

City of

**Mount
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September 19, 2007

Chris Rose
Director of Regulatory Services
(SEPA Responsible Official for WUTC)
WUTC
P.O. Box 47250
Olympia, WA 98504-7250

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RECEIVED
CITY OF MOUNT VERNON
OFFICE OF THE CITY ATTORNEY

Re: DOCKET TR-070696

Dear Mr. Rose:

It has come to the attention of the City of Mount Vernon, Skagit County, and Skagit County Fire Protection District No. 3 (the parties) after review of the entire existing Environmental Review of WSDOT's record involving their State Environmental Policy Act (SEPA) Determination for Non Significance (DNS) for the Mount Vernon Siding Project, that significant and fundamental error has occurred in conducting this review by WSDOT, to wit: WSDOT did not comply with the mandatory notice requirements of SEPA for DNS in providing public notice in the Skagit Valley Herald, and further, failed to provide specific notice to the parties who are agencies with jurisdiction, or whose public services may be affected by such an action. See WAC 197-11-340 (2)(B) and WAC 197-11-510 and WAC 468-12-510.

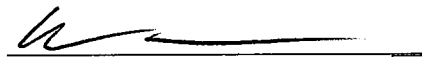
The parties have submitted to the Commission's administrative law judge a request to exercise the Agency's substantive authority under SEPA, under WAC 197-11-600 (3)(B)(I), which requires the WUTC to prepare a new threshold determination or supplemental EIS when new information showing adverse environmental impacts are discovered and presented or there was a lack of material disclosure.

The Deputy Attorney General for the WUTC has opined that such a request should be directed to the SEPA responsible official, rather than the administrative law judge. The parties disagree with this opinion as this requires substantive action before a new DNS is made (i.e.; finding of material non disclosure or that the new information likely indicates significant environmental impacts.) Moreover, because the request is related to an underlying government action (i.e.; petition for closure of the Hickox Road Railroad Crossing) that SEPA rules generally require such environmental action not to be orphaned from the underlying governmental action.

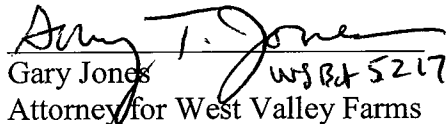
Regardless, the parties hereby submit such request to the SEPA responsible official in the alternative the administrative law judge finds this is the necessary course of action to seek review of WSDOT's flawed SEPA review.

Attached to this letter are the Parties' pleadings and new information in the form of declarations and exhibits (attached to the pleadings) which raise and address this issue in more detail.

Sincerely,



Kevin Rogerson
City Attorney
City of Mount Vernon



Gary Jones
Attorney for West Valley Farms

by telephone authorization

Stephen R. Fallquist
Deputy Prosecuting Attorney, Civil Division
Skagit County

by telephone authorization

Brian K. Snure
Attorney for Skagit County Fire
Protection District No. 3

cc: Jonathan Thompson