

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Application by Morse Bros, Inc.)	
To Amend Operating Permit # 05-0077 To Conduct)	Final Order No. 7-2007
Mining within the Setback of the Reichold Mining Site)	

WHEREAS, on September 25, 2006, Morse Bros. Inc. filed an application to amend the existing Surface Mining Operating Permit for the Reichold Site to allow mining of approximately 12 acres in the setback to accommodate the construction of a firing range on site; and

WHEREAS, on January 10, 2007, the Board of County Commissioners held a hearing on the application; and

WHEREAS, after hearing testimony and receiving evidence, the Board closed the hearing, deliberated on the matter and voted to tentatively approve the application;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

- A. The Board of County Commissioners adopts the findings of facts and conclusions of law set forth in the Staff Report to the Board of County Commissioners dated October 16, 2006, which is attached hereto as Attachment 1, and is incorporated herein by this reference.
- B. The Application to amend Operating Permit #05-0077 is APPROVED subject to the following conditions of approval:
 - 1. The Applicant shall post a reclamation bond in the amount of \$42,500.
 - 2. The Applicant shall demarcate on the ground, by staking or other means, a 50- foot setback from the property line except as required in Article VIII, Section 8.3-(2), when a 200 foot setback from the property line shall be demarcated.
 - 3. The Applicant shall not discharge storm water offsite without first obtaining a 1200A permit.
 - 4. The Applicant shall seed and mulch all exposed soil and overburden stockpiles prior to October 1 for each year.
 - 5. The Applicant shall not conduct pit dewatering without approval from the Surface Mining Administrator.

6. The Applicant shall maintain the access/service road to remain dust free within 300 feet of the Highway.

Dated this 24th day of January, 2007.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: 

Rita Bernhard, Chair

By: 

Anthony Hyde, Commissioner

By: 

Joe Corsiglia, Commissioner

Approved as to form

By: 

Office of the County Counsel

**Columbia County
Surface Mining Administrators Report**

Application for Amendment to Operating Permit #05-0077

Date: October 16, 2006

File Number: 05-0077

Site Name: Reichold

Applicant /Owner: Morse Bros. Inc.
32260 Old Hwy. 34
Tangent, OR 97389

Contact: Tim Marshall – Morse Bros.

Site Location: Located approximately 1-mi. north of Columbia City. Access is from Hwy. 30 north to the site entrance on the west side of the road.

Tax Account Number	Original Zoning	Acres to Be Permitted	Acres in Tax Lot
200	SM	12.00	134.22

Current Zoning: Surface Mining

Size: 12.00-acres

Request: To conduct mining in a setback or buffer area in an existing surface mining zone.

Application Complete: 10/16/06

Basic Facts:

Morse Bros. Inc. (MBI) submitted an application for an amendment to an existing Operating Permit. The amendment proposes to mine within the 400-foot setback at the south end of their Reichold sand and gravel pit. This setback area comprises 12-acres within tax lot 200 and is zoned SM. The applicant has completed the County's Surface Application for a Surface Mining Permit and submitted a Reclamation Plan per Article V of the Surface Mining Ordinance. The post mining land use will be a Columbia County Firing Range in conjunction with the Federal Bureau of Investigation (FBI).

Mine and Reclamation Plan Summary:

The subject parcel is within the 400-foot setback at the south end of MBI's Reichold gravel pit operation which was granted a Surface Mining Operating Permit in June, 2003. Existing vegetation on the parcel consists of grasses, blackberry brambles and coniferous trees. There are no wetlands or drainages within the subject site based on a delineation performed for the original Reichold permit. Similar to the Reichold pit storm water will drain internally to the setback excavation without offsite discharges and a NPDES 1200A permit is not required.

Overburden above the resource averages 10-feet in thickness and after stripping will be used to construct berms for visual screening around the perimeter of the property or in the base of the excavation for use in the firing range. After construction of the perimeter berm vegetation will be established over the berm and will include native grasses and trees such as Douglas fir, maple species or other fast growing tree species native to the region.

Ground water is approximately 65-ft below grade and the mining depth will be to 55-feet. MBI has an ongoing ground water monitoring program approved by ODEQ for the Reichold site which includes the setback area to be mined. Because the water table is below the mine depth impacts to offsite ground water resources are not expected. In addition, pit dewatering is not anticipated or allowed under this application.

Mining will proceed on the subject parcel by excavating to a depth of approximately 55-feet. Slopes along the pit walls will be excavated at 1.5H:1V and a 50-ft setback will be maintained from the property line. As in the Reichold site, mining in the setback will mainly be a pit run operation with the use of a primary jaw crusher before transporting gravels via the conveyer system to MBI's Waterview processing area.

The post mining use will be a Columbia County/FBI Firing Range and the removal of the resource will create the below ground depression necessary for this type of facility. In addition to the revegetation of the perimeter berm the pit walls will be revegetated with native species as needed in the development of the firing range. Internal berms will be constructed as well as placement of crushed rock on the pit floor in the development of the facility. Several out buildings, an access road and a range tower will be constructed on the property in development of the site.

Review Criteria/Findings:

ORS 197.763 Conduct of Quasi Judicial Hearings

The decision on approval of an Operating Permit is made by the Board of Commissioners after a land-use hearing. Notice of the hearing before the Board of Commissioners will be provided to the applicant and to owners of record of property within 500 feet at least twenty days before the hearing date.

The following sections of Articles V, VI, VII, and VIII of the Surface Mining Ordinance are pertinent to this application:

Article V, Section 5.2- Application Fee

Each application for a new operating permit for surface mining shall be accompanied by an application fee of \$900.

Finding 1: The \$900 application fee was waived per Columbia County Sheriff.

Article V, Section 5.3-Application

Each application for a new operating permit for surface mining shall include the information listed in Section 5.3 and whatever additional information the Administrator requires or the applicant deem relevant.

Finding 2: The applicant has supplied the information requested in Section 5.3 including but not limited to landowner information; parcel size and legal description; aerial photo and maps; access road location; processing, excavation and stockpile locations; estimated quantity of mineral extraction; mining methods; contaminate and erosion control methods; and site screening.

Article VI, Section 6.1-Reclamation Plan

Each application for a new operating permit for surface mining shall include a reclamation plan for the operating permit. Each plan must include the items listed in Section 6.1 (1 -19) of the surface mining ordinance.

Finding 3: The applicant has supplied a reclamation plan with the information requested in Section 6.1 including but not limited to the present and proposed uses of the property; details of the reclamation activities; protection of the public from steep banks, and other mining hazards; protection of natural drainages, water management plan, reclamation time schedule; slope stabilization; revegetation techniques; visual screening; and the removal of all refuse.

Article VII, Section 7.1 - Financial Security Requirement

Finding 4: MBI estimates approximately 10-acres will be disturbed in the permit area. Based on this a bond in the amount of \$42,500 is required prior to issuance of the mining permit.

Article VIII, Section 8.1- Compliance with Laws and Ordinances Required.

Except as otherwise provided in this ordinance all surface mining in this county shall be conducted in compliance with all applicable federal and state statutes, including the Occupational Safety and Health Act of 1970 (19 U.S.C. 651 et seq.) and the Oregon Safe Employment Act (ORS 654.001 to 654.295 and 654.991), all county and local ordinances, including specifically Sections 1040 through 1048 of the Columbia County Zoning Ordinance, regardless of the terms and conditions attached to any permit granted under the zoning ordinance, and all applicable administrative rules including the rules and directives of the

Department of Environmental Quality and of other affected agencies. In case of an inconsistency in the requirements of this ordinance, any other law, rule, ordinance, or regulation which also applies, the most restrictive law, rule, ordinance or regulation shall govern.

Finding 5: The discharge of storm water offsite is not allowed without first obtaining a 1200A permit from DEQ.

Article VII, Section 8.2- Compliance with Reclamation Plan Required.

All landowners and operators shall comply with the reclamation requirements of Article VI of this ordinance and with any approved reclamation plan.

Finding 6: Compliance will be achieved by developing the site as a County/FBI Firing Range in accordance with the reclamation plan.

Article VII, Section 8.3- Operating Setbacks.

Each surface mining site shall be in compliance with the following setbacks:

- (1) No extraction or removal of minerals is permitted within fifty (50) feet of the rights-of-way of public roads or easements of private roads.
- (2) No extraction or removal of minerals is permitted within fifty (50) feet of another property, nor within two hundred (200) feet of a residence or zoning district which allows a residence as a permitted or conditional use without the prior written consent of the affected property owner(s).
- (3) Processing equipment, batch plants, and manufacturing and fabricating plants shall not operate within fifty (50) feet of the rights-of-way of public roads or easements of private roads.
- (4) Processing equipment, batch plants, and manufacturing and fabricating plants shall not be operated within fifty (50) feet of another property, nor within one hundred and fifty (150) feet of a residence or zoning district which allows a residence as a permitted or conditional use, without the prior written consent of the affected property owner(s).
- (5) Stockpiling of materials and sedimentation ponds shall not be located closer than twenty-five (25) feet to the boundary line of the surface mining site or the right-of-way of any existing public road.
- (6) Conveying and transporting equipment are exempt from these setback requirements.
- (7) When excavation is completed adjoining a setback, the setback area shall be smoothed, all excavation debris removed, and all trees which are in an unsafe condition removed.
- (8) Wherever an excavation site is within two hundred (200) feet of a public road, or within two hundred (200) feet of a residence or zoning district which allows a residence as a permitted or conditional use, a fence to control access shall be maintained in accordance with the conditions prescribed by the Board upon the recommendation of the Administrator.

Finding 7: The setbacks in the proposed mining area comply with the above section in the County's Surface Mining Ordinance.

Article VIII Section 8.5.-Visual Impacts.

Existing trees and other natural vegetation adjacent to any public park, residential development, public road, or residential zoning district shall be preserved for a minimum width of twenty-five (25) feet. Screening shall be provided at the boundary of the surface mining site. If such trees and other vegetation are insufficient to provide a screen, such screening may be accomplished by one or more of the following:

- (1) A sight-obscuring fence or wall;
- (2) A landscaped berm or preservation of a natural slope; or
- (3) Use of native vegetation, or plants and trees with demonstrated ability to thrive under the anticipated conditions.

Finding 8: The proposed mining area complies with the visual impacts criteria in the County's Surface Mining Ordinance.

Article VIII, Section 8.6-Access

The surface mining site shall have access to a public road with two-way capacity. The Board may impose weight/load restrictions and/or require the landowner or operator to post an adequate surety bond for road repairs. Any access or service road used for mining shall be dust-free at all points within three hundred (300) feet of a public road or residence off the surface mining site. If surface mining is the primary cause of traffic on an unpaved public road, that road shall be kept dust-free within three hundred (300) feet of any such residences.

Finding 9: The proposed mining site has access onto Hwy. 30, a two way County arterial roadway. The access/service road will remain dust free within 300 feet of Hwy 30.

Article VII, Section 8.7.-Parking.

Vehicular parking off public roads shall be available for employees, customers, and visitors at the surface mining site. All parking facilities for employees, customers and visitors shall be located within the boundaries of the surface mining site.

Finding 10: Parking is proposed to be available on site.

Article VII, Section 8.8-Water Quality.

All surface mining sites shall be operated in a manner which meets current D.E.Q. regulations with respect to water quality. In addition, the landowner or operator shall not cause contamination of groundwater or change a stream channel unless the channel change has previously been approved by all applicable state and federal agencies.

Finding 11: The final pit depth will be maintained above the water table and therefore impacts to ground/surface water are not expected.

Article VIII, Section 8.-Erosion Control.

The erosion of surfaces affected by mining activities shall be controlled during the surface mining by plantings of ground cover and other modes which protect these surfaces as provided by an approved reclamation plan.

Finding 12: The applicant has met the erosion control requirements in the reclamation plan submitted for the proposed mine area.

RESULTS OF THE PUBLIC COMMENT PERIOD:

No public comments were received.

RECOMMENDATIONS:

Approval the proposed amendments to Operating Permit No. 05-0077 with conditions in Board Order 40-03 and the following additional conditions:

1. Post a reclamation bond in the amount of \$42,500.
2. Demarcate on the ground, by staking or other means, a 50-foot setback from the property line except as required in Article VII, Section 8.3-(2) a 200-foot setback from the property line shall be delineated.
3. Not discharge storm water offsite without first obtaining a 1200A permit.
4. Seed and mulch all exposed soil and overburden stockpiles prior to October 1 of each year.
5. Not conduct pit dewatering without approval from the SMA.
6. The access/service road will remain dust free within 300 feet of Hwy