

1 BAGG, Board Member.

2 NATURE OF THE DECISION

3 Petitioners appeal issuance of a water pollution control
4 facilities permit by the Department of Environmental Quality,
5 State of Oregon. Petitioners ask the Board to remand the
6 permit.

7 FACTS

8 In November, 1982, the Metropolitan Wastewater Management
9 Commission (hereinafter MWMC), and the cities of Eugene and
10 Springfield applied to the Department of Environmental Quality
11 (hereinafter DEQ) for a water pollution control facilities
12 permit. The permit allows the construction and operation of a
13 facility to dispose of wastewater from a commercial cannery,
14 Agripac, in the City of Eugene. The system will transport
15 effluent from the Agripac cannery to the project site where the
16 effluent will be treated (aireated) in a 20 acre holding pond
17 and disposed of through spray irrigation.

18 Notice of public hearing was mailed by DEQ on December 22,
19 1982 for a hearing to be held at the Lane County Conference
20 Center on January 25, 1983. Petitioners appeared at the
21 hearing and testified. Petitioners also submitted written
22 comments on February 8, 1983.

23 On March 4, 1983, DEQ issued the requested permit. This
24 appeal followed.

25 ASSIGNMENT OF ERROR NO. 1

26 "DEQ failed to follow the procedure applicable to the

1 matter before it and thereby prejudiced the
substantial rights of the petitioners in that:

2 "(1) DEQ ignored objections to Lane County's bias and
3 interest.

4 In this first subassignment of error, petitioners allege
5 Lane County was an interested party and wanted, as much as
6 MWMC, to have the Agripac project completed. Lane County could
7 not conduct an impartial review of the land use issues,
8 according to petitioners. The findings of fact made by Lane
9 County and relied upon by the Department of Environmental
10 Quality are, therefore, suspect. Petitioners conclude DEQ
11 should not rely on a county determination of LCDC goal
12 compliance or a county determination that the proposed use was
13 indeed a farm use when the processes used to arrive at such
14 conclusions were flawed.

15 Petitioners also allege DEQ failed to seek a "compatibility
16 determination" from LCDC. According to petitioners, under a
17 DEQ agreement with LCDC made in November, 1982, DEQ is allowed
18 to petition LCDC for a determination of compatibility with
19 statewide land use planning goals where it appears the proposal
20 will have "a major impact requiring a state determination of
21 compatibility in addition to the local statement." Swenson
22 Petition for Review at 16. The Board understands this
23 contractual provision to be entirely within the discretion of
24 DEQ. Ibid.

25 In the second part of this assignment of error, petitioners
26 allege:

1 "(2) DEQ relied on and adopted for its own, Lane
2 County's compatibility statement, including Lane
3 County's findings and conclusions, and therefore DEQ
 is responsible for the procedural errors of Lane
 County."

4 Petitioners claim DEQ's reliance on Lane County's findings
5 and conclusions of statewide goal compliance suffered from
6 "serious procedural errors" and, therefore, should not be used
7 by DEQ. Petitioners allege they were deprived of fair notice
8 and a public hearing in the Lane County process producing the
9 findings, and petitioners further allege that Lane County
10 violated its own zoning code in review of the Agripac
11 application. Of particular interest to petitioners was a Lane
12 County Board of Commissioners interlocutory interpretation of
13 its zoning code. In that interpretation, the commissioners
14 found that the proposed project was a "farm use" under
15 applicable county criteria. ORS 215.203(2) and LCDC Goal 3,
16 Agricultural Lands.

17 Included in petitioners' complaints about the interlocutory
18 order is the complaint that there was no hearing to consider
19 argument upon the issue, inadequate notice to interested
20 persons and no notice of the final determination that the use
21 was indeed a farm use. Petitioners close with the following
22 charge:

23 "To the extent that Lane County short-circuited
24 Petitioners' right to a fair hearing on the ultimate
25 question of the Agripac Project's compatibility with
26 State land use requirements, DEQ is responsible for
 the procedural errors of its agent Lane County.
 Consequently, the WPCF Permit No. 3653, which was
 issued thereon, is tainted in that Petitioners' rights

1 were substantially prejudiced in the very process that
2 resulted in the subject land use decision." Petition
for Review at 25-26.

3 Respondent DEQ makes two alternative arguments. First, DEQ
4 argues that under the state permit consistency rule, OAR ch
5 660, Div. 31, DEQ was correct in relying on Lane County's
6 determination of compliance with statewide planning goals.
7 Specifically, OAR 660-31-020(1) permits DEQ to rely on Lane
8 County's findings of goal compliance when DEQ issues a Class B
9 permit. The permit at issue here is a Class B permit. See OAR
10 660-31-010 and 660-31-020.¹

11 DEQ denies that by adopting Lane County's findings about
12 project compliance with the goals, it became responsible for
13 procedural errors committed by the county. DEQ is allowed by
14 law to rely on the local government for findings of goal
15 compliance and that reliance does not mean local procedural
16 errors became DEQ errors, according to DEQ.

17 Respondent concludes its reliance on Lane County's findings
18 fulfilled the requirement under ORS 197.180(1) that state
19 agencies take actions affecting land use in compliance with
20 statewide goals.

21 In the alternative, DEQ argues the procedural errors
22 alleged by petitioners are no longer extant because DEQ
23 conducted its own hearing and made its own determination that
24 the Agripac project complied with statewide planning goals.
25 DEQ says any errors that may have occurred in Lane County are
26 cured. DEQ points out that petitioners had an opportunity for

1 a full hearing before DEQ and took advantage of that
2 opportunity by appearing and presenting evidence. Record 53-38
3 through 53-58.

4 The Board does not believe it need reach the question of
5 whether reliance on findings of fact produced in a potentially
6 flawed proceeding below is fatal to the issuance of this
7 permit. The record in this case shows DEQ to have conducted
8 its own proceeding to determine whether or not the use complied
9 with statewide planning goals. In doing so, the issuer of the
10 permit, Bill Young, Director of DEQ, stated in a memo to MWMC
11 permit files that he reviewed testimony, considered the
12 evidence and found as follows:

13 "In this case, to avoid any possible delay which may
14 result from statutory changes, rule changes or
15 litigation of the validity of this rule [state permit
16 consistency rule], the Department has determined that
17 the Lane County Board of Commissioners' findings are
18 persuasive and adopt them as a determination of the
19 land use compatibility of the proposed project." Record
20 9.

21 The Board recognizes this statement is included in a memo
22 to the permit file and is not part of the permit itself.
23 However, on the face of the permit the following statement
24 appears:

25 "The determination to issue this permit is based on
26 findings and technical information included in the
27 permit record." Record 3.

28 The permit is signed by Mr. Young, Director of DEQ, and dated
29 March 4. The memo to the file is also dated March 4. The
30 Board believes these references are sufficiently clear to

1 announce to any reader that the memo in the file entitled "Land
2 Use Compatibility of Proposed MWMC Seasonal Industrial Waste
3 Facility" represents at least a part of the "findings and
4 technical information" upon which the permit issuance was based.

5 As to the matter of alleged procedural errors in
6 proceedings before Lane County, the Board believes where
7 petitioners had full opportunity to discuss the merits of
8 statewide goal compliance in a hearing before DEQ, any error
9 that may have occurred in Lane County's procedure no longer has
10 any effect in this proceeding and does not result in any
11 deprivation of petitioners' rights. See Casey v. Dayton, 5 Or
12 LUBA 96 (1982). The Board notes there is no allegation the
13 petitioners were not afforded due process of law in the
14 proceedings before DEQ.

15 Assignment of error no. 1 is denied.

16 ASSIGNMENT OF ERROR NO. 2

17 "DEQ improperly construed the applicable law in that
18 the Agripac project does not qualify as a 'farm use'."

19 Petitioner alleges Goal 3 requires specific compliance with
20 ORS Ch 215 in that the goal requires agricultural lands be
21 preserved and maintained for farm use; and, "farm use" means:

22 "* * * the current employment of land for the primary
23 purpose of obtaining a profit in money by raising,
24 harvesting, and selling crops or * * * 'Farm use'
25 includes the preparation and storage of the products
26 raised on such land for human use and animal use and
disposal by marketing or otherwise." ORS
215.203(2)(a).

1 Petitioners argue Lane County's characterization of the project
2 as compatible with the above definition of farm use is wrong
3 because there is nothing in the record to show the primary
4 purpose of the project is to make a profit at farming.
5 Petitioners concede the disposal facility may be an incidental
6 farming activity in that it provides irrigation for a grass
7 crop. However, petitioners assert this incidental activity
8 does not amount to the "primary purpose" requirement in ORS
9 215.203(2)(a).

10 The Board understands the petitioners to argue that MWMC is
11 an intergovernmental commission with a purpose to design,
12 construct, operate and maintain a regional sewage system. The
13 purpose of such a commission is not to engage in farm use for
14 profit. The method of achieving its purpose may be compatible
15 with and beneficial to farm uses; but, there is a difference,
16 according to petitioners, between a method and a purpose.

17 Respondent DEQ and Respondent City of Eugene argue the
18 facility falls within the definition of "farm use" in ORS
19 215.203. Respondent City, the owner of the tract, states the
20 property will remain in farm use for the purpose of growing
21 crops. Water from the facility will be used to irrigate
22 crops. The fact that the project will serve another
23 governmental purpose, that of disposal of wastewater, is not
24 relevant to the analysis. The whole of the parcel will be
25 farmed or used for an agricultural purpose, according to the
26 city.

1 The county's findings on this issue, adopted by the
2 Department of Environmental Quality, say the project is within
3 the meaning of farm use as defined in ORS 215.203(2)(c) as an
4 "accepted farm practice." Record 26. The holding pond
5 provides irrigation water and provision of irrigation water is
6 an accepted farm practice. The county found the property would
7 still be used for the primary purpose of obtaining a profit in
8 money by raising, harvesting and selling crops. The county
9 found:

10 "The proposed system is not for the purpose of
11 controlling natural drainage and/or storm runoff, nor
12 is it designed to provide a source of irrigation for a
13 large number of farms. In addition, the proposed
14 system is not for the provision of alternative
15 recreational uses or the creation of a large multi-use
16 reservoir. There will be no large scale impoundment
17 of water. The proposed system will provide irrigation
18 water to one farm only, situated on one parcel, with a
19 total acreage not exceeding 287 acres." Record 27.

20 The issue, of course, is whether the county, and then DEQ,
21 were correct in this analysis. LCDC Goal 3 requires that
22 agricultural land "be preserved and maintained for farm use * *
23 * *" The goal defines farm use by reference to ORS 215.203.
24 ORS 215.203 defines farm use as "the current employment of land
25 for the primary purpose of obtaining a profit in money by
26 raising, harvesting, and selling crops * * * *" The term also
includes "the preparation and storage of the products raised *
* * for human use and animal use and disposal by marketing or
otherwise." The current employment of land means, among other
things,

1 "(E) Wasteland, in an exclusive farm use zone, dry or
2 covered with water, lying in or adjacent to and in
3 common ownership with a farm use land and which is not
4 currently being used for any economic farm use, (F)
5 land under dwellings customarily provided in
6 conjunction with the farm use in an exclusive farm use
7 zone; and (G) land under buildings supporting accepted
8 farm practices."

9 The statute defines "accepted farming practice" as a "mode of
10 operation that is common to farms of a similar nature,
11 necessary for the operation of such farms to obtain a profit in
12 money, and customarily utilized in conjunction with farm use."
13 ORS 215.203(2)(c).

14 The project is for the purpose of disposing of wastewater.
15 The project is not a use of land for the "primary purpose of
16 obtaining a profit in money."² However, the land upon which
17 the facility is to exist is being and is to be used for the
18 growing of crops. There will be a pumping station which will
19 be used to pump the Agripac effluent into the holding pond and,
20 as the Board understands it, to aireate the water. The Board
21 sees the issue to be whether this use, with its holding pond
22 and its pump station, can be considered the current employment
23 of land for farm use.

24 The Board believes it is common knowledge and may take
25 notice that some crops require irrigation. ORS 40.065. The
26 Board has not seen a case in which the issue of where a farmer
obtains water for irrigation has been a question. Irrigation
pipe and the building to house irrigation equipment, if there
is one, is part of the equipment necessary to irrigate.

1 Irrigation is an "accepted farming practice." The land
2 occupied by the irrigation equipment can be considered land in
3 current employment for farm use in the same way that "land
4 under buildings supporting accepted farm practices" is land in
5 farm use. See ORS 215.203(2)(b)(G). In this case, the farmer
6 will irrigate the crop with water from Agripac which has been
7 held in a pond in an exclusive farm use zone. The Board
8 concludes the pond and equipment can be considered in farm
9 use. The only remaining question is whether the scale of the
10 use is commensurate with accepted farming practices.

11 In this case, the Board notes the county found

12 "Two canneries in the Willamette Valley have used the
13 proposed disposal method for growing crops for 15 and
14 30 years, respectively, without observable detrimental
effects." Record 28.

15 Apparently, this method of irrigation is not unknown. The
16 county findings refer to expert testimony to support the view
17 that this proposed system is an "accepted farming practice."
18 One exhibit is a letter from James A. Vomocil, Extension Soil
19 Scientist for Oregon State University. In that letter, Mr.
20 Vomocil states, in part, that the amount of water used in the
21 proposed operation is similar to the amount that would be used
22 on a typical irrigated farm in the southern Willamette Valley.
23 He also finds that the nitrogen application rate is typical of
24 farms in the Willamette Valley. He makes the following finding
25 on the matter of the reservoir:

26

1 "The inclusion of a relatively large reservoir with
2 this proposed irrigation project provides the
3 necessary flexibility so that the timing of the
4 beginning and the ending of the irrigation season can
5 be flexible depending on the weather and the kind of
6 year it is with respect to water supply, water demand,
7 soil temperature, etc. The size of the reservoir is
8 adequate to provide the flexibility to begin and end
9 the season at variable dates, depending on climatic
10 circumstances. This is an ideal arrangement which in
11 fact is somewhat better than that available to many
12 commercial farming operations. This should help to
13 insure a higher efficiency in the utilization of water
14 and plant nutrients.

8 "The planned reservoir capacity also provides the
9 advantage of being able to continue to accept flow
10 during periods when the irrigation system is down in
11 order to allow the drying of a crop of hay. This
12 drying may be 8 to 10 days. I note that the reservoir
13 system, along with the continuing irrigation of other
14 tracts, is sufficient to provide for that kind of
15 down-time tolerance. This increases the flexibility
16 of the various alternatives available for the handling
17 of the product. It could be harvested in a variety of
18 forms and still be within the scope of the physical
19 arrangements provided.

15 "The physical arrangements proposed, the filtration,
16 pounding, and subsequent separation use of solid and
17 liquid fraction is very similar to the manure
18 arrangement program used at the Gibson Dairy a few
19 miles north of Junction City." Record Exhibit 22.

18 In addition, in a letter from Michael Stoltz, Oregon State
19 Extension Service, of January 18, 1983, the storage pond is
20 discussed.

21 "The utilization of a system involving a storage pond,
22 settling and screening of solids for separate use, and
23 irrigated application of effluent consisting of water
24 and organic nutrients has been successfully used
25 elsewhere in the state and Lane County. For example,
26 similar systems are used on farms and farm land at the
27 Gibson and Hemmingway Dairies in Lane County, Stayton
28 Canning in Marion and Yamhill Counties and National
29 Fruit in Linn County." Record Exhibit 23.

26 We do not find petitioners to have challenged this

1 evidence. The county's finding that the use of a pond for
2 irrigation purposes is an accepted farming practice is well
3 supported in the record.

4 The Board views the source of the water to be unimportant.
5 What is important is the employment of the land for the growing
6 of crops. The fact that a holding pond is to be used and has
7 the added benefit of disposing of wastewater does not mean the
8 wastewater will not be put to farming the property for a profit
9 in money.

10 The Board concludes that the county was correct in finding
11 that the proposal was within the definition of an accepted
12 farming practice and in compliance with Goal 3.³

13 Assignment of error no. 2 is denied.

14 ASSIGNMENT OF ERROR NO. 3⁴

15 "DEQ erred:

16 "(1) By failing to adopt reviewable findings;

17 "(2) By failing to address applicable criteria; and

18 "(3) By adopting findings not supported by substantial
19 evidence."

20 1. DEQ's findings are not sufficient to allow judicial review.

21 In this subassignment of error, petitioners claim DEQ
22 failed to reference or incorporate any findings regarding land
23 use or compliance with statewide planning goals. This alleged
24 error violates ORS 197.180 and OAR 660-31-035 according to
25 petitioners.

26 The Board has already discussed the incorporation of the

1 county's findings by reference. The Board believes the
2 statement on the face of the permit that findings in support of
3 the decision are to be found in the file is sufficient. That
4 DEQ may not adopt findings in the same style as cities and
5 counties is not determinative of whether or not DEQ did in fact
6 adopt findings in support of its decision. So. of Sunnyside
7 Neighborhood League v. Clackamas County, 280 Or 3, 569 P2d 1063
8 (1977); Goose Hollow Foothills League v. Portland, 3 Or LUBA
9 256 (1981); Lane County vs. R. A. Heintz Construction, 228 Or
10 152, 364 P2d 676 (1961).

11 2. DEQ failed to address relevant criteria.

12 In this subassignment of error petitioners allege DEQ's
13 "findings and technical information" are not legally sufficient
14 because they fail to address relevant criteria and are not
15 supported by substantial evidence. Petitioners argue that
16 while the county's findings may create an arguable basis for
17 claiming Agripac's disposal facility is compatible with farm
18 use, they do not explain how this proposal is a farm use. The
19 primary use of the facility is, according to petitioners, the
20 treatment of industrial wastewater. Further, there is no
21 evidence to show that a prudent farmer would take 20 acres out
22 of crop reduction to irrigate the remainder of his property,
23 according to petitioners.

24 The Board disagrees with petitioners. In deciding that the
25 proposed use does meet Goal 3, Lane County and DEQ found the
26 use to be a "farm use" as the term is defined in ORS 215.203.

1 As the Board has already discussed, there is substantial
2 evidence in the record to support the county's finding that
3 this particular kind of irrigation facility constitutes an
4 acceptable farming practice. Since it constitutes an
5 acceptable farming practice, it complies with Goal 3. The fact
6 that the water for irrigation comes from an industrial source
7 does not, the Board believes, turn the irrigation system into a
8 nonfarm use. The use may, however, be a farm use and another
9 kind of use. Here, the use serves industry and acts as a
10 public utility. The Board is not aware of any prohibition on
11 an activity being both a farm use and some other sort of use.

12 3. DEQ failed to support its findings with substantial
13 evidence.

14 In this subassignment of error the petitioners urge
15 exhibits 22-28 (two of which have been discussed above) do not
16 constitute substantial evidence for the county's finding that
17 the proposed system is within the meaning of accepted farming
18 practices. Petitioners quote finding 17, Record 26, where the
19 county concludes the proposed use "involves the employment of
20 land for the primary purpose of obtaining a profit in money"
21 and argue that this statement is in direct conflict with the
22 application which makes no reference to farming at all but
23 rather states that the purpose of the permit is a

24 "Seasonal industrial waste (Agripac) facility with
25 storage facility and spray irrigation of canning
wastewater." Record 119.

26 Petitioners argue if it were not for DEQ's insistence that

1 Agripac find another means of disposing its wastewater, MWMC
2 would not be interested in acquiring land simply to irrigate a
3 farm. Petitioners appear to accept that certain county
4 exhibits support a finding that once the wastewater arrives on
5 the site, the method of spraying the wastewater is similar to
6 that used on other farms. However, petitioners argue there is
7 no discussion as to whether other farmers acquire large blocks
8 of land for the purpose of discharging animal and food
9 wastewater. Again, petitioners' point is that the primary
10 purpose of this proposal is not farm use.⁵

11 The Board has not been cited to evidence in the record to
12 contradict the evidence furnished to the county in the exhibits
13 cited above that this proposal, with the holding pond,
14 constitutes an accepted farming practice. The Board believes
15 the county was entitled to rely on the information and opinion
16 of the extension service personnel. The county's obligation to
17 weigh and balance the exhibits depends at least in part on
18 whether there is conflicting evidence. See Universal Camera
19 Corp. v. NLRB, 340 US 474, 71 S Ct 456, 95 L Ed 456 (1951);
20 Filter v. Columbia Co., 3 Or LUBA 345 (1981). The testimony of
21 one individual is substantial evidence if a reasonable mind can
22 accept it "to support a conclusion." Braidwood v. City of
23 Portland, 24 Or App 477, 480, 546 P2d 777 (1976).

24 The Board concludes the county's findings are supported by
25 substantial evidence.

26 Other Goals

1 Petitioners claim that Goals 1, 5 and 14 have not been
2 addressed.⁶ Petitioners' argument on Goal 1 is that they
3 were never contacted during the course of the Lane County
4 proceeding. The Board has already discussed this issue. Any
5 error before Lane County that goes to how the proceeding was
6 conducted and who participated was mooted by the new proceeding
7 before DEQ. There is no claim DEQ violated Goal 1.

8 Petitioners allege Goal 5 has not been adequately addressed
9 because there is no explanation of why Eugene and Springfield
10 were required to go beyond the urban growth boundaries of the
11 cities of Eugene and Springfield to locate this use.

12 The Board does not understand this allegation. If the use
13 is an acceptable farm use in compliance with Goal 3, whether or
14 not Eugene and Springfield ventured beyond the urban growth
15 boundaries of Eugene and Springfield is not important.

16 Petitioners also argue that a Goal 14 analysis should have
17 been made. Petitioners allege no analysis has been provided as
18 to why this use is not an urban use or at least one that is
19 more appropriately placed inside an urban growth boundary.

20 Because the county found the use to be a farm use, the
21 Board does not believe a Goal 14 analysis is necessary. It may
22 be that this use not only qualifies as an accepted farming
23 practice but may also be considered in the nature of an urban
24 use. The Board is not aware of a prohibition in the goals that
25 a use must be exclusively a farm use or an urban use. To make
26 such a holding, the Board and LCDC might preclude any number of

1 mechanical uses or structures that serve farming purposes but
2 also serve other purposes. For example, chemical storage
3 facilities might support a farm use if containing farm
4 chemicals. The same storage facility might well be considered
5 an urban use were it to hold solvents. In this case, the
6 proposed use constitutes an accepted farm practice and as such
7 is in conformity with Goal 3. The use may also serve other
8 purposes announced elsewhere in the goals, but such service
9 does not mean the use no longer qualifies as an accepted
10 farming practice.

11 Assignment of Error No. 3 is denied.

12 The decision of DEQ is affirmed.

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FOOTNOTES

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4 There are two kinds of permits. Class A permits, for which
5 the agency is required to make its own findings of compliance
6 with statewide planning goals, and Class B permits, such as the
one at issue here, where the agency may rely on local
government determinations of goal compliance or proceed on its
own to find compliance with the goals.

7 2

8 The parties have not argued whether or not the Agripac
9 facility is itself a farm use or a "commercial activity" in
conjunction with farm use. See ORS 215.213(2)(a).

10 3

11 In an abundance of caution, the county included findings
12 supporting an exception to Goal 3 for the proposed facility.
13 The record does not reveal that DEQ published notices that
14 would comply with Goal 2's requirement for a specific notice
15 that an exception is to be taken. The Board will not,
16 therefore, test this proposal against Goal 2 exception
17 criteria. The Board has, however, noted the findings in
18 support of the exception where those findings also support the
19 county's conclusion that the use is part of an accepted farm
20 use.

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17 4

18 The issues in this assignment of error and Assignment of
19 Error No. 2 are also raised by Participants Barnes, Bohanon,
20 Bowder, Donaldson, Elliott, Gray, Humphrey, Jaquenod, Lund,
Marker, Neely and Simmons. The discussion here and under
Assignment of Error No. 2 is in answer to petitioners and
participants' arguments.

21 5

22 Petitioners also argue the findings supporting the
23 exception are not supported by substantial evidence. The basis
24 for petitioners' argument appears to be that the proper notice
of an exceptions process was not taken. The Board has already
discussed this issue, supra.

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6 Respondent DEQ does not defend the decision against a Goal 1, 5 and 14 attack but rather argues the petitioners should have raised these issues below. As the only issues raised in the proceedings below were about Goal 3, petitioners should be precluded from raising other goal issues on appeal here, claims DEQ. The Board does not agree. The Board has held that a petitioner is obliged to raise procedural errors that are capable of correction below. Dobaj v. City of Beaverton, 1 or LUBA 237 (1980). There is no obligation on petitioners to raise all issues on the merits below what it might hope to raise on appeal. Twin Rocks Water Dist. v. Rockaway, 2 Or LUBA 36 (1980).

BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON

LAND USE
BOARD OF APPEALS

SEP 6 12 02 PM '83

CHESTER A. SWENSON AND
DELLA I. SWENSON, HUSBAND
AND WIFE,

Petitioners,

v.

DEPARTMENT OF ENVIRONMENTAL
QUALITY OF THE STATE OF
OREGON, AND AGENCY OF THE
STATE OF OREGON,

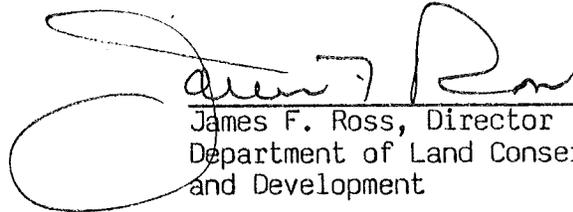
Respondent.

LUBA No. 83-032
LCDC DETERMINATION

The Land Conservation and Development Commission hereby approves the
recommendation of the Land Use Board of Appeals in LUBA 83-032.

DATED THIS 31st DAY OF AUGUST, 1983.

FOR THE COMMISSION:


James F. Ross, Director
Department of Land Conservation
and Development

JFR:RE:jj
5506B/76C

1 BEFORE THE LAND USE BOARD OF APPEALS
2 OF THE STATE OF OREGON

3 CHESTER A. SWENSON and)
4 DELLA I. SWENSON, husband)
5 and wife,)
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