

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. PA 1310 -) IN THE MATTER OF AMENDING BOARD OF COUNTY COMMISSIONERS
) ORDINANCE NO. PA 1217 (ENACTED NOVEMBER 10, 2004) TO REVISE OR
) ELIMINATE CONDITION 4 AND ALLOW TRUCK ACCESS ONTO MCKENZIE
) VIEW DRIVE EAST OF EGGE ROAD. (File 509-PA13-05627; Egge)

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinance No. PA 1217 approved a major amendment to add to the Lane County Goal 5 Inventory of Significant Mineral & Aggregate Sites, redesignate from “Forest” to “Natural Resource: Mineral,” rezone from “F-2/Impacted Forest Lands” to “QM/Quarry and Mine Operations,” authorize mining of the site, and add ten conditions of approval to a 40-acre portion of tax lots 402 and 500 of map 17-03-03; and

WHEREAS, Lane Code 14.700 governs limitations upon approved and denied applications and sets forth procedures for the modification of conditions of approval for an approved application; and

WHEREAS, On November 18, 2013, application no. 509-PA13-05627 was made for the elimination of Condition 4 in order to directly access McKenzie View Drive east of Egge Road for the purposes of truck ingress and egress from the existing quarry operation; and

WHEREAS, evidence exists within the record indicating that the proposal meets the requirements of Lane Code Chapter 14 and Lane Code Chapter 16, and the requirements of applicable state and local law; and

WHEREAS, the Board of County Commissioners has conducted public hearings and is now ready to take action;

NOW, THEREFORE, the Board of County Commissioners of Lane County Ordains as follows:

Section 1. Ordinance No. PA 1217 is modified to revise Condition 4 in order to allow additional direct access onto McKenzie View Drive for the purposes of truck ingress and egress from the existing quarry operation, as described in Exhibit "A" attached.

Section 2. All other conditions of Ordinance PA 1217 remain in full effect.

FURTHER, although not a part of this Ordinance, the Board of County Commissioners adopts Findings as set forth in Exhibit "A" attached, in support of this action.

All aspects of Ordinance No. PA 1217 remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity to the remaining portions hereof.

ENACTED this 24th day of June, 2014.


Chair, Lane County Board of County Commissioners


Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 6-13-14 Lane County

OFFICE OF LEGAL COUNSEL

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF
LANE COUNTY, OREGON

IN THE MATTER OF AMENDING BOARD OF COUNTY)
COMMISSIONERS ORDINANCE NO. PA 1217 (ENACTED)
NOVEMBER 10, 2004) TO REVISE OR ELIMINATE)
CONDITION 4 TO ALLOW TRUCK ACCESS ONTO)
MCKENZIE VIEW DRIVE EAST OF EGGE ROAD. (FILE)
509-PA13-05627; EGGE))

FINDINGS OF FACT AND CONCLUSIONS OF LAW AND CONDITIONS
IN THE MATTER OF ORDINANCE NO. PA 1310

1. The subject quarry is known as Coburg Road Quarry (DOGAMI Permit 20-0158), and is located on the east side of I-5, north of McKenzie View Drive. The quarry lies within two parcels identified as tax lots 402 and 500 on County Assessor Map 17-03-03.
2. The Lane County Board of Commissioners authorized mining at the quarry through Ordinance No. PA 1217 (enacted November 10, 2004). In accordance with the procedures set forth in Oregon Administrative Rules (OAR) Chapter 660 Division 23, Ord. No. PA 1217 added the quarry site to the Comprehensive Plan Inventory of Significant Mineral and Aggregate Sites, changed the Rural Comprehensive Plan Designation of the site from *Forest* to *Natural Resource: Mineral*, changed the zoning of the site from *Impacted Forest Lands (F-2)* to *Quarry and Mine Operations (QM)*, authorized mining of the site, and established the following ten conditions of approval:
 1. No crushing or production of concrete or asphalt shall be conducted on site.
 2. Operations shall be conducted between 7:00 a.m. and 5:30 p.m.
 3. There shall be a maximum of 80 haul truck round-trips per day.
 4. No truck traffic shall use McKenzie View Drive east of Egge Road.
 5. Controlled blasting practices shall control the creation of "fly rock".
 6. All mining activities will take place behind the working face or a visual/noise screen (berm). A rock wall shall be retained between the mining area and the residences to the east, west and south.
 7. The dozer and rock drill shall not operate at the top surface of the mine at the same time.
 8. A ten (10') to fourteen (14') foot high berm shall be constructed along the west boundary of the mining area as shown on Figure 5 of the Noise Study.
 9. A berm that is a combination of 15 feet above the surface of the mine and 20 feet above the surface of the mine shall be constructed as shown on Figure 5 of the Noise Study.
 10. All dust emissions shall conform to LRAPA standards.
3. The quarry has been operating since 2004 under the permit approved through Ordinance No. PA 1217. The internal portion of the pit has been mined down to a point where it is no longer possible or feasible to exit the pit to the north to access Egge Road. To continue operations, rock is now mined from the floor of the pit, hauled to the south wall by internal haul trucks and dumped near the south wall. A bulldozer then pushes the rock near the face of the wall,

lifts it roughly 10-12 feet, and dumps it over the south wall. At the bottom of the south wall on the south side, a loader excavator loads rock into haul trucks for delivery. From that point, trucks exit directly onto McKenzie View Drive.

The top of the south wall face is at roughly 544 feet in elevation, and the loading area adjacent to McKenzie View Drive is at 452 feet elevation. There will be no change to the height or width of the south wall as operations continue. There is no excavation occurring south of the south wall. This pit site has enough rock to operate another roughly five years.

The five year operation plan is to mine the floor of the pit to roughly 534 feet in elevation. At that point, beginning at the north end of the pit and moving south, the floor of the pit will be mined down an additional 35-40 feet, keeping a slope so that trucks can continue to haul to the south face for dumping and hauling. The height of the south wall will not change; the width of the south wall will not change. When complete, the south wall will be at its current elevation of 544 feet.

Because the current mining activities now occurring on the southern portion of the site were not described or considered in the approval of Ordinance No. PA 1217, and necessitate and enable the proposed change in access, the activities as described above are taken into consideration in the review of this application.

4. The applicant now requests a modification to Condition 4 of Ordinance No. PA 1217 to allow quarry ingress/egress access to McKenzie View Drive east of Egge Road. The proposed access is located east of the I-5 overpass, approximately 565 feet east of the intersection of Egge Road and McKenzie View Drive. No additional truck trips are proposed.
5. Pursuant to Lane Code 14.700(2), conditions of approval may be modified by the same type of Approval Authority that issued the final land use decision for the application, subject to compliance with the requirements of Lane Code 14.700(2)(a) through (c):
 - (a) *The application for modification of conditions meets the following completion requirements:*
 - (i) *The application is in writing and on the form provided by the Department;*
 - (ii) *The application is accompanied by the fee charged by the Department to defray the costs of processing the application;*
 - (iii) *The request is submitted to the Department prior to the expiration of the approval period or any approved extension;*
 - (iv) *The application states the reasons that prevented the applicant from complying with the conditions for which the modification is requested;*
 - (v) *The application identifies any standards or criteria that the original conditions addressed; and*
 - (vi) *The application addresses the compliance of the requested modifications with any applicable standards or criteria.*
 - (b) *The applicable criteria for the final land use decision have not changed.*
 - (c) *The Approval Authority who reviews the application for the modification of conditions shall be the same Approval Authority who made the final land use decision.*
6. Application No. 509-PA13-05627 was submitted to the Land Management Division on November 18, 2013, in response to Compliance Action CA13-00118. The application is in

writing and includes a completed general land use application form. The application was accompanied by a fee to defray the costs of processing the application. The original permit has been acted upon and has not expired. Ordinance No. PA 1217 was approved in accordance with the procedures set forth in OAR 660-23-180, the applicable criteria of which have not changed. The Board of County Commissioners is the approval authority that enacted Ordinance No. PA 1217 and is the authority that may modify its conditions of approval. The Board of County Commissioners finds that the application complies with LC 14.700(2)(a)(i), (ii), (iii), and LC 14.700(2)(b) and (c).

7. The record indicates that the change in access is requested because it is no longer possible or feasible to exit the quarry to the north, due to the location of the resource and the manner in which the resource has been mined. To continue operations, rock is now mined from the floor of the pit, hauled to the south wall by internal haul trucks and dumped near the south wall. A bulldozer then pushes the rock near the face of the wall, lifts it roughly 10-12 feet, and dumps it over the south wall. At the bottom of the south wall on the south side, a loader excavator loads rock into haul trucks for delivery. From that point, trucks exit directly onto McKenzie View Drive. The Board of County Commissioners finds that the application complies with LC 14.700(2)(a)(iv).
8. Lane Code 14.700(2)(a)(v) requires the application to identify any standards or criteria that the original conditions addressed. Lane Code 14.700(2)(a)(vi) requires the application to address compliance of the requested modifications with any applicable standards or criteria, including the relevant unchanged standards or criteria applicable to the original approval. Ordinance No. PA 1217 was approved in accordance with the procedures set forth in OAR 660-23-180. Ordinance No. PA 1217 and its findings are incorporated herein by reference.

The applicable criteria of OAR 660-23-180, as they relate to the proposed modification and current mining activities, are discussed below.

OAR 660-23-180(3) Significance Test

Ordinance PA 1217 found the inventory of rock at this site to be "significant" under the standards to be applied in OAR 660-023-0180(3). That determination need not be revisited in the evaluation of the proposed modification and current mining activities.

OAR 660-23-180(5) Deciding Whether Mining is Permitted

The process for deciding whether mining is permitted is set out in subsections (5)(a) through (g) below.

OAR 660-23-180(5)(a) Determining an Impact Area for the Purpose of Identifying Conflicts

Ordinance No. PA 1217 used the 1,500 foot impact area boundary but extended the noise impact area to 1,775 feet west of the site, based on recommendations of the original September 30, 2002 Noise Study prepared by DSA Engineers in support of Ordinance No. PA 1217.

The applicant has submitted a noise analysis of the proposed modification and current mining activities prepared by Kerrie Standlee of DSA Engineers. The DSA Engineers noise analysis consists of one letter dated April 7, 2014, and two memos dated May 6, 2014, and May 26, 2014. In the May 26, 2014 Memo, Mr. Standlee indicates that the changes proposed to the Coburg Road Rock Quarry mining plan will not alter the conclusions presented about the quarry in DSA's September 30, 2002 noise study report and concludes that the noise generated by the proposed mine plan changes will not cause the quarry to exceed the DEQ noise control limits at any residence around the quarry.

Based on the 2014 DSA Engineers noise analysis, the proposed modification and current mining activities will not alter the impact area as determined in Ordinance No. PA 1217.

OAR 660-23-180(5)(b) The local government shall determine existing or approved land uses within the impact area that will be adversely affected by proposed mining operations and specify the predicted conflicts. For purposes of this section, "approved land uses" are dwellings allowed by a residential zone on existing platted lots, and other uses for which conditional or final approvals have been granted by the local government. For determination of conflicts from proposed mining of a significant aggregate site, the local government shall limit its consideration to the following:

The findings of Ordinance No. PA 1217 primarily focus on conflicts with local roads, noise conflicts with rural residences, discharge of "fly rock" from blasting, and impacts to the McKenzie River. These are found in items (A) and (B) and (D) below. For roads it was determined there is no conflict. With respect to noise, it was determined that, with the use of berms as sound buffers, as required by Conditions 8 and 9, the potential conflict could be mitigated to the point that it is not significant. Potential conflict with fly rock was found to be insignificant due to the blasting plan required by Condition 5. And no conflicts were found with the McKenzie River as a Goal 5 resource. The findings and supporting documentation of Ordinance No. PA 1217 are incorporated herein by reference.

OAR 660-23-180(5)(b)(A) – Conflicts due to noise, dust or other discharges with regard to those existing and approved uses and associated activities that are sensitive to such discharges;

The 2014 DSA Engineers noise analysis of the proposed modification and current mining activities indicates that the changes proposed to the Coburg Road Rock Quarry mining plan will not alter the conclusions presented about the quarry in DSA's September 30, 2002 noise study report and concludes that the noise generated by the proposed mine plan changes will not cause the quarry to exceed the DEQ noise control limits at any residence around the quarry. In the May 26, 2014 memo, DSA Engineers provided additional noise measurement data to demonstrate that noise associated with operations on the south side of the mine's south wall, including using the new entry point, will not create a conflict because it will meet the DEQ noise standard. That memorandum summarizes noise measurements taken on March 11, 2014. It explains why none of the operations between McKenzie View Drive and the south face will exceed the DEQ noise limitation at the nearest rural residential use – the Sherman residence. That includes noise associated with pushing rock over the slope, loading rock into trucks, and moving the loaded trucks off the site.

Regarding conflicts due to dust, Ordinance No. PA 1217 imposed Condition 10, which requires that all dust emissions shall conform to LRAPA standards. This condition remains in effect.

In summary, it is not necessary to further condition the mining operation to ensure that noise or dust conflicts will not be significant. The information in the record indicates that the proposed access point and current mining activities will not cause the noise from the mine to exceed DEQ standards at any residence around the quarry.

OAR 660-23-180(5)(b)(B) – Potential conflicts to local roads used for access and egress to the mining site within one mile of the entrance to the mining site unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan. Conflicts shall be determined based on clear and objective standards regarding sight distances, road capacity, cross section elements, horizontal and vertical alignment, and similar items in the transportation plan and implementing ordinances. Such standards for trucks associated with the mining operation shall be equivalent to standards for other trucks of equivalent size, weight, and capacity that haul other materials;

The applicant has submitted an analysis of the proposed access point prepared by Access Engineering. There are four parts to the new Access Engineering study. These are: Traffic Impact Study dated February 4, 2014; Truck Turn Addendum dated February 11, 2014; Supplemental Traffic Impact Study dated March 4, 2014; and Response Letter dated May 7, 2014.

Lane County Transportation Planning staff reviewed the Access Engineering evaluation and independently analyzed the proposed access point. Though Transportation Planning staff reached a different conclusion about site distance than Access Engineering, there is agreement that, with mitigation in the form of temporary signage, the site distance would be adequate for the truck entry point. Transportation Planning staff has proposed three conditions of approval to reflect mitigation measures (see Conditions 4.a, 4.b, and 4.c, under Finding 12 below).

In summary, based on the Access Engineering and County Staff analysis, and the conditions imposed, there will be no significant conflict with local roads based on site distance for the new access.

OAR 660-23-180(5)(b)(C) Safety conflicts with existing public airports due to bird attractants, i.e. open water impoundments as specified under OAR chapter 660, division 013;

This provision was addressed in Finding 13 of Ordinance No. PA 1217 and has no bearing on the proposed access point and current mining activities.

OAR 660-23-180 (5)(b)(D) – Conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the PAPA is initiated;

Ordinance No. PA 1217 identified the McKenzie River as being within the impact area and addressed impacts on the river. The proposed access point onto McKenzie View Drive is approximately 170 feet from the north bank of the McKenzie River. The loading area is approximately 401 feet from the north bank of the McKenzie River. The top of the notch in the southern face is approximately 510 feet from the north bank of the McKenzie River. The loading area is behind a berm constructed on site. There are 120 feet between the north bank of the river and the south edge of McKenzie View Drive. That area is vegetated with trees and shrubs that will not be altered by the proposed access point and current mining activities. The area under the overpass is gravel.

The DOGAMI Onsite Inspection letter dated December 17, 2013, identifies measures for the applicant to take to ensure that storm water does not exit the site and that material is not tracked out on to McKenzie View Drive. The letter indicates that, if the measures are not sufficient to contain storm water or track out within the facility, DOGAMI will require the site to obtain coverage under the DEQ NPDES 1200A General Permit.

Additional impacts from the proposed access point and current mining activities on the McKenzie River are not significant when compared to I-5 noise and visual blight and that of the I-5 overpass bridge. The riparian vegetation along the north bank screens much of the mining operation from the river. The only area where riparian vegetation does not exist is adjacent to, and under the I-5 bridge. Noise impacts from the proposed modification and current mining activities have been analyzed by DSA Engineers and are discussed above.

Based on the above, the proposed access point and current mining activities will not cause conflicts with the McKenzie River.

OAR 660-23-180(5)(b)(E) Conflicts with agricultural practices;

Finding 13 of Ordinance No. PA 1217 concluded that there are no agricultural practices on the lands surrounding the quarry site on the ridge and that the quarry will present no conflicts with the farm uses of the field on the valley floor west of I-5. The proposed access point and current mining activities are not anticipated to have an impact on the agricultural practices identified in Ordinance No. PA 1217.

OAR 660-23-180(5)(b)(F) – Other conflicts for which consideration is necessary in order to carry out ordinances that supersede DOGAMI regulations pursuant to ORS 517.780;

Finding 13 of Ordinance No. PA 1217 concluded that there are no local ordinances that supersede DOGAMI regulation. No such conflicts have been identified for the proposed modification and current mining activities.

OAR 660-23-180(5)(c) The local government shall determine reasonable and practicable measures that would minimize the conflicts identified under subsection (b) of this section. To determine whether proposed measures would minimize conflicts to agricultural practices, the requirements of ORS 215.296 shall be followed rather than the requirements of this section. If reasonable and practicable measures are identified to minimize all identified conflicts, mining shall be allowed at the site and subsection (d) is not applicable. If identified conflicts cannot be minimized, subsection (d) of this section applies.

Based on the Access Engineering and Lane County Transportation Planning staff analyses, Condition 4 has been revised to include 4.a, 4.b, and 4.c in order to minimize potential conflicts on McKenzie View Drive from the proposed access point. Ordinance No. PA 1217 remains in full force and effect except as modified by this Ordinance No. PA 1310.

OAR 660-23-180(5)(e) - Where mining is allowed, the plan and implementing ordinances shall be amended to allow such mining. Any required measures to minimize conflicts, including special conditions and procedures regulating mining, shall be clear and objective. Additional land use review, if required by the local government, shall not exceed the minimum necessary to assure compliance with these requirements, and shall not provide opportunities to deny mining for reasons unrelated to these requirements, or to attach additional requirements, except with regard to mining or processing activities:

Based on the Access Engineering and Lane County Transportation Planning staff analyses, Condition 4 has been revised to include 4.a, 4.b, and 4.c in order to minimize potential conflicts on McKenzie View Drive from the proposed access point. Ordinance No. PA 1217 remains in full force and effect except as modified by this Ordinance No. PA 1310.

OAR 660-23-180(5)(f) - Where mining is allowed, the local government shall provide for the post-mining use and provide for this use in the comprehensive plan and land use regulations.

Compliance with this criterion was established under Finding 13 of Ordinance No. PA 1217 and need not be revisited for the proposed modification and current mining activities.

The Board of Commissioners finds that, based on the facts and evidence in the entire record, the proposed modification and current mining activities comply with the applicable criteria of OAR 660-23-180 and that potential adverse impacts from the proposed modification and current mining activities will be minimized through compliance with the conditions of approval as established through Ordinance No. PA 1217 and as modified through this Ordinance No. PA 1310.

9. To the extent that the Site Review criteria of LC 16.257(4) can be considered applicable criteria based on LC 16.216(5), the Board of Commissioners finds that, based on the facts and evidence in the entire record and the finding below, the proposed modification and current mining activities comply with the applicable criteria of LC 16.257(4).

LC 16.257(4) Criteria for Site Review Evaluation. The following minimum criteria should be considered in evaluating Site Review Applications:

- (a) That the location, design, size, shape and arrangement of the uses and structures are sufficient for the proposal intent and are compatible with the surrounding vicinity.*

The change in access is requested because it is no longer possible or feasible to exit the quarry to the north. The proposed access point and the current mining activities enable continuing mining operations on site. Based on the analysis and affirmative findings

addressing OAR 660-026-180 above, potential adverse impacts from the proposed modification and current mining activities have been identified and will be minimized through compliance with the conditions of approval as established through Ordinance No. PA 1217 and as modified through this Ordinance No. PA 1310. Based on the DSA Engineers noise analysis, noise associated with the proposed access point and the current mining activities is consistent with the studies and findings of Ordinance No. PA 1217. Because potential adverse traffic impacts have been evaluated and minimized, and because the noise impacts of the proposed modification are consistent with that which was approved under Ordinance No. PA 1217, the proposed modification can be considered compatible with the surrounding vicinity.

- (b) That there is no unnecessary destruction of existing healthy trees or other major vegetation, and that due consideration is given to the preservation of distinctive historical or natural features.*

The proposed access point and the current mining activities enable continuing mining operations on site. The proposed access point and current mining activities do not modify or impact the berms or vegetative screening required and established as part of Ordinance No. PA 1217, nor do they impact the vegetation along the McKenzie River. Impacts to the McKenzie River, inasmuch as it may be considered a distinctive natural feature, are addressed under Finding 8 above.

- (c) That the quantity, location, height and materials of walls, fences, hedges, screen planting and landscape areas are such that they serve their intended purpose and have no undue adverse effect on existing or contemplated abutting land use.*

Berms and vegetative screening were required and established as part of Ordinance No. PA 1217. The proposed access point and current mining activities do not modify or impact the required berms or vegetative screening.

- (d) That suitable planting of ground cover or other surfacing is provided to prevent erosion and reduce dust.*

The proposed access point and first 170 feet of the driveway are paved to reduce dust. A facility permit is required to ensure that the access point is designed to Lane County standards. Ground cover is not practical for the proposed access point and the area within which current mining activities are occurring. Ordinance No. PA 1217 imposed Condition 10, which requires that all dust emissions shall conform to LRAPA standards. This condition remains in effect.

- (e) That the location, design and size of the uses are such that the residents or establishments to be accommodated will be adequately served by community facilities and services or by other facilities suitable for the intended uses.*

The site is fully served by needed community facilities and services. Based on the Access Engineering and County Staff analysis, and the conditions imposed, there will be no

significant conflict with local roads as discussed above. A facility is required to ensure that the proposed access point is designed to Lane County standards.

- (f) *That, based on anticipated traffic generation, adequate additional right-of-way, road improvements, and on-site vehicular, bicycle and pedestrian improvements connecting directly to off-site roads, paths and sidewalks must be provided by the development in order to promote traffic safety and reduce traffic congestion.*

Consideration shall be given to the need and feasibility of widening and improving abutting streets to specifications of LC Chapter 15, "Roads," and also to the necessity for such additional improvements as lighting, sidewalks, bicycle lane and path connections, and turn and deceleration/acceleration lanes. Improvements shall be consistent with access management, spacing standards, and other requirements of LC Chapter 15.

Based on the Access Engineering and County Staff analysis, and Condition 4 as revised, there will be no significant conflict with local roads as discussed above. A facility is required to ensure that the proposed access point is designed to Lane County standards.

- (g) *That there is a safe and efficient circulation pattern within the boundaries of the development. Consideration shall include the layout of the site with respect to the location and dimensions of vehicular, bicycle, and pedestrian entrances, exits, drives, walkways, buildings and other related facilities.*

The proposed access point and on-site circulation are designed to enable continuing mining operations on the subject property. The use of the southern portion of the property is not conducive to bicycle or pedestrian entrances, exits, and walkways, and does not include any buildings or structures.

- (h) *That there are adequate off street parking and loading/unloading facilities provided in a safe, efficient and pleasant manner. Consideration shall include the layout of the parking and loading/unloading facilities and their surfacing, lighting and landscaping.*

The proposed access point and on-site circulation are designed to enable continuing mining operations on the subject property. On-site parking and loading are designed exclusively for mining operations.

- (i) *That all signs and illumination are in scale are harmonious with the site and area.*

The signage required by Condition 4.a is necessary for public safety and to minimize potential conflicts with McKenzie View Drive. No other signs are proposed.

- (j) *That adequate methods are provided to ensure continued maintenance and normal replacement of facilities, landscaping and other improvements, etc. that are required by Site Review Permit.*

The applicant will continue to abide by the conditions of approval established through Ordinance No. PA 1217 and as modified through this Ordinance No. PA 1310.

10. The May 13, 2014 public hearing evoked testimony by the applicant, the applicant's representative, and several neighbors. Some neighbors supported the amendment, based on their general support of this industry, or based on their more specific sense that taking direct access to McKenzie View Drive would be more beneficial for the neighborhood in terms of noise and dust.

The most focused opposition testimony was submitted by Mr. Leroy Sherman, the occupant of the closest rural residence on McKenzie View Drive to the east of the mine. He complained of the noise of the operation, in particular noise associated with the loading of trucks. The noise issue has been thoroughly addressed by the applicant's acoustic engineer. The applicant has shown that all aspects of noise from the mining operation, including pushing and loading and trucking of material, will be within the limits of the DEQ noise standard, given the existing conditions at the site. Compliance with the DEQ noise standards is as much as the county may require. It supports a finding of no significant conflict.

11. Conclusion. The Board of Commissioners finds that, based on the facts and evidence in the entire record, the proposed modification and current mining activities comply with the applicable criteria of OAR 660-23-180 and LC 16.257(4), and as such, with LC 14.700(2)(a)(v) and (vi). The Board of Commissioners finds that the application complies with the applicable criteria of LC 14.700(2) and therefore approves the application contained in application file no. 509-PA13-05627, subject to the Conditions of Approval in Finding 12 below.

12. Complete List of Conditions of Approval as approved through Ordinance No. PA 1217 and as modified through this Ordinance No. PA 1310:

1. No crushing or production of concrete or asphalt shall be conducted on site.
2. Operations shall be conducted between 7:00 a.m. and 5:30 p.m.
3. There shall be a maximum of 80 haul truck round-trips per day.
4. Use of McKenzie View Drive east of Egge Road is allowed only at the approach located approximately 565 feet east of Egge Road, as shown in Figure 2 of the Egge Access Modification Traffic Impact Study, subject to the following:
 - a. The applicant shall utilize Temporary Traffic Control (TIC) signing whenever truck traffic is utilizing the approved access to McKenzie View Drive, said access being located approximately 565 east of Egge Road, and as shown in Figure 2 of the Egge Sand & Gravel Access Modification Traffic Impact Study. A temporary "TRUCKS ENTERING ROADWAY" sign, meeting current ODOT signing material criteria for TIC signing, is acceptable. The said sign shall be placed 670 feet east and in advance of the approved access point. Changes in TIC signing shall be approved by the Lane County Traffic Engineer.
 - b. For the safety of setting up and removing the Temporary Traffic Control sign, the applicant shall obtain a Lane County Facility Permit, place a culvert in the roadside ditch and construct a minimum required gravel shoulder widening suitable for a pickup to pull over and set up a sign on a flat spot adjacent to the roadway without encroaching upon the travel lane. The said widening shall be located such that the

sign can be placed within the widening 670 feet east and in advance of the approved access point.

- c. In accordance with Lane Code 15.205(1), a Facility Permit shall be required for placement of facilities and development within the right-of-way of McKenzie View Drive. Facilities and development include, but are not limited to, road improvements, sidewalks, new or reconstructed driveway or road approach intersections, utility placements, excavation, clearing, grading, culvert placement or replacement, storm water facilities, or any other facility, thing, or appurtenance. The applicant shall obtain a Lane County Facility Permit (Separate from the Facility Permit listed in Condition #4.b) in order to receive approval for previously made modifications to the subject access. The applicant shall be responsible for any necessary reconstruction or modifications to the access and/or drainage made necessary as a result of modifications previously completed by the applicant without the benefit of a Lane County Facility Permit. The said access shall meet current standards.
5. Controlled blasting practices shall control the creation of "fly rock".
6. All mining activities will take place behind the working face or a visual/noise screen (berm). A rock wall shall be retained between the mining area and the residences to the east, west and south.
7. The dozer and rock drill shall not operate at the top surface of the mine at the same time.
8. A ten (10') to fourteen (14') foot high berm shall be constructed along the west boundary of the mining area as shown on Figure 5 of the Noise Study.
9. A berm that is a combination of 15 feet above the surface of the mine and 20 feet above the surface of the mine shall be constructed as shown on Figure 5 of the Noise Study.
10. All dust emissions shall conform to LRAPA standards.