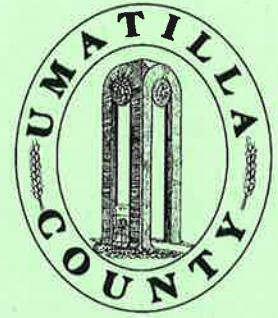


Umatilla County

Department of Land Use Planning



AGENDA

Umatilla County Planning Commission

Public Hearing

Thursday, April 27, 2017, 6:30 p.m.

Justice Center Media Room, Pendleton, OR

Members of Planning Commission

Randy Randall, Chair
Gary Rhinhart, Vice-Chair
Tammie Williams
Don Wysocki
Don Marlatt
Suni Danforth
Cecil Thorne
Tami Green
Clive Kaiser

Members of Planning Staff

Tamra Mabbott, Planning Director
Carol Johnson, Senior Planner
Bob Waldher, Senior Planner
Brandon Seitz, Assistant Planner
Julie Alford, GIS
Gina Miller, Code Enforcement
Tierney Dutcher, Administrative Assistant

1. **Call to Order**
2. **Adopt Minutes** (Thursday, March 23, 2017)
3. **NEW HEARING:**

COMPREHENSIVE PLAN TEXT AMENDMENT, #T-17-073, COLUMBIA DEVELOPMENT AUTHORITY, APPLICANT, AMSTAD FARMS LAND COMPANY, LLC., PROPERTY OWNER. The applicant requests an amendment of the Comprehensive Plan Text and approval of an exception to Statewide Planning Goal 11 (Public Facilities and Services). The exception would allow for a sewer line extension from the City of Umatilla to the Umatilla Army Depot (Depot). The proposed sewer line would run south from the City of Umatilla within the public right of way of Powerline Road, then east across private lands owned by Amstad Farms, before reaching the Depot.

The criteria of approval are found in Oregon Administrative Rules (OAR) Chapter 660, Divisions 4 and 11 and the Umatilla County Development Code Sections 152.750 through 152.755.

4. **NEW HEARING:**

CONDITIONAL USE PERMIT REQUEST, #C-1264-16 & #C-1282-16 AND VARIANCE REQUEST, #V-347-16, GRANITE CONSTRUCTION COMPANY, APPLICANT, BETTY HIATT, KEN BONNEY AND JANET BONNEY, PROPERTY OWNERS. The applicant is requesting a public hearing for a Conditional Use Permit to conduct mining operations and to operate a concrete batch plant. In addition, the applicant is requesting a variance from the setback requirements from a utility easement. The property is located between Interstate 82 and Lind Road within the Urban Growth Boundary of the City of Umatilla described as Township 5N, Range 28E, Section 16; Tax Lot #2300. The criteria of approval are found in the Umatilla

County Development Code Sections 152.615, 152.616(C), 152.616(Q), and 152.625 through 152.630.

5. Other Business

6. Adjournment

Upcoming Meetings:

Thursday, May 25, 2017, 6:30 PM

Thursday, June 22, 2017, 6:30 PM

Thursday, July 27, 2017, 6:30 PM

Thursday, August 24, 2017, 6:30 PM

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, March 23, 2017
6:30 p.m., Umatilla County Justice Center, Media Room
Pendleton, Oregon

COMMISSIONERS

PRESENT: Randy Randall, Chair, Gary Rhinhart, Vice Chair, Suni Danforth, Don Marlatt,
Don Wysocki, Clive Kaiser, Cecil Thorne, Tami Green

ABSENT: Tammie Williams

STAFF: Tamra Mabbott, Brandon Seitz, Bob Waldher, Tierney Dutcher

NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. A RECORDING OF THE MEETING IS AVAILABLE AT THE PLANNING DEPARTMENT OFFICE.

CALL TO ORDER

Chair Randall called the meeting to order at 6:34 p.m. and read the opening statement.

MINUTES

Chair Randall asked the Planning Commission to review the minutes from February 23, 2017. Commissioner Danforth moved to adopt the minutes as written. The motion was seconded by Commissioner Rhinhart. Motion carried by consensus.

NEW HEARING

LAND USE DECISION FOR VERIFICATION OF NONCONFORMING USE PERMIT #LUD-213-17. STEVE SINOR, APPLICANT, JAMES & NEILA COFFMAN, OWNERS. The applicant/owners are requesting Verification of Nonconforming Use approval to continue the use of the subject property as a home occupation (trucking business). The subject property consists of approximately 4.67 acres of property located within the Rural Residential – 4 Acre Minimum (RR-4) Zone, and is described as Township 4N, Range 28, Section 21A; Tax Lot #302. The parcel is located outside the Hermiston Urban Growth Boundary on the west side of State Highway 207 (Butter Creek Highway). The applicable criteria of approval for Verification of Nonconforming Use are found in Umatilla County Development Code (UCDC) Section 152.600.

Chair Randall called for the Staff Report.

STAFF REPORT

Robert Waldher, Senior Planner, stated that the application is for a Verification of Nonconforming Use approval to continue the use of the subject property as a trucking business. The property is located on the west side of state Highway 207. It is on the west side of the Buttercreek Highway just outside the City of Hermiston's Urban Growth Boundary (UGB). The application was submitted to the Umatilla County

Planning Department on February 21, 2017. However, Umatilla County permitting history and various communications about the subject property date back to 1979. Applicable criteria for a Verification of Nonconforming Use are found in UCDC 152.600. The Planning Commission (PC) is asked to refer to the preliminary findings and conclusions and supporting information to make a decision as to whether or not the use was lawfully created and that the use constitutes a Nonconforming Use. The decision must be based on factual evidence in the record and not conclusory statements.

Commissioner Rhinhart stated that it appears there are more structures present on the property than permits obtained to build structures. Mr. Waldher explained that the original Zoning Permit (ZP) was issued in 1979 for a Home Occupation. Mrs. Mabbott added that the structure predated 1979. Mr. Waldher stated that it is not a residential structure; it is more like a shop or office-type building. Records show that the property owners obtained a ZP in 1983 for a shop building, but there is no current residence on the property.

Commissioner Rhinhart asked if the application approval is based on whether or not the trucking business has been in continuous operation since 1979. Mr. Waldher stated that the decision must be based on the standards set as criteria of approval for a Nonconforming Use. He noted that those standards can be found in the findings on page 37. The use must be legally established, and staff believes it was, as they did obtain a ZP in 1979 for the use. The criteria of approval states that the use has continually existed for a 10 year period immediately following the date of the initial application.

Commissioner Danforth asked for clarification about documentation on page 14 in the packet that appears to show they finished operating a trucking in 2013. She asked if they had ceased operation at that time. Mr. Waldher stated that would be a good question for the applicant as the findings were based on information taken from the property file. The letter in question was written by an attorney, George Anderson, and the information that it was not in operation in 2013 is not supported by the property file records.

APPLICANT TESTIMONY

Neila Coffman, Property Owner, 74995 Washington Lane, Irrigon, Oregon. Mrs. Coffman stated that the ZP was issued in 1979 but the property has been used in the trucking industry since 1961. She stated that she and her husband have used the property to operate several trucking related businesses since they purchased it in 1999 and Juan Lopez has been operating Lopez Trucking at the location.

Chair Randall asked about traffic safety concerns on the corner. Mrs. Coffman stated that they have not experienced any safety issues and they are cautious when pulling out. To her knowledge, Lopez Trucking has never has an accident coming in or pulling out of the property. There have been accidents at the location, but they tend to occur in winter months when people are not being safe drivers.

PROPONENT TESTIMONY

Doug Cox, 150 Chelsea Lane, Stanfield, Oregon. Mr. Cox stated that he owns a trucking/ construction company and is working to obtain the subject property to operate his business at that location. He stated that he has 2 trucks and the equipment for his business is usually out in the field unless it requires maintenance. He believes the location is a perfect fit for the needs of his business and plans to have an office worker in the office space and a mechanic in the shop. Commissioner Danforth asked how many trucks come in and out of the property daily. Mr. Cox stated that the only time they have a truck coming or going is to move equipment a couple times a week.

PROPONENT TESTIMONY

Steve Sinor, Applicant, 845 W. Duane Avenue, Hermiston, Oregon. Mr. Sinor reiterated what Mr. Cox had said regarding truck traffic. He does not believe the corner is a safety problem but if needed, they would be willing to move the fence posts back and widen the corner so the property is more accessible. They plan to use the property for a lay down yard in the winter when they aren't working jobs and need to park the equipment.

OPPONENT TESTIMONY

Don Waters, 78594 Highway 207 S, Hermiston, Oregon. Mr. Waters stated that he is happy the Coffman's have found a buyer for the property. He has talked to Mr. Cox about an easement problem that exists between the Coffman property and Mr. Waters' property and he feels Mr. Cox will make a good neighbor. Mr. Waters identified his property as tax lot #400, directly to the north of the subject property. He stated that he is concerned about safety on the corner because in the 60 years they have lived on the property there have been 8 traffic fatalities. Chair Randall said the decision the PC makes will be based on the land use and we do not have jurisdiction over roads and traffic. Oregon Department of Transportation (ODOT) governs the road. Commissioner Rhinhart stated that they could consider a condition to work with ODOT to come up with signage or another way to help remedy the traffic safety issues.

Mr. Waters is concerned that issuing a permit for a trucking company to use the road will not account for how the road will actually be used for this activity. He believes they will be doing work more like a light construction company, which would not require a heavy truckload. Commissioner Wysocki asked if Mr. Waters had any suggestions for safety on the road. Mr. Waters stated that they should not let big trucks use the road. He believes light duty trucks are ok, but large, long, slow moving trucks should not be allowed to use the road. Commissioner Wysocki stated that those decisions would go beyond the jurisdiction of the PC. Chair Randall agreed that the PC does not have the right to ask ODOT to widen the corner or modify the entry. Mr. Waters said he knows there is no way to make ODOT make changes to the road, but he believes the PC can do something to keep the large trucks off the road by changing the title of the permit. Chair Randall stated that the permit for a Nonconforming Use does not necessarily title the permit and a trucking business has several definitions.

PUBLIC AGENCY

Mrs. Mabbott stated that there are comments in the record from ODOT. They are comfortable with the planned use of the road as long as the traffic is limited to 10 trips or less per day. She noted that ODOT did not set a limitation on the size of vehicle.

Chair Randall closed the hearing for deliberation.

Commissioner Danforth asked if they could change the Nonconforming Use permit to show it is intended for more light duty use than a trucking company. She feels that being more specific about the use could prevent issues in the future and eliminate the potential for more extreme trucking activities on the property. Chair Randall stated that trucking and moving equipment is often rated based on the poundage it is towing. Hauling large equipment can often be the same weight as a loaded semi-truck which would make it a complicated limitation to set. Commissioner Danforth is concerned that permitting a trucking business could later be interpreted as a long haul trucking yard. Chair Randall stated that, according to the data, it has continuously been a trucking operation for the last 10 years. Therefore, it meets the criteria for Nonconforming Use.

Mrs. Mabbott stated that a trucking operation with 2 dozen long haul trucks would be very different from what Mr. Cox will use the property for. The PC could consider placing a limit on the total number of trucks, trailers, etc. on the property. She suggested that the PC could ask the applicant what their needs are and give them room to grow, but limiting the size of a truck would not be reasonable from an enforcement perspective. She stated that approval of a Nonconforming Use would also be approval for like-uses. She pointed out that if limitations are not set, the property could be sold in the future to a long haul trucking company with idling refrigerator units being stored in the yard. If terms are not specified up front, the next owner could argue the intentions of the permit. Mrs. Mabbott recommended a condition that would allow for flexibility to perform regular business operations but also address the concerns on how the property will be used in the future. She suggested they could limit the vehicle parking to the yard in the back of the property and inside the building to ensure they will not be parked on the front of the parcel. She added that a condition could be set for no refrigerator trucks and clarification that the permit is intended for a light trucking/ construction business and not long haul trucking activities.

Commissioner Rhinhart made a motion to approve the Land Use Decision for verification of Nonconforming Use permit #LUD-213-17 with additional conditions of limiting the use to the existing storage yard that is currently being used and no refrigerator trucks stored on the property. The motion was seconded by Commissioner Danforth. Motion passed with a vote of 8:0.

NEW HEARING

COMPREHENSIVE PLAN TEXT AMENDMENT, #T-17-072, ZONE MAP AMENDMENT, #Z-311-17 & COMPREHENSIVE PLAN MAP AMENDMENT, #P-119-17, VADATA, INC., APPLICANT, LIBERATED L & E, LLC, OWNER. The applicant requests a rezone of approximately 120 acres of Exclusive Farm Use Zone land to Light Industrial with a Limited Use Overlay. The property

is described as Township 4N, Range 28E, Section 30; Tax Lot #1100. The applicant's request includes the following land use actions: 1) Amendment of the Comprehensive Plan Text and approval of an exception to Statewide Planning Goals 3 (Agriculture) and 14 (Urbanization); 2) Amendment of the County Comprehensive Plan Map from North-South Agriculture to Industrial; 3) Amendment of the County Zoning Map from Exclusive Farm Use to Light Industrial with a Limited Use Overlay.

The criteria of approval are found in Oregon Revised Statute (ORS) 197.732 and Oregon Administrative Rules (OAR) Chapter 660, Divisions 4 and 14, the County Transportation System Plan and UCDC Sections 152.019 and 152.750 through 152.755.

STAFF REPORT

Brandon Seitz, Assistant Planner, stated that the applicant is proposing to rezone tax lot #1100 which is approximately 120 acres (ac.) from Exclusive Farm Use (EFU) to Light Industrial (LI) with a Limited Use (LU) Overlay Zone. The application consists of 3 separate land use applications. First is a Comprehensive Plan Text Amendment to adopt a reasons exception to Statewide Planning Goal 3, Agricultural Lands and Goal 14, Urbanization. The Second application is for a Comprehensive Plan Map Amendment which would be an amendment to the Umatilla County Comprehensive Plan Map designation changing it from North/South Agricultural to Industrial. The third application is a Zone Map Amendment which would change the zoning designation from EFU to LI with a LU Overlay. The LU Overlay is intended to comply with the OARs requiring the County to limit the uses of the subject property to those justified in the exception. The applicant is proposing to develop the property for an industrial use including data centers, office, warehouse and utility substation. If the application were approved by the PC the use of the property would be limited to those uses. Any change in the use or intensity of the use would require approval of an application to amend the LU Overlay.

Mr. Seitz distributed 2 additional exhibits to the PC and Planning Staff. The first exhibit was a letter dated March 22, 2017 from Mark Morgan, Assistant City Manager, City of Hermiston. Mr. Morgan's letter adds more detail to a letter originally submitted from the City with more information about water usage and the regional water system. The second exhibit was a string of emails between Kittelson & Associates, who conducted the Traffic Impact Analysis for the applicant, and Jeff Wise, Traffic Study Engineer for ODOT. A summary of the email chain concludes that ODOT feels the site access point is far enough away from the interchange and they do not have any concerns about traffic issues with the proposed development.

Commissioner Marlatt asked about water rights connected to the property. Mr. Seitz verified that there is no current water right on the property.

APPLICANT TESTIMONY

Seth King, Land Use Attorney, Perkins Coie, 1120 NW Couch Street, 10th Floor, Portland, Oregon. Mr. King stated that he is representing the applicant; VADATA, Inc. Mr. King referenced the original application and 2 follow-up submittals which have been entered into the record. He noted that the

applicant concurs with the staff report and recommendation and requests that the PC adopt a motion recommending that the Board of County Commissioners (BCC) approve the applications presented.

Mr. King stated that the uses on the property will be limited consistent with the development plan that has been included in the record. That would consist of 4 data center buildings, a logistics warehouse, an administrative office and a future electric substation. He points out that it is considerably less than the options of uses they would be able to develop under the LI, and they are developing at a much lower density than they could under the LI Zone. The record includes a Traffic Impact Analysis which concludes that all the studied intersections will operate at acceptable levels consistent with the mobility targets and level of service standards both at morning peak and evening peak hours in 2018 which is the anticipated construction date, then again in 2031. They concluded that there would not be a significant affect under Oregon's Transportation Planning Rule (TPR) or UCDC to any existing or planned transportation facilities as long as the trips on the site were capped consistent with the number of trips that the proposed development plan is anticipated to generate. There are no transportation operations or safety based mitigation measures that were recommended with this particular use.

Mr. King stated that the use of water at the site will be served by regional water services. He referenced a letter in the record from the Regional Water Services Engineer dated February 28, 2017, stating there is adequate capacity in the regional water system to serve the subject property as well as existing users. He also mentioned a letter in the record from Mark Morgan, City of Hermiston, indicating that the development and use will not have an adverse impact on the City's water supply. In fact, there will be benefits from drawing from the regional water system because it will diversify the customer base and as a large user, will help stabilize rates as fixed cost will be spread out over more units of production.

Mr. King stated that the applicant is requesting a Reasons Exception to Statewide Planning Goals 3 and 14. The first standard that needs to be addressed under the exception criteria is that reasons justify why the state goal should not apply. There are 3 reasons the applicant believes the State policy in Goals 3 and 14 should not apply. First, the site is not a productive farm site. The site is not characterized by high value soils for agricultural production and there is no current water right on the site. Testimony from the current owner indicated they are not using it to grow crops. They have limited grazing activities on the property associated with the auction yard located across from the property. Mr. King pointed out that the Department of Land Conservation and Development (DLCD) submitted a letter indicating no concerns with the Goal 3 Exception. He referenced testimony in the Staff Report from an individual who farmed the land in the past. The previous farmer indicated the site was rocky and difficult to farm and he would not choose to farm again at that location.

Mr. King stated that the second reason the applicant believes the use justifies the exception is because the site is well situated for industrial uses. It is near the interchange of the 2 interstates and there are existing exception areas in 3 directions. He stated there are significant urban level industrial uses at the location.

Mr. King stated that the third reason the applicant would use to justify the exception is that the site will generate significant economic benefits, including new jobs and tax revenue. The applicant believes the

benefits offset the loss of agricultural land, which is not currently used for agricultural purposes and has shown to not be a productive farm site over time.

Mr. King stated that the standard requires that they consider alternatives and find that areas that do not require a new exception cannot accommodate the use. He referenced 2 letters in the record from Mr. Footh outlining the applicant's site selection criteria as well as the evaluation process they went through. In order to accommodate their data centers the site must be at least 100 ac. in size. It must also be located as close as possible to unique infrastructure needs like high-voltage (115 kilovolt (kV) or higher) transmission power lines. The site needs a high flow of water to help cool the buildings and must allow for reuse of the significant water discharge generated by the site. He stated that Mr. Footh supervised the site selection and evaluation process and concluded that this is the only site in the county that would meet these unique standards of the project. The applicants other data centers in the county are at capacity at this time and they have a need for smaller scale data center campuses. They are currently considering developing another data center campus that would be located inside the UGB. There was a question as to whether the applicant could site both campuses together, and the answer is no. The applicant has a need for the smaller scale campuses that are separate from each other to create redundancy and risk aversion into the network. If one site goes down, the others can remain in operation.

APPLICANT TESTIMONY

Diego Arguea, Kittleson & Associates, 610 SW Alder Suite #700, Portland, Oregon & Jim Footh, Real Estate Development Manager, VADATA, Inc., 210 Terry Avenue N, Seattle, Washington

Commissioner Rhinhart stated that for the project they require 120 ac. of industrial land, 115 kV power line, 400 gallons (gal.) of water per minute for cooling, a way to dispose of heated water, highway access, and flat usable land. He asked for information on what other locations have been considered by the applicant. Mr. Footh stated that they looked throughout the greater Hermiston/Umatilla area. Their facilities use a great deal of power so proximity to the high voltage power is their primary concern. The subject property is directly adjacent to the Hermiston Generating Plant which has 230 kV power lines directly to it. The applicant would need to extend the power lines approx. 1,500 feet (ft.) to serve the property. They considered an industrial property on Feedville Road, but the site did not have adequate power. The applicant would have been required to build power poles for approx. 2 miles to serve the site. Additionally, they would have needed to extend water to the site. The subject property met the criteria much better than any others in the area. Commissioner Rhinhart stated that, with land use issues like changing the zoning of a property, the PC does not consider cost in their decision making process. He stated that Pendleton has 525 ac. of sellable flat land up by the airport. Mr. Footh stated that the Pendleton location is geographically too far away from the existing data centers. There is 1 campus in Umatilla County and 2 campuses in Boardman. The data center campuses must be clustered together because they are connected by fiber and the Pendleton location is too far for the signal connectivity.

Commissioner Rhinhart stated that he is concerned about making an exception on farm ground when there is available land in Pendleton. He believes when the farmland is turned into industrial land it devalues the industrial ground. Mr. King stated that development of this site with industrial uses does not necessarily

work against development of the industrial land in Pendleton because industrial users have a variety of different needs.

Commissioner Wysocki asked for the applicant to summarize their water needs including details about where the wastewater water will end up and whether it will be distributed back to agriculture. Mr. Footh stated that there are 2 wastewater streams, sanitary sewer and process water. Commissioner Wysocki clarified that his question is about the process water. Mr. Footh stated that they are looking at several solutions for water reuse. He stated that they have a scheduled meeting with the Department of Environmental Quality (DEQ) to discuss multiple possible options. Their intention is to use the process water for agricultural purposes. The water is used for its cooling capacity only. There is no contact and therefore no contamination in the process.

OPPONENT TESTIMONY

Dan Burnam, 78001 Cottonwood Bend Road, Hermiston, Oregon. Mr. Burnam is a neighbor of the subject property. He stated that the land was farmed approx. 5-7 years ago. Mr. Burnam expressed frustration that he has been told there are no water rights on his property. He was also told there are no water rights on the larger piece of land but he has seen a well located in the corner. He does not agree with this proposed Goal Exception. He believes that just because someone sold the water-right doesn't mean the classification should be changed. If the BCC allows this he would like a buffer between the data center campus and the residences located on the east side of the lot. He stated that the subject property is located in a Critical Groundwater Area which prohibits him from digging an irrigation well, and he doesn't think it is fair that a large company is able to come in and put in a well. Commissioner Rhinhart clarified that the applicant will put an exempt industrial well which only allows for 5,000 gal. per day, not irrigation water. Mr. Burnam asked if that will affect his well. Chair Randall stated that DEQ or Water Resources will govern that decision.

Mr. Burnam asked when the soils on the property were last mapped. Commissioner Wysocki stated that the map they were using showed it was mapped in 1988. He said the soil type is Quincy loamy fine sand and often those soils are farmed productively when they have water. Mr. Burnam said this land can have water and can be farmland so he believes it should not be turned into industrial land. He is concerned about the location of the buildings on the property and their proximity to the residential lots. Chair Randall stated that the application is online and it includes detailed drawings on what the applicant plans to do. Mr. Burnham asked if they will be using Cottonwood Bend Road as an entrance and Chair Randall stated that the applicant testified that the entrance would be from the north side and he may benefit from the pavement on the road. Mr. Burnham said he will not benefit. He wants to build a house and the county has told him he cannot so he feels the land is going to waste. Commissioner Danforth asked what would be an acceptable buffer for him. Mr. Burnham stated that he does not know what would be acceptable because he just found out about this project and is quite upset. Mr. Seitz stated that there is a buffer in the LI Zone to residences and they would be required to adhere to the same standard. Commissioner Danforth stated that the PC does its best to take into consideration the protection of adjacent property owners.

OPPONENT TESTIMONY

Mary Buckallew, 77867 Cottonwood Bend Road, Hermiston, Oregon. Ms. Buckallew stated that she lives on the lot on Cottonwood Bend Road on the bottom corner, to the east. The county just contacted her about this project and she was very concerned. She stated that she appreciated the questions asked of the applicant by the PC because she had many of the same questions. Her house is located approx. 200 ft. off of Cottonwood Bend Road. She stated that she is concerned that they will build on the border of the land. She acknowledged that she has not yet reviewed the application online and plans to do so. She stated that Mr. Burnam covered many of the issues she is worried about. She is concerned about the increased traffic and how it may change her family's lifestyle. Commissioner Rhinhart asked how much traffic she currently sees on her street during the day. Ms. Buckallew said they see a car, at most, every 30 minutes. She stated that 2 years ago when the state was doing work on the interchange, they routed traffic through her driveway. At least 1 vehicle passed every minute causing thick dust and being outside was unbearable. Her property is downwind from the subject property which makes her extra worried about the dust.

APPLICANT REBUTTAL

Mr. King stated that the proposed plan is included with the application. The plan will come back through the Planning Department for a Design Review and some details will be worked out at that stage. It will be subject to the standard LI buffer requirement and the closest buildings will be located approx. 100 ft. off of Cottonwood Bend Road. Additionally, the buildings that are planned to be located on that side will be the warehouse, not data center buildings. Data center buildings will be located further back on the property.

Mr. King stated that the primary access is anticipated to be on the west side connecting to the new road. The Cottonwood Bend Road access will be reserved for alternate emergency and construction use. Commissioner Danforth asked how tall the warehouse building will be. Mr. Footh stated that it will be 30 ft. Mr. King stated that they will address those issues at the Design Review stage. He stated that there is no current water right on the property. He believes that, the testimony arguing that one could attain a new water right and then farm the property, is speculative. The decision made by the PC should be based on facts and circumstances that are in place today.

Chair Randall closed the hearing for deliberation.

Commissioner Wysocki stated that this is the second hearing the PC has had on changing farmland to other uses. He is concerned that we continue to remove farmland because there is no way to create more. He would like to be able to ask for mitigation when applicants make these requests because the only way to get more food is to get more food per ac. Therefore, money should go into agriculture research or other efforts to help to increase production. Commissioner Rhinhart stated that the State of Oregon loses an average of 150,000 ac. of farm and forest land yearly to industrial changes.

Commissioner Kaiser made a motion to recommend approval of the VADATA Exception to Statewide Planning Goals 3 &14, Comprehensive Plan Text Amendment #T-17-072, Zone Map Amendment #Z-

311-17 and Comprehensive Plan Map Amendment #P-119-17 to the BCC based on the foregoing findings of fact and conclusions of law. The motion was seconded by Commissioner Danforth. Motion passed with a vote of 7:1.

NEW HEARING

CONDITIONAL USE PERMIT #C-1283-17 & LAND DIVISION #LD-4N-1003-17. OSTROM'S MUSHROOM FARM, APPLICANT, SHELDON & TRACI KING (C/O BRANDON KING), OWNERS. The applicant requests to construct and operate a 450 ton-per-week composting facility. The compost is unique to mushroom growing and will support an existing farm located in Washington and a new mushroom farm yet to be sited. The applicant is also proposing a land division of the subject property to separate the composting facility (approximately 20 acres) from a cattle feeding and hay storage operation occurring on the same parcel. The subject property consists of approximately 64 acres of property located within the Exclusive Farm Use (EFU) Zone, and is described as Township 4N, Range 34; Tax Lot #7001. The parcel is located on the southeast corner of the intersection of Sand Hollow Road and State Highway 334 (Holdman-Helix Highway), approximately 5 miles north of the City of Adams.

The applicable criteria of approval for composting facilities in the EFU zone are found in UCDC Sections 152.061, 152.615, and 152.617 (E). Criteria of approval for Type IV, Review IV Land Divisions are found in UCDC Section 152.710 (E).

STAFF REPORT

Robert Waldher, Senior Planner, stated that the applicant has requested a Conditional Use Permit (CUP) to establish and operate a composting facility on EFU zoned land, as well as a Type IV Land Division. The composting operation is unique to mushroom growing and will support an existing farm located in Washington and a new mushroom farm yet to be located. The applicant is also proposing a Land Division on the subject property to separate the composting facility, which is about 20 ac. from a cattle feeding and hay storage operation occurring on the same parcel. The subject property is owned by the King family and is located on the southeast corner of the intersection of Sand Hollow Road and State Highway 334, the Holdman-Helix Highway, approximately 5 miles (mi.) north of the City of Adams. The property is mapped as Township 4N, Range 34; Tax Lot #7001.

Prior to the applicant submitting their Land Use Request application, pursuant to Senate Bill 462 adopted in 2013, the County hosted a preapplication conference with agencies and co-sponsored a community meeting in Athena. The preapplication conference was held February 22, 2017 at the Athena City Hall, Community Room and the community meeting was held the same day at Athena Elementary School. Following the preapplication meeting, the applicant submitted their Land Use Request Application and public notice of the Planning Commission hearing was provided to adjacent land owners on March 3, 2017. Preliminary Findings were concluded and made available to the public one week prior to the public hearing. Pending approval of the applicants Land Use Permit request a separate composting permit application will be submitted to DEQ. If approved, the applicant must comply with any additional standards placed on the facility by DEQ concerning air and water quality.

Since the packets were mailed out a week in advance, Planning Staff received an additional item to add to the project record. A letter from Greg Silbernagel, Oregon Water Resources Department (OWRD), District 5 Watermaster, indicated that the applicant will need to secure a water right for the proposed use beyond the exempt industrial groundwater use threshold of 5,000 gal. per day. The PC is asked to determine if the request does or does not meet the applicable criteria for approval. Approval or denial must be based on subsequent factual evidence in the record, not conclusory statements.

APPLICANT TESTIMONY

J.R. Cook, Cook's Land & Water Consulting, 3750 SW Marshall Place, Pendleton, Oregon. Mr. Cook stated that he believes the Memo and Staff Report were very thorough and he agrees with the recommended conditions of approval in the findings. The key criteria for approval for the Conditional Use request is that there will be no significant change, no increase in the cost of farming, and they will not change the land use pattern of the area. Mr. Cook stated that he became involved with the project approx. 2 years ago when he assisted in finding a suitable site for Mr. Knutzen and Ostrom's Mushroom Plant to relocate from Washington to Oregon. He feels this is an opportunity to find a value added business for the dry land and commodity industry on the east side of the county. He stated that he predominately works on the west side of the county because that is where most of the value added production takes place. The primary feed stocks utilized by the facility to produce their mushroom substrate are wheat straw and canola meal, which are both grown in the dryland agriculture industry east of the high-value area. Mr. Cook stated that he looked at a number of sites located in the west county but they settled on this location because it is in the heart of where he sources his straw, as well as the multimodal transportation network which allows for product to get to and from the site quickly.

Mr. Cook pointed out the conditions of approval set by planning staff that will help reduce the impact on the surrounding area and assist with compatibility. He stated that the activity relates to agriculture, is located in the EFU Zone, and compliments the dry land agriculture economy in the area. The applicant requests the PC's approval of the application. If approved, they will obtain a DEQ permit which requires approval by the Solid Waste Advisory Committee (SWAC) at their meeting scheduled April 4, 2017. They will also continue to work with OWRD to secure water for the site.

APPLICANT TESTIMONY

David Knutzen, President, Ostrom's Mushroom Farms, 8322 Steilacoom Road SE, Olympia, Washington. Mr. Knutzen distributed copies of his presentation to the Planning Commission. He stated that Ostrom's has been in the mushroom business for almost 90 years. They are 1 of 2 significant mushroom operations in Oregon and Washington, there used to be 5. The company is family owned and at this time they are considered the largest producer of mushrooms in the northwest. Ostrom's is vertically integrated, meaning they produce their own substrate, pick, pack and ship mushrooms fresh daily, 365 days a year. They distribute to Oregon, Washington, Alaska and Hawaii. Mr. Knutzen stated that they need to grow to stay competitive. In order to grow more mushrooms, they need more mushroom substrate or compost. The current site located in Olympia, Washington is maxed out in terms of production and the farm is using

older technology. They took this opportunity to think more about the future and direction of the company. They have had a long productive relationship with the King family as well as other companies and farmers in Eastern Oregon and Eastern Washington because wheat straw is fundamental to producing mushroom substrate.

Mr. Knutzen stated that site of the subject property was discussed as a possible composting facility approx. 15 years ago but the time was not right. They believe the time is right now and this is the right site to make mushroom substrate. Mushroom substrate is a 3 phase process. After it is used to grow the mushrooms it can be used as a great soil amendment. It has great structure and good nutrients which can be plowed back into the earth to benefit the soil. The mushroom growing and substrate process is very clean and sustainable. They use agricultural waste products like wheat straw, canola, dried poultry waste, and recycled gypsum wallboard. Whatever water is not absorbed in the straw is captured and reused. All raw materials that come on to the site also leave the site as mushroom substrate with no waste stream from the composting process. Every pound of mushrooms produced requires approx. 1.8 gal of water. Compared to wheat, which takes approx. 138 gal. of water to create 1 lb., mushrooms are a very efficient and high yielding crop. Ostrom's is excited about the new location and looks forward to being part of the community of Adams and Athena. The investment would be a phased process in which they would initially invest approx. \$7 million to build 3 bunkers and 4 tunnels, or 4 bunkers and 3 tunnels. In 5 years they hope to be at 5 bunkers and 10 tunnels which would amount to roughly a \$12 million investment. This will initially create 13 jobs which will eventually grow to 23 jobs representing an excess of \$500,000 in payroll annually and will approach \$1 million as it reaches the size as described. Mr. Knutzen stated that Ostrom's has a history of being a participant and contributor to the communities in which they work and live and they look forward to doing the same at this new location.

Commissioner Wysocki asked how much wheat straw they will use when the facility is fully developed. Mr. Knutzen stated that 10 tunnels would make roughly 900 tons of phase 1 compost, and that would require 13,000 – 14,000 tons of wheat straw. Commissioner Kaiser asked if it is Ostrom's intention to site the manufacturing facility in Umatilla County. Mr. Knutzen stated that was an option they are looking at. Commissioner Kaiser stated that he will be taking the organic matter out of the county and we would not benefit from the soil amendments. Mr. Cook stated that the organic matter would already be leaving Umatilla County, but instead they are keeping it in Umatilla County to create that value added product, and then shipping it to the current facility with hopes to bring a new facility to the area in the near future. He said they originally looked at collocating both facilities but trying to find a facility in the area with ready access to a gas line that is not a main gas line proved to be very problematic. If they had collocated the 2 locations they would not have been required to obtain a CUP because the operation would have been tied into a farm use. Commissioner Kaiser stated that he is concerned about the ponds being sealed properly to avoid contamination. Mr. Knutzen stated that is a questions best answered by the Civil Engineer, Michael Melder.

APPLICANT TESTIMONY

Mike Melder, HDJ, 5 North Colville Street, Suite 200, Walla Walla, Washington. Mr. Melder stated that, as Civil Engineer for the project they are assisting Mr. Knutzen with onsite run off. They will use a pond

to collect lichen, a clean water pond and a storm water runoff pond, for a total of 3 ponds on site. Each pond will be lined with a High Density Polyethylene (HDPE) or Polyvinyl Chloride (PVC) liner. They plan to have two layers of manmade materials with a sand cushion in between. They will use leak detection to look for moisture between the two layers. The goal is a zero-infiltration site which means that any water that falls on to the industrial portion of the site is captured and reused for compost. They take evaporation into account and there is a water budget calculation they use to manage that. Commissioner Kaiser asked if they have tested the nitrate levels in the water that is already on the site. He pointed out that it was used as a feed lot in the past. Mr. Cook stated that nitrate testing will be required in the process they will be going through with DEQ. The process is stringent and they require zero impact to groundwater quality. Mrs. Mabbott stated that a representative of DEQ is present at the hearing if the Commissioners have additional questions about their permitting process. Commissioner Danforth asked what the hours of operation will be. Mr. Knutzen stated that they have a day time operation starting as early as 5am and could be done as soon as 3pm. They basically operate 6am to 6pm, as the compost must be left alone overnight.

APPLICANT TESTIMONY

Brandon King, Property Owner, 50561 Wildhorse Road, Athena, Oregon. Mr. King stated that his grandfather started the business in the 1960's and they have had a longstanding relationship with the Ostrom's and their family for the last 18 years. His family's company has hauled straw from all around the area to the Ostrom's facility and he has been trying for years to get them to open a facility here. They currently spend a lot of money on freight hauling straw from this location, so it makes sense to have the process occur where the resource is. He believes the local farmers will benefit from the consistent need for straw. Ostrom's uses approximately 50% of the straw they produce in the area for their composting operations.

APPLICANT TESTIMONY

Susan Christiansen, Greater Eastern Oregon Development Corporation (GEODC), PO Box 1041, Pendleton, Oregon. Mrs. Christiansen stated that she is the Executive Director of the GEODC where they support economic development and job growth. Mrs. Christiansen is testifying in support of the CUP to allow Ostrom's to operate in the Athena/Adams area. She provided written comments to staff and shared her experience when she regulated composting operations in her previous capacity at DEQ. She stated that DEQ permitting regulations will address the concerns that most people have regarding odor and water. These 2 issues are addressed and require an engineer stamp of approval. Additionally, this is not the first composting operation by the applicant. Mrs. Christiansen has been working with Ostrom's over the last 9 months and her experience is that they fully understand what it takes to be a good neighbor. They will be providing jobs to the community so she encourages the PC to support and approve the application.

APPLICANT TESTIMONY

Jerry Baker, 410 N 4th Street, Athena, Oregon. Mr. Baker stated that he is a resident of both Athena and Umatilla County and he is in favor of the project. Mr. Baker serves as a Commissioner on the Port of

Umatilla and encourages economic development and family wage jobs, which he feels this project supports.

APPLICANT TESTIMONY

Travis Trumbull, 52754 Stephens Road, Milton Freewater, Oregon. Mr. Trumbull stated that he and his father own Quality Compost in Milton Freewater and when they heard Ostrom's was planning to open a composting facility in our county he was intrigued and wanted to learn more. After discussing the project with Mr. Knutzen he was impressed with his understanding. Mr. Trumbull is supportive of the economic benefit for the community and would like to encourage Ostrom's to bring their final phase of the process to Umatilla County as well, as he believes that would be great for us too.

Chair Randall closed the hearing for deliberation.

Chair Randall commended the applicant for their thorough explanation and presentation to help with the overall understanding of the request. Commissioner Danforth stated that the Umatilla County Planning Commission finds the application complies with the applicable standards of approval and made a motion to approve the Conditional Use Request #C-1283-17 and Land Division Request #LD-4N-1003-17 with the precedent condition for applicant to identify and submit a truck hauling route to County Planning and subsequent condition that truck traffic shall utilize the identified truck route as feasible. Commissioner Rhinhart seconded the motion. Motion passed with a vote of 8:0.

ADJOURNMENT:

Chair Randall adjourned the meeting at 9:42 p.m.

Respectfully submitted,

Tierney Dutcher
Administrative Assistant

(Minutes adopted by the Planning Commission on _____)

UMATILLA COUNTY PLANNING COMMISSION

April 27, 2017

NEW HEARING:

COMPREHENSIVE PLAN TEXT AMENDMENT, #T-17-073,
COLUMBIA DEVELOPMENT AUTHORITY, APPLICANT,
AMSTAD FARMS LAND COMPANY, LLC., PROPERTY OWNER.

The applicant requests an amendment of the Comprehensive Plan Text and approval of an exception to Statewide Planning Goal 11 (Public Facilities and Services). The exception would allow for a sewer line extension from the City of Umatilla to the Umatilla Army Depot (Depot). The proposed sewer line would run south from the City of Umatilla within the public right of way of Powerline Road, then east across private lands owned by Amstad Farms, before reaching the Depot.

The criteria of approval are found in Oregon Administrative Rules (OAR) Chapter 660, Divisions 4 and 11 and the Umatilla County Development Code Sections 152.750 through 152.755.

**COLUMBIA DEVELOPMENT AUTHORITY
EXCEPTION TO STATEWIDE PLANNING GOAL 11
COMPREHENSIVE PLAN TEXT AMENDMENT #T-17-073
APRIL 27, 2017, PLANNING COMMISSION HEARING
PACKET CONTENT LIST**

1. Staff Memo, pages 1 - 2
2. Draft Findings, pages 3 - 12
3. Public Notice Map, page 13
4. Exhibit #A, Depot Goal 11 Exception Memorandum, pages 15 - 27
5. Exhibit #B, March 15, 2017 Letter from Russell Pelleberg, City of Umatilla, page 14
6. Exhibit #C, Umatilla County Ordinance #2014-06, pages 28 - 64
7. Exhibit #D, Morrow County Ordinance #ORD-2014-4, pages 65 - 88

Umatilla County

Department of Land Use Planning



DIRECTOR
TAMRA
MABBOTT

LAND USE
PLANNING,
ZONING AND
PERMITTING

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

MEMO

TO: Umatilla County Planning Commission
FROM: Brandon Seitz, Assistant Planner
DATE: April 19, 2017
RE: Columbia Development Authority Plan Amendment

The applicant, the Columbia Development Authority (CDA), is proposing to amend the Umatilla County Comprehensive Plan to justify a reasons exception to Statewide Planning Goal 11 (Public Facilities and Services). The exception would allow a sewer line extension from the City of Umatilla's (City) Urban Growth Boundary (UGB) to the Umatilla Army Depot (Depot). An exception is necessary because Goal 11 generally does not allow the extension of sewer lines to serve lands outside a UGB. The exception is for the portion of the sewer line that is outside the City's UGB and outside the Depot boundary.

Background Information

The Depot is currently under Federal ownership and encompasses approximately 17,000 acres in Umatilla and Morrow Counties. Due to its Federal ownership the Depot is not subject to Oregon's land use planning laws and was not zoned by either County. Starting in 2013 both counties worked together to develop a consolidated reuse/land use plan for the entire Depot site. The future uses of the site focused on three goals military reuse, environmental preservation and economic development. Both Counties adopted comprehensive plan and zoning designations for the Depot including exceptions to Statewide Planning Goals 3 (Agricultural), 11 (Public Facilities and Services) and 14 (Urbanization). In July of 2014 Umatilla County adopted the findings and recommendations in the Army Depot Plan District (Ordinance 2014-06).

The CDA is now responsible for overseeing the transition of the Depot property from federal to local ownership and planning development activities related to future use of the Depot. The transfer to local ownership is expected to occur by the end of 2017.

Goal 11

The applicant proposes two justifications for approval of a reasons exception to Statewide Planning Goal 11. OAR 660-011-0060(9)(b) allows for the extension of an existing sewer system that will serve land that, by operation of federal law, is not subject to Statewide Planning Goal 11. The Depot is currently under federal ownership and not subject to Goal 11. In addition, as addressed in detail in the draft findings given the Land Use Board of Appeal decision in Debby Todd v. City of Florence providing a sewer connection from within a UGB to a nearby area outside the UGB but also authorized for urban sewer service as a result of prior goal exceptions is an appropriate reason to justify and exception to Goal 11. The Depot has previously been approved for a Goal 11 exception to allow urban sewer services.

Conclusion

The Planning Commission can recommend approval or denial of the CDA's Text Amendment to the County Comprehensive Plan to justify an exception to Statewide Planning Goal 11 to the Board of County Commissioners.

**UMATILLA COUNTY BOARD OF COMMISSIONERS
DRAFT FINDINGS AND CONCLUSIONS
EXCEPTION TO STATEWIDE PLANNING GOAL 11
COMPREHENSIVE PLAN TEXT AMENDMENT #T-17-073**

1. APPLICANT: Columbia Development Authority, P.O. Box 200, Boardman, OR 97818.

2. OWNERS: The proposed Goal 11 exception would allow extension of the City of Umatilla's (City) sewer line to the Umatilla Army Depot (Depot). The City would own and operate the sewer line. The sewer line would be located within the County right-of-way for Powerline Road and would cross private lands owned by Amstad Farms Land Company, LLC, before reaching the Depot.

Amstad Farms Land Company, LLC, 16300 SW 192nd Ave, Sherwood, OR 97140.

3. REQUEST: The applicant is proposing to amend the Umatilla County Comprehensive Plan to adopt a reasons exception to Statewide Planning Goal 11 (Public Facilities and Services). The exception would allow a sewer line extension from the City to the Depot. An exception to Goal 11 is necessary because Goal 11 generally does not allow the extension of sewer lines to serve land outside an Urban Growth Boundary (UGB). The exception is for the portion of the sewer line outside the City's UGB and outside the Depot boundary. An exception to Goal 11 has already been approved for the Depot. (Note: The Depot includes lands within Umatilla and Morrow Counties. The Counties have both adopted exceptions to Statewide Planning Goals 3 [Agricultural], 11 [Public Facilities and Services] and 14 [Urbanization] for the Depot.)

4. LOCATION: The proposed sewer line would start at approximately the intersection of Dark Canyon Avenue and Powerline Road within the City's UGB and run south approximately 9,451 feet within the right-of-way of Powerline Road. The line would then turn west across private land owned by Amstad Farms before reaching the Depot. The line would cross Tax Lots 6701 and 6603 on Assessors Map 5N28C and Tax Lot 601 on Assessors Map 5N27. (See attached map)

5. COMP PLAN: The sewer line would cross lands designated North/South County Agriculture Region by the Umatilla County Comprehensive Plan.

6. ZONING: The sewer line would cross lands zoned Exclusive Farm Use (EFU).

7. NOTICES SENT: Notice was sent to the Department of Land Conservation and Development (DLCD) on March 22, 2017. Notice was mailed to neighboring land owners and affected agencies on April 7, 2017. Notice was printed in the April 15, 2017 publication of the East Oregonian.

8. HEARING DATE: A public hearing is scheduled before the Umatilla County Planning Commission on **April 27, 2017 at 6:30 PM** at the Justice Center Media Room, 4700 NW Pioneer Place, Pendleton. A subsequent public hearing before the Umatilla County Board of Commissioners is scheduled for **Wednesday, May 24, 2017 at 1:30 PM** in Room 130 of the Umatilla County Courthouse, 216 SE Fourth Street, Pendleton.

9. AGENCIES: Department of Transportation, DLCD, Oregon National Guard, Base Realignment and Closure Commission of Umatilla Chemical Depot, City of Hermiston, City of Umatilla, Umatilla County Assessors, Umatilla County Public Works, Umatilla County Environmental Health, Umatilla County Fire District #1, Westland Irrigation District, West Extension Irrigation District and Morrow County Planning Department.

10. COMMENTS: None to date.

The standards of approval are contained in Oregon Administrative Rules (OAR) Chapter 660, Divisions 4 and 11 and the Umatilla County Development Code Section 152.750 through 152.755. The standards of approval are provided in underlined text and the responses are indicated in standard text.

OREGON ADMINISTRATIVE RULES

OAR 660-004-0020

Goal 2, Part II(c), Exception Requirements

(1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception. As provided in OAR 660-004-0000(1), rules in other divisions may also apply.

Umatilla County Findings: The applicant is proposing a reasons exception to allow the extension of a public facility (sewer line) outside of the City's UGB. Justification would be set forth in the comprehensive plan (Comprehensive Plan Text Amendment #T-17-073) as an exception if approved.

(2) The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:

(a) "Reasons justify why the state policy embodied in the applicable goals should not apply." The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land;

(b) "Areas that do not require a new exception cannot reasonably accommodate the use". The exception must meet the following requirements:

- (A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that do not require a new exception. The area for which the exception is taken shall be identified;
- (B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:
- (i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?
 - (ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?
 - (iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?
 - (iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?
- (C) The “alternative areas” standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.

Applicant Response: Under the current federal ownership, the land is not subject to Goal 11 (because federally-owned property is not subject to Oregon’s statewide planning goals), and thus is clearly covered under OAR 660-011-0060(9)(b). However, the base is expected to transfer out of federal ownership within the year.

Because an exception to Goal 11 has already been approved for the Depot that would allow on-site development of urban-scale sewer facilities, the proposed sewer pipe will still be connecting two areas where sewer facilities are permitted under Goal 11, as allowed under OAR 660-011-0060(9)(b) and OAR 660-011-0060(3)(B). In *Debby Todd v. City of Florence*, LUBA held that: The policy underlying Goal 11 seems little offended by allowing a single sewer system to serve two adjoining areas that each have the legal right and practical ability to develop urban uses and urban-level sewer facilities, notwithstanding that one area is within a UGB and the other outside the UGB.¹

Given the *Debby Todd v. City of Florence* decision, providing a sewer connection from within a UGB to a nearby area outside the UGB but also authorized for urban sewer service as a result of prior goal exceptions is an appropriate reason to justify an exception to Goal 11 for the extension

¹ LUBA No. 2006-068, page 21.

of sewer service to the Depot.

The LUBA decision in *Debby Todd v. City of Florence* also suggests that it is not necessary to demonstrate that it is unreasonable to provide separate sewer treatment facilities for adjacent areas, each of which is authorized for urban sewer service, rather than to serve them with a single system. However, the rationale and justification for extending sewer from the City of Umatilla rather than treating sewer on-site at the Depot is given below.

As described in the background, the Depot has an existing localized sewage treatment system that was used by the military facilities on the site. An Infrastructure Assessment done as part of creating a redevelopment plan for the Depot included the following key findings:

The Depot facility sanitary waste water system is a localized system. It consists of a combination of localized [Imhoff] septic tanks and drain fields. ... The system is capable of handling the current exiting [sic] load but may not be capable of handling significant changes in capacity if needed by reuse alternatives.²

The system seems to be adequate at the current loading density, ... but would very likely not tolerate a significant influx of industrial components to the waste stream.³

Renovation and expansion of the current sanitary waste systems, other than required maintenance and permitting work, would not be considered economically or functionally feasible due to the age of the Imhoff systems. Other local septic systems on the facility should likely not be expanded beyond their current design loading in order to maintain compliance with standards in place when they were installed.⁴

Should the population of the facility significantly increase or industrial or process systems installed at the facility, a new sanitary sewer treatment facility, with new transfer piping and infrastructure would be recommended. A new system could be sized to handle all Umatilla depot loading, as well as to handle potential expansion from other sources. This would be the most flexible and most costly option, but would provide a sanitary waste system for the long term, instead of a limited use of the present system.⁵

In addition to the infeasibility of renovating or expanding the existing on-site treatment system to serve industrial uses, there are groundwater concerns in the area. The Army Depot property, including the industrial lands proposed to be served by the municipal wastewater line, is located within the Lower Umatilla Basin Groundwater Management Area (LUBGWMA). The LUBGWMA was designated by the Oregon Department of Environmental Quality (DEQ) in 1990 due to the high nitrates in the groundwater. Many areas within the LUBGWMA exceed federal drinking water standards for nitrate. The comprehensive report leading up to the GWMA designation identified five sources of contamination. One source was, and continues to be, nitrates leached from underground septic systems. This is noteworthy in this case because the proposed municipal wastewater line would be the only alternative to septic disposal for future development of the industrial lands. In other words, if the municipal line does not dispose of wastewater, future development would be served by numerous on-site septic systems. For some

² U.S. Army Umatilla Chemical Depot Base Redevelopment Plan, Umatilla Army Depot Reuse Authority, August 2010. Section A, Part II: Section 2.3, page 7.

³ Ibid, page 24.

⁴ Ibid, page 25.

⁵ Ibid, page 25.

20 years, a local committee, together with the DEQ staff, have worked to implement an Action Plan designed to remediate the high levels of nitrates. The progress is very slow. Steps are small and incremental. Allowing the Army Depot lands to be served by a municipal system and therefore avoiding further groundwater contamination from additional, new septic system contamination, will go a long way to foster the goal of minimizing nitrate contribution to the groundwater in the area.

Given the difficulties of upgrading the existing on-site facilities to serve the planned (and acknowledged) industrial uses on the property, the groundwater concerns in the area, and the costs associated with constructing an entirely new sewer treatment facility, the CDA approached the City of Umatilla to determine whether it would be feasible to extend City sewer service to the site. The City has indicated that it has adequate capacity to serve the planned land uses at the Depot:⁶ [Exhibit B]

The City has reviewed the potential industrial area and zoning within the CDA and flow projections developed for Camp Umatilla by the Oregon National Guard undergoing Goal 11 exception. The City's key sewer facilities have the ability and capacity to accept wastewater from the CDA and from the Oregon National Guard (Camp Umatilla).

Further, as a public entity, the City has the managerial and technical capacity to manage the wastewater generated from this area in accordance with State rules and regulations.

The City identified a suitable connection point roughly 2.6 miles away from the Depot (as the crow flies), and several potential alignments for a new sewer line.

The land between the Umatilla City limits and the Depot is zoned EFU. There is no reasonable route between the two that would not require a new exception.

Umatilla County Findings: The Depot is currently under federal ownership and not subject to the Statewide Planning Goals. Therefore, the proposed sewer line extension qualifies as an extension of an existing sewer system that would serve lands that, by operation of federal law, is not subject to the Statewide Planning Goals under OAR 660-011-0060(9)(b). In addition, an exception to Goal 11 has already be approved for the Depot that would allow on-site development of urban-scale sewer facilities, the proposed sewer line would connect two areas where sewer facilities are permitted under Goal 11. As addressed by the applicant given the *Debby Todd v. City of Florence* decision, providing a sewer connection from within a UGB to a nearby area outside the UGB but also authorized for urban sewer service as a result of prior goal exceptions is an appropriate reason to justify and exception to Goal 11 for the extension of sewer service to the Depot.

The proposed sewer line would extend from the City's UGB to the Depot. There is no route between the City and Depot that would not cross lands requiring a new exception. The standards of subsection (b) only apply to the proposed sewer line extension outside of the City's UGB and Depot boundary. The uses that would be served by the proposed sewer line extension have been considered and approved as exceptions for both Umatilla and Morrow Counties and are not part of this exception (Umatilla County Ordinance #2014-06 [Exhibit C] & Morrow County

⁶ Letter from Russell Pelleberg, City of Umatilla City Manager, dated March 15, 2017.

Ordinance #ORD-2014-4 [Exhibit D]). In addition, a portion of the Depot (Camp Umatilla) will be retained by the National Guard Bureau and will remain in federal ownership. Therefore, only those uses permitted in the Umatilla County and/or Morrow County Comprehensive Plan Goal exceptions (Exhibits C and D) and lands remaining in federal ownership (Camp Umatilla) shall be allowed to connect to the City's sewer system.

- (c) "The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site." The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;
- (d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

Applicant Response: Findings regarding the proposed uses to be served by the sewer line extension were previously adopted and acknowledged in Umatilla County's Comprehensive Plan, Chapter 18, and are incorporated by this reference. The following findings address the sewer line extension itself.

Several alternative alignments were considered in selecting proposed alignment. The proposed alignment and alternative alignments considered are shown on Figure 4 [Exhibit A]. The exception applies to the sewer pipe alignment shown in green as "Final Route" on Figure 4 [Exhibit A]. The length of the alignment that extends outside the City of Umatilla UGB to the Depot property is 17,146 feet, as shown on Figure 4 [Exhibit A].

The "I-84 Route" was dismissed because it is significantly longer than the other alternatives, making it less efficient. The "Radar Road" and "Potato Lane" routes were dismissed because they have greater impacts to active farm operations on private property than the preferred

alignment. The proposed alignment remains within or abutting the City of Umatilla UGB for as long as possible before crossing into EFU zoning. It was selected as the least impactful to farm operations while maintaining an efficient route. Of the portion of the alignment outside the City of Umatilla UGB, 7,856 linear feet are within the public right of way of Powerline Road. The portion that crosses private land (roughly 9,290 linear feet) avoids irrigated areas and aligns with an existing farm vehicle pathway between fields. This portion will be contained within an easement up to 40 feet in width.

In negotiating the details of the easement and sewer line construction with the property owner, the City of Umatilla is committed to include measures to further minimize disruptions to farm operations, such as timing construction to avoid disturbing crops, planting, and harvest activities; providing on-going access rights for the property owner to ensure the ability to continue existing farm uses within the easement; and constructing the line underground at a depth that will avoid impact to farming operations.

This demonstrates that the proposed facility will be compatible with the adjacent farm uses.

Environmental consequences: The proposed alignment does not affect any significant natural resources. The environmental consequences of the sewer extension are anticipated to be minimal. It also avoids a small drainageway (visible in the aerial photograph in Figure 4 [Exhibit A]) that would be crossed by some of the alternatives considered. There are no known significant Goal 5 resources along the proposed route.

Social consequences: The extension of the sewer line is not anticipated to have any social impacts in any of the alternatives considered.

Economic consequences: The cost of the sewer extension and any needed improvements to the existing system to accommodate the additional wastewater flows will be funded by the CDA, so there will not be an economic impact to the City of Umatilla. Keeping costs low will facilitate development at the Depot, which will have a positive economic impact on the broader area, as discussed in the findings for the goal exception for the Depot itself. The property owner whose land will be the subject of the easement will be compensated for the value of the easement, ensuring a neutral or positive economic impact to the property owner.

Energy consequences: By minimizing the length of the pipe relative to other alignments, the proposed alignment minimizes the resources and energy required for installation of the sewer line.

This demonstrates that the proposed alignment is does not have significantly more adverse impacts than other potential alignments.

Umatilla County Findings: An exception regarding the uses allowed at the Depot have been considered and approved (Exhibits C & D). As addressed by the applicant alternative alignments were considered and the proposed final alignment was selected as it is the most efficient route that provides minimal impacts to active farming operations where the sewer line would cross private lands. The sewer line would avoid irrigated areas as much as possible and the City is committed to include measure to minimize disruptions to farm operations. By timing

construction to avoid disturbing crops, planting and harvest activities; providing on-going access rights for the property owner to ensure the ability to continue existing farm uses within the easement; and constructing the line underground at a depth that will avoid impacts to farming operations the proposed facility would have minimal impacts to the farming operations. Therefore, the proposed sewer line would be compatible with the adjacent farm uses and does not have significantly more adverse impacts than other potential alignments.

OAR 660-004-0022

Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

An exception under Goal 2, Part II(c) may be taken for any use not allowed by the applicable goal(s) or for a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use. The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule. Reasons that may allow an exception to Goal 11 to provide sewer service to rural lands are described in OAR 660-011-0060. Reasons that may allow transportation facilities and improvements that do not meet the requirements of OAR 660-012-0065 are provided in OAR 660-012-0070. Reasons that rural lands are irrevocably committed to urban levels of development are provided in OAR 660-014-0030. Reasons that may justify the establishment of new urban development on undeveloped rural land are provided in OAR 660-014-0040.

- (1) For uses not specifically provided for in this division, or in OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

Umatilla County Findings: The proposed exception is for a use specifically provided for in OAR-66-011-0060 see below.

OAR 660-011-0060

Sewer Service to Rural Lands

- (2) Except as provided in sections (3), (4), (8), and (9) of this rule, and consistent with Goal 11, a local government shall not allow:
 - (a) The establishment of new sewer systems outside urban growth boundaries or unincorporated community boundaries;
 - (b) The extension of sewer lines from within urban growth boundaries or unincorporated community boundaries in order to serve uses on land outside those boundaries;
 - (c) The extension of sewer systems that currently serve land outside urban growth boundaries and unincorporated community boundaries in order to serve uses that are outside such boundaries and are not served by the system on July 28, 1998.
- (9) A local government may allow the establishment of new sewer systems or the extension of sewer lines not otherwise provided for in section (4) of this rule, or allow a use to connect to an existing sewer line not otherwise provided for in section (8) of this rule, provided the standards for an exception to Goal 11 have been met, and provided the local government adopts land use regulations that prohibit the sewer system from serving any uses or areas other than those justified in the exception. Appropriate reasons and facts for an exception to Goal 11 include but are not limited to the following:
 - (a) The new system, or extension of an existing system, is necessary to avoid an imminent and significant public health hazard that would otherwise result if the sewer service is not

provided; and, there is no practicable alternative to the sewer system in order to avoid the imminent public health hazard, or

- (b) The extension of an existing sewer system will serve land that, by operation of federal law, is not subject to statewide planning Goal 11 and, if necessary, Goal 14.

Umatilla County Findings: The proposed exception would allow for the extension of a sewer line not otherwise provided for in OAR-660-011-0060. However, as provided for in this rule an appropriate reason for an exception to Goal 11 is to extend an existing sewer system to serve lands that, by operation of federal law, is not subject to Statewide Planning Goal 11. The Depot is currently under federal ownership and not subject to the Statewide Planning Goals. In addition, an exception to Goals 11 and 14 have already be approved for the Depot that would allow on-site development of urban-scale sewer facilities. The proposed sewer line would connect two areas where sewer facilities are permitted under Goal 11. As addressed by the applicant in response to OAR 660-004-0020(1)-(2), given the Debby Todd v. City of Florence decision, providing a sewer connection from within a UGB to a nearby area outside the UGB but also authorized for urban sewer service as a result of prior goal exceptions is an appropriate reason to justify and exception to Goal 11 for the extension of sewer service to the Depot.

As addressed above exceptions for both Umatilla and Morrow Counties have been approved. In addition, a portion of the Depot will be retained by the National Guard Bureau and will remain in federal ownership. Therefore, only those uses permitted in the Umatilla County and/or Morrow County Comprehensive Plan Goal exceptions (Exhibits C and D) and lands remaining under federal ownership at the Depot shall be allowed to connect to the City's sewer system.

OPTIONS FOR PLANNING COMMISSION MOTIONS

A. Motion to Recommend Denial Based on Evidence in the Record

I, Commissioner _____, make a motion to recommend denial of the Columbia Development Authority, exception to Statewide Planning Goal 11 (Text Amendment #T-17-073) to the Board of County Commissioners, based on the foregoing Findings of Fact and Conclusions of Law.

B. Motion to Recommend Approval with Adoption of Findings or with Additional Findings

I, Commissioner _____, make a motion to recommend approval of the Columbia Development Authority, exception to Statewide Planning Goal 11 (Text Amendment #T-17-073) to the Board of County Commissioners, based on the foregoing Findings of Fact and Conclusions of Law.

BOARD OF COMMISSIONERS DECISION OPTIONS

A. Denial

Based upon the foregoing Findings of Fact and Conclusions of Law, where it has not been demonstrated the request is not in compliance with the County Comprehensive Plan and the State Administrative Rules for an exception to Goal 11, the applicant's request is denied.

B. Approval

Based upon the foregoing Findings of Fact and Conclusions of Law, where it has been demonstrated the request is in compliance with the County Comprehensive Plan and the State Administrative Rules for an exception to Goal 11, the applicant's request is approved.

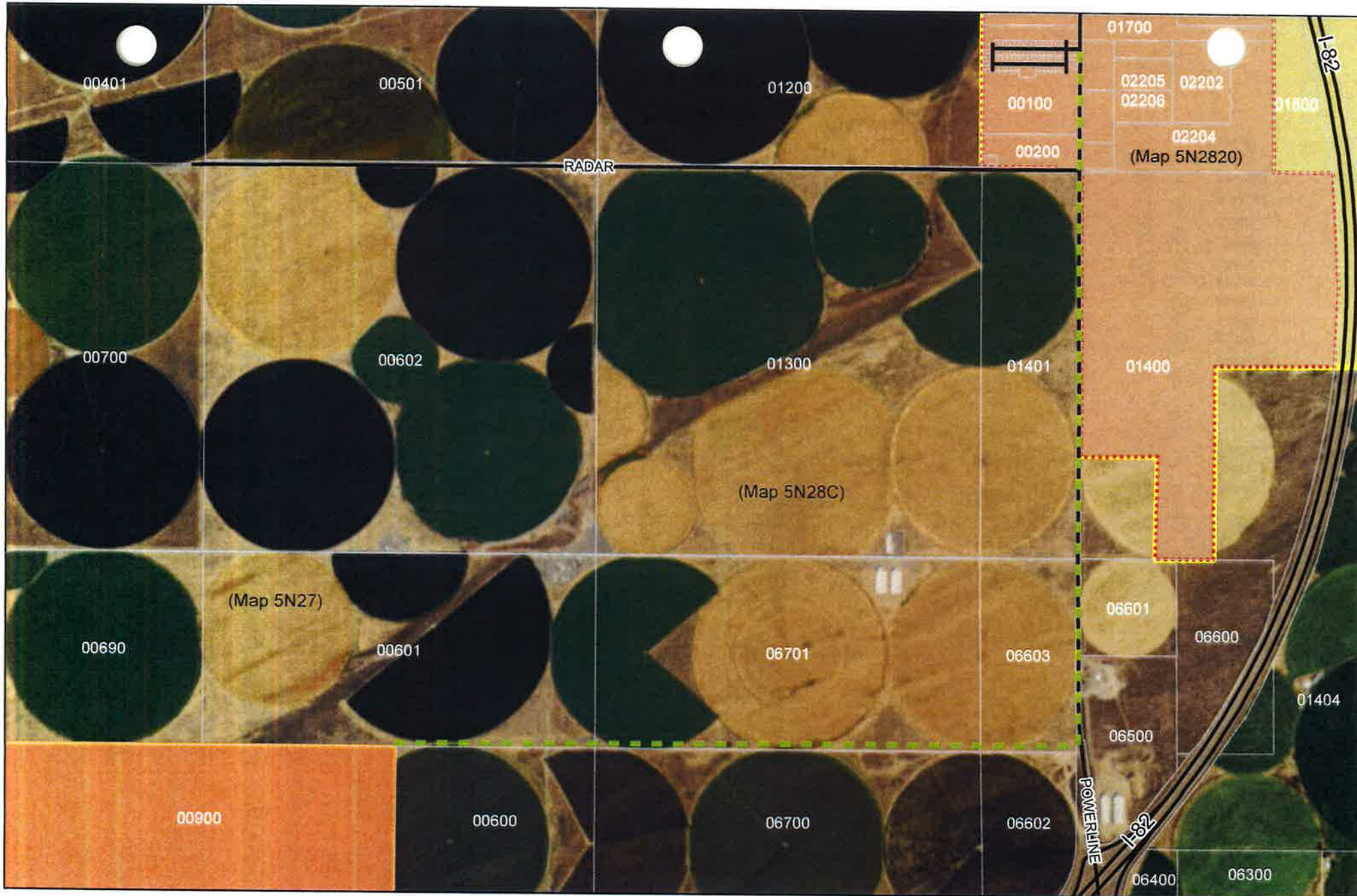
DATED this _____ day of _____, 20____

UMATILLA COUNTY BOARD OF COMMISSIONERS

W. Lawrence Givens, *Commissioner*

William J. Elfering, *Commissioner*

George L. Murdock, *Commissioner*



TEXT AMENDMENT #T-17-073
 COLUMBIA DEVELOPMENT AUTHORITY, APPLICANT
 AMSTAD FARMS LAND COMPANY, LLC., PROPERTY OWNER

- Legend**
- Proposed Sewer Extension
 - Roads
 - Property Boundary
 - Umatilla Army Depot
 - Umatilla City Limits
 - Umatilla Urban Growth Boundary



Miles
 0 0.25 0.5 1

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Map data should be used for reference purposes only. Not survey grade or for legal use. Created by Brandon Seitz, Umatilla County Planning Dept.



City of Umatilla

700 6th Street, PO Box 130, Umatilla, OR 97882
City Hall (541) 922-3226 Fax (541) 922-5758

March 15, 2017

To: Frank Angelo
Angelo Planning Group
921 SW Washington Street, Suite 468
Portland, OR 97205

Mr. Angelo,

The City has reviewed the potential industrial area and zoning within the CDA and flow projections developed for Camp Umatilla by the Oregon National Guard undergoing Goal 11 Exception. The City's key sewer facilities have the ability and capacity to accept wastewater from the CDA and from the Oregon National Guard (Camp Umatilla).

Further, as a public entity, the City has the managerial and technical capacity to manage the wastewater generated from this area in accordance with State rules and regulations.

Please let me know if you have any further questions.

Sincerely,

A handwritten signature in blue ink that reads 'Russell W. Pelleberg'.

Russell W. Pelleberg
City Manager
City of Umatilla, OR 97882
541-922-3226



MEMORANDUM

Goal 11 Exception and Findings
Umatilla Army Depot Sewer Line Extension

DATE March 20, 2017
TO Greg Smith, Columbia Development Authority
 Tamra Mabbott, Umatilla County
 Russell Pelleberg, City of Umatilla
FROM Becky Hewitt and Frank Angelo, Angelo Planning Group

INTRODUCTION

The purpose of this memorandum is to provide recommended language and findings for an exception to Oregon’s Statewide Planning Goal 11 for a sewer line extension from the City of Umatilla to the Umatilla Army Depot (Depot). The sewer line is needed in order to more efficiently serve planned land uses on the Depot, which were the subject of a prior Goal Exception to allow redevelopment with a mix of industrial and military uses after the Depot transfers from federal ownership to the Columbia Development Authority (CDA, formerly known as the Umatilla Army Depot Redevelopment Authority or UMADRA). An exception to Goal 11 is needed because Goal 11 generally does not allow the extension of sewer lines to serve land outside an Urban Growth Boundary (UGB).

The goal exception and findings are intended to be adopted into Chapter 18 of the Umatilla County Comprehensive Plan and into Chapter 11 of the City of Umatilla Comprehensive Plan. The City’s action is needed because the sewer facility that is the subject of the Goal Exception will belong to the City. The County’s action is needed because the land through which the sewer line will pass, between the City of Umatilla UGB and the Depot, is County resource land. Furthermore, the prior Goal exception allowing the redevelopment of the Depot was adopted by Umatilla County.

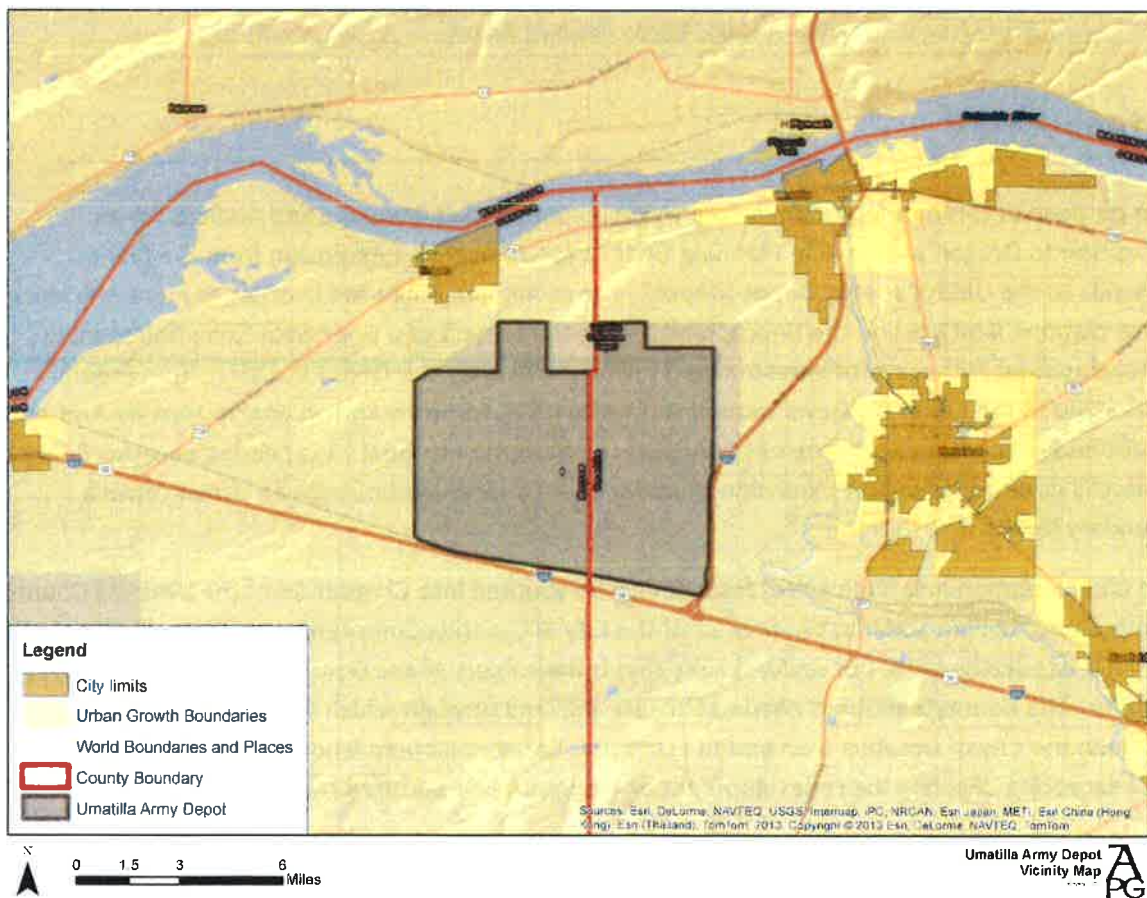
The sections that follow have been drafted so they can be incorporated directly into the City and County comprehensive plans if desired, in order to meet the requirement that Goal Exceptions be adopted into the local comprehensive plan (for a Goal Exception, the findings are generally incorporated into the plan itself). As a result, they repeat some of the introductory text above, in order to provide context to the proposed Goal exception.

BACKGROUND

Summary of Umatilla Army Depot Planning

The Umatilla Army Depot (Depot) is a unique facility and land use in the State of Oregon. Established more than seventy years ago by the U.S. Army, the Depot site encompasses approximately 17,000 acres spanning Morrow and Umatilla Counties (see Figure 1). There are 1,411 Army owned structures that total approximately 3.5 million square feet on the Depot site.¹ Due to its Federal ownership, the Depot was not zoned by Morrow and Umatilla Counties and was not subject to Oregon's land use planning program in the 1980's, at the time other lands in Oregon were so acknowledged by the Land Conservation and Development Commission.

Figure 1: Umatilla Army Depot Vicinity Map



On May 14, 2013 the Umatilla Army Depot Local Reuse Authority (LRA) endorsed an economic development and land use strategy for future industrial and employment uses at the Umatilla Army Depot in anticipation that the property would transition away from military operations. This action acknowledged the unique attributes of the Depot site within the context of the regional economy and

¹ UMADRA Redevelopment Plan, Part I: Redevelopment and Implementation Strategy, July 29, 2010.

opportunities for future development. This action also authorized the next steps necessary to implement zoning on the portions of the site identified for industrial development.

The LRA action represented the culmination of more than twenty years of planning activity to transition the Umatilla Army Depot away from military operations towards a more comprehensive use of the property. Planning for the Depot has consistently emphasized three overarching goals for future use of the site:

- Military Reuse (accommodating the needs and plans of the Oregon National Guard)
- Environmental Preservation (with a special emphasis on the shrub-steppe habitat)
- Economic Development (job creation)

Both Morrow County and Umatilla County worked together to develop a consolidated reuse / land use plan for the entire Depot site. Land use recommendations and findings were developed in a single, consolidated report covering both counties. Both counties then adopted ordinances to implement the plan and zoning designations for the portions of the Depot site under their respective jurisdiction. The adoption included exceptions to Statewide Planning Goals 11 and 14, comprehensive plan and zoning designations for the Depot property and amendments to zoning ordinances.

Figure 2 illustrates the zoning designations adopted with the Army Depot Plan District as part of the Morrow and Umatilla County Comprehensive Plans. Umatilla County adopted the Army Depot Plan District findings and recommendations in July, 2014 (Ordinance 2014-06).

Figure 2: Umatilla Army Depot Plan District - Adopted Zoning



The Umatilla Army Depot Local Reuse Authority has subsequently transitioned to the Columbia Development Authority (CDA). The CDA is now responsible for overseeing the transition of the Depot property from federal to local ownership and planning and development activities related to future use of the Depot property. The transition of Depot property from federal to local ownership is expected to occur by the end of 2017.

Sewer Service to the Army Depot Property

It's within this context that the CDA is looking to ready the Depot property for future development opportunities in-line with the land use direction adopted locally and acknowledged by the State of Oregon in the Army Depot Plan. One of the steps needed to advance the planning for future uses on the Depot property is the provision of sanitary sewer service to the site to serve the 760 to 1,075 future employees forecasted for the property in 2035².

The Depot has an existing localized sewage treatment system that was previously used by the military facilities on the site. That system is limited to the cantonment area of the site, where administrative and housing facilities were located – the portion of the site that will remain in military use under Oregon National Guard management. The system was not designed to handle industrial effluent, and it is not feasible to renovate and expand the existing system to serve that purpose.³ With existing sewer facilities from the City of Umatilla located 2.6 miles (as the crow flies) to the Depot site, and the ability of the City's sewer system to efficiently handle the projected wastewater flows from the Depot, providing sewer service to the Depot from the City of Umatilla represents an orderly and efficient arrangement of public facilities and services, consistent with Statewide Planning Goal 11.

GOAL 11 (PUBLIC FACILITIES) GOAL EXCEPTION JUSTIFICATION

Reasons for the Exception

Summary of Applicable Criteria

Although an exception to Goals 11 and 14 has already been adopted for the Depot itself, allowing urban public facilities and services on the Depot site, an exception to Statewide Planning Goal 11 is needed in order to allow the extension of sewer lines from the City of Umatilla Urban Growth Boundary (UGB) to the Depot.

OAR 660-011-0060(2) prohibits a local government from extending sewer lines to serve land outside a UGB except under limited circumstances, or when the standards for a Goal 11 exception can be met. The permissible reasons to extend service outside a UGB include, but are not limited to:

² Interchange Area Management Plan, I-84/ Army Depot Access Road, Technical Appendix, August 2014

³ U.S. Army Umatilla Chemical Depot Base Redevelopment Plan, Umatilla Army Depot Reuse Authority, August 2010. Section A, Part II: Section 2.3, pages 24-25.

- serving lands inside a nearby UGB or unincorporated community⁴; and
- serving “land that, by operation of federal law, is not subject to statewide planning Goal 11,”⁵ which includes federal land and tribal land.

The standards in OAR 660-004-0020(2) also get at the justification for the Goal exception:

(a) "Reasons justify why the state policy embodied in the applicable goals should not apply." The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land;

The key tests under OAR 660-004-0020(2)(b) are whether the use (or, in this case, the facility) can be reasonably accommodated in an area that does not require a new exception, and whether the proposed use can reasonably be accommodated without the provision of the proposed public facility or service.

The Land Use Board of Appeals (LUBA) opinion in *Debby Todd v. City of Florence* stated that:

Under both OAR 660-004-0022(1) and 660-011-0060(9), the city is free to identify reasons other than those set out in the rules that “justify why the state policy embodied in the applicable goals should not apply.” If the local government takes that approach, then the catch-all criteria at OAR 660-004-0022(1)(a)—(c) do not apply, and there is no requirement to evaluate the “proposed use or activity.”⁶

Thus, OAR 660-004-0022(1)(a)—(c) are not applicable here.

Findings

Under the current federal ownership, the land is not subject to Goal 11 (because federally-owned property is not subject to Oregon’s statewide planning goals), and thus is clearly covered under OAR 660-011-0060(9)(b). However, the base is expected to transfer out of federal ownership within the year.

Because an exception to Goal 11 has already been approved for the Depot that would allow on-site development of urban-scale sewer facilities, the proposed sewer pipe will still be connecting two areas where sewer facilities are permitted under Goal 11, as allowed under OAR 660-011-0060(9)(b) and OAR 660-011-0060(3)(B). In *Debby Todd v. City of Florence*, LUBA held that:

The policy underlying Goal 11 seems little offended by allowing a single sewer system to serve two adjoining areas that each have the legal right and practical ability to develop

⁴ OAR 660-011-0060(3)(B)

⁵ OAR 660-011-0060(9)(b)

⁶ LUBA No. 2006-068, page 17.

urban uses and urban-level sewer facilities, notwithstanding that one area is within a UGB and the other outside the UGB.⁷

Given the *Debby Todd v. City of Florence* decision, providing a sewer connection from within a UGB to a nearby area outside the UGB but also authorized for urban sewer service as a result of prior goal exceptions is an appropriate reason to justify an exception to Goal 11 for the extension of sewer service to the Depot.

The LUBA decision in *Debby Todd v. City of Florence* also suggests that it is not necessary to demonstrate that it is unreasonable to provide separate sewer treatment facilities for adjacent areas, each of which is authorized for urban sewer service, rather than to serve them with a single system. However, the rationale and justification for extending sewer from the City of Umatilla rather than treating sewer on-site at the Depot is given below.

As described in the background, the Depot has an existing localized sewage treatment system that was used by the military facilities on the site. An Infrastructure Assessment done as part of creating a redevelopment plan for the Depot included the following key findings:

The Depot facility sanitary waste water system is a localized system. It consists of a combination of localized [Imhoff] septic tanks and drain fields. ... The system is capable of handling the current exiting [sic] load but may not be capable of handling significant changes in capacity if needed by reuse alternatives.⁸

The system seems to be adequate at the current loading density, ... but would very likely not tolerate a significant influx of industrial components to the waste stream.⁹

Renovation and expansion of the current sanitary waste systems, other than required maintenance and permitting work, would not be considered economically or functionally feasible due to the age of the Imhoff systems. Other local septic systems on the facility should likely not be expanded beyond their current design loading in order to maintain compliance with standards in place when they were installed.¹⁰

Should the population of the facility significantly increase or industrial or process systems installed at the facility, a new sanitary sewer treatment facility, with new transfer piping and infrastructure would be recommended. A new system could be sized to handle all Umatilla depot loading, as well as to handle potential expansion from other sources. This would be the most flexible and most costly option, but would provide a sanitary waste system for the long term, instead of a limited use of the present system.¹¹

⁷ LUBA No. 2006-068, page 21.

⁸ U.S. Army Umatilla Chemical Depot Base Redevelopment Plan, Umatilla Army Depot Reuse Authority, August 2010. Section A, Part II: Section 2.3, page 7.

⁹ Ibid, page 24.

¹⁰ Ibid, page 25.

¹¹ Ibid, page 25.

In addition to the infeasibility of renovating or expanding the existing on-site treatment system to serve industrial uses, there are groundwater concerns in the area. The Army Depot property, including the industrial lands proposed to be served by the municipal wastewater line, is located within the Lower Umatilla Basin Groundwater Management Area (LUBGWMA). The LUBGWMA was designated by the Oregon Department of Environmental Quality (DEQ) in 1990 due to the high nitrates in the groundwater. Many areas within the LUBGWMA exceed federal drinking water standards for nitrate. The comprehensive report leading up to the GWMA designation identified five sources of contamination. One source was, and continues to be, nitrates leached from underground septic systems. This is noteworthy in this case because the proposed municipal wastewater line would be the only alternative to septic disposal for future development of the industrial lands. In other words, if the municipal line does not dispose of wastewater, future development would be served by numerous on-site septic systems. For some 20 years, a local committee, together with the DEQ staff, have worked to implement an Action Plan designed to remediate the high levels of nitrates. The progress is very slow. Steps are small and incremental. Allowing the Army Depot lands to be served by a municipal system and therefore avoiding further groundwater contamination from additional, new septic system contamination, will go a long way to foster the goal of minimizing nitrate contribution to the groundwater in the area.

Given the difficulties of upgrading the existing on-site facilities to serve the planned (and acknowledged) industrial uses on the property, the groundwater concerns in the area, and the costs associated with constructing an entirely new sewer treatment facility, the CDA approached the City of Umatilla to determine whether it would be feasible to extend City sewer service to the site. The City has indicated that it has adequate capacity to serve the planned land uses at the Depot:¹²

The City has reviewed the potential industrial area and zoning within the CDA and flow projections developed for Camp Umatilla by the Oregon National Guard undergoing Goal 11 exception. The City's key sewer facilities have the ability and capacity to accept wastewater from the CDA and from the Oregon National Guard (Camp Umatilla).

Further, as a public entity, the City has the managerial and technical capacity to manage the wastewater generated from this area in accordance with State rules and regulations.

The City identified a suitable connection point roughly 2.6 miles away from the Depot (as the crow flies), and several potential alignments for a new sewer line.

The land between the Umatilla City limits and the Depot is zoned EFU. There is no reasonable route between the two that would not require a new exception. (See Figure 3.)

¹² Letter from Russell Pelleberg, City of Umatilla City Manager, dated March 15, 2017.

Figure 3: Proposed Sewer Extension and Zoning

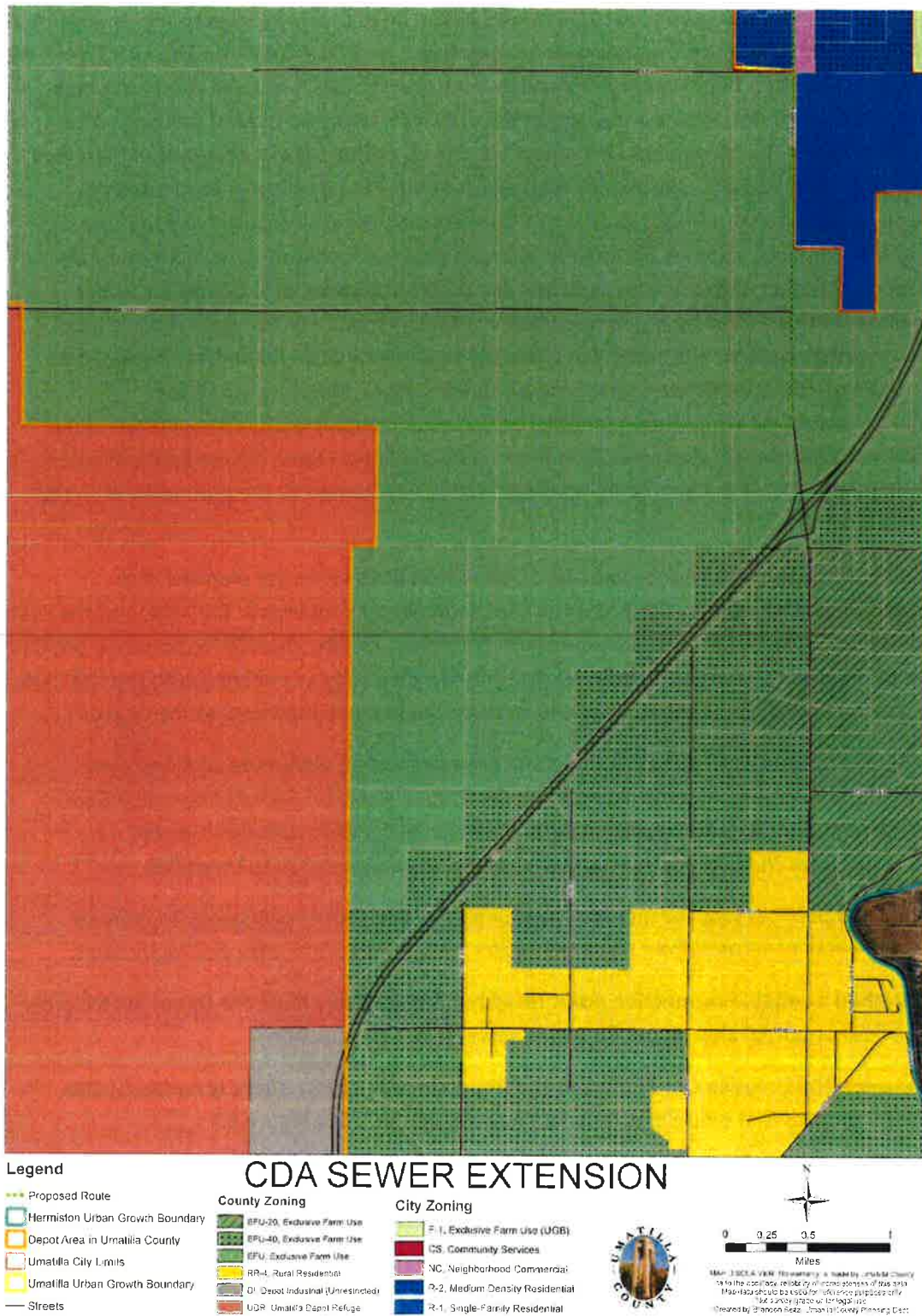


Figure 4: Proposed Sewer Alignment, Alternative Alignments Considered, and Lineal Feet of Pipe Outside the UGB by Alternative



CDA PROPOSED SEWER ALIGNMENTS

- Legend**
- Depot Area in Umatilla County
 - Umatilla City Limits
 - Umatilla Urban Growth Boundary
 - Streets
- Proposed Alignments**
- All Routes Inside UGB
 - Finel Route
 - I-82 Route
 - Radar Road Route
 - Potato Lane Route

Miles

0 0.25 0.5 1 1.5

N

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Map data should be used for reference purposes only. Not survey grade or for legal use.
 Created by Brandon Seitz, Umatilla County Planning Dept.

Alternatives Evaluation

Summary of Applicable Criteria

The exception requirements in OAR 660-004-0020 and OAR 660-004-0022 are written primarily for the justification of a new land use that is not allowed under the Goals, rather than for the extension of a public facility where no change to allowed land uses is proposed and where the facility itself will not enable a type or intensity of use that is not already permitted. LUBA found in *Debby Todd v. City of Florence* that:

(1) the criteria in OAR 660-004-0020(2)(b)—(d) apply to the proposed Goal 11 exception, (2) those criteria require some evaluation of the “proposed use,” (3) the “proposed use” and the public facilities established or extended pursuant to a Goal 11 exception are different things that must be separately evaluated, and (4) in the context of a Goal 11 exception to establish or extend public facilities to serve proposed development, such development must be evaluated under the criteria in OAR 660-004-0020(2)(b)—(d) as the “proposed use,” even if that use does not itself require a goal exception.¹³

The uses on the Depot site have already been evaluated under OAR 660-004-0020(2)(b)—(d) as part of the justification of the exceptions to Goal 11 and 14 adopted by Umatilla County in 2014. As no change to the uses is proposed as part of this goal exception, those findings remain valid and need not be repeated.

The *Debby Todd v. City of Florence* case does not explicitly state whether the portions of the rule that reference the “proposed use” (rather than a proposed facility or service) should also be applied to the proposed public facility for a proposal for a Goal 11 exception only that does not include a goal exception for uses. It implies that “proposed use” should be read literally as only referring to uses and not facilities. However, because the case is not clear on this point, we have provided that evaluation below for OAR 660-004-0020(2)(c)—(d). (OAR 660-004-0020(2)(b) is addressed in the previous section.)

OAR 660-004-0020(2)(c) requires demonstration that:

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

Many of the specific considerations listed in OAR 660-004-0020(2)(c) are not applicable to a goal exception for an underground pipe that will have little impact on the use of land at the surface level; however, the intent that the selected alternative not have impacts that are “significantly more adverse” than other locations that also require an exception is assumed to be relevant here.

¹³ LUBA No. 2006-068, page 12.

ORAR 660-004-0020(2)(d) requires that:

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

Findings

Findings regarding the proposed uses to be served by the sewer line extension were previously adopted and acknowledged in Umatilla County's Comprehensive Plan, Chapter 18, and are incorporated by this reference. The following findings address the sewer line extension itself.

Several alternative alignments were considered in selecting proposed alignment. The proposed alignment and alternative alignments considered are shown on Figure 4. The exception applies to the sewer pipe alignment shown in green as "Final Route" on Figure 4. The length of the alignment that extends outside the City of Umatilla UGB to the Depot property is 17,146 feet, as shown on Figure 4.

The "I-84 Route" was dismissed because it is significantly longer than the other alternatives, making it less efficient. The "Radar Road" and "Potato Lane" routes were dismissed because they have greater impacts to active farm operations on private property than the preferred alignment. The proposed alignment remains within or abutting the City of Umatilla UGB for as long as possible before crossing into EFU zoning. It was selected as the least impactful to farm operations while maintaining an efficient route. Of the portion of the alignment outside the City of Umatilla UGB, 7,856 linear feet are within the public right of way of Powerline Road. The portion that crosses private land (roughly 9,290 linear feet) avoids irrigated areas and aligns with an existing farm vehicle pathway between fields. This portion will be contained within an easement up to 40 feet in width.

In negotiating the details of the easement and sewer line construction with the property owner, the City of Umatilla is committed to include measures to further minimize disruptions to farm operations, such as timing construction to avoid disturbing crops, planting, and harvest activities; providing on-going access rights for the property owner to ensure the ability to continue existing farm uses within the easement; and constructing the line underground at a depth that will avoid impact to farming operations.

This demonstrates that the proposed facility will be compatible with the adjacent farm uses.

- **Environmental consequences:** The proposed alignment does not affect any significant natural resources. The environmental consequences of the sewer extension are anticipated to be minimal. It also avoids a small drainageway (visible in the aerial photograph in Figure

4) that would be crossed by some of the alternatives considered. There are no known significant Goal 5 resources along the proposed route.

- **Social consequences:** The extension of the sewer line is not anticipated to have any social impacts in any of the alternatives considered.
- **Economic consequences:** The cost of the sewer extension and any needed improvements to the existing system to accommodate the additional wastewater flows will be funded by the CDA, so there will not be an economic impact to the City of Umatilla. Keeping costs low will facilitate development at the Depot, which will have a positive economic impact on the broader area, as discussed in the findings for the goal exception for the Depot itself. The property owner whose land will be the subject of the easement will be compensated for the value of the easement, ensuring a neutral or positive economic impact to the property owner.
- **Energy consequences:** By minimizing the length of the pipe relative to other alignments, the proposed alignment minimizes the resources and energy required for installation of the sewer line.

This demonstrates that the proposed alignment is does not have significantly more adverse impacts than other potential alignments.

Limitation of Uses

Applicable Criteria

A key requirement under OAR 660-011-0060(9) is that “the local government adopts land use regulations that prohibit the sewer system from serving any uses or areas other than those justified in the exception.”

OAR 660-004-0018(4) includes a similar but more general requirement that:

(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.

Findings

The land where the proposed sewer line will be located is and will remain zoned EFU, which precludes urban development. In addition, the following policy is proposed to be included in the Comprehensive Plans of both the City of Umatilla and Umatilla County, as part of this Goal exception:

As long as the Umatilla Army Depot property included in the adopted Army Depot Plan District remains outside of the City of Umatilla's urban growth boundary, only those uses

permitted in the Umatilla County and/or Morrow County Comprehensive Plan Goal exceptions for the Depot property shall be allowed to connect to the City's sewer system.

With this policy, the extension of a sewer line between the City of Umatilla UGB and the Umatilla Army Depot exception area meets the requirement that the sewer facility justified in this exception will only be used for the purpose justified in this exception, and will only serve the uses that have been justified in the prior Goal exception for the Depot property.

Conclusion

The findings above demonstrate that the City of Umatilla has justified an exception to Goal 11 to extend sewer service to the Umatilla Army Depot site, which has acknowledged exceptions to Goals 11 and 14. The proposed sewer line will have minimal impacts to land use, farm operations, and the environment, and will be limited to serving the approved and acknowledged uses on the Depot site. The City is willing to extend the line, and has adequate capacity to serve the planned uses at the Depot. The Goal exception meets all requirements contained in State law and administrative rules.

RECEIVED

JUL 02 2014

THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

UMATILLA COUNTY RECORDS

STATE OF OREGON

In the Matter of Amending)
 Umatilla County Comprehensive) ORDINANCE NO. 2014-06
 Plan and Development Code for)
 Umatilla Army Depot)

WHEREAS the Board of Commissioners has adopted a Comprehensive Plan for Umatilla County;

WHEREAS the Board of Commissioners has ordained Ordinance No. 83-04, adopting the County Land Development Ordinance, codified in Chapter 152 of the Umatilla County Code of Ordinances;

WHEREAS the Planning Department staff drafted a number of updates to the comprehensive plan and the development code, to address the zoning of the Umatilla Army Depot;

WHEREAS the Umatilla County Planning Commission held a public hearing regarding the proposed amendments on May 22, 2014, and forwarded the proposed amendments to the Board of Commissioners with a recommendation for adoption;

WHEREAS the Board of Commissions held a public hearing on July 2, 2014, to consider the proposed amendments, and voted to approve the amendments to the Comprehensive Plan and Land Development Ordinance with revisions.

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains the adoption of the following:

1. Amendment to the Umatilla County Comprehensive Plan as follows (Strikethrough text is deleted; Underlined/Italicized text is added):

CHAPTER 3 – WHY A COMPREHENSIVE PLAN?

The term "general nature" means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is "coordinated" when the needs of all levels of governments, semi-public and private agencies and the cities of Oregon have been considered and accommodated as much as possible. The term "land" includes water, both surface and subsurface, and the air. It should be noted that this definition includes coordination of the plan. Umatilla County encompasses 2,062,080 acres, of which approximately 25% is controlled by other government entities (e.g. Umatilla Indian Reservation, and the Umatilla and Wallowa-Whitman National Forest, ~~and the Umatilla Army Depot~~).

CHAPTER 18 – THE PLAN MAP

INDUSTRIAL NEEDS ANALYSIS

Another major employer, although not officially an industry, is the federal government. ~~Two major federal facilities are located in western Umatilla County. The first is the Umatilla Army Depot which stores military supplies, including chemical weapons; and at its peak employed approximately 800 people including both military and contract employees. The second is McNary Dam, which generates electrical power and regulates flows and power loads for other dam facilities along the Snake River system into Idaho. Other federal offices located in Umatilla County such as the US Forest Service, BLM, USDA, Army Corps provide hundreds of jobs.~~

CHAPTER 18 – THE PLAN MAP

FEDERAL LANDS

The federal government owns approximately 400,000 ~~406,655~~ acres of land in Umatilla County (excluding Reservation and Tribal Trust lands), under the jurisdiction of several agencies (Forest Service, BLM, Army, Corps of Engineers, BOR, etc.) comprising almost 20% of the total land area. The largest single federal government owner is the Forest Service, with approximately 375,000 ~~376,504~~ acres.

Although the county has little jurisdiction over federal lands, a mechanism must be developed to insure immediate and proper land and zoning designation of any former federal land that comes under county jurisdiction due to land exchange, sale or consolidation activities. Therefore, all federal lands shall be assigned the plan and zoning classifications common to the area in which the property is located and shall be subject to said regulations immediately upon removal from federal jurisdiction.

However, due to the size of the areas involved, the Forest Service land (National Forest) ~~and the Umatilla Army Depot~~ shall not be "overlaid" by county plan and zoning classifications, but shall be subject to the above policy should any land be removed from federal jurisdiction.

A number of isolated privately owned or non-federal parcels of land exist within the National Forest area. These parcels shall -be assigned appropriate plan and zoning classifications similar to surrounding land use and zoning designations.

The Planning Director shall schedule a public hearing by the Planning Commission within thirty (30) days after a land parcel goes from federal to County jurisdiction to determine if its immediately-applied plan and zoning classifications are appropriate.

The following new goal exception language will be placed in the Comprehensive Plan in the Industrial Needs Analysis section on page 18-384.

INDUSTRIAL NEEDS ANALYSIS

Umatilla Army Depot - Umatilla County Exceptions

I. BACKGROUND INFORMATION

A. History of the Umatilla Army Depot

In 1940 the Army selected the 16,000-acre plot in northeastern Oregon that became the Umatilla Ordnance Depot (Depot). Ten months (January to October 1941), 7000 workers, and thirty-five million dollars later the prairie site was transformed into a complex of warehouses, munitions storage bunkers, shops and office buildings connected by a web of roads and railroad tracks. The Depot opened in 1941 with the mission to store, maintain and transfer a variety of military items, from blankets to ammunition. The Depot has supported multiple war efforts, including the Korean Conflict, Vietnam, Grenada, Panama, Operation Desert Shield, and Operation Desert Storm. Besides its conventional ammunition and general supply missions, the Depot was assigned a new mission in 1962 – receiving and storing chemical ammunition. Between 1962 and 1969, the Depot received various types of chemical ammunitions as one of six Army installations in the U.S. that stored chemical weapons.

In the mid-1980's, Congress directed the Army to dispose of the nation's aging chemical weapons stockpile. In 1988, the Umatilla Army Depot was placed on the Department of Defense Base Realignment and Closure (BRAC) list to review the future of the facility. It was decided that the base would remain open until the chemical stockpile at the Depot was destroyed. To accommodate this mission, the Umatilla Chemical Disposal Facility (UMCDF) was constructed in the northeastern portion of the site at a cost of about \$700 million and destruction of the chemical ammunition stored at the Depot took place from 2004 – 2012. The 2005 BRAC round of announcements has the Umatilla Army Depot scheduled for closure after the incineration facility has completed its mission (including decontamination, decommissioning, and closure) in about 2014.

Representatives of Morrow and Umatilla Counties, Morrow and Umatilla Port Districts, the Confederated Tribes of the Umatilla Indian Reservation, and numerous state and local agencies have been involved with planning for future uses of the Umatilla Army Depot for more than twenty years. An initial planning effort for the Depot was completed in 1993 and was supported largely by the State of Oregon. The second planning effort was completed in 2010 and was supported largely by the Office of Economic Adjustment (Department of Defense). A brief overview of these two planning efforts is provided below. Links to the 1993 plan documents and the 2010 Redevelopment Plan documents are available on the Umatilla Army Depot Reuse Authority web site at <http://www.umadra.com/histData1.html>

B. Overview of 1993 Comprehensive Development Plan

After the Umatilla Army Depot was first placed on the BRAC list in 1988, Oregon Governor Goldschmidt appointed a task force to examine the impacts closure of the base would have on the local economy. The task force directed the preparation of a Comprehensive Development Plan for the Depot. The Oregon Economic Development Department, which had a vital interest in the economic redevelopment of the depot and its role in the future economic base of the region, provided coordination and management services for the task force. A consulting team, led by The Benkendorf Associates Corporation, was hired to produce the Comprehensive Development Plan.

The task force determined that the plan for the Depot should be organized to achieve ten specific objectives:

1. Create as much employment as possible.
2. Maximize the long-term potential for reuse by carefully evaluating shorter term proposals for reuse.
3. Morrow and Umatilla counties should share in the benefit of reuse.
4. A clear understanding of the location and condition of the existing infrastructure must be identified.
5. A "Vision" for the future should be created.
6. To the extent possible, the plan should be economically viable.
7. The reuse strategy should be implementable.

8. Communicate the plan as a positive long-term opportunity for the region.
9. Encourage interim or phased reuse of the Depot properties.
10. Reuse proposals for the Depot should be responsive to the regional resource base.

The 1993 Plan was intended to allow for interim use while the Army continued its mission and it represented a first step by the task force to transition the 17,000 acre site from the Army's defense related use to civilian use.

The Executive Summary to the Plan noted:

"A smooth transition from military to civilian use of the Depot is of critical importance in order to maximize the economically efficient use of this valuable site and infrastructure. This transition may be facilitated by allowing, over time, an ever-increasing civilian presence, starting at the perimeters and working toward the core. This phased approach toward non-military use of the Depot has been referred to as "rolling back the fence."

Implementation of the 1993 Plan was delayed by several factors:

- The process for transferring military properties to civilian use has involved extensive levels of bureaucracy and cumbersome procedures. Some reuse factors could be controlled by the local community; others were outside its jurisdiction.
- Procedures for simplifying interim leases and transfer of parts of the Depot to civilian use were not amended to capture opportunities that were identified in the 1993 Plan.
- The required Army presence during the demilitarization of the stockpiled chemical ordnance on site.
- While the 1993 Plan was not implemented with land transfers, it did set the framework for the subsequent 2010 Redevelopment Plan. Many of the land use concepts that were included in the 1993 Plan (including Military Training, Wildlife Habitat and Industrial Development) are also reflected in the 2010 Redevelopment Plan, with some changes in emphasis.

C. Overview of 2010 Redevelopment Plan

Originally listed in the 1988 BRAC process, the Department of Defense ultimately recommended closure of the Umatilla Army Depot during the 2005 BRAC round of announcements - following completion of the chemical demilitarization operation. In 2009, the Office of Economic Adjustment (OEA) of the Department of Defense provided financial support and guidance for preparation of a Redevelopment Plan for the Umatilla Army Depot. The LRA contracted with Dana Mission Support Team to complete the Redevelopment Plan. The Redevelopment Plan outlined six overarching factors that govern the opportunities and limitations with respect to reuse at the Depot:

1. The state and national economy is recovering from a deep recession, and 1,170 individuals will lose their jobs or be relocated due to the pending closure of the Depot.
2. The Depot offers significant location and access advantages associated with transportation facilities (I-82 and I-84), but is isolated from any larger metropolitan population base.
3. The existing condition of the buildings and infrastructure at the Depot, with the exception of the Chemical Disposal Facility structures, is generally substandard.
4. The size and characteristics of the Depot site offers large-scale reuse opportunities generally in short supply elsewhere - including military training, habitat preservation, and certain types of large scale industrial and institutional uses.

5. Preservation of shrub-steppe habitat is a major environmental priority for the LRA.
6. The Oregon National Guard has a specific, immediate opportunity to develop a training facility.

The LRA established three overarching goals for the Redevelopment Plan within the context of the factors listed above:

- Military Reuse (accommodating the needs and plans of the Oregon National Guard)
- Environmental Preservation (with a special emphasis on the shrub-steppe habitat)
- Economic Development (job creation)

Key distinctions between the 1993 and 2010 plans for the Depot are highlighted below:

- The 2010 plan allocates a much larger portion of the site to military use relative to the 1993 plan.
- The 2010 plan allocates a smaller portion of the site to agricultural use.
- The 1993 and 2010 plans generally target similar areas for economic development uses (Industrial and Commercial). However, the 2010 plan identifies the UMCDF site for Industrial use – these facilities were constructed after the 1993 plan was prepared.
- The 1993 plan placed a greater emphasis on commercial and recreation uses. The Military Department treats the 2010 Plan as part of the proposed federal action for the installation. The Plan is important because the Military Department has used it to conduct the property disposal environmental analysis required by the National Environmental Policy Act (NEPA).

II. EXCEPTION

Under Oregon Administrative Rules (OAR) 660-004-0015(1), a local government approving an exception must adopt, as part of its comprehensive plan, findings of fact and a statement of reasons that demonstrate that the standards for an exception have been met. This section of the Plan has been prepared to serve as findings of fact and a statement of reasons to support exceptions to Goals 11 and 14 for the areas identified for Depot Industrial zoning. The LRA asked that the County reference or incorporate this document into its comprehensive plan as its findings of fact and statement of reasons in support of the application.

A. Overview of Umatilla County Exception Areas

There are three discrete exception areas identified for industrial development in the Umatilla County portion of the Depot. For all three areas, Umatilla County is taking exceptions to Goals 11 (Public Facilities and Services) and 14 (Urbanization) to allow urban-scale industrial uses and supporting facilities and services. Goal 3 includes the following definition of agricultural land:

“Agricultural Land in western Oregon is land of predominantly Class I, II, II and IV soils and in eastern Oregon is land of predominantly Class I, II, II, IV, V and VI soils as identified in the Soil Capability Classification System of the United States Soil Conservation Service, and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, or accepted farming practices.”

Exceptions to Goal 3 (Agricultural Lands) are not required for any of the three subareas in Umatilla County. As shown below, soils in all three subareas are predominantly Class VII. The Depot site is not served by an irrigation district and

the site is also within the boundaries of two Critical Groundwater Areas (Ordance Basalt and Ordance Alluvial) designated by the Oregon Department of Water Resources. New water rights are not permitted in the CGWA's. Further, the site has not been farmed in the more than 70 years of Federal ownership and operation and it has not functioned as part of the "commercial agriculture enterprise" of the area. Therefore, the site does not meet the definition of "agricultural lands" and exceptions to Goal 3 are not required to apply Depot Industrial zoning to Subareas 1, 2 or 3.

DEPOT SUBAREA SOILS

Depot Industrial Subarea	Predominant Soil Name, Unit Number, Description	Land Capability Class	Land Capability Class
		Dry	Irrigated
Subarea 1	76 B: Quincy loam fine sand, gravelly substratum	7e	Non-irrigated
Subarea 2	14B: Burbank	7e	Non-irrigated
Subarea 3	74 B: Quincy	7e	Non-irrigated
Soil Survey of Umatilla County Area, 1989, NRCS. The "e" suffix defines erosion prone soils.			

This application includes findings to support "reasons" exceptions to Goals 11 and 14 to allow urban scale industrial uses and supporting public facilities for Subareas 1, 2 and 3. It is noted that both subareas 2 and 3 contain a level of existing industrial development that commits both subareas to industrial uses. However, because the level of that industrial development is not predominantly urban in scale, Goal 14 and 11 exceptions are required to allow urban scale industrial uses and supporting public facilities.³

The Goal 14 administrative rule provides for "reasons" exceptions for proposed urban uses on rural lands. The applicable standards are those in OAR 660-014-0040. The standards are addressed below, with findings provided for the three subareas.

B. Exception Requirements for Reasons Exceptions (Goals 11 and 14)

OAR 660-014-0040 governs reasons exceptions. Under this rule, a county may provide facts and reasons to justify an exception to Goal 14 to allow urban uses on undeveloped rural lands. Those reasons may include, but are not limited to, findings that an urban population and urban levels of facilities and services are needed to support an economic activity that is dependent upon an adjacent or nearby natural resource. Also under this standard, a county must demonstrate that the proposed urban development cannot reasonably be accommodated in or through expansion of existing urban growth boundaries. Further, it must show that the long term economic, social, environmental and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would result from the same proposal being located on other undeveloped rural lands; that the proposed

urban uses would be compatible with adjacent uses; and that the uses can likely be timely and efficiently served with appropriate levels of public facilities and services.

The applicable legal standards in OAR 660-014-0040 are addressed below.

660-014-0040(1): *"As used in this rule, 'undeveloped rural land' includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban levels of development."*

Findings for All Subareas: Subareas 1, 2 and 3 all meet the definition of 'undeveloped rural land.' All three subareas are located outside of acknowledged urban growth boundaries. While Subareas 2 and 3 are committed to industrial uses, they are not generally committed to urban levels of development. Subarea 1 is not committed to development.

OAR 660-014-0040(2): *"A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource."*

Findings for Subarea 1: Subarea 1 encompasses approximately 884 undeveloped acres located in the southeast corner of the Umatilla Army Depot at the junction of I-82 and I-84. The L-shaped configuration of this exception area will provide immediate access to the interstate system via existing interchanges to I-82 on the east and I-84 on the south.

Subarea 1 is recognized as the key opportunity site for industrial development on the Depot site – and it is one of the best sites for distribution/warehouse/logistics uses in the region and the state for the following reasons:

- Unique location at the confluence of two interstate freeways. There are only seven locations in Oregon where interstate freeways/connecting loop freeways intersect – and six of them are in the Willamette Valley with surrounding lands largely developed.
- In addition, this site has immediate accessibility to existing interchanges to each freeway.
- The two interstate highways adjoining this area serve a large, multi-regional and multi state area and provide direct freighting opportunities for intensive levels of industrial development. As such, the interstate facilities can support industrial activities far beyond what would commonly be found in a rural area. The highways serving this area serve an area extending from Seattle, Vancouver BC and Spokane to the north to Portland to the west, Boise and Salt Lake City to the east, and northern California to the south.
- Large, level site with more than 800 acres under a single ownership – the largest undeveloped site at the junction of two interstate freeways in Oregon.
- Proximity and accessibility to other transportation modes to support industrial uses and freight movement, including UP rail facilities and the nearby Hinkle yard, and Port shipping facilities on the Columbia River.
- Proximity to nearby communities (Hermiston, Umatilla, Boardman, and Irrigon) with available residential land, housing and other services to support industrial jobs at this location.

The reasons justifying future development of urban scale industrial uses and public facilities sized to serve these uses in Subarea 1 are set out in numerous plans prepared for the Depot site, including but not limited to the 1993 Comprehensive Development Plan, the 2010 Redevelopment Plan, and the more recent Development Feasibility Analysis and Land Use Analysis. The Goal 14 exception is taken because the size of future industrial buildings could and is expected to exceed the size authorized on rural lands without goal exceptions under established LCDC practice (typically limited to 35-40,000 square feet).

Therefore, the unique "resource" that is available at this location to warrant designating the area for urban-level industrial use is the transportation infrastructure. The site is also located in close proximity to nearby communities with lands designated for housing and supporting uses that could support the development of jobs at this location.

The local communities in Morrow and Umatilla Counties have consistently supported economic development efforts, and have expressed a desire to enhance the area's portfolio of industrial and employment lands to support job creation. The Umatilla Depot properties have been specifically targeted for evaluation to support that objective. The Regional EOA articulates the following community vision and project objectives for the land use and economic analysis (Regional Economic Opportunities Analysis, prepared by Johnson Reid, June 2013.):

Community Vision – To build a strong and thriving regional economy by establishing and actively maintaining a competitive portfolio of developable employment sites, seeking opportunities to capitalize on the area's locational advantages and coordinating public investments, policies, and regulations to support regional and State economic development objectives.

Project Objectives

- To create and manage a regional supply of vacant, developable large-lot industrial sites to accommodate stable, family-wage employment opportunities and support regional economic development.
- To organize, coordinate, promote and implement this regional industrial land strategy at a collaborative regional level.
- In 2003, Governor Kulongoski's Industrial Lands Advisory Committee identified 25 industrial sites "of statewide significance for job creation" in Oregon. A common feature of these sites was their proximity to an interstate freeway or major freeway interchange. Shute Road in Hillsboro was deemed highly desirable for high tech development because of its immediate proximity to US 26. Similarly, sites in Albany and Medford were identified based in large measure on their proximity to I-5, and a site in Baker City was identified based on its location along I-84. Here, Subarea 1 has immediate proximity not to just one interstate highway, but two: I-84 and I-82. It also has convenient access to rail (Union Pacific) and water (Columbia River). Those same features caused the Governor's Task Force to identify the Hermiston Industrial Park in Hermiston as another of the 25 Oregon sites of statewide significance for job creation. At that time, of course, Subarea 1 was not available for private industrial development. But with its features and more than 800 acres in a single ownership, Subarea 1 may be even more suitable than Hermiston to meet the state's economic development needs. Given these circumstances, exceptions to Goal 14 and Goal 11 to allow urban scale industrial uses and supporting facilities are warranted.

Findings for Subarea 2: Subarea 2 encompasses 129 acres. There are eight brick warehouses (Series 400 Magazine Buildings) within the boundary of Subarea 2. Each warehouse building is 11,227 square feet. The 400 series buildings were designed and constructed according to military base structural standards in the early 1940's. These "magazine" buildings were designed to blow outward in the event of munitions explosion. All 400 series buildings have rotating ventilating roof vents. Some of the Series 400 warehouses have been refurbished and are used for storage. Vehicle access to Subarea 2 is available through the secured main gate and entry to the Administration Area that will be transferred to the Oregon National Guard. This entry road connects with I-84 via the existing Army Depot interchange.

The American Red Cross currently uses at least five concrete igloos on the Depot site for storage of emergency supplies. The Red Cross has been coordinating with the LRA and intends to consolidate and expand this use into storage warehouse(s) located in Subarea 2.

The Depot is one of only three Red Cross disaster field supply centers on the West Coast (the others are in Reno and Los Angeles). The agency is refining its focus and hoping to boost its stores at the depot to be ready for a major disaster. The Red Cross is working with Oregon Emergency Management and the Federal Emergency Management Agency to make sure enough emergency supplies and trained volunteers are in place should an earthquake and tsunami hit.

That's a possibility underscored by the presence of the Cascadia Subduction Zone, a 750-mile long earthquake fault 50 to 150 miles off the coast. Researchers believe a significant quake and tsunami could kill 5,000 people in Oregon, injure

8,000 and cause \$12 billion damage, including the destruction of 30,000 buildings (May 25, 2012 Oregonian article, "Umatilla Chemical Depot Transportation Include Red Cross Supplies.").

By utilizing existing warehouse(s) in Subarea 2 for storage of emergency supplies, the Red Cross also has opportunities to partner with the Oregon National Guard to load and transport supplies in the event of an emergency or natural disaster.

Umatilla County proposes to include Subarea 2 in a new Depot Industrial Zone. Specific uses allowed in Subarea 2 will be limited to warehouse and distribution uses. OAR 660-022-0040(11) allows new or expanding industrial uses in unincorporated communities without goal exceptions if they are small scale, low impact uses, defined as uses in a building or buildings not exceeding 40,000 square feet of floor space in rural unincorporated communities. Outside of unincorporated communities, industrial uses in buildings 35,000 square feet or smaller have been considered to be rural in scale.

Therefore, the existing brick warehouses in Subarea 2 are small enough to be considered rural in scale and do not necessarily require exceptions to Goals 11 and 14. However, the warehouse structures were constructed in the 1940's, and when this area is transferred out of federal jurisdiction, the LRA would like to have the flexibility to demolish and replace the warehouses with larger buildings in the future if there is a market demand or if a user such as the Red Cross wants to develop new, larger storage warehouses in this area.

The proposed Depot Industrial Zone limits uses in Subarea 2 to warehouse and distribution uses. However, the zone does not include a maximum size limitation for individual buildings. Umatilla County has been successful in attracting industrial development and jobs to this region in large part because of the positive economic climate and attitudes. This includes being nimble and trying to avoid too many restrictions on industrial development.

The size of warehouse buildings constructed in an earlier era to meet the Army's uses should not be used to restrict future development of modern warehouse and distribution buildings that typically exceed 35,000 square feet. For example, the Fed Ex freight hub recently constructed to the northeast side of the intersection of I-84 and I-82 included construction of a 97,280 square foot building. Umatilla County approved exceptions to Goals 3 and 14 to accommodate the Fed Ex facility on the 32.5 acre site in 2010.

In summary, Subarea 2 has been developed and committed to "industrial" types of uses (warehousing, storage, freight movement, etc.) since initial construction of the Umatilla Army Depot in the early 1940's. While the existing buildings and development are not clearly "rural" or "urban" – Umatilla County is proceeding with reasons exceptions to Goals 11 and 14 for Subarea 2 to provide the opportunity and flexibility for appropriate reuse of this area for development that is consistent with the new Depot Industrial zone. Because Subarea 2 is bounded on three sides by the area that will be transferred to the Oregon National Guard – the Depot Industrial zone only allows warehouse and distribution uses in this exception area. Therefore, the uses that will be allowed in the exception area are "limited" – but exceptions to Goals 11 and 14 are justified to provide the flexibility for future development of warehouse buildings larger than 40,000 square feet.

Findings for Subarea 3: Subarea 3 includes a total of 265 acres. However, approximately 81 acres of Subarea 3 (Coyote Coulee) will be subject to deed restrictions that limit land disturbance. The soils and topography in the coulee are not suitable for agriculture but the area is valuable for wildlife habitat. It has been included in the proposed exception and Depot Industrial zone boundary because it falls within the area subject to on-going monitoring as a condition of the DEQ permit for the Umatilla Chemical Disposal Facility (UMCDF). Therefore, the LRA – in consultation with the Confederated Tribes – has determined that the 81 acre "restricted area" should be consolidated with the Depot Industrial parcel rather than the designated Wildlife Habitat area, even though it will not be available for industrial development under the deed restriction.

Therefore, the findings for exceptions to Goals 11 and 14 for Subarea 3 focus on the 184 acre area that is developed or committed to development.

The UMCDF and supporting roads and development are located in Subarea 3. Construction of the UMCDF began in

2004 to provide the incineration systems and support facilities for the purpose of disposing of chemical weapons. Present value estimates of the UMCDF exceed \$700 million, and the potential value to the community in terms of employment and tax revenues is significant.

Structures

The UMCDF list of structures includes the following, some of which exceed 35,000 square feet (Section A Redevelopment Plan, Part 2.3 Infrastructure Assessment, July 29, 2010):

- Personnel Support Building
- Munitions Demilitarization Building
- Maintenance Building
- Pollution Abatement System
- Exhaust Filtration System
- Utility Building
- Laboratory
- Container Handling Building
- Offices (10 office complexes with interconnecting manufactured units)
- Water Tanks Switchyard

UMCDF Electrical Distribution System

The UMCDF footprint is fed from a Umatilla Electric Cooperative substation that is receiving 12.5 KVA from both their Boardman feed and Umatilla feed to ensure backup power should one of the feeds fail.

Natural Gas

There is a 4 inch natural gas line approaching the UMCDF from the northeast corner of the Depot. Pressures are reduced from 800 psi to required usage pressure. The capacity of the natural gas system could meet the needs of a small town (216 million BTU/hr).

UMCDF Storm Water and Waste Water Systems

The UMCDF footprint contains an independent storm water system with a collection pond that is totally independent of the Umatilla Depot system. The UMCDF footprint also contains an independent waste water system, which is a septic system that is totally independent of the Umatilla Depot system.

Parking Areas & Access

There are five designated parking areas surfaced with gravel. The designated parking areas accommodate parking of approximately 800 vehicles. The +1,000 employees involved with the construction and operation of the UMCDF facilities access the site via an on-site gravel access road that extends west and north from the existing interchange to I-82 through the proposed habitat area to the secured UMCDF area.

Fire Alarm, Security, Telephone and Communications Systems

Each of the main buildings in the UMCDF footprint is connected internally with both smoke and security systems. Critical areas like the document control center also are protected with dry water sprinkler systems. All fire and security equipment is current, updated and maintained on a regular scheduled basis by UMCDF maintenance personnel and subcontractors.

Currently the UMCDF site has approximately 1000 telephone and data lines in use with an upgrade capability of up to 69,000 telephone and data lines. The telephone and data interconnect to the Umatilla and Boardman telephone service

centers. There is a communications tower on the UMCDF footprint with a radio antenna and repeater systems.

Clearly, the structures and supporting infrastructure developed for the Umatilla Chemical Disposal Facility starting in 2004 qualify Subarea 3 as a "physically developed" industrial area. The types of land use categories that would be permitted in the new Depot Industrial Zone are listed in Table 1 of the zone. The following use categories are specifically called out as permitted uses for Subarea 3, subject to standard Umatilla County Zoning Ordinance provisions for Design Review and issuance of a zoning permit:

- Industrial Service
- Manufacturing and Production
- Warehousing and Freight Movement
- Wholesale Trade
- Trade or Commercial Schools
- Basic Utilities

In summary, the extent of physical development (structures) and supporting infrastructure constructed for the UMCDF chemical disposal mission has clearly committed 184 acres of Subarea 3 to "industrial" type development. The abutting portion of Coyote Coulee (81 acres) is not developed, but it is included in the exception area boundary because of long-term requirements for monitoring in this area associated with the DEQ air quality permit for the chemical disposal facility. Deed restrictions will limit land disturbance in this 81 acre area.

The UMCDF site and Subarea 3 are the most recently and intensively developed areas on the entire Umatilla Army Depot site. The structures were all constructed within the last ten years and there has been a recent and significant investment in infrastructure, including but not limited to electric power facilities, natural gas and communication facilities. Many of the existing buildings are clearly committed to urban uses and urban level of development rather than the 35-40,000 square foot building size typically considered "rural" under Goal 14. More than 1,000 employees worked at the UMCDF as the stockpiled chemical weapons were incinerated. This level of employment at a single industrial site is of a scale that would reasonably be considered "urban" in terms of employment densities.

The incinerator building will be demolished as a condition of the DEQ permit following final decontamination, decommissioning, and closure in 2014 or later. Even when this large building is removed, the substantial infrastructure and other improvements constructed to support the UMCDF make Subarea 3 very attractive for urban scale industrial uses, and exceptions to Goals 11 and 14 are justified on the basis of existing development.

Once the Army has completed all the required decommissioning and closure activities at the UMCDF, Subarea 3 is anticipated to be available as a part of the overall "economic development" transfer of Depot property to the LRA and transition to new urban industrial uses. At an Industrial Lands Forum held on March 14, 2013 to support the Regional Economic Opportunities Analysis, participants discussed potential economic development opportunities for the Depot site. The UMCDF site was identified as an area that was uniquely attractive for specific industrial uses, including but not limited to data centers.

As summarized in the Regional EOA, data centers are an emerging economic engine in Oregon bringing significant capital investment to regional communities. Over the next decade, firms and individuals are expected to continue the trend of moving their digital storage away from on-site solutions toward cloud-based systems. This trend is expected to drive an accelerated demand for data center storage. It is predicted that hundreds of data centers will be sited in the coming decade. While the economic contributions of data center development are largely limited to short-term construction jobs, the investment in real capital and equipment is a positive for local tax rolls.

The local region has already exhibited success in the recruitment of data center development, such as the Amazon facilities on Port of Morrow and Port of Umatilla properties.

General site requirements for data centers are summarized in the Regional EOA as follows:

Access to Current and Future Power Sources: Data centers require significant amounts of power, as well as high quality transmission. Any power failures are highly costly. Access to more than one power grid improves marketability. Stability and affordability of future power pricing is also essential.

Natural Risk: Data centers will not locate in areas susceptible to natural disaster. This limits the marketability of some areas in the county, most notably hurricane risk in the Gulf States and Southeastern Seaboard, and tornado risk in the Great Plain States. The primary natural risks in the Morrow/Umatilla County region are drought, range fires and volcanic ash fallout.

Cooling and Climate: Data centers generate heat, and cooling is an essential function of the facility. Data centers are increasingly being attracted to moderate desert climates, where systems are being designed to capture cool nighttime air.

Security: Data centers typically want to be inconspicuous. Further, regulations sometimes require that data is physically stored in the region from which it is collected. Data centers require low levels of visibility, and prefer a buffered site with some isolation.

Umatilla County finds that Subarea 3 is an appropriate and suitable area for future development of data center(s), based on the site requirements outlined in the Regional EOA. While the County is not proposing to limit future industrial development in Subarea 3 to this single use, there are valid reasons to designate this site to accommodate data centers and other appropriate industrial uses, without restrictions on building size.

OAR 660-014-0040(3)(a): "To approve an exception under section (2) of this rule, a county must also show: (a) That Goal 2, Part II(c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities.

Findings for Subareas 1: The Depot site is not contiguous with the urban growth boundaries of any nearby cities (Hermiston, Boardman, Irrigon or Umatilla). Additionally, there are no designated rural communities in the vicinity of the Depot site. Further, in a letter sent to the LRA on April 27, 2010 – staff with DLCD stated: "...It does not appear that any portion of the Depot property is eligible for inclusion in an urban growth boundary at this time."

The Depot Industrial zoning recommended for Subareas 1 is not based on a specific "need" for urban industrial land within Umatilla County or within the UGB's of nearby cities. Umatilla County has zoned thousands of acres for industrial development and the Port of Umatilla has been successful in leveraging the large industrial lands inventory to attract a diverse array of industrial users to the County. As shown in the Regional Economic Opportunities Analysis, June 2013, Umatilla County has zoned approximately 1,785 acres of unincorporated land for industrial development within 3 miles of interchanges to I-84. The majority of the designated industrial sites encompass parcels 50 acres and larger. Zoning designations include Heavy Industrial (HI) and Light Industrial (LI) zones. In addition to this county inventory, the cities of Umatilla, Hermiston, Stanfield and Pendleton have a combined inventory of 2,389 acres zoned for industrial uses within 3 miles of an interstate interchange.

There are no sites available within or adjacent to the acknowledged UGB's that include +800 undeveloped acres under single ownership or that have immediate access and visibility to two interstate freeways. Subarea 1 is a unique site – with land and location characteristics that are not replicated anywhere in the region or the state.

In planning for future uses of the Depot site, local and regional leaders have attempted to be proactive and plan for and target specific uses that are most appropriate for the Depot site. Subarea 1 has been targeted as the area of the Depot that is uniquely suited to development of warehouses, distribution centers and intermodal facilities.

Many truck and truck-rail intermodal facilities are located in urban areas. Over time, due to growth in freight volumes and growth of surrounding development, these facilities often become capacity constrained, and efficient operations are hampered by congestion and encroachment on freight facilities and corridors. One response to this problem has been to relocate the facilities to sites where capacity can be expanded and the transportation infrastructure is relatively

uncongested.

A prime example of relocation out of the central Chicago area is the “brownfield” redevelopment of the abandoned Joliet Arsenal site and surrounding areas into an intermodal hub (Envision Freight Case Study: The Relocation of Intermodal Facilities, 2007.). The Joliet Arsenal site is located near two interstate highways and is served by two major railroads, BNSF and Union Pacific (UP). The lynchpins of this development are the Center Point Properties’ intermodal centers at Elwood and Joliet. These facilities are located about 40 miles southwest of downtown Chicago, near the intersection of Interstate highways I-80 and I-55. Synergies resulted in this development from the co-location of multiple freight facilities, such as transportation, warehousing, distribution, cross-docking, and container storage. The co-location of these facilities and proximity to the interstate highways also results in substantial drayage savings and more efficient utilization of trucking resources.

On March 14, 2013 – APG and Johnson Reid organized an industrial land forum at the Port of Morrow to discuss the Regional Economic Opportunities Analysis and potential economic development opportunities for the Depot site. A great deal of discussion surrounded the site’s potential (particularly the southeast portion of the site) as a regionally-scaled logistics hub. The site’s assets and characteristics drew comparisons to Illinois’ BNSF Logistics Park outside Chicago described above.

The general site requirements for logistics / distribution centers and traditional warehouse/distribution facilities are summarized in the Regional EOA(page 27) as follows:

Logistics/Distribution

Large distribution centers reflect the principles of internal economies of agglomeration. Larger supportable scales equate to lower marginal operating costs. There are a variety of different logistics configurations, ranging from port-centric to logistics parks. A logistics park specifically is a planned agglomeration of distribution and light manufacturing uses. Transportation costs are typically the predominant factor; therefore, significantly scaled logistics sites require diverse multi-modal transportation linkages. This generally refers to multiple Class 1 rail lines, proximity and access to water or air linkages, as well as interstate highway linkages. The extent to which a site can serve a range of major population centers impacts the marketability. The scale of these facilities necessitates exceedingly large sites, generally over 500 acres is necessary to justify infrastructure investments. Due to their space requirements, logistics oriented firms are highly sensitive to availability and costs of land. Other critical factors include adequate infrastructure, tax incentives, and commitments or presence of anchor tenants. A strong anchor tenant brings expertise, provides synergy to the project, and sends a positive signal to the market.

Traditional Warehouse/Distribution Facilities

The region has clearly demonstrated a capability to attract and support single and multi-tenant distribution facilities, which do not require the scale of a logistics center. These uses are expected to represent a significant portion of future industrial space demand in the region.

As described earlier, the use categories for the Depot Industrial Zone have been tailored to the unique characteristics and opportunities of the three discrete exception areas (Subareas 1, 2 and 3).

As the largest subarea with the best visibility and proximity to the interstate freeways and existing interchanges – the permitted use categories are the broadest for Subarea 1:

Depot Industrial Zone – Permitted Use Categories in Subarea 1

Industrial Service	Manufacturing and Production
Warehousing and Freight Movement	Wholesale Trade
Trade or Commercial	Waste-Related

Schools	
Retail and Service Uses (with Limitations)	Basic Utilities

Table 3 – Depot Industrial Zone – Permitted Use Categories in Subarea 1

The Depot Industrial Zone also requires that a generalized master plan be prepared for Subarea 1 prior to development to address subarea circulation, infrastructure location and buffering issues on a coordinated basis.

The Depot Industrial Zone also includes the provision that... *"A maximum of 5 percent of the total acreage within the Depot Industrial Zone may be allocated to retail and service uses that are appropriate and necessary to serve the needs of the workers employed within the Depot Industrial Zone, with a secondary purpose of serving highway travelers."* This provision could result in up to 60 acres of retail and service uses and is consistent with and supportive of discussions with DLCD staff regarding the Regional Economic Opportunities Analysis (REOA) and the Transportation Planning Rule (TPR) requirements. DLCD staff reinforced this level of retail when they pointed out that a recent revision to the TPR accepted industrial zoning that allows up to 5% subordinate retail within the zone as being compliant with the TPR (660-012-0060 (11)(a)). Staff indicated in a letter that, based on this revision... *"the department would accept an industrial zone allowing up to 5% subordinate retail."*

In summary, the scale of urban industrial uses proposed for Subarea 1 cannot reasonably be accommodated in or through expansion of existing UGB's or by intensification of development in designated rural communities because the County is focused on leveraging the unique and substantial transportation infrastructure and site characteristics that exist at this specific location. Again, it is noted that this site is not agricultural land and that, with its conversion from federal land to other ownership, it must be planned designated and zoned as provided for in ORS 197.175. Given subarea 1's history, an industrial zone is the most appropriate zone for this area. This exception is taken to allow such development to occur in buildings that exceed 35,000 square feet in size.

Findings for Subareas 2 and 3: No portion of the Depot site is contiguous with an existing UGB or existing rural community. Further, in a letter sent to the LRA on April 27, 2010 – staff with DLCD stated: *"...It does not appear that any portion of the Depot property is eligible for inclusion in an urban growth boundary at this time."* (Email from Tom Hogue, Economic Development Specialist, Department of Land Conservation and Development, June 17, 2013 to Jon Jinings, Jerry Johnson and Mary Dorman.)

The Depot Industrial zoning recommended for Subareas 2 and 3 is not based on a specific "need" for urban industrial land within Umatilla County or within the UGB's of nearby cities. Umatilla County has zoned thousands of acres for industrial development and the Port of Umatilla has been successful in leveraging the large industrial lands inventory to attract a diverse array of industrial users to the County.

The Regional Economic Opportunities Analysis, June 2013, Umatilla County has zoned approximately 1,785 acres of unincorporated land for industrial development within 3 miles of interchanges to I-84. The majority of the designated industrial sites encompass parcels 50 acres and larger. Zoning designations include Heavy Industrial (HI) and Light Industrial (LI) zones. In addition to this county inventory, the cities of Umatilla, Hermiston, Stanfield and Pendleton have a combined inventory of 2,389 acres zoned for industrial uses within 3 miles of an interstate interchange.

In planning for future uses of the Depot site, local and regional leaders have attempted to be proactive and plan for and target specific uses that are most appropriate for the Depot site.

Subarea 2 is bounded on three sides by the area that will be transferred to the Oregon National Guard – the Depot Industrial zone only allows warehouse and distribution uses in this exception area. Therefore, the uses that will be allowed in the exception area are "limited" – but exceptions to Goals 11 and 14 are justified to provide the flexibility for future development of warehouse buildings larger than 40,000 square feet. As noted earlier, the American Red Cross currently uses at least five concrete igloos on the Depot site for storage of emergency supplies. The Red Cross has been

coordinating with the LRA and intends to consolidate and expand this use into storage warehouse(s) located in Subarea 2.

Subarea 3 and the UMCDF site has been targeted as an area that is particularly well-suited to data centers or other industrial uses that can leverage the substantial power and other infrastructure that is available. The Depot Industrial zoning proposed for Subarea 3 this site will allow the following categories of industrial uses:

- Industrial Service
- Manufacturing and Production (includes data center and call centers)
- Warehousing and Freight Movement
- Wholesale Trade
- Trade or Commercial Schools
- Waste-Related Uses (conditional use)
- Basic Utilities (including power facilities)

In summary, the uses proposed for Subareas 2 and 3 cannot reasonably be accommodated in or through expansion of existing UGBs or by intensification of development in designated rural communities because the County is focused on leveraging the substantial infrastructure that exists at this specific location, outside of the UGBs. Subareas 2 and 3 have been developed and committed to “industrial” types of uses since initial construction of the Umatilla Army Depot in the early 1940’s. While the existing buildings and development are not clearly “rural” or “urban” – Umatilla County is proceeding with reasons exceptions to Goals 11 and 14 for both subareas to provide the opportunity and flexibility for appropriate reuse of this area for development that is consistent with the new Depot Industrial zone.

*OAR 660-014-0040(3)(b): “To approve an exception under section (2) of this rule, a county must also show: * * **

“(b) That Goal 2, Part II(c)(3) is met by showing that the long-term environmental, economic, social, and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:

“(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate; and

“(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.

Findings for Subareas 1, 2 and 3: The UMCDF was developed to meet a specialized military mission – destruction of stockpiled chemical weapons. Construction, operation, and future de-commissioning and monitoring are heavily regulated by numerous state and federal agencies, including but not limited to EPA and Oregon DEQ. Industrial development in the Depot Industrial exception area (Subarea 1) would not be limited by or adversely affect air, water, land or energy resources at or near the site. The airshed at the Depot site is not identified as in violation of any air quality regulations. The various missions and activities at the Depot have resulted in releases of contaminants to the environment in portions of the installation. Environmental remediation and investigation have been taking place since the 1980’s and the entire facility has been thoroughly examined and environmental issues have been largely resolved (Umatilla Chemical Depot Site Assessment Report, May 2, 2006). Additionally, Subarea 1 has largely served as a “buffer area” for the Depot and has not had the environmental clean-up issues faced in other areas of the site. There is no surface water on the Depot due to the small amount of precipitation and the porous soils. The Depot site is within two of the four critical groundwater areas in the Umatilla River Basin designated by Oregon Water Resource Department in 1976. Umatilla County is not targeting large water users (such as agricultural processing plants) for this exception area. Instead, Subarea 1 will be targeted and marketed to attract and accommodate freight distribution, warehouse and logistics uses that can leverage the unique access to transportation facilities.

On a statewide basis, very close and convenient freeway access has been consistently identified as a primary consideration in determining if sites were of “statewide significance for job creation.” The locational advantages of the

Subarea 1 exception area with its virtually immediate access to two interstate freeways is about as good as it gets for major warehousing and distribution companies serving central and eastern Oregon, Washington, Idaho and northern California. Given this, building size should not be an obstacle to the siting of such uses at this location. The amount land in Subarea 1 is appropriate given the location of existing interchanges and parcel depth required to establish developable industrial parcels, provide the infrastructure to support future industrial development and to allow the subarea to be master planned in a comprehensive manner. The amount of land in subareas 2 and 3 is related to and reflects the area already committed to development.

The long-term economic, social, environmental and energy consequences of allowing urban scale development in the Subareas 1, 2 and 3 are all positive. Economically, Subarea 1 is an ideal location for urban scale warehouse and distribution uses. The location of businesses like the FedEx terminal (to the east side of I-82) and the Wal-Mart distribution center (in Hermiston, a short distance east of the area) readily attest to that. Given its locational advantages, this site has statewide significance for job creation. Socially, new industries in the area would improve the local economy and thereby benefit the local population and help to off-set jobs lost with the closure of the Depot. Moreover, the location of these industrial uses in very close proximity to freeway interchanges would mean that the associated truck traffic can avoid residential and commercial areas where it could create conflicts. The proposed Depot Industrial zone will be adjacent to an approximately 5,678 acre Wildlife Habitat area designated to protect the shrub-steppe habitat. While a final decision on what agency/entity will own/manage/maintain the habitat hasn't been made at this time – the LRA, Morrow and Umatilla Counties and the Confederated Tribes have all committed to Depot Plan District designations for the site. Additionally, the requirement to prepare a general master plan prior to development in Subarea 1 will provide the opportunity to specifically address the transition between industrial and habitat use areas. Finally, the energy advantages of siting urban scale warehouse and distribution uses with immediate access to two interstate freeways are obvious.

Subarea 2 is bounded on three sides by the area that will be transferred to the Oregon National Guard – the Depot Industrial zone only allows warehouse and distribution uses in this exception area. Therefore, the uses that will be allowed in the exception area are “limited” – but exceptions to Goals 11 and 14 are justified to provide the flexibility for future development of warehouse buildings larger than 40,000 square feet. As noted earlier, the American Red Cross currently uses at least five concrete igloos on the Depot site for storage of emergency supplies. The Red Cross has been coordinating with the LRA and intends to consolidate and expand this use into storage warehouse(s) located in Subarea 2. The Depot is one of only three Red Cross disaster field supply centers on the West Coast (the others are in Reno and Los Angeles). The agency is refining its focus and hoping to boost its stores at the depot to be ready for a major disaster. The Red Cross is working with Oregon Emergency Management and the Federal Emergency Management Agency to make sure enough emergency supplies and trained volunteers are in place should an earthquake and tsunami hit.

The LRA and Umatilla County understand that 184 acres of Subarea 3 (excluding the deed restricted area) will be suitable for industrial uses following all decommissioning in accordance with permit conditions. The LRA and Umatilla County would like to utilize and leverage the substantial federal investment (\$700 million) in the UMCDF site to accommodate appropriate industrial uses after the land is transferred out of federal jurisdiction.

Compared with the prior use, potential future industrial uses would be anticipated to have even fewer long-term environmental, economic, social and energy consequences. Standard Umatilla County Zoning Ordinance provisions that are implemented in other industrial zones (Limitations on Use and Design Review) will also apply in the Depot Industrial Zone. These provisions will provide the opportunity for the County to review new site development for compliance with standards and specific conditions may be imposed, if necessary, to reduce adverse impacts associated with specific industrial development. The amount of land included is appropriate because it is the amount of land in this subarea that is being decommissioned and needs to be planned and zoned for other uses, and because the presence of urban scale uses and facilities on the site warrants its retention for new urban scale industrial uses.

*OAR 660-014-0040(3)(c): “To approve an exception under section (2) of this rule, a county must also show: * * *.*

(c) That Goal 2, Part II(c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts

considering:

"(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and

"(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured;"

Findings for Subareas 1, 2 and 3: Allowing urban scale industrial uses in the three subareas of the Depot Industrial Zone should not pose any compatibility problems with adjoining properties, for several reasons. First and foremost, industrial uses typically are not incompatible with agricultural practices and there are many examples in Umatilla and Morrow County where the two uses co-exist, particularly around developed Port industrial parks. Second, the Umatilla Army Depot has operated at this location for more than 70 years and many of the uses can be characterized as "industrial" in character, including but not limited to the multiple warehouse structures and the chemical disposal facility. Accordingly, allowing urban scale industrial developed in the undeveloped Subarea 1 and the land in subareas 2 and 3 already committed to development should have no significant adverse impact in terms of use compatibility.

Approval of this Goal 14 reasons exception should have no adverse impact on the ability of existing cities and service districts to provide services. This has not been an issue for the many existing urban-scale uses in the Westland Road area (including the Fed Ex facility), and there is no good reason to believe it would be an issue for new uses. Urban level infrastructure (particularly power, natural gas and communication facilities) are already available to Subarea 3, therefore, future industrial development at this location will not detract from the ability of existing cities and service districts to provide services.

Because industrial uses and farming are generally compatible, approval of the Goal 14 and Goal 11 reasons exceptions for the three subareas also should have no adverse effect on the continued resource management of nearby lands designated and zoned for resource uses. And given the nature of the kinds of industrial development that would be permitted in this area, it is likely that an appropriate level of public facilities and services can be provided in a timely and efficient manner. It is noted that the Depot site is a designated critical groundwater area. Consistent with that designation, urban industrial uses in the area would be limited to those that are (1) not heavily water dependent, or (2) rely on an existing water supply.

All three subareas about the area designated for Wildlife Habitat protection for at least a portion of the respective subarea boundaries. It has not been determined yet what agency/entity will own, maintain and manage the habitat area. However, it is anticipated that Umatilla County (and Morrow County) will ultimately apply zoning to the areas designated for habitat area, unless ownership remains with the federal government. Umatilla County finds that an "urban" level of use and development associated with the construction and operation of the UMCDF has not detracted from the habitat and wildlife values surrounding or adjacent to the three subareas. Indeed, the County finds that industrial uses are often located in close proximity to wildlife areas. Additionally, the County finds that more active military training activities will be occurring further to the west of Subareas 2 and 3, in Morrow County.

Through the Design Review process that will be required for any new industrial development in the Depot Industrial zone, the County will have an opportunity to review site plans and impose appropriate conditions, if necessary, to assure compatibility with wildlife habitat and military uses. This could include additional setback or landscape and buffering requirements.

*OAR 660-014-0040(3)(d): "To approve an exception under section (2) of this rule, a county must also show: * * **

(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner;"

Findings for Subareas 1, 2 and 3: As described earlier, the available transportation infrastructure is the key factor that makes the Depot site in general and Subarea 1 in particular so attractive and uniquely suited to urban freight distribution, warehouse and logistics uses. With the exception of the modern infrastructure constructed to serve the UMCDF (Subarea 3) in the past ten years, the LRA and Umatilla County recognize that other infrastructure at the Depot site is old and

substandard. Development of urban industrial uses in Subareas 1 and 2 will require new and upgraded infrastructure, including but not limited to power, on-site or package sewer systems, upgraded internal roadways and water facilities. It is noted that the Depot site is a designated critical groundwater area. Consistent with that designation, urban industrial uses within the CGWA's would be limited to those that are (1) not heavily water dependent, or (2) rely on an existing water supply. The provision of public services will generally be provided in conjunction with development as it occurs. The LRA is considering financing options to provide certain priority infrastructure in advance of development.

As described earlier, substantial "urban" level infrastructure has been constructed within the last ten years to accommodate the UMCDF use. This includes, but is not limited to, a power substation, redundant power facilities, natural gas, extensive communications facilities and on-site sanitary sewer, water and stormwater facilities. By taking exceptions and designating the three subareas for urban-scale industrial uses, Umatilla County is leveraging the efficient utilization of existing infrastructure in support of local and regional objectives to enhance the area's portfolio of industrial lands to support job creation.

In 2008, the Oregon Legislature passed Senate Bill 1069, which provided much-needed state funding for a regional aquifer recovery assessment. The legislation directed OWRD to conduct a feasibility study to evaluate the potential for diversion of surface water flows from the Columbia River for the purpose of recharging aquifers in the Umatilla Basin. The legislation also directed OWRD to identify opportunities for the aquifer recharge project to benefit fish and fish habitat by increasing flows in the lower Umatilla River.

The proposed project would divert water from the Columbia River during the month of October and the months of December through March and convey the water to recharge a large shallow alluvial aquifer. To the extent possible, it is hoped that water can be diverted and conveyed using existing pump stations, pipelines and canals. The primary uses of recharged water would be irrigation, in-stream flow enhancement and aquifer restoration (Western Water Law Article (January 2010), "Full Steam Ahead for the Umatilla Basin Aquifer Restoration Project," written by Shonee D. Langford).

Following completion of the feasibility study, Oregon HB 3369 passed in 2009 providing \$2.5 million in lottery backed grants to build a test Aquifer Recharge project using winter Columbia River water. The aquifer recharge project was constructed directly south of the Ordnance Chemical Depot in Morrow County. Groundwater monitoring shows that the bulk of the water recharged south of the Depot travels in a north/northeasterly direction under the depot, building up the aquifer from a level of 60-80' below land surface to 30-40' below land surface. This has led the basin to consider using the recharge project for use on lands directly above the aquifer, including the Depot.

Under Oregon law, water stored using the aquifer recharge project is considered potable. The design capacity of the current system can reliably be run as follows:

- Allows for 24.06 cfs (47.6 af/day) rate (Actual flow capacity is 31 cfs)
- 120 days = 5,716 acre-feet (af)
- Recoverable = 4,859 af
- 2,000 af predicted to be used for irrigation
- 2,859 af available
- Enough capacity to guarantee 1,000 acres of full irrigated demand (which is highest water use) under current license limitations or enough water to satisfy industrial needs of between 2.5 million to 4.5 million gallons per day (data provided by the Umatilla Water Basin Commission)

*OAR 660-014-0040(3)(e): "To approve an exception under section (2) of this rule, a county must also show: * * *.*

*"(e) That * * * establishment of new urban development on undeveloped rural land is coordinated with the comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development."*

Findings for Subareas 1, 2 and 3: Because the Umatilla Army Depot has been under federal jurisdiction – the Morrow and Umatilla County Comprehensive Plans have never controlled development in the 17,000 acre area. Umatilla County and the Umatilla Port District have been actively involved in planning for reuse of the Umatilla Army Depot for decades.

Surrounding jurisdictions such as the cities of Irrigon, Hermiston, Boardman and, to some extent, Pendleton have received notices of meeting related to future use of the Depot site. Information on future plans has been made available to affected jurisdictions and agencies. The city of Irrigon has attended many of the LRA meetings. Planning for the Umatilla Army Depot is consistent with the discussion of Federal lands in the Umatilla County Comprehensive Plan:

The federal government owns 406,655 acres of land in Umatilla County (excluding Reservation and Tribal Trust lands), under the jurisdiction of several agencies, comprising almost 20% of the total land area.

Although the county has little jurisdiction over federal lands, a mechanism must be developed to insure immediate and proper land and zoning designation of any former federal land that comes under county jurisdiction due to land exchange, sale or consolidation activities. Therefore, all federal lands shall be assigned the plan and zoning classifications common to the area in which the property is located and shall be subject to said regulations immediately upon removal from federal jurisdiction.

However, due to the size of the areas involved, the Forest Service land (National Forest) and the Umatilla Army Depot shall not be "overlaid" by county plan and zoning classifications, but shall be subject to the above policy should any land be removed from federal jurisdiction. (Emphasis added).

Umatilla County leaders have consistently supported designating this area of the Depot site for future industrial use as the key development opportunity site for the entire Depot. Umatilla County, regional and state leaders have recognized this area of the Depot as an industrial site of regional and statewide significance for more than 20 years.

Angelo Planning Group worked with the Morrow and Umatilla County Planning Directors to evaluate existing industrial zones in the both County Zoning Ordinances for applicability to the Depot industrial sites. In Morrow County, minor adjustments to the County's existing Port Industrial Zone were identified. In Umatilla County, a decision was made to develop a new zone, the Depot Industrial Zone, to apply to the three subareas identified for goal exceptions. This approach provided the opportunity to tailor broad categories of uses to the unique characteristics of the three subareas. Additionally, by creating a new industrial zone applicable only to the Depot – the county would not be revising existing industrial zones that are applicable in other areas of Umatilla County. The proposed Depot Industrial zone was reviewed by the LRA at the May, 2013 meeting and the LRA recommended proceeding with the new zone. The subsequent amendment to the retail component of the Depot Industrial zone was approved at the July 2013 LRA meeting.

Therefore, as part of the public review and adoption process for exceptions to Goals 11 and 14, the Depot Industrial Zone will be implemented when Subareas 1, 2 and 3 are transferred out of federal jurisdiction.

Summary

For all of these reasons, the Depot Industrial exception areas shown on the attached Umatilla County Goal Exceptions Map comply with the relevant exception standards in OAR 660-014-0050 and exceptions to Goals 11 and 14 are justified.

2. Attached to this Ordinance and incorporated by this reference are two maps labeled Depot Plan District - Comprehensive Plan, and Umatilla County Goal Exceptions Depot Industrial Subareas 1, 2 & 3. The Umatilla County Comprehensive Plan Map is amended to include the designations set out in this ordinance and as depicted on the two maps.

ORDINANCE NO. 2014-06 - Page 19 of 31

3. Amendment to the County Land Development Ordinance, codified in Chapter 152 of the Umatilla County Code of Ordinances, to amend as follows (Strikethrough text is deleted; Underlined/Italicized text is added):

§ 152.040 ESTABLISHMENT.

For the purpose of this chapter, the following use zones are hereby established:

<i>Zones Designation</i>	<i>Abbreviated</i>
Exclusive Farm Use	EFU
Grazing Farm	GF
Unincorporated Community	UC
Rural Residential 2	RR-
Rural Residential 4	RR-4
Rural Residential 10	RR-10
Multiple Use Forest	MUF
Forest Residential	FR
Mountain Residential	MR
Retail/Service Commercial	RSC
Rural Retail/Service Commercial	RRSC
Commercial Rural Center	CRC
Tourist Commercial	TC
Rural Tourist Commercial	RTC
Agribusiness	AB
Light Industrial	LI
Rural Light Industrial	RLI
Limited Rural Light Industrial	LRLI
Heavy Industrial	HI
Rural Heavy Industrial	RHI
Limited Rural Heavy Industrial	LRHI
Future Urban 10	FU-10
<u>Depot Industrial</u>	<u>DI</u>
<u>Umatilla Depot Refuge</u>	<u>UDR</u>
<u>Umatilla Depot Military</u>	<u>UDM</u>

(A) No sign shall hereafter be erected, moved, or structurally altered without a zoning permit, except for a Type 1 and Type 3 sign, and without being in conformity with the provisions of this chapter. Official signs of the state, county or municipalities are exempt from all provisions of this chapter. All signs shall be on the same lot as the subject matter of the sign, except as specifically allowed otherwise.

(B) Allowed signs in the various zones are indicated by the following tables (for types of signs, see §152.546):

<i>Zone</i>	<i>Types Allowed</i>
EFU-10, EFU-20, EFU-40, EFU, GF	1, 2, 3, 4, 5, 6
UC	1, 2, 3, 4, 5, 8, 9
RR-2, RR-4, RR-10	1, 2, 3, 4, 5, 6
MUF, FR, MR	1, 2, 3, 4, 5, 6
RSC, RRSC, CRC	1, 2, 3, 4, 5, 7, 8, 9, 10, 11
TC, RTC	1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12
AB	1, 3, 4, 5, 7, 8, 9, 11
LI	1, 3, 4, 5, 7, 8, 9, 10, 11, 12
RLI, LRLI	1, 3, 4, 5, 7, 8, 9, 10, 11
HI, RHI, LRHI	1, 3, 4, 5, 8, 9, 11
FU-10	1, 2, 3, 4, 5, 6
DI	1, 3, 5, 6, 7, 8, 9, 11

§ 152.545 ZONING PERMIT REQUIRED TO ERECT, MOVE, OR ALTER SIGNS; EXEMPTIONS; PERMITTED SIGNS.

DI, UMATILLA DEPOT INDUSTRIAL ZONE

§ 152.235 PURPOSE.

The DI, Depot Industrial, Zone is intended to recognize the regional and statewide significance of the former Umatilla Army Depot (Depot) and to apply appropriate zoning to accommodate planned uses as lands are transferred out of federal ownership.

Leaders of the region (Morrow County, Umatilla County, Morrow and Umatilla Port Districts and Confederated Tribes of the Umatilla Indian Reservation) have been planning for future use of the Depot since the early 1990's. Three overarching goals have guided the planning process for the Depot and are reflected on the consolidated Redevelopment Plan approved by the Umatilla Army Depot Reuse Authority for Morrow and Umatilla Counties.

(A) Military Reuse – accommodating the needs and plans of the Oregon National Guard;

(B) Wildlife Habitat – with a special emphasis on the shrub-steppe habitat; and

(C) Economic Development – job creation and tax base.

The DI Zone will be applied to the portions of the Depot under Umatilla County jurisdiction that are identified for industrial development in the Redevelopment Plan and acknowledged for exceptions to Statewide Planning Goals 11 (Public Facilities & Services) and 14 (Urbanization).

§ 152.236 APPLICABILITY & SUBAREA DESCRIPTIONS.

The DI Zone applies to three distinct subareas within Umatilla County that are identified for industrial development in the approved Redevelopment Plan. Permitted and conditional uses are tailored to the characteristics of each area.

(A) *Subarea 1.* Subarea 1 is intended to accommodate a range of distribution/commerce uses that can maximize the economic development potential of a large, unique site located at the junction of two interstate freeways. With immediate accessibility to interchanges to I-84 on the south and I-82 on the east, Subarea 1 is intended primarily for land-intensive freight related uses that can take advantage of easy truck access on and off the interstate system and avoid traffic congestion and other community impacts within urban areas.

(B) *Subarea 2.* Subarea 2 is intended to accommodate general storage, warehouse and distribution uses that can largely utilize existing buildings and facilities in this subarea. Access to Subarea 2 is only available through the security gate to the Military area. Therefore, the range of permitted and conditional industrial uses for Subarea 2 is more limited.

(C) *Subarea 3.* Subarea 3 is intended to accommodate a range of general industrial uses that can leverage the substantial and recent investment in buildings, infrastructure and other site improvements constructed to support the Umatilla Chemical Disposal Facility mission. Following closure and decommissioning, the incinerator building will be removed as a condition of state and federal permits. However, existing investments and infrastructure in this area can be a significant economic development asset for Umatilla County.

§ 152.237 USES PERMITTED.

(A) *Uses permitted outright.* In the DI Zone, the following uses and their accessory uses are permitted without a zoning permit:

(1) Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.

(2) Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.

(3) Projects specifically identified in the Transportation System Plan as not requiring further land use regulation.

(4) Landscaping as part of a transportation facility.

(5) Emergency measures necessary for the safety and protection of property.

(6) Acquisition of right-of-way for public roads, highways, and other transportation improvements designated in the Transportation System Plan.

(7) Construction of a street or road as part of an approved subdivision or land partition approved consistent with the applicable land division ordinance.

(8) Temporary Mobile Food Vendor as defined in § 152.003.

(B) *Industrial uses permitted with a zoning permit.* In the DI Zone, the following uses and their accessory uses are permitted

upon the issuance of a zoning permit pursuant to § 152.025 and subject to the requirements of § 152.239 through § 152.241 of this chapter. Some permitted uses in the DI Zone are only allowed in specific subareas [identified in brackets following each use].

(1) Blacksmith or machine shop [Subareas 1, 2 & 3]

(2) Bottling work [Subareas 1 & 3]

(3) Cold storage warehouse [Subareas 1, 2 & 3]

(4) Concrete block or pipe manufacturing [Subareas 1 & 3]

(5) Contractor's equipment storage yard [Subareas 1, 2 & 3]

(6) Custom meat cutting and cold storage locker [Subareas 1 & 3]

(7) Data center [Subareas 2 & 3]

(8) Food products manufacturing, excluding meat, fish, salt, sauerkraut, sugar, vinegar and yeast products [Subareas 1 & 3]

(9) Grain elevator or flour mill and grain storage [Subarea 1]

(10) Greenhouse or nursery [Subareas 1 & 2]

(11) Hauling, freighting and trucking yard or terminal [Subareas 1, 2 & 3]

(12) Ice or cold storage plant [Subareas 1 & 2]

(13) Major manufacturing, repairing, compounding, fabricating, assembling,

processing, or storage industries having any one of the following characteristics: (a) peak employment >200; (b) utilizing >20 acres; (c) requiring total energy input which exceeds 6,816,000 BTU for all energy sources combined [Subareas 1 & 3]

(14) Manufacturing, compounding, assembling or treatment of products made from the following prepared materials: bond, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paint (no boiling), paper, plastics, precious or semi-precious metals or stone, shell, textiles, tobacco, wood, and yarns, but not including rendering plant [Subareas 1, 2 & 3]

(15) Planing mill or sawmill [Subarea 3]

(16) Plumbing or sheet metal shop [Subareas 1, 2 & 3]

(17) Signs – Types 5, 6, 7, 8, 9, 11 [Subareas 1, 2 & 3]

(18) Welding shop [Subareas 1, 2 & 3]

(19) Wholesale business, storage building or warehouse [Subareas 1, 2 & 3]

(20) Other uses similar to the list above which shall not have more detrimental effect upon the adjoining areas than the uses specifically listed; subject to approval of the Planning Director through the administrative review process set forth in §152.769.

(21) Mobile Food Vendor as defined in § 152.003.

(C) *Retail and service commercial uses permitted with a zoning permit.* In the DI Zone, the following uses and their accessory

uses are permitted upon the issuance of a zoning permit pursuant to § 152.025 and subject to the requirements of § 152.239 through § 152.241 of this chapter. Retail and service commercial uses are only permitted in Subarea 1.

(1) Automobile service station

(2) Commercial amusement establishment

(3) Day care/nursery

(4) Eating or drinking establishment

(5) Financial institution

(6) Food store

(7) Gift shop

(8) Information center

(9) Motel, hotel

(10) Office building

(11) Retail or service commercial

(12) Other uses similar to the list above which shall not have more detrimental effect upon the adjoining areas than the uses specifically listed; subject to approval of the Planning Director through the administrative review process set forth in §152.769.

§ 152.238 CONDITIONAL USES PERMITTED.

(A) In the DI Zone, the following uses and their accessory uses are permitted

conditionally, subject to the requirements and general criteria of § 152.610 through 152.616, 152.238, 152.239 and 152.241 and upon issuance of a zoning permit. Some conditional uses in the DI Zone are only allowed in specific subareas [identified in brackets following each use].

(1) Automobile wrecking yard as provided in § 152.616(E) [Subarea 3]

(2) Commercial gravel pit as provided in § 152.616(Q) [Subarea 3]

(3) Concrete or asphalt manufacturing plant as provided in § 152.616(U) [Subarea 3]

(4) Utility facility and power generation plant as provided in § 152.616(CCC) [Subareas 1 & 3];

(5) Uses involving the handling or storage of hazardous chemicals or flammable liquids such as fireworks, blasting agents, explosives, corrosive liquids, flammable solids, high toxic materials, oxidizing materials, poisonous gases, radioactive materials, unstable chemicals, ammonium nitrate and liquefied petroleum gases as provided in § 152.616(FF) and (GG) [Subareas 1, 2 & 3]

(6) Other uses similar to the list above which shall not have more detrimental effect upon the adjoining areas than the uses specifically listed; subject to approval of the Planning Director through the administrative review process set forth in § 152.769.

§ 152.239 LIMITATIONS ON USE.

(A) *Retail Sales & Service Uses in the DI Zone.* Retail sales and service uses permitted in the DI Zone are subject to the following limitations:

(1) A maximum of 5 percent of the developable acreage within the Depot Industrial Zone (excluding the restricted area of Subarea 3) may be allocated to retail and service uses.

(2) Retail and service uses may only be located in Subarea 1.

(B) *Use Limitations in Portion of Subarea 3.* Retail sales and service uses permitted in the DI Zone are subject to the following limitations:

(1) A portion of Subarea 3 (Coyote Coulee) will not be available for industrial development because of ongoing environmental monitoring requirements and habitat values.

(2) The limited use area is shown with cross-hatch on the Umatilla County Depot Plan District -Zoning map.

(C) *General Limitations on all uses.*

(1) A use is prohibited and shall be in violation of this chapter if it violates an environmental quality statute or regulation of the state or federal government.

(2) Materials shall be stored and grounds shall be maintained in such a manner which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard.

(3) Points of access from a public

street or county road to properties in the Depot Industrial Zone shall be located so as to minimize traffic congestion and shall comply with the county Transportation System Plan and obtain necessary Road Access Permits.

§ 152.240 MASTER PLAN AND DESIGN REVIEW.

(A) Master Plan Required for Subarea 1.

A master plan is required prior to issuance of a zoning permit for development in Subarea 1 because of the unique size and location characteristics of the subarea and the potential range of uses.

(1) The master plan shall be processed in accordance with the administrative review procedures set forth in § 152.769.

(2) The master plan shall include the following:

(a) Conceptual layout of internal roadways and connections to the interstate system;

(b) Identification of area(s) and associated acres for location of potential retail sales and service uses;

(c) General information on potential infrastructure (water, sewer, power) that may be needed to serve targeted industrial and commercial uses;

(d) General information on potential transitions (such as setbacks, screening, buffering) between industrial and commercial uses areas and edges of Subarea 1 that border the Military or Wildlife Habitat designations.

(3) Administrative review of the master plan shall be based on the following considerations and objectives:

(a) Maximize the economic development potential of this unique site to provide jobs and expand the tax base to benefit the local communities and the larger region;

(b) Establish a general framework for coordinated development and minimize piecemeal development without prescribing specific uses or the layout of individual lots;

(c) Explore opportunities for coordination of infrastructure to serve the larger Subarea, rather than relying totally on-site systems; and

(d) Determine if additional standards (such as screening and buffering, etc.) are appropriate and should be applied through subsequent design review/zoning permits for permitted and conditional uses. The master plan can modify the general dimensional standards in § 152.241 for Subarea 1 of the DI Zone.

(B) Design Review for Permitted Uses in all Subareas in the DI Zone.

(A) An application for a zoning permit for a use permitted in §152.237 of this chapter shall be accompanied by a site plan and, if applicable, a design review application.

(B) A Design Review application may not be required if the following circumstances exist:

(1) The existing structure and business previously received a design review approval from the County Planning Department; and,

(2) No new construction is being requested on the subject property; and,

(3) A similar business will be operated on the subject property.

(C) The Planning Director or an authorized agent shall review the site plan for completeness and compliance with the following requirements:

(1) The site plan shall consist of the following:

(a) An accurate map showing property lines, dimensions and location of buildings on the property both existing and proposed;

(b) Drawn at a scale no smaller than 1" = 100';

(c) Access points to county or state roads;

(d) Names of the owner and developer of the site.

(2) The Planning Director or an authorized agent may require landscaping around the building(s) or the property lines to insure conformance with county policies;

(D) Design Review Standards.

The Planning Director or an authorized agent shall review the design review

application for completeness and compliance with the following requirements:

(1) An access permit has been issued by the County Road Department and/or ODOT for the subject property;

(2) Parking lots and spaces, off-street parking, and loading requirements are met as provided in § 152.560 through § 152.562;

(3) Setbacks standards are met as provided in the particular zoning district where the subject property is located;

(4) Signs are permitted as provided in § 152.545 through § 152.548;

(5) Vision clearance standards are met as provided in § 152.011.

§ 152.241 DIMENSIONAL STANDARDS.

In the Depot Industrial Zone, the following dimensional standards shall apply, unless other dimensional standards are approved through the Master Plan process.

(A) *Lot size.* The minimum lot size shall be one acre unless written proof from the Department of Environmental Quality is provided that shows an approvable subsurface disposal system can be located on less than one acre;

(B) *Minimum lot width.* The minimum average lot width shall be 100 feet with a minimum of 25 feet fronting on a dedicated county or public road or state highway;

(C) *Setback requirements.* The minimum setback requirements shall be as follows:

(1) Front yard: 20 feet, except if the front yard area is used for off-street loading or parking requirements, then the front yard shall be a minimum of 40 feet;

(2) Side yard: 20 feet;

(3) Rear yard: 20 feet.

UDR, UMATILLA DEPOT REFUGE ZONE

§ 152.537 PURPOSE.

The purpose of the Umatilla Depot Refuge Zone is to provide a dedicated zoning classification to preserve the natural shrub-steppe desert landscape and contribute to the preservation of wildlife and wildlife habitat. It is also designed to retain a natural landscape and open space resource of regional significance, and to provide for low impact recreation, natural and historic heritage interpretation, and environmental education opportunities. Uses are limited to those that will provide for the protection, restoration and management of wildlife and wildlife habitat resources within the zone.

§ 152.538 USES PERMITTED WITH A ZONING PERMIT

In a UDR Zone, the following uses and their accessory uses are permitted upon the issuance of a zoning permit, pursuant to § 152.007, 152.025 and supplementary regulations in § 152.010 through § 152.016 and § 152.545 through § 152.562.

(A) Ecotype Preserve/Wildlife Refuge/Open Space Preserve and associated accessory uses including but not limited to

wildlife observation facilities, plant propagation facilities for on-site restoration, natural heritage interpretive displays, and public restrooms.

(B) Interpretive/visitor center not to exceed 15,000 square feet (larger facilities require conditional use approval). Said uses can include facilities such as natural and historic heritage displays, exhibit areas, gallery, small theater, administrative offices, classrooms, dining areas/café, planetarium, subsidiary gift/book shop, public conveniences, and associated parking.

(C) Low impact recreation facilities including but not limited to non-motorized uses such as hiking trails, bicycling paths, equestrian trails, and picnic facilities.

(D) Observatory.

(E) Utility facilities and roads including the construction and maintenance of electric and telephone transmission lines, gas and water distribution lines, sewage collection lines, road development and maintenance, construction and maintenance of railroad lines, and related facilities, but excluding commercial facilities for the purpose of generating power for public use.

(F) Commercial storage in existing structures with existing access. Use shall be limited to igloos that have direct access to a roadway.

§ 152.539 CONDITIONAL USES PERMITTED.

In the UDR Zone, the following uses may be permitted conditionally via administrative

review (§152.769), subject to the requirements of this Section, the applicable criteria in §152.061, §152.610 through §152.616 and §152.545 through §152.562 and findings that the proposed use: complies with the Comprehensive Plan, Development Code, and other relevant County policies; will serve a useful purpose to the area and to the purpose of the UDR Zone as stated herein; and will be designed and built so as to reduce potential negative impacts to both neighboring parcels and the primary purpose of the UDR Zone. All conditional use applications associated with an established UDR Zone shall submit as part of the application a general land-use plan schematic for the Refuge/Preserve indicating the longer range management and facilities vision for the Zone, and a more detailed site plan for the specific conditional use request sufficient to evaluate design and land-use considerations associated with the permit request. A zoning permit will be issued following final approval of a conditional use

(A) Interpretive/visitor center with accessory uses, not including parking, in excess of 15,000 square feet.

(B) Commercial operations conducted for the mining and processing of geothermal resources, aggregate and other mineral resources or other subsurface resources.

(C) Short term stay (14 days or less) commercial campground with associated support facilities.

(D) Farm use, as defined in ORS 215.203, excluding livestock feedlots and sale yards, hog and poultry farms.

(E) The propagation or harvesting of a forest product.

(F) Commercial solar power generation for sale for public use.

(G) Private cemetery or burial site.

§ 152.540 DIMENSIONAL STANDARDS.

In a UDR Zone, the following dimensional standards shall apply;

(A) *Minimum Parcel.* The minimum lot size shall be one acre unless written proof, from the Department of Environmental Quality is provided which shows that an approvable subsurface disposal system can be permitted, or the minimum lot size shall be the minimum necessary to carry out the intent and purpose of the proposed use and is also consistent with the purpose and intent of the DR Zone.

(B) *Setback.* No building shall be located closer than 20 ft. from a property line, street or road.

UDM, UMATILLA DEPOT MILITARY ZONE

§ 152.563 PURPOSE.

The purpose of the Umatilla Depot Military Zone is to recognize the area in the Umatilla County portion of the Army Depot that will be utilized by the National Guard Bureau (NGB), Oregon National Guard (ONG) and the Oregon Military Department (OMD). Umatilla County has adopted this zone for two reasons: to recognize land uses by the military that will be allowed outright, without local land use permits, and, as a zone that will apply to state or private landowners

at the point in time that the land is no longer in federal ownership. It is recognized that development with a primary purpose of carrying out the ONG military mission is allowed outright, and, development with a commercial or industrial purposes that is not directly related to military mission will be subject to local land use regulations. Further, the purpose of this zone is to implement the objective found on page 4-40 of the ORNG Umatilla Training Center Land Use Plan, to "[e]nsure the OMD location has the appropriate Comprehensive Plan Land Use and Zoning designation to unconditionally provide for ORARNG facilities/functions."

§ 152.564 USES ALLOWED OUTRIGHT.

The following uses are allowed without local permits:

Military uses identified in the Oregon National Guard Site Development Plan. Such uses will be carried out in a safe manner, consistent with Oregon National Guard protocol. Neighboring property owners should be aware that noise and vibration are common elements of such ONG training activities and are allowed without local restriction.

Such uses include but are not limited to:

- (A) Military use and related military support uses operation of live fire weapons, laser, and demolition ranges;
- (B) Conduct of vehicular, aerial, and dismounted maneuver training;
- (C) Field bivouac operations;
- (D) Operations, maintenance, and

construction of structures for the warehouse, operation, repair, and construction of equipment, administration, simulations, classroom and instructional facilities, billeting and dining facilities, morale, welfare, recreation, and fitness facilities and structures

(E) Other utility and infrastructure support facilities such as housing for energy generators or energy generation facilities, water distribution systems, and wastewater treatment facilities with the primary purpose of providing services to the activities on the subject parcel.

§ 152.565 USES PERMITTED WITH A ZONING PERMIT.

In the UDM Zone, the following uses and their accessory uses are permitted upon the issuance of a zoning permit, pursuant to § 152.007, § 152.025 and supplementary regulations in § 152.010 through § 152.016 and § 152.545 through § 152.562.

- (A) Building and structures that are existing and used for warehousing and related uses.
- (B) Rail oriented warehousing and railroad related industries.
- (C) Support facilities for on-site staff.
- (D) Offices for administrative and transportation activities.
- (E) Vehicle and railroad repair facilities.
- (F) Refueling and transportation service centers.

(G) Container storage and trans-shipment facilities.

(H) Farming (EFU).

(I) Wildlife Reserve/Agriculture Wildlife.

(J) Police/Fire training.

§ 152.565 CONDITIONAL USES PERMITTED.

In the UDM Zone, uses allowed in the Depot Industrial Zone may be permitted conditionally via administrative review as provided by §152.769, subject to the requirements of this Section, the applicable criteria in §152.061, §152.610 through §152.616 and §152.545 through §152.562 and findings that the proposed use: complies with the Comprehensive Plan, Zoning Ordinance, and other relevant County policies; will serve a useful purpose to the area and to the purpose of the UDM Zone as stated herein; and will be designed and built so as to reduce potential negative impacts to both neighboring parcels and the primary purpose of the UDM Zone. All conditional use applications associated with an established UDM Zone shall submit as part of the application a general land-use plan schematic for the Zone, and a more detailed site plan for the specific conditional use request sufficient to evaluate design and land-use considerations associated with the permit request. A zoning permit will be issued following final approval of a conditional use.

§ 152.567 DIMENSIONAL STANDARDS.

In the UDM Zone, the following dimensional standards shall apply;

(A) *Minimum Parcel.* The minimum lot size shall be one acre unless written proof, from the Department of Environmental Quality is provided which shows that an approvable subsurface disposal system can be permitted, or the minimum lot size shall be the minimum necessary to carry out the intent and purpose of the proposed use and is also consistent with the purpose and intent of the UDM Zone.

(B) *Setback:* No building shall be located closer than 20 ft. from a property line, street or road.


3. Attached to this ordinance are a map labeled Umatilla County Depot Plan District - Zoning, and three tax lot maps for Township 4 North, Range 27; Township 4 North, Range 27, Section 25; and

Township 5 North, Range 27, which are all incorporated into this ordinance. The depot property is rezoned to reflect the designations made in this ordinance, and as depicted on the map and the tax lot maps.

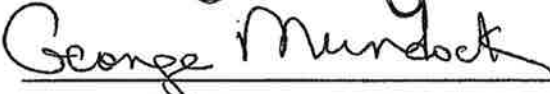
FURTHER by unanimous vote of those present, the Board of Commissioners deems this Ordinance necessary for the immediate preservation of public peace, health, and safety; therefore, it is adjudged and decreed that an emergency does exist in the case of this Ordinance and it shall be in full force and effect from and after its adoption.

DATED this 2nd day of July, 2014.

UMATILLA COUNTY BOARD OF COMMISSIONERS



William J. Elfering, Chair



George L. Murdock, Commissioner



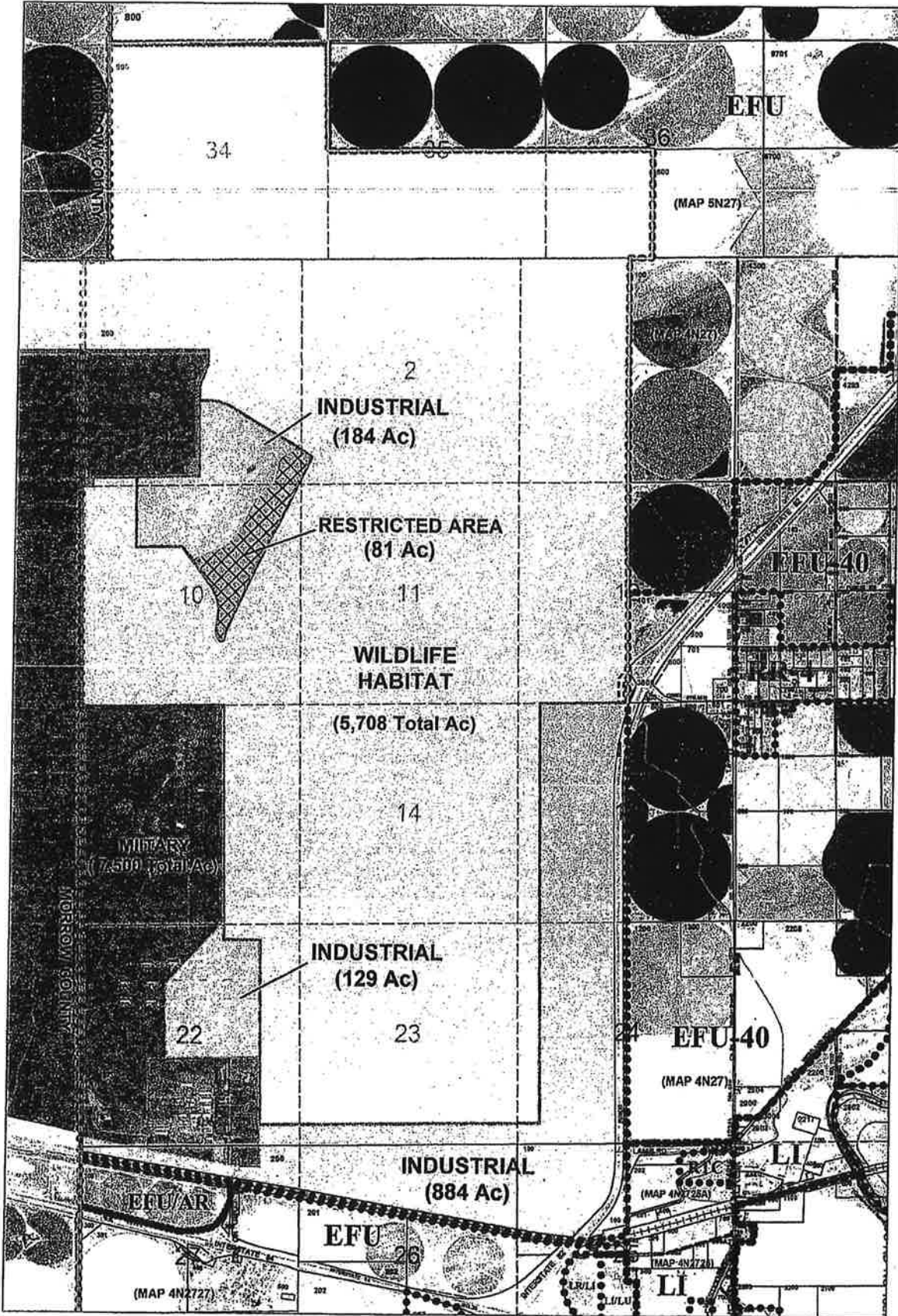
W. Lawrence Givens, Commissioner

ATTEST:
OFFICE OF COUNTY RECORDS



Records Officer

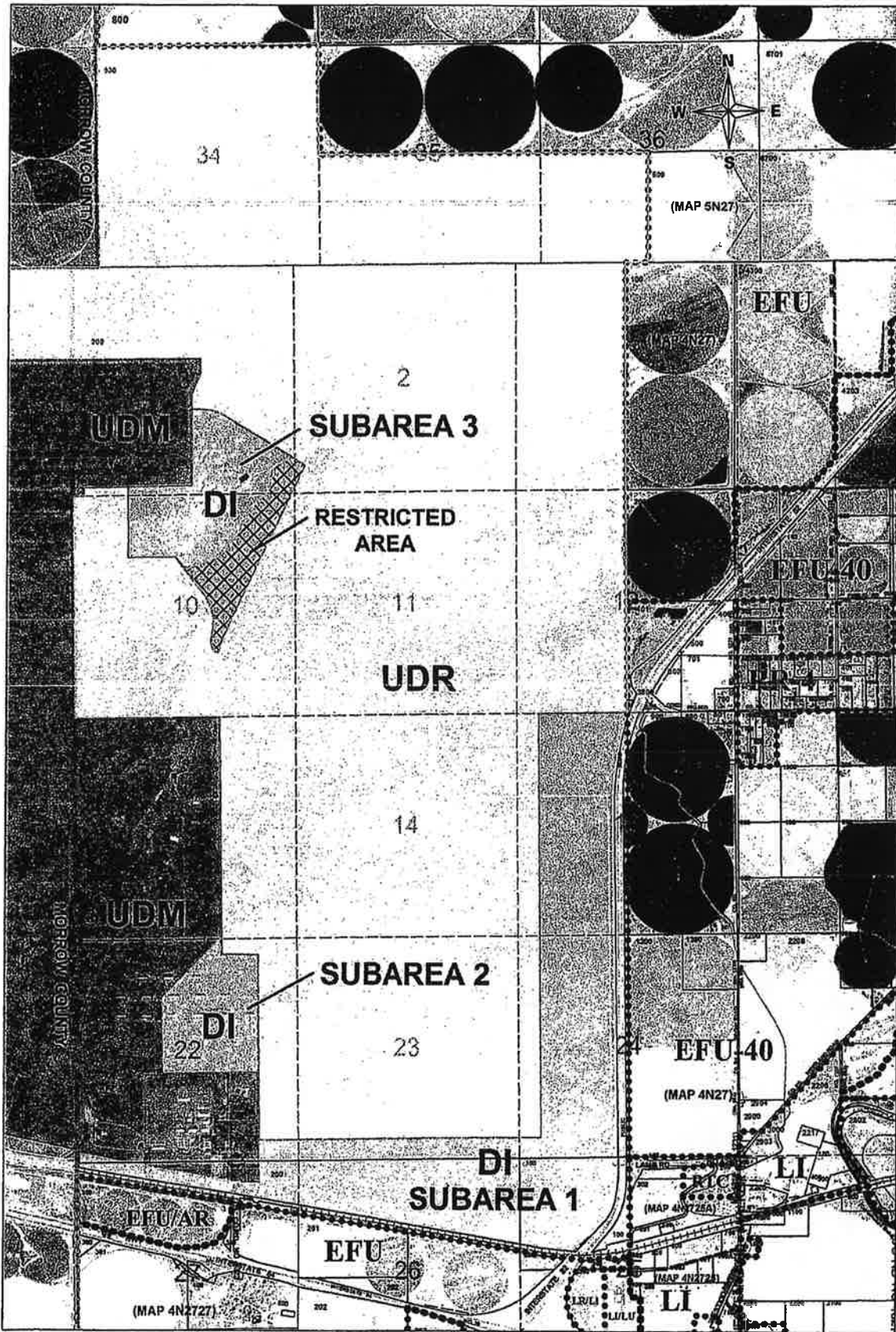




**DEPOT PLAN DISTRICT - COMPREHENSIVE PLAN
UMATILLA COUNTY, OREGON**

- | | | | |
|---|----------------------------|---|------------------|
|  | Industrial |  | Military |
|  | Industrial Restricted Area |  | Wildlife Habitat |

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only. Date: 7/1/14
y:\workspace\planning\vicinity maps\A-D\Depot_RA_Plan7_11_14.gws



- | | | | |
|---|----------------------------------|---|-----------------------------------|
|  | DI, Depot Industrial Zone |  | UDR, Umatilla Depot Refuge Zone |
|  | Depot Industrial Restricted Area |  | UDM, Umatilla Depot Military Zone |

0 1000 2000 3000
Feet

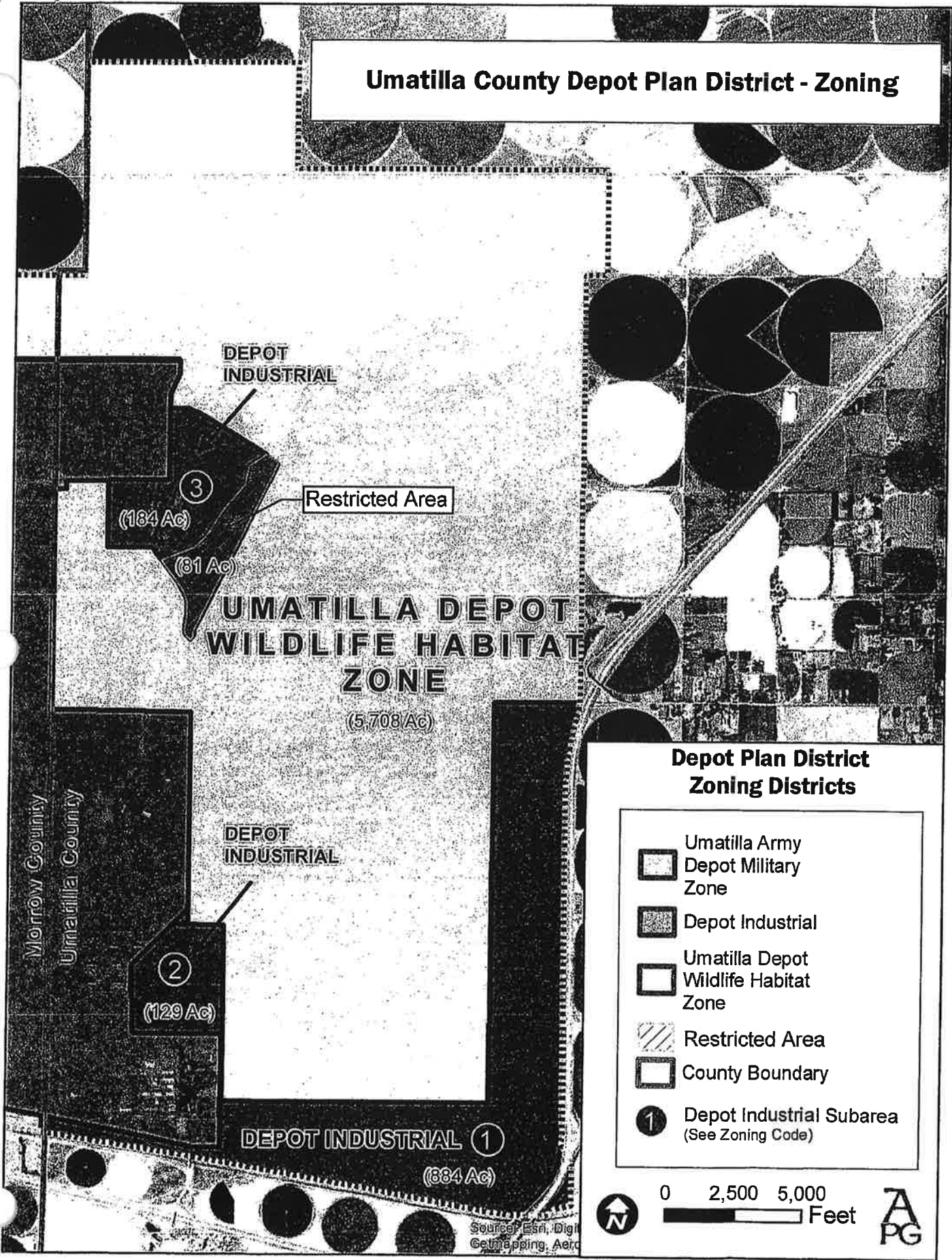
2012 Aerial Photo

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only.

Date: 7/7/14

y:\workspace\planning\city\map\A-D\depot_ZoningMap7_7_14.gws

Umatilla County Depot Plan District - Zoning



ORDINANCE NO. 2014-06

This map was prepared for Assessment purposes only.



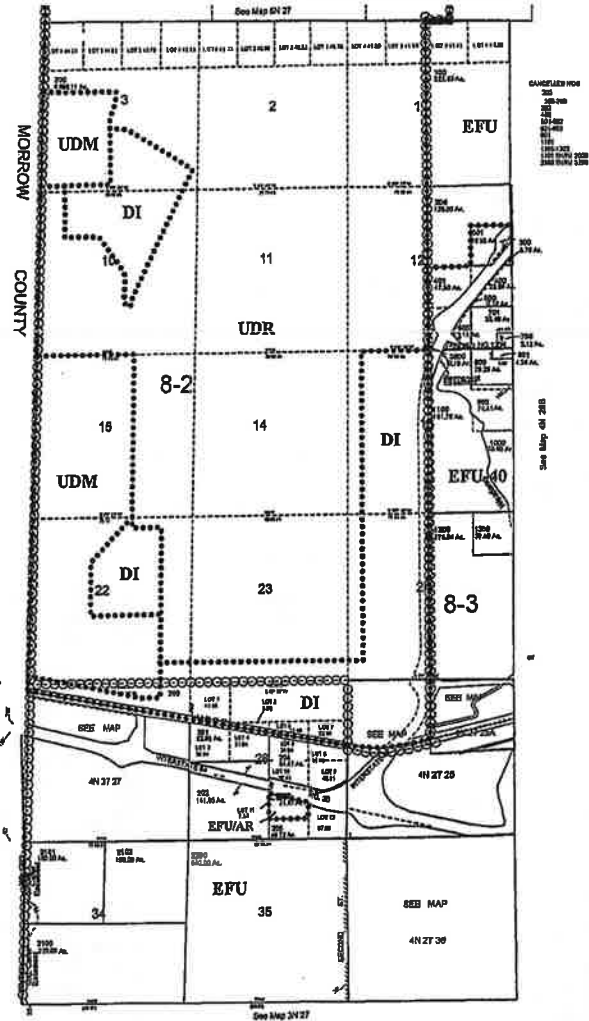
T4N R27E WM
UMATILLA COUNTY, OR
SCALE: 1" = 2000'

B304

4N 27

Aerial Photo No. N2-1P-115-118
22-27-28 & 29-36-38

All In Critical Ground Water Area



4N 27

ORDINANCE NO. 2014-06

This map was prepared for Assessment purposes only.



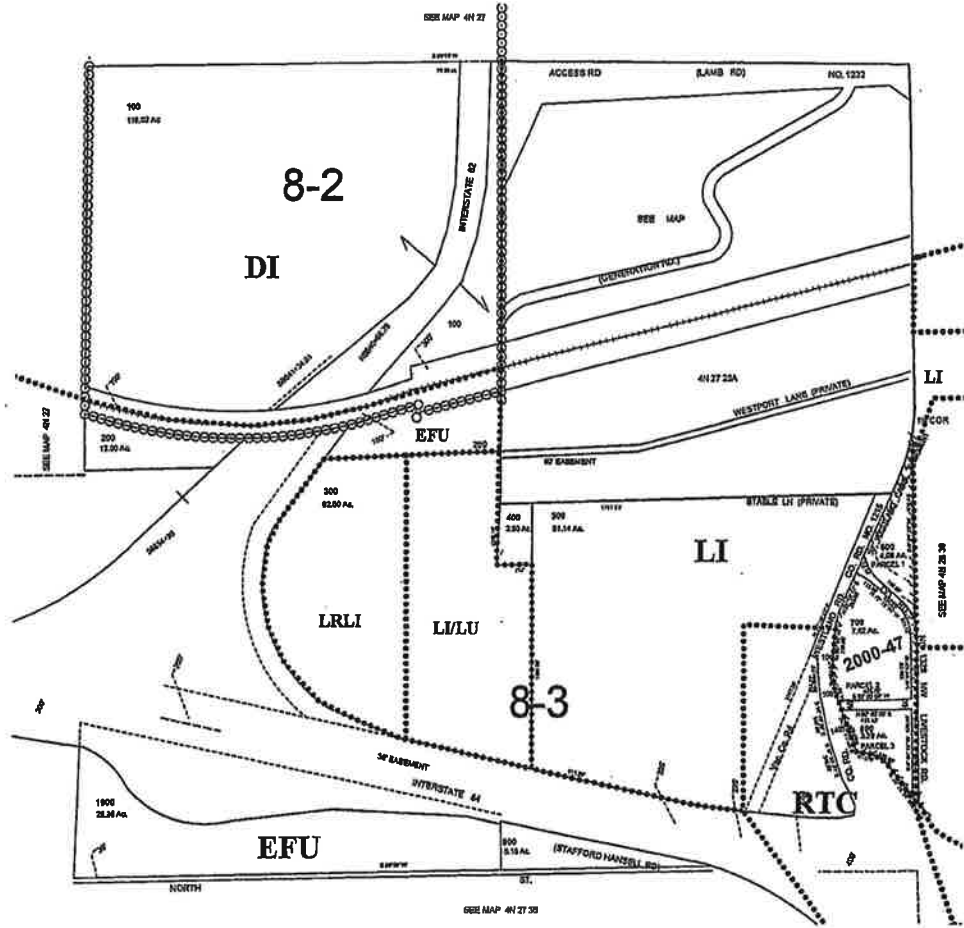
SEC 25 T4N R27E WM
UMATILLA COUNTY, OR
SCALE: 1" = 400'

8/2/04

4N 27 25

AERIAL PHOTO NO. NZ-1P-118-118
2P-27-25 & 2P-35-35

All In Ordinance Gravel Critical Ground Water Area



4N2725

ORDINANCE NO. 2014-06

This map was prepared for Assessment & Taxation purposes only and was NOT prepared nor is it suitable for legal, engineering or surveying purposes.

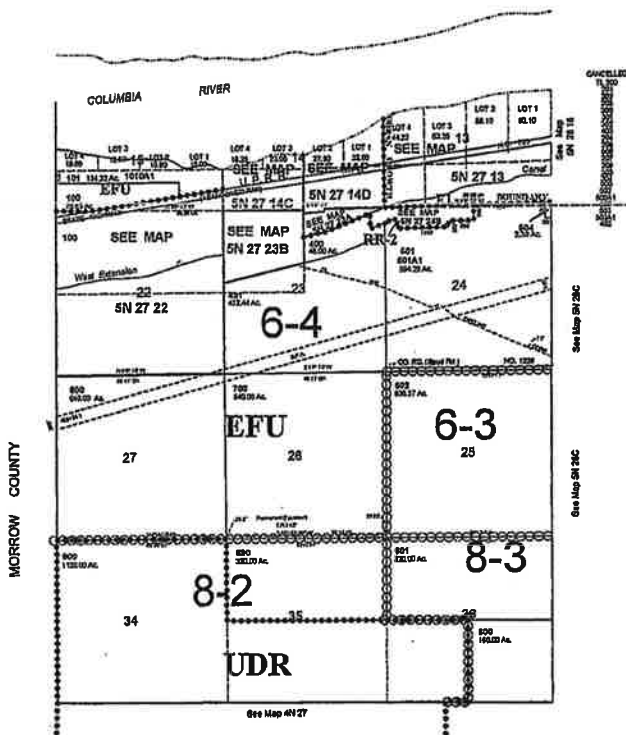
T5N R27E WM
UMATILLA COUNTY
SCALE 1"=2000'

2/10/09

5N 27

Aerial Photo No. NZ-1P-52-54
NZ-1P-107-111

All in Ordinance Critical Ground Water Area



5N 27

BEFORE THE MORROW COUNTY COURT
OF MORROW COUNTY

AN ORDINANCE AMENDING THE MORROW COUNTY COMPREHENSIVE PLAN, THE COMPREHENSIVE PLAN MAP, THE ZONING ORDINANCE, AND THE ZONING ORDINANCE MAP TO PLAN AND ZONE THE MORROW COUNTY PORTION OF THE UMATILLA ARMY DEPOT.

COUNTY ORDINANCE

NO. ORD-2014-4

WHEREAS, ORS 203.035 authorizes Morrow County to exercise authority within the County over matters of County concern; and

WHEREAS, Morrow County adopted a Comprehensive Land Use Plan which was acknowledged by the Land Conservation and Development Commission on January 15, 1986; and

WHEREAS, the Umatilla Army Depot has been in operation since the 1940s with limited review under Oregon's statewide planning goals; and

WHEREAS, Morrow County is a partner in the Local Reuse Authority (LRA) which is working to receive property at the Umatilla Army Chemical Depot (UMCD) upon its closure under the Base Realignment and Closure process and planning and zoning those lands is a necessary task; and

WHEREAS, Morrow County did take limited action in 1994 to plan and zone a portion of the southwest corner of the Umatilla Army Depot; and

WHEREAS, based on work of the Local Reuse Authority Morrow County initiated work to plan and zone all of the Umatilla Army Depot lands within Morrow County; and

WHEREAS, the Morrow County Planning Commission held two public hearings to review the request on April 29, 2014, at the Heppner City Hall in Heppner, Oregon, and on May 27, 2014, at the Port of Morrow Riverfront Center in Boardman, Oregon; and

WHEREAS, the Morrow County Planning Commission heard testimony from Stan Hutchison, Oregon Military Department, initially in opposition at the April 29 public hearing and changing his testimony to support at the May 27 public hearing based on changes made to the Umatilla Army Depot Transition Zone changing it to the Umatilla Army Depot Military Zone; and

WHEREAS, the Morrow County Planning Commission unanimously recommended approval of the request and adopted Planning Commission Final Findings of Fact; and

WHEREAS, the Morrow County Court held a public hearing to consider the recommendation of the Morrow County Planning Commission on June 18, 2014; and

WHEREAS, the Morrow County Court accepted further testimony in support of the recommendation from Roy Swafford of the Oregon Military Department; and

WHEREAS, the Morrow County Court deemed the amendments appropriate to facilitate development of the Umatilla Army Depot lands.

NOW THEREFORE THE COUNTY COURT OF MORROW COUNTY ORDAINS AS FOLLOWS:

Section 1 Title of Ordinance:

This Ordinance shall be known, and may be cited, as the 2014 Planning and Zoning of the Umatilla Army Depot.

Section 2 Affected Documents:

Comprehensive Plan: Attachment A will be added to the Comprehensive Plan with the Chapter titled "Goal Exceptions Statement for Rural Residential, Rural Service Centers and Industrial Lands" and more specifically under the "Industrial Lands" section under a new heading of "Umatilla Army Depot District."

Comprehensive Plan Map: Attachment B is the Depot Plan District Comprehensive Plan Map identifying areas as Agricultural, Military, Industrial, and Wildlife Habitat.

Zoning Map: Attachment C is the Depot Plan District Zoning Map identifying areas as Exclusive Farm Use, Umatilla Army Depot Military Zone, Port Industrial, UMCD Port Industrial Limited Use Overlay Zone and Umatilla Army Depot Wildlife Habitat Zone.

Use Zones: Attachment D includes the five Use Zones to be applied as listed immediately above. Two are current Use Zones - Exclusive Farm Use and Port Industrial. Three are new and this action also adds them to our list of Use Zones. They are UMCD Port Industrial Limited Use Overlay Zone, Umatilla Army Depot Military Zone and Umatilla Army Depot Wildlife Habitat Zone. Additionally the Umatilla Army Depot Transition Zone is being replaced by the Umatilla Army Depot Military Zone and the new zone retains the Article 3 Section number of 3.074.

Ordinance MC-C-3-94 originally created the Umatilla Army Depot Transition Zone, applied it to certain lands at the Umatilla Army Depot, and adopted two Comprehensive Plan changes. This action Plans and Zones all of the Morrow County portion of the Umatilla Army Depot and the more recently created Reuse Plan adopted by the Local Reuse Authority more accurately addresses the items added to the Comprehensive Plan by Ordinance MC-C-3-94. This action repeals, or removes, those policy and findings statements from the Comprehensive Plan (shown at the bottom of page 3 and the top of page 4 of Ordinance MC-C-3-94).

Section 3 Effective Date

As the transfer of land from the Federal Government to the Local Reuse Authority is not scheduled to take place until at least 2015 and more likely 2016, the Morrow County Court would not declare an emergency. This Adopting Ordinance and changes to its affected documents would be effective on November 1, 2014.

Date of First Reading: July 2, 2014



Date of Second Reading: July 9, 2014

DONE AND ADOPTED BY THE MORROW COUNTY COURT THIS 9th DAY OF JULY, 2014

MORROW COUNTY COURT:

ATTEST:


Terry K. Tallman, Judge


Bobbi Childers
County Clerk  Deputy Clerk




Ken Grieb, Commissioner


Leann Rea, Commissioner

Goal Exceptions Statement for Rural Residential, Rural Service Centers and Industrial Lands

Industrial Lands

Umatilla Army Depot District

Under Oregon Administrative Rules (OAR) 660-004-0015(1), a local government approving an exception must adopt, as part of its comprehensive plan, findings of fact and a statement of reasons that demonstrate that the standards for an exception have been met. *This section of the report has been prepared to serve as findings of fact and a statement of reasons to support exceptions to Goals 11 and 14 for the area identified for Port Industrial zoning on Figure 8. Should Morrow County approve this application, the LRA asks that the County reference or incorporate this document into its comprehensive plan as its findings of fact and statement of reasons in support of the application.*

A. Prior Approved Exception to Goal 3 (Agricultural Land)

As a follow-up action to the preparation of the 1993 Comprehensive Development Plan for the Umatilla Army Depot (described in Section II.B of this report) – Morrow County took land use actions in May of 1994 to implement the plan and zoning designations for the Morrow County portion of the Depot.

Specifically, the Planning Commission and the Morrow County Court held public hearings and adopted an ordinance to amend the Morrow County Comprehensive Plan, Zoning Ordinance and Zoning Map to establish the “Umatilla Army Depot Transition Zone” (UADTZ) for “developed and committed” areas based on the 1993 Comprehensive Development Plan and supporting reports.¹ The exhibit attached to the adopting ordinance clearly included the developed warehouse areas in the southwest corner of the Depot. Additionally, the purpose statement for the UADTZ Zone stated:

“The UADTZ Zone is intended to recognize only those areas designated in the master plan for the Morrow County area of the Depot as Phase I and VI, which are those areas devoted to, or most suitable for, development of built and committed areas.”²

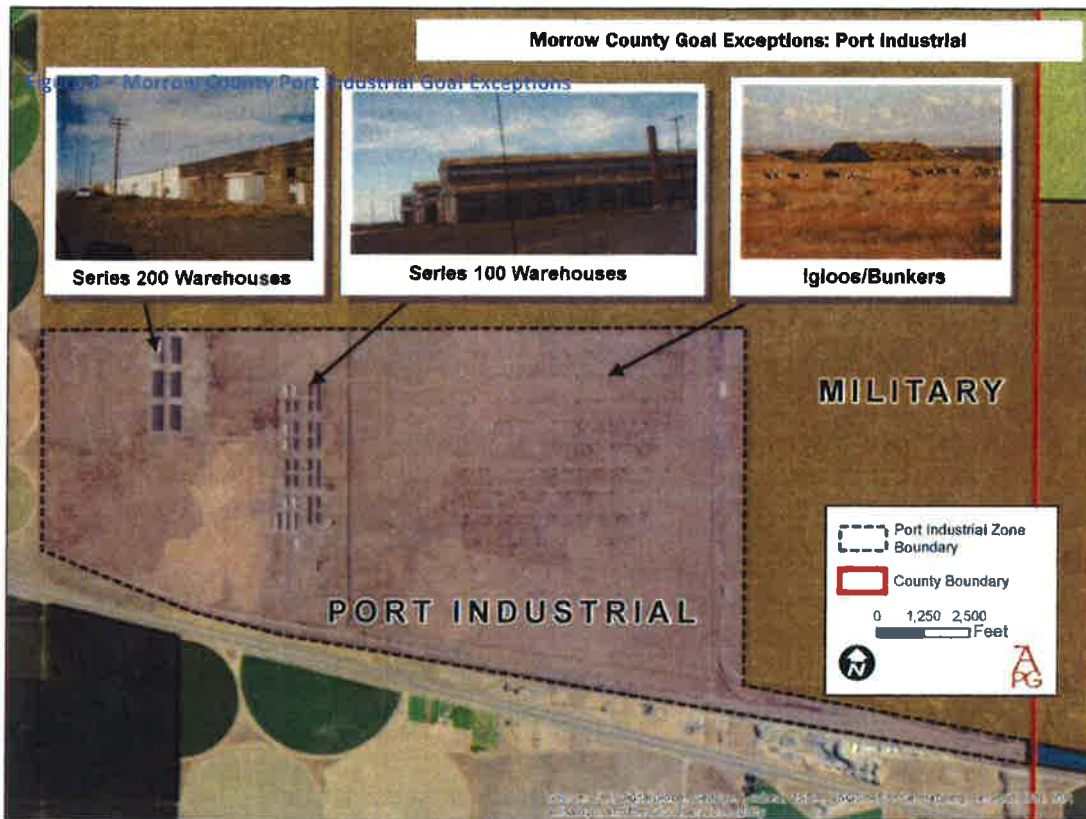
The UADTZ zone permitted a limited range of uses (warehousing, railroad related uses, container storage and trans-shipment facilities, etc.) using existing buildings and structures. Construction of new buildings or structures required Planning Commission review and approval of a conditional use permit.

The Planning Commission held two public hearings on the proposed amendments, and there were no written or oral comments in opposition to the findings, recommendations or actions. Morrow County submitted a Notice of Adoption to DLCD on June 3, 1994 which included a reference that the amendments included a goal exception, presumably to Goal 3. The decision was not appealed and the plan and ordinance amendments are therefore acknowledged.

While Morrow County approved a plan and ordinance framework in 1994 to accommodate heavy and light industrial uses in the southwest portion of the Depot, the Umatilla Army Depot

¹ See Ordinance No. MC-C-3-94 and supporting information.

² See Morrow County Zoning Ordinance, Section 3.074.



Transition Zone has never been applied because no areas have been released by the U.S. Army. However, the 1994 approvals document that the warehouse area in the southwest portion of the Depot site has been recognized and acknowledged as a “developed and committed” area.

Morrow County is supplementing the approved Goal 3 exception with exceptions to Goals 11 (Public Facilities and Services) and 14 (Urbanization) based on new administrative rule provisions and case law which have come into play since 1994. Additionally, Figure 8 depicts more defined boundaries for the developed and committed area and the Port Industrial Zone is recommended to be applied to the area instead of the Umatilla Army Depot Transition Zone. Finally, the subject property in Morrow County almost exclusively contains Class VII soils and does not have access to water for irrigation (see Appendix for Soils Map). Therefore, the exception area is not categorized as agricultural land under the Statewide Planning Goals and an exception to Goal 3 is not required.

Soil Name, Unit Number, Description	Land Capability Class Dry	Land Capability Class Irrigated
39 C: Quincy fine sand	7e	Not irrigated
40 C: Quincy loamy fine sand	7e	Not irrigated

Soil Survey of Morrow County Area, Morrow County Planning Department, July 2013

B. Exception Requirements for Lands Irrevocably Committed to Urban Levels of Development (Goals 11 and 14)

Where an urban use and urban scale public facilities and services are proposed to be located on rural lands, an applicant must demonstrate compliance with the applicable standards for goal exceptions in OAR 660, Division 14. *VinCEP v. Yamhill County*, 215 Or App 414 (2007).³

OAR 660-014-0030 outlines the standards for rural lands irrevocably committed to urban levels of development.

- (1) *A conclusion, supported by reasons and facts, that rural land is irrevocably committed to urban levels of development can satisfy the Goal 2 exceptions standard (e.g., that it is not appropriate to apply Goal 14's requirement prohibiting the establishment of urban uses on rural lands). If a conclusion that land is irrevocably committed to urban levels of development is supported, the four factors in Goal 2 and OAR 660-004-0020(2) need not be addressed.*
- (2) *A decision that land has been built upon at urban densities or irrevocably committed to an urban level of development depends on the situation at the specific site. The exact nature and extent of the areas found to be irrevocably committed to urban levels of development shall be clearly set forth in the justification for the exception. The area proposed as land that is built upon at urban densities or irrevocably committed to an urban level of development must be shown on a map or otherwise described and keyed to the appropriate findings of fact.*
- (3) *A decision that land is committed to urban levels of development shall be based on findings of fact, supported by substantial evidence in the record of the local proceeding, that address the following:*
 - (a) *Size and extent of commercial and industrial uses;*
 - (b) *Location, number and density of residential dwellings;*
 - (c) *Location of urban levels of facilities and services; including at least public water and sewer facilities; and*
 - (d) *Parcel sizes and ownership patterns.*
- (4) *A conclusion that rural land is irrevocably committed to urban development shall be based on all of the factors listed in section (3) of this rule. The conclusion shall be supported by a statement of reasons explaining why the facts found support the conclusion that the land in question is committed to urban uses and urban level development rather than a rural level of development.*
- (5) *More detailed findings and reasons must be provided that land is committed to urban development that would be required if the land is currently built upon at urban densities.*

Findings: As shown in Figure 8, a total of 1,872 acres in the southwest portion of the Depot site are identified for Port Industrial zoning and exceptions to Goals 11 and 14.

³ In *VinCEP*, the Oregon Court of Appeals overturned long-standing Land Use Board of Appeals (LUBA) precedent that for urban scale uses on rural *agricultural* land, OAR 660-014-0040 was the applicable exception standard and OAR 660, Division 4 did not apply. The court determined that an exception to Goal 3, which is governed under OAR 660, Division 4, is fundamentally different than a Goal 14 exception, stating that reasons that might justify an urban use on rural non-resource land do not necessarily justify an urban use on rural resource land. See also *VinCEP v. Yamhill County*, 55 Or LUBA 433 (2007) (LUBA's decision on remand from the Court of Appeals).

Existing development in this area includes the following Army structures and supporting infrastructure:⁴

- Series 100 Warehouses – there are thirty buildings located in this area, with an aggregate building area of 455,210 square feet. Overall average building size is approximately 15,000 square feet. There are four larger Series 100 warehouses of approximately 30,000 square feet each.
- Series 200 Warehouses – there are six buildings on the west side of the complex with an aggregate of 518,400 square feet. The area of each building is over 44,000 square feet.
- Igloos/Bunkers – there are ninety (90) concrete igloos/bunkers located in the easterly portion of this exception area. Each igloo is approximately 1,608 square feet in size. The structures are distributed evenly over a land area of approximately 430 acres.
- A spur line from the Union Pacific Railway parallels the entire south boundary of the Depot; a rail car classification and storage yard is also visible in the easterly portion of the Port Industrial exception area.
- Other miscellaneous facilities in this exception area include electricity, telephone, and gravel access roads. Historically, the Series 100 and 200 warehouses were served with on-site sewerage facilities. The larger depot site includes a system of on-site wells, water storage facilities and localized water distribution systems for developed portions of the site (excluding storage bunkers).

This portion of the Depot has been under Federal ownership for more than 70 years. There are no residential dwellings in the exception area and the property has not been divided into parcels.

As noted above, Morrow County took an exception to Goal 3 for this area in 1994 because the land was physically developed with warehouses and related facilities and committed to “industrial” use. The Goal 3 exception was not appealed and is acknowledged. Because this area encompasses predominantly Class VII soils and does not have access to water for irrigation, the site is not technically defined as “agricultural land” and an exception to Goal 3 isn’t required.

However, this application seeks to allow urban-scale port-related industrial uses and public facilities and services on rural lands and exceptions to Goals 11 and 14 are required. As used in this application, “urban-scale” uses are industrial uses in buildings of sizes that are greater than would otherwise be permitted on rural lands without goal exceptions under OAR 660-022-0030(11).⁵ “Urban-scale” public facilities and services are public facilities and services sized to serve urban-scale uses on rural lands. As noted above, the existing Series 200 warehouses located in the westerly portion of the exception area exceed 44,000 square feet. Generally, industrial uses in buildings 35,000 square feet or smaller have been considered to be rural in scale.

Under ORS 197.713, counties outside the Willamette Valley may authorize industrial development in buildings of any size and type in exception areas that were planned and zoned for industrial use on January 1, 2004. Morrow County took an exception and adopted the

⁴ Information from Facility List Spreadsheet for UMCD (5/8/2013).

⁵ OAR 660-022-0030(11) allows new or expanding industrial uses in unincorporated communities without goal exceptions if they are small scale, low impact uses, defined as uses in a building or buildings not exceeding 40,000 square feet of floor space in rural unincorporated communities. Outside of unincorporated communities, industrial uses in buildings 35,000 square feet or smaller have been considered to be rural in scale.

Umatilla Army Depot Transition Zone (UADTZ) that allowed industrial uses in May 1994, prior to the 2004 date, but never applied the zone to the subject property. For that reason, ORS 197.713 does not apply.

The Series 100 and 200 warehouses have sat largely unused for more than two decades. A majority of the buildings are dilapidated and are considered an environmental hazard and a threat to public safety.⁶ The LRA intends to negotiate with the U.S. Army to either demolish the warehouses prior to a land transfer, or provide funding for the LRA to demolish the warehouses following a land transfer.

The Morrow County exception area provides excellent opportunities for industrial users of a variety of sizes and needs. The parcel can provide opportunities for rail car storage, shipping, multi-modal transportation hubs, and/or marshaling yard opportunities. Higher intensity rail users will require significant upgrades to ties, ballast, and the rails. Morrow County is taking exceptions to Goals 11 and 14 to assure that the industrial reuse potential of this area is not constrained by requirements to use the existing buildings, building size limitations or prohibitions on extension of urban water lines.

As shown in Figure 8, the LRA has recommended designating and zoning the Morrow County exception area for Port Industrial use. "Port-related industrial uses" are those uses permitted outright or conditionally under Section 3.073, Port Industrial (PI) Zone of the Morrow County Zoning Ordinance.⁷ Uses authorized in the PI zone include, but are not limited to, port-related chemical and metal industrial uses; manufacturing, refining, processing or assembly of any agricultural, mining or industrial product; power generating and utility facilities; ship building and repair; rail loop and spur dependent uses; and effluent disposal of industrial wastes and agricultural activities in conjunction therewith. Authorized uses also include manufacturing, warehousing, packaging, processing, compounding, constructing, treatment, assembly, storage, testing, finishing, refinishing, repair, and wholesale sale and distribution of products, and any other industrial use authorized by ORS 777.250.⁸

The PI zone is an industrial sanctuary zone wherein commercial uses are limited to those appropriate and necessary to serve the needs of the workers employed in the zone. The zone provides appropriate limits as to the uses that can be located in the exception area. By taking Goal 11 and Goal 14 exceptions, the size of industrial buildings and the scale of industrial uses and public facilities and services will not be limited only to such sizes and scales that are appropriate for rural uses. Instead, urban-scale uses and public facilities and services would be allowed.⁹

In summary, the Morrow County exception area has been developed and committed to "industrial" types of uses (warehousing, storage, freight movement, etc.) since initial construction of the Umatilla Army Depot in the early 1940's. Because the area is not predominantly characterized by buildings exceeding 35,000 square feet, and because existing buildings are expected to be removed, the area is neither developed nor committed to an urban scale of industrial use. Consequently the County is proceeding with reasons exceptions to Goals 11 and 14 to provide the opportunity and flexibility for appropriate reuse of this area for urban level development that is consistent with the County's Port Industrial zone. Planning

⁶ Donohoe Report, May 7, 2013

⁷ The PI zone reflects the port-related uses that were authorized in the acknowledged 1988 reasons exception for the Port of Morrow Industrial Park.

⁸ ORS 777.250 defines the uses that ports may allow on port properties.

⁹ In *Foland v. Jackson County*, 239 Or App 60 (2011), the Oregon Court of Appeals clarified that where a Goal 14 exception is taken to allow urban-scale non-residential uses on rural lands, a corresponding Goal 11 exception is required to allow the extension of public facilities to serve the use.

efforts reaching back more than twenty years have consistently targeted this area as the most suitable and appropriate location for industrial uses in the Morrow County portion of the Depot site.

C. Requirements for Reasons Exceptions (Goals 11 and 14)

The Goal 14 administrative rule also provides for “reasons” exceptions for proposed urban uses on rural lands. The applicable standards are those in OAR 660-014-0040.

660-014-0040(1): *“As used in this rule, ‘undeveloped rural land’ includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban levels of development.”*

Findings: In 1994, Morrow County adopted an ordinance approving a “built and committed” exception for the southwest portion of the Depot site. The exception was largely based on the availability of the existing Series 100 and 200 warehouses that could be transitioned to non-military use with land transfers. The condition of the warehouses has deteriorated dramatically with general lack of use and maintenance over the past twenty years and the LRA is pursuing options to have the buildings demolished by the federal government or secure funding for demolition of the buildings following land transfer.

Even if the existing warehouse buildings are demolished, there are reasons to designate this area for urban-scale industrial uses.

OAR 660-014-0040(2): *“A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.”*

Findings: The reasons justifying future development of urban scale port-related industrial uses and public facilities sized to serve these uses are set out in numerous plans prepared for the Depot site, including the 2010 Redevelopment Plan and the more recent Development Feasibility Analysis and Land Use Analysis.¹⁰ The Goal 14 exception is taken because the size of future industrial buildings could exceed the size authorized on rural lands without goal exceptions under established LCDC practice.

As stated in the prior plans and reports, the southwesterly portion of the Depot site in Morrow County offers significant comparative advantages for industrial development based on the following location and site characteristics:

1. Unique proximity to two interstate freeways (I-84 and I-82) with accessibility to two existing interchanges. There are only seven locations in Oregon where interstate freeways and/or connecting loop freeways intersect,¹¹ and six of the seven locations are in the Willamette Valley. The locational advantages of such access cannot be overstated. This very close proximity to two interstate freeways makes the Morrow County site, as well as the Umatilla County portions of the Depot site, a significant site for job creation.
2. The Union Pacific (UP) rail line parallels the southerly boundary of the Depot site and UP’s Hinkle Rail Classification Yard is located nearby in Hermiston. Therefore, in

¹⁰ See discussion in Sections II and III of this report.

¹¹ See Table 2 on page 14 of this report.

addition to interstate highway accessibility, the Depot site offers unique accessibility to UP's transcontinental railroad system and makes the site, particularly the southwestern portion in Morrow County, ideal for industrial users who desire rail facilities.

3. The depot site is also located within about 2-3 miles of the Columbia River and existing Port facilities for barge transportation on the Columbia River system.
4. The westerly area targeted for Port Industrial development is a very large (+900 acres), level area ideally suited to large-lot industrial users (including but not limited to warehousing and distribution facilities, inter-modal freight transfer facilities, etc.).

As noted above, the Morrow County site already is physically developed or committed to industrial uses and identified for such uses in the county's comprehensive plan. Because of the site's exceptional locational advantages and very large, flat developable area, it makes good common sense to allow industrial activities, including warehouse and distribution uses, to occur here at *any* scale, urban or rural. A parallel can be drawn with the Westland Road portion of Umatilla County, for which a Goal 14 exception was previously approved and acknowledged. Located very close to the I-84 and I-82 freeways, that area already has developed with a number of urban scale uses, including an approximately 100,000 square foot FedEx warehouse and distribution facility; 350,000 square foot Lamb Weston Food Processing plant; 160,000-square foot Americold building; and approximately 180,000 square foot Hermiston Generating Company Power Plant and Substation. With the potential for very large lot industrial development, the Morrow County site likewise is extremely well suited to accommodate this kind of development, and given its existing commitment to industrial uses, this level of development warrants encouragement.

Throughout its long history, many individuals who have worked on construction or other activities at the Depot have been dependent on nearby communities for access to housing, retail and other services. No housing is proposed for the Depot site. Consistent with the long history of military use of the site, it is anticipated that employees of the industrial areas will generally live and shop in nearby communities. By designating this area of the Depot for industrial uses, free of restrictions on whether the uses are "rural" or "urban" in character or size, Morrow County and the Port will have the flexibility needed to market and maximize the economic development and job development potential of this area (approximately 11% of the Depot site acreage). By taking exceptions to Goals 11 and 14, Morrow County will position the southwest portion of the site for large-scale industrial development, consistent with reuse objectives to create as much employment as possible to compensate for jobs that will be lost with closure of the Depot.

By transitioning the southwest portion of the Depot to industrial use, residents and businesses in nearby communities will be able to leverage nearby jobs & demand for services as military employment is replaced by private employment.

OAR 660-014-0040(3)(a): *"To approve an exception under section (2) of this rule, a county must also show:*

(a) That Goal 2, Part II(c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities.

Findings: The Depot site is not contiguous with the UGB's of any nearby cities (Hermiston, Boardman, Irrigon or Umatilla). Additionally, there are no designated rural communities in the vicinity of the Depot site. Staff with DLCD submitted comments to the LRA on the 2010

Redevelopment Plan. Excerpts from the DLCD letter are provided below and address the issue of UGB expansion.

“...The department believes the Depot presents opportunities to achieve multiple win-win outcomes that advance the economic, social and environmental well being of the region and its communities. The department supports dedicating a portion of the Depot property for use by the Oregon National Guard and other areas to be managed by the US Fish and Wildlife Services. The department also agrees that existing development at the Depot makes some areas strong candidates for an exception to natural resource land uses. The department is less certain that currently undeveloped areas of the Depot property could qualify for exceptions to allow urban or rural industrial or commercial uses. Exceptions to justify commercial activities, particularly those that provide urban levels of commercial activity outside an urban growth boundary, can be particularly difficult to justify. Further, it does not appear that any portion of the Depot property is eligible for inclusion in an urban growth boundary at this time.”¹² (emphasis added).

This exception recognizes that a significant amount of urban scale industrially zoned land is available in Morrow County, as shown in Figures 6 of this report and the Regional Economic Opportunities Analysis,¹³ Morrow County has zoned approximately 7,500 acres for industrial development within 3 miles of interchanges to I-84. The majority of the designated industrial sites encompass parcels 50 acres and larger. Zoning designations include General Industrial (MG), Port Industrial (PI) and Airport Industrial (AI). In addition to this county inventory, there are about 110 acres of Port industrial park within the City of Boardman UGB. Notwithstanding this supply of available industrial land for urban scale uses, a Goal 14 exception to authorize urban scale industrial development on this property is appropriate because:

1. This property is committed to industrial development; and
2. This property is ideal for warehouse, distribution, rail-related and similar uses that may reasonably require more than 35,000 square foot buildings to serve their purposes.

In planning for future uses of the Depot site, local and regional leaders have attempted to be proactive and plan for and target specific uses that are most appropriate for the Depot site. The southwest portion of the Depot site has long been targeted as an appropriate area for warehousing, distribution and rail related uses. The Port Industrial zoning proposed for this site will not be targeted to airport related uses that are envisioned for the Airport Industrial zoned area near the Boardman Airport. Additionally, the Port Industrial zoning proposed for this site will not be targeted to agricultural processing or other industrial uses that require large volumes of water and are better accommodated at other Port industrial sites with access to municipal water supplies.

In summary, the land intensive Port Industrial uses proposed for the Morrow County portion of the Depot site cannot reasonably be accommodated in or through expansion of existing UGB's or by intensification of development in designated rural communities.

OAR 660-014-0040(3)(b): *“To approve an exception under section (2) of this rule, a county must also show: * * *.*

“(b) That Goal 2, Part II(c)(3) is met by showing that the long-term environmental, economic, social, and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly

¹² Letter from Jon Jinings and Grant Young (DLCD) to LRA regarding 2010 Redevelopment Plan (April 27, 2010).

¹³ Regional Economic Opportunities Analysis, prepared by Johnson Reid, June 2013 – Appendix B.

more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:

“(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate; and

“(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.

Findings: Industrial development in the Port Industrial exception area would not be limited by or adversely affect air, water, land or energy resources at or near the site. The airshed at the Depot site is not identified as in violation of any air quality regulations. The various missions and activities at the Depot have resulted in releases of contaminants to the environment in portions of the installation. Environmental remediation and investigation have been taking place since the 1980’s and the entire facility has been thoroughly examined and environmental issues have been largely resolved.¹⁴ There is no surface water on the Depot due to the small amount of precipitation and the porous soils. As summarized in Section IV.E of this report, the Depot site is within two of the four critical groundwater areas in the Umatilla River Basin designated by the Oregon Water Resource Department in 1976. Morrow County is not targeting large water users (such as agricultural processing plants) for this exception area. Instead, this industrial area is likely to be attractive to low-water users such as warehouse, distribution and rail-related facilities because of the proximity to rail and the interstate system.

As shown on Figure 1, about 959 acres of the designated Port Industrial lands will be subject to an overlay zone and land disturbance activities will be limited or in some cases prohibited in the area shown. This agreement was negotiated during development of the 2010 Redevelopment Plan to provide additional protection of the shrub-steppe habitat. In essence, only the 913 acres in the southwesterly portion of the exception area will be available for development of new industrial buildings and uses. The 90 existing concrete igloos/bunkers located in the restricted area will be available for storage or other uses (including but not limited to solar panels, communications facilities, etc.).

Given the long history of military warehouse and storage uses and structures in the southwest portion of the Depot – this is a reasonable area to target similar types of industrial uses when the property is transitioned from military use. Industrial uses at this location would be compatible with anticipated uses at the Oregon National Guard training area to the north and east of the exception area. Additionally, existing agricultural uses to the south and west of the industrial exception area would not be adversely affected, largely because Port Industrial development would not encroach into or fragment existing designated EFU areas.

OAR 660-014-0040(3)(c): *“To approve an exception under section (2) of this rule, a county must also show: * * *.*

(c) That Goal 2, Part II(c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:

“(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and

“(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.”

Findings: The proposed urban uses in the southwesterly portion of the exception area will be industrial uses allowed in Morrow County’s existing Port Industrial Zone, including but not

¹⁴ Umatilla Chemical Depot Site Assessment Report, May 2, 2006.

limited to warehouse, distribution and rail-related uses. Such uses have co-existed successfully for decades alongside agricultural uses in the area, thus demonstrating that the uses are compatible and that resource management of surrounding lands zoned EFU can continue. The proposed urban development will not detract from the ability of existing cities and service districts to provide services because it is expected that water and sewer services will generally be provided via on-site systems.

OAR 660-014-0040(3)(d): *“To approve an exception under section (2) of this rule, a county must also show: * * *.*

(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner;”

Findings: Only the administrative area of the Depot is served with a piped sanitary sewer system leading to a treatment facility. The system was installed in the 1940’s. Individual septic tanks and drain fields provide for treatment of domestic sewage at locations other than the administrative area. In the Series 100 and 200 warehouse areas, the majority of the buildings have been vacant for years and sewer systems receive no attention.

The water system at the Depot consists of wells, pipeline, and storage reservoirs. The system is divided into two subsystems. One part serves the northwest and north-central portions of the facility and the other system serves the warehouse and administrative areas. The northern system includes three wells providing 2,030 gallons per minute (gpm) and has 120,000 gallons of elevated storage. The southern system includes three wells providing 2,120 gpm and has 250,000 gallons of elevated storage.¹⁵

The LRA and Morrow County recognize that improvements to on-site infrastructure will be needed to accommodate large-scale new industrial development in the exception area. It is anticipated that the Port will target land extensive, relatively low density industrial uses such as warehousing and distribution that do not require sewer and water services that are provided to industrial sites inside the UGB’s. However, the county is coordinating with the newly formed Umatilla Basin Water Commission to explore options to locate wells in the areas of the Depot site designated for industrial development as a component of implementation of the regional aquifer recharge project. Because the facilities provided to the property may serve urban scale uses an exception to Goal 11 is being taken. Goal 11 requires that public facilities and services be appropriate for the needs of rural and urban scale uses.

The existing internal roadway system on the Depot provides a roadway connection east along the southerly boundary of the exception area to the existing Army Depot Interchange to I-84. With improvements, this established right-of-way will accommodate near-term industrial uses in the Morrow County exception area. On a longer-term basis, Morrow County and the Port will coordinate on the potential extension of a roadway to connect the Depot exception area to the west to the Patterson Ferry Road interchange to I-84. Figure 4-9 of the Morrow County Transportation System Plan (2012) already shows this potential road connection.

OAR 660-014-0040(3)(e): *“To approve an exception under section (2) of this rule, a county must also show: * * *.*

*“(e) That * * * establishment of new urban development on undeveloped rural land is coordinated with the comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development.”*

Findings: Because the Umatilla Army Depot has been under federal jurisdiction – the Morrow and Umatilla County Comprehensive Plans have never controlled development in the 17,000

¹⁵ Umatilla Chemical Depot Site Assessment Report (May 2, 2006), page 24.

acre area. Morrow County and the Morrow Port District have been actively involved in planning for reuse of the Umatilla Army Depot for decades. Designating the southwest portion of the Depot for Port Industrial use is consistent with the "developed and committed" exception that Morrow County took for this area in 1994. Additionally, the Port Industrial designation is consistent with the following objective in the Morrow County Comprehensive Plan:

*"The industrial land designated in the Plan and on the land map reflects the needs of industry for (a) access to highway, rail, and water transportation; (b) access to electric power and natural gas; (c) extensive, level building sites; and (d) room for expansion."*¹⁶

Angelo Planning Group met with the Morrow County Planning Director and Port District staff on May 14, 2013 to review both the Umatilla Army Depot Transition Zone (UADTZ)¹⁷ and the Port Industrial Zone (PI)¹⁸ for applicability to the industrial exception area. As described in Section VI.A – the UADTZ was added to the Morrow County Zoning Ordinance when the "developed and committed" exception for this area was approved in 1994. Uses permitted outright in the zone are limited to uses of existing buildings. Construction of new buildings requires Planning Commission conditional use permit approval.

Because of the dilapidated condition of the Series 100 and 200 warehouses, it is now expected that the buildings will need to be demolished. Morrow County recently updated the Port Industrial zone to function as an "industrial sanctuary" zone. The Port Industrial zone provides broader flexibility to accommodate a range of port-related uses outright, without the requirement for conditional use review for new buildings. The Planning Director and Port representative both recommended that the Port Industrial Zone be applied to this exception area. Therefore, as part of the public review and adoption process for the exception to Goals 11 and 14, the Port Industrial Zone will be implemented when this exception area is transferred out of federal jurisdiction. In a related action, the Umatilla Army Depot Transition Zone will be deleted from the Morrow County Zoning Ordinance.

In addition, planning for reuse of the Depot has consistently included notice and opportunities for participation by nearby cities (including Boardman, Irrigon, Hermiston and Umatilla) to assure coordination of plans.

Summary

For all of these reasons, the Port Industrial exception area shown in Figure 8 complies with the relevant exception standards in OAR 660-014-0030 and -0040 and exceptions to Goals 11 and 14 are justified.

Statewide Planning Goal and Comprehensive Plan Findings

A goal exception is a comprehensive plan amendment.¹⁹ In addition to the relevant exception standards, the statewide planning goals apply to plan amendments. The goals identified below are the only goals applicable to the plan amendments requested in this application. Goals not identified do not apply.

A. Goal 1 (Citizen Involvement).

Goal 1 requires that local governments provide citizens with opportunities to participate in several phases of land use planning, ranging from broad scale public involvement in the

¹⁶ Morrow County Comprehensive Plan, page 37.

¹⁷ See Morrow County Zoning Ordinance, Section 3.074.

¹⁸ See Morrow County Zoning Ordinance, Section 3.073.

¹⁹ ORS 197.732(8).

development of comprehensive plans and implementing ordinances to more site-specific review of plan and development proposals. Generally, Goal 1 is satisfied when a local government follows the public involvement procedures for plan amendments set out in its acknowledged comprehensive plan and land use regulations.

Morrow County's regulations for comprehensive plan amendments include notice to the public and to the Department of Land Conservation and Development (DLCD)²⁰; public hearings before the Morrow County Planning Commission (which makes a recommendation to the County Court); and public hearings before the Morrow County Court. Compliance with these regulations results in compliance with Goal 1.

The County has gone beyond the basic citizen involvement efforts required by Goal 1 before initiating the goal exceptions/plan amendments for the Umatilla Army Depot. Morrow County and Umatilla County coordinated to hold a joint public meeting of their respective Planning Commissions on August 12, 2013 to provide an overview of the goal exceptions and recommended land use actions for the Depot. Public notice of this meeting was provided to surrounding property owners, agencies and local jurisdictions in proximity to the Depot.

In addition, an Industrial Lands Forum held on June 22, 2013 and meetings with the Umatilla Army Depot Local Reuse Authority (LRA) on May 14, 2013 and July 11, 2013 provided other opportunities for public input to shape the land use strategies for the Depot. For all of these reasons, Goal 1 is met.

B. Goal 2 (Land Use Planning), Part I.

Goal 2, Part I requires coordination with affected governments and agencies, evaluation of alternatives, and an adequate factual base to support plan amendments. Morrow County representatives have been active participants in planning for redevelopment of the Depot for more than 20 years. Extensive and detailed technical studies and reports have been prepared to support the redevelopment plan for the Depot, including but not limited to market studies, environmental studies, land use studies and infrastructure studies. Numerous agencies have been actively involved in the planning process over a 10-20 year period, including but not limited to DLCD, the Governor's Office, DEQ, ODOT and Business Oregon. Copies of the draft goal exceptions included in this report were provided to DLCD staff and other state agencies for an early review in advance of the 35-day notice for a post-acknowledgement plan amendment.

A regional economic opportunities analysis was prepared to provide context for the unique economic opportunities and constraints available at the Depot. A variety of technical reports were also available from the Redevelopment Plan completed by the Dana Mission Support Team and provided additional information and evidence in support of the goal exceptions and proposed comprehensive plan and zoning recommendations.²¹

The goal exceptions, together with the supporting documents and evidence submitted in support of the exceptions, provide an adequate factual base to support the proposal to apply the Industrial comprehensive plan designation and Port Industrial zoning to the southwest portion of the Depot when lands are transferred out of federal jurisdiction. For these reasons, Goal 2, Part I is met.

²⁰ ORS 197.610 requires local governments to provide DLCD with advance notice of proposed comprehensive plan or land use regulation amendments. ORS 197.732(5) requires that each notice of a public hearing on a proposed exception shall specifically note that goal exceptions are being proposed and summarize the issues in an understandable way.

²¹ See Final Redevelopment Plan documents at http://umadra.com/f_redevelopment1.html

C. Goal 2 (Land Use Planning), Part II.

Goal 2, Part II sets out the standards for goal exceptions. For urban uses and urban scale public facilities and services on rural lands, Goal 2 Part II is implemented through OAR 660, Division 4 and OAR 660-014-0040. Goal 2, Part II is satisfied for the reasons set out in the goal exceptions analysis included in Section VI of this application.

D. Goal 3 (Agricultural Lands).

Goal 3 requires counties to preserve and maintain agricultural lands for farm uses. Counties must inventory agricultural lands and protect them by adopting exclusive farm use zones consistent with ORS 215.203.

Existing development in the southwest portion of the Depot proposed for the Industrial comprehensive plan designation and Port Industrial zoning includes the following Army structures and supporting infrastructure:

- Series 100 Warehouses – there are thirty buildings located in this area, with an aggregate building area of 455,210 square feet.
- Series 200 Warehouses – there are six buildings on the west side of the complex with an aggregate building area of 518,440 square feet.
- Igloos/Bunkers – there are ninety concrete igloos/bunkers located in the easterly portion of the proposed Port Industrial Zone. The igloos are distributed evenly over a land area of approximately 430 acres.
- A spur line from the Union Pacific Railway parallels the entire south boundary of the Depot; a rail car classification and storage yard is located in the easterly portion of the proposed Port Industrial zone area.

In addition to the historical commitment to warehouse buildings and igloos/bunkers in the area proposed for Port Industrial zoning, underlying soils are almost exclusively Class VII Quincy soils and the area does not have access to water for irrigation.

Soil Name, Unit Number, Description	Land Capability Class	
	Dry	Irrigated
39 C: Quincy fine sand	7e	Not irrigated
40 C: Quincy loamy fine sand	7e	Not irrigated

Soil Survey of Morrow County Area, Morrow County Planning Department, July 2013

Therefore, the exception area is not categorized as agricultural land under the Statewide Planning Goals and an exception to Goal 3 is not required to apply the Industrial comprehensive plan designation and Port Industrial zoning. Army warehouse uses have operated compatibly with agricultural uses to the west and south of the proposed Port Industrial zoning for decades.

E. Goal 5 (Open Spaces, Scenic and Historic Areas, and Natural Resources).

Goal 5 requires that local governments adopt programs to protect significant natural resources and conserve significant scenic, historic, and open space resources for present and future generations. The procedures and requirements for complying with Goal 5 are outlined in OAR 660, Division 23.

The following resources are addressed under Goal 5:

• Riparian Corridors	• Wetlands
• Wildlife Habitat	• Federal Wild & Scenic Rivers
• Oregon Scenic Waterways	• Groundwater Resources
• Approved Oregon Recreation Trails	• Natural Areas
• Wilderness Areas	• Mineral & Aggregate Resources
• Energy Sources	• Historic Resources
• Open Space	• Scenic Views & Sites

Morrow County has an acknowledged comprehensive plan and land use regulations. The proposal to apply the Industrial plan designation and Port Industrial zoning is defined as a “post-acknowledgement plan amendment” (PAPA) under the Goal 5 rule. OAR 660-023-0250 outlines the applicability of Goal 5 to PAPAs as follows:

- (1) *The requirements of Goal 5 do not apply to land use decisions made pursuant to acknowledged comprehensive plans and land use regulations.*
- (2) *The requirements of this division are applicable to PAPAs initiated on or after September 1, 1996.*
- (3) *Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:*
 - (a) *The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource to address specific requirements of Goal 5;*
 - (b) *The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or*
 - (c) *The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.*
- (4) *Consideration of a PAPA regarding a specific resource site, or regarding a specific provision of a Goal 5 implementing measure, does not require a local government to revise acknowledged inventories or other implementing measures, for the resource site or for other Goal 5 sites, that are not affected by the PAPA, regardless of whether such inventories or provisions were acknowledged under this rule or under OAR 660, Division 16.*

The proposal to apply an Industrial plan designation and Port Industrial zoning to the southwesterly portion of the Depot shown in Figure 1 does not create or amend the County’s Goal 5 resource list, create or amend a land use regulation adopted to protect a significant Goal 5 resource, or amend an acknowledged urban growth boundary. Therefore, the only portion of the Goal 5 rule potentially applicable to this PA/ZC application is OAR 660-023-0250(3)(b), which requires the County to determine whether the PAPA will allow a new use that could be a conflicting use with a particular significant Goal 5 resource on the County’s acknowledged resource list. The uses that will be allowed under the Port Industrial zoning (warehouses, rail

related uses, distribution, etc.) are very similar to the historical types of uses that occurred in the Series 100 & 200 warehouses located in the southwesterly portion of the Depot.

As described in Section III of this goal exception report, portions of the Umatilla Army Depot and Boeing Lease Lands in Morrow County contain the largest remaining bitterbrush shrub-steppe habitats in the Columbia Basin. As such, the Depot provides valuable habitat for native plant and animal species.

Planning for the Depot has consistently emphasized three overarching goals for future use of the site:

- Military Reuse (accommodating the needs and plans of the Oregon National Guard)
- Environmental Preservation (with a special emphasis on the shrub-steppe habitat)
- Economic Development (job creation)

Figure 1 illustrates how these goals will be achieved with adoption of a Depot Plan District and zoning as part of the Morrow and Umatilla County Comprehensive Plans.

As shown in Figure 1, a total of 5,678 acres are set aside for wildlife habitat. While ownership and management of the Habitat area is not yet confirmed, zoning is being applied and a significant area of shrub-steppe habitat will be protected, consistent with the objectives of Goal 5.

Additionally, Morrow County will apply a "Limited Use Overlay" to the easterly 959 acres of the Port Industrial Area shown with cross-hatch in Figure 1. Land disturbance activities will be limited to provide additional protection of shrub-steppe habitat. Use and maintenance of the existing bunkers and roadways in this area will be allowed for uses permitted in the Port Industrial Zone under the Limited Use Overlay, but ground disturbance activities will be limited or in some cases not permitted.

The Depot site is within two critical groundwater areas (Ordnance Basalt and Gravel) designated by the Oregon Water Resource Department (OWRD) in 1976. The critical groundwater areas have been closed to further groundwater appropriation and, in some subareas, existing water uses have been curtailed. However, the critical groundwater areas are regulated by OWRD and are not regulated under Goal 5. None of the other resources addressed under Goal 5 have been identified in the area proposed for Port Industrial zoning.

Therefore, applying the Industrial plan designation and Port Industrial zoning to the area shown in Figure 1 is consistent with Goal 5.

F. Goal 6 (Air, Water and Land Resources Quality).

Goal 6 addresses the quality of air, water and land resources. In the context of comprehensive plan amendments, a local government complies with Goal 6 by explaining why it is reasonable to expect that the proposed uses authorized by the plan amendment will be able to satisfy applicable federal and state environmental standards, including air and water quality standards.

The proposed plan amendments do not seek approval of a specific development. Rather, applying Morrow County's existing Port Industrial zone to the southwest portion of the Depot will accommodate a broad range of industrial uses, including but not limited to manufacturing, warehousing, processing, packaging, compounding, assembly, storage and distribution of products.

New development will require a Zoning Permit, and conditions on development would include requirements to obtain permits to assure compliance with relevant air and water quality standards. This could include air quality or water discharge permits from DEQ for certain industrial processes. Where new areas are paved, water cannot penetrate the soils. This can

increase erosion, increase the movement of fine sediments, and increase pollutant loads in watercourses. The use of construction techniques that include temporary and permanent Best Management Practices for erosion and sediment control and spill control and prevention also can achieve compliance with clean water standards.

The uses authorized by the requested plan amendments should not create noise that differs from the types of industrially-related noise associated with the long history of Army activity in the area. The location of these uses in close proximity to the rail corridor and I-84 will reduce overall noise impacts because highway and railroad generated noise muffles and obscures other noises located nearby. The EFU zoning to the west and south of the proposed Port Industrial zoning and very low density of dwellings in the vicinity means any new noise impacts associated with new Port Industrial development would be negligible.

Therefore, it is reasonable to expect that future Port Industrial development at this location could satisfy state and federal environmental standards for maintaining and improving the quality of air, water and land resources as required by Goal 6.

G. Goal 9 (Economic Development).

Goal 9 requires local governments to adopt comprehensive plans and policies that "contribute to a stable and healthy economy in all regions of the state." Morrow County's comprehensive plan has been acknowledged to comply with Goal 9.

A key objective of the Morrow County Comprehensive Plan is to accommodate industry without encroaching on residential or agricultural development. Additionally, industry is to be protected from encroachment by incompatible uses.

Morrow County has designated land for industrial uses based on the needs of industry for (a) access to highway, rail, and water transportation; (b) access to electric power and natural gas; (c) extensive, level building sites; and (d) room for expansion.²²

Technically, the administrative rule that implements Goal 9 applies only to lands inside UGBs.²³ Planning for industrial and commercial uses outside of UGBs is not required or restricted by LCDC's rule implementing Goal 9. However, Morrow and Umatilla Counties went beyond the requirements of the Goal 9 administrative rule and cooperated to prepare a Regional Economic Opportunities Analysis (Regional EOA) to support the land use planning strategy for the Depot.²⁴

Key economic development assets of the region are highlighted in the Regional EOA and include:

- Transportation linkages
- Substantial inventory of industrial sites to accommodate a range and intensity of uses
- Abundant energy supplies
- Well-organized and supportive economic development climate

This application will supplement the County's inventory of industrial lands in a location that has a long history of "industrial scale" uses. This is consistent with the objective of Goal 9 to "contribute to a stable and healthy economy in all regions of the state."

²² Morrow County Comprehensive Plan, Page 37.

²³ See OAR 660-009-0010(1).

²⁴ Johnson Reid LLC, Regional Economic Opportunities Analysis for Morrow and Umatilla Counties (July 2013)

H. Goal 11 (Public Facilities and Services).

Goal 11 requires local governments to plan and develop a timely, orderly and efficient arrangement of public facilities and services. The goal provides that urban and rural development "be guided and supported by types and levels of services appropriate for, but limited to, the needs and requirements of the urban, urbanizable and rural areas to be served."

Counties are not required to prepare Public Facilities Plans under Goal 11. Outside of the UGB's, the level of service provided to the proposed Port Industrial area may exceed the level considered to be appropriate for and needed to serve the rural area. Accordingly, the plan amendments to allow industrial development on rural lands included in this application require and have taken Goal 11 exceptions.

I. Goal 12 (Transportation).

Goal 12 requires local governments to "provide and encourage a safe, convenient and economic transportation system." Goal 12 is implemented through the Transportation Planning Rule, OAR 660, Division 12. That rule encourages a multi-modal transportation system. The proposed amendments support such a system by permitting and facilitating rail related uses on the spur lines that extend into the Port Industrial area.

OAR 660-012-0060 provides that where a plan amendment would significantly affect an existing or planned transportation facility, measures must be taken to assure that the allowed land uses are consistent with the identified function, capacity and performance standards of the facility. Because the historical levels of activity at the 17,000-acre Umatilla Army Depot have ceased and because the existing I-84 / Army Depot Interchange currently experiences very light traffic, operates well below its capacity and performance standards, no significant effect is anticipated.

Additionally, the Umatilla Army Depot Reuse Authority is currently developing coordinated interchange area management plans (IAMPs) for the three existing interchanges that will influence future development on the Depot site (Patterson Ferry / I-84, Army Depot / I-84 and Westland / I-82). This transportation planning work is being done within the context of a broader Subarea Transportation Plan. The Subarea Transportation Plan will identify connections between the interchanges, lay out the local circulation system that will support future activity on the Depot site, and identify phased implementation steps to achieve the overall transportation system and mitigate any potential transportation impacts from future development.

Developing the three IAMPs in a comprehensive manner will give Morrow and Umatilla counties the ability to coordinate the adoption of the IAMPs into their respective Transportation System Plans (TSPs). The IAMP process is expected to be completed in 2014 and applying the Industrial plan designation and Port Industrial zoning is consistent with Goal 12 and the TPR.

J. Goal 13 (Energy Conservation).

Goal 13 directs cities and counties to manage and control land uses to maximize the conservation of all forms of energy, based on sound economic principles. The proposed amendments will help conserve energy by consolidating industrial lands in proximity to existing railroad and interstate highway facilities and providing opportunities for jobs in proximity to housing located in nearby UGBs.

K. Goal 14 (Urbanization).

As relevant to this application, Goal 14 prohibits urban uses on rural lands. To locate urban uses on rural lands, local governments either must expand their UGBs to include the subject property or take a Goal 14 exception setting forth reasons why urban development should be allowed on rural land and explaining why the urban use cannot reasonably be located inside the UGB. This

application includes an exception to Goal 14 to allow urban scale industrial development on rural lands. The justification for that exception is set out in Section VI of this application.

Transportation Strategy

To accommodate the requirements of Goal 12, the Transportation Planning Rule (TPR) and to address the unique circumstances associated with future use of the Umatilla Army Depot, a specialized joint transportation planning effort between UMADRA, Morrow County, Umatilla County, and ODOT is now underway for the site. The Umatilla Transportation System Subarea Plan / Combined Interchange Area Management Plan will focus on the following key elements:

- Quantifying the transportation impacts associated with potential future reuse and redevelopment activities. This planning effort will acknowledge that there has historically been an employment presence on the site – whether related to military operations or to the more than 1,000 employees who worked at the Umatilla Chemical Disposal Facility (UMCDF) as the stockpiled chemical weapons were incinerated. This level of employment at a single industrial site is of a scale that would be considered “urban” in terms of employment densities and existing traffic generation (primarily accessing via the 1-82 / Westland interchange).
- Creating a local circulation plan - Currently lacking a transportation infrastructure capable of supporting future reuse and redevelopment activities, the planning effort would identify the outline of a local circulation network within both Morrow and Umatilla Counties.
- Identifying regional access impacts at existing freeway interchanges - The Oregon Highway Plan (OHP) policies direct the Oregon Department of Transportation (ODOT) to actively plan for and manage freeway interchange areas to ensure they function safely and efficiently. The Umatilla Army Depot site is situated near the confluence of I-84 and I-82 and has varying degrees of access to both freeways. As such, the transportation planning effort will need to address the special interchange area planning requirements (typically referred to as Interchange Area Management Plan or IAMPs) in accordance with the provisions of OAR 734-051-7010. Based on initial discussions with ODOT, the following three interchanges would be influenced by future development of the Umatilla Army Depot site and would need to be included in the planning process:
 1. I-82/Westland Road Interchange
 2. I-84/Army Depot Interchange
 3. I-84/Patterson Ferry Road Interchange

The Umatilla Army Depot Transportation Subarea Plan will address safety, existing and planned land use, local circulation, and operations/access management elements associated with the three interchanges. The plan will identify any needed transportation improvements and access management needs at the study interchanges and identify phasing, if appropriate, for identified improvements, and state and local policy changes that will be needed to implement the plan. Policies to guide subsequent decision-making by local government agencies to take actions that are consistent with and implement the overall transportation plan will be developed.

The overall transportation plan will include the following outcomes:

- **Identify and prioritize a local circulation network to accommodate potential land use modifications and subsequent future development;**

- Identify and prioritize interchange improvements to the three study area interchanges. This would include access management techniques along the crossroads such as driveway consolidation, parallel road improvements, median control, and acquisition of access to properties;
- Identify land use strategies and ordinances that may be used to preserve highway capacity, safety, and performance standards of the three interchanges;
- Identify improvements for all transportation modes, including multi-modal facilities and pedestrian and bicycle needs;
- Include street cross-section standards and streetscape designs;
- Include likely funding sources and clear requirements for the construction of the infrastructure and facility improvements as new development is approved. The plan must identify partnerships where cooperative management responsibility for projects will be necessary in the future. The plan will include language requiring coordinated review of land use decisions affecting transportation facilities.

Preparation of the Umatilla Transportation System Subarea Plan is expected to be complete by September 2014. Following completion, the transportation planning recommendations will be used to:

- Address the requirements of Statewide Planning Goal 12 – Transportation and the Transportation Planning Rule (TPR);
- Coordinate with the Oregon Department of Transportation on management plans for the three interstate interchanges that could potentially be affected by the land use recommendations; and
- Identify implementation actions and amendments to the Morrow and Umatilla Counties Transportation System Plans.

Comprehensive Plan Findings and Policies

Findings

1. The Umatilla Army Depot (Depot) is a unique facility and land use in the State of Oregon. Established more than seventy years ago by the U.S. Army, the Depot site encompasses approximately 17,000 acres spanning Morrow and Umatilla Counties. Due to its federal ownership, the Depot in its entirety has never been zoned by Morrow and Umatilla Counties. Early in the Reuse process in the early 1990s Morrow County did identify a portion of the southwest corner for potential development and took a Goal 3 exception, and created and applied the Umatilla Army Depot Transition Zone.
2. Morrow County has been an active partner in the years of planning to transition the Depot away from military operations toward a more comprehensive use of the property. Planning for the Depot has consistently emphasized three overarching goals for future use of the site:

- Military Reuse (accommodating the needs and plans of the Oregon National Guard)
 - Environmental Preservation (with a special emphasis on the shrub-steppe habitat)
 - Economic Development (job creation)
3. In 2013, the Umatilla Army Depot Local Reuse Authority (LRA) endorsed an economic development and land use strategy for the Depot.
 4. To implement the economic development goals for the Depot, Morrow County is proceeding with Statewide Planning Goal Exceptions to Goals 11 (Public Facilities & Services) and 14 (Urbanization) to apply Port Industrial zoning to approximately 1,872 acres within Morrow County in the southwest corner of the Depot as land is transferred out of federal jurisdiction.
 5. About 959 acres of the designated Port Industrial lands will be subject to a Limited Use Overlay Zone and land disturbance activities will be limited or in some cases prohibited. The existing concrete igloos/bunkers located in the Limited Use Overlay Zone will be available for storage or other uses (including but not limited to solar panels, communications facilities, etc.).

Policies

1. As land within the Depot is transferred out of federal ownership, Morrow County will apply an Industrial comprehensive plan designation and Port Industrial zoning to the southwestern corner of the Army Depot.
2. By taking Goal 11 and 14 exceptions, urban-scale industrial uses and public facilities and services will be allowed in the area zoned Port Industrial and building size will not be restricted.
3. Morrow County will apply EFU zoning to the approximately 634 acres north of the military area when that area is transferred out of federal ownership.
4. Morrow County is applying the Umatilla Army Depot Transition Zone to the area designated for Military use to be available when that property would become available for reuse. The County expects the Oregon National Guard and the Oregon Military Department to coordinate with the County as they develop a facility plan for the site, consistent with state agency coordination requirements in ORS 197.180.
5. Morrow County is applying the Umatilla Depot Wildlife Habitat Zone to the area designated for Wildlife Habitat if and when that land is transferred out of federal ownership.
6. Morrow County is participating in the Transportation System Subarea Plan/Combined Interchange Area Management Plan (IAMP) for the three existing interchanges that have the potential to be influenced by the redevelopment plan and land use changes proposed. This will assure a coordinated and comprehensive approach to identifying the

timing/phasing of land development and associated transportation improvements (including local circulation and interchange improvements). Transportation system recommendations from this planning effort will be incorporated into Morrow County's Transportation System Plan.

UMATILLA COUNTY PLANNING COMMISSION

April 27, 2017

NEW HEARING:

CONDITIONAL USE PERMIT REQUEST, #C-1264-16 & #C-1282-16 & VARIANCE REQUEST, #V-347-16, GRANITE CONSTRUCTION COMPANY, APPLICANT, BETTY HIATT, KEN BONNEY & JANET BONNEY, PROPERTY OWNERS.

The applicant is requesting a public hearing for a Conditional Use Permit to conduct mining operations and to operate a concrete batch plant. In addition, the applicant is requesting a variance from the setback requirements from a utility easement. The property is located between Interstate 82 and Lind Road within the Urban Growth Boundary of the City of Umatilla described as Township 5N, Range 28E, Section 16; Tax Lot #2300.

The criteria of approval are found in the Umatilla County Development Code Sections 152.615, 152.616(C), 152.616(Q), and 152.625 through 152.630.

Umatilla County

Department of Land Use Planning



DIRECTOR
TAMRA
MABBOTT

LAND USE
PLANNING,
ZONING AND
PERMITTING

CODE
ENFORCEMENT

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

MEMO

TO: Umatilla County Planning Commission

FROM: Brandon Seitz, Assistant Planner *BS*

DATE: April 18, 2017

RE: Granite Construction Conditional Use Permits and Variance Request

The applicant, Granite Construction Company, is requesting approval of two Conditional Use Permits (CUP) and a Variance. The first CUP (#C-1281-16) would approve mining and processing operations and CUP (#C-1281-16) would approve operation of a portable concrete batch plant. The applicant is also requesting a variance from the setback requirements for extraction holes and sedimentation ponds from a utility easement.

Background Information

The subject parcel is located within the City of Umatilla's Urban Growth Boundary (UGB) and is zoned Heavy Industrial (M-2) under the County's 1972 Zoning Ordinance. The property previously received approval for an identical request (#C-1169-10, #C-1170-10 and #V-315-10) in 2010. However, that permit was never acted on and the County approval has expired.

As of January 23, 2017, Umatilla County and the City of Umatilla have updated the Joint Management Agreement (JMA). The updated transfers planning jurisdiction within the UGB to the City. Since the application was received prior to finalizing the JMA the County will process the application to a final decision under the standards in place at the time the application was received. Once a final decision has been reached all amendments or subsequent review will be processed by the City.

Request for Public Hearing

The applicant is requesting a first public hearing primarily over condition of approval #12 imposed on mining activities within the utility rights-of-way. The property has a 395 foot Bonneville Power Administration (BPA) easement and 100 foot Umatilla Electric Cooperative easement. These easements comprise approximately half of the parcel.

Memo
Planning Commission Public Hearing – April 27, 2017
Granite Construction Company

Attachments

The following attachments have been included for review by the Planning Commission:

- Public Notice Map
- Preliminary Site Plan
- Granite Request for Public Hearing
- BPA Land Use Agreement

**UMATILLA COUNTY PLANNING DEPARTMENT
FINAL FINDINGS AND CONCLUSIONS
CONDITIONAL USE REQUEST, #C-1281-16, #C-1282-16 &
VARIANCE REQUEST, #V-347-16
MAP #5N2816, TAX LOT #2300, ACCOUNT #154736**

- 1. APPLICANT:** Keven Samuelson, 80 Pond Road, Yakima, WA 97909.
- 2. OWNER:** Betty Hiatt, Ken Bonney, and Janet Bonney, 495 E Main Street, Hermiston, OR 97838.
- 3. LOCATION:** The parcel is located between Interstate 82 and Lind Road within the Urban Growth Boundary (UGB) of the City of Umatilla.
- 4. REQUEST:** The applicant request a conditional use permit (CUP) to conduct mining and a CUP to operate a concrete batch plant at the location of an existing aggregate site. In addition, the applicant request a variance from the 25 foot setback requirement for extraction holes and sedimentation ponds from a utility easement.
- 5. ACREAGE:** The parcel is 34.56 acres.
- 6. PERMITS:** The subject property previously received approval of two CUPs and a variance. CUP (#C-1169-10) approved mining and washing operations and CUP (#C-1170-10) approved a portable batch plant. Variance request (#V-315-10) allowed extraction holes, the sediment pond and mining equipment to be placed within the utility right of ways. A Zoning Permit (#ZP-10-231) was issued December 14, 2010 to allow mining, wash plant, portable concrete batch plant and a temporary office building to be placed on the parcel. However, due to issues with the water rights the permit was never acted on and County approval for both CUPs and the variance approval have expired.
- 7. COMP PLAN:** The parcel is located within the City of Umatilla's UGB and is designated Industrial by the City's Comprehensive Plan Map.
- 8. ZONING:** The parcel is zoned Heavy Industrial (M-2) under the County's 1972 Zoning Ordinance.
- 9. ACCESS:** The parcel has access from Lind Road via an existing private road. The private road is across property under common ownership land leased by the property owner
- 10. ROAD TYPE:** Lind Road is a gravel County road (#1281).

FINAL FINDING AND CONCLUSION

Granite Construction Conditional Use Request #C-1281-16, #C-1282-16 & Variance Request #V-347-16

Page 2 of 12

- 11. EASEMENTS:** The parcel has multiple overhead power easements for the Bonneville Power Administration (BPA) and Umatilla Electric Cooperative (UEC).
- 12. LAND USE:** The parcel is identified in the City’s Comprehensive Plan as a gravel resource. However, the City has never completed the Goal 5 process for the site. Therefore, the site will not receive special protection, allowed under the Goal 5 rules. The parcel has previously been mined and the applicant is requesting approval to renew operations within the existing quarry.
- 13. ADJACENT USE:** Northwest of the parcel is a similar aggregate site known as the Jones-Scott pit. South of the site is lands zoned for agricultural use and currently in irrigated crop production. East of the parcel is undeveloped federal land managed by the BPA.
- 14. LAND FORM:** Columbia River Plateau.
- 15. SOIL TYPES:** High Value Soils are defined in UCDC 152.003 as Land Capability Class I and II.

Soil Name, Unit Number, Description	Land Capability Class	
	Dry	Irrigated
70 - Pits, gravel.	-	-
14B - Burbank loamy fine sand, 0 to 5 percent slopes.	VIIIe	IVe

Soil Survey of Umatilla County Area, 1989, NRCS. The suffix on the Land Capability Class designations are defined as “e” – erosion prone, “c” – climate limitations, “s” soil limitations and “w” – water (Survey, page. 172).

- 16. BUILDINGS:** There are two small buildings located on the parcel.
- 17. UTILITIES:** The parcel is served by UEC for electricity.
- 18. WATER/SEWER:** A well is located on the property and water rights are in place for irrigation and for industrial use such as dust abatement, aggregate washing and for processing asphalt and concrete. During the proposed operations portable toilet facilities will be used for the workers.
- 19. FIRE SERVICE:** The parcel is within the service area of the Umatilla Rural Fire District.
- 20. IRRIGATION:** The parcel has water rights for irrigation and industrial uses from Oregon Department of Water Resources. The parcel is not located in an irrigation district.
- 21. NOTICE SENT:** February 3, 2017.

22. DUE BACK: February 24, 2017.

23. AGENCIES: BPA, DOGAMI, ODOT, Department of Environmental Quality, Oregon Department of Water Resources, Umatilla County Assessor, Umatilla County Public Works, City of Umatilla, Umatilla Rural Fire District and Umatilla Electric Cooperative.

24. COMMENTS: Comment was received from David Mull and Joe Cottrell a Realty Specialist with BPA. Mr. Mull raised concerns over the hours of operation, maintenance of the haul roads and reclamation requirements. Mr. Cottrell's comments were over the uses allowed within BPA's right-of-way by the variance. Mr. Cottrell's comments were received by staff over the phone.

NOTE: As of January 23, 2017, Umatilla County and the City of Umatilla have updated the Joint Management Agreement (JMA). The update transfers planning jurisdiction within the UGB to the City. The County will process the application to a final decision. Once a final decision has been reached all amendments or subsequent review will be processed by the City.

STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE FOR CONDITIONAL USE REQUEST AND VARIANCE REQUEST, for mining, processing and variance request. The standards of approval are contained in the Umatilla County Development Code Sections 152.616 (Q), 152.616 (C), 152.615 and 152.625 through 152.630. The standards for approval are provided in underlined text and the responses are indicated in standard text.

152.616 STANDARDS FOR REVIEW OF CONDITIONAL USES AND LAND USE DECISIONS.

(C) Asphalt plants.

- (1) Access roads shall be arranged in such a manner as to minimize traffic danger and nuisance to surrounding properties; The Umatilla County Planning Department finds that an existing private driveway is proposed for ingress and egress across adjoining land under common ownership and land leased by the property owner. The point of connection for the driveway is onto Lind Road a two lane gravel county road (#1281). This criterion is met.
- (2) Processing equipment shall not be located or operated within 500 feet from a residential dwelling; The Umatilla County Planning Department finds the nearest dwellings are located on properties southwest of the parcel both dwelling are approximately a quarter mile away. However, a condition of approval is imposed requiring processing equipment to be located no closer than 500 feet from dwellings.

FINAL FINDING AND CONCLUSION

Granite Construction Conditional Use Request #C-1281-16, #C-1282-16 &

Variance Request #V-347-16

Page 4 of 12

- (3) Haul roads shall be constructed to a standard approved by the Public Works Director to reduce noise, dust and vibration; The Umatilla County Planning Department finds the proposed haul road includes the existing private driveway, a portion of Lind Road, and Union Street, a platted public street. Union Street intersects with State Highway 395 in approximately a quarter mile. In addition, the parcel has direct access to an undeveloped County Road (#1296) that connects to Lind Road if the existing private driveway is no longer available. Therefore, two conditions of approval are imposed requiring the applicant to submit a dust abatement plan and satisfy road impact concerns of the County Public Works Director regarding the proposed haul roads and sign and record an Irrevocable Consent Agreement to participate in future improvements to County Road #1296.
- (4) The operation complies with all applicable air, noise, and dust regulations of all county, state or federal jurisdictions; and all state and federal permits are obtained before the activity begins; The Umatilla County Planning Department finds the applicant is aware of the necessary permits required for operation of the batch plant and will obtain all of the necessary permits. A condition of approval is imposed requiring the applicant to obtain all applicable county, state and federal permits and provide copies of the permits to the County Planning Department.
- (5) Complies with other conditions as deemed necessary provided in 152.615. Section 152.615 is addressed in detail below.

(Q) Mining

Commercial gravel pits or extraction, surface mining and processing and the operations conducted for the exploration, mining and processing of geothermal resources, other mineral resources, or other subsurface resources.

- (1) Extraction holes and sedimentation ponds shall comply with the following restrictions and regulations under the following circumstances:
 - (a) In an existing pit.
 - (i) They shall not be allowed within 25 feet of a public road, county road or utility right of way and shall not exceed over 75% of the total land mass and shall be centered on the property. The Umatilla County Planning Department finds the extraction holes and sedimentation ponds would be located more than 25 feet from a public and county road. However, extraction holes and sedimentation ponds are proposed to be operated closer than 25 feet to the existing utility right of ways that bisect the property. The applicant has applied for a variance to this setback. (See variance standards below)
 - (ii) They shall not be allowed within 100 feet from the part of a property line which is adjacent to a residential dwelling. The Umatilla County Planning Department finds the proposed extraction holes and sedimentation pond would be over a quarter mile from residential housing located in the vicinity. This criterion is met.

(b) In a new pit.

They shall be located not closer than 500 feet from any part of a property line adjacent to a residential dwelling unless the operator can obtain a written release from the adjacent residential property owner allowing a closer setback. The new pit shall be centered on the property and not exceed 75% of the total land mass. The proposed mining activities would take place in an existing pit. This criterion is not applicable.

(2) Processing equipment shall comply with the following restrictions and regulations under the following circumstances:

(a) In an existing pit.

(i) Equipment shall not be located within 50 feet of a public road, county road or utility right of way or located further if deemed necessary. The Umatilla County Planning Department finds that the processing equipment is proposed to be located farther than 50 feet from public and county roads. However, as addressed above the applicant has applied for a variance to operate equipment closer than 50 feet to the existing utility right of ways. This criterion is met. (See variance standards below)

(ii) Equipment shall not be located within 100 feet from any part of a property line which is adjacent to a residential dwelling or further if deemed necessary. The Umatilla County Planning Department finds equipment would be located more than a quarter mile from residential dwelling. This criterion is met.

(b) In a new pit.

Where the use of processing equipment such as crushers, batch plants, and the like, the operator will be required to place such equipment not closer than 500 feet from any part of a property line adjacent to a residential dwelling unless the operator can obtain a written release from the adjacent residential property owner allowing a closer setback. The proposed processing activities would take place in an existing pit. This criterion is not applicable.

(3) All accesses and their locations shall be arranged in such a manner as to minimize traffic danger and nuisance to surrounding properties; The Umatilla County Planning Department finds that an access permit was obtained in 2010 for the existing access onto Lind Road from the County Public Works Department. This criterion is met.

(4) The operation areas shall be screened from adjoining residential districts, county roads, highways and public roads by placement of fences, walls, hedges or landscaped berms. Native plants and trees shall be emphasized or plants and trees with a demonstrated ability to survive under the conditions required shall be provided. If fencing and/or walls are required, they shall be of a type and color that will blend with the surrounding landscape and existing uses. In all instances above, the placement and design shall effectively screen and site from the public; The Umatilla County Planning Department finds the applicant proposed to berm the overburden around the perimeter of the parcel,

FINAL FINDING AND CONCLUSION

Granite Construction Conditional Use Request #C-1281-16, #C-1282-16 &

Variance Request #V-347-16

Page 6 of 12

this would provide screening of the mining operation. A condition of approval is imposed requiring berming around the storage and operation areas.

- (5) Legible copies of a detailed site plan shall be submitted. Such site plans shall have a horizontal scale that is no smaller than one inch equals 400 feet and shall show, but not be limited to, the corners and boundaries of the mining areas; the area to be mined; the location and names of all streams, natural areas, roads, railroads, and utility facilities within or adjacent to such land; the location of all proposed access roads to be constructed in conducting such operations; if applicable, location of each phase of the mining activity; date; contour interval; and the identification of an area by legal subdivisions (section, township and range). If aerial photographs are used as a base, the scale shall be shown; The Umatilla County Planning Department finds that applicant has submitted a site plan that complies with the standards listed above. This criterion is met.
- (6) Haul roads shall be constructed to a standard approved by the Public Works Director to reduce noise, dust and vibration and be located so that they are not directed through recreational residential or rural residential areas and zones. Dust free (site) access roads may be required near concentrated residential areas; The Umatilla County Planning Department finds the proposed haul route includes the property owner's private road, a portion of Lind Road and along Union Street to State Highway 395. A condition of approval is imposed requiring the applicant to contact and work with the Public Works Director regarding the haul route and submit a dust abatement plan to address dust impacts along the proposed route.
- (7) A reclamation plan has been submitted to the County Public Works Director pursuant to the Department of Geology and Mineral Industries; The Umatilla County Planning Department finds the County's Surface Mining Land Reclamation Ordinance has been repealed. Reclamation plans are filed with the State Department of Geology and Mineral Industries (DOGAMI) and the applicant is subject to compliance with DOGAMI reclamation requirements. A condition of approval is imposed requiring the applicant to obtain approval from DOGAMI for the reclamation plan and submit a copy of the reclamation plan to the Planning Department.
- (8) The operation complies with all applicable air, noise and water quality regulations of all county, state or federal jurisdictions and all applicable state or federal permits are obtained; The Umatilla County Planning Department finds the applicant is aware of the required permits for operation of the quarry, including the washing station, batch plant and rock crusher. A condition of approval is imposed requiring the applicant to obtain all applicable state and/or federal permits including a county Zoning Permit.
- (9) Rehabilitation of landscape after the extraction operations are completed. A bond sufficient to cover costs plus 10% of necessary road improvements, vermin, reclamation, landscaping and other pertinent conditions, may be required. Such bond or time limit will insure timely rehabilitation and protect the health, safety and public welfare of adjacent property owners and lands. These standards do not apply to any parcel or area

as a plan site, work area for an ongoing extractive mining or aggregate operation. The Umatilla County Planning Department finds that as addressed above the applicant is required to comply with the reclamation requirements of DOGAMI. A condition of approval is imposed requiring the applicant to obtain approval from DOGAMI for the reclamation plan and submit a copy of the reclamation plan to the Planning Department.

- (10) All equipment, refuse, and temporary structures shall be removed from the project site and the site left free of debris after completion of the project; The Umatilla County Planning Department finds that the applicant agrees to leave the site free of all equipment, debris and temporary structures. A condition of approval is imposed requiring the site to be clear of all equipment, debris and temporary structures at the close of operation.
- (11) The activity complies with other conditions deemed necessary which may include, but are not limited to:
- (a) Limitations on lighting; The Umatilla County Planning Departments finds the applicant has indicated that lighting would be position away from adjoining properties. A condition of approval is imposed requiring lighting to be position/shielded to prevent glare onto adjacent properties.
 - (b) Restrictions on the hours of operations; The Umatilla County Planning Departments finds the proposed hours of operation would be 6 am to 6pm, no additional restrictions are necessary.
 - (c) Fencing of open pit areas; The Umatilla County Planning Departments finds the pit area is near the interior of the 30+ acre parcel, additional fencing is not required.
 - (d) An increase or decrease in required setbacks; The Umatilla County Planning Departments finds a decrease in the setbacks to utility rights of way is proposed, see variance information below.
 - (e) Proof of adequate water supplies for dust control, reclamation, and if required, landscaping. The Umatilla County Planning Departments finds documentation was provided on water rights for washing rock and dust abatement from the well located on the property.
 - (f) Off site stockpiling and/or processing if located adjacent to concentration of residential dwellings. The Umatilla County Planning Departments finds no off site stockpiling or processing is proposed. This criterion is not applicable.

152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS.

In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority may impose the following conditions upon a finding that circumstances warrant such additional restrictions:

FINAL FINDING AND CONCLUSION

Granite Construction Conditional Use Request #C-1281-16, #C-1282-16 &

Variance Request #V-347-16

Page 8 of 12

- (A) Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such environmental effects as noise, vibration, air pollution, water pollution, glare or odor; The applicant proposes to operate five days a week, Monday through Friday, from 6 am to 6 pm. Mining operations and associated lighting would be located in the pit and the walls of the pit would shield most noise and light. Similar mining operations occur on parcels adjoining the subject parcel to the north and west, BPA controls the undeveloped parcel to the east and the owners of the property also own the adjoining property to the south.

There are two dwellings located on parcels to the southwest, approximately a quarter mile from the applicants proposed rock washing area. These are the only nearby dwellings and both are located outside of the required setback distance of 500 feet. Therefore, additional limitations are not imposed.

- (B) Establishing a special yard, other open space or lot area or dimension; The parcel is over 30 acres and has dimensions to accommodate all of the proposed quarry uses. No additional open space or lot area is imposed.
- (C) Limiting the height, size or location of a building or other structure; The only proposed building/structures would be temporary and removable. Limitations on the height, size or location of the temporary building/structures are not imposed.
- (D) Designating the size, number, location and nature of vehicle access points; An existing access road is proposed for ingress and egress. The applicant has submitted an approved access permit from the County Public Works Department for the existing access. This criterion is satisfied.
- (E) Increasing the required street dedication, roadway width or improvements within the street right of way; At this time additional street dedication is not necessary. However, as addressed above the applicant is required to contact and work with the Public Works Director regarding impacts to county roads and to provide a dust abatement plan.
- (F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area; The applicant has submitted a site plan showing adequate space for parking and loading. This criterion is satisfied.
- (G) Limiting or otherwise designating the number, size, location, height and lighting of signs; The applicant has not proposed a business sign and informational signs would be contained wholly within the private property. Signs for the purpose of protection of property or signs warning of potential danger due to physical or health hazards are considered Type 3 signs and are exempt from permitting requirements. If additional signage is proposed in the future a new permit would be required to meet the applicable sign standards at that time.
- (H) Limiting the location and intensity of outdoor lighting and requiring its shielding; As addressed above the applicant proposes limited outdoor lighting that would be located within

the pit and directed downward to reduce glare. A condition of approval requiring lighting to be located/shielded to prevent glare is imposed and no additional limitations are imposed.

- (I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance. Landscaping would not be necessary to protect adjacent properties. The adjoining parcels consist of similar mining operations, an undeveloped parcel managed by BPA and a parcel under common ownership. However, a condition of approval requiring overburden from the site to form a berm around the perimeter of the mining site is imposed. No additional landscaping is imposed.
- (J) Designating the size, height, location and materials for a fence; Due to the location of the mining operation within the interior of the 30 acre parcel additional fencing is not proposed or imposed.
- (K) Protecting and preserving existing trees, vegetation, water resources, air resources, wildlife habitat, or other natural resources; The property vegetation consist of scattered sage brush in the area not disturbed by pervious mining operations. There are no significant tree, vegetation or wildlife habitat present on the property. Although the property has not been identified as a Goal 5 resources the parcel is identified as a rock and sand resource.
- (L) Parking area requirements as listed in §§ 152.560 through 152.562 of this chapter. Not applicable see Item F above.

152.627 CIRCUMSTANCES FOR GRANTING A VARIANCE.

A variance may be granted under some or all of the following circumstances:

- (A) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of this chapter have had no control; The Umatilla County Planning Department finds the parcel has major transmission lines running through the parcel with exceptionally wide utility right of ways. The BPA easement (right of way) width is 395 feet and the UEC easement is 100 feet. Both of these easement comprise approximately half of the parcel. The applicant is requesting a variance to allow extraction holes, the sediment pond and mining equipment to be place within the utility right of ways. The existence of the 395 foot BPA and 100 foot UEC utility easements across the property create exceptional and extraordinary circumstance which cause greater limitations on the use of the parcel then what occurs on other similarly zoned parcels in the vicinity.

The applicant has provided a letter from UEC Manager of Engineering, Joshua Lankford, stating UEC has no objections to mining in the easement (right of way) area. In addition the applicant has submitted a Land Use Agreement that allows placement of the sediment pond within the easement (right of way). Therefore, a variance to the setback standards will allow placement of the sedimentation pond within BPA's easement (right of way) all other mining activities, extraction holes and processing equipment must comply with the applicable

setbacks to BPA's easement. The variance will also allow mining in UEC's easement area. However, the applicant is required to comply with all limitations and restrictions required by the easement holders. A subsequent condition of approval is imposed requiring the applicant to comply with all limitations and restrictions required by the easement holders.

- (B) The variance is necessary for the preservation of a property right of the applicant substantially the same as possessed by the owner of other property in the same zone or vicinity; The Umatilla County Planning Department finds that adjacent properties are composed of similar rock and sand materials. The applicant is requesting relief to the utility right of way setback to preserve the right to mine the land similar to current operations occurring on other properties in the vicinity. Allowing the setback variance would preserve a property right similar to what other properties enjoy in the vicinity.
- (C) The variance would not be materially detrimental to the purposes of this chapter, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of any county plan or policy; The Umatilla County Planning Department finds the proposed mining operation would be located within the interior of the property and away from the boundaries with adjoining properties. Allowing the variance to the right of way setback requirement would not increase impacts to the properties in the vicinity.
- (D) The variance requested is the minimum variance which would alleviate the hardship. The Umatilla County Planning Department finds the applicant has an agreement with UEC to conduct mining operations within the utility easement area and an agreement with BPA to allow for placement of the sedimentation pond within the easement area. Allowing mining within the easement (right of way) would alleviate the hardship.
- (E) At no time shall a setback from a property line or access easement be decreased below 5 feet in any zone. The proposed variance is for a setback from a utility easement not a property line or access easement. This criterion is not applicable.

DECISION: THE GRANITE CONSTRUCTION CONDITIONAL USE REQUESTS AND VARIANCE REQUEST COMPLIES WITH THE UMATILLA COUNTY DEVELOPMENT CODE, AND MAY BE APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

Precedent Conditions: The following precedent condition must be fulfilled prior to final approval of this request, signified by issuance of a Zoning Permit.

1. Pay notice costs as invoiced by the County Planning Department.
2. Work with the County Public Works Director regarding the haul route and supply a satisfactory dust abatement plan.
3. Sign and record an Irrevocable Consent Agreement to participate in future improvements to undeveloped County Road #1296.

FINAL FINDING AND CONCLUSION

Granite Construction Conditional Use Request #C-1281-16, #C-1282-16 &
Variance Request #V-347-16

Page 11 of 12

4. Obtain a Zoning Permit from the County Planning Department. The Zoning Permit must include a detailed Site Plane showing the location of the equipment, overburden and job shack. (A County Zoning Permit will be issued after completion of all other precedent conditions)

Subsequent Conditions: The following subsequent conditions must be fulfilled following final approval of this request

5. Approval shall be subject to annual review after five (5) years from the date of the Final Decision, signified by signing of the Final Findings, for compliance with the conditions of approval. As noted above the City of Umatilla now has planning jurisdiction within the UGB. Review and renewal is subject to the City's review standards and fees.
6. The hours of operation shall be limited to 6 am to 6 pm.
7. Overburden shall be bermed outside of the mining operation and around the perimeter of the property.
8. Locate and operate processing equipment no closer than 500 feet from a residential dwelling.
9. At the close of mining and processing operation, all debris, equipment and temporary structures shall be removed from the property.
10. Adhere to DEQ Noise Standard as found in OAR 340-035-0035, *Noise Control Regulations for Industry and Commerce*.
11. All outdoor lighting must be shielded or directed downward to prevent glare on to adjacent properties and roadways.
12. Comply with all limitations and restrictions required by the easement holders, BPA and UEC, for mining activities within the easement areas.
13. Obtain all other applicable state permits.

FINAL FINDING AND CONCLUSION

Granite Construction Conditional Use Request #C-1281-16, #C-1282-16 &
Variance Request #V-347-16

Page 12 of 12

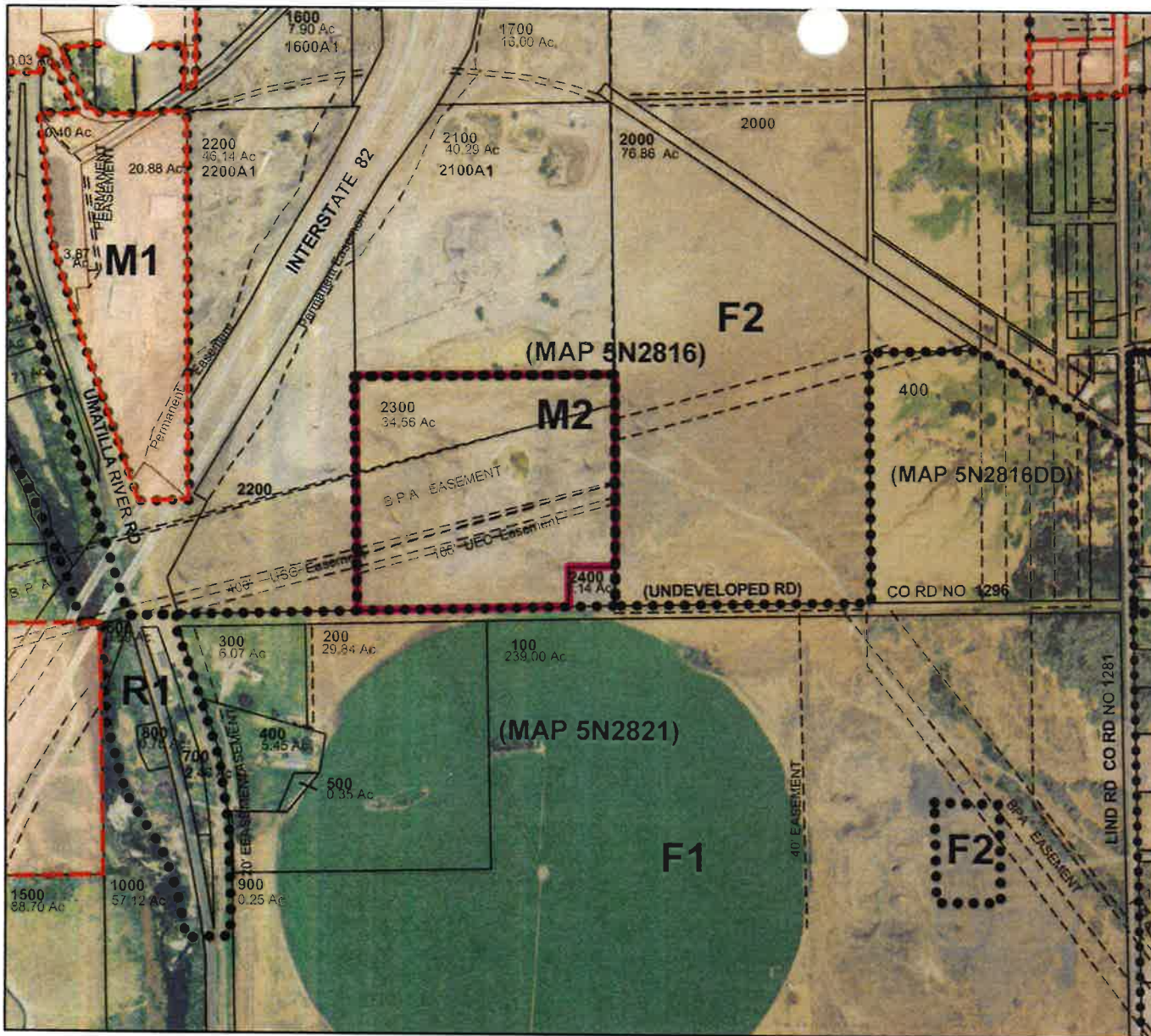
UMATILLA COUNTY PLANNING DEPARTMENT

Dated 2 day of March, 2017



Tamra J. Mabbott, *Planning Director*

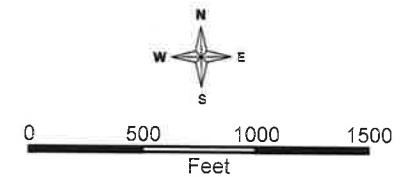
Mailed 2 day of March, 2017



PROPERTY OWNERS WITHIN NOTICE
AREA OF SUBJECT PARCEL

MAP & TAX LOT	OWNER
5N28160002000	USA, BUREAU OF LAND MGT
5N28160002100	MORRISON JOHN K & MORRISON GREGORY
5N28160002100A1	JONES-SCOTT CO
5N28160002200	MORRISON JOHN K & MORRISON GREGORY
5N28160002200A1	JONES-SCOTT CO
5N28160002300	HIATT BETTY 1/4 ET AL 3/4
5N28160002400	UMATILLA ELEC COOP ASSOC
5N2816DD00400	MERRITT MARLEENE P & PARRISH KEN ETAL
5N28210000100	HIATT BETTY 1/4 ET AL 3/4
5N28210000200	HIATT BETTY 1/4 ET AL 3/4
5N28210000300	WHITE DEBRA A 1/3 ET AL 2/3
	CHAIREZ SAUL VOLLMER (AGT)
5N28210000400	WHITE DEBRA A 1/3 ET AL 2/3
	CHAIREZ SAUL VOLLMER (AGT)

CONDITIONAL USE REQUESTS #C-1281-16 / #C-1282-16 & VARIANCE #V-347-16
 KEVEN SAMUELSON FOR GRANITE CONSTRUCTION, APPLICANT
 KENNETH BONNEY, JANET BONNEY & BETTY HIATT, OWNERS
 MAP 5N2816, TAX LOT 2300



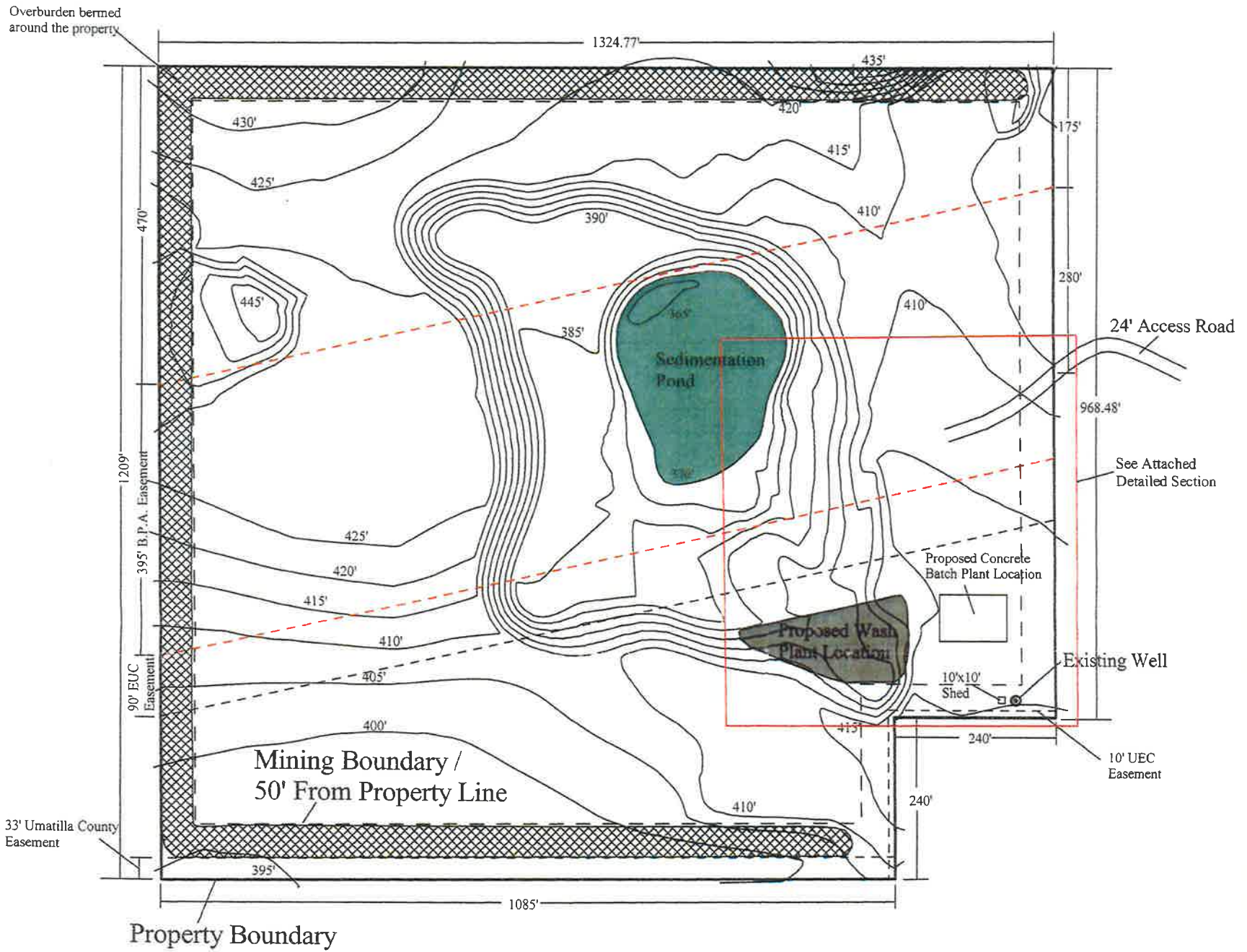
DATE: 12/27/16

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only. Not intended for legal use. Created by Julie Alford, Umatilla County Planning Department 12/27/16

- Subject Property
- Zone Boundary
- Umatilla City Limits



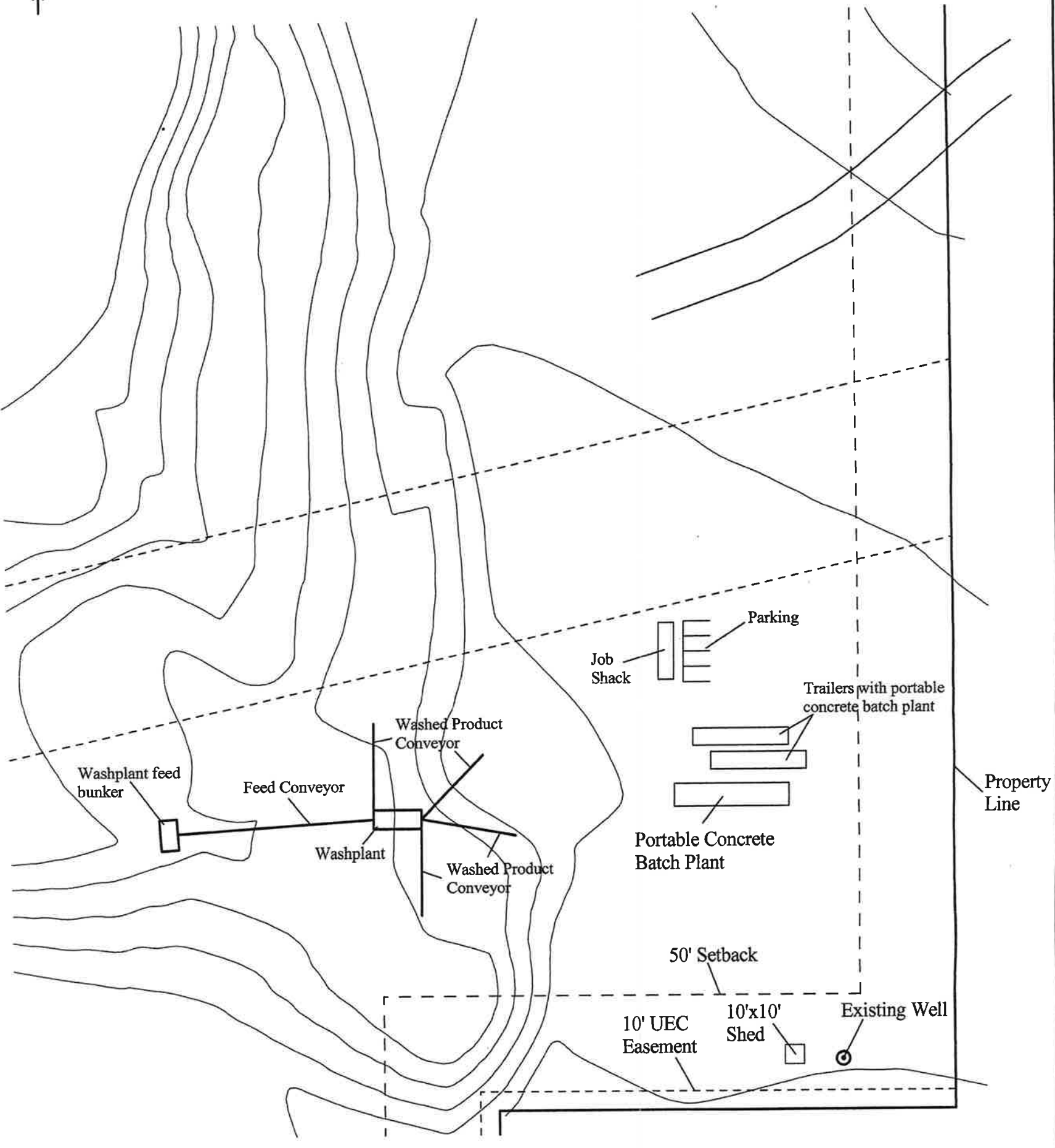
5N 28E Sec. 16 Tax Lot #: 2300



Mining will be done up to the 50' mining setback around the site. There will be no mining done within 50' of any utility tower. Areas under the power lines will be mined. All overburden will be bermed between the 50' setback and the property boundaries.



Granite Construction Co.		
Bonney Pit Site Plan		
Scale: 1: 200'		Date: 13-OCT-16



Additional parking will be added as needed

Granite Construction Co.		
Bonney Pit Site Plan Enhanced Section		
Scale: 1: 60'		Date: 13-OCT-16

OWNER: Stuart F. Bonney
P.O. Box 302
Hermiston, OR. 97838

UMATILLA COUNTY

PARTITION PLAT NO. 1999-04

SURVEYOR'S CERTIFICATE:

I, Judson L. Coppock, a registered Land Surveyor for the State of Oregon, do hereby certify that I have correctly surveyed and marked with proper monuments the land partitioned by this Plat. I also certify that this Partition Plat complies with all of the provisions of ORS 92.070.(1).

SURVEYOR'S NARRATIVE:

The purpose of this Survey and Partition Plat is to locate and monument the boundary of that tract of land described and recorded on 08/06/73 in Book 330, Page 415, Umatilla County Deed Records, then to partition this tract into two parcels as reflected on the face of this Partition Plat.

This Section is included in a survey for Umatilla County Restoration Program. It is recorded on a survey dated 12/24/90 by Edwards Surveying in the Umatilla County Survey Records. This survey shows the subdivision of Section 16, T5N, R27E, W.M. down to Quarters, including the Center of Section. Field ties between the center of Section 16 and the South 1/4 of Section 16 verified that the field measurements matched the record. The Southwest corner of Section 16 is in the Umatilla River and although I made a search for it, I did not locate it before the river began to rise. Therefore I used the record and my ties to locate the corners of this parcel. I did find some bridge spikes that appear to have been set to define the corners of this property, field ties to them indicated that they were very close to my computed locations. I set 5/8" rebar at my computed corner locations and removed the spikes. The locations of the power lines and easements shown are the result of physical ties to the poles and the easement widths where shown are of record.

BPA to Umatilla Electric for ingress & egress

Rel. 343, Page 329, Recorded Jan. 6, 1999 at 8:10 AM. Bearing Base: Edwards for Umatilla County, Dec. 24, 1990

OWNER'S DECLARATION:

I, the owner of the property shown on this Partition Plat, do state that I have caused this Partition Plat to be prepared and the property partitioned is partitioned in accordance with ORS Chapter 92. I hereby acknowledge the recorded easements shown on this Plat. I reserve the easement shown across the NW corner of Parcel #1 for roadway and irrigation pipeline purposes. The use of this easement is never to be restricted by any man-made or man-placed object, be it a boulder, trench, fence, gate or any other object caused to be placed by the owner of Parcel #1, which would restrict the intended full use of this easement.

Stuart F. Bonney
Stuart F. Bonney

State of Oregon }
County of Umatilla }
Subscribed and sworn before me
on this 11 day of January,
1999.

David H. K...
Notary Public for Oregon
My commission expires 12/31/2007

LEGAL DESCRIPTION: (As Recorded in Book 330, Page 415)

The Southeast Quarter of the Southwest Quarter of Section 16, T5N, R28, EXCEPTING THEREFROM the North 1/4 thereof, all being East of the Willamette Meridian, in the County of Umatilla and State of Oregon; EXCEPTING any & all water rights of way and roads; SUBJECT TO: Regulations, including easements, levies and assessments of Hermiston Irrigation District; Easement recorded July 14, 1953 in Book 212, Page 499, Deed Records; Easement recorded November 15, 1966 in Book 286, Page 686, Deed Records.

PARCEL #2
35.38 Acres

PARCEL #1
1.32 Acres

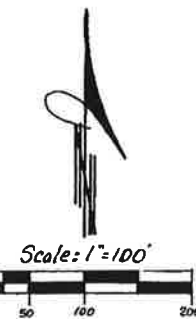
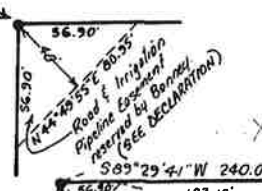
APPROVALS:

Approved this 11 day of January, 1999.
David H. K...
Umatilla County Surveyor
Approved this 12 day of January, 1999.
Georgia McNaught
Umatilla Co. Planning Director
Taxes are paid in full on this 11 day of January, 1999.
Shirley Smith
Tax Collector

STATE OF OREGON,
COUNTY OF UMATILLA }
I certify that this instrument was received and recorded
ON January 12, 1999
at 9:30 o'clock Am., in the record of
PLATS of said County.
YEAR NUMBER Slide
1999 04

OFFICE OF COUNTY RECORDS
By: GEORGIA MCNAUGHT
Records Officer
Fees \$ 25.00 No. 1999-3430473

DETAIL:
Scale: 1" = 50'



LEGEND:

- Set 3/8" x 30" steel rebar with plastic cap stamped 2850.
- Found Brass Cap monuments, as noted.
- (000) Record from 1990 survey by Edwards for Umatilla County, County Surveyor No. 91-01-B.

Partition Plat for STUART BONNEY

Located in SE 1/4 SW 1/4 Section 16, T5N, R28E, W.M.,
Umatilla County, Oregon
1/6/99
Coppock Surveying P.O. Box 340
541-567-6374 Hermiston, Oregon 97838
FAX: 541-567-3081 DRN. BY: S.K.B.

CLE
 OREGON STATE BAR
 PUBLICATIONS
 www.osbar.org
 (503) 684-7413
 South of PBA's
 ROW is another
 90' for UEC.
 (Also 33' along South Property Line.)
 395'
 + 90'
 485 ft.
 TOTAL
 utility case
 merits

Computed 1/4 Cor. Sec. 17/16
1323.52'
1324.67'
383°19'56"W
1323.52'
383°19'56"W
1324.77'

NOT A PART
N 00°19'20"E 2637.49'
1318.74'
1208.74'
290'
125'
395'
145'
82.5'

Loc. of Sec. Cor. computed from Edwards' 1990 Umatilla Co. Sur.

This is an exact copy.
Judson L. Coppock



**Department of Energy
Bonneville Power Administration
2211 North Commercial Avenue
Pasco, WA 99301**

January 10, 2017

BPA Case No.: 20100593
Tract No.(s): MC-MA-2-A-1, LM-JD-64-A-285
Line Name(s): Lower Monumental-John Day
(operated as McNary-Coyote Springs No. 1)
McNary-Maupin Line
(operated as McNary-Boardman No. 1)
McNary-Maupin No. 2
(operated as McNary-Jones Canyon No. 1)
ADNO No.(s): 9264, 9261, 9257
Location: 270' AOL of Structure 2/3
300' BOL of Structure 2/5
295' BOL of Structure 2/4
Stationing: 157+20, 159+50 and 159+55

LAND USE AGREEMENT AMENDMENT NO. 1

Consent to Use of BPA's Easement Area

This Land Use Agreement ("Agreement") cancels and supersedes agreement 20100593, dated September 17, 2010 and is entered into by and between the United States of America, Department of Energy, Bonneville Power Administration ("BPA") and Kenneth Bonney, Janet Bonney, Betty Hiatt ("Holder") and holders lessee.

BPA holds easement rights ("BPA Easement") over the following described property ("BPA Easement Area"):

The SE1/4SW1/4 of Section 16, Township 5 North, Range 28 East, Willamette Meridian, Umatilla County, State of Oregon, as shown on the attached segment of BPA Drawing No. 129664, marked as Exhibit A.

Holder has requested BPA's permission to use portions of the real property subject to the BPA Easement for a sedimentation pond ("Holder's Facility").

Subject to the terms and conditions set forth in this Agreement, BPA consents to Holder's use of the BPA Easement Area for the purpose proposed by Holder, and concurs that such use will not interfere with the current operation and maintenance of BPA's transmission facilities, if constructed in the manner and at the location shown on Exhibit A, attached hereto and made a part hereof.

In consideration of BPA's concurrence, Holder agrees to the following:

1. This Agreement does not grant any right, privilege, or interest in land, and does not modify, change, or otherwise alter the rights BPA acquired by deed. Loss of the privileges granted by this Agreement is not compensable to Holder.
2. Holder is responsible for obtaining from the underlying landowner ("Landowner"), by good and sufficient legal instrument, all rights, interests and privileges for land use necessary and incident to the ownership and maintenance of Holder's Facility.
3. There may be other uses of the property located within the same area as Holder's Facility. This Agreement is subject to such superior rights.
4. This Agreement is valid only if Holder's Facility is constructed, operated, and maintained in conformance with the terms of this Agreement and all attached Exhibit(s). Relocations, changes or upgrades require BPA's prior written approval. Failure to obtain the written approval of BPA prior to making alterations to Holder's Facility shall result in the termination of this Agreement.
5. Holder acknowledges and agrees that Holder's use of the property is subordinate to BPA's easement rights. BPA reserves the right to trim or remove trees, brush or shrubs or to remove any other encroachment within the BPA Easement Area which might interfere with the operation, maintenance, construction, removal or relocation of BPA's facilities. Holder agrees to alter, relocate or remove Holder's Facility, at no cost to BPA, to correct an interference with BPA's easement rights or to accommodate future modifications of BPA's facilities.
6. Induced voltages and currents may occur on items constructed or placed under or near high voltage transmission lines. BPA has no duty to inspect Holder's Facility or to warn of hazards. Holder shall have the continuing responsibility for the protection of personnel and equipment in the operation and maintenance of Holder's Facility.
7. This Agreement is entered into with the express understanding that it is not assignable or transferable to other parties without the prior written consent of BPA.
8. BPA may terminate this Agreement upon 30 days written notice. Holder shall, within 120 days of receiving such notice of termination, and at Holder's sole expense, vacate and restore the BPA Easement Area to a condition satisfactory to BPA. Upon Holder's failure to vacate and restore the BPA Easement Area within the above stated time period, BPA may remove Holder's Facility and restore the BPA Easement Area at Holder's expense.
9. A copy of this Agreement shall be physically located at Holder's project site. Holder's employees, contractors and representatives shall adhere to all conditions and requirements listed herein.
10. Additional terms and conditions specific to Holder's Facility may be included as part of this Agreement as Exhibit B, attached hereto and made a part hereof.
11. Holder agrees to assume risk of loss, damage, or injury which may result from Holder's use of the BPA Easement Area, except for such loss, damage, or injury for which BPA may be responsible under the provisions of the Federal Tort Claims Act, 62 Stat. 982, as amended.

12. Any damage to BPA's property caused by or resulting from Holder's use of the BPA Easement Area may be repaired by BPA, and the actual cost of such repair shall be charged against and be paid by Holder.

13. Holder's contact information:

NAME: Kenneth Bonney, Janet Bonney and Betty Hiatt
ADDRESS: PO Box 1287
Hermiston, OR 97838

PHONE: (541) 922-1213
EMAIL: kennethf@live.com

14. Lessee's contact information:

NAME:
ADDRESS:

PHONE:
EMAIL:

Holder agrees to notify BPA in writing of any changes to the above listed contact information.

This Agreement becomes effective upon the signature of all parties.

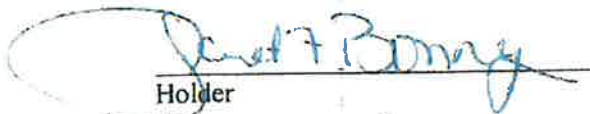


Holder

1/10/17
Date

Kenneth Bonney
Print Name

owner
Title (if applicable)



Holder

1-10-17
Date

JANET Bonney
Print Name

owner
Title (if applicable)

Betty F. Hiatt
Holder

1/10/16
Date

BETTY HIATT
Print Name

owner
Title (if applicable)

Lessee

Date

Print Name

Title (if applicable)

THIS AGREEMENT IS HEREBY AUTHORIZED:

Joseph E. Cottrell II
Realty Specialist
Bonneville Power Administration

1/18/17
Date

NOTE: BPA seeks help maintaining the integrity of the electrical transmission system. Please report any vandalism or theft to the BPA Crime Witness program at 1-800-437-2744. Cash rewards of up to \$25,000 will be paid should information lead to the arrest and conviction of persons committing a crime.

If you have any questions or concerns, please notify a BPA Realty Office by telephone at (509) 544-4747 or send written correspondence to the address listed at the top of this Agreement.

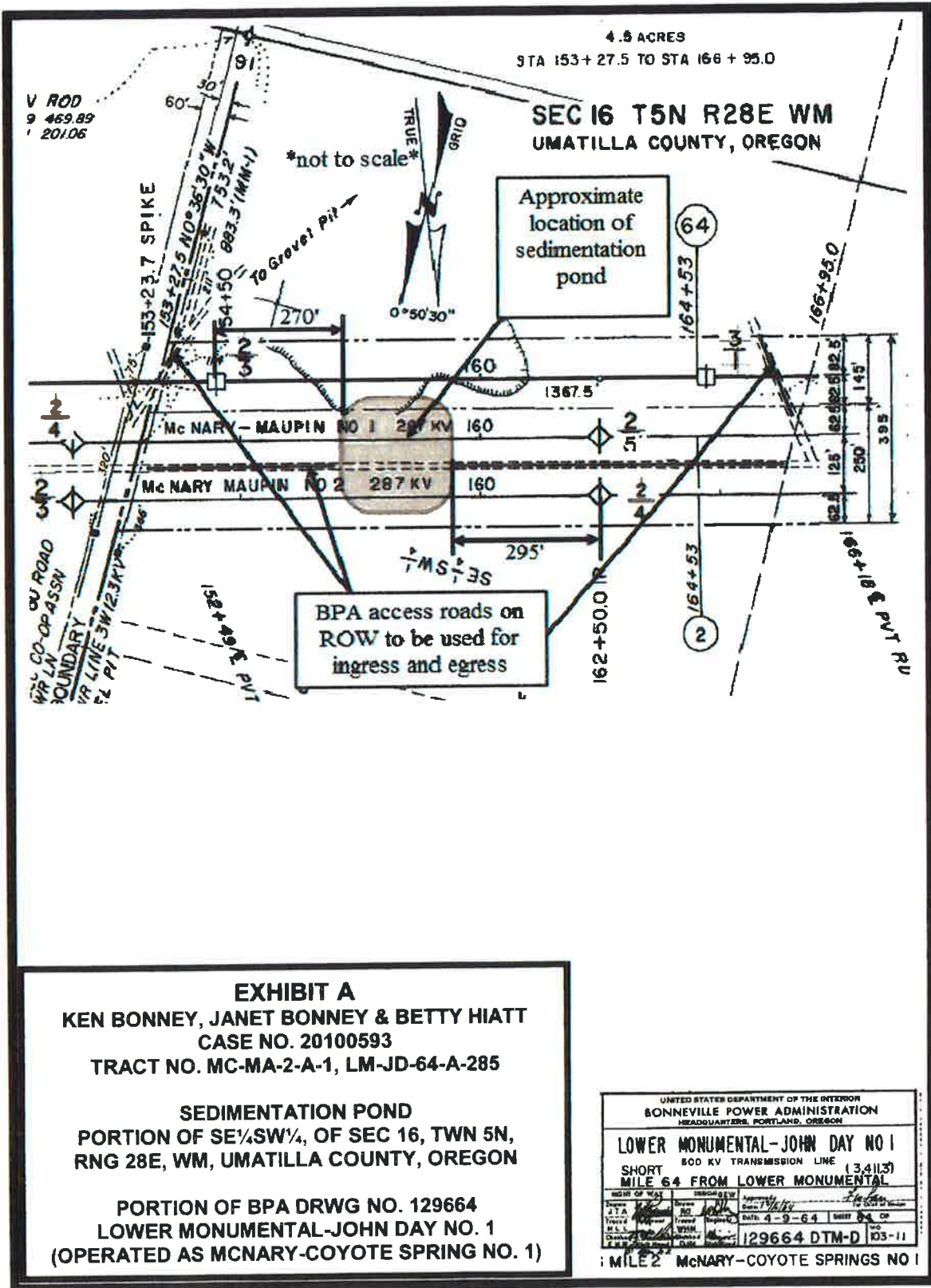


EXHIBIT A
KEN BONNEY, JANET BONNEY & BETTY HIATT
CASE NO. 20100593
TRACT NO. MC-MA-2-A-1, LM-JD-64-A-285

SEDIMENTATION POND
PORTION OF SE 1/4 SW 1/4, OF SEC 16, TWN 5N,
RNG 28E, WM, UMATILLA COUNTY, OREGON

PORTION OF BPA DRWG NO. 129664
LOWER MONUMENTAL-JOHN DAY NO. 1
(OPERATED AS McNARY-COYOTE SPRING NO. 1)

UNITED STATES DEPARTMENT OF THE INTERIOR			
BONNEVILLE POWER ADMINISTRATION			
HEADQUARTERS, PORTLAND, OREGON			
LOWER MONUMENTAL-JOHN DAY NO 1			
800 KV TRANSMISSION LINE (13,411.3)			
SHORT MILE 64 FROM LOWER MONUMENTAL			
DATE OF PLAN	BY	APPROVED	DATE
4-9-64	J. H. [Signature]	[Signature]	4-9-64
PROJECT NO.		SHEET NO.	
129664 DTM-D		103-11	
MILE 2 McNARY-COYOTE SPRINGS NO 1			

Exhibit B
ADDITIONAL TERMS AND CONDITIONS

1. Maintenance equipment must maintain a minimum distance of at least 20 feet between the equipment and the transmission line conductors (overhead wires) at all times. Do not measure this distance with a measuring tape, pole, or other physical means.
2. Maintain a minimum distance of at least 50 feet between Holder's Facility and the transmission line structures.
3. Equipment, machinery, and vehicles traveling within BPA's Easement Area shall remain at least 25 feet away from any BPA structure.
4. Holder shall not store flammable materials or refuel vehicles or equipment within BPA's Easement Area.
5. Grade changes to existing ground elevations within BPA's Easement Area is prohibited, except for area sediment pond is located, as shown on Exhibit C.
6. BPA right-of-way must be restored to its original condition, or better upon termination of Holder's use.
7. Holder shall not obstruct access to BPA's transmission line system. BPA personnel and/or its contractors must have access the transmission line system at all times.
8. BPA shall not be liable for any damage to Holder's Facilities located within the easement area, which might occur during maintenance or reconstruction of its facilities.
9. Notice: Nuisance shocks may occur within BPA's Easement Area. Grounding metal objects helps to reduce the level of shock. It is suggested that construction/maintenance equipment be grounded with a drag chain.
10. In the event that any damages are done to BPA access roads during your approved use, you will be required to repair any and all such damages, at your expense. Any repairs will need to be inspected and approved by a BPA Access Road Engineer and will need to meet or exceed the BPA Access Road requirement standards.

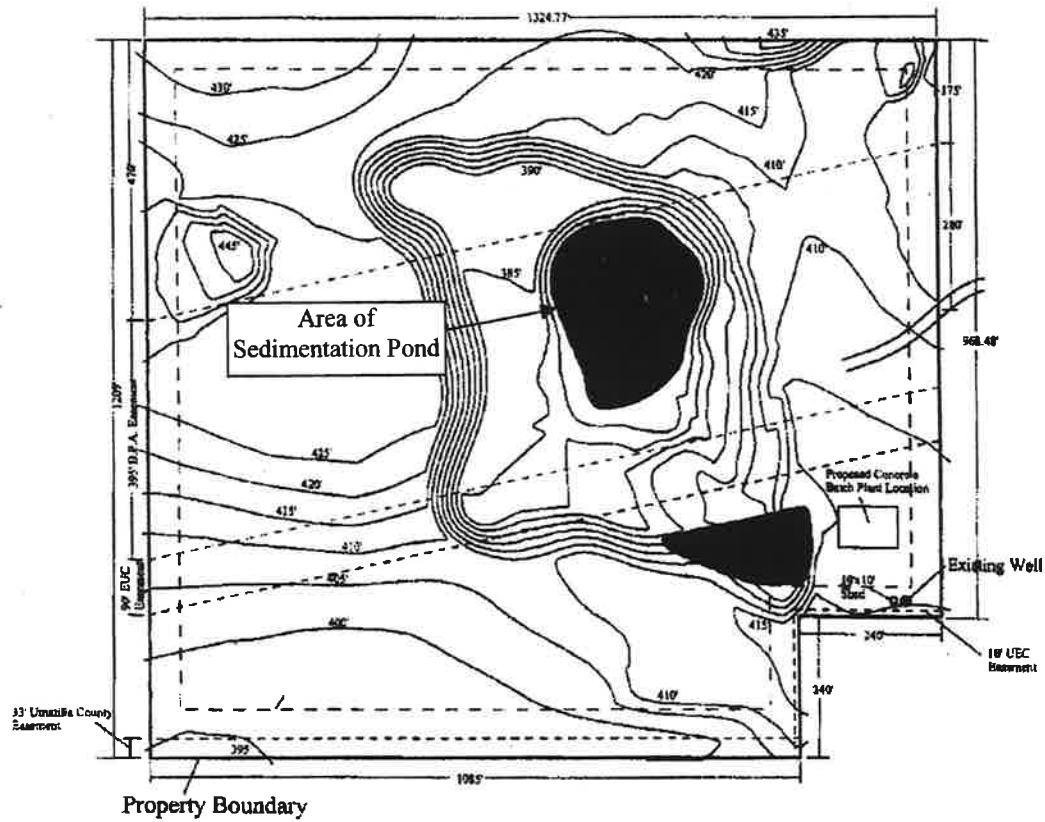


EXHIBIT C
KEN BONNEY, JANET BONNEY & BETTY HIATT
CASE NO. 20100593

MAR 17 2017

UMATILLA COUNTY
PLANNING DEPARTMENT

Section 1: Request and Description of Application

This information deals with the Land Use Request Application that an Appeal is being filed against.

THE REQUEST IS FOR... (Check the one that applies)

- an Appeal to the Planning Commission from a decision of the Planning Department
- an Appeal to the Board of Commissioners from a decision of the Planning Commission

DESCRIPTION OF THE LAND USE REQUEST APPLICATION IN QUESTION:

- Land Use Request Application File Number: C-1281-16, C-1282-16, V-347-16
- Type of Land Use Request Application: Conditional Use + Variance
- Decision-Making Body: Planning Director or Planning Commission
- Date of Decision (date on Findings): March 2, 2017
- Date you received notice of the decision or learned of the decision: March 3, 2017

Section 2: Contact Information

Name of Appellant(s): Granite Construction Company
 Address: 80 Pond Road, Yakima
 City, State, Zip: Yakima, WA 97909
 Telephone Number & Email Address: james.essig@gcinc.com
360-410-8117

Date of Submittal for the Appeal: March 17, 2017

Section 3: Basis of Appeal


Complete only when appealing a decision made by the Planning Department or Planning Commission.

The Appeal is based on the belief that certain policies and/or procedures of the Comprehensive Plan and/or provisions of the Development Code were not properly administered or followed. Please specify the chapter, section and page numbers of the Comprehensive Plan and/or Development Code where the policies and/or procedures are found; as well as a narrative explaining the issues that the Appeal is based upon (*use additional pages if necessary*):

See attached

Section 4: Certification

I/We, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge.

X  3/16/17
Signature of Appellant Date
James Essig, Resource Mgr Granite Construction Co.
Printed Name of Applicant

X _____
Signature of Appellant Date


Printed Name of Applicant

X _____
Signature of Appellant Date

Printed Name of Applicant

X _____
Signature of Appellant Date

Printed Name of Applicant

Office Use Only	
Date this paperwork was received:	<u>3/17/17</u>
Accepted by: <u></u>	_____
Signature of Planning Staff & Printed Name	
Fee Paid? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Receipt Number: <u>16940</u>

Section 3: Basis of Appeal

The Bonney Gravel Pit located in Hermiston, OR has been active prior to the 1970's. The site began operating under a DOGAMI permit in 1977 and has continued to be permitted as a gravel mine to present day. Umatilla County has inserted

Keven Samuelson previous Environmental Coordinator for Granite Construction is no longer employed by Granite. James Essig (current contact), Resource Manager for Granite Construction (Applicant) requests the removal of condition #12 of the Final Findings and Conclusions, in addition to requesting that the Variance be granted to mine within all the utility easements consistent with the existing DOGAMI permit.

12.) Comply with all limitations and restrictions required by the easement holders, BPA and UEC, for mining activities.

BPA's land use approval letter is in conflict with the historical easements. See attached declaration, stating as follows; "and to the exercise of existing mineral rights; over and across the described land" The condition prevents Umatilla County from granting a Variance to the utility ROW setback for mining activities.

Please review the change from February 3, 2017 and March 2, 2017.

On February 3rd Umatilla County provided Preliminary Findings and Conclusions of the Conditional Use Permit and Variance Request.

152.627 Circumstances for Granting a Variance

(D) The variance request is the minimum variance which would alleviate the hardship. The Umatilla County Planning Department finds the applicant has an agreement with UEC and BPA to conduct mining operations within the utility easement areas. Allowing mining within the easement (right of way) would alleviate the hardship.

On March 2, 2017 Umatilla County provided Final Findings and Conclusions of the Conditional Use Permit and Variance Request.

152.627 Circumstances for Granting a Variance

(D) The variance request is the minimum variance which would alleviate the hardship. The Umatilla County Planning Department finds the applicant has an agreement with UEC to conduct mining operations within the utility easement area and an agreement with BPA to allow for placement of the sedimentation pond within the easement area. Allowing mining within the easement (right of way) would alleviate the hardship.

This is major change from February 3rd to March 2nd 2017. The applicant should have been notified of this change before the Planning Director signed and executed the permit.

The Bonney Gravel Mine is an active site with a current permit with Department of Geology and Mineral Industries. MLRR ID: 30-0045. This permit established exclusion areas within the easement area, restricting mining from encroaching on the transmission line towers. The Final Findings and Conclusions made by Umatilla County are inconsistent with the current mining permit issued by DOGAMI.

The purpose of the request to Umatilla County was to re-establish the use of an aggregate wash plant and crusher for processing aggregate. The Variance request was to develop permit consistency between the County Use permit and the existing DOGAMI mining permit. The site has existing buffers to the utility towers which are identified on the DOGAM site map. See attached. BPA is attempting to establish a take of mining rights and the current use permit issued by Umatilla County attempts to support this taking of land use rights.

In conversation with Mr. Brandon Seitz, Assistant Planner, it is understood that there was a telephone conversation with BPA requesting not to grant the variance for mining within utility right-of-way. Umatilla County did not contact the applicant after having this conversation.

Once the permit was final on March 2, 2017 I received a copy of the Final Findings and Conclusions. I immediately called Umatilla County and spoke with Mr. Seitz. Mr. Seitz explicitly told me in verbal conversation that Umatilla County would take a neutral position in this dispute between BPA and the landowner (Bonney Family), although Condition #12 of the current findings supports the limitations and restrictions imposed by the BPA. I was told "This is a civil matter and Umatilla County would not be supporting either party"

All of this is happening after a previous conversation with Mr. Seitz that objected to BPA's land use agreement. I asked Mr. Seitz to review an easement and order of judgement that explicitly allows mining activities with the BPA ROW.

In conclusion, the Bonney Gravel Pit has an existing mining permit that limits the areas of extraction. This permit has been kept current and active throughout the years of gravel extraction activities. The purpose of the request to Umatilla County was to re-establish the right to process aggregate materials with the permitted mining area. The Bonney Family does not need a mining permit from Umatilla County. Furthermore it is even questioned that a permit for washing and crushing is needed as these uses have historically occurred in the past and should be considered grand fathered. The diminishing assets doctrine protects mining rights. Even though an extraction site may lie dormant for a period of time the site has and is currently established as a gravel extraction operation.

Mining (Q)(9) "the applicant is required to comply with reclamation requirements of DOGAMI"

This statement is in direct conflict with the Land Use Agreement issued by BPA. As it is understood that Umatilla County has found justification to grant the requested easements, although condition #12 creates conflict with this justification. The letter from BPA is not consistent with the existing easements. As it is understood that Umatilla County is in no position to make a determination of which document should prevail, historical easement vs. current land use agreement, the applicant request that the county stand neutral on this issue and allow the applicant and BPA to resolve this matter.

The applicant is requesting removal of condition #12 to provide consistency with the staff report findings and the existing DOGAM Permit MLRR ID: 30-0045. BPA is a 3rd party in this matter and the current easement allows mining within the right-of way. The Bonney Family and the applicant believe that BPA is an error with the statements and restrictions provided in the current land use agreement. The dispute is a civil matter and it is not within the authority of Umatilla County to support the attempted land use taking proposed by the Bonneville Power Administration.



Oregon

Kate Brown, Governor

Department of Geology and Mineral Industries

Mineral Land Regulation and Reclamation

229 Broadalbin Street SW

Albany, OR 97321-2246

(541) 967-2039

Fax: (541) 967-2075

www.oregongeology.org

September 16, 2015

Report of Onsite Inspection Conducted July 20, 2015



Ken Bonney
PO Box 1287
Hermiston OR 97838

MLRR ID: 30-0045
Bonney Gravel Pit
DEQ Permit: None

I was accompanied on this site inspection by Janet Bonney and Ken Bonney, permittees. The inspection was scheduled to assess and inspect general site conditions and to assist the permittee with the Limited Exemption Closure Plan. The weather at the time of the inspection was clear, hot, and dry.

Site Information & History

According to DOGAMI records, this site operated under a DOGAMI Operating Permit from 1977 until 1983. On July 1, 1983 Umatilla County formally took over jurisdiction from the Oregon Department of Geology and Mineral Industries for the regulation of surface mining reclamation in Umatilla County. According to DOGAMI records, Umatilla County Public Works administered the surface mining permit for this site from July 1, 1983 until June 12, 1989 at which time the Umatilla Board of County Commissioners repealed County Ordinance #81-5 and #87-10. By doing so, the Umatilla Board of County Commissioners transferred jurisdiction of the surface mining regulation and reclamation in Umatilla County back to the Oregon Department of Geology and Mineral Industries. The site has maintained the DOGAMI Operating Permit since 1989.

Based on the 1983 Umatilla County Public Works Department Application for surface mining operations (Enclosure 1), the permittee listed 35 acres as the potentially mineable area. A permit boundary map (dated received October 30, 1992--Enclosure 2) is available within the DOGAMI file and appears to be an attachment to the 1984 Umatilla County Reclamation Plan. The 1992 map specifies that 35.5 acres are delineated within the permit boundary area (tax lot 1800).

Land Use

According to the Umatilla County Preliminary Findings and Conclusions document (re: #C-1169-10, #C-1170-10 and #V-315-10 - Enclosure 3) available within the DOGAMI file, the site is an acknowledged aggregate site on the City of Umatilla's Comprehensive Plan inventory. The site description within the county land use document specifies T5N, R28E, Section 16, Tax Lot 2300 as the area approved for surface mining. Additionally, the Conditional Use approval specifies "Tax Lot 2300 = 34.56 acres".

It should be noted that tax lot numbers were modified when approximately 0.95 acres located in the southeast corner of the tax lot were sold to Umatilla Electric Co-Op for a substation. Tax Lot 1800 (35.5 acres) was renumbered to Tax Lot 2300 (34.56 acres).

Based on the above mentioned information, DOGAMI has determined that the DOGAMI Operating Permit boundary coincides with the area approved by the county for surface mining.

Limited Exemption

Based on information available within the DOGAMI records, it appears that in May 1994 DOGAMI notified the permittee via a letter (Enclosure 4) that a pre-1972 aerial photo of this site was required to be submitted to DOGAMI such that the exempt area could be delineated. On June 15, 1994, DOGAMI received a 1956 and 1971 aerial photo (Enclosure 5 and 6) from the permittee as requested. DOGAMI notified the permittee via a letter dated June 22, 1994 (Enclosure 7) that the 1971 aerial had been evaluated and that 17.5 acres were recognized as the pre-1972 disturbance exempt from reclamation requirements and security.

c: Umatilla County Planning Department



Storm Water

This site is not covered under DEQ's NPDES 1200-A Storm Water Permit. Storm Water Best Management Practices to internally contain and drain storm water on-site were observed via sloping, graveled roads and floors, low lying areas, retention berms, vegetation, one excavation/retention pond, and infiltration.

It appears that with the exception of significant precipitation events, storm water infiltrates directly into the permeable gravels within the working floor. The majority of the pit floor was observed to be sloped internally such that storm water that accumulates on the working floor appeared to drain to the excavation/retention pond or to low lying areas throughout the pit floor. In the remaining areas of the site, retention berms and dense vegetation were observed to be located around the perimeter of the disturbed area and appeared effective in containing storm water runoff on-site. No storm water was observed discharging off site and no evidence of storm water erosion was observed, therefore no storm water problems were identified at the time of the inspection.

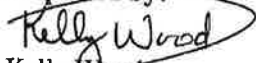
Reclamation Security

The reclamation security for any operation must be based on the actual reclamation cost that DOGAMI would have to pay to contract for reclamation of the disturbed area to the standards outlined in the reclamation plan. Taking into consideration the modification to the total acreage identified as Limited Exempt, the current reclamation security of \$7,500 is deemed adequate at this time. However, a rider to the existing Performance Bond is still required changing the name of the principal (permittee) from Stuart Bonney to Ken Bonney to complete the March 2015 name change. Please submit this rider by October 21, 2015.

Permit Compliance

At this time, the site remains in compliance with DOGAMI's Operating Permit. Please contact Bob Houston, Lead Reclamationist for Eastern Oregon, at (541) 967-2080 with any questions or for additional information.

Inspected by:



Kelly Wood
Natural Resource Specialist
Mineral Land Regulation & Reclamation

Encl.

In referencing multiple aerial photos available within the DOGAMI file, it appears that it was not until 2014 that DOGAMI distinguished between the total disturbance at the site and the exempt area. At that time, DOGAMI utilized a 1970 aerial photograph to determine that 4.1 acres were eligible for the exemption status.

Upon review of the file prior to this site visit, DOGAMI discovered the 1994 correspondence and aerial photos regarding the exemption area. DOGAMI GIS has therefore re-evaluated the pre-1972 disturbance at this site and has recognized 17.4 acres as the pre-1972 disturbance exempt from reclamation requirements and security (Enclosure 8). Please note that the 2010 aerial photo (Enclosure 9) has been revised to reflect the modification to the exemption boundary.

In support of the Oregon Revised Statutes 517-775, revisions to Oregon Administrative Rule 632-030-0017(5) required permittees with exempt acreage to submit a Limited Exemption Closure Plan in 2010. The Closure Plan is unique to surface mine sites which include limited exemption (LE) acres. The Closure Plan is specifically designed to document how the site will be stabilized to minimize erosion and off-site sedimentation upon completion of mining operations.

On June 1, 2015, DOGAMI mailed a Closure Plan Packet to the Limited Exemption Holder and required that the completed plan be submitted by October 31, 2016. During the site visit, DOGAMI assisted Mr. Bonney with the completion of the Limited Exemption Closure Plan.

Survey Information

If the permittee has existing survey information including corner coordinates for the 34.56 acre permit/property boundary, DOGAMI can use this information to update records and potentially overlay the permit area onto an aerial photograph with the corresponding disturbed acres. Please note that this is a request, not a requirement. Please contact Ed Buchner of DOGAMI at (541) 967-2084 or ed.buchner@mlrr.oregongeology.com with questions or for additional details and technical aspects of the map necessary for an overlay.

Site Conditions

As documented in the revised July 21, 2010 aerial photo (Enclosure 9), 20.4 acres are disturbed by mining related activities with approximately 7 acres of disturbance outside of the 17.4 acres identified as exempt from reclamation plans and bonding.

At the time of the site visit, several stockpiles of various sized processed materials were observed on site. Multiple locked gates were observed during the site visit and appear effective in preventing unauthorized entry and illegal dumping.

The site operates via aggregate extraction where alluvial deposits consisting of sand and gravel are extracted from below natural ground surface elevation. The overall height of the pit highwall appeared to be approximately 40 to 60 feet and consist of multiple, partially developed benches. The sloping configuration of the pit walls appeared to range between approximately 2H:1V to 1½H:1V. Older portions of the pit walls were observed to be well vegetated with a variety of grasses, thistle, and sagebrush and appeared stable. Numerous, large power line structures were observed to be located throughout the site and according to Mr. Bonney, no additional aggregate extraction is permitted within the slopes underlying the structures.

As mining related activities continue to proceed at this site, topsoil, subsoil, and overburden materials should be kept on site for final reclamation purposes. The salvaged materials should be sloped at 2H:1V, seeded annually or otherwise secured against erosion from wind or rain. Retaining all soil and overburden onsite will allow for a lower reclamation security by avoiding the need to include the cost of importing material to accommodate reclamation.

Oregon Dept. of Geology & Mineral Industries
Mineral Land Regulation & Reclamation Program
229 Broadalbin St. SW
Albany OR 97321-2246
(541) 967-2039

OPERATING PERMIT -- Renewal
ISSUED SUBJECT TO ANY LISTED CONDITIONS

|||||
Ken Bonney
PO Box 1287
Hermiston OR 97838

ID No.: 30-0045
County: Umatilla
Section: 16 17
Twp: 5N
Range: 28E
Site Name: Bonney Gravel Pit

~~This permit shall be in effect, unless revoked or suspended for cause, from the date of issuance and shall remain in effect so long thereafter as the Permittee pays the annual fee to renew the permit, complies with the provisions of ORS 517.750 through 517.955 as applicable, the Rules as promulgated to administer the Oregon Mined Land Reclamation Act, the approved reclamation plan, and any conditions attached to this permit, and maintains a performance bond as required by the Act.~~

Issuance of this permit is not a finding of compliance with state-wide planning goals or the acknowledged comprehensive plan. The applicant must receive land-use approval from local government before using this permit.

NOTE: Reclamation plans may be modified per ORS 517.831 and OAR 632-(030) and (035)-0035.

CONDITIONS: (Conditions may be appealed per OAR 632-030-0056. If an appeal is made, this permit is invalid until the condition(s) appealed is/are resolved and the permit reissued.)

The Permittee must:

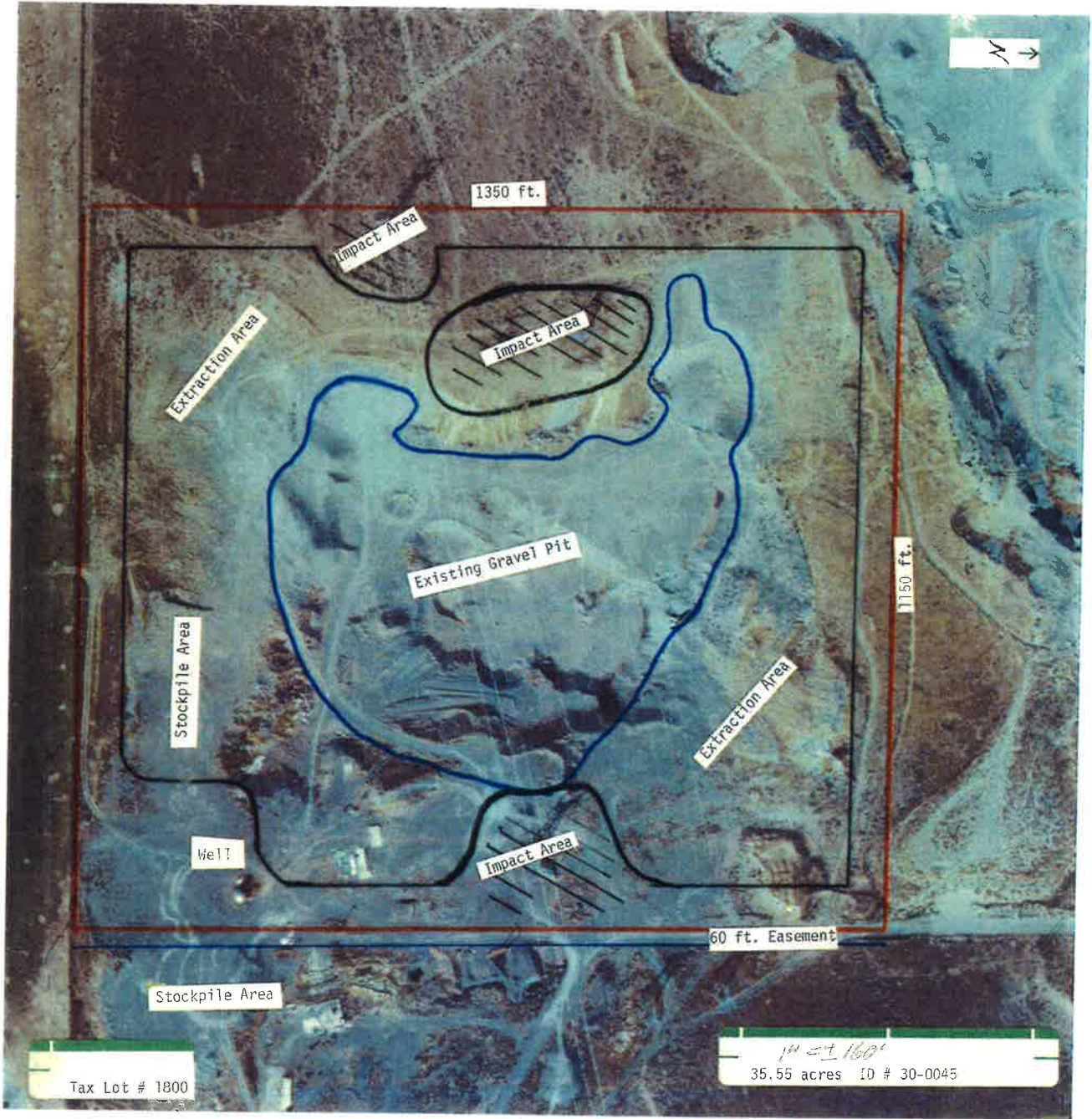
1. not permit encroachment towards the transmission line towers or the existing slopes below the towers.

Issued 1/29, 2016


Richard Riggs
Assistant Director

RENEWAL IS REQUIRED BY OCTOBER 31, 2016

c: Umatilla County Planning Department



1 IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON

2
3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 vs.

6 JESSE GOFF and BESSIE GOFF, husband and
7 wife; OTTO ROEBER and JANE DOE ROEBER,
8 his wife if married; EARL F. HAZEN; CYRIL
9 G. BROWNELL and FLORENCE R. BROWNELL,
10 husband and wife; JANE DOE BROWNELL, wife
11 of DeWitt C. Brownell; EARL G. BROWNELL
and MARY ROE BROWNELL, his wife if married;
12 HAROLD BROWNELL and ALICE DOE BROWNELL, his
13 wife if married; UMATILLA HOSPITAL DISTRICT;
14 UMATILLA COUNTY, a municipal corporation and
15 political subdivision of the State of Oregon,

16 Defendants.

CIVIL NO. 7037

ORDER FIXING VALUE, FINAL JUDGMENT
IN CONDEMNATION AND ORDER OF DIS-
BURSEMENT

17 This cause coming on for consideration on the motion of the plaintiff, and it
18 appearing from the records herein that this cause has heretofore been dismissed
19 as to the defendants Otto Roeber and Jane Doe Roeber his wife if married, Jane Doe
20 Brownell wife of DeWitt C. Brownell, Harold Brownell and Alice Doe Brownell his
21 wife if married, Earl G. Brownell and Mary Roe Brownell his wife if married, and
22 Umatilla Hospital District, a corporation; that the defendants Cyril G. Brownell
23 and Florence R. Brownell his wife, and Umatilla County have been regularly served
24 with summons and have failed to appear herein and are in default and that the de-
25 fault of said defendants so served has heretofore been entered herein; that the
26 defendants Jesse Goff and Bessie Goff have appeared herein by answer as to value
27 and the defendant Earl F. Hazen has appeared herein by answer as to value, and
28 this cause having heretofore been tried before the Court with the assistance of
29 a jury on the issue of value, the plaintiff appearing by Bert C. Boylan, Special
30 Assistant to the United States Attorney, the defendants Jesse Goff and Bessie
31 Goff appearing by Proebstel & Issminger and E. W. Barnes, their attorneys, and the
32 defendant Earl F. Hazen appearing by Conklin and Hess, his attorneys, and by order
33 of Court the jury having examined the property under condemnation herein and trial
34 having been had in which testimony was offered on behalf of the plaintiff and on

1 returned its verdict herein finding the just compensation to be paid for the
2 taking of the estate hereinafter set out in the lands hereinafter described to
3 be the sum of \$4,000.00, which verdict was accepted by the Court and filed herein;
4 thereafter before the same jury a trial was had between the defendants Jesse Goff
5 and Bessie Goff his wife by their said attorneys and the defendant Earl F. Hazen
6 by his said attorneys as to the respective rights of said defendants in and to
7 the said just compensation, and the Court having heard testimony as to said rights
8 and having determined as a matter of law that the defendant Earl F. Hazen had no
9 right or interest in such just compensation, and having dismissed said jury and
10 dismissed the claim of the said Earl F. Hazen, and pursuant to said verdict the
11 Court having heretofore entered its judgment on said verdict finding the just
12 compensation to be paid for the taking of the lands under condemnation to be the
13 sum of \$4,000.00, together with interest on the sum of \$3,750.00 from the 19th
14 day of June, 1953 until said sum of \$3,750.00 shall be deposited in the Registry
15 of this court, and the Court having at this time received evidence of the right
16 of the defendants Jesse Goff and Bessie Goff his wife to receive such just com-
17 pensation, and being fully informed FINDS: First: That this proceeding was
18 instituted in accordance with and under the authority of the Acts of Congress
19 specifically cited and designated in the Complaint in Condemnation herein; Second:
20 That pursuant to said Act Reorganization Plan No. 3 of 1950 and Order No. 2563
21 of the Secretary of the Interior, the Bonneville Power Administrator has found
22 that it is necessary and advantageous to the interests of the United States to
23 acquire by condemnation the estate hereinafter set out in the lands hereinafter
24 described for use adequately to provide for the construction, operation and
25 maintenance of electrical power transmission facilities by the Bonneville Power
26 Administration and that such purpose is a public purpose, has selected the lands
27 hereinafter described for said public use and has made application to the Attorney
28 General to cause these proceedings to be instituted; Third: That funds for the
29 acquisition of said lands have been appropriated by Act of Congress; Fourth:
30 That on the 19th day of June, 1953 a Declaration of Taking of the estate herein-

1 returned its verdict herein finding the just compensation to be paid for the
2 taking of the estate hereinafter set out in the lands hereinafter described to
3 be the sum of \$4,000.00, which verdict was accepted by the Court and filed herei
4 thereafter before the same jury a trial was had between the defendants Jesse Goff
5 and Bessie Goff his wife by their said attorneys and the defendant Earl F. Hazen
6 by his said attorneys as to the respective rights of said defendants in and to
7 the said just compensation, and the Court having heard testimony as to said rights
8 and having determined as a matter of law that the defendant Earl F. Hazen had no
9 right or interest in such just compensation, and having dismissed said jury and
10 dismissed the claim of the said Earl F. Hazen, and pursuant to said verdict the
11 Court having heretofore entered its judgment on said verdict finding the just
12 compensation to be paid for the taking of the lands under condemnation to be the
13 sum of \$4,000.00, together with interest on the sum of \$3,750.00 from the 19th
14 day of June, 1953 until said sum of \$3,750.00 shall be deposited in the Registry
15 of this court, and the Court having at this time received evidence of the right
16 of the defendants Jesse Goff and Bessie Goff his wife to receive such just com-
17 pensation, and being fully informed FINDS: First: That this proceeding was
18 instituted in accordance with and under the authority of the Acts of Congress
19 specifically cited and designated in the Complaint in Condemnation herein; Second:
20 That pursuant to said Act Reorganization Plan No. 3 of 1950 and Order No. 2563
21 of the Secretary of the Interior, the Bonneville Power Administrator has found
22 that it is necessary and advantageous to the interests of the United States to
23 acquire by condemnation the estate hereinafter set out in the lands hereinafter
24 described for use adequately to provide for the construction, operation and
25 maintenance of electrical power transmission facilities by the Bonneville Power
26 Administration and that such purpose is a public purpose, has selected the lands
27 hereinafter described for said public use and has made application to the Attorney
28 General to cause these proceedings to be instituted; Third: That funds for the
29 acquisition of said lands have been appropriated by Act of Congress; Fourth:
4030 That on the 19th day of June, 1953 a Declaration of Taking of the estate herein-

1 taking thereof was deposited in the Registry of the Court, that thereafter, in
2 conformity with said Judgment on the Verdict on the 2nd day of February, 1954
3 there was deposited the further sum of \$3,750.00 deficiency and \$136.85 interest,
4 which sum now remains on deposit herein, NOW THEREFORE, it is by the Court at
5 this time ORDERED, ADJUDGED and DECREED (1) That a perpetual easement for the
6 following purposes, namely: the perpetual right to enter and to construct, main-
7 tain, repair, rebuild, operate, and patrol not more than two lines of electric
8 power transmission structures with conductor and necessary appurtenances, and
9 the further right to clear the land hereinafter described and to keep the same
10 clear of brush, timber, inflammable structures and fire hazards (provided,
11 however, that the words "fire hazards" shall not include growing crops), and to
12 dispose of such brush, timber and inflammable structures by sale or other means
13 in such a manner as shall not create a fire hazard; subject, however, to the
14 rights of the public in and to all public roads; subject also to the continued
15 use and maintenance of existing pipes and conduits, irrigation and drainage
16 lines, ditches and canals, and public utility lines, to the exercise of existing
17 easements and licenses therefor, and to the exercise of existing mineral rights;
18 over and across the following described land, to-wit:

19 TRACT Mc-Ma-1 That portion of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 16, Township 5 North,
20 Range 28 East of the Willamette Meridian, Umatilla County, Oregon, which
21 lies within a strip of land 250 feet in width, the boundaries of said strip
22 lying 62.5 feet distant southerly from, and 187.5 feet distant northerly from,
23 and parallel to the survey line of the Bonneville Power Administration McNary-
24 Maupin transmission line as now located and staked on the ground over, across,
25 upon, and adjacent to the above described property, said survey line being
26 particularly described as follows:

27 Beginning at survey station 94 + 77.7 a point on the East-West quarter section
28 line of said Section 16, said point being N. 88° 37' 10" E. a distance of
29 863.9 feet from the quarter section corner on the east line of said Section 16;
30 thence S. 0° 44' 10" E. a distance of 1291.8 feet to survey station 107 +
69.5 Back = 134 + 63.4 Ahead; thence S. 74° 19' 10" W. a distance of 1830.2
feet to survey station 152 + 93.6, a point on the North-South quarter section
line of said Section 16, said point being N. 0° 31' 20" W. a distance of 883.3
feet from the quarter section corner on the south line of said Section 16;
thence continuing S. 74° 19' 10" W. a distance of 3600.4 feet to survey station
188 + 94.0, a point on the south line of Section 17, Township 5 North, Range
28 East, Willamette Meridian, said point being N. 89° 05' 10" E. a distance
of 4446.2 feet from the southwest corner of said Section 17.

31 became and was vested in the United States of America on the 19th day of June,


1 That the just compensation for the taking of said land is the sum of \$1,000.00
2 together with \$136.85 interest; (3) That the Clerk of this Court be and he is
3 hereby authorized and directed forthwith to pay to Jesse Goff and Bessie Goff,
4 his wife, the sum of \$1,136.85, and that the Clerk take the receipt of the said
5 defendants therefor.

6 James Alger Fee
District Judge

7 Dated at Portland, Oregon this 12th day of February, 1954.
8
9
10
11

12 Endorsed:
13 Filed February 12, 1954
F. L. Buck, Acting Clerk

14
15
16
17 A true copy:

18
19 
20 Acting Clerk
21
22
23
24
25
26
27
28
29

30 U. S. vs. Jesse Goff, et al., Order Fixing Value, Final Judgment in Condemnation
31 and Order of Disbursement - 4.