

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Application by Morse Bros., Inc.                     )  
for Two Temporary Permits to Operate a Temporary                     )  
Ready Mix Concrete Batch Plant during Construction of the        )       Final Order No. 41-2005  
Port Westward Power Plant   )

WHEREAS, on May 27, 2005, Morse Bros. Inc., submitted two applications for Temporary Permit (TP 05-15, and TP 05-16) to operate a temporary batch on one of two possible locations near the Port Westward Industrial Park, approximately 4.5 miles north of Clatskanie, Oregon, said sites having Tax Account Numbers 8423-020-00500 and 8423-020-00103; and

WHEREAS, the Board of County Commissioners asserted original jurisdiction over the Temporary Permit Applications on June 1, 2005, and scheduled a hearing on both Applications before the Board of County Commissioners during a Special Hearing on June 22, 2005; and

WHEREAS, on June 22, 2005, the Board of County Commissioners held a Special Public Hearing on the application; and

WHEREAS, during the hearing evidence was received into the record, a list of which is attached hereto as Attachment 1, and is incorporated herein by this reference; and

WHEREAS, after hearing testimony and receiving evidence, the Board closed the hearing and voted to tentatively approve Temporary Permit 05-15 and Temporary Permit 05-16 subject to several conditions of approval;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. The Board of County Commissioners adopts the Findings of Fact and Conclusions of Law in the Staff Report to the Board of County Commissioners, dated June 15, 2005, which is attached hereto as Attachment 2, and is incorporated herein by this reference.
2. The Board of County Commissioners finds that the Applicant is not required to obtain a Surface Mining Operating Permit in order to operate a temporary batch plant on agricultural land. The Columbia County Surface Mining Ordinance only requires an Operating Permit if surface mining occurs on a surface mining site. The Board of County Commissioners finds that neither of the proposed temporary batch plant sites are surface mining sites within the meaning of the Columbia County Surface Mining Ordinance.
3. The Application for a Temporary Permit TP 05-15, is APPROVED subject to the following conditions of approval:

- a. The Applicant shall not place any permanent structures on the site or make any additions to existing structures.
  - b. This Permit expires after a period of 1 year unless properly renewed.
  - c. The Applicant shall sign and record a Waiver of Remonstrance against all farm management practices on nearby lands.
  - d. The Applicant shall submit a staging area lighting plan to LDS describing the type and placement of area lighting. The Plan shall indicate how lighting will not be obtrusive to neighboring properties.
  - e. The Applicant shall submit a restoration plan for the site for approval by LDS which details how all introduced material such as rock will be removed and how top soil will be restored to the site. The restoration plan shall include a cost estimate for restoration of the site. The Applicant shall place 125% of the estimate in a escrow account to secure the Applicant's restoration obligation.
  - f. The Applicant shall restore the batch plant area site according to the restoration plan to a farmable (Primary Agricultural) condition within one year after completion of the Applicant's contract, or within one year of the date of expiration of this Permit, whichever date first occurs. Upon completion of the restoration, Applicant shall request a restoration inspection to be done by Land Development Services.
  - g. The Applicant shall obtain building permits and siting permits for all job related trailers on the site.
  - h. This Permit shall be void if the a batch plant is sited on Tax Account Number 8423-020-00103. The Applicant shall notify Land Development Services if a batch plant is sited on Tax Account 8423-020-00103.
  - i. Prior to siting the batch plant, the Applicant shall comply with all County Road Standards as determined by the County Roadmaster.
  - j. The Applicant shall provide written documentation to Land Development Services evidencing the property owner's consent to operate a batch plant on the subject site.
4. The Application for Temporary Permit TP 05-16 is APPROVED subject to the following conditions of approval:
- a. The Applicant shall not place any permanent structures to the site or make additions to existing structures.

- b. This Permit expires after a period of 1 year unless properly renewed.
- c. The Applicant shall sign and record a Waiver of Remonstrance against all farm management practices on nearby lands.
- d. The Applicant shall submit a staging area lighting plan to LDS describing the type and placement of area lighting. The Plan shall indicate how lighting will not be obtrusive to neighboring properties.
- e. The Applicant shall submit a restoration plan for the site for approval by LDS which details how all introduced material such as rock will be removed and how top soil will be restored to the site. The restoration plan shall include a cost estimate for restoration of the site. The Applicant shall place 125% of the estimate in a escrow account to secure the Applicant's restoration obligation.
- f. The Applicant shall restore the batch plant area site according to the restoration plan to a farmable (Primary Agricultural) condition within one year after completion of the Applicant's contract, or within one year of the date of expiration of this Permit, whichever date first occurs. Upon completion of the restoration, Applicant shall request a restoration inspection to be done by Land Development Services.
- g. The Applicant shall obtain building permits and siting permits for all job related trailers on the site.
- h. This Permit shall be void if the a batch plant is sited on Tax Account Number 8423-020-00500. The Applicant shall notify Land Development Services if a batch plant is sited on Tax Account 8423-020-00500.
- i. Prior to siting the batch plant, the Applicant shall comply with all County Road Standards as determined by the County Roadmaster.

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- j. The Applicant shall provide written documentation to Land Development Services evidencing the property owner's consent to operate a batch plant on the subject site.

Dated this 29th day of June, 2005.

Approved as to form

By: Sandra Teyssier

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By: [Signature]  
Anthony Hyde, Chair

By: [Signature]  
Joe Corsiglia, Commissioner

By: [Signature]  
Rita Bernhard, Commissioner

## ATTACHMENT 1

### EXHIBIT 1-

- (1) Notice of Public Hearing (Publication) TP 05-15;
- (2) Notice of Public Hearing (Property Owner Notice) TP 05-15;
- (3) Affidavit of Mailing TP 05-15;
- (4) Affidavit of Publication TP 05-15;
- (5) Notice of Public Hearing TP 05-16 (Publication)
- (6) Notice of Public Hearing TP 05-16 (Property Owner Notice);
- (7) Affidavit of Publication TP 05-16;
- (8) Affidavti of Mailing TP 05-16;
- (9) Board Communication dated June 20, 2005 with the following attachments:
  - a. Staff Report for TP 05-15 and TP 05-16;
  - b. Application for Temporary Permit 05-15;
  - c. Application for Temporary Permit 05-16;
  - d. Zoning Map;
  - e. Address Map;
  - f. Topographical Map;
- (10) Certificate of Mailing dated June 2, 2005;
- (11) Draft Notice of Public Hearing dated June 2, 2005;
- (12) Referral and Acknowledgment from County Sanitarian;
- (13) Referral and Acknowledgment from Clatskanie Fire District;
- (14) Certificate of Mailing dated June 2, 2005;
- (15) Certificate of Mailing dated June 14, 2005 TP 05-15;
- (16) Certificate of Mailing dated June 14, 2005 TP 05-16;
- (16) Referral and Acknowledgment from Clatskanie RFPD;
- (17) Letter from Clatskanie CPAC.

## COLUMBIA COUNTY BOARD OF COMMISSIONERS

## STAFF REPORT - PA-38 ZONE

06/15/05

Temporary Permit: Use Not Allowed in the District

FILE NUMBER: TP 05-15 & TP 05-16

APPLICANT: Morse Bros., Inc.  
32260 Old Highway 34  
Tangent, Oregon 97389

OWNERS: TP 05-15 TP 05-16  
8423-020-00500 8423-020-00103  
Westward Energy LLC Michael Seely (Buyer)

PROPERTY LOCATION: Port Westward - Approximately 4½ Miles North of Clatskanie, Oregon

REQUEST: To allow a Temporary Ready Mix Concrete Batch Plant during the PGE Power Plant construction;

TAX ACCT. NUMBERS: 8423-020-00500 and 8423-020-00103  
19.65 acres 11.84 acres

ZONING: Primary Agriculture (PA-38) Both sites

**BACKGROUND:**

The applicant will be providing concrete for the construction of the PGE power plant. A project of this size requires a concrete batch plant on site for optimal concrete delivery. PGE has informed Morse Bros. that locating the portable batch plant on the PGE site is not possible due to their non-union hiring practices. The applicant has applied for siting the temporary batch plant at two different local sites, both along Kallunki Road leading to the construction site. The proposed site, lot 500, owned by Westward Energy, is closer to the construction site and preferred, however the owner has not yet committed to Morse Bros for the use of the site. The second proposed site, lot 103, is already approved by the owner and ready to proceed for this temporary permit. Only one Temporary Permit for a ready mix concrete batch plant will be allowed.

A prior application, TP 03-18 was approved for temporary stockpiling of materials and concrete batch plant during Summit-Westward power plant construction; however, this temporary site is accessed only through the Summit-Westward proposed plant site and access has not been granted for Morse Bros. PGE's project. It is also too far south to be easily used for the different PGE power plant construction.

**REVIEW CRITERIA:****Columbia County Zoning Ordinance (CCZO):**Page(s)**Temporary Permit for a Use not Allowed in District**

Section 1505.1 (A, B)

2, 3

Section 1505.1 C, D, E)

3, 4

**Renewal of a Temporary Permit**

Section 1505.7

4

**FINDINGS:**

The following sections of the Columbia County Zoning Ordinance are pertinent to this application:

"1505.1 Use not allowed in District: The Planning Commission may allow a temporary permit for a period not to exceed one (1) year, for a use not otherwise allowed in the zoning district. The temporary permit may be allowed only after a hearing conducted pursuant to Section 1603 and provided that the applicant provides evidence substantiating the following, unless otherwise provided for in this Ordinance:

**FINDING 1:** The Board of Commissioners took jurisdiction of this application at their June 1, 2005 meeting, in accordance with Section 1612 CCZO, Special Hearings. A hearing date of June 22, 2005 was established, and notifications were published in the paper and sent to adjacent property owners in accordance with Section 1603 Quasi-judicial Hearings.

The Primary Agriculture (PA-38) zoning district does not allow batch plants, either outright or conditionally; therefore, a Temporary Permit for a Use not Allowed in the District is necessary.

Continuing with CCZO, 1505.1:

A. There is no reasonable alternative to the temporary use;

**FINDING 2:** The applicant states that they originally arranged to provide concrete batch plant operations on the site of construction that is properly zoned Rural Industrial, however PGE could not facilitate that proposal because of other outstanding contracts which regulate non-union workers. Several alternatives were considered but rejected. Two alternatives are reviewed in these two applications, and

- Other industrially zoned sites in the vicinity of the PGE site were considered. These sites are not viable alternatives to the present sites because they either lack adequate access to the power plant construction site, or are committed to other uses.

- A zone change for the present sites from PA-38 to an industrial zone was considered but rejected because of timing considerations.
- Restricting uses to those permitted either outright or conditionally in the PA-38 zone was considered but rejected because the PA-38 zone does not list the uses needed to support construction of the PGE facility.
- Properly-zoned sites within urban growth boundaries in Columbia County were considered but rejected as being too far from the PGE power plant site for economical use.

This criteria is met.

Continuing with CCZO, Section 1505.1:

- B. The permit will be necessary for a limited time or will allow an occasional use, such as housing for seasonal farm labor;

**FINDING 3:** The proposed temporary use is needed for a limited amount of time for the duration of the construction of PGE's power plant. The applicant understands that a temporary use permit is valid for a limited time period. This criteria is met.

This criteria is met.

Continuing with CCZO, Section 1505.1:

- C. The temporary use does not involve the erection of a substantial structure or require any other permanent commitment of the land;

**FINDING 4:** No permanent structures are proposed under this temporary use permit. Portable toilets will be used to meet sanitary needs on site, if needed. A portable batch plant will be used to prepare concrete on the site. Rocks and needed material will be stored on the site without any permanent structures. The applicant will be required to renew this temporary permit if the intention is to keep the batch plant on this site beyond the 1 year permit time. This criteria is met.

Continuing with CCZO, Section 1505.1:

- D. The temporary use will not be detrimental to the area or to adjacent properties; and,

**FINDING 5:** Staff does not believe that the proposed temporary use will be detrimental to the area or to adjacent properties because:

- It is not permanent.
- It is similar, in terms of impacts, to industrial uses already approved in the vicinity.