

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. If an exception area does not include land on the county’s acknowledged inventory of Goal 5 resources, the county need not adopt an exception to Goal 5. *Gordon v. Polk County*, 54 Or LUBA 351 (2007).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. The extent to which a local government must undertake the standard Goal 5 process in adopting a post-acknowledgment plan amendment pursuant to OAR 660-023-0250(3) will depend on the nature of the amendment. For example, amendments that trigger the Goal 5 rule because they allow new uses that could conflict with significant Goal 5 resources under OAR 660-023-0250(3)(b) will not require the local government to redo the inventory process, the first step of the standard Goal 5 process. *NWDA v. City of Portland*, 50 Or LUBA 310 (2005).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Where a local government already has an acknowledged program to achieve Goal 5 with respect to a particular resource site, and is considering whether proposed new uses that could conflict with the site are consistent with Goal 5, the local government need not in all cases undertake all steps of the standard Goal 5 process, or fully engage in steps it undertakes. *NWDA v. City of Portland*, 50 Or LUBA 310 (2005).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Where the local government already has an acknowledged program to achieve Goal 5 with respect to a particular resource site, it has already made key choices about the relative importance of the site and a range of conflicting uses. In adopting amendments to allow new uses that could conflict with the site, the local government need not reconsider or re-justify those key choices. Where the new uses have similar impacts to the site that were considered in adopting the acknowledged program, the local government may simply choose to rely on its existing program to ensure compliance with Goal 5. *NWDA v. City of Portland*, 50 Or LUBA 310 (2005).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. A local government’s failure to conduct an explicit ESEE (economic, social, environmental and energy) analysis is not a basis for reversal or remand, where the decision adopts extensive findings finding compliance with statewide planning goals and comprehensive plan provisions governing economic, social, environmental and energy matters, and those findings appear to constitute, in all but name, an ESEE analysis. *NWDA v. City of Portland*, 50 Or LUBA 310 (2005).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. A county’s decision to amend its deer winter range map redesignating property from “critical” deer habitat to “impacted deer winter range” is supported by substantial evidence where the county makes a reasonable choice to rely on the applicant’s expert, who conducted only one site visit and reviewed data that had previously been prepared by the Oregon Department of Fish and Wildlife, and concluded that the proposal would not

significantly impact deer winter range. *Anthony v. Josephine County*, 50 Or LUBA 573 (2005).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. A finding that a proposed mine will have adverse effects on the livability, value and enjoyment of residential uses within the impact area might play some role in the required considerations under OAR 660-023-0180, but that finding is not, in and of itself, either a proper consideration under OAR 660-023-0180 or a sufficient basis for denying the requested permit. *Hellberg v. Morrow County*, 49 Or LUBA 423 (2005).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. A city is not required to demonstrate that annexation of an open space area that includes Goal 5 resources is consistent with Goal 5, where the annexation decision does not rezone the area, amend the plan designation, or otherwise affect the uses allowed in the territory or the protection of open space and natural resources. *Cutsforth v. City of Albany*, 49 Or LUBA 559 (2005).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Where a post-acknowledgment plan amendment allows new uses that could conflict with significant Goal 5 resource sites, and thus triggers application of the Goal 5 rule under OAR 660-023-0250(3), the city need not in all cases repeat the entire Goal 5 process, including the ESEE analysis. In many cases no more is required than an explanation for why the existing program to protect Goal 5 resources continues to be sufficient to protect those resources. *NWDA v. City of Portland*, 47 Or LUBA 533 (2004).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. OAR 660-023-00180(4) establishes different requirements for evaluating conflicts between mining and agricultural practices and between mining and other uses. Therefore a finding that proposed mining activities conflicts with nonagricultural uses will not be significant because air quality and traffic standards will be met does not necessarily establish that those conflicts will not either force a significant change in accepted agricultural practices or significantly increase the cost of those agricultural practices. *Eugene Sand and Gravel, Inc. v. Lane County*, 44 Or LUBA 50 (2003).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. The standard for reviewing conflicts between mining and accepted agricultural practices set out in OAR 660-023-0180(4)(c) is limited to “farm uses,” as that term is defined in ORS 215.203(2). Uses identified as non-farm uses permitted under ORS 215.213(1) are not farm uses or agricultural practices that must be evaluated under that standard. *Eugene Sand and Gravel, Inc. v. Lane County*, 44 Or LUBA 50 (2003).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Where an applicant identifies groundwater as a “discharge” to be considered as a conflict pursuant to OAR 660-023-0180(4)(b)(A), that applicant may not argue on appeal to LUBA that (1) groundwater is not a “discharge” within the meaning of that rule; or (2) that the impact of mining on groundwater may only be considered under OAR 660-023-0180(4)(b)(D) if the mining site is located within a critical groundwater area and is designated as such on

the county's Goal 5 inventory of significant Goal 5 sites. *Eugene Sand and Gravel, Inc. v. Lane County*, 44 Or LUBA 50 (2003).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. OAR 660-023-0180(4) does not change an applicant's evidentiary burden to demonstrate that measures proposed to minimize of the impacts of mining are reasonable, practical and achievable. *Eugene Sand and Gravel, Inc. v. Lane County*, 44 Or LUBA 50 (2003).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. OAR 660-023-0180 establishes a comprehensive regulatory scheme for reviewing mining applications. A county errs when it denies an application for mining in part because it does not comply with local approval criteria that are unrelated to OAR 660-023-0180. *Eugene Sand and Gravel, Inc. v. Lane County*, 44 Or LUBA 50 (2003).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Where LUBA cannot determine from the appealed decision or the record whether an approved parkway corridor crosses an inventoried Goal 5 significant vegetation and wildlife area, the decision must be remanded. *Friends of Eugene v. City of Eugene*, 44 Or LUBA 239 (2003).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. The statement in OAR 660-016-0005(a) that a local government is not required to “justify in its comprehensive plan a decision not to include a particular site” in its Goal 5 inventory simply means that the local government need not amend its comprehensive plan to justify a decision not to include a site on its Goal 5 inventory. The rule does not relieve local governments of the obligation to adopt adequate findings justifying a quasi-judicial decision to deny an application to include a site on the Goal 5 inventory. *Hegele v. Crook County*, 44 Or LUBA 357 (2003).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. OAR 660-023-0180 prohibits application of local government standards to post-acknowledgment plan amendment to add a site to the plan inventory of significant aggregate sites, unless such standards (1) were adopted after 1989 and (2) provide “specific criteria” for proposals to amend the plan inventory of aggregate sites. A general agricultural policy requiring that nonagricultural development be based on demonstrated public need is not a “specific criteri[on]” regarding proposals to amend the aggregate inventory and therefore OAR 660-023-0180 prohibits application of the policy. *Hegele v. Crook County*, 44 Or LUBA 357 (2003).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. No reasonable person could interpret a plan policy stating that the county plans to participate with other counties in a regional aggregate needs analysis as imposing a requirement that an applicant seeking to amend the county's aggregate inventory must establish a “public need” for aggregate. *Hegele v. Crook County*, 44 Or LUBA 357 (2003).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Goal 5 does not impose decisional criteria that are independent of the criteria set out in OAR

chapter 660, division 23. *No Tram to OHSU v. City of Portland*, 44 Or LUBA 647 (2003).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. The obligation to review proposed amendments to comprehensive plan and land use regulation provisions to ensure compliance with Goal 5 is implicated only in the circumstances described in OAR 660-023-0250(3). *No Tram to OHSU v. City of Portland*, 44 Or LUBA 647 (2003).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. A change in the level of review of a particular use from conditional use review to an allowed use does not mean that the use is a “new use” as that term is used in OAR 660-023-0250(3)(a) that must be considered as a potentially conflicting use subject to review to ensure that the existing program to protect Goal 5 resources remain effective. *No Tram to OHSU v. City of Portland*, 44 Or LUBA 647 (2003).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. The conflicts analysis that is mandated by OAR 660-023-0180(4)(b)(B) is limited to local roads that are used for access and egress. Where a proposed aggregate mine will use a state highway for access and egress, there are no road conflicts to be considered under the rule. *Friends of the Applegate v. Josephine County*, 44 Or LUBA 786 (2003).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. A statement that a party assumes for the sake of argument that a proposed mining area is subject to a Goal 5 rule governing lands that consist of more than 35 percent soils classified as Class I or II is insufficient to raise, with the required specificity, an issue regarding whether the proportion of Class I or II soils may be less than 35 percent, and therefore that the rule does not apply to the proposed mining area. *Beaver State Sand and Gravel v. Douglas County*, 43 Or LUBA 140 (2002).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. An application to amend the county comprehensive plan list of non-significant aggregate sites to include a proposed new mining site is subject to review for compliance with any potentially applicable statewide planning goals. *Beaver State Sand and Gravel v. Douglas County*, 43 Or LUBA 140 (2002).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Other than to require that the county “maintain a record” of a determination that a mining site is non-significant, OAR 660-023-0030(6) does not address or provide any criteria with respect to a request to add a mining site to the county’s comprehensive plan list of non-significant sites, and does not authorize the county to approve or deny that request based on concerns regarding the impacts of mining. *Beaver State Sand and Gravel v. Douglas County*, 43 Or LUBA 140 (2002).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Read in context, the ORS 215.298 provision allowing a mining operation on EFU-zoned lands if the site is on an “inventory” in a comprehensive plan is a reference to a Goal 5

“inventory” of mineral sites. Because under the 1982 Goal 5 rule the term “inventory” referred to an inventory of *significant* mineral sites, ORS 215.298 allows mining in an EFU zone only if the site is on a comprehensive plan inventory of significant mineral sites, not if the site is on a separate list of nonsignificant sites. *Beaver State Sand and Gravel v. Douglas County*, 43 Or LUBA 140 (2002).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Where a city’s tree preservation ordinance was identified during acknowledgment as an implementing measure to achieve compliance with Statewide Planning Goal 5, a decision that amends the tree preservation ordinance concerns the application of Goal 5 and is therefore a statutory land use decision subject to LUBA’s jurisdiction. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 453 (2002).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Absent a showing that amendments regulating natural resources not on the city’s acknowledged Goal 5 inventory are intended to create or amend or have the effect of creating or amending a Goal inventory, such amendments need not comply with Goal 5 or the Goal 5 rule. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Under OAR 660-023-0250(3), a local government cannot adopt a post-acknowledgment plan amendment that amends the program to protect significant Goal 5 resources without establishing that the amendment complies with Goal 5 and the Goal 5 rule, even if the amendment merely increases the level of protection afforded inventoried Goal 5 resources. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Code provisions that were previously acknowledged to comply with Goal 5 and are carried forward into a new code without substantive change do not constitute an “amendment” of a Goal 5 regulation and thus do not trigger an obligation to establish that those amendments comply with the Goal 5 rule. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. A zoning classification that implements a Goal 5 plan designation and is applied to an inventoried Goal 5 resource site is among the regulations that “protect a significant Goal 5 resource” for purposes of OAR 660-023-0250(3). Therefore, a substantive amendment to such a zoning classification must be evaluated under the Goal 5 rule. *Home Builders Assoc. v. City of Eugene*, 41 Or LUBA 370 (2002).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Where petitioners’ interpretational challenge of a city’s finding that proposed development complies with code provisions implementing Goal 5 is, in essence, an argument that the city’s code provisions are insufficient to implement Goal 5, LUBA will reject the challenge as an impermissible collateral attack on the city’s acknowledged Goal 5 regulations. *Crowley v. City of Bandon*, 41 Or LUBA 87 (2001).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. OAR chapter 660, division 23 generally supersedes OAR chapter 660, division 16, subject to specified exceptions. Therefore, a county does not err in considering whether a proposed use affecting an inventoried Goal 5 resource is consistent with OAR chapter 660, division 23, notwithstanding that the county’s unacknowledged Goal 5 regulations were adopted pursuant to division 16 rather than division 23. *Tylka v. Clackamas County*, 41 Or LUBA 53 (2001).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. A “safe harbor” provision at OAR 660-023-0090(8) allowing local governments to adopt ordinances implementing Goal 5 that allow an “existing structure” in a riparian area to be repaired or replaced is not properly interpreted to require a threshold inquiry into whether the “existing structure” was lawfully approved or developed. *Tylka v. Clackamas County*, 41 Or LUBA 53 (2001).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Land use regulations may be adopted to comply with Goals 6 and 7 and related federal law requirements, without first complying with the Goal 5 planning requirements under OAR chapter 660, division 23, where the land use regulations are limited to those that may be required by Goals 6 and 7 and any related federal law requirements. *Rest-Haven Memorial Park v. City of Eugene*, 39 Or LUBA 282 (2001).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. The text and context of OAR 660-023-0180(4)(a) establish that the impact area for purposes of identifying conflicting uses with proposed aggregate mining is the 1,500-foot ring around the mining area, excluding the mining site itself. *Stockwell v. Benton County*, 38 Or LUBA 621 (2000).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Although ORS 215.296(10) allows a local government to impose additional standards on a conditional use permit for aggregate mining, it does not apply to a comprehensive plan amendment designating a significant resource site and establishing a surface mining overlay pursuant to the Goal 5 rules. *Stockwell v. Benton County*, 38 Or LUBA 621 (2000).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. The conditional use approval criteria from local government ordinances do not apply to post-acknowledgement plan amendments pursuant to the Goal 5 rules. *Stockwell v. Benton County*, 38 Or LUBA 621 (2000).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. ORS 197.625(3)(b) requires that approval of a land use subject to an unacknowledged land use standard include findings of compliance with applicable goals. Until the land use standard is acknowledged to comply with applicable goals, the local government cannot rely solely upon the regulatory scope of that standard to avoid addressing compliance with potentially applicable goals. *Tylka v. Clackamas County*, 37 Or LUBA 922 (2000).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Petitioners’ argument during local proceedings that OAR 660-023-0180 does not prohibit a county from applying its land use regulations to a proposed mining operation is not sufficient to raise an issue that LCDC’s adoption of OAR 660-023-0180 is inconsistent with other statutory requirements. *Turner Community Association v. Marion County*, 37 Or LUBA 324 (1999).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. OAR 660-023-0180, which governs comprehensive plan amendments for mineral and aggregate resources, establishes the procedures required to comply with Goal 5 but does not obviate the requirement to address other statewide planning goals. *Turner Community Association v. Marion County*, 37 Or LUBA 324 (1999).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. If a county has not yet amended its comprehensive plan and land use regulations to comply with OAR 660-023-0180, OAR 660-023-0180(7) requires that the county directly apply the substantive requirements and procedures of OAR 660-023-0180 to consideration of a post-acknowledgment plan amendment concerning mining authorization. *Morse Bros., Inc. v. Columbia County*, 37 Or LUBA 85 (1999).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. The scope of additional conflicts that may be considered under OAR 660-023-0180(4)(b)(F), is a question of state law and a county’s interpretation of OAR 660-023-0180(4)(b)(F) is not entitled to the deferential standard of review required by ORS 197.829(1) and *Clark v. Jackson County*, 313 Or 508, 836 P2d 710 (1992). *Morse Bros., Inc. v. Columbia County*, 37 Or LUBA 85 (1999).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. OAR 660-023-0180(4)(b)(F), which allows the county to consider land use conflicts with a proposed mine if such conflicts must be considered under a county mining ordinance adopted pursuant to ORS 517.780, does not permit a county to apply its comprehensive plan and land use regulations as decisional criteria for the proposed mine, notwithstanding a general provision in the mining ordinance that requires compliance with the county comprehensive plan and land use regulations. *Morse Bros., Inc. v. Columbia County*, 37 Or LUBA 85 (1999).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. A conflict or inconsistency with a comprehensive plan or land use regulation provision is not the kind of conflict that may be considered under OAR 660-023-0180(4)(b). The conflicts that may be considered under the rule include conflicts between land uses. *Morse Bros., Inc. v. Columbia County*, 37 Or LUBA 85 (1999).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Where access to a mining site is via a “local road,” OAR 660-023-0180(4)(b)(B) allows a county to consider conflicts with that local road. However, where access to a mining site is via an arterial highway there are no local roads used for access and egress to the mining site

and OAR 660-023-0180(4)(b)(B) does not permit the county to consider conflicts with other roads. *Morse Bros., Inc. v. Columbia County*, 37 Or LUBA 85 (1999).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. A local government may not expand the 1,500-foot impact area required by OAR 660-023-0180(4)(a) based on potential conflicts that exceed the scope of conflicts that may be considered under OAR 660-023-0180(4)(b). *Morse Bros., Inc. v. Columbia County*, 37 Or LUBA 85 (1999).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. OAR 660-023-0180(4)(d) directs that a county proceed to “determine the ESEE consequences of either allowing, limiting, or not allowing mining at the site,” only where conflicts with a mining site are properly identified under OAR 660-023-0180(4)(b) and there are not “reasonable and practical measures” that would minimize those conflicts. *Morse Bros., Inc. v. Columbia County*, 37 Or LUBA 85 (1999).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. LUBA will grant a city’s motion for a voluntary remand in order to reconsider its Goal 5 determinations in light of petitioner’s concerns, even though LUBA would owe no deference to the city’s interpretation and application of Goal 5. *Hribernick v. City of Gresham*, 35 Or LUBA 329 (1998).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. LUBA will reject an assignment of error alleging that a post-acknowledgment plan amendment violates Goal 5, where petitioner does not demonstrate that the decision affects a Goal 5 resource in one of the ways specified in OAR 660-023-0250(3). *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139 (1998).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Goal 5 is not implicated by a city decision that merely adopts an existing acknowledged county airport plan. *Northwest Aggregates Co. v. City of Scappoose*, 35 Or LUBA 30 (1998).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. The new Goal 5 rule applies to applications filed on or after September 1, 1996. Where an application was filed in March 1997 but the old Goal 5 rule was applied, the decision must be remanded. *Kelley v. City of Cascade Locks*, 34 Or LUBA 374 (1998).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. The purpose of the boundary delineation and mapping required by the first step of the Goal 5 rule is to make both feasible and meaningful the next step of the Goal 5 analysis: identifying the mutual impacts of Goal 5 resource sites and conflicting uses. *Doty v. Jackson County*, 34 Or LUBA 287 (1998).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Because the three steps of the Goal 5 analysis are so sequentially dependent, a flaw at step one renders subsequent steps equally flawed. *Doty v. Jackson County*, 34 Or LUBA 287 (1998).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Where a comprehensive plan does not provide for a proposed expansion of a mining site, a conditional use permit is insufficient to permit the expansion. In that circumstance, OAR 660-023-0180 requires a post-acknowledgment plan amendment and Goal 5 analysis. *Trademark Construction, Inc. v. Marion County*, 34 Or LUBA 202 (1998).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. The Goal 5 rule does not mandate protection of resource use over conflicting uses. Implicit in the fact that the Goal 5 rule permits the local government to deny an application to mine a significant aggregate site is that in some circumstances, conflicting uses may prevail over resource use. *Trademark Construction, Inc. v. Marion County*, 34 Or LUBA 202 (1998).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Not every regulation that arguably furthers the objectives of Goal 5 applies Goal 5. *Ramsey v. City of Portland*, 30 Or LUBA 212 (1995).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Where challenged post-acknowledgment comprehensive plan and land use regulation amendments do not directly affect a local government's acknowledged Goal 5 inventory, and petitioner does not identify any inventoried Goal 5 resources allegedly affected by the challenged amendments, petitioner provides no basis for reversal or remand. *Churchill v. Tillamook County*, 29 Or LUBA 68 (1995).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Goal 5 establishes a comprehensive planning process that requires a local government to (1) inventory the location, quality and quantity of listed resources within its territory; (2) identify conflicting uses for the inventoried resources; (3) determine the ESEE consequences of the conflicting uses; and (4) develop programs to achieve the goal of resource protection. *Gage v. City of Portland*, 28 Or LUBA 307 (1994).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Where, during local comprehensive plan map amendment and zone change proceedings, petitioner advised the local government that Statewide Planning Goal 5 requires an analysis regarding only a nearby aggregate operation, petitioner affirmatively waived any Goal 5 issues unrelated to the nearby aggregate operation. *DLCD v. Curry County*, 28 Or LUBA 205 (1994).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. Where post-acknowledgment legislative land use regulation amendments make portions of a county's acknowledged program for wetlands protection inapplicable to rural wetlands, the county must demonstrate, either in the decision or through argument and citations to the record in its brief, that with regard to rural wetlands, the amendments result in a program that complies with Goal 5 and the Goal 5 rule. *Redland/Viola CPO v. Clackamas County*, 27 Or LUBA 560 (1994).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. In adopting exceptions to Goals 3 and 4 as post-acknowledgment plan amendments, a local government must also address Goal 5 if the exceptions concern or affect lands included on the local government's acknowledged inventory of Goal 5 resources. *1000 Friends of Oregon v. Yamhill County*, 27 Or LUBA 508 (1994).

9.1 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Generally. A local government operates within its interpretive discretion in finding that plan policies committing it to complete the Goal 5 process for 1B resource sites in the future refer to comprehensive legislative proceedings and do not obligate the local government to do so for individual sites in permit proceedings. Such an interpretation also is consistent with the Goal 5 rule. OAR 660-16-000(5)(b). *Zippel v. Josephine County*, 27 Or LUBA 11 (1994).