

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of the Application of Pacific ) ORDER NO. 12-2007  
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, public notice was provided to owners of record within 750 feet of the site notifying them of their right to submit written comments regarding the renewal application to the Board of County Commissioners as is required by ORS 197.195(3); 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, the Surface Mining Advisory Committee considered the renewal on October 25, 2006, and recommended amended conditions for the Sierks Road Mine; and

WHEREAS, on December 13, 2006, the Board of Commissioners held a hearing in the matter; and

WHEREAS, after hearing testimony and receiving evidence, the Board closed the public hearing and carried over the matter for deliberations; and

WHEREAS, on January 24, 2006, 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, and Addendum dated December 5, 2006, which are attached hereto as Attachment 1 and Attachment 2, respectively.

B. 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.
3. Any expansion of the operation into adjacent tax lots or into areas not zoned Surface Mining requires County land use approval.
4. Blasting cannot impact adjacent residences, buildings or wells, and all blasting must comply with all state and federal regulations. Any person requesting notice of blasts shall be given notice at least 24 hours in advance of each blast.
5. No turbid water discharge is allowed to leave 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. The Applicant shall also file a mining or operating plan.
11. The Applicant shall install and maintain an access gate to prohibit access onto the site.
12. The Applicant shall install warning signs on the highwall warning people of the potential danger from falling.
13. This Surface Mining Operating Permit is for periodic surface mining activities which may exceed 24 months in frequency.

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14. This surface mining operating permit shall remain valid 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 31<sup>st</sup> day of January, 2007

Approved as to form

By: Suzali Hanson  
Office of County Counsel

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By:

Rita M. Bernhard  
Rita Bernhard, Chair

By:

Anthony Hyde  
Anthony Hyde, Commissioner

By:

Joe Corsiglia  
Joe Corsiglia, Commissioner

**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
<b>05-0032</b>	<b>Pacific Cascade Resources</b>	<b>Siercks Road Site</b>	<b>yes</b>
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.	Reichold 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

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.*

**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.