



CURRY COUNTY COMMUNITY DEVELOPMENT
94235 MOORE STREET, SUITE 113
GOLD BEACH, OREGON 97444

RECEIVED
2/19/21

Becky Crockett
Planning Director

Phone (541) 247-3228
FAX (541) 247-4579

File # AD-2104 Fee \$ _____ Receipt # _____ Accepted by _____

LAND USE DECISION APPLICATION FORM

Application Type (Check One)

☐ Comp Plan/Zone Change ☒ Conditional Use ☐ Variance ☐ Partition ☐ Subdivision ☐ Development Permit

Application Date: _____ Hearing / Decision Date: _____

APPLICANT: Please complete all parts of this form. The attached application checklist will be marked by staff to reflect the information and supporting items required for this request. Please return this prepared checklist, the completed application form and required fee at the time of submission. Please note that your application cannot be reviewed or processed until all the required items have been provided.

1. PROPERTY OWNER OF RECORD

Name Van Loo, S Trustee ETAL, Van Loo Aubrey Trust
Mailing Address: _____
City, State, ZIP: _____
Telephone #: _____ E-Mail _____

2. APPLICANT

Name KNIFE RIVER MATERIALS
Mailing Address: PO BOX 1145
City, State, ZIP: MEDFORD, OR 97501
Telephone #: 541.770.2960 E-Mail Tom.Gruszczenki@KnifeRiver.com

3. AGENT (If Any)

Name: _____
Mailing Address: _____
City, State, ZIP: _____
Telephone # _____ E-Mail _____

4. BASIC PROPOSAL (Briefly describe your proposed land use)

REQUEST TO MODIFY CUP AD-1604 TO
INCLUDE CRANBERRY BOG AREA FOR
PROCESS WATER STORAGE & STOCKPILING
OF AGGREGATE

5. PROPERTY INFORMATION

Assessor Map # 32515 W Tax Lot (s) 1502
Zoning: Forestry-Grazing (FG) and Rural Industrial (RI). Total Acreage 12.5

6. **PROPERTY LOCATION**

Address (if property has a situs address) 92410 Cape Blanco Rd Sixes OR
Description of how to locate the property 97476

7. **EXISTING LAND USE** (briefly describe the present land use of the property)

☐ Vacant ☒ Developed; Describe existing development

8. **SURROUNDING LAND USES** (Briefly describe the land uses on adjacent property)

Farm, forestry

9. **SERVICE AND FACILITIES AVAILABLE TO THE PROPERTY**

Please indicate what services and facilities are available to the property. If on-site sewage disposal and/or water source is proposed, a copy of the approved site evaluation or septic system permit and a copy of any water rights or well construction permit must be submitted with this application.

Water Source _____

Sewage Disposal _____

Electrical Power ☒ _____

Telephone Service _____

Fire Department/District Sixes Rural Fire (Volunteer)

School District Port Orford-Hughes ZCJ

10. **ROAD INFORMATION**

Nearest Public Road Cape Blanco Rd

Private Roads Serving the Property gravel

Road Condition poor

Legal Status _____

Ownership: I own the road ☒ Easement on others property ☐ Joint Owner ☐

Please submit record of ownership (i.e. deeds, easement, plat dedication, etc)

Proposed New Roads/Driveways (Briefly describe any new road construction related to this application)

this application. I (We) further understand staff cannot legally bind the county to any fact or circumstance which conflicts with State of Oregon or local ordinance, and in event a conflict occurs, the statement or agreement is null and void.

- (e) I (We) understand that I (we) have the burden of proving that this request meets statutory and Ordinance requirements, and I (we) must address all of the criteria that may apply to the decision being made. The criteria for approving or denying this request have been provided to me (us) as a part of the application form.
- (f) I (We) understand the staff is entitled to request additional information or documentation any time after the submission of this application if it is determined as such information is needed for review and approval.
- (g) I (We) understand this application will be reviewed by the Oregon Department of Land Conservation & Development (DLCD) and possibly other state agencies as part of the statewide land use coordination process. I (We) understand that agencies that participate in the review process have the legal right to appeal the approval of the request.
- (h) I (We) understand that it is my (our) responsibility, and not the county's, to respond to any appeal and to prepare the legal defense of the county's approval of my (our) request. I (We) further realize it is not the county's function to argue the case at any appeal hearing.
- (i) I (We) understand that I (we) am (are) entitled to have a lawyer or land use consultant represent me (us) regarding my application and to appear with me (or for me) at any appointment, conference or hearing relating to it. In light of the complexity and technical nature of most land use decisions, I (we) understand that it may be in my best interests to seek professional assistance in preparation of this application.
- (j) The undersigned are the owner (s) of record for the property described as:

Assessor Map(s) 32515 W
and Tax Lot(s) 1502
in the records of Curry County.

This application MUST BE SIGNED BY ALL PROPERTY OWNERS OF RECORD, or you must submit a notarized document signed by each owner of record who has not signed the application form, stating that the owner has authorized this application.

(1) Signature *Shirley E. Van Loo*
Print Name Shirley E. Van Loo

(2) Signature *Robert D. Van Loo*
Print Name Robert D. Van Loo

(3) Signature *Alice V. Baum* *Florence E. Stinnett*
Print Name Alice V. Baum Florence E. Stinnett

(4) Signature *Donald L. Baum* *Gerald L. Stinnett*
Print Name Donald L. Baum Gerald L. Stinnett

11. **PHYSICAL DESCRIPTION OF THE SUBJECT PROPERTY**

Topography (Briefly describe the general slope and terrain of the property)

ravage land

Vegetation (Briefly describe the vegetation on the property)

grass, gorse

12. **FINDINGS OF FACT**

Oregon Statute and the zoning ordinance requires that land use decisions be supported by factual findings. The burden of proof is on the proponent therefore it is required that the application provide findings to support the request in this application. The standards and criteria that are relevant to this application will be provided by the staff and are considered to be a part of this application form. Please read the standards and criteria carefully and provide factual responses and evidence to address each standard. These findings must be sufficiently specific to allow the decision maker to determine whether your request meets the relevant standard. Please attach your written findings and supporting evidence to this application.

FAILURE TO PROVIDE THE REQUIRED FINDINGS WILL PREVENT THE APPLICATION FROM BEING PROCESSED AND IT WILL BE RETURNED AS BEING INCOMPLETE.

13. **APPLICANT'S SIGNATURE AND STATEMENT OF UNDERSTANDING**

(Please read the statement below *before* signing the signature blank)

I (We) TOM GRUSZCZENSKI ;

for Knif River Materials ;

KNIFE RIVER MATERIALS ;

_____ ; have filed this application for

AD-1604 EXPANSION CRANBERRY BOG

With the Curry County Department of Community Development-Planning Division to be reviewed and processed according to State of Oregon and county ordinance requirements. My (our) signature (s) below affirms that I (we) have discussed the application with the staff, and that I (we) acknowledge the following disclosures:

- (a) I (we are stating all information and documentation submitted with this application is true and correct to the best of my (our) knowledge.
- (b) I (we) understand that if false information and documentation has been submitted and the decision is based on that evidence, the decision may be nullified and the county may seek all legal means to have the action reversed.
- (c) I (We) understand any representations, conclusions or opinions expressed by the staff in pre-application review of this request do not constitute final authority or approval, and I (we) am (are) not entitled to rely on such expressions in lieu of formal approval of my (our) request.
- (d) I (We) understand that I (we) may ask questions and receive input from staff, but acknowledge that I (we) am (are) ultimately responsible for all information or documentation submitted with

File #: AD-1604

Application Date: February 16, 2021
Map/TL: 3215-00 tax lots 01502 & 01800

APPLICANT	OWNER	AGENT
Knife River Materials PO Box 1145 Medford OR, 97501	Aubrey & Shirley Van Loo	Tom Gruszczenski Knife River Materials

Land Use Request: A request for modification of conditional use permit AD-1604 to include 12.5 adjacent acres for process water storage and stockpiling of aggregate materials.

Background Information:

Location: The subject property is located approximately 1.5 miles west of Hwy 101 on Cape Blanco Road.

The total subject property size is 797 acres. The existing CUP includes 57 acre portion of the total property. The modification consists of expanding the permit boundary by 12 ½ acres and will result in new CUP boundary of approximately 70 acres.

The proposed expansion area was developed in the mid to late 1990's for use as a cranberry bog. The cranberry bog is no longer in use.

The proposed 12 ½ acre expansion area is located in Tax Lot 1502. Approximately 4 acres is zoned Rural Industrial and approximately 8 ½ acres is zoned Forestry/Grazing.

The Analysis section below references the relevant Zoning Ordinance (i.e. Conditional Use Permit) Criteria.

ANALYSIS

Applicable Criteria:

Curry County Zoning Ordinance

Section 3.050 Forestry-Grazing Zone (FG)

Section 3.052 Conditional Uses Subject to Administrative Approval by the Director

24. Land-based mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520 and not otherwise permitted in 3.041(10), and the mining and processing of aggregate and mineral resources as

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defined under ORS Chapter 517 but not including support or processing facilities for offshore oil, gas, or marine mineral activities. (1, 9, 16)

Section 3.170 Rural Industrial Zone (RI)

Section 3.172 Conditional Uses Subject to Administrative Approval by the Director

7. *A permanent facility for the secondary processing of aggregate or other mineral resources such as an asphalt or concrete plant but not including facilities used for processing offshore oil, gas or mineral resources.*

Section 7.040 Standards Governing Conditional Uses

1. *Conditional Uses Generally*

10. *Mining, quarrying, or other extractive activity*

17. *Uses on resource land*

Criteria and Findings

Curry County Zoning Ordinance

Section 3.050. Forestry Grazing Zone (FG).

Purpose of Classification: The Forestry Grazing Zone is applied to resource areas of the county where the primary land use is commercial forestry with some intermixed agricultural uses for livestock uses. The purpose of the Forestry Grazing Zone is:

- (a) to implement the forest land policies of the Curry County Comprehensive Plan; and*
- (b) to implement Statewide Planning Goal 4 with respect to forest lands in the county.*
- (c) to implement the agricultural land policies of the Curry County Comprehensive Plan with respect to livestock grazing and related farm uses which are intermixed with forest land in some parts of the county; and*
- (d) to implement Statewide Planning Goal 3 with respect to intermixed farm and forest land in the county.*

If the subject tract was predominantly in agricultural (farm) use on January 1, 1993 then uses as specified under Sections 3.070 to 3.078 of this ordinance are applicable

Section 3.170. Rural Industrial Zone (RI).

Purpose of Classification. The RI zoning classification is applied to all rural lands with existing industrial uses in built and committed exceptions to the Statewide Planning Goals as of the

- (4) The adequacy of protection for people residing or working in the area from the proposed mining activity through fencing of the site;*

Consistent with the CUP application and approval, Fencing is not necessary because the use is in a rural area with natural barriers due to distances from the site to residential and other nonagricultural uses. Regardless however, a field fence is maintained along Cape Blanco Road as well an entrance gate to control livestock which also controls access of people.

- (5) The rehabilitation of the land upon termination of the mining activity. The proposed rehabilitation must at least meet the requirements of state surface mining or gravel removal permits.*

Consistent with the CUP application and approval, the site will be reclaimed in accordance with the allowable zoning uses and the DOGAMI approved Reclamation Plan. This will result in the pond area remaining as ponds upon reclamation for future farming or wildlife or in backfilling the pond area to establish grazing pasture for agricultural purposes.

- (6) If the proposed extractive activity involves the removal of rock, gravel, or sediment from a river or stream, the proposal shall be reviewed by the Oregon Department of Fish and Wildlife and it may provide a written statement to the county regarding the possible impact on fish habitat associated with the affected river or stream.*

Consistent with the CUP application and approval, the existing CUP mining and processing activities are upland mining and do not involve any river or stream activity. Similarly the proposed expansion does not include any river or stream activity, nor does it include any mining (i.e. the removal of rock, gravel or sediment from the proposed expansion area).

date of adoption of this ordinance. All future rezoning to this zoning designation shall require an exception to Goals 3 and/or 4, 14 and other Goals which are applicable to the specific site, and shall be limited to those expressly authorized by statute and the comprehensive plan.

The subject property is split zoned Forestry-Grazing and Rural Industrial. The zone purposes are listed above.

Section 3.050 Forestry-Grazing Zone (FG)

Section 3.052 Conditional Uses Subject to Administrative Approval by the Director

24. Land-based mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520 and not otherwise permitted in 3.041(10), and the mining and processing of aggregate and mineral resources as defined under ORS Chapter 517 but not including support or processing facilities for offshore oil, gas, or marine mineral activities. (1, 9, 16)

Section 3.170 Rural Industrial Zone (RI)

Section 3.172 Conditional Uses Subject to Administrative Approval by the Director

7. A permanent facility for the secondary processing of aggregate or other mineral resources such as an asphalt or concrete plant but not including facilities used for processing offshore oil, gas or mineral resources.

Mining and processing of aggregate and mineral resources is permitted conditionally within the FG zone. Permanent facilities for secondary processing of aggregate and mineral resources are permitted conditionally within the Rural Industrial zone. Conditional use permit (AD-1116) has been issued to mine and process aggregate in a 57 acre portion of the site. The proposed modification is for processing only, no mining is proposed in the expansion area and is consistent with the existing CUP.

The general standards of 3.172(7) will be addressed later in this report.

In addition to the standards of the zone in which the conditional and permitted use is located and the other standards in this ordinance, conditional permitted uses must meet the following standards:

Section 7.040 Standards Governing Conditional Uses

1. Conditional and Permitted Uses Generally.

a) Set-backs and building height. The County may require property line set-backs or building height restrictions other than those specified in this Ordinance in

order to render the proposed conditional use compatible with surrounding land uses.

b) Off-street parking, additional lot area and buffering. The County may require access to the property, off-street parking, additional lot area, or buffering requirements other than those specified in in this Ordinance to render the proposed conditional or permitted use compatible with surrounding land uses.

c) More restrictive construction standards. The County may require that the development be constructed to standards more restrictive than the Uniform Building Code or the general codes in order to comply with the Comprehensive Plan and specific standards established and conditions imposed in granting the Conditional Use Permit for the proposed use.

d) Utility statement requirements. If the proposed conditional or permitted use involves development that will use utility services, the applicant shall provide statements from the affected utilities that they have reviewed the applicants' proposed plans. These statements shall explicitly set forth the utilities' requirements, terms and conditions for providing or expanding service to the proposed development and shall be adopted by the Commission or Director as part of the Conditional or Permitted Use Permit.

Subsections a, b, c, d are applicable to this proposal. Subsections e, f, & g are specific to expansion of public water systems and is not applicable to this proposal and not included.

Additional setback, height restrictions, parking, buffering, building code requirements, etc. may be conditions of approval in order to render the proposed use compatible with the surrounding properties. Conditions of approval, if any, will be addressed in later portions of this report.

Service Provider Confirmation forms from Coos-Curry Electric and Sixes Rural Fire Protection District have been previously provided and included in the existing CUP. The proposed modification does not change those approvals.

Section 7.040 Standards Governing Conditional Uses

10. Mining, quarrying, or other extractive activity.

- a) *Plans and specifications submitted to the Commission for approval must contain sufficient information to allow the Commission to review and set siting standards related to the following standards:*
 - (1) *Impact of the proposed use on surrounding land uses in terms of Department of Environmental Quality standards for noise, dust, or other environmental factors;*

Pursuant to CCZO Section 2.060(1) the Planning Director has the authority to review, and approve or deny applications for uses listed as Conditional Uses Subject to Administrative Approval by the Director. Mining and aggregate processing are conditional uses listed subject to approval by the Director.

Consistent with the CUP application and approval which includes a noise study and analysis, there are no impact to others.

- (2) *The impact of the proposed use on water quality, water flow, or fish habitat on affected rivers or streams;*

Consistent with the CUP application and approval, there will be no impacts on water quality, water flow, or fish habitat and streams as this is an upland site and does not include any wetlands.

- (3) *The impact of the proposed use on overall land stability, vegetation, wildlife habitat and land or soil erosion;*

Consistent with the CUP application and approval, the site will be operated to prevent erosion and control sediment consistent with the Curry County Zoning Ordinance 3.300 – 3.324 and DOGAM requirements which includes the DOGAMI approved Operating and Reclamation Plan.

(7) The County will define an area around the specific removal site which includes all lands within 250 feet of the site, based on the site map for a state mining or gravel permit. The applicant shall provide findings which identify the existing uses on those lands included within this area. The Commission shall evaluate the applicant's findings with regard to the potentially conflicting uses identified in the area based on the factors below:

i) If the mining activity can be sited on an alternate site

The subject property is identified as a mineral resource site on the CC Comprehensive Plan Mineral Resources Map (Ordinance 98-5) and therefore ideally suited for mineral extraction activities. The proposed modification to expand the area does not include mining in the area: it only includes the immediately adjacent unused cranberry bogs for process water sedimentation and storage and stockpiling of processed aggregate. It is contiguous to the approved CUP area. The buffer shown in Attachment C of the original permit application is still applicable as no changes to the removal area are proposed.

ii) where conflicting uses are identified the economic, social environmental and energy consequences of the conflicting uses shall be determined and methods developed to resolve the conflict.

No conflicting uses have been identified and Mining and processing at the site have been approved and commenced. Similarly, the use of the cranberry bog pond area for water and stockpiling does not result in any conflicts.

8) A rock crusher, washer or sorter shall not be located closer than 500 feet to any residential or commercial use. Surface mining equipment and necessary access roads shall be constructed, maintained, and operated in such a manner as to eliminate, as far as is practicable, noise, vibration, or dust which are injurious or substantially annoying to persons living in the vicinity.

A rock crusher, washer or sorter are/will not be located closer than 500 feet to any residential or

commercial use. Surface mining equipment and necessary access roads are/will be constructed, maintained, and operated in such a manner as to eliminate, as far as is practicable, noise, vibration, or dust which are injurious or substantially annoying to persons living in the vicinity. All equipment will be located at least 500 feet from any residential or commercial uses on all adjacent property.

(9) No uses are permitted relating to offshore oil, gas or marine mineral exploration or development.

No uses relating to offshore oil, gas, or marine mineral exploration or development are proposed or otherwise included.

Section 7.040 Standards Governing Conditional Uses

17. Uses on resource land.

a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agricultural or forest land.

The proposed use is consistent with the Comprehensive Plans for subject property, and the only affect on farming or forest practices will be positive because of the long-term benefits to agriculture.

b) The proposed use will not significantly increase fire suppression costs or significantly increase the risks to fire suppression personnel.

The proposed use for water and stockpiles are not flammable and will not significantly increase fire suppression costs or significantly increase the risks to fire suppression personnel.

c) Uses listed authorized in Section 3.041 or Section 3.051 are also subject to

this section, A written statement be recorded with the deed or written contract with the County or its equivalent shall be obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and related Oregon Administrative Rules.

The statement that is required seems more pertinent to residential use than to an aggregate extraction site. The land owners have provided a document to the County entitled "Waiver of Right of Remonstrance against Customarily (Commonly) Accepted Farm and Forestry Practices."

Section 3.170 Rural Industrial Zone (RI)

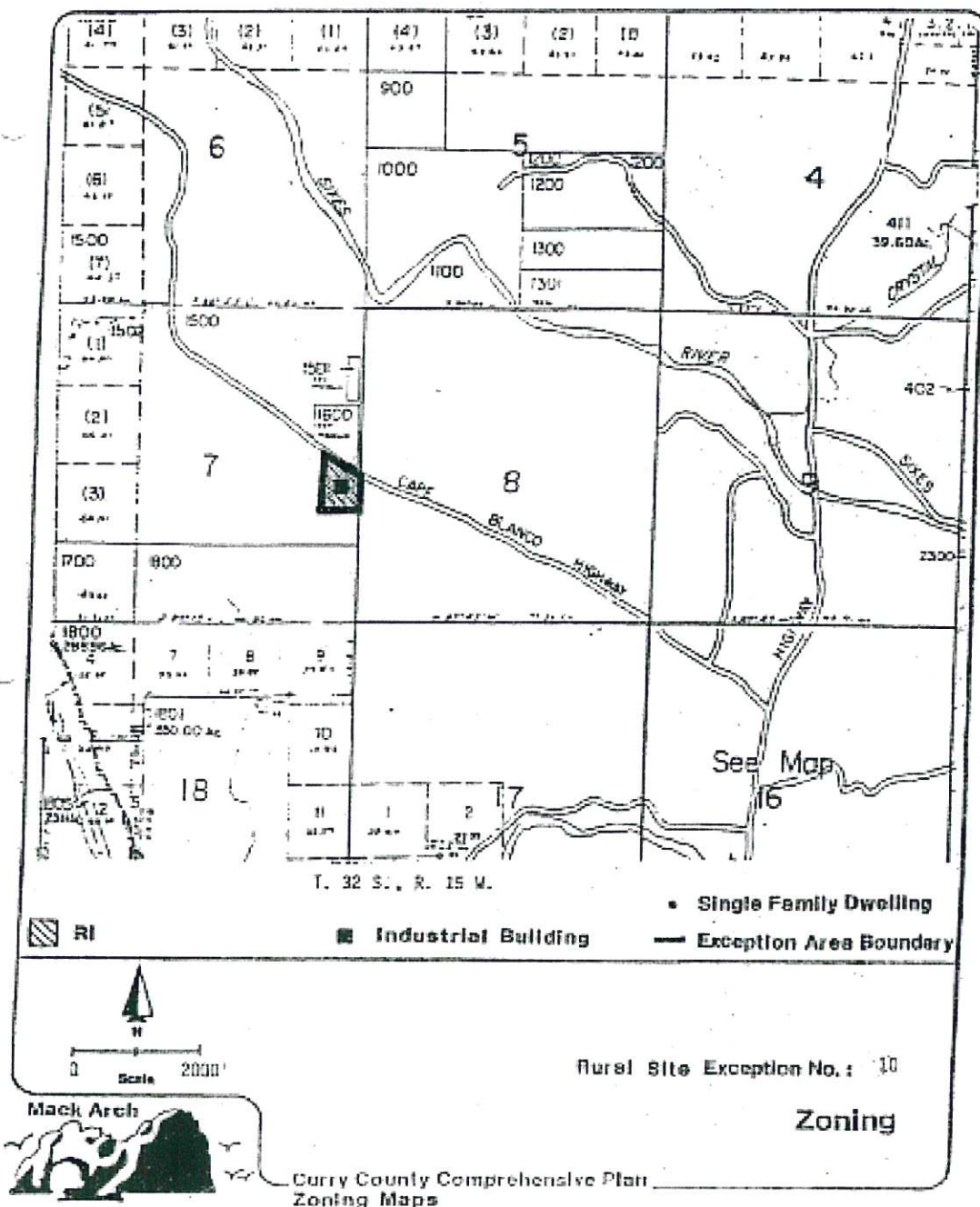
Section 3.172 Conditional Uses Subject to Administrative Approval by the Director

- 7. A permanent facility for the secondary processing of aggregate or other mineral resources such as an asphalt or concrete plant but not including facilities used for processing offshore oil, gas or mineral resources.*

CCZO Section 7.040 Standards Governing Conditional Uses lists no specific standards as it relates to this conditional use within the Rural Industrial zone.

The subject property contains a Rural Site Exception (RSE) identified in the CC Comprehensive Plan Zoning Maps as site No. 10. A portion of that area is included in the existing CUP and the remainder of that area is included in the proposed modification. The pond area will be used for process water and stockpiling. Processing is a permitted use. No conditional use is required to comply with the RI zone because no facility for the secondary processing of aggregate, asphalt, or concrete is proposed within this application.

RSE No. 10 map on next page



LOCATED IN THE NORTHWEST 1/4 OF
T32S R15W TL 1800, RANGE 15 WEST, WILLAMETTE MERIDIAN,
CURRY COUNTY, OREGON



**SITE PLAN - VAN LOO PIT
C.U.P. & DOGAMI PERMIT BOUNDARY EXPANSION**

PREPARED FOR:

KNITE RIVER MATERIALS
ATTN: TOM GRUSZCZENSKI
P.O. BOX 1145
MEDFORD, OREGON 97501

DOGAMI-MLR INFORMATION

PERMIT NUMBER: 08-0104
SITE NAME: VAN LOO PIT
PERMIT HOLDER: LTM INCORPORATED
P.O. BOX 1145
MEDFORD, OR 97501
341-570-7500
PERMIT HOLDER SIGNATURE: _____

DRAWN: mde

DATE: 08/08/19



**WHETSTONE
ENGINEERING, INC.**

**SITE PLAN - VAN LOO PIT
C.U.P. & DOGAMI PERMIT BOUNDARY EXPANSION
CURRY COUNTY, OREGON**

CONTRACT NO. 14-019
14-019-0000-0000
OFFICE: 311 MAIN ST
CENTRAL POINT, OREGON 97502

SHEET
1
OF
1

(08-20-2018 PHOTO PROJECTED ON TO
NAD83 (2011) OREGON STATE PLANE
SOUTH ZONE 3002 COORDINATE SYSTEM)