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, Skagit County Auditor

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AFTER RECORDING RETURN TO:
SKAGIT COUNTY HEARING EXAMINER
302 SOUTH FIRST STREET
MOUNT VERNON, WA 98273

DOCUMENT TITLE: SPECIAL USE PERMITS SU 00 0109, SU 00 0110
SEPA APPEALS AP 00 0387, AP 00 0391

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: KEN WOLCOSKI, LANDEX ASSOCIATES, INC.

ASSESSOR PARCEL NO: 340204-4-019-0100, P106852
340209-1-004-0100, P106855

ABBREVIATED LEGAL DESCRIPTION: Located on a 56-acre parcel, south of Stevenson Road, between Thompson Road and Reservation Road on Fidalgo Island, Anacortes, within portions of Sections 4 and 9, Township 34 North, Range 2 East W.M., Skagit County, Washington

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

In the Matter of the Application of)
LANDEX ASSOCIATES INC.) PL00-0109
) PL00-0110
For Special Use Permits for an RV Park)
And Riding Arena near Turner's Bay)
_____)
)
In the Matter of Appeals of the SEPA)
Threshold Determination)
)
SWINOMISH INDIAN TRIBAL)
COMMUNITY, FRIENDS OF SKAGIT)
COUNTY, EVERGREEN ISLANDS,)
PEOPLE FOR PUGET SOUND, and)
SKAGIT AUDUBON SOCIETY,)
Appellants,) PL00-0387
) PL00-0391
v.)
SKAGIT COUNTY, and LANDEX)
ASSOCIATES INC.,)
Respondents.)
_____)

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND DECISION**

THIS MATTER is a consolidated hearing on applications for Special Use Permits and related appeals under the State Environmental Policy Act (SEPA). A Prehearing Conference was held on August 15, 2000. Pursuant to the Prehearing Order the hearing was commenced on September 20, 2000. Public testimony was taken on that day and then the record was left open for a week for additional written public comment. Four additional days of hearing were conducted, focusing on the appeals: October 12, October 25, October 31 and November 8, 2000.

Landex Associates Inc. (applicant) was represented by David Hough, Consultant. The County was represented by Hilary Thomas, Deputy Prosecuting Attorney, and Brandon Black, Planner.

Alix Foster, Attorney at Law, appeared for the Swinomish Indian Tribal Community. Friends of Skagit County was represented by Doyle McClure and June Kite. Elsa Gruber and Brian Wetcher appeared for Evergreen Islands. Mike Sato represented People for Puget Sound. The Skagit Audubon Society was represented by Steve Aslanian.



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Ten members of the public testified on the underlying Special Use Permit applications. The parties to the appeals presented witnesses. Exhibits were offered and admitted. Argument was heard. The Examiner visited the site and vicinity.

The List of Exhibits is annexed hereto as Attachment A. On the basis of the record made, the following is entered:

FINDINGS OF FACT

I. The Proposal

A. Basic Concept

1. Landex Associates Inc. (Landex), through Ken Wolcoski, proposes to build and operate a recreational vehicle (RV) park and an equestrian center on approximately 56 acres of land on Fidalgo Island, south and east of Anacortes. The project is to be known as Summit Trails.

2. The site is located south of Stevenson Road, between Thompson Road and Reservation Road, within a portion of Secs. 4 & 9, T34N, R2E, WM. The subject land is situated on uplands above Turners Bay which lies at the northeast end of Similk Bay.

3. The RV park will occupy the southern 2/3 of the property (38 acres) and will include 150 individual and group RV sites and an office/activities clubhouse of approximately 5,000 square feet.

4. The equestrian center will be situated on the northern 1/3 of the property (18 acres) and will include an indoor riding arena of about 16,000 square feet and about 100 stalls for horses. There will also be a 20,000 square foot outdoor riding arena, plus two additional open areas for horse riding of unspecified size. Parking space for up to 130 vehicles will be provided.

5. A system of horse trails will extend throughout the property.

6. The proposal is to develop the project in phases over a five year period. The first phase would consist of the indoor arena, 40 horse stalls and 40 RV sites.

B The Setting

1. The subject property is currently undeveloped. The applicant's project narrative describes the entire site as a rocky outcrop. The land is on the east slope of the outcrop which tends north-south. To the east of the parcel are grass lowlands and Turners Bay.



2. The property was selectively logged about six years ago. The harvested trees were replaced with Douglas fir seedlings. Clearings and logging roads are scattered throughout the site. Several stands of trees remain, particularly on the steepest slopes.

3. The land to the immediate east of the applicant's property belongs to the Culbertsons. Along the south part of the applicant's parcel, the Culbertsons' ownership forms a narrow strip separating the applicant's land from Turners Bay. North of the bay, Culbertsons' land widens into a low-lying grassy area. This property was long used for agriculture and livestock. The easterly portion has recently been occupied by a marine construction operation.

4. There is concern that the northerly part of the Culbertsons' property may contain wetlands that are within 200 feet of the applicant's project. There is also concern that the southerly part of the applicant's property may be less than 200 feet from the Ordinary High Water Mark (OHWM) of Turners Bay across the intervening strip of Culbertsons' land. On the record neither of these questions is definitively resolved.

5. As dictated by topography, the flow of storm water from the applicant's property is to the east towards the bay and the lowlands. It appears that preliminary site preparation on the applicant's property has somewhat increased the surface flow across the Culbertsons' land.

6. To the north of the project site, Stevenson Road is a city street of the City of Anacortes. Across Stevenson Road from the project the land is within the Anacortes Urban Growth Area and has been designated by the City for industrial use. There are presently residential structures along the road. But in the general vicinity to the north, a diverse array of uses has grown up: commercial, industrial, and recreational, as well as residential.

7. To the west is a mix of forested land and homesites. Across the ridge, as the hill slopes down to Thompson Road, there are scattered rural residences with pastures and livestock. To the southwest are higher altitude homes in the Estates of Summit Park development, a rural residential Planned Unit Development. Topography and vegetation separate these areas from the project

8. In the southern portion of the site a small (8,000 square foot) Type III wetland has been delineated. Such a wetland requires a 50-foot buffer area. The plans call for avoiding any development in this wetland or buffer.

9. The slopes on the site are, in general, stable. There are no indications of slope failures. The bedrock which underlies the north-south ridge is at the surface over a large portion of the site. Soils are primarily located in small drainages and on the lower slopes. Soils, where they exist, are of stream and glacial deposits of poorly graded sand and silty sand



10. Turners Bay supports significant populations of shellfish and crustaceans, including little neck, manila, and butter clams, crab and oysters. Recreational and subsistence shellfish harvesting occurs within the bay.

11. Turners Creek drains into the bay from the north to the east of the applicant's property. Some pollution is likely migrating into the bay from upstream sources via the creek.

12. A long narrow spit juts northwesterly from the east shore of Turners Bay pointing toward the subject property. To the north of this spit the Washington State Department of Health has denied certification for commercial shellfish harvest because of fecal coliform counts exceeding state standard limits. South of the spit the waters are approved for commercial harvest. This approved area is one of a diminishing supply. Turners Bay is one of the last remaining coastal areas with the opportunity to be certified for shellfish growing.

13. Farther to the south on Similk Bay, commercial oyster operations have been decertified. The problem is traceable to effluent from failing domestic septic systems getting into the bay.

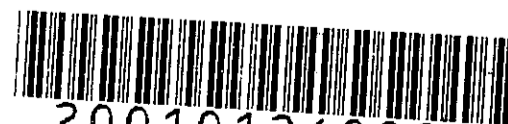
14. On the Turners Bay spit, surf smelt spawning has been observed. In addition, the conditions are favorable for herring and sand lance spawning. The small embayment contains large and healthy stands of eelgrass and quantities of red kelp. Herring typically spawn where these are found. All of these aquatic organisms are critical links in the food chain that ultimately connect to larger predators, such as salmon. Coho and other salmonids are known to be present in Turners Bay.

15. In addition to the high coliform counts, signs have been detected in Turners Bay that may indicate excessive nutrients in the waters. Solid mats of sea lettuce are beginning to appear. This could signal the imminence of eutrophication. The delicate balance in the aquatic environment is presently at significant risk.

16. Archaeological reconnaissance indicates the presence of cultural resources along the west shore of Turners Bay.

C. Project Features

1. A road system created during past logging operations exists on the site. The applicant intends to use this system to the extent possible. Access to the site will be on an existing driveway into the property from Stevenson Road. This roadway crosses the upper corner of Culbertsons' property before entering the Landex lands. It is possible that this entry road is within a wetland buffer. A segment of the interior road system passes through the buffer of the on-site wetland.



2. The entry road is currently a two-lane, 20 foot wide, gravel accessway with no shoulders. Improvements to the roadway width and surface structure will be needed for this private road to meet Skagit County design standards. The applicant proposes to provide five traffic lanes at the driveway consisting of two traffic vehicle lanes, and three lanes for parking if recreational vehicles, rigs and trailers need to stop so as not to back up traffic at the Stevenson Road and site driveway intersection.

3. A traffic impact study for the Summit Trails proposal, dated February 20, 2000, was prepared by KJS Associates, Inc. The study was reviewed by the County Department of Public Works and the City of Anacortes.

4. Neither Public Works nor the City Anacortes questioned the capacity of the existing road system to handle the traffic generated by the project. The traffic study noted that State Route 20 is a short distance to the north; that most of the traffic to and from the project site will use the Reservation Road/Stevenson Road route between the state highway and the site; and that at no intersection will the Summit Trails project reduce the level of service (LOS) from what it would otherwise be.

5. The intersection of SR20 at Thompson Road currently operates at LOS F (the worst rating in terms of delays). A traffic signal for this intersection is not scheduled until the year 2005. The traffic report therefore recommends that the applicant divert traffic away from the interior route to this intersection. Suggested measures include signage and a right-turn only lane for exiting the site driveway.

6. The traffic study states that sight distance to the west of the access roadway at the posted 25 mph speed limits meets the sight distance requirements of the County. Nevertheless, there is verbal and photographic evidence in the record that strongly suggests a sight distance problem at the entry point. There is no information on the sight distance requirements of the City of Anacortes.

7. The applicant estimates that grading and filling from road work, building site preparation, RV pads, parking, and trails will involve the movement of about 10,000 cubic yards of material from one place to another on the site. No importation of material is anticipated.

8. A survey of slope stability and erosion potential by GeoTest Services, Inc. was prepared on January 7, 2000. The survey concluded that the majority of the project is to be constructed in areas where erosion is not a significant issue due to the presence of bedrock at final grade elevations. The areas most susceptible to erosion during construction will be the drainfields which require soil and a cleared area for installation. In general, the report concluded that erosion potential is low provided vegetation is not disturbed in the pockets of soil on the property. Where disturbance of vegetation occurs, vegetative cover should be re-established as soon as possible. Approval of a Temporary Erosion Control Plan will be required before construction can begin.

9. The applicant claims that 80+ percent of the site will be retained in open space.



10. Neither the site plan nor any other source clearly shows how much of the site will end up in impervious surface. Estimates of the parties vary. Applicant's storm drainage engineer estimates about 15 percent of the site will become impervious. An appellant's estimate is about 25%. The difference may be primarily in different treatment of the riding trails. The trail system which snakes throughout the site will encompass about four linear miles.

11. A preliminary storm drainage study, dated November 4, 1999, was prepared by Skagit Surveyors and Engineers. Subsequently, on September 13, 2000, this report was updated and stamped by a professional engineer. Incorporated into the updated report was a draft of a Horse Manure Nutrient Management Plan, prepared by Ken Wolcoski.

12. The storm drainage system proposed is intended to meet the requirements of the Department of Ecology's Stormwater Management Manual for the Puget Sound Region. There are no significant creeks, streams or drainageways on the property. In general, surface water runoff appears to sheet flow off the site to the southeast.

13. For purposes of the stormwater plan, the site is divided into four basins -- A through D. Basin A, by far the largest, occupies the middle portion of the uplands, Basin B is at the south end of the project site Basin C is a narrow slice of land along the southerly 2/3 of the eastern border. Basin D is at the north end. The plan shows the proposed conveyance routing system for the project.

14. Basins A and B are to be served by individual detention facilities. Each pond will be designed and constructed to maintain a release volume that matches pre-development stormwater runoff flow rates. Infiltration trenches will be placed in basins D and C near the downslope boundary to treat and restrict the increase in stormwater runoff that will not be controlled by the detention facilities.

15. Bioswales constructed along all roads will form part of the conveyance system. The swales will be rock lined where the slope exceeds eroding velocity.

16. The outflow of the pond in Basin A will go to a ditch proceeding along the boundary with the Culbertson property. The outflow of Basin B will be conducted through a ditch to a flow spreader prior to discharge into the shoreline strip on the narrow portion of Culbertsons' land. Basin C along the eastern edge of the property closest to Turners Bay will promote sheet flow to simulate the pre-development flow regime, as will Basin D which sheet flows to the north. The infiltration trenches in Basins C and D will be constructed to match pre-existing runoff rates.

17. It is anticipated that the stormwater system through use of detention, bioswales, and infiltration will provide some water quality treatment. Vegetative buffers



(14 or so feet wide) along trails will augment this process to some degree. However, the major means of assuring water quality will be through the Manure Management Plan.

18. The Manure Management Plan, in essence, calls for the manure to be collected regularly, placed in temporary storage and then moved to an on-site covered storage area where will be kept confined until removed from the site (at least monthly) to a licensed compost facility.

19. The Manure Management Program will cover the entire equestrian facility, but its principal focus will be on the indoor arena and the horse stalls. The equestrian facility will consist of:

- a) 100 stalls in several buildings
- b) Most exterior facing stalls will have paddocks attached.
- c) Storage, preparation and clean-up areas will be within stable buildings.
- d) The indoor arena, and accessory structures for storing bedding, flooring material and other equipment needed to operate the facility.
- e) The outdoor riding arena
- f) Several training areas (round pens)
- g) Parking areas
- h) Trailer storage
- i) A covered manure storage facility
- j) The trail system

20. Most of the equestrian activity will be restricted to confined areas, such as stalls, paddocks and training/riding areas where the detection and clean up of manure will be relatively easy. However, the clean up effort will cover all portions of the property where horses go. The major equestrian facilities will all be in the northern part of the site interior, away from the bay.

21. Surface water runoff on the site will be diverted away from storage, confinement, and training/riding areas for horses (other than trails). Stormwater from these areas, involving most of the equestrian activity, will be carefully segregated and directed to a water quality holding pond in Basin A. This pond is intended to provide nutrient removal. Outflow will be through a sand filter into a biofiltration swale and then to the Basin A detention pond.

22. The manure storage building will be water tight and constructed on a concrete base located so that no runoff can come into contact with the manure stored there. The building will be sized to accommodate wastes from the maximum number of boarded horses for each that day storage is required.

23. The trails will generally be constructed to a width of from six to ten feet, depending on vegetation and topography. The average width of trails plus adjacent



vegetative buffers on either side will be around 40 feet. The trails will be maintained on a regular basis with manure being removed to the storage facility.

24. The RV park will feature a sewage dump station for vehicle holding tanks.. The RV sites themselves, as well as the four bathrooms provided in the RV area and the sanitary facilities in the various building will all be connected to on-site sewage treatments systems. A large number of test holes have been dug at various locations on the property. On the basis of preliminary review by County Health, soil logs appear to demonstrate that conditions exist on site in which on-site sewage treatment could effectively occur.

25. In many cases the generally-desired three feet of vertical separation of unsaturated soil from the highest seasonal water table (or a restrictive layer) is not present. However, in most cases the vertical separation is sufficient to allow effective augmentation by the use of mound systems (or mound systems with pretreatment by a sand filter).

26. The applicant proposes to use a series of so-called alternative systems employing a proprietary device called the TRD 1000. These units provide treatment of septage before it is disposed of in the drainfield. The TRD 1000 is capable of achieving much better removal of BOD, suspended solids and fecal coliform than is called for in either Treatment Standard #1 or Treatment Standard #2 for on-site systems. The TRD 1000 is approved for use by the State Department of Health, up to 1000 gallons a day.

27. Where the TRD 1000 is used, a vertical separation of only a foot might be satisfactory. This is because the whole point of vertical separation is for treatment to occur in the soil before the effluent reaches the ground water. With the pre-treatment provided by a machine such as the TRD 1000, the purpose of vertical separation is satisfied before the water reaches the drainfield.

28. An RV is anticipated to furnish from 50 to 100 gallons of sewage per day. Taking the highest of these, 150 RV sites would require the ability to treat at least 15,000 gallons per day. There is enough space and appropriate soil to create on the subject site to allow treatment considerably more than 15,000 gallons of sewage per day if TRD 1000's are used..

29. Because the higher per unit figure (100 gallons a day) is used to estimate potential RV sewage output, it is apparently assumed that the 15,000 gallons per day overall number is large enough to include other planned sanitary facilities -- the four freestanding bathrooms and bathrooms for the arena and activities center. Even this total may be conservative, since the applicant estimates that the RV portion of the park will average about 50% occupancy, with some periods as low as 30%

30. The applicant contemplates use of the TRD 1000 in connection with several individual small systems. Using TRD 1000's in combination, the applicant proposes to



create enough such systems to serve the needs of the project without in any case having a single system that exceeds 3,500 gallons per day. The latter number is the maximum size approvable by the County Health Department.

31. The applicant has agreed to a monitoring program for water from the site. The County Health Department has already conducted some baseline monitoring for fecal coliform in the spring of the year. They plan to augment this with winter baseline monitoring. Plans call for ongoing monitoring conducted by both the Health Department and the applicant.

32. The project will be served with potable water by the City of Anacortes.

33. During the course of the hearing, the applicant and the Swinomish Indian Tribal Community reached an agreement regarding archaeological resource protection. The agreement includes having an experienced field archaeologist on site during certain ground disturbing activities. The archaeologist is to be selected from a list jointly developed by Landex and the Tribe. If a cairn, grave site or human remains are encountered, all work in the area is to cease and the Tribe is to be notified. The Tribe and Landex will then jointly develop a plan to restore the area or otherwise handle the discovery.

II. Staff Review

1. The application as submitted on February 22, 2000, contained the following:

- a. SEPA and Critical Areas Checklists including project narrative
- b. Critical Areas Report -- Aqua Terr
- c. Preliminary Storm Drainage Report -- Skagit Surveyors and Engineers
- d. Soils evaluations -- Gudmunson Septic Design Services
- e. Water availability letter -- PUD No. 1
- f. Cultural Resource Reconnaissance Report -- Alfred Reid
- g. Slope stability and erosion evaluation -- GeoTest Services

2. The Permit Center issued a Letter of Completeness for this application on March 6, 2000. They received the Traffic Study by KJS Associates on March 23, 2000. Thereafter, on April 3, 2000, the Permit Center requested additional information. On April 20, 2000, the applicant submitted background materials on animal waste management to the County Health Department. A draft Manure Management Plan was submitted to the Permit Center with an updated site plan on May 24, 2000.

3. The Permit Center determined that two Special Use Permits are required for this applicant's proposal under the provisions of SCC 14.04.150(2) -- one for the RV park and the other for the equestrian center. The application was routed to other County departments and to the City of Anacortes for review.



4. Public Works stated that the interior road system will require construction and drainage plans, including a Temporary Erosion Control Plan, and will require a fill and grade permit.

5. Anacortes made the following comments:

1. The project site is located within unincorporated Skagit County.
2. Stevenson Road is a city street. As such it shall be improved to current City Standards; this is 32 foot paved width, including curb/gutter and sidewalks along the project's frontage.
3. Sufficient right-of-way shall be dedicated to provide a 60 foot wide future right-of-way; typically, this would be dedication of 30 feet south of centerline.
4. Additional easements or right-of-way dedications may be required outside of project frontage to allow for roadway tapers and/or drainage considerations.
5. Any stormwater that is drained into the city right-of-way shall be subject to City Storm Drainage Ordinance No. 2441.

6. The Environmental Health unit of the Permit Center indicated that some soil logs had been submitted earlier for site evaluation purposes. The logs related to three possible drain field areas on site -- one in the northerly portion, two in the south. The site evaluation was approved as submitted. Environmental Health advised that no designs for on-site sewage disposal had been submitted

7. The Water Resources division of the Permit Center had no concerns so long as water service was provided by the City of Anacortes. Water Resources stated that a manure management plan addressing water quality concerns will be needed.

8. The County Health Department review included review of the draft Manure Management Plan. The Health Department recommended approval of the project with the following conditions:

1. The applicant shall submit camping vehicle park plans to the Skagit County Health Department for approval. A camping vehicle park permit from the Skagit County Health Department is required in accordance with SCC 12.20.
2. The applicant shall complete and comply with a plan of operation as approved by the Skagit County Health Department. This plan of operation shall include a manure management plan for the equestrian center and an operation and maintenance plan for the on-site septic systems. Annual renewal of the camping vehicle park permit will be dependent upon completion and continued compliance with this plan of operation.



3. The applicant shall comply with the monitoring and maintenance components of the Health Department approved plan of operation.

9. The Health Department also described background [baseline] water quality monitoring that it had done for the Wolcoski [Landex] site and said that as part of the manure management plan, water discharges from the project shall be routinely monitored. The Health Department further stated the following requirements: a) The manure management plan must call for routine cleaning of the trails and open paddock areas. b) Water runoff from such areas must meet the baseline water quality levels before exiting the property. c) If water quality results exceed the baseline, the site operator must revise the maintenance of the trails and open paddock areas to improve the water quality discharge from the site. d) If improvement to meet baseline water quality cannot be achieved, the trails will be closed to horse traffic.

10. The Fire Marshal's office made the following comments:

1. Emergency vehicle access will be required to be approved by the Skagit County Fire Marshal's office prior to construction.
2. Fire flow and hydrant placement shall be approved by the Fire Marshal's office prior to installation.
3. Future building permit approvals will be contingent on satisfactory completion of items 1 & 2.

11. The Permit Center reviewed the application for compliance with the Skagit County Critical Areas Ordinance, Section 14.06, and approved the wetland report submitted by the applicant. The Staff determined that a Protected Critical Area easement (PCA) will need to be recorded in relation to the Class III jurisdictional wetland on site, with a map showing the wetland and 50 foot buffer. Marking of the wetland and buffer on the ground were also to be required with no activity within the wetland or buffer to be allowed.

12. In its Critical Areas review, the Staff visited the site and looked at the Class III wetland within the property. County staff did not investigate the possibility of wetlands within 200 feet of project activity on the adjacent Culbertson property.

13. On review of the information at hand, the County issued a Mitigated Determination of Non-Significance (MDNS) on June 8, 2000. The MDNS contained the following conditions, reflecting to a large degree, the feedback received on the application from various consulted County and City authorities:

1. Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works, shall be in place prior to the



placement of any fill material. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage/Erosion/Sedimentation Control Ordinance. Said measures shall remain in place until completion of the project.

2. The applicant shall comply with Northwest Air Pollution Control Authority requirements.
3. The applicant shall comply with the provisions of Chapter 14.36 of the Skagit County Code, the Skagit County Drainage, Water, Sedimentation Control Ordinance, as it relates to increased runoff resulting from additional impervious surfaces.
4. The applicant shall comply with Fire Code Standards.
5. An engineered soils compaction report shall be required for all structures placed on fill material.
6. The applicant shall comply with all relevant provisions of Chapter 14.06 (Skagit County Critical Areas Ordinance).
7. The applicant shall submit camping vehicle park plans to the Skagit County Health Department for approval. A camping vehicle park permit from the Skagit County Health Department is required in accordance with SCC 12.20.
8. The applicant shall complete and comply with a plan of operation as approved by the Skagit County Health Department. This plan of operation shall include a manure management plan for the equestrian center and an operation and maintenance plan for the on-site septic systems. Annual renewal of the camping vehicle park permit will be dependent upon completion and continued compliance with the plan of operation.
9. The applicant shall comply with the monitoring and maintenance components of the Health Department approved plan of operation.

14. On the basis of the responses received and its independent evaluation, the Permit Center determined that the Special Use Permit criteria are met by the proposal and recommended approval of the applications, subject to numerous conditions. These conditions reiterated the conditions of the MDNS and the recommendations of the various consulted authorities. The following additional conditions were recommended:

1. The applicant shall contract with an independent service to take regular readings at the key locations on site. This will be done



independently of the Health Department monitoring and shall be done at least twice a year. The optimum times would be during the late fall and mid spring seasons. This independent monitoring shall be done at separate times than when the Health Department testing is conducted to create a continual monitoring scheme.

2. The applicant shall comply with the mitigation measures and maintenance practices outlined within the Manure Nutrient Management Plan and utilize Best Management Practices.
3. The property boundaries shall be clearly identified and marked. Signage shall be provided indicating that there shall be no trespassing onto adjacent properties.
4. Prior to the issuance of development permits, the applicant shall provide an agreement with a regional composter, for the export of the manure on at least a monthly basis.
5. The applicant shall comply with the landscaping, signage, and lighting requirements outlined within the Skagit County Code.

III. Likely Impacts/Sufficiency of Information

1. The rules for compliance with the State Environmental Policy Act (SEPA) require a threshold determination by the responsible official of the lead agency concerning whether or not an Environmental Impact Statement is required. WAC 197-11-310. The lead agency here is the Skagit County Planning and Permit Center and the responsible official is the Planning Director.

2. The threshold determination must be based upon "information reasonably sufficient to evaluate the environmental impact of a proposal." WAC 197-11-335.

3. If the responsible official determines there will be "no probable significant environmental impacts from a proposal," a Determination of Non-Significance (DNS) is made. WAC 197-11-340(1). Mitigating conditions can be added to a proposal prior to the issuance of a DNS in order to reduce its adverse impacts to below the level of significance. The resulting threshold determination is an MDNS. WAC 197-11-350.

4. The word "significant" as used in SEPA means "a reasonable likelihood of more than a moderate adverse impact on environmental quality." The definition is further refined as follows:

Significance involves context and intensity (WAC 197-11-330) and does not lend itself to a formula or quantifiable test. The context may vary with the physical setting. Intensity depends on the magnitude and duration of an impact. The severity of any impact should be weighed along



with the likelihood of its occurrence. An impact may be significant if its chance of occurrence is not great, but the resulting environmental impact would be severe if it occurred. WAC 197-11-094.

5. Among the factors to be taken into account in determining significance are: (a) the same proposal may have a significant effect in one location but not another; (b) the absolute quantitative effects of a proposal, (c) the result of several marginal impacts considered together; (d) the effects on sensitive areas or threatened species. WAC 197-11-330(3).

6. The physical context of the instant proposal is close to Turners Bay where valuable marine resources exist -- particularly shellfish, eelgrass, red algae and forage fish. In this place these resources are already threatened by environmental degradation. The setting is unquestionably a highly sensitive one. Under all the circumstances any addition of pollutants beyond baseline conditions in the bay must be viewed as significant.

7. Yet, into this setting the applicant seeks to introduce activities with pollution potential. The overriding questions, then, are whether at this stage that potential has been adequately addressed and whether it can now be said with confidence that significant adverse impacts to the bay will not occur. The sources of major concern are the on-site sewage treatment facilities and the storm drainage facilities.

8. The general approach to evaluation of the proposal followed by the County has been to ask for conceptual plans and evaluations of whether the features proposed are theoretically able to prevent further pollution of the bay. The idea is that if the proposed controls are found to be technically feasible, then the details of specific design can be left until later. This is analogous to the approach used in evaluating preliminary plats.

9. As to the on-site sewage facilities, the applicants have presented a picture of multiple small systems, combining to handle a possible sewage load of 15,000 gallons per day. No one of these systems would process more than 3,500 gallons per day. The systems would use combinations of proprietary units (TRD 1000's) each capable of providing treatment to 1,000 gallons per day before discharge into drainfields. The drainfields would be in soils that generally provide less than the standard three feet of vertical separation.

10. No design of this multiple system scheme has been submitted. The generalized layout provided, however, shows that any such scheme would have to involve a complex system of pumping and transporting effluent from sources to drainfields. A power outage could very well produce backups and overflows with raw untreated sewage escaping to the surface of the ground.



11. If a single large on-site system or several systems capable of processing more than 3,500 gallons per day were used instead, the shortfalls in vertical separation would not be allowed. Such system(s) would probably not be approved.

12. There was testimony regarding one small residential system in Clallam County where several TRD 1000's have been tied together. But, no showing was made that the circumstances there are comparable to the instant site and no data on performance was introduced. More important, there was no demonstration that any total scheme of multiple systems, tying together as many TRD 1000 units as is contemplated here, has ever been previously attempted, particularly in such marginal soils as are present on this steep site.

13. While the on-site sewage approach proposed here is conceptually and theoretically capable of performance that would prevent pollution of the bay, there is no real track record for such an approach on the scale proposed. The area near Turners Bay is not the ideal locale for an experiment.

14. To be sure, it was not proven that the proposed on-site sewage approach would probably fail to produce satisfactory results. Nevertheless, there was credible expert testimony demonstrating that this is a definite possibility. Under the circumstances, additional evaluation of the risk is needed before the project is built out to its full potential.

15. Turning to stormwater drainage, the major purpose of the conceptual system design is flow control. The disparity between estimates of post-development impervious surface are probably not significant in regard to the sizing of facilities, given the preponderance of bedrock at or near ground surface. For this case, however, the salient point is that the stormwater system is not aimed primarily at removal of pathogens or nutrients.

16. In the instant case, the focus of concern with respect to these pollutants is horse manure. The proposed equestrian facilities will involve boarding perhaps 100 horses at a time on site, plus bringing in an unknown number of horses from outside for specific events. The anticipated horse population obviously represents a substantial increase in storm water pollution potential from pre-project conditions.

17. The sedimentation ponds, bioswales and relatively narrow vegetative strips proposed can provide some treatment, but these features were not shown to be capable of removing fecal coliform and nutrients sufficiently to meet water quality standards if horse manure is simply allowed to be washed into the system.

18. To address this reality, the applicants propose source control; that is, collecting and getting rid of the horse manure and animal bedding before storm water comes into contact with it. This is what the Manure Management Plan is about.



19. The plan, while detailed as to where the pick up effort will concentrate, does not really spell out how the clean up will be implemented in routine practice, other than to promise the use of 'best management practices' or "good agricultural management practices." These terms were represented as meaning the same thing, but, as applied to this proposal, the specifics of neither term was given.

20. The applicant emphasized that the manure management effort will extend to the trail system. But, it is evident that the trails will be an insignificant area of equestrian activity. There are many places in the region that provide better trail riding options than the four miles of path that will wind through the applicant's RV area. The equestrians who come to the site are expected mainly to be interested in activities and events in the arenas and other confined riding areas. Trail riders will largely be limited to tourists and, even for them, the attraction will be modest because the trail system is quite short. Moreover, the high rainfall (high stormwater) months are those in which the least trail riding would be anticipated.

21. Therefore, assuming that a conscientious effort is made to clean up manure on the trail areas, the likelihood is that the contribution of manure from the trails will be very small. Given that the storm drainage system will effect some reduction of fecal coliform and nutrient levels, the trails will probably not contribute enough of these pollutants to exceed pre-project levels off site.

22. Nevertheless, the success of the Manure Management Plan is to a large degree predicated on initial separation of storm water from the intense horse use areas from stormwater that falls elsewhere on the site. Yet, the stormwater from these high use areas -- for example the outdoor arena and around the stables -- will not go to a separate sewage treatment facility. Rather it will ultimately be routed into the very same stormwater detention pond that captures stormwater from the rest of the site. The one intervening feature is a so-called water quality holding pond which will discharge the water through a sand filter enroute to the detention pond.

23. The implicit reason for segregating the flows from the intense use areas is that storm water flowing from those areas is likely to be more polluted than storm water from other parts of the storm drainage system -- despite the clean up efforts of the manure management program. This perception apparently reflects experience elsewhere. Accordingly, the Examiner finds that source control is unlikely to prevent significant pollution from occurring in stormwater that traverses high use areas.

24. There is virtually no analysis on the record of the treatment capability of the water quality holding pond. But there is evidence that casts doubt on the effectiveness of sand filtration to effectively remove fecal coliform and nutrients from the storm water stream. Overall, there is insufficient information on the pollution control capability of the storm drainage system to allow a confident prediction that pollutants will not be added to the off-site environment -- in particular the bay -- in amounts that exceed the pre-development baseline.



25. There was testimony that a draft monitoring plan is in existence but no such plan was offered in evidence. The pollution potential from proposed uses of the site dictates that there be monitoring of water discharges from both the on-site sewage systems and the storm drainage facilities. In addition soil samples should periodically be collected to check for the addition of nutrients.

26. The agency review of the proposal did not definitively demonstrate whether all of the applicant's property is more than 200 feet from the Ordinary High Water Mark of Turners Bay (shoreline jurisdictional area) or whether buffers for wetlands on the adjoining Culbertson property may extend onto the applicant's property. However, the applicant states that no development will occur either within the area of shoreline jurisdiction or within any wetland buffer. If this is true, then it is only a matter of line drawing to determine the shoreline and wetland buffer areas that the project components must steer clear of. Necessary surveys and delineation work should be done so that the jurisdictional lines are accurately drawn.

27. If after such lines are established, it turns out that some features of the project necessarily must intrude on shorelines or wetland buffers, then the appropriate permits should be sought. But there is nothing in the record to suggest that the substantive question of potential off-site environmental impacts is affected by these jurisdictional questions.

28. There was no showing that other potential effects, such as traffic impacts, air pollution impacts, noise impacts, or aesthetic impacts cannot effectively be controlled by appropriate conditions.

IV. Special Use Permit Criteria

1. RV parks and equestrian facilities are allowable as unclassified special uses in Rural zones pursuant to SCC 14.04.150(2)(h).

2. The criteria for approval or denial of a special use permit includes the following elements (SCC 14.04.150(3)(d)):

1. Conformity to the Comprehensive Plan in respect to the compatibility with existing and future land use and circulation;
2. The zoning of the subject property and surrounding properties and the conformance of the application with the zoning ordinance;
3. Automobile or truck traffic and parking and its effect on surrounding community;
4. Noise, odors, heat, vibration, air and water pollution potential



of the proposed use;

5. Intrusion of privacy;

6. Design of site and structures as to possible effects on the neighborhood;

7. In addition to possible effects on the neighborhood in which the use is to be located, the potential effects on the region shall be considered;

8. Potential effects regarding the general public health, safety, and general welfare.

3. The compatibility issue raised in these proceedings includes the issue of potential pollution of the neighboring environment. If it is ultimately shown that the risk of water pollution in excess of baseline levels is remote, then compatibility will have effectively been established. Otherwise, this criterion will not be met.

4. Apart from pollution potential, the scale and intensity of a development can raise a separate compatibility issue as a land use matter. Here, however, because the uses proposed are allowable in the zone, the scale and density of the proposal do not present an independent land use issue

5. With the possible exception of long-term aquatic resource protection, the project was not shown to be incompatible with surrounding uses, including neighboring residential uses. The project complies with Comprehensive Plan policies fostering the retention of open space, development of recreational opportunities, and encouragement of recreationally-oriented economic activities.

6. Forms of pollution other than water pollution are not likely to be significant. Factors of topography, location and open space will prevent the project from intruding unduly upon the privacy of neighboring uses.

7. There is substantial evidence of significant demand in the area for an equestrian facility of the type proposed. The creation of such a facility would have a positive effect on the regional availability of a popular form of recreation.

8. Except for the pollution potential, no adverse effects on public health, safety, and general welfare were shown to be a likelihood.

9. Any conclusion herein which may be deemed a finding is hereby adopted as such.



CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the persons and the subject matter of this appeal. SCC 14.06.050(1)(b), 070(2)(d). [current version.]

2. The application herein is vested to the land use regulations in effect on March 6, 2000. This was prior to the extensive code revisions adopted July 24, 2000. Accordingly, ensuing code references are to provisions in the previously effective version of the Skagit County Code.

3. The SEPA appeals raise two basic issues. (1) Has the information submitted to date been "reasonably sufficient to evaluate the environmental impact" of the proposal? WAC 197-11-335. (2) If so, are there "probable significant adverse environmental impacts" from the proposal? WAC 197-11-340(1).

4. These considerations to some degree overlap with the Special Use Permit criteria. To the extent that the information base is insufficient to evaluate environmental impact, it is insufficient to determine compatibility with other uses which is the fundamental question in special use review.

5. On the record presented, the Examiner concludes that the information available is not "reasonably sufficient" in two areas: (1) the ability of the storm drainage system to remove fecal coliform and nutrients and (2) the performance of the on-site sewage scheme.

6. The informational gaps can be provided by additional reporting and testing. If these efforts show that significant adverse environmental impacts in both of these two areas are unlikely, then the MDNS should be affirmed. But if not, as discussed further below, the Examiner does not believe the appropriate response would be to require the preparation of an Environmental Impact Statement.

7. Environmental review of the project should be reasonably complete after the additional reporting and testing has been performed. The final decision on the merits of the Special Use Permit should then be made based on all the information in the record. If, the additional reporting and testing shows that there is a significant environmental problem with the development, the permits should be denied, in whole or in part, on the basis of the Special Use Permit criteria relating to pollution potential and compatibility with other uses.

8. A Special Use Permit for the equestrian facilities should not be approved until a further report on storm drainage is prepared by an independent expert, approved by the County. The report should specifically evaluate the capability of the proposed storm drainage control system to remove fecal coliform and nutrients and any variability in this capability during various storm events. The report needs to provide an informed



prediction as to the likelihood that the system will effectively function to prevent such pollutants from migrating off-site in stormwater in amounts exceeding baseline levels. This analysis will require a realistic estimate of the effectiveness of the source control program of the Manure Management Plan.

9. Based on the results of the independent storm drainage study, the Permit Center should present a reconsidered recommendation to the Hearing Examiner for action on the Special Use Permit for the equestrian facility.

10. Additional testing should be conducted in regard to treatment of sanitary sewage. Because the conditions at the site make the proposed on-site sewage treatment approach essentially experimental, there is no way to determine its effectiveness in preventing off-site water pollution in advance. Therefore, the creation of a pilot system is needed.

11. As concerns the RV park, the Examiner concludes that sufficient information can be provided by restricting the Special Use Permit initially to the construction of Phase I of the project (limited to 35 RV units) and then testing to see how the initial sewage treatment set up works. Using this data, further analysis should be performed evaluating the likely pollution control performance of full build-out to 150 RV units with multiple systems of the same type. This additional analysis, too, should be prepared by an independent expert approved by the County.

12. Based on the results from the pilot system and the further report prepared in light of those results, the Permit Center should present a reconsidered recommendation to the Hearing Examiner for amending the Special Use Permit for the RV facility or for its cancellation.

13. An argument is made that the project as proposed violates Countywide Planning Policies and should be denied on that basis. The Examiner has reviewed the cited policies and agrees that they would be violated if the feared pollution potential were realized. However, if additional reporting and testing shows such pollution to be unlikely, then the policies would not provide a rationale for denial.

14. In any event, there appears to have been a complete system of regulations in effect at the time this application was submitted. Unless the subject of a proper order of invalidation, these regulations, even if in conflict with the Comprehensive Plan or Countywide Policies, remain in effect until they are changed to achieve consistency with the underlying planning documents. *Skagit Surveyors v. Friends of Skagit County*, 135 Wn.2d 542 (1998).

15. Some concern was expressed regarding the presence of roads in wetland buffers. To the extent that these road segments are not enlarged or altered, they may continue as non-conforming uses. SCC 14.04.270. Otherwise, compliance with



applicable Sensitive Area Ordinance requirements will be necessary. This may dictate some road relocation.

16. The MDNS represents an effort to reduce adverse environmental impacts through the imposition of conditions. This is an appropriate method for lowering the level of potential impacts to insignificance. *Anderson v. Pierce County*, 86 Wn.App 290 (1997).

17. The Examiner has reviewed the conditions recommended in the Staff Report, including those in the MDNS, and finds that all of them have a basis in existing regulations independent of the authority of SEPA. It therefore appears that the County may have been trying to bring this project within the provisions of RCW 43.21C.140.

18. Under that 1995 amendment to SEPA, a local government may determine that specific impacts are "adequately addressed" by applicable development regulations or other rules or laws. To the extent that the local government so finds and conditions its approval on compliance with these requirements, it may satisfy its legal obligations for environmental analysis and mitigation. This means, in effect, that when application of existing requirements reduce environmental impacts to below the level of significance, no impact statement needs to be written.

19. The Examiner concludes that the County's regulations do, in this case, provide for the level of analysis and control that is envisioned in RCW 43.21C.140. The water pollution potential must be addressed and effectively eliminated in order for the project to meet the requirements for compatibility and pollution control of the Special Use Permit Criteria. The additional reporting and testing are called for here in implementation of the necessity for satisfying these independent criteria.

20. Accordingly, if the reporting and testing is done, no impact statement will be needed here. The Special Use Permit criteria and other regulatory provisions will have "adequately addressed" the impacts of the project. At that point the project will be ripe for decision on the merits.

21. The approach taken in this decision is, in essence, to require a "second look" at two aspects of the potential water pollution impact from this project and to ask that this look be taken by new eyes --that is, by a person or persons not previously involved in the review. This is an attempt to acquire assurance of environmental compliance before the fact, rather than relying solely on post-development monitoring and enforcement. However, it should be pointed out that, should the project go forward, monitoring and enforcement will become an integral part of the regulatory regime. The Health Department's permitting and review requirements will provide significant on-going oversight.

22. The Examiner concludes that issues other than the potential for water pollution are resolved through conditions of approval or are without merit.



23. The Examiner notes that the applicant in this case has gone to extraordinary lengths to make plans for the subject project available to his neighbors and to the community, to explain and discuss his proposal and to try to accommodate suggestions. The length and complexity of the approval process for this project reflect no lack of openness or cooperation.

24. Any finding herein which may be deemed a conclusion is hereby adopted as such.

DECISION

1. The MDNS is affirmed except as to the sufficiency of information to evaluate (1) the ability of the storm drainage system to remove fecal coliform and nutrients and (2) the performance of the on-site sewage scheme. Further reporting and testing is required to redress this informational deficit as described below.

2. Subject to conditions, the requested Special Use Permit for an RV park is approved but limited to the development of 35 RV sites connected to an approved on-site sanitary sewage system.

3. Monitoring in both wet and dry weather conditions shall be conducted on the performance of the on-site sanitary sewage system for the initial 35 RV sites. Using the monitoring data, a report shall be prepared evaluating the likely pollution control performance of multiple systems of the same type for a build out to 150 RV units. To prepare such report the applicant shall retain an independent expert approved by the County.

4. The requested Special Use Permit for an equestrian center is remanded to the Planning and Permit Center for further evaluation as described in Conclusion 8 above. The applicant shall cause the required study to be performed by an independent expert approved by the County.

5. After reviewing the additional storm drainage analysis, the Planning and Permit Center shall prepare a recommendation on the equestrian facility for further hearing before the Examiner. The same shall be done for the RV park, following the further report concerning on-site sewage disposal. The recommendations on these two matters may be prepared and heard at different times.

6. Any Special Use Permit issued hereunder shall be subject to the following conditions:

(1) The effectiveness of the storm drainage and on-site sewage



systems shall be monitored and compared with pre-project baseline readings. Occasional soil samples shall also be taken. Monitoring shall be conducted by the permittee and by the County Health Department according to a monitoring plan prepared in consultation with the Health Department and approved by it.

(2) Monitoring by the permittee shall be carried out by contracting with an independent monitoring service and shall occur at least twice per year at times that fall between scheduled Health Department monitoring.

(3) The permittee shall comply with all conditions set forth in the Mitigated Determination of Non-Significance (MDNS), issued on June 6, 2000.

(4) Pursuant to SCC 14.06.060, no permit shall be issued until compliance with the Critical Areas Ordinance has been demonstrated. This compliance shall include investigation, delineation and buffer mapping to determine whether any project activity intrudes into buffers of potential wetlands on adjacent property.

(5) The permittee shall comply with the Shoreline Management Act (Chapter 90.58 RCW) and the Skagit County Shoreline Management Master Program. The boundaries of jurisdictional shorelands shall be determined on the ground by measurement from the Ordinary High Water Mark (OHWM).

(6) The permittee shall obtain all other necessary land use approvals, including any shoreline permits or waste discharge permits that may be needed.

(7) The permittee shall comply with all Health Department requirements, including obtaining all necessary approvals for the on-site sewage systems installed

(8) The permittee shall comply with the mitigation measures and maintenance practices outlined in the Manure Nutrient Management Plan. The final plan shall identify the Best Management Practices that will be followed.

(9) The permittee shall contract with licensed compost facility to stored manure from the site at least once a month. Proof of compliance with this requirement shall be provided to the Planning and Permit Center.



(10) The permittee shall comply with requirements of the County Fire Marshal, including the following:

(a) Emergency vehicle access must be approved by the Fire Marshal's office prior to construction.

(b) Fire flow and hydrant placement must be approved by the Fire Marshal's office prior to installation.

(c) Future building permits shall be contingent on satisfaction of items (a) and (b) above.

(11) The permittee shall comply with the requirements of the City of Anacortes, including the following:

(a) Stevenson Road shall be improved to current City Standards. Paving width shall be 32 feet and curb/gutter and sidewalk shall be installed along the project's frontage.

(b) Sufficient right-of-way shall be dedicated to provide a 60-foot wide future right-of-way.

(c) Any stormwater that is drained into the city right-of-way shall be subject to the City Storm Drainage Ordinance No. 2441.

(12) The permittee shall insure that provisions for sight distance at the entrance to the project are adequate to insure driving safety. Sight distance shall at a minimum conform to County and City of Anacortes standards.

(13) The permittee shall comply with the recommendations of the Traffic Study prepared by KJS Associates and dated February 20, 2000.

(14) No construction shall be undertaken until a final engineered plan for the storm drainage system is approved

(15) The permittee shall comply with requirements of the Department of Public Works, including the following:

(a) Construction and drainage plans shall be submitted and approved for all interior roads.

(b) An approved Temporary Erosion Control Plan shall be implemented during road construction

(c) A fill and grade permit shall be required prior to any site preparation or road construction activities.

(16) Revegetation shall occur as soon as possible after construction on all disturbed surfaces that are not used as roads or trails or otherwise converted to impervious surface.



(17) The on-site wetland delineated by Aqua-Terr Systems, Inc and its 50-foot buffer shall be mapped and the buffer boundary shall be marked on the ground. No activity shall occur within the wetland or buffer.

(18) The area within the on-site wetland and buffer shall be included within a Protected Critical Areas (PCA) and the map thereof shall be recorded with the County Auditor.

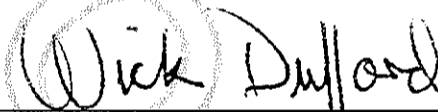
(19) The boundaries of the permittee's property shall be clearly identified and marked. Trespassing on adjacent properties shall be discouraged by appropriate signs.

(20) General requirements of the Skagit County Code shall be followed with respect to landscaping, signs and lighting

(21) The permittee shall comply with the Memorandum of Agreement Regarding Archaeological Resources Protection entered with the Swinomish Indian Tribal Community on October 12, 2000.

(22) The permittee shall commence construction and complete construction in accordance with a schedule specified by the Planning and Permit Center.

DATED this 17, day of January 2001.



Wick Dufford, Hearing Examiner

Copy Transmitted to Applicant and Appellants: January 17, 2001

RECONSIDERATION/APPEAL

A request for reconsideration may be filed as provided in SCC 14.06.180. The decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with the Clerk of the Board within 14 days after the date of the Examiner's decision, or decision on reconsideration if applicable.



200101260086
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ATTACHMENT A

EXHIBITS

Landex Associates Special use Permit and SEPA Appeal
September 20, October 12, October 25, October 31 and November 8, 2000

Skagit County Hearing Examiner

Submitted by Skagit Audubon Society

A-1 Statement of Steve Aslanian

Submitted by Applicant

- AP-1 Disclaimers on County Maps
- AP-2 Summit Trails – Events and Dates
- AP-3 Site Plan – Colors Show Uses
- AP-4 Site Coverage Calculations
- AP-5 Summary of RV Parks in County
- AP-6 Site Map with Septic Areas shown
- AP-7 9/17/00 Gudmunson letter to Wolcoski w/map
- AP-8 1997 Soil Logs
- AP-9 Seasonal Variations in Survival of Indicator Bacteria in Soil and Their Contribution to Storm Water Pollution
- AP-10 David Hough-Final Argument and Summary; CV David Hough

Submitted by County

- C-1 Application packets
- C-2 Preliminary Storm Drainage Study 11/4/99
- C-3 Wetland Report, ATSI
- C-4 Geotech Report, GeoTest Services, Inc.
- C-5 Letter Completeness 3/6/99
- C-6 Notice of Development Application
- C-7 MDNS 6/8/00
- C-8 Site Plan
- C-9 Assessor Map
- C-10 Traffic Study, KJS Associates
- C-11 Letter City of Anacortes 4/3/00
- C-12 Cultural Resource Reconnaissance 9/93
- C-13 Staff Report rec approval w/14 conditions
- C-14 newsletter
- C-15 Bio Statement – Alayne Blickle
- C-16 Letter Wolcoski from Blickle
- C-17 Environmental Sensitive Horsekeeping
- C-18 Spring 200 Horses for Clean Water information
- C-19 Creating & Using a Sacrifice Area for Horses
- C-20 Monthly Leaching Index and Runoff Index



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- C-21 Horse Manure Nutrient Management Plan
C-22 Correspondence (Notice Dev Comment Period)
1. Skagit Systems – Bob LaRock 3/31/00
 2. Evergreen Is. – Steve Clark 3/31/00
 3. Evergreen Is. – Elsa Gruber 3/31/00
 4. Swinomish Tribe – Susan Wilbur 3/31/00
 5. Robert Gilden 3/27/00

- C-23 Correspondence (SEPA Comment Period)
1. Bev Kalani 6/21/00
 2. Skagit Audubon 6/23/00
 3. Evergreen Is. 6/23/00
 4. Skagit Systems 6/23/00
 5. Mr. & Mrs. Charles Larsen
 6. People for Puget Sound 6/23/00
 7. Swinomish Tribe 6/23/00
 8. Kristin Sandberg 6/23/00
 9. Garth/Tami Gilden 6/23/00
 10. Friends/Evergreen Is. 6/23/00

- C-24 Other Correspondence
1. Robert Gilden (rec'd 9/11/00 permit center)
 2. Addendum/Amendment, Evergreen Islands 9/20/00
 3. 9/25/00 Letter Culbertson
 4. 9/25/00 Letter Anacortes Aquaculture, LLC
 5. 9/26/00 Letter Gilden & Larsen
 6. 9/27/00 Letter Tribe
 7. 9/27/00 Letter Evergreen Islands

- C-25 Site Photos
C-26 Revised Drainage Report
C-27 Memo Dan Downs (e-mail)
C-28 DOE letter 9/13/00
C-29 County SEPA Appeal Response

Submitted by Evergreen Islands

- E-1 Statement of Gruber w/exhibits A - X
E-2 Horse Trail as Storm Drainage Conveyance
E-3 Site map – with trails near storm system
E-4 Excerpt – Environmental Guidelines for Horse Owners
E-5 Summary of Testimony Dr. Ross Barnes
E-6 11/7/00 Response – Ross Barnes to Hearing Examiner

Submitted by Friends of Skagit County

- F-1 Statement of June Kite
F-2 9/7/00 FOISC Letter w/ attachments A-D



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F-3 11/7/00 FOSC Letter

Submitted by the Public

- P-1 CV Ross Barnes
- P-2 SCC Zoning Ordinance 14.04 (spring 2000) & 14.04.010
- P-3 Highlighted map – portion of zoning map
- P-4 Site Plan w/200' setback and OHWM marked

Submitted by People for Puget Sound

- PS-1 Statement of Mike Sato

Submitted by the Swinomish Tribe

- T-1 Skagit County Ordinance #002391
- T-2 Skagit County Resolution #17433
- T-3 Excerpts from Skagit County Clean Water District Update
- T-4 8/20/93 DNR Memo re: FP-19-17333 Forest Practice Application
- T-5 Excerpts: Water Quality Management Plan 1/94
- T-6 3/30/95 Letter Skagit County Health Dept to Sunland Topsoils
- T-7 10/17/96 Draft Sanitary Survey of Turners Bay by DOH
- T-8 11/14/96 Letter Skagit Systems Co-Op to DOH re: Draft Survey
- T-9 1/13/97 Letter DOH to SSC
- T-10 2/14/00 Letter Swinomish to SCHD
- T-11 3/1/00 Letter SCHD to Swinomish
- T-12 7/12/00 Letter DOH to Swinomish
- T-13 6/22/00 Letter Swinomish to DOH
- T-14 July 2000 Sanitary Survey of Similk Bay by DOH
- T-15 8/28/00 Letter City of Anacortes to Evergreen Islands
- T-16 9/13/00 Letter DOE to Hearing Examiner
- T-17 Excerpts from 1999 Annual Inventory (Shellfish) DOH
- T-18 Excerpts from "Significance..." by Onat 8/93
- T-19 Bill Dewey CV; written statement to Hearing Examiner
- T-20 ECSA Bulletin Vol 32, Pg 27-30 (Ulvoid Mats)
- T-21 Draft of "Blooms of Ulvoids in Puget Sound"
- T-22 Puget Sound Herring Fact Sheet
- T-23 Washington State Surf Smelt Fact Sheet
- T-24 Washington State Sand Lance Fact Sheet
- T-25 Riding Clubs & Stable Operations - Skagit County
- T-26 Environmental Guidelines for Horse Owners – Chpt 3 Pollutants
- T-27 Excerpts from Environmental Guidelines...Chpt 4 Site Planning
- T-28 Excerpts from Environmental Guidelines...Chpt 5 Land Area Management
- T-29 Excerpts from Environmental Guidelines...Chpt 6 Horse Handling & Housing
- T-30 Excerpts from Environmental Guidelines...Chpt 7 Water
- T-31 Excerpts from Environmental Guidelines...Chpt 8 Manure Management
- T-32 E-mail letter 4/19/00 Adda Quinn to Wolcoski
- T-33 8/31/00 UC Davis Research Project information
- T-34 Excerpts from Integrated Animal Waste Management 8/28/00



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- T-35 Internet Research 8/31/00
- T-36 5/16/00 Letter Blickle to Wolcoski
- T-37 DOH 12/93 Design Standards for Large On Site Sewage Systems
- T-38 Watershed Protection Techniques, Vol 3 No 1 4/99
- T-39 7/19/94 memo Onat to Swinomish
- T-40 Personal Services Agreement 004801
- T-41 Activity Log SCPPC PL 00 0109 & PL 00 0110
- T-42 Horses, A Common Sense Approach, spring 1997
- T-43 DOH - Summary of Marine Water Data 1/1/97-4/1/00
- T-44 9/13/00 NWIHB to SCPPC
- T-45 Map of areas requiring site visit
- T-46 Skagit County Stream Types Map
- T-47 200 foot Buffer from Shoreline Map
- T-48 Turners Bay Wetlands Map
- T-49 CV Robert G. LaRock
- T-50 CV Donald J. Vesper
- T-51 CV Daniel E. Penttila
- T-52 [NOT HERE]
- T-53 Declaration of John R. Klochak
- T-54 CV Elissa Ann Fjellman
- T-55 Declaration of Elissa Ann Fjellman
- T-56 Photographs
- T-57 - EXCLUDED-
- T-58 3/1/00 Comment Routing Form, Skagit County
- T-59 3/6/00 Letter Wolcoski from Skagit County
- T-60 4/3/00 Letter Landex from Skagit County
- T-61 6/21/00 E-mail Greg Geleynse to Brandon Black
- T-62 Archeological Agreement
- T-63 Turners Bay Map – Surf Smelt Spawning Areas
- T-64 Turners Bay Map – photo key
- T-65 Site Map – Trails in Green (LaRock)
- T-66 Drainage Plan Map
- T-67 List of Approved Systems & Products – DOH
- T-68 Work Session Minutes SCBOH 2/15/00 prepared by C. Story
- T-69 Notice of Appeal, Amended Notice of Appeal and attachments
- T-70 Declaration of Joan Velikanje
- T-71 National Wetlands Inventory Center informational pages
- T-72 Declaration of Donald J. Vesper
- T-73 Declaration of Robert LaRock
- T-74 Tribe's List of Conditions and Information Required

The following documents are included in the record but were not assigned exhibits numbers during the hearing:

1. Notice of Appeal -- Environmental Groups



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(Evergreen Islands, Friends of Skagit County, People for
Puget Sound, Skagit Audubon Society) -- July 10, 2000

2. Swinomish Tribe's Memorandum of Law -- September 19, 2000
3. Applicant's Response to Appeals -- David Hough -- September 19, 2000



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, Skagit County Auditor