

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** A decision that adds an aggregate mining site to the county’s comprehensive plan inventory of significant mineral and aggregate resources and adopts background documents to the comprehensive plan, is a plan *text* amendment rather than a plan *map* amendment, and therefore under the county’s code the decision is subject to procedures and standards applicable to legislative plan amendments. *Rickreall Community Water Assoc. v. Polk County*, 53 Or LUBA 76 (2006).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** The final steps in the analysis required under OAR 660-023-0180 to review requests for mining are limited and structured: (1) the county must determine whether there are any conflicts with the proposed mining, (2) if there are conflicts the county must consider whether there are measures that would minimize those conflicts, (3) if conflicts cannot be minimized, the county must determine the economic, social, environmental and energy consequences of allowing, limiting or not allowing mining. *Hellberg v. Morrow County*, 49 Or LUBA 423 (2005).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** Adoption of an ordinance that authorizes demolition of a structure that the city’s Goal 5 historic inventory classifies as “noncontributing” and that is not protected under the city’s historic resource protection program does not alter the Goal 5 inventory or “amend” the city’s “resource list” within the meaning of OAR 660-023-0250(3)(a). *NWDA v. City of Portland*, 47 Or LUBA 533 (2004).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** Where a local government has repealed its Goal 5 inventory of aggregate sites, the owner of EFU-zoned property listed on the repealed inventory is not entitled to a conditional use permit to mine the site under ORS 215.298(2). *Copeland Sand & Gravel, Inc. v. Jackson County*, 46 Or LUBA 653 (2004).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** The lack of specific evidence on whether aggregate samples tested by a laboratory were “representative,” as required by OAR 660-023-0180(3)(a), does not provide a basis for reversal or remand, where the samples came from an existing quarry and there is no suggestion in the record that the sample was not representative or that the quality of rock in the existing quarry was not uniform. *Bryant v. Umatilla County*, 45 Or LUBA 653 (2003).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** Notwithstanding that OAR 660-023-0180(3)(a) requires that aggregate samples meet ODOT specifications for sodium sulfate soundness, where it is undisputed that ODOT in fact has not promulgated any such specifications, the failure of the applicant to test aggregate samples for sodium sulfate soundness does not provide a basis for reversal or remand. *Bryant v. Umatilla County*, 45 Or LUBA 653 (2003).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** The OAR 660-016-0000 requirement to identify the “location” of the

resource within an identified “impact area” is intended to assist the local government to determine the “significance” of the resource and whether it should be included on the Goal 5 inventory. If found to be “significant,” the resource must be included on the Goal 5 inventory. The OAR 660-016-0000 requirements are not intended to be a shortcut to the conflict identification and ESEE analysis required under OAR 660-016-0005 and 0010. *Hegele v. Crook County*, 44 Or LUBA 357 (2003).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** The valid inventory description for site-specific resources required by OAR 660-016-0000(2) refers to resource sites rather than smaller parcels such as tax lots. *Ramsey v. Multnomah County*, 44 Or LUBA 722 (2003).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** A county decision establishing an one-half mile radius impact area around proposed dwellings within a Goal 5 wildlife habitat area is supported by substantial evidence, where the county relies on studies that human impacts extend one-half mile from dwellings and elk prefer to be at least one-half mile from humans. *Doty v. Jackson County*, 43 Or LUBA 34 (2002).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** 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).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** 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).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** 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).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** Code provisions protecting historic structures that are described in the county’s inventory as significant, important or contributing to the significance of the overall resource are not properly interpreted to protect an accessory structure on the

subject property that is not mentioned in the county's inventory. *Paulson v. Washington County*, 40 Or LUBA 345 (2001).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** A local ordinance that institutes a process to remove property from a Goal 5 historic resources inventory but fails to include a method to determine whether the historic designation was “imposed” on the property, within the meaning of ORS 197.772(3), is inconsistent with that statute. *Demlow v. City of Hillsboro*, 39 Or LUBA 307 (2001).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** A local government may not apply only local code provisions to an application to remove property from a historic resources inventory, where the local code provisions are inconsistent with statutory provisions permitting removal of certain properties from a historic resources inventory. *Demlow v. City of Hillsboro*, 39 Or LUBA 307 (2001).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** In addressing OAR 660-016-0000(2) and (3) for a proposed aggregate site expansion, the county must determine whether the aggregate resource on the subject site is of comparable or superior quality to aggregate resource sites already included on the acknowledged inventory, regardless of the availability of those sites for mining. *Sanders v. Yamhill County*, 34 Or LUBA 69 (1998).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** For a local government to properly evaluate the quality and quantity of aggregate resources on a parcel, test holes or borings must be "representative." To be representative, a reasonable person must conclude that the local government's findings as to the quantity and quality of the resource *throughout* the subject property are supported by substantial evidence. *Sanders v. Yamhill County*, 34 Or LUBA 69 (1998).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** A finding that the subject property contains no identified Goal 5 resources is not adequate to address the Goal 4 requirement that "other forested lands" be designated as forest lands if such lands are needed to maintain soil, water, air, fish and wildlife resources. *DLCD v. Curry County*, 33 Or LUBA 728 (1997).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** Where a county has an acknowledged Goal 5 program, which includes an acknowledged inventory, and rural wetlands are included in a special category that is not part of that inventory, amendments to the county's ordinance that modify protections to rural wetlands do not change the county's procedures for inventorying Goal 5 resources and do not conflict with Goal 5 because they continue to provide interim protection of resources in a special category. *Redland / Viola / Fischer's Mill CPO v. Clackamas County*, 33 Or LUBA 152 (1997).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** In approving a comprehensive plan amendment, the county's analysis and findings regarding potential effects of an aggregate operation on surrounding lands are sufficient to support a 1B listing on the county's Goal 5 inventory. Because listing the site as a potential aggregate resource does not actually permit a mining operation, the county is not required to address the requirements of ORS 215.296 as part of its decision. *O'Rourke v. Union County*, 32 Or LUBA 447 (1997).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** In the absence of a showing that the county has followed the process set forth in OAR Chapter 660, Division 16, to place a state viewpoint on its Goal 5 inventory, it may not rely on Goal 5 to protect the viewpoint from the impact of growing trees on the subject property. *DLCD v. Yamhill County*, 31 Or LUBA 488 (1996).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** Because listing a 1B site adds the site to the Goal 5 inventory and under ORS 215.298(2), inventoried sites are available to be mined under a conditional use permit, a 1B site that has not yet been subjected to a Goal 5 significance review process nonetheless may be mined under a conditional use permit. *O'Rourke v. Union County*, 31 Or LUBA 174 (1996).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** Where an issue raised by petitioners regarding the county's decision to include intervenor's site in its Goal 5 inventory was decided in a prior LUBA appeal of the same decision, that issue cannot be raised again. *O'Rourke v. Union County*, 31 Or LUBA 174 (1996).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** A 1B designation on the county's Goal 5 inventory means that inadequate information exists on the site to determine its nature and, therefore, a county cannot rely on a site being listed as a 1B site to conclude that aggregate uses are allowed outright. *Tognoli v. Crook County*, 30 Or LUBA 272 (1996).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** OAR 660-16-000(3) recognizes practical limitations on information gathering with respect to both quantity and quality of aggregate resources at sites other than the one being evaluated under Goal 5 regulations. *Palmer v. Lane County*, 29 Or LUBA 436 (1995).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** If a local government adds an aggregate site to its comprehensive plan inventory as a "1B" site, a statement in the inventory that the site "will be reviewed through the Goal 5 process before [the local government's] next periodic review" satisfies the requirement of OAR 660-16-000(5)(b) that the plan include a "time-frame" for completing the Goal 5 process. *O'Rourke v. Union County*, 29 Or LUBA 303 (1995).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** The analysis of resource location, quality and quantity and determination of site significance mandated by OAR 660-16-000(1)-(4) are required to be completed only if the 1A (do not put on inventory) or 1C (place on inventory and complete Goal 5 process) options are chosen. The 1B option is to be used where the available information indicates the possible existence of a resource site, but is not sufficient to perform the analysis required by OAR 660-16-000(1)-(4). *O'Rourke v. Union County*, 29 Or LUBA 303 (1995).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** A decision to list a site on a plan aggregate resources inventory as a "1B" site simply indicates the possible existence of an aggregate resource site. Such a decision, of itself, neither plans for nor regulates the *development* of aggregate resources and, therefore, OAR 660-16-030(1) does not apply. *O'Rourke v. Union County*, 29 Or LUBA 303 (1995).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** If the local governing body's interpretation of its comprehensive plan as not already designating the subject property as a 1B aggregate resources site, or providing a method of doing so without amending the acknowledged plan, is not clearly wrong, LUBA will defer to the governing body's interpretation. *O'Rourke v. Union County*, 29 Or LUBA 303 (1995).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** In adopting post-acknowledgment comprehensive plan amendments, other than amendments to the plan's acknowledged Goal 5 inventory itself, a local government is entitled to rely on its acknowledged Goal 5 inventory and need not consider possible impacts on alleged Goal 5 resource sites that are not included on the Goal 5 inventory. *Friends of Cedar Mill v. Washington County*, 28 Or LUBA 477 (1995).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** Where petitioner challenges a local government's failure to address the impact of a plan amendment on resources petitioner believes should be included on the local government's acknowledged Goal 5 inventory, but does not challenge the adequacy of the local government's findings concerning inventoried Goal 5 resources affected by the proposed plan amendment, petitioner fails to demonstrate the plan amendment violates Goal 5. *Friends of Cedar Mill v. Washington County*, 28 Or LUBA 477 (1995).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** Where the only inventory of historic structures maintained by a city has not been adopted as part of the city's acknowledged comprehensive plan, a post-acknowledgment decision not to designate an inventoried building as a historical landmark is not a de facto post-acknowledgment plan amendment, even though the decision may ultimately allow the building to be demolished. *Historical Development Advocates v. City of Portland*, 27 Or LUBA 617 (1994).

**9.2 Goal 5 – Open Spaces and Natural Resources/ Goal 5 Rule – Resource Inventory.** Under the Goal 5 rule, 1B sites are those for which some information exists, but that information is not adequate to identify the site with particularity. For 1B sites, the local government must include the site in its plan as a special category and commit to complete the Goal 5 process in the future. However, the Goal 5 rule provides that special implementing measures are neither appropriate nor required for 1B sites. *Zippel v. Josephine County*, 27 Or LUBA 11 (1994).