

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Renewal of	)	AMENDED ORDER NO. 88-01
Limited Exemption Certificate #05-0005	)	Findings and Conclusions
for Glacier NW	)	

**WHEREAS**, an application has been received by Columbia County requesting the renewal of Limited Exemption Certificate #05-0005, for Pits A and B of the Santosh site in Columbia County, for the permit years July 1, 1999, through June 30, 2000, July 1, 2000, through June 30, 2001, and July 1, 2001 through June 30, 2006, pursuant to Sections 2.9 and 4.5, of the Columbia County Surface Mining Ordinance; and

**WHEREAS**, public notice was provided to owners of record within 750 feet of each mine site notifying them of their right to submit written comments regarding the renewal application to the Board of County Commissioners as is required by ORS 197.195(3); and

**WHEREAS**, all landowners within such distance from the subject sites had at least 14 calendar days to submit written comments to the Board of County Commissioners; and

**WHEREAS**, written comments were received on certificate renewal application # 05-0005 from Michael Sheehan, the Scappoose-Spitzenberg CPAC, and Julie Jackstadt, a neighboring property owner; and

**WHEREAS**, the application has been reviewed, the site has been inspected and recommendations have been prepared by the Surface Mining Administrator; said recommendations being based on a determination of compliance with applicable criteria for renewal of limited exemption certificates contained in Article II and Article IV of the Columbia County Surface Mining Ordinance and prior conditions of approval; and

**WHEREAS**, the Surface Mining Advisory Committee considered the renewal at its meetings of June 11, 1999, November 9, 2000, and August 29, 2001, and took action supporting the findings and recommendations of the Surface Mining Administrator; and

**WHEREAS**, at its regular meeting on October 24, 2001, the Board of Commissioners reviewed the requests, considered written comments, and whether the application satisfied the requirements for a limited exemption certificate renewal, and voted to approve the application; and

**WHEREAS**, on October 24, 2001, the Board of Commissioners adopted Order No. 88-01 approving the renewal of Limited Exemption Certificate #05-0005; and

**WHEREAS**, an appeal to Order No. 88-01 was filed by Michael Sheehan on behalf of the Scappoose-Spitzenberg CPAC and Julie Jackstadt; and

**WHEREAS**, Glacier NW has voluntarily committed to limited hours of operation as set forth herein in order to resolve the appeal issues;

**NOW, THEREFORE, IT IS HEREBY ORDERED** as follows:

1. The Limited Exemption Certificate #05-0005 is hereby approved for the operating years 1999-2000, 2000-2001, and 2001-2006, subject to the following conditions of approval:
  - a. 1999-2000, 2000-2001 Renewals. All outstanding regulatory fees shall be paid within 45 days from the final decision, including appeals, in the ongoing litigation regarding such regulatory fees.
  - b. 2001-2006 Renewal for Pit A.
    - i. All outstanding regulatory fees shall be paid within 30 days of receiving a final invoice from the County.
    - ii. Limited Exemption Certificate #05-0005 for Pit A shall remain valid through June 30, 2006, as long as the activities on the site remain in compliance with the permit conditions, and applicable portions of the Columbia County Surface Mining Ordinance, No. 90-11, as amended.
  - c. 2001-2006 Renewal for Pit B
    - i. All outstanding regulatory fees shall be paid within 30 days of receiving a final invoice from the County.
    - ii. Limited Exemption Certificate #05-0005 for Pit B shall remain valid through June 30, 2006, as long as the activities on the site remain in compliance with the permit conditions, including paragraphs 1.c(iii) and (iv) set forth below, and applicable portions of the Columbia County Surface Mining Ordinance, No. 90-11, as amended.
    - iii. Hours of operation for Pit B shall be Monday through Friday, 6:00 a.m. through 9:00 p.m., with maintenance allowed until 10:00 p.m.; Saturday, 7:00 a.m. through 6:00 p.m.; and Sunday 8:00 a.m. through 6:00 p.m. The hours of operation set forth herein shall be subject to the Compliance provisions set forth in Article IX of the Columbia County Surface Mining Ordinance.
    - iv. Upon the earlier of: (1) Glacier Northwest, Inc., and Northwest Aggregates Co., including their successors and assigns, themselves or as agents for third parties, obtaining final approval for mining on all three of the parcels known

# ATTACHMENT A

## BOARD OF COMMISSIONERS SURFACE MINING ADMINISTRATORS REPORT (October 4, 2001)

### Surface Mining Limited Exemption Certificate Renewals Glacier NW, Certificate #05-0005 Pits A&B 1999-2000, 2000-2001 and 2001-2006

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#### BACKGROUND:

Glacier NW submitted an application to renew their limited exemption certificate for the permit years July 1, 1999 through June 30, 2000, July 1, 2000 through June 30, 2001 and July 1, 2001 through June 30, 2006 pursuant to 4.5 of the Columbia Surface Mining Ordinance (SMO).

The renewal of Surface Mining Limited Exemption Certificates has been deemed a limited land use decision, and by that decision the renewal process must follow those procedures required by ORS 197.195(3) including but not limited to; providing written notice of owners of property within a minimum of 100 feet and providing 14 calendar days to submit written comments prior to the decision.

The renewal application procedures were followed as is written in Columbia County Ordinance 2001-3 adopted by the Columbia County Board of County Commissioners March 14, 2001, which added Section 2.9 - Renewal Process to the SMO.

The Surface Mining Ordinance 90-11, Section 4.5 indicates the criteria for renewal of surface mining limited exemption certificate. Prior to the 2001-2002 fiscal year, each limited exemption certificate must renew the permit annually. Renewals of limited exemption certificates for 2001-2002 and beyond shall be for five-year periods.

The site was inspected by the Surface Mining Administrator on February 23, 1999, February 24, 2000, and again on February 22, 2001. Copies of the inspection reports are available in Land Development Services for review. Any items of concern found during the inspections or permit file review were brought to the operators attention, have been addressed to the Advisory Committee's satisfaction, and if required remedial actions undertaken. Pits A&B are working within the limits of their limited exempt site as set forth in Board Order 341-94.

#### FINDINGS:

The following sections of the Surface Mining Ordinance 90-11 apply to this request:

Columbia County Surface Mining Ordinance Section 2.9 requires the following:

Giving written notice to owners of record of property where such property is located:

- (a) Within 250 feet of the subject property when the subject property is wholly or in part within an urban growth boundary;
- (b) Within 250 feet of the subject property when the subject property is outside an urban growth boundary and not within a farm or forest zone; or
- (c) Within 750 feet of the subject property when the subject property is within a farm or forest zone.

**Finding 1:** Following the required written notice, written comments were received on the permit renewal application for Glacier Northwest, Permit #05-0005 for Santosh Pt - Pits A&B, from Michael Sheehan representing the CPAC and a second from Julie Jackstadt representing the CPAC and as a neighbor. Both comments questioned the validity of the Limited Exempt status of permit #05-0005 (Pits A&B).

Staff and County Counsel's office conducted extensive research of Board Order 341-94 which granted the limited exemption certificate for Certificate #05-0005 in December 1994 and Staff found that the 1994 decision granting the Limited Exemption Certificate had been properly documented in reference to applicable criteria in the Surface Mining Ordinance.

Surface Mining Ordinance Section 2.9 requires the following:

Providing a notice of the BOC decision to the applicant and any person who submitted written comments; providing the applicant and any person entitled to notice of the decision the opportunity to request an appeal hearing of the Board's decision on renewal; to notify all involved property owners of the request for an appeal hearing; conduct a hearing and provide written notice of the Board's decision on appeal to all parties who appeared, either orally or in writing, before or at the hearing.

**Finding 2:** Notice of the BOC decision of renewal will be sent out to the applicant and any person who submitted written comments as soon as the decision is final.

Surface Mining Ordinance Section 4.5 requires the following:

The landowner or operator must pay the established annual renewal fee and file the renewal application on or before June 15 of the year the permit expires.

**Finding 3:** The applicant paid the annual renewal fees and filed renewal applications, by June 15 of each renewal year.

Surface Mining Ordinance Section 4.5 requires the following:

The renewal application shall require a statement from the landowner or operator of the types and amounts of minerals excavated, disturbed, sold and/or removed from the surface mining site during the past and present fiscal years and the types and amounts of minerals expected to be excavated, disturbed, sold and/or removed from the surface mining site during the present and subsequent fiscal years.

**Finding 4:** The applicant submitted a renewal application which included the above requested information.

Surface Mining Ordinance Section 2.2 (2a) requires the following:

The Surface Mining Advisory Committee may, but is not required to, meet with landowners and/or operators before advising the Administrator and the Board. In particular, the Committee shall advise the Administrator and the Board as to whether to issue, deny, renew, or revoke Limited Exemption Certificates.

**Finding 5:** The Surface Mining Advisory Committee considered the renewals at its meetings of June 11, 1999, November 9, 2000 and August 29, 2001 and took action supporting the findings and recommendations of the Surface Mining Administrator.

Surface Mining Ordinance Section 2.3 requires the following:

After considering the recommendations of the Administrator and advice of the Committee, if any, the Board of County Commissioners shall make the decision whether to issue, deny, renew, or revoke Limited Exemption Certificates.

**Finding 6:** It is anticipated that at a regular meeting the Board of Commissioners will review the application for renewal and decide that the applicant has satisfied the requirements for a limited exemption certificate renewal and will vote to approve the limited exemption certificate renewal application for permit #05-0005.

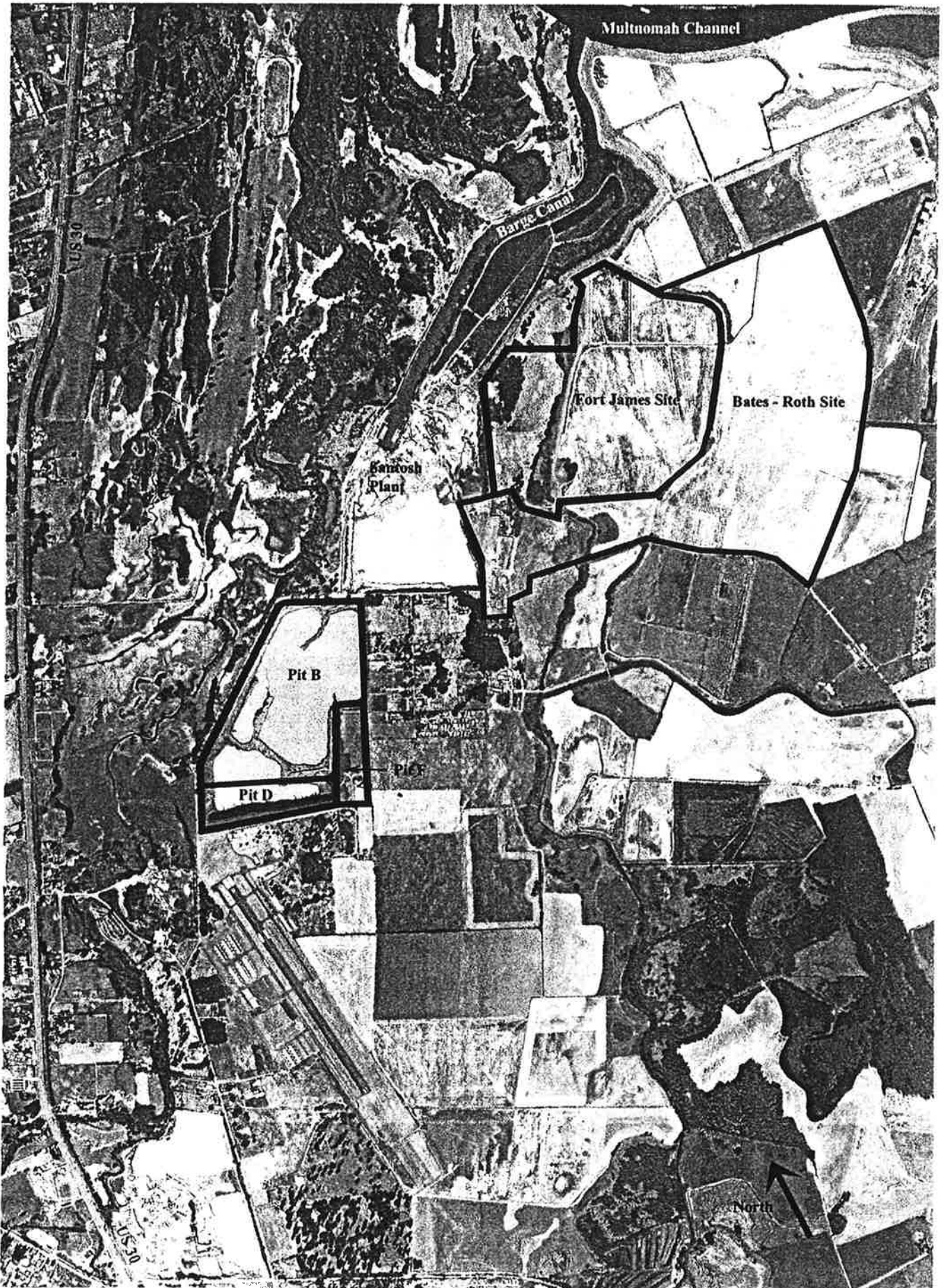
**CONCLUSION AND RECOMMENDATION:**

Based on the above findings, the surface mining administrator recommends APPROVAL of the requested surface

mining limited exemption certificate renewal, subject to the following conditions:

1. *The surface mining limited exemption certificate shall remain valid as long as the activities on the site remain in compliance with its permit conditions and applicable portions of the Columbia County Surface Mining Ordinance 90-11.*
2. *1999-2000, 2000-2001 Renewals. All outstanding regulatory fees shall be paid within 45 days from a final decision, including appeals, in the ongoing litigation regarding such regulatory fees.*
3. *2001-2006 Renewal.*
  - i. *All outstanding regulatory fees shall be paid within 30 days of receiving a final invoice from the County.*
  - ii. *The surface mining Limited Exemption Certificate #05-0005 for Pits A & B shall remain valid as long as the activities on the site remain in compliance with the permit conditions, financial security obligations and applicable portions fo the Columbia County Surface Mining Ordinance, 90-11, as amended.*

ATTACHMENT B

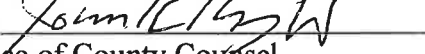


as "Pit F," Fort James," and "Bates-Roth" ("Future Mining Parcels"), diagrammatically outlined on Attachment B which is attached hereto and incorporated herein by this reference; (2) the commencement of mining on any one of the Future Mining Parcels; or (3) July 1, 2005; all mining operations, including maintenance activities, on the Pit B site will comply thereafter with the hours of operations set forth in Columbia County Zoning Ordinance Section 1044.5.

2. The Board of County Commissioners for Columbia County, Oregon, adopts the findings and recommendations of the Surface Mining Administrator's Report on the renewal of Limited Exemption Certificate #05-0005, dated October 4, 2001, a copy of which is attached hereto, labeled Attachment A, and incorporated herein by this reference.
3. Order No. 88-01 is amended to read as provided herein.

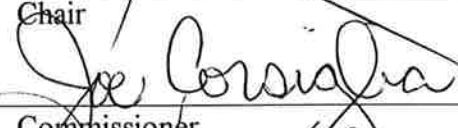
DATED this 27<sup>th</sup> day of February, 2002.


Approved as to form

By:   
Office of County Counsel

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By:   
Chair

By:   
Commissioner

By:   
Commissioner