

December 4, 1998

ATTORNEY-CLIENT PRIVILEGE
CONFIDENTIAL MATERIAL

*Pre-l.
expired*

The following information is being provided to our attorney at your request:

TO: Alan Reichman
FROM: Fred Rajala *Fred Rajala*
SUBJECT: Appeals of Kenneth Smith, PCHB No. 98-267 and
Green Mountain Resort, Inc., PCHB No. 98-255

Here is information relevant to your preparation for pre-hearing that I obtained through a discussion this morning with Mike Harris, SWRO.

Dannie Weis has been on sick leave since Wednesday, December 2, and was not available to provide additional information. It is anticipated that we can be in touch with him Monday, December 7.

Kenneth Smith:

This appeal stems from a regulatory order issued on October 1, 1998 by the SWRO. The circumstances and background of this order are identical to those concerning William Woods and this case should be handled in an identical manner. Mike tells me you are familiar with the Woods appeal but to remind you, here is some background, as I understand it:

Dannie Weis investigated the water uses of Mr. Woods, Mr. Smith and an third party (who wasn't regulated) on July 14, 1998 after learning that pumps were in place but being unable to identify a water right. Our information is that if there ever was irrigation upon the subject properties, it had ceased prior to 1980.

In the appeal process of the order to Mr. Woods, a water right certificate was found and it was decided that the best approach is to pursue an order to initiate relinquishment rather than the order issued. The same certificate relates to Mr. Smith's property and we believe that the approach being used with Mr. Woods should be used with Mr. Smith and the third party.

Attached are a copy of Dannie's October 1, 1998 recommendation to Mike that an order issue and a copy of the order, No. DE 98WR-S299 issued October 8, 1998.

Green Mountain Resorts, Inc.

CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE

Two applications have been filed by Green Mountain Resort, Inc. related to the resort project. Groundwater application No. G2-29336 proposes the construction of two wells for the irrigation of a golf course. A preliminary permit issued based upon this application in January 1996 and expired January 1997. The preliminary permit called for the drilling of test wells and the submission of reports but the file does not indicate that any work was done under this preliminary permit. This application has been assigned to the Clark County Public Utility District.

A second application, S2-29188, proposes the diversion of surface water for irrigation purposes. No permit has issued on the basis of this application.

It appears that there is a water right certificate for multiple domestic use associated with the property.

During site visits during September and October 1998, Dannie Weis observed the pumping of water for irrigation purposes in excess of existing water rights. Based upon those observations, Dannie posted a Notice of State Regulation ordering the water use in excess of existing rights to cease.

Attached is a copy of the Notice of State Regulation.

CC: Mike Harris

Attachments: Smith order and recommendation for enforcement (copy)
Green Mountain Resorts, Inc. Notice of State Regulation (copy)

CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE

MEMORANDUM

DATE: October 1, 1998

TO: J. Mike Harris
Water Resources Program

FROM: Dan Weis
Water Resources Program
Vancouver Field Office

SUBJECT: Recommendation for Enforcement unauthorized use or diversion of surface water from the East Fork Lewis River. Point of diversion located within Tax No. 224184 (NE¼ SW¼) Section 14, T. 4 N., R. 2 E.W.M.; Clark County (WRJA 27)

BACKGROUND:

On or about May 7, 1998, Ron Roler representing Washington Department of Fish & Wildlife (WDFW) notified me that during a routine flight to locate salmon redds on the East Fork Lewis River, he noticed what appeared to be new points of diversion from the river. Two separate sites were noted at this time.

Upon receiving this information I began investigating the possibility of unauthorized diversion from the river. I obtained the owners names and tax numbers in the area from the Clark County Assessors records establishing a base line for the investigations. Although Ron Roler of WDFW had already observed the diversion works I had not yet seen them myself.

During a discussion of this project with Ron Roler we scheduled a day to wade the river and document the points of diversion.

FINDINGS:

On July 14, 1998, Mr. Roler and myself waded the East Fork Lewis River to observe and document each suspected diversion. During this inspection a third point of diversion was discovered. Photos were taken of each site.

After completion of this field inspection, I conducted a careful review of Department of Ecology records to determine if any water rights were appurtenant to the parcels in question. As a result of this research no appurtenant rights were found. A letter was then drafted and sent by certified mail to each owner requesting that they provide any information showing authority to divert water from the river. They were requested to respond in writing within ten (10) days.

Kenneth Smith
14005 NE River Bend Drive
Battle Ground, Washington 98604
Tax No. 224184 Clark County
Point of Diversion Tax No. 224184 (NE¼ SW¼) Section 14, T. 4 N., R. 2 E.W.M.
Place of Use Tax No. 224184

Mr. Smith responded to my letter dated July 28, 1998, by telephone and in writing. The Smith's were unable to provide any documentation allowing them to divert water from the East Fork Lewis River.

A field investigation conducted in the area revealed no visible indication of irrigation activity conducted under prior rights within any recent time. Had there been any irrigation it was many years ago. The area is well forested with second or third growth timber up to 12 inches in diameter and extensive brush.

In view of these findings I feel that if any water right ever existed here it is now invalid due to non-use for five (5) consecutive years. Ron Roler has worked in the area since 1980 and has not seen any irrigation. He is willing to testify if necessary.

RECOMMENDATION:

In view of these findings, I recommend that an Administrative Order be issued to Mr. Smith to immediately cease and desist pumping water from the East Fork Lewis River and remove all pumping equipment from the river.

Failure to comply with this Order may result in the issuance of civil penalties or other actions whether administrative or judicial, to enforce the terms of this Order.

CONCLUSIONS:

It is the conclusion of this examiner that Mr. Smith does not have a right or permit to divert water from the East Fork Lewis River and is therefore, in violation of Chapter 90.03.250 in actions and intent.

Cc: Ron Roler, WDFW

(c:\data\misc\smithrec.doc)



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

P.O. Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

October 8, 1998

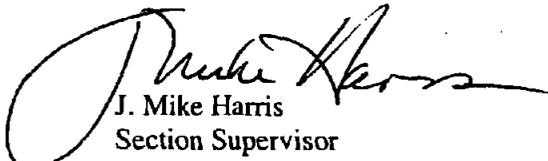
CERTIFIED MAIL

Mr. Kenneth Smith
140005 Northeast River Bend Drive
Battle Ground, WA 98604

Dear Mr. Smith:

Enclosed is Administrative Order No. DE 98WR-S299. If you have any questions concerning the content of the document, please call or write Dan Weis, at (360) 690-4784, Department of Ecology, Southwest Regional Office, P.O. Box 47775, Olympia, Washington 98504-7775. The enclosed Order may be appealed. The appeal procedures are described in the Order.

Sincerely,


J. Mike Harris
Section Supervisor
SWRO Water Resources Program

JMH:DW:le(enforcem\order)
Enclosure

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF AN)
ADMINISTRATIVE ORDER) ORDER NO.
AGAINST:) DE 98WR-S299
Kenneth Smith)

To: Kenneth Smith
140005 Northeast River Bend Drive
Battle Ground, WA 98604

This is an Administrative Order requiring Kenneth Smith to comply with RCW 90.03.250 by taking certain actions which are described below. RCW 43.27A.190 authorizes the Department of Ecology (Department) to issue Administrative Orders requiring compliance whenever it determines that a person has violated any provision of RCW 90.03.250.

The Department's determination that a violation has occurred is based on the following facts:

- An unauthorized pump was observed in place on the East Fork Lewis River within the NE ¼ SW ¼ of Section 14, Township 4N Range 2 EWM with the intent of diverting water from the river.

RCW 90.03.250 requires that a permit be obtained from the Department prior to using or diverting water from the East Fork Lewis River.

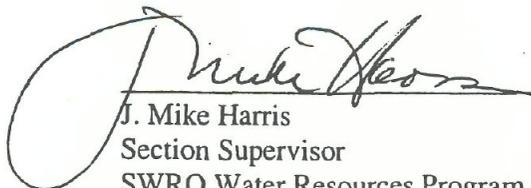
For these reasons, and in accordance with RCW 43.27A.190 IT IS ORDERED that Kenneth Smith take the following actions:

- Immediately, in accordance with RCW 90.03.250, cease and desist use or diversion of surface water from the East Fork Lewis River. You must also remove all pumping equipment from the river.

Failure to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

This Order may be appealed. Your appeal must be filed with the Pollution Control Hearings Board, P.O. Box 40903, Olympia, Washington 98504-0903 within thirty (30) days of your receipt of this Order. At the same time, your appeal must also be sent to the Department of Ecology c/o Appeals Coordinator, P.O. Box 47600, Olympia, Washington 98504-7600. Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with Chapter 43.21B RCW.

DATED this 8th day of October, 1998, at Olympia, Washington.



J. Mike Harris
Section Supervisor
SWRO Water Resources Program

RECEIVED

'98 OCT -8 AIO:17

DEPARTMENT OF ECOLOGY
S.W. REGIONAL OFFICE

NOTICE OF STATE REGULATION

NOTICE IS HEREBY GIVEN at 11:28 O'clock on October 6, 1998.

To: Green Mountain Resort Inc.
7820 NE Holman Street
Portland OR 97218

The structure and/or controlling works to which this notice is attached or described herein
Green Mountain Resort, Inc.

is in violation of State law(s) which are administered by the Department of Ecology. Notice is hereby given under authority of and in accordance with Chapter 43.27A RCW of the state of Washington and is legal notice to all persons that the further operation or construction of said structure/controlling works is wholly under control of the state of Washington. This notice is being given because

The appropriation of public ground or surface water has
not been authorized for withdrawal or diversion for irrigation
purposes within sections 20 and 21 of T. 2N, R. 3 EWM Clark County.

which is a violation of Chapter 90.44.050 & 90.03.250 RCW/WXXX It is further ordered
that Green Mountain Resort, Inc. immediately cease and desist withdrawal
or diversion for the purposes of irrigation.

An interference with the regulation or operation of this structure/controlling works is a violation of law, and is punishable as a misdemeanor and is also subject to civil penalties (RCW 90.03.600).

This notice is effective until removed or modified by an authorized agent of the Department of Ecology or until such time that a permit is issued to Green Mountain Resort, Inc.
by the Department of Ecology.

Chapter 43.21B RCW provides that any person who feels aggrieved by this notice may submit an appeal to the Pollution Control Hearings Board, with a copy to the director of the Department of Ecology, within 30 days of the date said works were regulated. Procedures for requesting a hearing may be obtained from the Southwest Regional Office, Department of Ecology,
Lacey, Washington.

Dan Weis



Department of Ecology

196

COUNTY Clark
WRIA 28

WATER RIGHT APPLICATION
FIELD EXAMINATION CHECK LIST

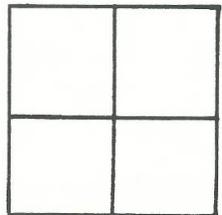
62-29336
APPLICATION NO.

Green Mountain
APPLICANT
Resort

POD LOCATION:
S.21 T2NR3E
(SECTION)



($\frac{1}{4}$, $\frac{1}{4}$)



PROJECT STATUS: NW NW
 Proposed
 Partially Constructed

NW⁴ SW⁴
 Existing and In Use NW NW⁴
 Expansion of Existing System

DESCRIPTION OF WATER DELIVERY SYSTEM: _____

Pump: (Type) _____ (H.P.) _____ (Capacity) _____
System Pressure: _____

PROPOSED USE(S):
 Industrial Municipal Domestic
 Irrigation Stockwater Fish Propagation
 Beautification Recreation Wildlife Refuge
 Power Generation Other _____

USE DETAILS:
Crop Type _____ Use Season _____
Acreage: (Present) _____ (Planned) _____ (Feasible) _____
Number of Services _____ (Type) _____
Estimated Population of _____ for the year _____

COMMENTS: Preliminary Permit Request
- still waiting for Catkidmit
Plots proposed existing use

OTHER USES FROM THIS SOURCE: _____

OTHER WATER RIGHTS APPURTENANT TO THIS LAND OR FROM THIS STREAM:

PROXIMITY TO EXISTING WELLS, SPRINGS, STREAMS, ETC.: _____

FLOW MEASUREMENT OR ESTIMATE _____ (CFS or GPM)

FAMILY FARM: Yes No

Date Waiver Sent to Applicant: _____
Date Signed Waiver Received: _____

FISHERIES COMMENTS: _____

WILDLIFE COMMENTS: _____

PROTEST PERIOD EXPIRES: _____ PROTESTED: Yes No

COMMENTS REGARDING PROTEST: _____

RESEARCH CHECKLIST

- Instream Resources Protection Program
- Surface Water Source Limitations
- Closure
- Low Flow _____ CFS
- Metsker
- Well Logs
- Waste Discharge
- Computer Printouts
- Claims Registry
- Copy to DSHS

SEPA: Exempt DNS Final EIS Date of SEPA Action: _____

Examiner: _____ Date of Exam: _____



State of Washington
Application for a Water Right

For Ecology Use
Fee Paid 1000
Chk # 5295
Date 1-4-96

Please follow the attached instructions to avoid unnecessary delays.

Section 1. APPLICANT - PERSON, ORGANIZATION, OR WATER SYSTEM

Name Green Mountain Resort, Inc. Home Tel: () -
Mailing Address P.O. Box 1370 Work Tel: (360) 693 - 5200
City Vancouver State WA Zip+4 98660 + 1370 FAX: (503) 254 - 6217

Section 2. CONTACT - PERSON TO CALL ABOUT THE APPLICATION

Same as above

Name _____ Home Tel: () -
Mailing Address _____ Work Tel: () -
City _____ State _____ Zip+4 _____ + _____ FAX: () -
Relationship to applicant _____

Section 3. STATEMENT OF INTENT

The applicant requests a permit to use not more than 325 (gallons per minute or cubic feet per second) from a surface water source or ground water source (check only one) for the purpose(s) of obtaining approval for drilling a testing well. ATTACH A "LEGAL" DESCRIPTION OF THE PLACE OF USE. (See instructions.) NOTE: A tax parcel number or a plat number is not sufficient. irrigation (golf course) - irrigation season
Estimate a maximum annual quantity to be used in acre-feet per year: N/A

Check if the water use is proposed for a short-term project. Indicate the period of time that the water will be needed:
From ___ / ___ / ___ to ___ / ___ / ___

Section 4. WATER SOURCE

IF SURFACE WATER	IF GROUNDWATER
Name the water source and indicate if stream, spring, lake, etc. If unnamed, write "unnamed spring," "unnamed stream," etc.:	A permit is desired for <u>1</u> well(s). Two different locations have been mapped. The location will be determined if water is provided from either/or one of the two locations.
Number of diversions: _____	Size & depth of well(s): (approximately) <u>8 ft. width / 500-100 ft depth</u>
Source flows into (name of body of water):	

LOCATION

Enter the north-south and east-west distances in feet from the point of diversion or withdrawal to the nearest section corner: 1st choice: 1950 ft. north and 3 ft. east of SW corner, Section 21, T2N, R3E.
2nd choice: 590 ft. south and 280 ft. east of NW corner, Section 21, T2n, R3E

% of	% of	Section	Township	Range(E/W)	County	If location of source is platted, complete below:		
						Lot	Block	Subdivision
1st choice	SW	21	T2N	R3E	Clark			
2nd choice	NW	21	T2N	R3E	Clark			

For Ecology Use Date Received: 1/4/96 Priority Date: 1/4/96
SEPA: Exempt / Not Exempt FERC License # _____ Dept. Of Health # _____
Date Accepted As Complete: 1/11/96 By [Signature] Date Returned _____ By _____ WRIA: 28

APPLICATION

Farm uses: _____
 Stockwater - Total # of animals _____
 Dairy - # Milking _____
 # Non-milking _____
 Animal type _____ (If dairy cattle, see below)

1. Is the combined acreage greater than 2000 acres?
 YES NO
2. Do you have a controlling interest in a Family Farm Development Permit?
 If yes, enter permit no: _____
 YES NO

D. Add up the acreage in which you have a controlling interest, including only:
 ‡ Acreage irrigated under water rights acquired after December 8, 1977;
 ‡ Acreage proposed to be irrigated under this application;
 ‡ Acreage proposed to be irrigated under other pending application(s).

C. Total number of acres to be covered by this application: 120

Use	Acres
Use	Acres
Use	Acres

B. List total number of acres for other specified agricultural uses: _____

A. Total number of acres to be irrigated: 120

Section 7. IRRIGATION/AGRICULTURAL/FARM INFORMATION
 (Complete for all irrigation and agriculture uses.)

- C. Do you have a current water system plan approved by the Washington State Department of Health?
 If yes, when was it approved? _____
 Please attach the current approved version of your plan.
 YES NO
- D. Do you have an approved conservation plan?
 If yes, when was it approved? _____
 Please attach the current approved version of your plan.
 YES NO

Complete C. and D. only if the proposed water system will have fifteen or more connections.

- A. Number of "connections" requested: _____
 Type of connection: _____
 (Homes, Apartment, Recreational, etc.)
 YES NO
- B. Are you within the area of an approved water system?
 If yes, explain why you are unable to connect to the system. Note: Regional water systems are identified by your County Health Department.
 No connections are requested.

Section 6. DOMESTIC / PUBLIC WATER SUPPLY SYSTEM INFORMATION
 (Completed for all domestic/public supply uses.)

- C. Do you already have any water rights or claims associated with this property or system?
 PROVIDE DOCUMENTATION. SEE ATTACHED DOCUMENTATION.
 YES NO

The possibility of water not being provided from the first location has been taken into consideration and therefore a second location has also been determined.
 Drilling of a well to test for the probability of a water supply for a future project.

- B. Briefly describe your proposed water system. (See instructions.)

A. Name of system, if named: _____
 "Installation of testing well"

Section 5. GENERAL WATER SYSTEM INFORMATION

Section 8. WATER STORAGE

Will you be using a dam, dike, or other structure to retain or store water? Not applicable. YES NO

NOTE: If you will be storing 10 acre-feet or more of water and/or if the water depth will be 10 feet or more at the deepest point, and some portion of the storage will be above grade, you must also apply for a reservoir permit. You can get a reservoir permit application from the Department of Ecology.

Section 9. DRIVING DIRECTIONS

Provide detailed driving instructions to the project site. The most direct route from I-205 is eastbound on Fourth Plain to 199th. Turn southbound (right). The road turns into NE Ingle and the site is on the left hand side. The address is 2817 2817 NE Ingle Road, Vancouver, WA 98682-9079. There are farm buildings located on the site. *Please call and inform us when a site visit may be planned so that we may coordinate your visit with the site manager, otherwise all vehicular access may be denied at entrance points
SEE MAP ATTACHEDSEE MAP ATTACHED**

Section 10. REQUIRED MAP

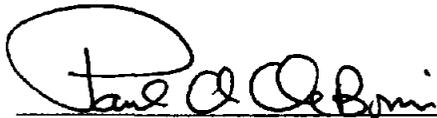
A. Attach a map of the project. (See instructions.)

Section 11. PROPERTY OWNERSHIP

A. Does the applicant own the land on which the water will be used? YES NO
If no, explain the applicant's interest in the place of use and provide the name(s) and address(es) of the owner(s):

B. Does the applicant own the land on which the water source is located? YES NO
If no, submit a copy of agreement:

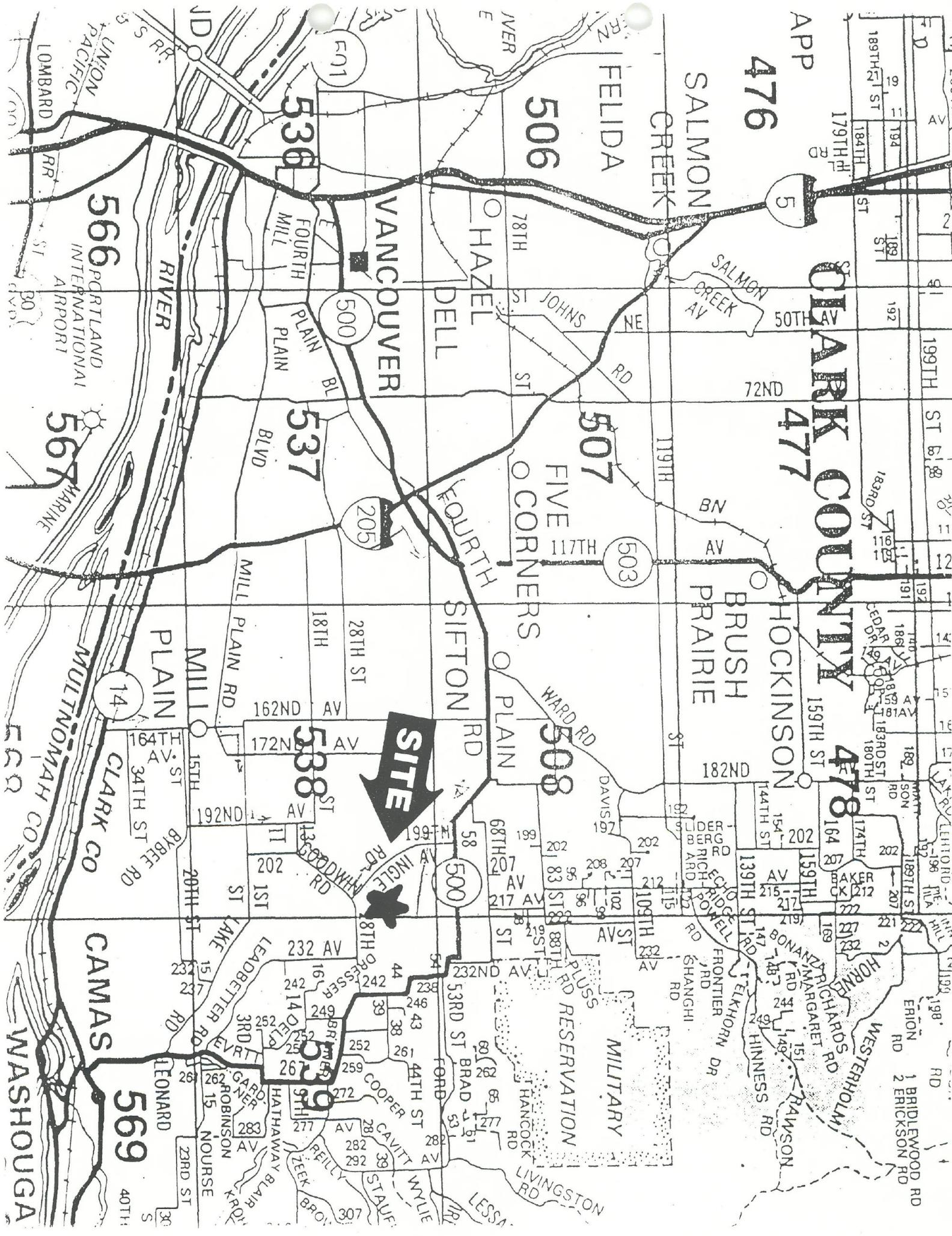
I certify that the information above is true and accurate to the best of my knowledge. I understand that in order to process my application, I grant staff from the Department of Ecology access to the site for inspection and monitoring purposes. Even though I may have been assisted in the preparation of the above application by the employees of the Department of Ecology, all responsibility for the accuracy of the information rests with me.


Applicant (or authorized representative)

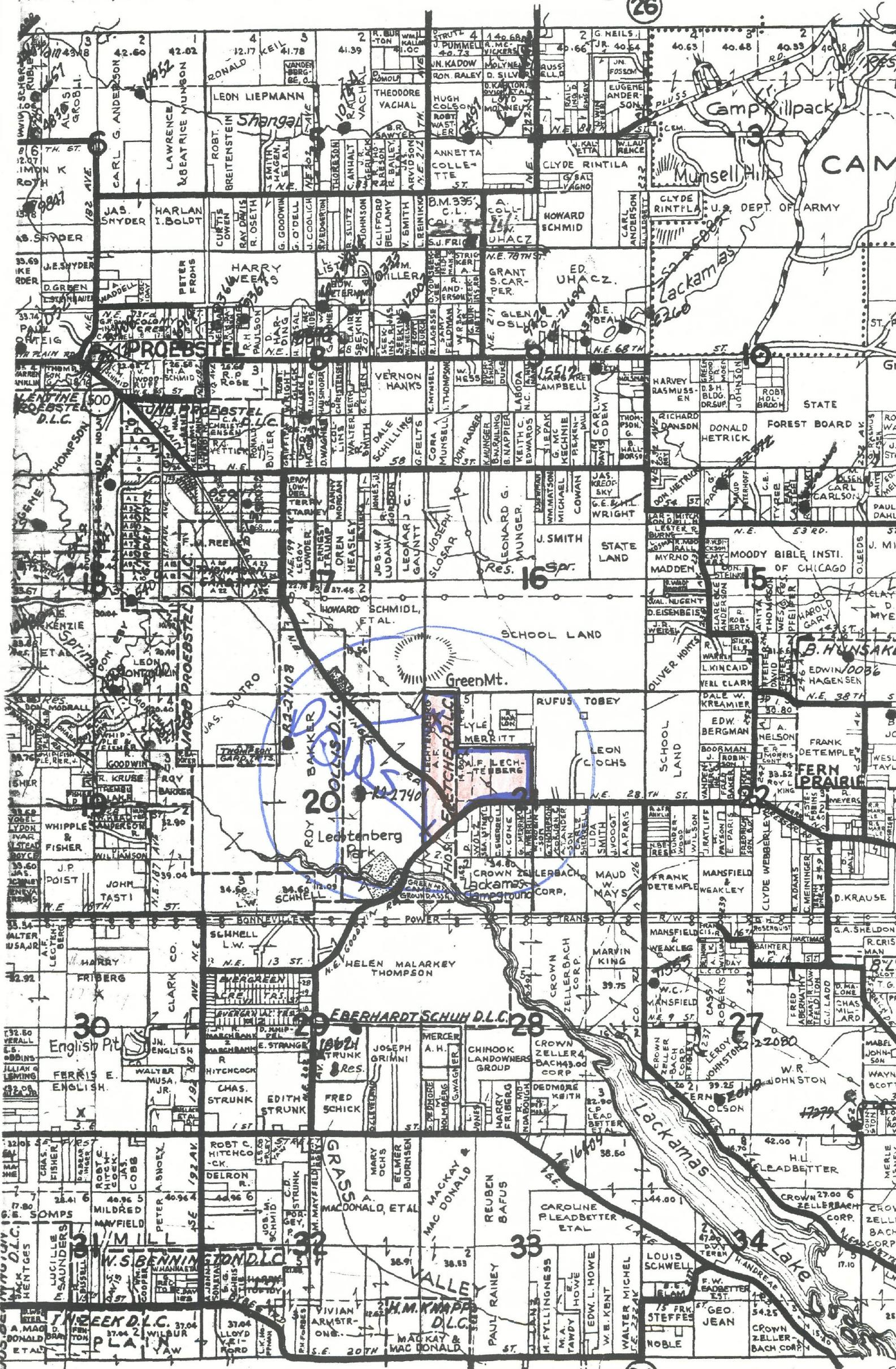
1/2/96
Date

Landowner for place of use (if same as applicant, write "same")

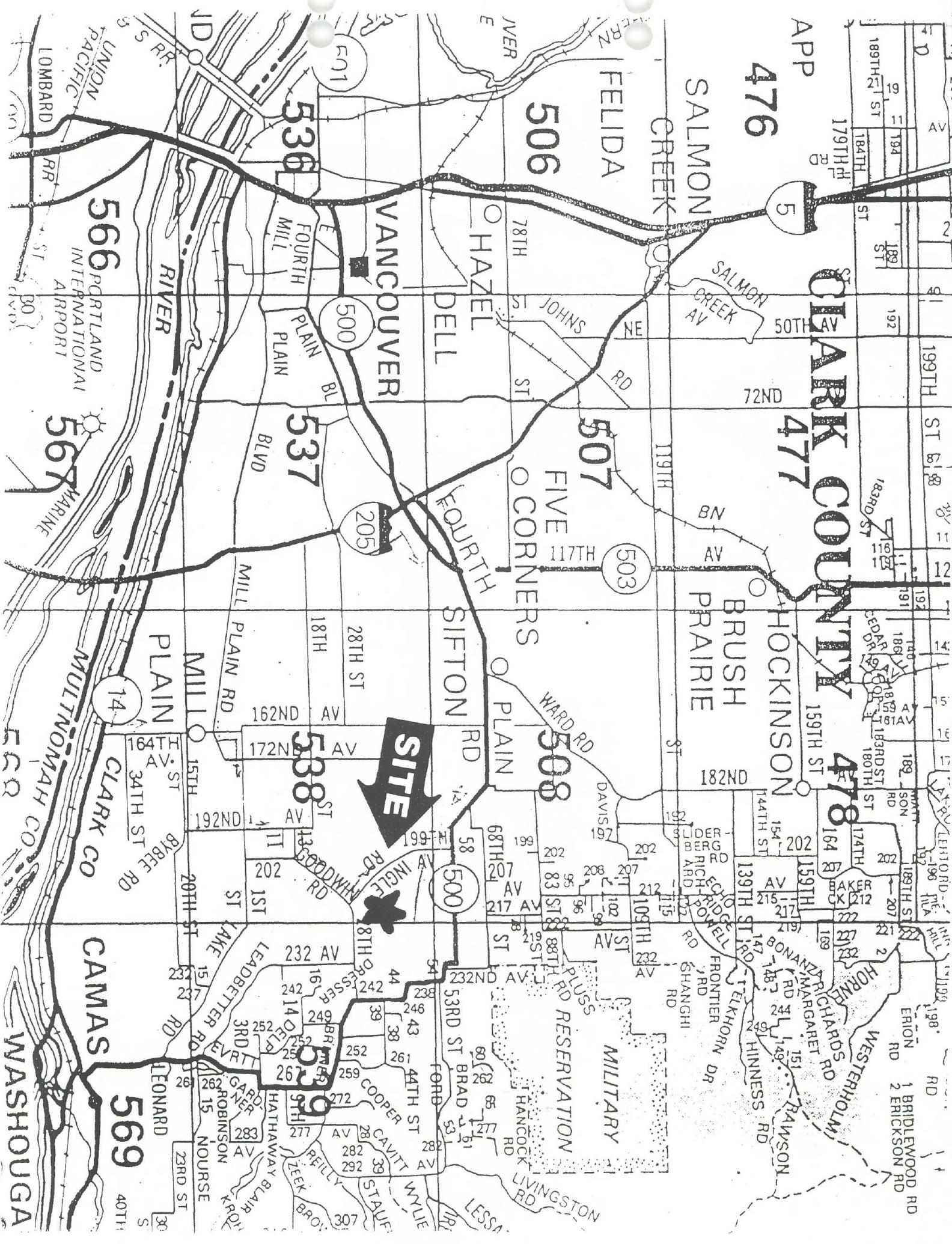
Date



26



24



CLARK COUNTY

476
477
478

APP 476

SALMON CREEK

FELIDA

506

VANCOUVER

536

RIVER

566

567

PLAIN

CAMAS

569

WASHOUGA



PORTLAND INTERNATIONAL AIRPORT

MULTNOMAH CO

FIVE CORNERS

BRUSH PRAIRIE

HOCKINSON

508

SIFTON

RD

500

MILITARY RESERVATION

WESTERHOLM

1 BRIDLEWOOD RD
2 ERICKSON RD

FOURTH PLAIN

PLAIN

CLARK CO

CAMAS

569

40TH

23RD ST

15TH

34TH ST

18TH

28TH ST

162ND AV

172ND AV

192ND AV

15TH

164TH AV

34TH ST

BYBEE RD

20TH ST

15TH

PROVISIONS

The access port shall be maintained at all times on the well (s).

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, except as provided in RCW 90.03.380, 90.03.390, and 90.44.020.

This certificate of water right is specifically subject to relinquishment for nonuse of water as provided in RCW 90.14.180.

Given under my hand and the seal of this office at Olympia,

Washington, this 3rd..... day

**LEGAL DESCRIPTION FOR PAUL DEBONI /
Golf Course**

September 23, 1992

A parcel of property situated in the East half of Section 20 and the West half of Section 21, all in Township 2 North, Range 3 East of the Willamette Meridian in Clark County, Washington, described as follows:
(The following are on grid bearing, Washington State Coordinate System. A scale and elevation factor of 1.0000339 has been applied to field measured distances.)

BEGINNING at the Northwest corner of the Northwest quarter of said Section 21;

THENCE North 88° 40' 36" West 1993.83 feet to a point on the Southeasterly line of that tract conveyed to Keith Bakker by deed recorded under Auditor's File # G 64658 of Clark County records, said point bears South 49° 38' 09" West 221.00 feet from a 3/4" iron pipe and the Southeast corner of said Bakker tract;

THENCE South 49° 38' 09" West along the Southeasterly line of said Bakker tract 132.38 feet to the centerline of Ingle Road;

THENCE South 40° 25' 01" East along said centerline 178.25 feet to a point which bears South 06° 18' 14" West from a 1/2" iron pipe on an Easterly line of that tract conveyed to James M. Bartmess by instrument recorded under Auditor's File # 8911140220, Clark County records;

THENCE North 06° 18' 14" East along said Easterly line 71.81 feet to said iron pipe;

THENCE North 86° 58' 42" East along a Southerly line of said Bartmess tract 9.99 feet to the Northwest corner of that tract conveyed to Ronald and Rhonda Warman by deed recorded under Auditor's File # 9004270087, Clark County records;

THENCE North 86° 58' 42" East along the North line of said Warman tract 790.14 feet to the Northeast corner thereof;

THENCE South 02° 04' 39" West along the East line of said Warman tract 1018.41 feet to the centerline of N.E. Ingle Road;

THENCE South 49° 42' 41" West leaving said centerline of N.E. Ingle Road at right angles 20.00 feet to the Southwesterly line of said N.E. Ingle road;

THENCE South 34° 37' 24" East leaving said Southwesterly line of N.E. Ingle Road 777.46 feet;

THENCE South 30° 48' 12" East 109.92 feet;

THENCE South 37° 35' 47" East 95.25 feet;

THENCE South 27° 46' 37" East 153.24 feet;
THENCE South 08° 32' 28" East 40.62 feet;
THENCE South 18° 01' 32" West 18.15 feet;
THENCE South 13° 04' 01" East 18.83 feet;
THENCE South 46° 40' 08" East 22.33 feet;
THENCE South 03° 14' 53" East 30.36 feet;
THENCE South 39° 19' 30" East 124.60 feet;
THENCE South 28° 25' 49" East 136.37 feet;
THENCE South 07° 54' 56" East 38.13 feet;
THENCE South 27° 00' 05" East 132.72 feet;
THENCE South 11° 08' 28" East 81.55 feet;
THENCE South 61° 06' 03" East 41.54 feet;
THENCE South 79° 21' 07" East 11.48 feet;
THENCE South 15° 10' 51" East 14.45 feet;
THENCE South 53° 41' 07" East 70.73 feet;
THENCE South 09° 14' 58" West 20.16 feet;
THENCE South 31° 17' 05" East 49.03 feet;
THENCE South 77° 00' 55" East 26.31 feet;
THENCE South 10° 30' 30" West 43.15 feet;
THENCE South 08° 37' 08" East 45.98 feet;
THENCE South 25° 49' 48" East 34.19 feet;
THENCE South 08° 51' 17" West 56.00 feet;
THENCE South 40° 00' 26" West 28.18 feet;
THENCE North 89° 31' 44" West 161.39 feet;

THENCE South 13° 39' 21" East 852.01 feet to the Northwesterly line of N.E. Goodwin Road;

THENCE South 46° 15' 51" East 30.00 feet to the centerline of said N.E. Goodwin Road;

THENCE North 43° 44' 09" East along said centerline of N.E. Goodwin Road 990.21 feet to a 955.03 foot radius curve to the right;

THENCE along said centerline and around said 955.03 foot radius curve to the right 433.61 feet;

THENCE North 69° 44' 59" East along said centerline 355.01 feet to a point on a 955.03 foot radius curve to the right;

THENCE along said centerline and around said 955.03 foot radius curve to the right 358.90 feet to a point on the South line of the Northwest quarter of said Section 21;

THENCE South 88° 43' 07" East along said South line 984.63 feet to the Southeast corner of said Northwest quarter;

THENCE North 01° 27' 07" East along the East line of the Southeast quarter of the Northwest quarter of said Section 21 a distance of 1314.63 feet to the North line of the South half of the Northwest quarter of said Section 21;

THENCE North 88° 41' 51" West along said North line 1801.15 feet to the East line of said Fletcher Donation Land Claim;

THENCE North 01° 14' 05" East along the East line of said Fletcher Donation Land Claim 1315.28 feet to the North line of the Northwest quarter of the Northwest quarter of said Section 21;

THENCE North 88° 40' 36" West along the North line of said Northwest quarter 830.98 feet to the POINT OF BEGINNING.

EXCEPT County Roads



9/24/92

TEST WELL CHOICE #2

590'

200'

432-001
12
172583

TOWER

NW 1/4, SECTION 21, T. 2 N., R. 3 E., V

TOWER

FD 4
FD 9

BONNEVILLE POWER ADMINISTRATION

EAST LINE THOMAS J FLETCHER DLS

12

INGLE ROAD

16
172957

STRATISON
WAY

TEST WELL CHOICE #2

290'

200'

432-001
12
172583

TOWER

NW 1/4, SECTION 21, T. 2 N., R. 3 E., W

TOWER

FD 4
FD 9

BONNEVILLE

POWER ADMINISTRATION

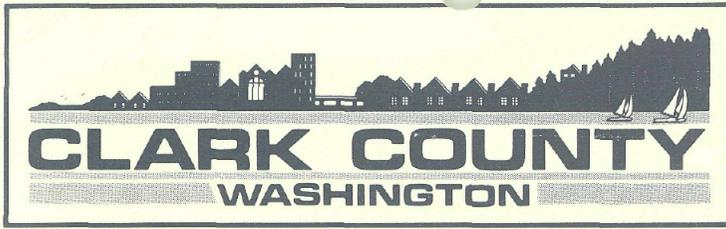
EAST LINE THOMAS J FLETCHER DLG

12

INGLE ROAD

16
172557

STRATIFON
WAY



RECEIVED

'95 OCT -4 DEPARTMENT OF
COMMUNITY DEVELOPMENT

DEPARTMENT OF COMMUNITY DEVELOPMENT
S.W. REGIONAL OFFICE Planning Division

Department of Ecology, Water Rights Program
Attn: Chris Anderson
P.O. Box 47775
Olympia, WA 98504-7775

Dear Chris:

The attached correspondence regarding water supply issues may be useful to you in determining what conditions are placed upon the developer for the Green Mountain Project, and clarify the County's role in regards to this issue while reviewing development proposals in general. Our analysis of the project has focused on four main elements which we believe must be addressed to properly evaluate the system of water supply: quantity, quality, management responsibility, and impacts to nearby users. We want to coordinate our review and conditions with your review and requirements. We ask for your help in identifying those issues of water supply that are reviewed by Department of Ecology, so that our jurisdiction can make written findings that adequate water can be made available to development projects, and unnecessary duplication of our efforts is not expended. A discussion on the water right process would also be helpful to create a better understanding of the issue in the future.

We have set a meeting for **10 a.m. Friday, October 13th**, in our **Conference Room A, at 1408 Franklin St., Vancouver**. I hope this will work with your calendar. If you have further questions, or need additional information, please contact Dave Wechner of the Planning Division, at (360) 699-2375, ext. 4884.

Sincerely,

Craig Greenleaf
Planning Director

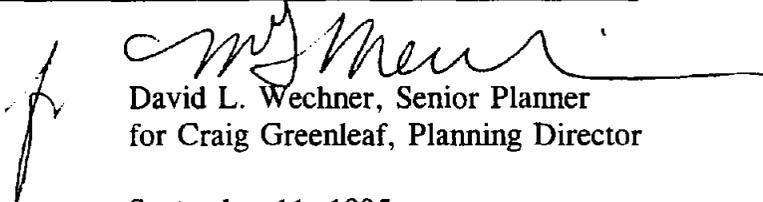
c: Tom Milne, Southwest Washington Health District
Richard Cyr, Clark Public Utilities



**DEPARTMENT OF
COMMUNITY DEVELOPMENT**
Planning Division

**STAFF REPORT AND RECOMMENDATION TO
CLARK COUNTY BOARD OF COMMISSIONERS**

FROM:


David L. Wechner, Senior Planner
for Craig Greenleaf, Planning Director

DATE:

September 11, 1995

PUBLIC MEETING DATE:

September 19, 1995

SUBJECT:

CUP #92-030-17/20/2132 (Green Mountain Golf Course)
Regarding an appeal by John Karpinski, attorney for
Lacamas Enterprises, of the decision by the Hearing
Examiner in approving

STAFF:

David L. Wechner, Senior Planner

STAFF RECOMMENDATION: Deny the appeal; Uphold the Hearing Examiner's decision.

I. SUMMARY OF THE REQUEST

The site is located north and south of NE Ingle Road, west of NE 222nd Avenue (p), and north of Goodwin Road, on the southern slopes of Green Mountain, approximately one mile north and west of the City of Camas.

The property was, at the time of application, zoned for Agriculture (AG); it was designated the same subsequent to adoption of the 1995 Comprehensive Plan.

The application was heard at public hearings on June 9, 1994 and June 20, 1995. At the first hearing, the applicant requested a continuance because he disagreed with the findings of the May 1994 staff report, and staff recommendation for denial. The Examiner did not accept opponents arguments to deny the continuance, and chose instead to continue the matter indefinitely. The decision to grant indefinite continuance was an Examiner's decision, not supported by staff, who desired to grant the applicant's requested continuance of thirty (then modified to sixty) days. This continuance gave the applicant an opportunity to amend the proposal and do further work on storm water design, chemical treatments, road design, wetland mitigation and pursue water rights for groundwater withdrawal.

Decisions of this nature are appealable to the Board of Commissioners, who must determine if the Examiner erred in his decision to approve the Conditional Use Permit.

II. HEARING EXAMINER'S DECISION

At the June 20, 1995 hearing, the Hearing Examiner heard testimony from planning staff, neighbors, the applicant and consultants (including attorney) and the appellant. The Examiner concluded that the primary issues in this case were: whether adequate water supply can be obtained to serve potable water, fire suppression and irrigation needs of the site; adequacy of the sewage system; flood plain and wetland delineations; archaeological survey details; whether the drainage plan complies with County standards; effects of proposed grading; whether the development will remove "ancient trees"; impacts of chemical treatments of the site; and, whether the road alignment should be allowed.

III. APPEAL

The appellant requests that the Board of Commissioners reverse the decision of the Hearing Examiner. The appellant maintains that the decision in is error, and cites six (6) primary points:

1. Water Quantity: The project was approved without proof of ability to serve the site with water, that permits are not in possession by the applicant, and that the Examiner concluded a "significant impact" could result from the operation of the golf course but found in favor of the applicant despite this impact.
2. Error in evaluating SEPA, or application of substantive SEPA authority: The Examiner erroneously concluded he had no legal authority to deny the project under substantive SEPA authority.
3. Water Quality: The Examiner erred in accepting the Integrated Pest Management Plan for the project, by ignoring the recommendations of Clark County Water Quality. Flood plain and flooding issues were found to be inconsequential, despite information in the record.
4. Septic systems: The Examiner erred in approving the application with a conclusion that the septic system effluent size could be reduced from 4,000 gallons per day (as stated in the EIS) to 1,000 gallons per day, without evidence of the calculations in the record.
5. Oak Forest Protection: While recognizing the interest in protecting old trees on the site, the Examiner erred in concluding such trees would not be affected by site development, inconsistent with the aerial photographs and plans.
6. Road Relocation: The Examiner erred in authorizing Ingle Road to be relocated into an area of unstable soils and sensitive wetlands.

The appellant asserts that by deciding in error on these key issues, the Examiner could not conclude that the project was in the public interest, and therefore, erred in not denying the application for Conditional Use permit.

IV. ISSUES

- * Was the approval of this application proper despite permits for water rights not being granted?
- * Were environmental impacts adequately mitigated?
- * Did the Hearing Examiner conclude that he did not have authority to deny this case, in exercising substantive SEPA authority?
- * Did the Examiner err in assessing the potential for impacts regarding water quality and chemical treatments on the site?
- * Did the Examiner decide upon the issue of on-site septic approval, while acknowledging the record as deficient?
- * Did the Examiner erroneously conclude that no development would take place in heavily forested areas?
- * Did the Examiner err in approving the relocation of Ingle Road, to an area identified as having unstable soils, and to be within wetland buffers?

V. APPLICABLE POLICIES AND CODES

Chp. 18.404: Conditional Use Permits. Proposals for Conditional Use must demonstrate that no significant detriment will occur to the general health, safety and welfare of the County in general, and the surrounding neighborhood specifically.

Chp. 18.402: Site Plan Approval: Administrative review of the project design; analysis and conditions to be further controlled by specific conditions imposed by Conditional Use Permit.

VI. ANALYSIS

Based upon the evidence in the record, the appellant's claim may be justified on a couple of points. The applicant does not have water right permits in hand, and does not dispute this fact. The water right has been applied for, and if denied, the project will likely fail. The appellant is correct in asserting that the Examiner approved the project without the applicant providing proof that the site can be served with water for all the site's needs. The Examiner has relied upon the administrative decision of the Department of Ecology to affirm whether water supply will be provided for the site. The Examiner did conclude that no development should occur until the issuance of water rights for the property, and did acknowledge that impacts to adjacent users

could occur. The Examiner imposed a condition providing for long-term monitoring of nearby wells to ensure that the proposed use will not be detrimental to persons in the neighborhood. The condition is to be strengthened by the ability of the Planning Director to modify the conditional use permit through a Type II post-decision review, to prevent substantial detrimental impacts (actually, to correct the situation if impacts do occur). It is not clear whether the decision to approve the use with a condition of further review by agencies is adequate in confirming that the applicant has met his burden of proof at the time the application was heard in public hearing. The source (including location) of the wells to be used in providing water supply is not established, in fact, the applicant has stated that a new well may be drilled at some undetermined location of the property. This location was not evaluated in the EIS, and testing results of the existing well may be inapplicable. Therefore, in this regard the Examiner may have erred. The staff based their recommendation for approval on the use of the existing Green Mountain Supply Well, while due to subsequent decisions by the applicant, in fact will not be used for this project at all.

Examiner asserts that the application cannot be denied under substantive SEPA authority because significant adverse impacts that could not be mitigated were not identified in the final EIS, per WAC 197-11-660 and County code in effect that provides a basis for the exercise of substantive authority, Chapter 20, CCC. While no significant impacts without mitigation were identified, the project has undergone significant changes in design since the original proposal, and environmental review subsequent to the final EIS, which would take the form of a Supplemental EIS, could have been required by the Examiner, pursuant to WAC 197-11-660(2) and 197-11-620.

The staff finds that the Examiner took testimony of two experts in the field of turf management, the applicant's consultant and Water Quality staff, and established a procedure for implementing the proposed Integrated Pest Management Plan. The integration of information provided by an applicant, and the review of staff was not in error, but comments from the Water Quality Division's Lacamas Basin Manager, submitted in response to the decision, should be incorporated into the final order.

Regarding septic systems, it has been confirmed by the Southwest Washington Health District that the design calculations submitted for their review are adequate to establish that 1,000 gallons per day of effluent is likely to be discharged to the on-site system. The Examiner's decision did not cite a condition regarding septic systems, and should include a condition for monitoring so that the measures cited by the applicant to reduce effluent discharge can be reviewed to see if they are effective. Existing law in the state regarding on-site is adequate for the Health District to use in correcting any adverse impacts, but the mechanism for triggering a modification to treatment method or maintenance is not addressed.

The site design changed in response to road location, wetland buffers, and other design features over the course of environmental review of the project. From the site design submitted in the record at the hearing, it appears that areas of "ancient" trees could be impacted by golf course development. However, based on the conflicts of testimony regarding this matter, it may be difficult to make any conclusions regarding the impact to "ancient" trees. The age of the trees and number to be removed has been in dispute throughout the review. The fairway locations

relative to these trees were not flagged for inspection in the field. It is recommended that the fairways be flagged consistent with the site plan submitted for the hearing, in order to verify that the construction will in fact remove only three of the old oak trees as proposed by the applicant.

Regarding the relocation of Ingle Road, it is a central issue to the applicant's proposed design, and while the approval of any County road vacation and realignment must be ultimately heard by the Commissioners, it was not in error for the Examiner to consider this in his decision. He relied upon the construction standards of the County Public Works department, and made no policy judgement as to the benefit of moving the road. The construction standards are not within his purview to decide, and the Road Standards were satisfied, albeit a vague standard on this issue.

VII. CONCLUSION/RECOMMENDATION

Therefore, the Planning Director recommends that the Board of County Commissioners remand to the Hearing Examiner regarding the issues of water supply, on-site septic systems and the impact to ancient oak trees, whereupon the Examiner may review these issues for clarification, or imposition of additional conditions which may assure that the welfare of neighbors in the Lacamas Basin is not compromised in the development of this project.

EXHIBITS: Hearing/Meeting Packet

CG:DLW:aw



DEPARTMENT OF
COMMUNITY DEVELOPMENT
Water Quality Division

September 6, 1995

Mr. Larry Epstein
Clark County Hearing Examiner
Suite 400
722 Southwest Second Avenue
Portland, Oregon 97204

RE: *Establishment of Background Nutrient & Chemical Concentrations in Runoff at the Proposed Green Mountain Golf Course Facility*

Dear Mr. Epstein:

On review of your final order regarding the Green Mountain Golf Course Proposal (CUP 92-030-17/20/2132) I have a comment on section 18-c-3 of your decision. You have indicated that runoff samples must be tested for nutrients after grading of the site has been completed. Even under the best of management, a construction project with soil in an exposed condition will undergo erosion of the surface soils. Testing of the runoff water after grading will result in skewed background levels of nutrients and other parameters such as turbidity, total suspended solids, etc. Testing during and immediately after construction will most probably show a dramatic increase in nutrients that will diminish over time as the construction site becomes revegetated.

One of the nutrients which are bound to soil particles is phosphorous. This nutrient is of utmost concern to the Lacamas Lake Restoration Program since it has been directly linked to algal blooms in the lake. ***I recommend that background testing of runoff from the site be performed before grading of the site begins.*** Background testing at this time will provide a more accurate picture of the true impact the site presently has on water quality.

If you have any questions regarding this matter please call me at (360) 699-2375, ext. 4583.

Sincerely,

Richard Lawler
Lacamas Lake Restoration Program

LLRP0906.1



pollutants may not break down and would be cycled through a closed system from the golf course to pond (and/or biofiltration swales). The input of chemicals and fertilizers into this closed system could accumulate to levels higher than acceptable county, state and federal standards and laws. This needs to be investigated and analyzed by the developer. In addition, the discharge out of these ponds would travel to creeks and wetlands.

I believe no plan has been submitted addressing the sediment (which will have pollutants attached) accumulating in the bottom of the ponds. How will this sediment be handled? It appears a maintenance and operations plan is needed to handle these materials.

Since the groundwater is swallow on this site, how will untreated drainage (in the bottom of the swales, under drains and pond surface areas) be kept separate from contact with groundwater (assuming that some water will go directly to the pond)?

Test wells up stream from wetlands and creek would be very important on this site to assure there will be no negative impacts to these sensitive areas (DOE with need to certify this).

WATER SUPPLIES, GROUNDWATER & WELLS

Our concerns for water supplies, groundwater impacts and wells in the area are as follows:

1. It appears from the report the well capacity could decrease by 50% with time.
2. The 325 gpm rating of the well may not be enough for development during the irrigation season.
3. The water supply requirement for the was reported to be 500 gpm in the SEPA document for the golf course during the summer irrigation season.
4. As stated in the report, if the aquifer is more confined in nature then over time some measurable impacts to streams could result.
5. The 110 drawdown of the well for 100 days of continuous operation seems excessive. This may impact other wells in the area.
6. There is possible impact to existing wells in the area as stated in the report. As stated in the report the water levels should be monitored in wells near the site to assess potential interference impacts to existing wells.
7. It appears the assumption that the aquifer semi-confined needs more data to substantiate.
8. Fire flow will need to be addressed
9. Growing season is more than 3 months.
10. It appears that the analysis for when several wells are in use at the same time in the immediate area was not

completed.

11. In the Final Drainage Report, Appendix "E" Evaluate Irrigation Demand, it was stated that the well rate of 500 gpm (in the EIS it stated a well rate of 325 gpm) and pond system storage capacity can provide sufficient supply for the irrigation. It appear in the engineers water balance calculation, evaporation and transpiration was not subtracted from the available water supply for irrigation. This will impact the amount of water available for irrigation. The evaporation from ponds can be a substantial amount of water which could make the supply source insufficient.

SANITARY SEWER SYSTEMS

The sanitary sewer system (package system) or septic drain system will need to be 50 to 100 feet away from open retention SWFs (stormwater facilities). The package system should not be in the 100-year flood plain. It appears to be in the 100-year flood plain with no access to it during that event. Also because of swallow groundwater, the development may have a hard time installing the package system because of hydrostatic forces on the structure.

TRAFFIC

Question: will frontage improvements along Goodwin Rd. be required for the CUP improvement transportation requirements?

UTILITIES

Is there a written agreement with PP&L since their easement crosses the site?

GRADING

It appears from the engineers grading plan that there is a large quantity of excavation and filling of earth proposed on the site. I believe one of the questions needed to be addressed in the EIS is the total amount of excavation and filling to be done on the development.

Because of the swallow groundwater and interflow (lateral flow below the ground surface) to springs, creeks, wetlands and seeps, excavation of fairways, ponds, drainage system, including subsurface under drains, could intercept groundwater flows. This could negatively impact the water supply to these sensitive areas. In addition, this could make the construction of these improvements unfeasible without impacting the environment.

Ponds with side slopes of 1:1.5 to a depth of at least 3 feet are not allowed by Puget Sound Manual and can be unsafe.



Planning
CUP 92-030
Lawson
Angela

RECEIVED

August 23, 1995

AUG 29 1995

Clark County
Community Dev/Public Works

RECEIVED

AUG 29 1995

CLARK COUNTY
Plan & Dev. Review

Mr. Craig Greenleaf
Planning Director
1408 Franklin Street
PO Box 9810
Vancouver, WA 98666-9810

Dear Craig:

Thank you for your letter of August 16, 1995 (and from Tom Milne). I understand and agree that an available water supply is the central issue for development of the Green Mountain Golf Course. I also agree it is entirely appropriate that a conditional land use approval from the County should be predicated and conditioned to verification of the water supply. My concerns are based on the following two points:

1. The R.C.W.'s empower the County to make land use decisions, but reserve the responsibility for water use decisions at the state level (i.e. Department of Health and Ecology). Certain limited authority is delegated to District Health offices.

The Department of Ecology has undertaken an assessment of the Salmon-Washougal Watershed to determine base line water source quantities, existing allocation commitments and the availability of additional, reliable water supplies. The work is being completed in house and is scheduled for completion next month. We have been advised by the State Attorney General's office that approval of our water right's permit will likely involve participating with Clark Public Utility in an ongoing ground water source analysis in conjunction with a monitoring program. Pacific Ground Water engineers have established such programs in other areas and are working with us,

C.P.U., and D.O.E. on a program for Green Mountain. D.O.E. has informed us that resolution of the water supply issue for the golf course project will be handled through their offices and will not be delegated to SW Health District.

C.P.U. and the State agencies advise us they normally work out the specific water delivery system plans after the County has made its land use decision on a project.

When Clark County decided to become involved substantively in the water issue, it established an unnecessary redundancy that has caused some confusion. It appears that we will have water resources conditions applied by the Hearing Examiner and a separate set of conditions applied by the Department of Ecology. The State's decision making role is specific in both the R.C.W.'s and within their administrative rules, the County has no standards for evaluating water supply impact. It would appear the appropriate role of the County would be to coordinate with these State agencies rather than attempting to duplicate their efforts. The work of County staff is demanding enough without carrying the Public Welfare burden given by the Legislature to other agencies.

As an applicant it is very frustrating to have to try to satisfy duplicative County concerns on issues we have been told are under the pre-empting jurisdiction of State agencies. To my knowledge no one from County Planning has contacted D.O.E. on this matter.

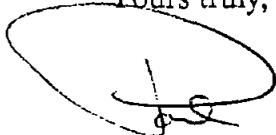
2. The letter you sent to SW Health District and their reply after the Public Hearing was a total surprise to us. The Hearing Examiner held the hearing open two weeks for new evidence. The last two weeks were supposed to be limited to rebuttal. We were assured we would have an opportunity to rebut any new evidence. The letter from the Health District presented testimony and made statements that were not accurate. Since they were inserted into the record after our opportunity to rebut had lapsed we were unable to respond within the record.

Pg 3
Mr. Craig Greenleaf
August 23, 1995

I appreciate your assistance and do not discount your concern for the protection of Public Health. The application review process, however, is becoming unnecessarily complicated and cumbersome when County officials feel the need to address Public Health issues such as water supply impacts that are controlled by State agencies staffed by specialists who are working on specific water supply programs which will determine each property owners' right to extract water from various sources. Once a full water right is perfected the issue will no longer be how any well on the property impacts other wells in an area, except with regard to the legal superiority of one established water right over another.

Compliance with the water supply conditions imposed by the Hearing Examiner does not appear to be a major problem for continuing the project. It will, however, require an expensive and unnecessary duplicative effort for us as well as County Staff.

Yours truly,



Paul A. DeBoni
Vice President

PAD/rwr/sem

C.C. Ed Gallagher
Pat McDonnell

L4/gmr water supply\823gree

Office of the
CLARK COUNTY LAND USE HEARING EXAMINER

1408 Franklin Street
P.O. Box 9810
Vancouver, Washington 98668-9810
Phone (360) 699-2375

*Dave Wechner, Senior Planner
Case Planner
INTEROFFICE MAIL*

NOTICE TO PARTIES OF RECORD
CASE: CUP 92-030-17/20/2132 (Green Mtn Golf Course)

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, 2nd Floor, Franklin Center Building, 1013 Franklin Street, Vancouver, Washington, no later than 5:00 p.m. on **September 5, 1995** (15 working days after written notice of the decision is mailed).

All 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 18.600.100A.; 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 \$25.00; provided, that the fee will not be charged to a department of the County and the fee shall be refunded if the appeal is withdrawn in writing by the petitioner at least 15 working days before the public meeting to consider the appeal.

If the appeal is filed by multiple parties a contact person shall be designated and identified in the written appeal and all contact with the Planning Director shall be with the designated contact person, including notice of the appeal hearing.

SEPA appeals: For those proposals which were subject to approval following a public hearing, as opposed to those decisions made by County Administrative Staff that were appealed to the examiner, which were duly appealed to the examiner at least 3 days prior to the public hearing, a subsequent SEPA appeal to the Board of Commissioners may be made by filing a written appeal with the Board of commissioners within the appeal period of the underlying application. The SEPA appeal will be decided by the Board in conjunction with the decision on the underlying recommendation based on the written record of the original public hearing (s).

New evidence may be considered by the Board of Commissioners as a basis for remand to the examiner. If new evidence is to be presented by the petitioner in support of the appeal, the written appeal must explain that the new evidence is being presented in accordance with CCC 18.600.100(2).

New Evidence (CCC 18.600.100 (2)(a)&(b): The Board of Commissioners shall not consider new evidence outside the record of the examiner; **PROVIDED**, that new evidence may be considered as a basis for remand to the examiner if the appellant demonstrates that the new evidence is necessary to fully and properly evaluate a significant issue relevant to the decision being appealed; **AND** the requesting party did not improperly or unreasonably fail to present the evidence before the public hearing closed.

The Board shall not consider new evidence from the applicant if the new evidence to be offered is required by County Code to be included with the development review application.

Mailed on: **August 14, 1995**

Parties of record
Green Mountain Golf Course
CUP 92-030-17/20/2132
4/11/95 Hearing

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CUP #92-030-2023
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INTEROFFICE/AGENCIES
Green Mtn Golf Course
CUP 92-030-17/20/2132
6-20-95 Hearing

Louise Richards
BOARD OF COUNTY
COMMISSIONERS
INTEROFFICE MAIL

Case File

Dave Wechner, Senior Planner
Case Planner
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Diana Allen
Team Tech/Coordinator
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Central Files

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Public Works
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Muri Jones
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2326 NE 11th Avenue
Portland, OR 97212

4. For the reasons provided herein, the hearings examiner approves the conditional use permit subject to conditions to ensure compliance with the applicable standards. In so doing, the examiner adopts as his own and incorporates by reference the findings and conclusions in the Clark County Department of Community Development Staff Report and Recommendation to the Hearings Examiner dated June 9, 1995 (the "Staff Report") and the Addendum to the Staff Report dated June 16, 1995 (the "Addendum") except to the extent expressly provided otherwise herein.

II. HEARING AND RECORD

1. The examiner received testimony at public hearings about this application on June 9, 1994 and June 20, 1995. A record of the testimony and evidence in the record is included herein as Exhibit A (Parties of Record), Exhibit B (Taped Proceedings), and Exhibit C (Written Testimony), filed at the Clark County Department of Community Development.

2. The following persons testified at the June 9, 1994 hearing: County planners Dave Wechner and Mike Merrill, Attorney Jim Sellers, John Karpinski, Renee Wade, Frank and Charles De Temple, Dennis Walz, John Dvorak, Richard Malin and Jefferson Davis. That testimony was substantially the same as the testimony offered at the June 20 hearing summarized below. At the conclusion of the hearing, the examiner granted the applicant's request for a continuance to address issues raised in the Staff Report.

3. The following testimony was offered at the June 20, 1995 hearing, in part.

a. County planner Dave Wechner summarized the Staff Report.

(1) He noted that the applicant still needs to address the issue of water supply for irrigation and potable water for the clubhouse facility. He argued that water supply is the key issue in this application. It is still unclear how and where water will be obtained.

(2) He testified that condition of approval 1 should be amended to require a separate "site review process", not a "public review process" as the condition currently reads. The site review process is a public process.

(3) He testified that condition of approval 5 should be amended to require a Water Right Permit prior to approval of "a *clearing or grading*" permit.

(4) He proposed that condition of approval 7 be modified to require the applicant to make a diligent, good faith effort to obtain the signatures of relevant parties to the memorandum of understanding ("MOU") regarding archeological resources.

b. County wetlands ecologist Angie Froom testified that the proposed realignment of Ingle Road reduces the wetland buffer width more than the Code allows. However the Code allows the applicant to fill the wetland to create sufficient buffer and then to mitigate for that fill. The proposed conditions require the applicant to mitigate as if the wetland had been filled to compensate for the loss of buffer, but no fill is required.

c. Health District representative Rose Andrzejczak testified that a 3500 gallons per day (gpd) sewage system has been approved for this site. The FEIS estimated that the total resort project would produce more than 4,000 gpd of sewage. This would require additional approvals. Ms. Andrzejczak testified that the applicant submitted

calculations demonstrating that the golf course portions of the project will produce less than 1000 gpd. The Health District reviewed and approved these calculations, but did not introduce them into the record.

d. Rich Lawler, field coordinator for the Lacamas Lake District, testified about the Integrated Pest Management ("IPM") plan. He argued that it is difficult to track fertilization rates as proposed by the applicant. He argued that the plan fails to consider sources of nitrogen other than fertilizers that could enter waters on the site. He argued that the frequency of water testing proposed is inadequate. He argued that the tests should also check for the presence of herbicide and pesticide residues in the water collected from the site. He argued that the IPM is overly general. More scientific testing should be required. He requested the examiner adopt the conditions of approval proposed in his memo. Exhibit 124. He questioned the amounts of nitrogen application proposed in the IPM. He noted that the IPM fails to show when fertilizers will be applied. He argued that nitrates are highly soluble and move quickly through the soil when it rains. Therefore early spring and late fall applications should not be allowed.

e. County transportation engineer John Ruben opined that a road base could be designed to accommodate existing subsurface soil conditions on this site without creating unusual maintenance problems, although the design may be costly to build.

f. Attorney Jim Sellers, Vlad Voytilla, Tom Cook, Gary Katsion, Dave Smith, George Embleton and Martin Schott testified on behalf of the applicant.

(1) Mr. Sellers argued that the examiner cannot impose conditions to address environmental impacts from the project, because the FEIS did not disclose significant adverse environmental impacts, and the FEIS was not appealed. He argued that the examiner has no procedural SEPA authority to review the FEIS. He argued that the development proposed is consistent with the comprehensive plan. He submitted several Washington court cases in support of his arguments.

A. He testified that the approved sewage system is adequate to serve the proposed use. He testified that water rights permits from the DOE are pending.

B. He argued that there are no subgrade problems in the area of the proposed realignment of Ingles Road.

C. He argued that proposed condition of approval 3 is overly broad and does not establish a standard for the County Engineer.

D. He requested that conditions of approval 5 and 6 be modified to reflect the more specific plans prepared after the FEIS.

E. He argued that proposed condition of approval 7 unlawfully delegates authority to Native American tribes to approve the permit.

F. He objected to the dedication of an easement along the east edge of the site required by proposed condition of approval 11.c.i. He argued that the easement cannot be required, because the applicant does not propose to provide access to it. The easement would only serve off-site properties. He argued that this dedication would interfere with the fairway designs.

(2) Mr. Voytilla reviewed the proposed development.

(3) Mr. Cook argued that the proposed monitoring requirements are punitive and unnecessary. He argued that research has shown that chemicals applied to the golf course do not appear in surface and groundwater. He testified that nitrate leaching is not significant, and phosphorous is undetectable in leachate collected from golf courses. He submitted several articles in support of this argument. He argued that nitrate levels are reduced further when the collected water is treated in biofiltration swales. He argued that fertilizer use will be minimized as much as possible. However the range of fertilizer application proposed in the IPM is necessary to allow flexibility. He argued that 70% of the golf course area will not receive any fertilizer. He testified that the irrigation rate proposed in the IPM is based on a worst case scenario and probably overestimates the actual irrigation needs. Mr. Cook responded to cross-examination questions posed by Mr. Karpinski regarding the methods of fertilizer application and testing.

(4) Mr. Katsion testified that the prior traffic study did take into account traffic generated by the commercial aspects of the golf course. He opined that estimates of traffic based on the number of holes are more accurate than estimates based on the total acreage of the course.

(5) Mr. Smith testified about the age and species of trees on the site.

(6) Mr. Embleton testified about the floodplain elevation and the stormwater storage available on the site. He argued that construction of the golf course will alter the surface soils on the site, thereby reducing runoff from the site.

(7) Mr. Schott argued that the road will not impact the buffer for the category 1 wetland. He testified that the proposed wetland mitigation will not block the main drainage ditch. Only the side ditches. Therefore it will not block the natural route for water flow. The mitigation will not effect adjacent properties or endangered plants. He testified he observed that the streams on the site were dry during the past three summers.

g. The following persons testified in favor of the application: Richard Galt, director of the Camas-Washougal Chamber of Commerce, Brad Bowers, Chester Knapp, Edward and Juanita Rhodes, Lyle Bowers, Ronald Warman and Scott Coogan. Their testimony was of a general nature, and included their observations of the site.

h. The following persons testified in opposition: Attorney John Karpinski, representing Lacamas Enterprises, Bob Rodgers, Tom McConathy, James Baldwin, Tim Podhora, Frank and Charles De Temple, David Doying, Amy Petty and Cliff Cook. In summary, they argued the application should be denied or conditioned, based on the following issues.

(1) They argued that there are "ancient trees" on the northeast portion of the site that should be preserved.

(2) They disputed the wetland and floodplain determinations, based on prior personal observations on the site and Mr. Rodgers' professional opinion. They argued the wetland delineation was inadequate. They argued that the streams on the site flow year-round and are not intermittent; therefore, they should be recognized as being higher category wetlands than in the FEIS. They argued that the wetlands are linked and extend offsite. They argued that the proposed wetland mitigation will raise the floodplain and cause offsite flooding. They argued that, due to the high groundwater on this site, untreated surface water could contact and contaminate groundwater. They argued that the filling of exempt wetlands creates a substantial cumulative loss of wetlands that should require mitigation, even though not required by Code.

(3) They disputed the need for relocating Ingles Road. They argued that the soils in the proposed relocation area are inadequate to support the road.

(4) They argued that the IPM is not specific to this site, that it contains insufficient detail, that it will not work, and that the County has no personnel to enforce it.

(5) They argued that the proposed recycling of irrigation water will concentrate nutrients and chemicals in the ponds. They argued that the chemicals proposed in the IPM could kill or injure wildlife, especially waterfowl attracted to the ponds.

(6) They argued that upper and lower aquifers in the area are not separated, especially near river systems. Therefore withdrawal of water from wells on the site, even if drawn from the lower aquifer, could adversely affect wells in the upper aquifer in the area.

(7) They testified that the Cove type soils on this site contain a large amount of fixed phosphorous that is released when the soils are disturbed. Therefore runoff from grading on the site could increase the phosphorous levels in Lacamas Lake.

(9) They disputed the adequacy of the proposed stormwater facilities. They argued that, because the proposed ponds will be lined, they will not allow infiltration and they will not create conditions under which water quality will be enhanced.

(10) Mr. Karpinski argued that the applicant has not met the burden of proof to demonstrate that the development proposed will not have a detrimental impact as required by CCC 18.404:

(a) He argued that there is no water supply for the site and, due to DOE processing times, the water rights permits could delay this project for several years. He argued that there is insufficient evidence that water will be available. He disputed the reliability of the proposed water recycling program, arguing it fails to take into account evaporation losses. He argued that the applicant has not demonstrated that adequate fire flow can be provided.

(b) He disputed the applicant's determination that the sewage system is adequate. He testified that the applicant refused to authorize the health district to allow anyone else to review of the applicant's calculations.

(c) He argued that the proposed wetland mitigation will adversely impact the endangered plants on the site.

(11) Mr. Rodgers, a professional engineer, summarized his written Stormwater/Environmental/Water Resources Report. Exhibits 72 and 73. He introduced photos of prior flooding on the site and downstream from the site. He argued that CCC 13.26.070 prohibits increases in rate or volume in critical reaches. He argued this site contains a critical reach because of flooding and its relationship to Lacamas Lake. Therefore all stormwater should be required to be retained onsite.

(12) Mr. Podhora disputed the applicant's efforts to contact the Native American tribes. He argued that the MOU should include the Yakima tribe as well.

4. The examiner held the record open for four weeks, until July 19, 1995, to allow the parties to submit additional evidence. A substantial number of documents were submitted before, during and after the hearings. The examiner will not summarize them. The issues they raise and their relationship to exhibits in the record will be addressed in the discussion below when relevant.

5. Exhibits 132 through 136 are not included in the record, because they were submitted after the close of the record as set out in the schedule imposed by the examiner at the June 20, 1995 hearing.

III. DISCUSSION

1. County staff recommended approval of the conditional use permit based on the findings contained in the Staff Report and Addendum, subject to the conditions of approval in the Staff Report and Addendum. The applicant accepted the findings and recommended conditions in the Staff Report and Addendum with certain exceptions noted herein.

2. The examiner adopts by reference the findings and conclusions of the Staff Report and Addendum as amended at the hearing, except to the extent expressly modified or supplemented herein.

3. In order to deny this application on the basis of adverse environmental impacts, the examiner must find that the proposed development will have "specific, proven significant environmental impacts . . . identified in a final or supplemental EIS". Nagatani Bros. v. Commissioners, 108 Wn.2d 477 (1987). The FEIS in this case did not identify significant adverse environmental impacts that could not be mitigated. Therefore the examiner cannot deny the application under SEPA. However the examiner can condition approval of the project to assure compliance with environmental mitigation measures. Levine v. Jefferson County, et al, 54 Wn.App. 88 (1989).

a. The purpose of the FEIS is to provide information to be considered when making a decision that affects the environment. The FEIS is not the decision. This is an application for a conditional use permit ("CUP"). The examiner's jurisdiction derives from the CUP chapter of the County Code, CCC 18.404. SEPA compliance is required in addition to compliance with the requirements of the CUP. SEPA compliance does not replace compliance with the CUP requirements.

b. In order to approve this application the examiner must find that the establishment, maintenance, or operation of the golf course will not be significantly detrimental to the health, safety, or general welfare of persons residing or working in the area or be detrimental or injurious to the property and improvements in the area or to the general welfare of the County. CCC 18.404.060.A. Conditional uses require special consideration so that they may be properly located with respect to the objectives of the Zoning Ordinance. CCC 18.404.010. The applicant has the burden of proving that the proposed use will comply with these requirements.

4. One of the most significant issues in this case is whether adequate water to serve the proposed use without significant adverse impacts on people or property in the area.

a. The applicant's engineer has determined that 325 gallons per minute is sufficient to supply the water needs for irrigation of the golf course and potable water for the clubhouse and maintenance facility. The applicant testified that 288 gpm is available from the existing Green Mountain Source Well ("GMSW"). The applicant has proposed to drill a new well drawing from the lower Troutdale aquifer to supply the remainder of the

water needs for this site. The applicant has also proposed to use stormwater runoff collected in ponds located on the site for irrigation and fire suppression requirements.

b. The examiner accepts the determination of the applicant's engineer regarding the water needs for this use. The applicant testified that the irrigation needs were reduced by designing the irrigation system to allow "brownout" of fairways, reuse of irrigation water, planting of drought resistant turf and other methods. There is no substantial evidence that the golf course will require more than 325 gpm. Therefore the examiner finds that, if the applicant receives a water rights permit allowing withdrawal of at least 325 gpm, the water needs of this use can be met. Condition of approval 5 should be modified to reflect the reduced water requirements.

c. The applicant has applied to the Washington State Department of Ecology ("DOE") for water rights permits to allow withdrawal of 500 gpm of ground water and 600 gpm for surface water. Approval of all water rights permits would produce a total combined water right of 1130 gpm for the property. However there is no guarantee that these permits will be issued. Without the water rights permits, this development cannot occur. That is, development of a golf course without assurance of adequate water would have a significant adverse effect on the general welfare of the County and on people and property in the area. Because DOE might not grant water rights permits for the golf course, the examiner finds construction, grading or other preliminary development of this site would be premature before water rights permits are issued. Therefore the examiner finds that no development of this site should occur prior to the issuance of water rights from the DOE allowing the withdrawal of at least 325 gpm of surface and/or groundwater for the golf course.

d. Even if DOE issues the requisite permits, the withdrawal of water for the golf course could significantly adversely affect existing wells in the area by lowering the groundwater level to such an extent that existing wells in the area may cease to function unless the wells are deepened. Such an effect would violate the conditional use permit standards. Therefore examiner finds that long term monitoring of nearby wells is necessary to ensure that the proposed use will not be significantly detrimental to the general welfare of persons residing in the neighborhood. If withdrawal of water from the wells on this site is found to create significant impacts on adjacent wells, limits should be imposed on water withdrawal from this site or other steps should be taken to remedy the impact (such as by providing alternative water sources or extending wells).

(1) The hydrology report found that continuous operation of the GMSW could have an adverse impact on other wells in the area. The extent of these impacts depends on the depth of nearby wells and the characteristics of the aquifer. The applicant proposed to drill a second well tapping into the lower Troutdale aquifer to supply the remainder of the water needs for this site. The applicant stated that this well will have no impacts on wells supplied by the upper aquifer. There is no evidence to support this conclusion. The hydrology report did not analyze the effect of a well in the lower aquifer. Unless the two aquifers are entirely separate, withdrawal of water from the lower aquifer could impact wells supplied by the upper aquifer.

(2) The hydrology report only addresses the effect on the aquifer of long term withdrawal from the GMSW. It does not address simultaneous pumping from other wells in the area. This site is located in the agricultural zone. Water withdrawal for irrigation purposes is likely to occur on adjacent properties as well. Simultaneous pumping from the GMSW and nearby irrigation wells could cause rapid drawdown of the aquifer.

Impacts could occur, so monitoring is the solution
No presentation at this point.

(3) The FEIS determined that the proposed withdrawal of 325 gpm would not have a significant adverse environmental impact. However, based on the hydrology report, the examiner finds reducing groundwater levels during the irrigation season would be a significant adverse impact. There is no evidence in the record regarding the depth of wells on adjacent properties other than the Eaton well cited in the hydrology report. The impacts from the proposed use could be substantial if other area wells are not drilled depths similar to the Eaton well.

(4) Without monitoring, the examiner cannot find that the proposed use will not have significantly detrimental impacts on area wells. Therefore the examiner finds that the applicant should be required to monitor the elevation and rate of recovery of water in at least one well in the vicinity of the site. The Eaton well should be used for this purpose if the owner of that well agrees to allow it under reasonable conditions, because the hydrology report contains baseline information for that well. If the owner of the Eaton well will not allow the applicant to monitor it, the applicant should be required to identify one or more other wells in the vicinity whose owners allow such monitoring or to drill a well for that purpose.

(5) Results of monitoring should be provided to the planning director at least annually. The planning director should consult with DOE or other authoritative resources to evaluate the monitoring reports. Authority should be delegated to the planning director to modify the conditional use permit, pursuant to at least a Type II process, to prevent substantial detrimental impacts on water levels in other wells in the area as a result of the golf course. Such modifications may include limiting the amount, hours, or rates of water withdrawal for the golf course or requiring the applicant to remedy adverse impacts, such as by extending or improving offsite wells or providing public water as a substitute for well water. If the monitoring reports show that withdrawal of water for the golf course does not have an adverse impact within five years after the golf course begins operating, then further monitoring should not be required.

e. CPU will accept ownership and maintenance of the water system as a Type A community water system. The hydrology report determined that the water from the GMSW meets water quality standards. Therefore the examiner finds that, if the required water supply can be obtained, water quality standards can be met.

f. The Fire Marshall accepted the applicant's proposal to supply water for fire suppression via pumps connected to ponds on the golf course. Exhibit 57. Therefore the examiner finds that adequate water supply can be provided for fire suppression on this site if the water rights permits are approved. The Fire Marshall must approve the fire suppression storage capacity of the pond and pump system prior to approval of the final site plan. Condition of approval 12 should be modified to this effect.

5. The examiner finds that condition of approval 11.c.i should be deleted, because there is insufficient nexus between the required easement and the impacts of the proposed use. This condition requires the applicant to establish an easement for a minimum 30-foot half-width road for NE 222nd Avenue abutting the site to the east. NE 222nd Avenue is a private road serving three single family residences. No access is proposed to the site from this road. This project will have no impact on this road. The required dedication is not necessary to mitigate any impact from the proposed use.

6. There is a dispute regarding the adequacy of the approved sewage system to serve the proposed use.

a. The Health District issued preliminary approval for an on-site pressure distribution septic system. This system is limited to 3500 gpd of effluent. The estimated flow stated in the FEIS is 4000 gpd. The applicant submitted calculations to the Health District to demonstrate that the proposed use will produce less than 1000 gpd of effluent. Therefore the approved septic system is adequate to serve the proposed use. The Health District reviewed and approved the applicants calculations. The applicant refused to allow the Health District to release the calculations. Therefore they are not included in the record of this case. The record is deficient in this regard.

b. The examiner concludes that the approved septic system is adequate to serve the use proposed, based on testimony by the Health District. The system approved for this site has sufficient capacity to serve three times the estimated needs of the golf course. This is more than adequate reserve capacity to provide for any underestimates of the requirements of this use. The examiner finds that it is highly unlikely that the calculations reviewed by the Health District are in error, and if they are, that the error is of sufficient magnitude to exceed the reserve capacity of the approved system.

c. Several of the plans indicate a sewage treatment package plant. Such a plant is not necessary for the golf course approved in this decision. But such a system would not cause significant adverse impacts. Therefore it is allowed but not required.

7. A traffic study was conducted for the proposed use in September, 1992. The study found that with scheduled improvements, all the intersections impacted by this use will operate at acceptable levels of service with buildout of the golf course.

a. Opponents disputed the accuracy of the traffic study. However the examiner finds the traffic study was conducted by a licensed professional engineer based on measured traffic volumes. Future traffic volumes were estimated using accepted methods of calculation based on the type and amount of development proposed. No substantial evidence was offered to contradict these findings. Therefore the examiner finds that the traffic study is sufficiently accurate and the conclusions reached are valid.

b. However traffic conditions may have changed in the intervening three years. Therefore an updated traffic study should be required. Mitigation measures should be imposed if the study determines that subsequent changes in traffic conditions are such that development of the golf course will create unacceptable levels of service or traffic hazards. The Code requires that all intersections operate at a minimum level of service ("LOS") D. The examiner finds that authority should be delegated to the County Engineer to impose mitigation measures necessary to maintain a minimum LOS D or to eliminate any safety hazards impacted by this development that may be identified in the updated study. Condition 3 should be amended to this effect.

8. The examiner finds that condition of approval 7 should be modified to require the applicant to make a diligent, good faith effort to obtain the signatures of the relevant Native American tribes on the MOU, including the Yakima Nation. The examiner finds it would improperly deny the applicant due process to give the tribes veto power over the CUP by requiring their signatures on the MOU.

9. There is a dispute regarding the extent of the wetlands on the site.

a. Several persons testified that wetland H is actually a year-round stream and therefore must be classified as a category 3 wetland. The applicant's wetlands expert testified that the stream has been dry during the past three summers. No evidence was

provided in support of either contention. County wetlands staff visited the site to verify the delineation. The examiner chooses to rely on the County's determination on this issue.

b. Several persons testified regarding a second year-round stream on the site. However it is not clear from the testimony where it is located. The testimony appears to refer to the large ditch within the southwestern wetland. The applicant testified that this ditch, designated "wetland M" in the wetlands survey, was created in an attempt to drain the large wetland on the southeast portion of the site. As a man-made drainage ditch, "wetland M" is an exempt, non-regulated wetland regardless of whether it currently flows year-round. CCC 13.36.130.

c. In regard to other alleged undelineated wetlands on this site, the examiner accepts the determination of County staff that the delineation was accurate. There is insufficient evidence in the record to support the allegations of additional undelineated wetlands on this site. There is no evidence in the record to support the allegations that the wetlands are interconnected or that they exceed the area delineated on the site. There is no evidence in the record to support the allegations that the County's review of the delineation was incomplete or inaccurate.

10. The development proposed on this site will impact several of the wetlands and associated buffers located on this site. The applicant proposed to create additional wetlands to mitigate for these impacts by blocking several of the drainage ditches within the wetland on the southwestern portion of the site. This will create a greater area of inundation for a longer period of time. The applicant has also proposed to create at least two small ponds, thereby increasing the amount of open water within the site and the diversity of the wetlands.

a. There is no evidence in the record that the proposed mitigation will increase the extent or duration of inundation on adjacent properties. The record in this case contains no details of the proposed dikes nor analysis of the extent of the ponding. The applicant argued that the ponding created by the proposed dikes will not exceed the level of the 100 year floodplain. They argue that this area is subject to flooding regardless of the mitigation activities. The floodplain extends onto the adjacent property. This area may be subject to flooding during the 100 year storm. This is expected. However the proposed mitigation may cause flooding in this area during lesser storm events, and it may increase the duration of flooding. Increasing the extent or duration of flooding on the adjacent property without permission could be detrimental or injurious to the adjacent property or improvements and is not allowed. CCC 18.404.060.A. The applicant should be required to address this issue prior to final site plan approval. The applicant should submit detailed calculations and analysis showing the size and locations of the proposed dikes and the extent of the ponding behind the dikes. The applicant should be required to demonstrate either that no increase in extent or duration of flooding will occur on adjacent properties or that permission has been obtained from the property owners to allow these impacts. A condition of approval is warranted to this effect.

b. The examiner is not convinced that the proposed mitigation will have a substantial adverse impact on water quality. Cove soils are classified as hydric soils. Hydric soils are normally anaerobic for a portion of the year. The proposed mitigation measures will extend the area and the length of time that the soils on the site are inundated with water, and therefore the time the soils are anaerobic. However there is no evidence that this will cause a substantial increase in the amount of phosphorous released from the Cove soils. Contact between the soil on this site and water in the wetlands occurs under existing conditions. Standing water occurs in the drainage ditches within the wetland during the rainy periods of the year. The soils will not be directly exposed to the water.

The mitigation area will be planted with various species of wetland vegetation. This vegetation will take up some of the phosphorous before it flows offsite.

c. The examiner finds that the proposed mitigation will not have a substantial adverse impact on the endangered species located on this site.

(1) The area of the proposed wetland mitigation was altered to address this issue. The wetland mitigation report (Exhibit 61) states that the majority of the endangered plants were found southwest of the main drainage ditch. No plants were located on the northeast side of this ditch. This ditch separates the proposed mitigation area from the area where the plants are located. The mitigation plan proposes to block the smaller drainage ditches and swales on the northeast side of the main ditch. No increase in flooding is proposed in the area where the plants are located. The proposed mitigation may enhance the survival of this species. The altered hydrology produced by the proposed mitigation may create additional habitat suitable for the endangered plant.

(2) The applicant entered into a conservation agreement with the US Fish and Wildlife Service. This agreement provides for monitoring the plants on this site with the goal of maintaining a stable or increasing the populations of the three species. This agreement requires the implementation of studies to monitor, among other things, the hydrological conditions and contaminant run-off. A decline of 35% from the base population of the species will trigger management action to address the cause of the decline.

11. It was alleged that the proposed development requires a Section 404 permit from the Army Corp of Engineers. This is a federal permit which the examiner has no jurisdiction to require. If such a permit is required, it should be submitted in a timely manner so that County plans are coordinated with the federal permit. A condition of approval should be added accordingly.

12. There is a dispute regarding the adequacy of the proposed drainage plan. This application was received prior to the adoption of the Clark County Stormwater Ordinance, CCC 13.25. This project is subject to compliance with the requirements of the then applicable Water Drainage and Erosion Control ordinances, CCC 13.24, 13.26 and 13.27.

a. Several persons referenced the final drainage plan for this development. The final drainage plan was not submitted into the record in this case. Therefore it cannot be reviewed as part of this decision. For this reason, condition of approval 6 cannot be modified to require compliance with the final drainage plan. The applicable Code requires the applicant to submit a detailed drainage and erosion control plan addressing subsurface as well as surface water flows entering, flowing through and leaving the site. CCC 13.26.050. This plan must be submitted to the County Engineer prior to beginning construction. CCC 13.26.040.B. A preliminary plan is not required.

b. Numerous photos of downstream conditions were introduced into the record alleged to show downstream flooding.

(1) CCC 13.26.070 prohibits development which would increase the peak discharge of runoff due to any storm from the subject property where existing flooding, drainage, erosion or instability conditions are found to present an imminent threat to public health and safety or to the integrity of surface or groundwater systems. This development will not increase peak discharge rates. The applicant has proposed to collect stormwater from the site, treat it in biofiltration swales and wetponds, and release it at rates not to exceed predevelopment rates. Therefore the project does not violate CCC 13.26.070.

(2) In addition, there is insufficient evidence of what the photos show. Many of the photos appear to be of areas within the floodplain. Flooding of roads and structures constructed within the floodplain is expected to occur during storms. Such flooding does not demonstrate that the downstream system is at capacity.

c. There is evidence of high seasonal groundwater on this site. The stormwater facilities must be sized to account for this high groundwater. CCC 13.26.050.

d. These are issues that can be addressed during final engineering. There is no evidence that the system cannot be designed to meet the Code requirements. The examiner finds that there is sufficient area on this site to enlarge the stormwater ponds if necessary. The final drainage plan must comply with the requirements of the Code. The final site plan cannot be approved without such compliance. A condition of approval requiring the applicant to comply with the Code is unnecessarily repetitious.

e. It was argued that this application should be denied based on problems that have occurred at the Mountain Glen subdivision. The problems observed on the Mountain Glen site appear to be due to failure of system construction, not a faulty system design. There is no substantial evidence in the record that the stormwater system designed for this development will fail, provided it is properly constructed.

13. There is a dispute about the adequacy of the proposed stormwater treatment.

a. It was alleged that lining the proposed stormwater ponds will limit the ability of these ponds to treat stormwater, and that adding soil to the ponds will not replace the natural benolythic organisms. The applicant must demonstrate that the proposed treatment methods are adequate to comply with the requirements of the Pudget Sound Manual. This is a technical issue that the examiner is not qualified to resolve with the available evidence. If County water quality staff determine that the proposed methods are inadequate, the applicant must amend the stormwater plan to provide treatment of stormwater that complies with the requirements of the Pudget Sound Manual.

b. The preliminary drainage plans show that the proposed biofiltration swales will be located in the "rough" adjacent to the fairways. The preliminary drainage plan proposes to plant these areas with grasses in accordance with the requirements of the Pudget Sound Manual to filter out solid particles and other contaminants. Golf course turf grasses will not be used in these biofiltration swales.

14. It was alleged that the grading proposed will alter the existing hydrology of this site by diverting storm and groundwater flows.

a. Under existing conditions, stormwater falling on this site is either absorbed into the ground or flows across the site in numerous ditches and swales to the wetlands on the site and then to Lacamas Lake via Lacamas Creek. There is also evidence of a high groundwater table on this site. There are numerous springs and seeps at various points. See Jurisdictional Wetlands Determination, appendix A of the FEIS, exhibit 7. These also supply water to the wetlands and creek.

b. Development of this site will alter that flow to some extent. Substantial grading is proposed on this site to prepare the golf course. After the site is developed, stormwater runoff will be collected, treated in biofiltration swales and diverted to the retention/detention ponds. Drain tile will be installed under tees and fairways to collect irrigation and stormwaters percolating through the soils on the site. Water collected by

these pipes will be diverted to the stormwater system for treatment. Treated waters will be released to the wetlands on the site at rates that will not exceed predevelopment rates. The examiner finds that it is reasonably likely that the proposed stormwater system will also collect groundwater flows on this site. The applicant is required to address these subsurface flows in the design stormwater of the stormwater system. CCC 13.26.050.

c. The applicant proposes to use some of the detained waters for irrigation of the golf course. The applicant has applied for a permit from DOE to allow this diversion of surface waters. The examiner finds that this diversion of surface and groundwater for irrigation is reasonably likely to have an adverse impact on the wetland hydrology. Stormwater diverted to the irrigation system will be unavailable to replenish the wetland hydrology. Under existing conditions, rainfall that occurs during the dry summer months flows to the wetlands on this site. When the site is developed as proposed, water from such rain events is likely to be collected and used for irrigation, thereby reducing the amount of water flowing into the wetlands. The examiner finds that the applicant should be required to monitor the wetland to assure that this proposed surface water diversion does not in fact adversely impact the wetlands.

(1) The applicant is required to monitor the wetland for five years as part of the proposed mitigation for the wetland and buffer impacts. This includes monitoring vegetation and hydrology at 25 sample plots. A baseline of existing conditions would be established prior to construction for comparison of future conditions. The purpose of this monitoring is to determine if the proposed mitigation is effective, i.e., whether blocking the existing drainage ditches increases the area in which wetland hydrology exists.

(2) The examiner finds that this monitoring can be expanded to the remaining jurisdictional wetland areas unaffected by the proposed mitigation measures to determine whether the proposed stormwater diversion has an adverse impact on these wetlands by reducing the existing hydrology. Corrective measures to mitigate these impacts should be required if a significant reduction in the wetland hydrology is observed during the monitoring period. Authority should be delegated to the planning director to determine when corrective measures are required. Monitoring should continue beyond the five year period proposed in the mitigation plan if significant impacts are observed until the applicant demonstrates to the satisfaction of the planning director that corrective measures will assure that no significant adverse impacts result. If the planning director determines after the five year monitoring period that the diversion does not have a significant adverse impact on the wetlands on this site, no further monitoring should be required.

(3) The examiner finds that this mitigation measure is reasonably related and roughly proportional to the potential impacts, consistent with the wetland regulations. This condition is necessary to ensure that this development results in no net loss of wetlands acreage and function. Monitoring of wetland hydrology is already required. This condition simply expands the area in which monitoring must occur.

15. It was alleged that the proposed grading will increase the amount of phosphorous released into surface waters, thereby increasing the levels of phosphorous in Lacamas Lake, downstream from this site. Grading and development of this site must comply with the provisions of the Erosion Control Ordinance, CCC 13.27. The examiner finds that the requirements of this chapter are sufficient to limit the potential impacts from grading and development. There is no substantial evidence to the contrary.

16. There is a dispute regarding the elevation of the floodplain on this site.

a. On May 2, 1991, the US Army Corp of Engineers, on behalf of FEMA, completed a study of the lower reaches of Lacamas Creek, including the area of this site. Both the applicant and the opposition cited to this study to support their conclusions regarding the floodplain. Mr. Rodgers argues that this study determined that the 100 year floodplain elevation is 194. Exhibits 72 and 73. The applicant's engineers argued that the map presented with the FEMA study found a floodplain elevation of 193 at the upstream side of the Goodwin Road Bridge. The map shows elevation 194 occurs approximately 1 mile upstream from the bridge. The applicant submitted a summary of a portion of the study text and copies of some of the computer runs to support their arguments. Neither party submitted a copy of the FEMA study or the map to support their allegations.

b. The Goodwin Road bridge over Lacamas Creek interrupts the passage of the streamflow during flood events. The applicant submitted calculations demonstrating that there is sufficient area to pass the water volume created by a 100 year storm over Goodwin Road without raising the surface water elevation of the 100 year flood. Mr. Rodgers disputed the applicant's analysis. He argued that the assumption on which the calculations were based are incorrect.

c. This issue comes down to a difference of opinion between professional engineers. The examiner accepts the applicant's determination of the floodplain. The applicant provided substantial evidence in support of their determination. This determination was accepted by County staff. The evidence submitted in opposition is not sufficient to demonstrate that the applicant's determination is incorrect. There is insufficient evidence that the applicant's calculations regarding the bridge are incorrect and, if they are, whether the error is significant.

17. There is a dispute regarding the age of the trees on the site and their relevance.

a. The examiner finds there is a public interest in preserving trees in general. Trees and other vegetation provide a number of valuable functions such as limiting soil erosion and maintaining slope stability, reducing air pollution, buffering winds and aesthetic values.

b. The examiner finds that this public interest is greater with regard to older trees, because they are larger and therefore more beneficial. They absorb more carbon dioxide, they retain soil over a larger area, and they can absorb larger volumes of water, reducing the amount of surface runoff from rainfall. These benefits cannot be easily replaced, if at all. However this does not prohibit removal of any specific tree or trees over a certain age. These are simply factors to be considered in analyzing the public interest involved in the proposed clearing.

c. The public interest in preserving trees must be balanced against the public interest in allowing development to occur. The examiner finds that the public interest in trees that will be removed is not sufficient to outweigh the public interest in allowing development to occur. A relatively small percentage of the overall tree coverage on this site will be removed for this development. There is no evidence that the trees to be removed are of any significant age.

d. Opponents of this application submitted several photos of trees located near the site that they estimated are 100 years' old or more. Clearing of some trees is proposed for development of the golf course. However there is no evidence that the old trees will be removed.

(1) The trees shown in the opponents' photos were mostly located in or near wetland areas. No development requiring substantial clearing is proposed within the wetlands on this site. Some clearing within the wetland buffers will be required for the proposed relocation of Ingle Road and for certain greens and fairways. But there is no evidence that there are substantial numbers of old trees in the areas to be cleared.

(2) The applicant testified that the area characterized by the opponents as "an ancient oak forest" is a stand of mixed oak, maple and other deciduous trees. The applicant testified¹ that a survey of the site by an arborist found that only three oak trees of "significant age" are located within the area proposed for development. These trees are not proposed for removal.

e. Based on the foregoing, the examiner finds tree removal associated with the project will not violate the vegetation management regulations or cause significant adverse impacts contrary to the conditional use permit standards.

18. There is a dispute regarding the effects of the fertilizers, pesticides, herbicides and other chemicals proposed to be used on this site. The applicant submitted an Integrated Pest Management ("IPM") plan that describes how such chemicals will be used. It limits the quantity and frequency of use of these chemicals by monitoring pest populations and using more specific methods of control. The plan specifies tolerance levels for the types of pests² expected to occur on this site. No treatment is proposed to occur until these tolerance levels are exceeded. Cultural practices are proposed to maintain healthy turf that is more resistant to these pests so that tolerance levels are less likely to be reached.

a. It was alleged that the IPM plan is not specific to this site. This is not a relevant issue. The issue is whether the plan proposed will prevent certain significant adverse impacts if it is implemented on this site by reducing the frequency and quantity of chemicals applied. The examiner finds that it will.

b. It was alleged that fertilizers and pesticides³ applied to the golf course will contaminate surface and groundwater in the area of the site. The examiner finds, based on the scientific research contained in the record in this case, that proper application and monitoring can minimize leaching of chemicals applied to golf course turf. However the research demonstrates that, even if proper application procedures are followed, some leaching may occur. Many factors, such as the amount of fertilizer applied, the amount and timing of irrigation and the type of soil on the site, can greatly affect the rate that these chemicals move through the soil and the concentrations at which they accumulate in surface and groundwaters. Improper application can also have a substantial effect on the quantity of nutrients leaching through the soil and carried in surface runoff.

c. Runoff from this site flows to the wetlands on the site and then to Lacamas Lake via Lacamas Creek. Lacamas Lake is currently experiencing severe problems with excess nutrients causing algale blooms and other water quality problems. Contaminated runoff from this site could add to this problem. Pesticides and fertilizers could also have a substantial adverse impact on the wetlands on and near this site.

¹ The applicant submitted the arborists report on August 1, 1995. The record in this case closed August 19, 1995. Therefore, the report is not included in the record. However, the examiner accepts as true the applicant's summary of the findings in that report submitted July 19, 1995.

² Pests includes insects, fungi and weeds.

³ As used here, pesticides also includes herbicides and fungicides employed on this site.

Application of these chemicals could also cause groundwater contamination due to the high water table in this area. The examiner finds that such impacts would be injurious to the general welfare of the County. Therefore monitoring should be required to assure that such contamination does not occur.

(1) The applicant proposed in the IPM plan to collect runoff from drains constructed below greens and tees. This runoff would be periodically tested for concentrations of nitrates, phosphates and pesticides. The examiner finds that this proposed testing can provide adequate assurance that stormwater runoff from this site will not have a significant adverse impact on water entering the wetlands, Lacamas Lake or groundwater in this area, provided specific procedures are followed and enforced.

(2) The IPM proposed to apply the highest concentrations of fertilizers and pesticides to the greens and tees. Therefore water collected from under these areas is likely to contain the highest concentrations of chemicals in the collected leachate. Testing of runoff from fairways which receive significantly lower levels of treatment is not necessary.

(3) The examiner finds that due to the existing pollution problems in Lacamas Lake, no increase in nutrient concentrations in runoff from this site should be allowed. In other words a "zero tolerance" level should be established for nutrients in runoff from this site. The applicant should be required to establish "background" nutrient levels by testing runoff collected from this site after final grading is completed but prior to the application of any fertilizers or chemicals. Any excess nutrients detected above these background concentrations would be attributable to fertilizers applied to the golf course. If elevated concentrations of any chemicals or nutrients are detected, the applicant should be required to reduce the application rates of the particular nutrient or chemical detected. More frequent testing should also be required to assure that the reduced application rates are sufficient to ensure compliance.

d. There is a dispute regarding the frequency that testing should occur. The applicant proposed to test the collected runoff quarterly for the first year of operation and annually thereafter. County staff recommended monthly testing for the first year. The applicant argued that the monthly testing is punitive and unnecessary.

(1) The research included in the record shows that little or no nitrogen is detectable in runoff collected from golf course turf when fertilizers are properly applied. Phosphorous is almost undetectable. However improper application, excess irrigation or rainfall, soil types and other factors can affect the amount of nitrogen leaving the site. Nitrogen is highly mobile within the soil under certain conditions. "[E]ven phosphorous, which is known to be fairly immobile, can be moved through a 20-inch soil profile and potentially into groundwater."⁴ See exhibit 63. High rates of irrigation immediately following application of fertilizers greatly increases the concentrations of nutrients found in collected leachates. The specific soil layers and hydrology of this site, the rainfall and irrigation amounts and the growth rate and nutrient needs of the particular turf planted on this course can all affect the rate at which nutrients are transported through the soil on this site. The research also demonstrates that the highest concentrations of nitrogen detected in the collected leachate occurred during the first year when turf is being established. Grass is still sparse and there is little root structure to take up and use the nitrogen, so over-application during this period can have a substantial effect.

⁴ Nitrogen and Phosphorus Fate When Applied to Turfgrass in Golf Course Fairway Condition, Dr. S. K. Starrett and Dr. N.E. Christians, USGA Green Section Record, November/December 1994.

(2) Because nitrogen is highly soluble in water, any excess nitrogen applied to this site could quickly leave the site and enter Lacamas Lake. By the time the excess was detected by the proposed quarterly testing, it would be difficult to correct the error. The nutrients would already have reached the lake, and the damage would be done. Therefore the examiner finds that leachate collected from drains and runoff on this site should be tested on a monthly basis for the first year while turf is being established. Frequent testing is necessary to assure that this use does not contribute to the existing high nutrient levels in Lacamas Lake. Accurate testing and monitoring procedures provide the most feasible methods of assuring that the use proposed on this site has no substantial adverse impacts. Testing is necessary to determine the effects of the fertilizers and chemicals applied to this site, with the soils, hydrology, vegetation, weather and other variables that can affect the rate at which nutrients are absorbed or carried offsite in runoff.

(3) The frequency of subsequent testing may be reduced if water testing during the first year establishes that maintenance of the golf course does not cause an increase in nutrient and chemical concentrations in the collected runoff and leachate. However, because the rate at which these products leach into the soil, runoff and groundwater can be substantially affected by improper application, precipitation or irrigation and other variables, testing should be required on at least a quarterly basis in order to protect the general welfare of the County in protecting its surface water quality.

e. Reuse of irrigation water may produce a closed system in which the chemicals applied to the golf course become concentrated. The examiner finds that the required testing provides adequate assurance that such a closed system will not have significant adverse impacts. Such a closed system would actually provide greater protection of surface and groundwater. Elevated levels would be detected early within this closed system, and mitigation measures could be employed before critical levels are reached in surface and groundwaters.

f. The examiner finds that offsite water quality test wells are not necessary to assure public safety. It is true that the proposed underground drainage system is unlikely to collect all water falling on the greens and tees. Therefore, if nutrients and chemicals applied to this site leach through the soil, groundwater contamination may occur. However testing of water collected onsite is more likely to reveal any contamination that does occur than testing offsite. By the time groundwater reaches offsite testing wells, any contaminants will be greatly diluted by the treatment effect as the water moves through the soil. If contamination does occur, it is likely to be detected in water collected in onsite ponds long before it is detectable in offsite test wells. This early detection allows early intervention before substantial groundwater impacts occur.

g. Not all collected storm and irrigation water is directed to ponds. The drainage plans propose to divert some waters directly to drainage ditches. The applicant must demonstrate that these ditches provide adequate stormwater treatment. However the examiner finds that testing of these waters is not necessary. As discussed above, the highest concentrations of chemicals are likely to occur within the closed system where irrigation water is collected and reused. If excess concentrations of chemicals and nutrients occur, they are likely to be detected in the waters of the closed system before concentrations reach detectable levels elsewhere.

h. The examiner finds, based on the scientific research contained in the record in this case, that soil testing for pesticide accumulation should also be required. The

research demonstrates that pesticides vary in the rate that they breakdown and the rate they migrate through the soil.⁵ Some pesticides are strongly absorbed by soils and do not migrate to groundwaters. Others are not absorbed at all and, therefore, are highly mobile in the soil. Mobile chemicals are unlikely to become concentrated in soils. Excess concentrations will be discovered by water testing. However less mobile chemicals are unlikely to be noted in water tests. If excessive applications occur, these chemicals may become concentrated in the soil. Therefore the examiner finds that soil samples collected for nutrient testing should also be tested for pesticide concentrations.

(1) The research demonstrates that these chemicals were detected in high concentrations 20 inches or more below the ground surface. Over time, accumulation of these chemicals in the soil could pose a substantial threat to public health. Therefore, the examiner adopts the soil testing procedures recommended by Mr. Lawler in his July 5, 1995 memo. Exhibit 124.

(2) However the examiner finds that the frequency of testing proposed by Mr. Lawler is not necessary to protect the public interest. Chemicals that can move rapidly through the soil are likely to be detected in the collected leachate. Less mobile chemicals will be retained in the soil and are unlikely to present a hazard unless they become highly concentrated in the soils. There is no evidence that such high concentrations will occur in such a short period of time.

(3) The applicant proposed to test soil samples annually for greens and every two years for tees and fairways. According to the fertilization schedule set out in the IPM, greens and tees receive greater concentrations of fertilizers than do the fairways. Presumably, these areas are also more likely to be treated with pesticides due to the lower pest tolerance levels set out in the IPM. Therefore the examiner finds that greens and tees should be subject to the same testing schedule.

(4) The majority of these chemicals will be applied during the spring and summer growing season. The winter rains are likely to leach these chemicals farther down into the soil layers, possibly beyond the sampling depth. Therefore, the examiner finds that testing should be conducted in the fall, prior to the onset of the rainy season and again in the spring, prior to the first fertilizer application.

(5) The examiner finds that soil tests should be conducted on fairway areas after the first year of operation to assure that background levels are not exceeded. Provided background levels are not exceeded the first year, bi-annual testing of fairways is sufficient due to the reduced fertilizer applications and higher pest tolerance levels proposed for these areas.

i. Sediment is intended to accumulate in the stormwater ponds. The examiner finds that non-water soluble chemicals that are bound to the soil are likely to accumulate in the sediment collected in the stormwater ponds. Because these chemicals are not soluble, they are unlikely to be detected in the water samples. High volume storms or maintenance dredging could flush this contaminated sediment into the adjacent wetland areas. Therefore the examiner finds that annual testing of the pond sediment, prior to any dredging, should also be required. If elevated concentrations are noted, mitigation measures should be implemented.

⁵ Leaching of Nitrate from Sand Putting Greens, Dr. Stanton E. Brauen and Dr. Swen K. Stahnke, USGA Green Section Record, January/February 1995.

j. All sample collection and testing must be conducted by an independent testing lab. Testing should include any nutrients and chemicals applied to the site within the past 12 months and any potentially toxic breakdown products. Copies of all testing reports shall be submitted to Clark County. Authority should be delegated to the planning director to limit or prohibit applications of fertilizers or pesticides and to require more frequent testing procedures and, if necessary, to require the applicant to implement mitigation or remediation procedures if elevated concentrations of nutrients or chemicals are detected in water, soil or sediment samples.

k. The applicant must maintain the soil and water nutrient levels below baseline background levels. The measures necessary to meet these requirements, such as by utilizing a modified rooting medium, slow release fertilizers and other methods set out in the research, are up to the applicant.

l. Use of pesticides on this site poses a threat of water contamination. There are several wetlands and surface water bodies located on this site. High groundwater is also present on this site. Stormwater from this site will be discharged to the wetlands and surface waters. The research demonstrates that the type of pesticide used can have a substantial effect on the rate these chemicals are transported offsite after application. Overspray and drifting chemicals could easily contaminate the waters on and near this site. If contamination of the wetlands or groundwater occurs, remediation can be difficult if not impossible. Therefore the examiner finds that all pesticides, including herbicides and fungicides, should be limited to those approved for use in aquatic areas. The examiner finds that this condition is necessary to protect the public welfare.

m. Many of the chemicals proposed to be applied on this site do pose a potential threat to wildlife, especially birds. In sufficient concentrations these chemicals also pose a potential threat to humans. However almost anything can pose a health threat in sufficient quantity or exposure. The procedures contained in the IPM plan will reduce the amounts of chemicals necessary to be applied to this site. The required soil and water monitoring should assure that high concentrations of chemicals do not occur. Limiting the choice of chemicals to those approved for use in aquatic areas also provides reduces the potential hazard. Therefore the examiner finds that the proposed use of this site poses no more of a threat to humans or wildlife than for agriculture and residential uses.

n. A condition of approval is warranted to require compliance with the proposed IPM plan as modified in the above discussion.

19. There is a dispute regarding the accuracy of the archeological study. A complete archeological survey of this site was conducted by Dr. John Woodward, a professional archeologist and Mr. Norman Gollub. This survey identified one potentially significant archeological site. This site is located outside the area proposed for development. The evidence offered in opposition was not sufficient to overcome Dr. Woodward's professional opinion based on a detailed inspection of the site. No evidence was offered of significant findings discovered during development on adjacent properties. The examiner rejects the unsupported allegations of bias against Dr. Woodward. The examiner finds that State law provides sufficient protection of any cultural resources that may be discovered during development of this site. Therefore the examiner finds that the development proposed will have no significant adverse impacts related to archeology.

20. There is a dispute regarding the proposed realignment of Ingle Road. The applicant is not required to demonstrate that the proposed realignment is necessary. Provided the realigned road will not have a significant adverse impact and it complies with the Code, the realignment can be approved by the Board of Commissioners.

a. The new alignment will comply with the intersection spacing standards and the sight distance requirements of the Code. Whether greater sight distances are possible at the existing intersection is not relevant. So long as the new intersection complies with the Code requirements, it can be approved. The new alignment will reduce the size of the buffer for two of the wetlands on the site. The applicant has proposed to mitigate for these impacts by creating additional wetlands elsewhere on the site so that no net loss of wetlands will result. There is no evidence that the proposed realignment will change the level of service at the intersection of Ingle and Goodwin Roads or that it will create a hazardous condition. The Code does not require the applicant to provide bike paths. The examiner finds that the increase in travel distance created by the realignment is insignificant.

b. The soil on the site may require substantial excavation and detailed design to ensure a stable road base and reduce maintenance problems. However there is no evidence in the record that such a design cannot be constructed.

c. The relevant issue in this case is whether the proposal complies with the applicable standards of the Code, not whether an alternative design would be better. Whether the golf course could be redesigned to locate all development north of the existing Ingle Road is irrelevant. So long as the development proposed complies with the Code, it can be approved.

IV. SITE VISIT BY EXAMINER

The examiner visited the site and area of the proposed subdivision.

V. CONCLUSION

Based on the findings and discussion above, the examiner concludes that approval of the conditional use permit will not be significantly detrimental to people or property in the vicinity or to the general welfare of the County, subject to conditions of approval necessary to ensure the use does comply with the applicable law and with measures to mitigate impacts of the use.

VI. DECISION

The examiner hereby approves CUP 92-030-17/20/2132 (Green Mountain Golf Course), subject to the following conditions:

1. Conditional use permit approval shall apply to development of the golf course and associated features including a clubhouse, driving range, and maintenance building.
2. Within one (1) year of the effective date of this Conditional Use Permit decision, the applicant shall submit a Site Development Plan to Clark County for review and approval in accordance with Section 18.402 of the Clark County Code.
3. Before the County approves the final site development plan, the applicant shall update the traffic study by indicating the impact of the proposed development and the cumulative impact of other developments occurring or presently proposed in the area of the 28th Street/SR-500 intersection. If the traffic study finds that traffic *from this use* will cause any intersections to

fall below a minimum LOS D or create hazardous conditions, the study shall identify mitigation measures, which are then subject to approval by the County Engineer, to be performed by the applicant prior to final site plan approval. Such mitigation measures may include but not be limited to contributing a proportionate share of the cost of any necessary improvements or actual construction of such improvements.

4. The applicant shall submit a ground water impact study for review and approval by the Southwest Washington Health District, indicating irrigation well locations. The study shall provide adequate detail to substantiate the source and amount of ground water supply available to meet domestic, irrigation and fire flow requirements of the golf course, as required by Department of Ecology, Department of Health, and the Clark County Fire Marshall, and as conditioned by other elements of this conditional use permit.
 - a. The applicant shall monitor the elevation and rate of recovery of water in at least one well in the vicinity of the site. The Eaton well should be used for this purpose if the owner of that well agrees to allow it under reasonable conditions. If the owner of the Eaton well will not allow the applicant to monitor it, the applicant shall identify at least one other well in the vicinity whose owners allow such monitoring or shall drill a monitoring well for that purpose.
 - b. The applicant shall submit results of monitoring to the planning director at least annually. The planning director shall consult with DOE or other authoritative resources to evaluate the monitoring reports. The planning director may modify the conditional use permit, pursuant to at least a Type II process, to prevent substantial detrimental impacts on water levels in other wells in the area as a result of the golf course. Such modifications may include limiting the amount, hours, or rates of water withdrawal for the golf course or requiring the applicant to remedy adverse impacts, such as by extending or improving offsite wells or providing public water as a substitute for well water. If the monitoring reports show that withdrawal of water for the golf course does not have an adverse impact within five years after the golf course begins operating, then further monitoring is not required.
5. The applicant or designated water purveyor shall secure a Water Right Permit from the Department of Ecology, for withdrawal of ground water ^{and} ~~or~~ impoundment of surface streams equal to the amount necessary to serve the golf course users, irrigation needs and fire flow requirement, 325 gallons per minute minimum, prior to approval of the final site plan or to issuance of a clearing or grading permit.
6. All water quality measures identified by the environmental impact statement shall be implemented in final drainage plan. The wetland mitigation plans, prior to final Site Plan approval and construction. Minor modifications may be granted by the Planning Director after review by the County Water Quality Manager.
7. The applicant shall obtain and provide to the Washington State Office of Archaeology and Historic Preservation a Memorandum of Understanding

(MOU) concerning avoidance or mitigation of any adverse affect to significant cultural resources located on the subject 177 acres of property. The applicant shall make a timely, diligent, good faith effort to obtain the signatures of qualified representatives of the Chinook, Yakima and Cowlitz tribes. The applicant shall commit to or implement all mitigation measures identified by the State Historic Preservation Officer based on their review of the site plan, prior to final site plan approval.

8. The final site plan shall include but not be limited to the following:
 - a. The access road design, entrance feature landscaping, parking area design and landscape plan, and BPA easement.
 - b. Landscaping, fencing or wall construction along the site frontage, and at the site entrance shall substantially conform to the preliminary landscape plans submitted with the application and considered at public hearing.
 - c. The basic design for the clubhouse, driving range, and associated parking areas shall be shown on the landscape plan.
 - d. Phasing plan boundaries shall be shown on the site plan.
 - e. All frontage road improvements and internal street improvements shall be shown on the site plan.
 - f. The site plan shall provide details of any entrance gate proposed which shall be approved by the Clark County Fire Marshal prior to final site plan approval.
 - g. Transportation impact fees shall be calculated for the golf course and assessed prior to approval of the final site plan.
 - h. Outdoor lighting plan.
 - i. Location, dimensions and use of all existing and proposed structures.
 - j. Identification and delineation of all parking and maneuvering areas. All parking areas and the number of parking spaces shall comply with applicable Zoning Code standards.
 - k. Right-of-ways and easements, including BPA, PPL, and trails.
9. Future development of the golf course shall be consistent with the preliminary plan approved herein or minor modifications allowed by Code, unless an amendment to the preliminary plan is submitted and approved following public hearing.
10. Land use approval of the golf course only shall be authorized by this Conditional Use Permit. Golf course construction shall include:
 - a. Construction of water drainage and quality treatment facilities, including subsurface drainage features.

- b. Wetland mitigation as approved by the Water Quality Manager, in accordance with provisions of Clark County Code Chapters 13.36 and 18.327.
 - c. Completed construction of the re-alignment of Ingle Road, subject to inspection by the County Engineer's office, if vacation of the road is approved by the Board of Commissioners.
11. Before approval of the final site plan, and except to the extent modified by the Director of Public Works or other duly authorized public official pursuant to law, the applicant shall:
- a. Submit final road plans and profiles prepared by a licensed engineer for approval by Clark County which comply with the Road Standards, Uniform Fire Code, and Wetlands Ordinance.
 - b. For NE Goodwin Road/28th Street, abutting the site:
 - i. Dedicate right-of-way, as needed, for a minimum 40-foot half-width.
 - ii. Establish a minimum sight distance of 500 feet for vehicles entering the road.
 - c. For NE Ingle Road, on-site:
 - i. Dedicate right-of-way, as needed, for a minimum 60-foot width.
 - ii. Construct the roadway, as needed, with a paved, minimum, 34-foot width between shoulders and drainage.
 - iii. Construct the roadway with a minimum 36-foot width at the intersection with NE Goodwin Road/28th Street.
 - iv. Establish slope easements, as needed, for the improvements.
 - v. Locate all proposed driveways which enter NE Ingle Road on the submitted plans and profiles.
 - vi. Establish intersection sight distances, stopping sight distances, and passing sight distances as provided in CCC 12.05.360.
 - vii. Comply with the other minimum design criteria in the Road Standards for a rural neighborhood access road.
 - viii. Construct the geometry of road intersections to comply with CCC 12.05.350.
 - d. Restore any existing driveways affected by frontage or off-site road improvements to provide safe, convenient, and adequate access from properties that now enter those roads.

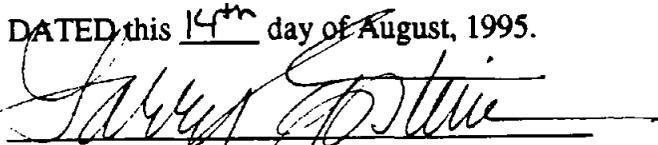
- e. Construct all proposed interior roads with paved minimum 20-foot width roadways between shoulders and drainage ditches within minimum 40-foot width easements. No roadway shall be less than 20 feet in width.
 - f. Submit final drainage, erosion control, and water quality treatment plans prepared by a licensed engineer for approval by Clark County which comply with CCC 13.24 and 13.26, the "Interim Water Quality Measures Update", and the Wetland Ordinance.
 - g. Delineate and identify all areas of the site used for on-site drainage facilities.
 - h. Delineate and identify all wetlands, wetland buffer areas, floodplains, pathways, landscape areas, and signs.
 - i. All buildings shall comply with the setbacks and height limitations of the Agriculture Zoning District, and building spacing requirements of the Building Code.
 - j. Submit a Hazmat plan to the Fire Marshal's Office and Fire Districts #5 and 9.
 - k. Revise the grading plans to illustrate no grading within any wetlands.
 - l. Design the cart paths to avoid all significant trees (>1 foot dbh) and vegetation, and the construction of the path should be limited to a 15 foot wide swath.
 - m. Redesign the layout of fairways, greens and tees to minimize impacts to the buffers. Those buffers that are impacted shall be replanted to Type B criteria, and equivalent forested area shall be compensated into the buffer area.
 - n. The outlet pipe and structure in the Wetland R buffer shall be redesigned so it will not require the removal of any significant trees (> 1 foot dbh).
 - o. The outlet structures in the wetland mitigation area shall be designed to blend with the natural landscape, such as a level spreader or bubbler, rather than rip rap.
 - p. All conditions in sections 13.26.250, 13.26.430(3), and 13.26.460(6) shall be met prior to final approval.
 - q. The applicant shall demonstrate that the propose mitigation measures will not increase the extent or duration of flooding on adjacent properties without permission from the owners.
12. Install fire hydrants, sprinklers connected to an approved system of ponds and pumps as required by Fire Districts #5 and 9, and the Clark County Fire Marshal prior to final plat approval.

13. The applicant shall provide to Clark County, written permission from the Bonneville Power Administration before any portions of the easement on the property is utilized for any purpose including golf course fairways, access roads or other construction, prior to final site plan approval.
14. All off-street parking, loading, and maneuvering areas shall be paved. Parking shall be provided as required by CCC 18.407.
15. All landscaping, fencing, buffering, and screening shall be installed as approved by the final site plan prior to the issuance of any occupancy permits. Specific landscaping, screening, signing, and lighting details for the golf course parking area, driving range, clubhouse, and maintenance facility, and associated parking areas shall be considered in the Site Plan review and specific details shall be determined prior to final site plan approval. Otherwise, the golf course itself shall be established as shown on the preliminary plan provided with the application and considered at the public hearing.
16. The applicant shall provide documentation from the water and sewer purveyors, to Clark County, verifying the availability and adequacy of such facilities to serve the site prior to final site plan approval.
17. The applicant shall implement the vegetation management plan, including mitigation measures for lost habitat, as stipulated in the Wildlife Dynamics report, dated October 1994.
18. The applicant shall implement the hydrology and vegetation monitoring procedures outlined in the Wetland Mitigation plan in all wetlands on the site to establish the proposed diversion of surface waters does not adversely impact these areas.
19. The applicant shall implement the Integrated Pest Management plan, dated August 30, 1994 as modified in this decision, and submit periodic chemical application reports as stipulated in the plan to Clark County Water Quality's Lacamas Basin Program. The IPM shall include the following measures:
 - a. Leachate from tees and greens shall be tested for chemical concentrations. Testing of leachate from fairways is not required.
 - b. The applicant shall test runoff collected from the site after final grading is completed but prior to the application of any fertilizers or chemicals. This shall be a baseline measurement against which subsequent measurements shall be tested. If elevated concentrations of any chemicals or nutrients are detected, the applicant shall reduce the application rates of the particular nutrient or chemical detected. The planning director may require more frequent testing to assure that the reduced application rates are sufficient to ensure compliance.
 - c. Leachate shall be tested on a monthly basis for at least one year after grading of the site is completed. Thereafter, leachate shall be tested on at least a quarterly basis. The planning director may require more frequent testing to assure that leachate does not degrade water quality.

Refer to exhibit 1-15

- d. The applicant shall test soil in areas of tees and greens for chemical concentrations consistent with the recommendations of Mr. Lawler in Exhibit 124; provided, such testing should occur in the fall and in the spring. Results of testing shall be submitted to the planning director.
- e. The applicant shall test the soil in stormwater ponds for chemical concentrations at least annually in the late summer or early fall. If high concentrations are detected, the applicant shall remedy the problem promptly. Results of testing shall be submitted to the planning director.
- f. All sample collection and testing shall be conducted by an independent testing lab. Testing should include any nutrients and chemicals applied to the site within the past 12 months and any potentially toxic breakdown products. Copies of all testing reports shall be submitted to Clark County. The planning director may limit or prohibit applications of fertilizers or pesticides or require more frequent testing procedures and, if necessary, require the applicant to implement mitigation or remediation procedures if elevated concentrations of nutrients or chemicals are detected in water, soil or sediment samples.
- g. All pesticides, including herbicides and fungicides, shall be limited to those approved for use in aquatic areas.

DATED this 14th day of August, 1995.



Larry Epstein, AICP
Clark County Hearings Examiner

HEARING EXAMINER EXHIBITS

APPLICATION: CUP #92-030-17/20/2132 (Green Mountain Golf Course)

HEARING DATE: June 20, 1995

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
1		CC Planning	Aerial map
2		CC Planning	Vicinity map
3		CC Planning	Zoning map
4		Applicant	Golf Course master plan map
5		Applicant	Alternative 1A overall resort mitigation plan
6	2-18-92	Applicant	CUP application
7	5-19-94	Norman Gollub & Green Mountain Resorts	Final Environmental Impact Statement
8	5-10-94	Jefferson Davis	Ltr commenting on rebuttal comments on FEIS
9	5-23-94	Clark County Staff, Parks	Memo to D. Wechner comment on CUP
10	5-25-95	Fire Marshal	Fire Marshal comments on CUP
11	5-26-94	Clark County Staff, WQ	Water Quality comments on CUP
12	5-27-94	Clark County Staff, WQ	Memo from Angie Froom on wetlands
13	5-26-94	Dept of Community Develop	Ltr responding to county request for opinion on archaeology questions.
14	3-31-94	Green Mountain Resorts	Supplemental Errata Summary to FEIS
15	5-31-94	Clark County Staff, WQ	Ltr to applicant re: wetland application review
16	5-27-94	SWWHD	Comments re: the CUP
17	6-2-94	Green Mountain Resorts	Request for continuance
18	6-8-94	Clark County Staff, Planning	Confirmation of continuance request
19	6-8-94	Heritage Trust of Clark County	DEIS and FEIS concerns on adequacy
20	6-9-94	Dept of Wildlife	FEIS response
21	6-9-94	BOCC	Copy of ltr to D. Franks
22	6-9-94	Dept of Natural Resources	Ltr to WQ on Biological assessment
23	6-9-94	Clark County, WQ	Endangered Plant Species
24	6-9-94	SW Washington Health District	Dept of Ecology, water availability
25	6-9-94	SW Washington Health District	Pesticides brochure
26	6-9-94	SW Washington Health District	BMP's stormwater manual - Puget Sound

27	6-9-94	Renee Wade	Petition against development
28	6-9-94	Dept of Fish and Wildlife	FEIS response
29	6-17-94	Board of County Commissioner	Notice of appeal of Hearing Examiner decision to continue indefinitely
30	6-20-94	Dept of Health	Responding to FEIS
31	6-24-94	Jefferson Davis	Response to indefinite continuance - request for immediate hearing.
32	4-26-94	John Karpinski	Ltr to Taiwan View Top Industry on resort
33	4-26-94	J. Cliff Cook, Jr.	Ltr to Taiwan View Top Industry on resort
34	5-27-94	Clark County Planning	Staff Report and Recommendation
35	5-31-94	Clark County, WQ	Ltr to Mr. DeBoni on wetland permit
36	6-2-94	Halsteads Arborculture Cons	Ltr to Homer Greer Re: changes to ltr dated 4-16-94
37	6-10-94	Coastal Management Group	Ltr to Mr. Keyes, Water Quality, regarding staff site visit with DNR staff
38	6-28-94	SW Washington Health District	Response to FEIS
39	6-30-94	John Karpinski	Supplemental comments of CPH Wetlands and Wildlife RE: on indefinite continuance
40	6-30-94	Dave Wechner, Planning	Revised staff report and recommendation
41	6-30-94	James Sellers, Sellers & Jacob	Applicants written comments on Karpinski's appeal
42	10-19-94	Community & Environmental defense services	Copy of publications for preserv... re: protecting aquatic envrnmt from golf courses
43	5-17-95	Paul A. DeBoni	Follow up of May 9, 1995 meeting
44	5-24-95	Hopper & Dennis Engineers	Wetland mitigation grading plan maps
45	6-9-95	Dave Wechner, Planning	Revised staff report and recommendation
46	5-22-95	Paul DeBoni	Letter re: address concerns regarding the long term use of the well. Letter was received by the Planning Dept. on 6-9-95
47	5-26-95	Clark Public Utilities	Letter re: water supply and CPU's position. Letter was received by the Planning Dept. on 6-9-95
48	6-7-95	SWHD	Letter re: response to 5-26-95 letter from Steve Prather clarifying usage of the water well. Letter was received by the Planning Dept. on 6-9-95
49	4-17-95	Paul DeBoni	Conservation Agreement

50	6-11-95	Paul DeBoni	Letter re: issues of concern in regards to the staff report and recommendation to the Hearing Examiner
51	6-13-95	Paul DeBoni	Request for meeting with Craig Greenleaf
52	6-15-95	Richard Lawler & Bob Hutton, Lacamas Lake Restoration Program	IPM Plan
53	6-15-95	David Wechner, Planning staff	Letter re: response to CPU and SWHD letters, review of IPM plan, and other issues raised by Paul DeBoni
54	6-16-95	Planning staff	Addendum to staff report and recommendation to the Hearing Examiner
55	6-19-95	J. Cliff Cook, Jr.	Request for rejection of EIS/ denial of CUP
56	6-19-95	J. Cliff Cook, Jr.	Notebook of photos re: golf course
57	6-20-95	Jim Sellers	Project description (book)
58	6-20-95	Vlad Voytilla	Road alignment and golf course layout (display)
59	6-20-95	Vlad Voytilla	Large scale stormwater facilities and erosion control
60	6-20-95	Vlad Voytilla	Integrated Pest Management Plan
61	6-20-95	Vlad Voytilla	Wetland mitigation and monitoring plan
62	6-20-95	Vlad Voytilla	Botanical survey
63	6-20-95	Tom Cook	Articles re: runoff and nutrients/water quality testing
64	6-20-95	Jim Sellers	Survey of golf courses
65	6-20-95	Jim Sellers	Legal arguments
66	6-20-95	John Karpinski	Complaint for nuisance
67	6-20-95	John Karpinski	Affidavit of Cliff Cook
68	6-20-95	James Baldwin	Written testimony
69	6-20-95	Tim Podhora	Comments by Jefferson Davis
70	6-20-95	Tim Podhora	Written testimony
71	6-20-95	Jim Sellers	Archeology/historic preservation file
72	6-20-95	Robert Rodgers	Water resources report
73	6-20-95	Robert Rodgers	Water resources report
74	6-16-95	Hopper and Dennis	Copy of Flood Plain Permit application, plan and 1/4 section map for application site
75	6-28-95	Clark Public Utilities	Letter from Richard Cyr re: water service

76	6-26-95	Mr. J.W. Feigel	Letter re: request for wells and septic tanks to be abandoned, concern on roof drainage
77	6-30-95	Amy Petty	Lett re: concern over ancient trees
78	3-19-90	Cliff Cook	Effects of nutrient and pesticide loadings to wetlands with reference to the Constance Creek Class 1 Wetland
79	3-14-89	"	Letter from Cha Smith to Peter Donohue re: concerns of MDNS
80	5-11-89	"	Letter from Cha Smith to Peter Donohue re: support his findings of MDNS
81	Rec'd 5-24-94	"	Article re: pesticides on golf courses: mixing toxins with play?
82	4-14-88	"	Pesticides included in the EPA national pesticide survey
83	1-30-91	"	Letter from David Monroe to John Thatcher re: golf course chemicals
84	11-17-88	"	Letter from Ellen Gray to George Newman re: impacts from development and its affect on the quality of the environment
85	11-7-91	"	Article re: LPGA learns realities of breast cancer
86	Rec'd 5-24-94	"	Assessing Hazards of Organophosphate Pesticides to Wildlife
87	Rec'd 5-24-94	"	Poisoning of birds by cholinesterase inhibitor pesticides
88	Rec'd 5-24-94	"	Driving Pesticides Out of Range
89	Rec'd 5-24-94	"	Bird deaths caused by pesticides used on turfgrass
90	1987-1989	"	Wildlife mortality related to the use of diazinon, chlorphyrifos, isofenphos and bendiocarb
91	4-1-85 - 3-31-86	"	Analyses for diagnoses of toxicant-caused morbidity and mortality of wildlife in New York
92	Rec'd 5-24-94	"	Poisoning of wild birds by organophosphate and carbamate pesticides
93	Rec'd 5-24-94	"	The unsolved problems of pesticide use in the United States
94	Rec'd 5-24-94	"	Ecology of pesticides

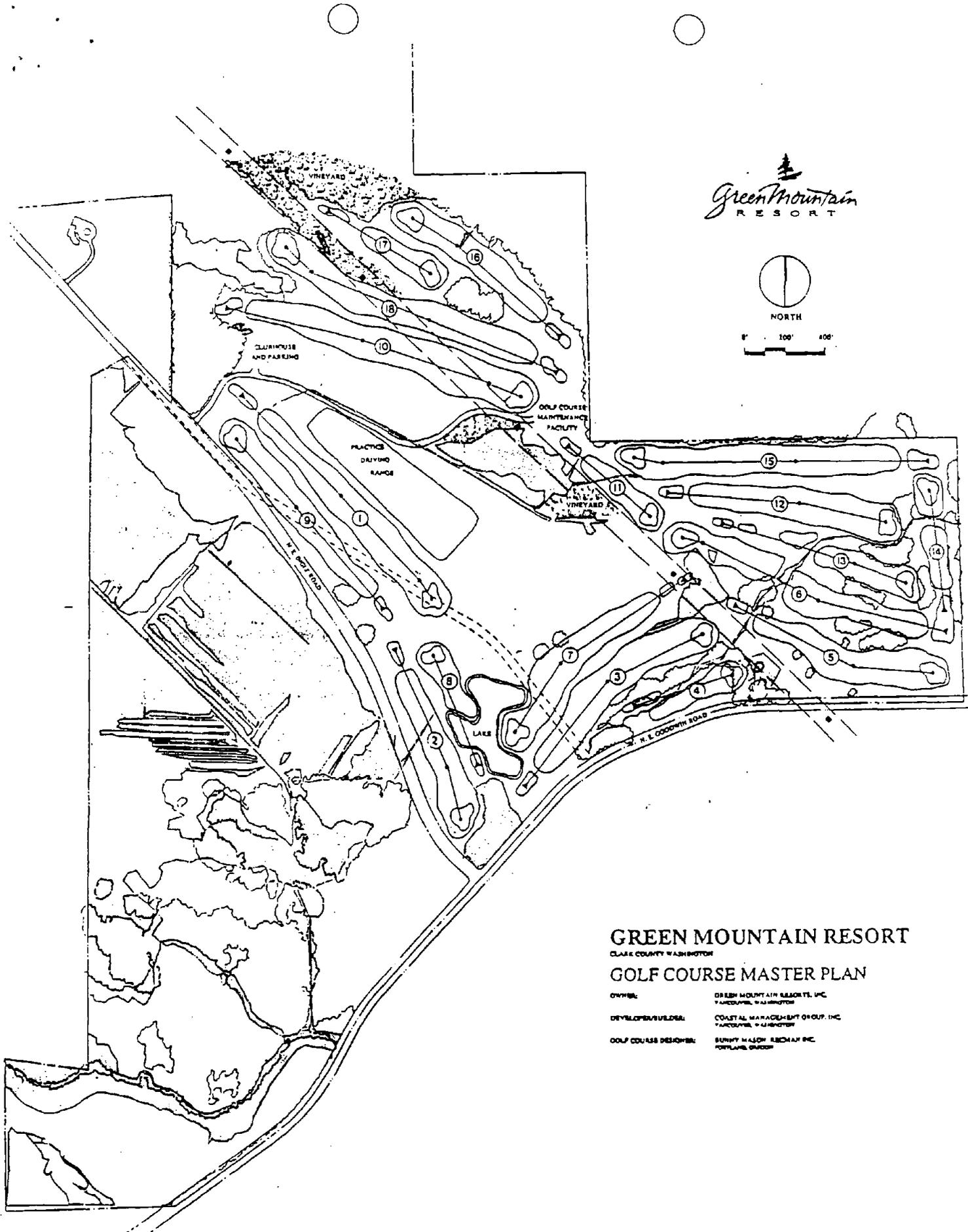
95	9-1992	Cliff Cook	Primary drinking water standards-community systems
96	9-23-90	"	Wetlands preservation group west carleton
97	Rec'd 5-24-94	"	Golf course pesticides-their potential impact on wildlife
98	6-22-88	"	Evaluation of pesticide impacts on golf course wetlands and riparian habitats
99	Rec'd 5-24-94	"	A ground water monitoring study for pesticides and nitrates associated with golf courses on Cape Cod
100	1994	"	Articles: Roundup SWAT Team, Fraud in Testing
101	2-17-89	"	Findings of fact and conclusions of law and order application #4C0422-5-EB (Revised)
102	Rec'd 5-24-94	"	Article: Diazinon
103	10-14-91	"	One man's suffering spurs doctors to probe pesticide-drug link
104	Rec'd 5-24-94	"	Agricultural chemicals and prairie pothole wetlands
105	9-4-91	"	Herbicide dangerous to dogs, humans
106	6-30-90	"	Lawn care concern admits safety claims were too broad
107	Rec'd 5-24-94	"	Article: Organochlorines, herbicides
108	6-15-93	"	Pesticide policy issues in the 103rd congress
109	Rec'd 5-24-94	"	EPA's information systems provide inadequate support for reregistration
110	12-1990	"	Sustainable agriculture: a brighter outlook for fish and wildlife
111	Rec'd 5-24-94	"	Golf course superintendent study background information
112	10-30-91	"	EPA lacks assurance that all adverse effects data have been reviewed
113	Rec'd 5-24-94	"	Diazinon
114	Rec'd 5-24-94	"	Summary information on the toxicology of pesticides proposed for use at a Sherpardstown, WV golf course site

115	3-7-91	Cliff Cook	EPA's use of benefit assessments in regulating pesticides
116	Rec'd 5-24-94	"	Reports
117	3-22-94	"	Science advisory boards/scientific advisory panels review of the potential carcinogenicity of the herbicide 2,4-D
118	Rec'd 5-24-94	"	2,4-D and cancer: EPA remains indecisive while reporting new evidence of Dioxin contamination
119	1992	"	Journal of pesticide reform
120	6-27-95	Cliff Cook/Lacamas Creek Enterprises Inc.	Book of information re: re-alignment of Ingle Road and Wetlands
121	7-1991	Cliff Cook	Toxic Fairways: Risking groundwater contamination from pesticides on Long Island golf courses
122	7-5-95	Cliff Cook	Green Mtn. golf course water quality by Thom McConathy-Clark County Water Quality Resource Council
123	7-5-95	Concerned citizens	Petition in opposition to the movement of Ingle Road
124	7-5-95	Richard Lawler, Water Quality	Letter re: recommended modifications to Integrated Pest Management Plan (IPM) if approved
125	7-5-95	James Sellers	Letter re: review of record, management plan, CPU water service. Also attached, is a letter from US Department of the Interior Fish and Wildlife Service dated 6-30-95 re: Conservation agreement to protect habitat from future modification
126	7-11-95	Craig Greenleaf, Ed Gallagher - Community Development	Letter re: follow-up to previous meeting, outlining activities that have or will occur
127	7-18-95	John Ruben, Transportation	Transportation review comments
128	7-19-95	John Louderback, Rose Andrzejczak, SWHD	Letter re: water rights, water source, management, and summary
129	7-19-95	John Karpinski	Rebuttal letter
130	7-19-95	Robert Hutton, Water Quality	Additional comments and clarification of comments regarding Integrated Pest Management Plan (IPMP)
131	7-19-95	James L. Sellers	Rebuttal of information and documents submitted in opposition to approval of the proposed golf course

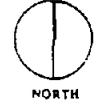
132	7-25-95	Dave Wechner, Planning	Memo re: conditions of approval #4, 5, and 6 and road vacation
133	7-25-95	Paul DeBoni	Arborist Report
134	7-31-95	Paul DeBoni	Letter re: response to Planning's letter to Tom Milne & Tom Barton and comments from SWHD
135	7-31-95	Paul DeBoni	Letter re: recommended changes to staff's proposed conditions of approval
136	8-1-95	Paul DeBoni	7-31-95 letter from Pacific Groundwater Group
*137	7-31-95	Pacific Groundwater Group	Comments from Water Resource Plan with notes from Rose A., SWHD on cover

PLEASE RETURN EXHIBITS WITH DECISION

* Means the document was not recorded as an exhibit forwarded onto the Hearing Examiner as the record was closed



Green Mountain
RESORT



0 100' 200'

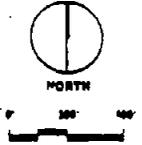
GREEN MOUNTAIN RESORT
CLATSOP COUNTY WASHINGTON
GOLF COURSE MASTER PLAN

OWNER: GREEN MOUNTAIN RESORTS, INC.
TACOMA, WASHINGTON
DEVELOPER/BUILDER: COASTAL MANAGEMENT GROUP, INC.
TACOMA, WASHINGTON
GOLF COURSE DESIGNER: SUNNY MAJOR ARCHITECT INC.
PORTLAND, OREGON

FIGURE 1
GOLF COURSE ROUTING PLAN

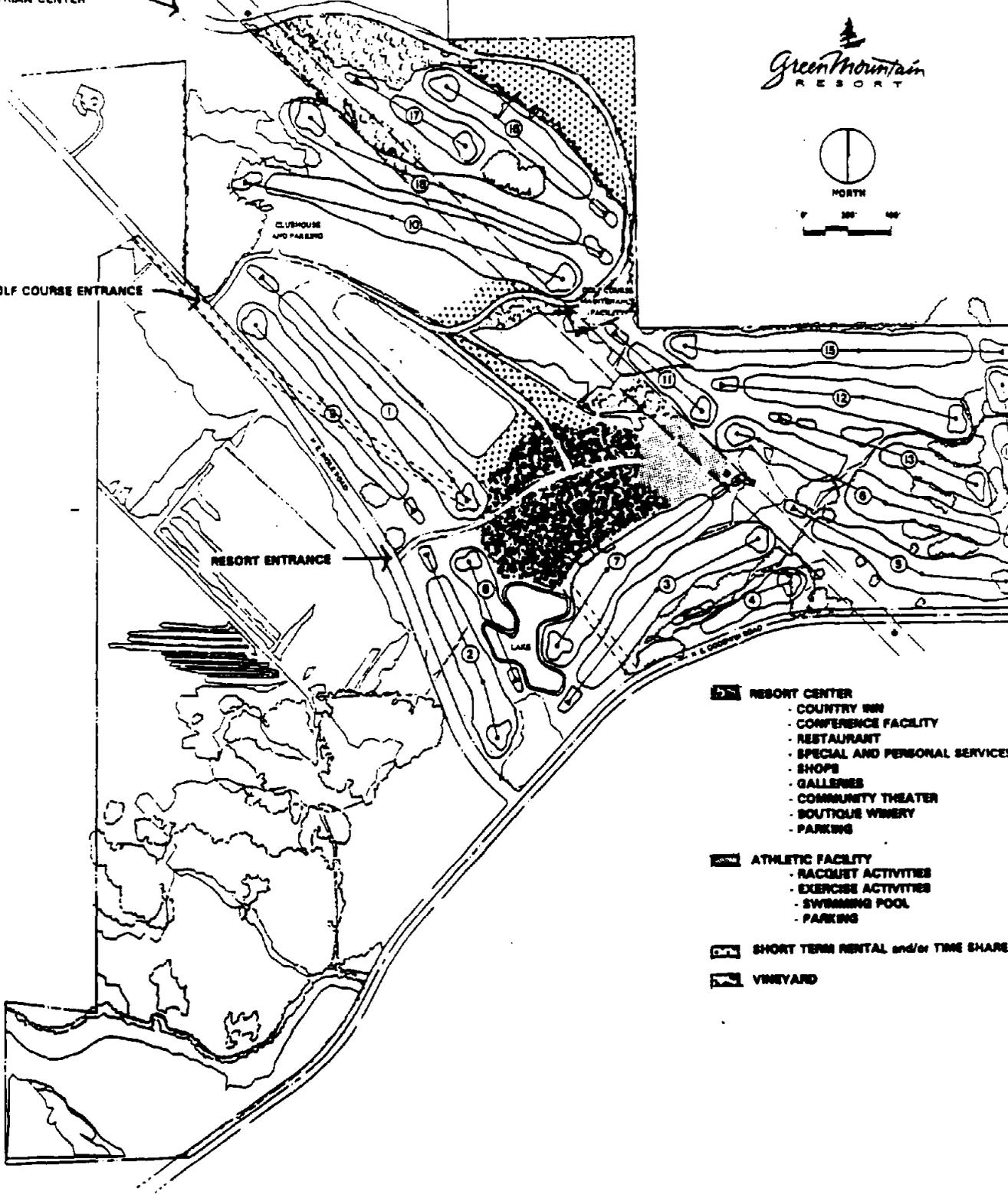
TO ESTATE RESIDENTIAL LOTS
AND EQUESTRIAN CENTER

Green Mountain
RESORT



GOLF COURSE ENTRANCE

RESORT ENTRANCE



- RESORT CENTER**
 - COUNTRY INN
 - CONFERENCE FACILITY
 - RESTAURANT
 - SPECIAL AND PERSONAL SERVICES
 - SHOPS
 - GALLERIES
 - COMMUNITY THEATER
 - BOUTIQUE WINERY
 - PARKING
- ATHLETIC FACILITY**
 - RACQUET ACTIVITIES
 - EXERCISE ACTIVITIES
 - SWIMMING POOL
 - PARKING
- SHORT TERM RENTAL and/or TIME SHARE**
- VINEYARD**

**FIGURE 2
ALTERNATIVE 1A
OVERALL RESORT MITIGATION PLAN**

BPA POWER LINES

AGRICULTURE

NE INGLE RD

BPA POWER LINES

SITE

NE 28th ST

PARK

RURAL ESTATE

NE GOVERNOR RD

BPA POWER LINES

AGRICULTURE

OPEN SPACE

CLARK COUNTY DEPARTMENT OF PUBLIC SERVICES

Planning with the future in mind

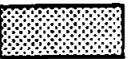
PLANNING & DEVELOPMENT REVIEW DIVISION

FILE # CUP 92-30-20/2123 (GREEN MTN RESORT GOLF COURSE)

LOCATION: T2N R3E SEC 20 AND 21

REQUEST: CONDITIONAL USE PERMIT

SUBJECT PROPERTY:



PLAN BOUNDARY:



NORTH

PORT TOWNSEND CITY OFFICE
Port Townsend Office
511 First Street, Suite 200
Port Townsend, WA 98368

360.385.6959 FAX 385.6952

JM9303

July 31, 1995

Southwest Washington Health District
P.O. Box 1870
Vancouver, WA 98663

Attn: John Louderback

Re: Green Mountain Golf Course
Water Resource Plan Review

Dear Mr. Louderback,

We have been asked by Paul DeBoni of Coastal Management Group to comment on your recent review of the Water Resource Plan for Green Mountain Resort Golf Course. The review was provided to Larry Epstein (the land use hearings examiner for the final EIS) in a letter from you and Rose Andrzejczak dated July 18, 1995. Mr. DeBoni expressed concern that statements in the review are inaccurate regarding potential impacts associated with the water source. Our comments are based on review of your letter, our report on the Green Mountain Supply Well (September 10, 1993), our two telephone conversations (both on July 28, 1995), and excerpts of the Water Resource Plan (WRP) submitted by the applicant on June 20, 1995.

Your letter to the hearings examiner states that "the applicant has stated that the GMSW (Green Mountain supply well) draws from the lower Troutdale Formation" whereas... "the GMSW draws from the upper Troutdale formation". The letter goes on to state that "this inconsistency is significant in that impacts to surface water (i.e. the Lacamas Basin) and existing users of groundwater in the area would likely be greater if new wells are drilled into the upper Troutdale aquifer rather than the lower unit of the formation". Both of these statements are inaccurate, and appear to be related to misinterpretation of the WRP. Based on our second phone conversation, I believe we are in agreement about this misinterpretation. The following two paragraphs present our response to each of these statements.

Based on my review, the WRP does not state that the GMSW draws water from the lower Troutdale formation. In addition (and according to our second telephone conversation), the final EIS explicitly states that the GMSW is completed in the upper Troutdale formation. The WRP includes discussion of a new well, required to supplement existing supply, that would be completed in the lower Troutdale formation. A new well is required because production from the existing well (325 gpm) is insufficient to meet the 500 gpm requested for the project. It appears that the your review of the WRP has incorrectly interpreted discussion of the new well to be refer to the GMSW.

The WRP discusses the impacts to neighboring groundwater users associated with the new well, and states that "Since this well would draw water from a different source than any domestic wells in the area, its use would not have a detrimental effect on existing or future wells in the area". Your letter objects to this statement, however the objection appears to be related to the misinterpretation discussed above. It is in fact the case that by completing the new well in the lower Troutdale formation, impacts to nearby water levels in the upper Troutdale formation would be significantly diminished relative to pumping a well completed in the upper Troutdale (such as the GMSW). Impacts to the upper Troutdale are reduced due to the presence of a low permeability clay aquitard between the two aquifers.

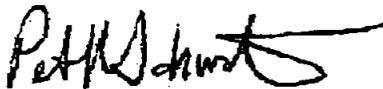
After having the opportunity to read your letter, We would also like to respond to several comments related to water source impacts. Your letter notes that we have recommended monitoring of existing wells to assess potential interference drawdown impacts associated with pumping. There is nothing unusual in this recommendation. Water level monitoring is consistent with the current mode of groundwater development in Clark County, where water rights applications are approved by Department of Ecology conditional on hydrogeologic monitoring. Our predictions of impacts associated with pumping are based on available data and generally accepted hydrogeologic analyses. Monitoring is often a prudent practice to confirm that actual impacts occur within predicted limits.

Finally, your review recommends that water quality be assessed in off-site wells to establish baseline water-quality data in order "to assure that water quality is consistent and remains within established parameters". In our experience, water quality monitoring at offsite wells is typically not required for new (or increased) groundwater pumping in relatively uncontaminated aquifers in non-coastal areas. Such monitoring would be warranted if groundwater contamination documented in the site vicinity could be influenced by groundwater flow directions associated with pumping. Are there existing groundwater contamination problems in the site vicinity to warrant this concern?

I hope that you will consider these comments with respect to your recent review, and make any necessary changes where I have correctly identified misinterpretations or errors. If changes are warranted, I request that you contact Mr. Epstein as soon as possible. He will be announcing his decision this coming Wednesday (August 2, 1995). If you disagree with any of my comments, I would appreciate it if you would contact me as soon as possible so that we can expedite this process and achieve resolution.

Thank you very much for your assistance. I appreciate your attention to this matter, and look forward to your response. Please feel free to call with any questions or comments.

Sincerely,
Pacific Groundwater Group



Peter Schwartzman
Hydrogeologist

cc Paul DeBoni, Coastal Management Group
Dan Matlock, Pacific Groundwater Group

TOTAL P.03

TOTAL P.04

GREEN MOUNTAIN RESORT
GOLF COURSE

WATER RESOURCES PLAN

The water system for the Green Mountain Golf Course will be provided through a system of wells and irrigation ponds. The potable water that serves the clubhouse and maintenance facility will be from a separate new well that will meet the requirements of a Group 'A' water system as classified by Department of Ecology. All water demands for this proposal well operate within the pending water right application.

Specific facts of the Green Mountain Resort Water Plan are as follows:

Water Rights:

1. Application by Green Mountain Resorts, Inc. for water rights to withdraw 500 gallons per minute (G.P.M.) has been pending at State Of Washington Department of Ecology since 1992.
 - Legal action has been filed against Department of Ecology by Green Mountain Resorts, Inc. due to delay of processing request and that D.O.E. has approved other applications out of order.
 - Only 325 G.P.M. will be needed to irrigate this 18 hole golf course per Karl H. Kuhn, P.E., Kuhn Associates Consulting Irrigation Engineers (refer to related testimony).
2. Application has been made by Green Mountain Resort, Inc. to Department of Ecology for 600 G.P.M. for surface water diversion, source for this water is irrigation and storm water runoff.

Findings: The golf course irrigation need is well within the water right request.

Water Demand and Source:

1. There is an existing well on Green Mountain property referred to as Green Mountain Source Well (GMSW) in the report prepared by Pacific Groundwater, Inc.
 - This well as been tested and found it is of high quality with s capacity at 325 G.P.M. as reported by Pacific Groundwater, Inc.
 - This well currently supplies water to the Mountain Glen Subdivision with a total maximum peak flow of 37 G.P.M., as calculated by Hugh James, P.E., of James Engineering and as

approved by Clark P.U.D. and Southwest Washington Health District (S.W.W.H.D). Currently this well operates as a Group 'B' system.

- There is a remaining capacity from the total production of this well less the need of the Mountain Glen Subdivision of 288 G.P.M..
- Extension of a water main and access from existing GMSW to the golf course can potentially be from one of two directions (refer to attached map).
- Use of this well as a water source will require use and maintenance agreement between Clark P.U.D. and Green Mountain Resorts, Inc. after land use granted.

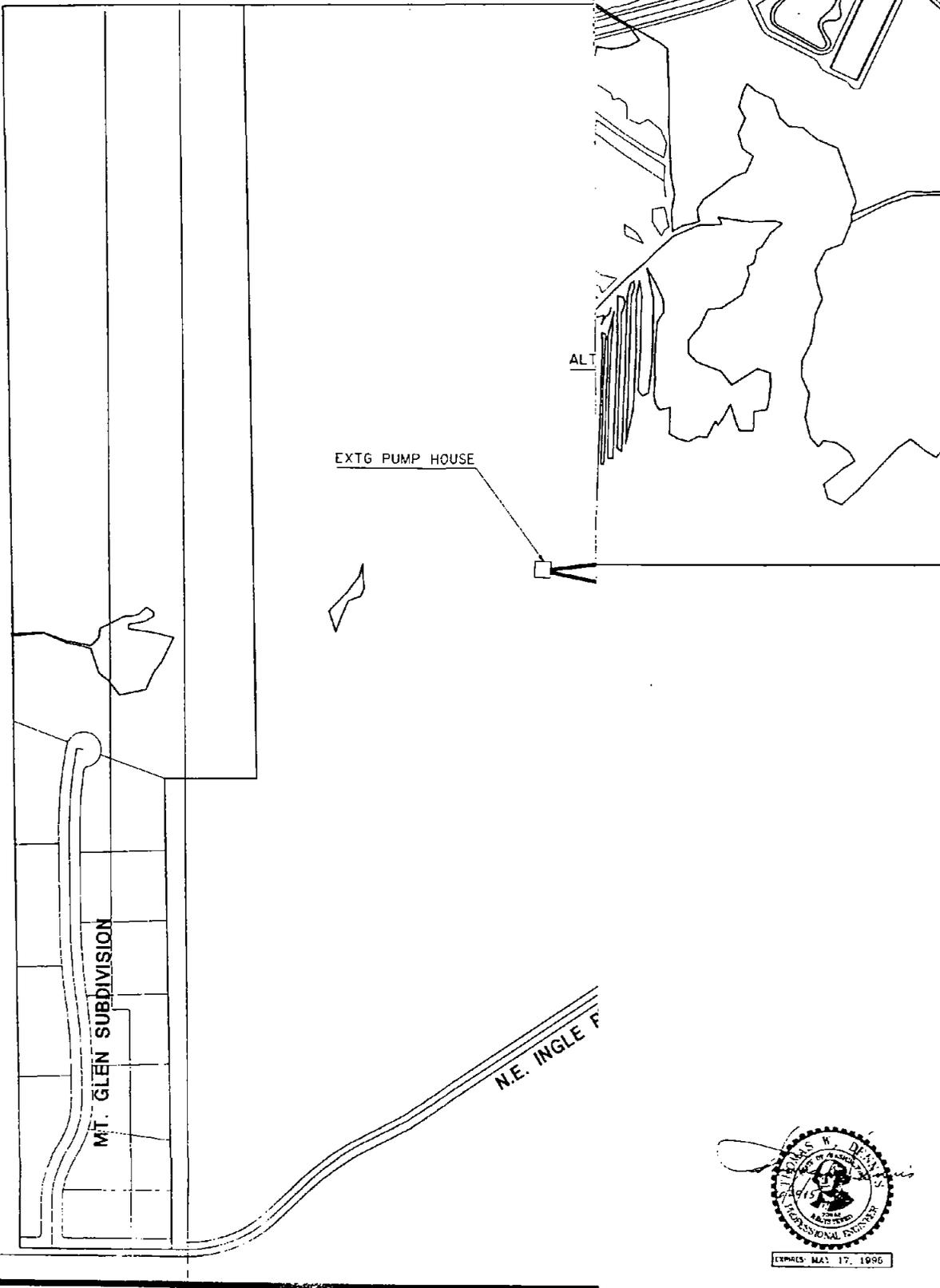
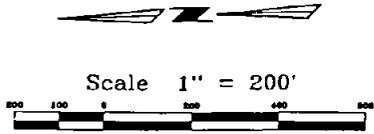
Findings: The existing GMSW could meet a portion and up to the majority of the supply needs for irrigation of the golf course, without diminishing the needs for the Mountain Glen Subdivision. An agreement would have to be structured with Green Mountain Resort, Inc. and Clark P.U.D. for use and long term maintenance.

2. A new well can supply the irrigation for the golf course.
 - Well will be located near golf course.
 - New well to be drilled once D.O.E. grants pending water right request.
 - This well would be for exclusive use of Green Mountain Resort Golf Course and therefore there is no need for agreement for long term use and maintenance with Clark P.U.D..

New well would be drilled to a depth of approximately 600 feet into the lower Troutdale Formation. The water would be of high volume, but of potentially poor quality due to the potential of secondary elements (magnesia and iron) that would not make it acceptable for potable use.

Findings: A new well could be drilled to supply the irrigation needs of the golf course. Since this well would draw water from a different source than any domestic wells in the area, its use would not have a detrimental effect on existing or future wells in the area.

3. Water use associated with the clubhouse and maintenance facility is for:
(1) potable water (requires D.O.E. and S.W.W.H.D. Group 'A' System),
and; (2) fire protection.



DEVELOPER:
 COASTAL MGMT GROUP, INC.
 7820 NE HOLMAN ST STE B-10
 PORTLAND, OR 97218
 (503) 653-3200

HOPPER & DENNIS, P.L.L.C.
 CONSULTING ENGINEERS & PLANNERS
 300 W. 18TH ST., VANCOUVER, WA 98000 (509) 666-5488

PRELIMINARY WATER SYSTEM PIPING LAYOUT FOR:
GREEN MOUNTAIN RESORT
 A SITE IN CLARK CO., WASHINGTON

DESIGNED: BGS
 DRAWN BY: SEH
 CHECKED: TWG
 SCALE: H: 1" = 200'
 V: N/A
 JUNE 1995
 941273

SHEET



EXPIRES MAY 17, 1996

- Potable water needs are less than 15 G.P.M. as calculated by Hopper & Dennis, consulting engineers.
- The Clark County Fire Marshall has stated that fire protection requirements for the clubhouse and maintenance building will be 1750 G.P.M. and 1000 G.P.M., respectively, for two hour duration with Type V - 1 hour construction (refer to attached letter dated May 31, 1995, from Jonathon Dunaway, Deputy Fire Marshall). These figures do not include use of automatic fire sprinklers (the Fire Marshall has not determined this as necessary) which would reduce the fire protection requirements to 1000 G.P.M. for each structure.
- Potable water can be obtained by a new well dedicated for use only by the clubhouse and maintenance facility. This well facility would be dedicated to Clark P.U.D. for ownership and maintenance after construction.
- Fire requirements can be met through the use of water stored in the golf course irrigation ponds. Water from this source would be pumped with dedicated pumps powered by a diesel generator.

Findings: Potable water for the clubhouse and maintenance facility will be from a separate well and water system that meets the requirements of a Group 'A' water system. This water system would be dedicated to Clark P.U.D. for operation and maintenance after construction. Again, the water requirements for these facilities are within the ponding water rights application.

Water Storage:

1. Ponds
 - A total of five lined storage ponds are proposed to be constructed. All ponds will be interconnected to maximize utilization of storage potential and water distribution.
 - Water entering the ponds will come from several sources: irrigation well(s), storm drainage runoff, and golf course irrigation runoff.
 - Pending water rights application has been filed with Department of Ecology for 600 G.P.M. for surface water.



RECEIVED

JUN 12 1995

HOPPER & DENNIS

DEPARTMENT OF
COMMUNITY DEVELOPMENT

Fire Marshal

May 31, 1995

Hopper and Dennis Engineers
205 E 11th Street
Vancouver, WA 98660

RE: Green Mountain Resort Meeting

Dear Sirs:

This is to summarize our meeting which took place on May 31, 1995 at your office. I have tried to hit on the main topics which were discussed.

The project was described as a golf course with a pro shop, meeting area, and restrooms to be constructed at a later date. The new structure would be of approximately 11,000 square feet, with approximately 4,000 square feet to be used as a basement where electric golf carts would be stored and charged. A second building of about 2800 square feet would be used for vehicle maintenance, storage space, and as a lounge for the resort employees.

Requirements for fire fighting water to the site is to be provided by using approved, listed fire pumps connected to the ponds on the golf course. These ponds would provide the minimum amount of water required in accordance with the following:

Pro Shop Building	Type V-N Construction	2750 GPM/2 hours
	Type II-N or III-N	2250 GPM/2 hours
	Type V-1 hour	1750 GPM/2 hours
Maintenance Building	Type V-N	1250 GPM/2 hours
	Type II-N or III-N	1000 GPM/2 hours
	Type V-1 hour	1000 GPM/2 hours

These figures represent the required fire flow in unsprinklered buildings. If the structures were equipped with sprinklers, fire flow may be reduced up to 75% but not below 1000 GPM.

Before the permanent pro shop structure is constructed, a single-wide mobile home type of structure will be used. The Fire Marshal stated we would not require fire flow for this structure as long as it is kept below 2000 square feet in size. However, you indicated the maintenance building would be under construction beginning in the winter of 1995. Because of the size and



Hopper and Dennis
RE: Green Mountain Resort
May 31, 1995
Page 2

type of occupancy of this structure, the fire pump system must be installed, tested, and approved prior to beginning it's construction.

Through a study of the ponds, they must be proven to hold the minimum amount of storage at all times of the year to supply the required fire flow at the quantities and durations indicated. Also, the fire protection system must be engineered and plans supplied to the our office for review prior to installing the system.

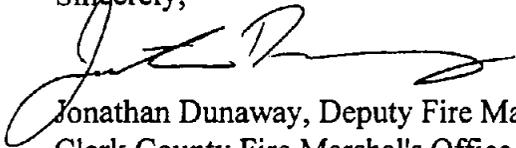
The potable water system will be from a separate source, probably a nearby satellite water system which is to be extended by PUD.

Alternatives to the fire pump system (fire apparatus kept on site, water tankers, drafting through fire apparatus, and fixed chemical extinguishing systems) were discussed and determined not to provide the same level of fire protection.

The installation of automatic fire sprinklers in the structures has not yet been determined.

If I have left out anything, please call me at 699-2375, extension 4115. Or if you have any questions as you put the project together, give me a call.

Sincerely,



Jonathan Dunaway, Deputy Fire Marshal
Clark County Fire Marshal's Office

cc: David Lynam, Fire Marshal

- Storage capacity for the pond system has been designed for 21 days of golf course irrigation in addition to fire requirements for the clubhouse and maintenance facility structures. This storage capacity is without water conservation measures.

Findings: Ponds located throughout the golf course will provide adequate storage capacity for irrigation as well as fire suppression needs. Ponds are to be lined and interconnected.

Water Conservation:

1. Irrigation Design

- Separate irrigation controls for tees and greens from fairways will allow "brown out" of fairways during water crisis condition.
- Only 66 acres of the 110 acres of the golf course will be irrigated. This allows the main central portions of the fairways as well as the tees and greens to be irrigated.
- Computerized controls and weather station monitoring allow the most efficient method to irrigate. This technology exists and is currently being used by many other golf courses as well as the Vancouver Park District. This system greatly reduces water use and only applies irrigation as needed due to current conditions (rainfall, evapotranspiration, temperature, etc.)

2. Golf Course Turf Specification

- The integrated Pest Management Plan for the Green Mountain Resort golf course outlines use of drought resistant grasses to be used.

3. Management Plan

- A management plan will be providing outing irrigation procedures.
- During a water crisis, irrigation can reduce the number of days of watering as well as the amount of water applied. Further, control can reduce the area water to just the tees and greens.
- Provide continuous inspection and maintenance of irrigation equipment as well as the delivery and recovery systems to insure all water is efficiently utilized for irrigation.

Findings: Installation of a computerized, weather station monitored irrigation system best utilizes the water resource. Establishment of a management plan for irrigation application, water crisis contingencies and system maintenance and repair are essential for maximum water efficiency.

Conclusion: Water rights application is pending with the Washington State Department of Ecology.

The Department of Ecology has a stated policy that it will not commit to a time frame for the issuance of Water Right Permits within the Washington because of inadequate budget for staffing the service. They also have a policy that permits will be issued in order of the application date without preferential treatment for any public or private applicant. Green Mountain Resorts, Inc. has filed a Mandamus law suite against the agency since it has issued water rights permits to The Port of Ridgefield for Tri Mountain Golf Course, despite the fact that the permit applications were submitted over a year later than Green Mountain.

Because of this unique situation, The Clark County Planning Director has agreed to support approval of the Conditional Use Permit with a condition that the water rights permits be secured prior to release of Site Plan approval for the structures, and a Grading permit for Golf Course construction. Details of the Water Resource Plan would be worked out with CPU and other agencies subsequent to the Conditional Permit approval.

There are several water source options available to meet the irrigation and potable water needs of the golf course and related uses. The specific requirements have been identified herein and will be further evaluated after the land use approval has been obtained. All sources will be within the water right applications that are pending.



A customer-owned public utility district

June 16, 1994

Commissioners

Nancy Barnes
Carol Curtis
Jane Van Dyke

**Chief Executive Officer/
General Manager**

W. Bruce Bosch

Mr. Paul DeBoni
Green Mountain Resorts Inc.
300 West Mill Plain Blvd.
Vancouver, Washington 98660

JUN 22 1994

Re: Water Service - Green Mountain Golf Course

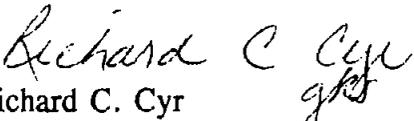
Dear Mr. DeBoni:

As you are aware, Clark Public Utilities has agreed to provide water service to the approved Mountain Glen cluster development which is part of the Green Mountain Resorts project. Per Clark County's Coordinated Water System Plan (CWSP), Clark Public Utilities became involved in that project only after the City of Camas, the CWSP designated water purveyor for the area, declined to provide water service. The Mountain Glen project is under construction and we are in the process of securing water rights from the Washington Department of Ecology to serve the project.

Your proposed golf course facility is adjacent to Mountain Glen, thereby it could be provided with domestic water service for the club house and emergency back-up irrigation for the golf course. It probably goes without saying, that all costs associated with providing water service to the project will be your responsibility and all water facilities must meet Clark Public Utilities standards and specifications. As we have discussed in the past, Clark Public Utilities supports and follows Clark County's land-use policies and will only become involved after the project has been approved by the appropriate land-use agency.

If you have any questions or if I can provide more information, please contact me directly at 944-8026.

Sincerely,


Richard C. Cyr
Director of Water Services

RCC:gks

EXHIBIT #

134

Dave Aracica



Green Mountain
RESORT

URGENT

Craig Greenleaf
Clark County Planning Director
1408 Franklin St.
PO Box 98110
Vancouver, WA 98666-9810

RECEIVED

AUG 01 1995

CLARK COUNTY
Plan & Dev. Review

July 31, 1995

Dear Craig:

I received a copy of your letter to Tom Milne and Tom Barton from SWHD and their response to the Hearing Examiner on Thursday of last week.

My understanding is that Larry Epstein requested County Staff to clarify their position regarding the staff recommendation on water supply for the golf course. After reading both letters I find your position is less clear.

In our conversations you agreed the standard for considering the adequacy of water supply was based on the feasibility of establishing a system, and that the three proposed staff conditions was sufficient to insure it would be available when necessary. We agreed with that approach and proceeded accordingly. After reading these new letters I don't understand if that remains your position.

It appears that your staff somehow feels approval of the existing well for the twelve lot MT Glen subdivision somehow changes things. We can only request approval for water systems for those things that have County land use approval. The water right permit requests are not changed, and transferring the rights to different wells on the property, and/or upgrading the approval on the existing well is not a problem according to DOE. The number and location of the actual wells has been something CPU preferred to deal with after the County land use decision. We put forth a specific plan upon recommendation of your staff, so the County would better understand how it would work. SWHD will not be the reviewing authority. It is understandable that they are not fully informed about the work we have been doing with CPU and DOE. Their speculation about DOE approvals is not relevant.

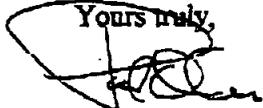
As you know the issue of water withdrawal impacts on other wells is evaluated by DOE as a part of the water right permit review. Once they have established the right, however, the holder of the right has unlimited ability to draw the approved water quantities. This is between The State and the Property owner and does not involve any other agency.

Most disturbing is the fact that the letter from SWHD has some serious and significant errors, which were recently acknowledged after a telephone conversation with our engineers, Pacific Groundwater.

I understand your frustration with these eleventh hour problems. They would not have occurred, however, if we knew of County concerns when we submitted our reports last March and if we knew you were looking for more information after the hearing had closed. Keep in mind that Clark County has no standards for water supply determinations since it is under the preemptive authority of The State. We have assumed our responsibility was to work the CPU who would provide domestic service and DOE who would issue the water right permits.

I hope it is not too late to straighten out the record before the hearings examiner renders his final decision.

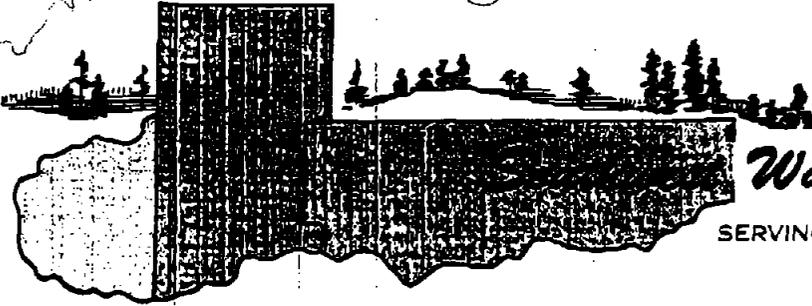
Yours truly,



Paul A. DeBoni AICP
Vice President

c.c

David Weckner
Ed Gallager
Pat Mc Donald



Washington Health District

SERVING CLARK, KLICKITAT AND SKAMANIA COUNTIES

July 18, 1995

ADDRESS REPLY TO
APPROPRIATE OFFICE

TO: LARRY EPSTEIN, LAND USE HEARINGS EXAMINER
c/o CLARK COUNTY DEPARTMENT OF COMMUNITY
DEVELOPMENT

CLARK COUNTY
P.O. Box 1870
2000 FORT VANCOUVER WAY
VANCOUVER, WA 98663
(206) 696-9215
FAX (206) 696-8424

FROM: JOHN L. LOUDERBACK, ENVIRONMENTAL HEALTH SUPERVISOR
ROSE ANDRZEJCZAK R.S. *[Signature]*

NOTE 1-1-85
(360) 696-9215
FAX (360) 696-8424

RE: GREEN MOUNTAIN GOLF COURSE
CUP 92-030-17/20/2133

The Southwest Washington Health District has determined water adequacy to include quality, quantity, impacts and management as they relate to development proposals.

We have reviewed the Water Resource Plan for Green Mountain Resort Golf Course and have the following comments:

SKAMANIA COUNTY
P.O. Box 182
2ND STREET EXTENSION
STEVENSON, WA 98648
(509) 427-5138

WATER RIGHTS (Quantity)

The applicant has applied for a water rights permit from the Department of Ecology for the Green Mountain Supply Well (GMSW). This well is the dedicated water source for the Mountain Glen Subdivision. Clark Public Utilities (CPU) and the applicant have stated this well will serve this subdivision only. It is our understanding that water rights are issued for a specific well and transferring that water right to another well may be difficult. Any new wells drilled on the site, using greater than 5,000 gallons per day, would require separate water right permit applications to WDOE and involve a lengthy review process.

WEST KLICKITAT COUNTY
P.O. Box 159
170 N.W. LINCOLN
WHITE SALMON, WA 98672
(509) 493-1558

WATER SOURCE (Impacts)

The applicant has stated the GMSW draws from the lower Troutdale Formation. This is contrary to the report prepared for the applicant by Pacific Groundwater Group (PGG) which clearly states the GMSW draws from the upper Troutdale formation. This inconsistency is significant in that impacts to surface water (i.e. the Lacamas Basin) and existing users of groundwater in the area would likely be greater if new wells are drilled into the upper Troutdale aquifer rather than the lower unit of the formation. This aquifer, per PGG, "serves as a regional source within most of southwestern Clark County, providing supply for many private and public water wells in the area." PGG recommended monitoring of existing wells in the area to "assess potential interference impacts to existing water supply sources".

EAST KLICKITAT COUNTY
28 WEST MAIN STREET, SUITE 130
GOLDENHALL, WA 98620
(509) 773-4565

The Health District believes off-site groundwater impacts are a key component of the water adequacy question. However, the record contains little information regarding off-site impacts. Impacts are generally addressed prior to approval of a development proposal.

It is further recommended that water quality be assessed in adjacent off-site water wells. Baseline information is needed to assure that water quality is consistent and remains within established parameters.

WATER SOURCE (Quality)

All new potable water sources must meet established criteria per WDOH. Based on existing documentation, the source of the potable water supply remains unclear. The Water Resource Plan states that new well(s) will be drilled for the irrigation and drinking water supplies after approval of the CUP, yet also discusses use of the GMSW. The Health District cannot provide specific comment until wells are drilled and sampled. However, the final EIS contains the inorganic chemical analysis from the GMSW. After review of this document, we find the water quality of this well to be adequate. This is the only documented water quality analysis available at this time.

MANAGEMENT

CPU has stated that they are willing and able to serve the project if their standard conditions are met and sufficient groundwater can be located on site.

SUMMARY

The Water Resource Plan submitted by the applicant on June 20, 1995, and received by the Health District on July 12, 1995, is not a groundwater impact study as called for in the Staff Report to the Hearing Examiner dated June 9, 1995 (page 11, Item 4). It is a general summary of existing information. It lacks in-depth analyses regarding the water resource issues related to this proposal.

The findings and recommendations made by Pacific Groundwater Group in the Hydrogeologic Study of Green Mountain Supply Well, September 10, 1993, have not been thoroughly addressed by the applicant. Specifically, items found on pages 2 & 3 of the report are critical and need to be addressed. The time frame for requiring these issues to be addressed is at the discretion of the approval authority (i.e. the Hearings Examiner, in this case).

cc: Tom Barton, Director, EHS Division
Tom Milne, Executive Director

JLLRA/jllra



Ken Eikenberry

RECEIVED ATTORNEY GENERAL OF WASHINGTON

HIGHWAYS LICENSES BUILDING • PB 71 • OLYMPIA WA 98504-8071

'95 JUN -1 P1:01

MAY 31 1995
Ecology Div.

Chris

CASE ASSIGNMENT MEMORANDUM

May 31, 1995

TO: Gale Blomstrom
Program Manager
 Agency SWRO-Ecology Mail Stop 47775

FROM: Mary Sue Wilson
Assistant Attorney General
 Phone 459-6057 Mail Stop 40117

SUBJECT: Green Mt. Resort v. Ecology
Clark County No. 95-2-02078-3

In regard to the above recently filed action, I have been assigned to handle this case. Please provide the following:

- Identify staff contact person familiar with the issues.
- Provide copies of relevant documents in the agency's file regarding the case.
- Describe the agency's position (including settlement posture) in this case.
- Other _____

We would appreciate your response on the attached form by June 15, 1995.

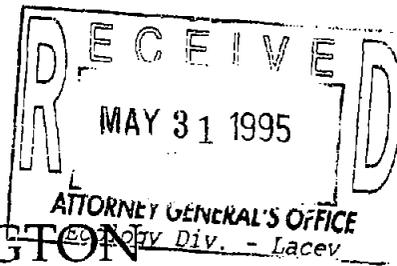
Attachment
cc: Enforcement
Linda Pilkey-Jarvis
AG/004



Ken Eikenberry

ATTORNEY GENERAL OF WASHINGTON

7th FLOOR HIGHWAYS-LICENSES BLDG., ● PB-71, ● OLYMPIA WA 98504-8071



CLIENT/ATTORNEY CONFIDENTIAL

M E M O R A N D U M

TO: Mary Sue Wilson
Assistant Attorney General

FROM: Gale Blomstrom
Agency SWRO-Ecology

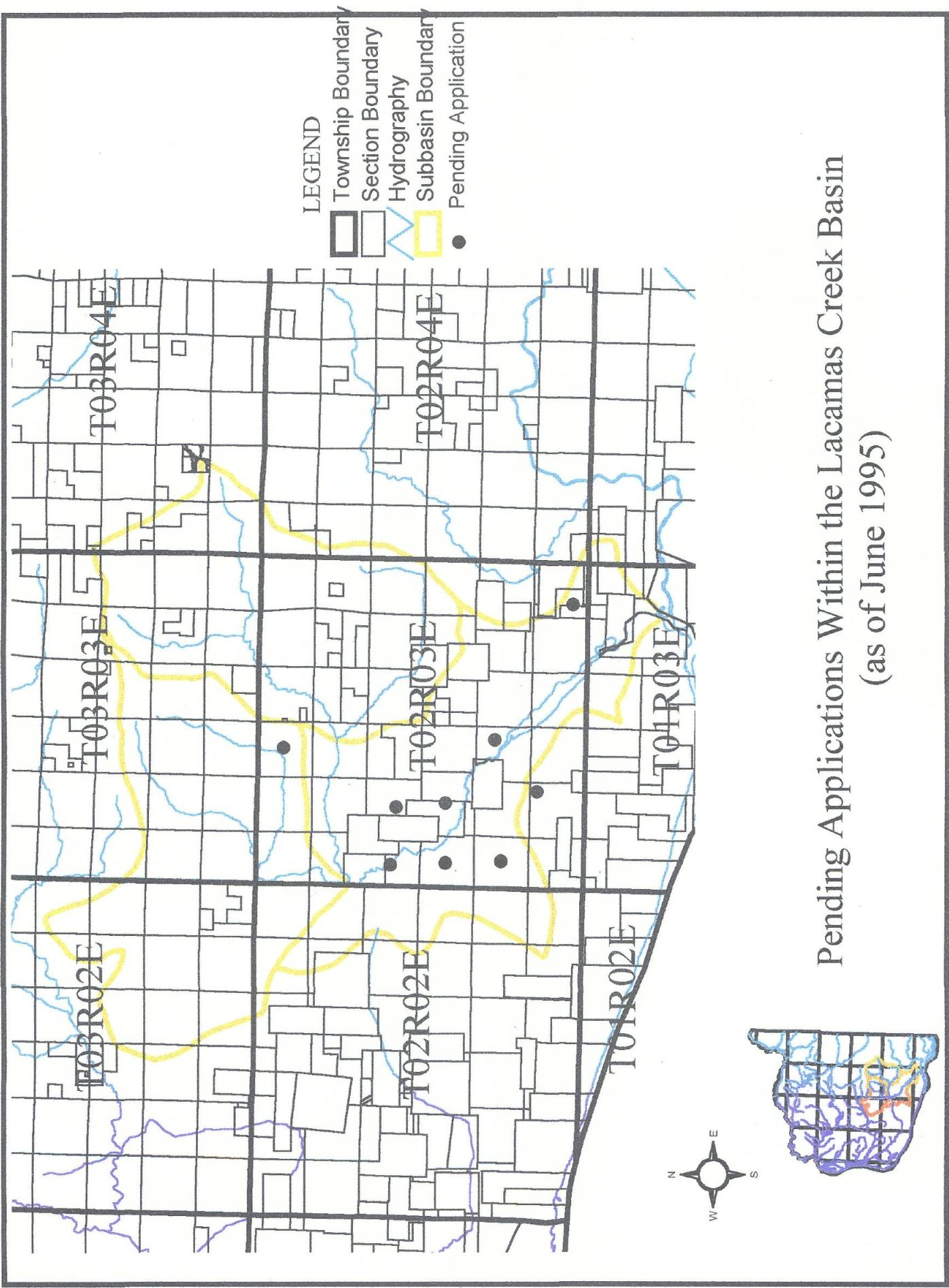
SUBJECT: Green Mt. Resort v. Ecology, Clark County No. 95-2-02078-3

This is in reply to your request for information on the above case.

- (1) Staff contact person: Chris Anderson Phone: 407 0272
- (2) Relevant documents are attached: _____
- (3) Agency's position (including settlement posture) in this case:

- (4) Other: _____

Attachments



Pending Applications Within the Lacamas Creek Basin
 (as of June 1995)



EXHIBIT # 136

DEPARTMENT OF
COMMUNITY DEVELOPMENT
Planning Division

July 11, 1995

Tom Milne, Executive Director
and Tom Barton, Director of Environmental Health
Southwest Washington Health District
P.O. Box 1870 -- 2000 Fort Vancouver Way
Vancouver, WA 98668

Dear Tom and Tom:

Following up on our meeting last week, we wanted to bring to your attention a high-profile application that needs a high degree of coordination in our review. Given the contentious nature of the testimony to date, the Green Mountain project will likely go the Board of Commissioners on appeal. We are coordinating with your staff and just wanted you both to be aware of this important case. We have outlined below a description of activities that have or will occur:

In a recent public hearing regarding Green Mountain Golf Course, the Examiner was seeking an evaluation from the Health District of water supply to the proposed use. Planning staff had been in contact with Clark Public Utilities and the applicant regarding this issue, but had received no specific analysis from your staff, although the provision of on-site sewage disposal had been adequately covered.

Clark County received copies of correspondence between the proponent of the Green Mountain Golf Course with Health District staff (attached, dated May 22, 1995) regarding the Green Mountain Supply Well on June 9, 1995 as the staff report was being mailed. ~~The decision to not use this well for supply to the golf course, but to dedicate water only to the Mountain Glen subdivision is a major shift in the direction of this case regarding the source of water supply, as it is different than that identified in the EIS. Not having this information in hand when the staff report was being issued severely hampered our ability to evaluate this case.~~ We followed up with a letter to the applicant, directing them to write up a new water resources plan for the golf course. The elements of this plan were to identify sources for potable supply and irrigation water, and demonstrate fire flow capability. The public hearing took place on June 20th, where the applicant presented a plan, outlining how the water supply is to be obtained for this use.

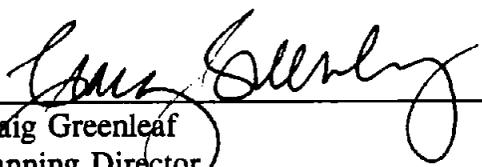


Tom Milne and Tom Barton
July 11, 1995
Page 2

Examining this issue is clearly within the role of the Health District, whom Planning staff and the Hearing Examiner rely upon to provide expert testimony and review of information regarding water supply. Health District comments must be submitted into the record, and will be very important in determining the outcome of this case. The Planning Division has requested that your staff respond to the water resources plan presented by the applicant, and make their findings known to the Examiner no later than July 19th.

We appreciated our meeting last week and look forward to progress in all areas we discussed. See you soon.

Sincerely,



Craig Greenleaf
Planning Director



Ed Gallagher
Director of Community Development

CG/EG:DLW:aw

Attachments

c: John Louderback, Environmental Health Supervisor
Pat McDonnell, County Administrator

h:\rural\gmt-hd.ltr



EXHIBIT #

46

May 22, 1995

RECEIVED

JUN 09 1995

**CLARK COUNTY
Plan & Dev. Review**

Mr. John Louderback
Southwest Washington Health District
2000 Fort Vancouver Way
PO Box 1870
Vancouver, WA 98668

RE: WATER SYSTEM FOR MOUNTAIN
GLEN SUBDIVISION

Dear Mr. Louderback:

This letter is intended to address your concerns regarding the long term use of the well on Green Mountain property.

We recognize that the well has a capacity in excess of the needs of the twelve lot subdivision. Once the well house and facilities are complete, ownership will be transferred to Clark Public Utilities and will remain under their control. The only agreement we have regarding the well is for domestic service for Mountain Glen Subdivision. The pumps and electrical services installed are designed for that service level and would be inadequate for commercial use, such as the Golf Course Club House.

Water service for the golf course and club house will be determined subsequent to approval of the pending conditional use permit. Currently, we expect golf course water need's will be satisfied through a separate water system which would be submitted for review and approval at that time.

Yours truly,

Paul A. DeBoni, A.I.C.P.
Vice President

PAD/sem

c.c. Steve Prather, Clark Public Utilities



A customer-owned public utility district

EXHIBIT # 117 ○

Nancy Barnes
Carol Curtis
Jane Van Dyke

Chief Executive Officer/
General Manager
W. Bruce Bosch

May 26, 1995

Southwest Washington Health District
Environmental Health Div.
attn.: John Louderback
PO Box 1870
Vancouver, WA 98668

RECEIVED

JUN 6 9 1995

**CLARK COUNTY
Plan & Dev. Review**

RE: Water system for Mountain Glen Subdivision

Dear Mr. Louderback:

This letter is intended to confirm Clark Public Utilities position on the Mountain Glen Subdivision water supply per our discussion on May 25, 1995. The water system currently being installed and the existing supply well will serve only the Mountain Glen Subdivision. Clark Public Utilities will assume ownership and operation once the system is completely installed, inspected, tested and approved by Clark Public Utilities and the Southwest Washington Health District as it is a Group B water system.

Please contact my office to schedule an inspection by your staff. If there are Health Dept. fees or additional water quality testing needed contact my office. I can be reached at 992-8023.

Sincerely,

A handwritten signature in cursive script that reads "Steve Prather".

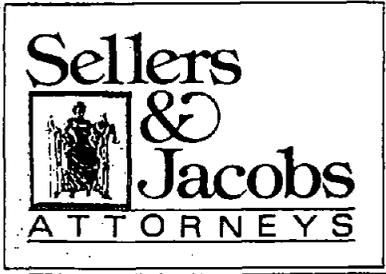
Steven S. Prather
Water Quality Manager

cc: Paul A. DeBoni, A.I.C.P.
Rose Andrzejczak, SWHD

*** TRANSMISSION REPORT ***

PRINT TIME 07/12 '95 08:32 ID:CLARK COUNTY COMM DEVL

No.	START TIME	MODE	LOCATION	STORE PAGE	TX PAGE	RX PAGE	TOTAL TIME	CODE
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JUL 05 1995

CLARK COUNTY
Plan & Dev. Review

EXHIBIT # 185

Angela
Dane

James L. Sellers †
Donald L. Jacobs †

July 5, 1995

Mr. Larry Epstein P.C.
722 SW 2nd St., Suite 400
Portland, OR 97205

RE: Green Mountain Golf Course

Dear Larry:

It is my understanding that at the conclusion of the public hearing you determined to hold the record open until June 5, 1995 for addition of any new evidence, and then until July 19, 1995 for rebuttal by each new party.

After reviewing the record with my clients we have concluded the evidence submitted to date adequately supports our proposal as required by the County Zoning Ordinance. I am hopeful you have all of our submittals for review within the record. It was clear that the night of the June 20, 1995 hearing was the first time you had seen some of the plans and reports we've submitted to County staff.

There are two outstanding issues that call for further documentation. The attached letter from the US Fish and Wildlife Service demonstrates that the management plan entered into by Green Mountain Resort, Inc. and the US Fish and Wildlife for the protection of *Lamatium Bradshawii*, is totally voluntary and not for compliance of any jurisdictional regulations. The attached letter from Richard Cyr from Clark Public Utility District and the response from Paul DeBoni, clearly indicate that the Water Service Delivery Plan for the project will be based on a combination of three wells. One currently on the property which may or may not provide service to a portion of the golf course project, a new well within the golf course area which would be added to the satellite service system and a third deep source independent well which would provide irrigation water for the golf course. It is important to note CPU has indicated in previous correspondence that both the existing well and new satellite well would be available as an "emergency backup" water source for golf course irrigation, should the need arise.

Post Office Box 61535
500 West 8th Street, Suite 270
Vancouver, WA 98666
360/695-0421
Fax 360/737-6550

400 Princeton Building
614 S.W. 11th Avenue
Portland, OR 97205
503/227-6355

The Fernwell Building
West 505 Riverside, Suite 500
Spokane, WA 99201
509/458-0480

Please reply to Vancouver Office

† Oregon & Washington Bars



Mr. Larry Epstein, P.C.

July 5, 1995

Page 2

CPU continues to take the position that the details of the Service Delivery System should be negotiated subsequent to the Conditional Use Approval by Clark County.

We would like to retain the right to rebut any and all testimony submitted by opponents to the project once all documents have been received by the County.

Sincerely yours,



James L. Sellers
SELLERS & JACOBS, Attorneys

JLS/kdj
Enclosures



June 30, 1995

Mr. Richard Cyr
Clark Public Utilities
PO Box 8900
Vancouver, WA 98668

RE: YOUR LETTER OF JUNE 28, 1995
CONCERNING GREEN MOUNTAIN GOLF COURSE

Dear Richard:

Thank you for your letter of June 28, 1995 acknowledging our current plans for golf course water systems. Clark County Planning Staff has indicated a need to provide information clarifying what they view as an inconsistency in our Water System Delivery Plans. At issue is the fact the existing well has only been approved for Mountain Glen Subdivision despite the fact that it has been referenced as a water source in the Green Mountain Resort EIS. We understand and agree that any other project use of the existing well must involve installation of higher volume pumps and reclassification as a Group A well. Since the only approval we now have from the County is the Mountain Glen Subdivision, we have not been concerned about the use limitation at this time.

It is our expectation the existing well along with another similar well further south on our property will constitute the satellite water system for all future uses of the property. The completed Geo - hydrological studies along with the actual flows demonstrated by our existing well constitute compelling evidence of the adequacy of the groundwater source for any and all uses contemplated for the property.

We have also incorporated the recommendation from Pacific Groundwater Consultants for a third well into our plans. The third well would tap into the lower Troutdale Aquifer and provide the primary groundwater source for golf course irrigation. We would expect to work closely with your office to insure that groundwater withdrawal from this well would not affect the satellite system.

YOUR LETTER OF JUNE 28, 1995, CONCERNING
GREEN MOUNTAIN GOLF COURSE
JUNE 30, 1995

The overall golf course water irrigation system would include:

1. A pond system containing a minimum of 21 days of irrigation water.

The ponds would be charged from surface water run off and well water.
2. A "state of art" computerized irrigation system designed to provide non peak period "on demand" irrigation. This system will reduce irrigation water needs by more than 50% over traditional manual methods.
3. The primary ground water source will be the new well, with emergency backup from a CPU Group A well or wells on the property. (Note: use of the existing well would require an upgrade from Group B to Group A).

If we are successful in securing County approval for the entire Master Planned Resort, we would include the package sewerage treatment plant we have discussed in the past. The fully treated wastewater would be used to charge the ponds as part of a water "reuse plan". The new well would become a supplemental source rather than primary source for filling the lakes.

Thank you for your assistance and continued cooperation.

Yours truly,



Paul A. DeBoni
Vice President

PAD/MLr

GMR2/cjt/ref. to letter and wells



A customer-owned public utility district

EXHIBIT # 75

Commissioners

- Nancy Barnes
- Carol Curtis
- Jane Van Dyke

Chief Executive Officer/
General Manager

W. Bruce Bosch

June 28, 1995

Mr. Paul DeBoni
 Green Mountain Resorts, Inc.
 7820 N.E. Holman Street, Suite B-10
 Portland, Oregon 97218

RECEIVED

JUN 28 1995

CLARK COUNTY
Plan & Dev. Review

RE: *Water Service - Green Mountain Golf Course*

Dear Mr. DeBoni:

As you are aware, Clark Public Utilities has agreed under the terms of the Clark County Coordinated Water System Plan (CWSP) to provide public water service to the approved Mountain Glen subdivision. Currently the Mountain Glen well is only approved as a group B facility to serve this cluster subdivision. Any other potential uses would require modifications to the system and review and approval by all involved agencies. We would be happy to discuss alternatives with you at any time.

It is my understanding that your current plans call for an additional well to be constructed to provide potable domestic water service to your proposed golf course club house and maintenance facility. If this project is approved, we are willing (in our role as Clark County's Satellite Management Agency) to provide satellite management services. It is also my understanding, you intend to install an additional well to provide for the golf course's irrigation water needs. We have no objection to the installation of an irrigation well as long as it is demonstrated that it's operation will not significantly impact Clark Public Utilities and the local private wells within the area.

It is our intent to monitor groundwater levels in the area as part of the operation of the Mountain Glen water system. If you have any questions or comments, please contact me directly.

Sincerely,

Richard C. Cyr
 Director of Water Services

cc: D. Wechner

Post-It™ brand fax transmittal memo 7671		# of pages
To: <u>Dave Wechner</u>		From: <u>Richard Cyr</u>
Co.	Co.	
Dept.	Phone #	
Fax #	Fax #	



EXHIBIT # 53

DEPARTMENT OF
COMMUNITY DEVELOPMENT
Planning Division

June 15, 1995

Mr. Paul DeBoni
Coastal Management Group, Inc.
7820 NE Holman Street
Airport Business Park
Portland, OR 97218

Dear Mr. DeBoni:

Clark County received copies of your correspondence with Clark Public Utilities and the Health District (attached) regarding the Green Mountain Supply Well on June 9, 1995 as the staff report was being mailed. The commitment to not use this well for supply to the golf course, but to dedicate water only to the Mountain Glen subdivision is inconsistent with your earlier correspondence regarding the source of water supply and that identified in the EIS. The public hearing is now scheduled for June 20th at 7:00 p.m. You may wish to present a plan that you are willing to commit to which outlines how the water supply is to be obtained for this use. The elements of this plan should identify sources for potable supply and irrigation water, and demonstrate fire flow capability. I think this issue is the keystone of your project, and is essential to your sustaining the burden of proof to the examiner that the project can be approved as proposed.

I received a review of the Integrated Pest Management Plan from Water Quality staff (attached) that raises some pertinent issues. You may want to prepare a response before the hearing, or meet with Water Quality staff to see how these issues should be addressed at the hearing.

In regards to issues you have raised about the review of commercial aspects of the golf course, and the different stages of review (CUP approval versus Site Plan approval), I don't see any difference in our approach but let me try to clarify my perspective. The CUP stage of this review identifies what uses are going to be involved in the proposal, and how those uses will affect elements of public health, safety and general welfare. This typically includes impacts to adjacent or nearby property owners, environmental impacts, and issues of operation that need to be better defined for a particular property and use. The specific details of landscaping, parking spaces, buildings or other design issues are to be reviewed through Site Plan approval. This was stated in the staff report, and I want to reiterate that design features of the commercial aspects of the project are not being evaluated during public hearing, only the use that the project



Southwest Washington Health District

SERVING CLARK, KLICKITAT AND SKAMANIA COUNTIES

June 7, 1995

RECEIVED

JUN 9 1995

**CLARK COUNTY
Plan & Dev. Review**

Mr. Steve Prather
 Clark Public Utilities
 PO Box 8900
 Vancouver WA 98668-8900

RE: Water system for Mountain Glen Subdivision

Dear Mr. Prather:

Thank you for your letter dated May 26, 1995, clarifying the usage of the water well for the above proposed 12 lot subdivision.

As you have stated in your letter, the existing supply well will serve only the Mountain Glen Subdivision. The water system will be owned and operated by Clark Public Utilities (CPU) once installed, tested and approved by CPU and Southwest Washington Health District (SWWHD) as a Group B water system. All water quality and quantity criteria must meet the guidelines established by CPU and SWWHD.

Water Rights (Permit No. G-2-22990-P) for this existing well have been secured from the Washington State Department of Ecology in 1986. The Water Right states the use is to be limited to a community, domestic supply.

It is unclear as to the water system which will eventually serve the proposed Green Mountain Resort Golf Course and Club House. The club house would be classified as a Group A water system, requiring the review and approval of the Washington State Department of Health. The golf course water system will indeed need a Water Right since the appropriation threshold of 5,000 gallons per day would be easily exceeded.

I am not aware of current plans for this source of water. It will be the responsibility of Green Mountain Resorts to assure a continued supply of water is available to meet the demands of the golf course and the club house.

ADDRESS REPLY TO APPROPRIATE OFFICE:

ADMINISTRATIVE OFFICE
 VANCOUVER/CLARK COUNTY HEALTH CENTER
 P.O. BOX 1870 - 2000 FORT VANCOUVER WAY
 Vancouver, WA 98668
 (206) 695-9215

STEVENSON, SKAMANIA COUNTY HEALTH CENTER
 .961 MILE POST - 2nd ST. EXT. - P.O. BOX 162
 Stevenson, WA 98648
 (509) 427-5138

WHITE SALMON, KLICKITAT COUNTY HEALTH CENTER
 170 N.W. LINCOLN - P.O. BOX 159
 White Salmon, WA 98672
 (509) 493-1558

GOLDENDALE, KLICKITAT COUNTY HEALTH CENTER
 228 WEST MAIN STREET
 Goldendale, WA 98620
 (509) 773-4565



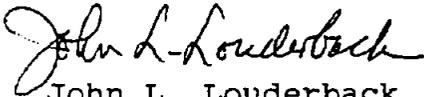
Page 2
Mountain Glen Subdivision
June 7, 1995

The remaining issue is the potential impact to neighboring wells. While this well has been rated in excess of 300 gallons per minute and the 12 lot subdivision could function on 37 gallons per minute (State standards), there will not be a significant demand on the well. The issue of off-site impacts may be minimal. If the well is not pumped at its high volume capacity, I would think the potential impact would be negligible.

Based on your letter dated May 26, 1995, I am issuing an "approval to proceed" with the remaining applications and SWWHD requirements. I am enclosing a Group B Application which you can return to our office when complete. All applicable fees and information must be submitted with the application.

If you have further questions or comments, please feel free to call me at 696-8428.

Sincerely,



John L. Louderback
Environmental Health Supervisor

JLL/cat

c: Dave Wechner, Clark County Community Development
Robert F. Sweeney, Environmental Health Supervisor, SWWHD
Carla Sowder, Environmental Health Specialist, SWWHD
Rose Andrzejczak, Environmental Health Specialist, SWWHD
Paul DeBoni, Green Mountain Resorts

Enclosures



A customer-owned public utility district

EXHIBIT # 147

Commissioners

Nancy Barnes
Carol Curtis
Jane Van Dyke

**Chief Executive Officer/
General Manager**

W. Bruce Bosch

May 26, 1995

Southwest Washington Health District
Environmental Health Div.
attn.: John Louderback
PO Box 1870
Vancouver, WA 98668

RECEIVED

JUN 09 1995

**CLARK COUNTY
Plan & Dev. Review**

RE: Water system for Mountain Glen Subdivision

Dear Mr. Louderback:

This letter is intended to confirm Clark Public Utilities position on the Mountain Glen Subdivision water supply per our discussion on May 25, 1995. The water system currently being installed and the existing supply well will serve only the Mountain Glen Subdivision. Clark Public Utilities will assume ownership and operation once the system is completely installed, inspected, tested and approved by Clark Public Utilities and the Southwest Washington Health District as it is a Group B water system.

Please contact my office to schedule an inspection by your staff. If there are Health Dept. fees or additional water quality testing needed contact my office. I can be reached at 992-8023.

Sincerely,

Steven S. Prather
Water Quality Manager

cc: Paul A. DeBoni, A.I.C.P.
Rose Andrzejczak, SWHD



EXHIBIT # 46

May 22, 1995

RECEIVED

JUN 09 1995

**CLARK COUNTY
Plan & Dev. Review**

Mr. John Louderback
Southwest Washington Health District
2000 Fort Vancouver Way
PO Box 1870
Vancouver, WA 98668

RE: WATER SYSTEM FOR MOUNTAIN
GLEN SUBDIVISION

Dear Mr. Louderback:

This letter is intended to address your concerns regarding the long term use of the well on Green Mountain property.

We recognize that the well has a capacity in excess of the needs of the twelve lot subdivision. Once the well house and facilities are complete, ownership will be transferred to Clark Public Utilities and will remain under their control. The only agreement we have regarding the well is for domestic service for Mountain Glen Subdivision. The pumps and electrical services installed are designed for that service level and would be inadequate for commercial use, such as the Golf Course Club House.

Water service for the golf course and club house will be determined subsequent to approval of the pending conditional use permit. Currently, we expect golf course water need's will be satisfied through a separate water system which would be submitted for review and approval at that time.

Yours truly,

Paul A. DeBoni, A.I.C.P.
Vice President

PAD/sem

c.c. Steve Prather, Clark Public Utilities

EXHIBIT # 43



Green Mountain RESORT

*Planning
Dave
Army*

May 17, 1995

RECEIVED

Mr. Dave Wechner
Senior Planner
Clark County Washington
Planning Division
1403 Franklin Street
PO Box 9810
Vancouver, WA 98666-9810

RECEIVED

MAY 22 1995

**CLARK COUNTY
Plan & Dev. Review**

MAY 19 1995

3pm

Clark County
Community Dev/Public Works

RE: GREEN MOUNTAIN GOLF COURSE

CUP 92-030

Dear Dave:

This is a follow up of our meeting on May 9, 1995. I was somewhat surprised that only you and water quality staff attended the meeting. After the last hearing continuation, Craig Greenleaf agreed we would have a meeting with all involved staff before the next hearing. My primary concern is not to be surprised by the contents of the staff report as I was last time. If the issues we discussed at our May 9th meeting are all that remains there may not be a need for another meeting. You indicated you expect to write the staff report on the 8th or 9th of June. I would very much appreciate a call if you find any unresolved issues at that time.

The following is my understanding of the issues at this time.

Septic Tank (club house/maintenance building)

We must either use the previously approved drainfield area or work with Rose to identify a new area. If we use the existing approved area, we will have to establish that golf activities will not damage the drainfield. Our engineers, Hopper & Dennis, will work toward a final conclusion before May 31, 1995. In either case the issue is solvable.

Road Relocation (Ingle Road)

Our reconstruction of Ingle Road near Mountain Glen Subdivision demonstrates Ingle Road had no sub-base. Reconstruction at the relocated site will clearly produce a superior roadway. Road standards in effect at the time our plans were submitted will apply. This means preliminary comments from the Transportation Division for design changes based on recent revisions to the road standards ordinance do not apply. An example is the addition of a bicycle path. Not only was this not a code requirement when the plans were submitted, but it would not go anywhere. Reconstruction of Ingle Road near Mountain Glen Subdivision last year did not include a bike path. Any additions to Ingle Roadway width would create wetland impacts which we are trying to avoid.

Endangered species

I provided you with a copy of the management agreement with the U.S. Fish and Wildlife Service for protection of the plant. The agreement would be triggered by a condition of approval for

P.O. Box 1370 Vancouver, WA 98660
(206) 693-5907 (800) 443-6612

implementation of the conservation easement near Lacamas Creek. No active use of the area would be allowed within the easement.

Wetland Impact

We submitted a Wetland Impact Mitigation Plan in March. Hopper & Dennis completed flow calculations to satisfy staff concerns regarding hydraulic impacts. We have not been informed of any additional concerns or questions. U.S. Corps of Engineers indicated we can expect a final approval letter in June.

Water Quality

C.P.U. has agreed to provide water for fire flow, domestic water and irrigation "back up". We have an existing water right permit for 30 G.P.M. and an application pending for ground water and surface water for course irrigation. We have filed a Writ of Mandamus against the Department of Ecology to issue water rights permits which have been pending for almost three years. The on site well has been tested to produce 325 G.P.M. for 24 hours. It is over 600 feet deep extending into the lower Troutdale Aquifer. (GMSW)

My understanding is, you will recommend securing of the permits as a condition of approval prior to the issuance of grading permits.

Archeological

Archeological surveys and record reviews have shown no evidence of significant cultural resources anywhere on the property. On July 28, 1994, we sent out letters to all listed Indian tribes with a proposed Memorandum of Understanding to monitor the site during construction. The only response was from Jefferson Davis representing the Cowlitz Tribe. Revisions were made to the M.O.A. and it was sent out for review and approval to the same tribes on December 9, 1994. No responses were received.

Mr. David Rice, Archaeologist with the U.S. Army Corps of Engineer reviewed the survey and the draft M.O.A. He concluded there was no evidence of federally protected historic or cultural resources which would justify the preparation of an M.O.A.

There has been no findings to indicate a need for any approval conditions regarding archeological or historic resources.

Wildlife

The State Department of Wildlife and the E.I.S. identify no wildlife issues requiring special attention or impacts. Studies prepared by project consultants support this.

Vegetation

The significant oak trees identified on the property are not planned for removal. Maintenance of as much existing vegetation is planned with substantial augmentation with indigenous landscaping. There does not appear to be reason for conditions as long as the proposed plan is not changed.

At this point I don't see many unresolved issues relating to public policy, environmental impacts or regulations that justify approval conditions.

My main purpose of this letter is to provide you with my thoughts regarding possible conditions to minimize the possibility of surprises once the staff report is completed. Since you do not

expect to complete the report until ten days before the hearing we will not have an opportunity to discuss the draft before it becomes an official document.

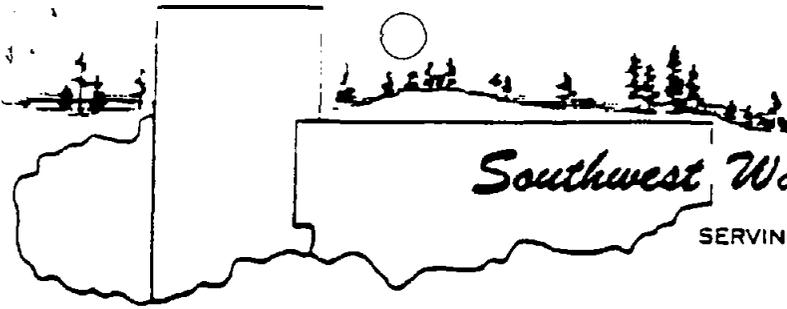
I would very much appreciate your thoughts on these points. Please call me.

Yours truly,



Paul A. DeBoni, AICP
Vice President

PAD/klr
L4/wech3/green mountain golf course



Southwest Washington Health District

SERVING CLARK, KLICKITAT AND SKAMANIA COUNTIES

MEMORANDUM

TO: file for Green Mountain Resorts Inc., CUP 92-030-17/20/213

FROM: Rosemarie J. Andrzejczak, R.S., EHS

DATE: 6-8-94

RE: Status of Water Right Application

Spoke with Sherry Fox of the SW Region Office for WDOE. Ms. Fox stated the following:

- Green Mountain Resorts is not a high priority + DOE is not working on the application for increased water rights
- DOE is working on public health + safety (referrals from WDOH) and charge applications. Green Mtn. Resorts application is not considered a charge application, but is considered a new application due to the request for increased water volume. Even though there is an existing water right for the Green Mountain Supply Well (GMSW), the application to DOE for increased water rights is considered a new application.
- 2-3 yrs wait for review of application for water rights for this project !!

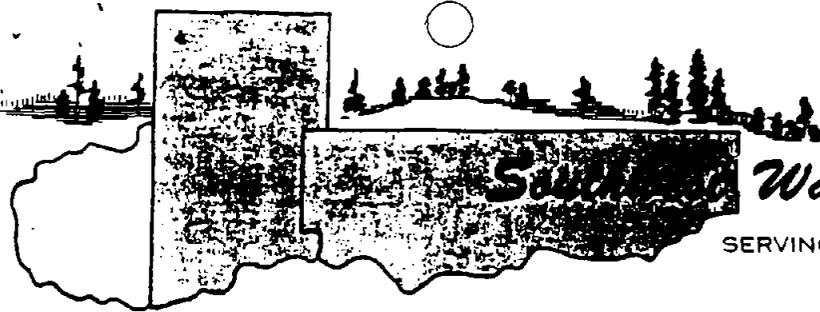
ADDRESS REPLY TO APPROPRIATE OFFICE:

ADMINISTRATIVE OFFICE
 VANCOUVER/CLARK COUNTY HEALTH CENTER
 P.O. BOX 1870 - 2000 FORT VANCOUVER WAY
 Vancouver, WA 98668
 (509) 886-8275

STEVENSON/SKAMANIA COUNTY HEALTH CENTER
 961 MILE POST - 2ND ST EXT - P.O. BOX 182
 Stevenson, WA 98648
 (509) 427-5138

WHITE SALMON/KLICKITAT COUNTY HEALTH CENTER
 170 N.W. LINCOLN - P.O. BOX 155
 White Salmon, WA 98672
 (509) 493-1558

GLADSTONE/CLATSOP COUNTY HEALTH CENTER
 228 WEST MAIN STREET
 Gladstone, WA 98620
 (509) 773-4965



Southwest Washington Health District

SERVING CLARK, KLICKITAT AND SKAMANIA COUNTIES

MEMORANDUM

TO: CLARK COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT
ATTENTION: DAVE WECHNER, PLANNER

FROM: ROSEMARIE J. ANDRZEJCZAK, R.S.
ENVIRONMENTAL HEALTH SPECIALIST *RA*

DATE: MAY 27, 1994

RE: CUP 92-030 GREEN MOUNTAIN RESORTS

RECEIVED

MAY 31 1994

Clark County
Plan & Dev. Review

This proposal has been reviewed and the following comments shall be noted:

LAND USE DETERMINATIONS MADE BY THE SOUTHWEST WASHINGTON HEALTH DISTRICT ARE BASED ON INFORMATION PROVIDED BY THE APPLICANT, FINDINGS, TECHNOLOGY, REGULATIONS AND POLICIES IN EFFECT AT THE TIME OF THE EVALUATION. SUBSEQUENT PERMIT APPLICATIONS WILL BE REQUIRED TO ADHERE TO REGULATIONS AND POLICIES IN EFFECT AT THE TIME SUCH APPLICATION IS MADE. WHENEVER THE REGULATIONS OF THE SOUTHWEST WASHINGTON HEALTH DISTRICT ARE IN CONFLICT WITH THE REGULATIONS OF ANOTHER JURISDICTION, (i.e. CITY, COUNTY, OR STATE), THE MOST STRINGENT OF THE REGULATIONS SHALL APPLY. ACCORDINGLY, THE FOLLOWING DETERMINATIONS WERE MADE AT THE TIME OF THE PROJECT EVALUATION AND ARE SUBJECT TO REVISION IF CONDITIONS CHANGE OR ADDITIONAL INFORMATION BECOMES AVAILABLE.

Wastewater Treatment and Disposal:

The clubhouse for this proposal has been granted a conditional approval for a Pressure Distribution On-site Sewage Treatment System, provided wastewater flows are under 3500 gallons per day (gpd). The report in the FEIS from Pacific Groundwater Group indicates flows for the clubhouse to be "on the order of 4000 gpd". Any proposed sewage system with flows over 3500 gpd must be approved by the Washington State Department of Health as a Larger On-site Sewage System (LOSS). The applicant has not, to our knowledge, received approval for a LOSS from DOH. Normally, sewage system approval is required prior to the public hearing for a Conditional Use Permit.

If the average daily flow for the clubhouse is over 3500 gpd, the conditional approval granted by the Health District would be void. If total average flows are less than 3500 gpd, the applicant must provide a system design with detailed flow calculations and projected attendance figures to the Health District prior to site plan approval. The design shall provide for the installation of a water or pump meter to monitor wastewater flows into the on-site sewage treatment system. Should actual wastewater flows into the system exceed design flows at any time, additions or modifications to the system would be required.

NOTE: Department of Health requirements for Larger On-site Sewage Systems are not the same as the requirements for systems with flows of less than 3500 gpd. The test holes approved by the Health District for a Pressure Distribution Sewage Treatment System for the clubhouse may not meet those requirements. However, another location on the site may meet DOH criteria; the applicant should contact a private consultant for assistance in this matter.

ADDRESS REPLY TO APPROPRIATE OFFICE:

ADMINISTRATIVE OFFICE
VANCOUVER/CLARK COUNTY HEALTH CENTER
P.O. BOX 1870 - 2000 FORT VANCOUVER WAY
Vancouver, WA 98668
(206) 695-9215

STEVENSON/SKAMANIA COUNTY HEALTH CENTER
98L MILE POST - 2nd ST EXT. - P.O. BOX 162
Stevenson, WA 98648
(509) 427-5138

WHITE SALMON/KLICKITAT COUNTY HEALTH CENTER
170 N.W. LINCOLN - P.O. BOX 159
White Salmon, WA 98672
(509) 493-1558

GOLDENDALE/KLICKITAT COUNTY HEALTH CENTER
228 WEST MAIN STREET
Goldendale, WA 98620
(509) 773-4565

The applicant has suggested water reuse options to minimize groundwater withdrawal needs. One such option is reclaimed water use (also known as treated effluent or greywater reuse), however the applicant has not provided any information as to the status of this particular proposal. Department of Health review and approval is required and shall be obtained prior to site plan approval.

Groundwater:

The applicant has indicated an application has been made to the Washington State Department of Ecology to increase the water rights for the Green Mountain Supply Well (GMSW) from 30 gpm to 500 gpm. Health District staff have contacted DOE to ascertain the status of the water right application. At the time of this writing, that information has not been available from the Southwest Region Office. All efforts will be made to obtain this information prior to the currently scheduled public hearing date of June 9, 1994.

In a discussion with a DOE Headquarters staff member on May 26, 1994, Health District staff were told that five (5) years was not a unreasonable time frame to be waiting for a water rights permit from DOE. DOE staff for water rights applications has been drastically cut (from 60 to 6) through recent legislative action and the time frame for evaluation of water rights requests has increased accordingly. Health District Water Program staff have stated that greater than a 5 year delay in getting water rights applications through DOE is not unlikely. This may not apply to requests such as the applicant's which were made prior to staffing cuts at DOE.

Health District staff have concerns regarding the adequacy of the information provided in the Final EIS, including the hydrogeologic evaluation. It may be premature to consider this Conditional Use Permit without information from DOE regarding the water rights application. The entire proposal depends on whether the water right allocation is approved. Staff believes the impacts to neighboring wells, should the water right be approved, could be significant yet no mitigation measures have been proposed by the applicant other than monitoring of neighboring wells.

Reuel Emery, Geologist and Environmental Health Specialist with the Health District has reviewed the hydrogeologic evaluation. Following are his concerns:

(1) The well capacity could diminish by 50%, but the report doesn't clarify that the existing well capacity of 325 gpm is not even enough for the proposed use during the irrigation season.

(2) The advancing cone of depression during the irrigation season will surely encounter the cones of depression of other wells in the area and cause serious rapid drawdown; the data from the well test appears to only consider water levels in at rest conditions, not considering what might happen when several or many wells are in use at the same time in this area.

(3) The consultant has understated the growing season for this region; it is generally considered to be March through October, which is eight months, not three months as indicated by the applicant.

(4) The reservoir, at 250,000 gallons capacity, is expected to make up disparity in needed flow, or approximately 165 gpm; under continuous pumping conditions, the reservoir would be emptied in less than 24 hours, yet there is no information provided as to which of the wells on this site would be used to keep the reservoir filled or how that would be accomplished.

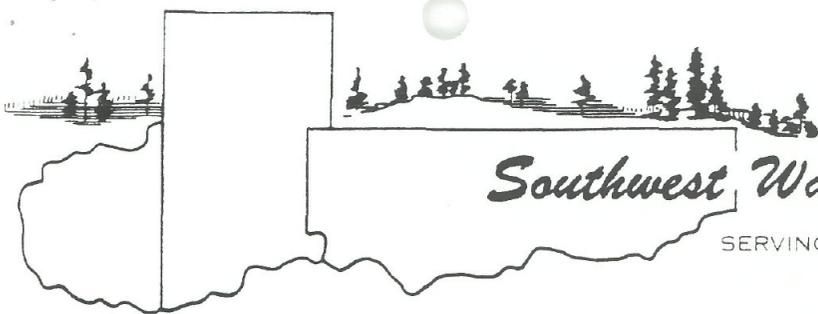
Water Supply

The applicant has indicated that the GMSW will serve as the potable water source for the clubhouse. This water system must receive Department of Health approval as a Class A Water System prior to site plan approval. A water right permit from DOE would be needed before DOH could evaluate the proposed water system.

Should you have any questions, please contact the Environmental Health Division at 696-8428.

rja

cc: Green Mountain Resorts Inc.
Robert F. Sweeney, R.S., Environmental Health Supervisor



Southwest Washington Health District

SERVING CLARK, KLICKITAT AND SKAMANIA COUNTIES

June 28, 1994

RECEIVED

JUN 30 1994

**Clark County
Plan & Dev. Review**

Mr. Paul DeBoni, AICP
Green Mountain Resort
P.O.Box 1370
Vancouver, WA 98660

RE: GREEN MOUNTAIN RESORT, CUP 92-030

Dear Mr. DeBoni:

Having received your letter dated June 16, 1994, clarification of Health District concerns regarding the proposed golf course for Green Mountain Resort seems to be needed.

The Health District must provide recommendations to county staff and the Land Use Hearings Examiner regarding proposed projects which may impact public health. We need detailed project information to evaluate all impacts and determine regulatory requirements. This information has not been available, including the Final EIS issued in May 1994.

The Health District memo to county staff dated May 27, 1994 stated a number of concerns as a result of our review of the Final EIS, which included a hydrogeologic evaluation. It should be noted that the hydrogeologic evaluation was not included in the Draft EIS and, therefore, was not available for review until the Final EIS was published.

While the FEIS lacks some of the detailed information the Health District needs, there was even less information available to Health District staff at the time the site evaluation was conducted for the club house. Thus, a conditional approval was granted for an On-Site Sewage Treatment and Disposal System Permit (ID#93021702) in April 1993 which was predicated on total combined flows (from all sources) at any common point of no more than 3500 gallons per day (gpd), including flows from the maintenance building and any other structures. At that time, staff informed Norm Gollub, consultant, that flow calculations would have to utilize fixture unit analyses (per the US EPA Design Manual for Wastewater Treatment and Disposal Systems) as standard calculation methods would result in a total wastewater flow over 3500 gpd. Staff recommended to Mr. Gollub that a qualified consultant be retained to assist in the design of the sewage system.

The preliminary attendance projections given to the Health District at the time of the site evaluation indicated an average daily attendance of approximately 137 people, with peaks of 225. If standard methods were used to calculate wastewater flow volumes, this proposal would far exceed the 3500 gpd limit, and thus would require Department of Health approval. Example: using standard calculation methods for analyzing wastewater flows, and EPA Design Manual figures for typical flows from a Country Club of 66.0-132 gpd per member, and 10.6-15.9 gpd per employee, a total volume of 3500 gpd wastewater flow would allow for only 26-53 visitors and no employees! Thus the applicant may have difficulty in not exceeding the flow limits based on current available information. This

ADDRESS REPLY TO APPROPRIATE OFFICE:

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(206) 695-9215

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96 L MILE POST, 2nd ST. EXT., P.O. BOX 162
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(509) 453-1558

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Goldendale, WA 98620
(509) 773-4565

38

calculation is based only on the projected daily attendance, not the peak attendance of 225. Although a "country club" is not proposed for Green Mountain Resort, these flow volumes are the only figures available at this time and WAC 246-272-150 requires that all on-site sewage systems conform to the EPA Design Manual.

In your letter of June 16, 1994, you stated that the 4000 gpd figure used in the hydrogeologic evaluation was a "worst case" figure. If a worst case figure is to be used, it must be 3500 gpd, not 4000 gpd. ANY system with design flows between 3500 and 14,500 gpd must receive DOH review and approval as a Larger On-site Sewage System (LOSS), per WAC 246-272-010(10); no variability is allowed in these volumes. It is unlikely this particular site would meet state requirements for siting of a LOSS, which are not the same as the site requirements for sewage systems with flows under 3500 gpd. A consultant experienced in the design of on-site sewage treatment systems may be able to design a "split system" for this site which might keep the flow volumes within the required limits. However, a new site evaluation, separate design and permit would be needed if the applicant wishes to locate another sewage system on this site. The site evaluation and preliminary design would be required prior to any hearings before the Land Use Hearings Examiner.

It appears the tees, greens and/or fairways for Holes 1 & 9 are in the area of the approved test holes. A sewage system must be installed in the approved area in original, undisturbed soil and cannot be covered with extensive fill. A new site evaluation of test holes closer to the club house may be in order, unless you can relocate/redesign Holes 1 & 9. The sewage system would not be allowed to be installed if extensive filling and/or grading is to be done in the approved area. Any modification of the approved area may be grounds for the permit being voided.

Due to the enormity of the proposed project, the lack of detailed information and the possible public health impacts of this proposal, we are requesting detailed wastewater flow analysis and attendance projections be submitted for our review prior to the next public hearing on the Conditional Use Permit, excluding the appeal hearing scheduled before the Board of Commissioners for July 5, 1994. A \$75.00 review fee will be required to be submitted at the time the flow projections are submitted. Include with the wastewater flow projections justification for the volumes used such as water usage information from similar existing facilities. Calculations shall be based upon peak attendance projections. Are tournaments proposed to be held at this site? If so, how will wastewater be disposed? Please include this information in the flow analysis.

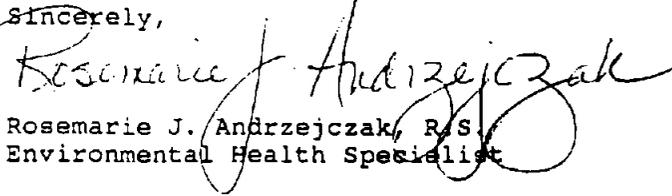
The option of water reclamation, which might decrease flows into an on-site sewage system, should be thoroughly explored as soon as possible. We would need confirmation from DOH when a water reclamation plan has received their approval before adjustments to flow volume could be made. Please contact George Schlender, Reuse Program Manager, WDOH, at (509) 456-2490 for information.

In summary, the applicant must submit for Health District review and approval, a detailed flow analysis and attendance figures, including technical justification if the volumes used in the analysis vary from those in the EPA Design Manual. This information shall be submitted prior to the next public hearing on this Conditional Use Permit. ALL issues as stated above or in our memo of May 27, 1994 MUST be resolved prior to site plan approval unless otherwise noted. Note: Health District staff has been informed by DOE that water right applications will be delayed for 2-5 years or longer due to staffing cuts. This could translate into a wait of up to 5 years or more for site plan approval.

Enclosed is a copy of the Health District staff report dated May 27, 1994. A list of consultants/designers is also enclosed. It is recommended the applicant contact a consultant experienced in on-site sewage treatment and disposal systems for assistance with this project as soon as possible.

Should you have any questions, please contact the Environmental Health Division at 696-8428.

Sincerely,


Rosemarie J. Andrzejczak, R.S.
Environmental Health Specialist

rja

Enclosures: 2

cc: Dave Wechner, Senior Planner, Clark County Department of Community
Development
Robert F. Sweeney, R.S., Environmental Health Supervisor



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

P.O. Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

March 17, 1997

Clark Public Utilities
PO Box 8900
Vancouver, Washington 98668-8900

Dear Sir or Madame:

Effective March 14, 1997, Water Permit No's. G2-29336 and G2-28677 are hereby assigned to you from Green Mountain Resort, Inc. of Vancouver, Washington.

Sincerely,

A handwritten signature in cursive script that reads "Sheri Carroll".

Sheri Carroll
Shorelands & Water Resources

SC:th

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

ASSIGNMENT OF APPLICATION OR PERMIT TO APPROPRIATE WATER

\$5.00 ASSIGNMENT FEE

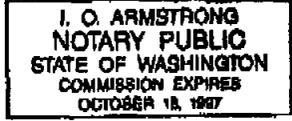
I, Green Mountain Resort, Inc. of Clark
(Applicant/Permittee) (County)
Washington do hereby assign, transfer and set over unto Clark Public Utilities (CPU)
(State) (Assignee)
of P.O. Box 8900, Vancouver WA 98668-8900
(Address)
360-699-3260 all of my right, title and interest in and to Water Right Application
(Phone Number) (Application/Permit)
Number G2-28677 for the appropriation of waters of Well
(Stream, Lake, Spring, Well, etc.)
in Clark County, as said Application appears of record in the
(Application/Permit)
office of the Department of Ecology, Olympia, Washington.

Witness my hand this 8th day of May 19 96

[Signature] / Vice President
Green Mountain Resort, Inc.
[Signature]
CLARK PUBLIC UTILITIES - WATER QUALITY MANAGER

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of May, 1996.

[Signature]
Notary Public



*Assignment OK
Send letter
3/14/97
JC*

STATE OF WASHINGTON Oregon }
County of Multnomah } ss.

I, Paul A. DeBoni, being first duly sworn, depose and say that I have
(Applicant/Permittee)
read the above Assignment of Application or Permit to Appropriate Water; that I know the contents thereof; and that the
facts therein stated are true.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of May, 19 96

[Signature] / VICE PRESIDENT
(Applicant/Permittee)
GREEN MOUNTAIN RESORT, INC.

Subscribed and sworn to before me this 8th day of May, 1996

[Signature]
Notary Public





POST-DECISION REVIEW -- TYPE I
STAFF REPORT AND DETERMINATION

Date: August 23, 1996

To: Paul DeBoni
2817 NE Ingle Road
Vancouver, WA 98682

From: Jerri Bohard, (Acting) Planning Director *Jerri Bohard*

Staff: David L. Wechner, Senior Planner

Case File: Conditional Use Permit #CUP 92-030-2133 (Green Mountain Golf Course)
Post-Decision #PST 96-084-2133 (Green Mountain Resort)

Applicant: Paul DeBoni

Request: Post-decision approval to modify the Hearing Examiner's decision to require as conditions of approval, a ground water impact study and a Water Right for the development of a golf course, on 177 acres in the Agriculture (AG) Zoning District. The configuration of the proposed course and other structural developments lots are unchanged from the original proposal.

Determination: APPROVED, with conditions.

I. FACTS

Review Type: Conditional Use Permit

Authorization: Clark County Code: Section 18.302 (Agriculture Zoning District); Section 18.404 (Conditional Uses); Section 18.600.110 (Post-Decision procedures).

Location: The site is located north of Goodwin Road, and on the east side of NE Ingle Road, which is being realigned as a part of this project.



Legal: Tax Lot 16 (172557) in the North half of Section 21, Township 3 North, Range 3 East, of the Willamette Meridian.

Area: 177 acres

Comprehensive Plan Designation: The project site and surrounding properties were designated as **Agriculture** at the time of application; the area is designated the same under the new Comprehensive Plan.

Zoning Designation: The project site and surrounding properties were zoned **Agriculture (AG)** at time of application; the area is still designated **Agriculture**.

II. BACKGROUND INFORMATION

The application for the post-decision review was received in 1996, after the new Comprehensive Plan was adopted. The applicant is requesting to be reviewed under the post-decision review criteria, which requires review under codes in effect at the time of post-decision application.

The Conditional Use permit was approved by Examiner Epstein on August 14th, 1995. The Examiner concluded that among the primary issues in this case was whether adequate water supply can be obtained to serve potable water, fire suppression and irrigation needs of the site. The decision was appealed to the Board of Commissioners for several reasons, including the requirement of a water right prior to construction, raised here by the applicant. The Board affirmed the Examiner's decision, requiring the water right prior to issuance of site grading permits, clearing or final site plan approval.

The examiner relied upon the administrative decision of the Department of Ecology to affirm whether water supply will be provided for the site. The examiner concluded no development should occur until the issuance of water rights for the property, and did acknowledge that impacts to adjacent users could occur if shallow wells were to be used. The Examiner imposed a condition providing for long-term monitoring of nearby wells to ensure that the proposed use will not be detrimental to persons in the neighborhood.

The PST application asks for consideration of a waterline extension to serve the project, and other alternatives contemplated in the original review, but not specified in the decision. The water line extension would start between NE 119th Street at 172nd Avenue, running south to 88th Street, bearing east to NE 182nd Avenue, then south to Fourth Plain Road to serve a cluster subdivision known as Si Ellen; the line then bears southeast along Fourth Plain to NE 199th Avenue, turning south to Ingle Road and the subject property.

The proposal alternatives include a Clark Public Utilities water reservoir, water line extension, on-site lakes as an irrigation source, and groundwater via on-site wells. The applicant wishes to

remove the requirement for a water right prior to clearing, grading, or final site plan approval, in lieu of designating Clark Public Utilities as "water manager" for the project.

The applicant proposes to modify conditions 4a/b and 5 to read:

The applicant shall submit a formal agreement with Clark Public Utilities for public water service for the golf course, along with written concurrence from Clark Public Utilities that adequate means are available for serving the project, by extending water lines from off-site wells, and/or the utilization of the on-site satellite water system, under the ownership of Clark Public Utilities.

III. CRITERIA AND FINDINGS

CCC 13.25 and 13.27 (Drainage and Erosion Control):

Criteria

CCC 13.25 120 (Applicability)

Findings: Changes to existing drainage patterns should not be produced by this project, as the water line will be extended within the new road alignment of NE Ingle Road, which is included in the storm water design plans. Any additional impervious surface due to new access roads would be addressed at the time of site plan review, required if a water reservoir is constructed. Otherwise, the volume of storm water discharge should not increase.

Recommendations

The preliminary storm water plan was required, as more than 5,000 s.f. of impervious surface are being created as a result of the project; *treatment and additional storage volume shall be reflected in the final stormwater plan, per CCC 13.25.200(2), if required by Water Quality. An amendment will be required to the final stormwater plan if any new access roads are proposed.*

CCC 15 (Fire Ordinance):

Criteria

For projects in the rural area where public water is available, the Fire Marshal requires 1,000 gpm at a residual pressure of 20 psi. Special setbacks and/or firebreaks may be required for fire protection.

Findings

The provision of water in a main line extension to the golf course would not lessen the ability to provide fire flow.

Recommendations

Fire flow must be confirmed by the utility prior to final site plan approval, or commercial occupancy. Fire hydrants are typically installed before above-ground construction.

CCC 18.302 (Agriculture) / CCC 18.600 (Post-Decision Procedures):

Criteria

Changes to a Conditional Use permit can be considered as a Post-Decision review if by allowing the change, the following criteria can be met:

1. Does not increase the potential adverse impact of the development authorized by the decision; and,
2. Is needed to address a minor change in the facts or the law, including a permit to which the development is subject; and,
3. Does not involve an issue of broad public interest, based on the record of the decision.

In addition to this criteria to determine if the changes proposed could be allowed, staff refers to the general policy of requiring proof from a water purveyor prior to construction, that water is available to serve a project.

Findings

The Agriculture zone was reaffirmed in the adoption of the 1995 Comprehensive Plan, allowing golf courses by Conditional Use Permit. The proposed course and use will be as proposed in the original project, approved by the CUP #92-030. The criteria are addressed below:

1. The environmental impacts of water line extension are difficult to ascertain, and would be evaluated by Clark Public Utilities, as SEPA lead agency. The SEPA Rules do exempt the construction of a water line less than 8 inches in diameter, except on lands covered by water. The Environmental Impact Statement for this project did not include the extension of a water line as an alternative for providing water to the site. The focus of potential environmental impacts due to water supply centered on the possibility of draw-down to neighbors, water rights, management of the system, and availability in the amount necessary to serve the irrigation, fire flow, and potable supply needs of the golf course.
2. The inclusion of a water line as an alternative for serving the site is a change in facts; one not considered in the original proposal, because the applicant relied upon his hydrologist's report to determine he would supply the course with groundwater from the lower Troutdale aquifer. The well drilled to accomplish irrigation and

potable supply did not produce the amount needed, so a water line became a feasible alternative for the applicant, despite its cost.

3. The issue of broad public interest is subject to the facts of the issue. The public in hearings showed a great deal of concern about the impacts to local groundwater, but an appeal to deny the project did not succeed on these grounds. The potential for impacts to groundwater are not site-specific to the Lacamas Creek area with the extension of a water line from 4 1/2 miles away. The water provided from that line would be managed by CPU, and under their current water right. The issue of groundwater impact posed by additional draw on this must be addressed by CPU in the administration of their water supply from this source. Environmental impact directly related to this proposal, given that water supply is coming from a large public system, is difficult for the County to determine.

The Examiner did provide in his opinion that the Planning Director could modify the Conditional Use Permit by at least a Type II process of post-decision review, to remedy adverse impacts, such as extending or improving off-site wells, or providing public water as a substitute for well-water. This is the basis for the applicant's request, to modify the CUP to reflect this. The Examiner did not have the benefit of SEPA review on this alternative, nor did he make a finding that the extension of water line would be appropriate, but did specifically identify the method by which the applicant should ask for this consideration.

1995 Clark County Comprehensive Plan:

Criteria:

The Capital Facilities Element of the Comprehensive Plan must be considered in evaluating the potential land use impacts of this post-decision request to the CUP. The request is for a preliminary approved, rural non-residential, development to extend a Clark Public Utility Water line 2 1/2 miles through rural and agriculturally zoned land. The Comprehensive Plan generally directs services such as water, sewer and governmental services such as fire and police to be more concentrated in urban areas, and allows more intensive growth patterns to develop there.

Finding:

Comprehensive Plan policy 6.2.7 states Major water utilities, including Clark Public Utilities, may construct extensions of existing services in the rural area only if service is provided at a level that will accommodate only the type of land use and development density called for in the 20-year plan, recognizing maximum build-out and reasonable allowances in design of facilities to promote overall system efficiency. This policy is consistent with the adopted service review procedure in Section VI of the Coordinated Water System Plan.

Comprehensive Plan policy 6.9.6 identifies the level of service standard for the water supply in the rural area as being provided by private wells. There has been a concern in this area regarding the provision of water to this project via a private well, and the on-site well is likely

to create adverse impacts to neighbors if used at full capacity for irrigation. To resolve this dilemma, the applicant is proposing to add a water line extension to the alternatives of water supply. While the extension of a water line this far into the rural area may be inconsistent with the Plan's general direction, it is not prohibited, and may reduce the potential for adverse impacts to the neighbors of the subject property.

Conclusion:

Clark County is not the appropriate agency to make the two technical determinations required of the above policy. CPU must determine whether such a facility is designed to provide sufficient, but not excessive, water service at the development density called for in the plan. Furthermore, the policy requires CPU to determine whether such an extension is designed to promote overall system efficiency. Both decisions require an assessment of the likely needs of the area through which the line would be constructed, based on the comprehensive plan designations, the specific waterline construction, any needed reservoirs and wells and how the line might be linked or looped to promote overall system efficiency.

IV. OTHER CONCERNS

Staff received several responses, written and via phone call, from neighbors and the general public concerning this project. Their concerns included: its being classified a Type II action, requiring no public hearing; potential environmental impacts of a water line being extended into the rural area; lack of capacity analysis on the water line, or details on how much water will be provided to the site; no separate SEPA review for the post-decision review; and the extension of urban services into the rural area.

The reasons for classifying the application under 18.600 have been outlined above. The potential for environmental impacts are determined to be minimal, as the withdrawal of ground water from the existing CPU well cannot exceed their water right on that source. Any further source development on the site will require a water right from CPU or the developer, including an analysis of the impacts to nearby properties. The environmental review of the proposed line should be done by Clark Public Utilities, however, the construction of lines 8 inches and under is normally exempt from SEPA review. The determination regarding efficiency of the line and its design to meet the density of maximum build-out in the Agriculture zone is a technical determination to be made by CPU. The applicant provided no information on the size of the line to be built, and likely has no choice to determine that, since CPU is charged with the responsibility to determine whether the line meets, but does not exceed, the density and whether it is an efficient form of water service. The provision of a water line cannot be used as justification for changes to zoning or Comprehensive Plan, as stipulated in 6.10.9 of the Capital Facilities Element of the 20-year Comprehensive Plan.

V. CONCLUSIONS

The applicant in proposing this new water system does not indicate a specific method that will be implemented to provide irrigation or potable water, but has identified alternatives to employ. The Examiner in his August 14, 1995 decision emphasized that water supply must be confirmed by the developer prior to clearing, grading, or final site plan review. The condition proposed in lieu of that written by the Examiner does not obligate the applicant to install a water line or assure the water supply prior to site development, but merely identifies Clark Public Utilities as the manager for water supply; CPU is not bound by the Final Order or Conditional Use permit, and either CPU or the developer could choose to back out of the agreement.

The applicant's request to allow a CPU water line to service the golf course is reasonable only if the line is sized to meet, but not exceed, the density for the approved development. The line should be installed prior to final site plan approval, grading or clearing, to assure that the change of condition is consistent with the Examiner's decision.

Condition #4.a. and b. of the Examiner's decision is obviously related to the provision of water supply through groundwater withdrawal on the site; the applicant proposes to erase this condition by appointing CPU as water managers for his site. Planning finds that the need for groundwater monitoring does not change, if the applicant still wishes to include groundwater withdrawal as an alternative for supply in his proposal. Simply identifying the manager as a utility does not resolve the question of long-term impacts. The intent of this portion of the Examiner's decision was to assure the adjacent property owners that monitoring to identify potential or subsequent impacts to them or Lacamas Creek would be done, and the CUP for a golf course would not be the "final word" in determining impacts to the watershed. Similarly, the need for a water right from the Department of Ecology is needed for anyone developing a new source in excess of 5,000 gallons a day, or for a commercial use, regardless of whether they are public or private. That requirement is clearly stated in Condition #5, and as long as the method of groundwater withdrawal remains in the proposal, it should stand. The availability of water was the primary concern of the Examiner, and it is that of the Planning Division as well. In his proposed condition, the applicant is proposing to *resolve a supply question with a management answer*; the inclusion of a water line can be considered as an alternative for supply, but its inclusion in the mix of possible supply methods, or the designation of CPU as water manager does not resolve the issue of how water is to be produced for the project, and whether it will be prior to substantial changes to the landscape and drainage patterns of the site. For this reason, the requirements for water right and confirmation of water supply availability must be inherent in the decision, especially if modified as a Type II action.

In response to the language proposed by the applicant, Planning asserts that it does not fully address the concerns identified by the staff, public or Examiner in the hearings process in approving the Conditional Use. What can be added to that decision, however, is the option of pursuing a water line extension, given that CPU must make a finding that the line is sized to meet but not exceed the development density called for in the 20-year plan (Agriculture, with a 20-acre minimum lot size), and is efficient in its system design.

VI. CONDITIONS OF APPROVAL

Based on the above and the Conditional Use permit provided, Exhibit "A", a post-decision change to CUP #92-030-17/20/2133 (Green Mountain Golf Course) is hereby **APPROVED**, whereupon the following becomes an *additional* condition of the Conditional Use permit, in addendum to those contained in the Final Order, dated August 14, 1995:

- A. *The applicant may provide irrigation, fire flow and potable water through a water line extension, to be approved by Clark Public Utilities, to serve the water needs of the golf course. The water line must be sized to provide service that will accommodate only the type of land use and development density called for in the 20-year plan (as implemented by the Agriculture Zoning District). If the water line does provide the sole source of water service for supply on the golf course, then groundwater monitoring shall not be required (as stipulated in Condition 4a. and b. above) , as no on-site groundwater is being withdrawn for the project.*

We recommend that you contact the Planning and Development Review Division if you have questions regarding these requirements. You may appeal any aspect of this decision to the Clark County Land Use Hearing Examiner within fifteen (15) calendar days from the date of this letter. If you wish to appeal this post-decision review approval/denial, you must put your appeal request in writing. **The letter of appeal should state that the appeal is to the post-decision approval/denial letter and Title 18 (Zoning Ordinance) and must state the provision(s) being appealed and the reasons for such appeal.** A fee of \$340.00 must accompany the appeal. Submit the appeal request and fee to the address below. A hearing will be scheduled before the Hearings Examiner. If you would like more information on the appeal process, please refer to "Clark County Zoning Ordinance", Section 18.600.100.

Land Use Hearing Examiner
Department of Community Development
1408 Franklin Street / P.O. Box 9810
Vancouver, WA. 98668-9810

Our action is based upon the information which has been submitted request. Subsequent disclosure of information which violates invalidate the approval.

This approval is preliminary only. Final site plan approval must be made with the conditions of approval contained herein and subject to the provisions of Clark County Code Sections 18.404 and 18.402A.

JB:DLW:lo

Green Mt / CUP
Water rights for
the 6M wells
need to meet the
Criteria set (monitor
existing wells) -
Cascades Basin Plan

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Enclosure: Exhibit "A" - CUP #92-030-17/20.2133 (Green Mountain Golf Course)
Exhibit "B" - Green Mountain Resort letter (6/20/96) requesting Post Decision
Review
Exhibit "C" - Water line extension map
Exhibit "D" - Vicinity map
Exhibit "E" - Site maps

c: Dave Wechner, Senior Planner
Mike Green - Water Quality Division
Rose Andrzejczak, SW Washington Health District
Fire Marshal's Office - Jon Dunaway
Parties of record

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BEFORE THE LAND USE HEARINGS EXAMINER
FOR CLARK COUNTY, WASHINGTON

Regarding an application by Paul DeBoni on behalf of Green Mountain Resorts, Inc. for a conditional use permit for a golf course north of Goodwin Road and north and south of Ingle Road in unincorporated Clark County, Washington) **FINAL ORDER**
)
) CUP 92-030-17/20/2132
) (Green Mtn Golf Course)

I. SUMMARY

1. The applicant requests approval of a conditional use permit for an 18 hole golf course, driving range, clubhouse and maintenance building on a roughly 177 acre site. The site was zoned Agriculture (AG) when the application was filed. The site is designated Agricultural on the Comprehensive Plan. A golf course is allowed in the AG zone as a conditional use. The golf course is part of a proposed resort that is planned to include other uses, but only the golf course is being reviewed in this application.

2. The site is located northwest of NE Goodwin Road and is bisected by NE Ingle Road. The applicant proposes to relocate Ingle Road on the site in order to locate the entire golf course north of the road. There are several wetlands located throughout the site. The applicant proposes to fill non-jurisdictional wetlands. Most jurisdictional wetlands on the site will be preserved, and buffers will be established around those wetlands to protect them. The applicant requests a wetland permit to develop some jurisdictional wetland buffers for realigned Ingle Road and for cart tracks, tees and greens. The applicant proposes to mitigate for these impacts by creating additional wetlands elsewhere on the site.

3. In May, 1994, the County's Responsible SEPA Official issued a Final Environmental Impact Statement (FEIS) for the resort project including the golf course. Clark County Hearings Examiner Larry Epstein (the "examiner") held about five hours of public hearings on June 9, 1994 and June 20, 1995 to consider the conditional use permit application for the golf course. At the hearings, County staff recommended approval of the application subject to conditions of approval. The applicant accepted the recommended conditions of approval with certain exceptions. Testimony was offered for and against the application. The principal contested issues in this case include the following:

- a. Whether adequate water supply can be obtained to serve the potable water, fire suppression and irrigation needs of the site;
- b. Whether the sewage system is adequate to serve the proposed use;
- c. Whether the flood plain and wetland delineations were accurate, and the effect of the proposed wetland mitigation on those delineations;
- d. Whether the archeological survey of the site was sufficiently detailed;
- e. Whether the proposed drainage plan complies with County standards;
- f. The effect of the proposed grading;
- g. Whether the development proposed will remove "ancient" trees;
- h. The impact of the chemicals proposed for use on this site; and
- i. Whether the proposed road realignment should be allowed.

4. For the reasons provided herein, the hearings examiner approves the conditional use permit subject to conditions to ensure compliance with the applicable standards. In so doing, the examiner adopts as his own and incorporates by reference the findings and conclusions in the Clark County Department of Community Development Staff Report and Recommendation to the Hearings Examiner dated June 9, 1995 (the "Staff Report") and the Addendum to the Staff Report dated June 16, 1995 (the "Addendum") except to the extent expressly provided otherwise herein.

II. HEARING AND RECORD

1. The examiner received testimony at public hearings about this application on June 9, 1994 and June 20, 1995. A record of the testimony and evidence in the record is included herein as Exhibit A (Parties of Record), Exhibit B (Taped Proceedings), and Exhibit C (Written Testimony), filed at the Clark County Department of Community Development.

2. The following persons testified at the June 9, 1994 hearing: County planners Dave Wechner and Mike Merrill, Attorney Jim Sellers, John Karpinski, Renee Wade, Frank and Charles De Temple, Dennis Walz, John Dvorak, Richard Malin and Jefferson Davis. That testimony was substantially the same as the testimony offered at the June 20 hearing summarized below. At the conclusion of the hearing, the examiner granted the applicant's request for a continuance to address issues raised in the Staff Report.

3. The following testimony was offered at the June 20, 1995 hearing, in part.

a. County planner Dave Wechner summarized the Staff Report.

(1) He noted that the applicant still needs to address the issue of water supply for irrigation and potable water for the clubhouse facility. He argued that water supply is the key issue in this application. It is still unclear how and where water will be obtained.

(2) He testified that condition of approval 1 should be amended to require a separate "site review process", not a "public review process" as the condition currently reads. The site review process is a public process.

(3) He testified that condition of approval 5 should be amended to require a Water Right Permit prior to approval of "a *clearing or grading*" permit.

(4) He proposed that condition of approval 7 be modified to require the applicant to make a diligent, good faith effort to obtain the signatures of relevant parties to the memorandum of understanding ("MOU") regarding archeological resources.

b. County wetlands ecologist Angie Froom testified that the proposed realignment of Ingle Road reduces the wetland buffer width more than the Code allows. However the Code allows the applicant to fill the wetland to create sufficient buffer and then to mitigate for that fill. The proposed conditions require the applicant to mitigate as if the wetland had been filled to compensate for the loss of buffer, but no fill is required.

c. Health District representative Rose Andrzejczak testified that a 3500 gallons per day (gpd) sewage system has been approved for this site. The FEIS estimated that the total resort project would produce more than 4,000 gpd of sewage. This would require additional approvals. Ms. Andrzejczak testified that the applicant submitted

calculations demonstrating that the golf course portion of the project will produce less than 1000 gpd. The Health District reviewed and approved these calculations, but did not introduce them into the record.

d. Rich Lawler, field coordinator for the Lacamas Lake District, testified about the Integrated Pest Management ("IPM") plan. He argued that it is difficult to track fertilization rates as proposed by the applicant. He argued that the plan fails to consider sources of nitrogen other than fertilizers that could enter waters on the site. He argued that the frequency of water testing proposed is inadequate. He argued that the tests should also check for the presence of herbicide and pesticide residues in the water collected from the site. He argued that the IPM is overly general. More scientific testing should be required. He requested the examiner adopt the conditions of approval proposed in his memo. Exhibit 124. He questioned the amounts of nitrogen application proposed in the IPM. He noted that the IPM fails to show when fertilizers will be applied. He argued that nitrates are highly soluble and move quickly through the soil when it rains. Therefore early spring and late fall applications should not be allowed.

e. County transportation engineer John Ruben opined that a road base could be designed to accommodate existing subsurface soil conditions on this site without creating unusual maintenance problems, although the design may be costly to build.

f. Attorney Jim Sellers, Vlad Voytilla, Tom Cook, Gary Katsion, Dave Smith, George Embleton and Martin Schott testified on behalf of the applicant.

(1) Mr. Sellers argued that the examiner cannot impose conditions to address environmental impacts from the project, because the FEIS did not disclose significant adverse environmental impacts, and the FEIS was not appealed. He argued that the examiner has no procedural SEPA authority to review the FEIS. He argued that the development proposed is consistent with the comprehensive plan. He submitted several Washington court cases in support of his arguments.

A. He testified that the approved sewage system is adequate to serve the proposed use. He testified that water rights permits from the DOE are pending.

B. He argued that there are no subgrade problems in the area of the proposed realignment of Ingles Road.

C. He argued that proposed condition of approval 3 is overly broad and does not establish a standard for the County Engineer.

D. He requested that conditions of approval 5 and 6 be modified to reflect the more specific plans prepared after the FEIS.

E. He argued that proposed condition of approval 7 unlawfully delegates authority to Native American tribes to approve the permit.

F. He objected to the dedication of an easement along the east edge of the site required by proposed condition of approval 11.c.i. He argued that the easement cannot be required, because the applicant does not propose to provide access to it. The easement would only serve off-site properties. He argued that this dedication would interfere with the fairway designs.

(2) Mr. Voytilla reviewed the proposed development.

(3) Mr. Cook argued that the proposed monitoring requirements are punitive and unnecessary. He argued that research has shown that chemicals applied to the golf course do not appear in surface and groundwater. He testified that nitrate leaching is not significant, and phosphorous is undetectable in leachate collected from golf courses. He submitted several articles in support of this argument. He argued that nitrate levels are reduced further when the collected water is treated in biofiltration swales. He argued that fertilizer use will be minimized as much as possible. However the range of fertilizer application proposed in the IPM is necessary to allow flexibility. He argued that 70% of the golf course area will not receive any fertilizer. He testified that the irrigation rate proposed in the IPM is based on a worst case scenario and probably overestimates the actual irrigation needs. Mr. Cook responded to cross-examination questions posed by Mr. Karpinski regarding the methods of fertilizer application and testing.

(4) Mr. Katsion testified that the prior traffic study did take into account traffic generated by the commercial aspects of the golf course. He opined that estimates of traffic based on the number of holes are more accurate than estimates based on the total acreage of the course.

(5) Mr. Smith testified about the age and species of trees on the site.

(6) Mr. Embleton testified about the floodplain elevation and the stormwater storage available on the site. He argued that construction of the golf course will alter the surface soils on the site, thereby reducing runoff from the site.

(7) Mr. Schott argued that the road will not impact the buffer for the category 1 wetland. He testified that the proposed wetland mitigation will not block the main drainage ditch. Only the side ditches. Therefore it will not block the natural route for water flow. The mitigation will not effect adjacent properties or endangered plants. He testified he observed that the streams on the site were dry during the past three summers.

g. The following persons testified in favor of the application: Richard Galt, director of the Camas-Washougal Chamber of Commerce, Brad Bowers, Chester Knapp, Edward and Juanita Rhodes, Lyle Bowers, Ronald Warman and Scott Coogan. Their testimony was of a general nature, and included their observations of the site.

h. The following persons testified in opposition: Attorney John Karpinski, representing Lacamas Enterprises, Bob Rodgers, Tom McConathy, James Baldwin, Tim Podhora, Frank and Charles De Temple, David Doying, Amy Petty and Cliff Cook. In summary, they argued the application should be denied or conditioned, based on the following issues.

(1) They argued that there are "ancient trees" on the northeast portion of the site that should be preserved.

(2) They disputed the wetland and floodplain determinations, based on prior personal observations on the site and Mr. Rodgers' professional opinion. They argued the wetland delineation was inadequate. They argued that the streams on the site flow year-round and are not intermittent; therefore, they should be recognized as being higher category wetlands than in the FEIS. They argued that the wetlands are linked and extend offsite. They argued that the proposed wetland mitigation will raise the floodplain and cause offsite flooding. They argued that, due to the high groundwater on this site, untreated surface water could contact and contaminate groundwater. They argued that the filling of exempt wetlands creates a substantial cumulative loss of wetlands that should require mitigation, even though not required by Code.

(3) They disputed the need for relocating Ingles Road. They argued that the soils in the proposed relocation area are inadequate to support the road.

(4) They argued that the IPM is not specific to this site, that it contains insufficient detail, that it will not work, and that the County has no personnel to enforce it.

(5) They argued that the proposed recycling of irrigation water will concentrate nutrients and chemicals in the ponds. They argued that the chemicals proposed in the IPM could kill or injure wildlife, especially waterfowl attracted to the ponds.

(6) They argued that upper and lower aquifers in the area are not separated, especially near river systems. Therefore withdrawal of water from wells on the site, even if drawn from the lower aquifer, could adversely affect wells in the upper aquifer in the area.

(7) They testified that the Cove type soils on this site contain a large amount of fixed phosphorous that is released when the soils are disturbed. Therefore runoff from grading on the site could increase the phosphorous levels in Lacamas Lake.

(9) They disputed the adequacy of the proposed stormwater facilities. They argued that, because the proposed ponds will be lined, they will not allow infiltration and they will not create conditions under which water quality will be enhanced.

(10) Mr. Karpinski argued that the applicant has not met the burden of proof to demonstrate that the development proposed will not have a detrimental impact as required by CCC 18.404:

(a) He argued that there is no water supply for the site and, due to DOE processing times, the water rights permits could delay this project for several years. He argued that there is insufficient evidence that water will be available. He disputed the reliability of the proposed water recycling program, arguing it fails to take into account evaporation losses. He argued that the applicant has not demonstrated that adequate fire flow can be provided.

(b) He disputed the applicant's determination that the sewage system is adequate. He testified that the applicant refused to authorize the health district to allow anyone else to review of the applicant's calculations.

(c) He argued that the proposed wetland mitigation will adversely impact the endangered plants on the site.

(11) Mr. Rodgers, a professional engineer, summarized his written Stormwater/Environmental/Water Resources Report. Exhibits 72 and 73. He introduced photos of prior flooding on the site and downstream from the site. He argued that CCC 13.26.070 prohibits increases in rate or volume in critical reaches. He argued this site contains a critical reach because of flooding and its relationship to Lacamas Lake. Therefore all stormwater should be required to be retained onsite.

(12) Mr. Podhora disputed the applicant's efforts to contact the Native American tribes. He argued that the MOU should include the Yakima tribe as well.

4. The examiner held the record open for four weeks, until July 19, 1995, to allow the parties to submit additional evidence. A substantial number of documents were submitted before, during and after the hearings. The examiner will not summarize them. The issues they raise and their relationship to exhibits in the record will be addressed in the discussion below when relevant.

5. Exhibits 132 through 136 are not included in the record, because they were submitted after the close of the record as set out in the schedule imposed by the examiner at the June 20, 1995 hearing.

III. DISCUSSION

1. County staff recommended approval of the conditional use permit based on the findings contained in the Staff Report and Addendum, subject to the conditions of approval in the Staff Report and Addendum. The applicant accepted the findings and recommended conditions in the Staff Report and Addendum with certain exceptions noted herein.

2. The examiner adopts by reference the findings and conclusions of the Staff Report and Addendum as amended at the hearing, except to the extent expressly modified or supplemented herein.

3. In order to deny this application on the basis of adverse environmental impacts, the examiner must find that the proposed development will have "specific, proven significant environmental impacts . . . identified in a final or supplemental EIS". Nagatani Bros. v. Commissioners, 108 Wn.2d 477 (1987). The FEIS in this case did not identify significant adverse environmental impacts that could not be mitigated. Therefore the examiner cannot deny the application under SEPA. However the examiner can condition approval of the project to assure compliance with environmental mitigation measures. Levine v. Jefferson County, et al., 54 Wn.App. 88 (1989).

a. The purpose of the FEIS is to provide information to be considered when making a decision that affects the environment. The FEIS is not the decision. This is an application for a conditional use permit ("CUP"). The examiner's jurisdiction derives from the CUP chapter of the County Code, CCC 18.404. SEPA compliance is required in addition to compliance with the requirements of the CUP. SEPA compliance does not replace compliance with the CUP requirements.

b. In order to approve this application the examiner must find that the establishment, maintenance, or operation of the golf course will not be significantly detrimental to the health, safety, or general welfare of persons residing or working in the area or be detrimental or injurious to the property and improvements in the area or to the general welfare of the County. CCC 18.404.060.A. Conditional uses require special consideration so that they may be properly located with respect to the objectives of the Zoning Ordinance. CCC 18.404.010. The applicant has the burden of proving that the proposed use will comply with these requirements.

4. One of the most significant issues in this case is whether adequate water to serve the proposed use without significant adverse impacts on people or property in the area.

a. The applicant's engineer has determined that 325 gallons per minute is sufficient to supply the water needs for irrigation of the golf course and potable water for the clubhouse and maintenance facility. The applicant testified that 288 gpm is available from the existing Green Mountain Source Well ("GMSW"). The applicant has proposed to drill a new well drawing from the lower Troutdale aquifer to supply the remainder of the

water needs for this site. The applicant has also proposed to use stormwater runoff collected in ponds located on the site for irrigation and fire suppression requirements.

b. The examiner accepts the determination of the applicant's engineer regarding the water needs for this use. The applicant testified that the irrigation needs were reduced by designing the irrigation system to allow "brownout" of fairways, reuse of irrigation water, planting of drought resistant turf and other methods. There is no substantial evidence that the golf course will require more than 325 gpm. Therefore the examiner finds that, if the applicant receives a water rights permit allowing withdrawal of at least 325 gpm, the water needs of this use can be met. Condition of approval 5 should be modified to reflect the reduced water requirements.

c. The applicant has applied to the Washington State Department of Ecology ("DOE") for water rights permits to allow withdrawal of 500 gpm of ground water and 600 gpm for surface water. Approval of all water rights permits would produce a total combined water right of 1130 gpm for the property. However there is no guarantee that these permits will be issued. Without the water rights permits, this development cannot occur. That is, development of a golf course without assurance of adequate water would have a significant adverse effect on the general welfare of the County and on people and property in the area. Because DOE might not grant water rights permits for the golf course, the examiner finds construction, grading or other preliminary development of this site would be premature before water rights permits are issued. Therefore the examiner finds that no development of this site should occur prior to the issuance of water rights from the DOE allowing the withdrawal of at least 325 gpm of surface and/or groundwater for the golf course.

d. Even if DOE issues the requisite permits, the withdrawal of water for the golf course could significantly adversely affect existing wells in the area by lowering the groundwater level to such an extent that existing wells in the area may cease to function unless the wells are deepened. Such an effect would violate the conditional use permit standards. Therefore examiner finds that long term monitoring of nearby wells is necessary to ensure that the proposed use will not be significantly detrimental to the general welfare of persons residing in the neighborhood. If withdrawal of water from the wells on this site is found to create significant impacts on adjacent wells, limits should be imposed on water withdrawal from this site or other steps should be taken to remedy the impact (such as by providing alternative water sources or extending wells).

(1) The hydrology report found that continuous operation of the GMSW could have an adverse impact on other wells in the area. The extent of these impacts depends on the depth of nearby wells and the characteristics of the aquifer. The applicant proposed to drill a second well tapping into the lower Troutdale aquifer to supply the remainder of the water needs for this site. The applicant stated that this well will have no impacts on wells supplied by the upper aquifer. There is no evidence to support this conclusion. The hydrology report did not analyze the effect of a well in the lower aquifer. Unless the two aquifers are entirely separate, withdrawal of water from the lower aquifer could impact wells supplied by the upper aquifer.

(2) The hydrology report only addresses the effect on the aquifer of long term withdrawal from the GMSW. It does not address simultaneous pumping from other wells in the area. This site is located in the agricultural zone. Water withdrawal for irrigation purposes is likely to occur on adjacent properties as well. Simultaneous pumping from the GMSW and nearby irrigation wells could cause rapid drawdown of the aquifer.

(3) The FEIS determined that the proposed withdrawal of 325 gpm would not have a significant adverse environmental impact. However, based on the hydrology report, the examiner finds reducing groundwater levels during the irrigation season would be a significant adverse impact. There is no evidence in the record regarding the depth of wells on adjacent properties other than the Eaton well cited in the hydrology report. The impacts from the proposed use could be substantial if other area wells are not drilled depths similar to the Eaton well.

(4) Without monitoring, the examiner cannot find that the proposed use will not have significantly detrimental impacts on area wells. Therefore the examiner finds that the applicant should be required to monitor the elevation and rate of recovery of water in at least one well in the vicinity of the site. The Eaton well should be used for this purpose if the owner of that well agrees to allow it under reasonable conditions, because the hydrology report contains baseline information for that well. If the owner of the Eaton well will not allow the applicant to monitor it, the applicant should be required to identify one or more other wells in the vicinity whose owners allow such monitoring or to drill a well for that purpose.

(5) Results of monitoring should be provided to the planning director at least annually. The planning director should consult with DOE or other authoritative resources to evaluate the monitoring reports. Authority should be delegated to the planning director to modify the conditional use permit, pursuant to at least a Type II process, to prevent substantial detrimental impacts on water levels in other wells in the area as a result of the golf course. Such modifications may include limiting the amount, hours, or rates of water withdrawal for the golf course or requiring the applicant to remedy adverse impacts, such as by extending or improving offsite wells or providing public water as a substitute for well water. If the monitoring reports show that withdrawal of water for the golf course does not have an adverse impact within five years after the golf course begins operating, then further monitoring should not be required.

e. CPU will accept ownership and maintenance of the water system as a Type A community water system. The hydrology report determined that the water from the GMSW meets water quality standards. Therefore the examiner finds that, if the required water supply can be obtained, water quality standards can be met.

f. The Fire Marshall accepted the applicant's proposal to supply water for fire suppression via pumps connected to ponds on the golf course. Exhibit 57. Therefore the examiner finds that adequate water supply can be provided for fire suppression on this site if the water rights permits are approved. The Fire Marshall must approve the fire suppression storage capacity of the pond and pump system prior to approval of the final site plan. Condition of approval 12 should be modified to this effect.

5. The examiner finds that condition of approval 11.c.i should be deleted, because there is insufficient nexus between the required easement and the impacts of the proposed use. This condition requires the applicant to establish an easement for a minimum 30-foot half-width road for NE 222nd Avenue abutting the site to the east. NE 222nd Avenue is a private road serving three single family residences. No access is proposed to the site from this road. This project will have no impact on this road. The required dedication is not necessary to mitigate any impact from the proposed use.

6. There is a dispute regarding the adequacy of the approved sewage system to serve the proposed use.

a. The Health District issued preliminary approval for an on-site pressure distribution septic system. This system is limited to 3500 gpd of effluent. The estimated flow stated in the FEIS is 4000 gpd. The applicant submitted calculations to the Health District to demonstrate that the proposed use will produce less than 1000 gpd of effluent. Therefore the approved septic system is adequate to serve the proposed use. The Health District reviewed and approved the applicants calculations. The applicant refused to allow the Health District to release the calculations. Therefore they are not included in the record of this case. The record is deficient in this regard.

b. The examiner concludes that the approved septic system is adequate to serve the use proposed, based on testimony by the Health District. The system approved for this site has sufficient capacity to serve three times the estimated needs of the golf course. This is more than adequate reserve capacity to provide for any underestimates of the requirements of this use. The examiner finds that it is highly unlikely that the calculations reviewed by the Health District are in error, and if they are, that the error is of sufficient magnitude to exceed the reserve capacity of the approved system.

c. Several of the plans indicate a sewage treatment package plant. Such a plant is not necessary for the golf course approved in this decision. But such a system would not cause significant adverse impacts. Therefore it is allowed but not required.

7. A traffic study was conducted for the proposed use in September, 1992. The study found that with scheduled improvements, all the intersections impacted by this use will operate at acceptable levels of service with buildout of the golf course.

a. Opponents disputed the accuracy of the traffic study. However the examiner finds the traffic study was conducted by a licensed professional engineer based on measured traffic volumes. Future traffic volumes were estimated using accepted methods of calculation based on the type and amount of development proposed. No substantial evidence was offered to contradict these findings. Therefore the examiner finds that the traffic study is sufficiently accurate and the conclusions reached are valid.

b. However traffic conditions may have changed in the intervening three years. Therefore an updated traffic study should be required. Mitigation measures should be imposed if the study determines that subsequent changes in traffic conditions are such that development of the golf course will create unacceptable levels of service or traffic hazards. The Code requires that all intersections operate at a minimum level of service ("LOS") D. The examiner finds that authority should be delegated to the County Engineer to impose mitigation measures necessary to maintain a minimum LOS D or to eliminate any safety hazards impacted by this development that may be identified in the updated study. Condition 3 should be amended to this effect.

8. The examiner finds that condition of approval 7 should be modified to require the applicant to make a diligent, good faith effort to obtain the signatures of the relevant Native American tribes on the MOU, including the Yakima Nation. The examiner finds it would improperly deny the applicant due process to give the tribes veto power over the CUP by requiring their signatures on the MOU.

9. There is a dispute regarding the extent of the wetlands on the site.

a. Several persons testified that wetland H is actually a year-round stream and therefore must be classified as a category 3 wetland. The applicant's wetlands expert testified that the stream has been dry during the past three summers. No evidence was

provided in support of either contention. County wetlands staff visited the site to verify the delineation. The examiner chooses to rely on the County's determination on this issue.

b. Several persons testified regarding a second year-round stream on the site. However it is not clear from the testimony where it is located. The testimony appears to refer to the large ditch within the southwestern wetland. The applicant testified that this ditch, designated "wetland M" in the wetlands survey, was created in an attempt to drain the large wetland on the southeast portion of the site. As a man-made drainage ditch, "wetland M" is an exempt, non-regulated wetland regardless of whether it currently flows year-round. CCC 13.36.130.

c. In regard to other alleged undelineated wetlands on this site, the examiner accepts the determination of County staff that the delineation was accurate. There is insufficient evidence in the record to support the allegations of additional undelineated wetlands on this site. There is no evidence in the record to support the allegations that the wetlands are interconnected or that they exceed the area delineated on the site. There is no evidence in the record to support the allegations that the County's review of the delineation was incomplete or inaccurate.

10. The development proposed on this site will impact several of the wetlands and associated buffers located on this site. The applicant proposed to create additional wetlands to mitigate for these impacts by blocking several of the drainage ditches within the wetland on the southwestern portion of the site. This will create a greater area of inundation for a longer period of time. The applicant has also proposed to create at least two small ponds, thereby increasing the amount of open water within the site and the diversity of the wetlands.

a. There is no evidence in the record that the proposed mitigation will increase the extent or duration of inundation on adjacent properties. The record in this case contains no details of the proposed dikes nor analysis of the extent of the ponding. The applicant argued that the ponding created by the proposed dikes will not exceed the level of the 100 year floodplain. They argue that this area is subject to flooding regardless of the mitigation activities. The floodplain extends onto the adjacent property. This area may be subject to flooding during the 100 year storm. This is expected. However the proposed mitigation may cause flooding in this area during lesser storm events, and it may increase the duration of flooding. Increasing the extent or duration of flooding on the adjacent property without permission could be detrimental or injurious to the adjacent property or improvements and is not allowed. CCC 18.404.060.A. The applicant should be required to address this issue prior to final site plan approval. The applicant should submit detailed calculations and analysis showing the size and locations of the proposed dikes and the extent of the ponding behind the dikes. The applicant should be required to demonstrate either that no increase in extent or duration of flooding will occur on adjacent properties or that permission has been obtained from the property owners to allow these impacts. A condition of approval is warranted to this effect.

b. The examiner is not convinced that the proposed mitigation will have a substantial adverse impact on water quality. Cove soils are classified as hydric soils. Hydric soils are normally anaerobic for a portion of the year. The proposed mitigation measures will extend the area and the length of time that the soils on the site are inundated with water, and therefore the time the soils are anaerobic. However there is no evidence that this will cause a substantial increase in the amount of phosphorous released from the Cove soils. Contact between the soil on this site and water in the wetlands occurs under existing conditions. Standing water occurs in the drainage ditches within the wetland during the rainy periods of the year. The soils will not be directly exposed to the water.

The mitigation area will be planted with various species of wetland vegetation. This vegetation will take up some of the phosphorous before it flows offsite.

c. The examiner finds that the proposed mitigation will not have a substantial adverse impact on the endangered species located on this site.

(1) The area of the proposed wetland mitigation was altered to address this issue. The wetland mitigation report (Exhibit 61) states that the majority of the endangered plants were found southwest of the main drainage ditch. No plants were located on the northeast side of this ditch. This ditch separates the proposed mitigation area from the area where the plants are located. The mitigation plan proposes to block the smaller drainage ditches and swales on the northeast side of the main ditch. No increase in flooding is proposed in the area where the plants are located. The proposed mitigation may enhance the survival of this species. The altered hydrology produced by the proposed mitigation may create additional habitat suitable for the endangered plant.

(2) The applicant entered into a conservation agreement with the US Fish and Wildlife Service. This agreement provides for monitoring the plants on this site with the goal of maintaining a stable or increasing the populations of the three species. This agreement requires the implementation of studies to monitor, among other things, the hydrological conditions and contaminant run-off. A decline of 35% from the base population of the species will trigger management action to address the cause of the decline.

11. It was alleged that the proposed development requires a Section 404 permit from the Army Corp of Engineers. This is a federal permit which the examiner has no jurisdiction to require. If such a permit is required, it should be submitted in a timely manner so that County plans are coordinated with the federal permit. A condition of approval should be added accordingly.

12. There is a dispute regarding the adequacy of the proposed drainage plan. This application was received prior to the adoption of the Clark County Stormwater Ordinance, CCC 13.25. This project is subject to compliance with the requirements of the then applicable Water Drainage and Erosion Control ordinances, CCC 13.24, 13.26 and 13.27.

a. Several persons referenced the final drainage plan for this development. The final drainage plan was not submitted into the record in this case. Therefore it cannot be reviewed as part of this decision. For this reason, condition of approval 6 cannot be modified to require compliance with the final drainage plan. The applicable Code requires the applicant to submit a detailed drainage and erosion control plan addressing subsurface as well as surface water flows entering, flowing through and leaving the site. CCC 13.26.050. This plan must be submitted to the County Engineer prior to beginning construction. CCC 13.26.040.B. A preliminary plan is not required.

b. Numerous photos of downstream conditions were introduced into the record alleged to show downstream flooding.

(1) CCC 13.26.070 prohibits development which would increase the peak discharge of runoff due to any storm from the subject property where existing flooding, drainage, erosion or instability conditions are found to present an imminent threat to public health and safety or to the integrity of surface or groundwater systems. This development will not increase peak discharge rates. The applicant has proposed to collect stormwater from the site, treat it in biofiltration swales and wetponds, and release it at rates not to exceed predevelopment rates. Therefore the project does not violate CCC 13.26.070.

(2) In addition, there is insufficient evidence of what the photos show. Many of the photos appear to be of areas within the floodplain. Flooding of roads and structures constructed within the floodplain is expected to occur during storms. Such flooding does not demonstrate that the downstream system is at capacity.

c. There is evidence of high seasonal groundwater on this site. The stormwater facilities must be sized to account for this high groundwater. CCC 13.26.050.

d. These are issues that can be addressed during final engineering. There is no evidence that the system cannot be designed to meet the Code requirements. The examiner finds that there is sufficient area on this site to enlarge the stormwater ponds if necessary. The final drainage plan must comply with the requirements of the Code. The final site plan cannot be approved without such compliance. A condition of approval requiring the applicant to comply with the Code is unnecessarily repetitious.

e. It was argued that this application should be denied based on problems that have occurred at the Mountain Glen subdivision. The problems observed on the Mountain Glen site appear to be due to failure of system construction, not a faulty system design. There is no substantial evidence in the record that the stormwater system designed for this development will fail, provided it is properly constructed.

13. There is a dispute about the adequacy of the proposed stormwater treatment.

a. It was alleged that lining the proposed stormwater ponds will limit the ability of these ponds to treat stormwater, and that adding soil to the ponds will not replace the natural benthic organisms. The applicant must demonstrate that the proposed treatment methods are adequate to comply with the requirements of the Pudget Sound Manual. This is a technical issue that the examiner is not qualified to resolve with the available evidence. If County water quality staff determine that the proposed methods are inadequate, the applicant must amend the stormwater plan to provide treatment of stormwater that complies with the requirements of the Pudget Sound Manual.

b. The preliminary drainage plans show that the proposed biofiltration swales will be located in the "rough" adjacent to the fairways. The preliminary drainage plan proposes to plant these areas with grasses in accordance with the requirements of the Pudget Sound Manual to filter out solid particles and other contaminants. Golf course turf grasses will not be used in these biofiltration swales.

14. It was alleged that the grading proposed will alter the existing hydrology of this site by diverting storm and groundwater flows.

a. Under existing conditions, stormwater falling on this site is either absorbed into the ground or flows across the site in numerous ditches and swales to the wetlands on the site and then to Lacamas Lake via Lacamas Creek. There is also evidence of a high groundwater table on this site. There are numerous springs and seeps at various points. See Jurisdictional Wetlands Determination, appendix A of the FEIS, exhibit 7. These also supply water to the wetlands and creek.

b. Development of this site will alter that flow to some extent. Substantial grading is proposed on this site to prepare the golf course. After the site is developed, stormwater runoff will be collected, treated in biofiltration swales and diverted to the retention/detention ponds. Drain tile will be installed under tees and fairways to collect irrigation and stormwaters percolating through the soils on the site. Water collected by

these pipes will be diverted to the stormwater system for treatment. Treated waters will be released to the wetlands on the site at rates that will not exceed predevelopment rates. The examiner finds that it is reasonably likely that the proposed stormwater system will also collect groundwater flows on this site. The applicant is required to address these subsurface flows in the design stormwater of the stormwater system. CCC 13.26.050.

c. The applicant proposes to use some of the detained waters for irrigation of the golf course. The applicant has applied for a permit from DOE to allow this diversion of surface waters. The examiner finds that this diversion of surface and groundwater for irrigation is reasonably likely to have an adverse impact on the wetland hydrology. Stormwater diverted to the irrigation system will be unavailable to replenish the wetland hydrology. Under existing conditions, rainfall that occurs during the dry summer months flows to the wetlands on this site. When the site is developed as proposed, water from such rain events is likely to be collected and used for irrigation, thereby reducing the amount of water flowing into the wetlands. The examiner finds that the applicant should be required to monitor the wetland to assure that this proposed surface water diversion does not in fact adversely impact the wetlands.

(1) The applicant is required to monitor the wetland for five years as part of the proposed mitigation for the wetland and buffer impacts. This includes monitoring vegetation and hydrology at 25 sample plots. A baseline of existing conditions would be established prior to construction for comparison of future conditions. The purpose of this monitoring is to determine if the proposed mitigation is effective, i.e., whether blocking the existing drainage ditches increases the area in which wetland hydrology exists.

(2) The examiner finds that this monitoring can be expanded to the remaining jurisdictional wetland areas unaffected by the proposed mitigation measures to determine whether the proposed stormwater diversion has an adverse impact on these wetlands by reducing the existing hydrology. Corrective measures to mitigate these impacts should be required if a significant reduction in the wetland hydrology is observed during the monitoring period. Authority should be delegated to the planning director to determine when corrective measures are required. Monitoring should continue beyond the five year period proposed in the mitigation plan if significant impacts are observed until the applicant demonstrates to the satisfaction of the planning director that corrective measures will assure that no significant adverse impacts result. If the planning director determines after the five year monitoring period that the diversion does not have a significant adverse impact on the wetlands on this site, no further monitoring should be required.

(3) The examiner finds that this mitigation measure is reasonably related and roughly proportional to the potential impacts, consistent with the wetland regulations. This condition is necessary to ensure that this development results in no net loss of wetlands acreage and function. Monitoring of wetland hydrology is already required. This condition simply expands the area in which monitoring must occur.

15. It was alleged that the proposed grading will increase the amount of phosphorous released into surface waters, thereby increasing the levels of phosphorous in Lacamas Lake, downstream from this site. Grading and development of this site must comply with the provisions of the Erosion Control Ordinance, CCC 13.27. The examiner finds that the requirements of this chapter are sufficient to limit the potential impacts from grading and development. There is no substantial evidence to the contrary.

16. There is a dispute regarding the elevation of the floodplain on this site.

a. On May 2, 1991, the US Army Corp of Engineers, on behalf of FEMA, completed a study of the lower reaches of Lacamas Creek, including the area of this site. Both the applicant and the opposition cited to this study to support their conclusions regarding the floodplain. Mr. Rodgers argues that this study determined that the 100 year floodplain elevation is 194. Exhibits 72 and 73. The applicant's engineers argued that the map presented with the FEMA study found a floodplain elevation of 193 at the upstream side of the Goodwin Road Bridge. The map shows elevation 194 occurs approximately 1 mile upstream from the bridge. The applicant submitted a summary of a portion of the study text and copies of some of the computer runs to support their arguments. Neither party submitted a copy of the FEMA study or the map to support their allegations.

b. The Goodwin Road bridge over Lacamas Creek interrupts the passage of the streamflow during flood events. The applicant submitted calculations demonstrating that there is sufficient area to pass the water volume created by a 100 year storm over Goodwin Road without raising the surface water elevation of the 100 year flood. Mr. Rodgers disputed the applicant's analysis. He argued that the assumption on which the calculations were based are incorrect.

c. This issue comes down to a difference of opinion between professional engineers. The examiner accepts the applicant's determination of the floodplain. The applicant provided substantial evidence in support of their determination. This determination was accepted by County staff. The evidence submitted in opposition is not sufficient to demonstrate that the applicant's determination is incorrect. There is insufficient evidence that the applicant's calculations regarding the bridge are incorrect and, if they are, whether the error is significant.

17. There is a dispute regarding the age of the trees on the site and their relevance.

a. The examiner finds there is a public interest in preserving trees in general. Trees and other vegetation provide a number of valuable functions such as limiting soil erosion and maintaining slope stability, reducing air pollution, buffering winds and aesthetic values.

b. The examiner finds that this public interest is greater with regard to older trees, because they are larger and therefore more beneficial. They absorb more carbon dioxide, they retain soil over a larger area, and they can absorb larger volumes of water, reducing the amount of surface runoff from rainfall. These benefits cannot be easily replaced, if at all. However this does not prohibit removal of any specific tree or trees over a certain age. These are simply factors to be considered in analyzing the public interest involved in the proposed clearing.

c. The public interest in preserving trees must be balanced against the public interest in allowing development to occur. The examiner finds that the public interest in trees that will be removed is not sufficient to outweigh the public interest in allowing development to occur. A relatively small percentage of the overall tree coverage on this site will be removed for this development. There is no evidence that the trees to be removed are of any significant age.

d. Opponents of this application submitted several photos of trees located near the site that they estimated are 100 years' old or more. Clearing of some trees is proposed for development of the golf course. However there is no evidence that the old trees will be removed.

(1) The trees shown in the opponents' photos were mostly located in or near wetland areas. No development requiring substantial clearing is proposed within the wetlands on this site. Some clearing within the wetland buffers will be required for the proposed relocation of Ingle Road and for certain greens and fairways. But there is no evidence that there are substantial numbers of old trees in the areas to be cleared.

(2) The applicant testified that the area characterized by the opponents as "an ancient oak forest" is a stand of mixed oak, maple and other deciduous trees. The applicant testified¹ that a survey of the site by an arborist found that only three oak trees of "significant age" are located within the area proposed for development. These trees are not proposed for removal.

e. Based on the foregoing, the examiner finds tree removal associated with the project will not violate the vegetation management regulations or cause significant adverse impacts contrary to the conditional use permit standards.

18. There is a dispute regarding the effects of the fertilizers, pesticides, herbicides and other chemicals proposed to be used on this site. The applicant submitted an Integrated Pest Management ("IPM") plan that describes how such chemicals will be used. It limits the quantity and frequency of use of these chemicals by monitoring pest populations and using more specific methods of control. The plan specifies tolerance levels for the types of pests² expected to occur on this site. No treatment is proposed to occur until these tolerance levels are exceeded. Cultural practices are proposed to maintain healthy turf that is more resistant to these pests so that tolerance levels are less likely to be reached.

a. It was alleged that the IPM plan is not specific to this site. This is not a relevant issue. The issue is whether the plan proposed will prevent certain significant adverse impacts if it is implemented on this site by reducing the frequency and quantity of chemicals applied. The examiner finds that it will.

b. It was alleged that fertilizers and pesticides³ applied to the golf course will contaminate surface and groundwater in the area of the site. The examiner finds, based on the scientific research contained in the record in this case, that proper application and monitoring can minimize leaching of chemicals applied to golf course turf. However the research demonstrates that, even if proper application procedures are followed, some leaching may occur. Many factors, such as the amount of fertilizer applied, the amount and timing of irrigation and the type of soil on the site, can greatly affect the rate that these chemicals move through the soil and the concentrations at which they accumulate in surface and groundwaters. Improper application can also have a substantial effect on the quantity of nutrients leaching through the soil and carried in surface runoff.

c. Runoff from this site flows to the wetlands on the site and then to Lacamas Lake via Lacamas Creek. Lacamas Lake is currently experiencing severe problems with excess nutrients causing algale blooms and other water quality problems. Contaminated runoff from this site could add to this problem. Pesticides and fertilizers could also have a substantial adverse impact on the wetlands on and near this site.

¹ The applicant submitted the arborists report on August 1, 1995. The record in this case closed August 19, 1995. Therefore, the report is not included in the record. However, the examiner accepts as true the applicant's summary of the findings in that report submitted July 19, 1995.

² Pests includes insects, fungi and weeds.

³ As used here, pesticides also includes herbicides and fungicides employed on this site.

Application of these chemicals could also cause groundwater contamination due to the high water table in this area. The examiner finds that such impacts would be injurious to the general welfare of the County. Therefore monitoring should be required to assure that such contamination does not occur.

(1) The applicant proposed in the IPM plan to collect runoff from drains constructed below greens and tees. This runoff would be periodically tested for concentrations of nitrates, phosphates and pesticides. The examiner finds that this proposed testing can provide adequate assurance that stormwater runoff from this site will not have a significant adverse impact on water entering the wetlands, Lacamas Lake or groundwater in this area, provided specific procedures are followed and enforced.

(2) The IPM proposed to apply the highest concentrations of fertilizers and pesticides to the greens and tees. Therefore water collected from under these areas is likely to contain the highest concentrations of chemicals in the collected leachate. Testing of runoff from fairways which receive significantly lower levels of treatment is not necessary.

(3) The examiner finds that due to the existing pollution problems in Lacamas Lake, no increase in nutrient concentrations in runoff from this site should be allowed. In other words a "zero tolerance" level should be established for nutrients in runoff from this site. The applicant should be required to establish "background" nutrient levels by testing runoff collected from this site after final grading is completed but prior to the application of any fertilizers or chemicals. Any excess nutrients detected above these background concentrations would be attributable to fertilizers applied to the golf course. If elevated concentrations of any chemicals or nutrients are detected, the applicant should be required to reduce the application rates of the particular nutrient or chemical detected. More frequent testing should also be required to assure that the reduced application rates are sufficient to ensure compliance.

d. There is a dispute regarding the frequency that testing should occur. The applicant proposed to test the collected runoff quarterly for the first year of operation and annually thereafter. County staff recommended monthly testing for the first year. The applicant argued that the monthly testing is punitive and unnecessary.

(1) The research included in the record shows that little or no nitrogen is detectable in runoff collected from golf course turf when fertilizers are properly applied. Phosphorous is almost undetectable. However improper application, excess irrigation or rainfall, soil types and other factors can affect the amount of nitrogen leaving the site. Nitrogen is highly mobile within the soil under certain conditions. "[E]ven phosphorous, which is known to be fairly immobile, can be moved through a 20-inch soil profile and potentially into groundwater."⁴ See exhibit 63. High rates of irrigation immediately following application of fertilizers greatly increases the concentrations of nutrients found in collected leachates. The specific soil layers and hydrology of this site, the rainfall and irrigation amounts and the growth rate and nutrient needs of the particular turf planted on this course can all affect the rate at which nutrients are transported through the soil on this site. The research also demonstrates that the highest concentrations of nitrogen detected in the collected leachate occurred during the first year when turf is being established. Grass is still sparse and there is little root structure to take up and use the nitrogen, so over-application during this period can have a substantial effect.

⁴ Nitrogen and Phosphorus Fate When Applied to Turfgrass in Golf Course Fairway Condition, Dr. S. K. Starrett and Dr. N.E. Christians, USGA Green Section Record, November/December 1994.

(2) Because nitrogen is highly soluble in water, any excess nitrogen applied to this site could quickly leave the site and enter Lacamas Lake. By the time the excess was detected by the proposed quarterly testing, it would be difficult to correct the error. The nutrients would already have reached the lake, and the damage would be done. Therefore the examiner finds that leachate collected from drains and runoff on this site should be tested on a monthly basis for the first year while turf is being established. Frequent testing is necessary to assure that this use does not contribute to the existing high nutrient levels in Lacamas Lake. Accurate testing and monitoring procedures provide the most feasible methods of assuring that the use proposed on this site has no substantial adverse impacts. Testing is necessary to determine the effects of the fertilizers and chemicals applied to this site, with the soils, hydrology, vegetation, weather and other variables that can affect the rate at which nutrients are absorbed or carried offsite in runoff.

(3) The frequency of subsequent testing may be reduced if water testing during the first year establish that maintenance of the golf course does not cause an increase in nutrient and chemical concentrations in the collected runoff and leachate. However, because the rate at which these products leach into the soil, runoff and groundwater can be substantially affected by improper application, precipitation or irrigation and other variables, testing should be required on at least a quarterly basis in order to protect the general welfare of the County in protecting its surface water quality.

e. Reuse of irrigation water may produce a closed system in which the chemicals applied to the golf course become concentrated. The examiner finds that the required testing provides adequate assurance that such a closed system will not have significant adverse impacts. Such a closed system would actually provide greater protection of surface and groundwater. Elevated levels would be detected early within this closed system, and mitigation measures could be employed before critical levels are reached in surface and groundwaters.

f. The examiner finds that offsite water quality test wells are not necessary to assure public safety. It is true that the proposed underground drainage system is unlikely to collect all water falling on the greens and tees. Therefore, if nutrients and chemicals applied to this site leach through the soil, groundwater contamination may occur. However testing of water collected onsite is more likely to reveal any contamination that does occur than testing offsite. By the time groundwater reaches offsite testing wells, any contaminants will be greatly diluted by the treatment effect as the water moves through the soil. If contamination does occur, it is likely to be detected in water collected in onsite ponds long before it is detectable in offsite test wells. This early detection allows early intervention before substantial groundwater impacts occur.

g. Not all collected storm and irrigation water is directed to ponds. The drainage plans propose to divert some waters directly to drainage ditches. The applicant must demonstrate that these ditches provide adequate stormwater treatment. However the examiner finds that testing of these waters is not necessary. As discussed above, the highest concentrations of chemicals are likely to occur within the closed system where irrigation water is collected and reused. If excess concentrations of chemicals and nutrients occur, they are likely to be detected in the waters of the closed system before concentrations reach detectable levels elsewhere.

h. The examiner finds, based on the scientific research contained in the record in this case, that soil testing for pesticide accumulation should also be required. The

research demonstrates that pesticides vary in the rate that they breakdown and the rate they migrate through the soil.⁵ Some pesticides are strongly absorbed by soils and do not migrate to groundwaters. Others are not absorbed at all and, therefore, are highly mobile in the soil. Mobile chemicals are unlikely to become concentrated in soils. Excess concentrations will be discovered by water testing. However less mobile chemicals are unlikely to be noted in water tests. If excessive applications occur, these chemicals may become concentrated in the soil. Therefore the examiner finds that soil samples collected for nutrient testing should also be tested for pesticide concentrations.

(1) The research demonstrates that these chemicals were detected in high concentrations 20 inches or more below the ground surface. Over time, accumulation of these chemicals in the soil could pose a substantial threat to public health. Therefore, the examiner adopts the soil testing procedures recommended by Mr. Lawler in his July 5, 1995 memo. Exhibit 124.

(2) However the examiner finds that the frequency of testing proposed by Mr. Lawler is not necessary to protect the public interest. Chemicals that can move rapidly through the soil are likely to be detected in the collected leachate. Less mobile chemicals will be retained in the soil and are unlikely to present a hazard unless they become highly concentrated in the soils. There is no evidence that such high concentrations will occur in such a short period of time.

(3) The applicant proposed to test soil samples annually for greens and every two years for tees and fairways. According to the fertilization schedule set out in the IPM, greens and tees receive greater concentrations of fertilizers than do the fairways. Presumably, these areas are also more likely to be treated with pesticides due to the lower pest tolerance levels set out in the IPM. Therefore the examiner finds that greens and tees should be subject to the same testing schedule.

(4) The majority of these chemicals will be applied during the spring and summer growing season. The winter rains are likely to leach these chemicals farther down into the soil layers, possibly beyond the sampling depth. Therefore, the examiner finds that testing should be conducted in the fall, prior to the onset of the rainy season and again in the spring, prior to the first fertilizer application.

(5) The examiner finds that soil tests should be conducted on fairway areas after the first year of operation to assure that background levels are not exceeded. Provided background levels are not exceeded the first year, bi-annual testing of fairways is sufficient due to the reduced fertilizer applications and higher pest tolerance levels proposed for these areas.

i. Sediment is intended to accumulate in the stormwater ponds. The examiner finds that non-water soluble chemicals that are bound to the soil are likely to accumulate in the sediment collected in the stormwater ponds. Because these chemicals are not soluble, they are unlikely to be detected in the water samples. High volume storms or maintenance dredging could flush this contaminated sediment into the adjacent wetland areas. Therefore the examiner finds that annual testing of the pond sediment, prior to any dredging, should also be required. If elevated concentrations are noted, mitigation measures should be implemented.

⁵ Leaching of Nitrate from Sand Putting Greens, Dr. Stanton E. Brauen and Dr. Swen K. Stahnke, USGA Green Section Record, January/February 1995.

j. All sample collection and testing must be conducted by an independent testing lab. Testing should include any nutrients and chemicals applied to the site within the past 12 months and any potentially toxic breakdown products. Copies of all testing reports shall be submitted to Clark County. Authority should be delegated to the planning director to limit or prohibit applications of fertilizers or pesticides and to require more frequent testing procedures and, if necessary, to require the applicant to implement mitigation or remediation procedures if elevated concentrations of nutrients or chemicals are detected in water, soil or sediment samples.

k. The applicant must maintain the soil and water nutrient levels below baseline background levels. The measures necessary to meet these requirements, such as by utilizing a modified rooting medium, slow release fertilizers and other methods set out in the research, are up to the applicant.

l. Use of pesticides on this site poses a threat of water contamination. There are several wetlands and surface water bodies located on this site. High groundwater is also present on this site. Stormwater from this site will be discharged to the wetlands and surface waters. The research demonstrates that the type of pesticide used can have a substantial effect on the rate these chemicals are transported offsite after application. Overspray and drifting chemicals could easily contaminate the waters on and near this site. If contamination of the wetlands or groundwater occurs, remediation can be difficult if not impossible. Therefore the examiner finds that all pesticides, including herbicides and fungicides, should be limited to those approved for use in aquatic areas. The examiner finds that this condition is necessary to protect the public welfare.

m. Many of the chemicals proposed to be applied on this site do pose a potential threat to wildlife, especially birds. In sufficient concentrations these chemicals also pose a potential threat to humans. However almost anything can pose a health threat in sufficient quantity or exposure. The procedures contained in the IPM plan will reduce the amounts of chemicals necessary to be applied to this site. The required soil and water monitoring should assure that high concentrations of chemicals do not occur. Limiting the choice of chemicals to those approved for use in aquatic areas also provides reduces the potential hazard. Therefore the examiner finds that the proposed use of this site poses no more of a threat to humans or wildlife than for agriculture and residential uses.

n. A condition of approval is warranted to require compliance with the proposed IPM plan as modified in the above discussion.

19. There is a dispute regarding the accuracy of the archeological study. A complete archeological survey of this site was conducted by Dr. John Woodward, a professional archeologist and Mr. Norman Gollub. This survey identified one potentially significant archeological site. This site is located outside the area proposed for development. The evidence offered in opposition was not sufficient to overcome Dr. Woodward's professional opinion based on a detailed inspection of the site. No evidence was offered of significant findings discovered during development on adjacent properties. The examiner rejects the unsupported allegations of bias against Dr. Woodward. The examiner finds that State law provides sufficient protection of any cultural resources that may be discovered during development of this site. Therefore the examiner finds that the development proposed will have no significant adverse impacts related to archeology.

20. There is a dispute regarding the proposed realignment of Ingle Road. The applicant is not required to demonstrate that the proposed realignment is necessary. Provided the realigned road will not have a significant adverse impact and it complies with the Code, the realignment can be approved by the Board of Commissioners.

a. The new alignment will comply with the intersection spacing standards and the sight distance requirements of the Code. Whether greater sight distances are possible at the existing intersection is not relevant. So long as the new intersection complies with the Code requirements, it can be approved. The new alignment will reduce the size of the buffer for two of the wetlands on the site. The applicant has proposed to mitigate for these impacts by creating additional wetlands elsewhere on the site so that no net loss of wetlands will result. There is no evidence that the proposed realignment will change the level of service at the intersection of Ingle and Goodwin Roads or that it will create a hazardous condition. The Code does not require the applicant to provide bike paths. The examiner finds that the increase in travel distance created by the realignment is insignificant.

b. The soil on the site may require substantial excavation and detailed design to ensure a stable road base and reduce maintenance problems. However there is no evidence in the record that such a design cannot be constructed.

c. The relevant issue in this case is whether the proposal complies with the applicable standards of the Code, not whether an alternative design would be better. Whether the golf course could be redesigned to locate all development north of the existing Ingle Road is irrelevant. So long as the development proposed complies with the Code, it can be approved.

IV. SITE VISIT BY EXAMINER

The examiner visited the site and area of the proposed subdivision.

V. CONCLUSION

Based on the findings and discussion above, the examiner concludes that approval of the conditional use permit will not be significantly detrimental to people or property in the vicinity or to the general welfare of the County, subject to conditions of approval necessary to ensure the use does comply with the applicable law and with measures to mitigate impacts of the use.

VI. DECISION

The examiner hereby approves CUP 92-030-17/20/2132 (Green Mountain Golf Course), subject to the following conditions:

1. Conditional use permit approval shall apply to development of the golf course and associated features including a clubhouse, driving range, and maintenance building.
2. Within one (1) year of the effective date of this Conditional Use Permit decision, the applicant shall submit a Site Development Plan to Clark County for review and approval in accordance with Section 18.402 of the Clark County Code.
3. Before the County approves the final site development plan, the applicant shall update the traffic study by indicating the impact of the proposed development and the cumulative impact of other developments occurring or presently proposed in the area of the 28th Street/SR-500 intersection. If the traffic study finds that traffic *from this use* will cause any intersections to

fall below a minimum LOS D or create hazardous conditions, the study shall identify mitigation measures, which are then subject to approval by the County Engineer, to be performed by the applicant prior to final site plan approval. Such mitigation measures may include but not be limited to contributing a proportionate share of the cost of any necessary improvements or actual construction of such improvements.

4. The applicant shall submit a ground water impact study for review and approval by the Southwest Washington Health District, indicating irrigation well locations. The study shall provide adequate detail to substantiate the source and amount of ground water supply available to meet domestic, irrigation and fire flow requirements of the golf course, as required by Department of Ecology, Department of Health, and the Clark County Fire Marshall, and as conditioned by other elements of this conditional use permit.
 - a. The applicant shall monitor the elevation and rate of recovery of water in at least one well in the vicinity of the site. The Eaton well should be used for this purpose if the owner of that well agrees to allow it under reasonable conditions. If the owner of the Eaton well will not allow the applicant to monitor it, the applicant shall identify at least one other well in the vicinity whose owners allow such monitoring or shall drill a monitoring well for that purpose.
 - b. The applicant shall submit results of monitoring to the planning director at least annually. The planning director shall consult with DOE or other authoritative resources to evaluate the monitoring reports. The planning director may modify the conditional use permit, pursuant to at least a Type II process, to prevent substantial detrimental impacts on water levels in other wells in the area as a result of the golf course. Such modifications may include limiting the amount, hours, or rates of water withdrawal for the golf course or requiring the applicant to remedy adverse impacts, such as by extending or improving offsite wells or providing public water as a substitute for well water. If the monitoring reports show that withdrawal of water for the golf course does not have an adverse impact within five years after the golf course begins operating, then further monitoring is not required.
5. The applicant or designated water purveyor shall secure a Water Right Permit from the Department of Ecology, for withdrawal of ground water or impoundment of surface streams equal to the amount necessary to serve the golf course users, irrigation needs and fire flow requirement, 325 gallons per minute minimum, prior to approval of the final site plan or to issuance of a clearing or grading permit.
6. All water quality measures identified by the environmental impact statement shall be implemented in final drainage plan. The wetland mitigation plans, prior to final Site Plan approval and construction. Minor modifications may be granted by the Planning Director after review by the County Water Quality Manager.
7. The applicant shall obtain and provide to the Washington State Office of Archaeology and Historic Preservation a Memorandum of Understanding

(MOU) concerning avoidance or mitigation of any adverse affect to significant cultural resources located on the subject 177 acres of property. The applicant shall make a timely, diligent, good faith effort to obtain the signatures of qualified representatives of the Chinook, Yakima and Cowlitz tribes. The applicant shall commit to or implement all mitigation measures identified by the State Historic Preservation Officer based on their review of the site plan, prior to final site plan approval.

8. The final site plan shall include but not be limited to the following:
 - a. The access road design, entrance feature landscaping, parking area design and landscape plan, and BPA easement.
 - b. Landscaping, fencing or wall construction along the site frontage, and at the site entrance shall substantially conform to the preliminary landscape plans submitted with the application and considered at public hearing.
 - c. The basic design for the clubhouse, driving range, and associated parking areas shall be shown on the landscape plan.
 - d. Phasing plan boundaries shall be shown on the site plan.
 - e. All frontage road improvements and internal street improvements shall be shown on the site plan.
 - f. The site plan shall provide details of any entrance gate proposed which shall be approved by the Clark County Fire Marshal prior to final site plan approval.
 - g. Transportation impact fees shall be calculated for the golf course and assessed prior to approval of the final site plan.
 - h. Outdoor lighting plan.
 - i. Location, dimensions and use of all existing and proposed structures.
 - j. Identification and delineation of all parking and maneuvering areas. All parking areas and the number of parking spaces shall comply with applicable Zoning Code standards.
 - k. Right-of-ways and easements, including BPA, PPL, and trails.
9. Future development of the golf course shall be consistent with the preliminary plan approved herein or minor modifications allowed by Code, unless an amendment to the preliminary plan is submitted and approved following public hearing.
10. Land use approval of the golf course only shall be authorized by this Conditional Use Permit. Golf course construction shall include:
 - a. Construction of water drainage and quality treatment facilities, including subsurface drainage features.

- b. Wetland mitigation as approved by the Water Quality Manager, in accordance with provisions of Clark County Code Chapters 13.36 and 18.327.
 - c. Completed construction of the re-alignment of Ingle Road, subject to inspection by the County Engineer's office, if vacation of the road is approved by the Board of Commissioners.
11. Before approval of the final site plan, and except to the extent modified by the Director of Public Works or other duly authorized public official pursuant to law, the applicant shall:
- a. Submit final road plans and profiles prepared by a licensed engineer for approval by Clark County which comply with the Road Standards, Uniform Fire Code, and Wetlands Ordinance.
 - b. For NE Goodwin Road/28th Street, abutting the site:
 - i. Dedicate right-of-way, as needed, for a minimum 40-foot half-width.
 - ii. Establish a minimum sight distance of 500 feet for vehicles entering the road.
 - c. For NE Ingle Road, on-site:
 - i. Dedicate right-of-way, as needed, for a minimum 60-foot width.
 - ii. Construct the roadway, as needed, with a paved, minimum, 34-foot width between shoulders and drainage.
 - iii. Construct the roadway with a minimum 36-foot width at the intersection with NE Goodwin Road/28th Street.
 - iv. Establish slope easements, as needed, for the improvements.
 - v. Locate all proposed driveways which enter NE Ingle Road on the submitted plans and profiles.
 - vi. Establish intersection sight distances, stopping sight distances, and passing sight distances as provided in CCC 12.05.360.
 - vii. Comply with the other minimum design criteria in the Road Standards for a rural neighborhood access road.
 - viii. Construct the geometry of road intersections to comply with CCC 12.05.350.
 - d. Restore any existing driveways affected by frontage or off-site road improvements to provide safe, convenient, and adequate access from properties that now enter those roads.

- e. Construct all proposed interior roads with paved minimum 20-foot width roadways between shoulders and drainage ditches within minimum 40-foot width easements. No roadway shall be less than 20 feet in width.
 - f. Submit final drainage, erosion control, and water quality treatment plans prepared by a licensed engineer for approval by Clark County which comply with CCC 13.24 and 13.26, the "Interim Water Quality Measures Update", and the Wetland Ordinance.
 - g. Delineate and identify all areas of the site used for on-site drainage facilities.
 - h. Delineate and identify all wetlands, wetland buffer areas, floodplains, pathways, landscape areas, and signs.
 - i. All buildings shall comply with the setbacks and height limitations of the Agriculture Zoning District, and building spacing requirements of the Building Code.
 - j. Submit a Hazmat plan to the Fire Marshal's Office and Fire Districts #5 and 9.
 - k. Revise the grading plans to illustrate no grading within any wetlands.
 - l. Design the cart paths to avoid all significant trees (>1 foot dbh) and vegetation, and the construction of the path should be limited to a 15 foot wide swath.
 - m. Redesign the layout of fairways, greens and tees to minimize impacts to the buffers. Those buffers that are impacted shall be replanted to Type B criteria, and equivalent forested area shall be compensated into the buffer area.
 - n. The outlet pipe and structure in the Wetland R buffer shall be redesigned so it will not require the removal of any significant trees (> 1 foot dbh).
 - o. The outlet structures in the wetland mitigation area shall be designed to blend with the natural landscape, such as a level spreader or bubbler, rather than rip rap.
 - p. All conditions in sections 13.26.250, 13.26.430(3), and 13.26.460(6) shall be met prior to final approval.
 - q. The applicant shall demonstrate that the propose mitigation measures will not increase the extent or duration of flooding on adjacent properties without permission from the owners.
12. Install fire hydrants, sprinklers connected to an approved system of ponds and pumps as required by Fire Districts #5 and 9, and the Clark County Fire Marshal prior to final plat approval.

13. The applicant shall provide to Clark County, written permission from the Bonneville Power Administration before any portions of the easement on the property is utilized for any purpose including golf course fairways, access roads or other construction, prior to final site plan approval.
14. All off-street parking, loading, and maneuvering areas shall be paved. Parking shall be provided as required by CCC 18.407.
15. All landscaping, fencing, buffering, and screening shall be installed as approved by the final site plan prior to the issuance of any occupancy permits. Specific landscaping, screening, signing, and lighting details for the golf course parking area, driving range, clubhouse, and maintenance facility, and associated parking areas shall be considered in the Site Plan review and specific details shall be determined prior to final site plan approval. Otherwise, the golf course itself shall be established as shown on the preliminary plan provided with the application and considered at the public hearing.
16. The applicant shall provide documentation from the water and sewer purveyors, to Clark County, verifying the availability and adequacy of such facilities to serve the site prior to final site plan approval.
17. The applicant shall implement the vegetation management plan, including mitigation measures for lost habitat, as stipulated in the Wildlife Dynamics report, dated October 1994.
18. The applicant shall implement the hydrology and vegetation monitoring procedures outlined in the Wetland Mitigation plan in all wetlands on the site to establish the proposed diversion of surface waters does not adversely impact these areas.
19. The applicant shall implement the Integrated Pest Management plan, dated August 30, 1994 as modified in this decision, and submit periodic chemical application reports as stipulated in the plan to Clark County Water Quality's Lacamas Basin Program. The IPM shall include the following measures:
 - a. Leachate from tees and greens shall be tested for chemical concentrations. Testing of leachate from fairways is not required.
 - b. The applicant shall test runoff collected from the site after final grading is completed but prior to the application of any fertilizers or chemicals. This shall be a baseline measurement against which subsequent measurements shall be tested. If elevated concentrations of any chemicals or nutrients are detected, the applicant shall reduce the application rates of the particular nutrient or chemical detected. The planning director may require more frequent testing to assure that the reduced application rates are sufficient to ensure compliance.
 - c. Leachate shall be tested on a monthly basis for at least one year after grading of the site is completed. Thereafter, leachate shall be tested on at least a quarterly basis. The planning director may require more frequent testing to assure that leachate does not degrade water quality.

- d. The applicant shall test soil in areas of tees and greens for chemical concentrations consistent with the recommendations of Mr. Lawler in Exhibit 124; provided, such testing should occur in the fall and in the spring. Results of testing shall be submitted to the planning director.
- e. The applicant shall test the soil in stormwater ponds for chemical concentrations at least annually in the late summer or early fall. If high concentrations are detected, the applicant shall remedy the problem promptly. Results of testing shall be submitted to the planning director.
- f. All sample collection and testing shall be conducted by an independent testing lab. Testing should include any nutrients and chemicals applied to the site within the past 12 months and any potentially toxic breakdown products. Copies of all testing reports shall be submitted to Clark County. The planning director may limit or prohibit applications of fertilizers or pesticides or require more frequent testing procedures and, if necessary, require the applicant to implement mitigation or remediation procedures if elevated concentrations of nutrients or chemicals are detected in water, soil or sediment samples.
- g. All pesticides, including herbicides and fungicides, shall be limited to those approved for use in aquatic areas.

DATED this 14th day of August, 1995.


Larry Epstein, AICP
Clark County Hearings Examiner



R E S O R T

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June 20, 1996

REQUEST FOR POST DECISION REVIEW
CUP 92-030-17/20/2133
GREEN MOUNTAIN GOLF COURSE

The Green Mountain Golf Course Conditional Use Permit was approved on August 14, 1995, by County Hearings Examiner, Larry Epstein, AICP. The decision included nineteen (19) specific conditions of approval.

A major issue of the hearing was the sufficiency of a water supply system to serve the project. The proposal indicated that the primary source of golf course irrigation water would be from private wells on the property. Potable water would be provided by a Clark Public Utilities satellite water system. As a result of evidence within the record, the hearing examiner enacted two (2) conditions (4a, and 5), requiring the applicant to secure water right permits from the Department of Ecology and establish a water impact monitoring program.

Since the final decision, the applicant installed an additional well and conducted preliminary water impact studies. The results of the studies indicated that while an adequate supply of water was available to satisfy the project needs, the probability of negative draw down impact on adjacent property wells was high.

As a result of this finding, the applicant developed an agreement with Clark Public Utilities to provide all water services for the project, (except for surface water diversion from golf course lakes). This action included formally transferring pending water right permits for the property to Clark Public Utilities.

Currently the applicant wishes to modify the two (2) conditions of approval to acknowledge the assumption of water service responsibilities by Clark Public Utilities, and allow the applicant and Clark Public Utilities the flexibility to utilize the full range of water service alternatives available to Clark Public Utilities, as a municipal organization, chartered to them by the State of Washington.

These alternatives include the extension of an existing water line to service the project and/or satellite system. This last alternative will require that Clark Public Utilities receive water right permits and would likely include construction of an on site reservoir to mitigate possible impacts on neighboring wells. Under this plan, Clark Public Utilities would carry the legal responsibility to protect the public health and welfare related to the use of ground water resources. This would satisfy the hearings examiners concerns, which were related to the lack of assurance that the applicant could provide a private well system, which would not adversely impact the neighboring properties.

2817 Ingle Road
Vancouver, WA 98682
(360) 693-5907 (800) 443-6612

The examiner specifically provided for this modification in the approval condition:

(4b) "The Planning Director may modify the conditional use permit, pursuant to at least a type II process, to prevent substantial detrimental impacts on water levels in other wells in the area, as a result of the golf course. Such modifications may include limiting the amount, hours, or rates of water withdrawal for the golf course or requiring the applicant to remedy adverse impacts, such as by extending or improving offsite wells or providing public water as a substitute for well water."

We hereby request a Type II post decision review and modification of the decision by requiring public water as a substitute for well water and/or extending or improving offsite wells under the authority of Clark Public Utilities as a means of satisfying the conditions. Evidence of compliance will be a signed agreement between the applicant and Clark Public Utilities.

PROPOSED MODIFIED CONDITION:

(4) The applicant shall submit a formal agreement with Clark Public Utilities for public water service for the golf course, along with written concurrence from Clark Public Utilities that adequate means are available for serving the project, by extending water lines from offsite wells, and/or the utilization of the on site satellite water system, under the ownership of Clark Public Utilities.

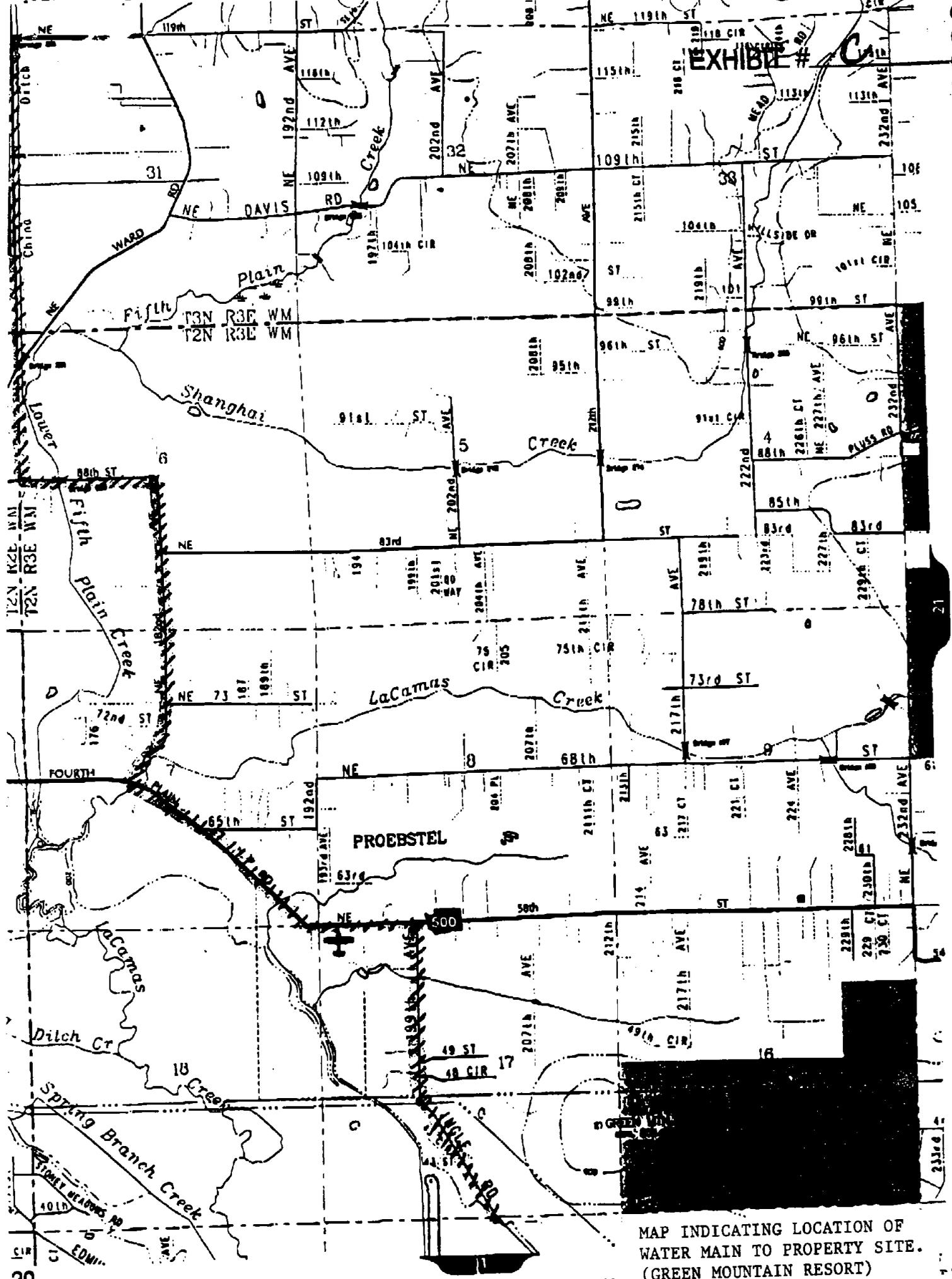
Yours truly,

GREEN MOUNTAIN RESORT, INC.

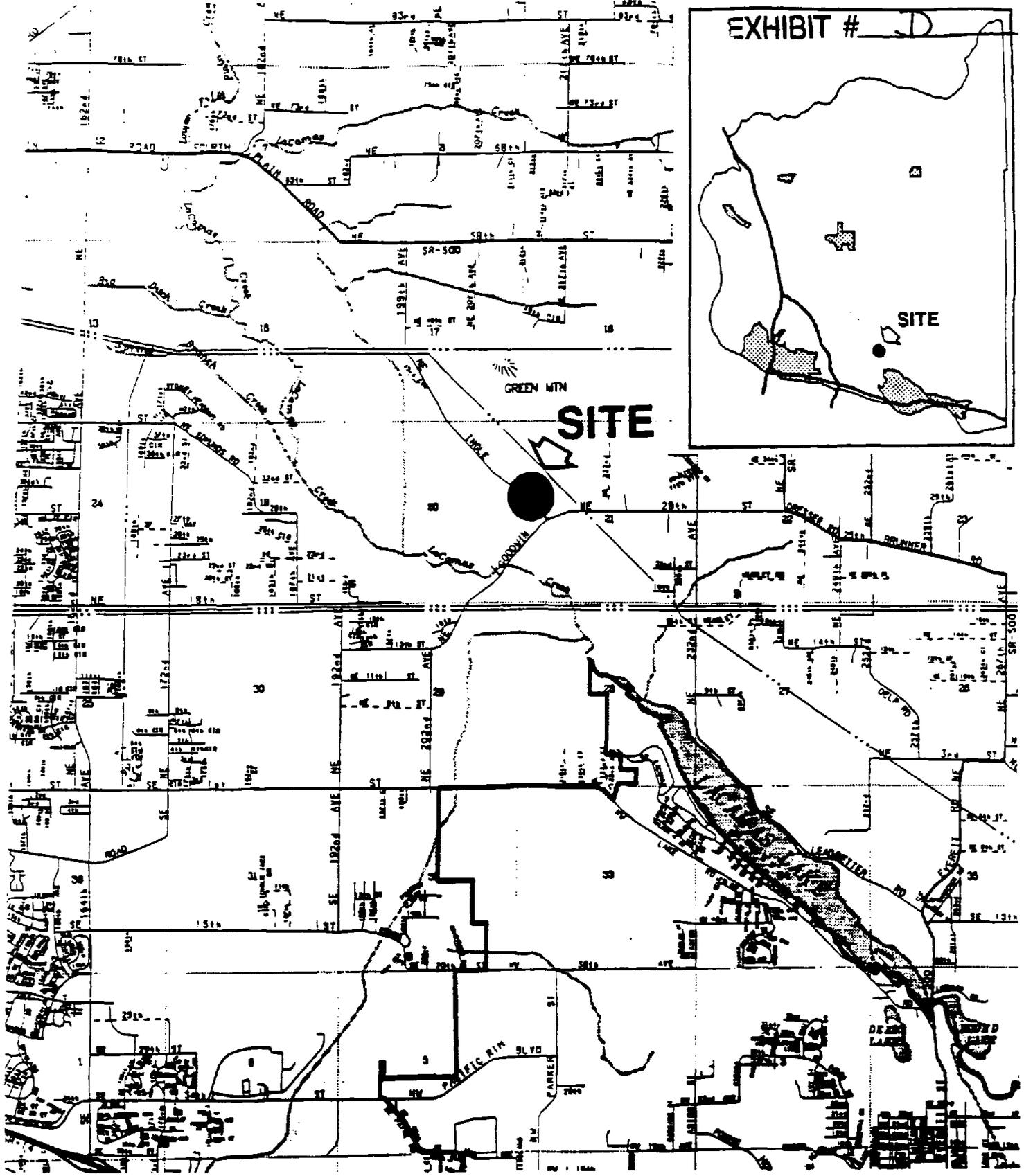
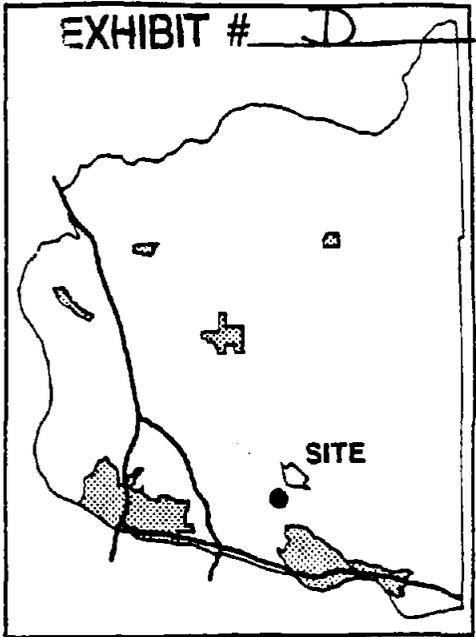


Paul A. DeBoni, AICP
Vice President

PAD/sc

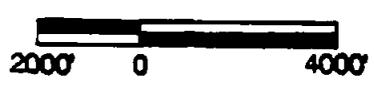


MAP INDICATING LOCATION OF WATER MAIN TO PROPERTY SITE. (GREEN MOUNTAIN RESORT)



CLARK COUNTY DEPARTMENT OF PUBLIC SERVICES
Planning with the future in mind
 PLANNING & DEVELOPMENT REVIEW DIVISION
 FILE # CUP 92-30-20/2123 (GREEN MTN RESORT GOLF COURSE)
 LOCATION: T2N R3E SEC 20 AND 21
 REQUEST: CONDITIONAL USE PERMIT

SUBJECT PROPERTY: ●



BPA POWER LINES

EXHIBIT # E

AGRICULTURE

NE INGLE RD

BPA POWER LINES

SITE

NE 28th ST

PARK

RURAL ESTATE

NE GODDARD RD

BPA POWER LINES

AGRICULTURE

OPEN SPACE

CLARK COUNTY DEPARTMENT OF PUBLIC SERVICES
Planning with the future in mind
PLANNING & DEVELOPMENT REVIEW DIVISION

FILE # CUP 92-30-20/2123 (GREEN MTN RESORT GOLF COURSE)

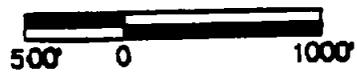
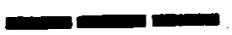
LOCATION: T2N R3E SEC 20 AND 21

REQUEST: CONDITIONAL USE PERMIT

SUBJECT PROPERTY:



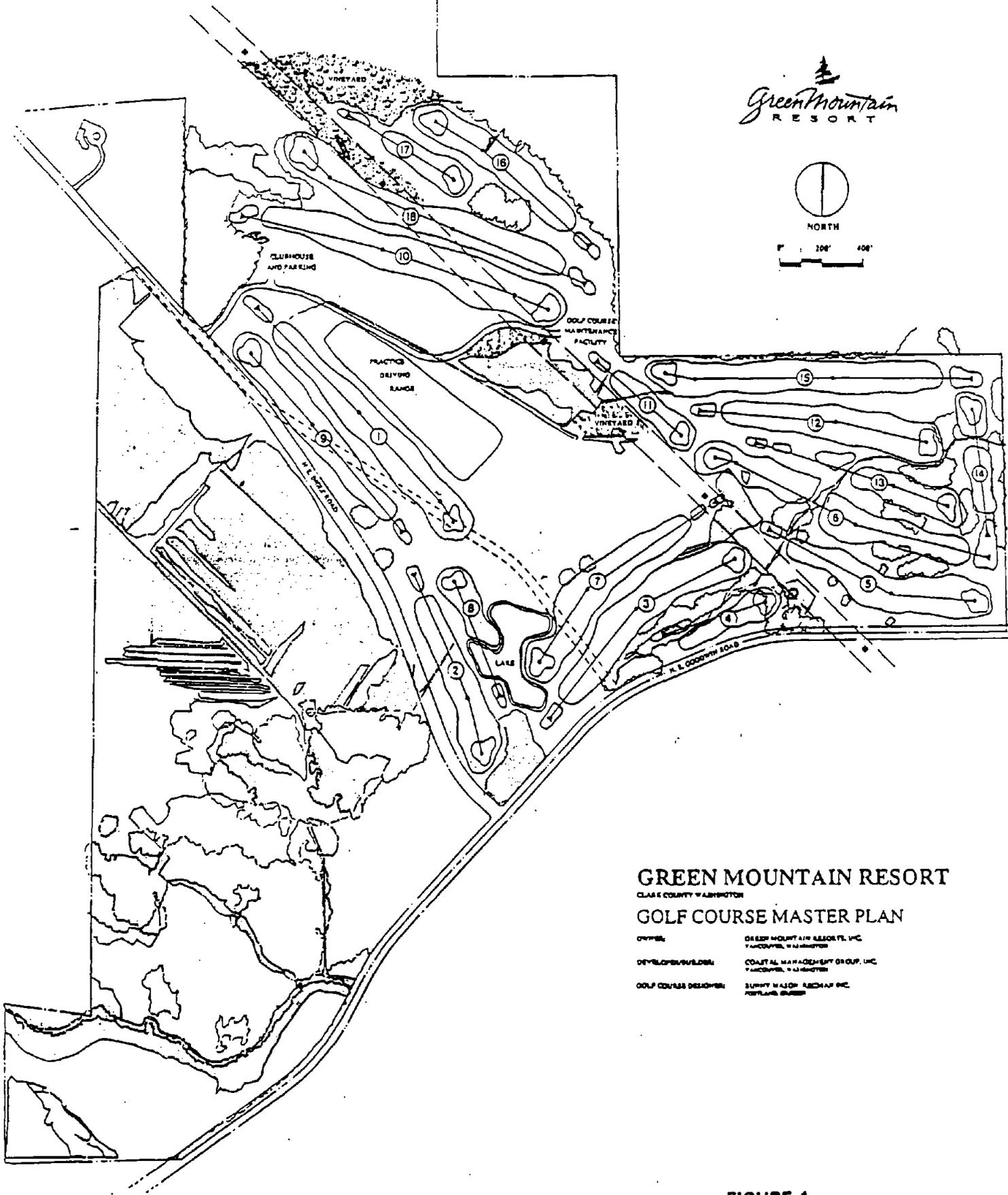
PLAN BOUNDARY:



NORTH



100' 400'

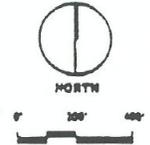


GREEN MOUNTAIN RESORT
CLATSOP COUNTY, WASHINGTON
GOLF COURSE MASTER PLAN

OWNER: GREEN MOUNTAIN RESORTS, INC.
TACOMA, WA 98401
DEVELOPER/BUILDER: COASTAL MANAGEMENT GROUP, INC.
TACOMA, WA 98401
GOLF COURSE DESIGNER: BURNETT HALLOR ARCHITECT INC.
PORTLAND, OREGON

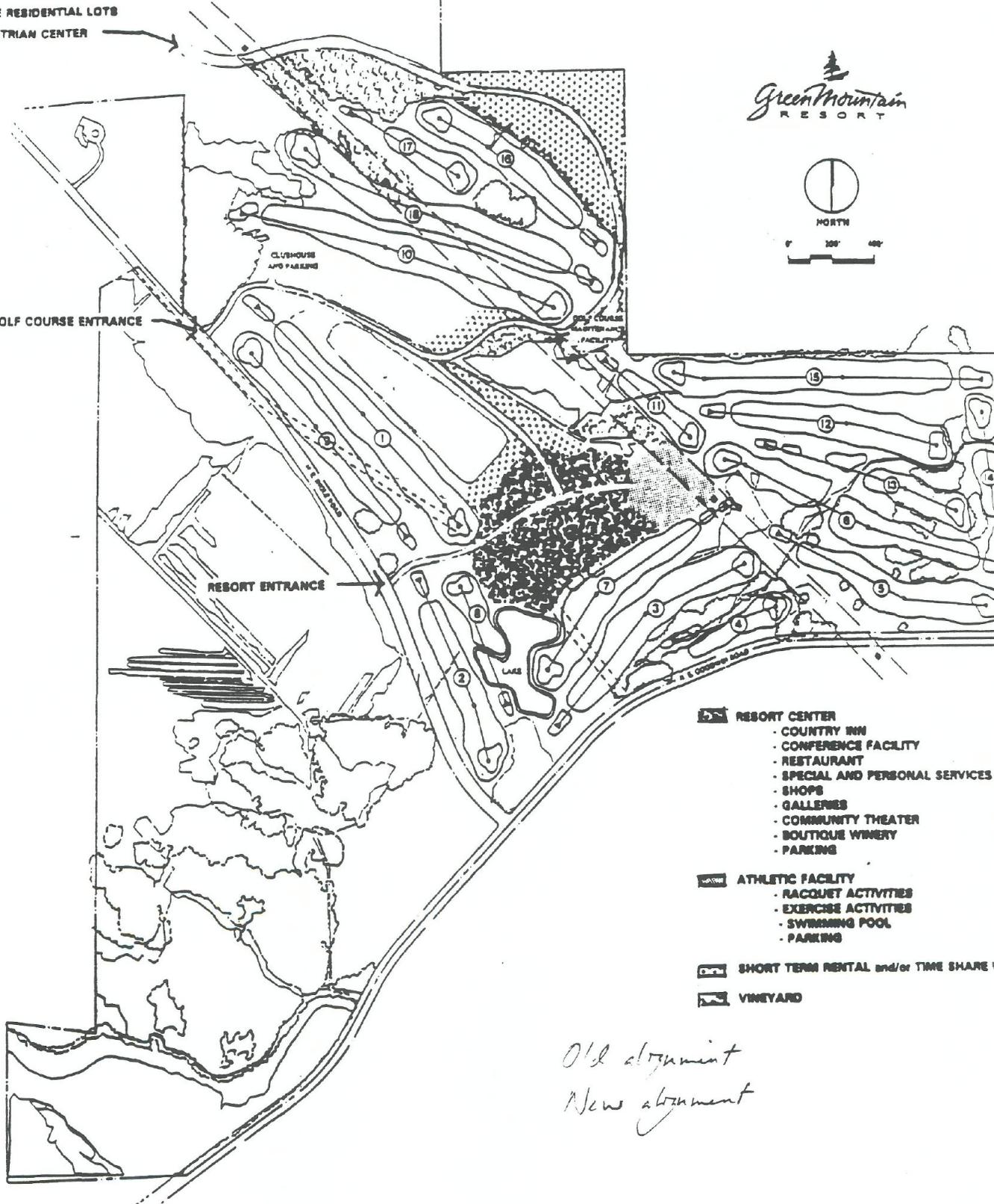
FIGURE 1
GOLF COURSE ROUTING PLAN

TO ESTATE RESIDENTIAL LOTS
AND EQUESTRIAN CENTER



GOLF COURSE ENTRANCE

RESORT ENTRANCE



- RESORT CENTER
 - COUNTRY INN
 - CONFERENCE FACILITY
 - RESTAURANT
 - SPECIAL AND PERSONAL SERVICES
 - SHOPS
 - GALLERIES
 - COMMUNITY THEATER
 - BOUTIQUE WINERY
 - PARKING
- ATHLETIC FACILITY
 - RACQUET ACTIVITIES
 - EXERCISE ACTIVITIES
 - SWIMMING POOL
 - PARKING
- SHORT TERM RENTAL and/or TIME SHARE
- VINEYARD

Old alignment
New alignment

**FIGURE 2
ALTERNATIVE 1A
OVERALL RESORT MITIGATION PLAN**



REQUEST FOR PUBLIC RECORD

REQUESTER: Please complete form and submit to "Public Records Officer" of the state agency identified.

NAME OF STATE AGENCY TO		DEPARTMENT OF ECOLOGY	DATE OF REQUEST 4/11/96	TIME OF REQUEST
PUBLIC RECORDS OR INFORMATION REQUESTED			REQUESTED BY	
G2-28489 Correspondence and			Sandra Boyd	
G2-28815 notes related to				
G2-28677 these application/permits				

AGENCY PUBLIC RECORDS OFFICER		ACKNOWLEDGEMENT OF RECEIPT	
NO. OF COPIES 23	AMOUNT RECEIVED \$ N/A	DATE OF RECEIPT 4/11/96	TIME OF RECEIPT
PUBLIC RECORDS OFFICER <i>Debra Linneman</i>		RECIPIENT'S SIGNATURE <i>Sandra Boyd</i>	

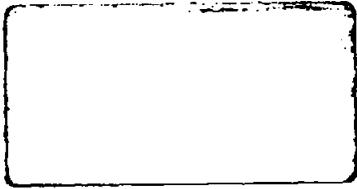
REASON IF AGENCY IS UNABLE TO COMPLY

REQUESTER READ AND SIGN

I understand that if a list of individuals is provided me by the Department of Ecology, it will neither be used to promote the election of an official or promote or oppose a ballot proposition as prohibited by RCW 42.17.130 nor for commercial purposes or give or provide access to material to others for commercial purposes as prohibited by RCW 42.17.260(7).

I understand that I will be charged _____ cents per copy for all standard letter size copies I desire and that other size publications are available at cost.

REQUESTER'S SIGNATURE
Sandra Boyd





STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

7272 Cleanwater Lane • PO Box 47775 • Olympia, Washington 98504-7775 • (206) 753-2353

July 22, 1994

Mr. Paul DeBoni
Green Mountain Resorts, Inc.
300 West Mill Plain Blvd, Suite 600
Vancouver, Washington 98660

Dear Mr. DeBoni:

Re: Application for Groundwater G2-28667 for Green Mountain Resorts,
Incorporated

Thank you for your July 12, 1994, letter and your written commitment to not use water on your property without a permit.

The purpose of this letter is to document our phone conversation of July 5, 1994 about application G2-28667 submitted for Green Mountain Resorts, Inc. on November 24, 1992. This phone call was initiated by my June 28, 1994 letter that asked for voluntary compliance with water resource regulations by not putting water to use on your property without authorization from this office.

Your current need for water from this well is to supply eleven (11) new homes with domestic service. Your plan is to construct the water supply system to meet the needs and requirements of Clark Public Utilities, CPU, who has agreed to operate the system as a public water satellite. You also plan to supply irrigation water to a new golf course and domestic supply to a resort facility.

I spoke to Richard Cyr, Director of Water Services, at CPU. To date CPU has not applied for assignment or change to include water from your well in their "area served by".

A permit must be authorized for use of water from this well before you and/or CPU can put the water to beneficial use for the above stated purposes. An application by CPU will not speed the permitting process for this application.

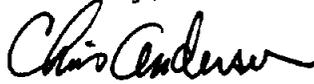
As we have discussed, due to budget cuts and staff reductions, the permitting process has slowed dramatically. It may be years before a permit decision is reached on your application. In the mean time, you can research existing water rights in the area around the Green Mountain property. If you can find an existing, in use, water right that draws from the same source, you may be able to reach an agreement with the present owner to transfer the use of water to your property. It is possible to change the place of use, purpose, and point of withdrawal, (see enclosed form). Using an existing water right may meet your needs, and could be processed sooner than your present application for new water.

To assist you in searching for existing water rights, I am enclosing a copy of the Water Right Information System, WRIS, for wells in the surrounding area. The locations are brief, but can be compared to county assessor records for present property ownership.

Paul Deboni
Page 2
July 22, 1994

Thank you for your cooperation and voluntary compliance. If you have questions, or if I can be of further assistance, please contact me at (206) 407-0272.

Sincerely,



Chris Anderson
Water Resources

CA:th
Enclosures

cc: Elisabeth Raysby, Southwest Department of Health
G2-28677



RECEIVED

'94 JUL 15 A9:13

DEPARTMENT OF ECOLOGY
S W REGIONAL OFFICE

July 12, 1994

Cris Anderson
SWRO Water Resources Program
Department of Ecology
PO Box 47775
Olympia, WA 98504-7775

Re: G2-28667 Green Mountain Resorts

Dear Cris:

This is a follow up to your letter of June 28, 1994 and our subsequent phone conversation.

We have no intention of attempting to utilize our existing well for development without your approval. As I explained to you, we have a preliminary agreement with Clark Public Utility District to establish a satellite water system for the project.

Enclosed is another copy of the ground water report for your convenience.

I appreciate your offer to research historic water rights for a possible conversion for our use. Please let me know of your findings and anything we can do to expedite matters.

I understand your staffing problem and will register my personal concerns with our local legislators. As important as ground water supply is it is inconceivable resources would be reduced as much as they have.

Yours truly,

Paul A. DeBoni, AICP

PAD/sem

LI/Green Mountain Resorts/lander1

P.O. Box 1370 Vancouver, WA 98660
(206) 693.5907 (800) 443.6612



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

7272 Cleanwater Lane • PO Box 47775 • Olympia, Washington 98504-7775 • (206) 753-2353

June 28, 1994

CERTIFIED MAIL

Mr. Paul DeBoni
Green Mountain Resorts, Inc.
300 West Mill Plain Blvd, Suite 600
Vancouver, Washington 98660

Dear Mr. DeBoni:

Re: Application for Groundwater G2-28667 for Green Mountain Resorts,
Incorporated

The purpose of this letter is to document recent information which pertains to application G2-28667 submitted for Green Mountain Resorts, Inc. on November 24, 1992. This application is for 500 gallons per minute for multiple domestic, agriculture, and irrigation.

During a recent trip to Clark County on June 16, 1994, I stopped by the site of your proposed water system and drove up to the well. Water supply lines have been installed up to, but not connected to, the well you plan to use.

It appears, from the sign on the road and the ditch with water lines that run up the hill, that Mountain Glen is the new housing development that will be hooked up to your well.

On June 22, 1994, this office received a copy of a letter sent to you by Elisabeth Raysby of the Southwest Department of Health, which advised you that a Water System plan is required for your project, and their department can not issue any approval without adequate water rights. A water right permit has not been issued for any use of water from the well associated with application G2-28667.

The recent legislative session failed to pass major water rights legislation that included significant funding for the Water Resources Program of the Department of Ecology. As a result, funding for the water right permitting process has been drastically cut statewide and reductions in staff have occurred in each region.

You should be aware that with the large number of applications already in this office, combined with budget cuts and reductions in staff, it may be several years before a decision on your application can be made. You should not proceed with any further development of this property until a water right permit is issued.

Two weeks ago I did not observe a violation of Chapter 90.44 RCW, as the water has not been put to use. This is not an enforcement action. I am asking that you voluntarily comply with the regulations by not using water from the well until a permit decision is issued.

For your information, unauthorized use of water may result in an enforcement order and/or civil penalty.



Paul DeBoni
Page 2
June 28, 1994

Thank you for your cooperation. If you have questions, please contact me at
(206) 407-0272.

Sincerely,



Chris Anderson
SWRO Water Resources Program

CA:th

cc: Elisabeth Raysby, Southwest Department of Health
Linda Pilkey-Jarvis, Ecology
G2-28677

P 469 207 023

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

U.S.G.P.O. 1989-234-555

PS Form 3800, June 1985

Sent to Paul DeBoni	
Street and No. G 2-28667	
P.O., State and ZIP Code	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$
Postmark or Date	



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
SOUTHWEST DRINKING WATER OPERATIONS
2411 Pacific Ave. • P.O. Box 47823 • Olympia, Washington 98504-7823

RECEIVED

'94 JUN 22 10:23

June 20, 1994

DEPARTMENT OF HEALTH
S W REGIONAL OFFICE

Paul DeBoni
Green Mountain Resorts, Inc.
300 West Mill Plain Blvd, Suite 600
Vancouver, Washington 98660

Subject: Green Mountain Resort Proposal

G2-28677

Dear Mr. DeBoni:

I am following up on a copy of a final Environmental Impact Statement (EIS) our Department received on May 9, 1994 for the above subject proposal. By the EIS it appears that you are already aware of our Department's requirements for public water system approval.

For future reference if this project proceeds as proposed, I have enclosed a copy of a checklist for water system approval and a copy of our review fees. In addition to construction approval, please be advised that a Water System plan is required for all new and expanding Group A water systems and our Department can not issue any approval without adequate water rights.

If you have any questions, I can be reached at (206) 586-5209. Clark Public Utilities and/or the City of Camas should also be able to advise you on conditions of satellite service.

Sincerely,

Elisabeth A. Raysby, P.E.
WSDOH Regional Engineer
Southwest Drinking Water Operations

EAR:clu
Enclosures (2)

cc: Richard Cyr, Clark Public Utilities
James Anderson, Camas Municipal Water-Sewer System
John Louderback, SW Washington Health District
Craig Greenleaf, Clark County Department of Community Development
Sean Orr, WSDOH Regional Planner



Affidavit of Publication

STATE OF WASHINGTON)
COUNTY OF CLARK)

I, Michael Gallagher, being first duly sworn, depose and say that I am the owner, editor, publisher of The Post-Record, a weekly newspaper. That said newspaper is a legal newspaper and has been approved as a legal newspaper by order of the superior court in the county in which it is published and it is now and has been for more than six months prior to the date of the publication hereinafter to, published in the English language continuously as a weekly newspaper in Camas, Clark County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication

of said newspaper, that the NOTICE TO APPROPRIATE PUBLIC WATERS - Green Mt. Resorts.

a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for TWO successive and consecutive weeks in the following issues;

Issue date August 3, 1993

Issue date August 10, 1993

Issue date _____

Issue date _____

Issue date _____

Issue date _____

The fee charged for the above publication was:

\$ 38.00

Michael J. Gallagher
Publisher

Subscribed and sworn to before me this 16th

day of August, 19 93

Beverly J. Webster
Notary Public in and for the
State of Washington,
Residing at Camas, Washington

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
NOTICE OF APPLICATION
TO APPROPRIATE
PUBLIC WATERS
TAKE NOTICE:
That Green Mt. Resorts, Inc., of Vancouver, Washington, on November 24, 1992, under Application No. G 2-28677 filed for permit to appropriate public waters, subject to existing rights, from a well in the amount of 500 gallons per minute as needed year round each year, for multiple domestic, agricultural and irrigation during the irrigation season. The source of the proposed appropriation is located within NW-1/4 SE-1/4 of Section 17, Township 2 N., Range 3E W.M., in Clark County.
Protests or objections to approval of this application must include a detailed statement of the basis for objections; protests must be accompanied by a two dollar (\$2.00) recording fee and filed with the Department of Ecology, at the address shown below, within thirty (30) days from August 10, 1993.
DEPARTMENT OF ECOLOGY
P.O. Box 47775
Olympia, WA 98504-7775
No. 3262—August 3, 10, 1993

affidavit ok
4/5/94
SP



April 1, 1994

RECEIVED
VIA CERTIFIED MAIL

'94 APR -5 A3:29

Ms. Sheri Fox
State of Washington
Department of Ecology
7272 Cleanwater Lane, LU-11
Olympia, Washington 98660-1370

DEPARTMENT OF ECOLOGY
S.W. REGIONAL OFFICE

RE: Ground Water Application No. G 2-28677

Dear Ms. Fox:

In response to your letter of July 13, 1993, you will find enclosed the affidavit of publication with the news clipping from the newspaper. We would appreciate you completing the review of our Water Right Application as soon as possible.

Sincerely,

Paul A. DeBoni
Vice-President

PAD/lym

CHRISTINE O. GREGOIRE
Director



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

7272 Cleanwater Lane, LU-11 • Olympia, Washington 98504-6811 • (206) 753-2353

July 13, 1993

Green Mt. Resorts Inc
PO Box 1370
Vancouver, Washington 98660-1370

Dear Sir or Madame:

Re: Ground Water Application No. G 2-28677

Your application for the appropriation of water has been assigned the above referenced number. Please refer to this number in future correspondence.

Enclosed is an amended notice of your application which must be published once a week for two consecutive weeks in a qualified legal newspaper of general circulation in the County or Counties in which the storage, diversion, and use is to be made and in other newspapers as directed. A list of these newspapers in your county is enclosed. The applicant is responsible for the payment of the publication. Please read the amended notice carefully to make sure it is correct. Should you find an error, please return the notice to our office for correction.

You should mail or deliver the enclosed amended notice to a newspaper regarding publication as soon as possible. When you receive the affidavit of publication with the news clipping from the newspaper, please forward the original to this office promptly. Further processing of the application will not be made until the affidavit is returned.

Since your application is for service of more than one residence, it is considered a public water supply. Public water supply systems are required to be approved by either the Local Health Department or the State Department of Health, depending upon system size. If you have not already done so, I suggest that you contact your Local Health Department or DOH, Drinking Water Section, Olympia, Washington, for further information.

Sincerely,

Sheri Fox
Sheri Fox
Water Resources
SF:th Enclosures



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

NOTICE OF APPLICATION TO APPROPRIATE PUBLIC WATERS

TAKE NOTICE:

That Green Mt. Resorts, Inc
of Vancouver, Washington on November 24, 1992 under
Application No. G 2-28677 filed for permit to appropriate public waters, subject to existing rights,
from a well
in the amount of 500 gallons per minute as needed year round
each year, for multiple domestic, Agricultural and irrigation during the irrigation
season

The source of the proposed appropriation is located within NW 1/4, SE 1/4

of Section 17, Township 2 N., Range 3E W.M., in Clark County.

Protests or objections to approval of this application must include a detailed statement of the basis for objections; protests must be accompanied by a two dollar (\$2.00) recording fee and filed with the Department of Ecology, at the address shown below, within thirty (30) days from

(Last date of publication to be entered above by publisher)

Dept of Ecology
P.O. Box 47775
Olympia wa 98504-7775



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

7272 Cleanwater Lane, LU-11 • Olympia, Washington 98504-6811 • (206) 753-2353

July 1, 1993

Vlad M. Voytilla
Coastal Management Group, Inc.
300 Mill Plain Blvd, Ste 600
Vancouver, Washington 98660

Mr. Voytilla:

On November 24, 1992 Roy F. Hobbs, for Sheng Chi Cheng of Green Mountain Resorts, Inc., filed Ground Water Application Number G2-28677, to secure the right to withdraw ground water for multiple domestic supply and golf course irrigation purposes. At the time of application Norman Gollub, of DeBoni and Associates requested a preliminary permit to test an existing well.

Under the provisions of Chapters 90.03.250 and 90.44.020 Revised Code of Washington, the Department of Ecology may issue preliminary permits to drill and test wells, to enable an applicants to gather information needed to assess the potential impacts of a proposed project.

The Green Mountain Resort well taps water bearing zones located at depths of between 334 to 455 feet below ground surface. By issuing this preliminary permit, Ecology is requiring that the applicant provide information concerning the potential impacts of the withdrawal on the quantity of water available, to investigate the potential impacts to senior water right holders, and determine the effect of the withdrawal on area surface water supplies. As stated by Mr. Gollub, testing will include monitoring of water levels in nearby domestic wells and specially constructed observation wells.

The 12" well was constructed in December of 1974 by Hansen Drilling Co., Inc., within the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 17 T. 2 N., R. 3 E.W.M., Clark County, Washington.

This preliminary permit is issued subject to the following conditions:

1. The effective date of this preliminary permit is July 1, 1993.
2. At the completion of testing, the production well shall be securely capped pending analysis of the test data and issuance of the Department's formal report of examination. No water may be withdrawn for consumptive use, other than for testing purposes, unless and until a formal water right permit has been issued.
3. The maximum instantaneous withdrawal under this preliminary permit is 500 gpm.
4. Green Mountain Resorts, Inc., shall secure the services of a qualified reputable hydrogeologist to oversee testing of this well. The well shall be pumped for a minimum of 24 hours, or until drawdown stabilizes, which ever is greater (stabilization is defined as <0.05 feet of drawdown per hour of pumping). At the completion of pumping, the well shall be monitored until full recovery is achieved. The test must be designed and conducted using standard aquifer test procedures as outlined in WRIS Information Bulletin 30 - Aquifer Testing Procedures, to determine and report the following:

- a) Aquifer transmissivity.
 - b) Aquifer storage coefficient or specific yield.
 - c) The distance and time drawdown response of the supplying aquifer to the proposed ground water withdrawal, with regard to distance and time.
 - d) The potential short-term and long-term effect of the proposed ground water withdrawal on existing ground water users. If existing senior right holders are adversely affected while conducting the aquifer test, the test shall be terminated.
5. A completion report shall be submitted to the Department of Ecology after the aquifer test is completed. The report shall include copies of the field data sheets, analysis of test data, assessment of potential impacts, and any other pertinent information. In addition to items 4 a-d above, the following information shall also be reported:
- a) The distance, to the nearest foot, from the production well to each observation well monitored during the test.
 - b) A description of all measuring points, including elevations to the nearest foot, relative to mean sea level.
 - c) The total depth, plus screen length and depth for each well used during the test.
 - d) A map showing the distance and bearing from the test well to all observation wells and surface waters monitored during the test.
 - e) A geologic log describing the lithology and thickness of units encountered while constructing the test well.
 - f) An "as built" drawing showing the construction details (casing diameter and type, seal type and locations, etc), and the static water level of all water bearing formations encountered during the construction of the test well.
 - g) Antecedent water-level and barometric trends for the 48-hour period prior to pumping.
6. All expenses, liabilities, and risks incurred during construction and testing of this well shall be borne by the applicant. In issuing this preliminary Permit, Ecology in no way guarantees or implies that a non-interruptable permit will be granted to withdraw water from this well.
7. This preliminary permit expires on October 1, 1993 unless sooner revoked by the Department of Ecology. This preliminary permit may be extended if a written request justifying an extension is made at least 30 days prior to expiration.

Any person wishing to appeal this action may obtain a review by submitting a written request to the Washington Pollution control Hearings Board, with a copy to the Director of the Department of Ecology, within thirty (30) days of receipt of this letter. These procedures are consistent with the provisions of Chapter 43.12B RCW and associated rules and regulations.

Vlad Voytilla
Page 3
July 1, 1993

Please feel free to contact Don Davidson at (206) 753-2968 if you need further information.

Sincerely,

Gale Blomstrom

Gale Blomstrom
Water Resources Supervisor

GB:DD:th

cc: Don Davidson
Kirk Sinclair
File G2-28677
Preliminary File

Affidavit of Publication

STATE OF WASHINGTON }
COUNTY OF CLARK }

I, Michael Gallagher, being first duly sworn, depose and say that I am the owner, editor, publisher of The Post-Record, a weekly newspaper. That said newspaper is a legal newspaper and has been approved as a legal newspaper by order of the superior court in the county in which it is published and it is now and has been for more than six months prior to the date of the publication hereinafter to, published in the English language continuously as a weekly newspaper in Camas, Clark County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication

of said newspaper, that the NOTICE TO APPROPRIATE PUBLIC WATERS

a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for TWO successive and consecutive weeks in the following issues;

Issue date Dec. 22, 1992

Issue date Dec. 29, 1992

Issue date _____

Issue date _____

Issue date _____

Issue date _____

The fee charged for the above publication was:

\$ 38.00

Michael J. Gallagher
Publisher

Subscribed and sworn to before me this 30th

day of December, 1992

Beverly J. Webster
Notary Public in and for the State of Washington, Residing at Camas, Washington

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
NOTICE OF APPLICATION
TO APPROPRIATE
PUBLIC WATERS
TAKE NOTICE:
That Green Mt. Resorts, Inc. of Vancouver, Washington, on November 24, 1992, under Application No. G2-28677 filed for permit to appropriate public waters, subject to existing rights, from a well in the amount of 150 gallons per minute as needed year round each year, for Multiple domestic and Agricultural and irrigation during the irrigation season. The source of the proposed appropriation is located within NW1/4 SE1/4 of Section 17, Township 2 N., Range 3 E W.M., in Clark County.
Protests or objections to approval of this application must include a detailed statement of the basis for objections; protests must be accompanied by a two dollar (\$2.00) recording fee and filed with the Department of Ecology, at the address shown below, within thirty (30) days from Dec. 29, 1992.
Dept. of Ecology
P.O. Box 47775
Olympia, WA 98504-7775
No. 3084—Dec. 22, 29, 1992

affidavit ok
1/8/93
ST

CHRISTINE O GREGOIRE
Director



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

7272 Cleanwater Lane, LU-11 • Olympia, Washington 98504-6811 • (206) 753-2353

January 11, 1993

Green Mountain Resorts Inc
PO Box 1370
Vancouver, Washington 98660-1370

Dear Sir or Madame:

Re: Ground Water Application No. G 2-28677

We acknowledge receipt of your affidavit of publication of notice in connection with the above-numbered application.

The water codes require that no action be taken toward issuance of a permit earlier than thirty (30) days after the last date of publication. This period of time is allowed for filing any protests or objections.

A site investigation will be made by this office before we issue a permit decision. In light of our water right backlog, we estimate it will be about 18 months after receipt of your application before we are able to conduct the site investigation.

Sincerely,

Sheri Fox
Water Resources

SF:lo(12A)

CHRISTINE O GREGOIRE
Director



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

7272 Cleanwater Lane, LU-11 • Olympia, Washington 98504-6811 • (206) 753-2353

December 4, 1992

Green Mt Resort
PO Box 1370
Vancouver, Washington 98660-1370

Dear Sir or Madame:

Re: Ground Water Application No. G 2-28677

Your application for the appropriation of water has been assigned the above-referenced number. Please refer to this number in future correspondence.

Enclosed is a notice of your application which must be published once a week for two consecutive weeks in a qualified legal newspaper of general circulation in the County or Counties in which the storage, diversion, and use is to be made and in other newspapers as directed. A list of these newspapers in your county is enclosed. The applicant is responsible for the payment of the publication. Please read the notice carefully to make sure it is correct. Should you find an error, please return the notice to our office for correction.

You should mail or deliver the enclosed amended notice to a newspaper regarding publication as soon as possible. When you receive the affidavit of publication with the news clipping from the newspaper, please forward the original to this office promptly.

Since your application is for service of more than one residence, it is considered a public water supply. Public water supply systems are required to be approved by either the local health department or the Department of Social and Health Services (DSHS), depending upon system size. If you have not already done so, I suggest that you contact your local Health Department or Department of Social and Health Services, Water Supply and Waste Section, Olympia, Washington, for further information.

A site investigation will be made by this office before we issue a permit decision. In light of our water right backlog, we estimate it will be about 18 months after receipt of your application before we are able to conduct the site investigation.

Sincerely,

Sheri Fox
Water Resources

SF:th
Enclosure

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

NOTICE OF APPLICATION TO APPROPRIATE PUBLIC WATERS

TAKE NOTICE:

ThatGreen Mt. Resorts, Inc.....
ofVancouver, Washington..... on November 24, 1992..... under
Application No. G-2-28677..... filed for permit to appropriate public waters, subject to existing rights,
froma well.....
in the amount of150 gallons per minute as needed year round.....
each year, forMultiple domestic and Agricultural..... and irrigation during the.....
.....irrigation season.....

The source of the proposed appropriation is located withinNW 1/4 SE 1/4.....

of Section17....., Township.....2..... N., Range3E..... W.M., inClark..... County.

Protests or objections to approval of this application must include a detailed statement of the basis for objections; protests must be accompanied by a two dollar (\$2.00) recording fee and filed with the Department of Ecology, at the address shown below, within thirty (30) days from

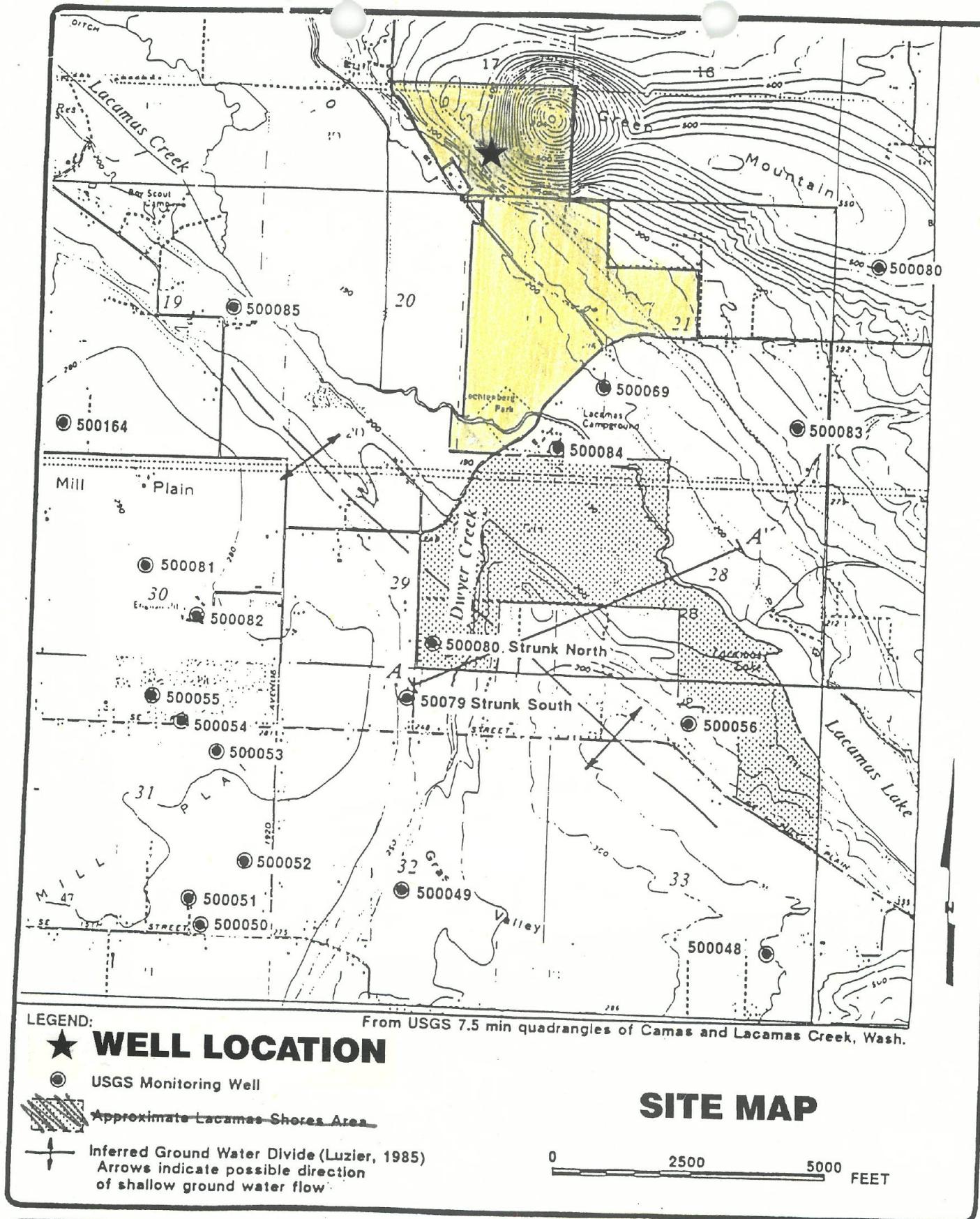
.....
(Last date of publication to be entered above by publisher)

* Notice must be published once a week for two consecutive weeks.

..... Dept. of Ecology
..... P.O. Box 47775
..... Olympia, wa 98504-7775
.....

NOTICE





- LEGEND:**
- ★ **WELL LOCATION**
 - USGS Monitoring Well
 - ▨ Approximate Lacamas Shores Area
 - ⊕ Inferred Ground Water Divide (Luzier, 1985)
Arrows indicate possible direction of shallow ground water flow

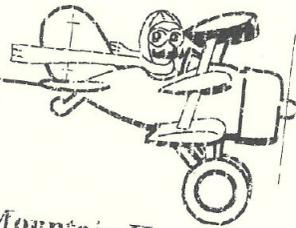
SITE MAP



■ = **GREEN MOUNTAIN RESORTS**

6228677

CHANGE OF ADDRESS



Coastal Management Group, Inc. & Green Mountain Homes have relocated their office from Vancouver to Portland.

OLD ADDRESS:

300 W. Mill Plain Blvd.
Suite 600
Vancouver, WA 98660
Vancouver: (360) 693-5200
Portland: (503) 241-0149
Fax: (360) 693-8941

NEW ADDRESS:

7820 N.E. Holman Street
Suite B-10
Portland, OR 97218
Portland: (503) 254-3400
Vancouver: (360) 693-5200
Fax: (503) 254-6217

Our affiliated company, Green Mountain Resort, will continue with the same P.O. Box address, and the same phone numbers.

2817 NE Ingle Rd. - Vancouver 98682

Camas, WA

98607

Legal Description of Green Mountain Resort as
stated in preceding deed.

EXHIBIT A

A tract of land in the South half of Section 17, the East half of Section 20, and the West half of Section 21, all in Township 2 North, Range 3 East of the Willamette Meridian, in Clark County Washington, described as follows: The following are on a Grid bearing, Washington State coordinate System. A scale and elevation factor of 1.0000339 has been applied to the measured field distances.)

BEGINNING at the North~~West~~^{East} corner of the Southeast quarter of said Section 17; thence North 89°22'57" West, along the North line of the South half of said Section 17, a distance of 3514.90 feet to the centerline of Ingle Road; thence South 01°53'59" West along said centerline 474.48 feet to a point on a 335.00 foot radius curve to the left; thence along said centerline and around said 335.00 foot radius curve to the left 262.60 feet; thence South 43°00'51" East along said centerline 123.51 feet to a 675.00 foot radius curve to the right; thence along said centerline and around said 675.00 foot radius curve to the right 205.42 feet; thence South 23°56'36" East along said centerline 143.32 feet; thence South 30°50'48" East along said centerline 288.97 feet; thence East 30°43'55" East along said centerline 652.08 feet; thence South 29°58'13" East along said centerline 237.86 feet to a point which bears South 59°56'31" West from a 1/2 inch iron pipe marking the Northwest corner of that certain tract conveyed to Keith Bakker by deed recorded under Auditor's File No. G 646584 of Clark County records; thence North 59°56'31" East 21.96 feet to said iron pipe; thence continuing North 59°56'31" along the North line of said Bakker tract 329.82 feet to a 3/4 inch iron pipe and the Northeast corner thereof; thence South 33°48'47" East along the East line of said Bakker tract 667.97 feet to a 3/4 inch iron pipe and the Southeast corner thereof; thence South 49°38'13" West along the South line of said Bakker tract 353.38 feet to the centerline of Ingle Road; thence South 40°25'01" East along said centerline 178.26 feet to a point which bears South 06°18'14" West from a 1/2 inch iron pipe on an Easterly line of that tract conveyed to James M. Bartmess by instrument recorded under Auditor's File No. 8911140220 Clark County records; thence North 06°18'14" East along said Easterly line 71.81 feet to said iron pipe; thence North 86°58'42" East along a Southerly line of said Bartmess tract 9.99 feet to the Northwest corner of that tract conveyed to Ronald and Rhonda Warman by Deed recorded under Auditor's File No. 9004270087, Clark County records; thence North 86°58'42" East along the North line of said Warman tract 790.14 feet to the Northeast corner thereof; thence South 02°04'39" West along the East line of said Warman Tract 1018.41 feet to the centerline of Northeast Ingle Road; thence North 40°17'19" West along the centerline of Northeast Ingle Road 315.33 feet to a point which bears North 62°51'09" East from a 1/2 inch iron rod; thence South 62°51'09" West 200.04 feet to said iron rod, said iron rod also being a point on the East line of that certain tract conveyed to Ronald and Rhonda Warman by Deed recorded under Auditor's File No. 8806290070 of Clark County records; thence South 02°04'52" West along the East line of said Warman tract 3397.86 feet, more or less, to the center of LaCamas Creek; thence Westerly along the center of LaCamas Creek 400 feet, more or less to the West line of said Fletcher Donation Land Claim; thence South 02°04'52" West along the West line of said Donation Land Claim to the Southwest corner thereof; thence South 89°37'12" East along the South line of said Donation Land Claim 808.83 feet to the centerline of said Northeast Goodwin Road; thence North 57°14'04" East along said centerline 534.50 feet to a point on a 955.03 foot radius curve to the left; thence along said centerline and around said 955.03 foot radius curve to the left 458.11 feet; thence North 29°45'03" East along said centerline 224.51 feet to a point on a 955.03 foot radius curve to the right; thence along said centerline and around said 955.03 foot radius curve to the right 233.11 feet; thence North 43°44'09" East along said centerline 1240.54 feet to a point on a 955.03 foot radius curve to the right; thence along said centerline and around said 955.03 foot radius curve to the right 433.61 feet; thence North 69°44'59" East along said centerline 355.01 feet to a point on a 955.03 foot radius curve to the right; thence along said centerline and around said 955.03 foot radius curve to the right 358.90 feet to a point on the South line of the Northwest quarter of said Section 21; thence South 88°43'07" East along said South line 984.63 feet to the Southeast corner of said Northwest quarter; thence North 01°21'07" East along the East line of the Southeast quarter of the Northwest quarter of said Section 21, a distance of 1314.63 feet to the North line of the South half of the Northwest quarter of said Section 21; thence North 88°41'51" West along said North line 1801.15 feet to the East line of said Fletcher Donation Land Claim; thence North 01°14'05" East along the East line of said Donation Land Claim 1315.28 feet to the North line of the Northwest quarter of the Northwest quarter of said Section 21; thence North 88°40'36" West along the North line of said Northwest quarter 830.98 feet to the Northwest corner thereof; thence North 01°45'46" East along the East line of the Southeast quarter of said Section 17, a distance of 2650.20 feet to the Point of Beginning.

SUBJECT TO County Road rights-of-way.

DeBONI

and associates

November 19, 1992

Washington State Department of Ecology
Southwest Regional Office
7272 Cleanwater Lane
Olympia, WA 98504-6811

To whom this may concern:

The enclosed permit seeks to expand a domestic water use from a well located on Green Mountain in Clark County, to service a proposed golf course, clubhouse project and existing agricultural grazing.

In addition we are requesting a preliminary permit to undertake aquifer testing to evaluate the use of groundwater to supply water requirements for the project. It will also enable us to determine water supply for future development of the property.

We seek to conduct a pump test to provide information on the condition and efficiency of the existing well, the sustained yield potential of the well and aquifer, the water quality, and the potential impact of the pumping on Lacamas Creek flows. Pump testing will include a step test and an extended duration test, including monitoring of water levels in nearby domestic wells and specially constructed observation wells.

Please call or write this office should you have any questions.

Sincerely,



Norman Gollub

WATER WELL REPORT
 STATE OF WASHINGTON

(1) OWNER: Name LaCamas Valley Milling Co. Address 18110 Fourth Plain Vancouver

(2) LOCATION OF WELL: County Clark NW 1/4 SE 1/4 Sec. 17 T 2 N, R. 3E W.M.

Bearing and distance from section or subdivision corner 660' W. E/650' N. from the SE COR.

(3) PROPOSED USE: Domestic Industrial Municipal
 Irrigation Test Well Other

(4) TYPE OF WORK: Owner's number of well (if more than one) 8
 Method: Dug Bored
 Deepened Cable Driven
 Reconditioned Rotary Jetted

(5) DIMENSIONS: Diameter of well _____ inches.
 Drilled 480 ft. Depth of completed well 466 ft.

(6) CONSTRUCTION DETAILS: +1 1/2' above G.L.

Casing installed: 12" Diam. from 0 ft. to 95 ft.
 Threaded 8" Diam. from 0 ft. to 334 ft.
 Welded see below from _____ ft. to _____ ft.

Perforations: Yes No
 Type of perforator used _____
 SIZE of perforations _____ in. by _____ in.
 _____ perforations from _____ ft. to _____ ft.
 _____ perforations from _____ ft. to _____ ft.
 _____ perforations from _____ ft. to _____ ft.

Screens: Yes No
 Manufacturer's Name UOP Johnson
 Type S/S Model No. _____
 Diam. _____ Slot size see from below ft. to _____ ft.
 Diam. _____ Slot size _____ from _____ ft. to _____ ft.

Gravel packed: Yes No Size of gravel: _____
 Gravel placed from _____ ft. to _____ ft.

Surface seal: Yes No To what depth? 95 ft.
 Material used in seal cement
 Did any strata contain unusable water? Yes No
 Type of water? _____ Depth of strata _____
 Method of sealing strata off _____

(7) PUMP: Manufacturer's Name _____
 Type: _____ HP

(8) WATER LEVELS: Land-surface elevation above mean sea level _____ ft.
 Static level 187 ft. below top of well Date 8-6-74
 Artesian pressure _____ lbs. per square inch Date _____
 Artesian water is controlled by _____ (Cap, valve, etc.)

(9) WELL TESTS: Drawdown is amount water level is lowered below static level Hansen
 Was a pump test made? Yes No If yes, by whom? Drilling
 Yield: 495 gal./min. with 50 ft. drawdown after _____ hrs.
 " 495 " " 62 " " 4 " "

Recovery data (time taken as zero when pump turned off) (water level measured from well top to water level)

Time	Water Level	Time	Water Level	Time	Water Level
0	244	3	211	30	200
1M	207	5	205	1 H	190
2	214	10	204	2	186

Date of test 12-19-74
 Bailor test _____ gal./min. with _____ ft. drawdown after _____ hrs.
 Artesian flow _____ g.p.m. Date _____
 Temperature of water _____ Was a chemical analysis made? Yes No

(10) WELL LOG:

Formation: Describe by color, character, size of material and structure, and show thickness of aquifers and the kind and nature of the material in each stratum penetrated, with at least one entry for each change of formation.

MATERIAL	FROM	TO
brown dirt, reddish	0	15
greyish broken rock S to M	15	120
brown grey broken lavas rock	120	130
clay, brown, grey, green	135	150
cemented gravel	150	180
cemented sand, gravel, w/clay	180	254
brown clay, sandstone	254	270
broken black rock, boulders	270	278
brown sand, gravel, boulders	278	305
cemented sand, gravel, clay bin.	305	322
sandstone & gravel	322	329
sand, gravel, cemented	329	404
sandy layers, bits gravel	404	430
black & brown sand	430	438
black sand layer, gravel	438	456
brown sandy clay	456	460
brk. bl. rock, br. clay bin.	460	466
brown & black sand, w/br. clay	466	480

SCREENS:	GASING:
8" #50 334'9"-345	8" 345-362
8" #50 362-382'6"	8" 382'6"-394'9"
8" #40 394'9"-405	8" 405-435
8" #35 435-455'6"	8" 455'6"-466'6"

7-1-74	8-8-74
Work started <u>12-18-1974</u>	Completed <u>12-19-1974</u>

WELL DRILLER'S STATEMENT:

This well was drilled under my jurisdiction and this report is true to the best of my knowledge and belief.

NAME Hansen Drilling Co., Inc.
 (Person, firm, or corporation) (Type or print)
 Address 6711 NE 58th Ave. Vancouver
0098 Gerald Desmet
 [Signed] Gerald Desmet
 (Well Driller) RW Hansen
 C 51 License No. 223 02 1155 Date Dec. 30, 1975

OK/WHM
4-28-75

LEGAL DESCRIPTION

A tract of land in the South half of Section 17, the East half of Section 20, and the West half of Section 21, all in Township 2 North, Range 3 East of the Willamette Meridian, in Clark County Washington, described as follows: The following are in Grid bearing, Washington State coordinate System. A scale and elevation factor of 1.0000339 has been applied to the measured field distances.)

BEGINNING at the North~~East~~ corner of the Southeast quarter of said Section 17, thence North 89°22'57" West, along the North line of the South half of said Section 17, a distance of 3514.90 feet to the centerline of Ingle Road; thence South 01°53'59" West along said centerline 474.48 feet to a point on a 375.00 foot radius curve to the left; thence along said centerline and around said 375.00 foot radius curve to the left, 262.60 feet; thence South 43°00'51" East along said centerline 123.51 feet to a 675.00 foot radius curve to the right; thence along said centerline and around said 675.00 foot radius curve to the right 205.42 feet; thence South 23°56'36" East along said centerline 143.32 feet; thence South 30°50'48" East along said centerline 288.97 feet; thence East 30°43'55" East along said centerline 652.08 feet; thence South 29°58'13" East along said centerline 237.86 feet to a point which bears South 59°56'31" West from a 1 1/2 inch iron pipe marking the Northwest corner of that certain tract conveyed to Keith Bakker by deed recorded under Auditor's File No. G 646584 of Clark County records; thence North 59°56'31" East 21.96 feet to said iron pipe; thence continuing North 59°56'31" along the North line of said Bakker tract 329.82 feet to a 3/4 inch iron pipe and the Northeast corner thereof; thence South 33°48'47" East along the East line of said Bakker tract 667.97 feet to a 3/4 inch iron pipe and the Southeast corner thereof; thence South 49°38'10" West along the South line of said Bakker tract 353.38 feet to the centerline of Ingle Road; thence South 40°25'01" East along said centerline 178.26 feet to a point which bears South 06°18'18" West from a 1 1/2 inch iron pipe on an Easterly line of that tract conveyed to James Bartmess by instrument recorded under Auditor's File No. 8911140220 Clark County records; thence North 06°18'14" East along said Easterly line 71.81 feet to said iron pipe; thence North 66°58'42" East along a Southerly line of said Bartmess tract 100.00 feet to the Northwest corner of that tract conveyed to Ronald and Rhonda Warman by Deed recorded under Auditor's File No. 9004270087, Clark County records; thence North 86°58'42" East along the North line of said Warman tract 790.14 feet to the Northwest corner thereof; thence South 02°04'39" West along the East line of said Warman tract 1018.41 feet to the centerline of Northeast Ingle Road; thence North 40°17'19" East along the centerline of Northeast Ingle Road 315.33 feet to a point which bears North 62°51'09" East from a 1 1/2 inch iron rod; thence South 62°51'09" West 200.04 feet to said iron rod, said iron rod also being a point on the East line of that certain tract conveyed to Ronald and Rhonda Warman by Deed recorded under Auditor's File No. 9004270087 of Clark County records; thence South 02°04'52" West along the East line of said Warman tract 3397.86 feet, more or less, to the center of LaCamas Creek; thence West along the center of LaCamas Creek 400 feet, more or less to the West line of said Fletcher Donation Land Claim; thence South 02°04'52" West along the West line of said Donation Land Claim to the Southwest corner thereof; thence South 89°37'12" East along the South line of said Donation Land Claim 808.83 feet to the centerline of said Northeast Goodwin Road; thence North 57°14'04" East along said centerline 534.50 feet to a point on a 955.03 foot radius curve to the left; thence along said centerline and around said 955.03 foot radius curve to the left 458.11 feet; thence North 29°44'17" East along said centerline 224.51 feet to a point on a 955.03 foot radius curve to the right; thence along said centerline and around said 955.03 foot radius curve to the right 233.11 feet; thence North 43°44'09" East along said centerline 1240.54 feet to

DESCRIPTION cont.....

around said 955.03 foot radius curve to the right 433.61 feet; thence North 69°44'59" East along said centerline 355.01 feet to a point on a 955.03 foot radius curve to the right; thence along said centerline and around said 955.03 foot radius curve to the right 358.90 feet to a point on the South line of the Northwest quarter of said Section 21; thence South 88°43'07" East along said South line 984.63 feet to the Southeast corner of said Northwest quarter; thence North 01°27'07" East along the East line of the Southeast quarter of the Northwest quarter of said Section 21, a distance of 1314.63 feet to the North line of the South half of the Northwest quarter of said Section 21; thence North 88°41'51" West along said North line 1801.15 feet to the East line of said Fletcher Donation Land Claim; thence North 01°14'05" East along the East line of said Donation Land Claim 1315.28 feet to the North line of the Northwest quarter of the Northwest quarter of said Section 21; thence North 88°40'36" East along the North line of said Northwest quarter 830.98 feet to the Northwest corner thereof; thence North 01°45'46" East along the East line of the Southeast quarter of said Section 17, a distance of 2650.20 feet to the Point of Beginning.

SUBJECT TO County Road rights-of-way.

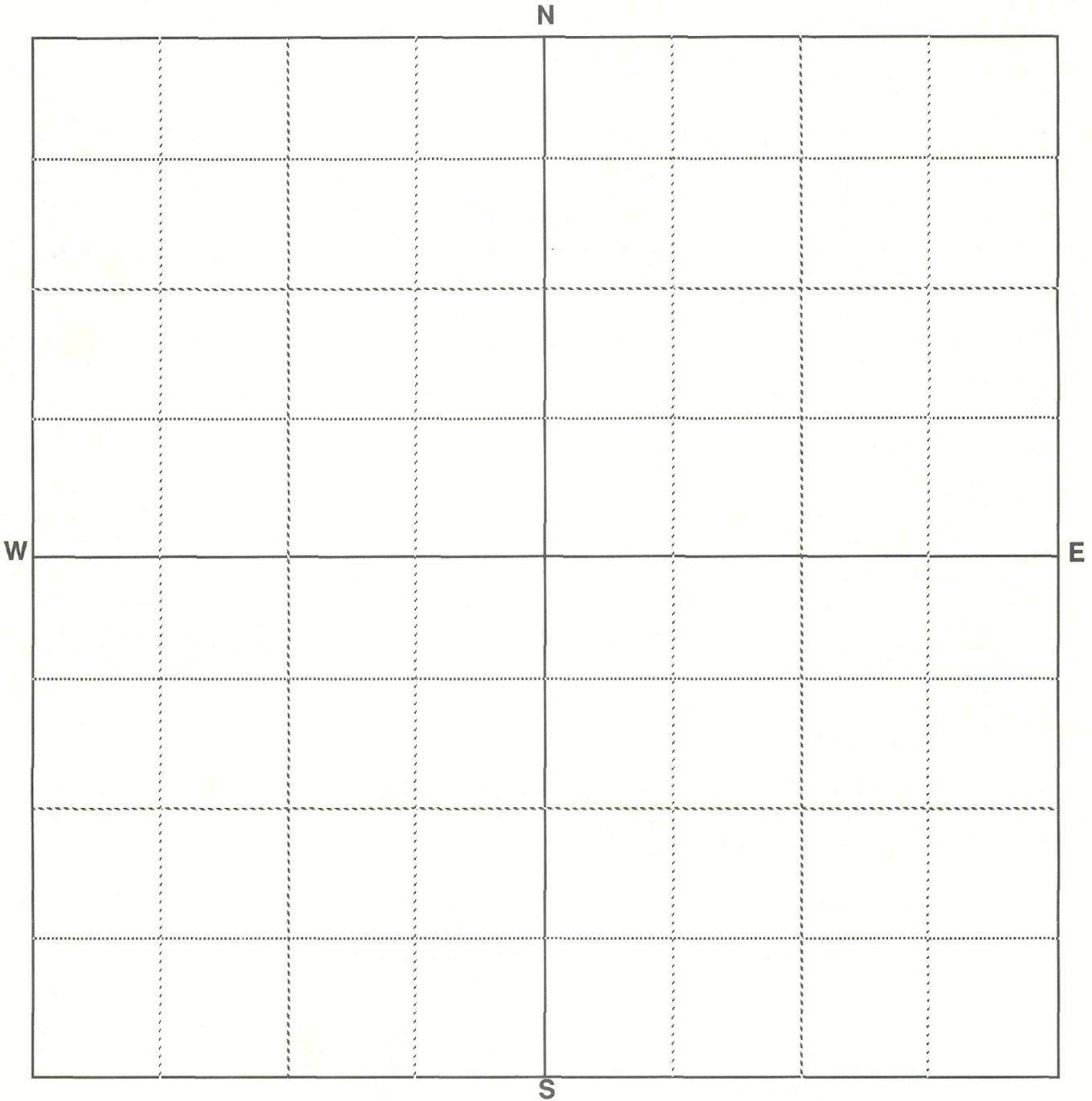
FILED
MAR 6 2 35 PM '91
CHARTER TITLE CORP.

ELIZABETH A. LUCE

338

SECTION MAP

Sec.SE 1/4, sec. 17 Twp.2..... N. R.3E.....



Scale: 1 inch = 800 feet (each small square = 10 acres)

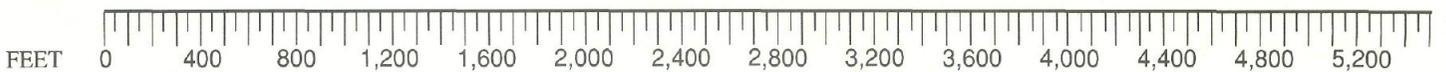
Show by a cross (X) the location of point of diversion (surface water source) or point of withdrawal (ground water source). For ground water applications, show by a circle (O) the locations of other wells or works within a quarter of a mile.

Indicate traveling directions from nearest town in space below.

Exit interstate 205 at state route 500 (SR 500) near Vancouver. Travel east to
NE 199th Avenue. Turn right. BPA power lines cross the road just past NE 49th Street.
Turn left onto the BPA maintenance road. Follow road and bear to the right at the
meadow. Continue along the jeep path to the well pump house, @ 1.050 south of the
BPA lones - see attached map.

Detach here

Fold along scale



Detach this scale at the performance, fold excess paper under or cut off excess by cutting along the scale line. This scale corresponds to the SECTION MAP above. You can read feet directly from this scale to outline property and locate points of diversion or withdrawal on the SECTION MAP. Enclose this map along with the application and \$10.00 examination fee.