



## **Noise Variance / Permit**

**Application #:** 2843723  
**Applicant:** SCOTT THIBERT  
**Organization:** JAMES W FOWLER COMPANY  
**Activity:** MICROTUNNELING & CONSTRUCTION OF SHAFTS  
**Event Location:** BALCH CONSOLIDATION CONDUIT, SHAFTS & PIPELINES PROJECT  
BY BUREAU OF ENVIRONMENTAL SERVICES  
**Date(s):** MAY 1, 2009 through APRIL 30, 2010  
**Hours:** 24 HRS/DAY for some activities

Application for the above has been reviewed by the Noise Control Officer, City of Portland

### **FINDINGS:**

1. Within the scope of this variance, noise levels are not expected to be injurious at residential receivers. They are expected to be audible and intermittently intrusive.
2. The variance shall apply specifically to the activities as described by the applicant to the Noise Control Officer in the application. Any additional activities shall require clearance from the Noise Office prior to commencing with the work activities.
3. The project is located in areas that are primarily Industrial and Commercial zoning. However, there are sufficient lines of sight to a number of residential locations at several of the shafts. The direct line of sight and distance to any neighbors will have impact on residential use locations.
4. Extending the hours of construction is requested to facilitate timely completion of the work.
5. This variance is only for the duration from May 1, 2009 through May 1, 2010. The project is anticipated to be longer in duration. As this particular variance has been handled administratively by the Noise Control Officer, only one year may be applied to the variances time frame. Any additional dates will require an application for the additional time period and not merely an extension of this permit.

## **DECISION:**

### **The Variance was approved with the following conditions:**

The following variance conditions will be used to mitigate significant noise impacts during nighttime construction on this administratively reviewed variance:

1. This variance is only for the duration from May 1, 2009 through May 1, 2010. The project is anticipated to be longer in duration than this first variances period..
2. Construction from 6 p.m. to 11 p.m. each night shall not exceed 68 dBA (hourly) Leq, Construction from 11 p.m. to 7 a.m. shall not exceed 65 dBA (hourly) Leq. Sound level for compliance with the above variances decibel level standards shall be measured at the closest or most notable noise impacted residential receiver. For resolution of complaints for commercial or industrial neighbors, the permittee shall follow any abatement plans formulated by the Noise Control Officer. Construction on Sundays from 7 a.m. to 6 p.m. shall not exceed 65 dBA (hourly) Leq at the closest residential receiver.
3. The contractor will be required to provide noise level data for each piece of equipment to be used on the project upon request from the Noise Control Office. Noise created by truck movement will not exceed the established vehicle standards found in Oregon Administrative Rules Chapter 340, Division 35. Noise assessment must be appropriate for each class of vehicle in accordance with standard DEQ measurement procedures. If equipment does not meet standards, the contractor will be required to retrofit and maintain the equipment to DEQ standards.
4. All equipment used shall have sound control devices no less effective than those provided on the original equipment. No equipment shall have an unmuffled exhaust.
5. All haul trucks will meet or exceed the standards outlined in Chapter 34, Section 35 of the Oregon Administrative Rules, Oregon Department of Environmental Quality (ODEQ), April 1983.
6. All equipment shall comply with pertinent equipment noise standards of the U.S. Environmental Protection Agency.
7. The contractor shall use "smart alarms" or a "spotter" instead of standard reverse signal alarms between 6:00 p.m. to 10:00 p.m. A "guide person" or "spotter" shall be used for equipment backup between 10:00 p.m. to 7:00 a.m, and throughout the day on Sundays.
8. The contractor will be directed to install temporary or portable barriers around stationary construction noise sources should a specific noise impact complaint occur.
9. The contractor will have portable noise meters on the job during night work activities for noise level spot checks on specific operations.

10. The Project Manager shall insure compliance with any and all noise variance conditions. The Project Manager will insure compliance with the noise abatement requirements and mediate any infractions of those requirements if they should occur. In addition, the Project Manager will employ an individual trained to use a portable noise meter and with working knowledge of sound measurements and their meaning and use as applied to the variance. Complaints will be investigated to determine if there is a violation, and if so determined, the contractor will commence mitigation.
11. The Project will notify the City's Noise Control Officer of any and all complaints within a 24-hour period.
12. There will be a 24 hour telephone response line (in addition to the Construction Information line) available to the nearest receptors. The Project Manager will insure compliance with the noise abatement requirements, and remediate any infractions of those requirements if they should occur. In addition, the contractor will employ an individual trained to use the noise meter and with working knowledge of sound measurements and their meaning and use as applied to any variance given by the local jurisdiction. Complaints will be investigated by the on site ODOT or contractor supervisor working that night. Complaints will be investigated and addressed within 24 hours or before the next scheduled night work. If such sound levels cannot be mitigated within one week, the local jurisdiction will be contacted and a plan of action outlined. It is understood that if the jurisdiction deems the plan to be inadequate, the variance may be revoked.
13. No pile driving or blasting operations between the hours of 9:30 p.m. and 7 a.m., Monday through Saturday or on Sunday at any time.
14. The Project shall maintain a log of variance nights for each work location and work activity.
15. Quarterly meetings will be scheduled with the Noise Control Office to review the project and any collected data that has not been reviewed by City of Portland. The meetings will allow a direct line of communication on how the variance has been proceeding. The Noise Office will review the general parameters of complaints that the City has received at these meetings, if ODOT has not already been apprised of the community concerns.
16. Monitoring of each type of work activity will be taken with an approved monitoring device approved by the Noise Control Officer at each of the site locations and for each activity.
17. The Project shall notify the Noise Control Officer about the site locations to be monitored.

**APPROVED SOUND LEVEL INFORMATION:**

- All Leq levels are based on an hourly Leq measurement, taken with a FAST meter response, and an A weighting.

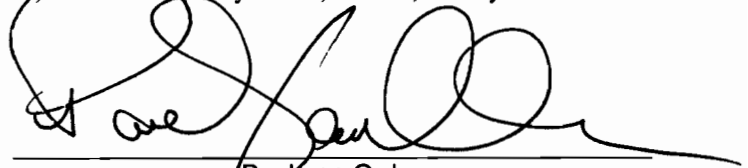
- **Ambient refers to the hourly Leq level recorded by ODOT's acoustical consultant prior to any construction work in each area, or when there is a break in work activities. It is not the average hourly Leq for the entire evening.**
- **All decibel limits are as measured at the closest residential receiver or any other impacted neighbor that is a logical place to record the impact of the construction work.**

**The applicant understands that this variance is subject to review upon complaint. The Noise Control Officer may modify conditions to resolve community impact from noise emanating from the project.**

**This decision becomes effective on April 8, 2009.**

APPEAL PROCEDURES: PCC Section 18.14.020 (i) states that "A variance decision of the Noise Control Officer or the Noise Review Board may be appealed to the City Council as follows: (1) A variance decision may be appealed by the applicant, his legal representative, or by any person who has submitted oral or written testimony on the application. (2) Notice of intent to appeal shall be submitted in writing to the City Auditor's Office within 10 day of the effective date of the decision. The notice shall identify the decision that is being appealed, and shall include the appellant's name, address and signature, phone number, relationship to the variance decision action, and a clear statement of the specific reason(s) for the appeal including alleged misapplication of City Codes. (3) Upon receipt of such appeal, the Auditor shall then place the matter upon the Calendar of the City Council. At the time of hearing, the City Council may consider such new matters as it deems appropriate, as well as the record developed before the Noise Control Officer or the Noise Review Board, and thereafter may affirm, reverse, modify or remand the decision."

**Date:** April 08, 2009



Paul van Orden  
Noise Control Officer  
City of Portland