

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of an Application by	)	
Northwest Aggregates Co. (Glacier	)	FINAL ORDER NO. 72-2008
Northwest) for a Surface Mining Operating	)	(Operating Permit No. 05-0081)
Permit for the Bates & Roth Site	)	

WHEREAS, on November 6, 2007, Northwest Aggregates Co. (hereinafter referred to as the "Applicant") submitted an Application SM 08-01, No. 05-0081 for a Surface Mining Operating Permit for the Bates & Roth Surface Mining Site, an approximately 304 acre site located northeast of the City of Scappoose on Honeyman Road, identified as Tax Parcel Nos. 4132-000-00600, 4132-000-00700, 4132-000-00800, 4132-000-00801, 4132-000-00900 and 4132-000-00400; and

WHEREAS, pursuant to Columbia County Zoning Ordinance Section 1614, the Board of County Commissions took original jurisdiction over the Site Design Review Application (DR 08-04) submitted with the Operating Permit Application to consider them concurrently; and

WHEREAS, in a letter dated January 15, 2008 Columbia County Land Development Services deemed the Applications incomplete and requested additional information; and

WHEREAS, on June 12, 2008, the Applicant submitted additional information to the County; and

WHEREAS, on July 2, 2008, the County deemed the Applications complete after reviewing the additional information submitted by the Applicant; and

WHEREAS, prior to submitting the Surface Mining Operating Permit Application, the Board of County Commissioners approved a Comprehensive Plan Amendment from Agricultural Resource to Mineral and Aggregate Resource and a Zone Change from Primary Agriculture (PA-38) to Surface Mining for the Bates-Roth Site, via Ordinance No. 2005-1, "In the Matter of the Application of Vera Roth, Roth L.L.C. and Chester Bates Irrevocable Trust for a Comprehensive Plan Amendment from Agricultural Resource to Mineral and Aggregate Resource and Zone Change from Primary Agriculture (PA-38) to Surface Mining (SM)"; and

WHEREAS, the Site Design Review Application (DR 08-04) was approved by Final Order No. 71-2008 on August 27, 2008; and

WHEREAS, on August 20, 2008, the Board of County Commissioners held a hearing on the Operating Permit Application, heard testimony and received evidence into the record, and deliberated on the matter; and

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

WHEREAS, after deliberations the Board of County Commissioners voted to tentatively approve Application SM 08-01, Permit No. 05-0081, with the recommended Conditions of Approval contained in the Surface Mining Administrator's Staff Report dated July 2, 2008;

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 Surface Mining Administrator's Staff Report to the Board of County Commissioners dated July 2, 2008, which is attached hereto as Attachment 2 and incorporated herein by this reference.
- B. Surface Mining Operating Permit No. 05-0081 and the Proposed Reclamation Plan are hereby APPROVED, subject to the following Conditions of Approval:

For purposes of these Conditions of Approval, "Applicant" shall include current and future record owner(s) of the Bates & Roth Site.

1. Prior to any mining related activities beginning on the site, the Applicant shall post a \$62,500.00 bond as financial security for the reclamation of the affected area of the site, in a form acceptable to the County.
2. Applicant shall demarcate on the ground, by staking or other means, a 50-foot setback from the property line and Santosh Slough except as required in Article VII of the Columbia County Surface Mining Ordinance, Section 8.3-(2), where a 200-foot setback from the property line shall be delineated. Applicant shall maintain the setbacks for the life of mine.
3. The Applicant shall not discharge storm water offsite without first obtaining a 1200A permit.
4. The Applicant shall create the above and below water cut slopes during mining as specified in the submitted Reclamation Plan and as shown on Plates 3 and 4 of the Application materials.
5. The Applicant shall seed and mulch all exposed soil stockpiles prior to October 1 of each year.
6. The Applicant shall not conduct pit dewatering without prior approval from the Surface Mining Administrator.
7. The Applicant shall revegetate shoreline areas with native species as specified in the Reclamation Plan and as depicted on Plate 4 of the Application materials.
8. The Applicant shall maintain all access/service roads dust-free within 300 feet of Honeyman Road.

9. The Applicant shall comply with the Conditions of Approval of Ordinance No. 2005-1, "In the Matter of the Application of Vera Roth, Roth L.L.C. and Chester Bates Irrevocable Trust for a Comprehensive Plan Amendment from Agricultural Resource to Mineral and Aggregate Resource and Zone Change from Primary Agriculture (PA-38) to Surface Mining (SM)", approving the Zone Change and Comprehensive Map Amendment application for the Bates & Roth Site (PA 05-01).
10. The Applicant shall comply with the Conditions of Approval of the Bates & Roth Site Design Review (DR 08-04), Final Order No. 71-2008, "In the Matter of an Application by Northwest Aggregates CO. (Glacier Northwest) for Site Design Review to Mine the Bates & Roth Site".

Dated this 27<sup>th</sup> day of August, 2008.

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By: \_\_\_\_\_  
Anthony Hyde, Chair

By: Joe Corsiglia  
Joe Corsiglia, Commissioner

By: Rita M. Bernhard  
Rita Bernhard, Commissioner

Approved as to form

By: [Signature]  
Office of County Counsel

Legal Counsel's File -EXHIBIT 1

- (1) Notice of Public Hearing (Publication)
- (2) Notice of Public Hearing (Property Owner Notice)
- (3) Affidavit of Mailing
- (4) Affidavits of Publication
- (5) Board Communication from Land Development Services Director Todd Dugdale dated August 14, 2008, with the following attachments:
  - (1) Design Review DR 08-04 Staff Report dated August 13, 2008
  - (2) Operating Permit #05-0081 Surface Mining Administrator's Report dated July 2, 2008
  - (3) Email from Sarah Kelley, DSL Resource Coordinator dated August 11, 2008
  - (4) Handwritten Communication from Scappoose CPAC dated August 12, 2008
- (6) Letter from Audrey O'Brien, DEQ Solid Waste Program Manager dated July 10, 2008
- (7) Notice of Completeness dated July 2, 2008
- (8) Letter to Applicant from Land Development Services Requesting Additional Information dated January 15, 2008
- (9) Applicant's Revised Application Materials dated June 11, 2008

ATTACHMENT 2

**Columbia County  
Surface Mining Administrator's Report**

Application for a New Operating Permit, No. 05-0081

**Date:** July 2, 2008  
**File Number:** 05-0081  
**Site Name:** Bates & Roth  
**Owner:** Northwest Aggregate Co.  
**Applicant:** Northwest Aggregate Co.  
1050 N River Street  
Portland OR 97227

**Site Location/Zoning:** Located approximately 3 miles northeast of Scappoose, adjacent to Glacier's Ft. James operation on the east side of Honeyman Road.

<b>Tax Account No.</b>	<b>Original Zoning</b>	<b>Acres To Be Permitted</b>
4133-000-00400	PA-38	194.00
4132-000-00600	PA-38	3.95
4132-000-00700	PA-38	43.40
4132-000-00800	PA-38	3.56
4132-000-00801	PA-38	14.00
4132-000-00900	PA-38	45.00
<b>Total Acres</b>		<b>303.91</b>

**Operating Permit Area:** 303.91 acres

**Request:**

To obtain a surface mining operating permit encompassing 303.91 acres as required under Article V Section 5.1 of the Columbia County Surface Mining Ordinance.

**Application Complete:** June 23, 2008

**Basic Facts:**

Northwest Aggregate Co. (NWA) has filed an Operating Permit application to develop a sand and gravel pit operation to the east of their existing Santosh operations across Honeyman Road. The applicant is requesting an Operating Permit for 303.91 acres in tax lots 400, 600, 700, 800, 801, and 900. The applicant has completed the County's Surface Application for Surface Mining Permit and submitted a Reclamation Plan per Article V of the Surface Mining Ordinance. On February 9, 2005, the Board of Commissioners adopted Ordinance 2005-1 approving the findings of the Planning Commission and approving a plan amendment from Agricultural Resource to Surface Mining and a zone change from PA-38(Primary Agriculture) to SM(Surface Mining) to allow surface mining on the subject property.

The property is currently in agricultural grassland and other than NWA's Santosh and Ft. James operations to the west and northwest is surrounded by other similar types of agricultural lands including a hybrid poplar plantation. Some residences are also located to the east, south, and west.

Topographically the site is nearly level and gently slopes to the north and east towards the Multnomah Channel of the Columbia River. The channel contains an Army Corps of Engineers dike (levee) through this reach to prevent flooding of lowland areas. As such, the potential for impacts by floods in excess of a 100-year event have been precluded (i.e. levee system withstood 1948, 1964 and 1996 events). The western portion of the property is also traversed by the Santosh Slough which is part of the flood control system operated by the Scappoose Drainage District (SDD).

#### **Mine Operating and Reclamation Plan Summary**

Soils on the property extend to a depth of 1 foot and have been mapped as Rafton Silt loam, Sauvie Silty Clay loam and Sifton loam and are categorized as Class II to III soils. Sub-soils or overburden range up to 20 feet in thickness over the gravel resource. After stripping, overburden will be placed in a berm around the perimeter of the site as depicted in Plate 3. The side slopes and top of the berm will then be hydroseeded with a native seed mix and planted with Oregon ash and red alders as shown in Plate 4. Any topsoil stockpiles generated will be used in reclaiming shoreline areas or seeded for stability until needed.

A wetland delineation was performed by NWA's consultant Minster Glaeser and delineated approximately 22 acres of wetlands on the property. NWA has obtained a fill and removal permit from the ACOE and DSL for the wetlands that will be mined through and will be mitigating or creating wetlands at the north end of the property. Storm water drains internally to the property or the future gravel pond and a 1200A permit will not be required. The site will be a pit run only operation with gravels transported via a conveyor system under Honeyman Road to NWA's Santosh pit for processing.

The aggregate resource is set in alluvial sands and gravels and the water table aquifer ranges annually from approximately 3 to 5 feet below the ground surface. The upper limit of this range is controlled or suppressed by various pumping stations operated by the SDD. Mine depth will extend to approximately 150 feet below grade and the resource will be wet mined. This method of mining has been practiced in the area for over 40 years without reported impacts to ground water; therefore, impacts to offsite ground water resources are not anticipated. Pit dewatering is not included or allowed under this application.

As shown on Plate 3, mining will be performed in multiple phases (1 through 7) and excavation of the resource will be accomplished by use of a dragline. Underwater slopes will range from 3H:1V to six feet below the ordinary low-water line to 1H:1V in the bottom half of the pit wall (Plate 3). Above-water sloping will range from 2H:1V to 3H:1V (Plate 3). All slopes will be cut slopes created during mining. As shown on Plate 3, a 50-foot setback will be maintained from the property line except as required in Article VII, Section 8.3-(2) a 200-foot setback will be maintained from adjacent residences or zoning which allows a residence as a permitted or conditional use without the prior written consent of the affected property owner(s). With the exception of the conveyor and culvert crossing, a 50-foot riparian setback from the Santosh Slough will also be maintained. NWA has received the necessary state and federal permits for the crossing in the slough.

The post-mining land use as a condition of rezoning will be a pond(s) with revegetated shoreline areas. As stated in the reclamation plan and depicted on Plate 4, this will include placement of up to 1 foot of topsoil followed by plantings of native willows and black cottonwoods on 5 foot centers, offset double rows in groves with approximately 20 trees per 100 feet. In addition, these areas will be hydroseeded with a native seed mix. Control of invasive species will be performed by annual application of herbicides by a certified pesticide applicator based on the proximity to open water bodies and the invasive species to be targeted.

#### **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 previously submitted.

**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; setbacks to protect adjacent property and the public from steep slopes, 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**

**Before issuing or renewing an operating permit for any surface mining site, the Board shall receive from the landowner or operator a surety bond or security deposit in a sum to be determined by the Board, after considering the initial determination and recommendation of the Administrator and the advise of the Committee, but in an amount not to exceed the total cost for reclamation if the county were to perform the reclamation. The surety bond or security deposit shall be conditioned upon the faithful performance of the reclamation plan and fulfilling the other requirements of this ordinance. A surety bond must be provided by surety companies authorized to do business in Oregon. In lieu of a surety bond, the Board may accept cash, a cashier's check, or certified check equal to the estimated cost of reclamation. The surety bond or other security deposit shall be forfeited to the county if the landowner or operator does not carry out the reclamation plan or fulfill the other requirements of this ordinance. The surety bond or security deposit shall remain on file with the Administrator until the reclamation is complete or the bond or deposit is forfeited. In the event of disagreement regarding the amount of the financial security required, the landowner or operator may request an appeal hearing before the Board pursuant to Section 2.4 of this ordinance.**

**Finding 4** Although the original permit application states “unknown” as the acreage to be mined in the first year, NWA’s representative Bob Short communicated in a July 8, 2008, phone conversation that up to 15 acres will be mined in this period. Based on this, a bond in the amount of \$62,500 is required prior to issuance of the mining permit. The bond amount may be adjusted in the future based on acres reclaimed versus additional acres disturbed by mining.

**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** The planned secondary beneficial use is a pond(s) with revegetated shoreline areas. This will include placement of up to 1-ft of topsoil followed by plantings of native willows and black cottonwoods on 5-ft centers offset double rows in groves with approximately 20 trees per 100-ft. In addition, these areas will be hydroseeded with a native seed mix. Control of invasive species will be performed by annual application of herbicides by a certified pesticide applicator based on the proximity to open water bodies and the invasive species to be targeted. Staff finds that a reclamation plan meeting ordinance requirements has been submitted.

**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 Honeyman Road, a two way County arterial roadway. All access/service roads will remain dust free within 300 feet of Honeyman Road.

**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** Operations over several decades similar to this proposed sand and gravel pit have not caused impacts to ground water and the subject site is not expected to create ground water impacts.

**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 have been received as of the date of this report. Staff will review comments submitted prior to the Board of Commissioners hearing on the Operating Permit and Design Review applications.

**Recommendations:**

Approval of the proposed operating permit is recommended for this mining permit application contingent upon the following conditions being met:

1. Post a reclamation bond in the amount of \$62,500.
2. Demarcate on the ground, by staking or other means, a 50-foot setback from the property line and Santosh Slough except as required in Article VII, Section 8.3-(2) a 200-foot setback from the property line shall be delineated. Maintain the set backs for the life of mine.
3. Not discharge storm water offsite without first obtaining a 1200A permit.
4. Create the above and below water cut slopes during mining as specified in the reclamation plan and as shown on Plates 3 and 4.
5. Seed and mulch all exposed soil stockpiles prior to October 1 of each year.
6. Not conduct pit dewatering without approval from the SMA
7. Revegetate shoreline areas with native species as specified in the reclamation plan and as depicted on Plate 4.
8. All access/service roads will remain dust free within 300 feet of Honeyman Road.
9. Comply with the 32 conditions of approval of Ordinance 2005-1 approving a Plan Amendment/Zone Change for the subject site.
10. Comply with all conditions of the Site Design Review approval for the subject site(DR 08-04).