

COLUMBIA COUNTY BOARD OF COMMISSIONERS  
BOARD MEETING

MINUTES

February 15, 2006

The Columbia County Board of Commissioners met in scheduled session with Commissioner Joe Corsiglia, Commissioner Rita Bernhard and Commissioner Anthony Hyde, together with John Knight, County Counsel, Sarah Hanson, Assistant County Counsel and Jan Greenhalgh, Board Secretary.

Commissioner Corsiglia called the meeting to order and led the flag salute.

**MINUTES:**

Commissioner Hyde moved and Commissioner Bernhard seconded to approve the minutes of the February 8, 2006 Staff meeting. The motion carried unanimously.

The minutes of the February 8, 2006 Board meeting were held over one week.

**VISITOR COMMENTS:**

None.

**HEARING: EXPAND OAK RANCH QUARRY SURFACE MINING PERMIT:**

This is the time set for the public hearing, "In the Matter of the Application by Forest Systems LLC, as agents for Bascom Pacific LLC for a New Surface Mining Operating Permit to Expand the Oak Ranch Quarry".

Sarah stated that this is a land use hearing to hear the application to mine 30.08 acres of Oak Ranch Quarry, which is an existing 32.6 acre surface mining pit. This is going to be a quasi-judicial land use decision. She noted that the Planning Commission does not hear surface mining permit matters. Commissioner Bernhard stated that she spoke with Dave, but nothing specific to this hearing. Commissioners Corsiglia and Hyde declared no ex parte contact. Sarah then read the pre-hearing statement into the record as required by ORS 197.763. Sarah then entered County Counsel's hearing file into the record, marked Exhibit "1" and noted all contents. Anyone who believes that there are other items that should be in the record, need to bring those to the Board today or they will not be considered part of the record.

***Todd Dugdale, LDS Director:*** Forest Systems has submitted an application for a new operating permit for a 30.08 acre expansion to the Oak Ranch Quarry. The existing quarry consists of a 13.5 acre limited exempt lower pit and a 19.1 acre upper pit which has an operating permit. A conditional use permit for mining was granted for portions of the proposed operating permit mine site area within tax parcels 5303-000-301 and 5306-000-00200. The remaining portion of the proposed operating permit mine site within tax parcel 5305-000-00300 is zoned Surface Mining. Forest Systems, Inc. is proposing to mine the new operating permit area using a phased benched

side hill cut approach. The crushing and processing will be done on the pit floors of the existing pits adjacent to the operating permit mine site. Todd noted that no written testimony has been received to date on the operating permit, however, in the two preceding land use actions, testimony was received. One was from Mr. Mudge who owns property adjacent to the proposed mining site on two sides. The nature of the testimony was that there is a dispute or question on the property line. There has been on-going discussion between the applicant and Mr. Mudge, as well as with ODOT and Longview Fibre regarding the accuracy of the survey. The Board may hear testimony on that issue today. During the conditional use and design review stages where this issue was brought up, it was reflected in the conditions relating to resolution of this dispute. In the conditional use permit approval, there was a condition requiring resolution of this, however, in the site design review conditions, the condition was modified to indicate that there should be no mining above the third bench until this matter is resolved. Based on the findings contained in the Surface Mining Administrator's report, staff recommends approval of the new operating permit with conditions listed in the staff report.

**Bob Brinkmann, Surface Mining Administrator with DOGAMI**, came before the Board to give the staff report. This will be an upland quarry which will be an expansion to the existing pits and the high wall will be developed as a benched face with overall final slopes approximating 1 ½ to 1. The secondary use of this site, once mining is completed, will be forestry. This will entail ripping the final pit floors and placement of a minimum of 3-4 feet of soil, then planting. The property line issue is yet to be resolved. The original planned setback was 50 foot, but the SMO requires there be a 200 foot setback on adjoining properties where a dwelling could be constructed or already are, which is the case with this site, along the northern and eastern boundaries. Therefore, there will be a 200 foot setback on those boundaries and a 50 foot setback on the other areas of the expansion. The storm water system at the site either drains to the pit floor and into the subgrade before any off-site discharge. There are retention ponds on the lower pit floor area where the storm water goes and is allowed to percolate into the subsurface before any off-site discharge. That will continue to be the requirement. As far as other issues such as truck traffic, noise, etc., those are planning issues that have been handled through Land Development Services.

Todd added that, based on the findings contained in the Surface Mining Administrator's report, staff recommends approval of this application with the following conditions: 1) All conditions of approval contained in Final Orders for the Conditional Use Permit (CU-02-43) and Design Review (DR-06-01); and 2) All 9 conditions contained in the Surface Mining Administrator's report dated January 31, 2006.

Bob also noted that Condition #2 of his report will be modified to require a 200 foot setback.

The hearing was opened for public testimony.

#### **PROPONENTS:**

**Oliver Wolff, Oregon Area Manager, Forest Systems, Inc. PO Box 254 Longview, WA.** Forest

Systems is on track to meet all the requirements of their operating permit. By way of background, he has been managing this property since 2000. The property line in question had been surveyed and clearly marked back in August of 1989 by Keenon Land Surveying. The survey work was fully researched, investigated, monumented and marked in 1989. This included recovery and ties to the required controlling corners and computations of the Section Subdivision as specified by Oregon Law. These monuments, blazes and flagging were found in March of 2000. The line between the Mudge parcel, ODOT and Bascom Pacific's, was remarked in July 2001 by Keenon Land Surveying, after they reviewed the survey records, field recovered control monuments and remarked the true property line. In December, 2001, he was informed that ODOT would also use the 1989 survey work as their basis for correctly surveying and marking their rock pit ownership adjacent to both Bascom Pacific and the Mudge property in the same section. Because Mr. Mudge is in disagreement with the most recent recorded survey, he has repeatedly asked that Mr. Mudge and his representatives have P.L.S. review the current recorded survey and present their case. After a meeting in October, 2005, Mr. Mudge and his attorney wanted an opportunity to do more research and another meeting was scheduled. Unfortunately, another meeting has not taken place to solve this property line dispute. A resolution of the disputed survey, which was accepted by Longview Fibre, ODOT, and Forest Systems, but not Mr. Mudge, will require one of two efforts. First, we will continue working with the office of the County Surveyor in understanding our options according to ORS 105.705 and ORS 105.715. Second, we will move forward with our legal council and continue to cooperate fully with those who are interested in resolving the situation.

At this time, Mr. Wolff requests that a ruling be made to allow an approved operating permit for the new surface mining area, as long as we meet all previously stated conditions and stay more than 200 feet away from the marked and recorded survey line represented by the 1989 survey.

***Steven Hay, ODOT, 123 NW Flanders St., Portland:*** ODOT is an adjoining property owner and has no problem with this application, however, the property line issue needs to be resolved. In 2002, ODOT also used Keenon Surveying to estimate the western boundary where their property is and the line came out to be the same as in prior years.

#### **OPPONENTS:**

***Dave Williamson, Attorney for Mudge 230 Columbia Blvd., St. Helens:*** He represents Frank Mudge. He submitted a letter from Frank Mudge into the record, marked Exhibit 2. Mr. Mudge believes that the survey is incorrect and is about 70-90 feet out of position. He wants to maintain the 200 foot setback to protect his property. Mr. Mudge is not opposed to the mining operation, just the property line dispute.

***Dave Thompson Jr., 21887 Lindberg Road, Clatskanie:*** There are markers on the state property and maps in the courthouse dated 1939 - the survey done in 1962. There are two different sets of lines that need to be looked at. He is not opposed to the mining operation, but has concerns with the property lines.

**Dave Thompson Sr., 21887 Lindberg Road, Clatskanie:** He wanted to know if the mining that took place in the 1970's is grandfathered in and could they continue to mine closer than the 200 feet setback. The Board will get an answer to that under rebuttal.

**REBUTTAL:**

Oliver Wolff responded to the comments made. In response to Dave Thompson's question on the setback, once the property line is established, Forest Systems will stay 200 feet away for any surface mining purposes. The issue is the property line and he would like to see the process continue to resolve this matter. Commissioner Bernhard asked if Forest Systems would be agreeable to the 240 feet setback. Mr. Wolff stated that 240 feet doesn't help much. He can't start mining this summer at 240 and then go back and grab the additional 40 feet. The amount of 40 feet in volume over 20 years adds up to a lot of rock.

After some discussion on the survey issue, Sarah stated that the question the Board needs to answer is, are they willing to allow surface mining to proceed without having the boundary line established. Currently, there are conditions that have to be complied with that does not allow them to go forward with operating the mine until the boundary line is established.

Mr. Wolff stated that if he stays 200 feet away from the existing property line as it's been surveyed since 1989, he is out of the zone that Mr. Mudge feels he owns. The problem with that is, if comes within 20 feet on the Forest Systems side, then they are mining 180 feet away from the property line, which means he started mining too close. He needs to start construction of the road this summer. He has waited 6 years to get a survey review from Mr. Mudge. Today is not a survey review issue. He would like to have some type of action from the Board today. If the Board approves this application with the conditions listed, he could get started and then continue with the property line dispute.

Sarah stated that there is a condition in the Conditional Use Permit that prohibited mining until the property line dispute is settled. If the Board is going to authorize mining activities, including the road, then the Board will need to basically overturn the conditions established by the Planning Commission.

With no further testimony coming before the Board, the hearing was closed for deliberation. Under deliberations, Commissioner Bernhard doesn't see any opposition to the mining itself, only the property line dispute. Could the Board approve a portion of this so they could get the road in this year. Sarah doesn't see why the Board couldn't do that, as long as they are willing to overturn the Planning Commission condition. Commissioner Hyde feels there could be an issue with condition #3, in that it is specific to the Columbia County Surveyor. Things have changed since then and the County Surveyor is now Jerry Keenon, who was the applicants surveyor. The condition should be re-worded somehow to deal with that. Sarah feels that language could be changed, however, that does not answer the question about whether or not the Board is going to allow operations without have the dispute settled. At the request of the Board, Sarah read the letter from Frank Mudge into the record (Exhibit "2").

After deliberations, Commissioner Hyde moved and Commissioner Bernhard seconded to tentatively approve Order No. 14-2006, "In the Matter of an Application by Forest Systems LLC for a New Surface Mining Operating Permit (#05-0079) at the Oak Ranch Quarry, with all 9 conditions contained in the Surface Mining Administrator's report, dated 1/31/06 and all conditions of approval contained in Final Order CU-02-43 and Final Order DR 06-01, as applicable to the proposed operating permit mining site. The motion carried unanimously.

**DELIBERATIONS: INTERGOVERNMENTAL AGREEMENT WITH REDCO:**

John Knight stated that the Board carried over deliberations to today. After the last discussion on this matter, John drafted an agreement on what his recollection of what the Board wanted. John reviewed the agreement. Sue Poling is working on an updated formula but doesn't have it yet. After discussion, Commissioner Bernhard moved and Commissioner Hyde seconded to approve the Intergovernmental Agreement with REDCO, with the correct formula statement to be attached. The motion carried unanimously.

**CONSENT AGENDA:**

Commissioner Corsiglia read the consent agenda in full. Item ( C ) was pulled from the agenda and held over one week. With that, Commissioner Bernhard moved and Commissioner Hyde seconded to approve the consent agenda as follows:

- (A) Ratify Select-to-Pay for 2/14/06.
- (B) 2006 Liquor License Renewals for:
  - Wayside Inn;
  - Multnomah Channel Yacht Club;
  - Deer Island Store.
- (C) Order No. 11-2006 (Finalizing Vacation Proceedings and Accepting Dedication), "In the Matter of the Proposed Vacation of a Portion of an Unnamed, Unused, Platted Right-of-Way and Accepting the Dedication of an Alternate Route for the Vacated Portion of this Right-of-Way Lying Within the Scappoose Acre Tracts Section 5 Subdivision near Scappoose, Oregon [Scott and Rosalind McKenna]". ***(PULLED AND HELD OVER ONE WEEK)***
- (D) Order No. 15-2006, "In the Matter of Increasing Various Fees for Columbia County Animal Control Services".
- (E) Order No. 16-2006, "In the Matter of Adding Fees for Services Provided by Columbia County Animal Control".
- (F) Reappoint Liston Darby, John DeFrance and Von Smith to the Columbia County Compensation Board for a one year term.

The motion carried unanimously.

**PSC WITH GRAHAM EBERLE NORMAN ARCHITECTS, INC.:**

John Knight has incorporated the comments received from OECDD. He would recommend the Board approve it. Commissioner Hyde moved and Commissioner Bernhard seconded to approve the Personal Services Contract with Graham Eberle Norman Architects, Inc. The motion carried unanimously.

**OPERATING CONTRACT FOR TRANSFER STATION:**

Sarah went through some key points in the operating contract for the new transfer station which is due to open February 20, 2006. Discussion was held on the Household Hazardous Waste which will be bid out separately. After discussion, Commissioner Hyde moved and Commissioner Bernhard seconded to approve the Agreement for the operation of the Solid Waste Transfer Station and Transfer and Disposal of Solid Waste with Waste Management of Oregon. The motion carried unanimously. The Board wanted to thank staff for all their hard work on this project.

**COMMISSIONER CORSIGLIA COMMENTS:**

Commissioner Corsiglia lost a couple good friends this week. Jan Bechtolt and Oren Tweet. Oren was a big part of the history in Clatskanie and will be missed.

On Friday, he attended the LGAC meeting in Salem for DHS. He was very impressed with the director, who has some history in St. Helens and is familiar with rural needs.

**COMMISSIONER BERNHARD COMMENTS:**

Commissioner Bernhard attended the Human Services meeting in Salem last Friday. She is pleased with the way things are going and how they handle their business.

She worked the Sportsman Show Friday night, where the Port of St. Helens and Chamber had a booth. The place was packed and many stopped at the booth to get information on Columbia County.

On Saturday, she had the opportunity to listen to Michele DeFord, mother of a soldier who died in Iraq. It was a very good presentation.

She received a call from the Hospital Coalition who asked if the Board could send a letter of support for a rural status designation, so they can continue with the Critical Care facility. She will draft a letter for the Board to review.

She watched a very good show on OPB TV last night on Meth and the problems, history, etc. It will be aired again on Thursday.

**COMMISSIONER HYDE COMMENTS:**

Commissioner Hyde reported on the NOHA/COLPAC meeting he attended in Seaside last Thursday.

On Friday, he was in Salem working the District Attorney funding issues.

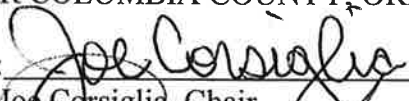
There was no Executive Session held.

With nothing further coming before the Board, the meeting was adjourned.

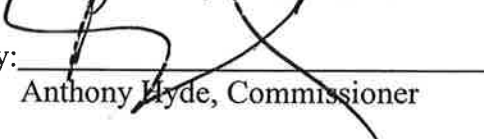
Dated at St. Helens, Oregon this 15<sup>th</sup> day of February, 2006.

NOTE: A tape of this meeting is available for purchase by the public or interested parties.


BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By:   
Joe Corsiglia, Chair

By:   
Rita Bernhard, Commissioner

By:   
Anthony Hyde, Commissioner

Recording Secretary:

By:   
Jan Greenhalgh