

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of an Application by)
John A. Petersen for a Surface Mining) ORDER NO. 57-2009
Operating Permit for the Tide Creek Site) (Operating Permit No. 05-0070)

WHEREAS, on October 20, 2004, John A. Petersen (hereinafter referred to as the "Applicant") submitted Application No. 05-0070 for a Surface Mining Operating Permit for the Tide Creek Surface Mining Site, an approximately 20 acre site located on Tide Creek Road in Deer Island, identified as portions of Tax Parcel Nos. 6236-000-00600, 6236-000-00900, 6236-000-01000, 6236-040-00100 and 6131-000-00300; and

WHEREAS, pursuant to Columbia County Zoning Ordinance Section 1614, the Board of County Commissions took original jurisdiction over the Applicant's Site Design Review Application (DR 02-01) submitted together with the associated Operating Permit Application (No. 05-0070) to consider them concurrently; and

WHEREAS, prior to the Applicant submitting the Surface Mining Operating Permit Application, the Columbia County Planning Commission approved the Applicant's Conditional Use Permit Application on November 21, 2003, with 13 conditions, via Final Order CU 01-54, "In the Matter of the Application of Tide Creek Rock Products for a Conditional Use Permit to Mine Aggregate on a Site Zoned PF-76 and PA-38"; and

WHEREAS, the Site Design Review Application (DR 02-01) was approved by Final Order No. 56-2009 on August 26, 2008; and

WHEREAS, on August 5, 2009, the Board of County Commissioners held a consolidated hearing on the Operating Permit and Site Design Review Applications, heard testimony and received evidence into the record, and continued the hearing to August 19, 2009; and

WHEREAS, on August 19, 2009, the Board of County Commissioners held the continued hearing on the Operating Permit and Site Design Review Applications, heard additional testimony, received additional evidence into the record and deliberated on the matter; and

WHEREAS, during the hearings 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 No. 05-0070, with the six recommended Conditions of Approval contained in the Surface Mining Administrator's Staff Report dated March 28, 2005, with modifications to Condition 1 and Condition 5 as proposed in the Board Communication from Land Development Service Director Todd Dugdale dated August 17, 2009, and directed Staff to prepare an appropriate

Order;

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. The Board of County Commissioners adopts the Findings of Fact and Conclusions of Law in the Board Communication from Land Development Services Director Todd Dugdale dated August 17, 2009, which is attached hereto as Attachment 3 and incorporated herein by this reference.
- C. For purposes of these Conditions of Approval, "Applicant" shall include current and future record owner(s) of the Tide Creek Site and are in addition to the Conditions of Approval imposed by Final Order CU 01-54, "In the Matter of the Application of Tide Creek Rock Products for a Conditional Use Permit to Mine Aggregate on a Site Zoned PF-76 and PA-38", and in addition to the Conditions of Approval imposed by Order No. 56 - 2009, "In the Matter of the Application by John A. Petersen for Site Design Review to Mine the Tide Creek Site".

Surface Mining Operating Permit No. 05-0070 and the associated Reclamation Plan are hereby APPROVED, subject to the following Conditions of Approval:

1. The Applicant shall post a \$50,500.00 reclamation bond, cashier's check or certified check, as specified in Section 7.1 of the Columbia County Surface Mining Ordinance, in a form acceptable to the Surface Mining Administrator.
2. The Applicant shall demarcate on the ground by staking or other means to properly delineate the Operating Permit boundary within the tax lots shown on the Site Map Plan.
3. The Applicant shall not discharge any stormwater to Tide Creek without first obtaining a 1200A permit.
4. The Applicant shall maintain a 50-foot setback from Tide Creek for excavating, processing and stockpile areas except where a 25-foot setback has been approved by the Oregon Department of State Lands.
5. After ripping, the Applicant shall place a minimum of one foot of soil in areas of the site to be revegetated with native grasses and up to three feet of soil in areas for revegetation


with native timber species.

6. The Applicant shall maintain all access or service roads used for mining dust-free within three hundred (300) feet of Old Columbia River Highway.

Dated this 19th day of August, 2009.


BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: 
Rita Bernhard, Chair

By: 
Anthony Hyde, Commissioner

Approved as to form

By: 
Office of County Counsel

By: 
Earl Fisher, Commissioner

Legal Counsel's File -EXHIBIT 1

- (1) Notice of Public Hearing (Publication)
- (2) Notice of Public Hearing (Property Owner Notice)
- (3) Affidavit of Publication
- (4) Affidavits of Mailing
- (5) Board Communication from Land Development Services Director Todd Dugdale dated July 29, 2009, with the following attachments:
 - (1) Design Review DR 02-01 Staff Report dated August 5, 2009
 - (2) Operating Permit #05-0070 Surface Mining Administrator's Report dated March 28, 2005 with attached Operating Permit Application and Reclamation Plan
 - (3) Modified DR 02-01 Application with attachments dated May 5, 2009
 - (4) Planning Commission Final Order CU 01-54
 - (5) PBS 2001 Monitoring, Wetlands Determination, Delineation, Drainage and Water Quality Plans dated August 1, 2003
 - (6) Letter from Bob Brinkman to Applicant dated September 17, 2008
 - (7) Letter from DSL to Columbia County dated February 25, 2009
 - (8) July 29, 2009 FEMA Map of Tide Creek's 100 Year Floodplain

Exhibit 2:

Board Communication from Land Development Services Director Todd Dugdale dated August 17, 2009, with attached Email from Surface Mining Administrator Bob Brinkmann

**Columbia County
Surface Mining Administrators Report**

Application for a New Operating Permit #05-0070

Date: March 28, 2005

File Number: #05-0070

Site Name: Tide Creek

Applicant /Owner: John A. Peterson
33625 Tide Creek Rd.
Deer Island, OR 97054

Contact: John Peterson - Glacier, David Brian Williamson - Williamson & Williamson

Site Location: Located approximately 3 miles west of Deer Island. Access is from Hwy. 30 west to a private road between Butterfield and Deer Island Roads. Proceed east under Hwy. 30 to the site.

Tax Account Number	Original Zoning	
6236-000-500(Portion)	SM	
6236-000-600(Portion)	PF-76	See Legal Description in Attachment 1
6236-000-900(Portion)	FA-19	
6236-000-1000(Portion)	PF-76	
6131-000-300(Portion)	FA-19/PF-76	

Current Zoning: Surface Mining of portions of the tax lots to be permitted

Size: 20 acres

Request: To obtain a mining permit encompassing 20 acres adjacent to an existing Limited Exempt area as required under Article V Section 5.1 of the Columbia County Surface Mining Ordinance

Application Complete: 2/01/05

Basic Facts:

Tide Creek Rock, Inc. submitted an application for a new operating permit for their existing quarry. The applicant is requesting an operating permit for 20 acres located in portions of five separate tax lots of which the portions to be permitted have a Conditional Use Permit (CUP) for mining. 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.

This site is adjacent to the current mining operation which has Limited Exempt status with the County. The site is occupied by a side hill cut consisting of excavated material reposed along an elongated slope of 3:1 or less. At the foot of the hill is a processing area for crushing as well as a shed and shop building. Surrounding vegetation consists of conifers, grasses, blackberries and poplars. The planning commission approved the CUP on 11/21/03.

The newly permitted area comprises 20 acres, of which approximately 5 acres will be actively mined with the remaining acreage used for processing, storage and a settling pond. The post mining land use will be forestry/range and will be completed three years following completion of mining.

Inspection and Reclamation Plan Summary:

An annual inspection was conducted on April 22, 2004 with John Peterson the permittee, David Williamson attorney for Mr. Peterson, Carla Cudmore the Columbia County Surface Mine Administrator and Bob Brinkmann, Bob Houston and Vaughn Balzer of DOGAMI. The permit area is adjacent to an existing LE area and approximately 5 acres will be actively mined.

Wetlands have not been delineated within the area to be mined and Tide Creek, a perennial stream, borders the southeast side of the site. The inspection report noted that the disturbed area outside the LE boundary required an operating permit for which this application is intended. Other issues noted in the report included the violation(s) with DSL for the sediment pond on the west side of Hwy. 30 and the consent order that Tide Creek is under to resolve this matter.

Mining will continue in the disturbed area by establishing a terraced cut slope as depicted on the cross section map (attachment to applicant's reclamation plan). Blasting will not be employed at the site nor is mine dewatering intended or allowed under this application. As stated in the reclamation plan and shown on the cross section final cut slopes of 2H:1V will be developed on the east and west walls of the quarry with the floor being lowered to the existing grade of the processing area. Because Tide Creek owns the property surrounding the quarry minimum property line setbacks of 500-ft. will be maintained.

The planned secondary beneficial use is range/forestry. Scarification or ripping of compacted areas such as the pit floor will be performed to promote drainage. Although the reclamation plan states that 1-foot of soil will be placed in areas where 400 timber species per acre will be planted this Department has found in similar reclamation scenarios that a 3-foot layer of growth medium is required to ensure long term tree survival. Therefore a 3-foot layer of soil/overburden will be required in tree planting areas. Native grasses will also be seeded in reclaimed areas.

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: \$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

Finding 4: Currently there is no bond for the site. However posting a reclamation bond in the amount of \$50,500 (based on the approximate 12-acres disturbed in the permit area) with the county is required prior to issuance of the mining permit. The bond may be adjusted accordingly as future development/reclamation of the quarry proceeds.

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: Compliance with applicable laws and ordinance has been addressed by conditions on recommended conditions on approval of this permit and by recommended conditions on approval of Design Review DR 02-01(Modified).

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 applicant is required to comply with the reclamation approved as a part of the requested Operating Permit #05-0070.

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 8: The site has access to Highway 30 via Old Columbia River Highway. The access road to should be kept dust free within 300 feet of Old Columbia River highway. There are no residences within 300 feet of the operating permit boundary.

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 9: Adequate areas for parking for employees, customers and visitors are provided on the 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 10: The operation of this upland quarry in the LE area over several decades has not caused impacts to ground water and its continued operation outside the LE area 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 11: 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 comments have been received as of 7/1/09.

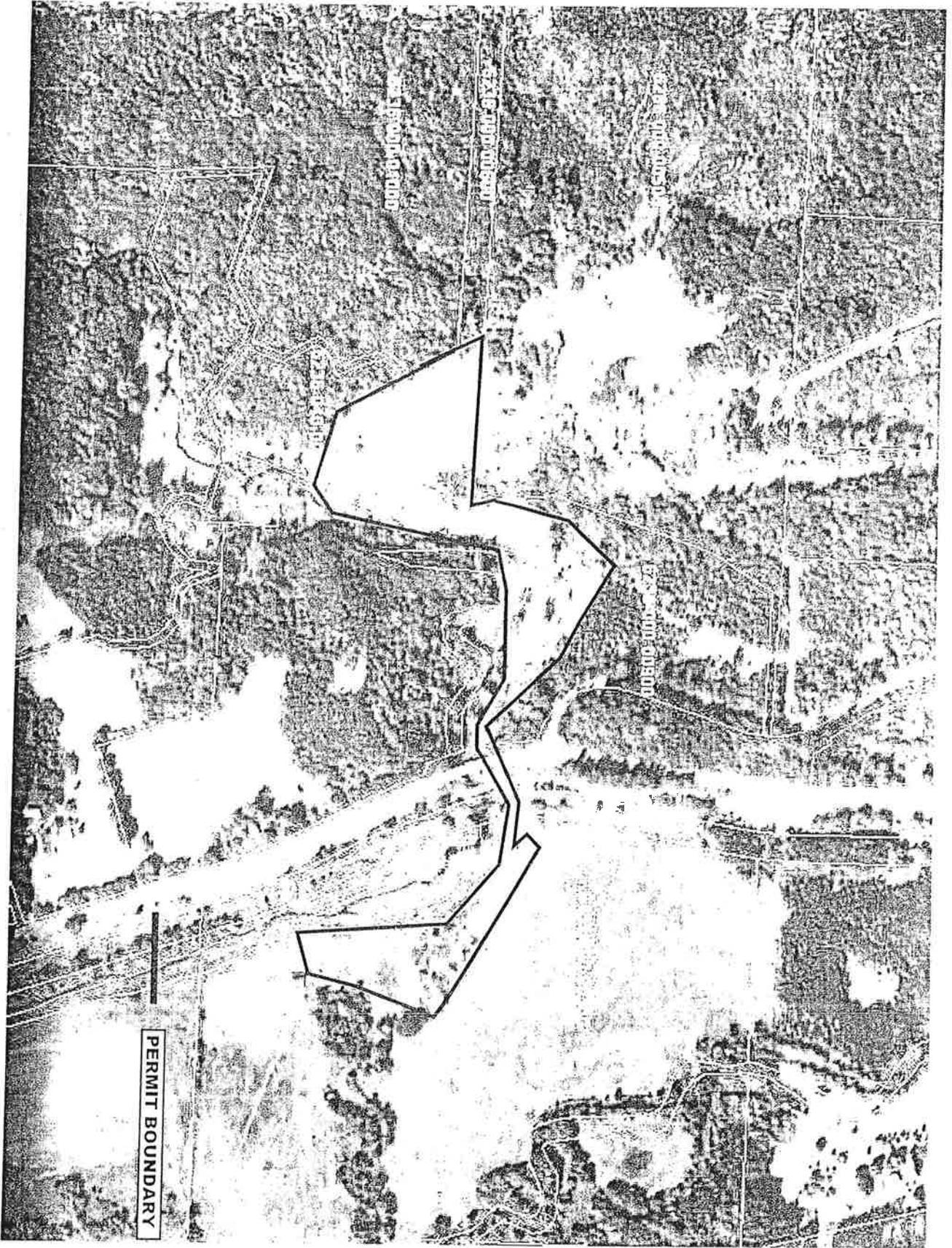
Conclusion and recommended permit conditions:

Approval is recommended for this mining permit application contingent upon the Applicant complying with the following conditions:

1. Post a reclamation bond as specified in Section 7.1 of the Columbia County Surface Mining Ordinance.
2. Demarcate on the ground by staking or other means to properly delineate the operating permit boundary within the tax lots shown on the site plan map.
3. Not discharge storm water to Tide Creek without first obtaining a 1200A permit.
4. Maintain a 50-ft. setback from Tide Creek for excavating, processing and stockpile areas except where a 25-foot setback has been approved by the Oregon Department of State Lands(DSL).
5. Place a minimum of 3-feet of soil over the pit floor, processing and stockpile areas after ripping and revegetate with native timber and grass species.
6. Any access or service road used for mining shall be dust-free at all points within three hundred (300) feet of Old Columbia River Highway..

ATTACHMENT 1
LEGAL DESCRIPTION OF PERMIT BOUNDARY

The Tax Lots described as follows: Beginning at a point of intersection of the Westerly right-of-way line of the Columbia River Highway, with the North line of Block 7, Falls Park, as per Plat on file and of record in the clerk's office in Columbia County, Oregon, said point being in Section 36, Township 6 North, Range 2 West, Willamette Meridian, Columbia County, Oregon; thence North $88^{\circ}42'$ West along said North line and its Westerly extension a distance of 2100.00 feet; thence $18^{\circ}12'$ West a distance of 974.00 feet; thence North $10^{\circ}00'$ East a distance of 760.00 feet; thence North $39^{\circ}00'$ East a distance of 550.00 feet to the Southerly right-of-way line of Tide Creek Road; thence Northeasterly along the said right-of-way line of Tide Creek Road to the North line of the Southwest Quarter of the Northeast Quarter of said Section 36; thence South $88^{\circ}06'30''$ East along said North line and the North line of the Southeast Quarter of the Northeast Quarter of said Section 36 a distance of 1170.00 feet (more or less) to the Westerly right-of-way line of Tide Creek Road; thence South $10^{\circ}45'$ West along the right-of-way line a distance of 425.79 feet; thence North $88^{\circ}06'30''$ West a distance of 30.00 feet; thence North $30^{\circ}00'$ West a distance of 351.10 feet; thence North $88^{\circ}06'30''$ West a distance of 384.38 feet to the East line of said Southwest Quarter of the Northeast Quarter; thence South $00^{\circ}55'$ West along said East line a distance of 9 feet; thence South $73^{\circ}22'$ East a distance of 863.70 feet to said Westerly right-of-way line of the Columbia River Highway; thence Southerly along said right-of-way line to the point of beginning. TOGETHER with that portion of the following-described properties lying East of the Burlington Northern Railroad right-of-way; the South one-half of the Southeast Quarter of the Northeast Quarter of Section 36, Township 6 North, Range 2 West; the Southeast Quarter of Section 36, Township 6 North, Range 2 West; the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 31, Township 6 North, Range 1 West; and the Northwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 36, Township 6 North, Range 1 West, Willamette Meridian.



PERMIT BOUNDARY

WILLIAMSON & WILLIAMSON

ATTORNEYS AT LAW

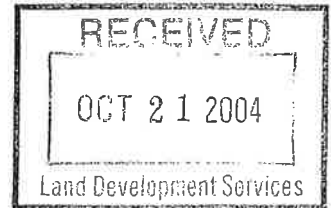
PROFESSIONAL BUILDING
230 Columbia Boulevard
Post Office Box 656
Saint Helens, Oregon 97051

David B. Williamson
David Brian Williamson

Telephone: 503-397-2141
Facsimile: 503-397-2144
E-mail: williamsonlaw@colcenter.org

October 21, 2004

Columbia County Land Development Services
Columbia County Courthouse
244 Strand Street
St. Helens, OR 97051



Re: Tide Creek Rock Company
Operating Permit and Reclamation Plan

Gentlemen:

Enclosed is a revised operating permit application and reclamation plan for the Tide Creek Rock Company pit, in Deer Island, Oregon. No fee is enclosed because a filing fee was previously paid.

A copy of the application is being set to Bob Brinkman at the Department of Geology and Mineral Industry.

Very truly yours,

WILLIAMSON & WILLIAMSON

A handwritten signature in cursive script, appearing to read "David B. Williamson".

David Brian Williamson

DBrW/dab
Enclosures
cc: Bob Brinkman
John A. Petersen

COLUMBIA COUNTY
OREGON

APPLICATION
FOR
ANNUAL SURFACE MINING PERMIT

NAME OF APPLICANT (Type or Print) John A. Petersen		SIZE AND LEGAL DESCRIPTION See attached legal description					
PERMANENT ADDRESS (Include 'Zip') 33625 Tide Creek Road Deer Island, OR 97054		SEC 36 31	T 6 6	S S N	RANGE 2 1	E E W WM	COUNTY Columbia
TELEPHONE NO.: (503) 397-5180		DISTANCE 3 miles		DIRECTION FROM North from Deer Island			
TEMPORARY ADDRESS ('Zip') Same as above		NEAREST COMMUNITY Deer Island		TYPE OF OVERBURDEN Soil			
TELEPHONE NO.:		APPROX. MAX. DEPTH OF OVERBURDEN 12 inches					
OWNERSHIP: Surface of land to be surface mined (show names and addresses.) John A. Petersen 33625 Tide Creek Road Deer Island, OR 97054		MATERIAL TO BE MINED OR REMOVED Basalt rock					
OWNERSHIP: Mineral Rights (show names and addresses.) John A. Petersen 33625 Tide Creek Road Deer Island, OR 97054		QUANTITY (Tons or Yards) Overburden _____ Mineral ^{50,000} <u>100,000</u>					
		ESTIMATED TOTAL ACRES TO BE SURFACE MINED 5 of approximately 20 acres in permitted area					
		ESTIMATED NO. OF ACRES TO BE MINED IN FIRST YEAR 5					
DATE SURFACE MINING WILL COMMENCE Previously commenced pursuant pursuant to prior limited exemption		METHOD OF MINING Open pit mining by backhoe and track hoe					
FOR DEPARTMENT USE ONLY: EXHIBITS 1. Aerial Photographs..... <input type="checkbox"/> COM. <input type="checkbox"/> INC. 2. General Boundary Map..... <input type="checkbox"/> <input type="checkbox"/> 3. Existing Roads Identified.. <input type="checkbox"/> <input type="checkbox"/> 4. General Plan of Operation.. <input type="checkbox"/> <input type="checkbox"/> 5. Ground Cover Plan..... <input type="checkbox"/> <input type="checkbox"/>		EST. MAX DEPTH TO BE SURFACE MINED 150 feet					
		PURPOSE FOR WHICH THIS LAND IS TO BE USED AFTER MINING Forestry, agriculture or other uses which may be permitted or conditional uses in those areas					
BOND OR SECURITY DEPOSIT FILED: _____ IN THE AMOUNT OF \$ _____		A BASIC FEE OF \$900 PER SITE IS HEREWITH ATTACHED HAS BEEN PAID					
REMARKS:		SIGNATURE <i>John A. Petersen</i>			DATE 10/20/04		
		TITLE OPERATOR			PERMIT NO.		

SURFACE MINING ANNUAL PERMIT APPLICATION
Section 5.3 Requirement

- (1) Names of Landowners and Operators: John Petersen and Agnes Petersen
33625 Tide Creek Road
Deer Island, Oregon 97054
- (2) Size of Surface Mining Site: 20 acres (approximate)
Size of Mine: 5 acres (approximate)
Legal Description: Attached.
- (3) Aerial Photograph: Attached.
- (4) Map: Attached.
- (5) Roads: Shown on attached map.
- (6) Transparent Overlays: None - requested information is shown on attached map.
- (7) Minerals expected to be excavated, disturbed, sold, and/or removed during Present year: 50,000 cubic yards
Subsequent years: 50,000 - 100,000 cubic yards per year
- (8) Modes of excavation: Open pit. Surface mining by use of backhoes, track hoes, and dump truck. No blasting.
- (9) Stating Date: Previously begun pursuant to prior limited exemption permits.
- (10) Expected Date of Completion: Unknown.
- (11) Containment and Refuse: None will be created.
- (12) Erosion Control: The mine area consists of fractured basalt which absorbs surface water preventing erosion. After completion of mining, reclamation will include spreading of topsoil, scarifying and fertilizing with fir and alder trees, planted not less than 200 per acre.
- (13) Visual Screening: Existing topography and natural vegetation screens the mine site from public highways, public parks, and residential areas.
- (14) Consent of Landowner: The operator is the landowner.
- (15) Reclamation Plan: Attached.
- (16) Financial Security: Amount is not yet set by board.
- (17) Land Use Approval: Attached.

DATED this 20th day of October, 2004.



JOHN A. PETERSEN



Approx. 27 acres
disturbed by mining

This is an unrectified aerial photo

File Name: S:\05Columbia\05-0070\05-0070 Aerial.CVS



Approx. scale 1 in = 600 ft

Oregon Dept. of Geology and Mineral Industries
Mined Land Reclamation Program

DOGAMI ID#: 05-0070

Permittee: Tide Creek Rock

Site Name: Tide Creek Pit

Photo Source / Date: Dave Shear / 5-8-02

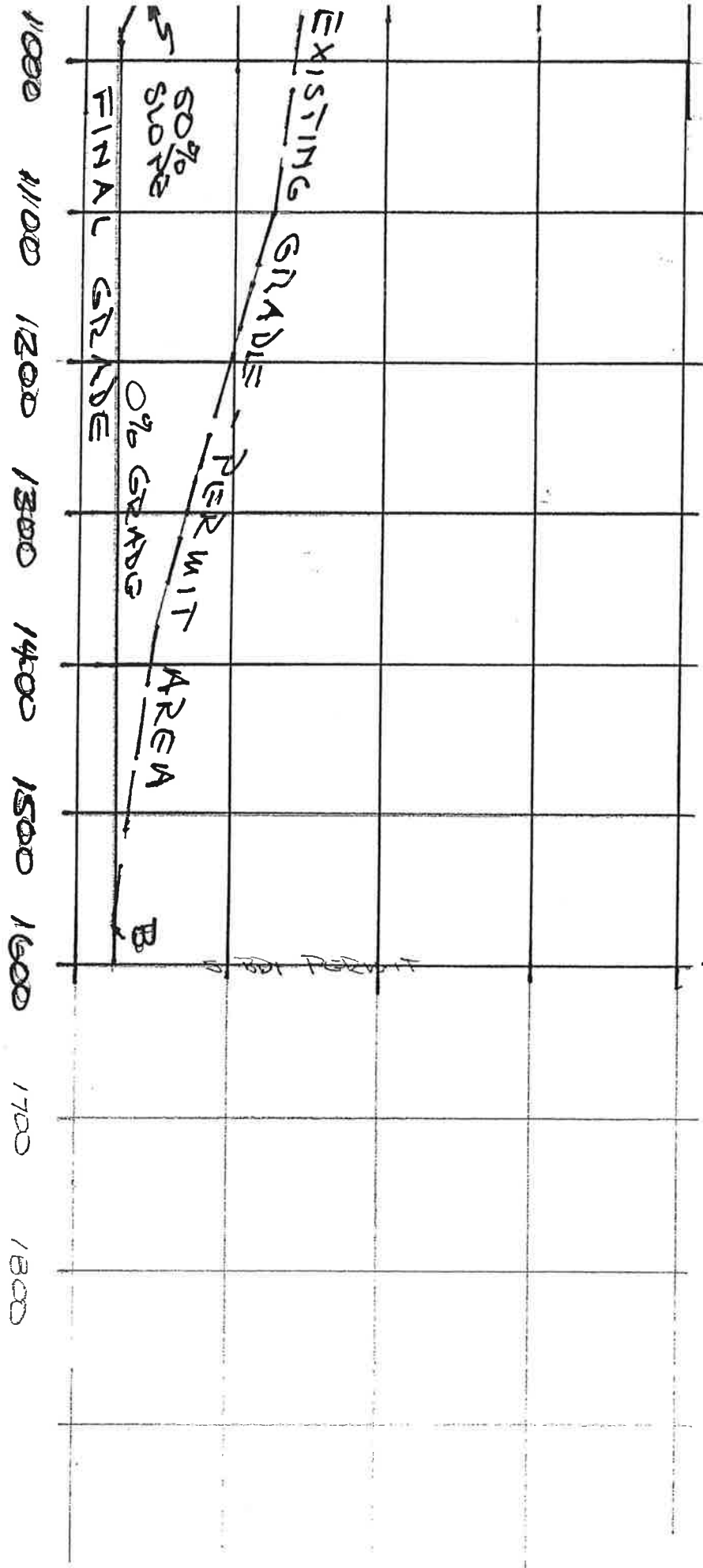
Prepared By / Date: Vaughn Balzer / 6-10-02

AERIAL PHOTOGRAPHY STATEMENT

The attached aerial photograph represents the condition of the mine on the date of the application. It includes the limited exemption area. It also includes an area which was explored in the past but which is not being mined.

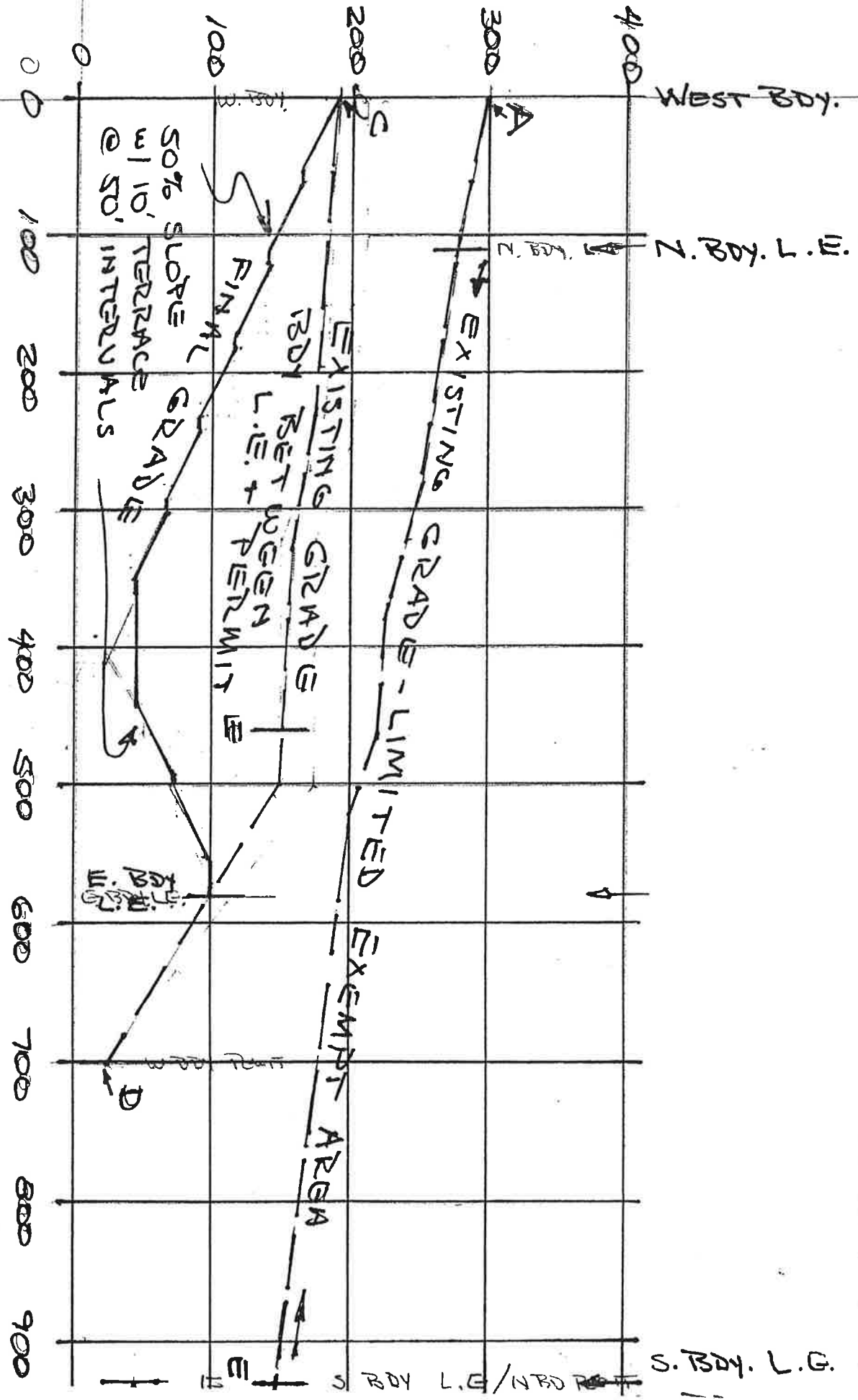
DATED this 20th day of October, 2004.


JOHN A. PETERSEN



APPROXIMATE ■ EXISTING
 PROPOSED FINAL GRADIES

John A. Peterson



TIDE CREEK ROCK PIT
 JOHN A. PETERSEN, OPERATOR

COLUMBIA COUNTY
LAND DEVELOPMENT SERVICES
Columbia County Courthouse
St. Helens, Oregon 97051
(503) 397-1501

RECLAMATION PLAN FOR OPERATING PERMIT NUMBER: _____

A. Name, Address, and Telephone Number of the Permittee:

John A. Petersen
33625 Tide Creek Road
Deer Island, Oregon 97054
503-397-5180

B. Name, Address, and Telephone Number of All Landowners within the Permit Boundary:

John A. Petersen (All Tax Lots)
33625 Tide Creek Road
Deer Island, Oregon 97054
503-397-5180

C. Name, Address, and Telephone Number of All Mineral Rights Owners if Different from the Landowners Listed in Question B:

None applicable.

D. Legal Description of Permit Boundary, including Tax Lot Number, Section, Township, Range in Willamette Meridian:

See attached as Exhibit 1.

E. Zoning on Tax Lots Listed in Question D:

Tax Lot Number 6236-000-00500	Zoning: SM
Tax Lot Number 6236-000-00600	Zoning: PF-76
Tax Lot Number 6236-000-00900	Zoning: FA-19
Tax Lot Number 6236-000-01000	Zoning: PF-76
Tax Lot Number 6131-000-00300	Zoning: PA-19 / PF-76

F. Number of Acres in Permit Boundary: Approximately 20 acres.

G. Exempt Ground Claimed in Permit Boundary: (i.e., ground mined prior to 1972.) None. There is a limited exempt area but it is outside the permit boundary.

H. Explanation of Exemption Claimed: Columbia County Findings of Limited Exemption in Amended Order 44-2000

I. Pre-Mine Conditions:

1. Current land use: Surface mine.
2. Type and density of vegetation: Bare rock and soil, young alder trees, blackberries, cedars, willows and other vegetation along the creek.
3. Depth of topsoil: 0 inch to 12 inches.
4. Depth of overburden or waste rock that will have to be removed: From 0 inches to 6 feet.
5. Are there any drainages in the permit boundary?

No. There is one drainage through the limited exemption area, and which enters the permit boundary in an existing culvert. Within the permit area, it is confined to the culvert. Within the permit area, there are springs from which water comes to the surface and soaks back into the ground.

6. Are there wetlands in the permit boundary?

Yes.

J. Mine Plan:

1. Mining method to be employed: Multiple Bench.
2. Will blasting be incorporated into the mining operation?
No.
3. Distance to the nearest non-owned structure from the mining operation (i.e., house, well, garage, etc.): More than 1,000 feet.
4. Are there any property lines within 500 feet of the mine area?
No.
5. Type of vegetation and removal method: Small Alder trees (unmerchantable) will be removed by backhoe.
6. Topsoil salvage depth: 0 inch to 12 inches.
7. Will overburden stockpile or spoil locations be created by the mining operation?
No. The overburden has already been removed.
8. Approximate mine depth: The mine will not be dug below current ground level of processing area.
9. Approximate depth to groundwater: Not applicable.
10. Is there a well or wells on the property?

No. The distance to the closest well to the mine area is 400 feet to a well owned by the Applicant.

11. Will mine site de-watering be required? A permit may be required from the Water Resources Department for the de-watering activity.

No.

12. Will waste water be contained on-site in a pond or discharged off-site? A permit from the Department of Environmental Quality may be required for waste water control facilities.

Waste water from processing will be piped through an existing pipe to the existing settling pond on Tax Lot 6131-000-00300. The pond will be maintained as required to remove sediment. The removed material will be added to the existing berm.

13. Please explain discharge or containment procedures for the mine site de-watering: Waste water from processing will be piped through an existing pipe to the existing settling pond on Tax Lot 6131-000-00300. The pond will require periodic maintenance or removal of sediments. There will be no de-watering.

14. List types of equipment to be used for mining and processing:

- a. Mining equipment: Backhoe, loader, dump truck and crusher.
- b. Type of processing: A crusher is used to make gravel and crush rock. Wash water will be contained in a closed system, and piped underground to the settlement pond. The source of water will be Tide Creek.

- K. Post-Mining Land Use: What will be the planned subsequent beneficial use of the permit area? The planning subsequent beneficial use must be compatible with local zoning requirements. (Examples include grazing, wildlife, wetlands, timber, etc.)

The planned subsequent beneficial use of the permit area east of U.S. Highway 30 will be growing grass, and west of U.S. Highway 30 will be timber and wildlife, or such other uses as may be permitted or conditional uses in each zone within the permit area.

- L. Reclamation Timing: Columbia County Surface Mining Ordinance requires that reclamation be completed within three years following completion of mining.

1. Reclamation will begin 180 days after mining is completed.
2. Reclamation will be concurrent with mining: Yes.

Procedures for concurrent reclamation: When the 2-acre mine is mined out, it will be reclaimed. Areas reclaimed as needed and seeded with plants or the same species as existed pre-mining. Slopes will not exceed a one-foot drop in a two-foot horizontal run from the southern edge of the limited exempt area to the level of the existing processing area, with a ten-foot horizontal beach after each fifty feet of slope. If necessary, temporary erosion control measures such as mats will be used until ground cover is established.

M. Surface Water Management:

1. How will surface water runoff through the permit area be handled during mining?

Precipitation falling on the permit area soaks into the soil and highly fractured rock. Run off from the above the plant area is confined. There is an existing berm along the north side of Tide Creek to prevent any runoff which does occur from entering the creek. Excess water will be pumped to the settling pond. Applicant will comply the Division of State Lands' consent order and PBS Environmental recommendations. In the limited exemption area and directed into a culvert under the permit area without flowing over the surface of the permit area.

2. What will be the minimum undisturbed setback of the operation from any stream or drainage?

The setback will be 50 feet except in those areas in which a 25-foot setback has been approved by DSL.

3. Describe methods employed to control erosion and sedimentation in the permit area. Be specific, i.e., seeding and mulching stockpiles on bare areas, contour ditching, water bars, etc.

Erosion, during mining will be minimal. Removal of the topsoil will leave only rock, which will not erode to any significant degree. Stockpiles of rock are not subject to erosion. Sedimentation is handled by pumping water to the sedimentation pond, east of U.S. Highway 30 in the permitted area.

4. Will settling ponds or dams be constructed: No. One already exists.

- a. Please state size of the impoundment and how they will be created. Will the pond be excavated or will berms be constructed?

The excavation is approximately 1.5 acres in area and constructed berms are approximately 4 feet high.

- b. If a dam will be constructed, high will it be? If a dam is higher than 10 feet, or stores more than 9.2 acre feet of water, approval from the Water Resources Department is required. Not applicable.

- c. If berms or a dam will be constructed, please describe construction details and attach a sketch showing construction methods.

Two feet of earth was scooped out of an approximate 1.5 acre area. The removed earth was formed into a berm that is approximately 4 feet high and 8 feet wide.

- d. How deep will the impoundments be? Four feet.
- e. If the impoundments are to be removed upon completion of mining, how will the ponds be drained or filled?

The water will evaporate and soak into the ground. It will be covered with the material used to form the berm.

- f. Are settling ponds, wetlands or a water impoundment to be left upon final reclamation? No.

N. Visual Screening: Visual screening can be very effectively employed to hide sites from public notice.

1. Does natural land form or vegetative screen presently exist along the permit boundary?

Yes.

2. If yes, how will the screen be maintained during mining?

The surrounding brush and trees will be left.

3. How wide is the screen?

Approximately 400 feet.

4. Will a berm and/or vegetation be established to develop a visual screen for the operation?

No. The topography and existing vegetation will screen the operation. The settlement pond, which looks like a wetland, is visible from U.S. Highway 30. However, wetland mitigation pursuant to the Division of State Lands consent order includes planting which will act as a visual screen.

O. Noise Screening: Topsoil or overburden berms can be very effectively employed in certain situations to dissipate crusher noise.

Will noise berms be constructed for this operation?

No. The crusher is screened from other properties and the public highway by the existing topography.

P. Equipment and Structures Removed:

Upon final reclamation, will all structures, equipment, and refuse be removed from the site?

No. All mining equipment and refuse will be removed and the shop building may remain, to be used for such uses that are permitted or conditional uses in the zone.

Q. Map or Aerial Photo Requirements: A mine plan map is required. It can be an aerial photo, blue line copy of an aerial photo, an engineered drawing or a properly scaled hand drawing.

1. Maps requirements include, but are not limited to:

a. Scale (1 inch = 100 feet to 600 feet).

b. North shall be indicated.

c. List the approximate legal descriptions, and if practical, the

d. tax lots numbers.

e. The boundaries of area to be permitted and any setbacks for the excavation area.

f. The location of the plant, office, and maintenance facilities.

- g. The location of all water courses, streams, rivers, springs and wells.
 - h. The present mine areas and future mining blocks, if known.
 - i. The areas for topsoil and overburden storage.
 - j. The locations of all proposed access roads.
 - k. All property lines in the permit area and within 500 feet of the permit boundary.
 - l. The location of mine, processing, and stockpile areas, plus visual and sound berms.
 - m. The date of map preparation and the name of the person preparing the map.
2. Pre-mining and post-mining cross sections of the land surface may also be required.

R. Reclamation Procedures:

1. Land Shaping.

- a. What will be the steepest above-water excavated slopes left after mining? (1-1.5:1 is the general maximum.)

The steepest above-water excavated slopes will be 2:1, except for one existing solid rock wall at the north end of the limited exemption area.

- b. What will be the steepest above-water fill slopes left after mining? (2:1 is the general maximum.)

The steepest above-water fill slopes will be 2:1.

- c. Describe how adjacent property will be protected against steep banks, deep holes, or other hazards during and after mining.

The site is mostly surrounded by Applicant's property. There will be no deep holes nor steep banks. Access to the site is limited, as it is wholly contained within Applicant's property.

- d. What is being done to ensure slope stability?

Excavated slopes: Terracing, with 10-foot wide terraces, after each 50-feet of slope.

Fill slopes: Terracing, with 10-foot wide terraces, after each 50-feet of slope.

2. Re-vegetation Techniques. Vegetative survival at least equal to the original ground cover will normally be considered acceptable. This may take three or more years to complete.

- a. How and where will soils or subsoils be stored for reclamation?

The soils will be stockpiled on the site, not within 50 feet of Tide Creek.

- b. What measures will be taken to reduce compaction, prevent water and wind erosion of the stockpiles?

Stockpiles will be out of traffic areas to prevent compaction and will be covered or planted with grass as needed to cover the soil. The stockpiles will be less than 15 feet high. If necessary, protective matting will be used.

- c. Toxic materials at the site. How will toxic materials be handled, if any?

A single fuel tank is on site. It is completely contained within a larger half-cylindrical tank large enough to contain its entire contents should it leak.

- d. What will be average depth of soil replaced on the area to be reclaimed?

0 to 12 inches, depending upon the type of vegetation to be established.

- e. Will additional material be utilized as a soil substitute to complete the re-vegetation?

No.

- f. Will any waste products, such as tailings, crusher rejects, etc. be generated during mining?

No.

- g. Describe seed bed preparation methods prior to planting.

Scarification and leveling with equipment. Fertile topsoil will be spread to support vegetation. The depth and type will be varied to stimulate natural conditions.

- h. List species to be seeded and/or planted by type and amount.

Fir and Alder: 400 trees to the acres, or as forestry department requires.

Pasture: Ryegrass, orchard grass and clover, in densities as prescribed for each species by USDA soil conservation service.

- i. Describe planting method and the time of year for the planned planting.

Fir and alder will be hand planted in late winter or early spring.

- j. List types and amounts of fertilizer, mulch, and lime to be used to supplement the seeding.

No fertilizer, mulch, or lime will be needed for trees, but as needed for the pasture grasses.

3. State disposition of all stockpile sites upon final reclamation. If they are to be re-vegetated, explain procedures which will be employed to de-compact the area prior to topsoil and seeding.

Rip with backhoe, spread and contour to blend with surrounding topography, and fill with topsoil. Re-vegetation as with the rest of the site.

4. If applicable, what provisions have been made for stream channel and bank stabilization and rehabilitation? A Division of State Lands permit is generally required for stream relocation.

Applicant will follow the terms of the DSL consent order and recommendations of PBS Environmental.

5. What provisions will be made to control surface water runoff and erosion through the permit area upon completion of mining?

Surface water runoff and erosion controls have been established and will continue to be established pursuant to DSL consent order and PBS Environmental recommendations.

6. Will de-watering be required to complete reclamation? No.

Will backfilling a water filled excavation pit or pond be completed during reclamation?

No. The sedimentation pond will be dry before it is backfilled.

Will off-site materials be imported to complete the backfilling?

No.

S. Other Permits, if Applicable.

	<u>Permit Number</u>	<u>Date Permit Issued</u>
Columbia County Fill Permit	BLD #2000-00475	May 12, 2000
Division of State Lands	FP-22092	
Dept. of Environmental Quality Water Pollutant Control Facilities	1000	January 1997
Columbia County Land Use Permit	CU 1-54	November 21, 2003
Water Resources Dept. Permit	51024	July 18, 1990

NOTE: MAPS OR SKETCHES EXCEEDING 11" X 17" MUST BE PROVIDED
IN SUFFICIENT NUMBER REQUIRED FOR DISTRIBUTION.

(Coordinate with Reclamationist or Mined Land
Reclamation Office before submission.)

T. Post-Mining Water Impoundments:

1. Number of impoundments:

None.

2. Total surface area in acres:

None.

3. Average depth:

None.

4. What will be the steepest in-water slopes left after mining? (Generally, 3:1 in-water slopes are the steepest allowable.

Not applicable.

5. Will any shallow ponds, shorelines, or other areas conducive to wetland and plant development be left after mining?

No.

6. What is the water source for impoundment?

Not applicable.

7. How will stagnant water be prevented in water impoundments?

Water is absorbed into ground or evaporates, leaving no stagnant water.

8. What will be done for wildlife and fish enhancement (i.e., islands, peninsulas, irregular shorelines, fish structures)?

There are no fish-bearing streams within the permit area. The reclamation when completed will approximate the surrounding areas.

U. Landowners' Consent:

As surface or mineral rights Owner, I concur with the proposed subsequent use for any mining operation, and with the operating and reclamation plan as submitted. I also agree to provide access to the Columbia County Land Development Services, or their contractor, for reclamation of the mine site, if it is declared abandoned by Columbia County.

I CONCUR: (Surface Rights)

John A. Petersen
John A. Petersen

Owner
Title

10-20-04
Date

I CONCUR: (Mineral Rights)

John A. Petersen
John A. Petersen

Owner
Title

10-20-04
Date

V. Applicant's Acceptance:

John A. Petersen
John A. Petersen

Operator
Title

10-20-04
Date

BOARD COMMUNICATION

FROM THE LAND DEVELOPMENT SERVICES DEPARTMENT
MEETING DATE: August 19, 2009

TO: BOARD OF COUNTY COMMISSIONERS

FROM: Todd Dugdale, Director of Land Development Services

SUBJECT: DELIBERATIONS

Tidecreek Rock Surface Mining Site

DR02-01 (Modified) Site Design Review

#05-0070 Surface Mining Operating Permit

Tide Creek Road, Deer Island

Tax Parcel Nos: Portions of 6236-000-00600, 6236-000-00900,
6236-000-01000, 6236-000100, 6131-000-00300

DATE: August 17, 2009

SUMMARY:

The Board of Commissioners held a public hearing on the subject request on August 5, 2009 and carried the matter over until this date for deliberations. At the August 5, 2009 hearing the applicant requested that three conditions recommended by Staff, two on the Operating Permit and one on the Design Review application be modified. Staff has reviewed the changes recommended by the applicant and recommends the following modified conditions of approval:

DESIGN REVIEW RECOMMENDED CONDITIONS (Staff Report Dated July 25, 2009)

Condition #10

Original Staff Language:

The applicant shall obtain a revised deeded access easement under Highway 30 into the site that reflects its intended new uses. Prior to issuance of additional development permits on the subject properties, the applicant shall submit written documentation to LDS confirming the revisions to the deeded access to Highway 30 have been approved by ODOT.

Discussion:

The applicant requested that adequate time be provided to obtain the revised deeded access from ODOT. Staff suggested that the applicant be required to file an application to ODOT by a date certain and be given six months to obtain the revised access from ODOT.

Recommended Revised Staff Condition

The applicant shall apply for a revised deeded access easement under Highway 30 into the site that reflects its intended new uses within 30 days of Design Review approval by the County. Further, the applicant shall obtain said revised deeded access and shall submit written documentation to LDS confirming that the revisions to the deeded access to Highway 30 have been approved by ODOT within 6 months of County Design Review approval.

OPERATING PERMIT RECOMMENDED CONDITIONS
(Staff Report Dated March 28, 2005)

Condition #1

Original Finding:

Finding 4: Currently there is no bond for the site. However posting a reclamation bond in the amount of \$50,500 (based on the approximate 12-acres disturbed in the permit area) with the county is required prior to issuance of the mining permit. The bond may be adjusted accordingly as future development/reclamation of the quarry proceeds

Original Recommended Staff Condition #1::

Post a reclamation bond as specified in Section 7.1 of the Columbia County Surface Mining Ordinance.

Discussion:

The applicant requested that the reclamation bond be reduced to 10% of the recommended amount citing the reliability and environmental consciousness of the applicant.

Surface Mining Administrator's response(Attachment1):

The views and sentiments of the applicant are appreciated, however the Surface Mining Ordinance has no allowance for bond reduction based on the rationale provided. It should be noted that since the recommendation for approval by the Surface Mining Advisory Committee in '05, mining has been allowed to continue at the site and a reclamation bond has yet to be submitted. Although the bond amount required in the Surface Mining Administrator's Report should be provided and will likely be the same under DOGAMI's requirements, an option utilized by many small miners in other counties of the state is an irrevocable letter of credit from the applicant's bank which avoids having to obtain a bond from a performance bonding company.

Section 7.1 of the Surface Mining Ordinance provides for a bond or security deposit in the form of either cash, cashier's check or certified check equal to the estimated cost of reclamation.

Recommended Revised Staff Condition #1:

Post a reclamation bond, cash, cashier's check or certified check equal to the estimated cost of reclamation as specified in Section 7.1 of the Columbia County Surface Mining Ordinance.

Condition #5

Original Recommended Staff Condition #5::

Place a minimum of 3-feet of soil over the pit floor, processing and stockpile areas after ripping and revegetate with native timber and grass species.

Discussion:

The applicant requested that the amount of soil be flexible based on what is needed to establish the grass and tree vegetation in the reclamation plan.

Surface Mining Administrator's response(Attachment1):

To address the thickness of soil placement for revegetation of the site the condition will be modified to state: After ripping, place a minimum of 1-ft of soil in areas of the site to be re-vegetated with native grasses and up to 3-ft in areas for revegetation with native timber species". Although this modification allows for flexibility in soil placement the applicant should be aware that final approval of reclaimed areas is based upon the survival rate of the native species planted and that permit closure is not allowed until the required success rate is met.

Recommended Revised Staff Condition #5:

After ripping, place a minimum of 1-ft of soil in areas of the site to be re-vegetated with native grasses and up to 3-ft in areas for re-vegetation with native timber species".

ATTACHMENTS:

1. Surface Mining Administrator's Recommendations Concerning Revised Conditions of Approval for the Operating Permit

RECOMMENDATION:

Staff recommends revisions to the recommended condition of approval #10 contained in the July 29, 2009 Staff Report for DR 02-01(Modified) and conditions #1 and #5 in the March 28, 2005 Surface Mining Administrator's Report for Operating Permit #05-0070 as stated above.

From: Todd Dugdale
To:
Subject: Fwd: Re: Tidecreek Operating Permit

>>> "Robert D. Brinkmann" <Robert.D.Brinkmann@mlrr.oregongeology.com> 8/12/2009 6:40 PM >>>
Todd, My response to the two conditions is as follows:

Condition #1 Bond - The views and sentiments of the applicant are appreciated, however the Surface Mining Ordinance has no allowance for bond reduction based on the rationale provided. It should be noted that since the recommendation for approval by the Surface Mining Advisory Committee in '05, mining has been allowed to continue at the site and a reclamation bond has yet to be submitted. Although the bond amount required in the Surface Mining Administrator's Report should be provided and will likely be the same under DOGAMI's requirements an option utilized by many small miners in other counties of the state is an irrevocable letter of credit from the applicant's bank which avoids having to obtain a bond from a performance bonding company.

Condition #5 - To address the thickness of soil placement for revegetation of the site the condition will be modified to state: "After ripping, place a minimum of 1-ft of soil in areas of the site to be revegetated with native grasses and up to 3-ft in areas for revegetation with native timber species". Although this modification allows for flexibility in soil placement the applicant should be aware that final approval of reclaimed areas is based upon the survival rate of the native species planted and that permit closure is not allowed until the required success rate is met.