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THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

UMATILLA COUNTY  
RECORDS

STATE OF OREGON

In the Matter of Amending )  
 Comprehensive Plan to )  
 Include Goal 11 and 14 )     ORDINANCE NO. 2005-06  
 Exceptions for Port of )  
 Umatilla McNary Industrial Site )

WHEREAS the Board of Commissioners has adopted a Comprehensive Plan for Umatilla County and has ordained Ordinance No. 83-04, adopting the County Land Development Ordinance;

WHEREAS the Land Conservation and Development Commission as part of Periodic Review has issued Order #001352, requiring the county to justify uses currently allowed in commercial and industrial zones, as uses either appropriate in rural areas or to delete such uses from these zones, to be in compliance with Statewide Planning Goal 14 (Subtask E);

WHEREAS the Port of Umatilla chose to pursue an amendment to the Umatilla County Comprehensive Plan to include an exception to Goals 11 and 14 for its property identified as the McNary Industrial Site or McNary Subarea 1;

WHEREAS the Umatilla County Planning Commission held a public hearing on May 12, 2005, to review the proposed exception and recommended that the Board of Commissioners adopt the amendment;

WHEREAS the Board of Commissioners held a public hearing on May 31, 2005, to consider the proposed amendment, and voted for the approval of the amendment.

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains that the Umatilla County Comprehensive Plan, adopted May 9, 1983, be further amended to include the following:

*To be added as the section entitled McNary (Area #1) on Page XVIII-431 to Page XVIII-445 (including new McNary Area map) and deleting current section and maps.*

McNary Area #1

The McNary Area #1 is comprised of approximately 1400 acres divided into three parcels: Port of Umatilla identified as Subarea 1; Tribal Trust Land identified as Subarea 2; Federal Land

identified as Subarea 3. See McNary Area map, page XVIII-444A.

#### McNary Subarea 1 - Port of Umatilla

This provides findings of fact and reasons to support exceptions to Statewide Planning Goals 14 (Urbanization) and 11 (Public Facilities and Services) for 321.36 acres of rural land owned by the Port of Umatilla and known as the McNary Industrial Park ("McNary"). The property consists of two tax lots: Tax Lot 5N28A-1302, consisting of 160 acres located immediately east of Beach Access Road and immediately south of the Two Rivers Correctional Institution; and Tax Lot 5N29B-600, consisting of 161.36 acres located immediately east of Tax Lot 5N28A-1302. The legal description for the property is the North Half of the North Half of Section 13, Township 5 North, Range 28, and the North Half of the North Half of Section 18, Township 5 North, Range 29, East of Willamette Meridian, Umatilla County, Oregon. The property's configuration is long and narrow. Its dimensions are one-quarter mile wide north-south and two miles wide east-west. The City of Umatilla Urban Growth Boundary adjoins Tax Lot 5N28A-1302 on its west side.

The exceptions are being taken pursuant to OAR 660-014-0040 (Establishment of New Urban Development on Undeveloped Rural Lands). They are taken both in response to a current interest in this property from a specific industrial developer and to reflect the long-term economic development interests of the Port of Umatilla. The exceptions rely on both the immediate proximity of the McNary Industrial Park property to urban land and urban services, and important site-specific characteristics, including the availability of rail, barge, and state and interstate highway service to the property.

#### A. Vicinity Conditions.

The McNary property is located immediately adjacent to the City of Umatilla city limits and urban growth boundary (UGB). The property is bordered on the west by County Road #1285 (Beach Access Road) and the City of Umatilla UGB. To the north, the property abuts the city limits and the Two Rivers Correctional Institution site along its western half and approximately 195 acres of land held in trust by the United States of America along its eastern half. East of the property is a wildlife area known as Wanaket that is owned by Bonneville Power Administration and managed by the Confederated Tribes of the Umatilla Indian Reservation. To the south the property borders 848.33 acres that is also part of the Wanaket wildlife area. See McNary Area Map, Page XVIII-444A.

The property is generally flat and characterized by poor to very poor soils, with the eastern half of the property dominated by rock outcroppings and extremely shallow soils. There are no watercourses, significant Goal 5 resources or identified areas subject to natural hazards present that would impede development of the site.

The property is considered rural "non-resource" land because it does not meet the definition of "agricultural land" in Statewide Planning Goal 3. According to a January 19, 2000 soils analysis prepared by Philip Small, a certified professional soil classifier working for Land Profile, Inc., the 321 acres consist of soils that are predominantly Land Capability Classification VII and not otherwise suitable for farm use. The Class VII rating reflects the soils' very low average available water holding capacity of about 1.55 inches. Very little natural vegetation exists on the site, and the SCS has stated to the County Planning Department that to try and seed the land to perennial grasses would be fruitless as well as cost-prohibitive. As such, the site is not suitable for agriculture. The nearest agriculturally productive land is a couple of miles to the east or across Highway 730 to the south.

Urban facilities and services are readily available to the McNary property. Sanitary sewer collection lines abut the property along Beach Access Drive, within the City of Umatilla UGB. These lines can be extended onto the property. Water facilities, electricity and telephone service also are available at the western edge of the site. Natural gas service is available approximately one-quarter mile to the west of the site and can be extended to the site.

The site has excellent highway access via Oregon Highway 730, a paved two-lane state highway located immediately south of the properties bordering the site on its south side. Interstate 82, an interstate freeway, is located approximately two miles west of the site and readily accessible via Oregon Highway 730 and County Roads. Rail facilities are available approximately one-quarter mile west of the site and can be extended through other Port-owned property to the site. Barging facilities along the Columbia River also are available to serve development on the site. The Port recently installed a \$3.5 million crane that can handle a variety of containers and serve other loading functions for industries located at the McNary property. Water access is available approximately 1.5 miles from the McNary site and is easily accessible by paved County roads.

#### B. Background.

The 321-acre McNary property that is the subject of this exception was part of a much larger (1400 acre) exception area that came before LCDC for acknowledgment in 1985 and 1993. In 1985, and again in 1993, LCDC concluded that Umatilla County had not fully justified goal exceptions to authorize a full range of industrial development within this area.

In December, 2001, the Department of Land Conservation and Development (DLCD) reviewed Umatilla County's Periodic Review submittal, which included an industrial plan designation and heavy industrial zoning for the 321-acre McNary site. DLCD concluded that while the 321 McNary property is non-resource land, "the county has not fully justified the application of their Heavy Industrial zone for this area because some of the uses allowed by this zone are 'urban' in nature and thus, are not uses suitable for location outside an urban growth boundary." DLCD found that certain industrial activities, including general manufacturing, welding shops, wholesale businesses, and eating and drinking establishments, were inappropriate in rural areas and should be located instead inside urban growth boundaries or limited in total floor area square footage.

In December, 2003, DLCD reviewed more recent County planning efforts and reached similar conclusions for the McNary site. DLCD agreed with the County that the subject property was not agricultural land. It found, however, that the County had not yet justified development of urban scale industrial uses on the site. DLCD directed the County to (1) Justify an exception to Statewide Goal 14 in order to provide for urban uses at this location; (2) Define certain uses so that only those that conflict with the urban environment or serve rural or resource uses are allowed; or (3) Apply property development standards to assure that only "rural" uses are allowed, consistent with Goal 14. DLCD explained that the appropriate Goal 14 exception criteria are set out at OAR 660-014-0040. It also opined that the property likely could not be justified for a UGB expansion because (1) the county had not identified a specific use for the site; (2) the county had not addressed the exceptions requirements as they have been interpreted and refined by OAR 660, Divisions 4 and 14; and (3) the Umatilla UGB already contained an abundant land supply for industrial development over the planning horizon.

C. Exceptions to Goals 14 and 11.

1. Introduction.

This exception seeks to authorize a range of industrial uses,

including some "urban" industrial uses, at the McNary Industrial Park. Industrial development at the McNary Industrial Park is critical to the Port's economic development mission, as this is the Port's only land holding that can accommodate a large industrial siting. And because of this site's size, location, and immediate proximity to urban services, industrial development at this site is important as well to the State of Oregon and to Umatilla County and the City of Umatilla.

On December 15, 2003, Governor Kulongoski's Industrial Lands Advisory Committee issued a report addressing what Oregon must do "to be competitive in the global marketplace." The report identified 25 industrial sites "of statewide significance for job creation" throughout Oregon. In so doing, the report emphasized that this designation of "shovel-ready" sites was "but one piece of a much larger process to increase Oregon's supply of 'project-ready' industrial lands."

As described in the exception below, the McNary site can be made readily available for industrial development. The site is located just two miles from an interstate highway (Interstate 82) with easy connections to another interstate highway (Interstate 84). The site can be served by rail and barge facilities. Its 320 acres allows it to serve the needs of industries requiring very large sites. The absence of agricultural activities on immediately surrounding lands means that development can occur with no significant impact to the agricultural enterprises of the area.

If the economic interests of Oregon are to be met, industrial properties must be available for siting when the interest arises. Delaying the process for six months or a year to obtain goal exceptions only encourages industries to locate elsewhere. Stated another way, when an identified industry proposes to locate new development in an area, it is frequently too late to begin work on planning and zoning issues. Industries seeking a new site need land that is already properly zoned and ready for development. For the Port to be successful in its mission of economic development for Umatilla County, and for the State of Oregon to succeed in its mission "to be competitive in the global marketplace", all parties need to "move at the speed of business." New capital investment and new jobs will not occur if required planning actions can delay development by a year or more.

## 2. Legal Standards for Reasons Exceptions.

Under ORS 197.732(1), a local government may adopt an exception to a goal if the land subject to the exception is

physically developed or irrevocably committed to uses not allowed by the applicable goal or if reasons justify why the state policy embodied in the applicable goals should not apply. Because the McNary property is not physically developed with urban uses or irrevocably committed to such uses, this document provides facts and analysis to support a "reasons" exception to justify urban uses at this rural site.

The rule implementing ORS 197.732 for Goal 14 and Goal 11 reasons exceptions is OAR 660-014-0040, which provides in full as follows:

(1) As used in this rule, "undeveloped rural land" includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban levels of development.

(2) A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.

(3) To approve an exception under section (2) of this rule, a county must also show:

(a) That Goal 2, Part II(c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities.

(b) That Goal 2, Part II(c)(3) is met by showing that the long-term environmental, economic, social, and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the

same proposal being located on other undeveloped rural lands, considering:

(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate; and

(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.

(c) That Goal 2, Part II(c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:

(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and

(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.

(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner; and

(e) That establishment of an urban growth boundary for a newly incorporated city or establishment of new urban development on undeveloped rural land is coordinated with the comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development.

3. Compliance with OAR 660-014-0040.

OAR 660-014-0040(1)

The McNary Industrial Park is "undeveloped rural land" as that term is defined in OAR 660-014-0040(1) because the 321 acres are (1) located outside of an acknowledged urban growth boundary and (2) not committed to urban development. As such, the McNary site is eligible for an exception under this rule.

OAR 660-014-0040(2)

An exception to allow urban development on, and the establishment or extension of urban services on or to, the McNary site is justified for several reasons:

- To provide for a specific proposed use that wishes to locate at this site and for whom other Oregon industrial properties in proximity to the Columbia River cannot satisfy its requirements;
- To provide, more generally, for urban-scale industrial uses that conflict with and require separation from other urban uses; and
- To provide for urban-scale industrial uses that are rail or barge dependent.

Biodiesel Use

Initially, this exception is needed to enable the Port to locate a specific urban scale industrial use at the McNary site. A company, hereby known as Project: Fuel, has approached the Port seeking to construct a large new facility at McNary that would manufacture Biodiesel from canola seeds. Under Project: Fuel's proposal, canola seeds would be transported into the site by rail and truck, where they would be crushed to extract canola oil. The canola oil then would be shipped out by barge from docking facilities along the Columbia River in Umatilla to a Project: Fuel facility in Portland for refining. Project: Fuel has indicated that the magnitude of the river traffic generated by this use will necessitate a dedicated docking facility.

The proposed Project: Fuel use initially would require about 26 acres for feedstock, product and byproduct storage facilities. Additionally, about 100 acres will be needed for the production facility and parking, including significant acreage for needed rail facilities. Over time, Project: Fuel would expand onto the remaining acreage at the McNary site. A conceptual site plan of



the use is on file.

The need for significant acreage results in large measure from the fact that canola seeds would be transported onto the site by "unit trains", which are trains that serve a single industrial use and contain a minimum of 100 rail cars plus engines. Due to their length, these trains require substantial track to accommodate the engines and cars without blocking County or state roads. Consistent with Union Pacific specifications, the rail spur design for a unit train also requires a 640-foot turning radius. Hence, unit trains require parallel tracks.

The McNary site can readily accommodate unit trains. Its long, narrow configuration, combined with the fact it is undeveloped, allow it to accommodate the length of track necessary to avoid blockage of County Roads, as well as the turning radius required. It is estimated that approximately four miles of rail track would be laid across the property.

As noted, the rail facilities would be used to transport local raw materials onto the site. To Project: Fuel, a partnership with the agricultural community in the region would be an integral part of its business plan. Under this approach, Project: Fuel would buy canola seed locally. This is practical because canola can be planted as a primary crop or as a rotational crop with existing wheat crops both on irrigated and non-irrigated soils. Utilizing local crops will provide benefits both by supporting and expanding the agricultural enterprise of the area and by reducing transportation costs. Contracts can be entered into with farming enterprises for crop sales, increasing growers' revenue. It also should be noted that Oregon livestock can use canola meal (a Biodiesel by-product) instead of soy meal (which is not grown locally).

Project: Fuel has shown particular interest in the McNary site because of its large size, the proximity of its docking facilities, its ability to accommodate unit trains, and its proximity to agricultural growers of canola seed. These special features make the McNary site ideal for the proposed use. While there are two other large industrial properties in the area, these properties are already substantially developed or are bisected by easements or roads in such a manner as to preclude the siting of the Project: Fuel facility on those properties. This issue is discussed in more detail below.

Although the proposed Biodiesel use clearly involves the processing of resource products, the Port believes that the size of

the proposed Project: Fuel plant, its need for and reliance on urban sewer and water services, its need for substantial rail track service, and its estimated number of employees (initially about 50, later expanding to over 110), are all indicative of a use that is urban in its nature and scale. For this reason, a Goal 14 exception to allow urban scale development on rural land is appropriate. The Port recognizes that where industrial uses involve the processing or manufacturing of resource products such as farm crops and produce, timber and forest related products, and mineral and aggregate resources, LCDC at times has determined that a Goal 14 exception is not necessary. But a Goal 14 exception is appropriate here, not only due to the number of employees, the miles of track, a large number of buildings, and Project: Fuel's need for urban services, but also to accommodate other urban type uses identified below.

A Goal 11 exception is needed to allow urban scale sewer and water services to be extended to or established on the property. Without a Goal 11 exception, local governments may neither allow the establishment or extension of sewer systems outside of urban growth boundaries nor allow extensions of sewer lines from within UGBs to serve lands outside those boundaries. Both urban scale sewer and water facilities would be needed to serve the Project: Fuel use. As noted, Project: Fuel anticipates hiring about 50 employees to start, expanding to over 110 employees over time. Considering only domestic water needs, this large number of employees alone is of a scale that goes beyond what a well could accommodate. Additionally, Project: Fuel or other users at the site would need water for fire prevention purposes, and future development has a large requirement for water. Project: Fuel plans to develop on-site facilities for treatment of waste-water and storm water runoff. Similarly, the size of the facility and number of employees warrants the extension of sanitary sewer services to the site. Sewer and water services are both available along Beach Access Road.

#### Other Urban Uses

Besides seeking authorization to construct the Project: Fuel facility at McNary, this exception seeks authorization to locate industrial uses at McNary that do not involve the processing or manufacturing of resource products. Based on previous LCDC and DLCD orders, the Port recognizes that not just any urban industrial use would be allowed here. The Port believes, however, that the following urban scale uses should be allowed at McNary:

- Urban industrial uses that require very large sites (40+

acres).

- Urban industrial uses that are heavily rail or barge dependent.
- Urban industrial uses that conflict with or are hazardous to the livability of those living within an urban environment

The Port recognizes that there is sufficient buildable urban industrial land already inside Umatilla's UGB to accommodate smaller industrial developments. It also recognizes that non-resource related industrial uses that require rail facilities to handle a relatively small number of rail cars could locate on other industrial sites. This exception is not intended to authorize those kinds of uses at this location.

Instead, this exception limits itself to those urban industrial uses that:

- Require very large acreage (40+ acres);
- Require barge facilities;
- Require deliveries or exportation of raw or processed product by unit trains or trains containing 25 or more cars; or
- Are hazardous to the livability of those living within an urban environment and thus require a location away from residential or commercial uses or light industrial uses.

With its access to rail and barge services, the McNary site is ideal to accommodate such uses and provide them with needed public facilities and services. These uses should be allowed at McNary, in addition to any resource-related industrial uses that might also want to locate at this site.

The availability of exceptions to allow a use that has special features or qualities that necessitate its location on or near a proposed exception site has long been recognized. See, e.g., OAR 660-004-0022(1)(c). As noted, both rail and barge services are or can be made readily available to the McNary site, including rail service capable of accommodating unit trains. For industrial uses requiring these services, and for industrial developments requiring large acreages, the McNary Industrial Park is the only site that can meet this combination of needs.

There are currently two large industrial properties inside the Umatilla UGB. One, Tax Lot 5N28A-300, contains 142.94 acres located north and south of Roxbury Road near Beach Access Road. Despite its big overall size, this property has been divided into

many smaller parcels, including Tax Lot 303 (49 acres); 311 (11 acres); 304 (2 acres), 308 (2 acres), 309 (1 acre), 307 (2 acres) and the like. Much of this property is already developed, as aerial photographs clearly indicate. Other portions of the site are crossed by roads that would preclude large rail spurs like that needed to serve the Project: Fuel facility. Overall, this site cannot practicably be used to serve industrial developments that are land intensive or require significant transportation infrastructure.

The second industrial property, Tax Lot 5N28A-1201, is located south of Tax Lot 300 west of Beach Access Road. This property could accommodate large parcels. It, however, is closer to developed residential areas inside Umatilla, where livability conflicts could arise. Also, its northern and southern halves are bisected by a 60-foot wide access and utility easement which renders the site unavailable for a use like Project: Fuel that requires unencumbered land over which a unit train may rest while loading or unloading.

In its Umatilla County Periodic Review Report dated December 7, 2001, DLCD stated that certain industrial uses are more appropriately located outside urban areas. These include uses that generally conflict with or are hazardous to the livability of those living within an urban environment, such as wrecking yards, asphalt batch plants and large utility facilities. They also include uses that support other resource related activities, such as food processing facilities or grain elevators. Again, the McNary site has adequate separation from other urban uses to accommodate such conflicting uses. Tax Lots 300 (including all its parcels) and 1201 are much closer to conflicting urban uses located west of Bud Draper Road and may not be able reasonably to accommodate such uses.

OAR 660-014-0040(3) (a)

To satisfy OR 660-014-0040(3) (a), the County must demonstrate that the proposed use cannot be located inside an urban growth boundary or by intensification of development inside rural communities. The proposed Project: Fuel facility cannot reasonably locate inside Umatilla's existing UGB because existing vacant industrial land cannot accommodate the rail facilities Project: Fuel needs to serve that use, because water-borne traffic is a daily requirement, and because existing vacant industrial parcels inside the UGB are too small. Project: Fuel's need for rail facilities that can accommodate a unit train eliminate Tax Lots 300 and 1201 from consideration. Existing levels of development on Tax Lot 300, and the presence of the easement on Tax Lot 1201, make

these lots impractical to serve Project: Fuel's need.

Tax Lots 1201 would likely be able to accommodate one or two large (40+ acre) industrial users on its property. Its proximity, however, to urban residential areas west of Bud Draper Road could significantly limit the types of such uses that could locate there. To support local and regional economic development objectives, it is important to provide more than one site to accommodate such uses. Because of the existing development and parcelization pattern on Tax Lot 300, it is not clear that this site is capable of accommodating very large industrial users in the future.

It is possible that Umatilla could expand its UGB to include this site. Indeed, expanding the UGB now to include the McNary property would be the Port's strong preference. Because of its isolation from conflicting uses, this property could become part of the City of Umatilla and still accommodate urban scale uses that, elsewhere, would conflict with urban livability within the city.

DLCD, however, has indicated in several correspondences that a UGB expansion is not appropriate because the City of Umatilla already has an excess supply of industrial land, such that there is no "demonstrated need" for additional urban industrial land at this time. Hence, at least for now, the use cannot be reasonably accommodated through expansion of Umatilla's UGB. The Port, however, very strongly believes that if Project: Fuel locates at this site, and if rail lines and urban infrastructure are extended onto the property to serve Project: Fuel's needs and requirements as described above, then the land clearly would assume "urban" characteristics that would warrant its addition to the UGB. This could reasonably occur at any time subsequent to site development. The Port believes such a UGB amendment would then be appropriate, especially given that the City would be the principal service provider to this property.

There are no rural communities in the vicinity that are sufficiently large to accommodate the proposed use. For this reason, the proposed new urban development cannot be reasonably accommodated in existing rural communities.

OAR 660-014-0030(3) (b)

The long term environmental, economic, social and energy consequences resulting from the proposed urban development at the McNary site would not be significantly more adverse than would typically result from the same proposal being located on other

undeveloped rural lands for the following reasons. Environmentally, there are no inventoried natural resources located on the property. Water quality would be protected through provision of City sewer and water facilities and through development approval conditions and best practices intended to protect water quality. Air quality can be protected through compliance with DEQ air quality permit requirements applicable to industrial uses locating at McNary, as well as through greater reliance on rail and barge travel than truck travel. Besides being more energy efficient, rail and barge are both cleaner than truck travel in terms of air quality. The site is downwind from residential property located in the City of Umatilla.

To the east and south is the Wanaket wildlife area. The area is utilized by, among other species, deer and birds. It is possible that urban industrial development could adversely affect wildlife in this area, particularly through noise disturbances. Such impacts likely would be no greater than those associated with rural heavy industrial development in the absence of a Goal 14 exception. It should be noted that a Memorandum of Understanding exists between the Port of Umatilla and the Confederated Tribes permitting industrial development right up to the fence line separating McNary from the Wanaket area. The Memorandum addresses how impacts to wildlife from development will be mitigated, as does a deed from the Trust for Public Land to the Port.

Economically, the proposed Project: Fuel use and any other urban industrial uses at McNary would enhance and benefit the economy of the local area. Benefits would arise not only from the creation of jobs at the site, but also through substantial purchases of local raw materials and other needed products and through employee expenditures of income at local businesses. The proposed Project: Fuel use also would help provide a more diversified economy that better supports the community in harder economic times. A description of Project: Fuel's significant economic contributions to the local and state economies is documented. Likewise, other future industrial uses at the site should help protect and expand the local economy. No adverse economic impacts should result.

Socially, there should be no adverse impacts because the site is separated from the primary residential and commercial areas of Umatilla and because the configuration of the site (1/4 mile wide by 2 miles wide) allows for significant buffering. The prison and trust land to the north and the Wanaket wildlife areas to the east and south pose no social conflicts for this site. To the west of the site are other industrial lands that buffer this area from

residential lands farther west. Conversely, the proposed use will generate positive social impacts through its creation of new jobs, contribution to the tax base, and support for local and regional agricultural production.

From an energy standpoint, the proposed Project: Fuel use and other industrial uses would require utilization of energy resources. The Project: Fuel use, however, would substantially reduce gasoline consumption due to its significant reliance on rail and barge travel.

Overall, the benefits of this proposal should greatly outweigh any adverse impacts associated with the Project: Fuel use or with other authorized industrial uses. At other locations this might not be so, particularly given that this site is so well buffered from potential conflicting uses. Further, because this site is non-resource land, it compares favorably to locating these same uses on other undeveloped rural lands that are resource lands, because it does not result in any diminution of the resource base. The McNary site also should have fewer adverse energy impacts than other rural sites based on its immediate proximity to the Umatilla UGB, which can provide an employment base for new industry at McNary, and its ability to accommodate unit trains.

The 321 acres included in the goal exception is appropriate for several reasons. First, while it exceeds the acreage that the Project: Fuel facility requires for the first phase of its development, Project: Fuel has expressed an intention to expand in the future. That expansion would require all of the acreage at the McNary site. This exception would enable expansion to occur in a timely and efficient manner. Second, the additional land is needed to accommodate unit trains. It is anticipated that the rail spur would extend the full length of the property eastward from Beach Access Road and then double back. The presence of this rail spur will commit this whole area to urban industrial development. Third, including all 321 acres in the exception at this time greatly facilitates the Port's ability to attract and locate new industrial users to the area in a timely manner. Given that the area is already identified for rural industrial development, the economic, social, environmental and energy impacts of including all 321 acres in this exception would likely differ little from what would occur if the easternmost 160 acres remained rural. With the limitations set out in this exception, the uses that would locate on the remaining property would be uses that are unlikely to locate elsewhere in Umatilla, due to their size or service requirements or based on conflicts or characteristics that necessitate some separation from urban residential, commercial and light industrial

uses. As such, they are not likely to create economic disadvantages for industrial sites inside the UGB. Fourth, the unusual configuration of this site justifies inclusion of the entire property, since all surrounding rural lands are in public ownership. As such, there is no danger that this property would create pressures for other lands to urbanize. With the exception applying to the entire property, the entire McNary site becomes available to respond quickly to the needs of industry "at the speed of business."

Urban development at the McNary site would not be limited by the air, water, energy or land resources at or available to the site. As previously noted, a full range of public facilities and services is readily available, including public sewer and water, telephone, electricity and gas. Likewise, a full range of transportation facilities and services are available, including state and interstate highways, County Roads, rail and barge. The basalt below the soil surface makes this site excellent to support rail and heavy buildings.

Urban development at the site should not adversely affect the air, water, energy or land resources of the surrounding area. The site is downwind of and well buffered from urban development inside Umatilla with which livability issues could arise. The proposed site is already available for heavy industrial uses that are resource related or require a rural location, and impacts associated with urban industry should be no worse in general. In terms of energy conservation, the Project: Fuel use would help reduce fossil fuel consumption through its utilization of rail and barge facilities to receive raw materials and ship product.

OAR 660-014-0040(3)(c)

Compatibility with adjacent uses is described in large measure in the analysis under OAR 660-014-0030(3)(b). Because most of the surrounding land is held in public ownership, there are few conflicts that would require mitigation. The largest development near the site is the prison, which should not cause conflicts. As noted, this site already is available for heavy industrial use of a rural nature.

Urban development at the site will not detract from the City of Umatilla's ability to provide services within its jurisdiction, provided that the land can be brought inside the urban growth boundary following its development. Through such action, sufficient revenues are generated to enable the City to avoid adverse service impacts elsewhere. Development at the site also should not pose



any problems for continued resource management of land at present levels surrounding and nearby the site. Again, there are no farm or forest uses adjoining or in close proximity to the site. Surrounding lands to the east and south are managed as wildlife areas. Such management can continue if urban development occurs at this site. The same holds true under the current rural industrial designation and zoning for the site.

OAR 660-014-0030(3)(d)

City sanitary sewer lines and water facilities are located along Beach Access Road immediately west of the site. Electricity and telephone services also are available next to the site, while rail and natural gas services are located about one-quarter mile away. Because of the immediate or very close proximity of these facilities and services, it is likely that an appropriate level of public facilities and services can be provided in a timely and efficient manner.

OAR 660-014-0040(3)(e)

The Port has discussed this proposal with Umatilla County and the City of Umatilla. Umatilla County, of course, has attempted several times to gain LCDC approval of plan designations and zoning permitting urban scale industrial development at the McNary site. This exception is consistent with that effort. Although the site is outside the City of Umatilla UGB, the City is not opposed to this effort, provided that any extension of urban services can be followed by annexation to the City and inclusion inside its UGB. Assuming that Project: Fuel or another urban industrial development locates at the site, this should be able to happen soon following the extension of urban services and occupancy of the use, because the property then would have urban characteristics and be committed to urban development.

#### D Conclusions.

The Port of Umatilla has been approached by Project: Fuel with an outstanding industrial development opportunity that would improve the economic well-being of the City of Umatilla, Umatilla County and their residents. Project: Fuel has researched a variety of locations and concluded that the Port's McNary site is the only site that can meet its requirements, particularly with regard to rail. Project: Fuel wishes to purchase this land and begin development on it as soon as possible.

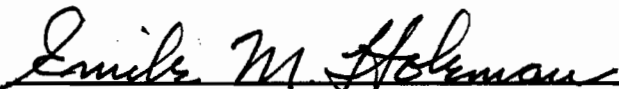
Goal 14 and Goal 11 exceptions are required to site Project:

Fuel's Biodiesel manufacturing facility at the McNary site. The Goal 14 exception is necessary because Goal 14 otherwise prohibits urban scale uses on rural lands and the proposed Project: Fuel use is more urban than rural in its nature and scale. The Goal 11 exception is necessary because Goal 11 otherwise prohibits the establishment or expansion onto rural lands of urban scale services, including sanitary sewer and city water, and the Project: Fuel use requires urban scale sewer and water services. The economic benefits that Project: Fuel would provide to the region, viewed in light of Governor Kulongoski's initiative to make Oregon more competitive in the global marketplace, combined with the fact that the McNary site is the only Oregon site that satisfies Project: Fuel's development criteria, justify why the policies in Goals 14 and 11 should not apply to this site.

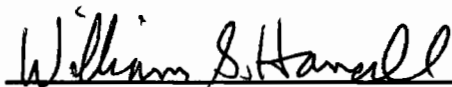
FURTHER, the Board of Commissioners deems this Ordinance necessary for the immediate preservation of public peace, health, and safety, and therefore, it is adjudged and decreed that an emergency does exist in the case of this Ordinance and it shall be in full force and effect from and after its adoption by the Umatilla County Board of Commissioners.

DATED this 31st day of May, 2005.

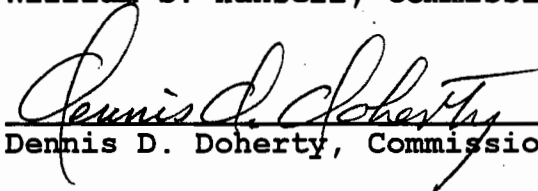
UMATILLA COUNTY BOARD OF COMMISSIONERS



Emile M. Holeman, Chair



William S. Hansell, Commissioner

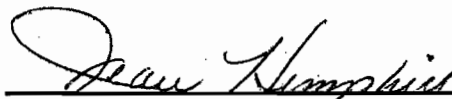


Dennis D. Doherty, Commissioner



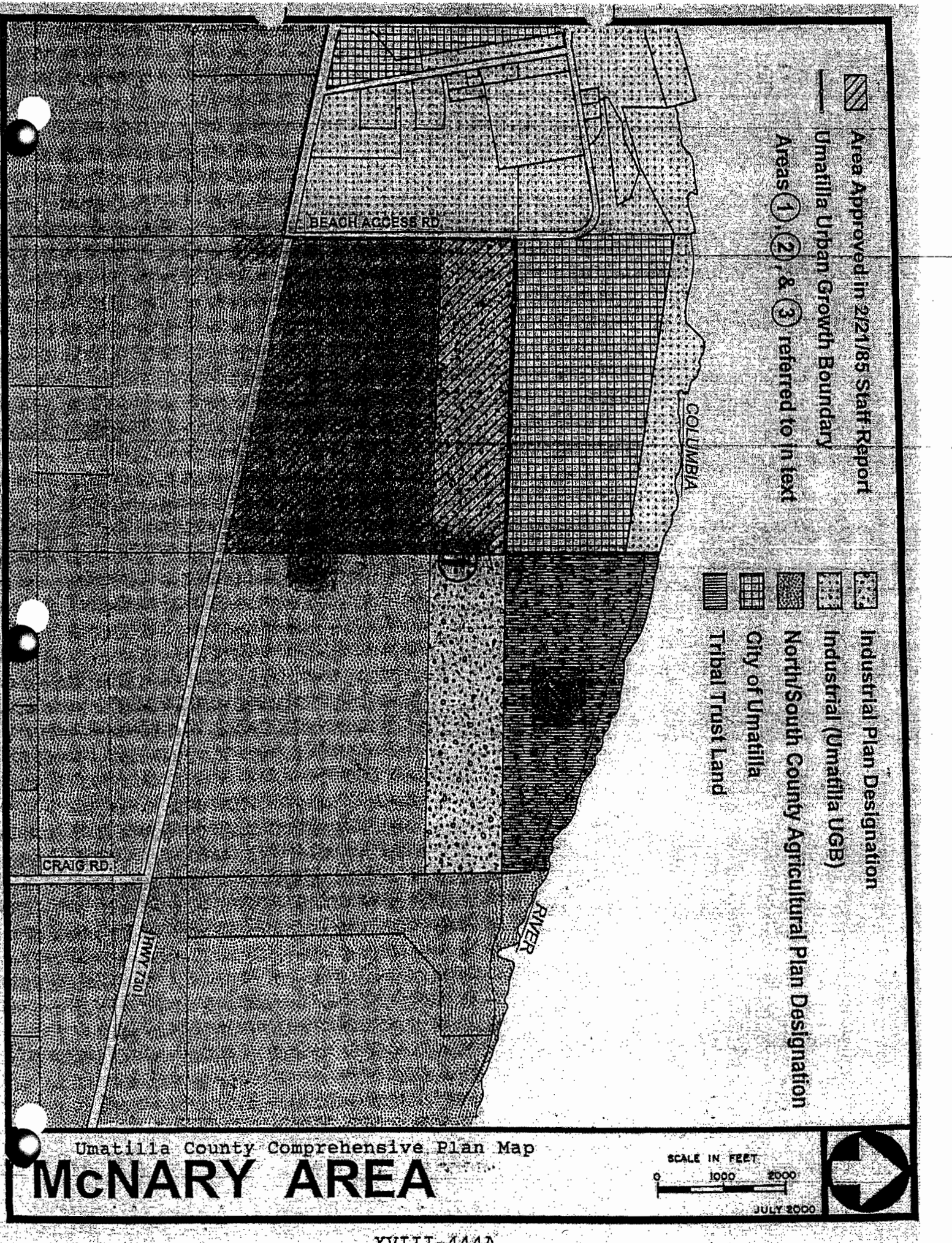
ATTEST:



OFFICE OF COUNTY RECORDS








Dawn Humphreys  
Records Officer

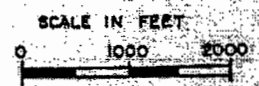




 Area Approved in 2/21/85 Staff Report  
 Umatilla Urban Growth Boundary  
 Areas ①, ②, ③, ⑧, ⑩ referred to in text

 Industrial Plan Designation  
 Industrial (Umatilla UGB)  
 North/South County Agricultural Plan Designation  
 City of Umatilla  
 Tribal Trust Land

Umatilla County Comprehensive Plan Map  
**McNARY AREA**



JULY 2000