

STATE OF OREGON
DEPARTMENT OF GEOLOGY AND MINERAL INDUSTRIES

TO:)	STIPULATED ORDER
Tidewater Contractors, Inc.)	
PO Box 1956)	MLRR ID. No. 08-0100
Brookings OR 97415)	Section 16, Township 36S,
)	Range 14W
)	Site Name: GBIP Gravel Mine

Recitals:

1. The GBIP gravel mine (MLRR Id. No. 08-0100) is located near the Rogue River in Curry County. It is located on the same tax lot as the former Gold Beach Plywood Mill, but separated from the mill site by the Jerry's Flat Road. The area within the mining boundary is upland from the river but in the floodway and subject to periodic inundation.
2. Tidewater Contractors, Inc. (Tidewater) initially applied to the Department of Geology and Mineral Industries (DOGAMI) for an operating permit for the GBIP mine in 2008, but the permitting was delayed by local land use issues. These issues were not resolved until March of 2010. At that time, a revised application for an operating permit and an application for coverage under DEQ's 1200-A general permit were submitted by Tidewater.
3. A number of emails were exchanged between employees and officials at Tidewater and DOGAMI staff during the period from May through July of 2010. Some of these communications reasonably could have been interpreted to indicate that mining could be initiated prior to issuance of the DEQ permit, and Tidewater interpreted the communications as authorizing it commence mining once the agency review period for the operating permit ended on June 21, 2010. Tidewater commenced a limited amount of mining in late June of 2010. Tidewater resumed mining in early October of 2010.
4. On September 1, 2010, DOGAMI issued the operating permit to Tidewater. The operating permit does not allow for mining to commence prior to issuance of the DOGAMI permit. In addition, the permit requires that the operator comply with the approved reclamation plan and condition 6 of the permit requires Tidewater to obtain coverage under the DEQ 1200-A general permit before mining begins. DOGAMI does not agree that the email communications referenced in recital 3 above allowed mining to commence prior to issuance of the permit and coverage under the 1200-A permit.
5. Tidewater has not been assigned coverage under the DEQ 1200-A general permit.
6. When Tidewater resumed mining in October 2010 it discovered that site conditions were different than expected, Tidewater mined in a manner that was not consistent with the reclamation plan approved under the permit. It excavated material until October 28,

2010, and then commenced reclamation of the areas disturbed by mining. Reclamation was completed on November 3, 2010.

7. DOGAMI staff inspected the site on November 3, 2010. No off site stormwater discharges were observed at the time and no documented environmental harm has been observed or documented subsequently. Reclamation of the disturbed areas was completed in a manner that is consistent with final slopes approved by DOGAMI. The disturbed areas were reseeded as required by the reclamation plan.

8. On October 26, 2010, DOGAMI issued notice of violation and compliance order (NOV/CO) and on October 29, 2010, DOGAMI issued a second NOV/CO and a suspension order to Tidewater.

9. On November 12, 2010 Tidewater requested a contested case hearing to review notices of violation and compliance orders. This stipulated final order replaces DOGAMI's earlier compliance orders referenced in recital 8 above, resolves Tidewater's request for a hearing, establishes Tidewater's compliance obligation, and establishes stipulated penalties for any violations of this order.

Stipulated Final Order:

1. Tidewater must submit an application to DOGAMI to amend the operating permit and reclamation plan for the GBIP Gravel Mine (ID # 08-0100). The application must provide for operating and reclamation plans that are consistent with all mining methods and practices that Tidewater intends to use during future mining operations at the site. Revised plans submitted to DOGAMI are not effective until DOGAMI has approved the plan amendments in writing. Such approval may be provided in whole or in part and may involve placing additional conditions on the operating permit or reclamation plan. Tidewater is not required to submit the application to amend unless and until it receives a conditional use permit from Curry County authorizing additional mining at the site.

2. Mining at the GBIP Gravel Mine is currently suspended pursuant to the DOGAMI suspension order referenced. Tidewater may resume mining at the GBIP Gravel Mine only in full compliance with an amended operating permit approved pursuant to paragraph 1, of this order.

3. Tidewater must implement a groundwater monitoring plan approved by DOGAMI. The plan must include installation of a well or wells to monitor groundwater quality. The monitoring plan must be included in the revised operating plan and reclamation plan described in paragraph 1 of this order. The monitoring plan must be designed to address water quality concerns related to contamination at the old Gold Beach Mill Site.

4. Tidewater waives its right to contest the two DOGAMI notices of violation and compliance orders and the suspension order described above.

5. Tidewater agrees to pay a stipulated civil penalty in the amount of \$1,000 for each day of each violation of the terms of paragraph 1 through 3 of this order. The stipulated penalty is in addition to any other administrative or legal remedy available to DOGAMI.

6. Tidewater waives its rights to any and all notices, hearing, judicial review, and to service of a copy of this stipulated order. DOGAMI reserves the right to enforce this stipulated order through appropriate administrative and judicial proceedings.

7. This stipulation is binding on Tidewater and its respective successors, agents, and assigns. The undersigned representative certifies that he or she is fully authorized to execute and bind Tidewater.

8. Any stipulated civil penalty imposed pursuant to paragraph 5 of this order is due upon written demand. Stipulated civil penalties must be paid by check or money order made payable to the "Oregon State Treasurer" and sent to 229 Broadalbin Street, SW, Albany, Oregon, 97321, within 21 days of receipt of DOGAMI's written demand for payment of the stipulated civil penalty. Tidewater may request a hearing to contest the demand notice. At any such hearing, the issues are limited to Tidewater's compliance or non-compliance with this Stipulated Order. The amount of each stipulated civil penalty for each violation and day of violation is established in advance by this order and is not a contestable issue.

9. Once this stipulated order becomes effective, DOGAMI will withdraw any pending requests to DEQ to proceed with additional formal enforcement action (civil penalties) for mining without being registered to the DEQ 1200-A general permit.


10. At any time prior to resuming mining, Tidewater may in its discretion ask DOGAMI to terminate the operating permit. Upon termination of the permit, Tidewater will be relieved of complying with the requirements in paragraphs 1 and 3 of this order.

11. This stipulated order becomes effective upon execution by both Tidewater and DOGAMI. It may be amended only with the written agreement of Tidewater and DOGAMI. Nothing in this stipulated order limits the authority of DOGAMI to take new or additional enforcement action based on acts or omissions of Tidewater not specifically addressed in the two NOV/COs or the suspension order referenced above, or as needed to protect public health or the environment.

Tidewater Contractors, Inc.


Dave Baldwin, Secretary-Treasurer

Department of Geology and Mineral Industries


Gary Lynch, Assistant Director