

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of the Application of Pacific) ORDER NO. 105-2007
Cascade Resources-Sierks Road Site for Renewal) Findings and Conclusions
of Surface Mining Operating Permit # 05-0032)
for the Period 2006-2011)

WHEREAS, on May 1, 2006, Pacific Cascade Resources submitted an application to Renew Surface Mining Operating Permit #05-0032 for the Period 2006-2011, pursuant to Sections 2.9 and 5.5 of the Columbia County Surface Mining Ordinance; and

WHEREAS, on December 13, 2006, the Board of County Commissioners held a hearing in the Matter and voted to approve the Application on January 24, 2007; and

WHEREAS, on January 31, 2007, the Board of County Commissioners signed Final Order No. 12-2007, approving the Application with several conditions; and

WHEREAS, on February 14, 2007, Mark Peckover appealed the Board's final decision to the Board of County Commissioners pursuant to Surface Mining Ordinance, Section 2.9; and

WHEREAS, the Application has been reviewed, the site has been inspected and recommendations have been prepared by the Surface Mining Administrator; said recommendations being based on a determination of compliance with applicable criteria for renewal of Surface Mining Operating Permits contained in Article II and Article V of the Columbia County Surface Mining Ordinance and prior conditions of approval; and

WHEREAS, on April 14, 2007, the Board of Commissioners held a de novo hearing in the matter; and

WHEREAS, during the hearing, the Board received evidence 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 record and carried over the matter for deliberations; and

WHEREAS, on May 2, 2007, the Board deliberated in the matter and voted to tentatively approve the Surface Mining Operating Permit Renewal subject to several conditions of approval;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

A. 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 October 16, 2006, the Addendum dated December 5, 2006, and the Supplemental Memorandum dated March 13, 2007, which are

attached hereto as Attachment 2 and Attachment 3, and Attachment 4, respectively, and are incorporated herein by this reference.

B. The Board of County Commissioners adopts the Supplemental Findings which are attached hereto as Attachment 5, and are incorporated herein by this reference.

C. Surface Mining Operating Permit #05-0032 is hereby renewed for the operating years 2006-2011, subject to the following additional conditions of approval:

1. The Applicant shall maintain a visual screen on the east and northwest sides of the quarry as the operation expands.
2. The final highwall must be benched and stable at all times.
3. Any expansion of the operation into adjacent tax lots or into areas not zoned Surface Mining requires County land use approval.
4. Blasting shall not impact adjacent residences, buildings or wells, and all blasting must comply with all state and federal regulations. Any person who is entitled to notice of a land use action pursuant to ORS 197.763(2)(a) and who makes a written request of the Applicant for notice of blasting shall be given written notice by the Applicant by certified mail at least 24 hours in advance of any blast.
5. At no time shall turbid water be discharged from the permit boundary exceeding state guidelines.
6. The fifty foot buffer along Sierks Road may be mined in order to straighten Sierks Road.
7. No stockpiling of materials can occur within 25 feet of the right-of-way of Sierks Road. The right-of-way shall be measured 30 feet on either side of the centerline of the Road.
8. Operating hours shall be 7:00 a.m. to 6:00 p.m. unless otherwise authorized by the County.
9. Depletion fees shall be reported and paid on a monthly basis to be received by the County no later than the last day of each month following the month of the depletion.
10. The Applicant shall notify the County before resuming mining activities, including any level of activity. Prior to resuming any mining activities the Applicant shall also file a mining or operating plan which shall include a survey and metes and bounds legal description of the approximately 5.62 acre permitted mining area. The

permitted mining area shall be field staked according to the survey, clearly indicating permit boundaries.

11. Within 60 days of the date of this Order, the Applicant shall install and shall thereafter maintain an access gate to prohibit access onto the site. In addition, within 60 days after the date of this Order, the Applicant shall install minimum 6' security fencing along the property line fronting Sierks Road, to prohibit access onto the site, and shall thereafter prohibit access onto the site except through the access gate.
12. Within 60 days of the date of this Order, the Applicant shall install minimum 6' security fencing along the highwall to prevent access to the highwall. The Applicant shall install warning signs at each end of the fence and intermittently at least every 50' warning people of the potential danger from falling.
13. The Applicant shall submit a reclamation bond according to the bond recalculation provided by the Surface Mining Administrator within 60 days of receipt of such recalculation.
14. This Surface Mining Operating Permit is for periodic surface mining activities which may exceed 24 months in frequency.
15. This Surface Mining Operating Permit shall remain valid during the permit period as long as the activities on the site remain in compliance with the above permit conditions, financial security obligations and all applicable portions of the Columbia County Surface Mining Ordinance.

DATED this 2nd day of May, 2007

Approved as to form

By: Sarah Hausen
Office of County Counsel

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: Rita Bernhard
Rita Bernhard, Chair

By: _____
Anthony Hyde, Commissioner

By: Joe Corsiglia
Joe Corsiglia, Commissioner

Attachment 1

EXHIBIT 1- (THE RECORD) Legal Counsel's File:

1. Notice of Public Hearing (Publication);
2. Notice of Public Hearing (Property Owner Notice);
3. Affidavit of Publication;
4. Affidavit of Mailing;
5. Board Communicated dated December 13, 2006, with the following attachments:
 - a. Supplemental Report of the Surface Mining Administrator dated December 5, 2006;
 - b. Surface Mining Advisory Committee Minutes for October 25, 2006;
 - c. Application for Operating Permit Renewal;
 - d. On-site inspection report dated April 12, 2006;
 - e. Written testimony/request for hearing from neighboring property owners;
 - f. Revised recommended conditions from the Surface Mining Administrator;
6. Board Communication dated November 9, 2006, with the following attachments:
 - a. Surface Mining Administrator's report dated October 16, 2006;
 - b. Summary of Permit Conditions;
 - c. Public Hearing Mailing List;
 - d. Renewal Application;
 - e. Request for Public Hearing signed by Mark Peckover, Kay Hudlett and Brenda Sandstrom;
 - f. Letter from James and Christa Thompson;
 - g. Notice of Surface Mining Renewal dated September 8, 2006;
 - h. Request for Public Hearing signed by Dino Hudlett, Joseph Wilcox, Sandra Monneyham, Brenda Sandstrom, Tyron Button, and Mark Vanback;
 - i. Request for Public Hearing signed by Judy M. Runyer, Tonia Peckover, Jim Thompson, Marion and Robert Endicott, Marc Stuck, Thomas and Jean William,
 - j. Request for Public Hearing signed by Kenneth Smith, Alfred Tetz, Elaine S. Nussbaum and Curtis Mooneyham,
 - k. Request for Public Hearing signed by Julie Snodgrass, Augustine Yazaly, Ritchie and Edithrue Laney, and Michael Thompspon,
 - l. SMAC sign-in sheet;
 - m. Referral Contact List;
7. Appeal dated February 13, 2007;
8. Letter to Board of Commissioners from Bob Brinkman dated March 13, 2007;
9. Board Communication dated April 4, 2007 with the following attachments:
 - a. Supplemental Report from the Surface Mining Administrator;
 - b. Aerial Map;
 - c. Appeal;
 - d. Order No. 12-2007;
 - e. Email from Lonny Welter to Todd Dugdale dated March 15, 2007;
10. Letter to Board of County Commissioners from Carol Waterman dated April 2, 2007;
11. Surface Mining Permit Transfer Form;

12. Photos of pit;
13. 21 Letters in opposition;
14. Letter to BOCC from Pat Zimmerman with attachments.

EXHIBIT 2- Reclamation Plan.

EXHIBIT 3- Written statement from Mark Peckover.

EXHIBIT 4- Written statement from Art Scharf with letters and photos from neighbors.

ATTACHMENT 2

**BOARD OF COMMISSIONERS
SURFACE MINING ADMINISTRATORS REPORT
(October 16, 2006)**

**Revised December 5, 2006 For Pacific Cascade Resources-Siercks Road Site(#05-0032)
Public Hearing by the Board of Commissioners on December 13, 2006**

**Surface Mining Operating Permit Renewals
2006-2011**

BACKGROUND:

Twenty two surface mine sites submitted renewal applications asking to renew their operating permits for the permit years July 1, 2006 through June 30, 2011 pursuant to 5.5 of the Columbia Surface Mining Ordinance (SMO). These are summarized below:

Site ID #	Name	Site Name	Renewal Application Submitted
			2006-2011
05-0002	Kynsi Construction	Graham Pit	yes
05-0004	Columbia Rock Co., LLC	Goble Quarry	yes
05-0007	Morse Bros., Inc.	Lost Creek Quarry	closed
05-0012	Forest Systems Inc.	Oak Ranch Pit	yes
05-0018	Morse Bros.	Watters Site	yes
05-0024	Morse Bros.	Hoffman Site	yes
05-0025	Morse Bros.	Deer Island Site	yes
05-0026	Morse Bros.	Brown Site	yes
05-0027	Columbia Road and Driveway	Scappoose Creek Site	closed
05-0028	Steven D. Gerttulla	Mayger Quarry Site	yes
05-0029	Lammi Sand and Rock Products	OK Creek Quarry	Under closer order
05-0031	Pacific Cascade Resources	Goble Quarry	yes
05-0032	Pacific Cascade Resources	Siercks Road Site	yes
05-0045	John F. Stennick (permit transfer from Menasha Corp)	Wonderly Road Pit	yes
05-0046	Glacier NW	Convey - Pit C	yes
05-0047	Glacier NW	Havliks - Pit D	yes
05-0051	Oregon Dept. of Transportation	Oak Creek Quarry	yes
05-0055	Eagle Star Rock Products (permit transfer from Columbia Road & Driveway	Hankey Pit	yes
05-0072	Eagle Star Rock Products (permit transfer from Columbia Road & Driveway	Jillson Pit	yes

05-0074	Pacific Cascade Resources	Neer City Pit	yes
05-0075	The Confederated Tribes of the Grand Ronde Community of Oregon	Grand Ronde Quarry	did not renew
05-0076	Glacier NW	Pit F	yes
05-0077	Morse Bros.	Reichhold Site	yes
05-0078	Morse Bros.	Waterview Site	yes
05-0079	Glacier NW	Fort James	yes
05-0080	Forest Systems Inc	Oak Ranch Quarry Expansion	yes

The renewal of Surface Mining Operating Permits has been deemed a limited land use decision, and by that decision the renewal process must follow those procedures required by ORS 197.195(3) including but not limited to; providing written notice of owners of property within a minimum of 100 feet and providing 14 calendar days to submit written comments prior to the decision.

The renewal application procedures were followed as is written in Columbia County Ordinance 2001-3 adopted by the Columbia County Board of County Commissioners March 14, 2001, which added Section 2.9 - Renewal Process to the SMO.

The Surface Mining Ordinance 90-11, Section 5.5 contains the criteria for renewal of surface mining operating permits. Renewals of operating permits are considered for five-year periods.

FINDINGS:

The following sections of the Surface Mining Ordinance (SMO) 90-11 apply to this request:

Columbia County Surface Mining Ordinance Section 2.9 requires the following:

Giving written notice to owners of record of property where such property is located:

- (a) Within 250 feet of the subject property when the subject property is wholly or in part within an urban growth boundary;
- (b) Within 250 feet of the subject property when the subject property is outside an urban growth boundary and not within a farm or forest zone; or
- (c) Within 750 feet of the subject property when the subject property is within a farm or forest zone.

Finding 1: Following the required written notice, written comments were received on the following permit renewal applications:

05-0077 for Morse Bros Reichhold Site from Steve Hursh with Columbia River PUD regarding ground water monitoring and testing, submittal of test results and a copy of the monitoring plan approved by ODEQ. In

addition Mr. Hursh requested the security be maintained for potential future costs of well replacement. Mr. Hursh also had a request regarding site access. Comment was received on the renewal of # 05-0078 for Morse Bros, Reichhold Site and #05-0077 Morse Bros Waterview Site from Leahnette Rivers with the City of Columbia City requesting the replacement of deceased landscape vegetation. Morse Bros. submitted a letter dated October 13, 2006 addressing the comments and confirmed that the concerns would be addressed for both mining sites.

#05-0032 for Pacific Cascade Resources from adjacent property owners (see Attachment) as per Section 2.9 with concerns about property values, operating hours, truck traffic, noise, blasting, air quality and storm water discharge. The property owners have also requested an a hearing before the Board of Commissioners on the renewal application.

The subject site has had little or no activity dating to 1999. In a conversation with the owner, Mr. Lou Adler, he affirmed that the site had been operated on an as needed basis only and it was unknown when or if activities would increase. Currently the site is in compliance with the surface mining permit and the permit conditions address concerns such as storm water discharge, blasting, noise, dust, and hours of operation. Truck traffic is under the control of the Land Development Services.

Since a public hearing has been requested, this renewal has been scheduled for separate consideration after notices to parties for a public hearing.

#05-0004 for Columbia Rock Co. from a property owner with concern about blasting. The site operator, Rinker Materials, has been notified of blasting issues such as vibration. Rinker has responded by indicating seismic monitoring and other best management practices would be implemented to prevent offsite impacts (i.e. excessive vibration) from occurring. In addition, a condition of the surface mining permit is to prevent offsite impacts from blasting at the quarry.

Surface Mining Ordinance Section 2.9 requires the following:

Providing a notice of the BOC decision to the applicant and any person who submitted written comments; providing the applicant and any person entitled to notice of the decision the opportunity to request an appeal hearing of the Board's decision on renewal; to notify all involved property owners of the request for an appeal hearing; conduct a hearing and provide written notice of the Board's decision on appeal to all parties who appeared, either orally or in writing, before or at the hearing.

Finding 2:

Notice of the BOC decision of renewal will be sent out to the applicant and any person who submitted written comments as soon as the decision is final.

Surface Mining Ordinance Section 5.5 requires the following:

The landowner or operator must pay the established annual renewal fee and file the renewal application on or before June 15 of the year the permit expires.

Finding 3: All applicants requesting renewal permits paid the annual renewal fees and filed renewal applications, although not all were in by June 15 of each renewal year.

Surface Mining Ordinance Section 5.5 requires the following:

The renewal application shall require a statement from the landowner or operator of the types and amounts of minerals excavated, disturbed, sold and/or removed from the surface mining site during the past and present fiscal years and the types and amounts of minerals expected to be excavated, disturbed, sold and/or removed from the surface mining site during the present and subsequent fiscal years. If there is a change in the surface mining activities and/or reclamation plan, the application shall describe the changes.

Finding 4: All applicants submitted renewal applications which included the above requested information. None of the sites, within their renewal applications, indicated any changes in their surface mining activities and/or reclamation plans.

Continuing with Surface Mining Ordinance Section 5.5 :

The renewal may be granted so long as the landowner or operator maintains the necessary financial security.

Finding 5: All applicants have renewed their surety bonds, letters of credit or other financial security as required by their financial institutions to maintain compliance with the SMO.

Continuing with Surface Mining Ordinance Section 5.5:

The renewal may be granted so long as the landowner or operator complies with the conditions of the permit, the reclamation plan, and with the SMO.

Finding 6: All surface mining sites were inspected by the Surface Mining Administrator on an annual basis. Copies of the inspection reports are available in the Land Development Services Office for review. Any items of concern found during the inspections or permit file reviews were brought to the operators attention, have been addressed to the Surface Mining Advisory Committee's satisfaction and if required remedial actions undertaken.

Continuing with Surface Mining Ordinance Section 5.5:

The Administrator and Board shall investigate and may consider any prior statutory, administrative rule and/or county ordinance violations by the landowner and/or operator related to surface mining in determining whether an operating permit should be renewed.

Finding 7: Each operation was reviewed to determine if a pattern of prior statutory, administrative rule and/or county ordinance violations existed such that the operating permit should not be renewed. Of those applications recommended for approval none were determined to have violations which would prevent renewal of the operating permits.

Surface Mining Ordinance Section 2.2 (2a) requires the following:

The Surface Mining Advisory Committee may, but is not required to, meet with landowners and/or operators before advising the Administrator and the Board. In particular, the Committee shall advise the Administrator and the Board as to whether to issue, deny, renew, or revoke operating permits.

Finding 8: The Surface Mining Advisory Committee considered the renewals at its meeting on October 25, 2006 and took action supporting the findings and the recommendations of the Surface Mining Administrator for the requested renewals of all operating permits with the exception of the renewal application of Pacific Cascade Resources for the Siercks Road site(#05-0032) for which a public hearing is being held(See SMAC meeting minutes in Attachment 2). The Committee heard concerns of neighboring property owners and unanimously recommended approval of the renewal of #05-0032 with the Surface Mining Administrator's conditions amended as follows:

1. Require notification to surrounding property owners prior to conducting blasting at the quarry.
2. Ensure final high wall stability prior site closure.
3. Restate permit condition #5 relating to 50-foot buffer from Siercks Rd.
4. Modify permit condition #8 to substantiate payment of depletion fees.
5. Require notification to Surface Mining Administrator (SMA) and file an operating plan prior to resumption of mining activities.

The Surface Mining Administrator(SMA) has prepared supplemental findings and recommendations in response to the testimony of neighbors at the October 25, 2006 SMAC meeting and the recommendations of SMAC to modify his earlier recommended conditions(See Supplemental Memorandum Dated December 5, 2006 in Attachment 1). The SMA notes that SMAC recommendation #1 , #2 and #4 are adequately addressed in his recommendations and he concurs with SMAC recommendation #3 to reinstate his condition #5 prohibiting turbid water discharge from the site and adding a new Condition #10 to require notification of the SMA and file an operating plan prior to resumption of mining on the site.

Surface Mining Ordinance Section 2.3 requires the following:

After considering the recommendations of the Administrator and advice of the Committee, if any, the Board of County Commissioners shall make the decision whether to issue, deny, renew, or revoke operating permits.

Finding 9: The Board of Commissioners has scheduled consideration of applications for renewal of operating permits #05-0002, #05-0004, #05-0012, #05-0018, #05-0024, #05-0025, #05-0026, #05-0028, #05-0031, #05-0045, #05-0046, #05-0047, #05-0051 #05-0055, #05-0072, #05-0074, #05-0076, #05-0077, #05-0078, #05-0079, and #05-0080 on November 8, 2006.

A public hearing on the application by Pacific Cascade Resources for renewal of operating permit #05-0032 has been scheduled before the Board of Commissioners on December 13, 2006.

ATTACHMENTS:

- 1. Supplemental Report of the Surface Mining Administrator dated December 5, 2006.**
- 2. Surface Mining Advisory Committee Minutes for October 25, 2006.**
- 3. Application for Renewal: Pacific Cascade Resources-Siercks Road Site #05-0032.**
- 4. Onsite Inspection Report-April 12, 2006.**
- 5. Written testimony from Neighboring Property Owners.**
- 6. Revised Recommended Conditions: Surface Mining Administrator.**

CONCLUSION AND RECOMMENDATION:

Based on the above findings, the surface mining administrator recommends approval of operating permits #05-0002, #05-0004, #05-0012, #05-0018, #05-0024, #05-0025, #05-0026, #05-0028, #05-0031, #05-0045, #05-0046, #05-0047, #05-0051 #05-0055, #05-0072, #05-0074, #05-0076, #05-0077, #05-0078, #05-0079, and #05-0080 the requested surface mining operating permit renewals with the following condition:

The surface mining operating permits shall remain valid as long as the activities on each site remain in compliance with its permit conditions listed in the attached table entitled "Summary of Permit Conditions 2006-2011", financial security obligations and applicable portions of the Columbia County Surface Mining Ordinance 90-11.

Based on the above findings and in the supplemental Surface Mining Administrator's report in Attachment 1, the Surface Mining Administrator recommends approval of the renewal of operating permit #05-0032 Pacific Cascade Resources Siercks Road with the following condition:

The surface mining operating permit shall remain valid as long as the activities on each site remain in compliance with its permit conditions listed in Attachment 6 entitled "Summary of Permit Conditions 2006-2011", financial security obligations and applicable portions of the Columbia County Surface Mining Ordinance 90-11.

ATTACHMENT 3

**BOARD OF COMMISSIONERS
SURFACE MINING ADMINISTRATORS ADDENDUM
TO
OPERATING PERMIT RENEWAL
2006-2011**

DATE: 12-05-06

FROM: Bob Brinkmann Surface Mining Administrator

SUBJECT: 05-0032 Sierks Road Pit

In the 10-25-06 Surface Mining Advisory Committee (SMAC) hearing the SMAC made the following recommendations for the 5-year renewal of the Sierks Road Pit.

1. Require notification to surrounding property owners prior to conducting blasting at the quarry.
2. Ensure final high wall stability prior site closure.
3. Restate permit condition #5 relating to 50-foot buffer from Sierks Rd.
4. Modify permit condition #8 to substantiate payment of depletion fees.
5. Require notification to Surface Mining Administrator (SMA) and file an operating plan prior to resumption of mining activities.

The SMA has the following comments on the 5-recommendations by the SMAC.

SMAC Recommendation 1:

The SMA concurs with the first recommendation, however this is presently addressed in permit condition #4 by requiring 24-hour advance notice to any person requesting notification.

SMAC Recommendation 2:

The SMA concurs with the second recommendation, however condition #2 in the permit addresses benching and highwall stability. In order to satisfy this condition the SMA will verify proper highwall sloping, benching and stability before allowing site closure.

SMAC Recommendation 3:

The SMA concurs that permit condition #5 should be restated.

SMAC Recommendation 4:

The SMA has no comment on this recommendation (#4 above) however permit condition #8 addresses payment of depletion fees and according to Todd Dugdale of LDS the permittee is current on payment of depletion fees.

SMAC Recommendation 5:

The SMA concurs that prior to resumption of mining; notification to the County is required and includes any level of activity along with filing a mining or operating plan.

**BOARD OF COMMISSIONER'S
SURFACE MINING ADMINISTRATOR'S SUPPLEMENTAL RULING
APPEAL OF OPERATING PERMIT RENEWAL**

ATTACHMENT 4

SIERCKS ROAD-#05-0032

DATE: 3/13/07
FROM: Bob Brinkmann, Surface Mining Administrator
SUBJECT: **APPEAL OF OPERATING PERMIT: SIERCKS ROAD(#05-0032)**

An appeal to the January 24, 2007 Board of Commissioner's decision to approve the renewal of the above referenced operating permit has been made by Mark Peckover, representing the Siercks Road Neighborhood Association in accordance with Section 2.9 of the Columbia County Surface Mining Ordinance(Attachment 1). The appeal is based on the following grounds and contains the Surface Mining Administrator's findings.

1. "The current reclamation plan is not being followed":

Finding 1:

As noted in the '06 staff report for permit renewal, the subject site has had little or no activity dating to 1999. During that time the site has been found to be in compliance with the Operating Permit and the permittee has stated that notification will be made to the Surface Mining Administrator prior to resumption of activities and will include submittal of a mine/operating plan.

2. "There are new permit conditions that are in conflict with the reclamation plan."

Finding 2:

As per the Surface Mining Administrator's 12-05-06 Addendum report, the recommended permit conditions by the Surface Mining Advisory Committee were found not to contradict, but to augment or reiterate existing conditions in the permit.

3. "Permit conditions do not fully address neighborhood safety."

Finding 3:

Conditions imposed by the Board in their approval of the Operating Permit for 2006-2011(Attachment 2) address safety related issues including stability of the highwall(Condition #2); blasting(Condition #4); turbid water leaving site(Condition #5); vehicular access to site(Condition #11); and warning of highwall(Condition #12). The site does not have a recent history of either activity, creation of off-site impacts nor Notice of Violations. It is also understood that Mr. Adler, the permittee, is in compliance with the Federal Mine Safety and Health Administration's regulations.

4. "There is a current 10,000 lb. weight limit on the access road to the mine."

Finding 4:

In an e-mail dated 3/15/07, Lonny Welter of the Road Department confirmed that there is presently no load limit on Siercks Road.. The load limit sign was recently moved farther up to Pisgah Homes Road(Attachment 3)

ATTACHMENTS:

1. Appeal
2. Board Order 12-2007 Approving Renewal of Siercks Road Operating Permit w/conditions.
3. E-mail from Road Department

RECOMMENDATION:

Staff recommends denial of the appeal/approval of the renewal of the Siercks Road Operating consistent with Board Order 12-2007.

Attachment 5
Supplemental Findings

1. Opponents argue that Columbia County Surface Mining Ordinance (SMO) Sections 1.2(3), 1.2(5), and 1.3(1) prohibit the County from approving this renewal application. The Board finds that these introductory provisions do not prohibit mining under a valid operating permit. Rather, the findings, and purpose cited by the opponents are implemented through the substantive provisions of the SMO. These general introductory provisions are not intended to be applicable to an application for Operating Permit Renewal.

2. Opponents argue that Sections 1.1 through 2.1, Sections 2.5 through 2.8, and Sections 6.1 through 6.2 apply to this renewal application. The Board finds that for the most part, these sections do not apply to the renewal application. As noted above, Sections 1.1, 1.2, and 1.3, are general introductory provisions and don't apply to a specific application for an Operating Permit Renewal. Section 1.4 sets forth definitions that do apply. However, with the exception of 1.4(1), Abandonment, the Board is not aware of any issues raised related to the definitions. Section 2.5 deals with Variances. The Board finds that the Applicant has not requested a Variance to a substantive provision of the SMO. Therefore, the Variance provisions are not applicable. Section 2.6 deals with Requests for Enforcement Action and allows any person to request enforcement action against landowner of operator. As set forth herein, the Board has not received substantial evidence in the record that the Applicant is in violation of the SMO. Section 2.7, Transition Procedures, deals with operating permits issued under the provisions of the original ordinance. The opponents do not provide any basis to for the Board to deny this Operating Permit Renewal based on Section 2.7. Section 2.8, Emergencies, deals with declarations of emergency and mining activity during such an emergency. The Board finds that the opponents have not sufficiently articulated an argument related to this section to allow the Board to respond to it. Section 6.1 sets for the requirements for a reclamation plan. The Board finds that the previous owner submitted a reclamation plan on the County's form, with the Operating Permit which contain the requested information. The Board further finds that there is no requirement for a new reclamation plan to be filed for periodic operating permit renewals pursuant to Section 6.2. The Board finds that there is no demonstrated need for a new reclamation plan for this existing surface mine.

3. Opponents argue that the County approved a 10 acre mine site rather than the 5.62 acre mining site approved in the Operating Permit. The Board finds that this permit renewal is for the approximately 5.62 acre mining site approved in Operating Permit 05-0032. If the Applicant desires to mine additional acreage, he will need to obtain land use approval and a new operating permit for the additional area.

4. Opponents argue that Condition #13 in Final Order No. 12-2007 violates the definition of Abandonment in 1.4(1)(a). The Board finds that "Abandonment" means any cessation of surface mining activity, prior to completion that was not set forth in an approved reclamation

plan, permit or certificate application or other similar written notice and which exceeds 24 months. Condition #13 in Order No. 12-2007 authorized periodic surface mining activities which may exceed 24 months in frequency. The Board finds that placing a permit condition in the Operating Permit through the renewal process that allows cessation for longer than 24 months is entirely consistent with the definition of Abandonment. In this case, due to the periodic nature of the Applicant's mining activity, it makes sense to allow periods in excess of 24 months in the Operating Permit. The surface mining activity won't be considered abandoned for inactivity in excess of 24 months because it is set forth in an approved permit. Furthermore, there is no requirement that the Applicant obtain a variance periodic surface mining in excess of 24 months. Finally, the Board finds that even if the mine could be considered abandoned at this time, a declaration of abandonment is not mandatory.

5. Opponents argue that SMO Sections 5.3(9) and 5.3(10) require applications for operating permits to include the starting date for the surface mining and the expected date of completion at the surface mining site. The Board finds that previous owner obtained the Operating Permit being renewed. When the Applicant took over the operation, the surface mining was already in effect. There is no requirement that the new owner file a new Operating Permit. Therefore, SMO Sections 5.3(9) and 5.3(10) don't apply to this renewal. Nevertheless, the provisions don't require the operator to provide an absolute date for completion of mining. The Board finds that there is no requirement that the Applicant provide a date certain for completion of mining activity on his properly zoned and permitted mining site. Opponents also argue that SMO Section 6.1 requires a time schedule for reclamation. The Board finds that the reclamation plan does provide a time schedule for reclamation within 365 days after mining is completed.
6. Opponents argue that the Applicant should update his reclamation bond because they speculate that the cost of reclamation has increased. The Board finds that the last cost estimate was submitted 10 years ago, and that the Board will condition the Permit Renewal on securing a bond consistent with the Surface Mining Administrators calculations.
7. Opponents argue that CCZO only allows one principal use per lot and that there are two principal uses per lot because of the SM and RR-5 split zoning. The Board finds that the Zoning Ordinance does not apply to this application for a Surface Mining Operating Permit Renewal. The Board finds, however, that even if the CCZO does apply, there is only one principal use of the lot. That use is surface mining. The opponents provided no information to support the conclusion that the property is actually being used for anything other than surface mining.
8. The Board of Commissioners finds that it will require the Applicant to survey the boundary of the 5.62 acre mining site. If it is determined that the Applicant is in violation of zoning setbacks, then the Board may take enforcement action under the Columbia County Zoning Ordinance and the Columbia County Enforcement Ordinance. Similarly, if the sediment ponds are within 25' of the public road right of way, the Board may take enforcement action.

The Board points out that no evidence was submitted that actually proves there are any setback violations. The opponents provide only speculation. The Board sees no reason to deny the continuation of a lawful use of the property based on speculation. However, if as indicated above, it is determined that setback violations have occurred, the Board will address them accordingly.

9. Opponents expressed concern about turbid water being discharged into Sierks Creek and the possibly negative effect on the rebounding Coho Salmon population in the Creek. The Board finds that a condition will be imposed prohibiting the discharge of turbid water from the permit boundary exceeding state guidelines. The guidelines are designed to protect fish. If the Applicant does in fact discharge turbid water into the creek, the Board will address the situation accordingly.