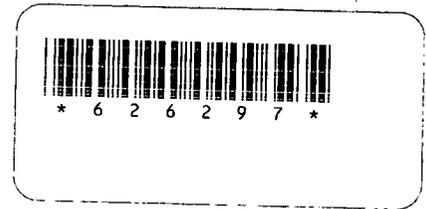


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**NOTICE TO PARTIES OF RECORD**

**PROJECT NAME: Daybreak Mine Second 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, 6<sup>th</sup> floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington, no later than 5:00 p.m. on, **October 14, 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 The fee shall be refunded if the appeal is withdrawn in writing by the petitioner at least 15 calendar days before the public meeting to consider the appeal.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: **September 30, 2005**

*Exhibit #  
738*



Project Name: Daybreak Mine Remand  
Project Numbers:  
REZ98-011; CUP2004-00002; SPR98-034; SHL99-  
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Randall Pearl  
4609 NE 142nd Street  
Vancouver, WA 98686

Margaret Pennah  
P.O. Box 293  
Toppenish, WA 98948

Dennis Pennell  
402 NE 136th Way  
Vancouver, WA 98685

Eugene Pepper  
P.O. Box 2138  
Battle Ground, WA 98604

Rita Persie  
P.O. Box 225  
La Center, WA 98629

Scott Peterson  
10003 NE 146th Ave  
Vancouver, WA 98682

Keith Pfeifer  
6100 NE Highway 99  
Vancouver, WA 98665

Mary Philbrick  
28001 NE 61st Avenue  
Battle Ground, WA 98604

Larry Pitt  
314 W 35th Street  
Vancouver, WA 98660

Larry Purchase  
11929 SE Evergreen Hwy  
Vancouver, WA 98683

Dudley Reiser  
15250 NE 95th St  
Redmond, WA 98052

Georgina Rich  
P.O. Box 2138  
Battle Ground, WA 98604

Donald Roanoff  
1500 NE 17th Ave  
Battle Ground, WA 98604

Doug Romiz  
3111 'M' Street  
Vancouver, WA 98663

Jannette Rondeau  
1403 49th Street  
Washougal, WA 98671

Scott Rose  
27313 NE Bennett Rd  
Battle Ground, WA 98604

Newt Rumble  
28610 NW 38th Court  
Ridgefield, WA 98642

David Russell  
137 Greenwood Rd  
Kalama, WA 98625

Edward & Susie Sale  
13112 SE 19th St  
Vancouver, WA 98683

Scott Salsbery  
18203 NE 23rd Way  
Vancouver, WA 98684

Brian Sanders  
37813 NE 208th Ave  
Amboy, WA 98601

John & Carol Schamel  
127 Blue Heron Dr  
Longview, WA 98632

Eugene & Patty Schmitz  
27331 NE 29th Ave  
Ridgefield, WA 98642

Walt Schriener  
26632 NE McKenzie Rd  
Battle Ground, WA 98604

Fred Searcey  
11313 NW 6th Ave  
Vancouver, WA 98682

Frank Sharron  
2515 NE 83rd Way  
Vancouver, WA 98665

Roger Smith  
18409 NE 184th St  
Brush Prairie, WA 98606

Tim Snook  
9710 NW 8th Ave  
Vancouver, WA 98660

Gloria Sommer  
6200 NE 75th St  
Vancouver, WA 98661

John Sorenson  
3613 E. McLoughlin Blvd  
Vancouver, WA 98661

Tony Spelman  
9915 NE 67th St  
Vancouver, WA 98662

Donald Starkin  
18318 NE Cole Witter Rd  
Battle Ground, WA 98604

Ruth Sterling  
71860 Apiary  
Rainer, OR 97048

Baz Stevens  
26703 NE 77th Avenue  
Battle Ground, WA 98604

Maggie Stone  
6108 NE 284th Street  
Battle Ground, WA 98604

Kevin Storedahl  
639 Cloverdale Rd  
Kalama, WA 98625

Kimball Storedahl  
751 Cloverdale  
Kalama, WA 98625

Jason Storedahl  
751 Cloverdale  
Kalama, WA 98625

John Stotka  
32607 NW Eagle Crest Dr.  
Ridgefield, WA 98642

Catherine Strouse  
8017 NW 14th Ct  
Vancouver, WA 98665

Ofelia N. Svart  
721 NW 9th, STE 200  
Portland, OR 97209

Don Swanson  
4103 NE J. A. Moore Rd  
La Center, WA 98661

Dean & Delverna Swanson  
4501 NE 290th St  
La Center, WA 98629

Dean & Danette Swanson  
7511 NE 219th Street  
Battle Ground, WA 98604

H. Randy Sweet  
P.O. Box 876  
Kalama, WA 98625

Leroy Teeple  
4204 SE Covell St  
Milwaukie, OR 97222

Patrick & Paula Therien  
7403 NE 279th Street  
Battle Ground, WA 98604

C. Bushnell & Thomas Kreger  
33401 NW 24th Ave  
Ridgefield, WA 98642

Peter & Roseann Thomsen  
26703 NE 29th Avenue  
Ridgefield, WA 98642

Mike & Jane Traffalis  
26401 NE 59th Ct  
Ridgefield, WA 98642

Jim Turner  
12912 NE 22nd St  
Vancouver, WA 98684

Eleanor Umtuch  
P.O. Box 35  
Wapato, WA 98951

Susan Van Leuven  
9304 NE 249th St  
Battle Ground, WA 98604

John W.  
300 Sitown Rd  
Castle Rock, WA 98611

Gary Wade  
900 NE 77th Ct  
Vancouver, WA 98664

Nathan Ward  
1100 SW 2nd Ave  
Battle Ground, WA 98604

Dennis & Sheryl Ward  
8305 NW 12th Ave  
Vancouver, WA 98665

Walt Wenthin  
27412 NE 29th Ave  
Ridgefield, WA 98604

David Weymann  
111 SW Columbia, STE 1500  
Portland, OR 97201

Robert Wheeler  
P.O. Box 7873  
Olympia, WA 98507

Jack Whitney  
18329 NE 182nd Ave  
Brush Prairie, WA 98606

Ed Wickersham  
18000 NW 31st Ave  
Ridgefield, WA 98642

Ron Wierenga  
6502 SE 45th Ave  
Portland, OR 97206

Robert Williams  
32517 NW Eagle Crest Dr  
Ridgefield, WA 98642

Harley & Jan Williams  
3401 NE JA Moore Rd  
La Center, WA 98629

Bob Williams  
8008 NE 100th Circle  
Vancouver, WA 98662

Cam Wither  
8209 NE 136th Ave  
Vancouver, WA 98682

Burt & LeAnn Witherspoon  
26812 NE 72nd Ave  
Vancouver, WA 98604

Kurt & Jo Ann Wohlers  
P.O. Box 644  
La Center, WA 98629

Dane Woldseth  
4798 172nd Ct SE  
Bellevue, WA 98006

Ray Woodside  
5015 NE JA Moore Rd  
La Center, WA 98629

Elizabeth York  
4514 NE Stoughton Rd  
La Center, WA 98629

Thomas & Julie Young  
11504 NE 266th St  
Battle Ground, WA 98604

Barry Young  
27518 NE Bjur Rd  
Ridgefield, WA 98642

William Young  
9718 NE 249th Street  
Battle Ground, WA 98604

Linda & Herb Zile  
197 Chapman Rd  
Castle Rock, WA 98611

## 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 Second 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 a second remand in this matter from the Board of County Commissioners. In its most recent decision, the Board reviewed the Examiner's prior decision and a majority voted to overturn in part, affirm in part, and remand to the Examiner a single issue (Ex. 731 – Resolution 2005-08-13). In so doing, the Board provided the following specific direction for this remand proceeding:

This proceeding is remanded to the hearing examiner for the limited purpose of determining whether or not the nonconforming use rights include the right to process, on the 71 acre site, material extracted from the 61 acre site.

In this decision, the Examiner finds there is no evidence in the record showing that the operator established or has maintained a nonconforming use right to process, on the 71-acre site, material that was extracted from the 61-acre site. There simply is no evidence one way or the other. In that light, the applicant has failed to meet its burden of proving with substantial evidence that its nonconforming use right includes this activity. To the extent the application at this stage of the process can be interpreted as a request to expand the scope of permissible uses on the 71-acre mine site (where the nonconforming use right was found exist), that request is not properly before the Examiner, and it is denied. Mr. Rose's request to expand the scope of this remand proceeding and open the record to new factual evidence concerning Shoreline Management Master Programs, the Administrative Procedures Act or the Uniform Procedure Act (Ex. 733), that request is also denied for the reasons explained below.

This decision is intended to augment the two prior decisions by the Clark County Board of Commissioners in this matter of February 22, 2005 (Ex. 701) and August 9, 2005 (Ex 731), and the affirmed portions of the Examiner's two prior decisions of November 4, 2004 (Ex. 711) and June 8, 2005. Collectively, these prior decisions denied the applicant's proposed zone change to apply the surface mining overlay to approximately 100 acres of Agriculture 20 (AG-20) zoned land (REZ98-011). They approved 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 (CUP2004-00002; SPR98-034; SHL99-001; SHL2000-00009; HCG98-179; WTP98-038; SE98-098). They confirmed the applicant's nonconforming use right to mine and process material on a 71-acre mine site and determined that the applicant had no such nonconforming use rights for any other portion of the subject property. This third remand, as previously noted, is to determine whether the scope of retained nonconforming use rights includes the use right to process material on the 71-acre Daybreak Mine site, material that has been extracted from the 61-acre site that currently bears a Surface Mining Overlay zoning designation.

## **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 3<sup>rd</sup> 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 61<sup>st</sup> 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:**

The Board issued its most recent (second) decision on August 9, 2005 (Ex. 731) directing the Hearings Examiner to address the single remaining question. On August 12, 2005, the Examiner issued an order setting a briefing schedule for the matter, and suggesting that no hearing be held or live testimony be taken. In the Examiner's view, the evidentiary record was adequate to address the sole question in this remand, and that no new evidence or live testimony was needed for that limited purpose. None of the parties objected,<sup>1</sup> and the remand proceeded in the following sequence:

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<sup>1</sup> For purposes of this second remand proceeding, the "parties" with standing are those who have maintained appeals and participated through all administrative levels of the local process and include the applicant (Storedahl Properties, LLC), Friends of the East Fork, Fish First and Scott Rose.

August 24, 2005.....Primary memos from all parties (10-page limit)  
August 31, 2005.....Rebuttal of all parties to first submission (5-page limit)  
September 7, 2005.....Applicant's final rebuttal (5-page limit)

Primary legal memoranda were received from the applicant (Ex. 735), Friends of the East Fork and Fish First (Ex. 734) and Scott Rose (Ex. 733). Rebuttal memoranda were received from the applicant (Ex. 737), Friends of the East Fork and Fish First (Ex. 736). The applicant submitted its final rebuttal on September 7, 2005 (Ex. 748) and then a procedural objection (Ex. 750) to the request by Scott Rose to admit additional evidence and documents into the record (Ex. 733). With this procedural objection, the Record in this remand proceeding closed on September 13, 2005.

Mr. Rose requested on August 24, 2005 that the record be reopened in this second remand proceeding to admit new evidence and presumably argument related to Shoreline Management issues and Storedahl's Shoreline permit proceeding. The Examiner did not grant that request at the time and today denies the request because the issues mentioned by Mr. Rose are not germane to the sole issue upon which the Board remanded this decision to the Examiner. If some action by the Examiner or Board is relevant to the consideration of Storedahl's shoreline permit, Mr. Rose is free to submit that information to the appropriate agency. However, given the Examiner's exceedingly narrow scope of review under this remand, he lacks the authority to address any of these shoreline issues, and no purpose would be served by expanding the record and allowing the submission of information related to shoreline permitting.

#### **IV. Discussion and Resolution of the Remand Issue:**

As stated elsewhere in this proceeding, the proponent bears the burden of proof and persuasion as to claimed nonconforming use rights, *i.e.*, the proponent is obligated to provide substantial evidence demonstrating that the asserted nonconforming use right, with a specific nature and extent of the asserted use, was lawfully established and in existence prior to the imposition of restrictive zoning and has been maintained continuously ever since. *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). While Washington's doctrine of diminishing assets provides strong protection for nonconforming surface mines, the use in question here (off-site processing of mined material) is not a mining activity that is protected by this doctrine. *See, City of University Place v. McGuire*, 144 Wn.2d 640, 30 P.3d 453 (2001). Also, once established, Washington law presents a relatively high burden to anyone claiming that a nonconforming mining right has been abandoned or otherwise terminated. *Andrew v. King County*, 21 Wn.App. 566, 571, 586 P.2d 509 (1978), *rev. denied* 91 Wn.2d 1023 (1979); *King County v. High*, 36 Wn.2d 580, 582-83, 219 P.2d 118 (1950). In this proceeding, however, the operative question is whether the applicant or any of its predecessors on the site established the off-site processing activity that is now claimed to be nonconforming.

In order to prevail here, the applicant would have to point to relevant, credible evidence in the record showing that rock and sand extracted from the 61-acre portion of the site that currently bears a Surface Mining Overlay designation was processed on the 71-acre Daybreak Mine site where Storedahl has demonstrated that it retains a nonconforming right to mine. For the purpose of this analysis, the applicant's assertion that the expansion of a nonconforming use right would have minimal adverse impacts

(Ex. 735) is irrelevant. The applicant, as the proponent of the nonconforming use claim, must demonstrate that the use (processing of material mined from elsewhere) was lawfully established and in existence at the time the use became nonconforming.<sup>2</sup>

Contrary to the applicant's assertion, the Examiner did not previously determine that the nonconforming processing use at issue here already exists. By the same token, the opponents are not correct in saying that the Examiner previously considered and denied a nonconforming use claim to process, on the 71-acre site, material extracted from the 61-acre portion of the property. The Examiner previously determined there was no nonconforming right to process, on the 350-acre parent parcel, material that was extracted from someplace else. In particular, the Examiner previously held:

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. ... Also, the applicant's evidence does not document that materials were 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.

At the time the previous decision was written, the Examiner considered the "Daybreak Mine site" to be the entire 350-acre parcel. The Board has since determined that the appropriate "Daybreak Mine site" is really the 71-acre portion of the property that was actually mined by the Woodside family prior to the imposition of restrictive zoning (in 1973) and was covered by the 1979 DNR reclamation permit. The Examiner previously concluded that the applicant had retained some level of nonconforming use right to process on the 350-acre property material that was mined from the 350-acre property. This necessarily left open the possibility that some of the process material may have been extracted from the 61-acre portion of the site that now bears a Surface Mining Overlay, and was processed on the 71-acre portion of the site where the applicant has a nonconforming use right.

In order for Storedahl to prevail on the nonconforming processing use at issue here, it must provide evidence that material extracted from the 61-acre portion of the site was processed on the 71-acre portion of the site. The on-site processing that was noted in the record and mentioned in the above-quoted excerpt from the Examiner's second

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<sup>2</sup> The Board of Commissioners did not disturb the Examiner's prior determination that the date that uses on the site became nonconforming was 1973. See Ex. 731, p 3.

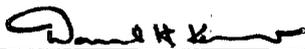
decision was non-specific as to its origin. It must be assumed, however, that the process material was lawfully extracted wherever it came from. It has already been determined that the County imposed restrictive zoning in 1973—the point at which surface mining was no longer allowed outright. The County did not rezone the 61-acre portion of the property to allow mining until 1980, at which time it adopted the Surface Mining Overlay. According to this chronology, mining was not lawfully established on the 61-acre portion of the site as of 1973, and could not lawfully have begun until after 1980 – a gap of at least 7 years.

From these few facts, the Examiner concludes there is no nonconforming right to process on the 71-acre portion of the site material extracted from the 61-acre portion of the site that currently has a Surface Mining Overlay designation. There is no specific evidence that any material was lawfully extracted from the 61-acre portion of the site prior to 1980, if ever, much less that it was processed on the 71-acre portion of site where mining and processing was nonconforming. In order to have valid nonconforming use protection, mining on the 61-acre portion had to have begun by 1973, and there must be evidence that the material, in fact, was transported to and processed on the 71-acre portion of the site. The applicant has brought no such evidence to the Examiner's attention, and he is aware of none.

**V. Conclusion:**

The Board has determined that the applicant retains a valid nonconforming use right to mine the 71-acre portion of the site that was actually mined by the Woodside family prior to 1973 and was subject to the 1979 DNR reclamation permit. The Board has also acknowledged the applicant's right to engage in the activities described in its permits on the 61-acre portion of the site that already is subject to the County's Surface Mining Overlay designation. However, the scope of the nonconforming use right on the 71-acres does not include the right to process material extracted from the 61-acre portion of the property.

**Date of Decision:** September 30, 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.

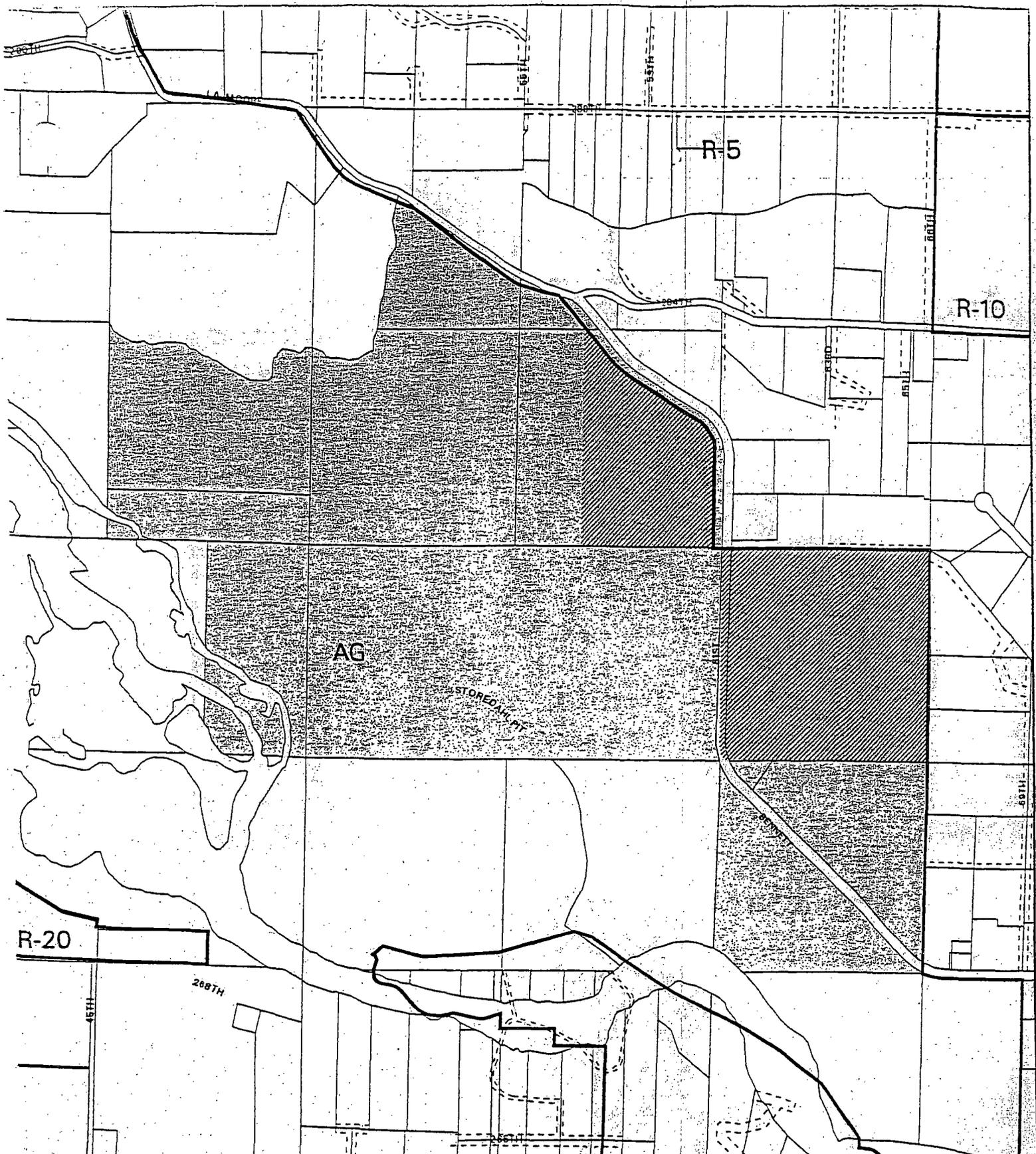
### **Notice of Appeal Rights**

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.



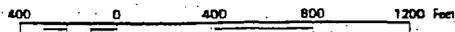
Scale 1:9600

### Comprehensive Plan Designation: AG R-5

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

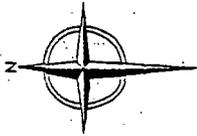
41111	41112	42107
41114	41115	42118
41123	41124	42119

-  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



Department of Assessment and GIS  
 g:\program\assl\stool\arc\packag\batch.mxd  
 Plotted: December 21, 2000

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



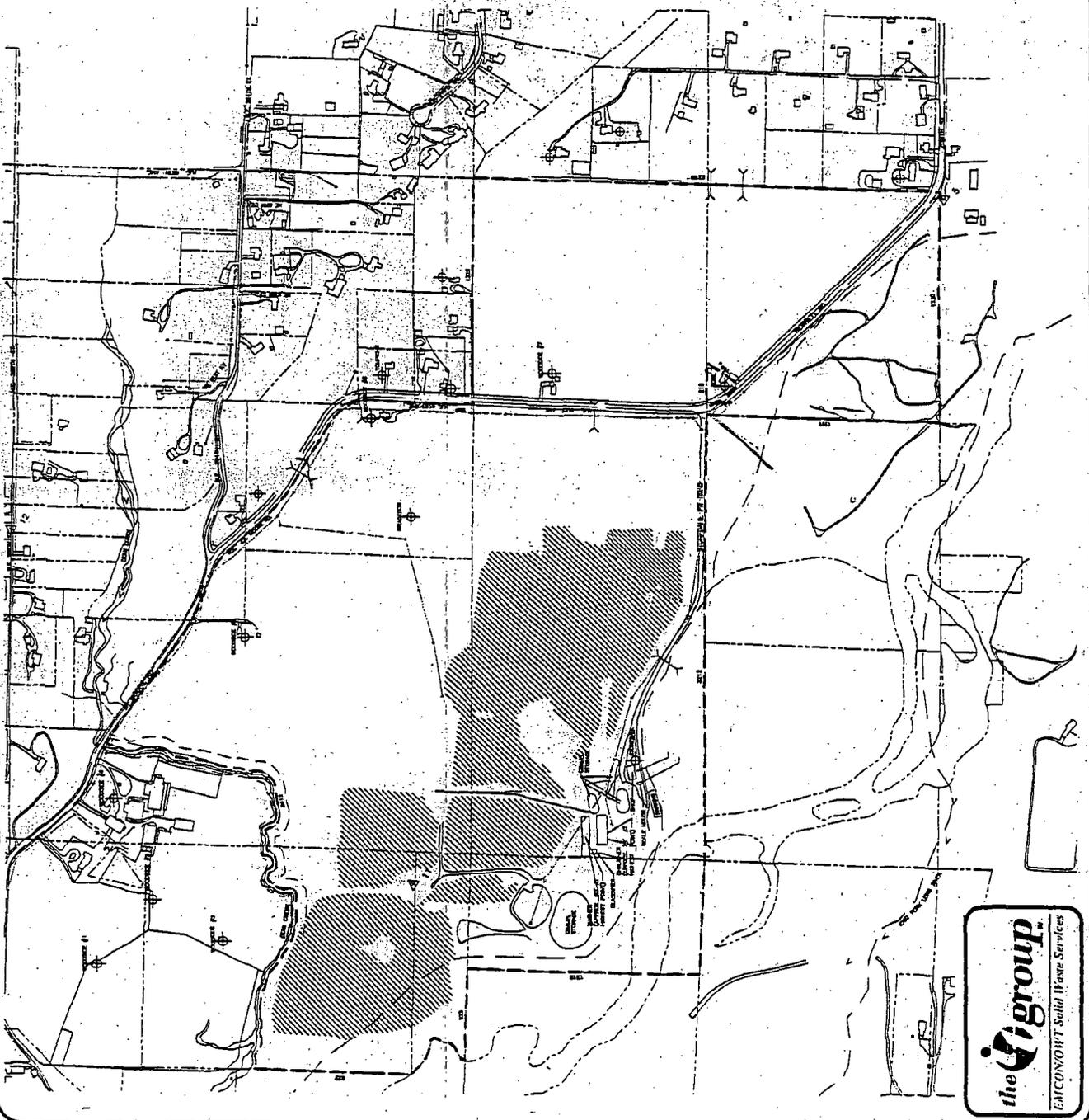
0 600 1200  
SCALE IN FEET

- EXISTING POLES
- BEAM CREEK SETBACK
- CHANNEL MIGRATION ZONE (APPROXIMATE)
- SITE BOUNDARY
- SEPTIC SYSTEM (APPROXIMATE LOCATION)
- KNOWN WELLS (LOCATED AND IDENTIFIED, LOCATIONS APPROXIMATE)
- OTHER WELLS (NOTED IN OTHER SOURCES (E.G. HEALTH DEPARTMENT RECORDS AND NEWTON 1989), SEE FIGURE 2.1 OF SITE PLAN REPORT FOR EXPANDED COVERAGE. WELLS NOT FIELD VERIFIED)
- POWER POLES

NOTES:  
1. COUNTY ROADS

ROAD SEQUENT	ROAD MATERIAL	ROAD WIDTH	R/W WIDTH
J.A. MOORE RD. WEST OF 284TH ST.	ASPHALT	22'-24'	40'
284TH ST. EAST OF J.A. MOORE	ASPHALT	22'-24'	40'
J.A. MOORE EAST OF 284TH	ASPHALT	22'-24'	40'
81ST AVE.	ASPHALT	22'-24'	40'
BECKET RD.	ASPHALT	22'-24'	40'
289TH STREET	ASPHALT	22'-24'	40'
STOREDAHL PT. ROAD	ASPHALT	20 TYP	N/A

2. SEE INVESTIGATOR'S REPORT FOR EXISTING DISTANCE MEASUREMENTS  
3. BOUNDARY DIMENSIONS ARE APPROXIMATE. DIMENSIONS WERE DETERMINED FROM A COMBINATION OF SOURCES INCLUDING PARCEL SURVEYS OF SECTIONS 1 AND 24 (GREENWOOD SURVEY, INC., 1974), AND A PARTIAL SITE SURVEY (DEVELONCK AND ASSOCIATES, INC., 1999)  
4. SOME SOURCES AND LOCAL COMMUNITY ROAD NAMES (SUCH AS 284TH STREET AND 81ST AVE) ARE NOTED FROM DEVELOPER'S GIS PACKAGE AND MOST OTHER SOURCES REFERS TO J.A. MOORE ROAD ONLY.



**FIGURE 2.**  
**J.L. STOREDAHL & SONS**  
**CLARK COUNTY, WASHINGTON**  
**HABITAT CONSERVATION PLAN**  
**EXISTING CONDITIONS AND**  
**STRUCTURAL FEATURES**

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

**the group**  
 EMERGENCY Solid Waste Services



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

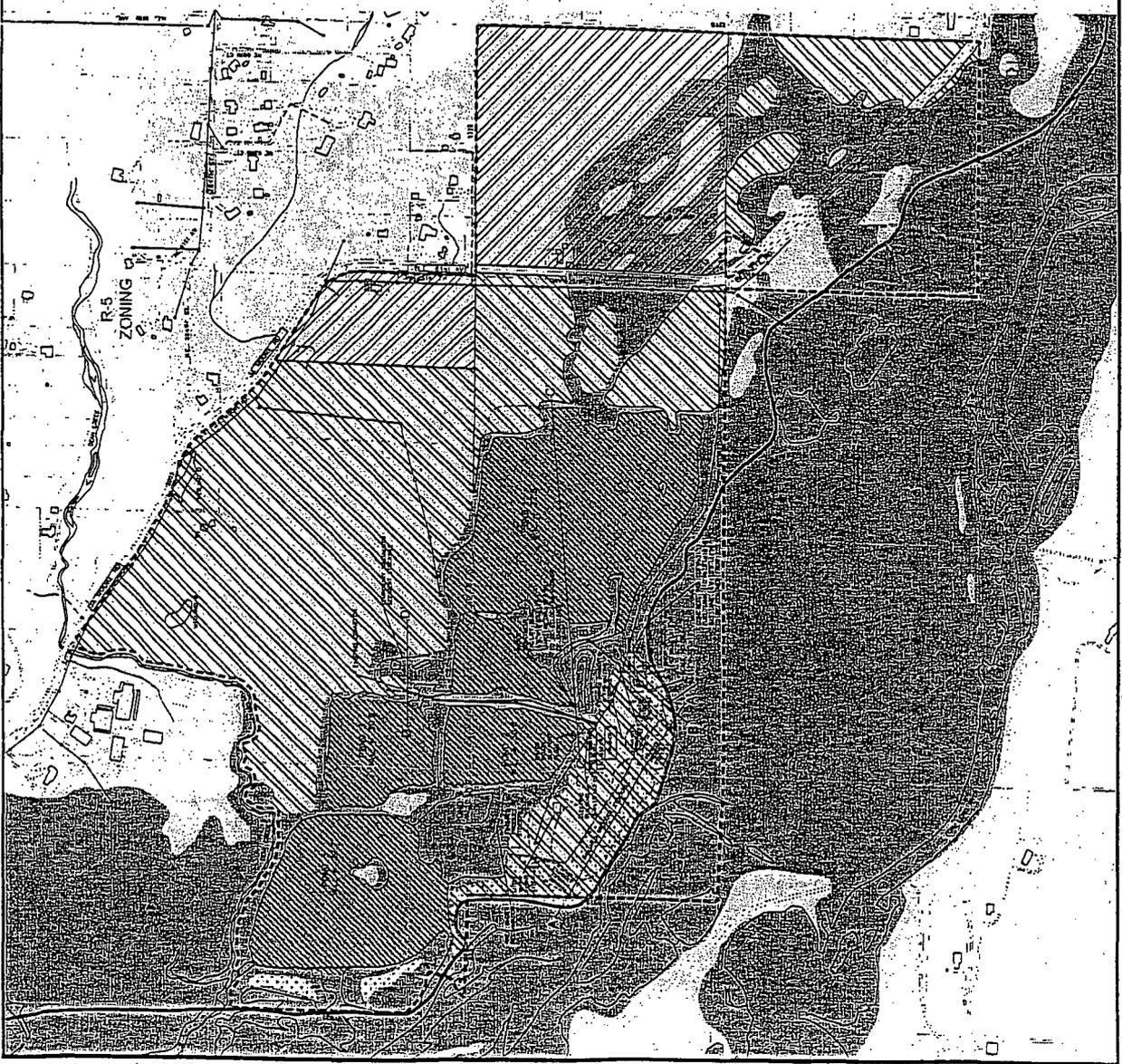
**APPLICANT:**  
 J.L. Storeddahl & Sons  
 2233 Tolley Way  
 Kelso, WA 98626  
 (360) 636-2420

**CONTACT PERSON:**  
 Skip Urling  
 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

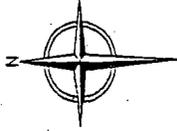
**ECOLOGICAL LAND SERVICES, INC.**  
 NATURAL RESOURCE CONSULTING  
 AND LAND PLANNING  
 1157 3rd Ave., Suite 220  
 Longview, WA 98632  
 (360) 578-1371 Fax: (360) 414-9305



- AC 20 UNDERLYING ZONING DISTRICT
- EXISTING SURFACE MINING OVERLAY DISTRICT
- PROPOSED SURFACE MINING OVERLAY DISTRICT OUTSIDE THE FLOODPLAIN
- SHORELINE OUTSIDE OF FLOODPLAIN
- BASED UPON 1984 FLOODPLAIN PER FEMA FLOOD INSURANCE RATE MAP, NO. 53021-0174C, DATED JULY 19, 2000
- EXISTING POINTS
- SITE BOUNDARY
- FEED FLOWWAY (SUBSTITUTED FOR CANALS)
- 300' SHORELINE JURISDICTION
- SEPTIC SYSTEM (APPROXIMATE LOCATION)
- WATER WELL
- POWER POLES
- A1-A CROSS SECTION LOCATION

- NOTES:**
- BOUNDARY LOCATIONS ARE APPROXIMATE. INTERFERENCES WERE DETERMINED FROM A COMBINATION OF SOURCES INCLUDING CLATSOP COUNTY GIS RECORDS, THE AERIAL SURVEY (DAVID SMITH AND ASSOCIATES, 1999), A PARTIAL SURVEY OF SECTIONS 13 AND 24 (GREENWOOD SURVEYS, INC., 1974), AND A PARTIAL SITE SURVEY (SPURLOCK AND ASSOCIATES, INC., 1996)
  - RAW MATERIAL AND FINISHED PRODUCT STOCKPILES WILL SHRINK AND SWELL AND BE RELOCATED PROHODICALLY AS OPERATIONS PROCEED.
  - EAST FORK LEWIS RIVER --- RURAL SHORELINE OF THE STATE.

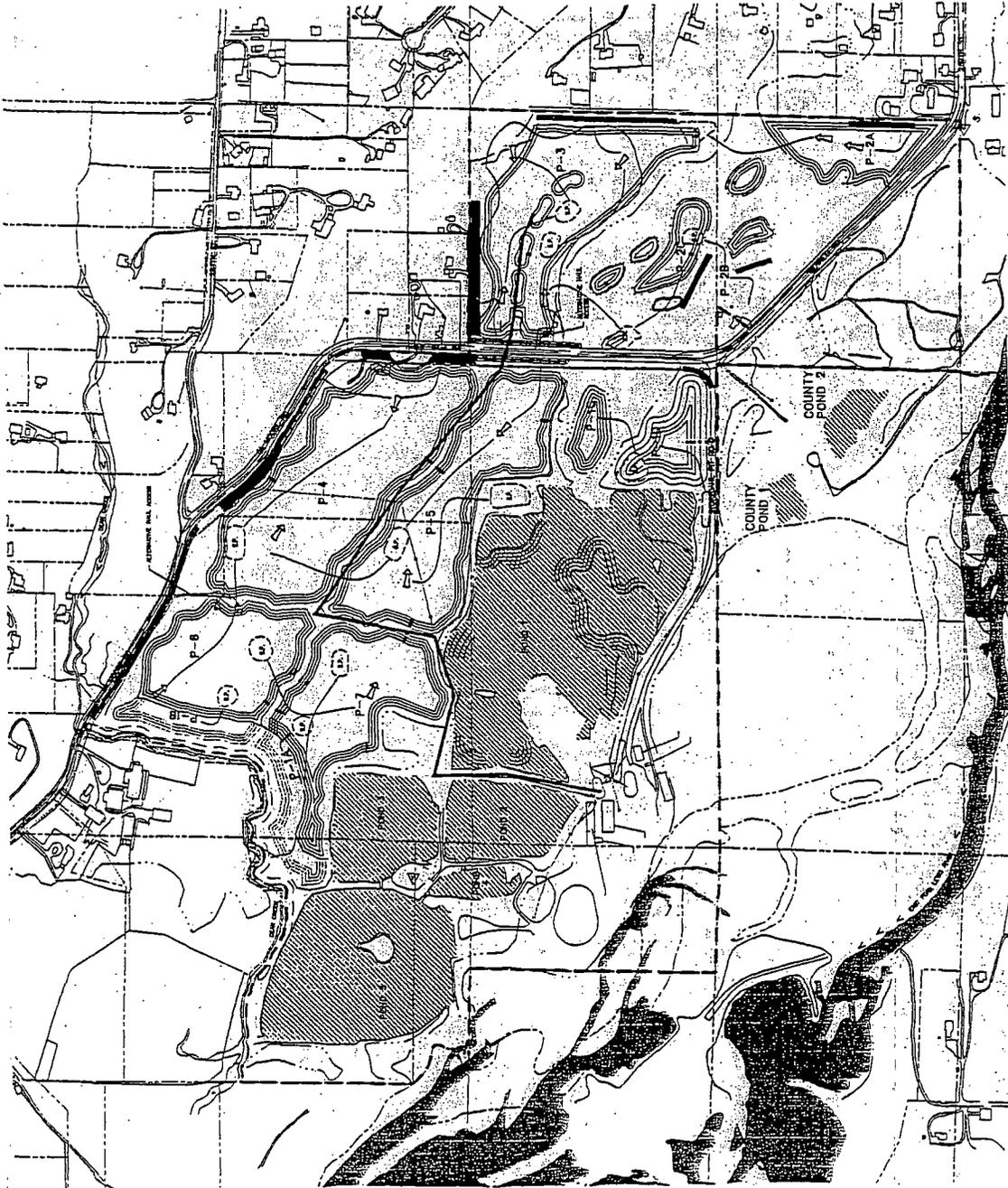
ROAD SECTION	ROAD MATERIAL	ROAD WIDTH	R/W WIDTH
J.A. MOORE EAST OF 28TH	ASPHALT	27'-24"	60'
61ST AVE.	ASPHALT	22'-24"	60'
BENNETT RD	ASPHALT	22'-24"	60'
STOREDDAHL PT ROAD	ASPHALT	20' TOP	N/A



0 200 400  
SCALE IN FEET

**LEGEND:**

- P-1A → MINING PHASE AND DIRECTION OF MINING
- - - SITE BOUNDARY
- DEAN CREEK SETBACK
- DIRECTION OF OVERBORDEN STRIPPING AND STOCK PILING
- TOPSOIL AND REJECT STOCK PILE AREA
- APPROXIMATE CONVEYOR ALIGNMENT
- EXISTING DRIVEWAYS TO BE USED FOR ACCESS
- 10-15 FOOT HIGH NOISE REDUCTION BARRIER BERM
- 8-10 FOOT HIGH NOISE REDUCTION BARRIER BERM
- SOUND WALL
- USUAL BUFFER (5 FOOT TALL EARTHEN BERM OR VEGETATED ZONE)



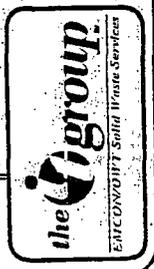
**NOTES:**

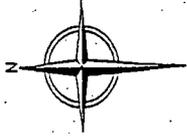
1. CONSTRUCTED FROM 10-15 FOOT HIGH NOISE REDUCTION BARRIER BERM WITH 10 FOOT TALL BERM AND 8 FOOT NOISE LEVEL GAP. 8-10 FOOT HIGH NOISE REDUCTION BARRIER BERM WITH 10 FOOT TALL BERM AND 8 FOOT NOISE LEVEL GAP. 8-10 FOOT HIGH NOISE REDUCTION BARRIER BERM WITH 10 FOOT TALL BERM AND 8 FOOT NOISE LEVEL GAP.
2. BERM FOR REGULATORY BARRIERS AFTER MINING IS COMPLETE IN THE ADJACENT PHASE.
3. SECURITY FENCES WILL BE INSTALLED ALONG BOUNDARIES AT THE DISCRETION OF STOREDAHL.
4. MINING WERE SETBACK FROM PROPERTY BOUNDARY IS 15 FEET FROM PROPERTY BOUNDARY.
5. CONVEYOR ALIGNMENT IS APPROXIMATE. FINAL ALIGNMENT WILL BE DETERMINED AFTER CONVEYOR IS INSTALLED.
6. BERM HEIGHTS BASED ON USE OF KOLYESSU POND EXCAVATOR. USE OF QUIETER EXCAVATOR WOULD REDUCE BERM HEIGHT.
7. SCREENED BOUNDARIES REPRESENT PHASE-1 REQUIRED MINE OUT.

**FIGURE 20**

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

DATE	4/02
DWN	TJW
APP	TJS
REV	
PROJECT NO.	793584





0 200 400  
SCALE IN FEET

LEGEND:

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



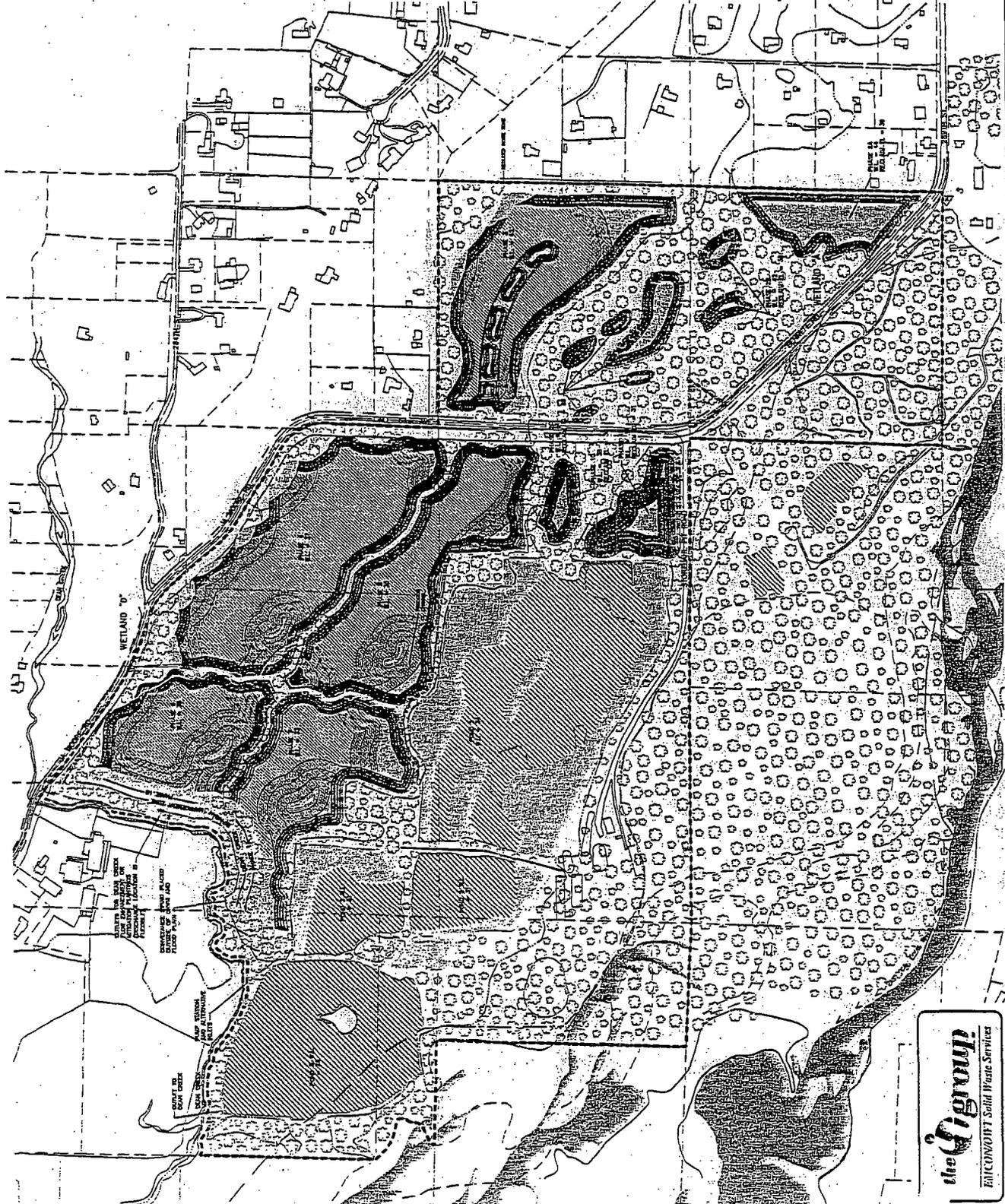
- RESERVED MIXED VALLEY-BOTTOM FOREST
- CREATED MIXED VALLEY-BOTTOM FOREST



- NOTES:
1. ALL POND ELEVATIONS ARE APPROXIMATE AND CHANGE SEASONALLY
  2. RECLAMATION ELEVATIONS ARE APPROXIMATE
  3. RECLAMATION WATER LEVEL - PROJECTED DRY
  4. SEASON WATER LEVEL
  5. RESERVED CONTOURS REPRESENT PHASE 1
  6. RECLAIMED BANK CUT

DATE: 8/01  
 DRAWN: JMM  
 APPR: JMM  
 REV: 1  
 PROJECT NO.: 783581

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



# 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	<b>REVISED:</b> 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	<b>Binder:</b> 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	<b>Binder:</b> 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	OHWL 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: OHWL 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 DEFICIENCIES: 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 DEFICIENCIES until decision is made on HCP
222	4/16/01	William & Marilyn Feddler	Comment Letter

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
223	4/16/01	Steve Fuchs	Comment Letter
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 <sup>th</sup> Grade Students –	Petition Letter re: Proposed Project

		Lewisville Middle School	
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-Skamanian 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	<b>Binder:</b> FINAL Daybreak Mine Expansion & Habitat Enhancement Project & Habitat Conservation Plan (HCP)
277	12/29/03	Applicant – J.L. Storedahl	<b>Binder:</b> Final Environmental Impact Statement (FEIS)
278	12/29/03	Applicant – J.L. Storedahl	<b>Binder:</b> Response to Comments (RTC)

EXHIBIT NO	DATE	SUBMITTED BY	DESCRIPTION
279	12/29/03	Applicant – J.L. Storedahl	<b>Binder:</b> 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	-----	<b>No Exhibit</b>	-----
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. Grindelnd – Comments re: Hydraulic, Sediment Transport & Goemorphic 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 <sup>th</sup> Hearing
591	5/13/04	Dale Shoemaker	Comment Letter
592	5/j13/04	Jack Keading	Power Point Presentation shared at May 13 <sup>th</sup> 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 <sup>th</sup> 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 <sup>th</sup> 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 <sup>th</sup> 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 <sup>th</sup> 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 <sup>th</sup> 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 <sup>th</sup> 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 <sup>th</sup> , 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
728	6/27/05	CC Board of County Commissioners	Notice of Public Hearing Remand Final Order to the BOCC
729	7/7/05	CC Development Services	Remand Appeal Staff Report to the Board of County Commissioners – written by Josh Warner
730	7/8/05	CC Prosecuting Attorneys Office	Memorandum to the Board of County Commissioners
731	8/3/05	CC Board of County Commissioners	BOCC Resolution 2005-08-13

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
732	8/15/05	Hearing Examiner: Reeve Kearns PC – Daniel Kearns	Letter to the Applicant and Appellants re: Remand - Letter Dated 8/12/05
733	8/24/05	Scott Rose	Comment Letter
734	8/29/05	Svend Brandt-Erichsen	Letter in response to remand
735	8/31/05	Sandy Mackie	Letter in response to remand – Letter date 8/24/05
736	8/31/05	Svend Brandt-Erichsen	Second response to remand
737	8/31/05	Sandy Mackie	Second response to remand
738	6/8/05	CC Development Services	Hearing Examiner Remand Decision – First Remand Appeal Ended 6/22/05
739	6/22/06	Casey Collins	Email sent to County re: Daybreak Project
740	6/22/05	Sandy Mackie – John Dentler	Appeal Documents to the BOCC
741	6/22/05	Friends of the East Fork	Appeal Documents to the BOCC
742	6/23/05	Scott Rose	Email Comments re: Appeal
743	7/8/05	Cindy Morgan	Comments re: Appeal
744	7/8/05	Svend Brandt-Erichsen	Appeal Brief
745	7/11/05	Ginger Metcalf	Comment Letter re: Appeal
746	7/14/05	Sandy Mackie	Letter re: Appeal (letter written 7/8/05) <b>Per PA's Office this document is not a part of the record. It was received by the BOCC two days after the hearing.</b>
747	7/12/05	CC Board of County Commissioners (BOCC)	Commissioners Proceedings July 12, 2005
748	9/7/05	Sandy Mackie	Final Rebuttal to Fish First and Friends of the East Fork re: Nonconforming Rights
749	8/2/05	CC Board of County Commissioners (BOCC)	Commissioners Proceedings 8/2/05, 2005
750	7/13/05	Sandy Mackie	Letter to the Hearing Examiner re: Letter from Scott Rose



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**CLARK COUNTY**  
WASHINGTON

# BOARD OF COUNTY COMMISSIONERS

## APPEAL REVIEW

*FOR*

Daybreak Mine Second Remand  
Final Order Appeal

Date: November 22, 2005

Time: 10:00 am

# TABLE OF CONTENTS

- A. Letters to BOCC
- B. Appellant Letter
- C. Hearing Examiner Decisions  
(All 3 decisions & the 2 remands are included)
- D. Reduced Site Plan Map
- E. Exhibits List & Exhibits  
(Exhibit Numbers 728 to 750)

**Please Note:**

Travis Goddard is the Planner for this case. Per Bronson Potter with the Prosecuting Attorneys Office a Staff Report will not be issued by Development Services

Since a hearing was not held proceeding the second remand there is not a DVD.

TRANS REEBI/SUSAN

# NOTICE OF PUBLIC MEETING

**RE: DAYBREAK MINE SECOND REMAND FINAL ORDER  
REZ98-011; CUP2004-00002; SPR98-034; SHL99-001; SHL2000-00009; HCG98-179;  
WTP98-038; SE98-098**

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

AN APPEAL of the Clark County Land Use Hearing Examiner's decision on the above-referenced matter has been filed by Kimball Storedahl requesting the Clark County Board of Commissioners to review the Land Use Hearing Examiner's decision dated September 30, 2005.

A public meeting is scheduled by the Board to consider the appeal on Tuesday, the 22nd day of November, 2005, at 10:00 a.m., or as soon thereafter as the matter may be heard, in the Commissioner's Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. At this meeting the Board will consider the matter based upon the written record before the Land Use Hearing Examiner, the Land Use Hearing Examiner's decision, and any written arguments as to whether the Hearing Examiner erred in deciding the issues under appeal. The written arguments must be received in the Board's office at P.O. Box 5000, 1300 Franklin St. Vancouver, Washington 98666 by 5:00 p.m. on the following dates:

- Appellant's opening brief: Received October 14, 2005**
- Respondents' briefs: November 4, 2005**
- Appellant's reply brief: November 10, 2005**

The Board of Commissioners shall not consider evidence outside the record of the examiner. **THE BOARD WILL NOT RECEIVE ADDITIONAL TESTIMONY, ORAL OR WRITTEN**, at such meeting.

At the aforementioned meeting date the Board may accept, modify, or reverse the Land Use Hearing Examiner's decision, or remand to the Examiner.

More information concerning this matter may be obtained from the Clark County Planning & Development Review Division, 1300 Franklin Street, Vancouver, Washington, telephone (360) 397-2375 ext. 4180. A copy of the appeal letter may be obtained in the Clark County Commissioners' Office, 1300 Franklin Street, Vancouver, Washington, (360) 397-2232.

*[Signature]*  
Clerk of the Board

Clark County  
Community Dev/Records

OCT 18 2005

**RECEIVED**

mailed: October 21, 2005.  
Revised 3/03



For alternate formats or to request auxiliary aids, contact the Clark County ADA Office Voice (360) 397-2025, TTY (360) 397-2445, Email: ADA@Clark.WA.GOV

OCT 20 2005

Jerry L. Storedahl, Owner



Office: (360) 636-2420  
FAX: (360) 577-3906

2233 Talley Way • Kelso, Washington 98626

ROCK PRODUCTS, GRADING & EXCAVATING

October 14, 2005

Clark County  
Board of County Commissioners  
6<sup>th</sup> Floor  
1300 Franklin Street  
Vancouver, Washington 98668

RECEIVED  
OCT 14 2005  
Board of Commissioners

**Re: Appeal of Decision REZ98-011; CUP2004-00002; SPR98-034; SHL99-001;  
SHL2000-00009; HCG98-179; WTP98-038; SE98-098**

This letter transmits the appeal fee and an appeal of the Hearing Examiner's decision on the above referenced permits and, specifically, the second remand on nonconforming processing rights. The appeal addresses the Examiner's decision on the extraction of sand and gravel from the approximately "61-acre" area holding the surface mining combining district overlay and, specifically, the question of whether such sand and gravel may be processed on the "71-acre" area that the Board held retains nonconforming processing and mining rights.

Because of the importance of this matter, we request a briefing schedule in which briefs are due before the Board by October 27<sup>th</sup> and that a special hearing be scheduled for oral argument as provided under CCC 40.510.030.H.3.

Thank you for your consideration of this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Kimball", written over a horizontal line.

Kimball Storedahl  
Vice President  
J.L. Storedahl & Sons, Inc.

Enclosure (Appeal)

cc: John L. Dentler, Esq.  
Alexander Mackie, Esq.

RECEIVED

OCT 14 2005

Board of Commissioners

**BOARD OF COUNTY COMMISSIONERS  
OF CLARK COUNTY**

In Re Daybreak Mine

NO. REZ98-011; CUP2004-00002;  
SPR98-034; SHL99-0001; SHL2000-  
00009; HCG98-179; WTP98-038; SE98-  
098

J.L. Storedahl & Sons, Inc.

APPEAL OF J.L. STOREDAHL &  
SONS, INC.

Petitioner.

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COMES NOW J.L. Storedahl & Sons, Inc. ("Storedahl") and appeals the Final Order of the Hearings Examiner dated September 30, 2005 and entitled "FINAL ORDER Following Second Remand Storedahl – Daybreak Mine" as set forth below. Storedahl believes the Examiner erred by failing to properly address the specific matter directed by the Board and that the record and law supports a finding that sand and gravel mined from the 60 acre area holding the AG-S surface mining combining district overlay (parcel numbers 225047 and 225169) and processed at the established and existing "71-acre" processing site (both parcels being contiguous with the 292 acres owned by Storedahl Properties LLC and the subject of permits approved by the Examiner and Board) is an authorized continuation or intensification of the established nonconforming use right or, in the alternative, if such processing is a modification or expansion of such nonconforming processing right, that such use is approved by virtue of (i) site plan review and conditional use permit approvals in this matter and (ii) SEPA environmental impact statement demonstrating no probable significant adverse effects. Clark County Code ("CCC") 40.530.050. This is an appeal of a continuing remand order of a Type III approval (consolidated action), including:

- A. Rezone Application
- B. Site plan review
- C. Conditional use permit
- D. Shoreline permit
- E. Wetland and other permit issues
- F. Nonconforming Use Rights

Pursuant to CCC 40.510.030(H):

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**I. Case Number and Applicant Name**

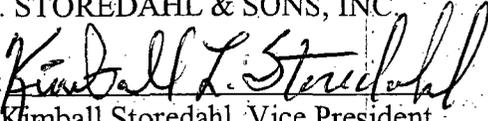
**Case number:** REZ98-011; CUP2004-00002; SPR98-034; SHL99-0001; SHL2000-00009; HCG98-179; WTP98-038; SE98-098; Storedahl – Daybreak Mine.

**Applicant:** J.L. Storedahl & Sons, Inc.

**II. Decision Being Appealed**

The decision being appealed is the Hearing Examiner's Final Order on second remand dated September 30, 2005 and entitled "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 appropriately 292-acre site in unincorporated Clark County, Washington."

**III. Name and Signature of Each Petitioner and Statement of Entitlement**

**Petitioner:** J.L. STOREDAHL & SONS, INC.  
By:   
Kimball Storedahl, Vice President  
2233 Talley Way  
Kelso, WA 98626

<b>Counsel of record:</b>	John L. Dentler	Alexander W. Mackie
	John L. Dentler PLLC	Perkins Coie LLP
	8803 - 30th St. Ct. NW	111 Market Street NE, Suite 200
	Gig Harbor, WA 98335	Olympia, WA 98501

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3  
4 Petitioner is the applicant in this case, is adversely affected by the conditions and  
5 errors cited and, therefore, is entitled to appeal pursuant to CCC-40:510.030(H)(1).  
6  
7

#### 8 **IV. Specific Aspects of Appeal**

9

10 The following matters are raised by petitioner J.L. Storedahl & Sons, Inc. in the  
11 above captioned matter. The appeal items are:  
12  
13

##### 14 **1. The Applicant's Burden I**

15

16 In this decision the Examiner finds there is no evidence in the record  
17 showing that the operator established or has maintained a  
18 nonconforming use right to process, on the 71-acre site, material that  
19 was extracted from the 61-acre site. There is simply no evidence one  
20 way or the other. Final Order on Second Remand p. 1 (summary).  
21  
22

23 **Error:** The Examiner's statement of law as to evidentiary burden and relevant legal  
24 test is erroneous as a matter of law.  
25  
26

##### 27 **2. The Applicant's Burden II**

28

29 In order to prevail here, the applicant would have to point to relevant,  
30 credible evidence in the record showing that rock and sand extracted  
31 from the 61-acre portion of the site that current bears a Surface  
32 Mining [combining district] Overlay designation was processed on  
33 the 71-acre Daybreak mine site where Storedahl has demonstrated  
34 that it retains a nonconforming right to mine. p. 3.  
35  
36

37 **Error:** The Examiner's statement of law as to evidentiary burden and relevant legal  
38 test is erroneous as a matter of law.  
39  
40

##### 41 **3. The Applicant's Burden III**

42

43 "In order for Storedahl to prevail on the nonconforming processing  
44 use at issue here, it must provide evidence that material extracted  
45 from the 61-acre portion of the site was processed on the 71-acre  
46 portion of the site." p. 4.  
47

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4       **Error:** The Examiner's statement of law as to evidentiary burden and relevant legal  
5 test is erroneous as a matter of law.  
6

7  
8       **Comments as to Applicant's Burden and Relevant Test:** The test set forth by the  
9 Examiner pertains to the Diminishing Assets Doctrine where Courts determine whether  
10 mineral *extraction* may be extended under nonconforming use rights to the limits of  
11 property ownership and which, in part, depends on the nature and character of the property  
12 in question, whether the property ownership was contiguous, and the prior intention to mine  
13 such property. But here, the Examiner's analytical framework is not the proper test to  
14 answer the issue directed to the Examiner on remand. Because the Examiner's legal test is  
15 improper, so too is the allocation of evidentiary burden.  
16  
17

18  
19       The Board asked whether sand and gravel from the "61-acre" area, holding the  
20 surface mining combining district overlay, may be lawfully *processed* on the existing "71-  
21 acre" processing area under the established nonconforming use rights that the Hearings  
22 Examiner and Board held were established in 1973.<sup>1</sup> The mining would take place in an  
23 area that holds the surface mining overlay district so the issue is not nonconforming *mining*  
24 or *extraction* on the "61-acre" area and, consequently, the test is not whether mining was  
25 intended to or was in fact undertaken on these lands prior to August 28, 1973. The  
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42       <sup>1</sup> As noted in prior appeal and briefs, Storedahl believes this conclusion is erroneous because  
43 the referenced August 1973 ordinance explicitly made established uses "conforming" and because  
44 this ordinance was not repealed until 1995 and because the bulk of the property, including the  
45 processing area held the surface mining combining district overlay from 1980 until 1995, and  
46 therefore, the mining and processing of sand and gravel could not have been a nonconforming use  
47 until 1995.

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Examiner erred by focusing the inquiry or test on evidence of mining on the "61-acre" area prior to August 1973.

At the threshold, the legal issue is whether the processing of sand and gravel from the "61-acre" area at the existing "71-acre" processing area is merely a *continuation* of the established nonconforming use right. For purposes of argument, if the processing of sand and gravel at the existing processing site goes beyond the mere *continuation* of the same established nonconforming processing use, then the inquiry moves to whether the activity is an "*intensification*" of the nonconforming use, which is also not prohibited under the Clark County Code or whether the use is an "*expansion*" or "*alteration*" of the nonconforming use, which is specifically allowed, subject to site plan review and conditional use permit approval under the County Code. CCC 40.530.050.C.2.

Unless the continuation or intensification of nonconforming uses is expressly proscribed, such uses are permitted. *Keller v. City of Bellingham*, 92 Wn.2d 726, 731, 600 P.2d 1276, 1279 (1979); 83 Am. Jur. 2d Zoning and Planning § 594 (2005) (permissible intensification of use may be effected by the addition of new equipment and facilities, or their enlargement; owner may modernize and improve facilities as long as ordinarily and reasonably adapted to the use and the nature and purpose of the undertaking remains the same). For example, in addressing nonconforming use issues involving *processing* activity such as the issued raised by the Board, Courts look first to the whether the applicable zoning code prohibits continuation of the nonconforming use, intensification of the nonconforming use or expansion of the nonconforming use:

A nonconforming use of land . . . is not likely to remain static. . . (I) t may grow in volume or intensity . . . These changes in the level of use

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4 may have profound impact upon property in the areas where they are  
5 located, but the zoning regulations seldom include specific provisions  
6 for restricting this kind of growth. 1 R. Anderson, American Law of  
7 Zoning s 6.47 (2nd ed. 1976). Although the Bellingham zoning  
8 ordinance could have specifically prohibited intensification of a  
9 nonconforming use by reference to a specified volume of such use, it  
10 did not do so. *Keller v. City of Bellingham*, 92 Wn.2d 726, 731, 600  
11 P.2d 1276, 1279 (1979).  
12

13  
14 Here, just as in the *Keller* case, the Clark County Code does not prohibit the  
15  
16 *continuation* or *intensification* of nonconforming uses and, in fact, specifically authorizes  
17  
18 the *alteration* as well as *expansion* of nonconforming uses. CCC 40.530.050.C.<sup>2</sup>  
19

20 Under the County Code and Washington law it is not the applicant's burden to show  
21  
22 that sand and gravel was mined and processed over the entirety of the site or even the "61-  
23  
24 acre" area in order to continue to process sand and gravel under nonconforming processing  
25  
26 rights established at the existing "71-acre" processing area. Rather, all that is required to  
27  
28 continue the use in question is that the use is not "different in kind." *Keller v. City of*  
29  
30 *Bellingham*, 92 Wn.2d 726, 731, 600 P.2d 1276, 1279 (1979).  
31

32 If the question is whether the continued nonconforming processing of sand and  
33  
34 gravel is an "expansion" or "intensification" of the nonconforming use, then the relevant test  
35  
36 is, once again, whether the use in question is "different in kind" or whether there is a  
37  
38 "fundamental change in a nonconforming use."  
39

40  
41  
42 <sup>2</sup> The code provides in relevant part:  
43

44 Legal nonconforming uses and associated structures other than single-family  
45 dwellings or duplexes may undergo expansion or alteration.  
46

47 CCC 40.530.050.C.2

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Again, the *Keller* case provides the relevant test:

Intensification is permissible [as provided by the Bellingham Code], 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. In unchallenged findings of fact, the trial court found that intensification wrought no change in the nature or character of the nonconforming use by GP. *Keller v. City of Bellingham*, 92 Wn.2d 726, 731-732, 600 P.2d 1276, 1280 (1979) (internal citations omitted).

In *Keller*, 92 Wn.2d at 731, 600 P.2d at 1280, the Washington Supreme Court considered the situation where the Georgia Pacific Company brought from offsite, new chlorine producing machinery or "cells" onto its processing facilities and where the activity was a nonconforming use. There was no evidence that the particular piece of machinery was ever used on the processing site. The Court noted that the Bellingham Code could have but did not prohibit the intensification of nonconforming uses. So the Court turned to determining whether the use was an *intensification*, or *expansion* of the nonconforming use. The *Keller* Court held that even though the use of the machines would result in a substantial increase in chlorine production, the use was no *different in kind* than the established nonconforming use and, therefore, was a lawful nonconforming processing activity.

So the proper test is whether the *processing* of sand and gravel from the "61-acre" area at the "71-acre" processing area is "different in kind" than the *processing* established under the nonconforming use rights confirmed by the Examiner and the Board.

In fact, the record reflects that: (i) sand and gravel would be processed at the same existing and established processing site (Ex. 276, 277, Examiner's Final Orders at Ex. 711, 738), (ii) the sand and gravel that would be processed is from the same geologic deposit as

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4 the sand and gravel resource historically mined and processed and, in fact, the "61-acre"  
5 area is only a few hundred feet from the historic mining and processing area, (Ex. 276, 277),  
6  
7 (iii) the nature of the processing activity is substantially the same as the established  
8  
9 nonconforming use (crushing, washing, screening, etc.) (Ex. 30 App. D-1 DNR applications  
10  
11 and maps showing washwater settling ponds and noting screening and crushing; Ex. 276,  
12  
13 277) and (vi) continuation of sand and gravel processing, as proposed, would result in no  
14  
15 probable significant adverse impacts to the environment as evidenced by the uncontested  
16  
17 findings of the SEPA environmental impact statement (Ex. 276, 277; *see e.g.*, Examiner's  
18  
19 November 4, 2004 Final Order, Ex. 711 e.g., p. 48 ("Examiner finds that continued  
20  
21 processing will not create any significant adverse shoreline impacts."))  
22

23  
24 So the processing of sand and gravel from the "61-acre" area is simply a  
25  
26 *continuation* of the same nonconforming use – the processing of sand and gravel. Such  
27  
28 processing is not "*different in kind*" from the established nonconforming use and it would  
29  
30 not result in a "*fundamental change in a nonconforming use*" As noted above, that should  
31  
32 be the end of the inquiry as the Clark County Code does not prohibit the *continuation* or  
33  
34 *intensification* of nonconforming uses. CCC 40.530.050.C.

35  
36 If on the other hand, the processing of sand and gravel is an expansion or an  
37  
38 alteration of the nonconforming processing use, then the nonconforming use may be altered  
39  
40 or expanded if the proposal was subject to site plan review or conditional use approval, as  
41  
42 provided by the Clark County Code. CCC 40.530.050.C. Notably, in this case, the  
43  
44 Examiner approved and the Board affirmed the approval of both site plan review and  
45  
46 conditional use permits for processing at the existing "71-acre" area and the decision was  
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4 the Examiner's approval and Boards affirmation of site plan review and conditional use  
5 permit approval in this matter.  
6

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8 **4. Character of the Nonconforming Use**  
9

10 For purpose of this analysis, the applicant's assertion that the  
11 expansion of a nonconforming use right would have minimal adverse  
12 impacts (ex. 735) is irrelevant. pp. 3-4.  
13

14 **Error:** The Examiner's statement erroneously *assumes*, without evaluation or  
15 support of substantial evidence in the record that the continuation of the nonconforming  
16 processing is an *expansion* of the nonconforming processing use.  
17  
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19  
20 **Error:** The Examiner's conclusion that environmental considerations are irrelevant  
21 is an error of law.  
22  
23

24 **Comment:** Under *Keller v. City of Bellingham*, 92 Wn.2d 726, 731, 600 P.2d 1276,  
25 1279 (1979) the court considered whether adding new processing equipment at an industrial  
26 processing plant was an allowable *intensification* of a nonconforming use which was  
27 allowed (not prohibited) under the Bellingham Code or an *expansion* of the nonconforming  
28 processing use, which was prohibited under the Bellingham Code. In holding that the use of  
29 the new equipment was allowed *intensification*, the court considered whether the change  
30 was "of such magnitude as to effect a fundamental change in a nonconforming use" and the  
31 effect of such change "on the neighborhood or surrounding environment." *Id.* 92 Wn.2d at  
32 732, 600 P.2d at 1280. In *Keller*, the equipment at issue resulted in the production of  
33 chlorine, which was the purpose of the plant and new equipment merely allowed more  
34 chlorine to be produced. For that reason, the Court held that the new equipment was an  
35 authorized *intensification* of the nonconforming processing use.  
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4 Here, the record demonstrates that processing sand and gravel from the "61-acre"  
5 area at the "71-acre" processing site would not result in a fundamental change in the nature  
6 of the nonconforming processing use. *Supra*. Further, as noted above, the Examiner  
7 adopted the SEPA environmental impact statement and its findings (that the project would  
8 not result in probable significant adverse environmental effects and would meet all relevant  
9 policies of Clark County) and denied all challenges thereto. The Board affirmed the  
10 Examiner's findings and conclusions.  
11

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18 Storedahl requests the Board reverse or delete the Examiner's conclusions noted  
19 above and find that the processing of sand and gravel from the Daybreak Mine, including  
20 the "61-acres" at the established "71-acre" processing area is merely a continuation or  
21 intensification of the nonconforming use that is allowable outright under the Clark County  
22 Code or if an expansion or modification, is subject to approval via site plan or conditional  
23 use permit approval, both of which were approved in this instance.  
24  
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29  
30 **5. The Daybreak Mine Site**  
31

32 "The Board has since previously determined that the appropriate  
33 "Daybreak Mine Site" is really the 71-acre portion of the property that  
34 was actually mined by the Woodside family prior to the imposition of  
35 restrictive zoning (in 1973) and was covered by the 1979 DNR  
36 reclamation permit." p. 4.  
37

38 **Error:** The Examiner's conclusion or recitation cited above is erroneous.  
39

40  
41 **Comment:** The Board did not determine that the Daybreak Mine Site is a 71-acre  
42 site actually mined by the Woodsides. The record includes exhibits reflecting that prior to  
43 1973, the entire 350 acres formerly owned by the Woodsides was zoned "F-X" and allowed  
44 all uses except those authorized in the heavy manufacturing zone. Ex. 712, Tab 2b. Mining  
45  
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4 and processing were not allowed uses in the heaving industrial zone. On August 28, 1973,  
5  
6 the County amended the F-X ordinance such that all uses in existence on a specific parcel of  
7  
8 land and which were permitted uses in the former FX-zone "shall continue as conforming  
9  
10 uses." Ex. 712, Tab 4, Ex. 723. The record reflects that the Woodside family never mined  
11  
12 the Daybreak Mine Site but leased mining rights to mining operators who, in turn, mined the  
13  
14 site (Ex. 30 numerous records showing various mining operators). Neither the Examiner nor  
15  
16 the Board made the finding cited above. However, the record before the County clearly  
17  
18 reflects that Storedahl submitted permit applications for the approximately 300-acres owned  
19  
20 by Storedahl Properties LLC known as the Daybreak Mine Site, and that Community  
21  
22 Development staff recommended approval of the permits, the Examiner approved the  
23  
24 permits and the Board affirmed the permit approvals (with the exception of the rezone  
25  
26 request) which are a part of the original 350 acre site subject to DNR Surface Mining  
27  
28 Reclamation Permit # 10139. (Ex. 30 E, pp 28-29 DNR letter). Further, a verbatim  
29  
30 transcript of the Board proceedings of August 2, 2005, Ex. 749, shows that the Board  
31  
32 recognized that "off-site" was in reference to the nearby Tebo Mine.<sup>3</sup>  
33  
34  
35  
36

37  
38 <sup>3</sup> Commissioner Morris stated:  
39

40 The hearing examiner spoke of two sides [sic sites]. The hearings examiner  
41 spoke about the Daybreak site and the Tebo site and the Tebo site is clearly  
42 off site; its someplace far away, but all the way through the site has been  
43 referred to as the Daybreak mine site and I understood the hearing  
44 examiner's decision to mean anything that was mined on the Daybreak mine  
45 site could be processed on the Daybreak mine site.  
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47 Board of Commissioner's Verbatim Transcript p. 8 (August 2, 2005).

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**6. Restrictive Zoning**

It has already been determined that the County imposed restrictive zoning in 1973 – the point at which surface mining was no longer allowed outright. The County did not rezone the 61-acre portion of the property to allow mining until 1980, at which time it adopted the Surface Mining Overlay . . . mining was not lawfully established on the 61-acre portion of the site as of 1973 and could not lawfully have begun until after 1980. p. 5.

**Error:** The Examiner’s conclusion that the 1973 ordinance prohibited mining so as to make mining nonconforming is an error of law.

**Comment:** The August 18, 1973 zoning referred to by the Examiner was the adoption of an ordinance that explicitly treated all established uses as “conforming uses”.  
*Supra.* Because the Examiner held and the Board affirmed that mining and processing was lawfully established at that time, the processing use was a lawful *conforming* use. This provision of the Code was not repealed until 1995 by which time there was a clear intent to mine the remainder of the then 350 acre site. Under *University Place v. McGuire* 144 Wn.2d 640, 30 P.3d 453 (2001) and the facts of this case, mining of sand and gravel from the entirety of the site is a lawful use.

For the above reasons, Storedahl requests the Board to reverse the Examiner’s conclusions regarding the 1973 zoning ordinance.

**7. Conclusions**

The Examiner concludes:

[T]here is no nonconforming right to process on the 71-acre portion of the site material extracted from the 61-acre portion of the site that currently has a Surface Mining Overlay designation. There is no specific evidence that any material was lawfully extracted from the

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61-acre portion of the site prior to 1980, if ever, much less that it was processed on the 71-acre portion of [sic] site where mining and processing was nonconforming. In order to have valid nonconforming use protection, mining on the 61-acre portion had to have begun by 1973, and there must be evidence that the material, in fact, was transported to and processed on the 71-acre portion of the site. The applicant has brought no such evidence to the Examiners attention, and he is aware of none.

\*\*\*

[T]he scope of the nonconforming use right on the 71-acres does not include the right to process material extracted from the 61-acre portion of the property. p. 5.

**Error:** The Examiner's conclusion is the result of an error of law and failure to apply the facts to the proper test.

**Comment:** As noted above, under the Clark County Code, continuation of and intensification of nonconforming uses are not prohibited. Here, the Examiner failed to apply the test for nonconforming processing uses as set forth by the Washington Supreme Court in *Keller, supra*. Further, the facts show that the processing of sand and gravel from the "61-acre" area would not be "different-in-kind" from the nonconforming processing rights held to have been established in this matter which were affirmed by the Board. Storedahl requests the Board to reverse the Examiner's conclusion and find that sand and gravel extracted from the "61-acre" area is and processed on the "71-acre" area is not "different in kind" than the existing nonconforming processing use and, therefore, a lawful continuation or intensification of an established nonconforming processing right.

In the alternative, as noted above, should the Board find that such processing, as set forth in the permit applications in this case, is an alteration or modification of the existing

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4 nonconforming processing use, then the Board should find that such use is authorized under  
5 the Clark County Code by virtue of Examiner's approval of the site plan review and  
6 conditional use permit in this matter and the Board's prior affirmation of such permits.  
7  
8

9  
10 **V. Request for Briefing Schedule and Oral Argument**

11 Pursuant to CCC 40.510.030.H.3.a, which governs appeals of Type III quasi-judicial  
12 matters, Storedahl requests that the Board set a briefing schedule and schedule oral  
13 argument on this matter and promptly notify the parties of such schedule.  
14  
15  
16

17  
18 **VI. Appeal Fee**

19 An appeal fee of \$286.00 is included with this appeal.  
20  
21

22 **VII. Summary**

23 The Board should reverse the Examiner and find that the processing of sand and  
24 gravel from the 60-acre area holding the surface mining combining district at the existing  
25 "71-acre" processing site (both of which occupy portions of the 292 contiguous acres at the  
26 Daybreak Mine Site) is not "different in kind" from the established nonconforming  
27 processing rights. As such, the processing of sand and gravel is permitted outright as a  
28 continuation or intensification of the existing nonconforming processing right. Ch. 40.530  
29 CCC. In the alternative, should the Board find that the processing of the sand and gravel is a  
30 modification or expansion of such nonconforming processing right, then the Board should  
31 also find that such use has been approved by virtue of site plan review and conditional use  
32 permit approval pursuant to Ch. 40.530 CCC.  
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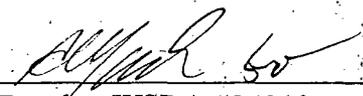
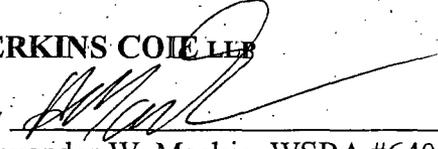
44 DATED: October 13, 2005.

45  
46  
47 Attorneys for Petitioner:

APPEAL OF J.L. STOREDAHL & SONS,  
INC. - 15

**John L. Dentler PLLC**  
8803 30<sup>th</sup> Street Court, NW  
Gig Harbor, Washington 98335  
Phone: (253) 310-4742  
Fax: (253) 265-2363

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<b>JOHN L. DENTLER PLLC</b>	<b>PERKINS COIE LLP</b>
By 	By 
John L. Dentler, WSBA #24310 8803 - 30 <sup>th</sup> Street Ct. NW Gig Harbor, WA 98335	Alexander W. Mackie, WSBA #6404 111 Market Street NE, Suite 200 Olympia, WA 98501

**RESOLUTION NO. 2005-08-13**

A RESOLUTION relating to land use; affirming certain findings and conclusions and reversing certain findings and conclusions of the hearing examiner and remanding to the hearing examiner the proceeding related to REZ 98-011; CUP 2004-00002; SPR 98-034; SHL 99-001; SHL 2000-00009; HCG98-179; WTP98-038; SE98-098 (Daybreak Mining & Habitat Enhancement) a request for a zone change on approximately 100 acres of Agriculture 20 (AG-20) to apply the Surface Mining Combining District (AG-20-S); as well as a conditional use, site plan, habitat, wetland and shoreline approval for the expansion of gravel mining and processing on approximately 178 acres of the approximately 292-acre site, including reclamation of the site.

1

2       **WHEREAS**, on February 22, 2005, the Board of County Commissioners adopted  
3 Resolution No. 2005-02-14, which overturned a zone change request, approved the operating  
4 permits subject to certain conditions, two of which were modified by the Board of County  
5 Commissioners, and remanded the matter to the hearing examiner to enter findings and  
6 conclusions as to whether or not the present proposal, as approved by the examiner and modified  
7 by the resolution, falls within the scope of nonconforming use rights on the subject property; and

8       **WHEREAS**, the hearing examiner conducted a public hearing on the remand at a  
9 publicly-advertised hearing on March 29, 2005, and took testimony and heard argument on the  
10 nonconforming rights issue; and

11       **WHEREAS**, the hearing examiner issued his final order on the remand issue on June 8,  
12 2005, which order concluded that Storedahl had nonconforming use rights to operate a surface  
13 mine as described in his final order dated June 8, 2005, but not to process material brought onto  
14 the property from off-site; and

15       **WHEREAS**, on June 22, 2005, Storedahl, Friends of the East Fork and Fish First filed  
16 appeals challenging the final order of the hearing examiner dated June 8, 2005; and

17           **WHEREAS**, the Board of County Commissioners considered the appeals at a duly-  
18 advertised public meeting held on July 12, 2005 and at a public meeting held on August 2, 2005;  
19 and

20           **WHEREAS**, the members of the Board of Commissioners certified that they had  
21 reviewed the portions of the record that are pertinent to the appeal of the hearing examiner's June  
22 8, 2005 final order; and

23           **WHEREAS**, the Board, by split vote, determined to overturn, in part, and uphold, in part,  
24 the hearing examiner's final order dated June 8, 2005 and to remand the proceeding to the  
25 hearing examiner for the limited purpose specified in this resolution, as set forth below; now,  
26 therefore,

27           **BE IT ORDERED AND RESOLVED BY THE BOARD OF COUNTY**  
28 **COMMISSIONERS OF CLARK COUNTY, STATE OF WASHINGTON, as follows:**

29 **Section 1.    Analysis.**

30           (1)    *When did mining become a nonconforming use?*

31           Friends and Fish argue that mining became a nonconforming use in 1973 when the  
32 County adopted a F-X zoning ordinance that prohibited new mining but allowed the continuation  
33 and limited expansion of existing mining.    Storedahl argues that mining did not become a  
34 nonconforming use until 1995 when the County removed a surface mining overlay from the area.  
35 The Board concludes that the hearing examiner did not commit clear error in determining that  
36 mining activity became a nonconforming use in 1973.

37           (2)    *Was Storedahl's mining activity protected as a "legal nonconforming use" as of*  
38                    *1973?*

39           Friends and Fish argue that mining was unlawful in 1973 because it violated the Shorelines

40 Management Act. Storedahl argues that the mining activity was not unlawful in 1973. The Board  
41 concludes that the hearing examiner did not commit clear error in determining that the mining  
42 activity was a lawful nonconforming use as of 1973.

43 (3) *What is the geographic area in which the nonconforming use may take place?*

44  
45 Friends and Fish argue that the record supports a conclusion that the mining activity  
46 should be restricted to the 71-acre area which was the subject of a lease and mining reclamation  
47 plan in 1973. Storedahl argues that mining nonconforming use rights extend to the entire area  
48 described in its permits and site plan applications.

49 The Board finds that there is not substantial evidence in the record to support a factual  
50 conclusion that in 1973 there was an intent to mine areas outside of the 71-acre area described in  
51 the lease and DNR reclamation plan. Further, the Board concludes, that as it relates to the  
52 doctrine of diminishing assets, there was not substantial evidence to find that the doctrine would  
53 apply beyond the 71-acre area because there was not substantial evidence in the record to find  
54 that in 1973 there was an intent to use the land beyond the 71 acres described in the lease and  
55 DNR reclamation plan. Further, the Board interprets the language of the F-X rural zone, former  
56 CCC 18.30.070, to mean that the area where an existing use may expand is limited to the  
57 property where there was an intent to engage in the existing use and, in this case, that is the 71-  
58 acre area described in the lease and DNR reclamation plan. The hearing examiner's decision is  
59 reversed to the extent that it conflicts with the foregoing.

60 It should be noted that Storedahl does have the right to engage in the activities described  
61 in its permits on the 61 acre area that is subject to the County's surface mining overlay.

62

63 (4) *Was the right to continue the nonconforming use abandoned?*

64 Friends and Fish argue that the operator abandoned the nonconforming use by ceasing  
65 operations in the early 1990's. Storedahl argues that they did not abandon the right to engage in  
66 the nonconforming use. The Board concludes that there is substantial evidence in the record to  
67 uphold the hearing examiner's determination that Storedahl did not abandon the right to engage  
68 in mining activity.

69 (5) *What types of activities are allowed as a nonconforming use?*

70 Storedahl argues that the nonconforming use right included the right to process material  
71 brought in from outside of the Daybreak site (350 acres) and from areas within the Daybreak site  
72 and the batching of material. Fish and Friends argue that the nonconforming use did not include  
73 such activities. The Board upholds the hearing examiner's determination that there is not  
74 evidence in the record that, as of 1973 when mining activity became a nonconforming use,  
75 Storedahl engaged in the processing of material brought from outside of the Daybreak site or  
76 batching of material and that the nonconforming use rights do not include the right to process  
77 off-site material. Because the hearing examiner found that the nonconforming use right covered  
78 entire Daybreak site, he did not determine whether the nonconforming use rights included  
79 transporting material from one area of the Daybreak site to another area of the Daybreak site for  
80 processing. Given this Board's determination that the geographic area where the nonconforming  
81 use right to mine and process exists is the 71 acre site and the fact that mining is a permitted use  
82 within the 61 acre site, this proceeding needs to be remanded to the hearing examiner for a  
83 determination of whether or not the nonconforming use rights include the right to process, on the  
84 71 acre site, material extracted from the 61 acre site.

85           **Section 2.   Disposition.**

86           (1)    The hearing examiner's final order in the matter of REZ98-011; CUP2004-00002;  
87    SPR98-034; SHL99-001; SHL2000-00009; HCG98-179; WTP98-038; SE98-098 (Daybreak  
88    Mining & Habitat Enhancement) is overturned, in part, and upheld, in part as discussed in the  
89    previous section, "Analysis".

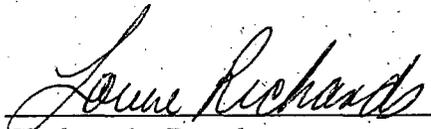
90           (2)    This proceeding is remanded to the hearing examiner for the limited purpose of  
91    determining whether or not the nonconforming use rights include the right to process, on the 71  
92    acre site, material extracted from the 61 acre site.

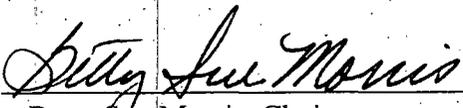
93           (3)    To the extent that the referenced permits conflict with this resolution, the terms of  
94    this resolution supersede and modify the terms and conditions of those permits.

95  
          ADOPTED this   9   day of   August  , 2005.

Attest:

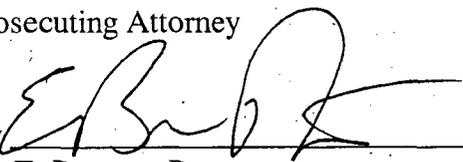
BOARD OF COUNTY COMMISSIONERS  
FOR CLARK COUNTY, WASHINGTON

  
\_\_\_\_\_  
Clerk to the Board

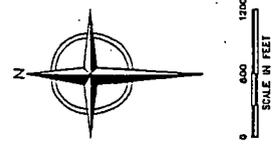
By   
\_\_\_\_\_  
Betty Sue Morris, Chair

Approved as to Form Only:  
ARTHUR D. CURTIS  
Prosecuting Attorney

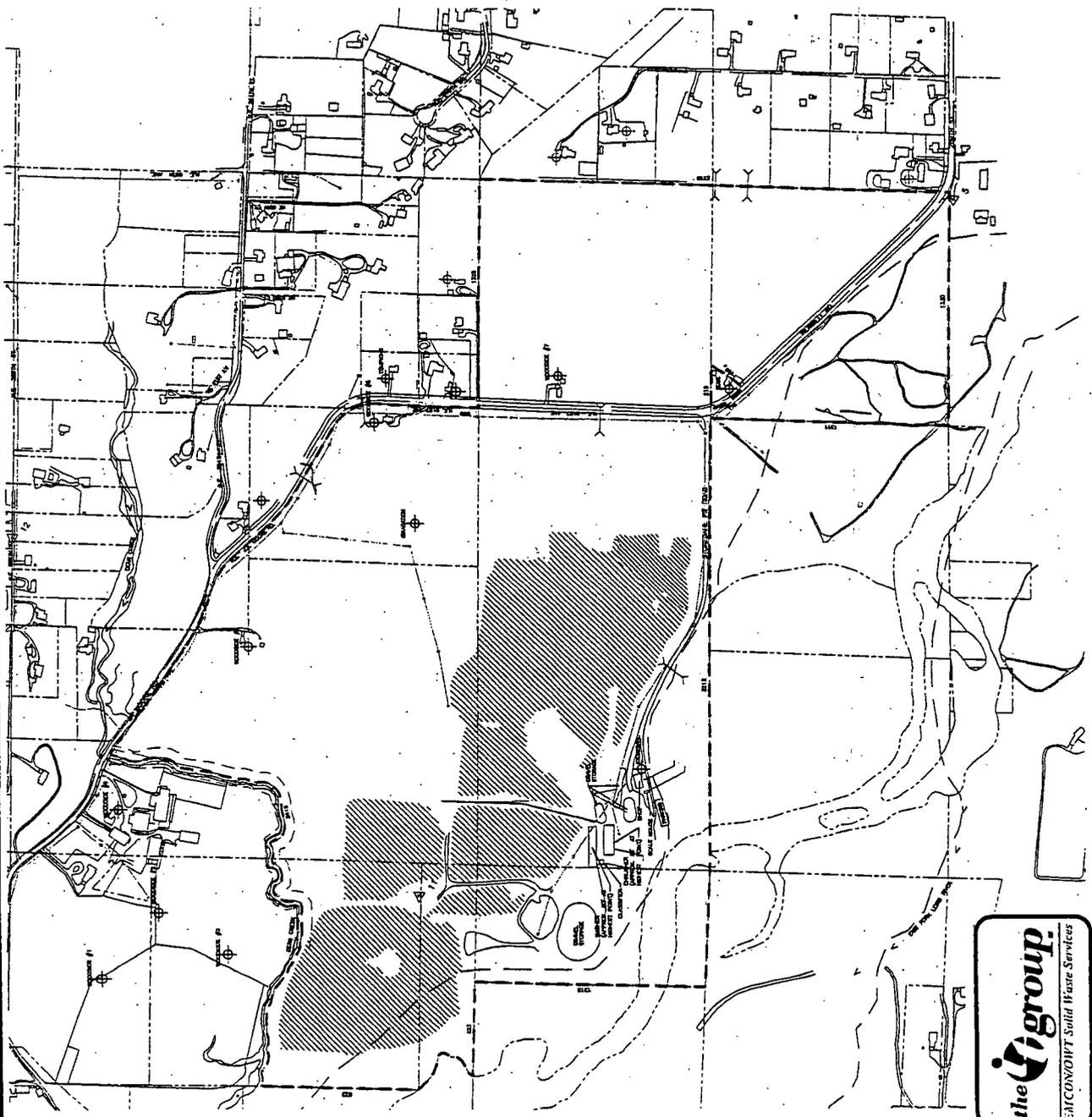
By \_\_\_\_\_  
Marc Boldt, Commissioner

By   
\_\_\_\_\_  
E. Bronson Potter  
Sr. Deputy Prosecuting Attorney

By \_\_\_\_\_  
Steve Stuart, Commissioner



- EXISTING POINTS
- DEAN CREEK SETBACK
- CHANNEL MIGRATION ZONE (APPROXIMATE)
- SITE BOUNDARY
- SEPTIC SYSTEM (APPROXIMATE LOCATION)
- KNOWN WELLS (LOCATED AND IDENTIFIED, LOCATIONS APPROXIMATE)
- OTHER WELLS (NOTED IN OTHER SOURCES (E.G. HEALTH DEPARTMENT RECORDS AND AIRBORN 1999). SEE FIGURE 2.1 OF SITE PLAN REPORT FOR EXPANDED CONTACT WELLS NOT FIELD VERIFIED)
- POWER POLES



**NOTES**  
1. COUNTY ROADS

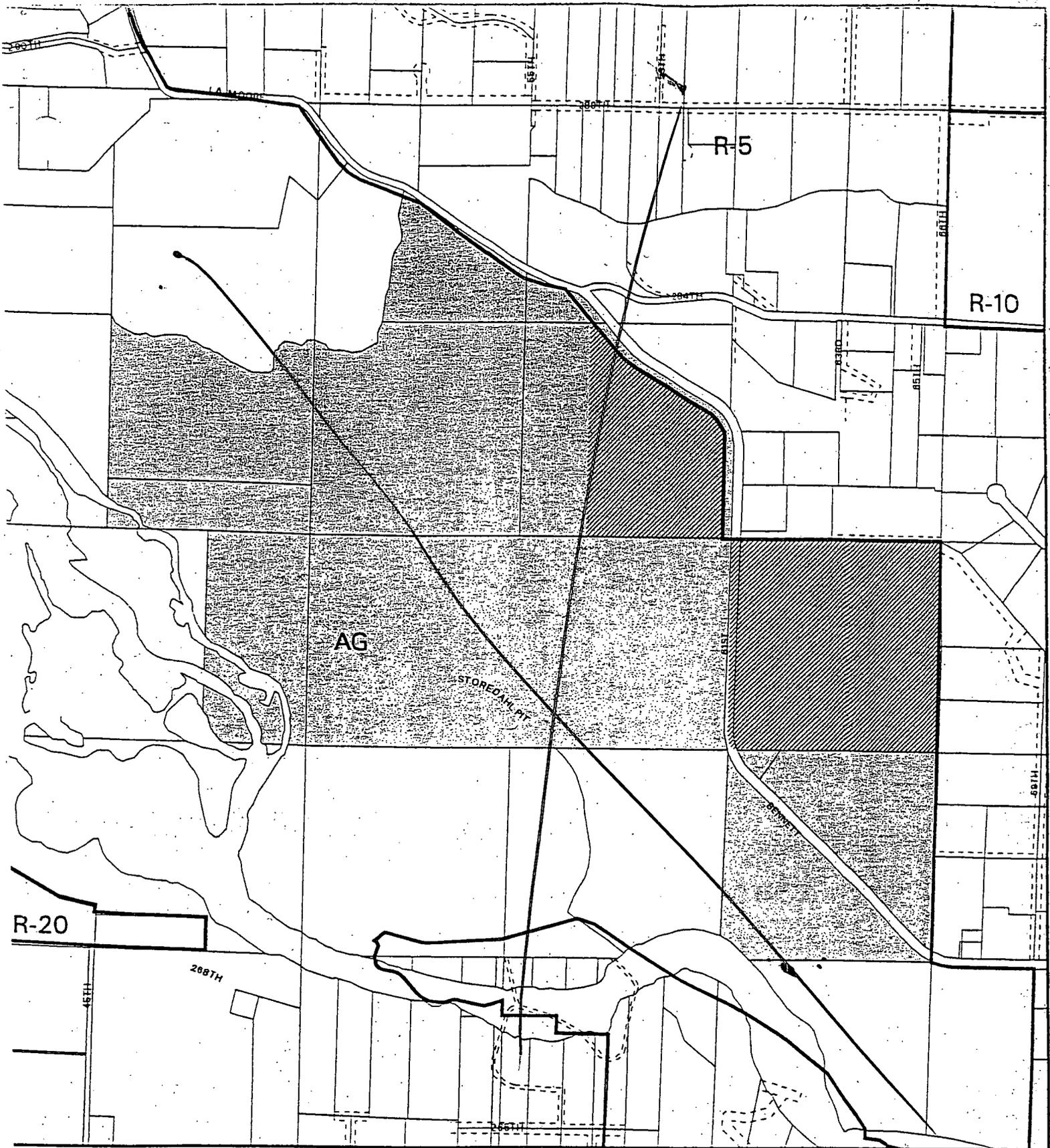
ROAD SEGMENT	ROAD MATERIAL	ROAD WIDTH	R/W WIDTH
J.A. MOORE RD, WEST OF 24TH ST.	ASPHALT	22'-24'	40'
24TH ST, EAST OF J.A. MOORE	ASPHALT	22'-24'	40'
J.A. MOORE EAST OF 24TH	ASPHALT	22'-24'	60'
31ST AVE.	ASPHALT	22'-24'	60'
BECKETT RD	ASPHALT	22'-24'	60'
24TH STREET	ASPHALT	22'-24'	60'
STORSDALE PT ROAD	ASPHALT	20' TYP.	N/A

- 2. SEE TRANSPORTATION IMPACT STUDY FOR SOFT DISTANCE TRAVEL ANALYSES
- 3. BOUNDARY DIMENSIONS ARE APPROXIMATE. DIMENSIONS WERE DETERMINED FROM A COMBINATION OF SOURCES INCLUDING CLARK COUNTY GIS RECORDS, THE AERIAL SURVEY (DAVID BURR AND ASSOCIATES, 1993), A PARTIAL SURVEY OF RECORDS AND A LOCAL SURVEY (JAMES AND SONS, INC., 1974), AND A PARTIAL, SEE SURVEY (SPENCER AND ASSOCIATES, INC., 1988)
- 4. SOME SOURCES AND LOCAL SONS IDENTIFY DEAN ROAD BETWEEN 24TH STREET AND 31ST STREET AS DEAN FROM DEVELOPER'S GIS PACKAGE AND MOST OTHER SOURCES REFERS TO J.A. MOORE ROAD ONLY.

DATE 4/02  
DWN ILW  
APP LIS  
REV . 1  
PROJECT NO.  
793584

FIGURE 2:  
J.L. STOREDAHL & SONS  
CLARK COUNTY, WASHINGTON  
HABITAT CONSERVATION PLAN  
EXISTING CONDITIONS AND  
STRUCTURAL FEATURES





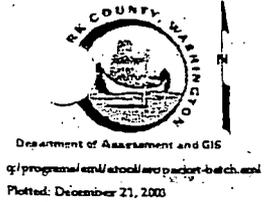
### Comprehensive Plan Designation: AG R-5

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

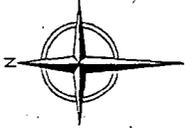
41111	41112	42107
41114	41113	42118
41123	41124	42119

-  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

Scale 1:9600  
 400 0 400 800 1200 Feet



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 178 OF 478 DATED JULY 19, 2000.  
 EXISTING POOLS

DEAN CREEK BEDROCK

CHANNEL MIGRATION ZONE (APPROXIMATE)

SITE BOUNDARY

SEPTIC SYSTEM (APPROXIMATE LOCATION)

KNOWN WELLS (LOCATED AND IDENTIFIED, LOCATIONS APPROXIMATE).  
 OTHER WELLS NOTED IN OTHER SOURCES (E.G. HEALTH DEPARTMENT RECORDS  
 AND NEWTON, 1980). SEE FIGURE 2.1 OF SITE 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 ST.	ASPHALT	22'-24'	60'
01ST AVE.	ASPHALT	22'-24'	60'
BENNET RD.	ASPHALT	22'-24'	60'
288TH STREET	ASPHALT	22'-24'	60'
STORDEHILL PI ROAD	ASPHALT	30 TYP	N/A

2. SEE TRANSPORTATION IMPACT STUDY FOR RIGHT DISTANCE TRIMMING ANALYSES

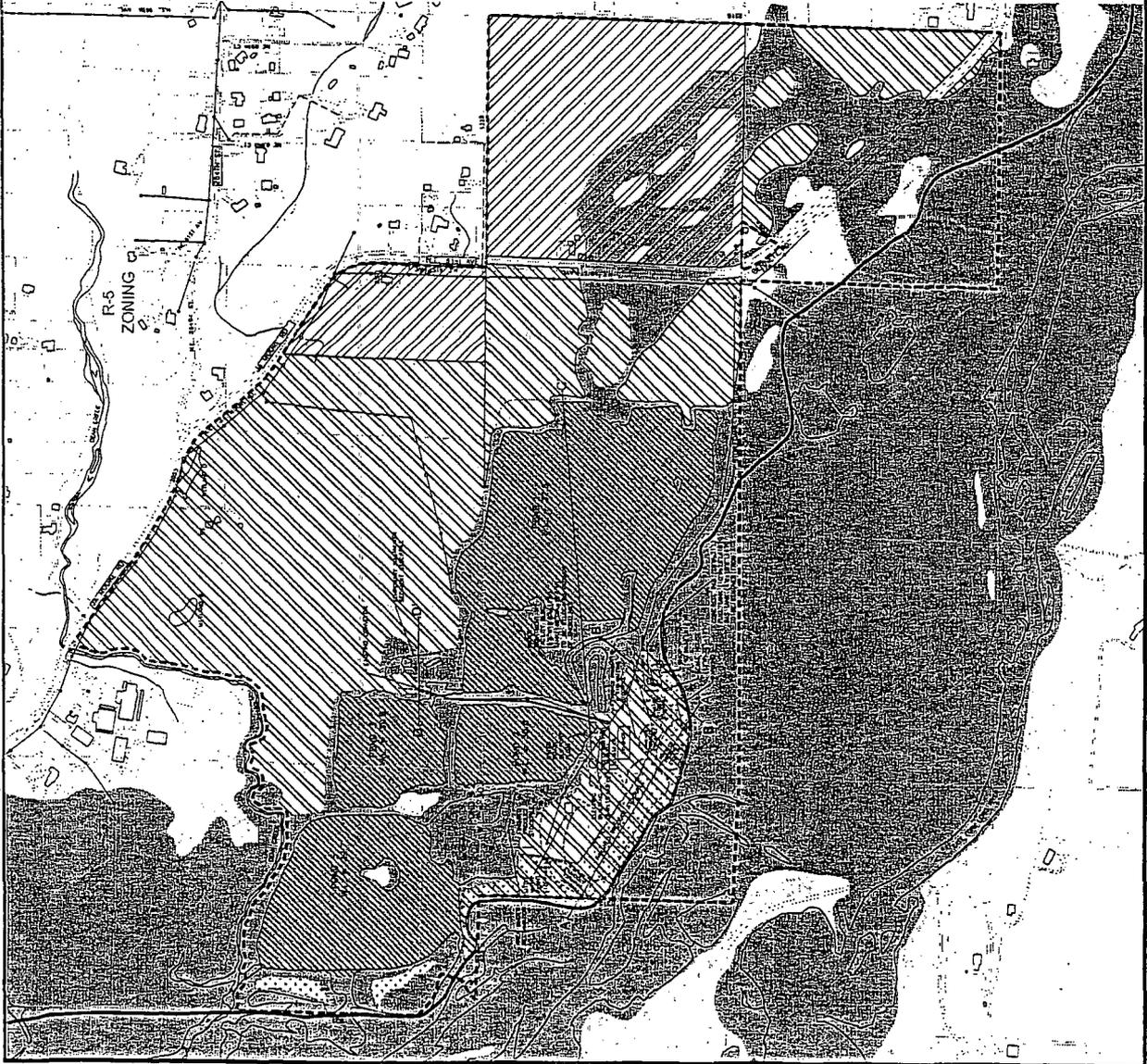
3. BOUNDARY DIMENSIONS ARE APPROXIMATE. DIMENSIONS WERE DETERMINED FROM A COMBINATION  
 OF SOURCES INCLUDING CLARK COUNTY GIS RECORDS, THE AERIAL SURVEY (DAVID SMITH AND  
 ASSOCIATES, INC., 1998), THE AERIAL SURVEY (DAVID SMITH AND ASSOCIATES, INC.,  
 1973), AND A PARTIAL SITE SURVEY (PERUCCI AND ASSOCIATES, INC., 1993)

4. THESE BOUNDARY DIMENSIONS DO NOT INCLUDE SETBACKS, EASEMENTS, ETC. SETBACKS ARE SET  
 AND LOCAL ORDINANCES FROM DEVELOPER'S GIS PACKAGE AND MUST BE OBTAINED FROM THE  
 MOORE ROAD ONLY.

DATE 4/02  
 DWN ILW  
 APP JUS  
 REV 1  
 PROJECT NO.  
 793584

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





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

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

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

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

- AS TO 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. 53001-016C, DATED JULY 19, 2000.
- EXISTING PONDS
- SITE BOUNDARY
- FEMA FLOODWAY (SUBSTITUTED FOR DFWP)
- 200' SHORELINE JURISDICTION
- SEPIC SYSTEM (APPROXIMATE LOCATION)
- WATER WELL
- POWER POLES
- AI-1-A' CROSS SECTION LOCATION

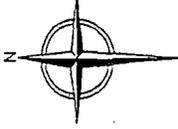


**NOTES:**  
 1. BOUNDARY DIMENSIONS ARE APPROXIMATE. DIMENSIONS WERE DETERMINED FROM A COMBINATION OF AERIAL PHOTOGRAPHS, A PARTIAL SURVEY OF SECTIONS 13 AND 24 (GREENWOOD SURVEYS, INC., 1974), AND A PARTIAL SITE SURVEY (SPURLOCK AND ASSOCIATES, INC., 1998).  
 2. RAW MATERIAL AND FINISHED PRODUCT STOCKPILES WILL SHRINK AND SWELL AND BE RELOCATED PERIODICALLY AS OPERATIONS DEMAND.  
 3. EAST FORK LEWIS RIVER --- RURAL SHORELINE OF THE STATE.

ROAD SEGMENT	ROAD MATERIAL	ROAD WIDTH	R/W WIDTH
J.A. MOORE EAST OF 284TH 61ST AVE.	ASPHALT	22-24	60'
BENNETT RD	ASPHALT	22-24	60'
STOREDAHL PIT ROAD	ASPHALT	20 TYP	N/A

DATE 04/13/04  
 DWN. MMA  
 APPR. MMA  
 REVIS. J129/04

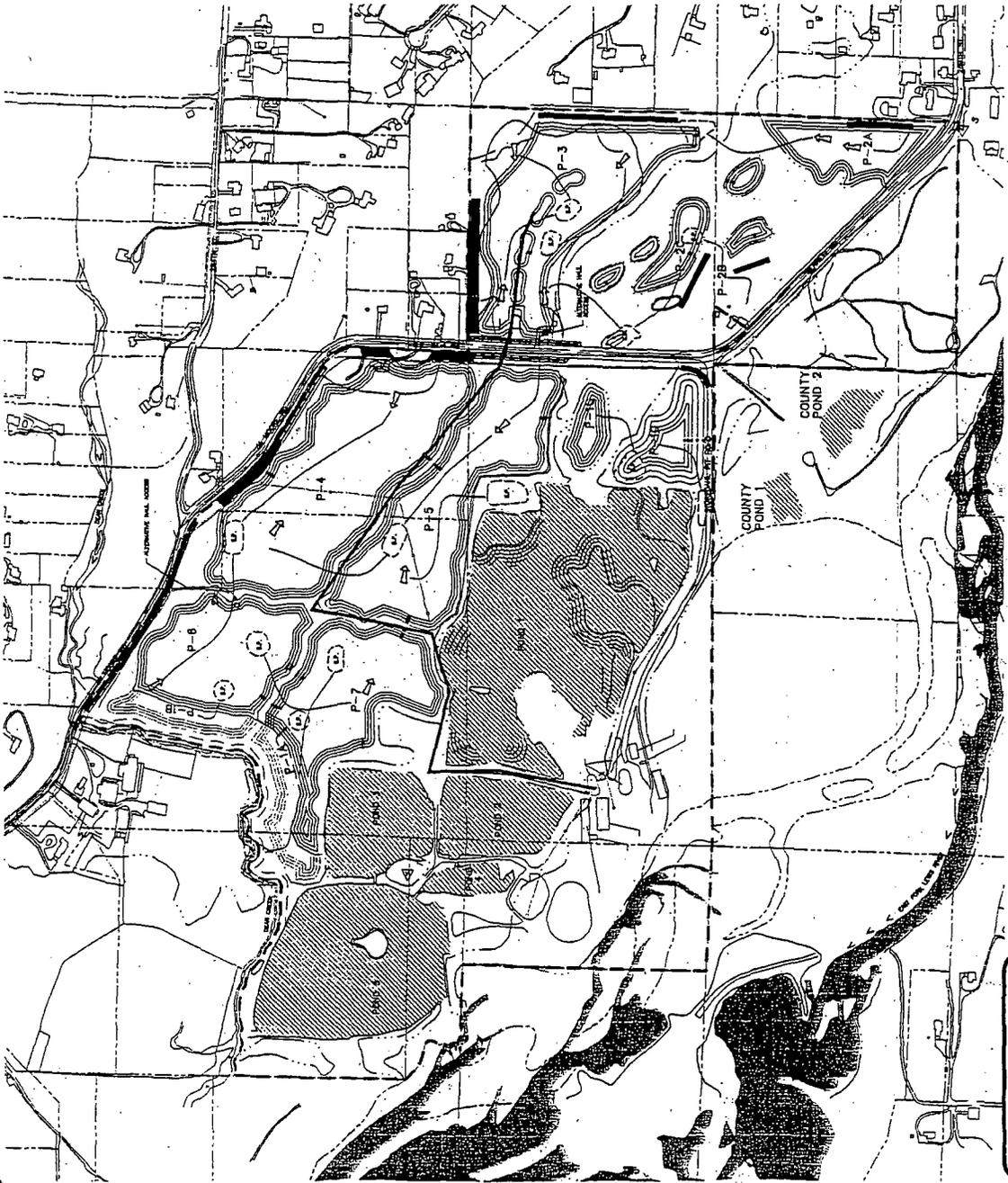
**ECOLOGICAL LAND SERVICES, INC.**  
 NATURAL RESOURCE CONSULTING  
 AND LAND PLANNING  
 1157 3rd Ave., Suite 220  
 Longview, WA 98632  
 (360) 578-1371 Fax: (360) 414-9305



0 200 400  
SCALE IN FEET

**LEGEND:**

- P-1/4 → MINING PHASE AND DIRECTION OF MINING
- - - SITE BOUNDARY
- DEAN CREEK SETBACK
- DIRECTION OF OVERBURDEN STRIPPING AND STOCK PILING
- TOPSOIL AND REJECT STOCK PILE AREA
- APPROXIMATE CONVEYOR ALIGNMENT
- EXISTING DRIVEWAYS TO BE USED FOR ACCESS
- 10-15 FOOT HIGH NOISE REDUCTION EARTHEN BERM
- 5-10 FOOT HIGH NOISE REDUCTION EARTHEN BERM
- SOUND WALL
- VISUAL BUFFER (8 FOOT TALL EARTHEN BERM OR VEGETATED CONC)

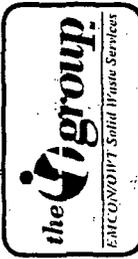


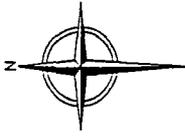
**NOTES:**

1. CONSTRUCTED BERM WIDTH IS PROPORTIONAL TO HEIGHT ASSUMING A 2:1 SLOPE AND A 6 FOOT WIDE LEVEL TOP. 8 FOOT TALL BERMS ARE 25 FEET WIDE. 10 FOOT TALL BERMS ARE 45 FEET WIDE. BERMS FOR NOISE AND VISUAL BUFFERS ARE TEMPORARY. BERM MATERIAL WILL BE USED TO CONSTRUCT RECLAMATION ELEMENTS AFTER MINING IS COMPLETE IN THE ADJACENT PHASE.
2. SECURITY FENCES WILL BE INSTALLED ALONG ROADWAYS AT THE DISCRETION OF STOREDAHL.
3. MINING PHASE SETBACK FROM PROPERTY BOUNDARY IS 15 FEET. SETBACK FROM COUNTY ROADS IS 10 FEET. SETBACK FROM DEAN CREEK IS 75 FEET FROM DEAN CREEK.
4. CONVEYOR ALIGNMENT IS APPROXIMATE. FINAL ALIGNMENT OF CONVEYOR SEQUENCES WILL BE DETERMINED DURING MINING. FINAL MINING, GRADING, AND RECLAMATION OF POND'S ALONG CONVEYOR ALIGNMENT WILL OCCUR AFTER CONVEYOR IS DISMANTLED.
5. BERM HEIGHTS BASED ON USE OF KOMATSU PC200 EXCAVATOR. USE OF QUIETER EXCAVATOR WOULD REDUCE BERM HEIGHT.
6. SCREENED CONTOURS REPRESENT PHASE-1 RECLAIMED MINE CUT.

DATE	4/02
DWN	TJW
APP	TJS
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 LIGATION ZONE
- LOT LINE
- FINAL EXCAVATION CONTOUR (10')
- FINAL EXCAVATION CONTOUR (7')
- RECLAMATION GRADING CONTOUR (10')
- RECLAMATION GRADING CONTOUR (7')
- CREATED AND RESERVED FORESTED AND EMERGENT WETLANDS
- FUTURE OPEN WATER
- EXISTING OPEN WATER
- RESERVED MIXED VALLEY-BOTTOM FOREST
- CREATED MIXED VALLEY-BOTTOM FOREST

NOTES:

1. ALL POND 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

DATE 5/01  
DWN  
APP  
REV  
PROJECT NO.  
783581

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

