTER
20928 NW GILKISON ROAD
SCAPPOOSE, OR 97058

Feb 7 1994

Multnomah Co
Division of Planning etc
Attention Gordon Howard

Sir: When you speak of significant streams, please specify "Significant to whom, for what purpose".

For instance, a small trickle of water, a few gallons per minute, may be sufficient to provide drinking water for man or beast, but nowhere near enough to irrigate a commercial field.

One other topic: The type or style of house that city dwelling planners may think proper for me may not suit my needs or limitations at all, or may be priced far beyond my financial means.

Please respect the rights of property owners. We are not domestic livestock to be used at your discretion.

Eugene A Oster
Scappoose, OR

☒ I recommend no further restrictions be placed on landowners in the West Hills.

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EUGENE OSTER
20928 NW GILKISON ROAD
SCAPPOOSE, OR 97056

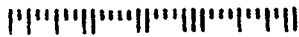
☒ I recommend the following restrictions on: Land use planners —

That they respect the property rights of the
property owners.

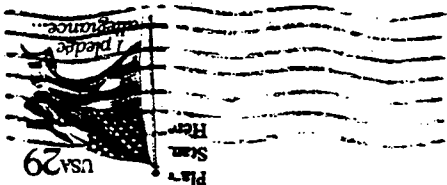
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Because of steep terrain building sites are limited by septic drain field requirements and road access. The few building sites are already spaced along existing county roads; I think it not likely that more roads will be built. I think it not likely that there will ever be 64 homes per square mile (one per 10 acres) because of the terrain. If I am not allowed to harvest timber on my land, the only thing I can do is pay taxes on land which someone else controls. Phooey on that. Eugene A Oster
My land is not a public park.



DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

YOUR PROPERTY RIGHTS ARE IN DANGER!!

Received Feb 7 1994

PROFESSIONALS 100

PROFESSIONALS 100. REALTORS®

Dear West Hills Property Owner:

EUGENE OSTER

20928 NW GILKISON-ROAD
SCAPPOOSE, OR 97056

January 25, 1994

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WALLY MODRE
6700 N.W. THOMPSON RD
PORTLAND, OREGON

97229

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

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January 25, 1994

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Sunset Corridor Branch

• 1800 NW 167th Place
(503) 645-7433

• Suite 100
FAX: (503) 645-3049

• Beaverton, OR 97006

YOUR PROPERTY RIGHTS ARE IN DANGER!!

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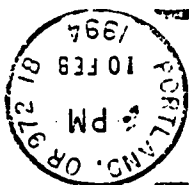
X Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning. *Marie Hines 10485 NW Lee Ct. Portland, OR 97229*

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.



97006-4546 03

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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PROFESSIONALS 100
1800 NW 167th Place, Suite 100
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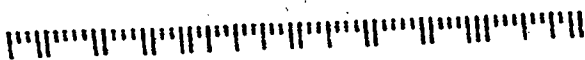
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GARY & JANE DAVIS
20506 NW SKYLINE BLVD
HILLSBORO, OR 97124

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97006-4546 03

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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Sincerely, Donis McArdle

Sunset Corridor Branch

• 1800 NW 167th Place

• Suite 100

• Beaverton, OR 97006

(503) 645-7433

FAX: (503) 645-3049

X I recommend no further restrictions be placed on landowners in the West Hills.

X I recommend no further restrictions on residential uses.

_____ I recommend the following restrictions on:

X Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

SCOTT & VICKY CONVERSE
10548 N.W. SKYLINE
PO 97231



97006-4846 03

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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PROFESSIONALS 100
1800 NW 167th Place, Suite 100
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PROFESSIONALS 100

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January 25, 1994

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☒ I recommend no further restrictions be placed on landowners in the West Hills.

☒ I recommend no further restrictions on residential uses.[?]

☐ I recommend the following restrictions on:

*Golf club - especially the
time - some people come out on Sunday
& shoot pigeons constantly - makes for
a bad Sunday -*

☒ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

*Flora J. Davis 12925 N.W. Rocker
Portland, OR 97225*

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

|||||

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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☐ I recommend the following restrictions on:

☒ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

*G. S. Phillips
12305 N.W. McNamara Rd.
Portland, OR 97231*

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.



DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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I noticed, in 27 years of living in the Forest Park area, that my opinions have little consequence on the grand scheme of developers. Note, the intrusion on the coast range animal corridors by Forest Park Estates. Recently Bill Hutton literally tore up the topsoil and leveled deciduous growth by extending off skyline.

Your information has been not worthy, yet I feel impotent as an individual.

The greater development will mean enlarged roadway systems. At some point the lack of building restrictions will turn this area into another Tresham.

While not indifferent to your work I am not sure I am of value in it.

LouAnn Schreier
7200 NW Thompson Rd.
Port-Ore 97229.

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

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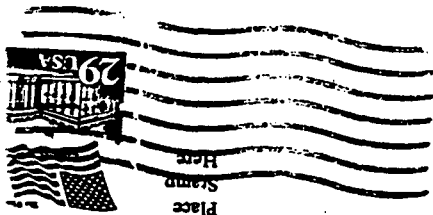
I recommend the following restrictions on:

*I Recommend that Sewer Hook be extended To Cornelius Pass &
then Quality homes be allowed along Skyline Blvd. How to define Quality???*

☒ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning. *H. M. Adams, 450 SW 90th Ave Portland 97225*

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

DONIS MCARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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☐ I recommend no further restrictions on residential uses.

Oregon Land and
Exploration, Inc.
5919 NW Skyline Blvd.
Portland, OR 97229

☐ I recommend the following restrictions on:

WILLIAM KIRKHAM

☒ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.



97086-4546 03

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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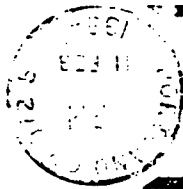
Georgie L. Mantony
Halsey

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January 25, 1994

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Sincerely, Donis McArdle

Sunset Corridor Branch

• 1800 NW 167th Place

• Suite 100

• Beaverton, OR 97006

(503) 645-7433

FAX: (503) 645-3049

I recommend no further restrictions be placed on landowners in the West Hills.

 I recommend no further restrictions on residential uses.

 I recommend the following restrictions on:

Septic Approval without regard to spring water
used for domestic purposes.

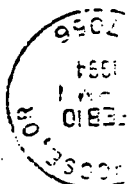
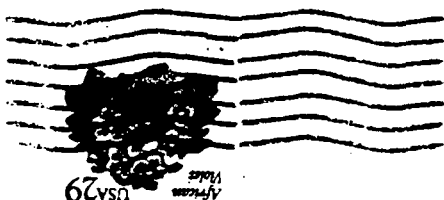
No New Homes on previous forest taxed land without regard to Scenic designation or Significant Wildlife Habitat Area

✓ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.



DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



Mitchell
Marquette-Hall
21560 NW Glikson Road
Scappoose, Oregon 97056
503/543-2071 or 778-9332
100 :

YOUR PROPERTY RIGHTS ARE IN DANGER!!



January 25, 1994

PROFESSIONALS 100. REALTORS®

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* I recommend the following restrictions on:

RESTRICTIONS

X Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Mr L.J. Niedermeyer Jr
9070 S.E. Lynn Lane
Portland, Or 97266

(777-0039)

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

|||||

97006-4846 03

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

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☒ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

Dear Donis -

Thank you for this letter. I appreciate + applaud your efforts on landowners behalf. As you know, the entire process you are participating in is totally + only political with "protectionists" causing all of the furor. Their zealous attitudes will be tempered by lawsuits + litigation which will cost the county 100's of 1,000's of \$ over time. Rather than fight with them on an on-going basis, my friends and I are organizing a group of wealthy (very) landowners + will challenge these decisions where they will do the most good - in their pockets. The only true protector of scenic + wildlife values is the landowner who knows what stewardship really means. As per the forestry issue don't worry - these small minded fascists will never be able to take our livelihoods away from us.

Check with OIA / Don Smith, atty. et al.
People are rapidly becoming aware of these people's agendas and only

DONIS MARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

time, \$ + the court system will stop them. In the meantime

Thanks for trying -

Ken Newman

NEWMAN'S TREE FARM
19863 N.W. LOGIE TRAIL
PORTLAND, OREGON 97231

Am. Tree Farm System
Of Sm. Woodlot Owners
Organized In Astoria

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Place
Stamp
Here

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R J NIEDERLE ETAL
12209 NW SKYLINE BL
PORTLAND OR 97231-2401



97006-4546 B3

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

Mr. & Mrs. Rudy Niederle
12209 N.W. Skyline Blvd.
Portland, OR 97231

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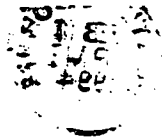
 I recommend the following restrictions on:

Design review ok if includes ability to cluster homes on large parcels to
help keep open character. Prefer not to see "suburban lots" (set backs etc.) in all
cases. The true planned unit development tailored to rural setting should be
restored. The current choice between rural + suburban needs a third alternative in

Please have my name placed on Multnomah County's list to receive all information regarding West
Hills Planning. between - Rural - Planned Unit Development.

Phil Papworth

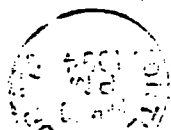
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Place
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 I recommend the following restrictions on:

My response to this is not so simple as anyone of the above options

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Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.

Michael Ken Smith 20300 N.W. WATSON Rd
Scappoose, OR 97056



DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006

in ul



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January 25, 1994

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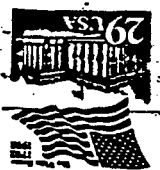
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Sunset Corridor Branch

1800 NW 167th Place
(503) 645-7433Suite 100
FAX: (503) 645-3049

Beaverton, OR 97006

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_____ I recommend the following restrictions on:

Restrict within reason removal of trees from
building sites & restrict grading that has long term effects on
trees, erosion & watershed.

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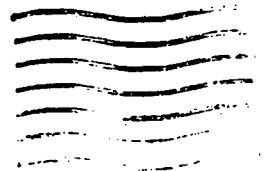
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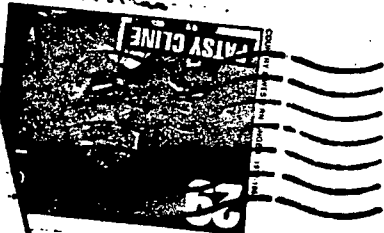
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97006-4546 03

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☒ I recommend no further restrictions be placed on landowners in the West Hills.

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☐ I recommend the following restrictions on:

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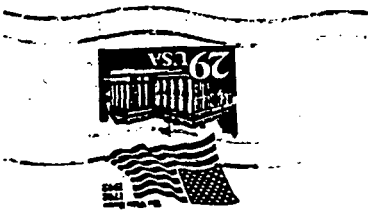
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97086-4846 03

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January 25, 1994

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☒ I recommend no further restrictions be placed on landowners in the West Hills.

☒ I recommend no further restrictions on residential uses.

☒ I recommend the following restrictions on:

Californians living in this area without living ^{somewhere else} in the state
for 10 years first.

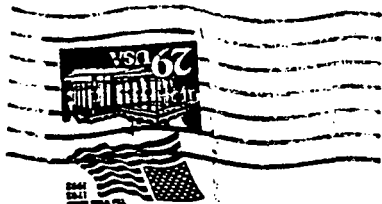
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I recommend no further restrictions be placed on landowners in the West Hills.

 I recommend no further restrictions on residential uses.

 X I recommend the following restrictions on:

regulate heavy truck use & heavy truck
business & Septer & Gravel Co. equip, log truck,
etc on McNamara Rd

 X Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission, and the Multnomah County Board of Commissioners.



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Sunset Corridor Branch • 1800 NW 167th Place • Suite 100 • Beaverton, OR 97006
(503) 645-7433 FAX: (503) 645-3049

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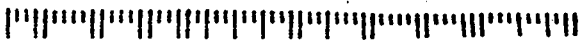
I recommend no further restrictions on residential uses.

I recommend the following restrictions on:

Limit and enforce The number of old, unlicensed cars that can be collected on residential property

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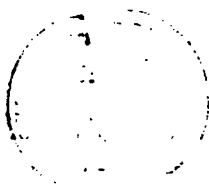
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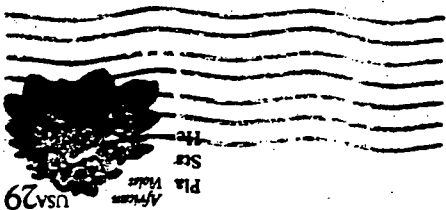
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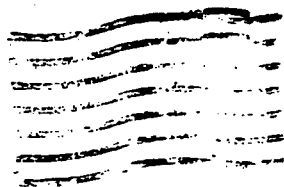
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Sincerely, Donis McArdle

Sunset Corridor Branch

• 1800 NW 167th Place • Suite 100
(503) 645-7433 FAX: (503) 645-3049

• Beaverton, OR 97006

☒ I recommend no further restrictions be placed on landowners in the West Hills.

☒ I recommend no further restrictions on residential uses.

☐ I recommend the following restrictions on:

☐ Please have my name placed on Multnomah County's list to receive all information regarding West Hills Planning.

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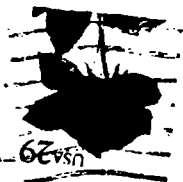
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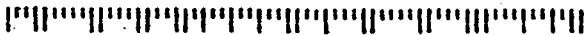
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No logging within 100' of All secondary streams.

Strict Compliance with septic drain fields near streams & watersheds. Low interest loans to correct inadequate drain fields protected by grandfather clauses.

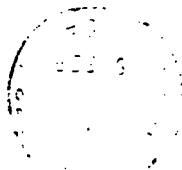
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97006-4846 03

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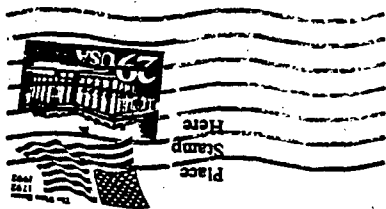
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Restrict ALL governing bodies from placing any conditions on privately held properties which may cause financial harm to the owner without full compensation to the owner at fair market value, including future increase in value loss.

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Sincerely, Donis McArdle

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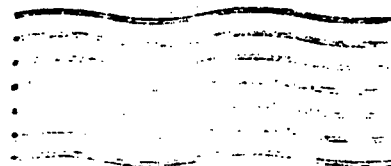
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Your comments will be forwarded to the Citizens Advisory Committee, the Planning Commission and the Multnomah County Board of Commissioners.

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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YOUR PROPERTY RIGHTS ARE IN DANGER!!

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UNITED STATES DEPARTMENT OF AGRICULTURE

DONIS McARDLE
PROFESSIONALS 100
1800 NW 167th Place, Suite 100
Beaverton, Oregon 97006



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MULTNOMAH COUNTY OREGON

DIVISION OF PLANNING & DEVELOPMENT / 2115 S.E. MORRISON / PORTLAND, OREGON 97214

7/20/94 Submission

C 1-94a
July 13 thru July 22, 1994
Open Record Exhibits
West Hills

1. Applied Ecosystem Services (Richard Shepard)
2. Richard S. Shafer, Landscape Architect

Applied Ecosystem Services

2404 SW 22nd Street
CompuServe: 73557.2367

Troutdale, OR 97060-1247

(503) 669-6672
Internet: rshepard@novalink.com

July 18, 1994

R. Scott Pemble, Planning Director
Multnomah County Department of Environmental Services
2115 SE Morrison Street
Portland, OR 97214

C1-94a

Subject: Appeal of Planning Commission's Decisions on West Hills and Howard Canyon
Area Reconciliation Reports

Dear Scott:

With regard to the Angell Brothers quarry site in the West Hills, the Planning Commission is requiring that the southern and western portions of the property not be included in the future expansion of quarrying operations. The reason given for this decision is the proported need to maintain a half-mile corridor, or buffer zone, near the ridge top. Both the need for this buffer zone and its specific size are technically insupportable and not in compliance with the Statewide Planning Goal 5 rule.

You have been relying on two reports submitted as final products for contracts awarded by the county for the technical basis of this decision. One report was submitted by Houle in 1990, the other by Lev, Fugate, and Sharp in 1992. It is these reports which deny technical substantiation of the need for this buffer and for a width of one-half mile.

The source of the half-mile width requirement in the area of the Angell Brothers' property comes from the Lev, Fugate, Sharp report. On page 26 the first full paragraph reads,

"If existing trends in residential development and logging continue without regard to maintaining contiguous forested habitat throughout, isolation of Forest Park and the entire peninsula will result. to avoid such isolation, the forest habitat throughout the peninsula must be capable of supporting viable populations of resident species native to the area. The contiguous forest habitat should be wide enough to contain home ranges of smaller wildlife species, and longer corridors need to be wider to accomplish this (Noss 1987a; Houle 1990; Marcot, pers. comm. 1992). Houle (1990) suggested, on the basis of communications in 1989 with several nationally recognized experts (L.D. Harris, C. Maser, R. Noss) that a corridor no less than 1.5 mi wide would be necessary to assure long-term viability of populations of black bear, elk, and bobcats in Forest Park. In this case we assume that this objective includes the entire peninsula to be viewed simple as an extension of the much larger Coast Range forests. Maintenance of this peninsula as largely interconnected forest will assure its values as a timber resource as well as protecting wildlife, water quality and the special livability of our community."

Here are the important points regarding this statement:

1. This buffer width relates to sustaining populations of black bear, elk, and bobcats in Forest Park. This may not be either practical or desirable.
2. Nowhere do the authors (or Houle in her 1990 report) document the existence of these animals either in Forest Park or along the Tualatin Mountains between the park and the Coast Range. In addition, they never present any evidence that these animals use the Tualatin Mountains for movement between the Coast Range and Forest Park.
3. The threat to these animals is residential development and logging, according to the quote above. The county has continued to allow residential development so you cannot be too concerned about providing the recommended amount of habitat in this area. Logging is not under county control.
4. Despite saying that 1.5 miles (7,920 feet) is needed as a minimum width, Lev *et al.* recommend (further down on page 26) that a minimum of 0.5 miles (2,640 feet) be maintained. In her letter to Skip Anderson ("Wildlife Habitat Recommendations for Angell Brothers Quarry", dated July 1, 1992) she suggests that 200 meters (or 625 feet) would be adequate. It can be concluded that none of these distances are based in reality and that none are firm. Since Lev has recommended three different buffer widths, the county has no basis for arbitrarily picking one and holding firm to it.
5. Houle (1990) also does not present any data to support the presence or movement of these large mammals. While she presents a long list of birds found in the park, her Appendix II lists "home range requirements of mammals that occur in western Oregon Douglas fir forests". No data are presented on the presence or numbers of any of these species in the park or adjacent areas of the West Hills.
6. Houle implies that these large mammals move in and out of the park but presents neither data or references to support this claim. She then stretches logic to say that this is important because "these animals have been either eliminated entirely or dramatically reduced throughout the *eastern* United States" (emphasis added). She does not present any data, evidence, or scientific documentation that large animal presence in Portland's Forest Park would compensate for loss of large animal populations in the other side of the country. Further, she does not substantiate that there is any kind of a relationship between such widely dispersed populations.
7. The rest of Houle's report is a literature review which pulls examples from around the world and never documents what applies to the West Hills based on specific knowledge of this specific area. There is no effort made to show that any of her cited literature is pertinent to the local area.

July 18, 1994

Using the reports for which you have contracted, the county cannot defend its adoption of a half-mile width in the area of the Angell Brothers quarry. There is no scientific evidence which would justify not allowing expansion to the property boundaries. However, it can be shown that each different width is presented by the same author (two in the same report and on the same page) without any site-specific scientific rationale for any of them.

This inconsistent and unsupported buffer width does not comply with the Goal 5 rule's requirement that decisions be based on "the best available information". While no data may be "the best available information", it does not support the conclusion which you have drawn. The county's contractors have provided copies of field data sheets for vegetation, lists of birds observed in the region, but no verifiable data on mammals. In particular, there are no data which indicate that black bears, elk, or bobcat have been in these areas within recent history.

The operational and reclamation proposals by Angell Brothers eventually would, if accepted by the county, provide more and better quality habitat for a larger variety of wildlife than either exists now or would use the area proposed to be left by the reconciliation reports.

Sincerely,

Richard B. Shepard

Richard B. Shepard, Ph.D.
Principal

c: Steve Oulman/DLCD
Skip Anderson/Angell Brothers
Frank Parisi/Lane Powell Spears Lubersky

RECEIVED

JUL 19 1994

Multnomah County
Zoning Division

RICHARD S. SHAFFER
Landscape Architect

14916 N.E. Newport Street
Portland, Oregon 97230

July 20, 1994

Board of County Commissioners
Multnomah County
Planning Office
2115 S.E. Morrison St.
Portland, OR 97214

C1-94a

The enclosed report is written testimony for the July 26 hearing on the West Hills Reconciliation Report, and is submitted on behalf of the Sauvie Island Conservancy. Please include it in the record of the hearing.

Thank you.

Richard S. Shaffer

RECEIVED

JUL 22 1994

Multnomah County
Zoning Division

RICHARD STE. LING SHAFFER

Landscape Architect

14916 N.E. Newport Street
Portland, Oregon 97230

July 20, 1994

Sauvie Island Conservancy
c/o Donna Matrazzo
19300 Sauvie Island Road
Portland, OR 97231

At your request, I have reviewed the Multnomah County West Hills Reconciliation Report on Goal 5 Scenic Resources.

In general, I found that the staff reports (A. Significance Determination, B. Resource Analysis, and C. Resource Protection) were prepared using established principles and methods for visual resource analysis.

I have some comments on specific portions of the reports, which you may wish to include as part of your written testimony for the July 26, 1994 Board of County Commissioners hearing of appeals.

B. Resource Analysis, 2. Conflicting Uses, a. Viewing Parameters:

The final paragraph on page II-10 discusses the time duration of views from key viewing areas. The final sentence states that *"It may not be important to protect views that are seen for only a few seconds from a passing car."* That is a valid statement, but the converse of it is that it is important to protect views where there are longer time durations, which is the case for most of the key viewing areas for the study area.

C. Resource Protection, 1. Scenic Views of the West Hills, d. Program to Achieve the Goal:

The Standards for Protection of the Scenic Resource, while correctly stating their principal purposes, are written in terminology which makes compliance less than mandatory. Perhaps that was the intent of the authors and the Planning Commission.

The intent of a standard is determined by the "action word" verb. As the author of the Standards for the Scenic Resource in the Land and Resource Management Plan, Mt. Hood National Forest, 1990, I was instructed by management to select from three verbs, which would define the degree of compliance required:

Shall	Action is mandatory
Should	Action is required; however, case by case exceptions are acceptable if identified during interdisciplinary project planning environmental analyses. Exceptions are to be documented in environmental analysis public documents.
May	Action is optional. "May" Standards and Guidelines are included to emphasize resource intent or to clearly describe that a practice is available for use.

Recommendation

As presently written the standards all use the verb "should". I recommend that the County clarify the meaning of "should." As it is, I believe, and I think planners understand, that the applicant for a development will usually attempt to circumvent the intent of the standard.

As an example, the proposed standards concerning **Existing Vegetation** and **New Vegetation** could easily be avoided by claiming that compliance was not possible, or by simply planting one or two small replacement trees. If the intent of the standard is truly to provide for protection of the scenic resource, the standards for compliance need to be more specific; e.g., state the number of trees per unit of area to remain or be planted between the structure and the key viewer positions. The City of Portland Scenic Resources Plan, April 12, 1991 (Ordinance No. 163957) contains similar standards which are quite specific.

Richard J. Shaffer

Leonard L. Yoon
1101 N.W. HOYT, room 203
PORTLAND, OREGON, U.S.A. 97209
PHONE: (503) 223-6115

July 26, 1994

Multnomah County Board of Commissioners;

As Chair of the Planning Commission, I commend Planning Staff for their quality work in response to the State Remand Order as concerns Goal Five requirements for the West Hills and Howard Canyon. Given the short time frame, we should all appreciate the intense effort put forth by them.

I also appreciate the participation in the public hearings by representatives of the various State agencies. Their participation certainly clarified their roles, views and support systems.

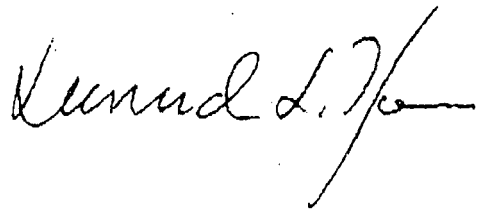
West Hills: The Planning Commission generally agreed with Staff recommendations. The amended document reflects the best compromise to protect the Wildlife resource and still acknowledge the significance of the other three resources; hence the decision to conditionally approve Aggregate expansion in the front part and protect wildlife by not allowing aggregate expansion in the back part. There was some risk to Scenic and Streams resources, but we were persuaded by testimony from state agency representatives that exposure could be mitigated.

Our primary concern is reflected in the amendments: compliance, reclamation, impact upon Burlington Bottoms. On site visits reflect that the last two years of public dialogue has focused attention by the aggregate owner and responsible state agencies toward improved adherence. However logging on private lands have had an adverse affect on these streams. We believe verification through independent consultants selected through bid by Staff will better serve the general public. Testimony of state agency representatives from DEQ and ORGAMI provided us insight on some suggested practices to mitigate impact on streams and scenic resources.

Howard Canyon: We agree with Staff on the significance of the two resources: Aggregate site and the studied Streams. Further we do not see any conflict between the two in declaring them both significant and protected. Planning Commission recognizes this process was not a mining permit approval process but recognition of the Aggregate as a significant resource.

Testimony was in considerable conflict about the level of truck traffic to/from the site and the actual amount of material being hauled. Some verification of actual amounts of material being mined should be conducted by the appropriate state agencies. Traffic impact is part of the mining permit approval process. There is a serious concern about the impact of aggregate truck traffic on the road system of the area as well as the quality of life. This should be carefully analyzed during the permit approval process. It should be noted that at its highest projected annual use, Howard Canyon will still mine only 1% of the annual amount at the Angell Brothers site.

Our other chief concerns deal with existing conditions and monitoring. In the case of the Streams, though we do not think the aggregate would adversely affect the streams, their existing poor conditions caused by grazing are a concern. As far as the Aggregate, closer monitoring by ORGAMI as to actual amounts be mined should be addressed. Traffic studies would also be helpful. Again the Planning Commission amendments reflect this concern, hence the independent consultant concept.





MULTNOMAH COUNTY OREGON

DIVISION OF PLANNING & DEVELOPMENT/2115 SE MORRISON/PORTLAND, OREGON 97214

7/26/94 Submission

C 1-94a
After July 22, 1994
Open Record Exhibits
West Hills

1. Oregon Department of Geology and Mineral Industries
(Frank Schnitzer)

July 25, 1994

Oregon

DEPARTMENT OF
GEOLOGY AND
MINERAL
INDUSTRIES

MINED LAND
RECLAMATION

Scott Pemble
Planning Director
Multnomah County Department of Environmental Services
Planning Division
2115 SE Morrison
Portland, OR 97232

VIA FAX 248-3389

RE: ID No. 26-0019, Angel Brothers Quarry

Dear Mr. Pemble:

Please accept this as part of the record for the July 26, 1994, appeal hearing for the West Hills Reconciliation Report. I understand that this letter will be accepted even though it is past the July 22, 1994, deadline for written comments. Prior commitments to complete field work has made it impossible to attend the hearing in person.

As I discussed at the June 13 public hearing, significant amount of reclamation has not been accomplished at the Angel Brothers Quarry because the quarry has been developed from the bottom of the deposit. If expansion is allowed in the uphill direction, attempting to reclaim the lower benches would be counter-productive. These existing benches will likely not be the final location of the excavation face. Depending upon the stable slope angle determined in the geotechnical evaluation, the location of these lower benches will be moved closer into the hillside.

Typically, quarry sites should be developed, mined, and reclaimed from the top down. In some cases this is not possible. Seismic information is an accepted method of mineral exploration and does provide information on mineral location. However, more detailed site-specific information is needed for the design and location of mine dumps and highwalls.

At the request of the operator, DOGAMI has delayed our request for the geotechnical evaluation until the land-use process is finished. This will allow the operator's consultant to develop detailed information on the areas approved for mining by Multnomah County. This information will be used to design bench locations, heights, and overall slope angle.



1536 Queen Avenue SE
Albany, OR 97321
(503) 967-2039

Scott Pemble

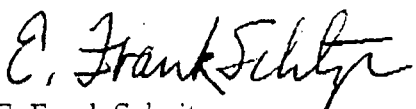
Page 2

July 25, 1994

This is the reason DOGAMI has conditioned the Operating Permit to require more design and engineering work than what has already been completed; to work with both Multnomah County and the operator so that we don't require information for areas that may not receive county approval.

Once a stable slope angle is determined for both the overburden and the rock, and the maximum boundaries of the area approved for excavation is known, a final design for the highwall can be completed. Because of the naturally steep slopes and the fact that a stable slope angle will have to be maintained from the upper most bench (to be constructed) to the quarry floor, only a limited amount of removal can occur off of the upper benches. As I testified at the hearing, once this material is removed, concurrent reclamation can commence. ORS 517.820(2) requires that reclamation be completed three years after mining is completed. This requirement would apply to these excavation benches because no more material could be removed without violating the reclamation plan.

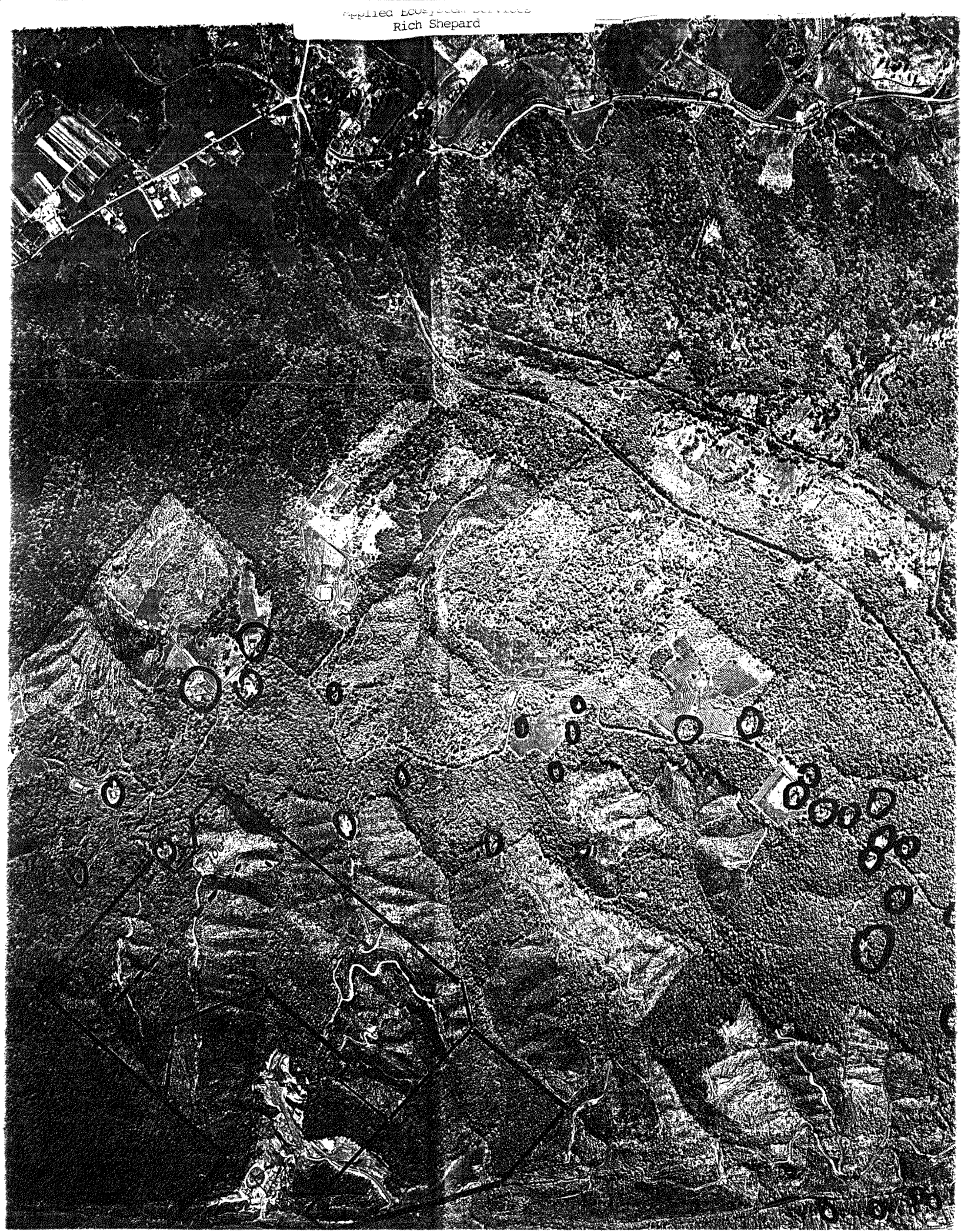
Sincerely,



E. Frank Schnitzer
Reclamationist
Mined Land Reclamation

EFS
26-00190794.let

cc: Skip Anderson
Frank Parisi



7/26/94
FRANK PARISI
SUBMITTAL

Multnomah County Reconciliation Report

Page V-46

<i>Supplier</i>	<i>Comments</i>
Portland Sand & Gravel 10717 SE Division Street Portland, Oregon 252-3497	Dale Griffin, Vice President: Don't have any reserves. They are using the site for landfill and recycling.
Troutdale Sand & Gravel Troutdale, Oregon 665-4180	Ron Jacobsen, Office Manager: They have Ready-mix only. They do not produce any aggregate.
Porter Yett 5949 NE Cully Blvd. Portland, Oregon 282-3251	Rich Miller, Controller: They have not been producing since last summer. Their source is depleted. They crush a small amount of recycled concrete.
Gresham Sand & Gravel 1339 NW Eastwood Ave. Gresham, Oregon 666-5377	Roger Ekstrom, President: Confine sales to Gresham area where they can be competitive. If they hauled to Blazer Arena, the price would be \$11.50-12.00/ cubic yard.
Estacada Rock Products 39400 River Mill Rd. Estacada, Oregon 630-5553	George Layng, Manager: Confine sales to local area where they can be competitive. They are too far out to compete in the Metro area. Their cost to haul to Blazer Arena is \$13/cubic yard
Lone Star Northwest Portland	No information
Ross Island Sand & Gravel Southeast Portland	No information. But it is obvious that the Island is almost mined out, and the dams are preventing any new gravel from reaching the island.

<i>Supplier</i>	<i>Comments</i>
Gresham Sand & Gravel 1339 NW Eastwood Ave. Gresham, Oregon 666-5377	Roger Ekstrom, President: Confine sales to Gresham area where they can be competitive. Hauling to Blazer Arena would be at \$11.50-\$12.00/cubic yard.
Multnomah County	No information. County quarry does not make commercial sales.
Oregon Asphaltic Paving Portland, Oregon 252-1497	Roger Metcalf: They use their aggregate for asphalt only and do not sell commercially because of limited reserve
Rogers Construction Portland, Oregon	Same company as Oregon Asphaltic Paving
Portland Sand & Gravel 10717 SE Division St. Portland, Oregon 252-3497	They don't have any reserve. They are using the site for landfill and recycling
Porter Yett 5949 NE Cully Blvd. Portland, Oregon 282-3251	Rich Miller, Controller: Have not been producing since last summer as their source is depleted. They crush a small amount of recycled concrete

MULTNOMAH COUNTY LAND USE ACTIONS
Partitions and Single Family Residences
1989 to Present

Map	Zoning	Land Use No.	Type	Year	Designation	Tax Lot No.	Acreage
26-3N-2W	MUF-19	PRE9-90	SFR	1990	Forest Resource	5	21.13
34-3N-2W	CFU-80	CU12-90	SFR	1990	Nonresource	22	6.16
34-3N-2W	CFU-80	PRE28-92	SFR	1992	Forest Resource	11	12.20
35-3N-2W	CFU-80	PRE5-92	SFR	1992	Forest Resource	8	13.19
35-3N-2W	CFU-80	PRE6-92	SFR	1992	Forest Resource	7	13.19
35-3N-2W	CFU-80	PRE78-92	SFR	1992	Forest Resource	3, 5	40.00
36-3N-2W	MUF-19	PRE 17-90	SFR	1990	Forest Resource	9	18.50

Map	Zoning	Land Use No.	Type	Year	Designation	Tax Lot No.	Acreage
10-2N-2W	CFU	PRE10-90	SFR	1990	Forest Resource	10	20.00
10-2N-2W	CFU	CU3-92	SFR	1992	Nonresource	19	5.07
12-2N-2W	MUF-19	PRE6-91	SFR	1991	Forest Resource	5, 6	N/A
12-2N-2W	MUF-19	PRE13-91	SFR	1991	Forest Resource	1, 2	N/A
12-2N-2W	MUF-19	PRE19-92	SFR	1992	Forest Resource	4, 3	N/A
12-2N-2W			SFR	1993		River Road Tract, Block 3 & 4	N/A
13-2N-2W	MUF-19	PRE8-89	SFR	1989	Forest Resource	18	10.00
13-2N-2W	MUF-19	CU23-92	SFR	1992	Nonresource	24	5.00
14-2N-2W	MUF-19	CU18-92	SFR	1992	Forest Resource	26	4.45
14-2N-2W	MUF-19	PRE77-92	SFR	1992	Forest Resource	42	17.89
15-2N-2W	MUF-38	PRE30-89	SFR	1989	Forest Resource	4	19.53
22-2N-2W	MUF-38	PRE26-92	SFR	1992	Forest Resource	36	16.44
22-2N-2W	MUF-38	PRE39-92	SFR	1992	Forest Resource	35	14.13
23-2N-2W	MUF-19	LD28-89	Partition 2 lots	1989	Forest Resource	2	39.36
23-2N-2W	MUF-19	PRE29-89	SFR	1989	Forest Resource	2	19.00
23-2N-2W	MUF-19	PRE28-89	SFR	1989	Forest Resource	2	19.00
23-2N-2W	MUF-19	CU19-91	SFR	1991	Nonresource	37	8.37

Map	Zoning	Land Use No.	Type	Year	Designation	Tax Lot No.	Acreage
23-2N-2W	MUF-19	CU19-92	SFR	1992	Forest Resource	10	6.50
23-2N-2W	MUF-19	CU5-92	SFR	1992	Nonresource	19	1.65
23-2N-2W	MUF-19	PRE32-92	SFR	1992	Forest Resource	38	13.37
23-2N-2W		CFU	SFR	1993		37	N/A
24-2N-2W	MUF-19	PRE15-90	SFR	1990	Forest Resource	18	N/A
24-2N-2W	MUF-38	PRE1-92	SFR	1992	Forest Resource	12	22.00
24-2N-2W	MUF-19	PRE16-92	SFR	1992	Forest Resource	32, 33, 34	N/A
24-2N-2W	MUF-19	LD43-92	Partition 5 lots	1992	Forest Resource	20, 9, 14 8, 16	20.00 each
24-2N-2W	MUF-19	PRE35-92	SFR	1992	Forest Resource	1 of 5	20.00
24-2N-2W	MUF-19	PRE37-92	SFR	1992	Forest Resource	1 of 5	20.00
24-2N-2W	CFU-80		SFR	1993		9	25.06
24-2N-2W			SFR	1993		22-24	14.20
24-2N-2W			SFR	1993		12	22.00
25-2N-2W	MUF-19	PRE25-90	SFR	1990	Forest Resource	4, 6, 7, 8, 9, 10	N/A
25-2N-2W	MUF-19	PRE16-89	SFR	1989	Forest Resource	3	20.00
25-2N-2W	MUF-19	PRE10-91	SFR	1991	Wildlife Plan	7	10.78
25-2N-2W	MUF-19	PRE43-92	SFR	1992	Forest Resource	29	10.70
25-2N-2W	MUF-19		SFR	1993		12	29.06
26-2N-2W	MUF-19	PRE7-91	SFR	1991	Forest Resource	33	29.96
26-2N-2W	MUF-19	PRE15-91	SFR	1991	Forest Resource	30	6.20
26-2N-2W	MUF-19	CU10-91	SFR	1991	Nonresource	37	5.26
36-2N-2W	EFU	LD26-89	Partition 2 lots	1989	Farm Resource	3	20.00 each
36-2N-2W	EFU	PRE26-89	SFR	1989	Farm Resource	1 of 2	20.00
36-2N-2W	EFU	PRE27-89	SFR	1989	Farm Resource	1 of 2	20.00
36-2N-2W	MUF-19	LD17-89a	Partition 6 lots	1989	Forest Resource	86, 87, 88, 89, 90, 91	176.78
36-2N-2W	MUF-19	PRE59-92	SFR	1992	Forest Resource	1 of 6	N/A
36-2N-2W	MUF-19	PRE60-92	SFR	1992	Forest Resource	1 of 6	N/A
36-2N-2W	MUF-19	PRE 61-92	SFR	1992	Forest Resource	1 of 6	N/A
36-2N-2W	MUF-19	PRE62-93	SFR	1992	Forest Resource	1 of 6	N/A
36-2N-2W	MUF-19	PRE63-92	SFR	1992	Forest Resource	1 of 6	N/A
36-2N-2W	MUF-19	PRE66-92	SFR	1992	Forest Resource	2	19.29
36-2N-2W	EFU		SFR	1994		29	3.00

Map	Zoning	Land Use No.	Type	Year	Designation	Tax Lot No.	Acreage
5-1N-1W	MUF-19	PRE5-91	SFR	1992	Forest Resource	19	5.61
5-1N-1W	MUF-19	PRE27-92	SFR	1992	Forest Resource	13	20.00
6-1N-1W		CU22-90	SFR	1990		59	9.29
6-1N-1W			SFR	1993		37	N/A
8-1N-1W	MUF-19	PRE10-92	SFR	1992	Forest Resource	20	36.18
8-1N-1W			SFR	1993		1	N/A
9-1N-1W			SFR	1993		4 & N 610' of 5	N/A
16-1N-1W	EFU		SFR	1993		2	20.72
16-1N-1W	EFU		SFR	1993		31	5.32
22-1N-1W			SFR	1993		2	2.80

Map	Zoning	Land Use No.	Type	Year	Designation	Tax Lot No.	Acreage
18-2N-1W	MUF-19	PRE56-92	SFR	1992	Forest Resource	92	12.75
19-2N-1W	MUF-19	PRE19-90	SFR	1990	Forest Resource	24	20.48
19-2N-1W	MUF-19	PRE20-90	SFR	1990	Forest Resource	31	26.08
19-2N-1W	MUF-19	PRE21-90	SFR	1990	Forest Resource	23	20.63
19-2N-1W	MUF-19	CU20-91	SFR	1991	Nonresource	32	7.46
19-2N-1W	MUF-19	PRE23-92	SFR	1992	Forest Resource	1/2 of 28	N/A
19-2N-1W	MUF-19	PRE24-92	SFR	1992	Forest Resource	1/2 of 28	N/A
20-2N-1W	MUF-19 & 38	LD-92	Partition 2 lots	1992		6	174.88
29-2N-1W	MUF-38	LD30-89	Partition 3 lots	1989	Forest Resource	Part of 9	39, 40 & 46
29-2N-1W	MUF-38	LD6-90	Partition 3 lots	1990	Forest Resource	4 and part of 9	38, 38 & 42
29-1N-1W	MUF-38	PRE9-92	SFR	1992	Forest Resource	18	44
30-2N-1W	MUF-38	LD23-89	Partition 3 lots	1989		1 & 14	20, 44 & 46
30-2N-1W	MUF-38	LD7-90	Partition 2 lots	1990	Forest Resource		76
30-2N-1W	MUF-19	PRE7-90	SFR	1990	Forest Resource	7, 8, 9	N/A
30-2N-1W	MUF-19	PRE5-90	SFR	1990	Forest Resource	1, 2, 3	N/A
30-2N-1W	MUF-19	PRE6-90	SFR	1990	Forest Resource	4, 5, 6	N/A

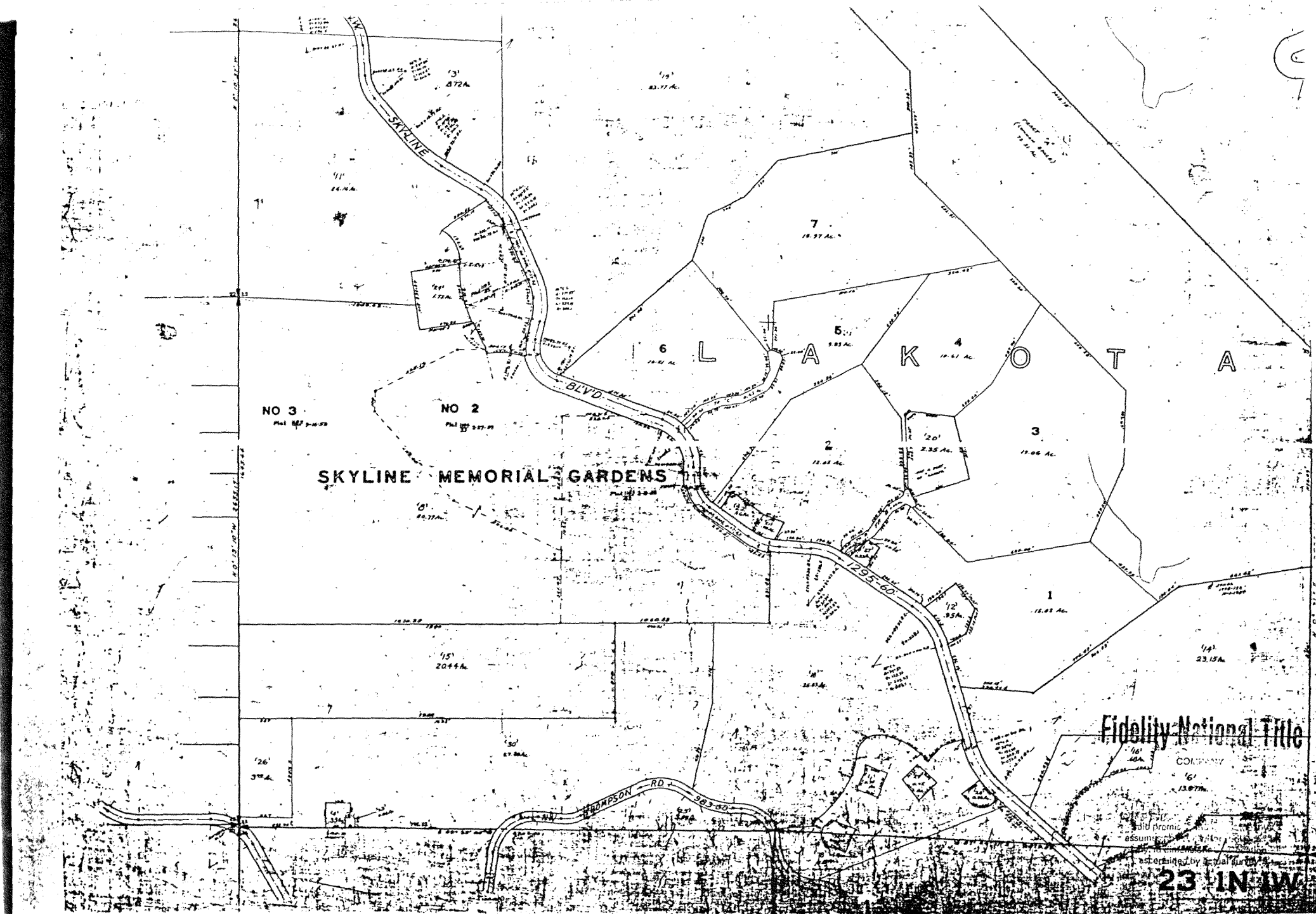
Map	Zoning	Land Use No.	Type	Year	Designation	Tax Lot No.	Acreage
30-2N-1W	MUF-19	PRE8-90	SFR	1990	Forest Resource	10, 11, 12	N/A
30-2N-1W	MUF-19	PRE12-90	SFR	1990	Forest Resource	12	11.22
30-2N-1W	MUF-38	PRE8-91	SFR	1991	Forest Resource	1 of 3	20
31-2N-1W			SFR	1993		57	2.86
32-2N-1W	MUF-19	PRE4-89	SFR	1989	Forest Resource	2	13.22
32-2N-1W	MUF-19	CU2-91	SFR	1991	Nonresource	34	1.99
32-2N-1W	MUF-19	PRE1-93	SFR	1993	Forest Resource	19	12.76
TOTAL ACRES ACCOUNTED FOR							1,786.85

Addresses listed in Multnomah County Card Catalog as approved sites
which are not good addresses in the Multnomah County Assessor's Records

13151 N. W. Cheerio, SFR, 4/28/94, 16-1N-1W
 14575 N. W. Germantown, SFR, 5/10/94, 8-1N-1W
 13590 N. W. Riverview, SFR, 1/6/93, Lot 1-34, Block 2
 13610 N. W. Riverview, SFR, 8/13/93, 28-2N-1W
 16490 N. W. Sheltered Nook Road, SFR, 6/9/94, 24-2N-2W
 12303 N. W. Skyline, SFR, 4/13/94, 31-2N-1W
 16980 N. W. Skyline, Manufactured Home, 1/4/93, 2N-2W
 17010 N. W. Skyline, Manufactured Home, 1/4/93
 18600 N. W. Skyline, Manufactured Home, 1/23/93
 9111 N. W. Skyline, SFR, 1994, 10-1N-1W
 12033 N. W. Tualatin, SFR, 10/4/93, 10-1N-1W

The City of Portland has approved 474 new lots for single family dwellings. Grading permits have been issued on 216 of these lots. Below are the known subdivisions in the subject area which permits have been issued on.

Map	Subdivision	Year	No. of Lots
23-1N-1W	Lakota	1993	12
	Skyline Ridge South		25



located on the
East side of
Skyline Blvd.

Lakota

(PHASE NO. 2)

Situated in the East half of the West half and East half of
Section 23, T. 1 N., R. 1 W. of the Willamette Meridian,
in the City of Portland, in the County of Multnomah, Oregon.
SCALE: 1"=400'

BY COMBINE NORTHWEST, INC.
1400 E. BELMONT STREET
PORTLAND, OREGON 97214
PH. (503) 234-8112
PROJECT NO. 93-046

DATE OF MONUMENTATION
SEPT. 24, 1993

NARRATIVE:

The purpose of this survey is to subdivide a portion of that tract of land conveyed to the
PROPERTY, a Joint Venture, by deed recorded JULY 17, 1981 in Book 2488 of Page 2187
Multnomah County Deed Records

Plot bearings are based on the southwest line of Tract "A" on the plat of Lakota, shown
as N 44° 44' 46" W.

Section corner and one-quarter corner monuments were held, and the West plot boundary line
was established between the calculated mid points on the north and south lines of the northwest
one-quarter corner of Section 23. This line was then intersected with the south right-of-way
line of N.W. Saltzman Road (County Road No. 466, 30.00 foot wide) as travelled, and the
northerly right-of-way line of N.W. Skyline Boulevard (County Road 1295, 80.00 foot wide).

The North line was established 15 feet southerly of the centerline of N.W. Saltzman Road
(County Road No. 466) as dedicated.

The East line was established along the westerly boundary of the plat of LAKOTA extending from
N.W. Saltzman Road to N.W. Skyline Boulevard.

The South plot boundary line was set by establishing the northerly right-of-way line of N.W.
Skyline Boulevard (County Road 1295) with reference to the 1932 County Road map. Centerline
monuments were found and held at Engineer's Stations 243+75.25 and 271+72.45. Monuments
were also found and held at Engineer's Stations 284+00.25, 30 feet right, 270+81.47, 30 feet
right, 283+48.88, 30 feet right, and 307+55.06, 30 feet right. Skyline Boulevard alignment
was proportioned between the held monuments. The northwest and southeast corners of Section
23 were located by field survey and found to favorably agree with their locations as shown on
County Road Map No. 1295.

REFERENCE SURVEYS

C.S. 5569
C.S. 38904
C.S. 41796
C.S. 50069
C.S. 51811

REFERENCE PLATS

Skyline Memorial Gardens
Skyline Memorial Gardens No. 2
Skyline Memorial Gardens No. 3
Lakota

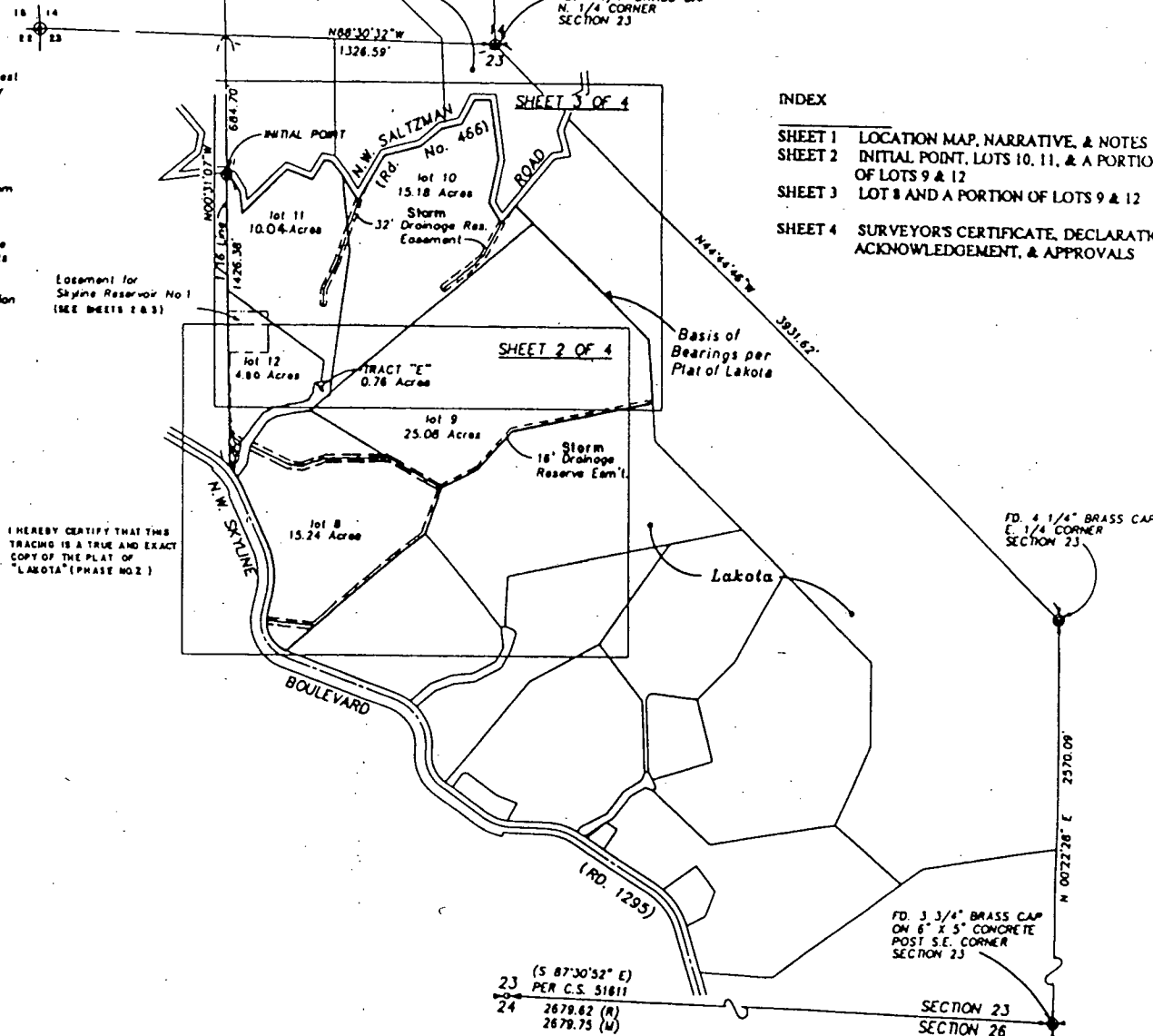
OTHER COUNTY SURVEY RECORDS

Multnomah County Road Map No. 1295
Surveyor's and Viewer's Report - Co. Rd. No. 466
Bearing Tree and Corner Restoration Notes:

Book 4, Page 8
Book 4, Page 10
Book C, Page 170
Book D, Page 253
Book C, Page 50
Book D, Page 277

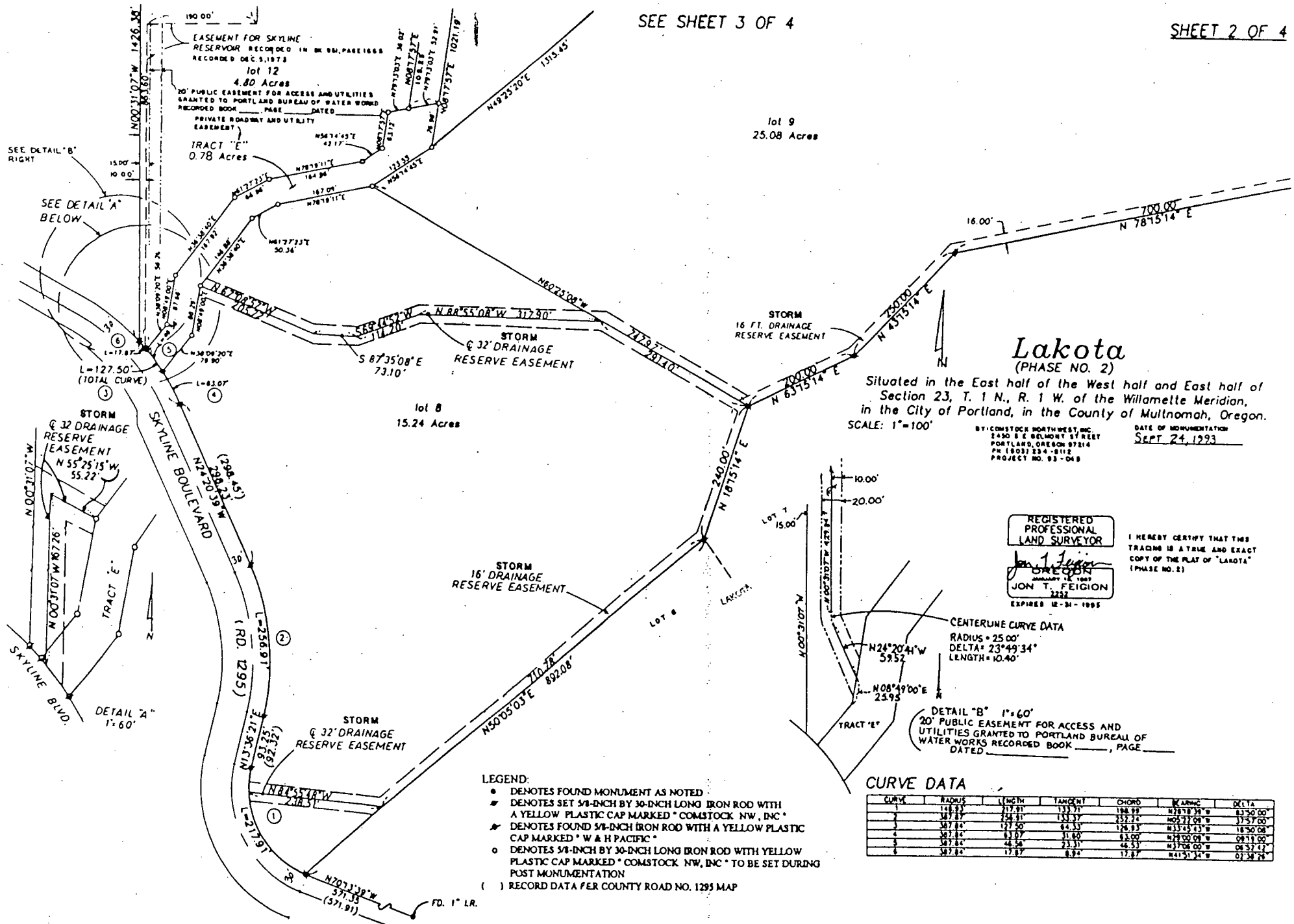
PLAT NOTES:

- Tract "E" is reserved for use as a private roadway, and will be owned and maintained by the Lakota
Homeowner's Association in accordance with the Declaration of Protective Covenants, Conditions, and
Restrictions for Lakota as recorded in Book 2614 Pages 627.
- The storm drainage reserve easements to the City of Portland are perpetual easements for the
purpose of storm water drainage, water quality, and for protection of a natural drainage reserve. These
easement areas shall remain in natural topographic condition. No private structures, culverts,
excavations or fills shall be constructed within these easements without prior written consent of the
Director of the Bureau of Environmental Services. Storm drainage reserve easements are not for public
recreational access.
- This plat is subject to the conditions imposed by the City of Portland in the Report and Decision of the
Hearings Officer, File Number LUR 91-00048 SU PU.
- All Lots and Tracts on this plat are subject to the conditions set forth in the Conservation Covenant
recorded in Book 2614 Page 293 in Multnomah County Deed Records.
- Tract "E": A common private access and utility easement shall exist over, under and across Tract
"E", for ingress, egress, sanitary sewers, storm drainage, potable water lines, public and private utilities.
No other facilities are to be located within this easement without prior written consent of the Director of
the Bureau of Environmental Services and PORTLAND BUREAU OF WATER WORKS.
- PUBLIC SEWER FACILITIES ARE LOCATED WITHIN TRACT "E", AN EXCLUSIVE EASEMENT, 25 FEET
FROM THE CENTERLINE ON BOTH SIDES OF THE PIPELINE, SHALL EXIST.
- STATEMENT OF CONDITIONS FOR USE OF WATER FACILITY EASEMENT RECORDED IN BOOK _____,
PAGE _____, DATED _____, MULTNOMAH COUNTY DEED RECORDS.



INDEX

- SHEET 1 LOCATION MAP, NARRATIVE, & NOTES
SHEET 2 INITIAL POINT, LOTS 10, 11, & A PORTION
OF LOTS 9 & 12
SHEET 3 LOT 8 AND A PORTION OF LOTS 9 & 12
SHEET 4 SURVEYOR'S CERTIFICATE, DECLARATION,
ACKNOWLEDGEMENT, & APPROVALS



Lakota

(PHASE NO. 2)

Situated in the East half of the West half and East half of Section 23, T. 1 N., R. 1 W. of the Willamette Meridian, in the City of Portland, in the County of Multnomah, Oregon.

SCALE: 1"=100'

BY: COMSTOCK NORTHWEST, INC.
2450 S.E. BELMONT STREET
PORTLAND, OREGON, 97214
PM 18031 234-8112
PROJECT NO. 93-046

DATE OF MONUMENTATION
SEPT. 24, 1993

REGISTERED
PROFESSIONAL
LAND SURVEYOR

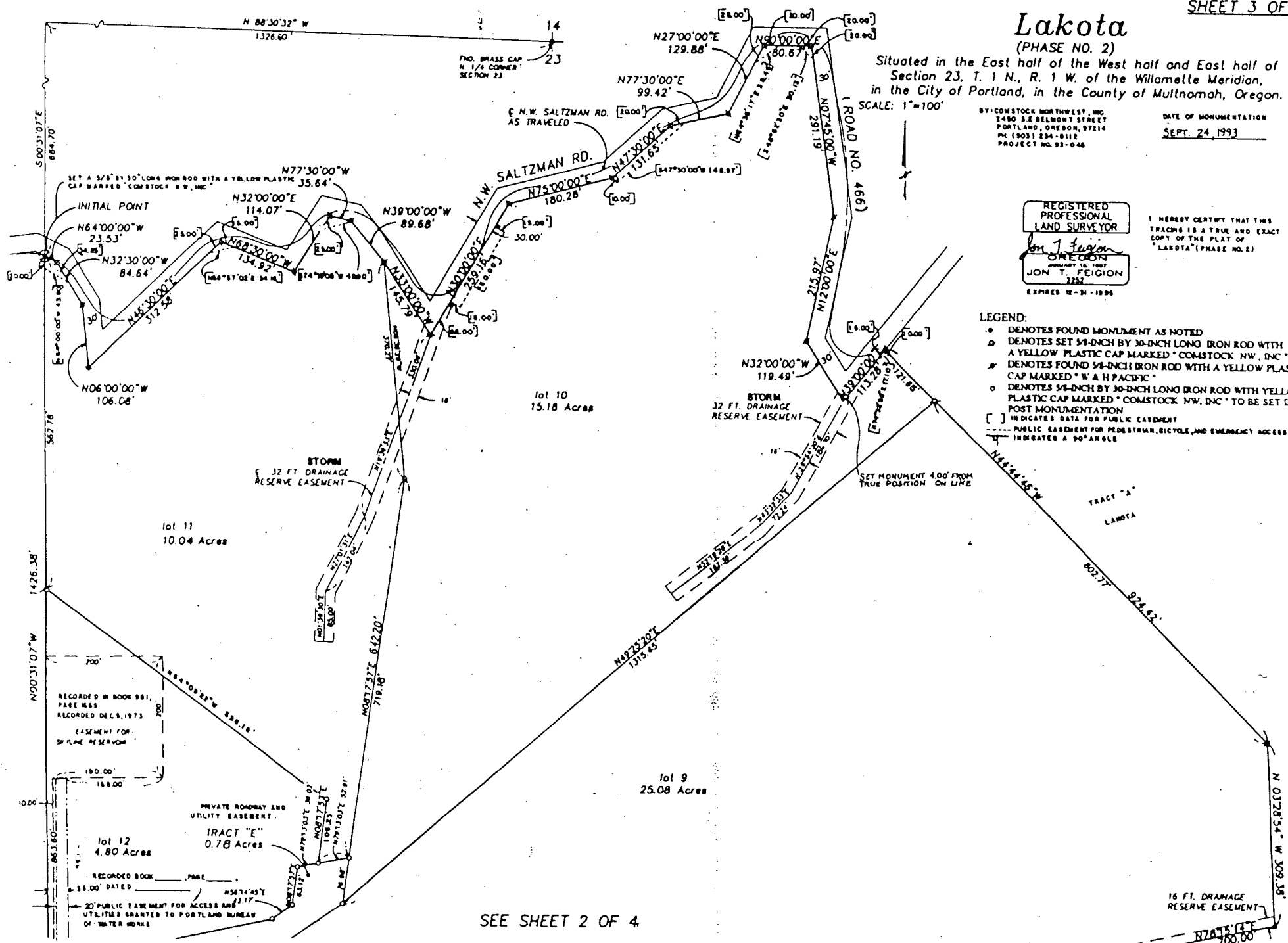
Jon T. Feigson
JON T. FEIGSON
1987

EXPIRES 12-31-1996

I HEREBY CERTIFY THAT THIS
TRACING IS A TRUE AND EXACT
COPY OF THE PLAT OF
"LAKOTA" (PHASE NO. 2)

LEGEND:

- DENOTES FOUND MONUMENT AS NOTED
- DENOTES SET 5/8-INCH BY 30-INCH LONG IRON ROD WITH A YELLOW PLASTIC CAP MARKED "COMSTOCK NW, INC."
- ✱ DENOTES FOUND 5/8-INCH IRON ROD WITH A YELLOW PLASTIC CAP MARKED "W & H PACIFIC"
- DENOTES 5/8-INCH BY 30-INCH LONG IRON ROD WITH YELLOW PLASTIC CAP MARKED "COMSTOCK NW, INC." TO BE SET DURING POST MONUMENTATION
- [] INDICATES DATA FOR PUBLIC EASEMENT
- PUBLIC EASEMENT FOR PEDESTRIAN, BICYCLE, AND EMERGENCY ACCESS
- INDICATES A 90° ANGLE



SEE SHEET 2 OF 4

Lakota

(Phase No. 2)

Situated in the East half of the West half and East half of Section 23, T. 1 N., R. 1 W. of the Willamette Meridian, partly in the City of Portland, all in the County of Multnomah, Oregon.

BY: COMPTON NORTHWEST, INC.
1450 S.E. BELMONT STREET
PORTLAND, OREGON 97214
PH (503) 234-8118
PROJECT NO. 93-049

DATE OF MONUMENTATION
SEPT 24, 1993

SHEET 4 OF 4

SURVEYOR'S CERTIFICATE

I, Jon T. Feigson, do hereby certify that I have correctly surveyed and marked with proper monuments that land represented in the annexed map of LAKOTA (Phase No. 2) and of the Initial Point I set a 3/8" by 30" LUMINOUS ROD WITH A YELLOW PLASTIC CAP MARKED "COMPTON NW 1/4" which bears North 88°30'32" West, 1328.60 feet and South 00°31'07" East, 684.70 feet from the North one-quarter corner of Section 23, Township 1 North, Range 1 West, of the Willamette Meridian, in the City of Portland and Multnomah County, Oregon; thence along the southerly line of N.W. Sallman Road (County Road No. 468, being 30.00 feet wide) the following courses: South 64°00'00" East, 23.53 feet; thence South 32°30'00" East 84.84 feet; thence South 06°00'00" East, 106.08 feet; thence, continuing on the southerly line of said N.W. Sallman Road, North 46°30'00" East, 312.58 feet; thence South 68°30'00" East, 134.92 feet; thence North 32°00'00" East, 114.07 feet; thence South 77°30'00" East, 35.84 feet; thence South 38°00'00" West, 89.88 feet; thence South 33°00'00" East, 145.29 feet; thence North 30°00'00" East, 259.16 feet; thence North 75°00'00" East, 180.28 feet; thence continuing on the southerly line of said N.W. Sallman Road, North 47°30'00" East, 131.65 feet; thence North 77°30'00" East 99.42 feet; thence North 27°00'00" East, 129.88 feet; thence North 90°00'00" East, 80.67 feet; thence South 07°45'00" East, 291.19 feet; thence South 12°00'00" West, 215.97 feet; thence South 32°00'00" East 119.49 feet; thence North 38°00'00" East, 113.28 feet to the southeasterly line of Tract "A", LAKOTA, a recorded plat; thence leaving said N.W. Sallman Road right-of-way and running along said Tract "A" boundary the following courses: South 44°44'46" East, 924.43 feet; thence South 03°28'34" East, 309.38 feet to the most northerly corner of lot 7, LAKOTA, thence leaving said Tract "A" and running along the easterly line of said LAKOTA the following courses: South 78°51'14" West, 700.00 feet; thence South 43°51'14" West, 250.00 feet; thence South 63°51'14" West, 200.00 feet; thence South 18°51'14" West, 240.00 feet; thence South 50°05'03" West, 892.08 feet to the northerly right-of-way line of N.W. Saylone Boulevard (County Road No. 1295); thence leaving the easterly line of said LAKOTA and running 217.91 feet along the arc of a non-tangent 148.93 foot radius curve to the right through a central angle of 83°50' (the long chord of which bears North 28°18'39" West, 198.99 feet) to a point of tangency; thence North 13°36'21" East, 93.25 feet to a point of curvature; thence 256.91 feet along the arc of a 387.87 foot radius curve to the left (the long chord of which bears North 05°22'09" West 252.24 feet) to a point of tangency; thence North 24°20'39" West, 298.23 feet to a point of curvature; thence 127.50 feet along the arc of a 387.84 foot radius curve to the left through a central angle of 18°50'08" (the long chord of which bears North 33°45'43" West, 126.93 feet) to the easterly line of the west one-half of the northeast one-quarter of Section 23; thence leaving said northerly right-of-way line and running along said easterly line, North 00°31'07" West, 1428.38 feet to the Point of Beginning. THERE ARE NO RECORDED GEODETIC MONUMENTS WITHIN ONE HALF MILE OF THIS PLAT.

Contains 71.13 Acres.

(A 4 1/4" DIAMETER BRASS DISK)

INTERIOR CORNER MONUMENTATION

In accordance with O.R.S. 92.070, the interior corners of this subdivision have been correctly set with proper monuments. An affidavit has been prepared regarding the setting of said monuments and is recorded in Book _____ on pages _____ Multnomah County Deed Records, OM (RECORDING DATE).

APPROVED _____, 199

Multnomah County Surveyor

DECLARATION

KNOW ALL PERSONS BY THESE PRESENTS, THAT W Q PROPERTIES, A JOINT VENTURE, DOES HEREBY MAKE, ESTABLISH, AND DECLARE THE ANNEXED MAP OF LAKOTA (PHASE 2), BEING MORE PARTICULARLY DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE, A TRUE MAP AND PLAT THEREOF, ALL LOTS, TRACTS, AND EASEMENTS BEING THE DIMENSIONS SHOWN ON SAID MAP, AND THAT SAID W Q PROPERTIES DOES HEREBY CONSENT TO THE PREPARATION OF SAID MAP AND CONVEYS ALL STORM DRAINAGE RESERVE EASEMENTS TO THE CITY OF PORTLAND, AND HEREBY GRANTS ALL EASEMENTS AS SHOWN AND NOTED ON SAID MAP, THERE ARE NO WATER RIGHTS APPLICABLE TO THIS PLAT.

IN WITNESS WHEREOF, I HERETO SET MY HAND ON THIS 4th DAY OF August, 1993.

W Q PROPERTIES, A JOINT VENTURE

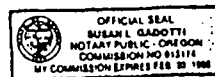
HOMER G. WILLIAMS

ACKNOWLEDGEMENT

STATE OF OREGON)
) 33
MULTNOMAH COUNTY)

BE IT REMEMBERED THAT ON THIS 4th DAY OF August, 1993, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY, PERSONALLY APPEARED HOMER G. WILLIAMS, TO ME PERSONALLY KNOWN, WHO BEING DULY SWORN DID SAY THAT HE, HOMER G. WILLIAMS, DULY REPRESENTS SAID W Q PROPERTIES, A JOINT VENTURE BY AUTHORITY OF ITS GENERAL PARTNERS, AND THAT HE SIGNED THIS INSTRUMENT ON BEHALF OF SAID JOINT VENTURE AND ACKNOWLEDGES SAID DECLARATION TO BE A FREE ACT AND DEED.

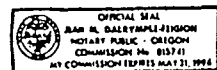
SUBSCRIBED AND SWORN TO BEFORE ME THIS 4th DAY OF August, 1993



As per O.R.S. 92.070 I also certify that the post monumentation of the interior monuments in this subdivision will be accomplished within 90 calendar days following completion of improvements or one year following the original plat recordation, whichever comes first in accordance with O.R.S. 92.060

Jon T. Feigson
Jon T. Feigson, P.C.S. 2252

Subscribed and sworn to before me this 10th day of December, 1993.



Jon T. Feigson

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Jon T. Feigson
OREGON
JANUARY 12, 1997
JON T. FEIGSON
2252

EXPIRES 12-31-1998

I HEREBY CERTIFY THAT THIS TRACING IS A TRUE AND EXACT COPY OF THE PLAT OF "LAKOTA" (PHASE NO. 2)

APPROVALS

Approved this 26th day of January, 1994

CITY OF PORTLAND PLANNING DIRECTOR

By: Susan M. Feldman

Approved this 27th day of January, 1994

CITY OF PORTLAND HEARINGS OFFICER

By: Eugene A. Berman

Approved this 15th day of December, 1994

CITY OF PORTLAND ENGINEER

By: Dr. R. Yung for

Approved this 1st day of MARCH, 1994

MULTNOMAH COUNTY SURVEYOR

By: Donna A. Ryland

All taxes, fees, assessments or other charges as provided by O.R.S. 92.095 have been paid as of MARCH 16th, 1994

DIRECTOR
DIVISION OF ASSESSMENT AND TAXATION

By: R. B. Smith DEPUTY

Approved this Seventh day of March, 1994

MULTNOMAH COUNTY BOARD OF COMMISSIONERS

By: Donna A. Ryland

COUNTY CHAIRPERSON

STATE OF OREGON }
COUNTY OF MULTNOMAH }

I do hereby certify that the attached subdivision plat was received for record and recorded MARCH 16, 1994 at 10:10 A.M. in

book 1226 on pages 63-66

MULTNOMAH COUNTY RECORDING OFFICE

By: Donna A. Ryland Document No: 94-041547
DEPUTY

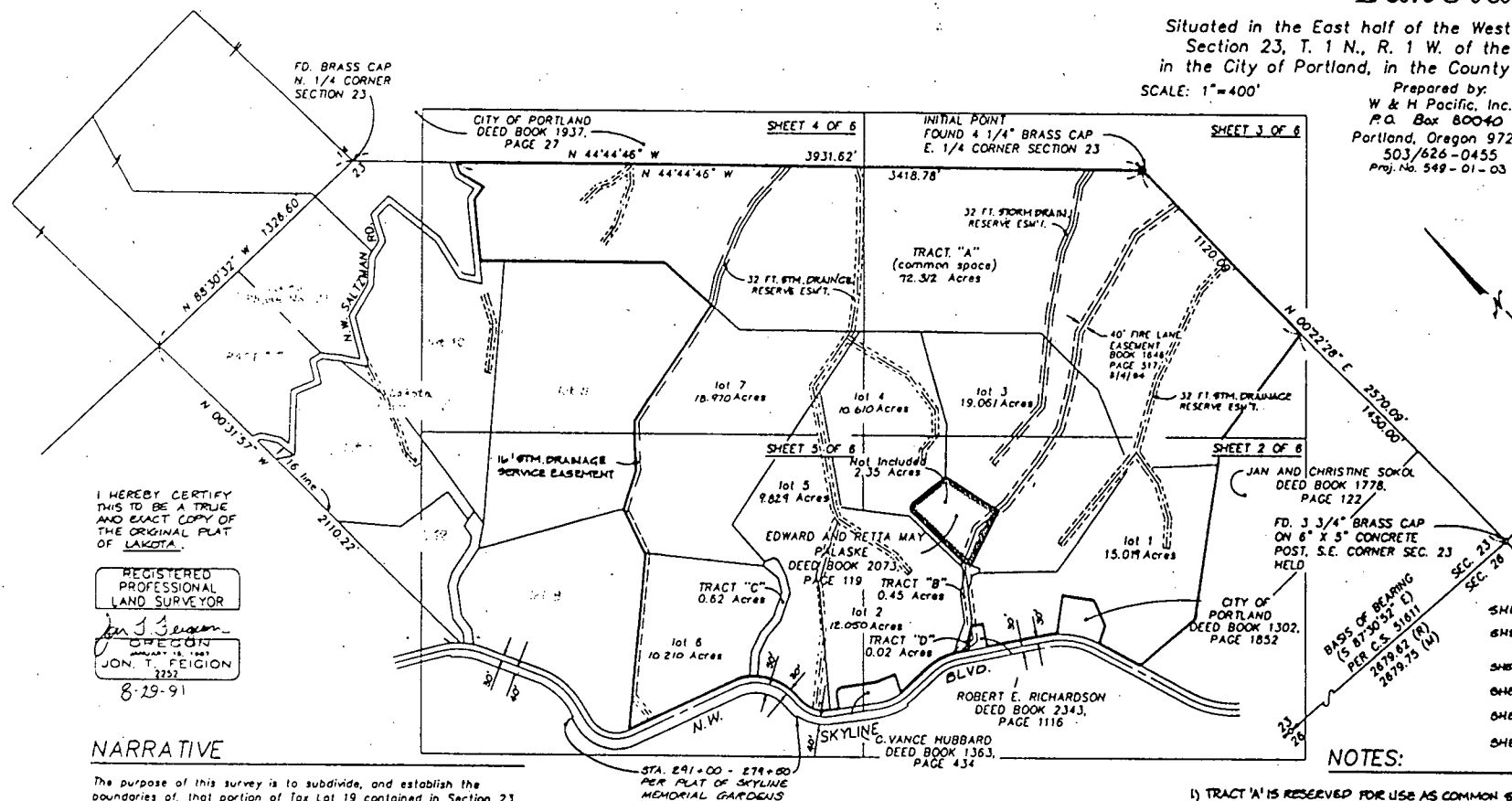
Lakota

Situated in the East half of the West half and East half of
Section 23, T. 1 N., R. 1 W. of the Willamette Meridian,
in the City of Portland, in the County of Multnomah, Oregon.

SCALE: 1"=400'

Prepared by:
W & H Pacific, Inc.
P.O. Box 80040
Portland, Oregon 97280
503/626-0455
Proj. No. 549-01-03

AUGUST 26, 1991



I HEREBY CERTIFY
THIS TO BE A TRUE
AND EXACT COPY OF
THE ORIGINAL PLAT
OF LAKOTA.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

J. J. Seaman
JULY 15, 1987
JON. T. FEIGION
2252

8-29-91

NARRATIVE

The purpose of this survey is to subdivide, and establish the boundaries of, that portion of Tax Lot 19 contained in Section 23 as described in Book 1947, Page 2032, recorded October 16, 1986, Multnomah County Deed Records. (Reconveyed Bk. 2435 Pg. 2107, 7-17-91)

The bearings are based on the north line of the northeast one-quarter of Section 26 as shown on County Survey 51611 to be South 87°30'52" East.

The East line was established by holding the monuments found at the East quarter corner and the southeast corner of Section 23. The Southeast parcel corner was set by holding the deed distance of 1120.01' along that line.

The South line was established by using the angles and distances along the North line of that parcel conveyed to Jan and Christine Sokol and described by deed recorded October 1, 1984 in Book 1778, Page 122, County Deed Records. The North line of that parcel was intersected with N.W. Skyline Boulevard (County Road 1295). Skyline Boulevard was established using the 1932 road map of County Road No. 1295. Centerline monuments were found and held at Engineer's Stations 243+75.25 and 271+91.47. Monuments were also found and held at Engineer's Stations 264+00.25, 30 feet right, 270+91.47, 30 feet right, 283+49.88, 30 feet right and 307+55.06, 30 feet right. Skyline Boulevard alignment was proportioned between the held monuments. The northwest and southeast corners of Section 23 were located by field survey and found to agree with their locations as shown on County Road Map No. 1295.

The Northeast parcel line was established between the monuments found at the North quarter corner and the East quarter corner of Section 23.

Phase lines were established as requested by the client, and calculated to intersect the exterior boundary.

Reference Surveys

C.S. 5569
C.S. 13132
C.S. 14837
C.S. 51611

Reference Plots

Skyline Memorial Gardens
Skyline Memorial Gardens No. 2
Skyline Memorial Gardens No. 3

Multnomah County Road No. 466 - Surveyor's and Viewer's Report
Multnomah County Road Map No. 1295

Multnomah County B.T. Notes:

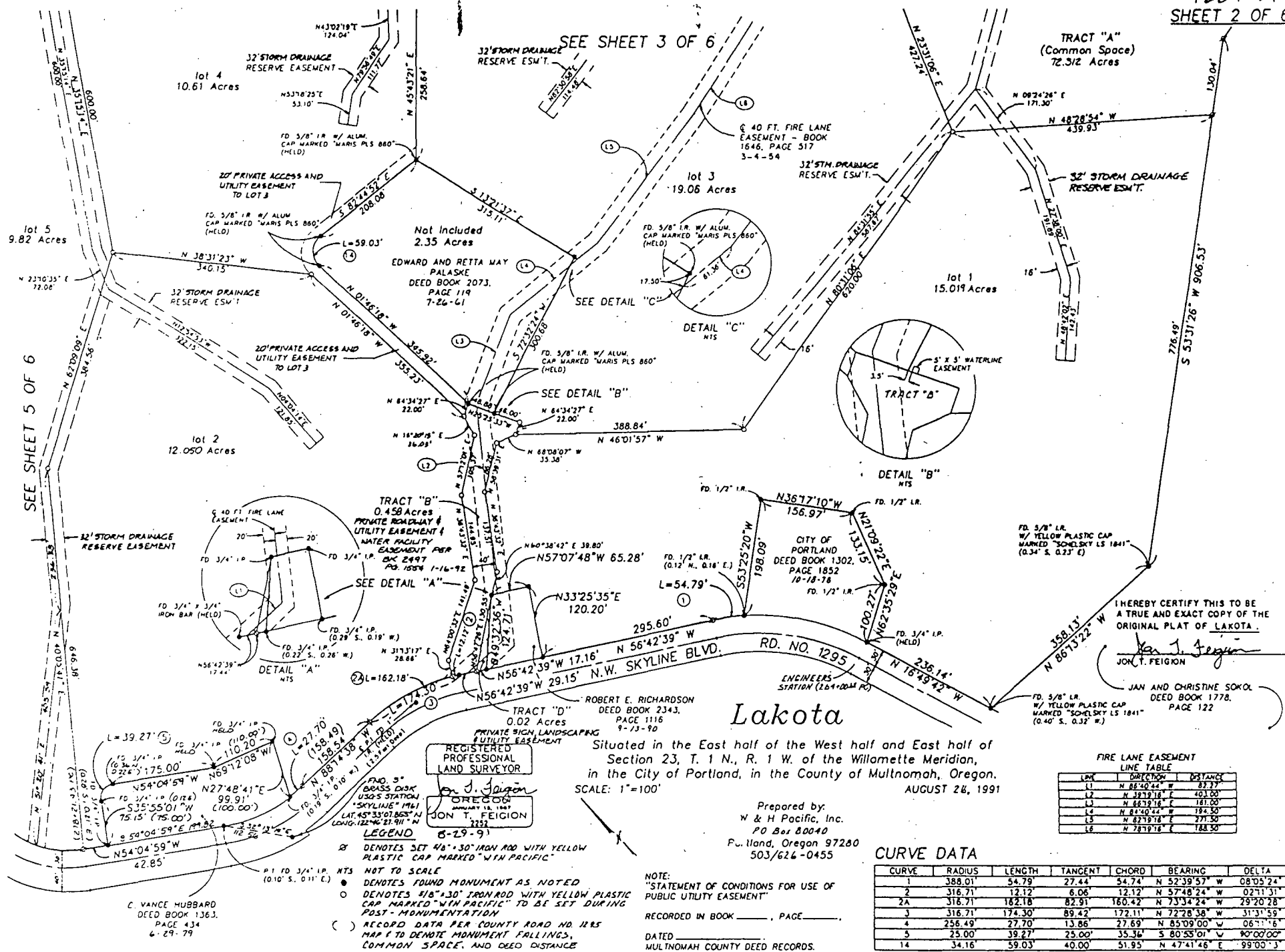
Book 4, Page 8
Book 4, Page 10
Book C, Page 50, Page 43, Page 45
Book C, Page 170

SHEET INDEX

SHEET	LOCATION MAP	NARRATIVE & NOTES
SHEET 1	LOCATION MAP	NARRATIVE & NOTES
SHEET 2	PORTION TRACT 'A' & LOTS 8 & 4	PORTION TRACT 'A' & LOTS 8 & 4
SHEET 3	PORTION TRACT 'A' & LOTS 8 & 4	PORTION TRACT 'A' & LOTS 8 & 4
SHEET 4	PORTION TRACT 'A' & LOTS 8 & 4	PORTION TRACT 'A' & LOTS 8 & 4
SHEET 5	PORTION TRACT 'A' & LOTS 8 & 4	PORTION TRACT 'A' & LOTS 8 & 4
SHEET 6	PORTION TRACT 'A' & LOTS 8 & 4	PORTION TRACT 'A' & LOTS 8 & 4

NOTES:

- TRACT 'A' IS RESERVED FOR USE AS COMMON SPACE, AND WILL BE CONVEYED TO AND MAINTAINED BY THE LAKOTA HOMEOWNERS ASSOCIATION IN ACCORDANCE WITH THE DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR LAKOTA AS RECORDED IN BOOK _____, PAGE _____.
- TRACT 'B' & 'C' ARE RESERVED AS PRIVATE ROADS AND WILL BE CONVEYED TO AND MAINTAINED BY THE LAKOTA HOMEOWNERS ASSOCIATION AT THE EXPENSE OF THE LOTS HAVING ACCESS TO SUCH TRACTS, AS PROVIDED IN THE DECLARATION. A COMMON PRIVATE ACCESS AND UTILITY EASEMENT SHALL EXIST OVER, UNDER AND ACROSS TRACTS 'B' & 'C' FOR INGRESS AND EGRESS, STORM DRAINAGE, POTABLE WATER LINES, PUBLIC AND PRIVATE UTILITIES.
- TRACT 'D' IS RESERVED AS PRIVATE HIGH, LANDSCAPING AND UTILITY TRACT. IT WILL BE OWNED AND MAINTAINED BY THE LAKOTA HOMEOWNERS ASS'N.
- THE STORM DRAINAGE RESERVE EASEMENTS TO THE CITY OF PORTLAND ARE PERPETUAL EASEMENTS FOR THE PURPOSE OF STORM-WATER DRAINAGE, FLOOD CONTROL, WATER QUALITY, AND FOR PROTECTION OF A NATURAL DRAINAGE RESERVE. THE STORM DRAINAGE RESERVE EASEMENT AREAS SHALL REMAIN IN NATURAL TOPOGRAPHIC CONDITION. NO PRIVATE STRUCTURES, CULVERTS, EXCAVATIONS OR FILLS SHALL BE CONSTRUCTED WITHIN THESE EASEMENTS WITHOUT PRIOR WRITTEN CONSENT OF THE DIRECTOR OF THE BUREAU OF ENVIRONMENTAL SERVICES. STORM DRAINAGE RESERVE EASEMENTS ARE NOT FOR PUBLIC RECREATIONAL ACCESS.
- THIS PLAT IS SUBJECT TO THE CONDITIONS IMPOSED BY THE CITY OF PORTLAND IN THE REPORT AND DECISION OF THE HEARING OFFICER, FILE NO. LUK 41-00048 SUPU.
- ALL LOTS AND TRACTS ON THIS PLAT ARE SUBJECT TO THE CONDITIONS SET FORTH IN THE CONSERVATION COVENANT RECORDED IN BOOK _____, PAGES _____, IN MULTNOMAH COUNTY DEED RECORDS.
- STATEMENT OF CONDITIONS FOR USE OF WATER FACILITIES EASEMENT RECORDED IN BOOK _____, PAGE _____, DATED _____, MULTNOMAH COUNTY DEED RECORDS.



Lakota

Situated in the East half of the West half and East half of
Section 23, T. 1 N., R. 1 W. of the Willamette Meridian,
in the City of Portland, in the County of Multnomah, Oregon.
SCALE: 1"=100'
AUGUST 26, 1991

Prepared by:
W & H Pacific, Inc.
P.O. Box 80040
Portland, Oregon 97280
503/626-0455

LEGEND:

- # - DENOTES SET 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP MARKED "W&H PACIFIC"
- - DENOTES FOUND MONUMENT AS NOTED
- () - DENOTES COMMON SPACE
- o - DENOTES 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP MARKED "W&H PACIFIC", TO BE SET DURING POST-MONUMENTATION

FIRE LANE EASEMENT LINE TABLE		
LINE	DIRECTION	DISTANCE
L-6	N 78°19'18" E	185.50'
L-7	N 80°59'26" W	185.00'
L-8	N 55°19'18" E	191.50'
L-9	N 51°19'18" E	120.00'
L-10	N 28°11'21" E	103.00'
L-11	N 74°19'18" E	254.00'
L-12	N 79°40'40" W	251.57'

REGISTERED
PROFESSIONAL
LAND SURVEYOR
Jon T. Feigion
JON T. FEIGION
7252
8-29-91

CITY OF PORTLAND
DEED BOOK 1937,
PAGE 27
1-13-59

S 44°44'46" E 3418.78'

INITIAL POINT
FND. 1/4" BRASS CAP MARKED
EAST 1/4 CORNER
SECTION 23, T1N, R1W, WM.

TRACT "A"
(common space)
72.312 Acres

6 32 FT. 8TH DRAINAGE
RESERVE EASEMENT

6 40 FT. FIRE LANE
EASEMENT - BOOK
1646, PAGE 517
3-4-54

6 32 FT. 8TH DRAINAGE
RESERVE EASEMENT

I HEREBY CERTIFY THIS TO
BE A TRUE AND EXACT COPY
OF THE ORIGINAL PLAT OF LAKOTA.

Jon T. Feigion
JON T. FEIGION

N 44°44'46" W 300.20' 600.28'

6 32 FT. 8TH DRAINAGE
RESERVE EASEMENT

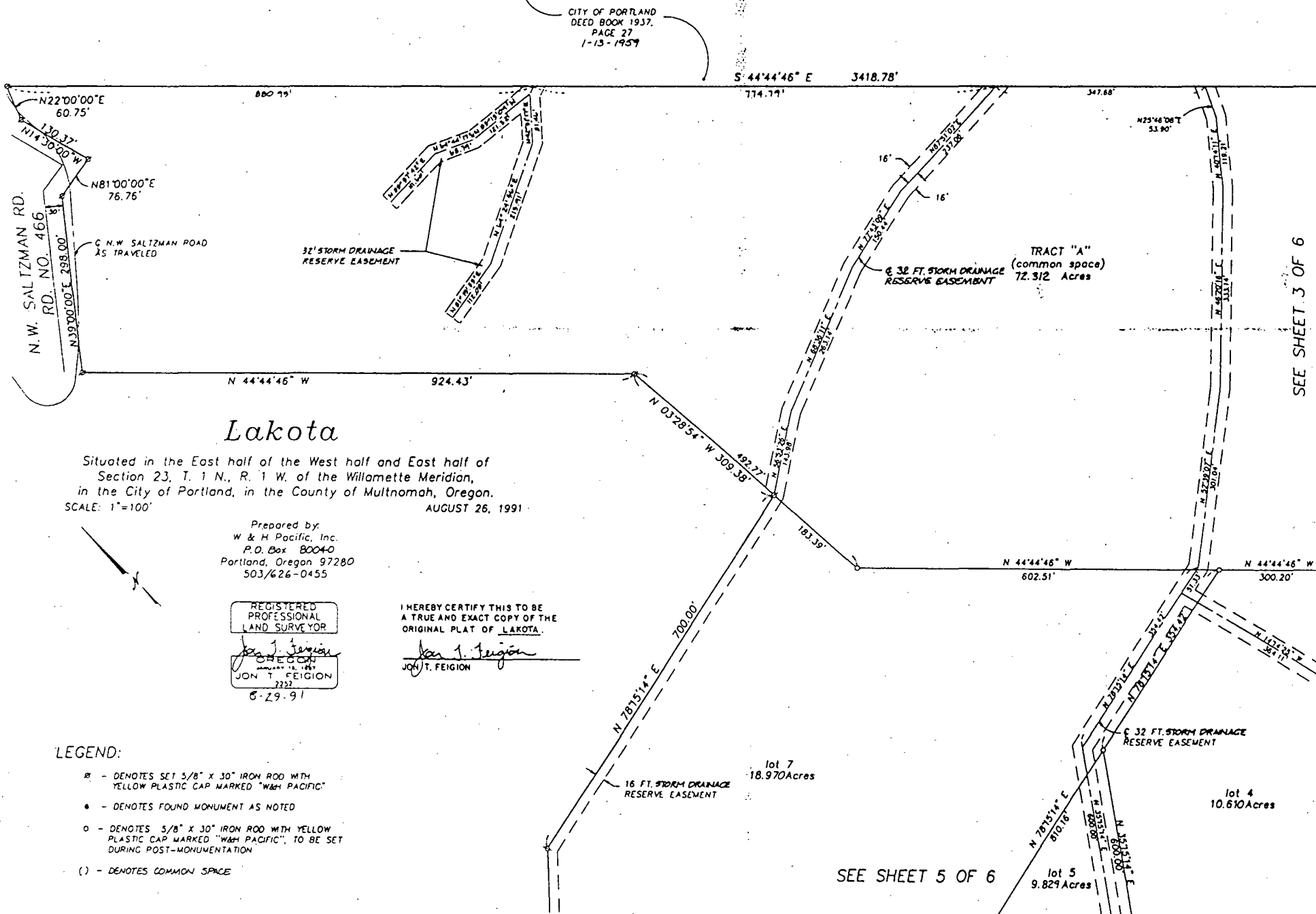
lot 4
10.610 Acres

lot 3
19.061 Acres

SEE SHEET 2 OF 6

SEE SHEET 5 OF 6

JAN AND CHRISTINE SOKOL
DEED BOOK 1778,
PAGE 122
10-1-84



Lakota

Situated in the East half of the West half and East half of
Section 23, T. 1 N., R. 1 W. of the Willamette Meridian,
in the City of Portland, in the County of Multnomah, Oregon.
SCALE: 1"=100' AUGUST 26, 1991

Prepared by:
W & H Pacific, Inc.
PO Box 80040
Portland, Oregon 97280
503/626-0455

CURVE DATA

CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
6	161.07	158.14	86.10	151.87	N 25°37'19" W	56°55'19"
7	268.75	214.42	113.29	208.78	N 20°41'04" W	45°42'49"
8	268.75	40.33	20.20	40.29	N 43°50'25" W	08°35'49"
9	268.75	84.85	42.78	84.50	N 61°10'03" W	18°05'22"
10	268.75	339.60	196.70	317.45	N 34°01'39" W	72°24'00"

LEGEND:

- - DENOTES SET 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP MARKED "W&H PACIFIC"
- - DENOTES FOUND MONUMENT AS NOTED
- - DENOTES 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP MARKED "W&H PACIFIC", TO BE SET DURING POST-MONUMENTATION
- () - RECORD DATA PER CO. RD. MAP NO. 1295
- NTS NOT TO SCALE

REGISTERED
PROFESSIONAL
LAND SURVEYOR

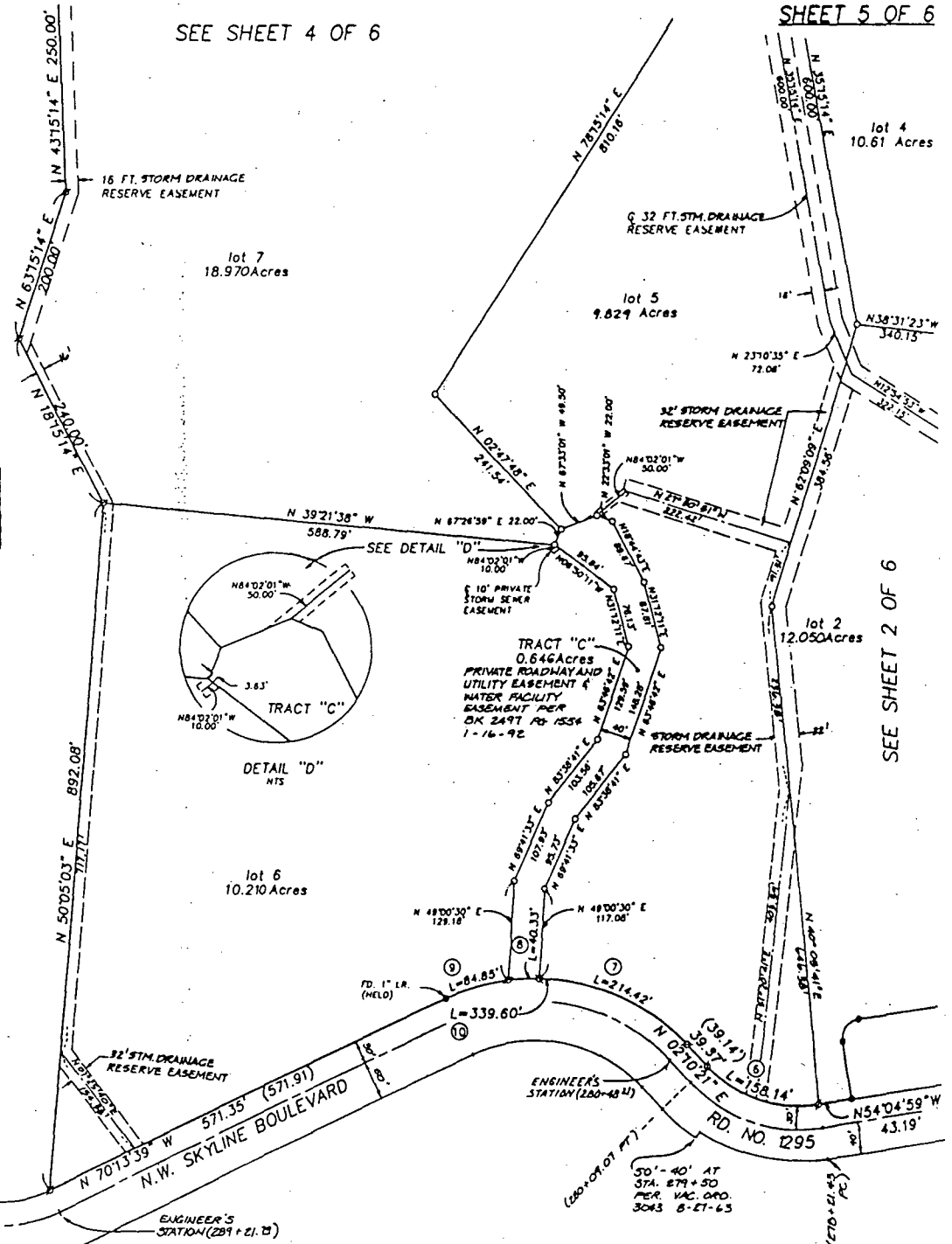
Jon T. Feigion
JON T. FEIGION
2252
8-29-91

I HEREBY CERTIFY THIS TO BE
A TRUE AND EXACT COPY OF THE
ORIGINAL PLAT OF LAKOTA.

JON T. FEIGION

SEE SHEET 4 OF 6

1224 -40
SHEET 5 OF 6



I HEREBY CERTIFY THIS TO BE
A TRUE AND EXACT COPY OF THE
ORIGINAL PLAT OF LAKOTA.

Jon T. Feigson
JON T. FEIGSON

SURVEYOR'S CERTIFICATE

I, Jon T. Feigson, being first duly sworn, depose and say that I have correctly surveyed and marked with proper monuments that land represented in the annexed map of "LAKOTA" and at the Initial Point I found a 4 1/4 inch brass cap located at the east one-quarter corner of Section 23 in Township 1 North, Range 1 West, of the Willamette Meridian in the City of Portland and Multnomah County, Oregon, thence from the Initial Point and along the east line of said Section 23 South 00°22'28" West 1120.09 feet to a point on the northerly line of that tract of land conveyed to Jan and Christine Sokol and described in Deed Book 1778 at page 122, Recorded 6-8-56; thence along the northerly line of said Sokol tract South 80°59'26" West 661.42 feet, thence South 53°31'26" West 906.53 feet; thence North 86°13'22" West 358.13 feet to the easterly line of N.W. Skyline Boulevard (County Road No. 1295), thence along the easterly line of said N.W. Skyline Boulevard North 49°42' West 236.14 feet to a point of curvature at Engineer's station 264+00.25, per Map of Road 1295, said point also being the most southerly corner of a tract of land conveyed to the City of Portland, and described by deed recorded October 18, 1978 in Book 1302, Page 1852, thence along the southerly, easterly and northerly lines of said City of Portland tract as follows: North 62°35'39" East 100.27 feet to a 1/2" iron rod; thence North 21°09'22" East 133.15 feet to a 1/2" iron rod; thence North 361°71'0" West 156.97 feet to a 1/2" iron rod; thence South 53°25'20" West 198.09 feet to the non-radial intersection of curve on the easterly line of said N.W. Skyline Boulevard, the radius point of which bears South 41°22'45" West 388.01 feet; thence 54.79 feet along the arc of said 388.01 foot radius curve to the left through a central angle of 68°05'24" (the long chord of which bears North 52°39'57" West 34.74 feet) to a point of tangency; thence North 56°42'39" West 295.60 feet to the southeasterly line of that tract of land conveyed to Robert E. Richardson and described in a deed recorded September 13, 1990 in Deed Book 2343 at page 1116, Multnomah County Records; thence along the easterly, northerly and westerly lines of said Richardson tract as follows: North 33°25'35" East 120.20 feet to a 3/4" iron pipe; thence North 57°07'48" West 65.28 feet to a 3/4" iron pipe; thence South 49°32'36" West 124.71 feet to the intersection of the easterly line of said N.W. Skyline Boulevard; thence along the said N.W. Skyline Boulevard easterly line North 56°42'39" West 46.31 feet to a point of curvature; thence 174.30 feet along the arc of a 316.71 foot radius curve to the left through a central angle of 31°31'59" (the long chord of which bears North 72°28'38" West 122.11 feet) to a point of tangency; thence North 88°14'38" West 158.54 feet to a point of curvature; thence 27.70 feet along the arc of a 256.49 foot radius curve to the right through a central angle of 06°11'16" (the long chord of which bears North 85°09'00" West 27.69 feet) to the southeasterly line of a tract of land conveyed to C. Vance Hubbard and described in a deed recorded 6-29-79 in book 1543 at page 434 of the Multnomah County Records; thence along the easterly, northerly and westerly lines of said Hubbard tract as follows: leaving the N.W. Skyline Boulevard easterly line on a non-radial bearing North 27°48'41" East 99.91 feet to a 3/4" iron pipe; thence North 69°12'08" West 110.20 feet to a 3/4" iron pipe; thence North 54°04'59" West 175.00 feet to a point of curvature; thence 39.27 feet along the arc of a 25.00 foot radius curve to the left through a central angle of 90°00'00" (the long chord of which bears South 80°55'01" West 35.36 feet) to a Point of Tangency; thence South 35°55'01" West 75.15 feet to the intersection of the easterly line of said N.W. Skyline Boulevard thence along the easterly line of said N.W. Skyline Boulevard North 54°04'59" West 42.85 feet to a point of curvature; thence 158.14 feet along the arc of a 161.07 foot radius curve to the right through a central angle of 56°15'19" (the long chord of which bears North 25°37'19" West 151.87 feet) to a point of tangency; thence North 02°10'21" East 39.37 feet to a point of curvature at Engineer's Station 280+48.21; thence 339.60 feet along the arc of a 268.75 foot radius curve to the left through a central angle of 72°24'00" (the long chord of which bears North 34°01'39" West 317.45 feet); thence North 70°13'39" West 571.35 feet to a point of curvature at Engineer's Station 289+21.79; thence leaving the easterly line of said N.W. Skyline Boulevard North 50°05'03" East, 892.08 feet; thence North 18°15'14" East, 240.00 feet; thence North 63°15'14" East, 200.00 feet; thence North 43°15'14" East, 250.00 feet; thence North 78°15'14" East, 700.00 feet; thence North 03°28'54" West, 309.38 feet; thence North 44°44'46" West, 924.43 feet to the southerly line of N.W. Saltzman Road (County Road No. 466), being 30.00 feet wide; thence continuing along said southerly line the following courses: North 39°00'00" East, 298.00 feet, North 8°00'00" East 76.76 feet, North 4°30'00" West, 130.37 feet, and North 22°00'00" East, 60.75 feet to the intersection of the southeasterly line of that tract of land conveyed to the City of Portland and described in a deed recorded January 13, 1959 in Deed Book 1937 at Page 27; said line also being a line which extends from the North one-quarter corner to the east one-quarter corner of said Section 23, thence along said City of Portland line South 44°44'46" East 3418.78 feet to the said east one-quarter corner, being the Initial Point and Point of Beginning.

Lakota

Situated in the East half of the West half and East half of
Section 23, T. 1 N., R. 1 W. of the Willamette Meridian, partly
in the City of Portland, all in the County of Multnomah, Oregon.

AUGUST 26, 1991

Prepared by:
W & H Pacific, Inc.
P.O. Box 80040
Portland, Oregon 97280
503/426-0455

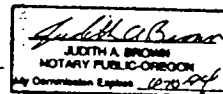
SURVEYOR'S CERTIFICATE (cont.)

Excepting therefrom the following described tract:

Beginning at the most northerly corner of that tract of land noted on CS 5066A and conveyed by deed in Book 533, Page 1124, 11-4-64, Multnomah County Deed Records; thence North 45°27'31" East, 288.86 feet; thence North 01°36'08" West 50.07 feet to an iron rod at the TRUE POINT OF BEGINNING (said point being on the westerly line of that parcel conveyed to Edward and Rella May Paloske in Book 2073, Page 119, 7-26-61); thence on the westerly line of said Paloske parcel, North 01°46'18" West, 345.32 feet to an iron rod; thence northeasterly, on a 34.16 foot radius curve concave to the southeast (the chord bears North 47°41'46" East 51.95 feet), 59.03 feet to an iron rod; thence South 82°44'52" East, on the north line of said Paloske tract, 208.08 feet to an iron rod; thence South 13°21'37" East, 315.11 feet to an iron rod; thence South 72°32'24" West, 300.68 feet to an iron rod, thence North 25°25'33" West, 48.88 feet to the TRUE POINT OF BEGINNING. *48" Iron Rod with aluminum cap
Marked "Maris P3 860"

Contains 169.64 acres.

Jon T. Feigson 6-23-91
JON T. FEIGSON, P.L.S. 2252



INTERIOR CORNER MONUMENTATION

In accordance with O.R.S. 92.070, the interior corners of this subdivision have been correctly set with proper monuments. An affidavit has been prepared regarding the setting of said monuments and is recorded in Book _____ on pages _____, Multnomah County Deed Records.

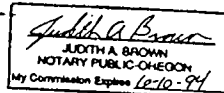
Multnomah County Surveyor

ACKNOWLEDGEMENT

STATE OF OREGON } ss
COUNTY OF MULTNOMAH }

BE IT REMEMBERED THAT on this 29th day of August, 1991, before me, a Notary Public in and for said State and County, personally appeared HOMER G. WILLIAMS, to me personally known, who being duly sworn did say that he, HOMER G. WILLIAMS, duly represents said W.Q. PROPERTIES, a Joint Venture by authority of its General Partners, and that he has signed this instrument on behalf of said Joint Venture and acknowledges said declaration to be a free act and deed.

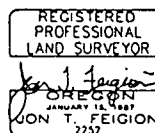
Subscribed and sworn to before me
this 29th day of August, 1991.



As per O.R.S. 92.070 I also certify that the post monumentation of the interior monuments in this subdivision will be accomplished within 90 calendar days following completion of improvements or one year following the original plat recordation, whichever comes first in accordance with O.R.S. 92.060.

Jon T. Feigson
JON T. FEIGSON, P.L.S. 2252

Subscribed and sworn to before me
this 29th day of August, 1991.



1224-41
SHEET 6 OF 6

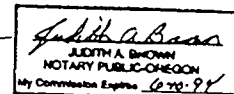
DECLARATION

KNOW ALL MEN BY THESE PRESENTS, that WQ PROPERTIES, a Joint Venture, does hereby make, establish, and declare the annexed map of LAKOTA, being more particularly described in the accompanying Surveyor's Certificate, a true map and plat thereof, all lots, tracts and easements being the dimensions shown on said map, and that said WQ PROPERTIES does hereby consent to the preparation of said map. There are no water rights appurtenant to this plat.

IN WITNESS THEREOF, I hereunto set my hand and seal on this 29th day of August, 1991.

WQ PROPERTIES, a Joint Venture.

HOMER G. WILLIAMS



APPROVALS

Approved this 5th day of May, 1992

CITY OF PORTLAND PLANNING DIRECTOR

By: Susan Yeldman

Approved this 5th day of May, 1992

CITY OF PORTLAND HEARINGS OFFICER

By: Elizabeth L. Normand

Approved this 17th day of January, 1992

CITY OF PORTLAND ENGINEER

By: R.E. Schmittman

Approved this 4th day of AUGUST, 1992

MULTNOMAH COUNTY SURVEYOR

By: Sharon K. Feigson

All taxes, fees, assessments or other charges as provided by O.R.S. 92.095 have been paid as of NOVEMBER 19, 1992

DIRECTOR
DIVISION OF ASSESSMENT AND TAXATION

By: Daugherty DEPUTY

Approved this 5th day of August, 1992

MULTNOMAH COUNTY BOARD OF COMMISSIONERS

Sharon K. Feigson

Pauline Anderson

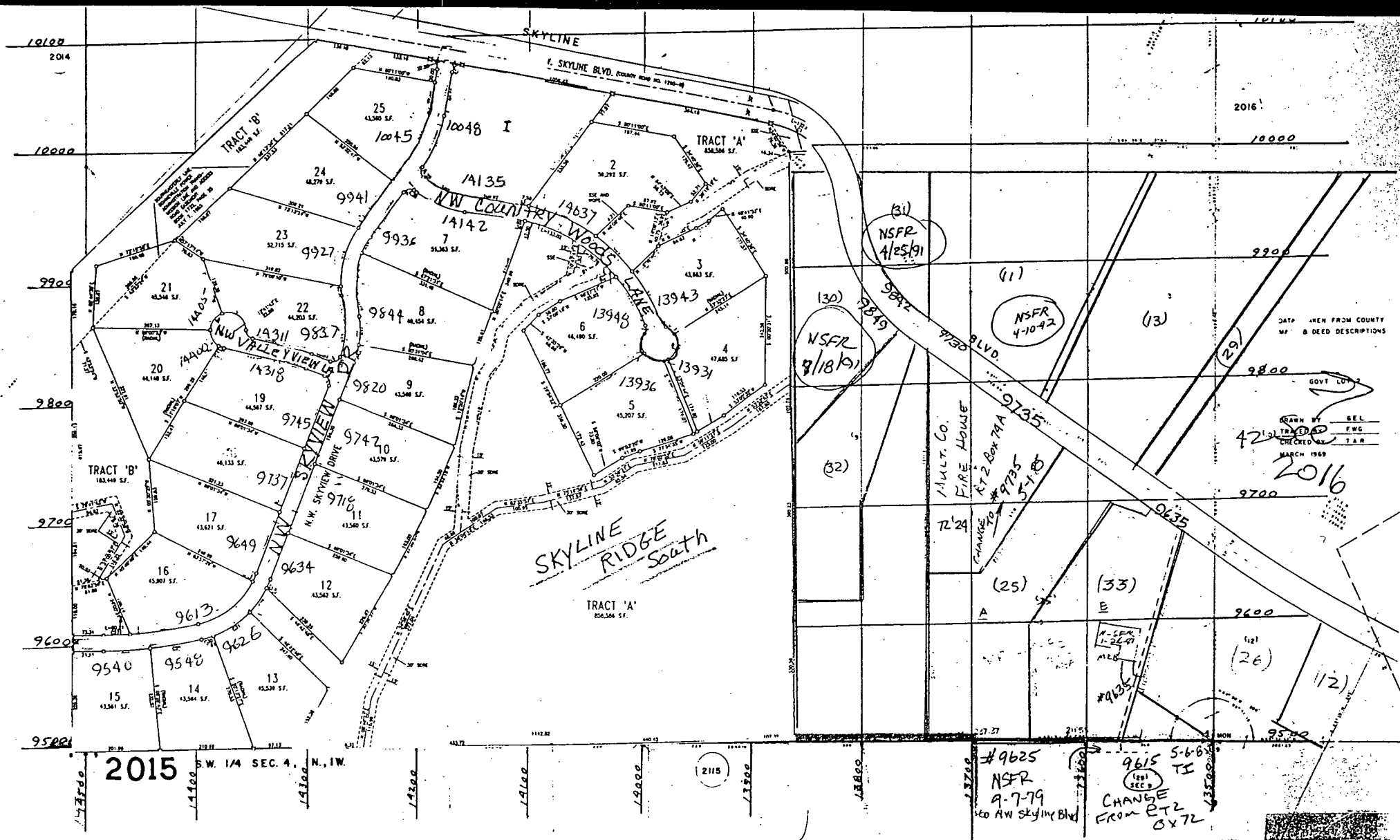
STATE OF OREGON } ss
COUNTY OF MULTNOMAH }

I do hereby certify that the attached subdivision plat was received for record and recorded November 19, 1992 at 9:49 A.M. in book

1224 on pages 34, 37, 38, 39, 40, 41

MULTNOMAH COUNTY RECORDING OFFICE

By: W. Williams Document No: 132286
DEPUTY



Skyline Ridge South
is located on the West
side of Skyline Blvd.

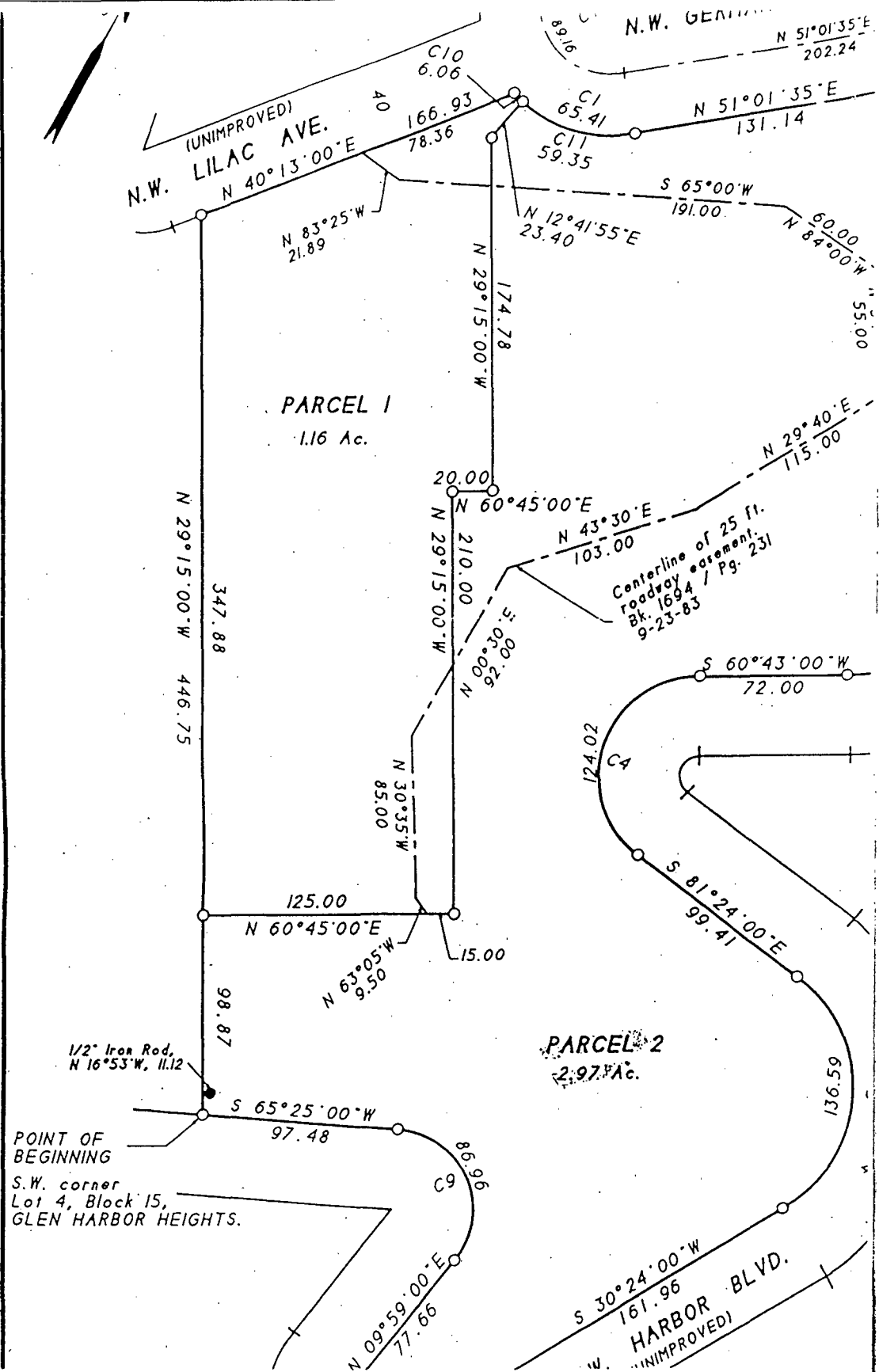
CITY OF PORTLAND
LAND USE PLANNING ACTIONS
PARTITIONS AND SUBDIVISIONS
1989 to Present

Map	Zoning	Land Use No.	Type	Year	Designation	Tax Lot No.	Acreage
11-1N-1W	R10P R10C	92-00203MP	SFR	1992	Environmental Conservation & a small portion in Environmental Protection	32050-4520 4740 37070-0020 0030 0040 0050	Beginning of 4.13. Ending of 1.16 & 2.97.
11-1N-1W	R10C	93-00004MP	SFR	1993	Environmental Conservation	3 of Lots 10, 13, 16, 21, Block 8, & part of Lot 12, Block 17, Glen Harbor	Beginning of .642. Ending of .237 & .405.
4-1N-1W	FF - '94 RF - '94	94-00416	Residential Farm/Forest	1994	Residential Farm/Forest w/ portions designated w/s, scenic environmental conservation, and p, environmental protection	4 & 19	A 41 lot planned unit development & sub-division

Map	Zoning	Land Use No.	Type	Year	Designation	Tax Lot No.	Acreage
PENDING 5-1N-1W	RF	93-00364MP	RF, 1 unit per 2 ac.	1993	Scenic Resource Water Feature	52270- 5950	Beginning of 7.1. Ending of 4.7 & 2.4.

file in 1W


512 A



Sec. 11 TIN RIW

LEGEND:

N
Sea
Sep



SURVIVOR

O 5/8" X 30" 1RB
O 5/8" 1BF W/YPC
BPC/YPC = RED/YI
(R) = RECORD: (I
(P) = PLAY: (D)
S.S.E = SANITARY S
NOTES: LINE EASE

1. THIS PLAT SUBJECT
CITY OF PORTLAND
2. A CONSENT AFFIDAVIT
A TRUST DEED BEING
_____ IN
MULTNOMAH COUNTY

N 62° 06' 00" E
23.46'

N 27° 54' 23" W
33.26'

10' WIDE S.S.E.
(5' EACH SIDE C)
(PRIVATE)

12' WIDE W.L.E.
BOOK 2748 PAGE 1465
RECORDED: 8/03/83
IN FAVOR OF:
CITY OF PORTLAND

PARCEL 2
10,316 S.F.
0.237 ACRES

A. E. K.
BOOK 242; PAGE 1233
RECORDED: 6-10-61
IN FAVOR OF:
CITY OF PORTLAND

L = 172.94' (1)

140. 24' ③

4. ②

S 60° 45' 00" W 82.00'

S 42° 12' 58" W (Radial)
13.43'

(2)

N.W. GERMANTOWN ROAD

STATE OF MARYLAND

CEDAR STREET

SKYLINE BLVD.



**DEVELOPMENT
CONSULTANTS
INC.**

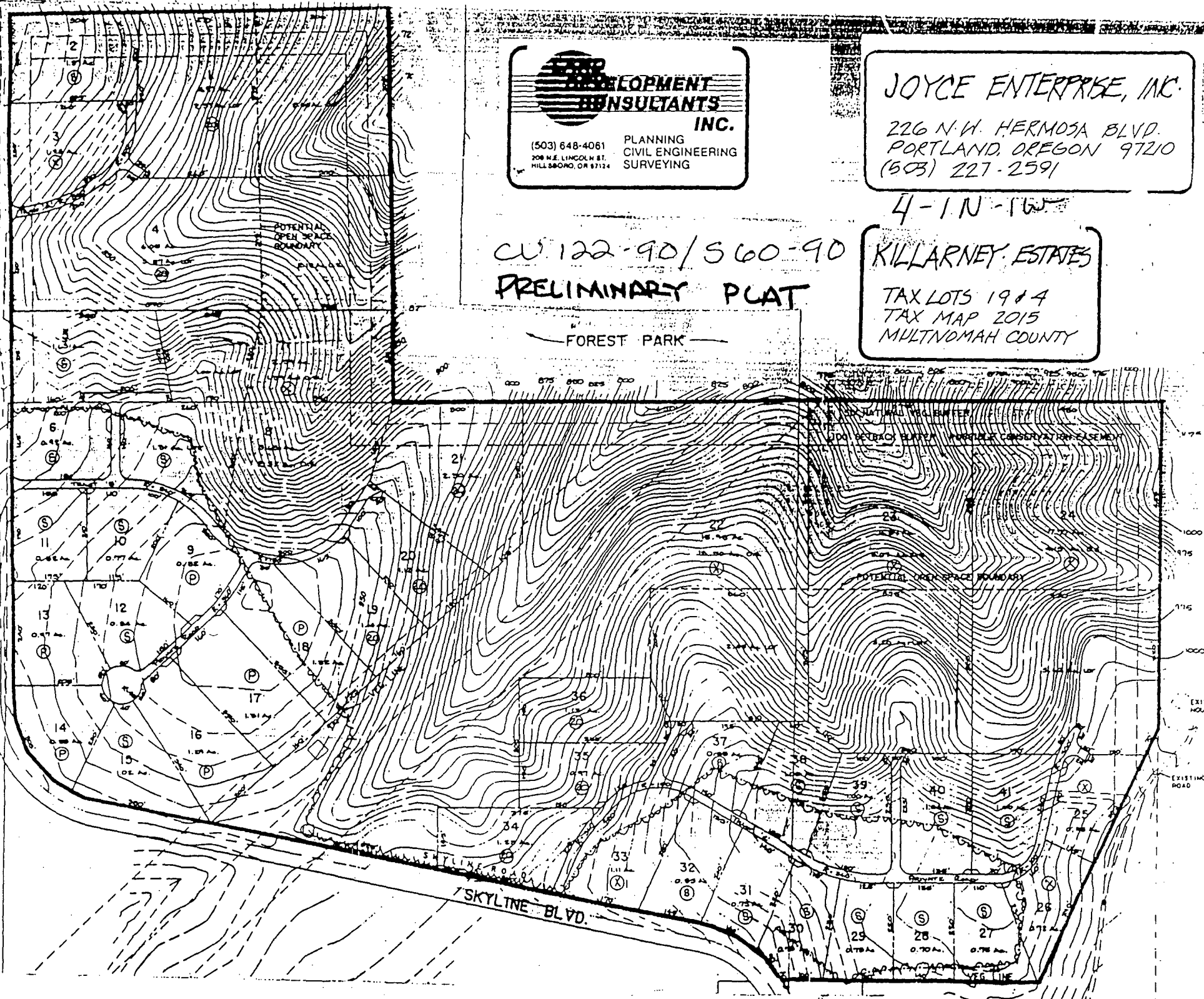
(503) 648-4061
208 N.E. LINCOLN ST.
HILLSBORO, OR 97124

PLANNING
CIVIL ENGINEERING
SURVEYING

JOYCE ENTERPRISE, INC.
226 N.W. HERMOSA BLVD.
PORTLAND, OREGON 97210
(503) 227-2591

CU 122-90/560-90
PRELIMINARY PLAT

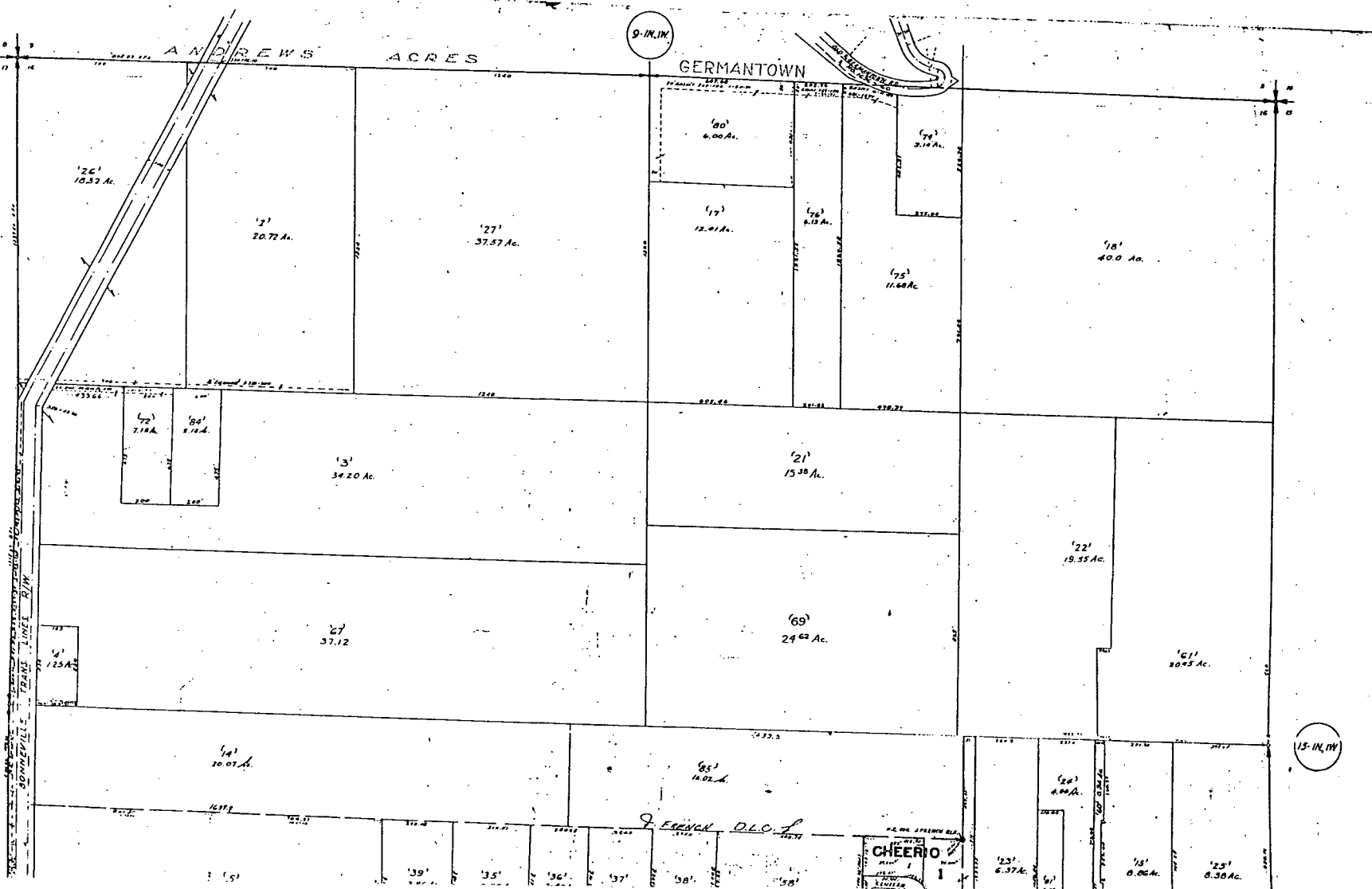
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KILLARNEY ESTATES
TAX LOTS 1914
TAX MAP 2015
MULTNOMAH COUNTY



LVR
94-00416

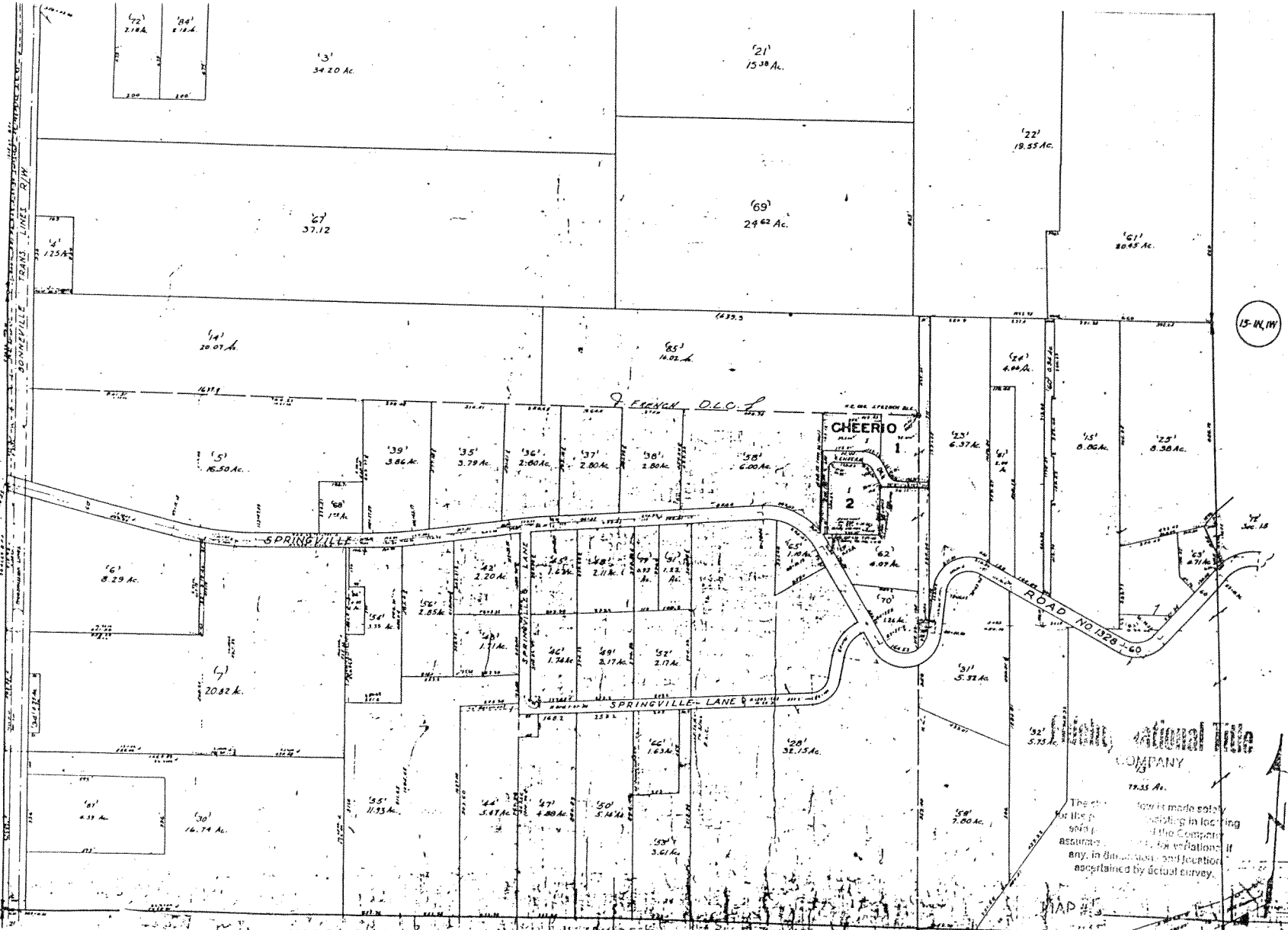
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COUNTY



WASHINGTON COUNTY

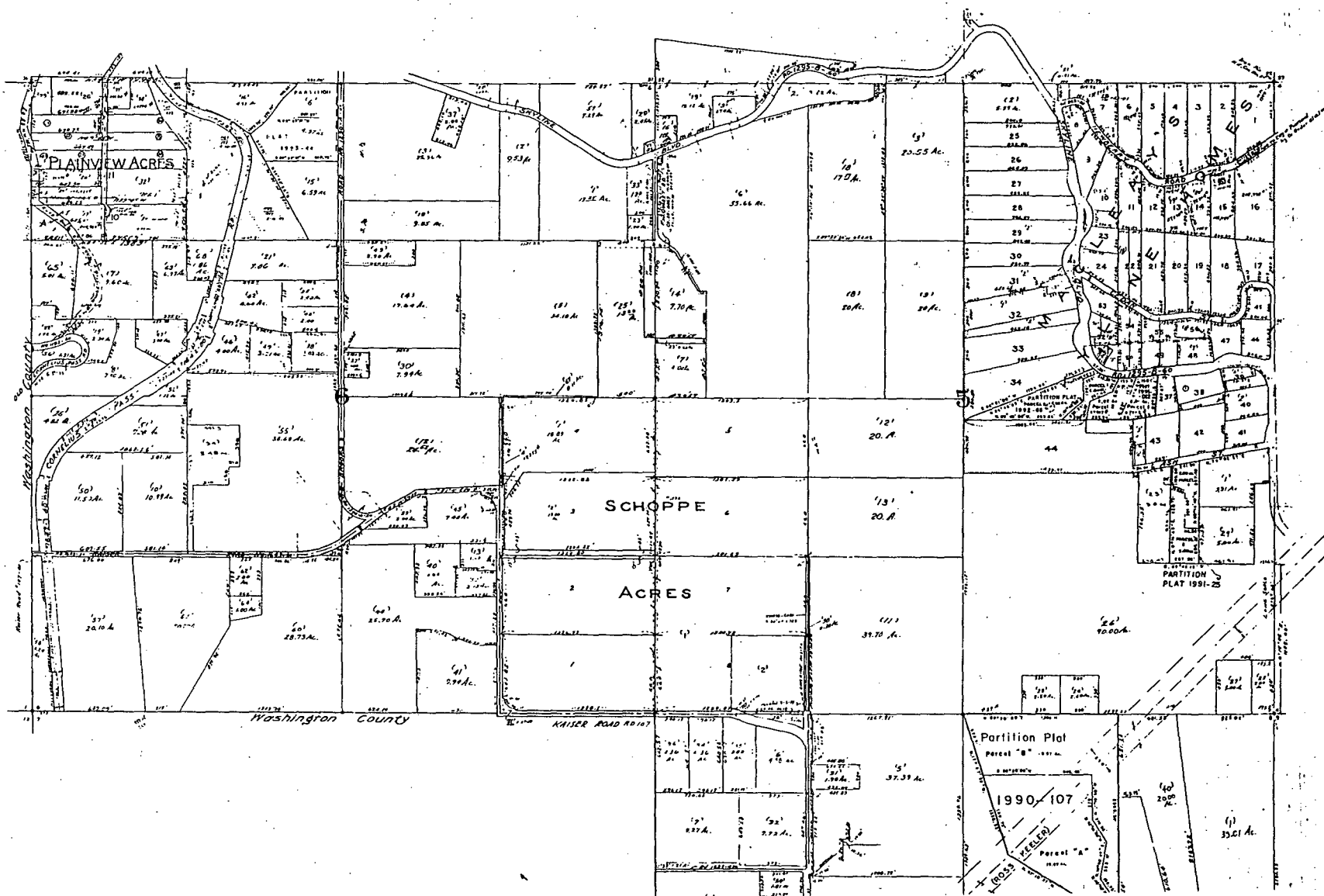
WASHINGTON COUNTY

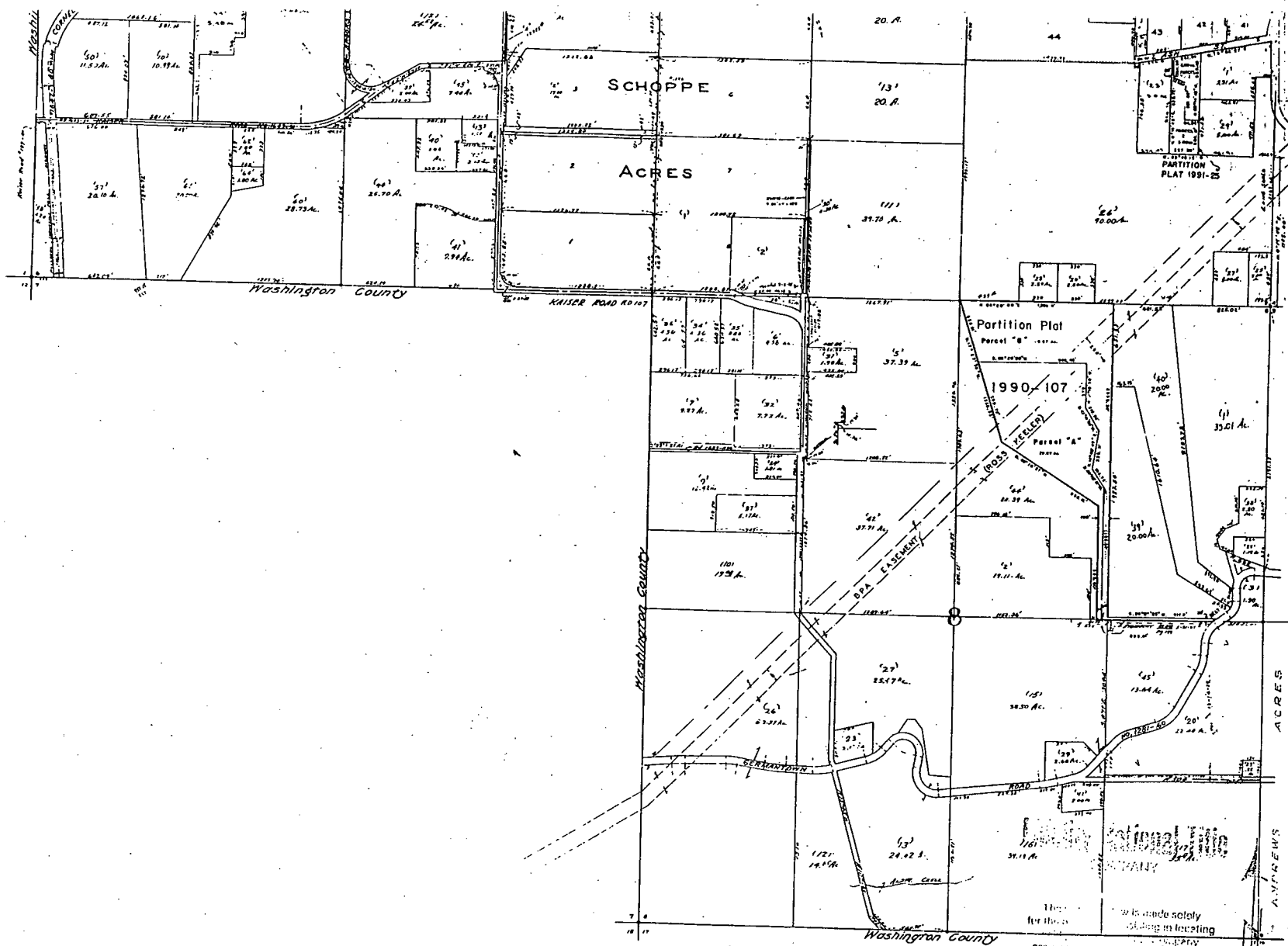


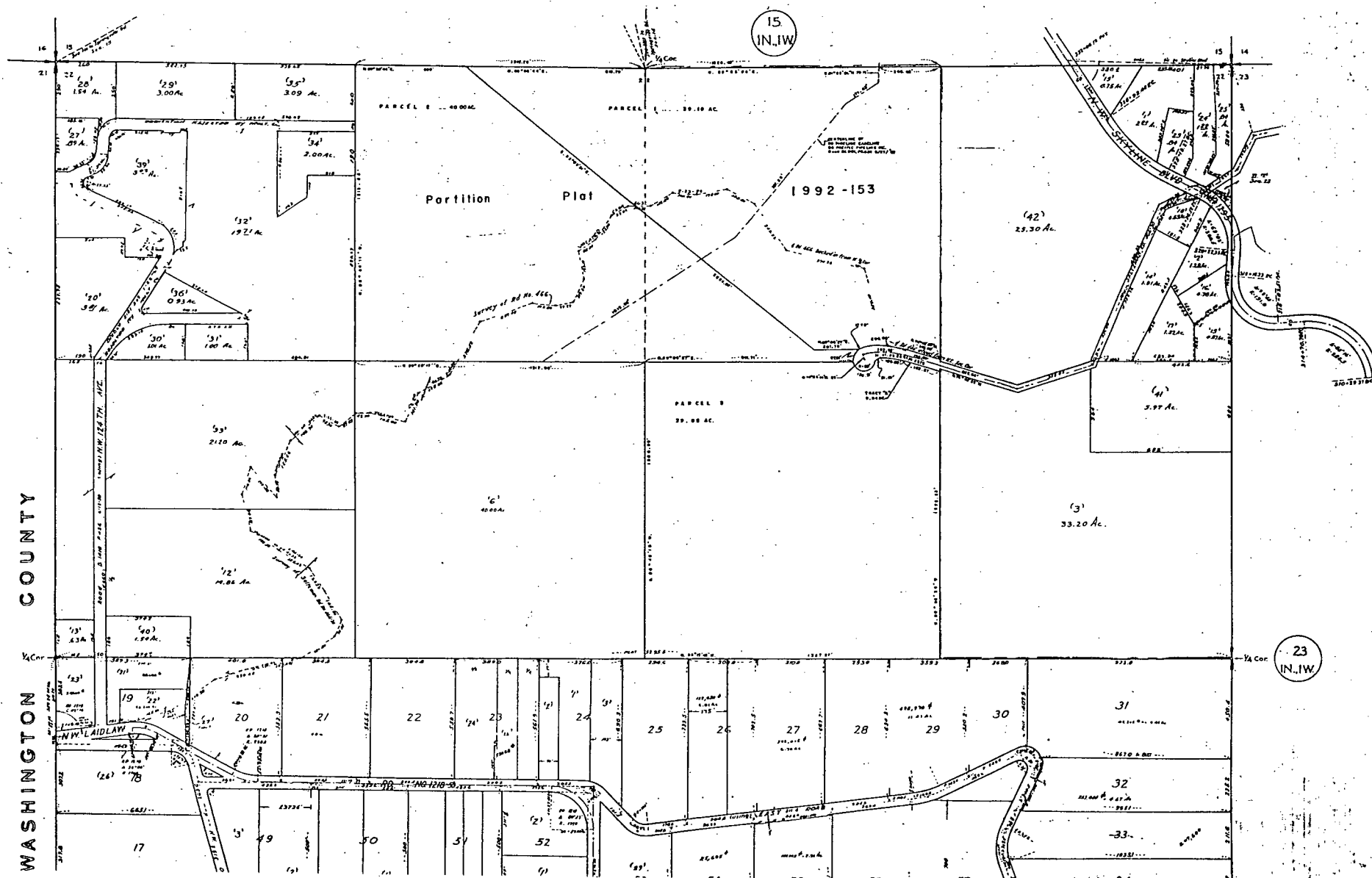
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WASHINGTON COUNTY

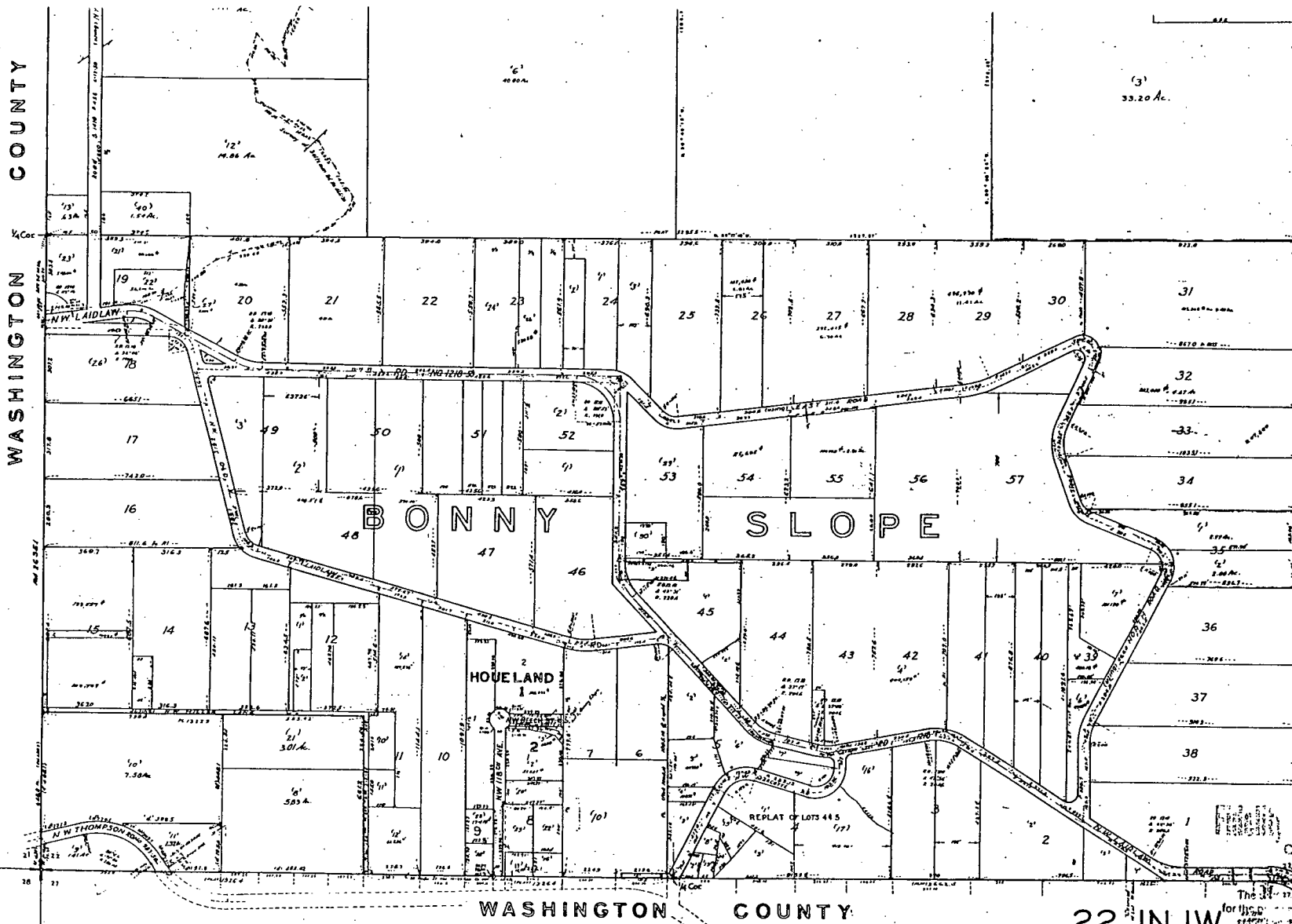
SEC 16-N, 1W







WASHINGTON COUNTY

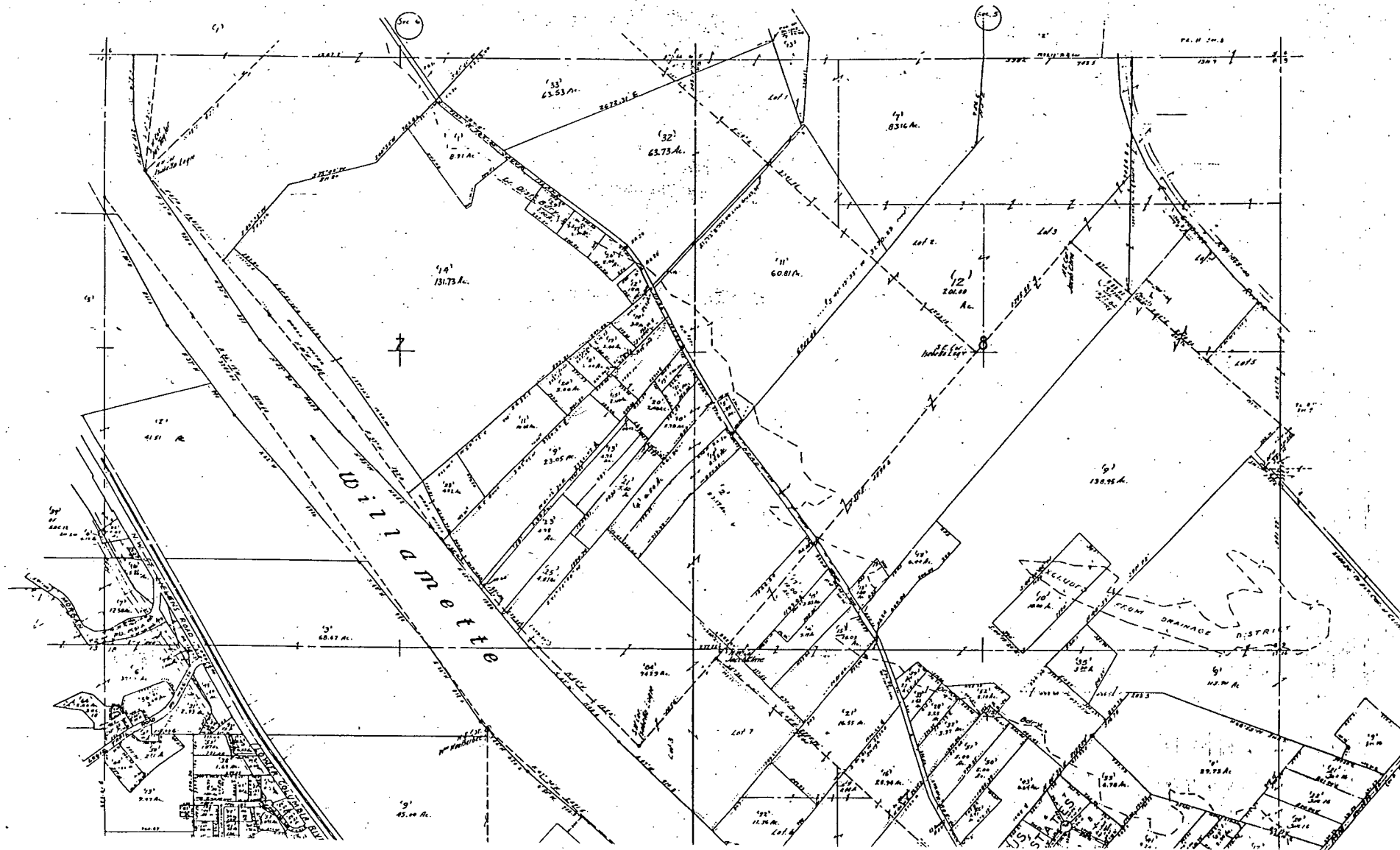


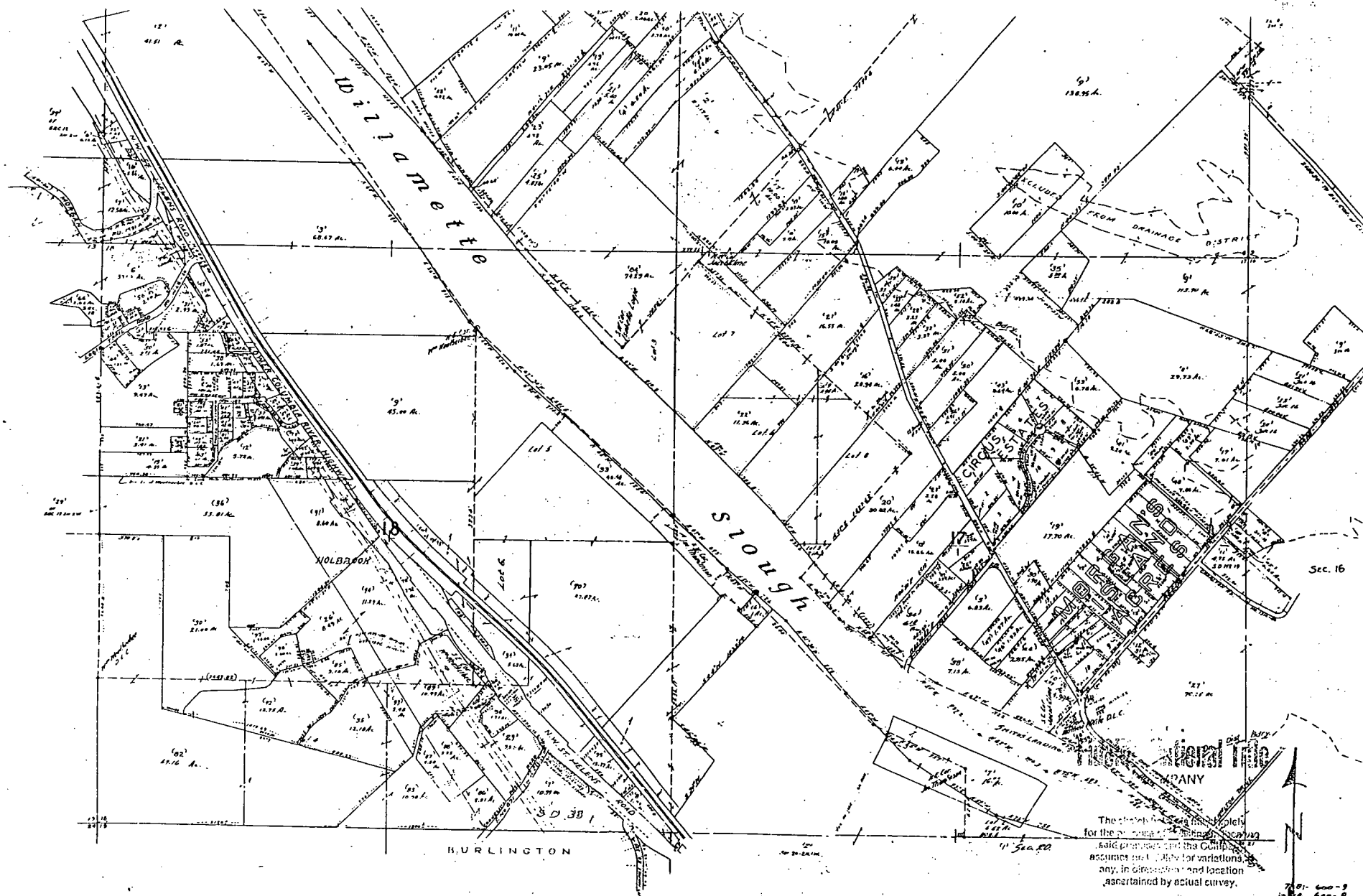
23
IN. IW

22 IN. IW

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MAP #

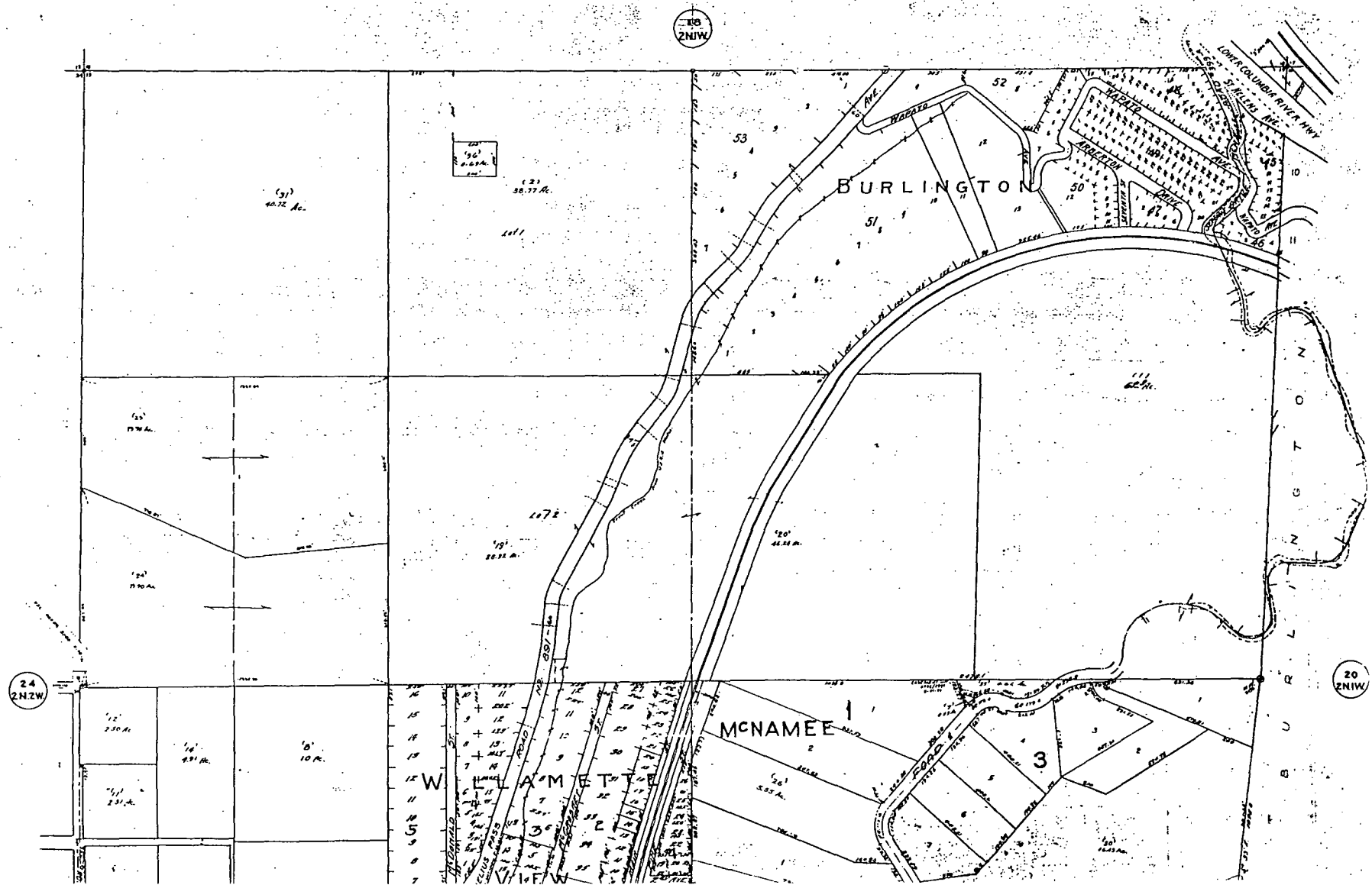


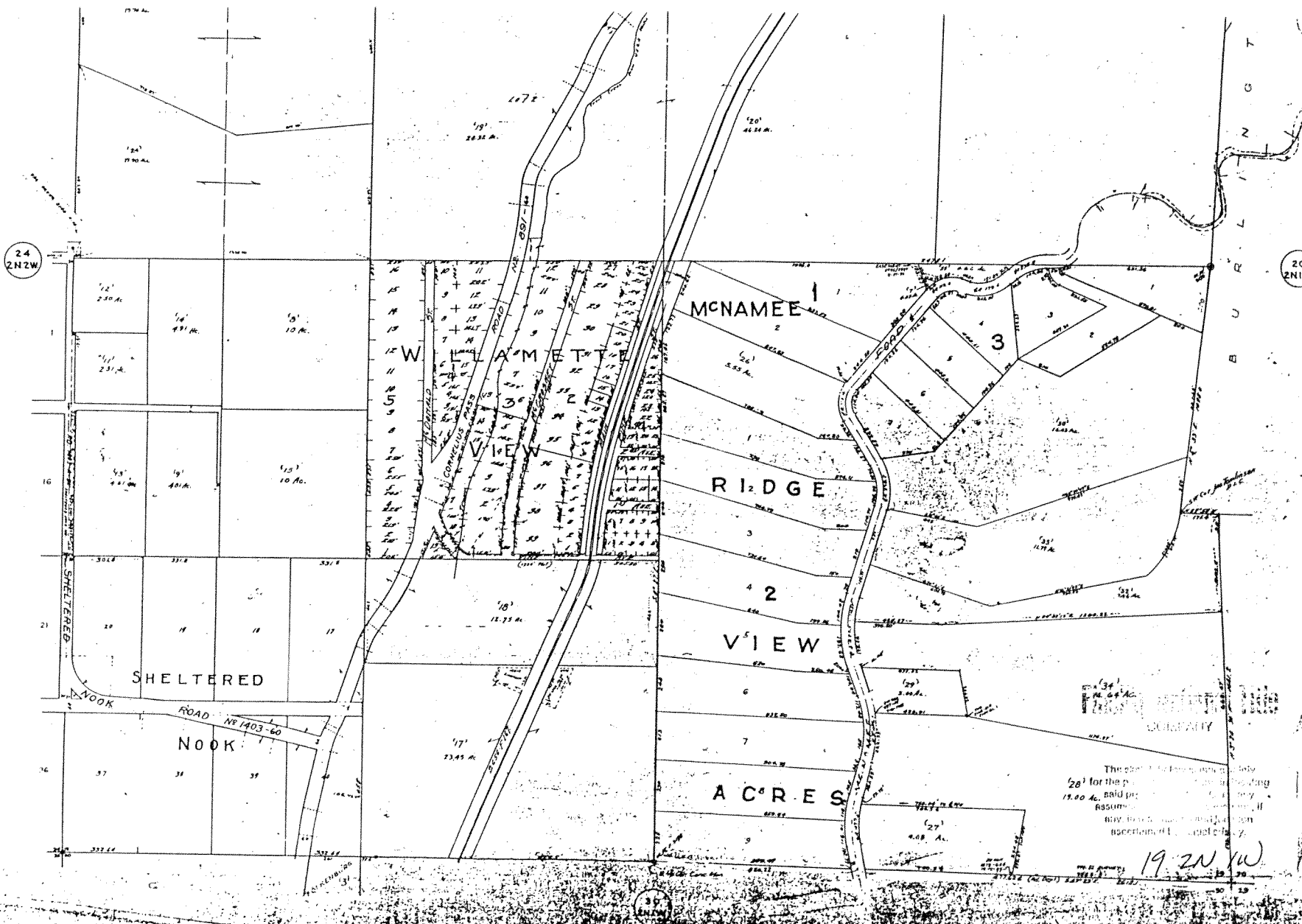


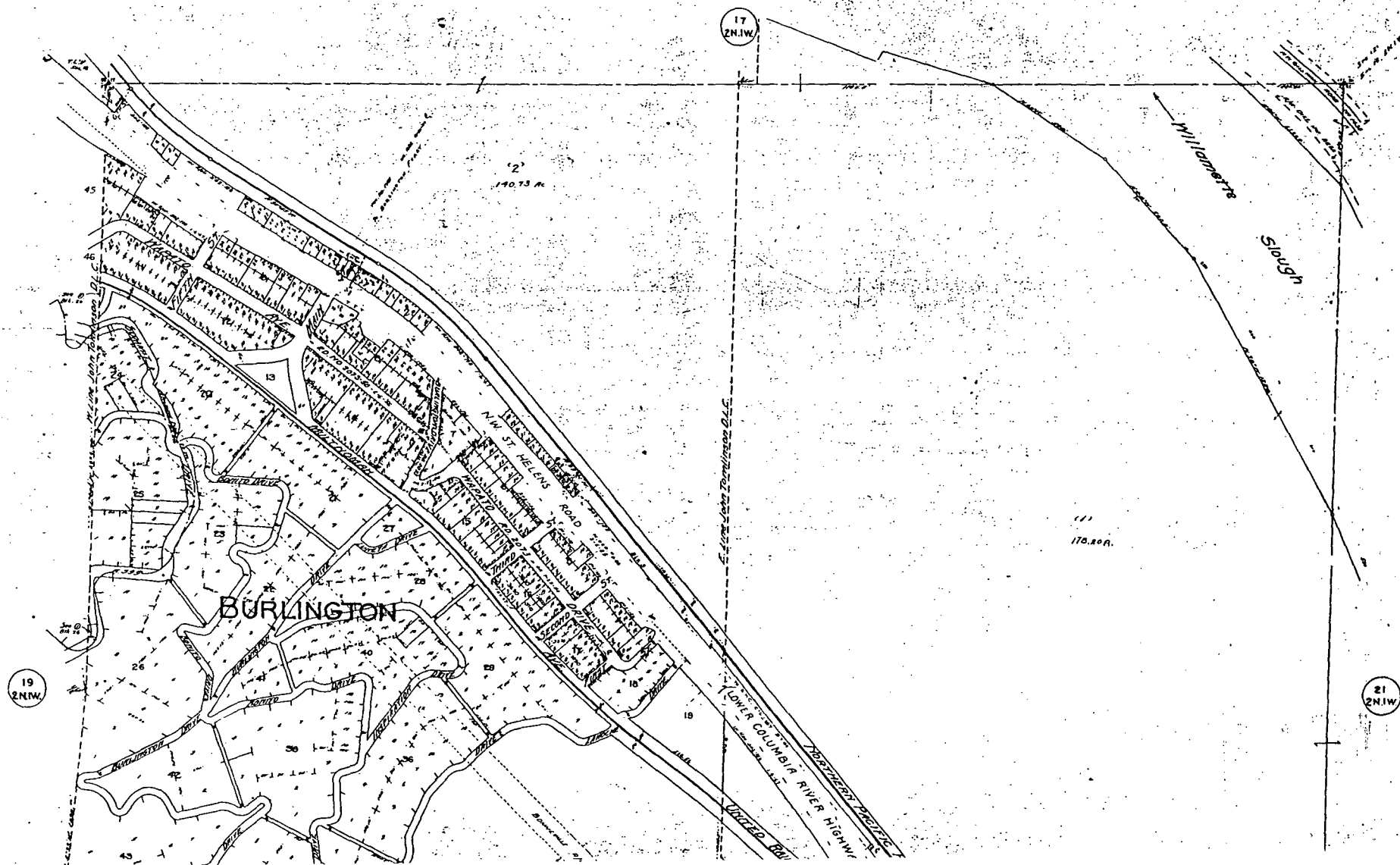
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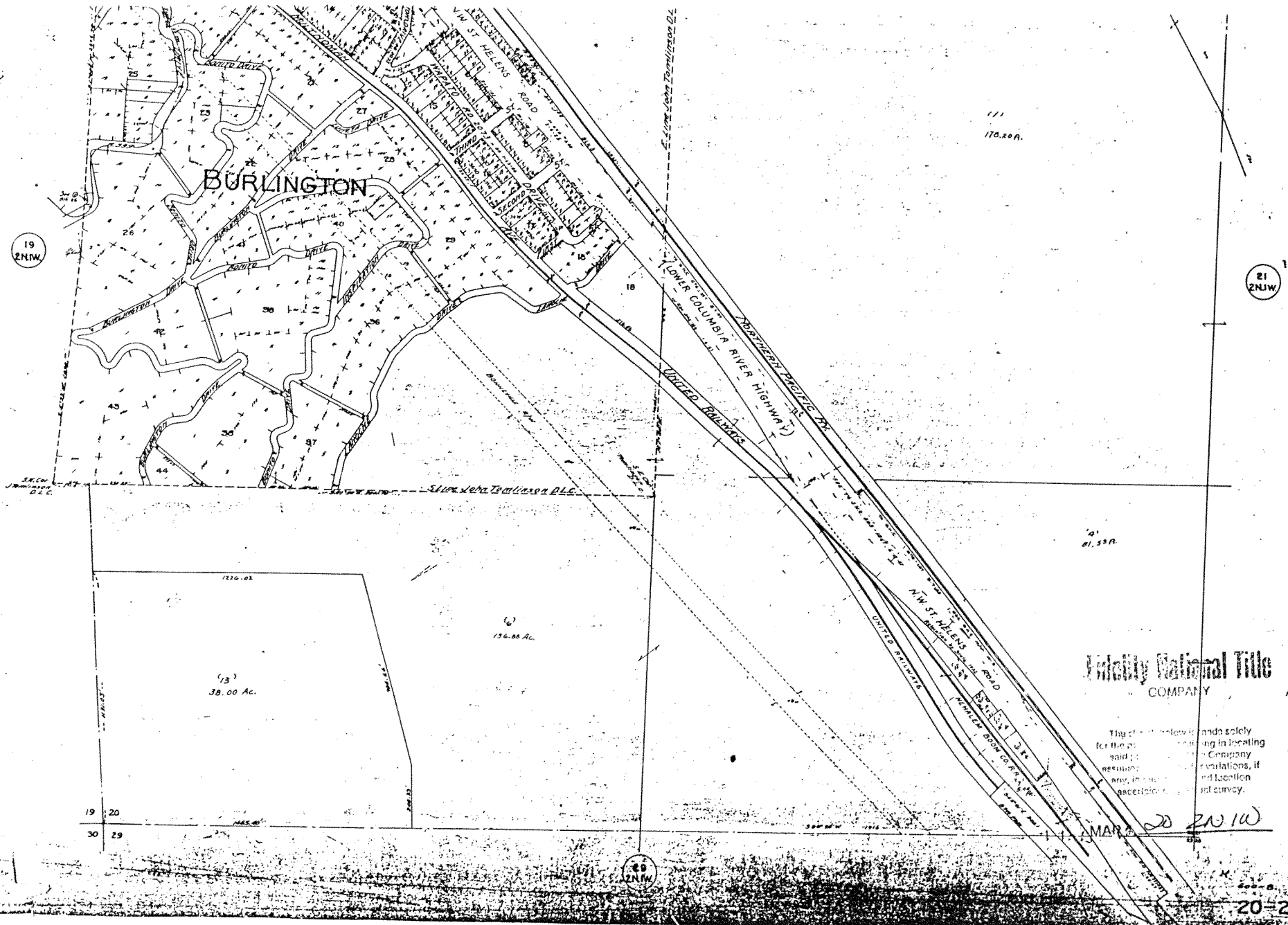
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7, 8, 17, 18, 2N 1W





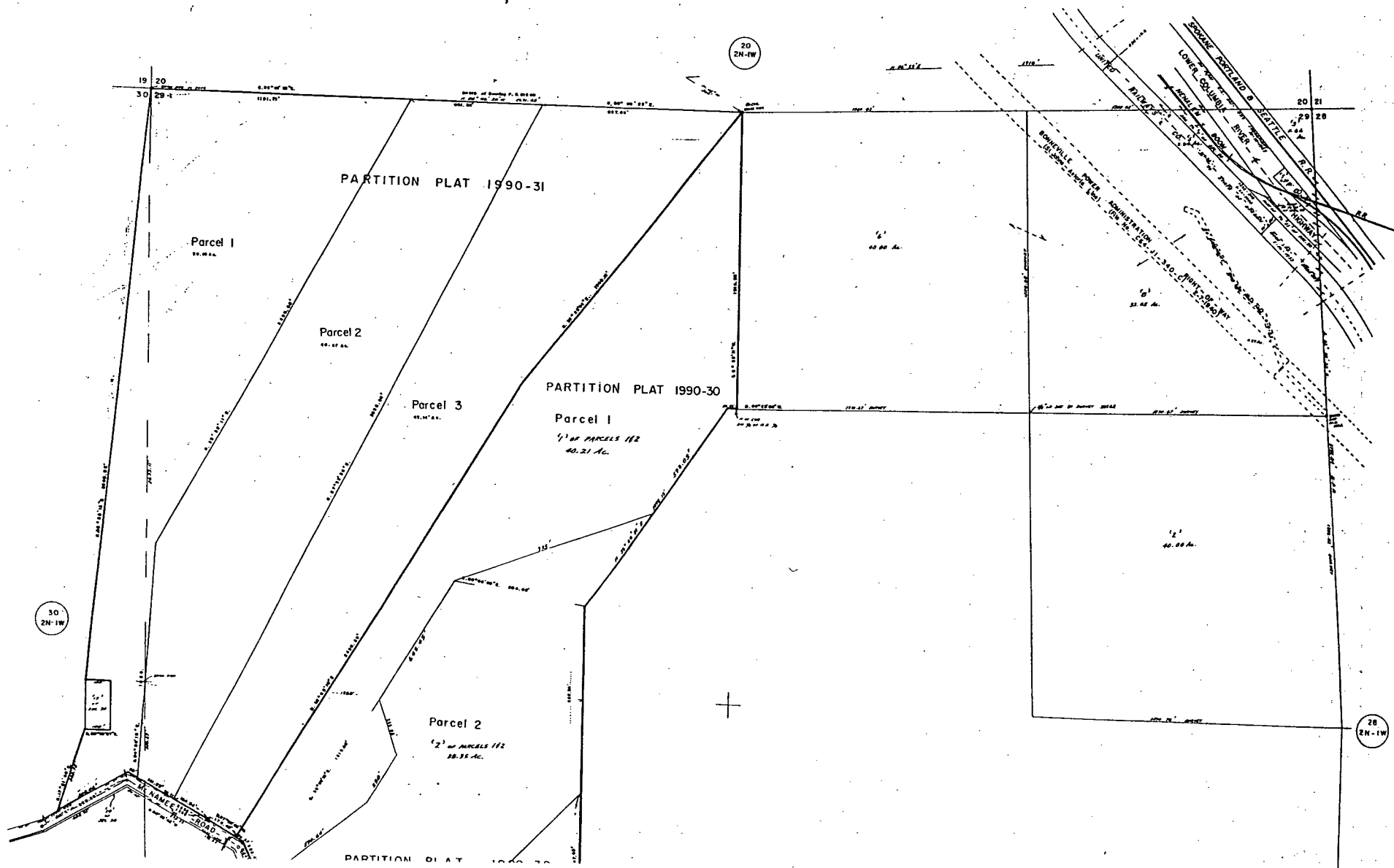


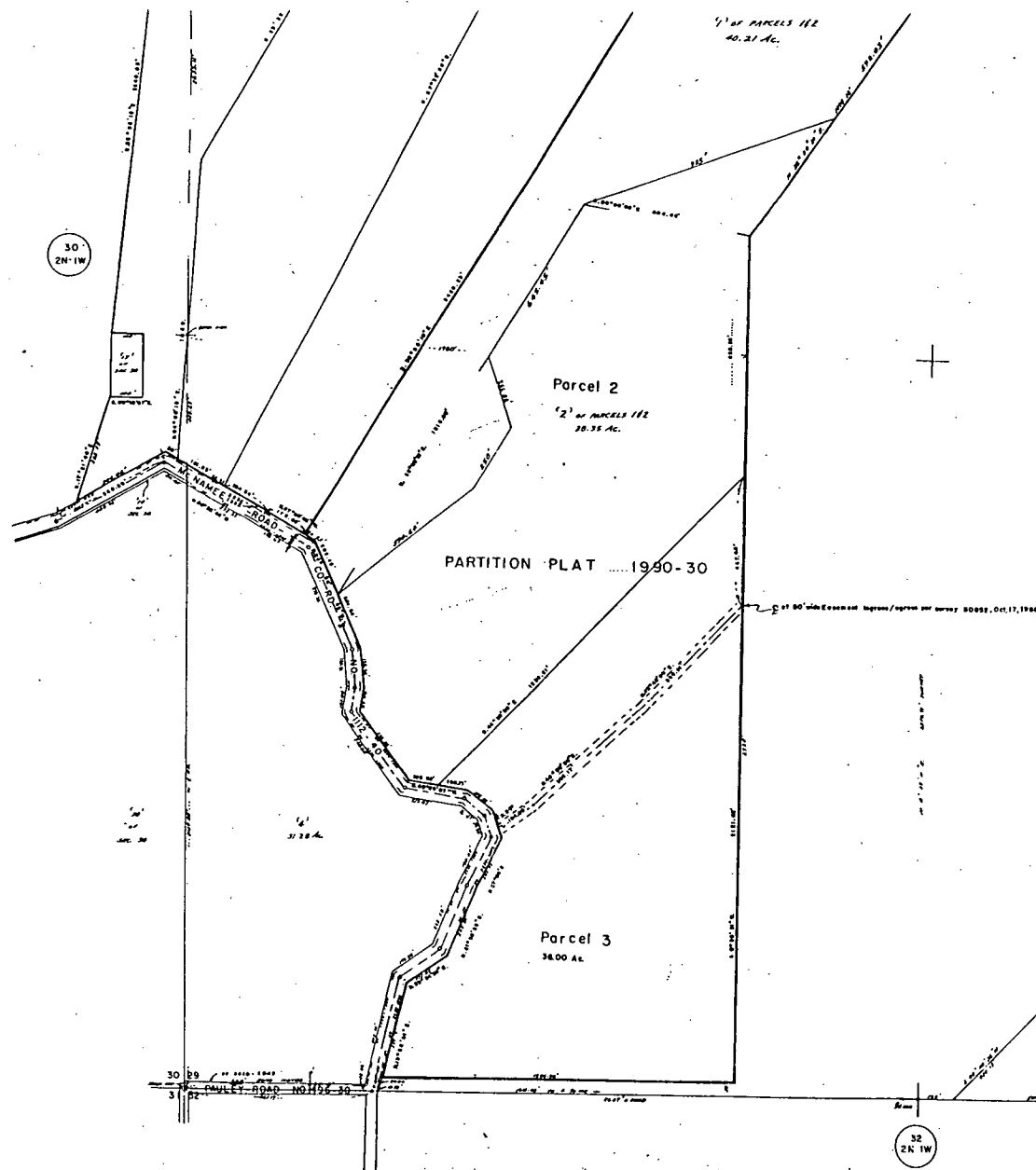


Wichita National Title
COMPANY

This plat is a true and correct copy of the original survey and is intended to show the location of the land and the location of the survey.

MAR 20 20 10





Frederick National Title
COMPANY

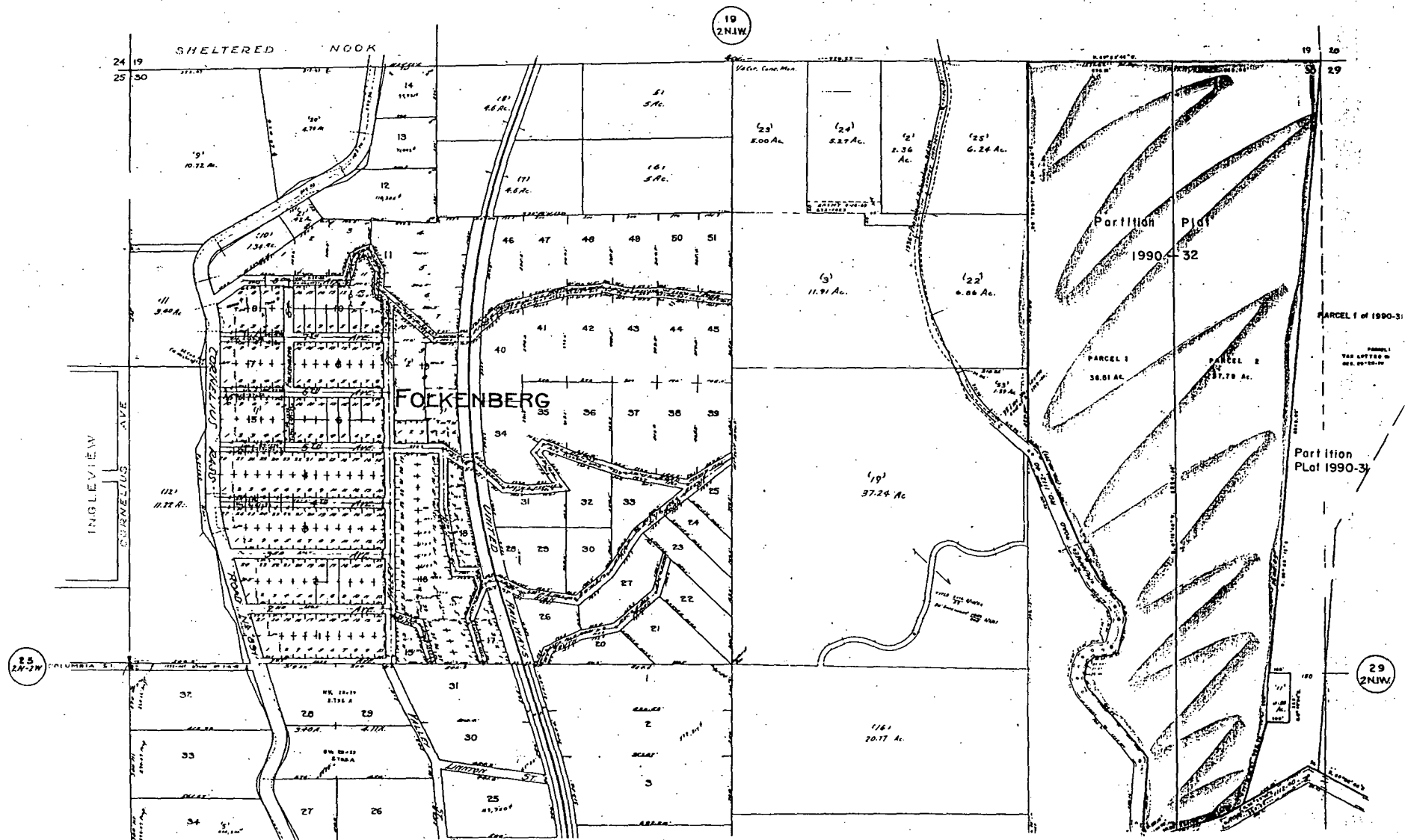
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for the purpose of showing
solid title to the company
acres. The title shown, if
any, is based on the location
shown on this map and survey.

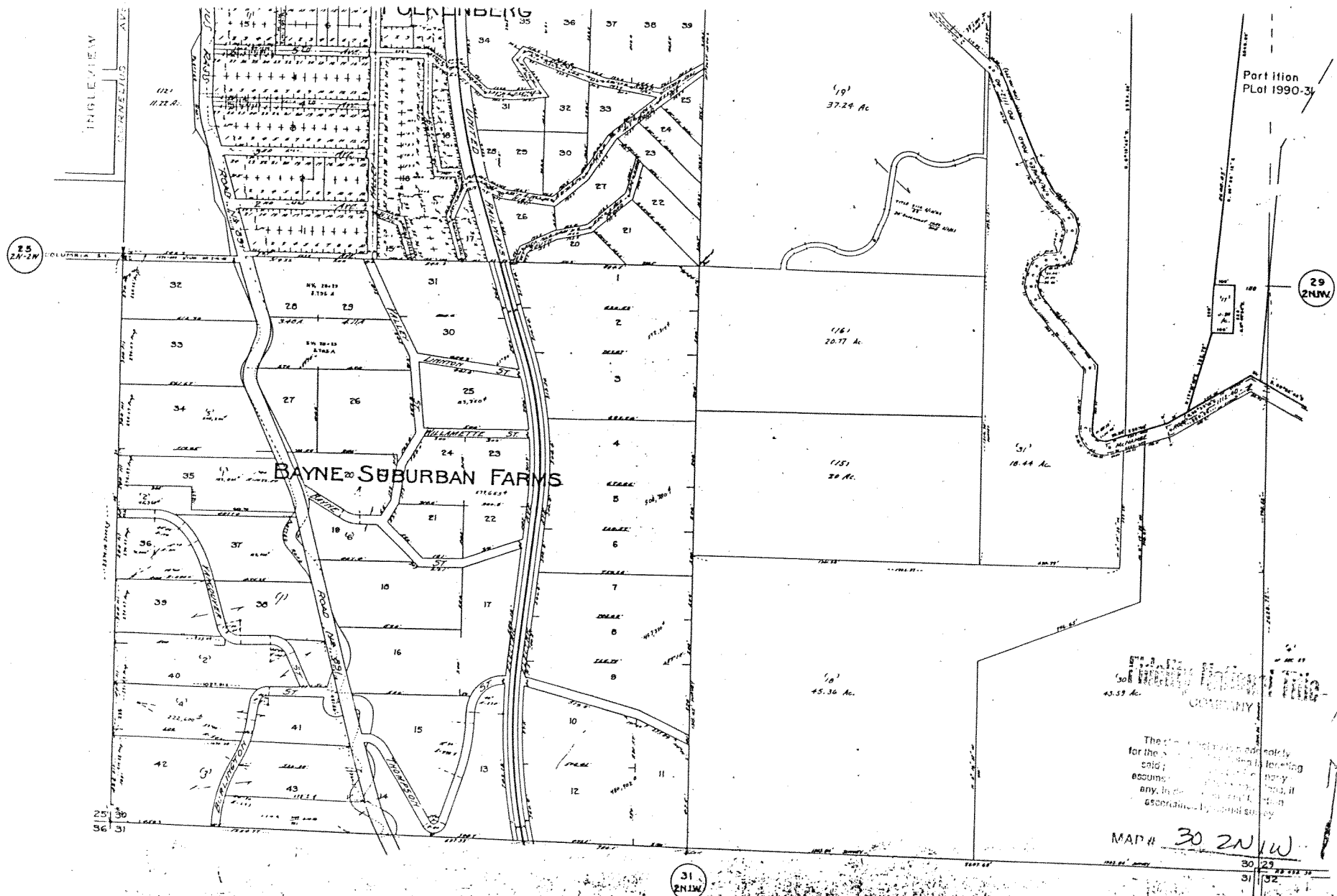
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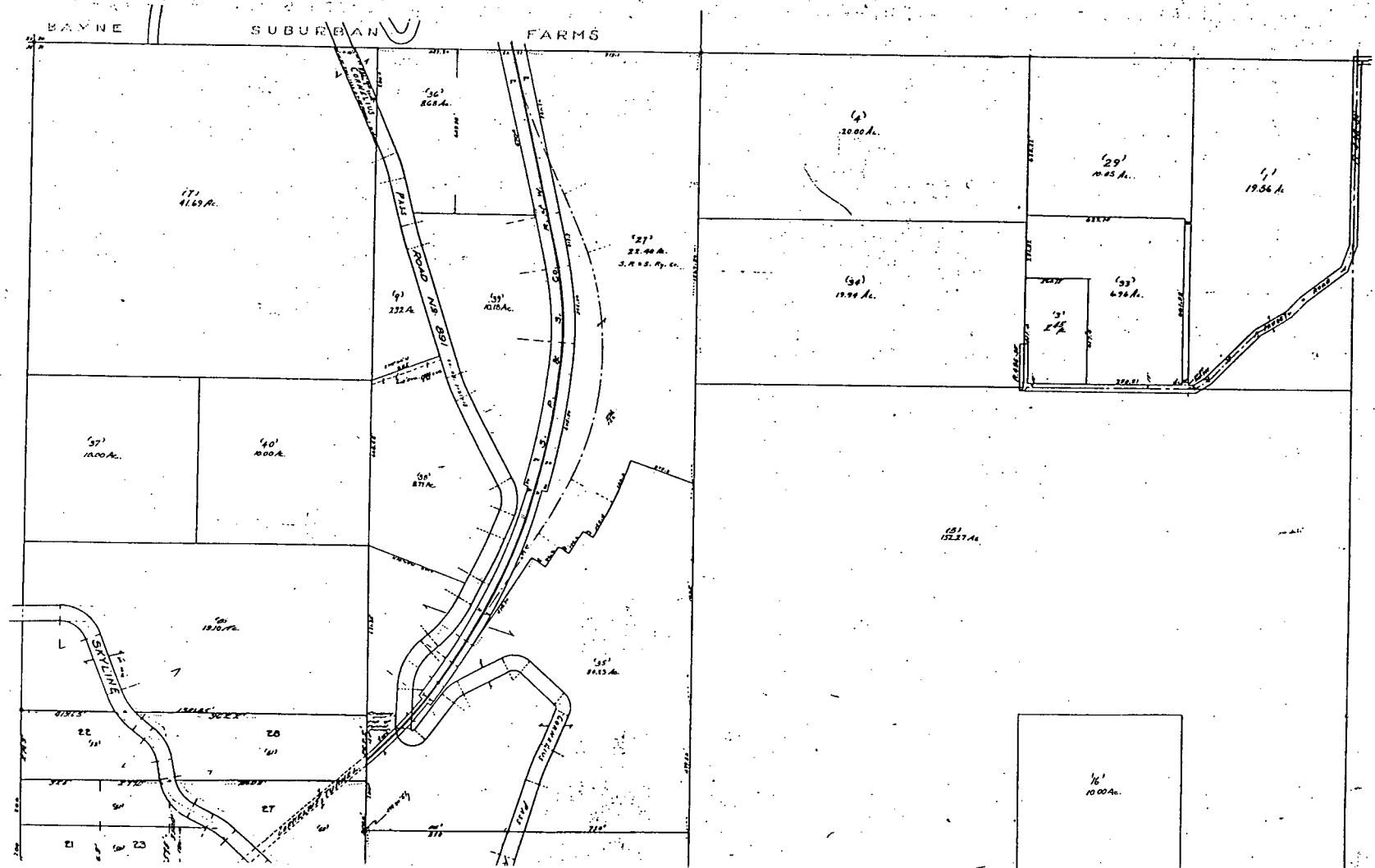
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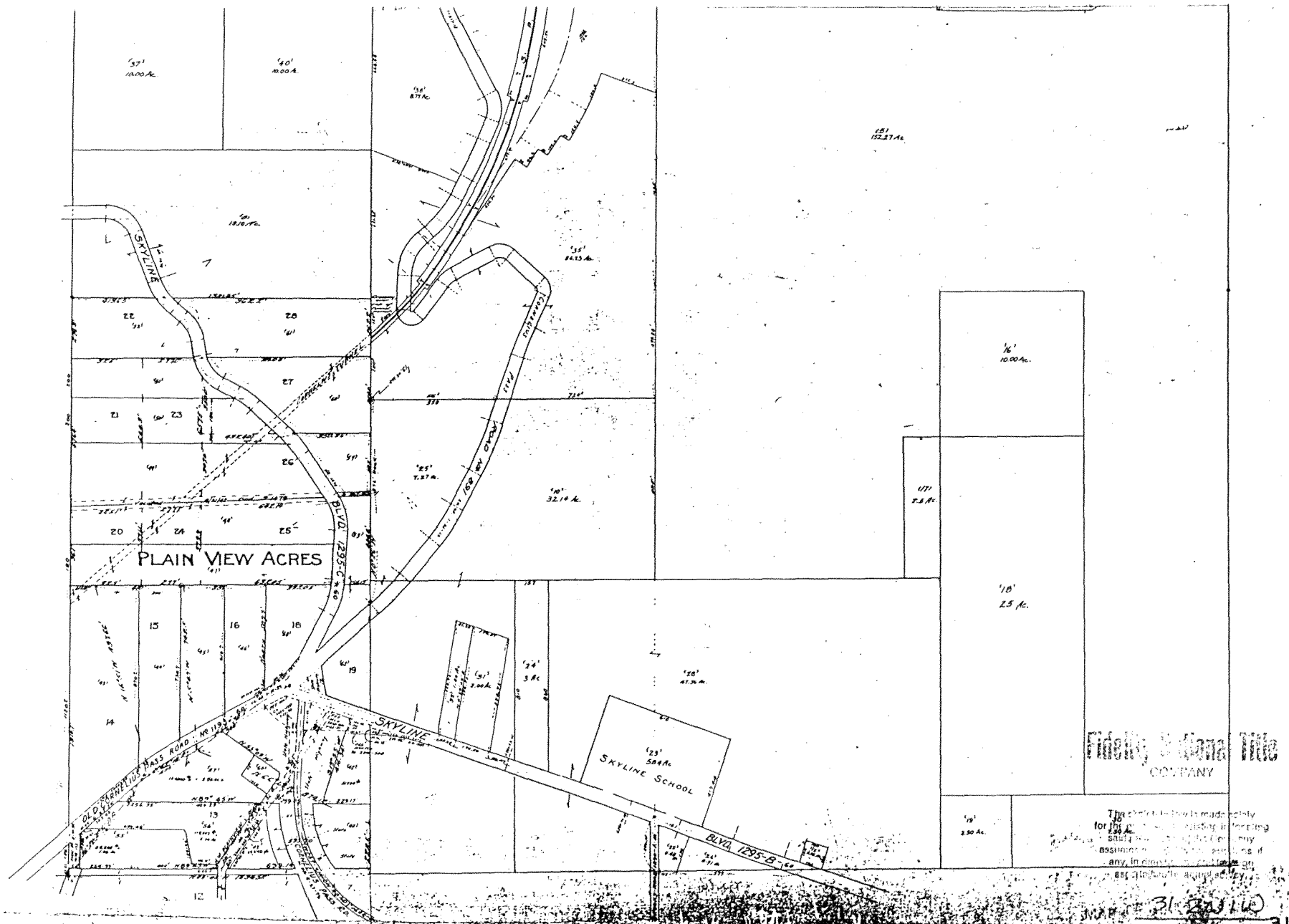
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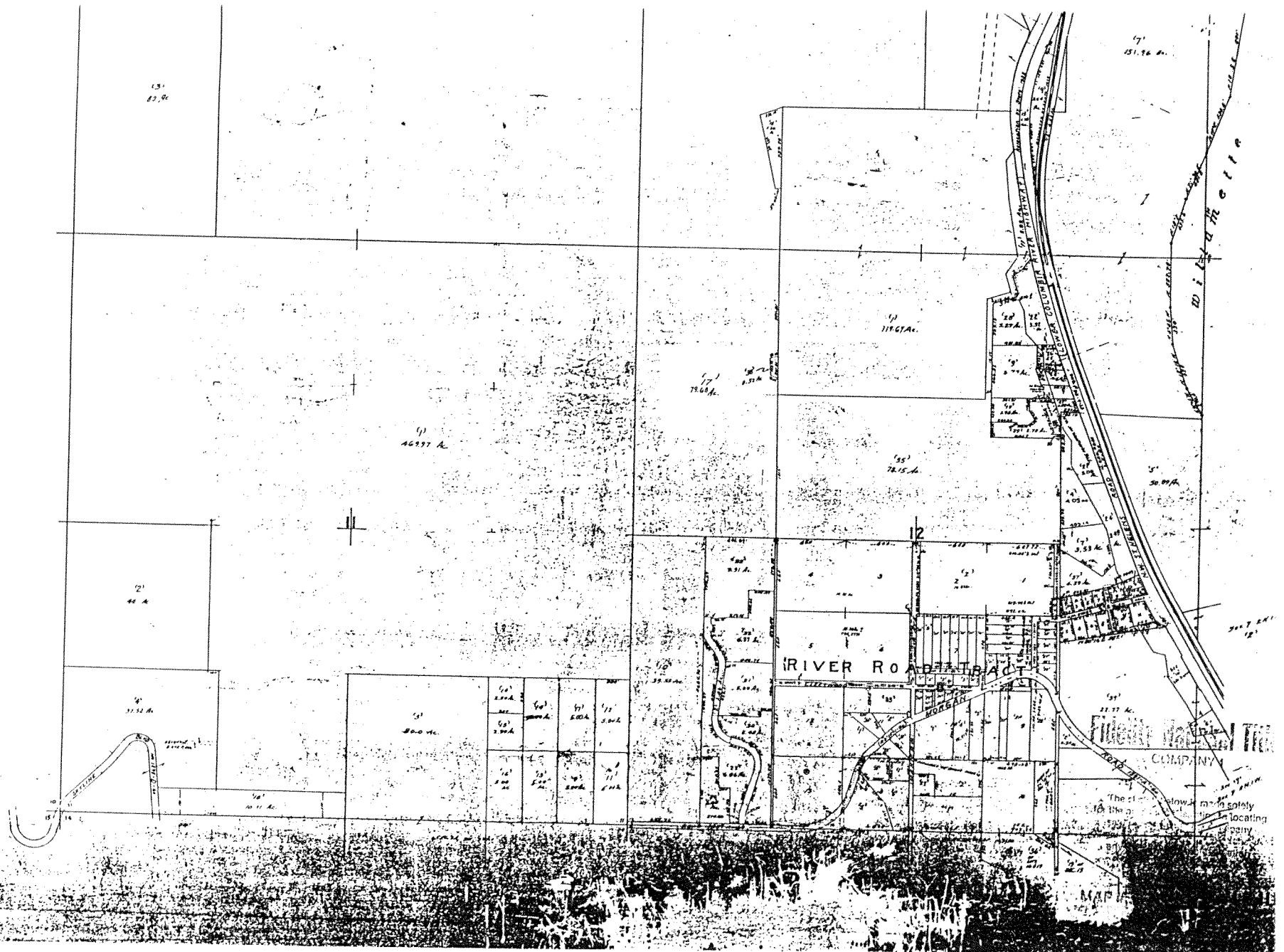


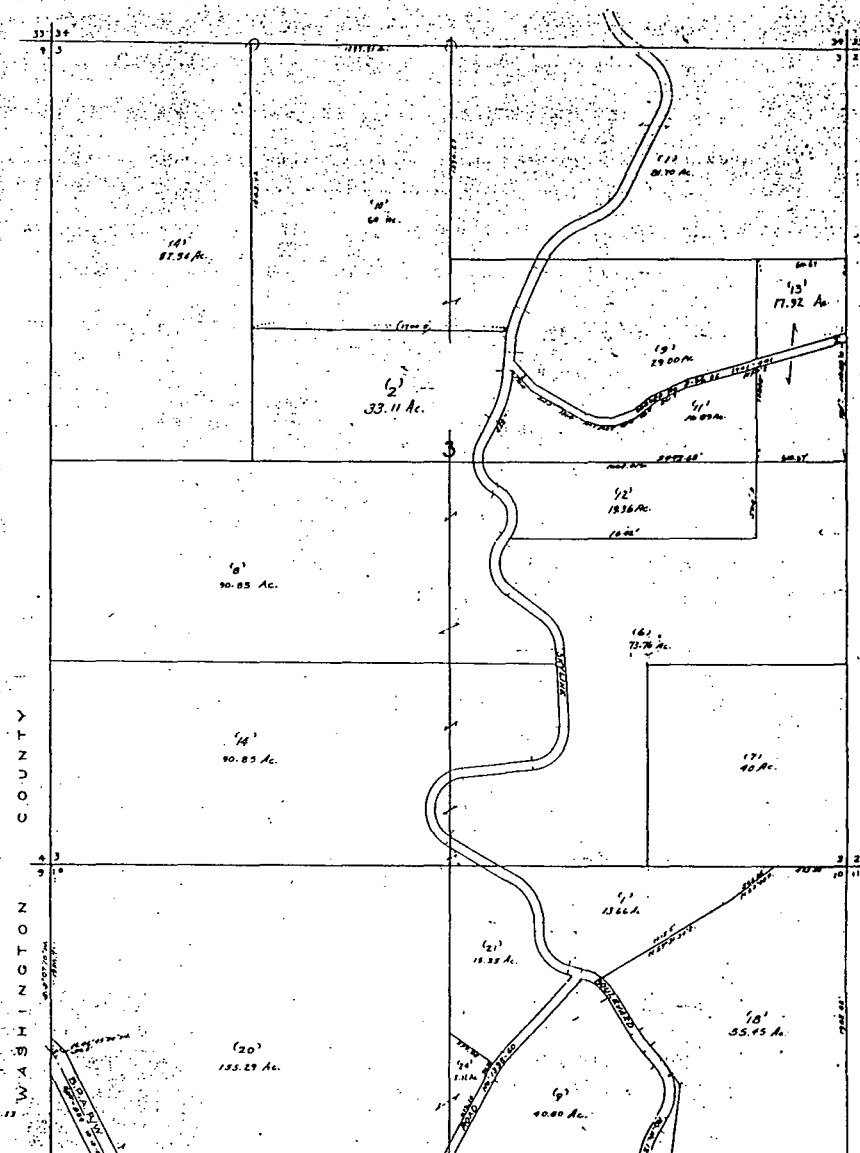
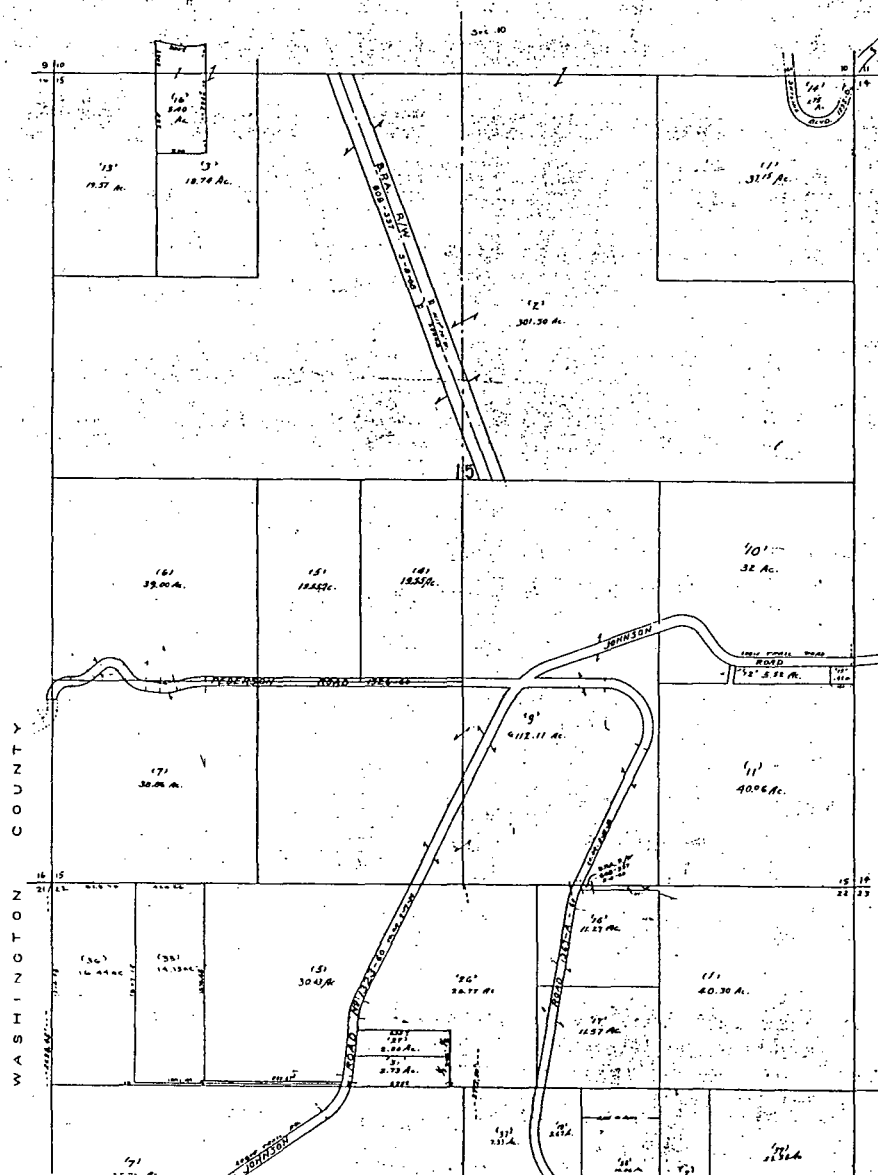


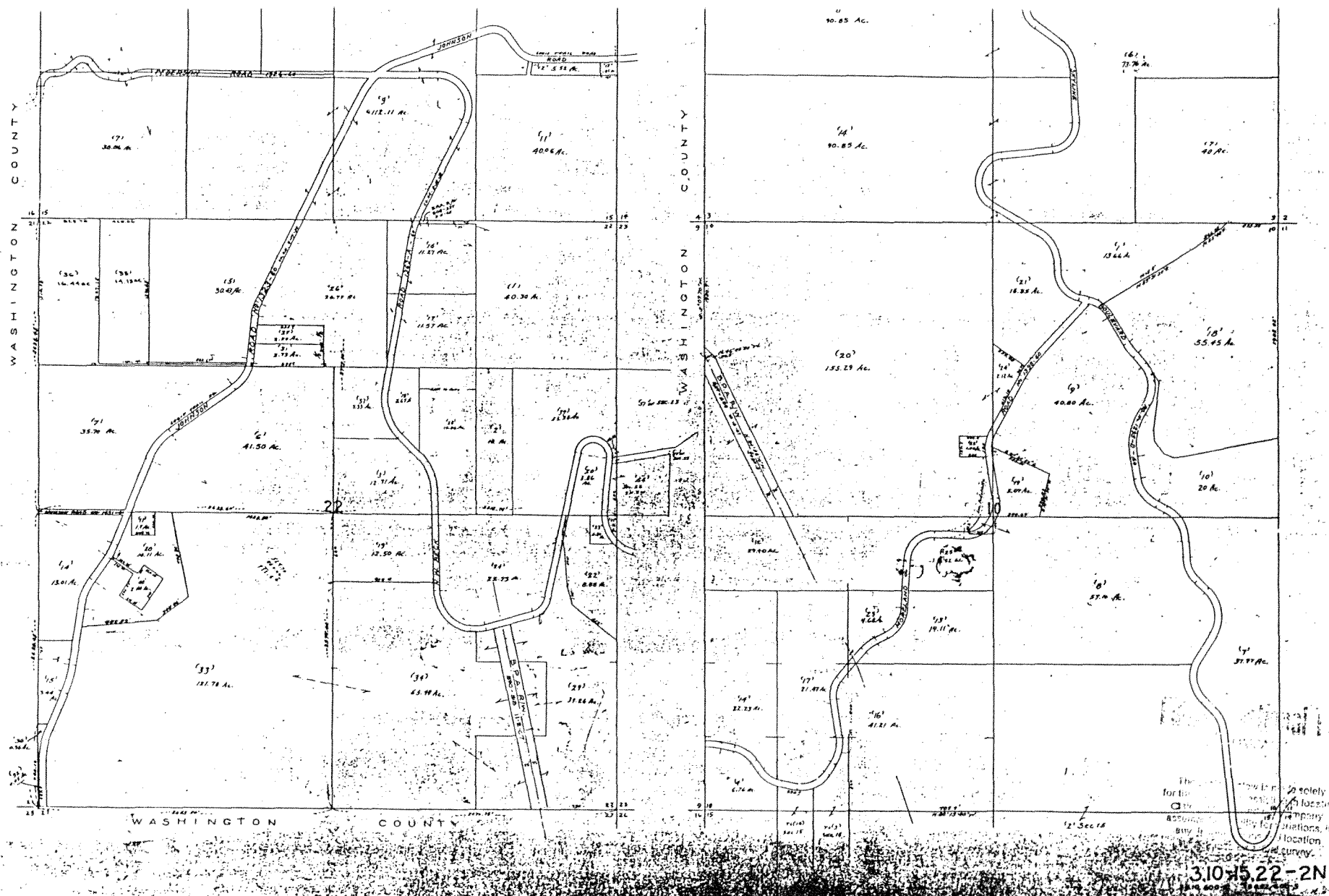


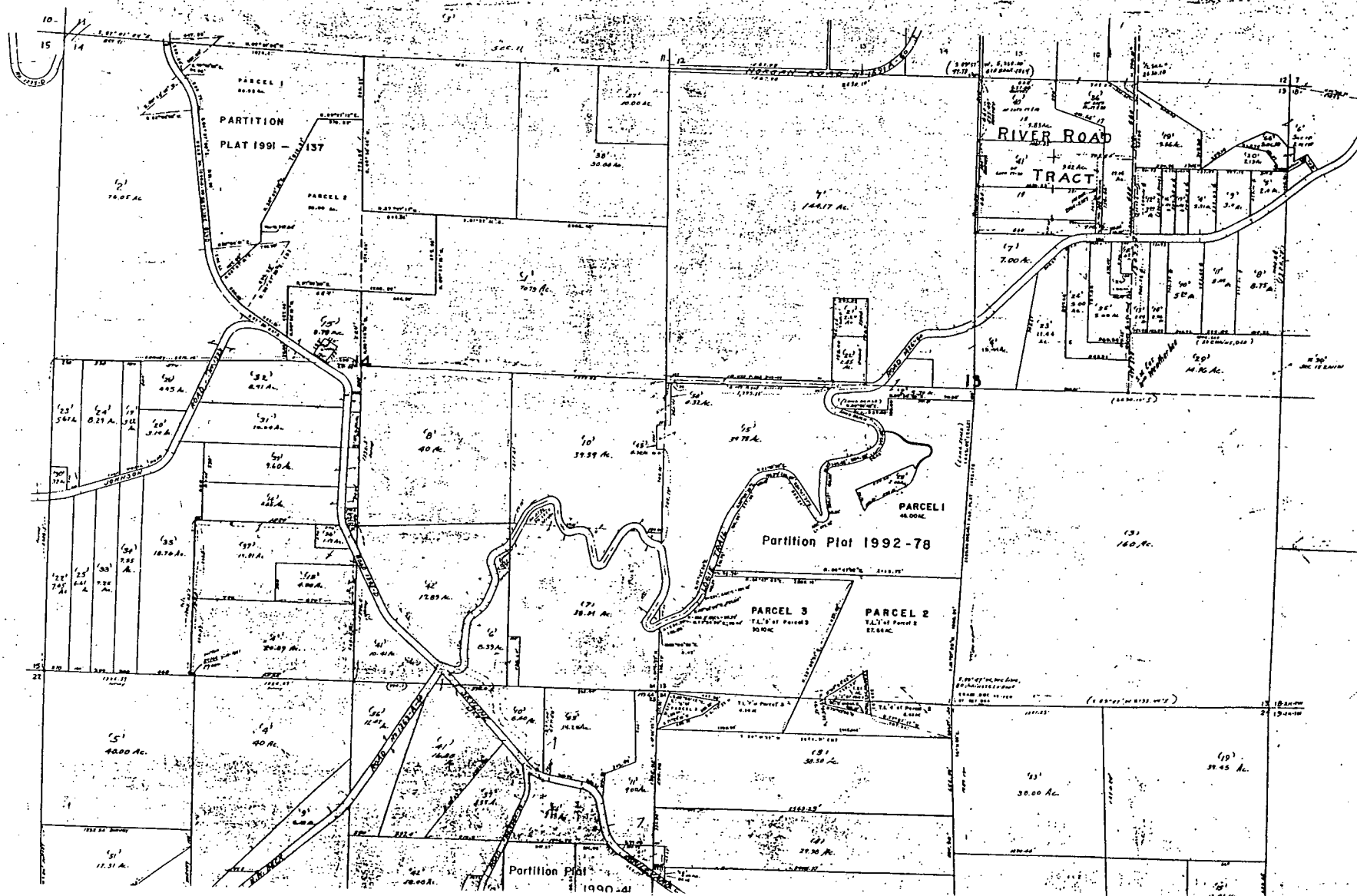


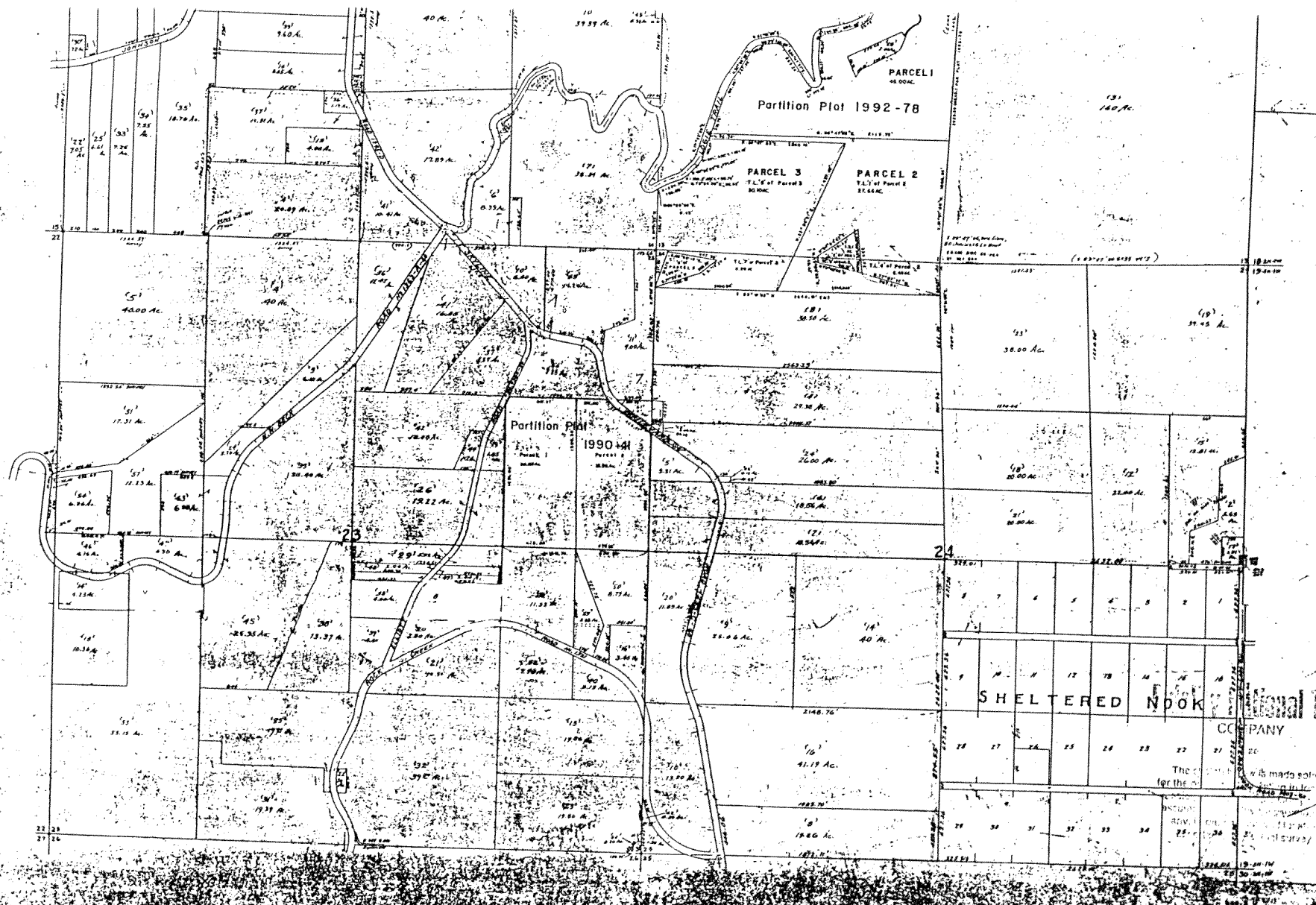


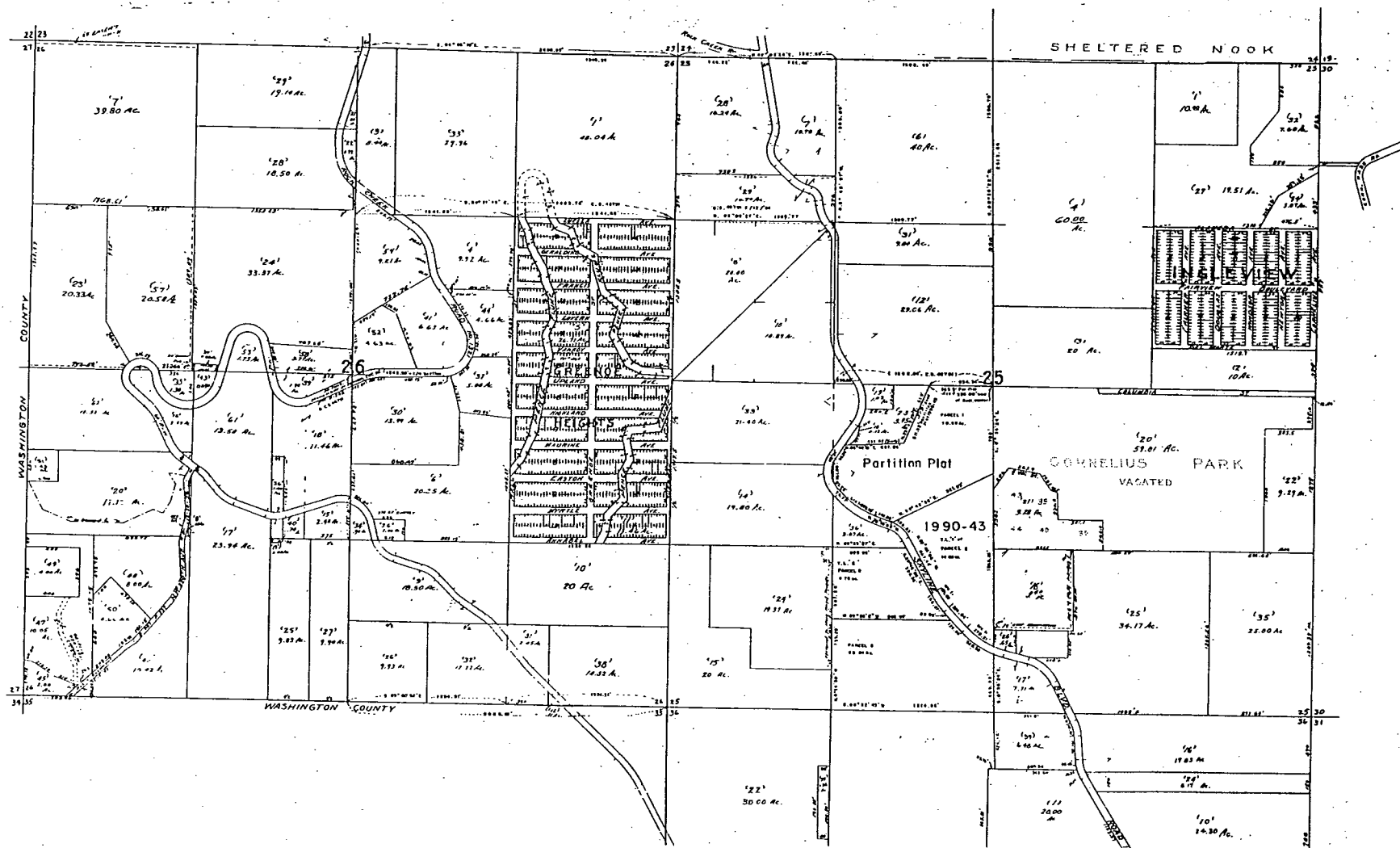












Appeal of West Hills Reconciliation Report by:

Audubon Society of Portland
Friends of Forest Park
Sauvie Island Conservancy
Donna Matrazzo
Arnold Rochlin

July 26, 1994

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- #5 Testimony of Kevin Foster, P.G., C.E.G., P.E.
- #6 Paper by Derek B. Booth and Lorin E. Reinelt, King County Surface Water Management Division, from Proddedings, Watersheds '93 Conference.
- #7 Discussion of Staff Responses to Public Comments, June 13, 1994
- #8 Comments on Significant Streams Study, McNamee-Harborton, April 24, 1994.
- #9 Comments on Significant Streams Study, West Hills, May 11, 1994.
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July 26, 1994

Proposed Amendments to West Hills Reconciliation Report of
May 24, 1994 and addenda and errata June 27, 1994

Testimony by Arnold Rochlin, for himself and Audubon Society of Portland, Friends of Forest Park, Sauvie Island Conservancy and Donna Matrazzo

These proposed amendments are not exhaustive, and may leave some portions of the text inconsistent with the amendments. The Board is requested to instruct staff to amend such provisions to make them consistent with these amendments. Some of the proposals are incomplete and include instructions for staff to properly develop them.

Concerning West Hills Stream Resources:

Page III-10, Section 2, Impact Areas. Delete the first sentence and substitute the following:

- The impact area includes the watershed of each stream, the riparian zone and those downstream areas with important and sensitive features that are affected by the quality and quantity of stream flow. The SRI/Shapiro study was limited to the riparian zones, but there is substantial evidence in the record concerning the other impact areas, both from public testimony and county authorized studies.

Page III-17, Section 4(a), 4th¶. Add to the first sentence:

- and any use that degrades the function of the watershed; for example by adding impervious surface, making long cuts in the earth and channeling water.

Page III-19, Subsection v. Replace first paragraph with:

- Mining - Aggregate mining will heavily silt, and may ultimately destroy, streams within the mine area. There has been some testimony that restoration is possible, but no evidence of any specific example of successful large scale watershed and stream restoration has been presented in evidence. Substantial testimony was offered questioning that reclamation on a large scale as would be required here, can actually restore natural like function to a stream. Based on that evidence, it is doubtful satisfactory restoration within the Angell Brothers site can be accomplished. It is prudent to conclude that most of the value of stream resources in a large open mine area would be permanently lost.

Page III-24, Subsection X, McNamee-Harborton Area. Add a paragraph:

- Middle Angell Brothers Creek. The property lessee, Angell Brothers, denied access to most of the stream, the 3/4 mile length lying within the boundaries of their leasehold. The contract vendors studying the site for the county did not seek authority of the Planning Commission, available under MCC 11.05.100(F), to enter the property to perform the required survey. Because the task remains incomplete, the streams continues to be designated as a likely significant resource, but requiring additional information before an ESEE analysis can be done. The necessary information will be obtained and the analysis will be completed within three months of adoption of this report.

Page III-28, first full paragraph. Replace with:

- Allowing mining will result in total destruction of normal stream function. Such channels as may remain or be constructed or restored will function as storm drains rather than streams. Without watershed function, storm water will run off immediately and drain within hours. The natural system holds water for months, gradually feeding the streams. Even full quarry reclamation as described in the substantial evidence in the record, does not propose restoring natural watershed function. There is no evidence in the record that permits and regulation by DOGAMI and DEQ will prevent permanent loss of watershed function. DEQ is concerned with quality of water leaving the site, not the function of the streams. And DOGAMI gives priority to mining. They do not prohibit mining where natural like restoration is not achievable, their requirement is merely to reclaim as can practically be done.

Page III-32, fourth paragraph (beginning with "Prohibiting residential"): Add:

- On the other hand, allowing development that damages the stream, either at a single site, or cumulatively, will decrease the value of riparian properties. A stream that floods in the rainy season and is dry most of the year may reduce values below what they would be without the stream entirely.

Pages III-43 to III-51, "Response to Comments"

- Instruct staff to edit the entire Response to Comments to make summaries of issues faithfully reflect the public comments and to make the discussion and responses fair and accurate. (The Planning Commission found much of the characterization of public comments to be inaccurate, and staff responses to be inadequate. See Rochlin written testimony of June 13th.) Retain the names of witnesses; otherwise distortions and omissions cannot be exposed.

Page VI-20, third paragraph. Replace with the following:

- Riparian zones will receive maximum protection. Development will be allowed only when prohibition would result in no economic use of property. Where useful development on a site can be achieved outside of the riparian area, development in the riparian area will not be allowed, except when there is no practicable alternative for access, utilities or other necessities of otherwise allowed development. Such development as must occur in the riparian area must be designed to have as little impact on natural features as is practicable and must include mitigation that will benefit the watershed and riparian area to approximately the same extent as it is otherwise harmed.

Watershed areas outside of the riparian zone will receive lesser protection. Low density development consistent with existing zoning will be allowed under standards intended to minimize impact on the stream. Such standards will include at least the following. (Instruct staff to develop standards for roads, driveways, structures and any other development that will require siting and design that minimizes watershed damage. Include requirements for features such a water detention to direct runoff into, rather than over, the ground.)

Concerning Angell Brothers Aggregate:

Pages IV-3, Section 2, Location.

- (Instruct staff to add identification of operating quarries and other known aggregate resource sites outside Multnomah County, but within the Multnomah County market area.)

Page IV-5, first paragraph. After the first full sentence, add:

- However, there are aggregate and sand and gravel quarries operating nearby in Columbia County that have a substantial market in Multnomah County. They share some of the location advantages of Angell Brothers.

Page IV-5, last paragraph. Add a sentence:

- The minimal evidence available is not sufficient to support a conclusion that the quality and quantity of resource is consistent throughout the site as speculated in the Schlicker Report commissioned by Angell Brothers. Based on substantial evidence in the record, the quantity of resource in the proposed 283 acre expansion area has not been established. Among other things, there is nothing unique or special about the Angell Brothers part of the hills. The entire West Hills are composed of similar resource of varying degrees of quality and quantity.

Page IV-6, subsection 4, Quality. Add a paragraph:

- For the reasons stated above under quantity, the limited evidence provided by Angell Brothers and other evidence, is not sufficient to establish that the quality of resource in the proposed 283 acre expansion area is sufficient to justify designating it as significant. There is substantial evidence that most of the West Hills has resource in a range of quality that would include the likely quality of the resource on this site.

Page IV-9, seventh paragraph. Replace with:

- Substantial evidence in the record indicates that there would be significant deleterious impacts from mining on other uses. Expansion of the mining area would significantly degrade the scenic resource far out of proportion to the expansion area. The relatively low altitude of the presently mined area reduces its visibility. It can be screened from highway view by trees and brush as well as by a presently unmined ridge. But virtually all proposed quarry enlargement would be at a higher altitude much more exposed to viewing from scenic view points on the Multnomah Channel and Sauvie Island. Both the Burlington Bottoms wetland and the Multnomah Channel suffer siltation damage from expanded mining. Substantial sound and dust impact has been found to be contained largely within an area defined by a line 1200 feet outward from the perimeter of the Angell Brothers site. The impact area is defined as the site itself, plus the area within a line 1200 feet out from the site perimeter plus Burlington Bottoms plus the Multnomah Channel plus areas on the Multnomah Channel and Sauvie Island from which the West Hills are commonly viewed and from which the quarry site is easily seen.

Pages IV-49 to IV-50, "Public Comments on Significance":

- Instruct staff to edit the entire Response to Comments to make summaries of issues faithfully reflect the public comments and to make the discussion and responses fair and accurate. (The Planning Commission found much of the characterization of public comments to be inaccurate, and staff responses to be inadequate. See Rochlin written testimony of June 13th.) Retain the names of witnesses; otherwise distortions and omissions cannot be exposed.

Page VI-21, Section 3(a). After "Designated Level of Protection", substitute:

- There are portions of the Angell Brothers resource site where mining cannot occur without destroying identified Goal 5 resources. Those resources include the whole habitat area within one-half mile of the secondary wildlife habitat areas along McNamee Road and the Burlington Bottoms wetland. While some authorities have recommended a wider habitat corridor, at least the minimum 1/2 mile should be preserved. Therefore, the portions of this resource site within one-half mile of those habitat areas and the resource within the watershed of North Angell Brothers Stream, which has been identified as a major feeder of Burlington Bottoms, should be designated 3-B. Mining of the remainder of the site will have less impact on designated resources and should be designated 3C. This designation scheme designed to protect the habitat and Burlington Bottoms also has the effect of allowing relatively little increase in highly visible mined area to be seen from the areas commonly used for viewing the West Hills. A map of the proposed compromise expansion area is separately submitted.

André Rochlin

Arnold Rochlin
P.O. Box 83645
Portland, Or 97283

West Hills Reconciliation Report Appeal Hearing 7/26/94

Appeal testimony of Arnold Rochlin, for himself and Audubon Society of Portland, Friends of Forest Park, Sauvie Island Conservancy and Donna Matrazzo

The Planning Commission did not come to grips with the critical issues. Where they had concerns, they took ineffectual actions, such as suggesting that farmers farm carefully. If a deliberative body is to do its job, it must be you. You received the staff work with no significant vetting.

I submitted packets that include proposed amendments to the Reconciliation Report, new testimony and copies of testimony by experts in geology, hydrology and watershed management, and other testimony.

The Reconciliation Report promises real protection to only one resource, aggregate. The proposed 3C designation for a mining area to be expanded by about 160 acres is the functional equivalent of a 3A designation. Housing, farming, forestry, whatever, will be allowed to conflict. But, as a practical matter, nothing can share a site with pit mining.

I'm going to concentrate on the streams and aggregate resources. If we take care of those, the wildlife habitat and scenic resource, will also benefit.

Streams

The streams study is superficial. The scholars who did it, failed notice that Miller Creek has Coho Salmon. The report is now corrected at page III-24, from my May 11th testimony (without attribution).

The most outrageous and unlawful proposal in this report is to exclude watersheds from the impact areas of the significant streams. Only thin strips along the streams, riparian zones, were considered and proposed to be protected. Over 95% of the actual impact areas are excluded. Responding to testimony of April 24th and May 11th, staff said (page III-45): "The impact area was limited to the riparian zones along each stream in order to make the report manageable in the time allowed for its completion." That is not lawful. Addressing OAR 660-16-005 in *Portland Audubon v. Clackamas Co.*, 14 Or LUBA 433, 442 (1986), LUBA said "... it is apparent an impact area is the area where uses may occur that could adversely affect the resource site or be adversely affected by use of the resource site." You must consider the watershed if uses there could impact the streams. It could not be more obvious that development in a watershed can wipe out the stream that relies on it. But staff went on to say: "Impacts to streams beyond the riparian zone are much reduced and, unless practiced at a large scale, are in fact negligible." I attached to earlier written testimony, a paper by Derek Booth and Lorin Reinelt of the King County Surface Water Management Division, presented at the 1993 Watersheds Conference. It explained that watershed destruction from development is not, as commonly presumed, proportional to the amount of added impervious surface. Watershed function declines at a much higher rate. Development doesn't just eliminate a watershed's quantity, it attacks its function by cutting it up and channeling run off. The staff did not acknowledge the paper and has proposed no protection whatever for watershed values. Not even construction guidelines. The city of Portland requires water detention and percolation back into the ground for

development in Northwest Hills watersheds. Why are watersheds significant in the city, but not in the county? The omission must be corrected.

Sometime between a finding that the Middle Angell Brothers Stream is a significant resource and the Reconciliation Report, that designation was changed. The reason given is in the report at III-49 and III-179. Angell Brothers wouldn't allow your agents onto the site. Instead of invoking the Planning Commission's authority to enter private property on commission business under MCC 11.05.100(F), they just decided to give Angell Brothers what they wanted. That is offensive.

Your staff proposes to not specifically map the riparian areas to be subject to an SEC zone. At page VI-20, the report says: "Since measurement of the zone was very generalized in the Streams study, provisions should be made for an applicant under the SEC provisions to provide evidence as to a more precise boundary of the riparian zone on the property which meets the definition." There are two things wrong with this. First, it's illegal. The Court of Appeals ruled in *Ramsey v. City of Portland*, 115 Or App 20, 25 (1992): "One of the overriding objectives of the goal and the rule is to require resources to be identified and comprehensive regulatory programs to be developed before case-specific decisions about resource use are made." Second, and worse, it would turn every land use application into a war, and the streams will eventually lose. No one will ask to enlarge a protected area. Adjustments will be a one way street leading to less and less protection. The resource areas must be mapped.

Quarry

Nothing in the record independent of Angell Brothers', establishes the quantity and quality of resource on the site. The rock appears to be like the rest of the Tualatin Range, i.e., variable. Based on two test holes, only 84 feet deep, on a 283 acre proposed expansion area, Angell Brothers' expert, Schlicker & Associates, said there are 220 million yards of uniformly high quality rock at relatively uniform depth on the site. Testimony of Marvin Beeson, Ph.D., professor at Portland State, a leading expert on West Hills geology, was that the Schlicker report did not provide an adequate basis for their projections. He said the uncertainty could be reduced by drilling several more holes, and to the depth of the proposed mining. Angell Brothers refused to do it. In *Eckis v. Linn Co.*, 19 Or LUBA 15 (1990) LUBA found a claim of 5 test holes on a 25 acre site insufficient. Testimony by Kevin Foster, consulting geologist and geotechnical engineer, identified mining difficulties and hazards, and deep overburden that reduce the value of the site for mining.

In addressing the OAR requirement that quality and quantity be compared to other sites in at least the same jurisdiction, staff took a minimal approach. They are certainly aware of the nearby quarries in Columbia County; the wildlife habitat section identifies them on pages V-45-46. But in determining significance of aggregate, staff ignored them. The rule doesn't require you to search outside the county, but what could be the motive of staff to deliberately ignore the facts they already have? The only plausible reason is that the facts interfered with a preferred decision. It is not right for you to ignore those quarries.

A critical lapse in the staff quantity analysis, is the site definition. First, the site was defined by property ownership and control, not by resource location. Does anyone think the aggregate resource goes to the edge of the Angell Brothers property and stops there? From 2 test holes? This was a personal analysis, not a resource analysis. Second, the staff did not consider quantity on the presently approved mining area versus the proposed expansion area. You heard the Angell Brothers representative say on June 13th, that he has 16,800,000 yards of unmined rock on the last 40 acre expansion area granted in 1990. He calculated that to be an eleven year supply by supposing increases in production of 8% per

year. But Angell Brothers application for the conditional use permit, included documentation that they have rock crushing capacity of 810,000 tons, or 400,000 yards, per year. And they promised then to not increase truck traffic. Staff confirms that production is 400,000 yards a year at page IV-6. My arithmetic makes that a 42 year supply, in line with the Friends of Forest Park calculations in the record. But that isn't all. Angell Brothers has said, as a kind of threat, that if you don't allow them to expand, they'll mine a ridge by Highway 30 that has been preserved as a buffer. That's the perfect compromise. Mining down by the road will greatly minimize the harm to wildlife habitat, streams and wetlands. While the mine would be visible from the highway, most viewers would pass it in seconds. It would not be visible from any distance, because it's too low, thus protecting viewing sites on the Channel and Sauvie Island. The area is about 30 acres, and, if it has the same quantity and quality as the rest of the site, which we can assume, as Schlicker does in the report for Angell Brothers, it would yield about a 30 year supply. That brings the total up to 70 acres and over 70 years. This is a win/win situation. With no expansion upslope, Angell Brothers nearly doubles their supply.

Staff has proposed an expansion of mining by about 160 acres. After allowing for buffers, the actual acreage to be mined is only a few acres short of what Angell Brothers proposed and you denied in 1992. Most of the proposed expansion is in the watershed of the North Angell Brothers Stream which empties into Burlington Bottoms. Mining would vastly increase sediment deposits and seriously damage or destroy the wetland, just as Angell Brothers silted up and destroyed a lesser wetland nearby. But about 35 acres of the staff endorsed expansion is not in that watershed. We believe you should deny any expansion, it's unnecessary and mining cannot be done without some significant harm. But, if you must allow it, limit it to the 35 acres outside of the North Stream watershed. That 35 acres would bring the total available mining area to about 105 acres, over a 100 year supply. If production were doubled, it's a 50 year supply. And, if you preserve the upper part of the property for forestry, if all my calculations are garbage, the rock will remain available to satisfy a future necessity. The correct calculation of negative economic, energy and social impact from allowing this limited quarry expansion, using future value calculations, is near zero.

The report makes an unlawful determination of the impact area of the quarry. An area 1200 feet out from the site boundaries is designated as the impact area. Though it was based on the purported range of significant noise impact, it was arbitrarily designated as the impact area for all conflicting uses. There is substantial evidence in the record that mining has a significant deleterious effect on the wetland quality of Burlington Bottoms, on the water quality and scenic values in the Multnomah Channel and on scenic views on Sauvie Island. As explained before, where conflicting uses have an adverse impact on the resource, or vice-versa, an impact area becomes legally defined.

There are repeated statements in the staff report, that there's no need to worry about the quality of water coming off the site. You know that Angell Brothers has long been in violation of DEQ standards on the relatively small site of their current operations. The argument that DEQ regulates it, so we shouldn't worry is morally and legally bankrupt. In *Eckis v. Linn Co.*, LUBA said: "Goal 6 requires findings that a proposed use will be able to comply with applicable environmental standards, and is not satisfied by a finding stating only that the proposed use will be required to comply with applicable environmental standards." The ruling is more applicable to a conditional use application than a comprehensive plan amendment, but it's significant here because staff keeps telling you it's DEQ's responsibility.

You may have seen the article in the Oregonian of July 5th about the Karban Rock quarry on the Salmonberry River. The site is only 78 acres, about a third the size proposed by

your staff for Angell Brothers. The slopes are much less steep, and there is room for seven settling ponds. There are none on the Angell Brothers site. Nevertheless, Karban Rock continues to contaminate the river. You cannot act on faith. Detention of water on a bare rock slope, without a massive detention facility, won't happen. You heard the DEQ witness on June 13th. He thought Angell Brothers is wonderful, because they "went the extra mile". What he was referring to was that, after being cited for a long term violation, they decided they had to comply with the law. And, he plainly said he did not know if the Angell Brothers improvements would work in a heavy rain!

On June 13th, you heard testimony about reclamation. Someone from DOGAMI told you about how successful other projects were. In 1992, Angell Brothers and staff were challenged to identify a single comparable site that had been reclaimed to near natural function as watershed, forest and streams. They came up with nothing close. You have been told repeatedly in the report that mining has only a temporary impact. It's not true.

Our proposed amendments to the Reconciliation report address the issues we're concerned with, but they do not perfect the report. We have not changed every reference on every page to correspond with our proposals, that remains to be done. What we ask of you is to adopt the Reconciliation Report with our amendments, and, with instructions to staff to bring the rest of the report into conformity with the amendments.

I believe there has been an attempt to have you wrongly believe that if you don't approve dedication of 160 more acres for mining, LCDC will take over and do it for you and grant Angell Brothers mining on the whole remaining 283 acres. I don't believe they intend to do that, but if they do, you must not submit to blackmail, express or implied. You do not have to prove that your choice of what resource to protect is the correct one. It's a value judgment. The process of identifying significant resources and conflicting uses is relatively objective. But which of properly identified resources to protect, is your call. OAR 660-16-005(2) says "A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain why decisions are made for specific sites." Of course, they have to be decent reasons based on honest evidence, but they don't have to be the reasons that DLCD likes and the honest judgments you make based on those reasons are beyond LCDC's lawful scope of review.

We have proposed a compromise. One that gives Angell Brothers a lot to mine, and one that preserves other resources. It's not a half and half compromise. It won't satisfy the mining interests, including their regulatory fan club, but it's the right thing.

In closing, I'd like to ask 3 rhetorical questions. If all the evidence were as it is now, but the Angell Brothers site was owned by people who begged you to not designate their land as an aggregate resource, would you do it? Would DLCD pressure you to do it? Would Mr. Pemble advise you to do it? The answers are obvious. And that makes what you should do now just as obvious. Angell Brothers' preference is not a Goal 5 standard. Adopt the Reconciliation Report only with our amendments.



DECLARATION OF
JON RHODES, M. Sc.

1 I. QUALIFICATIONS

2 1. My name is Jon Rhodes. I am a hydrologist with 11 years of experience.

3 2. I received a Bachelor of Science degree in hydrology and water resources in 1981 from
4 the University of Arizona. In 1985, I received a Master of Science degree in hydrogeology from the
5 University of Nevada-Reno. I received a degree for Candidacy for Doctor of Philosophy in forest
6 hydrology from the University of Washington in 1989. I have completed all requirements for my
7 doctorate except the dissertation, which is in progress.

8 3. For the past three years, I have been employed by the Columbia River Inter-Tribal Fish
9 Commission. In this capacity, I have examined silvicultural, agricultural, roadbuilding, mining, and
10 other activities that alter streamflow or water quality. I have developed monitoring programs to
11 measure changes in channel condition and water quality caused by various land uses, and evaluated
12 extant channel morphology and water quality data. I have also served as a technical adviser on water
13 quality monitoring as a member of several technical committees addressing nonpoint source issues in
14 the Columbia basin.

15 4. Prior to my current position, I worked on a wide variety of issues related to nonpoint
16 pollution for the University of Washington, the Tahoe Regional Planning Association, the U.S.
17 Geological Survey, and the University of Nevada-Reno. In addition, over the past few years, I have
18 also been employed as consulting hydrologist, by several groups and agencies, including Multnomah
19 County.

20 5. I have published several scientific papers in peer-reviewed science journals and have

1 co-authored numerous technical reports on my research findings. The subject of most of these papers
2 has been the effects of nonpoint sources on water quality.

3 6. For the past three years, my work has focused on analyzing the effects of current and
4 proposed uses of land and water on nonpoint sources of pollution, water quality, channel morphology,
5 and anadromous fish habitat. Much of my work has involved the development of measures to protect
6 existing stream conditions from further degradation and to restore forested watersheds and their
7 streams consistent with the regional efforts to rebuild the anadromous fish runs of the Columbia River
8 basin.

9 II. INFORMATION REVIEWED

10 7. I have reviewed the Conditional Use Application by the Angell Bothers, Inc. to
11 Multnomah Planning Commission, for expansion of the existing quarry (hereinafter: "Application").
12 I also reviewed the Oregon Department of Environmental Quality's (hereinafter: "ODEQ") General
13 Permit No. 1000 (hereinafter: "Permit No. 1000") which covers the disposal of waste water and storm
14 water runoff from gravel mining activities. I reviewed water quality standards for the Willamette basin
15 in Oregon Administrative Rule 340-41-445 (hereinafter: "OAR-340-41-445"). I inspected and
16 evaluated the area downstream and adjacent to the quarry, including the discharge site on July 18,
17 1992. I also reviewed other pertinent scientific literature. The list of this literature is too lengthy to
18 list here, so I have listed it separately and attached it to this declaration.

19 III. SUMMARY

20 8. The Application proposes the expansion of the Angell Brother's rock quarry by 283
21 acres. The purpose of my review of the Application has been to evaluate: 1) the effect of the
22 proposed expansion on downstream water quality, water quantity and downstream wetlands; 2) whether
23 water quality control measures proposed in the application are adequate to protect water quality and

1 the public interest; and, 3) whether the quarry expansion will cause violations of Permit No. 1000 or
2 OAR-340-41-445.

3 9. Based on my review of available information I have concluded the following:

4 a) Quarry expansion will increase streamflow, erosion, and downstream
5 sedimentation. The increases in annual erosion, downstream sedimentation, and
6 turbidity that will be caused by the quarry expansion will probably be extremely
7 significant.

8 b) It is unlikely that the proposed water quality control measures will adequately
9 protect water quality from deleterious increases in stream turbidity. It is highly
10 unlikely that a detention ponds can be constructed which would be capable of insuring
11 there is no downstream discharge of storm runoff from the quarry into the downstream
12 wetlands and the Multnomah Channel. The pond currently used to collect quarry
13 runoff is completely ineffective for preventing discharge of quarry runoff into the
14 Multnomah Channel.

15 c) Discharge from the quarry to the Multnomah Channel is already common
16 occurrence during storm periods because the wetland which receives quarry runoff has
17 been completely filled in by sediment from the existing quarry operations and the
18 sediment load from the stream passing through the quarry. This discharge violates
19 Permit No. 1000, because the permit requires that there be no direct discharge of
20 quarry runoff to the Multnomah Channel. Therefore, Permit No. 1000 is already
21 being violated on a regular basis.

22 d) Seepage from proposed and existing detention ponds will be negligible.
23 Precipitation inputs to the ponds exceed evaporation. Neither seepage nor evaporation

1 from detention ponds will be very effective in disposing, or reducing the amount, of
2 runoff from the quarry.

3 e) The frequency and magnitude of the discharges of quarry runoff to the Multnomah
4 Channel are likely to be increased by quarry expansion. This will worsen the
5 violations of Permit No. 1000. Coupled with expected increases in downstream
6 turbidity, quarry expansion will reduce downstream water quality and probably violate
7 water quality standards for turbidity in the Multnomah Channel.

8 f) Waste water discharge into one downstream wetland has already significantly
9 affected the wetland by filling it with sediment. Continued discharges coupled with
10 increased sedimentation that can be expected from quarry expansion will worsen this
11 impact.

12 g) Quarry expansion will also increase sedimentation of the Burlington Bottoms, a
13 highly significant wetland. Over time, this will accelerate the loss of the open water
14 character of this important wetland, counter to the public interest.

15 IV. DISCUSSION

16 A. Aquatic Resources and Beneficial Uses Affected

17 10. The area proposed for quarry expansion in the Application is drained by three
18 intermittent streams, named "Stream A," "Stream B," and "Stream C" in the Application (Exhibit B).
19 Stream B drains the southwestern part of the proposed expansion and flows into Multnomah Channel.
20 Stream A drains central part of the quarry property and flows into the Multnomah Channel after
21 passing through a wetland which has been filled in by runoff from the quarry. Stream C drains the
22 northeastern part of the property and flows into the "Burlington Bottoms" which has been recognized
23 as a significant wetland by Multnomah County.

1 11. The designated beneficial uses of the Multnomah Channel include anadromous fish
2 passage and the rearing and spawning of cold water salmonids (OAR-340-41-422). These beneficial
3 uses are adversely affected by increases in turbidity and sedimentation (Reiser and Bjornn, 1991).

4 12. The Oregon Department of Environmental Quality (hereinafter: "ODEQ") has made
5 the assessment that sedimentation in the Multnomah Channel is already moderately impairing the
6 beneficial use of the river by cold-water fish (1988 Oregon Statewide Assessment of Nonpoint Sources
7 of Water Pollution (hereinafter: ODEQ, 1989), such as steelhead and chinook salmon.

8 B. Probable Effect of the Quarry Expansion on Streamflows, Erosion, Turbidity,
9 Sedimentation and Downstream Wetlands

10 13. Standard methods from available scientific and technical literature were used to estimate
11 the likely magnitude of changes in runoff, erosion, sedimentation, and turbidity that are likely to be
12 caused by quarry expansion. While these methods are generally accepted as useful estimation tools,
13 they are not necessarily accurate forecasts of the actual magnitude of change in runoff and
14 sedimentation that will be caused by the quarry expansion. Therefore, the estimates presented here
15 are not given for any sort of engineering purposes because the accuracy of estimates is uncertain. The
16 estimates of changes in runoff and sedimentation are presented only as a reasonable indication of the
17 likely magnitude of changes caused by quarry expansion as predicted by conventional, and widely
18 used, estimation methods.

19 14. It is probable that quarry expansion will increase runoff within the watersheds draining
20 the quarry due to the removal of vegetation and soil and increases in compaction caused by heavy
21 machinery (Dunne and Leopold, 1978). Rainfall-runoff curves from U.S. Soil Conservation Service
22 National Engineering Handbook (1972) were used together with average monthly precipitation data for
23 Portland, and the area of quarry expansion to estimate average monthly streamflow for the three

1 streams draining the quarry. The results of this approach indicates that quarry expansion will increase
2 average annual streamflows over estimated natural flows by about 190% in Stream A, 150% in Stream
3 B, and 130% in Stream C. Increases in annual peak storm runoff in these streams is expected to be
4 increased by about the same magnitude. Although the estimation method is crude, a more
5 sophisticated approach is not warranted given a general dearth of hydrologic data from the area.

6 15. Quarry expansion will increase soil erosion by removing vegetation, increasing runoff,
7 and steepening slopes (Dunne and Leopold, 1978). Virtually all studies indicate that removal of
8 vegetation greatly increases erosion (Dunne and Leopold, 1978; USEPA, 1980). Activities such as
9 the proposed quarry expansion typically increase erosion by about 50 to 100 times encountered under
10 natural vegetative cover in the Pacific Northwest (Dunne and Leopold, 1978). Increases in erosion,
11 sedimentation, and turbidity that will be caused by quarry expansion were estimated by use of the
12 Modified Soil Loss Equation (USEPA, 1980). The amount of area that will be disturbed by quarry
13 expansion was determined for each of the three watersheds via maps of the expansion in the
14 Application (Exhibit B). It was also assumed that 50% of the expansion and existing quarry area had
15 received successful reclamation and erosion control; erosion control will be much higher absent this
16 level of successful reclamation and erosion control. Subject to these assumptions and the accuracy of
17 the method and available data, it appears that quarry operations will increase annual erosion and
18 sediment delivery to streams by about 2600% in Stream A, 1400% in Stream B, and 950% in Stream
19 C. These estimated increases in annual sediment delivery to streams correspond to increases of about
20 1100 tons/yr in Stream A, 250 tons/yr in Stream B, and 430 tons/yr in Stream C. These estimates
21 appear reasonable when compared to the results of studies of erosion increases caused by land use
22 similar to that anticipated under quarry expansion (Dunne and Leopold, 1978).

23 16. These estimates of likely increases in sediment delivery are probably conservative,

1 because the Modified Soil Loss equation does not account for gully and channel erosion or mass
2 failures. Gully and channel erosion are common and significant sources sediment in unvegetated areas
3 in the Pacific Northwest (Swanson et al, 1987). My field evaluation also indicated that gully erosion
4 is a significant source of erosion in unvegetated areas in the vicinity of the quarry operation.
5 Vegetation removal associated with quarry expansion will increase the probability mass failures
6 (Furniss et al., 1991). Channel erosion and expansion is a common consequence of increases in runoff
7 in small watersheds (Dunne and Leopold, 1978); increased runoff is expected with quarry expansion.
8 Mass failures greatly increase sediment delivery when they occur. Further, it was also assumed that
9 vegetation removal and quarry expansion does not increase the efficiency of the delivery of eroded
10 sediment to streams. Vegetation loss typically increases the efficiency of the delivery of eroded
11 sediment (USEPA, 1980). Therefore, it is probable that sediment delivery caused by quarry expansion
12 will exceed the estimates given above.

13 17. Within given a watershed, stream turbidity is generally proportional to suspended
14 sediment. Stream turbidity can be roughly estimated by assuming that increases in sediment delivery
15 proportionally increase both suspended sediment and stream turbidity. Therefore, quarry expansion
16 may increase stream turbidity by about 2600% in Stream A, 1400% in Stream B, and 950% in Stream
17 C.

18 18. Case studies provide some indication that the estimated increases in turbidity associated
19 with quarry expansion are reasonable. Andersen and Potts (1987) found that logging and road
20 construction in a small fraction of a forested watershed increased suspended sediment seven times the
21 background yield in the first year after the activity and at two times the background in the second year.
22 Since suspended sediment is correlated to turbidity within a given watershed, it is probable that
23 increases in turbidity were similar to those found in suspended sediment. It can be expected that

1 quarry operations will have a cause much greater increases in suspended sediment than that found by
2 Andersen and Potts (1987) because a quarry operations will disturb a much larger percentage of the
3 watersheds, the level of disturbance will be more intense, and rainfall is higher than in the area studied
4 by Andersen and Potts (1987). Fowler et al. (1987) documented that the construction of a single road
5 crossing increased turbidity by more than 50 times (5000%) relative to an upstream site. Again, the
6 quarry expansion and operation will have much greater effect on erosion and sediment delivery than
7 a single road. These case histories and the estimated increases in turbidity associated with quarry
8 expansion indicate that there is a high likelihood that the quarry expansion will violate state water
9 quality standards for turbidity, because Oregon's state water quality standards allow only a 10 percent
10 increase in turbidity over background (OAR-340-41-455).

11 19. Increased turbidity in the Multnomah Channel is not the only impact associated with
12 increased runoff and sediment transport that can be expected with quarry expansion. Increases in
13 sediment delivery will also increase the amount of sedimentation in downstream wetlands. Stream A
14 drains into a small, unnamed wetland adjacent to the Multnomah Channel which the Application (p.
15 11) describes as a "...diked settlement pond." Stream C drains into the Burlington Bottoms which has
16 been recognized as a significant wetland by Multnomah County. The Application (p. 11) notes that
17 quarry runoff is currently piped into the "settlement pond."

18 20. During my field evaluation of the "pond" it was clear that the "pond" is actually
19 wetland because it had very strong indications of wetland hydrology, including hydric soils and
20 vegetation. My inspection also indicated that sedimentation in this wetland has already been
21 significant. Inspection of sediment accumulation between layers of leaves dropped annually by
22 endemic trees indicate that about one inch of sediment accumulates annually in the wetland. Given
23 the size of the wetland, this deposition is roughly equivalent to about 280 cubic yards/yr. If it is very

1 conservatively assumed that only about 50% of this annual sediment deposition is due to quarry
2 operation, the existing quarry operation is filling the wetland at a rate of about 0.5 inches/yr or 140
3 cubic yards/year. In contrast, it is estimated that the natural rate of sediment deposition in the wetland
4 was on the order of about 0.1 inch/yr. Plainly, this accelerated sedimentation of the wetland has
5 already greatly changed its character and altered the historic ability of this wetland to store water.
6 Estimated increases in sediment delivery associated with quarry expansion indicate that this rate of
7 sediment deposition and wetland filling will more than double the rate of sedimentation currently
8 observed in the wetland.

9 21. Quarry expansion will also accelerate the deposition of sediment in the Burlington
10 Bottoms. Based on increases in estimated sediment delivery, the rate of sedimentation in the
11 Burlington Bottoms will be increased by about 950%. If it is conservatively assumed that only 50%
12 of the annual sediment delivery to Stream C estimated under quarry expansion reaches the Bottoms,
13 the expansion can still be expected to cause an additional 170 cubic yards of sediment to be deposited
14 in the Bottoms annually. This will greatly accelerate the sedimentation of the wetland, which will
15 result in a much more rapid loss of the wetland's open water character over time. It will also reduce
16 the Burlington Bottoms ability to store surface water.

17 22. The estimates given above indicate that the quarry expansion is likely to significantly
18 increase runoff, erosion and sediment delivery. Case studies from scientific literature also indicate that
19 the expansion will have these same effects. The estimated impacts and field evaluation indicate that
20 the quarry expansion will accelerate the filling of downstream wetlands. The Application does not
21 adequately address these effects of quarry expansion, nor does it consider the consequences of these
22 effects. Full analysis of these effects and their consequences needs to be made before any reasonable
23 decision on the Application can be made.

1 C. Water Quality Control Measures Are Unlikely To Be Effective

2 23. The Application (p. 11) states water quality will be protected by compliance with
3 Permit No. 1000 which requires that no turbid runoff from the quarry operations can be discharged
4 into public waters. The Application (p. 11) proposes that it will comply with the permit by expanding
5 existing detention/settling ponds and then piping water into the small wetland below Stream A. The
6 Application (p. 11) notes that it is intended that water percolate from the pond into the ground, but that
7 a local resident has noted that silty water does flow into the Multnomah Channel.

8 24. It is unlikely that the Application's proposed sediment control measures will function as
9 described in the Application. It is more likely that discharge situation observed by the local resident
10 will not only continue, but worsen.

11 25. Based on estimated average annual runoff from the quarry operations, the detention of
12 all estimated annual quarry runoff would require about 700 acre-feet of storage capacity, assuming that
13 only quarry runoff is stored and that runoff from the rest of the watersheds is not stored. The storage
14 of 700 acre-feet would require a detention pond with an area of 100 acres and a depth of 7 feet. In
15 contrast, the existing operation has an area of 113 acres; with expansion, the operating area is expected
16 to be about 400 acres. The wetland currently used as a detention "pond" has an area of about 3 acres.
17 Although the application fails to provide any sort of engineering specifications or dimensions for the
18 proposed detention ponds, it is doubtful that the quarry will be able to construct ponds with the
19 dimensions needed to collect the water accrued during a single year of average precipitation.
20 Detention ponds would actually have to provide considerable more storage in order to comply with
21 Permit No. 1000, because years of above average precipitation are relatively common, and because
22 water will accrue over several years in the absence of downstream discharges; neither pond
23 evaporation nor seepage will be effective in reducing the amount of storm water held in ponds.

1 26. My field inspection of the wetland currently used as a detention pond indicates that
2 seepage in sediment detention ponds will be negligible. The wetland bottom is entirely composed of
3 thick layers of very tight clay deposited by storm waters. These clays were cracked, indicating a high
4 level of swelling when saturated. Such clays typically have extremely low infiltration rates, on the
5 order of about 0.1 foot/month. Given the results of my field evaluation, I would expect that any
6 additional detention ponds that collect storm runoff will be rapidly lined with similar deposits, and that
7 any percolation will soon be negligible in reducing the magnitude of stored storm water.

8 27. Surface evaporation from detention ponds will not cause a net reduction in storm water
9 in storage, because average annual precipitation exceeds average annual evaporation. Average annual
10 evaporation in Portland is about 24 inches (Dunne and Leopold, 1978) while average annual
11 precipitation is about 37 inches. Therefore, the very existence of a ponded surface should result in
12 a net annual increase of about 13 inches of pond depth per year.

13 28. Mere detention of storm water runoff from quarry operations will not be effective in
14 significantly reducing turbidity so that discharge water can be released without increasing downstream
15 turbidity. The clays in the wetland are comprised predominantly of colloidal material. Colloidal
16 material remains in suspension in water; it does not settle out under the influence of gravity. Most
17 of the deposited clay in the wetland is probably only deposited when the wetland is periodically de-
18 watered by discharges into the Multnomah Channel.

19 29. The wetland currently used as a detention pond has no ability to provide any long term
20 storage of surface water. All significant storage areas in the pond have been completely filled in.
21 Although the Application (p. 11) describes the wetland as diked pond, I found no evidence that the
22 wetland had any remaining static storage capacity, nor could I find any evidence of a dike. There is
23 evidence that there is significant runoff of water from this wetland. A heavily eroded channel about

1 four feet deep and three feet wide leads from the wetland surface to the Multnomah Channel. Based
2 on my field evaluation, I conclude that the wetland has very limited utility as a detention pond and that
3 the discharge of turbid quarry runoff into the Multnomah Channel is a common occurrence. This is
4 a violation of Permit No. 1000.

5 30. Based on my analysis, I also conclude that violations of Permit No. 1000 are likely to
6 worsen with quarry expansion, because the discharge of turbid storm runoff from the quarry to the
7 Multnomah Channel are likely to increase, with quarry expansion.

8 V. CONCLUSION

9 31. Based on my review of available information and accepted models, quarry expansion
10 will increase streamflow, erosion, and downstream sedimentation. Increases in annual erosion,
11 downstream sedimentation, and turbidity are likely to highly significant.

12 32. The frequency and magnitude of the discharges of quarry runoff to the Multnomah
13 Channel are likely to be increased by quarry expansion. This will worsen the violations of Permit No.
14 1000. Coupled with expected increases in downstream turbidity, quarry expansion will reduce
15 downstream water quality and probably violate water quality standards for turbidity in the Multnomah
16 Channel.

17 33. Storm runoff from the quarry has already significantly affected one wetland by filling
18 it with sediment. Continued discharges, coupled with increased sedimentation that can be expected
19 from quarry expansion, will exacerbate this situation. Quarry expansion will also increase
20 sedimentation of the Burlington Bottoms. Over time, this will accelerate the loss of the open water
21 character of this important wetland.

22 34. Proposed water quality control measures are unlikely to adequately protect water quality
23 from deleterious increases in stream turbidity. It is highly unlikely that a detention ponds can be

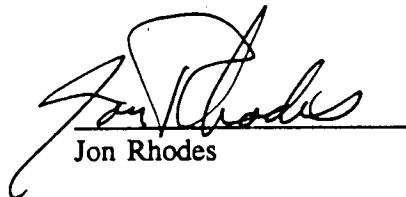
1 constructed which would be capable of insuring there is no downstream discharge of turbid runoff from
2 the quarry into downstream wetlands and the Multnomah Channel. The wetland currently used to
3 collect quarry runoff is completely ineffective for preventing discharge of quarry runoff into the
4 Multnomah Channel. Field inspection indicates that discharge from the quarry to the Multnomah
5 Channel is already a common occurrence in violation of Permit No. 1000 which requires that there
6 be no direct discharge of quarry runoff to public waters.

7 35. Neither seepage nor evaporation from detention ponds will be effective in reducing
8 of turbid runoff from the quarry. Seepage from proposed and existing detention ponds will be
9 negligible. Precipitation inputs to the ponds exceed evaporation.

I declare under penalty of perjury that I believe the foregoing is true and correct.

DATED

8/28/92


Jon Rhodes

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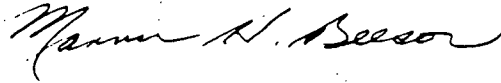
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August 24, 1992

TO: Whom it may concern

FROM: Marvin H. Beeson, Ph.D.
7264 Wilshire Ct.
Milwaukie, OR 97267



SUBJECT: Proposed Angell Brothers, Inc. Quarry Expansion,
Multnomah County, Oregon

I am a Professor of Geology at Portland State University and have worked for more than 15 years on the geology and geochemistry of the Columbia River Basalt Group (CRBG) in western Oregon. I have coauthored two geologic maps in the Portland Hills (Tualatin Mountains) area and my research is reported in a number of publications. I have worked as a geologic consultant on the West Side Light Rail Project, dealing with the stratigraphy and structure of the CRBG, for several years. As a part of my ongoing research, I have traversed many of the canyons in the Tualatin Mountains, collecting samples and studying the CRBG exposures. I am also a registered geologist in the state of Oregon.

At the request of the Friends of Forest Park, I read some of the documents relating to the proposed quarry expansion, including a 1988 report by David J. Newton Associates and two 1989 reports by H.G. Schlicker & Associates. The following comments and questions on this proposed expansion are based on my reading of these documents and on my knowledge of the Columbia River basalts and the geology of the Portland area.

A. The estimate of the quantity and quality of rock in the proposed quarry is apparently based on surface observations, two shallow (84 ft) bore holes, and the assumption that the same quality of rock exists to the base of the proposed quarry floor hundreds of feet below the surface. While it is possible that this assumption is correct, there are several potential problems that could decrease this estimate: 1) The thickness of the CRBG is variable (400 to 800 ft) in the Portland Hills and the base of these flows could lie above the proposed quarry floor toward the back of the quarry. 2) The quality of the rock and its suitability for crushing is not the same in all CRBG flows due to differences in the thickness of vesicular zones, the possible presence of flow top breccia, and the nature of the texture and jointing. 3) Although no faults have been mapped at this site, faults and fault breccia are not uncommon in the Portland Hills and the rock quality may be poor along these zones due to alteration and a high clay content. The uncertainty in the estimates of rock quality and quantity could be greatly reduced with several core holes distributed over the proposed quarry area that penetrate to the depth of the proposed quarry floor.

B. The CRBG flows are reported as dipping to the northeast at

about 14 degrees. I think that this inclination is reasonably accurate in the present quarry near the U.S. Highway 30, but I expect that the dip becomes less to the southwest. In any case, excavation of a quarry of this size would truncate several basalt flows so that the permeable interflow zones would be exposed at the base of the quarry. Has the potential for ground water contamination from potential spills that could penetrate rapidly along these zones been evaluated?

C. If I accept the statement from the 1989 report on rock quality and quantity by H.G. Schlicker and Associates that the flows dip approximately 14 degrees to the northeast, then I must question whether this was taken into account in assessing the stability of the rock. The H.G. Schlicker and Associates 1989 report on geologic hazards concludes that "Initiation of a large landslide as a result of mining is unlikely because of the strong character of the underlying basaltic bedrock." However, no mention was made in that report of the dipping beds and since no bore holes penetrated deep enough to characterize the nature of the contacts between flows, I cannot understand the basis for that conclusion. There exists a landslide at West Linn where movement was initiated during construction of I-205 on an interflow zone between CRBG flows where no landslide had existed before. The dip of the flows in that area are only approximately 3 degrees.

My general impression from reading these documents on the proposed quarry expansion is that, without deep bore hole data, they are insufficient to adequately address the questions of rock quality and quantity, and geologic hazards in a quarrying operation of this magnitude. It seems also that potential ground water contamination has not really been considered. My expertise is in neither engineering geology nor hydrology, but based on my knowledge of the basalts and the geology of the Portland area, I think that these questions should be carefully addressed before a final decision is made on quarry expansion. The CRBG flows occur extensively in western Oregon so that this site is not a unique deposit.

CURRICULUM VITAE

MARVIN H. BEESON
January 10, 1992

Education

Ph.D.	1969	Geochemistry	Univ. Calif., San Diego
M.S.	1962	Geology/Chemistry	Univ. of Oregon
B.S.	1959	Geology	Univ. of Oregon

Employment

Professor of Geology, Portland State University, 1980-present
Chairman, Earth Sciences Dept., Portland State University, 1976-80
Associate Professor of Geology, Portland State University, 1974-81
Assistant Professor of Geology, Portland State University, 1969-75
Visiting Assistant Professor of Chemistry, Reed College, 1967-70

USGS-Columbia River basalt mapping project in western Oregon,
summer 1981, 1982

Visiting Assistant Professor of Geology, University of Oregon,
summer 1968

Field Assistant to George Walker, United States Geological
Survey, summer 1962.

U.S. Geological Survey, Research with D.S. Swanson; Visiting
Scientist Program [sabbatical leave].

Refereed Publications or Other Creative Achievements

Master's thesis - The geology of the north-central part of the
Sawtooth Creek Quadrangle, Oregon, 1962.

Dissertation - A trace element study of silicic volcanic rocks,
1969. Supervised by Professor Gordon G. Goles.

Beeson, M. H., Tolan, T. L., Madin, I. P., 1991, Geologic Map of
the Portland quadrangle, Multnomah and Washington Counties,
Oregon, and Clark County, Washington: Oregon Department of
Geology and Mineral Industries GMS-75 Geologic Map Series.

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Group in the Cascade Range: A middle Miocene datum for
structural analysis: Journal of Geophysical Research, v. 95
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the Lake Oswego Quadrangle, Clackamas, Multnomah, and
Washington Counties, Oregon: Oregon Department of Geology and
Mineral Industries GMS-59 Geologic Map Series.

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- Reidel, Stephen P., Terry L. Tolan, Peter R. Hooper, Marvin H. Beeson, Karl R. Fecht, Robert D. Bentley and James Lee Anderson, 1989, The Grande Ronde Basalt, Columbia River Basalt Group; Stratigraphic descriptions and correlations in Washington, Oregon, and Idaho, In: Volcanism and Tectonism in the Columbia River Flood-Basalt Province, Stephen P. Reidel and Peter R. Hooper, editors, G.S.A. Special Paper 239, p. 21-59.
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- Pfaff, Virginia J., and Marvin H. Beeson, 1989, Miocene basalt near Astoria, Oregon; Geophysical evidence for Columbia Plateau origin, 1989, In: Volcanism and Tectonism in the Columbia River Flood-Basalt Province, Stephen P. Reidel and Peter R. Hooper, editors, G.S.A. Special Paper 239, p. 143-157.
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- Beeson, M.H., and Tolan, T.L., 1987, Columbia River Gorge: The geologic evolution of the Columbia River in northwestern Oregon and southwestern Washington: GSA Centennial Field Guide - Cordilleran Section, p. 321-326.
- Anderson, J. L., M. H. Beeson, R. D. Bentley, K. R. Fecht, P. R. Hooper, A. R. Niem, S. P. Reidel, D. A. Swanson, T. L. Tolan, and T. L. Wright, 1987, Distribution Maps of Stratigraphic units of the Columbia River Basalt Group: Washington Division of Geology and Earth Resources Bulletin 77, p. 183-195.
- Beeson, M.H., Fecht, K.R., Reidel, S.P., and Tolan, T.L., 1985, Regional correlation within the Frenchman Springs Member of the Columbia River Basalt Group: New insights into the middle Miocene tectonics of northwestern Oregon: Oregon Geology, v. 47, no. 8, p. 87-96.

- Tolan, T.L., Beeson, M.H., and Vogt, B.F., 1984, Exploring the Neogene history of the Columbia River: Discussion and geologic field trip guide to the Columbia River Gorge: Part 1. Discussion: Oregon Geology, v. 46, no. 8, p. 87-97. Part 2. Field trip guide: Oregon Geology, v. 46, no. 9, p. 103-112.
- Tolan, T.L., and Beeson, M.H., 1984, Intracanyon flows of the Columbia River Basalt Group in the lower Columbia River Gorge and their relationship with the Troutdale Formation: Geol. Soc. America Bulletin. v. 95, p. 463-477.
- Kadri, M.M., Beeson, M.H., and Van Atta, R.O., 1983, Geochemical evidence for changing provenance of Tertiary Formations in northwestern Oregon: Oregon Geology, v. 45, no. 2, p. 20-22.
- Kudo, A.M., Barker, S.E., Keil, K., and Beeson, M.H., 1982, Geochemical modelling of basalts from DSDP leg 65, East Pacific Rise, Gulf of California: Geochimica et Cosmochimica Acta, v. 45, no. 2, p. 20-22.
- Beeson, M.H., Moran, M.R., Anderson, J.L., and Vogt, B.F., 1982, The relationship of the Columbia River Basalt Group to the geothermal potential of the Mount hood area, Oregon: in Priest, G.R. and Vogt, B.F. eds, Geology and geothermal resources of the Mount Hood area, Oregon: Department of Geology and Mineral Industries Special Paper 14, p. 43-46.
- Priest, G.R., Beeson, M.H., Gannett, M.W., and Berri, D.A., 1982, Geology, geochemistry, and geothermal resources of the Old Maid Flat area, Oregon: in Priest, G.R., and Vogt, B.F. eds, Geology and geothermal resources of the Mount Hood area, Oregon: Department of Geology and Mineral Industries Special Paper 14, p. 16-30.
- Williams, D.L., Hull, D.A., Ackerman, H.D., and Beeson, M.H., 1982, The Mt. Hood region: volcanic history, structure, and geothermal potential: Journal of Geophysical Research, v. 87, no. B4, p. 2767-2781.
- Beeson, Marvin H., and Beeson, Melvin H., 1980, Neutron activation autoradiography of Hawaiian xenoliths: American Journal of Science, v. 280-A, p. 450-470.
- Beeson, M.H., Perttu, R., and Perttu, J., 1979, The Origin of the Miocene basalts of coastal Oregon and Washington: an alternative hypothesis: Oregon Geology, v. 41, no. 10, p. 159-166.
- Beeson, M.H., and Moran, M.R., 1979, Columbia River Basalt Group stratigraphy in western Oregon: Oregon Geology, v. 41, No. 1, p. 11-14.

Beeson, M.H., 1976, Geochemical studies of basalt to determine characteristics useful in evaluating durability: Appendix A in Microscopic and X-ray examination of rock for durability testing: Report No. FHWA-RD-77-36, Federal Highway Administration, Offices of Research and Development, Washington D.C., p. 50-71.

Gordon, G.E., Randle, K., Goles, G.G., Corliss, J.B., Beeson, M.H., and Oxley, S.S., 1968, Instrumental neutron activation analysis of standard rocks with high-resolution detectors: *Geochimica et Cosmochimica Acta*, Vol. 32, pp. 369-396.

Beeson, M.H., Johnson, A.G., and Moran, M.R., 1976, Portland Environmental Geology - Fault Identification, Final Technical Report, (September 1, 1974 - December 31, 1975), to the U.S. Geological Survey, Menlo Park, California, 107 pp.

Beeson, M.H., and Moran, M.R., 1979, Stratigraphy and structure of the Columbia River Basalt Group in the Cascade Range, Oregon: in Geothermal resource assessment of Mount hood, Final Report, RLO-1040, State of Oregon Department of Geology and Mineral Industries, p. 5-77.

Non-Referreed Publications or Other Creative Achievements

Tolan, T. L., Anderson, J. L., Beeson, M. H., 1989, Origin and characteristics of dextral strike-slip faults within the Yakima fold belt, Columbia River flood-basalt province, USA: In: MEVTV Workshop on Tectonic Features on Mars (T. R. Watters and M. P. Golombe, eds.), pp 63-64. LPI Tech. Rpt. 89-06. Lunar and Planetary Institute, Houston.

Tolan, T. L., Reidel, S.P., Beeson, M.H., Anderson, J.L., Fecht, K.R., Swanson, D.A., 1986, Revisions to the areal extent and volume of the Columbia River Basalt Group (CRBG): (Abstract) GSA Meeting, Hilo, Hawaii, May 1987. Beeson, M.H., Kudo, A.M., Richards, M.L., 1964, Apoyo and Masaya Calderas, Nicaragua (abstract): *Transactions, AGU*, vol. 45, No. 4, p. 642.

Pfaff, V.J., and Beeson, M.H., 1987, Miocene basalts of coastal Oregon and Washington: Geochemical and geophysical evidence for Columbia River Plateau origin: (Abstract) GSA Meeting, Hilo, Hawaii, May 1987.

Reidel, S.P., Tolán, T.L., Anderson, J.L., Beeson, M.H., and Fecht, K.R., 1987, Regional stratigraphy of the Grande Ronde Basalt (GRB) and its tectonic and petrogenetic implications: (Abstract) GSA Meeting, Hilo, Hawaii, May 1987.

Fecht, K.R., Bjornstad, B.N., Reidel, S.P., Tolán, T.L., Anderson, J.L., Beeson, M.H., and Smith, G.A., 1987, Reconstruction of Neogene drainage systems in the area covered by Columbia River Basalt Group (CRBG): (Abstract) GSA Meeting, Hilo, Hawaii, May 1987.

Anderson, J.L., Beeson, M.H., and Tolan, T.L., 1987, Tectonic evolution of the southwest Columbia Plateau: (Abstract) GSA Meeting, Hilo, Hawaii, May 1987.

Beeson, M.H., Tolan, T.L., Reidel, S.P., and Fecht, K.R., 1987, Jointing in the Columbia River Basalt (CRB) flows: Association of jointing styles with other factors: (Abstract) GSA Meeting, Hilo, Hawaii, May 1987.

Beeson, M.H., Tolan, T.L., 1987, Columbia River Basalt Group (CRBG) in western Oregon: Factors controlling flow emplacement: (Abstract) GSA Meeting, Hilo, Hawaii, May 1987.

Beeson, M.H., and Tolan, T.L., 1984, Columbia River basalt in western Oregon: constraints on the Neogene tectonic history: Pacific Northwest Metals and Minerals Conference. April 30 - May 2, 1984, Portland, Oregon.

Wells, R. E., Simpson, R. W., Kelley, M.M., Beeson, M.H., and Bentley, R.D., 1983, Columbia River basalt stratigraphy and rotation in southwestern Washington (abstract): EOS, v. 64, no. 45, p. 687.

Barker, S.E., Kudo, A.M., Keil, K., and Beeson, M.H., 1981, Coherence of major and trace element modeling: Evidence for fractional crystallization of basalts from DSDP leg 65, East Pacific Rise (abs.): EOS, v. 62, no. 45, p. 1067.

Moran, M.R., and Beeson, M.H., 1979, Stratigraphy and structure of the Columbia River Basalt Group in the Cascade Range, Oregon (abstract): Oregon Academy of Science, v. 15, p. 49.

Beeson, M.H., and Moran, M.R., 1979, Stratigraphy and structure of the Columbia River Basalt in the Cascade Range, Oregon (abstract) EOS, v. 60, no. 46, p. 961.

Beeson, M.H., and Nelson, D.O., 1978, A model for the geologic history of Mt. Tabor, Kelly Butte, and Powell Butte in Southeast Portland, (abstract): Proceedings of the Oregon Academy of Science, v. 14, p. 142-143.

Robbins, K.C., Beeson, M.H., and Kittleman, L.R., 1978, Tephra layer from boreholes in Columbia Basin alluvium (abstract): Proceedings of the Oregon Academy of Science, v. 14, p. 155-156.

Beeson, M.H., Johnson, A.G., and Moran, M.R., 1977, Fault Identification and Structural Evolution of the Portland Area (abstract): Proceedings of the Oregon Academy of Science, v. 13, p. 58.

Beeson, M.H., Benson, G.T., and Johnson, A.G., 1976, Structure of the Tualatin Mountains, (Portland Hills), Oregon (abstract): Presented at GSA meeting in Pullman, Washington.

Beeson, M.H., with Bentley, R.D., Moran, M.R., 1976, Preliminary Correlation of Lower Yakima Basalt Flows in Western Oregon with the Type Area in Central Washington (abstract): Geol. Soc. Amer. Abstracts with Programs, v. 8, no. 3, p. 353.

Beeson, M.H., Moran, M.R., and Olson, F.L., 1976, Geochemical Data on Columbia River Basalt Stratigraphy in Western Oregon (abstract): Geol. Soc. Amer. Abstracts with Programs, v. 8, no. 3, p. 354.

Beeson, M.H., 1971, Review of Crystallography and Crystal Chemistry by F. Donald Bloss: The American Mineralogist.

Beeson, M.H., and Goles, G.G., 1968, Eu Anomalies in Rhyolites and their Petrologic Implications (abstract): Transactions, American Geophysical Union, v. 49, p. 80.

Honors, Grants, Fellowships

1991 Hoffman Award for Faculty Excellence - PSU

1990 Proposal to DOGAMI - Tectonic History of the Portland Area (not funded)

12/1990 Approved as a member of the Graduate Faculty in the Geology Department, Oregon State University for the purpose of sitting on Kenneth Werner's thesis committee.

NDEA Fellowship, Geology Department, University of Oregon, 1959-62

Sloan Fellowship, Chemistry Department, Reed College, 1967-69

NORCUS Fellowship, Rockwell Hanford Operations, 1983-84

Research or Other Creative Works in Progress

Robbins, K.D., Beeson, M.H., and Kittleman, L.R., Tephra layer from boreholes in Columbia Basin alluvium (my contribution, geochemistry, is completed; publication journal not yet selected).

Beeson, M.H., Tolan, T.L., Duncan, D.A., Johnson, A.G., The Waverly Heights Formation: Late Eocene-age basalt flows in the Portland, Oregon area: Oregon Geology.

Teaching Achievements

Developed and taught "Geology of the Portland Area" in summer 1990 and 1991 with the help of Terry Tolan. This course is a combined lecture/field course designed to serve local professionals, geology majors, and very interested non-majors. This is a state-of-knowledge course based largely on recent geologic mapping and research by Beeson and Tolan, some of which is published.

Regularly teach General Geology (201 & 202), Mineralogy (312), Geochemistry (419), Advanced Geochemistry (519), Columbia Gorge Geology (199). Advanced Geochemistry and Columbia Gorge Geology were developed or totally restructured by me.

Membership in Professional Societies

The Geochemical Society
Oregon Academy of Science
Geological Society of the Oregon Country
Society of Miscellaneous Oregon Geologists
American Association of University Professors
Geologist - State of Oregon (1977-present).

Service to the Profession

1992 Beginning consultation activity for Squier Associates on the West Side Light Rail project.
12/92 Member of the Geologic Mapping Advisory Committee to DOGAMI. New national legislation is designed to stimulate geologic mapping in the US.
DCS-USGS Workshop-Menlo Park, 1990-April - Deep Crustal Studies in the Pacific Northwest
February, 1990, Review Equipment proposals for NSF
January, 1990, 91, NSF Panel. Review of Instrumentation & Laboratory Improvement Program proposals, Washington DC
December, 1989, Review research proposal for the Petroleum Research Fund
September, 1989; October, 1988, Association of Engineering Geologists, talks on Portland area geology
May, 1989, Oregon State University, Geology Department, Seminar on Columbia River basalt in western Oregon
1987, Prepared and led a workshop and field trip on the Columbia Plateau presented to the NRC for Westinghouse Hanford Company
April, 1986, Reviewed paper for Journal of Geophysical Research

Service to University, College, Department

1991 Served on the Provost Search Committee
1990-91 Faculty Senate Steering Committee.
President Pro-Tem of Senate.
1990-1991 Internal Issues Task Force-Strategic Planning Committee
1990-91 AAUP Bargaining Team & AAUP Council
1989-91 Faculty Senate Steering Committee, and Faculty Senate
Summer 1989 Senate Ad Hoc Committee, School of Business problem
1987-88 Advisory Council
1983 Ad Hoc Committee on Internal Strengths and Weaknesses
1986-present Geology Department Graduate Committee Chairman
1980-present Radiation Safety Committee
1986-present Environmental Sciences & Resources Coordinating Comm.

Service to Community

1992 Presented talk to the Association of Retired Citizens on "The Geology of Portland".
1991 Advisor to the "Friends of Parrett Mountain" concerning ground water problems.
1991 Presented talk to the Sherwood Elementary School on "Rocks and Volcanoes".

March 1991, Presentation to Oregon Water Well Assoc. annual technical seminar.
October 1990 Assisted Oregon Health Division (Dennis Nelson) on a groundwater problem in The Dalles
November 1990 Presented a talk on the geologic history of the Columbia River to the Fort Vancouver Historical Society 1989
L.R. Squier Associates, Consultant on West Side Light Rail
1988 Cornforth Consultants, Consultant on West Side Light Rail
1987-present Multnomah County ESD, Teleconference, "Geologist talks to kids"
1986 Multnomah County ESD, produced video on "Rocks" for students
June 1989 Oregon Agate & Mineral Society, talks on the Columbia River basalt
June 1989; June 1988; June 1987 Friends of the Columbia Gorge, talk on Columbia Gorge geology
November 1988 Sherwood Grade School, geology discussion with fourth grade students
September 1988 Willamette Week, interview about Radon risk
December 1987 DOE/NRC Workshop in Richland, WA, consultant on Columbia River basalts; talks and reports
June 1988 The Nature Conservancy, field trip to Columbia Gorge
1987-87 Martin Marietta Aluminum Reduction Facility in The Dalles, consultant on geology of site relating to toxic waste
1986-87 Schlicher & Associates, consultation on proposed land fill site

September 1, 1992

From: Kevin Foster, P.G., C.E.G., P.E.
14355 NW McNamee Road
Portland, OR 97231

**SUBJECT: PROPOSED ANGELL BROTHERS, INC. QUARRY EXPANSION,
MULTNOMAH COUNTY, OREGON**

Statement Summary

Based on a review of documents related to geotechnical aspects of the above-referenced proposed quarry expansion, it is my professional opinion that insufficient information regarding overburden cut slopes has been provided to adequately assess whether the proposed expansion will result in geologic hazards at the quarry and surrounding properties.

Statement

I am a consulting engineering geologist/geotechnical engineer with 15 years of experience in Oregon. I am licensed in the state of Oregon as a professional geologist, certified engineering geologist, and professional engineer. The majority of my experience has been involved with assessing and mitigating geologic and geotechnical hazards associated with construction of roads and projects in areas of steep terrain.

At the request of the Friends of Forest Park, I have reviewed the following two geologic reports by Herb Schlicker and Associates: "Rock Quality and Quantity in Proposed Angell Brothers, Inc. Quarry Expansion," dated July 26, 1989, and "Geologic Hazards Investigation of Proposed Area of Quarry Expansion," dated December 28, 1989, as well as the permit application for the quarry expansion.

As discussed in the Schlicker reports, the quarry occupies moderate to steep terrain that is underlain by Columbia River Basalt. The basalt is mantled by loess deposits, referred to as Portland Hills Silt, which consist of silt with variable amounts of clay and sand. The silt is thickest on the ridgelines and thins or is absent on the steep ravine slopes. The reports indicate that up to 70 ft of silt mantles the basalt on ridgelines near the south and west ends of the proposed quarry expansion.

Typically, the silt lies on a paleosol developed from weathering of the underlying basalt. This horizon is relatively impermeable and presents a barrier to downward percolation of water. As a result, perched groundwater conditions are common at the base of the silt, and saturation of the silt reduces the strength of the deposit considerably, in comparison with its dry strength. The following paragraph describing the engineering characteristics of the silt is excerpted from a report by Shannon & Wilson, Inc. for the Multnomah County Department of Environmental Services, entitled "Geologic and Slope Hazard Studies, Unincorporated Multnomah County, Oregon," dated September 30, 1978.

"When dry, the fresh silt will stand in steep or even vertical cuts for short periods of time. However, erosion, slumping, and sloughing of steep slopes invariably occurs, often along vertical joint surfaces within the silt. In addition, the permanent or transitory saturation at the base of the loess has affected virtually all natural slopes in the area. Our observations suggest that natural slopes steeper than 25 percent are potentially hazardous. Slopes greater than 50 percent are always unstable over the long term, in both Willamette and Portland Hills Silt."

Almost the entire quarry expansion area is mapped in this publication as an "area of known or potential slope hazard."

Schlicker's geologic hazard report states that geologic hazards at the site include slope stability and erosion hazards. The report also states that cut slopes will be constructed that have the potential to fail, and that the size and frequency of these cut slope failures can be minimized by proper design of cut slopes. With the cut slope issue so clearly defined in the report as the primary geologic hazard associated with the quarry expansion, it doesn't seem to follow when the report goes on to state "this mine pit cut slope design is not within the scope of this report."

For the purpose of minimizing operation costs and geologic hazards, aggregate quarry operations are typically limited to areas of shallow overburden soils. Although this is generally the case with the existing Angell Brothers' operation, if the quarry is allowed to expand southward and westward as proposed, it will encounter progressively deeper overburden (silt) beneath the ridgelines. The massive, up to 70 ft high, overburden cuts that are proposed along the south and west ends of the site are unprecedented in the tri-county area. These cuts have the potential to trigger large-scale landslides that could involve residential properties located above the quarry, and result in severe erosion if improperly designed. Based on my professional experience, and the authors of the earlier-excerpted Multnomah County Environmental Services' slope hazards report, the 1.5H:1V benched cut slopes proposed in the quarry expansion application may be suitable for rock cuts, but will not provide long-term stability in the overburden soils.

For the above-stated reasons, it is my opinion that the design of overburden cut slopes should be included in the scope of the geologic hazards investigation. Specific guidelines for limiting the height and steepness of both short-term and permanent overburden cuts should be provided as part of the quarry expansion application to limit the potential for landsliding and severe erosion. Additionally, cut slope guidelines will greatly influence the amount of minable aggregate available and the overall feasibility of the proposed expansion. This information would be beneficial in assessing the merits of the quarry expansion site relative to other potential quarry sites; where shallower overburden and flatter slopes would allow a more efficient, less hazardous extraction of aggregate.

Considering the steep terrain and deep overburden deposits at the proposed expansion site and the widespread occurrence of the Columbia River Basalt in Western Oregon, it is my opinion that more geotechnically favorable quarry sites can be found.

In closing, I strongly recommend that the overburden cut slope criteria be addressed before a final decision is made on the quarry expansion.

7. H. Jan

CONSEQUENCES OF URBANIZATION ON AQUATIC SYSTEMS—MEASURED EFFECTS, DEGRADATION THRESHOLDS, AND CORRECTIVE STRATEGIES

by Derek B. Booth and Lorin E. Reinelt
King County Surface Water Management Division
400 Yesler Way #400, Seattle, WA 98104

in

Proceedings, Watersheds '93: Conference
sponsored by U.S. Environmental Protection
Agency, Alexandria, VA, March 21-24, 1993
(in press).

ABSTRACT

Urban development changes both the form and the function of the downstream drainage system. Although many of these changes have been long-recognized qualitatively, we have sought more quantitative understanding of them, and of the aquatic-system degradation that typically results.

A variety of physical, chemical, and biological data from a wide range of lowland streams and wetlands in King County, western Washington, suggests remarkably clear and consistent thresholds of aquatic-system degradation. In this region, approximately 10 percent impervious area in a watershed typically yields demonstrable loss of aquatic-system function, measured by changes in channel morphology, fish and amphibian populations, vegetation succession, and water chemistry. Even lower levels of urban development can cause significant, but less well quantified, loss throughout the system as a whole.

These findings suggest that successful corrective measures must not simply protect the structure of individual stream or wetland elements, such as fixed-width buffers, unless watershed-level disturbances to the drainage system are addressed as well. Because these disturbances are pervasive and so very difficult to correct, downstream damage is probably inevitable without limiting the extent of urban development itself, a strategy that is being used with increasing frequency in this region's remaining resource-rich watersheds.

INTRODUCTION

Urbanization imposes a variety of watershed changes that profoundly affect runoff processes and the downstream surface-water drainage system. These changes include not only the most obvious manifestation of urban development, namely impervious surfaces that cover the land surface, but also the associated vegetation clearing, soil compaction, water-conveyance modifications, riparian-corridor alterations, human intrusion, and import of chemical contaminants that invariably accompany such development. These pervasive, landscape-level changes commonly affect virtually all areas of an urban watershed.

Downstream channels reflect these watershed changes in a variety of ways. Increases in peak flows have been best documented, with the discharge of floods of a given recurrence

interval typically increasing by factors of about 2 to 5. Recent, more sophisticated monitoring and numerical modeling of urbanizing drainage basins show that the duration of any given flood discharge, summed over the time period of gage record or simulation, may increase by an order of magnitude. Such modeling also shows that the frequency of "large" flows, recognized by the discharge necessary to accomplish significant erosive work on the channel form, may increase by nearly two orders of magnitude--from once or twice per decade to several times per year (Booth, 1991).

Physical conditions in channels also change as a result of urbanization. Some of those changes are a direct consequence of development and human habitation--riparian corridors are cleared, channels are straightened, and logs are removed from channels in the name of tidiness or for firewood. Other changes result from the increase in flows delivered from the upstream basin, which transport more sediment as a result of increased flow durations and accomplish more channel erosion as a result of the increased frequency of large floods. In combination, geomorphic work on the channel is increased even as the resistance of the channel to that work, typically derived from the roughness and armoring properties of bank vegetation and large woody debris, is reduced. Urban channels are therefore deeper, wider, and commonly incised; they are also more homogenous with little of the morphological variability, such as alternating pools and riffles, that characterize channels in more undisturbed settings.

The chemical composition of urban stormwater also differs, sometimes dramatically, from predevelopment conditions. Although measured data vary widely between systems, increases of up to one order of magnitude are typical for most pollutant classes, including solids, nutrients, metals, and bacteria. Construction-phase impacts can be particularly severe on stream systems and wetlands with small drainage areas.

In summary, landscape alteration affects aquatic-system function, primarily by the physical processes of reduced soil-moisture storage by compaction and paving, direct human intrusion into streams and wetlands, and import of pollutants. In recognition of these dominant processes, we have collected sets of physical, chemical, and biological data from a wide variety of lowland streams and wetlands in King County, western Washington State. We seek both a threshold of significant aquatic-system degradation, which appears from our data to occur at a rather well-defined level of urbanization, and insight into the processes by which that degradation occurs. Only with such insight are subsequent efforts at mitigation or protection likely to be successful.

CHOICE OF PARAMETERS AND METHODS OF DATA COLLECTION

We have chosen to consider data from both streams and wetlands, because these two classes of aquatic features are intimately interconnected in the watersheds of western Washington. The structure of these features is evaluated through measurement of physical parameters, such as bankfull width and depth for channels, or fluctuations in water level and water chemistry for wetlands. The function of these aquatic systems is measured by biological utilization, which is judged to integrate the suite of urban-induced effects and to provide the best aggregate measures of "quality" or "degradation." We have evaluated biological parameters quantitatively by species and population counts, and more qualitatively by rapid field assessment of habitat quality.

Urbanization is similarly diverse in characterization. Several parameters have been

used by past workers (e.g., percent of area urbanized, percent of area served by storm sewers); all are strongly cross-correlated, and so to some extent the choice is a matter of personal preference. We have elected to cast all data in terms of the percent impervious area in a watershed, using typical impervious-area ratios for individual land uses, because this parameter can be unequivocally measured and is particularly well-correlated with the runoff processes that we judge are most significant. We also have independently measured conditions of the riparian corridor, because these areas are directly connected to aquatic systems and also because many jurisdictions are actively regulating these zones independent of broader, watershed-level controls.

CORRELATIONS BETWEEN URBANIZATION & AQUATIC-SYSTEM FUNCTION

In aggregate, the physical changes imposed by urban development on the landscape result in a decline in function of aquatic systems. This fact is evident to any resident of such a watershed; similarly intuitive is the observation that degradation increases as development progresses. Quantifying that decline in function and identifying its relationship with upstream urbanization, however, is much more difficult.

We have sought such a relationship by use of both new and existing data, relying heavily on biological indicators of stream and wetland function. Fish use in streams has been investigated directly by Lucchetti and Fuerstenberg (1993), who considered the differences in relative abundance between two species of salmon, cutthroat trout (*Onchorynchus clarki*) and coho salmon (*O. kisutch*), that have significantly different life cycles and habitat requirements. Cutthroat trout are tolerant of small-sized and relatively homogenous habitat; coho salmon, in contrast, require a varied physical environment that includes large pools and a stable substrate. Figure 1 shows the relationship between populations and watershed impervious-area percentages for 8 similarly sized drainage basins in western Washington (ranging in drainage area between 10 and 30 km²). The data show little in the way of a discrete "threshold" but indicate that population changes may be measurable at rather low levels of urban development and become quite significant much beyond 10-15 percent.

Similarly, the relationship between fish habitat and urban development was evaluated by rapid field assessment along 140 km of stream channel in two drainage basins (Soos and Hylebos Creeks) in King County. Habitat was classified as excellent, fair, or poor on the basis of pool:riffle ratio, channel roughness and diversity, and observed fish use. The total contributing area and impervious-area percentage of the watershed above each channel reach was measured, with total areas ranging from 2 to 110 km² and impervious areas ranging from 2 to 50 percent. The results are graphed in Figure 2; marked degradation occurs at about 8-10 percent impervious area with almost no exceptions on either side of that value.

Data collected from 19 wetlands throughout King County (Reinelt and Horner, 1991; Richter et al., 1991) suggest a similar pattern. Wetland function was characterized by measurement of hydrology, water quality, soils, plants, and animals in these wetlands from 1988-90. Water-level fluctuation (WLF) was chosen as the primary measure of hydrology, because it integrates numerous factors governing wetland hydrology, including wetland-to-watershed area ratios, level of watershed development, wetland morphometry, outlet conditions, and soils. Mean WLF was used in this analysis, because it is less influenced by evaporation and summer drying. Water-quality analyses examined 21 variables, including

nutrients, metals, and bacteria, with a majority of samples collected during the wet (November-February) and dry (July-September) seasons; conductivity, total suspended solids (TSS), and fecal coliforms (FC) showed the greatest systematic variation (Reinelt and Homer, 1991). The diversity and abundance of amphibians, collected in pitfall traps and supplemented by egg-mass observations, were used to characterize animal use in wetlands (Richter et al., 1991).

The five variables noted above (WLF, conductivity, TSS, FC, and amphibian species) were used to compare wetland function with percent impervious area in the wetland watersheds. Each variable was scored from 0 to 100, where 0 represented the least degraded value in the entire data set and 100 the most degraded value. Other scores were assigned proportionally between these two extremes. A "water-quality" score was calculated as the mean of the three water-quality variables, which was then averaged with WLF and amphibian scores (Figure 3). These data support the intuitive knowledge that increased levels of urban development yield increased degradation, although this particular data set is deficient in impervious-area percentages between 4 and 14 percent. With one exception (JC28, with only moderate water-quality degradation and almost no WLF as a result of exceptionally permeable watershed soils and a very stable regional groundwater table), all wetlands with impervious-area percentages above 14 percent had scores greater than 50, whereas those below 4 percent had scores below 40.

CAUSAL RELATIONSHIPS BETWEEN DEVELOPMENT AND FUNCTION

Although the above examples clearly display a linkage between aquatic-system function and urban development, they do not offer much insight into the causal relationship(s) between the likely vectors of urban impacts (e.g., flow, water quality, physical intrusion) and the resulting changes in function. To achieve such insight, we must seek data that successfully isolate the effects of one urban-development parameter from all others. To date, our information is largely restricted to measures of flow quantity, channel size, and condition of the riparian corridor; but additional investigation of water-chemistry changes is probably warranted as well.

The effects of changing the riparian corridor can be evaluated by measurement of channel characteristics along a stream reach with varying adjacent land use. Along one such western Washington stream (Leach Creek, with a drainage area of about 9 km²), bankfull channel widths and adjacent bank conditions were measured at 20-m intervals along 2 km of channel (Figure 4). An average 0.6 m of channel widening has occurred wherever the native bank vegetation had been altered or removed. This increase, about 17 percent, is trivial in comparison to the potential magnitude of catastrophic channel incision but a substantial fraction of the total "equilibrium" channel widening normally associated with urban-induced flow increases (Hammer, 1972; Booth, 1990). More generally, corridor condition and habitat quality were correlated in two other basins (Figure 5): note that good habitat quality is not guaranteed by corridor conditions, but an *absence* of significant riparian vegetation virtually assures degraded habitat.

Changes in flood discharge from urbanization are likely to affect aquatic systems most directly by an increase in streambank instability and channel erosion. We discriminate between *stable* channels, with little or no erosion of their bed and banks, and *unstable* channels, which display long continuous reaches with bare and destabilized banks indicative

of severe downcutting and widening. To characterize the increase in flows imposed by urbanization, we have used a continuous hydrologic model (HSPF; EPA, 1984) to simulate the increased frequency of equaling or exceeding the discharge with a recurrence of 10 years under forested conditions ($Q_{10\text{-}for}$). This discharge was chosen as an index value of the total hydrograph, because moderately large storm flows are commonly observed to affect stream-channel form and to move large streambed material (e.g., Sidle, 1988). The correlation between observed channel stability (indicated by the "X"s and "O"s of Figure 6) and frequency of $Q_{10\text{-}for}$ under current conditions (vertical scale of Figure 6) was determined for four basins having HSPF simulation of both forested and current land cover. A consistent threshold of change is seen for those basins with a present-day recurrence of 2 years or less for the discharge equal to $Q_{10\text{-}for}$ (solid horizontal line in Figure 6, using the annual flood series). This threshold of instability also can be recognized simply by measuring impervious-area percentage in the upstream basin; again, a value of about 10 percent (dashed vertical line in Figure 6) seems pivotal.

These two factors, decreased corridor integrity and increased flows from the upstream basin, are typically interdependent, because urban development tends to affect both. Different management strategies apply to these two areas, however, and so discriminating their respective effects on the stream system is valuable. Steedman (1988) correlated the biologic function at 209 stream sites in southern Ontario, Canada, with land use and riparian corridor (Figure 7). As with our data (Figs. 2 and 5), both watershed and riparian land uses must be favorable (i.e. non-urban) for best conditions. If corridor clearing is proportional to basinwide urban land uses (the diagonal dashed line of Figure 7), stream conditions can be no better than "fair" once the basin achieves about 30 percent urban land use. At typical suburban densities, this corresponds to about 7-10 percent impervious area. Even with virtually-complete retention of streamside buffers (i.e. "percent riparian forest" equals 100%), impervious-area coverage much beyond this range will lead to nearly certain, measurable degradation.

CONCLUSIONS

These results suggest remarkably clear and consistent thresholds of aquatic-system degradation. In this region, approximately 10 percent impervious area in a watershed typically yields demonstrable, and probably irreversible, loss of aquatic-system function. This loss is reflected by measured changes in channel morphology, fish and amphibian populations, vegetation succession, and water chemistry. Even lower levels of urban development cause significant degradation in sensitive water bodies and a reduced, but less well quantified, degree of loss throughout the system as a whole. In the restricted context of western Washington aquatic systems, differences between watersheds are not apparently critical in determining this threshold; but those differences do determine the magnitude of the aquatic-system response and what strategies might provide effective mitigation.

These findings suggest that successful corrective measures must not simply protect or restore the structure of individual stream or wetland elements. For example, buffers around water bodies are necessary but must be combined with watershed-level restrictions on the rate and duration of stormwater discharge; loss of in-stream fish habitat cannot be repaired by engineered structures alone. Yet the changes to the landscape imposed by urbanization are probably beyond our best efforts to fully correct them. Thus some downstream loss is

probably inevitable without limiting the extent of development itself, a strategy that is being used with increasing frequency in this region's remaining resource-rich watersheds.

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FIGURE 1

RELATIVE FISH USE, KING COUNTY STREAMS

(from Lucchetti and Fuerstenberg, 1993)

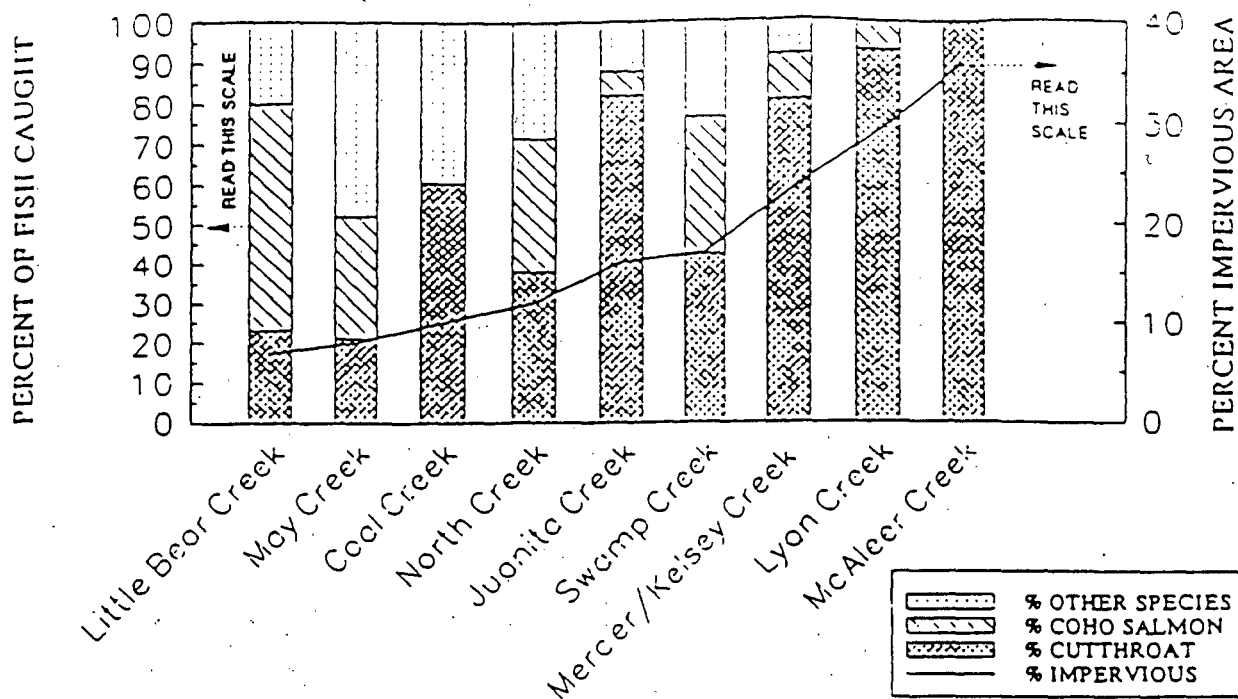


FIGURE 2

QUALITY OF OBSERVED FISH HABITAT

BIG SOOS AND HYLEBOS BASINS

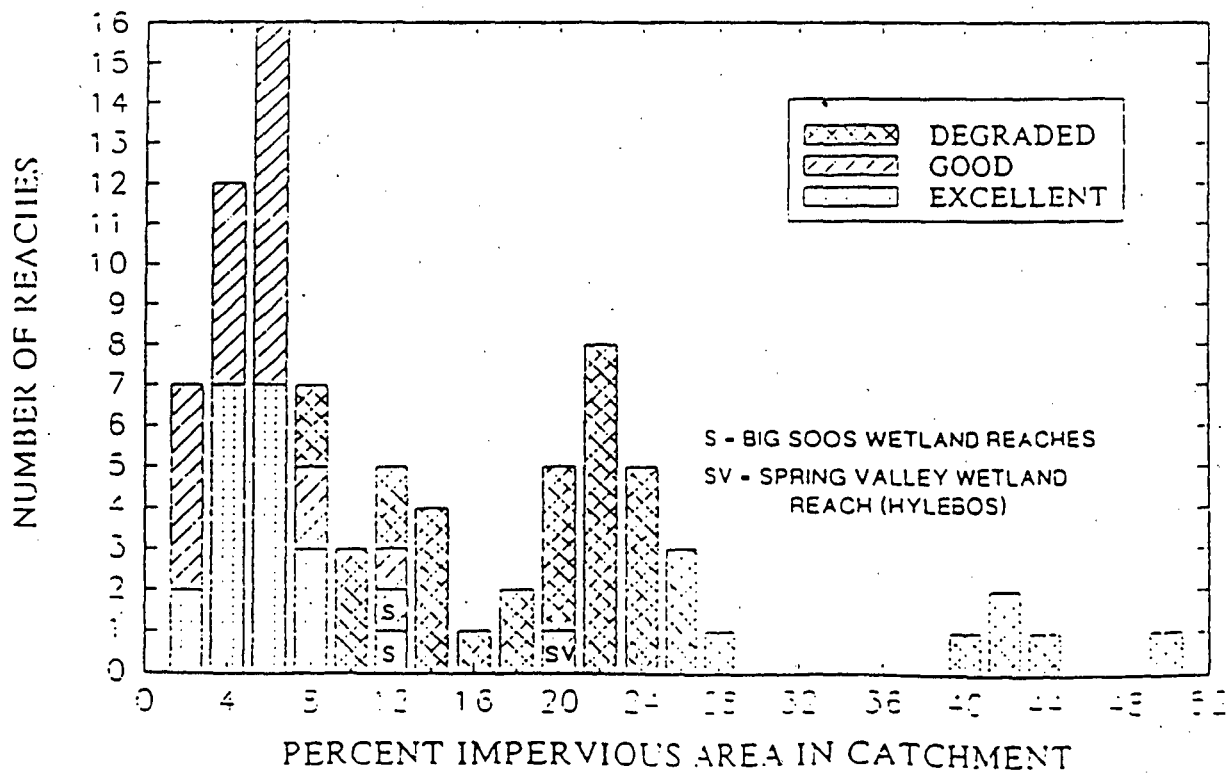


FIGURE 3

RELATIVE WETLAND DEGRADATION

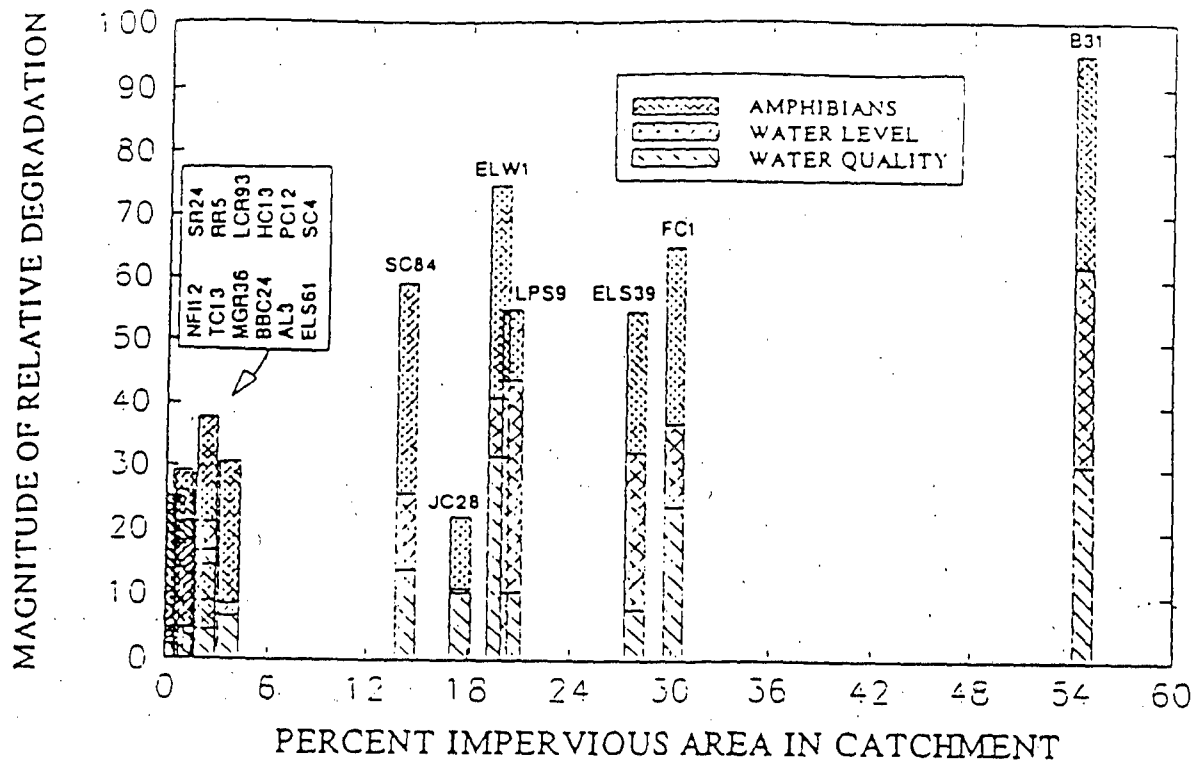


FIGURE 4

CORRELATION OF CHANNEL WIDTH AND BANK VEGETATION LEACH CREEK, WASHINGTON

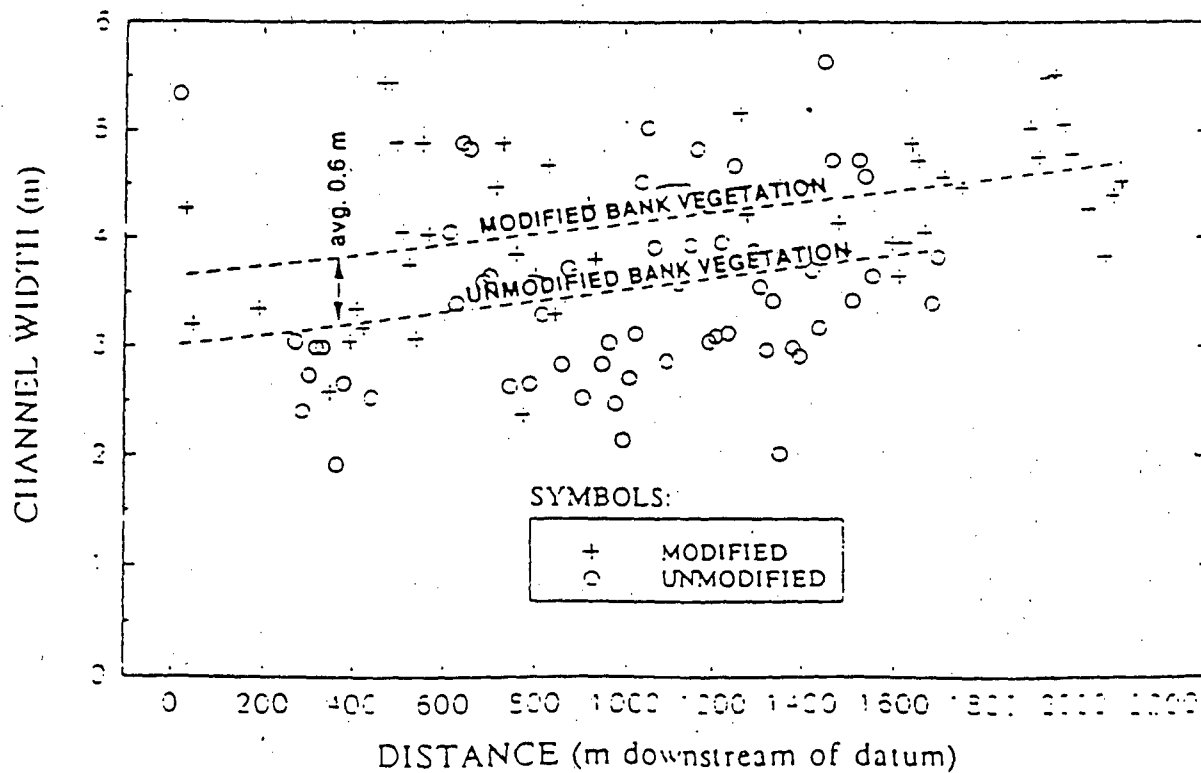


FIGURE 5

QUALITY OF OBSERVED FISH HABITAT
CORRIDOR CONDITIONS-SOOS AND HYLEBOS

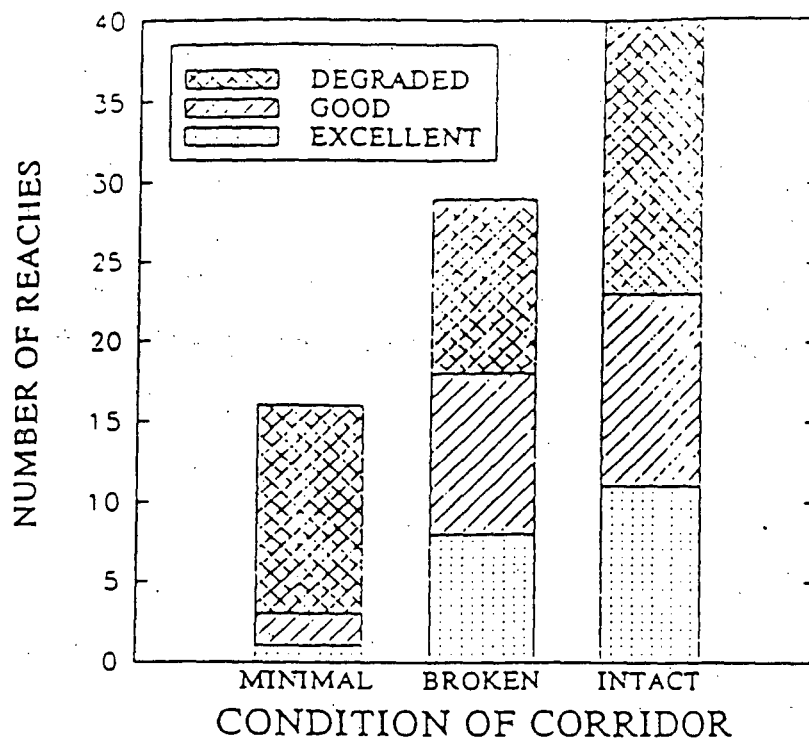


FIGURE 6

CHANNEL STABILITY AND LAND USE
HYLEBOS, EAST LAKE SAMMAMISH, ISSAQUAH BASINS

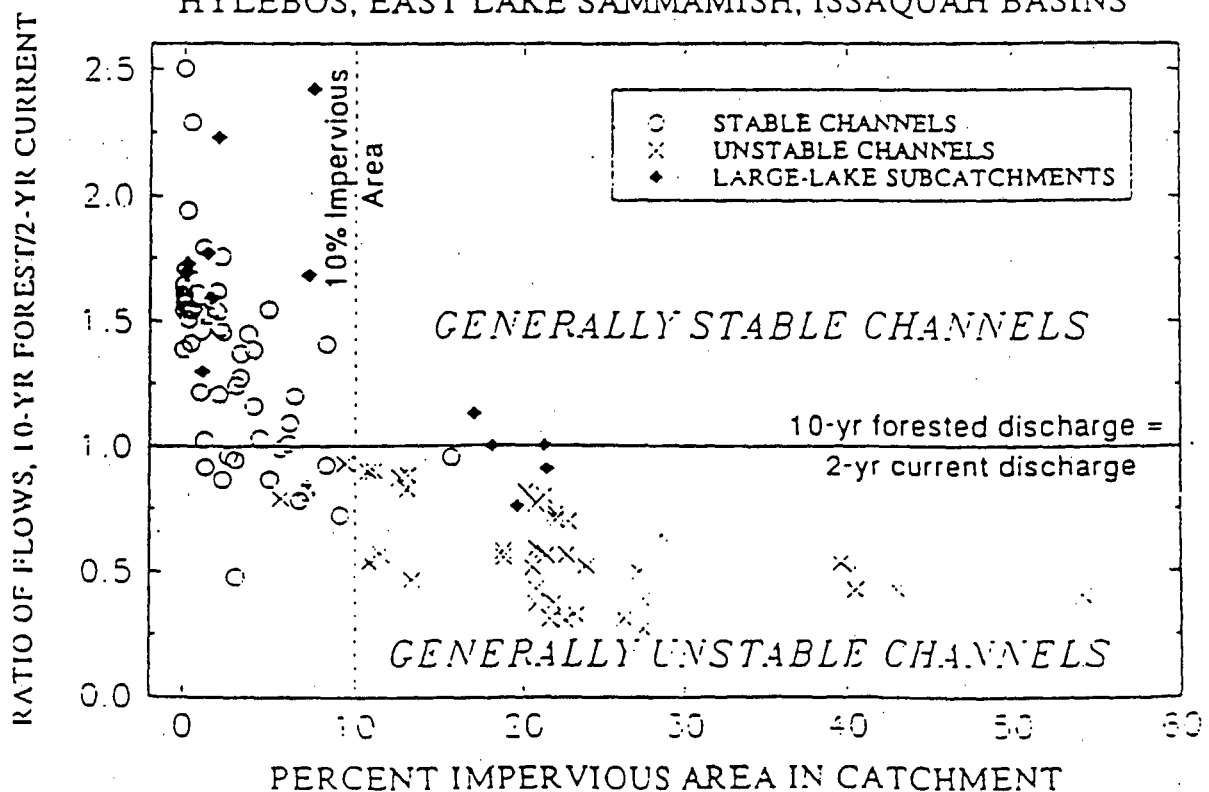
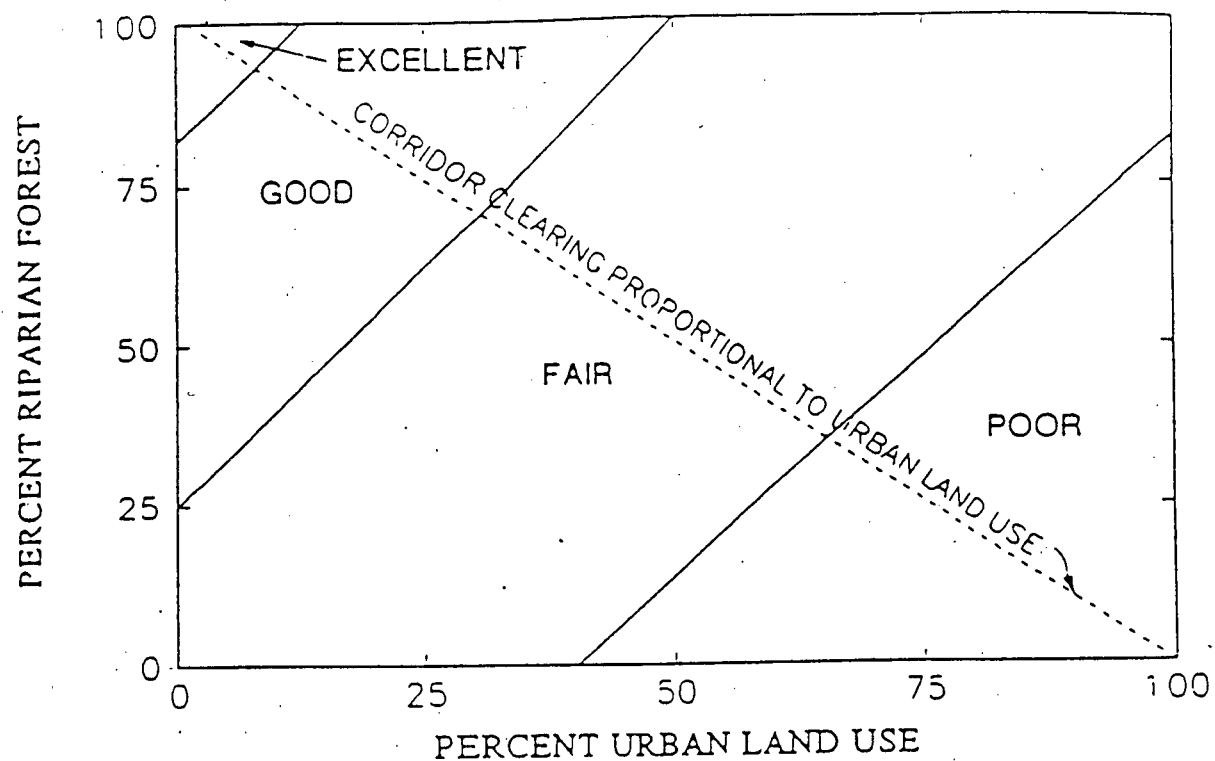


FIGURE 7

URBAN EFFECTS ON BIOTIC INTEGRITY
(from Steedman, 1988)



June 13, 1994

Arnold Rochlin
P.O. Box 83645
Portland, OR 97283-0645
(503) 289-2657

Testimony on West Hills Reconciliation Report

UNRESPONSIVE STAFF RESPONSES

Aggregate, Section IV

Page IV-49, Issues 1(a), 1(b), and 1(c) concerning **state requirements to consider other resource sites in evaluation location, quantity and quality**. Staff says the issue is that these factors "should be compared against other know resource sites." But the issue is that staff deliberately ignored quarries operating across the Columbia County line from the Angell Brothers quarry. Staff's answer on each issue is that they looked at the resources in Multnomah County. The law requires that, at a minimum, you must consider sites in Multnomah County. It neither allows nor encourages you to close your eyes to the most relevant resources in terms of quantity, quality and location, just because they're across the line. Why should you want to ignore this important information. It's notable that the authors of the Wildlife Habitat report showed more sophistication on the quarry issue than your aggregate expert. See pages V 43-47. They considered quarries in all of the surrounding areas, and their findings are significant. The same data used for the wildlife habitat report was rejected for the aggregate analysis because it's inconsistent with predetermined support for quarry expansion.

Page IV-49, Issue 1(d) and IV-50, Issue 2(a) concerning **impact area of the proposed aggregate mining expansion**. Staff alleges that I said the impact area is not defined. I said it was illegally defined. Staff considers only noise impact, ignoring other factors, to 1200 foot perimeter as the impact area. Rafton-Burlington Bottoms wetland would be profoundly affected by stream impacts. Other resources that would be affected beyond 1200 feet are the Multnomah Channel and the wildlife habitat corridor. Staff does not explain why the wetlands and the other resources identified by the public are excluded from the impact area. They ignored the scenic impact on Sauvie Island and they ignored the wildlife impact area identified in the report you commissioned.

Page IV-49, Issue 1(e) concerning **slope stability**. Staff implies that the issue was raised as a safety issue. It in fact concerns the quality of the site. A deep overburden requires that cuts be made at shallow angle and creates other increased mining costs for moving and storing overburden.

Page IV-50, Issue 2(b) concerning **traffic impacts**. I did not say that "traffic impacts were not considered". I said that staff wrongly rejected Highway 30 as a conflicting use. Staff responds by saying "traffic impacts were considered and determined not to [be] a conflict based on information received for the Oregon Department of Transportation." Staff's conclusion is based on information supplied by Angell Brothers, that there will be a maximum of 250 trucks a day (p. IV-9, ¶3-5). It's interesting that, in responding on another issue, the contention that the existing approved quarry site has a 60 year supply of aggregate, p. V-85, Issue 11, the staff rejects reliance on the Angell Brothers statement that rock crushing is limited to 810,000 tons per year. I'm willing to reject all of Angell Brothers assurances. But it is not tolerable for staff to accept them when they support expansion and reject them when they show no need for expansion.

Page IV-51, Issue 2(h), concerning **DEQ and DOGAMI standards**. Staff claims that it never intended to say that DEQ and DOGAMI standards assure no impact. But it did. In the undated resource analysis of Aggregate Resource Site #4, C 1-94, the staff said:

"The Rafton/Burlington Bottoms is a "3C" Goal 5 resource site. The existing mining operation is conducted in compliance with state regulations that insure no adverse impact that site [sic], as would be the case for any expanded operation." (p.16)

and,

"There would be no environmental effect on the Rafton/Burlington bottoms by an expanded mining activity since any expansion must be conducted under environmental control measures that result in no conflicts with the identified wetland resource." (p.20-21)

Streams, Section III

Page III-45, Issue 6, concerning criticism for **omitting the watersheds from stream impact areas**. Staff says "Impacts to streams beyond the riparian zone are much reduced, and unless practiced at a large scale are in fact negligible." This is a gross error caused by bias or ignorance. It takes very little development to destroy watershed function. Staff obviously assumes that watershed function is affected in proportion to impervious surface. But the effect is actually far greater than mere reduction of absorbing soil. The staff has chosen to ignore the Booth and Reinelt paper attached to my May 11, 1994 comments on the Significant Streams Studies of 4/8/94 and 4/28/94.

Page III-46, Issue 7, concerning **affect of quarry on watershed**. The staff response needs to be quoted to see the implications of word choices. Key words are underlined:

"Staff does not believe that the Angell Brothers mining operation will necessarily lead to the permanent total destruction of any watershed in which they quarry. Staff believes that the regulatory state agencies are able to do their job to control impacts and require for [sic] a good reclamation plan for the Angell Brothers quarry. For staff to take a position based upon the opposite conclusion (what is that?) would be to take a cynical position on the issue which is not appropriate."

The word "necessarily" is used as a cover; that is, staff can say we didn't say it wouldn't destroy watershed, only that it wouldn't necessarily destroy it. "Total" watershed destruction would, of course, occur only if a watershed is totally mined. I concede that if only 70% or 90% of a watershed is mined, there will be some watershed function left. State agencies, of course, "are able" to regulate effectively. But we have seen the evidence that regulation cannot be relied on. No criticism is intended or implied. Regulators are like police. They may be doing a good job when then apprehend a criminal though they had no power to prevent a particular crime and its impact. If the prosecution and penalties are sufficient, they may have an important deterrent effect. But a prudent person doesn't leave the door unlocked out of respect for the police.

Page III-50, Issue 15, concerning **property values**. In criticizing the report for considering only those effects of regulation that lower property values, and not considering how values are enhanced by regulation, I used an extreme example of prohibiting a steel mill in a residential zone. The staff belittles my comments because there isn't an actual proposal to allow steel mills in the stream impact area. The staff reply is an insult to the intelligence of the members of the commissions. The point is, that regulation that preserves healthy streams increases the value of riparian property. Where it supports an argument for

the economic importance of allowing development on streams, the staff is happy to talk about increased property values. "According to Rick Walker, a residential appraiser with Palmer Groth and Pietka, a stream will generally increase the value of any nearby dwelling." (page III-19). I'm sure Mr. Walker does not mean a stream that's dry all summer and that floods in the rainy season enhances value as a healthy stream does.

Wildlife Habitat, Section V

Note: Unlike the issues discussed above, the staff responses in this part of the report attempt to seriously address the issues and do not belittle or evade them. The staff shows respect and here deserves respect.

Page V-85, Issue 11, concerning **recoverable aggregate, number of years supply will last, value**, etc. In general, the staff here shows more sophistication regarding the quarry issues than is shown in the aggregate report. But there are some shortcomings. As discussed above, if we are to rely on Angell Brothers' statement in their application that maximum truck traffic will be 250 a day, why are we not to rely on maximum rock crushing of 810,000 tons a year? Values of extractable rock, whether the low of \$42 million or absurdly higher figures of nearly \$100 million, omit recovery costs, including wages, insurance, equipment, taxes, and other expenses. The economic significance of the resource for the ESEE analysis, is its *in situ* value, not its value after mining crushing and loading on a truck. As Mr. Parisi, Angell Brothers' counsel, frankly and helpfully pointed out in his Letter to the Planning Commission of October 12, 1992, calculations of value of aggregate in the ground must include a factor for the years that it would take to extract it. If the expansion area contains \$40 million dollars worth of aggregate, it has a different present value if it takes 5 years to extract or 100 years. In the former case, it would be worth nearly "face value", while in the latter case, it would be worth only a small fraction of the \$40 million. Its as if someone were to offer you \$40 million in cash, or offered to dole out \$40 million in annual installments over 100 years. Obviously the cash is worth far more because you could immediately invest it and, without touching the principal, get income that would exceed the principal payments from the 100 year dole. The result is that Mr. Parisi's estimate of \$42 million value of recoverable rock should be reduced to a small fraction of that, probably under \$10 million.

Page V-91, Issue 20, concerning **value of residential lots**. The staff response is exemplary. It examines the criticism, finds it to be valid, and uses it to improve the report.

Scenic Resources, Section II,

Page II-22, Location, Issues 1 and 2, concerning **scenic drives and "not seen" area**. The issue, as I presented it, was that the Board of Commissioners designated the east face of the hills as a significant scenic resource. Much public testimony included views of the hills as seen from roads and from viewing points within the hills themselves. These views of the hills must now be the subject of the ESEE analysis. Neither staff nor the Planning Commission has a right to exclude them without Board action. Staff has opposed the scenic designation entirely, from the beginning, and now seeks to minimize it. Staff does not make policy, and the Board should make that clear.

FRIENDS OF FOREST PARK

P.O. BOX 2413
PORTLAND, OREGON 97208

OFFICERS

Chris Wrench, *President*
John Sherman, *Vice President*
Arnold Rochlin, *Treasurer*
Julia Gibson, *Secretary*

April 24, 1994

Scott Pemble, Director
Division of Planning
2115 SE Morrison St.
Portland, Or 97214

COMMENTS ON SIGNIFICANT STREAMS STUDY GOAL 5 ANALYSIS McNAMEE - HARBORTON AREA (prepared 4/8/94)

These comments are submitted on behalf of both myself, Arnold Rochlin, and the Friends of Forest Park. We request that the records of CU 17-90, CU 14-92 and PR 7-92 be formally introduced to, and made a part of, this proceeding.

The streams are significant. The "study" is not.

It is self-described as not including the watersheds of the streams. (p.1,2). The impact area is restricted to narrow riparian zones along the banks. The riparian zones are just a small fraction of the obvious actual impact area which must include the watershed to start, and the wetlands and Multnomah channel that receive the water. The following chart shows how much of the watershed impact area was not considered in the study:

Creek	Riparian Zone Width (ave.)	Riparian Zone Area	Watershed Area	% of Impact Area <u>Omitted</u> from Study
Burlington	96 ft.	11.9 acres	375 acres	97%
North Angell Brothers	78 ft.	8.1 acres	350 acres	98%
Middle Angell Brothers	80 ft.	11.0 acres	360 acres	97%
Miller	142 ft.	38.8 acres	608 acres ¹	94%

There is no way that an ESEE analysis that excludes 94-98% of the obvious impact area from consideration can possibly survive a court challenge. The fact that the watershed area is being studied as part of the impact area for wildlife, aggregate and scenic resources does not in any way allow exclusion from the requirement of OAR 660-16-005 that all of the impact of, and on, conflicting uses be evaluated for the streams resource. That means the entire impact area must be considered relative to the studied resource.

The study does not consider the full impact of mining the entire Angell Brothers site. It would result in near total destruction of the watershed by removing all permeable layers. The "reclamation" plan, 100 foot high rock benches, covered with a foot of soil, cannot possibly result in creating a watershed.² The consequences of allowing quarry expansion

¹ 408 acres of the Miller Creek watershed are in the City of Portland; 200 acres are in an unincorporated area.

² Reclamation would not begin for 40 to 60 years and would not be completed until twice that long. See Comments on Mineral and Aggregate Resource Analysis for Aggregate Resource Site #4 -Angell Brothers dated April 23, 1994, pages 2-3.

would be an up to 10 fold increase in siltation, and the turning of the two quarry streams into storm drains. They would have rushing flows during storms and little or no flow at any other time. It does not take a hired expert to know that with no watershed, there's no stream. The study relies on an undocumented and unproven assumption that DEQ and DOGAMI standards require zero impact, and it ignores the fact that Angell Brothers has not been in compliance with DEQ standards in any case. The impact will not be "temporary" as the author alleges, without any analysis whatsoever of the reclamation proposal. The quarry and stream uses conflict to such an extent that, allowing mining of more than the currently allowed expansion area will destroy the streams. A political solution will not save them.

The study assumes economic impacts from restricting mining, but cites no evidence whatsoever. The record in this matter and the earlier Angell Brothers CU and PR applications establishes that there is no significant economic impact (at least not for 60 years) from restricting the the quarry to the presently allowed area. And, even if the quarry runs out, if the site is limited to forestry, a decision to limit mining now is reversible.

The study fails to recognize that the aggregate resource is not confined to the site. The Angell Brothers resource boundaries were unlawfully determined to be the boundaries of the Angell Brothers lease! Of course, the legal requirement is to map the resource, not the lease. The entire Tualatin Range is made of the same rock. Small mines not destroying entire watersheds and wildlife habitat areas would have much less impact on conflicting uses.

The study is nearly useless for addressing the Goal 5 evaluation requirements of OAR Chapter 660, Division 16. Reliance on it would ultimately fail to achieve anyone's objectives, not even Angell Brothers, because a Goal 5 designation based on it could not survive a court challenge. I cannot imagine a knowledgeable foe of the ultimate decision, whatever it may be, failing to notice and contest such errors.

Sincerely Yours,

Arnold Rochlin, Treasurer

FRIENDS OF FOREST PARK

P.O. BOX 2413
PORTLAND, OREGON 97208

OFFICERS

Chris Wrench, *President*
John Sherman, *Vice President*
Arnold Röchlin, *Treasurer*
Julia Gibson, *Secretary*

May 11, 1994

Division of Planning
2115 SE Morrison St.
Portland, Or 97214

COMMENTS ON WEST HILLS SIGNIFICANT STREAMS STUDY GOAL 5 ANALYSIS (prepared 4/28/94) AND, ADDITIONAL COMMENTS ON THE 4/8/94 SIGNIFICANT STREAMS STUDY BOTH STUDIES BY SRI/SHAPIRO

These comments are submitted on behalf of both myself, Arnold Röchlin, and the Friends of Forest Park.

Before addressing this "study", it's necessary to correct a serious omission from my April 24th testimony that covered streams in the McNamee - Harborton area. The April 8th streams study does not mention that **Miller Creek has coho salmon!** The following, referring to the lower Miller Creek watershed, is quoted from the City of Portland Northwest Hills Natural Areas Protection Plan (Ord. 164517 7/31/91):

"This is the highest quality resource site within the study area. The site's vegetative cover is predominantly second growth forest with representative stands of each serial stage of the western hemlock upland forest community. A small stand of old growth Douglas fir is also present in the lower Miller Creek canyon. Climax forest species such as western hemlock, western red cedar and pacific yew are also well established at the site. Forest cover provides open space, scenic and recreational resources; serves as habitat for resident and migratory wildlife; and helps to balance the local water regimen. Snags, downed logs and woody debris found at the site are critical structural and functional components of the watershed ecosystem. Western wahoo is a prominent component of the riparian plan community. Crane's bill has spread into the lower basin and threatens to dominate the mesic herb community.

"The site's year round creek provides habitat for a range of sensitive fauna species including coho salmon [footnote referring to endangered species act omitted], cutthroat trout, steelhead, spotted and red-legged frogs. The Creek also supports a healthy population of macroinvertebrates. Mammalian species known to use the area include black bear, bobcat, beaver, coyote and deer. Bird species include pileated woodpecker, red-tailed hawk, great horned owl, great blue heron, band-tailed pigeon, bluebird and a variety of other songbirds. Interspersion with surrounding habitat allows for free migration of wildlife; game trails were identified running parallel and perpendicular to Miller Creek. This site may provide an important travel corridor for mammals to and from habitats north of the city." (p. 189-190)

This commentary provides an interesting contrast to the superficial treatment in the County's study by SRI/SHAPIRO. A copy of the City of Portland Northwest Hills Natural Areas Protection Plan is submitted herewith as part of my testimony. The 4/28 study repeats the absurd and intolerable deficiency of the April 8th study of the north county streams, omitting the watersheds from the impact areas. (p.1). The impact area is

Dedicated to Protecting and Enhancing Portland's Forest Park

restricted in the study to narrow riparian zones along the banks. The riparian zones are just a small fraction of the obvious actual impact area which must include the watersheds and any other waterways that the streams empty into. The following chart shows how much of the watershed impact area was not considered in the study:

Creek	Riparian Zone Width (ave.)	Riparian Zone Area	Watershed Area	% of Impact Area Omitted from Study
Jackson Creek	132 ft.	52.8 acres	900 acres	94%
Joy Creek	86 ft.	24.2 acres	400 acres	94%
Jones Creek	206 ft.	40.0 acres	705 acres	94%
Rocky Point Creek	200 ft.	24.2 acres	445 acres	95%
Scappoose Creek	198 ft.	57.5 acres	545 acres	89%
East Fork McKay Creek	199 ft.	43.4 acres	735 acres	94%
North Jackson Creek	202 ft.	63.7 acres	780 acres	92%
Wildwood Creek	No Access		90 acres	100%
North Wildwood Creek	94 ft.	38.7 acres	990 acres	96%
Middle Wildwood Creek	134 ft.	32.7 acres	580 acres	94%
South Wildwood Creek	98 ft.	31.6 acres	600 acres	95%
North Rainbow Creek	137 ft.	38.1 acres	775 acres	95%
South Rainbow Creek	55 ft.	11.6 acres	510 acres	98%
Holbrook Creek	157 ft.	38.1 acres	360 acres	89%
South Jackson Creek	350 ft.	33.9 acres	120 acres	72%
North Rock Creek	194 ft.	127.0 acres	2,190 acres	94%
McCarthy Creek	119 ft.	107.9 acres	2,100 acres	95%
Middle Rock Creek	134 ft.	48.0 acres	1,260 acres	96%
South Rock Creek	69 ft.	61.8 acres	1,780 acres	97%
North Bronson Creek	119 ft.	14.4 acres	210 acres	93%
South Bronson Creek	94 ft.	15.9 acres	395 acres	96%
Balch Creek	98 ft.	31.7 acres	700 acres ¹	95%
Saltzman Creek	No Access		195 acres	100%

There is no way that an ESEE analysis that excludes about 95% of the obvious impact area from consideration can possibly survive a court challenge. The fact that the watershed area is being studied as part of the impact area for wildlife, aggregate and scenic resources does not in any way allow exclusion from the requirement of OAR 660-16-005 that all of the impact of, and on, conflicting uses be evaluated for the streams resource. That means the entire impact area must be considered relative to the studied resource. This is not a mere technicality. It does not take an expert to know that the quality and existence of a stream is dependent, without reservation, on the size and function of its watershed. The habitat, scenic and aggregate resource studies do not assess the impact of watershed degradation and destruction on the streams.

A paper by Derek Booth and Lorin E. Reinelt, presented at the Watersheds '93 Conference at Alexandria, VA, is enclosed and is part of this testimony. It address impacts of urban activities on watershed function and streams. It documents that roads and other impervious surfaces covering a very small percentage of a watershed have impacts far out of proportion to the amount of impervious surfaces. Some of the effects leading to the conclusions are intuitively obvious. For example a cut into a hillside for a road or driveway usually cuts through the layer of soil serving as the watershed. Water seeping from upslope, that would

¹ The study does not distinguish between portions of Balch Creek and the watershed in the City and unincorporated area.

gradually, over weeks and months work its way to downslope streams, runs into a roadside ditch and is swiftly removed from the scene. The result is higher peak flows and lower minimums, and drying of former all year streams. Aquatic life is reduced or destroyed by both the high and low flows

The highly destructive impact of roads is addressed, but the report does not recognize that driveways have exactly the same effect on the creek and its watershed.

The purported reconciliation of conflicting uses is of very low quality. It does exactly what LCDC objected to in the county's earlier decisions; it lumps all the streams and makes a single statement for all about protecting the resources and allowing conflicting uses. The streams have different characteristics and are in different degrees of preservation. They have different values and are threatened differently by conflicting uses, which also have different values in the areas of different streams. For example:

"However, if residential development is eliminated or curtailed in order to preserve and enhance significant streams, the negative impacts of such a decision include decreased property value for residential uses, increased regulation and associated costs, increased cost due to changes in standard construction techniques, loss of amenity associated with a 'premier' building site adjacent to a stream, potential for environmental impacts at an alternative site for a residence [this one is astonishing], whether on the same property or on another property, and increased energy costs at an alternative site for a residence on another property, assuming that property is further removed from the resident's [sic] places of employment and commercial activity. [One wonders what professional skills went into reaching the last conclusion.]

"Since most properties in the West Hills contain large amounts of land, a protection program which directs residential development away from a significant stream running through a property proposed for development would provide the best balance between protection of significant streams and residential development. The protection program should specify a minimum setback from a significant stream for all site-disturbing activities, the only exception being if no other feasible site location for a residence exists on the property (and then with regulations to minimize impacts upon the stream.) (Page 17)

"Balance" is not an objective contemplated or condoned by OAR 660-16. The requirement is to identify a resource, identify uses which may conflict, and determine the appropriate degree of protection for the identified resource, which may range from no protection to full protection by prohibiting conflicting resources. Balance may be a result of the required analysis, but is not the object. The way the study uses "balance" is like saying we will protect pennies and dollars equally. Value must be determined, and protection must relate to value.

The study reaches conclusions about property values without citing any substantial evidence whatever. Some of its conclusions show a very limited perspective. While a development restriction on a single property, e.g. requiring siting where impact is minimized, may reduce the value of the property, the general limitation on other properties in the area tends to preserve and enhance property values. That's how zoning works. You can't put a steel mill in a residential area, so your value is limited. But, the value of your neighbors' property is obviously protected. Obviously, the value of riparian land is severely impacted if a once lovely stream now floods in the rainy season, erodes its banks, threatens residences and goes dry from July to October. With respect to those considerations, the economic impact of protection is to enhance values.

The study's recommendations are overly general, and, in some respects, thoughtless. For example. Suppose we require a minimum 100 foot setback from the bank of a stream. In typical cases that will add 80+ feet to the driveway, causing additional impact. A horrible case might involve a property with a creek through it. Suppose there is a road and 100 feet between the road and the creek. Across the creek the property extends 1000 feet beyond the creek, with most of it steep, and the nearest suitable building site is 800 feet from the creek. The proposal would forbid a house in the 100 foot area between the creek and the road, and instead would place a house 900 feet from the road (100 to the creek and 800 on the other side). A bridge or culvert would cross the creek and a total of 900 feet of driveway would disturb the watershed. It's dumb. And, the recommendation would allow a residence on any property, no matter what the consequences. There is no substantial evidence in the record that justifies allowing a conflicting use no matter how damaging it is to the stream, an identified Goal 5 resource.

I am not familiar with all of the streams, and can only note the deficiencies I recognize. In considering Balch Creek, the study does not identify the three forks identified as significant streams, Thompson, Cornell and "South-Audubon" (C-5-93 Exhibit A Supplemental Report to the Planning Commission). (I wonder if there are not equally critical omissions concerning other streams.) The information and conclusions on Balch Creek are trivial. A copy of the City of Portland Balch Creek Watershed Protection Plan is submitted herewith as part of my testimony. As does the Northwest Hills Protection Plan, the Balch Creek Watershed Protection Plan provides an example of more sophisticated and useful Goal 5 work.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Arnold Rochlin".

Arnold Rochlin, Treasurer

FRIENDS OF FOREST PARK

P.O. BOX 2413
PORTLAND, OREGON 97208

OFFICERS

Chris Wrench, *President*
John Sherman, *Vice President*
Arnold Rochlin, *Treasurer*
Julia Gibson, *Secretary*

March 20, 1994

Multnomah County
Division of Planning
2115 SE Morrison St.
Portland, Or 97214

COMMENTS ON MINERAL AND AGGREGATE SIGNIFICANCE DETERMINATION

These comments, pursuant to your notice of March 11, 1994, are submitted on behalf of the Friends of Forest Park.

Substantial records of great importance to this process have been accumulated by the county from when this process began in the late 1980's. I observe that there has been a continuous process of periodic review since then, and that all evidence, testimony and other records of proceedings developed on this matter remain a part of the record and must be before any hearing or review authorities.

Designation of the entire 397 acre area known as the Angell Bros site as a significant resource, is an error, and was made in violation of the procedures and standards published in OAR Chapter 660, Division 16.

OAR 660-16-000(1) requires the county to collect "available data from as many sources as possible including experts in the field, local citizens and landowners." The process of evaluating the site and designating it as a significant resource was carried out in 1989 to 1990. The county made no effort then to collect data from as many sources as possible. The expert advice relied on was the opinions of persons hired by the commercial operators of the quarry who have been seeking authority to expand. While *as many sources as possible including experts* may be defined by some practical limits, the record does not show any effort by the county to seek unbiased expert advice. The plain language of the rule places an affirmative duty on the county to seek out and obtain expert advice. The county did not comply by its conduct of holding hearings and passively accepting the testimony of whoever happens to offer it. If the rule has any meaning at all, it must require an effort to obtain information and opinion from sources independent of those standing to profit from a particular outcome. There is no evidence of compliance with this rule. (Widespread public interest developed during hearings in 1992 on an Angell Bros conditional use application, that led to the submission of unsolicited substantial independent expert advice which drew a very different picture.)

OAR 660-16-000(2) requires that "A 'valid' inventory of a Goal 5 resource under subsection (5)(c) of this rule must include a determination of the location, quality, and quantity of each of the resource sites." And, it requires a description or map of "the boundaries of the resource site and of the impact area to be affected, if different." Independent expert testimony before the County Planning Commission and County Board of Commissioners in 1992, established that the impact area includes the Rafton-Burlington Bottoms wetland (an identified Goal 5 resource), the Multnomah Channel, Forest Park, and a wildlife habitat corridor. None of these areas had been included in the map or description of the impact area in 1990. The Rafton-Burlington Bottoms impact is obvious.

The principal water sources are the streams running through the 397 acre site. Determination of location is not intended as a process to benefit a select individual. It is not credible that the limits of the underground rock resource exactly coincide with the boundaries of the site leased by Angell Bros. It is obvious, and should be accepted as fact, that the resource location boundaries were selected for reasons other than objective findings and conclusions about quantity, quality and location. There is no evidence whatever in the record that the resource is contained within those boundaries or, everywhere extends to those boundaries. The requirement that the county collect data from expert sources implies that the county must to some reasonable extent, rely on relevant facts, and not commercial interest, to designate a purportedly significant resource. It is widely and generally known, and there was substantial evidence presented to the county in 1992, that the sort of rock found at the Angell Bros site is what constitutes the entire Tualatin Range. To attach significance to this site, the findings must differentiate it from the apparently similar "site" extending for miles northwest and southeast of Angell Bros. With regard to location, no consideration is given to where the market is for the Angell Bros rock. A letter from Jerry J. Gray, Economic Geologist for DOGAMI, April 13, 1990, indicated that "planning issues such as this one can be better addressed in total with a more rigorous Goal 5 effort tied to regional supply and demand data." That kind of data is required to judge the value of location, and was not considered.

Quantity cannot be considered in a vacuum. A gallon of water in the Sahara has a different meaning than a gallon of water in Portland. Some testimony has said there are 220,000,000 yards of rock on 283 acres of the Angell Bros site into which they asked the county to allow expansion of operations in 1992. There are an estimated 25,000,000 million yards of recoverable rock on the 42 acres approved for expansion in 1990. That 42 acres is still untapped, and would last over 60 years.¹ Angell Bros has publicly admitted that the presently approved area contains a 25 year supply. By anybody's calculations, the entire 397 acres is far greater than any reasonable projection of need justifies.

On March 6, 1990, Bob Price, of David Evans and Associates, representing Angell Bros, testified before the County Board of Commissioners that the original 72 acres quarry site had material left for only 14 months. It's four years later, they're still mining the original site, and the management will not say how much rock is left. A March 1, 1990 David Evans report said that a 48 acre expansion area would yield 5,000,000 yards that would last 5 years. A 42 acre expansion area was approved. It hasn't yet been touched, and it has about 5 times the rock estimated by David Evans. Neither Angell Bros nor their representatives have been a source of information that a reasonable person would rely on.

Quality is addressed below, but, as the requirements of location and quantity are not met, the designation must be invalid under the first sentence of this subsection.

OAR 660-16-000(3) requires that quality be determined with consideration of the "site's relative value, as compared to other examples of the same resource site in at least the jurisdiction itself." The record does not show any consideration of relative quality of the same resource extending for miles in two directions under the Tualatin Mountains. While the rule does not mandate that the county look outside of its jurisdiction, neither does it authorize the county to close its eyes to what is widely known. Huge quarries with high quality clean aggregate product operate just over the north county line. This was ignored by the county. Expert testimony offered to the County Planning Commission in 1992,

¹ Angell Bros. has pledged no increase in truck traffic and, in applying to DEQ for a permit, indicated that they will maintain a maximum rock crushing capacity of 810,000 tons per year (the specific gravity is 2.5, so it works out to 400,000 cubic yards).

based on analysis of well logs from drillings on nearby properties, established that the quality of rock in the Angell Bros area varies considerably, much of it not of the quality represented to be on the Angell Bros site. The testimony was that the entire Angell Bros site was unlikely to be of the uniform quality indicated by Angell Bros' witness. The independent witness testified that it was necessary and appropriate to drill sample holes to establish the quality pattern before assuming any generally distributed quality. The only reason given for not drilling test holes, was that it wasn't worth it. No reasonable person would have accepted the speculation of a witness that the circumstances happen to be exactly what his client prefers, in favor of an independent witness' explanation that the quality cannot be established without testing. Testimony was given in 1992 by Kevin Foster, professional geologist, certified engineering geologist and professional engineer, that the quality of the site was poor because of a massive overburden of soil, up to 70 feet thick that covers the site, deepest in the area proposed for expansion of quarry operations. The huge overburden not only is an economic burden incurring the cost of removal and storage, but is a hazard. The soil is not stable. Coping with the hazard would require cuts at shallow angles and would interfere with removal of the resource. The evidence relied on by the county, though not contradicted by experts in 1989-90, has been shown recently to have not been substantial, and to have been contradicted by substantial independent expert testimony. The determination of significance cannot be 'valid' under 660-16-000(2) without a proper determination of quality. There was none, the designation was invalid.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Arnold Rochlin".

Arnold Rochlin, Treasurer

cc Steve Oulman

FRIENDS OF FOREST PARK

P.O. BOX 2413
PORTLAND, OREGON 97208

OFFICERS

Chris Wrench, *President*
John Sherman, *Vice President*
Arnold Rochlin, *Treasurer*
Julia Gibson, *Secretary*

April 23, 1994

Scott Pemble, Director
Division of Planning
2115 SE Morrison St.
Portland, Or 97214

COMMENTS ON MINERAL AND AGGREGATE RESOURCE ANALYSIS AGGREGATE RESOURCE SITE #4 - ANGELL BROTHERS FINDINGS AND CONCLUSIONS, C 1-94

These comments are submitted on behalf of both myself, Arnold Rochlin, and the Friends of Forest Park. The records of CU 17-90, CU 14-92 and PR 7-92 are cited by staff. As this proceeding is a continuation of those proceedings, we request that the records of those proceedings be formally introduced to, and made a part of, this proceeding.

Our testimony of March 20th concerning the "significance determination" demonstrated that it did not comply with the essential requirements of OAR Chapter 660, Division 16. There is no indication in the analysis that the county has done other than ignore that testimony. It is attached here for the new purpose of addressing this analysis.

The staff analysis relies uncritically on biased, unfounded incomplete and otherwise doubtful reportage by agents of Angell Brothers as if it were established fact. And, it apparently relies on doubtful interpretations of state law. The purported facts and misunderstood law, combined with some actual facts and law, form the basis of the "findings and conclusions". That the staff itself is biased in favor of aggregate mining over any other use, is nowhere made more clear than on page 3:

"Angell Brothers proposed to establish a conservation easement area (Exhibit O of CU 14-92) on the southern border of the expansion area that was to be protected from mining and further clearcutting. That buffer area comprised approximately 39 acres. Angell Brothers also proposed to set aside approximately 99 acres at the Northeast and Northwest corners of the site as visual buffer areas and four acres in setbacks around the remaining perimeter of the site. The total of all these buffer areas was approximately 142 acres. Mining was proposed occur [sic] on 141 acres of the 283 acre expansion area."

Almost every fact is wrong. The proposed southern buffer is not 39 acres. Angell Brothers described it as 360 feet by 2700 feet and totalling 25 acres (PR 7-92/CU 14-92 Application [hereafter, "Application"] p.1). And that's an exaggeration. 360 X 2700 comes to 22 acres, not 25! The 99 acre buffer on the north is described by Angell Brothers as only 80 acres (Application, p.4)! Staff says that of the 283 acre expansion area, only 141 would be mined. That result, using bad arithmetic, was obtained by subtracting the wrong 39 and 99 acre buffer figures from 283 to get an even more wrong 141 acres. (283-99-39=145) And, not all of the 80 acre northern buffer is in the 283 acre expansion area (Application, Exhibits B and C)! These exaggerations in favor of Angell Brothers are not uncharacteristic of the report as a whole.

Dedicated to Protecting and Enhancing Portland's Forest Park

QUANTITY AND QUALITY

The analysis relies on the Angell Brothers commissioned Schlicker report as establishing the quantity and quality of rock. (p.2.)¹ The Schlicker report characterizes itself as being only a "preliminary reconnaissance". (p.1) But staff enthusiastically elevates the document (which has no purpose but to encourage county approval of a commercial enterprise) to a "study". The Schlicker assessment was largely based on only two bore holes in an area of about a half of a square mile. Expert testimony in the CU 14-92/PR 7-92 Planning Commission proceeding established that well logs from nearby properties show considerable variation in the character of the subsurface rock, and that several more test bores would be required to reliably establish the quality and quantity of the resource.

RECLAMATION

Staff not only accepts the Angell Brothers reclamation proposal as offered, but puffs it up. The Angell Brothers proposal is to mine nearly half of the proposed expansion area (stages I and II) before even starting reclamation. (Application p.4) Staff added its own gratuitous surmise: "Sequential reclamation would then begin with probably one bench per year being established and reclaimed." (p.3) If one accepted only half of the Schlicker claim of 220 million yards of rock, i.e. 110 million, and if stages I and II contain half of that (55 million), then then it might be that no one now alive would see reclamation even begin (much less see it completed). Rock crushing limits production to 400,000 yards (810,000 tons) per year. (Application, Exh. H. attachment) Angell Brothers has said they will not increase truck traffic on the site, which ranges from 10 to 250 trucks per day. (Application, p.7) Taking crushing as a limit, 55 million yards at 400,000 a year, would take 138 years! The staff uses the 250 trucks a day as the maximum for traffic impact evaluation. (p.6). If each truck is of the trailer sort, carrying 20 yards (a standard quarry dump truck carries 12 yards), and if the quarry is open 6 days a week, it could total about 1.56 million yards a year. Even if rock crushing (with associated noise and dust) were quadrupled to accommodate constant truck traffic at the maximum level, it would take 35 years before the first reclamation. (Some of us will survive) That is when reclamation is promised to start, based on mining only 55 million yards out of 220 million! It would take twice as long for proposed reclamation to be completed, as it will start when only half of the expansion is mined.

Aside from the schedule, the proposed reclamation will not restore the site to functional native forest and wildlife habitat. It won't even look good. Substantial evidence was presented in the earlier proceedings, that no project of this sort has ever been successfully restored to a reasonably successful forest. The proposal is to leave the site in the form of huge rock benches (about 100 feet high). Such benches are typically covered with about 1 foot of "top soil", insufficient under the best of conditions to restore a forest. And, in the process of removing soil for mining, it becomes a mixture of top soil and under layers. The soil is then stored in huge piles for decades. All but a few feet at the surface of the piles becomes sterile. It may take a generation for an otherwise good mix to become alive with the fungi, worms, microbes, insects and whatever else is necessary to support good growth of even shrubs.

Despite all this, which is plain to see in the record, staff relies on reclamation to restore the natural function. "[R]eclamation would provide for future forest management." (p.13) "[The value of timber production] would be lost until the site were reclaimed for forestry purposes..." (p.16) "Reclamation would allow for future utilization for forestry." (p.20)

¹ Page numbers given without citation to particular documents refer to the staff analysis.

"Incremental reclamation would reduce the amount of land removed from forestry at any one time." (p.25) There is no justification for assuming the Angell Brothers reclamation will result in a forest. Only token reference is made to the substantial evidence of what is actually the likely result of reclamation. (p.14) The staff has been misled in part by a DLCD staff contention that reclamation is the exclusive domain of DOGAMI. That agency's approval is a requirement for reclamation plans, but that cannot stop this county from looking squarely at the facts and deciding what will be the impact of mining the full site on other valuable resources and uses. OAR Chapter 660 Division 16 places an obligation on the county to do exactly that. Nowhere does any Goal 5 regulation direct the county to ignore otherwise applicable requirements because a state agency is responsible for issuing permits related to some possible operation on a site at issue.

IMPACT AREA

Staff arrives at an impact area defined as the area within a line 1200 feet beyond the perimeter of the tentatively designated resource area. The staff reached that conclusion by an unlawful method. Staff says: "The impact area for this resource site should be large enough to include a portion of each of the impact areas for wildlife habitat, streams and wetlands, and scenic resources so that potential conflicts can be considered." (p.4, underline added) There is no authority in the OAR to select only a "portion" of the impact area. The impact area is "area to be affected" (OAR 660-16-000(2)), not part of the area to be affected. If less than the actual impact area is considered, it will be challenged.

Staff relied entirely on an Angell Brothers commissioned report by Daly, Standee & Associates which proposes a 1200 foot buffer zone around the quarry to meet DEQ sound standards. (p.5) That number is totally unrelated to the area impacted by other effects of the quarry. The effect on the wildlife habitat corridor obviously goes far beyond the 1200 feet and obviously includes Forest Park. The Multnomah Channel is heavily impacted beyond the 1200 feet, by even the current operations. The scenic impact extends across much of Sauvie Island. An arbitrary 1200 foot perimeter cannot meet the Columbia Steel Castings standard, and a decision that doesn't meet that standard will surely go into litigation with a resulting order to redo the work yet another time.

CONFLICTING USES

Highway 30

Staff doesn't consider Highway 30 a conflicting use, because the proposal to run 250 trucks a day (up from 10-250 now) is within the maximum carrying capacity of the road. (p.6) Staff ignores the total impact on traffic. Assuming the quarry is generally open 13 hours a day, then every 3 minutes (if evenly spaced), a trailer truck loaded with gravel will pull out onto the highway. And every 3 minutes, one will slow down and turn into the quarry (a left turn 90% of the time). Despite a requirement that wheels be washed before leaving the quarry, the mud is distributed on the highway creating a dangerous and annoying condition. Staff should make a surprise inspection of the site during wet soil conditions instead of swallowing the applicant's representations. Even the current quarry traffic impacts transportation, and expansion must lead to greater impact. It is silly to deny that the highway is a conflicting use. The proper issue is how the conflict is to be resolved

MUA 20 Zone

The staff report says that the MUA zone in the impact area is on land owned by BPA which is required to be retained in its natural state. Staff says: "Since there is no development potential within that portion of the impact area designated MUA-20, MUA-20 uses will be

excluded from the following analysis of conflicting uses allowed by zoning district." It is extraordinary that planning staff is not aware that the zoning code defines "Public and private conservation areas" as one of the primary uses in the MUA-20 zone. (MCC 11.15.2128(D)) OAR 660-10-005 requires determination of conflicting uses by "examining the uses allowed in broad zoning districts established by the jurisdiction (e.g., forest and agricultural zones)." The staff recommendation to ignore a primary use in the zone, cannot withstand legal challenge.

Forestry

Staff, without substantial evidence, believes that forest use will be fully restored after reclamation. (p.13, 16, 18, 20) All of the substantial evidence of the prior record is to the contrary. Even the DOGAMI witness before the Planning Commission (CU 14-92 and PR 7-92 hearing) would not say that a useful forest could be grown on a "reclaimed" site. Certainly, nothing of the quality that can now be grown could be restored. The staff report does not consider permanent loss of forest in it's analysis, as required by the OAR. There is no known successful forest restoration of an open pit mine.

Rafton/Burlington Bottoms Wetland

DLCD staff has wrongly tried to make the staff believe that the county cannot find that silt laden water coming off of the quarry site, now and in the future, would harm the wetland, a Goal 5 protected resource. The DLCD theory is that because a DEQ permit is required to regulate the quality of water in the on site streams, there is state pre-emption. The staff bought it. Even worse, the staff makes the assumption that, a DEQ permit assures zero contamination:

"The Rafton/Burlington Bottoms is a "3C" Goal 5 resource site. The existing mining operation is conducted in compliance with state regulations that insure no adverse impact that site [sic], as would be the case for any expanded operation." (p.16)

"There would be no environmental effect on the Rafton/Burlington bottoms by an expanded mining activity since any expansion must be conducted under environmental control measures that result in no conflicts with the identified wetland resource." (p.20-21)

This is nonsense. (Photographs of effluent from the quarry are submitted with testimony from Chris Wrench). Silt laden water raises the level of the wetland and destroys it. Expert testimony in the prior proceedings was that expansion would increase siltation up to 10 times current levels. The staff's naive assumption that state standards mean there can be no impact, cannot be accepted. First, neither DEQ nor DOGAMI set "zero impact" standards. Second, there is no representation by either agency that enforcement is strict. In fact, enforcement is feeble, and there is substantial violation.

The "North" Angell Brothers stream is the major source of water for the wetland. The staff, however naively, considers only particulates. Great harm will come from destruction of the stream itself. An expanded quarry would clear the soil from the watershed. Without a watershed, there is no stream, just a storm sewer. It is impossible to preserve a stream in an open pit mine, when the original surface of the mine is its watershed.

The evidence is that expansion of the quarry will not do just a little harm, it will likely destroy the wetland.

Streams

(See Rafton/Burlington Bottoms above)

West Hills Wildlife Habitat Area

The analysis is inconsistent. In one place, staff proposes to not consider the impact of mining on wildlife and fisheries, on the assumption that it's sufficient to consider those impacts in the separate study of the wildlife habitat area. (p.13) That is not sufficient. These resources are impacted by mining and, legally, must be considered as part of the analysis of conflicting uses for the Angell Brothers site. Without including these resources, approval of expansion could not withstand legal challenge.

Multnomah Channel

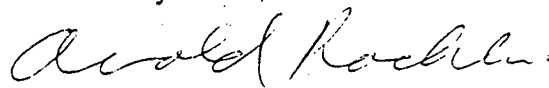
The channel is an identified protected resource. It is a principal recipient of the Angell Brothers effluent and the impact obviously extends far beyond the small part of the channel overlapped by the impact area designated by staff on page 7:

ECONOMIC IMPACT

Staff addresses the value of the aggregate exclusively on the basis of a statement by the Angell Brothers attorney. It is alleged that the rock is worth 42 million dollars and provides a payroll of about \$500,000. The implication is that this would be lost if the expansion were not approved. In fact, the existing approved quarry site is good for 25 to 60 years, and there would be no economic impact for at least that time, if the proposed expansion site were preserved for forest use. And, at the end of that time, much of the purported \$42 million dollars worth of rock would have been removed and sold. The 60 years was calculated from an estimate of 25,000,000 yards, mined at the rate of 400,000 per year, the maximum rock crushing capacity. See the letter from Dr. John Sherman to Leonard Yoon, Planning Commission Chair, of October 16, 1992. That testimony was uncontradicted during the CU 14-92 and PR 7-92 proceedings, where it was presented. During those proceedings, the Angell Brothers representative said he did not know how much rock was on the currently approved site. Skip Anderson, the owner of Angell Brothers, has since publicly admitted that the existing approved site has a 25 year supply (Oregonian, 1/6/94, Portland section, p.2)

Determination of economic value requires consideration of facts not addressed at all by staff. Where is the market for aggregate? Near the site? Other locations? What would be the actual economic impact of different costs of transporting aggregate 25 to 60 years from now from prospective mining sites to prospective use sites? If the location of the quarry is economically significant, can other nearby sites be mined? It is well known that the entire Tualatin Range is similar in structure to the Angell Brothers site. Could a similar quantity and quality of rock be mined elsewhere, perhaps in a series of small mines, with less conflict with other uses? Whatever the answers, allowing only forest use of the expansion site would preserve it for possible future necessity. Only the conflicting forest use should be allowed.

Sincerely Yours,



Arnold Rochlin, Treasurer

FRIENDS OF FOREST PARK

P.O. BOX 2413
PORTLAND, OREGON 97208

OFFICERS

Chris Wrench, *President*
John Sherman, *Vice President*
Arnold Rochlin, *Treasurer*
Julia Gibson, *Secretary*

April 25, 1994

Scott Pemble, Director
Division of Planning
2115 SE Morrison St.
Portland, Or 97214

COMMENTS ON WEST HILLS SIGNIFICANT SCENIC RESOURCE ANALYSIS FINDINGS AND CONCLUSIONS C 3-94

These comments are submitted on behalf of both myself, Arnold Rochlin, and the Friends of Forest Park. We request that the records of CU 17-90, CU 14-92 and PR 7-92 be formally introduced to, and made a part of, this proceeding. We have some objections to the content of the analysis:

1. The Board of County Commissioners adopted a scenic resource designation that does not exclude areas not visible from the staff designated "key viewing areas". There was considerable testimony, both before the Planning Commission and Board of Commissioners to the effect that there are scenic drives and other areas of viewing pleasure not known to or recognized by the planning staff. Although the Planning Commission since adopted the staff recommendation of accepting only views from a distance, we are still bound by the Board of Commissioners' designation. There is no justification for completely eliminating part of the area which the Board designated as significant. Staff was duty bound to evaluate all of the designated area and to make recommendations based on the evaluations. It was entirely wrong to not even evaluate what staff wants excluded.

2. Staff swallows the discredited claim that open pit mining has only a temporary impact. The impact "can be considered temporary" (p.7) only if there is substantial evidence that reclamation will restore the site to a forested character that will blend with the surrounding forest. But, all of the substantial evidence is to the contrary.

3. Staff assumes that large tracts owned by commercial timber companies will not be divided. (p.6) It's a fallacious assumption. Did Crown Pacific not cut and subdivide hundreds of acres? That's the current economic structure. Corporations don't have 60 to 100 year outlooks. They make quarterly reports to stockholders and give bonus to management based on annual performance. Only institutional regulation can direct institutional economic units. Staff also wrongly assumes that residential lots will not be smaller than 80 acres. In case after case, the county planning staff recommends approval of conditional use applications for residences on smaller lots in the CFU zone. **There is no lower limit to lot size for residential use in the CFU zone.** (MCC 11.15.2052) If, as staff implies, such a lower limit is necessary and desirable, then the regulation should be amended. The number of residences that will clutter the hillsides is far higher than estimated by staff. There must be significant restrictions on residential use, mostly in the form of how development is accomplished. For example, merely setting a maximum setback from the roads, e.g. 20 or 30 feet, would eliminate most of the potential negative impact from driveways hundreds of feet long carved out of the hillsides. This would also have the beneficial effect of having an established firebreak on one side of the house, and would provide excellent access for fire fighting and other emergency

Dedicated to Protecting and Enhancing Portland's Forest Park

equipment. Staff is concerned that restrictions on building sites would lead to siting in vulnerable locations (p.9). If short setbacks from roads are required, staff's concerns will be satisfied by generally minimizing site disturbances. At the same time, it would put houses in areas already made unnatural, and would generally keep them off of the ridge tops where they would be visible from the key viewing areas.

3. Staff takes all of its information on value of mining, and impact on mining, from the proponents and owners of the Angell Brothers quarry. (p.10) There is substantial evidence in the record, that the existing approved mining area has sufficient resource to last 60 years. Staff does not identify any evidence whatever about where the areas of development requiring aggregate are. Only a tiny proportion of development in the region and in the county is near the quarry. And, there are large quarries only a few miles away in Columbia County. How much transportation adds to the cost of aggregate is irrelevant when how much must be transported to where is not known and is not considered. The doubtful figure of 15 tons of aggregate used annually per capita in the state, is irrelevant.¹ How much is used in Multnomah County? Where is it used in the county? Where will it be needed in the county 60 years from now? (If the last question cannot be answered, let's wait and see instead of allowing waste of the hills now, from the top down as Angell Brothers has proposed.) Preservation of the proposed mining expansion area for forest use, the conflicting use most compatible with scenic use, **would have absolutely no economic effect for 60 years.** And then, the aggregate would have been preserved, and would be as accessible as it is now, if it is needed. It is absolutely obvious that the conflicting use of additional expanded mining cannot be allowed. Staff's recommendation that we "protect significant mineral and aggregate resources in a manner that will allow future utilization" (p.16) is entirely satisfied by a determination to now preserve the site for its scenic (and wildlife and streams) values. We thus allow the future to determine its own needs and priorities based on certain knowledge. No decision to do otherwise is reasonable.

4. Staff misrepresents Goal 5 regulations as requiring "the county to give equal weight to the protection of all Goal 5 resources." (p.16) That is flatly untrue. OAR Chapter 660, Division 16, on the contrary, requires the county to determine the relative values of resources and to develop a protection plan corresponding to the county's determination of values.

Sincerely Yours,

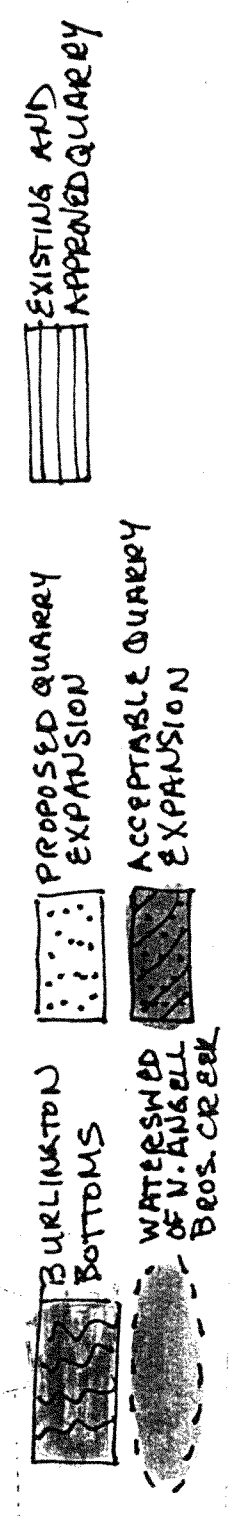
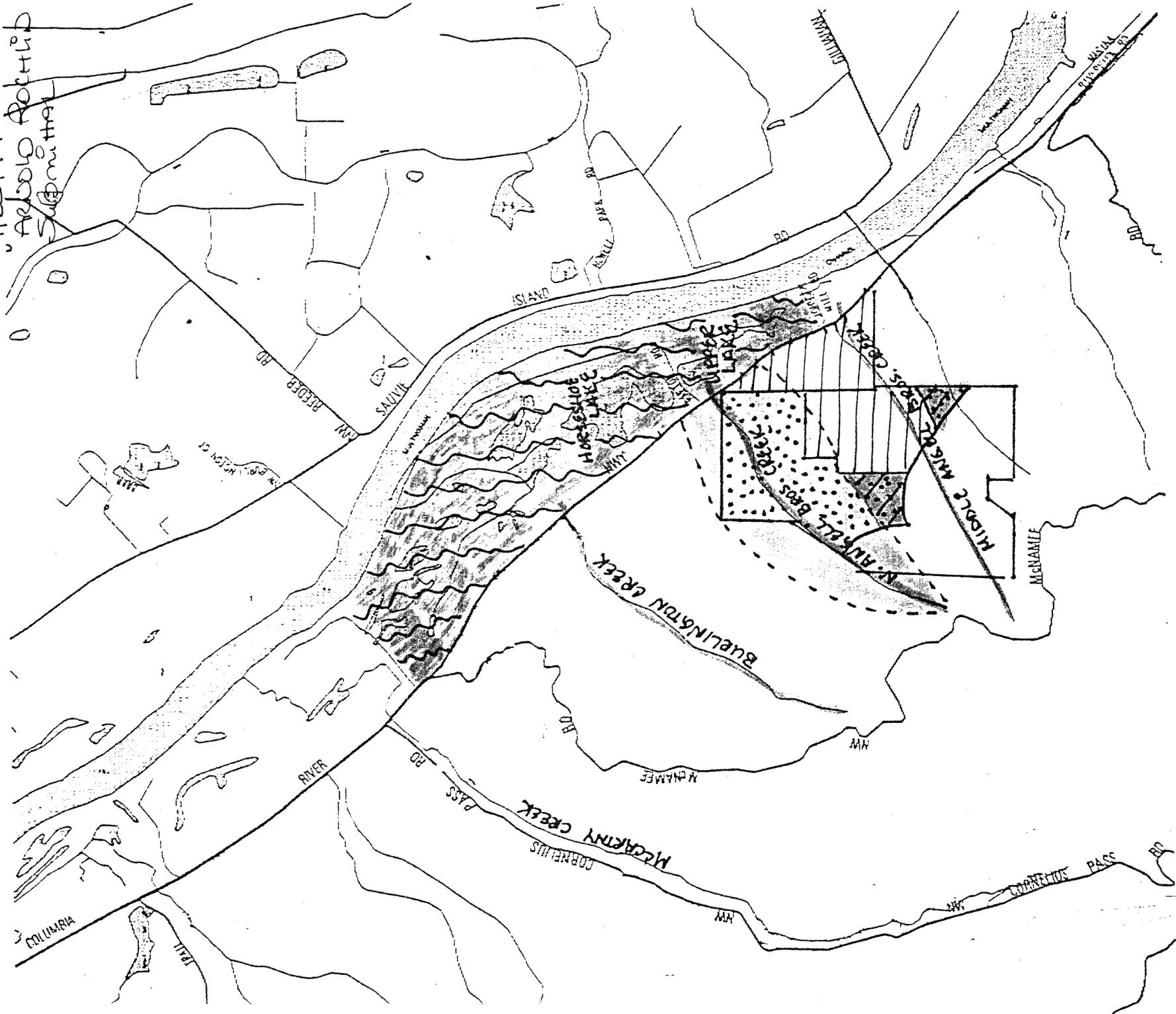


Arnold Rochlin, Treasurer

¹ The West Hills Wildlife Habitat Report, issued April 11, 1994, as part of the same Periodic Review, gives 12 tons as the annual per capita use of aggregate. (p.38)

7/26/1944

ARLORD POTTER
Submitted





**OREGON
NATURAL
RESOURCES
COUNCIL**

MAIN OFFICE

YEON BUILDING, SUITE 1050
522 SOUTHWEST FIFTH AVENUE
PORTLAND, OREGON 97204
503-223-9001

7/26/94
LYN MATTEI
SUBMITTER

*Protecting Oregon's lands,
waters and natural resources*

TO: Honorable Chair Stein and Multnomah County Commissioners
FR: Lyn Mattei, ONRC Land Use Director
DT: July 26, 1994
RE: Multnomah West Hills Appeal: Burlington Bottoms,
July ~~23~~ 1994

The Oregon Natural Resources Council has long been involved in Multnomah County's Goal 5 Periodic Review process. We commend the County for the major efforts it has made to comply with the Department of Land Conservation and Development's (LCDC's) complicated Remand Orders. We are pleased that the County has chosen to protect the major wildlife corridor which is part of Forest Park. However, several concerns remain.

1. Proposed Stream Protection Inadequate

As we have already mentioned, proposed stream protection in both the West Hills and Howard Canyon is inadequate. In addition, both forest and agricultural uses in the West Hills and Howard Canyon need affirmative regulation to maximize protection of riparian areas and to minimize sedimentation, erosion, turbidity, high temperatures, and non-point pollution in adjacent streams. We will be working with the County to try to develop adequate buffer zones that will address some of these concerns.

2. Fish and Wildlife Resources

The Reconciliation Report's ESEE analysis for Howard Canyon apparently omits any consideration of ESEE consequences for wildlife. This is also unacceptable.

3. Burlington Bottoms

We are here today in particular to discuss some of our concerns about Burlington Bottoms. Burlington Bottoms is a significant wetland of both local and regional concern. Because of its proximity to Salvie Island and Multnomah Channel, it is also recognized as a wildlife mitigation area of state-wide concern. As we mentioned at the Reconciliation Hearing, the wetlands area was purchased and enhanced by

Bonneville Power as a major mitigation site. BPA gave Burlington Bottoms to the County to maintain and protect in perpetuity. The County recently turned the care of the wetlands over to Metro. We find that Multnomah County has an affirmative duty to see that Burlington Bottoms ~~are~~ ^{is} protected. This duty is fiduciary and additionally contains aspects of a Public Trust Doctrine.

Although the County has been entrusted with the maintenance and protection of Burlington Bottoms, the wetlands designation in the impact area found in the reconciliation Report eliminates almost all protection for this critical wetland. As proposed, the wetland will be degraded and probably eventually destroyed by excess sedimentation and polluted runoff from Angel Brothers Quarry activities. The Quarry site contains up to 70 feet of overburden, the dirt, clay and waste rock that must be removed to get to the mined rock underneath. Extracting the overburden to get to the rock creates sediment, which comes in at least two forms-settle able solids and turbidity. Settleable solids are particles that settle out when the rushing water slows slightly.

In Burlington Bottoms, according to resident Jodeanne Bellant, silt and runoff from current mining operations have discharged so much sediment and silt into the upstream wetland that the wetland has essentially lost its wetland attributes. Another wetland, the downstream wetland, is fed by the North Angel Brothers stream. Under the County's Plan, expanded mining operations include utilizing the North Angel Brothers stream which will to carry new silt and sediments downstream to harm (fill) the downstream wetland as well. Turbidity would then go into Multnomah Channel.

DEQ's Paul Keiran stated at the last County hearing that he saw no evidence of turbidity and that he believed that Angel Brothers could prevent runoff with correct technology. We accept Mr. Keiran's good intentions but have come to question whether Mr. Keiran's faith in technology might be misplaced. Mr. Kerian recently discussed this very issue in an Oregonian Article about the Karban Rock quarry on the Salmonberry River dated July 5, 1994. The article, entitled Quarry Poses Threat to Coastal Steelhead Runs, Kerian states that "[t]he State can't simply order a special action to prevent runoff because the experts aren't sure how to do that- this is an art, not a science." This article raises serious questions about the ability of even the most technically advanced water quality engineering to avoid excessive sedimentation and stormwater runoff in a quarry situation. We are submitting it into the record for your information.

The County, has entrusted Metro with the job of protectiong and maintaining Burlington Bottoms but Metro can not protect this wetland if County fails to take responsibility for upland impacts. Metro can't do its job (to fulfill the County's trust responsibility) if the County allows adverse impacts from upland sites that are out of Metro's control. We also wish to remind the County that Burlington Bottoms is protected by federal law. In this regard, we believe that discharging sediment into Burlington Bottom- or any wetland- may constitute violation of section 404 of the Clean Water Act. This is just one more reason for the County to make the protection of Burlington Bottoms a high priority.

Thank you for your time and consideration.

Aym Matter
for ONRC

Quarry poses threat to coastal steelhead runs

■ Despite extensive efforts to prevent it from happening, silt finds its way into a tributary of the Salmonberry River

By PAT FORGEY

Correspondent, The Oregonian

Every spring, wild steelhead fight their way up the Salmonberry River to spawn in its cool, clear waters deep in Oregon's Coast Range.

Their return each year is all the more remarkable because the Salmonberry almost died.

A series of forest fires in the 1930s and '40s known as the Tillamook Burn left the river choked with silt and runoff from scorched hillsides. The Salmonberry healed, restoring the clarity and cleanliness needed to support a fish run.

The steelhead are threatened again, this time by a quarry that all players hoped would provide a perfect balance between the public's need for a clean environment and its need for business development and jobs.

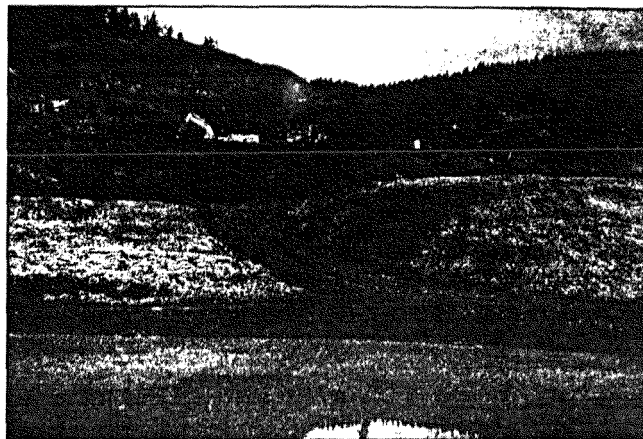
The plan didn't work. In its first winter of operations, Karban Rock Inc. of Hillsboro followed all the state's envi-

ronmental precautions. But it wasn't enough to keep silt from flowing into a tributary of the Salmonberry River during heavy rain.

State regulators would like to fix the problem before the winter rains return, but they don't know how. Karban isn't talking about the silt.

Several agencies regulate different aspects of quarry operations, but for protection of the Salmonberry, the most important is the Department of Environmental Quality. It's supposed to enforce the federal Clean Water Act and prevent problems such as muddy runoff that can come from the quarry.

Paul Keiran, a DEQ storm-water engineer responsible for watching Karban, said that the company's storm-water controls appeared adequate. But when they were tested by heavy rain, he said, they proved incapable of preventing violations.



PAT FORGEY/for The Oregonian

Please turn to
KARBAN, Page B4

Despite settling ponds to capture dirt particles, work at the Karban Rock Inc. quarry in the Coast Range continues to feed silt into the Salmonberry River.

JODEANNE
BELLANT Submitter
7/26/94

July 26, 1994
Jodeanne Bellant MD
14956 N.W. Mill Road
Portland, Oregon 97231

Multnomah County Commissioners
2115 NE Morrison
Portland, Oregon 97231

Dear Commissioners:

I am writing to express concern regarding the current application by the Angell Brothers Quarry to expand their quarry operations. They are asking the County for a Comprehensive Plan Amendment and a Conditional Use Permit for this expansion, which will allow this quarry to operate for many years at their leased site. I and many of my neighbors oppose this application.

Currently, as houseboat neighbors located directly below the quarry site, we are exposed to high levels of dust and noise from the current quarry operations. Blasts from the site have disrupted our residences and dust from quarry operations coats our cars and homes, and presents an airborne health hazard, especially to residents with respiratory ailments. Expanding this operation will increase these detrimental effects on our community, as well as on neighboring homes and homesites on the hill.

We are also concerned regarding the safety of increased truck traffic on Highway 30. There have already been several fatal and near fatal accidents involving dump trucks traveling to or from Angell Brothers onto Highway 30 in the recent past. A Department of Transportation report detailing accidents between the Sauvie Island Bridge and the Angell Brothers Quarry shows two fatalities and 27 injuries in this 0.7 mile stretch of Highway 30 in the 28 months from 1/90 to 4/30/92. This represents more than one fatality or injury per month. Numbers of our moorage residents have been nearly rearended or side swiped by trucks exiting the Angell Brothers Road. Increasing truck traffic to this site would increase the public hazard along this already dangerous section of Highway 30.

The impact of this quarry site on neighboring wetlands is also an impressive issue which was not covered in any way by the Angell Brothers application. The current site includes a stream that empties onto our property and the effects of quarry operations are clearly evident there. We own two wetland areas immediately adjacent and riverward to the railroad right of way and on either side of the Burlington Truck Wrecking Yard. The upriver wetlands have been filled with silt from quarry operations over the past 11 years that I have lived here. Silt now flows directly into Multnomah Channel because the holding capacity of the land has been surpassed. Our downriver wetlands still maintain standing water for much of the year. Expanded quarry operations will affect runoff into the two streams which feed our downriver wetlands and the wetlands of Burlington Bottoms. Hydrologists project, conservatively, that stream and silt flows will increase by 2 to 20 times current values with expanded quarry operation. Settling ponds to control such an increase in runoff would require an 100 acre lake that was 7 feet deep (an impossibility for this site). It is obvious to me that expanded quarry operations would mean the demise of wetlands on our property and on those of Burlington Bottoms. I see no where in the Angell Brothers application where mitigation for the loss of wetlands off site has been addressed.

My neighbors and I would like to express our support for carefully examining the off site effects of an expanded quarry operation at this particular site. Scenic and Open Space values would be drastically affected in this sensitive area of Multnomah County. Water quality would be diminished. Silt runoff from increased operations cannot be mitigated at the current site. Neighboring wetlands, considered important enough for the County to purchase for the public trust, would be devastated. The wildlife corridor between the Coast Range and Forest Park would be compromised. The stability of mined slopes and landslide potential within the site have not been studied. Increased truck traffic on Highway 30 would pose an increased public hazard. In sum, there are many difficulties with the current site that are not compatible with expanded operations.

We urge you to carefully weigh all these issues and to deny an expansion of the current quarry operations at this site.

Sincerely,

Jodeanne Bellant MD

JODEANNE BELLANT
SUBMITTAL
7/26/94

June 13, 1994
Friends of Retaining Channel Environment
Inc. (F.O.R.C.E.)
13010 N.W. Marina Way
Portland, Oregon 97231

Multnomah County Planning Commission and Board of County Commissioners
c/o 2115 S.E. Morrison
Portland, Oregon 97231

Dear County Commission/Commissioners:

We are a group of Multnomah County citizens who are members of a non-profit group, F.O.R.C.E., whose primary focus is the preservation of the unique scenic and natural features of Multnomah Channel and surrounding areas. We are writing in response to the Multnomah County ESEE analysis of the Angell Brothers Rock Quarry site, and we would to oppose their recommendations to allow expansion the operation beyond the current site. Our opposition is based on the following concerns:

1. SCENIC DEGRADATION OF THE WEST HILLS

Multnomah County recently designated the east face of the West Tualatin Hills as a scenic resource. Doubling the size of the Angell Brothers site will cause a scenic blight in one of the most visible and prominent areas of the West Hills, visible from Sauvies Island, Highway 30 and Washington state. We agree with the Multnomah County staff findings from the November 16, 1992 hearing before the Multnomah County Commissioners regarding the Angell Brothers expansion plans, which concurs that a proper reclamation plan would not be feasible for an expanded operation. The County stated:

- a. The proposed Angell Brothers reclamation plan would not "allow the property to be used as envisioned by the comprehensive plan and the underlying district."
- b. The County remained unconvinced that, despite the applicant's evidence, that the site could be successfully reclaimed for forestry uses.
- c. "The applicant did not show that its reclamation plan includes a timetable for continually reclaiming the land," as is required. "The applicant claimed it was impossible to develop such a timetable."
- d. "The applicant did not show that reclaimed surfaces will blend into the natural landforms of the immediately surrounding terrain."

For these above reasons, any plans to expand the Angell Brothers site would severely compromise the scenic qualities of the West Hills and surrounding areas, and these problems are not capable of being mitigated. An expansion should therefore be disallowed.

2. ENVIRONMENTAL IMPACTS

We believe that any expansion of mining activities at this site will severely affect water quality of Multnomah Channel, and degrade low lying wetlands below the site. The November 16, 1992 findings by Multnomah County regarding the Angell Brothers expansion confirmed the following problems:

- a. "The applicant did not show that sedimentation and erosion would comply with DEQ standards" and the applicant provided "no proof that it will comply with those standards."
- b. In fact, the County found "that the applicant will not meet the standards established in its existing waste water permit."
"Discharges of turbid water into Multnomah Channel, which already commonly, are likely to increase in frequency and magnitude."

We disagree that the degradation of North Angell Brothers Creek would have a minimal impact on the significant wetlands on Rafton-Burlington Bottoms. A similar wetlands habitat beneath the current Angell Brothers site has slowly filled in over the past 15 years as a result of runoff from current mining activities. This turbid runoff occurs in spite of current "environmental control measures", which are inadequate to protect either water quality or existing wetlands. To further protect water quality, the DEQ is proposing damming of the creek that flows into this wetlands, which will further destroy the wetland habitat. It is impossible to move the quantities of soil necessary to mine on these hillsides, without creating massive turbid runoff during the winter rainy season. This silty runoff will deposit inevitably into Burlington Bottoms or adjacent wetlands, and then into Multnomah Channel. An expansion of the mining site will only exacerbate current problems.

Overall, we feel that adequate measures to preserve scenic values, water quality, and wildlife/wetlands habitat are not possible given expanded mining operations at this site. We urge that the County reconsider the current ESEE analysis at the Angell Brothers Site to exclude expansion of mining activities.

Sincerely,

Mark Valeske, President
F.O.R.C.E.

7/20/94 DONNA MATRAZZO
SUBMITTAL

RICHARD STERLING SHAFFER

Landscape Architect

14916 N.E. Newport Street
Portland, Oregon 97230

July 20, 1994

Sauvie Island Conservancy
c/o Donna Matrazzo
19300 Sauvie Island Road
Portland, OR 97231

At your request, I have reviewed the Multnomah County West Hills Reconciliation Report on Goal 5 Scenic Resources.

In general, I found that the staff reports (A. Significance Determination, B. Resource Analysis, and C. Resource Protection) were prepared using established principles and methods for visual resource analysis.

I have some comments on specific portions of the reports, which you may wish to include as part of your written testimony for the July 26, 1994 Board of County Commissioners hearing of appeals.

B. Resource Analysis, 2. Conflicting Uses, a. Viewing Parameters:

The final paragraph on page 11-10 discusses the time duration of views from key viewing areas. The final sentence states that *"It may not be important to protect views that are seen for only a few seconds from a passing car."* That is a valid statement, but the converse of it is that it is important to protect views where there are longer time durations, which is the case for most of the key viewing areas for the study area.

C. Resource Protection, 1. Scenic Views of the West Hills, d. Program to Achieve the Goal:

The Standards for Protection of the Scenic Resource, while correctly stating their principal purposes, are written in terminology which makes compliance less than mandatory. Perhaps that was the intent of the authors and the Planning Commission.

The intent of a standard is determined by the "action word" verb. As the author of the Standards for the Scenic Resource in the Land and Resource Management Plan, Mt. Hood National Forest, 1990, I was instructed by management to select from three verbs, which would define the degree of compliance required:

Shall	Action is mandatory
Should	Action is required; however, case by case exceptions are acceptable if identified during interdisciplinary project planning environmental analyses. Exceptions are to be documented in environmental analysis public documents.
May	Action is optional. "May" Standards and Guidelines are included to emphasize resource intent or to clearly describe that a practice is available for use.

Recommendation

As presently written the standards all use the verb "should". I recommend that the County clarify the meaning of "should." As it is, I believe, and I think planners understand, that the applicant for a development will usually attempt to circumvent the intent of the standard.

As an example, the proposed standards concerning Existing Vegetation and New Vegetation could easily be avoided by claiming that compliance was not possible, or by simply planting one or two small replacement trees. If the intent of the standard is truly to provide for protection of the scenic resource, the standards for compliance need to be more specific; e.g., state the number of trees per unit of area to remain or be planted between the structure and the key viewer positions. The City of Portland Scenic Resources Plan, April 12, 1991 (Ordinance No. 163957) contains similar standards which are quite specific.

Richard S. Shaffer

Karban: River's steelhead are a rare, genetically pure stock

■ Continued from Page B1

"They've gone to a lot of effort, but apparently it's not enough," said Walt Weber, district fisheries biologist with the Department of Fish & Wildlife.

Weber is monitoring Karban's compliance with its DEQ permits because of the biological value of the river. Besides steelhead, the Salmonberry has healthy populations of chinook salmon, coho salmon and cutthroat trout.

The river's prize species is its wild steelhead run, though. Those fish are among the best leapers of any anadromous fish and have migrated up the steep river canyon the farthest. They also are a rare genetically pure stock. That is, the run is completely wild and has never mixed with hatchery stocks.

The muddy water that threatens those fish comes in essentially two forms: settleable solids and turbidity.

Settleable solids are particles that settle out when the rushing water slows slightly. Because salmon need clean gravel in which to spawn, settleable solids can smother eggs already in the stream and ruin it for future use as spawning habitat.

While the quarry's first winter of operation has loaded a nearby Salmonberry tributary with sediment, damage to spawning habitat has been minimal because a waterfall blocks fish passage to the creek.

Turbidity poses problem

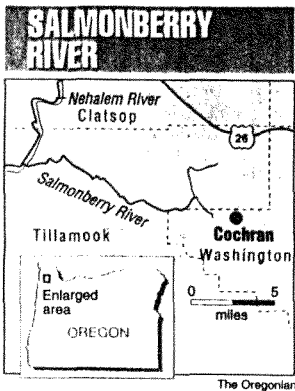
Turbidity is a bigger problem. It's the result of extremely fine particles that float in the water and don't settle out easily. Turbid water can harm fish by stunting the production of aquatic invertebrates that young fish eat, and it can clog their gills and make it harder for them to feed.

The material that causes turbidity is so fine that it won't settle out of the river until it reaches Nehalem Bay at the coast.

The water quality problems have been unfortunate, because the quarry's location seems nearly perfect.

Quarrying and mining operations are noisy and dirty, the classic "not in my back yard" activity that neighbors almost always oppose, said Gary Lynch of the Department of Geology and Mineral Industries, another of the regulatory agencies.

At Cochran, the site of an abandoned lumber mill in western Washington County, there's not a neighbor within miles. It may be the most remote location in northwestern Oregon. There's also an outcropping of hard, high quality basaltic rock, the kind demanded by a booming Washington County for roadbeds



Old rail line figures in

No less important is Cochran's proximity to the old Southern Pacific rail line that runs to Tillamook. The railroad once flourished, carrying lumber from the Cochran mill and dozens of others from the coast to the valley.

The Port of Tillamook Bay purchased the old Southern Pacific rail line in 1989 with \$2.8 million in lottery money. State and federal agencies have spent millions more in public money to subsidize the railroad, which has struggled to break even carrying feed to Tillamook County's dairies and lumber back from its mills.

Now its main freight is rock, extracted from Karban's quarry and shipped down the rails to Hillsboro. The cheap rail transport has been a boon to Karban, but it's also been crucial to getting the railroad back on its feet financially.

"It's critical to us; it provides a million dollars' revenue a year," said Jack Crider, port manager. That revenue has allowed the line to be repaired and upgraded, and the railroad now employs 35 people, 25 of whom are based in Tillamook County, where good paying jobs are scarce.

The importance of the Karban quarry — both economically and environmentally — has made it a high-profile client for the state's regulatory agencies.

Various agencies involved

Besides the DEQ and Department of Geology and Mineral Industries, the Division of State Lands also regulates some aspects of the operation.

Looking over those agencies' shoulders is the state Department of Fish & Wildlife. And the governor's office is watching everybody.

Karban has used a series of measures to try to keep the river clean. The company built five settling ponds designed to purify runoff by



Water flows from a culvert at the end of ponds. It will reach the Salmonberry River, home to one of the state's few genetically pure steelhead runs.

otherwise settle out in the Salmonberry.

"Their storm-water retention facilities are the best I've ever seen," Keiran said, estimating that the company has spent \$200,000 on erosion control.

The company has also covered exposed hills of bare dirt with jute netting or straw, used logs and hay bales to block runoff, scattered small retention ponds around the site to reduce runoff, and even shut down operations during storms.

"When it rains, they quit," said Crider. "We've had to head down the mountain with a train that's half full."

Now, after a winter in which Karban repeatedly violated water quality standards, regulators are trying to figure out where they went wrong.

Karban has admitted to the state that its storm-water controls were simply inadequate for heavy rain. And that was with a drier-than-average winter.

Phone calls not returned

Karban President Peter Adams did not return phone calls or messages to discuss the company's water quality violations. But compa-

interviews with state regulators indicate the company seriously underestimated the effectiveness of its pollution controls.

"It turns out there was a lot more overburden on the site than anybody thought," said Bill Parks, with the Division of State Lands.

Overburden is the dirt, clay and waste rock that must be moved to get at the high quality rock underneath, and it's the bane of the aggregate industry. Finding a safe place to put the huge — and growing — pile of overburden has been one of Karban's biggest problems.

Karban is now proposing to divert a nearby stream into a culvert and dump its overburden in the ravine along with other improvements.

Biologist Weber said his hope is that Karban will figure out how to keep its muddy runoff out of the Salmonberry so that the river's steelhead will survive the expected 50-year life of the quarry.

The state has the power to cite, fine or revoke the permit of a company that violates environmental regulations. The problem with Karban is that the state can't simply order a specific action to prevent runoff because the experts aren't sure how to do that.

"This is an art, not a science."

Documents show enforcement light

By PAT FORGEY

Correspondent, The Oregonian

The state of Oregon told Karban Rock Inc. of Hillsboro in no uncertain terms in February 1993 that the company's Cochran quarry must comply with state water quality standards. Period.

But documents show that when it came to actually enforcing the standards during Karban's first winter of operation, the state was extremely flexible.

State records show that Karban often violated water quality standards in heavy rains, yet the company received only two citations from the state's chief regulator, the Department of Environmental Quality.

DEQ engineer Paul Keiran acknowledged that there had been additional violations for which no official "notice of noncompliance" had been issued. The agency doesn't know how many. Even Karban's weekly water quality reports to DEQ during the winter showed repeated instances of turbidity in violation of its pollution discharge permit.

As long as Karban was cooperating with regulators, Keiran said, the state's policy was to work with the company instead of "going into an enforcement mode," and assessing penalties that could reach \$10,000 a day.

Keiran said that DEQ resources were stretched so thin that the agency was unwilling to develop an adversarial relationship with a company that was trying hard — as Karban was — to comply with regulations.

"If they say 'get lost' we'll come down hard," he said.

The company has had a strained relationship with the Department of Fish and Wildlife

and its fish biologists, vocal advocates for compliance with water quality regulations and protection of fish habitat.

Both the biologists and the company notified DEQ in December 1993 when a pile of overburden "slumped," sending water and mud into the creek. That resulted in Karban's first notice of noncompliance.

The biologists complained again in January and February, but the DEQ took no action. They followed up with pictures of torrents of muddy water flowing from the quarry. The DEQ then issued the second notice in March, lumping the January and February incidents together.

Karban President Peter Adams sent an angry letter to Gov. Barbara Roberts in January after biologist Walt Weber commented at a December meeting that having Karban responsible for its own monitoring and testing was like "letting the fox guard the hen house."

Adams said that the Department of Fish and Wildlife needed to develop a "win-win" attitude if the project was to succeed.

"Karban, and the state of Oregon and the Port of Tillamook Bay all have a big stake in the Rock by Rail project. It's important to all of us financially and the metropolitan community as well," he wrote.

Karban's relationship with the Department of Geology and Mineral Industries and with DEQ is far better. In fact, it was Keiran who nominated Karban for a Geology and Mineral Industries department award.

Karban received an "outstanding operator" award for its pollution controls at Cochran.

1/26/94
SUBMITTAL
CHARLES CIECKO

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1700 | FAX 503 797 1797



METRO

Multnomah County Board of Commissioners
1120 SW Fifth Avenue
Portland, Oregon 97204

July 26, 1994

Re: Additional Comments -
West Hills Reconciliation Report, May 25, 1994
Howard Canyon Reconciliation Report, May 23, 1994

Dear Commissioners;

Thank you for yet another opportunity to provide testimony regarding the above referenced topics.

The primary purpose of our correspondence at this point is to re-emphasize some of our earlier comments and submit several additional exhibits for your consideration.

We are taking the time to submit these additional comments because we continue to believe that your actions related to these initial "rural planning" efforts will set a tone, if not a precedent, for future efforts which have yet to be initiated. In other words, your treatment of significant resources now will temper future actions related to other significant resources.

West Hill - Angell Brothers Quarry

Previous Recommendation: Prohibit all mining in watershed(s) draining into Burlington Bottoms

Rationale:

Burlington Bottom is rated as one of the most valuable Goal 5 resources (Natural Area/Wetland) in Multnomah County. It's value has been recognized by the Northwest Power Planning Council and BPA who (with formal support of Multnomah County) acquired the

428 acre site as mitigation for wildlife losses associated with Willamette and Columbia River hydroelectric projects.

We must respectfully disagree with the conclusions reached by ODFW as conveyed in a letter from Jill Zarnowitz dated May 19, 1994. In essence, this letter states that the "North Angell Brothers" creek is not significant because it is not a major water source for Burlington Bottom.

In our opinion, any water source for Burlington Bottom is significant, especially one with the capability of conveying sediments in considerable quantity into the site.

We urge you to consider these facts:

- Angell Brothers has a history of water quality violations in their existing operation.
- Sediment from the existing operation has seriously degraded a wetland downstream of the quarry site.
- Improvements have been constructed, however, their effectiveness is untested by significant precipitation.
- Over-burden (top soil) in the proposed expansion areas is up to 70 feet deep. this material will be stripped, stockpiled (on-site) and presumably "stabilized".
- The proposed expansion area is moderately to steeply sloping which significantly limits space for effective sediment controls such as retention ponds while increasing both the amount and velocity of run-off and consequently erosion potential.
- Even the best designed storm-water retention facilities have been acknowledged by DEQ as inadequate. See Exhibit A "Quarry Poses Threat To Coastal Steelhead Runs", Oregonian, July 5, 1994.

Based on the above, we believe the risk to Burlington Bottom is too great. Our position is further bolstered by the realization that if expansion were permitted and problems did develop, there's little, if anything, that could be done to stop the problem in a timely manner. Specifically, DEQ fines won't curb

sedimentation and restoration would take years, if feasible at all.

In summary, the question related to the significance of this aggregate source is outside our area of interest and expertise. However, we oppose any expansion of mining activities into watershed(s) that drain into Burlington Bottom because we believe the risk it simply too great.

Howard Canyon - Aggregate Site

Previous Recommendations:

It is recommended that mining activity be prohibited within 200 feet of a significant stream and that all riparian vegetation be protected except for hazard trees. It is further recommended that:

- No mining be permitted within 100 feet of any tributary to a significant stream and that all riparian vegetation be protected except for hazard trees.
- Roads associated with aggregate mining be treated per 7b above and strictly limited to one (1) crossing.
- That the mine operator be required to complete fish, wildlife and water quality inventories prior to an expansion of mining activity.
- That a mining and reclamation plan require specific approval of the Oregon Department of Fish and Wildlife and DEQ in addition to DOGAMI.
- That the mine operator be required to test water quality downstream of the mine at a frequency which is adequate to capture the full range flows expected in the significant streams.
- That exposed earth never exceed two (2) acres at any time.

Rationale:

- The Howard Canyon site is relatively level as compared to the West Hills site and significant streams do not flow through the aggregate site.
- The Corbett Community appears to be in need of an economic source of aggregate for a variety of purposes.
- The existing operation has been characterized as "small-scale", serving primarily Corbett's needs (under 5,000 cu yards/year).
- Our recommendations allow for a finding of significance, a source of aggregate for the Corbett area, reasonable protection for significant streams and, hopefully, residential quality of life.

Howard Canyon - Significant Streams (Howard, Knierem, Big)

Previous Recommendations: Limit conflicting uses as follows:

Residential, Community Services and Conditional Uses:

- Prohibit these uses within 100 feet of significant streams.
- Prohibit these uses within 50 feet of tributaries to significant streams.
- Protect all riparian vegetation within buffers described above.
- Avoid road crossing of significant streams whenever practical. If crossings are unavoidable, require bridge or arch culvert installed in manner approved by ODFW.
- Within buffers described above, restrict soil disturbing activities to typically dry months, require erosion prevention measures and revegetation prior to rainy season.

Agricultural Uses:

- Prohibit crop cultivation and livestock within 100 feet of significant streams.
- Prohibit crop cultivation and livestock within 50 feet of tributaries to significant streams.
- Treat roads as noted above.
- Investigate options for incentives for landowner compliance.

Rationale:

The "Howard Canyon Reconciliation Report" acknowledges the severe degradation of significant streams caused by these uses. See "Stream Profiles" pgs. II-37 thru II-53. For example:

Pg. II-37, "Big Creek was severely impacted by housing and pasture land. Over half of the surveyed area had paved roads adjacent to the stream. Streamside vegetation was degraded and cover was minimal in most areas".

Pg. II-42, regarding Howard Canyon Creek, "The first seven sections have housing and pasture lands adjacent to stream. Where there is pasture, animals for the most part have unrestricted access and at the time this survey was done, cattle were actually seen in the stream..... Banks along this area were eroding with large pieces of bank falling off into stream because of storm event."

Pg. II-49, "Knieriem Creek in general is impacted by housing, roads running along side and lack of cover. Large trees are minimal..... The water is murky and banks show signs of erosion..... Animals have direct access to stream and there is little or no riparian vegetation."

- EPA calls "silt" (from land uses noted above) the number one problem threatening America's waterways. See Exhibit "B", "Silt Major Culprit In Lowering Nation's Water Quality", Oregonian, Tuesday, June 14, 1994.

- Department of Agriculture cites agriculture as major source of pollution in the nation's waterways. See Exhibit "C", "The Invisible Menace", Trout Magazine, Summer 1994.
- Scientists agree that protection of streamside (riparian) vegetation is critical to fisheries and water quality. See Exhibit "D", "Panel Sees Key To Saving Salmon", Oregonian, June 30, 1994.
- Multnomah County has the authority to implement regulations to protect significant streams. In fact, Multnomah County may be the only jurisdiction with the authority to regulate these uses on private property within the area currently under consideration. See Exhibit "E", "Troutdale moves To Protect Beaver Creek", Outlook, July 20, 1994.

In summary, the significant streams in question have been, and continue to be, seriously degraded by agricultural residential, community service and conditional uses within the riparian corridor. Scientists generally agree that riparian corridors must be protected for fishery and water quality purposes. Multnomah County has the authority through its land use planning program to restrict uses within the riparian corridor. Other jurisdictions as noted in the exhibits have implemented restrictions to protect significant streams.

Thank you for the opportunity to submit these additional comments and exhibits.

Warm Regards,

Charles Ciecko
(mg)

Charles Ciecko
Director

cc: Rena Cusma
Merrie Waylette
Judy Wyers
Betsy Williams
Scott Pemble
Steve Oulma

CC/mb
mulcolet.726

Quarry poses threat to coastal steelhead runs

Exhibit "A"

■ Despite extensive efforts to prevent it from happening, silt finds its way into a tributary of the Salmonberry River

By PAT FORGEY
Correspondent, The Oregonian

Every spring, wild steelhead fight their way up the Salmonberry River to spawn in its cool, clear waters deep in Oregon's Coast Range.

Their return each year is all the more remarkable because the Salmonberry almost died.

A series of forest fires in the 1930s and '40s known as the Tillamook Burn left the river choked with silt and runoff from scorched hillsides. The Salmonberry healed, restoring the clarity and cleanliness needed to support a fish run.

The steelhead are threatened again, this time by a quarry that all players hoped would provide a perfect balance between the public's need for a clean environment and its need for business development and jobs.

■ Continued from Page B1

The plan didn't work. In its first winter of operations, Karban Rock Inc. of Hillsboro followed all the state's envi-

ronmental precautions. But it wasn't enough to keep silt from flowing into a tributary of the Salmonberry River during heavy rain.

State regulators would like to fix the problem before the winter rains return, but they don't know how. Karban isn't talking about the silt.

Several agencies regulate different aspects of quarry operations, but for protection of the Salmonberry, the most important is the Department of Environmental Quality. It's supposed to enforce the federal Clean Water Act and prevent problems such as muddy runoff that can come from the quarry.

Paul Keiran, a DEQ storm-water engineer responsible for watching Karban, said that the company's storm-water controls appeared adequate. But when they were tested by heavy rain, he said, they proved incapable of preventing violations.

They've gone to a lot of effort, but apparently it's not enough," said Walt Weber, district fisheries biologist with the Department of Fish & Wildlife.

Weber is monitoring Karban's compliance with its DEQ permits because of the biological value of the river. Besides steelhead, the Salmonberry has healthy populations of chinook salmon, coho salmon and cutthroat trout.

The river's prize species is its wild steelhead run, though. Those fish are among the best leapers of any anadromous fish and have migrated up the steep river canyon the farthest. They also are a rare genetically pure stock. That is, the run is completely wild and has never mixed with hatchery stocks.

The muddy water that threatens those fish comes in essentially two forms: settleable solids and turbidity.

Settleable solids are particles that settle out when the rushing water slows slightly. Because salmon need clean gravel in which to spawn, settleable solids can smother eggs already in the stream and ruin it for future use as spawning habitat.

While the quarry's first winter of operation has loaded a nearby Salmonberry tributary with sediment, damage to spawning habitat has been minimal because a waterfall blocks fish passage to the creek.

Turbidity poses problem

Turbidity is a bigger problem. It's the result of extremely fine particles that float in the water and don't settle out easily. Turbid water can harm fish by stunting the production of aquatic invertebrates that young fish eat, and it can clog their gills and make it harder for them to feed.

The material that causes turbidity is so fine that it won't settle out of the river until it reaches Nehalem Bay at the coast.

The water quality problems have been unfortunate, because the quarry's location seems nearly perfect.

Quarrying and mining operations are noisy and dirty, the classic "not in my back yard" activity that neighbors almost always oppose, said Gary Lynch of the Department of Geology and Mineral Industries, another of the regulatory agencies.

At Cochran, the site of an abandoned lumber mill in western Washington County, there's not a neighbor within miles. It may be the most remote location in northwestern Oregon. There's also an outcropping of hard, high quality basaltic rock, the kind demanded by a booming Washington County for roadbeds and foundations.

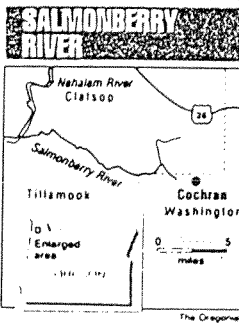
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Please turn to
KARBAN, Page B4



Old rail line figures in

No less important is Cochran's proximity to the old Southern Pacific rail line that runs to Tillamook. The railroad once flourished, carrying lumber from the Cochran mill and dozens of others from the coast to the valley.

The Port of Tillamook Bay purchased the old Southern Pacific rail line in 1989 with \$2.8 million in lottery money. State and federal agencies have spent millions more in public money to subsidize the railroad, which has struggled to break even carrying feed to Tillamook County's dairies and lumber back from its mills.

Now its main freight is rock, extracted from Karban's quarry and shipped down the rails to Hillsboro. The cheap rail transport has been a boon to Karban, but it's also been crucial to getting the railroad back on its feet financially.

"It's critical to us; it provides a million dollars' revenue a year," said Jack Crider, port manager. That revenue has allowed the line to be repaired and upgraded, and the railroad now employs 35 people, 25 of whom are based in Tillamook County, where good paying jobs are scarce.

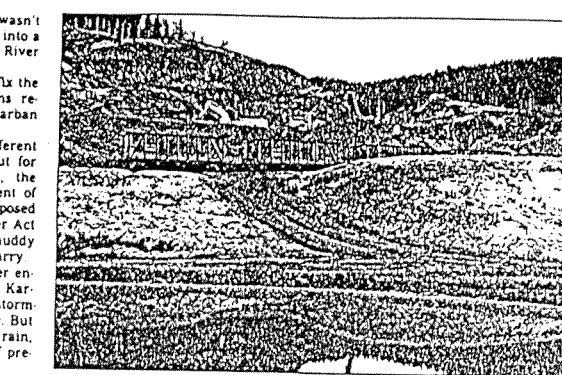
The importance of the Karban quarry — both economically and environmentally — has made it a high-profile client for the state's regulatory agencies.

Various agencies involved

Besides the DEQ and Department of Geology and Mineral Industries, the Division of State Lands also regulates some aspects of the operation.

Looking over those agencies' shoulders is the state Department of Fish & Wildlife. And the governor's office is watching everybody.

Karban has used a series of measures to try to keep the river clean. The company built five settling ponds designed to purify runoff by filtering the sediments that would



Despite settling ponds to capture dirt particles, work at the Karban Rock Inc. quarry in the Coast Range continues to feed silt into the Salmonberry River.



Water flows from a culvert at the end of ponds. It will reach the Salmonberry River, home to one of the state's few genetically pure steelhead runs.

otherwise settle out in the Salmonberry.

"Their storm-water retention facilities are the best I've ever seen," Keiran said, estimating that the company has spent \$200,000 on erosion control.

The company has also covered exposed hills of bare dirt with jute netting or straw, used logs and hay bales to block runoff, scattered small retention ponds around the site to reduce runoff, and even shut down operations during storms.

"When it rains, they quit," said Crider. "We've had to head down the mountain with a train that's half full."

Now, after a winter in which Karban repeatedly violated water quality standards, regulators are trying to figure out where they went wrong.

Karban has admitted to the state that its storm-water controls were simply inadequate for heavy rain. And that was with a drier-than-average winter.

Phone calls not returned

Karban President Peter Adams did not return phone calls or messages to discuss the company's water quality violations. But company filings with state agencies and in-

terviews with state regulators indicate the company seriously underestimated the effectiveness of its pollution controls.

"It turns out there was a lot more overburden on the site than anybody thought," said Bill Parks, with the Division of State Lands.

Overburden is the dirt, clay and waste rock that must be moved to get at the high quality rock underneath, and it's the bane of the aggregate industry. Finding a safe place to put the huge — and growing — pile of overburden has been one of Karban's biggest problems.

Karban is now proposing to divert a nearby stream into a culvert and dump its overburden in the ravine along with other improvements.

Biologist Weber said his hope is that Karban will figure out how to keep its muddy runoff out of the Salmonberry so that the river's steelhead will survive the expected 50-year life of the quarry.

The state has the power to cite, fine or revoke the permit of a company that violates environmental regulations. The problem with Karban is that the state can't simply order a specific action to prevent runoff because the experts aren't sure how to do that.

"This is an art, not a science," Keiran said.

THE OREGONIAN, TUESDAY, JUNE 14, 1994

FORUM

■ B9

Silt major culprit in lowering nation's water quality

EPA finds cause but another report blames herbicide spray

by DAVID ROTHBARD and CRAIG RUCKER

Having seen the effectiveness of Bill Clinton's campaign focus on the economy, supporters of clean rivers might adopt a similar slogan: "It's the silt, silly."

If our country is truly serious about improving water quality substantially, the focus needs to be on the real problem, silt, rather than the imagined and perceived problems that get so much attention in public forums.

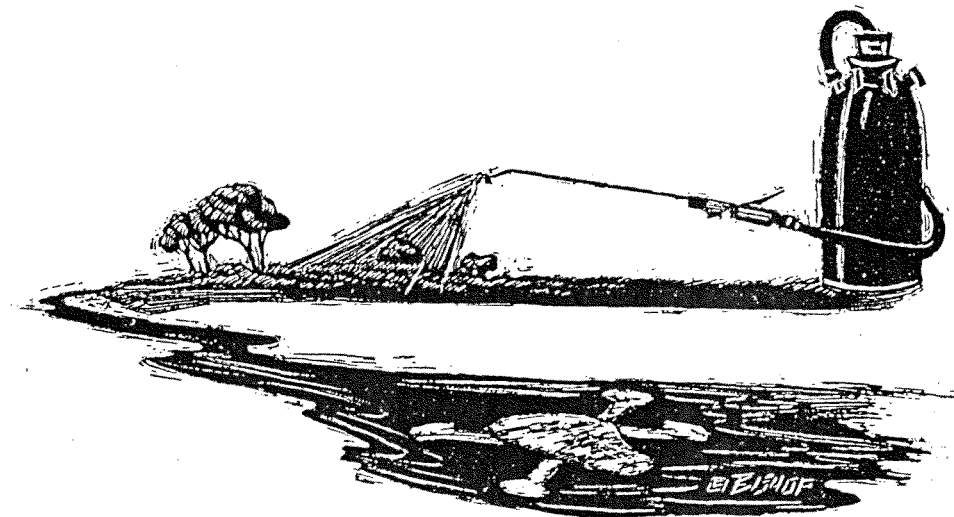
It's plain old dirt — topsoil from farm fields, clay from urban construction sites and sediment from unprotected streambanks — that is clogging our nation's waterways.

In a statement issued this spring, Carol Browner, administrator of the Environmental Protection Agency, called silt "the No. 1 problem threatening America's waterways."

Because of sedimentation, "fish respiration is impaired, plant productivity and water depth are reduced, aquatic organisms and their habitats are smothered, and our aesthetic enjoyment of the water is reduced," according to EPA's report, "The Quality of Our Nation's Water: 1992," which was issued this March.

Incongruously, another federal agency has been creating a controversy that has the potential to make this problem worse. Misperception resulting from work by the U.S. Geological Survey might actually change agri-

David Rothbard is president of the Committee For A Constructive Tomorrow, a Washington-based public-interest organization. Craig Rucker is the group's executive director.



RANDY MACK BISHOP/Pen Tip International Features

cultural practices to the point that soil erosion and stream sedimentation could increase.

The Geological Survey has been monitoring herbicide concentrations in lakes, rivers and streams for the last three years. It has also been releasing information to the media about trace amounts of herbicides in spring and summer, when farmers use the products.

However it has never issued a press release reporting on a full year of monitoring, even though federal drinking-water standards are based on the average of samples taken during a full year. Temporary peaks

slightly higher than the allowable annual average are of little, if any, significance.

Last August, in a little-known technical report, the Geological Survey revealed the full picture of its monitoring: "During 1991 and 1992, the annual average concentrations for these herbicides were far below health-based standards."

The same report carried a prediction about herbicide concentrations in the waters of the great 1993 flood: "Concentrations for these herbicides probably will not exceed [health-based standards] in 1993."

Many Americans will remember the scene a month earlier when TV reporters and newspaper headlines across the nation told of "surprisingly high" herbicide concentrations in the floodwaters. These reports were based on the Geological Survey's findings of one-day concentrations that were only slightly higher than the allowable annual average. These concentrations were nowhere close to any level of concern, as the Geological Survey acknowledged a month later.

But the perception is long-lasting. Now, when EPA reports that agriculture is the leading contributor to stream impairment, many jump to the conclusion that EPA is talking about herbicides.

"It's the silt, silly."

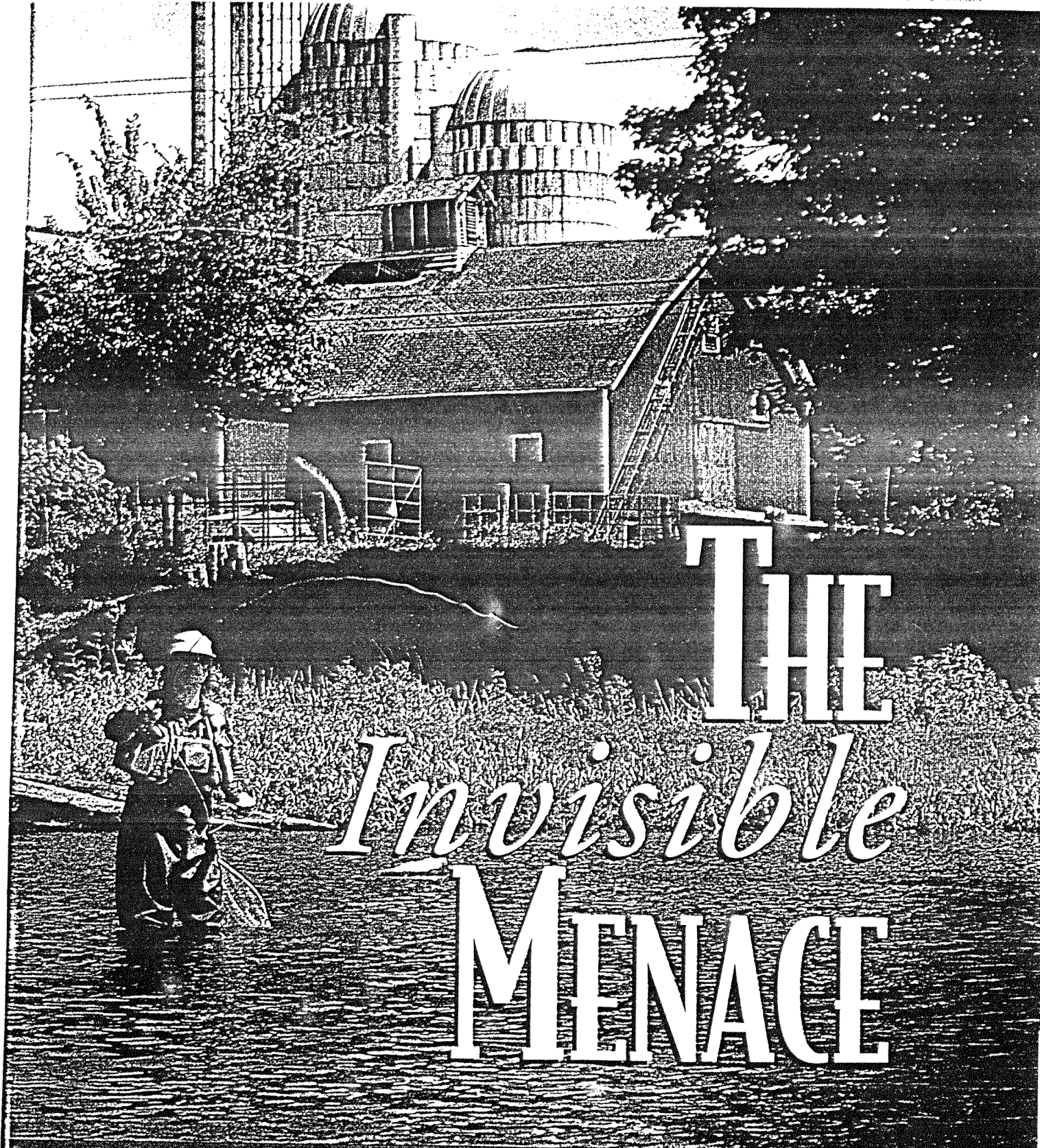
The most common water pollutants, according to EPA's report, are, in order: Silt, nutrients, metals and biological pathogens. Herbicides, even when detections of insignificant concentrations are considered, don't rate with that group.

In fact, herbicides are an essential tool in reducing the amount of silt that gets into streams. While farming remains the leading contributor to river impairment — more stream miles border farms than cities — farmers have made great strides in reducing siltation in recent years.

They have been converting millions of acres to conservation tillage — a practice that leaves last year's crop stubble on the field. Instead of plowing the field and exposing the soil to wind and water erosion, farmers plant seeds through the stubble. Herbicides are used as needed to control the untillable weeds. The crop stubble keeps the herbicide, and the silt, in the field and out of the stream.

Without herbicides, the only way to control weeds is to plow them under before planting and follow up with another tillage trip, further contributing to the No. 1 problem threatening U.S. streams — silt.

RICHARD FRANKLIN




THE *Invisible* MENACE

Run-Off from Agriculture Threatens America's Fisheries

BY JEROME CRAMER

TOM CULP RUNS A 350 ACRE FARM AMID THE ROLLING HILLS OF LEXINGTON, Ohio. Clean water that bubbles up from springs on his farm flows gently into nearby rivers. That's how Culp likes it. "My goal is to keep the soil on the land — not running off into streams and fouling the water," he says. ☛ To cut down on soil erosion and to keep his water clean, Culp and a growing number of farmers have discovered ways to use the land wisely and help prevent the largest single source of water pollution in the United States. It's called "nonpoint source pollution" and it happens when rain and melting snow wash pesticides, topsoil, fertilizer, cow manure and minerals into rivers and streams. And on farms, ranches, and in the U.S. Congress, this polluted run-off is a subject of increasingly intense debate. ☛ According to the Environmental Protection Agency (EPA) more than two-thirds of all drainage basins in the U.S. are affected by polluted run-off. The most recent National Water Quality Inventory produced by the EPA says that 38 percent of the nation's rivers are impaired — in large part from the more than 1 billion tons of sediment washed into waterways each year. Activities such as logging and mining also result in tons of pollution in sensitive cold-water fisheries. But whatever the source, this polluted run-off spells death for fish. ☛ A recent study by the American Fisheries Society found that one-third of all our native freshwater fish species are threatened or endangered, and an additional one-fifth of all our aquatic species are now threatened. An estimated 106 Pacific salmon stocks are already extinct, and scores of others are seriously depleted due to problems that Congress intended the Clean Water Act to eliminate. ☛ Monitoring the status of such environmentally sensitive fishes as the salmonids is key to establishing the overall health of our surface waters. Salmonids, including trout, salmon, and chars, require high quality waters and therefore serve as ideal indicators of quality aquatic environments. Specifically, salmonids require low temperatures, high dissolved oxygen concentrations, clean substrates, sufficient water depth and velocity, and hiding and escape cover to survive. All of these variables are subject to impairment by traditional agricultural practices and their associated polluted run-off. Salmonids are therefore especially good indicators of the presence of nonpoint source pollutants since most trout and salmon habitat is located in headwater areas of our river systems, where point sources are seldom present, and where a large proportion of polluted run-off occurs.


The worst sources of water pollution are no longer factories and sewers; farms and development are the biggest sources of contamination.



Pol

As bad as the problem is, there are some signs of hope.

ERODED, WASHED-AWAY TOPSOIL FROM traditional tillage, irrigation, and grazing practices smothers spawning gravels and disables fish respiration. Resultant high turbidity reduces sight feeding and growth by salmonids and interferes with migration. Salmonid sight feeding is impaired at even moderate turbidity, and while the fish will migrate in water of higher turbidity, they avoid muddy, clouded waters for rearing and feeding.

Clean substrates are important habitat components because salmonids build nests (redds) in gravel and cobble substrate. Clean substrates are required to provide dissolved oxygen to the embryo, remove metabolic wastes, and allow alevins (fry) to emerge from the redd. Sediment from polluted run-off limits the capacity of the substrate to serve these functions and thus reduces the survival of salmonid embryos.

Farmer
Tom Culp
employs
cutting-
edge
techniques
to prevent
polluted
run-off.



TOM HUBBARD/BLACK STAR

The flow of sediment often carries with it nutrients and pesticides that degrade water quality and diminish biological productivity. Depending on context and concentrations, nutrients and animal wastes from traditional agricultural practices can have a toxic effect on aquatic organisms, or they can contribute to excessive enrichment, which reduces the amount of dissolved oxygen in the water. Low dissolved oxygen concentrations affect salmonid growth, food conversion efficiency, swimming performance, and survival.

PESTICIDES IN POLLUTED run-off can also have toxic effects on salmonids, and in higher concentrations can destroy entire aquatic ecosystems. For example, from 1963 to 1985, more than 200,000 fish were killed by the pesticides toxaphene and endosulfan in California's Central Valley alone.

Trout are also particularly sensitive to temperature, especially when spawning. Agricultural practices such as

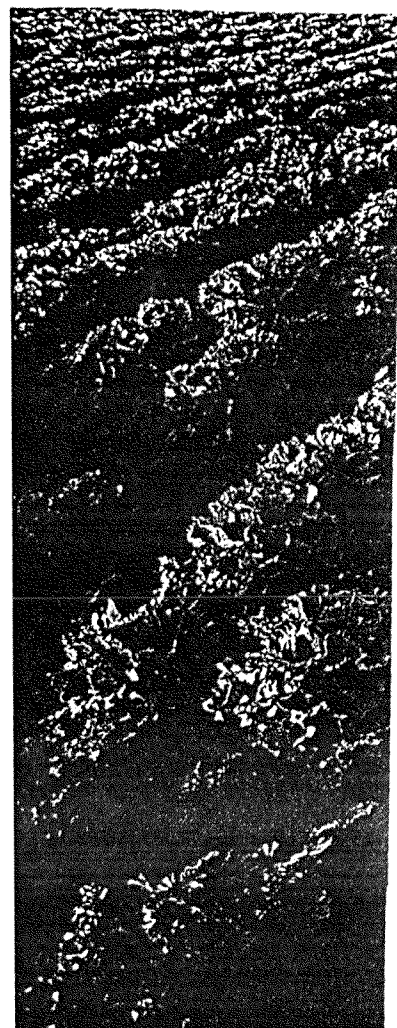
Solving the
polluted run-
off problem
must involve
cutting our
dependence
on chemical
pesticides and
fertilizers.

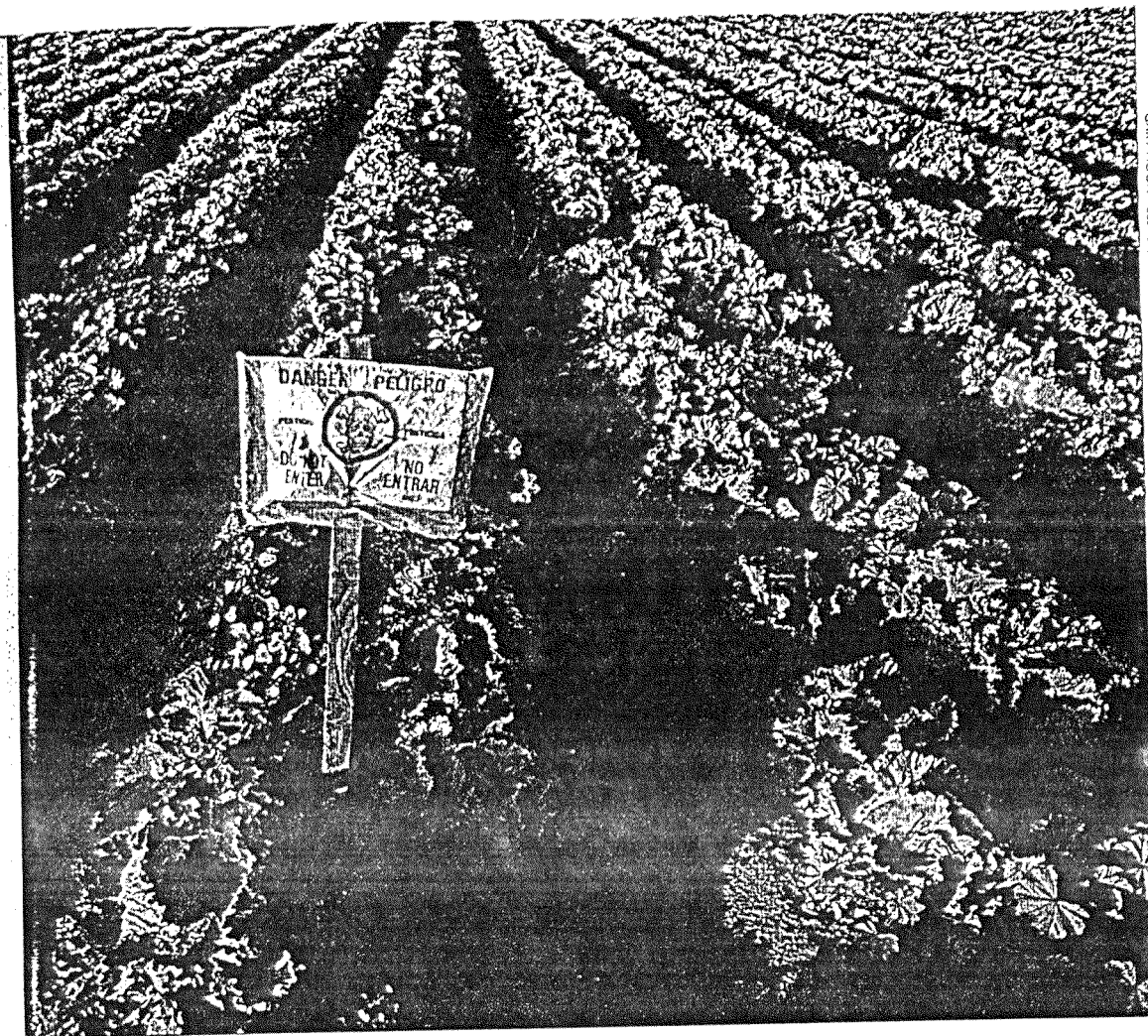


clearing riparian areas for crop production, or allowing livestock to graze right up to the stream bank, reduce bank undercutting and vegetative cover and decrease bank stability, ultimately resulting in decreased shading and widening of the stream channel. Greater surface area of the stream channel exposed to sunlight, coupled with the decreased stream velocity associated with widening, increases water temperatures, often drastically impairing salmonid habitat.

By far the largest source of polluted run-off is agriculture. The EPA says that silt — often contaminated with fertilizers, herbicides, and pesticides — runs off of land and into creeks, streams and lakes. And while the ranching, mining, and timber industries are serious sources of polluted run-off in themselves, by far the largest source of polluted run-off is traditional farm agriculture.

"I don't like to call it nonpoint source pollution," says Diane Cameron of the Natural Resources Defense Council. "I call it what it really is: poison run-off. And it's the biggest water pollution problem in the nation." Cameron says that trout fishermen, who spend most of their time in cold-water areas, only see part of the problem. "By the time that polluted headwater





GARY HOONALSTOCK



Traditional farming methods often entail expensive repeated applications of toxic chemicals.

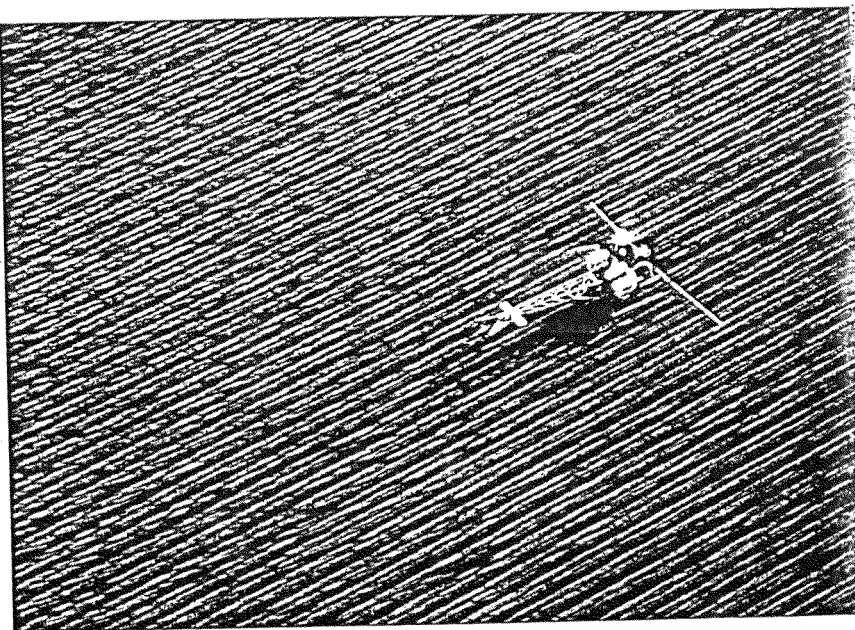
reaches the sea it is often a virtual witches brew" of chemicals, pesticides and manure.

As bad as the problem is, there are some signs of hope.

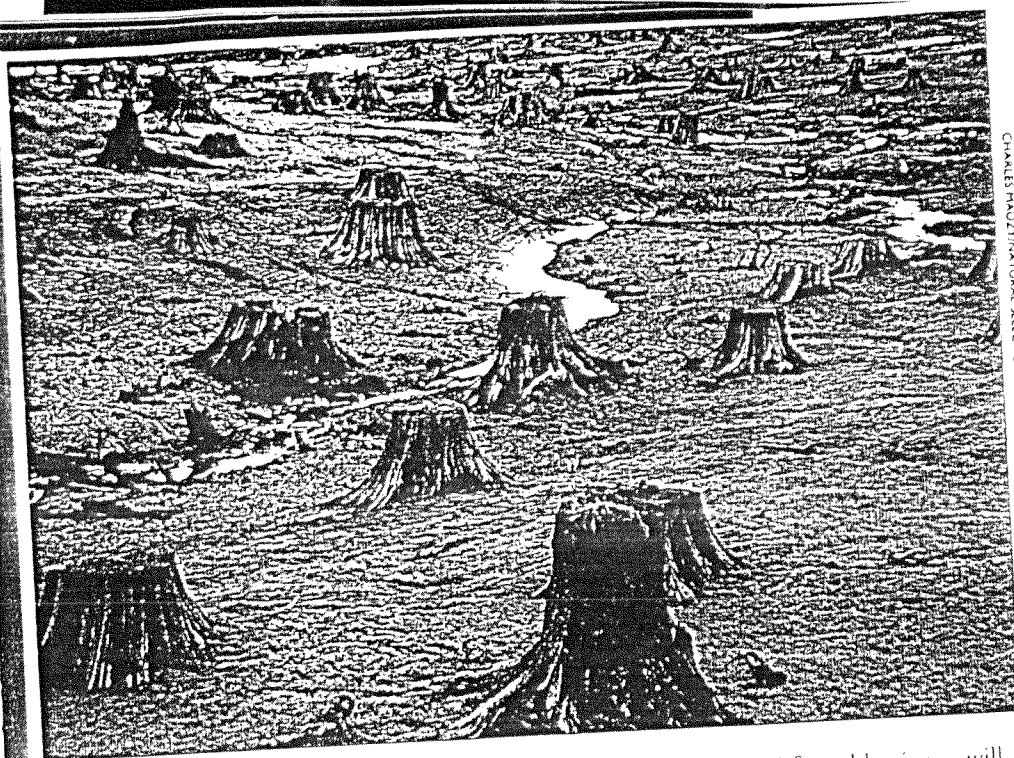
According to Cameron and other experts, a growing number of farmers understand that they have to find new ways to halt nonpoint source pollution. Some of the reasons are altruistic — love of the land and nature — but many involve simple, bottom-line economics. In many parts of the nation farmers find their topsoil is eroding, their streams are polluted, and their groundwater is undrinkable due to years of abuse. Agricultural policies handed down through the generations have backfired, and many farmers now are searching to find new ways to coax a living out of the land.

Culp, whose family has farmed for generations, realized "sometime around 1981, that traditional methods of raising crops were just not working." He was pouring as much as 200 pounds of nitrogen fertilizer annually on each acre of ground. But during rainy winters the soil and fertilizer would simply wash away. His water was dirty and his farm was being stripped of topsoil.

PETE TURNER/THE IMAGE BANK



In 1981, Culp started adopting "alternative" farming techniques that included the use of cover crops. After fall harvest, he has an airplane drop a combination of legumes and rye grass on his fields. The legumes spread roots that contain nitrogen-fixing bacteria. As this cover crop grows during the fall and winter, it replenishes the soil.



CHARLES HAZZARD/STOCK PHOTO

Timber
harvest is
another
major
source of
silt-laden
runoff.



It also keeps the important topsoil from blowing away or being washed into streams during sudden winter storms.

In the spring he simply plows these fields and the cover crops become "green manure," he says. Spring rains soak into this newly plowed ground, he says, and his streams run clear. This new method of cultivation and his continued rotation of crops has eliminated his need for using insecticides. One report recently stated that planting cover crops in this way can reduce run-off to near-by rivers and streams by up to 60 percent.

Rhonda Janke is director of the Rodale Institute Research Center, an organization that has long helped farmers adopt techniques that prevent polluted run-off. She says that "farmers can increase crop yields and replenish soil fertility while reducing — or eliminating altogether — synthetic chemical pesticides and fertilizers. The major obstacle now is getting the information to farmers so they can convert to non-chemical agriculture."

OHIO FARMER RICH BENNETT USES A "NO plow" technique to help keep his water — and his neighbors' — flowing clean and clear. Bennett plants winter cover crops to save on fertilizer, but in the spring uses a light application of herbicide to kill them. "The crops control soil erosion and provide nutrition that is excellent for my corn and soybeans," he says. Then, rather than plow the ground for planting, seeds are placed directly in the ground. The crops are harvested but the roots remain in the soil to hold it in place and enrich it as they decay.

"I'd like to say I adopted these techniques just to save the land and the water, but the truth is I

did it for economic reasons," he admits. Bennett says no-plow farming has meant a 50 percent savings in cost of farm equipment and fuel. His reduction in fertilizers and insecticides means that his expenses "which used to run \$45,000 to \$50,000 are now down to \$15,000 to \$18,000 per year." He adds, "This is a win-win situation. I help improve the water and soil and make more money at the same time."

For example, Bennett says that state farm guidelines call for using up to 250 pounds of nitrogen fertilizer per acre each year. He now uses only about 60 pounds per acre.

"I built this farm from my grandfather's original 40 acres," he says. "These new techniques will mean that the soil will stay on the land — and out of the streams and lakes — so future generations can continue farming."

Bennett and Culp are part of a small but growing band of farmers and ranchers who understand the need to stop polluted run-off. Most of his neighbors look upon his farming methods as an anomaly. He laughs when asked about the surrounding farms. "Oh, my neighbors keep an eye on me," he says.

Once a year Bennett has an "open house" to show other farmers what can be accomplished with progressive farming techniques. "But you know what they say about a prophet in his own land," Bennett adds. "I get farmers from Indiana and Michigan, but my neighbors pretty much ignore me."

BARRY EPLEY FARMS 2,000 ACRES NEAR Wabash, Ind., that includes property that has been his family since 1885. Three families make their living from this land and Epley understands the hard realities of agricultural economics. "I like to think I am a good steward, but I need to turn a profit to stay in business," he says.

Though he has experimented with no-till farming, lately he has used a technique called "ridge tillage." The soil is mounded into humps, or ridges, and only the top layer is disturbed during planting and harvesting. "There is much less erosion and I save money on fuel and labor."

He adopted these alternative agricultural practices as a way to save his soil — and his pocketbook. But Epley and other farmers understand that alternative farming requires vision. (See Sidebar, opposite) According to Ralph Lentz, a Minnesota rancher and former teacher of agricultural

science: "Farmers must look at the big picture. They have to know the topography on which they farm, they have to understand the best and safest ways to increase productivity, and they have to look at the quality of the life they are creating for themselves and their neighbors."

But for all the progress being made by farmers, polluted run-off remains a serious problem that is crying out for state, local and federal attention.

As this goes to press, Congress is toiling over revisions to the Clean Water Act, the major law through which the federal government can help control polluted run-off. The law, which conservationists assert is much too lax, tells each state to measure nonpoint pollution and describe what it plans to do to solve the problem. The law also requires states to create enforceable programs to control polluted run-off and to submit them to the EPA for approval. But as of January 1992, only 15 states had submitted plans that had been approved.

Says the EPA's clean water expert Carl Myers, "Currently the CWA is a voluntary program. We can't force farmers to do the right thing."

A coalition of environmental groups, including Trout Unlimited, is pushing to put teeth in the law. They want the CWA to include tough language to force states to adopt programs to control run-off. The general guidelines would be created by the EPA but would be amended to meet local needs and conditions by the states. Says EPA's Myers: "We want farmers and ranchers to clean up water voluntarily, but there has to be some bottom line... Voluntary programs are well and good, but they are not making much progress."

BUT MANY FARMERS, CATTLEMEN, AND TIMBER producers strongly disagree with the effort to force states to adopt mandates. These groups want local citizens and businessmen to develop best management practices (BMPs) and have those adopted by the states with some minimal guidance from the EPA. What they fear the most, it seems, is the federal government in Washington dictating the ways local farmers and ranchers manage their land and water.

"The Administration and environmentalists want the EPA to write and impose new regulations on the states," says Mitch Dubensky, a spokesman for the American Forest and Paper Association. "We want people on the ground — business, industry, workers and local government — to write the regulations."

But this view is countered by those who have seen the voluntary approach of farmers like those

The Clean Water Act: Up to the Task?

THE GOOD NEWS ABOUT WATER QUALITY IS THAT OUR RIVERS are much cleaner now than they were 25 years ago, says Carol M. Browner, Administrator of the U.S. Environmental Protection Agency. "We no longer have rivers catching on fire," she says.

That is the result of the Clean Water Act, first passed in 1972. The main thrust of this bill was to stop point-source pollution, the garbage and poisons flowing into streams and waterways from "points" such as municipal sewage systems or factories. The bill has been a remarkable success and point-source pollution has been greatly decreased.

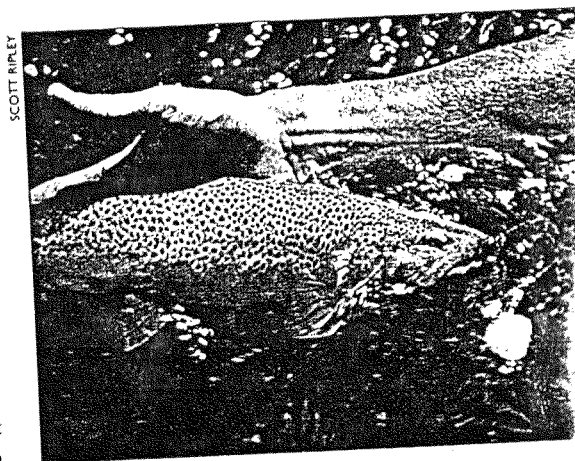
But serious problems remain. Approximately 1,300 water bodies have been so degraded by pesticides, organic chemicals, and metals that the states have limited the public's consumption of fish and shellfish from these waters. Bottom sediments contaminate more than 1,000 waterways. And each year it is estimated that more than 740 million pounds of toxic chemicals pour into our waterways.

The Clinton Administration and many in Congress want to amend the Clean Water Act to take care of these problems. Accord-

ing to a recent paper released by the Administration, the goal is to "protect and conserve our water, aquatic habitats, and the living resources within, through an integrated, holistic approach, based

on natural watersheds and aimed at reducing pollutants from all sources that impair water quality."

Until now the states have been asked to use a voluntary approach to cleaning up nonpoint-source pollution. Environmentalists want the new CWA to set federal standards and time lines that states must meet when creating programs to clean up streams and rivers. "Until now the states have had little success with controlling polluted run-off," says Trout Unlimited's Steve Moyer, Director of Government Affairs. "The new Clean Water Act must include flexible, yet mandatory language that requires American agriculture to substantially reduce polluted run-off and restore watershed health." ■



SCOTT BIRNEY

*Only by looking
at an entire ecosystem within a drainage can
comprehensive solutions be developed.*

mentioned earlier overwhelmed by much of mainstream agriculture. They point out that without mandates most farmers will continue with business as usual. "We'd like everybody to be model citizens," says EPA's Jeff Grubbs, director of water quality for the EPA. "But the strictly voluntary approach is not working."

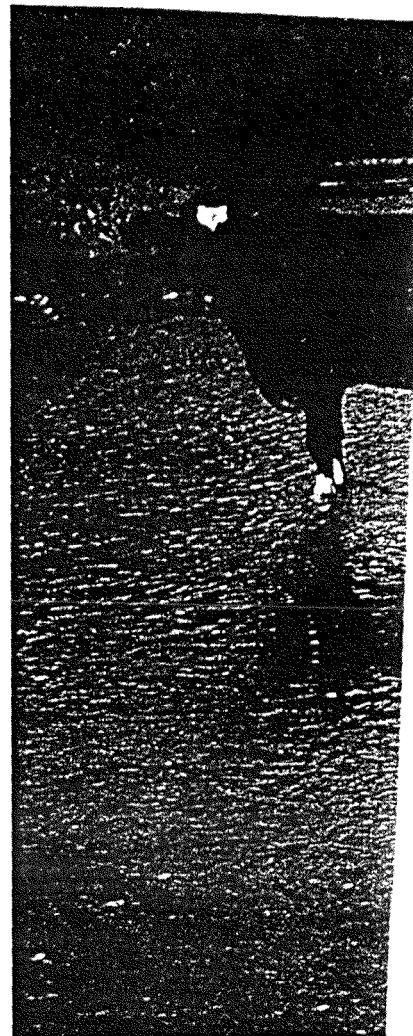
What is surprising, however, is the general agreement that has been reached by these two groups. Both sides agree that polluted run-off is a problem that must be solved, and both want to take an active role in finding solutions. According to groups such as the Rodale Institute and the World Resources Institute, farmers in rural America have the power to make huge environmental gains while protecting their own profits. In short, what's good for farms is also good for water and fish. Most of the disagreement centers over the best ways to make sure new farming practices are adopted and the water is cleaned up.

For example, the American Farm Bureau and many environmental groups both agree that the best way to clean up water is to treat entire watersheds rather than individual rivers or streams. State governments should develop plans that take into consideration the soil characteristics, the drainage patterns, land use, and potential for development. Only by looking at an entire ecosystem within a drainage can comprehensive solutions be developed.

SOUNDS EASY. BUT WHAT DO YOU DO WITH areas that, for historical reasons, have continually produced polluted run-off? Such a place is Lancaster County, Pennsylvania, home of one of the most intensive dairy industries in the U.S. And where there are cows there is cow manure.

For more than 200 years farmers have been raising dairy cows on the lush land that runs through the Susquehanna River Valley. But as farms were broken up and passed to surviving family members, the farms got smaller and economics dictated that more cows were needed to keep farmers in business. Soon the ratio of smaller and smaller farms supporting more and more cows hit the critical mass: huge amounts of nitrogen in the form of cow manure was being washed into the river and down into the Chesapeake Bay. Currently one-third of the nitrogen and one quarter of the phosphorous pouring into the Bay

**Innovative
programs in
Pennsylvania
are helping
get cows out
of trout
streams.**

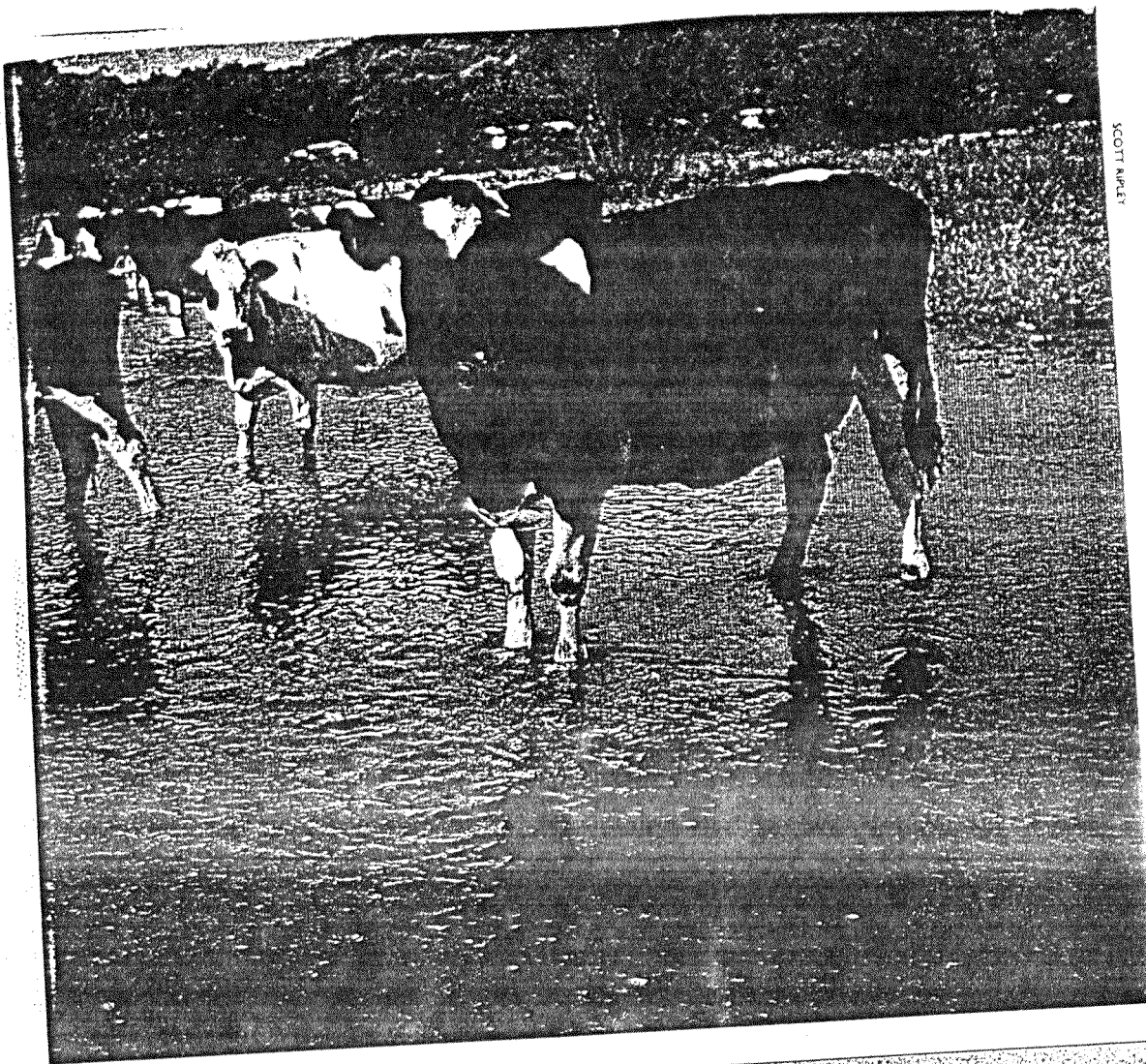


can be traced to the Susquehanna River Basin.

The Chesapeake Bay Foundation, local Trout Unlimited chapters, other conservation groups, farmers, and state lawmakers are working to solve this polluted run-off problem. Farmers along the trout-rich Yellow Breeches in the southern part of the state can get government aid to help them cure their run-off problems. Some local TU chapters kick in additional funds to help farmers pay for improvements that protect streams. The improvements include fencing to keep cows away from fragile stream banks, building pits to contain the manure, and creating buffer zones to keep manure on the land.

Many farmers are happy to take part in these programs; yet too many are not. The question gets down to bare knuckles: How does the government get companies and landowners to adopt policies that control polluted run-off? Most agricultural, timber, and mining interests want an all-carrot, no-stick approach that encourages voluntary and cooperative measures. Environmentalists say this approach has failed, and they want more power in the hands of the federal and state government to force compliance.

Says one USDA official who asked not to be



SCOTT ARNETT



Deep plowing
allows wind
and rain to
carry away
valuable
topsoil—into
nearby rivers.

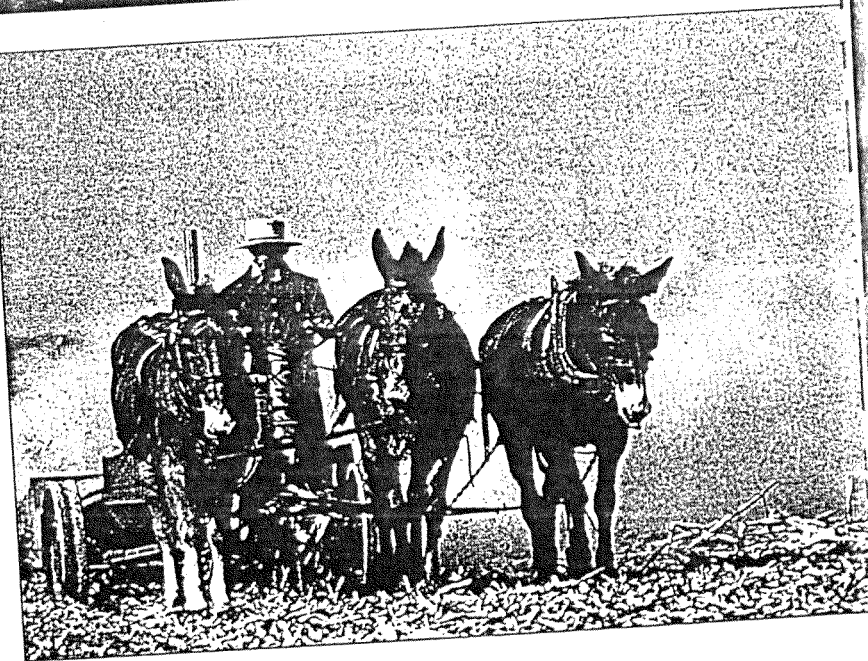
named: "Right now there is no clear mandate for the states to clean up their water. If we don't make our laws tougher then we will doom ourselves to water too dirty to drink — much less fish in." This dismal future can best be avoided by putting real bite into the Clean Water Act and the U.S. farm laws, he asserts.

While farm and ranch lobbyists want Congress to avoid mandates, the experiences in various states show how important tough laws are to cleaning up the water. Wisconsin, for example, has a polluted run-off law that has been on the books for the past 15 years. The state has spent \$75 million on this voluntary program, but the "overall water quality improvements are not discernable at this time," according to a recent state report.

Like much in life, this issue also gets down to money. All sides want the federal government and the states to come up with cold hard cash to get these programs off the ground.

There have been some limited successes. USDA's conservation reserve program pays farmers to take their most highly erodable land out of crop production. This could "reduce farm run-off by as much as 50 percent in the coming years,"

JOE McDONALD/NATURAL SELECTION



predicts the USDA's John Burt. And the Conservation Compliance Program is well designed but is lacking funds that could increase compliance.

Since the Dust Bowl, farmers have been receiving government funds to grow crops, not grow crops, put land into use, or take land out of cultivation. This financial *(continued on page 62)*

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scope, it will be a standard reference work in years to come.

DEEP RIVER

by Elaine Moore

illustrations by Henri Sorensen
1994 Simon & Schuster Books
for Young Readers \$15.00

CHILDREN'S BOOKS about fishing are few and far between, and fish stories with little girls as protagonists are scarcer still. As Jessie progresses from worrying about what her brothers would think of her first clumsy casts to reveling in her first fish, Moore's prose and Sorensen's impressionistic illustrations make Jessie's first fishing trip an evocative adventure. This charming, gentle story of Jessie and her grandfather and their day on the water belongs in the library of every newly-hatched future angler.

THE LITTLE BOOK OF FISHING: AN ANTHOLOGY

Introduced and edited by Nick Lyons
1994 Atlantic Monthly Press, \$16.00

THE LAST COUPLE OF years have seen the market all but flooded with meditations on the "meaning" of fishing. With a few exceptions (Ted Leeson's extraordinary *The Habit of Rivers* and Wetherell's *Upland Stream* spring to mind), they tend to cover the same territory: fishing as metaphor for life, life as metaphor for fishing — if you've read one, you've read them all. *The Little Book of Fishing* is an exception. Drawn from 14 authors as disparate as Ernest Hemingway, Sparse Grey Hackle, Tom McGuane and former *Rolling Stone* editor P. J. O'Rourke, the selections cover everything from first trout to first tuna to first love. The secret, I think, lies in the length of the pieces — they range from just a page of verse to a meaty short story, but nothing longer — and in the deeply personal perspectives each embodies. Although you may find it hard to resist reading the whole collection at one sitting, this is a book to savor, and one to which you'll surely return again and again. ■

The Invisible Menace

(continued from page 25) intervention now can mean the difference between success and failure for many American farmers. The sad irony: The most heavily subsidized programs for farmers encourage practices that increase environmental damage. Environmentalists want the USDA to switch funding from programs that encourage massive plowing and the use of pesticides and herbicides to more conservation-minded practices. At the same time, farmers and ranchers will have to be taught how to produce food and survive in a new era for agriculture.

As the battle
rages on in
Washington,
rivers continue
to fill and
choke with
sediment.

Several bills before Congress call for spending up to \$300 million to control nonpoint-source pollution. Under one scenario, this would be increased to \$600 million within five years. In a Congress fighting for a new health care system, welfare reform, and money to battle urban crime, money is short.

As the battle drags on in Washington, rivers continue to fill and choke with sediment; fish continue to disappear. A new clean water law is needed. States must use their powers to help landowners solve this problem. In the meantime, farmers and ranchers who are working to control polluted run-off should be applauded. And governments should make sure their practices are studied and duplicated. ■

OREGONIAN 6-30-94

Panel sees key to saving salmon

■ A group of scientists praises streamflows and the quality of streamside land but criticizes the hatcheries

By JOAN LAATZ

of The Oregonian staff

The key to saving Oregon's coastal salmon lies in improving streamflows and the quality of streamside land, not in hatcheries, a panel of scientists said Wednesday.

In fact, hatcheries in general may not be effective in increasing the number of adult salmon, the scientists said. The amount of water in a stream, they said, is more important.

The panel's conclusions, delivered to the Oregon Senate Agriculture and Natural Resources Committee, could be used to craft future state policies about logging and farming.

"We have found the data to be overwhelming that the most effective management of salmon should be directed at the riparian zone" alongside waterways, stream ecologist Kenneth Cummins told a committee of lawmakers. And streamside protective measures should be extended to all the streams in a river basin, he said, not just those that have salmon.

"It's still surprising that only now are we learning to use what we know about how riparian zones operate . . . to decide how to manage resources," Cummins said.

Cummins was one of three scientists

on a panel commissioned by the Legislature in 1991 to study the connection between forest practices and declining salmon runs.

Daniel B. Botkin, president of the Center For the Study of the Environment in Santa Barbara, Calif., headed the panel, which also included Matthew J. Sobel, dean of the W. Averell Harriman School for Management and Policy at the State University of New York at Stony Brook.

Their four-part draft report, "The Status and Future of Salmon of Western Oregon and Northern California," suggests a basin-by-basin approach to managing the 32 river basins they studied. The use of land and water in those basins could be affected.

"They don't give us any panacea," state Sen. Ron Cease, D-Portland, chairman of the committee, said after hearing the panel's report. "Lots of people want easy answers, and there aren't any easy answers."

Ward Armstrong, executive director of the Oregon Forest Industries Council, fell short of endorsing the panel's recommendations, but he called the report "badly needed."

He predicted, however, that a solution to the salmon crisis would be tough. "I think it's going to be very expensive and painful before we get through."

The scientists' report is based on a review of existing research and information gleaned from public hearings. It will be circulated for public comment for a month and then released along with several others in final form in January 1995.

The panel studied only salmon, not other species such as northern spotted owls. "There's no hidden agenda here," Botkin said. "We're not talking about conservation of old growth."

The scientists concluded that:

■ November streamflows are a better indicator of the size of the adult salmon run that will return in three years than are hatchery releases of young salmon.

■ Using streamflows to predict future run size would give fishermen more certainty about the future.

■ Forests should be managed to include trees of varying ages, with at least half the forest being mature trees.

■ Buffer zones along streams throughout the basin should be based on the width of the stream at high water, called "bankfull." Small streams would have a protected zone six "bankfulls" wide, while the largest rivers would have a protected zone one "bankfull" wide.

Federal protections for buffer zones under the Clinton administration's forest plan are based on tree height. Oregon forestry rules are based on the stream size. Both state and federal rules have reduced the amount of timber that can be cut.

Botkin said his panel's plan would allow for buffer zones to be customized according to stream characteristics and the surrounding land. In some cases, Cummins said, that would allow for more trees to be cut than under current rules. In other cases, fewer trees could be cut.

Troutdale moves to protect Beaver Creek

Outlook 7-20-94

Exhibit "E"

□ Development within 50 feet of bank limited

by JOHN HENDERER
of The Outlook staff

--TROUTDALE -- A new city ordinance won't stop a local pub owner from building 48 two-bedroom apartments a dozen yards from Beaver Creek, but it will push future developments further away.

The City Council adopted a new ordinance last week designed to prevent stream bed erosion and protect the natural environment.

Landowner Spiro Sassalos has already submitted his plans for "Beaver Green Apartments," five apartment buildings on 3.9 acres, and the new ordinances will not take effect until Aug. 10.

Sassalos sparked controversy last year, prompting the city's effort to draw up new ordinances. He was fined last year for clearing his land of between six and 18 trees over six inches in diameter. He has since replanted 73 trees, say city officials.

Troutdale's new ordinance does not allow development closer than 50 feet away from the bank of a water way. In addition, it limits development to 30 feet from the top of an escarpment.

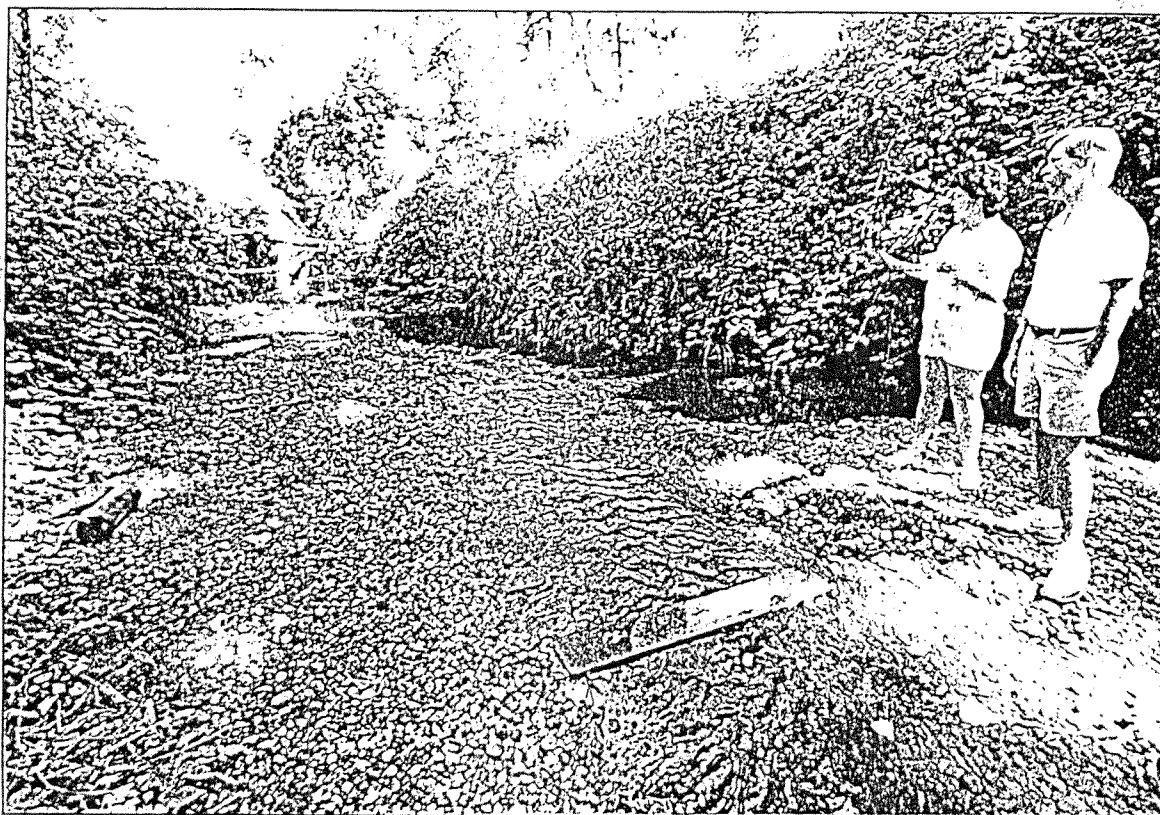
"These ordinances are a big step in cutting down on the amount of silt that winds up in the creek," said Carolyn Taylor, a member of the board of directors for Friends of Beaver Creek.

Taylor said she has noticed fewer and fewer steelhead and coho salmon spawning in Beaver Creek behind her home.

Various regions use different standards for development setbacks, according to Rita Haberman of River Network in Portland. In Austin, Texas, setbacks range between 50 to 400 feet, and in Douglas County, Ga., they range between 100 to 300 feet.

Troutdale had no standard setbacks.

"We really did not have any spe-



STEVE KASSERMAN/The Outlook

Carolyn Taylor, left, and Bill Herbert, members of the board of directors of the Friends of Beaver Creek, examine some of the erosion of the creekbed behind Taylor's property.

cific regulation regarding erosion control," said City Administrator Pam Christian.

Suzanne Barker, the city's development coordinator, said, "We hadn't had anybody develop that close to the creek before."

Approval of building permits depended not so much on standards as personalities.

"In the old days it used to be who you knew," Barker said. "The discretionary decisions are much more limited today because we're such a litigious society."

The city has always used state requirements to limit development setbacks. Those left a loophole, how-

ever, for developments smaller than 5 acres.

Under Troutdale's new ordinance, on hillsides with slope between 15 and 24 percent, developers can build up to 70 percent of the normal density for that land zoning and transfer 30 percent to land with slope less than 15 percent. The resulting density on the buildable portion of land must not exceed 150 percent of the zoning for that area.

"We're not absolutely prohibiting development on some of those steeper slopes, but we do restrict the density of development," Christian said.

Existing ordinances drew complaints from developers for their

unpredictability. Christian said the new ordinance should remove personal judgment and guard against subjective standards.

"The whole motivation on our part was that it be clear and objective standards," Christian said. "All of this criteria is measurable."

City Attorney Tim Sercombe said the ordinance does not permit the city to take private property. "The issue of takings — people are discussing it more and more," Sercombe said.

He said the recent U.S. Supreme Court case of the Tigard business owner who refused to dedicate part of her property towards a bike path

as a condition for expansion does not prohibit Troutdale from establishing the erosion prevention ordinances.

"The U.S. Supreme Court in Dolan (vs. Tigard), and prior to Dolan, has recognized the validity of zonings," Sercombe said.

Restricting land use is legal as long as property owners have an economically viable use of their land and the government's reason for regulation is legitimate, he added.

Homeowners whose residences border the creek should not necessarily expect a reduction in their property values, said Bob Ellis, Multnomah County assessor.

Turn to CREEK, Page 2A.

Continued from Page 1A.

"It may help the value by making it a more attractive area," Ellis said.

Landowners of property zoned for apartments could potentially demonstrate the protective ordinance limits the amount of development they could

impose on the land. That could reduce some values, he said.

"If it was shown that the ordinance did restrict use of the land I think we probably would believe the market would recognize the difference in the

land," Ellis said.

In an unrelated issue, the City Council will decide whether to spend an estimated \$50,000 to \$100,000 to halt erosion along Beaver Creek which is threatening a 12-inch sewer

line.

"If we don't do something it would be exposed eventually," said Mike Sorenson, sewer treatment plant superintendent. He said erosion along a private drive has crept to within 15 feet of the line.

ANNOTATED MINUTES

Tuesday, July 26, 1994 - 1:30 PM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

PLANNING ITEMS

Chair Beverly Stein convened the hearing at 1:35 p.m., with Vice-Chair Tanya Collier, Commissioners Sharron Kelley, Gary Hansen and Dan Saltzman present, and Planning Commission Chair Leonard Yoon, planning staff Scott Pemble, Sandy Mathewson, Gordon Howard and Bob Hall also present.

P-1 C 1-94a DE NOVO HEARING, WITH TESTIMONY LIMITED TO 30 MINUTES PER SIDE, in the Matter of Appeals of the June 27, 1994 Multnomah County Planning Commission's Recommendation on the West Hills Reconciliation Report, a Quasi-Judicial Plan Amendment to the Multnomah County Comprehensive Framework Plan, Volume I Findings Documents

CHAIR STEIN OUTLINED THE ORDER OF PROCEDURE AND ADVISED THE BOARD WOULD DELIBERATE AND RENDER A DECISION AT ITS AUGUST 9, 1994 MEETING.

SCOTT PEMBLE PRESENTED THE STAFF REPORT, CITING APPLICABLE LAWS AND ADVISING THE FINAL DECISION OF THE BOARD WILL BE REPORTED TO THE LAND CONSERVATION AND DEVELOPMENT COMMISSION FOR DETERMINATION AS TO WHETHER COUNTY SATISFIED LCDC'S REMAND ORDER REQUIREMENTS. MR. PEMBLE REPORTED ON THE CHRONOLOGY OF THE LAND USE HEARING PROCESS, PUBLIC NOTICE COMPLIANCE, THE APPEAL PROCESS, AND REPORTED ON ITEMS INCLUDED IN THE RECORD TO DATE. MR. PEMBLE SUBMITTED COPIES A JULY 18, 1994 LETTER FROM RICHARD SHEPARD AND JULY 20, 1994 LETTER FROM RICHARD SHAFFER FOR INCLUSION IN THE RECORD. MR. PEMBLE ADVISED THE WEST HILLS RECONCILIATION REPORT, INCLUDING ADDENDA AND ERRATA DATED JUNE 13, JUNE 21 AND JUNE 27, 1994, CONSTITUTES THE PLANNING COMMISSION DECISION.

LEONARD YOON SUBMITTED AND PRESENTED TESTIMONY SUMMARIZING CHANGES TO THE WEST HILLS RECONCILIATION REPORT MADE BY THE

PLANNING COMMISSION. MR. YOON AND MR. PEMBLE RESPONSE TO COMMISSIONER KELLEY'S QUESTION REGARDING RECLAMATION PHASING.

IN RESPONSE TO QUESTIONS OF CHAIR STEIN, NO BOARD DISCLOSURES OR CHALLENGES WERE REPORTED.

IN RESPONSE TO A QUESTION OF CHAIR STEIN, ARNOLD ROCHLIN EXPRESSED CONCERN REGARDING POSSIBLE EXCLUSION OF THE RECORD BACK TO 1989. FOLLOWING DISCUSSION WITH MR. PEMBLE AND JOHN DuBAY, CHAIR STEIN REPORTED THE RECORD FROM 1989 TO THE PRESENT CONSTITUTES THE ENTIRE RECORD IN THIS CASE FOR PURPOSES OF LUBA OR LCDC APPEAL. MR. ROCHLIN ADVISED HE WOULD NEED A CONTINUANCE IF SOMEONE OFFERS TESTIMONY CONCERNING PORTIONS OF THE JUNE, 1994 TRANSCRIPTS NOT PROVIDED TO HIM. MR. DuBAY ADVISED THE COMPLETED TRANSCRIPTS WILL BECOME PART OF THE RECORD.

IN RESPONSE TO CHAIR STEIN ANNOUNCING THE RECORD WILL REMAIN OPEN FOR ANY WRITTEN TESTIMONY UNTIL COMPLETION OF THE HEARING TODAY, MR. PEMBLE PRESENTED AND SUBMITTED A COPY OF A JULY 25, 1994 LETTER FROM FRANK SCHNITZER TO BE ENTERED AS PART OF THE RECORD. AT THE REQUEST OF CHAIR STEIN, COPIES OF THE LETTER WERE GIVEN TO APPELLANTS.

APPELLANT FRANK PARISI, ATTORNEY REPRESENTING ANGELL BROTHERS, SUBMITTED AN AERIAL MAP OF THE WEST HILLS AND TESTIFIED IN OPPOSITION TO PLANNING COMMISSION DECISIONS CONCERNING MINING ACTIVITIES AND HABITAT PROTECTION AREAS, ADVISING IT WOULD CAUSE HIS CLIENTS TO HAVE TO MINE THE 99 ACRE FORESTED SCENIC BUFFER AREA CURRENTLY HIDING THE MINING EXCAVATION AND THE NORTH ANGELL BROTHERS STREAM. MR. PARISI ADVISED HIS CLIENTS WANT TO MOVE THE EXTRACTION AREA FURTHER UP THE HILL THEN START PHASE MINING AFTER THE CLEAR CUT AREA IS REGENERATED. MR. PARISI SUBMITTED A PRICE

LIST FROM GRANITE ROCK IN CALIFORNIA. MR. PARISI EXPLANATION CONCERNING DOGAMI'S ROLE REGARDING PHASING; CLARIFICATION OF ANGELL BROTHERS REQUEST FOR CHANGE IN ZONING DESIGNATIONS; CLARIFICATION OF ANGELL BROTHERS POSITION REGARDING THE SIGNIFICANCE OF WILDLIFE CORRIDOR RESOURCE BASED ON QUALITY, QUANTITY OR LOCATION OF THE RESOURCE; AND ANGELL BROTHERS POSITION REGARDING ECOSYSTEM RESTORATION. MR. PARISI SUBMITTED WRITTEN MATERIAL FOR INCLUSION IN THE RECORD AND ADVISED HE WOULD HAVE COPIES SERVED ON THE OTHER PARTIES TO THIS ACTION BY THE END OF TODAY.

APELLANT ARNOLD ROCHLIN SUBMITTED AND PRESENTED TESTIMONY IN OPPOSITION TO THE PLANNING COMMISSION DECISION, ADVISING THERE IS NOTHING IN THE RECORD INDEPENDENT OF THE ANGELL BROTHER ANALYSIS ITSELF WHICH ESTABLISHES THAT THERE IS A SIGNIFICANT QUANTITY AND QUALITY OF RESOURCE ON THE SITE. MR. ROCHLIN ADVISED THE ROCK APPEARS TO BE LIKE THE REST OF THE TUALATIN RANGE, VARIABLE IN DEPTH AND QUALITY, AND EXPRESSED CONCERN THAT INFORMATION FOR THE ENTIRE 263 ACRE SITE IS BASED ON TWO TEST HOLES 84 FEET DEEP AS REPORTED IN THE SCHLICHER REPORT COMMISSIONED BY ANGELL BROTHERS. MR. ROCHLIN ADVISED THAT MARVIN BEESON TESTIFIED THAT THE SCHLICHER REPORT DID NOT PROVIDE AN ADEQUATE BASIS FOR ANGELL BROTHERS PROJECTIONS, AND EXPRESSED CONCERN THAT ANGELL BROTHERS REFUSED TO DRILL OTHER TEST HOLES. MR. ROCHLIN TESTIFIED THAT IN ADDRESSING THE OAR REQUIREMENT THAT QUALITY AND QUANTITY BE COMPARED TO OTHER SITES IN AT LEAST THE SAME JURISDICTION, STAFF TOOK A MINIMAL APPROACH AND IGNORED COLUMBIA COUNTY QUARRIES. MR. ROCHLIN ASSERTED THERE WAS A CRITICAL LAPSE IN THE STAFF QUALITY ANALYSIS IN THAT THE SITE DEFINITION WAS DEFINED BY PROPERTY OWNERSHIP AND CONTROL NOT BY RESOURCE LOCATION, AND SUGGESTED STAFF DID NOT CONSIDER QUANTITY ON THE PRESENTLY APPROVED AND PRESENTLY DESIGNATED GOAL 5

SITE VERSUS THE PROPOSED ADDITIONAL AREA. MR. ROCHLIN CALCULATED ANGELL BROTHERS HAS AN 11 YEAR SUPPLY OF AGGREGATE ON ITS LAST 40 ACRE EXPANSION AREA, SUPPOSING INCREASES IN PRODUCTION BY 8% A YEAR, AND SUGGESTED THE 99 ACRE SITE BY THE HIGHWAY COULD BE PRESUMED TO HAVE ABOUT ANOTHER 100 YEAR SUPPLY. IN RESPONSE TO A QUESTION OF CHAIR STEIN, MR. ROCHLIN SUBMITTED A MAP AND BY WAY OF EXPANSION COMPROMISE, ENCOURAGED THE BOARD TO DIRECT ANGELL BROTHERS TO MINE THE 99 ACRES BY THE HIGHWAY AND GIVE THEM 35 ACRES MORE OUTSIDE OF THE BURLINGTON BOTTOMS AND NORTH ANGELL BROTHERS CREEK WATERSHEDS. MR. ROCHLIN TESTIFIED THE REPORT MAKES AN UNLAWFUL DETERMINATION OF THE IMPACT AREA OF THE QUARRY, IN THAT IT ARBITRARILY DEFINES THE IMPACT AREA AS A LINE DRAWN 1,200 FEET OUT FROM THE PERIMETER OF THE PROPERTY AS DETERMINED BY SOUND TESTS, ADVISING THERE IS NON-CONTRADICTORY EVIDENCE IN THE RECORD THAT THERE WILL BE IMPACT WAY BEYOND THE 1,200 FEET. MR. ROCHLIN RESPONDED TO BOARD QUESTIONS CONCERNING THE SUGGESTED AREA OF MINING PER SUBMITTED MAP AND A SILT DESTROYED WETLAND SOUTH OF BURLINGTON BOTTOMS.

HYDROLOGIST JON RHODES PRESENTED TESTIMONY CONCERNING HIS FINDINGS FOLLOWING A FIELD VISIT TO THE QUARRY SITE, WATERSHEDS AND SURROUNDING WETLANDS IN 1992, AS SUBMITTED IN THE RECORD. IN RESPONSE TO QUESTIONS OF CHAIR STEIN, MR. RHODES OUTLINED HIS EDUCATION AND EMPLOYMENT HISTORY, AND EXPLAINED IDENTIFICATION OF A WATERSHED AND ITS RANGES OF EFFECTS.

MICHAEL CARLSON PRESENTED TESTIMONY ON BEHALF OF THE PORTLAND AUDUBON SOCIETY EXPRESSING CONCERN REGARDING POTENTIAL HARMFUL IMPACTS TO WILDLIFE, INCLUDING ENDANGERED SPECIES SUCH AS THE BALD EAGLE, PAINTED TURTLES, NORTHWEST POND TURTLE AND COLUMBIA WHITE TAILED DEER; AND THE WATER QUALITY OF STREAMS, AND WETLANDS RESOURCES

IF QUARRY EXPANSION OCCURS. MR. CARLSON ENCOURAGED THE BOARD TO DESIGNATE NORTH ANGELL BROTHERS CREEK WATERSHED AS 3A FOR WILDLIFE AND FOR STREAMS AND TO CONTINUE THE PROPOSED 3A DESIGNATION FOR THE FORESTED HABITAT AREA KNOWN AS THE WILDLIFE CORRIDOR. MR. CARLSON RESPONDED TO BOARD QUESTIONS CONCERNING WILDLIFE HABITAT AND MIGRATORY WATERFOWL.

LYN MATTEI SUBMITTED AND PRESENTED TESTIMONY ON BEHALF OF THE OREGON NATIONAL RESOURCES COUNCIL CONCERNING THE COUNTY'S FIDUCIARY TRUST TO PROTECT THE BURLINGTON BOTTOMS WETLAND AND SUBMITTED A JULY 5, 1994 OREGONIAN ARTICLE CONTAINING COMMENTS FROM PAUL KEIRAN REGARDING WATER QUALITY TECHNOLOGY.

BIOLOGIST AND PHYSICIAN JODEANNE BELLANT SUBMITTED AND PRESENTED TESTIMONY URGING CONTINUED PROTECTION OF BURLINGTON BOTTOMS WETLANDS AND ITS VARIOUS INDIGENOUS SPECIES.

IN RESPONSE TO A QUESTION OF CHAIR STEIN, MR. ROCHLIN ADVISED IT WAS A COMPROMISE NOT TO PROTECT THE WETLAND FED BY THE MIDDLE ANGELL BROTHERS CREEK BECAUSE IT WAS FELT THAT PROTECTION OF THE NORTH ANGELL BROTHERS CREEK WOULD BE EASIER TO OBTAIN AT THIS POINT.

APPELLANT DONNA MATRAZZO SUBMITTED AND PRESENTED TESTIMONY ON BEHALF OF THE SAUVIE ISLAND CONSERVANCY, REQUESTING THAT THE BOARD NOT ALLOW QUARRY EXPANSION IN THE WATERSHED OF THE NORTH ANGELL BROTHERS CREEK IN ORDER TO PROTECT STREAMS, SCENIC, WILDLIFE AND BURLINGTON BOTTOMS. MS. MATRAZZO URGED THE BOARD TO REJECT THE PROPOSED SCENIC PROTECTION PLAN BECAUSE IT DOES NOT OFFER PROTECTION AND RECOMMENDED THAT THE IMPACT AREA OF THE STREAMS INCLUDE THE STREAMS' WATERSHEDS.

PORTLAND PARKS OPEN SPACE PLANNER DAVID

YAMASHITA OUTLINED HIS PROFESSIONAL BACKGROUND AND ADVISED HE IS HERE TODAY AS A PRIVATE CITIZEN. MR. YAMASHITA EXPRESSED CONCERN THAT THE PROPOSED PROTECTION PLAN DOES NOT ADDRESS SCENIC CORRIDORS; THAT THE GREAT VIEWS FROM SKYLINE BOULEVARD WERE NOT ADDRESSED; VIEWS FROM THE LANDSCAPE INTO THE RESOURCE WERE NOT CONSIDERED. MR. YAMASHITA DISCUSSED HIS CONCERN WITH THE PLAN'S VAGUE LANGUAGE, ADVISING THERE ARE MANY LOOPHOLES WITH UNENFORCEABLE GUIDELINES AND SUGGESTING STRICTER LANGUAGE IN ORDER FOR THE COUNTY TO BE AN EFFECTIVE PARTNER IN PROTECTING THE OUTSTANDING SCENIC RESOURCES OF THE METROPOLITAN AREA. IN RESPONSE TO BOARD QUESTIONS, MR. YAMASHITA EXPLAINED CONDITIONS OF THE CITY'S ENVIRONMENTAL PRESERVATION ZONE AND COMMENTED ON THE PROCESS FOR IDENTIFICATION OF SCENIC VIEW SPOTS.

MR. ROCHLIN SUBMITTED AND PRESENTED TESTIMONY CONCERNING SUPERFICIALNESS OF STREAM STUDY IN RECONCILIATION REPORT; THE EXCLUSION OF WATERSHEDS FROM THE IMPACT AREAS OF THE SIGNIFICANT STREAMS; AND OBJECTION TO PROPOSED PROTECTION OF IMPACT AREA BEING LIMITED TO ONLY RIPARIAN ZONES. MR. ROCHLIN ADVISED THE IMPACT AREA IS THE AREA WHERE USES MAY OCCUR THAT COULD ADVERSELY AFFECT THE RESOURCE SITE OR BE ADVERSELY AFFECTED BY USE OF THE RESOURCE SITE, AND THAT THE COUNTY MUST CONSIDER THE WATERSHEDS IF USES THERE COULD IMPACT THE STREAMS. MR. ROCHLIN ASSERTED THAT STAFF DID NOT ACKNOWLEDGE EXPERT TESTIMONY INCLUDED IN WRITING; DID NOT PROPOSE EVEN MINIMAL CONSTRUCTION GUIDELINES FOR WATERSHED PROTECTION; AND SUGGESTED THAT STAFF PROPOSAL TO NOT SPECIFICALLY MAP THE RIPARIAN AREAS IS ILLEGAL. MR. ROCHLIN RESPONSE TO BOARD QUESTION ABOUT PORTLAND'S REGULATIONS CONCERNING LEVELS OF ENVIRONMENTAL PROTECTION.

MICHAEL CARLSON PRESENTED TESTIMONY ON

BEHALF OF THE PORTLAND AUDUBON SOCIETY EXPRESSING CONCERN WITH LIMITED SCOPE OF STREAMS ANALYSIS THROUGHOUT THE COUNTY; AND CONCERN THAT WETLANDS ARE NOT CONSIDERED AS PART OF THE INVENTORY OF THE RECONCILIATION REPORT. MR. CARLSON ENCOURAGED BOARD TO ADOPT GOOD WATERSHED PROTECTION; PROTECTION FROM AGRICULTURE USES; REQUIRE 100 FOOT BUFFERS ON ALL SIDES OF STREAMS AND WATER RESOURCES; AND ADOPT HABITAT PROTECTION.

SUE BEILKE TESTIFYING AS A PRIVATE CITIZEN, ADVISED SHE WORKED AS PROJECT COORDINATOR ON THE BURLINGTON BOTTOMS MITIGATION SITE FOR THE DEPARTMENT OF FISH AND WILDLIFE. MS. BEILKE READ FROM A COPY OF THE HYDROLOGY REPORT THE DEPARTMENT CONTRACTED FOR BURLINGTON BOTTOMS REGARDING NORTH ANGELL BROTHER CREEK AND ITS SIGNIFICANCE AS A SOURCE OF WATER FOR THE BURLINGTON BOTTOMS AREA. MS. BEILKE TESTIFIED SHE BELIEVES THAT QUARRY EXPANSION IN THE PROPOSED AREA WOULD NEGATIVELY AFFECT BURLINGTON BOTTOMS. MS. BEILKE EXHIBITED A LARGE COLOR INFRARED PHOTO TAKEN LAST YEAR OF THE AREA AND DISCUSSED THE IMPORTANCE OF PRESERVING WETLANDS HABITAT. MS. BEILKE RESPONSE TO BOARD QUESTIONS CONCERNING MIDDLE ANGELL BROTHERS CREEK AND HER POSITION IN OPPOSITION TO MAY 19, 1994 FISH AND WILDLIFE FINDING THAT IT COULD NOT CONCLUDE NORTH ANGELL BROTHERS CREEK WARRANTED A SIGNIFICANT DESIGNATION DUE TO ITS CONTRIBUTION OF WATER TO BURLINGTON BOTTOMS.

MR. PARISI PRESENTED REBUTTAL TESTIMONY, ADVISING ANGELL BROTHERS COULD MINE UPPER EXPANSION AREA FOR 5 YEARS, DOING ONE BENCH PER YEAR AND THAT EXPANSION COULD BE PHASED SO THAT MINING DOES NOT BEGIN UNTIL FOREST COVER REESTABLISHED IN THE CLEAR CUTS ADJACENT TO AND NORTHWEST OF THE QUARRY. MR. PARISI REBUTTAL REGARDING SEDIMENT, WATER QUALITY, RECLAMATION, AND

ZONING ENFORCEMENT. MR. PARISI SUGGESTED MINING WILL WORK ALONG WITH HABITAT THROUGH CONSCIENTIOUS RECLAMATION OF QUARRY SITE AND SUBSEQUENT ESTABLISHMENT OF CONSERVATION EASEMENTS IN AREAS ADJACENT TO McNAMEE ROAD. MR. PARISI EXPRESSED CONCERN THAT ANGELL BROTHERS HAS SPENT TIME AND MONEY AND BEEN THROUGH COUNTLESS HEARINGS REQUESTING AN EXPANSION PERMIT SINCE 1989, DURING WHICH TIME THE COUNTY HAS ALLOWED 100 HOUSES IN AREA, AND THAT THE AREA MAY NOW BE CONSIDERED TOO URBANIZED TO ALLOW MINING. MR. PARISI EXPLANATION CONCERNING AGGREGATE AS A RESOURCE, ADVISING ANGELL BROTHERS DOES NOT WANT TO MINE THE 99 ACRES BY THE HIGHWAY FOR PUBLIC RELATIONS REASONS; SKIP ANDERSON'S PROJECTED ESTIMATE ON HOW LONG THE AGGREGATE WILL LAST BASED ON PRODUCTION FIGURES IN 1992. MR. PARISI ADVISED ANGELL BROTHERS HAS LOTS OF ROOM FOR SETTLING PONDS AND EXPLAINED THAT ANGELL BROTHERS FILED THE REQUIRED EPA PERMIT, WORKED WITH PAUL KEIRAN AND KEN ASHBAKER WHO IDENTIFIED A PROBLEM, AND WILL RESHAPE THE WORKING AREA OF PIT SO THEY CAN TREAT STORMWATER SEPARATELY, AND IS IN COMPLIANCE NOW. MR. PARISI RESPONSE TO QUESTION REGARDING QUALITY OF AGGREGATE ON SOUTHERN PORTION OF SITE VERSUS LOWER TOWARDS THE HIGHWAY, ADVISING IT IS BETTER THE DEEPER YOU GO. IN RESPONSE TO A QUESTION, MR. PARISI ADVISED A 3C DESIGNATION FOR NORTH ANGELL BROTHERS CREEK AND FOR THE EXPANSION MAY WORK. IN RESPONSE TO A QUESTION CONCERNING THE TECHNOLOGY AND ENGINEERING BEHIND THE HOLDING PONDS, AND FOLLOWING MR. DuBAY'S ADMONITION REGARDING SUBMISSION OF NEW EVIDENCE, MR. PARISI REFERRED THE BOARD TO PLANNING COMMISSION REBUTTAL TESTIMONY OF RON RATHBURN AND TORY WALKER ALREADY IN THE RECORD.

CHARLES HENDERSON REQUESTED INFORMATION CONCERNING CHANGES IN THE ZONE DESIGNATION WHICH WILL NOT ALLOW HIM TO BUILD ON HIS 8 TAX LOTS (40 ACRES) ON SKYLINE BOULEVARD

NORTH OF SPRINGDALE ROAD WHICH HE HAS OWNED FOR 40 YEARS. MR. PEMBLE DIRECTED TO MEET WITH MR. HENDERSON NOW FOR ASSISTANCE AND EXPLANATION.

CHARLES CIECKO, METRO'S REGIONAL PARKS AND GREENSPACES DIRECTOR SUBMITTED AND PRESENTED TESTIMONY IN OPPOSITION TO ANY QUARRY EXPANSION IN THE NORTH ANGELL BROTHERS CREEK OR ANY WATERSHED WHICH DRAINS TO BURLINGTON BOTTOM. MR. CIECKO ADVISED ANGELL BROTHERS HAS A HISTORY OF WATER QUALITY VIOLATIONS IN ITS EXISTING OPERATION, AND THAT SEDIMENT FROM THE EXISTING OPERATION HAS SERIOUSLY DEGRADED A WETLAND DOWNSTREAM OF THE QUARRY SITE. MR. CIECKO ASSERTED THAT THE RAILROAD, JUNKYARD OR HIGHWAY DEPARTMENT HAVE NOT BEEN CITED FOR WATER QUALITY VIOLATIONS BUT ANGELL BROTHERS HAS, AND EXPRESSED CONCERN REGARDING ANGELL BROTHERS IMPROVEMENTS WHICH HAVE NOT YET BEEN TESTED. MR. CIECKO SUBMISSION OF OREGONIAN ARTICLE ON KARBAN SITE CONCERNING TECHNOLOGY WHICH DOES NOT WORK.

SETH TANE TESTIMONY RECOMMENDING THAT COUNTY PRESERVE RESOURCES AS THEY ARE AT THIS TIME.

PLANNING COMMISSIONER CHRIS FOSTER TESTIFIED IN OPPOSITION TO QUARRY EXPANSION DUE TO PROBLEMS WITH OVERBURDEN, SOIL MANAGEMENT, EROSION AND WATER IN VIEW OF THE RESOURCE ALREADY EXISTING IN THE CURRENTLY PERMITTED AREA OR THE PROPOSED ROCHLIN AREA.

JOHN SHERMAN TESTIMONY IN OPPOSITION TO PROPOSED ANGELL BROTHERS QUARRY EXPANSION, ADVISING A PUBLIC RELATIONS PROBLEM IS NOT A GOAL 5 RESOURCE.

MR. PARISI REBUTTAL TESTIMONY ADVISING A PORTION BUT NOT ALL OF THE LOWER 99 ACRES IS APPROVED FOR MINING.

SKIP ANDERSON REBUTTAL TESTIMONY ADVISING ANGELL BROTHERS HAS 114 ACRES PERMITTED NOW, BUT DOES NOT HAVE 99 ACRES PERMITTED ADJACENT TO THE HIGHWAY. MR. ANDERSON EXPLAINED THE BUFFER ZONE THEY HAVE BEEN PRESERVING EVER SINCE THE MINE WAS STARTED IS NOT IN THE AREA WHICH IS NOW PERMITTED TO MINE. MR. ANDERSON ADVISED THAT IN OVER 20 YEARS, ANGELL BROTHERS HAS NOT HAD A CITATION FROM DEQ OR ANYONE ELSE UNTIL THE NEW STORMWATER POLLUTION CONTROL PLAN CAME INTO EFFECT, AND HAS HAD SINCE THEN 1 NOTICE OF NONCOMPLIANCE. MR. ANDERSON REPORTED ANGELL BROTHERS SPENT \$150,000 DEVELOPING A STORMWATER SYSTEM AND THE LAST 3 SAMPLES TAKEN WERE ALL IN COMPLIANCE. MR. ANDERSON REPORTED THAT ROCK QUALITY IS THE SAME THROUGHOUT QUARRY; SEISMIC TESTING WAS DONE IN 1991 OR 1992; AND THAT 98% OF THE AGGREGATE GOES TO MULTNOMAH COUNTY CUSTOMERS. MR. ANDERSON TESTIMONY IN SUPPORT OF ANGELL BROTHERS PROPOSAL TO LEAVE PART OF THE BOTTOM 3B, LEAVE 1,000 FEET OF THE BUFFER, MOVE UP THE HILL, AND LEAVE SOME ABOVE FOR WILDLIFE PROTECTION. MR. ANDERSON RESPONSE CONCERNING ROCHLIN, ET AL PROPOSED MINING EXPANSION ACREAGE VERSUS COUNTY PROPOSED MINING EXPANSION ACREAGE, ADVISING ANGELL BROTHERS IS PROPOSING AND WILLING TO ACCEPT SOMETHING BETWEEN THE UPPER AND BOTTOM, IN ORDER TO MINE THE MIDDLE PART.

MR. ROCHLIN REBUTTAL TESTIMONY ADVISING THERE WERE NO HEAVY RAINS THIS WINTER, SO THE SYSTEM IS UNTESTED; THE HIGHER MINING GOES, THE MORE VISIBLE IT IS FROM SIGNIFICANT VIEWING AREAS; PERSISTENCE NOT AN APPROVAL OF CRITERION, NOR IS PUBLIC RELATIONS. MR. ROCHLIN EXHIBITED COPIES OF PHOTOGRAPHS ALREADY IN RECORD SHOWING EFFECTS OF RUNOFF GOING INTO THE WETLAND AND THE CHANNEL FROM THE QUARRY SITE AND ADVOCATED BOARD DESIGNATING STREAMS AND AGGREGATE 3C AND REGULATING MINING ACTIVITIES.

FOLLOWING DISCUSSION WITH MR. PEMBLE AND MR. DuBAY, CHAIR STEIN ADVISED THE RECORD WOULD REMAIN OPEN FOR WRITTEN REBUTTAL ON THE JULY 25, 1994 LETTER FROM FRANK SCHNITZER OF DOGAMI, TO BE SUBMITTED TO THE PLANNING OFFICE BY 4:30 PM, TUESDAY, AUGUST 2, 1994. MR. PEMBLE RESPONSE TO BOARD QUESTION CONCERNING THE ROLE OF DOGAMI IN OVERSEEING MINING OPERATION AND TO ENSURE THAT THE MINING OPERATION IS CONSISTENT WITH THE RECLAMATION PLAN. CHAIR STEIN CLOSED THE HEARING ON THE WEST HILLS APPEALS AND ADVISED THE BOARD WILL DELIBERATE ON THIS MATTER AT 1:30 PM, TUESDAY, AUGUST 9, 1994.

The hearing was recessed at 4:37 p.m. and reconvened at 4:52 p.m.

P-2 **C 2-94a** **DE NOVO HEARING, WITH TESTIMONY LIMITED TO 30 MINUTES PER SIDE, in the Matter of an Appeal of the June 27, 1994 Multnomah County Planning Commission's Recommendation on the Howard Canyon Reconciliation Report, a Quasi-Judicial Plan Amendment to the Multnomah County Comprehensive Framework Plan, Volume I Findings Documents**

CHAIR STEIN OUTLINED THE ORDER OF PROCEDURE. IN RESPONSE TO QUESTIONS OF CHAIR STEIN, NO DISCLOSURES, CHALLENGES OR OBJECTIONS WERE REPORTED.

SCOTT PEMBLE PRESENTED THE STAFF REPORT, CITING APPLICABLE LAWS AND ADVISING THE FINAL DECISION OF THE BOARD WILL BE REPORTED TO THE LAND CONSERVATION AND DEVELOPMENT COMMISSION FOR DETERMINATION AS TO WHETHER COUNTY SATISFIED LCDC'S REMAND ORDER REQUIREMENTS. MR. PEMBLE REPORTED ON THE CHRONOLOGY OF THE LAND USE HEARING PROCESS, PUBLIC NOTICE COMPLIANCE, THE APPEAL PROCESS, AND REPORTED ON ITEMS INCLUDED IN THE RECORD TO DATE. MR. PEMBLE SUBMITTED COPIES OF A JULY 18, 1994 LETTER FROM PAUL KEIRAN AND A JULY 17, 1994 LETTER FROM KATHLEEN AND DAVID SHELMAN FOR INCLUSION IN THE RECORD. MR. PEMBLE ADVISED THE MAY 23, 1994 HOWARD CANYON RECONCILIATION REPORT, INCLUDING

ADDENDA DATED JUNE 21, 1994, CONSTITUTES THE PLANNING COMMISSION DECISION.

LEONARD YOON SUBMITTED AND PRESENTED TESTIMONY SUMMARIZING CHANGES MADE BY THE PLANNING COMMISSION REGARDING THE HOWARD CANYON RECONCILIATION REPORT AND RESPONDED TO QUESTIONS OF COMMISSIONER KELLEY REGARDING ESEE ANALYSIS ON RIVER AND ROAD TRANSPORTATION ISSUES.

APELLANT NEIL KAGAN, ATTORNEY FOR FRIENDS OF HOWARD CANYON, TESTIFIED IN SUPPORT OF REQUEST FOR BOARD TO REJECT THE RECOMMENDATION OF THE PLANNING COMMISSION TO CLASSIFY THE HOWARD CANYON AGGREGATE SITE AND HOWARD CANYON SIGNIFICANT STREAMS AS 3C ON THE BASIS OF A GROSSLY DEFICIENT RECONCILIATION REPORT WHICH IS VAGUE, INCOMPLETE AND UNABLE TO STAND UP UNDER REVIEW. MR. KAGAN REQUESTED THAT BOARD EITHER DEFER A DECISION UNTIL STAFF REVISES RECONCILIATION REPORT AS DETAILED IN HIS LETTERS OF JUNE 10 AND JUNE 13, 1994, OR CLASSIFY THE AGGREGATE SITE AS A 3B SITE ON THE BASIS OF THE EVIDENCE IN THE RECORD AS HIGHLIGHTED BY HIS TESTIMONY. MR. KAGAN SUBMITTED A SIGNIFICANT STREAMS STUDY MAP AND TESTIFIED REGARDING VALIDITY OF REPORT CONCERNING IMPACT AREAS; NEED FOR INCLUSION OF ROADS IN THE IMPACT AREA; IDENTIFYING CONFLICTING USES; OMISSION OF TIMBER PRODUCTION AND AGRICULTURE USE; AND DEFECTIVENESS OF ESEE ANALYSIS BECAUSE PRECEDING STEPS WERE INVALID AND ANALYSIS WAS NOT REVISED TO ADDRESS JUNE 13 TESTIMONY ADVISING QUARRY WILL DEPRESS PROPERTY VALUES IN THE AREA. MR. KAGAN RECOMMENDED THAT THE BOARD CLASSIFY THE AGGREGATE SITE 3B; DIRECT STAFF TO REVISE RECONCILIATION REPORT PER RECOMMENDATIONS; AND THAT THE BOARD RECONSIDER SAME ON THE BASIS OF THE REVISED REPORT. MR. KAGAN URGED BOARD TO COMMISSION AN INDEPENDENT EXPERT NOISE STUDY EVALUATION.

PAUL HRIBERNICK, ATTORNEY FOR RAY SMITH TESTIFIED IN SUPPORT OF PLANNING COMMISSION DECISION AND STAFF RECOMMENDATIONS, ADVISING THERE IS PLENTY OF ROOM BETWEEN THE AGGREGATE SITE AND THE SIGNIFICANT STREAMS TO ENSURE PROTECTION FOR BOTH. MR. HRIBERNICK ADVISED THAT AN INDEPENDENT NOISE STUDY IS FINE, BUT ONCE THE OPERATION/CRUSHER SITE IS ESTABLISHED INSIDE THE QUARRY, THERE IS NO NEED FOR THE EXPENSE OF A PERIODIC CHECK UP BECAUSE THE NOISE PARAMETERS WON'T CHANGE. MR. HRIBERNICK SUGGESTED THAT AN ANNUAL WATER QUALITY STUDY BE PERFORMED BY DEQ STORMWATER OFFICIALS RATHER THAN REQUIRING HIS CLIENTS TO BEAR THE EXPENSE OF AN INDEPENDENT CONSULTANT. MR. HRIBERNICK ADVISED HIS CLIENTS ARE WILLING TO LIMIT SITE TO COMMUNITY BASED SITE TO SERVE CORBETT AREA EAST OF THE RIVER AND ARE NOT INTERESTED IN COMPETING IN THE PORTLAND MARKET. MR. HRIBERNICK REBUTTAL TO MR. KAGAN TESTIMONY CONCERNING NOISE IMPACT AREA; TRAFFIC ON COUNTY ROADS; BALANCING NEED FOR GRAVEL WITH NEED FOR ADDITIONAL GRAZING OR TIMBER LAND; AND PROPERTY VALUES. MR. HRIBERNICK TESTIFIED IN SUPPORT OF A 3C DESIGNATION, ENDORSING LCDC, STAFF AND PLANNING COMMISSION RECOMMENDATIONS. MR. HRIBERNICK RESPONSE TO BOARD QUESTIONS.

MICHAEL CARLSON OF THE PORTLAND AUDUBON SOCIETY PRESENTED TESTIMONY CONCERNING POTENTIAL HARM TO SANDY RIVER TRIBUTARIES, WILDLIFE AND FISHERIES RESOURCES FROM SEDIMENT DUE TO QUARRY OPERATION AND ADVISED THE INVENTORIES AND ANALYSIS REPORT NOT AS DETAILED AS IT SHOULD BE.

MICHAEL GAMA PRESENTED TESTIMONY ADVISING THE RECONCILIATION REPORT IS FLAWED BECAUSE TRANSPORTATION ISSUES WERE NOT ADDRESSED AND IN OPPOSITION TO QUARRY EXPANSION DUE TO NEGATIVE IMPACT TO TRAFFIC SAFETY, TOURISM AND PROPERTY VALUES.

SUSAN FRY PRESENTED TESTIMONY IN OPPOSITION

TO QUARRY EXPANSION DUE TO NEGATIVE IMPACT TO LIVEABILITY AND TRAFFIC SAFETY, AND URGED BOARD TO ADOPT 3B DESIGNATION.

CAROLYN COONS PRESENTED TESTIMONY IN OPPOSITION TO QUARRY EXPANSION, SUGGESTING THE CURRENT LEVEL OF OPERATION IS SUFFICIENT FOR OPERATOR'S USE, WITH AN ADDITIONAL 5,000 CUBIC YARDS AVAILABLE FOR SALE TO THE PUBLIC, AND URGED BOARD TO ADOPT 3B DESIGNATION.

DENNIS WIANCKO PRESENTED TESTIMONY IN OPPOSITION TO QUARRY EXPANSION, ADVISING THE STUDY IS FLAWED BECAUSE TOPOGRAPHY WAS NOT TAKEN INTO ACCOUNT ON NOISE LEVEL IMPACT ZONE.

JANE ANDERSON PRESENTED TESTIMONY IN OPPOSITION TO QUARRY EXPANSION, EXPRESSING CONCERNS REGARDING DIMINISHED PROPERTY VALUES; TRAFFIC SAFETY ISSUES; AND PRESERVING THE NATIONAL SCENIC AREA. MS. ANDERSON ADVISED THE DEPARTMENT OF TRANSPORTATION HAS CONFLICTING OPINIONS REGARDING QUARRY.

KLAUS HEYNE PRESENTED TESTIMONY IN OPPOSITION TO QUARRY EXPANSION, ASSERTING THE NEED FOR ROCK FOR BUILDING OF NEW HOMES AND LOCAL ROADS IN THE COMMUNITY REMAINS STABLE AND THE PRESENT OPERATION IS SUFFICIENT FOR AREA. MR. HEYNE URGED BOARD TO ADOPT 3B DESIGNATION.

NEIL KAGAN PRESENTED REBUTTAL IN OPPOSITION TO MR. HRIBERNICK TESTIMONY AND RESPONSE TO BOARD QUESTIONS.

AT THE REQUEST OF MR. KAGAN, CHAIR STEIN ADVISED THAT THE RECORD WOULD REMAIN OPEN FOR WRITTEN REBUTTAL ON THE JULY 18, 1994 LETTER FROM PAUL KEIRAN OF DEQ, TO BE SUBMITTED TO THE PLANNING OFFICE BY 4:30 PM, TUESDAY, AUGUST 2, 1994. CHAIR STEIN CLOSED THE HEARING ON THE HOWARD CANYON APPEAL AND ADVISED THE BOARD WILL DELIBERATE ON

THIS MATTER AT 1:30 PM. TUESDAY, AUGUST 9, 1994.

There being no further business, the hearing was adjourned at 6:15 p.m.

**OFFICE OF THE BOARD CLERK
for MULTNOMAH COUNTY, OREGON**


Deborah L. Bogstad

**Thursday, July 28, 1994 - 9:30 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland**

REGULAR MEETING

Chair Beverly Stein convened the meeting at 9:30 a.m., with Vice-Chair Tanya Collier, Commissioners Sharron Kelley and Dan Saltzman present.

DEPARTMENT OF ENVIRONMENTAL SERVICES

C-2 *ORDER in the Matter of Cancellation of Land Sale Contract 15522 Between Multnomah County, Oregon and Joe S. Brown Upon Default of Payments and Performance of Covenants*

**CHAIR STEIN ANNOUNCED THAT C-2 WILL BE
CONTINUED TO THURSDAY, AUGUST 4, 1994.**

CONSENT CALENDAR

**UPON MOTION OF COMMISSIONER KELLEY,
SECONDED BY COMMISSIONER COLLIER, THE
CONSENT CALENDAR (ITEMS C-1 AND C-3) WAS
UNANIMOUSLY APPROVED.**

DEPARTMENT OF HEALTH

C-1 *Ratification of Amendment No. 2 to Intergovernmental Agreement Contract 103661 Between Oregon Health Sciences University, School of Medicine and Multnomah County, Adding the Dietetic Internship Program to the List of Administrative Units Providing Students to Work in County Clinics Per the Affiliation Agreement, for the Period Upon Execution through June 30, 1996*

DEPARTMENT OF ENVIRONMENTAL SERVICES

- C-3 *ORDER in the Matter of the Execution of Deed D941023 Upon Complete Performance of a Contract to Iner Poe*

ORDER 94-137.

REGULAR AGENDA

NON-DEPARTMENTAL

- R-1 *Presentation in the Matter of Employee Service Awards Honoring Multnomah County Employees with Various Years of Service*

Commissioner Gary Hansen arrived at 9:35 a.m.

BOARD GREETED, ACKNOWLEDGED AND PRESENTED 5 YEAR AWARDS TO SANDRA LEAPTROTT OF ASD; JEAN LEAKE AND SHIRLEY WOLF OF CFS; DEBORA BROWN OF DA; RUTH WIEBER OF DCC; TERRY HOWARD AND PATRICK JONES OF DES; LARRY FRITZ AND LAURA SELBINGER OF JJD AND WENDY HAUSOTTER OF NOND. 10 YEAR AWARDS PRESENTED TO JEANETTE HANKINS OF ASD; MARIETTA POWERS AND NORMAN ROSENBLOOM OF DA; GLORIA FLUKER AND DIANNE SMITH OF DCC; CYNTHIA FREIERMUTH OF JJD AND SARA MARTIN OF NOND. 15 YEAR AWARDS PRESENTED TO PATTY BOWSER AND DONALD NEWELL OF DES AND EMMA KAUFMAN OF NOND. 20 YEAR AWARD PRESENTED TO STEVEN BAKER OF DES. 25 YEAR AWARDS PRESENTED TO C. DALE BAIRD OF DA AND DOCKUM SHAW OF DCC.

- R-2 *Consideration in the Matter of the Appeal of the Revocation of an Adult Home Care License for Charla Dinnocenzo (Continued from July 7, 1994)*

IN RESPONSE TO A REQUEST OF CHAIR STEIN, CITY ATTORNEY ADRIANNE BROCKMAN, LEGAL COUNSEL FOR BOARD OF COMMISSIONERS, EXPLAINED THE BOARD MAY AFFIRM, REVERSE OR MODIFY THE HEARINGS OFFICER DECISION. COMMISSIONER COLLIER'S MOTION TO AFFIRM DIED FOR LACK OF A SECOND. STEVE BALOG RESPONSE TO QUESTION OF COMMISSIONER HANSEN. MS. BROCKMAN RESPONSE TO QUESTION OF COMMISSIONER KELLEY. BOARD COMMENTS AND DISCUSSION REGARDING COMMISSIONER KELLEY'S PROPOSED LICENSE CONDITIONS, LIMITATIONS AND REVIEW

PERIOD. BOARD COMMENTS AND DISCUSSION REGARDING PSYCHIATRIC EVALUATIONS OF DRS. TURCO, CRAFT AND SARDO, CLIENT SAFETY AND OPERATOR STABILITY. COMMISSIONER COLLIER MOVED AND COMMISSIONER SALTZMAN SECONDED, TO AFFIRM HEARINGS OFFICER DECISION REVOKING LICENSE AND ALLOW OPERATOR TO REAPPLY FOR A LICENSE NO SOONER THAN SIX MONTHS AS LONG AS OPERATOR DOES NOT EXHIBIT BIZARRE EVIDENCE AS OUTLINED IN MR. BALOG'S SEPTEMBER 22, 1993 LETTER. BOARD DISCUSSION. MR. BALOG AND MS. BROCKMAN RESPONSE TO BOARD QUESTIONS AND DISCUSSION. FOLLOWING ADVICE OF COUNSEL, COMMISSIONER SALTZMAN MOVED AND COMMISSIONER COLLIER SECONDED, TO AFFIRM THE HEARINGS OFFICER DECISION REVOKING LICENSE, WITH THE CONDITION THAT OPERATOR NOT REAPPLY SOONER THAN SIX MONTHS AFTER REVOCATION, AND REQUIRING THAT ANY REAPPLICATION BE ACCOMPANIED BY AN UPDATED EVALUATION REPORT FROM DR. TURCO. MOTION APPROVED, WITH COMMISSIONERS COLLIER, SALTZMAN AND STEIN VOTING AYE, AND COMMISSIONERS KELLEY AND HANSEN VOTING NO. COUNSEL TO DRAFT FINDINGS AND FINAL ORDER FOR BOARD CONSIDERATION. IN RESPONSE TO A QUESTION OF MS. BROCKMAN, MR. BALOG EXPLAINED THE DIVISION'S PROCEDURE REGARDING RELOCATION OF A CLIENT FOLLOWING LICENSE REVOCATION. BOARD CONSENSUS THAT PROCESS BE UNDERTAKEN.

DEPARTMENT OF ENVIRONMENTAL SERVICES

R-3 ORDER in the Matter of Restricting Pedestrian and Vehicular Traffic From SE 212th Avenue Between SE Burnside and SE Division Streets for Construction of Tri-Met Light Rail Facilities

COMMISSIONER HANSEN MOVED AND COMMISSIONER SALTZMAN SECONDED, APPROVAL OF R-3. JOHN DORST EXPLANATION AND RESPONSE TO BOARD QUESTIONS. MR. DORST ADVISED RESTRICTION DATES WILL BE FROM AUGUST 1, 1994 TO JANUARY 26, 1995. ORDER 94-138 UNANIMOUSLY APPROVED.

SHERIFF'S OFFICE

- R-4 *Ratification of Intergovernmental Agreement Contract 800045 Between the City of Maywood Park and Multnomah County, Providing Additional Patrol Services for the City of Maywood Park, for the Period July 1, 1994 through June 30, 1995*

COMMISSIONER KELLEY MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF R-4. LARRY AAB AND RANDY AMUNDSON EXPLANATION AND RESPONSE TO BOARD QUESTIONS. AGREEMENT UNANIMOUSLY APPROVED.

- R-5 *Ratification of Intergovernmental Agreement Contract 800255 Between Multnomah County and Mt. Hood Community College, Wherein the College Will Provide Office Space for Multnomah County Sheriff's Office Use in Providing Community Police Services to Citizens of Maywood Park*

COMMISSIONER KELLEY MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF R-5. RANDY AMUNDSON EXPLANATION. AGREEMENT UNANIMOUSLY APPROVED.

- R-6 *Ratification of Intergovernmental Agreement Contract 800325 Between Multnomah County and the City of Portland, Providing Certain Law Enforcement Services Involving Driving Under the Influence of Intoxicants (DUI) Pursuant to the Multnomah County Comprehensive Community DUI Prevention Program*

COMMISSIONER SALTZMAN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-6. RANDY AMUNDSON AND PAUL WICKERSHAM EXPLANATION AND RESPONSE TO BOARD QUESTIONS. AGREEMENT UNANIMOUSLY APPROVED.

- R-7 *Ratification of Intergovernmental Agreement Contract 800355 Between Multnomah County and the Housing Authority of Portland, Providing a Supervised Inmate Work Crew to Perform General Labor Such as Grounds Maintenance, Yard and Nursery Work, Light Carpentry and Painting at Various Facilities Owned or Operated by the Housing Authority of Portland*

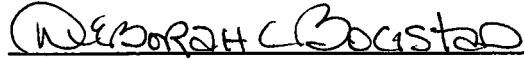
COMMISSIONER KELLEY MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF R-7. LARRY AAB EXPLANATION. AGREEMENT UNANIMOUSLY APPROVED.

PUBLIC COMMENT

R-8 *Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.*

There being no further business, the meeting was adjourned at 10:30 a.m.

**OFFICE OF THE BOARD CLERK
for MULTNOMAH COUNTY, OREGON**



Deborah L. Bogstad

***Thursday, July 28, 1994 - 10:15 AM
(Or Immediately Following Regular Meeting)***

***Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland***

BOARD BRIEFING

B-1 *Briefing, Discussion and Request for Policy Direction in the Matter of Establishing Minimum Wage "Floors" for Unarmed Security Guard Services and Other Similar Contracts. Presented by Dave Boyer.*

CANCELLED.



MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK
SUITE 1510, PORTLAND BUILDING
1120 S.W. FIFTH AVENUE
PORTLAND, OREGON 97204

BOARD OF COUNTY COMMISSIONERS		
BEVERLY STEIN •	CHAIR	• 248-3308
DAN SALTZMAN •	DISTRICT 1	• 248-5220
GARY HANSEN •	DISTRICT 2	• 248-5219
TANYA COLLIER •	DISTRICT 3	• 248-5217
SHARRON KELLEY •	DISTRICT 4	• 248-5213
CLERK'S OFFICE •	248-3277	• 248-5222

AGENDA

MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS

FOR THE WEEK OF

JULY 25, 1994 - JULY 29, 1994

Tuesday, July 26, 1994 - 1:30 PM - Planning Items Page 2

Thursday, July 28, 1994 - 9:30 AM - Regular Meeting Page 2

Thursday, July 28, 1994 - 10:15 AM - Board Briefing Page 4

Thursday Meetings of the Multnomah County Board of Commissioners are taped and can be seen by Paragon Cable subscribers at the following times:

Thursday, 6:00 PM, Channel 30

Friday, 10:00 PM, Channel 30

Saturday, 12:30 PM, Channel 30

Sunday, 1:00 PM, Channel 30

INDIVIDUALS WITH DISABILITIES MAY CALL THE OFFICE OF THE BOARD CLERK AT 248-3277 OR 248-5222, OR MULTNOMAH COUNTY TDD PHONE 248-5040, FOR INFORMATION ON AVAILABLE SERVICES AND ACCESSIBILITY.

Tuesday, July 26, 1994 - 1:30 PM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

PLANNING ITEMS

- P-1 C 1-94a DE NOVO HEARING, WITH TESTIMONY LIMITED TO 30 MINUTES PER SIDE, in the Matter of Appeals of the June 27, 1994 Multnomah County Planning Commission's Recommendation on the West Hills Reconciliation Report, a Quasi-Judicial Plan Amendment to the Multnomah County Comprehensive Framework Plan, Volume I Findings Documents (1:30 PM TIME CERTAIN REQUESTED)
- P-2 C 2-94a DE NOVO HEARING, WITH TESTIMONY LIMITED TO 30 MINUTES PER SIDE, in the Matter of an Appeal of the June 27, 1994 Multnomah County Planning Commission's Recommendation on the Howard Canyon Reconciliation Report, a Quasi-Judicial Plan Amendment to the Multnomah County Comprehensive Framework Plan, Volume I Findings Documents (3:30 PM TIME CERTAIN REQUESTED)
-

Thursday, July 28, 1994 - 9:30 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

REGULAR MEETING

CONSENT CALENDAR

DEPARTMENT OF HEALTH

- C-1 Ratification of Amendment No. 2 to Intergovernmental Agreement Contract 103661 Between Oregon Health Sciences University, School of Medicine and Multnomah County, Adding the Dietetic Internship Program to the List of Administrative Units Providing Students to Work in County Clinics Per the Affiliation Agreement, for the Period Upon Execution through June 30, 1996

DEPARTMENT OF ENVIRONMENTAL SERVICES

- C-2 ORDER in the Matter of Cancellation of Land Sale Contract 15522 Between Multnomah County, Oregon and Joe S. Brown Upon Default of Payments and Performance of Covenants
- C-3 ORDER in the Matter of the Execution of Deed D941023 Upon Complete Performance of a Contract to Iner Poe

REGULAR AGENDA

NON-DEPARTMENTAL

- R-1 *Presentation in the Matter of Employee Service Awards Honoring Multnomah County Employees with Various Years of Service*
- R-2 *Consideration in the Matter of the Appeal of the Revocation of an Adult Home Care License for Charla Dinnocenzo (Continued from July 7, 1994)*

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-3 *ORDER in the Matter of Restricting Pedestrian and Vehicular Traffic From SE 212th Avenue Between SE Burnside and SE Division Streets for Construction of Tri-Met Light Rail Facilities*

SHERIFF'S OFFICE

- R-4 *Ratification of Intergovernmental Agreement Contract 800045 Between the City of Maywood Park and Multnomah County, Providing Additional Patrol Services for the City of Maywood Park, for the Period July 1, 1994 through June 30, 1995*
- R-5 *Ratification of Intergovernmental Agreement Contract 800255 Between Multnomah County and Mt. Hood Community College, Wherein the College Will Provide Office Space for Multnomah County Sheriff's Office Use in Providing Community Police Services to Citizens of Maywood Park*
- R-6 *Ratification of Intergovernmental Agreement Contract 800325 Between Multnomah County and the City of Portland, Providing Certain Law Enforcement Services Involving Driving Under the Influence of Intoxicants (DUI) Pursuant to the Multnomah County Comprehensive Community DUI Prevention Program*
- R-7 *Ratification of Intergovernmental Agreement Contract 800355 Between Multnomah County and the Housing Authority of Portland, Providing a Supervised Inmate Work Crew to Perform General Labor Such as Grounds Maintenance, Yard and Nursery Work, Light Carpentry and Painting at Various Facilities Owned or Operated by the Housing Authority of Portland*

PUBLIC COMMENT

- R-8 *Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.*

*Thursday, July 28, 1994 - 10:15 AM
(Or Immediately Following Regular Meeting)*

*Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland*

BOARD BRIEFING

*B-1 Briefing, Discussion and Request for Policy Direction in the Matter of
Establishing Minimum Wage "Floors" for Unarmed Security Guard Services
and Other Similar Contracts. Presented by Dave Boyer. 30 MINUTES
REQUESTED.*

OUTLINE FOR CONDUCT OF JULY 26, 1994 BOARD HEARING

----- IN THE BEGINNING -----

A. Introductory Comments

CHAIR

1. Call the Meeting to Order: Thank you for coming. This is a hearing of the Board of County Commissioners to hear appeals of the Planning Commissions decision on the _____ (Howard Canyon/West Hills Reconciliation Report). This report represents proposed amendments to the Multnomah County Comprehensive Framework Plan for certain Goal 5 resources in the _____ (Howard Canyon/West Hills) rural area of the County.
2. Introduce self, Board members, Planning Commission and Staff
3. The staff will begin by summarizing:
 - ✓ Goal 5 and the Administrative Rule
 - ✓ LCDC Remand Order
 - ✓ Planning Commission Decision

After the staff presentation we will consider procedural challenges and then begin taking testimony.

PLANNING STAFF

B. Staff Presentation (R. Scott)

CHAIR

C. Protections To Which Parties Are Entitled Under State Law And Local Regulations

1. This is a time for Board members to declare any of the following:
 - ✓ Bias or Prejudgment of this case
 - ✓ Potential or actual conflicts of interest
 - ✓ *ex parte* contacts
 - ✓ Site Visits

Does any Board member wish to disclose any of these? Does anyone at this hearing wish to challenge any member of the Board on any of these grounds?

2. Does anyone want to make any procedural challenges?

Chair

D. The order of proceeding

1. Testimony will be given in the following order (West Hills):
 - a) Appellant Parisi et al (30 min):
 - b) Opponents to Appellant Parisi et al (30 min)
 - c) Appellant Rochlin et al (30 min):
 - d) Opponents to Appellant Rochlin et al (30 min)
 - e) Other Parties (2 min per person)
 - f) Parisi et al Rebuttal if time has been reserved
 - g) Rochlin et al Rebuttal if time has been reserved
2. Testimony will be given in the following order (Howard Canyon):
 - a) Appellant Kagan et al (30 min):
 - b) Opponents to Appellant Kagan et al (30 min)
 - c) Other Parties (2 min per person)
 - d) Kagan et al Rebuttal if time has been reserved

Chair

E. How To Present Your Testimony

1. State your name and address
2. Avoid repetitive testimony.
3. During the hearing, we ask those in the audience to refrain from demonstrations in support or opposition.

----- DURING THE HEARING -----

Chair/Clerk

F. Facilitate the Hearing (Chair Calls Parties to Testify and Clerk monitors time)

1. West Hills Testimony (See D1 for order and time allotments)
2. Howard Canyon Testimony (See D2 for order and time allotments)

----- CLOSE OF HEARING -----

Chair

- G. Closing the Hearing.** If anyone believes there was new evidence introduced during the rebuttal which entitles surrebuttal, please identify it so we can determine what to do. (If no challenge) Close the hearing and announce the date for the Board's deliberation - August 9, 1994, 1:30 p.m., Multnomah County Courthouse, Room 602. (If Challenge) Request direction from County Counsel.

#1

PLEASE PRINT LEGIBLY!

MEETING DATE

7/26/94

NAME

MICHAEL CARLSON

ADDRESS

5151 NW CORWELL

STREET

PORTLAND, OR.

97210

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

P-2

C 2-942

SUPPORT

OPPOSE

SUBMIT TO BOARD CLERK

#2

PLEASE PRINT LEGIBLY!

MEETING DATE

7/24/94

NAME

Michael GAMA

ADDRESS

37737 SE HOWARD Rd

STREET

COR BETT

97019

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

Howard Canyon

SUPPORT

OPPOSE

X

P-2

SUBMIT TO BOARD CLERK

#3
PLEASE PRINT LEGIBLY!

MEETING DATE

July 26, 1994

NAME

Susan Fry

ADDRESS

123 N.E. Littlepage Rd

STREET

Corbett

97019

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM

^{H.C.}
rock quarry

SUPPORT

OPPOSE

SUBMIT TO BOARD CLERK

☒

P-2

#4

PLEASE PRINT LEGIBLY!

MEETING DATE 7-26-94

NAME Carolyn Coons

ADDRESS 41101 SE LOUDEN RD

STREET Corbett, 97019

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # C2-24a

SUPPORT Appeal

OPPOSE

SUBMIT TO BOARD CLERK

#5

PLEASE PRINT LEGIBLY!

MEETING DATE July 26, 1994

NAME DENNIS WIANCKO

ADDRESS P.O. Box 246 EAST LARCH MT. RD.
STREET
CORBETT, OR
CITY ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # C-294
HOWARD CANYON

SUPPORT APPEAL OPPOSE
SUBMIT TO BOARD CLERK

#6

PLEASE PRINT LEGIBLY!

MEETING DATE 7-26-94

NAME Jane Anderson

ADDRESS 37915 SE Howard Rd

STREET

Corbett

CITY

97019

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM # Howard Cyn.

SUPPORT

OPPOSE

SUBMIT TO BOARD CLERK

#7

PLEASE PRINT LEGIBLY!

MEETING DATE

7-26-94

NAME

Walter Heyne

ADDRESS

41101 SE London Rd

STREET

Corbett OR 97019

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

Goal 5
Hawrd Canyon

SUPPORT

Appeal

OPPOSE

SUBMIT TO BOARD CLERK

HAD TO LEAVE

PLEASE PRINT LEGIBLY!

MEETING DATE

7/26/94

NAME

Charles Ciecko

ADDRESS

600 NE GRAND

STREET

POX

CITY

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

HOWARD

SUPPORT

OPPOSE

X CANYON
R-2

SUBMIT TO BOARD CLERK

MEETING DATE: July 26, 1994

AGENDA NO: P-2

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: C 2-94a Public Hearing - DeNovo

BOARD BRIEFING Date Requested:

Amount of Time Needed:

REGULAR MEETING: Date Requested: July 26, 1994

Amount of Time Needed: 2 hours

DEPARTMENT: DES DIVISION: Planning

CONTACT: R. Scott Pemble. TELEPHONE #: 3182
BLDG/ROOM #: 412/103

PERSON(S) MAKING PRESENTATION:

ACTION REQUESTED:

[] INFORMATIONAL ONLY [] POLICY DIRECTION [] APPROVAL [] OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

C 2-94a DeNovo Public Hearing - 3:30 p.m.

In the matter of the Howard Canyon Reconciliation Report
and Periodic Review Work Program requirements for Goal 5
Resources

SIGNATURES REQUIRED:

ELECTED OFFICIAL:

OR

DEPARTMENT MANAGER:

Betsy Willis

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

0516C/63

6/93

CLERK OF
COUNTY COMMISSIONERS
1994 JUL 20 11 00
MULTI-COUNTY
OREGON

**DECISION OF THE
MULTNOMAH COUNTY PLANNING COMMISSION**

In the Matter of the Howard Canyon)
Reconciliation Report and Periodic Review Work))
Program requirements for Goal 5 resources)

**RESOLUTION
C 2-94a**

WHEREAS, Periodic Review Remand Order 93-RA-876 required Multnomah County to complete additional work related to Statewide Planning Goal 5 resources in the Howard Canyon area; and

WHEREAS, On March 9, 1994, the Land Conservation and Development Commission approved the county's Work Program (WKPROG - 0038) which indicated work tasks that must be completed to fulfill the requirements of the Remand Order; and

WHEREAS, The Howard Canyon Reconciliation Report contains findings and makes recommendations concerning protection of Goal 5 resources, pursuant to OAR 660-16, for streams and the Howard Canyon mineral and aggregate site as required by WKPROG - 0038; and

WHEREAS, Notice and the opportunity for public comment were provided during several steps of the Work Program, and a joint public hearing with the Planning Commission and Board of County Commissioners was conducted on June 13, 1994, to consider additional testimony on the Howard Canyon Reconciliation Report; and

WHEREAS, The Planning Commission met for deliberation of the Howard Canyon Reconciliation Report on June 21, 1994 and June 27, 1994;

NOW, THEREFORE BE IT RESOLVED that the Planning Commission hereby recommends that the Board of County Commissioners adopt the Howard Canyon Reconciliation Report and appended Howard Canyon Reconciliation Report Addenda dated June 21, 1994, as partial fulfillment of Periodic Review Remand WKPROG - 0038.

BE IT FURTHER RESOLVED that the Planning Commissions recommends that Planning Division staff be directed to prepare Comprehensive Plan and zoning code amendments in accordance with WKPROG - 0038.

Approved this 27th day of June, 1994

By


Leonard Yoon, Chair

Multnomah County Planning Commission

TRANSCRIPTION OF PLANNING COMMISSION MEETING OF

June 27, 1994

COMMISSIONERS: Chairman Yoon, Hunt, Diack, Craghead
and Ingle

STAFF: S. Cowley, Pemble, Hall, Howard,
Clifford and Mathewson

Yoon: Okay, today is June 27, 1994. Call to order the
meeting of Multnomah County Planning Commission.
I'll turn the meeting over to Staff to walk us through
the document West Hills.

Good evening. Let me just say one thing for the
record. Present are Commissioners Hunt, Ingle,
Craghead, Diack and Yoon.

This evening we have before you as the first item a
resolution we are asking you to adopt. It's a
resolution that would do two things. It would
recognize the May 23, 1994 West Hills Reconciliation
Report and the addenda and errata sheet that were
considered on two different dates. One was the 13th
of June, a Errata Sheet was submitted to you to
define the condition that dealt with basically and
typos. One June 21st, you, the Planning Commission
went through a series of motions and gave directions
to the Staff to make corrections to the Reconciliation
Report. Attached to the Resolution for the West Hills
Reconciliation Report, are five pages that summarize
your motions of the June 21st meeting as we
interpreted them. Each of the pages is noted at the
bottom of the page as June 21, 1994 Planning
Commission Modifications to West Hills Report.
Following that what you have begins with a page
entitled West Hills Reconciliation Report Addenda and
Errata, June 13th and 21st, 1994. This is actually the
exhibit we are referencing in the resolution. So the
first four pages are just a quick summary of those
motions that you asked us to make on June 21st. The
following pages, identified on the bottom right hand
corner as Addenda and Errata, is the actual exhibit

that includes the June 13th Errata Sheet and the recommendations that you see on the first four pages that you asked us to include in our modifications to the report.

So, this evening what we are not asking you to do is to vote again on each issue about whether you agreed or disagreed because we have that as part of the record. What we are asking you to do as the Planning Commission is to vote on is essentially if the first four pages following the resolution capture the recommendations that the Planning Commission gave too the Staff. Is that clear?

I have a question. So in a sense, the Addenda and Errata Sheets are just repeats of the first four pages. I don't see much difference in the wording.

Yes, there is no difference. The first four pages of the Addenda and Errata Sheet are exactly the same verbatim. It's just the official version that gets attached to the resolution. The first four pages, again, are for your quick perusal because we've numbered the Errata and the Addenda sequentially. We think that is easier for the reader to be able to read through them sequentially. So we didn't want to try and sort out which ones were your recommendations and which ones were just simply corrections that we handed you on June 13th, so we combined them all into the Addenda and Errata Sheet. Okay?

Okay, thank you.

So, given that as an explanation, I can go through quickly and summarize what we believe to be your intent or you can simply read through them and tell us if we got it right.

Yoon: I think we can just do that.

The latter?

Yoon: Yes. But we can ask some questions for clarification around that?

Sure.

Yoon:

Great. I've already read it, but.....

3

On page B1-30, Addenda and Errata, it's not a big issue but,

If you work off the first four pages, that will keep it straight so we're not talking about an issue that was already an Errata that was handled back on June 13th.

Okay. This is a non-issue. It says "if all streams in the West Hills are significant, then they are no longer significant in relation to the others." So what you are saying is that if they are significant then one stream isn't more significant than another.

Actually, that line is there because it was inadvertently left out of the report. So it's actually an issue brought up by someone which we've tried to refute.

Yoon:

Where is that?

It's the third paragraph down on page B1-30.

Yoon:

Okay, I've got it.

Maybe it would be helpful to explain our numbering system here. And again if you would, restrict your comments to the first four pages. The numbering, or our notation system, is simply a reference. For example, page 3-7 you will find is page 3-7, paragraph 5. So if you were to turn to the West Hills Report and just find that page number and then go down to the fifth paragraph, you would find this language. That is how we've numbered all of the samples.

Yoon:

Does everybody need more opportunity to finish reading? Okay, read on.

Several:

.....(Garbled conversation while everyone reads.)

Hunt:

I have one question.

Yoon:

Commissioner Hunt go ahead.

Hunt:

On the fourth page that we're discussing on Chapter 6-6, paragraph 5, the last sentence of it where it talks about that you craft new rules. I'm not sure that that was our intent. I inferred that the Staff would work with the State Forestry Department to encourage them to enforce existing rules better, not craft new rules. Because I don't think they even have right to craft new rules. What I was inferring is that on a Class 2 stream, which most of these significant streams are, they can enforce or require a repairing area be set aside but they don't have to do that. That's up to the State Forester's power to make that decision. But that is not a new rule, it's under existing rules. It's subjective on his part.

I thought we discussed the possibility of crafting new rules if necessary. I think that the "if necessary" language also encompasses "if legally possible".

Hunt:

It is not legally possible, I don't think.

Well, if that opens the door for us, the County, to adopt.....I think it's an advantage. Not necessarily the State Forestry people.....perhaps it's unnecessary.

Hunt:

I think we are pushing it too much to say craft new rules. But that's just, maybe, my opinion.

Yoon:

Well, Commissioner Hunt, I understand where you are coming from and we certainly don't want to jump over another department, but I'm just sitting here readings and it says "and work with the Department of Forestry to craft new rules, if necessary,.....". This working with them, I mean, they're going to set new rules, but they're going to come to the County for advice. "Multnomah County should urge Oregon Public Forestry to effectively enforce the Forestry practices and provisions for the protection of fish and wildlife and habitat in the West Hills", which is basically what you want.

Yea.

".....and work with the Department of Forestry to craft new rules, if necessary, which better protects significant scenic views, wildlife habitat and streams in the West Hills." You're right. The Forestry

Department can say "go to Hell" and everything else. But all they are saying is that they are trying to promote this collegial working together.

5

That's what you said Gordon, right? Just say yes.

Hunt:

Well, if you want to look at that way.....

Let me put your mind at ease because on page 5, section 6-21 at the bottom it says "The County should work with the West Multnomah Water Conservation District to adopt and properly fund a program". I don't think that we are going to appropriate any funds from the County to the West Multnomah Water Conservation District.

Well, they already get funds.

From the County.

Yes.

Oh, I thought it was individual participants.

No.

Oh, I'll take that comment back.

Yoon:

Commissioner Craghead.

Craghead:

The wording on VI, Section 6, Paragraph 5, the sentence that starts "Logging causes only a temporary interruption...". I think we need the wording like we have in the next sentence which is temporary in a long-term sense. Because I think we took issues as to whether or not it was a temporary issue, if I recall. And, also, talking about enhancing wildlife habitats greatly over the current practices in terms of wanting it clarified that it is not enhancing wildlife habitat values greatly better than what they would be naturally without any logging. In terms of it enhances wildlife habitat values greatly if they use these proper logging practices to ensure it versus if they don't use the logging practices, not making it better than what is already there. I guess, the sentence the way it reads makes it sound like logging will improve wildlife habitat in any case.

We could change that sentence to read, "While logging causes only a temporary interruption (in the long-term) to wildlife habitat, modification of logging practices to ensure maintenance of some Forestry covered areas would enhance wildlife habitat values greatly over current Forestry practices."

Craghead: I like that.

Yoon: Does anybody have any disagreement with that? Mr. Diack.

Diack: I was just going to comment on possible funding sources for the SCS programs. I think if you look in your submission pile, if you haven't used them for scrap paper yet, Metro had some fairly imaginative possibilities for funding sources.

Because I use to be Chair of the Board for them, they have gotten a lot of funds from Metro in the past through their, oh I can't even remember which grant it was, but they're available.

Well Metro has just received some Clinton Forestry Plan-type money. Quite a bit, as a matter of fact, and a lot of that will go into programs like this.

As long as they don't just have an urban view of what Forestry is, I don't have a problem with it.

Yoon: Commissioner Craghead.

Craghead: I had a question on VI, Section 6-21, the new paragraph after Paragraph 3, that provide a minimum setback. Is that to cover what we were talking about having a minimum amount? We were going to go back and study a minimum amount for the streams.

Yoon: That's correct because we didn't come up with a hard number.

Yoon: Commissioner Diack.

Diack: When do we address the minimum setbacks then. At what point and in what manner. How do we get to that?

That will be addressed under the Protection Program when we come back to you and the caveat is that the Columbia Castings case will be the one we'll use as a yardstick. Essentially, Columbia Castings tried to come up with the uniform setback from the slue twenty-five or fifty feet. It didn't work because it wasn't applicable to the resource and the rational nixes "what is the correlation between the so-called consequence and the remedy of consequence". No one could argue that a uniform explanation would be appropriate given that.....

Different portions of the same site would have had different impacts. I remember reading that one.

Right. So well will address that during the Protection Program phase which will be in August. The caveat here is that we have to be careful how we craft that because we already have a(garbled)..... on what not to do.

For those of you have not received copies of the Columbia Castings case, we'll forward those to you.

Yoon: I'll have a motion to.....

Craghead: So moved. To accept the Addenda and Errata Sheet as the Staff has provided to the Commission?

Yoon: No. As amended. Do I have a second?

Hunt: I'll second.

Yoon: Commissioner Craghead made the motion and Commissioner Hunt seconded it. Discussion? All in favor.

Several: Eye, eye.

Yoon: So moved. Pass.

Your quick work on that makes the West Hills Reconciliation Team very happy. They are going home.

What about the resolution?

Oh, yea. The resolution. Thank you. I guess the motion for the resolution. Essentially, you've accepted the Errata Sheet and Addenda.....

8

Yoon: Right, so I need a motion on the resolution.

.....and the resolution references that and the reconciliation report. So if you just adopt the resolution, then.....

Craghead: So moved.

Ingle: Second.

Yoon: So moved by Commissioner Craghead, seconded by Commissioner Ingle. All in favor.

Several: Eye.

Okay, now they're all happy.

We'd better finish this next one before Peter comes.

Yoon: We now move to Howard Canyon. I haven't read it all.

There is no Errata Sheet for Howard Canyon.

Has he in fact applied for a mining permit?

No, but it's coming, I'm sure.

Just a personal comment. Since I wasn't quoted on it, it didn't bother me too much. I actually liked the fact that you give attribution to source questions that were raised in the original document.

Craghead: I'm curious. What was County Counsel's response on that?

County Counsel agreed with me. There is no law that requires us either to report it or to preclude it. The comments are part of record so if somebody wants to come in and peruse the record and find out who made what statements, they certainly entitled to. But with respects to the requirement to summarize that in any of these reports, there's no requirement to do that either. Again, as I explained the other night, we just did it as a way of being somewhat responsive and

credible. This is what we thought we heard you say or interpreted and this how we react to that.

9

Have you been in discussion with LCDC on the findings of the Planning Commission for the modification of these two reports?

No, I haven't. For the most part, they've pretty well advised us that they won't be making any official comments until they get the(garbled).....

Craghead: As far as all the West Hills stuff that has been done, the rural jungle drums have been quite positive as to Staff involving the Community. I've only heard one complaint which is just absolutely remarkable. Usually, I hear lots of complaints that you're trying to pull the wool over their eyes. I think it was nice that those names were included because it made them see the involvement they had gotten.

It's kind of like the 30 days war -- or 30 years -- after awhile both sides get tired and they all.....

Yoon: Any commissioner who has questions, go ahead and ask Staff and just identify yourself for the record.

Ingle: Another question on page 4-24. It's more an issue of clarification. Paragraph 3-27..... regarding economic effects. What I want to do is propose some different wording. The bottom sentence of that paragraph is a little too wordy so this is what I would propose. It starts off "this analysis" -- is this a footnote or a paragraph to follow?

Paragraph to follow that section.

Ingle: Well, this is my own personal bias, but instead of "This", "The". "The analysis of the economic trends does not attempt to evaluation.....", and then it's fine from that point forward. Obviously, when you read the first sentence, you have an extra "the" in there, so can at least eliminate that. I guess my preference is to start the sentence with "The" instead of "This". Then the second part is where I have a lot of problems. I think it would read better if you just instituted the following. "Recognize that a complete economic analysis would include a study of

Several: All talking at one -- garbled.

Yoon: I don't want to start a war at this time.

Craghead: No, no, I want to resolve it and go home.

Yoon: Right. I think if you can just make those cosmetic changes, that's fine.

Unless the author has a problem?

No. Can you read the second part.

Okay. "It is recognized that" and then you delete "there is a body of theory" and then it starts again with "in a complete economic analysis" you strike out "it is appropriate to" and put in "would" continuing "would include the study of extranalties in the evaluation of costs, using, and impacts on, different transportation alternatives".

Yoon: Of which I don't subscribe to. No, I'm just being facetious.

Motion?

Yoon: Well, I'll just look around and just have unanimity. We just basically say "Commission agrees". That's what we've been doing. It makes it easier. Don't worry, we're not going to get hung up on legalese.

Diack: I have a question.

Yoon: Commissioner Diack.

Diack: In the case of the new wording, John, would that not essentially require that sort of an analysis?

Ingel: I guess my thought was that, in parenthesis, you would put at the very back of that sentence "beyond the scope of this analysis" or whatever. When we originally raised this issue, there are those extranalties which should be considered in a more complete analysis but that was beyond the scope of Staff requirements.

My understanding was that fundamentally, you thought that you had enough information to make a comment about the economic impact part of the economic consequences of the ??(easing)?? analysis. However, you recognize that much later volume of work can be generated to respond to that same question. The question I have is that after you said that, you have a disclaimer, which this paragraph really is saying we didn't do everything that a purest would do, your bias about economists is showing through.....

No. No.

.....The gist of it was that you put the disclaimer on it. You should have some degree of confidence that the statement that was made is sufficient to draw the conclusion under this type of analysis called an easing (????) analysis.

No, I do not agree with that. We essentially did vote that in the process.

But I think Bill talked about it as more of a footnote. It kind of gets buried in the text as opposed as a paragraph.

We could change the location?

A footnote doesn't make it.....

Well, it's not so black and white. The first paragraph is here's what we've done and the second paragraph is.....(garbled).

Peter just wanted it mentioned somewhere. He agreed to footnote it.

On this 4-15 new paragraph after paragraph 3 -- where you say West Multnomah Soil and Water Conservation District, do you really mean East?

East, yes.

Yoon:

Go ahead Commissioner Craghead.

Craghead:

I was going back that. I don't think there is a problem wherever it is put, but it says there is body of theory and we're just saying at this point we're not using that body of theory. So I don't think it matters whether it's in the text or whether it is in a footnote.

12

Yoon:

Footnote.

Okay.

I'm happy. I'd like to vote but I'll wait for everybody else to finish reading it.

Yoon:

Okay, will someone make a motion.....

Okay. I will make a motion to adopt the addenda as amended to the Howard Canyon Reconciliation Report and the Resolution.

Seconded.

Yoon:

Discussion? All in favor.

Several:

Eye, eye.

Yoon:

Pass.

For your information, there is no Planning Commission Meeting in July. The first opportunity we will have to meet and talk about protection programs will be in August. August 1st.

When will this go before the Board?

This will be reported to the Board on July 12th. The way this works is that we will file this with the Clerk of the Board on th 28th, tomorrow.

Start that over again, Scott.

On this particular piece of business, the Reconciliation Report, will be reported to the Clerk of the Board tomorrow, the 28th. The 10 day appeal period will begin period will begin. Notices will be sent to 2,000 people, at least. The 10 day appeal period will begin and on July 12th your decision will be reported to the Board. If there is no appeal, if the Board does not

decide to take it up on their own motion, your decision stands as approved on July 12th.

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Craghead: If there's no appeal. Do we get to place bets on it.

In anticipation that there will be a Board Hearing on your recommendation, that's tentatively scheduled for July 26th. The Board will have a hearing, they'll set the scope of their review at their July 12th meeting for the type of hearing they will hold and then they'll close and deliberate. Some time in August. Okay?

Meanwhile, at the beginning of August, you'll start through your protection programs.

So the last day for appeal is on the 8th, Friday. Is that correct?

They start counting the ten days the day after it has been filed. So the 29th.....

Yoon: Well, I appreciate everybody's effort. Especially Scott's.

Adjourned.

**MULTNOMAH COUNTY
PLANNING COMMISSION MEETING**

JUNE 21, 1994

Chairman: The first day of summer will call to order Multnomah County Planning Commission. For the courtesy of the audience, the staff we will begin with Howard Canyon and we will definitely not start the West Hills aspect before 7:30 - that is not to say we are going to finish Howard Canyon by 7:30 but we will not start before 7:30.

The public testimony part is closed.

The record was closed at 4:30 p.m. yesterday afternoon. All the material we have is here. Have all of you had a chance to read the letter from counsel as far as the role of staff? I think it is important for you to note that because I don't want us to get in the situation of introducing new evidence in this. They can explain previous things, they are there as a technical resource, and they are definitely going to help us through this process. So, let them do that.

Leader: Okay, role call. Everybody is here except for Commissioner Foster. It is the easiest way for me to say it. Okay, I am sorry. Present are Commissioners Craghead, Diack, Fritz, Fry, Hunt, Ingle, Kunkel and Yoon. Okay, any questions of county counsel on his letter?

county counsel on his letter?

Kunkel: I will declare this I don't know if it is exparte contact or not, but following the meeting last week, I talked originally with Scott Pemble and then following discussion with him I talked to the soil conservation service and recommended that they read the staff report and call the evidence that took place at that meeting and feel free to write any letters or comments on it and so.

Other Voice: Is there anybody else that would like to make any declarations to make sure we all have clean backs on this? Okay. So we have gone through the formalities. Does everybody have a copy of the Howard Canyon report here? Because what I propose we will do with the consent with the rest of the commission is we will take this chapter by chapter. We will skip Chapter 1 right, and move on to Chapter 2 and go through this and what I would suggest we do is any changes we want to make we will do on a chapter by chapter basis. I will just look at the counsel say if anybody has got a problem with, okay, we will make that change, or if doesn't have a problem, I will look at staff to make sure that that is consistent with what we are suppose to be doing and we will move on and at the end of the thing then we will adopt the report with the amended changes.

Fry: Can I ask a question up front. Okay, this is

directed at staff. The letter from the attorney for Howard Canyon made a lot of, talked a lot about their willingness to restrict the use of the quarry to a certain amount of basically uh and this is what they presented to the community that they are willing to go with I think a certain amount of trips and a certain amount of area bla bla bla. It is my understanding that none of that is relevant to this process that all of that information, all of those conditions, all those recommendations, all that is only relevant to the conditional use process that this process is simply to determine if this resource is significant generically 1) if there are other resources significant generically to and then come to a conclusion and then in the future conditional use process if this conclusion were to be a balancing act. Is that my....

Chairman: I can even answer that.

Fry: Well, I want staff to understand. Is that true?

Chairman: Yes. We are not going through a mine application process right now.

Fry: Right.

Chairman: Your right. And, that whole letter dealt with that.

Fry: Well, I want this clear because there is some confusion about the Protection Plan and what is relevant in the conditional use and what is not.

Scott: The specifics of the operation, again you are

working with the best available information. The specifics of the operation are not particularly germane if you consider typical impacts associated with the operation as a way to consider the conflicting use aspect of the easy analysis and then subsequently you, in the protection program through the Goal 5 process should be clear of with respects to the parameters if you will, about those conflicting uses and those consequences that you are trying to respond to, be very clear about how you want them responded to at the time that the conditional use is considered, the land use application, whatever land use application is considered at a later date. So, by way of illustration on an aggregate site, it is perfectly appropriate for the Planning Commission to be very clear about what they want the reclaim site to be at some future date after the mining activity were concluded.

Fry: Right, but it would not be appropriate for this commission at this time to place conditions on the actual operation or use of any of these sites.

Scott: Only to the extent that you can relate them to consequences of the use of the resource.

Hunt: Can the commission limit the worked on site at the, like that site that they are working on at the time can you limit the size of it before it is reclaimed. Since that would part of the scream of

another, if we would found there was another Goal 5 conflict?

Scott: To the extent you are dealing with the consequences of the use of the resource and that is appropriate.

Chairman: That is both for existing and preexisting uses.

Hunt: Yea.

Scott: What you are dealing with now is essentially the anticipated use of the resource.

Hunt: Okay, the other question I had for staff on the Howard Canyon which is what we are discussion now, a portion of the side is considered exempt and in the letters written by their representative, they basically put that exempt sign aside and have basically said that they would continue to mine the exempt part of it as they always had and that the rest of the site would then become a Goal 5 protected resource and my understanding is that this process essentially eliminates their exemption and brings the entire site in as a single unit.

Scott: Correct. You consider this site as a resource site.

Fry: So the issue of exemption and non-exemption goes away because of this process.

Scott: Exemption aspect only pertains to Dogammi's regulatory authority...what you are considering is the extent to which that resource should be protected.

Fry: Okay. So, there are not two sites here as the

representative Howard Canyon applicated.

Scott: No, I would not characterize is as two sites.

Chairman: Right.

Kunkel: The 50,000 cubic yards of material per year at this point is meaningless to us. We are not approving that.

Chairman: No, we are just identifying in fact whether the Howard Canyon site is a significant resource.

Kunkel: Okay.

Chairman: We are going to determine more than that. Whether or not we can allow conflicting resources.

Chairman: We are not dealing with a mine permit itself.

Other Voice: For instance, if we said you know the staff report is great, it is a significant resource, tomorrow they can start mining 50,000 cubic yards of material.

Fry: We could continue under their exemption forever too, because that is permitting issue. I was just, because in their representation they basically created two sites and one site being the exempt site and one site being the rest of the site and I just want to make clear that for the purposes of our deliberation there is only one site - that there is not an exempt site and another site is just one geologic formation and I think that needs to be part of the record.

Other Voice: To answer your question, if the end result, a yardage less than some given amount is settled does

Dogammi not get into the picture? Part of our safeguards for other resources on the site are Dogammi's you know..their input.

Other Voice: Perhaps the best way to consider this is again you are just considering the resource itself. Dogammi's authority plays in after you have determined the resource to be significant and a level of protection identified and at that point in time Dogammi then is responsible for considering the reclamation plan and giving some overseeing of the actual mining plan. For right now you are just basically talking at the policy level whether the resource of minimal aggregate is significant and whether in fact given its significance what level of protection, if any, is to be accord this side.

Hunt: I have one more question. In this black halter line submission they talk about a lot of compromising as far as how much they would mine you know truck loads and etc. Now I can't see how that would be appropriate for us to look at but is there any of that that we could look at or put into the conditional use if we found them appropriate to weigh against the other Goal 5 resources? I mean it seems like they are trying to work with the community in this report.

Fry: That was my question. That is what I just asked. I asked if any of this information was relevant to our proceeding.

Hunt: Well, I was asking staff if there is anything in particular in here that they saw in here that might be appropriate. I mean you don't have to answer me now and then get back to me in five minutes.

Other Voice: Again, the answer is the extent to which basically again the Planning Commission ----- identification and use analysis process and then determine the level of protection and then after you determine the level of protection if you are going to protect the resource, then the extent to which you need, you view a protection program to insure the resource can be used and the extent to which perhaps consequences of the use of the resource will impact other uses that you deem to be appropriate.

Hunt: For example, we know that residential use is a conflicting use. And, they are recommending that they have limited hours of operation, could we put that in there since there is a conflicting use between the two. Could you put that in your as part of the...

Scott?: If you find that as a consequence, that is in fact a consequence, the hours of operation on the residential use is a consequence and an impact and for instance hypothetically if you were to consider it as 3-C designation, Andy felt that there is a factual basis than to argue the Protection Program to establish that as kind of a sideboard for any

subsequent land use permit for the actual mining operation to that extent it is arguable that you can include that kind of a statement in your Protection Program. But, again it has to be all linked up to your consequences and the extent to which the facts afford that.

Chairman: Let me ask the same question in a different way.

Scott: I think your probably maybe talking about a lot of hypotheticals and it might be easier for you to ask those questions in the context as you move through the report.

Chairman: The only question that I want to ask is that we are basing all of this on best information available of what is going on right now with that particular resource. But, if you take

Other Voice: (Interrupts) Your basing that on the record that you have. Not necessarily the best information...

Chairman: Well, everything on the record which this case is suppose to be the best information we have. But, that we have concerns that that is not enough information or that there is conflicting information that I mean lets just talk about the 5,000 yards. I mean we are trying to make a decision based upon that is an aggregate that something we think is valuable and it should be protected under particular conditions or whatever. But, we are basing that on what is going on now I mean future use. You know like we don't have

anything to hold on to of what is real necessarily. I think ---- therefore this letter from Black lays certain things up they are willing to do. I realize we are not in the mine permit process and everything.

Hunt: But, I can see where some of those things might balance Goal 5 resources or conflicting resources that could balance.

Chairman: Well, maybe Scott is right. Since, the first thing we are going to go through is the streams anyway. Maybe we could just go through that and maybe that will start to answer how we are going to approach this.

Ingle: Just two quick questions. The first question is there seems to be, well there are two letters from DLCD and they appeared to kind of direct the reader in two different directions. One appears to be very supportive of the county's process whereas the other one kind of raises issues that perhaps certain things haven't been addressed or what have you. And, I guess I was interested in the process itself. If Steve for example....is basically the liaison between the county and DLCD and he will explain the process that has gone on and what he finds favorable and not favorable about the county's report and really pitch the county's position.

Scott: Steve Olowman is a staff person at LCDC is assigned

to review our, our periodic review submittal and he will be critiquing that in light of his interpretation of the role.

Ingle?: Okay, how much weight does his penney carry in the overall decision making process?

Scott: The analogy of ----- would be the extent to which you believe staff here influences your decision and he is to the LCDC commission as we are to you.

Ingle: The second question I had was this was a point that was raised in one of the letters and I just wanted to know if this was a feasible alternative for the county and that was that somebody had mentioned I think it was ODF&W about the possibility of mediation process. They were specifically addressing it to the West Hills issue but it probably would be appropriate as well for Howard Canyon. Is that a suitable alternative for Multnomah County at this juncture?

Scott: Again, you are responding to Dick Benner's letter where he has offered the services of a mediation process as perhaps a way to come to resolution. My, I think, albeit a generous offer, I am not sure it is an appropriate kind of process for Goal 5. Again, the process isn't spelled out in the rule. And, that is your job to go through the process and consider the evidence before you make decisions. I don't know how the mediation works into the Goal 5

process. It is a little bit of a mystery to me.

Chairman: I don't think that would work because they are basically holding the county responsible and you know the mediation is just....Why don't we start with the streams, Chapter 2 - Howard Canyon Streams Resources and we can go through this maybe one of the, skip, we are not going to move to the West Hills till at least 7:30 and it looks like it is going to be about 8:00 now. So, Scott do you want to just start going through it and do a recap on some things on this particular resource and then we will start to go through this.

Scott: I think perhaps the best way to start at this point and time, you have heard it all, several times, is just to have you dive in if you will and start giving some feedback about what you believe is properly stated or needs to be changed.

Other Voice: I will jump in. I would like to address the impact areas that the study has included on the streams. The most ---- one to me obviously is a statement about Big Creek that doesn't flow into a wildlife habitat area or any other sensitive area. The Sandy River is a state scenic wildway of federal wild and scenic river. It goes past Oxfield Park, Dabney....I feel that the downstream reaches of all these creeks should be included in the impact area. Actually, when you get right down to it I think the entire water shed of all these should be included

in the impact area. I think it make a lot of difference in the overall weight given to the finding of significance for those streams as a matter for discussion.

Chairman: The staff recommendation was that this is 3-C that they do find these fumes are signifcation of 1-C and that the --- residential community service and conditional use and transportation public improvement conflicts by regulating proposed development of the ----- significant streams. That is what the staff recommendation is.

Other Voice: Mr. Chairman, I just want to point out on page Roman numeral 2-9 under impact areas number three impact areas - the second paragraph states, "For streams that flow through are contribute water to public parks or to recreation areas used by the public. The impact area includes the downstream park or recreational facility." And, for the three streams involved, that going back for instance to page 2-51 under Nerum Creek Recreation it was stated that they were significant for their recreational values because they did drain into the Sandy River and as you can see the first paragraph under roman numeral 2-51 which states, "Nerum Creek flows into Big Creek which drains into the Sandy. Big Creek meets the Sandy....." It goes through and lists Camp Colins, Oxbow Park, Daphne State Park, Lewis and Clark State Park so there is some

acknowledgement of the downstream of Sandy River's significance stated and that was included in the impact area.

Other Voice: Okay, I guess it is just a conflicting statement back on 2-14 then. The creek does flow into another wildlife habitat area or another sensitive area, that being the Sandy River. I would suggest that line be deleted on that paragraph on Big Creek.

Chairman: 2-14 last sentence of the first paragraph.

Other Voice: Big Creek is an important

Chairman: Let me ask before we change that. Is when we say other sensitive area...okay, by saying it there is that inconsistent with what was stated before at 2-51 or it is another definition of what sensitive area is. That is,

Scott?: I think it could be construed as being inconsistent with...

Chairman: It would be best to say to change that sentence.

Scott?: I believe so.

Chairman: Or, why don't you just cross out "not" because it does flow in.

Is that fine with everybody. Sam, you got any other?

Sam: I only need a draft page, so there it is.

Chairman: You're doing fine if you got other pages. Any

other commissioners have any other comments on this whole section of 2 that rather than take it page through page. I mean we can go through this page by page but if you have something on your mind I don't mind skipping ahead either.

Other Voice: Okay, I will jump in again. I guess I do take to heart the effects of agriculture on stream degradation. And, I really don't feel that the report is, is.... I don't know whether it is in our purview at this point to try and establish policy for our agricultural uses around these significant streams but I think as part of the Goal 5 process maybe we ought to be thinking about that in more serious terms.

Chairman: Well, I was going to bring that up at some point.

Other Voice: Well, I will leave it to you then.

Chairman: With the site inspection I was struck by the existing conditions of those streams had been damaged in the rock---- area by existing use and specifically on grazing. And, I don't even know about logging because obviously we didn't get into the upper ridges of some of those tricks so I wouldn't know that. And, I would like to head something off at the pass. Before someone brings it up, we don't need to see that there is fish in there for it to say that it basically is a resource that you don't have to do a survey on that and I think that it was brought up in one of the

testimonies that it is capable of holding fish and I think that is all we have to identify. But, what I was concerned about was okay, now we are getting to an area where we have got DEQ and other people who are suppose to basically be response...I mean they have existing standards, I guess what I am saying is I think that existing standards that DEQ has for water quality are probably appropriate. The concern is as far as enforcement, precisely measurement and that is not something the planning staff can do. All we can say is basically that we believe that and it's their responsibility so, I am hoping to something that is saying I agree with you. I think that there has been a lot of damage to those streams by existing use. I don't think the constituency out there realize that we would go out from that particular direction and I thought they would think that we would look at it in terms of the aggregate and when we get to the aggregate I would want to say I don't see what the aggregate even impacts these streams.

Other Voice: Correct. But if I might ask staff, having come in to this whole thing pretty late in the game, I understand that SRI was the organization responsible for compiling all the data on the streams in the Howard Canyon. Is that correct?

Scott: That is correct. Well, no the actual field work for that area was done by a contract biologist

hired by the East Multnomah Soil and Water Conservation District with funds they had gotten. That contractor provided the work to SRI Shapira who then did the ESE analysis. So, in fact the actual grunt work if you will, on the stream was done by a contract employee of the East Multnomah Soil and Water Conservation.

Other Voice: So, it actually wasn't done by SRI. SRI simply took the data then and compiled it for staff?

Scott?: Yes, I would say though that SRI and the contract person did work very closely. They did use the same methods, they did some sample work together so that there was coordination between the two.

Other Voice: Well, I guess the question isn't so much what they did, but what did they present to you? Did they present staff with recommendations regarding protection, right riparian areas and streams in general?

Scott?: No, they didn't. The contract that they did stopped at completing the ESE analysis and then it was the job of the staff to come forward with recommendations to deal with these situations.

Other voice: I guess this is a basic problem I have. You're planners, correct? Or are you habitat people or stream biologists? What expertise do you have as staff to make protection recommendations for these streams?

Scott: Well, I think.

Other Voice: Anymore than I would.

Scott: Our work is to take the information from the technical experts, which we got, and come forward with policy recommendations, and that's what we've done. Um certainly we are not stream biologists or technical experts, we relied on the technical expertise from the work done by our contractor.

Other voice: Was there any input from ODSW or DEQ or BLM or any other agencies state or federal to your to the protection, development of the protection program? For the streams.

Scott: No, not directly to us. We took the information and brought it forward and then through the public process we hoped to get the information as to whether it was adequate or not.

Other voice: I think in that public process, I think we all have some fairly good input from a couple of sources who would bear looking at as far as recommendations for policy directions. That's about all I have, I just want to bring the question up so people can think about

Other voice: I don't want us to get in a trap of getting into a goal 6 type of ... but I was very curious about that.

Other voice: Can I ask ... Corrine's got. Question also, Corrine, you might want to tell us what the responsibility of the soil conservation districts

are too.

Corrine:

Um, I would but the past year the West Multnomah Soil and Water Conservation district and one of the suggestions I could make to the board, is when we used to have MUF 19 somebody wanted to get a house site on a building permit they had to implement a conservation plan on their property. This is free service through the Soil Conservation service is someone chooses to be a cooperator through the Soil and Conservation service. What I've found is that people don't realize that they're damaging the streams, their land erosion, overgrazing, or whatever and possibly through that we could at least ... I don't think we should make anything mandatory, except maybe them having to write a plan up whether it be through SCS or and independent person or whatever, but they might learn through that process that there is cost sharing for fencing along the streams through ASCS that there is alternatives and options out there for them if they choose to do so. Um, I was also on the Tualatin Watershed Agriculture Task Force and DEQ is coming down on agriculture for non-??? source pollution, so it's something that somebody sooner or later is going to make agriculture address it. Um, and this might be a way to do it if they want to get a building permit or something that they have to have a management plan on file.

Other voice: Of course, that doesn't address the existing ...
Did you have a question ...

Corrine: No it doesn't, but it at least it starts in the
right direction. At least you're approaching
something. I'm not saying you're going to resolve
the issue, because you're not.

Other voice: Did you have a question also?

Corrine: No, that was ...

Other voice: O.K. go ahead, Peter.

Peter: I, we're not discussing protection plan tonight. I
believe that's coming in the future. Right?

Corrine: Well, we're talking about ...

Peter: Well, I guess I don't, you know we have a limited
amount of time, and I respect that that issue is
very important, but there's things to talk about
this report and I want to ...

Corrine: It is the same resource that we're talking about
agriculture ...

Peter: But, we're not defining protection now, I mean what
I would raise, I have some issues I'd like to raise
about this report not the protection plan, because
I expect that we will spend a lot of time on that
in the Fall. That is my understanding of the
schedule, Scott is that true?

Scott: Now, what chance do we have to amend this
protection plan if we feel like ...

Peter: I'm not adopting a protection plan tonight, my
understanding is that all we are doing.

Scott: Sure we are.

Other voice: Yes, it's part of this.

Peter: No.

Other voice: The objection is to protect the significant resources here. (Many argumentative voices.)

Peter: O.K., I resume. I thought we were doing that later, that's what I was told by staff.

Other voice: Go ahead Scott. (Mumbling)

Scott: Protected, Chapter 4, this conflict resolution of protection.

Other voice: Let me restate what we stated at the hearing the other night and you're both right. The jest of it is that our strategy here for the goal 5 process is that we have to obviously come up with a protection program for significant resources to be designated from 3a to 3c. What we explained at the hearing the other night was that the, we gave you some general guidelines about where we're heading with the protection program to give you kind of a flavor, if you will. We haven't invested a lot of time and energy, because we didn't know exactly whether the planning commission board would conclude the same thing we concluded as a staff. So there's no sense in getting in detail, if you will, about a protection program if we have basic disagreement about if this is significant or whether it needed to be protected in the first place. So we didn't invest a lot of time or energy

trying to tailor a protection program to a specific resource, we gave you a general guideline and that's what you see for instance in this report under Roman numeral four. The concept is to get agreement on the significance and the level of the ease analysis, conflicting uses, impact area, all of that and conclusion on 3a, 3b, 3c identify if you will the general direction you want to go with the protection program, realize that we are going to be funding that over time, and you will have to come back to that and we will probably be amending this section at a later date to be more specific. But right now, you should be giving us general direction about how you would envision a protection program working.

Other voice: Well, to me it's kind of scary if we for some reason followed this reconciliation report right up to the protection plan, fine and dandy, and everybody said yes, all of a sudden we would be sitting on top of this report with a weak protection plan. Now, do we have the option to come back at will and amend this protection plan?

Other voice: We don't think what you have in this report represents an acceptable in product for protection plan.

Other voice: O.K. thank you.

Other voice: We think it gives you general direction about where the staff thinks you could go to get an idea what a

protection program might entail.

Other voice: Which we will not put in at this time.

Other voice: Right. O.K.

Other voice: The identification, or the agreement with you and it is 3c also implies then that existing conditions or deterioration will be dealt with in the protection plan.

Other voice: If that's from the consequences you agree on.

Other voice: Yeah. O.K. That's good. That's good. In fact, commissioner Hunt.

Hunt: Um, on page 221 where it says Goal's agriculture lands, I wonder if we should change the wording a little bit because basically all it states in the last sentence is this designation is intended to preserve and maintain ----- land's limitations of agriculture uses in order to protect streams with the result in a direct conflict between implementation of Goal 4 and 5.

It doesn't really talk about that we should do something to

Chairman: Resolve it.

Hunt: Yes. And, maybe there is a place in here that I can't find right now.

Other Voice: I don't know if you want to get into Chapter 4 now but, it is the reconciliation section.

Hunt: Yes, that is what I disagree with. Because you say don't do anything. Don't address agriculture.

Other Voice: On pages 8, 9 and 10 is the discussion of

agriculture and really what it boils down to is three options in dealing with agriculture as a conflict of streams. One is to so the county essentially wash our hands of the matter if you will, and say we don't want to regulate agriculture activity. The second which is the staff recommendation is not to get into the actual zoning restrictions on existing agricultural lands but instead to try to work cooperatively and with the program with the U.S. Soil Conservation Service and East Multnomah Soil and Water Conservation District in kind of the things that you were talking about earlier and the third option actually for the county to institute in a zoning program for agricultural uses and that would be existing or proposed. And, you know those are the three basic options and the staff is recommending the middle option if you will, but that is a subject for discussion in the Protection Program section.

Fry: Which will happen in the Fall. Is that?

Other Voice: Well, I think the idea is that if the staff recommendation is not correct at this point and we get general direction that know the county should look at actual zoning protection for agriculture county zoning then that is something that we would need to know in order to draft actual zoning regulations for agricultural practices.

Chairman: And, we can't weight one goal over the other.

Fry: Well, I guess my point is that this is such a huge thing and we are being asked to do so much that I can't deal with figuring out is this valuable, figuring out the other uses in relationship to it and developing a protection for three different resources in one process in one night. I mean, its.....and I've got some problems with the report itself that I want to deal with as opposed to I mean you know we could sit here and spend a lot of time giving staff correction (or direction) on a protection program and not get to basic things in the report. I don't mean to be difficult but I would like to talk about some things in the report that I see.

Chairman: Obviously they are not in Chapter Two that you want to talk about.

Fry: Yes they are. If I could get into it. One problem I have is Sandy River, to my understanding it is a natural scenic resource and it is a wildlife corridor, yet I don't find any reference in the report to that fact and I would like to see anytime the Sandy River is mentioned that because these streams come in above that and into it and it seems to me that that is a significant thing under Federal law which overcomes state or local law and for us not to mention it seems to be a major omission. And, I don't know the exact words so you are going to have to look it up. I think it says

Snake River National Scenic Area or whatever.

Other Voice: A designated state scenic waterway and a federal wild and scenic river. Isn't that correct Chair?

Other Voice: Do you have a specific location in the report?

Fry: Every place Sandy River appears I would like parenthesis and this included in those parenthesis so that when someone reads the report they realize Sandy River is more than just the Willamette River.

Other Voice: Or less.

Fry: Or less. Well the Willamette River doesn't have federal -----.

Chair: What is the purpose?

Fry: The purpose is accuracy and I believe it is a major omission in the report to ignore that reality. Because that is not just an arbitrary designation. That is a designation made after much thinking and process.

Other Voice: I would suggest if the reference were made at one obvious point here that every other place for the Sandy, if it were, if the reference were made at one obvious point here, that every other place where the Sandy if the reference were made at the first introduction of the discussion of the Sandy River to

Fry: That would definitely work for me if there is some paragraph explaining that reality that would work as well.

Chairman: Well, 2-3 would be a good place where it says

Location. The --- stream surveyed are located east of the Sandy River and they empty into the Sandy River that would be a very good place to put it.

Fry: Right, explain what the Sandy River is.

Chairman: So, you would be happy if we put in a clean sentence that described all of the official designations for the Sandy River.

Other Voice: How about 2-8 as well because that is the start of the resource analysis report description of resources, Chapter 2.

Chairman: Okay, #2 Description of Resource. Somewhere in there. Okay we are talking about page 2.3, #2 location and you have a paragraph there that describes it and at that point the appropriate place you would describe the Sandy River and all of its designations and also under 2.A Description of Resource to reiterate it.

Fry: I mean I have literally seen bald eagles, I have seen a lot of wildlife, I have seen actually deer, I have seen.

Chairman: Move on.

Fry: Okay, testimony

Chairman: That's two places. I am putting my initials on both of those so that we know that they are there.

Fry: Okay, that is kind of my warm fuzzy. The next three are going to controversial. I can't find it again in the report but there was reference in the report that said that clear cut areas adversely

effect wildlife as a generic statement. In my experience that is not necessarily true, that they do adversely impact some types of wildlife but other types of wildlife benefit from the increased vegetation of what happens in a clear cut area so I think there needs to be....

Chairman: So if you put the word can and some in that...

Fry: I lost it. Actually, there is something read it actually a while ago and I can't find it again.

Chairman: So, if you put the words can and some in it, it would work.

Fry: Well, it can enhance, in some cases, for some animals it enhances their ability.

Chairman: Yes, but we could say that clear cutting can adversely effect some wildlife.

Fry: Right, that would be an accurate statement. Or species, because definitely it impacts some. There is no question. In the old days forests use to burn to create new wildlife.

Chairman: Unfortunately you can't tell where it is in here.

Other Voice: Mr. Chairman, I know that there are definite statements to that effect in the West Hills Wildlife Report but I don't....the only thing is 2-12 of this report under Forestry Use, the second sentence, "The standard process of clearcutting increases run-off and turbidity in the streams. This results in a reduction of water c-- and loss of fish habitat." And I am not aware of other

places in the Stream Report.

Fry: That is not the statement I was talking about. I am sorry I can find it again. I actually read it a 1/2 hour ago and I can't find it again. I should have written it down. That is not the statement I was talking about.

Chairman: Well it is in the West Hills Report but you are sure it is in the Howard Canyon Report?

Fry: I thought I saw it but anyway.

Chairman: Well, as we turn these pages and we see it we can jump on it.

Fry: Okay, the third issue that is not a warm fuzzy issue is you see I would argue that in some cases that in certain types of agricultural practices they enhance streams. Other types of agricultural practices don't enhance streams and predominantly a problem I have in the entire reports, all the reports, is this kind of black and white situation looking at wildlife is kind of one thing and streams is one thing and it just doesn't get into a depth that I would prefer. In other words, I think certain agricultural practices can enhance streams and enhance habitat and make fish healthier and happier. I certainly agree that agricultural practices can destroy streams as well. There is no question about it.

Chairman: The only thing I would say in response to that without finding it in this is that none of the

streams that I see that any of those places were enhancing the quality of those streams. So, if the staff was putting a broad general statement I would have to agree with them on that because in actual practice there isn't anybody out there trying to product a stream.

Fry: Right, but that is people, not agriculture. I think most of those were probably grazing which is nationally shown as very damaging to streams.

Chairman: The only point I am trying to make Peter, was on these three particular streams you could make that blanket statement because there isn't anybody practicing anything to protect those streams right now.

Fry: I don't know, I haven't been on the stream.

Other Voice: Mr. Chairman, I believe I found both the forestry reference earlier and this agricultural on 2-16 under Environmental Consequences of Allowing Conflicting Uses. The last sentence of the first paragraph has a reference to clear cut areas. And, the next paragraph talks about the environmental consequences of agricultural uses on streams.

Other Voice: Faint.

Chairman: Here they do go Peter.

Fry: I don't believe that is true but, then that is just my own uneducated opinion.

Chairman: Your saying that is an unsubstantiated observation.

Fry:

I think it is true about certain types of wildlife. I mean for example, and I hate to admit this publicly, but we have a lot of black areas which are prohibited species in Portland, and I have more rabbits and foxes and I have literally seen them on my property and they are multiplying like mad because they have lots of ground cover to hide under. They have got lots of things to eat and if we didn't have these kind of species growing on our property we would have a different kind of wildlife.

Chairman:

Let me just say something about this whole section of environmental of allowing conflicting uses. I would not necessarily want to change any of this because all they are bringing up is the possibility of any one of these conflicting uses could negatively impact and they are talking about each of different things.... I mean logging, agriculture, residential, transportation and mining. They are not at no point in here do they say any of these are p---- since they may in fact cause some problems. In legal terms, or whatever, this is a boiler plate page right here that essentially has been extracted out of some tax with no problem at all, I mean you know what I am saying Peter?

Fry:

Well, I am not going to blame the point as one would expect clear cut areas contain less habitat

and less wildlife. I believe that statement is inaccurate. So, I am not going to, I will go into my next issue because I don't want to spend a lot of time.

Chairman:something to say about this?

Fry: That, for the record I believe that statement is inaccurate and as we move on to the Protection Plan. Okay, the last statement which I feel is inaccurate since no one else agrees, this is a quarry issue. In regards to Howard Canyon Quarry it is one of the very limited number of known aggregates.

Chairman: Where are we?

Fry: Page 219.

Chairman: Thank you.

Other Voice: Third Paragraph?

Chairman: Third paragraph.

Fry: Is one of very limited number of known aggregate resource in Multnomah County. That statement is clearly inaccurate. It is definitely true that most of the aggregate resources of Multnomah County is undevelopable since Southeast Portland and Northeast Portland lays over it. But, the state, and this is important because this gets into my fundamental problem with this whole process is we are not dealing with specific things, we are kind of dealing with this political macro process and so it would be true to say is 1) a very limited number

of known aggregate sources available for development in Multnomah County. Now that statement I believe would be true and at this time. I think in the future you are going to see changes in the way people might aggregate and there is a pit right in Gresham that is active right now in the middle of housing.

Chairman: Well, according to the LCDC, there are nine sites that have been identified in the County. So, one of nine is not very high.

Engle: I just want to make reference to a letter that Skip Anderson sent us where he mentions that he had reviewed a letter and there is eight suppliers listed for Multnomah County as being rock quarries and he makes the distinction that Angel Brothers is the only rock quarry and the other is sand and gravel operations. Unfortunately, I can't remember what, oh I guess it is in the West Hills reconciliation report.

Fry: Let me make my point more clear. I think it is accurate in terms of what is available for extraction development today. In our technology at least for the next twenty years. So, I think that is accurate. But, I think it is accurate. But, I think it is inaccurate in terms of a comprehensive view for Multnomah County and the resources available in Multnomah County in a generic comprehensive way and so, that is fundamentally my

whole problem with this process is that in my opinion it does not deal with science, it is this political science and so I feel this statement should be modified to state that it is one of a very limited number of known aggregate sources available for development in Multnomah County. That statement is true. But, to say that it is one of a very limited number of known aggregate sources in Multnomah County is in my opinion clearly inaccurate.

Other Voice: I can live with that. No problem with that.

Fry: I will shut up now.

Chairman: I have a basic problem with that. I mean you could basically say that if everything was paved over you know we would have a hell of a lot more seagulls and other different varieties of birds. But, we are dealing with what we are right now. There might be aggregate underneath these buildings but so what.

Fry: Okay, if this were to play out over time the state would say to Multnomah County, you have to provide all your market within your county and Portland being the largest urban area in the state covering the majority of the county and you could not import any material into this county as the state has been saying in other counties then what that would do is drive the cost of the product dramatically up. Draw construction costs up. On the other hand it

also allowed companies to buy large areas in Northeast Portland because of the value of the product now is so high that the cost of mitigation of extracting that product works under that economic scenario. So, my own view of this process was to look at a county, look at the resources within the county and then identify what resources are available to develop in under the economic reality of that time. And, I believe that it is what the state law requires. However, we can't do that because we don't have enough time and money to do it and we don't have in my personal opinion enough information to do it and so we do it this way which is the way it is.

Chairman: Well, the only place they are going to get information is either from Dogammi or from current operators.

Fry: All you have to do is look at geological maps of Multnomah County and you will see that there is a lot of resources you will see as undevelopable.

Chairman: Yes, but as said before this is the Planning Staff. The planning staff are not geologists, planning are not ...

Fry: You already explained the used experts to augment.

Other Voice: Unclear what is being - I don't see any difference in the outcome.

Chairman: Again, two stick ---- environmental ---- conflicting uses. All those in favor of the

changes that Peter requests, raise your right hands. Well we either like or we don't, okay?

Hunt: I call for the question.

Chairman: Okay, all in favor.

Hunt: Of that.

Chairman: No, we are going motion, all I am saying, procedurally the way we are going to handle this is if we agree on any particular point or disagree on changes, we will make those changes and we will vote on all the changes ----- . So, now Peter wants to make some changes under Section Three, Environmental Consequences of Allowing Conflicting Use as specific dealing with the last sentence of the first paragraph. Dealing with ---

Other Voice: Peter, you would prefer just to delete that sentence.

Fry: Excuse me.

Other Voice: The sentence in the first paragraph. You think it is false so you would like to delete it. Is that right?

Fry: Okay, just...

Chairman: Yes or no, yes or no.

Fry: There are certain points of impact if you will within the report that I think are critical to be accurate. These are two points of impact that I feel accuracy is important. I think there is other aspects important that could be reprieved but I am only saying these two areas...

Chairman: That was kind of the discussion I was having with them, a philosophical thing, not the specifics. I mean,

Fry: Okay, so specifically, clear cut areas contain less habitat and less wildlife for certain types of species or something. I would just as soon delete it.

Other Voice: Well, the only thing I was going to bring up is that it was mentioned on a couple occasions during the West Hills Rural Area Planning Process that some people felt that clear cutting actually promoted certain types of wildlife and they saw more deer. So, and I, guess it is not a totally mute point so to some extent I support Peter in his process here.

Chairman: It is a pretty clear statement that clear cut areas contain less habitat.

Other Voice: Oh yea.

Chairman: I mean, how the hell can you argue with that?

Other Voice: Well, I guess what I am saying is it is not as black and white as we may think.

Hunt: Then can the commission conclude this and move on?

Chairman: Yea, right.

Hunt: Another question.

Chairman: So, all of those in favor in removing that particular statement, raise your right hand. Okay, on to 19. All those in favor of making the changes on that deals with the Howard Canyon that wants to

eliminate this ---- number of aggregate resources in the county.

Fry: No, what I wanted to say is one of a very limited number of known agrisources developable in Multnomah County or available for development in Multnomah County.

Other Voice: Excuse me. Do you want to insert the word developable?

Fry: Available for development would be more accurate.

Hunt: How about currently identified?

Chairman: Developable. I will go with that.

Other Voice: Consensus. Okay.

Chairman: Commissioner Hunt, you have a couple things?

Hunt: Yes, when it talks about the right riparian areas it says anywhere from 0 - 200 feet.

Chairman: Where are we?

Hunt: Well it talks about it on 2-9 and 2-10. And, I realize in your study that is what you came up with. Now, I don't understand how a riparian area can be 0 feet. That I would like to have explained to me. Now, on 4-14 where it talks about streams and I think we can go back and forth on this. Your way of dealing with it is to give it definition for the riparian area and then leave it up to the parties to define what their riparian area is. I think that is kind of flimsy. I would like to at least see a minimum riparian area. Because a lot of people have argued that there should be a water

shed and not even a riparian area so to recognize a zero riparian area I find pretty flaky.

Chairman: There has been a lot of evidence that has been submitted that had very good suggestions as far as specific requirements for defining that riparian area and I would suggest that the commissioners look at those suggestions and direct staff to think about that if this is the appropriate time to define the riparian zone.

Hunt: Well, I think we need to define it more than is in this definition.

Chairman: Maybe we should let staff respond to your question first about how they came that definition.

Scott?: Where is the definition.

Hunt: The definition is on 414, third paragraph. Chapter 4, page 14.

Scott: Okay, yes, that is the definition that was used.

Hunt: Yes, I can see where it would be a problem of

leaving it up to, it is not very definable to me as far as when you get a party in there and they say well my repairing is such and such. I don't think the criteria is defined enough. And, also, like with the Forestry Practices Act, they always have at least a minimum riparian area. Not zero.

Scott?:

In response, there is two points. We do have, and I, it is referenced in the document in the background field surveys that do have some of these figures you know 0-160 feet. They did take surveys of the width of different areas. So, we do have more information than that. And, so we can, and we show that an area has 160 feet and someone came in with a permit request and said no, it is ten feet, we have some data and some mapping information that would indicate that it is not right. So I think that the problem is we didn't so precisely map it to the point where we could say that Mile 1.7 on Neerum Creek the repairing is 187 feet wide.

Hunt:

But I guess when I

Scott:

So, the point is to give people an opportunity to consider.

Hunt:

I guess what I am saying is when your saying that possibly part of it would be a zero riparian area, somebody could do damage within next to a stream bank. And, we are calling that stream significant. I think you have to have a minimum level.

Other Voice: Mr. Chairman, to the vice chair, back on page 414

if you would, look at the paragraph right under the definition of riparian area.

Hunt: Yes.

Other Voice: It states just what staff has said; that this was a very generalized measurement in the stream study and then when it gets down to an applicant who wants to do something under the SCC provisions, they would then have to come up with a much more precise boundary. That is number 1.

Hunt: I guess my argument is we should have at least a minimum..

Other Voice: Then we are going to have to go out and measure it all right now you are saying. The disclaimer here is that it is a generalized measurement for this study. But, before anything could be done in here, there would have to be a more accurate, a more precise boundary of the riparian zone on the property that seeks some sort of development.

Craghead: I disagree with that in given the information that was submitted by METRO, they give what the federal government uses as centering guidelines for riparian areas and they give a minimum or general for each type of stream kind of thing. And, I think that is what Commissioner Hunt is getting at - having that kind of minimum and it is not specific to the stream.

Other Voice: Okay, let me throw something else in here. Did everybody see the Department of Fish and Wildlife

letter? The habitat conservation division where they said that what is being proposed in here protects, does protect it, adequately protects it. And, I don't understand where we end up with a conflict.

Hunt: Well, there is a lot of evidence presented that it is not adequate, too.

Chairman: Not adequate only in the sense that there hasn't been any enforcement you know. It is not because we haven't said this is what the riparian zone is where, only because there hasn't been any enforcement or any measurement of what is going on right now. It is nothing..

Hunt: There is some letters that were presented that talked that the riparian area should be defined.

Chairman: I tend to disagree a little bit where Metro is going on that because I think you get to a certain point where we are almost overlegislating the landowners on these things. A remarkably different position than they usually have.

Hunt: The other thing is as since I was on the commission when this all came up originally, they told us that we had to identify the streams that were significant is because we did put 100 foot SEC overlay around Class I streams, and they said if we had to do that we had to define what sites are Goal 5 streams.

Chairman: So, maybe we should ask staff to respond to that.

Hunt: That was the county commission's original intent was to have 100 foot.

Other Voice: Would that automatically that an SEC overlay establish the 100 foot bamm and SEC is automatic on a Class I stream, I don't know if it is or not, then we are covered for the 100 feet.

Kunkle: The fear I have of putting a minimum on it, I mean I have spent a lot of time outdoors, I have looked at a lot of things that one arm or another the government is designated as a significant deal and tried to do it on a broad base. And, there are definitely some areas that need that protection and there are also some areas very possibly 500 feet down that don't need those protection. And, I would hate to, I understand the minimum and I think we are taking the easy way out. I mean it is going to take some work as somebody applies for something to go out there and if they say they are zero and staff has evidence that there is 180 feet there is going to be some conflict there and they are going to have to resolve that. But, I think that is the more fair way to do it.

Chairman: Yes, on a case by case basis.

Kunkle: Yes, on a case by case basis. You know, the minimum is good but it can also be terrible.

Chairman: I don't what is magic about 100 feet you know; given the streams.

Diack: One thing that might be magic and staff could

address this also. Won't we get in trouble with DLCD if we don't get some definitive terms down here that land owners can deal with themselves and that the county can deal with in establishing further zoning regulations for residential use or road building or bridge building. If we don't define those aren't we mandate it to define?

Scott: Well, in response to that I think that is the attempt of this definition is to define the area that is being regulated. And, in fact is that the question is the current SEC designation of --- says 100 feet and it is a standard thing and the question is I mean the repairing area be less in some areas, maybe more in other areas. And so this is an attempt to actually further define what the area, the impact area and the area with a potential SEC type regulations would be.

If we went just a little further, could this end up being a question we could bring up in fine tuning the Protection Program rather than here. I don't know.

Scott: Where you are -- right now deals with the Protection Program. And, again that is an area that we expect to do more work on.

Hunt: Can I get one clarification? If had fairly even slopes, or not very steep slopes along a creek and in one area it had lots of vegetation, conifer forest around it, and versus where it had been

raised all the way up to the creek ----. Is that going to be, even though they have the same slopes, soil types etc., would those riparian areas be defined differently as how this study was done.

Scott: No, the way this study was done those areas would be included in the riparian zone. It was an area that whether it was grazed or not it would clearly be impacted by the water using this definition and so if, it was really, in other words if an area was flat along the stream in talking in fact I specifically questioned the biologist about this. If an area, if the area was flat along the stream and it was grazed but clearly it was the same level as the stream and would have riparian and associated upland areas exposed to the effect by the water if the grazing weren't taking place then it was included in the riparian zone area.

Ingle: Well, I was just going to make a comment. Rather than define what the riparian zone is this one paragraph on 14-4 where it talks about the burden of proof of the applicant on some wording to the effect that the applicant would examine the area within 100 yards, 200 yards, whatever.....for possible repairing and impact.

Scott: Your backing for the plan, I mean ...

Ingle: ??? and implementing, sort of...

Scott: Yeah, you're at the implementing level again.

Ingle: I'm not really hung up on it, but ...

Scott: So, so what takes precedence the FCC or ours? You know, does the 100 or the 80/20, 80/200 or do are we replacing that?

Scott: The FCC...

Other voice: Excuse me, which definition?

Scott: Wait a minute, wait a minute.

Other voice: We using this definition?

Ingle: I think this definition allows much, much, much broader definition on a much broader definition on a case by case basis. You know the... I think, in fact what we heard in some places there really isn't a need for more than 5-10 feet, but in other places it may need to be, you know, huge.

Other voice: Yeah, this is not the place for regulation, this is the place for planning guidance so to speak, number 1. Number 2, ...

Ingle: This is a much better definition

Chairman: Right, and the other thing is I just don't, can't see us over laying another thing over the property owner at this point.

Scott: What our intent is in terms of the Protection Program, just to give you a feel for this is the SEC Section Zone Code will have a number of subsections, one that deals scenic, one that deals with wildlife, one that deals with streams. And, part of what we had envisioned is, that the riparian definition would be used as the guiding consideration for the SEC protection to that

stream.

Chairman: So, could we basically quote that and say that this is a side bar?

Scott: I mean that is what we are intending to suggest here.

Other Voice: But, it is a direct, but, that is what they do.

Other Voice: Nothing really happens until somebody wants to do something within the SEC, and then you really have to look at what is the right pertinent area of a significant ...

Chairman: Right. The point that I am making is that is we would make note of exactly what Scott said, now is a ---- or whatever that when they get into the SEC thing that is included as part of the process, we can direct that. Because, at some point limitation.

Kunkel: Address Corin. I understand what she is also saying in a "0", maybe a better number would be 10, or 5 to understand.

Chairman: So, Corin.

Hunt: I mean when you are talking thermal regulation how can you have a 0 riparian area and not have any thermal regulation?

Scott: I think Mr. Chairman, maybe on that particular issue, I can go back and look at the field work that has been done.

Hunt: Yes, I would appreciate it.

Scott:justify it how that number has come about.

Chairman: That is a good point, but do you want to make it a minimum of 10 or something at this point?

Hunt: I would like to leave it open and make sure we go back to it. If we don't conclude tonight and he can come back with more information, I might drop it entirely.

Chairman: We are going to conclude the Streams tonight.

Hunt: Then I feel we need some type of minimum.

Chairman: Just to get the process forward we are going to conclude this. We are not going to continue this over at any point. Okay, so give me a number and we will all say yay.

Hunt: Well, since your talking 5 or 10, I'll recommend 20.

Chairman: No, I didn't say 5 or 10....Now, will you keep it at 10 or 20.

Hunt: Well, I would recommend 20, you can see what the Board says.

Other Voice: I am terribly confused. You are talking about a page 2-10 where it says 0. All this does is describe is what is.

Chairman: Not what should be or what is best.

Hunt: I am just saying there should be at least a minimum impact area.

Chairman: This is the result of the field work, is it not?

Scott: That is correct, yes.

Other Voice: This isn't a recommendation.

Hunt: I know it is not a recommendation. But, what I am

concerned about is since they found that there was zero riparian areas that somebody could go back in there and say, well I want to put something right on the creek bank. Or, do something right up to the creek bank. And, I know from my own experience that it is going to have effect on the stream.

Other Voice: It says they can't do that on page 414.

Fry: Right. Isn't a riparian area a thing that we are not trying to keep it the way it is, we are trying to enhance it through the protection program.

Chairman: But, we are not in the Protection Program.

Fry: But, I meant the theory being that we are not saying that the riparian areas going to be zero along the streams. We are saying that as we analyze these streams and determine what the appropriate riparian area is along the stream then that, which is what that paragraph is on....

Chairman: Absolutely.

Fry: So, I think that we might want to say that in our judgment doesn't work, but beyond that it seems to me that they.

Chairman: We could say that we don't agree that could possibly any place that it is 0.

Fry: Yes, if we could say that, I think that is.

Chairman: Yes, as carried out by Commissioner Fritz it is an existing rather than.

Other Voice: It is just a piece of scientific data.

Other Voice: At one site on the Neerum Creek.

Fry: Was this a road overpass or something?

Other Voice: I don't know.

Chairman: Cows up close or something....whatever.
It just happens to be that way, we are not zoning.

Other Voice: All this does describe what was found. Not
what should be and not what is perfect.

Fry: The paragraph describes what should be. The
paragraph you were referring to Commissioner Fritz.
I am kind of curious why that is.

Chairman: And, it is repeated three or four places in the
document too.

Hunt: I still am asking that on paragraph 4, somewhere in
there we put "with a minimum of 20 feet" on 414.
Now, you folks can say yay or nay. The paragraph
where it says that the applicant must provide a
more precise boundary, I say we put in there with a
minimum of ---

Fry: Can I say...

Hunt: You can say no, vote on it like you did with Mr.
Fry and we can move along. But, that is what I
would feel best with.

Fry: What I am reading now, is the areas with 0 with our
areas where cattle come down to the stream and
drink and kill all the vegetation.

Scott: Actually, in looking at it, it appears that was
part of Neerum Creek where the plate, the stream
was actually channelized. So, I think that
explains why they came up with that number.

Fry: So, there is actually concrete in the stream?

Scott: Well, no.

Chairman: You didn't say ----- culture.

Fry: Because it said the first two sections starting with ----- animals have direct access streams and there is little or no riparian vegetation and the stream also looks channelized. So, that is why I am assuming you came up with a zero.

Chairman: However, Corin, I don't see where putting a definitive number ---- changes the intent. Because, they are still going to have to provide evidence through the precise boundary. They are going to have to provide the evidence.

Hunt: Yes they are. But, staff doesn't always have the time to confirm that evidence. You know that and I know that.

Other Voice: (female) And, if we are trying to set policy, we are trying to repair that area and if it is at zero now, that doesn't mean that is acceptable. We want at least a minimum up there so even though its at zero now, we want it protected at 20 feet out so that it hasn't maybe a chance to grow back or something to that effect.

Chairman: Okay, Corin has suggested 20 feet from, give us a definition of that, Corin.

Hunt: 20 feet from the water's edge.

Other Voice: What season, what hour of the day?

Other Voice: Generally we go from the center of the stream.

Chairman: We go from the center line, Corin.

Hunt: Oh.

Scott: Or top of bank is a possibility.

Chairman: It is not a very big creek. Remember this. I can step over it with one leg. You saw the creek.

Hunt: Umm.

Other Voice: 20 feet from the center.

Fry: Can I ask a quick question again. If were to say 20 feet, would that preclude any nonrepairing area anywhere along the creek ever under any circumstance? And, that may not be a smart idea because there may be places where animals have to cross a creek. We may not want to drink from the creek plus...or people...I mean I hear what Corin's saying, I kind of agree with her that we need to have a st--, but I am concerned that if we make it to specific....

Hunt: I think within the rules and regulations people will be able to do things within the --- overnight, but they will have to meet environmental concerns to do that. I am sure they will be able to put a congrade in or a bridge across the creek, but they will have to meet this criteria, which they will then later set up goals and regulations for. I am not saying nothing is going to happen. But, I am just saying that we should recognize that all streams have had a riparian area in the past, even

if they don't now.

Hunt: Just say yay or nay so we can move on to the next one please.

Chairman: Okay, 20 feet from the center of the creek.

Other Voice: Is that what we are using?

Fry: That is not realistic. Some of these streams are twenty feet wide so,

Chairman: But Neerum Creek is not.

Fry: During the winter when it is pouring down I am sure there are places along some of these creeks that

Chairman: Well, that is the point that we are trying to make. You know, what you are worried about that is that you know....

Hunt: How does the forestry practice ----, do you know? I know that they don't go from the center line of the creek.

Scott: The Forest Practices Act I believe is 100 feet from the ----- of the creek? for a Class I stream?

Other Voice: It is not a Class I stream, right?

Scott?: The point here is that we are going to be bringing back something to you and your instructions so far is that you want a minimum setback from the bank of the stream and we will faired out what the appropriate terminology would be.

Other Voices: Touchdown....Thank You!

Chairman: So, the wording is is basically that staff will come back with a minimum setback.

Hunt: From the bank of the stream.

Other Voice: They have shifted the responsibility.

Chairman: No, they volunteered it, there is a difference.
All in favor?

Everyone: I

Chairman: Okay, let us put that in 1450. Good Corin....

Hunt: No, somebody elses turn now.

Other Voice: I have got some numbers for setback.

Chairman: Okay, if no one has any other questions about this chapter, do you want to move on?

Other Voice: We were in two chapters at that point.

Chairman: Yes, but like I said move to chapter two.
Maybe we should conclude the creeks part first before we go to the aggregate. I want you to go through 4 to make sure that there is nothing else in there that a....

Hunt: On 413 then,

Chairman: Yes, thank you. We will continue on the creeks.

Hunt: Where it talks about conflicting uses to be allowed fully and it talks about forestry and farm use, could we just put a paragraph or a sentence saying that the county will encourage, umm, yea B. Conflicting Uses to Be Allowed Fully. And then it says forestry, timber and farm use. Can't we put a paragraph in that the county recognizes that these are conflicts with the stream resource and will encourage landowners to do best management practices or something on that order and then maybe

later on when we make our rules we can have something in there. Especially on the agriculture one I am more concerned about.

Chairman: I think you are being kind of mild.

Other Voice: Yes.

Hunt: Well, I want to put something there.

Chairman: You could almost say that it needs to be unconditionally.

Other Voice: I would like to see a 3-C designation for agriculture. And, then deal with it later in...

Chairman: Given the site inspection I would have to agree with that. Philosophically I don't. But, given the site inspection I have to agree with that is my problem.

Fry: I would also include forestry because I think forestry is more damaging to streams than agriculture is except for grazing.

Chairman: Did staff recap why we went to a 3-A on these two uses?

Other Voice: Well, regarding farm use, we have talked about that. But, regarding forestry on lands that are designated forest lands, and those are commercial forest use lands, we have no regulatory authority and that is the state forest practices act. So therefore, we have no regulatory authority to regulate forest practices on forest lands.

Hunt: Has the county ever approached the state forester for the westside or the eastside to see if they

would work with us on this, if we found a stream significant? Has anybody ever asked them? Because, you know they are very subjective on what they do. The state forester can allow or not allow depending on what he feels is appropriate. And, if he knew about these...he might be cooperative. I know John Kraus can be cooperative out on the westside.

Chairman: I mean addressing the same thing, if we say we are going to allow it fully even though we don't have any authority over it, we send no signals at all to the state forester. Basically just saying is that there is a problem.

Hunt: Well, that is why I am suggesting a paragraph in there saying we do see the conflicts. We don't have any....

Chairman: We don't have the authority, but we recognize there is a conflict.

Hunt: No, but we are going to work with other agencies to encourage...

Chairman: We also know that they negatively impact streams as has been demonstrated.

Kunkle: I have a little problem with the agriculture, the whole idea. I think you will find, I have not seen the sites, I am unfamiliar with the West Hills, that most of the ag uses that are up there that are causing the damage, umm, in my mind really aren't agriculture. They are more the hobby farmers, things like that, that don't really have the full

understanding. I would...west and eastside water and Soil Conservation Services - SCS do really a pretty good job in the commercial agriculture. I think funding is limited, but I think they have the expertise and if anything were to come out of this thing, there is some definite problems up there; both places, I am sure. But, I think it needs to be taken care of through those existing agencies and if it means some additional funding through the county level to help that out then I think we ought to try to pursue those manners. But, I am against putting a blanket designation that Metro or Multnomah County is trying to get into the regulating of these ag related deals. You are just opening up a can of worms.

Chairman: I have a response, but I am going to wait till Commissioner is....

Hunt: I am concurring that. I am just saying we put a paragraph in there saying that the county will work with the existing agencies, whether it be the Soil Conservation Service, the State Forester to encourage that these streams be recognized and protected through those agencies. What SCS would be on a volunteer basis with the State Forester. He could, if he wanted to, say you have got to have a fifty foot riparian area around the straight one. I mean he can either go and say you can clear cut if it is not a Class I or he can say no, leave a

fifty foot buffer. If we educate him that we are concerned about it, he might do the fifty foot buffer. All I am asking is a paragraph there. I am not saying move it to a conflicting.

Fry:

I think it is relevant to remember the levels of jurisdiction in my continued impression here and my point about Protection Plan wasn't just an arbitrary point. My understanding is what we are doing is amending the comprehensive plan that then becomes acknowledged by LCDC and then becomes a part of the state law framework and that applies to all jurisdiction within that state law and I would assume in a restrictive, in ---- , and I could be unruled here that if a county were to say that it streams through this process we are being damaged by state practices that the state agencies would certainly have to acknowledge that through LCDC's acknowledgement and then deal with it. So, I think it is completely appropriate for a county or a city to say through a comprehensive playing process, HELP, basically you are destroying our streams. That is one issue. The second issue is the issue of implementing the help. And, I think that on that issue there is clear jurisdictions here where the state has their jurisdictions and we can't do what state can't do but it seems to me that is a whole separate issue later. Do you see what I am saying?

Chairman: No, I agree with you.

Fry: Like right now, what Corin is saying, and I don't exactly agree with her language, but I certainly think that we might want to point out here a little more clearly that our streams are being damaged by forest practices and farm practices, and that is it. And, allow the protection process at the state and local level to mitigate the damage that is being caused to us on the local level...

Chairman: I don't disagree with you or what Corin says, and I don't think Dave does. I don't want to just pull that thing out of there and say, "Okay this is a 3-C or deal with the forestry timber which we don't have any jurisdiction of. But, I think it is important in this report that it does go for everything else that we do have degradation there, we do have threats type of.

Other Voice: Chairman, I think the report says that very clearly. I think when you get in, I mean the whole area of the Section B, this is all conflict resolution. If you look and if you start on, well, let us just look at Agriculture. If you start on page 48, 49, 410 it is very clear throughout this that in fact there is some serious problems and especially when you get to the top of page 4-10, the conclusion and what the county should be doing in cooperation with the U.S. Soil Conservation Service and the East Multnomah Soil Water

Conservation District. Then, in fact, they are looking at the development of some fencing to keep domestic livestock from degrading streams of adjacent by preparing habitat. It is very clear that is what they are doing. While not blocking passage for a wildlife species. Dealing with the application of fertilizers and pesticides and a riparian buffered area. So, I think clearly the report recognizes what is going on and proposes some very positive action in cooperation with the two agencies that have some very definite jurisdiction in this area. So, it says the county is concerned. The county recognizes and the county wants to work with these two agencies to clean this up.

Chairman: Go ahead.

Other Voice: I would just point out that I think a lot of the complaint in submissions has to do with the lack of positive stance here. It is an advisory stance as a conclusion and it really is not, when you get right down to it the complaint and submission is that this really is no protection whatsoever, bottom line. Communications with the gentlemen at SCS, personal communication with Charlie Seaco was indicated by the gentleman from SCS who's name I can't remember that in effect they were concentrating on urban stream situations rather than rural were definitely not in an urban

situation out here where we are talking. And that there is very little money. So, in fact, by the time you get right down to it, yes, it is not an effective operation here for protection. I think the county has a responsibility, if the not the ability to go ahead and institute a protection program. If we could do that with simply some stronger language here, I would like to see it. I would not like to spend the rest of the night discussion what it should be.

Chairman: I think the SCS is kind of an awkward position here because they have to depend upon funding from all these other groups and they probably would like to more strongly disagree with the Metro representatives as far as the parks. Because they are a rural constituency rather than an urban constituency. Dave, why don't you say something and then I am going to try and do a wrap up.

Dave: Okay, I am going to twist my hat here just a little bit here on what I said. Kind of along those lines, and that is I in theory agree with this. That is where it should go; where the responsibility should go but I think I deal with SCS weekly on issues, or monthly and I think that the commissioners should understand that in their present state, they probably cannot do this and I think that it is important that everybody understand that. I think that it is

irresponsibility and I dead against agriculture 3-C, but I just want everybody to know that there should be some attempts made and I don't know if this is the place to do it or not to make sure that those people have the money to do their job.

Chairman: Well, let me address with Commissioner Fritz that too. You are right. It is all here but I agree with Sam in the sense that it said in a somewhat, I don't want to say theoretical, but these are going to happen. And, somewhere between all of these things here and where we are know, there is a gap missing about this is really what is going on and there is just no damn way it can get done. And if we just go forth with the 3-C without saying anything. Basically saying allow the conflict and everything else then everybody is going to refer back to this damn document and say "you guys said, you know, unconditional use". And, so I think we are right, we have got to say that we recognize the conflict here, we recognize the jurisdiction, but there are serious conflict problems here that need to be dealt with and some type of plan. Is there a way we can do that that....I know this is not Peter's favorite word but in a political manner that gets the point across. And, I think that is what we are dealing with here.

Other Voice: I think what we as staff had in mind here if

this were adopted that we would go work with the Soil and Water Conservation Service to develop a better educate farmers, and whatever power they have and to provide a, find a funding source to implement that program properly. I think that is the intent. I mean the implementation of this in terms of a specific protection program isn't just to stop and say, "Okay, we will let you guys do your job now. It is to work with them to see if they have the proper funding and resources to actually carry out a program to educate farmers and owners of lands along streams about these points and other points that protect streams.

Chairman: Okay, let me just give you one example of, I don't know how we do this different. In the paragraph on 4-10 it says, "Fencing should be used to keep domestic livestock from the grading systems..." Which is kind of mother and apple pie and everything and obviously everybody would agree with that. And, what I think you are dealing with here is an actual situation where it is not being done. Do you know what I am saying? I mean it needs to be recognized that it is not being done. That is there is no fencing now and therefore there is this degradation. And, I don't know how we do this Scott.

Scott: What, if you turn to page 4-13 to the top of the page. The reference to the level of protection is

to the resource streams, when we identify the three streams. What we are trying to convey in this section and following that statement is there is certain uses that we would say are uses allowed outright for which we would not consider some sort of application, be it administratively or through a quassy judicial manner and we have uses listed under C, that are conflicting uses that we would consider through some sort of quassy judicial land use application process. Then we have a statement about none of the conflicting uses that we analyzed would not be allowed. And, then we get down to the program. And, in the program statement it seems to me that perhaps we can craft some of the language. And, again it is difficult for me to figure out what your intent is here. But, using the staff recommendation as a model to show how this could be done.

Chairman: Are we all listening?

Scott: The subsection E, you could take, for instance the staff recommendation is with respects to agricultural practices don't do it as a land use regulatory scheme where somebody would have to submit an application on fencing, what have you and try and find funding. In the context of the report what you do then is beef up some language under E to be very reflective of what you want done as an action. But, what we are trying to be clear about

here is that in the context of the staff recommendation the streams are designated 3-C, the uses that would be allowed outright would be the forest and farm uses where we would not require any land use permit per say to engage in forest or farm use. Conflicting uses would require some sort of land use permit process under C. D) There are no conflicting uses. It would not be allowed and E) what are some of the other things that we need to do to make sure that the issues, that we have raised in the report - for instance fencing, agricultural, protecting repairing area, dealing with fertilizers and implications do that in some sort of education program which is what our strategy. Perhaps we haven't stated that for instance, clearly enough under "E".

Chairman: Yes.

Hunt: I agree, but it should be forestry as well.

Scott: But, I am not sure that is where the rest of you are thinking we need to be but I am just using an example.

Chairman: No, that is where we are all coming from. We don't want to put any restrictive or conditional uses on those things.

Hunt: I would recommend under E we put in a paragraph, that we worked with other state and federal agencies to encourage better management practices in forestry and agriculture zones.

Other Voice: Sure. That is better practice.

Chairman: Yes, because we have already got the preservation...

Hunt: I don't know that you could insure them, but you could encourage them.

Fry: Can I just say one thing? Out in East County we are having a lot of people cutting down trees and they are not getting replanted so that the reality is there is no enforcement. So, I like the word insure because it creates a liability where the county or the state could actually go after these. That is my only point. I would just like the word insure because it is the liability.

Chairman: Well, I think the staff should look at the word insure and look at both the forest practices and the agricultural practice and craft some languages on the E that deals more strongly on the Protection Plan. That is a real vague paragraph but right now I can't come up with any thing specific.

Fry:

Chairman: Well, encourage is not a good word.

Scott: Well for purposes of agricultural uses. Under the conclusion section - on the top of the page 4-10. We have three dashes about....

Chairman: Mmhm.

Scott: Is that what you want us to do with respects to writing stronger..

Chairman: This can be interpreted as theoretical rather than

the fact that we really got some ongoing problems that need to be dealt with by those.

Chairman: Would the commission agree with that?

Hunt: Yes, but the only thing that I want to clarify is that it is not just agriculture. I would encourage staff to work with the state Forestry agencies too to encourage better...

Chairman: Can we agree on the agriculture one and we will move on to the forestry. Okay?

Hunt: Okay, yea, okay.

Chairman: If you could take those and just and we are dealing with real life here not with the fact that Gee I hope you guys do fencing type of thing. Now Corin, talk about the forest practice.

Hunt: Under E, on Chapter 4, I would request that we put in there - work with state forestry department to encourage better management practices along the significant streams. That doesn't mean that they are going to have to do anything but at least it puts in there that we are encouraging it to happen.

Other Voice: But all this boils down to is the original question of enforcement. If somebody comes up to us and give us a whole bunch of money we can put a couple, three people out in the field all of the time, we'll take care of the problem.

Chairman: No, I think that, we haven't even got to that. First we are going to come up with a plan then we will deal the practicalities of whether they can be

enforced or when. At least want to put them on notice that those are going to be included.

Fry:

See, I slightly disagree because I deal with a lot of enforcement issues and you can make enforcement self-financing Madras and other places Oregon has discovered in terms of --- and tickets. The problem with land use is that we don't enforce land use issues effectively. So, I agree with you, there is no enforcement that I believe the state and the county could if they had a little more courage to create enforcement programs and actually fine and jail people as allowed under federal and state law and generate enough money to do it, but they don't have enough best interest.

Chairman:

But, to deal with this on a practical manner, we are really on 4.6 which is the conclusions of the forestry section. I know 2.14 but you really ought to go back to 4.6 and do something with that part too. The top of 4.6.

Hunt:

Okay, you could put it there and the conclusion.

Chairman:

Yes. That is what I am saying. Okay? Corin, now why don't you shape what you want to put in there and then we can all say yea that is a good idea.

Hunt:

I will give staff some direction. Maybe not the exact wording, but work with state and federal agencies to encourage better forestry practices, management, in the significant stream area or along the significant streams.

Chairman: The way that might be saying that is is the way that it is characterized in the report is they basically say that this all falls under the Oregon Forest Practices Act bla bla bla bla bla. And, that provides all these protections bla bla bla, but what we probably should say is that we should, you know we don't have a stream, an irrigation district, but I guess to work with the state forester to insure that the Forest Practices Act is and hereto or whatever in the significant streams. Do you see what I am saying. But, I don't know how to word it either.

Hunt: Well, staff knows what I am talking about. They can come back with some language.

Other Voice: I think we can come back with some wording to your consideration.

Chairman: Maybe they can read our minds.

Fry: I got a simple idea. Can't we just put in a paragraph saying that in the development of this report it is very clear that the Oregon Forest Practice Act has not been effective in protecting...

Chairman: Why don't we say must be...

Fry: No, has not been effective...we are making a finding that the state law has not been effective in protecting these streams. I think there is enough information to prove that.

Chairman: Now, Peter I hate to disagree with you because I

don't want to prolong with that. But, I don't think this report in here or anything that we have read that is in the record that is in fact information available to now has basically said that forestry has degraded these streams. I am not trying to argue, I am just saying that we don't have any of that as evidence right now.

Fry: Right, but there is a report under the forestry discussion about the impact of soil runoff in these and there is a discussion of the state of the streams, which are very poor. I see a clear link in the record personally. But, I don't want to bring everyone else forward to that conclusion if they don't feel comfortable.

Hunt: I think our language should be positive and not negative.

Chairman: Yes, that is what I am saying.

Hunt: Okay, because I am a nice person.

Chairman: I think we just say something to the fact the Forest Practices Act must be addressed better.

Other Voice: The Forest Practices Act is being updated in strength.

Chairman: Yea.

Other Voice: If we could just concur to go along with that and encourage that...

Chairman: Given that, I am willing to accept the motion to accept the recommendations of staff for the Howard Canyon Reconciliation Report on the Significant

Streams Resource.

Fry: Can I make one minor change?

Other Voice: No.

Fry: It bothers me that it is called Howard Canyon Stream Resources. Are these streams unique to Howard Canyon?

Other Voice: Well, the three streams that we researched are all related to the Howard Canyon area. I mean you can call it whatever you want to call it.

Fry: Okay, there is a reason for this. It seemed like we talked about the streams because we were forced-- with it because Howard Canyon, you know...I don't really care that much you know, I just, Howard Canyon Streams doesn't really tell

Other Voice: We are going ahead with work on the rest of the streams east of the Sandy River.

Fry: And, so then they would become part of the rest of the stream process?

Chairman: Okay. I am looking for a motion.

Hunt: I'll make that motion.

Chairman: What we are moving second is to accept the staff reconciliation report and recommendations on the significant streams in the Howard Canyon as amended.

Other Voice: Chapter two.

Chairman: Chapter 2-4. Well I am giving you the specific resource..

Other Voice: I got you.

Chairman: Okay, moved and seconded to discussion.

Other Voice: On the stuff the staff is crafting on agriculture and timber, umm,

Chairman: Well, we think we are going to look at it next week here but if we keep on going it may be a long time.

Other Voice: Well, the intent is, I think that what you are trying to reach closure on that you agreed to the instructions you have given staff and we will prepare some responses given those instructions and bring them back to you for your final review.

Chairman: All in favor.

Voices: I

Chairman: All opposed. Okay. Commence. Five minute break and then aggregate.

Chairman: Okay, on to the aggregate. Howard Canyon Quarry. The staff recommendation is that 3-C they find significant 1-C and three points is conflicts with residential uses which can be resolved by adopting plan and overlay bla bla. Conflicts with significant streams can be resolved by requiring the -----meet DEQ standards and Multnomah County require independent --- verification and noise and water pole standards are being met by the mining operations. Let me just find out a couple of ground rules. Does anybody at this table not agree that it is a significant resource? I mean at least that is a positive point to start with.

Good. Given that, so all of you agree that it meets quality, quantity, and location? I am learning as I go through this the quickest way to do this. Okay we are not dealing with the mine permit application. Okay, everybody has had the chance to read the read man noter on this? Okay, we know what some of the major concerns that were raised in the report. Okay, given that, would anybody like to start off on this?

Hunt: Steve Alman sent us the recent letter and I can't even find it right now. He talked about the transportation concern.

Chairman: Dated June 20th.

Hunt: Right. And, he clarified more as to how we can address the transportation concern. And, I would like to see the report have better language as far as, not saying there is an impact but like either say, we have to address it so that maybe if they ever do apply for a conditional use permit that the area that they send the gravel to is limited or something on that order. But, I think we need to put it in the report here. And, I am not sure where you would put it or what type of language.

Chairman: Okay.

Hunt: But, Mr. Alman did seem to clarify that for me at least.

Chairman: We are dealing with another state goal here, right, also Goal 12 - dealing with transportation. And,

one of the things that we would have to do is we would have to be very specific about identifying what the conflict is and transportation to be...and we could say lamas and trucks or whatever. But, you know if there is a conflict and we have identified or that we are concerned about then we can do that. One of the things that we could probably ask staff for clarification on is the designation of those roads out there right now and what does that mean. Rural, local....and what is the normal mix considered on that rural local road of trucks v. private vehicles or do we have anything like that? I mean does it suppose at 65% automobiles v. 35% trucks or something like that?

Other Voice: No.

Chairman: I think there is an ODOT definition for that. Let's see.

Hunt: Well, it seems like how Mr. Alman talks about it we could say describe you know how much more impact there would be to the roads by a gravel truck v. regular transportation or something on that order.

Chairman: Right, but this is where I am going to come from on this is that we will stick it to a gravel truck and a logging truck to begin with and the only reason I say that, I mean we do have use on that road now. And, so I mean, in the volume of the, and I don't want to hear about breaks or anything. I mean we have large trucks on there already and they are not

all gravel trucks as it is and is there a conflict now?

Fry:

I think the state is moving towards recognition of roads are more than just things for automobile traffic. There is a recognition of road right of ways, not roads, are for the use of pedestrians and for use of people with horses they are for the use of industrial traffic they are for use of automobiles, they are for use of all human movement cross private property which are these easements and so I don't see it here. There is some discussion about the bicycle ways and there is some discussion about pedestrian but there isn't really a discussion about the need to balance these uses to protect all the rights of people to utilize these roads. And, to answer your specific question, logging trucks are not coming from a single point. You cut the trees down and then you move to another point. And, you are not getting a stream of traffic from a single point day in day out, you are getting a logging truck coming down Larch Mountain. You are getting a logging truck coming up Little Page Road, although I have never seen one but I am sure it will happen. You see, there is a real difference to me.

Chairman:

Peter, I agree with what you are saying about what right of ways are, but that isn't in the Goal 5 situation, that is Goal 12, right? It deals with

transportation.

Fry: Right. So basically where I deal with the transportation issue because I was just sidetracking..

Chairman: Good..

Fry: ...to deal with your logging question, because I figured out the answer after an hour of thinking about it. But, I think that we need to recognize under Goal 12 and the impact of Goal 5 to Goal 12 that the state is clearly saying in urban areas now and in rural areas I think subsequently that we need to move away to/from roads being exclusively for vehicle movement to roads for all uses. Now, why is that important to this case and this place? There is testimony in the record about the concern of pedestrians and people with horses bla bla bla and the impact of industrial traffic under their health and safety. I don't personally believe this is a fatal flaw that prevents the pit from operating but I feel that as you go forward in a conditional use process, you have to recognize in this report that there is a need to balance the impact of this use with the other legitimate and supportive uses of these right of ways. And, we went through this on the bicycle and Nasiam, by the way, those of you that remember, the people said we should not have bicycles on the roads because they should be only for cars. And, if you prevailed and

did designate certain roads in fact Durham and Little Page as bicycle pathways as well. Do you see that these roads have a legitimate purpose for bicycle use. As one example, I think they have a legitimate purpose for pedestrians. I can't walk off my property without crossing private property unless I walk on the roads. I am land locked, do you see what I am saying unless I use the road. And, I can't ride off my property unless I use the road. So, the roads become pathways for all uses and I think the report, I failed in numerous areas. This is an area that I don't think it really, spend enough time discussing that.

Chairman: Okay. Before we go any further. Maybe we can hit this off. We are going all have things to talk about on this transportation thing. Maybe we could cover any other problems we have on this particular report first then we can go into transportation. That is what I am suggesting.

Hunt: You know and what I am saying is from page 38 it addresses it enough. I would just like staff to reassure me that it could be something that would be addressed during a conditional use permit from what they say.

Chairman: I mean we... okay lets finish transportation.

Hunt: Because staff does talk about it a lot in here but I would just like to be reassured that when Mr. Alman stated we are doing here.

Other Voice: I would like to get back to Mr. Alman's letter and just reiterate a couple of points he made in the letter. He talks about transportation systems, in particular, he says gravel truck traffic is no different than other vehicle traffic. It must meet standards established by local governments to protect public safety ---- on the --- roads. This is page two of this letter. He says that he would encourage Multnomah County identifies strategy for making necessary improvements to Corbett area roads. Other strategies such as fazing development, establishing improvement ---, or imposing vehicle weight limits should be examined as well. So, it is very specific about implementing procedures or policies.

Hunt: I wonder if we could put that language in the report. Just take it out of there and put it somewhere in the report.

Kunkel: I guess my question in the remand order. It indicates second paragraph down issue 4 tells why we were remanded. Goal 12 requires development of transportation plans to serve the land uses. So, is Goal 12 where this should be dealt with? Well, when we are reviewing. If we designated the mineral site as significant, the transportation issue is a problem. I think everybody here would agree with that. 12 - when we go through that process, you know that will be singled out as an

area that has some transportation problems. And, that is where that will be handled.

Scott: In the Goal 5 process it indicates that the easy analysis phase you consider other goal conflicts. And, I think statements will be made tonight to select what Goal 12 is about. It is a consideration of a system type of approach providing for the movement of people goods and services and those are my words. But the just of it is what Mr. Alman in his letter is attempting to point out is those are kind of system level considerations that he has raised, if you will, and that is that all types of truck traffic needs to be considered, the county need to resolve not only issues of how we get log trucks through the area, but farming produce to the area, garbage pick up, how we provide for pedestrians, do we provide for pedestrians, do we provide for horse paths, do we provide for bicycle routes...and all of that is in fact addressed in the county's current plan. It designates functional classifications and as Gary has pointed out in the plan it is referred to as local or all that has with that - an anticipation of a kind of cross section, 50 foot right of way, 24 foot pavement in the plan, in the transition policy we have designated that we are part of the bicycle plan portion of it. Which routes are to be set aside for, if you will, bicycle purposes. Who

would identify those? In the county's procedures there is....Also, in the policy document, if you will, there is a requirement that the county develop the Kaplan Improvement Program for the improvement of roads that are below the standards anticipated for its function and classification and that is how the county approaches the improvement of roads countywide. They have a system that the transportation division uses to prioritize how they are going to spend money and on what roads. And, further, the transportation has also as part of their standards and regulations the means by which the county goes about improving roads on a case by case basis if you will through local improvement districts and so forth. And, those are all system approaches. In other words, what is the road system design of it, that is the functional classification system. Are there any special kinds of uses or transportation needs are we dealing with. Have a component for bicycles and where we are going to focus our public dollars for the expenditure of bicycle improvements. And, we also have provisions for how we improve roads. And, I think that is what I think Mr. Alman is talking about. I don't know if that answers your question. But, we have Goal 12 that is kind of the general goal about the transportation systems and --- planning goal. Mr. Alman is saying we need to

address those concerns in a system wide approach, not singularly a type of truck on a segment of road per say. Under the Goal 12 discussion, I don't know if I clarified...

Chairman: Can we say something to the fact that, maybe I am behind here. I guess no we don't want to do that. I was just thinking that any increased activity, full use of a protection of this particular Goal 5 resources, aggregate and everything else requires an updating of the Goal 12 and there will be a probable conflict. I know I am not making sense in one sense.

Fry: I want to point out that Portland prohibits industrial traffic in their neighborhoods and that is the law. Portland, because I have dealt with this on behalf of industry. Portland, on behalf of their comprehensive plan, identifies areas that are truck districts and identifies that access into the interstate system and prohibits truck movement through the neighborhoods except trucks are moving to delivery of goods or trucks that are moving to a point. So, if you buy Portland's theory, what Portland is saying. What I am saying now is Corbett is a neighborhood, the county has not gotten to a level of sophistication to deal with the fact that there is an industrial use in the neighborhood. That we will like essentially site industrial district, or Swan Island, or a river

gate. If county does not have any policy framework in place to deal with the impact of an industrial district within the neighborhood. And, I personally did not have a problem with that industrial use working. My problem is that there is no safe framework in place, particularly in the issue of transportation and it becomes an enforcement issue which we have already talked about. You know, where kind of this idealistic land that enforcement is not our problem although I have had uses denied outright that were permitted in the zoning because basically the public was incapable of enforcing the transportation system. This is out in southeast Portland where it was upheld by Oregon Supreme Court where the public was able to deny a zone change in conformance of plan based on the fact that the city could not provide the services necessary to mitigate the impact of that situation. So, I think there is two issues here in conclusion. 1) I think is the issue of what Scott is talking about, Goal 12 and providing the right of ways for all uses safely and then I think the second issue is where I believe the LCDC is wrong where they say that this traffic is just like any other vehicle traffic. I don't agree with that. It is not any other vehicle traffic. It is traffic generated by industrial district within a neighborhood area. So, I think both issues are

legitimate. Both should be addressed in this report.

Fritz: I think what I read from Steve Alman and what I heard from the director is that there needs to be a system wide strategy for dealing with...how do you pay for necessary improvements to county roads. And, that means a change in the code. And, that is something that if we do legislatively we are not going to do tonight, or next week, but it is something we can do and make recommendations to the county commission on. One of the strategies could be placing weight limitations which in fact would basically eliminate the mining of this resource. That is one end of the spectrum. The other end is here the county has identified, the staff has identified in this report what type of improvements need to be made to roads and what are the limitations of the bridges we know and can put some dollar figures there. How do we raise the money. That is what we need to do. It isn't just how do we effect the changes in Corbett's roads, but how do we deal with this countywide, both in this instance and any place else where we need to make needed improvements, how do we raise the revenue.

Fry: The county could require transportation plans of the operator.

Chairman: Yes, there is going to have to be a change in the code.

Hunt: I have a recommended amendment. That on 4-20 where it says Program to Achieve the Goal; we put in some language to the effect that roads be addressed. Because when you look at this, roads aren't addressed as one of the programs to achieve the goal. And, you could use Mr. Alman's language to some degree because he does come up with some good solutions, or suggestions.

Chairman: Is it inappropriate at this time to say something about the issuance of a permit that there needs to be a transportation fee connected with that that deals with payment by the operator of transportation? Or is that going too far?

Scott: Let me answer the question in a different way. Let me answer a different question. We have in the county practices and procedures and standards. Our road standards document that the transportation Division uses currently. And, that document stipulates about how we go about assigning improvement costs to a project. And, that is now under the auspices of the Transportation Director. Okay, that document. And, it gets to the business that document relies on a rational mixes test approach that you assign to the benefiting parties their fair share of the value of the cost of improvement and that is how that document is generated...and the extent to which that would be changed or modified by whatever we do here...

Yoon:

Yea, it's going to have to be a change in the code.

Hunt:

I have a recommended amendment that on 4-20, where it says "Program to Achieve the Goal", we put in some language to the effect that roads be addressed because when you look at this, roads aren't addressed in one of the programs to achieve the goal. You could use Mr. Ulman's language to some degree because he does come up with some good solutions or suggestions.

Is it inappropriate at this time to say something that at the issuance of the permit there needs to be a transportation plan connected that deals with payments by the Operator of Transportation? Or is that going too far?

Let me answer a different question -- it gets to your question.

Okay.

We have, in the County practices, procedures and standards, a roads standards document that the Transportation Division uses currently, and that document stipulates how we go about assigning improvement costs to a project. That is now under the auspices of the Transportation Director....that document. It gets to the business that that document relies on a rational access test approach that you assign to the benefitting parties their fair share of the value of the cost of the improvement. That is how that document is generated. That is one of the underlying principles of that document.

That's in place?

That is in place and the extent to which that would be changed or modified by whatever we do here is something that would have to then be reconciled between the Standards Document and what you would do as a measure under the protection program dealing with the land use issue. Do you understand my point?

Yea, I do, but let me ask you a follow-up question. Right now we are going to allow full use of that

resource, right? It is not conditional use -- it's full use?

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Right.

The Staff is recommending 3-C, which is a conditional use.

Okay, but we can put the conditions in. I don't want to say play with the conditions, but we can deal with some of those conditions that need to go into place, add, subtract, multiply or divide.

The point here is that if, just kind of walking down the path of the discussion you are having, if for instance the conclusion is that some improvements have to be made to this system to accommodate traffic, the notion is there are benefitting parties not only with respects to the aggregate but there are benefitting parties for other users that have trucks on the road and for car users and possibly bicycle users and automobile users. That improvement then, is a portion but there are other ways of dealing with the business of the impact of truck traffic in terms of the amount of truck traffic at any one time until a certain road condition is achieved. You could identify that as a strategy, if you will, for how you mitigate or address the problem. So the point I am trying to make here is that the box isn't one of just saying necessarily there is a full improvement because we have examples throughout the County where we have a street system that isn't fully improved to the standard but we still allow for traffic and activity to occur given that it is operating at acceptable levels which is what the Transportation Division does when we have proposals for projects that generate traffic. How much impact does that have on the existing facility? And they make some sort of assessment of that.

Is there some way to shape that into an amendment to this report?

Fry:

I think that Scott is solving part of the problem and that is that they are in fact in the County areas where people are unable to develop their property because the roads are substandard and that because they are substandard without emergency access they

are not being allowed to partition or divide their property and they are being denied it. So I think that what Scott is arguing in one part of it, which I agree with because I have to pay these things all the time, is that it is appropriate for the County to charge impact fees -- they are called Off-site Impact Fees -- when there is an access between your fast-food restaurant and the impact on the intersection. We have had to build roads before, you see, to divert traffic away from the intersection around another way.

Draw a straighter line. Peter, you're wandering a lot.

Fry: I'm sorry. You're right. That's one piece. I think the one piece is the issue of the access and the impact fees. Okay. The second piece, I believe, is the issue of disbursing the impact on the neighborhood in a way that doesn't destabilize the surrounding area and that piece, I believe, is dealt with through the requiring of the Operator to develop a transportation plan so that.....

The Operator develops the Transportation Plan or the County.....?

Fry: No, the Operator, at least in my experience the burden has always been on the applicant to provide a parking management plan or a operations management plan and I've seen numerous ones of these things go through different jurisdictions. The Operator, whether it is a battered women's facility or an aggregate line or whatever, has to develop a management plan to deal with their impact on the system which is separate from paying for their impact. Do you see what I am saying?

Yes.

Fry: It is trying to get people in buses, you know get people off cars, providing bike racks, all that kind of stuff. So that is one issue. The second issue and the third issue.....

You had two.

Fry: No, I had three. The first issue is paying your way, the second issue is taking responsibility for your

impact and the third issue is the fact that there is definite underlying assumption here in the record that this resource will be utilized for large state projects or large public projects which are different from serving people in. That if this, say, were to be used, and this was in the record I believe it was about 1984, and also the issue when they got their exemption.....

Okay, we have to move on from that.

Fry: Okay, that is an issue that is of much greater magnitude, you see, than just a transportation pact to deal with their impact to bring gravel.....

It is not counted as part of their total that they have in mind.

Fry: Well, they pointed out that, and this is irrelevant, you know that this is a nice friendly neighborhood place and we are going to give gravel to our neighbors. And that is one issue but there is also underlying this in the record the fact that this may utilized for large public work projects which have a much different pattern because you are going the same way every day constantly. Do you see what I am saying? It is a different kind of impact than an impact just serving a scattered community.

Yea but that is in the mining permit fines. Commissioner Crankon has a few things to add.

Fry: Okay, to end. I feel those three elements need to be acknowledged in the Goal 12 section of this report.

That was my question to the Staff in terms of how do we deal with this transportation issue and the fact that we have to access between the transportation issue and the protection of the aggregate as a resource. That would have to be under the permitting part.

There are two sections where we discuss the road issue. One is Subsection B on Page 3-14 "Area Road Limitations on Resource Protection," and Page 3-38.

Yea, Page 3-38 is where they really go into this.

I think the ?????? is very clever, by the way. I mean, I don't like beating up on Staff all the time, but....

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I think the Staff does a very good job in 3-38 and 3-39 in describing the problem. And I think that on 4-20 -- please go to -- it talks about program to achieve the goal and it has "I", double, you know. In these it says that blasting shall be restricted to hours between 9 and 5. It has all kinds of conditions. I think one of them should address transportation. Let Staff come up with something and we can move on.

In support of the three things that Peter said, we need to put them into four word things, boom, boom, boom. It has to be added that those are going to be different facts on the transportation section.

Right. And then when it goes to conditional use permit time, that will be addressed because it is one of the programs to achieve the goal.

My only concern in what I read in Ulman's letter is that we deal with transportation and the costs of making improvements to roads in a system-wide approach. Not just looking at Howard Canyon. So I am hesitant to put anything more into the "Program to Achieve the Goal". I am not hesitant at all to looking at an amendment to the Multnomah County code and how we deal with this in general.

Yea, I think the way to characterize it under 4-20 "Program to Achieve the Goal".....

Well, in that you could just say "the County shall"...

Yea, that's what I was about to say.

Not just as it affects Howard Canyon.

No. Review the whole transportation plan taking into consideration the three points that Peter made.

Peter, I wish you would repeat them for Staff in five word sentences for each one of those.

Fry:

The first is paying for your impact. Second is dealing with a management plan for your daily operation, and third is dealing with a management plan for large

public work projects. And I do have to say that I disagree with Commissioner Pierce in that I believe that the County has to deal with this as a system-wide approach and they have to deal with this use. We've had before some truck operation was shipping ?????? whatever.....I think that the reality is that this is a specific use that is of such magnitude that it is appropriate.....

Well, that's what I was saying....

We don't have it in the code yet.

Fry: Right, I agree with that.

Peter, if we put it on the program to achieve the goal that they have to review the county-wide transportation given this particular Goal 5 resource and the three issues that you raised that go with it. Then we are dealing with it system-wide but we are identifying in it the specific impact which we are dealing with.

Fry: That goes a long way. The only concern I have on transportation, because I disagree with Commissioner Hunt, I don't think Goal 12 adequately addresses the uses of right-of-ways for pedestrian, just normal bicyclists and horseback riding and it is a severe problem out there.

Yea, but we are not looking at that now.

We're not dealing with that now, Peter. We are at Goal 5 and we are only dealing with the aggregate.

Fry: I am talking about this report and conflicting uses and I did not agree with the State saying that a gravel truck is not dangerous to someone riding a horse.

Okay, you made your point, but I don't think you've got.....

Peter, to set the record straight, a bicyclist can be more scary to a horse than a gravel truck. Particular horses -- you know, you have got to balance the whole thing.

They've identified some Goal 12 things here that deal with this particular goal but they are not dealing with the whole Goal 12. Do you understand?

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Fry:

Okay, now this is important to me. I think that they should, in this dialog, discuss the fact that these roads or the right-of-ways have other uses besides moving vehicles. I don't think they adequately discuss that at all in this report. And we have gone down this road in East County so many times before. I can remember a conditional use to allow.....

Okay, let's move on. We are going to vote.

Can we vote on both recommendations please?

We are going to vote on both recommendations. Does anybody on this. Does anybody not agree that we will have those things that we have said on here? To deal with the fact that we have to have a system-wide plan to deal with the three specific issues that deal with this Goal 5 resource?

All in favor???

All:

Eye, eye.

Okay. Now, Scott's got something to say and then we are going to get on with this.

Just clarification. One of the things you just stated was a management plan for large public works projects. I am not clear where that was.

That is in at least two places....in several places here they talk about these public work projects. I can't lay my hands on it.

Are these public works projects the aggregate supply of large public works projects.

Yea, yea, they talk about that.

So, what you're envisioning here, Peter, is that there is some sort of discussion here of a traffic management plan for the mineral aggregate site under normal operating conditions and then what would be another plan that they would have for these

extraordinary demand periods where they have large amounts of aggregate moving all at one time?

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Fry: To a single site or single point.

Okay, that's your focus?

Fry: I'd like to separate those two because I think they are different issues in terms of how you manage that.

Okay, now at this point I'd like to have a couple of recommendations on the Program to Achieve the Goal and then you guys can all vote me down on this.

Okay.

In the Program to Achieve the Goal, Gary laid out very well there. He talks about two things there both on the DEQ noise standards as well as the water quality and he talks about getting a contractor consultant hired by the aggregate with the approval of the Plan Director to review that. My view on that is that if it is done that particular way, it will always be suspect of who this particular consultant works for. I would like to re-word it to the sense that the owner and the Planning Director will agree upon the cost and the scope of the studies done by these consultants and then they will be chosen by the Department of Planning and paid for by the Operator. It's a standard For Service practice that is done. It is no different but I think it will take the onus of partiality out of this and it will look much more important.

Fry: Wilsondale(???) does that too but they require you to pay for it and then they hire.....

Right, but what you gotta do before that is the Operator and the Director have got to agree on two things: cost, because it can't be an open book and scope.

Like blank checks, thought.

Yea, right. And as far as scope, I think that's real simple because I think we can lift from both DEQ water quality as well as noise the basic standards that have to be met. Okay?

Before we continue the discussion can we vote on it because we may all be in concurrence?

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Yea, I was going to say, is there anybody who disagrees?

All Soft:

Agreed.

Okay, next. I have no other recommended changes for this document. I would hate to tell you that but.....Sam?

Not a change. Just a matter of clarification. On the Program to Achieve the Goal, I just want to be awfully convinced when I leave here this evening that, as you said to us Scott, this was a direction that we are heading and not necessarily a final determination of all the points involved in the Program to Achieve the Goal.

That's the Staff's intent because your recommendation will go the Board of County Commissioners and they may or may not agree with what you have. After they conclude that, then whatever their conclusion is, we will have to do some additional work on refining the Protection Program so that it is a bit more specific.

Will we as a panel have a chance to think about refining and suggest to Staff further stages in the program to achieve the goal between now and say when?

Our intent is to take your general direction comments to the Board of County Commissioners, let them agree on the basic concepts of significance, impact areas, conflicting uses, conclusion about level of protection and the general direction that you are moving in. They may alter some of that or part of it. Once they come to their conclusion, we will have to do a little more work on refining the Protection Program so that it will deal with the specific issues that will be coming back to you. Now, given that scenario or that process, what may be coming back to you is something that you may have a philosophical disagreement with their bottom line. So that's where your starting point is in terms of refining the Protection Program.

We will reconcile that.

Peter, last question.

Fry: Well, I have a question. Scott, is the last stuff in the report going to be carried forward. It's the impedancy which identified some of the things that I and other people wrote in the County's response to those issues -- is that being carried forward in this report?

It is our intent that not only the comments that have been entered today, that the additional comments that we have received since then be incorporated in that appendix. So it is kink of a living document.

Fry: So how would you recommend that I proceed if I personally believe that the County has misunderstood the issues that I raised and has not responded to them accurately. What should I do. Just silent or should I write a note. The Staff is the one who wants to carry this piece forward.

My recommendation is you go ahead and clarify those points now.

Fry: We'll be here all night and I don't want to do that cause I am getting cut off. I can't write a letter because the record is closed. I just don't want a report going forward with my name in it and issues that were misunderstood by the Staff presented in a report that goes forward. I don't feel comfortable and I don't take our time to go through this.

You can discuss things with Staff.

You can send a letter to Staff.

Fry: There is a solution. Can I give you a simple solution? Eliminate my name from the report. I don't think there is any reason why these issues raised by ...why should I....there's a whole bunch of issues raised. Many of these issues were raised.....

Okay, hold it. So Peter, stop a minute. So you want to disown those particular questions that were in the report, right?

Fry: Some of them don't accurately reflect my true questions so I don't like this report going forward with my name on it.

May I make a comment? How do you know that some of the other people who have submitted questions didn't have their questions adequately addressed as well? I think the intent was that you raised an issue, other people raised issues and the Staff responded to those issues with their understanding of what they read.

Fry: Okay, they did not respond to all the issues I raised, they responded to about half of them.

Okay, now hold it.

I would object to anything being removed from the Public Record for appeal reasons or anything else. I mean, it has already been submitted as part of the Public Record.

Fry: I am not talking about that.

This is a question of form. The Staff, in preparing these comments was trying to indicate to the public that we did read what they submitted and attempted to respond to them as best we could straightforwardly and interpret what they said. It is agreed that we don't all have the same interpretation of how we write something and would want it restated and that's fine. We were trying to be somewhat credible in terms of saying we didn't fabricate this question, this is where we think the source of this question came from and put it in the document. Now there is nothing here in the rules that requires that we put names. The point is, is it as valuable to you, the Planning Commission, to have the recognition of who the issue is raised by or is that not of particular concern to you? That is kind of a question that in part Peter is asking. It is not all of it, but is it of concern that we have an issue raised by -- I am looking at Page 2-55, it's an example where the format has the issue raised and then the discussion and response. Is it important for the Planning Commission to have the identification of the person that this issue was raised by?

Well, here's my point. We've read the report, we looked at the questions. If we wanted clarification of a question, individual Commission members would have raised a particular question on that. They didn't have a question and I think that we can move on. I agree with Corrine's point that we can't take anything out of the Public Record. Peter has voice objections. The rest of the Commission can say that's fine and we're going to move forward anyway.

Fry:

I think that I am suffering retribution by saying certain things. I think that other members who get identified, I think that personally it is unprofessional and unethical to identify by name citizens who express concern about report. I am a strong person, I don't get threatened easily, but I definitely believe that it is not appropriate to include individual people's names in a document like this. I have no problem with associations or organizations but to call out individuals, and not all individuals because there are numerous people who have not been included in here. There are points that I raised that were not included in here. I have no problem with issues raised. I have no problem with organizations -- being identified....

So what do you want us to do Peter?

Compromise.

Fry:

I want the individual's names deleted from this section.

I don't think that we can eliminate anything out of the Public Record at this point.

Fry:

It is not eliminating for the Public Record. It is part of the Public Record. This is only a portion of the Public Record and this is a report that reflects our deliberation and I personally believe that if this report goes forward with individual's names in it, I believe that is violation, personally.

There's an idea. What about some generalized issue raised by Respondent #1 or Citizen #1, Citizen #2, Citizen #3 and then you still maintain a catalog of going through however many people have been

identified with their name available upon request.
The Planning Director releases that information based
on

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The Report is already out there.

And there might be several people who are happy
that their names are here and their problems, their
questions have been addressed.

Well, I vote for someone making a suggestion on that
and we can vote or not vote on it because we are
going to close the discussion on this.

I'd like to do two things. First of all, I'd like a motion
to accept the Staff recommendations on the Howard
Canyon aggregate.

Fry: Wait, wait, wait. Okay, you can cut off debate but I
want the record to show that I had issues that I
wanted raise about the Report and that you have shut
me out of that discussion and that is fine if you want
to go home but there are other things about the
report that I wanted to discuss. I didn't want to
spend all the time talking about my name in the
Report. I just feel very upset about it but I want to
deal with substantive issues and I don't want to lose
all my time because we want to get home on things
that I think are pretty important that need to be
discussed. And if you want too shut me down that's
fine.

We are not shutting you down. We can always vote
against it.

Hunt: Can we -- just like we voted on other things -- Peter
has suggested that names be removed, let's say yea
or nay.

Fry: Let me just be clear that I think that the legal
counsel should make a decision on that because I
believe that

Okay, let me make a motion.

May I be recognized to the purposes of making a
motion?

Mr. Chairman, I move that subject to approval by County Counsel that under the Appendices Response to Comments in individual chapters within this Report that the whole category of "Issue Raised By" be eliminated from each comment for that whole category which includes individual names.

Second.

Yoon Discussion.

Yoon: All in favor.

Several: Eye.

Yoon: Raise your right hand please. Four for, all against. Subject to County Counsel....

Fry: Well, wait a minute.

Clarification. Let me just interpret what I think I heard you say. If County Counsel says it's okay to have identification of individuals by issue, it is okay with you?

No, no. If the County Counsel says at this point we can remove that whole line from each issue, you know those comments -- "Issue Raised By" including the name. If we can eliminate it from this report as it goes forward to the County Commission, then we would do it. If he says no, it's part of the Record then it

Yoon: All in favor of that motion, please raise your hand.

Yoon: It's five/three.....

Fry: Okay, because of time.....

Yoon: There is no time Peter. We're going to stay here til this is done.

Fry: Okay, good. So I should get my memo back and go through that.

Yoon: If you are going to spend quite a period of time, though, I am going to excuse the West Hills people

because I am not going to have them sit here for another hour or so and then we not get to them.

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Diack: Mr. Chair? Through the Chair to Commissioner Fry. Peter, do you have some specific amendments to the aggregate section or is it Section 4?

Fry: I've got two little things and then I've got two larger things in this section and I have two larger things in the production section. So the little things probably could be dealt with fairly easily. I wish I had a photographic memory.

Hunt: Didn't we already address the Stream Section?

Yoon: Yes, Stream Section is closed.

Hunt: The only section left is the Aggregate Section.

Fry: Right, that's what I meant.

Talking about Chapter 3 and Chapter 4.

Yoon: Give me thirty seconds.

Alright.

Yoon: I am in pretty good shape and I could probably stay here all night but I am speaking only as an individual. And I would stay here until we got both of these reports done. The next time that is available is the 27th which is next Monday. Now, it's your pleasure, but I think we better stop here and think about what we're going to do before we go forth.

Pemble: I won't be here on the 27th.

Hunt: I would request that Commission Fry put the amendments on the table and if we have any discussion that we need to discuss them about, we'll discuss them and give ourselves fifteen more minutes and see what happens.

Yoon: Okay.

Hunt: Raise the amendments and hopefully we can resolve it quickly.

Yoon: Okay, thank you.

Fry: Are you saying....the other thing. How long do you think the West Hills is going to take? A couple of hours?

Yoon: Well, this thing is three times longer and it is a much more complex issue.

Fry: I think it's appropriate at this time for us to briefly discuss how long we want to stay because I'm personally, in recognition of Commissioner Fritz's problem, don't necessarily want to stay here until 1:00 or 2:00 at night and I don't want to get started on a new issue until we concluded.

Well I know that Commissioner Cothell(??) isn't going to be here either. So I know that we are going to lose two Commissioners for the 27th.

Hunt: I'm committed to staying.

Fry: Okay, forget Howard Canyon. We're talking about the next issue and how long it is going to take. So we are all willing to get into it and stay to the bitter end. Is that what everybody is saying?

Yoon: Right. So the way we're going to deal with this Peter is, you raise the issue, we'll put it in a motion to amend the document, we'll vote on it and we'll move forth to the next one. Okay? Go.

Well, I don't think anybody else has any amendments. I've been formally told by everybody.

Fry: Okay, the first one is 3-14. These are the little ones okay?

Yoon: Hit it.

Fry: State DEQ noise standards do not apply to trucks engaging in interstate commerce but would apply to trucks and equipment that were permanently on site during extraction processing activity. I first raised this issue because there was never any discussion if these trucks were involved in interstate commerce and so the Staff has then dealt with the fact that they are permanently on site. What has not been

discussed is the issue of noise standards for intrastate commerce and maybe that could be clarified. I agree that State DEQ standards address interstate commerce. We're talking about intrastate.

Hunt: Does DEQ address intrastate?

Fry: Intra.

Hunt: That's what I said.

Fry: Okay.

Hunt: Are they concerned about on-site?

You're talking about noise regulations on County roads?

Fry: Right.

Hunt: He's asking about noise regulation in the area but not in the immediate impact area.

I understand that they're also exempt from DEQ standards.

Hunt: Can you change the wording? Or clarify the wording.

Normal trucks of that size that are not permanently on-site are not regulated by DEQ.

The question is is it a point source regulatory issue versus local jurisdiction.

Fry: One of the real life problems in the Record was that these trucks make more noise when they come down the roads with heavy loads they're jack brakes make a huge sound that you can hear throughout the valley. So you can kind of time yourself to that. If we can't regulate it, than that's the way it goes. Although I'd like some discussion of that impact on the neighborhood. You're talking about interstate commerce and you're talking about trucks on the site. And then talk about what happens intrastate. Maybe we can't regulate it. I don't know but it is an issue.

Okay, so your recommendation is that we include some noise impact discussion about trucks traveling

to and from the site and whether, in fact, we can regulate that?

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Fry: Yes. Well, ideally, I'd like to have us be able to regulate that, but if we can't regulate it then I'd like to raise it as an issue.

Yoon: We can't regulate it.

Hunt: Can we vote on this?

Yoon: Yes.

Hunt: Thank you. And then if we vote agree than Staff can write something up.

Yoon: All in favor of some language that deals with measuring the noise of trucks going to and from the site say eye.

Fry: Eye.

Yoon: Okay. All opposed...

Fry: Well can I just say. I mean, am I just going to bring stuff forward and then you're just going to vote it down. I mean there's no point.....

Hunt: No. When you bring it forward, if I feel it's appropriate or another Commissioner does, we'll vote yes.

Fry: Okay.

Yoon: Next issue.

Fry: Well, I feel frustrated Corinne, because you took a huge amount of time and now we are dealing with this issue and I feel boxed but that's the reality of the situation. I think the discussion on the roads -- talking about their existing condition -- is basically dealing with.....

Yoon: What page are you on Peter?

Fry: I'm on Page 13-16 -- 3-16, I'm sorry. I believe that this work is good in determining the ideal situation but I think we need to go out and look at what's

really happening. And I think that Staff did a very good job on the bridge and culverts and the point of impact stuff but some of these roads are not improved at this level as described by the report. At least in my experience.

Yoon: Where did you get the information on that?

It's all footnoted. They did a coring just for this at my request. It's in the appendix.

Hunt: Would this not be addressed with the amendment we added?

For instance, 3-44 #9 it's talking about I have in the record, in the file, memorandums from, current ones dated March of this year, describing the coring that they did on those -- at least Nearum(???) and Little Page is current.

Fry: Mumbled.....For example Nearum, I don't know if this is a site problem but I've driven down Nearum and Nearum has been, for whatever reason, has huge ruts in it. At least last summer, and I don't see that discussed here. In my limited experience, Nearum has been pushed down dramatically on the south side creating huge ruts. It appears to me that Nearum has been destabilized dramatically by some time of traffic and so my concern about the road analysis is that it deals with kind of generic points and not with the way the roads really are.

Hunt: Peter, the condition -- the amendment that we added to 4-20 are Programs to Achieve the Goal in transportation. I think that will address your concerns here because they will have to be looking at roads and the impact.

Fry: That's right and I agree with you on that. I just feel that the report should be a little more specific on what I perceive to be the actual circumstances -- the roads themselves as they are.

Yoon: So can we just have Staff verify again with the sources as far as the exact conditions of the roads?

Fry:

And specifically to look at Nearum and why it was giving away on the southern side of the travel lane and it was filled in with some kind of a

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Just a clarification. Gary explained that the data that you see here is an actual coring sample where they went out and drilled holes in the pavement using rule practice for sampling technique and came back and explained that what typically would be expected for that road section structural section. Commissioner Fry, what you are describing is a visual assessment of the various characteristics of the surface of the road and what I believe Gary was getting to was the capability of the road to support loaded vehicles given the typical type of loaded vehicle one would have associated with the coring site. The basic conclusion here is that the structural cross-section of the road is deficient for the type vehicle that would be associated with the type of aggregate activity, mining activity that was explained by the site owner.

Fry:

Okay.

Page 3-39, it states exactly "all three of the closest roads must be traveled from the Howard Canyon aggregate resource site are classified local roads and are inadequate in their structural sections to accommodate forecasted type 3 truck traffic at rate of extraction of one acre per year.

Fry:

Right and all of that is good. I think that the Staff did a good job on that. The thing that I didn't see in here was the fact that it's more than a visual inspection. These roads are experiencing stress fractures, particularly Nearum and I didn't see it in the report that the actual fact that it appears from this driveway on that this road has been experiencing stress fractures. Okay, I just feel that there should be a little more information.

Peter, I would disagree with you and the reason that I would disagree with you is that we can study and study the roads. The best way is a core sample. The core sample encompasses an area this big taken 200 feet apart. I think for realism that is the best we can do. We could look at every crack and every stress fracture and settle bar but I don't think we can deal

with that. I think that we have to deal with just the basics.

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Fry: Okay, I understand what you're saying. All I'm saying is that if I were to go out and do this work professionally, I'd take a visual survey of the road and locate the stresses in the road and then I'd develop a core sampling program to address what I saw from the visual survey whether it's 200 feet apart or 10 feet apart. I don't see any evidence that a visual survey has been done to help you define where you would take your core sampling. So I'm not comfortable that the core sampling has been done even though it's considered deficient. I don't want to belabor the point.

Hunt: Do you want to vote on this or shall we move to the next point.

Fry: I don't want to vote on anything Corinne, but if you want to move us on, that's fine with me.

Hunt: Well I mean you've got it on record, you know. We want to try and resolve this tonight. We will be spending at least four hours on this issue plus we have the West Hills still to do.....(some lost as tape ended) but you've made your point so either move on or vote on it.

Fry: So what do you want to do.

Hunt: Do you want to vote on it? It's up to you.

Yea, it's up to you. Do you want us to vote on it or do just want to say that you've noted it for the record and we can move on?

Fry: So the answer is that the Staff will not put in this report evidence of

Hunt: Well you can request that and we can vote on it.

Fry: Okay, let's just vote it.

Yoon: So you are requesting that visual impact should have been included in the analysis of the road as well as the core samples.

Fry: Right. That there should have been some evidence in this report that a visual survey was done to define where the core samples

Yoon: Okay, let me stop you. We're under the assumption that they did not do a visual impact survey.

Fry: I don't know. Maybe they did. Who knows.

Did anybody walk the road?

Walk it?

Look at it. Drive it.

That would be new information and we can't enter it in the report.

That's what we're asking for was it in fact left out of the report. New information(garbled).....So I would say that we probably can't include it if no one knows if the visual was done or not. So how could we include a visual and we can't enter new information. But you would like to say that a visual was not included.

Fry: Well it was not done.

Yoon: No. The easiest way to say this is that you look at the analysis and a visual report should have done also.

Fry: Well okay.

Yoon: Okay. We can vote on that. Okay. All in favor. Pass. Next?

Fry: Okay, now these are the two big areas. Wildlife and in the older report, basically we are not doing with the wildlife what we're doing with the West Hills because we have no evidence of a goal of protected wildlife. Remember in the West Hills we are dealing with a balance of a lot of different things. Here we're only dealing with the balance of complan(???), the streams and the pit and no wildlife.

It has not been identified as a significant resource in this area.

Fry: I don't want to belabor the point. I object to it. I think that there is evidence in the record that there is wildlife here, that the reality of the wildlife needs to be dealt with and in the earlier report, the report basically argued that the ecology was degraded so badly that the elk didn't use it anymore. Therefore, we don't have to worry about the elk which really bothered me a lot because I felt that if we just deal with an existing condition of degradation and don't acknowledge the fact that we need to restore habitat for elk and recognizing that, unlike the West Hills; and this I want in the record, what we have backing up against us is Larch Mountain, we have the wilderness area, we have various endangered species, we have spotted owl habitat in the area behind this. We have the entire Mt. Hood National Forest spreading out behind this.

Wait, wait , wait. Can I interrupt you just briefly? In the Remand Order they dealt directly with the West Hills with the fish and wildlife. Not excusing it, but that was not discussed in the Remand Order to discuss the wildlife as a significant resource of this particular area.

Fry: Right, and all I'm staying is that I can't change it now. The State's theory is ignorance is bliss and we don't have any information about the wildlife and I've been told by Staff that as we go forward in our planning process in Corbett -- God willing Multnomah County continues to have a planning department in the next two or three years, which is an issue that has been raised in the past, I just want that clearly to be part of the record. I'd like to have some better information.....

Yoon: So Staff when we expand the review and examination in the East County, especially in the Corbett area, we will be looking at that particular resource to see if it is significant. Right? Right. Okay, so that's on the record Peter.

Fry: And we will come back and deal with this goal

Yoon: Right. We'll take it through the Goal 5 process.

Fry: And if Metro becomes our planning department, hopefully, this will carry forth to there.

Yoon: Yea, well don't bet on that.

Fry: I don't want to get on that.

Yoon: Okay, next?

Fry: Okay, the EFC analysis -- part of that analysis -- is dealing with social effects and I basically believe that in social effects we are predominantly dealing with the impact there in terms of noise and that kind of stuff. The Staff really didn't agree with the issue of property values.

Yoon: Where are you Peter?

Fry: I am on Page 3-30.....And see, the big thing that is happening here -- to give you a little sense of history -- originally these uses went through a criteria called Compatibility with the Neighborhood essentially. I mean, you looked through the conditional use process and determined if it is compatible with the neighborhood. That is a big piece that is missing because the the State has determined that is not an appropriate criteria in terms of looking at these types of conditional uses, i.e., its compatibility with the character of the neighborhood. So that has gone away forever and it just seems like these social effects need to address the issue of compatibility with the neighborhood, the issue of property values, the issue of neighborhood character. All these issues that were raised in earlier processes are no longer allowed to be raised now and in the conditional use process the issue of character of the neighborhood is not going to be a legitimate issue to be raised. And I understand that but I don't believe that it is consistent with State law because I think State law does still open the door on those issues through the special effects of the EFC analysis and I don't believe that this report adequately addresses the issue of neighborhood character. But.....

Yoon: But, on page 4.6 and 4.7 deals with residential uses of homes, communities, services and conditional services. You don't think that they have not discussed the (garbled).

Fry:

Only in relationship to the protection of the aggregate source itself and the protection plans essentially to limit the residential uses so they do not adversely impact the operation of the aggregate source. That's part of it. Second is that I actually don't agree with some of the analysis and I haven't gone into this part of it yet. I am still in the first part.

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Yoon:

Yea, well, I guess the point that I am trying to make is that the two significant resources we are evaluating are the aggregate and the streams and then we are basically comparing that to all the other things of how they conflict with that particular significant resource. I mean, it's not the other way around, Peter. The significant resources are the aggregate and the streams and now we ask ourselves "how to these other things adversely affect it?".

Fry:

Exactly, and I disagree with that.....

Yoon:

But that's what this whole thing is about. It's not about whether the fact that the social thing was a significant resource. They haven't been directed to do that. They've been directed to look at these two significant resources. See, I guess where you and I may be coming from different things is they are directed to do certain things and they'd be crazy to expand it. And they have to deal with the two significant resources that they have. Basically, the State has remanded that "you'd better do these things or you are not in compliance".

Fry:

Right, and so I am not going to belabor this point. I am just pointing out that, in my opinion, it's not only balancing these two issues, it's balancing it within the framework of the comprehensive plan and within the framework of the State goals. And I think the State goals, the housing goal for example, and there are other State goals that directly deal with neighborhood livability and these kind of issues are relevant windows of where you should balance the resource against the neighborhood character. And I just want it in the record, at least, that I feel that these things are fatally flawed because we are not adequately dealing with all the State goals and the issue of neighborhood character and these kinds of issues.

- Yoon:** Yea, but your thinking is too global for us. We are only dealing with Goal 5.
- Fry:** Right, and Goal 5 as it relates to the other goals and as it relates to the comprehensive framework.
- Yoon:** No, Goal 5 is how these things effect the Goal 5 resources.
- Fry:** We are making a plan amendment and the criteria for making a plan amendment is to balance it within and to the comprehensive plan. We can't make a plan amendment without it being consistent to the State goals without it being consistent to the State goals have to be addressed, and they are addressed, in this report. What I am saying, in my personal opinion, is the issues of social effects, 3-30, do not adequately deal with all the legitimate issue of social effects. It only deals with noise and physical effects and it doesn't deal with these enormous issues like character and so we don't have.....
- Yoon:** So what do we do Peter?
- Fry:** Well, ideally, I would like to have a section added, three, under Social Effects dealing with the issue of neighborhood character and dealing with the importance of maintaining and promoting a healthy environment to live, work, raise kids, do all the things you want to do.
- Yoon:** And that's not included in any State bill right now?
- Fry:** In my opinion it is protected. I believe that I am protected under the State goal framework under different goals.
- Yoon:** Can you give me the goal number.
- Fry:** Housing, for one. I have look at the goals andso I don't expect anyone to agree with me because we are so closely confined on this. I just raising my issues. Okay?
- Yoon:** Okay.
- Fry:** Okay. The last issue in the first part is the issue of economic effect and predominantly it talks about the

hauling costs start to add up in Multnomah County where we have the high quality aggregate. I don't feel that this report adequately addresses the issue of economics. For example....

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Yoon: What page are you on now?

Fry: 326. I'll try and hurry up. I understand that we have a lot things to deal with.

Yoon: Just talk about this one.

326, see the situation is that if you basically bring a product on the market without paying for your externalities(????), you know what externalities are, okay? You can bring a product on the market cheaper and so this doesn't deal with that at all because I would argue that this gravel is cheaper because it is not addressing its externalities, i.e., the impacts of the road system. In other words, the taxpayer is paying to support the profit of this pit while other aggregate that comes in by barge that are more expensive and more environmentally sound means are at a higher value because they are not creating as many externalities as this would. I don't feel that there is any discussion of externalities in the economic section. There is no recognition of this issue and I think that it is a fundamental issue that we are addressing in this whole process. I personally believe that it should be mined. I think that it should be mined professionally and at the full cost of what it should be mined at, which means mitigating all the externalities of its activity. And so I believe that there should be at least some discussion of that issue in the economic section because I think that is a core economic issue.

Hunt: You could argue that wherever the rock is barged in from had the same problems or issues from the site that they came from. So it seems like the two would eventually balance each other.

Fry: No, I don't agree at all. I think that water-bourne, which is how most aggregate is moved because of costs, has much less environmental impact. For example....

Hunt: They have to get it to the barge.

Yoon: But don't they pay for it through gasoline taxes? I mean, we could go on and on about the philosophy of taxing and such....

Fry: No, they would not argue. A good example, I did a report on why should aggregate facilities be in downtown Portland or downtown Vancouver. The reason is because it is cheaper to bring it by barge to Ross Island, in fact Ross Island is actually getting barged in as opposed to mining it because it is cheaper to barge it to downtown and disperse it through downtown with few truck movements than bringing it in by truck. Most of it actually comes from the coast of Washington and other places outside of St. Helens. All I am saying is that there is no discussion of the issue of externalities. It appears that because....okay, I don't want to belabor this point. I just feel that there should have been more discussion of the issue of externalities which then further supports the case for impact fees.

What about just expanding on Footnote 12 with an additional paragraph. You know, it's on page 345. Assuming that Footnote 12 is really the gist of your concern and that these statistics do not reflect addition costs, i.e., some of the things that you mentioned. It is noted that there's other externalities that have been considered.

Fry: I think that's good. I just feel that in this, the County-wide Effects section.....

Well, they could put a qualifier on this section that externalities were not considered and

It's for illustrative purposes only.

Right, and other considerations have not been included, such as versus ship-bourne and water-bourne, etc.

Fry: Right and I don't want to put it in here, but basically, just environmentally correct industry. You know, that's what I am talking about. Just having industry operating -- I have, in the Central East side, boundaries where they have to pay a million and a

Yoon: So why don't we let Staff put in a disclaimer here that says basically they did not, in developing this cost, basically as an example, they did not take into consideration other forms of transportation or externalities and the costs and everything, but they are using this only as a sample.

Fry: Okay, well my preference is along those lines. There would be a paragraph in here that recognizes that industrial uses create externalities that a proper-- that the way we are moving is to internalize all the externalities. Okay, along that line. Just a little paragraph here because this is basic economics. I mean, I'm frustrated because that should have been a major point of discussion in any economic analysis.

Yoon: Commissioner Hunt?

Hunt: Can we vote on this? I mean, I understand the issue that Peter has raised and if everybody else does....

Yoon: So there is a two point ??????. They can put a disclaimer in the sense that this was basically just an example and externalities and other forms of transportation were not evaluated plus that there is a growing body of theory that assumes externalities as part of the actual costs.

Fry: Right. Exactly, externalities should be internalized....

Yoon: Okay. All in favor. Move on.

Fry: Okay, well we get into the last section. Okay, in the interest of time, am to understand that the last section is not going to be adopted tonight at all?

Hunt: The last section was already addressed. Streams and we're only looking at the last section for aggregate at this point.

Yoon: The streams part is already done.

Fry: I'd just as soon beg off of this because my understanding is that we are going to revisit this section later.

Several: Right.

Fry: So I will only make the three points that, when we discuss it in the future, the issue of neighborhood character to be addressed, the issue of externalities to be addressed and then that's the end of it for me.

Yoon: They are already in there.

Fry: Right, I want make sure that it is part of the production

Yoon: Okay, now can I have a motion too accept the amended Staff recommendations on the Goal 5 resource.

I will make that motion.

Second.

Yoon: Second by Commissioner Pierce. All in favor. Pass unanimously.

Fry: No, I voted against it.

Yoon: Commissioner Fry changed his vote to be against it.

Fry: I didn't change it. I do appreciate everybody's patience. Thank you.

Yoon: Can we just take this through order? Start with streams and do it the same process again since that is the order that this is in. Stream Resources, Angel Brothers and Wildlife Habitat. Does anybody want to change to order on that?

Well that was the previous.

Yoon: We've got more on this one, though.

Excuse me, we need about five minutes with the Staff to confer. We're tallying up how much time it is going to take just to factor in what you've given us already and that running tally will be added to the end of the Angel Brothers discussion.

Yoon: Okay. We'll have a discussion here if whether we

One clarification. Your future issues Commissioner Fry -- neighborhood character, externalities and what was the third one?

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Fry: Ah, neighborhood character, externalities and....

Yoon: And social transportation issues.

Several: Garbled discussion of order.

Hunt: I think we should either do aggregate first or last because it overlaps all of the others.

Yoon: Either use it as an umbrella or basically as the conclusion.

Hunt: Who wants to do it first?

Yoon: Okay, just for everybody's information, we are going to start with the aggregate because that will give us an overview for the other three resources.

They're going to take five?

Yoon: You guys need five more minutes?

No, we're ready.

Okay, we are too. Turn to 4.1 please.

Is this material you have not received?

No. It's the program.

Yoon: Do you want to say something at the start on this?

No, go ahead.

Yoon: Okay. We're going to start with the aggregate.

Fry: I guess I should say one last thing. I promise to move so that you guys can do the planning in Corbett without me causing a lot of trouble.

Yoon: None of us will be on the Commission by then.

Fry: I just want to assure the staff so there is no delay on the Corbett planning.

They're going to run you out of there.

Okay. Just to refresh everybody's mind. The northern half was designated 3C and the southern half was designated 3B and we find that it is significant at 1C and then they've addressed under the raw conclusions some of the conflicts that have been handed out to you as something that was requested at the last meeting of the program to achieve those goals which we didn't have before.

Yoon: To begin with. I don't want to get into a long, protracted discussion here. Does anybody have any problem with.....we only have so much data on the record, if anybody's got a question about any of those basic premises on the data we received, I guess we'd better start there.

Hunt: What's the question.

Yoon: Let me give you an example. I'm not sure I want to raise this as an issue.

Hunt: Go for it.

Yoon: Okay. This is unbelievable, given the size of this resource, that there have been enough core samplings to really accurately measure the significance and quality of that resource to be reflect the quantity, quality and such. I'll give you an example. There were 42 measurements at Howard Canyon, there have been two here. And those two have been contested as being inadequate. I'm giving you an example of a baseline data that I am having a little bit of problem with to begin with.

Hunt: If you had asked me about quantity, quality and things, I would have brought up that same issue only because there seems to be conflict in testimony and I don't how we address that.

I would agree in general that there are a number of areas that are very weak in the baseline date, especially in the north.

Yoon: Yea, but we are not going to get anymore new to make the decision.

Hunt: No, but I'm wondering. I'm not disagreeing with their results but I wonder if part of the report would request more clarification of the quantity and quality.

Fry: That's kind of peculiar because this resource is like ten times.....

Yoon: A hundred times.

Fry: A hundred times the Howard Canyon material.

Hunt: Yes, but they didn't do the tests.

Yoon: They only did two drillings versus 42.

Fry: So the magnitude is completely different. Maybe they just thought it was so big that it's just there.

Yoon: One is two million and the other is 200 million.

Hunt: Staff, could we, how do we go about resolving that issue?

You have information from Mr. Schlicker regarding the quantity and quality and you have a statement from Dr. Beason questioning some of the methodology and the final conclusions of Mr. Schlicker's report. You have to weigh those two statements and come up with a conclusion.

Yoon: Okay. And I guess I can't really put you on the spot but you were persuaded based upon the findings that was presented to you about these two drillings. That it was significant and that there was quantity, quality, etc.?

I guess so because obviously you've come up with the conclusion that it is.

Fry: There's really two issues. In relation you have determined that Howard Canyon is significant at 2.2, then a resource that comes in around 220 million has to be significant. That's one issue. Now the second issue is where is it. Do you see what I'm saying?

Yea.

Fry: So, I can't see how we can't say it is significant. As you say, Howard Canyon is significant at 2.2 and this is like 200 times that.

Well, that's a good point there.

Fry: And then the second issue, though, I do think is legitimate. So, I would argue that it is significant.

Yoon: Okay.

Fry: But the second issue is where is it. We don't know. I think you've raised a good point there. You may not really know where it is.

Hunt: I just think that the record should show, since we're suppose to define quality and quantity that the record should have more detailed information. I'm not saying stop it, I'm just saying....I'm not trying to stop it, I'm just trying to save it. I think two core samples and some well logs is not enough evidence and I would like to see more core samples done for the record in case somebody appeals it that there wasn't enough quantity or quality.

Yoon: In follow-up to that, Commissioner Diack.

Diack: I too am not trying to stop it. I just feel that with a resource of this known size right now, we certainly have breathing room and by Skip's own admission, and I certainly wouldn't hold you to the figures Skip. On the 13th you did come out at your best estimate to say, I think it was an 8% per annum increase in production and sales, the existing site had a capacity to the best of your knowledge and we couldn't hold you to it, extending into the year 2005. That's 11 years away. Given that circumstance, I would feel that we do have room to progress slowly and for that reason I'm very much opposed to the 3B designation on North Angel Creek until we have more baseline data. We do have conflicting ideas on the importance of North Angel Creek to Grafton Burlington Bottoms.

Yoon: Wait a minute. The southern part, 3B, there isn't going to be any work done. You're talking about....

Diack: I'm talking about the designation of North Angel Creek, 3B. I'm sorry, I'm off the aggregate.

Fry: Can I point out a dilemma? We're in a plan amendment process now. The first test is to determine if it is significant and then you go through A., B., C. analysis. We can't really stop this now. The issues you raised seems to me the only way we could legally deal with them is to reopen the record because these issues should have been raised earlier. Not after the record is closed. I mean, essentially what you are saying is, let me try and work through this logically, you're saying that this body does not feel that there is evidence in the record to support that portions of the site or the site is significant. Is that the argument that you are making?

Yoon: Well no. You made a good point and I've actually backed off. Obviously, if the thing is 100 times larger than Howard Canyon, even if the north part was a zero, it's still a significant resource. All I'm saying is that I think it's suspect that we came -- it is just by its size significant -- but the fact is that of the quality and location of that, how can you do a two sampling thing of this is how much we're really going to have over in this north park when you really don't know. All I'm saying is that we're not going to stop but that at some point, when they go into the north part, there really needs to be some program or plan that really gets more samples and more drillings to really more accurately measure the projected size of that aggregate in there.

Fry: Right because what you're basically saying is that in portions of the site, there may, in fact, not be a significant resource.

Yoon: Right.

Hunt: And there might be an overlapping resource that could then be protected.

Yoon: Exactly. Yes Corinne would bring up that part too.

Fry: Well that's a separate issue about.....

Yoon: Wildlife. Exactly, but still.

Fry: There is one issue saying that maybe its not significant on a portion of the site.

- Yoon:** Here's the point that Corinne would make. If it's not significant then.....
- Fry:** It doesn't make the balance.
- Yoon:** Right and another significant resource may be effected drastically because it isn't a conflict because one isn't significant anymore.
- Fry:** If it's not significant it's like they'll be digging a whole bunch of dirt and disturbing the resource and they'll keep searching for the goal and they won't find it.
- Yoon:** Right.
- Hunt:** Perhaps before expansion of the site was approved or at the time a conditional permit is requested for expansion, we can have some kind of language in here that some additional core samples be taken to be presented in evidence at that point.
- Fry:** See, I perceive a fatal flaw in the process. I hate to say it because I think that we can't proceed if there are questions raised as to the area of the resource because the area of the resource defines impact. It defines every aspect of this process.
- Yoon:** And we did raise it before on the record.
- Fry:** So that's kind of a pretty big flaw. I mean I
- I was just going to raise the point that I think it would be encumbrant upon the Operator before he goes out and just bulldozes the side of a hill, he's probably going to do some core samples to make certain that it's going to be worth his time economically to mine that particular area so that during the course of the operation he'll do the core samples.
- Fry:** No. This is a Staff failure, no offense to the Staff, because the operator is not making this application. This application is a County application -- the County is doing this, right? So the County in making an application has to adequately provide evidence as to the significance of the site and members of the

Planning Commission are raising the fact that maybe adequate information was not presented.

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Can I respond to that?

Of course, good, please.

A little history that's part of this long protracted record.

Yoon:

Okay.

There are two ways to approach the Goal 5 process. One is to do a comprehensive inventory County-wide for every resource. Another approach is to take it on a case-by-case basis. Multnomah County did not approach it on a comprehensive inventory basis. We took it on a case-by-case basis and the first discussion that was before the County was initiated by the property owner. They were the applicant. Subsequently, in the periodic review process, as pointed out in the Remand Order, it was determined that the type of analysis that was completed was inadequate to respond to the Goal 5 process. The Remand Order said County go forward and do good things and do it again and we did. So then at that point, if you will, the County became the party responsible for initiating the analysis. So we kind of moved from historically to how things got started to new kind of responsibility for the County. Given that starting point, then what we used was again the best reliable information and we did not have the resources to go out and do a full-fledged core analysis. So what you have, then again, is based on the record and the best available information. Based on this information, you have two decisions to make: one, you think you have enough information to make a decision with the location, quality, quantity and classified either 1A or 1C; or if you do not think you have enough information to make a determination on location, quality, quantity, your decision, then you classify it 1B. If you classify it 1B with respects to the aggregate piece, the work stops here. If you classify it 1C, then you proceed through the rest of the Goal 5 process. If you classify it 1A, it's not significant, the work stops here.

Yoon: Good point. They are not going to go out there and blow that stuff off.....on the other hand, Corinne's got a good point. That could drastically impact other resources while they are trying to figure it out.

Hunt: Question. In a Section 6 where you balance the different resources, could one of the Program to Achieve Goals could it be that core samples be taken in an area to verify adequate resources at that site if there is an overlapping Goal 5 resource in that area. For example, the scenic views. If we found that scenic views were a resource and the aggregate site and the scenic view were both in the same area, before they continued developing that area for aggregate, they would have to clarify or substantiate that there is adequate aggregate to remove. I mean they might do that anyway but I don't know that and I can't bring new information into the record. I'm going on what's been presented to us and there was conflicting evidence. So I'm trying to resolve it so we can continue.

Yoon: Well, on the other Corinne, as Peter said, it's a hundred times larger than Howard Canyon.....so it's got to be significant in some way.

Well we have another piece too and that was the testimony of Mr. Anderson who suggested that at an 8% growth rate, he's got an inventory of 11 years worth of aggregate material. In my opinion, that represents a significant resource.

But that's just in the that's not the whole thing.

May I say something? There was also testimony both by Ogami(??) and by Mr. Anderson that in order for him to really properly be able to reclaim that area, he needs to know what the limits of his resource is going to be so that he can plan it inward and if he doesn't know that, and he's got 11 years, then he cannot come up with an adequate reclamation project as Ogami and Skip said.

By conjecture, if he has an 11 year inventory.....

Fry: I guess I would say one is that we are protecting this resource for our children so that the current use is not really relevant. Secondly, I'm personally

convinced that this is a significant resource period. Third is that I am convinced that no one would mind dirt. I mean that they are not going to, I just don't believe that an operator would identify an area that is dirt to use as mining and so I understand what you're saying about coring but I don't believe it would have ever proceeded this far unless there was rock there to the full extent. Now maybe you're raising this issue that the rock is substandard or something on the edges of it. I guess the bottom line is that it is significant and second is it is probably as large as they've described because they've used geological data to describe the flows and then third is that it seems like the only platform you have left to stand on is that at the edges of this it may be pretty substandard.....

Yoon: I guess what I'm saying is yes it's significant but I'm not very happy with the amount testing that was done to try to determine what the overall quantity was going to be.

Fry: It may be overstated.

Yoon: Commissioner Conkall.

Conkall: I think the general site itself is probably -- I think there is substantial gravel there. We don't have all the core samples we would like to have but I think it's there. I think now we ought to go from this point. We would be doing an injustice if we said it was a 3B.

Several: Oh no.

Hunt: No. Nobody is trying to say that.

Conkall: Let's assume now that there is a substantial amount of this property that we want to save. Now I think maybe we can move the discussion because we are going to have three perimeters. You're going to have wildlife and you're going to have streams and scenic and try and come up with a configuration of land.

Yoon: No. I just wanted to basically say that we should have stated in the report that the quantity, quality was based upon what the Commission feels was minimal effort to really establish quantity, quality of that. That's all I'm saying.

I think the quality was well established though by Los Angeles Task.

Yoon: Yea and that's all I wanted. I think that should have been included in the report that they were taking the word of certain people and everything but in fact there had been somewhat....as compared to measuring other aggregates because at some point in here they look at the other aggregates and they say yea, those are significant but they don't qualify that one had 42 test and they only had two and I think that should be in the record.

Fry: Corings are only one of three methods to determine, I don't want to get hung up on the borings, there are material tests and seismic studies.

Yoon: Right. So why don't we just move on and all I would like entered into the record is the fact that it should have been a little bit more three-dimensional in describing this particular aggregate versus the others and the testing that was done to come up with these evaluations.

Fry: Okay. I want to raise the same issue about Howard Canyon because I don't feel that it.....

Yoon: Howard Canyon has got the most beautiful rock in the world. What are you talking about?

Fry:for driveways, there's no question about it. This is a different kind of rock and it's a good rock in its own way.

Yoon: Yea, okay. So that's the only part. So to follow the procedure, would everybody approve that that basically be put in the report?

Several: What?

Yoon: The fact that I don't feel that

What should have been in the report was how they came about determining the quantity and quality as compared to other aggregates in the area as this is a signifcation resource. I mean they should have

stated very clearly that although we had two tests,
we had some seismic blah, blah, blah.

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Hunt: Well, you also have to remember that since Staff did the report we had a lot of testimony and some of the testimony that was given to us was raising that issue so I thought that it was only appropriate that the issue be addressed.

Yoon: I guess what I'm looking for is that there is some type of standard process set up for people to evaluate that particular resource. I mean, if they are going to use the same type of model to go out and measure the wildlife in the West Hills as they are in Corbett, then there ought to be a standard tool for measuring these things.

Fry: It's simply not possible because each geological coordination is different so you've got your seismic and boring. You've got to use these different tools depending on the characteristics of the geology that you are measuring. So I don't think it's appropriate to take one tool and say that on one geology you use a whole lot of it and on this other geology you use a little bit but you use the other tools. I mean I just think that this is kind of -- I think the issue about periphery and the quality of the periphery is relevant but I can't agree with you on the issue of the quantity, quality of the bulk of the resource. I think the record is pretty darn clear -- it's there.

Hunt: I guess the

Fry: We've already done that in adopting the report. You adopted the report and all this other stuff where significant issues were raised about the validity of that data. Now, I don't want to spend a lot of time on this but I don't believe this is a relevant issue. I think it is significant. It is there and I think at the periphery there is some question about his full extent of the area, but there's been a lot of work done on this, it's been going on for some time and I don't quite why we're discussing this.

Hunt: The Planning Commission and County Commissioners denied the expansion of the site previously.

Yoon: Exactly.

Fry: Well they did that on the other one too that we've just gone ahead and approved.

Hunt: I know but I'm just.....

Yoon: But we did not -- and this is one of the issues that been raised then which has not been adequately addressed in this report yet to move on with it.

Hunt: We did see more core samples since it has been remanded to us. Okay?

Yoon: So. So. Let's move on.

Fry: There are two issues going on. One is the report itself, but this side unlike the other side is divided up into sector or district areas and I don't really understand why this side is in three sections and the other side is one section and I feel that's kind of a fundamental flaw. But be that as it may, this site is in three sections and one section is actively mined under a permit, one section is being proposed by Staff as 3B, the southeastern section, and then the southwestern

Northwestern.

Fry:section is being proposed as 3C to be expansion of the mine. I think that significant issues were raised in my mind about that as an appropriate strategy for two reason. Now one reason being the impact on Burlington Bottoms of allowing the expansion to go in

that direction and second is the testimony presented, which I kind of agreed with, about getting it over with and mining from the limited resource back into the resource and allowing reclamation to take place because I do agree with the thought that -- I know people don't like aggregate but I personally believe the 3B section should be mined first and the 3C should not be mined at this time. That's my own personal opinion based on the record and the information to date. I think there is a very logical argument built as to why the 3B should go next so that the reclamation can take place and I think that there is a real question in my mind about the impact of Burlington Bottoms allowing that 3C. So I guess we only have two legitimate choices. One is to put those sections into 3B, which is something the Commission can do, or another would be to put the 3B into 3C and the 3C into 3B which is my preference.

Sacrifice play both ways.

Fry: Yea, and I think there is some logic to it in my mind. But I'm just discussing the big picture now. I mean, we can go 3B with everything. Do you see what I'm saying Jerry?

Yoon: No. I understand what you are saying but we also understand why they designated one 3B and one 3C. Because they did identify wildlife as a significant resource and therefore designated that area 3B because there was a major conflict there whereas on the northwest part, Staff has recommended that the streams part is not significant and so therefore it can be mined.

Mr. Chairman, that's actually not correct. We recommended that the North Angel Brothers Stream is significant but that in the balance it was not as significant as the (garbled).

Fry: See, I think that the wildlife can be balanced. I think that the wildlife is significant in other areas too, but I don't think that the wildlife is so significant and I don't believe it would happen in the other area. I just want it explicit so that as the resource goes forward in extraction and as the reclamation place takes place that the issues of wildlife are addressed which is a 3C classification, not a 3A. 3A would just

say that the wildlife has no significance and that they 44
should just be able to extract with unlimited
recourse. 3B says that wildlife is so significant that
extraction cannot occur without fatally damaging
that and 3C says that a balance can take place and I
believe that a balance can take place.

Yoon:

Well, does anybody else have something to say?

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say that the wildlife has no significance and that they should just be able to extract with unlimited recourse. 3B says that wildlife is so significant that extraction cannot occur without fatally damaging that and 3C says that a balance can take place and I believe that a balance can take place.

Yoon: Well, does anybody else have something to say? I'm searching for a little direction on this.

In the submission that we got here this evening that Sharon gave to us, we now have a claim of reasonably stable production extending out twenty years. Now, I don't know if this is new information. This was on the record? Submitted June 20 from Arnold.

That's from Arnold, that's not from Angel Brothers.

No but it is a submission and based on

Well, the question I'd ask is how would he know since the amount of production they have is proprietary?

Yea, he uses the figures that Skip gave.

Fry: But that's not even relevant either because we're talking about protecting this resource for our children's children. I mean I am just frustrated by making a political solution basically saying we'll make them happy for a short term.....

Yoon: No, no, no. But protecting the resource we're allowing usage of this particular resource. By protecting the resource we're identifying it as a resource and then therefore they can mine it.

Fry: Okay, I guess I misunderstood.

Yoon: Commissioner Hunt?

Hunt: I'd like to talk about impact area for a minute. Burlington Bottoms would be adjacent to Angel Brothers so it would be, as I can figure, in the impact area. I know we haven't identified it as a Goal 5 resource and you identify it here only to look at under the conservation goal. There's been a lot of evidence presented to us about the importance of Burlington Bottoms. That there might be a public demonstration

area there or a park eventually. I'd like Staff to comment on are wetlands automatically a Goal 5 resource or do you have to identify them first?

Did I understand you to say that Burlington Bottoms was not a Goal 5?

Hunt: Well here it talks about Burlington Bottoms when it talks about MUA20 lands, it says that its all enrapped in Burlington Bottoms and that the only thing you are going to look at is the conservation uses considered in discussions of rapped in Burlington Bottoms. I was wondering if we should look at more than just the conservation of it.

Yoon: What page are you on?

Hunt: Oh, 411, the second paragraph under A.

Yoon: Oh, I see what you're saying.

Hunt: There was a lot of evidence presented about Burlington Bottoms and as far as I can tell it would be impacted. It would be in the 1200 foot impact area surrounding the site and I'm just trying to figure out how we address that. Can we address it more than just conservation? Is wetlands considered a Goal 5 resource or do we have to identify it as such?

Burlington Bottoms is a Goal 5 resource and designated 3C.

Hunt: Okay, then we would have to look at the impact.

Let me ask you a question.

It was not included in the streams analysis.

Hunt: Well that's why I needed some clarification.

But let me say something about this particular paragraph that Corinne has pointed out. If in fact that paragraph should have been reworked to identify that the Burlington Bottoms is a 3C area rather than classifying it as a MUA area under the ownership of the Bonnaville(???) Power Authority because that somewhat misleads people or desensitizes the special nature of that area.

Hunt: Just like on the Howard Canyon when we.....

Fry: Can we move to fix that now -- move on?

Yoon: Yea, yea.

Fry: Cause I agree, I mean, I'm not alone here but it seems like that's a pretty relevant issue. Just like what I raised about the Sandy River basically. Why can't we just amend the report and include that here?

On page 418 there is a discussion under the subheading of Other Goal 5 Resources.

Hunt: Is that part of the impact area discussion?

Yes, and that discussion is divided into the uses allowed by zone and other Goal 5 resources.

Hunt: Oh. Okay. Then you do address it.

Fry: It's just too bad that they are at the end of the chapter instead of.....

Several: Garbled conversation.

Yoon: I guess that as with most readers you are going to read this section first so you kind of skip over whether Burlington is very important or not and then you get over here to 418 and you may not connect it.

Fry: Can we just move to make link here and move on? It's getting late.

Yoon: Okay, Commission suggests that even though you are talking about zoning districts in this particular paragraph that maybe Burlington Bottoms does need to be noted as a special area in there. Rather, yes, we know it is MUA but I think something should be added about the special character and zoning of usage of that. All in favor?

Several: Eye, eye.

Okay, but that doesn't answer all of Corinne's.

Hunt: No, but we can move on.

Well keep going.

Hunt: Well, somebody else can have a turn.

Yoon: No. No.

Hunt: One I had, and there might be something in between, is on 420 where it discusses residential uses. It talks about how mining would have an effect on reducing construction and maintenance costs but then it says that there has been no information submitted regarding the effect of mining and property values. It seems to me that we need to address it both ways.

Fry: And there was information in the record addressing this generically. On Howard Canyon there were letters in the record addressing this issue in a generic sense.

Hunt: If we're going to address the issues, I think that does need to be addressed.

Yoon: So what do you suggest we do Corinne?

Hunt: I don't know. Staff has to come up with some information as to whether values would be increased, decreased.....

That would be new information in the record.

Fry: No, it's in the record and we can act on what is in the record.

We can apply the model that was provided under Howard Canyon for this.

Fry: The report on Howard Canyon doesn't actually address the values. I think there is clearly an impact on property values.

Hunt: I think it was addressed in the West Hills study. I think Neil Cagon(??) or one of them has addressed it. In all of their issues they brought that up. Staff could review the record and if they find it, or I could look for it -- not tonight.

Yoon: So, Commission feels that there is information that was submitted regarding the effect of mining on property values and it should be included at this particular spot. Right?

Fry: And I would argue that the information included should be ones submitted by professionals because there is testimony both ways. But as I remember, the people who were putting information on professional stationery said there was an adverse impact on property values. There were comments from people in the record saying that there was not but we have to decide who to listen to.

Yoon: Okay. All in favor?

Several: Eye.

May I ask one question. What if there is no information in the record?

Well, we'll bring back to you what we're able to find.

Hunt: I'll look for it.

Fry: Are you saying that if it was applied to Howard Canyon in a generic sense, then it would not be applicable to this site?

It's a question as to whether its a part of the record for this hearing.

Fry: There's more than one record? Is that what you are saying?

You have two subject areas, yes.

You have two reconciliation portions you're considering. You took testimony on one reconciliation report and you took testimony on the other reconciliation report.

Yoon: You can't cross reference those, right?

They are two separate records.

Fry: Can we take a break before one o'clock?

Yoon: Before one, but too soon before.

Fry: Okay.

Yoon: Anybody can jump in at this time because obviously we are not following a straight line on this one.

Hunt: Well I was trying to fold the pages -- but you're right, it's hard to do.

We're still on aggregate, right?

Did you all come up with something on how the aggregate would effect the view?

We summarized the information as you requested.

Several: Garbled conversation in background -- searching for information regarding view.

We have copies of a topographic map -- just a copy of the Angel Brothers section of that map if you want to see it. As far as reaching conclusions as to what could be seen and what couldn't, it would all depend on the method of mining.

Hunt: On 427, third paragraph, Staff says that accommodations for fishing is not needed to be addressed and since Angel Brothers is right next to the Multnomah Channel, I did not understand why that was an item not needed to be addressed.

Fry: Where are you talking about?

Hunt: Third paragraph on 427. "The third real criteria is not applicable to aggregate resources. It only applies to parks and campgrounds, reservoirs and water impoundments, home occupations and temporally occupied accommodations for fishing."

Fry: So what's the third real criteria again?

Hunt: These are just things that I have circled.

Fry: I have a seven a.m. Boarding Meeting this morning.

Yoon: Well, we'll keep you up.

Well, as long as you're on 427, under 2, Goal 6 requires "all wastes and processed discharges from future development when combined with such discharges from existing developments shall not threaten to violate applicable State or Federal Environmental Quality Statutes." Well, I think that the record is going to show there is a threat of violation. As a matter of fact there is a photograph of violation right there.

I have a problem with that in the existing operation.

Yoon:

But maybe we shouldn't be talking about the specific problems. I'm getting a little tired in trying to figure out what direction we're heading here.

Fry:

It's in the record that they were bad and that they've become born again and they are doing things differently and they're going to be perfect in the future.

Yoon:

Not according to the 13th meeting.

Fry:

Well that's why I was cross examining Mr. DEQ wondering why he was here.

Well, in fact that have done quite a bit on that little stream in the aggregate rock now. I can't address whether that's six days old or six years old but on the site visit we did see where they had set up the filtration and everything.

The DEQ guy said that it didn't meet standards but that they were still working on it.

Fry:

Quote "The existing operation is conducting compliance with all applicable State and" And you would say that is not true based on the record?

From DEQ.

Fry:

And that probably is not a true statement. It may be that in the future, like tomorrow or next week, meeting all the standards. That's one of those kinds of definitive statements.

I think that the conclusion of that paragraph is false, 51
that's all.

Fry: Any expansion plans to satisfy those.....?

Yoon: No, because it's implying that its already been
satisfied and that's not true.

Fry: The question would be raised "could any expansion
satisfy...?"

Mr. DEQ said he had no idea how it would take place in
the northern section.

It's an art, not a science.

Fry: The northern section is Burlington Bottoms area?

Right. North Angel Creek.

Fry: Yea, I'm concerned about that too. I've already
expressed that concern up front.

Although we're talking about aggregate now.

Fry: In fact, the Operator expressed concern about that as
well when he made his recommendation.

Hunt: On 427, Goal 15, Willamette River Greenway. I guess
I'm talking about scenic and the aggregate site at the
same time. This talks about protecting the scenic
qualities along the Willamette River Greenway. When
we address the issue, are we talking about specific
sites or are we looking at the whole Willamette
Greenway?

Fry: We haven't gotten to that yet.

Hunt: I know that but it is here in the 427 aggregate
section. That's why I wanted to clarify it.

Fry: We have to discuss it because that's a significant
issue that we have a difference of opinion on.

Yoon: Right now she's looking at it as compared to the
aggregate. Later we'll look at it as its own resource.

Hunt: If it is part of the scenic designation, I leave it for now. But if the Willamette Greenway is not part of the scenic resource to be observed from, I want to address it now.

Fry: You mean the Willamette Greenway Trail. The Greenway is supposed to be for wildlife not humans. So you're saying the Trail which runs along the Willamette River.....

Hunt: Well that would include the Multnomah Channel, I would image.

Fry: No, the Channel is not part of the.....

Severel: Yes it is.

The Willamette Greenway is entirely east of Highway 30. The significant scenic area is entirely west of Highway 30. So the two areas do not overlap.

Fry: Corrine, are you saying that the ability for a person to stand in the Trail anywhere along it and see the operation versus a view point. Is that ...?

Hunt: Well it says here that the scenic view should be protected from the Greenway and if you were boating down the Channel, which is the Greenway, I'm asking if that is part of the scenic resource that we will be considering or is this another scenic resource that we have to look at separately? Does that make sense? Are we looking at the Multnomah Channel as part of the scenic resource to look up at the West Hills?

No, my understanding of the scenic aspects of the Greenway is looking at the Channel itself and the area around it. That was brought out a couple of times in testimony.

The Channel is an area from where you can view the West Hills scenic resource but it is not part of the West Hills significant scenic resource.

Hunt: Okay, but we will be looking at as a site to view?

Yes.

Fry: We've discussed whether you can view it along the entire length of the trail versus the view point strategy where you look at it from certain view points. That's a significant issue.

Yoon: Let me characterize where we are. People are stumbling a little here. We've agreed it's a significant resource. As Peter pointed out, we are not looking at that area that Staff has recommended as 3B and 3C. What we've been doing is going through each paragraph to make sure we understand them. Now we can move on.

There was in the last public testimony, I remember both Skipp and John Sherman making suggestions to trade 3B and 3C. So the question is does the Commission agree with the 3B, 3C designation for the specific areas mentioned in the report? Let's have a vote on the demarcation of what is 3B and 3C.

Fry: I don't agree.

Neither do I.

Some further discussion. When this specific issue of the expansion of the Angel Brothers Quarry came up, it was dealt with here and we made recommendations to the County Commission. My primary concern was the wildlife corridor. I'm not convinced that a half mile is going to do, however, I'm willing to go with it. So from the wildlife corridor aspect, I would go with this. I think that there are some other concerns here that has to do with the North Angel Brothers Creek and feeding into the Burlington Bottoms. Is there enough protection there so that the expansion of the Quarry into the northern half won't result in increased silt flow into Burlington Bottoms. Everyone is aware of that potential. We've seen a little of what's gone on in the past and they have done a lot of work on the middle fork to reduce the silt flow both into the Burlington Bottom and into the Multnomah Channel. But I think that there are some real reservations. It's a very sensitive area.

Let me interject one thing. The Staff has recommended as a condition of approval of any future operational permit a required ongoing program of verifying the DEQ noise and water quality

standards are being met for existing homes and run off into Burlington Bottoms and Multnomah Channel. Which I would think would be all encompassing for the North Angel Brothers Creek.

I'm looking at it a little differently. I've seen what's been done so far on the Central. They still aren't meeting the water quality standards but they've certainly come a long way. We get back into this enforcement issue again. Five months ago when we turned down this permit we were not persuaded that they were doing any inspections whatever at that time. We probably have those same concerns now. Is somebody really going to go out there and make sure this happens? And that's what it really comes down to.

It's not the State or the County or the Feds suddenly got more money.

Exactly, or that some behavior pattern is going to change overnight. And that's where we are on this issue.

Fry: But this Commission has made a decision, which I voted against, assuming that that was not an issue. On Howard Canyon, which has similar problems, you have gone ahead and said that it could be balanced out. I feel it's really inconsistent that you would then turn around and make the same argument to justify a different thing.

There's a difference there, Peter. Those creeks over there do not run through the aggregate.

Fry: They run next to it.

This is going to run right through it.

The operation would be in the drainage.

Hunt: Since Burlington Bottoms is in the impact area, its 3C designation.....I feel we need to look at whether North Angel Stream runs into Burlington Bottoms or not. That water shed feeds into Burlington Bottoms and I have a real problem with that. I want to resolve it.

Fry:

Do you think that putting the entire expansion are in 3B will cause this all to go away and is it a defensible position. That's the direction you're moving. Staff has said one area is 3C and one area is 3B which is given a path for the future. The operators provided another path for the future making a case that we need to switch 3B and 3C. As a third path for the future, is this Commission saying everything is 3B -- which is the direction I see you moving and it's not going away. All that will do is cause us to continue on and be back to us.

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You misread me. There's no way I'm going that way.

No, I'm not going that way either. My philosophy on this is that I'd like to see -- the City of Portland metropolitan area is suppose to incur this tremendous this growth -- I would like to make every effort to make that growth from within. I don't think it's fair to burden another community with the needs of this community. I think we've done that in the past and I don't like the impacts that its had. I think this site has a couple of things going for it in that whatever we decided it no doubt will be watch closely for any DEQ violations. Mining in an ecological manner is in its infancy. It's an ongoing process and we've seen violations but we've also seen some work done toward those violations. We've got an operator who is willing to comply with all the regulations. If there is a chance to do this without sacrificing all these other things, I think we ought to proceed.

Yoon:

Commission Diack.

Diack:

In all this conversation I've been trying to decide if I've run across anything on phasing. Any really specific language directed toward phasing here. That's what we're talking about: long-term protection of this resource. We're not going to take it all out tomorrow but I haven't seen any comprehensive information on the operators project phasing. Are you going to increase crushing capacity and, if so, by how much? What's your expected market?

Fry:

In the record there is that information. What the operator said that their preference was to start at the periphery of the area, extract that and move down the hill so that they could reclaim as they move

down. That was their argument as to how it should phase. The Staff's idea is to protect the far reaches of 3B because of the wildlife impact and allow the growth to incur. I think that the phasing issue is one of the key issues we need to discuss tonight. Do we agree with the operator?

I think that's got to be in the plan that he has to submit as a condition of approval for a future operational permit. We don't have to discuss that now. We can set some guidelines.

We've had to balance four resources. Scenic was the weakest in my mind and I'm basically still there. I don't entirely agree with Staff on the streams but I'm willing to go along with everything they do with some provisos that in the proposed plan that there's got to be phasing plan and number 2, we borrow from what we said about Howard Canyon, put the burden on the owner a little bit. Go through a bid process, get a consultant who does and independent verification that they are meeting DEQ and water and noise quality standards and works with them on that. They must bring the Central stream up to DEQ standards and a program that North Angel Brothers Creek will also be maintained at the DEQ standards. That's basically where we are with this. We have not given Howard Canyon the scrutiny that we have this issue. We have a whole history on this -- it's been sitting on our desk for the last year.

Fry:

For the record, I would have voted 3C for Howard Canyon but I just felt that there was not a strong enough framework there to have it work. You're saying here that there is a stronger framework for this one with four identified resources as opposed to one for Howard Canyon.

Whether we like it or not, because of the pain we've gone through this past year on this, lots of things have happened. There's been agreement between the operator and the neighbors on things like noise, there's been improvement on the streams. The awareness is high -- including other State agencies. I agree that people will be watching this thing. But if we feel more comfortable with it, we should say that the operators should pay for individual consultants -- you know, the same process we did with Howard

Canyon -- to meet DEQ standards. I think everyone will feel more comfortable. I think we just basically adopt the program proposed for Howard Canyon but make another condition that the Central Stream has got to be brought up to DEQ standards before there can be any additional expansion. The only other alternative is to 3B it all and then move on and I don't think we can do that. It's too much of a significant resource. I think that Staff has done a good job of trying to get some conflict resolution on this. I would move that we basically accept the Staff report with the amendment. I will ask for a motion that we approve the recommendations of Staff on the aggregate with the additions that before any expansions can be made that the middle stream needs to be brought to DEQ standards and that independent consultants be brought on to monitor the noise and water standards.

I'll move so that we can have some discussion.

I wanted to point out that there is a very specific letter dated March 1, 1994 from Dogami(???) to Skipp which specifically states the various conditional things that he has to do before mining. He has to come up with geotechnical landslide potential. He has to do a longitudinal and cross-sectional profile of each stream. It goes on and on and on. I think that safeguards are in place.

We're dealing with the enforcement again.

I would imply that this letter suggests quite strongly that is not going to be a problem. They've identified.....

Fry: We live in a complaint system. That's the reality and we just don't have enough complainers out in this County.

Yoon: It's so much better when you're objective, Peter.

I think this is a different issue. A tremendous amount of tension has been focused on this one particular site and I concur with Commissioner Conkall that I have no concern that this won't be implemented to the fullest extent possible.

- Hunt:** I guess I'm a long ways from everyone else. I can't look at the aggregate one without looking at the other resources that we're going to look at. Number 1, if we concur that the scenic resource is there or find that resource, I feel that when looking at the aggregate site we're going to have to look at a reclamation plan so that only part of it is going to be mined. There's going to be a part reclaimed when they are working on another part before they go to the other part. It's going to be this overlapping process. Otherwise, you're going to have a conflict with scenic.
- Fry:** That's one issue -- Protection Plan Staff. Just so we don't get lost.
- Yoon:** That would also be true of the wildlife.
- Hunt:** The wildlife one I can accept the way we've got it.
- Yoon:** Okay.
- Hunt:** The stream or the Burlington Bottoms 3C classification -- I don't know if I concur that Angel Brothers should be expanded to the North Angel Brothers Stream. I'm not against being on the other side of it with the repairing area winding around it with a large buffer around it. We're looking at a very valuable resource and we have to weigh the two. That's where I'm coming from.
- Yoon:** Would you be comfortable if the whole stream was essentially -- right now they're saying it's significant but the only parts they're going to worry about are in the middle rather than what goes out or what comes into it. Would you be more comfortable if the complete stream was protected?
- I will not vote for this the way it stands with a 3B designation on North Angel Brothers Creek. I don't feel that has any place here. If it's given a 3C then we can work out the differences between the 3C and North Angel Brothers Creek and any expansion.
- Fry:** I agree with that. Are we dealing with that separately in the streams?
- Yoon:** Yes.

Hunt: Peter, it was you who said let's move on to aggregate and I can't go on that.

We can put these conditions into here and when we get over to streams we can refer back to it. We have designed the stream completely 3C. We're building here and we can build some things on here as well as on the scenic.

Hunt: Right, but when we're adopting the aggregate report, we're adopting this map or a map of the area.

With conditions.

Hunt: Okay, and I just gave you my conditions.

Fry: I'd like to make a friendly motion to the person who made the motion -- well maybe not so friendly -- that this motion is based on the assumption that the entire stream will be 3C. I'll make that motion.

Wait, wait, wait. There are two things that she brought up. That's one part that can be added. The second thing that can be added is the fact that deals with the scenery part. That is that a reclamation plan has to be in place that deals with the scenic aspect.

Fry: That maybe should be a protection plan issue.

Yoon: Oh, I see what you're saying.

Hunt: From what I understand, the existing site has not been recorded.

Fry: I made a motion. Did we have a.....

I don't have a clear understanding on what you mean when you're saying 3C. Where's the balance there?

Fry: That the entire portion of the stream in the Staff proposal which is our motion on the table is a 3B and a portion of the stream is 3C. Okay.

No. The stream isn't but the upper portion is in 3C and the lower part is in a 3B area.

Hunt:

It feeds in a 3C. The only part that's not 3C currently is through the aggregate.

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Let's define it because you're not really talking about the stream being 3C.

Here's what the report now says under the stream section that the North Angel Brothers Stream is 3C, 3B and 3C again. Within the aggregate it is 3B which allows conflicting uses.

Are you saying the stream is? It runs through? What you're saying is that a portion of this upper part of this land.....

Several:

No. The middle part.

Okay, let's look at the land that is being leased, the 397 or say acres -- the northern part above the expanded quarry area. Are you saying the stream is 3C or the land?

No. The stream. Listen to us here. We've got four different significant Goal 5 resources we're dealing with here. In order for us to get through the aggregate, one of the situations the Staff put through is that this stream is 3B in the permit area. But before it comes into the permit area and after it leaves the permit area it is 3C. What we're asking you to add to your motion is that the stream is changed to 3C all the way through which means you have to limit conflicting uses rather than to allow full uses.

I understand that the stream can't be 3C but if you're talking about a buffer on either side of that stream....

The stream is 3C.

Then what you're saying is that the mining could go right up to the edge of the stream.

Hunt:

In the reclamation plan that would be addressed on how to protect the stream and still allow.....

The reclamation?

Hunt:

Yes. You could in the reclamation....

No, no. You're not talking about reclamation. What you're talking about is when they mine what happens to the dirt, what happens to silt. It gets into the stream and goes into the Bottoms. That's what you're concerned with. You don't designate the stream as 3C. That doesn't provide any protection at all.

Hunt: Yes it does.

For what?

Hunt: Because we can give Dogami guidance as to what is or is not important and if we classify this stream as 3C and they have to protect that resource, they have to work around it. I don't care how they work around it.

3C allows full conflicting uses. 3B limits conflicting uses. We can't go to 3A which preserves the resource, which is a shame.

All we're saying is that there has to be a balance of the usage of the stream.

But right now they're saying 3B allows full use of the conflicting resources.

Fry: See, 3B says wash the stream with the mine and 3C says balance the stream with the mine. 3A says forget the mine and protect the stream. So what I'm saying as a friendly amendment is that the stream should be one consistent 3C from start to finish. That brings on board, hopefully, some members of the Commission onto this consensus building process.

Hunt: And I could even Staff some guidance as to the reasons for the 3C designation.

On page 6-30 of the Rada(??) Sheet is where we say the language about that portion of North Angel Brothers Stream within the mineral resource site be designated 3B. I guess that the main question is that if you allow mining where the creek is, it seems to me that it is rather difficult to say that you're going to protect both. I am a little unclear. It seems to me that if you say the stream is 3C and therefore you're going to protect the repairing zone on the stream then you are essentially saying that the mining in

that area is 3B. It's unclear to me how you could have them both be 3C in that area.

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Fry: Because, using that same logic, we have said things are 3C. In the Howard Canyon they said the Howard Canyon was 3C and we said the stream was 3C. So we had to do that balancing act. You're arguing that since this spatial definition is identical -- in other words, you're not talking about spread out -- it's not possible to balance it. I think we're disagreeing.

If you could explain how you would see that kind of a balance going ahead that would allow mining in that area and also would protect the stream and the repairing zone of the stream. It is unclear.

Fry: I think it gets back to the issue of what is a repairing zone, which we haven't really gotten clear on. For instance, zero versus 100 feet and the fact that you have to have trails that cross rivers. It's going to be a special hassle. The operator is going to have to be very careful.

And he's going to have to have a plan.

Fry: Yes, a plan. It seems to me that it has to be all 3B or all 3C so I'm making this motion not just for the sense of consensus but for also making sense. You can't have it 3B, 3C, 3B.

The only way it would make sense is if that's the only area where you have this.

Fry: Or if there is a spring coming up when it started 3C again. So I think the bottom line has got to be either 3C or 3B.

Hunt: Yes, but I can see Staff's argument that the actual stream site can't have a balance with the aggregate site. There is going to be a specific site that will have to be protected. Maybe a hundred feet away or so. Or maybe you do have to say 3A. I don't know. All I'm saying is I think Burlington Bottoms.....

Fry: Frankly, Corinne, if you are right, this process has no point. If we cannot balance 3C designations with protection plans and make it work, there's no point in doing this.

Hunt: Well, I would like to find a balance where they could mine up to a certain point of it.

Yoon: If we're going allow full conflicting uses and we're going to call it 3B in that particular area, when they come up with a plan, whether it be the mining plan or the reclamation plan, are they going to have to include the stream as part of the consideration when it's a 3B.

I think that the intent was that they wouldn't necessarily have to protect the stream in that repairing zone of that stream as it runs through the site but that they would still have to protect the quality of the water leaving the site to Burlington Bottoms.

Yoon: So they would have to reconstruct it so that it would be of the same quality as when it came into the area.

That's correct, yes.

But with evidence presented, that's going to be real....I mean, if you protect the stream, you're going to have a better chance of where it feeds into Burlington Bottoms.....

Fry: Okay. I'll withdraw my friendly motion.

Yoon: Okay, do we have further discussion. The amendment has been withdrawn.

I'm confused about the motion. Commissioner Fritz? Was his motion pertaining to page 623, subsection E, "Provisions to be Included in the Protection Program to Achieve the Goal"? Wasn't that what your.

Fry: My understanding of the motion was that he moved that the Staff report with one addition that we would have a program where the operator would pay for an independent consultant who would work for the County to ensure that DEQ, water, noise standards and the middle Angel Brothers Stream would be brought up to DEQ standards first.

Would that be stuck under Subsection E?

Right and we would accept the recommendations with the minor changes that were made in the report.

Okay, so your amendment deals with Subsection E of Section 6-23?

Right

But isn't Commissioner Hunt's amendment dealing with that same section about the concern that the aggregate be mined. You complete one phase first and the reclamation for the scenic be completed and then you go on and mine the next section.

Yoon: Okay. Peter has withdrawn his motion. Corinne would like that wording added to the amendment that was made by Mr. Fritz and we would like a second to the amendment.

Second.

Could I point out the third bullet under mining there. It talks about simultaneous reclamation and mining?

Well that certainly shut us all up.

Good going Bob.

Hunt: I guess what we're trying to do is make it more explicit because it hasn't been happening in the past.

Yoon: The reason that has been given for why reclamation hasn't been done up to now is that they didn't know what the limits were going to be for the whole area. Now we given them the area and we'd like to see the enforcement of that number 3. If we knew that was going to happen, we could withdraw that addition to the amendment.

Hunt: Some clarification on my part. The original approved site has been mined. That should be reclaimed.

They've got a ways to go on that site.

Hunt: I thought that site was finished. I thought they moved.

Hunt: That's the one we recently approved. Clarify Staff. Help. There was the original approval and then the one in 1990 or whatever. But the original site still has to be reclaimed as I understand it.

The answer is that Mr. Anderson stated that the reason that they hadn't done that was because of the mining method they had been using going up.

Hunt: That's not my problem. I mean, we are approving new sites before the past sites have been reclaimed and that's my problem.

Yoon: Right and the answer is that now that they know what the limits are they can start mining from top down and therefore reclaim that bottom part. Now what you're looking for is some reassurance that it's going to be done.

I think that there was one other issue that I can recall Mr. Anderson testifying about it. The reason that the old was not going to be reclaimed was because they were going to be using it as part of the new because the rock had to come down into the old as well. So it could not be reclaimed before going on to the other one.

Until they know the upper limits it is almost impossible to do it. Once you know the upper limits of what can be quarried, you go ahead and quarry it and come down and reclaim what's on top.

In the new part. But they can't reclaim the old part because they're still going to use it.

Maybe we could address it this way. We could deal with this particular motion and then in the protection plan we should tell Staff that the reclamation plan criteria was set up.

Hunt: I'm satisfied.

Yoon: Okay. Are you all in favor of the motion made by Mr. Fritz and seconded by Mr. Engle? Please raise your right hand. Okay. All opposed?

Yoon: Yes.

So can we now move to scenic?

Fry: How many more things do we have to do?

Yoon: Three.

Fry: Scenic, streams and wildlife? Can I take five minutes?

Yoon: Sure.

What do we have to get into. Do people have specific points under those issues?

Yoon: Well let me ask the question. Are there going to be any differences of opinion on the wildlife section?

Does anybody want to make some changes on wildlife?

Hunt: My only question on the wildlife is -- I know there was the half mile quarter but I think that animals don't move around ?????

Yoon: Oh yea, John Sherman made that point, too.

Hunt: It seemed that it should have been a straight line. I can live with it.

Yoon: Why don't we take three minutes to break and then we'll run through these.

All: Garbled break conversation.

Yoon: I just like to bring up a couple of points about wildlife before we dive into it. In order for you all to do a line adjustment and get out that square thing that deals with the wildlife at 3C, we'll have to go back and change the aggregate report. I thought I might mention that to you. And the second thing is that Corinne?

Hunt:(Tape garbled).....once the mining area was reclaimed reclaimed for a substantial amount then possible the area that is the Goal 5 protected site could then become the aggregate site. This would be a real long-term process. I think it is a good idea. The mining area would have to be reclaimed substantially but once that happened I don't see why you couldn't have the wildlife corridor be where it had been lined if it was reclaimed and then go through the process again and allow mining some place else.

Fry: That's what I actually proposed...(too soft -- away from mike)...I agree with you 100%.

Hunt: I'll ask Staff. There's a section here where you talk about where Goal 5 processes can change? Here it is, page 52, chapter 5. Under 18 you say that the Goal 5 implementing rules contemplate that the resource site and conflicting use identification will be an ongoing process subject to adjustment as new information appears. SoI thought that meant that maybe ten years down the road.....

If you look at the map we provided showing the 3B 3C areas and look at the half-mile contiguous area for wildlife -- unless the secondary habitat areas to the south were eliminated and that became primary habitat mining in that area would cut into that half-mile contiguous area even if the north area were completely mined and then reclaimed because that is not where the critical habitat is. It is on the south side of the Angel Brothers site.

So, you couldn't have some of it going in one direction and some going around the other way? Couldn't there be a study later on like that?

Fry: What is the 3B area zone as?

That's commercial forest.

Fry: What's the lot size on that?

To be determined.

Fry: But theoretically someone could build houses in that area?

Theoretically.

Fry: Could that area be developed -- could houses be build there.

We're going to have that discussion this fall.

There is one comment to the Chair through the Vice Chair I wanted make. You have that map in front of you showing the 3C and 3B. The west is the high point and the western-most boundary area is what is going to be mined next up at the top. In order to go through a rapid reclamation as they move down then this area (must be pointing to map) starts becoming reclaimed and restores back to wildlife habitat. So this area just keeps expanding. The problem is down here, that becomes secondary habitat area and unless that becomes primary to ever mine this area means you basically just shut off the whole corridor back down to Forest Park. You can't do it but you can keep expanding it after they mine that top part of the new quarry resource site.

Fry: On the forestry section there's something I'd like on this the Social Consequences of Limiting Timber Harvest of CFLand within the West Hills Wildlife Forest and Habitat Area (page 542). We've already discussed that we have no jurisdiction over forestry practices so this isn't really -- we can't limit forestry practices in this wildlife corridor, right?

We cannot but we still need to discuss the consequences even if we aren't statutorially able to take any action based on those consequences.

Several: All talking at once.

Fry: It's slightly inconsistent.

Hunt: I was going to propose when we get to the stream part that we have the same language that we had in the Howard Canyon as far as encouraging forestry and agriculture to implement protections. I think it is only fair that the whole County.....

Yoon: Adhear to the forest practices.

Fry: So you are not going to hold us to a higher standard, that's nice.

Yoon: So, I would accept a motion to approve the wildlife resource.

So moved.

Yoon: Moved by Commissioner Fritz. A second please. Commissioner Conkall. Discussion?

Fry: I'm going to vote for this because I actually am very biased toward wildlife, unlike what people may think. But my problem with this is that I believe that it does not deal with wildlife. It deals with people's perception of perception what wildlife would mean. It's called etrocentric, I think is the word for it. Basically, it seems to impose upon wildlife human values and that bothers me about this whole thing and I will be particularly careful about this whole protection plan process.

Yoon: If there is no further discussion.....all in favor. Unanimous.

Scenic Views of the West Hills is next.

Yoon: If you look at 6-17, and you also have this document which is the program, it will basically lay out the program and the standards for protection.

Hunt: I have a question for Staff. There was evidence presented that we are only looking from key viewing areas but that's not how I interpreted the standards. Can you clarify that.

The Planning Commission and the Board identified a number of pubic places, by the Owl House, Virginia Lakes, and public corridors, like all the roads on the Island, Multnomah Channel, Highway 30. All those public areas are areas where you can get views of the West Hills.

Hunt: Okay, but it would include all those. The Multomah Channel.....okay.

Fry: Okay I was wrong. But I think that viewing is so subjective that it gets into extremely thorny

problems that become huge hassles. Some people, like me, like the industrial river, other people like the trees. Everyone has different kinds of things they like to see. My sense was always that the value of this was a green background to an urban area. In that sense, I can support the concept of this being a scenic area, but that's pretty generic.

Yoon: I voted against the scenic views before. I'm inclined to vote with it as a 3C because of the program that's been suggested as well as the fact that we already have given it a 3C designation to the aggregate. The only part I was worried about before was whether the aggregate was going to be able to operate. I still am not convinced people look up at those mountains but I'm willing to go along. I know how many times I look up there and don't look up there. And I also know how many times bicyclists and runners do because they are all my friends, they come out and visit and they don't even think about it.
Commissioner Engle.

Engle: I just have a minor point. On page 211 it talks about mining and the very last sentence it talks about a third quarry called hidden valley which is directly north of Angel Brothers. It says that the rock resource at that site has been depleted and the quarry was converted to a landfill. The next sentence reads that the potential remaining for "these, as well as others, yet unidentified sites to be mined in the future". My question is how does the depleted site become a potential mining site, especially given the fact that it is converted to a landfill. It just seems inconsistent.

Remove the garbage and start over?

It also talks about inactive sites.

Engle: Well, I know. I think it is mixing apples and oranges. It just appears to be inconsistent.

Yoon: So what do you suggest we do? Give me a recommendation.

Engle: Well, let's see. I would think that the site is depleted if, in fact, the quarry was converted into a landfill so Hidden Valley is no longer a potential site for future

mining. I think Hidden Valley should be excluded from the sentence.

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Yoon: Do you want it in the report or out of it?

Engle: No, it's fine. I can live with it. I just pointed it out as being somewhat peculiar.

Hunt: I had a question for Staff? It one of the things I got it was talking about Portland's identification of enforceable examples. I'm not sure that I agree. Do think our language was vague -- so we need to be more explicit? The City of Portland was definitely more explicit.

What you need to remember is that in Chapter 6 we are offering suggested methods that will be used for protection when we get down to the very specific standards and code language, that's going to be another set of hearings.

Hunt: So when you set up the rules and regulations, you'll get more specific?

We'll attempt to make it as clear and objective as possible.

Yoon: Further questions.

Fry: I just wanted to say that Staff really improved this dramatically since we first dealt with it.

Yoon: That's why I'm willing to vote along with it this time.

Fry: I also loved the part about the National Scenic Area but I still have a hard time figuring out what would destroy the scenic value of this.

Yoon: I was comparing it to Queen Anne Hill in Seattle, wondering if all those houses were on would it change the environment? It probably wouldn't, but I'll go along with the Staff report.

Yoon: Plus part of it is water shed, part of it is that they can't build on that side of the hill anyway and logging is going to happen anyway.

Hunt: I've got one more question. When we addressed mining we talked about the scenic overlap. Do we need to bring that up in the scenic portion.

Yoon: I think you can do that.

Hunt: I know I can do that but we need to do that?

Yoon: I think it doesn't hurt to reiterate it.

Let's review -- it was about an hour ago.

Hunt: It was about the reclamation.....

The initial discussion you had pertained to the Protection Program. On page 6-18.....

I have one observation that I haven't seen in here on the scenic. Would it be possible to insert a suggestion that the County actively pursue incentives for land owners in the West Hills whose land would affect scenic views to come up with conservation easements to affect that?

Yoon: So there should be a carrot and a whip on this stuff?

That's exactly right. I'm thinking of tax incentives specifically.

Yoon: Maybe the words should be that incentives should also be examined as a way to mitigate scenic disturbances.....or something like that.

Fry: That's a really good point. What was troubling me was the economics of the reality that people have to go through permitting processes in the scenic view and wildlife quarter which translates out to no affordable housing in the West Hills and it's just a place for wealthy people to live. If there is anything would can put in place to allow people who do not have wealth to get through these things it would be.....

Yoon: So if we put it in that wording they can examine it.

Fry: Right.

Explore incentives to(garbled)....for the scenic use.

- Yoon:** Does everybody approve that? Okay, fine. Go ahead Commissioner Engle.
- Fritz:** Okay, I'll entertain a motion to accept an amended document that deals with the scenic views resource.
- Engle:** Second.
- Yoon:** Okay. We have a motion by Commissioner Fritz with a second by Commissioner Engle. Discussion? All in favor. Okay, unanimous.
- Okay, Streams.
- Hunt:** Okay, on Streams. The language we had for Howard Canyon as far as agriculture and forestry where we would encourage agencies in better land use management.....I think the language should be consistent.
- Yoon:** Right. I bring you to 6.20 which shows you the basic protection measures that deal with the streams.
- On page 3-20 under Other Uses, 5.. Those other uses: "aircraft landing areas are likely to locate in this area due to topography constraints". I think what you need there is "are not" likely.
- All:** Right....you're so good.
- Hunt:** I am assuming that on 2.12 we would remove the last sentence which says "Since agricultural use is unlikely to increase, it will not be considered a conflicting use". We already talked about the language.....
- That was done for the Scenic section -- not for Streams.
- Hunt:** Oh, but I want it for Streams, too.
- No, it is in the Streams section.
- Hunt:** Oh, excuse me. I'm getting tired. I'm in the wrong section.

Yoon: Now we all did agree with Corinne that we will have the same wording as far the forest practices and agricultural? Okay.As we said in Howard Canyon?

Yoon: Okay. Down to the last page. Don't blow it.

Fry: Well I was going to ask one question to blow it. This seems to set pretty high standards. On this we're basically preserving everything and so I'm assuming that when we get out of the East County we'll apply the same level of protection.

We're going to expect you to lead us in that discussion. But if we massage it as much as we've massaged this in the last three years, we won't have a problem because we'll all be experts.

Fry: But do you feel that we are protecting too much?

....(Mumbled).....That's an understatement.

Yoon: I don't think so.

One more clarification. I hesitate to bring it up but I don't know if we got any clarification on whether the Angel Brothers North Stream was entirely 3C or split.

Hunt: I was going to bring it up. The only thing that I see that we still need to resolve on the Streams issue is the North Angel Brothers Stream site. I feel that because it met three criteria and it flows into Burlington Bottoms, a very significant and fragile wetland, that the whole stream be 3C.

I agree with you but we get back to our dilemma of everything then being restricted except for the existing quarry site. If I could get some assurance that any operation in the North would not effect water quality whatsoever going into Burlington Bottoms, I would go along with it. I'm afraid I don't have that assurance right now so I.....

It's a condition.

Yoon:what happens after the fact?

Well if they haven't met the condition they're shut down.

- Yoon: Okay, I'm going to have to live with that.
- Severall:Garbled.....
- Yoon: I just want to ensure an ongoing monitoring program.
- Hunt: I'll make that motion.
- Yoon: There's been a motion and a second to change the designation of the North Angel Brothers Stream to be a 3C through its entirety. Discussion? Commissioner Conkall?
- Conkall: I understand what you're trying to do but I don't think we can do it. Unless someone could persuade me, I'd have to vote against that. If I considered them both significant, which they both are, then I have to weigh the significance and I feel that the aggregate is more significant than that portion of the stream. Assuming that through operation of the quarry, we meet DEQ requirements down below. I'd have vote against that motion for that reason. Otherwise, you cannot mine up to 20 feet to the stream, jump over the stream and mine the other 20 feet in the other direction. You will change the stream course through mining. In my mind it's a tradeoff.
- Yoon: We have testimony in the record that in fact that stream has been degraded by commercial forest practices above the aggregate site. That's already been done -- the trees have been cut. That's why they say that this area is probably not as high a classification as it was before. I think we're dealing with a resource that is not as significant as it use to be. What I want to zero in on is what assurances are we going to get that will protect the other resource which is the Burlington Bottoms -- that's the part we're really dealing with here.
- Hunt: Yea. I would give you a choice. I'd say either the water shed impacts Burlington Bottoms because it's in the impact area. I'm trying to resolve it.....hopefully, it can be mined to a certain point closer to the stream, but I don't think that stream.....

Yoon: Maybe this is unrealistic, but the stream when it goes out of the quarry area needs to be better than when it goes in. If we have silt going in there now coming from the forest practices.....wait a minute, I just got the answer. If we're saying that it has to meet certain DEQ standards, it really doesn't matter what quality it comes into the quarry, it's going to have to be raised to a level that's going to meet the standards that should protect the Burlington Bottoms. Right?

Hunt: I weigh the Burlington Bottoms site as a more significant resource than the aggregate site. That's my personal opinion.

Yoon: I interpret it as if it has to meet certain DEQ standards, than those standards are going to be higher than how the stream is right now in its degraded condition. A little guidance from Staff -- is it true that if DEQ enforces standards will it be the same level of quality as is coming into the site now or is going to be independent level quality standards that will be higher than what it is?

The condition would be that under the aggregate that there would be independent monitoring as well as DEQ monitoring but as to the actual standards, I don't have knowledge of what those are.

Yoon: I'd like some language in there that would bring it up to a level that protects the other resource, Burlington Bottoms.

I'm under the assumption that that is in there.

Hunt: Yea, DEQ standards say that the water that comes in can't leave any dirtier than what's there to begin with, but I'm not convinced that that criteria is met.

Yoon: Well that's what I'm trying to say, Corinne. The water is already dirty and if the operator only brings it up to the quality it is now, I don't think that it protects the Burlington Bottoms. They have to do a standard that is higher than what the water coming into the quarry is now -- raise the standard and I will feel comfortable.

Let me throw something out. That North Angel Brothers Creeks runs into that half mile stretch of wildlife habitat and we've got a herd of 3000 elk sitting right there and the people count going into the quarry site is too high. And going out it is too high, but the quarry is responsible for cleaning that up..... sounds like

Hunt: I'm not saying that the mining can't be expanded, I'm concerned about this particular stream that goes into Burlington Bottoms.

Yoon: Corinne, I'm trying to bring it to a higher standard.

Fry: The perfect allegory is that Portland is going to spend about a billion dollars to deal with a combined sewer overflow in the river through the center of the urban area when it's been shown that the majority of the problem is created upstream. So the river is going to be very clean in the urban area at a cost to us of a significant amount of money while upstream the elk and the.....

To get to the heart of your question, we have no evidence in the record about the water quality of the stream entering onto the site.

Hunt: There isn't much in the way of agriculture above there and, as far as forestry, most of it has been logged so the stream quality is going to improve. The logging is a short-term process where after a couple of years stream sedimentation rate usually goes back to normal.

In this case, however, if timber is taken off of that site to the north, it is not going to have a chance to regenerate because the overburden is going to be gone and they are going to be quarrying the aggregate.

Yoon: That whole area has not been logged yet.

Hunt: We are addressing that because we are asking Staff to work with forestry agencies, etc., to hopefully mediate that.

Yoon: We can't hold up the operator to maintain a standard that he has control over coming in. We do have a

motion and a discussion. Corinne will you restate your motion and then we can have a vote on it?

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Hunt: My motion is that we adopt the whole North Angel Brothers Creek be 3C. Do you want to just vote on that one stream and then vote on the whole?

Yoon: We should just vote on that one stream first.

Hunt: Okay, my motion is that that stream site be 3C and the findings be that it met three criteria and that it flows into a very sensitive and fragile wetland, Burlington Bottoms.

Yoon: Okay, so all in favor.....all opposed? Peter is abstaining again. Okay so it's three for and one.....Do I have a motion to accept Staff recommendations for Streams.....

Second.

Yoon: Discussion?

Fry: If a stream meets a single criteria, it's considered 3C. Is that correct.

That's correct. If it meets any one of the five criteria.

Fry: Is this going to set a precedence as we move into East County.....

If it meets one of the five, it's 1C which makes it significant but the way the Comprehensive Framework Plan Policy was met, that same policy was used for the three Howard Canyon area streams.

Fry: I just want consistency.

Yoon: Okay, all in favor?

Hunt: Wait, wait, wait. No, we have more discussion. I need a clarification as far as the protection of Burlington Bottoms -- if that's going to be a 3B designation. I feel that in the reclamation plan, we need to make more explicit the importance of that area or that the water quality is a more important issue for that particular stream.

Well, Burlington Bottoms is a 3C.

If Angel Brothers brings it up to the quality it was when it comes into their site, which they don't have any control over, and it goes into the Burlington Bottoms -- but it may be a degraded quality -- but the fact is that the operator has fulfilled their obligation. How do we deal with that?

Hunt: I'm saying what happens if the quarry operator is not fulfilling his obligations.

It's real simple, they can't operate. It's a condition of use.

Yoon: So Corinne, do you want any wording added to this?

Hunt: No.

Yoon: Okay, all in favor of adoption.....all opposed.... Is there anything else? Staff, we stand adjourned.

Hold it. Can we have a few moments here? We need to confer to make sure we can get the material back to you by next month.....Okay, our issue here is that we have three and one-half working days to get it back to you. We'll get them to you Monday but we will not give them to you in advance of the meeting. You'll get them at the meeting so you'll have to review them at the meeting.

Hunt: Will they be ready at the office that day?

No guarantees.

They'll be here at 6:00.

Yoon: Thank you.

TRANSCRIPT OF A PORTION OF THE BOARD OF COUNTY COMMISSIONERS

MEETING OF

June 13, 1994

COMMISSIONERS: Sharron Kelley, Gary Hansen and Dan Saltzman

STAFF: Stein, Collier, Yoon, Hunt, Craghead, Diack,
Fritz, Fry, Ingle and Kunkel

STEIN: This is a joint meeting of the Board of County Commissioners and the Planning Commission, I will be presiding over the meeting and occasionally turning over to Leonard Yoon, the Chair of the Planning Commission, which is above us here. The subject of the hearing tonight is the Howard Canyon and West Hills Reconciliation Reports. These two reports represent proposed amendments to the Multnomah County Comprehensive Framework Plan for certain Goal 5 Resources in the Howard Canyon and West Hills rural areas of the County. I am Beverly Stein, Chair of the Board of County Commissioners. I am going to ask each person at this table to introduce themselves and then the planning commission and then staff: D. Boxstein, T. Collier, Sharron Kelley, Gary Hansen, D. Saltzman, B. Fritz, C. Hunt, L. Yoon, J. Ingle, D. Kunkel, L. Craghead, S. Diack, S. Pemple, J. Dubay, S. Mattison, G. Clifford, B. Hall, G. Howard. We are going to start now with the staff summarizing the Goal 5 Administrative Rules, the SCDC Remand Order and the Reconciliation Reports. After the staff presentation we will consider procedural challenges

and then we will begin to take testimony and I will describe how we would like to do that.

PEMPLE:

We are going to use some overheads so that we can all see the screen for a five minute presentation. This evening we will convene a quasi-judicial hearing for the record the applicable approval criteria for this hearing of the State wide planning Goal 5 in its interpretive rule OR 6601600. All testimony and evidence at the hearing must directed toward these criteria. If any issues not presented with sufficient detail to allow the Board and Planning Commission or the opposing parties to respond than that issue may not be raised and an appeal to the Land Use Board of Appeals (LUBA). This means any issue of fact, procedure or law not clearly addressed here at the county is not available as a grounds for appeal to LUBA. Having said that, why are we here? In April 1993 the Land Conservation Development Commission issued Multnomah County a remand order to complete additional Goal 5 work. They required the county to proceed through a Goal 5 process. The view graph that you are looking at depicts the Goal 5 process. Essentially it has three steps:

1. You must consider whether the Goal 5 resource is significant based on location, quality and quantity. Goal 5 resources that we are considering this evening are mineral aggregate, streams, wild life and scenic

views.

If you determine the Goal 5 process, Step 1, that the resource is significant, then you go to Step 2.

2. Requires the Planning Commission to determine essentially impact area and conflicting uses.

Conflicting uses are those uses that would negatively impact the Goal 5 resource. After that piece of work is done, you will notice that between Step 2 and Step 3 there is some language on the view graph that states to be: Yes due EESS go to Step 3. That small statement that is not in a box is actually a critical point in the process. Step 3 or Step 2 1/2 requires that the Planning Commission and the Board consider the economic, environmental, social energy consequences of conflicting uses impact on the resource and conversely the use of the resource impact on the conflicting usage. Final Step that we have referenced on the bottom of the view graph is Step 3.

3. The Board and Planning Commission must decide whether in fact the resource is to be preserved in its entirety, we refer to that as 3.A, bottom left hand corner of the view graph. Decide whether other resources should be allowed to conflict with the resource, essentially not protect the resource. Designated 3.B, bottom center of the view graph. Or, should the resource be designated

3.C, allow the resource to exist and allow conflicting uses and try to obtain a balance. Next view graph, please. This evening the Board and Planning Commission at the joint hearing will be taking testimony on two reconciliation reports. One is entitled the "Howard Canyon Reconciliation Report" and it includes a discussion of Howard Canyon mineral everett site and three streams associated with the aggregate site Merman, Howard Canyon and Big Creek. Also the Board and Planning Commission will take testimony on a second reconciliation report called the "West Hills Reconciliation Report". Four Goal 5 resources are considered within that text, scenic resources, stream resources, wild life habitat and the Angel Brothers mineral aggregate site. Generally speaking there are three decisions associated with the adoption of the reconciliation report:

1. A determination of significance, you will notice the labels on the side of the book icons, first decision significant is the resource significant, secondly what level of protection 3.A, 3.B or 3.C. And thirdly, defining a protection program, if the resource is identified either 3.A or 3.C.

Staff has prepared the Reconciliation Reports they have been developed incrementally. We solicited comment from interested parties and public. Through the process we concluded several

recommendations for the Planning Commission and the Board to consider. General conclusion: Howard Canyon streams designate them 3.C, Merman, Howard Canyon and Big Creek. For Howard Canyon aggregate designate it 3.C. For West Hills, in the West Hills Reconciliation Report the four Goal 5 resources considered: Staff recommends designating scenic view 3.C, streams 3.C, wild life 3.C and on the aggregate site, Angell Brothers aggregate site designate the approximate northern one-half of the site 3.C and the southern one-half of the site 3.B. We would like to discuss the protection program associated with the recommended designations. For the Howard Canyon streams near Howard Canyon, Merman and Big Creek find that these streams are significant and limited residential, community service and condition uses and transportation public improvement conflicts by regulating proposed development in the repairing zones of each stream. Repairing zones differ in size, vary in size depending on vegetation, stream quality and associated wild life habitat value. For the Howard Canyon aggregate site the protection would be conflicts with residential uses can be resolved by adopting plan and overlay zoning designations which require some restrictions on new homes, such as setbacks from potential mining areas and require some restrictions on mining operations in order to meet DEQ noise and dust standards for existing

residence and minimize visual impacts and minimize lasting impacts. Secondly, conflicts with significant streams can be resolved by requiring that mining run off meet DEQ standards for water quality and prohibiting construction of holding ponds in the repairing zones. Comment three, Multnomah County require independent on going verification that noise, dust and water quality standards are being met by mining operations.

Overall conclusions concerning the West Hills Reconciliation Report staff recommendations:

(1) With respect to designated scenic views in 3.C find that scenic views are significant and limit residential, community service and conditional use conflicts by reviewing and regulating the citing and design of new structures within the scene areas.

(2) With respect to streams: 26 streams in the west hills were inventoried. We find that 26 streams are significant, limit residential, community service and condition use and transportation public facilities improvement conflicts by regulating proposed development and repairing zone of each significant stream except for North Angell Brothers Creek within the Angell Brothers aggregate site which is not protected. Find that the wild life habitat in the West Hills is significant and limit residential and summer uses by reviewing and regulating citing proposed development to have

minimal impact upon wild life and its habitat. Aggregate: Again the northern one-half of the Angell Brothers site would be designated 3.C, the southern one-half 3.B. Find that it is significant and that: (1) Conflicts with residential uses can be resolved by adopting plan and overlay designations which require some restrictions on new homes, such as set backs from potential mining areas, and requires some restrictions on mining operations in order to meet DEQ noise and dust standards for existing residence. Minimize visual impacts, minimize blasting impacts. (2) Conflicts with the streams can be resolved by allowing quarry operation on a portion of the northern Angell Brother stream, but protecting water quality into Burlington Bottoms by DEQ standards. (3) Conflicts with scenic views can be resolved by requiring quarry operation to use berming and reclamation techniques which minimize the amount of unclaimed mined area of visible at any one time. (4) Conflicts with wild life habitat can be resolved by not allowing quarry operations on the souther half of the Angell Brothers aggregate cite in order to preserve the minimum of one half mile wide contiguous wild life habitat area through the west hills. (5) Multnomah County will require independent on going verification that noise, dust and water quality standards can be met by mining operations.

depicts

I would like to show you a view graph that visually some of the aspects of the Angell Brothers recommendation. One the view graph you will note that there are approximately 400 some acres on the aggregate cite. There is already existing approval for portion of the aggregate cite, that's depicted in the dark shaded area. The staff recommendation reconciliation report is to expand that area to include the medium gray shaded area. And then to protect the lightly shaded area for wild life habitat where you would allow no mining to occur. Three streams run through the site, we refer to them as the northern, southern, middle stream. We are recommending that again, only one stream is deemed significant and that would be the northern stream and we would suggest that only the outfall of Burlington Bottoms in the stream above the aggregate site have protections for the repairing zone. What you don't see is the scenic overlay in this view graph, we did not depict that because it would become a bit too confusing, but the jest of it is that Angell Brothers site is all within the significant scenic view area of the West Hills, which is essentially the east side of the West Hills minus an area on McMandy Road. You will notice in the far corner of the hearing room a number of maps that are displayed. Those depict, the larger ones on the far left that has the orange and yellow color, are actually the scene areas and

on that particular map the Angell Brothers site is highlighted on the overlay acetate in black. Next to that is the wild life habitat map, its green and yellow colored. Then you have a series of maps 1, 2, 3, 4 that illustrate the finding that we have made on the streams. Next to those two maps, you will see a map with Angell Brothers site depicted. So if you get a chance during the hearing you should take a look at the maps on the wall, they are part of the evidence of this hearing. As well as the aerial photo. Between the scene area and the aerial photo in the front here, we have a map that shows the Howard Canyon site and impact area the staff used for that analysis. Those are introduced as part of the record.

Notice has been given to some 4,000 property owners in the rural West Hills and the rural east county. In fact to property owners within one mile of the Howard Canyon site. In the notice we indicated that written comments were to be received by June 10th, or 30 at the Multnomah County Planning Office. As of June 10th or 30 at the Multnomah County Planning Office we have received the following comments that are now entered as part of the record. We received a comment from Angell Brothers, Inc. dated June 10th. We received a comment from Applied Ecosystems Services, dated June 10th. We received a comment from Metro Forestry, Inc. dated September 21st. We received a

comment from Department of Fish and Wildlife, dated May 19th. We received a comment from Neal Kagen, representing Friends of Forest Park, dated June 10th, 1994. We received another comment from Neal Kagen representing Howard Canyon Committee and Friends of Forest Park, dated June 10th. And we received a comment from the Department of Land Conservation Development Commission, dated June 10th. Those are all entered as part of the record. We also have here present here this evening files on comments that were received throughout the Reconciliation Report Development process, and those are available in the back of the room. That concludes our staff comment, unless there are any questions by the Planning Commission or Board Members?

STEIN:

The Planning Commission needs to adopt the rules for this evening, so I am going to turn the gavel over to Leonard Yoon to develop this.

YOON:

I am going to call to order any of the Multnomah County Planning Commission for June 13, 1994. The reason is to adopt the rules of context with the particular joint meeting, which I handed out a copy to you. Just for the record present Commissioners: Fritz, Hunt, Yoon, Ingle, Kunkel, Craghead, Diack and Fry. I'll have a motion to accept the rules as they appear in exhibit A. So moved. Moved by Commissioner Fritz. Second. Second by Commissioner Kunkel.

FRY: Can we discuss it?

YOON: Sure discussion Commissioner Fry?

FRY: My name is Peter Fry and I want the record to show that in my own personal opinion this is not a quasi-judicial process it is a legislative process, so I will abstain from this vote.

YOON: Thank you, any other questions? All in favor say "I". Pass-Seven with one abstain. I will turn over to the Chair.

STEIN: I want to say that some of us will be eating dinner during this proceeding. This does not mean that we do not take this seriously, but I think you would probably like us fed and happy, instead of hungry and cranky. We apologize for that but we do have a long day and we expect a long evening, hope you will indulge us with that. It is at this point that I want any Board Member or any Planning Commission member to disclose and declare any of the following: bias or prejudgment of this case, potential or actual conflict of interest, exparta context and site visits. We will have a statement from Sharon Temple and Bob Hall about the site visits. Are there any Board Members who want disclose anything other than a site visit at this point? Commissioner Kelley.

KELLEY: Thank you. I disclosed what could probably be looked at an exparta meeting, but my staff person reminded me that I need to turn into Scott the actual documents on.

STEIN: OK Is there any Planning Commission member that needs to declare any of the bias, conflict of interest, or exparta context other than the site visit?

HUNT: Yes there is a neighborhood association that covers all of Multnomah County northwest of Newberry Road. I volunteer and do a layout of their newsletter. In their newsletter was an announcement stating that this hearing was going to be here and some excerpts quoted out of Reconciliation Report for the West Hills. Its not going to effect my decision and if anybody from that area testified it would not effect my decision. As a bias.

KUNKEL: In my farming operation we buy rock from Angell Brothers quarry, on average probably, five to eight loads a year. It is no big deal, but I thought it should be known. I also had a brief conversation on the telephone with the owner of Wildwood Golf Course, and he was interested in how the significant streams might effect him. At that time I had not read the staff report so I had nothing to say about that.

UNKNOWN: I also buy about four or five truck loads of gravel from Angell Brothers, but I don't think it will effect anything.

FRY: My potential conflict is that I live on tax lot 26, which is shown on the Howard Canyon map that is right at the corner of Little Page Road, where Little Page Road goes up to Crown Point Highway. I

have used gravel from the Howard Canyon quarry, but for the last four years I have not been allowed access to that gravel. So I have been forced to buy it from Gresham Sand and Gravel. I work with the aggregate industry. I have been an advocate for the aggregate industry for more than fifteen years. In the central city plan for Portland, I wrote the aggregate issue paper regarding the downtown area and the plants in the downtown. I have worked with Lone Star Northwest for over ten years now, which is an aggregate company. I am currently working for Columbia Sand and Gravel, which is not a competitor to either of these quarries, but they do work with them. They utilize product that is taken out of the river which you should know or will know a fundamental different kind of product than the product that is in these quarries. So that is the extent of my potential conflicts and lastly, but not least. I am married to Susan Fry who is very active in the neighborhood organization and who will speak on her own behalf. It is hard to share a house with a person, and say don't talk about this and we tried our best to do that. But there is a fact of life that we do live together.

SALTZMAN:

I had a meeting, I believe it was in December, with Skip Anderson with Angell Brothers. And I also had a subsequent communication with John Sherman. Both discussions were about wild life habitat. I don't

believe either of those meetings or discussions will influence my discission.

TIMCO:

I will disclose the site visits on Friday, June 13th at approximately 3:30. County Commissioner Chair B. Stein, Commissioner T. Collier, Planning Commission Members, L. Yoon, J. Ingle, S. Diack, C. Hunt, Board Assistants S. Farmer, myself. I conducted this tour at the Howard Canyon site. And we had an engineering staff from Transportation who video taped the site. We have narratives that are available at the door that show the route and the sites that were stopped at for the Howard Canyon site. On Friday, June 10th we did a site visit to the West Hills. That was approximately at 2:00. Attending that site visit was County Commissioner Chair B. Stein, Commissioner T. Collier, Planning Commissioners Members, L. Yoon, L. Craghead, J. Ingle, C. Hunt, Board Staff assistants, myself, K. Burke and S. Farmer. We also had D. Noell who typed it, once again, we have a narrative available in the back of the room that details where we stopped. And for the record I would like to enter a videotape that actually shows what was seen at the site visit.

STEIN:

Is there anybody who needs to declare a site visit or any other matter?

UNKNOWN:

I might point out that one of the streams that has been identified as possibly being significant is located on my property. But that will not bias my

decision, as well as I am located within the wild life significant area that has been proposed.

STEIN: Is there anybody here in the audience who wishes to challenge any member of the Board or the Planning Commission on any of these grounds? Let the record show that no one has raised any objection to the ... come forward.

BROCKLAND: Arnold Brockland, P.O. Box 83645, I'll submit a card later. I just wanted to enter for the record my objection to Rule Section 2.D which incorporates Rule 2.C which does not allow a reply or rebuttal. Thank you

STEIN: I'll ask one more time than, is there anybody here who wishes to challenge any of the Board or Planning Commission members on the basis of bias, prejudice, potential or actual conflict of interest, exparta context, or site visit?

Hribernich: Members of the Board and members of the Planning Commission, I am Paul Hribernich and I represent Ray Smith in this matter. We believe that Commissioner Fry should disclose his letter in opposition to the Howard Canyon site that was submitted into the record, I don't believe that he did that. Without that objection, I guess we object to him proceeding. Without the disclosure.

STEIN: Our rules permit Commissioner Fry to respond to this challenge to be entered into the record and is not subject to cross examination or rebuttal.

FRY: The letter which was not a letter, but a

memorandum, he spoke to, was not in opposition to any position. I wrote a memorandum because of my concern about staff reports and I raised issues regarding what I felt were not accurate within the staff report. And that were not fully developed. I do not believe that letter is in fact opposition to any of the issues before us. Which is the reason I did not disclose, the letter is a matter of public record. My understanding is that everyone had the opportunity to read it and it is also been responded to by the staff in the Reconciliation Report.

STEIN:

Thank you. Is there anyone else who wants to raise one of these issues? We will continue with the proceeding then. Does anyone want to make any procedural challenges? There will be an opportunity at the end to raise the issue of continuances. At the conclusion. Is there anyone else? Let the record show that no one has entered any procedural challenges to this proceeding.

Let me outline the order of proceeding for tonight. We are going to take testimony on the Howard Canyon Reconciliation Report first, and then on the West Hills Reconciliation Report. We are going to take a testimony in the order prescribed by the Rules in Section 5.H and 5.I. If anybody needs a copy of these Rules the Board clerk does have copies of these Rules at the back table. If you would like that. We are going to limit testimony to three

minutes per person, and the following order will be used as per those rules. We will ask that proponents first and ask for government representatives (people who receive notice, neighborhood associations, and other representative groups, and interested individuals) Then the opponents will have the same order. So we will ask people to come up and sort of prepare themselves in little groups. We would like for you to state your name and your address for the record. Please fill out a card and when you testify give the card to Debra so that she can properly enter you name in the record. We would certainly appreciate it, as I think everyone here would be, to avoiding repetitive testimony and try to focus in on something perhaps, that we haven't heard. Although, of course, you can use your three minutes any way you please. During the hearing we would ask that people in the audience refrain from any demonstrations of support or opposition, so that we can proceed in an orderly fashion. I am going to request of the Board and the Planning Commission that you ask questions of clarification only, and retain any discussion about the testimony you are hearing until later in the proceeding when we have a chance to discuss this. So clarification questions are welcome. Also, in the same regard, except for clarifications, we want to refrain from asking staff to comment on what we are hearing.

Again to save that for the time when we have our discussions. Are there any questions on the proceeding from the floor? We are going to start then with Howard Canyon testimony. Just to get a sense of sort of planning this evening, how many people here are here to testify on Howard Canyon? Who many are testify on the West Hills? OK We are going to start with the proponents on Howard Canyon. Are there any people who are government representatives? Please come up. No government representatives. Charley do you want to testify? There are only two classifications, proponent and opponent, there is no neutral testimony. No government representatives are proponents.

KELLEY: A constituent from the Gorge did submit to me a letter that she want me to submit as part of the record. So I will do that. This is from Bob and Nev Scott, 31700 Columbia River Highway, Troutdale Oregon 97060.

STEIN: Lets give this to Deb and she can prepare all the written material we get today, if you could take it all and copy it and give it to us in a packet. That would be the best way to handle that. People who received official notice about this hearing who are proponents of the Howard Canyon, are there any present? Are there any neighborhood associations, or other representative groups who are proponents? Any just generally interested individuals who are proponents? There are maps over there to see where

the locations are, I think that would help you a lot. Any interested individuals who are proponents, if so please stand up. Are you proponents, please come on up. Why not just line up behind the microphone, if you are a proponent. Debra has a timer that will go off in three minutes.

DAVIS: My name is Sherwood Davis and I live at 36250 SE Gordon Creek Road, and I am a proponent for the rock pit. I guess my comment would be that there is definitely a need for rock in the east county area and I would hope that you commissioners would see that need and that the pit wouldn't be denied while on your watch. The it wouldn't go down in the records that you were the folks that denied the rock quarry and I want you to think that would you rather have a rock quarry out in east county area on the end of a dead end road that only us locals know about or would you rather have another rock quarry in Portland somewhere? That is my comment.

STEIN: Just as a process here Leonard if any of the Planning Commissioners have questions they should signal you and you could get my attention. I can't see that way. I won't ask for questions each time. Is there anybody else who is a proponent of the Howard Canyon Reconciliation Report?

DAVIS: My name is Clint Davis, that was my father that was just up here. My address is 40601 Larch Mountain Road, Corbett. We provide a lot of service to the

local community out there in terms of excavation and delivering rock for their driveways and such. As you are aware, there is a dying supply in this area, especially in Multnomah County. Our rock is trucked from Washington, because its the only supplier big enough to give us the rock at a reasonable rate. You can imagine the amount of cost involved in the freight to get that rock to our area. So for one thing the local community can benefit from a supply of rock that local, the freight would not be nearly as much, the other thing that I think about is my tax dollars that are going for the county and state to haul rock from Washington or over at Angell Brothers from the other side of town, or out of Hood River, wherever it is they are going to get it from. To the local area for road maintenance and such. There has been many times that there has been the comment that the county would like to pull right in and get a load of rock locally and then they wouldn't have the freight involved either. That's my comment.

STEIN: Thank you very much.

UNKNOWN: Madam Chair, we have one question. How long does it take you to go from the quarry site to Corbett by truck?

DAVIS: Take us to travel, with a full load of rock from the quarry site to the high school in Corbett. It would take us approximately eight to ten minutes.

UNKNOWN: How long would it take you to get to the Stark

Street Bridge?

DAVIS: Maybe 15 minutes

UNKNOWN: Thanks

BAKER: Madam Chair and Board Members, my name is Allan Baker, I reside at 41301 SE Gordon Creek Road. Which is about seven miles from the pits site. I'm a contract logger, I work for Longview Fiber and they own the land that used to belong to Publishers Paper Co. and they own 33,000 acres from the Columbia to Clackamas River. We fix there roads that need patching in some of the areas that they have, even with all the land that they have, in that area in Larch Mountain, they do not have good rock. Its hard to find rock to haul and right now when I need rock on my own place and sometimes I fix roads of my own. I'm hauling it now from Estacada, which is about 22 miles. Against 7 miles. So you can see that I would appreciate having that rock available to us and this is very good rock. You don't find pits everywhere in the county. It seems to me that where we have an opportunity to have rock that is available to us, and its on a road that doesn't have people that are that close to it. It wouldn't hurt to have it developed so that we locally use it. I can buy rock in Estacada cheaper than I can in Gresham because of the way they have to transport there rock in. The transportation of it is the real vital thing. Thank you.

STEIN: Would you like to come back, there is a question for you?

UNKNOWN: I'm curious about what route the haul from Estacada would take to your site?

BAKER: Well have you ever traveled from the Bull Run area,

UNKNOWN: Yes sir I have.

BAKER: I travel from Eagle Creek to Mining Hill Road through Rosalyn Lake and cross, it takes me about 40 minutes. It would take me about 15-20 minutes the other way. Plus the fuel costs.

WELCH: I'm Gerard Welch, 38695 Trout Creek Road. I'm a proponent of this for several reasons. I've read the booklet and the part of logic that I don't understand here or just as a discussion goes is most everybody that lives out in our area has rock on their road. I've just built another house on my land and had to have the road rocked to get back to that house. Let alone the rock that was put down for my foundation as all of my neighbors. There is very few driveways out there that have a tar base. Tar base also needs a rock foundation. So I loose the concept of an idea of a rock pit in our neighborhood opposed to the environmental impacts of hauling rocks from Washington or let's say from the West Hills. We have to have rock for our road will fail on us and our cars will fail also. As Mr. Fry said, he cannot get rock from this pit and he has go somewhere else to get rock. So the question for me is not about having rock or not

having rock, we need to have rock. So it becomes to me an economical question of can I continue to pay an amount for the rock I have to have. I'm going to have to haul that rock from somewhere, even if I tared my driveway I would have to put a base of rock down. This is a community of workers out here, we have loggers, we have the Mocks that have been there many a time to help me and I support them completely in this. But it has been in rock that they have helped me, and they have been there at 7:00 a.m. if I needed them. If I would have needed the rock it would of had to come from somewhere else and again I don't understand the whole logic of it come from twice the distance. When it can come from Howard Canyon. That's about all I have to say.

UNKNOWN: I'd like to clarify that I know my neighbors are getting rock but I'm not getting rock because they will not sell it to me personally.

STEIN: Any other interested individuals who are proponents?

WINDUST: Hello my name is John Windust, I live on 2207 Northeast Corbett Hill Road, Corbett. I have lived there for about five years. It is one of the noisiest and busiest streets. probably in that county. But I knew that when I moved out there and I knew that it would probably get noisier with the changes we have had in the Gorge with the Gorge Commission and the things associated with that. I know this applicant has said that he was going to

restrict the uses of that and week-ends would not be a time when a lot of the hauling was going to be done out of this proposed quarry pit. The noise that I hear is on the week-ends. It is noise from things not associated with our community, tour buses, cars visiting the Gorge. Again I knew that going in, I have no complaints, I can live with it just to be able to look at the river and the Gorge. That's the reason that I live there. Previous to the last five years, I lived on a forty-five acre parcel which was nestled between Howard Canyon and Loudon Road. It was one of the closer houses to the quarry site. During the ten year that I lived there was limited operations going on through Mr. Smith and Mr. Muck, as far as a limited use permit. Howard Creek ran through the northeast corner of my property and we used it a lot as far as fishing and recreational uses with my kids. At no time did I notice noise or pollution or anything like that. I have been to many of these meetings over the years, I've lived in the Corbett area for fifty years and I continually hear in previous meeting and in meeting we had in Corbett that the environment was so impacted. Again I live very close to it and it was not a major problem. Thank you.

STEIN: Any other interested individuals who are proponents?

HRIBERNICK: Chairman Yoon and members of the Boards, My name is Paul Hribernack. My address is 1200 The Bank of

California Tower, Portland 97205. I'm hear representing Ray Smith who is owner of the Howard Canyon site. I have some additional letters of support that were given to me today I would like those entered into the record now. Three minutes is not much time to try to summarize what this process is all about. LCDC said to the county about a year and a half ago that, "you didn't follow the process correctly". Following the process requires you to balance perceived conflicts and protect all resources. Inherent in what LCDC said is I think three points (1) Is that just like wetland, just like scenic resources, just like open space resources, gravel is a resource that needs to be protected. It is not something to be avoided. The reasons for that, and if anyone had come out to the community meeting S. Timco one of the staff members was out about three weeks ago, there was a lot of support in the community. That is what you have heard tonight a little bit is that we need this resource in the area. It is very expensive to go down across the Sandy River to product. The second thing that is inherent in the LCDC remand order is that if the process if properly followed it reaches the proper result. And that is what the staff work has done here, the staff has said alright lets go back and look at what really went on. Let's cut the emotion out of it and lets see what the facts are. And they came up with a

recommendation that says balance the resource. And that's what Goal 5 says, balance this resource, balance the stream resources they can live together. The third thing, that I think is inherent in the LCDC order is that the County did not do this right in 1990. We can't go back and relive that process, we have to do it correctly this time. Just a couple of points about the environment which is a big concern of ours, a big concern of everyone who lives in the Corbett Community. Five years ago we conceded that the two streams that are on either side of this quarry are significant. And as anyone who has been to this site or anyone who has looked at the description of the site can tell, those streams are a long ways away from where mining will occur. Most places more than one quarter of a mile. There is plenty of buffer zone natural diffusion areas, if we want to use old technology, settling ponds. There are plenty of places to protect that water quality and that is what the staff is recommended as part of the balancing and we agree with that. The second thing that you may not be aware of is that we provided an idea about a community project. We don't want unlimited operations at this site. We have sized it, and have requested sizing it and discussed with the neighborhood and the community of making it a site that serves the area east of the Sandy River. Staff is concerned that we get on

I-84 and go down the freeway and serve Portland. There is not enough material to do that, and it doesn't due justice to the community. This is a pit that is designed for this community there is no intention to send loads across Stark Street because we can't compete there that's not where we can profitably deliver the material and its not where the community needs the material. Having that site in that area limits the truck traffic overall. Its a big concern, but it has to come into area now, and it comes from Washington and travels all the way into the area. If you have a site that is in the interior of the area it travels less distance. Just a couple of brief things and then I'll set, because I did hear the buzzer go off. At the community meeting three weeks ago, there were about 75 people there, I would say that there were 10 people who were very opposed and those are the same 10 people who have been opposed all along. They have there reasons and we respect those reasons. I think there were 50 people there that were in favor and more significantly I think that there were 15 people there that came to listen. And what they said when they listened was, "we didn't realize that you wanted this to be a community pit, that you are not going to send it off and compete in the other markets". We like that idea. We think that we can run this things responsibility and at a level that doesn't impact people and that the

trucks on the road will be safe. There was testimony at the hearing from a substitute school bus driver who said she passes the gravel trucks all the time, and that the gravel trucks know where she is knows where they are and it is not a problem. We think that with that kind of community involvement we can run the pit and make it work. We are not asking for something that would send hundred thousand yards in a two week period out into the community, we want something that will serve the Corbett community for the next 50 to 80 years. I will be happy to answer any questions if there are any. Thank you.

UNKNOWN: Did I understand you to say that you have no intention of marketing in the Gresham area.

HRIBERNICK: That is not the plan. We sent out some proposed conditions at the community meetings. I know that they will find there way into the record, I'll make sure that the decision makers get those. But the idea is to serve the Corbett area, east of the Sandy River. There are weight limit bridges over the Sandy River, only real proper way to get across is to go by Lewis and Clark and get on I-84 and go that way. We are going to run into a reality that says, it can come from Gresham Sand and Gravel, it can come from Tombes and from those areas. We also are not going to be producing the quantities that allow us to serve that kind of a market. We asked for an overall operational cap in our proposed

conditions of 50,000 yards. This is not enough to serve anything but the local area. Now if you ask me would a truck load of material ever go across into Gresham, well probably every once in awhile yes. Because you could serve a customers order effectively, but that is not where it is supposed to go the way we have set it up. To give you an example: The Corbett School District is going to build a new high school. They are going to need about 35,000 yards of rock, well if it comes from this site, it saves the Corbett tax payers about \$2.00 per yard somewhere between \$50,000 and \$100,000. in savings, if it has to come from someplace else, its trucked in at additional costs. That is the kind of market we want to serve.

FRY: Would you like more time to testify? The reason I'm asking that you are the representative of the quarry in questions. It seems to me that if you need more time to testify I would move that we suspend the rules to allow you to have more time.

FRY: I would request that if you are willing to do that and I think that is fair, then you allow us to rebut.

YOON: Commissioner Fry, I think that you should address that to Madam Chair not to ..

STEIN: If you have questions of him, you can ask questions and he can respond to them.

FRY: I understand that, I just feel that since he is the representative of the property in question that it

seems that it should be only fair because in most processes they are given more time than everyone else. I didn't want to spend a lot of time on this I just wanted to raise the issue.

YOON: Peter we are just dealing with basically whether this is a significant resource or not, not dealing with ownership on this.

FRY: I'm just arguing that he has more knowledge than anyone else regarding this.

STEIN: Were you planning to submit anything in writing.

HRIBERNICK: I suppose that we plan during the process to submit things in writing. I guess, I don't agree with Arnold on too many things, but I agree with him that rebuttal makes sense, but only in the sense that there may be information that helpful. We can submit things in writing that I think sew things up, and I read the rules that said three minutes and we were prepared to go that three minutes. I believe that is very short in terms of what we could offer in terms of information, but that is your decision.

STEIN: If you would agree, I would prefer to keep thing body at three minutes, but if anyone has questions of Peter, then you can reply in whatever length you desire. Are there any questions?

UNKNOWN: I have a comment. I want to follow up on the comment that you made, in that part of the issue that we are dealing with is protecting county identified resources. But all the testimony from

proponents has been that this is a local demand, local need, will serve a local community. I am wondering how I can bridge that gap, because obviously

HRIBERNICK: I'm really glad that you asked that question because people of Corbett are estranged from your community because of that attitude. And if you had been out at the public hearings, you would have heard one person say that, "oh I thought the county was forcing this one us, and if the county is for this than I'm against it, because they treat us like crap out here. The point is that they are part of the community too. And it is a community wide resource that can be protected and used there and there was an interesting undercurrent out in that community saying that we don't count, we are not part of the community. Your question gets right to the heart of that, it is part of the community and they do count.

STEIN: Are there any other questions? Thank you very much, we would appreciate anything that you can offer us in writing. Any additional

TOMBES: I'm Dave Tombers, I live on SE Willamette Road, and I own this quarry site. I have another quarry site on Brauer Road, we still have a permit with the State for 5,000 yards out of each quarry. But the one on Brauer Road is in the scenic area and can not longer sell rock out of it. So now that we are cut to 5,000 yards a year your neighbors come along

and wonder why you sell rock to one neighbor and not to another. Well we just don't have enough to go around. We probably furnish less than 1/5th of the rock that is used in our area. We need a bigger supply, the 5,000 yards isn't enough to make it worthwhile to run the crusher site.

STEIN: Thank you, are there any questions? Since only 1/5th comes from your site, where does most of the rock come from for the Corbett area presently?

HRIBERNICK: Mr. Tombes is hard of hearing, Hribernack is answering for him. It comes from Gresham Sand & Gravel, it comes from the Fisher quarry which is in a residential development in Vancouver. It is right across the river, you can see it from I-84. Some of it comes from Estacada. It is driven by price, and the Gresham Sand & Gravel rock is transshipped there. It comes through Lone Star people from the Santosch pit in Columbia county by barge.

STEIN: So it doesn't go over the bridges at all?

HRIBERNICK: Yes it comes over the bridges to go up there now. It has to come the Corbett viaduct, and they don't want to pull up that hill because its a 10% grade. Or it comes over Stark Street, or the I-84 bridge and then down and up into the community. And that's part of the problem of not having it located in the community in terms of transportation effects.

TOMBES: These other quarries, Gresham Sand & Gravel, do not have a heavy rock that we use mostly on the logging

roads. We crush a 3 or 4 inch minus and you can't get that from any of the other quarries around here. I think you can get that from Brightwood, but that's another expensive haul.

STEIN: Thank you, is there anyone else who is an interested party who is a proponent? We will move on then to opponents. We will start with any government representatives who are opponents. Come forward if you are a government representative. Welcome back to the county.

CIECKO: Madam Chair, members of both commissions, my name is Charles Ciecko, I'm Director of Regional Parks in Greenspaces for METRO. I don't want to give the wrong impression that I'm here tonight to oppose the Howard Canyon aggregate site, that's really not the focus of my comments and I do have some prepared comments that I want to go through very quickly. We have already submitted some detailed written comments on the Reconciliation Report in general. I will go through these comments and then try to answer any questions you might have. First of all we believe that issues before you tonight are extremely important not only because of the obvious implications to specific natural resources of local, regional, state wide and national significance, but also because your decisions on these test cases will set a precedence for how natural resources will be treated in future rural planning processes. Our written comments provide

more detail than I can cover in my allocated time here tonight, but I hope you will take a few minutes and review our comments and recommendations. And hopefully give some serious consideration them. In particular I'd like to draw your attention to three sections of the report, which we especially feel need more work. First the ESEE analysis on significant streams which is found on pages Section 214 to Section 226. As you probably know this section concludes that consequences of not protecting significant streams are primarily environmental in nature while the consequences of prohibiting or limiting conflicting uses in order to preserve significant streams are primarily economic, social and energy in nature. We must respectfully by vigorously disagree. As you will note in our comments, we believe this conclusions is faulty because the analysis failed to consider the economic, social and energy consequences of conflicting uses. A few examples include water quality as it relates to fish. You are all familiar with the huge sums of money that we are investing right now as a region trying to restore our salmon and steelheads runs. Secondly, reduced populations of wild life and reduce wild life diversity. These are both huge attractors in our tourist industry throughout the state. Third, the impacts on reduced flows in water quality on recreational uses of the Sandy River and

particular. Finally, flooding and flood control. All these things have dollar and cent costs associated with them as well as social and energy consequences as well. We are confident that a thorough analysis of these issues would conclude that poorly regulated conflicting uses, not only damage the environment but also have significant economic, social and energy consequences. And we would urge you to direct staff to correct this deficiency in the report. Secondly, I would like to direct attention to the ESEE analysis on the Howard Canyon aggregate sites, pages Section 325 - 343. Again I want to stress that we are not opposing your finding of significance on that particular site. But we are somewhat shocked that staff apparently did not consult with either DEQ or ODF & W. To obtain their opinion regarding the ability to prevent negative impacts on significant streams related to a mining operation. I have about 30 more seconds. We would urge you to direct staff to consult with these agencies and include the results of that consultation in the report. Third, and finally we are unable to support staff recommendations in the section on conflict resolution. Quite frankly we don't believe that staff has proposed a creditable plan which will result in protection or restoration of significant streams. In reviewing the stream profiles contained in Appendix A, it is apparent that more

stream degradation has resulted from residential and agricultural uses than has resulted from timber harvest or mining for that matter. None the less the protection program proposes to continue allowing these uses along with community service and conditional uses within the riparian zones. With a variety of vague conditions which are neither measurable nor enforceable. We urge you to reject this approach, and land owners deserve more certainty and so does the public about how their streams are going to be protected. Pages 8, 9 and part of 10 contain our recommendations for residential, agricultural and aggregate mining uses. We believe that these are the minimum restrictions which are needed to provide a basic level of protection and start a process for restoration. Upon review we hope you will agree that these restrictions are not inconsistent with those for timber harvesting nor do they prevent economic use of private land. Again, thanks for this opportunity, and I would be happy to answer any questions.

STEIN: So this is the position of METRO.

CIECKO: This is the position of METRO Regional Parks and Greenspace Department. And our policy direction on this comes from the Greenspaces master plan which was approved by the Council in July 1992.

STEIN: Do you feel if there is stricter standards in protecting the streams that there can be a balance

between the Howard Canyon site and the stream resource site?

CIECKO: If you take a look at our recommendations I would like to have some additional eyes on that specifically the folks who are charged with taking care of water quality in this State and those that are charged with managing the fish and wild life resources within the State. And it doesn't appear to us at this point that they have even been consulted and that seems to be a pretty major omission at this point. But we would like to have a closer look at that and see a mining plan and if those two agencies say yes this can be done, then we would certainly be willing to go along with it. Agricultural uses and residential uses are a different story though I think that there is adequate documentation in the report to suggest that these uses have and are contributing to degradation of the stream and we would like to see them prohibited within the riparian zones.

STEIN: Thank you, are there any other government representatives who are opposed. OK The next category is people who have received notice, is there anyone here who received notice and wishes to testify. Neighborhood association and other representative groups? Anybody?

KAGAN: Good evening, my name is Neil Kagan. I represent The Friends of Howard Canyon, a group of residents who live in the Howard Canyon area. We have

outlines what we want you to do and why, in comments that I submitted to the Planning Department on Friday. I have extra copies here along with a brief summary on top for each one of you and some extra for the record and for others who might be interested. In short, what we want you to do is to direct the planning department to revise the Reconciliation Reports to correct a number of significant errors and omissions. We also want you to defer actions on the recommendations in the Reconciliation Report until the report is revised and redistributed to you and to the public for comment. Tonight I want to draw your attention to two of the many significant problems with the Reconciliation Report. First citing LCDC the planning staff said, "you cannot deny protection to the aggregate resource on the ground that mining will not have a zero impact on conflicting uses, that's a bit twisted and hard to understand. The important thing for you to take into account here is that its not true. LCDC never said that and if it had said that it would be contrary to Goal 5. The staffs misinterpretation lead it to believe that impacts on conflicting uses such as residents and wild life have to be significant before you can protect uses like wild life, instead of the aggregate resource. Goal 5 however, says the only prerequisite to protecting conflicting uses is the existing of reasons to

justify your decision. If, for example, you explain that the effect of noise on existing residence would be substantial, you could prohibit mining. Even if the economic loss of the aggregate resource were greater than the reduction in property values of the current residence. The second problem I want to discuss tonight, also stems from the staffs misinterpretation of LCDC order. According to the staff, LCDC said, "you cannot deny protection to aggregate on the ground that mining will conflict with transportation". Again LCDC never said that, and if it had again it would be contrary to Goal 5. All LCDC said was, "the county had no basis for discussing transportation conflicts, because the area roads had not been included in the impact area for Howard Canyon". If you define the impact area to include the roads leading from the site as you should, it would be appropriate to discuss transportation conflicts. And if you so chose to deny protection to the aggregate resource if the impacts are substantial. In conclusion, the staffs misinterpretations invalidated its identification of impact area and of the conflicting uses. Since, in the Goal 5 process, every step builds on the previous one those defects invalidate the whole report. And tilted the staffs recommendation toward the protection of the aggregate resource. These and the other errors I discussed in my

letter, but obviously don't have time to go into tonight, necessitate a revised report. As a last point, I just want to ask that the record be kept open for seven days so that we may submit additional evidence and finally if you have any questions, I'll try to answer them for you.

STEIN: Thank you very much.

UNKNOWN: Madam Chair, I have a question. Neil I was hit several times with the thought, that you believe that staff misinterpreted what LCDC wanted. Do you have anything in writing from LCDC that basically verifies that, I'm not saying that I don't believe you, but I am caught between the rock and a hard place here of who to believe as far as interruption. It would be nice if one or the other side had some letters from LCDC says what is their position on that.

KAGAN: Yes we do have something in the record that says what LCDC position is and that's the remand order. If you read the remand order and I've reproduced that in my letters for you. You will see that the language, the words that they used, simply don't support the staffs interruption. I just ask you to read the remand order for yourself, and make your own conclusion about what LCDC said and didn't say.

YOON: Well maybe I didn't say it clearly. Given the fact that staff has interrupted it differently than you have does either you or staff, we now gone past the stuff with the remand order, so has anybody gone

back to LCDC and said, "obviously staff is not interrupting you right, or is staff saying is this what you want". Is there any other correspondence from LCDC clarifying this, it doesn't seem to be a very difficult thing to ask them to clarify either your position or staffs position on this?

KAGAN: I am not aware of any other correspondence, the only thing that is binding at this point, and could have any effect in your decision, is what LCDC said in its remand order. Contrary to what I have done in my letter, the staff has not pointed to any specific language in the remand order that supports its interruption. So that's my answer to your question.

HEYNE: Klaus Heyne, Guardians of Larch Mountain, P.O. Box 185, Corbett. Madam Chair, Commissioners, I would like to focus in my three minutes on the impact area and the crucial role it plays for the determination of whether the Howard Canyon mining site should be protected. Meaning whether rock should be extracted in the future in excess of the 5,000 cubic yards which is taken out every year now. It is central to the Goal 5 process to define the impact area for a resource. In this case the quarry site. Because other uses nearby, which might in conflict with the site need to be defined, cataloged and analyzed in order to be evaluated in the process. The County Planners adopted the current 1,200 ft. impact area around the mining

site from a 1990 noise study by an acoustic consultant which was commissioned and paid for the quarry owner. This study was submitted during the 1990 periodic review process and its purpose was to show the County, that if you go a certain distance from the center of the site, the noise generated from the mining equipment located at that center would be within acceptable DEQ noise limits for residential areas. The consultant did not actually measure any noise generated by any real equipment, but predicted noise levels mathematically with the help of a computer program. As noise source on the site, he estimated, "typically processing equipment like crushers, screens, front end loaders, dozers, etc. The noise study did not indicate whether noise levels of several pieces of machinery operated at the same time were considered or just one machine at a time. The noise study did not consider the topography of a deep canyon and its reflective sound propagation, vegetative buffers or their absence and any other variations germane the site. In summary, the results of the study were very favorable to the quarry owners intentions to expand into a fully commercial operation. Because it seemed to indicate an acceptable noise impact on the surmounting residences. However, in 1990 Goal 5 inventory report, the County planning staffing dismissed the conclusions of the noise study. It voiced critical comments on page 16 of that report

and on page 17 concluded, "the noise generated by blasting machinery and rock crushing is considerable". Four years later it now comes as a great surprise that the same noise study by the same noise consultant for the quarry owner was exclusively used by staff in the current Howard Canyon reports to define a 1,200 ft. impact area. Yes, the State in its remanet order found flaws with the County's previous method of evaluating noise impacts on residences. But why didn't the planning staff in the last year and a half, independently verify whether the consultant's methods and conclusions were correct. Why did it not offer to commission an objective study by an independent noise consultant who would not have any benefits by skewing the results one way or the other. We are not asking to draw an impact area around the mining site unnecessarily wide which benefits the residents, or narrow which benefits the quarry owner. But is it too much to ask the planning staff to independently and objectively define an impact area when so many vital conclusions regarding the Howard Canyon site rest on the precise extent of the impact area. In conclusion, we are simply asking you today to spend the \$2,000 or so for an independent noise study of the Howard Canyon site in order to guarantee an objective and defensible impact area definition. Thank you. Do you have any questions?

UNKNOWN: Have any of the opponents gone to the owners of the Howard Canyon site and asked them if they could do any noise test or screening?

HEYNE: No we have not and we believe that the quarry owner had a particular result in mind and he got that result from the noise study and it would probably be a little out of line to ask him to redo it to maybe come out with results that might not be as beneficial as the ones that he got.

STEIN: Anyone else who received notice?

GAMA: Good evening Madam Chair and County Commissioners and Planning Commission. My name is Michael Gama and I reside at 37737 SE Howard Canyon Road. I appreciate this opportunity to address the meeting. I'm against the proposed expansion of this open pit mine in East Multnomah County for a number of reasons, but I would like to speak about one specific issue tonight and one that has only tangentially be mentioned by our friend from Metro. That happens to be a tourism. In the early 1980's, we all remember, as the rest of the nation was suffering through a recession, Oregon unfortunately, was really in the nadir of a horrible depression. Interest rates were high, housing starts were low, demand for timber was way down. As a consequence there were many of us who were not have a good time economically, so to speak. Out of that experience, I think, thank God and thanks to some good planning and so forth, we

have be able to diversify our economic base and I would like to draw your attention to one I would call, "Rising Star" out of that pantheon of new industries and that would specifically be tourism. As a matter of fact in 1987, according the Oregon Economic Development Department, Tourism generated \$1.8 billion. In 1992, a few short years later, that same revenue impact on the County and State as a whole had jumped up to \$3.1 billion representing a 72% increase. Not only that, in addition, in terms of Oregonians receiving their livelihood, that is dollars generated in terms of payroll just from this new Rising Star industry, which by the way is in the top 3 Oregon industries, has jumped from \$355,000 million to \$596,000 million and that's a 68% increase. What I would like to suggest tonight is that after we have seen the negative effects of being a one-industry state and after we've been able to expand that to include clean, renewable and green industries like tourism, I'd like to suggest that if in fact this open pit mine is allowed to expand by 10 times that we would literally unleash a title wave of trucks into the gateway to the Columbia River Gorge which is a huge green magnet for us in more ways than one, and perhaps undercut, shoot ourselves in the foot, vitiate or maybe even nip in the bud this green, this clean, still nascent but very profitable industry we can tourism. The other thing I would

like to say in conclusion is that just a few moments ago the hired attorney representing Mr. Smith, had mentioned something to the effect that "we don't want unlimited mining". I would like to call your attention to the public testimony the other night in Corbett in which it was publically mentioned by Mr. Smith, by the Attorney and also by the mine operator that if the proposed expansion of this open pit mine goes through as they would wish that they would see this volume coming out of the mining for the next 80 years. I would like to suggest, at least for all of us in the room, if that's unlimited, I'm not sure what might be. Finally, I'd like to suggest that now is not the time, that we've worked hard to develop clean, green and renewable industries like tourism to again shoot ourselves in the foot by dumping onto Howard Canyon, onto Nerum, on Little Page, the scenic highway, trucks that would amount to, perhaps as many as one every 10 minutes and possibly in terms of truck trips out in back, one every 5 minutes, competing with our tourists and people who visit us every year. Thank you very much for the opportunity to speak.

UNKNOWN: What is your tax lot number or can you tell me on this map where your house is?

GAMA: Yes, I believe that I can. I believe that it is 63, Sir. Finally, if I may, can I submit this report by the Oregon Development Council which

indicate these.....

STEIN: Give it to Deborah and she get all of us copy. Any other people who have received notice? No one else has received notice. Neighborhood Association and other represented groups. Any representatives from Neighborhood Associations or other represented groups. Okay, moving onto interested individuals. Anybody who would want to testify, you can just line up.

UNKNOWN: Madam Chair, I have one question. Do we know if ODFW, LCDC or DEQ are in the audience.

STEIN: Are any representatives from agencies in the audience?

UNKNOWN: Because, we might want to ask them a couple of questions after testimony on clarification if that's possible.

BLACK: Madam Chair, Mr. Chair and members of the Commission, Dave Black is the name, 2025 SE Little Page Road, Corbett, 97019. Thank you for this opportunity to present testimony this evening. I will focus on the monitoring and enforcement of potential violations at the open pit mine at Howard Creek. I believe that we need to look at the present and the past to determine the ability of the County and State agencies to monitor and enforce violations and not to some lofty notion of enhanced future capacity that does not now exist. The fact is the County, which would be the primary monitoring and enforcement body, does not have the

funding or the trained personnel to carry out these responsibilities. I will now give you a current example that fully reinforces this statement. I would like to make available for the record this notice of zoning violation certificate P426968046, issued by the zoning enforcement branch of Multnomah County and Department of Environmental Services. As you know, this is the same office that would be responsible for the monitoring and enforcement of the Howard Creek open pit mine. After approximately one year of extraordinary effort on the part of 17 local neighbors here in Corbett, whereby the County and State offices were contacted countless times, signatures gathered documenting the evidence, photos and testimonials taken, the notice mentioned, just given to you, was issued on November 2, 1993. This notice is an 8 page long document detailing 6 major areas of violation. Several of them impacting Big Creek, the same creek impacted by the Howard Creek open pit mine. Many of them, I might add, that would be similar type violations as could occur with the pit mine. These violations include land disturbing activity resulting in the siltation of Big Creek which is a Class I stream, which as you know, means that is fish-bearing year round. Large land berms, using top quality top soil were put in so close to Big Creek that the stream came within a few feet of them this winter. Run-off and stream turbidity are

increased by this type of activity. The notice further states that "failure to remedy violation will result in a fine of up \$500 for each day the violation continues beyond this 30-day notice period. In fact what has happened, now that we are some 190 days beyond this 30-day notice period, and in spite of a virtual avalanche of community outcry, while these violations go on unevaded. The County has not taken the clear and firm action that they promised in their notice of November 2, 1993. Now why would that be? The answer seems to be that even though they apparently have the will to resolve this issue as is evidenced by the issuing of the original notice. They do not have the funding or the trained personnel to monitor and enforce zoning laws currently on the books. How, we might ask ourselves in a moment of responsible reflection, could Multnomah County Department of Environmental Services monitor and enforce zoning violations of a major enterprise such as the Howard Creek open pit mine when they are currently unable to monitor and enforce another impact on Big Creek of a much smaller scale. The answer is they don't have the funding or the trained personnel to do so, please vote sensibly and vote no on the full establishment of the Howard Creek open pit mine. Any questions?

UNKNOWN:

Madam Chair, I'd just like to say that the recommendation is that Do??? would be monitoring

any mine permit applications not the County.

STEIN: Thank you for the clarification.

CAROL GAMA: Madam Chair and Commissioners, My name is Carol Gama and I live on Howard Canyon Road, 37737 SE Howard Rd. and my family and I, we have three children and I home school my kids, I have constant access to knowing what's happening on Howard Rd. We're very aware of gravel trucks that are on our road and we have been dealing with them the best that we've have been able to at this point. We've been coping okay. Every time my children go walking or biking we have to be extremely cautious because we know that almost every time encounter a gravel truck. Let me give you an idea of how regular the traffic is. Last Friday I had this on my mind, we are so used to seeing gravel trucks but Friday I kind of kept track a little bit more. I had to go into Corbett downtown at 10:00 and it takes me about 2 minutes on our road to get to end of Howard Road. I met a gravel truck as I went out. When I returned 45 minutes later, I met another gravel truck. At 1:00 p.m. I went to take my son to a party which is a mile away so I dropped him off and returned and in that 5 minute little round trip I met 2 more gravel trucks. These are just at random on a random day. There's a lot of activity right now already and we have not complained, we know a lot of guys that drive the trucks. They are our neighbors. We've tried to

cope with it. This is the amount that is going out of there now. There is a lot of gravel going out of there now, and that's okay, we're coping. But when I begin to think of that fact that there may be 10 to 15 times that number of trucks it makes very very wary for our road. There are more than 15 children who live on our road.....curve that we always have to watch very carefully. It's block by the side of hill where you can't see around it at all. If we increase the amount of truck traffic there will be trucks going and coming and that would be pretty fearsome. I would have to tell my children, "you cannot ride your bike on this road, it's too dangerous".....little community can handle. Also, I might ask how do we monitor the number of trucks? How do we keep track? From all that I can tell there is no record kept of the amount of trucks that go in and out Howard Canyon Road. Thank you.

UNKNOWN: Madam Chair, I have a question...Do you know that these trucks are from Howard Canyon site or are they just other gravel trucks in the area.

CAROL GAMA: Oh yea, I recognize the trucks because these are trucks.....

UNKNOWN: ..And were they all seen on Howard Road or some of them were in Corbett?

CAROL GAMA: Yes, 2 of them were seen on Howard, the others were making trips up Mirum.

UNKNOWN: We have more questions....actually this is an

observation. We went on a field trip on a Friday afternoon and I guess what I was in..I don't want to refute your comment..but we saw no gravel trucks at all, I'm not even certain I saw a gravel truck at the quarry site.

CAROL GAMA: That's okay you never know when their coming. It isn't like there is a scheduled time. I'm just saying that I went out at random times and this is what I saw and that it was unusual that we frequently..it's frequent. I'm not even telling you about the ones when I was out spraying the weeds in my field and there was some that went by then. Or I'm in my bedroom and I'm looking out and I saw some.

UNKNOWN: I was just informed that the quarry was not operating that day, which I was not aware of.

CAROL GAMA: I don't know, it may be that there is dirt coming out of there. I don't know, but there is still a lot of traffic coming out of Howard Road.

UNKNOWN: I have a question, when you moved there or built your residence was the mine already in operation?

CAROL GAMA: Yes, but we were not notified. My husband and I have discussed this a length, we may not have bought that house if we had known the gravel pit was going to be in operation at an expanded level. That would have been an issue that would have kept us out of that area.

KUNKEL: I had one question. What are the roads like? I've never been there. Are they two lane roads, gravel

roads, stripes down the middle?

CAROL GAMA: There are two vehicles that pass on Howard Road when you get farther down, it's narrow enough that only one vehicle can be there.

KUNKEL: So they are gravel roads.

CAROL GAMA: No, I think someone was going to do a study, it's...there's a term. I think it's oil and gravel. It's not paved.

HANSEN: You may be able to answer this or anybody else this evening. Typically, how many yards of gravel are carried in a truckload?

UNKNOWN: It depends on the truck.

CARLEY: Madam Chair, Commissioners, my name is Ron Carley. I represent the over 7,000 members of Portland Audabon Society and we have reviewed the West Hills Reconciliation Report and have the following comments and concerns

STEIN: You know we're on the Howard Canyon ..

CARLEY: You're specifically on Howard Canyon .. I came in late and I apologize for that.

STEIN: I'm sorry I have to ask you to wait until we get there.

CARLEY: Okay, then I can give you my comments on Howard Canyon. I'm not going to get away that easy. Specifically regarding Howard Canyon. I would just briefly say that we are deeply concerned about potential impacts of Howard Canyon quarry site on wildlife. Apparently there have been no baseline studies on the current status of fish and wildlife

or on water quality. Neither the DEQ or ODFW have been consulted about this impacts in writing the ESEE analysis. Without this information how can the County speculate on the impacts of quarry expansion. We support testimony already submitted by Metro, June 13th by Charlie Ciecko and Ralph Rogers regarding the quarry. That's all I have to say on Howard Canyon. Are there any questions?

MATTEI:

Good Evening Madam Chair, Multnomah County Commissioners and Planning Commission. I'm Lyn Mattei, I'm with the Oregon Natural Resources Council at 522 SW 5th, Ste. 1050, Portland, OR 97204. We wrote our comments together but I will extract the Howard Canyon ones. If I'm a little bit segmented, it's because I am. We will commend the County for the major efforts that you have made to comply with the Department of Land Conservation and Development. We feel complicated and sometimes unreasonable and sometimes out and out punitive, compliance directives that have been associated with the remand order. We are pleased that the County.. the reconciliation report has gone a long ways in many aspects. We have just a few considerations in terms of Howard Canyon. First, agriculture uses in Howard Canyon really need to be addressed. Agriculture uses need affirmative regulation to maximize the protection of the repairing areas and minimize the sedimentation, erosion and turbidity and the non point pollution

in the adjacent streams. Reliance on the small conservation service, for example, to regulate rural agricultural practices is misplaced and inadequate. The County really needs to take a stronger look, not only at the small buffer area but the uses beyond it and also to strengthen regulation within that buffer area. We feel that without this that the protection will not be adequate. We also feel that the other rural streams are very important. I think that's on the list possibly to do later, but if it's not, do it and if you can do it, do it now, it's very important. In terms of fish and wildlife resources, we have similar comments with Metro and Audabon. The reconciliation reports ESEE analysis for Howard Canyon, apparently omits any consideration of ESEE consequences for wildlife. In addition, the report fails to include fishery resources in its ESEE analysis of any uses that conflict with the proposed quarry expansion. Proposed stream protection for the streams designated 3C in Howard Canyon is also inadequate. At a minimum, the County should adopt protection which is at least as strong as that provided under Clinton's new forestry plan or in the alternative, under the relatively weaker protection of our own forest practices act which will have new regulations which go into effect in September, 1994. To be easy, the County could tier to those

regulations for a little bit more protection. We have other later so we will see you in part 2. Thank you.

HARWOOD-LONG: My name is Kathy Harwood-Long. I live on 432 NE Salzman Road and if you notice on your map that is just right over the hillside from where the quarry is and I want to thank Madam Chair and the Commissioners and the Planning Commission for having this opportunity to share my comments this evening. It was represented earlier that there was a small group, maybe 10 people at the Community meeting and there were at least over 7 very concerned people just from my road and Alder Meadow Road which adjoins it and we left more concerned. I'm representing my family, my husband and son are in the back and I just wanted to share with you that since we have lived in this area for 3 1/2 years we have consistently heard the noise of the quarry. For every comment that's been represented here this evening, it seems like there is an opposite, it am here to say that we hear the noise. I contacted our realtor because we have an opportunity to invest in the home that we have been renting and our realtor represented to us that most definitely, as an investment, if this quarry is allowed increased operation our value would go down. This is a concern that I have obviously. We also have been striving to invest in this property for a lot of different reasons and have our home

there. To look at our world right now as a place where there are limited resources, I am interested in supporting the use of unlimited resources, such as agriculture and it was also represented that homes and agriculture have been a degradation to the environment there. The type of agriculture that I am interested in investing in and have been working with is organic and has a permaculture philosophy behind which is working with the land as it is instead of invading it and tearing it apart for just a specific purpose. We have, of course, a limited resource in the quarry, there is only so much rock, it could go on for 80 years. The concern that I left the meeting with to say quite frankly, is that the proposal that is before you has in fact 50,000 yards but it also has an opportunity for public works projects which would be unlimited usage and would not be contained within that 50,000 yards. So just because we are multiplying by a factor of 10 the number of cars and everything else and even the machinery, public works projects would multiply that exponentially without any control. I'm very concerned about that. In addition, with that I also ask that the community, what would that mean in terms of the machinery because I'm affected by the noise where I'm at. It was represented that the machinery that was there would be adequate for 50,000 yards, however, if more was done and I'm not sure what

that level would be, maybe another machine would have to be brought in or obviously a larger machine. The size of trucks that are used may be would not be adequate. If we are talking about large public works projects, I have in fact worked on State of Alaska, Department of Transportation road jobs, worked with rock and I'm familiar with trucking and rock projects. I thank you for your time.

UNKNOWN: Are you on the map here? Which tax lot are you?

HARWOOD-LONG: Yes, there is a large section here... Number 36.

UNKNOWN: So are you the house in the impact area that is shown on the map or are you out of the impact area. That's the dark circle around here.

HARWOOD-LONG: I am outside of it, just over the hill.

UNKNOWN: And you're tax lot 36. And you can here it?

HARWOOD-LONG: For a long time I thought it was a construction project until I figured out what was going on.

COONS: My name is Carolyn Coons, I live at 41101 SE Loudon Road in Corbett. Madam Chair, Commissioners, what I have to say is a bit dry but I appreciate your attention tonight. I'd like to express to the Board my belief that the reconciliation report of the Howard Canyon aggregate site is deficient and must be reworked by the planning staff. The States' remand order to the County addresses 4 specific issues; the central issue, No. 4 concerns transportation as a conflict with protection of the aggregate site. In response to issue No. 4 of the

remand order, the County and planning staff made a choice not to include transportation effects in the recent resource analysis and reconciliation reports. In other words, in looking at the conflicting uses to protecting the aggregate, they did not consider the impacts of rock transportation. And you and I know, ladies and gentlemen, that rock aggregate is only valued once it is transported. In this respect, rock aggregate is fundamentally different from other resources protected under Goal 5. The County planning staff argued in the reports that under the remand order they couldn't discuss or analyze the transportation impacts as a conflicting use. To quote the County, "from the remand order language in subsequent discussions with DLCD staff the directive is that protection of the resource in the Goal 5 analysis cannot be denied by transportation concerns." Mr. Pemble reiterated this point when he showed you a flow chart at the briefing on June 7th, that outlined the 4 Howard Canyon issues of the remand order. He referred to the transportation issues as follows: and I quote, "We cannot deny the protection of a Goal 5 resource for future generations based on the current transportation situation. Well we know we have to protect resources for future generations according to Goal 5, but Madam Chair and Commissioners, nowhere in the remand order does it state that transportation

issues cannot be used to deny protection of an aggregate resource nor does the remand order say that no conflict exists between aggregate protection and transportation. The remand order simply states, "The County has not shown how the use of area roads is a conflict to protecting the aggregate resource. If a conflict does exist, Goal 5 requires resolution of the conflict. In other words, the State practically invited the County to make a credible case of transportation issues along the appropriate administrative guidelines. That is if you want to include transportation issues in your discussions of aggregate resource protection, under the economic, social, environmental and energy consequences, which is the same method of evaluation that is used for other conflicting uses under the Goal 5 framework. In 1990 the county did bring up transportation impacts as a major conflicting use, but then didn't follow the states administrative rules. Thus the state rightfully called the county to task with Issue 4 as a remand order. Now in 1994 the country chooses to totally eliminate transportation impacts instead of incorporating them into the EC analysis. While we understand the county is overburdened and strapped for resources, the planning staff is doing a great injustice to the Goal 5 process by not analyzing one of the most important conflicting uses associated with aggregate sites. They may argue

that existing transportation is not effected by the aggregate remaining untouched and protected. But by its nature this aggregate resource only has value and only has interest in conjunction with extraction and transportation. Thus the impacts of extraction and the impacts of transportation must be considered now at this point in the process. In summary, to use an analogy, you take your car to a car mechanic where the hood needs to be opened for proper diagnosis. In 1990 the county as mechanic pried open the hood, in 1993 the state came back and said. "you must use the proper release lever to open the hood". Now in 1994 in response to the state the county refuses to open the hood at all, thereby robbing us of a fair diagnosis. I urge you to insist that transportation issued be included in the EC Goal 5 analysis of the Howard Canyon site. Thank you.

ROGERSON: My name is Jeff Rogerson, I live at 38228 Nerum Road, Corbett. My family will be the most affected by the operation. We share the same portion of the driveway that the trucks use. It is a narrow road that only one vehicle can use at a time, there are blind spots with no room to turn out of if you get caught in the middle. There have been a number of occasions when my wife and four kids have met a dump truck face to face in the van. When this happens, she has to back up to let the truck pass. So far it has only been a nuisance but with an

increase of truck traffic sooner or later there could be a collision where someone will get hurt and it won't be the driver of the dump truck. At the beginning of the school year my wife would walk my daughter to Nerum to catch the bus. However, after the first week having to run out of the way to avoid the trucks coming or going scaring my family, it was decided it would be safer to drive my daughter to school rather than time their walk to the bus stop to avoid dump trucks. Even though we live only 700 feet from the bus stop. Besides the noise from the trucks there is a great amount of dust that build down from the hill when the trucks come or go during the dry days. My son Alex has asthma that worsens when the dust comes down. He breathes it in and starts coughing and gets very congested and making it hard for him to breathe. When we moved in a year ago, we knew there would be a few trucks a day. Had we been told that a year from then that there would be as many as fifty we would not have bought the house. With the increase in the number of trucks my families health and welfare will be at stake, that is why I am opposed to the increase at the facility. May I make a note, there is error in the map. My lot is number 49 and the creek actually run just to the south of my house on the property.

STEIN: The creek runs south of your house?

ROGERSON: Yes

STEIN: Thank you very much.

DIXON: My name is Steve Dixon, and I live at 32950 Bell Road, Corbett. I have been a resident for three and a half years. I am a property owner. I have several letters that I would like to read into the record tonight. The first from Douglas Dodd, who is the director of the Corbett Water District Board, dated June 11th. The Corbett Water District operates under a domestic water supply permit. Commercial and industrial customers, like a commercial/industrial rock mining operation can only receive surplus water from the Corbett Water District. As specified in Oregon State Regulation ORS 264.310 water supply can not be guaranteed to commercial/industrial operations. If supplied it must be immediately canceled when no surplus water exists. Please evaluate and include the EESE consequences of this information in the Howard Canyon aggregate site analysis. Signed Douglas Dodd and Jim Masseny, Directors Corbett Water District Board. The second letter that I would like to read into the record is from Mike Grover, he is a real estate agent for 20/20 Properties. I am a licensed realtor with 20/20 Properties. I am a long time resident of Corbett and I also list and sell property in Corbett. In general, a rock quarry will reduce the value of homes in the vicinity of the quarry. If two homes are exactly the same in all respects, but one is located in the

vicinity of a rock quarry and the other isn't, the one near the rock quarry will worth less. In particular I know about the Howard Canyon rock quarry and I am familiar with the surrounding area. If the quarry expands into a commercial quarry, my opinion is that the property values will drop. As an example of the impact that a quarry has on sales I remember showing some buyers a home close to a rock quarry in Scappose. The buyers liked the home and the buyers liked the rural setting, but when they were told about the rock quarry they were no longer interested. The rock quarry was not even in sight of the home, but the fear of having to compete with large dump trucks on the same small road, and the fear of the noise they might hear was enough to kill their interest. A seller will have to compensate for these problems by adjusting the price down. Signed Mike Grover, 20/20 Properties. And I would like to ask for a day to get this on his letterhead, we had a power outage in the Corbett area this afternoon and he will mail you a copy on 20/20 letterhead. We would ask that you include this information in you ESEE analysis for Howard Canyon. And we would also like you to keep the record open for one week in order to have time to submit additional written testimony by real estate professionals which attest to the provable reduction in value of existing homes next to the industrial mining and quarry operations. That

letter will be forthcoming.

STEIN: Why don't you give us this copy as the official copy, then if you want to submit one on letterhead that would be fine. Thank you.

OKADA: Hello my name is Kerrie Okada, I live at 37925 East Nerum, that Tax Lot 10 Houston Acres. Its about a quarter mile from the entrance to the quarry and I just want to reiterate some of the points already brought up that the truck traffic is already having an impact, noise wise in the area. Safety wise the trucks are not creeping along those roads, they are rushing down those road, you have to be careful when you are pulling out, because they are just barreling down the roads. I hear the truck traffic at my property, I'm about 1/2 mile from the road and I still hear the truck traffic. So I can't imagine having more traffic than that. We haven't set out and actually watched how many trucks, but when we have gone for a walk within a half hour there can be two of them barreling down the road. So I don't know how much is going out of there now, but to increase it would greatly increase the area, not only that it I don't think the roads are built to withstand that kind of traffic. I looked in the report and I didn't quite understand, but it seemed to me that the roads would have to be greatly improved to hold that traffic, which of course effects our taxes to pay for improvement of the road. And also, the point of decreasing our

property tax values in that area. So it does effect us economically in that respect. Another factor is the noise and operation effecting the wild life. There is deer, coyotes, eagles, hawks, there is all sorts of things. Its right within about a mile of the Columbia Gorge scenic area which is an area that I think all of use for recreation and enjoy its aesthetic value. To have that quarry so close to the scenic area can of course have some impact on the esthetics. Also if the trucks are going to be going down the Corbett Hill that is road that everyone comes up to the scenic highway. Its a narrow very windy road and I just can't imagine how that will impact it. A truck every ten minutes going down that road trying to pass. I think that is an unsafe aspect also. I guess I just want to stress that its a beautiful area. The quarry isn't in operation and I think its important, not necessarily to shut it down, but just to limit it because it is going to effect that whole area the esthetics of the scenic area.

STEIN:

Can you clarify something for me? Because a lot of people have been stating that you see a lot of traffic going through, loads of gravel. Are you seeing this every weekday, or are you just seeing this on Mondays, that you see all these truck loads going through. Because from what I understand they are not supposed to be exporting very much rock out of there. So I can't understand how all these

loads are leaving there.

OKADA: Yes that is what I am unclear about also. If there is

STEIN: How often do you see trucks?

OKADA: Every time I drive down that road, I'll see a truck. So, I go to work four days a week, I'll see a truck each time. I can't say how many there are, I'm surprised that there are that many if there is only 5,000 yards allowed each year. And each truck carries ten yards, its only two trucks a day.

STEIN: That would be four round trips. And these are trucks that you fell are coming from the Howard site.

OKADA: Well that's the only place that there is, it a one way down that and down the Howard Canyon road.

STEIN: Thank you

WEBB: My name is Nancy Webb, I live at 745 SE Little Page Road. I have been a resident of Corbett since 1979. And I know that there are some confusion about the number of trucks that you are hearing from the community about the ones we are hearing and seeing. But we are, I hear J-rigs, I hear a lot of noise on a regular basis. And it raises some questions for me about, again, who is monitoring and who will be able to monitor? The amount of traffic, the safety for children, the noise pollution. There seems to be a natural echo in the Howard Canyon area that differently would effect the quality of life there. Again I wonder

who will be able to monitor the traffic, who will be able to monitor the transportation that goes back and forth. We do have very narrow roads. They are not set up for trucks, they are set up for small rural community. It would really impacts our liveability and I would really like to have you please reconsider expanding the gravel pit. You have already heard considerable testimony about why we feel this way and I don't think I need to add any more than that. Thank you very much for your time.

TRIBE:

I am Diane Tribe, I live at 41905 SE Lowden Road. My issues and concerns are about transportation also. I have looked at the list of proposed conditions that was at the meeting in Corbett and my concerns are, as other peoples, that because of the lack of resources of the county. To be able to monitor this 5,000 cubic yards per year going and coming. That we have no control, and if you will look at this quarry and if you will look at the map in the reports that is a mining pit. There is a vast difference a mining pit and a quarry. We have people saying that we are going to just do 5,000 cubic yards per year, and I noticed that in this report that we are looking at using a type 3 truck we would be expected to be used. Not one road cited in this report could handle that weight of these trucks. And I noticed that Corbett Hill viaduct, Stark Street Bridge, Stark Street viaduct,

Gordon Creek viaduct and Little Page over Big Creek each one of these road have at least one creek that passes that you have to use culverts. Culverts with this kind of weight have not been made, therefore they will have to change the culverts out which is going to impact all the streams. Anywhere these trucks go you are going to have to change things. Therefore, I ask that the commissioners ask the planning committee to go back and look at the transportation issues that were remanded back to the county to look at because it is very important we are looking at. From the calculations from the last meeting, 90 trucks per week, 6 days a week and I doubt that this is a true mining operations, and its commercial. That we are going to be able to control the size of trucks that are going to be coming in for loading. The amount of time that they are in there, back and forth. I would hope that you will go back and look at these issues, they impact the fish, streams, the whole Corbett area in general. You are looking at tourism, quality of life. My family has been in Corbett for four generations and I have two generations after me, so its six generations. Thank you for your time.

STEIN: I believe there is a question.

YOON: Could you give an indication of where on Lowden Road you live?

WEBB: I live at the top of Lowden Road about one mile

from, its not on this map. I can indicate on the map. I live way up here.

STEIN: Thank you very much.

ANDERSON: Hello, my name is James Donald Anderson, I live on Howard Road, 37915. My Tax Lot is 60. I realize that a lot of people have said they have seen trucks, where we live if you look at our house, we are up on the hill a little bit, so we are not right on the road. What I do for a living is that I am a foreman for Wilhelm Trucking and Rigging. We deal with rigging and heavy transportation, trucking. My concern is the road and the trucks on it. I have only come across a couple of guys, I usually come home from work late at night. Everybody has concerns of how much weight is on the road, if it goes as large as they say it can go, then you are going to have trucks running they say ten minutes. That asphalt or whatever that road is made out of is going to start wearing, especially in the hot month. As far as hearing Jake brakes, anybody who drives a truck, when he uses his jake brakes to slow down, then he is a fool, especially on curves. Unless you got your turning gear first, you are slowing down for you curve. As far as any vehicle that is over 16,000 pounds, you do have to have to have a CDL license. What I am trying to get to is how many trucks are going to be on the road? How much is going to be in that truck? I've never talked to these gentlemen. I don't know if

they have portable scales, or if they have scales there. Or do they weigh by the bucket? How do you know how much weight is going down the road? You are allowed on your rear drivers 34,000 pounds. That is two axles. In the front you are allowed 12,000 pounds. If you have the large tires, like on cement mixers, you are good for 16,500. How do we know how much is in those trucks? I have seen two axle trucks going down the road, which are only good for 32,000 pounds. Has DOT ever set up scales. NO So how much weight do we have going down the road? I live right on the road. As far as people talking about the drivers, they have been great. The size of people going in and out, how large scale the jobs are, whatever they may be. But if it get larger and we have the outside people coming in, because I don't think we have enough drivers in the area to keep servicing it. The guys that do live in the area are courteous. But how about the drivers coming outside? They are getting paid by the load. So as soon as they drop that load they come back. And as far as not seeing a truck for three days, well your job sites may not go for three days and all of a sudden you need 60 ton of rock right now. As far as my driveway, I just put 60 tons on in, and I brought in slag from Oregon Steel Mill. We thank you very much, I thank you.

STEIN:

Thank you for coming.

FRY: You said that you live in Tax Lot 60?

ANDERSON: Yes sir.

FRY: Didn't you receive a written notice. My assumption would be that the property within the impact area would have received a written notice and in this process the people that received written notice have direct standing in the process. So do you remember if you received a written notice.

ANDERSON: Like I said, I'm a foreman for Wilhelm and I get up early and I come home late, so if there was a notice, sometimes we really don't get to talk. Jane, was there a notice?

FRY: Just to be clear, are you in Tax Lot 60 that goes into Howard Canyon?

ANDERSON: Yes, 60. You'll see a little strip going up, that's my driveway.

FRY: I would be curious to know if you were actually notified or not, I'm sorry you didn't know about it. But I would assume that you were.

REAVIS: Hello, my name is Jim Reavis and I live on 33045 SE Hurlbert Road and it's probably 5 or 6 miles from the quarry site. Basically, I thought this was an opportunity to speak my peace and I don't want to repeat a lot of the information. I've lived in Corbett for 18 years and I move out there because I wanted a certain quality of life and I've tried to maintain and protect that. So, that's what I'm here for is just to say when I think about the common sense or the lack of common sense of

increasing the size of these vehicles on these little country roads it really disturbs me just from the standpoint of why I went out and what happens because its been mentioned that kids walk on these roads and my kids walk on the scenic highway. They are just roads and little country and I'd like to keep it that way and I appreciate you listening to all of us tonight. Thank you.

FRY:

My name is Susan Fry, I live at 123 NE Little Page in Corbett. I'm on the board of our neighborhood association and on ????? committee. I would like to address the issue of enforcement of compliance to the regulations set up to safeguard the impact of the rock quarry in the middle of our neighborhood. For example, on June 7th, planning commissioner Hunt asked planning staff, "who currently monitors DEQ's noise compliance to the quarry site?" The staff answered that Dogamee visits the site once a year and monitors DEQ noise compliance. That simply is not true. Here are the facts. The last time the quarry site had a scheduled by one of only two state wide Dogamee officials was in December, 1986. The next scheduled visit would have been 1995 if they had not been called by many Corbett residents and County Commission staff who insisted they check out suspected violations because of the large volume of truck traffic coming from the rock quarry last fall. Even with many calls, they were reluctant to

come out and check because of their tight time schedule. I understand the County agencies don't have the money or staff to accomplish the monitoring at the level in which the rock quarry is currently operating. What kind of monitoring and enforcement can we expect in the future when the quarry operation is asking to expand to at least 10 times its current level. DEQ terminated their noise control program in 1991 because of budget constraints. Is the County willing and able to take over this job? It doesn't appear that way. The planning staff assumed wrongly the job was already being done. I also feel that the easy analysis for Goal 5 is fatally flawed because it does not address the social and economic impact of the people of our community. The gravel doesn't just float out of the quarry. It must be trucked out through our neighborhoods, small, narrow rural roads. Which does indeed directly impact everyone in our community and also the many tourists, bicyclists and equestrians on the road. Therefore, because of the problems and the lack of enforcement and monitoring of regulations, I ask that you please do the right thing for our community and figure out funding and require the appropriate agencies to do their jobs correctly or if that cannot be assured, please designate the Howard Canyon Road quarry 3B status. Thank you.

DAFOE:

Members of the Board and Commission. Good evening,

I hope. I don't know what's going on back there. My name is Vera Dafoe, I live at 9449 SW 62nd Drive, Portland, OR. I am a retired land use planner. Former member of the Oregon Gorge Commission. My interest in the Columbia Gorge area and the large mountain Corbett area continues. I want to speak a little bit on the neighborhood this goes through, although I don't live there. At this time there is approximately 12 residences along the Howard Canyon Road being served by a school bus. The entire road is one and one third miles long. It is windy and it has no shoulders and there are no turnouts. The last 1/2 miles of the road is one lane wide. I drove down it yesterday to look it over and be sure about this and I wouldn't really want to meet oncoming car traffic much less trucks. In order to accommodate future industrial type level gravel pit operation, tax payers would need to pay for widening the road, improving it to a standard that would handle that kind of traffic. This would be a cost, getting this road fit for the kind of use that I believe could well happen in the future if this permission is given. The traffic would create a major change in that neighborhood and these are kinds of impact you really do need to deal with in your consideration of this issue. The present permit of exemption which allows 5,000 cubic yards per year, which is some 500 loads of gravel or other aggregates, that comes down to

about 2 truck loads a day, five days a week. But the neighborhood members here seem to be saying that there is a lot more traffic than that. This seems to be something that the County is not able to monitor. There doesn't seem to be much enforcement of agreements or rules or permits which is happening in a lot of other areas too of course, but it is something to consider. There has been no defined impact area which is necessary to make the kind of termination. People mentioned that there is three year-round streams. The conflicting uses of these combinations of the residential and industrial uses would out weigh the Goal 5 requirements for protection of resources. If you really got all the parts together in this I do believe that to be the case. Thank you.

HAMMELL:

My name is Lloyd Hammell, I live at 501 Salzman Road and if your looking at the map it would be plot number 90. A small 9.1 acre parcel up on Salzman. The quarry is currently audible from our home and having a commercial so near our home would be very disturbing to us. An increase in operation would lower our quality of life and enjoyment of our home. It in turn would greatly reduce the property value. We just spent a lot of money remodeling it and planned on living there a long time. I believe that the 1,200 ft. impact area is inadequate as I can see part of the proposed quarry from my home and as stated before I can hear it

now. I strongly support an independent noise assessment study. Thank you very much.

SWENSON:

I'm Len Swenson, I live at 38909 Historic Columbia River Highway, as known as the Scenic Highway. I've been there for 26 years now and have come to appreciate the value of the Columbia River Gorge, so much so that I have been very active in trying to preserve it. I think that the Howard Canyon quarry is probably in the worst location one could choose to put it in, environmentally. Those of you who have visited the site can see how fragile the area is. The transportation in and out of the area is totally inadequate for what is being requested by the applicants here. I cannot imagine the ten-fold increase in the number of dump trucks going up through that area. I have seen now assurance whatsoever that the rock coming out of this quarry is going to be supplied east of the Sandy River. I hear the attorney hedging on this every time the question comes up while we might send a load across the river once in awhile. There we have no assurances. Number one there must be some sort of a ruling here that they don't haul it across the river. The Reconciliation Report really doesn't address the issue of energy. If the rock out of the quarry is only supplied, used locally, then obviously we are not increasing the rural truck traffic for the total area. But as soon as they cross over the Sandy River and start supplying out

of the area now we have additional traffic in the Corbett area they we didn't have before. So that needs to be addressed in the report. There are a number of area in the report relating to transportation and to the scenic area. The additional traffic on the scenic area due to dump trucks will be considerable. And that is becoming more and more important as the tourist traffic is increasing everyone of you who have been watching what has been going on in the Gorge ever since it became a National Scenic Area. Knows how important economically that is to the area and how important it is considered to be all the people, in fact, many people across the United States. Because this is becoming one of the favorite places to visit. And to put a continuous stream of dump trucks on that road now, even on the west end of it, is almost unthinkable and yet this is exactly what is going to happen. Now we have additional traffic in the Corbett area that we did not have before. So that needs to be addressed in the report. There are a number of other areas in the report relating to transportation and the scenic area. The additional traffic in the scenic area due to the dump trucks will be considerable. And that has becoming more and more important as the tourist traffic is increasing. Its not by 5,000 yards per year, we know there are going to be public works projects. Maybe we are talking 100,000 or 200,000

yards, right at this very moment, there is a large widening project underway on I-84 between 181st and Troutdale. I suppose that if they gain approval soon enough and they can supply the rock cheap enough, they could get in on that and perhaps haul a couple of 100,000 yards out of Howard Canyon and supply that. And what road is all that going down, well the scenic highway obviously, right down to the Troutdale area to get onto the I-84. It is the only route available for heavy trucks. Unless they are going to go down Corbett Hill Road, which does have some load limit limitations. But you wouldn't know it to see the heavy log trucks going down there all the time. So I urge everyone of you who is involved in this process to out there and personally look at the area, not just do an academic research project on this thing where you write up what the law requires and pay no attention to the reality of the situation. Thank you

STEIN: Is there anyone else who wishes to speak on Howard Canyon?

GOODWIN: I'm Priscilla Goodwin and I live on Bell Road. There is just a few things that I would like to comment on. You have had questions about the truck traffic and they are taking a lot of top soil out right now. There is a lot of trucks coming in and out, I don't know why that is going on. And the other things that has been discussed is not taking anything away from west of the Sandy River. Just

this year we had truck traffic after truck traffic filling in some fill on the other side of the river under the bridge. I think that exceeded what they had, because it was already a special works project, so there was an increase of trucks already doing that. That's all I have to say.

STEIN:

Is there anyone else here on Howard Canyon?

YOON:

Madam Chair, there has been a propondrance of discussion about the transportation issue which staff has said is not part of the analysis and several people have brought up good points about the fact that maybe it should have been considered. They are both giving different interruptions of what they think LCDC wants. It would be helpful for us in making a decision either if LCDC gave testimony one way or the other or gave us something in writing concerning that, because I think it is going to make it very difficult for Planning Commission and the Board to make any decisions without something from them.

STEIN:

Scott do you want to comment on that, have you requested LCDC.

PEMBLE:

The question, have we requested a comments from resource agencies. Throughout the beginning of the process we have involved the Department of Land Conservation development staff in review of our work, and they have done so. From the beginning of the process we have requested information from a number of different resource agencies. We also

have coordinated the development of our report with the Department of Land Conservation Development Commission staff. They have reviewed and commented on our work as we produced it. We have received DLCDC staff comments, we have received comments from our own Multnomah County transportation division on transportation issues with respects to road cross section and traffic. We have requested, as well DLCDC staff has requested, information from ODF & W, DEQ, DOGAMEE, and a number of other resource agencies which are included in the report. So we have attempted to solicit comments, which you have before you in essence is the best available information that we could gather.

STEIN: Thank you

UNKNOWN: The follow up question on that, I guess being a little simple. I guess I need to have a yes or no, whether LCDC agrees or disagrees with staff that transportation can or cannot be used as part of our process in making a decision.

FRY: I can't answer that question for you.

UNKNOWN: Can LCDC answer that for us?

FRY: The DLCDC could answer that for you. You will have to direct that question to them.

STEIN: I have one question Scott, if I during the week contact DLCDC and ask them questions to clarify some of the issues I have, that is not exparta contact, is it? Can I talk DLCDC staff just as I would you as staff?

SCOTT: I will let county counsel field that question.

COUNSEL: Madam Chair, the question is whether a member of the Planning Commission that is going to make the decision can solicit comments from the State agency about their views about this. My view on that would be soliciting new evidence, because there is a statute that says comments between the deciding body and the planning staff are not ex parte contacts, but that is the only exclusion allowed. So for you to get additional information from some other source would be in effect, it wouldn't be ex parte contact, I guess it would be called that, but it is really getting new information that should only come to you in the normal hearing process in which everyone has a right to hear and refute the testimony.

UNKNOWN: Well could be ask them tonight for that question, or would be that be considered new evidence too.

COUNSEL: You can ask them tonight, but if you get the answer tonight that is not within the seven day extension times, then you can't consider it.

STEIN: Are you from LCDC? Would you like to come and ask some questions?

OULMAN: Good evening, my name is Steve Oulman with the Department of Land Conservation and Development. Sorry I do not have a card, I was not anticipating testifying. I often can learn more and contribute more by listening. Our mailing address is 1175 Court Street NE Salem 97310. I support the staffs

work to date, I've been meeting with the staff on a regular basis. I drove up from Salem at the crack of dawn, set and work with them in the mornings. I think they have done a commendable job given the constraints placed on them in this very difficult process. I know we are going to take a lot of hits at the agency for our directive, but our hope is that we could set up a planning process to find creative solutions to some very difficult issues. I think the staff has done the best that they can. Obviously I wish we had better coordination or better input from the public at earlier stages. We are doing what we can. Again I think the staff has done a good job, they are addressing transportation to get to the burning question. The department does not feel that it is a poison pill, so to speak, to deny use of any aggregate site. However, as we discussed staff to staff, and what Gary Clifford has done is a good planning approach. He has identified constraints in the physical infrastructure of Multnomah roads system and I think that its a reasonable response. I don't view it as part of the Goal 5 process. I'm sure I will be challenged on that, that's fine, we will get it resolved at some point. But the point is that Gary and the staff, Scott, all of them have done a good job. They approached an issue head on, they said we have transportation issues, there is no getting around that. Lets see if we can find a solution,

and I think they are working towards that. End of speech, I'll answer questions.

STEIN: Mr. Neil Kagan commented that in the remand order that if the staff included the impact area of the roads that the roads could be identified as a conflict. Is that true or not in your opinion?

OULMAN: He has read it a portion very narrowly and he read it correctly in a very narrow sense. Again I'm looking at this as a planning perspective. I'm not a lawyer, with all do respect from the attorneys here, we're trying to find a planning solution here. Yes, we said impact area was important, that's why Gary has gone back and identified a second impact area, he's called it outside the Goal 5 process. I scratch my head and go, "how's that land?" It's difficult, but's a solution that I'm willing to see play out and maybe we'll get a solution out of it. The other side of the story is, in our required amendments order previously, we also said that the County has not shown how the use of area roads is a conflict to protecting aggregate. That's different than the impact area question. So I want to make sure the whole picture gets out there, Mr. Kagan is correct as far as he goes. I believe that there are other factors that can contribute to the transportation question.

STEIN: Can the County have stricter regulations in the reclamation plan than what Dogamee would require or DEQ. DEQ looks at the water quality off-site. If

we wanted to look at the water quality while it was still on-site, for an example, does the County have the power to do that? Or is DLCD going to come back to us and say, "you can't do that".

OULMAN: To answer the second question, what we want to see is a coordinator response. If Dogamee is the Agency charged with administering reclamation we feel local government should go to them as the experts. The same applies to DEQ, as the experts. The issue of can the County be more restrictive? I'm going to respectfully defer to your County Council. I think that is a legal question of jurisdictions.

STEIN: I've already asked and didn't get a clear answer. I guess what I'm asking is, we would work through Dogamee, but let's say that we found that we wanted stricter reclamation plans than what Dogamee normally requires. Can we say that in our conditional use permit or in the ESCE analysis and our balancing of the 3C classification and clarify that and know that those things are going to happen and not just turn it over the Dogamee and wait and see what happens. Because then we don't feel like the public has control.

OULMAN: Obviously we can't give a quick answer, and obviously appreciate that there isn't a simple answer to it. I believe the local government can, in partnership with Dogamee, identify what they want to see for post-mining use. The County should

work to identify what a subsequent beneficial use, which I believe is a statutory definition Dogamee works under, Mr. Schnitzer can deal with that. The County's land use plan should identify what it would like to see, given the statutory constraints the geology is under. They do reclamation to a subsequent beneficial use. That's different, I believe they feel, than restoration or rehabilitation. It's an initiative we need to discuss, but to approach it and say, "yes, the County should have an active role in it", absolutely, we'll support that 100%.

FRYE:

I really appreciate you being at this hearing tonight and unfortunately LCDC or DLCDC, since you're not LCDC, you're DLCDC, would have been here we probably would have had these answers before. Two things that have confused me during this entire process. The first one is that as we go forward in the future and gain more information, for example the Natural Scenic Highway, or for example wildlife, and we determine through future planning processes that these are in fact protected resources, does that mean that we come back to this and amend this to reflect our new knowledge.

OULMAN:

You may?

FRYE:

So this is an open situation as we go into the ...

OULMAN:

Our administrative rule is written currently for the Goal 5 planning process talks about periodic review as the appropriate place to revisit issues

previously decided. So yes, you can.

FRYE: The second issue that I haven't understood clearly is: Is this resource on a balance more important than the other goals related to forestry and to agriculture and in other words: If you were have to balance this resource and its impact on farming activity that may emerge. I would point out an Oregonian ad that talked about one of the largest nurseries in East County started on only 10 acres, that's in today's Oregonian. So we're looking at today's situation, okay, but as property is developed in the future, and putting in wineries and things like that, which I already know ??? has their opinion, State has their opinion, do we balance these things equally or does the operation of this resource or any other resource like streams and its impact on agricultural runoff are they balanced equally or not?

OULMAN: You've posed sort of a global questions for me, Peter. We're talking value judgements about the use of natural resources. I'm not going to stand before you tonight and say one is more important than other. That's crazy.

FRY: You do say that it is an equal balance.

OULMAN: I think we all strive for balance in our lives as opposed to taking extreme positions to the extent that we can find solutions to resource conflict. Our agency is an agency of land use planners promotes that as a mission. Yes, I will support

that as much I can.

STEIN Are you going to be here for the West Hillside too because I have some questions that would be more appropriate to that.

OULMAN: I bet you can guess my answer can't you.

STEIN: Is there anyone else who wants to testify on Howard Canyon?

HANSON: Madam Chair, Commissioners, my name is Lori Hanson. I live on 37925 Nerum. I just recently moved there from Beaverton, to get away from the traffic and the noise, and I'm in the process of buying lot 9, Huston Acres. If you can see, I don't know if anyone understands the name "Howard Canyon", it is a canyon. You can literally hear, I can hear every gear that those trucks are making up and down the road. I live probably a quarter of mile up from Nerum. This is a little country road. I wanted to raise my daughter in Corbett. I wanted her to attend the Corbett school and be active in that community. I wanted to live in a nice quiet neighborhood. The air traffic from PDX has already been rerouted from Northwest Portland to fly right over Corbett, so now we have all of the air traffic along with all the trucks. I did an informal survey myself, I have a couple baby llamas that I'm trying to train. I take them walking every morning and we walk down the driveway and onto Nerum Road. Cars don't frighten them because cars are traveling at a normal speed. I have to tell you, I'm at the

point where I will get license plates because I can't even walk my llamas on that nice, quiet country road which is why I wanted to live there, because of the truck traffic right now. They are going fast, they are loaded, they're are frightening my llamas and my baby, who is with me, to the point that we don't walk the street anymore. This is just what is the 5,000 cubic yards that are leaving now. I can't imagine how much of an impact that this going to make on the livability, no much less the noise. I'm just simply reiterating a few points. Thanks.

STEIN: Is there anybody else who wants to testify on Howard Canyon? We are going to take a very short 5 minute break.....

Can I have the Commission members of all the Commissions up here? We're going to reconvene now and take testimony on the West Hills. For those of you who may not be clear about the process, we will not be making a decision tonight. The planning commission will be the first group to take this issue up and will make a recommendation and then depending on whether someone appeals it or not it would come to the full Board. So tonight is just testimony. We will proceed with the same arrangement.

UNKNOWN: When will the decision be made?

STEIN: It is hard to say because it depends if someone appeals it or not. The Planning Commission is

scheduled to make a decision next Tuesday. From there it is hard to judge the time frame.

UNKNOWN: Will there be a time for the proponent of the Howard Canyon site to rebut what was said tonight by the opponent?

STEIN: If there are critical issues that need to be rebutted and people raise the need for providing more information, there is the possibility of leaving the record open. We will decide at the end of this evening.

Okay, we are going to start with the proponents. Are there any government representatives here who are proponents of the reconciliation plan. Do you want to come forward?

SCHNITZER: Madam Chairman and Commission members, County Commissioners, my name is Frank Schnitzer. I'm Reclamations for the Department of Geology. I'm the lead worker for the aggregate division of the mine land reclamation program. It's a position I've held for 11 years. I'm here to testify as a neutral party to clarify our agencies role in this process and to answer any questions that anybody may have. The intent of our regulations is to provide for proper mine development to assure the site can be returned to a subsequent beneficial use after mining, compatible with zoning. The statutes that direct us, protect natural resources during and after mining. Our statutory authority is not just how it ends up but how it gets there. You have

to have proper mine development to have proper reclamation. Our authority includes initial permitting, compliance, bonding and reclamation. Our regulatory responsibilities are not limited to reclamation. I noted in the reconciliation report, on page 217, it was stated that DEQ establishes buffers and screens and that Dogamee takes care of reclamation. I don't know if that was a typo or what, but Dogamee is the agency responsible for mine development. DEQ regulates air quality and water quality leaving the site. We are responsible for establishing screen buffers, property line setbacks, visual screens and other mine development and restrictions such as stable storage or overburden. I'm hear to tell you that reclamation can be accomplished without the benefit a suitable slope angle or a ?? cover. Look at the vegetation of volunteers on road cuts in Western Oregon. Without ??? cover flat benches, vegetation is beginning to encroach upon the Rivergate rock quarry that was closed a number of years ago in Multnomah County. In Clatsop Country right now we have 20-30 ft. tall repod growing on reclaimed mine sites. State-wide Dogamee has released nearly 3,000 acres of bonded ground because the reclamation had been completed. Well over 2/3 of this, the reclamation was established under a stable vegetative cover. The remainder of the sites were put to other uses such as industrial or

residential use or things of that nature. Slope stability and surface water quality during mining are the two concerns that Dogamee has. Our permit has been drafted to ensure that those things are adequately addressed. I would like to submit to the record a copy of our draft permit conditions. DEQ and Dogamee have been working with the Operator to improve water quality at the site by the installation of silt fences, diversions and apiaries to minimize run-off and the construction of sub-drains, vertical drains and dry wells in the better isolation of the creek through the mine area have all improved water quality. Paul Keiran will talk more about this in a few minutes. The slope stability issues are related to potential concerns that impact water quality. If a slope failure occurred it would be located in the interior of the mine, it would not affect anything off-site, except water quality. To prevent this from occurring, a geotechnical evaluation is required to determine suitable slope angles for the silt overburden and to determine if there are any potential slip planes located in the ??????. In regards to finding a reclamation, Dogamee is concerned about making the site visually compatible with the surrounding land forms. For this reason we ask the Angell Brothers to include construction of tallis slopes and rock chutes in the reclamation plan to make the benches discontinuous, so they are masked during

reclamation. Some of the benches will also be buried by 20 ft. or more of overburden. The benching will eventually be screened from view by the reclamation, the construction of the tallis slopes, the planting, and the replacement of overburden. The statutes require that reclamation be completed three years after mining is completed. I'm sure there will be the immediate question of, "how come there is no reclamation done on the site?". What the statutes say is 3 years after mining is completed. Mining is not completed until the mineral available is exhausted. So, when you are mining from the bottom to the top, you can't do any reclamation. But if you are starting at the top, now the new proposal of the Angell Brothers, and you build those upper benches up there, well then those can reclaimed right away. The State statute says that vegetation has to be in place within 3 years after completion of the mining. So once those upper benches are built, there will be 3 years to vegetate them. With exception of nesting rafters or other sensory species, it is my experience that animals and mining can co-exist. I have witnessed it many times. Animals, particularly deer, will prefer the benches and ramps for movement rather than up and down those steep slopes. I've observed deer tracks on-site, deer on-site. Once the reclamation of the upper benches is completed, and they are tied into

existing land forms, this will actually compliment the wildlife corridor and may serve to increase the width of it. That was all of my testimony.

KELLEY: There was some testimony previously about compliance, and I am assuming that's the permit compliance and who does that and the frequency of Dogamee and your getting out to these operations.

SCHNITZER: We attempt to do annual inspections. If there is a problem, we go to the site more often. This year I have been to Angell Brothers about 4 times. The reasons for these visits were to improve the storm water quality leaving the site and provide recommendations for the operator for that. State-wide we have 4 inspectors and with 700 permits you can't realistically get to all the sites on a very regular basis so we have to prioritize things. My job position has recently changed so that I'm responsible for the regional quarries, so we'll have a higher profile or presence at the larger operations in the Willamette Valley.

KELLEY: The allegation came from the Howard Canyon folks, and that was that there was 7 years between one inspection and the last.

SCHNITZER: That's not under permit with us. It's a registration with us called an exemption. If it had a permit, certainly it would have been inspected more often. There's no bond, there's no plan, there's requirements from us at all at this time. Because we haven't been able to determine

that more than 5,000 yards have left the property for non-forest use. That's our threshold for operations, 5,000 yards used off-site, commercially.

KELLEY: So in other words, a site that had a permit of 50,000 would be one that you would inspect every year.

SCHNITZER: I'm sure that we would be there very often. I think we would be there every year. Particularly if there are any concerns. We certainly respond to public concerns. We would certainly do an initial inspection and a follow-up inspection and we would certainly attempt to be there every year.

UNKNOWN: You received these in order to finance you enforcement activities.

SCHNITZER: Our program is funded entirely by the operators. There is no general fund available for the work we do. I honestly believe that we should have general fund money available to deal with some of the issues such as test find and a public hearing, but at present there is no funding mechanism available. Measure 5 took away our general fund money.

UNKNOWN: Second question is, you mentioned regional sites, how are they different from non-regional sites.

SCHNITZER: They are likely to produce a million yards a year or more. Those kinds of site can have impacts significantly larger than a 50,000 year operation.

UNKNOWN: So you statutorily deal differently with what you would call "regional sites" as opposed to sub-

regional.

SCHNITZER: No, they have to meet the same requirements.

UNKNOWN: Lastly, I continue to be a little confused about who has jurisdiction over what and the confusion is basically, you're at an accident and nobody knows who's responsible. My understanding is that State agencies are predominately responsible for State law, like DEQ would be responsible for inspecting and taking care of impacts on streams, wetlands, wildlife and on and on. So how does the County fit into this terms of a conditional use process which is the outcome or the next phase of these things. What jurisdiction does the County really have to do a conditional use process? What is left?

SCHNITZER: The biggest decision of all. The technical decisions are sometimes easy to make if the politics aren't there. The hardest decision at all to make is a siding issue.

UNKNOWN: So the Counties do have jurisdiction over whether or not this not like say a Federal Post Office, where County has no jurisdiction over the deciding, or the County Court. The Federal Courthouse is another example, that is not the same here.

SCHNITZER: We do not site mine operations. The local land use authority does that.

UNKNOWN: So Counties and Cities do have jurisdiction over whether or not these things should exist within, regardless State law.

SCHNITZER: Most definitely. Our permit is not a finding in

compliance with land use requirements, it is technical permit saying that this operation is in compliance with State reclamation standards.

HUNT: With what you just said, clarify something for me. On the Howard Canyon site there was testimony that there's more rock going out of there. When Multnomah County pursued that, were you notified? How does the process work?

SCHNITZER: Yes, we were notified and we did a inspection. I didn't personally do it myself or I would have maybe got up and testified earlier. An inspector looked at it last fall and we couldn't come up with any evidence that they were exceeding to 5,000 per year commercial removal. It's very difficult to do, particularly when some of the rock is going into the woods for forced access roads. If it was all going into the public use, public sector, it would be easier to determine if they were over the 5,000 yard limit, but it is very difficult.

HART: Now going over the West Hill reconciliation report. Obviously there's all of these Goal 5 resources that are looked at up on the Angell Brothers site. If the County found that certain things need to be done in the reclamation, for instance, an example would be there is a scenic Goal 5 resource that we're looking at. Angell Brothers has been mining 1958 or I guess the original permit was 1958. How much of that has been reclaimed and reclaimed in Douglas Fir trees? How often is it reclaimed?

What would be the outcome?

SCHNITZER: You have two questions there, I think. The first one dealing with what reclamation would look like if the County wanted to beef up reclamation requirements. It is up to the County. You tell us what you want for the post-mined land use.

HART: Would we do that in this part or would we do that at the point in time when we're looking at their actual application for a conditional use permit.

SCHNITZER: I would suggest that it be at the time of the conditional use permit. What's also going to occur is that we're approving the site, as you'll see in this letter, in phases. Each phase, we want detailed information on benching configuration, where the tallis slopes are going to be created, which benches are going to be backfilled and that's going to give us direction on how that landscape is going to be sculpted after mining. Input from the County when we're going that review, it would be an important point.

HART: Can you tell me on the past history of Angell Brothers, how much has been reclaimed and what type of vegetation has been reclaimed in since 1958?

SCHNITZER: There has been no reclamation on that site except for vegetation of some of the spoil dumps. The reason for that is like I described earlier, they are working from the bottom up and they can't get reclamation done in that manner until they have reached the last part where they are doing the

mining. If they are allowed to go up on top, and carve those benches down, those upper benches are just going to have a small amount removed from them and then they'll be slicing the hill a little bit steeping. So reclamation can occur a lot quicker if they mine in that manner. But because of the physical constraints and the very steep ground there, at this point they really are in a corner on reclamation.

HART: On the future site that we're looking at, would this continue to be a problem? Could it be reclaimed every 3 years or are we looking at the whole thing being opened up and then we reclaim it?

SCHNITZER: The way I understand it is if this larger area is approved, the mining will start along the upper areas and then proceed down. That will allow the most visual sensitive areas at the top to get quick fix or quicker reclamation.

HART: The original site, would that be reclaimed before they could move to the next site? Or is that a County decision?

SCHNITZER: It could be a County decision. I don't know, they are going to need a facilities area. I don't think they'll be setting a crusher up on the hillside anywhere. They will want to keep it down where it is, so they'll be trucking down to that site. Right now, you all have been down there?

EVERYONE: Yes

SCHNITZER: It has a relatively flat floor but it is very very

steep all the way around it. There is not much possibility of reclamation until we get the final boundaries of the site figured out.

HART: The stream that was culverted on the existing site, is that a common practice? How would they reclaim that stream?

SCHNITZER: The culvert would have to be removed and the stream opened up. That is fairly common for intermittent streams, not for perennial streams, but for non-fish bearing streams, that's not that unusual to have a situation like that.

UNKNOWN: I have one question that is a follow-up of Commissioner Kelly and Hunt's. It seems to me that 5,000 yards is kind of a major demarkation line. Is that what I'm getting? If someone says, "I'm only doing 5,000 yards, not our problem" but if they're going 6,000 or 7,000 yards then you're interested?

SCHNITZER: Honesty has something to do with it. We regulate from 2,000,000 yards per year to 5,000 yards a year. Those lower sites don't get the same amount of attention as the other ones do.

UNKNOWN: So you are being reassured whether it be by the operator or anybody else that they're really only doing about 5,000. You have no reason not to believe them, so you're going to believe them.

SCHNITZER: Unless we get a lot of calls from the neighbors. Believe me, lots of neighbors have counted trucks for me. We rely on the neighbors a lot for help.

UNKNOWN: This has come to your attention recently.

FRY: This is about the West Hills, and as I read the reconciliation report, essentially staff is recommending 3B or a portion of the quarry based on the balance with the wildlife corridor. What you basically said is that after reclamation the wildlife corridor can be improved. So does that mean that we come back in the future when the first part is done and reclaimed and have the ability to change from 3B to 3C based on a changed condition.

SCHNITZER: That's your decision.

FRY: So that is not something, in terms of your expert opinion, as realistic.

SCHNITZER: It's not realistic. The amount of rock that would be taken out....I just don't think it's realistic to come back in later and look at the rest of the site.

FRY: You didn't understand what I meant. I meant that through reclamation, the wildlife order, based on your testimony, could shift so that it would have another area to move through because that area would be reclaimed with benches, and so on. So basically, in order to protect this area, this area should now be mined. What I'm wondering is, in your expert view, in the future, when more land is available for the movement of wildlife, would that change the basis for recommending a 3B or a portion that apparently impacts wildlife.

SCHNITZER: I'm not sure if I exactly follow you. What you're

stating is that if the reclamation on the upper benches increases wildlife uses of the site, should that designation be changed to what???

FRY: I'm saying that one of the basis for a 3B designation is the fact, apparently, that the wildlife corridor would be constructed to unrealistic tightness and that what I'm wondering is if the reclamation takes place, and the wildlife can move through what used to be the quarry area. Would there be enough wildlife moving through that old quarry area to cause us to rethink the 3B on the remaining site.

SCHNITZER: I'm not a wildlife biologist so maybe I can't answer that for you, but, its been my experience state-wide, wherever I've worked, growing up on a farm too, is wildlife acclimate to equipment. They don't acclimate to people and dirt bikes and dogs, but farm equipment and bulldozers. There is a site in Sweet Home where it's inside the City limits where dogs chase deer onto this property, it's a very large property. The deer have learned to run up to the bulldozer operator because they know the bulldozer operator will chase the dogs off.

FRY: I seem to have had the same experience myself.

TAPE ENDED: NEW TAPE

...achieving a program goal. There are three points I had question marks about. The simultaneous reclamation of the mining site while continuing the ongoing operation. I thought I

heard you say that that was not possible.

SCHNITZER: Mining from the bottom up. Start at the top down, it is. Angell Brothers is too steep. If you develop benches like the ones Angell Brothers has right now, you have that wide upper bench and they're going up the hill from there, there are still using that bench to bring rock down, to push equipment across. You cannot do a reclamation on that because it's inbetween the mine area and the process area. And if you start at the top and work down, there won't be anything in the way or any problems with doing the upper work.

UNKNOWN: Why wasn't it originally set up that way?

SCHNITZER: That's generally the way we encourage people to start. Sometimes it's due to property acquisition. Sometimes it's due to economic constraints. I can't tell you the reason in this situation.

UNKNOWN: In your opinion, can a Douglas Fir forest be established in that reclaimed area once it has been mined?

SCHNITZER: Yes, if enough overburden is replaced on the benches, yes.

UNKNOWN: You have seen that on other sites.

SCHNITZER: Yes.

FRY: The second was being able to support forest vegetation and you said yes. What about the minimumization of the area mined at any given time to reduce visual impact when working from the top down.

SCHNITZER: A technique that has been out now for 5 or 10 years that I think is real applicable to this site, I didn't bring it up in my testimony because I was trying to keep my testimony short, is artificial weathering of rock faces. It's been used quite a bit in Colorado, California and Arizona and up in Washington also. There are some in place at the entrance to Veneer Park. Where you come in and paint the rock to make it dark. You use iron and manganese salts. I know it sounds funny, but were getting ready to do some of that work up in the Columbia River Gorge Scenic Area. Where you can take a fresh cored face and spray the stuff on it with just a typical garden sprayer, this iron and magnesium salts and in a matter of week it will turn a dark color. I think that this quarry is a good place to use that.

KEIRAN: Madam Chair, Commissioners, Planning Commission people. My name is Paul Keiran and excuse my voice I'm just getting over from a two-day bug. My name is Paul Keiran and I'm the storm water engineer for DEQ. I work in the 6 County Northwest Region. I deal with a variety of quarry and mine operations in the Portland area, in the Clackamas River and DEQ is neutral in terms of the expansion proposal regarding Angell Brothers. What I'm about the mention and the implements that Angell Brothers has gone through in the past few months is dealing with existing quarry. Any expansion that would be

approved would require additional storm water review by the Department and additional approval of storm water treatment systems, if additional systems were needed for the expansion. I deal with water quality, basically keeping sediments out of water. It's been a fairly hot topic with respect to the Angell Brothers' site. They certainly have had problems there. They have been acknowledged. Since mid-December, a period of which Angell Brothers was cited by DEQ for having some fairly significant water quality violations, they have put into place the following best management practices for storm water run off. First of all the intermittent stream that was the middle stream that was shown in the slide before. Originally, the stream and the storm water treatment system were one in the same. In other words, the stream would come down off that waterfall area, go right through a series of five ponds and discharge off site. What Angell Brothers has done is they have separated, for the most part the stream from the storm water system. So now the stream itself flows free of the storm water system until the final sedimentation pond and Angell Brothers has indicated to me that this summer they plan to fully separate the intermittent stream from the storm water treatment pond system. What this does is fairly basic. If you reduce the amount of storm water you need to treat you have a better shot of

treating it. You are basically reducing the volume by leaving the intermittent stream out of the picture, you can then slow down the velocity of water in the ponds without worrying about the ponds being overwhelmed by a huge volume of water, meaning the stream water, mixing in with the storm water. When you slow down the velocity, you get better ??? characteristics and you get better treatment. So they have done that. They have dug a number of dry wells, three specifically on the processing floor of the site. What the dry wells do is they basically allow storm water to percolate down into the strata beneath the floor of the quarry and basically allows soil treatment of the storm water. Soil acts, even fractured rock can act as a fairly good treatment system for storm water. Basically running it down under the ground. They dug a number of sub surface drains into the same processing floor. These are basically shallow drains that run along the perimeter of the site and behind the crusher. Again, storm water will drain in through the drain rock and these drains go directly to the storm water ponds. So basically what you are doing is you're taking the storm water and putting underground quickly. You are conveying underground to the storm water ponds as opposed to having the water run sheet flow across the site and into the ponds. Obviously, the quicker you get it down under the ground away from any mud, truck

traffic or dust you have on site, the cleaner the water is going to be in the ponds, obviously you have less dirty water to treat. Much of the storm water from the upper pit floor, that is the active pit site, has been routed into the ground and also into a large sump northeast of the pit. This is water that originally came down the upper pit road and into the last storm water pond. It was a fairly significant amount of water. What it did was it upset the last treatment pond, in that a lot of water was rushing into the last pond which obviously was interrupting the ponds ability to treat the water. By rerouting they have again, removed a significant amount of storm water from the storm water treatment system. They have run it into a sump. It is basically a dead-end sump. It runs into the ground and it seems to be working fairly well. They have also employed the use of filter fabric on site. They've basically buried the intermittent stream, one side of the stream, to prevent any sheet flows that occur on the pit floor from running directly into the stream. They've done quite a bit. The system as it exists certainly employs many of the best management practices related to storm water on aggregate sites. In the few marginal storms that have occurred in the past several months, the system has shown to improve water quality. The problem is there has not been a big storm since many of these

implements have been put into place. I would have like to have seen a nice 3-inch storm in 24 hours so I can go out there and watch this thing work. It just hasn't happened. In my opinion, the situation as it exists now is heads and tails over what was existing back in December and January. Angell Brothers has gone the extra mile. They spent a lot of money and a lot of time working on storm water. They have been up front in acknowledging that they have had problems in the past. They have worked diligently in trying to correct the problems. Whether it has worked or not, I guess in a sense remains to be seen. It has worked for the small storms, it's the big storms we're worried about. It's the big storms that cause a lot of the big turbidity problems in Multnomah Channel and so that's the reality of the situation right now. DEQ has some concerns regarding some of the fine materials that are left on the slope between the upper pit and the rock crushing area. What happens is this fine material sort of gets hung up when the rock is mined and dumped over the side of the hill, the bigger pieces obviously fall because of their mass, the smaller ones are left behind. At the end of the season you get a fairly thick mat of fine material that is left on the hillside that is going to be a real problem in the winter because obviously when it rains that stuff gets washed down. It is a

difficult situation. Angell Brothers has indicated they are dealing with it. It's a creative situation in trying to get it down, whether you use cables or whether you use rock to push it down. I'm not really sure. They have indicated that they understand the problem and that they are working on it. There is another consideration that we have thrown around. It's a little bit extreme, but in the event that what they have done to date really doesn't work, if the stuff is so fine coming off site that they are really having some problems meeting their discharge requirements, there is the option of going to a clarifier, similar to a waste water clarifier in treatment plant. There you add chemical flocculants. Try to build a clarifier big enough to treat the water on-site. Basically batch treatment and discharge it. I've been made aware that that has been brought up and that it was not been an approved method at that time. I know that Angell Brothers is constricted in terms of the site or the size of the floor they have and where would they put a clarifier if indeed they needed to put one in there. It's a very tight area, so whether than happens or not remains to be seen. So in summary I guess I would say; they've had problems in the past, I can on board in October. It seems to have been a period of time where a lot of quarries were realizing what they needed to do in terms of storm water quality. Angell Brothers is

not the only one who has had to really get on the ball in terms of implementing storm water best management practices. But they've done a good job and the program is fairly new. A lot of sites I go on, operators are still in the dark about storm water treatment. It's still a non-issue, so education is half my job. So when I deal with quarries that realize they have a problem and deal with it in a logical manner, that's all we can ask for.

UNKNOWN:

I was surprised that the Howard Canyon, I actually did not know that they were in violation of DEQ requirements on this storm water, are responsible for East Multnomah County? Do you know anything about this? We heard testimony that you weren't showing up and you haven't been there for 7 years and I didn't quite understand that. That was a mistake, I think we made a mistake in understanding who was responsible for storm water run off in the creeks.

KEIRAN:

We handle all of Multnomah County. I've only been in the storm water program since October of 1993, so I can't speak for what happened prior to that point. A lot of my job is related to complaint response too. If there is a problem in a stream, and I get a call, I go right out. That's our number 1 priority.

UNKNOWN:

Have you ever gone out to Howard Canyon.

KEIRAN:

I've never gotten a call on Howard Canyon.

UNKNOWN: So you've never been out there and to your knowledge there's never been a complaint filed with DEQ.

KEIRAN: Not to my knowledge, no.

UNKNOWN: I guess, lastly, who invited you to the hearing tonight?

KEIRAN: Who invited me to the hearing? I was aware of the hearing. I have been coming to a number of hearings over the past months just to lend my two cents.

UNKNOWN: I appreciate your pro activeness. It's something we need more of.

KEIRAN: Well, it certainly hasn't been a boring job. It's been a very interactive, dynamic, exchange. Storm water is a real tricky beast. It's an art, not a science. It's something that, we've talked about before, it's something that the lowest totem pole operators or workers on a quarry site can give the best advice to the owner. He is the person up at the top of the hill. He sees a particular drainage that looks kind of quirky, and that is carrying a lot of sediment, he can relay the information down to other people and that's where it is right now. It's a lot of give and take. The only time that DEQ is in an enforcement mode is if there is real lethargic action on the part of an operator. If people don't want to do anything, we get real tough. If they are willing to work with us, even if they are not exacting doing a wonderful job, we

are willing to work with them on it. Because nobody has the answers. This is something that only has about in the last couple of years and it's a mad rush to learn about what it's all about.

UNKNOWN: That would be the same as if we asked you to go out and view the site too. Like in talking about Howard Canyon, we would say that we're concerned about the streams run off on those....

KEIRAN: Then I would be glad to go out there.

HUNT: Are you in charge of air quality too?

KEIRAN: No, just storm water quality.

HUNT: So it would go the Dogamee?

KEIRAN: No, it would be another DEQ person.

HUNT: Oh, a different department of DEQ. So DEQ is still in charge of air quality. And one other question, if an operator does not comply, what's the incentive to comply.

KEIRAN: Well, the possibility of a fine is always there.

HUNT: Are the fines steep? Is there a lot of incentive?

KEIRAN: There is a lot more incentive, not so much because of fine but because of public relations. Like an article in the paper will have a lot more weight than any kind of \$1,500 fine will in terms of a quarry's future. It's funny, my job, the fine is less of a pill than someone's neighbor tattletelling having it get in the paper.

DIACK: Would it be fair to say that no one knows the final resting place for the storm water that goes through these various corrective procedures.

KEIRAN: Exactly where it discharges?

DIACK: Where it winds up.

KEIRAN: It winds up in Multnomah Channel.

DIACK: Exclusively in Multnomah Channel?

KEIRAN: Exclusively in Multnomah Channel.

DIACK: And you can say that with assurity that none goes into Burlington Bottoms.

KEIRAN: It is my understanding that the only stream that could impact Burlington Bottoms is the Number 1 stream and I don't see any indication of any storm water being able to get into there from the active quarry site.

DIACK: If the expanded quarry is expanded to encompass that stream would you see the same sort of operations necessary in that area as are necessary.

KEIRAN: I'm not familiar enough with the expansion area to be able to answer that question. I'm told that it will not impact Burlington Bottoms. I don't know.

STEIN: Thank you very much for being here. Okay we're going to resume our standard testimony here. Are there any government representatives or people who have received notice who are proponents? Are there any neighborhood association or other represented groups who are proponents? Are there any interested individuals? Okay, we'll move the opponents. Are there any government representatives who are opponents?

HART: Madam Chair, Mr. Chair and Commissioners, thank you

for the opportunity to comment. My name is Jane Hart, I'm an environmental planner with Metro Parks and Greenspaces Department. I've provided copies of my testimony to each of the Commissioners. I'm making these comments on behalf of the authors, Ralph Thomas Rogers, who is a wetland biologist, and Charlie Ciecko who commented earlier this evening. I'm choosing two issue from a list of several that we've provided to you in writing. The issues are the concern for the protection of Burlington Bottom Wetland and the inconsistent and faulty reasoning used by the County for designating one segment of the North Angell Brother's creek significant and another not. I think Mr. Pemble's earlier comment provides the context for our comments. To paraphrase, I believe he said, "The County is recommending the Upper Segment of North Angell Brothers Creek and its associated downstream wetland to receive riparian protection, but the segment that connects will not. We do not believe the reconciliation report, as written, provides any protection for Burlington Bottom. We say this because the stream resources report points out, right up front, that it does not directly address the associated wetlands or the watershed outside the riparian zone. We believe this is seriously flawed for not identifying Burlington Bottom wetland as a part of the inventory of significant stream resources. Multnomah County Comprehensive

Plan ranks Burlington Bottom the third highest for wildlife habitat of all Goal 5 wetlands. Burlington Bottom is a 428 acre wildlife mitigation site owned by Bonneville Power Administration and provides habitat rare, threatened and endangered species. Burlington Bottom should have been considered as Goal 5 resource for equal weight as the other Goal 5 resources in the West Hills Goal 5 review process. Underscoring this point is the fact that LCDC's position in court has been that all Goal 5 resources in the impact area have to be considered together in the analysis. The entire decision making process has been skewed and a vital element omitted by not considering the economic, social, environmental and energy consequences of Burlington Bottom and the stream resources EC analysis. The only possible protection program for this state and federally acknowledged valuable natural resource is to prohibit mining activities in the watershed that drains into it which includes the watershed of the North Angell Brothers Creek. With respect to the North Angell Brothers Creek, we believe the declaration of the significance is inconsistent and understated. We disagree with the County's statement that the significance of the North Angell Brothers Creek is minor compared with the other streams in the West Hills area. This reasoning is apparently the basis for not protecting its lower segment. This reasoning if

faulty. The lower reach has inherent wildlife habit value and acts as an connection between two areas that the County has recognized as significant. The upper reach of the Angell Brothers Creek and the downstream wetlands of Burlington Bottom. Compromising any part of North Angell Brothers Creeks means to compromise all of its parts, especially downstream segments and receiving waters. The entire link of the North Angell Brothers Creek and those associated wetlands, i.e. Burlington Bottom, warrant the same protection allowed the other designated significant streams. A Portland hydrologist, John Rhodes, provided testimony back when the conditional use permit was opened up for expansion of the quarry and some of his predictions for the expansion would be that the sediment delivery to North Angell Brothers Creek would rise by 950% or approximately 430 tons per year. The average annual stream flow would increase by 130%. The present proposal is to have only half of the quarry expanded, but I had a conversation with Mr. Rhoades recently and he said even if the numbers in half that the magnitude would still be at the point where it would cause severe damage to Burlington Bottom. So in summary, we believe that absolutely no quarry activity should be allowed in the watershed of the North Angell Brothers Creek or the watersheds that drain into Burlington Bottom.

UNKNOWN: I think one of the criteria for Multnomah County, whether a stream is significant is if they are outfalls to where there is a park. Is there any parts on the Multnomah Channel?

HART: First of all, Burlington Bottom is owned by a public agency and its objectives are for recreational.

UNKNOWN: And isn't there one on Sauvie Island?

HART: There is Multnomah Channel and that itself is recreational resource that is used by the public.

STEIN: Are there any other government representatives?

UNKNOWN: There is testimony submitted to the secretary, one specific was the ?????? order on Howard Canyon. Is that going to be circulated amongst us so that we can read it tonight.

STEIN: We weren't planning on doing it tonight. Did you want it tonight? We don't have a way to make copies. Would like to take a look at it?

UNKNOWN: That goes back to the DEQ testimony and I need that information.

STEIN: Why don't we just pass it around and let everyone look at it. You will get copies later. Is there someone here, an opponent, who has received notice? Any neighborhood Association or other represented groups? Do you just want to line up and come on up.

KAGAN: Good evening, again. For the record, my name is Neil Kagan and now I'm representing Friends of Forest Park. Once again, in comments submitted to

the County last Friday I outlined what we want you to do and why and I have provided that again here tonight along with a one page summary of the specific action we would like you to take. I'll pass this in so that it can be included in the record. In short, what we want you to do is to reject the Planning Department's recommendation to designate the Angell Brothers site as a significant Goal 5 inventory resource site. We also want you to protect the wildlife habitat, North Angell Brothers stream and the Burlington Wetlands by prohibiting mining on the Angell Brothers site. I address the significance issue first. In this process you do have the opportunity to reassess whether the Angell Brothers site is significant. If you do, the record will show insufficient evidence to establish the site's quality and quantity and therefore significance. Just to review the record for you, you are being asked to make a determination of significance on the scantiest of data. The estimate that the remain in unused portion of the quarry contains 220,000,000 cubic yards is based on two shallow boreholes. An eminent, expert geologist, Marvin Beesome with Portland State University, has testified, this is in the record, that that data is insufficient to make a determination of significance. The last time this went to LCDC, it was assumed the site was significant. You have the opportunity now in

redoing the Goal 5 analysis to redetermine if in fact this site is significant. And we submit the evidence in the record that it does not establish that it is. I was also going to talk about the need to have more than 1/2 mile width to protect the significant wildlife habitat in the West Hills area but that has been discussed in detail on other occasions. I'd like to use the balance of my time to comment on some of the testimony from Mr. Schnitzer and Mr. Keiran. We have the undocumented, unsupported conclusion given to you by Mr. Schnitzer that it's perfectly feasible to reclaim this site for Douglas Fir forest of equal wildlife quality as exists now. There is absolutely nothing in the record to support that except what he said. He has not provided any credentials of being a wildlife biologist or of being a forester, someone who is qualified to make an evaluation of that kind. On the contrary, there is evidence in the record, from a forester, that no evidence has been provided that this site can be reclaimed. We also have the testimony from Mr. Keiran that he was told that none of the streams on this site would have any impact on Burlington Bottoms. He didn't say who told him that, but the fact is that the record shows that a qualified hydrologist has testified that there will be significant impact on the Burlington Bottoms as a result of the loading of sediment in one of the

streams that flows through the Angell Brother site. To wrap up I just want to reiterate that we want you to reject the staff's recommendation to deem this site significant for mineral and aggregate resources and we want you to prohibit mining on the whole site in order to protect the outstanding wildlife values that exist there. Once again, I would like to ask that the record be kept open for seven days so we can submit additional evidence.

STEIN: We will consider that at the end of the hearing.

UNKNOWN: I'm a little confused. The 3B issue significance is the quantity, quality argument. The 3B designation basically says that although this resource is significant that it cannot be mined because of its adverse impact that cannot be mitigated on other Goal 5 resources. So I wasn't quite clear on why you would argue against this being significant utilizing the basic arguments as to why it's 3B. Are you saying that this does not have any quantity or quality.

KAGAN: Yes, I'm saying the evidence does not establish that this site is significant. Therefore you never get to the 3B decision. In other words, if this is not a significant Goal 5 resource it is deserving of no special protection whatsoever under Goal 5.

UNKNOWN: Exactly, so that's basically your argument. That this portion site is not significant in quantity or quality.

KAGAN: Yes.

UNKNOWN: Neil, are you aware of the testimony we have in writing, one is from the Oregon Department of Fish and Wildlife, which does address the significance of the North Angell Brothers having 5 representatives from the State who are recommending that is not significant for Burlington Bottoms.

KAGAN: No I have not seen that.

UNKNOWN: That's May 19th, but here's one dated September 21, 1992 from Metro Forestry, who basically affirms to Angell Brothers that their reforestation efforts would be successful. I'm just pointing out that you said there wasn't any and that you might want to check the records. The Forestry one says that it would be able plant trees which affirms what the representative from the Geology Department said tonight and the letter of May 19, basically is a recommendation from the FW that the stream not be considered significant.

KAGAN: Significance, is determined by the County's criteria. I don't know if ODF&W has addressed what the County has established what

UNKNOWN: Yes, they that it does not go into Burlington Bottoms.

KAGAN: That is only one of the issues that determines significance.

UNKNOWN: But I'm just saying that you might want to...

KAGAN: Thank you and I was aware of the earlier letter. Perhaps what I should have said, there is no convincing evidence on the record that this site

can be reclaimed.

MATROZZO: Madam Chair, Commissioners. I'm Donna Matrozzo, representing the Sauvie Island Conservancy. I live at 19300 NW Sauvie Island Road. First I'd like to say that we feel the Planning Staff did a lot of good work in preparing the West Hills Reconciliation report and we commend the report for its protection of primary wildlife habitat. However, we have two major concerns with regard to resource protection, Angell Brothers quarry and scenic views. Angell Brothers quarry, we quite frankly found it outrageous that a couple of years ago the staff wanted to allow this entire proposed Angell Brothers expansion both the Planning Commission and the Board of Commissioners overwhelmingly said, No Expansion, and now here we are with half this expansion proposed again. You've heard testimony describing the devastating effect that such an expansion would have on Burlington Bottoms and we would just like to add to that any harm done to Burlington Bottoms and the wildlife at Burlington Bottoms has an effect on the wildlife of Sauvie Island as well. Smith and Bybee lakes the Bottoms and Sauvie Island wildlife areas are all interconnected parts of the Pacific Flyway. If you denigrate Burlington Bottoms, you have an effect on Sauvie Island wildlife. To answer Commissioner Hunt's questions, yes, there is State Park on Sauvie Island on the Multnomah Channel.

It's is Oregon State Park Wapato Access Greenway. Next, we feel that the Scenic Views Resource Protection Plan offers essentially no protection at all of the resource. First, there is no protection of scenic corridors. If you look at your map, you'll see that there are approximately 52 miles of key view corridor identified and 5 little pin point viewing sites. The 5 pin point viewing sites have some protection, but the 52 miles of corridors have nothing. Compare that to the City of Portland Scenic Resources Protection Plan in which all development and vegetation with a scenic corridor designation are subject to the same regulation as the key viewing sites. So if you say one of these pin points is a 1/2 mile then you see the Portland Plan actually protects 100% of scenic views while this proposal less than 5%. Number two, some key viewing corridors are totally excluded. All the higher scenic roads extending from Skyline Blvd. to Route 30 have been excluded totally, unlike comparable roads on the Portland side of the UGB that are all protected. We disagree with this designation and there is much public testimony on record regarding the significance of these scenic views. Number 3, Burlington is excluded from any protection. The report states that Burlington should be exempted because it is already developed. Burlington is developed to a pretty minimal degree. We think a standard should be established to

provided appropriate scenic compatibility and that new development would have to meet these standards. Then, the protection proposed is in language that is simply unenforceable. This verbiage was described to us as "the stuff that litigation is made of". There is no translation of concepts into enforceable standards. Here's an example, the exterior colors of structure should be natural or dark earth tone colors. How do you enforce that? Do you make painting a house a permitted activity?

So with what little concept of protection that is written here at all is again, no protection because it is not written is standards that are enforceable. So in closing we request that the proposed Angell Brother quarry expansion be denied and that the entire scenic views resource protection plan be rewritten. Protection should include viewing corridors, all connecting roads between Skyline and Route 30 be designated key viewing areas, standards should be established for development in Burlington and all protection should be written in language that describe standards that are enforceable. The City of Portland Scenic Resources Protection Plan is a good model. It adequately protects 100% of the designated scenic resource. This County plan inadequately protects less than 5%. We think the West Hills deserve much more. Any questions?

UNKNOWN:

My understanding is that Portland takes a single

point and then goes out as a triangle and a scenic resource. For example, the Willamette River is not protected as scenic resource, it's only protected from points. So I guess I'm not really clear on what you're saying Portland does. What you're saying is inconsistent with what I understand it to be and I was involved in writing those regulations.

MATRAZZO:

The advice that was given to me and the things that I read in the Portland Plan say just what I am describing, the scenic corridors are protected. And just the whole basis of this, that you have this map and you see 52 miles of scenic corridor, we have these discussion when we did the scenic views before. I talked about taking people out. I took a group out to Blue Heron, Smith and Bybee Lakes. We were out there the whole day. The mountains are there. You take people out bicycling all day. You take Portland Parks and Recreation people out. You take people out all day and their looking out there and what you're talking about is saying is, "we'll take these 5 little places and we'll protect the view that you have from these 5 little places and totally ignore the 52 miles where millions of people come every year and look up at the mountains.

UNKNOWN:

That is how Portland does it. Portland takes a single point a triangulates away from that point. It protects the area within that trianglization.

So I don't understand why what the County is doing is any different from what the City of Portland is doing?

MATRAZZO: Well, I have to say that that was not my understanding of the situation and then I would say that even if it was the situation, that key wildlife corridors should be protected.

WRENCH: My name is Chris Wrench and I am President of Friends of Forest Park and Friends of Forest Park was prepared to send out an emergency flyer getting a hundred folks here tonight, but we were so pleased with the protection of the wildlife corridor in the reconciliation report that we decided not to do that and spare you the testimony from the 160 people who wrote to the Governor who asked for the remand order extension. Unfortunately, the concern we have with the reconciliation report is that it doesn't protect Burlington Bottoms and you heard Paul Keiran tonight talking about how if the quarry did expand into the Burlington Bottoms watershed, the same protections would be needed that they are asking the quarry to put in now. The protections that they are asking the quarry to put in now are really very extensive and going to help a lot. But for years and years and years the quarry polluted wetlands and the Multnomah Channel. There is already some video on the records. These pictures were taken in February and I don't know how many of

the protective measures had been put into place by February, but is what had been going on for a long long time, in the way of sediment filled run off. In the first picture you can see the quarry at the top of the frame and turbid water from it standing in a small wetland. Sediment from the quarry is almost filled this wetland up. The second picture shows the turbid water moving through this wetland. The third picture shows sediment filled run off from the quarry flowing into Multnomah Channel. The picture is dark and you have to look at the contrast between the gray water and the dark blue water at the lower right. DEQ did issue a citation to the quarry owner because of this pollution. What worries us is what the expansion will do. ODF&W contracted with WNH Pacific to do a hydrology report on Burlington Bottoms. I talked to Jim Lenhart, the senior engineer who signed the report, and he said there would no doubt be heavy impact on Burlington Bottoms if the quarry expansion were allowed. However, it was a controversial subject, so this report stayed away from the whole issue of the quarry. I should have said, "Oh, why was that?". I'd like to enter into the record the report by John Rhoades, the hydrologist who studied for us the Burlington Bottoms hydrology. Clearly the job of preventing sediment laid in quarry water from entering priceless waterways and wetlands is a very heavy burden on our State agencies. It may be

too much for them in fact. Our recommendation is designate the entire expansion area 3B. Don't let the quarry expand. Thank you.

UNKNOWN: Could you tell me again, you say as a result of this particular incident, there was a citation for violation. Who issued that citation and to whom.

WRENCH: DEQ issued it to Angell Brothers quarry.

LEV: Madam Chair, Commissioners, my name is Esther Lev, I am here tonight for Rosemary Furvey who's the Board President of the Wetland Conservancy, a non-profit land trust. Rosemary unfortunately is in Poland giving a talk on water quality efforts in the Metro region here. Instead of reading this I will submit it and just give you some of the key points here. It is about the stream section of the West Hills Reconciliation Report. The Wetlands Conservancy is very happy to see Multnomah County taking these steps to protect these significant resources. We see this as an opportunity to do overall comprehensive watershed planning and we feel the way that it's been done that the resource itself was identified as the channel, the adjacent riparian areas, the impact area. It would really be better that the riparian area be included as part of the resource site and that the entire watershed is the impact area because we can see if you go out to any of these water sheds here that activities that occur several miles away from the stream can still have major impacts with

sedimentation, erosion and impacts on the stream quality. Secondly, Goal 5 requires you to identify significant and insignificant resources. That's all well and fine but when it comes to a stream it doesn't work that way. You can't take a part of the stream and just take a chunk out and say this is insignificant. A stream works as a whole and what happens in the head waters and all the way down along affects it until it enters into wherever it's going to enter. Other things that weren't addressed is that with logging activities. They are temporary. We wouldn't like to see much logging along these streams, but you can restore them. There is a lot opportunity and potential for restoration along these stream corridors. To identify something as insignificant just because it's been logged. Five years from now with some restoration efforts, that can have valuable habitat as well as water quality benefits. We feel that SCC zoning standards are weak in terms of saying if these water sheds are significant. So we would like to see stronger standards for whatever zoning is placed on these resources and the Wetland Conservancy would be happy to work with the County staff to develop some stricter standards that we feel would protect these water sheds and also identify potential restoration opportunities.

Thank you.

MATTEI:

Good evening again, Lyn Mattei with the Oregon

Natural Resources Council, 522 SW 5th, Ste. 1050, Portland, Oregon. We again want to commend the County for the major efforts you have made to comply with the Department of Land Conservation and Development remand order. We would like to reiterate our view that this order we think is complicated and unreasonable and punitive. We are pleased that the County's May 23, 1994 reconciliation report recommends protection of the major wildlife corridor which is part of Forest Park. We find however, that the report is lacking in the following areas. First of all we think that stream protection should be heightened and we would adopt Esther Lev's comments for the Wetland Conservancy as our own. The proposed stream protection in the West Hills should be stronger and we've already noted that as a minimum, the County could adopt the protection from the Clinton Forestry Plan or the rules from our own Forest Practices Act which will into effect in September and will have a little better buffer protection. We also are concerned about Burlington Bottoms. We are concerned that sedimentation from the run off and the expansion will adversely affect Burlington Bottoms is a very significant wetland. Those in Portland and in the region are very proud of this wetland. It was purchased by the Bonneville Power Administration and mitigated in order to mitigate for wildlife lost elsewhere. The wetland was given

to Multnomah County and it is my understanding that the County turned it over to Metro and entrusted Metro with its care. We are very concerned that Metro will not be able to carry out its duty to protect this wetland. If the County does not protect the upland impacts, that could harm it. There has been conflicting testimony on whether this wetland will be harmed or not. I would urge caution on the part of the Council and the Planning Commission. We need to find out what the effects might be and do something about it before some order is signed that could harm it and that you couldn't look at again until a periodic review 5 or 10 years from down the road. It's like reclamation, if the mine can be reclaimed, it's going to help the natural resources that are destroyed for the next 40 or 80 years along the way. Lastly, we are very concerned by some of the questions asked tonight. Particularly by the Planning Commission, which seem to infer that the Commission has believed that they must put aggregate resources on a higher priority than other Goal 5 resources. This assumption would be false and would in fact violate Goal 5 and the rules. We are also troubled that the LCDC has possibly helped to perpetrate this erroneous view because Steve Allman is paid by the Oregon Department of Transportation who is the biggest aggregate user in this State. In short, we do not feel that some of

the advice given to Multnomah County has been straightforward. We ask you to keep your eyes open and to make caution decisions.

SHERMAN:

John Sherman, Friends of Forest Park. I will try not to repeat anything. There are a lot good things in the reconciliation plan, some things we don't completely agree with. I want to call your attention specifically to which I think are some of the most important parts for wildlife which are the recommendations for an eventual SEC zone which you will be asked to enact or even construct based on these recommendations and they are in Section 6, pages 25 and 26, they are very important. One that I think is very important and innovative is the call for a 38-acre based zone which would go into effect and supersede any downsizing of the current forest zone. We all know that that is in tremendous flux. Right now the forest zone is what is going to hold that as habitat, Lord knows what's going to happen to that in the next few years. So I think it's important if the County values this resource to put something in place, saying no matter what the State does, we'll never make parcels smaller than this because we have a pretty good sense that we need this size to preserve this as forest habitat. The other thing I want to call your attention to is the quarry expansion itself. I'm in good company with the construction foreman, I guess we have something in common. The line was

drawn in Old Testament criteria, following the letter of the law. It's an half mile from this secondary habitat area and so you took a circle and scrolled it there. And it's a half mile from this secondary habitat area..well, if we're going to preserve this, I think instead of following the exact letter of the law, when all the biological reports said a half mile was the bare minimum that was needed that we ought to at least follow the spirit of the law. So, being a realist and knowing that everybody wants to compromise in this, and I'm not calling for it. If you do go for a compromise let's at least preserve the spirit of a half mile corridor and take this and essentially take it across like that and not play around with this silly little compass scroll here. I mean this is cutting it real close as it is. We've got the road here, we've got some residents, we've got the secondary habitat areas, and to be playing games, Lord knows if they are even enforceable, who's going to get out there and determine this line here. Let's just take the current line and continue it straight across, I don't think that there is a whole lot of quarry lost and what is potentially gained for the wildlife corridor makes a lot of sense. I'll pull this off and enter it into the record.

ROCHLIN: Arnold Rochlin representing the Forest Park Neighborhood Association. I'd like to address

briefly, one point that Commissioner Frye raised on the Portland scenic protection. Commissioner Frye, Portland has two different types of scenic protection. One is scenic views and one is scenic corridors. Both of you are right. There are many nice things in the report, but unfortunately with the very short time limit I'm going to go for the bad parts. My testimony is going to be on the streams. The report says; "This analysis does not directly address the watershed outside the riparian zone". It is impossible that development in the watershed, roads, driveways and whatever, would not impact the streams. We all know that. Why were the watersheds excluded. What was the scientific principle behind it. I quote again from the report, "The impact area was limited to the riparian zones along each stream in order to make the report manageable". I thank the authors for making it manageable. That is Section 3, page 45. That is not a legal reason. The Oregon Administrative Rule 66016005 on Goal 5 implementation absolutely requires you to consider all uses where they would impact the resource. This is not a choice. You can decide that the resource isn't important, but you must consider it if you know its there. For 5 years your staff has tried short-cuts and for 5 years they have failed. We will be in periodic review purgatory forever if you don't order them to stop the short-cuts and do

the complete analysis and not make the report manageable. The report wrongly assumes that the impact in the watershed would be small because development will only affect a small fraction of the watershed. Driveways and roads generally rise gradually along a cut into the hillside. The cut passes entirely through the permeable soil layers, severing the watershed. Water above the cut that would normally have seeped down the slope for weeks, feeding the streams, keeping them alive during the summer and water that would have been stored and prevented flooding in the winter is instead channeled directly into ditches and from there into the streams. That is why Balch Creek is near collapse, only a fraction of the watershed is developed. It used to run clear in the rain and now it's a muddy torrent. It had good summer flow and now it gets down to 5 gallons a minute which is about the same as a sprinkler on the end of a garden hose. Conflicting uses in the watershed must be regulated. For the narrow riparian strips that staff does consider, the staff proposes a variation of the SCC zone, which does next to nothing. SCC regulation 6404A say, "All uses permitted under the provision of the underlying zone are permitted on lands designated SEC. Your SEC zone gives complete and absolute priority to the uses allowed in the zone before it will protect a resource. With SEC type protection, now this is

the literal truth, you may find it hard to believe, you can mine coal in Balch Creek, if you do it nicely. Check MCC6420J. You'll need other permits, but it is allowed. We need a regulation that allows only acceptable development in the watersheds and that prevents development in streambeds and narrow riparian strips all together. On the quarry, they said mining will result in temporary adverse stream impacts including rerouting the stream channel and stream channel destruction. Ask Mr. Schnitzer, who testified earlier, and the staff, to give you one report describing any pit mine in the world, covering 100 acres or more that has been restored to good watershed function. Or any stream through such a pit mine that has ever been reclaimed as more than a storm sewer. Reclamation has been debated before these commissions for 5 years. If there was substantial evidence that the mine could be restored to good quality forest, good quality watershed and natural like streams, you would have it in front of you. Mr. Yoon you have that in front of you, that letter talks about reforestation of a very small area. Not reforestation of a completely destroyed watershed. You don't have reclamation on this scale. It does not exist, except for uses completely unlike the natural uses that preexisted. Such reclamation is a fantasy, a pacifier, not a fact. The middle Angell Brothers

Stream was arbitrarily designated, it is not significant because the contract didn't walk it. That's in the report, that's the reason given. You issued a mandate to study that stream, you paid for it. On what authority do they write it off because they didn't walk it. If there was an access problem, if the Angell Brothers wouldn't let them on the site, Regulation 1105100F gives authority to enter private land on planning commission business. Each section of the report has a part that purports to answer public comments. With some exceptions, staff misstates and trivializes my comments and evades their substance. The staff should be apprising you of the evidence and advising you of reasonable conclusions. Instead staff acts as an advocate for a result, selecting information not to inform, but to carry an argument. I've handed out for your later consideration, responses to the non-responses of staff. I conclude and I get out of your way, thank you.

BALANT:

I'm Jody Balant I live at 14956 NW Mill Road, which is directly below the Angell Brothers site. I'm here to speak on behalf of Friends of Retaining Channel Environment, which is a citizens non-profit group interested in preserving the unique scenic and natural features of Multnomah channel and surrounding areas. We would like to respond to the ESEE analysis in particular with regards to scenic values and the Angell Brothers site. We

would like to oppose recommendations to expand mining operations and our opposition is based on the following: scenic degradation of the West Hills, Multnomah County recently designated the East face of the Tualatin Hills as a scenic resource doubling the size of the Angell Brothers site will cause a scenic blight in one of the most scenic and prominent areas of the West Hills. It is visible from Sauvie Island, Highway 30 Washington State, almost the entire area around. In addition we would like to agree with the Multnomah staff report from November 1992. At that time the county concurred that proper reclamation plan would not be feasible for a extended operation, and for that reason it was denied. I would like to give you a few quotes:

1. The proposed Angell Brothers reclamation plan would not "allow the property to be used as envisioned by the comprehensive plan and the underlying district".
2. The County was unconvinced that despite the applicants evidence the site could be successfully reclaimed for forestry use.
3. "The applicant did not show that its reclamation plan includes a time table for continually reclaiming the land." As is required, "the applicant claimed it was impossible to develop such a time table".

4. "The applicant did not show that the reclaimed surfaces would blend into the natural land forms of the immediately surrounding terrain". For these reasons we believe that the expansion of the Angell Brothers site would compromise the scenic quality of the West Hills. In addition, we have concerns about the environmental impacts, we agree with much of what has been said about Burlington Bottoms. Again, quoting from the November 1992 findings, "The applicant did not show that sedimentation erosion would comply with DEQ standards" and the applicant provided no proof that it would comply with those standards. I think that we've heard from DEQ tonight that they are not even sure that the present operations comply with their own standards. Secondly, the County found that that the applicant, "will not meet the standards established in the existing wastewater permit. Discharges of turbid water into Multnomah Channel which already occur commonly are likely to increase in frequency and magnitude." These are all quotes from Multnomah County. We disagree again that the degradation of the North Angell Brothers Creek would have minimal impact on significant wetlands. I'm going to introduce some testimony a little bit later under the individuals about that particular point, so I won't belabor it here. Thank you.

STEIN:

Any more people here who are to testify as a representative of a neighborhood association or

Multnomah channel and Burlington bottoms originating from the quarry is a serious threat to the integrity of this very valuable wild life resource. We support the comments of Sauvie Island Conservancy and METRO in regards to this issue. Portland Audubons opposes quarry expansion and we also request that the comment period remain open for at least the next seven days as we're in the process of preparing more detailed comments. Thank you for the opportunity to comment.

STEIN:

Anyone else here who is here to as a representative of a neighborhood association, or representing a group? We are going to move on to anyone else who wishes to testify on the West Hills. Please line up and then come up.

HOAVE:

My name is Gordon Hoave, I live at 15729 NW Sheltered Nook Road, it in the West Hills area. I have been there twenty seven years. My philosophy is a little bit different than all the rest of the testimony. It is basically this, as a property owner for that long every time I come to a public meeting, starting in about 73, I don't care who does it they always say it was the other guy who did it. It usually ends up that the property owner has been losing. He has been losing quite a bit, in 73' I went from 5 acres per household to 19, now I'm at 80. I don't agree with this staff that says if you are going to protect the wild life area the minimum should be 38, 19 should be fine. The point

other represented group?

CARLEY:

Madam Chair and Commissioners again I am Ron Carley representing Portland Audabon Society. And in the interest of avoiding redundancy I will try to keep my comments brief. Much of what has been said Audabon agrees with. The Country staff identifies important scenic corridors but apparently does not use them in the EC analysis or in policy recommendations. The language in the policy recommendations specifically on Section 6, pages 17-18 is so broad that ultimately no protection will be provided scenic views. Phrases such as, "vegetation should be retained where ever possible or reduce grading to maximum extent practible" are too subjective. They should be quantifiable and objective. For example, 75% trees that act as a scenic buffer must be retained, which is very specific. The impact area for the stream study should be the entire water shed, not just the riparian corridor. We heard continual reassurances and a commitment to water shed based planning from the county. We are please to see the fine work done to afford protection to the contiguous band of forested habitat through the Tualatin Mountains particularly close to the Angell Brothers quarry and support the proposed limit on quarry activity in this critical region. We are deeply concerned about the potential impacts of quarry expansion proposed to the north. Sedimentation into the

is this wild life corridor sort of scares me. It is going to cost somebody some money, now are you going to buy it or are you just going to take it. Because that is what's happening to the land use planning in the State of Oregon for twenty years. Is if you can't figure out what else to do, you change the rules and the land owner is normally the one that is left holding the bag. He is out. To be truthfully with you at my age I'm getting a little bit disturbed, I don't care what group it is, whether it is LCDC, planning commission, but when you put it all together the property owner is the loser and the somewhere along the line that trend for the last twenty years has to change. I don't agree with the wild life corridors are more important than people. The deer and elk they have four legs and if they don't like it there they can walk over the hill to Vernonia. But the people that live in houses don't have that way of life, they have to commute to say downtown Portland everyday. They earn a living, they pay their taxes and so forth. So building a home and having a reasonable cost for the land in a reasonable commuting distance, that's important. It costs money if you have to drive thirty versus, you can come up to my place fifteen miles from downtown Portland. Now why are you precluding, with all of this planning, that people cannot build a house. I do not understand it, it does not make economic

sense and it never will. Thank you.

TANE:

My name is Seth Tane, I live at 1700 NW Newberry Road. I had the good fortune to be on the citizens advisory committee for this West Hills rural area plan. I also am on the board of the Linton neighborhood association thou I am not speaking for them tonight. I am also a member of the Linton neighborhood land use planning committee. Listening to all this testimony, a couple of things have come to mind, the first is: I haven't seen any evidence anywhere that the quarry has run out of rock at this point, and I would submit to you that there no reason to rush to this judgment. I would also submit to you that the resources other than the aggregate resource, the wild life, the scenic views, the stream qualities are irreplaceable and are in an area that there will be no substitute for. I would recommend to you that a careful consideration of the fact that much of the "science" that has been supplied to the members of the commission and the county staff under a very rushed time table because you had a remand order to comply with are just that, the rushed results to comply with a particular deadline. I think the goal was valiant. I think that the work that was is worthy of applause but it is incomplete and everyone here knows that that work could be much more complete. What we have seen is initial base line studies. I don't think anyone feels that

looking back at this all in hindsight five years or ten years from now is going to be a more difficult situation than what we have right now. And what I would ask you all to do is to look for some way in which this work can be expanded upon. I would urge you to deny the application for any expansion whatsoever, because there is no need for any expansion at this time. I have seen no evidence whatsoever that one-half mile is an adequate protection for the wild life. This is a fall back position, and I think everyone here knows that. I live on the southern border of this impact area right in the way of the Forest Park Wild Life Corridor connection. I can assure you that this is a very live connection, there is no question whatsoever that further narrowing a very tenuous thread is a mistake. It is irreplaceable, we will not be able to go back ten years from now and say "oops we blew it". Lets fill in the quarry. Lets stop now, lets not go back and have to use hindsight and say well the experts told us thus and such. The experts told us Hanford was safe, the experts told us lots of things. Lets pause a moment, this is a resource we cannot afford to lose. I think it is also important to realize that we are not making judgments for the entire state. We are looking at a very small narrow area. And it is irreplaceable. Thank you

SHEPARD: Madam Chair, commissioners, I am Richard Shepard,

2404 SW 22nd, Troutdale. I am a consulting ecologist who has been supplying technical expertise to Angell Brothers. There are a number of serious technical deficiencies in the West Hills Reconciliation Report. Specifically there is a lack of data for several conclusions, a lack of logic in deriving conclusions from earlier reports and inconsistent assumptions used to compare potential impacts on the resources. We cannot accept the conclusions regarding the amount and placement of the quarry expansion area. Resolution of these includes moving the expansion area further up the hill or to the south. This could maintain the visual buffer in the northern channel by not mining that area. One of the data and logical shortcoming that a half-mile wide forested swath near the quarry cannot be technically supported. Two reasons: First, in a 1992 letter to Angell Brothers, Ester Love suggested a much smaller conservation easement. Second, there is no forested buffer in the area because of the residential development which has occurred in the past few years. Third, there is no forested region west of the quarry which would meet wildlife habitat requirements as mentioned in the report. Another shortcoming is the idea of low quality habitat bottleneck. First, the reconciliation report acknowledges that the West Hills not a migratory corridor, therefore, there cannot be a

bottleneck to movement. Second, if there truly is habitat degradation because of logging, the report assumes that a decade is sufficient time to restore whatever forest habitat quality was lost when the trees were cut. Mining operations could be scheduled so that the areas nearest the property boundary would not be disturbed for seven years. This would provide the ten year growth period which the Reconciliation Report says is adequate. Such a schedule could be reasonably accommodate. There are just not enough data to support the imposition of restrictions on the size or placement of the expansion area. We are very will to discuss both present and future wild life habitat needs with the county. However, these needs would have to refer to particular animal species and for defined functions during their life cycle. We strongly endorse recreation of wild life habitat during post mining reclamation. That is why it is discussed in detail in the program proposed to Del Gammy. How animals or their habitat is helped by prohibiting mining is neither explained nor justified in the Reconciliation Report or any of the documents that preceded it. Unfortunately neither identified species or their life history requirements have been related to proposed restrictions on the expansion of the quarry. Quarrying rock is compatible with forestry, wild life and streams when the operations and reclamation are based on an

understanding of the specific site and the dynamics of ecosystems. Angell Brothers has proposed expansion based on sound engineering, geologic, ecologic and biologic principles and we would welcome the opportunity to work with you and your staff to resolve concerns and increase your confidence that existing and future operations are performed with sensitivity and care. Thank you for the opportunity to address you.

BELLANT:

Hi, I am Jodeanne Bellant, again at 14956 NW Mill. I'm here to speak on behalf of my neighborhood. I'm a houseboat person, who lives directly below the Angell Brothers site, and my neighbors requested that I come tonight and speak a bit about dust and noise, traffic problems. I will let you read that. What I would like to focus on is the effects of the quarry operations on wetlands. Our property is a U-shape, and there are wetlands on both ends of the U, and in the middle in an area that was placed on fill. It is the Burlington wrecking yard. The current Angell Brothers run off, runs off the site and into our up river wetlands. When I moved to the moorage thirteen years ago, the two wetland the up-river and down-river separated by the wrecking yard were essentially equal, they had standing water much of the year. The up river wetlands receives the water and silt run off from current operations. Which is currently not a wetlands anymore, its for the most

part filled. And there is not standing water for most of the year. What has happened is the carry capacity of the land has been exceeded and that's why we are having such silt runoffs into Multnomah Channel. The DEQ is primarily concerned with water quality and one the mitigations that was offered as a possible was to damn up that creek. Which would place more silt into the wetland, so that to protect water quality we are diminishing wetland by putting the silt on the land. So I just wanted to bring that up in essence, it is a very complex problem, but when you are eroding that much soil to get down upwards of 70 feet to get down to the rock and you are doing this in the watershed that feeds Burlington Bottoms, that silt is going to end up eventually in Burlington Bottoms, and when the carrying capacity of Burlington Bottoms is exceeded it will end up in the Channel. Come down to our site and take a look, it is very obvious what the affects are. I would like that entered into the record along with the comments from our neighborhood.

ADAMS: Good evening I'm Jean Adams and I live at 13014 NW Marina Way. I would like to introduce a three minute video for Jack Saunders who could not be here this evening.

STEIN: Did you want us to see that right now?

ADAMS: If you can, yes. Video is showing.

STEIN: Are there any other people who wish to testify?

ANDERSON: I'm Skip Anderson, President of Angell Brothers, my business address is 83449, Portland, 97283. It seems that nobody is completely happy with this staff report, and you can include myself. The attempts by the planning staff to balance various Goal 5 resources in the West Hills creates more problems than it resolves. Since mining began in the mid-50's the mining plan has been have a narrow entrance to the quarry and expand behind the large buff that had been preserved for 25 years. Now the staff is proposing that we mine the lower part of the quarry, including these buffers we've been trying to save. The consequences of this is that the quarry will be much more visible from Sauvie Island. The rationale for this recommendation by the staff, to mine the part of the quarry adjacent to Hwy. 30 is that an imaginary wildlife habitat connection can be preserved. Shepherd touched on a letter we have from 1992. Let me reiterate part of what she says. Her recommendation was that 200 meter or 625 foot wide conservation easement be provided at the south end of the quarry. Her recommendation to leave this 200 meter conservation easement at the top of the quarry is something that would work. It would allow us to move the expansion area, as the staff as suggested, to the south. It would preserve the buff areas adjacent to Hwy. 30. It would keep the North Angell Brothers Stream intact, unlogged and unmined. It

would preserve the 200 meter conservation easement that she wrote about. I might add that the conservation easement would be much wider than 200 meters except for a short period of time where we're mining the upper most part of the quarry. Once this phase is mined and reclaimed, the conservation easement will again be much wider than 200 meters. And will continue to get wider as you mine down the hillside to the north. In any case, it will never be narrower than the 200 meters that she recommended would be adequate. Mining will be conducted in phases which is the least obtrusive way to mine and the fastest way to accommodate wildlife. Once the phase has been mined and reclaimed, it could also be donated as a conservation easement. By mining in phases, the conservation easements will continue to get larger which will ensure the wildlife will be protected for the future. In conclusion, I believe that this approach to mining and our willingness to convert the entire property to conservation easements makes this a win/win situation for wildlife, for the County, for the people on Sauvie Island and Angell Brothers. END OF TAPE.

HUNT?:the request that you are requesting versus what staff has requested before forwarded...could you get a map to us showing the different overlays and what you're recommending?

ANDERSON: Yes, we can get a map to you. It's on that map

that you've got in front of you showing Newberry Road, the residences on Newberry. You have about a 1/2 mile now.

HUNT: Right, but if I could visualize, like they did with the other maps.

ANDERSON: Would you like me to show you on the map the County has over here.

HUNT: Okay, I'm curious to see.

ANDERSON: Under the staff recommendation, they recommended that we mine this lower part adjacent to Hwy. 30, the north part. What we need to do is slide this thing up some. Preserve this buffer down here because it hasn't been logged. Let's just move this up, save part of this buffer, maybe not all of it, but save part of this buffer and move this whole thing up a little bit. Still leave the 200 meters, 625 foot wildlife easement up there in the top. Once this is mined and reclaimed, the this wildlife easement will get bigger as it goes down and eventually encompasses the whole thing. Does that answer your question?

HUNT: Now I have another question. The original application was in 1958 and how much rock is left? I guess the reasons I have to ask these questions is because I have a couple questions for Mr. Oulman in the end. How many years do you consider you have left on the existing site? The prior site, I know LCDC is asking us to decide all of this stuff, but I noticed in the Howard Canyon report there was

a point somewhere where it talks about these Goal 5 resources can change. We can continue to weigh the Goal 5 resources. To me it is imperative that I get an idea as to a time frame so that I know that something could be reclaimed before something else is developed.

ANDERSON: So you're asking me what the life of the mine might be.

HUNT: Of the current mine and of the one that you started in 1958. Of the recent conditional use approval and the prior one.

ANDERSON: The best I can do is go back over a number of years, get some averages, and make a projection. If there are changes five years from now I don't want saying, "Hey, your projections were off by 2%". In 114 acres of which is permitted to mine now, is about 35 acres that has been unmined. These calculations are probably not going to be precise or they're not going to be the same as projections you have heard before and the reason being, it's real easy to block it off, an engineer can do this in five minutes and give you yardage over a certain number of acres. But you have to figure in the benches, the reclamation, the buffer zones. So you use about 40% of your useable rock and benches. So you take the total, take 60% of that, leaves about 16,800,000 cubic yards to mine in the area we now have permitted. To decide how long that will last. I took an average, base year

1992 and the amount of cubic yards we sold in 1992. The previous 10 years we have grown at an average of 8% a year, project 1992 through the next 10 years at an 8% growth rate. The material we have and original 114 acres will be depleted in 2,003, 11 years. The first permitted area has been mined out already.

HUNT: The original site has been mined out already. Now you are working on the recent expansion. And that will be mined until when?

ANDERSON: 2003, at an 8% per year growth factor that was our average the last 10 years.

HUNT: The original site that was mined has not been reclaimed yet as I understand it.

ANDERSON: Exactly, now you want to know why.

HUNT: It's difficult for me to see this continuing on when the past hasn't been corrected.

ANDERSON: Let me explain that to you. Frank Schnitzer tried, but he didn't do a very good job. It's difficult to understand. What's happened, is that originally it was 33 acres permitted. When that 33 acres was out the County granted another 40 acres. What they are doing is expanding out. Whatever we would have reclaimed in the first 33 acres would have been consumed in the next 40 acres. What we would have reclaimed in that 40 acres would be consumed in the last 42 acres that was permitted 2 to 3 years ago. What we've been trying to do since it started this whole problem is define the outer limits of the

quarry so we know where the outer limits are so you're going to expand back behind them, start on top and work down, so you can reclaim every year and be done with it.

HUNT: But you are the one who applied for the original permit.

ANDERSON: But at that time, if you would have said, "Okay, this is the outer limits of the quarry". Don't just give me 40 acres, because 40 acres will just last 5 or 6 years. You need a longer term plan than that. You need to know where the quarry is going to go and the end of it, the very outer limits of the quarry. Define the outer limits, from the top down and the wildlife corridor will be getting wider as it goes down.

HUNT: Okay, as a Planning Commissioner, my problem with looking at another expansion is I'd like to see one permit taken care of and reclaimed before you continue on with another one. What do you say to me so that I can understand why that shouldn't happen.

ANDERSON: I would say it is an engineering impossibility. For example, you have a 12 x 12 room, you reclaim 3 sides of it. They all of a sudden you decide you want to expand. Now you have to make a 16 by 16 foot room. Everything you have done on those 12 foot is gone.

HUNT: Yes, I know, but we're talking about 113 acres. We're not talking a 12 x 12 foot room. I can't

imagine that you can't reclaim part of 113 acres.

ANDERSON:

You can reclaim the sides once you establish the outer sides. You never can reclaim the back parts you keep on expanding into, until you decide where the back part is going to end up. It's hard to explain, but that's the way it works.

MCARDLE:

My name is Donis McArdle, the address is 17405 NW Skyline. The protection and/or the conservation overlays all have a price and I don't believe that that has been properly addressed. I will use the City of Portland as an example. The City has two overlays for which I am very familiar, the EC and EP. Those overlays affect what one can and cannot do on their property and they affect everyone whether they have a house on it or whether they do not have a house on it. If an owner with an overlay wants to replace a deck, add a room, add a shop, the owner must apply for a permit. That overlay requires an additional application. The cost of that application is approximately \$800, plus the fees of the consultant, the engineer and/or for the plans for mitigation with no certainty that that applicant would prevail. Each overlay, protection, restriction, conservation, has a price tag. All properties which is subject to governmental restrictions making it necessary for an applicant to get a variance or go through a special studies, will be discounted by the market. This discount will reflect the expense, time, risk

inconvenience and other problems involved in obtaining the government's authorization. It also has a monitoring affect on every citizen of the County. For example, Cox vs. the Department of Revenue and Multnomah County. The lot owner, Mr. Cox, went the City for a building permit. Only to find, without notice, the City had placed the EP overlay on all but an 18 foot strip of his property and strip had the EC overlay. The 1991 assessed value was \$49,500 on that lot with taxes of \$1,658.50. The judge found that the lot had no value based on the development, but a \$2,000 value based on speculation is someone wanted to buy it. The County's loss of tax revenues in this case alone for 1991/92/93 total \$3,817.70. The revenue taxes would have been \$4,113.50 based on the \$49,500 assessment, if this assessment had stayed the same for 1991/92/93. The County actually collected \$295.80 total based on the \$2,000 assessed value ordered by the Court. To this \$3,817.70 loss you must also add the County Court costs, Attorney fees and Appraiser fees. Plus the plaintiff was awarded all of his costs and disbursements. These lost revenues as well as the related costs must be made up somewhere. This property owner has set an example for others to follow and they undoubtedly will. Each of the proposed restrictions will each have a price tag which will have a diminishing value on the property

owner. I don't believe that the County can afford this. If you don't stop somewhere we're going to protect ourselves right out of existence. Unfortunately, I came from work and rest of my file needs to be issued and I will do so. Thank you.

WAGNER:

My name is Art Wagner and I'm a resident of 12941 Newberry Road. I sympathize with Skip and his quarry situation but I'm also a citizen and I see things that you must know about. You've got a real tough job making this kind of decision with the evidence you've been presented, it cannot really be done. But you've got time. Skip can win this battle, you can win it, the residents can win it and the wildlife can win it. The decision to expand the quarry doesn't have to be made by September. This review process is going to take place again in 1997 and he's not going to run out of rock by then and that will protect everybody's interest.

STEIN:

Is there anyone else who wishes to testify? Is there any party who requests time to respond to new evidence in support of either the reconciliation reports? And if you wish for us to continue or open the record, I'd like to hear what specific evidence you need to respond to.

KAGAN:

I'm not asking for a continuance, I'm asking that you hold the record open for 7 days and I don't wish to identify at this time, what it is I wish to respond to. I assert that I have right to this

continuance, unconditionally, under ORS 1977636.

STEIN: You're asking to leave the record open, right? Not for additional time. Is there anybody else who is going to want to submit additional testimony?

KAGAN: I just wanted to reiterate. I earlier made requests for both Friends of Howard Canyon and Friends of Forest Park and I agree with Mr. Rockland.

STEIN: What we'll do is we will leave the record open to accept written responses until June 20th at 4:30 p.m. so you may submit that additional record. Delivered to the Planning Office.

UNKNOWN: I would just like to reiterate for the record too, that at our briefing we had requested a couple of things.

1. That a program to achieve the Goal for the Angell Brothers West Hills be given to us just like they had done for Howard Canyon.
2. That we be given, from the 5 view sites, on the West Hills that we be given overviews on that that show the impacted expanded 3C area.

PEMBLE: Let's walk through your checklist again so I'm clear.

UNKNOWN: The first thing was that in our briefing you gave us a one page, on page 18, it was a program to achieve the Goal for Howard Canyon and we had requested the same thing for the Angell Brothers/West Hills summary. We don't have one for the Angell Brothers/West Hills that actually lays

out a program. The second thing was that from the 5 designated key viewing areas that we be given overviews that show the proposed expanded 3C area overlay of the Angell Brothers quarry site be given to us too.

PEMBLE: That's scenic views, you want something more than what we have here this evening.

UNKNOWN: Are you telling me from on that map over these that from these 5 viewing points, if we're looking at the new expanded 3C area, what we will see if that is fully mined.

PEMBLE: You're changing the parameters on me again. If you're talking about taking it down to ground zero and looking at it, what areas would be impacted.

UNKNOWN: What is missing on this report on the scenic part is in fact if you are essentially going to let them mine that new expanded area, how it's going to affect the five view areas.

PEMBLE: Which assumptions do you wish us to use. That they retain the existing hills that block the view from Hwy. 30, that they bring that down to ground zero, do they bench?

UNKNOWN: Whatever you think will convince me that it's fine.

2ND UNKNOWN: If under the expansion they are allowed to take out the burm, then I guess that should be part of the overlay.

PEMBLE: We don't know what the decision is going to be on the expansion of the site.

2ND UNKNOWN: But is that not the recommended.

PEMBLE: We have not given you a specific strategy for how to mitigate against the visual impact because it can be done in any number of ways. It depends on your conclusions about wildlife, streams and the aggregate site itself. So we haven't given you a specific strategy and that's what I'm trying to get to. Is if you have some ideas that you wanted tested out we'll try to map them. If you don't, we're kind of shooting in the air about...

2ND UNKNOWN: Let's assume worst case scenario as we can now see the existing quarry.

PEMBLE: Okay, we'll map that.

KUNKEL: Could we get an overlay as far as scenic. Skip Anderson testified that he had a plan that might make it less obtrusive. Could be see something that uses his proposed plan versus something

PEMBLE: I think that what you just asked for is Skip was talking about, and that was that you would leave the knolls that exist now, in place and that would provide us clean for the area to be mined behind. So I think that's what you just asked for.

FRY: This process is really short in terms of time and it's getting real late and my primary concern is I did write a fairly long memorandum not expressing bias to one decision or another. But in relationship to the reconciliation report, and I did raise stacks of questions in the last couple of weeks. I'm wondering, when is the opportunity for

us to write this report if it is going to be product of the Board of County Commissioners and the Planning Commission is theoretically in an advisory position to the Board. Is there going to be a period here, after the decision is made in concept, that we will have an opportunity to address the specifics as to the report that gets transmitted to LCDC. Or is that totally out of our hands and therefore it can...

PEMBLE: The process for considering the report. You will convene as a planning commission on the 21st of June. You will begin your deliberations. You'll staff instruction about additional work that you want done. You will have a second meeting and we'll bring back that additional work. At that second meeting you'll say, "We got it right or we don't have it right". You will conclude your business at some point, be it at the second meeting or the third meeting. At the close of that meeting you will recommend to the Board of County Commissioners, a proposal on both Reconciliation Reports. The Board will then begin their process. Their process may entail a hearing, it may not.

FRY: Okay, that's great.

UNKNOWN: There was a letter submitted by a Richard Brenner and he thought that this shouldn't be a quasi-judicial hearing. What is Multnomah County's council response to that?

PEMBLE: At the briefing we had on June 7th, John DuBay

provided a rather extensive explanation about why Multnomah County is classifying this a quasi-judicial case. Do you want him to repeat that now?

UNKNOWN: No. What I'm asking is even with that letter, you still haven't changed your position.

PEMBLE: That's correct.

UNKNOWN 1: In the process of deliberation, just like I can ask staff questions, if I give a written question to you to ask to them for you to respond back to me. Is that okay?

UNKNOWN 2: COULD NOT HEAR VOICE

UNKNOWN 3: Also, just for the record, you have in your hand, the rata sheets for the West Hills Reconciliation Report. That rata sheet should be dated June 13, 1994. It does not have a date on it now.

OULMAN: Steve Oulman, DLCD in Salem.

UNKNOWN 1: Since we're trying to find a balance between these final 3 items on the West Hills. Can the County, in its balancing act, require that parts of the area be reclaimed or other areas are allowed to be mined. We're under this gun to fulfill a remand order by a certain date and yet that rock is going to be there indefinitely, until it's mined. As long as we protect the source. Isn't there a way that we can continue this process without having to have all the answers by September?

OULMAN: I'm not sure what specific question your asking?

UNKNOWN 1: I guess, if we're going to protect the scenic resource at all, we're going to have to find a

balance somewhere. From the testimony tonight, the other areas can't be reclaimed until they expand into the third site.

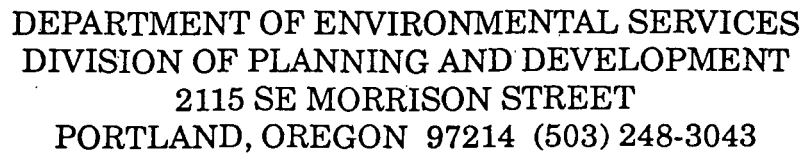
OULMAN: My suggestion is that you get some discussion going with the Department of Geology and other interested and affected people to see what is possible. I think at this point we're probably just guessing and we need to have a sit down.

UNKNOWN 1: Exactly, but I can't talk to anyone else now.

OULMAN: As I've said to the staff, if there's some closure that looks acceptable to all parties, the Department included, I'll make a pitch to our Commission personally, for a time extension. I'm willing to go to the mat if we've got everybody on board in some sort of mediation or whatever you call it. I'll support the County for that. Otherwise, it's the County's deadline that it set for itself.

UNKNOWN 1: I think everybody wants to resolve it, but you want to make the right decision.

STEIN: We're adjourned. Thank you very much everyone for your patience tonight.



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1. Name: Kagan, S., Neil CASH 800.00
8888 881 7/ 8/9
1045 SHARDN11:24A
2. Address: 522 SW 5th, Suite 1050, Portland, OR 97204
Last Middle First
3. Telephone: (503) 223 - 4272
Street or Box City State and Zip Code
4. If serving as a representative of other persons, list their names and addresses:
Friends of Howard Canyon, which includes among its members
Glenda Hagan, 37841 SE Howard Canyon Rd, Corbett, OR 97019,
Lynn & Bob Keys, 37746 SE Rickert Rd, Corbett, OR 97019,
Victor Meyers, 651 SE Littlepage Rd, Corbett, OR 97019,
Cynthia Wiancko, PO Box 246, Corbett, OR 97019
5. What is the decision you wish reviewed (e.g., denial of a zone change, approval of a subdivision, etc.)? Planning Commission Resolution C2-94a, recommending adoption of the Howard Canyon Reconciliation Report & addenda, and preparation of plan and code amendments, as part of periodic review.
6. The decision was announced by the Planning Commission on June 27, 1994
7. On what grounds do you claim status as a party [REDACTED]
Friends of Howard Canyon appeared as a party at the joint hearing on June 13, 1994, and at that time submitted written and oral testimony against the Howard Canyon Reconciliation Report. In addition, individual members of FOHC are adversely impacted by mineral extraction from Howard Canyon, because they live within sight or sound of the site, or travel the same roads serving the site. In addition, the individual members of FOHC named in #4, above, are persons entitled to mailed notice under MCC 11.05.260(B) and received notice of the joint hearing.

8. Grounds for Reversal of Decision (use additional sheets if necessary):

The Planning Commission violated LCDC's Statewide Planning Goal 5 and Goal 5 rule, OAR Chapter 660, Division 16, by basing its recommendations on a defective description of impact areas, identification of conflicting uses, and ESEE analysis, as detailed in the attached letter of June 10, 1994, to R. Scott Pemble.

9. Scope of Review (Check One):

(a) ☒ On the Record

(b) ☐ On the Record plus Additional Testimony and Evidence

(c) ☐ De Novo (i.e., Full Rehearing)

10. If you checked 9(b) or (c), you must use this space to present the grounds on which you base your request to introduce new evidence (Use additional sheets if necessary). For further explanation, see handout entitled *Appeal Procedure*.

Signed: _____ Date: July 8, 1994

For Staff Use Only

Fee:

Notice of Review = \$300.00

Transcription Fee:

Length of Hearing x \$3.50/minute = \$

Total Fee = \$ 800.00

Received by: _____ Date: _____ Case No. 01-94a

NEIL S. KAGAN
ATTORNEY AT LAW

1050 Yeon Building
522 S.W. Fifth Avenue
Portland, Oregon 97204

Telephone
(503) 223-4272
Fax
(503) 225-0811

June 10, 1994

R. Scott Pemble
Planning Director
Department of Environmental Services
Division of Planning and Development
2115 S. E. Morrison Street
Portland, Oregon 97214

Re: Howard Canyon Reconciliation Report

Dear Mr. Pemble:

On behalf of the Howard Canyon Committee of Friends of Forest Park, I am writing to comment on your staff's Howard Canyon Reconciliation Report of May 23, 1994 ("the report"). I will begin with general comments on the misinterpretations of LCDC's remand order which pervade and undermine the report. I will continue with specific comments on the report's defects, noting the measures that must be taken to correct the report and ensure the county's compliance with Goal 5.

GENERAL COMMENTS

With respect to the Howard Canyon mineral and aggregate resource site, LCDC identified four issues in finding the county's compliance with Goal 5 inadequate. The staff has misinterpreted two of these issues. For this reason, and the reasons mentioned under my specific comments, the staff has produced a report that does not comply with Goal 5.

I will discuss both of the issues identified by LCDC that were misinterpreted by the staff. First, I will identify the issue. Next, I will show how the staff misinterpreted it. Last, I will explain how the staff's misinterpretation has rendered the report invalid.

"No Impact Test"

LCDC invalidated the previous Goal 5 decision, in part, because the county explained and expressed its preference for protecting conflicting uses in the ESEE analysis, instead of keeping the ESEE analysis neutral. LCDC said the county must make its decision after completing the ESEE analysis, rather than construct the ESEE analysis to justify a decision the county has

already made. This was LCDC's third issue.

Specifically, LCDC said:

"Throughout the ESEE analysis, the county maintained that the ultimate decision to allow conflicting uses fully was preferable because operation of the quarry could not demonstrate 'no impact' on surrounding land uses or natural resources. This approach violates Goal 5. OAR 660-16-010 requires that decisions be based on the ESEE analysis, not that the ESEE analysis be used to justify a predetermined outcome."

LCDC's explanation does not prevent the county from choosing to protect other uses on the ground that quarry operations do not have a zero impact on those uses. Any contrary view would violate Goal 5, as interpreted by LCDC in the Goal 5 rule.

Under the Goal 5 rule, the county is only obligated to protect the aggregate resource if using it has no impact on other uses. If quarry operations have any negative impact on other uses, the Goal 5 rule authorizes the county to withhold protection of the aggregate resource. All the Goal 5 rule requires of the county is an explanation of the reasons for its decision. Were the county to explain, for instance, that it found existing rural residential uses especially sensitive to the noise quarry operations would produce, it could protect those uses -- even were the loss in property values produced by quarry noise small in relation to the loss that might be produced by not protecting the aggregate resource.

The staff misinterpreted LCDC's "no impact" issue, however, to mean that the county can not deny protection to the aggregate resource on the ground the impact of quarry operations on other uses will not be zero. As a result, the report mistakenly observed that decreased wildlife habitat and property values could not be grounds for denying protection to the aggregate resource unless the decrease were significant. Report at III-28, III-52, and III-53. Since the staff's mistaken belief led to the recommendation that the site be classed "3C", the report must be revised, and the recommendation reconsidered.

Potential Transportation Effects

LCDC invalidated the previous Goal 5 decision, in part, because the county used the Transportation Goal, Goal 12, as an approval standard in making its decision. LCDC deemed Goal 12 not to be an approval standard, but a directive "to provide and encourage a safe, convenient and economic transportation system" through the development of transportation plans.

Specifically, LCDC said:

"In its analysis, the county used the language of Goal 12 ('To provide and encourage a safe, convenient and economic transportation system') to conclude that protection of the aggregate resource was not warranted. Goal 12 requires development of transportation plans to serve land uses. The [sic] Goal 12 is not an independent standard used to deny protection of a significant aggregate resource. The county has not shown how the use of area roads is a conflict to protecting the aggregate resource. If a conflict does exist, Goal 5 requires resolution of the conflict.

"Because the county failed to define the impact area surrounding the aggregate resource site, it has no basis to analyze traffic conflicts resulting from the resource's use."

LCDC did not say the existence of conflicts between protection of the aggregate resource and transportation can not be a reason for choosing to protect uses other than aggregate extraction. Nor did LCDC say no conflicts exist between protection of the aggregate resource and transportation. LCDC faulted the county only because it had not defined the impact area in such a way as to justify the identification and discussion of transportation as a conflicting use.

The staff misinterpreted LCDC's order to mean that the county can not deny protection to the aggregate resource on the ground it will conflict with transportation. As a result, the report does not include the rural roads leading from the site, or the land bordering those roads, in the impact area. Report at III-14 through III-16, III-49 ("Extending the 1,200 foot impact area to include all road concerns would serve no purpose in the ESEE analysis because such concerns cannot be used as a basis for determining if the site should be protected"). The staff's mistaken position led to the report's failure to identify as conflicting uses the impacts of truck traffic on the uses of the land bordering those roads, and on the use of the roads themselves. Report at III-49 ("The road impact issues are in the Resource Analysis only to be on record for post-Goal 5 analysis use in reviewing any specific operating permit application.")

Consequently, the ESEE analysis is fatally flawed, as is the recommendation that the site be classed "3C". The report therefore must be revised, and the recommendation reconsidered.

SPECIFIC COMMENTS

Howard Canyon Stream Resources

1. Impact Areas

The report's analysis of the stream resources associated with the Howard Canyon mineral and aggregate resource site is defective because it establishes incorrect impact areas. The impact area of each stream should include the watershed it drains. As the report itself acknowledged, forestry, agricultural, and other uses occur within each stream's watershed, and cause or can cause increased turbidity, chemical pollution, erosion, and siltation. Report at II-12 through II-13.

Although the use of any single piece of property outside the riparian zone may not have an immediate or significant impact on stream quality, the existing and allowed land uses within the watershed together may have a cumulatively significant adverse effect. Such an effect can not be ignored because it occurs over the long term, in view of Goal 5's purpose of protecting the streams for future generations.

The riparian zone is also too small an impact area because it does not include the Sandy River. The Sandy is both a federal Wild and Scenic River and a state Scenic Waterway, and is used by the public for recreation. Howard Canyon Creek, Knierem Creek, and Big Creek all contribute water to the Sandy River. Report at II-9 through II-10. Big Creek contributes water directly to the Sandy, while Howard Canyon Creek and Knierem Creek contribute water indirectly as tributaries of Big Creek.

According to the report itself, the impact area of streams that contribute water to public parks, or to recreation areas used by the public, should include the downstream park or recreational area. Report at II-9. As both a Wild and Scenic River and a Scenic Waterway, the Sandy qualifies as a public park or a recreation area used by the public. Therefore, the Sandy River should have been included in the impact area.

The failure to describe proper impact areas renders the entire report insufficient under Goal 5, because a valid ESEE analysis and program to achieve the goal depend on an accurate impact area. Consequently, the staff must revise the report.

2. ESEE Analysis

The ESEE analysis is defective for other reasons, as well. First, in the discussion of the consequences of not protecting the streams, the ESEE analysis fails to analyze the economic

consequences of mining on the streams. See Report at II-14 through II-15. The analysis also fails to analyze the social consequences of conflicting uses on the recreational use of the federally and state-protected Sandy River. See Report at II-15. The analysis also fails to analyze the environmental consequences of conflicting uses on the Sandy River. See Report at II-16. The analysis also fails to analyze the water quality impacts of mining in discussing environmental consequences. See Report at II-16.

In the discussion of the consequences of protecting the streams, the ESEE analysis fails to consider any of the beneficial economic, social, environmental, and energy consequences of protection. See Report at II-17 through II-21. For example, protecting the streams would mean the Sandy River would continue to attract recreational users, including tourists, which would have beneficial economic and social impacts. Protecting the streams would also mean the expenditure of less money and energy to prevent or clean up pollution, and the continued aesthetic appreciation residents of the area experience.

The ESEE analysis also fails to put the effects of restricting development of the Howard Canyon mineral and aggregate resource site in perspective. See Report at II-19. The site has just 1% of the aggregate found at the Angell Bros. site, the other site under Multnomah County's jurisdiction. Report at III-6. As a result, the economic consequences of restricting the site's development will be relatively minor.

The ESEE analysis also improperly speculates that protecting the streams may create adverse environmental consequences on other, unspecified sites. Report at II-20. The analysis must be tied to the impact area.

The ESEE analysis also assumes incorrectly that restrictions on the Howard Canyon mineral and aggregate resource site will require the expenditure of more energy to transport such resources to Portland from sources outside the county. Report at II-20. Yet, the existing, protected Angell Bros. operation is not only within the county, it is right outside Portland's city limits. Similarly, other sites within the county, but under Gresham's jurisdiction, are closer to Portland than the Howard Canyon site. Further, other sites outside the county, in Clackamas County, Washington County, and Columbia County, may be closer to Portland.

Again, since the development of a program to achieve Goal 5 depends on an adequate ESEE analysis, the foregoing defects in the ESEE analysis of the streams and their conflicting uses necessitate a revision of the report.

Howard Canyon Aggregate Resource

1. Impact Area

a. The immediate impact area

The description of the immediate impact area is deficient for a number of reasons. First, the report justifies a 1200-foot impact area on the ground that the sound produced by "typical" mining equipment beyond that distance will meet DEQ noise standards. Report at III-12. Yet the noise assessment study cited in the report never specifies what it means by typical mining equipment. What exactly are the specifications of a "typical" dozer, front end loader, jaw crusher, etc.? For example, how large is the dozer overall? How large is its engine? Such specifications are essential if the county is going to draw the boundaries of the impact area on the basis of the equipment that might be used to extract and process the aggregate resource.

The noise assessment study also never indicates whether it considered the cumulative noise levels produced by the individual pieces of equipment when they are operating at the same time. The study only seems to predict compliance with DEQ standards for each piece of equipment operated individually. The 1200-foot boundary may describe an insufficient impact area when more than one piece of equipment is operating simultaneously.

The report also determines that the DEQ noise standards are the appropriate standards to use in defining the extent of the impact area. That determination is justified on the ground that other jurisdictions have adopted the DEQ noise standards, and that the standards were purportedly designed to protect the health, safety, and welfare of Oregon citizens. Report at III-30, III-48. Under the Goal 5 rule, however, the only acceptable ground for using DEQ noise standards is that they accurately describe the area in which quarry operations produce or might produce conflicts. The report cites no evidence to that effect.

b. The extended impact area

As discussed in my general comments, the report unjustifiably excludes rural roads leading from the site, and the land bordering those roads, from the impact area. In fact, allowing the site to be used for the extraction of aggregate will create conflicts with use of the roads beyond those caused by existing traffic. It may also produce noise and dust conflicting with the use of the land bordering the roads. Report at III-31. Therefore, the roads and the land adjoining them should have been included within the impact area.

The proof that use of the site will adversely affect traffic on the roads may be found in a traffic study prepared by Robert Bernstein, a transportation expert. To summarize, the study established that slow-moving trucks traveling to and from the quarry will cause localized congestion; that roadway and shoulder widths, roadway structural characteristics, and sight distances are inadequate to accommodate trucks safely; that truck traffic in the rural area will create unsafe conditions for motorists, school buses, and pedestrians. (The study is attached and incorporated in these comments by this reference.) The report reinforces Bernstein's evidence about inadequate roadway structural characteristics. Report at III-15 through III-17.

Since an accurate description of the impact area is vital to the subsequent steps in the Goal 5 process -- the identification of conflicting uses, the ESEE analysis, and the development of a program to achieve Goal 5, the foregoing deficiencies in the report's description of the immediate and extended impact area must be revised.

2. Conflicting Uses

As just indicated, the report's identification of conflicting uses is insufficient, because it does not include the demonstrated conflicts with transportation, or the potential conflicts of truck traffic on the land bordering rural roads. In addition, the report provides no explanation why certain uses allowed in the forest and agriculture zoning districts will not conflict with the aggregate resource. See Report at III-19 through III-22. For instance, were the site managed to produce timber or crops, or devoted to uses to conserve soil, air, and water quality for wildlife and fisheries resources, it could not be used as a source of aggregate.

The absence of the above-mentioned conflicting uses from the report makes both the ESEE analysis and the program proposed to achieve Goal 5 inadequate. The report therefore must be revised.

3. ESEE Analysis

The report concluded that allowing conflicting residential uses would increase the cost of county roads, because it would take more time to acquire high quality aggregate. The evidence does not support the conclusion, however. The evidence was that the State Highway Department considers "high quality" rock to be scarce in Multnomah County. Report at III-26. Although the report deemed the quality of the aggregate found at the Howard Canyon site significant enough to include the site on the inventory, no evidence established it to be "high quality." In fact, the Howard Canyon aggregate barely meets state wear requirements for base aggregate. Report at III-8. Moreover, no evidence established

Mr. Pemble
June 10, 1994
Page 8

whether it would take more or less time to transport aggregate from the Howard Canyon site over narrow, steep, winding rural roads to sites within the county.

For the reasons given in my general comments, and in my specific comments on the impact area and conflicting uses, the analysis of the economic, social, and environmental effects of quarry operations on existing residential uses is inaccurate and incomplete. It must be revised.

Also in need of revision is the analysis of the economic, social, environmental, and energy consequences of protecting the aggregate resource on the significant streams and their impact areas. See my specific comments on the Howard Canyon Stream Resources section of the report.

The report dismisses the environmental consequences on the significant streams by assuming mitigation measures can be implemented to protect fish habitat, and that quarry operations can meet current environmental standards. The county must reconsider this tack, because no evidence justifies it. The report does cite the expert testimony of Robert Ellis, but Ellis based his testimony on the assumption that only one or two acres would be mined at any one time. Once the site's aggregate resource is protected, however, nothing would prevent the owner of the site from seeking to mine a substantially larger area.

The report also dismissed the environmental consequences on big game habitat on the ground that the habitat is not a Goal 5 resource. The county must reconsider this tack, too, because big game habitat does not have to be a Goal 5 resource to constitute a conflicting use.

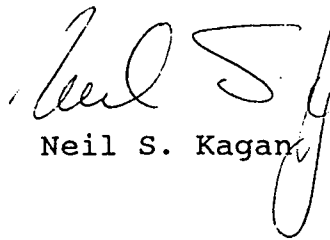
Finally, in discussing the energy consequences of protecting the aggregate resource on the significant streams, the report failed to consider the energy effects of cleaning up pollution caused by quarry operations. It must therefore be revised.

Conflict Resolution and Protection Program

As I have demonstrated in my comments, the report has seriously erred in describing impact areas, identifying conflicting uses, and analyzing ESEE consequences. As a result, the underpinnings of the conflict resolution and protection program are grossly insufficient. Therefore, it would be premature for the county to make a decision on the protection of the competing uses at this point. Once the staff has revised the report as I have indicated, it should be re-submitted to the Board of Commissioners, the Planning Commission, and the public for comment and final action.

Mr. Pemble
June 10, 1994
Page 9

Yours truly,


Neil S. Kagan

NSK/gmm
Enc.

cc: Steve Oulman, DLCD

Traffic/Transportation Planning & Engineering

Robert Bernstein, Inc. P.S.

507 - 18th Ave. E.
Seattle, WA 98112

Mr. Edward J. Sullivan
Mitchell, Lang & Smith
2000 One Main Place
101 SW Main St.
Portland, OR 97204

April 2, 1987

SUBJECT: Report on traffic and transportation issues related to the proposed quarry operation on Howard Road in the Corbett, Oregon, area

Dear Mr. Sullivan,

The report attached to this letter has been prepared at the request of Mr. Gary Thomas and some of his neighbors. The report

- 1) summarizes my review of available materials related to the proposed quarry and its Multnomah County permit application,
- 2) evaluates traffic and transportation issues not adequately addressed in the available material, and
- 3) draws general conclusions about road system adequacy and traffic safety impacts of the proposed quarry.

The following documents were reviewed:

- o Multnomah County Conditional Use Permit Application CU 7-87, dated October 23, 1986
- o Multnomah County Staff Report and Recommendation, CU 13-80, dated August 18, 1980
- o various environmental and geological permit applications and reports

In addition, I visited the site and the surrounding area on March 29, 1987.

My qualifications, in the form of my resume, are attached for your information. If I can be of any further assistance, please do not hesitate to call on me.

Sincerely,



Robert Bernstein, P.E.

REVIEW OF MULTNOMAH CO. CONDITIONAL USE PERMIT APPLICATION (CU 7-87)

CONCLUSIONS

A conditional use permit application for a quarry operation at the site of the subject quarry proposal was filed nearly seven years ago. As recorded in the Decision of the Hearings Officer (Multnomah County File No. CU 13-80, #666-681, 8/18/80), the Hearings Officer concluded that 1) the proposal was "not consistent with the rural character of the area, because its location would force large numbers of heavily-loaded trucks to traverse many miles of rural roads not intended to serve that type of use," 2) the proposal "will have an impact on services, because the level of truck traffic indicated by the applicant will affect the rural road system beyond Howard Road," and 3) the proposal "will generate hazardous conditions because of the level of truck traffic on roads designed to handle normal rural uses, this being particularly true at intersections." Based on these conclusions, the Hearings Officer denied the proposed conditional use.

The 1980 findings of the Hearings Officer are applicable to the current quarry proposal: nothing has happened in the past seven years to alleviate the problems identified. Furthermore, continuing rural residential development-- with its increased traffic-- makes the traffic impacts of the proposed quarry operation more severe every year, because the truck traffic has to interact with more auto traffic.

It should be noted that the traffic problems associated with quarry truck traffic as described later in this report (i.e., localized traffic congestion, hazardous operations at intersections, and hazardous operations on the roadways) are caused by each individual truck. These problems do not disappear with lower truck volumes: the Hearings Officer's conclusions are applicable to the current quarry proposal, despite its lower estimated truck volume. (The applicant's estimate of an average of 10 truck trips per day seems to be unrealistically low, and is certainly not indicative of a "worst case.")

It is also important to keep in mind that any promises made by the applicant or conditions of approval imposed by the County Commission regarding operation of the proposed quarry-- and the truck traffic it would generate-- may be difficult or impossible to enforce. If the applicant or the County are unwilling or unable to make good on operational conditions regarding truck operations or their enforcement, the surrounding rural neighborhood will be left with the safety and congestion problems that such conditions were intended to address. Since the County, in reality, has little ability to enforce conditions on operations, the neighborhood should

not have to rely on conditions of approval to avoid and/or mitigate serious safety and congestion problems.

The basic conclusions stated above lead to the final conclusion that the application should be denied for traffic safety reasons. The following discussion focuses on the main traffic impacts of the proposed quarry.

TRAFFIC CONGESTION

Traffic congestion, such as that experienced in urbanized areas, is not a problem in the vicinity of the proposed quarry. However, localized congestion can occur when cars "stack up" behind a slow-moving loaded gravel truck. Due to the topography in the area, steep grades and sharp curves abound on the road system that would be used by quarry truck traffic, regardless of the trucks' origins or destinations. These grades and curves will force trucks to move very slowly in numerous locations. Impatience and frustration may lead motorists to make ill-advised or downright hazardous maneuvers.

TRAFFIC SAFETY

In addition to its congestion impacts, truck traffic generated by the proposed quarry would significantly increase traffic safety problems along any of the roads the trucks might conceivably use in travelling to/from the quarry: Howard, Little Page, Loudon, Hurlburt, Pounder, Knieriem, Salzman, and Evans, as well as the Columbia River Scenic Highway and Corbett Hill Road. These problems are related to roadway design, the physical characteristics of trucks and their operation, and the behavior of individual motorists. The importance of recognizing these truck-related safety problems is magnified by the fact that accidents involving cars and large trucks tend to be more severe than accidents involving cars only.

In the following discussion, it should be kept in mind that inclement weather and darkness would aggravate each of the safety problems described. The icy conditions often found in this part of eastern Multnomah County during the winter pose an extreme hazard for all traffic operations. Impaired visibility due to darkness, precipitation or truck wheel spray, as well as wet or slippery pavement all contribute to increased accident potential.

Roadway Characteristics

The design of any roadway should facilitate safe traffic operations by providing adequate roadway width, sight distance and riding surface. The design should be as "forgiving" as possible; i.e., the design should forgive motorists' errors by minimizing the

potential for or severity of accidents resulting from such errors. For example, flatter roadway sideslopes and wider shoulders reduce the potential for rollovers in run-off-the-road accidents. In such cases, the motorist is "forgiven" for leaving the travel lanes.

One geometric design element of all the roads in the vicinity of the proposed quarry that is substandard-- and unforgiving in the accommodation of existing traffic-- is the roadway and shoulder widths. At 12-20 feet in width, the roadways are narrow. The narrow lanes, combined with the narrow unpaved or non-existent shoulders leave little room for motorists to maneuver, and provide little leeway for even temporary or minor loss of control on the part of a driver.

Large trucks in these narrow lanes have little lateral space within which to maneuver without either running off the road themselves or causing on-coming traffic to take evasive action. The narrow lanes and poor shoulders strictly limit the ability of vehicles to maneuver safely, whether these maneuvers be emergency or preventative in nature. There is no room for an auto to swerve to avoid a real or perceived encroachment by an on-coming truck, nor is there room to give an on-coming truck a "wide berth." In such situations, even minor incidents have the potential for serious consequences.

Safety problems associated with the steep, narrow, winding roadways in the vicinity of the proposed quarry will be aggravated by the degradation of roadway riding surface caused by heavy truck traffic. Many of the roads in the quarry vicinity simply are not structurally designed to carry heavy trucks; such roads will begin to break up fairly quickly under repeated truck usage. The other roads that are structurally capable of carrying heavy truck traffic will also deteriorate much more quickly than they would otherwise. As the Hearings Officer found in 1980, it would be financially infeasible to reconstruct all of the roadways that quarry truck traffic would use. Furthermore, the repair of deteriorating road surfaces-- aside from being expensive-- is rarely immediate, forcing local traffic to use a deteriorated roadway until such time as repairs can be made.

Sight Distance

With the exception of a number of blind driveways, available sight distance along the rural arterials in the area meet American Association of State Highway & Transportation Officials (AASHTO) sight distance standards, which are based on the ability of a motorist to bring an automobile to a safe stop. To stop a loaded gravel truck safely, however, requires a distance at least 40% in excess of the distance needed by cars to stop safely. (The sight distance requirements stated above are not purely arbitrary or empirical, but are in fact based on the laws of physics, the

reactive ability of drivers, and the deceleration capabilities of cars and heavy trucks.). As a result, the available stopping sight distance throughout the area leaves trucks with little or no margin for error in reacting to roadway obstructions and traffic.

It is generally assumed that the AASHTO sight distance standards are adequate in the case of heavy trucks, because the higher eye height of the drivers of the trucks compensates for the longer distance required to stop the trucks. However, it has been found that this assumption does not hold on crest vertical curves for the larger and heavier trucks with their longer braking distances. And of course eye height makes little difference on horizontal curves and sag vertical curves. Therefore, the fact that the roads in the area have sight distances that meet AASHTO standards does not ensure that adequate safe stopping sight distance exists for site-generated trucks.

Traffic Conflicts

All the sight distance in the world won't compensate for the motorist who misjudges a truck's speed and pulls out of a side street or driveway into a truck's path. Heavy trucks are unable to react to such roadway and traffic conflicts as quickly as the autos and small trucks that comprise most of the area traffic. This disparity of control capabilities between trucks and local traffic increases accident potential. Likewise, trucks take longer to accelerate when entering a road, and drivers often misjudge the rate at which they are overtaking a truck. This problem is exacerbated by trucks' need to make relatively wide turns, which, on the narrow roads in the area, results in the truck occupying the entire intersection as it makes its turn. This is a problem throughout the area, and it is a particular problem at the intersections along the Columbia River Scenic Highway. At the oblique Little Page Road and Larch Mountain Road intersections, it is very difficult for truck drivers to see traffic approaching from the east. At any of the Scenic Highway intersections, trucks will be turning left onto a highway that is heavily used by tourist automobile traffic, which often is not expecting heavy truck traffic entering the highway from the side roads. The Howard/Little Page/Pounder intersection is also particularly bad for trucks, due to limited sight distance and insufficient turning radii for trucks.

Driver Behavior

Safety problems also result from the incompatibility of regular heavy truck operations and the expectations of motorists on the rural arterials, rural collectors, and the Scenic Highway. The potential for accidents increases when motorists encounter unexpected or confusing traffic flow conditions, traffic controls or roadway conditions. Most of the traffic in the area is recreational or is generated by rural residential land uses, and motorists may

not expect to encounter heavy trucks on a regular basis. Traffic slowdowns and restricted visibility caused by the trucks have the potential to induce motorists to make a variety of ill-advised or unsafe maneuvers, such as tail-gating or passing where it is unsafe to do so. The braking and evasive capabilities of heavy trucks can be easily overestimated, and as stated previously, the roadway design does not compensate for errors in judgment or reaction.

Pedestrians, School Buses, and Mail Delivery

Heavy truck traffic generated by the proposed quarry would be totally incompatible with the school bus operations and access on most of the area's roads, including Knieriem, Little Page, Salzman, and Howard. Even if school children need not actually cross these roads enroute to or from school bus, truck traffic creates serious hazards for children waiting for the bus in the morning or walking along the road to or from the bus stop. Such hazards are significantly magnified in poor weather and during early morning darkness.

In addition, the risk of a truck rear-ending a stopped school bus would be significantly increased by the increased truck traffic generated by the proposed quarry. Postal carriers face similar risks.

ROBERT D. BERNSTEIN, P.E.

SERVICES

- o Traffic and transportation planning for state and local agencies
- o Neighborhood traffic management
- o Traffic impact analysis for environmental studies
- o Traffic analysis and design for site development
- o Expert review of environmental studies and land use proposals
- o Transportation demand management programs
- o Public involvement/participation for transportation projects
- o Origin-destination surveys and other surveys
- o Transit planning

QUALIFICATIONS

- o 10 years experience in city and regional transportation planning agencies and consulting firms
- o strong educational background:
MSCE-Transportation (Northwestern U.), BCE (Georgia Tech)
- o skilled in computer applications for transportation planning and traffic engineering
- o innovative and skilled at problem-solving and consensus-building
- o extensively experienced in the public involvement and citizen participation aspects of all types of transportation projects
- o registered professional engineer (civil) in Oregon and Washington

SELECTED PROJECT EXPERIENCE

Transit Projects and Studies

Multi-Corridor Project (PSCOG, 1985-86)
North Corridor Extension Project (Sno-Tran, PSCOG, 1985)
North Corridor Alternatives Analysis (PSCOG, 1983-84)
Banfield Transitway Project (ODOT, City of Portland, 1978-82)
Westside Transitway Project (Metro, City of Portland, 1978-80)
Tacoma-Seattle Transit Connections Study (PSCOG, 1986)

Transportation Plans

Arterial Streets Classification Policy Update (City of Portland, 1982-83)
Eastside Transportation Plan (PSCOG, King and Snohomish Counties,
Cities of Bellevue, Redmond, Kirkland, Bothell, and Issaquah, 1985-)
Green River Valley Transportation Action Plan (PSCOG, WSDOT, King County,
Cities of Renton, Kent, Auburn, and Tukwila, 1986)

Corridor/Sub-area Transportation Studies

Alderwood/North Creek Transportation Study (PSCOG, Snohomish County, 1985)
Northwest Portland Transportation Study (City of Portland, 1980-82)
Bellevue CBD Transportation Study (PSCOG, City of Bellevue, 1985-86)
Greater Lynnwood/I-5 Transportation Study
(PSCOG, City of Lynnwood, Snohomish County, WSDOT, Community Transit, 1987)
South Snohomish SR-99 Corridor Study
(PSCOG, WSDOT, Community Transit, City of Edmonds, 1987)
SR-9 (Snohomish - SR-522) Corridor Study
(PSCOG, Snohomish County, WSDOT, City of Snohomish, 1987)

Neighborhood Traffic Management Plans

McLoughlin Neighborhoods Project (City of Portland, 1979-83)
Division Corridor Neighborhood Traffic Management Plan (City of Portland, 1985)
South Burlingame Neighborhood Traffic Management Plan (City of Portland, 1984)
King County Neighborhood Traffic Control Demonstration Project (King County, 1987)

Freeway Corridor/Interchange Planning and Design

Alternative to I-505 Project (City of Portland, 1978-82)
East Marquam Interchange (I-5) Project (ODOT, City of Portland, 1979-80)
McLoughlin Boulevard Project (ODOT, City of Portland, 1979-83)
Terwilliger/I-5 Project (ODOT, City of Portland, 1982-83)
Frontier Village SR-9/SR-204 Project (WSDOT, Snohomish County, 1985)
I-84 (181st - Troutdale) Project (ODOT, 1986-87)
Seattle SR-99 Connections Study (WSDOT, City of Seattle, PSCOG, 1987)

Special Studies

Tacoma Dome Access and Parking Study (PSCOG, City of Tacoma, 1985-86)
Industrial Access Study (City of Portland, 1979-81)
Alternative Access Modes Database Project (PSCOG, 1985)
Everett Navy Base Traffic Impact Study (PSCOG, WSDOT, FHWA, 1986)

EXPERIENCE -

1983 - Present: Consulting Transportation Planner/Engineer

Mr. Bernstein has completed numerous traffic impact analyses and neighborhood traffic management studies for clients that include the Portland (OR) Bureau of Transportation Planning & Finance, Washington State Department of Transportation, Oregon Department of Transportation, Snohomish County (WA) Public Works Department, Southland Corporation and several neighborhood groups in Portland, Hillsboro, Washington County and Clackamas County, Oregon.

1983 - Present: Puget Sound Council of Governments

As Senior Transportation Engineer, Mr. Bernstein develops, manages and supports a wide variety of multi-jurisdictional sub-area and corridor transportation studies, short- and long-range planning efforts, and various traffic operations and impact analyses. Mr. Bernstein also serves as Coordinator for the Snohomish Subregional Council.

1978 - 1983: City of Portland, Oregon, Bureau of Planning

As City Planner-Transportation, Mr. Bernstein was responsible for the Projects and Area Studies program area of the Transportation Planning Section. General responsibilities included development of work programs, direction of other staff and consultants, technical and policy-related research, preparation of reports, and presentations and testimony at public meetings and meetings of the Planning Commission and City Council. Specific responsibilities included project management, the evaluation of and provision of city input for highway and transit projects being developed by other agencies, and the evaluation of transportation impacts of proposed land use changes and developments for the Land Use Hearings Officer, Planning Commission and City Council.

1976 - 1978: John Hamburg & Associates, Chicago, Illinois

As Transportation Engineer, Mr. Bernstein designed, programmed and tested computer models used for analysis of trip generation, regional VMT/VHT, and intersection capacity and delay. Clients included UMTA, FHWA, North Central Texas COG (Dallas), NE Ohio Areawide Coordinating Agency (Cleveland) and Tri-State RPC (New York).

ROBERT D. BERNSTEIN, P.E.

EDUCATION

MSCE, 1978, Northwestern University, Evanston, IL
(Urban Transportation Planning program)

BCE, 1976, Georgia Institute of Technology, Atlanta, GA,
with Highest Honors

Elementary and Secondary Schooling:
David Douglas School District, Portland, Oregon

PROFESSIONAL AFFILIATIONS

Registered Professional Civil Engineer,
Oregon (No. 11677) and Washington (No. 21677)

Transportation Research Board

Institute of Transportation Engineers

American Society of Civil Engineers

CONTINUING EDUCATION

Northwestern University Traffic Institute Transportation Impacts of Land
Development Course; Seattle, WA November, 1986

ITE Site Development Transportation Impacts Conference; Orlando, FL
March, 1986

Traffic Engineering and Safety Educators Traffic Signal Systems Course;
Seattle, WA October, 1984

UMTA Alternatives Analysis Course; Portland, OR August, 1983

UMTA/FHWA Microcomputers in Transportation Course; Portland, OR
March, 1983

Univ. of California Institute for Transportation Studies Conference:
Neighborhood Transportation Planning and Management; Berkeley, CA
November, 1982

UMTA/FHWA Special Topics in UTPS Course: Sub-area Analysis;
Los Angeles, CA May, 1982

UMTA/FHWA Energy Contingency Planning Workshop; Seattle, WA July, 1979

REPORTS AND PUBLICATIONS

- "Multi-Corridor Project Traffic Analysis," accepted for publication,
Transportation Research Record, Transportation Research Board, 1987
- "Alternative Access Modes Database Project," accepted for publication,
Transportation Research Record, Transportation Research Board, 1987
(coauthor)
- Green River Valley Transportation Action Plan,
Puget Sound Council of Governments (King Subregional Council)
for Cities of Kent, Renton, Auburn, Tukwila, King County and
Washington State Department of Transportation, January, 1987
- Everett Navy Base Traffic Impact Study, Puget Sound Council of Governments for
Washington State Department of Transportation, August, 1986 (coauthor)
- "Alternative Access Modes Database Project," Compendium of Papers.
Institute of Transportation Engineers District 6/7 1986 Annual Meeting, July, 1986
- Bellevue CBD Long Range Transportation Study, Puget Sound Council of Governments (King
Subregional Council) for City of Bellevue, May, 1986 (coauthor)
- Alternative Access Modes Database Project,
Puget Sound Council of Governments (King Subregional Council), May, 1986
- Tacoma Dome Access and Parking Study, Puget Sound Council of Governments (Pierce
Subregional Council) for City of Tacoma, March, 1986
- Multi-Corridor Project Traffic Analysis,
Puget Sound Council of Governments, February, 1986
- Division Corridor Neighborhood Traffic Management Study,
for Portland Bureau of Transportation Planning & Development, October, 1985
- North Corridor Extension Project: Engineering Reconnaissance for Light Rail Transit
Alignment Options, Puget Sound Council of Governments (Snohomish Subregional
Council) for Sno-Trans, June, 1985
- Alderwood/North Creek Transportation Study, Puget Sound Council of Governments
(Snohomish Subregional Council) for Snohomish County, March, 1985 (coauthor)
- South Burlingame Neighborhood Traffic Management Plan.
for Portland Bureau of Transportation Planning & Development, February, 1985
- North Corridor Alternatives Analysis Technical Summary,
Chapter 4. Transportation Impacts, Puget Sound Council of Governments
and Municipality of Metropolitan Seattle, June, 1984
- McLoughlin Neighborhoods Project, Portland Bureau of Planning, November, 1982
- Northwest Portland Transportation Study, Portland Bureau of Planning, July, 1982

REPORTS AND PUBLICATIONS (continued)

Industrial Access Study: Summary and Recommendations,
Portland Bureau of Planning, February, 1981 (coauthor)

McLoughlin Corridor Report, Portland Bureau of Planning, August, 1979

Industrial Access Study: Assessment of Transportation Access Needs,
Portland Bureau of Planning, April, 1979 (coauthor)

Zone Scheduling of Urban Bus Transit Service,
Northwestern University Masters Thesis, May 1978

MEETING DATE: July 12, 1994

AGENDA NO: P-2

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Resolution C 2-94a

BOARD BRIEFING Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: July 12, 1994

Amount of Time Needed: 30 Minutes

DEPARTMENT: DES

DIVISION: Planning

CONTACT: R. Scott Pemble

TELEPHONE #: 3182

BLDG/ROOM #: 412/103

PERSON(S) MAKING PRESENTATION: Planning Staff

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

C 2-94a In the matter of reporting to the Board the Multnomah County Planning Commission's recommendation on the Howard Canyon Reconciliation Report, a quasi-judicial plan amendment to the Multnomah County Comprehensive Framework Plan, Volume I Findings Document

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: *Betsy Williams*

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

**DECISION OF THE
MULTNOMAH COUNTY PLANNING COMMISSION**

In the Matter of the Howard Canyon)
Reconciliation Report and Periodic Review Work)
Program requirements for Goal 5 resources)

**RESOLUTION
C 2-94a**

WHEREAS, Periodic Review Remand Order 93-RA-876 required Multnomah County to complete additional work related to Statewide Planning Goal 5 resources in the Howard Canyon area; and

WHEREAS, On March 9, 1994, the Land Conservation and Development Commission approved the county's Work Program (WKPROG - 0038) which indicated work tasks that must be completed to fulfill the requirements of the Remand Order; and

WHEREAS, The Howard Canyon Reconciliation Report contains findings and makes recommendations concerning protection of Goal 5 resources, pursuant to OAR 660-16, for streams and the Howard Canyon mineral and aggregate site as required by WKPROG - 0038; and

WHEREAS, Notice and the opportunity for public comment were provided during several steps of the Work Program, and a joint public hearing with the Planning Commission and Board of County Commissioners was conducted on June 13, 1994, to consider additional testimony on the Howard Canyon Reconciliation Report; and

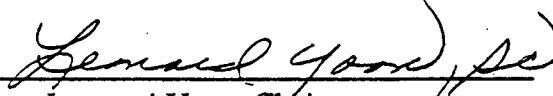
WHEREAS, The Planning Commission met for deliberation of the Howard Canyon Reconciliation Report on June 21, 1994 and June 27, 1994;

NOW, THEREFORE BE IT RESOLVED that the Planning Commission hereby recommends that the Board of County Commissioners adopt the Howard Canyon Reconciliation Report and appended Howard Canyon Reconciliation Report Addenda dated June 21, 1994, as partial fulfillment of Periodic Review Remand WKPROG - 0038.

BE IT FURTHER RESOLVED that the Planning Commissions recommends that Planning Division staff be directed to prepare Comprehensive Plan and zoning code amendments in accordance with WKPROG - 0038.

Approved this 27th day of June, 1994

By


Leonard Yoon, Chair

Multnomah County Planning Commission

HOWARD CANYON RECONCILIATION REPORT

ADDENDA

June 21, 1994

(Note: Struck through language is deleted and bolded language is added).

Page & paragraph #

II-3 ¶5

The three streams surveyed are located east of the Sandy River and approximately one-half to two miles south and east of the rural community of Corbett. Knieriem Creek and Howard Canyon Creek are tributaries of Big Creek, which in turn is a tributary of the Sandy River which empties into the Sandy at Oxbow County Park. **The Sandy River is designated as a state scenic waterway and a federal wild and scenic waterway. Within the County's existing Goal 5 inventory the Sandy River is designated as a significant natural area and a significant water body.** A map of the sites is located within ~~the SRI/Shapiro section of this chapter contained in the appendix to this document~~ **Appendix A.**

II-8 ¶4

This report discusses three significant streams in the Howard Canyon ~~subregion of the West Hills Rural Area.~~ These streams drain westward from Ross Mountain to the Sandy River. They lie between the Sandy River and Loudon Road to the south, and Larch Mountain Road and the rural community of Corbett to the north. **The Sandy River is designated as a state scenic waterway and a federal wild and scenic waterway. Within the County's existing Goal 5 inventory the Sandy River is designated as a significant natural area and a significant water body.** A map of the sites is contained within ~~the Technical~~ **Appendix A** relating to significance at the back of this report.

II-14 ¶1

Big Creek: This watershed is affected primarily by use of adjacent properties as pasture land and by rural residential development in its upper reach (below the confluence of Howard Canyon Creek and Knieriem Creek). The lower stream segments, west of Gordon Creek Road, are more protected by vegetation and steep topography. ~~The creek does not flow into a wildlife habitat area or any other sensitive area.~~

II-19 ¶3

In regard to the Howard Canyon Quarry, it is one of a very limited number of known aggregate sources **available for development** in Multnomah County. Limitations on site development to preserve significant streams will result in a shortened life span of the facility, with economic impacts on the owners, and on employees and suppliers.

II-55, II-56, II-57, II-58

The Planning Commission acted to remove those portions of the Comment / Response section which identify the group or individual who made the comment (ISSUE RAISED BY).

III-27 ¶5

In consideration of the above, the economic effect of allowing conflicting residential uses would not only likely prevent the extraction of a significant amount of aggregate with a certain (undetermined) dollar value, but the resulting economic effect will also be higher costs for this material for most of the unincorporated East Multnomah County. ***(asterisk added)**

III-27 Bottom of Page

*** The analysis of the economic effects does not attempt to the evaluate the comparative costs of different transportation modes such as river barging of aggregate material. It is recognized that a complete economic analysis would include the study of "externalities" in the evaluation of costs of using, and impacts on, different transportation alternatives.**

III-47, III-48, III-49, III-50, III-51, III-52, III-53, III-54

The Planning Commission acted to remove those portions of the Comment / Response section which identify the group or individual who made the comment (ISSUE RAISED BY).

IV-6 ¶2

CONCLUSION: The FPA, if properly enforced, provides some protections to streams from logging activities, and the county cannot regulate or prohibit forestry activities on forest lands. Forestry activities should be allowed fully within the impact area of the significant streams. The conflicting use analysis shows, how-

ever, that forest practices, if not carried out in a manner which provides effective buffer areas for streams, can result in significant adverse impacts to streams. Multnomah County should urge the Oregon Department of Forestry to effectively enforce the Forest Practices Act provisions for protection of fish and wildlife habitat in the Howard Canyon area, and work with the Department of Forestry to craft new rules, if necessary, which better protect significant streams in the Howard Canyon area.

IV-13 ¶2

b. Conflicting Uses to be allowed fully

- (i) Forestry/timber (however, see discussion under 1.e. below)
- (ii) Farm Use (however, see discussion under 1.e. below)

IV-15 new ¶ after ¶3

- Provide for a minimum setback from the ordinary high water mark of each stream which will protect the stream's resources.

IV-15 new ¶ after ¶3

As discussed earlier, agricultural and forestry activities adjacent to streams can have significant negative environmental consequences. While Multnomah County cannot (forestry on forest lands) or should not (forestry on "exception" lands) institute zoning regulation of these uses, the County must work to ameliorate and if possible eliminate the conflicts between these uses and significant streams. As regards forestry, the County should monitor the Oregon Department of Forestry's effective enforcement of the State Forest Practices Act, and work with the Department of Forestry to adopt and implement standards which may more effectively protect significant streams. As regards Agriculture, the County should work with the East Multnomah Soil and Water Conservation District to adopt and properly fund a program of education and assistance to farmers in order to better protect significant streams from the negative impacts of agricultural practices such as livestock damage to streams, misuse of fertilizers and pesticides, and cultivation adjacent to streams which negatively impacts fish & wildlife habitat and water quality.

IV-21 ¶2

- (vi) A condition of approval of a mine operation shall be a verification that DEQ noise standards are continually satisfied. Noise studies shall be periodically required. The studies shall be by an independent consultant and paid for by the mine operator. The mine operator and the Planning Director shall agree on the cost and scope of the studies and the Planning Director

shall select the consultant.

~~As a condition of approval, and within a specified time frame, another acoustical study shall be required to verify that DEQ noise standards are being met at all the existing homes in the impact area once quarrying activities are in full operation. That study shall be by an independent consultant hired by the mining operator and acceptable to the Planning Director. All quarry operations and vehicles shall continue to comply with applicable DEQ noise control standards.~~

IV-21 ¶3

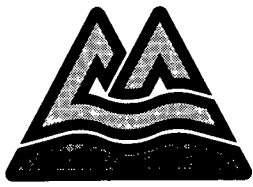
- (vii) A condition of approval of a mine operation shall be a verification that DEQ water quality standards are continually satisfied. Water quality studies shall be periodically required. The studies shall be by an independent consultant and paid for by the mine operator. The mine operator and the Planning Director shall agree on the cost and scope of the studies and the Planning Director shall select the consultant.

~~As a condition of approval, and within a specified time frame, an erosion sampling study, should be required for waters entering the Coal 5 streams to verify that DEQ water quality standards are being met once quarrying activities are in full operation. Obtaining that information will be the responsibility of the mining operator and could be from either State DEQ reports or from an independent consultant hired by the mining operator and acceptable to the Planning Director. All quarry operations shall continue to comply with applicable DEQ erosion control standards to ensure continuing water quality in the streams.~~

IV-22 new ¶ after ¶2

- (xvi) In recognition of the inadequacy of Howard, Knieriem, Littlepage and possibly other nearby roads for certain levels of heavy truck service, it shall be a requirement of a conditional use review of any mining operation that an applicant submit the following as part of the proposed application:
1. A traffic management plan for normal operating conditions; and
 2. A traffic management plan for extraordinary demands for aggregate and other rock materials supplied to a single site, such as a large public works project.

Pursuant to County policy procedures in MCC 11.60 and related Administrative Rules, the County Engineer will stipulate the mine operator's fair share of the costs for improvements to Howard, Knieriem, Littlepage and other roads which will be impacted by heavy truck traffic as identified in any approved traffic management plans.



MULTNOMAH COUNTY OREGON

DIVISION OF PLANNING & DEVELOPMENT/2115 S.E. MORRISON/PORTLAND, OREGON 97214

C 2-94a
June 13, 1994
Hearing Exhibits
Howard Canyon

- #1. Statewide Planning Program Goal 5 Process Chart
- #2. Department of Land Conservation and Development (Richard P. Benner)
- #3. Neil S. Kagan
- #4. Guardians of Larch Mountain (Klaus Heyne)
- #5. Guardians of Larch Mountain (Klaus Heyne - Duplication of #4)
- #6. Bob and Nev Scott
- #7. William J. McGinnis and Judy E. McGinnis
- #8. John Windust
- #9. James Redden
- #10. Paul and Connie Renner
- #11. Daniel Roberts
- #12. Metro (Charles Ciecko and Ralph Rogers)
- #13. Neil Kagan
- #14. Oregon's Visitor Industry (Doris Nelson)
- #15. Dave Black Submittal
- #16. Oregon Natural Resources Council
- #17. Directors, Corbett Water District Board
- #18. Mike Grover
- #19. Vera Dafoe
- #20. Bob And Nev Scott (Duplication of #6)
- #21. Petitioned Submitted by Paul Hribernick



MULTNOMAH COUNTY OREGON

DIVISION OF PLANNING & DEVELOPMENT/2115 S.E. MORRISON/PORTLAND, OREGON 97214

C 2-94a
June 14 thru June 20, 1994
Open Record Exhibits
Howard Canyon

- #22. Oregon Department of Transportation (Dan Bacon)
- #23. Carolyn Coons
- #24. Metro (Charles Ciecko)
- #25. United States Department of Agriculture (Steven Fedje)
- #26. Guardians of Larch Mountain (Klaus Heyne)
- #27. Wm Scott Morgan
- #28. Robert J. Morgan
- #29. Wm. James Morgan
- #30. 20/20 Properties (Mike Grover)
- #31. Patricia E. Smith
- #32. Carol Gama
- #33. G.H. (Jerry) Chinn, Jr.
- #34. East Multnomah Soil and Water Conservation District (Dianna Pope)
- #35. Oregon Department of Fish and Wildlife (Jill Zarnowitz)
- #35a. Black Helterline (Paul R. Hribernick)
- #36. Rusy M. Mayes
- #37. WH Lewis
- #38. M. Keith Evans, Jr.
- #39. Ed and Cathy Vandenberg
- #40. Gerard and Ruth Welch

STATEWIDE PLANNING PROGRAM

GOAL 5 PROCESS CHART

OPEN SPACE
MINERAL & AGGREGATE
ENERGY SOURCES
FISH & WILDLIFE
SIGNIFICANT NATURAL AREAS
SCENIC VIEWS & SITES
WATER AREAS
WILDERNESS AREAS
HISTORIC SITES
CULTURAL AREAS
RECREATION TRAILS
SCENIC WATERWAYS

**STEP ONE -
IS THE RESOURCE
SIGNIFICANT?
(USING MEASURES OF
LOCATION, QUALITY,
AND QUANTITY)**

1A - NO

**NO FURTHER
ACTION**

1B - NOT ENOUGH INFORMATION

**ESTABLISH TIME FRAME
FOR OBTAINING INFORMATION**

1C - YES

GO TO STEP TWO

**STEP TWO - ARE
THERE CONFLICTING
USES?
(EITHER OTHER
RESOURCES OR
ALLOWED BY ZONING)**

2A - NO

**PRESERVE THE
RESOURCE**

2B - YES

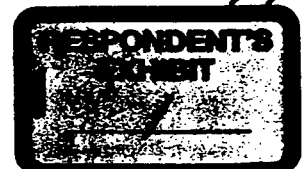
**DO "ESEE" ANALYSIS
GO TO STEP THREE**

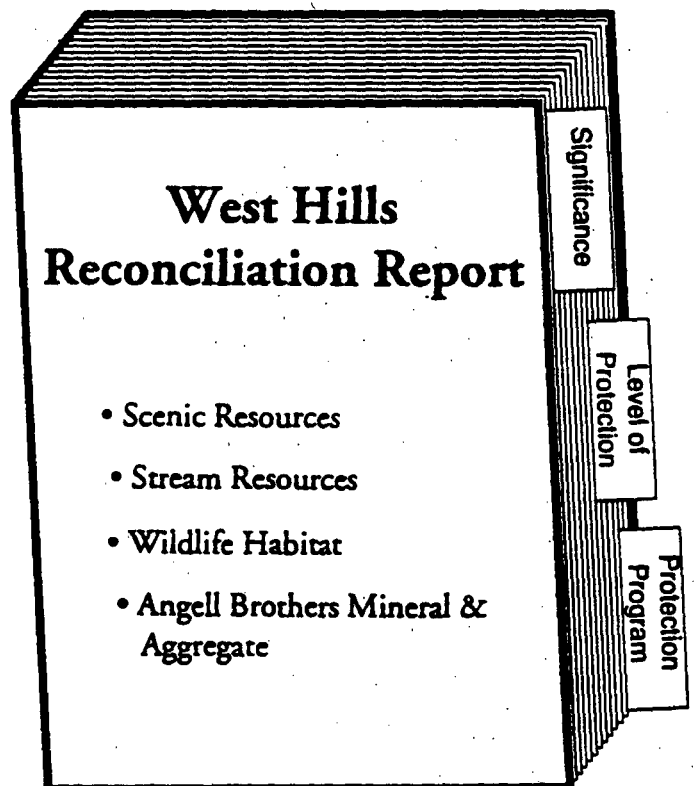
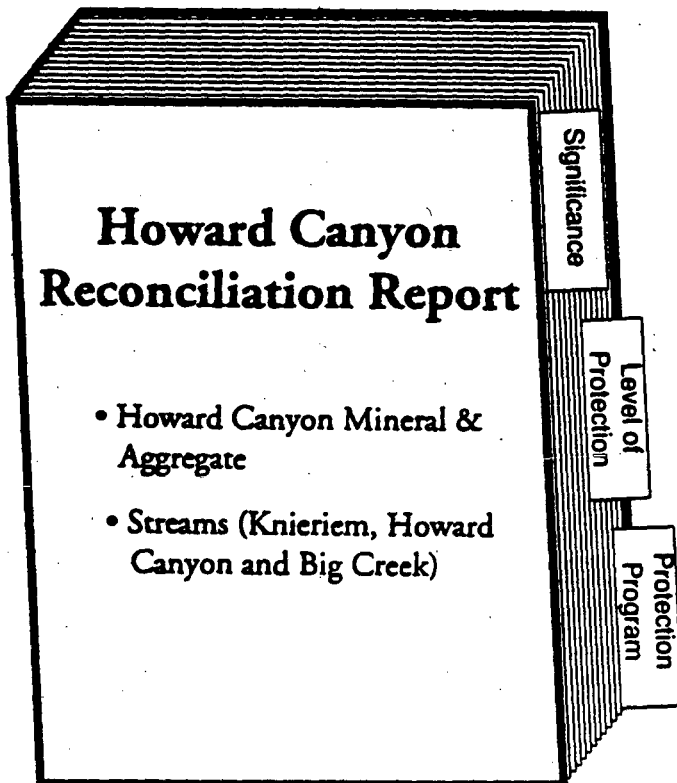
**STEP THREE - HOW
SHOULD CONFLICTS
BETWEEN USES BE
RESOLVED?**

3A - PRESERVE THE RESOURCE

3B - ALLOW CONFLICTING USES

**3C - LIMIT CONFLICTING USES
(BALANCE)**





OVERALL CONCLUSIONS

Howard Canyon

- Streams (Knieriem, Howard Canyon & Big Creeks) — "3-C"
- Aggregate — "3-C"

West Hills

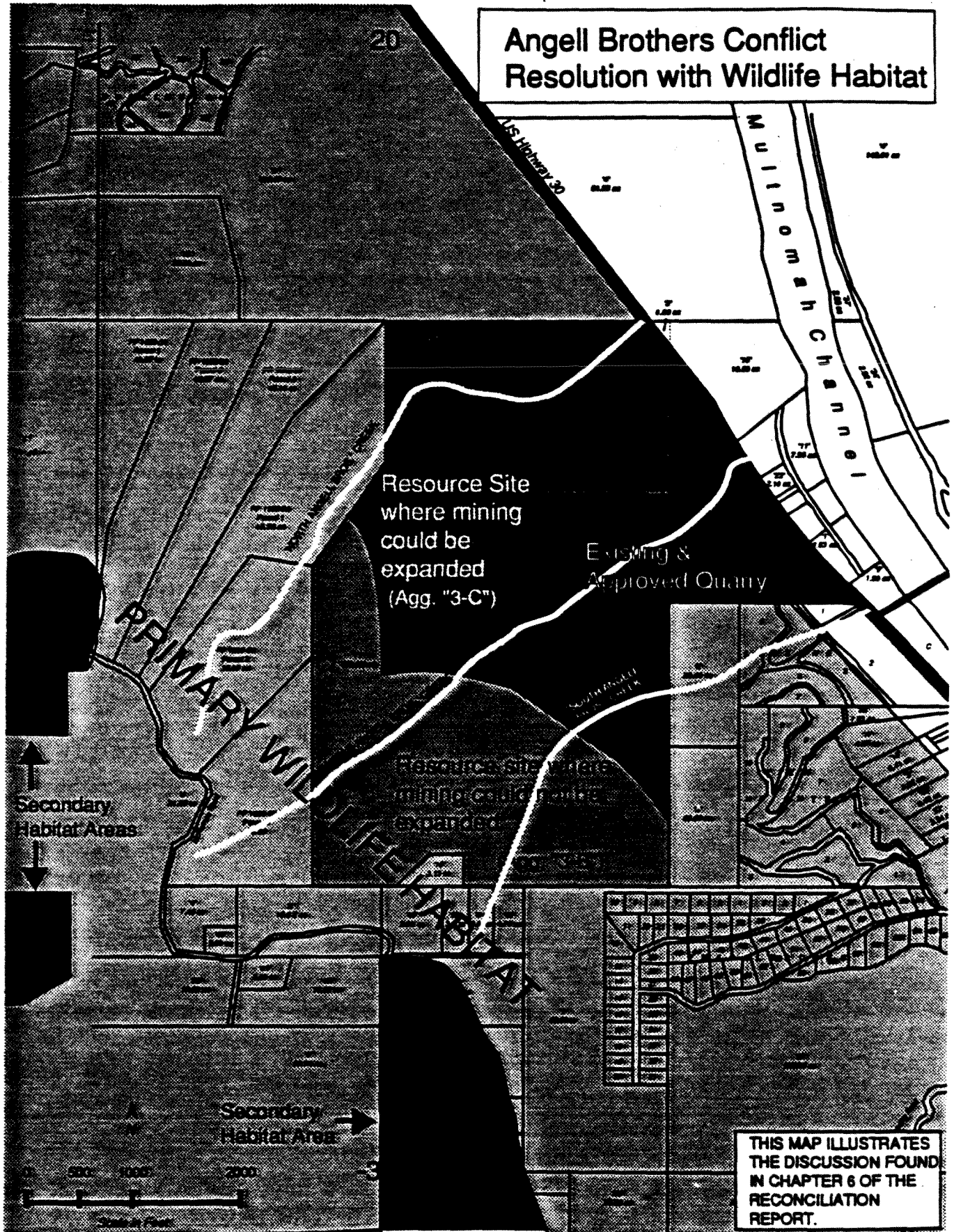
- Scenic — "3-C"
- Streams — "3-C"
- Wildlife — "3-C"
- Aggregate — "3-B" for approximately south one-half
"3-C" for approximately north one-half

OVERALL CONCLUSIONS

HOWARD CANYON

- **Streams (Knierem, Howard Canyon & Big Creeks "3C") -- Find that these streams are significant ("1-C"), and limit residential, community service and conditional use, and transportation/public improvement conflicts by regulating proposed development in the riparian zone of each significant stream.**
- **Aggregate (Howard Canyon Quarry "3C") -- Find that it is significant ("1-C") and that:**
 - 1) **Conflicts with residential uses can be resolved by adopting plan and overlay zoning designations which require some restrictions on new houses, such as setbacks from potential mining areas, and require some restrictions on mining operations in order to meet DEQ noise and dust standards for existing residences, minimize visual impacts, and minimize blasting impacts.**
 - 2) **Conflicts with significant streams can be resolved by requiring that mining runoff meet DEQ standards for water quality and prohibiting construction of holding ponds in the riparian zone.**
 - 3) **Multnomah County will require independent ongoing verification that noise, dust, and water quality standards are being met by mining operations.**

Angell Brothers Conflict Resolution with Wildlife Habitat



OVERALL CONCLUSIONS

WEST HILLS

- **Scenic** (East face of the West Hills "scene areas" "3C") -- Find that scenic views are significant ("1-C") and limit residential, community service and conditional use conflicts by reviewing and regulating the siting and design of new structures within the scene areas.
- **Streams** (26 West Hills Streams "3C") -- Find that 26 West Hills streams are significant ("1-C") and limit residential, community service and conditional use, and transportation/public improvement conflicts by regulating proposed development in the riparian zone of each significant stream except for "North Angell Brothers" Creek within the Angell Brothers aggregate site, which is not protected ("3-B").
- **Wildlife** (West Hills "3C") -- Find that wildlife habitat in the West Hills is significant ("1-C") and limit residential and similar uses by reviewing and regulating the siting of proposed development to have minimal impact upon wildlife and its habitat.
- **Aggregate** (Angell Brothers Quarry, Northern 1/2 "3C" and southern 1/2 "3B") -- Find that it is significant ("1-C") and that:
 - 1) Conflicts with residential uses can be resolved by adopting plan and overlay zoning designations which require some restrictions on new houses, such as setbacks from potential mining areas, and require some restrictions on mining operations in order to meet DEQ noise and dust standards for existing residences, minimize visual impacts, and minimize blasting impacts.
 - 2) Conflicts with streams can be resolved by allowing quarry operations on a portion of the North Angell Brothers stream, but protecting water quality into Burlington Bottoms to DEQ standards.
 - 3) Conflicts with scenic views can be resolved by requiring quarry operations to use berming and reclamation techniques which minimize the amount of unreclaimed mined area visible at any one time.
 - 4) Conflicts with wildlife habitat can be resolved by not allowing quarry operations on the south half of the Angell Brothers aggregate site, in order to preserve a minimum one-half mile wide contiguous wildlife habitat area through the West Hills
 - 5) Multnomah County will require independent ongoing verification that noise, dust, and water quality standards are being met by mining operations

June 10, 1994

Multnomah County Board of Commissioners
Multnomah County Planning Commission
2115 SE Morrison Street
Portland, OR 97214

DEPARTMENT OF
LAND
CONSERVATION
AND
DEVELOPMENT

Dear Chair Stein, County Commissioners, Chair Yoon and Planning Commissioners:

Since LCDC approved Multnomah County's periodic review work program for resolving Goal 5 issues, the department has worked closely with the county planning staff. We have offered advice about the requirements of the statewide planning goals. We have suggested approaches and opportunities available to Multnomah County to make the policy decisions before you. Please consider these comments in your deliberations.

First, we are concerned with the county treating these hearings as quasi-judicial proceedings. To our knowledge, you have treated no other aspect of periodic review in this way. The issues before you are complex and affect significant areas of the county. The department believes a satisfactory conclusion to this controversy demands a broad view that cannot be achieved by focussing on one or two specific land uses in the narrow confines of a quasi-judicial proceeding.

Second, we are continuing to review and analyze the county's written reports. We will watch how the analyses evolve as the county works towards its September 6, 1994 deadline to submit a completed product. After this date, the department will review the work for compliance with Goal 5.

Finally, we ask you to consider three comments about the analyses. One, the county should be clear about its identification of significant resources, and why the resources are significant. Two, the level of protection for any resource must be commensurate with the identified conflicts and the consequences of these conflicts on protection of the resource. Three, the county needs to examine thoroughly opportunities to mitigate conflicts between resources.

We are able to help your staff with the Goal 5 analyses and development of appropriate implementation tools. Steve Oulman is the department's lead staff person for this project. Call him at 378-5144 if you have questions.

Sincerely,



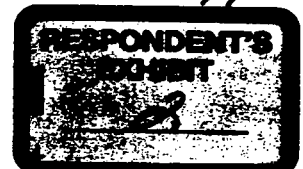
Richard P. Benner
Director

Barbara Roberts
Governor



1175 Court Street NE
Salem, OR 97310-0590
(503) 373-0050
FAX (503) 362-6705

C2-94



**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

In the Matter of Adopting Hearing Rules)
for the Conduct of a Joint Planning)
Commission and Board Quasi judicial)
Hearing on June 13, 1994)

RESOLUTION
94 -95

WHEREAS, ORS 197 requires the Land Conservation and Development Commission to Review the Multnomah County Comprehensive Framework Plan periodically to determine consistency with the State Land Use Goals; and

WHEREAS, the Land Conservation and Development Commission reviewed in April 1993 the Multnomah County Comprehensive Framework Plan and determined it did not comply with State Land Use Goal 5; and

WHEREAS, the Land Conservation and Development Commission required Multnomah County to complete Goal 5 work by December 31, 1993 and subsequently approved a detailed work Program extending the County's deadline to September 6, 1994; and

WHEREAS, the Land Conservation and Development Commission approved a work program which requires the Multnomah County Planning Commission and Board to conduct a Hearing to consider two "Reconciliation Reports"; and

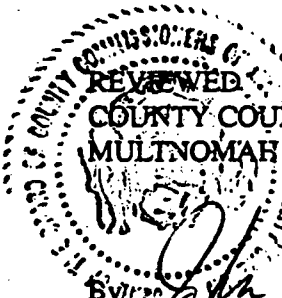
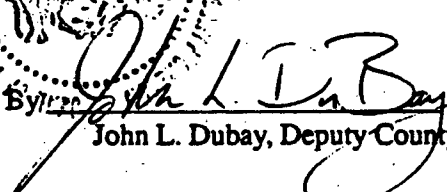
WHEREAS, both the Multnomah County Planning Commission and Board have adopted rules for the conduct of quasi judicial hearings; and

WHEREAS, the Board must amend their rules to hold a hearing with the Planning Commission;

NOW, THEREFORE, IT IS RESOLVED for the June 13, 1994, joint hearing of the Planning Commission and Board of County Commissioners on the two Reconciliation Reports, or any continuation thereof, the RULES FOR THE CONDUCT OF PLANNING COMMISSION AND BOARD OF COUNTY COMMISSIONERS JOINT QUASI-JUDICIAL HEARING as set forth in Exhibit "A" are hereby adopted.

APPROVED this 24th day of May, 1994

MULTNOMAH COUNTY, OREGON


**COUNTY COUNSEL FOR
MULTNOMAH COUNTY, OREGON**

By John L. Dubay
John L. Dubay, Deputy County Counsel

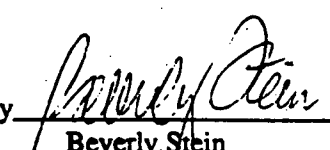
By 
Beverly Stein
Multnomah County Chair

Exhibit "A"
RULES FOR THE CONDUCT OF PLANNING
COMMISSION AND BOARD OF COUNTY
COMMISSIONERS JOINT QUASI-JUDICIAL HEARING

SECTION 1. NATURE AND CONDUCT OF HEARING

A. Parties are entitled to an opportunity to appear, in person or by a representative or Counsel, to present and rebut testimony and evidence to an impartial approval authority, to have the proceedings recorded and to receive a written decision which includes Findings of Fact and Conclusions based on the record made at the hearing.

B. The following persons are parties and shall be entitled, either themselves or through their representatives or Counsel, to make an appearance of record before the Board of Commissioners and the Planning Commission:

1. All persons entitled to individual mailed notice under the applicable Ordinance; and
2. Other persons who demonstrate an interest in the proposed action.

C. The Board of Commissioners or the Planning Commission may call as a witness a person with technical or specialized knowledge regarding an issue in an action.

D. No person shall testify without:

1. Receiving recognition from the Chair of the County Commissioner;
2. Stating his or her full name and residence address; and
3. If requested, stating the basis on which he or she is entitled to status as a party, pursuant to these Rules or as a witness on behalf of a party pursuant to these Rules.
 - (a) A challenge to the party or witness status of a person, and a ruling thereon by the Chairperson, shall be made at the time the person requests recognition to testify.
 - (b) A challenge to the party or witness status of a person may be made only by a party.

E. There shall be no audience demonstration, such as applause, cheering, display of signs, or other conduct disruptive of the hearing. Disruptive conduct may be cause for expulsion from the hearing, termination of the hearing, or other appropriate action.

F. The term person includes an individual, partnership, corporation, association, governmental unit or public or private organization.

SECTION 2. CONFLICT OF INTEREST: BIAS, EX PARTE CONTACT

A. Any actual or potential conflicts of interest, bias or partiality shall be disclosed at the hearing where the action is considered.

B. Any party may challenge the impartiality of any member before or during the hearing. A challenge must include the facts relied on by the challenging party, relating to the member's alleged bias, prejudice, or personal interest, or other facts from which the party has concluded that the member cannot participate in a decision in an impartial manner.

C. In the event of a challenge for bias, the challenged member shall respond in a statement which shall be part of the record. The statement shall refer to the challenge and include the reasons why the member has elected to participate or abstain. The statement shall not be subject to cross examination or rebuttal.

D. In the event any member has pre-hearing *ex parte* contact with a party, the member shall publicly disclose the occurrence and the substance of such contact and the persons involved. The statement shall also indicate any interest or independent knowledge of the member. The term independent knowledge refers to facts received by other than public means which are not capable of judicial or official notice, are not in the record of the action and are not a matter of general knowledge. The statement shall be made at the beginning of the hearing on the action or at such time during the course of the hearing that the member becomes aware of the existence of an *ex parte* contact or independent knowledge. The statement regarding *ex parte* contact shall be subject to the same Rules as for a statement of bias in paragraph (C) in this section.

SECTION 3. QUORUM and PRESIDING OFFICER

A. A quorum of the Planning Commission and a quorum of the Board of Commissioners shall constitute a quorum for the joint meeting.

B. The Presiding Officer of a joint meeting shall be the Chair of the County Commission or a person designated by the Chair.

SECTION 4. RULES OF EVIDENCE

A. Evidence received at a hearing shall be of the quality that reasonable persons rely on in the conduct of everyday affairs.

B. Irrelevant, immaterial or repetitious testimony or evidence shall not be admitted.

SECTION 5. ORDER OF PROCEDURE

The order of procedure shall be as follows.

A. Call the session to order.

B. Call for the Staff Report relating to actions previously decided, if appropriate. And list the applicable and substantive criteria governing the action.

C. Summarize the nature and conduct of the hearing as described in these Rules and explain where the public can obtain copies of the Rules of Procedure and the Agenda.

D. Explain the sequence of events to be followed at the hearings as described in Subsections (F) through (O) of this Section.

E. Instruct the audience that only testimony or evidence directed to the approval criteria will be accepted and that failure to raise an issue with sufficient specificity to afford the Commission and the parties an opportunity to respond to the issue precludes appeal to LUBA on that issue.

F. Call the first Agenda item and describe the Action.

G. Request a representative of the Division of Planning and Development to describe the nature of the proposal, explain any graphic or pictorial displays which are to be part of the record and summarize the Staff Report and Recommendation.

H. Call for the presentation by Proponents of the Action.

1. Those testifying in support of an action have three minutes per person, exclusive of time used by the Board and Planning Commission for questions. Additional time shall only be granted if the evidence/testimony is not repetitious, irrelevant, or immaterial.

2. Proponents shall be heard in the following order.

NEIL S. KAGAN
ATTORNEY AT LAW

1050 Yeon Building
522 S.W. Fifth Avenue
Portland, Oregon 97204

Telephone
(503) 223-4272
Fax
(503) 225-0811

June 10, 1994

R. Scott Pemble
Planning Director
Department of Environmental Services
Division of Planning and Development
2115 S. E. Morrison Street
Portland, Oregon 97214

RECEIVED

JUN 10 1994

Multnomah County
Zoning Division

Re: Howard Canyon Reconciliation Report

Dear Mr. Pemble:

On behalf of the Howard Canyon Committee of Friends of Forest Park, I am writing to comment on your staff's Howard Canyon Reconciliation Report of May 23, 1994 ("the report"). I will begin with general comments on the misinterpretations of LCDC's remand order which pervade and undermine the report. I will continue with specific comments on the report's defects, noting the measures that must be taken to correct the report and ensure the county's compliance with Goal 5.

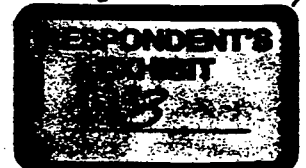
GENERAL COMMENTS

With respect to the Howard Canyon mineral and aggregate resource site, LCDC identified four issues in finding the county's compliance with Goal 5 inadequate. The staff has misinterpreted two of these issues. For this reason, and the reasons mentioned under my specific comments, the staff has produced a report that does not comply with Goal 5.

I will discuss both of the issues identified by LCDC that were misinterpreted by the staff. First, I will identify the issue. Next, I will show how the staff misinterpreted it. Last, I will explain how the staff's misinterpretation has rendered the report invalid.

"No Impact Test"

LCDC invalidated the previous Goal 5 decision, in part, because the county explained and expressed its preference for protecting conflicting uses in the ESEE analysis, instead of keeping the ESEE analysis neutral. LCDC said the county must make its decision after completing the ESEE analysis, rather than construct the ESEE analysis to justify a decision the county has



Mr. Pemble
June 10, 1994
Page 2

already made. This was LCDC's third issue.

Specifically, LCDC said:

"Throughout the ESEE analysis, the county maintained that the ultimate decision to allow conflicting uses fully was preferable because operation of the quarry could not demonstrate 'no impact' on surrounding land uses or natural resources. This approach violates Goal 5. OAR 660-16-010 requires that decisions be based on the ESEE analysis, not that the ESEE analysis be used to justify a predetermined outcome."

LCDC's explanation does not prevent the county from choosing to protect other uses on the ground that quarry operations do not have a zero impact on those uses. Any contrary view would violate Goal 5, as interpreted by LCDC in the Goal 5 rule.

Under the Goal 5 rule, the county is only obligated to protect the aggregate resource if using it has no impact on other uses. If quarry operations have any negative impact on other uses, the Goal 5 rule authorizes the county to withhold protection of the aggregate resource. All the Goal 5 rule requires of the county is an explanation of the reasons for its decision. Were the county to explain, for instance, that it found existing rural residential uses especially sensitive to the noise quarry operations would produce, it could protect those uses -- even were the loss in property values produced by quarry noise small in relation to the loss that might be produced by not protecting the aggregate resource.

The staff misinterpreted LCDC's "no impact" issue, however, to mean that the county can not deny protection to the aggregate resource on the ground the impact of quarry operations on other uses will not be zero. As a result, the report mistakenly observed that decreased wildlife habitat and property values could not be grounds for denying protection to the aggregate resource unless the decrease were significant. Report at III-28, III-52, and III-53. Since the staff's mistaken belief led to the recommendation that the site be classed "3C", the report must be revised, and the recommendation reconsidered.

Potential Transportation Effects

LCDC invalidated the previous Goal 5 decision, in part, because the county used the Transportation Goal, Goal 12, as an approval standard in making its decision. LCDC deemed Goal 12 not to be an approval standard, but a directive "to provide and encourage a safe, convenient and economic transportation system" through the development of transportation plans.

Mr. Pemble
June 10, 1994
Page 3

Specifically, LCDC said:

"In its analysis, the county used the language of Goal 12 ('To provide and encourage a safe, convenient and economic transportation system') to conclude that protection of the aggregate resource was not warranted. Goal 12 requires development of transportation plans to serve land uses. The [sic] Goal 12 is not an independent standard used to deny protection of a significant aggregate resource. The county has not shown how the use of area roads is a conflict to protecting the aggregate resource. If a conflict does exist, Goal 5 requires resolution of the conflict.

"Because the county failed to define the impact area surrounding the aggregate resource site, it has no basis to analyze traffic conflicts resulting from the resource's use."

LCDC did not say the existence of conflicts between protection of the aggregate resource and transportation can not be a reason for choosing to protect uses other than aggregate extraction. Nor did LCDC say no conflicts exist between protection of the aggregate resource and transportation. LCDC faulted the county only because it had not defined the impact area in such a way as to justify the identification and discussion of transportation as a conflicting use.

The staff misinterpreted LCDC's order to mean that the county can not deny protection to the aggregate resource on the ground it will conflict with transportation. As a result, the report does not include the rural roads leading from the site, or the land bordering those roads, in the impact area. Report at III-14 through III-16, III-49 ("Extending the 1,200 foot impact area to include all road concerns would serve no purpose in the ESEE analysis because such concerns cannot be used as a basis for determining if the site should be protected"). The staff's mistaken position led to the report's failure to identify as conflicting uses the impacts of truck traffic on the uses of the land bordering those roads, and on the use of the roads themselves. Report at III-49 ("The road impact issues are in the Resource Analysis only to be on record for post-Goal 5 analysis use in reviewing any specific operating permit application.")

Consequently, the ESEE analysis is fatally flawed, as is the recommendation that the site be classed "3C". The report therefore must be revised, and the recommendation reconsidered.

SPECIFIC COMMENTS

Howard Canyon Stream Resources

1. Impact Areas

The report's analysis of the stream resources associated with the Howard Canyon mineral and aggregate resource site is defective because it establishes incorrect impact areas. The impact area of each stream should include the watershed it drains. As the report itself acknowledged, forestry, agricultural, and other uses occur within each stream's watershed, and cause or can cause increased turbidity, chemical pollution, erosion, and siltation. Report at II-12 through II-13.

Although the use of any single piece of property outside the riparian zone may not have an immediate or significant impact on stream quality, the existing and allowed land uses within the watershed together may have a cumulatively significant adverse effect. Such an effect can not be ignored because it occurs over the long term, in view of Goal 5's purpose of protecting the streams for future generations.

The riparian zone is also too small an impact area because it does not include the Sandy River. The Sandy is both a federal Wild and Scenic River and a state Scenic Waterway, and is used by the public for recreation. Howard Canyon Creek, Knierem Creek, and Big Creek all contribute water to the Sandy River. Report at II-9 through II-10. Big Creek contributes water directly to the Sandy, while Howard Canyon Creek and Knierem Creek contribute water indirectly as tributaries of Big Creek.

According to the report itself, the impact area of streams that contribute water to public parks, or to recreation areas used by the public, should include the downstream park or recreational area. Report at II-9. As both a Wild and Scenic River and a Scenic Waterway, the Sandy qualifies as a public park or a recreation area used by the public. Therefore, the Sandy River should have been included in the impact area.

The failure to describe proper impact areas renders the entire report insufficient under Goal 5, because a valid ESEE analysis and program to achieve the goal depend on an accurate impact area. Consequently, the staff must revise the report.

2. ESEE Analysis

The ESEE analysis is defective for other reasons, as well. First, in the discussion of the consequences of not protecting the streams, the ESEE analysis fails to analyze the economic

Mr. Pemble
June 10, 1994
Page 5

consequences of mining on the streams. See Report at II-14 through II-15. The analysis also fails to analyze the social consequences of conflicting uses on the recreational use of the federally and state-protected Sandy River. See Report at II-15. The analysis also fails to analyze the environmental consequences of conflicting uses on the Sandy River. See Report at II-16. The analysis also fails to analyze the water quality impacts of mining in discussing environmental consequences. See Report at II-16.

In the discussion of the consequences of protecting the streams, the ESEE analysis fails to consider any of the beneficial economic, social, environmental, and energy consequences of protection. See Report at II-17 through II-21. For example, protecting the streams would mean the Sandy River would continue to attract recreational users, including tourists, which would have beneficial economic and social impacts. Protecting the streams would also mean the expenditure of less money and energy to prevent or clean up pollution, and the continued aesthetic appreciation residents of the area experience.

The ESEE analysis also fails to put the effects of restricting development of the Howard Canyon mineral and aggregate resource site in perspective. See Report at II-19. The site has just 1% of the aggregate found at the Angell Bros. site, the other site under Multnomah County's jurisdiction. Report at III-6. As a result, the economic consequences of restricting the site's development will be relatively minor.

The ESEE analysis also improperly speculates that protecting the streams may create adverse environmental consequences on other, unspecified sites. Report at II-20. The analysis must be tied to the impact area.

The ESEE analysis also assumes incorrectly that restrictions on the Howard Canyon mineral and aggregate resource site will require the expenditure of more energy to transport such resources to Portland from sources outside the county. Report at II-20. Yet, the existing, protected Angell Bros. operation is not only within the county, it is right outside Portland's city limits. Similarly, other sites within the county, but under Gresham's jurisdiction, are closer to Portland than the Howard Canyon site. Further, other sites outside the county, in Clackamas County, Washington County, and Columbia County, may be closer to Portland.

Again, since the development of a program to achieve Goal 5 depends on an adequate ESEE analysis, the foregoing defects in the ESEE analysis of the streams and their conflicting uses necessitate a revision of the report.

Howard Canyon Aggregate Resource

1. Impact Area

a. The immediate impact area

The description of the immediate impact area is deficient for a number of reasons. First, the report justifies a 1200-foot impact area on the ground that the sound produced by "typical" mining equipment beyond that distance will meet DEQ noise standards. Report at III-12. Yet the noise assessment study cited in the report never specifies what it means by typical mining equipment. What exactly are the specifications of a "typical" dozer, front end loader, jaw crusher, etc.? For example, how large is the dozer overall? How large is its engine? Such specifications are essential if the county is going to draw the boundaries of the impact area on the basis of the equipment that might be used to extract and process the aggregate resource.

The noise assessment study also never indicates whether it considered the cumulative noise levels produced by the individual pieces of equipment when they are operating at the same time. The study only seems to predict compliance with DEQ standards for each piece of equipment operated individually. The 1200-foot boundary may describe an insufficient impact area when more than one piece of equipment is operating simultaneously.

The report also determines that the DEQ noise standards are the appropriate standards to use in defining the extent of the impact area. That determination is justified on the ground that other jurisdictions have adopted the DEQ noise standards, and that the standards were purportedly designed to protect the health, safety, and welfare of Oregon citizens. Report at III-30, III-48. Under the Goal 5 rule, however, the only acceptable ground for using DEQ noise standards is that they accurately describe the area in which quarry operations produce or might produce conflicts. The report cites no evidence to that effect.

b. The extended impact area

As discussed in my general comments, the report unjustifiably excludes rural roads leading from the site, and the land bordering those roads, from the impact area. In fact, allowing the site to be used for the extraction of aggregate will create conflicts with use of the roads beyond those caused by existing traffic. It may also produce noise and dust conflicting with the use of the land bordering the roads. Report at III-31. Therefore, the roads and the land adjoining them should have been included within the impact area.

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The proof that use of the site will adversely affect traffic on the roads may be found in a traffic study prepared by Robert Bernstein, a transportation expert. To summarize, the study established that slow-moving trucks traveling to and from the quarry will cause localized congestion; that roadway and shoulder widths, roadway structural characteristics, and sight distances are inadequate to accommodate trucks safely; that truck traffic in the rural area will create unsafe conditions for motorists, school buses, and pedestrians. (The study is attached and incorporated in these comments by this reference.) The report reinforces Bernstein's evidence about inadequate roadway structural characteristics. Report at III-15 through III-17.

Since an accurate description of the impact area is vital to the subsequent steps in the Goal 5 process -- the identification of conflicting uses, the ESEE analysis, and the development of a program to achieve Goal 5, the foregoing deficiencies in the report's description of the immediate and extended impact area must be revised.

2. Conflicting Uses

As just indicated, the report's identification of conflicting uses is insufficient, because it does not include the demonstrated conflicts with transportation, or the potential conflicts of truck traffic on the land bordering rural roads. In addition, the report provides no explanation why certain uses allowed in the forest and agriculture zoning districts will not conflict with the aggregate resource. See Report at III-19 through III-22. For instance, were the site managed to produce timber or crops, or devoted to uses to conserve soil, air, and water quality for wildlife and fisheries resources, it could not be used as a source of aggregate.

The absence of the above-mentioned conflicting uses from the report makes both the ESEE analysis and the program proposed to achieve Goal 5 inadequate. The report therefore must be revised.

3. ESEE Analysis

The report concluded that allowing conflicting residential uses would increase the cost of county roads, because it would take more time to acquire high quality aggregate. The evidence does not support the conclusion, however. The evidence was that the State Highway Department considers "high quality" rock to be scarce in Multnomah County. Report at III-26. Although the report deemed the quality of the aggregate found at the Howard Canyon site significant enough to include the site on the inventory, no evidence established it to be "high quality." In fact, the Howard Canyon aggregate barely meets state wear requirements for base aggregate. Report at III-8. Moreover, no evidence established

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whether it would take more or less time to transport aggregate from the Howard Canyon site over narrow, steep, winding rural roads to sites within the county.

For the reasons given in my general comments, and in my specific comments on the impact area and conflicting uses, the analysis of the economic, social, and environmental effects of quarry operations on existing residential uses is inaccurate and incomplete. It must be revised.

Also in need of revision is the analysis of the economic, social, environmental, and energy consequences of protecting the aggregate resource on the significant streams and their impact areas. See my specific comments on the Howard Canyon Stream Resources section of the report.

The report dismisses the environmental consequences on the significant streams by assuming mitigation measures can be implemented to protect fish habitat, and that quarry operations can meet current environmental standards. The county must reconsider this tack, because no evidence justifies it. The report does cite the expert testimony of Robert Ellis, but Ellis based his testimony on the assumption that only one or two acres would be mined at any one time. Once the site's aggregate resource is protected, however, nothing would prevent the owner of the site from seeking to mine a substantially larger area.

The report also dismissed the environmental consequences on big game habitat on the ground that the habitat is not a Goal 5 resource. The county must reconsider this tack, too, because big game habitat does not have to be a Goal 5 resource to constitute a conflicting use.

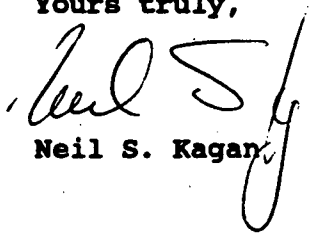
Finally, in discussing the energy consequences of protecting the aggregate resource on the significant streams, the report failed to consider the energy effects of cleaning up pollution caused by quarry operations. It must therefore be revised.

Conflict Resolution and Protection Program

As I have demonstrated in my comments, the report has seriously erred in describing impact areas, identifying conflicting uses, and analyzing ESEE consequences. As a result, the underpinnings of the conflict resolution and protection program are grossly insufficient. Therefore, it would be premature for the county to make a decision on the protection of the competing uses at this point. Once the staff has revised the report as I have indicated, it should be re-submitted to the Board of Commissioners, the Planning Commission, and the public for comment and final action.

Mr. Pemble
June 10, 1994
Page 9

Yours truly,


Neil S. Kagan

NSK/gmm
Enc.

cc: Steve Oulman, DLCD

Traffic, Transportation Planning & Engineering

Robert Bernstein, Inc. P.S.

507 - 18th Ave. E.
Seattle, WA 98112

Mr. Edward J. Sullivan
Mitchell, Lang & Smith
2000 One Main Place
101 SW Main St.
Portland, OR 97204

April 2, 1987

SUBJECT: Report on traffic and transportation issues related to the proposed quarry operation on Howard Road in the Corbett, Oregon, area

Dear Mr. Sullivan,

The report attached to this letter has been prepared at the request of Mr. Gary Thomas and some of his neighbors. The report 1) summarizes my review of available materials related to the proposed quarry and its Multnomah County permit application, 2) evaluates traffic and transportation issues not adequately addressed in the available material, and 3) draws general conclusions about road system adequacy and traffic safety impacts of the proposed quarry.

The following documents were reviewed:

- o Multnomah County Conditional Use Permit Application CU 7-87, dated October 23, 1986
- o Multnomah County Staff Report and Recommendation, CU 13-80, dated August 18, 1980
- o various environmental and geological permit applications and reports

In addition, I visited the site and the surrounding area on March 29, 1987.

My qualifications, in the form of my resume, are attached for your information. If I can be of any further assistance, please do not hesitate to call on me.

Sincerely,



Robert Bernstein, P.E.

REVIEW OF MULTNOMAH CO. CONDITIONAL USE PERMIT APPLICATION (CU 7-87)

CONCLUSIONS

A conditional use permit application for a quarry operation at the site of the subject quarry proposal was filed nearly seven years ago. As recorded in the Decision of the Hearings Officer (Multnomah County file No. CU 13-80, #666-681, 8/18/80), the Hearings Officer concluded that 1) the proposal was "not consistent with the rural character of the area, because its location would force large numbers of heavily-loaded trucks to traverse many miles of rural roads not intended to serve that type of use," 2) the proposal "will have an impact on services, because the level of truck traffic indicated by the applicant will affect the rural road system beyond Howard Road," and 3) the proposal "will generate hazardous conditions because of the level of truck traffic on roads designed to handle normal rural uses, this being particularly true at intersections." Based on these conclusions, the Hearings Officer denied the proposed conditional use.

The 1980 findings of the Hearings Officer are applicable to the current quarry proposal: nothing has happened in the past seven years to alleviate the problems identified. Furthermore, continuing rural residential development-- with its increased traffic-- makes the traffic impacts of the proposed quarry operation more severe every year, because the truck traffic has to interact with more auto traffic.

It should be noted that the traffic problems associated with quarry truck traffic as described later in this report (i.e., localized traffic congestion, hazardous operations at intersections, and hazardous operations on the roadways) are caused by each individual truck. These problems do not disappear with lower truck volumes: the Hearings Officer's conclusions are applicable to the current quarry proposal, despite its lower estimated truck volume. (The applicant's estimate of an average of 10 truck trips per day seems to be unrealistically low, and is certainly not indicative of a "worst case.")

It is also important to keep in mind that any promises made by the applicant or conditions of approval imposed by the County Commission regarding operation of the proposed quarry-- and the truck traffic it would generate-- may be difficult or impossible to enforce. If the applicant or the County are unwilling or unable to make good on operational conditions regarding truck operations or their enforcement, the surrounding rural neighborhood will be left with the safety and congestion problems that such conditions were intended to address. Since the County, in reality, has little ability to enforce conditions on operations, the neighborhood should

not have to rely on conditions of approval to avoid and/or mitigate serious safety and congestion problems.

The basic conclusions stated above lead to the final conclusion that the application should be denied for traffic safety reasons. The following discussion focuses on the main traffic impacts of the proposed quarry.

TRAFFIC CONGESTION

Traffic congestion, such as that experienced in urbanized areas, is not a problem in the vicinity of the proposed quarry. However, localized congestion can occur when cars "stack up" behind a slow-moving loaded gravel truck. Due to the topography in the area, steep grades and sharp curves abound on the road system that would be used by quarry truck traffic, regardless of the trucks' origins or destinations. These grades and curves will force trucks to move very slowly in numerous locations. Impatience and frustration may lead motorists to make ill-advised or downright hazardous maneuvers.

TRAFFIC SAFETY

In addition to its congestion impacts, truck traffic generated by the proposed quarry would significantly increase traffic safety problems along any of the roads the trucks might conceivably use in travelling to/from the quarry: Howard, Little Page, Loudon, Hurlburt, Pounder, Knieriem, Salzman, and Evans, as well as the Columbia River Scenic Highway and Corbett Hill Road. These problems are related to roadway design, the physical characteristics of trucks and their operation, and the behavior of individual motorists. The importance of recognizing these truck-related safety problems is magnified by the fact that accidents involving cars and large trucks tend to be more severe than accidents involving cars only.

In the following discussion, it should be kept in mind that inclement weather and darkness would aggravate each of the safety problems described. The icy conditions often found in this part of eastern Multnomah County during the winter pose an extreme hazard for all traffic operations. Impaired visibility due to darkness, precipitation or truck wheel spray, as well as wet or slippery pavement all contribute to increased accident potential.

Roadway Characteristics

The design of any roadway should facilitate safe traffic operations by providing adequate roadway width, sight distance and riding surface. The design should be as "forgiving" as possible; i.e., the design should forgive motorists' errors by minimizing the

potential for or severity of accidents resulting from such errors. For example, flatter roadway sideslopes and wider shoulders reduce the potential for rollovers in run-off-the-road accidents. In such cases, the motorist is "forgiven" for leaving the travel lanes.

One geometric design element of all the roads in the vicinity of the proposed quarry that is substandard-- and unforgiving in the accommodation of existing traffic-- is the roadway and shoulder widths. At 12-20 feet in width, the roadways are narrow. The narrow lanes, combined with the narrow unpaved or non-existent shoulders leave little room for motorists to maneuver, and provide little leeway for even temporary or minor loss of control on the part of a driver.

Large trucks in these narrow lanes have little lateral space within which to maneuver without either running off the road themselves or causing on-coming traffic to take evasive action. The narrow lanes and poor shoulders strictly limit the ability of vehicles to maneuver safely, whether these maneuvers be emergency or preventative in nature. There is no room for an auto to swerve to avoid a real or perceived encroachment by an on-coming truck, nor is there room to give an on-coming truck a "wide berth." In such situations, even minor incidents have the potential for serious consequences.

Safety problems associated with the steep, narrow, winding roadways in the vicinity of the proposed quarry will be aggravated by the degradation of roadway riding surface caused by heavy truck traffic. Many of the roads in the quarry vicinity simply are not structurally designed to carry heavy trucks; such roads will begin to break up fairly quickly under repeated truck usage. The other roads that are structurally capable of carrying heavy truck traffic will also deteriorate much more quickly than they would otherwise. As the Hearings Officer found in 1980, it would be financially infeasible to reconstruct all of the roadways that quarry truck traffic would use. Furthermore, the repair of deteriorating road surfaces-- aside from being expensive-- is rarely immediate, forcing local traffic to use a deteriorated roadway until such time as repairs can be made.

Sight Distance

With the exception of a number of blind driveways, available sight distance along the rural arterials in the area meet American Association of State Highway & Transportation Officials (AASHTO) sight distance standards, which are based on the ability of a motorist to bring an automobile to a safe stop. To stop a loaded gravel truck safely, however, requires a distance at least 40% in excess of the distance needed by cars to stop safely. (The sight distance requirements stated above are not purely arbitrary or empirical, but are in fact based on the laws of physics, the

reactive ability of drivers, and the deceleration capabilities of cars and heavy trucks.) As a result, the available stopping sight distance throughout the area leaves trucks with little or no margin for error in reacting to roadway obstructions and traffic.

It is generally assumed that the AASHTO sight distance standards are adequate in the case of heavy trucks, because the higher eye height of the drivers of the trucks compensates for the longer distance required to stop the trucks. However, it has been found that this assumption does not hold on crest vertical curves for the larger and heavier trucks with their longer braking distances. And of course eye height makes little difference on horizontal curves and sag vertical curves. Therefore, the fact that the roads in the area have sight distances that meet AASHTO standards does not ensure that adequate safe stopping sight distance exists for site-generated trucks.

Traffic Conflicts

All the sight distance in the world won't compensate for the motorist who misjudges a truck's speed and pulls out of a side street or driveway into a truck's path. Heavy trucks are unable to react to such roadway and traffic conflicts as quickly as the autos and small trucks that comprise most of the area traffic. This disparity of control capabilities between trucks and local traffic increases accident potential. Likewise, trucks take longer to accelerate when entering a road, and drivers often misjudge the rate at which they are overtaking a truck. This problem is exacerbated by trucks' need to make relatively wide turns, which, on the narrow roads in the area, results in the truck occupying the entire intersection as it makes its turn. This is a problem throughout the area, and it is a particular problem at the intersections along the Columbia River Scenic Highway. At the oblique Little Page Road and Larch Mountain Road intersections, it is very difficult for truck drivers to see traffic approaching from the east. At any of the Scenic Highway intersections, trucks will be turning left onto a highway that is heavily used by tourist automobile traffic, which often is not expecting heavy truck traffic entering the highway from the side roads. The Howard/Little Page/Pounder intersection is also particularly bad for trucks, due to limited sight distance and insufficient turning radii for trucks.

Driver Behavior

Safety problems also result from the incompatibility of regular heavy truck operations and the expectations of motorists on the rural arterials, rural collectors, and the Scenic Highway. The potential for accidents increases when motorists encounter unexpected or confusing traffic flow conditions, traffic controls or roadway conditions. Most of the traffic in the area is recreational or is generated by rural residential land uses, and motorists may

not expect to encounter heavy trucks on a regular basis. Traffic slowdowns and restricted visibility caused by the trucks have the potential to induce motorists to make a variety of ill-advised or unsafe maneuvers, such as tail-gating or passing where it is unsafe to do so. The braking and evasive capabilities of heavy trucks can be easily overestimated, and as stated previously, the roadway design does not compensate for errors in judgment or reaction.

Pedestrians, School Buses, and Mail Delivery

Heavy truck traffic generated by the proposed quarry would be totally incompatible with the school bus operations and access on most of the area's roads, including Knieriem, Little Page, Salzman, and Howard. Even if school children need not actually cross these roads enroute to or from school bus, truck traffic creates serious hazards for children waiting for the bus in the morning or walking along the road to or from the bus stop. Such hazards are significantly magnified in poor weather and during early morning darkness.

In addition, the risk of a truck rear-ending a stopped school bus would be significantly increased by the increased truck traffic generated by the proposed quarry. Postal carriers face similar risks.

ROBERT D. BERNSTEIN, P.E.

SERVICES

- o Traffic and transportation planning for state and local agencies
- o Neighborhood traffic management
- o Traffic impact analysis for environmental studies
- o Traffic analysis and design for site development
- o Expert review of environmental studies and land use proposals
- o Transportation demand management programs
- o Public involvement/participation for transportation projects
- o Origin-destination surveys and other surveys
- o Transit planning

QUALIFICATIONS

- o 10 years experience in city and regional transportation planning agencies and consulting firms
- o strong educational background:
MSCE-Transportation (Northwestern U.), BCE (Georgia Tech)
- o skilled in computer applications for transportation planning and traffic engineering
- o innovative and skilled at problem-solving and consensus-building
- o extensively experienced in the public involvement and citizen participation aspects of all types of transportation projects
- o registered professional engineer (civil) in Oregon and Washington

SELECTED PROJECT EXPERIENCE

Transit Projects and Studies

Multi-Corridor Project (PSOOG, 1985-86)
North Corridor Extension Project (Sno-Tran, PSOOG, 1985)
North Corridor Alternatives Analysis (PSOOG, 1983-84)
Banfield Transitway Project (ODOT, City of Portland, 1978-82)
Westside Transitway Project (Metro, City of Portland, 1978-80)
Tacoma-Seattle Transit Connections Study (PSOOG, 1986)

Transportation Plans

Arterial Streets Classification Policy Update (City of Portland, 1982-83)
Eastside Transportation Plan (PSOOG, King and Snohomish Counties,
Cities of Bellevue, Redmond, Kirkland, Bothell, and Issaquah, 1985-)
Green River Valley Transportation Action Plan (PSOOG, WSDOT, King County,
Cities of Renton, Kent, Auburn, and Tukwila, 1986)

Corridor/Sub-area Transportation Studies

Alderwood/North Creek Transportation Study (PSOOG, Snohomish County, 1985)
Northwest Portland Transportation Study (City of Portland, 1980-82)
Bellevue CBD Transportation Study (PSOOG, City of Bellevue, 1985-86)
Greater Lynnwood/I-5 Transportation Study
(PSOOG, City of Lynnwood, Snohomish County, WSDOT, Community Transit, 1987)
South Snohomish SR-99 Corridor Study
(PSOOG, WSDOT, Community Transit, City of Edmonds, 1987)
SR-9 (Snohomish - SR-522) Corridor Study
(PSOOG, Snohomish County, WSDOT, City of Snohomish, 1987)

Neighborhood Traffic Management Plans

McLoughlin Neighborhoods Project (City of Portland, 1979-83)
Division Corridor Neighborhood Traffic Management Plan (City of Portland, 1985)
South Burlingame Neighborhood Traffic Management Plan (City of Portland, 1984)
King County Neighborhood Traffic Control Demonstration Project (King County, 1987)

Freeway Corridor/Interchange Planning and Design

Alternative to I-505 Project (City of Portland, 1978-82)
East Marquam Interchange (I-5) Project (ODOT, City of Portland, 1979-80)
McLoughlin Boulevard Project (ODOT, City of Portland, 1979-83)
Terwilliger/I-5 Project (ODOT, City of Portland, 1982-83)
Frontier Village SR-9/SR-204 Project (WSDOT, Snohomish County, 1985)
I-84 (181st - Troutdale) Project (ODOT, 1986-87)
Seattle SR-99 Connections Study (WSDOT, City of Seattle, PSOOG, 1987)

Special Studies

Tacoma Dome Access and Parking Study (PSOOG, City of Tacoma, 1985-86)
Industrial Access Study (City of Portland, 1979-81)
Alternative Access Modes Database Project (PSOOG, 1985)
Everett Navy Base Traffic Impact Study (PSOOG, WSDOT, FHWA, 1986)

ROBERT D. BERNSTEIN, P.E.

EXPERIENCE

1983 - Present: Consulting Transportation Planner/Engineer

Mr. Bernstein has completed numerous traffic impact analyses and neighborhood traffic management studies for clients that include the Portland (OR) Bureau of Transportation Planning & Finance, Washington State Department of Transportation, Oregon Department of Transportation, Snohomish County (WA) Public Works Department, Southland Corporation and several neighborhood groups in Portland, Hillsboro, Washington County and Clackamas County, Oregon.

1983 - Present: Puget Sound Council of Governments

As Senior Transportation Engineer, Mr. Bernstein develops, manages and supports a wide variety of multi-jurisdictional sub-area and corridor transportation studies, short- and long-range planning efforts, and various traffic operations and impact analyses. Mr. Bernstein also serves as Coordinator for the Snohomish Subregional Council.

1978 - 1983: City of Portland, Oregon, Bureau of Planning

As City Planner-Transportation, Mr. Bernstein was responsible for the Projects and Area Studies program area of the Transportation Planning Section. General responsibilities included development of work programs, direction of other staff and consultants, technical and policy-related research, preparation of reports, and presentations and testimony at public meetings and meetings of the Planning Commission and City Council. Specific responsibilities included project management, the evaluation of and provision of city input for highway and transit projects being developed by other agencies, and the evaluation of transportation impacts of proposed land use changes and developments for the Land Use Hearings Officer, Planning Commission and City Council.

1976 - 1978: John Hamburg & Associates, Chicago, Illinois

As Transportation Engineer, Mr. Bernstein designed, programmed and tested computer models used for analysis of trip generation, regional VMT/VHT, and intersection capacity and delay. Clients included UMTA, FHWA, North Central Texas COG (Dallas), NE Ohio Areawide Coordinating Agency (Cleveland) and Tri-State RPC (New York).

(ROBERT D. BERNSTEIN, P.E.)

EDUCATION

MSCE, 1978, Northwestern University, Evanston, IL
(Urban Transportation Planning program)

BCE, 1976, Georgia Institute of Technology, Atlanta, GA,
with Highest Honors

Elementary and Secondary Schooling:
David Douglas School District, Portland, Oregon

PROFESSIONAL AFFILIATIONS

Registered Professional Civil Engineer,
Oregon (No. 11677) and Washington (No. 21677)

Transportation Research Board

Institute of Transportation Engineers

American Society of Civil Engineers

CONTINUING EDUCATION

Northwestern University Traffic Institute Transportation Impacts of Land
Development Course; Seattle, WA November, 1986

ITE Site Development Transportation Impacts Conference; Orlando, FL
March, 1986

Traffic Engineering and Safety Educators Traffic Signal Systems Course;
Seattle, WA October, 1984

UMTA Alternatives Analysis Course; Portland, OR August, 1983

UMTA/FHWA Microcomputers in Transportation Course; Portland, OR
March, 1983

Univ. of California Institute for Transportation Studies Conference:
Neighborhood Transportation Planning and Management; Berkeley, CA
November, 1982

UMTA/FHWA Special Topics in UTPS Course: Sub-area Analysis;
Los Angeles, CA May, 1982

UMTA/FHWA Energy Contingency Planning Workshop; Seattle, WA July, 1979

REPORTS AND PUBLICATIONS

"Multi-Corridor Project Traffic Analysis," accepted for publication,
Transportation Research Record, Transportation Research Board, 1987

"Alternative Access Modes Database Project," accepted for publication,
Transportation Research Record, Transportation Research Board, 1987
(coauthor)

Green River Valley Transportation Action Plan,
Puget Sound Council of Governments (King Subregional Council)
for Cities of Kent, Renton, Auburn, Tukwila, King County and
Washington State Department of Transportation, January, 1987

Everett Navy Base Traffic Impact Study, Puget Sound Council of Governments for
Washington State Department of Transportation, August, 1986 (coauthor)

"Alternative Access Modes Database Project," Compendium of Papers,
Institute of Transportation Engineers District 6/7 1986 Annual Meeting, July, 1986

Bellevue CBD Long Range Transportation Study, Puget Sound Council of Governments (King
Subregional Council) for City of Bellevue, May, 1986 (coauthor)

Alternative Access Modes Database Project,
Puget Sound Council of Governments (King Subregional Council), May, 1986

Tacoma Dome Access and Parking Study, Puget Sound Council of Governments (Pierce
Subregional Council) for City of Tacoma, March, 1986

Multi-Corridor Project Traffic Analysis,
Puget Sound Council of Governments, February, 1986

Division Corridor Neighborhood Traffic Management Study,
for Portland Bureau of Transportation Planning & Development, October, 1985

North Corridor Extension Project: Engineering Reconnaissance for Light Rail Transit
Alignment Options, Puget Sound Council of Governments (Snohomish Subregional
Council) for Sno-Trans, June, 1985

Alderwood/North Creek Transportation Study, Puget Sound Council of Governments
(Snohomish Subregional Council) for Snohomish County, March, 1985 (coauthor)

South Burlingame Neighborhood Traffic Management Plan,
for Portland Bureau of Transportation Planning & Development, February, 1985

North Corridor Alternatives Analysis Technical Summary,
Chapter 4. Transportation Impacts, Puget Sound Council of Governments
and Municipality of Metropolitan Seattle, June, 1984

McLoughlin Neighborhoods Project, Portland Bureau of Planning, November, 1982

Northwest Portland Transportation Study, Portland Bureau of Planning, July, 1982

BERT D. BERNSTEIN, P.E.

REPORTS AND PUBLICATIONS (continued)

Industrial Access Study: Summary and Recommendations,
Portland Bureau of Planning, February, 1981 (coauthor)

McLoughlin Corridor Report, Portland Bureau of Planning, August, 1979

Industrial Access Study: Assessment of Transportation Access Needs,
Portland Bureau of Planning, April, 1979 (coauthor)

Zone Scheduling of Urban Bus Transit Service,
Northwestern University Masters Thesis, May 1978

*Ex Parte
Contact
Co Kelley*

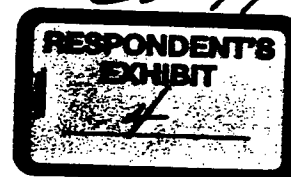
6/13/94

GUARDIANS OF LARCH MOUNTAIN

**P.O. Box 185
CORBETT, OR 97019
503 695-3412**

April 22, 1994

Multnomah County
Division of Planning
2115 SE Morrison
Portland, OR 97214



COMMENTS: SIGNIFICANT AGGREGATE RESOURCE ANALYSIS - HOWARD CANYON

Our comments are primarily focussed on the origin, description and validity of the Impact Area and its substantial consequences throughout the entire analysis report.

County staff chose an impact area of 1200 ft. surrounding the Howard Canyon aggregate site by applying data from a 'noise assessment study'. The study concludes that noise generated by mining equipment operated at the quarry site would be within DEQ noise standards at a distance of 1200 ft. from the site.

The 'noise assessment study' used by County staff (pg.6 of report) was ordered, paid for and submitted to the county by the Howard Canyon quarry owner during the 1990 Goal Five periodic review. Its intent was to provide supporting data for allowing a commercial mining operation on the site.

Noise data for the analysis report came exclusively from this study (Standlee report Re: Howard Canyon, 2-19-1990). Multnomah County Planning staff justifies its determination of a 1200 ft. impact area: "At receiver point 5 the sound levels...did not exceed the DEQ noise standard". Staff further states, that these noise levels were "based upon the mining equipment located in the center of the resource on both the north and south side." (both quotes pg.6).

We find it unacceptable that Multnomah County planning staff:

- * did not disclose that the "report by a Registered Acoustical Engineer" (pg.20) was in fact a four year old opinion by a paid consultant who was hired by the quarry owner to help him in his efforts to achieve commercial operation permit.

- * did not disclose the fact that no noise measurements including "mining equipment"

noise measurements were ever conducted! The noise-consultant for the quarry owner openly admits: "Sound levels that would radiate from an operation located at the Howard Canyon site were *predicted using a computer program...*" and: "Sound level data for *typical quarry equipment* used in large commercial operations was used in our *model...*" (1990 Standlee report, pg.4,5, italics added)

- * made no efforts during the last four years to verify any of the opinions submitted by the consultant to the quarry owner.

- * made no efforts to order an independent noise analysis from a source not connected to the quarry operator, despite the all-important consequences of noise data interpretation for this analysis report.

Staff brushes aside the concerns of residents affected by noise despite the fact that the 1990 periodic review by the county resulted in a "3B" designation for the quarry site, mainly because of noise impact on surrounding residences.

Staff uses the unsubstantiated opinions by the acoustical consultant for the quarry owner throughout the ESEE findings, because "the County accepts Mr. Stadlee's report as credible expert testimony" (pg.22). As a result conflicting use evaluations which deal with quarry noise have a predictably biased outcome, and sometimes border on the absurd:

Reduction in property value as a result of unacceptably high noise impacts could not possibly occur, because "no convincing evidence in support of that position has ever been presented to the County" (pg.20). It is ludicrous to assume a potential buyer for two homes of equal sale price, one close to a commercial quarry operation, the other far away from it, would not choose the home far away from blasting and truck noise, dust, etc. As a consequence of lower demand, the price of the unsold home is invariably driven down.

No negative economic or social effects on nearby residences is acknowledged because "expert testimony has demonstrated that noise levels associated with a mining plan...will produce noise levels at any nearby residence well below the DEQ noise standards" (pg.21), and because "Registered Professional Engineer (acoustical) Mr.Standlee has determined that noise from blasting, machinery and rock crushing will be well within DEQ standards as measured at existing dwellings in the area" (pg.22).

The only other "expert" used by the county to evaluate streams as conflicting uses in the ESEE analysis is another paid consultant for the quarry owner, Robert Ellis, biologist. Predictably, the conclusion he offers (and staff accepts, without verification or additional testimony by unbiased parties) finds no significant environmental effect on conflicting uses of streams if aggregate resource is fully allowed (pg.24, 25).

The inventory process for Statewide Planning Goal Five begins with the collection of available data from as many sources as possible (OAR 660-16-000 -1). Since the last periodic review for Howard Canyon aggregate site in 1990, Multnomah County has

made little effort to add unbiased expert testimony or alternative expert opinions for inclusion in the Resource Analysis Report. Instead, the County agrees to impact areas which were drawn up by an 'expert witness', a consultant of the quarry owner, who was paid to consult and give expert testimony on his behalf. The county also relies heavily on another paid consultant to the same party for conflicting use and ESEE analysis.

The County's decision of basing impact area- and analysis determinations on opinions which were presented to advance the quarry owner's cause is unacceptable. The county violates OAR 660-16. The Howard Canyon Significant Analysis Report (C2-94) must be rejected as invalid.

Sincerely,

A handwritten signature in black ink, appearing to read 'Klaus Heyne', with a stylized flourish at the end.

For the Guardians Of Larch Mountain: Klaus Heyne

cc: D.L.C.D.

6/13/94 BCC/PC JOINT HEARING

SHARON TIMKO SUBMITTAL

6/3/94 HOWARD CANYON QUARRY
SITE VISIT

6/10/94 ANGELL BROTHERS QUARRY
SITE VISIT

6/13/94 BCC/PC JOINT HEARING

JEAN ADAMS SUBMITTAL ON BEHALF
OF JACK SANDERS

ANGELL BROTHERS QUARRY

GUARDIANS OF LARCH MOUNTAIN

P.O. Box 185
CORBETT, OR 97019
503 695-3412

April 22, 1994

Multnomah County
Division of Planning
2115 SE Morrison
Portland, OR 97214

COMMENTS: HOWARD CANYON AREA SIGNIFICANT STREAMS ANALYSIS REPORT APRIL 11, 1994

A - General Comments on Process

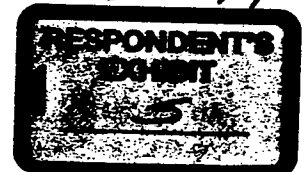
- Multnomah County Division of Planning charged \$0.30 per page to obtain document copies, including reports, during the first four days of the comment period. (The charge was protested by several interested parties and consequently reversed, and the moneys refunded). This prohibitive charge initially discouraged public participation and valuable comment time was lost.

-The Analysis Report provided to the Guardians Of Larch Mountain by Multnomah County Planning staff on 4-12-94 did not include the 'Significance Report' (C5-94), technical appendix, three stream profiles, or any maps. On 4-20-94, upon inquiry, staff provided Significance Report, appendix and stream profiles. No map(s) were ever provided.

B - Inventory of Resources

OAR 660-16-000 stipulates that a "valid" Goal 5 inventory shall include location, quality, and quantity of the resource, as well as consideration of the resource site's value relative to others in at least the jurisdiction (Multnomah County) itself.

-Location - The report defines the impact area as "the riparian zone along each stream" (pg.2), citing an average, minimum and maximum width, in feet. A more



precise identification of impact areas for the three streams which have a combined total length in excess of 6.8 miles is missing. A map identifying impact areas for each stream was not provided with this report. A map accompanying the 'Significant Aggregate Resource Analysis/Howard Canyon' identifies the three "significant Goal Five streams", but does not assign any impact areas for these streams. Lacking any additional information, we assume, the county did not assign any impact areas beyond the actual stream beds to the three streams, and did not include any part of the 4,134 acres of watershed area in the impact areas for the streams.

Inclusion of impact areas is particularly important when evaluating conflicting Goal 5 resources and their respective impact areas. To omit a detailed definition, description and map of impact areas from an inventory of a significant resource makes the resource worthless relative to a conflicting resource whose impact area has been defined and mapped. Consequently, procedural requirements for inventory as outlined in OAR-16-000 (2) were not met by the report.

-Quality and Quantity - The survey on which the report is based, inventoried only 63% of the total length of Howard Canyon Creek and its tributaries and 85% of Big creek. No explanation is given. The three streams inventoried are Class I (year-round fish bearing) streams. The report makes no mention of species and quantity of fish which are living, migrating or hatching in these streams. An incomplete inventory (and subsequent ESEE analysis) of fish bearing streams which omits any information on fish is an invalid inventory, resulting in an invalid ESEE analysis.

-Quality and Quantity (Relative value) - OAR 660-16-000 (3) describes in clear language the need for consideration of relative abundance in a given jurisdiction to determine the relative worthiness for protection of the inventoried resource. The Resource Analysis Report omits any mention or evaluation of other stream resources, inside (or outside) of the jurisdiction, relative to the three streams inventoried. Similarly, Multnomah County's 'Significance Report' (C5-94) states: "In terms of quality relative to other streams in the eastern portion of Multnomah County, detailed data is not available." (pg.4)

The mandate of Goal Five is to conserve open space and protect natural and scenic resources. Multnomah County is the most populous and most densely populated county in the State of Oregon. Determining relative value and relative abundance (or lack of abundance!) of three significant fish bearing streams in the Howard Canyon area is mandatory in a rapidly expanding urban environment which threatens natural resources in the county. To omit information on the relative value of three significant, fish bearing streams within the most urban county of the state violates the relative quality and quantity requirements of the Administrative Rules for Goal 5.

C - ESEE Analysis

-While the report's ESEE analysis explicitly mentions increased run-off and turbidity in streams as impacts by conflicting use 'forestry' (pg.5), the chapter on 'mining' (pg.5) omits any mention of negative impacts on streams through run-off turbidity from quarry

operations.

-The report omits negative environmental consequences from mining for Big Creek from its "matrix"-tabulation (Matrix 1).

-The report evaluates in detail many impacts on streams by conflicting forestry, agriculture, residential, community/commercial and transportation uses without offering suggestions for remedies or mitigation. Curiously, when it comes to mining, the authors of the report deviate from a neutral position and downplay any environmental consequences with a summary statement: "...environmental impacts outside the [mining] site during quarry operations can be minimized", and the authors refer further mitigation to several state agencies. (Page 9)

Thus, the report suggests ways to alleviate recognized stream impacts through mining, and refers solutions to other agencies, where no suggestion at minimizing impact consequences is made for any other conflicting resource. Suggesting a remedy and best possible outcome for one conflicting use impact only elevates that conflicting resource (mining) above all others. The result is a clear bias towards mining. The ESEE analysis is meaningless under these circumstances and any conclusions which are derived from it are invalid.

-The ESEE evaluation fails to consider an important concern of LCDC's remand order : During the last Goal Five Periodic Review, Multnomah County denied protection status for the Howard Canyon aggregate site because of the considerable social and economic impact a commercial quarry operation would have on surrounding residences. The ESEE analysis omits any negative economic or social consequences of allowing a conflicting use of mining for dozens of existing residences surrounding Howard Canyon.

D - Conclusion

The 'Howard Canyon Area Significant Streams Resource Analysis Report', including the 'Significance Report', fails to comply with several important procedural requirements, as mandated in OAR 660-16. Components of the report's ESEE analysis include unsubstantiated opinions, and were arranged and evaluated, in order to skew ESEE analysis results towards allowing commercial mining - to the detriment of stream protection. The report's validity and "3-C" designation for Big, Knierem, and Howard Canyon Creeks must be rejected.

Sincerely,



For the Guardians Of Larch Mountain: Klaus Heyne

cc: D.L.C.D.

6/13/94
Submitted By
Co. Sharron Kelly

Bob & Nev Scott
31700 Columbia River Hwy.
Troutdale, Oregon 97060
June 3, 1994

Commissioner Sharron Kelly
1120 SW 5th
Portland, Oregon 97204

Attention: Robert Trachtenberg

Dear Robert;

Re: Rock Quarry on Howard Canyon in Corbett

Per our conversation this afternoon, here are the copies I promised.

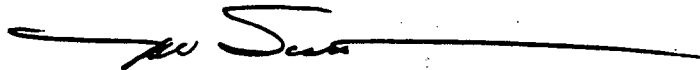
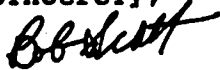
The Corbett area stands to gain by having this small quarry increase tonnage, and 50,000 tons per year does not even approach what the NEMCCA "scare" card suggests as being a "large industrial rock quarry"!

We have been to the site, and see no reason for not granting this. The operation is well contained in so far as noise and dust is concerned, it does not endanger the waterways in the area, and there are two roads to it that connect to multiple roads.

Corbett is building a school that will require many tons of rock. There is no reason the local residents need pay more to transport the rock from Washington, and impact the fragile old Columbia River Highway, when the product is locally available.

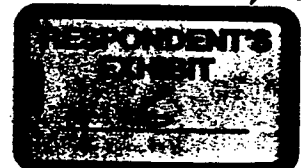
Please enter this letter into the record in support of increasing Mr. Smith's operation.

Sincerely,



Bob & Nev Scott
695-2553

C 2-94



A LARGE INDUSTRIAL ROCK QUARRY IN CORBETT ???

A proposed commercial mining operation in Howard Canyon could have great impact on our roads and property values!

The mining of several million tons of rock over many years could mean:

- ◆ AS MANY AS 48 TRUCKS A DAY, or ONE TRUCK EVERY 10 MINUTES, on CROWN PT. HWY. between CORBETT and TROUTDALE, on HURLBURT, LITTLEPAGE, KNIERIEM, and HOWARD Roads ... and on roads and bridges that connect to these roads!
- ◆ NOISE and DUST from ROCK BLASTING AND CRUSHING!
- ◆ NO LOCAL ENFORCEMENT: traffic, safety, noise, streams and wildlife..... Only state agents will regulate the impacts of a large commercial quarry!

MULTNOMAH COUNTY WILL DECIDE IN 90 DAYS WHETHER THE PRESENT OPERATION CAN EXPAND TO AN INDUSTRIAL SIZE QUARRY...
ARE YOU CONCERNED ???

Come to the NEMCCA Meeting
Wednesday May 25, 1994, 7pm Corbett Middle/High School MPB
Invited Guests: Quarry owner & County officials

Robert
This is a copy of the card that 2 of the board member dropped and show pretty in the reason for so far.

To Whom it May Concern:

13 June 1994

The rock quarry located in Howard Canyon is a needed source of rock for the Corbett community. This source of rock is used for the majority of the new construction and maintenance in the area. This rock quarry is also one of the last available sources of rock in Multnomah.

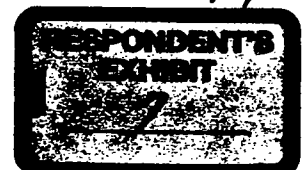
There have been concerns that the mining of rock will cause excessive noise in the community. The method of mining now used is excavation with a back hoe, which does not cause excessive noises that harm the neighbors.

It has also been stated by an employee of Multnomah County that the roads are unsafe for rock hauling trucks. If this is indeed the case, then the roads are also not safe for the following:

- 1) All rock hauling trucks regardless of the source of the rock
- 2) All concrete trucks
- 3) All trucks transporting mobile homes
- 4) All school buses
- 5) Most of District #14 emergency vehicles
- 6) All large moving vans
- 7) All log hauling trucks

As you can see, not permitting the trucks from the Howard Canyon rock quarry on the roads in the Corbett area would also stop the seven references above from using the same roads. Not allowing any of the above to use the roads would basically shut down the Corbett area.

It has also been stated that the rock from the Howard Canyon rock quarry can not be used for anything but road building. This false statement was made by an engineer hired by the local people against the quarry. The truth is the rock can be used for drain fields. In fact, I have installed two drain fields with drain rock from this quarry and both drain fields were inspected and approved by Multnomah. It was also stated the rock could not be used as concrete aggregate because crushed rock is not structurally sound. This statement is completely false. In fact, most of the concrete in the United States of America contains crushed rock as the structural aggregate. An example a little closer to home is the Corps of Engineers' dams on the Columbia River used crushed rock in their structural concrete.



We believe that the quarry in Howard Canyon is an asset to the Corbett area and is a much needed source of rock. We are confident that arrangements/compromises can be made so the Raymond Smith rock quarry can remain functional.

William J. McGinnis
William J. McGinnis, P.E.

Judy E. McGinnis
Judy E. McGinnis
39227 SE Gordon Creek Road
Corbett, Oregon 97019-9711

June 12, 1994

To the County Board,

My name is John Windust and I live at 2207 N.E. Corbett Hill Road in Corbett, Oregon. I am writing this letter in support of Raymond Smiths application for additional rock product to be mined at the Howard Canyon Quarry.

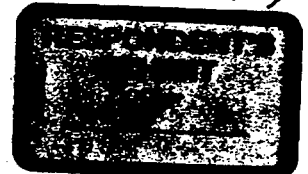
Over the years I have attended many meetings on this project and I continually question the previous outcomes. I have seen some of my neighbors continue to complain about the roads, the creeks, the noise, and various safety problems in referring to this project. I have seen no such problems as the applicant has been operating on a limited yardage permit for years. I can see no reason not to allow an increase in yardage considering the need of this product in our community.

Icurently reside on the busiest noiseist and heaviest traveled road in the Corbett area. (Corbett Hill Road). I knew this when I moved here and I also was aware it would not get better but only worse considering the greater uses of the Gorge.

I moved here to view the Gorge and I moved from one of the Most peaceful secluded spots in the Corbett area. This property was situated on 45 acres between Howard Canyon road and Loudon Road. This property's east boundary was next to Mr. Smiths property on which the quarry is located. Howard Creek ran thru the north corner of the property.

For the 10 years I lived there this quarry was operating on a part time basis. During that time I did not notice any adverse conditions. The creek was clear and un-effected, noise and air quality was not an issue. Traffic was about the same since we either got rock from this pit or it was transported from the Gresham area. This residence was one of the homes closeist to the actual quarry site. It seems strange to me that people that live miles from this location continue to tell this board how this project will impose upon the air, the creek, roads and the safety of the area. I disagree, and feel we should allow this resource to be used in our community. What right do I, or my neighbors, to limit the tpye of uses or types of trucks that can use the roads. Its okay for log trucks cement trucks, tour buses, bikes, cars, lumber trucks, farm vehicles but not a dump truck?

I Have continually heard that we don't need rock and that this site does not have a good enough supply. If that was the case why would Mr. Smith even apply for the application. The reverse is true, People are well aware that a great need is there and they are concered that this may turn into a large scale operation hauling rock out of the area. I am sure that some rock will be haued out of the Corbett area, but logistes tell me that it would not a lot. I Have known Mr. Smith for a long time and he has always been a good neighbor. I trust him to operate this quarry in the best interests of the community.



What sence does it make to have to truck gravel for up to 50 miles on all of the roads to satisfy needs that can served on a local basis. If people were really concerned for enviromental reasons how can they justify the increased traffic from outside the area and greater use of fossil fuels.

We are going to build a new school next year and I hear that as much as 30000 yards of rock may be needed. Why would we send 3000 truck trips thru the community when we could source it locally and not have the outside traffic to contend with. I'm sure the cost savings would also be significant.

It is up to Corbett as a community to work together with Mr. Smith instead of against him to allow this use to be expaned at the least impact to the local area.

Thank you for your time.



John Windust
2207 N.E. Corbett Hill Road
Corbett, Oregon 97019

James P. Redden
37837 SE Rike
Corbett Ore 9701

To the
Multnomah Board of Commissioners

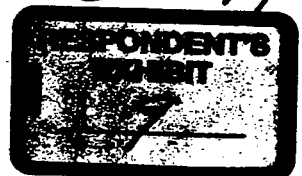
Having a rock pit in
Corbett is an excellent service
to our community. You have less
miles for trucks to haul the
rock, as opposed to hauling it
from Gresham or Portland.

The people who run the pit
have a small business and are
not trying fill their pockets
with money, just make a living.

I live on the ridge just
south of the operation, the
noise does not bother me, in
fact I rarely hear it. We
need a pit in Corbett Thank you.

Sincerely
James P. Redden
James P. Redden

C 2-94



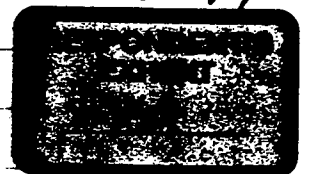
6-9-94

To Whom it may Concern-

As residents of Corbett Oregon
for several years, we feel
that the Howard Canyon Road
Rock Quarry is a asset to
the Corbett Community and
has been greatly appreciated
by many people. As property
owners we would like and have
to get our rock from the
Howard quarry rather than
anywhere else.

Thank you
Paul and Connie Penne.

C2-94



June 10, 1994

To Mult Co.

This is a Letter of Support,
to the Rock Pit on Howard Rd

I do Excavation & Driveways
in the Corbett Area.

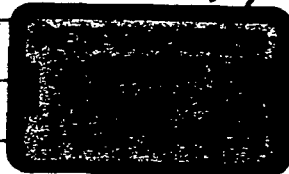
The Areas Driveways are Long
and Steep.

The Rock, at Howard Rd Pit, is
Full Fractured, No Boulders, like Pits
West of the Sandy River,

The closest Pit, with equal Full
Fractured Rock is, Mt Hood Rock Pouch in
Brightwood, 40 Tuff miles Round Trip.

Full Fractured Rock is a Must, on
most of the Driveways in Corbett Area.

C 2-94



Daniel L. Roberts
106 NE Littlepage
Corbett, Ore.



METRO

June 13, 1994

Multnomah County Board
of Commissioners
1120 SW Fifth Avenue
Portland, Oregon 97204

Multnomah County
Planning Commission

Re: "Howard Canyon Reconciliation Report", May 23, 1994.

Dear Commissioners,

We are writing on behalf of the Metro Regional Parks and Greenspaces Department. We appreciate this opportunity to share our thoughts and concerns regarding the "Howard Canyon Reconciliation Report".

Our comments are as follow:

1). We concur with the report's conclusion that Big Creek, Howard Canyon Creek and Knierem Creek are significant. However, we are concerned that the report understates, omits, or mis-states certain information which, if included, would strengthen the basis for the finding of significance.

We recommend the following changes and additions:

A). Chapter I, Part A, Section 3. "Quantity". pg II-4 is faulty because it compares the three streams in question to all streams in East Multnomah County. This is a meaningless comparison for two reasons. First, the Bull River and Sandy River are lumped into the total "length" and "drainage area". Although both are "class I", it is inappropriate to compare streams to rivers. Second, the

C2-94

RESPONDENT'S
EXHIBIT

12

comparison apparently includes streams which are not tributary to Sandy River.

This applies to oranges comparison results in a skewed assessment which leads to an inaccurate conclusion of "insignificance" in terms of "quantity".

This comparison should include only streams of similar size which flow into the Sandy River.

2). Section 4, "Quality", pg II-5 indicates that criteria and measurements used to judge criteria are extensively discussed in the "Multnomah County Significant Streams Study - Howard Canyon Area" - Appendix A.

Review of this section reveals that important information has not been collected which, if included, would strengthen the basis of the significance findings.

For example, a stream survey for aquatic life has not been conducted, consequently the analysis lacks significant information on fish resources in the creeks. It is quite possible that trout populations may be genetically unique due to their isolation created by the waterfalls on Big Creek.

Additionally, the inventory does not address amphibians, neo-tropical birds, resident bird species or botanical resources. Despite these glaring omissions, the analysis concludes that the "study area" does not contain habitat for endangered or threatened species. This conclusion is unsupportable. A more appropriate conclusion would be that the "study area" may provide habitat for rare, threatened or endangered species.

Apparently, no data on water quality has been collected. The lack of basic water quality data prevents reasonable assessment of impacts related to adjacent land uses and associated enforcement of water quality laws and standards.

3). Chapter II, part B, Section 4, pg. II-10 states that "uses that represent potential conflicts with streams include any activity that results in the removal of vegetation along the riparian zone". While this statement is true, it ignores the impacts of various land uses throughout the watershed on the stream and the section completely overlooks the conflicts created by removal of water from the stream for consumption, irrigation, hydroelectric generation, etc.. Any and all of the primary or conditional/community service uses that would depend on surface water for "out-of-stream" purposes will conflict with the protection of the significant streams and existing state law. "Out of stream" water uses should be included as a "Conflicting Use Impact" on pages II-12 and II-13.

4). Chapter II, part B, Section 4,C.,I, pg 11-14 states: "The creek (Big) does not flow into a wildlife habitat area or any other sensitive area". This statement is false! Big Creek flows into the Sandy River adjacent to Oxbow Park. The Sandy has been included in the National Wild and Scenic Rivers System (1988) and the State Scenic Waterways Program (1973). In both cases, the river has been designated, in part, due to its outstanding wildlife habitat values. Pg. 18 of the BLM "Sandy Wild and Scenic River and State Scenic Waterway Management Plan", (September 1993) states: "The Sandy River Gorge offers one of the highest levels of diversity in both wildlife species and habitat of any river in the region" and "The habitats bordering the river and major tributaries provide critically important travel corridors for wildlife movement along the river and to and

from the Larch Mountain area to the east, especially for important big game species such as Roosevelt Elk".

Furthermore, BLM, USFS, BPA, US Fish and Wildlife, Oregon Department of Fish and Wildlife, Northwest Power Planning Council, Oregon State Parks, Oregon Water Resources Department and virtually every other natural resource agency recognize the importance and diversity of Sandy River fish resources - both resident and anadromous species.

Big Creek flows into the Sandy River approximately 100 yards upstream from a known spawning area for Fall chinook salmon and Winter steelhead. Impacts to tributaries result in diminished resource values downstream. We strongly recommend appropriate amendments to this section of the report.

5). ESEE analysis, pg. II-14 thru II-26 - this section concludes that the "consequences of not protecting significant streams are primarily environmental in nature, while the consequences of prohibiting or limiting conflicting uses in order to preserve significant streams are primarily economic, social and energy in nature".

We believe the conclusion is faulty because the analysis is focused too narrowly on impacts associated with limiting land uses adjacent to the stream.

For example, the section on "Economic Consequences of Allowing Conflicting Uses" fails to address the economic consequences of lowered water quality on anadromous fish resources; the economic impact of reduced wildlife population and diversity; the economic impact of reduced flows and lowered water quality on recreational use of the Sandy River; and the economic impact of flooding and flood control projects. Similar omissions are noted in sections on social and energy consequences.

Between 1980 and 1990, over one billion dollars were spent on efforts to restore the Columbia River salmon fishery. Habitat destruction and associated impacts on flows and water quality are important factors contributing to the salmon crisis which has only continued to escalate into the 90's without question, salmon are important both economically and socially. Although none of the three (3) creeks are utilized by anadromous fish, (due to a natural barrier) they are tributary to the Sandy River which is an important spawning and rearing area. The Sandy river is a reflection of the quality of its tributaries.

Oregon's diverse wildlife resources are important elements in the state's tourism industry. Wildlife attracts both hunters and viewers. The Oregon Department of Fish and Wildlife has made efforts to document the financial impact of hunting and wildlife observation, and scientific studies have documented the importance of riparian corridors to wildlife for forage, cover and migration purposes. This information should be included in analysis along with the cost of mitigation efforts caused by conflicting uses.

BLM and Oregon State Parks have estimated that up to one (1) million people annually utilize the Sandy River for a myriad of recreational activities. This intense use creates substantial economic activity for a variety of businesses throughout the region. This information should be considered in the analysis.

Finally, the report recognizes the contribution of riparian vegetation removal to increased flooding. However, a discussion of the economic, social, and energy consequences of flooding is omitted. The economic impacts of flooding and flood control should be included as an economic, social, and energy impact.

Each of these impacts of conflicting uses have economic, social, and energy consequences which have not

been addressed. We believe that they should be considered in the ESEE analysis and that the result will be a conclusion which supports stronger limitations on conflicting uses within the riparian corridors of significant streams and their tributaries.

6). ESEE Analysis - Howard Canyon Aggregate Resource, pgs III-25 thru III-43.

We are concerned that staff has assumed too much regarding the potential impacts of mining on the significant streams. For example, the report states: "Staff from DOGAMI has verified that they are confident that there is enough separation between the extraction area and these significant Goal 5 streams to accommodate holding ponds that would catch enough soil to ensure that the drainage that leaves the ponds would meet applicable water quality control standards".

Curiously, it appears that neither DEQ (agency responsible for water quality) or Oregon Department of Fish and Wildlife were consulted regarding their opinion of the impacts of the proposed mining on the significant streams. A "to scale" map depicting the mining site and streams is not a part of the report.

Additionally, without baseline information on the current status of fish, wildlife or water quality, we question how anyone will be able to judge the impact of the mining operation. Speculation seems unnecessarily risky.

It is recommended that both DEQ and the Oregon Department of Fish and Wildlife be consulted about fish, wildlife, and water quality issues and their response be included and considered in the ESEE analysis.

It is further recommended that credible baseline information be collected on fish, wildlife and water quality. This should be done at the expense of the mine operator.

7). Conflict Resolution, pgs IV-3 thru IV-22 -

Full protection (3-A) of significant streams in our view, would require prohibition of all conflicting uses throughout the entire watersheds of the streams in question. We concede that this course of action is unrealistic. However, we strongly believe that the proposed conclusions and protection strategies fall far short of what is required to achieve even limited protection of the stream resources.

Our specific recommendations include the following:

a). Forestry - Although the Forest Practices Act has been updated and improved, there is still considerable room for further improvement, particularly in the area of stream protection. Protection standards on federal lands have recently been amended and strengthened in response to considerable evidence regarding the negative impacts of timber harvest and road construction on Class I streams and their tributaries. By assuming that the FPA protects these significant streams, the County is shirking its responsibility to the Goal 5 resources and missing an opportunity to help shape timber harvest guidelines by participating in the process.

It is recommended that the County advise the State Forestry Department of its determinations relative to this and other "resource reconciliation" efforts and recommend the implementation of appropriate protection measures. Additionally, it would be advantageous to assign County Staff to monitor and participate in various issues and processes initiated by the Board of Forestry which impact

timber harvest activities adjacent to Class I streams and their tributaries.

b). Residential Uses - It is recommended that residential uses be prohibited within 100 feet of significant streams, 50 feet of their tributaries, and all riparian vegetation protected except for hazard trees. It is further recommended that access drives in the riparian zone be avoided whenever practical and in the event crossing a significant stream cannot be avoided, a bridge or arch culvert should be required and installed in a manner that is approved by the Oregon Department of Fish and Wildlife.

Soil disturbing activities should be restricted to typically dry months, erosion prevention measures should be required for all soil distributing activities and revegetation required prior to the rainy season.

c). Community Service and Conditional Uses - It is recommended that these uses be prohibited within 100 feet of significant streams and 50 feet of their tributaries. Access roads, riparian vegetation and soil disturbing should be restricted as noted above in 7b.

d). Agricultural Uses - We strongly disagree with the report's reasoning for concluding that the County should not regulate agricultural activities. It is widely accepted that agricultural activities have and continue to be a major factor in the degradation and destruction of riparian habitat, decline in wildlife diversity, degradation of water quality, destruction of fish resources and introduction and spread of exotic plant species and, in some cases, disease.

Information in the "stream profile" section clearly contradicts reasons "3" and "4" (pg IV-9) for not pursuing regulation of agricultural activities. You have the authority and ability to begin a process of restoration. We urge you to use it.

At a minimum, it is recommended that livestock and crop cultivation be prohibited within 100 feet of significant streams and 50 feet of their tributaries. Where streams have been degraded, landowners should be required to repair the damage they've done. Roads associated with agricultural activities should be treated per 7b above.

It is further recommended that the County limit its annual appropriation to the East County Soil and Water Conservation District to restoration activities on streams and wetlands which have been degraded by agricultural activities. These funds should be earmarked to assist landowners with restoration efforts.

e). Mining of Mapped Aggregate Resource -

It is recommended that mining activity be prohibited within 200 feet of a significant stream and that all riparian vegetation be protected except for hazard trees. It is further recommended that:

- No mining be permitted within 100 feet of any tributary to a significant stream and that all riparian vegetation be protected except for hazard trees.
- Roads associated with aggregate mining be treated per 7b above and strictly limited to one (1) crossing.
- That the mine operator be required to complete fish, wildlife and water quality inventories prior to an expansion of mining activity.
- That a mining and reclamation plan require specific approval of the Oregon Department of Fish and Wildlife and DEQ in addition to DOGAMI.

- That the mine operator be required to test water quality downstream of the mine at a frequency which is adequate to capture the full range flows expected in the significant streams
- That exposed earth never exceed two (2) acres at any time.

In closing, the "Multnomah County Natural Areas Protection and Management Plan" adopted by the Board in June 1992 states:

"Although the Board of County Commissioners is mindful of concerns regarding the rights of property owners, it also recognizes the responsibility of all land owners to develop and manage property in a manner which is consistent with the conservation of 'publicly-owned' resources such as fish, wildlife, scenery, air and water".

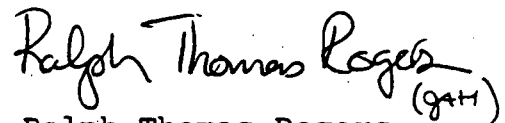
We believe our recommendations represent the minimum actions required to protect the streams that have been found to be significant. We appreciate your consideration of our comments and recommendations.

Again, thank you for the opportunity to share our views.

Sincerely,



Charles Ciecko
Director



Ralph Thomas Rogers
EPA Biologist

cc: Multnomah County Board of Commissioners:

Beverly Stein, Chair of the Board

Dan Saltzman, District 1

Gary Hansen, District 2

Tanya Collier, District 3

Sharron Kelley, District 4

Multnomah County Planning Commission:

Leonard Yoon, Chair

Karin Hunt, Vice Chair

Laurie Craghead

Samuel L, Diack

Chris Foster

William Fritz

Peter Finely Fry

John Ingle

Dave Kunkel

Steve Oulman, Dept. of Land Conservation and Development

Robert Walker, Bonneville Power Administration

Jill Zarnowitz, Oregon Department of Fish And Wildlife

Neil Mullane, Oregon Dept. of Environmental Quality

Rena Cusma, Metro

Judy Wyers, Metro

Merrie Waylett, Metro

CC/mb

hcrr.let

NEIL S. KAGAN

ATTORNEY AT LAW

1050 Yeon Building
522 S.W. Fifth Avenue
Portland, Oregon 97204

Telephone
(503) 223-4272
Fax
(503) 225-0811

June 13, 1994

MEMORANDUM

**TO: Multnomah County Board of Commissioners
Multnomah County Planning Commission**

RE: Howard Canyon

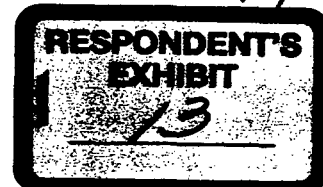
The Friends of Howard Canyon ask the Board and the Commission:

• to defer action on the recommendations made in the Howard Canyon Reconciliation Report until the planning department revises the report and re-submits it to the Board, the Commission, and the public for comment; and

• to direct the planning department to revise the Howard Canyon Reconciliation Report as follows, consistent with the letter submitted to the planning department by the Howard Canyon Committee of the Friends of Forest Park on June 10, 1994:

1. Howard Canyon Stream Resources

- a. Re-describe the impact area of each stream to include the watershed it drains
- b. Re-describe the impact area of the streams to include the federally and state-protected Sandy River
- c. Re-do the analysis of the economic, social, environmental, and energy consequences of conflicting uses, and particularly mining, on the streams and their impact areas
- d. Make the discussion of the economic consequences of restricting the use of the Howard Canyon aggregate resource reflect the absolute and relative size of the resource
- e. Restrict the ESEE analysis of the environmental consequences of restricting the use of the Howard Canyon aggregate resource to the streams and their impact areas



- f. Make the discussion of the energy consequences of restricting the use of the Howard Canyon aggregate resource reflect the presence of other sources of aggregate closer to Portland

2. Howard Canyon Aggregate Resource

- a. Re-calculate the impact area of the aggregate resource using mining equipment with stated specifications
- b. Re-calculate the impact area of the aggregate resource considering the cumulative noise levels of mining equipment operating simultaneously
- c. Re-describe the impact area of the aggregate resource to include the area in which quarry operations produce or might produce conflicts
- d. Re-describe the impact area of the aggregate resource to include the rural roads leading from the site, and the land bordering those roads
- e. Re-do the analysis of the economic, social, environmental, and energy consequences of mining on the conflicting uses within the impact area, especially residential uses and streams
- f. Consider conflicting uses such as timber production, agricultural production, and conservation in analyzing the economic, social, environmental, and energy consequences of mining on the conflicting uses within the impact area
- g. Delete the conclusion that allowing conflicting residential uses would increase the cost of county roads, unless further evidence supporting such a conclusion is adduced

NEIL S. KAGAN
ATTORNEY AT LAW

1050 Yeon Building
522 S.W. Fifth Avenue
Portland, Oregon 97204

Telephone
(503) 223-4272
Fax
(503) 225-0811

June 10, 1994

R. Scott Pemble
Planning Director
Department of Environmental Services
Division of Planning and Development
2115 S. E. Morrison Street
Portland, Oregon 97214

Re: Howard Canyon Reconciliation Report

Dear Mr. Pemble:

On behalf of the Howard Canyon Committee of Friends of Forest Park, I am writing to comment on your staff's Howard Canyon Reconciliation Report of May 23, 1994 ("the report"). I will begin with general comments on the misinterpretations of LCDC's remand order which pervade and undermine the report. I will continue with specific comments on the report's defects, noting the measures that must be taken to correct the report and ensure the county's compliance with Goal 5.

GENERAL COMMENTS

With respect to the Howard Canyon mineral and aggregate resource site, LCDC identified four issues in finding the county's compliance with Goal 5 inadequate. The staff has misinterpreted two of these issues. For this reason, and the reasons mentioned under my specific comments, the staff has produced a report that does not comply with Goal 5.

I will discuss both of the issues identified by LCDC that were misinterpreted by the staff. First, I will identify the issue. Next, I will show how the staff misinterpreted it. Last, I will explain how the staff's misinterpretation has rendered the report invalid.

"No Impact Test"

LCDC invalidated the previous Goal 5 decision, in part, because the county explained and expressed its preference for protecting conflicting uses in the ESEE analysis, instead of keeping the ESEE analysis neutral. LCDC said the county must make its decision after completing the ESEE analysis, rather than construct the ESEE analysis to justify a decision the county has

already made. This was LCDC's third issue.

Specifically, LCDC said:

"Throughout the ESEE analysis, the county maintained that the ultimate decision to allow conflicting uses fully was preferable because operation of the quarry could not demonstrate 'no impact' on surrounding land uses or natural resources. This approach violates Goal 5. OAR 660-16-010 requires that decisions be based on the ESEE analysis, not that the ESEE analysis be used to justify a predetermined outcome."

LCDC's explanation does not prevent the county from choosing to protect other uses on the ground that quarry operations do not have a zero impact on those uses. Any contrary view would violate Goal 5, as interpreted by LCDC in the Goal 5 rule.

Under the Goal 5 rule, the county is only obligated to protect the aggregate resource if using it has no impact on other uses. If quarry operations have any negative impact on other uses, the Goal 5 rule authorizes the county to withhold protection of the aggregate resource. All the Goal 5 rule requires of the county is an explanation of the reasons for its decision. Were the county to explain, for instance, that it found existing rural residential uses especially sensitive to the noise quarry operations would produce, it could protect those uses -- even were the loss in property values produced by quarry noise small in relation to the loss that might be produced by not protecting the aggregate resource.

The staff misinterpreted LCDC's "no impact" issue, however, to mean that the county can not deny protection to the aggregate resource on the ground the impact of quarry operations on other uses will not be zero. As a result, the report mistakenly observed that decreased wildlife habitat and property values could not be grounds for denying protection to the aggregate resource unless the decrease were significant. Report at III-28, III-52, and III-53. Since the staff's mistaken belief led to the recommendation that the site be classed "3C", the report must be revised, and the recommendation reconsidered.

Potential Transportation Effects

LCDC invalidated the previous Goal 5 decision, in part, because the county used the Transportation Goal, Goal 12, as an approval standard in making its decision. LCDC deemed Goal 12 not to be an approval standard, but a directive "to provide and encourage a safe, convenient and economic transportation system" through the development of transportation plans.

Specifically, LCDC said:

"In its analysis, the county used the language of Goal 12 ('To provide and encourage a safe, convenient and economic transportation system') to conclude that protection of the aggregate resource was not warranted. Goal 12 requires development of transportation plans to serve land uses. The [sic] Goal 12 is not an independent standard used to deny protection of a significant aggregate resource. The county has not shown how the use of area roads is a conflict to protecting the aggregate resource. If a conflict does exist, Goal 5 requires resolution of the conflict.

"Because the county failed to define the impact area surrounding the aggregate resource site, it has no basis to analyze traffic conflicts resulting from the resource's use."

LCDC did not say the existence of conflicts between protection of the aggregate resource and transportation can not be a reason for choosing to protect uses other than aggregate extraction. Nor did LCDC say no conflicts exist between protection of the aggregate resource and transportation. LCDC faulted the county only because it had not defined the impact area in such a way as to justify the identification and discussion of transportation as a conflicting use.

The staff misinterpreted LCDC's order to mean that the county can not deny protection to the aggregate resource on the ground it will conflict with transportation. As a result, the report does not include the rural roads leading from the site, or the land bordering those roads, in the impact area. Report at III-14 through III-16, III-49 ("Extending the 1,200 foot impact area to include all road concerns would serve no purpose in the ESEE analysis because such concerns cannot be used as a basis for determining if the site should be protected"). The staff's mistaken position led to the report's failure to identify as conflicting uses the impacts of truck traffic on the uses of the land bordering those roads, and on the use of the roads themselves. Report at III-49 ("The road impact issues are in the Resource Analysis only to be on record for post-Goal 5 analysis use in reviewing any specific operating permit application.")

Consequently, the ESEE analysis is fatally flawed, as is the recommendation that the site be classed "3C". The report therefore must be revised, and the recommendation reconsidered.

SPECIFIC COMMENTS

Howard Canyon Stream Resources

1. Impact Areas

The report's analysis of the stream resources associated with the Howard Canyon mineral and aggregate resource site is defective because it establishes incorrect impact areas. The impact area of each stream should include the watershed it drains. As the report itself acknowledged, forestry, agricultural, and other uses occur within each stream's watershed, and cause or can cause increased turbidity, chemical pollution, erosion, and siltation. Report at II-12 through II-13.

Although the use of any single piece of property outside the riparian zone may not have an immediate or significant impact on stream quality, the existing and allowed land uses within the watershed together may have a cumulatively significant adverse effect. Such an effect can not be ignored because it occurs over the long term, in view of Goal 5's purpose of protecting the streams for future generations.

The riparian zone is also too small an impact area because it does not include the Sandy River. The Sandy is both a federal Wild and Scenic River and a state Scenic Waterway, and is used by the public for recreation. Howard Canyon Creek, Knierem Creek, and Big Creek all contribute water to the Sandy River. Report at II-9 through II-10. Big Creek contributes water directly to the Sandy, while Howard Canyon Creek and Knierem Creek contribute water indirectly as tributaries of Big Creek.

According to the report itself, the impact area of streams that contribute water to public parks, or to recreation areas used by the public, should include the downstream park or recreational area. Report at II-9. As both a Wild and Scenic River and a Scenic Waterway, the Sandy qualifies as a public park or a recreation area used by the public. Therefore, the Sandy River should have been included in the impact area.

The failure to describe proper impact areas renders the entire report insufficient under Goal 5, because a valid ESEE analysis and program to achieve the goal depend on an accurate impact area. Consequently, the staff must revise the report.

2. ESEE Analysis

The ESEE analysis is defective for other reasons, as well. First, in the discussion of the consequences of not protecting the streams, the ESEE analysis fails to analyze the economic

consequences of mining on the streams. See Report at II-14 through II-15. The analysis also fails to analyze the social consequences of conflicting uses on the recreational use of the federally and state-protected Sandy River. See Report at II-15. The analysis also fails to analyze the environmental consequences of conflicting uses on the Sandy River. See Report at II-16. The analysis also fails to analyze the water quality impacts of mining in discussing environmental consequences. See Report at II-16.

In the discussion of the consequences of protecting the streams, the ESEE analysis fails to consider any of the beneficial economic, social, environmental, and energy consequences of protection. See Report at II-17 through II-21. For example, protecting the streams would mean the Sandy River would continue to attract recreational users, including tourists, which would have beneficial economic and social impacts. Protecting the streams would also mean the expenditure of less money and energy to prevent or clean up pollution, and the continued aesthetic appreciation residents of the area experience.

The ESEE analysis also fails to put the effects of restricting development of the Howard Canyon mineral and aggregate resource site in perspective. See Report at II-19. The site has just 1% of the aggregate found at the Angell Bros. site, the other site under Multnomah County's jurisdiction. Report at III-6. As a result, the economic consequences of restricting the site's development will be relatively minor.

The ESEE analysis also improperly speculates that protecting the streams may create adverse environmental consequences on other, unspecified sites. Report at II-20. The analysis must be tied to the impact area.

The ESEE analysis also assumes incorrectly that restrictions on the Howard Canyon mineral and aggregate resource site will require the expenditure of more energy to transport such resources to Portland from sources outside the county. Report at II-20. Yet, the existing, protected Angell Bros. operation is not only within the county, it is right outside Portland's city limits. Similarly, other sites within the county, but under Gresham's jurisdiction, are closer to Portland than the Howard Canyon site. Further, other sites outside the county, in Clackamas County, Washington County, and Columbia County, may be closer to Portland.

Again, since the development of a program to achieve Goal 5 depends on an adequate ESEE analysis, the foregoing defects in the ESEE analysis of the streams and their conflicting uses necessitate a revision of the report.

Howard Canyon Aggregate Resource

1. Impact Area

a. The immediate impact area

The description of the immediate impact area is deficient for a number of reasons. First, the report justifies a 1200-foot impact area on the ground that the sound produced by "typical" mining equipment beyond that distance will meet DEQ noise standards. Report at III-12. Yet the noise assessment study cited in the report never specifies what it means by typical mining equipment. What exactly are the specifications of a "typical" dozer, front end loader, jaw crusher, etc.? For example, how large is the dozer overall? How large is its engine? Such specifications are essential if the county is going to draw the boundaries of the impact area on the basis of the equipment that might be used to extract and process the aggregate resource.

The noise assessment study also never indicates whether it considered the cumulative noise levels produced by the individual pieces of equipment when they are operating at the same time. The study only seems to predict compliance with DEQ standards for each piece of equipment operated individually. The 1200-foot boundary may describe an insufficient impact area when more than one piece of equipment is operating simultaneously.

The report also determines that the DEQ noise standards are the appropriate standards to use in defining the extent of the impact area. That determination is justified on the ground that other jurisdictions have adopted the DEQ noise standards, and that the standards were purportedly designed to protect the health, safety, and welfare of Oregon citizens. Report at III-30, III-48. Under the Goal 5 rule, however, the only acceptable ground for using DEQ noise standards is that they accurately describe the area in which quarry operations produce or might produce conflicts. The report cites no evidence to that effect.

b. The extended impact area

As discussed in my general comments, the report unjustifiably excludes rural roads leading from the site, and the land bordering those roads, from the impact area. In fact, allowing the site to be used for the extraction of aggregate will create conflicts with use of the roads beyond those caused by existing traffic. It may also produce noise and dust conflicting with the use of the land bordering the roads. Report at III-31. Therefore, the roads and the land adjoining them should have been included within the impact area.

The proof that use of the site will adversely affect traffic on the roads may be found in a traffic study prepared by Robert Bernstein, a transportation expert. To summarize, the study established that slow-moving trucks traveling to and from the quarry will cause localized congestion; that roadway and shoulder widths, roadway structural characteristics, and sight distances are inadequate to accommodate trucks safely; that truck traffic in the rural area will create unsafe conditions for motorists, school buses, and pedestrians. (The study is attached and incorporated in these comments by this reference.) The report reinforces Bernstein's evidence about inadequate roadway structural characteristics. Report at III-15 through III-17.

Since an accurate description of the impact area is vital to the subsequent steps in the Goal 5 process -- the identification of conflicting uses, the ESEE analysis, and the development of a program to achieve Goal 5, the foregoing deficiencies in the report's description of the immediate and extended impact area must be revised.

2. Conflicting Uses

As just indicated, the report's identification of conflicting uses is insufficient, because it does not include the demonstrated conflicts with transportation, or the potential conflicts of truck traffic on the land bordering rural roads. In addition, the report provides no explanation why certain uses allowed in the forest and agriculture zoning districts will not conflict with the aggregate resource. See Report at III-19 through III-22. For instance, were the site managed to produce timber or crops, or devoted to uses to conserve soil, air, and water quality for wildlife and fisheries resources, it could not be used as a source of aggregate.

The absence of the above-mentioned conflicting uses from the report makes both the ESEE analysis and the program proposed to achieve Goal 5 inadequate. The report therefore must be revised.

3. ESEE Analysis

The report concluded that allowing conflicting residential uses would increase the cost of county roads, because it would take more time to acquire high quality aggregate. The evidence does not support the conclusion, however. The evidence was that the State Highway Department considers "high quality" rock to be scarce in Multnomah County. Report at III-26. Although the report deemed the quality of the aggregate found at the Howard Canyon site significant enough to include the site on the inventory, no evidence established it to be "high quality." In fact, the Howard Canyon aggregate barely meets state wear requirements for base aggregate. Report at III-8. Moreover, no evidence established

whether it would take more or less time to transport aggregate from the Howard Canyon site over narrow, steep, winding rural roads to sites within the county.

For the reasons given in my general comments, and in my specific comments on the impact area and conflicting uses, the analysis of the economic, social, and environmental effects of quarry operations on existing residential uses is inaccurate and incomplete. It must be revised.

Also in need of revision is the analysis of the economic, social, environmental, and energy consequences of protecting the aggregate resource on the significant streams and their impact areas. See my specific comments on the Howard Canyon Stream Resources section of the report.

The report dismisses the environmental consequences on the significant streams by assuming mitigation measures can be implemented to protect fish habitat, and that quarry operations can meet current environmental standards. The county must reconsider this tack, because no evidence justifies it. The report does cite the expert testimony of Robert Ellis, but Ellis based his testimony on the assumption that only one or two acres would be mined at any one time. Once the site's aggregate resource is protected, however, nothing would prevent the owner of the site from seeking to mine a substantially larger area.

The report also dismissed the environmental consequences on big game habitat on the ground that the habitat is not a Goal 5 resource. The county must reconsider this tack, too, because big game habitat does not have to be a Goal 5 resource to constitute a conflicting use.

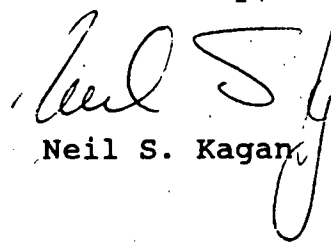
Finally, in discussing the energy consequences of protecting the aggregate resource on the significant streams, the report failed to consider the energy effects of cleaning up pollution caused by quarry operations. It must therefore be revised.

Conflict Resolution and Protection Program

As I have demonstrated in my comments, the report has seriously erred in describing impact areas, identifying conflicting uses, and analyzing ESEE consequences. As a result, the underpinnings of the conflict resolution and protection program are grossly insufficient. Therefore, it would be premature for the county to make a decision on the protection of the competing uses at this point. Once the staff has revised the report as I have indicated, it should be re-submitted to the Board of Commissioners, the Planning Commission, and the public for comment and final action.

Mr. Pemble
June 10, 1994
Page 9

Yours truly,


Neil S. Kagan

NSK/gmm
Enc.

cc: Steve Oulman, DLCD

Robert Bernstein, Inc. P.S.

507 - 18th Ave. E.
Seattle, WA 98112

Mr. Edward J. Sullivan
Mitchell, Lang & Smith
2000 One Main Place
101 SW Main St.
Portland, OR 97204

April 2, 1987

SUBJECT: Report on traffic and transportation issues related to the proposed quarry operation on Howard Road in the Corbett, Oregon, area

Dear Mr. Sullivan,

The report attached to this letter has been prepared at the request of Mr. Gary Thomas and some of his neighbors. The report

- 1) summarizes my review of available materials related to the proposed quarry and its Multnomah County permit application,
- 2) evaluates traffic and transportation issues not adequately addressed in the available material, and
- 3) draws general conclusions about road system adequacy and traffic safety impacts of the proposed quarry.

The following documents were reviewed:

- o Multnomah County Conditional Use Permit Application CU 7-87, dated October 23, 1986
- o Multnomah County Staff Report and Recommendation, CU 13-80, dated August 18, 1980
- o various environmental and geological permit applications and reports

In addition, I visited the site and the surrounding area on March 29, 1987.

My qualifications, in the form of my resume, are attached for your information. If I can be of any further assistance, please do not hesitate to call on me.

Sincerely,



Robert Bernstein, P.E.

REVIEW OF MULTNOMAH CO. CONDITIONAL USE PERMIT APPLICATION (CU 7-87)

CONCLUSIONS

A conditional use permit application for a quarry operation at the site of the subject quarry proposal was filed nearly seven years ago. As recorded in the Decision of the Hearings Officer (Multnomah County File No. CU 13-80, #666-681, 8/18/80), the Hearings Officer concluded that 1) the proposal was "not consistent with the rural character of the area, because its location would force large numbers of heavily-loaded trucks to traverse many miles of rural roads not intended to serve that type of use," 2) the proposal "will have an impact on services, because the level of truck traffic indicated by the applicant will affect the rural road system beyond Howard Road," and 3) the proposal "will generate hazardous conditions because of the level of truck traffic on roads designed to handle normal rural uses, this being particularly true at intersections." Based on these conclusions, the Hearings Officer denied the proposed conditional use.

The 1980 findings of the Hearings Officer are applicable to the current quarry proposal: nothing has happened in the past seven years to alleviate the problems identified. Furthermore, continuing rural residential development-- with its increased traffic-- makes the traffic impacts of the proposed quarry operation more severe every year, because the truck traffic has to interact with more auto traffic.

It should be noted that the traffic problems associated with quarry truck traffic as described later in this report (i.e., localized traffic congestion, hazardous operations at intersections, and hazardous operations on the roadways) are caused by each individual truck. These problems do not disappear with lower truck volumes: the Hearings Officer's conclusions are applicable to the current quarry proposal, despite its lower estimated truck volume. (The applicant's estimate of an average of 10 truck trips per day seems to be unrealistically low, and is certainly not indicative of a "worst case.")

It is also important to keep in mind that any promises made by the applicant or conditions of approval imposed by the County Commission regarding operation of the proposed quarry-- and the truck traffic it would generate-- may be difficult or impossible to enforce. If the applicant or the County are unwilling or unable to make good on operational conditions regarding truck operations or their enforcement, the surrounding rural neighborhood will be left with the safety and congestion problems that such conditions were intended to address. Since the County, in reality, has little ability to enforce conditions on operations, the neighborhood should

not have to rely on conditions of approval to avoid and/or mitigate serious safety and congestion problems.

The basic conclusions stated above lead to the final conclusion that the application should be denied for traffic safety reasons. The following discussion focuses on the main traffic impacts of the proposed quarry.

TRAFFIC CONGESTION

Traffic congestion, such as that experienced in urbanized areas, is not a problem in the vicinity of the proposed quarry. However, localized congestion can occur when cars "stack up" behind a slow-moving loaded gravel truck. Due to the topography in the area, steep grades and sharp curves abound on the road system that would be used by quarry truck traffic, regardless of the trucks' origins or destinations. These grades and curves will force trucks to move very slowly in numerous locations. Impatience and frustration may lead motorists to make ill-advised or downright hazardous maneuvers.

TRAFFIC SAFETY

In addition to its congestion impacts, truck traffic generated by the proposed quarry would significantly increase traffic safety problems along any of the roads the trucks might conceivably use in travelling to/from the quarry: Howard, Little Page, Louden, Hurlburt, Pounder, Knieriem, Salzman, and Evans, as well as the Columbia River Scenic Highway and Corbett Hill Road. These problems are related to roadway design, the physical characteristics of trucks and their operation, and the behavior of individual motorists. The importance of recognizing these truck-related safety problems is magnified by the fact that accidents involving cars and large trucks tend to be more severe than accidents involving cars only.

In the following discussion, it should be kept in mind that inclement weather and darkness would aggravate each of the safety problems described. The icy conditions often found in this part of eastern Multnomah County during the winter pose an extreme hazard for all traffic operations. Impaired visibility due to darkness, precipitation or truck wheel spray, as well as wet or slippery pavement all contribute to increased accident potential.

Roadway Characteristics

The design of any roadway should facilitate safe traffic operations by providing adequate roadway width, sight distance and riding surface. The design should be as "forgiving" as possible; i.e., the design should forgive motorists' errors by minimizing the

potential for or severity of accidents resulting from such errors. For example, flatter roadway sideslopes and wider shoulders reduce the potential for rollovers in run-off-the-road accidents. In such cases, the motorist is "forgiven" for leaving the travel lanes.

One geometric design element of all the roads in the vicinity of the proposed quarry that is substandard-- and unforgiving in the accommodation of existing traffic-- is the roadway and shoulder widths. At 12-20 feet in width, the roadways are narrow. The narrow lanes, combined with the narrow unpaved or non-existent shoulders leave little room for motorists to maneuver, and provide little leeway for even temporary or minor loss of control on the part of a driver.

Large trucks in these narrow lanes have little lateral space within which to maneuver without either running off the road themselves or causing on-coming traffic to take evasive action. The narrow lanes and poor shoulders strictly limit the ability of vehicles to maneuver safely, whether these maneuvers be emergency or preventative in nature. There is no room for an auto to swerve to avoid a real or perceived encroachment by an on-coming truck, nor is there room to give an on-coming truck a "wide berth." In such situations, even minor incidents have the potential for serious consequences.

Safety problems associated with the steep, narrow, winding roadways in the vicinity of the proposed quarry will be aggravated by the degradation of roadway riding surface caused by heavy truck traffic. Many of the roads in the quarry vicinity simply are not structurally designed to carry heavy trucks; such roads will begin to break up fairly quickly under repeated truck usage. The other roads that are structurally capable of carrying heavy truck traffic will also deteriorate much more quickly than they would otherwise. As the Hearings Officer found in 1980, it would be financially infeasible to reconstruct all of the roadways that quarry truck traffic would use. Furthermore, the repair of deteriorating road surfaces-- aside from being expensive-- is rarely immediate, forcing local traffic to use a deteriorated roadway until such time as repairs can be made.

Sight Distance

With the exception of a number of blind driveways, available sight distance along the rural arterials in the area meet American Association of State Highway & Transportation Officials (AASHTO) sight distance standards, which are based on the ability of a motorist to bring an automobile to a safe stop. To stop a loaded gravel truck safely, however, requires a distance at least 40% in excess of the distance needed by cars to stop safely. (The sight distance requirements stated above are not purely arbitrary or empirical, but are in fact based on the laws of physics, the

reactive ability of drivers, and the deceleration capabilities of cars and heavy trucks.) As a result, the available stopping sight distance throughout the area leaves trucks with little or no margin for error in reacting to roadway obstructions and traffic.

It is generally assumed that the AASHTO sight distance standards are adequate in the case of heavy trucks, because the higher eye height of the drivers of the trucks compensates for the longer distance required to stop the trucks. However, it has been found that this assumption does not hold on crest vertical curves for the larger and heavier trucks with their longer braking distances. And of course eye height makes little difference on horizontal curves and sag vertical curves. Therefore, the fact that the roads in the area have sight distances that meet AASHTO standards does not ensure that adequate safe stopping sight distance exists for site-generated trucks.

Traffic Conflicts

All the sight distance in the world won't compensate for the motorist who misjudges a truck's speed and pulls out of a side street or driveway into a truck's path. Heavy trucks are unable to react to such roadway and traffic conflicts as quickly as the autos and small trucks that comprise most of the area traffic. This disparity of control capabilities between trucks and local traffic increases accident potential. Likewise, trucks take longer to accelerate when entering a road, and drivers often misjudge the rate at which they are overtaking a truck. This problem is exacerbated by trucks' need to make relatively wide turns, which, on the narrow roads in the area, results in the truck occupying the entire intersection as it makes its turn. This is a problem throughout the area, and it is a particular problem at the intersections along the Columbia River Scenic Highway. At the oblique Little Page Road and Larch Mountain Road intersections, it is very difficult for truck drivers to see traffic approaching from the east. At any of the Scenic Highway intersections, trucks will be turning left onto a highway that is heavily used by tourist automobile traffic, which often is not expecting heavy truck traffic entering the highway from the side roads. The Howard/Little Page/Pounder intersection is also particularly bad for trucks, due to limited sight distance and insufficient turning radii for trucks.

Driver Behavior

Safety problems also result from the incompatibility of regular heavy truck operations and the expectations of motorists on the rural arterials, rural collectors, and the Scenic Highway. The potential for accidents increases when motorists encounter unexpected or confusing traffic flow conditions, traffic controls or roadway conditions. Most of the traffic in the area is recreational or is generated by rural residential land uses, and motorists may

not expect to encounter heavy trucks on a regular basis. Traffic slowdowns and restricted visibility caused by the trucks have the potential to induce motorists to make a variety of ill-advised or unsafe maneuvers, such as tail-gating or passing where it is unsafe to do so. The braking and evasive capabilities of heavy trucks can be easily overestimated, and as stated previously, the roadway design does not compensate for errors in judgment or reaction.

Pedestrians, School Buses, and Mail Delivery

Heavy truck traffic generated by the proposed quarry would be totally incompatible with the school bus operations and access on most of the area's roads, including Knieriem, Little Page, Salzman, and Howard. Even if school children need not actually cross these roads enroute to or from school bus, truck traffic creates serious hazards for children waiting for the bus in the morning or walking along the road to or from the bus stop. Such hazards are significantly magnified in poor weather and during early morning darkness.

In addition, the risk of a truck rear-ending a stopped school bus would be significantly increased by the increased truck traffic generated by the proposed quarry. Postal carriers face similar risks.

ROBERT D. BERNSTEIN, P.E.

SERVICES

- o Traffic and transportation planning for state and local agencies
- o Neighborhood traffic management
- o Traffic impact analysis for environmental studies
- o Traffic analysis and design for site development
- o Expert review of environmental studies and land use proposals
- o Transportation demand management programs
- o Public involvement/participation for transportation projects
- o Origin-destination surveys and other surveys
- o Transit planning

QUALIFICATIONS

- o 10 years experience in city and regional transportation planning agencies and consulting firms
- o strong educational background:
MSCE-Transportation (Northwestern U.), BCE (Georgia Tech)
- o skilled in computer applications for transportation planning and traffic engineering
- o innovative and skilled at problem-solving and consensus-building
- o extensively experienced in the public involvement and citizen participation aspects of all types of transportation projects
- o registered professional engineer (civil) in Oregon and Washington

ROBERT D. BERNSTEIN, P.E.

SELECTED PROJECT EXPERIENCE

Transit Projects and Studies

Multi-Corridor Project (PSCOG, 1985-86)
North Corridor Extension Project (Sno-Tran, PCSOG, 1985)
North Corridor Alternatives Analysis (PSCOG, 1983-84)
Banfield Transitway Project (ODOT, City of Portland, 1978-82)
Westside Transitway Project (Metro, City of Portland, 1978-80)
Tacoma-Seattle Transit Connections Study (PSCOG, 1986)

Transportation Plans

Arterial Streets Classification Policy Update (City of Portland, 1982-83)
Eastside Transportation Plan (PSCOG, King and Snohomish Counties,
Cities of Bellevue, Redmond, Kirkland, Bothell, and Issaquah, 1985-)
Green River Valley Transportation Action Plan (PSCOG, WSDOT, King County,
Cities of Renton, Kent, Auburn, and Tukwila, 1986)

Corridor/Sub-area Transportation Studies

Alderwood/North Creek Transportation Study (PSCOG, Snohomish County, 1985)
Northwest Portland Transportation Study (City of Portland, 1980-82)
Bellevue CBD Transportation Study (PSCOG, City of Bellevue, 1985-86)
Greater Lynnwood/I-5 Transportation Study
(PSCOG, City of Lynnwood, Snohomish County, WSDOT, Community Transit, 1987)
South Snohomish SR-99 Corridor Study
(PSCOG, WSDOT, Community Transit, City of Edmonds, 1987)
SR-9 (Snohomish - SR-522) Corridor Study
(PSCOG, Snohomish County, WSDOT, City of Snohomish, 1987)

Neighborhood Traffic Management Plans

McLoughlin Neighborhoods Project (City of Portland, 1979-83)
Division Corridor Neighborhood Traffic Management Plan (City of Portland, 1985)
South Burlingame Neighborhood Traffic Management Plan (City of Portland, 1984)
King County Neighborhood Traffic Control Demonstration Project (King County, 1987)

Freeway Corridor/Interchange Planning and Design

Alternative to I-505 Project (City of Portland, 1978-82)
East Marquam Interchange (I-5) Project (ODOT, City of Portland, 1979-80)
McLoughlin Boulevard Project (ODOT, City of Portland, 1979-83)
Terwilliger/I-5 Project (ODOT, City of Portland, 1982-83)
Frontier Village SR-9/SR-204 Project (WSDOT, Snohomish County, 1985)
I-84 (181st - Troutdale) Project (ODOT, 1986-87)
Seattle SR-99 Connections Study (WSDOT, City of Seattle, PCSOG, 1987)

Special Studies

Tacoma Dome Access and Parking Study (PSCOG, City of Tacoma, 1985-86)
Industrial Access Study (City of Portland, 1979-81)
Alternative Access Modes Database Project (PSCOG, 1985)
Everett Navy Base Traffic Impact Study (PSCOG, WSDOT, FHWA, 1986)

ROBERT D. BERNSTEIN, P.E.

EXPERIENCE

1983 - Present: Consulting Transportation Planner/Engineer

Mr. Bernstein has completed numerous traffic impact analyses and neighborhood traffic management studies for clients that include the Portland (OR) Bureau of Transportation Planning & Finance, Washington State Department of Transportation, Oregon Department of Transportation, Snohomish County (WA) Public Works Department, Southland Corporation and several neighborhood groups in Portland, Hillsboro, Washington County and Clackamas County, Oregon.

1983 - Present: Puget Sound Council of Governments

As Senior Transportation Engineer, Mr. Bernstein develops, manages and supports a wide variety of multi-jurisdictional sub-area and corridor transportation studies, short- and long-range planning efforts, and various traffic operations and impact analyses. Mr. Bernstein also serves as Coordinator for the Snohomish Subregional Council.

1978 - 1983: City of Portland, Oregon, Bureau of Planning

As City Planner-Transportation, Mr. Bernstein was responsible for the Projects and Area Studies program area of the Transportation Planning Section. General responsibilities included development of work programs, direction of other staff and consultants, technical and policy-related research, preparation of reports, and presentations and testimony at public meetings and meetings of the Planning Commission and City Council. Specific responsibilities included project management, the evaluation of and provision of city input for highway and transit projects being developed by other agencies, and the evaluation of transportation impacts of proposed land use changes and developments for the Land Use Hearings Officer, Planning Commission and City Council.

1976 - 1978: John Hamburg & Associates, Chicago, Illinois

As Transportation Engineer, Mr. Bernstein designed, programmed and tested computer models used for analysis of trip generation, regional VMT/VHT, and intersection capacity and delay. Clients included UMTA, FHWA, North Central Texas COG (Dallas), NE Ohio Areawide Coordinating Agency (Cleveland) and Tri-State RPC (New York).

ROBERT D. BERNSTEIN, P.E.

EDUCATION

MSCE, 1978, Northwestern University, Evanston, IL
(Urban Transportation Planning program)

BCE, 1976, Georgia Institute of Technology, Atlanta, GA,
with Highest Honors

Elementary and Secondary Schooling:
David Douglas School District, Portland, Oregon

PROFESSIONAL AFFILIATIONS

Registered Professional Civil Engineer,
Oregon (No. 11677) and Washington (No. 21677)

Transportation Research Board

Institute of Transportation Engineers

American Society of Civil Engineers

CONTINUING EDUCATION

Northwestern University Traffic Institute Transportation Impacts of Land
Development Course; Seattle, WA November, 1986

ITE Site Development Transportation Impacts Conference; Orlando, FL
March, 1986

Traffic Engineering and Safety Educators Traffic Signal Systems Course;
Seattle, WA October, 1984

UMTA Alternatives Analysis Course; Portland, OR August, 1983

UMTA/FHWA Microcomputers in Transportation Course; Portland, OR
March, 1983

Univ. of California Institute for Transportation Studies Conference:
Neighborhood Transportation Planning and Management; Berkeley, CA
November, 1982

UMTA/FHWA Special Topics in UTPS Course: Sub-area Analysis;
Los Angeles, CA May, 1982

UMTA/FHWA Energy Contingency Planning Workshop; Seattle, WA July, 1979

REPORTS AND PUBLICATIONS

"Multi-Corridor Project Traffic Analysis," accepted for publication,
Transportation Research Record, Transportation Research Board, 1987

"Alternative Access Modes Database Project," accepted for publication,
Transportation Research Record, Transportation Research Board, 1987
(coauthor)

Green River Valley Transportation Action Plan,
Puget Sound Council of Governments (King Subregional Council)
for Cities of Kent, Renton, Auburn, Tukwila, King County and
Washington State Department of Transportation, January, 1987

Everett Navy Base Traffic Impact Study, Puget Sound Council of Governments for
Washington State Department of Transportation, August, 1986 (coauthor)

"Alternative Access Modes Database Project," Compendium of Papers,
Institute of Transportation Engineers District 6/7 1986 Annual Meeting, July, 1986

Bellevue CBD Long Range Transportation Study, Puget Sound Council of Governments (King
Subregional Council) for City of Bellevue, May, 1986 (coauthor)

Alternative Access Modes Database Project,
Puget Sound Council of Governments (King Subregional Council), May, 1986

Tacoma Dome Access and Parking Study, Puget Sound Council of Governments (Pierce
Subregional Council) for City of Tacoma, March, 1986

Multi-Corridor Project Traffic Analysis,
Puget Sound Council of Governments, February, 1986

Division Corridor Neighborhood Traffic Management Study,
for Portland Bureau of Transportation Planning & Development, October, 1985

North Corridor Extension Project: Engineering Reconnaissance for Light Rail Transit
Alignment Options, Puget Sound Council of Governments (Snohomish Subregional
Council) for Sno-Trans, June, 1985

Alderwood/North Creek Transportation Study, Puget Sound Council of Governments
(Snohomish Subregional Council) for Snohomish County, March, 1985 (coauthor)

South Burlingame Neighborhood Traffic Management Plan,
for Portland Bureau of Transportation Planning & Development, February, 1985

North Corridor Alternatives Analysis Technical Summary,
Chapter 4. Transportation Impacts, Puget Sound Council of Governments
and Municipality of Metropolitan Seattle, June, 1984

McLoughlin Neighborhoods Project, Portland Bureau of Planning, November, 1982

Northwest Portland Transportation Study, Portland Bureau of Planning, July, 1982

ROBERT D. BERNSTEIN, P.E.

REPORTS AND PUBLICATIONS (continued)

Industrial Access Study: Summary and Recommendations,
Portland Bureau of Planning, February, 1981 (coauthor)

McLoughlin Corridor Report, Portland Bureau of Planning, August, 1979

Industrial Access Study: Assessment of Transportation Access Needs,
Portland Bureau of Planning, April, 1979 (coauthor)

Zone Scheduling of Urban Bus Transit Service,
Northwestern University Masters Thesis, May 1978



Tourism Division
March 1994

Post-It™ brand fax transmittal memo 7671		# of pages • 2
To Michael Gaura	From Doris Nelson	
Co.	Co. OTD	
Dept.	Phone # 986-0003	
Fax #	Fax #	

Oregon's Visitor Industry

As Oregon's economy continues to diversify, tourism plays a vital role in creating new job opportunities and strengthening local and regional economies.

In 1992, more than \$3 billion was generated statewide by visitor expenditures, a 5.6 percent increase over 1991 expenditures. This confirms that the visitor industry is not only a key economic force in Oregon, but a significant growth industry as well.

In addition to direct impacts, employment and revenue in support sectors such as business services, utilities and personal services are significant.

Oregon's visitor industry provides important entry-level jobs as well as increasing

opportunities in managerial and professional positions. It also provides important transferable skills and employment for women and minorities entering the job market.

Interestingly, tourism employment has grown at a slower rate between 1987 and 1992 (33.5%) than payroll (68%) and travel spending (72%), which in part reflects rising average wage rates in the industry. As the Oregon visitor industry matures, so do the quantity, and particularly, the quality of jobs.

Between 1987 and 1992, the growth in the tourism industry in Oregon has shown substantial increases, as indicated by the statistics below (prepared by Dean Runyan Associates):

Tourism Economic Impacts

1987: \$1.8 billion
1992: \$3.1 billion
72% increase

Tourism Employment

1987: 38,541 people
1992: 51,400 people
33.5% increase

Tourism Payroll

1987: \$355,262,000
1992: \$596,900,000
68% increase

Average Tourism Industry Wage (1991)

\$11,601 (28.6 hours/week)
\$18,666 (adjusted full-time equivalent, including tip income)

Average Tourism Proprietor Family Income (1991)

\$36,800 per year

State Tax Receipts

1987: \$48,531,000
1992: \$88,478,000
82% increase

Statewide Room Tax Receipts

1987-88: \$20 million
1992-93: \$33.7 million
68.5% increase

Visitor Volume

Total visitor volume, 1992: 23.3 million visits
7.5 million out-of-state visitors (32%)
15.8 in-state visits (68%)

Out-of-state visitors generated approximately half of all visitor expenditures in 1992 (\$1.5 billion), but comprise one-third of all visits

1987: 6 million out-of-state visitors

1992: 7.5 million out-of-state visitors
25% increase

1992: International visitors:
397,400 Canadians
213,000 Overseas

RESPONDENT'S EXHIBIT

C-2-94

14

Why Tourism in Oregon?

- Compatible with Oregon's commitment to a high quality of life and protection of the natural environment.
- Positive return on investment:
 - For every dollar the Tourism Division invests in advertising, \$19-\$20 in new visitor revenue is returned to the state.
 - For every dollar the Tourism Division invests in the State Welcome Centers, \$41 in new visitor revenue is added to the state's economy.
- Helps build rural economies; links rural and urban areas.
- Encourages regional partnerships and private-public cooperative ventures.
- Provides entrepreneurial opportunities (nearly 75% of Oregon's visitor-industry businesses have a "working proprietor" whose average annual salary is \$36,800).
- Showcases the state and often leads to other business development.
- Generates more than \$3 billion per year for local, county and state governments and businesses.
- As tourism grows, investments in facility developments improve the quality of life for all Oregonians. Since 1992, these major new attractions have been (or will be) added to our product inventory:
 - Oregon Coast Aquarium, Newport (May 1992)
 - Oregon Trail Interpretive Center, Baker City (May 1992)
 - New OMSI, Portland (October 1992)
 - Museum at Warm Springs (March 1993)
 - Pacific Northwest Museum of Natural History, Ashland (July 1994)

The Outlook?

- Nationally, the tourism industry is predicted to grow at 4 percent annually through 1995—Oregon has grown at a higher rate than this over the past six years.
- Special-interest travel (ecotourism, heritage tourism, adventure tourism) will become more important—Oregon's outdoor activities, diverse natural beauty and historic attractions will be sought after.
- Cost-effective, safe, family-oriented destinations will become increasingly popular into the next century.
- "Niche" marketing to special-interest groups (bicyclists, jazz lovers, history buffs, etc.) will require less costly but more sophisticated marketing.

The Challenges?

- Ensuring that facility and product development (and maintenance) keep pace with marketing efforts.
- Training and preparing the visitor-industry workforce; creating career ladders and advancement opportunities in the industry.
- Seeking public-private partnerships to alleviate housing shortages during peak seasons and in primary tourism destinations.
- Maintaining local, state and regional visitor promotion budgets during difficult fiscal situations, and forming partnerships to fund tourism marketing and development projects.
- "Internationalizing" Oregon to better serve and welcome international visitors.
- Seeking ways to expand off-season tourism and alleviate congestion during peak seasons at primary locations.
- Encouraging more "packaging" of the Oregon tourism product, making it easier for consumers and the travel trade to purchase Oregon travel packages.

Oregon. Things look different here.

MICHAEL GAN
Swinnthal
6/13/94



MULTNOMAH COUNTY OREGON

WAVE BLACK
SUBMITTAL
HOWARD CANYON
OPPONENT 6/13/93

DEPARTMENT OF ENVIRONMENTAL SERVICES
DIVISION OF PLANNING
AND DEVELOPMENT
2115 S.E. MORRISON STREET
PORTLAND, OREGON 97214
(503) 248-3043

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

02 November 1993

Jeffrey J & Taryn D Liggett
36335 S E Hurlburt Road
Corbett
Oregon - - 97019-9708

Subject: Notice of Zoning Violation (Certificate # P 426 968 046)
Property located at 36335 & 36501 S E Hurlburt Road.

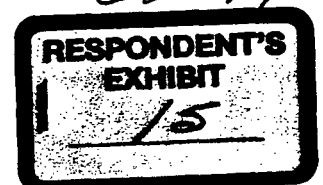
Dear Mr & Ms Liggett:

Over the past year it has been brought to our attention that certain conditions relevant to land use were probably in violation of Multnomah County rules and regulations at the location referenced above. The situation reported was:

1. Land-disturbing activity on your property in the vicinity of Big Creek.
2. Operating a motor cross track with three wheeled vehicles.
3. Excessive noise at times.
4. Excessive dust created when vehicles are using the track.
5. Illegal mobile home being occupied as a dwelling.
6. Big Creek had been dammed, impeding flow.

Site statistics for the property referenced above are:

- | | |
|---------------------|---|
| 1. Site Ident | Tax Lots 77 and 66 in the southwest quarter of Section 2, Township 1 South, Range 4 East, W M |
| 2. Property Owners | Jeffrey & Taryn Liggett |
| Mail to: | 36335 S E Hurlburt Road
Corbett, Oregon 97019-9708 |
| 3. Tax Acct Numbers | R-99402-0770 and R-99402-0660 |
| 4. State ID Numbers | Not assigned yet |
| 5. Site Size | 5.00 acres (Tax Lot 77)
5.75 acres (Tax Lot 66) |



A staff person from the Zoning Code Enforcement Office made a site inspection on Friday, 29 October 1993 and noted the following from S E Hurlburt Road:

1. A large portion of the two tax lots was devoid of any vegetation. About two-thirds of the race track "oval" appeared to be on Tax Lot 66, the easterly of the two properties.
2. Two large mounds of dirt had been piled up along the southerly edge of the combined properties.
 - A. These mounds apparently had been created for the use of racing three-wheeled vehicles or motorcycles.
 - B. With binoculars it appeared that one of the two mounds observed was located at the easterly part of the two properties, adjacent to Big Creek, a Class 1 Stream.
3. On the south side of the stream, near the jumping mound, there was a well maintained picnic area (with tables).
4. Big creek appeared to be free flowing (ie there was no dam apparent).
5. Mobile home situated on the easterly half of the site It appeared to be on Tax Lot 66.
6. On two occasions during the site visit a single three-wheeled vehicle was observed travelling westbound, for a short distance, on S E Hurlburt Road (adjacent to the south edge of the property).

The base zone for the property is RR, "Rural Residential". Other portions of the Zoning Ordinance that apply to the above-described property (and activity) are HD, "Hillside Development and Erosion Control" and SEC, "Significant Environmental Concern":

MCC 11.15.2202 thru .2230 RR, "Rural Residential"

.2202 "Purposes"

The purposes of the Rural Residential District are as follows:

1. "... to provide areas for residential use for those persons who desire rural living environments;

2. "to provide standards for rural land use and development consistent with desired rural character, . . ."

It does not seem that creation and use of a race track, private or public, for motorized vehicles, is consistent with the above-quoted excerpts from the "Purposes" section as stated in the RR District.

Also, making "excessive" noise (as claimed by local residents) is not in keeping with the above "Purposes".

In addition, creating clouds of dust which drift onto adjacent properties (according to local residents) is not in keeping with the purposes section.

It could be concluded that the above reported activities taking place on your property which affect and cause discomfort to adjacent property owners is not in keeping with the rural character of the area, particularly when such activities are not agricultural in nature.

.2206, "Uses"

"No building, structure or land shall be used and no building or structure shall hereafter be erected, altered or enlarged in this district except for the uses listed in MCC .2208 through .2216."

.2208, "Primary Uses"

None of the uses listed in this section could be construed to include a race track, public or private, as an allowed use.

.2210, "Uses Permitted Under Prescribed Conditions"

(A). "Residential use, consisting of a single family dwelling constructed off-site, including a mobile or modular home, subject to the following conditions:

- (1). "Construction shall comply with the standards of the Building Code or as prescribed in ORS 446.002 through 446.200, relating to mobile homes.
- (2). "The dwelling shall be attached to a foundation for which a building permit has been obtained.
- (3). "The dwelling shall have a minimum floor area of 600 square feet."

It appears that the dwelling unit in question, a mobile home, meets the above listed requirements. Therefore the mobile home is not in violation of the RR District as previously reported.

A search of our building permit records indicates that a permit was issued on 5/28/85 to Jeff Liggett for a mobile home (permit # 850853).

Regarding the race track constructed:

None of the uses listed in this section could be construed to include a race track, public or private, as an allowed use.

.2212, "Conditional Uses"

None of the uses listed in this section could be construed to include a race track, public or private, as an allowed use.

.2214, "Accessory Uses"

None of the uses listed in this section could be construed to include a race track, public or private, as an allowed use.

The land has been modified to accommodate a particular kind of use or activity that is not allowed in the Rural Residential District.

Allowing outsiders onto the site, whether for free or a fee, to participate in such an activity (which is not an allowed use), which creates dust and noise, violates the purposes and intent of the Rural Residential District. It could also be stated that any activity which creates an adverse effect off-site is not in keeping with the purposes of the RR District.

MCC 11.15.6400 thru .6422 SEC, "Significant Environmental Concern"

.6400 "Purposes"

"The purposes of the Significant Environmental Concern subdistrict are to protect, conserve, enhance, restore, and maintain significant natural and man-made features which are of public value, including among other things, river corridors, streams, lakes and islands, . . . wetlands, wildlife and fish habitats,"

.6404 "Uses - SEC Permit Required"

"(C)" "Any building, structure, or physical improvement within 100 feet of the normal high water level of a Class 1 stream, as defined by the State of Oregon Forest Practice Rules, shall require an SEC permit under MCC .6412, regardless of the zoning designation of the site."

The property under your ownership, specifically Tax Lot 66, in the southwest quarter of Section 2, T 1 S, R 4 E, falls within this category.

Big Creek, which flows southwesterly through Tax Lot 66, crossing under Hurlburt Road, is on your property. As such, any land-disturbing activity taking place on your property within 100 feet of this water feature is required to have an SEC Permit approved prior to commencing any work.

You claimed, during our conversation that took place on Hurlburt Road last Friday, that you were familiar with protecting streams and that you maintained a fifty yard buffer between the race track and the stream.

With binoculars I observed what appeared to be a much closer relationship between a large mound of dirt and Big Creek near your picnic area.

Also, that no erosion control measures had been taken between the edge of that mound of dirt and the creek bank, which looked to be no more than twenty-five feet away. This is an estimate, since I was not invited onto your property to observe more closely.

The land-disturbing activity which has taken place could cause sedimentation into the creek and disturb the fish habitat during the rainy season.

Our records do not show that an SEC permit has been applied for or approved to cover the work that has been done within the 100 feet adjacent to Big Creek.

MCC 11.15.6700 thru .6735

HD, "Hillside Development and Erosion Control"

.6700

"Purposes"

"The purposes of the Hillside Development and Erosion Control subdistrict are to promote the public health, safety and general welfare, and minimize public and private losses due to earth movement hazards in specified areas and minimize erosion and related environmental damage in unincorporated Multnomah County"

"This subdistrict is intended to:

"(D)" "Control erosion, production and transport of sediment; and

"(E)" "Regulate land development actions including excavation and fills, drainage controls and protect exposed soil surfaces from erosive forces; and"

.6710 "Permits Required"

"(B)" "Grading and Erosion Control Permit"

"All persons proposing site grading where the volume of soil or earth material disturbed, stored, disposed of, or used as fill exceeds 50 cubic yards, or which obstruct or alter a drainage course, shall obtain a Grading and Erosion Control Permit as prescribed by this subdistrict, unless exempted by MCC .6715(B)(2) through (8) or .6715(C)."

Regarding .6710 "(B)" noted above:

- 1. The amount of material "disturbed" and placed in mounds appears to exceed fifty (50) cubic yards.**
- 2. The fill material, being at least partially within the 100 feet adjacent to Big Creek, also requires an SEC Permit.**
- 3. A search of our records does not show that a "Grading and Erosion Control Permit" or an SEC Permit has been applied for or approved.**

From the observations made it can be concluded that the activity which has been taking place on your property is in violation of the RR, "Rural Residential" section (MCC 11.15.2202 - 2230), SEC, "Significant Environmental Concern" section (MCC 11.15.640 - 6422), and the HD, "Hillside Development and Erosion Control" section (MCC 11.15.6700 - 6735) of the County Zoning Ordinance.

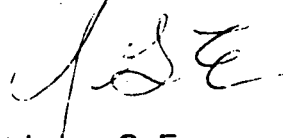
As the property owner of record you are responsible for such activity. You are hereby respectfully requested to comply immediately with the provisions of the County's "Rural Residential", "Significant Environmental Concern", and "Hillside Development and Erosion Control" portions of the Zoning Ordinance.

If you feel that you have received this notice in error, please respond in writing. It is important to include copies of pertinent documents pertaining to permits issued, etc to support your claim.

It is hoped that this matter can be resolved in a voluntary, cooperative manner. If satisfactory resolution of this item has not been completed within 30 days, however, the matter will be referred to Multnomah County Counsel with a request for legal action to cause the property to be brought into compliance with Zoning standards.

If you have any questions regarding Flood Hazard or Hillside Development and Erosion Control please contact Mark R Hess, Planner, at this office (phone 248-3043). Mr Hess is usually available for consultation daily between 3:00 P M and 4:30 P M. It is recommended that you phone for an appointment prior to coming to the Planning Division Office.

Sincerely,



Irving G Ewen

Zoning Code Enforcement Office

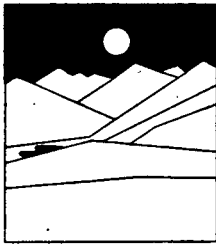
Encl

MCC 11.15.2202 thru .2230, RR, "Rural Residential"

MCC 11.15.6400 thru .6422, SEC, "Significant Environmental Concern"

MCC 11.15.6700 thru .6735, HD, "Hillside Development & Erosion Control"

This notice is issued in accordance with Chapter 11.15 of the Multnomah County Code. Pursuant to MCC 11.15.9053 (Penalties), failure to remedy violation will result in a fine of up to \$500.00 for each day the violation continues beyond this 30 day notice period.



**OREGON
NATURAL
RESOURCES
COUNCIL**

MAIN OFFICE

YEON BUILDING, SUITE 1050
522 SOUTHWEST FIFTH AVENUE
PORTLAND, OREGON 97204
503-223-9001

*Protecting Oregon's lands,
waters and natural resources*

TO: Honorable Chair Stein and Multnomah County Commissioners

FR: Lyn Mattei, ONRC Land Use Director *LM*

DT: June 13, 1994

RE: Multnomah West Hills and Howard Canyon Reconciliation
Hearing, June 13, 1994

The Oregon Natural Resources Council has been involved in Multnomah County's Goal 5 Periodic Review process for at least two years. We commend the County for the major efforts it has made to comply with the Department of Land Conservation and Development's (LCDC's) complicated, sometimes unreasonable, and seemingly punitive compliance directives. We are pleased that the County's May 23, 1994 Reconciliation Report recommends protection of the major wildlife corridor which is part of Forest Park. We find, however, that the Report is lacking in the following areas:

1. Agricultural Uses

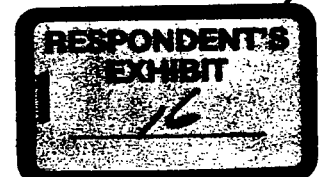
Agricultural uses in the West Hills and especially Howard Canyon need affirmative regulation to maximize protection of riparian areas and to minimize sedimentation, erosion, turbidity, high temperatures, and non-point pollution in adjacent streams. Reliance on the Soil Conservation Service to regulate rural agricultural activities is misplaced and inadequate. Rural stream identification and protection need to be a priority.

2. Fish and Wildlife Resources

The Reconciliation Report's ESEE analysis for Howard Canyon apparently omits any consideration of ESEE consequences for wildlife. This is unacceptable. In addition, the Report fails to include fisheries resources in its ESEE analysis of uses that conflict with mining. Fish and wildlife resources are critical natural resources expressly included under Goal 5 and must be factored into any ESEE analysis of aggregate uses.

Proposed stream protection in both the West Hills and Howard Canyon are inadequate. At a minimum, the County should adopt protection at least as strong as that provided under Clinton's new forestry plan. In the alternative, the

C2-94



County could even adopt the weaker stream protection rules which will go into effect in September 1994 under our Forest Practices Act regulations.

3. Burlington Bottoms

Burlington Bottoms is a significant wetland of local and regional concern and is recognized as a wildlife mitigation area of state-wide concern. The wetlands area was purchased and enhanced by Bonneville Power as a major mitigation site. BPA gave Burlington Bottoms to the County to protect and maintain, and the County turned it over to Metro.

Although the County has been entrusted with the maintenance and protection of Burlington Bottoms, its designation in the impact area found in the reconciliation Report eliminates almost all protection for this critical wetland. Although we are happy that the County has decided to protect the wildlife corridor adjacent to Forest Park, this does not justify the sacrifice of Burlington Bottoms. As proposed, the wetland will be degraded and probably eventually destroyed by excess sedimentation and polluted runoff from Angel Brothers Quarry activities. No mining activity should be allowed in the North Angel Brothers Creek watershed or in any other watershed that empties into Burlington bottoms.

Thank you for your time and consideration.

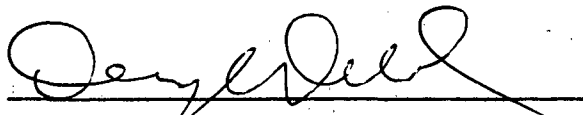
6/13/94
SUBMITTAL
STEVE DIX

R.Scott Pemble
Planning Director
Department of Environmental Services
Division of Planning and Development
2115 SE Morrison Street
Portland, OR 97214

June, 11, 1994

The Corbett Water District operates under a domestic water supply permit.

Commercial and industrial customers, like a commercial industrial rock mining operation, can only receive surplus water from the Corbett Water District. As specified in Oregon State Regulation ORS 264.310, water supply cannot be guaranteed to commercial/industrial operations. If supplied, it must be immediately canceled when no surplus water exists. Please evaluate and include the ESEE consequences of this information in the Howard Canyon aggregate site analysis


Douglas Dodd


Jim Mastne

Directors, Corbett Water District Board



I am a licensed realtor with 20/20 properties.

I am a long time resident of Corbett, and I also list and sell property in Corbett.

In general, a rock quarry will reduce the value of homes in the vicinity of the quarry. If two homes are exactly the same in all respects, but one is located in the vicinity of a rock quarry, and the other isn't, the one near the rock quarry will be worth less.

In particular, I know about the Howard Canyon rock quarry and I am familiar with the surrounding area.

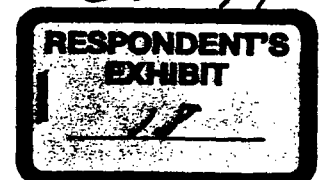
[If the quarry expands into a commercial quarry, my opinion is that property values will drop

As an example of the impact a quarry has on sales, I remember showing some buyers a home close to a rock quarry in Scappoose. The buyers liked the home, and the buyers liked the rural setting, but when they were told about the rock quarry they were no longer interested. The rock quarry was not even in sight of the home, but the fear of having to compete with large dump trucks on the same small road, and the fear of the noise they might hear was enough to kill their interest.

A seller will have to compensate for these problems by adjusting the price down.

Mike Grower, 20/20 Properties

Please include this information in your ESEE analysis for Howard Canyon. We would also like you to keep the record open for One week, in order to have enough time to submit additional written testimony by Real Estate Professionals which attest to the provable reduction in value of existing homes next to Industrial Mining and Quarry operations.



June 13, 1994

Multnomah County Board of Commissioners
Portland, Oregon

RE: Howard Canyon Rock Quarry Site
Reconciliation Report

Honorable Commissioners:

The Proposition that the Howard Canyon Rock Quarry site be designated a Goal 5 protected natural resource is unacceptable.

The present "Permit of Exemption" which allows 5,000 cubic ~~feet~~^{yards} of rock be removed each year already exceeds logic. That amounts to some 500 truck-loads each year, or about two truck-loads each weekday all year 'round.

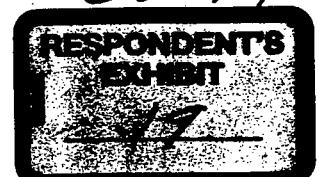
If the site were designated a "Protected Area", an industrial-level rock mining operation would be developed at the end of a dead-end road which serves a rural neighborhood residential area.

There has been no defined impact area, as is necessary to make such a determination. There are three year-round streams that would be impacted.

At this time, there are approximately twelve residences along the Howard Canyon Road, which are served by a school bus.

The entire road is one and one-third miles long. It is winding and without shoulders, turn-outs. The last half-mile is single-vehicle width. In order to accommodate an industrial-level gravel pit operation, taxpayers would need to fund major widening and upgrading of the road.

The frequent heavy-weight traffic increase to a little-traveled road would constitute a major change and impact to this neighborhood.



Vera Dafoe

2

The conflicting uses these combinations of residential and industrial uses would create far outweigh the Goal 5 requirement for protection of Oregon's mineral resources.

I recommend that the Howard Canyon Rock Quarry site NOT be designated a "Protected Area."

Sincerely,

Vera Dafoe

Vera Dafoe
9449 SW 62nd Drive
Portland, OR 97219
244-5202

Bob & Nev Scott
31700 Columbia River Hwy.
Troutdale, Oregon 97060
June 3, 1994

Commissioner Sharron Kelly
1120 SW 5th
Portland, Oregon 97204

Attention: Robert Trachtenberg

Dear Robert;

Re: Rock Quarry on Howard Canyon in Corbett

Per our conversation this afternoon, here are the copies I promised.

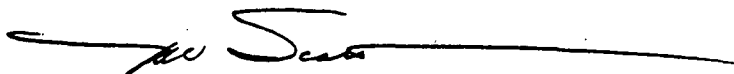
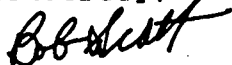
The Corbett area stands to gain by having this small quarry increase tonnage, and 50,000 tons per year does not even approach what the NEMCCA "scare" card suggests as being a "large industrial rock quarry"!

We have been to the site, and see no reason for not granting this. The operation is well contained in so far as noise and dust is concerned, it does not endanger the waterways in the area, and there are two roads to it that connect to multiple roads.

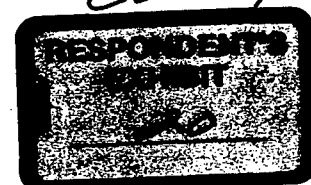
Corbett is building a school that will require many tons of rock. There is no reason the local residents need pay more to transport the rock from Washington, and impact the fragile old Columbia River Highway, when the product is locally available.

Please enter this letter into the record in support of increasing Mr. Smith's operation.

Sincerely,



Bob & Nev Scott
695-2553



A LARGE INDUSTRIAL ROCK QUARRY IN CORBETT ???

A proposed commercial mining operation in Howard Canyon could have great impact on our roads and property values!
The mining of several million tons of rock over many years could mean:

- ◆ AS MANY AS 48 TRUCKS A DAY, or ONE TRUCK EVERY 10 MINUTES, on CROWN PT. HWY. between CORBETT and TROUTDALE, on HURLBURT, LITTLEPAGE, KNIERIEM, and HOWARD Roads ... and on roads and bridges that connect to these roads!
- ◆ NOISE and DUST from ROCK BLASTING AND CRUSHING!
- ◆ NO LOCAL ENFORCEMENT: traffic, safety, noise, streams and wildlife..... Only state agents will regulate the impacts of a large commercial quarry!

MULTNOMAH COUNTY WILL DECIDE IN 90 DAYS WHETHER THE PRESENT OPERATION CAN EXPAND TO AN INDUSTRIAL SIZE QUARRY...
ARE YOU CONCERNED ???

Come to the NEMCCA Meeting
Wednesday May 25, 1994, 7pm Corbett Middle/High School MPB
Invited Guests: Quarry owner & County officials

Robert
This is a copy of the card that 2 of the board member dropped and show pretty in the reason for so far.

6/13/94 HEARING

PAUL H. BERNICK SUBMITTAL
SUPPORT
LET.

For Approval On The Rock Quarry ^{owned by} Raymond Smith

We the Citizen Residents in the Comm. of East M.H. County, would like to bring to your attention not only the benefits but needed necessities in approving the Rock Quarry owned by Raymond Smith. We the Citizen Residents feel it more a necessity to have the Rock Quarry in our Community, most drive ways are gravel etc would not only save us a lot of money on the traveling time & cost the labor involved, let alone the gravel itself.

Most importantly by this Comm. approving this needed Rock Quarry not only will it fulfill Citizen Residents needs & necessities, it will help financial funds in our Community & will benefit & complement Corbett's needs.

C2-94



East Mult. County Community Residents To approve A Rock Quarry Owned By Raymond Smith

Signature	Phone # or Mssg
1) J. J. Kelley of Houston	695-5201
2) Michelle W. Ben	695-5201 / wk 607-7
3) Lance Houd	695-2768
4) William Davis	695-5134
5) Carl Tark	695-5134
6) Karl M. Smith	695-5201
7) James H. Palmer	695-5134
8) Ethel J. Rowley	695-2146
9) Fred K. G.	695-2146
10) J. J. Mallet	695-2146
11) Jimi Cartress	695-2525
12)	
13)	
14)	
15)	
16)	
17)	
18)	
19)	
20)	
21)	
22)	
23)	

Oregon

DEPARTMENT OF
TRANSPORTATION

HIGHWAY
MAINTENANCE
District 2C

FILE CODE:

June 8, 1994

Gary Clifford
Multnomah County Planning & Development
2115 SE Morrison Street
Portland, OR 97214

Subject: Howard Canyon
Reconciliation Report
May 23, 1994

I have reviewed the subject report with regard to the impacts on the Historic Columbia River Highway. I feel that the proposal will not produce a significant negative impact on the highway and that it would not necessitate modifications to our facility.

Thank you for requesting our input.

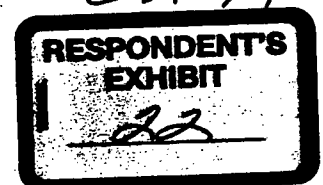
Sincerely,



Dan Bacon
Assistant District 2C Manager

DB:lpHOWARDCN.GC

cc: Jeanette Kloos
Dan Gibson



RECEIVED
JUN 15 1994

Multnomah County
Zoning Division



999 NW Frontage Road
Suite 250
Troutdale, OR 97060-951
(503) 665-4193
PERMITS (503) 665-400
FAX (503) 665-5419

Carolyn L. Coons
41101 S.E. Loudon Rd.
Corbett, OR 97019

June 15, 1994

R. Scott Pemble
Department of Environmental Services
Division of Planning and Development
2115 S.E. Morrison St.
Portland, OR 97214

Re: Howard Canyon Reconciliation Report / June 13, 1994 Public Testimony

The following is the text of the testimony I delivered at the June 13th joint meeting of the Multnomah County Board of Commissioners and Planning Commissioners. Please enter this into the written record, which to my understanding, remains open until 4pm on June 21, 1994.

I would like to express to the Board my belief that the Reconciliation Report of the Howard Canyon aggregate site is deficient and must be reworked by the Planning staff. The state's Remand Order to the county addresses four specific issues. A central issue, #4, concerns transportation as a conflict with protection of the aggregate site.

In response to Issue 4 of the remand order, the county planning staff made a choice not to include transportation effects in their recent resource analysis and reconciliation reports... In other words, in looking at the conflicting uses to protecting the aggregate, they did not consider the impacts of rock transportation...and you and I know, ladies and gentleman, that rock aggregate is only valued once it is transported. In this respect, rock aggregate is fundamentally different from other resources protected under Goal 5.

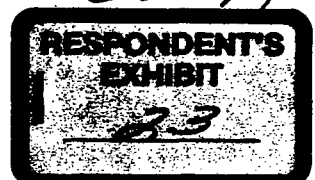
The county planning staff argued in their reports that under the Remand Order they could not discuss or analyze the transportation impacts as a conflicting use. To quote the county (Reconciliation Report Pg. III-53), ... *"From the Remand Order language and subsequent discussions with DLCD staff, the directive is that protection of the resource in the Goal 5 analysis cannot be denied by transportation concerns."*...

Mr. Pemble reiterated this point when he showed you a flow chart at the Briefing on June 7th, that outlined the four Howard Canyon issues of the Remand Order. He referred to the transportation issue as follows (and I quote): "we cannot deny the protection of a Goal 5 Resource for future generations based on the current transportation situation".

We know we have to protect resources for future generations according to Goal 5, but Madam chair and commissioners, no where in the Remand Order does it state that transportation issues cannot be used to deny protection of an aggregate resource. Nor does the remand order say that no conflict exists between aggregate protection and transportation. The remand order simply states, *"the county has not shown how the use of area roads is a conflict to protecting the aggregate resource. If a conflict does exist, Goal 5 requires resolution of the conflict."*

In other words, the state practically invited the county to make a credible case of transportation issues along the appropriate administrative guidelines,... that is, if you want to include transportation issues in your discussions of aggregate resource protection, consider the economic, social, environmental, and energy consequences, (the ESEE)...which is the same method of evaluation used for other conflicting uses under the Goal 5 Framework.

In 1990, the county did bring up transportation impacts as a major conflicting use, but then didn't follow the state's Administrative rules. Thus, the state rightfully called the county to task, with Issue 4 of the Remand Order.



Now, in 1994, the county chooses to totally eliminate transportation impacts instead of incorporating them into the ESEE analysis? While we understand that the county is overburdened and strapped for resources, the planning staff is doing a great injustice to the Goal 5 process by not analyzing one of the most important conflicting uses associated with aggregate sites. They may argue that existing transportation is not affected by the aggregate remaining untouched and 'protected'...but by its nature, this aggregate resource only has value and interest in conjunction with extraction and transportation, thus, the impacts of extraction and transportation must be considered now, at this point in the analysis.

In summary, to use an analogy,... you take your car to a car mechanic, where the hood needs to be opened for proper diagnosis. In 1990, the county, as mechanic, pried open the hood. In 1993, the state came back and said, 'you must use the proper release lever to open the hood'. Now, in 1994, in response to the state, the county refuses to open the hood at all, thereby robbing us of a fair diagnosis. I urge you to insist that transportation issues be included in the ESEE Goal 5 analysis of the Howard Canyon site.

Thank you.

Respectfully submitted,



Carolyn L. Coons

CLC/hc

cc: Neil S. Kagan

RECEIVED
JUN 17 1994

Multnomah County
Zoning Division



METRO

Multnomah County Board of Commissioners
c/o The Clerk of the Board
1120 SW Fifth Avenue
Portland, Oregon 97204

Multnomah County Planning Commission
c/o Scott Pemble, Director
2115 SE Morrison
Portland, Oregon 97214

June 17, 1994

Re: Follow-up Comments, "Howard Canyon Reconciliation
Report", (May 23, 1994)

Dear Commissioners;

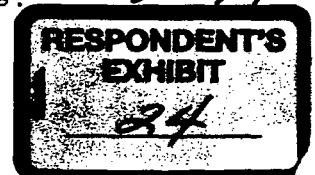
Thank you for the opportunity to submit additional comments
related to the "Howard Canyon Reconciliation Report".

Hopefully, the following will be of value in your
deliberations regarding the proposed program to protect
streams which have been found to be significant.

1). Please find attached excerpts from "Standards and
Guidelines for Management of Habitat for Late-Successional
and Old-Growth Forest Related Species Within the Range of
the Northern Spotted Owl" (BLM, USFS, April 1994) and
excerpts from the State Forestry Department's Administrative
Rules, which were recently amended to strengthen protection
of streams and riparian corridors.

We are submitting these documents for three (3)
reasons:

a). To demonstrate the vast disparity between the
regulation of timber harvest activities, agricultural
activities and other uses in the vicinity of streams.



b). To demonstrate that protection measures do not result in the loss of economic use or value of private lands.

c). To provide examples of measurable and enforceable standards and guidelines which are lacking in the proposed "protection program" (see our June 13, 1994 letter).

2). In an attempt to support the recommendation of not regulating agricultural practices within riparian areas, County staff states the US Soil and Water Conservation Service and East Multnomah Soil and Water Conservation District have as one of their primary missions, the promotion of sound agricultural practices which protect streams.

While this may be true, our inquiry with the East County Soil and Water Conservation District (pers. comm. Steve Fedji, June 13, 1994) indicates that no program is in place to achieve the mission.

Staff to the District Board stated that all they currently are able to do is respond to calls for technical advise. Mr. Fedji also indicated that district efforts have recently been focused on urban rather than rural streams. Additionally, we are unaware of any active program related to stream protection or restoration which is currently being pursued by the US Soil and Water Conservation District.

Perhaps planning staff could investigate and report on specific projects within Multnomah County which target streams degraded by agricultural practices. (See attached "Oregonian" article on "silt").

3). BLM is the Federal Agency responsible for managing the Sandy River segment which is designated a National Wild and Scenic River. Big Creek is tributary to this segment. We have inquired whether BLM was consulted or notified of this process which has implications for the Sandy River. BLM's response was that they were unaware that this process had been initiated. It is recommended that BLM's comments be requested. Bob Radcliff of the Salem Office is the appropriate contact. He can be reached at (503) 375-5669.

4). Through Jane Hart (Regional Parks and Greenspaces Planner), Gordon Howard (County Planning staff) has inquired how we would propose to fund the enforcement and restoration components of our proposal regarding agricultural practices.

In response we suggest the following:

a). As noted on pg. 9 of our written comments dated June 13, 1994 we recommended that the County consider limiting use of its annual appropriation to the East County Soil and Water Conservation District to activities related to restoring agriculturally degraded streams and wetlands. Furthermore, should the County adopts agricultural restrictions as we've recommended, an effort should be made to determine the feasibility of delegating enforcement authority to the District.

b). In the event, that the current County appropriation to the District is insufficient for the purposes described above, the County could investigate the possibility of amending MCC Title 5.30 (Motor Vehicle Fuel Tax; excerpt attached).

As currently structured, this ordinance allows a full refund of County Fuel Taxes to "farmers" who have utilized the taxed fuels for "farming operations". We believe the County has the authority to amend this provision. Rather than refund fuel taxes which are already paid, the County could direct those funds (or a portion thereof) towards enforcement and especially restoration efforts on agricultural lands such as fencing to exclude livestock and re-establishment of riparian vegetation.

c). As an alternative, the County could consider tapping its one million dollar contingency fund. We believe that \$50,000 - \$70,000 would allow for an initial enforcement and restoration effort.

d). Once a basic level of County support is implemented for this type of program, we believe there are several "outside" funding sources which could be tapped to leverage County funds. These include but are not limited to:

- 1). Governor's Watershed Enhancement Board - Administers a grant program for watershed restoration.
- 2). ODFW Restoration and Enhancement Program - Grant Program for fish and wildlife related projects.
- 3). Oregon State Lottery Funds - awards have been made for environmental enhancement/restoration projects.
- 4). Land and Water Conservation Fund - Federal funds administered by Oregon State Parks for state and local projects.
- 5). Americorps - A Clinton program designed to put youth to work restoring degraded portions of the environment.
- 6). Metro Greenspaces Restoration Grants - Under certain conditions, this program could be a funding source for restoration of riparian corridors degraded by agricultural practices.
- 7). DEQ Section 319 Non-point Source Grant Program - Agriculture is considered a non-point pollution source.

In summary, We believe a program could be crafted which would not require new taxes or require anything more from farm operators than cooperation. However, in order for a program to be successful, it is imperative that you adopt restrictions which assure restoration efforts are not reversed or new degradation problems created by conflicting land uses.

In summary, a more aggressive program is required to protect significant streams from the impacts of residential, agricultural, community service and other conditional uses. We have proposed what we believe are the minimum requirements to achieve protection (see June 13, 1994 letter).

As evidenced by both federal and state rules and guidelines, timber harvest has been regulated in an effort to protect streams and their associated values without sacrificing economic use of public or private lands. Similar restrictions should be implemented by the County for the uses noted above.

There are opportunities to develop an enforcement and restoration program which would not require new taxes and be leveraged with funds available from existing regional, state and federal programs.

What is missing at this point is your commitment to crafting and implementing a program which is so desperately needed for these and other degraded but restorable streams throughout the County. Metro Regional Parks and Greenspaces would like to participate in the development and implementation of such a program. We hope to hear from you soon.

Thank you again for considering our comments.

Sincerely,



Charles Ciecko

Director

Metro Regional Parks and Greenspaces

CC: Steve Oulman, Dept. of Land Conservation and Development
Robert Walke, Bonneville Power Administration
Jill Zarnowitz, Oregon Department of Fish and Wildlife
Neil Mullane, Oregon Dept. of Environmental Quality
Bob Radcliff, Bureau of Land Management
Rena Cusma, Metro
Judy Wyers, Metro
Merrie Waylett, Metro

CC/mb

hcrr2.1et

MT. HOOD NF

PARKS/GREENSPACE

06/13/94 10:58

ACR 0641



United States
Department of
Agriculture



Forest Service



United States
Department of
the Interior

Bureau of Land
Management



April 1994

Record of Decision

for Amendments to Forest Service and Bureau
of Land Management Planning Documents
Within the Range of the Northern Spotted Owl

Standards and Guidelines

for Management of Habitat for Late-
Successional and Old-Growth Forest Related
Species Within the Range of the Northern
Spotted Owl



Riparian Reserves

Acres

Key and non-Key Watersheds are specified for all areas, and therefore overlay all other land allocations. For the portion of Riparian Reserves located within Key Watersheds, standards and guidelines for Key Watersheds (see Key Watersheds on page C-7, and the Aquatic Conservation Strategy starting on page B-9 of these standards and guidelines), as well as standards and guidelines for Riparian Reserves (listed below) apply. See additional detail under Hierarchy of Standards and Guidelines on page C-1 of these standards and guidelines.

Riparian Reserves within Tier 1 Key Watersheds	631,000
Riparian Reserves within Tier 2 Key Watersheds	113,700
Riparian Reserves within non-Key (other) Watersheds	<u>1,882,800</u>
Total Riparian Reserve acres (based on samples)	2,627,500

Acreage of Riparian Reserves is calculated after all other designated areas have been calculated. Thus, the acres shown here are only those acres that are interspersed with matrix. However, Riparian Reserve standards and guidelines apply in the other designated area categories.

Description - Riparian Reserve Widths

Riparian Reserves, as described in detail in the Aquatic Conservation Strategy starting on page B-9 of these standards and guidelines, are specified for five categories of streams or waterbodies as follows:

- *Fish-bearing streams* - Riparian Reserves consist of the stream and the area on each side of the stream extending from the edges of the active stream channel to the top of the inner gorge, or to the outer edges of the 100-year floodplain, or to the outer edges of riparian vegetation, or to a distance equal to the height of two site-potential trees, or 300 feet slope distance (600 feet total, including both sides of the stream channel), whichever is greatest.
- *Permanently flowing nonfish-bearing streams* - Riparian Reserves consist of the stream and the area on each side of the stream extending from the edges of the active stream channel to the top of the inner gorge, or to the outer edges of the 100-year floodplain, or to the outer edges of riparian vegetation, or to a distance equal to the height of one site-potential tree, or 150 feet slope distance (300 feet total, including both sides of the stream channel), whichever is greatest.
- *Constructed ponds and reservoirs, and wetlands greater than 1 acre* - Riparian Reserves consist of the body of water or wetland and: the area to the outer edges of the riparian vegetation, or to the extent of seasonally saturated soil, or the extent of unstable and potentially unstable areas, or to a distance equal to the height of one site-potential tree, or 150 feet slope distance from the edge of the wetland greater than

1 acre or the maximum pool elevation of constructed ponds and reservoirs, whichever is greatest.

- *Lakes and natural ponds* - Riparian Reserves consist of the body of water and: the area to the outer edges of the riparian vegetation, or to the extent of seasonally saturated soil, or to the extent of unstable and potentially unstable areas, or to a distance equal to the height of two site-potential trees, or 300 feet slope distance, whichever is greatest.
- *Seasonally flowing or intermittent streams, wetlands less than 1 acre, and unstable and potentially unstable areas* - This category applies to features with high variability in size and site-specific characteristics. At a minimum, the Riparian Reserves must include:

The extent of unstable and potentially unstable areas (including earthflows),

The stream channel and extend to the top of the inner gorge,

The stream channel or wetland and the area from the edges of the stream channel or wetland to the outer edges of the riparian vegetation, and

Extension from the edges of the stream channel to a distance equal to the height of one site-potential tree, or 100 feet slope distance, whichever is greatest.

A site-potential tree height is the average maximum height of the tallest dominant trees (200 years or older) for a given site class.

Intermittent streams are defined as any nonpermanent flowing drainage feature having a definable channel and evidence of annual scour or deposition. This includes what are sometimes referred to as ephemeral streams if they meet these two physical criteria.

Standards and Guidelines

Also see Standards and Guidelines Common to all Land Allocations starting on page C-2 of these standards and guidelines.

As a general rule, standards and guidelines for Riparian Reserves prohibit or regulate activities in Riparian Reserves that retard or prevent attainment of the Aquatic Conservation Strategy objectives. Watershed analysis and appropriate NEPA compliance is required to change Riparian Reserve boundaries in all watersheds.

Timber Management

TM-1. Prohibit timber harvest, including fuelwood cutting, in Riparian Reserves, except as described below. Riparian Reserve acres shall not be included in calculations of the timber base.

- a. Where catastrophic events such as fire, flooding, volcanic, wind, or insect damage result in degraded riparian conditions, allow salvage and fuelwood cutting if required to attain Aquatic Conservation Strategy objectives.
- b. Salvage trees only when watershed analysis determines that present and future coarse woody debris needs are met and other Aquatic Conservation Strategy objectives are not adversely affected.
- c. Apply silvicultural practices for Riparian Reserves to control stocking, reestablish and manage stands, and acquire desired vegetation characteristics needed to attain Aquatic Conservation Strategy objectives.

Roads Management

RF-1. Federal, state, and county agencies should cooperate to achieve consistency in road design, operation, and maintenance necessary to attain Aquatic Conservation Strategy objectives.

RF-2. For each existing or planned road, meet Aquatic Conservation Strategy objectives by:

- a. minimizing road and landing locations in Riparian Reserves.
- b. completing watershed analyses (including appropriate geotechnical analyses) prior to construction of new roads or landings in Riparian Reserves.
- c. preparing road design criteria, elements, and standards that govern construction and reconstruction.
- d. preparing operation and maintenance criteria that govern road operation, maintenance, and management.
- e. minimizing disruption of natural hydrologic flow paths, including diversion of streamflow and interception of surface and subsurface flow.
- f. restricting sidecasting as necessary to prevent the introduction of sediment to streams.
- g. avoiding wetlands entirely when constructing new roads.

RF-3. Determine the influence of each road on the Aquatic Conservation Strategy objectives through watershed analysis. Meet Aquatic Conservation Strategy objectives by:

- a. reconstructing roads and associated drainage features that pose a substantial risk.
- b. prioritizing reconstruction based on current and potential impact to riparian resources and the ecological value of the riparian resources affected.

- c. closing and stabilizing, or obliterating and stabilizing roads based on the ongoing and potential effects to Aquatic Conservation Strategy objectives and considering short-term and long-term transportation needs.

RF-4. New culverts, bridges and other stream crossings shall be constructed, and existing culverts, bridges and other stream crossings determined to pose a substantial risk to riparian conditions will be improved, to accommodate at least the 100-year flood, including associated bedload and debris. Priority for upgrading will be based on the potential impact and the ecological value of the riparian resources affected. Crossings will be constructed and maintained to prevent diversion of streamflow out of the channel and down the road in the event of crossing failure.

RF-5. Minimize sediment delivery to streams from roads. Outsloping of the roadway surface is preferred, except in cases where outsloping would increase sediment delivery to streams or where outsloping is unfeasible or unsafe. Route road drainage away from potentially unstable channels, fills, and hillslopes.

RF-6. Provide and maintain fish passage at all road crossings of existing and potential fish-bearing streams.

RF-7. Develop and implement a Road Management Plan or a Transportation Management Plan that will meet the Aquatic Conservation Strategy objectives. As a minimum, this plan shall include provisions for the following activities:

- a. inspections and maintenance during storm events.
- b. inspections and maintenance after storm events.
- c. road operation and maintenance, giving high priority to identifying and correcting road drainage problems that contribute to degrading riparian resources.
- d. traffic regulation during wet periods to prevent damage to riparian resources.
- e. establish the purpose of each road by developing the Road Management Objective.

Grazing Management

GM-1. Adjust grazing practices to eliminate impacts that retard or prevent attainment of Aquatic Conservation Strategy objectives. If adjusting practices is not effective, eliminate grazing.

GM-2. Locate new livestock handling and/or management facilities outside Riparian Reserves. For existing livestock handling facilities inside the Riparian Reserve, ensure that Aquatic Conservation Strategy objectives are met. Where these objectives cannot be met, require relocation or removal of such facilities.

GM-3. Limit livestock trailing, bedding, watering, loading, and other handling efforts to those areas and times that will ensure Aquatic Conservation Strategy objectives are met.

Recreation Management

RM-1. New recreational facilities within Riparian Reserves, including trails and dispersed sites, should be designed to not prevent meeting Aquatic Conservation Strategy objectives. Construction of these facilities should not prevent future attainment of these objectives. For existing recreation facilities within Riparian Reserves, evaluate and mitigate impact to ensure that these do not prevent, and to the extent practicable contribute to, attainment of Aquatic Conservation Strategy objectives.

RM-2. Adjust dispersed and developed recreation practices that retard or prevent attainment of Aquatic Conservation Strategy objectives. Where adjustment measures such as education, use limitations, traffic control devices, increased maintenance, relocation of facilities, and/or specific site closures are not effective, eliminate the practice or occupancy.

RM-3. Wild and Scenic Rivers and Wilderness management plans will address attainment of Aquatic Conservation Strategy objectives.

Minerals Management

MM-1. Require a reclamation plan, approved Plan of Operations, and reclamation bond for all minerals operations that include Riparian Reserves. Such plans and bonds must address the costs of removing facilities, equipment, and materials; recontouring disturbed areas to near pre-mining topography; isolating and neutralizing or removing toxic or potentially toxic materials; salvage and replacement of topsoil; and seedbed preparation and revegetation to meet Aquatic Conservation Strategy objectives.

MM-2. Locate structures, support facilities, and roads outside Riparian Reserves. Where no alternative to siting facilities in Riparian Reserves exists, locate them in a way compatible with Aquatic Conservation Strategy objectives. Road construction will be kept to the minimum necessary for the approved mineral activity. Such roads will be constructed and maintained to meet roads management standards and to minimize damage to resources in the Riparian Reserve. When a road is no longer required for mineral or land management activities, it will be closed, obliterated, and stabilized.

MM-3. Prohibit solid and sanitary waste facilities in Riparian Reserves. If no alternative to locating mine waste (waste rock, spent ore, tailings) facilities in Riparian Reserves exists, and releases can be prevented, and stability can be ensured, then:

- a. analyze the waste material using the best conventional sampling methods and analytic techniques to determine its chemical and physical stability characteristics.

- b. locate and design the waste facilities using best conventional techniques to ensure mass stability and prevent the release of acid or toxic materials. If the best conventional technology is not sufficient to prevent such releases and ensure stability over the long term, prohibit such facilities in Riparian Reserves.
- c. monitor waste and waste facilities after operations to ensure chemical and physical stability and to meet Aquatic Conservation Strategy objectives.
- d. reclaim waste facilities after operations to ensure chemical and physical stability and to meet Aquatic Conservation Strategy objectives.
- e. require reclamation bonds adequate to ensure long-term chemical and physical stability of mine waste facilities.

MM-4. For leasable minerals, prohibit surface occupancy within Riparian Reserves for oil, gas, and geothermal exploration and development activities where leases do not already exist. Where possible, adjust the operating plans of existing contracts to eliminate impacts that retard or prevent the attainment of Aquatic Conservation Strategy objectives.

MM-5. Salable mineral activities such as sand and gravel mining and extraction within Riparian Reserves will occur only if Aquatic Conservation Strategy objectives can be met.

MM-6. Include inspection and monitoring requirements in mineral plans, leases or permits. Evaluate the results of inspection and monitoring to effect the modification of mineral plans, leases and permits as needed to eliminate impacts that retard or prevent attainment of Aquatic Conservation Strategy objectives.

Fire/Fuels Management

FM-1. Design fuel treatment and fire suppression strategies, practices, and activities to meet Aquatic Conservation Strategy objectives, and to minimize disturbance of riparian ground cover and vegetation. Strategies should recognize the role of fire in ecosystem function and identify those instances where fire suppression or fuels management activities could be damaging to long-term ecosystem function.

FM-2. Locate incident bases, camps, helibases, staging areas, helispots and other centers for incident activities outside Riparian Reserves. If the only suitable location for such activities is within the Riparian Reserve, an exemption may be granted following review and recommendation by a resource advisor. The advisor will prescribe the location, use conditions, and rehabilitation requirements. Use an interdisciplinary team to predetermine suitable incident base and helibase locations.

FM-3. Minimize delivery of chemical retardant, foam, or additives to surface waters. An exception may be warranted in situations where overriding immediate safety imperatives exist, or, following review and recommendation by a resource advisor, when an escape would cause more long-term damage.

Forestry Dept. Administrative Rules

WATER PROTECTION RULES; PURPOSE AND GOALS

629-57-2000

(1) The leading use on private forestland is the growing and harvesting of trees, consistent with sound management of soil, air, water, fish and wildlife resources. There is a unique concentration of public resource values in and near waters of the state because these areas are critical for the overall maintenance of fish and wildlife and for maintaining water quality. Consequently, the policies of the Forest Practices Act, including encouraging economically efficient forest practices, are best achieved by focusing protection measures in riparian management areas.

(2) OAR 629-57-2000 through 629-57-2670 shall be known as the "water protection rules."

(3) The purpose of the water protection rules is to protect, maintain and, where appropriate, improve the functions and values of streams, lakes, wetlands, and riparian management areas. These functions and values include water quality, hydrologic functions, the growing and harvesting of trees, and fish and wildlife resources.

(4) The water protection rules include general vegetation retention prescriptions for streams, lakes and wetlands that apply where current vegetation conditions within the riparian management area have or are likely to develop characteristics of mature forest stands in a "timely manner." Landowners are encouraged to manage stands within riparian management areas in order to grow trees in excess of what must be retained so that the excess may be harvested.

(5) The water protection rules also include alternative vegetation retention prescriptions for streams to allow incentives for operators to actively manage vegetation where existing vegetation conditions are not likely to develop characteristics of mature conifer forest stands in a "timely manner."

(6) OARs 629-57-2270 and 629-57-2320 allow an operator to propose site-specific prescriptions for sites where specific evaluation of vegetation within a riparian management area and/or the condition of the water of the state is used to identify the appropriate practices for achieving the vegetation and protection goals.

(7) The overall goal of the water protection rules is to provide resource protection during operations adjacent to and within streams, lakes, wetlands and riparian management areas so that, while continuing to grow and harvest trees, the protection goals for fish, wildlife, and water quality are met.

(a) The protection goal for water quality (as prescribed in ORS 527.765) is to ensure through the described forest practices that, to the maximum extent practicable, non-point source discharges of pollutants resulting from forest operations do not impair the achievement and maintenance of the water quality standards.

(b) The protection goal for fish is to establish and retain vegetation consistent with the vegetation retention objectives described in OAR 629-57-2220 (streams), OAR 629-57-2300 (significant wetlands), and OAR 629-57-2400 (lakes) that will maintain water quality and provide aquatic habitat components and functions such as shade, large woody debris, and nutrients.

(c) The protection goal for wildlife is to establish and retain vegetation consistent with the vegetation retention objectives described in OAR 629-57-2220 (streams), OAR 629-57-2300 (significant wetlands), and OAR 629-57-2400 (lakes) that will maintain water quality and habitat components such as live trees of various species and size classes, shade, snags, downed wood, and food within riparian management areas. For wildlife species not necessarily reliant upon riparian areas, habitat in riparian management areas is also emphasized in order to capitalize on the multiple benefits of vegetation retained along waters for a variety of purposes.

WATER PROTECTION RULES; APPLICABILITY AND MONITORING

OAR 629-57-2010

(1) Except as described below, the water protection rules shall become effective on September 1, 1994 and shall be applied as follows:

(a) Operations for which a notification has been received after April 22, 1994, must comply with the water protection rules in all portions of the operation that have not been felled prior to September 1, 1994.

(b) Operations for which a notification has been received and a written plan has been approved by the State Forester on or before April 22, 1994, shall continue to comply with the written plan and the rules that were in effect April 21, 1994, through December 31, 1994, unless the operator has requested and the State Forester has approved a change to the water protection rules as allowed in subsection (1)(d).

(c) After December 31, 1994 the water protection rules shall apply fully to all operations.

(d) Operators may request to have the water protection rules apply to an operation at any time following April 22, 1994. The State Forester shall approve such requests so long as the operator will fully apply the water protection rules on the operation.

(2) (a) For the purposes of the Oregon Forest Practices Act (ORS 527.610 to ORS 527.770, and related sections, Chapter 919, Oregon Laws 1991), Type F and Type D streams classified under OAR 629-57-2100 are equivalent to "Class I streams."

(b) For the purposes of ORS 215.730(1)(b)(c), Type N Streams classified under OAR 629-57-2100 are equivalent to "Class II streams."

(3) (a) Monitoring and evaluation of the water protection rules are necessary because of the innovative approach taken in the rules. Monitoring and evaluation are needed to increase the level of confidence of all concerned that the rules will maintain and improve the condition of riparian vegetation and waters of the state over time.

(b) In cooperation with state and federal agencies, landowners and other interested parties, the department shall conduct monitoring on a continuing basis to evaluate the effectiveness of the water protection rules. The monitoring shall determine the effectiveness of the rules to meet the goals of the Forest Practices Act and the purposes stated in the rules, as well as their workability and operability.

(c) It is the Board of Forestry's intent that the department and its cooperators place a high priority on assessing the monitoring needs and securing adequate resources to conduct the necessary monitoring. The department shall work with its cooperators and the Legislature to secure the necessary resources, funding and coordination for effective monitoring.

(d) The department shall report to the Board of Forestry annually about current monitoring efforts and, in a timely manner, present findings and recommendations for changes to practices. The Board of Forestry shall consider the findings and recommendations and take appropriate action.

WATERSHED SPECIFIC PRACTICES FOR WATER QUALITY LIMITED WATERSHEDS AND THREATENED OR ENDANGERED AQUATIC SPECIES

629-57-2020

(1) The objective of this rule is to describe a process for determining whether additional watershed specific protection rules are needed for watersheds that have been designated as water quality limited or for watersheds containing threatened or endangered aquatic species.

(2) The Board of Forestry shall appoint an interdisciplinary task force, including representatives of forest landowners within the watershed and appropriate state agencies, to evaluate a watershed, if the board has determined based on evidence presented to it that forest practices in a watershed are measurably limiting to water quality achievement or species maintenance, and either:

(a) The watershed is designated by the Environmental Quality Commission as water quality limited; or

(b) The watershed contains threatened or endangered aquatic species identified on lists that are adopted by rule by the State Fish and Wildlife Commission, or are federally listed under the Endangered Species Act of 1973 as amended.

(3) The board shall direct the task force to analyze conditions within the watershed and recommend watershed-specific practices to ensure water quality achievement or species maintenance.

(4) The board shall consider the report of the task force and take appropriate action.

(5) Nothing in this rule shall be interpreted to limit the Board's ability to study and address concerns for other species on a watershed basis.

WRITTEN PLANS FOR STREAMS, LAKES, WETLANDS AND RIPARIAN MANAGEMENT AREAS

629-57-2030

(1) Operators shall obtain written approval from the State Forester of a written plan before conducting any operation requiring notification under OAR 629-24-107 within:

(a) 100 feet of fish use or domestic water use streams (classified as Type F or Type D under OAR 629-57-2100), except as described in section (3) of this rule.

(b) 300 feet of significant wetlands.

(c) 100 feet of large lakes.

(2) In addition to the written plan requirements in OAR 629-24-113(6), operators shall specifically describe in the written plan for operations within 100 feet of domestic water use portions of Type F or D streams the practices and methods that will be used to prevent sediment from entering waters of the state.

(3) The State Forester may waive, in writing, the requirement for a written plan within 100 feet of a Type F or Type D stream, if the State Forester determines the intended forest practice will not directly affect the physical components of the riparian management area. "Physical components" means materials such as, but not limited to, vegetation, snags, rocks, and soil. "Directly affect" means that physical components will be moved, disturbed, or otherwise altered by the operation activity, even if only temporarily.

- (4) Written plans required under section (1) of this rule are subject to the process required for a written plan pursuant to ORS 527.670 (8) through (12), and appeal pursuant to ORS 527.700.
- (5) The operator shall comply with all provisions of an approved written plan.

WATER CLASSIFICATION

629-57-2100

- (1) The purpose of this water classification system is to match the physical characteristics and beneficial uses of a water body to a set of appropriate protection measures.
- (2) For the purposes of applying appropriate protection measures, waters of the state shall be classified as either streams, wetlands, or lakes.
- (3) Streams shall be classified further according to their beneficial uses and size.
- (4) Streams shall be classified into one of the following three beneficial use categories:
- (a) Streams that have fish use, including fish use streams that have domestic water use, shall be classified as Type F.
 - (b) Streams that have domestic water use, but not fish use, shall be classified as Type D.
 - (c) All other streams shall be classified as Type N.
- (5) For purposes of classification, a stream is considered to have domestic water use only if a water use permit has been issued by the Oregon Water Resources Department.
- (6) A channel is considered to have domestic water use upstream of an intake for the distances indicated below:
- (a) For domestic water use that is a community water system (as defined under OAR 333-61-020), Type D classification shall initially apply to the length of stream that was designated as Class I under the classification system that was in effect on April 22, 1994, which is that shown on district water classification maps at the time of adoption of this rule.
 - (b) For domestic water use that is not a community water system, Type D classification shall be initially applied for the shortest of the following distances:
 - (A) The distance upstream of the intake to the farthest upstream point of summer surface flow;
 - (B) Half the distance from the intake to the drainage boundary; or
 - (C) 3000 feet upstream of the intake.
 - (c) Type D classification shall apply to tributaries off the main channel as long as the conditions of subsections (6)(a) and (b) of this rule apply.
- (7) (a) A representative of a community water system or other domestic use water permit holder may request that the department designate additional lengths of channels upstream of a domestic water intake or reservoir as Type D. The representative or permit holder must present evidence that the additional stream

protection is needed. The department will decide whether or not to extend Type D classification to these other channels based on evidence presented by the requesting party showing that protection measures associated with Type N classification would be insufficient to prevent adverse detrimental temperature increases, turbidity increases, or other adverse water quality changes at the domestic water use intake or reservoir.

(b) The process and criteria described in subsection (7)(a), and the criteria under section (6) of this rule will be used to evaluate the extent of Type D classification for new community water systems.

(c) The department will decide whether or not to extend the length of Type D classification within 30 days of the presentation of evidence.

(8) The domestic water use classification may be waived by the department at the request of a landowner who is the sole domestic water use permit holder for an intake and who owns all the land along upstream channels that would be affected by the classification related to that intake. This waiver shall not affect the classification related to downstream domestic water use intakes.

(9) A stream or lake will be considered to have fish use if inhabited at any time of the year by anadromous or game fish species or fish that are listed as threatened or endangered species under the federal or state endangered species acts.

(10) The fish use classification does not apply to waters where fish were introduced through a fish stocking permit that includes documentation that the stream had no fish prior to stocking.

(11) The department, with assistance from the Oregon Department of Fish and Wildlife, will conduct a comprehensive field survey to identify fish use on non-federal forestland in Oregon. However, this survey will take a number of years to complete. In the interim, the following procedures apply to determining which unsurveyed waters are designated Type F:

(a) The department will assume that waters have fish use if they were Class I under the previous classification system. Waters that were Class I solely because of domestic water use are excluded.

(b) If waters within the boundaries of a proposed operation were not Class I (under the previous classification system) and fish use is unknown, then:

(A) The department will conduct a field survey for fish after a notification of operation is received; or

(B) The department will approximate the upstream extent of fish use in a watershed by considering the connection of the water with downstream waters where fish use is known. Fish use will be assumed to occur upstream of the known fish use until the first natural barrier to fish use is encountered.

(c) Where fish use is unknown, an operator may request that the department conduct a field survey for fish use for reaches of a stream that will be included within an operation that is scheduled to start at least 12 months following the request. The operator shall limit such requests to operations that are part of a landowner's planned harvest schedule and will be conducted during the following year. The department, with assistance from the Oregon Department of Fish and Wildlife when needed, shall attempt to complete such surveys within 12 months following the request. If the survey cannot be conducted in the time indicated, the stream will be considered to have no fish use. However, if the operation has not commenced within six months of the time the operation was scheduled to begin, the stream will again be considered to have unknown fish use.

(d) The department may use other reliable fish survey information when determining whether or not a stream has fish use. This information could include surveys done by landowners, federal or state agencies, universities, or other persons or entities. The department will determine whether such information is reliable.

(12) For each of the three beneficial use categories (Type F, Type D, and Type N), streams shall be categorized further according to three size categories: large, medium, and small. The size categories are based on average annual flow.

(a) Small streams have an average annual flow of two cubic feet per second or less.

(b) Medium streams have an average annual flow greater than two and less than ten cubic feet per second.

(c) Large streams have an average annual flow of ten cubic feet per second or greater.

(13) The assignment of size categories to streams on forestland will be done by the department as follows:

(a) The department will index average annual flow to the upstream drainage area and average annual precipitation. The methodology is described in Technical Note FP1 dated April 21, 1994.

(b) Actual measurements of average annual flow may substitute for the calculated flows described in the technical note.

(c) Any stream with a drainage area less than 200 acres shall be assigned to the small stream category regardless of the flow index calculated in subsection (13)(a).

(14) Wetlands shall be classified further as indicated below:

(a) The following types of wetlands are classified as "significant wetlands":

(A) Wetlands that are larger than eight acres;

(B) Estuaries;

(C) Bogs; and

(D) Important springs in eastern Oregon.

(b) Stream-associated wetlands that are less than eight acres are classified according to the stream with which they are connected.

(c) All other wetlands, including seeps and springs are classified according to their size as either "other wetlands greater than one-quarter acre" or "other wetlands less than one-quarter acre."

(15) Lakes shall be classified further as indicated below:

(a) Lakes greater than eight acres are classified as "large lakes."

(b) All other lakes are classified as "other lakes."

RIPARIAN MANAGEMENT AREAS AND WATER QUALITY PROTECTION MEASURES

629-57-2150

(1) Riparian management area widths are designated to provide adequate areas along streams, lakes, and significant wetlands to retain the physical components and maintain the functions necessary to accomplish the purposes and to meet the protection objectives and goals for water quality, fish, and wildlife set forth in OAR 629-57-2000.

(2) Specified protection measures, such as for site preparation, yarding and stream channel changes, are required for operations near waters of the state and within riparian management areas to maintain water quality.

(3) (a) Operators shall apply the specified water quality protection measures and protect riparian management areas along each side of streams and around other waters of the state as described in OAR 629-57-2200 through 629-57-2670.

(b) Operators may vary the width of the riparian management area above or below the average specified width depending upon topography, operational requirements, vegetation, fish and wildlife resources and water quality protection as long as vegetation retention and protection standards are met. However, the average width of the entire riparian management area within an operation must equal or exceed the required width.

RIPARIAN MANAGEMENT AREA WIDTHS FOR STREAMS

629-57-2200

(1) (a) The riparian management area widths for streams are designated for each stream type as shown in Table 1.

(b) Except as indicated in section (2), operators shall measure the riparian management area width as a slope distance from the high water level of main channels.

(c) Notwithstanding the distances designated in subsection (1)(a), where wetlands or side channels extend beyond the designated riparian management area widths, operators shall expand the riparian management area as necessary to entirely include any stream-associated wetland or side channel plus at least 25 additional feet. This provision does not apply to small Type N streams.

(2) In situations where the slope immediately adjacent to the stream channel is steep exposed soil, a rock bluff or talus slope, operators shall measure the riparian management area as a horizontal distance until the top of the exposed bank, bluff or talus slope is reached. From that point, the remaining portion of the riparian management area shall be measured as a slope distance.

VEGETATION RETENTION GOALS FOR STREAMS; DESIRED FUTURE CONDITIONS

629-57-2220

(1) The purpose of this rule is to describe how the vegetation retention measures for streams were determined, their purpose and how the measures are implemented. The vegetation retention requirements for streams described in OAR 629-57-2230 through OAR 629-57-2270 are designed to produce desired future conditions for the wide range

of stand types, channel conditions, and disturbance regimes that exist throughout forestlands in Oregon.

(2) The desired future condition for streamside areas along fish use streams is to grow and retain vegetation so that, over time, average conditions across the landscape become similar to those of mature streamside stands. Oregon has a tremendous diversity of forest tree species growing along waters of the state and the age of mature streamside stands varies by species. Mature streamside stands are often dominated by conifer trees. For many conifer stands, mature stands occur between 80 and 200 years of stand age. Hardwood stands and some conifer stands may become mature at an earlier age. Mature stands provide ample shade over the channel, an abundance of large woody debris in the channel, channel-influencing root masses along the edge of the high water level, snags, and regular inputs of nutrients through litter fall.

(3) The rule standards for desired future conditions for fish use streams were developed by estimating the conifer basal area for average unmanaged mature streamside stands (at age 120) for each geographic region. This was done by using normal conifer yield tables for the average upland stand in the geographic region, and then adjusting the basal area for the effects of riparian influences on stocking, growth and mortality or by using available streamside stand data for mature stands.

(4) The desired future condition for streamside areas that do not have fish use is to have sufficient streamside vegetation to support the functions and processes that are important to downstream fish use waters and domestic water use and to supplement wildlife habitat across the landscape. Such functions and processes include: maintenance of cool water temperature and other water quality parameters; influences on sediment production and bank stability; additions of nutrients and large conifer organic debris; and provision of snags, cover, and trees for wildlife.

(5) The rule standards for desired future conditions for streams that do not have fish use were developed in a manner similar to fish use streams. In calculating the rule standards, other factors used in developing the desired future condition for large streams without fish use and all medium and small streams included the effects of trees regenerated in the riparian management area during the next rotation and desired levels of instream large woody debris.

(6) For streamside areas where the native tree community would be conifer dominated stands, mature streamside conditions are achieved by retaining a sufficient amount of conifers next to large and medium sized fish use streams at the time of harvest, so that halfway through the next rotation or period between harvest entries, the conifer basal area and density is similar to mature unmanaged conifer stands. In calculating the rule standards, a rotation age of 50 years was assumed for even-aged management and a period between entries of 25 years was assumed for uneven-aged management. The long-term maintenance of streamside conifer stands is likely to require incentives to landowners to manage streamside areas so that conifer reforestation occurs to replace older conifers over time.

(7) Conifer basal area and density targets to produce mature stand conditions over time are outlined in the general vegetation retention prescriptions. In order to ensure compliance with state water quality standards, these rules include requirements to retain all trees within 20 feet and understory vegetation within 10 feet of the high water level of specified channels to provide shade.

(8) For streamside areas where the native tree community would be hardwood dominated stands, mature streamside conditions are achieved by retaining sufficient hardwood trees. As early successional species, the long-term maintenance of hardwood streamside stands will in some cases require managed harvest using site specific vegetation retention prescriptions so that reforestation occurs to replace older trees. In order to ensure compliance with state water quality standards, these rules include requirements in the general vegetation retention prescription to retain all trees within 20 feet and understory vegetation within 10 feet of the high water level of specified channels to provide shade.

(9) In many cases the desired future condition for streams can be achieved by applying the general vegetation

retention prescriptions, as described in OAR 629-57-2230 and OAR 629-57-2250. In other cases, the existing streamside vegetation may be incapable of developing into the future desired conditions in a "timely manner." In this case, the operator can apply an alternative vegetation retention prescription described in OAR 629-57-2260 or develop a site specific vegetation retention prescription described in OAR 629-57-2270. For the purposes of the water protection rules, "in a timely manner" means that the trees within the riparian management area will meet or exceed the applicable basal area target or vegetation retention goal during the period of the next harvest entry that would be normal for the site. This will be 50 years for many sites.

(10) Where the native tree community would be conifer dominant stands, but due to historical events the stand has become dominated by hardwoods, in particular, red alder, disturbance is allowed to produce conditions suitable for the re-establishment of conifer. In this and other situations where the existing streamside vegetation is incapable of developing characteristics of a mature streamside stand in a "timely manner," the desired action is to manipulate the streamside area and woody debris levels at the time of harvest (through an alternative vegetation retention prescription or site specific vegetation retention prescription) to attain such characteristics more quickly.

(Fish)

GENERAL VEGETATION RETENTION PRESCRIPTION FOR TYPE F STREAMS

629-57-2230

- (1)
 - (a) Operators shall apply the vegetation retention requirements described in this rule to the riparian management areas of Type F streams.
 - (b) Segments of Type F streams that are different sizes within an operation shall not be combined or averaged together when applying the vegetation retention requirements.
 - (c) Trees left to meet the vegetation retention requirements for one stream type shall not count towards the requirements of another stream type.
- (2) Operators shall retain:
 - (a) All understory vegetation within 10 feet of the high water level;
 - (b) All trees within 20 feet of the high water level; and
 - (c) All trees leaning over the channel.
- (3) Operators shall retain within riparian management areas and streams all downed wood and snags that are not safety or fire hazards. Snags felled for safety or fire hazard reasons shall be retained where they are felled unless used for stream improvement projects approved by the State Forester.
- (4) Notwithstanding the requirements of section (2) of this rule, vegetation, snags and trees within 20 feet of the high water level of the stream may be felled, moved or harvested as allowed in other rules for road construction, yarding corridors, temporary stream crossings, or for stream improvement.
- (5) Operators shall retain at least 40 live conifer trees per 1000 feet along large streams and 30 live conifer trees per 1000 feet along medium streams. This includes trees left to meet the requirements described in section (2) of this rule. Conifers must be at least 11 inches DBH for large streams and 8 inches DBH for medium streams to count toward these requirements.
- (6) Operators shall retain trees or snags six inches or greater DBH to meet the following requirements (this includes

trees left to meet the requirements of sections (2) and (5) of this rule:

(a) If live conifer tree basal area in the riparian management area is greater than the standard target shown in Table 2 where the harvest unit will be a clearcut (as defined by ORS 527.620(2)), or Table 3 where the harvest unit will be a partial harvest or thinning, operators shall retain live conifer trees of sufficient basal area to meet the standard target.

(b) If live conifer tree basal area in the riparian management area is less than the standard target (as shown in Table 2 where the harvest unit will be a clearcut, or Table 3 where the harvest unit will be a partial harvest or thinning) but greater than one-half the standard target shown in Table 2, operators shall retain all live conifer trees six inches DBH or larger in the riparian management area (up to a maximum of 150 conifers per 1000 feet along large streams, 100 conifers per 1000 feet along medium streams, and 70 conifers per 1000 feet along small streams).

(c) If live conifer tree basal area in the riparian management area is less than one-half the standard target shown in Table 2:

(A) Operators may apply an alternative vegetation retention prescription as described in OAR 629-57-2260, where applicable, or develop a site specific vegetation retention prescription as described in OAR 629-57-2270; or

(B) Operators shall retain all conifers in the riparian management area and all hardwoods within 50 feet of the high water level for large streams, within 30 feet of the high water level for medium streams, and within 20 feet of the high water level for small streams.

(7) In the Coast Range, South Coast, Interior, Western Cascade, and Siskiyou geographic regions, hardwood trees and snags six inches or greater DBH may count toward the basal area requirements in subsection (6)(a) of this rule as follows:

(a) All cottonwood and Oregon ash trees within riparian management areas that are beyond 20 feet of the high water level of large Type F streams, may count toward the basal area requirements.

(b) Up to 10 percent of the basal area requirement may be comprised of sound conifer snags at least 30 feet tall and other large live hardwood trees, except red alder, growing in the riparian management area more than 20 feet from the high water level and at least 24 inches DBH.

(8) In the Eastern Cascade and Blue Mountain geographic regions, hardwood trees, dying or recently dead or dying trees and snags six inches or greater DBH may count toward the basal area requirements in subsection (6)(a) of this rule as follows:

(a) The basal area of retained live hardwood trees may count toward meeting the basal area requirements.

(b) Up to 10 percent of the basal area retained to meet the basal area requirement may be comprised of sound conifer snags at least 30 feet tall.

(c) For small Type F streams, the maximum required live conifer tree basal area that must be retained to meet the standard target is 40 square feet. The remaining basal area required may come from retained snags, dying or recently dead or dying trees, or hardwoods if available within the riparian management area.

(9) Notwithstanding the requirements indicated in this rule, operators may conduct precommercial thinning and other release activities to maintain the growth and survival of conifer reforestation within riparian management

areas. Such activities shall contribute to and be consistent with enhancing the stand's ability to meet the desired future condition.

(10) When determining the basal area of trees, the operator may use the average basal area for a tree's diameter class, as shown in Table 4, or determine an actual basal area for each tree. The method for determining basal area must be consistent throughout the riparian management area.

(11) (a) For large and medium Type F streams, live conifer trees retained in excess of the active management target and hardwoods retained beyond 20 feet of the high water level of the stream that otherwise meet the requirements for leave trees may be counted toward requirements for leave trees within clearcuts (pursuant to Section 5, Chapter 919, Oregon Laws 1991).

(b) For small Type F streams, all retained live trees that otherwise meet the requirements for leave trees may count toward requirements for leave trees within clearcuts.

(12) Trees on islands with ground higher than the high water level may be harvested as follows:

(a) If the harvest unit is solely on an island, operators shall apply all the vegetation retention requirements for a large Type F stream described in this rule to a riparian management area along the high water level of the channels forming the island.

(b) Otherwise, operators shall retain all trees on islands within 20 feet of the high water level of the channels forming the island and all trees leaning over the channels. In this case, conifer trees retained on islands may count toward the basal area requirement for adjacent riparian management areas so long as the trees are at least 11 inches DBH for large streams and eight inches DBH for medium streams.

(13) When applying the vegetation retention requirements described in this rule to the riparian management areas, if an operator cannot achieve the required retention without leaving live trees on the upland side of a road that may be within the riparian management area and those trees pose a safety hazard to the road and will provide limited functional benefit to the stream, the State Forester may modify the retention requirements on a site specific basis.

LIVE TREE RETENTION CREDIT FOR IMPROVEMENT OF TYPE F STREAMS

629-57-2240

- (1) Many Type F streams currently need improvement of fish habitat because they lack adequate amounts of large woody debris in channels, or they lack other important habitat elements.
- (2) This rule allows operator incentives to place conifer logs in channels or to take other enhancement actions to create immediate improvements in fish habitat.
- (3) Subject to prior approval of the State Forester, operators may place conifer logs or downed trees in Type F streams and receive basal area credit toward meeting the live tree retention requirements in a stream's riparian management area.
- (4) For each conifer log or tree the operator places in a large or medium Type F stream, the basal area credit is twice the basal area of the placed log or tree.
- (5) For each conifer log or tree the operator places in a small Type F stream, the basal area credit is equal to the basal area of the placed log or tree.

- (6) Basal area credit will be determined by measuring the cross-sectional area of the large end of a log or by measuring the point on a downed tree that would be equivalent to breast height.
- (7) To receive basal area credit for downed trees or conifer logs placed in a stream, the operator shall comply with the guidance and restrictions for placing logs or trees prescribed by the State Forester.
- (8) Operators may propose other stream enhancement projects for basal area credit such as creation of backwater alcoves, riparian grazing exclosures (such as fencing), and placement of other instream structure such as boulders and rootwads. When a project is approved by the department through consultation with the Oregon Department of Fish and Wildlife, basal area credit shall be given toward meeting the live tree requirements within riparian management areas. The basal area credit shall be negotiated between the department, operator and Oregon Department of Fish and Wildlife.
- (9) Basal area credit may be given to an operation for enhancement projects conducted at locations other than at the operation site so long as the project is in the same immediate vicinity as the operation site (for instance, within one or two miles of the operation).
- (10) Basal area credit may be given to an operation for improvement projects conducted at a later date (this may be necessary to avoid operating under high water conditions or to protect spawning areas), but the project must be completed within six months of the completion of the operation.
- (11) In granting basal area credit, the standing tree basal area retained within riparian management areas of Type F streams shall not be reduced to less than the active management targets shown in Table 2 or 3, as applicable.
 - (a) For small Type F streams in the Eastern Cascade and Blue Mountain geographic regions, the live conifer tree basal area may be reduced to 30 square feet for the active management target. The remaining portion of the basal area requirement must come from snags, dying or recently dead or dying trees, or hardwood trees if available in the riparian management area.
- (12) Operators shall notify the State Forester of the completion of live tree retention credit stream improvement projects that were planned for locations other than on the operation site under section (10) of this rule or that were planned to be completed at another date under section (11) of this rule.

GENERAL VEGETATION RETENTION PRESCRIPTION FOR TYPE D AND TYPE N STREAMS

629-57-2250

- (1)
 - (a) Operators shall apply the vegetation retention requirements described in this rule to the riparian management areas of Type D and Type N streams.
 - (b) Segments of Type D or Type N streams that may be of a different size within operation shall not be combined or averaged together when applying the vegetation retention requirements.
 - (c) Trees left to meet the vegetation retention requirements for one stream type shall not count toward the requirements of another stream type.
- (2) Operators shall retain along all Type D, and large and medium Type N streams:
 - (a) All understory vegetation within 10 feet of the high water level;
 - (b) All trees within 20 feet of the high water level; and

- (c) All trees leaning over the channel.
- (3) Operators shall retain all downed wood and snags that are not safety or fire hazards within riparian management areas and streams. Snags felled for safety or fire hazard reasons shall be retained where they are felled unless used for stream improvement projects approved by the State Forester.
- (4) Notwithstanding the requirements of section (2), vegetation, snags and trees within 20 feet of the high water level of the stream may be felled, moved or harvested as allowed in the rules for road construction, yarding corridors, temporary stream crossings, or for stream improvement.
- (5) Operators shall retain at least 30 live conifer trees per 1000 feet along large Type D and Type N streams and 10 live conifer trees per 1000 feet along medium Type D and Type N streams. This includes any trees left to meet the requirements described in section (2) of this rule. Conifers must be at least 11 inches DBH for large streams and eight inches DBH for medium streams to count toward these requirements.
- (6) Operators shall retain all understory vegetation and non-merchantable conifer trees (conifer trees less than six inches DBH) within 10 feet of the high water level on each side of small perennial Type N streams indicated in Table 5.
- (a) The determination that a stream is perennial shall be made by the State Forester based on a reasonable expectation that the stream will have summer surface flow after July 15.
- (b) The determination in subsection (6)(a) of this rule can be made based on a site inspection, data from other sources such as landowner information, or by applying judgment based upon stream flow patterns experienced in the general area.
- (c) Operators are encouraged whenever possible to retain understory vegetation, non-merchantable trees, and leave trees required within clearcuts (pursuant to Section 5, Chapter 919, Oregon Laws 1991) along all other small Type N streams within harvest units.
- (7) Operators shall retain trees six inches or greater DBH to meet the following requirements (this includes trees left to meet the requirements of sections (2) and (5) of this rule):
- (a) If the live conifer tree basal area in the riparian management area is greater than the standard target shown in Table 6 where the harvest will be a clearcut (as defined by ORS 527.620(2)), or in Table 7 where the harvest unit is a partial harvest or thinning, operators shall retain along all Type D, and medium and large Type N streams live conifer trees of sufficient basal area to meet the standard target.
- (b) If the live conifer tree basal area in the riparian management area is less than the standard target (as shown in Table 6 where the harvest will be a clearcut or Table 7 where the harvest unit is a partial harvest or thinning), but greater than one-half the standard target shown in Table 6, operators shall retain along all Type D, and medium and large Type N streams all conifers 6 inches DBH or larger in the riparian management area (up to a maximum of 100 conifers per 1000 feet along large streams, and 70 conifers per 1000 feet along medium streams).
- (c) If the live conifer tree basal area in the riparian management area is less than one-half the standard target shown in Table 6:
- (A) Operators may apply an alternative vegetation retention prescription as described in OAR 629-57-2260, where applicable, or develop a site specific vegetation retention prescription as described in OAR 629-57-2270; or

- (B) Operators shall retain along all Type D, and medium and large Type N streams all conifers in the riparian management area and all hardwoods within 30 feet of the high water level for large streams and within 20 feet of the high water level for medium streams.
- (8) In the Coast Range, South Coast, Interior, Western Cascade, and Siskiyou geographic regions, hardwood trees and snags six inches or greater DBH may count toward the basal area requirements in subsection (7)(a) of this rule as follows:
- (a) All cottonwood and Oregon ash trees within riparian management areas that are beyond 20 feet of the high water level of large Type D and N streams, may count toward the basal area requirements.
 - (b) For large Type D and N streams, up to 10 percent of the basal area requirement may be comprised of sound conifer snags at least 30 feet tall and other large live hardwood trees, except red alder, growing in the riparian management area more than 20 feet from the high water level and at least 24 inches DBH.
 - (c) For medium Type D and N streams:
 - (A) Up to 30 square feet of basal area per 1000 feet of stream may be comprised of hardwood trees.
 - (B) Up to five percent of the basal area retained may be comprised of sound conifer snags that are at least 30 feet tall.
- (9) In the eastern Oregon and Blue Mountain geographic regions:
- (a) The basal area of all retained live hardwood trees may count toward meeting the basal area requirements.
 - (b) For large Type D and N streams, up to 10 percent of the basal area requirement may be comprised of sound conifer snags at least 30 feet tall.
 - (c) For medium Type D and N streams:
 - (A) Up to 30 square feet of basal area per 1000 feet of stream may be comprised of hardwood trees.
 - (B) Up to five percent of the basal area retained may be comprised of sound conifer snags that are at least 30 feet tall.
- (10) Notwithstanding the requirements indicated in this rule, operators may conduct precommercial thinning and other release activities to maintain the growth and survival of conifer reforestation within riparian management areas. Such activities shall contribute to and be consistent with enhancing the stand's ability to meet the desired future condition.
- (11) When determining the basal area of trees along streams in a harvest unit, operators may use the average basal area for a tree's diameter class, as shown in Table 4 in OAR 629-57-2230, or determine an actual basal area for each tree. The method for determining basal area must be consistent throughout the riparian management area.
- (12) All live trees retained along Type D and N streams that otherwise meet the requirements for leave trees may count toward requirements for leave trees within clearcuts (pursuant to Section 5, Chapter 919, Oregon Laws 1991).
- (13) Trees on islands with ground higher than the high water level may be harvested as follows:

(a) If the harvest unit is solely on an island, operators shall apply all the vegetation retention requirements for a large Type F stream described in this rule to a riparian management area along the high water level of the channels forming the island.

(b) Otherwise, operators shall retain all trees on islands within 20 feet of the high water level of the channels forming the island and all trees leaning over the channels. In this case, conifer trees retained on islands may count toward the basal area requirement for adjacent riparian management areas so long as the trees are at least 11 inches DBH for large streams and 8 inches DBH for medium streams.

(c) All merchantable trees may be harvested from islands within small Type N streams.

(14) When applying the vegetation retention requirements described in this rule to the riparian management areas, if an operator cannot achieve the required retention without leaving live trees on the upland side of a road that may be within the riparian management area and those trees pose a safety hazard to the road and will provide limited functional benefit to the stream, the State Forester may modify the retention requirements on a site specific basis.

ALTERNATIVE VEGETATION RETENTION PRESCRIPTIONS

629-57-2260

(1) Alternative prescriptions are intended to apply to situations where the existing streamside stand is too sparse or contains too few live conifers to maintain fish, wildlife, and water quality resources over time. Future desired streamside stand conditions are achieved through immediate manipulation of vegetation, including reforesting the riparian management area with conifers.

(2) Sections (3) and (4) of this rule are alternative vegetation retention prescriptions that operators may apply if the conifer basal area in the riparian management area is no more than one-half of the standard target indicated in either Table 2 of OAR 629-57-2230 or Table 6 of OAR 629-57-2250, as may be applicable, and conditions described in the alternative prescription are applicable.

(3) Alternative Vegetation Retention Prescription 1 (Catastrophic Events). This alternative prescription applies to streamside stands that have been damaged by wildfire or by catastrophic windthrow, insect or disease mortality. Such mortality must occur at the stand level and shall not include normal endemic mortality. The prescription is intended to provide adequate stream shade, woody debris, and bank stability for the future while creating conditions in the streamside area that will result in quick establishment of a new and healthy stand. Operators shall:

(a) Retain trees that have fallen in the stream. Only portions of these trees that are outside the high water levels and do not contribute to the ability of the downed tree to withstand movement during high flows may be harvested.

(b) Retain all live and dead trees within 20 feet of the high water level of large and medium streams and 10 feet of the high water level of small streams.

(c) For Type F streams, retain live trees, dying or recently dead trees, and downed logs sufficient to satisfy the active management target shown in Table 2.

(d) For Type D and N streams, retain live trees, dying or recently dead trees, or downed logs sufficient to satisfy the standard target shown in Table 6.

(e) Live conifers shall be retained first to meet the target. If live conifers are too few to satisfy the target, then the target shall be met as much as possible by including windthrown trees within the channel and dying

or recently dead trees.

(f) For purposes of this prescription the basal area of a windthrown tree in the channel or a retained dying or recently dead tree contributes two times its basal area toward meeting the target.

(4) **Alternative Vegetation Retention Prescription 2 (Hardwood Dominated Sites).** This alternative prescription applies to streamside sites that are capable of growing conifers, and where conifer stocking is currently low and unlikely to improve in a "timely manner" because of competition from hardwoods and brush. If portions of such riparian management areas currently contain abundant conifer basal area, it is intended that these areas of good conifer basal area be segregated and managed using the general vegetation retention prescription while the remainder is managed according to this alternative prescription. The alternative prescription is intended to provide adequate stream shade, some woody debris, and bank stability for the future while creating conditions in the streamside area that will result in quick establishment of a conifer stand. The operator shall:

(a) Evaluate the stand within the riparian management area and, where they exist, segregate segments (200 feet or more in length) that are well-stocked with conifer, as identified from an aerial photograph, from the ground or through other appropriate means. The general vegetation retention prescription for vegetation retention shall be applied to these segments.

(b) For the remaining portion of the riparian management area that has lower conifer basal area, the riparian management area shall be divided into conversion blocks and retention blocks.

(c) No more than half of the total stream length in the harvest unit can be included within conversion blocks. Conversion blocks can be no more than 500 feet long and must be separated from each other by at least 200 feet of retention block or by at least a 200 foot segment where the general vegetation retention prescription is applied.

(d) Within conversion blocks the operator shall retain:

(A) All trees growing in the stream or within 10 feet of the high water level of the stream.

(B) All trees leaning over the channel within 20 feet of the high water level of large streams.

(e) Within retention blocks the operator shall retain:

(A) For large streams, all conifer trees within 50 feet of the high water level of the stream and all hardwood trees within 30 feet of the high water level of the stream.

(B) For medium streams, all conifer trees within 30 feet of the high water level of the stream and all hardwood trees within 20 feet of the high water level of the stream.

(C) For small streams, all trees within 20 feet of the high water level of the stream.

SITE SPECIFIC VEGETATION RETENTION PRESCRIPTIONS FOR STREAMS AND RIPARIAN MANAGEMENT AREAS

629-57-2270

(1) (a) Operators are encouraged to develop site specific vegetation retention prescriptions in an alternate plan.

(b) A primary aim of these prescriptions is to identify opportunities and allow incentives for restoring or

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enhancing riparian management areas or streams.

(c) Another purpose of site specific vegetation retention prescriptions is to allow for changes to the vegetation retention requirements in OARs 629-57-2230 and 629-57-2250. The changes must provide for the functions and values of stream and their riparian management areas as described in the vegetation retention goals for streams while affording a better opportunity to meet other objectives.

(2) Operators may develop site specific vegetation retention prescriptions for streams and their riparian management areas to achieve the vegetation retention goals described in OAR 629-57-2220 if:

(a) The potential of the streamside stand to achieve basal area and stand density similar to mature conifer forest stands in a "timely manner" is questionable; or

(b) In-stream conditions are impaired due to inadequate large woody debris or other factors; or

(c) The modification of a standard or practice would result in less environmental damage than if the standard or practice were applied.

(3) A site specific vegetation retention prescription shall be approved if the State Forester determines that when properly executed the alternate plan will have no significant or permanent adverse effects: and

(a) It will meet or exceed the vegetation retention goals in a more "timely manner" than if the plan were not implemented; or

(b) The long-term benefits of the proposed restoration practice are greater than short-term detrimental effects; or

(c) The proposed practice will result in less environmental damage than if the regular rules were followed.

(4) Factors that may need to be considered in the plan include, but are not limited to, the potential of the existing streamside stand to achieve mature conifer forest characteristics, the long-term supply of woody debris, survival of planted conifers, sensitivity to changes in water temperature and water quality, the potential for sedimentation, the stability of woody debris placed in aquatic areas, and monitoring the direct effects of the proposed practices.

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To: <i>L. Jane Hart</i>	From: <i>Nada Austin</i>	
Co.:	Co. <i>ODE</i>	
Dept.:	Phone <i>545-7470</i>	
Fax #	Fax #	

Table 1. Riparian Management Area Widths for Streams of Various Sizes and Beneficial Uses

	Type F	Type D	Type N
LARGE	100 feet	70 feet	70 feet
MEDIUM	70 feet	50 feet	50 feet
SMALL	50 feet	30 feet	Apply specified water quality protection measures, and see OAR 629-57-2250.

TABLE 2. General Prescription for Type F streams: Streamside Tree Retention for Clearcut Harvest Units

Geographic region	SQUARE FEET OF BASAL AREA PER 100 FEET OF STREAM, EACH SIDE					
	LARGE Type F		MEDIUM Type F		SMALL Type F	
	RMA = 100 feet		RMA = 70 feet		RMA = 50 feet	
	Site Goal Target	Active Management Target	Standard Target	Active Management Target	Standard Target	Active Management Target
Coast Range and South Coast	230	170	120	90	40	20
Interior and Western Cascade	270	200	140	110	40	20
Siskiyou	220	170	110	90	40	20
Eastern Cascade and Blue Mountain	170	130	90	70	50 ¹	50 ²

¹ The maximum live conifer tree basal area that must be retained is 40 square feet. The remaining basal area may come from snags, dying or recently dead or dying trees, or hardwood trees if available within the riparian management area.

² Live conifer tree basal area may be reduced to 30 square feet for the active management target. The remaining portion of the basal area requirement must come from snags, dying or recently dead or dying trees, or hardwood trees if available within the riparian management area.

TABLE 3. General Prescription for Type F Streams: Streamside Tree Retention for Partial Harvest or Thinning Units.

Geographic region	SQUARE FEET OF BASAL AREA PER 100 FEET OF STREAM, EACH SIDE					
	LARGE Type F		MEDIUM Type F		SMALL Type F	
	RMA = 100 feet		RMA = 70 feet		RMA = 50 feet	
	Stand Target	Active Management Target	Stand Target	Active Management Target	Stand Target	Active Management Target
Coast Range and South Coast	300	270	160	140	50	30
Interior and Western Cascade	350	310	180	160	50	30
Siskiyou	290	260	140	120	50	30
Eastern Cascade and Blue Mountain	220	200	120	100	50 ¹	50 ²

TABLE 4. Basal Area for Various Diameter Classes

Diameter Breast Height (inches)	Basal Area (square feet)	Diameter Breast Height (inches)	Basal Area (square feet)
6 to 10	0.3	41 to 45	10.1
11 to 15	0.9	46 to 50	12.6
16 to 20	1.8	51 to 55	15.3
21 to 25	2.9	56 to 60	18.3
26 to 30	4.3	61 to 65	21.6
31 to 35	5.9	66 to 70	25.2
36 to 40	7.9	71 to 75	29.0

¹ The maximum live conifer tree basal area that must be retained is 40 square feet. The remaining basal area may come from snags, dying or recently dead or dying trees, or hardwood trees if available within the riparian management area.

² Live conifer tree basal area may be reduced to 30 square feet for the active management target. The remaining portion of the basal area requirement must come from snags, dying or recently dead or dying trees, or hardwood trees if available within the riparian management area.

TABLE 5. Vegetation Retention for Specified Small Type N Streams.

Geographic Region	Retain Understory Vegetation and Unmerchantable Conifers 10 Feet Each Side of Stream for:
Eastern Cascades and Blue Mountains	All perennial streams.
South Coast	Portions of perennial streams where the upstream drainage area is greater than 160 acres.
Interior	Portions of perennial streams where the upstream drainage area is greater than 330 acres.
Siskiyou	Portions of perennial streams where the upstream drainage area is greater than 580 acres.
Coast Range and Western Cascades	<u>No retention required.</u>

TABLE 6. General Prescription for Type D, and Large and Medium Type N Streams: Streamside Tree Retention for Clearcut Harvest Units.

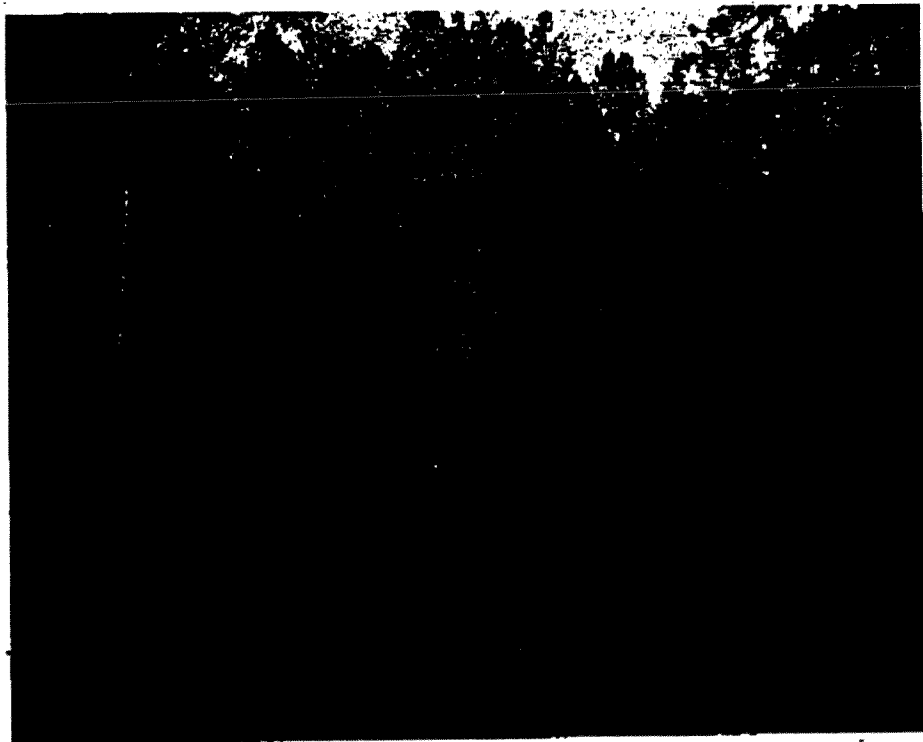
Geographic Region	SQUARE FEET OF BASAL AREA PER 1000 FEET OF STREAM, EACH SIDE		
	LARGE TYPE D AND N RMA = 70 feet	MEDIUM TYPE D AND N RMA = 50 feet	SMALL TYPE D RMA = 20 feet
	Standard Target	Standard Target	Standard Target
Coast Range and South Coast	90	50 ¹	0
Interior and Western Cascade	110	50 ¹	0
Siskiyou	90	50 ¹	0
Eastern Cascade and Blue Mountain	70	50 ¹	0

¹ Hardwoods may count up to 30 square feet per 1000 feet towards meeting the standard target.

TABLE 7. General Prescription for Type D, and Large and Medium Type N Streams: Streamside Tree Retention for Partial Harvest and Thinning Units.

Geographic Region	SQUARE FEET OF BASAL AREA PER 1000 FEET OF STREAM, EACH SIDE		
	LARGE TYPE D AND N RMA = 70 feet	MEDIUM TYPE D AND N RMA = 50 feet	SMALL TYPE D RMA = 20 feet
	Standard Target	Standard Target	Standard Target
Coast Range and South Coast	140	60'	0
Interior and Western Cascade	160	60'	0
Siskiyou	120	60'	0
Eastern Cascade and Blue Mountain	100	60'	0

Hardwoods may count up to 30 square feet of basal area per 1000 feet toward meeting the standard target.



1994
Columbia River Basin
Fish and Wildlife
Program
Overview

Northwest
Power Planning
Council

94-1

EXCERPTS

Over the past hundred years or so, this ecosystem has been harnessed to serve development. From the perspective of many in the Northwest, there have been great benefits. The region prospered. But that prosperity cost the ecosystem dearly.

We are most familiar with the loss of salmon, our most potent symbol of endurance and vigor. Ironically, these fish are now among the region's most vulnerable species.

A century ago, between 10 million and 16 million salmon and steelhead returned to the Columbia each year. Today, there are only about 2.5 million salmon, and most of those come from hatcheries.

We have lost not only numbers of fish, but whole runs and more than a third of their original habitat. Additional runs could disappear entirely, too. As recently as 1962, nearly 30,000 adult fall chinook salmon migrated past Ice Harbor Dam on the Snake River on their way to spawn. In 1993, the Snake River fall chinook count was just over 1,000 fish.

Our goal is a healthy basin that supports both humans and fish and wildlife.

Other fish and wildlife species also suffered. Thousands of acres of prime wildlife habitat were flooded behind hydroelectric dams. Some fish — most notably sturgeon, which used to migrate up and down the Columbia and into the ocean — became landlocked.

Many species adapted to the developed Columbia River Basin. Others did not. Several species became extinct. Others have been listed on federal and state endangered species lists.

This Columbia River Basin Fish and Wildlife Program is designed to balance the needs of both the developed and the natural worlds within the watershed. It includes actions to protect and enhance salmon runs, as well as other fish and wildlife. Our goal is a healthy basin that supports both humans and fish and wildlife. We hope to make future Endangered Species Act listings of Columbia River Basin fish and wildlife unnecessary.

The Pacific Northwest Through Time Evolution of a River Basin

13,000–10,000 B.C.
More than 40 floods scour much of the present day Pacific Northwest.



A Strategy for Salmon

Salmon: The price of prosperity

The price for the region's prosperity is being paid by people, businesses and river communities that once thrived on salmon. It is a price realized in lost jobs, business failures and lost community income from business investments and tourism.

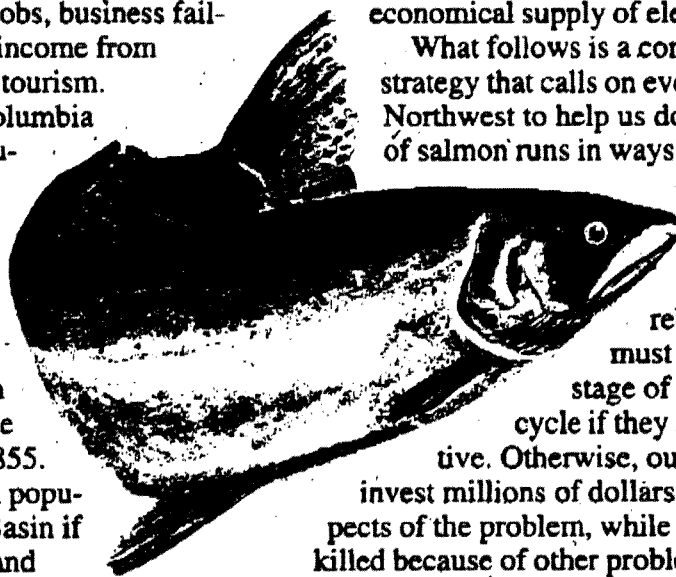
It is a price that hits Columbia Basin Indian tribes particularly hard. Salmon are important to the tribes for religious, cultural, economic and subsistence purposes. Some tribes are guaranteed the right to fish for Columbia salmon by treaties with the United States dating to 1855.

We can rebuild salmon populations in the Columbia Basin if we act quickly, carefully and

cooperatively. And we can accomplish this goal without eliminating other uses of the river, or jeopardizing our efficient and economical supply of electricity.

What follows is a comprehensive strategy that calls on everyone in the Northwest to help us double the size of salmon runs in ways that ensure

continued returns for many generations. Salmon rebuilding efforts must address every stage of the salmon life cycle if they are to be effective. Otherwise, our region could invest millions of dollars on a few aspects of the problem, while salmon are still killed because of other problems.



1840s
First farm irrigation systems installed adjacent to missions near Walla Walla, Washington, and Lewiston, Idaho.



Improve salmon habitat

Salmon habitat includes the streams where spawners lay their eggs, where eggs hatch and where young fish spend the first year or two of their lives. It includes the rivers, the tributaries, the Columbia estuary and the Pacific Ocean.

The quality of habitat determines how many fish survive. Ideally, good spawning habitat has clean, cool water. Streambanks are well-shaded by vegetation. Spawning gravel is abundant and clean. Rocks and woody debris in the water create pools for resting and feeding.

H A B I T A T

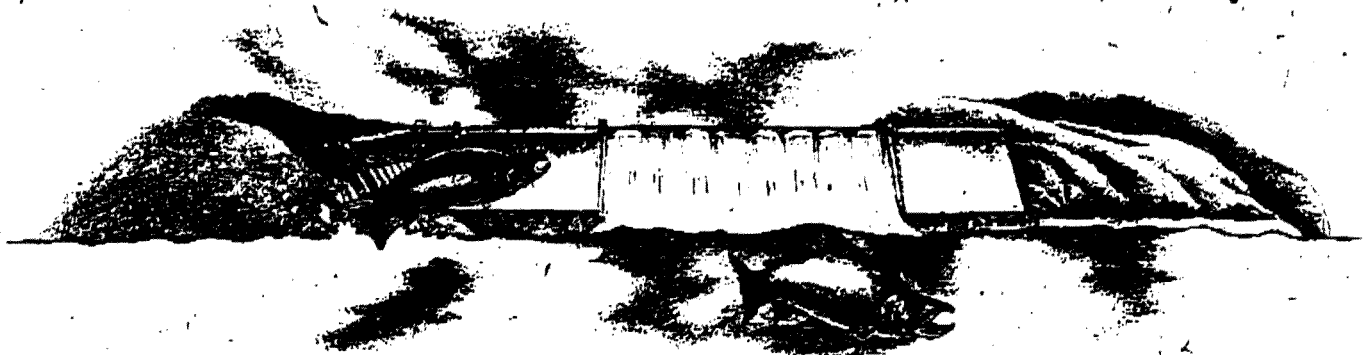
B e f o r e a n d A f t e r



Salmon need cool, clean water in the shallow streams where they reproduce. Where shorelines have been stripped of grasses, shrubs and trees that shade the water, the stream heats up. Erosion is more likely, and erosion can silt up the gravel in the stream, making it less suitable for the salmon to build nests and lay eggs.

Planting the shorelines with quick-growing grasses and shrubs, and keeping livestock away from the plants restores the stream to a healthier environment for the salmon.

1941
Grand Coulee Dam begins operation, closing off entire upper Columbia River Basin to salmon migration.



As human populations increased, so did impacts on salmon habitat. For example, the construction of Grand Coulee and Hells Canyon dams, which have no fish ladders, eliminated about one-third of the available salmon habitat in the basin. Other activities degraded the quality of remaining habitat.

Our highest priority for salmon habitat is to maintain its quantity and productivity. We are especially concerned about preserving or restoring streams where salmon and steelhead can spawn naturally.

One objective of our strategy is to ensure that activities to improve salmon production are coordinated for each watershed. This is not just a planning process. It should be how salmon enhancement is carried out, with all parties' interests — especially the salmon's — considered and integrated into an overall approach.

Land and water managers need to focus their attention on protecting streamside areas.

Because about 40 percent of the remaining salmon and steelhead habitat in the Columbia Basin is bordered by private land, it is essential that public and private landowners cooperate in comprehensive efforts to manage salmon habitat.

We are encouraged by cooperative habitat improvements being undertaken in partnerships between private individuals and governments around the basin. These projects not only improve conditions for salmon, but many of them improve

agricultural practices and provide educational opportunities, too. Controlling erosion, for example, can make farmland more productive and also improve conditions for salmon by reducing the amount of silt that flows into rivers. We also call on federal and state land and water managers to improve salmon habitat by revising timber, mining and livestock management practices. Land and water managers need to focus their attention on protecting streamside areas.

1948

A 20-day flood on the Columbia destroys the community of Vanport, Oregon, and kills 32 people.



Wildlife Projects in the Columbia River Basin

Dams in the Columbia River Basin affected birds and other animals, as well as fish. Our program includes measures to mitigate these losses. We want estimates of fish and wildlife losses that are attributable to the hydropower system, including habitat losses. We will then call for replacement of this habitat and, where necessary, improvement of it for use by birds and animals.

In Idaho, Oregon and Washington, mitigation has involved individual projects approved by the Council. Montana has a trust fund, established in 1989 and financed by Bonneville, to pay for wildlife mitigation projects developed by the state.

Here is a look at projects approved by the Council so far to aid wildlife:

Idaho

South Fork Snake River: Protect and enhance 64 miles of the Snake River in eastern Idaho for bald eagles. Mitigation for Palisades Dam.

Camas Prairie: 6,100 acres near Anderson Ranch Reservoir in southern Idaho, including wetlands and uplands for waterfowl. Mitigation for Anderson Ranch Dam.

Pack River: 3,100 acres of wetlands along the northern shore of Lake Pend Oreille in northern Idaho for waterfowl. Mitigation for Albeni Falls Dam.

Craig Mountain: 60,000 acres near the confluence of the Salmon and Snake rivers on Craig Mountain for a variety of wildlife. Mitigation for Dworshak Dam.

Washington

Pend Oreille wetlands: 440 acres along the Washington shore of the Pend Oreille River for waterfowl, bald eagles, deer, muskrat and small birds. Mitigation for Albeni Falls Dam.

Blue Creek Winter Range: 5,400 acres on the Spokane Indian Reservation for big game and upland birds. Mitigation for Grand Coulee Dam.

Peregrine falcon project: Involves releasing three to five falcons per year in the Grand Coulee Dam National Recreation Area between 1993 and 1998. Mitigation for Grand Coulee Dam.

Pygmy rabbit/sharp-tailed grouse: 18,000 acres near the Columbia River in eastern Washington to benefit sharp-tailed grouse and pygmy rabbits. Mitigation for Grand Coulee Dam.

Vancouver Lake lowlands: 814 acres north of Vancouver Lake, along the Columbia River in southwest Washington, for waterfowl, shorebirds, wintering wildlife and migratory wildlife. Mitigation for Bonneville Dam.

Yakima Valley wetlands: 4,870 acres on the Yakama Indian Reservation to benefit waterfowl. Mitigation for four dams on the lower Yakima River.

Oregon

Burlington Bottoms: 428 acres along the Willamette River north of Portland to benefit wintering waterfowl and Columbian white-tailed deer. Mitigation for Willamette River Basin dams.

Amazon Basin/Willow Creek: 331 acres of wetlands in Eugene, Oregon, to benefit a variety of wildlife. Mitigation for Willamette River Basin dams.

Conforth Ranch: 2,700 acres along the south shore of the Columbia River near Hermiston, Oregon, to benefit waterfowl and other wildlife. Mitigation for McNary Dam.

Western Pond Turtle: This project involves research on western pond turtles in the Willamette River Basin and, eventually, development of a mitigation plan. Mitigation for Willamette River Basin dams.

Silt major culprit in lowering nation's water quality

EPA finds cause but another report blames herbicide spray

By DAVID ROTHBARD and CRAIG RUCKER

Having seen the effectiveness of Bill Clinton's campaign focus on the economy, supporters of clean rivers might adopt a similar slogan: "It's the silt, silly."

If our country is truly serious about improving water quality substantially, the focus needs to be on the real problem, silt, rather than the imagined and perceived problems that get so much attention in public forums.

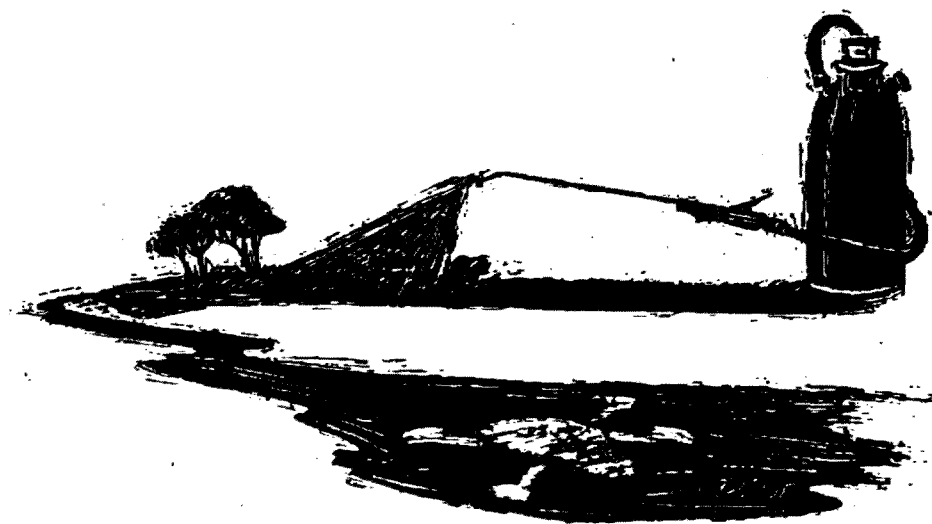
It's plain old dirt — topsoil from farm fields, clay from urban construction sites and sediment from unprotected streambanks — that is clogging our nation's waterways.

In a statement issued this spring, Carol Browner, administrator of the Environmental Protection Agency, called silt "the No. 1 problem threatening America's waterways."

Because of sedimentation, "fish respiration is impaired, plant productivity and water depth are reduced, aquatic organisms and their habitats are smothered, and our aesthetic enjoyment of the water is reduced," according to EPA's report, "The Quality of Our Nation's Water: 1992," which was issued this March.

Incongruously, another federal agency has been creating a controversy that has the potential to make this problem worse. Misperception resulting from work by the U.S. Geological Survey might actually change agri-

David Rothbard is president of the Committee For A Constructive Tomorrow, a Washington-based public-interest organization. Craig Rucker is the group's executive director.



RANDY BLACK DISHOPI/Top International Features

cultural practices to the point that soil erosion and stream sedimentation could increase.

The Geological Survey has been monitoring herbicide concentrations in lakes, rivers and streams for the last three years. It has also been releasing information to the media about trace amounts of herbicides in spring and summer, when farmers use the products.

However it has never issued a press release reporting on a full year of monitoring, even though federal drinking-water standards are based on the average of samples taken during a full year. Temporary peaks

slightly higher than the allowable annual average are of little, if any, significance.

Last August, in a little-known technical report, the Geological Survey revealed the full picture of its monitoring: "During 1991 and 1992, the annual average concentrations for these herbicides were far below health-based standards."

The same report carried a prediction about herbicide concentrations in the waters of the great 1993 flood: "Concentrations for these herbicides probably will not exceed (health-based standards) in 1993."

Many Americans will remember the scene a month earlier when TV reporters and newspaper headlines across the nation told of "surprisingly high" herbicide concentrations in the floodwaters. These reports were based on the Geological Survey's findings of one-day concentrations that were only slightly higher than the allowable annual average. These concentrations were nowhere close to any level of concern, as the Geological Survey acknowledged a month later.

But the perception is long lasting. Now, when EPA reports that agriculture is the leading contributor to stream impairment, many jump to the conclusion that EPA is talking about herbicides.

"It's the silt, silly."

The most common water pollutants, according to EPA's report, are, in order: Silt, nutrients, metals and biological pathogens. Herbicides, even when detections of insignificant concentrations are considered, don't rate with that group.

In fact, herbicides are an essential tool in reducing the amount of silt that gets into streams. While farming remains the leading contributor to river impairment — more stream miles border farms than cities — farmers have made great strides in reducing siltation in recent years.

They have been converting millions of acres to conservation tillage — a practice that leaves last year's crop stubble on the field. Instead of plowing the field and exposing the soil to wind and water erosion, farmers plant seeds through the stubble. Herbicides are used as needed to control the untillied weeds. The crop stubble keeps the herbicide, and the silt, in the field and out of the stream.

Without herbicides, the only way to control weeds is to plow them under before planting and follow up with another tillage trip, further contributing to the No. 1 problem threatening U.S. streams — silt.

Mult.Co. Code Chapter 5.30

REVENUE

5.30.240

- (2) By any person on any road, thoroughfare or property, other than a state highway, county road or city street, for the removal of forest products, as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, or for the construction or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit authorizing the use, construction or maintenance of the road, thoroughfare or property, with or by:
- (a) An agency of the United States;
 - (b) The state board of forestry;
 - (c) The state forester; or
 - (d) A licensee of any agency named in subparagraph (a), (b) or (c) of this paragraph.
- (3) By an agency of the United States or of the State of Oregon or any county, city or port of the State of Oregon on any road, thoroughfare or property, other than a state highway, county road or city street.
- (4) By any person on any county road for the removal of forest products, as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, if:
- (a) The use of the county road is pursuant to a written agreement entered into with, or to a permit issued by, the state board of forestry, the state forester or an agency of the United States, authorizing such person to use such road and requiring such person to pay for or to perform the construction or maintenance of the county road;
 - (b) The board, officer or agency that entered into the agreement or granted the permit, by contract with the county court or board of county commissioners, has assumed the responsibility for the construction or maintenance of such county road; and
 - (c) Copies of the agreements or permits required by subparagraphs (a) and (b) of this paragraph are filed with the division.

(B) Except for a farmer subject to subsection (C) of this section, the person or agency, as the case may be, who has paid any fee on such motor vehicle fuels imposed or directed to be paid, as provided by this chapter, is entitled to claim a refund of the fee so paid on such fuels or for the proportionate part of the fee paid on fuels used in the operation of such vehicles, when part of the operations are over such road, thoroughfares or property. The proportionate part shall be based upon the number of miles traveled by any such vehicle over such roads, thoroughfares or property as compared to the total number of miles traveled by such vehicle. To be eligible to claim such refund the person or agency, as the case may be, shall first establish and maintain a complete record of the operations, miles traveled, gallons of fuel used and other information, in such form and in such detail as the division may prescribe and require, the source of supply of all fuels purchased or used, and the particular vehicles or equipment in which used. Whenever any such claim is received and approved by the division, it shall cause the refund of fee to be paid to the claimant in like manner as provided for paying of other refund claims.

(C) A farmer who has paid any fee on motor vehicle fuels imposed or directed to be paid, as provided by this chapter, is entitled to claim a refund of the fee paid on such fuels used in farming operations in the operation of any motor vehicle on any road, thoroughfare or property in private ownership. To be eligible to claim such refund a farmer shall maintain in such form and in such detail as the division may prescribe and require, a record, supported by purchase invoices, of all such motor vehicle fuel purchased (including fuel purchased to operate any motor vehicle on the highway) and, for each and every motor vehicle operated on the highway, a record of all fuel used and of all miles traveled on the highway. Whenever any such claim is received and approved by the division, it shall cause the refund of fee to be paid to the claimant in like manner as provided for paying of other refund claims.

(D) As used in subsections (B) and (C) of this section, "farmer" includes any person who manages or conducts a farm for the production of livestock or crops but does not include a person who manages or conducts a farm for the production of

5.30.240

MULTNOMAH COUNTY CODE

forest products, as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, or of forest trees unless the production of such forest products or forest trees is only incidental to the primary purpose of the farming operation.

[Ord. 123 § 24 (1976)]

5.30.250. Refunds to purchasers of fuel for aircraft.

Whenever any statement and invoices are presented to the division showing that motor vehicle fuel has been purchased and used in operating aircraft engines and upon which the fee on motor vehicle fuel has been paid, the division shall refund the fee paid.

[Ord. 123 § 25 (1976)]

5.30.260. Refunds to counties and road assessment districts.

Any county or road assessment district formed under ORS 371.405 to 371.535, which buys and uses any motor vehicle fuel for the purpose of operating or propelling road maintainers, graders, tractors, trucks and other equipment used in the construction and maintenance of public highways and which has paid any fee on motor vehicle fuel imposed or directed to be paid under this chapter either directly by the collection of the fee by the vendor from the consumer, or indirectly by adding the amount of the fee to the price of the fuel and paid by the consumer, shall be reimbursed and repaid the amount of the fee paid by the county or road assessment district as provided by MCC 5.30.200 to 5.30.250 if such machinery is used exclusively for the maintenance and construction of such public highways.

[Ord. 123 § 26 (1976)]

5.30.270. Refunds to state, cities and towns.

(A) The State of Oregon and any incorporated city or town, by its proper officer or officers, may secure from the county a refund of any and all fees imposed and collected by the county on any motor vehicle fuel purchased and used by the state or such incorporated city or town.

(B) The division may establish rules necessary to safeguard the county in the matter of the fee refunds authorized in this section. Noncompliance with any of such rules by the state or any incorporated city or town claiming refund under this section is grounds for refusal by the division to allow such claims.

(C) The procedure for refund of fees provided by MCC 5.30.200 to 5.30.250 shall apply insofar as applicable to claims for the refunds authorized by this section.

[Ord. 123 § 27 (1976)]

5.30.280. Refund of fee on fuel used in transportation of rural free delivery or special delivery mail.

(A) All fees collected by the county on the sale, use or distribution of any motor vehicle fuel used exclusively in the transportation of rural free delivery mail or special delivery mail of the United States of America shall be refunded to the person paying the fee if the person is engaged solely and exclusively in the transportation of rural free delivery mail or special delivery mail of the United States of America.

(B) Any person engaged solely and exclusively in transportation of rural free delivery or special delivery mail of the United States of America, who buys any motor vehicle fuel and uses it exclusively in the transportation of rural free delivery mail or special delivery mail of the United States of America, and who has paid any fee on motor vehicle fuel, either directly by the collection of the fee by the vendor from the consumer or indirectly by adding the amount of the fee to the price of the fuel and paid by the consumer, shall be reimbursed and repaid the amount of the fee paid by him upon presenting to the division a statement accompanied by the original invoice showing the purchase. The statement shall be made over the signature of the claimant and shall state the total amount of fuel so purchased and used by the consumer for the transportation of rural free delivery mail or special delivery mail of the United States of America. The division, upon the presentation of the statement and the voucher, shall cause to be repaid to the consumer, from the fees



United States
Department of
Agriculture

Conservation
Service

2115 S. E. Morrison
Portland, Oregon 97214
Phone 231-2270

Date: June 17, 1994

Multnomah County Board
of Commissioners
1120 SW Fifth Ave.
Portland, OR 97204

C 2-94

Dear Commissioners,

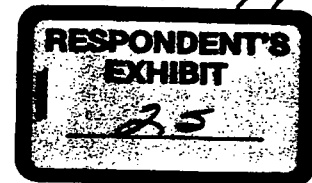
I wish to respond to written testimony submitted by Metro at the joint Board of Commissioners and County Planning Commission meeting held on 13 June 1994. In that testimony Metro disagrees with the planning staffs recommendation to not regulate agriculture and to limit the Soil and Water Conservation Districts appropriations to restoration activities, exclusively.

I agree with staffs recommendation to allow the Soil and Water Conservation Districts to handle the water quality issue related to agriculture. More regulation has not demonstrated itself as the answer to water quality issues related to any landuse. If recommending appropriations is part of this testimonial process I recommend appropriating the money the county would waste trying to figure out how to regulate agriculture to the Soil and Water Conservation Districts to bolster their program which actually achieves results.

I admire the Metro Greenspaces program and the fine work they do; and I appreciate the opportunity to present my view

Sincerely,

Steven Fedje
District Conservationist



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JUN 20 1994

Multnomah County
Zoning Division



The Soil Conservation Service
is an agency of the
Department of Agriculture

GUARDIANS OF LARCH MOUNTAIN

**P.O. Box 36
CORBETT, OR 97019
503 695-3412**

June 16, 1994

R. Scott Pemble
Department of Environmental Services
Division of Planning and Development
2115 S.E. Morrison St.
Portland, OR 97214

Re: Howard Canyon Reconciliation Report / June 13, 1994 Public Testimony

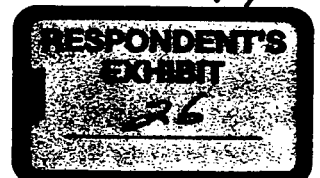
The following is the text of the testimony delivered by the Guardians Of Larch Mountain's co-founder Klaus Heyne at the June 13th joint meeting of the Multnomah County Board of Commissioners and Planning Commissioners.

Please enter the following text into the written record:

I would like to focus on the impact area and the crucial role it plays for the determination of whether the Howard Canyon Aggregate Site should be protected, meaning whether rock should be extracted in the future (in excess of the current 5000 cubic yards currently allowed).

It is central to the Goal Five process to define the impact area for a resource, in this case, a quarry site, because other uses nearby which might be in conflict with the site need to be defined, cataloged and analyzed, in order to be evaluated in the process.

The county planners adopted the current 1200 ft. impact area around the mining site from a 1990 noise study by an acoustic consultant which was commissioned and paid for by the quarry owner. This study was submitted during the 1990 periodic review process, and its purpose was to show the County that if you go a certain distance from the center of the site, the noise generated from mining equipment located at the center of the site would be within acceptable DEQ noise limits for residential areas. The consultant did not actually measure any noise generated by any real equipment, but predicted noise levels mathematically with the help of a computer program. As the noise source on the site he estimated "typical processing equipment" like crushers, screens, front end loader, dozers, etc.



Page 2
June 16, 1994

The noise study did not indicate whether noise levels of several pieces of machinery operating at the same time were considered, or just one machine at a time. The noise study did not consider the topography of a deep canyon and its reflective sound propagation, vegetative buffers or their absence, and other variations germane to the site. In summary, the results of the study were very favorable to the quarry owner's intentions to expand into a fully commercial mining operation because it seemed to indicate an acceptable noise impact on the surrounding residences.

However, in the 1990 Goal Five inventory report, the county planning staff dismissed the conclusions of the noise study. It voiced critical comments on page 16, and 17 of their report, and concluded: "The noise generated by blasting, machinery and rock crushing IS considerable."

Four years later, it now comes as a great surprise, that that SAME noise study by the same noise consultant for the quarry owner was exclusively used by staff in the current Howard Canyon Reports to define a 1200 ft impact area! Yes, the State in its Remand Order found flaws with the county's previous method of evaluating noise impact on residences.

But why didn't the planning staff in the last year and a half independently verify whether the consultant's methods and conclusions were correct? Why didn't they offer to commission an objective study by an independent noise consultant who would not have any benefits by skewing the results one way or the other? We are not asking to draw an impact area around the mining site unnecessarily wide, which benefits the residents, or narrow, which benefits the quarry owner. But is it too much to ask the planning staff to independently and objectively define an impact area when so many vital conclusions regarding the Howard Canyon Site rest on the precise extent of the impact area?

We are simply asking you today, to spend the \$2000 or so for an independent noise study of the Howard Canyon Site in order to guarantee an objective and defensible impact area definition!

Thank you.



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JUN 20 1994

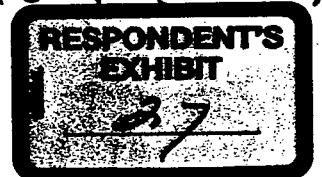
Multnomah County
Zoning Division

County Commissioner, **RECEIVED**
JUN 20 1994

Multnomah County
Zoning Division

C 2-94

It is my belief that closing the gravel pit in Corbett will cause undue grief on this community. As it is now there is limit Truck movement on our roads, If Closed, the trucks will have to travel farther, create damage to roads they do not travel now, and possibly interser with kids playing in yards by road (rocks fall off load injuring kids). My vote is to keep the Pit open where it g causes no harm to the C2-9 Community but benifits it.



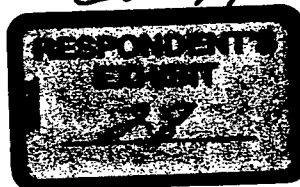
Wm Scott Morgan
Corbett Resident

TO Whom IT MAY CONCERN:

The gravel pit is great for the community because every driveway in Corbett has a gravel driveway and we need that gravel from the pit. If we have to get gravel elsewhere it would make too much Dumptrucks over a long distance and cost way too much. With a gravel pit in Corbett it makes for shorter distances & cost less. The gravel pit makes more sense if left open than if it was closed down.

Sincerely,
Robert J. Morgan
Robert J. Morgan

C2-94



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JUN 20 1994

Multnomah County
Zoning Division

TO: Multnomah County Planning Commission

FROM: Mr. and Mrs. Wm. James Morgan *Mr. & Mrs. Wm. James Morgan*

SUBJ: Gravel Pit located in Corbett Oregon

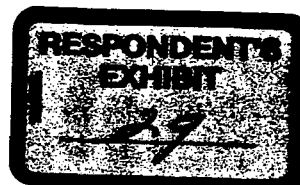
We would like to present to you an argument for the Gravel Pit in Corbett. We've lived in Corbett for years and like most residents in the area have a gravel driveway. If you've never had one then you wouldn't realize that it's not a matter of putting it in and forgetting it. Gravel drives take constant maintenance. Especially in this weather. Having teens doesn't help either. They tend to drive on it too fast and make pits in it which have to be refilled at least two to three times per year. It also, from time to time, has to be leveled out and resurfaced.

The pit in question is located away from everyone. There is no noise from it, no dust from it, and it's not polluting. Mr. ~~Mott~~, *Muck*, who runs it only has one truck that I'm aware of and is a very good and safe driver. There are some allegations that he has had many driving tickets while transporting gravel and if you check with the DMV you will find that he has no driving citations either professional or personal.

In actuality, most residents of Corbett and Springdale want the gravel pit to remain. Removing it would increase our costs to replace the gravel on our drives. If it is removed, we will have to get our gravel from other vendors, in which there are several in the Portland area. It will cost us more and there will be more trucks on the road during the day and evening because not everyone in the area will choose the same vendor.

We are a small community and as members of it we wish to support small business in our area as much as possible. We appreciate being able to utilize Mr. ~~Mott~~'s services. He is cost effective, efficient and timely. It would be a real loss to this community if the Corbett Gravel Pit is closed.

Thank you so much for your time in this matter.



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JUN 20 1994

Multnomah County
Zoning Division



June 10, 1994



To: Multnomah County Commisioners


Re: Rock Quarry

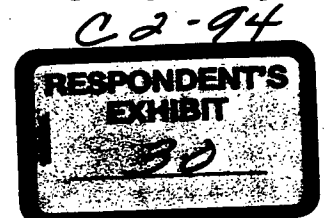
I am a licensed Realtor with 20/20 properties. I am a long time resident of Corbett, I also list and sell property in Corbett. In general, a rock quarry will reduce the value of homes in the vicinity of the quarry. If two homes are exactly the same in all respects, but one is located in the vicinity of a rock quarry, and the other isn't, the one near the rock quarry will be worth less.

In particular I know about the Howard Canyon rock quarry, and I am familiar with the surrounding area. If the quarry expands into a commercial quarry, my opinion is that property values will drop.

As an example of the impact a quarry has on sales, I remember showing some buyers a home close to a rock quarry in Scappoose. The buyers liked the home, and the buyers liked the rural setting, but when they were told about the rock quarry they were no longer interested. The rock quarry was not in sight of the home, but the fear of having to compete with large dump trucks on the same small road, and the fear of the noise they might hear was enough to kill their interest.

A seller will have to compensate for these problems by adjusting the price down.


Mike Grover
20/20 Properties
1550 NW Eastman Parkway Suite 200
Gresham OR 97030



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JUN 20 1994

Multnomah County
Zoning Division

June 15, 1994

Multnomah County Planning Commission
2115 S.E. Morrison
Portland, OR 97220

RECEIVED
JUN 20 1994

RE: HOWARD CANYON QUARRY PROPOSAL

Multnomah County
Zoning Division

Dear Commission Members:

C2-94

First of all I live at 38210 S.E. Howard Rd., Corbett, Or, Tax Lot 6, which is approximately 400 ft. from the entrance to the property on which the quarry is located. I have lived here since June 25, 1990, and over the last four years have been home much of the time, particularly during the daytime hours when the quarry operates. I can tell you from my own personal observations that I cannot and do not hear the quarry operation other than the trucks that use Howard Rd. to enter and exit. There is no noise and no dust. The trucks run on a very inconsistent schedule, sometimes there will be several trucks in a day maybe as many as 15 trips per day but then there will be weeks when there is no activity at all. The opponents tried to make it sound like this was an everyday event on both Howard and Knieriem Roads which is simply not true. Last Friday for example, one truck ran 12 trips beginning about 8:00 a.m. and quitting about 4:00 p.m. All other days last week there were no trucks so to just pick Friday is misleading.

The only people that could possibly be affected would be us that live on Howard and Knieriem Roads. The other roads will be carrying any rock brought into this community anyway because the market will drive how much rock is used not how much would be crushed. There has to be a market so for people on Loudon and Larch Mtn Roads to say this will affect their property values is really a stretch because people will just buy their rock from Gresham or Troutdale and bring it by somebody's house on their way to Larch Mtn, Loudon Rd., Gordon Creek, and the Scenic Hwy. There would be less traffic coming into our community if we used our local source. Also, testimony was given on the roads being inadequate for the weight of any additional trucks. What weight do you suppose the County and State trucks are that carry gravel and rock, and how about all the log trucks? Nobody is rebuilding roads and culverts for all the other trucks.

We are hoping for an amicable solution to this problem. This quarry will save jobs and create new ones. This is a resource *C2-94* that must be protected and is much needed by this community.

Patricia E. Smith
(503) 695-2545

**RESPONDENT'S
EXHIBIT**

31



37737 S.E. Howard Rd
Corbett, Oregon 97019
6-18-94

Beverly Stein
Chair, County Commissioners
1120 S.W. Fifth Ave., Rm 1410
P.O. Box 14700
Portland, Oregon 97204

Dear Ms. Stein,

I was able to address some of my concerns at the public hearing June 13 regarding the open gravel mine on Howard Canyon. Please let me add a few more concerns.

Our family has lived in Howard Canyon about 1/2 mile from the gravel pit for about 5 years. During that time, as I stated before, the gravel trucks have become part of our daily lives and we have learned to be cautious and tolerate them at this level.

My main concern is for the safety of the children that live on Howard Rd. There are 15 families (from my count) that live on Howard Rd. Out of those 15, seven of them have young children of varying ages. I took a bike ride with my 7-year-old (we must always be with the young ones because of the possibility of encountering a gravel truck) several days ago. I counted 5 blind curves. These are potentially very dangerous if we encounter a truck. Because of the weight of their load it would be difficult for them to stop quickly.

Yesterday and today I have spent some time talking to our neighbors to gain an idea of how they felt. There is not a sense of animosity, but the general consensus is this: we tolerate the present operation; we can not imagine tolerating an operation that would potentially become 10-fold. One person whom I will keep anonymous said, "I wouldn't want to cross him" (meaning Mr. Raymond Smith) and voiced concern that he not be put on a petition. Another individual, again remaining anonymous, stated that four years ago they put their name on a petition to not expand the gravel operation and Mr. Smith arrived at their front door very angry. They felt quite intimidated and although this person expressed a desire to not see it expand, was afraid to give public testimony, fearing the repercussions. There are two families on Howard Canyon with the surname Smith who are related directly to Raymond Smith. Of course, they are for him. All others oppose the expansion of the gravel pit.

I hope that you will consider the desire of the community at large to keep the quality of life as we know it. The main persons who want to expand the operations are: the owners of the pit, the truck drivers, and the families of these individuals, all who would chance to gain financially from this venture at the expense of the rest of the community.

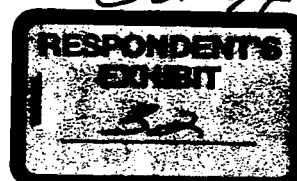
Thank you for your time and consideration.

Sincerely,

Carol Gama

Carol Gama

C2-94



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JUN 20 1994

Multnomah County
Zoning Division

G.H.(Jerry) Chinn jr.
745 S.E. Littlepage Rd
Corbett, Or 97019

June 17, 1994

Multnomah County Board & Planning Commissions
Beverly Stein/Leonard Yoon - Chairpersons
1120 S.W. Fifth Avenue
Room 1410
P.O. Box 14700
Portland, Or 97204

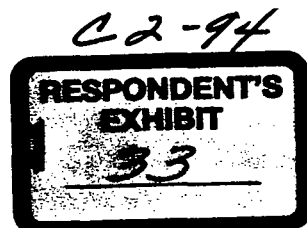
Dear Multnomah County Board & Planning Commissioners,

I was unable to attend the June 13, 1994, Joint Board/Planning Commission Hearing on the Howard Canyon Area Reconciliation Report. It is my understanding that additional testimony will be considered if received prior to June 21, 1994.

I would like to submit the following written testimony

I live at the open end of Howard Canyon, where the Howard Canyon, Littlepage, and Pounder roads intersect. These roads, along with Kneiriem road are the primary routes used to haul aggregate out of the gravel pit within Howard Canyon. The truck traffic along these roads can be heard for some distance, and because of the terrain, the use of exhaust brakes is essential. Exhaust brakes, commonly known as Jake Brakes, are very noisy and can be heard all over the valley/canyon when they are used. There is a natural echo from the canyon that allows noise to travel outward toward our home. This is a quiet, rural community that embraces and enjoys the quality of life that we share here. The noise is an irritant, but is tolerated at its present level and frequency. The proposed ten-fold increase in hauling would severely degrade the quality of life in our area.

I am a volunteer fire fighter with Multnomah County Fire District 14 that serves the Corbett, Springdale, Aims, and eastern Troutdale areas. As a first responder to emergencies in the area, I am concerned about the safety of the citizens of the community. The roads in our community are narrow, winding, hilly, some with grades as severe as 10%, and many have blind curves. We respond to traffic accidents frequently, most of which are related to the nature of traveling rural roads under adverse weather conditions. The increased hauling would subject all of us to additional exposure to large, heavily loaded, commercial vehicles on roads that are not designed to handle them. Additional safety concerns are monitoring of load weights, vehicle maintenance(i.e. braking systems), and speed of travel.



The Corbett Area is "The Gateway to the Columbia Gorge National Scenic Area" as designated by Congress. The gravel pit is within a few hundred feet of the boundary to the Scenic Area. People visit and play in the Gorge year around. I would hate to see the loss of tourism due to the commercial exploitation of one entrepreneur. I am not opposed to the current commercial usage or hauling practices, just the proposed increases, and the fore-mentioned issues.

Thank you for your consideration in the matter.

Sincerely,

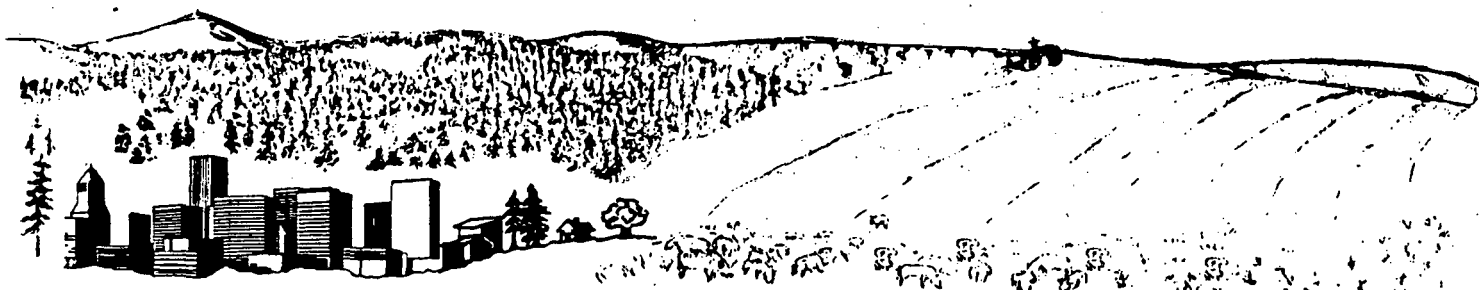
G.H.(Jerry) Chinn jr.

OHC/ghc

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JUN 20 1994

Multnomah County
Zoning Division



EAST MULTNOMAH SOIL AND WATER CONSERVATION DISTRICT

2115 S.E. Morrison

Portland, Oregon 97214

Phone (503) 231-2270

June 20, 1994

R. Scott Pemble, Director
Multnomah County Planning & Development
2115 S. E. Morrison
Portland, Oregon 97214

Dear Scott:

Re: Comments regarding the "Howard Canyon reconciliation Report," May 23, 1994 submitted on June 13, 1994 by Charles Ciecko, Director, and Ralph Thomas Rogers (EPA Biologist) of Metro Regional Parks and Greenspaces Department.

We wish to address some issues that Mr. Ciecko and Mr. Rogers raise in their comments.

On Page 8 Section C is the following statement:

"It is widely accepted that agricultural activities have and continue to be a major factor in the degradation and destruction of riparian habitat, decline in wildlife diversity, degradation of water quality, destruction of fish resources and introduction and spread of exotic plant species and in some cases disease."

While we agree that agricultural activities can and do cause damage to riparian areas and streams, their contention places a very heavy burden on one segment of the community. It is our experience that other segments of the community have similar impacts. Whether a regulatory approach on agricultural activities would be effective economically or in changing questionable land practices is debatable. The District stands ready to work with the County in cooperative efforts aimed at those suggestions on pages IV-9 and IV-10 in the reconciliation report. Incentive and educational programs targeted to agricultural land users are additional worthwhile ideas to consider.

Page 9 - Last paragraph of Section D

In this paragraph Messrs. Ciecko and Rogers recommend that the County limit appropriations to our District to include only restoration activities on streams and wetlands which have been degraded by agricultural activities. This suggestion is inappropriate for the following reasons:



Contains Recycled Materials




The East Multnomah Soil and Water Conservation District (EMSWCD) is a sub-unit of State government established to work with and assist landowners and users in matters involving the conservation and wise use of natural resources for the benefit of citizens of Oregon. Our five Directors are elected at General Elections by the entire electorate. Our District encompasses the entire County east of the Willamette River. We are volunteers with the mandate to serve everyone within those boundaries, not just the agricultural community. We do our work by joining in with citizens, private and public groups, governments and organizations in cooperative collaborative efforts. Our primary administrative and clerical financial support comes from Multnomah County and approximately \$9,500 per year is the total county share of our funding. With this basic support we have been able over the past several years to leverage many times those dollars into the area with grants for such activities as public and student educational projects, demonstration stream restoration projects, and summer youth conservation projects for at-risk youth.

If the County were to restrict the use of these funds to stream restoration projects on lands damaged by agricultural practices, our whole program would be jeopardized. Conversely, using the County's \$9,500 funding on agricultural lands could not accomplish much restoration. We strongly urge that the county disregard Messrs. Cieko and Rogers's suggestion.

We appreciate the opportunity to comment on this testimony. We are eager to work with you and Metro's Parks and Greenspaces program in the future.

Sincerely,



Dianna L. Pope, Chair
East Multnomah Soil
and Water Conservation District

cc:
Charles Ciecko
Ralph Thomas Rogers
Multnomah County Board of Commissioners
Multnomah County Planning Commissioners
Steve Oulman, DLCD
Robert Walker, BPA
Jill Zarnowitz, ODF&W
Rena Cusma, Metro
Judy Wyers, Metro
Merrie Waylett, Metro

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JUN 20 1994

Multnomah County
Zoning Division

Oregon

DEPARTMENT OF
FISH AND
WILDLIFE



HABITAT
CONSERVATION
DIVISION

June 20, 1994

Scott Pemble, Planning Director
Multnomah County Department of Environmental Services
2115 SW Morrison St.
Portland, OR 97214

Dear Scott:

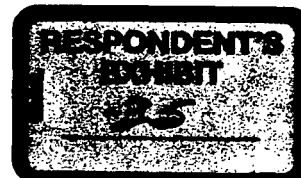
The Oregon Department of Fish and Wildlife (Department) has reviewed the Howard Canyon Reconciliation Report, and offers the following comments.

We agree with the County's designation of Knieriem, Howard Canyon and Big Creek as significant Goal 5 resources, and with the County's proposal to limit conflicting uses within the "impact area" of these streams (i.e., the riparian zone).

Mining at the Howard Canyon quarry is identified as a potential conflicting use. The aggregate resource is not located within the riparian area of these streams. However, the 1,200 foot "impact area" of the Howard Canyon quarry includes the drainages between the aggregate resource site and Knieriem, Howard Canyon and Big Creek. Water quality in Knieriem, Howard Canyon and Big Creek could be impacted by unregulated discharge from the quarry operation.

The Department believes that the County's proposed protection measures for streams (Reconciliation Report, Pages IV-13 - IV-15) in conjunction with the County's proposed regulations on aggregate extraction at the Howard Canyon quarry (Reconciliation Report, Pages IV-20 - IV-22, in particular v, vii and x) are adequate to protect Knieriem, Howard Canyon and Big Creek from the impacts of mining at the Howard Canyon quarry.

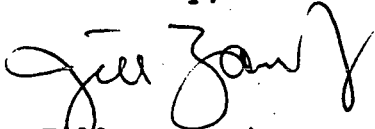
C2-94



2501 SW First Avenue
PO Box 59
Portland, OR 97207
(503) 229-6967

Thank you for your consideration of these comments.
Please enter this letter into the record of your June 21
Planning Commission hearing.

Sincerely,



Jill Zarnowitz
Assistant Director
Habitat Conservation Division

*Filed on
6/20/94 at
01:44pm pc*

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Multnomah County
Zoning Division

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LAW OFFICES

1200 THE BANK OF CALIFORNIA TOWER
707 S.W. WASHINGTON STREET
PORTLAND, OREGON 97205

TELEPHONE (503) 224-5560
FACSIMILE (503) 224-6148

STARK ACKERMAN
RONALD T. ADAMS
ALBERT J. BANNON
JAMES M. BAUMGARTNER
CLARENCE H. GREENWOOD
PAUL R. HRIBERNICK
DONALD L. KRAHMER, JR.
JOHN M. McGUIGAN*

ROBERT E. GLASGOW
OF COUNSEL

JOHN D. PICCO
COUNSEL

MICHAEL O. MORAN
THOMAS K. O'SHAUGHNESSY
ROBERT J. PRESTON*
GERALD H. ROBINSON
RICHARD N. ROSKIE
DAVID P. ROY
STEVEN R. SCHELL
SUSAN J. WIDDER

RUSSELL M. HELTERLINE
RETIRED

HARVEY N. BLACK (1986)
BORDEN F. BECK, JR. (1989)
GUY J. RAPPLEYEA (1993)

*ALSO ADMITTED IN WASHINGTON

OUR FILE NUMBER

June 20, 1994

S152

HAND-DELIVERED

Multnomah County Board of Commissioners
Multnomah County Planning Commission
c/o Office of Board Clerk
1120 S.W. Fifth, Suite 1510
Portland, OR 97204

Reference: Howard Canyon Reconciliation
Report Comments

Dear Members of the Board and Commission:

We are responding to many of the comments which were provided to the Board and Commission relative to the Howard Canyon mineral and aggregate site. We have received the following comment letters from staff assistant, Deborah L. Bogstad: Guardians of Larch Mountain (April 22, 1994); Bob and Nev Scott (June 3, 1994); John Windust (June 12, 1994); undated petition in support of this quarry; undated letter from James Redden; William S. McGinnis, P.E. and Judy E. McGinnis (June 13, 1994); undated letter from Paul and Corrie Renner; Daniel Roberts (June 10, 1994); Metro (June 13, 1994); Neil Kagan (June 10 and 13, 1994); document entitled, "Oregon Visitors Industries," submitted by Michael Gamma on June 13, 1994; unrelated complaint apparently submitted by Dave Black (November 2, 1993); Oregon Natural Resources Council (June 13, 1994); letter dated June 11, 1994 from two members of the Corporate Water District Board submitted by Steve Dixon; undated letter from Mike Grover, submitted by Steve Dixon; and letter dated June 13, 1994 submitted by Vera Dafoe. We understand that this is a complete list of all the supplemental materials submitted to the County as of this date upon which the Planning Commission and Board of Commissioners will make its decision.

We have previously requested copies of all materials submitted to the County. If additional materials have been submitted, we request additional time to respond to them. In

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**RESPONDENT'S
EXHIBIT**

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addition, because the County is addressing the Howard Canyon quarry as a "quasi-judicial" matter, we request additional time to rebut any late arriving testimony that may be provided by persons in opposition to the staff proposal.

We believe the Howard Canyon reconciliation report, dated May 23, 1994, reaches the appropriate conclusion with regard to the Howard Canyon Goal 5 mineral and aggregate site. This conclusion is that while there may be conflicts which can be associated with the quarry use, such conflicts are either minimal in nature, or may be mitigated through a land use program. We believe this conclusion is the result of thorough and comprehensive work on the part of the County's planning division. We believe that the conclusion and recommendation by the County's planning staff represents a significant improvement to the County's 1990 position given the necessary changes which were suggested by LCDC in order to obtain Goal 5 compliance. We believe it is a practical matter that the staff's work represents a realistic assessment of the impacts and benefits of the proposed quarry use and presents an appropriate balancing in order to protect all resources.

There has been concern expressed about the size of the Howard Canyon quarry. At the NEMCCA meeting of May 25, 1994, we presented a series of suggested conditions which were designed to have the following effect:

1. Keep the Howard Canyon quarry a small, community-based quarry.

2. Have the Howard Canyon quarry serve primarily the general area east of the Sandy River (Corbett, Larch Mountain, Ames, and other areas east of the Sandy River which presently import rock from Gresham, Clackamas County and the State of Washington).

The four suggested conditions offered by Mr. Smith are designed to limit the overall size of the operation in a manner which will alleviate many of the concerns of neighbors about "unlimited trucks rushing material to the competitive markets in downtown Portland." We have enclosed a copy of the proposal which was shared with the Corbett community at the NEMCCA meeting.

The first condition concerns blasting and is basically equivalent to a condition suggested by the County staff. It

would require 48-hour mail notice before the blasting occurred. We do not believe that blasting will be a significant requirement at the site as ongoing exempt operations at the site have occurred without blasting for the last several years. At this point, material can be loosened by mechanical equipment and blasting has not been necessary. In the event blasting would become necessary, we would agree to notify persons in the impact zone prior to any blast.

The second condition suggests limited hours of operation. These should be compared by the County to around-the-clock operations for the Fisher pit in Washington and the extended hour of operation of many of the large quarry operations in Western Oregon. We have requested an early start time so that material could be moved to job sites for those contractors who must be on the job early. Early start time also helps minimize traffic conflicts. Rock crushing hours would start an hour later and end an hour sooner. Saturday operations would be shorter still and there would be no operations on Sunday. We also do not propose operations on major holidays.

The third condition proposes an overall limit on the site of 50,000 yards on any given year. Larger quarry sites in Oregon are producing in excess of 600,000 cubic yards per year. A 50,000 cubic yard cap at the Howard Canyon site represents a very modest operation. We also propose that for the public works project east of the Sandy River, additional rock be allowed to be produced. We emphasize that we would need a mechanism to request permission from the County to increase production for public works projects on a case-by-case basis. Opponents have described this as a "free-for-all" provision. We believe that the County would be very careful in approving exceptions to the 50,000 yard cap and would do so only if the public interest is well served.

The fourth condition suggests a way to address the neighbors' concerns regarding truck traffic. The gravel industry serves the building and construction industry as well as the needs of individuals in the local community to provide rocks for their driveways and other domestic uses. Typically, there is more demand for rock in the summer months when there is more home construction, road building and driveway maintenance. We have proposed that there be a maximum of 520 loads per month allowed to exit the site. This is an average of 20 loads a day over 26 working days. While there would be some days when more than 20 trucks might exit the site, the maximum of 520 monthly loads would control. We believe that most months would be

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substantially under the 520 load limit. This defined level of truck traffic could be increased only if the County allowed an increase for public interest projects east of the Sandy River. This proposed limit could easily be enforced by a number of low-cost mechanisms.

The following are comments addressed to specific concerns raised by individual commentors:

Memorandum from Commissioner Sharron Kelley dated June 7, 1994. Commissioner Kelley raises a number of concerns and points. Her first point is that the County did not appeal the LCDC remand order, No. 90-44, and therefore is bound by LCDC's requirement. Commissioner Kelley's second point is that there are other gravel operations which serve East County. Herbert G. Schlicher (Oregon Certified Engineering Geologist, No. 1) provided comments on many of these sites in correspondence dated February 15, 1990. He concluded that the "alternative" sites are too far out of the market area or do not have adequate resources to serve the Corbett area. A copy of Mr. Schlicher's report is enclosed.

Commissioner Kelley's next point is related to the "no impact" issue. The quarry and surrounding properties are located in a resource zone. Nonresource uses in these zones (such as dwellings) must expect some amount of conflict from resource uses, whether they be farming, forestry or others. LCDC's remand order simply reminds the County that proper balancing conflicts under the Goal 5 process does not contemplate a "no impact" standard, particularly in resource zones.

Commissioner Kelley's next point addresses noise issues. She asks why the report of a geologist was not considered for noise purposes. The geologist, Mr. Scott, is not qualified to make any judgments regarding sound levels. Mr. Standlee, a registered professional engineer (acoustical specialty), is specifically qualified to make noise judgments and was found credible by the County staff.

Commissioner Kelley's next point addresses transportation issues. She points out that DLCD has recommended the County treat transportation as a utility (i.e., a resource that serves all types of land uses).

Commissioner Kelley also raises concerns about wildlife habitat and streams. Dr. Robert Ellis, together with Dr. Paul

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Whitney, addressed fisheries and wildlife issues for the Howard Canyon site. Their conclusion was that "the proposed quarry site can be developed without harm either to the trout or wildlife (deer and elk) populations." Dr. Ellis pointed out that the quarry site itself lacks thermal cover and therefore is not particularly good habitat. In addition, Dr. Ellis pointed out that substantial distance exists between the quarry and streams for controlling any offsite water quality issues that might arise from the operation of the quarry. At most places at the quarry site, there is at least a quarter-mile beyond the maximum riparian strip of the streams in the impact area.

Finally, Commissioner Kelley raises concerns regarding impacts on farm and forest uses and dust impacts on neighboring uses. Forest uses in the area are primarily harvesting uses and have many of the same impacts as the quarry use. There is no indication that any conflicts would arise between crops, forest uses and the Goal 5 gravel use. Finally, the small quarry itself is simply not a large producer of dust. Distances between the quarry and nearby residences are substantial and help reduce dust. In the event dust becomes a problem, there are many simple solutions which can be used to reduce the impact, including road treatment.

Memorandum of Mr. Kagan

Mr. Kagan's general comments address the "no impact" test and transportation concerns.

LCDC has required the County to redo its Goal 5 program with regard to the Howard Canyon quarry. One of the things LCDC stated very clearly was that a "no impact" approach did not follow the balancing requirement of the Goal 5 process. The County staff's recommendation is a result of months of work with DLCD staff in which the LCDC's order was refined through working guidelines and understandings. The County staff, like LCDC, now recommends to the Board that a "no impact" standard is inappropriate. This is because Goal 5 requires a balancing number of factors in order to reach a legally acceptable and defensible conclusion. The County staff's work is solid and recognizes that due to the location and nature of the Howard Canyon Goal 5 mineral and aggregate resource, impacts from the site will be minimal. The staff has therefore recommended protection for the site. It is important to remember that the owner of the quarry site conceded the significance of the streams in the area more than five years ago when he adopted a mining

plan which will avoid any impacts on the streams. The County staff has recognized this and appropriately designated the quarry site for protection.

Mr. Kagan's other concern is about transportation effects. Contrary to LCDC's findings, he argues that the road impacts should be used to deny protection to the Goal 5 resource. Again, the County staff has worked with the DLCD staff over an extended period in refining the LCDC order and coming up with workable options for the County. The County staff's recommendation to protect the site recognizes that resource protection is distinct from road use issues. One irony of Mr. Kagan's comments (and those of Mr. Michael Gamma) is that they argue for denial of Goal 5 protections on transportation grounds so that the County can encourage tourist buses to visit natural resources. Telephone contacts with Raz Transportation Company, Evergreen Stage Lines (the Gray Line tour operators in Portland) and Laidlaw Transit, Inc. (the school bus contractor for Portland Public Schools) confirm that buses are as wide as dump trucks (approximately 8 feet), are longer than dump trucks (up to 45 feet for tourist class buses), and are heavier than dump gravel trucks (in excess of 44,000 pounds for tourist class buses). These tourist associated road impacts will affect the same roads which Mr. Kagan argues should be protected from dump truck impacts.

As pointed out by Professional Engineer William J. McGinnis, defining road impacts as a problem associated with a specific resource (e.g., gravel) does not make any sense. Blaming road problems on one resource site ignores road impacts from all of the following which are already on the road: rock trucks coming from other sources outside the area; concrete trucks using the same roads; trucks transporting mobile homes through the area; school buses; tourist buses; heavy emergency vehicles such as fire trucks; large moving vans; and significant log truck traffic in the general area. Mr. Kagan seeks to rely on a seven-year old letter report from Mr. Bernstein. Mr. Bernstein concedes that traffic congestion is not a problem in the area. Rather, the Bernstein report raises a number of questions centered around "driver behavior" and the unsafe conditions created by "impatience and frustration" leading passenger car drivers to make "ill advised or downright dangerous" maneuvers. Passenger car driver behavior is not a factor which LCDC nor DLCD believe is sufficient to deny protection to a Goal 5 resource. Mr. Bernstein does not acknowledge that roads in the area are farm-to-market and forest-

to-market roads that cannot, and will not, provide an urban level of comfort. Mr. Bernstein also did not hear the testimony at the NEMCCA meeting on May 25, 1994 (much of it from the opponents), stating that the existing drivers at the quarry are safe and courteous, and that the real hazards on the roads are people rushing to work in Portland. Mr. Kagan would have all of these factors blamed on an existing quarry use. As LCDC and the County staff have pointed out, this is not an appropriate conclusion to reach in the Goal 5 process when the question is whether or not a resource should be protected.

Mr. Kagan also argues that the economic consequences of not protecting the Howard Canyon are small because it is just one percent of the size of the Angell Bros. quarry on the opposite side of the County. Mr. Kagan did not have the benefit of the public comment at the NEMCCA meeting which individuals discussed the cost of bringing in material from out of the area. For example, with the expected expansion of the Corbett school, a local gravel source could save between \$50,000 to \$100,000 of taxpayers' money simply in reducing transportation costs. Mr. Kagan also did not have the benefit of the testimony of Mr. Clint Davis and Mr. Woodrow Davis, two local individuals who deliver aggregate material in the Corbett area, some of it from the Howard Canyon site. Both individuals indicated that their other source of rock in the State of Washington and that Washington rock costs substantially more than the rock that is produced locally and delivered locally. Both the testimony of the Davises and Mr. Tom Douady (another driver delivering in the area), make it absolutely clear that less energy is used delivering local rock to the local area and that local rock costs less money. Finally, Mr. Kagan's concerns do not recognize that rock already comes into the area and affects the road system. Testimony of the Davises is that it comes from Vancouver which means that it must come a greater distance through the Corbett area on County roads to reach its ultimate destination. The County staff has considered all of these factors and has recommended that the resource be protected. We agree with the staff's assessment.

Mr. Klaus Heyne

Mr. Heyne (along with Mr. Kagan to a lesser extent) expresses concern about noise generated from the site. Because Mr. Heyne makes several incorrect assertions about the noise study and fails to describe key parts of the study, we have enclosed a copy for the review of the Commissioners.

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Mr. Standlee is a registered acoustical engineer. This is a subspecialty dealing with sound measurement and control. Mr. Standlee has a Bachelor's in Architectural Engineering and a Master's in Engineering (Acoustics and Vibration) from the University of Texas in Austin. He is a member of the Acoustical Society of America, the National Association of Noise Control Officials, and the Institute of Noise Control Engineering. He is an expert at what he does and he is a professional. Contrary to Mr. Heyne's and Mr. Kagan's assertions, equipment used by Mr. Smith at the quarry is in some cases "half the size of the typical commercial operation equipment and could generate significantly lower sound and pressure levels." Mr. Smith's crusher is extremely small by industry standards and is much smaller than the equipment used by Mr. Standlee in generating noise levels for modeling. Accordingly, Mr. Standlee's study is conservative and errs on the side of assuming greater noise levels than what would actually be produced at the site.

Mr. Standlee also used "worst case conditions" for the closest residences. Again, his study is conservative in predicting noise effects. Mr. Standlee also lists the type of equipment and again states: "Sound level data for typical quarry equipment used in large commercial operations, no large commercial operations was used in our model even though there is a strong likelihood that equipment which is much smaller in size (and thus in sound level) than that used in the sound analysis will actually be used [at the Howard Canyon site]." (Emphasis added.) Mr. Standlee's report makes it clear that he considered all sources of noises including all crushing equipment and loaders and other equipment on site. [Contrary to Mr. Heyne's assertions, Mr. Standlee's report assumes that all machinery is operating at the same time. In addition, topography was considered by the Standlee study because the transmission sound occurs on the "line of sight" basis. "Line of sight" travel is the reason why Mr. Standlee's report includes noise figures for the operation with berms and the operation without berms, as well as the discussion of decreased sound levels from the operation as it moves toward the interior of the quarry site.] Perhaps the best testimony before the Board is that of Mr. John Windust who states that he lived in Howard Canyon and rarely heard the crushing equipment, and that of Mr. James Redden, who lives on the ridge just south of the operation and rarely hears the noise. Finally, the County staff proposes that the noise issue be revisited once operation at the site commences at a higher level of production. We support this condition and believe that it will validate the staff's conclusion.

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Comments of Metro

As a general matter, we agree with Metro that the streams in the area are significant and should be protected. Again, as a general matter, we do not oppose stronger stream protections in the riparian corridor. We disagree that there is any conflict with the mining operation which is, at most locations, between one-quarter and one-third of a mile away from the maximum 200-foot riparian area. No mining will take place within the riparian area nor is any intended. An independent environmental consultant and the Department of Geology and Mineral Industries have both looked at the site and have concluded that it can be developed in a manner that will not affect stream values. The County staff has recognized this and is agreeable with the recommendations of the staff that both the stream and the mineral and aggregate resource be protected.

Oregon Natural Resources Council Letter

We agree generally with this letter that stream-side agricultural practices can have an effect on fish and wildlife resources, but agree with the County staff's conclusion that the distance between the Howard Canyon site and the stream resources in the area are sufficient to protect those resources fully.

Comments of Douglas Dodd and Jim Mastne

We do not understand exactly why this letter has been written. The owner has not requested nor does the quarry it need any water from the Corbett Water District. We also note that Messrs. Dodd and Mastne are not the only members of the Water District Board and the correspondence should not be considered an official letter from the Board.

Mike Grover Letter

We note that there are many factors which affect a property's value in the East County area. Perhaps the largest effect on value is whether the property can be divided to allow additional houses. The County's recent zoning initiatives on resource land in the rural East County area make it extremely difficult to subdivide and probably have a greater effect on value than any other single issue. We believe that the County staff reviewed the value issue when it made a determination of how few additional homes could be added in the impact area due to existing zoning restrictions. We also believe that the impact

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area itself serves the delineation of the greatest probable extent of quarry impact and, therefore, the greatest extent of value impacts, if any. We again note that the noise impact of Professional Engineer Standlee is very conservative, the quarry noise impacts should significantly less. All of these factors make the alleged drop in value extremely speculative. In any event, an effect on volume (if any) must be balanced in the Goal 5 process. We agree with the County staff's assessment that the balance should tip in favor of protecting the Goal 5 mineral and aggregate resource.

Letter of Mrs. Dafoe

Mrs. Dafoe, a Portland resident, is concerned about road safety in the area. She was not present at the NEMCCA meeting in which truck drivers, residents and local school bus drivers discussed these issues. Sandra Sax, a temporary school bus driver for the Corbett School District, indicated that she drives school buses on many of the roads in the Corbett area, including the Howard Canyon Road. She stated at the NEMCCA meeting that there was plenty of room on Howard Canyon Road for both buses and trucks and she has never really had a problem. She stated that the residents in the area have realized that their roads are country roads and have adjusted their driving habits accordingly.

OTHER COMMENTS AT THE PUBLIC HEARING

Some of the commentators expressed concern that monitoring an enforcement might be difficult and suggested that there might be more than an exempt number of gravel trucks on the road at this time.

As pointed out by the Planning Commission Chairman, the Department of Geology and Mineral Industries will enforce the mining reclamation aspects of the quarry operation. It is important to note is that DOGAMI consults with other agencies prior to implementing a reclamation program. In addition, water quality issues and air quality issues are monitored and enforced by the Department of Environmental Quality.

With regard to truck traffic, it is important for the Commission and Board to understand that a demand for rock is not linear throughout the year. More activity occurs in the summer months while very little, if any, activity occurs in the winter months. Generally, this means that there are more trucks on the

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road in the summer months than a strict mathematical formula would indicate (e.g., number of yards extracted divided by the number of yards per truck divided by 365 days). The "cap" proposal that the quarry owner has made to the County provides a maximum limit of approximately 520 trucks a month, unless the County allows otherwise. We believe that this can be easily monitored. One of the Planning Commissioners pointed out that he did not see any trucks at the site during the site visit. The quarry was in fact open that day, but there were simply no deliveries late on that day. This highlights the fact that the Howard Canyon quarry is a small, community-oriented resource, rather than an "around the clock" industrial quarry.

One of the opponents argued that it is sufficient to meet Goal 5 if the rock is "protected" in the ground even though it cannot be extracted for use. This reasoning has been specifically rejected by the Land Use Board of Appeals, which ruled that Goal 5 requires a mineral and aggregate resource to be preserved for present use. See *Eckis v. Linn County*, 22 Or LUBA 27, 40 (1991) *aff'd* 110 Or App 309, 821 P2d 1127 (1991).

There was also some testimony before the Board that trucks "barreling down" the roads in the area. This is directly contradictory to the testimony, much of it from the opponents, at the NEMCCA meeting. At that meeting, nearly everyone agreed that truck drivers from the quarry are extremely courteous and safe.

With regard to monitoring, one individual commented that DOGAMI has visited the site only twice in the last ten years. At the present time, the site is a "fully exempt" quarry under State statute and DOGAMI regulations. Visits to "fully exempt" pits are rare. For other types of pits (e.g., one with 50,000 cubic yard output), DOGAMI requires annual reporting and schedules more frequent visits.

One individual commented that this was the "worst environmental site" for a quarry. To the contrary, the site is away from adjoining streams and is located in a resource area that is not heavily populated. The quarry owner owns substantial land in the area which can provide at least a partial buffer for the site. Rather than being a bad environmental site, the site is perhaps one of the better ones available. However, one of the important reasons for Goal 5 is that gravel (like other Goal 5 resources) is found only in certain places. As a society, we do not have the option of moving our Goal 5 resources and must protect them where they are found.

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Gravel pits are never popular but they provide an essential commodity that is necessary in our society. Because siting decisions are difficult for this type of resource, the State legislature and LCDC created the Goal 5 balancing mechanism to guide the way in which decisions about Goal 5 resource protection are made. The County made a decision in 1990 that would not have protected the Goal 5 gravel resource. This decision was rejected by LCDC. Based on LCDC's remand (and significant additional guidance from the DLCD staff), the County staff has recommended a proposal to the Commission and the Board that would balance the Goal 5 requirements for the quarry with other conflicts and other Goal 5 uses in the area. The staff's recommendation accurately assesses the information in the record and makes tough choices with regard to resource protection issues.

A fundamental concern of the County in the Goal 5 process is that the streams in the area would be protected. The County staff has recognized that the distance between the mining site and the streams is sufficient to allow for this protection. Because streams will be protected, the staff has recommended balanced protection for the streams and the quarry. The staff's inquiry did not end with the streams. The County staff also looked at the probable effects on residences in the area and established an impact zone. After balancing the probable effects within the impact zones, the staff continue to recommend protection of the Goal 5 gravel resource. The "balancing" does not stop simply with these types of considerations. The owner of the site has come forward with additional suggestions that would keep the site small in size and directed toward serving the Corbett community. These proposals provide mechanisms for limiting the quarry to assure that will serve the local area at a reasonable level for years to come. We believe the combination of the LCDC remand order, the staff's conscientious work, the balancing of the resources, and the owner's straightforward

Multnomah County Board of Commissioners
June 20, 1994 - Page 13

proposal to limit the size of the operation provide the necessary ingredients for the County to protect the site as a Goal 5 resource.

Very truly yours,


Paul R. Hribernick

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LIST OF PROPOSED CONDITIONS

HOWARD CANYON GOAL 5 MINERAL AND AGGREGATE RESOURCE SITE

(presented at NEMCCA, May 25, 1994)

Ray Smith has attempted to develop the Howard Canyon site to be a low impact operation that will serve the long-term gravel needs of residents of Multnomah County in the Corbett and the general area east of the Sandy River. We are suggesting these following conditions as guidelines on the operation that will provide assurance to our neighbors about what to expect from the operation.

NO. 1

We understand blasting can be a concern. We do not believe that a significant amount of blasting will be required at the site because of the nature of the rock and the amount of production that we are proposing for the site. It has been four or five years since a blast was necessary at the site and the ongoing limited operations have been ongoing by "ripping" raw material without blasting. If blasting were to occur, we expect that it would be necessary on a very infrequent basis. Mr. Smith or Mr. Muck would provide 48-hour mail notice of any blasting to those persons in the identified impact zone if they have requested such notice in writing from the County. We believe this is an easy way to keep our neighbors posted about potential blasts at the site.

NO. 2

We understand that hours of operation are a concern for the neighbors. We propose no operation on Sunday. Monday through Friday, we propose that trucking be allowed from the site from 6 a.m. to 6 p.m. We have requested 6 a.m. because many customers wish to have rock early so that they may begin construction work. We do not expect that there would be many deliveries that would begin before 7 a.m. We propose that the crusher operate only between the hours of 7 a.m. and 5 p.m. On Saturdays, we propose that crushing and delivery be allowed from 8 a.m. to 5 p.m.

NO. 3

We propose that the amount of production at the site be limited to 50,000 cubic yards of material delivered per year. This amount would not include the small amount of gravel that Mr. Smith uses on his adjacent land pursuant to an exemption. We propose that this be verified by the annual statements which are provided to the Oregon Department of Geology and Mineral Industries under the Mine Land Reclamation Program. Because the

site would be limited in the amount of material delivered on an annual basis and because the site could be used to save taxpayer money for public projects east of the Sandy River, we request the County to set up a mechanism whereby, on a case-by-case basis, we may increase production for public projects east of the Sandy River. This would allow a savings of taxpayer money by delivering low cost rock to such projects as the recent water district and fire department projects and the upcoming Corbett school project.

NO. 4

Neighbors have expressed concern about the number of trucks leaving the site. Mr. Smith proposes a daily limit of 20 loads exiting the site. The 20 loads would be calculated on a monthly average and would not include the few loads that would be taken directly to Mr. Smith's forest properties. We believe there would be some months where maximum monthly truck traffic would equal the maximum 520 monthly loads allowed. We believe that most months would be substantially under this. In the event approval was obtained for bidding on public projects east of the Sandy River, trucks for these would not be included in the monthly truck limits. In any event, the truck loads exceeding the 50,000 yard limit would not be allowed (unless the County allows an increase for public projects).

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Daly • Standlee & Associates, Inc.
11855 S.W. Ridgecrest Drive
Suite 201
Beaverton, Oregon 97005-6321
(503) 646-4420

February 19, 1990

Rappleyea, Beck, Helterline & Roskie
1200 The Bank of California Tower
707 S.W Washington Street
Portland, OR 97205

Attn: Paul Hribernick

Re: Howard Canyon Quarry Noise Assessment

From: Daly-Standlee & Associates, Inc.
Kerrie G. Standlee, P.E.
David Gardner

File : 109901



1.0 Introduction

Daly-Standlee & Associates, Inc. was asked to conduct an analysis of the proposed Howard Canyon Quarry site and determine if quarry activities could occur at the site and meet all appropriate noise standards. Additionally, we were asked to review Multnomah County's ESEE for the Howard Canyon Quarry for material concerning potential noise impacts expected from the quarry.

In conducting our analysis, we visited the site to get a better idea of the topography of the area and the naturally occurring vegetation which might influence sound propagation from the site. We mathematically modeled the noise that would be generated by typical commercial quarry operations which might be located at the site and compared the calculated noise levels with appropriate noise standards.

This report presents the findings and conclusions based on our analysis.

2.0 Description of the Howard Canyon Quarry Site

2.1 Topography

The proposed quarry site is located about 1.7 miles southeast of Corbett, Oregon and about 3 miles east of Springdale, Oregon (See Figure 1). The site is located on a ridge that runs east and west between Howard Canyon and Knieriem Canyon and west of Ross Mntn. (See Figure 2).

The highest point of the proposed site is the top of the ridge which is approximately 860 feet above sea level. The proposed area for quarry activity is that area of the ridge that lies approximately above the 800 feet elevation level. The land in the area of proposed excavation and crushing activity is generally flat. The flat area is about 700 feet wide and about 3000 feet long and is currently used for pasturing cattle in the summer.

The north side of the ridge has a very steep grade down to Knieriem Canyon Road located at an elevation of approximately 550 feet. The south side of the ridge also has a very steep grade from top to bottom but there is a substantial bench area about 100 feet from the top in a location where quarry activities have taken place in the recent past. The elevation of the canyon to the south is approximately 550 feet above sea level.

The top of the ridge is cleared of trees for pasturing activities. The sides of the canyons adjacent to the ridge are heavily forested with conifers and deciduous trees. The area to the east of the site is owned by the Bureau of Land Management and has recently been logged.

2.2 Residences Near The Site

Three homes are located north of the ridge at the bottom of Knieriem Canyon on Knieriem Canyon Road. The houses are located

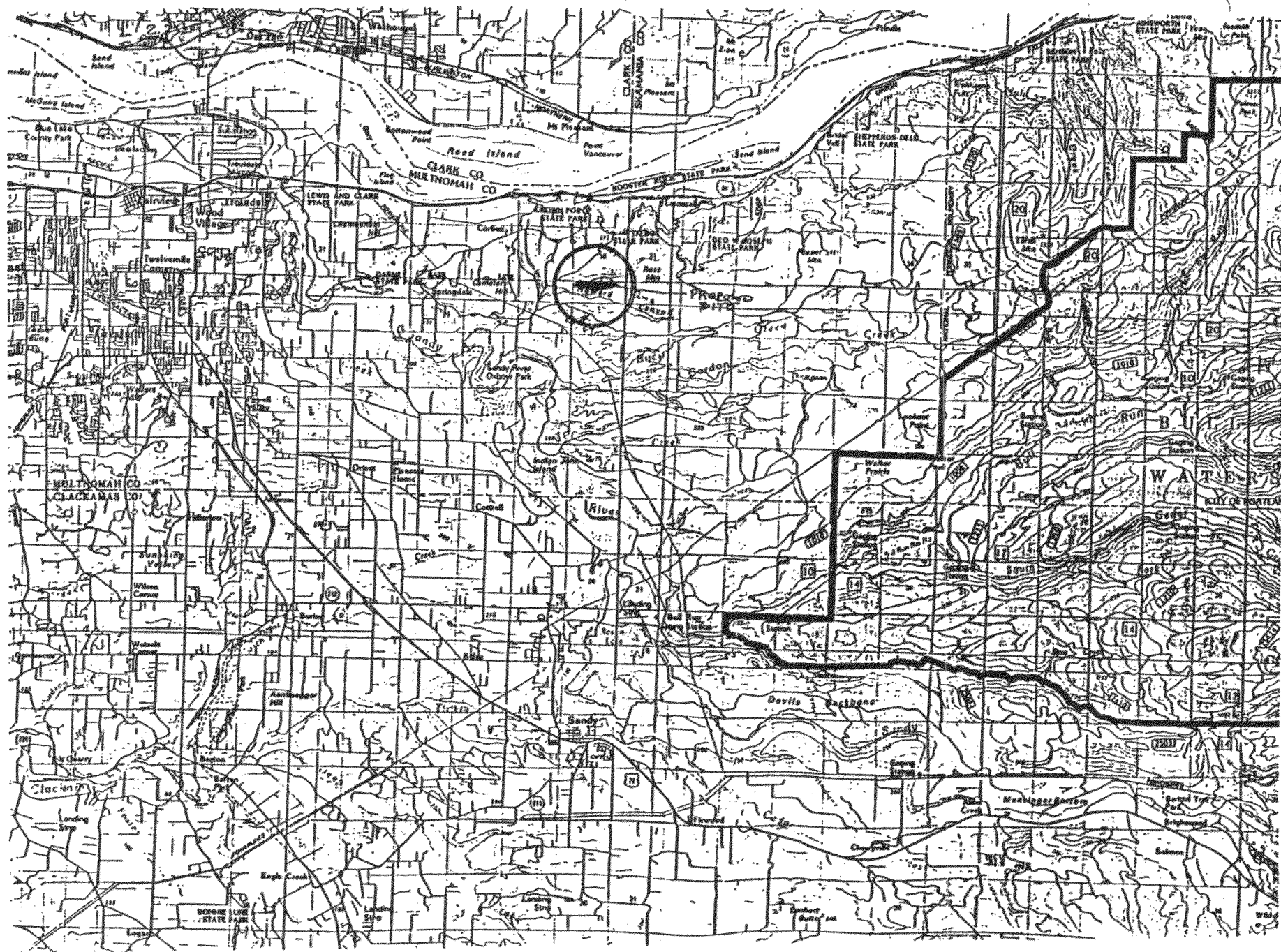


Figure 1
Area Map

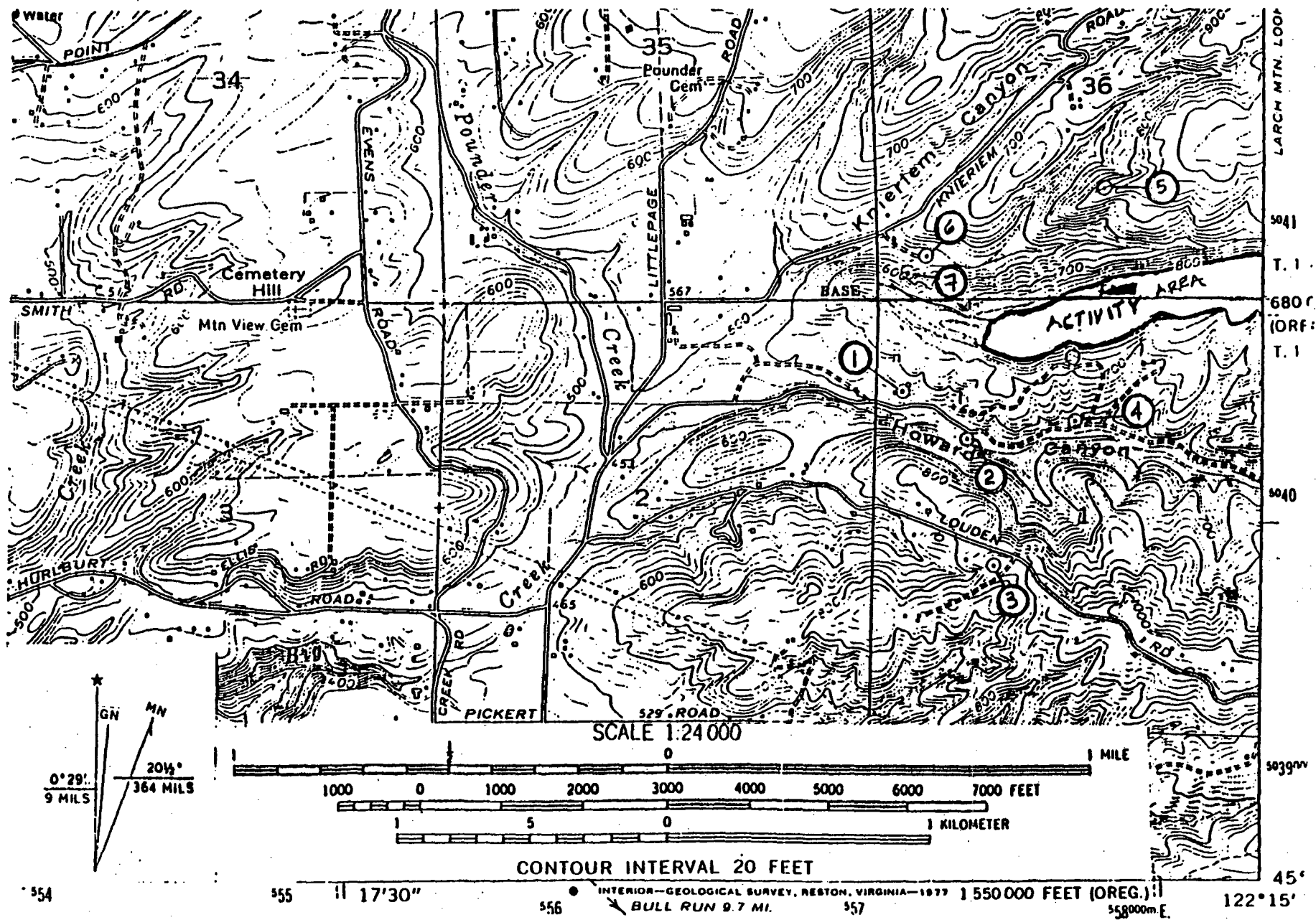


Figure 2
Vicinity Map

approximately 400 feet north of the site boundary but they are located approximately 1600 feet from the area of the proposed quarry activity area. None of these home have a clear line of site view of the proposed quarry activity area. A fourth residence to the north is located on an adjacent ridge at approximately the 800 feet elevation level and within 1200 feet of the proposed quarry activity area. The fourth home also does not have direct line of site of the proposed quarry activity area.

Five homes are located at the bottom of Howard Canyon along Howard Road within 1600 feet of the proposed site. None of the five homes have a direct line of sight to the proposed quarry area. Two more residences on Loudon Rd. are located on an adjacent ridge south of the site within 2600 feet of the proposed quarry activity area boundary (See Figure 2). Both of these homes have a clear line of site to the proposed quarry activity area.

2.3 Quarry Operations Overview

The proposed quarry site is one in which the resource material will need to be blasted and then excavated. Typically, to mine the resource at a site such as the Howard Canyon site, the resource extraction operation would begin at a position and elevation which allows easy access to the resource. Extraction would proceed by moving horizontally into the mountain. The equipment used to excavate the resource would always be below the top elevation to the resource area; often as much as 40' below the top elevation.

Primary crushing would be as close to the resource as possible to limit time and energy spent moving the resource from the excavation area to the processing area. Often a pocket is excavated within the resource material and the complete excavation and crushing operation moves into a pocket developed by the extraction process.

The raw resource material is gathered and pushed into a loading area using a dozer. If the processing area is located close enough to the raw material, the dozer loads the raw material directly into the crushing equipment. Otherwise, a frontend loader scoops up the resource and loads the processing equipment. If the resource is a great distance away from the processing equipment, the frontend loader loads dump trucks or conveyors which deliver the resource to the processing area.

The processing equipment typically consists of a jaw crusher, screens and some sort of secondary crushing equipment such as a cone crusher or an impact crusher, maybe even both. Resource of a predetermined maximum size is loaded into the jaw crusher and reduced in size. The resulting aggregate is then sorted using a set of screens set to a desired size. Aggregate which passes through the screens is sent to the stock pile area via conveyor belts. The aggregate that does not pass through the screens is transferred to the secondary crushers which further reduces the size of the aggregate. This aggregate is again sorted by size and either transferred to the stock pile area or further reduced and sorted.

In this instance, the excavation would continue where existing excavation stopped with the jaw crusher located near the southern face of the ridge and a frontend loader would start loading resource at that point. Access to the resource is not difficult by travelling along the existing access road along the south face.

3.0 Analysis and Evaluation of Site Generated Noise

3.1 Sound Propagation Analysis

Sound levels that would radiate from an operation located at the Howard Canyon Quarry site were predicted using a computer program developed by the New York State Department of Public Service.

Sound level data for typical quarry equipment used in large commercial operations was used in our model eventhough there is a strong likelihood that equipment which is much smaller in size (and thus in sound level) than that used in the sound analysis will actually be used. The equipment and respective sound data used in our analysis is shown in Table 1.

Sound levels were predicted with the equipment located in two positions within the proposed quarry activity area in order to simulate worst case conditions for the closest residences (see Figure 2). One of the equipment locations used in the model is the south side bench where past excavation and crushing have occurred. This location is most likely the best position to begin excavating into the resource area. The second location was selected because it is closest to the residences along the west end of the quarry activity area.

A-weighted sound levels that will reach the residences around to the site were initially calculated using distance attenuation, attenuation from barriers provided by the topography expected at the site during the excavation period and normal atmospheric attenuation (see attached calculation results). The initial calculation assumed no sound attenuation due ground effects or man-made berms. In cases where excessive sound levels were expected, additional calculations were made to include attenuation from man-made berms located where needed.

3.2 Noise Standards

We have conducted a search for ordinances and standards which will govern noise generated by quarry operations. Multnomah County and the Oregon Department of Enviromental Quality (DEQ), both have noise regulations which must be addressed within Multnomah County.

Multnomah County has an ordinance number 316 which addresses the regulation of excessive sound. However, it is our interpretation

Table 1

Octave Band Sound Levels (dB) for
Typical Equipment Used at Rock Quarry Operations

Source	Octave Band Center Frequency, Hz									
	31.5	63	125	250	500	1K	2K	4K	8K	16K
Dozer ¹	72	86	80	84	81	84	77	71	67	61
Frontend loader ¹	74	82	82	73	72	76	69	60	54	53
Jaw Crusher ²	89	93	94	89	80	76	74	69	60	53
Screens ²	80	90	93	93	94	94	95	95	91	0
Cone Crusher ³	81	89	95	96	96	95	94	93	90	0
Generator Set ⁴	73	83	90	84	86	85	82	79	75	70

Note 1 : Reference Distance 50 feet.

Note 2 : Reference Distance 10 feet.

Note 3 : Reference Distance 5 feet.

Note 4 : Reference Distance 25 feet.

that the ordinance would not regulate noise generated by the a quarry operation at the proposed site. Section 6 titled "EXCEPTIONS", Paragraph F states that sounds caused by industrial or construction organizations or workers during normal operations may be permitted an exception to the ordinance.

The DEQ noise standards state that new and existing industrial sources shall not exceed the following maximum allowable statistical noise levels in any one hour during the hours of:

7:00 am - 10:00 pm

L50 - 55 dBA

L10 - 60 dBA

L01 - 75 dBA

10:00 pm - 7:00 am

L50 - 50 dBA

L10 - 55 dBA

L01 - 60 dBA

The L50, L10, and L01, mean the level equaled or exceeded 50%, 10%, and 1% of an hour respectively.

The DEQ noise standards generally do not apply to trucks engaged in interstate commerce and regulated by Part 202 of title 40 of the Code of Federal Regulations nor to equipment engaged in interstate commerce by railroad that is regulated by Part 201 of Title 40. The DEQ standards do apply, however, to trucks which are located permanently on site and to equipment such as front - end loaders.

3.4 Evaluation of Noise Levels

Based on the calculations, a man-made berm would be required to protect some of the residences south of the site during the initial start-up of the quarry. If the quarry excavation and crushing operation was set up to begin at the existing excavation site, a berm should be constructed to the south and west of the equipment. Once the excavation has proceeded into the mountain, if a rock ridge is left at the perimeter of the resource area,

all residences will be protected from sound levels in excess of that allowed at all hours of the day.

3.5 Conclusions

The results of the analysis show that typical commercial rock quarry equipment could be used at Howard Canyon Quarry and the appropriate noise standards could be met with certain procedures followed. An earthen berm could be constructed around the initial excavation and crushing area to control sound radiating to the south. Once the excavation area has moved inside the mountain, if a rock ridge is left at the perimeter of the resource area, all residences will be protected from excessive noise levels.

The equipment planned by Mr. Smith for use at the proposed site is, in some cases, half the size of the typical commercial operation equipment and could generate significantly lower sound pressure levels. These lower sound pressure levels at the source results in lower overall sound levels generated at the site. Therefore, similar equipment producing lower sound pressure levels would also meet the appropriate noise standards.

4.0 Review of Multnomah County ESEE for Howard Canyon Quarry

Multnomah County produced an Economic, Social, Environmental and Energy analysis of the Howard Canyon Quarry in preparation of an update of the Mineral Extraction section of the County Comprehensive Code. Within the draft document dated January 30, 1990, the statements concerning the expected sound levels from a quarry operation at the site are subjective, many of which are incorrect. Under the Social analysis section, item 1, Impacts on Resource, the County states that "because of wind and funnel effect of the canyon topography, buffering will have to be extensive to protect nearby noise sensitive uses, if effective at all." The County goes on to reference a report by Mr. Lewis E.

Scott, an Engineering Geologist, (not an Acoustical Engineer) and appears to use the material stated within that report to justify their conclusions that a noise violation of DEQ noise rules would most likely occur. The County, therefore, concludes that the site can not be operated without negative impacts on other uses.

We find there is no technical support for any of the statements made within the County's analysis. First of all, buffering of the proposed operation will not need to be extensive. The natural terrain of the site lends itself well to providing excellent sound control when the site is mined in a procedure that is normal for the type of resource present at the site. The fact that there may be a predominate wind in the area that blows from the direction of the proposed quarry toward some of the residences is in no way an indication that sound control will be ineffective or impossible. In fact, wind, whether blowing away from a receiver or toward a receiver will provide an attenuation of sound beyond that provided by distance. Our analysis did not include any additional attenuation for environmental effects such as wind and still we found the appropriate noise regulation could be met with no problem at all.

The information in Mr. Scott's report concerning noise issues appears actually to be a restatement of the material presented within the County's worksheet for the ESEE analysis. We do not find any technical information supporting any of the statements made in the report. The report states that the canyon "tends to amplify the noise level". When sound waves are produced, they are generated with a certain amount of energy. Once the sound wave is created, the power associated with the sound wave can never be increased unless electronically altered and reproduced with a greater power than what it started with. This is called amplification.

Mr. Scott appears to be trying to address the fact that a canyon can reflect and possibly focus sound toward one or more locations within a valley. However, based on what we observed during our

visit to the site and our experience with noise control at quarry operations located in settings such as at Howard Canyon Quarry, we do not see any way sound will be focused on any residences.

The County's analysis states that there is no evidence that a quarry operation at the proposed site would comply with noise regulations. The results our analysis should be sufficient to demonstrate to the County that there are in fact many ways to meet the noise regulations which govern the site.

RESULTS *

Sources Located at Initial Location - NO berms Constructed

RESULTS SUMMARY

WITH BACKGROUND NOISE (IF ANY)

RECEIVER			PRESSURE LVL. (dB)	SOUND LEVEL (dBA)
#	1	#1	60.8	54.1
#	2	#2	63.7	57.6
#	3	#3	59.2	52.1
#	4	#4	70.9	65.8 <i>measured by Ray Smith</i>
#	5	#5	53.8	42.8
#	6	#6	41.8	30.7
#	7	#7	42.6	30.6

RESULTS *

ces located at Position #2 - NO berms constructed

RESULTS SUMMARY

WITH BACKGROUND NOISE (IF ANY)

RECEIVER		PRESSURE LVL. (dB)	SOUND LEVEL (dBA)
#	1 #1	45.7	35.8
#	2 #2	47.0	36.7
#	3 #3	44.4	30.7
#	4 #4	45.8	35.3
#	5 #5	48.1	34.8
#	6 #6	46.0	36.8
#	7 #7	46.1	36.7

* RESULTS *

Sources Located at Initial Position -

Berm Constructed south & west of extraction & crushing area

RESULTS SUMMARY

WITH BACKGROUND NOISE (IF ANY)

RECEIVER		PRESSURE LVL. (dB)	SOUND LEVEL (dBA)
# 1	#1	51.0	38.6
# 2	#2	54.3	42.8
# 3	#3	53.5	45.3
# 4	#4	58.0	45.9- <i>swell by Ray</i>
# 5	#5	53.8	42.8
# 6	#6	41.8	30.7
# 7	#7	42.6	30.6



Daly • Standlee & Associates, Inc.

11855 S.W. Ridgecrest Drive

Suite 201

Beaverton, Oregon 97005-6321

(503) 646-4420

KERRIE G. STANDLEE, P.E.

Registered Acoustical Engineer

Mr. Standlee is the principal engineer at Daly-Standlee & Associates, Inc., responsible for management, technical direction and acoustical work on projects undertaken by the firm. His experience includes architectural acoustics design for sound enhancement, industrial noise control, environmental noise assessment and control, transportation noise control, and architectural noise control. Mr. Standlee has been responsible for the measurement, evaluation and design of control or enhancement measures in all of these areas of acoustics.

PROFESSIONAL EXPERIENCE

Mr. Standlee has worked in the field of acoustic design and noise control since 1973. He has participated in many architectural acoustic design projects throughout his career. He has been responsible for the selection and review of acoustical products used in elementary school classrooms, high school facilities, college lecture halls, music practice rooms, band halls, churches, and other architectural constructions to insure the acoustic design is met. Mr. Standlee continues today to increase his experience in architectural acoustics on many new projects.

Mr. Standlee has been responsible for the design of partitions to control sound in architecturally related projects. He has learned the importance of construction details in the control of sound as well as careful inspection of on-site construction to assure that design goals are met. He has worked on many projects (auditoriums, offices, churches, classrooms) where special designs were recommended to reduce noise from mechanical systems and adjacent spaces to assure desired acoustical environment of the critical space.

Mr. Standlee has provided noise control consultation to pulp and paper, timber, food processing, metal fabrication, chemical, rock extraction and crushing and other industrial clients. He has been responsible for the determination and evaluation of indoor worker noise exposure and selection of measures for reduction of that exposure to meet federal and state regulations.

Mr. Standlee is experienced in the measurement, evaluation and control of outdoor environmental noises to meet state regulations (Oregon Department of Environmental Quality). He has designed many noise control measures for commercial and industrial sources which would otherwise have exceeded state regulated limits. Examples of the type of environmental noise projects on which he has worked include gas compressor station noise, rock crushing equipment noise, asphalt batch plant noise, concrete batch plant noise, cyclone dust collector system noise, wood chipper noise,

boiler exhaust noise and power generator noise.

Mr. Standlee has directed noise studies of transportation sources such as automobile, truck, train and aircraft. He was responsible for the I-5 Jantzen Beach-Delta Park interchange noise study and evaluation performed for the Oregon Department of Transportation. He wrote the noise section of the draft environmental impact statement for ODOT and participated in public hearings to discuss the study and impact statement. He has conducted numerous studies on noise that would be generated by traffic associated with proposed industrial operations.

He has directed studies of existing and future airport locations to determine the impact of sound on surrounding communities. Included amongst these are impacts of air traffic at Portland International Airport as well as other small community airports. Mr. Standlee has been responsible for the design of noise controls and drafting of land use ordinances related to transportation noise and impacted communities. He has participated on several community noise review boards as a technical member.

EDUCATION

B.S. in Architectural Engineering, University of Texas at Austin.

M.S. in Engineering - Acoustics and Vibrations, University of Texas at Austin.

PROFESSIONAL AFFILIATIONS

Registered Professional Acoustical Engineer in Oregon

Acoustical Society of America (Member)

National Association of Noise control Officials (Member)

Institute of Noise Control Engineering



February 19, 1990

Paul R. Hribernick
Rappleyea, Beck, Helterline & Roskie
1200 The Bank of California Tower
Portland, Oregon 97205

Dear Mr. Hribernick:

As you requested, I conducted a reconnaissance survey of the aggregate resource on Raymond Smith's property in east Multnomah County, Oregon. The objective of the survey was to determine whether development of the resource poses a threat to fish and wildlife. This information is required as part of the Land Conservation and Development Commission (LCDC), Goal 5 assessment process. The survey was conducted on February 17, 1990. I spent several hours examining the area around the site; the site itself and the two small streams located in the canyons to the north and south of the site. The potential development site was covered with about six inches of snow but I was able to see all that was required to make an assessment of the potential for impacts.

The aggregate resource lies on top of a ridge between two small streams, i.e. Howard Canyon Creek on the south and Knieriem Creek on the north. Both streams are second order perennial streams and both support resident populations of trout. Cutthroat trout are the native trout species; rainbow trout have been introduced through state stocking programs. According to Mr. Smith, many of the trout now show evidence of hybridization. I did not sample the trout populations to confirm Mr. Smith's observation, but hybridization between rainbow and cutthroat trout is common where rainbow trout have been introduced to cutthroat trout streams.

Since there was snow on the ground at the time of the site visit, animal tracks were easy to observe. Other than a few deer tracks, I found no evidence of use of the area by big game species. Critical winter range for deer and elk has been designated for an area approximately one mile to the southwest of the site. However, this area lies across several canyons from the aggregate site and is not visible from the site. According to Mr. Smith, who has lived and worked in the vicinity of the aggregate site most of his life, deer occur throughout the year and elk occasionally pass through the area.

After surveying the site and reviewing the site development plan (Attachment A) I concluded that the proposed quarry site can be developed without harm to either the trout or wildlife (deer and elk) populations. The bases for this conclusion are as follows:

1. Runoff from the quarry site would be limited due to a development plan which calls for mining of only a small percentage (e.g., one to two acres) of the quarry site at any one time. As the site is mined, the mined portion would be continually reclaimed by backfilling and replanting with native vegetation. Thus the potential for erosion and runoff would be minimal.

2. Drainage from the quarry site could be easily controlled since the mined area would be surrounded by a berm that would direct all of the drainage to a single point. No drainage is

Hribernick
February 19, 1990
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expected to be discharged to the north of the site since the development plan calls for leaving a strip of unmined rock along the north border of the site. On the south side of the quarry site, there are several relatively flat benches of land between the quarry site and Howard Canyon Creek that provide adequate space for construction of a sediment detention pond. Drainage from the quarry could be channeled to a properly sized detention pond on one of these benches, thus insuring that all but the finest sediment components would be prevented from reaching Howard Canyon Creek. Since logging and associated road building is presently occurring in both drainage basins and is expected to continue, it is doubtful that any increases in sediment loading from the quarry site would be detectable above existing background levels. No measurable impact on the fishery resources of either stream or on downstream areas would be anticipated if the above precautions are incorporated as part of the development permit for the quarry.

3. Access roads to the site have already been constructed. The main access road enters from the south off of Howard Canyon Road. This road would be upgraded if the aggregate site is developed. Standard road engineering procedures to control runoff and erosion should be adequate to insure protection of Howard Canyon Creek from the proposed upgrading.

4. Due to concerns for noise abatement for human concerns, the rock crusher would be surrounded by a wall or berm at all times. Thus the noise from the rock crusher and other mining activities would be greatly diminished. This precaution should also avoid any noise-related impacts on wildlife in the vicinity of the project. It is highly unlikely that elk or deer on the critical winter range over one mile and several canyons southwest of the site would be affected in any way by noise from the quarry.

5. The top of the ridge where the aggregate resource is located is a relatively flat grass field. The field is presently used by cattle for grazing. There is no evidence that this area is presently providing important forage for either deer or elk. Reclamation of the site with native vegetation is planned and could ultimately improve the site for wildlife.

6. The aggregate site is surrounded on both the north and south by deciduous forest comprised primarily of mature red alder. Such forests do not provide thermal cover for deer and elk and therefore, would not represent critical winter refuge areas.

In preparing this letter, I asked Dr. Paul Whitney, a senior wildlife biologist at BEAK to review the project site characteristics and development plan. He is in agreement with the statements made above regarding potential for impacts to deer and elk. Resume's summarizing Dr. Whitney's and my experience and qualifications for assessment of potential impacts of the proposed quarry development are attached as Attachments B and C, respectively.

Sincerely,



Robert H. Ellis, Ph.D
Principal

ATTACHMENT A

PRELIMINARY EXTRACTION PLAN

HOWARD CANYON QUARRY

The existing Howard Canyon Quarry ("Howard Canyon") is located on the south side of an existing ridge line which is approximately one mile in length from east to west. The ridge line consists of Boring lava (basalt) overlain by small amounts of overburden. Side slopes in the area are steep, but the actual resource to be extracted is located in the level portion on top of the ridge.

Mining of the Boring lava formation will be accomplished by entering the basalt formation from the south at the site of the existing rock quarry. This will allow for the most efficient use of the resource with a minimum amount of blasting and surface disturbance. Extraction will proceed in a northerly direction until sufficient material is removed to allow the mining direction to be changed so that extraction can continue in a generally easterly and westerly direction. At this point, overburden to the east will be removed and stockpiled so that mining may proceed into the Boring lava formation to the east. Stockpiled overburden material will be revegetated to prevent erosion.

Test depths indicate that the resource is deepest toward the center of the flat ridge formation and mining will be directed toward the deepest portion of the resource. Mining will proceed in an easterly or westerly direction and substantial protective berms will be maintained both to the north and south of the mining face. The top of the bench where the resource is located is approximately 700 feet in width. Mining will move toward the center of the ridge. The northernmost portion of the ridge will not be disturbed to prevent noise impacts and sedimentation impacts to the north. To the south, a substantial berm will be maintained to prevent the same impacts. The size of the operation is projected to be relatively small because the market to be served is primarily local in the Corbett/Larch Mountain area. It is estimated that 25,000 cubic yards per year will be removed from the site. This will provide for minimum surface disturbance considering the nature and location of the basalt resource. The Troutdale formation beneath the basalt will not be disturbed by extraction activities.

Ongoing reclamation will occur as the quarry moves into the flat bench area and then turns in an easterly or westerly direction. Stockpiled topsoil will be regraded and revegetated

as extraction operations continue in order to reduce runoff effects. The existing quarry has ample room in which to place a sedimentation pond. As the quarry moves into the rock deposit to the north, the amount of room for a sedimentation pond will increase in direct proportion to the increase in the amount of surface area disturbances. In addition to a sedimentation pond of correct size to adequately handle any runoff from the quarry, the operator will install runoff breaks, such as hay bale or sedimentation fencing, as necessary to control erosion and sedimentation. Revegetation with ground cover and native alder will occur on an ongoing basis on quarry side slopes. A berm will be maintained at all times on the south side of the crusher location so that noise which is produced from crushing operations will be directed to the east where there are no existing residences. Appropriate Mined Land Reclamation authority has been obtained from the Oregon Department of Geology and Mineral Industries ("DOGAMI") (I.D. No. 26-0065). In its last inspection of the site, DOGAMI indicated that the pit is adequately screened and there are no drainages, springs or seeps which would be affected by the operation. DOGAMI also indicated that the rock's resource would be easy to reclaim if topsoil was properly stored. Raymond Smith will obtain the appropriate DOGAMI reclamation plan upon designation of the site for mining by Multnomah County and will maintain a security bond for reclamation as required by DOGAMI.

Raymond Smith

PAUL H. WHITNEY

Principal

Terrestrial Ecologist/Project Manager

Ph.D., 1972, University of Alaska, Ecology/Physiology

M.A., 1967, Indiana University, Zoology

B.A., 1965, Earlham College, Biology

Postgraduate Fellowship, 1972-1974, University of Calgary, Population Ecology

Ford Foundation Fellowship, 1967-1968, Oak Ridge Ecology Division, Systems Ecology, Impact of Radiation on Natural Systems

Publications: Dr. Whitney has published papers in journals such as Science, Ecology, Ecological Monographs and Canadian Journal of Zoology. Topics include: arctic ecology of mammals, mammalian energetics, impact of northern developments, population genetics, and habitat analyses.

1977 to Date Beak Consultants Incorporated, Terrestrial Ecologist/Project Manager. Dr. Whitney has participated in such projects as:

Wetlands

- o Seattle City Light, Wetland Feasibility (Principal-in-Charge)
- o Snohomish PUD, Wetland Determination/Mitigation (Principal-in-Charge)
- o Fallbrook PUD, 404 Permit Wetland/Riparian (Principal-in-Charge)
- o James River Corporation, 404/NEPA Permit Review (Project Manager)
- o James River Corporation, 404 Permit Chip Facility (Principal-in-Charge)
- o Mount Hood Meadows, 404/NEPA Permit Review (Technical Advisor)
- o Claremont Project, Wetland Mitigation (Project Manager)

Transmission Line Projects

- o Washington State, Pipeline Application Review (Senior Biologist)
- o Pacific Gas Transmission, Endangered Species Study (Project Manager)
- o City of Redding, Transmission Line EIR (Project Manager)
- o Seattle City Light, Transmission Line Mitigation (Project Manager)
- o Seattle City Light, Vegetation Management Monitoring (Project Manager)
- o Pacific Power & Light, Transmission Line Mitigation/Monitoring (Project Manager)
- o US Telecom, Inc., Fiber Optic EA (Principal-in-Charge)

Mining Projects

- o Houston Oil and Mineral, Uranium Mine (Senior Biologist)
- o Mount Tolman Project, Open Pit Mine (Technical Advisor)
- o Stillwater PGM Resources, Platinum-Palladium Mine (Rare, Threatened, and Endangered Species Task Leader)

Paul H. Whitney

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- o Meridian Land & Minerals, Coal Mine (Senior Biologist/Project Manager)
- o Asamera Minerals, Mine EIS (Wildlife Task Leader)
- o Meridian Land & Minerals, Silica Sand Mine (Project Manager)

Hydroelectric Projects

- o Portland Water Works, Hydroelectric Project (Project Manager)
- o Seattle City Light, Skagit River, Hydroelectric Project (Senior Biologist)
- o Boise Board of Control, Lucky Peak, Hydroelectric Project (Project Manager)
- o Kodiak Electric, Hydroelectric Project (Senior Biologist)
- o Idaho Power, Dike, Wiley, Swan Falls, Guffy Hydroelectric Projects (Senior Biologist)
- o Pacific Power and Light, Keno Hydroelectric Project (Senior Biologist)
- o Bonneville Power Administration, Enlow Dam (Technical Advisor)
- o City of Klamath Falls, Salt Caves Hydroelectric Project (Wildlife Task Leader)
- o City of Bellevue, Water Supply Project (Wildlife Task Leader)
- o City of Portland, Water Pumping Project (Wildlife Task Leader)

Mitigation Design Projects

- o Snohomish County PUD, Wildlife Mitigation Plan/HEP (Principal-in-Charge)
- o Pacific Gas and Electric, Wildlife Mitigation/Monitoring for a Geothermal Plant (Project Manager)
- o Wenatchee Mountain Ski, Wildlife Mitigation (Project Manager)
- o City of Klamath Falls, Salt Caves Hydroelectric Project (Wildlife Task Leader)
- o Idaho Power, Dike, Wiley, Swan Falls, Guffy Hydroelectric Projects (Senior Biologist)
- o Mount Tolman Project, Open Pit Mine (Technical Advisor)
- o City of Bellevue, Water Supply Project (Wildlife Task Leader)
- o Seattle City Light, ROW Mitigation Boundary Hydroelectric Project (Project Manager)
- o Pelican Butte Ski Area, Mitigation for Bald Eagle (Technical Advisor)

Monitoring Projects

- o Portland General Electric, Terrestrial Monitoring (Team Leader)
- o Pacific Gas and Electric, Wildlife Mitigation/Monitoring for a Geothermal Plant (Project Manager)
- o Pacific Gas Transmission, Endangered Species Study (Project Manager)
- o Pacific Power & Light, Transmission Line Mitigation/Monitoring (Project Manager)
- o Seattle City Light, Vegetation Management Monitoring (Project Manager)

Paul H. Whitney
Page 3

NEPA Projects

- o Mount Tolman Project, Open Pit Mine (Technical Advisor)
- o Stillwater PGM Resources, Platinum-Palladium Mine (Rare, Threatened, and Endangered Species Task Leader)
- o US Telecom, Inc., Fiber Optic (Principal-in-Charge)

1975-1976 Principal Biologist, The Lombard North Group Ltd. Dr. Whitney was responsible for projects such as:

- o Public Works Canada, Borrow Pit Reclamation (Project Manager)
- o Public Works Canada, Culvert Impact on Fish (Project Manager)
- o B.P. Exploration, Tar Sands Surface Mine (Project Manager)
- o Provincial Parks, Park Master Plan (Senior Biologist)
- o Dome Petroleum, Ethylene Plant (Project Advisor)
- o Foothills Pipeline, Pipeline Impact (Project Manager)
- o Alcan Pipeline, Pipeline Impact (Biological Team Leader)

1974-1975 Senior Biologist, Aquatic Environments Ltd. Dr. Whitney worked on projects such as:

- o McIntyre Porcupine, Coal Surface Mine (Project Manager)
- o Syncrude Canada, Tar Sands Surface Mine (Senior Biologist)

1972-1974 Postdoctoral fellow and lecturer in population ecology, environmental problems and wildlife management; University of Calgary. Dr. Whitney conducted research on mammals in the Rocky Mountains and in the short grass prairie of southern Alberta, Canada.

1971 Dames and Moore Consultants. Dr. Whitney worked on the baseline inventory for mammals along the Trans Alaska Pipeline.

ROBERT H. ELLIS

Principal
Aquatic Ecologist/Project Manager

Ph.D. 1972, The Pennsylvania State University, Zoology
M.S. 1967, Oregon State University, Fisheries Science
B.S. 1965, Oregon State University, Fisheries Science

Member: American Fisheries Society
American Institute of Fishery Research Biologists
Phi Kappa Phi, Society of Sigma Xi

Publications: Dr. Ellis has published on the effects of pulpmill wastes on juvenile salmon growth, production dynamics and food relations; on long-term effects of oil pollution, and has written and presented numerous technical papers on the potential impact of nuclear power plants and dredging operations on benthic community structure and food relations of fish.

1978 to Date Beak Consultants Incorporated, Vice President and Principal Project Manager
Fisheries Biologist. Since joining BEAK, Dr. Ellis has been involved in a wide variety of environmental projects including:

Environmental Monitoring Projects

- o Mount Tolman Copper-Molybdenum Mine - Project Manager of biological monitoring program for the pre-operational phase. Responsibilities included experimental design and quality assurance of periphyton, benthos and fish sampling programs, data analysis and report production.
- o Seward Peninsula, Alaska, D-V Uranium Prospect - Project manager for a baseline monitoring program for a potential uranium mine. Collected water, sediment and fish tissue samples for radio chemical analysis. A report which interpreted the results of the radio-chemical analysis was prepared.
- o Mobile Oil Ferndale Refinery - Project Manager for a subtidal marine invertebrate monitoring program which involved collection of samples by SCUBA diving, quality control of taxonomic identification, data analysis and report production.

Impact Assessment Projects

- o Salt Caves Hydroelectric Project - Project manager for the preparation of Exhibit E for FERC license application, agency coordination and expert testimony.

Robert H. Ellis
Page 2

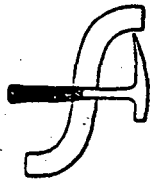
- o Grave Creek Hydroelectric Project - Expert witness for Hydroelectric Development Incorporated. Provided testimony at the Oregon Water Resources Board hearings regarding biological design criteria for fish passage facilities at the proposed Grave Creek diversion dam in Southern Oregon.
- o Colorado River Oil Shale Development Project - Task leader for aquatic baseline studies designed to determine status of existing fish populations and periphyton and benthos associations. Responsibilities include sampling design, quality control of all aspects of the aquatic sampling program, data analysis and report preparation.
- o Port Lions, Alaska Hydroelectric Project - Project manager for impact assessment studies of biological, water quality and socioeconomic aspects of an unconstructed hydroelectric plant.
- o White River Hydroelectric Project - Task leader for fisheries studies involving analysis of effects of flow alterations on salmonid fishery resources.
- o Keno Hydroelectric Project - Project manager for biological, water quality, cultural, socioeconomic and aesthetic studies of impacts of a major hydroelectric development on the Klamath River, Oregon. Fisheries studies will involve movement studies, population estimates and instream flow requirements.
- o Knott Creek Hydroelectric Project - Project manager for impact assessment studies of biological, water quality, and socioeconomic aspects of an unconstructed hydroelectric plant in northwestern Nevada.
- o Lucky Peak Dam Hydroelectric Project - Conducted studies to determine impact of alterations in existing water intake configuration at Lucky Peak dam and effects of flow alterations on downstream fishery resources.
- o Mount Tolman Copper-Molybdenum Mine Project - Task leader for aquatic studies to determine impacts of a large copper-molybdenum mine on fish, benthos, periphyton, zooplankton and phytoplankton in streams and lakes near the project. Fisheries studies included determination of movement patterns of a lake-run population of rainbow trout, population estimates of selected species trace metals concentrations in muscle and liver tissue, and age and growth determinations.
- o Port of Vancouver Copper Loading Facility - Designed, conducted and analyzed bioassays to determine effects of copper concentrates on salmonid fishes. Recommendations were made regarding waste treatment facility design.

Robert H. Ellis
Page 3

Specialized Projects

- o Project Manager for radio-tagging and life history study of shortnose and Lost River suckers in the upper Klamath River.
- o Review of pipeline permit applications.
- o Survey of threatened and endangered aquatic species along a gas transmission line.
- o Analysis of hydroacoustic sampling data to evaluate salmon smolt migration patterns past a proposed power plant water intake.
- o Designed studies and prepared report for sediment chemistry studies required for a dredging permit.

- 1977-1978 University of Oregon, Oregon Institute of Marine Biology, Charleston, Oregon, Research Associate. Responsible for the initial development of a research program in the newly established South Slough National Estuarine Sanctuary. The work involved grant preparation and research dealing with aspects of the carbon cycle in Pacific Northwest estuaries.
- 1973-1977 State University College, Brockport, New York, Department of Biological Sciences, Associate Professor of Biology. Taught upper division and graduate courses in aquatic biology, invertebrate taxonomy, community and ecosystem processes and biometrics. Research activities included studies of the food habits, migrations and spawning activities of fish in Irondequoit Bay, New York, and ecological studies of the New York State Barge Canal.
- 1971-1973 Ichthyological Associates Inc., Pottstown, Pennsylvania, Senior Aquatic Ecologist. Responsible for designing, and directing a large pre-operational macroinvertebrate sampling program for the proposed Limerick Nuclear Power Plant.
- 1967-1971 The Pennsylvania State University, Graduate Research Assistant. Doctoral research on the relationships between organic enrichment and the structure and dynamics of a benthic stream community.
- 1966-1967 Oregon State University, Graduate Research Assistant. Research on the effects of pulpmill wastes on the growth, production dynamics, and food relations of juvenile salmon.



H.G. Schlicker & Associates, Inc.

235 N.E. 122nd Avenue, Suite 300 • Portland, Oregon 97230

(503) 257-9666

Suite 300

Geologists • Engineers

Project #90-541

February 15, 1990

To: Mr. Paul Hribernick, Attorney
Rappleyea, Beck, Helterline & Roskie
1200 The Bank of California Tower
707 S.W. Washington Street
Portland, Oregon 97205

Dear Mr. Hribernick:

This letter refers to the Howard Canyon Quarry, your file No. S152-1. You've asked me to rebut, if possible, two statements made by Mr. Lewis Scott in his report of January 9, 1990 to Michael Beyer, Attorney, Portland, Oregon.

1. "There are eight sources of rock on the 25 mile range of Howard Canyon Quarry."
2. "Signs of instability at the quarry indicate geologic hazards which prevent the quarry's use until a detailed study is made."

Mr. Lewis Scott's report lists five rock sources.

1. Smith Brother's Quarry (Fisher Quarry). This is located on the north side of the Columbia River between Vancouver and Camas. It is primarily a riprap quarry, but it has also produced crushed rock. This quarry should not be considered as a viable source for the Gresham-Columbia River area, and area within a 25 mile radius of the Howard Canyon Quarry because:
 - a. The quarry is outside of the state.
 - b. The quarry is located far enough that the haul costs would increase the price of rock and it would probably not compete with local sources.
2. Brightwood Quarry near Mt. Hood is owned by Jim Turen. In a discussion with the manager of that site, he stated that Gresham was too far from the site to be competitive and that haul costs were eating up profits. Therefore, he could not sell to the Gresham area. He said the closest that he could come to compete would be the area east of Gresham.

Herbert G. Schlicker, P.G., C.E.G., President

John A. Talbot, P.E., Vice President

Mark E. Shaffer, P.E., P.G.

J. Douglas Gless, P.G., C.E.G.

Russell J. Ralls, P.G.

3. Gresham Sand & Gravel, located between 190th and 220th. This is a fairly large site, has been producing for many years, and will probably be able to continue production of rock for a few years longer, possibly ten. At the present time, they do not sell fill material, they have limited sizes of material available for construction. Gravel pits located in areas of huge density cannot be expanded because of encroaching development and high property values.
4. Cascade Sand & Gravel, Scappoose area. This site is out of the area. The barge material is being brought in to the Portland area, and barges are barely able to transport at capacity to supply the metropolitan Portland area. It is not likely that this site could supply additional areas such as Gresham and East County. In addition, the cost of loading, barging, unloading, stockpiling, loading, and transporting rock adds enormously to the cost of handling.
5. Pacific Rock Products, Vancouver, Washington. Again, this site is located just north of the Camas quarry, referred to as Smith Brothers Quarry. It is not a viable source for the same reasons as #1.

Rock resources listed in the Appendix A, Rock Sources In East Multnomah County, from the ESEE Worksheet, Howard Canyon.

On page 13, Conflicting Use Determination:

Economic Goal #9. Goal Nine requires that state and federal economic plans be coordinated with local needs. It also requires that other activities, such as current economic bases, materials, and energy availability be considered along with transportation. Developable aggregate resources are locally scarce in that such prices for this commodity are rising. Development of this resource is tied to the transportation costs for sales and the size of the reserves. Transportation is considered to be economically viable up to 25 miles for a one-way trip (Gray, DOGAMI, 1988).

Economic haul of up to 25 miles requires using 25 yard belly dump trucks and trailers. This type of operation requires that the material have a retail outlet in Gresham, which none of these distant quarries have, that the material be brought in belly dumps and stockpiled and then sold in smaller units locally, serviced by smaller sized dump trucks. It is not realistic to compete locally with sources probably more than 15 miles distant for small orders marketed at the source.

Sites listed in the county's ESEE Worksheet are:

1. Damascus Quarry, 14 miles from Springdale.
2. Construction Aggregates, one mile south of Barton, 15 miles to Springdale.
3. Deep Creek, located in the same area.
4. American Sand & Gravel, two miles from Barton, 14 miles from Springdale.
5. Mt. Hood, Brightwood Quarry (#2 on Scott's list). They do not compete in the Gresham area.
6. Gresham Sand & Gravel.
7. Rogers Construction.
8. Oregon Asphalt Paving.

Sites 1, 2, 3, 4, and 5 cannot compete with the Gresham market. The haul routes require travel over narrow winding circuitous routes which exceeds the economic limits for being competitive. The owner of the Brightwood quarry states flatly that the haul distance is too great to be economic.

Several of the quarries listed, such as Deep Creek, have site development problems which limit production considerably.

Sites 6, 7, and 8 cannot and will not be able to supply the east county.

Gresham Sand and Gravel was reported by Gray to have 1,200,000 cubic yards remaining in 1978. Previous production was 3,300,000 c.y. which shows the site was 2/3 depleted in 1978.

Rogers Construction produces rock for use in readymix and asphaltic concrete, mainly for their construction projects. They cannot afford to deplete their reserves by selling relatively lower cost gravel to fulfill the market needs.

SUMMARY

The haul distance from these sites and the previously mentioned sites has not been determined. A radius distance from the sites is incorrectly suggested to be haul distance. Sites within Clackamas County that were mentioned require circuitous routes to reach a destination in Gresham or along the Columbia River. Before one assumes that these sites are within economic distance of Gresham, a road trip log should be made along the routes that material can and would be transported.

We would recommend that the major sources be reviewed and that site visits be made, and that discussions be had with the operators to determine the facts concerning quantity, quality, haul distances, availability, and other factors that are presented as facts, but unsubstantiated, by the opponents of the Howard Canyon Quarry. The statements concerning material sources are, for the most part, in error.

In Multnomah County, east of Troutdale, 21 sites were listed in the report, 88-416 by H.G. Schlicker & Associates. Of these, only one site is available to the public that contains a significant amount of rock. This site is the Raymond-Smith Howard Canyon Quarry. Other sites were listed as being potential suppliers for rock for this area, however, no one bothered to check if the rock was actually available or the actual conditions of the quarries.

The rock resources listed by Scott or the County for the Gresham area boil down to one site, Gresham Sand & Gravel. All others are marginal or uneconomical for rock in the Gresham-Columbia River Gorge area. In order to list and recommend sites for use, the facts for each site need to be considered, otherwise, as we have found, all of these sites have drawbacks which, in most cases, eliminate the sites entirely from public use.

The results of having too little competition is clearly spelled out by Gray in Special Paper #3 (DOGAMI).

The report referred to by Walter Wright entitled, "Geologic and Engineering Slope Hazard Studies, Unincorporated Multnomah County, Oregon", was done by one geologist with the firm. It was a broad-brush address of a large area in which site specific studies were not done. Any area in the Troutdale Formation having a slope over 40% was considered to be a hazard area, and would require slope stability analysis before construction could be done. In a letter written April 123, 1987 by Walter Wright, he states;

"Until such study is made it is my judgement that the proposal cannot meet the zoning ordinance provisions set forth above."

This is a statement that can be made about any site, anywhere. It has no bearing as to whether the Howard Canyon Quarry could be operated. In fact, in our report, we recommended that;

"There are areas of potential instability that must be considered in the quarry and roadbuilding operations."

This does not mean the Howard Canyon Quarry cannot be developed and safely operated. It merely means that certain factors must be considered when operating the quarry. The geologic resource to be mined at the quarry is not unstable as inferred by Mr. Scott. The Troutdale Formation, which lies beneath this

geologic structure to be mined, can be unstable. Quarrying activities will not occur within the Troutdale Formation. Roads crossing the Troutdale Formation must be properly designed and constructed. Roads can be, and are, commonly constructed on the Troutdale Formation. The instability inferred by Mr. Scott and Mr. Wright is not one which prohibits development but merely requires proper design.

There is no basis to assume that the Howard Canyon Quarry cannot be developed and operated in a safe and hazard-free manner. Many of the rock resources in Multnomah and Clackamas Counties are in, or overlie, the Troutdale Formation and are operated safely. Most roads in the Corbett area are in, or on, the Troutdale Formation.

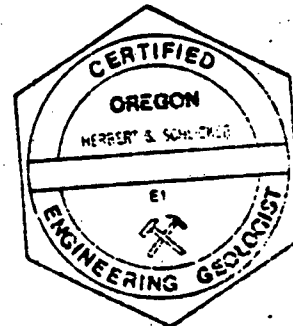
Respectfully submitted,

H.G. SCHLICKER AND ASSOCIATES, INC.



Herbert G. Schlicker, P.G., C.E.G.
President

HGS:lh

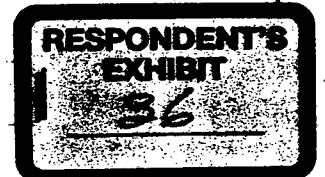


To whom it may concern.

My family has purchased rock and gravel from Bill Muck for several years, and plan to buy rock from him again. I feel that that there is a need for a rock pit in Corbett. Most people have long gravel driveways + access roads, it's too expensive to buy rock from Gresham or Portland and it takes longer for them to bring it out. If the Muck's rock pit is shut down not only does our community lose jobs, revenue, and a local service, but there would be more traffic on our roads + bridges from out of town dump trucks. It would cost the community more in the long run if our rock resource was non-existent.

Thank you C 2-94

Sincerely



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JUN 20 1994

Multnomah County
Zoning Division

Kristy M. Mayes
40535 SE Trout Creek
Corbett OR. 97019

WAYNE H. LEWIS

DBA

SPRINGDALE TAVERN

32302 E. CROWN

POINT HWY.

CORBETT, OREGON

97019

TO WHOM IT MAY CONCERN:

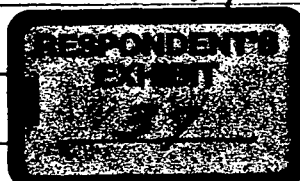
This letter is written in total support of
Corbett Rock operating in EAST - MULTNOMAH COUNTY.

I have purchased rock for both my business
and residence which saved me both time and
expense.

Local business is important and
necessary for support of our local area.

W.H. Lewis

C2-94



RECEIVED

JUN 20 1994

Multnomah County
Zoning Division

ALL STATE RECORDS, JR.
211 SE SEASIDE ST.
PORTLAND, OR 97219



On August 6, 1910,
the Bailey Gatzert posed
for this portrait at
Cascade Locks, Oregon.

from the Crown Point Country Historical Society Collection

...INTERESTED PARTIES
MULTNOMAH COUNTY...

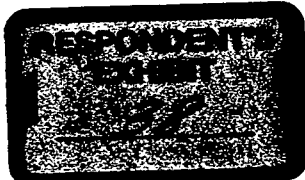
AS A FOURTH GENERATION MEMBER OF A FAMILY
LIVING IN THE CORBETT AREA FOR OVER 100 YEARS,
I WOULD LIKE TO STATE THAT THE LOCAL AREA HAS
A NEED FOR ROCK IN THE IMMEDIATE AREA.

THE IMPACT OF HAVING TO GO OUT OF THIS AREA
FOR ROCK, NOT ONLY COSTS MORE, BUT IS INCONVENIENT.

WE SHOULD HAVE BUSINESS IN THE AREA THAT NOT ONLY
PROVIDES VALUE FOR PRODUCT, BUT NECESSARY SERVICE
FOR OUR LOCAL COMMUNITY.

M. Heide

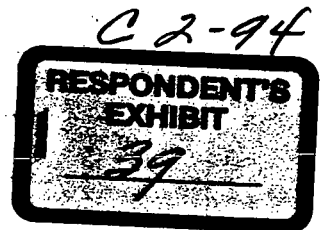
C 2-94



RECEIVED
JUN 20 1994

Multnomah County
Zoning Division

Ed & Cathy Vandenberg
38100 S.E. Howland Rd.
Tax Lot 78



We are in FAVOR OF ALLOWING THE ROCK
CRUSHING OPERATION TO EXPAND.

Our property required extensive ROCK FILL
AND BULLDOZER WORK. BILL MUCK, THE CURRENT
OPERATOR, NOT ONLY KEPT MY COSTS DOWN, HE
PROVIDED THE ROCK ON MY SCHEDULE. JIM
ROBERTS, ONE OF THE LOCAL DRIVERS THAT
EVERYONE AGREES ARE QUITE COURTEOUS DID
MY EXCAVATING. HE ALSO TRIED VERY HARD TO
OPERATE ON MY SCHEDULE.

WITHOUT LOCAL RESOURCES I WOULD HAVE
HAD TO BRING THE ROCK IN FROM ACROSS
THE SANDY RIVER. THIS WOULD HAVE GREATLY
INCREASED THE NUMBER OF MILES DRIVEN ON
THE ROADS IN QUESTION. EVERYONE OUT HERE
NEEDS ROCK FOR NEW CONSTRUCTION, REMODELS,
OR MAINTAINING EXISTING DRIVEWAYS. WE HAVE
THE RESOURCES RIGHT HERE AND ENOUGH VERY
QUALIFIED DRIVERS LOCALLY TO MEET OUR NEEDS.
SINCE WE ALL NEED ROCK AT ONE TIME OR
ANOTHER I BELIEVE THE OVERALL MILES

TRAVELED ON THE ROAD WOULD BE SIGNIFICANTLY REDUCED IF WE USED OUR LOCAL SUPPLY.

Since I'm an owner located in the impact area I believe my opinion should be heard before some of the opponents living out of the area. Many of them are also renters and since one of the priorities is property values their opinions should be reviewed as such.

My opinion is that Howard and Knieram roads could handle the increased traffic without significant impact on quality of living or property values. Let us use our local resources and at the same time provide some jobs for local people.

Thank You

Ed D. Leahy

RECEIVED

JUN 20 1994

Multnomah County
Zoning Division

June 19, 1994

To whom it may concern,

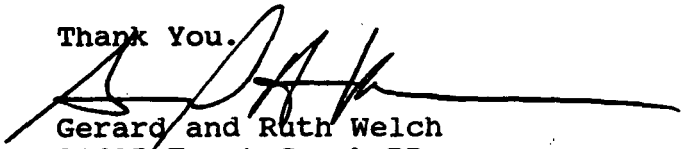
I am a proponent of expanding the rock quarry in Howard Canyon and expressed my views at the meeting last Monday. I believe the Planning staff has completed a good report as directed by the DLCD and their recommendations should be followed.

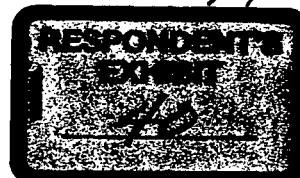
Nearly every person who spoke at the meeting were returning to the Corbett area that night to drive across driveways constructed of gravel. These same people, as myself, will continue to need rock spread at atleast a bi-yearly basis. For that reason I do not understand the discussion of No pit, or limiting the Pit. If we should need more gravel we would be forced to buy from outside areas. That means dump truck traffic coming across the bridges and roads in the area at a greater level than presently. We get our rock from a local area. By a local resident, and I for one would like to keep it that way.

I was shocked that during testimony people were allowed to throw blatant lies out as if they were truths. When the gentleman said this quarry would be selling one hundred thousand yards to the freeway project I thought he should have been stopped. I know that we all express our points from a one sided point of view, but lying is lying and your valuable time should not be wasted in this manner. I furthermore believe Peter Fry has compromised himself so badly he should be removed from these discussions. He is biased in many different way.

Let the rock quarry stay open. Follow the conclusion of the staff recommendation. Revisit the issue if necessary for environmental impact.

Thank You.


Gerard and Ruth Welch
38695 Trout Creek RD.
Corbett, OR 97019



RECEIVED
JUN 20 1994
Multnomah County
Zoning Division



MULTNOMAH COUNTY OREGON

DIVISION OF PLANNING & DEVELOPMENT / 2115 SE MORRISON / PORTLAND OREGON 97214

7/26/94
SUBMITTAL

C 2-94a
July 13 thru July 22, 1994
Open Record Exhibits
Howard Canyon

1. Oregon Department of Environmental Quality
(Paul Keiran)
2. Kathleen and David Shelman

July 18, 1994

MS SHARON TIMCO
LEGISLATIVE ASSISTANT
MULTNOMAH COUNTY COMMISSION
OFFICE OF THE CHAIR
1120 SW 5TH
ROOM 1410
PORTLAND OR 97204

RECEIVED

JUL 22 1994

Multnomah County
Zoning Division

RE: Stormwater Considerations for
the
Howard Canyon Mine

Dear Ms Timco:

On Thursday, July 7, 1994 representatives of the Department of Environmental Quality (DEQ) and the Department of Geology and Mining Industries (DOGAMI) inspected the Howard Canyon quarry in Corbett. The purpose of this inspection was to view the site's proximity to Howard Canyon Creek and Kneiriem Creek, and determine how water quality in these creeks might be affected by expanded mining activities.

We met onsite with the quarry's owner, Raymond Smith, and toured the site from the existing pit to well below the proposed expansion area. The quarry area, located on the site's upper reaches, contains grasslands and large rock outcroppings. Steep gradients, some nearly vertical, exist in this area. The area below the existing and proposed quarry area contains a mixture of deciduous and conifer tree clusters, thickets and open meadow, with gentler slopes in the range of 2 to 10 percent.

It is below the lower portion of the site where Howard Canyon Creek exists. This creek lies over 500 feet from the area presently being mined, and would be approximately 300 feet from the nearest proposed expansion area. Given the amount of thick vegetative matter existing between the proposed expansion and Howard Canyon Creek, any mine area runoff from a significant storm event would certainly receive a great deal of biological treatment prior to entering the stream. If any stormwaters required additional treatment, there are numerous sites available for construction of large detention ponds to detain stormwater.

The second creek, Knieriem Creek, is situated in the drainage basin to the north of both the existing and proposed mining area. A means in which to avoid mining water quality impacts to this creek would be to prohibit any sidcasting of material into this drainage. In simple terms, if the pollutants are not placed in an area where they can be washed into the



2020 SW Fourth Avenue
Suite 400
Portland, OR 97201-498
(503) 229-5263 Voice/TLC
DEQ-1

creek then there can be no impact to the creek. This management practice can be easily implemented.

Additional management practices, such as sloping the pit floor down into the highwall to trap stormwater, fracturing the pit floor to allow for stormwater infiltration, and keeping upper benches wide enough so that mining can occur there in the rainy season while lower levels impound stormwater, should arrest runoff from all but the most extreme of storms. Employing these practices in the active mine area of this site, and others downgradient if necessary, in conjunction with the vast amount of vegetation available for filtration, should create a rather formidable treatment and barrier system.

The consensus reached by both DEQ and DOGAMI is that, in the event that a long period of heavy rain occurred during expanded operations, the protection of water quality in Howard Canyon and Knieriem Creeks, would be a matter of logical development of the mine pits, installation of several stormwater detention facilities, and the presence of thick vegetative matter for additional stormwater treatment.

If you have any questions, please contact Frank Schnitzer of DOGAMI at (503) 967-2039 or myself at 229-5937.

Sincerely,

A handwritten signature in cursive script that reads "Paul Keiran". The signature is written in dark ink and is positioned above the printed name.

Paul Keiran
Stormwater Specialist

prk

cc: Gary Clifford, Planning Division
Multnomah County Planning Commission

36141 SE Hurlburt Rd.
Corbett, OR 97019
July 17, 1994

Multnomah County Planning Commission
2115 SE Morrison St.
Portland, OR 97214

To Whom it May Concern:

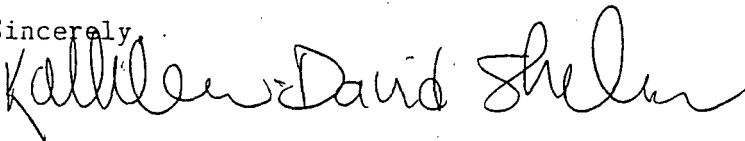
We own property at the intersection of Hurlburt and Gordon Creek Roads in Corbett. We anticipate that a large portion of the traffic from the Howard Canyon quarry would pass down Hurlburt Road.

Our property is zoned Rural Residential and is surrounded by property with the same designation or with zoning for farm use. Traffic on Hurlburt Road, in this rural setting, is heavy and is made up of a mix of log trucks, gravel trucks, tourists, buses and private cars traveling to the camps on Gordon Creek Road, fishermen with boats, farm vehicles, county road equipment and commuters. The intersection is busy and has been the scene of many near-misses. We have minimal sheriff's presence in the area and no patrol cars which have the time to monitor traffic safety either on Hurlburt Road or at this intersection. As a result, we observe many cars moving directly through the intersection (a 4-way stop) without either stopping or even slowing down.

We do not feel that it would be wise to add more heavy traffic to this intersection, or to our small local roads which are already carrying more traffic than they were designed for. We certainly will not welcome the increased congestion, road noise or dust.

We also do not feel that an industrial-size quarry is an appropriate land use in this area and will have a detrimental effect on the quality of life of those living near it. We would support specific and temporary expansion of use for the quarry, i.e., to provide rock for the construction of the new school or similar local projects.

Sincerely,



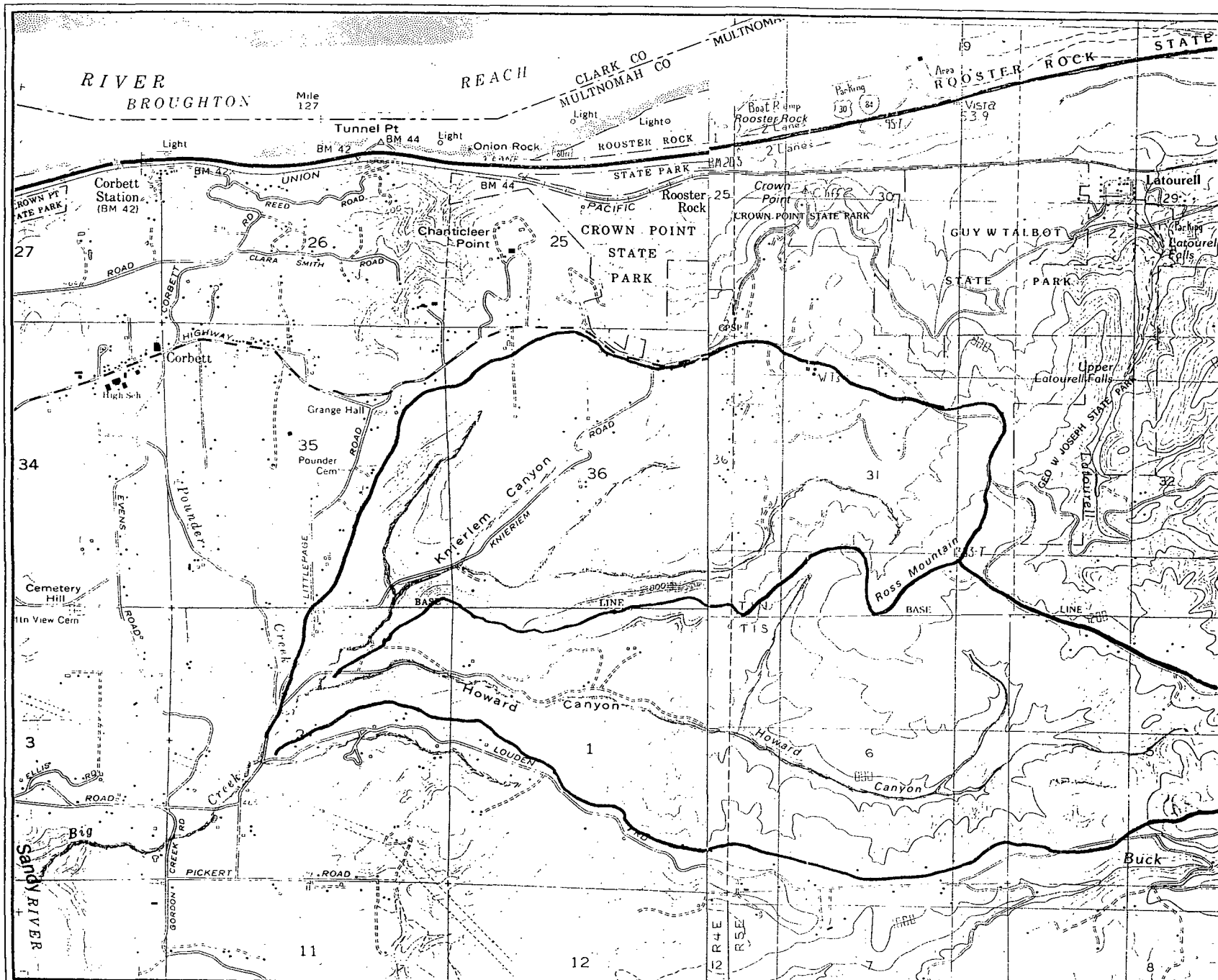
Kathleen and David Shelman

cc: Steve Oulman, DLCD

RECEIVED

JUL 19 1994

Multnomah County
Zoning Division



Significant
Multnomah

HOWARD

- Water
- Stud
- Water
- Stream

0

Base map from
quadrangles (Lin
Portland, Hillsbo

7/26/94
SUBMITTAL
CHARLES CIECKO

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1700 | FAX 503 797 1797



METRO

Multnomah County Board of Commissioners
1120 SW Fifth Avenue
Portland, Oregon 97204

July 26, 1994

Re: Additional Comments -
West Hills Reconciliation Report, May 25, 1994
Howard Canyon Reconciliation Report, May 23, 1994

Dear Commissioners;

Thank you for yet another opportunity to provide testimony regarding the above referenced topics.

The primary purpose of our correspondence at this point is to re-emphasize some of our earlier comments and submit several additional exhibits for your consideration.

We are taking the time to submit these additional comments because we continue to believe that your actions related to these initial "rural planning" efforts will set a tone, if not a precedent, for future efforts which have yet to be initiated. In other words, your treatment of significant resources now will temper future actions related to other significant resources.

West Hill - Angell Brothers Quarry

Previous Recommendation: Prohibit all mining in watershed(s) draining into Burlington Bottoms

Rationale:

Burlington Bottom is rated as one of the most valuable Goal 5 resources (Natural Area/Wetland) in Multnomah County. It's value has been recognized by the Northwest Power Planning Council and BPA who (with formal support of Multnomah County) acquired the

428 acre site as mitigation for wildlife losses associated with Willamette and Columbia River hydroelectric projects..

We must respectfully disagree with the conclusions reached by ODFW as conveyed in a letter from Jill Zarnowitz dated May 19, 1994. In essence, this letter states that the "North Angell Brothers" creek is not significant because it is not a major water source for Burlington Bottom.

In our opinion, any water source for Burlington Bottom is significant, especially one with the capability of conveying sediments in considerable quantity into the site.

We urge you to consider these facts:

- Angell Brothers has a history of water quality violations in their existing operation.
- Sediment from the existing operation has seriously degraded a wetland downstream of the quarry site.
- Improvements have been constructed, however, their effectiveness is untested by significant precipitation.
- Over-burden (top soil) in the proposed expansion areas is up to 70 feet deep. this material will be stripped, stockpiled (on-site) and presumably "stabilized".
- The proposed expansion area is moderately to steeply sloping which significantly limits space for effective sediment controls such as retention ponds while increasing both the amount and velocity of run-off and consequently erosion potential.
- Even the best designed storm-water retention facilities have been acknowledged by DEQ as inadequate. See Exhibit A "Quarry Poses Threat To Coastal Steelhead Runs", Oregonian, July 5, 1994.

Based on the above, we believe the risk to Burlington Bottom is too great. Our position is further bolstered by the realization that if expansion were permitted and problems did develop, there's little, if anything, that could be done to stop the problem in a timely manner. Specifically, DEQ fines won't curb

sedimentation and restoration would take years, if feasible at all.

In summary, the question related to the significance of this aggregate source is outside our area of interest and expertise. However, we oppose any expansion of mining activities into watershed(s) that drain into Burlington Bottom because we believe the risk is simply too great.

Howard Canyon - Aggregate Site

Previous Recommendations:

It is recommended that mining activity be prohibited within 200 feet of a significant stream and that all riparian vegetation be protected except for hazard trees. It is further recommended that:

- No mining be permitted within 100 feet of any tributary to a significant stream and that all riparian vegetation be protected except for hazard trees.
- Roads associated with aggregate mining be treated per 7b above and strictly limited to one (1) crossing.
- That the mine operator be required to complete fish, wildlife and water quality inventories prior to an expansion of mining activity.
- That a mining and reclamation plan require specific approval of the Oregon Department of Fish and Wildlife and DEQ in addition to DOGAMI.
- That the mine operator be required to test water quality downstream of the mine at a frequency which is adequate to capture the full range flows expected in the significant streams.
- That exposed earth never exceed two (2) acres at any time.

Rationale:

- The Howard Canyon site is relatively level as compared to the West Hills site and significant streams do not flow through the aggregate site.
- The Corbett Community appears to be in need of an economic source of aggregate for a variety of purposes.
- The existing operation has been characterized as "small-scale", serving primarily Corbett's needs (under 5,000 cu yards/year).
- Our recommendations allow for a finding of significance, a source of aggregate for the Corbett area, reasonable protection for significant streams and, hopefully, residential quality of life.

Howard Canyon - Significant Streams (Howard, Knierem, Big)

Previous Recommendations: Limit conflicting uses as follows:

Residential, Community Services and Conditional Uses:

- Prohibit these uses within 100 feet of significant streams.
- Prohibit these uses within 50 feet of tributaries to significant streams.
- Protect all riparian vegetation within buffers described above.
- Avoid road crossing of significant streams whenever practical. If crossings are unavoidable, require bridge or arch culvert installed in manner approved by ODFW.
- Within buffers described above, restrict soil disturbing activities to typically dry months, require erosion prevention measures and revegetation prior to rainy season.

Agricultural Uses:

- Prohibit crop cultivation and livestock within 100 feet of significant streams.
- Prohibit crop cultivation and livestock within 50 feet of tributaries to significant streams.
- Treat roads as noted above.
- Investigate options for incentives for landowner compliance.

Rationale:

The "Howard Canyon Reconciliation Report" acknowledges the severe degradation of significant streams caused by these uses. See "Stream Profiles" pgs. II-37 thru II-53. For example:

Pg. II-37, "Big Creek was severely impacted by housing and pasture land. Over half of the surveyed area had paved roads adjacent to the stream. Streamside vegetation was degraded and cover was minimal in most areas".

Pg. II-42, regarding Howard Canyon Creek, "The first seven sections have housing and pasture lands adjacent to stream. Where there is pasture, animals for the most part have unrestricted access and at the time this survey was done, cattle were actually seen in the stream..... Banks along this area were eroding with large pieces of bank falling off into stream because of storm event."

Pg. II-49, "Knieriem Creek in general is impacted by housing, roads running along side and lack of cover. Large trees are minimal..... The water is murky and banks show signs of erosion..... Animals have direct access to stream and there is little or no riparian vegetation."

- EPA calls "silt" (from land uses noted above) the number one problem threatening America's waterways. See Exhibit "B", "Silt Major Culprit In Lowering Nation's Water Quality", Oregonian, Tuesday, June 14, 1994.

- Department of Agriculture cites agriculture as major source of pollution in the nation's waterways. See Exhibit "C", "The Invisible Menace", Trout Magazine, Summer 1994.
- Scientists agree that protection of streamside (riparian) vegetation is critical to fisheries and water quality. See Exhibit "D", "Panel Sees Key To Saving Salmon", Oregonian, June 30, 1994.
- Multnomah County has the authority to implement regulations to protect significant streams. In fact, Multnomah County may be the only jurisdiction with the authority to regulate these uses on private property within the area currently under consideration. See Exhibit "E", "Troutdale moves To Protect Beaver Creek", Outlook, July 20, 1994.

In summary, the significant streams in question have been, and continue to be, seriously degraded by agricultural residential, community service and conditional uses within the riparian corridor. Scientists generally agree that riparian corridors must be protected for fishery and water quality purposes. Multnomah County has the authority through its land use planning program to restrict uses within the riparian corridor. Other jurisdictions as noted in the exhibits have implemented restrictions to protect significant streams.

Thank you for the opportunity to submit these additional comments and exhibits.

Warm Regards,

Charles Ciecko
(mg)

Charles Ciecko
Director

cc: Rena Cusma
Merrie Waylette
Judy Wyers
Betsy Williams
Scott Pemble
Steve Oulma

CC/mb
mulcolet.726

Quarry poses threat to coastal steelhead runs

Exhibit "A"

■ Despite extensive efforts to prevent it from happening, silt finds its way into a tributary of the Salmonberry River

By PAT FORGEY
Correspondent, The Oregonian

Every spring, wild steelhead fight their way up the Salmonberry River to spawn in its cool, clear waters deep in Oregon's Coast Range.

Their return each year is all the more remarkable because the Salmonberry almost died.

A series of forest fires in the 1930s and '40s known as the Tillamook Burn left the river choked with silt and runoff from scorched hillsides. The Salmonberry healed, restoring the clarity and cleanliness needed to support a fish run.

The steelhead are threatened again, this time by a quarry that all players hoped would provide a perfect balance between the public's need for a clean environment and its need for business development and jobs.

The plan didn't work. In its first winter of operations, Karban Rock Inc. of Hillsboro followed all the state's envi-

■ Continued from Page B1

"They've gone to a lot of effort, but apparently it's not enough," said Walt Weber, district fisheries biologist with the Department of Fish & Wildlife.

Weber is monitoring Karban's compliance with its DEQ permits because of the biological value of the river. Besides steelhead, the Salmonberry has healthy populations of chinook salmon, coho salmon and cutthroat trout.

The river's prize species is its wild steelhead run, though. Those fish are among the best leapers of any anadromous fish and have migrated up the steep river canyon the farthest. They also are a rare genetically pure stock. That is, the run is completely wild and has never mixed with hatchery stocks.

The muddy water that threatens those fish comes in essentially two forms: settleable solids and turbidity.

Settleable solids are particles that settle out when the rushing water slows slightly. Because salmon need clean gravel in which to spawn, settleable solids can smother eggs already in the stream and ruin it for future use as spawning habitat.

While the quarry's first winter of operation has loaded a nearby Salmonberry tributary with sediment, damage to spawning habitat has been minimal because a waterfall blocks fish passage to the creek.

Turbidity poses problem

Turbidity is a bigger problem. It's the result of extremely fine particles that float in the water and don't settle out easily. Turbid water can harm fish by stunting the production of aquatic invertebrates that young fish eat, and it can clog their gills and make it harder for them to feed.

The material that causes turbidity is so fine that it won't settle out of the river until it reaches Nehalem Bay at the coast.

The water quality problems have been unfortunate, because the quarry's location seems nearly perfect.

Quarrying and mining operations are noisy and dirty, the classic "not in my back yard" activity that neighbors almost always oppose, said Gary Lynch of the Department of Geology and Mineral Industries, another of the regulatory agencies.

At Cochran, the site of an abandoned lumber mill in western Washington County, there's not a neighbor within miles. It may be the most remote location in northwestern Oregon. There's also an outcropping of hard, high quality basaltic rock, the kind demanded by a booming Washington County for roadbeds and foundations.

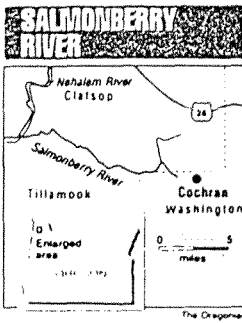
ronmental precautions. But it wasn't enough to keep silt from flowing into a tributary of the Salmonberry River during heavy rain.

State regulators would like to fix the problem before the winter rains return, but they don't know how. Karban isn't talking about the silt.

Several agencies regulate different aspects of quarry operations, but for protection of the Salmonberry, the most important is the Department of Environmental Quality. It's supposed to enforce the federal Clean Water Act and prevent problems such as muddy runoff that can come from the quarry.

Paul Keiran, a DEQ storm-water engineer responsible for watching Karban, said that the company's storm-water controls appeared adequate. But when they were tested by heavy rain, he said, they proved incapable of preventing violations.

Please turn to
KARBAN, Page B4



Old rail line figures in

No less important is Cochran's proximity to the old Southern Pacific rail line that runs to Tillamook. The railroad once flourished, carrying lumber from the Cochran mill and dozens of others from the coast to the valley.

The Port of Tillamook Bay purchased the old Southern Pacific rail line in 1989 with \$2.8 million in lottery money. State and federal agencies have spent millions more in public money to subsidize the railroad, which has struggled to break even carrying feed to Tillamook County's dairies and lumber back from its mills.

Now its main freight is rock, extracted from Karban's quarry and shipped down the rails to Hillsboro. The cheap rail transport has been a boon to Karban, but it's also been crucial to getting the railroad back on its feet financially.

"It's critical to us, it provides a million dollars' revenue a year," said Jack Crider, port manager. That revenue has allowed the line to be repaired and upgraded, and the railroad now employs 35 people, 25 of whom are based in Tillamook County, where good paying jobs are scarce.

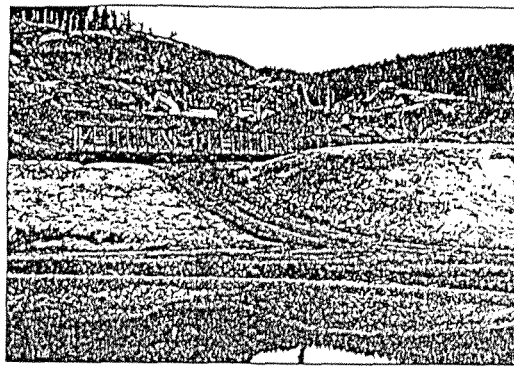
The importance of the Karban quarry — both economically and environmentally — has made it a high-profile client for the state's regulatory agencies.

Various agencies involved

Besides the DEQ and Department of Geology and Mineral Industries, the Division of State Lands also regulates some aspects of the operation.

Looking over those agencies' shoulders is the state Department of Fish & Wildlife. And the governor's office is watching everybody.

Karban has used a series of measures to try to keep the river clean. The company built five settling ponds designed to purify runoff by filtering the sediments that would



Despite settling ponds to capture dirt particles, work at the Karban Rock Inc. quarry in the Coast Range continues to feed silt into the Salmonberry River.



Water flows from a culvert at the end of ponds. It will reach the Salmonberry River, home to one of the state's few genetically pure steelhead runs.

otherwise settle out in the Salmonberry.

"Their storm-water retention facilities are the best I've ever seen," Keiran said, estimating that the company has spent \$200,000 on erosion control.

The company has also covered exposed hills of bare dirt with jute netting or straw, used logs and hay bales to block runoff, scattered small retention ponds around the site to reduce runoff, and even shut down operations during storms.

"When it rains, they quit," said Crider. "We've had to head down the mountain with a train that's half full."

Now, after a winter in which Karban repeatedly violated water quality standards, regulators are trying to figure out where they went wrong.

Karban has admitted to the state that its storm-water controls were simply inadequate for heavy rain. And that was with a drier-than-average winter.

Phone calls not returned

Karban President Peter Adams did not return phone calls or messages to discuss the company's water quality violations. But company filings with state agencies and in-

terviews with state regulators indicate the company seriously underestimated the effectiveness of its pollution controls.

"It turns out there was a lot more overburden on the site than anybody thought," said Bill Parks, with the Division of State Lands.

Overburden is the dirt, clay and waste rock that must be moved to get at the high quality rock underneath, and it's the bane of the aggregate industry. Finding a safe place to put the huge — and growing — pile of overburden has been one of Karban's biggest problems.

Karban is now proposing to divert a nearby stream into a culvert and dump its overburden in the ravine along with other improvements.

Biologist Weber said his hope is that Karban will figure out how to keep its muddy runoff out of the Salmonberry so that the river's steelhead will survive the expected 50-year life of the quarry.

The state has the power to cite, fine or revoke the permit of a company that violates environmental regulations. The problem with Karban is that the state can't simply order a specific action to prevent runoff because the experts aren't sure how to do that.

"This is an art, not a science," Keiran said.

THE OREGONIAN, TUESDAY, JUNE 14, 1994

FORUM

■ B9

Silt major culprit in lowering nation's water quality

EPA finds cause but another report blames herbicide spray

by DAVID ROTHBARD and CRAIG RUCKER

Having seen the effectiveness of Bill Clinton's campaign focus on the economy, supporters of clean rivers might adopt a similar slogan: "It's the silt, silly."

If our country is truly serious about improving water quality substantially, the focus needs to be on the real problem, silt, rather than the imagined and perceived problems that get so much attention in public forums.

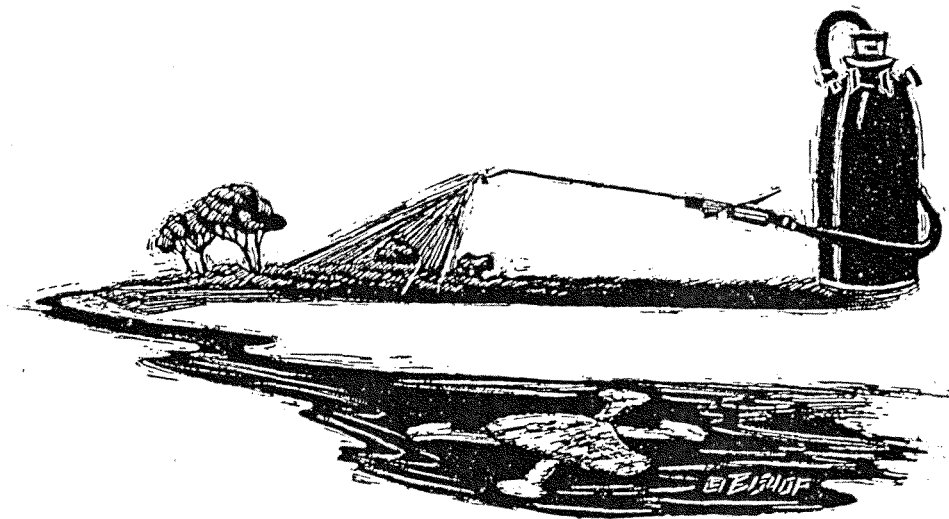
It's plain old dirt — topsoil from farm fields, clay from urban construction sites and sediment from unprotected streambanks — that is clogging our nation's waterways.

In a statement issued this spring, Carol Browner, administrator of the Environmental Protection Agency, called silt "the No. 1 problem threatening America's waterways."

Because of sedimentation, "fish respiration is impaired, plant productivity and water depth are reduced, aquatic organisms and their habitats are smothered, and our aesthetic enjoyment of the water is reduced," according to EPA's report, "The Quality of Our Nation's Water: 1992," which was issued this March.

Incongruously, another federal agency has been creating a controversy that has the potential to make this problem worse. Misperception resulting from work by the U.S. Geological Survey might actually change agri-

David Rothbard is president of the Committee For A Constructive Tomorrow, a Washington-based public-interest organization. Craig Rucker is the group's executive director.



RANDY MACK BISHOP/Pen Tip International Features

cultural practices to the point that soil erosion and stream sedimentation could increase.

The Geological Survey has been monitoring herbicide concentrations in lakes, rivers and streams for the last three years. It has also been releasing information to the media about trace amounts of herbicides in spring and summer, when farmers use the products.

However it has never issued a press release reporting on a full year of monitoring, even though federal drinking-water standards are based on the average of samples taken during a full year. Temporary peaks

slightly higher than the allowable annual average are of little, if any, significance.

Last August, in a little-known technical report, the Geological Survey revealed the full picture of its monitoring: "During 1991 and 1992, the annual average concentrations for these herbicides were far below health-based standards."

The same report carried a prediction about herbicide concentrations in the waters of the great 1993 flood: "Concentrations for these herbicides probably will not exceed [health-based standards] in 1993."

Many Americans will remember the scene a month earlier when TV reporters and newspaper headlines across the nation told of "surprisingly high" herbicide concentrations in the floodwaters. These reports were based on the Geological Survey's findings of one-day concentrations that were only slightly higher than the allowable annual average. These concentrations were nowhere close to any level of concern, as the Geological Survey acknowledged a month later.

But the perception is long-lasting. Now, when EPA reports that agriculture is the leading contributor to stream impairment, many jump to the conclusion that EPA is talking about herbicides.

"It's the silt, silly."

The most common water pollutants, according to EPA's report, are, in order: Silt, nutrients, metals and biological pathogens. Herbicides, even when detections of insignificant concentrations are considered, don't rate with that group.

In fact, herbicides are an essential tool in reducing the amount of silt that gets into streams. While farming remains the leading contributor to river impairment — more stream miles border farms than cities — farmers have made great strides in reducing siltation in recent years.

They have been converting millions of acres to conservation tillage — a practice that leaves last year's crop stubble on the field. Instead of plowing the field and exposing the soil to wind and water erosion, farmers plant seeds through the stubble. Herbicides are used as needed to control the untillied weeds. The crop stubble keeps the herbicide, and the silt, in the field and out of the stream.

Without herbicides, the only way to control weeds is to plow them under before planting and follow up with another tillage trip, further contributing to the No. 1 problem threatening U.S. streams — silt.

RICHARD FRANKLIN


A black and white photograph showing a farmer in a field, likely spraying or weeding. In the background, a large, multi-story industrial building with several domed roofs is visible, partially obscured by trees. The scene is set in a rural area with a body of water in the foreground.

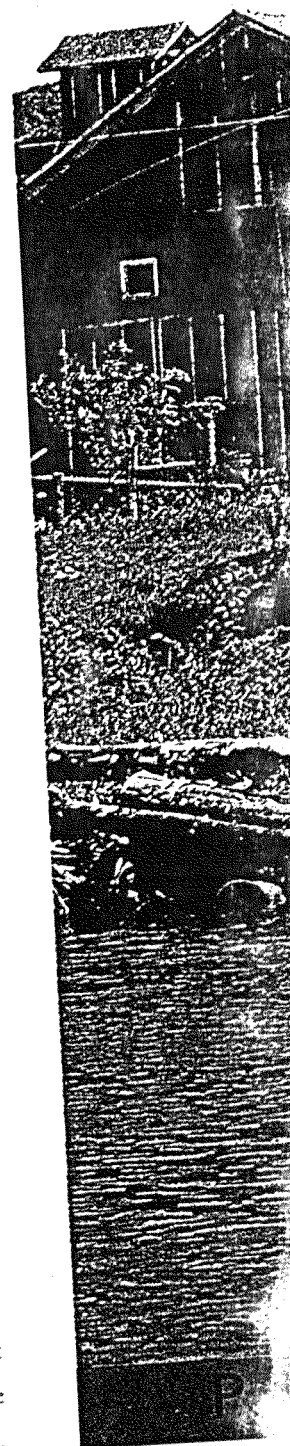
THE *Invisible* MENACE

Run-Off from Agriculture Threatens America's Fisheries

BY JEROME CRAMER

TOM CULP RUNS A 350 ACRE FARM AMID THE ROLLING HILLS OF LEXINGTON, Ohio. Clean water that bubbles up from springs on his farm flows gently into nearby rivers. That's how Culp likes it. "My goal is to keep the soil on the land — not running off into streams and fouling the water," he says. ☛ To cut down on soil erosion and to keep his water clean, Culp and a growing number of farmers have discovered ways to use the land wisely and help prevent the largest single source of water pollution in the United States. It's called "nonpoint source pollution" and it happens when rain and melting snow wash pesticides, topsoil, fertilizer, cow manure and minerals into rivers and streams. And on farms, ranches, and in the U.S. Congress, this polluted run-off is a subject of increasingly intense debate. ☛ According to the Environmental Protection Agency (EPA) more than two-thirds of all drainage basins in the U.S. are affected by polluted run-off. The most recent National Water Quality Inventory produced by the EPA says that 38 percent of the nation's rivers are impaired — in large part from the more than 1 billion tons of sediment washed into waterways each year. Activities such as logging and mining also result in tons of pollution in sensitive cold-water fisheries. But whatever the source, this polluted run-off spells death for fish. ☛ A recent study by the American Fisheries Society found that one-third of all our native freshwater fish species are threatened or endangered, and an additional one-fifth of all our aquatic species are now threatened. An estimated 106 Pacific salmon stocks are already extinct, and scores of others are seriously depleted due to problems that Congress intended the Clean Water Act to eliminate. ☛ Monitoring the status of such environmentally sensitive fishes as the salmonids is key to establishing the overall health of our surface waters. Salmonids, including trout, salmon, and chars, require high quality waters and therefore serve as ideal indicators of quality aquatic environments. Specifically, salmonids require low temperatures, high dissolved oxygen concentrations, clean substrates, sufficient water depth and velocity, and hiding and escape cover to survive. All of these variables are subject to impairment by traditional agricultural practices and their associated polluted run-off. Salmonids are therefore especially good indicators of the presence of nonpoint source pollutants since most trout and salmon habitat is located in headwater areas of our river systems, where point sources are seldom present, and where a large proportion of polluted run-off occurs.



The worst sources of water pollution are no longer factories and sewers; farms and development are the biggest sources of contamination.



As bad as the problem is, there are some signs of hope.

ERODED, WASHED-AWAY TOPSOIL FROM TRADITIONAL tillage, irrigation, and grazing practices smothers spawning gravels and disables fish respiration. Resultant high turbidity reduces sight feeding and growth by salmonids and interferes with migration. Salmonid sight feeding is impaired at even moderate turbidity, and while the fish will migrate in water of higher turbidity, they avoid muddy, clouded waters for rearing and feeding.

Clean substrates are important habitat components because salmonids build nests (redds) in gravel and cobble substrate. Clean substrates are required to provide dissolved oxygen to the embryo, remove metabolic wastes, and allow alevins (fry) to emerge from the redd. Sediment from polluted run-off limits the capacity of the substrate to serve these functions and thus reduces the survival of salmonid embryos.


Farmer
Tom Culp
employs
cutting-
edge
techniques
to prevent
polluted
run-off.



TOM HUBBARD/BLACK STAR

The flow of sediment often carries with it nutrients and pesticides that degrade water quality and diminish biological productivity. Depending on context and concentrations, nutrients and animal wastes from traditional agricultural practices can have a toxic effect on aquatic organisms, or they can contribute to excessive enrichment, which reduces the amount of dissolved oxygen in the water. Low dissolved oxygen concentrations affect salmonid growth, food conversion efficiency, swimming performance, and survival.

PESTICIDES IN POLLUTED run-off can also have toxic effects on salmonids, and in higher concentrations can destroy entire aquatic ecosystems. For example, from 1963 to 1985, more than 200,000 fish were killed by the pesticides toxaphene and endosulfan in California's Central Valley alone.

Trout are also particularly sensitive to temperature, especially when spawning. Agricultural practices such as

Solving the
polluted run-
off problem
must involve
cutting our
dependence
on chemical
pesticides and
fertilizers.

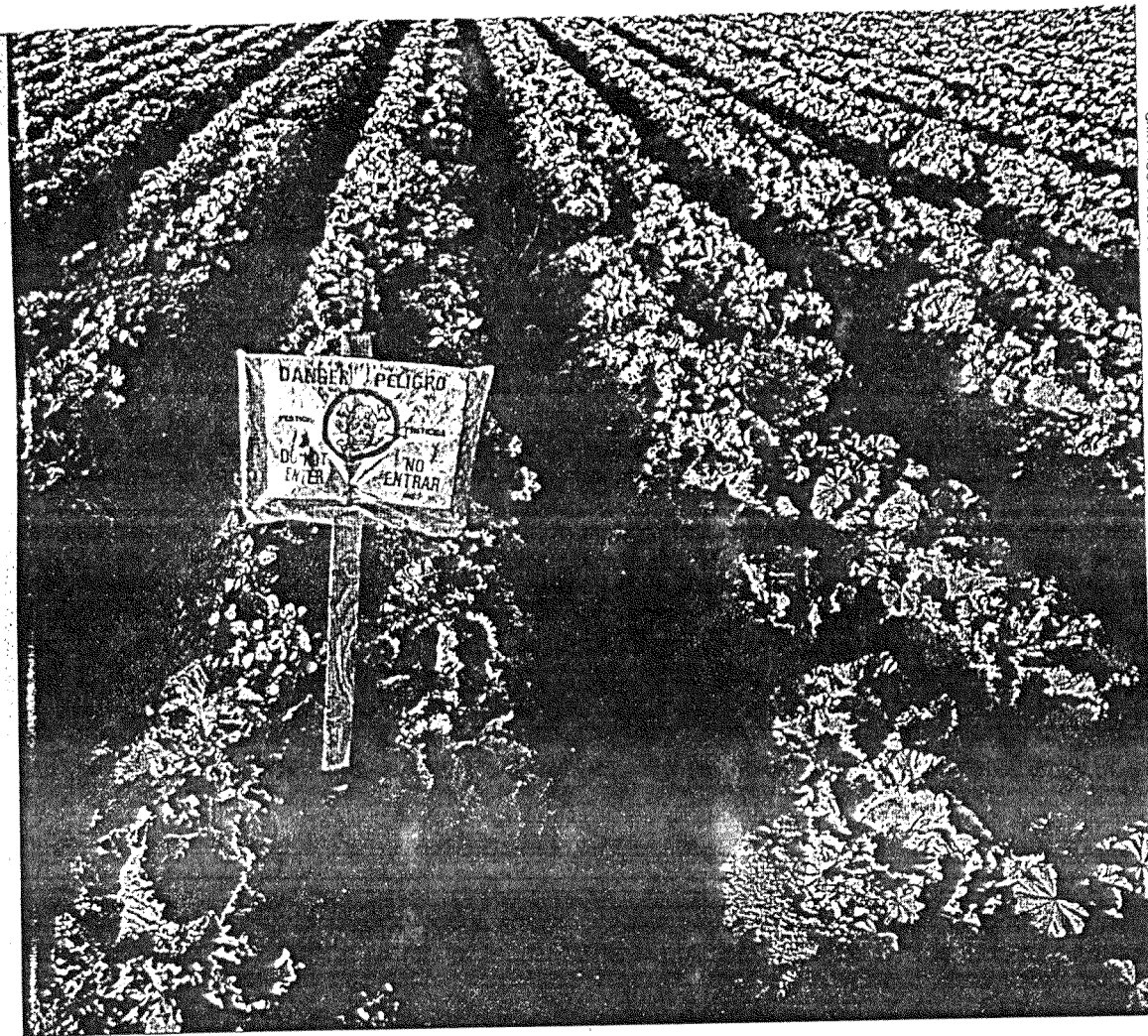


clearing riparian areas for crop production, or allowing livestock to graze right up to the stream bank, reduce bank undercutting and vegetative cover and decrease bank stability, ultimately resulting in decreased shading and widening of the stream channel. Greater surface area of the stream channel exposed to sunlight, coupled with the decreased stream velocity associated with widening, increases water temperatures, often drastically impairing salmonid habitat.

By far the largest source of polluted run-off is agriculture. The EPA says that silt — often contaminated with fertilizers, herbicides, and pesticides — runs off of land and into creeks, streams and lakes. And while the ranching, mining, and timber industries are serious sources of polluted run-off in themselves, by far the largest source of polluted run-off is traditional farm agriculture.

"I don't like to call it nonpoint source pollution," says Diane Cameron of the Natural Resources Defense Council. "I call it what it really is: poison run-off. And it's the biggest water pollution problem in the nation." Cameron says that trout fishermen, who spend most of their time in cold-water areas, only see part of the problem. "By the time that polluted headwater





GARY MOON/ALSTOCK



Traditional farming methods often entail expensive repeated applications of toxic chemicals.

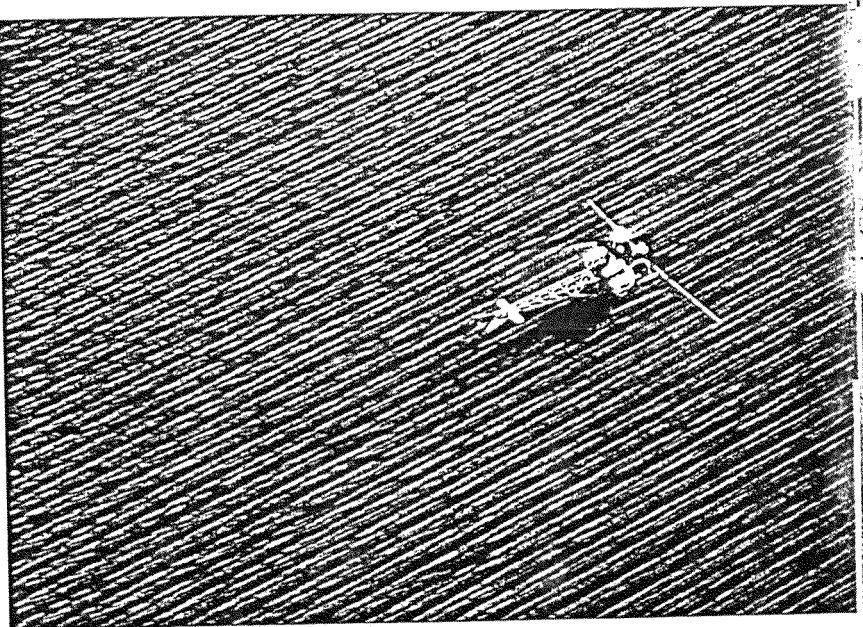
reaches the sea it is often a virtual witches brew" of chemicals, pesticides and manure.

As bad as the problem is, there are some signs of hope.

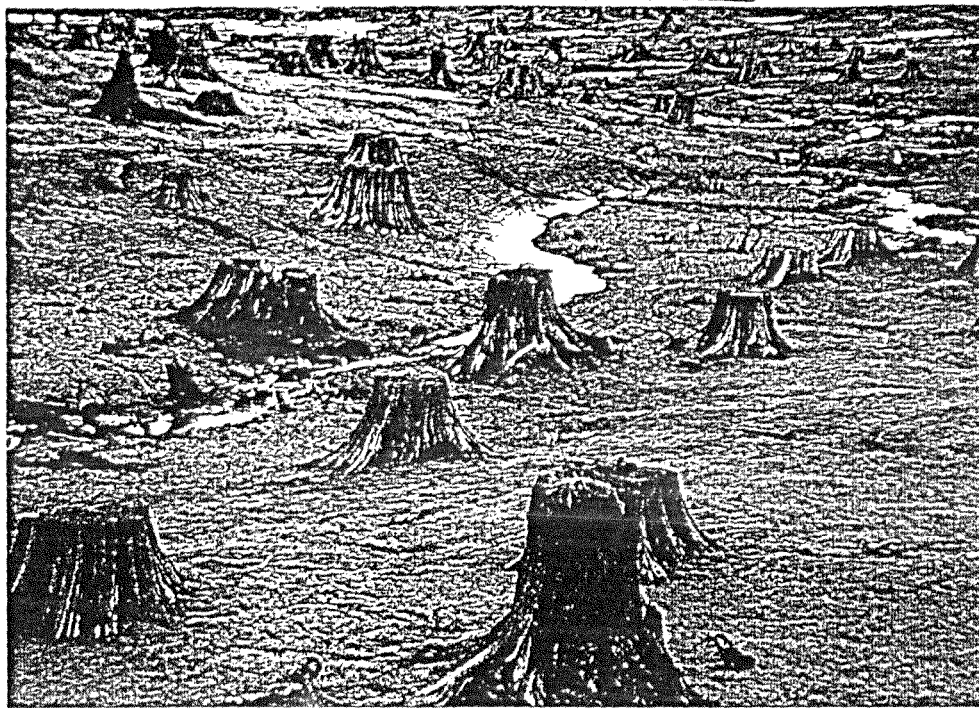
According to Cameron and other experts, a growing number of farmers understand that they have to find new ways to halt nonpoint source pollution. Some of the reasons are altruistic — love of the land and nature — but many involve simple, bottom-line economics. In many parts of the nation farmers find their topsoil is eroding, their streams are polluted, and their groundwater is undrinkable due to years of abuse. Agricultural policies handed down through the generations have backfired, and many farmers now are searching to find new ways to coax a living out of the land.

Culp, whose family has farmed for generations, realized "sometime around 1981, that traditional methods of raising crops were just not working." He was pouring as much as 200 pounds of nitrogen fertilizer annually on each acre of ground. But during rainy winters the soil and fertilizer would simply wash away. His water was dirty and his farm was being stripped of topsoil.

PETE TURNER/THE IMAGE BANK



In 1981, Culp started adopting "alternative" farming techniques that included the use of cover crops. After fall harvest, he has an airplane drop a combination of legumes and rye grass on his fields. The legumes spread roots that contain nitrogen-fixing bacteria. As this cover crop grows during the fall and winter, it replenishes the soil.



CHARLES MAULZIN/ATLANTA, GEORGIA

Timber
harvest is
another
major
source of
silt-laden
runoff.



It also keeps the important topsoil from blowing away or being washed into streams during sudden winter storms.

In the spring he simply plows these fields and the cover crops become "green manure," he says. Spring rains soak into this newly plowed ground, he says, and his streams run clear. This new method of cultivation and his continued rotation of crops has eliminated his need for using insecticides. One report recently stated that planting cover crops in this way can reduce run-off to nearly by rivers and streams by up to 60 percent.

Rhonda Janke is director of the Rodale Institute Research Center, an organization that has long helped farmers adopt techniques that prevent polluted run-off. She says that "farmers can increase crop yields and replenish soil fertility while reducing — or eliminating altogether — synthetic chemical pesticides and fertilizers. The major obstacle now is getting the information to farmers so they can convert to non-chemical agriculture."

OHIO FARMER RICH BENNETT USES A "NO plow" technique to help keep his water — and his neighbors' — flowing clean and clear. Bennett plants winter cover crops to save on fertilizer, but in the spring uses a light application of herbicide to kill them. "The crops control soil erosion and provide nutrition that is excellent for my corn and soybeans," he says. Then, rather than plow the ground for planting, seeds are placed directly in the ground. The crops are harvested but the roots remain in the soil to hold it in place and enrich it as they decay.

"I'd like to say I adopted these techniques just to save the land and the water, but the truth is I

did it for economic reasons," he admits. Bennett says no-plow farming has meant a 50 percent savings in cost of farm equipment and fuel. His reduction in fertilizers and insecticides means that his expenses "which used to run \$45,000 to \$50,000 are now down to \$15,000 to \$18,000 per year." He adds, "This is a win-win situation. I help improve the water and soil and make more money at the same time."

For example, Bennett says that state farm guidelines call for using up to 250 pounds of nitrogen fertilizer per acre each year. He now uses only about 60 pounds per acre.

"I built this farm from my grandfather's original 40 acres," he says. "These new techniques will mean that the soil

will stay on the land — and out of the streams and lakes — so future generations can continue farming."

Bennett and Culp are part of a small but growing band of farmers and ranchers who understand the need to stop polluted run-off. Most of his neighbors look upon his farming methods as an anomaly. He laughs when asked about the surrounding farms. "Oh, my neighbors keep an eye on me," he says.

Once a year Bennett has an "open house" to show other farmers what can be accomplished with progressive farming techniques. "But you know what they say about a prophet in his own land," Bennett adds. "I get farmers from Indiana and Michigan, but my neighbors pretty much ignore me."

BARRY EPLEY FARMS 2,000 ACRES NEAR Wabash, Ind., that includes property that has been his family since 1885. Three families make their living from this land and Epley understands the hard realities of agricultural economics. "I like to think I am a good steward, but I need to turn a profit to stay in business," he says.

Though he has experimented with no-till farming, lately he has used a technique called "ridge tillage." The soil is mounded into humps, or ridges, and only the top layer is disturbed during planting and harvesting. "There is much less erosion and I save money on fuel and labor."

He adopted these alternative agricultural practices as a way to save his soil — and his pocketbook. But Epley and other farmers understand that alternative farming requires vision. (See Sidebar, opposite) According to Ralph Lentz, a Minnesota rancher and former teacher of agricultural

science: "Farmers must look at the big picture. They have to know the topography on which they farm, they have to understand the best and safest ways to increase productivity, and they have to look at the quality of the life they are creating for themselves and their neighbors."

But for all the progress being made by farmers, polluted run-off remains a serious problem that is crying out for state, local and federal attention.

As this goes to press, Congress is toiling over revisions to the Clean Water Act, the major law through which the federal government can help control polluted run-off. The law, which conservationists assert is much too lax, tells each state to measure nonpoint pollution and describe what it plans to do to solve the problem. The law also requires states to create enforceable programs to control polluted run-off and to submit them to the EPA for approval. But as of January 1992, only 15 states had submitted plans that had been approved.

Says the EPA's clean water expert Carl Myers, "Currently the CWA is a voluntary program. We can't force farmers to do the right thing."

A coalition of environmental groups, including Trout Unlimited, is pushing to put teeth in the law. They want the CWA to include tough language to force states to adopt programs to control run-off. The general guidelines would be created by the EPA but would be amended to meet local needs and conditions by the states. Says EPA's Myers: "We want farmers and ranchers to clean up water voluntarily, but there has to be some bottom line... Voluntary programs are well and good, but they are not making much progress."

BUT MANY FARMERS, CATTLEMEN, AND TIMBER producers strongly disagree with the effort to force states to adopt mandates. These groups want local citizens and businessmen to develop best management practices (BMPs) and have those adopted by the states with some minimal guidance from the EPA. What they fear the most, it seems, is the federal government in Washington dictating the ways local farmers and ranchers manage their land and water.

"The Administration and environmentalists want the EPA to write and impose new regulations on the states," says Mitch Dubensky, a spokesman for the American Forest and Paper Association. "We want people on the ground — business, industry, workers and local government — to write the regulations."

But this view is countered by those who have seen the voluntary approach of farmers like those

The Clean Water Act: Up to the Task?

THE GOOD NEWS ABOUT WATER QUALITY IS THAT OUR RIVERS are much cleaner now than they were 25 years ago, says Carol M. Browner, Administrator of the U.S. Environmental Protection Agency. "We no longer have rivers catching on fire," she says.

That is the result of the Clean Water Act, first passed in 1972. The main thrust of this bill was to stop point-source pollution, the garbage and poisons flowing into streams and waterways from "points" such as municipal sewage systems or factories. The bill has been a remarkable success and point-source pollution has been greatly decreased.

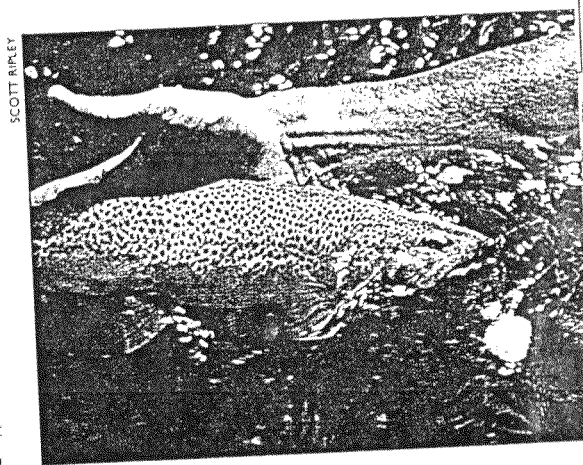
But serious problems remain. Approximately 1,300 water bodies have been so degraded by pesticides, organic chemicals, and metals that the states have limited the public's consumption of fish and shellfish from these waters. Bottom sediments contaminate more than 1,000 waterways. And each year it is estimated that more than 740 million pounds of toxic chemicals pour into our waterways.

The Clinton Administration and many in Congress want to amend the Clean Water Act to take care of these problems. According to a recent

paper released by the Administration, the goal is to "protect and conserve our water, aquatic habitats, and the living resources within, through an integrated, holistic approach, based

on natural watersheds and aimed at reducing pollutants from all sources that impair water quality."

Until now the states have been asked to use a voluntary approach to cleaning up nonpoint-source pollution. Environmentalists want the new CWA to set federal standards and time lines that states must meet when creating programs to clean up streams and rivers. "Until now the states have had little success with controlling polluted run-off," says Trout Unlimited's Steve Moyer, Director of Government Affairs. "The new Clean Water Act must include flexible, yet mandatory language that requires American agriculture to substantially reduce polluted run-off and restore watershed health." ■



*Only by looking
at an entire ecosystem within a drainage can
comprehensive solutions be developed.*

mentioned earlier overwhelmed by much of mainstream agriculture. They point out that without mandates most farmers will continue with business as usual. "We'd like everybody to be model citizens," says EPA's Jeff Grubbs, director of water quality for the EPA. "But the strictly voluntary approach is not working."

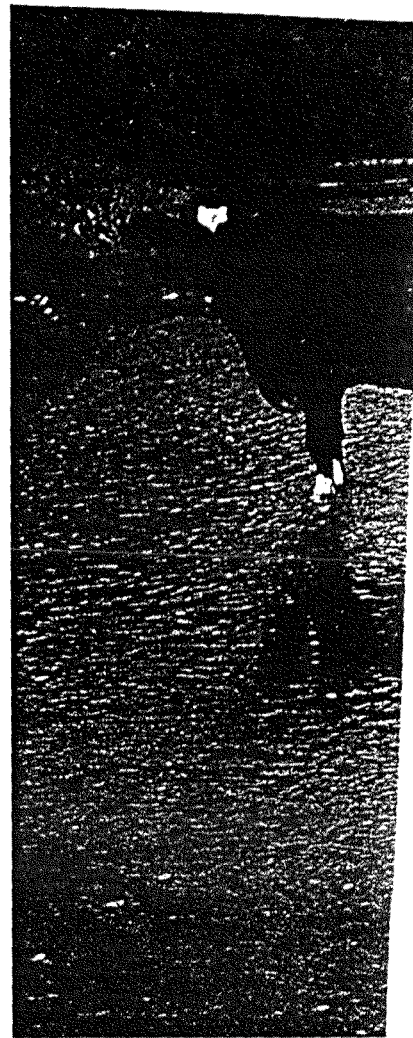
What is surprising, however, is the general agreement that has been reached by these two groups. Both sides agree that polluted run-off is a problem that must be solved, and both want to take an active role in finding solutions. According to groups such as the Rodale Institute and the World Resources Institute, farmers in rural America have the power to make huge environmental gains while protecting their own profits. In short, what's good for farms is also good for water and fish. Most of the disagreement centers over the best ways to make sure new farming practices are adopted and the water is cleaned up.

For example, the American Farm Bureau and many environmental groups both agree that the best way to clean up water is to treat entire watersheds rather than individual rivers or streams. State governments should develop plans that take into consideration the soil characteristics, the drainage patterns, land use, and potential for development. Only by looking at an entire ecosystem within a drainage can comprehensive solutions be developed.

SOUNDS EASY. BUT WHAT DO YOU DO WITH areas that, for historical reasons, have continually produced polluted run-off? Such a place is Lancaster County, Pennsylvania, home of one of the most intensive dairy industries in the U.S. And where there are cows there is cow manure.

For more than 200 years farmers have been raising dairy cows on the lush land that runs through the Susquehanna River Valley. But as farms were broken up and passed to surviving family members, the farms got smaller and economics dictated that more cows were needed to keep farmers in business. Soon the ratio of smaller and smaller farms supporting more and more cows hit the critical mass: huge amounts of nitrogen in the form of cow manure was being washed into the river and down into the Chesapeake Bay. Currently one-third of the nitrogen and one quarter of the phosphorous pouring into the Bay

Innovative programs in Pennsylvania are helping get cows out of trout streams.

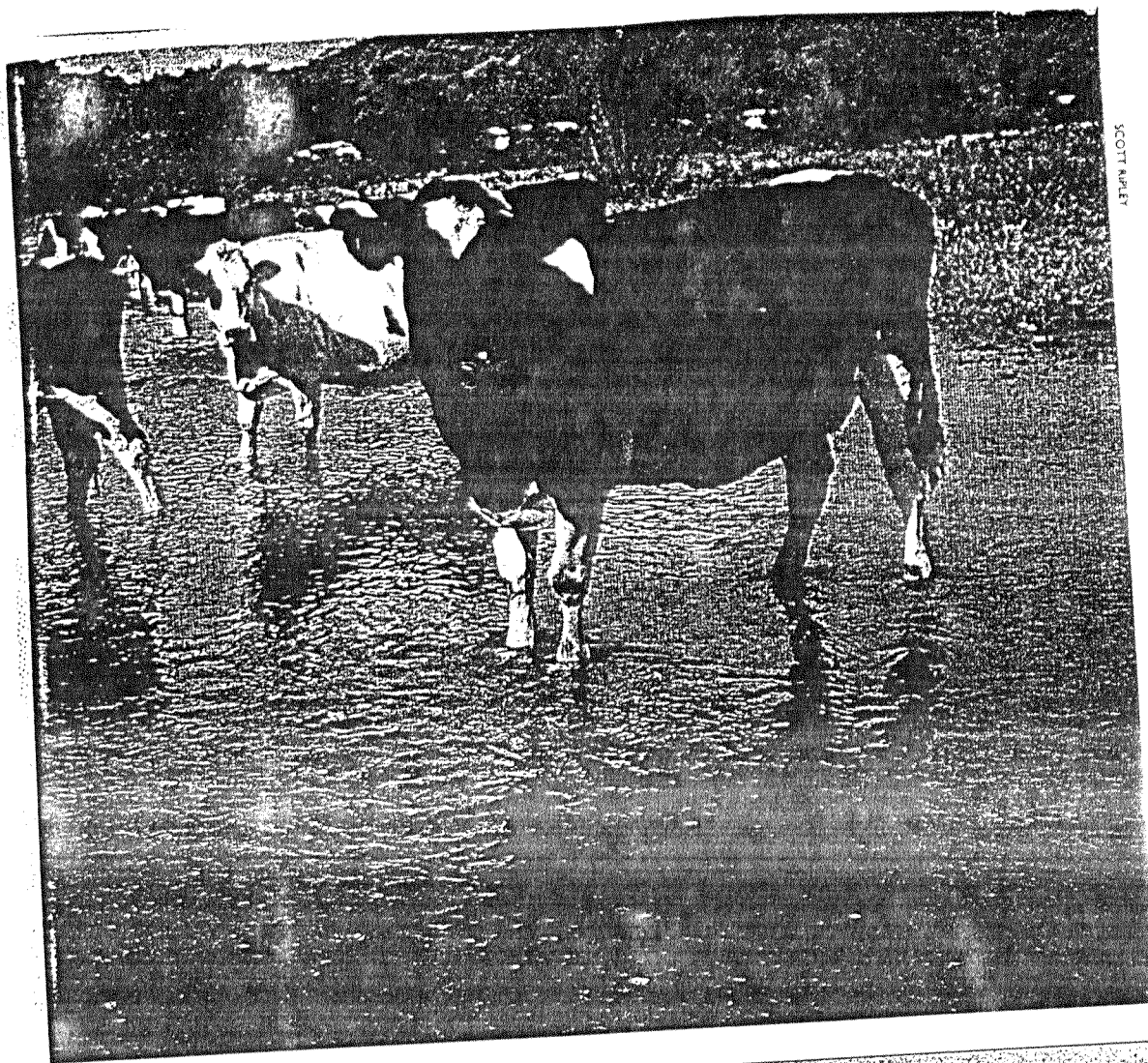


can be traced to the Susquehanna River Basin.

The Chesapeake Bay Foundation, local Trout Unlimited chapters, other conservation groups, farmers, and state lawmakers are working to solve this polluted run-off problem. Farmers along the trout-rich Yellow Breeches in the southern part of the state can get government aid to help them cure their run-off problems. Some local TU chapters kick in additional funds to help farmers pay for improvements that protect streams. The improvements include fencing to keep cows away from fragile stream banks, building pits to contain the manure, and creating buffer zones to keep manure on the land.

Many farmers are happy to take part in these programs; yet too many are not. The question gets down to bare knuckles: How does the government get companies and landowners to adopt policies that control polluted run-off? Most agricultural, timber, and mining interests want an all-carrot, no-stick approach that encourages voluntary and cooperative measures. Environmentalists say this approach has failed, and they want more power in the hands of the federal and state government to force compliance.

Says one USDA official who asked not to be



SCOTT ARLEY



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named: "Right now there is no clear mandate for the states to clean up their water. If we don't make our laws tougher then we will doom ourselves to water too dirty to drink — much less fish in." This dismal future can best be avoided by putting real bite into the Clean Water Act and the U.S. farm laws, he asserts.

While farm and ranch lobbyists want Congress to avoid mandates, the experiences in various states show how important tough laws are to cleaning up the water. Wisconsin, for example, has a polluted run-off law that has been on the books for the past 15 years. The state has spent \$75 million on this voluntary program, but the "overall water quality improvements are not discernable at this time," according to a recent state report.

Like much in life, this issue also gets down to money. All sides want the federal government and the states to come up with cold hard cash to get these programs off the ground.

There have been some limited successes. USDA's conservation reserve program pays farmers to take their most highly erodible land out of crop production. This could "reduce farm run-off by as much as 50 percent in the coming years,"

JOE McDONALD/NATURAL SELECTION



predicts the USDA's John Burt. And the Conservation Compliance Program is well designed but is lacking funds that could increase compliance.

Since the Dust Bowl, farmers have been receiving government funds to grow crops, not grow crops, put land into use, or take land out of cultivation. This financial *(continued on page 62)*

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scope, it will be a standard reference work in years to come.

DEEP RIVER

by Elaine Moore

illustrations by Henri Sorensen
1994 Simon & Schuster Books
for Young Readers \$15.00

CHILDREN'S BOOKS about fishing are few and far between, and fish stories with little girls as protagonists are scarcer still. As Jessie progresses from worrying about what her brothers would think of her first clumsy casts to reveling in her first fish, Moore's prose and Sorensen's impressionistic illustrations make Jessie's first fishing trip an evocative adventure. This charming, gentle story of Jessie and her grandfather and their day on the water belongs in the library of every newly-hatched future angler.

THE LITTLE BOOK OF FISHING: AN ANTHOLOGY

Introduced and edited by Nick Lyons
1994 Atlantic Monthly Press, \$16.00

THE LAST COUPLE OF years have seen the market all but flooded with meditations on the "meaning" of fishing. With a few exceptions (Ted Leeson's extraordinary *The Habit of Rivers* and Wetherell's *Upland Stream* spring to mind), they tend to cover the same territory: fishing as metaphor for life, life as metaphor for fishing — if you've read one, you've read them all. *The Little Book of Fishing* is an exception. Drawn from 14 authors as disparate as Ernest Hemingway, Sparse Grey Hackle, Tom McGuane and former *Rolling Stone* editor P. J. O'Rourke, the selections cover everything from first trout to first tuna to first love. The secret, I think, lies in the length of the pieces — they range from just a page of verse to a meaty short story, but nothing longer — and in the deeply personal perspectives each embodies. Although you may find it hard to resist reading the whole collection at one sitting, this is a book to savor, and one to which you'll surely return again and again. ■

The Invisible Menace

(continued from page 25) intervention now can mean the difference between success and failure for many American farmers. The sad irony: The most heavily subsidized programs for farmers encourage practices that increase environmental damage. Environmentalists want the USDA to switch funding from programs that encourage massive plowing and the use of pesticides and herbicides to more conservation-minded practices. At the same time, farmers and ranchers will have to be taught how to produce food and survive in a new era for agriculture.

*As the battle
rages on in
Washington,
rivers continue
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choke with
sediment.*

Several bills before Congress call for spending up to \$300 million to control nonpoint-source pollution. Under one scenario, this would be increased to \$600 million within five years. In a Congress fighting for a new health care system, welfare reform, and money to battle urban crime, money is short.

As the battle drags on in Washington, rivers continue to fill and choke with sediment; fish continue to disappear. A new clean water law is needed. States must use their powers to help landowners solve this problem. In the meantime, farmers and ranchers who are working to control polluted run-off should be applauded. And governments should make sure their practices are studied and duplicated. ■

OREGONIAN 6-30-94

Panel sees key to saving salmon

■ A group of scientists praises streamflows and the quality of streamside land but criticizes the hatcheries

By JOAN LAATZ
of The Oregonian staff

The key to saving Oregon's coastal salmon lies in improving streamflows and the quality of streamside land, not in hatcheries, a panel of scientists said Wednesday.

In fact, hatcheries in general may not be effective in increasing the number of adult salmon, the scientists said. The amount of water in a stream, they said, is more important.

The panel's conclusions, delivered to the Oregon Senate Agriculture and Natural Resources Committee, could be used to craft future state policies about logging and farming.

"We have found the data to be overwhelming that the most effective management of salmon should be directed at the riparian zone" alongside waterways, stream ecologist Kenneth Cummins told a committee of lawmakers. And streamside protective measures should be extended to all the streams in a river basin, he said, not just those that have salmon.

"It's still surprising that only now are we learning to use what we know about how riparian zones operate . . . to decide how to manage resources," Cummins said.

Cummins was one of three scientists

on a panel commissioned by the Legislature in 1991 to study the connection between forest practices and declining salmon runs.

Daniel B. Botkin, president of the Center For the Study of the Environment in Santa Barbara, Calif., headed the panel, which also included Matthew J. Sobel, dean of the W. Averell Harriman School for Management and Policy at the State University of New York at Stony Brook.

Their four-part draft report, "The Status and Future of Salmon of Western Oregon and Northern California," suggests a basin-by-basin approach to managing the 32 river basins they studied. The use of land and water in those basins could be affected.

"They don't give us any panacea," state Sen. Ron Cease, D-Portland, chairman of the committee, said after hearing the panel's report. "Lots of people want easy answers, and there aren't any easy answers."

Ward Armstrong, executive director of the Oregon Forest Industries Council, fell short of endorsing the panel's recommendations, but he called the report "badly needed."

He predicted, however, that a solution to the salmon crisis would be tough. "I think it's going to be very expensive and painful before we get through."

The scientists's report is based on a review of existing research and information gleaned from public hearings. It will be circulated for public comment for a month and then released along with several others in final form in January 1995.

The panel studied only salmon, not other species such as northern spotted owls. "There's no hidden agenda here," Botkin said. "We're not talking about conservation of old growth."

The scientists concluded that:

■ November streamflows are a better indicator of the size of the adult salmon run that will return in three years than are hatchery releases of young salmon.

■ Using streamflows to predict future run size would give fishermen more certainty about the future.

■ Forests should be managed to include trees of varying ages, with at least half the forest being mature trees.

■ Buffer zones along streams throughout the basin should be based on the width of the stream at high water, called "bankfull." Small streams would have a protected zone six "bankfulls" wide, while the largest rivers would have a protected zone one "bankfull" wide.

Federal protections for buffer zones under the Clinton administration's forest plan are based on tree height. Oregon forestry rules are based on the stream size. Both state and federal rules have reduced the amount of timber that can be cut.

Botkin said his panel's plan would allow for buffer zones to be customized according to stream characteristics and the surrounding land. In some cases, Cummins said, that would allow for more trees to be cut than under current rules. In other cases, fewer trees could be cut.

Troutdale moves to protect Beaver Creek

Outlook 7-20-94

Exhibit "E"

□ Development within 50 feet of bank limited

by JOHN HENDERER
of The Outlook staff

—TROUTDALE — A new city ordinance won't stop a local pub owner from building 48 two-bedroom apartments a dozen yards from Beaver Creek, but it will push future developments further away.

The City Council adopted a new ordinance last week designed to prevent stream bed erosion and protect the natural environment.

Landowner Spiro Sassalos has already submitted his plans for "Beaver Green Apartments," five apartment buildings on 3.9 acres, and the new ordinances will not take effect until Aug. 10.

Sassalos sparked controversy last year, prompting the city's effort to draw up new ordinances. He was fined last year for clearing his land of between six and 18 trees over six inches in diameter. He has since replanted 73 trees, say city officials.

Troutdale's new ordinance does not allow development closer than 50 feet away from the bank of a water way. In addition, it limits development to 30 feet from the top of an escarpment.

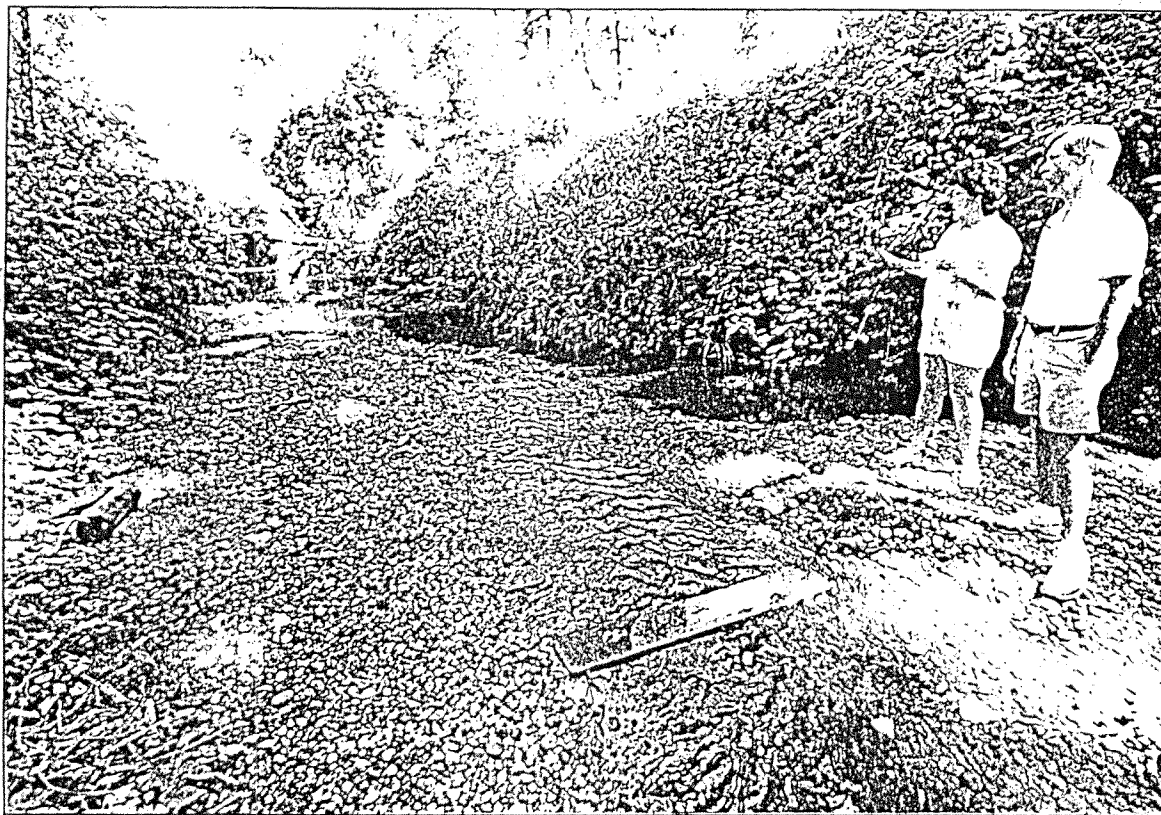
"These ordinances are a big step in cutting down on the amount of silt that winds up in the creek," said Carolyn Taylor, a member of the board of directors for Friends of Beaver Creek.

Taylor said she has noticed fewer and fewer steelhead and coho salmon spawning in Beaver Creek behind her home.

Various regions use different standards for development setbacks, according to Rita Haberman of River Network in Portland. In Austin, Texas, setbacks range between 50 to 400 feet, and in Douglas County, Ga., they range between 100 to 300 feet.

Troutdale had no standard setbacks.

"We really did not have any spe-



STEVE KASSERMAN/The Outlook

Carolyn Taylor, left, and Bill Herbert, members of the board of directors of the Friends of Beaver Creek, examine some of the erosion of the creekbed behind Taylor's property.

cific regulation regarding erosion control," said City Administrator Pam Christian.

Suzanne Barker, the city's development coordinator, said, "We hadn't had anybody develop that close to the creek before."

Approval of building permits depended not so much on standards as personalities.

"In the old days it used to be who you knew," Barker said. "The discretionary decisions are much more limited today because we're such a litigious society."

The city has always used state requirements to limit development setbacks. Those left a loophole, how-

ever, for developments smaller than 5 acres.

Under Troutdale's new ordinance, on hillsides with slope between 15 and 24 percent, developers can build up to 70 percent of the normal density for that land zoning and transfer 30 percent to land with slope less than 15 percent. The resulting density on the buildable portion of land must not exceed 150 percent of the zoning for that area.

"We're not absolutely prohibiting development on some of those steeper slopes, but we do restrict the density of development," Christian said.

Existing ordinances drew complaints from developers for their

unpredictability. Christian said the new ordinance should remove personal judgment and guard against subjective standards.

"The whole motivation on our part was that it be clear and objective standards," Christian said. "All of this criteria is measurable."

City Attorney Tim Sercombe said the ordinance does not permit the city to take private property. "The issue of takings — people are discussing it more and more," Sercombe said.

He said the recent U.S. Supreme Court case of the Tigard business owner who refused to dedicate part of her property towards a bike path

as a condition for expansion does not prohibit Troutdale from establishing the erosion prevention ordinances.

"The U.S. Supreme Court in Dolan (vs. Tigard), and prior to Dolan, has recognized the validity of zonings," Sercombe said.

Restricting land use is legal as long as property owners have an economically viable use of their land and the government's reason for regulation is legitimate, he added.

Homeowners whose residences border the creek should not necessarily expect a reduction in their property values, said Bob Ellis, Multnomah County assessor.

Turn to CREEK, Page 2A.

Continued from Page 1A.

"It may help the value by making it a more attractive area," Ellis said.

Landowners of property zoned for apartments could potentially demonstrate the protective ordinance limits the amount of development they could

impose on the land. That could reduce some values, he said.

"If it was shown that the ordinance did restrict use of the land I think we probably would believe the market would recognize the difference in the

land," Ellis said.

In an unrelated issue, the City Council will decide whether to spend an estimated \$50,000 to \$100,000 to halt erosion along Beaver Creek which is threatening a 12-inch sewer

line.

"If we don't do something it would be exposed eventually," said Mike Sorenson, sewer treatment plant superintendent. He said erosion along a private drive has crept to within 15 feet of the line.