

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Proposed Lifting of a Closure     )  
Order for the Pacific Cascades Resources Siercks     )  
Road Surface Mine (Operating Permit                     )     ORDER NO. 56-2008  
No. 05-0032)   )

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

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

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

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

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

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

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

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

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

WHEREAS, pursuant to Article IX, Section 9.6 of the Columbia County Surface Mining Ordinance, the Board of County Commissioners issued Closure Order 38-2008, finding that Pacific Cascades Ressources was not in compliance with Final Order 105-2007 Condition 12, requiring fencing to be installed along the site highwall sufficient "to prevent access to the highwall"; and

WHEREAS, Lou Adler, on behalf of Pacific Cascades Resources, submitted a request to lift Closure Order 38-2008, after taking steps to come into compliance with Condition 12 of Final Order 105-2007; and

WHEREAS, on June 4, 2008, notice was given to Pacific Cascades Resources and property owners adjacent to the Siercks Road Quarry that the Board of County Commissioners would hold a hearing on June 25, 2008, to consider the proposed lifting of Closure Order 38-2008 for the Pacific Cascades Resources Siercks Road Quarry; and

WHEREAS, on June 25, 2008, the Board of County Commissioners held a hearing on the matter; and

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

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:


1. The Board of County Commissioners adopts the following findings of fact and conclusions of law:
  - A. The Board of County Commissioners adopts the findings of fact contained in the Columbia County Surface Mining Staff Report dated June 17, 2008, attached hereto as "Attachment 1".
  - B. Prior to the hearing on June 25, 2008, the temporary fencing along the highwall previously installed was reinforced with a second layer of material, increased in height along its entire length to a minimum height of six feet, and reinstalled with steel posts. The fence remains temporary in nature because it must be moved as the highwall is cut back during mining. The Board of County Commissioners finds the modified highwall fence adequate to satisfy Condition 12 of Final Order 105-2007, and finds that it now adequately prevents access to and alleviates the hazard created by the

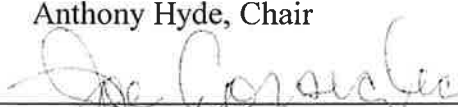
highwall.

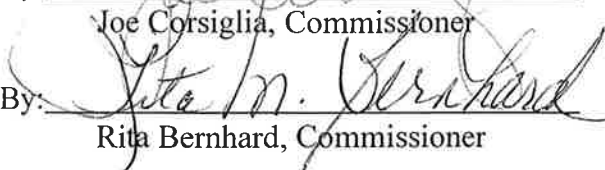
- C. The Board of County Commissioners has the authority to lift Closure Orders pursuant to the Columbia County Surface Mining Ordinance, Article IX, Section 9.6. Closure Order 38-2008 was issued due to Pacific Cascades Resources' failure to meet the conditions of permit approval imposed by Final Order 105-2007. The Board may lift the Closure Order if it finds that the conditions are met.
2. Closure Order 38-2008 is hereby lifted. Pacific Cascades Resources may resume surface mining operations under surface mining permit No. 05-0032, renewed via Final Order 105-2007, for the Siercks Road Quarry, located on Siercks Road near its intersection with Scappoose-Vernonia Highway, approximately 2.5 miles northwest of Highway 30.
3. The lifting of Closure Order 38-2008 shall be effective on July 9, 2008. Pursuant to Article IX, Section 9.6 of the Columbia County Surface Mining Ordinance, the Board of County Commissioners' ability to issue a Closure Order in the future for failure to comply with any provision of the Surface Mining Ordinance, a reclamation plan, or permit conditions remains in place and this Order does not curtail that authority in any way.

Dated this 9<sup>th</sup> day of July, 2008.

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By:   
Anthony Hyde, Chair

By:   
Joe Corsiglia, Commissioner

By:   
Rita Bernhard, Commissioner

Approved as to form

By:   
Office of the County Counsel

## **BOARD COMMUNICATION**

FROM THE LAND DEVELOPMENT SERVICES DEPARTMENT  
MEETING DATE: **June 25, 2008 Regular Session**

**TO: BOARD OF COUNTY COMMISSIONERS**

**FROM:** Todd Dugdale, Director of Land Development Services *TD*

**SUBJECT: PUBLIC HEARING**  
**Request To Lift Surface Mine Closure Order**  
**Pacific Cascade Resources, Lou Adler**  
**Siercks Road Mine, Scappoose**

**DATE:** June 18, 2008

### **SUMMARY:**

Lou Adler of Pacific Cascade Resources, owner of the Siercks Road Mine site located at Scappoose-Vernonia Road and Siercks Road in Scappoose, is requesting that the Board lift the closure order currently in effect for the mine. The Board imposed the Closure Order by Board Order 38-2008 on May 7, 2008, for failure to meet condition #12 of Final Order 105-2007 approving the renewal of the surface mining operating permit for the Siercks Road mine. Specifically, the Board determined that the requirement "to prevent access to the highwall" was not met by the installed temporary fencing(Board Order 38-2008, Section 1C).

On May 28, 2008, Code Enforcement Officer, Robert Crain visited the site and verified that the existing fence has been increased in height, reinforced and strengthened along the highwall as required to prevent access to the highwall.

### **ATTACHMENTS:**

Staff Report dated June 17, 2008 w/attachments.

### **RECOMMENDATION:**

Based on findings in the Staff Report dated June 17, 2008, Staff recommends lifting of the closure order for the Siercks Road mine.

COLUMBIA COUNTY

JUN 18 2008

COUNTY COUNSEL

**Columbia County  
Surface Mining Staff Report**

Closure of Surface Mine  
Pacific Cascade Resources, Inc: Sierks Road Quarry  
Request to Lift Closure Order-Operating Permit No. 05-0032

**Date:** June 17, 2008

**File Number:** 05-0032

**Site Name:** Sierks Road Quarry

**Applicant /Owner:** Pacific Cascade Resources, Inc  
**Contact:** Lou Adler

**Site Location:** The property is located approximately 2.5 miles northwest of Scappoose, Oregon, at Vernonia Highway and Sierks Road. The subject property consists of approximately 5.62 acres.

**Tax Account Number:** 4234-010-01101, 01201

**Acres Permitted:** 5.62

**Current Zoning:** SM (Surface Mining)

**Request:** Request To Lift Closure Order for Siercks Road Mine

---

## **BASIC FACTS**

### **Background**

Lou Adler of Pacific Cascade Resources, owner of the Siercks Road Mine site located at Scappoose-Vernonia Road and Siercks Road in Scappoose, is requesting that the Board lift the closure order currently in effect for the mine. The Board imposed the Closure Order by Board Order 38-2008 on May 7, 2008, for failure to meet condition #12 of Final Order 105-2007 approving the renewal of the surface mining operating permit for the Siercks Road mine. Specifically, the Board determined that the requirement in Condition #12 requiring that the highwall fence "prevent access to the highwall" was not met by the installed temporary fencing(Board Order 38-2008, Section 1C).

### **REVIEW CRITERIA/FINDINGS:**

#### **ORS 197.763 Conduct of Quasi Judicial Hearings**

A notice of hearing must be provided to the applicant and to owners of record of property within 250 feet of the property which is the subject of notice where the subject property is outside of the urban growth boundary and not within a farm or forest zone.

#### **Finding 1**

The subject property is outside of an Urban Growth Boundary and zoned SM(Surface Mining). The decision as to whether or not to lift a closure order for a surface mining operation is made

by the Board of Commissioners after a land use hearing. Notice of the hearing before the Board of Commissioners including information required by ORS 197.763 was published in the Spotlight newspaper on June 11, 2008 and mailed to participants in the closure hearing and to owners of record of properties within 500 feet of the mine site on June 4, 2008, which is at least 20 days prior to the hearing date on June 25, 2008.  
This criteria is met.

### **Columbia County Surface Mining Ordinance**

#### **Article XII 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**

In Section 1C of Board Order 38-2008 imposing a closure order on the Siercks Road mine site, the Board of Commissioners determined that the requirement in Condition #12 of the operating permit for the Siercks Road mine(Final Order 105-2007) requiring that the highwall fence "prevent access to the highwall" was not met by the installed temporary fencing. On May 28, 2008, Code Enforcement Officer, Robert Crain visited the mine site and verified the following with photo documentation(see Attachment 2):

1. The existing temporary fencing was reinforced with a second layer of fencing material.
2. The fence was increased in height along its entire length to a minimum of six feet in height.
3. The fence was reinstalled with steel posts.

The existing fence was modified in these ways to prevent access to the highwall. However, the fencing remains temporary in nature. It is reasonable for the fence to be temporary since it will need to be repeatedly moved during the course of mining as the highwall is cut back.

Based on the above referenced measures to increase the height, reinforce and strengthen the fence along the highwall of the the mine, staff finds that the fence is adequate to prevent access to the highwall pursuant to Condition #12 of the mine's operating permit and remedies the deficiency in the fence identified by the Board in Section 1C of Board Order 38-2008 imposing closure of the mine.

### **Columbia County Surface Mining Ordinance**

#### **Article IX Section 9.6 Closure Orders**

..."The closure period shall remain in effect indefinitely, or until lifted by the Board or reviewing Court"...

**Finding 3**

As noted in Finding 1, the fence has been modified in order to effectively prevent access to the highwall and therefore meets Condition #12 of the mine's operating permit. The Board may lift the closure order on a finding that all conditions have been met.

**ATTACHMENTS**

1. Board Order 38-2008(Closure Order)
2. Memorandum from Robert Crain, dated 5/28/2008 with photo documentation of fence construction.

**RESULTS OF THE PUBLIC COMMENT PERIOD**

No comments were received by the County regarding lifting of the closure order for the Sierks Road Quarry.

**CONCLUSION AND RECOMMENDATION**

Based on the above findings, Staff recommends that the Board of Commissioners lift the Closure Order(Board Order 38-2008) imposed on Pacific Cascade Resources, Inc. for the Siercks Road Quarry.

Road 4  
MAY 6 2008

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

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

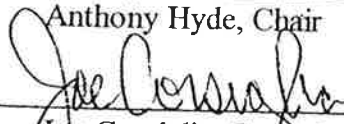
- C. Prior to the hearing on April 23, 2008, temporary fencing has been installed along the highwall. However, pursuant to the Final Order 105-2007 Condition 12 requirement that the fencing be sufficient "to prevent access to the highwall," the Board finds that Condition 12 has not been met. The Board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

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

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

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

Anthony Hyde, Chair


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

Joe Corsiglia, Commissioner

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

Rita Bernhard, Commissioner

Approved as to form

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

Office of the County Counsel

**From:** Robert Crain  
**To:** Dugdale, Todd  
**Date:** 5/28/2008 8:39 AM  
**Subject:** Siercks Pit, compliance met  
**Attachments:** IMG\_0704.JPG; IMG\_0693.JPG; IMG\_0694.JPG; IMG\_0695.JPG; IMG\_0696.JPG; IMG\_0697.JPG; IMG\_0698.JPG; IMG\_0699.JPG; IMG\_0700.JPG; IMG\_0701.JPG; IMG\_0702.JPG; IMG\_0703.JPG; IMG\_0692.JPG

Here are photo's of the pit, compliance of the fence has been met.

