



# 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:  
Tidewater Contractors, Inc.  
PO Box 1956  
Brookings OR 97415

### SUSPENSION ORDER

)  
) MLRR ID. No. 08-0100  
) Section 16, Township 36S,  
) Range 14W  
) Site Name: GBIP Gravel Mine

As documented in the October 29, 2010 Notice of Violation and Compliance Order issued to Tidewater Contractors, Inc., your mining operation is in violation of ORS 517.860 and ORS 517.880 for failing to comply with the Notice of Violation and Compliance Order issued on October 26, 2010. DOGAMI understands that mining operations have excavated material below the proposed and approved mining depth as stated in 6.a) of the DOGAMI approved Operating and Reclamation Plan. Furthermore DOGAMI understands that you have violated #2 of the Compliance Order issued on October 26, 2010, by conducting additional excavation on the morning of October 28, after being ordered to stop excavating by 5:00 pm on October 27, 2010.

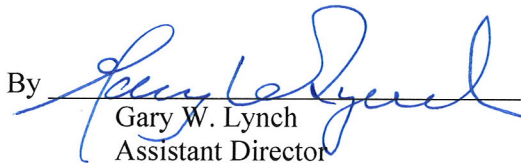
By excavating below the approved excavation depth, you have created a situation that has the potential for significant environmental harm, and if left uncorrected, could result in the taking of listed endangered species, river avulsion and/or the violation of DEQ water quality standards. Although you are being issued a Compliance Order under separate cover, requiring actions to remedy the situation, the completion of those actions may not prevent additional enforcement actions or any liability related to potential environmental harm.

By the authority of ORS 517.880, the Oregon Department of Geology and Mineral Industries hereby orders you to suspend all surface mining operations at the mine site referenced above. You are required to stop all surface mining activities, including extraction and the removal of stockpiled materials from the site.

This Suspension Order remains in effect until withdrawn by the written order of the department. If you fail to comply with the Suspension Order, the department intends to take further enforcement action against you. This may include, but is not limited to, assessing civil penalties under ORS 517.992 or referring this matter to the Attorney General to initiate judicial proceedings as provided in ORS 517.880(3).

Issued October 29, 2010

By



Gary W. Lynch  
Assistant Director

If you have questions regarding this order, contact Vaughn Balzer at (541) 967-2082.

cc: Curry County Planning Department  
Gold Beach Investment Properties  
Ranei Nomura, DEQ  
Steve Mazur, ODFW

**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 (21) 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.