

From: Ellen Bynum [mailto:skye@cnw.com]

Sent: Monday, February 22, 2010 3:49 PM

To: Richard Grout

Cc: Bob Fritzen; FOSC Office; FOSC.Board@charibdes.isomedia.com; Gerald Steel,PE; Governor Gregoire; Sen. Mary Margaret Haugen; Sen. Kevin Ranker; Rep. Norma Smith; Rep. Barbara Bailey; Rep. Dave Quall; Rep. Jeff Morris; Rep. Kirk Pearson; Skagit County Commissioners; Jeannie Summerhays; Ted Sturdevant

Subject: Comments on DOE's process for approving Clear Valley CUP and SDA permits

Dear Mr. Grout:

Friends of Skagit County is writing to you regarding your process in approving the Clear Valley Conditional Use Permit. We are particularly concerned that the information which we delivered to you on Friday afternoon, February 19th, was not considered or read before you sent your letter of approval for both applications. I appreciate that Mr. Fritzen did kindly leave a phone message for me saying he did not want me to do more work than I needed to do in providing this information to DOE. I personally would rather have the Department tell me if the work I am submitting is not going to be considered when that is the case.

A considerable amount of time and expense went into delivering the information to Mr. Fritzen, and we notified him a week in advance that we had this information and wanted it to be reviewed. We consider the information forwarded to you by Skagit County Planning and Development Services to be only part of the information which you would need to make an informed decision about this project. This is why we made the effort to get the information to you.

While this approach may be with the purvey of the Department of Ecology to not consider information, in this instance, we feel the information provided would have caused you to deny the Conditional Use permit. This project converts 396 acres of Ag-NRL zoned land to a commercial use, excavates 700,000 to 1.2 million cubic yards of soil, fills about a third of the project below the ordinary high water mark and violates Skagit County's Shorelines Management Plan, Comprehensive Plan, County regulations and codes which clearly mandate long term protection of farmland for agriculture use alone.

Using the "possible appeal" of the permit as a reason to approve the project means that citizens, rather than DOE, bear the burden of enforcing policies and rules which the agency considers it uses for its operations. The activities proposed in the Clear Valley project clearly violate Shorelines rules. If your approval came because DOE's wetland banking program has more authority than the Shoreline rules, the public should know this and the legislature should re-examine the authority it granted DOE. As a state agency, Department of Ecology must comply with the Administrative Procedures Act and other laws governing public process, even if these are not specifically spelled out in your own policies. Approval of projects like the Clear Valley bank show that you could not possibly have understood the project, its effects on the watershed, Nookachamps basin, flooding and the Skagit farm economy with the decision you took.

We are forwarding this letter to the Legislature, DOE officials, Governor Gregoire and

the Skagit Board of County Commissioners so that they can consider what actions they may take to reverse your wholesale approval of the Clear Valley conditional use permit, made without adequate information or analysis of the project. We attach the letter we submitted for your consideration for their review, minus the appendix documents, but including the appendix index. Feel free to review the information, after the fact, in case after reading the letter, you want to reconsider your approval of the Clear Valley project Conditional Use Permit, which we request by this letter.

Thank you for your time and consideration.

Ellen Bynum