

## Becky Crockett

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**From:** Cameron La Follette <cameron@oregoncoastalliance.org>  
**Sent:** Monday, June 24, 2019 1:51 PM  
**To:** Nancy O'Dwyer  
**Cc:** Becky Crockett  
**Subject:** Re: Submitted documents for AD 1907 and AD 1909: request for access

Hi Nancy,

Thank you very much, I so appreciate your getting these comments to me. Very helpful.

Thanks much,

Cameron

On Jun 24, 2019, at 12:58 PM, Nancy O'Dwyer <[odwyern@co.curry.or.us](mailto:odwyern@co.curry.or.us)> wrote:

Hello Cameron:

Please see attached Supplemental Comments and County Road Master Comments on the AD-1909 (Kiewit / Foster).

Kind regards,  
Nancy O'Dwyer  
Curry County Planning Dept  
541-247-3284

**From:** Becky Crockett  
**Sent:** Monday, June 24, 2019 10:47 AM  
**To:** 'Cameron La Follette'  
**Subject:** RE: Submitted documents for AD 1907 and AD 1909: request for access

Let me figure out what I can do. The person who scanned the other information and sent it just happens to be out all this week.

Becky Crockett  
Planning Director  
(541) 247-3228  
[crockettb@co.curry.or.us](mailto:crockettb@co.curry.or.us)

**From:** Cameron La Follette [<mailto:cameron@oregoncoastalliance.org>]  
**Sent:** Monday, June 24, 2019 9:54 AM  
**To:** Becky Crockett  
**Cc:** Sean Malone  
**Subject:** Re: Submitted documents for AD 1907 and AD 1909: request for access

Hi Becky,

Thank you for letting me know the County's capabilities in this matter. The Kiewit application was already sent to me by your department, so I do not need that.

Since the timeline is short for writing additional comments on that application (AD-1909), it would be helpful if you could scan just the other comments/documents that came in to the Department for the hearing on AD-1909. That is unlikely to be a large number of documents, and would be most helpful to have. I suspect many if not all comments were submitted electronically in the first place. Thus, it would not be much time to undertake this task in the public interest.

Thank you,

Cameron

On Jun 24, 2019, at 9:45 AM, Becky Crockett <[crockettb@co.curry.or.us](mailto:crockettb@co.curry.or.us)> wrote:

All of the documents are available for review at the Planning Department. We currently do not have the capability to post on our website and do not have staff available to scan all the documents to email them to you at this time.

Becky Crockett  
Planning Director  
(541) 247-3228  
[crockettb@co.curry.or.us](mailto:crockettb@co.curry.or.us)

**From:** Cameron La Follette [<mailto:cameron@oregoncoastalliance.org>]  
**Sent:** Monday, June 24, 2019 9:38 AM  
**To:** Becky Crockett  
**Cc:** Sean Malone  
**Subject:** Submitted documents for AD 19-07 and AD 19-09: request for access

Hi Becky,

Thank you for the timeline.

Would you please post the comments and materials from the Thursday hearing on both applications, AD-1907 and AD-1909, on the Curry County website, **today** if possible? I searched and did not see them. If they are posted and I missed them, my apologies — please let me know where they are.

The already submitted documents are necessary in order to review materials for submitting further testimony on both applications. If it is not feasible to put the documents on the website, please send them to myself and Sean Malone at our emails here.

Thank you for your attention to this matter,

Cameron

—

Cameron La Follette  
Oregon Coast Alliance

On Jun 24, 2019, at 7:44 AM, Becky Crockett <[crockettb@co.curry.or.us](mailto:crockettb@co.curry.or.us)> wrote:

Hi Cameron: AD-1907 – The Planning Commission agreed to close the hearing and leave the record open for 14 days. AD-1909 – The Planning Commission agreed to close the hearing and leave the record open for 7 days.

Becky Crockett  
Planning Director  
(541) 247-3228  
[crockettb@co.curry.or.us](mailto:crockettb@co.curry.or.us)

**From:** Cameron La Follette [<mailto:cameron@oregoncoastalliance.org>]  
**Sent:** Friday, June 21, 2019 3:20 PM  
**To:** Becky Crockett  
**Subject:** Timeline on AD 19-07 and AD 19-09

Hi Becky,

Can you please tell me the timelines for the two applications that had a Planning Commission hearing last night, as Oregon Coast Alliance requested an extra fourteen days for comments on both:

AD-1907: Adams, for instream gravel mining on the Pistol River; and  
AD-1909: Foster Kiewit, for jetty rock quarrying in the Sixes River watershed.

Thank you for your assistance,

Cameron

—  
  
Cameron La Follette  
Executive Director  
Oregon Coast Alliance  
P.O. Box 857  
Astoria, OR 97103  
(503) 391-0210  
[cameron@oregoncoastalliance.org](mailto:cameron@oregoncoastalliance.org)  
[www.oregoncoastalliance.org](http://www.oregoncoastalliance.org)

Nancy O'Dwyer  
Curry County Planning  
541-247-3284  
[Curry County Planning Division](#)

## Becky Crockett

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**From:** Andrew Foster <andyffi@comcast.net>  
**Sent:** Tuesday, June 25, 2019 11:26 AM  
**To:** Becky Crockett  
**Subject:** Fwd: Edson Creek Upland Quarry Comments  
**Attachments:** Foster Keiwit Edson Rock Curry County CU permit 6.23.2019 Edited Version.docx

----- Original Message -----

From: Andrew Foster <[andyffi@comcast.net](mailto:andyffi@comcast.net)>  
To: [andyffi@comcast.net](mailto:andyffi@comcast.net)  
Date: June 25, 2019 at 11:24 AM  
Subject: Edson Creek Upland Quarry Comments

Becky Crockett

Attached is our comments for the Upland Quarry at Edson Creek.

As the Owners of the Property we thought that after the Public Hearing,  
we should comment on the project.

Thank you for your work on our project.

Andrew and Diane Foster

Property Owners



June 23, 2019  
Becky Crockett  
Planning Director  
Curry County, Oregon

Re: Edson Creek Rock Quarry: Application AD-1909: Sent email crockettb@co.curry.or.us  
We are the current owners of the proposed Edson Creek Rock Quarry and attended the Hearing for the Conditional Use Application that was held on June 20, 2019. From that meeting, we have a few comments that we would like to submit to the Planning Commission and to the Curry County Planning Department.

We are in favor of the development of the Upland Quarry and ask that the Planning Commission would approve the development of the Quarry with the findings of fact that the Planning Department presented in their Staff Report. We request that no additional or unexpected modifications be added to the findings that were presented to the Planning Commission at the June 20<sup>th</sup> meeting. Based on the information that was presented to the Planning Commission, it appears to us that we have met all of the requirements of the Conditional Use for the development of the Upland Rock Quarry.

This is the fourth time that a request has been made for the development of the Upland Rock Quarry for the subject property. After the Planning Commission approved the first three Conditional Use permits using the findings of fact that the Planning Department presented to the Planning Commission, there was a lack of funding for the development and/or repair of the existing jetties along the West Coast, so rock from the Quarry was not needed.

At this time, the Federal Government has approved the repair of the South Jetty of the Columbia River and is seeking a suitable rock source for this project. Our rock will produce the required material for this project. Additionally, after the project has been completed, we would like to be considered as a rock supplier for other projects in Oregon as they may arise. Therefore, we respectfully request that no other restrictions be placed on the usage of this rock for any and all future projects, except as outlined in the Planning Department's findings of fact.

The current access for the subject property is through Edson Creek Park, then onto Sixes River Road. During the last Conditional Use application, it was proposed that either the rock would pass through or next to Edson Creek Park. After reconsideration of the access to the rock source, a new access has been obtained to the West and would be approximately one mile from the park area. The new access was obtained to provide a better route to the rock source and to lessen the impact to the park and to those who would be using the park during the summer months. In past years (several decades), wood products from the lands located above the park were hauled out by trucks through the park, even during the summer months when the park was

being heavily used. This Conditional Use request would move the truck haul route for most of the trucking away from these areas, whether for forest products or rock products, to the west—away from the park road.

In regard to the truck use of Sixes River Road, this road has been the truck haul route out of the Sixes River drainage for many decades. Even during the original construction of the Port Orford Jetty, this road was used to transport jetty rock from the source to the construction site. For many years, logging trucks and lowboys have used this road. To date, the Curry County Road Department has improved the road to a two-lane highway and continues to maintain the road. The trucks using this road will be hauling legal loads to the Port of Coos Bay (loads have to be legal in order to use the highways and bridges along Highway 101 to Coos Bay). Considering that the Oregon Department of Transportation has an active scale station on the south side of Bandon, and will surely operate the scale station when these trucks are running, legal weight loads are a must. Also we suggest that no limitations on trucks using a “Jake Brake” while on the Sixes River road be considered. For if that requirement is enacted then all log trucks would also be affected. Additionally, limiting a braking source of a vehicle could pose a danger to traffic on the public road.

In regard to the “sinking” road area just east of Highway 101 that was mentioned at the meeting, this area has been sinking for many decades; when the area in question needs to be repaired, the Curry County Road Department will conduct the necessary repairs. Given how many trucks have passed over this road in the last 40 years, we are confident, as is the County Road Master, that the road will not be destroyed due to the legal truck loads that will be hauled. As was stated during the meeting, this section of the road has a historical existing problem of slow earth subsidence (over the past 40 years), which should not be a consideration for the conditional use permit.

A question was asked about a bond for the reclamation of the Upland Quarry after the rock source has been depleted, and as was stated a bond will be in place before work will commence. Additionally we are placing cash money from the sale of the rock into an escrow account for the sole purpose of reclamation of the site. As the owners of the property, after the rock has been depleted, we do want the area to be restored to timber land production.

In conclusion, we ask that the Planning Commission would approve the Conditional Use permit with the findings of fact as presented by the Planning Department during the June 20<sup>th</sup> meeting without any additional restrictions.

Sincerely,

Andrew and Diane Foster  
Property Owners

## Becky Crockett

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**From:** Mary Jane LaBelle <maryjanelabelle@gmail.com>  
**Sent:** Tuesday, June 25, 2019 3:31 PM  
**To:** Becky Crockett  
**Subject:** Letter in opposition to AD-1909  
**Attachments:** Aggregate Mining on Sixes Letter 2019.06.21.docx; ATT00001.htm

Ms Crockett,  
Will you kindly see this letter gets to the Planning Commissioners?



MARY JANE LABELLE 94408 SIXES RIVER ROAD; SIXES, OR 97476

(541) 332-1111 (H) (541) 954-3500 (M)

June 25, 2019

The Curry County Planning Commission  
c/o County Planning Department  
94235 Moore Street  
Gold Beach, OR 97444

VIA Email

Re: Kiewit Foster application, AD-1909

Dear Mr. Freeman, Ms. St. Marie, Ms. Dewald, Ms. Jensen, Mr. Lange,

I attended the June 20, 2019 meeting of the Planning and was disappointed to see the Commission Chairperson pushing for a vote to approve the above application without neighborhood input. Indeed, it appeared that this was a rush to approval before we heard about it. Additionally, Mr. Freeman should have recused himself for conflict of interest since he or his family's business is in rock.

During the meeting I requested that the vote be put off to the next Commission meeting when the neighbors could give testimony of their concerns. Mr Freeman, pushed to close down discussion. I thank the Board for at least 7 more days for neighbors to submit written rebuttal to this proposal. However, 7 days is not long enough.

As a property owner at 94408 Sixes River Road (halfway between Hwy 101 and the Hall proposed take-out) I strongly object to the proposed mega quarry on environmental grounds as well as personal grounds. A massive project of this type is destructive to the environment and I would trust nothing less than an environmental impact study to be completed before this project be approved.

Personally, 80 trucks per day, half carrying heavy stone, will ruin the road, the quiet ( 1 enormous truck every 11 minutes) and the safety of others walking or driving along Sixes River Road. The blasting will drive away the bird population, and ruin habitat for animals AND humans. Our gardens will be filled with grit, noise, pollution. The businesses we built on quiet and reflective grounds will be ruined and of course property will be devalued. How do you plan to mitigate that?

In conclusion, I object to this plan. A mitigation plan is not addressed, ie:

1. An escrow account to mitigate private losses due to quarry damage/loss
2. A bond to be used to mitigate any environmental damage &/or cleanup.

Sincerely,

Mary Jane LaBelle

Cc Curry County Commissioners



## Becky Crockett

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**From:** destinyschwartz@aol.com  
**Sent:** Wednesday, June 26, 2019 2:06 AM  
**To:** Becky Crockett  
**Subject:** No Kiewit mega-quarry

Hello, my name is Destiny Schwartz, I'm a Curry County resident, writing to oppose the proposed mega-quarry. The Oregon coast and it's pristine rivers are worth preserving, even in Sixes. If you don't mind me speaking for my mom and husband, please note that Charles Blozinski and Renee Schwartz are also strongly against this project.

## Becky Crockett

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**From:** V Eells <[dirtroadiva@gmail.com](mailto:dirtroadiva@gmail.com)>  
**Sent:** Wednesday, June 26, 2019 3:58 PM  
**To:** Becky Crockett  
**Subject:** Fwd: Delivery Status Notification (Failure)

----- Forwarded message -----

**From:** Mail Delivery Subsystem <[mailer-daemon@googlemail.com](mailto:mailer-daemon@googlemail.com)>  
**Date:** Wed, Jun 26, 2019 at 3:33 PM  
**Subject:** Delivery Status Notification (Failure)  
**To:** <[dirtroadiva@gmail.com](mailto:dirtroadiva@gmail.com)>



### Address not found

Your message wasn't delivered to [crockettb@curry.or.us](mailto:crockettb@curry.or.us) because the domain [curry.or.us](http://curry.or.us) couldn't be found. Check for typos or unnecessary spaces and try again.

The response was:

```
DNS Error: 253329 DNS type 'mx' lookup of curry.or.us responded with code NOERROR 253329 DNS type 'mx' lookup of curry.or.us had no relevant answers. 253329 DNS type 'aaaa' lookup of curry.or.us responded with code NOERROR 253329 DNS type 'aaaa' lookup of curry.or.us had no relevant answers. 253329 DNS type 'a' lookup of curry.or.us responded with code NOERROR 253329 DNS type 'a' lookup of curry.or.us had no relevant answers.
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----- Forwarded message -----

**From:** V Eells <[dirtroadiva@gmail.com](mailto:dirtroadiva@gmail.com)>  
**To:** [crockettb@curry.or.us](mailto:crockettb@curry.or.us)  
**Cc:**  
**Bcc:**

Date: Wed, 26 Jun 2019 15:33:27 -0700

Subject: Sixes River Rock Quarry

To Whom it May Concern,

My name is Victoria Eells, I reside 2.5 miles up Sixes River Road in Sixes, OR. It has recently come to my attention that a large scale rock mining operation is slated to begin just up the road from my residence.

I was very surprised to learn that this project seemed well on its way, without any input from or even notification of, nearby residents who would be greatly impacted by such an operation.

I am writing to request time. The Sixes River Road Neighborhood has questions. We have concerns. We need time to assemble and discuss our questions and concerns with regard to the impact an operation such as this will have on our environment and quality of life, both short and long-term.

Please table this matter while the Sixes River Road Neighborhood has an opportunity to process this important information.

Respectfully,  
Victoria Eells

## Becky Crockett

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**From:** Ann Vileisis <annvil@earthlink.net>  
**Sent:** Wednesday, June 26, 2019 9:28 PM  
**To:** Becky Crockett  
**Subject:** AD-1909, comments from Kalmiopsis Audubon for the record  
**Attachments:** KAS to Curry Planning Commission AD-1909.pdf

Hi Becky,

I have attached a comment letter from Kalmiopsis Audubon regarding AD 1909 —the Kiewit jetty-rock quarry up Sixes River, asking for consideration of some particular matters. I ask that you please include it in the record for this hearing.

Much thanks,

Ann

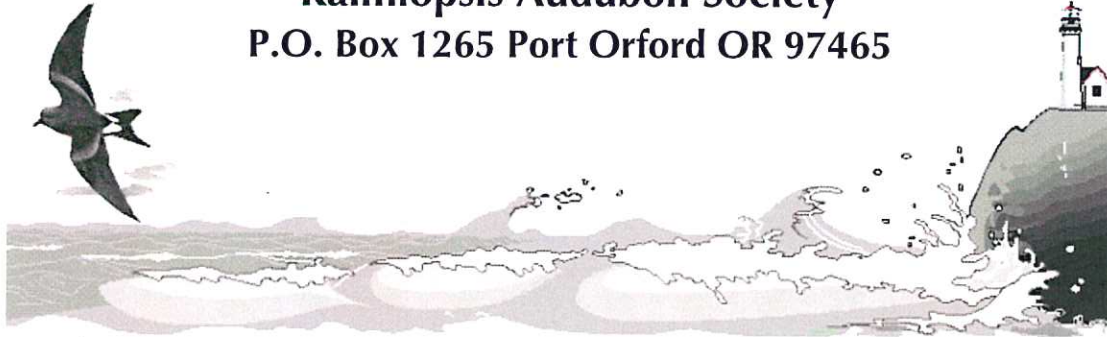
Ann Vileisis  
President  
Kalmiopsis Audubon Society  
P.O. Box 1265  
Port Orford, OR 97465

541-332-0261

[www.kalmiopsisaudubon.org](http://www.kalmiopsisaudubon.org)



**Kalmiopsis Audubon Society**  
**P.O. Box 1265 Port Orford OR 97465**



June 25, 2019

Curry County Planning Commission  
c/o Curry Co. Planning Department  
94235 Moore St. Ste 113  
Gold Beach, OR 97444

Re: AD-1909 Kiewit Foster Jetty-Rock Quarry proposal

Dear Planning Director Crockett and Planning Commission members:

I am writing on behalf of the Kalmiopsis Audubon Society. Our group has nearly 400 members in Curry County who are concerned about habitat for birds, fish, and wildlife.

We are writing now because we have concerns about the Kiewit application for a jetty-rock quarry up Sixes Rivers, AD 1909.

**Lack of proper notice**

We are concerned that this project was not described with sufficient accuracy in the public notice. It was described as an aggregate quarry. Curry County has many small upland aggregate quarries with limited, localized impacts. However, the quarry proposed by Kiewit is a massive-scale operation for 440,000 tons of jetty rock. This type of operation has potential for different types of impacts --including significant blasting, impacts to headwaters of a stream and a large amount of traffic--that local citizens should have been better informed about.

Some of our members, who are neighbors that will be directly affected by this project's noise and traffic and who are concerned about impacts to Sixes River, were not notified about this project.

The county planning process is where problems get aired and addressed —so it's very important to accurately characterize the nature of proposals and to include people who need to be included in the process.

In the future, we urge the Planning Department to more accurately characterize proposals, and to post applications, maps, and staff reports ahead of meetings on the Planning Department website so that citizens can readily access materials and learn more about proposals ahead of public meetings. We urge

our Planning Commission members to make sure to follow the spirit and intent of Oregon Planning Goal 1, Citizen Involvement, as a priority. To plan for and allow for robust public involvement will help to reduce costly conflicts and to find solutions.

**Lack of sufficient information regarding hydrology**

The project is located in the upper part of the Edson Creek subwatershed of Sixes River. Edson Creek is recognized as spawning and rearing habitat for fall Chinook and also for threatened Oregon Coast Coho.

According to the staff report, the headwaters of 9 tributaries to Edson Creek and associated wetlands will be affected by the quarry. Although the affected area lies upstream of mapped fish habitat, it remains critically important to the Sixes fishery as a source of the water flow to Edson Creek, which is recognized as an important cold-water tributary. The lower mainstem Sixes is already stressed by elevated temperatures, especially in the summer. Because chinook spend a critical part of their life history in the lower river in summer, the cold water that flows from Edson Creek into the mainstem of the Sixes River is extremely important for fish and other aquatic life. We are concerned that the quarrying operations could disrupt headwaters springs or other source flows into upper Edson creek, that could be damaging to Sixes River salmon.

The geological report submitted by the applicant does not address hydrology at all.

***We urge the Planning Commission to require that a hydrology assessment by a professional certified hydrologist should be completed before this project is approved and a plan for mitigating impacts to Edson Creek and the Sixes River should be developed in conjunction with the South Coast Watershed Council.***

The applicant says it will provide a minimum of 50-foot buffers around its operation. However, we think wider buffers will be needed because trees often get blown down by windthrow when areas are opened up in our part of the Coast Range.

***We urge the planning commission to require wider minimum buffers of 100 feet not only around the quarry site but also around any wetlands and stream areas.***

***We also urge the Planning commission to also require the applicant to provide a Reclamation Plan and to post a Reclamation Bond to cover the cost of reclamation work when the rock removal is completed.***

Thank you for considering our input.

Sincerely,



Ann Vileisis, President  
Kalmiopsis Audubon Society

## Becky Crockett

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**From:** Becky Crockett  
**Sent:** Thursday, June 27, 2019 9:46 AM  
**To:** 'Cameron La Follette'  
**Cc:** Sean Malone  
**Subject:** RE: ORCA Testimony re AD-1909, Kiewit quarry application

Thank you for your comments Cameron. They will be included into the record for the application.

Becky Crockett  
Planning Director  
(541) 247-3228  
[crockettb@co.curry.or.us](mailto:crockettb@co.curry.or.us)

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**From:** Cameron La Follette [<mailto:cameron@oregoncoastalliance.org>]  
**Sent:** Thursday, June 27, 2019 9:08 AM  
**To:** Becky Crockett  
**Cc:** Sean Malone  
**Subject:** ORCA Testimony re AD-1909, Kiewit quarry application

Dear Becky,

Attached please find the additional testimony of Oregon Coast Alliance (ORCA) in the matter of the Kiewit application for a quarry on Edson Creek. Please let myself and Sean Malone, cc'd on this email, know that you received the testimony, opened it and placed it in the record. By separate email I will send one additional attachment.

Thank you,

Cameron  
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Cameron La Follette  
Executive Director  
Oregon Coast Alliance  
P.O. Box 857  
Astoria, OR 97103  
(503) 391-0210  
[cameron@oregoncoastalliance.org](mailto:cameron@oregoncoastalliance.org)  
[www.oregoncoastalliance.org](http://www.oregoncoastalliance.org)

## Becky Crockett

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**From:** Cameron La Follette <cameron@oregoncoastalliance.org>  
**Sent:** Thursday, June 27, 2019 9:10 AM  
**To:** Becky Crockett  
**Cc:** Sean Malone  
**Subject:** Additional attachment for AD-1909 from ORCA  
**Attachments:** OR Coast Coho Recovery Plan Final Dec 16 .pdf; ATT00001.htm

Dear Becky,

Please place this attachment in the record for AD-1909 as well. Please let me know you received this, can open it and placed it in the record.

Thank you,

Cameron La Follette  
Executive Director  
Oregon Coast Alliance  
P.O. Box 857  
Astoria, OR 97103  
(503) 391-0210  
[cameron@oregoncoastalliance.org](mailto:cameron@oregoncoastalliance.org)  
[www.oregoncoastalliance.org](http://www.oregoncoastalliance.org)



# Sean T. Malone

## Attorney at Law

259 E. Fifth Ave.,  
Suite 200-C  
Eugene, OR 97401

Tel. (303) 859-0403  
Fax (650) 471-7366  
[seanmalone8@hotmail.com](mailto:seanmalone8@hotmail.com)

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June 27, 2019

Via email

Curry County Planning Commission  
c/o County Planning Department  
94235 Moore St.  
Gold Beach, OR 97444  
541-247-3228  
[crockettb@co.curry.or.us](mailto:crockettb@co.curry.or.us)

RE: ORCA testimony on AD 1909, Kiewit Infrastructure West Co. Conditional Use Application

On behalf of Oregon Coast Alliance, please accept this additional testimony on AD-1909, a proposal to clear the site, grade the site, construct a road, operate a quarry with numerous accessory uses, actively mine (including crushing and processing), and place significant traffic on haul route. The proposal covers 128.6 acres of the 320-acre site, and the area to be mined entails approximately 60 acres. The proposal would entail the removal of at least 440,000 tons of jetty stone<sup>1</sup>, beginning in the spring of 2020. The proposal includes 40 truckloads a day and includes 20 parking spaces. The proposal includes a wide array of structures and uses, including sediment ponds, grading of 40 acres, stockpiles of topsoil, 20 parking spots, highly explosive magazine storage buildings, accessory structures, including a scale control shed, office trailer, maintenance facility, lubrication storage unit, spill response connex, and tool storage facility, fuel tanks (for off road diesel, highway diesel, and gasoline), and more. The operational life of the quarry is up to an alarming 25 years.

Unfortunately, the application and staff report<sup>2</sup> contain such little information about the impacts of the proposal that it is simply impossible to understand the impacts of the proposal. There appears to be a complete and total abdication of the responsibility of the local government and its obligations to its constituents to apply the local land use regulations. The Curry County

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<sup>1</sup> It is wholly unclear how much stone or rock, gravel, and so forth is proposed because the application is ambiguous, alleging that quarried stone will also be used for "other infrastructure" projects on the west coast, in addition to the Columbia jetties. This is essentially limitless, and without a realistic estimate of amount to be extracted, there can be no actual identification of impacts.

<sup>2</sup> The staff report also mislabels much of the criteria under CCZO 7.040(10).

Zoning Ordinance (CCZO) requires that “[p]lans and specifications submitted to the Commission for approval must contain sufficient information to allow the Commission to review and set siting standards related to,” various criteria. CCZO 7.040(10). The County must evaluate the proposal against its own standards, and the County may not defer findings simply because the applicant has additional permits to obtain. Indeed, the County may not defer findings to a time when the public can no longer comment. For example, the staff report alleges that “[i]t is recommended that this application, if approved, include a requirement to submit the detailed extraction plans for County review prior to commencing operations to insure compliance with this provision of the CCZO.” Staff Report, Page 9; Condition 7. In the absence of providing the additional public process and a hearing with the same procedural and substantive rights as provided here, the applicant must provide that information *now*. It is alarming how little information has been presented in this application.

Apparently the only evidentiary support for the mining proposal is more than 7 years old, and it is wholly unclear what particular mining proposal was sought in 2012. Without some indication of what was sought in 2012 and how that relates to what is proposed here, there is simply no substantial evidence that is provided by the geologist consultant.

Given the significant amount of stone to be mined in this proposal, the applicant is required to carry a significant burden. See CCZO 2.150(5)(a) (“The more drastic the change or the greater the impact of the proposal in an area, the greater is the burden on the proponent.”); *Oregon Coast Alliance v. Curry County*, \_\_ Or LUBA \_\_ (LUBA No. 2012-014, June 28, 2012). The applicant here has not provided even a fraction of the evidence required for a proposal half as big as this proposal. Indeed, the applicant has only provided the June 4, 2012, letter from Garcia Consultants, which is not only stale but is also not applicable to the specific proposal at issue here. The consultant letter purports to address a criterion not at issue here, alleging that it is submitted to satisfy CCZO 3.252, which is not listed as the applicable review criteria in the staff report or notice. This is not to say that in this case a Geologic Hazard report should not be prepared for *this* proposal – as opposed to a different proposal from 7 years ago. It is plainly conspicuous that the consultant letter of 2012 does not describe the proposal here.

Pursuant to the introductory language of CCZO 7.040(10), the application fails on all applicable provisions that require information on aspects of and impacts from the mining operation. CCZO 7.040(10)(a)(1) requires sufficient information on the “[i]mpact of the proposed use on surrounding land uses in terms of Department Environmental Quality standards for noise, dust, or other environmental factors.” As is typical of almost every requirement, the applicant has provided virtually no information about the impacts of the mining operation and the staff report simply alleges that criteria are satisfied based on the future existence of state or federal permits. This is a rather disturbing trend in this application, and it entirely negates the existence of the local land use regulations. For example, the allegation in the staff report that “[a]ll operations approved herein shall be conducted as required by these [federal and state] permits. This CCZO standard can be met if the applicant obtains and meets the conditions of all required federal, state, and local permits pertaining to the standard above.” Because the county is deferring findings for the criteria related to this approval criterion to the time when state and federal permits are obtained, the County must provide for notice, opportunity to comment, and



opportunity to appeal. To do otherwise would be to unlawfully defer findings to point where the public cannot participate. The County cannot exclude the public's scrutiny by deferring compliance.

The staff report alleges that the road will be maintained to minimize truck noise. It is unclear how this is to be accomplished and must be made clear in the findings if it purports to satisfy the approval criteria. Next, as it relates to noise, the applicant has not provided any expert testimony to demonstrate that noise will not adversely affect neighboring property owners. The applicant is not an acoustical expert and the County cannot rely on the applicant's *amateur opinion to carry its burden of proof*. The staff report and the applicant also ignore the effect of naturally occurring asbestos in dust created by the proposed use. The application also fails to address the sanitary facilities necessary to accommodate 20 employees per day. The application alleges portable facilities, but fails to address whether sewage management could even reach the mine.

CCZO 7.040(10)(a)(2) requires sufficient information to determine the "[t]he impact of the proposed use on water quality, water flow, or fish habitat on affected rivers or streams."<sup>3</sup> There will, undeniably, be impacts to Edson Creek and the Sixes River. The Sixes River is habitat for many important, threatened/endangered aquatic/anadromous species, including Chinook salmon and winter steelhead, and it is a popular recreational fishing destination.<sup>4</sup> These facts, at the very least, add to the County's responsibility to undertake appropriate oversight of this application. The site contains nine Edson Creek tributaries (non-fish bearing), which enter Edson Creek and, ultimately, the Sixes River. The staff report alleges that the

"applicant has hired Pacific Habitat Services Inc. to conduct the required wetland and aquatic habitat surveys associated with the Edson Creek tributaries. It is expected that proposed impacts to these wetlands and streams will require a Joint Permit Application to the COE and DSL. This permit application will also require DEQ to address water quality impacts through a Clean Water Act 401 Certification and the Oregon Department of Fish and Wildlife to assess impacts to both terrestrial and aquatic wildlife habitat and resources."

I have not seen the report from Pacific Habitat Services and that report must be provided now, not later. If the report is purported to be provided at a later time, then the County must provide for notice, a hearing, and the opportunity to comment and appeal. The same is true of the allegation that the federal and state permits will "assess impacts to both terrestrial and aquatic wildlife habitat and resources." When those permits are provided and presumably provide the assessment, then the County must provide for notice, a hearing, and the opportunity to comment

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<sup>3</sup> It is impossible for the County to impose siting standards if there are no actual impacts disclosed by the applicant.

<sup>4</sup> The Final ESA Recovery Plan for Oregon Coast Coho Salmon states that "Oregon Coast coho salmon (*Oncorhynchus kisutch*) are protected under the Endangered Species Act (ESA). The fish spawn and rear in rivers, streams, and lakes along Oregon's coastline, from the Necanicum River near Seaside on the north to the Sixes River near Port Orford on the south." Page S-1. The Sixes River populations "did not pass the sustainability criteria" and the "low scores could be one consideration for prioritizing recovery efforts." Page 5-4. Indeed, the Sixes River population is sufficiently dire that the Recovery Plan suggests that for the Sixes River population that a Strategic Action Plan be created.



and appeal. The County cannot escape its obligations to address its own criteria. At this point, there is not sufficient information to justify a finding of compliance.

Moreover, the applicant proposes to relocate an existing tributary to Edson Creek, a significant undertaking that will not be without its impacts. There is no analysis about the effects of such a dramatic proposal on Edson Creek or the Sixes River, including the effects to the waterways and fish habitat and recreational uses. Comprehensive plan, page 109 (“The rivers and streams of Curry County are particularly noted for their game fish and sport fishing is generally popular throughout the area.”); Comprehensive plan, page 110, Table 5.5A (showing F. Chinook, Coho, Steelhead, Cutthroat in Sixes River). There is simply no expert testimony addressing the impacts of relocating a tributary.

There is also a complete failure to identify wetlands on the property and a failure to assess the impacts, despite the staff report acknowledging that they exist on the subject property.

There is also no stormwater plan available and the applicant alleges that the “stormwater plan to be modified as mining progresses across the site.” This too is contrary to existing law. A plan must be provided now (and not deferred) and the plan, if modified, must be vetted by the public with the same rights and processes as provided here.

As noted above, a significant problem is from increased sedimentation from the tributaries, to Edson Creek, to the Sixes River. The Recovery Plan identifies the “management of fine sediment” as a secondary watershed action, including identification of “upstream sources of fine sediment loads,” relocation of “streamside roads,” reduction of “soil compaction,” identification of “high debris flow hazard areas (Sixes population),” and identification of “soils with high turbidity potential (Sixes population).” All of these are implicated in the current proposal *and must be addressed in this application, at this time*. Numerous other issues are implicated and contrary to the recovery plan, as indicated by the action IDs at Table 6-8. Virtually every action implicates the Sixes and would be undermined by the proposed action. See Recovery Plan, pages 6-57 – 6-61.

Under CCZO 7.040(10)(a)(3), the applicant must submit sufficient information to allow the decision-maker to understand “[t]he impact of the proposed use on overall land stability, vegetation, wildlife habitat, and land or soil erosion.” From site maps and concessions in the staff report, it is clear that area proposed for active mining is contained on steep slopes. Again, the only evidence submitted in support of the application is the consultant geologist letter. The letter is not only stale but concedes the existence “extensive earth flows”: “The sheared nature of some of the ground surrounding the hill may present a problem to transportation.... The area to the south of the proposed quarry and much of the access road is underlain by marine sediments of the Otter Point Formation. *This formation is known for extensive earth flows and has been mapped as earthflow topography by Bueaulieu and Hughes.*” 2012 consultant letter (emphasis added).

Departing from the science of geology, the applicant’s consultant simply relies on the existence of logging roads to allege that roads are sufficient for the proposed use: “The existence of serviceable logging roads in the area surrounding the proposed quarry indicates that haul roads



can be successfully constructed and maintained in the surrounding earthflow.” It must also be remembered that this application is for a different proposal from 2012, not the current proposal, and therefore the letter is irrelevant to *this* application. There is nothing to demonstrate that the footprint, volume, scope, duration, and so forth is the same for *this* application as the application from 2012.

Moreover, the applicant and the County have not even considered the effect of blasting on landslides. Indeed, the consultant letter does not consider blasting *at all*. This is a significant oversight and/or omission that must be remedied. Without such information, the application cannot begin to satisfy the relevant criteria. It is all the more surprising given that an entire structure is devoted to explosive materials.

CCZO 7.040(10)(a)(4) requires that “[t]he adequacy of protection for people residing or working in the area from the proposed mining activity through fencing of the site.” Here, fencing is necessary to protect the workers of the mine. The staff report and application look only to the issue of “residing ... in the area,” and fails to address the fencing requirement for up to 20 of those employees that the site is prepared to accommodate. It would be irresponsible not to require the basic protective measure of fencing for those working at the site.

CCZO 7.040(10)(a)(5) requires that the applicant submit sufficient information for the “rehabilitation of the land upon termination of the mining activity. The proposed rehabilitation must at least meet the requirements of state surface gravel mining or gravel removal permits.” Again, as is the case with virtually all criteria, the applicant simply defers findings of compliance and relies on the state permit, without providing the same public process provided here. Regarding reclamation or rehabilitation, the application – as elsewhere – lacks basic information and is unacceptably vague. The Department of Geology and Mineral Industries (DOGAMI) oversees reclamation, but the applicant provides no permit from DOGAMI explaining how reclamation will occur, nor any reclamation plan with appropriate details about the highly complex act of reclaiming a mining site. What little information the applicant provides merely alleges they will stockpile topsoil for approximately 25 years, or however long is needed. There is simply no actual, expert support for this allegation – as is the case with so many allegations in the application.

CCZO 7.040(10)(a)(7)(i) requires the consideration of whether the mining activity can be sited on an alternative site. This has not been done here, and even the staff report notes that “[t]here are several gravel mining permits authorized within Curry County consistent with the CCZO provisions outlined above.” The comprehensive plan also acknowledges that “[o]ver 170 stone quarries have been developed in Curry County utilizing materials from various types of bedrock,” comprehensive plan, page 103-104, and it remains to be seen why those quarries are not sufficient alternatives. The applicant has not explained why these other mining operations are not sufficient alternatives. An examination of other sites and mining operations is necessary to satisfy CCZO 7.040(10)(a)(7)(i).

The applicant has also not provided the requisite ESEE analysis for conflicts under CCZO 7.040(10)(a)(7)(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 conflicts”). The applicant has not demonstrated that the existence of wetlands, big game habitat, wildlife habitat, and/or open spaces are not conflicting uses that would require an ESEE analysis. Again, there is simply not enough evidence to demonstrate compliance with this criterion, and the fact that the site is allegedly remote does not negate the existence of conflicting uses.

CCZO 7.040(10)(a)(8) is also misconstrued here because the rock crusher cannot be placed within 500 feet of the residential use, not just the nearest dwelling. The criterion addresses the “use,” not the more narrow “dwelling” or “residence.”

Under CCZO 7.040(17), the applicant must assure the proposed use will not increase the cost to or risk of fire suppression or risk to fire suppression personnel. The applicant proposes to store significant amounts of diesel fuel and gasoline on the property, and this clearly and significantly increases the risks to fire suppression personnel and costs for fire suppression. The applicant has not demonstrated how the storage of combustible fuel with a forested area does not pose such significant increases when without the proposed use, the materials would not be placed on the property. Moreover, the staff report alleges that “there is a long term benefit to timber lands since the intent after reclamation is to return the subject property back to timber use.” There is nothing to demonstrate that this property could be returned to timber use after the mining has occurred. That would be in 50 years and there is nothing to demonstrate that the area will be adequately or sufficiently reclaimed to allow timber uses, or any use at all.

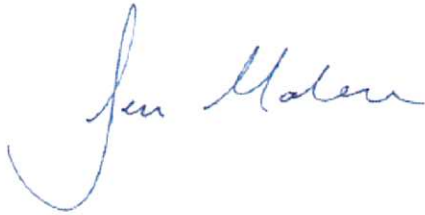
The proposed conditions are also legally inadequate and ambiguous. Condition 4 is inadequate because what is “daylight” is not specific. Dusk, Dawn? It is ambiguous to use “daylight.” Because the condition is not clear and objective – as would a time certain – the condition of approval is unlawful. Regardless, in the application, it is stated that the condition will be violated: “occasional operation outside of these hours may occur during limited, short-duration time periods.” An occasional violation is a violation and demonstrates that compliance with the conditions related to the time and days of operation are not feasible. The same is true as to Condition 15 because there is no certainty as to what is “safe ingress and egress.” The County must propose specific clear and objective conditions that ensure “safe ingress and egress.” Simply alleging that there needs to be “safe ingress and egress” misses the mark, because it puts the cart before the horse.

Finally, the applicant has wholly failed to include the haul route within any criteria for the application. The haul route is just as significant as the subject property when considering impacts.

For all these reasons, the planning commission cannot approve this application. It must be returned to the applicant for additional information and up to date, detailed consultants’ reports that provide the information required by law to allow county decision-makers to make an informed decision. A proper application must provide information by which the county can undertake the analysis of compliance with its own standards, which it has not yet done.

I also request an additional 14 days to respond to the information, argument, and evidence submitted for this open record period.

Sincerely,

A handwritten signature in blue ink that reads "Sean T. Malone". The signature is written in a cursive style with a large, looping initial "S".

Sean T. Malone

Attorney for Oregon Coast Alliance

Cc:  
Client

## Becky Crockett

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**From:** Charlie Alexander <charlieronn@gmail.com>  
**Sent:** Thursday, June 27, 2019 10:28 AM  
**To:** Becky Crockett  
**Subject:** Kiewit Infrastructure West mega-quarry

We empathically vote NO on this project. The road will not support all the traffic this proposed project would create. The taxpayers get stuck again repairing infrastructure that a mining company making profit does not share in the cost. All the logging trucks on the Sixes River Road are already very disturbing and damaging to the road and the peace and quiet of the area. A Quarry mining rock would not be good for the river, the valley and the peace and quiet of the residents. We vote NO on this proposal.

Ronald G. and Charline Alexander  
P.O. Box 946  
Port Orford, OR 97465



## Becky Crockett

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**From:** CncrndCtzn <CncrndCtzn@protonmail.com>  
**Sent:** Thursday, June 27, 2019 10:39 AM  
**To:** Becky Crockett  
**Cc:** BOC Office; Julie Schmelzer  
**Subject:** Kiewit Foster Application (AD-1909)  
**Attachments:** kiewit.docx

Dear Ms. Crockett,

Please hand the attached letter (also copy below) to the members of the Planning Commission.

Thanks & Regards

Robert von Bergman

Dear Members of the Planning Commission,

**Re: Kiewit Foster Application (AD-1909)**

Restrictions placed on ORS 517.760 (see <https://www.oregonlaws.org/ors/517.980>) call for protection from **unacceptable adverse impacts\***.

Considering the magnitude of the operation under consideration, an **Environmental evaluation (517.979)** as well as a **Socioeconomic impact analysis (517.980)** may be called for.

Therefore, prior to approving this venture, the Planning Commission may want to consult the State Department of Geology and Mineral Industries.

Sincerely,

Robert von Bergman

94180 Sixes River Rd

Sixes, OR 97476

541-332-1191

\* Notwithstanding the policy set forth in ORS [517.760 \(Policy\)](#), the Legislative Assembly finds and declares that it is the policy of the State of Oregon to protect the environmental, scenic, recreational, social, archaeological and historic resources of this state from unacceptable adverse impacts that may result from mining operations, while permitting operations that comply with the provisions set forth in ORS [517.952 \(Definitions for ORS 517.952 to 517.989\)](#) to [517.989 \(Rules applicable to consolidated application\)](#) and ensure the protection of the public health, safety, welfare and the environment. [1991 c.735 §2; 2013 c.371 §7]

June 27, 2019

Curry County Planning Commission  
c/o County Planning Department  
94235 Moore St.  
Gold Beach, OR 97444

Via email:

Dear Members of the Planning Commission,

**Re: Kiewit Foster Application (AD-1909)**

Restrictions placed on ORS 517.760 (see <https://www.oregonlaws.org/ors/517.980>) call for protection from **unacceptable adverse impacts\***.

Considering the magnitude of the operation under consideration, an **Environmental evaluation (517.979)** as well as a **Socioeconomic impact analysis (517.980)** may be called for.

Therefore, prior to approving this venture, the Planning Commission may want to consult the State Department of Geology and Mineral Industries.

Sincerely,



Robert von Bergman  
94180 Sixes River Rd  
Sixes, OR 97476  
541-332-1191

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## Becky Crockett

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**From:** Nancy O'Dwyer  
**Sent:** Thursday, June 27, 2019 2:34 PM  
**To:** Becky Crockett  
**Subject:** FW: Contact Info

Please see below...

**From:** Eric Oberbeck [mailto:Eric@cascadiageotechnical.com]  
**Sent:** Thursday, June 27, 2019 2:30 PM  
**To:** Nancy O'Dwyer  
**Subject:** Re: Contact Info

Nancy, I have sent this to Mrs Crockett 3 times and each time it has been rejected. Can you please make sure she gets e-mail before 5 pm today? Can you also please send me an email that you received it? Thanks Eric

Dear Curry County Planning Commission,

I am writing you to express my opposition to the above referenced application that was before you at your last Planning Commission meeting on Thursday June 20, 2019. I attended the meeting and was given less than 3 minutes in which to speak.

I was a member of the Curry County Planning Commission from 1992 until 1996 and again from 2002 until 2006. During this period, I was elected Chairman for 2 years. The meeting last Thursday was conducted like you were more concerned with the applicants interests that those of the residents of Sixes. My recollection from serving on the Planning Commission is that your job is to hear the concerns of the affected residents of Curry County, your neighbors, and to weigh those concerns when making your decision. You failed to do this.

Following are my issues with the way the meeting was run on Thursday and why we, the residents of Sixes River, are opposed to the application:

1. There was no notice by the county to the residents of Sixes River. I understand that you contacted the property owners who adjoin the quarry, most of which are large, uninhabited timber tracks. But the residents who live next to Sixes River Road and who will be severally impacted by 40 large truck loads every day, were not notified. The Planning Commission has no commissioner from the north county which is why it is important that the county notify us of upcoming land use issues. This did not occur.
2. It is no secret that the Chairman of the Planning Commission's family owns a business that sells rock. The perception by many residents of Sixes is that he has a conflict of interest with this application. He should have addressed this issue at the opening of the meeting.
3. Mining is allowed on land zoned Timber as a Conditional Use permit thus the term, yet not one condition was placed on the applicant.
4. The lower portion of Sixes River Road has several active landslides. These are located and easily viewed on the state's website at <https://www.oregongeology.org/hazvu>. I have lived on Sixes River Road for 28 years and am an Oregon Registered Geologist and a Certified Engineering Geologist (E1332). I have watched the Country Road Department spend many hours and many county general fund dollars repairing



these slides. You do not have to be a geologist to know that running these heavy trucks repeatedly over this weakened road bed will, over time, have an adverse impact on the driving surface and on the stability of the roadbed. I tried to address this the other night during my shortened 3 minutes of testimony. The applicant agreed to monitor the road but the road master said that it was not necessary. Why, if the applicant agreed to it, would you not make this a condition of the application?

5. I have seen the large rocks coming out on trailer from the Foster's property north of Sixes. At 185 pounds per cubic foot, these loads easily exceed the 80,000 pounds that a typical logging truck weigh. They haul in the evening or when the scale south of Bandon is closed. Yet, you made no condition on the size of the load or on the hours the applicant can haul.

6. Kiewit is a Nebraska corporation. The rock they are proposing to mine is going to Astoria. So, what's in it for Curry County? At the meeting Thursday night, the applicant said that they will hire 25 people locally, but to date, none of the technical people hired to complete the application have been local. Sixes River is an active recreation area where families camp at Edson Creek and where people fish for salmon and steelhead. These visitors represent dollars spent locally. Why would you potentially jeopardize these activities to enrich an out of state corporation?

Finally, I have real concerns about the safety to our local residents and to the damage to Sixes River Road and potential damage to our properties. We have several sharp turns on Sixes River Road where these trailers may not be able to maintain their lane and may come across the center line. Have you checked this out? Has the applicant? You may inadvertently be putting the residents of Sixes at risk.

Please review the petition we are circulating and look at the requests we are making. These are reasonable requests. Please keep the record open and allow the residents of Sixes, your neighbors, a chance to voice their concerns.

Thanks,

Eric Oberbeck

93345 Sixes River Road

Sixes, OR 97476

On Thu, Jun 27, 2019 at 11:14 AM Nancy O'Dwyer <[odwyern@co.curry.or.us](mailto:odwyern@co.curry.or.us)> wrote:

Hi Eric: I understand that John HuttI has answered your inquiry about this.

**From:** Eric Oberbeck [mailto:[Eric@cascadiageotechnical.com](mailto:Eric@cascadiageotechnical.com)]

**Sent:** Thursday, June 27, 2019 10:11 AM

**To:** Nancy O'Dwyer

**Subject:** Re: Contact Info

Thank you, Nancy. How long do we have to file an appeal to the PC's decision?



Eric Oberbeck, RG, CEG

Cascadia Geoservices, Inc.

190 6th Street

Mail: PO Box 1026

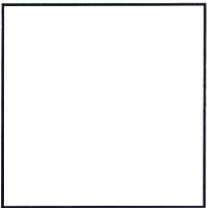
Port Orford, Oregon 97465

Direct. 541-332-0433

Cell. 541-655-0021

e-mail: [eric@cascadiageoservices.com](mailto:eric@cascadiageoservices.com)

web: [www.cascadiageoservices.com](http://www.cascadiageoservices.com)



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On Thu, Jun 27, 2019 at 10:04 AM Nancy O'Dwyer <[odwyern@co.curry.or.us](mailto:odwyern@co.curry.or.us)> wrote:

Hello Eric: Once the Planning Commission makes a decision, the application will be final unless an appeal is made. If the Planning Commission's decision is appealed, the application will go to the Board of Commissioners.

Nancy-O

**From:** Eric Oberbeck [mailto:[Eric@cascadiageotechnical.com](mailto:Eric@cascadiageotechnical.com)]

**Sent:** Thursday, June 27, 2019 9:50 AM

**To:** Nancy O'Dwyer

**Subject:** Contact Info

## Becky Crockett

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**From:** Mary Jane LaBelle <maryjanelabelle@gmail.com>  
**Sent:** Thursday, June 27, 2019 2:20 PM  
**To:** Becky Crockett  
**Cc:** Eric Oberbeck  
**Subject:** Kiewit Foster application, AD-1909 Neighborhood Letter for File  
**Attachments:** CCE27062019.pdf; ATT00001.htm

Hello Ms. Crockett,

Here is another letter with many neighbors signatures for the Planning Commission file on this. It is directed to the BOC, but should be added to the file you have for this application.

June 23, 2019

Curry County Board of Commissioners  
94235 Moore Street,  
Gold Beach, OR 97444

Regarding: Kiewit/Foster Edson Rock Quarry Application (AD-1909)

Dear Curry County Board of Commissioners, residents of Sixes River attended the June 20, 2019 Planning Commission Meeting regarding the Kiewit/Foster Edson Rock Quarry Application (AD-1909). We were disappointed that the Planning Commission gave us only 3 minutes to speak regarding our concerns about the project. We were further disappointed when the Planning Commission decided to close the meeting to any further testimony. None of the people who live along the river were notified or aware of the application or of the meeting. The Planning Commission does not currently have a commissioner from North County. Apparently, the outcome of the meeting was predetermined since a final order approving the application was listed on the June 20<sup>th</sup> meeting agenda.

We question some members of the Planning Commission impartiality regarding the application and are sending this to you because we know that we will get a fair shake. The applicant, a Nebraska company, is proposing to mine and ship large, heavy jetty rocks from a quarry in the Sixes River Drainage to Astoria and other places along our coastline. These rocks will be shipped by large, flatbed trailers. They are proposing to run 40 heavy truck loads a day. The route will require that they haul about 4 miles on Sixes River Road. The operation of the quarry is estimated to be 20 years.

We, the residents of Sixes River, have some real concerns about this application. We feel that before the application is approved, that we should be allowed to present our concerns and have them addressed. These include concerns regarding safety to our residents and to our local traffic: noise, dust and vibration which will impact our residences and the deterioration of Sixes River Road. Mining is a conditional use on land zoned Timber yet the PC did not place one condition on the out-of-town contractor. Therefore, we would like to offer these items and respectfully request that they be made conditions of the Applicant's Permit.

1. Prior to granting the application, an independent civil engineering firm should be retained by the county to conduct a traffic study of the lower Sixes River Road to determine the feasibility and the risk to local traffic of the proposed haul operation. The applicant should pay for the study and the report should be made available to all interested parties. As part of the study, the engineering firm should provide an opinion as to the overall stability of the lower portion of Sixes River Road and the impact that the proposed hauling operation will have on the road. The evaluation should provide recommendations for monitoring the road. All recommendations provided for in the resulting report should be adopted and paid for by the applicant.



2. If the application is approved, the applicant should only be allowed to operate (haul) during the hours of 9 AM to 5 PM Monday through Friday. No weekend hauling. This includes all shipments of jetty rock, stone and gravel.
3. Haulers should not be allowed to use exhaust (jake) brakes.
4. Haulers should not be allowed to travel over 30 miles per hour and they must have a forward escort on all trips up and down Sixes River Road.
5. All trucks must be cleaned and inspected prior to entering Sixes River Road.
6. A qualified, independent professional who reports to the county should be hired to monitor noise, dust and the impact to the Sixes River Road. This should be paid for by the applicant. A report by this professional shall be submitted monthly and should be circulated to all interested parties. (This was agreed to by the applicant during the June 20th, 2019 Planning Commission meeting).
7. Prior to approval, applicants must provide a Reclamation Plan for the site to be approved by monitoring State and Federal agencies and by the South Coast Watershed council and will post a Reclamation Bond to cover the cost of the reclamation work.

We appreciate your attention in this matter and know that you will do what is right to insure that, as much as possible, our peaceful neighborhood is not destroyed.

Respectively

Date	Name (Print)	Address	Email	Signature
6-24-	George Welch	94714 Sixes River	gwelch@comcast.net	
6-24	Deneise Welch	94714 Sixes River	dwelch@comcast.net	
6/24/19	MARY JANE LABELLE	94408 SIXES RIVER RD	maryjanlabelle@gmail.com	
6/24/19	Chris Hawthorne	46624 SIXES BLVD SIXES, OR 97476	chris@hawthornegate.com	
6/24/19	Julie B. Hawthorne	96624 Sixes River Rd Sixes, OR 97476	julie@chris Hawthorne	
6/24/19	Erin Palfrey	94180 Sixes River Rd Sixes, OR 97476	erinpalfrey@yahoo.com	
6/24/19	Shelley Wilson	94427 Sixes River Rd Sixes, OR 97476	shdisixes@gmail.com	
6/24/19	Richard A. Vold	94427 Sixes River Rd Sixes, OR 97476	shdisixes@gmail.com	
6/24/19	VERONICA BOUTELLE	9331 SIXES RIVER RD SIXES OR 97476	VERONICAB@DDBIZSERVICES.COM	
6-24-19	PATRICK LAUDEL	"	300PEASE@gmail.com	
6/25/19	ROBERT VAN BERGE	94180 SIXES RIVER RD, SIXES	RYONBERGMAN@GMAIL.COM	
6/25/19	Victoria Fells	94406 Sixes River Road	dirtroadiva@gmail.com	





## Becky Crockett

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**From:** MJ LaBelle <maryjanelabelle@gmail.com>  
**Sent:** Thursday, June 27, 2019 8:45 PM  
**To:** Becky Crockett  
**Subject:** Re: ORCA testimony for mega-quarry

Thank you Becky.

MJ LaBelle

On Jun 27, 2019, at 4:45 PM, Becky Crockett <[crockettb@co.curry.or.us](mailto:crockettb@co.curry.or.us)> wrote:

Thanks Mary Jane. This letter has already been submitted into the record for this application.

Becky Crockett  
Planning Director  
(541) 247-3228  
[crockettb@co.curry.or.us](mailto:crockettb@co.curry.or.us)

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**From:** Mary Jane LaBelle [<mailto:maryjanelabelle@gmail.com>]  
**Sent:** Thursday, June 27, 2019 2:25 PM  
**To:** Becky Crockett  
**Cc:** Cameron La Follette; Eric Oberbeck  
**Subject:** Fwd: ORCA testimony for mega-quarry

Ms Crockett,

Cameron La Follette requested that I forward the attached letter to you. She emailed it twice and but was unsure about its transmittal since she is traveling today. I am resending to insure that you receive it by 5 pm today.

Thank you,

Mary Jane LaBelle

**Sean T. Malone**  
**Attorney at Law**

259 E. Fifth Ave.,  
Suite 200-C  
Eugene, OR 97401

Tel. (303) 859-0403  
Fax (650) 471-7366  
[seanmalone8@hotmail.com](mailto:seanmalone8@hotmail.com)

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June 27, 2019

Via email

Curry County Planning Commission  
c/o County Planning Department  
94235 Moore St.  
Gold Beach, OR 97444  
541-247-3228  
[crockettb@co.curry.or.us](mailto:crockettb@co.curry.or.us)

RE: ORCA testimony on AD 1909, Kiewit Infrastructure West Co. Conditional Use Application

On behalf of Oregon Coast Alliance, please accept this additional testimony on AD-1909, a proposal to clear the site, grade the site, construct a road, operate a quarry with numerous accessory uses, actively mine (including crushing and processing), and place significant traffic on haul route. The proposal covers 128.6 acres of the 320-acre site, and the area to be mined entails approximately 60 acres. The proposal would entail the removal of at least 440,000 tons of jetty stone<sup>1</sup>, beginning in the spring of 2020. The proposal includes 40 truckloads a day and includes 20 parking spaces. The proposal includes a wide array of structures and uses, including sediment ponds, grading of 40 acres, stockpiles of topsoil, 20 parking spots, highly explosive magazine storage buildings, accessory structures, including a scale control shed, office trailer, maintenance facility, lubrication storage unit, spill response connex, and tool storage facility, fuel tanks (for off road diesel, highway diesel, and gasoline), and more. The operational life of the quarry is up to an alarming 25 years.

Unfortunately, the application and staff report<sup>2</sup> contain such little information about the impacts of the proposal that it is simply impossible to understand the impacts of the proposal. There appears to be a complete and total abdication of the responsibility of the local government and its obligations to its constituents to apply the local land use regulations. The Curry County

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<sup>1</sup> It is wholly unclear how much stone or rock, gravel, and so forth is proposed because the application is ambiguous, alleging that quarried stone will also be used for "other infrastructure" projects on the west coast, in addition to the Columbia jetties. This is essentially limitless, and without a realistic estimate of amount to be extracted, there can be no actual identification of impacts.

<sup>2</sup> The staff report also mislabels much of the criteria under CCZO 7.040(10).



Zoning Ordinance (CCZO) requires that “[p]lans and specifications submitted to the Commission for approval must contain sufficient information to allow the Commission to review and set siting standards related to,” various criteria. CCZO 7.040(10). The County must evaluate the proposal against its own standards, and the County may not defer findings simply because the applicant has additional permits to obtain. Indeed, the County may not defer findings to a time when the public can no longer comment. For example, the staff report alleges that “[i]t is recommended that this application, if approved, include a requirement to submit the detailed extraction plans for County review prior to commencing operations to insure compliance with this provision of the CCZO.” Staff Report, Page 9; Condition 7. In the absence of providing the additional public process and a hearing with the same procedural and substantive rights as provided here, the applicant must provide that information *now*. It is alarming how little information has been presented in this application.

Apparently the only evidentiary support for the mining proposal is more than 7 years old, and it is wholly unclear what particular mining proposal was sought in 2012. Without some indication of what was sought in 2012 and how that relates to what is proposed here, there is simply no substantial evidence that is provided by the geologist consultant.

Given the significant amount of stone to be mined in this proposal, the applicant is required to carry a significant burden. *See* CCZO 2.150(5)(a) (“The more drastic the change or the greater the impact of the proposal in an area, the greater is the burden on the proponent.”); *Oregon Coast Alliance v. Curry County*, \_\_ Or LUBA \_\_ (LUBA No. 2012-014, June 28, 2012). The applicant here has not provided even a fraction of the evidence required for a proposal half as big as this proposal. Indeed, the applicant has only provided the June 4, 2012, letter from Garcia Consultants, which is not only stale but is also not applicable to the specific proposal at issue here. The consultant letter purports to address a criterion not at issue here, alleging that it is submitted to satisfy CCZO 3.252, which is not listed as the applicable review criteria in the staff report or notice. This is not to say that in this case a Geologic Hazard report should not be prepared for *this* proposal – as opposed to a different proposal from 7 years ago. It is plainly conspicuous that the consultant letter of 2012 does not describe the proposal here.

Pursuant to the introductory language of CCZO 7.040(10), the application fails on all applicable provisions that require information on aspects of and impacts from the mining operation. CCZO 7.040(10)(a)(1) requires sufficient information on the “[i]mpact of the proposed use on surrounding land uses in terms of Department Environmental Quality standards for noise, dust, or other environmental factors.” As is typical of almost every requirement, the applicant has provided virtually no information about the impacts of the mining operation and the staff report simply alleges that criteria are satisfied based on the future existence of state or federal permits. This is a rather disturbing trend in this application, and it entirely negates the existence of the local land use regulations. For example, the allegation in the staff report that “[a]ll operations approved herein shall be conducted as required by these [federal and state] permits. This CCZO standard can be met if the applicant obtains and meets the conditions of all required federal, state, and local permits pertaining to the standard above.” Because the county is deferring findings for the criteria related to this approval criterion to the time when state and federal permits are obtained, the County must provide for notice, opportunity to comment, and



opportunity to appeal. To do otherwise would be to unlawfully defer findings to point where the public cannot participate. The County cannot exclude the public's scrutiny by deferring compliance.

The staff report alleges that the road will be maintained to minimize truck noise. It is unclear how this is to be accomplished and must be made clear in the findings if it purports to satisfy the approval criteria. Next, as it relates to noise, the applicant has not provided any expert testimony to demonstrate that noise will not adversely affect neighboring property owners. The applicant is not an acoustical expert and the County cannot rely on the applicant's *amateur opinion to carry its burden of proof*. The staff report and the applicant also ignore the effect of naturally occurring asbestos in dust created by the proposed use. The application also fails to address the sanitary facilities necessary to accommodate 20 employees per day. The application alleges portable facilities, but fails to address whether sewage management could even reach the mine.

CCZO 7.040(10)(a)(2) requires sufficient information to determine the "[t]he impact of the proposed use on water quality, water flow, or fish habitat on affected rivers or streams."<sup>3</sup> There will, undeniably, be impacts to Edson Creek and the Sixes River. The Sixes River is habitat for many important, threatened/endangered aquatic/anadromous species, including Chinook salmon and winter steelhead, and it is a popular recreational fishing destination.<sup>4</sup> These facts, at the very least, add to the County's responsibility to undertake appropriate oversight of this application. The site contains nine Edson Creek tributaries (non-fish bearing), which enter Edson Creek and, ultimately, the Sixes River. The staff report alleges that the

"applicant has hired Pacific Habitat Services Inc. to conduct the required wetland and aquatic habitat surveys associated with the Edson Creek tributaries. It is expected that proposed impacts to these wetlands and streams will require a Joint Permit Application to the COE and DSL. This permit application will also require DEQ to address water quality impacts through a Clean Water Act 401 Certification and the Oregon Department of Fish and Wildlife to assess impacts to both terrestrial and aquatic wildlife habitat and resources."

I have not seen the report from Pacific Habitat Services and that report must be provided now, not later. If the report is purported to be provided at a later time, then the County must provide for notice, a hearing, and the opportunity to comment and appeal. The same is true of the allegation that the federal and state permits will "assess impacts to both terrestrial and aquatic wildlife habitat and resources." When those permits are provided and presumably provide the assessment, then the County must provide for notice, a hearing, and the opportunity to comment

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<sup>3</sup> It is impossible for the County to impose siting standards if there are no actual impacts disclosed by the applicant.

<sup>4</sup> The Final ESA Recovery Plan for Oregon Coast Coho Salmon states that "Oregon Coast coho salmon (*Oncorhynchus kisutch*) are protected under the Endangered Species Act (ESA). The fish spawn and rear in rivers, streams, and lakes along Oregon's coastline, from the Necanicum River near Seaside on the north to the Sixes River near Port Orford on the south." Page S-1. The Sixes River populations "did not pass the sustainability criteria" and the "low scores could be one consideration for prioritizing recovery efforts." Page 5-4. Indeed, the Sixes River population is sufficiently dire that the Recovery Plan suggests that for the Sixes River population that a Strategic Action Plan be created.



and appeal. The County cannot escape its obligations to address its own criteria. At this point, there is not sufficient information to justify a finding of compliance.

Moreover, the applicant proposes to relocate an existing tributary to Edson Creek, a significant undertaking that will not be without its impacts. There is no analysis about the effects of such a dramatic proposal on Edson Creek or the Sixes River, including the effects to the waterways and fish habitat and recreational uses. Comprehensive plan, page 109 (“The rivers and streams of Curry County are particularly noted for their game fish and sport fishing is generally popular throughout the area.”); Comprehensive plan, page 110, Table 5.5A (showing F. Chinook, Coho, Steelhead, Cutthroat in Sixes River). There is simply no expert testimony addressing the impacts of relocating a tributary.

There is also a complete failure to identify wetlands on the property and a failure to assess the impacts, despite the staff report acknowledging that they exist on the subject property.

There is also no stormwater plan available and the applicant alleges that the “stormwater plan to be modified as mining progresses across the site.” This too is contrary to existing law. A plan must be provided now (and not deferred) and the plan, if modified, must be vetted by the public with the same rights and processes as provided here.

As noted above, a significant problem is from increased sedimentation from the tributaries, to Edson Creek, to the Sixes River. The Recovery Plan identifies the “management of fine sediment” as a secondary watershed action, including identification of “upstream sources of fine sediment loads,” relocation of “streamside roads,” reduction of “soil compaction,” identification of “high debris flow hazard areas (Sixes population),” and identification of “soils with high turbidity potential (Sixes population).” All of these are implicated in the current proposal *and must be addressed in this application, at this time*. Numerous other issues are implicated and contrary to the recovery plan, as indicated by the action IDs at Table 6-8. Virtually every action implicates the Sixes and would be undermined by the proposed action. See Recovery Plan, pages 6-57 – 6-61.

Under CCZO 7.040(10)(a)(3), the applicant must submit sufficient information to allow the decision-maker to understand “[t]he impact of the proposed use on overall land stability, vegetation, wildlife habitat, and land or soil erosion.” From site maps and concessions in the staff report, it is clear that area proposed for active mining is contained on steep slopes. Again, the only evidence submitted in support of the application is the consultant geologist letter. The letter is not only stale but concedes the existence “extensive earth flows”: “The sheared nature of some of the ground surrounding the hill may present a problem to transportation.... The area to the south of the proposed quarry and much of the access road is underlain by marine sediments of the Otter Point Formation. *This formation is known for extensive earth flows and has been mapped as earthflow topography by Bueaulieu and Hughes.*” 2012 consultant letter (emphasis added).

Departing from the science of geology, the applicant’s consultant simply relies on the existence of logging roads to allege that roads are sufficient for the proposed use: “The existence of serviceable logging roads in the area surrounding the proposed quarry indicates that haul roads



can be successful constructed and maintained in the surrounding earthflow.” It must also be remembered that this application is for a different proposal from 2012, not the current proposal, and therefore the letter is irrelevant to *this* application. There is nothing to demonstrate that the footprint, volume, scope, duration, and so forth is the same for *this* application as the application from 2012.

Moreover, the applicant and the County have not even considered the effect of blasting on landslides. Indeed, the consultant letter does not consider blasting *at all*. This is a significant oversight and/or omission that must be remedied. Without such information, the application cannot begin to satisfy the relevant criteria. It is all the more surprising given that an entire structure is devoted to explosive materials.

CCZO 7.040(10)(a)(4) requires that “[t]he adequacy of protection for people residing or working in the area from the proposed mining activity through fencing of the site.” Here, fencing is necessary to protect the workers of the mine. The staff report and application look only to the issue of “residing ... in the area,” and fails to address the fencing requirement for up to 20 of those employees that the site is prepared to accommodate. It would be irresponsible not to require the basic protective measure of fencing for those working at the site.

CCZO 7.040(10)(a)(5) requires that the applicant submit sufficient information for the “rehabilitation of the land upon termination of the mining activity. The proposed rehabilitation must at least meet the requirements of state surface gravel mining or gravel removal permits.” Again, as is the case with virtually all criteria, the applicant simply defers findings of compliance and relies on the state permit, without providing the same public process provided here. Regarding reclamation or rehabilitation, the application – as elsewhere – lacks basic information and is unacceptably vague. The Department of Geology and Mineral Industries (DOGAMI) oversees reclamation, but the applicant provides no permit from DOGAMI explaining how reclamation will occur, nor any reclamation plan with appropriate details about the highly complex act of reclaiming a mining site. What little information the applicant provides merely alleges they will stockpile topsoil for approximately 25 years, or however long is needed. There is simply no actual, expert support for this allegation – as is the case with so many allegations in the application.

CCZO 7.040(10)(a)(7)(i) requires the consideration of whether the mining activity can be sited on an alternative site. This has not been done here, and even the staff report notes that “[t]here are several gravel mining permits authorized within Curry Coujty consistent with the CCZO provisions outlined above.” The comprehensive plan also acknowledges that “[o]ver 170 stone quarries have been developed in Curry County utilizing materials from various types of bedrock,” comprehensive plan, page 103-104, and it remains to be seen why those quarries are not sufficient alternatives. The applicant has not explained why these other mining operations are not sufficient alternatives. An examination of other sites and mining operations is necessary to satisfy CCZO 7.040(10)(a)(7)(i).

The applicant has also not provided the requisite ESEE analysis for conflicts under CCZO 7.040(10)(a)(7)(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 conflicts”). The applicant has not demonstrated that the existence of wetlands, big game habitat, wildlife habitat, and/or open spaces are not conflicting uses that would require an ESEE analysis. Again, there is simply not enough evidence to demonstrate compliance with this criterion, and the fact that the site is allegedly remote does not negate the existence of conflicting uses.

CCZO 7.040(10)(a)(8) is also misconstrued here because the rock crusher cannot be placed within 500 feet of the residential use, not just the nearest dwelling. The criterion addresses the “use,” not the more narrow “dwelling” or “residence.”

Under CCZO 7.040(17), the applicant must assure the proposed use will not increase the cost to or risk of fire suppression or risk to fire suppression personnel. The applicant proposes to store significant amounts of diesel fuel and gasoline on the property, and this clearly and significantly increases the risks to fire suppression personnel and costs for fire suppression. The applicant has not demonstrated how the storage of combustible fuel with a forested area does not pose such significant increases when without the proposed use, the materials would not be placed on the property. Moreover, the staff report alleges that “there is a long term benefit to timber lands since the intent after reclamation is to return the subject property back to timber use.” There is nothing to demonstrate that this property could be returned to timber use after the mining has occurred. That would be in 50 years and there is nothing to demonstrate that the area will be adequately or sufficiently reclaimed to allow timber uses, or any use at all.

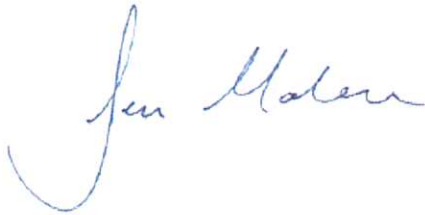
The proposed conditions are also legally inadequate and ambiguous. Condition 4 is inadequate because what is “daylight” is not specific. Dusk, Dawn? It is ambiguous to use “daylight.” Because the condition is not clear and objective – as would a time certain – the condition of approval is unlawful. Regardless, in the application, it is stated that the condition will be violated: “occasional operation outside of these hours may occur during limited, short-duration time periods.” An occasional violation is a violation and demonstrates that compliance with the conditions related to the time and days of operation are not feasible. The same is true as to Condition 15 because there is no certainty as to what is “safe ingress and egress.” The County must propose specific clear and objective conditions that ensure “safe ingress and egress.” Simply alleging that there needs to be “safe ingress and egress” misses the mark, because it puts the cart before the horse.

Finally, the applicant has wholly failed to include the haul route within any criteria for the application. The haul route is just as significant as the subject property when considering impacts.

For all these reasons, the planning commission cannot approve this application. It must be returned to the applicant for additional information and up to date, detailed consultants’ reports that provide the information required by law to allow county decision-makers to make an informed decision. A proper application must provide information by which the county can undertake the analysis of compliance with its own standards, which it has not yet done.

I also request an additional 14 days to respond to the information, argument, and evidence submitted for this open record period.

Sincerely,

A handwritten signature in blue ink that reads "Sean T. Malone". The signature is written in a cursive style with a large, looping initial "S".

Sean T. Malone

Attorney for Oregon Coast Alliance

Cc:  
Client



## Becky Crockett

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**From:** Chris Hawthorne <Chris@hawthornegallery.com>  
**Sent:** Thursday, June 27, 2019 3:49 PM  
**To:** Becky Crockett  
**Subject:** AD-1909 Kiewit Foster Jetty-Rock Quarry proposal

June 26, 2019

Curry County Planning Commission  
c/o Curry Co. Planning Department  
94235 Moore St. Ste 113  
Gold Beach, OR 97444

Re: AD-1909 Kiewit Foster Jetty-Rock Quarry proposal

Dear Planning Director Crockett and Planning Commission members:

I am writing as a 44 year Sixes River resident and a Port Orford Business owner. I have deep concerns regarding the proposal to remove large quarry rock from the Edson Creek and, consequently, Sixes River drainage. This Quarry will have short and long term impacts on the water quality, fish habitat, road safety and quality of life on and in the Sixes River. My neighbors and I believe the sheer scale of the proposed operation is incompatible with efforts to maintain the current water quality of the River.

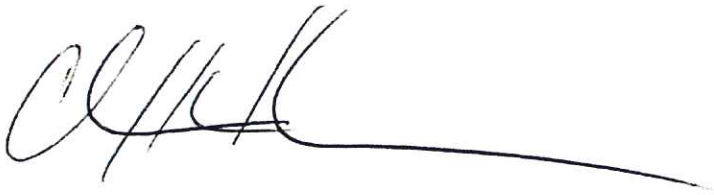
I would also like to point out that the commission made little, if any effort to notify those impacted by this decision. We entrust the Planning Commission members to follow the spirit and intent of Oregon Planning Goal, involving citizens in the process. By disenfranchising the neighbors, the most basic trust in you, as stewards of County planning, is lost.

I am very skeptical that there could be substantial mitigation or reclamation to an industrial site of this magnitude. I believe the negative impacts of this proposed site will be great and irreparable.

I urge you deny the conditional use permit and put the increasing degradation of Sixes River to rest.

Thank you for your consideration in this matter.

Sincerely,



Chris Hawthorne

96624 Sixes River Road

Sixes, OR 97476

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Chris Hawthorne

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## Becky Crockett

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**From:** Chris Hawthorne <chris@hawthornegallery.com>  
**Sent:** Thursday, June 27, 2019 11:01 PM  
**To:** Becky Crockett  
**Subject:** Re: AD-1909 Kiewit Foster Jetty-Rock Quarry proposal plus attachments  
**Attachments:** Sixes Watershed Assessment.pdf; ATT00001.htm; Sixes\_NRiver\_WA.pdf; ATT00002.htm

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c/o Curry Co. Planning Department

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Chris Hawthorne

96624 Sixes River Road

Sixes, OR 97476



Documents too large to load and can be found online:

[Sixes River Watershed Assessment – June 2001](#)

[Watershed Analysis of the Sixes and New River Area – Coos and Curry County County, OR – January 2008](#)

[Oregon Coast Coho Recovery Plan Final – December 2016](#)