

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of a Closure Order for the                    )  
Pacific Cascades Resources Siercks Road                )  
Surface Mine (Operating Permit No. 05-0032)            )           ORDER NO. 38-2008

WHEREAS, pursuant to Article VIII, Section 8.1 of the Columbia County Surface Mining Ordinance, all surface mining in the County must be conducted in compliance with all applicable federal and state statutes, all county and local ordinances, and all applicable administrative rules; and

WHEREAS, Section 8 of the Columbia County Natural Resources Depletion Fee Ordinance requires the regular filing of depletion fee reports and the payment of depletion fees due; and

WHEREAS, Pacific Cascades Resources was issued surface mining operating permit No. 05-0032 for the Siercks Road Quarry located on Siercks Road near its intersection with Scappoose-Vernonia Highway, approximately 2.5 miles northwest of Highway 30; and

WHEREAS, on May 2, 2007, the Board renewed the operating permit for the Siercks Road Quarry by Board Final Order 105-2007, imposing fifteen (15) conditions of approval on the renewal approval; and

WHEREAS, Condition 11 of Final Order 105-2007 required, within sixty (60) days of permit renewal, Pacific Cascades Resources to install and maintain an access gate and six (6) foot security fencing along the property line fronting Siercks Road, and to prohibit access onto the site except through the access gate; and

WHEREAS, Condition 12 of Final Order 105-2007 required, within sixty (60) days of permit renewal, Pacific Cascades Resources to install six (6) foot security fencing along the site's highwall to prevent access to the highwall, with signs at least every fifty (50) feet warning of the potential danger of falling; and

WHEREAS, on July 5, 2007, Columbia County Surface Mining Administrator Bob Brinkmann sent a letter to Lou Adler, owner of Pacific Cascades Resources, notifying him that Pacific Cascades Resources was in violation of the conditions of approval for Final Order 105-2007 and granting extensions for coming into compliance with those requirements; and

WHEREAS, Pacific Cascades Resources filed a Notice of Intent to Appeal Final Order 105-2007 with the Oregon Land Use Board of Appeals ("LUBA") on July 31, 2007; and

WHEREAS, on October 25, 2007, LUBA dismissed the appeal because it was not timely filed by Pacific Cascades Resources; and

WHEREAS, on January 24, 2008, Columbia County Enforcement Officer Robert Crain sent a notice of violation via certified mail to Lou Adler, owner of Pacific Cascades Resources, notifying him that Pacific Cascades Resources was in violation of Columbia County Surface Mining Ordinance Article VIII, Section 8.1; Columbia County Natural Resources Depletion Fee Ordinance Section 8 (A-H); and the conditions of approval for Columbia County Final Order 105-2007; and

WHEREAS, on March 26, 2008, the Columbia County Surface Mining Advisory Committee recommended that the Board of County Commissioners issue a Closure Order for the Pacific Cascades Resources Siercks Road Quarry if the cited violations had not been corrected by April 22, 2008; and

WHEREAS, pursuant to Article IX, Section 9.6 of the Columbia County Surface Mining Ordinance, the Board of County Commissioners may issue a closure order when it finds that a landowner or operator is conducting surface mining that is in violation of any provision of the Surface Mining Ordinance, a reclamation plan, or permit conditions when the landowner or operator fails to correct the violation within thirty (30) days of the mailing date or delivery of notice; and

WHEREAS, on April 2, 2008, notice was given to Pacific Cascades Resources and property owners adjacent to the Siercks Road Quarry that the Board of County Commissioners would hold a hearing on April 23, 2008, to consider the issuance of a closure order for the Pacific Cascades Resources Siercks Road Quarry; and

WHEREAS, on April 23, 2008, the Board of County Commissioners held a hearing in the matter, and

WHEREAS, during the hearing the Board heard testimony and received evidence. closed the hearing and deliberated on the matter;

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

1. The Board of County Commissioners adopts the following findings of fact and conclusions of law:
  - A. Prior to the hearing on April 23, 2008, Pacific Cascades Resources filed all missing depletion fee reports and paid all outstanding depletion fees with penalties and interest. Therefore, Pacific Cascades Resources is no longer in violation of the Columbia County Depletion Fee Ordinance.
  - B. Prior to the hearing on April 23, 2008, an adequate access gate has been installed and six (6) foot security fencing has been installed along the property line fronting Siercks Road, sufficient to prohibit access onto the site pursuant to Condition 11 of Final Order 105-2007.

- C. Prior to the hearing on April 23, 2008, temporary fencing has been installed along the highwall. However, pursuant to the Final Order 105-2007 Condition 12 requirement that the fencing be sufficient "to prevent access to the highwall," the Board finds that Condition 12 has not been met. The Board finds that there is substantial evidence in the record that the temporary fencing installed does not alleviate the hazard created by the highwall and will not adequately prevent access to it.
  - D. The Board of County Commissioners may issue a closure order pursuant to the Columbia County Surface Mining Ordinance, Article IX, Section 9.6, due to Pacific Cascades Resources' failure to meet the conditions of permit approval imposed by Final Order 105-2007.
2. Pacific Cascades Resources shall cease and desist from conducting surface mining operations under surface mining permit No. 05-0032, renewed via Final Order 105-2007, for the Siercks Road Quarry, located on Siercks Road near its intersection with Scappoose-Vernonia Highway, approximately 2.5 miles northwest of Highway 30 .
  3. The closure period shall begin on May 7, 2008, and shall continue unless and until Pacific Cascades Resources can demonstrate that security fencing meeting the requirements of Condition 12 of Final Order 105-2007 has been installed along the highwall (including adequately preventing access to the highwall) and the Board of County Commissioners enters an order lifting this closure order.

Dated this 7<sup>th</sup> day of May, 2008.

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By:  \_\_\_\_\_

Anthony Hyde, Chair


By:  \_\_\_\_\_

Joe Corsiglia, Commissioner

By: *not present* \_\_\_\_\_

Rita Bernhard, Commissioner

Approved as to form

By:  \_\_\_\_\_

Office of the County Counsel