

OFFICE OF THE SPECIAL HEARING EXAMINER

SNOHOMISH COUNTY

DECISION ON RECONSIDERATION

CASE NO.: 04-109621 BG BRIGHTWATER WASTEWATER TREATMENT FACILITY

OWNER/ APPLICANT: King County Development of Natural Resources and Parks
Wastewater Treatment Division
201 South Jackson Street
Seattle, Washington 98104-98121

CONTACT: Chris Tiffany, Real Property Agent IV
Brightwater Project Office
22509 State Route 9
Woodinville, Washington 98072-6010

PROJECT LOCATION: 22509 State Route 9
Woodinville, Washington 98072-6010

1. By Report and Decision dated May 5, 2006, the Examiner conditionally approved the binding site plan for the Brightwater Wastewater Facility. On May 15, 2006, the Sno-King Environmental Alliance (SKEA) and the City of Woodinville (City) timely filed Requests for Reconsideration pursuant to Section 30.72.065 of the Snohomish County Code (SCC). Section 30.72.065(4) SCC authorizes the Examiner to deny the reconsideration request in writing; grant the request and issue an amended decision; accept the petition and provide ten calendar days for parties of record to submit written comment; or accept the petition and set the matter for further open record hearing to consider new evidence, proposed changes in the application, or arguments.
2. The SKEA reconsideration request again challenges the procedures governing the public hearing on the Brightwater matter as established in the Development Agreement entered by Snohomish and King Counties. For the reasons set forth in his decision, the Examiner must follow the requirements of the Development Agreement and has no authority to find that the agreement violates either the county code or state law.
3. SKEA also asserts that the decision "included legal errors" in evaluating geological documents related to the seismic hazard issue. Again, as set forth in

Finding No. 40, the counties negotiated the criteria which the applicant must meet, and seismic issues are beyond the authority of the Examiner to consider.

4. SKEA argues that Snohomish County has already issued the first building permit for the Brightwater facility. However, if such violates the Agreement, it is an enforcement issue beyond the scope of the present hearing.
5. Both SKEA and the City assert that SKEA has information tending to show the potential for or existence of additional faulting at the subject site, and both parties request the Examiner to reopen the record to allow presentation and consideration of the evidence. Both assert that the evidence relates to serious threats to public health and safety, and the City asserts that RCW 36.70B.170(4) reserves such issues in the Development Agreement. However, as set forth in Finding No. 10 of the original decision, Section 2.3 of the Development Agreement provides in part:

The Hearing Examiner shall not impose conditions to mitigate odor and/or seismic impacts other than the requirements specified in the special conditions set forth in Section 3.0.

While the Development Agreement prohibits the Examiner from considering information on the seismic impacts, such information could certainly be provided to the legislative authorities of both Snohomish and King Counties.

6. SKEA asserts that Snohomish County kept testimony from the record by failing to submit an email from Christy Diamond received prior to the deadline of April 14, 2006. However, Exhibit "68" is a compilation of "Emails and Comments from SKEA re: Notice" and Exhibit "71" is a compilation of "Emails from SKEA". Included within said exhibits are emails from Christy Diamond dated April 13, 2006, and April 14, 2006.

DECISION:

For the reasons set forth above the Requests for Reconsideration filed by the City of Woodinville and the Sno-King Environmental Alliance are hereby denied.

ORDERED this 19th day of May, 2006.

STEPHEN K. CAUSSEUX, JR.
Special Hearing Examiner

TRANSMITTED this 19th day of May, 2006, to the following:

OWNER/ APPLICANT: King County Development of Natural Resources and Parks
Wastewater Treatment Division
201 South Jackson Street
Seattle, Washington 98104-98121

CONTACT: Chris Tiffany, Real Property Agent IV
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APPEAL NOTICE

Appeals of the hearing examiner's final decision(s) shall be sent directly to Superior Court pursuant to the Land Use Petition Act (Chapter 36.70C RCW).