

## Spending time on the rock: FB tackles the aggregate issue

Your Farm Bureau has been in negotiations with the state government and aggregate interests to come up with a plan that addresses mining rock on farmland. It's a complicated issue that's been under scrutiny dating back to before the '95 Legislature.

*There are two ways an aggregate mine can be sited: through the provisions of ORS 215.298 or through Goal 5 of the state's land-use planning laws.*

ORS 215.298 authorizes a county to issue a conditional-use permit if a person wants to mine more than 1,000 cubic yards in an EFU zone. The county can only issue a permit for sites included on the inventory in the county's comprehensive plan. ORS 215.298 (Mining in EFU Zones) gives the counties unlimited discretion in imposing conditions to site the mine, or the county can just refuse to allow mining for almost any reason.

Siting a mine under the Goal 5 process takes away some of a county's authority to deny mining or impose unreasonable conditions under 215.298. The Goal 5 process, however, is only available for sites that were inventoried during a

county's Goal 5 process and that are determined to be "significant," including those that are on farmland.

Today's Goal 5 rules for permitting an aggregate mine are very vague. There are no special provisions for protecting agricultural land from mining. Instead, the rules have caused considerable litigation, and mining permits are now taking years to reach a conclusion. For all of these reasons, the Land Conservation and Development Commission (LCDC) decided to change the rules.

*It was the desire of the governor's office that agriculture and the aggregate community come to an agreement on a new method of siting mines that would also provide some protection for the best farmland. Initially Farm Bureau proposed that mining not be allowed on prime farmland. Because the most desirable rock is under the best farmland, most mining in the valley occurs on Class II soil. Neither LCDC nor the governor wanted a provision that simply bans aggregate mining in the Willamette Valley. Since the aggregate position is that most new or expanded mining in the*

valley has to be on Class II soils and agriculture wanted a ban, that conflict had to be resolved.

The reality was that if Farm Bureau and the aggregate community did not come to an agreement, LCDC and the Kitzhaber administration would do it without us, and we may not have liked the solution.

The following concepts are the result of weeks of intense discussions involving Farm Bureau, the Department of Agriculture, the aggregate producers, LCDC staff, and the governor's office. No, there is not a prohibition of mining aggregate on prime farmland. But all of points 1 through 9 will minimize the loss of prime farmland to aggregate mining, and we have none of them in the current Goal 5 rules.

*The key to Farm Bureau's negotiations was a strong effort to tie our support of these concepts to a condition that our Policy 243 be included in the changes to Goal 5. This policy provides that Goal 5 should not be used to restrict Goal 3 farm uses. That is point 10 of the agreement.*

There was a clear indication at the conclusion of the hearings that LCDC

will be adopting the entire package at its May 30 meeting. Here are the 10 points of the agreement:

1) "Significant" aggregate sites will use the Goal 5 process; all other aggregate sites must use the 215.298 process to site a mine.

2) An aggregate site is not significant if the mining area is more than 35 percent Class I.

3) An aggregate site with a mining area that is more than 35 percent Class II or a combination of more than 35 percent Class I & II soil is only determined to be "significant" if in addition to the quantity requirements of 2,000,000 tons at a valley site, it also meets the rock layer thickness requirements of (a) at least 60 feet thick in Washington, Multnomah, Marion, Columbia, and Lane counties; (b) at least 25 feet thick in Polk, Yamhill, and Clackamas counties; and (c) at least 17 feet thick in Linn and Benton counties.

*This provision says that if you are going to mine on the best farmland in the county then you have to do it where you will consume the least amount of farmland to get the greatest amount of rock.*

4) Class I & II land owned by the aggregate producer can be used as the required buffer around the mining area.

5) The end use of a new mine in an EFU zone sited under Goal 5 should be limited to farm use as defined in 215.203 or natural fish and wildlife

habitat. The intent is to preclude a public use of the site.

6) Counties cannot regulate farming practices to mitigate conflicts with mining (#10 does same thing).

7) New aggregate sites must mitigate conflicts with existing farm activities. *Aggregate sites are not required to mitigate conflicts with new farm activities begun after the mine is sited.* The application of ORS 215,296, conditional-use criteria, to protect farm activities applies to all mines and expansions.

8) An existing processing operation will be allowed to continue processing material from a new or expansion area, unless a time limit was set for processing during the original site approval.

9) Farm Bureau and the aggregate community will seek legislative funding to do a study to determine if the agricultural area is being adversely affected because too many mines are being sited in a geographic area. If so, we will identify a method of limiting the density of new significant sites and expansions.

10) From now on, farm practices are declared not to be a conflicting use with Goal 5 resources on Goal 3 land. That means, from this day forward, farm practices will not be regulated under LCDC in order to protect a Goal 5 resource.

If you have any questions about this issue, contact Don Schellenberg in our office. ☐

## Vote YES on Ballot Measures 24 and 25

Make sure that your "minority" views are considered! What does this have to do with Ballot Measure 24? The drafters of our Constitution created a representative form of government (legislative) for drafting laws, to ensure that the rights of the minority (rural Oregonians, in our case) are protected from the power of the majority.

The initiative petition process was adopted as a means of getting around the Legislature and allowing the majority (the public) to enact laws regardless of their effect on a minority group of citizens.

Measure 24 provides that if laws affecting the entire state are going to be enacted by a majority vote of the people, then the proposal coming before the voters ought to represent at least a proportional concern of the citizens statewide. This constitutional

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*is the gravel pits the conflict ~~is~~  
Not the farm use  
Completely & Totally integrated in Goal 5 rule  
660-023-0010 (1) And 660-023-0480(5) (b) (E)*

Figure 1

Trend in Total Harvested Acreage in the Willamette Valley

