



# Oregon

Theodore R. Kulongoski, Governor

## Department of Geology & Mineral Industries

Mineral Land Regulation and Reclamation

229 Broadalbin Street SW

Albany, OR 97321-2246

(541) 967-2039

FAX: (541) 967-2075

www.oregongeology.com

TO: ) NOTICE OF VIOLATION AND  
 ) COMPLIANCE ORDER (ORS 517.860)  
 Tidewater Contractors, Inc. )  
 PO Box 1956 )  
 Brookings OR 97415 ) MLRR ID. No. 08-0100  
 ) Section 16, Township 36S, Range 14W  
 ) Site Name: GBIP Gravel Mine

This notice is to inform you that your surface mining operation referenced above is in violation of ORS 517.860 for not complying with Permit Condition #6 of DOGAMI Operating Permit #08-0100. DOGAMI understands that mining operations have been initiated prior to obtaining a DEQ NPDES 1200-A water quality permit. You were previously informed of this violation via a phone call on October 25, 2010. While DOGAMI understands that you have submitted a complete application for a DEQ NPDES 1200-A water quality permit, and that application is now in the required 14-day public comment period, that permitting process was not complete prior to the initiation of mining operations.

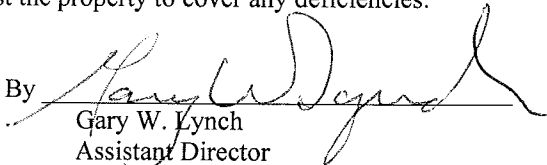
### COMPLIANCE ORDER

In order to remedy this violation and bring the site back into compliance you are hereby ordered to:

1. Not allow any storm water or other surface water from the disturbed portion of the site to discharge into the Rogue River, or other waters of the state, prior to final obtainment of the NPDES 1200-A permit. Discharges of storm water from the disturbed portion of the site in excess of DEQ's water quality standards to either the Rogue River or other waters of the state may be cause for DOGAMI to refer such violations to DEQ for additional enforcement action.
2. Cease all excavation operations of sand and gravel within 24 hours of receiving this notice, or no later than 5:00 pm on Wednesday, October 27, 2010.
3. Complete all grading operations as required under your DOGAMI Operating Permit by November 3, 2010. DOGAMI personnel will be conducting a site inspection on November 3, 2010, to document compliance with both the Operating and Reclamation Plan and the pending Storm Water Pollution Control Plan.
4. Complete all required Best Management Practices and/or required site modifications, to be determined during the November 3, 2010 site inspection, by 5:00 pm on November 5, 2010.
5. Cease all mining operations at the GBIP site for the late fall, winter and early spring seasons of 2010-2011 (wet season) and until such a time as an on-site consultation has been completed with both DOGAMI and ODFW personnel, and written approval for continued mining operations has been received from DOGAMI.

If you fail to comply with this Notice of Violation and Compliance Schedule, the department intends to take enforcement action against you. This may include, but is not limited to, recovery of the Performance Bond for this site, issuance of a Suspension Order, or the assessment of civil penalties for the violation of this order. If the department elects to recover the Performance Bond, the funds will be used to reclaim the property as provided in ORS 517.865. If this amount is insufficient to complete the reclamation as outlined in the Reclamation Plan, a lien may be placed against the property to cover any deficiencies.

Issued October 26, 2010

By   
 Gary W. Lynch  
 Assistant Director

If you have questions regarding this order, contact Vaughn Balzer at (541) 967-2082, or at [vaughn.g.balzer@mlrr.oregongeology.com](mailto:vaughn.g.balzer@mlrr.oregongeology.com).

cc: Curry County Planning Department  
 Gold Beach Investment Properties  
 Lesley Adams (KS Wild)  
 Cameron La Follette (Oregon Coast Alliance)

**Certified Mail and Fax**

#### Opportunity for a Contested Case Hearing

You have the right to a hearing to contest this Order. The hearing, if requested, will be conducted according to the Administrative Procedures Act, ORS chapter 183. To have a hearing, you must file a **written** Request for Review with the State Geologist **within twenty (20) days from the date this Order was served on you or mailed to you**. The State Geologist will have the opportunity to review and resolve the situation informally pursuant to OAR 632-030-0056. If the State Geologist declines review, fails to provide you with a written decision within 20 days, or if the proposed informal resolution is not acceptable to you, the matter will be referred to a hearing officer and a contested case hearing will be scheduled. Your request for review must include a **written "Answer" to the allegations contained in the Order**. In the Answer, you must admit or deny each allegation of fact contained in the Order and set out any and all affirmative defenses to the violations alleged in the Order. Except for good cause shown, matters not denied in the Answer will be presumed admitted and the failure to raise a claim or defense will be presumed to be a waiver of such claim or defense. The Request for a Hearing and the Answer must be delivered to: **229 Broadalbin Street SW Albany OR 97321**. If the matter is not resolved informally by the State Geologist as described above, you will be notified of the date, time, and place of the hearing. You will also be given information on the procedures, rights of representation and other rights of parties relating to the conduct of the contested case hearing. The Department has designated its files on this matter as the record in this case for the purpose of proving a prima facie case upon default. If you do not file a timely Request for Hearing and Answer, the Order will become final 22 days after the date it was personally served on you or mailed to you. If the Order becomes final in this manner, you will have the right to appeal the order to the Oregon Court of Appeals under ORS 183.482. To appeal you must file a petition for judicial review with the Court of Appeals within 82 days of the date this Order was served on you or mailed to you. If you do not file a petition for review within this time, you will lose your right to appeal.