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## MEMORANDUM

**Date:** November 25, 2024  
**To:** Lane County Board of Commissioners  
**From:** Taylor Carsley, Senior Planner  
**Re:** 509-PA23-05452/05454 (Old Hazeldell Quarry) - Open Record Response Period

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On October 15, 2024, the Board voted 3-2 to hold the record open for the following period, as specified below:

1. First Open Record Period: Opportunity for any party, including staff, to submit new evidence and argument on any issue that is relevant to the application. First Open Record Period Submittals due November 4, 2024 at 4:00 pm.
2. Response Period: Opportunity for any party to respond to the evidence and argument submitted during the first open record period. New evidence can be provided if that evidence is in response to other evidence provided in the first open record period, but not prior. Response Period Submittals due November 25, 2024 at 4:00 pm.
3. Final Rebuttal: Opportunity for applicant only to provide a final response. No new evidence is allowed. Final Rebuttal due December 2, 2024 at 4:00 pm.

This memorandum is submitted during the Response Period (#2) in order to respond to evidence and argument submitted in the First Open Record Period. Much of the memo is a direct response to the applicant's material, namely the document entitled *Big Game Management Plan for the Old Hazeldell Quarry Lane County, Oregon*, prepared by Brian Meiering: Wetlands and Wildlife LLC, revised 10/31/2024. This memo also addresses the *Northwest Resource Solutions, LLC* letters dated October 8, 2018 and October 23, 2018 and other open record material submitted by the applicant on November 4, 2024

### **Applicant's Big Game Management Plan**

The proposed Big Game Management Plan ("Plan") is characterized by the applicant as "a voluntary proposal by the landowner to undertake habitat mitigation, using the ODFW rules for such plans as guidance, and intended to help minimize potential Big Game impacts of the quarry project." The applicant states that the Plan is consistent with the Oregon Department of Fish and Wildlife Mitigation Policy found at OAR 635-415-0025(2) and that it is expected to provide in-kind, in-proximity habitat mitigation to achieve no net loss of habitat quantity and quality and provide a net benefit to quantity and quality. With respect to deer populations, the applicant contends the Plan would maintain and improve the habitat quality for deer that may remain resident in the 1,500-foot impact area of the quarry site, thus contributing to minimizing project impacts to deer. With respect to elk populations, the applicant contends the Plan would reduce the relocation of elk from the 1,500-foot impact area of the quarry site, thus contributing to minimizing project impacts to elk.

Staff consider the proposed Big Game Management Plan to be incomplete, inadequate to minimize significant conflicts to Major Big Game Habitat, ambiguous, and unenforceable. The Plan appears to mischaracterize its purpose and lacks both the material report components and substance needed to determine if conflicts can be minimized.

### **Context and Purpose of Plan**

In 2021, the Board adopted Order No. 21-10-26-06, denying an identical proposed Plan Amendment. That Order found that the project did not minimize significant conflicts to Major Big Game Habitat, due to the project's displacement of elk,

and direct loss of habitat to deer and elk. The 2021 findings further acknowledged the potential for private property damage resulting from the displacement of big game. ODFW letters also expressed concern that the analysis had been limited to 1,500 feet from the boundary of the mining area. In 2021, the Board relied on evidence provided by the Oregon Department of Fish and Wildlife (ODFW) to make these conclusions, and with regard to the current application, ODFW continues to support these original conclusions. The project has not substantively changed, nor has the project's assessment of Major Big Game Habitat conflicts, which continues to rely on problematic material from 2018 that has been responded to by ODFW in 2021 and again in 2024.

Prior to the Board's denial in 2021, the applicant did not submit a habitat management plan into the record, but prepared one after the record had closed. Staff note that the applicant had several years between the time the 2021 plan was initially prepared and the time that the subject application was submitted in July 2023 to provide an adequate Plan. It is unknown why the Plan was not submitted (1) with the application, (2) after the Notice of Incomplete Application was provided to the applicant in October 2023 wherein Major Big Game Habitat issues were raised, (3) at any point during the Planning Commission record when the same issues were raised, or (4) prior to the public hearing before the Board. If the Plan had been submitted at any of these times, the applicant could have worked with County and ODFW staff to try and resolve clear deficiencies. As it stands, the applicant has provided no opportunity to work with County or ODFW staff on the latest iteration of this Plan. Submission of the Plan during the Board's open record period has also largely excluded opponents from the ability to take adequate time to object to it.

The document provides at least four (4) separate references to the fact that the Plan is "voluntary" and "private" to achieve habitat improvement outcomes to reduce project impacts to a less than significant level. In four (4) other instances, the Plan refers to the "conservation" actions that it implements. This is not a conservation plan. The applicant is obligated to minimize project-related conflicts to Major Big Game Habitat to a less than significant level, if possible; otherwise the County is required to determine the economic, social, environmental, and energy (ESEE) consequences of allowing, limiting, or not allowing mining. The applicant has made their goal of avoiding an ESEE explicit in public hearings before the Planning Commission and Board<sup>1</sup>. If the Board accepts such a Plan for the purpose of minimizing Goal 5 conflicts, it becomes a necessary and binding component of the decision that must be determined to be enforceable and should not be considered "voluntary" or "private."

#### Plan Elements, Environmental Setting Section

The subject Plan does not contain elements that should be included on an acceptable mitigation plan or biological assessment. First, the author provided no acceptable environmental baseline, background, or study methodology. A four-sentence paragraph describes land cover/vegetation types that exist on the property with no information about how this information was collected, when the field visit occurred, or the degree to which each element is disturbed and affected by invasive non-native species. No mapping is provided showing existing and proposed conditions (e.g. land cover/vegetation/invasive species) or detail of treatment sites to enable the County to assess the degree of mitigation success.

#### Objectivity of Plan

The Plan must be capable of implementation through enforceable measures; without those, the Plan will not serve its purpose. Unlike other conflicts that purport to be minimized through permits issued by regulatory agencies (i.e. air quality controlled through compliance with LRAPA permit), neither the County nor ODFW has provisions for regulating the specific actions of a big game management plan. This means no set of standards exist in statute or Lane Code to ensure the purpose and expected outcomes of the Plan are met, so it is exceedingly important that the Plan itself provides these specific standards to be met. This Plan offers no mechanisms to create enforceable or clear and objective conditions of

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<sup>1</sup> "Friends don't let friends apply for ESEEs." B.Kloos Public Hearing Testimony (October 15, 2024)

approval, in violation of OAR 660-023-0180(5)(e)<sup>2</sup>, nor does it offer conditions in the first place. On the contrary, the Plan appears to offer means and methods for escaping the obligations of mitigating conflicts. Language used throughout the Plan to describe outcomes, responsibilities, objectives, details, and schedules are vague. The next sections highlight some of this language in *italics* followed by staff response.

### Management Responsibilities Section

The Plan provides that “*The Landowner is responsible for funding the work described in this Plan, hiring a qualified Plan Manager, and ensuring that annual reports anticipated by this Plan are filed with the County as a basis for the County confirming compliance with county land use approvals and conditions.*” (Page 4).

As discussed in later sections, the work described in this Plan is not clear in substance or degree. The description of mitigation, monitoring schedule, and performance standards are subjective. In the rare instances where quantitative standards are provided, no methodology is included to evaluate compliance with those standards. Staff sees endless opportunities for the landowner to fund and complete less work than proposed, because the scope of work is not clearly provided in the first place. Further, there are no standards by which to assess the qualifications of a Plan Manager. There is no rubric provided for the annual reports and it is not known what the County will receive or whether that information would be adequate to “confirm compliance” with “land use approvals and conditions.”

The Plan provides that “*The Plan Manager will be responsible for scheduling and overseeing habitat work to be done, evaluating the effectiveness of work done, modifying the Plan to achieve intended goals, and preparing annual reports on effectiveness. The Plan Manager will be hired by the Landowner and will have professional qualifications adequate for their responsibilities.*” (Page 4).

Again, no clear and objective metrics are provided for evaluating the “effectiveness” of work done and when intended goals are achieved. It appears the Plan Manager would have the ability to modify the Plan without a clear threshold for doing so and there is no limit to which the Plan may be modified. It is also unclear why or how the Plan would need to be updated. The Plan needs to function properly as proposed since it is only before the Board for decision at this time. Although this is not proposed, an attempt at an “adaptive management” style plan, which is a systematic process to test hypotheses and apply the information learned to improve management decisions, is not realistic. This project does not involve future decision-making processes where the Board may later review specific tiered documents that build from this Plan. This Plan must stand alone and adequately serve its purpose without the discretion currently afforded to the Plan Manager to simply modify a document adopted as part of a land use decision.

### Management Plan Objectives Section

The three objectives provided are 1) Compensatory Mitigation Actions, 2) Habitat Management, and 3) Forest Stewardship (Pages 4-5). Each of these objectives may be worthy; however, they lack specific implementation mechanisms that will allow them to be reached. All objectives also lack any benchmarks for measuring success and the timing for which success must be reached. More is discussed below.

### Proposed Mitigation Details Section

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<sup>2</sup> OAR 660-023-0180(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 (e.g., site plan review), if required by the local government, shall not exceed the minimum review 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 approval requirements, except with regard to mining or processing activities:... (emphasis added)

This subsection is intended to detail the two proposed mitigation actions which are 1) Stand Thinning and 2) Invasive/Non-Native Species Control; Revegetation. Regarding Stand Thinning, the Plan states: *“These habitat improvements will include timber thinning and continued maintenance of the stands for big game habitat. Stand management to remove or thin overstory vegetation can create openings and improve forage quality and quantity for big game. However, excessive removal of overstory cover may reduce or eliminate necessary thermal and hiding cover and increase the encroachment of non-palatable species as well as non-native species in general. The prescribed thinning treatments will take into consideration the forage and cover needs of deer and elk.”* (Page 5).

The Plan provides no detail about the methodology prescribed for stand thinning to accurately assess whether performance standards have been met. On one hand, the Plan calls for stand thinning but states that excessive stand thinning will negatively impact habitat, without providing how to measure when excessive thinning occurs (Page 5). Using a single variable metric such as “20% reduction of conifers” (Page 6) is unacceptably vague and can be measured in many different ways, depending on the stand size, number of stands, location of assessment, etc. The Plan also fails to provide the prescribed thinning treatments, their precise location, how they will be assessed, and how they will take deer and elk forage and cover needs into consideration. It appears the “continued maintenance” of stands for big game habitat are included as part of this treatment action, however this action is neither described nor provided with a schedule, monitoring plan, or expected long-term measurable outcomes. It is also notable that the Oregon Department of Forestry has regulatory authority over commercial forest practices on private land, not the County. Without a clear and objective plan that removes ambiguity from its implementation, the County is not in a practical position to ensure this mitigation is being met.

The invasive species control and revegetation action contains similarly vague language: *“Control of invasives will incorporate re-establishment of native forb, grass and shrub species where practicable. To successfully reduce invasive species and increase native browse for big game, methods of removal in different portions of the site will vary. Methods will include hand removal, herbicide treatments and mechanical removal. Minimizing disturbance to native cover/soils will dictate the methods used from one treatment area to the next. In some cases, revegetation of native species is proposed in conjunction with removal of the invasives. A planting/seeding recommendation will be made to fit each locale based on the surrounding plant community and best professional judgment regarding efficacy. Planting/seeding efforts to promote native forage for deer and elk will be implemented after Invasive/non-native species control has been successfully completed. Successful completion of invasive/non-native species control will be based on best professional judgment of Wetlands and Wildlife LLC regarding the potential need for future control efforts (e.g., successful completion will assume that future invasive/non-native species control efforts will be minimal and planting/seeding efforts will not be inhibited by future disturbances).”* (Page 5-6).

The action provides no explanation about when reestablishment of native species may or may not be “practicable.” No detail is provided about the area or location of each removal method. The Plan provides no assessment of disturbance to native cover/soils in the mitigation area. Without knowing this, it is unclear how and where revegetation activities will occur commensurate with the removal of invasives. The Plan does not provide the timing of these activities and it is impossible to know how areas are specifically being treated and when, even with Figure 2 included. Because these two activities may be occurring separately and simultaneously in different areas, staff will have no way of confirming when such mitigation is “successfully completed” or what requires further treatment. It is unclear why a planting/seeding recommendation and schedule has not already been made as part of this Plan. The deference to the Plan Manager’s “best professional judgement regarding efficacy” to determine planting/seeding recommendations and when invasive species control has been “successfully completed” without detailing the specific methods and metrics by which these are determined ahead of time is unacceptable. The Plan also assumes that the potential need for future control efforts will be minimal and not inhibited by future disturbances; however, as discussed in the next section, there are no effective use limitations in these treatment areas. Under this Plan, the landowner is free to carry out any type of commercial forest activity or other use allowed in Lane Code on top of the mitigation sites.

#### Mitigation, Monitoring Schedule and Performance Standards Section

This section of the Plan intends to phase, quantify, and map the proposed mitigation measures described in the previous section. The Plan proposes three phases of mitigation that are to correspond with the three phases of mining. The Plan then lists performance standards for each mitigation area, which provide allowed uses and access, invasive species standards, thermal cover allowances, thinning standards, and native plantings/seeding. It concludes by providing the responsibilities of the landowner and Plan Manager to “*facilitate annual site visits by interested county staff and/or ODFW personnel to monitor the progress of the mitigation activities*” and “*prepare an annual report, for filing with Lane County, describing the mitigation measures performed and the results of monitoring will be available on December 1<sup>st</sup> of each year,*” respectively. Unfortunately, even if this section of the Plan were adequate in any way, it would be developed on insufficiently described mitigation measures.

The Plan does not necessarily call for the adequate completion of each phase of mitigation with each phase of mining. As written, the Plan allows for Phase 1 mitigation to commence and not be completed until after Phase 2 or 3 mining has commenced. If mitigation is phased with mining, the next mining phase should not start until the previous mitigation phase has been successfully completed. It is entirely unclear how or why each proposed phase of habitat mitigation corresponds to each mining phase. For example, the Plan appears to assume habitat conflicts caused by the Phase 1 mining activities requires only a single mitigation treatment: thermal cover retention, in a very limited portion of the impact area. No specific nexus between Phase 1 mining activities and thermal cover retention attributes is provided, and it is as if the Plan assumes Phase 1 mining activities will only impact habitat affected by lack of thermal cover. It is not clear why mitigation is not proposed all at once, or prior to conflicts occurring from mining activities, since each phase of mining operations will each conflict with Major Big Game Habitat on their own. It is also unclear why mitigation is only occurring within 1500 feet of the mining boundary, since habitat will continue to be impacted within the impact area from mining operations throughout all phases. Alternatively, it seems more reasonable that habitat outside the area experiencing conflicts would be improved in addition to areas within the impact area. Protected Major Big Game Habitat falls outside of the impact area and offers opportunities for mitigation activities.

For some reason “Thermal Cover Retention” is not a mitigation activity provided or explained in the previous Mitigation Details section and it is not clear what is to be done under “Thermal Cover Retention.” The Plan states “*Thermal cover will be provided primarily by early seral stands of conifers. Any die-back creating openings larger than 1 acre will be planted with native species of trees and shrubs as required for revegetation in adjacent mitigation areas.*” Based on Figure 2 and 2023 aerial imagery, it appears all 14.74 approximate acres of “Thermal Cover Retention” mitigation areas are already covered primarily by “early seral stands of conifers,” although that is not defined in the Plan. If Figure 2 and aerial imagery is accurate, the Plan appears to consider that Phase 1 mitigation is already completed, without any actual habitat improvements. The second portion of the “Thermal Cover Retention” performance standard is also not clear. The Plan does not detail if “any die-back” refers to impacts within only the Phase 1 mitigation area, within the entire mitigation area, or within the larger impact area. Staff note that wholesale and natural die-back of early seral stands of timber within the primary forest and vegetation communities summarized in this plan exceeding an acre would be exceedingly rare.

All mitigation performance standards either allow for any type of use or access to the proposed mitigation area, if “they are approved on a case-by-case basis,” or no limitation on use or access is provided.

The only quantitative information provided in the performance standards is reference to “*20% cover in any location,*” “*20% reduction of conifers,*” and “*30’ radius using actual cover (not relative).*” The only timing information is contained in the “Revegetation” performance standards which provides: “*Planting will occur after November 31<sup>st</sup>*” and “*Planting materials and seed will be proposed (planting plan) 6 months before the beginning of Phase 2 mining operations.*” All these quantitative performance standards are provided without context or a clear way of measuring them while also conflicting with each other. Staff will not have an objective way of verifying whether mitigation prescriptions were completed because each of these standards can be easily manipulated. For example, the “Invasive/Non-Native Species Control” section requires maintenance of those species below 20% cover *at any location* but also inconsistently states that cover is only measured at a 30’ radius. No locations from which to measure cover are provided in the Plan so references to

the 30' radius are not usable. Similar issues exist regarding the "Revegetation" standards. The "November 31st" date referenced does not exist on the calendar and the planting plan is not included in this Plan. For the reasons previously discussed, the future deferral of such an application component is unacceptable.

Finally, the landowner and Plan Manager obligations provided at the end of this section could result in unacceptable outcomes. For example, staff see no benefit of annual site visits to "monitor the progress of mitigation activities" because the Plan is completely unclear about what those mitigation activities consist of, and how their progress is measured. Similarly, the required "annual report" could be completely unsubstantial, given the lack of standards the Plan proposes for the annual report. No mitigation monitoring plan is provided to ensure that proposed mitigation is successful over time. Even if these issues were addressed, no measures exist to ensure progress compliance.

### Oregon Administrative Rules Section

This section outlines and addresses the Oregon Administrative Rules (OAR) detailing ODFW's Wildlife Habitat Mitigation Policy, which is guidance in evaluating and compensating for impacts of development on fish and wildlife habitat. Practically no substantive information is provided in this section, and it largely refers to various sections of the Plan already discussed. One example of a problematic area is the response to OAR 635-415-0020(8)(f) on Pages 8-9 where the Plan states "*The applicant proposes that this Plan is a living document which can be modified at any time during the life of the required mitigation.*" This appears to propose unilateral ability to modify the Plan in any way the applicant sees fit, and to potentially even stop mitigation activities all together.

It should also be noted that while the ODFW Wildlife Habitat Mitigation Policy may be useful guidance in preparing mitigation plans, they are not understood by staff to be binding in a regulatory sense. The applicant's burden in this application is to minimize conflicts to significant Goal 5 resources under OAR 660-023-0180, if possible, not necessarily to meet the Wildlife Habitat Mitigation Policy. The proposed Plan does not explain how the proposed mitigation actions "minimize" significant conflicts to Major Big Game Habitat as a result of mining activities. The applicant's approach appears to conflict with the Board's understanding of what it means to minimize conflicts. In the ESEE adopted to deny the previous application<sup>3</sup>, the Board reasoned that:

*"The critical distinction between 'minimization' of conflicts and 'mitigation' of impacts is that 'minimization' includes a goal or end point; a conflict is 'minimized' at the point where the conflict is no longer significant. 'Mitigation' of impacts, on the other hand, is open-ended; there is no specific target or goal to which the impacts must be reduced."*

Staff agree that this distinction is important in considering how significant conflicts may be considered "minimized." The Plan's proposed mitigation measures appear to be open-ended by failing to establish how they reduce impacts to a specific goal or end point. At best, it appears to offer some preliminary ideas about conceptual mitigation actions, without reducing conflicts below any threshold or providing a way to ensure that such actions are carried out effectively.

### Conclusion on Applicant's Big Game Mitigation Plan

Unfortunately, no opportunity was provided for staff to review and provide feedback on this Plan in a more collaborative way, before this open record period. After review, staff cannot consider this Plan to minimize conflicts to Major Big Game Habitat created by the proposed mining. The Plan appears to be incomplete and preliminary, and the methodology used by the author to arrive at the conclusions provided are unknown, as no citations are provided in the document. The purposes and expected outcomes of the Plan are unrealistic without factual justification and a framework for implementation and compliance, neither of which is provided. Even if the proposed mitigation actions in this Plan could benefit habitat as stated, County staff (and ODFW) have no means to ensure any of these actions are carried out. The Plan

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<sup>3</sup> Exhibit B of Board Order 21-10-26-06 (October 26, 2021)

provides no means to hold the landowner (in coordination with the Plan Manager) to any habitat improvement responsibilities or land use restrictions in those mitigation areas. Since this Plan is proposed as a measure to minimize conflicts, it violates OAR by not providing any special conditions and procedures that are clear and objective. Staff recommend the Board consider any further response from ODFW, but otherwise find that this Plan fails to provide any level of conflict minimization to the significant conflicts to Major Big Game Habitat resulting from mining. As such, the Board should determine the economic, social, environmental, and energy (ESEE) consequences of allowing, not allowing, and limiting mining at the site consistent with OAR 660-023-0180(5)(d) by directing staff to prepare draft findings for further consideration.

### **Applicant's Northwest Resource Solutions Letters**

The applicant provided two letters from Northwest Resource Solutions, LLC dated October 8, 2018 and October 23, 2018. These appear to constitute response to the Board for additional information and to other testimony received during the remand in *Save TV Butte v. Lane County*, \_\_\_ Or LUBA \_\_\_ (LUBA No. 2017-031). As the Board knows, Northwest Resource Solutions also prepared the May 7, 2018 Big Game Impact Assessment Report provided in the application as Appendix L, already thoroughly addressed in this record.

One of the primary functions of the submittal is to respond to the evidence provided by the opponents' October 9, 2018 report. Staff understand, however that the Board has already responded to this information in their ESEE findings supporting the 2021 denial<sup>4</sup>:

*The opponent's wildlife biologist, John Goddell [sic] comments were general in nature and concluded that elk are generally highly sensitive to human disturbance. **The applicant states the consultant relied on studies conducted for a different elk sub-species and not Roosevelt Elk, and did not address site specific items such as habitat types or conditions.** ODFW asserts that black-tailed deer tend not to relocate outside of their home range even when disturbance occurs. "[T]hese animals will be directly impacted from the proposed actions. Consequences for foraging, overwintering, and fawning are likely significant in scope." April letter at 1. ODFW explains that, in contrast, elk do tend to leave an area when disturbance exceeds their tolerance. With regard to the large elk herd in this vicinity of this proposal, ODFW has observed the damage that large elk herds do to agricultural lands, fences and other features of private property. Following efforts to break up large herds, ODFW is not currently experiencing elk herd-caused damage to the Oakridge area or the project site. ODFW fears the proposed project will likely cause "resident elk to relocate to another area in Oakridge on private lands since the adjacent National Forest land is extremely poor quality elk habitat." Damage to those areas where elk is likely to relocate as a result of the proposed 20-50 years of disturbance "would likely result in ODFW issuing more elk tags to further reduce the population. Thus, redistribution of elk from the project area would result in some elk mortality." ODFW concluded that the imposition of Conditions of Approval 21-24 are inadequate to address the issues of displacement.* (emphasis added).

As can be seen, the Board summarized the applicant's October 23, 2018 response to opponent's evidence in **bold**, and appears to have rebutted it with information from ODFW in *italics*. Staff consider the 2018 comments from Northwest Resource Solutions to be responded to and rebutted by findings already in the record. The record is clear that significant conflicts to Major Big Game Habitat will occur because of mining, and that the application does not justify how those conflicts have been minimized.

### **Applicant's Sandow Engineering Memorandum**

The applicant provided a memorandum from Sandow Engineering dated November 4, 2024 addressing the site distance calculation on Dunning Road. Staff reported to the Board on October 15, 2024 that significant conflicts to local roads had

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<sup>4</sup> *Id.*

been minimized in the application, either as proposed or as conditioned. One modified Condition #11, provided in Attachment 15 of the October 15 ACM, required the following:

11. The applicant/owner must remove vegetation and the earth embankment at the site driveway intersection with Dunning Road as necessary to meet the minimum AASHTO westbound stopping site distance ~~identified in the TIA as 165 feet~~ consistent with AASHTO methodology using an 85th percentile speed.

The Sandow Memo appears to be fully responsive to the portion of Condition #11 requiring a speed study to determine the 85<sup>th</sup> percentile speed, which is 34 mph. Using this speed, the applicant's engineer determined the stopping sight distance (SSD) to be 205 feet for westbound traffic as they approach the site driveway. Currently the stopping sight distance for westbound traffic is only approximately 98 feet. As such, the memo recommends removal of vegetation and earth embankment as shown in Figure 1 to meet the SSD of 205 feet. The memo also recommends placement of an advanced warning sign with a supplemental distance sign in advance of the driveway for westbound traffic near the intersection sight distance of 540 feet east of the driveway. This advanced warning sign is already required in Condition #12, however staff recommend the condition be modified to incorporate the new information provided by Sandow as follows:

12. A standard MUTCD warning sign with lettering, "TRUCKS ENTERING ROADWAY" with a supplemental W16-2P "XX FEET" sign must be installed within the right of way no closer than 200 feet east of the driveway on Dunning Road and as near the intersection sight distance location of 540 feet, as practical, to alert westbound traffic to the entering trucks. Sign installation to be completed by Lane County with costs reimbursed by the applicant.

Therefore, safety conflicts to local roads have been minimized as conditioned and do not provide a basis for denial.

### **Applicant's Other Material**

The applicant provided other materials including an email chain to the County (May 3, 2021), two Shannon & Wilson memos (May 31, 2016 and November 22, 2016), a memo from Kuper Consulting (May 31, 2016), a letter from DSA Acoustical Engineers (April 29, 2021), and a letter from Aggregate Resource Industries, Inc. (October 16, 2016). It appears most of these submittals are already in the record with the possible exception of the October 29, 2016 Aggregate Resource Industries letter and the May 3, 2021 email chain. As such, these submittals have largely been responded to by staff and are reflected in recommendations to the Board. No further comment by staff is necessary. Notably, the Aggregate Resource Industries Letter observes that significantly less water usage may be required than opponents allege. The 2021 email chain documents the applicant's intent to avoid the landfill and keep stormwater out of the area, as provided for in Condition #46.

### **Recommendation**

Based on the above analysis, staff recommend the Board direct staff to draft ESEE findings on the conflicts to Major Big Game Habitat. The Board can then consider these draft findings and deliberate on a decision.