

DEED 79 16 057

SUMPTER VALLEY DREDGE TAILING
MANAGEMENT PLAN
and
IMPLEMENTING ORDINANCE

Revised in 1984

The preparation of this Plan and Ordinance was
financed in part by a Planning Grant from the Oregon
Land Conservation and Development Commission.

SEP 79 16 058

Baker County Court

Dennis Fuller, County Judge
Fred Ringer, Commissioner
Stewart Sullivan, Commissioner

County Planning Commission

Alvin Ward, Chairman (Baker Valley)
John Mitchell, Vice Chairman (Sumpter Valley)
Bonnie Raney (Huntington)
Glen Swilling (Baker Valley)
Norbert Sieg (Baker Valley)
Carlyle Staab (Baker City)
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Committee for Citizen Involvement

Kenneth Grant (Huntington)
Leland Meyers (Sumpter)
Steve Culley (Baker Valley)
Larry VanDusen (City of Baker)

Baker County Parks & Recreation Committee

Lloyd Evans, Chairman (Baker)
Nadie Strayer (Baker)
Lyman King (Richland)
Wilson Bubb (Huntington)
Walt Apple (Baker)
Jack Ferguson (Baker)
Larry VanDusen (Baker)

Planning Department

Wm. W. Quigley, Planning Director - Coordinator
Diane Stone, Assistant Planner
Charlene Smith, Secretary

Planning Department
County Courthouse
Baker, Oregon 97814

Summary of Issue and Responses

- (1) Private lands in the geographic area should be allowed to provide an economic return to the owners.

Response: Such lands may be used for grazing and for gravel recovery.

- (2) Gravel operations may interfere with the nesting season of the Canada Geese.

Response: Nesting areas for such geese are to be established suitable distance from lands allocated for gravel removal. In addition, county lands have been traded for private lands in order to consolidate lands allocated to wildlife management.

- (3) Asphaltic compounding should be an allowable phase of "gravel operations".

Response: Asphaltic compounding is included in the gravel operations, except for storage and stockpiling of asphaltic compounds and compounded materials on a continuing basis.

- (4) Dwellings in conjunction with farm and forest uses should be an allowable use in the buffer zone.

Response: Such dwellings are allowable on buildable lands in the buffer zone. The farm lands and forest lands involved do not significantly impact the overall farm and forest economy of the county or the conservation of farm and forest land.

W.W.Q., P.D.

CITIZEN INVOLVEMENT
AGENCY COORDINATION

(Sumpter Valley Dredge Tailing Management Plan)

I

Copies of the drafts of the Dredge Tailing Plan were available at the County Planning Office and the County Library, as are the final adopted plan.

Notice of public hearings (3 before the planning commission; 2 before the county court) were published in the Record Courier (weekly) and the Democrat Herald (daily) newspapers at least 10 days prior to the hearings.

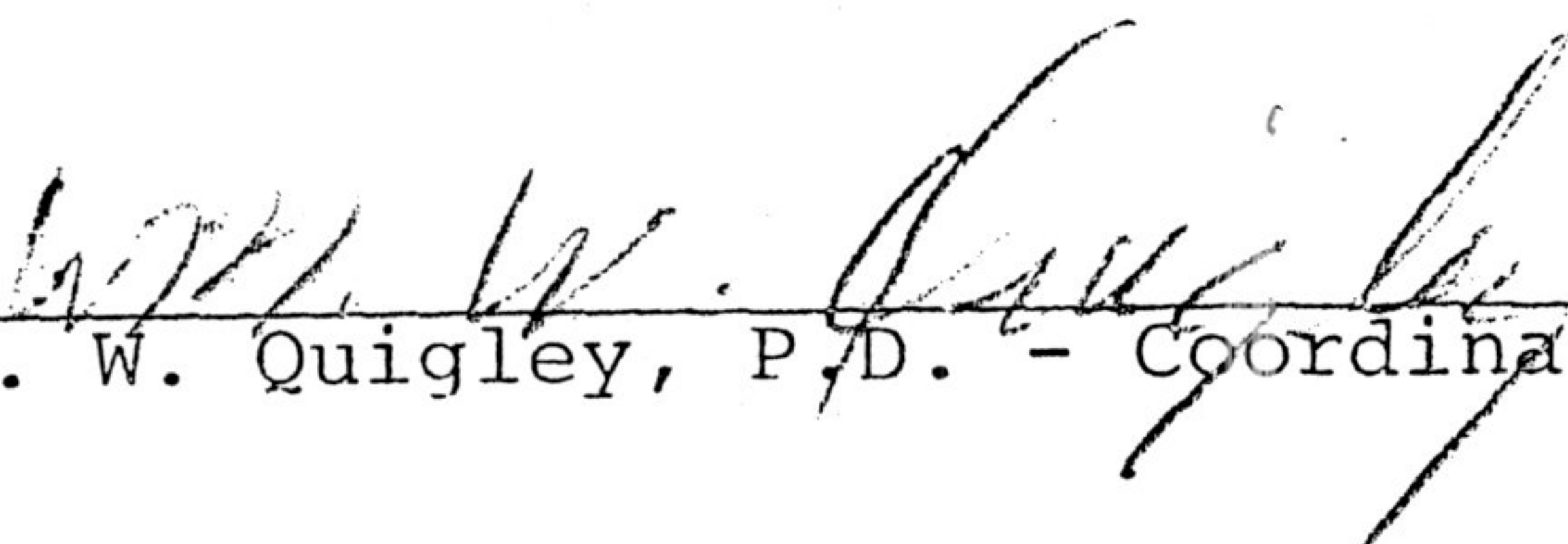
II

The individual owners of land affected by the plan were notified of the hearings. Such notice was sent by First Class Mail using the assessment roll for names and addresses. Further, each land owner received copies of the proposed draft of the plan.

III

The following agencies and districts received drafts of the proposed plan:

Baker Valley Irrigation District
Baker Valley Soil and Water Conservation District
Bureau of Reclamation (USDI)
Soil Conservation Service (USDA)
Department of the Army (USDD)
Department of Environmental Quality
Department of Fish and Wildlife
Department of Geology and Minerals Industries
Parks and Recreation (DOT)
Department of Transportation
Division of State Lands
Land Conservation and Development Commission
Oregon State Highway Division
State Forestry Department
United States Forest Service (USDA)
Water Resources Department
Bureau of Land Management (USDI)


Wm. W. Quigley, P.D. - Coordinator

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SUMPTER VALLEY DREDGE TAILING MANAGEMENT PLAN

Article 1. STATUTORY REFERENCE; GEOGRAPHIC AREA; BUFFER ZONE; GENERAL LOCATION; REFERENCE MAPS

(1) Statutory Reference: ORS 197.175 (2) (a) and (b) provide that the county shall adopt a comprehensive plan, and ordinances to implement the plan, consistent with state-wide goals as adopted by the Land Conservation and Development Commission.

ORS 215.050 (1) also provides that the county shall adopt a comprehensive plan and ordinances applicable to all land in the county. However, this statute provides that such plan and related ordinances may be adopted "part by part or by geographic area".

(2) Geographic Area: The geographic area involved in this plan generally shall include land lying West of the Clear Creek Road (Hudspeth Lane); East of the Whitney-Tipton Road; South of the North Dredge Line; and North of the South Dredge Line in Township 10 South, Ranges 37 & 38 East W.M.

(3) Buffer Zone: A buffer zone, providing for coordinated and nonconflicting land uses abutting the geographic area should be established utilizing existing roadways, where practical, as boundaries.

(4) River Miles: The portion of the Powder River involved in the geographic area generally includes River Miles 140 through 150.

(5) General Location: The geographic area is located in Township 10 South and includes portions of Ranges 37 and 38 East W.M. The area lies about 1½ miles Southeasterly of the City of Sumpter and about 25 miles Southwesterly of the City of Baker. The Mason Dam structure is about 4½ miles downriver; The reservoir (Phillips Lake), at full capacity, reaches to the East Boundary of the geographic area. Oregon Highway 220 (Sumpter Valley Highway) roughly parallels the area on the Northern borders and, except for a Southeasterly portion, county roads surround the geographic area on the East, West and South.

(6) Reference Maps: Included in this plan by reference hereto is:

(a) The Phillips Lake Quadrangle, Oregon-Baker County, 7.5 Minute Series (Topographic), 1972, Geologic Survey, USGS;

(b) Sumpter Quadrangle, Oregon-Baker County, 7.5 Minute Series (Topographic), 1972, Geologic Survey, USGS;

(c) The Flood Hazard Boundary Map, Community-Panel No. 410001 0018A, U.S. Department of Housing and Urban Development, Federal Insurance Administration, Effective Date February 28, 1978.

(d) General Soil Map With Soil Interpretations For Land Use Planning, Baker County, Oregon, Soil Conservation Service - U.S. Department of Agriculture, May 1973.

Article 2. GENERAL DESCRIPTION; GEOGRAPHIC AREA; BUFFER ZONE

(1) Geographic Area: The land area involved exists, at this writing, in an irregularly striated pattern of dredge tailing piles, made up of cobbles and gravels, separating a series of

elongated tailing ponds. The ponds vary from swampy areas to pools of water up to about 4 feet in depth. Scattered conifers (Ponderosa) are growing in limited areas where silts and clays provide an adequate matrix. Deciduous trees (Willows and Cottonwoods) are scattered along the river and around some of the tailing ponds. Variable shrubs, weeds and grasses grow in the lessor rocky areas. A variety of migratory fowl, predator fowl, shorebirds, fish, aquatic furbearing animals and other wildlife inhabit or frequent the area, including deer and elk.

(2) Buffer Zone: The lands adjacent to the geographic area generally are used for ranching operations (hay & grazing) and limited timber production. Eight dwellings not in conjunction with farm use are situated on land between Highway 220 and the North Dredge Line West of the Whitney-Tipton Road. There is one dwelling used in conjunction with farm use and one dwelling not in conjunction with farm use between Highway 220 and the North Dredge Line East of the Whitney-Tipton Road.

There are about 60 acres of Forest Service land (USFS) between the Dredge Lane Road and the South Dredge Line.

Various forms of wildlife, including deer and elk, inhabit or move through the buffer zone.

Article 3. HISTORICAL BACKGROUND

Prior to the introduction of railroading and dredge mining, before the turn of the Century, the geographic area existed as a gently sloping valley floor lying on either side of the meandering Powder River. The valley meadow land supported ranching activities consisting of native grass haying and pasturing.

The Sumpter Valley Railway Company was chartered in August, 1890, and started laying trackage from Baker to Sumpter; The settlement of McEwen, about 22 miles up river from Baker, was the first terminus of the railroad. While in operation the SVR provided transportation for forest products and mining operations in the surrounding mountainous regions and passenger service to and from Baker and Sumpter.

Gold dredging operations started in the geographic area with Dredge #1, which dredge operated from 1913 to 1924. Dredge #2 operated from June, 1935 to August, 1954, affecting lands in and beyond the area.

Article 4. CURRENT LAND USE MANAGEMENT

(1) Zoning: The geographic area involved is included in the A-2 zone according to the Zoning Map of Baker County. The Baker County Zoning Ordinance of 1974 provides in such zone that single family dwellings on a minimum of 5 acres, farm use, propagation and harvesting of forest products and utilities facilities necessary for public service are outright uses. All other uses are subject to approval as conditional uses. The minimum acreage for all the various uses is subject to adjustment depending upon the provisions for water supply and sewage disposal. Subdivision lots of 7500 square feet may be created under prescribed conditions.

(2) Wildlife: The Oregon Department of Fish and Wildlife is licensed by the County "for fish and wildlife conservation, development and management purposes". The period of license is from

March 2, 1974 to March 1, 1994. The license applies to County land only in the geographic area.

(3) Surface Mining: The County Road Department and Ellingson Timber Company have existing sites established for gravel operations, in the geographic area, pursuant to the county zoning ordinance and the State Surface Mining Laws as administered by the State Department of Geology and Minerals Industries. The U.S. Forest Service has approval of the County for a site yet to be established. All such sites are within a distance of 2000 feet, of the East right-of-way of the Whitney-Tipton Highway. The County and Forest Service sites are on county land North of the Powder River. The Ellingson site is on private land South of the river.

(4) County Railroad Park Picnic Area: The county, in conjunction with its Parks and Recreation Committee, has made plans to establish a Railroad Park and Picnic Area on about 160 acres of land near the junction of the Dredge Lane Road (Defrees Lane) and the Sumpter Valley Railway Bed. The county has received funds made available under the Federal Land and Water Conservation Fund Act of 1965 as administered by the Bureau of Outdoor Recreation (USDI). Such funds were received in accordance with an agreement between the County and the Parks and Recreation Branch (ODOT).

(5) Sumpter Valley Railroad: The Sumpter Railroad Restoration, Inc., a private, nonprofit corporation, has various letters of understanding between such corporation and the county to the effect that the county will cooperate in the efforts to establish and operate a recreational railroad involving land in the geographic area. The railroad operation will utilize narrow gauge steam locomotives originally used on the Sumpter Valley Railroad. The overall plan of the corporation includes a museum of logging and mining as such activities were related to the original railroad. Currently, the corporation has a depot building and shop building located on land adjacent to the proposed County Railroad Park and Picnic Area. Further, the corporation plans to extend the trackage into lands beyond the geographic area. Such extension should be accounted for in the overall land use plan of the county and should roadcrossings be contemplated, such crossings would have to meet applicable requirements of the Oregon Public Utility Commissioner.

(6) Air and Water: Air and water quality controls in the geographic area involved are subject to the regulations of the Oregon Department of Environmental Quality. Such regulations provide standards for discharge of particulate matter and other substances into the air or waters of the state, including groundwaters. Such regulations provide standards for solid waste disposal, nonpoint pollution discharges and subsurface sewage disposal.

(7) Removal and Fill: The removal of gravel and other material from the Powder River and the making of landfills or other fills into such river are subject to the regulations of the Oregon Division of State Lands. Further, such removals and fills; including adjacent tailing ponds and wetlands may be subject to the regulations of the U.S. Department of the Army, Corps of Engineers.

(8) Water Uses; Rights: The diversion or other appropriation of water from the Powder River, tailing ponds and other ground water in the geographic area is subject to the regulations of the Oregon Department of Water Resources. The downstream adjudicated water rights include the Mason Dam Reservoir (Phillips Lake) as managed by the Baker Valley Irrigation District - under the direction of the U.S.

Bureau of Reclamation - and other rights involving lands not included in the irrigation district. Such down stream uses and rights may directly, or indirectly, be affected by diversion or other appropriation of water in the geographic area.

(9) Federal Lands: The federal land in the geographic area is contiguous to other lands owned by the United States. Lands under the jurisdiction of the Bureau of Reclamation, acquired preparatory to the creation of the Mason Dam Reservoir, are managed by the U.S. Forest Service. Such management includes all land resources including timber, gravel wildlife and recreation.

The Forest Service cooperates with the Oregon Department of Fish and Wildlife in the wildlife management of such federal lands.

Developed recreational sites include the Union Creek Campground, Mowich Loop Rest and Picnic Area, Mason Dam Picnic Area and the Observation Site.

(10) Flood Prone Areas: The geographic area involved is shown on the Flood Hazard Boundary Map, effective date February 28, 1978, as being wholly within a flood prone area. The designation of flood prone areas in the county rests primarily with the Federal Insurance Administration, Department of Housing and Urban Development. Such administration also administers the National Flood Insurance Program. The County in a resolution of cooperation agrees to adopt and administer a structural code for buildings in such flood prone areas.

(11) Soil and Water Conservation: The geographic area is within the Baker Valley Soil and Water Conservation District. The U.S. Soil Conservation Service will normally work through and with the local Soil and Water Conservation District on studies, proposals and projects related to soil and water conservation.

(12) Fire Protection; Communications; Electrical Energy; Transportation.

(a) Fire Protection: The geographic area is not included in any local Rural Fire Protection District. However, the area is within the boundaries of an official state fire protection district as set up and administered by the Oregon Department of Forestry. The lands within the geographic area are nonassessed for fire patrol and are considered to pose no particular fire hazard in themselves. However, land owners responsible for fires on such lands may be billed for fire suppression costs by the State Forester, depending upon the circumstances.

(b) Communication: The geographic area is served by the Telephone System of the Pacific Northwest Bell Telephone Company.

(c) Electrical energy: The geographic area is served by the electrical distribution system of the CP National Utilities Company.

(d) Transportation: The geographic area currently is not served by any regularly scheduled common carrier of people. Transportation access is limited almost entirely to the private automobile by way of established state and county roads.

Highway 220 (Sumpter Valley Highway) is the main avenue of access from points East. The Highway Division, Oregon Department of Transportation is anticipating ownership and maintenance of the Whitney-Tipton Highway. Such Highway will, in time, provide all-weather access from points West by way of connection to U.S. Highway 26.

(13) Forest Classification: (a) The geographic area, pursuant to the County Forest Land Classification Law (ORS Chapter 526), is classified as non-forested land; not suitable for grazing and not a fire hazard area.

(b) The buffer zone is generally designated as Class III, primarily suited for grazing, except timbered areas in the Westerly portion of the zone which areas are Class II: Timber and grazing.

In the Southwesterly portion of the buffer zone, between the Dredge Lane Road and the South Dredge Line the land ownership of forested land is about 60 acres USFS and 55 acres private ownership.

(14) Private Lands: Lands in private ownership in the geographic area are used for grazing and gravel resources; about 6-8 acres have been reclaimed for grass seeding.

Article 5. LAND OWNERSHIPS; SOIL CLASSIFICATION; RIVER FLOW

(1) Land Ownership: (a) The ownership of lands in the geographic area is approximately as follows:

- (1) County: 1578 acres.
- (2) Private: 420 acres.
- (3) United States: 167 acres.
- (4) State: 13 acres.

(b) Land ownership: The ownership of land in the buffer zone is approximately as follows:

- (1) Private: 590 acres.
- (2) United States: 60 acres.

(2) Soil Classification (General Soil Map, Baker County, Oregon, May, 1973) Soil Conservation Service - USDA:

(a) Geographic area:

Soil association number: 17
 Soil name: Mine tailings
 Slope -
 Position: Bottom land
 Elevation: 3,800 to 4,400 feet
 Vegetation: Willows
 Color & texture: Gravels, cobbles, stones and sand
 Natural drainage: Excessive
 Permeability: Very rapid
 Major land use: Wildlife, water supply, recreation
 Capability class: VIII

(b) Buffer zone:

Soil association number: 17
 Soil name: McEwen Silt Loam
 Slope: 2-7 %
 Position: Terrace
 Elevation: 3,800 - 4,400 feet
 Precipitation: 17-22 inches
 Mean annual air temperature: 43-45° Fahrenheit
 Free days (32°F): 90-100
 Vegetation: Ponderosa pine, pine grass, elk sedge
 Soils and color (moist):
 Surface: dark brown silt loam
 Subsoil: dark reddish brown clay loam
 Substratum: very gravelly

Soil depth: 40-60 inches
Natural drainage: good
Permeability: moderately slow
Available water holding capacity (AWC): 8-10 inches
Runoff: medium
Erosion hazard: slight
Major land use: pasture, hay, wildlife, recreation
Capability class: IV

(3) River Flow (State Water Resources Department-Powder River Basin):

(a) Year ending September 30, 1975 (acre-feet)

October - 349	April - 7,120
November - 387	May - 20,170
December - 559	June - 22,620
January - 1,700	July - 6,020
February - 1,330	August - 813
March - 2,390	September - 252

(b) Water years (total acre-feet):

1973 - 27,670
1974 - 99,210
1975 - 63,730

(c) The guaging station is located in the geographic are 0.2 mile upstream from the bridge on Hudspeth Lane (Clear Creek Roa

Article 6. LAND USE INVENTORY

(1) The following resources are included in the geographic ar

- (a) Open space.
- (b) Water resources: Powder River, tailing ponds, and ground water.
- (c) Wildlife habitat: Powder River, tailing ponds and surrounding lands and swamps:
 - (A) Migratory fowl: Canada goose, ringed neck duck dabbling and diving ducks.
 - (B) Shorebirds: Killdeer, wilsons snipes, great blue heron, bittern, black crowned capped night heron.
 - (C) Furbearers: Beaver, muskrat, mink, raccoon.
 - (D) Fish: Salmonids and other non-game fish.
 - (E) Other avian and land vertebrates and invertebra
- (d) Mineral resource: Cobbles and gravels.
- (e) Historical sites and structures: Townsite of McEwen Sumpter Valley Railroad Bed, remnants of gold dredge #1.
- (f) Recreational areas and structures:
 - (A) County Park area.
 - (B) Sumpter Valley recreational railroad.
 - (C) Fishing: Powder River and tailing ponds.

(2) The following resources are included in the buffer zone:

- (a) Timber land (forest land - limited) and grazing land
- (b) Buildable lands for homesites (limited to elevated or terraced land).
- (c) Groundwater.
- (d) Triangular area of land West of the Whitney-Tipton Road: All resources of the geographic area, except gold dredge #1 and recreational areas and structure.

(3) Flood Prone: The entire geographic area and a portion of the buffer zone West of the Whitney-Tipton Road.

Article 7. POTENTIAL LAND USE CONFLICTS

(1) The uncoordinated uses of land in the geographic area and buffer zone, among other things, may lead to the following:

- (a) Deterioration of wildlife habitat;
- (b) Degradation of the quality of surface waters and groundwaters;
- (c) Destruction of historical sites and structures;
- (d) Interference with stream flow and adjudicated water rights;
- (e) Reduction in the recreational value of the area; or
- (f) Endangering the lives and works of man in a flood prone area.

(2) The coordinated uses of land in the geographic area and buffer zone would serve to reduce, or alleviate, the things enumerated in (1) of this article.

Article 8. MANAGEMENT ALTERNATIVES

(1) The following land use management have been considered:

- (a) Return county lands to the tax roll by way of public auction.
- (b) Total reclamation of the county lands by leveling, siltation through river diversion, and reseeding to native grasses.
- (c) Partial reclamation by gravel removal and tree planting.
- (d) Wildlife management with selected tree planting and reseeding.
- (e) Wildlife management with coordinated development of recreational activities and gravel resources.

(2) Alternative (e) is the recommended land use management plan for the geographic area.

(3) In recommending alternative (e) the following have been taken into consideration:

- (a) The existing wildlife management program and the potential for further development;
- (b) The existing recreational development and potential for further development;
- (c) The conservation of the historical nature of the geographic area;
- (d) The conservation of open space;
- (e) The conservation of water resources quality and quantity;
- (f) The limitations for other uses and activities imposed by soil conditions, water tables and flood prone designation.
- (g) The physical and economic availability of gravel resources, generally, in the vicinity.

Article 9. GENERAL POLICIES: GEOGRAPHIC AREA; BUFFER ZONE

(a) In carrying out management alternative (e), it shall be the general policies of the county governing body in the geographic area:

- (1) To encourage the conservation of air, water and land quality consistent with applicable state and federal standards;
- (2) To encourage the development of water resources consistent with applicable state and federal regulations;

(3) To encourage the consolidation of the land in the geographic area into public ownership;

(4) To recognize the importance of Highway 220 and the Whitney-Tipton Road as major access ways to the area;

(5) To encourage the development of a wildlife management plan consistent with this plan and applicable state and federal regulations.

(6) To encourage the recognition and conservation of the Sumpter Valley Railway Bed and the remnants of Gold Dredge #1 as historical structures;

(7) To encourage the consideration of the limitations on use and development of land as imposed by flood prone designation; and

(8) To consider the recreational needs of the elderly and physically handicapped citizen.

(b) It shall be the general policies of the county governing body in the buffer zone:

(1) To encourage the use and development of land in a manner that is compatible with management alternative (e) and general policies for the geographic area;

(2) To encourage the propagation and harvesting of forest products consistent with applicable state law; and

(3) To encourage the consideration of conservation easements as an alternative means of controlling use and development of private lands.

Article 10. STATE-WIDE PLANNING GOALS: APPLICATION

(1) The state-wide planning goals (1 - 14) are applied as indicated:

(a) #1 - Citizen Involvement: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The county has appointed a six member citizen advisory committee and adopted a revised Citizen Involvement Program. (See - (b) (D) of this Article). Copies of the documents and related ordinances may be inspected at the Planning Office, County Courthouse or at the County Library in the City of Baker.

(b) #2 - Land Use Planning: To establish a land use planning process and policy framework as a basis for decisions and actions related to use of land and to assure an adequate and factual base for such decisions and actions. (See Articles 1 through 9).

The documents and related ordinances are:

(A) Reference maps in Article 1 (6).

(B) Implementing ordinances:

Ordinance Number _____ or "Dredge Tailing Ordinance".

(C) Related ordinances:

1. Ordinance Number 78-01: "Reestablishing a Planning Commission, Office of Planning Director and Hearings Officer and Providing Authority and Duties".

2. Ordinance Number 78-02 or "Providing For Rules of Procedure for the Conduct of Hearings".

3. "Baker County Zoning Ordinance of 1974".

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4. "Baker County Subdivision Ordinance of 1974".
(D) "Baker County Citizen Involvement Program, 1978".
(c) #3 - Agriculture Lands: To preserve and maintain agriculture lands.

(A) Geographic area: Not applied - Article 2 (1); Article 5 (2) (a).

(B) Buffer zone: Applied - Article 2 (2); Article 5 (2) (b).

(d) (1) #4 - Forest Lands: To conserve forest lands for forest uses.

(A) Geographic area: Not applied - Article 2 (1); Article 5 (2) (a).

(B) Buffer zone: Applied - Article 2 (2); Article 4 (13) (b).

Note: Inventory data pursuant to "Field Instructions for Integrated Forest Survey and Timber Management Inventories - Oregon, Washington and California, 1974" is not available.

(2) Exception: Dwellings in conjunction with small acreage farm and forest uses on 5 acres of land should be an allowable use on land suitable for such dwellings. The rationale is as follows:

(a) Access may be provided by established roads;

(b) Low density residential use would be compatible with the management alternative (e);

(c) The long environmental, economic, social and energy consequences to the county or state would not be significantly, adversely affected.

(e) #5 - Open Spaces, Scenic and Historic Areas, and Natural Resources: To conserve open space and protect natural and scenic resources.

(A) Geographic area: Applied - Article 3; Article 4; Article 6; Articles 7, 8 and 9 (a).

(B) Buffer zone: Applied - Article 1 (3); Article 4 (b); Article 6 (2) (a) (d); Article 9 (b).

(f) #6 - Air, Water and Land Resources Quality: To maintain and improve the quality of the air, water and land resources of the state.

Geographic area: Applied - Article 4 (6) (7) (11); Article 8 (e); Article 9 (1).

(g) #7 - Areas Subject to Natural Disasters and Hazards: To protect life and property from natural disasters and hazards.

Geographic area: Applied - Article 4 (10); Article 6 (3); Article 7 (f); Article 8 (3) (4); Article 9 (7).

(h) #8 - Recreational Needs: To satisfy the recreational needs of the citizens of the state and visitors.

Geographic area: Applied - Article 4 (4), (5), (9); Article (5) (2) (a); Article 6 (1) (f); Article 7 (e); Article 8 (e); Article 9 (8).

(i) #9 - Economy of the State: To diversify and improve the economy of the state.

(A) Geographic area: Applied - Article 4 (3), (4), (5), (9); Article 6 (1) (d); Article 8 (e).

(B) Buffer zone: Article 4 (13) (b); Article 6 (2); Article 9 (1), (2).

(j) #10 - Housing: To provide for the housing needs of the citizens of the state.

(A) Geographic area: Not applied.

(B) Buffer zone: Applied - Article 2 (2); Article 6 (2) (b).

(k) #11 - Public Facilities and Services: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

(A) Geographic area: Applied - Article 4 (12);

(B) Buffer zone: Applied - same as (A)

(l) #12 - Transportation: To provide and encourage a safe, convenient and economic transportation system.

(A) Geographic area: Applied - Article 4 (12) (d); Article 9 (4).

(B) Buffer zone: Applied - same as (A).

(m) #13 - Energy Conservation: To conserve energy. The purpose of this goal would have practical application to the structural standards for dwellings in the buffer zone.

(n) #14 - Urbanization: This goal has no practical application to the geographic area and buffer zone involved in this plan.

ADOPTED this 4th day of April, 1979.

Co Judge Dennis L. Tull
Ernest W. Binger
Herbert Sullivan Comm

County Court

Recommended for adoption this 27 day of February 1979

Clvin [Signature]

Chairman, Baker County Planning Commission



SERIES 1979

AN ORDINANCE PROVIDING FOR THE IMPLEMENTATION OF THE SUMPTER VALLEY DREDGE TAILING MANAGEMENT PLAN

The COUNTY of BAKER ordains as follows:

SECTION 1.010. Short Title. This ordinance may be cited as the "Dredge Tailing Ordinance" or as "Ordinance Number _____."

SECTION 1.020. Purposes. The purposes of this ordinance are several:

(a) To provide for the public health, safety and general welfare;

(b) To provide for the adoption of the Sumpter Valley Dredge Tailing Management Plan; and

(c) To implement, or carry out, such a management plan.

SECTION 1.030. Violation of provision; permits required.

(a) No person shall locate, construct, maintain, repair, alter, or use a building or other structure or use or transfer land in violation of any provision of this ordinance.

(b) Where a permit is required by any provision of this ordinance, no person shall take any action or do any thing mentioned in (a) of this section without such a permit in writing issued by the county governing body.

SECTION 1.040. Other regulations not circumvented. A use or action allowed by this ordinance, or a permit issued pursuant hereto, may not be construed to circumvent or supercede other State or Federal regulations applicable to the land area involved.

SECTION 1.050. Definitions. As used in this ordinance:

(a) "Buffer zone" refers to the area of land in the county adjoining the geographic area and bounded as follows:

(1) North boundary: Sumpter Valley Highway (Oregon 220);

(2) West boundary: The junction formed between Highway 220 and an extension of Dredge Lane Road Northwesterly of its intersection with the Whitney-Tipton Road. Such junction is in Section 4, Township 10 South, Range 37 East W.M.

(3) East boundary: Clear Creek Road (Hudspeth Lane);

(4) South boundary: Dredge Lane Road where such road exists, otherwise, a distance of 1000 feet southerly of the South Dredge Line.

(b) "Dredge line" refers to that line of demarcation between soils affected by dredge mining operations and soils unaffected by such operations.

(c) "Dredge mining" refers to the excavation, screening and washing of soils in a manner designed to recover particulate gold or other minerals.

(d) "Geographic area" refers to the area of land in the county bounded as follows:

(1) West boundary: The Whitney-Tipton Road (Highway) in Sections 3 and 10, Township 10 South, Range 37 East W.M.;

(2) East boundary: Clear Creek Road (Hudspeth Lane) along the common section line of Sections 17 and 18, Township 10 South, Range 38 East W.M.;

(3) North boundary: The North Dredge Line;

(4) South boundary: The South Dredge Line.

(e) "Gravel operations" refer to the use of land for the recovery of small stones or rocks and cobbles, or a mixture of such with sand. The term shall include the crushing, sorting, screening and asphaltic compounding normally associated with such operations, whether for immediate removal or stockpiling: Provided however, that "gravel operations" do not include the storing or stockpiling of asphaltic compounds or compounded materials or any wastes or residues thereof on a continuing basis.

(f) "Right-of-way of the Sumpter Valley Railway" refers to the existing railroad bed, including land within 34 feet of and parallel to the center line thereof.

SECTION 2.010. Uses allowed outright: Geographic area.

(a) The following uses are allowed outright in the geographic area:

- (1) Wildlife Management according to Section 2.030.
- (2) Recreational Development according to Section 2.040.
- (3) Livestock grazing.
- (4) Utility facilities necessary for public service, providing that such facilities are limited to the customary electrical and telecommunication distribution services.

SECTION 2.020. Uses subject to approval; permit required; standards and criteria: Geographic area. (a) Gravel operations may be allowed in the geographic area, providing that such operations conform to the standards and criteria of this section and providing further that such operations shall be subject to a zoning permit in writing issued by the county governing body.

(b) Gravel operations in the geographic area may be allowed:

- (1) On county owned land within 2000 feet of the center line of the Whitney-Tipton Road on the East side thereof;
- (2) On state owned land in the E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18, Township 10 South, Range 38 East W.M.; and
- (3) On privately owned land.

(c) All gravel removal operations allowed by this section shall be conducted and reclaimed in a manner:

- (1) To maintain a setback distance of no less than 20 feet from any portion of the banks of the Powder River;
- (2) To maintain a setback distance of no less than 34 feet from the center line of the Sumpter Valley Railway Bed;
- (3) To leave no cutbanks with slopes greater than a ratio of three feet horizontal distance to one foot vertical distance (3:1);
- (4) To protect the naturally growing, riparian vegetation along the banks of the Powder River and around the Tailing Ponds; and
- (5) To prevent adverse siltation or other pollution or filling of the Powder River or Tailing Ponds or adverse pollution of the ground water.

(d) Gravel operations permitted according to this section may also be subject to a permit pursuant to the State Surface Mining Laws.

SECTION 2.030. Wildlife Management: Geographic area. (a) The State Department of Fish and Wildlife, in accordance with its license with the county governing body, shall have authority to take those actions and do those things reasonably necessary to establish, maintain, and perpetuate the various kinds of wildlife associated with the geographic area or that may be introduced by such department into the area.

(b) Such department shall have authority to cause one or more of the tailing ponds to be deepened to an extent calculated to provide an adequate depth of water for fish survival: Provided: however, that one or more of such ponds deepened shall have structures designed to accommodate the elderly or physically handicapped person as to his access for fishing therein.

(c) Such department shall have authority to establish those structures, or make those fills, designed to stabilize the depth of water in those tailings ponds intended to be stocked and maintained with fish or other forms of aquatic wildlife.

(d) In order to reduce or alleviate the conflicts between the wildlife management of lands and the gravel resource management of lands in the geographic area, such department shall give due consideration to those land areas designated for gravel removal; such consideration shall include the utilization of setback distances from gravel resource areas.

(e) Nothing in this section may be construed to deny vehicular access to the Powder River Gauging Station, which access is reasonably required for inspection and maintenance of such station.

SECTION 2.040. Recreational Development: Geographic area.

(a) The county governing body shall have authority to establish and maintain a County Park and automobile parking areas in the geographic area as follows:

(1) County Park and parking area: On the West Side of the Dredge Lane Road within the boundaries of a triangle of land described by commencing at the intersection of the Dredge Lane Road and the Sumpter Valley Railroad Bed; thence Northwesterly along said railroad bed a distance of 1360 feet; thence southerly to the intersection of the Powder River; thence Southeasterly along the river to the Dredge Lane Road; thence Northerly along said road to the point of beginning;

(2) Other parking area: On the East Side of the Dredge Lane Road, within 300 feet of the center line thereof between the Powder River and Highway 220; and on the East side of the Whitney-Tipton Highway, within 300 feet of the center line thereof, between the Powder River and the Sumpter Valley Railroad Bed.

(b) The county governing body may cause to be constructed pedestrian trails in the geographic area: Provided, however, that:

(1) The State Department of Fish and Wildlife concurs in the location of such trails; and

(2) One or more of such trails shall be designed to accommodate the elderly or the physically handicapped person.

(c) (1) The Sumpter Valley Railroad Restoration, Incorporated shall have authority to establish and maintain a recreational railroad operation, including a depot building and other buildings and spaces reasonably necessary for maintenance and storage of railroad steam engines, parts thereof and trackage: Provided, however, such buildings and spaces shall be confined to that triangle of land described in subsection (a) (1) of this Section.

(2) Such railroad corporation shall have authority to use the existing road bed and right-of-way of the Sumpter Valley Railroad, throughout its course in the geographic area, for trackage necessary to support steam locomotive travel.

SECTION 3.010. Uses allowed outright: Buffer Zone: (a) The following uses are allowed outright in the buffer zone:

- (1) Farm use.
- (2) Propagation and harvesting of forest products.
- (3) Utility facilities necessary for public service, providing such facilities are limited to the customary electrical and telecommunication distribution services.
- (4) The outbuildings customarily used in conjunction with farm use.

SECTION 3.020. Uses subject to approval; permit required; standards and criteria: Buffer Zone. (a) The following uses may be allowed in the buffer zone, providing such uses conform to the applicable standards and criteria of this section and providing that such uses shall be subject to a permit in writing issued by the county governing body.

(1) Single family dwellings and accessory buildings customarily used in conjunction with such dwellings.

(2) Home occupations.

(3) Gravel operations.

(b) (1) The dwellings and accessory buildings allowed by this section shall be located upon naturally elevated or terraced land above the meadowland grasslands and wetlands and shall not be located upon land that has been dredge mined.

(2) The standards for minimum ownerships, dimensional standards and setbacks from property lines in the buffer zone shall be no less than such standards and requirements in the RR-1 zone as determined by the applicable provisions of the Baker County Zoning Ordinance of 1974 as amended or revised.

(3) The dwellings and other buildings requiring a sewage disposal system shall be located on land approved for subsurface sewage disposal or an approved alternative system.

(c) (1) Gravel operations that may be allowed by this section shall be limited to dredge mined land within the confines of the dredge lines on that triangular area of land formed by the Whitney-Tipton Road, Highway 220 and the Dredge Lane Road in portions of Sections 3, 4, 9 and 10, Township 10 South, Range 37 East W.M.

(2) The gravel operations that may be allowed by this section shall be conducted and reclaimed in accordance with Section 2.020 (c) and (d) of this ordinance.

SECTION 3.030. Nonconforming use. (a) A legal use of land or a building or other structure, existing prior to the effective date of this ordinance, that does not conform to the provisions of this ordinance, may be continued but such use shall not be expanded or otherwise made further nonconforming.

(b) A new use replacing a nonconforming use shall conform to the provisions of this ordinance.

SECTION 3.040. Variance; Permit; Notification; Fees. (a) The Hearings Officer shall have authority to grant a variance permit from the provisions of this ordinance where it can be shown that owing to a special and unusual circumstance relating to a particular lot or parcel of land, or to a particular building or other structure the literal interpretation of this ordinance would cause an undue or unnecessary hardship.

(b) No variance permit shall be granted unless it can be shown that all the following circumstances exist:

(1) The variance is necessary for the preservation of a property right of an applicant substantially the same as owners of other property in the same vicinity;

(2) The granting of the variance will not be materially detrimental to any purpose of this ordinance nor be injurious to other property in the same vicinity; and

(3) The variance requested is the minimum variance which will alleviate the hardship.

(c) (1) A variance permit issued according to this section shall apply to and run with the land involved: Provided, however, that the Hearings Officer shall have authority to set reasonable time limits during which time the use of land or the use of a building or other structure shall be commenced and diligently pursued.

(2) A use not established in accordance with the provisions of (1) of this subsection shall be subject to a review and reconsideration by the Hearings Officer. The reconsideration, depending upon changing conditions and circumstances, may include a revocation of a permit formerly authorized.

(d) (1) An application for a variance permit shall be made to the planning director, on forms provided for that purpose, along with an administrative fee of \$100.00.

(2) The county governing body, by order thereof, shall have authority to adjust the fee in (1) of this subsection, from time to time, as it deems necessary.

(e) All applications for variance shall be published in a newspaper of general circulation in the county at least one time no later than 10 days prior to the date set for the public hearing upon the application. In addition, all land owners of record owning land within 300 feet of the land involved in a variance application shall receive individual notice by mail of the date, time and place of the hearing.

SECTION 4.010. Sumpter Valley Dredge Tailing Management Plan. Included in this ordinance, and by this reference made a part hereof, is the "Sumpter Valley Dredge Tailing Management Plan", which plan shall be adopted by the county governing body and which plan may be referred to as the "Dredge Tailing Plan".

SECTION 4.020. Zoning Map. Included in this ordinance, and by this reference made a part hereof, is the "Zoning Map Sumpter Valley Dredge Tailing Management Plan", which map shall be adopted by the county governing body and which map may be referred to as the "Dredge Tailing Zoning Map".

SECTION 4.030. Filing; recording. (a) A certified copy of the Dredge Tailing Plan, including any revision thereof, shall be filed, but may not be recorded, with the county recording officer.

(b) A certified copy of this ordinance, including any revision hereof, and a certified copy of the zoning map hereto, including any revision thereof, shall be filed and recorded with the county recording officer.

(c) The plan, ordinance and zoning map mentioned in this section, including any revisions, shall not become operative until filed and recorded as required by this section.

SECTION 4.040. Reviews; revisions. (a) The Dredge Tailing Plan shall be reviewed and may be revised every two years, as necessary, in order to allow for changing conditions and circumstances that reasonably may require such revision: Provided,

however, that such revisions of the Dredge Tailing Plan shall not be in conflict with any provision of the overall Baker County Land Use Plan.

(b) This ordinance, including the zoning map hereto, may be reviewed and revised periodically, as necessary: Provided, however, that any revision of this ordinance and zoning map shall not be in conflict with any provision of the Dredge Tailing Plan.

(c) "Revision" includes any amendment.

SECTION 4.050. Supercedes existing plan and ordinance.
The provisions of this Dredge Tailing Ordinance and the Dredge Tailing Plan, as to the land area involved, except as provided in Section 3.020 (2), shall supercede the provisions of any land use plan and zoning ordinance of the county adopted prior to the effective date of this ordinance.

SECTION 5.010. Administration; appeal; fees. (a) The planning director shall have authority to administer and enforce the provisions of this ordinance.

(b) A ruling or other action of the planning director may be appealed to the Hearings Officer: Provided, however, such appeal is filed in writing with such director within 10 days of the date of such ruling or action from which appeal is taken.

(c) A ruling or action of the Hearings Officer may be appealed to the county governing body: Provided, however, such appeal is filed in writing with the county clerk, along with the prescribed filing fee of \$20.00, within 20 days of the action or ruling from which the appeal is taken.

(d) An appeal filed according to this section shall contain:

- (1) The ruling or other action from which appeal is taken; and
- (2) The grounds upon which the appeal is taken.

(e) Action upon an appeal filed according to this section shall be taken within 40 days of the date the appeal is filed.

(f) The county governing body, by an order thereof, shall have authority to adjust the filing fee according to this section, from time to time, as it deems appropriate.

SECTION 5.020. Remedies; violations. (a) In addition to other remedies provided by law, violations of the provisions of this ordinance shall be subject to such remedies as provided in ORS 215.185;

(b) A violation of the provisions of this ordinance is held to be a nuisance and shall be subject to the provisions of ORS 203.065.

SECTION 5.030. Emergency. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance takes effect immediately upon being filed and recorded as provided herein.

PASSED and ADOPTED this 4th day of April, 1979.

Co. Judge Leonard L. Fuller
Ernest W. Ringen
Stewart Sullivan Comm.
County Court

Recommended for adoption this 22 day of February, 1979
Chairman, Baker County Planning Commission.