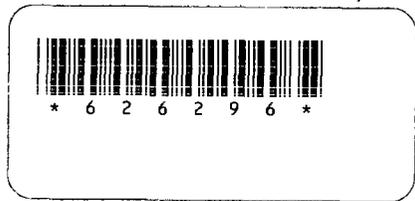


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NOTICE TO PARTIES OF RECORD

PROJECT NAME: Daybreak Mine Remand Final Order

**CASE NUMBERS: REZ98-011; CUP2004-00002; SPR98-034; SHL99-001;
SHL2000-00009; HCG98-179; WTP98-038; SE98-098**

The attached decision of the Land Use Hearing Examiner will become final and conclusive unless a written appeal therefrom is filed with the Board of Clark County Commissioners, 6th floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington, no later than 5:00 p.m. on, **June 22, 2005** (14 calendar days after written notice of the decision is mailed).

The Hearing Examiner's procedural SEPA decision is final and not appealable to the Board of County Commissioners.

All other appeals must be written and must contain the case number designated by the County and the name of the applicant; the name and signature of each petitioner for the appeal and a statement showing that each petitioner is entitled to file the appeal as an interested party in accordance with CCC 40.510.030(H); the specific aspect(s) of the decision being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error; accompanied by a fee of **\$286**. The fee shall be refunded if the appeal is withdrawn in writing by the petitioner at least 15 calendar days before the public meeting to consider the appeal.

The Board of Commissioners shall hear appeals of decisions on the record, including all materials received in evidence at any previous stage of the review, an audio or audio/visual tape of the prior hearing(s) or transcript of the hearing(s) certified as accurate and complete, the final order being appealed, and argument by the parties. No new evidence will be accepted.

The Board may either decide the appeal at the designated meeting or continue the matter to a limited hearing for receipt of oral argument. If so continued, the Board of Commissioners shall designate the parties or their representatives to present argument, and the permissible length thereof, in a manner calculated to afford a fair hearing of the issues specified by the Board of Commissioners. At the conclusion of its public meeting or limited hearing for receipt of oral legal argument, the Board of Commissioners may affirm, reverse, modify or remand an appealed decision.

Mailed on: **June 8, 2005**

EXHIBIT #

738

Project Name: Daybreak Mine Remand
Project Numbers:
REZ98-011; CUP2004-00002; SPR98-034; SHL99-
001; SHL2000-00009; HCG98-179; WTP98-038;
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**BEFORE THE LAND USE HEARINGS EXAMINER
FOR CLARK COUNTY, WASHINGTON**

In the matter of a Type III development application and environmental review for a rezone of approximately 100 acres of Agriculture 20 (AG-20) land to apply the Surface Mining Combining District (AG-20-S), site plan review, habitat, wetland and shoreline permit approvals for an expansion of an existing surface mining operation onto 178 acres of an approximately 292-acre site in unincorporated Clark County, Washington.

**FINAL ORDER
Following Remand**

Storedahl – Daybreak Mine

**REZ98-011; CUP2004-00002;
SPR98-034; SHL99-001;
SHL2000-00009; HCG98-179;
WTP98-038; SE98-098**

I. Summary:

This Order is the decision of the Clark County Land Use Hearings Examiner following remand from the Board of County Commissioners verifying the existence, nature and extent of the applicant's nonconforming use right to operate a surface mine at the Daybreak Mine site in unincorporated Clark County. This decision is intended to augment the final decision issued by the Clark County Board of Commissioners in this matter on February 22, 2005 (Exs. 701 & 711) in which the Board denied the applicant's proposed zone change to apply the surface mining overlay to approximately 100 acres of Agriculture 20 (AG-20) zoned land. The Board affirmed the Examiner's approval of the requested site plan, conditional use, habitat, wetland and shoreline permits for the expansion of an existing surface mining operation onto 178 acres of an approximately 292-acre site (REZ98-011; CUP2004-00002; SPR98-034; SHL99-001; SHL2000-00009; HCG98-179; WTP98-038; SE98-098).

II. Introduction to the Property and Application:

Applicant J.L. Storedahl & Sons, Inc.
2233 Talley Way
Kelso, WA 98626

Owner..... Storedahl Properties, LLC
2233 Talley Way
Kelso, WA 98626

Contact Skip Urling
Ecological Land Services, Inc.
1157 3rd Avenue, Suite 220
Longview, WA 98632

Property Legal Description: Parcel Numbers 212114, 212163, 214676,
225005, 225047, 225053, 225054, 225167, 225169, 225173.
Street Address: 27140 NE 61st Avenue, Battle Ground, WA.

Applicable Laws RCW 90.58, WAC 173-27 and Clark County Code (CCC) Chapters 12.05 (Transportation), 12.40 (Concurrency), 13.25 (Stormwater Drainage), 13.27 (Erosion Control), 13.39 (Wetlands Protection), 13.51 (Habitat Conservation), 15.12 (Fire Code), 18.302 (Agriculture and Forest Districts), 18.329 (Surface Mining Overlay), 18.402A (Site Plan Review), 18.503 (Rezone), 20.50 (SEPA), 40.520 (Conditional Use Permits), Clark county Shoreline Master Program.

III. Summary of the Remand Proceeding and Record:

This matter comes before the Examiner on remand from the Board of Commissioners with the following instruction (Ex. 701):

"The matter is remanded to the Hearings Examiner for the sole purpose of determining whether or not the extent and scope of the nonconforming use rights are consistent with the terms of this resolution. Matters tried and resolved in this decision are not at issue on remand and may be subject to appeal under LUPA once the remand issue is resolved."

Following issuance of the Board's remand order (Resolution No. 2005-02-14) on February 22, 2005, the County issued notice of the limited scope of remand and a March 29, 2005 hearing (Exs. 702, 703 & 706). The Examiner sent a letter to representatives for the primary parties seeking responses to specific questions in addition to a general response to the Board's remand (Ex. 704). Staff issued a general report on the remand issue and made no substantive recommendation (Ex. 709). The primary parties, *i.e.*, the applicant, Fish First, Friends of the East Fork and Scott Rose, submitted various memos and documentary evidence at or just before the March 29th hearing (Exs. 706, 707, 708, 710, 712, 714 & 715).

At the commencement of the March 29, 2005 hearing, the Examiner explained the procedure and disclaimed any ex parte contacts, bias, or conflict of interest. No one objected to the County's notice or procedure. No one raised any procedural objections or challenged the Examiner's ability to decide the matter impartially, or otherwise challenged the Examiner's jurisdiction. At the hearing, Josh Warner, County planning staff on the project, provided a verbal summary of the history and procedure of these consolidated applications, described the Board's decision and explained the scope of the remand. Richard Lowry, Chief Civil Deputy Prosecuting Attorney, was present to describe the legal status of the County's 1996 nonconforming use verification decision (Ex. 40) and the legal effect of the zoning amendments adopted by the Board of Commissioners during the time relevant to this application.

The applicant was represented by attorneys Alexander Mackie, of Perkins Coie, and John Dentler, as well as Tom Grindeland, a hydrology engineer with West Consultants, Inc. Opponents, Fish First and Friends of the East Fork, were represented by attorneys Svend Brandt-Erichsen, of Heller Ehrman, and David McDonald. Opponent Scott Rose did not testify but submitted written materials (Exs. 710 & 721). No party requested a continuance or additional opportunities for oral argument; however, in light of the new materials submitted at the hearing, the Examiner kept open the record for all parties according to the following schedule:

April 12th Any new evidence and argument by any party, plus a transcript of the March 29, 2005 hearing (Exs. 719, 720, 721 & 722);

April 26th Both parties respond to new evidence submitted by the other party (Exs. 724 & 725);

May 3rd Final closing argument (Exs. 726 & 727).

In the midst of this schedule, the Examiner asked staff to provide additional information on the history of land use regulations adopted by the County applicable to the Daybreak site during the relevant period of mining activity (Ex. 717) to which staff responded (Ex. 723). The record closed on May 3, 2005.

IV. History of Mining Use and Restrictive Zoning at the Daybreak Site:

A nonconforming use ("NCU") inquiry is necessarily fact-intensive. The history of mining activities at the Daybreak site was chronicled for the County in 1995 (Ex. 30) and summarized by the applicant in several additional documents during this remand proceeding (Exs. 712, 713, 719 & 724). Based upon the 1995 chronology, the County issued a determination of nonconforming use in 1996 through an administrative process (Ex. 40), which was subsequently appealed to the Hearings Examiner. Apparently no final decision was ever produced from that appeal, and the decision has "since remained entirely dormant" (Ex. 707). The 1996 decision specifically provides that "This Order shall become final unless no later than ten (10) days after the notice and order are served, a person aggrieved by the order requests in writing an appeal before the hearings examiner." As such, the timely appeals that were filed rendered the 1996 decision "non-final" – a status it retains to this day. As a matter of law, therefore, the County's 1996 nonconforming use verification is not final or legally binding – a status that all parties to this proceeding appear to concede (Exs. 707, 712 & 715).

All parties appear to agree that surface mining began at the Daybreak site by 1968, the same time the Woodside family purchased the first 309 acres of the property. According to the applicant's chronology (Ex. 712), the property was zoned F-X in 1968 – a designation that allowed mining as a use allowed outright. This basic situation is confirmed by staff (Ex. 723) and the County's prior nonconforming use determination (Ex. 40). The applicant claims that, by 1971, the Woodsides had established mining and basic processing on the property, and in 1972 acquired another 40 acres north and west of Bennett Road for a total of about 350 acres. The County adopted a new zoning text in 1973 and, with that code, changed the range of uses allowed in the F-X zone to no longer allow surface mining (Ex. 723). After 1973, the only uses allowed in the F-X zone were residential, agriculture, parks and home occupations. In a somewhat ambiguous statement, the 1973 code said the following about preexisting uses in the zone:

"All uses in existence and occurring on a specific parcel of land which legally qualified as 'permitted uses' under provisions of the former F-X Rural Use Zone shall continue as conforming uses after the effective date of the ordinance codified herein and for the duration of this interim measure, but in no case shall any use be allowed to expand into adjoining or contiguous property without an approved zone change."

§18.30.070 of the 1973 code (Ex. 716).

While the 1973 code referred to preexisting uses that were no longer allowed as "conforming," the text of the code clearly prohibited new uses, such as surface mines, that were no longer allowed, and prohibited the expansion of those that already existed. Despite the "conforming" label, the 1973 code rendered the Daybreak mine operation nonconforming. The next significant zone change came in 1980 when the County rezoned the entire Daybreak site Agriculture (AG), and applied a surface mining combining district (S) to approximately 270 acres west of Bennett Road (Ex. 712, tab 15 and Ex. 30, tab A). Surface mining was not an allowed use in the AG zone, except with the S overlay. Finally, the County adopted a comprehensive plan amendment in 1995 prohibiting surface mining within the 100-year floodplain. At the same time, the County removed the S overlay from those portions of the Daybreak site within the 100-year floodplain.

The Washington Legislature passed the Shoreline Management Act in 1971 (RCW chapter 90.58), which became effective June 1, 1971. Clark County implemented this authority by adopting its first Shoreline Management Program in August 1974, including a designation of "stream shorelines" and floodplains subject to the program's requirements, which DOE approved on December 18, 1974. See WAC 173-22-040(2)(a). The County's Shoreline Management Program apparently designated portions of the EFLR as "stream shorelines" subject to the program and designated surface mining as a conditionally allowed use.

The state adopted the Surface Mining Act (RCW chapter 78.44), effective January 1971, and the Daybreak mine site was apparently one of the first mining permits issued under the new program (Ex. 30, tab D). While there was some confusion in the application about what property was involved, all parties appear to agree that the mining permit that was eventually issued by the DNR in 1979 covered 71 acres of the site. The permit includes extraction, screening and crushing, but makes no mention of processing material imported from off-site.

The question arose in the mid 1970s as to whether mining at the Daybreak site required one of the new shoreline permits. Right or wrong, the County took the position on July 15, 1975 that no shoreline permit was required for increased mining activities within the then-existing pit covered by the then-existing DNR permit and reclamation plan (Ex. 30, tab E, p 4, see also Ex. 40, p 6). The site appears to have been operated for approximately the next 12 years by the Woodsides, Edwards, Zimmerly and Daybreak Rock until the Storedahl family took over operation of the site and sought to acquire the mining permit in 1987. The record contains extensive correspondence between the DNR and various interests in the mine from 1987 to 1989 regarding the permit transfer (Ex. 30, tab E). These letters clearly state that a revised reclamation plan would be required to expand beyond the originally permitted 71-acre mine site, and that may trigger additional permit requirements and procedures by Clark County under SEPA and its Shoreline Management Program. However, there is no indication during this period that the County or any state agency regarded the operation as unlawful and none initiated any sort of enforcement action.

The permit transfer process appears to have concluded in November 1990 with DNR's approval of a revised mining permit (Permit No. 10139) for "all lands owned by [the Woodsides] in Sections 13, 18, 19, 24, Township 4 North, Range 1-2 East, WM stated in the permit issued in 1971" (Ex. 30, tab E, pp 28-29). Once this occurred, Clark

County took the position on January 22, 1991 for the first time that the mining operation would require a shoreline permit (Ex. 30, tab E, pp 33-35). The operator's attorney objected (Ex. 30, tab E, pp 36-37), but the County stood firm in its requirement that further mining activity would require a shoreline permit and probably a full environmental impact statement under SEPA (Ex. 30, tab E, pp 38-41). This position caused DOE to find a possible shoreline violation as of February 22, 1991 (Ex. 30, tab E, p 42). Because its position was a reversal from previous recommendations that no shoreline permit would be required, Clark County indicated to the operator and other state agencies that no enforcement action would occur until the operator had the opportunity to submit a permit application (Ex. 30, tab E, pp 38-39 & 43). Storedahl submitted an application to Clark County on May 14, 1991 (Ex. 30, tab D, pp 25-27) for surface mining and shoreline permits covering the entire property, including the floodplain. As predicted, a full EIS was required, and the applicant indicates that work on the EIS progressed slowly from 1991 to 1995.

From approximately 1995 to early 2004, it appears that the Storedahl family did not extract rock or sand from the site but instead processed material at the Daybreak mine imported from off-site (Ex. 712, p 13). The present suite of land use applications was submitted to the County in 1997 and 1998¹ and, after a protracted public process, the Examiner approved them on November 4, 2004 (Ex. 711). On appeal, the Board of Commissioners affirmed the permit approvals and reversed the Examiner on the zone change request as not being in the public interest, thus denying the rezone. Concurrent with the local land use applications, the operator and property owner pursued approval of an incidental take permit (ITP) and habitat conservation plan (HCP) from NOAA Fisheries and the U.S. Fish and Wildlife Service. The importance of the ITP is that it provides protection from prosecution for take under the federal Endangered Species Act in the event any listed fish species is killed as a result of the expanded mine operation. The ITP was approved by the U.S. Fish and Wildlife Service on April 16, 2004 (Ex. 415) and by NOAA Fisheries on April 15, 2004 (Ex. 410) based upon the applicant's Final HCP (Ex. 276) and the Services' favorable Biological Opinions (Exs. 414 & 439).

V. Applicable Nonconforming Use Law:

A nonconforming use right is a vested property right and accrues when a use is lawfully established and in existence at the time restrictive zoning is imposed. *Rhod-A-Zalea & 35th, Inc. v. Snohomish County*, 136 Wn.2d 1, 6, 959 P.2d 1024 (1998). Restrictive zoning could take the form of an outright prohibition, or simply a revision that requires a permit or other regulatory process short of prohibition. The critical calculus for NCU involves a determination of the lawful establishment and then the nature and extent of the NCU that has been retained over time to the present. Normally, NCUs, once established, must be maintained continuously without gaps or lapses in order to preserve the vested right. NCUs typically may be repaired and replaced but not expanded or altered to another use. Once a NCU is established, the use may be intensified so long as the fundamental nature of the use is not expanded or otherwise

¹ These permit applications for County approvals include wetland and habitat (WTP98-038 & HCG98-179), shoreline (SHL99-01 & SHL2000-00009), site plan review (SPR98-034), and conditional use (CUP2004-00002). The Board of Commissioners affirmed the Examiner's approval of all of these permits. Storedahl also applied for a rezone (REZ98-011), which the Examiner approved, and the Board reversed the Examiner's decision on that application.

changed. Secondary uses that are normal and accessory to the primary use are also allowed within the scope of the NCU. In sum, the verification of NCUs is not an easy task, but is fact intensive and requires detailed records covering sometimes a long stretch of time in order to precisely determining the nature and extent of the claimed nonconforming use. The proponent of the NCU has the burden of proving with substantial evidence in the record all of the elements, *i.e.*, the lawful establishment, existence at the time restrictive zoning is imposed and the nature and extent that has been continuously retained over time. *State ex rel. Lige & Wm. B. Dickson Co. v. Pierce County*, 65 Wn.App. 614, 829 P.2d 217, *rev. denied*, 120 Wn.2d 1008 (1992).

Nonconforming surface mines under Washington law, however, are treated somewhat differently than other nonconforming uses in several important respects. First, in order for NCUs to retain their vested status, they must be operated continuously without lapses or gaps or the NCU status and right is lost. Local codes typically dictate the maximum lapse period or period of discontinuation, after which the operator is assumed to have abandoned the use, and the NCU right is lost. Washington law provides that, once the existence of a NCU is established, the burden of proving abandonment shifts to the party claiming that the use has been abandoned. A high burden of proof is necessarily required in light of the potential loss of a protected and valuable property right. According to the standard treatise on municipal law:

The abandonment of a nonconforming use ordinarily depends upon a concurrence of two factors: (a) An intention to abandon; and (b) an overt act, or failure to act, which carries the implication that the owner does not claim or retain any interest in the right to the nonconforming use.

8A E. McQuillin, *Municipal Corporations* § 25.191, *see Van Sant v. City of Everett*, 69 Wn.App. 641, 649, 849 P.2d 1276 (1993).

Washington courts have not subscribed to the notion that mere lapses in use are evidence of an intention to abandon an otherwise vested NCU. In fact, Washington Courts take the opposite view, *i.e.*, "the mere temporary cessation of a nonconforming use does not effect an abandonment or discontinuance of that use." *Andrew v. King County*, 21 Wash.App. 566, 571, 586 P.2d 509 (1978), *rev. denied* 91 Wash.2d 1023 (1979). Similarly:

Many cases recognize the rule that a temporary cessation of business or discontinuance of a nonconforming use due to war conditions, or other causes over which the owner or operator has no control, do not constitute a discontinuance or abandonment within the meaning of zoning laws or ordinances; also, that discontinuance or abandonment depends upon the intention of the party affected, and the time element is merely evidential of such intention.

King County v. High, 36 Wn.2d 580, 582-83, 219 P.2d 118 (1950).

Also, where other sorts of licenses or permits are required and the NCU operator fails to obtain those licenses and permits, that omission may be deemed evidence of abandonment of the NCU right. *Van Sant v. City of Everett*, *supra*, 69 Wn.App. at 652-54.

The Examiner views this doctrine to be particularly significant for nonconforming gravel mines, which have a certain periodic nature and, unlike other types of nonconforming commercial uses, are not normally operated on a continuous basis. The nature of the gravel mining business involves periods of many months and sometimes years when there is little or even no extraction or processing activity. When weighed against vested property rights, such lapses cannot be deemed evidence of abandonment, and the Examiner will not assume the termination or curtailment of the NCU right simply because of lapses or gaps in use. This finding is consistent with holdings of the Washington Supreme Court:

"a temporary cessation of business or discontinuance of a nonconforming use due to war conditions, or other causes over which the owner or operator has no control, do not constitute a discontinuance or abandonment within the meaning of zoning laws or ordinances; also, that discontinuance or abandonment depends upon the intention of the party affected, and the time element is merely evidential of such intention."

King County v. High, 36 Wn.2d 580, 582, 219 P.2d 118 (1950).

This holding is consistent with the conclusion reached by other state courts dealing with periodic or sporadically operated NCUs:

[Q]uarry operations are by their nature sporadic, and a discontinuance or abandonment cannot be inferred from the mere fact blasting and crushing cease * * *, or from fluctuations in the volume of extractions or sales.

* * *

Here, ... rock was continuously stockpiled on the land, sales were made from time to time, and rock was quarried and crushed from time to time. As observed by the trial court, " * * * the product was always available and always being offered for sale." The Court of Appeals expressly found that there was no abandonment, and its opinion indicates that the court believed that "the fluctuations in production * * * are explained by the nature of his business," and that there was no interruption of use, either before or after the zoning ordinance became effective. ... The land had been used in the same manner for over 30 years. There was continuous use in the sense that stockpiling existed and the owner had committed the property to that use. Even though the sales were not substantial, rock was available for sale and sales were periodically made. The same is true of the quarrying. There was no interruption of the use ...

Polk County v. Martin, 292 Or 69, 76, 78, 636 P2d 960 (1981).²

² Other jurisdictions have permitted nonconforming uses when the prior use was sporadic or intermittent; and even when the prior use entirely ceased from time to time. See *Landay v. Zoning Appeals Board*, 173 Md 460, 196 A 293 (1938) (junk shop empty and unused for several years prior to enactment of zoning ordinance); *Borough of Saddle River v. Bobinski*, 108 NJ Super 6, 259 A2d 727 (1969) (stabling of horses permitted in barn even though the barn was not used for any purpose for 27 years); *Peacock Twp v. Panetta*, 81 Mich App 733, 265 NW2d 810, 813 (1978) (intermittent use for camping held to authorize use " * * * in accordance with their past

The second unique aspect of nonconforming gravel quarries relates to how one measures the extent of the resource and the so-called doctrine of diminishing assets adopted by the Washington Supreme Court in *City of University Place v. McGuire*, 144 Wn.2d 640, 30 P.3d 453 (2001). Prior to *McGuire*, there was a split of opinion as to how to quantify the nature and extent of gravel quarries. One school held that the open pit area was the maximum measure of the quarry's extent, and the other school held that the extent of the mineral resource existing on the site *in situ* at the time the mine became nonconforming defined the maximum permissible extent of the nonconforming mine. In *McGuire*, the Supreme Court embraced the later view, holding that:

Most courts that have considered the proper scope of a legal nonconforming mining activity have adopted the diminishing asset doctrine to protect the owner's expectation for the use of the land which otherwise would be severely disrupted by a later enacted zoning system. It can be seen as either an exception to the general principle that a nonconforming use will be restricted to its original site or as a substantive adaptation of the nonconforming use doctrine to recognize the realities of extractive industries. ... The very nature and use of an extractive business contemplates the continuance of such use of the entire parcel of land as a whole, without limitation or restriction to the immediate area excavated at the time the ordinance was passed. A mineral extractive operation is susceptible of use and has value only in the place where the resources are found, and once the minerals are extracted it cannot again be used for that purpose. "Quarry property is generally a one-use property. The rock must be quarried at the site where it exists, or not at all. An absolute prohibition, therefore, practically amounts to a taking of the property since it denies the owner the right to engage in the only business for which the land is fitted." * * *

The proper scope of a lawful nonconforming use in an exhaustible resource is the whole parcel of land owned and intended to be used by the owner at the time the zoning ordinance was promulgated. We therefore adopt the doctrine of diminishing asset to determine the lawful scope of the nonconforming use in mining operations. We note that potential damage to zoning schemes may be ameliorated through reasonable amortization periods. We also conclude that Holroyd had a legal nonconforming use and had a right to mine gravel from the entire acreage, based on the hearing examiner's findings. Holroyd's right vested in his successor, McGuire. The hearing examiner properly found the entire parcel of land could be mined under the diminishing asset doctrine.

McGuire, 144 Wn.2d at 650-52, quoting with approval, *Hansen Bros. Enters., Inc. v. Bd. of Supervisors*, 12 Cal.4th 533, 907 P.2d 1324, 1336-37, 48 Cal.Rptr.2d 778 (1996).

practices as a prior nonconforming use"); *Civic Association v. Horowitz*, 318 Mich 333, 28 NW2d 97 (1947) (prior use of property for carnival gave rise to permitted nonconforming use even though prior use was seasonal).

A final legal issue merits discussion. Division 2 of the Court of Appeals recently decided a nonconforming use case in *East County Reclamation Co. v. Bjornsen*, 125 Wn.App. 432, 105 P.3d 94 (2005), in which a solid waste facility with NCU rights applied for permits to up-grade and expand its operation. Two aspects of the Court's decision are relevant for Storedahl. First, the Court reaffirmed Washington's strict vested rights doctrine, based on RCW 58.17.033 and expanded by *Friends of the Law v. King County*, 123 Wn.2d 518, 522, 869 P.2d 1056 (1994) and *Noble Manor Co. v. Pierce County*, 133 Wn.2d 269, 275 943 P.2d 1378 (1997). The vested rights doctrine, however, is a 2-way street in that, if the doctrine applies and precludes the application of later-adopted land use regulations that are more restrictive it also precludes application of later-adopted land use regulations that are favorable to the developer.

Second, the *Bjornsen* Court held that the holder of vested rights cannot selectively retain certain elements of its vested right and expand other aspects of its operation under current code and permitting requirements. In effect, the Court held that vested rights are an all or nothing proposition and that a NCU either operates entirely within the limits of its vested right or, if it wishes to expand, change or alter the operation, it must obtain permits for the entire operation and bring the entire operation into compliance with current zoning. This holding is relevant to the present case because the Board of Commissioners has approved for this applicant certain permits to expand its mining operation while denying its zone change request, thus forcing Storedahl to prove-up its NCU right to operate a surface mine. As explained at the end of this decision, this situation may be contrary to the holding in *Bjornsen* by creating a hybrid vested NCU and new permit situation for this applicant.

VI. Discussion and Findings:

A. Lawful Establishment and When Did the Mine Become Nonconforming:

The first step in a NCU verification is to determine if the applicant has met its burden of demonstrating that the use was lawfully established and in existence at the time restrictive zoning was first imposed. This inquiry relates to what was happening on the land, the operator's apparent objectives for the mine, notwithstanding the operating area, and what the local code allowed. A critical question is at what point in time was restrictive zoning first imposed, thus converting a lawful use into a nonconforming one?

As with many surface mines, the Daybreak site has been an open pit mine for many decades. It appears to be undisputed that mining started on the site sometime before 1968 (Ex. 712), long before county zoning regulated or prohibited this activity. During that period prior to restrictive zoning, mining appears to have been limited to the 71-acre parcel owned by the Woodside family. During this period, the property was zoned F-X (Rural Use Zone) which the following language indicates allowed virtually every sort of use:

"In all F-X zones all uses are permitted; except those uses authorized in the M-H zone as defined in Chapter 18.28 shall not be carried on within the F-X zone districts." (Ex. 716)

Restrictive zoning appears to have been imposed for the first time with the adoption of the 1973 code in August of that year, which significantly limited the range of allowed uses in the zone to now exclude surface mining, *i.e.*, surface mining is no longer a use allowed outright. See §18.30.010 (permitted uses) of the 1973 code (Ex. 723).

The Examiner reaches this conclusion despite the following anomalous language in the 1973 code regarding preexisting uses in the F-X zone:

"All uses in existence and occurring on a specific parcel of land which legally qualified as 'permitted uses' under provisions of the former F-X Rural Use Zone shall continue as conforming uses after the effective date of the ordinance codified herein and for the duration of this interim measure, but in no case shall any use be allowed to expand into adjoining or contiguous property without an approved zone change."

§18.30.070 of the 1973 code (Ex. 716).

The parties and the County's attorney emphasize the use of the expression "conforming uses" in this code section. However, the rest of the section clearly comports with the common law notion of a nonconforming use. The Examiner finds that, regardless of the term used in the code, restrictive zoning is first imposed on mining operations in the County's F-X zone with the adoption of this code in August 1973 because the use is no longer allowed outright in the F-X zone, and existing mines are not allowed to expand. For purposes of this decision, therefore, the Examiner finds that the Daybreak mine became nonconforming in August 1973. This leads to two related questions: What was the nature and extent of the mine operation at the time it became nonconforming, and was it lawful at that point in time?

B. Nature and Extent of the Use at the Time of Nonconformity: The doctrine of diminishing assets provides that the scope of a NCU right to extract an exhaustible resource is "the *whole* parcel of land owned and intended to be used by the owner at the time the zoning ordinance was promulgated." *McGuire*, 144 Wn.2d at 651. Even though the extent of the original mining operation was 71 acres, the doctrine requires a broad interpretation as to the operator's mining intentions, and as a consequence, a broad view of the original extent of the mineral resource prior to the imposition of restrictive zoning. It is not clear from the record what the volume of production at the Daybreak mine site was in 1973, but it appears to have been less than 10,000 cy per year. Customarily, the extent of an NCU is fixed at the time the use becomes nonconforming, and it cannot expand or change from that point forward. However, alterations are allowed pursuant to local regulation, e.g., CCC §40.530.050(B) (changes) and (C) (alterations and expansions). Thus rule is consistent with Washington case law, which prohibits expansions without specific local approval, but allows intensifications over time. *Keller v. City of Bellingham*, 92 Wn.App. 726, 600 P.2d 1276 (1979) (an increase in production capacity of a nonconforming chlor-alkali plant was an intensification, not an expansion). The Clark County Code does not prohibit intensification of a NCU, but subjects proposed changes generally to the following performance criteria:

- a. The proposed new use can be clearly demonstrated to involve equal or lesser adverse impacts to the surrounding area, as it currently exists and as it is likely to develop in the future consistent with the underlying zoning district;
- b. The proposed change in use will involve minimal structural alteration;
- c. The proposed new use will not increase the amount of space occupied by a nonconforming use, except in cases where a legal

nonconforming use proposes to expand within an existing building without structural alteration except as required by law, where such building had been originally designed for such internal expansion of use; and

Given the lack of information by either side about the production volumes from the Daybreak site prior to 1973, it appears that no party anticipated a limitation on volumes at those levels. It appears, however, that during the early 1990s, before the mine stopped all extraction, production volume reached a high of 557,338 tons in 1991-92 (Ex. 712, p 10) – a significant “intensification” above the likely 1973 production level. The Washington Court of Appeals has held that modest increases in production of a nonconforming mine will be viewed as a permissible intensification, but if the increase is so significant as to amount to a change in the nature of the use, the increase will not be allowed without a new approval:

When an increase in volume or intensity of use is of such magnitude as to effect a fundamental change in a nonconforming use, courts may find the change to be proscribed by the ordinance. Intensification is permissible, however, where the nature and character of the use is unchanged and substantially the same facilities are used. The test is whether the intensified use is “different in kind” from the nonconforming use in existence when the zoning ordinance was adopted

Meridian Minerals Co. v. King County, 61 Wn.2d 195, 209-10, 810 P.2d 31 (1991)

The Examiner finds, that the doctrine of diminishing assets allows the mine operator to exploit over time the volume of resource that existed under the property owned at the time the use became nonconforming in August 1973. The measure of the nonconforming use at the time it was first subject to restrictive zoning is the extent of the entire parcel owned by the Woodside family at the time, in other words, the entire 350 acres of contiguous minable land owned by the Woodsides in 1973. (Ex. 712). To a certain extent, the doctrine of diminishing assets also obviates the need to quantify production levels (either as cubic yards or tons) over time or at the moment the use became nonconforming. However, the annual production rate cannot increase above the 1973 production level so significantly as to become a different kind of use based on the impacts to the area, without additional approval under CCC §40.530.050(B) or (C). In this case, however, Storedahl has applied for a site plan, operational design and permits that collectively fulfill these requirements. The Examiner approved those permits and the site plan, and the Board affirmed that decision. Therefore, annual production levels cannot exceed the volumes represented by the applicant and assumed in the HCP.

The applicant’s evidence also documents a relatively small amount of processing associated with the material extracted from the Daybreak site, *i.e.*, crushing, washing, sorting, screening, loading, transporting and the like. There is no evidence of more intensive types of processing, *e.g.*, concrete or asphaltic batching or ready-mix operations.³ Also, the applicant’s evidence does not document that materials were

³ While a small amount of crushing appears to have existed prior to 1973, Storedahl has applied for a conditional use permit for that aspect of the operation. The Examiner approved the permit for crushing in the first decision, and the Board affirmed that portion of the Examiner’s

brought from off-site for processing at the Daybreak site prior to 1973. This is significant because the importation of off-site material for processing presents substantial impacts in terms of transportation on the region's road system as well as crushing, washing, sorting and loading of material. While the applicant has carried its burden of proving existence of extraction and processing at the time the use became nonconforming, it has not proven that the importation of rock and other mined material from off-site for processing at the Daybreak site existed in 1973. Moreover, the Examiner does not view the importation of off-site material for processing as a use accessory to mining at the Daybreak Mine or elsewhere. Most processing of material that is extracted on-site is accessory to a normal surface mining operation, including crushing, washing, screening, sorting, loading, transporting, and the like. However, the importation of material extracted from elsewhere for processing at the Daybreak site is not accessory to the Daybreak mine operation.

In summary, the nature of the use at the date of nonconformity is extraction and processing (at least crushing, washing, screening, sorting, loading, transporting, and the like), and the extent is the 350-acre parcel.⁴ Annual production volumes can increase above the 1973 level up to the annual volumes assumed in Storedahl's HCP. Moreover, the mitigation measures outlined in the HCP must be met in order to mitigate the impacts from this increase in annual production and exploitation of the entire site.

C. The Use's Lawful Status at the Time of Nonconformity: To qualify as a lawful (and vested) NCU, the use had to have been lawful at the time it became nonconforming. The opponents argue that the mine operation was not lawful in 1973 because the then-operator had failed to obtain a shoreline permit or approval of a reclamation plan from the Department of Natural Resources (Exs. 715, 725 & 727). In fact, the opponents assert there has never been an approved shoreline permit for this mine operation or a reclamation plan for more than the original 71-acre mine. These arguments go to the requirement that, in order to be deemed a vested and valid NCU, the use had to have been legal at the time it became nonconforming.

The applicant responds in several ways (Ex. 726). First, the applicant asserts that whether the operation in 1973 qualified as a NCU depends upon the current code's definition of "legal nonconforming use":

"A. Legal Nonconforming. Those uses, structures or lots which in whole or part are not in conformance with current zoning standards, but were legally established at a prior date at which time they were in conformance with the applicable standards. Such uses, structures or lots may be maintained or potentially altered subject to the provisions of this chapter."

CCC 40.530.020A

decision in Resolution 2005-02-14. Under the *Bjornsen* decision, crushing should no longer be part of the NCU evaluation or Storedahl's claimed NCU right.

⁴ The Woodsides sold to Storedahl approximately 300 acres of the mine site in 1995 and retained the approximately 50 acres northwest of Dean Creek. This decision does not determine what, if any, NCU right to mine those 50 acres might remain.

In making this argument, the applicant appears to acknowledge that its predecessor may have been required to obtain a shoreline permit and/or a revised reclamation plan. However, according to the applicant, even if the mine was not strictly legal in all respects, the current code's definition of "legal nonconforming use" requires only that the use have been "legally established at a prior date," not necessarily on the day that restrictive zoning was first imposed and not necessarily at all times in the past. The applicant asserts that the mine operation was lawfully permitted by the Department of Natural Resources in 1971.

With regard to the shoreline permit that was never obtained, the applicant asserts that no agency has initiated an enforcement action against Storedahl or its predecessors in nearly four decades. Therefore, the Examiner should not assume a violation of the shoreline program. Second, the shoreline permit program is not a land use regulation or form of zoning, and the doctrine of nonconforming uses applies only to zoning regulations. Finally, the applicant asserts that the County's shoreline program was not adopted until December 1974, and the County did not designate a 100-year floodplain on the Daybreak property until 1980, long after the 1973 date of nonconformity.

The Examiner is not entirely persuaded by the legal arguments of either side. As a starting point, the applicant's technical argument based upon the specific language of the current code's definition of "legal nonconforming use," is one only a land use lawyer could appreciate. The requirement that the use must be established and lawful at the time restrictive zoning is first imposed is fundamental. The requirement is not so vague as to allow lawful status at some indefinite point in the past, but the point at which restrictive zoning was first imposed, in this case August 1973.

The case law is clear that subsequently adopted health, safety and general welfare regulations and permit requirements may be imposed, and even vested NCU's may have to comply with those new regulations. See *Rhod-A-Zalea & 35th, Inc. v. Snohomish County*, 136 Wn.2d at 18).⁵ In fact, the Shoreline Management Act specifically provides that:

A permit shall not be required for any development on shorelines of the state included within a preliminary or final plat approved by the applicable state agency or local government before April 1, 1971, if:

* * *

The development is completed within two years after June 1, 1971.

RCW 90.58.140(10) (1991 ed.).

Because on-going "developments" such as mines typically are not complete in two years, they were required to obtain a shoreline permit within two years of when the Shoreline Management Act was adopted, *i.e.*, June 1, 1973. That, at least, was the

⁵ It is important to understand that the Court's holding in this regard is based on the specific language of the Snohomish County Code, but it does reflect the local government's authority to impose and enforce such permit requirements.

position of DOE in 1991 with regard to the Daybreak mine (Ex. 30, tab E, pp 50-51). Nonetheless, neither DOE, DNR or the County initiated any enforcement action against Storedahl, who claims to have continued mining and processing at the site until approximately 1995 (Ex. 712, p 10). Storedahl does not claim to have stopped mining at the Daybreak site until 1995, when Clark County issued a stop work order (Ex. 30, tab J, p 13), at which point, Storedahl stopped extraction and switched to processing material imported from off-site (Ex. 712, p 13).

Despite the apparent requirement in the Shoreline Management Act for preexisting mines to obtain a permit within two years (by June 1, 1973), that did not happen, and neither the state nor the County required the operator of the Daybreak Mine to obtain one until 1995. Those actions and omissions, however, do not establish, as a matter of law, that a vested NCU right to mine and process was suddenly terminated. It is significant that there has never been an adjudication that the Daybreak mine site operator was actually in violation of the county or state shoreline permit program. A stop work order is not the functional equivalent of a final adjudication. It is also significant that the County explicitly recognized the "grandfather" rights of surface mines that predated the County's Shoreline Management Program (Ex. 30, tab E, pp 49) and did not require any of them to obtain a shoreline permit (Ex. 30, tab E, p 57). This policy is consistent with the County's having specifically told the operator of the Daybreak mine in July 1975 that no shoreline permit was needed for the "grandfathered" mine operation (Ex. 30, tab E, p 4). When the County finally changed its view of the law and the legal requirements of its own shoreline program (Ex. 30, tab E, pp 33-35 & 38-39), Storedahl applied for the required permits (Ex. 30, tab D, pp 25-27), and, when told to stop mining (Ex. 30, tab J, p 13), it stopped (Ex. 712, p. 13).

At this point, nearly 30 years after the fact, it is not possible for the Examiner to adjudicate a violation that was never identified or pursued at the time by the agencies with primary jurisdiction. Also, given the mixed signals from the County and change in the County's view of its shoreline program, it is not clear that the Daybreak operator was in violation of the County's shoreline permit program. Even if the Examiner could make that legal determination, it appears that the operator detrimentally relied on the County's statements and interpretation of its own program and kept mining the site through 1995 until told to stop. Finally, the documentary evidence in this record is not sufficient to determine what mining activities were occurring on the ground, much less where those activities were located relative to the official shoreline jurisdictional boundary that was designated at the time. At least some aspect of the Daybreak mine operation was lawful throughout the period from 1973 to the present.

The opponents also assert that the shoreline permit requirement came into effect June 1, 1973 (Ex. 715), which appears to predate the County's adoption of restrictive zoning for the F-X zone in August 1973. From this, the opponents argue that the mine operation was unlawful on the date the applicant claims it became nonconforming and cite CCC 40.530.020(B) for the proposition that the use was then, and is still illegal.⁶ Clark County, however, did not adopt its Shoreline Management Program until August 1974, and did not designate 100-year floodplains and other shoreline areas until that

⁶ CCC 40.530.020(B) defines "illegal nonconforming uses" as "[t]hose uses, structures or lots which in whole or part are not in conformance with current zoning standards and were not in conformance with applicable standards at the time of their inception."

time. Also, once the County adopted its own program, the County assumed primary responsibility for implementing the state law. Consequently, as of the date the Examiner finds the mine operation became nonconforming, the County had not yet designated the jurisdictional shoreline areas. Also, as late as July 15, 1975, Clark County was telling the Daybreak mine operator that no shoreline permit was required (Ex. 30, tab E, p 4). From this, the Examiner finds that the mine became a lawful nonconforming use with the adoption of the County's new F-X zoning in August 1973 and did not lose that status for failure to obtain a shoreline permit.

The opponents also assert that the mine operation either was unlawful at the time it supposedly became nonconforming or later became illegal for failure to submit a revised and expanded reclamation plan. According to this argument, the original reclamation plan and mining permit was limited to the original 71 acres and subsequent expansions outside of this area rendered the use illegal and defeated any NCU claim.

Washington's Surface Mining Act became effective in January 1971, and the DNR issued a permit to mine 71-acres of the Daybreak site on January 1, 1971 (Ex. 712). Over the next few years the various entities that operated the Daybreak mine appear to have stayed inside the limits of the 71 acres covered by the reclamation plan. During and after this period, the state agencies (DOE and DNR) were clear that any expansion outside of the 71-acre portion of the property would require a new reclamation plan, as well as other permits. A revised reclamation plan appears to have been approved on November 21, 1990 (Ex. 30, tab E, pp 28-29). At that point, the County required the shoreline permit and an associated SEPA process (Ex. 30, tab E, pp 33-35 & 38-39).

Aside from these communications, there is no evidence in the record indicating that the agencies with primary jurisdiction over mine reclamation plans believed that the Daybreak operator was violating state law. Unlike the shoreline permit issue, Clark County was not and is not vested with any jurisdiction over reclamation plans or mining. Consequently, it is even more difficult for the Examiner, approximately 30 years after the fact, to determine that the Daybreak mine operator was in violation of state law. It is even more difficult for the Examiner to make that call and determine, as a matter of law, that an otherwise vested NCU should be forfeited because of perceived violations of state law that were never actually alleged or adjudicated. Accordingly, based on the record, the Examiner is not able to determine that the mine operator violated Washington's Surface Mining Act or was otherwise lost its lawful status.

D. Did the mine lose its nonconforming status after 1973: The opponents argue that, even if the mine operation had a lawful nonconforming use status, it lost that status over time for failure to obtain a shoreline permit or a revised reclamation plan. These arguments are discussed in the previous section, along with the Examiner's findings on those allegations. One variation on this issue merits mention. The opponents assert that the operator abandoned any NCU right it had acquired by failing to pursue a shoreline permit or revised reclamation plan. The opponents also stated that lapses in mining activity after 1991 and 1995 are sufficient to terminate a NCU right.

To the extent that a shoreline permit or revised reclamation plan was required sometime between 1973 and the present, but the operator simply failed for many years to obtain one, that gap in operation would terminate most nonconforming uses and could

be deemed presumptive evidence of abandonment sufficient to terminate the NCU right. See e.g., CCC §40.530.050(A)(1) which allows only a 6-month lapse before termination of a NCU. There are three reasons why the Examiner does not reach that conclusion in this case involving a nonconforming quarry. First, the cases cited above from Washington and other states recognize the sporadic and periodic nature of mines that accommodates long lapses in uses without necessarily terminating the NCU right. In other words, due to the cyclic nature of quarries, even multi-year lapses in mining operation are not sufficient to establish abandonment and will not be deemed sufficient to terminate an otherwise vested NCU right. Second, Washington law requires evidence of both an intention to abandon and an overt act confirming that intention to abandon an otherwise vested NCU right. *Van Sant v. City of Everett*, supra, 69 Wn.App. at 649. Third, the operator of the Daybreak site initiated the permit application processes in 1991 (Ex. 30, tab D, pp 25-27) and 1995 and has persisted to the present in obtaining approval of these permits. While the process has taken a long time and involved multiple applications, the applicant has been patient and persistent and clearly evidenced its intention to maintain its full NCU right to mine and process.

The burden of proving abandonment is a difficult one and falls to the party asserting that the NCU right has been abandoned. *Van Sant v. City of Everett*, supra, 69 Wn.App. at 649. Combined, the two factors just discussed lead the Examiner to conclude that the opponents have not met their burden of proving abandonment. The periodic nature of the mining business and evidence of the Stordahls' persistence in pursuing the required permits refutes the opponents' abandonment argument. The opponents correctly point out that the failure to obtain required permits and licenses may be deemed evidence of abandonment (Ex. 715, pp 23-27, citing *Van Sant v. City of Everett*, supra, 69 Wn.App. 652-54). However, the Examiner declines to do so, largely because of the exceedingly mixed signals from the County over the years as to whether a shoreline permit was required, the operator's quick response when finally told that a shoreline permit was required, its willingness to stop work at the site when ordered to do so, and its persistence in this multi-year permit proceeding. The Examiner is not inclined to punish the operator for relying upon the County's interpretation of its shoreline program from 1975 to 1991, for applying for a shoreline permit when the County finally reversed itself or for suspending operations in 1995 when ordered to do so by the County. By persisting in this marathon 10+ year permit process, Stordahl has unambiguously shown its intention to protect its right to mine and process rock at the Daybreak site.

E. Is this proceeding barred by laches: As a final argument, the opponents assert that the operator failed to pursue its appeal of the County's 1996 NCU verification decision (Ex. 40) and is therefore barred by the doctrine of laches from asserting a NCU right in this proceeding (Ex. 715, p 27). The Examiner rejects this objection for several reasons. First, the applicable equitable defense is more likely res judicata than laches, with the theory being that the applicant failed to litigate fully issues that were or could have been resolved through the 1996 proceeding. Second, the 1996 NCU verification determined that Stordahl had a nonconforming use, i.e., the County largely found in the operator's favor. Finally, the 1996 decision was appealed, thus invalidating the administrative decision, and the appeal simply was never pursued by any party. The failure to pursue the appeal cannot be placed on the applicant and used to invalidate the County's 1996 decision. In any event, all of the parties appear to agree that the 1996 NCU verification has no legally binding effect, and this decision

supercedes and replaces it. Any party with standing in this proceeding is free to appeal this decision to the Board of Commissioners and beyond.

VII. Conclusion:

In conclusion, the operator obtained a nonconforming use right to operate a surface mine at the Daybreak site when the County amended its code in August 1973 and for the first time imposed regulatory restrictions on surface mining in the F-X zone. That NCU right included extraction and processing (crushing, sorting, screening, washing, loading and transporting) material from the Daybreak site, but did not include processing material from off-site nor batching of any material. Under the doctrine of diminishing assets, the geographic extent of that NCU right included, and still includes, the entire 350 acres owned by the Woodsides. In light of the permits sought and approved for this site Storedahl has the right to increase its annual production volume above the 1973 level so long as it complies with all of the mitigation measures described in the approved HCP.

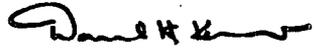
From 1973 on, the various operators maintained the NCU right and it was not lost through lapses in use or the operator's failure to obtain a shoreline permit or an amended reclamation plan. The record also shows, and the Examiner so finds, that the operators of the Daybreak mine site have not been blameless over the years nor have they strictly or consistently complied with state and county laws regulating their operation. The record shows repeated incidents that likely constitute violations. Those failures, however, are not sufficient to defeat or terminate the operator's vested property right to mine and process material at the Daybreak mine site.

In light of this decision, one final issue bears mention. The Board of Commissioners affirmed the Examiner's earlier approval of Storedahl's permits, but denied the rezone request. As originally proposed, the applicant offered to extinguish all NCU claim for the property if it were to receive approval of the consolidated applications. This proposal included full compliance with the HCP and conditions of the ITP as conditions of the County's land use approval. As the Board knows, this appeared to the Examiner, on balance, to be in the long-term best interest of the public because it obtained for the County and the community a high degree of certainty. In other words, approval brought with it full compliance with all measures described in the HCP, termination of all claim to a NCU right, and a maximum 20-year lifespan on the Daybreak mine site, after which all operations would cease.

The Board's denial of the rezone request on the assumption that Storedahl retained a NCU right to operate the mine introduced some uncertainty as to whether the HCP was still required as part of the County's land use approval. The Examiner's verification of the NCU right introduces an element of uncertainty as to how the operation will function, at what volumes, and when the operation must end. That is the nature of NCUs. Even though this decision affirms Storedahl's NCU right to operate the Daybreak mine site, full compliance with the HCP is required as an explicit condition of that finding and as a condition of the approved permits, most notably the site plan. Therefore, at the end of 20 years, even if the operator no longer desires ESA take coverage provided by the ITP and HCP, it is still obligated to abide by those documents. In this way, the mine operation can proceed with limitations partly as a NCU and partly through the expansion allowed by the approved permits. This raises a potential legal problem and may be deemed to conflict with the Court of Appeals' decision in *East*

County Reclamation Co. v. Bjornsen, 125 Wn.App. 432, 105 P.3d 94 (2005), but ultimately, that is an issue for an appellate court to decide.

Date of Decision: June 8, 2005.

By: 

Daniel Kearns,
Land Use Hearings Examiner

NOTE: Only the Decision and Conditions of approval are binding on the applicant, owner or subsequent developer of the subject property as a result of this Order. Other parts of the final order are explanatory, illustrative or descriptive. There may be requirements of local, state or federal law or requirements which reflect the intent of the developer, county staff, or the Hearings Examiner, but they are not binding on the applicant as a result of this final order unless included as a condition of approval.

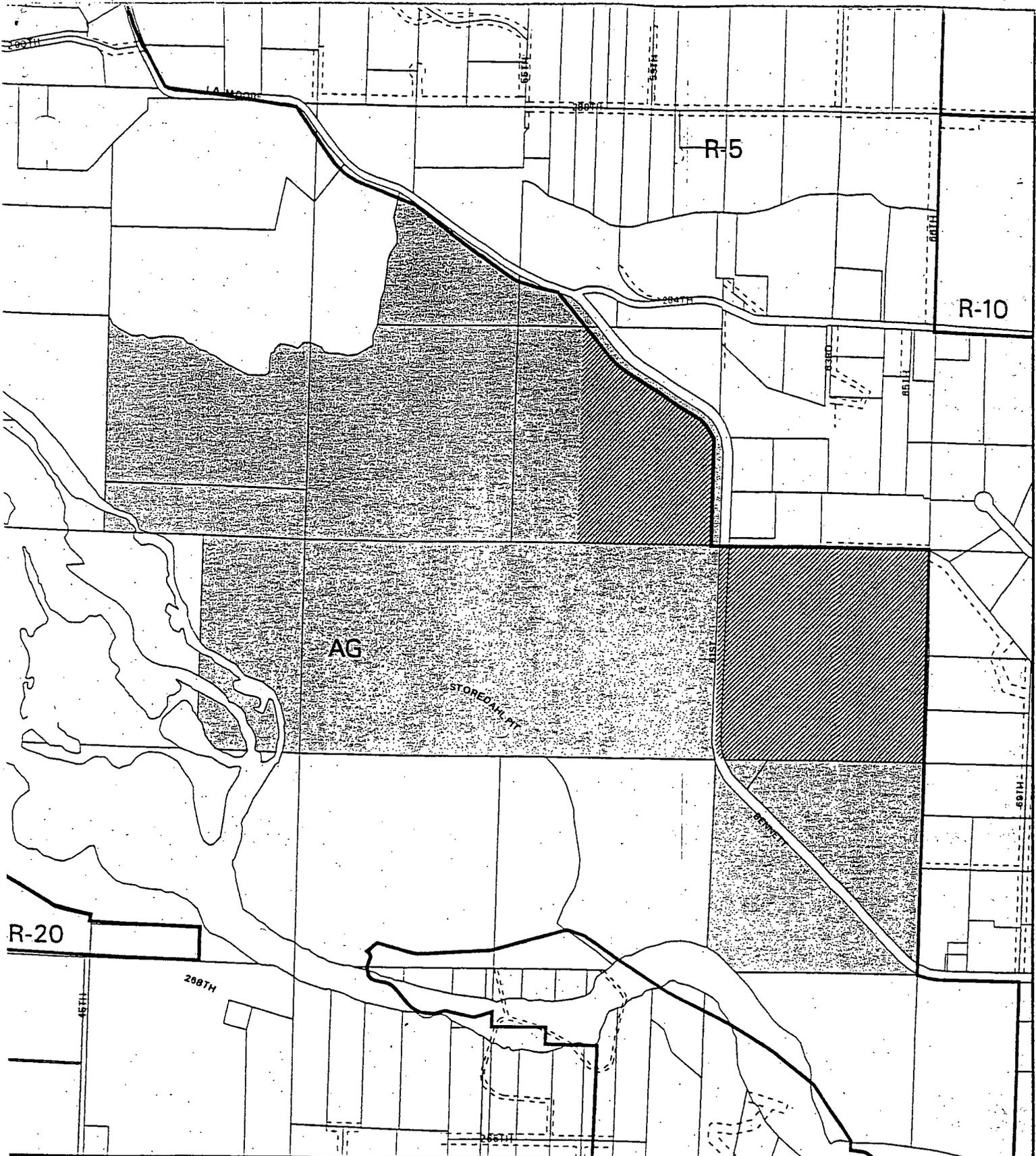
Notice of Appeal Rights

An appeal of any aspect of the Hearings Examiner's decision, except the SEPA determination, may be appealed to the Board of County Commissioners only by a party of record. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing or submitted written testimony prior to or at the public hearing on this matter.

Any appeal of the final land use decisions shall be filed with the Board of County Commissioners, 1300 Franklin Street, Vancouver, Washington, 98668 within 14 calendar days from the date the notice of final land use decision is mailed to parties of record.

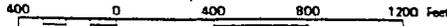
Any appeal of the Land Use Hearings Examiner's final land use decision shall be in writing and contain the following:

1. The case number designated by the County and the name of the applicant;
2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 40.510.030(H) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager. All contact with the Development Services Manager regarding the petition, including notice, shall be with this contact person;
3. The specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error;
4. If the petitioner wants to introduce new evidence in support of the appeal, the written appeal must also explain why such evidence should be considered, based on the criteria in subsection 40.510.030(H)(3)(b); and
5. A check in the amount of \$286.00 (made payable to the Clark County Board of County Commissioners) must accompany an appeal to the Board.



Scale 1:9600

Comprehensive Plan Designation: AG R-5



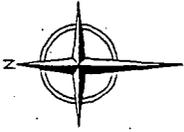
Department of Assessment and GIS
 g:\programs\eml\atool\map\packer-batch.xml
 Plotted: December 21, 2009

Serial No.: 212114-000, 212163-000, 214676-000, 225005-000, ...
 Owner: STOREDAHL PROPERTIES LLC
 Address: 2233 TALLEY WAY
 C/S/Z: KELSO, WA 98626

-  Subject Parcel
-  Public Road
-  Mining
-  Industrial Reserve
-  Open Space/Density Transfer
-  Columbia River Gorge N.S.A.
-  Transportation or Major Utility Easement
-  Comprehensive Plan Boundary

41111	41112	42107
41114	41113	42115
41123	41124	42119

Information shown on this map was collected from several sources. Clark County accepts no responsibility for any inaccuracies that may be present.



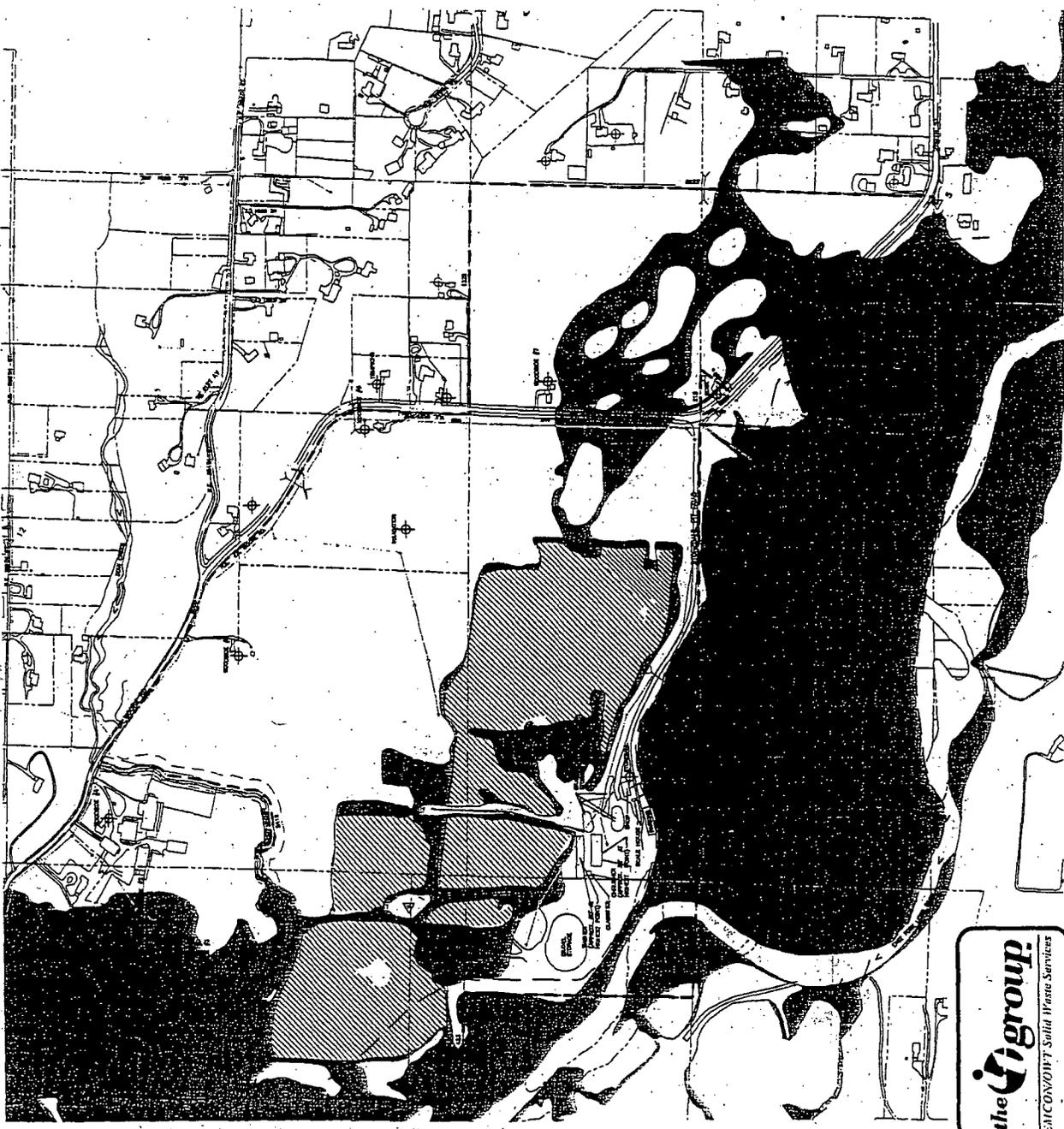
REVISED 100 YEAR FLOODPLAIN PER LETTER OF MAP REVISION APPLICATION TO FEMA. APPROXIMATES FLOOD INSURANCE RATE MAP, PANEL 176 OF 115 DATED JULY 16, 2000.

- EXISTING PONDS
- DEAN CREEK STRUCK
- CHANNEL MIGRATION ZONE (APPROXIMATE)
- SITE BOUNDARY
- SEPTIC SYSTEM (APPROXIMATE LOCATION)
- WATER WELLS (LOCATED AND IDENTIFIED, LOCATIONS APPROXIMATE)
- OTHER WELLS NOTED IN OTHER SOURCES (E.G. HEALTH DEPARTMENT RECORDS AND SECTION 1180). SEE FIGURE 3.1 OF THE PLAN REPORT FOR EXPANDED COVERAGE. WELLS NOT FIELD VERIFIED.
- POWER POLES

NOTES:
1. COUNTY ROADS

ROAD SEGMENT	ROAD MATERIAL	ROAD WIDTH	R/W WIDTH
J.A. MOORE RD. WEST OF 28TH ST.	ASPHALT	22-24	40'
28TH ST. EAST OF J.A. MOORE	ASPHALT	22-24	40'
J.A. MOORE EAST OF 28TH	ASPHALT	22-24	60'
61ST AVE.	ASPHALT	22-24	60'
BENNETT RD.	ASPHALT	22-24	60'
28TH STREET	ASPHALT	22-24	60'
STOREDAHL PIT ROAD	ASPHALT	20 TYP.	N/A

- 2. SEE TRANSPORTATION IMPACT STUDY FOR SIGHT DISTANCE TRIANGLES ANALYSES
- 3. BOUNDARY DIMENSIONS ARE APPROXIMATE. DIMENSIONS WERE DETERMINED FROM A COMBINATION OF SOURCES INCLUDING CLARK COUNTY GIS RECORDS, THE ASPHAL SURVEY (DOD SMITH AND ASSOCIATES, INC., 1974), AND A PARTIAL SITE SURVEY (SPURLOCK AND ASSOCIATES, INC., 1992)
- 4. SOME SOURCES AND LOCAL SOURCES IDENTIFY 28TH ROAD BETWEEN 28TH STREET AND 61ST AVENUE. INFORMATION FROM DEVELOPER'S GIS PACKAGE AND MOST OTHER SOURCES REFERS TO J.A. MOORE ROAD ONLY.



DATE	4/02
DWN	TLW
APP	JJS
REV	1
PROJECT NO.	793584

FIGURE 4
J.L. STOREDAHL & SONS,
CLARK COUNTY, WASHINGTON
HABITAT CONSERVATION PLAN
FLOOD PLAN
STRUCTURAL FEATURES

OWNER:
 Storeddahl LLC
 2233 Talley Way
 Kelso, WA 98626
 (360) 636-2420

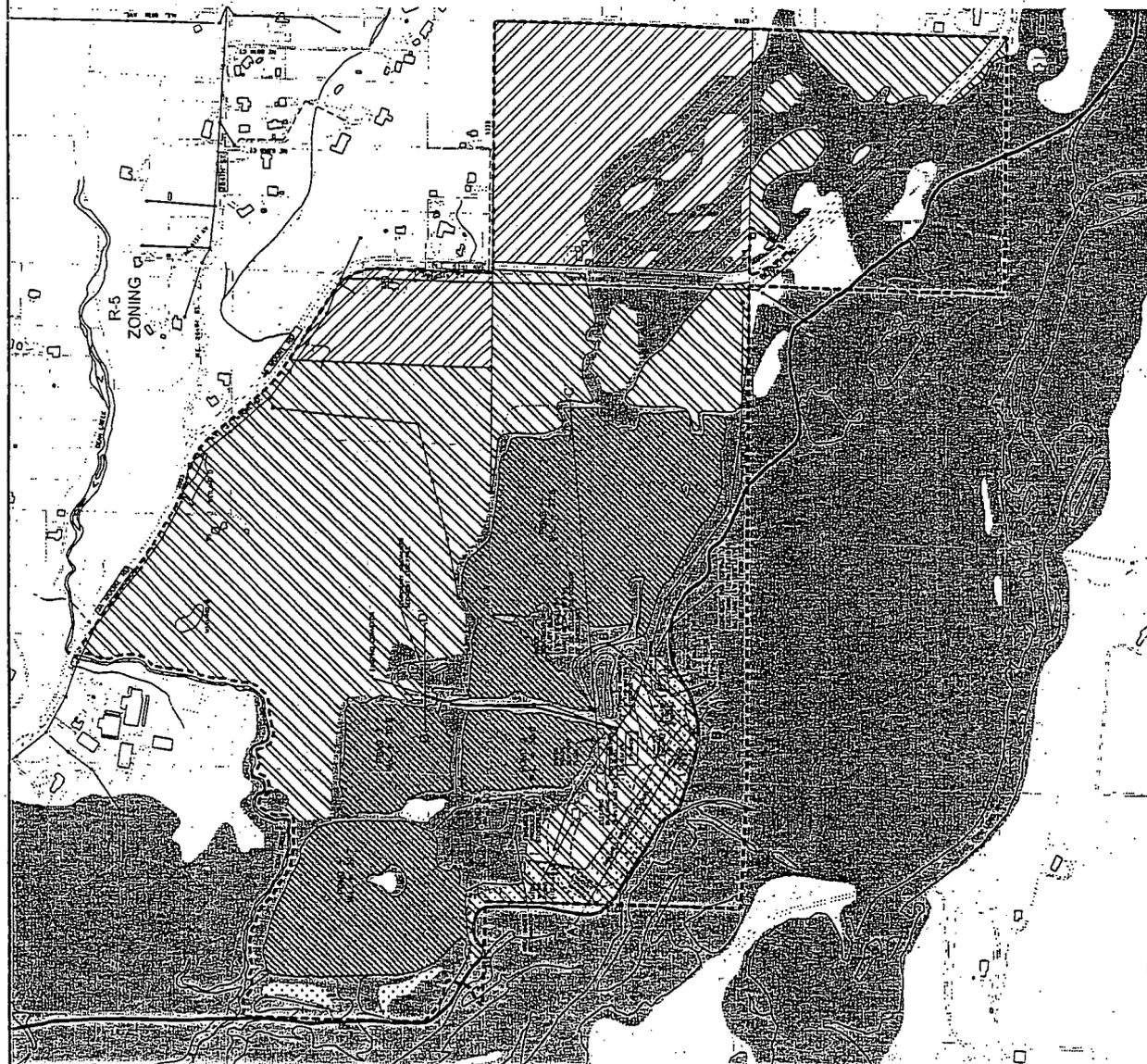
APPLICANT:
 J.L. Storeddahl & Sons
 2233 Talley Way
 Kelso, WA 98626
 (360) 636-2420

CONTACT PERSON:
 Skip Uriling
 Ecological Land Services, Inc.
 1157 3rd Ave., Suite 220
 Longview, WA 98632
 (360) 578-1371 email: skip@eco-land.com

PROPOSED SURFACE MINING OVERLAY DISTRICT
 J.L. Storeddahl & Sons, Inc.
 Daybreak Mine Processing Area
 Shoreline Substantial Development Permit Application

DATE 04/13/04
 DWN. M/M
 APPR. _____
 REVIS. 1/29/04

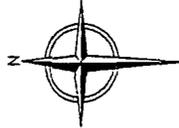
ECOLOGICAL LAND SERVICES, INC.
 NATURAL RESOURCE CONSULTING
 AND LAND PLANNING
 1157 3rd Ave., Suite 220
 Longview, WA 98632
 (360) 578-1371 Fax: (360) 414-9305



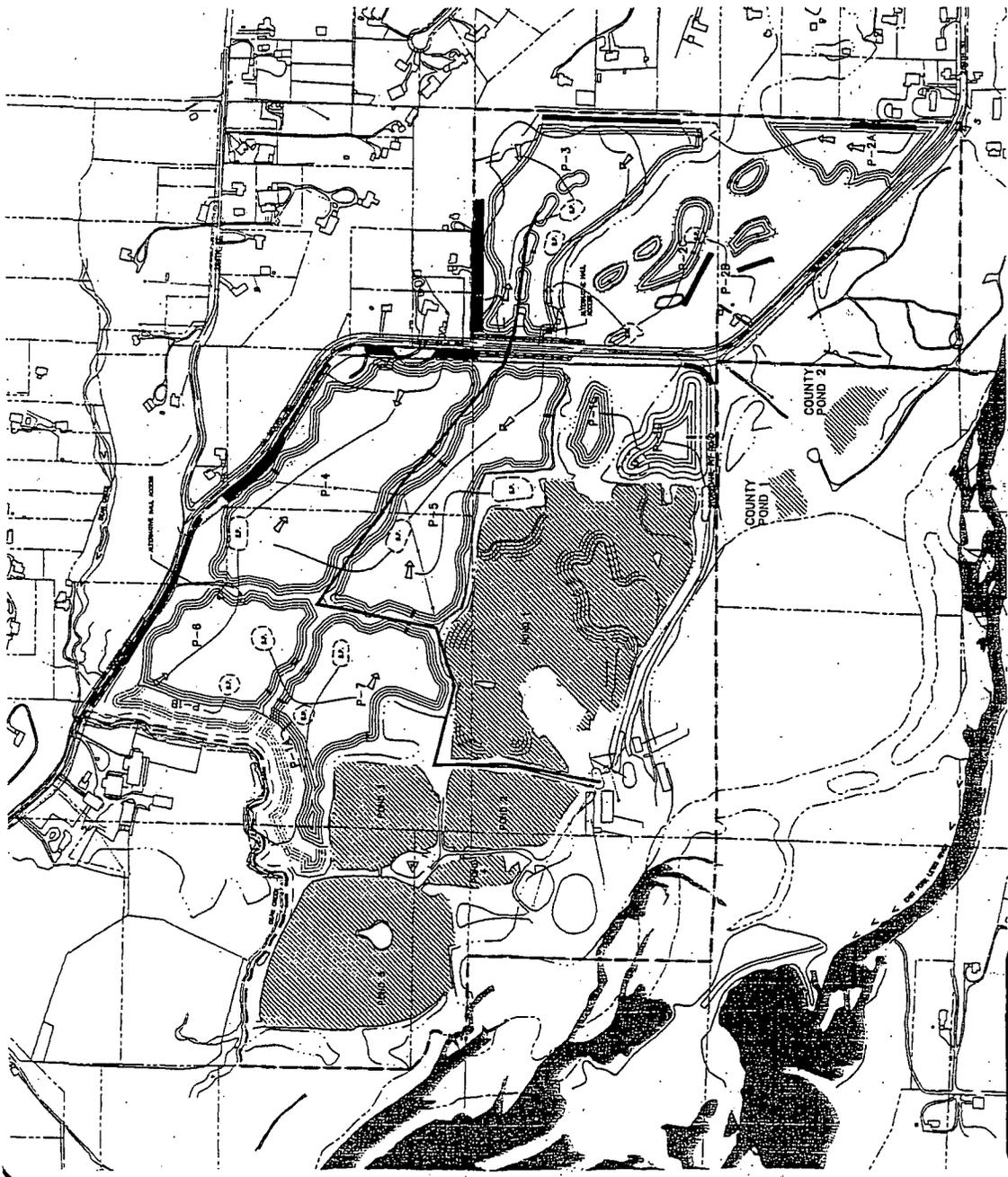
- AS 20 UNDERLYING ZONING DISTRICT
- EXISTING SURFACE MINING OVERLAY DISTRICT
- PROPOSED SURFACE MINING OVERLAY DISTRICT OUTSIDE THE FLOODPLAIN
- SHORELINES OUTSIDE OF FLOODPLAIN
- REVISED 100 YEAR FLOODPLAIN PER FEMA FLOOD INSURANCE RATE MAP, NO. 530021-0178C, DATED JULY 19, 2000.
- EXISTING POND
- SITE BOUNDARY
- FEMA FLOODPLAIN (SUBSTITUTED FOR 0' HIGH)
- 200' SHORELINES JURISDICTION
- SEPTIC SYSTEM (APPROXIMATE LOCATION)
- WATER WELL
- POWER POLES
- A1-A' CROSS SECTION LOCATION

NOTES:
 1. BOUNDARY DIMENSIONS ARE APPROXIMATE. DIMENSIONS WERE OBTAINED FROM A COMBINATION OF SOURCES INCLUDING CLARK COUNTY GIS RECORDS, THE AERIAL SURVEY (DAVID SMITH AND ASSOCIATES, 1998), A PARTIAL SURVEY OF SECTIONS 13 AND 24 (GREENWOOD SURVEYS, INC., 1974), AND A PARTIAL SITE SURVEY (SPONGER AND ASSOCIATES, INC., 1989).
 2. ROAD MATERIAL DIMENSIONS THROUGH STOCKPILES WILL SHRINK AND SWELL AND BE RELOCATED PER SUBMITTAL TO OPERATIONS DEPARTMENT.
 3. EAST FORK LEWIS RIVER --- RURAL SHORELINE OF THE STATE

ROAD SEGMENT	ROAD MATERIAL	ROAD WIDTH	R/W WIDTH
J.A. MOORE EAST OF 281TH	ASPHALT	22'-24'	60'
81ST AVE.	ASPHALT	22'-24'	60'
BENNETT RD	ASPHALT	22'-24'	60'
STOREDDAHL PI ROAD	ASPHALT	20 TYP	N/A



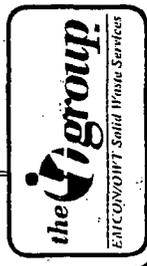
- LEGEND:**
- P-1A → MINING PHASE AND DIRECTION OF MINING
 - - - SITE BOUNDARY
 - - - DEAN CREEK SETBACK
 - DIRECTION OF OVERBURDEN STRIPPED AND STOCK PILING
 - S.P. (Stock Pile Area)
 - APPROXIMATE CONVERTOR ALIGNMENT
 - EXISTING DRIVEWAYS TO BE USED FOR ACCESS
 - 10-15 FOOT HIGH NOSE REDUCTION EARTHEN BERM
 - 8-10 FOOT HIGH NOSE REDUCTION EARTHEN BERM
 - SOUND WALL
 - VISUAL BUFFER (6 FOOT TALL VISUAL BUFFER BEING ON VEGETATED ZONE)

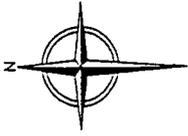


- NOTES:**
1. CONSTRUCTED BERM WIDTH IS PROPORTIONAL TO HEIGHT ASSUMING A 2:1 SLOPE AND A 5 FOOT WIDE LEVEL TOP. 5 FOOT TALL BERMS ARE 25 FEET WIDE. 10 FOOT TALL BERMS ARE 45 FEET WIDE.
 2. BERMS FOR NOSE AND VISUAL BUFFERS ARE TEMPORARY. BERM MATERIAL WILL BE USED TO CONSTRUCT RECLAMATION ELEMENTS AFTER MINING IS COMPLETE IN THE ADJACENT PHASE.
 3. SECURITY FENCES WILL BE INSTALLED ALONG ROADWAYS AT THE DISCRETION OF STOREDAHL.
 4. MINIMUM WIRE SETBACK FROM PROPERTY BOUNDARY IS 15 FEET. SETBACK FROM COUNTY ROADS IS FUNCTION OF BERM WIDTH. SETBACK FROM DEAN CREEK IS 75 FEET FROM OHWA.
 5. CONVERTOR ALIGNMENT IS APPROXIMATE. FINAL ALIGNMENT OF CONVERTOR SEGMENTS WILL BE DETERMINED DURING AFTER CONVEYOR INSTALLATION AND RECLAMATION OF POND'S ALONG CONVERTOR ALIGNMENT WILL BE DETERMINED BY THE CONTRACTOR AND REGULATORY AGENCIES.
 6. BERM SETBACK ON USE OF REMEDIATED POND'S EXCAVATOR. USE OF QUIETER EXCAVATOR COULD REDUCE BERM HEIGHT.
 7. DASHED CONTOURS REPRESENT PHASE-1 RECLAIMED MINE CUT.

DATE	4/02
OWN	JLW
APP	JIS
REV	
PROJECT NO.	793584

FIGURE 20
J.L. STOREDAHL & SONS, INC.,
 CLARK COUNTY, WASHINGTON
 HABITAT CONSERVATION PLAN
 EXPANSION OF THE DAYBREAK MINE
 AND MINING SEQUENCE PLAN

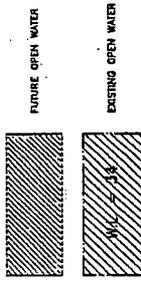




0 200 400
SCALE IN FEET

LEGEND:

- 100 YEAR FLOOD PLAN
- CHANNEL MIGRATION ZONE
- LOT LINE
- FINAL EXCAVATION CONTOUR (10')
- FINAL EXCAVATION CONTOUR (2')
- RECLAMATION GRADING CONTOUR (10')
- RECLAMATION GRADING CONTOUR (2')
- CREATED AND RESERVED FORESTED AND EMERGENT WETLANDS



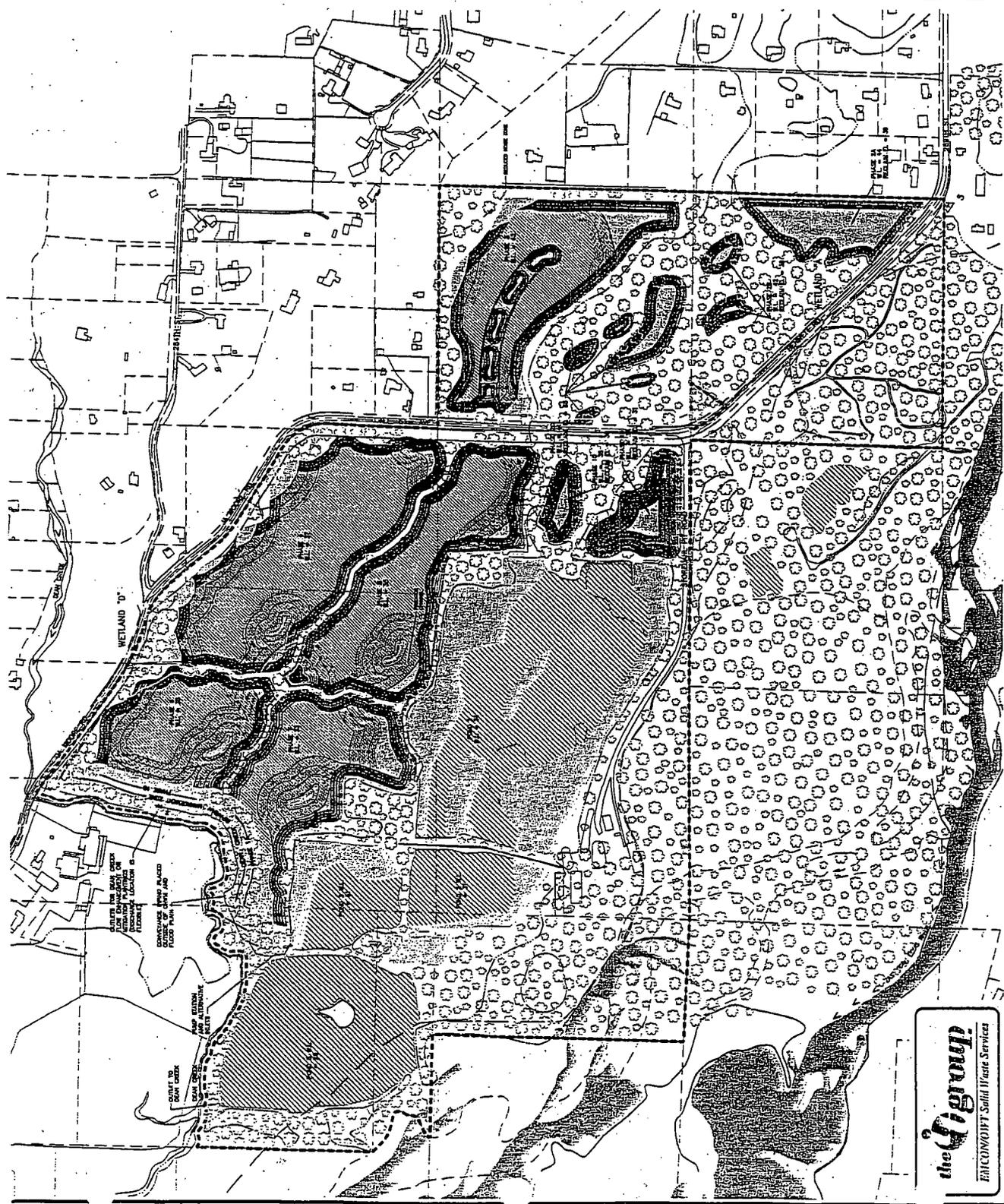
- RESERVED MIXED VALLEY-BOTTOM FOREST
- CREATED MIXED VALLEY-BOTTOM FOREST

NOTES:

1. ALL POINT ELEVATIONS ARE APPROXIMATE AND CHANGE SEASONALLY
2. RECLAMATION ELEVATIONS ARE APPROXIMATE
3. REFERENCED WATER LEVEL - PROJECTED DRY SEASON WATER LEVEL
4. SCREENED CONTOURS REPRESENT PHASE 1 RECLAIMED MINE CUT

FIGURE 2-3
ALT-B PREFERRED ALTERNATIVE
FINAL SITE PLAN
J.L. STOREDAHL & SONS, INC.
DAYBREAK MINE SITE

DATE	8/03
DRAWN	MMH
APP	MMH
REV	1
PROJECT NO.	781384



HEARING EXAMINER EXHIBITS

APPLICATION: Daybreak Mining & Habitat Enhancement

HEARING DATE: April 29, 2004



EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
1	3/18/96	Applicant – West Consultants	Map - East Fork Lewis River 1935 -1996
2	1/97	Applicant – Olson MFG, Inc	Map- Crushing Equipment
3	7/98	Applicant- J. L. Storedahl & Sons, Inc.	Maps- Full Size - Existing Conditions – Natural Features, Existing Conditions – Structural Features & Floodplain; Mining Sequence Plan; Final Grading Plan; Sections and Details;
4	8/98	Friends of the East Fork	Map -East Fork of Lewis River Hydraulic Study
5	9/1/98	Applicant- J. L. Storedahl & Sons, Inc.	Maps – Preliminary supplemental drawings – Project Area & Shop Building Detail; Material Processing Area
6	2/10/99	Applicant - Ecological Land Services, Inc. - Skip Urling	REVISED: Maps- Full Size - Existing Conditions – Natural Features, Existing Conditions – Structural Features & Floodplain; Mining Sequence Plan; Final Grading Plan; Sections and Details;
7	9/99	Applicant- J. L. Storedahl & Sons, Inc.	Map – Reduced Site Plan Map
8	9/99	Applicant - Ecological Land Services, Inc. - Skip Urling	Map-Reduced Mining Sequence Map (Figure 2-1) & Final Site Plan (Figure 2-2)
9	8/00	Applicant- J. L. Storedahl & Sons, Inc.	Map – Reduced Noise Impact Assessment Noise Measurement/Modeling Locations (Fig 3-27)
10	11/03	Applicant - Ecological Land Services, Inc. - Skip Urling	Maps of Shoreline Application – Reduced Size - Site Location Map; Storedahl Property Map; Processing Area Detail Map; Mine Processing Map

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
11	11/03	Applicant- J. L. Storedahl & Sons, Inc.	Habitat Conservation Plan Existing Conditions & Structural Features (Figure 2)
12	11/03	Applicant- J. L. Storedahl & Sons, Inc.	Habitat Conservation Plan – Expansion of Daybreak Mine & Mining Sequence Plan (Figure 20)
13	11/03	Applicant- J. L. Storedahl & Sons, Inc.	Flood Plain Structural Features (Figure 4)
14	11/03	Applicant- J. L. Storedahl & Sons, Inc.	Map – Reduced Final Site Plan (Fig. 2-3)
15	11/03	Applicant- J. L. Storedahl & Sons, Inc.	Map – Reduced Structural Features, Flood Plain (Fig 3-5)
16	2/20/04	Applicant- J. L. Storedahl & Sons, Inc.	General Equipment Layout Plans & Elevations
17	2/10/96	Unknown	Photo - Aerial Photograph of East Fork Lewis River
18	7/96	Unknown	Photo- Aerial Photos of Storedahl Property
19	Fall 1999	Unknown	Photo - East Fork Flow into old Storedahl Pits & Overflow
20	4/1/00	Unknown	Photo - Gravel Piles Next to Active Overflow Channel
21	4/01	Unknown	Photos: View of Drain Ditch Along South Side of Daybreak Pit Operation & Daybreak Pits
22	Unknown	Unknown	Site Photos
23	11/03	Applicant - Ecological Land Services, Inc. - Skip Urling	Photo – Composite Aerial Photo of East Fork Lewis River –Overflow Path & Potential Paths of Channel Migration (Fig. 3-10)

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
24	11/21/90	Department of Natural Resources (DNR) Stephanie Waggoner	Letter to Ray & Mary Woodside re: Results of Informal Hearing on Surface Mine Permit No. 10139
25	11/26/94	Ray & Merry Woodside	Letter to the BOCC re: Request to Have Parcels Included In A Mining Area
26	5/17/95	Charles Mertsching, Attorney	Letter re: Intent of Storedahl & Sons To Continue The Mining Operation on Approximately 5/22/95
27	8/2/95	CC Prosecuting Attorneys Office- Christopher Horne	Letter to Charles Roe re: Storedahl Mining Operations
28	8/15/95	CC Development Services – Monty Anderson	Letter to Charles Roe re: Storedahl Mining Operations
29	9/7/95	CC Development Services – Monty Anderson	Letter to John McKibbin re: Procedural Requirements To Confirm Non-Conforming Mining Rights
30	12/95	CC Development Services	Chronology of Events; Woodside/Daybreak Surface Mine 1968 – 1995
31	1/15/96	Michael J. Plymale, Inc. PS	Letter to Rich Lowry re: Storedahl Records Audit
32	2/26/96	Perkins Coie - John Dentler	Legal Description of Property Owned by Sammamish Farms
33	2/26/96	Perkins Coie - John Dentler	Affidavit of Stan LaBONTE
34	2/26/96	Perkins Coie - John Dentler	Affidavit of Virgle Barnett (1)
35	2/26/96	Perkins Coie - John Dentler	Affidavit of Brian K. Sanders
36	2/26/96	Perkins Coie - John Dentler	Affidavit of Jerald L. Hale
37	2/26/96	Perkins Coie - John Dentler	Affidavit of Daniel W. Quast
38	2/26/96	Perkins Coie - John Dentler	Affidavit of Virgle Barnett (2)
39	2/26/96	Perkins Coie - John Dentler	Affidavit of Ray Woodside
40	2/29/96	CC Development Services – Craig Greenleaf	Notice & Order: Findings of Fact and Conclusions of Law
41	4/11/96	G. M. Mathias, PH.D. & D.D. Kelso	Effects of Aggregate Mining in River Floodplains
42	5/24/96	CC Development Services	Notice & Order Pre-Hearing Conference Notice - Conducted by Larry Epstein

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
43	7/27/96	David T. McDonald, P.C.	Letter to Rich Lowry re: Current Site Plan Review Process
44	1/24/97	Wash. State Dept of Natural Resources – Rex Hapala	Letter re: Permit #70-010139
45	1/27/97	David T. McDonald, P.C.	Letter re: Proposed Project (SPR 96-092)
46	2/19/97	Archaeological Services of Clark County - Dave DeLyria	Archeological Determination
47	4/21/97	David T. McDonald, P.C.	Letter re: Proposed Project (SPR 96-092)
48	5/6/97	David T. McDonald, P.C.	Letter re: Proposed Project (SPR 96-092)
49	5/8/97	CC Health District – Reuel Emery	Memo to Gary Fish re: Groundwater Considerations
50	5/15/97	Dept. of Natural Resources – William Lingley, Jr	Letter to Mike Butts re: Potential Impacts of Mine Expansion
51	6/2/97	CC Development Services	Withdrawal of MDNS and Notice of DS/Scoping Notice and EIS (SPR#96-092)
52	7/1/97	CC Development Services	Hearing Examiners Decision APL #97-004 Hearing held 5/21/97
53	9/8/97	Applicant - Perkins Coie - John Dentler	Letter to Gary Fish re: Processing of Aggregate at "Daybreak"
54	10/16/97	CC BOCC	Shoreline Management Appeal APL 97-004-1842
55	12/18/97	CC Development Services	Comprehensive Plan Change Pre-Application Conference Summary- Planner: Oliver Orjako
56	1998	Unknown	Fish Habitat & Stream Restoration Projects – East Fork L.R.
57	1/30/98	Applicant – Perkins Coie - John Dentler,	Application Narrative (REZ98-011)
58	6/11/98	Applicant - Ecological Land Services, Inc. - Skip Urling	Letter to R2 Resource Consultants re: Development Permit Application Graphics
59	6/23/98	CC Development Services	Pre-Application Plan Conference Report PAC#98-072
60	7/28/98	CC Development Services	Fees for SPR

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
61	7/29/98	Applicant – J.L. Storedahl & Sons	Binder: Applications for Site Plan & Habitat Permit; Introduction; Site Description & Existing Conditions; Overview of Proposed Mining & Reclamation; Details of Mining Operations; Details of Reclamation Features Final Use; Expected Permits, Submittals & Schedule and Appendixes
62	7/29/98	Applicant – J.L. Storedahl & Sons	Binder: Parcel Reference – Property Profiles
63	8/98	CC Public Works- Richard Gamble	Transportation Study, Incomplete Determination
64	8/3/98	CC Development Services	Sales History Summary
65	8/4/98	CC Public Works- Richard Gamble	Technically Complete Status
66	8/8/98	CC Development Services – Nancy McCarter	Technically Complete Comments
67	8/10/98	CC Development Services	Development Review Not Technically Complete Determination (SPR 98-034)
68	8/11/98	CC Long Range Planning – Oliver Orjiako	Email to Diana Allen re: The Annual Review Application
69	8/18/98	CC Development Services	Transportation Impact Study Technically Complete Checklist – Sent to Skip Urling
70	8/19/98	CC Development Services	Email between Mike Butts and Diana Allen re: Technically Complete Review
71	8/25/98	CC Public Works – Richard Gamble	Technically Complete Review
72	8/26/98	CC Development Services	Letter to Applicant re: Extension of Application Review Time
73	8/27/98	Friends of the East Fork	Hydraulics Study
74	9/98	Washington State Dept of Natural Resources	Washington Geology – Vol. 26, NO. 2/3 September 1998 “Flood Plains, Salmon Habitat and Sand and Gravel Mining” Written by: David K. Norman, C. Jeff Cederholm & William S. Lingley, Jr.
75	9/15/98	CC Development Services	Development Rev Tech Complete Determination

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
76	9/15/98	CC Development Services	Request for Comments – Additional Comments
77	9/16/98	CC Development Services	Notice of Development Review Application
78	9/16/98	CC Development Services	Certification of Posting/Mailing
79	9/18/98	CC Fire Marshals Office	Project Comments
80	9/27/98	CC Development Services – Habitat Biologist – Peggy Bartels	Memo to Gary Fish re: Habitat Conservation Ordinance Criteria
81	9/28/98	Robert Wheeler	Comment Letter
82	9/29/98	Maggie Stone	Comment Letter
83	9/30/98	CC Development Services – Habitat Biologist – Peggy Bartels	Email between Rich Lowry and Peggy Bartels
84	9/30/98	Rick & Sally Danielson	Comment Letter
85	9/30/98	Eugene Bleth	Comment Letter
86	9/30/98	Dept of Natural Resources – Rex Hapala	Letter to Gary Fish re: Proposed Project
87	10/98	CC Development Services – Peggy Bartels	Email to Gary Fish re: Proposed Meeting
88	10/1/98	Scott Rose	Comment Letter
89	10/1/98	Sam Richard – Daybreak NA	Comment Letter
90	10/1/98	Friends of the East Fork – Richard Dyrland	Comment Letter
91	10/1/98	Fish First – Jack Kaeding	Comment Letter
92	10/1/98	Mary Philbrick	Comment Letter
93	10/8/98	CC Development Services	Newspaper Notice: Notice of Determination of Significance & Request for Comments on Scope of EIS0
94	10/8/98	CC Development Services	Request for Comments on SEPA Threshold DS and Scoping Notice
95	10/13/98	CC Development Services – Michael Butts	Letter to Fish First re: Comprehensive Plan Amendment

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
96	10/16/98	CC Prosecuting Attorneys Office – Rich Lowry	Court of Appeals of Washington – 92 Wn. App. 777; 964 P.2d 1211; 1998 Wash. App. Lexis 1453
97	10/27/98	Friends of the East Fork – Richard Dyrland	Overview- Steelhead Fisheries
98	10/27/98	Maggie Stone	Comment Letter
99	10/28/98	R2 Resource Consultants	Letter re: Habitat Conservation Plan Meeting
100	10/28/98	Eugene M. Bleth	Comment Letter
101	10/28/98	WA DNR – Rex J. Hapala	Project Comments
102	10/28/98	Barry Dunford	Comment Letter
103	10/28/98	Friends of the East Fork – Richard Dyrland	Project Comments
104	10/29/98	Scott & Carol Rose	Comment Letter
105	10/29/98	Don Swanson	Comment Letter
106	10/29/98	David T. McDonald	Project Comments
107	10/29/98	Danette Swanson	Comment Letter
108	10/29/98	Jo Ann & Kurt Wohlers	Comment Letter
109	10/29/98	Boettcher, LaLonde, Lleweno, Rutledge, Jahn & Holtmann, P.S.- John Holtmann	Comment Letter
110	10/29/98	Baz Stevens & Sandra Towne	Comment Letter
111	10/30/98	Applicant – J.L. Storedahl & Sons, Inc.	Daybreak Mine Site Tour Agenda – Handouts
112	11/2/98	Dept of Ecology – Rebecca Inman	Project Comments
113	11/13/98	CC Development Services – Nancy McCarter	Final Scoping Focus Notes
114	12/2/98	Applicant – J.L. Storedahl & Sons, Inc.	Letter to request confirmation of the Consulting Team for Draft & Final EIS
115	12/11/98	CC Development Services – Gary Fish	Letter to Applicant re: Habitat Enhancement & Environmental Impact Statement

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
116	12/14/98	CC Development Services – Peggy Bartels	Draft Outline of HCP
117	12/23/98	CC Development Services	Habitat Review Application
118	1999	Applicant	Daybreak Mining & Habitat Enhancement Project – SEPA Draft EIS – Draft Scope & Consultant Responsibilities)
119	1999	CC Development Services	Daybreak Mining & Habitat Enhancement Project- SEPA Draft EIS- Scope & Consultant Responsibilities with staff comments
120	1/11/99	Friends of the East Fork	Water Quality Degradation Concerns in the Lewis River System
121	1/13/99	David T. McDonald	Letter to Government Agencies re: Proposed Project and Meeting
122	1/21/99	Applicant - Ecological Land Services, Inc. - Skip Urling	Receipt for Shoreline Permit
123	1/21/99	Applicant - Ecological Land Services, Inc. - Skip Urling	Receipt for Shoreline Permit – Water Quality
124	1/21/99	Applicant - Ecological Land Services, Inc. - Skip Urling	Completed JARPA and three drawings of Site Plan and Typical Cross Sections for the Conveyor System
125	1/26/99	CC Long Range Planning – Jeri Bohard	Letter to John Dentler re: Comprehensive Plan Amendment
126	2/10/99	CC Development Services	Development Review Fully Complete Determination (SHR 99-001)
127	2/12/99	CC Development Services	Request for Comments on SHR 99-001
128	2/21/99	CC Development Services	Newspaper Notice of Application for Shoreline Substantial Development Permit
129	3/4/99	CC Development Services – Wetland Biologist – Mary Pakenham-Walsh	Wetland Pre-Determination (WPD 98-024)
130	3/4/99	Applicant - Ecological Land Services, Inc. - Skip Urling	Letter to Kimball Storedahl re: Revegetation & Wildlife Enhancement Plan
131	3/15/99	R2 Resource Company	Revegetation Plan for Cleared Area
132	3/24/99	David T. McDonald	Letter to Mike Butts re: REZ 98-011 & SPR 98-034

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
133	4/8/99	Baz Stevens	Letter to Mike Butts re: REZ 98-011 & SPR 98-034
134	4/13/99	DOE – Tom Fitzsimmons & WDFW – Jeff Koenings	Letter to FEMA re: Proposed Floodplain Map Revisions on the East Fork of Lewis River
135	4/29/99	Applicant - Perkins Coie - John Dentler	Letter to DOE re: FEMA Case # 97-10-205P
136	6/3/99	FEMA – Michael Armstrong	Letter to DOE and WWDFW
137	6/16/99	FEMA – Michael Buckley, P.E.	Letter to Commissioner Morris re: Revised Floodplain Insurance Rate Map (FIRM)
138	7/13/99	Sokal & Anuta, PC – Karl Anuta	Letter to FEMA & Commissioner Stanton re: Preliminary FIS & FIRM Report
139	7/14/99	BOCC – Judy Stanton	Letter to FEMA re: Flood Plain Revisions
140	7/16/99	Sokal & Anuta, PC – Karl Anuta	Continuation of Remarks re: FEMA Preliminary FIRM and FIS Report
141	7/22/99	BOCC – Judy Stanton	Letter to FEMA re: Additional Comments from Counsel for Friends of the East Fork & Pacific Rock
142	7/28/99	Applicant - Ecological Land Services, Inc. - Skip Urling	Letter to US Fish & Wildlife re: Meeting on HCP and NEPA process
143	8/2/99	Applicant - Perkins Coie - John Dentler	Letter to Judie Stanton re: Request to FEMA for Endangered Species Act Consultations
144	8/24/99	Sokol & Anuta, PC – Karl Anuta	Letter to FEMA re: 3/10/98 Preliminary FIS & FIRM for East Fork of Lewis River
145	9/99	Applicant	Daybreak Mine Expansion & Habitat Expansion Project and DEIS
146	10/28/99	DNR – Rex Hapala	Letter to Thomas Grindeland, PE re: Draft Geomorphic Analysis of the East Fork
147	11/16/99	FEMA	Letter to Sokal & Anuta, PC re: 7/13, 7/15 & 9/2/99 Letters regarding FIRM and FIS Report
148	12/3/99	Inter-Fluve, Inc – Greg Koonce	Draft EIS Comments
149	12/7/99	Adolfson Associates, Inc	Draft EIS Comments

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
150	12/27/99	Federal Register Online	Notice of Intent to Prepare an EIS; Federal Register Volume 64, Number 247
151	2000	Applicant – J.L. Storedahl & Sons, Inc.	Daybreak Mine Expansion & Habitat Enhancement Project - <i>Tab 1</i> :100 Years of Change, <i>Tab 2</i> :Habitat Enhancement Water Quality Map & Park Map, <i>Tab 3</i> : Public Ownership
152	1/17/00	Inter-Fluve, Inc. – Greg Koonce	Additional Draft EIS Comments
153	1/20/00	Adolfson Associates, Inc	Additional Draft EIS Comments
154	1/25/00	Sokol & Anuta, PC – Karl Anuta	Scoping Comments on federal DEIS
155	2/28/00	Rich Hines	Letter to Gary Fish re: Invoice for Project Review
156	3/20/00	Dept of Fish & Wildlife Commission	Resolution re: Best Available Science and Mining in the Floodplain
157	7/19/00	FEMA	Revised FIRM (Flood Insurance Rate Map) Map (Panel 178 of 475)
158	7/20/00	David T. McDonald	Letter to Rich Lowry re: Conversation on 7/17/00
159	7/21/00	David T. McDonald	Letter to Rich Lowry re: Shoreline Permit
160	8/7/00	CC Development Services- Josh Warner	Letter to John Dentler re: Shoreline Permit
161	8/11/00	David T. McDonald	Letter to Josh Warner re: Shoreline Permit Process
162	8/23/00	Applicant - Perkins Coie - John Dentler	Letter to Josh Warner re: 8/7/00 Letter re: Shoreline Permit
163	8/23/00	CC Development Services – Josh Warner	Letter to David McDonald re: Shoreline Permit Process
164	8/25/00	Applicant - Ecological Land Services, Inc. - Skip Urling	Letter to Ken Burgstahler re: 15,000 Cubic Yards of Material
165	8/18/00	DNR –David Norman & Carol Serdar, Region Geologist	Letter to R2 Resource Consultants re: Habitat Conservation Plan

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
166	9/1/00	Fish First	Letter to R2 Resource Consultants re: "Working Draft " of HCP
167	9/7/00	CC Development Services – Josh Warner	Fax to Randy Sweet re: Mining Combining Districts
168	9/14/00	CC Development Services	Pre-Application Conference Report
169	9/19/00	David T. McDonald	Letter to Pat Lee re: Comprehensive Plan Review
170	10/16/00	Applicant – West Consultants	Report of Delineation of Ordinary High Water Mark- Right Bank of the East Fork Lewis River
171	10/17/00	David T. McDonald	Letter to Rich Lowry re: Shoreline Permit
172	10/20/00	Rich Hines	Final Review Comments for Draft EIS
173	10/25/00	Applicant – West Consultants	OHWM Site Visit Sign-In Sheet
174	11/2/00	CC Development Services	Fully Complete Determination (SHL2000-00009)
175	11/2/00	CC Development Services – Josh Warner	Letter to David McDonald re: Letter to Rich Lowry Dated: 10/17/00
176	11/6/00	DOE – Kim Van Zwalenburg	Letter to Josh Warner re: OHWM Determination
177	11/10/00	H. Randy Sweet	Letter to Josh Warner re: Summary of Aggregate Mining & Rock Quarry Operations (Table)
178	11/13/00	David T. McDonald	Letter to Josh Warner re: 10/17/00 letter
179	11/20/00	Applicant - Ecological Land Services, Inc. - Skip Urling	Letter to Josh re: Revised Figure 3 from the Shoreline Substantial Development Permit Application
180	11/21/00	David T. McDonald	Letter to Josh re: Project Update
181	11/28/00	Applicant - Ecological Land Services, Inc. - Skip Urling	Shoreline Substantial Development Permit Application
182	12/4/00	CC Development Services – David Howe	Email to Josh Warner re: Exception from Habitat Permit
183	12/8/00	DNR – Carol Serdar	Letter to Kimball Storedahl re: Changes to Existing Surface Mine Reclamation (Permit #70-010139)

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
184	12/12/00	David T. McDonald	Letter to Rich Lowry re: Potential Violations of County Code
185	12/12/00	Applicant - Ecological Land Services, Inc. - Skip Urling	Email between CC Dev. Engineering and Applicants re: Wetland Forest Creation
186	12/18/00	CC Development Services	Affidavit of Mailing Public Notice & Notice of Development Review
187	12/20/00	CC Development Services	Revised Notice of Development Review
188	12/20/00	CC Development Services	Affidavit of Mailing Public Notice
189	12/21/00	DOE - Kari Rokstad	Shoreline Comments
190	12/21/00	CC Development Engineering - Ken Burgstahler	Project Comments (SHL2000-00009)
191	1/2/01	Michael Traffalis	Comment Letter
192	1/5/01	Dept of Fish & Wildlife - Steve Manlow	Shoreline Comments
193	1/6/01	David T. McDonald	Fax re: December 20, 2001 Notice
194	1/16/01	David T. McDonald	Request for Enforcement of 18.330.030
195	1/12/01	CC Development Services - Josh Warner	Fax to John Taylor re: Mine Zoning Overlay
196	1/18/01	Baz Stevens	Comment Letter
197	1/18/01	Cindy Morgan	Comment Letter
198	1/19/01	CC Prosecuting Attorney - Rich Lowry	Letter to David McDonald re: 1/12/01 Letter regarding pending Shoreline Permit
199	2/5/01	Applicant - Miller Nash	Letter to Rich Carson re: Appropriate SEPA Review
200	2/5/01	Applicant - Miller Nash	Response to Comments Submitted for SHL2000-00009 and SEP2000-00133
201	2/5/01	Applicant	Applicant's Response to Agency & Interested Parties Comments
202	2/5/01	Applicant	Summary of Geomorphic Conditions
203	2/5/01	Applicant - West Consultants	Addendum 1 - Daybreak Ponds Avulsion Mitigation

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
204	2/5/01	Applicant – West Consultants	Geomorphic Analysis of the East Fork of the Lewis River
205	2/5/01	CC Development Services – Habitat Biologist – David Howe	Letter to R2 Resources re: Habitat Conservation Ordinance
206	2/12/01	David T. McDonald	Letter to DNR re: Proposed Project
207	2/12/01	Patrick McCoy	Comment Letter
208	2/12/01	Applicant – J. L. Storedahl – Kimball Storedahl	Letter to Explain Amendment to the Proposal of the Daybreak Mine
209	2/20/01	CC Development Services	Notice of Type II Development Review and DS Scoping Notice
210	2/20/01	CC Development Services	Affidavit of Mailing Public Notice
211	2/20/01	CC Development Services – Josh Warner	Letter to Applicant regarding the Determination of an EIS
212	2/22/01	CC Code Enforcement	Notice and Order
213	2/27/01	Applicant – J.L. Storedahl	Letter re: Dry Processing at the Daybreak Site & SWAPCA Authorizations
214	3/1/01	CC Development Services	Letter to Applicant re: Dry Processing
215	3/19/01	John & Victoria Taylor	Comment Letter
216	3/20/01	Scott Rose	Comment Letter
217	3/22/01	DNR – Carol Serdar	SEPA Comments
218	3/22/01	David T. McDonald	Comment Letter
219	4/2/01	DNR- Carol Serdar	ORDER TO RECTIFY DEFICIENCEIS: Letter to Applicant re: Request for Revised Reclamation Plan
220	4/4/01	CC Prosecuting Attorney – Rich Lowry	Letter to John Dentler re: APL97-004-1842
221	4/9/01	DNR- Carol Serdar	HOLD on ORDER TO RECTIFY DEFICIENCEIS until decision is made on HCP
222	4/16/01	William & Marilyn Feddler	Comment Letter
223	4/16/01	Steve Fuchs	Comment Letter

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
224	4/17/01	Fish First – Jack Kaeding	Comment Letter
225	4/17/01	Fish First – John DiVittorio	Comment Letter
226	4/17/01	Fish First – Gary Loomis	Comment Letter
227	4/17/01	Fish First – Dave Palena	Comment Letter
228	4/18/01	Fish First – Vern Dollar	Comment Letter
229	4/18/01	Fish First – Walt Arola	Comment Letter
230	4/18/01	Fish First – Gary Hurn	Comment Letter
231	4/18/01	Fish First – Dan DuPuis	Comment Letter
232	4/18/01	Fish First – Dan Ross	Comment Letter
233	4/19/01	Fish First – Dan Balch	Comment Letter
234	4/20/01	Fish First – Jim Malinowski	Comment Letter
235	4/25/01	Sokol & Anuta, PC – Karl Anuta	Letter to US Army Corp - Request & Complaint for Enforcement
236	4/25/01	MRM Consulting, LLC	Aerial & Ground Photo Review – East Fork Lewis River Near Storedahl
237	4/26/01	Mary & Steven Philbrick	Comment Letter
238	4/30/01	David T. McDonald	Letter to American Rivers – Richard Penny re: 4/20/01 Letter from Kimball Storedahl
239	5/18/01	Sokol & Anuta, PC – Karl Anuta	Letter to Army Corp – Ron Klump re: Enforcement Issues
240	5/24/01	Sokol & Anuta, PC – Karl Anuta	Letter to DNR re: Stop Work Order
241	8/6/01	Petition Letter	Letter to DNR re: Proposed Project
242	10/16/01	US Environmental Protection Agency Region 10	Letter to Michael Randall re: Letter written to the EPA 7/19/01 regarding Proposed Project
243	10/19/01	Sokol & Anuta, PC – Karl Anuta	Notice of Intent to File Suit – Pursuant to Clean Water Act
244	10/22/01	David T. McDonald	Letter to Josh Warner re: 2001 Draft HCP
245	1/25/02	Applicant - Perkins Coie - John Dentler	Letter to Rich Lowry re: Permitting Use Issues
246	6/6/02	7 th Grade Students – Lewisville Middle School	Petition Letter re: Proposed Project

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
247	7/15/02	Sokal & Anuta, P.C.	Amended Complaint – Case No. CO2-5035 FDB – Environmental Litigation
248	11/19/02	US Fish & Wildlife Service – Ken Berg; National Marine Fisheries Service – Steve Landino	Letter to Interested Party: Proposed Incidental Take Permit (ITP)
249	12/12/02	Scott Rose	Comment Letter
250	12/16/02	CC Development Services – Josh Warner	Response to Scott Rose's Letter. Date 12/12/02
251	12/23/02	Sokal & Anuta, P.C.	Letter to DOE re: 401 Certification & DHCP/DEIS Comments
252	12/26/02	US Fish & Wildlife Service	Notice of Public Comment Period
253	1/9/03	US Fish & Wildlife Service	Notice of Public Comment Period
254	2/13/03	Fish First – Gary Loomis, Jack Kaeding & Richard Dyrland	Letter to Governor Gary Locke re: Proposed Project
255	2/14/03	CC Development Services – Michael Butts	Letter to USF&WS – Tim Romanski – Comments on DEIS/HCP
256	2/24/03	Clark-Skamania Flyfishers	Letter to US Fish & Wildlife Service re: the HCP
257	2/20/03	Scott Rose	Comments on DEIS/HCP (CD included with originals)
258	2/21/03	US Environmental Protection Agency	Letter to USF&WS – Tim Romanski – Comments on DEIS/HCP
259	2/25/03	Sokal & Anuta, P.C.	Letter to USF&WS – Tim Romanski – Comments on DEIS/HCP
260	2/25/03	Washington State Dept of Ecology – Jeri Berube	Letter to USF&WS – Tim Romanski – Comments on DEIS/HCP
261	3/3/03	Fred Holzmer	Letter to USF&WS – Tim Romanski – Project Comments
262	3/7/03	DNR – Brad Campbell	Letter to USF&WS – Tim Romanski – Comments on DEIS/HCP
263	3/10/03	David T. McDonald	Fax to Josh requesting project information and Letters from Congressman Brian Baird

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
264	3/20/03	David T. McDonald	Letter to Josh Warner re: Proposed Project and Columbian Editorial Dated 3/8/03
265	3/25/03	CC Board of County Commissioners	Resolution NO. 2003-03-22 – Yacolt Mountain Quarry
266	4/17/03	Fish First – Jack Kaeding	Letter to DOE with Fish First Corporate Structure Document, Review of DOE Analysis, Friends of East Fork vs. J.L. Storedahl CO205035 JKA, Summary Judgment CO2-5035JKA, EPA Comments, Sokal & Anuta DEIS Comments, Key Points re: Proposal, 8/31/01 Fish & Wildlife Comment Letter, 2/5/03 Fish & Wildlife Comments
267	8/4/03	CC Development Services – Josh Warner	Letter to David McDonald re: Project Documentation
268	10/14/03	Applicant – John L. Dentler, PLLC	Consent Decree CO2-5035 JKA
269	11/21/03	Fish First	Letter to Government Agencies re: HCP Process Location
270	11/21/03	Fish First	Storedahl HCP Concerns – New Data & Information
271	12/3/03	US Dept of Commerce – NOAA Fisheries – Steven W. Landino	Letter to Rich Carson re: Proposed HCP & Enforcement
272	12/4/03	Sokal & Anuta, P.C. – Karl Anuta	Letter re: Final HCP/EIS Comment Period
273			This exhibit has been withdrawn
274	12/15/03	CC Community Development – Rich Carson	Letter to NOAA Fisheries – Steve Landino re: Proposed HCP & Enforcement
275	12/18/03	CC Prosecuting Attorneys Office – Rich Lowry	Email to John Dentler re: Shoreline Conditional Use Permit
276	12/29/03	Applicant – J.L. Storedahl	Binder: FINAL Daybreak Mine Expansion & Habitat Enhancement Project & Habitat Conservation Plan (HCP)
277	12/29/03	Applicant – J.L. Storedahl	Binder: Final Environmental Impact Statement (FEIS)
278	12/29/03	Applicant – J.L. Storedahl	Binder: Response to Comments (RTC)

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
279	12/29/03	Applicant – J.L. Storedahl	Binder: Site Plan Application: Supplement: Narrative; Appendix A-Vegetation & Wildlife Evaluation, Appendix B-Wetlands Delineation Report, Appendix C-Developer's GIS Packet, Appendix D-Easements, Appendix E-Archeological Determination, Appendix F-Storm water & Erosion Control Plan & Storm water Pollution Prevention Plan, Appendix G-Transportation Study, Appendix H-Noise Impact Assessment, Pre-Application Summary Report
280	12/31/03	CC Development Services	Notice of Type III Development Review Application & Public Hearing
281	12/31/03	CC Development Services	Notice of Adoption of Existing Environmental Document
282	12/31/03	CC Development Services	Affidavit of Mailing Public Notice
283	1/7/04	David T. McDonald	Email to Josh Warner re: Notice Comment Deadline
284	1/8/04	David T. McDonald	Email to Josh Warner re: Follow up to Yesterdays Email
285	1/9/04	CC Development Services – Josh Warner	Response to David T. McDonalds 1/7/04 and 1/8/04 Email
286	1/12/04	David T. McDonald	Response to Josh Warner's Email dated 1/9/04
287	1/12/04	HellerEhrman Attorneys – Representing Friends of the East Fork	Appeal of Adoption of FEIS as SEPA document
288	1/14/04	Scott Rose	Appeal of Adoption of FEIS as SEPA document
289	1/15/04	DNR – Chris Johnson	Comment Letter re: Proposed Project
290	1/19/04	Dean & Denette Swanson	Comment Letter
291	1/20/04	Scott Rose	Comment Letter
292	1/20/04	Cindy Morgan / Jim & Colleen Morris	Comment Letter
293	1/21/04	CC Development Services- Josh Warner	Case File Records and Exhibits Review E-mail

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
294	1/21/04	John Dentler	Email Between John Dentler and Josh Warner re: Project Documents
295	1/21/04	CC Development Services – Josh Warner	Re: Email Between John Dentler and Josh Warner re: Project Documents
296	1/21/04	Friends of the East Fork- Richard Dyrland	Comment Letter
297	1/22/04	CC Development Services – Josh Warner	Letter to Parties of Record who did not receive 12/31/03 Notice
298	1/22/04	CC Development Services- Josh Warner	Affidavit of Mailing Public Notice
299	1/26/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Letter to Travis Goddard and David Howe re: Proposed Installation of a Barbed Wire Fence
300	1/26/04	Cindy Morgan, Jim & Colleen Morris & Dean Swanson	Letter to the CC BOCC re: Proposed Project
301	1/26/04	US Dept of Commerce – NOAA Fisheries – Steve Landino	Request for HCP Comments
302	1/27/04	Simone Auger	Email Letter to the CC BOCC re: Proposed Project
303	1/27/04	Rebecca Auger	Email Letter to the CC BOCC re: Proposed Project
304	1/27/04	Don & Dee Morse	Email Letter to the CC BOCC re: Proposed Project
305	1/29/04	Sokal & Anuta, P.C.	Comment Letter to NMFS and US Fish & Wildlife re: Proposed Project
306	1/29/04	DNR – Chris Johnson	Letter to NOAA Fisheries re: Proposed Project – Letter written 1/26/04
307	2/2/04	Native Fish Society - Richard Kennon	Email Letter to the CC BOCC re: Proposed Project
308	2/2/04	DOE – Jeri Berube	Comment Letter re: Proposed Project
309	2/3/04	CC Development Services – Wetland Biologist	Wetland Review
310	2/3/04	CC Development Services – Wetland Biologist B. Davis	Comments regarding SEPA Appeal

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
311	2/2/04	Dept of Ecology – Jeri Berube	Comment Letter On FEIS
312	2/4/04	CC Development Services – Habitat Biologist – David Howe	Memorandum re: Final Habitat Conservation Plan and FEIS
313	2/4/04	CC Public Works – Shelley Oylear	Concurrency Review
314	2/6/04	Robert J. Wheeler	Comment Letter
315	2/7/04	Baz Stevens	Comment Letter
316	2/9/04	Clark County ESA Advisory Committee – Dick Easter	Comments re: FEIS
317	2/9/04	CC Development Services – Josh Warner	Email to Appellants re: Change in Hearing Date due to application of Conditional Use Permit
318	2/12/04	Spencer Beebe	Comment Letter
319	2/12/04	Gil Castaneda	Comment Letter
320	2/13/04	John Calnan	Comment Letter
321	2/13/04	Scott Rose	Email to Josh Warner re: Conditional Use Permit
322	2/13/04	Oregon Anglers – Dennis Richey	Email to Josh re: Proposed Project
323	2/13/04	Michael Harman	Email to Josh re: Proposed Project
324	2/14/04	Janice Green	Email to Josh re: Proposed Project
325	2/14/04	Tillamook Guides Association - Bob Rees	Email to Josh re: Proposed Project
326	2/18/04	Applicant – J.L. Storedahl	Letter to ESA Advisory – Dick Easter re: 2/4/04 Correspondence
327	2/18/04	Tillamook Guides Association - Bob Rees	Request to be a Party of Record
328	2/18/04	Oregon Anglers – Dennis Richey	Request to be a Party of Record
329	2/19/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Email to Josh Warner re: Conditional Use Fees
330	2/19/04	Newt Rumble	Email to Josh re: Proposed Project
331	2/19/04	CC Development Services – Josh Warner	Email to Shari Jensen – CC Customer Service re: Conditional Use Fees

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
332	2/20/04	Applicant – J.L. Storedahl	Conditional Use Permit Application
333	2/20/04	Jane Baril	Comment Letter
334	2/22/04	Michael Harman	Request to become POR
335	2/23/04	Sharon Goucher-Norris	Email re: Proposed Project
336	2/23/04	John Stotka	Comment Letter
337	2/23/04	DNR – Ron Teissere	Comment Letter re: 1/26/04 Letter from Chris Johnson
338	2/26/04	CC Development Services	Development Review Fully Complete Determination
339	3/1/04	CC Development Services	Second Notice of Type III Development Review Application and Public Hearing
340	3/1/04	CC Development Services	Affidavit of Mailing Public Notice
341	3/1/04	CC Development Services	Notice of Adoption of Existing Environmental Document
342	3/3/04	David T. McDonald	Letter Regarding Comments Submitted by Cygina Rapp, LG, LHG
343	3/9/04	John Dentler	Email to Josh re: Dec. 11, 2003 Letter Regarding Mediation
344	3/12/04	HellerEhrman – Svend Brandt	Appeal of the FEIS
345	3/15/04	Scott Rose	Appeal of the FEIS
346	3/11/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Dept of the Army Letter re: Wetland Boundaries (Dated 11/22/00)
347	3/16/04	Sierra Club	Comment Letter
348	3/18/04	David McDonald	Two Letters from Kale Gullett From NOAA Fisheries - Dated 2/17/04 & 2/18/04
349	3/19/04	William & Marilyn Feddeler	Comment Letter
350	3/22/04	John L. Dentler, PLLC	Letter re: 12/11/03 Mediation Letter
351	3/22/04	CC Development Services – Josh Warner	Email between John Dentler and Josh regarding Sandy Mackie as Lead Attorney
352	1/16/01	DNR – Carol Serder	SEPA – Shoreline Comments (Letter Dated 1/8/04)
353	1/16/01	DNR – Jeff Cederholm	SEPA – Shoreline Comments (Letter Dated 1/10/01)

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
354	1/17/01	Scott Rose	SEPA - Shoreline Comments (Letter Dated 1/15/01)
355	1/17/01	DNR – David Norman	Shoreline Comments (Letter Dated 1/11/01)
356	1/17/01	David McDonald	Shoreline Comments
357	1/23/01	Dean & Danette Swanson	Shoreline Comments (Letter Dated 1/19/01)
358	1/23/01	David McDonald	Additional Shoreline Comments (Letter Dated 1/18/01)
359	3/30/04	CC Development Services	Soil Survey of Clark County Washington – Issued November 1972
360	3/31/04	CC Development Services – Wetland Biologist	Statement of Credentials
361	3/31/04	CC Development Services – Habitat Biologist	Statement of Credentials
362	3/31/04	CC Development Services – Habitat Biologist	Revised Habitat Comments
363	3/31/04	Perkins Coie - Alexander Mackie	Letter to Hearings Examiner re: Proposed Schedule
364	4/5/04	Randall Pearl	Comment Letter
365	4/5/04	Dennis Duncan	Comment Letter
366	4/2/04	Maul Foster Alongi – Neil Alongi	Letter re: Stormwater and Groundwater
367	4/5/04	CC Health District – Reuel Emery	Health District Comments – Letter dated 3/30/04
368	4/5/04	CC Development Engineering – Ken Burgstahler	Engineering Comments
369	4/6/04	Fish First – Jack Kaeding	Comment Letter and Submittals: Proposed Project Lists; Copy On NMFS Web Page 1.5.5 MINING; Lidar Photo – 4/03; 96 Photo from the Columbian; Fish First Project Book
370	4/6/04	Friends of the East Fork – Richard Dyrland	Comment Letter
371	4/6/04	Wild Steelhead Coalition – Todd Ripley	Comment Letter
372	4/7/04	CC Development Services – Josh Warner	Email re: Scheduling of Land Use Hearings with attached letter from David McDonald

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
373	4/7/04	David McDonald	Letter re: Scheduling of the Land Use Hearings
374	4/7/04	Craig T. Lynch	Comment Letter
375	4/7/04	Clark Skamania Flyfishers – M. Dennis Way	Comment Letter
376	4/8/04	DKS Associates – Brian Copeland	Transportation Operating Conditions Update
377	4/8/04	DSA- Kerrie Standlee	Memo re: Ambient Noise Data
378	4/8/04	Jean M. Harrington	Comment Letter
379	4/8/04	Baz Stevens	Comment Letter
380	4/8/04	Jean M. Harrington	Second Comment Letter
381	4/6/04	Peter & Roseann Thomsen	Comment Letter
382	4/6/04	Tim O'Neill	Comment Letter
383	4/12/04	CC Development Services	Email between David McDonald and Josh Warner re: Scheduling of Hearing
384	4/12/04	CC Development Services	Affidavit of Posting of Public Notice
385	4/12/04	CC Development Services	Notice of Public Hearing to Columbian – Published 4/14/04
386	4/12/04	Robert Loomis	Comment Letter
387	4/12/04	Linda Loomis	Comment Letter
388	4/12/04	Doug Malone	Comment Letter
389	4/13/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Map – Proposed Surface Mining Overlay District
390	4/14/04	CC Development Services – Josh Warner	Staff Report
391	4/15/04	Therien Family	Comment Letter
392	4/14/04	CC Development Services – Josh Warner	Response to Exhibit #391
393	4/13/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Email regarding HCP Addendum
394	4/13/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Addendum to the Daybreak Mine Expansion & Habitat Enhancement Project (3-31-04)
395	4/14/04	Richard Clemner	Comment Letter

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
396	4/16/04	Therien Family	Second Comment Letter
397	4/16/04	Enterprise/Paradise Point NA	Comment Letter
398	4/17/04	Dave & Kathy Carruthers	Comment Letter
399	4/19/04	Ron Wierenga	Comment Letter
400	4/19/04	George Cathey	Comment Letter
401	4/19/04	Mark Masciarotte	Comment Letter
402	4/19/04	Kelly Johnson	Comment Letter
403	4/19/04	Cynthia Bushell & Thomas Kreger	Comment Letter
404	4/20/04	Scott Rose	Letter regarding Appeal Filed & Previous Letters sent
405	4/21/04	Gary Loomis	Comment Letter
406	4/21/04	Fred Searcey	Comment Letter
407	4/21/04	CC Shoreline Management Committee	Shoreline Committees Approval for Shoreline Permits SHL99-001; SHL2000-00009
408	4/22/04	Greg Gecho	Comment Letter
409	4/22/04	John Holtmann	Comment Letter
410	4/21/04	US Dept of Commerce	Permit No 1483 issued to Storedahl for NOAA's Incidental Take of Endangered/Threatened Species
411	4/21/04	Harry Niles	Comment Letter
412	4/22/04	Kurt & Jo Ann Wohlers	Comment Letter
413	4/22/04	Rodger & Susan Cox	Comment Letter
414	4/15/04	Applicant - Ecological Land Services, Inc. - Skip Urling	US Dept of the Interior Documents re: Biological Opinion of a Section 10(a)(1)(B) Incidental Take Permit
415	4/16/04	Applicant - Ecological Land Services, Inc. - Skip Urling	US Dept of the Interior Incidental Take Permit: Federal Fish & Wildlife Permit; Special Terms & Conditions; Findings & Recommendations; Record of Decision; Appendix A - Summary of Changes Between the Draft & Final EIS; Appendix B - Public Comment Letters; Appendix C - Services Response to Comments on the Final HCP & Final EIS; Implementing Agreement for the Habitat Enhancement Project & Habitat Conservation Plan

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
416	4/26/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Letter from H. Randy Sweet & Response to Comments: DNR Letter Dated 2/21/03; DNR Letter Dated 1/26/04; DNR Letter Dated 1/27/04; DNR Letter Dated 2/18/04; Letter From H. Randy Sweet To NOAA Fisheries and USF&W Dated 2/26/04;
417	4/26/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Letter from H. Randy Sweet & Response to Comments: Memorandum Dated 2/26/04 re: Groundwater Background Information; with Attachments
418	4/26/04	Applicant - John Dentler	DRAFT - Grand Deed of Conservation Easement
419	2/26/04	Applicant - J.L. Storedahl	Letter re: Perimeter Security
420	-----	No Exhibit	-----
421	4/22/04	Mike & Jane Traffalis	Comment Letter
422	4/23/04	Dane Woldseth	Comment Letter
423	4/24/04	Daniel Gellerup	Comment Letter
424	4/25/04	Phil McCorkle	Comment Letter
425	4/25/04	Jeff Acree	Comment Letter
426	4/25/04	Kerry Holtmann	Comment Letter
427	4/25/04	Jeff Lyons	Comment Letter
428	4/25/04	Daryn Murphy	Comment Letter
429	4/26/04	Brian Kuhta	Comment Letter
430	4/26/04	John F. Comes	Comment Letter
431	4/26/04	Dennis Pennell	Comment Letter
432	4/26/04	Carl Perry	Comment Letter
433	4/26/04	Edward & Susie Sale	Comment Letter
434	4/26/04	Karen Drogos	Comment Letter
435	4/26/04	T. Drogos	Comment Letter
436	4/26/04	Dane Woldseth	Comment Letter
437	4/26/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Letter from the Department of the Army (Army Corp) re: Work Performed at Pond 5 Per HCP CM 04 (Letter Dated 3/2/04)

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
438	4/26/04	Native Fish Society – Richard Kennon	Comment Letter & Attachments: 4/19/04 'Columbian' Article; 8/9/01 'Columbian' Article; Press Release Dated 8/3/01
439	4/26/04	US Dept of Commerce NOAA– D. Robert Lohn	National Marine Fisheries Service (NOAA Fisheries) Biological Opinion
440	4/27/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Letter from Perkins COIE re: Application for Transfer & Change of Storedahl Water Rights (Letter Dated 4/6/00)
441	4/27/04	Jack Whitney	Comment Letter
442	4/27/04	David Nichelson	Comment Letter
443	4/27/04	Steven J. Brox	Comment Letter
444	4/27/04	Mike Loomis	Comment Letter
445	4/27/04	NOAA Fisheries – Laura Hamilton	Response to Comments Provided by Kale Gullet NOAA fisheries and Kale Gullet's February Comments
446	4/27/04	Leroy Teeple	Comment Letter
447	4/27/04	Carl Perry	Comment Letter
448	4/28/04	Fred Guettler	Comment Letter
449	4/28/04	Dennis Harvey	Comment Letter
450	4/28/04	Nathan Ward	Comment Letter
451	4/28/04	Bruch Harang	Comment Letter
452	4/28/04	Walt Schriener	Comment Letter
453	4/28/04	Walt Wenthin	Comment Letter
454	4/28/04	Thomas & Julie Young	Comment Letter
455	4/28/04	Kent Gray	Comment Letter
456	4/29/04	Robert Williams	Comment Letter
457	4/29/04	Bob Williams	Comment Letter
458	4/29/04	Eugene & Patty Schmitz	Comment Letter
459	4/29/04	Steve Dodd	Comment Letter
460	4/29/04	Robert Morton	Comment Letter
461	4/29/04	NW Sportsfishing Industry Association – Corey Freeman	Comment Letter

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
462	4/29/04	Petition Letter	Comment Letter from Roberta Faube, Rafael Bejines, Danette, Bejinez, Sierra Richards, Patricia Crawford, Lee Crawford, David ?, Kim Richards, Jim & Colleen Morris
463	4/29/04	Carol L. DeWald	Comment Letter
464	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Oversized 1974 Photo
465	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Oversized Site Plan/Phasing (from (Fig 2-3 In EIS)
466	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Oversized Site Map Showing Boundaries of Rezone
467	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Oversized Photo of Site With Distance to River Based on 3.1 EIS
468	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Oversized Clark County Mineral Resource Map
469	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Power Point Photos – (Also included in HCP Power Point)
470	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Neil Alongi, Resume
471	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Alistere Clary, Resume
472	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Brian Copeland, Resume
473	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Thomas R. Grindeland, Resume
474	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Dudley W. Reiser, Resume
475	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Kerrie G. Standlee, Resume
476	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	H. Randy Sweet, Resume
477	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	David F. Weymann, Resume
478	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Skip Urling, Resume

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
479	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Dudley Reiser – Covered Species
480	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Kerrie Standlee- 1991 Daybreak Mine Noise Study
481	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Randy Sweet – HCP Power Point Presentation
482	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Mark Havighorst – IT Group Updated Summary of Clark County Mining Information
483	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Thomas R. Grindeland – Comments re: Hydraulic, Sediment Transport & Geomorphic Issues
484	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	John Dentler – Letter re: Shoreline Matrix
485	4/29/04	Ryan Evans	Comment Letter
486	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Phasing Map – Oversized
487	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Oversized August 2, 1982 FEMA Map
488	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Oversized 1974 Conditions of Site
489	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Oversized Noise Impact Assessment
490	4/29/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Oversized Processing Area Detail
491	4/29/04	Erin Guerra	Comment Letter
492	4/29/04	Val Alexander	Comment Letter
493	4/29/04	Gretchen Starke	Comment Letter
494	4/29/04	Rich Benson	Comment Letter
495	4/29/04	Wesley Hill	Comment Letter
496	4/29/04	Paula & Scott Davis	Comment Letter
497	4/29/04	Richard A. Doi	Comment Letter
498	4/30/04	James A. Court	Comment Letter
499	4/30/04	Timothy Buckley	Comment Letter

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
500	5/2/04	Ben Paul	Comment Letter
501	4/30/04	John Young	Comment Letter
502	5/4/04	John DiVittorio	Comment Letter
503	5/4/04	Janeen Johnson	Comment Letter
504	5/5/04	Gary L. Kapezynski	Comment Letter
505	5/5/04	Jo Ann Wohlers	Comment Letter to the BOCC – emailed to BOCC 4/28/04
506	5/5/04	Roger Smith	Comment Letter
507	5/5/04	Kerry Macomber-Holtmann	Comment Letter to the BOCC – emailed to BOCC 4/26/04
508	5/6/04	Jan Karcher	Comment Letter
509	5/6/04	Dennis & Sheryl Ward	Comment Letter
510	5/7/04	Eloyce O'Connor	Comment Letter
511	5/7/04	Albert O'Connor	Comment Letter
512	5/7/04	Mauricio Austin	Comment Letter
513	5/10/04	Sharon Lee	Comment Letter
514	5/11/04	David McDonald	Memo to Gary Fish from Peggy Bartels (dated 6/21/98)
515	5/11/04	David McDonald	Clean Water Program Certificate of Delinquency & Notice of Lien (dated 9/8/03)
516	5/11/04	David McDonald	Clark County Property Information for 5204 NE Storedahl Pit Rd
517	5/11/04	David McDonald	Maps Online – Search Results for Parcels Associated With Proposed Project
518	5/11/04	David McDonald	DOE Letter to Storedahl re: National Pollutant Discharge (dated 1/25/02)
519	5/11/04	David McDonald	Department of Fish & Wildlife Memo from Dan Rawding to Lee Van Tussenbrook (dated 2/15/00)
520	5/11/04	David McDonald	Department of Fish & Wildlife Comments from Ken Bates (dated 4/14/00)

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
521	5/11/04	David McDonald	Columbian Article "State: Gravel mining would gut goals to help fish on scenic river" (dated 2/3/00)
522	5/11/04	David McDonald	Limiting Factors Analysis
523	5/11/04	David McDonald	Dept of Fish & Wildlife Letter –Preliminary Response to Draft HCP (dated 1/14/00)
524	5/11/04	David McDonald	Dept of Fish & Wildlife - Internal Discussion Memo Between Dave Whipple & Lee Van Tussenbrook (dated 2/10/00)
525	5/11/04	David McDonald	Dept of Fish & Wildlife: Multiple Letters 8/17/01; WDFW1/3/01; 4/7/99; 1/14/00
526	5/11/04	David McDonald	Department of Fish & Wildlife Memo from Ken Bates to Paula Swedeen (dated 8/31/01)
527	5/11/04	David McDonald	NOAA Fisheries Letter from Steven Landino (dated 5/4/04)
528	5/11/04	David McDonald	Letter to Dept of Ecology from David McDonald with Attachments: History of the Struggle to Restore & Preserve the Fish; Lee Van Tussenbrook Letter to NMFS; Joint Letter from WDFW & DOE to FEMA; Recent Press Coverage; Copy of Protest Filed with DOE; Complaint Filed with DOE; Follow Up Correspondence; Updated Analysis From Kevin Culton of PWA (dated 9/14/00)
529	5/11/04	David McDonald	Letter to Dept of Ecology from David McDonald with Attachments 7/15/00 Letter to DOE; 6/1/00 Letter to DOE; Memo from Scott Rose 8/14/00; Letter to Agencies re: 1/8/99 (Packet dated 9/14/00)
530	5/11/04	David McDonald	Letter from David McDonald to DOE (dated 9/13/00)
531	5/11/04	David McDonald	Center for Environmental Law & Policy Letter to DOE (dated 10/4/00)
532	5/11/04	David McDonald	Letter from David McDonald to DOE with Attachment: Letter from Rachael Paschal 8/9/00 (Packet dated 12/5/00)
533	5/11/04	David McDonald	Sokol & Aunuta, Letter to DOE (dated 6/11/01)

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
534	5/11/04	David McDonald	Letter from DOE to Fish First (dated 5/3/01)
535	5/11/04	David McDonald	Letter from David McDonald to DOE (dated 3/21/01)
536	5/11/04	David McDonald	Superior Court of the State of Washington for Cowlitz County NO. 02-2-02166-3 – First Amended Complaint for Declaratory Judgment – Storedahl Properties, LLC Plaintiff v. Clark County (dated 5/9/03)
537	5/11/04	David McDonald	Friends of the East Fork: Effects of the February 1996 Floods on the Ridgefield Pit & Daybreak Gravel Mines: Environmental Damage caused By Mining Within the Floodplain & by Poor Mining Practices
538	5/11/04	David McDonald	A Compilation of Photos Showing Gravel Washing Slurry Input into the Dean Creek & East Fork of the Lewis River
539	5/11/04	David McDonald	Schematic of Diversion of Dan Creek into Storedahl Lower Slurry Washing Pond & Attachments (dated 6/00)
540	5/11/04	David McDonald	Friends of the East Fork: Draft – Bennett Road Berm – East Fork Lewis River (dated 3/1/99)
541	5/11/04	David McDonald	The Lower East Fork Lewis River Subbasin: A Summary of Habitat Conditions, Salmonid distribution. & Smolt Production
542	5/11/04	David McDonald	Photo Index & Interpretation By Friends of the East Fork – For Federation of Fly Fishers Nationally Endangered Rivers Announcement – (dated 8/3/01)
543	5/11/04	Fish First – Jack Kaeding	Letter to Josh Warner with Attachments Enclosures: Salmon Habitat Restoration Summary; Fish First Accomplishments; Steelhead Counts 1987 to 2002; Habitat Population Viability Analysis; Ecosystem Diagnosis & Treatment; NOAA Fisheries Letter Dated 5/4/04; WDFW Letter Dated 2/5/03; WDFW Preliminary Comments & Concerns Dated 2/7/03; Clark County Watershed Template 3/26/03

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
544	5/11/04	Fish First – Jack Kaeding	Due Process – Systematic Stifling of Critical Reports & Comments by Key DOE & WDFW: With Attachments: DOE Letter Dated 1/28/04; DOE Letter Dated 4/8/03; DOE Letter Dated 7/15/03; DOE Letter dated 6/10/03; Fish First Letter to DOE Dated 6/24/03; Fish First Letter to DOE Dated 4/14/03; Fish First Corporate Structure; Review of DOE Analysis; Resume for Richard Dyrland; US District Court – Friends of the East Fork (Plaintiffs) vs. J. L. Storedahl & Sons, Inc. (Defendants) No. CO205035 JKA; Letter from Sokol & Anuta re: Order Denying in Part, and Granting in Part Defendants Motion for Partial Summary Judgment – Dated 12/27/02; USEPA to US Fish & Wildlife Dated 2/24/04; Letter from Sokol & Anuta to NMFS & US Fish & Wildlife Dated 2/21/03; Some Key Points of Concern Dated 3/13/03; WDFW Ken Bates Comments Dated 8/31/01; WDFW Lee Van Tussenbrook Comments Dated 2/5/03;
545	5/11/04	Scott Rose	Letter to Hearing Examiner with Attachments: Floodway Map 8/2/82; Ten Photos of the East Fork Lewis River Dated 2/1/03; Zone Map 6/3/91; Picture Displaying Agricultural Uses Adjacent to Daybreak Park; Letter from Cindy Morgan Dated 5/5/04; 11/20/98 Newspaper Article; Wetland Definitions; DOE Letter Dated 3/24/00; Scott Rose Letter to DOE Dated 4/12/00; Chemical Identification & Use for Aluminum Sulfate; Clark County Newspaper Article Entitled "Order stops gravel work on East Fork" Dated 2/21/01; DNR Letter to Clark County Dated 1/10/01; Letter from Cygnia Rapp to US Fish & Wildlife Dated 1/28/04
546	5/6/04	Erin Harwood	Comment Letter to the Board of County Commissioners
547	5/10/04	S. Fisher	Comment Letter to the Board of County Commissioners

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
548	5/11/04	John Dentler	Email to Josh Warner Regarding Conservation Easement, Trail System & Pond Slopes
549	5/11/04	Jeff Bowen	Comment Letter
550	5/11/04	CC Engineering Services – Fereidoon Safdari & Ken Burgstahler	Staff Report Revisions
551	5/11/04	CC Development Services – Habitat Biologist -David Howe	Staff Response to Applicant Habitat Testimony
552	5/11/04	James Malinowski	Testimony for 5/13/04 Hearing
553	5/11/04	Baz Stevens	Testimony for 5/13/04 Hearing
554	5/12/04	Ken Bates	Letter regarding Rezone & Related Actions
555	5/12/04	Sharon M. Goucher-Norris	Comment Letter
556	5/12/04	Lori Lindberg	Comment Letter
557	5/12/04	David McDonald	Washington Dept of Natural Resources Division of Geology – Order to Rectify (dated 8/20/01)
558	5/12/04	David McDonald	DNR Letter from Rex Hapala to Virgil Barnett (dated 11/18/96)
559	5/12/04	David McDonald	DNR Letter from Doug Sutherland to Kenneth Conaway (dated 8/31/01)
560	5/12/04	David McDonald	DOE Letter from Bonnie Shorin to David Norman (dated 4/26/91)
561	5/12/04	David McDonald	DNR from David Norman to Emily Greenberg (dated 8/13/00)
562	5/12/04	David McDonald	Letter from Kenneth & Karen Conaway (dated 7/30/01)
563	5/12/04	David McDonald	Memo from Chris Johnson to Joe Shramek (dated 8/15/01)
564	5/12/04	David McDonald	Email from Karl Anuta (dated 1/19/00)
565	5/12/04	David McDonald	Letter from David McDonald to Congressman Brian Baird (dated 4/3/00)
566	5/12/04	David McDonald	Letter from Bill Dygert to Tim Romanski & Sam Brenkman (dated 1/27/00)

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
567	5/12/04	David McDonald	Letter from Bill Dygert to Tim Romanski & Sam Brenkman (dated 2/4/00)
568	5/12/04	David McDonald	Letter from David McDonald to Congressman Brian Baird (dated 2/16/00)
569	5/12/04	David McDonald	Aerial Photos of the Daybreak Site & East Fork of the Lewis River
570	5/12/04	Susan Van Leuven	Comment Letter
571	5/13/04	Jean & Blaine Parks	Comment Letter
572	5/13/04	James T. Irish – City of La Center	Comment Letter from the Mayor of La Center
573	5/13/04	Svend Brandt Erichsen	Document Listing the Exhibits that will be referred to by Svend
574	5/13/04	David McDonald	Outline of Proposed Testimony for the May 13, 2004 Land Use Hearing & Attached a Highlighted List of Relevant Exhibits that will be discussed in Testimonies
575	5/13/04	Val Alexander	Letter and Attachments: Flyer That has been Circulated; 95 Newspaper Articles & Editorials;
576	5/13/04	Kari Otis – Rock Solid Community Teen Center	Comment Letter
577	5/13/04	David McDonald	Letter re: History of the Proposed Project
578	5/13/04	David McDonald	Declaration of Karl G. Anuta
579	5/13/04	David McDonald	Water Well Report – State of Washington
580	5/13/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Transcript of the April 29, 2004 Daybreak Mining Land Use Hearing
581	5/13/04	HellerEhrman -Svend Brandt Erichsen	Memo from Kevin Coulton to Richard Dyrland re: Ongoing Investigations of Changing Flood Hazards on the East Fork Lewis River
582	5/13/04	HellerEhrman -Svend Brandt Erichsen	Written Comments Regarding SEPA Appeal
583	5/13/04	HellerEhrman -Svend Brandt Erichsen	"A Framework For Delineating Channel Migration Zones " – 11/03 – Ecology Publicaiton #03-06-027
584	5/13/04	HellerEhrman -Svend Brandt Erichsen	"Application for Reclamation Permit " (Form SM-8A)

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
585	5/13/04	HellerEhrman -Svend Brandt Erichsen	"Updated July 2000 4(d) Rule Implementation Binder for Threatened Salmon and Steelhead on the West Coast
586	5/13/04	Fish First – Jack Kaeding	Testimony given at May 13th Hearing
587	5/13/04	FBR Realty – Keith Pfeifer	Comment Letter
588	5/13/04	Scott Rose	Testimony given at May 13th Hearing
589	5/13/04	Newt Rumble	Comment Letter and Fiscal Note regarding The Real Cost Outlay for the Proposed HCP
590	5/13/04	Bill Dygert	CD – Power Point Presentation shared at May 13 th Hearing
591	5/13/04	Dale Shoemaker	Comment Letter
592	5/j13/04	Jack Keading	Power Point Presentation shared at May 13 th Hearing
593	5/13/04	Jack Keading	Article Entitled "Stordahl: Saving Fish, Providing Gravel" – Written by J.L. Stordahl & Sons
594	5/13/04	Gwen Alley	Testimony given at May 13th Hearing
595	5/13/04	Clark-Skamania Flyfishers - Ed Wickersham	Comment Letter & Tables re: Steelhead Redds in the East Fork
596	5/13/04	Frank Sharron	Comment Letter
597	5/13/04	Don Swanson	Testimony given at May 13th Hearing
598	5/13/04	Jack Kaeding	Overheads Used at May 13 th Hearing
599	5/13/04	Sierra Club – Lehman Holder	Testimony given at May 13th Hearing
600	5/13/04	Donald J. Starkin	Comment Letter
601	5/13/04	Dean Swanson	Testimony given at May 13th Hearing
602	5/13/04	Sharonlee & Patrick Faris	Comment Letter
603	5/13/04	Lyle Cabe	Comment Letter
604	5/14/04	Evergreen School Dist – Rick Larson	Comment Letter
605	5/14/04	Jean Parks	Comment Letter
606	5/19/04	Burt & LeAnn Witherspoon	Comment Letter
607	5/19/04	Troy Gates	Comment Letter

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
608	5/19/04	Scott Peterson	Comment Letter
609	5/19/04	Lacey Griffiths	Comment Letter
610	5/20/04	David McDonald	Miller Testimony at May 13 th Daybreak Land Use Hearing
611	5/20/04	David McDonald	Assessment & Strategic Plan – Prepared by Dover Habitat Restoration, LLC
612	5/20/04	David McDonald	Photos
613	5/20/04	David McDonald	Packet: Section 30 – Subarea Master Plan 2/04; Bernert Barge Lines; Lewisville Site Plan – Phase II – Application Narrative; Narrative For Lakeside Industries; Columbian Article 'PROJECT STARTS WITH A BANG'; OregonLive.com Article 'Environmentalists Challenge Earth Removal'; Notice of Type II Development Review Application – Reeb's Parr Surface Mining; Yacolt Mountain Quarry Staff Report; Directory of Washington Mines, 2001; Pre-Application Site Plan Review Application Form for Livingston Mountain Rockpit; APL2003-00006- Livingston Mountain Quarry Appeal Hearing Examiner Decision; Report – Evaluation of Aggregate Resources – Reichhold Chemicals, Inc.; Executive Summary Hearing on Applications for Operating Permits 5/14/02 – Columbia County; Operation Summaries – Morse Brothers, Inc. 5/14/02
614	5/20/04	Jannette Rondeau	Comment Letter
615	5/20/04	Wayne Gresh	Comment Letter
616	5/21/04	Fred Zippo	Comment Letter Sent to BOCC 5/18/04
617	5/21/04	Jim Wattenbarger	Comment Letter
618	5/21/04	Mark Phelps	Comment Letter
619	5/20/04	Baz Stevens	Comment Letter
620	5/24/04	Jim Turner	Comment Letter
621	5/24/04	Paul Christensen	Comment Letter
622	5/24/04	Kay McCarty	Comment Letter
623	5/25/04	Ginger Metcalf	Comment Letter

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
624	5/25/04	Laura Calvi	Comment Letter
625	5/25/04	Rita Persie	Comment Letter
626	5/25/04	Brenda McKay	Comment Letter
627	5/25/04	Elizabeth York	Comment Letter
628	5/25/04	Sandy Cole	Comment Letter
629	5/28/04	David McDonald	Project Overview of Staff Report
630	5/27/04	Kate McPherson	Comment Letter
631	5/31/04	David McDonald	Status if Rezone Denied
632	6/1/04	CC Development Services – Josh Warner	Memorandum to the Hearing Examiner re: Staff Comments Following the May 13 th Hearing
633	6/1/04	CC Health District – Reuel Emery	Letter regarding The 1996 Flood on the East Fork
634	6/1/04	HellerEhrman Attorneys – Svend Brandt-Erichsen	Supplemental Testimony Regarding Storedahl Daybreak CUP & Shoreline Permit Applications
635	6/1/04	Office of Archaeology & Historic Preservation – Stephenie Kramer	Letter to Josh Warner re: Archaeological Reports
636	6/1/04	David Delyria	Email to Josh Warner re: Exhibit # 635
637	9/5/01	Wash Dept of Natural Resources	Order to Rectify Deficiencies
638	10/29/1	Wash Dept of Natural Resources	Letter to Storedahl Requesting Revised Reclamation Plans
639	8/13/02	Board of Cowlitz County	Letter to Storedahl re: July 30, 2002 approval of Special Use Permit
640	6/17/03	Dept of Fish and Wildlife	Letter to the Army Corp
641	4/1/04	Wash Dept of Natural Resources	Letter to Senator Don Carlson re: Daybreak Habitat Conservation Plan
642	4/30/04	David McDonald	Email from Paul Bakke – US Fish and Wildlife re: Avulsion Risk
643	5/27/04	Dean & Delverna Swanson	Letter re: USGS Field Studies Map MF-2395
644	6/1/04	Skyview Highschool	Comment Letter

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
645	6/1/04	Steve Klug	Comment Letter
646	6/1/04	Brian Baird – Member of Congress	Comment Letter
647	6/1/04	Don Carlson – Senator 49 th District	Comment Letter
648	6/1/04	Richard Kennon	8-9-01 Columbian Article – East Fork Labeled Endangered –Again
649	6/1/04	Richard Kennon	Federation of Fly Fishers: Endangered Fisheries Initiative Form
650	6/1/04	Richard Kennon	Press Release 8/3/01
651	6/1/04	Richard Kennon	Testimony
652	6/1/04	Craig T. Lynch	Testimony
653	6/1/04	Bill Bakke	Native Fish Society
654	6/1/04	Bill Bakke	Oregonian Article – Lewis River's East Fork on Polluted List
655	6/1/04	Richard Dyrland – Hydrologist	Resume –Resource Analysis
656	6/1/04	Richard Dyrland – Hydrologist	Letter – Photos & Tables
657	6/1/04	Perkins Coie – Sandy Mackie	Reply Comments
658	6/1/04	Scott Rose	Comment Letter
659	6/1/04	Tom Grindeland	Letter to Richard Dyrland - August 26, 2003 – Lower Columbia Fish Recovery Board
660	6/1/04	Perkins Coie – Sandy Mackie	May 13, 2004 – Land Use Hearing Transcript
661	6/2/04	Cygnia Rapp, Fluvial Geomorphologist	Comment Letter
662	6/10/04	State of Washington House of Representatives – Jim Moller. 49 th District State Representative	Comment Letter
663	6/11/04	Richard Dyrland - Supervisory Hydrologist	Letter to Jeff Breckel – August 29, 2003 – Peer Review of Assessment & Strategic Plan For East Fork Lewis River
664	6/11/04	Robert Delk	Resume

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
665	6/11/04	Natural Resources Conservation Service – Barry Southerland PhD	Letter to Richard Bachert- March 3, 2004 – East Fork Lewis Recon. & Team Visit
666	6/11/04	Dave Rosgen	Article in Time Magazine
667	6/11/04	The Oregonian – John Painter Jr.	Newspaper Article – Owners Find Dream Homes a Nightmare
668	6/11/04	David McDonald	Comment E-Mail From Doug Putman to Jack Kaeding
669	6/11/04	Richard Dyrland - Supervisory Hydrologist	Information Submitted to Daniel Kearns RE: Critical Low Flow Levels In East Fork Lewis River Below Dean Creek & Old Ridgefield Storedahl Ponds
670	6/10/04	CC Development Services	Letter to U.S. Dept. of Fish & Wildlife
671	6/11/04	Valerie Alexander	Comment Letter
672	6/1/04	Carol L. DeWald	Comment Letter
673	6/1/04	Gerald & Winnie Harkleroad	Comment Letter
674	6/7/04	Susan Wilson	Article In OregonLive.com
675	6/9/04	Perkins Coie -Sandy Mackie	Comment E-Mail
676	6/9/04	Cowlitz Indian Tribe – John Barnett & Dave Burligame	Comment Letter
677	6/10/04	CC Development Services – Josh Warner	E-Mail to David McDonal & Sandy Mackie
678	6/10/04	Archaeological Services of Clark County – David DeLyria	Comment Letter to Stephanie Kramer Assistant State Archaeologist
679	3/19/00	David McDonald	Articles in The Columbian
680	6/1/04	David McDonald	Hearing Presentation
681	6/14/04	Richard Kennon	Comment Letter
682	6/14/04	HellerEhrman Attorneys – Svend A. Brandt – Erichsen	Comment Letter
683	6/14/04	David McDonald	Comment Letter
684	6/14/04	Scott Rose	Final Comments
685	6/1/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Transcript of the June 1, 2004 Daybreak Mining Land Use Hearing

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
686	6/8/04	Perkins Coie – Sandy Mackie	Correction to Exhibit 657
687	6/15/04	US Fish and Wildlife Service – Tim Romanski	NHPA Compliance
688	6/15/04	CC Development Services – Josh Warner	Email to Stephenie Kramer re: Archaeology Issues
689	6/15/04	Archaeological Services of Clark County – David DeLyria	Response to Stephanie Kramers June 1, 2004 Letter – Exhibit # 635
690	6/16/04	Cowlitz Indian Tribe – John Barnett	Letter re: Archaeology & Historic Preservation
691	6/17/04	Perkins Coie – Sandy Mackie	Letter in Response to Opponents June 1, 2004 Hearing Presentation and Response to Hearings Examiners Request for Additional Information (Emailed 6/14/04)
692	6/17/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Daybreak Mine Expansion Proceedings – Referenced Mine Site Large Map (Dated 6/10/04)
693	6/21/04	Applicant - Ecological Land Services, Inc. - Skip Urling	Letter and Best Management Practices for Reclaiming Surface Mines in Washington & Oregon – Revised Edition 12/1997
694	6/21/04	Perkins Coie – Sandy Mackie	Letter in Response to Two Issues: and Attachments: Response to Heller Ehrman; Response to David McDonald; Response to Scott Rose
695	6/21/04	Office of Archaeology & Historic Preservation – Stephenie Kramer	Letter in Response to Alexander (Sandy) Mackies June 15 th Letter.
696	6/21/04	CC Development Services – Josh Warner	Email between Josh Warner and The Hearings Examiner re: Deadlines for Submittals
697	6/23/04	CC Development Services – Josh Warner	Email to The Hearings Examiner re: Two Outstanding Issues
698	6/23/04	Cowlitz Indian Tribe – John Barnett	Letter re: Archaeological Testing
699	6/30/04	Perkins Coie – Sandy Mackie	Response to Inquiry on Archeology Conditions

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
700	2/11/05	David McDonald	Letter to Richard Lowry – Clark County Prosecuting Attorney re: Potential Violations of County Codes
701	2/22/05	CC Development Services	RESOLUTION NO. 2005-02-14 re: Remand of Daybreak Mine to the Hearings Examiner (Letter dated and mailed 2/25/05)
702	2/23/05	CC Development Services	Notice of Remand to Hearings Examiner for Limited Reconsideration
703	2/23/05	CC Development Services	Affidavit of Mailing Public Notice
704	3/3/05	Reeve Kearns PS – Daniel Kearns	Letter from Hearing Examiner re: Remand to be held on March 29 th , 2005
705	3/14/05	Department of Ecology – Perry Lund	Conditional Use Permit Approval for Shoreline SHL99-001; SHL2000-00009
706	3/16/05	CC Development Services	Affidavit of Mailing Public Notice
707	3/28/05	CC Prosecuting Attorney's Office – Richard Lowry	Letter in Response to The Hearings Examiner Letter – Exhibit #704
708	3/29/05	Swanson's; Morgan's; Morris; Bejinez's	Comment Letter re: Non-Conforming Use
709	3/29/05	CC Development Services – Josh Warner	Remand Memo
710	3/29/05	Scott Rose	Comment Letter
711	3/29/05	CC Development Services	Daybreak Hearing Examiners Decision – Dated 11/4/04
712	3/29/05	Sandy Mackie	Packet: Cover Letter; Memorandum and Authorities in Support of the Nonconforming Use Status of the J.L. Storedahl & Sons, Inc. Daybreak Mine and Attachments
713	3/29/05	Sandy Mackie	Power Point Presentation
714	3/29/05	Thomas Grindeland	4 - 11x17 Maps - Lewis River Floodplain Comparisons Map 1 – 1974; Map 2 – 1975; Map 3 – 1988; Map 4- 2000
715	3/29/05	Svend Brandt- Erichsen	Memorandum To Address Issues, Facts and Legal Authorities Relevant to Remand Hearing

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
716	4/4/05	CC Development Services – Josh Warner	Memorandum to the Hearing Examiner re: F-X Zone Existing Use Provision
717	4/06/05	CC Development Services – Josh Warner	Email from The Hearing Examiner- Daniel Kearns re: County Code
718	4/11/05	Jill Erwin, RPR	Transcript for 3/29/04 Remand Hearing
719	4/12/05	Sandy Mackie	Additional Submittals re: Nonconforming Use
720	4/12/05	Thomas Grindeland, PE	Full Size Map : E.F. Lewis River Floodplain Comparisons
721	4/12/05	Scott Rose	Letter to the Hearing Examiner re: Remand Issues
722	4/12/05	David McDonald	Aerial Photos: Enlarged Daybreak Gravel Pit Site : 1996; 1988; 1984; 1980; 1975; 1973; 1971; North & South East Fork Bank: 1967 & 1948
723	4/12/05	CC Development Services- Josh Warner	Memorandum to the Hearings Examiner re: Clark County Historic Zoning at Daybreak Mining Site
724	4/26/05	Sandy Mackie	Post Hearing Brief in Response to Arguments Made by Fish First and FOEF Regarding The Nonconforming Use Status of Daybreak Mine
725	4/26/05	David McDonald & Svend Brandt- Erichsen	Final Set of Arguments
726	5/3/05	Sandy Mackie	Post Hearing Reply Brief in Response to Fish Firsts and FOEF Dated 4/26/05 (Exhibit # 725)
727	5/3/05	David McDonald & Svend Brandt- Erichsen	Post Hearing Reply

