

**Mark H. Reed, Mineral Resource Geologist**

Department of Geological Sciences

1272 University of Oregon

Eugene, Oregon 97403-1272

8 January 2007

To: Lane County Board of Commissioners and Eugene City Council  
Attn: Ms. Stephanie Shulz, Planner  
Lane County Land Management Division  
125 E. 8th Ave.  
Eugene, Oregon 97401

PAZC \_\_\_\_\_  
ORD PA 1238  
Date 1-8-07  
Exhibit No. 272

From: Mark H. Reed, Mineral Resource Geologist

Re: **File PA 05-6151:** (Delta Sand and Gravel application) Testimony on "significance":  
Response to Delta oral testimony of 12 December 2006

## **1. MISINFORMATION**

In the oral testimony of 12 December 2006 by Delta representatives there are a number of mistakes of fact and unfounded conclusions pertaining to the issue of "significance" under the Goal 5 Rule. These points are addressed below. Basic arguments concerning Delta's invalid sampling and consequent failure to meet the significance test are given in Reed's written and oral testimony of 12 December 2006 and in preceding testimony listed at the end of this document.

### **1.1 ODOT did not take samples for testing**

In oral statements to the Lane County Commission and the Eugene City Council, Delta attorney Steve Cornocchia incorrectly stated (paraphrasing) that ODOT sampled the borings on their own, . . . and the samples meet their requirements. The implication is that an independent party took the samples. This is not true.

The samples to which Mr. Cornocchia refers are identified in data sheets attached (apparently) to the DOGAMI letter from Robert Houston of 26 October 2006. Each of those three data sheets states "sampled by Mark Slenker" (see Figure 1 for example). Mark Slenker (actually "Slinker", I believe) is a Delta employee. **ODOT did not take the samples. Delta took the samples.**

### **1.2 ODOT does not claim that the samples are "a representative set"**

In his concluding remarks in the 12 December 06 hearing, Mr. Cornocchia read aloud the statement at the bottom of the ODOT lab data sheets attached to the DOGAMI letter of 26 Oct 06. The statement says, "*sample submitted is representative of native aggregate material*" (Figure 2). Mr. Cornocchia implied in his remarks that this statement meant that ODOT finds that the sample is representative under the relevant rule (OAR 660-023-0180). There are a number of problems here:

a) Most important, the ODOT lab technician (or whatever anonymous person wrote those words) played no role in taking samples, thus the technician **has no way whatsoever of knowing whether the sample is representative**. The technician opens some bags of rock and puts them through the test.

b) The rule requires "a representative set of samples". Whether the samples are

representative depends on whether they meet the clear and objective set of sampling standards set forth in the ASTM, AASHTO and Army Corps standards (see previous Reed testimony). The ODOT lab tech did not and cannot address the geologic source of the samples.

c) The assertion in question, "*sample submitted is representative of native aggregate material*" has the word "representative" in it, but contrary to Mr. Cornocchia's implication, and given the above argument about what the lab tech could know, it is clear that the intended meaning is that the sample consists of native aggregate material. There is no connection between that condition and the legal requirement of "a representative set of samples".

d) As stated above, the assertion is anonymous and it stands naked at the bottom of a data sheet. There is no argument from ODOT, no accompanying text, no explanation, no anything that describes any conclusions about the samples meeting requirement for representative samples.

e) The ODOT-Slinker samples are grab samples, specifically selected by Delta, and limited in length to a small amount of the total. As explained below, they cannot be representative because they do not include the full depth interval of the older alluvium.

### **1.3 DOGAMI did not find the resource significant**

In his concluding remarks, Mr. Cornocchia implied, incorrectly, that DOGAMI found that the deposit meets requirements. Commissioner Morrison, in questioning of Reed, similarly implied, incorrectly, that she understood that both DOGAMI and ODOT found that the deposit meets requirements. **DOGAMI does not state that the deposit meets the significance requirement.**

DOGAMI, in the letter of 26 October 2006 from Robert Houston (a recent OSU Geology graduate whose MS research I helped supervise) partially addresses the issue of deposit thickness, concluding that more than 60ft of gravel is present, but on the rock quality issue, DOGAMI defers to ODOT opinion as to whether the samples meet the standard. DOGAMI failed to address the fundamental geologic issue of whether the samples, themselves, are representative and concludes nothing about whether the requisite base rock standard is met.

DOGAMI also missed the boat on the 60-ft thickness question because they failed to recognize that representative samples of that 60 ft must meet the ODOT base rock standard, thus, by failing to address sampling, DOGAMI failed to show that there is 60 ft that meets the requirements.

## **2. THE ODOT-SLINKER SAMPLES ARE NOT REPRESENTATIVE**

Aside from the issues addressed above about how ODOT did not take samples and did not say they were a representative set, the samples, as taken, certainly are not a representative set, as required under the rule (OAR 660-023-0180). As explained below, the ODOT-Slinker samples include **only 12%** of the total depth they purport to represent, thus they are not a representative set of samples.

The samples of the older alluvium taken by Delta's Mark Slinker and submitted to an ODOT lab consisted of the following (information from the data sheets attached to the DOGAMI letter of 26 October 2006):

Sample F 40746-118 consists of 8 segments of 1.5 ft each taken from three boreholes, yielding a total 12 ft of sample, or an average of **4 ft per borehole**. Average depth of samples 63 ft.

Sample F 40746-120 consists of 8 segments of 1.5 ft each taken from three boreholes,

yielding a total of 12 ft of sample, or an average of **4 ft per borehole**. Average depth of samples 84 ft.

EGR data show that the top of the older alluvium is approximately 30 ft deep, and the lowest sample is at 95 ft, so the samples came from 65 ft of gravel thickness in the older alluvium (65 ft = 95 ft - 30 ft). In that 65 ft, a total of 8 ft of sample was taken in each hole (4 ft + 4 ft) as described above. Thus, 8 ft of sample is claimed to represent 65 ft of alluvial sediment, that is, **only 12% of the total**. The ASTM, AASHTO, and Army Corps standards for representative samples (cited in previous Reed testimony) **require 100%**. All of the rock is to be sampled, not just 12%. Under the law (OAR 660-023-0180), to justify destroying Class I and II farm soils, the proposed aggregate rock must meet the ODOT base rock standard. Under the law, a sampling of only 12% of the rock cannot meet the base rock standard. We must know about all of the rock, not just 12% of it. The burden of proof lies with the applicant to demonstrate that the lower alluvium (older alluvium) meets the standard. The applicant has not met that burden.

Even if we add to the above sample the additional samples taken by EGR at 36-41 ft and 71-73.5 ft (EGR Feb 2006, p.1,2), we get a total of 11.5 ft of sample (7.5 + 4). This 11.5 ft is only 18% of the 65 ft of the deeper alluvium—not the necessary 100%. **Delta does not tell us about the other 82% of the rock.**

### 3. THE EXISTING PIT

Delta's representatives Cornocchia and Christensen stated in their oral presentations that successful mining of rock from Delta's existing gravel pit next to the proposed expansion area means that the rock in the expansion area meets the significance standard. This is a false argument. The siting of the existing pit did not fall under the Goal 5 rule. Delta has not had occasion to demonstrate that older alluvium in the existing pit meets the base rock standard under the Goal 5 rule. Further, Delta has presented no evidence in the form of representative samples demonstrating that the older alluvium in the existing pit does meet the base rock standard.

In a closely related point, Mr. Christensen has argued (Feb 2006, p.1) that "there is nothing in the OAR which would disallow processing the rock prior to testing it . . ."; in other words, Christensen says they can process substandard rock by crushing, sieving, washing and sorting before testing the part that survives that processing. Such processing would separate the tough cobbles from the incompetent cobbles, and only test the tough ones to see if they pass the ODOT standard. Such processed material would necessarily *not* be a representative sample of the deposit in the ground. The same line of argument applies to production from the existing pit. The fact that processed rock may meet the base rock standard does not mean that the resource in the ground meets the standard. The law requires that ***"a representative set of samples of aggregate material in the deposit on the site"*** meets the standard (OAR 660-023-0180(3)(a)).

### 4. CONCLUSION

The pertinent Goal 5 rule (OAR 660-023-0180) attempts to balance the value to the community of a gravel resource against the value to the community of Class I and II farm soils overlying that resource. The rule simply requires that a "a representative set samples" meet the ODOT base rock standard. The criteria for what constitutes a "representative set" of samples are

simple, clear, and objective, as laid out in the ASTM, AASHTO, and Army Corps documents cited in previous Reed testimony. Delta's geologists have failed to meet those standards by failing to separate the younger from the older alluvium, and by failing to sample either one of the layers inclusively. We cannot tell from their samples whether the legal requirements have been met. The burden of proof lies with the applicant. The applicant has not met that burden.

Finally, it is helpful to recognize that Oregon is well endowed with excellent alternatives to alluvial aggregate resources, consisting of the basalt deposits that currently account for 50% of Willamette Valley aggregate production. We can have it all—aggregate for construction of roads and buildings, and top quality soils to provide our food and a thriving agriculture industry. It is time to move most aggregate production to the basalt resources while we still have prime soils on the ground.

## REFERENCES

- ASTM, 1997, *Standard Practice for Sampling Aggregates*, American Society for Testing and Materials, Designation D75-97, 4p. AASHTO (American Association of State Highway and Transportation Officials) has adopted the same standard (ASTM D75-97), as AASHTO standard T2.
- U.S. Army Corps of Engineers, *Method of Sampling concrete aggregate and aggregate sources, and selection of material for testing*, Chapter CRD-C 100-75 (9p., Issued 1975) in *Handbook for Concrete and Cement*, US Army Corps of Engineers.

## Written Testimony

Original Delta application EGR document dated June 2005: *Evaluation of Aggregate Resources: Delta Sand and Gravel Expansion Area*, which is Exhibit E in the 12 August 2005 application by Delta for a zoning change entitled "Application for amendment of the Eugene-Springfield metropolitan comprehensive plan map and significant aggregate resource site inventory and zone change from EFU to sand gravel and rock products". The EGR report (Exhibit E) within the Delta document is identified here as "EGR 2005".

Reed testimony of 17 January 2006 in response to original EGR evaluation. Identified here as "Reed Jan 2006".

EGR document of 13 February 2006: Response by EGR to Reed testimony of 17 January 2006 concerning the Delta Sand and Gravel application for a zoning change. Identified here as "EGR Feb 2006".

Reed testimony of 16 March 2006, rebuttal of EGR 13 February 2006 statement. Identified here as "Reed Mar 2006".

EGR testimony of 31 March 2006, response to Reed statement of 16 March 2006. Identified here as "EGR Mar 2006".

Reed testimony of 12 December 2006, Testimony on the issue of "significance" of the resource in the Delta proposed expansion area.

Figures 1,2 are attached below.

**LABORATORY REPORT NUMBER:**

4000 M 9-05

Figure 1. Copy of Delta data sheet submitted to ODOT for testing of gravel, showing that samples were taken by Delta employee Mark Slinker, NOT by ODOT. (Data sheet attached to DOGAMI testimony of 28Oct06)

Contract No.:	EA No.:	PRIVATE TESTING: Lab No.:	06-003564
Project: DELTA SAND GRAVEL			
Highway:	County:	Data Sheet No.:	P0746 128
Contractor:		FA No.:	
Project Manager:	Org Unit:	Bid Item No.:	
Submitted By: SEAN PARKER	Org Unit: DS&G	Sample No.:	1
Material Source: 20-046-3 DELTA S&G QUARRY		Qty Represented:	RAW MATERIAL
Sampled At: SEE REMARKS ON DATA SHEET	Sampled By:	Witnessed By:	
DATE-Sampled: 06/10/06	Received: 06/10/06	Tested: 06/10/13	Date Reported:
Class/Type: COMPLIANCE	Use: FILL	AGGR	

AGGREGATE LABORATORY REPORT - FILL		Size: 3" - 0	
Sieve	+ Passing	Mfg.	As Rec'd
100 mm	T 176 Sand Equivalent		
30	T 89 Liquid Limit		
75	T 90 Plastic Index		
63	T 84 Fine Bulk Gravity		
50	S.S.D.		
37.5	Apparent		
25.0	Absorption (%)		
19.0	T 85 Coarse Bulk Gravity		
16.0	S.S.D.		
12.5	Apparent		
9.5	Absorption (%)		
6.3	TM 208a Coarse Degrad. Ht	33 mm	
4.75	P20	18.3 %	
2.00	TM 208b Fine Degrad. Ht		
425 µm	P20		
150			
75			
T 104 Sodium Sulfate Loss	TM 221 Friables	T 96 Abrasion	
37.5 - 19.0:	Weighted Avg.:	Type A	20.0 %
19.0 - 9.5:	37.5 - 19.0:		
9.5 - 4.75: CA:	19.0 - 9.5:	TM 225 Woodwaste:	
4.75 - 2.36:	9.5 - 4.75:	TM 226 Dust/Clay:	
2.36 - 1.18:	4.75 - 1.18:	TM 227 Cleanliness:	
1.18 - 600 µm:	TM 113 Lightweight Pcr	TM 229 Blong Pcr:	
600 - 300 µm: FA:	Coarse: Fine:	T 304 Unc Voids:	

1 @ T96	\$ 97.00	NSM = NOT Sufficient Material	TOTAL CHARGES: \$ 171.00
1 @ 208A	74.00	REMARKS:	
		INFORMATIONAL	
		SAMPLE SUBMITTED IS REPRESENTATIVE OF NATIVE AGGREGATE MATERIAL.	
		TEST RESULTS MEET BASE AGGREGATE SPECIFICATION SECTION 02630.10(C)	
		2002 OREGON STANDARD SPECIFICATIONS FOR CONSTRUCTION.	

REPORT SHALL NOT BE REPRODUCED, EXCEPT IN FULL, WITHOUT WRITTEN APPROVAL OF THIS LABORATORY.

C: FILED; SEAN PARKER - DELTA SAND & GRAVEL; 1 TEST - AGGREGATE

**Unfounded assertion**

Figure 2. Copy of ODOT data sheet returned from ODOT lab showing test results. The assertion that the sample is representative is unfounded and unsupportable. (Data sheet attached to DOGAMI testimony of 28Oct06)

ROSE Lynda L

From: TAYLOR Betty L

Sent: Monday, December 25, 2006 12:37 PM

To: Springfield Mayor; 'Alan Zelenka'; 'Mike Clark'; KLEIN Glenn (Harrang); 'Dennis M'; ROSE Lynda L

Subject: FW Delta Complaints and Enforcement Actions

PAZC

ORD

Date

Exhibit No.

PA 1238

1-8-07

273

This seems contrary to statements made at the hearing.

Betty

-----Original Message-----

From: Merlyn [mailto:merlyn@lrpa.org]

Sent: Tuesday, December 19, 2006 4:11 PM

To: Betty Taylor

Cc: Sandra Lopez; Tom

Subject: Delta Complaints and Enforcement Actions

Betty

From January 1, 2000 to present, LRAPA received 13 complaints regarding Delta Sand & Gravel. I'm sending you copies of the actual complaint forms, but in the meantime here is the summary listing (with the Complaint Identification Number and the Complaint Date)

**Complaints By Source Name**  
**Source Name: DELTA SAND**  
**01/01/2000 -- 12/19/2006**

Cmpld	CmpDate	Source of Complaint
8225	07/26/2001	DELTA SAND & GRAVEL
8371	09/07/2001	DELTA SAND & GRAVEL
8490	10/09/2001	DELTA SAND & GRAVEL
8852	05/31/2002	DELTA SAND & GRAVEL
8872	06/13/2002	DELTA SAND & GRAVEL
9023	09/13/2002	DELTA SAND AND GRAVEL
9120	10/30/2002	DELTA SAND & GRAVEL
10091	09/30/2003	DELTA SAND & GRAVEL
13041	07/25/2005	DELTA SAND & GRAVEL
13132	08/19/2005	DELTA SAND & GRAVEL
13152	08/24/2005	DELTA SAND & GRAVEL
13748	03/14/2006	DELTA SAND & GRAVEL
13928	05/10/2006	DELTA SAND AND GRAVEL

From January 1, 2000 to present, LRAPA took two enforcement actions. The first one was in October 2003 and resulted in a civil penalty assessment of \$500. The second one was in February 2005 with an initial civil penalty assessment of \$1,200 which resulted in a stipulated final order and settlement which included several agreed upon corrective actions (to prevent recurrence of the violations) and dismissal of the civil penalty. I'm sending you copies of the most relevant enforcement documents that include more details.

Please let me know if you would like additional information

-- Merlyn

*Merlyn L. Hough*

Director

Lane Regional Air Protection Agency

Phone: (541) 736-1056 x216

**From:** Merlyn  
**Sent:** Wednesday, December 13, 2006 10:03 AM  
**To:** Betty Taylor  
**Subject:** RE: LRAPA Meeting Schedule?

Betty

Thanks for the feedback. I'm thinking the change will be needed through at least 2007, possibly permanent, but subject to review annually as Board members change.

I will get the Delta information collected and to you within the next week.

--- Merlyn

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**From:** Betty Taylor [mailto:betty.l.taylor@ci.eugene.or.us]  
**Sent:** Tue 12/12/2006 11:00 PM  
**To:** Merlyn  
**Subject:** RE: LRAPA Meeting Schedule?

Merlyn.

The first Thursday would work—not the third. Are you thinking of a permanent change—or temporary?

I need information about Delta—how many complaints and how many citations. Is that possible to compile before January?

Betty

-----Original Message-----

**From:** Merlyn [mailto:merlyn@lrpa.org]  
**Sent:** Tuesday, December 12, 2006 4:20 PM  
**To:** betty.l.taylor@ci.eugene.or.us  
**Cc:** Merrie Dinteman  
**Subject:** LRAPA Meeting Schedule?

Betty:

Faye Stewart mentioned at today's LRAPA Board meeting the Tuesday conflict with the County Commissioners schedule on Measure 37 claims.

He suggested 1st or 3rd Thursdays; would either of those days work for you?

Thanks.

--- Merlyn

*Merlyn L. Haugh*  
Director  
Lane Regional Air Protection Agency  
Phone: (541) 736-1056 x216



**Complaints By Source Name**  
**Source Name: DELTA SAND**  
**01/01/2000 -- 12/19/2006**

<u>Cmpld</u>	<u>CmpDate</u>	<u>Source of Complaint</u>
8225	07/26/2001	DELTA SAND & GRAVEL
8371	09/07/2001	DELTA SAND & GRAVEL
8490	10/09/2001	DELTA SAND & GRAVEL
8852	05/31/2002	DELTA SAND & GRAVEL
8872	06/13/2002	DELTA SAND & GRAVEL
9023	09/13/2002	DELTA SAND AND GRAVEL
9120	10/30/2002	DELTA SAND & GRAVEL
10091	09/30/2003	DELTA SAND & GRAVEL
13041	07/25/2005	DELTA SAND & GRAVEL
13132	08/19/2005	DELTA SAND & GRAVEL
13152	08/24/2005	DELTA SAND & GRAVEL
13748	03/14/2006	DELTA SAND & GRAVEL
13928	05/10/2006	DELTA SAND AND GRAVEL

**LANE REGIONAL AIR POLLUTION AUTHORITY  
COMPLAINT FORM**

**Date Received:** 05/10/2006      **Time Received:** 12:26:00 PM      **Complaint No:** 13928

**Complainant:**

Name \*\*\*\*CONFIDENTIAL\*\*\*\*      Phone \*\*\*\*CONFIDENTIAL\*\*\*\*

Address \*\*\*\*CONFIDENTIAL\*\*\*\*      City \_\_\_\_\_ ZIP \_\_\_\_\_

Location of Complaint Condition Santa Clara (E-SC)

Date & Time of Complaint 05/09/2006 12:26:00 PM      **Repeat Call?** No

**Want Call Back?** No

**Alleged Source Name:** DELTA SAND AND GRAVEL

Location 999 DIVISION AVE      City EUGENE      ZIP 97404

**Type of Source:**

<input checked="" type="checkbox"/> Industry	<input type="checkbox"/> Fugitive Dust	<input type="checkbox"/> General	<input type="checkbox"/> Open Burning
<input type="checkbox"/> Field Burn	<input type="checkbox"/> Slash Burning	<input type="checkbox"/> Backyard Burn	<input type="checkbox"/> Home Heating
<input type="checkbox"/> Unknown	<input type="checkbox"/> Other _____		

**Type of Complaint:**

<input type="checkbox"/> Fallout	<input type="checkbox"/> Visibility (Aesthetic)	<input type="checkbox"/> General Air Quality
<input type="checkbox"/> Fume	<input type="checkbox"/> Visibility (Traffic Safety)	<input type="checkbox"/> General Practice
<input type="checkbox"/> Odor	<input type="checkbox"/> Smoke (Impact)	
<input type="checkbox"/> Health	<input type="checkbox"/> Smoke (Visibility)	<input type="checkbox"/> Expense
<input checked="" type="checkbox"/> Other <u>Traffic safety</u>		

**Complaint Received By:** RCL      **Investigator:** TF

**Referred By:** DEQ

**Remarks:** Good morning, This complaint was sent to the NW Region DEQ office by mistake.

Thanks, \_\_\_\_\_

Susan Patterson

DEQ-NW Region Complaints

/(503) 667-8414

**Investigation Results:**      Done On: 05/15/2006      By: TF

sent mail to chrislind2@hotmail.com

-----Original Message-----

CONTINUED: CmpNo 13928 (page 2)

From: Chris Lindley [mailto: ]

Sent: Tuesday, May 09, 2006 12:26 PM

To: DEQINFO

Subject: Delta Sand and Gravel, Eugene

I made a phone call to Delta Sand and Gravel, 999 Division Ave Eugene, OR 97404, and complained about their constant wetting down of a public street. They told me that the DEQ makes them do it. I believe this is

not only a ridiculous waste of time and effort and water, but also a danger

to drivers. Not to mention a muddy mess that pleases no one but, apparently

you! This practice will cause an accident and you will be at fault! I will

make an effort to let anyone having said accident that the DEQ caused it and

they should sue you! There is no sane reason for wetting down this street!

This practice should stop immediately! I will be writing my representative and senator.

----- Original Message -----

From: Tom Freeman

To: chrislind2@hotmail.com

Cc: Sandra Lopez

Sent: Monday, May 15, 2006 8:50 AM

Subject: Delta Sand & Gravel

I have received an email that was forwarded to me by Oregon DEQ concerning a complaint you emailed them (DEQ) about Delta watering of parts of River Loop and Division Ave.

Delta S&G has an Air Contaminant Discharge Permit (ACDP) issued by Lane Regional Air Protection Agency (LRAPA). Part of the permit requirements are that they have an operations and maintenance plan for controlling fugitive dust and "trackout". Part of that plan includes sweeping of the streets a couple of times

CONTINUED: CmpNo 13928 (page 3)

per week where dirt is often tracked out of their plantsite. Another part of the plan requires periodic washing of the streets to wash off any trackout and wet any fine material that would become airborne due to vehicular traffic.

Delta S&G are also in the process of constructing several "wheel washing" sites within their plantsite near their plant exits to reduce the amount of "trackout" from dirt or mud that vehicle tires pick up as they are picking up sand or gravel or asphalt or concrete.

We believe the wheel washers will greatly reduce the amount of trackout, but there will probably always be some, and as a result, watering of the streets will probably always be required to some degree.

Its a type of "Catch 22" - If they don't water, dust particles become airborne, and when they water, that also creates some inconvenience because of the small amounts of resulting mud.

I apologize for any inconvenience the ACDP requirements may be causing you, and we are continuing to work with Delta, and the other sand & gravel operators to be innovative and creative in finding new and better ways to address the drawback mentioned.

If you have other questions or concerns, please feel free to call me at 736-1056 ext. 222.

Sincerely,

Tom Freeman

Compliance & Enforcement

Source: Suspected

**LANE REGIONAL AIR POLLUTION AUTHORITY  
COMPLAINT FORM**

**Date Received:** 03/14/2006      **Time Received:** 2:40:00 PM      **Complaint No:** 13748

**Complainant:**

Name \*\*\*\*CONFIDENTIAL\*\*\*\*      Phone \*\*\*\*CONFIDENTIAL\*\*\*\*

Address \*\*\*\*CONFIDENTIAL\*\*\*\*      City EUGENE      ZIP 97404

Location of Complaint Condition River Road (E-RR)

Date & Time of Complaint 03/14/2006 2:40:00 PM      **Repeat Call?** No

**Want Call Back?** No

**Alleged Source Name:** DELTA SAND & GRAVEL

Location \_\_\_\_\_ City EUGENE      ZIP \_\_\_\_\_

**Type of Source:**

<input checked="" type="checkbox"/> Industry	<input type="checkbox"/> Fugitive Dust	<input type="checkbox"/> General	<input type="checkbox"/> Open Burning
<input type="checkbox"/> Field Burn	<input type="checkbox"/> Slash Burning	<input type="checkbox"/> Backyard Burn	<input type="checkbox"/> Home Heating
<input type="checkbox"/> Unknown	<input type="checkbox"/> Other _____		

**Type of Complaint:**

<input checked="" type="checkbox"/> Fallout	<input type="checkbox"/> Visibility (Aesthetic)	<input type="checkbox"/> General Air Quality
<input type="checkbox"/> Fume	<input type="checkbox"/> Visibility (Traffic Safety)	<input type="checkbox"/> General Practice
<input type="checkbox"/> Odor	<input type="checkbox"/> Smoke (Impact)	
<input type="checkbox"/> Health	<input type="checkbox"/> Smoke (Visibility)	<input type="checkbox"/> Expense
<input type="checkbox"/> Other _____		

**Complaint Received By:** MJD      **Investigator:** TF

**Referred By:** \_\_\_\_\_

**Remarks:** My name is Mary and I am a homeowner on Moore St. in Eugene 97404. I'm one street away from the Delta Sand and Gravel pit. My husband and I have been noticing a large increase in dust build-up in our home, to the point that I think is unhealthy to live in. I wipe my counter tops every day and by the next day I can already see a good amount of dust build-up. Again I'm very concerned of my family's health, is there anything I should be worried about? Is there anything that I can do to help with this problem? Have you heard any other complaints or know about increased activity at the gravel pit? Thank you. Mary Pond.  
[Message was received via e-mail. Address is marynoelpond@comcast.net]

**Investigation Results:**      Done On: 03/17/2006      By: TF

To: marynoelpond@comcast.net

Cc: Sandra Lopez

Sent: Thursday, March 16, 2006 2:59 PM

Subject: Delta S&G complaint#13748

Dear Ms. Pond

I don't know if you are aware or not, but Delta Sand & Gravel has applied for a zoning change to allow them to mine gravel on land they have owned for some time, but is not zoned for gravel mining. The property I'm referring to is north of Hunsaker, or Beaver (I'm not sure where one stops and the other begins) and generally between Echo and their current operation. This proposed new mining area is basically directly north of Moore St.

In preparation for the new mining operation, Delta has been in the process of constructing a new haul road to the new mining area. The haul road construction is the only activity I can think of that might be considered "increased activity at the gravel pit". The haul road construction has been occurring on an sporadic basis for the past few months. There have been no other change that I am aware of, and there are currently no plans to alter their processing ( crushing, screening, conveying, etc.) activity from what it currently is - or has been for the past several years.

I checked your address, and it appears that you may have purchased the home last October. Is the "large dust build up" you mention, something you have just taking place in the last week or month, or is it since you've moved in, or . . . ?

As for health concerns, the human body should be able to filter out larger dust particles - say larger than "smoke" size, - smaller particles might be more of a problem for some people, particularly those with respiratory problems. The dust that would be coming from Delta would probably be classified as a "nuisance" dust, as opposed to a health risk.

Usually, we see an increase in dust levels during the hotter and dryer months of the year, and in particular, during those months when agricultural operation are at elevated levels in the Willamette Valley.

I went by Delta two times today and they appeared to be in compliance with there Air Contaminant Discharge Permit (ACDP). Rules require that they use "reasonable" precautions to prevent particulate matter from becoming airborne. (Usually, that means to water everything).

LRAPA is currently working with Delta attempting to decrease "trackout" onto Division avenue, by installing "wheel washers", improved street cleaning, etc. Hopefully, these additions new measures will reduce the amount of particulate matter being emitted by Delta S&G.

If you have further questions or concerns, please let me know. My phone number is 736-1056 ext. 222.

Tom Freeman

Source: Suspected

LANE REGIONAL AIR POLLUTION AUTHORITY  
COMPLAINT FORM

Date Received: 08/24/2005 Time Received: 4:05:27 PM Complaint No: 13152

**Complainant:**

Name \*\*\*\*CONFIDENTIAL\*\*\*\* Phone \*\*\*\*CONFIDENTIAL\*\*\*\*

Address \*\*\*\*CONFIDENTIAL\*\*\*\* City EUGENE ZIP 97404

Location of Complaint Condition North Eugene (E-N)

Date & Time of Complaint \_\_\_\_\_ Repeat Call? No

Want Call Back? No

**Alleged Source Name:** DELTA SAND & GRAVEL

Location \_\_\_\_\_ City \_\_\_\_\_ ZIP \_\_\_\_\_

**Type of Source:**

<input checked="" type="checkbox"/> Industry	<input type="checkbox"/> Fugitive Dust	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Open Burning
<input type="checkbox"/> Field Burn	<input type="checkbox"/> Slash Burning	<input type="checkbox"/> Backyard Burn	<input type="checkbox"/> Home Heating
<input type="checkbox"/> Unknown	<input type="checkbox"/> Other _____		

**Type of Complaint:**

<input checked="" type="checkbox"/> Fallout	<input type="checkbox"/> Visibility (Aesthetic)	<input type="checkbox"/> General Air Quality
<input type="checkbox"/> Fume	<input type="checkbox"/> Visibility (Traffic Safety)	<input type="checkbox"/> General Practice
<input type="checkbox"/> Odor	<input type="checkbox"/> Smoke (Impact)	
<input type="checkbox"/> Health	<input type="checkbox"/> Smoke (Visibility)	<input type="checkbox"/> Expense
<input type="checkbox"/> Other _____		

**Complaint Received By:** CW **Investigator:** TF

**Referred By:** \_\_\_\_\_

**Remarks:** They are generally a mess - a cloud of dust over the business location, trucks spew exhaust fumes and smoke, and they drop gravel and dirt on the roads

**Investigation Results:** Done On: \_\_\_\_\_ By: \_\_\_\_\_

**Source:** ☐ Confirmed ☐ Suspected ☐ Unconfirmed ☐ Other \_\_\_\_\_

LANE REGIONAL AIR POLLUTION AUTHORITY  
COMPLAINT FORM

Date Received: 08/19/2005 Time Received: 9:50:30 AM Complaint No: 13132

**Complainant:**

Name \*\*\*\*CONFIDENTIAL\*\*\*\* Phone \*\*\*\*CONFIDENTIAL\*\*\*\*

Address \*\*\*\*CONFIDENTIAL\*\*\*\* City EUGENE ZIP 97401

Location of Complaint Condition Northwest Eugene (E-NW)

Date & Time of Complaint 08/19/2005 9:50:30 AM Repeat Call? No

Want Call Back? No

**Alleged Source Name:** DELTA SAND & GRAVEL

Location BELTLINE City EUGENE ZIP 97401

**Type of Source:**

<input checked="" type="checkbox"/> Industry	<input checked="" type="checkbox"/> Fugitive Dust	<input type="checkbox"/> General	<input type="checkbox"/> Open Burning
<input type="checkbox"/> Field Burn	<input type="checkbox"/> Slash Burning	<input type="checkbox"/> Backyard Burn	<input type="checkbox"/> Home Heating
<input type="checkbox"/> Unknown	<input type="checkbox"/> Other _____		

**Type of Complaint:**

<input checked="" type="checkbox"/> Fallout	<input type="checkbox"/> Visibility (Aesthetic)	<input type="checkbox"/> General Air Quality
<input type="checkbox"/> Fume	<input type="checkbox"/> Visibility (Traffic Safety)	<input type="checkbox"/> General Practice
<input type="checkbox"/> Odor	<input type="checkbox"/> Smoke (Impact)	
<input type="checkbox"/> Health	<input type="checkbox"/> Smoke (Visibility)	<input type="checkbox"/> Expense
<input type="checkbox"/> Other _____		

Complaint Received By: CW Investigator: TF

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

Remarks: Dumping and compacting dirt in the bottom of a big hole caused a lot of dust to come up and drift over to his house. Appreciates people doing a better job of watering the dusty road.

Investigation Results: Done On: \_\_\_\_\_ By: \_\_\_\_\_

Source: ☐ Confirmed ☐ Suspected ☐ Unconfirmed ☐ Other \_\_\_\_\_







LANE REGIONAL AIR POLLUTION AUTHORITY  
COMPLAINT FORM

Date Received: 10/30/2002 Time Received: 1:30:18 PM Complaint No: 9120

**Complainant:**

Name \*\*\*\*CONFIDENTIAL\*\*\*\* Phone \*\*\*\*CONFIDENTIAL\*\*\*\*

Address \*\*\*\*CONFIDENTIAL\*\*\*\* City EUGENE ZIP

Location of Complaint Condition Eugene, unspecified (E-U)

Date & Time of Complaint 10/30/2002 1:30:18 PM Repeat Call? No

Want Call Back? No

**Alleged Source Name:** DELTA SAND & GRAVEL

Location  City EUGENE ZIP

**Type of Source:**

<input checked="" type="checkbox"/> Industry	<input type="checkbox"/> Fugitive Dust	<input type="checkbox"/> General	<input type="checkbox"/> Open Burning
<input type="checkbox"/> Field Burn	<input type="checkbox"/> Slash Burning	<input type="checkbox"/> Backyard Burn	<input type="checkbox"/> Home Heating
<input type="checkbox"/> Unknown	<input type="checkbox"/> Other <u></u>		

**Type of Complaint:**

<input type="checkbox"/> Fallout	<input type="checkbox"/> Visibility (Aesthetic)	<input checked="" type="checkbox"/> General Air Quality
<input type="checkbox"/> Fume	<input checked="" type="checkbox"/> Visibility (Traffic Safety)	<input type="checkbox"/> General Practice
<input type="checkbox"/> Odor	<input type="checkbox"/> Smoke (Impact)	
<input checked="" type="checkbox"/> Health	<input type="checkbox"/> Smoke (Visibility)	<input type="checkbox"/> Expense
<input type="checkbox"/> Other <u></u>		

Complaint Received By: KIT Investigator: TF

Referred By:

Remarks: Complainant stated that Delta's trucks are smoking badly. When pulled up to a stopsign in Goshen behind one of Delta's trucks, the smoke is so bad you can't see the cab of the truck on on-coming traffic. Also states that Delta has "jacked up the power" which makes them smoke more.

Investigation Results: Done On: 10/31/2002 By: TF

Notified George Staples at Delta of complaint. NO other action.

Source: ☐ Confirmed ☐ Suspected ☐ Unconfirmed ☐ Other

LANE REGIONAL AIR POLLUTION AUTHORITY  
COMPLAINT FORM

Date Received: 09/13/2002 Time Received: 4:00:00 PM Complaint No: 9023

**Complainant:**

Name \*\*\*\*CONFIDENTIAL\*\*\*\* Phone \*\*\*\*CONFIDENTIAL\*\*\*\*

Address \*\*\*\*CONFIDENTIAL\*\*\*\* City EUGENE ZIP 97401

Location of Complaint Condition Cal Young (E-CY)

Date & Time of Complaint 09/13/2002 4:00:00 PM Repeat Call? No

Want Call Back? No

**Alleged Source Name:** DELTA SAND AND GRAVEL

Location 999 DIVISION City EUGENE ZIP 97401

**Type of Source:**

<input checked="" type="checkbox"/> Industry	<input type="checkbox"/> Fugitive Dust	<input type="checkbox"/> General	<input type="checkbox"/> Open Burning
<input type="checkbox"/> Field Burn	<input type="checkbox"/> Slash Burning	<input type="checkbox"/> Backyard Burn	<input type="checkbox"/> Home Heating
<input type="checkbox"/> Unknown	<input type="checkbox"/> Other _____		

**Type of Complaint:**

<input checked="" type="checkbox"/> Fallout	<input type="checkbox"/> Visibility (Aesthetic)	<input type="checkbox"/> General Air Quality
<input type="checkbox"/> Fume	<input type="checkbox"/> Visibility (Traffic Safety)	<input type="checkbox"/> General Practice
<input type="checkbox"/> Odor	<input type="checkbox"/> Smoke (Impact)	
<input type="checkbox"/> Health	<input type="checkbox"/> Smoke (Visibility)	<input type="checkbox"/> Expense
<input type="checkbox"/> Other _____		

Complaint Received By: JM Investigator: TF

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

**Remarks:** Mr. Weza called regarding dust from Delta. Stated his residential area is continually inundated with dust from Delta. Questioned as to Delta's compliance with standards. Discussed Delta enforcement of 2000, discussed Rosboro enforcement regarding fugitives, discussed fugitive emission standards.

**Investigation Results:** Done On: \_\_\_\_\_ By: \_\_\_\_\_

**Source:** ☐ Confirmed ☐ Suspected ☐ Unconfirmed ☐ Other \_\_\_\_\_

**LANE REGIONAL AIR POLLUTION AUTHORITY  
COMPLAINT FORM**

**Date Received:** 06/13/2002      **Time Received:** 8:20:00 AM      **Complaint No:** 8872

**Complainant:**

Name \*\*\*\*CONFIDENTIAL\*\*\*\*      Phone \*\*\*\*CONFIDENTIAL\*\*\*\*

Address \*\*\*\*CONFIDENTIAL\*\*\*\*      City EUGENE      ZIP 97404

Location of Complaint Condition Northwest Eugene (E-NW)

Date & Time of Complaint 06/12/2002 3:30:00 PM      **Repeat Call?** No

**Want Call Back?** No

**Alleged Source Name:** DELTA SAND & GRAVEL

Location 999 DIVISION AVE.      City EUGENE      ZIP 97404

**Type of Source:**

<input checked="" type="checkbox"/> Industry	<input type="checkbox"/> Fugitive Dust	<input type="checkbox"/> General	<input type="checkbox"/> Open Burning
<input type="checkbox"/> Field Burn	<input type="checkbox"/> Slash Burning	<input type="checkbox"/> Backyard Burn	<input type="checkbox"/> Home Heating
<input type="checkbox"/> Unknown	<input type="checkbox"/> Other _____		

**Type of Complaint:**

<input checked="" type="checkbox"/> Fallout	<input type="checkbox"/> Visibility (Aesthetic)	<input type="checkbox"/> General Air Quality
<input type="checkbox"/> Fume	<input type="checkbox"/> Visibility (Traffic Safety)	<input type="checkbox"/> General Practice
<input type="checkbox"/> Odor	<input type="checkbox"/> Smoke (Impact)	
<input type="checkbox"/> Health	<input type="checkbox"/> Smoke (Visibility)	<input type="checkbox"/> Expense
<input type="checkbox"/> Other _____		

**Complaint Received By:** MRM      **Investigator:** TF

**Referred By:** \_\_\_\_\_

**Remarks:** Large amounts of dust from crushing activities. Complainant says that paved roadways appeared to have been watered, but large amount of PM from main crushing areas.

**Investigation Results:**      Done On: 06/14/2002      By: TF

Checked with Delta, They had mechanical problems with excavator feeding wet rock to crusher, when they run out of wet rock they get excess emissions for a few minutes until they get the wet rock back - Happened 2 or 3 times on day in question, will discuss with Karene.

**Source:**    ☐ Confirmed    ☐ Suspected    ☐ Unconfirmed    ☐ Other \_\_\_\_\_

LANE REGIONAL AIR POLLUTION AUTHORITY  
COMPLAINT FORM

Date Received: 05/31/2002 Time Received: 3:22:14 PM Complaint No: 8852

**Complainant:**

Name \*\*\*\*CONFIDENTIAL\*\*\*\* Phone \*\*\*\*CONFIDENTIAL\*\*\*\*

Address \*\*\*\*CONFIDENTIAL\*\*\*\* City EUGENE ZIP 97401

Location of Complaint Condition North Eugene (E-N)

Date & Time of Complaint 05/31/2002 3:22:14 PM Repeat Call? No

Want Call Back? No

**Alleged Source Name:** DELTA SAND & GRAVEL

Location DIVISION AVENUE City EUGENE ZIP

**Type of Source:**

<input checked="" type="checkbox"/> Industry	<input checked="" type="checkbox"/> Fugitive Dust	<input type="checkbox"/> General	<input type="checkbox"/> Open Burning
<input type="checkbox"/> Field Burn	<input type="checkbox"/> Slash Burning	<input type="checkbox"/> Backyard Burn	<input type="checkbox"/> Home Heating
<input type="checkbox"/> Unknown	<input type="checkbox"/> Other <u></u>		

**Type of Complaint:**

<input checked="" type="checkbox"/> Fallout	<input type="checkbox"/> Visibility (Aesthetic)	<input type="checkbox"/> General Air Quality
<input type="checkbox"/> Fume	<input type="checkbox"/> Visibility (Traffic Safety)	<input type="checkbox"/> General Practice
<input type="checkbox"/> Odor	<input type="checkbox"/> Smoke (Impact)	
<input type="checkbox"/> Health	<input type="checkbox"/> Smoke (Visibility)	<input type="checkbox"/> Expense
<input type="checkbox"/> Other <u></u>		

**Complaint Received By:** CW **Investigator:** TF

**Referred By:**

**Remarks:** Track out from mud and rain this last week has become so dusty on Division Avenue that complainant who lives just south of Marist High School has to keep cleaning off his patio because the dust is so thick.

**Investigation Results:** Done On: 05/31/2002 By: TF

Checked Division Ave. - Part washed - Monday 6/3 washed. Will continue to watch.

**Source:** ☐ Confirmed ☐ Suspected ☐ Unconfirmed ☐ Other

LANE REGIONAL AIR POLLUTION AUTHORITY  
COMPLAINT FORM

Date Received: 10/09/2001 Time Received: 3:00:00 PM Complaint No: 8490

**Complainant:**

Name \*\*\*\*CONFIDENTIAL\*\*\*\* Phone \*\*\*\*CONFIDENTIAL\*\*\*\*

Address \*\*\*\*CONFIDENTIAL\*\*\*\* City EUGENE ZIP 97401

Location of Complaint Condition Cal Young (E-CY)

Date & Time of Complaint 10/09/2001 3:00:00 PM Repeat Call? No

Want Call Back? No

**Alleged Source Name:** DELTA SAND & GRAVEL

Location \_\_\_\_\_ City EUGENE ZIP 97401

**Type of Source:**

<input type="checkbox"/> Industry	<input checked="" type="checkbox"/> Fugitive Dust	<input type="checkbox"/> General	<input type="checkbox"/> Open Burning
<input type="checkbox"/> Field Burn	<input type="checkbox"/> Slash Burning	<input type="checkbox"/> Backyard Burn	<input type="checkbox"/> Home Heating
<input type="checkbox"/> Unknown	<input type="checkbox"/> Other _____		

**Type of Complaint:**

<input checked="" type="checkbox"/> Fallout	<input type="checkbox"/> Visibility (Aesthetic)	<input checked="" type="checkbox"/> General Air Quality
<input type="checkbox"/> Fume	<input type="checkbox"/> Visibility (Traffic Safety)	<input type="checkbox"/> General Practice
<input type="checkbox"/> Odor	<input type="checkbox"/> Smoke (Impact)	
<input type="checkbox"/> Health	<input type="checkbox"/> Smoke (Visibility)	<input type="checkbox"/> Expense
<input type="checkbox"/> Other _____		

Complaint Received By: JH Investigator: TF

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

Remarks: He represents a committee who wanted him to call; they report a constant dusting in area on cars, etc., which they attribute to Delta S & G. Would like a call back to discuss it.

**Investigation Results:** Done On: 10/15/2001 By: MM

Called complainant to discuss problem. Complainant represents group from Willamette Oaks Retirement Center. He realizes it is late in season and that rain will alleviate problem for now. Told him that we work with Delta to try and minimize their fugitives by encouraging them to keep yard watered and to pave roads.

Source: ☐ Confirmed ☐ Suspected ☐ Unconfirmed ☐ Other \_\_\_\_\_

**LANE REGIONAL AIR POLLUTION AUTHORITY  
COMPLAINT FORM**

**Date Received:** 09/07/2001      **Time Received:** 11:32:45 AM      **Complaint No:** 8371

**Complainant:**

Name \*\*\*\*CONFIDENTIAL\*\*\*\*      Phone \*\*\*\*CONFIDENTIAL\*\*\*\*

Address \*\*\*\*CONFIDENTIAL\*\*\*\*      City EUGENE      ZIP 97401

Location of Complaint Condition River Road (E-RR)

Date & Time of Complaint 09/06/2001 1:00:00 PM      **Repeat Call?** No

**Want Call Back?** No

**Alleged Source Name:** DELTA SAND & GRAVEL

Location 999 DIVISION AVENUE      City EUGENE      ZIP

**Type of Source:**

<input checked="" type="checkbox"/> Industry	<input type="checkbox"/> Fugitive Dust	<input type="checkbox"/> General	<input type="checkbox"/> Open Burning
<input type="checkbox"/> Field Burn	<input type="checkbox"/> Slash Burning	<input type="checkbox"/> Backyard Burn	<input type="checkbox"/> Home Heating
<input type="checkbox"/> Unknown	<input type="checkbox"/> Other <u></u>		

**Type of Complaint:**

<input checked="" type="checkbox"/> Fallout	<input checked="" type="checkbox"/> Visibility (Aesthetic)	<input type="checkbox"/> General Air Quality
<input type="checkbox"/> Fume	<input type="checkbox"/> Visibility (Traffic Safety)	<input type="checkbox"/> General Practice
<input type="checkbox"/> Odor	<input type="checkbox"/> Smoke (Impact)	
<input type="checkbox"/> Health	<input type="checkbox"/> Smoke (Visibility)	<input type="checkbox"/> Expense
<input type="checkbox"/> Other <u></u>		

**Complaint Received By:** BP      **Investigator:** TF

**Referred By:**

**Remarks:** Complainant said that there was so much dust blowing across the road and into residences early Thursday afternoon (noon to 2pm) that it appears that Delta "has backed off on their watering". He said that when he was on the highway yesterday there was so much dust blowing around it looked like a farmer was plowing the field next to the road.

**Investigation Results:**      Done On:       By:

**Source:**    ☐ Confirmed    ☐ Suspected    ☐ Unconfirmed    ☐ Other



LANE REGIONAL AIR POLLUTION AUTHORITY  
COMPLAINT FORM

Date Received: 07/26/2001 Time Received: 1:50:00 PM Complaint No: 8225

**Complainant:**

Name \*\*\*\*CONFIDENTIAL\*\*\*\* Phone \*\*\*\*CONFIDENTIAL\*\*\*\*

Address \*\*\*\*CONFIDENTIAL\*\*\*\* City EUGENE ZIP 97408

Location of Complaint Condition Cal Young (E-CY)

Date & Time of Complaint \_\_\_\_\_ Repeat Call? No

Want Call Back? No

**Alleged Source Name:** DELTA SAND & GRAVEL

Location BELTLINE City EUGENE ZIP 97

**Type of Source:**

<input checked="" type="checkbox"/> Industry	<input type="checkbox"/> Fugitive Dust	<input type="checkbox"/> General	<input type="checkbox"/> Open Burning
<input type="checkbox"/> Field Burn	<input type="checkbox"/> Slash Burning	<input type="checkbox"/> Backyard Burn	<input type="checkbox"/> Home Heating
<input type="checkbox"/> Unknown	<input type="checkbox"/> Other _____		

**Type of Complaint:**

<input checked="" type="checkbox"/> Fallout	<input type="checkbox"/> Visibility (Aesthetic)	<input type="checkbox"/> General Air Quality
<input type="checkbox"/> Fume	<input type="checkbox"/> Visibility (Traffic Safety)	<input type="checkbox"/> General Practice
<input type="checkbox"/> Odor	<input type="checkbox"/> Smoke (Impact)	
<input type="checkbox"/> Health	<input type="checkbox"/> Smoke (Visibility)	<input type="checkbox"/> Expense
<input type="checkbox"/> Other _____		

Complaint Received By: JH Investigator: TF

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

Remarks: Reports that there was a large amount of dust in the air around Delta Sand & Gravel today when she just drove by.

Caller said she would like complaint passed on to Pete Sorenson also.

Investigation Results: \_\_\_\_\_ Done On: \_\_\_\_\_ By: \_\_\_\_\_

Source: ☐ Confirmed ☐ Suspected ☐ Unconfirmed ☐ Other \_\_\_\_\_



**LRAPA**  
Lane Regional Air Pollution Authority

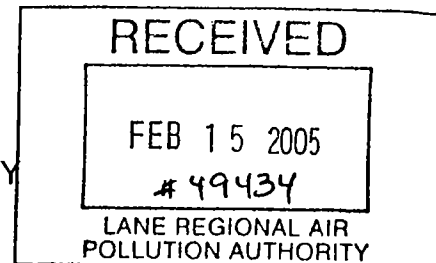
1010 Main Street  
Springfield, OR 97477  
(541) 736-1056

FILE

NO 2753

Certified Mail 2/8/05  
#7003 1010 0000 2308 6401

**NOTICE OF NON-COMPLIANCE**  
**IMPORTANT: PLEASE READ CAREFULLY**  
RULES AND REGULATIONS  
LANE REGIONAL AIR POLLUTION AUTHORITY



Respondent's Name:

George STAPLES

Address:

Acting on behalf of:

DELTA SAND & GRAVEL CO.

Address:

999 DIVISION AVENUE,  
EUGENE, OR 97404

AIR CONTAMINANT DISCHARGE PERMIT (ACDP) 202119

On the 11<sup>th</sup> & 13<sup>th</sup> day of JANUARY, 2005, at about 2:25; 3:00 a.m. / (p.m.), you violated the following provision:

LRAPA REGULATIONS TITLE 48 'RULES FOR FUGITIVE EMISSIONS' SECTION 48-015-2.6;  
ACDP 202119 PERFORMANCE STANDARDS and EMISSION LIMITS condition 69

Violation description: failure to take reasonable precautions to prevent  
particulate matter from becoming airborne; failure to promptly  
remove from paved streets tracked out earth

Location of violation: at and about 999 DIVISION AVENUE, EUGENE

Actions required to correct the violation:

Time for compliance (optional):

This is an initial notification that a violation of LRAPA Rules has occurred. The facts of the violations will be reviewed to determine if further enforcement actions are justified.

I certify that I served a copy of this Notice of Non-Compliance on the respondent:

[Signature]  
(Signature)

2/7/05  
(Date)

I acknowledge receipt of a copy of this notice of violation: (Signature is not an admission of guilt)

[Signature]  
(Signature)

2/14/05  
(Date)



**LRAPA**  
Lane Regional Air Pollution Authority

1010 Main Street  
Springfield, OR 97477

phone (541) 736-1056  
fax (541) 726-1205  
1-877-285-7272  
www.lrapa.org  
E-mail: lrapa@lrapa.org

Certified Mail 3/17/05  
#7003 1010 0000 2308 6531

## NOTICE OF VIOLATION

### NOTICE OF CIVIL PENALTY ASSESSMENT NUMBER 05-2753

### NOTICE OF OPPORTUNITY FOR HEARING

Issued in accordance with provisions of ORS 183, 468, 468A and  
Lane Regional Air Pollution Authority Rules Titles 13, 14, and 15

<b>Issued To:</b>	Delta Sand & Gravel Co.	)	
	999 Division Avenue	)	RESPONDENT
	Eugene, Oregon 97404	)	

**Complaint:** It is alleged that on January 11 and 13, 2005 Delta Sand & Gravel Co. (Delta) conducted materials transport activities without taking reasonable precautions to prevent particulate matter from becoming airborne. Failure to take reasonable precautions to prevent particulate matter from becoming airborne is a violation of Lane Regional Air Pollution Authority (LRAPA) Rules and Regulations.

**Regulations Violated:** Lane Regional Air Pollution Authority's "Rules and Regulations," Title 48, Section 48-015-2. B.; Section 48-015-2.G.

Section 48-015-2. states: "No person shall cause, suffer, allow or permit any materials to be handled, transported, or stored: or a building, its appurtenances, or a road to be used, constructed altered or repaired or demolished; or any equipment to be operated, without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions shall include, but not be limited to the following:

...

B. Application of asphalt, approved road oil, water, or other suitable chemicals on unpaved roads, material stockpiles and other surfaces which can create airborne dusts;...

G. The prompt removal from paved streets of earth or other material which does or may become airborne."

**Discussion of Violation:** On January 11, 2005 from about 1425 through 1458 LRAPA observed and photographed at the exit area of the Delta facility at 999 Division Avenue and at the Division Avenue underpass of Beltline Road and at the Beltline Road exit to Division and west (site), trackout from Delta plant site activities. Trackout was present on the public roadways such that vehicular traffic, primarily from Delta activities, resulted in particulate matter (PM) becoming airborne. There were some areas of the site whereby the PM becoming airborne was akin to that generated from vehicular traffic on unpaved roadways. At about 1458 LRAPA contacted Delta and advised of observations and a situation of non-compliance with the trackout standard. Delta indicated that the public roadway could not be watered because of freezing weather. Delta indicated that the roadway may be swept periodically. LRAPA advised that a Notice of Non-Compliance (NON) would be issued.

According to the Eugene Register Guard, for the 24 hour period ending at 1600 on January 11, 2005, Eugene temperatures were a low of 26 degrees F. at about 0500 and a high of 39 degrees at about 1600.

On January 13, 2005 from about 1500 through 1525 LRAPA observed and photographed at the exit area of the Delta facility and at the Beltline Road exit to Division and west (site), trackout from Delta facility activities. Trackout was present on the public roadways such that vehicular traffic, primarily from Delta activities, resulted in PM becoming airborne. At about 1525 LRAPA observed and photographed a Delta water-truck applying water to the site public roadways. LRAPA contacted Delta reception and left a message advising of observations and a situation of non-compliance with the trackout standard. Delta left VM at about 1552 on this day indicating that the public roadways could not be watered because of freezing weather. Delta also offered a plant site visit to observe Delta activities regarding fugitive emission and trackout control.

According to the Eugene Register Guard, for the 24 hour period ending at 1600 on January 13, 2005, Eugene temperatures were a low of 38 degrees F. at about 0800 and at about 47 degrees F. at about 1500 with a high this day of 48.

On January 14, 2005 Delta left VM indicating use of the water truck and because this day was a Friday that the public roadway would be swept.

On January 18, 2005 Delta submitted a letter to LRAPA indicating that the public roadways are swept twice per week by a private company and that the roadway had been swept earlier in the day on January 11, 2005. Delta also indicated that though the roadway is swept there is still fine dust that remains and becomes airborne relative to truck traffic. Delta also indicated that a truck tire wash was active and that a wheel spray wash is also used but was not operative on January 11, 2005 because of the freezing temperatures.

On January 27, 2005 LRAPA visited the Delta facility to observe the fugitive emission and trackout control systems. The wheel wash is a low spot in the Delta yard which is filled with water. The trucks that may pass through the wheel wash must travel through a paved and unpaved yard area for approximately several hundred yards prior to exiting the facility. The paved area was of the appearance of unpaved because of material tracked across the area. The tire spray system consisted of a spigot on the right side of the scale and was akin to a residential yard sprinkler setup.

On February 14, 2005 LRAPA issued NON 2753 to Delta for the January 11 and 13, 2005 violations of failure to take reasonable precautions to prevent particulate matter from becoming airborne by failing to promptly remove from paved streets earth or other material which does or may become airborne.

**Penalty Imposed:** Failure to take reasonable precautions to prevent particulate matter from becoming airborne and failure to promptly remove from paved streets earth or other material which does or may become airborne is a Class 2, Moderate violation. A civil penalty is imposed pursuant to ORS 183.745, ORS 468.135 and LRAPA Title 15 for a single violation of LRAPA "Rules and Regulations," Title 48, Section 48-015-2. A civil penalty in the amount of *one thousand two hundred dollars (\$1,200)* is imposed for violation of LRAPA's "Rules and Regulations." The penalty is based on a matrix formula which includes a number of factors including prior violations, economic benefit, potential environmental effects, magnitude of violation and other relevant factors.

This civil penalty is due and payable to Lane Regional Air Pollution Authority, 1010 Main Street, Springfield, Oregon 97477.

**Options:** This Notice of Civil Penalty Assessment is issued pursuant to ORS 183.415, ORS 183.745, and LRAPA Titles 14 and 15. Within *twenty-one (21) days* from the date that you **received** this Notice, you must respond in one of the three ways:

1. **Pay the Civil Penalty.** The facts set out in this notice will be presumed to be admitted. A record of the violation will be kept by LRAPA.

2. **Request a Hearing.** You are entitled to a hearing on the violation and assessed penalty set forth in this Notice. If you want a hearing, you must file with LRAPA a written request for a hearing and an answer. The answer should admit or deny the facts alleged in this Notice and set forth any defenses you might have.

If you request a hearing, you will be notified of the time and place of the hearing. You may be represented by legal counsel at the hearing. LRAPA will be represented by legal counsel. The hearing will be conducted pursuant to Title 14 of LRAPA's Rules and Regulations. A copy of these rules is attached hereto.

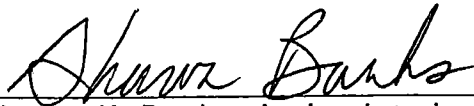
If a request for a hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

3. **Seek a Reduction of the Civil Penalty.** Pursuant to LRAPA Rules and Regulations Section 15-040, LRAPA's Director, in his discretion, may compromise or settle an assessed civil penalty for an amount less than the civil penalty set forth in a Notice. You can seek to settle this Notice for a reduced civil penalty. If this Notice is settled for a reduced civil penalty, the settlement will be final and you will be required to enter into a Stipulated Final Order. .

**Failure To Respond:** If, within 21 days of receiving this Notice, you fail to respond by paying the civil penalty, requesting a hearing, or seeking a reduction of the civil penalty, LRAPA will issue a Final Default Order. If LRAPA issues a Final Default Order, you must pay that Order within 10 days of receiving it. The Final Default Order constitutes a judgement and failure to pay the Final Default Order within 10 days of its receipt will result in LRAPA recording the order with Lane County Clerk in accordance with ORS 183.745(6).

**Final Order:** If the civil penalty is not paid within ten (10) days of the date of service/receipt of the Final Default Order, it constitutes a judgment and will be filed, as such, with the Lane County Clerk, as provided in ORS 468.135.

Date of Mailing: 3/15/05

  
Sharon K. Banks, Acting Interim Director  
Lane Regional Air Pollution Authority