

Dr. Robert and Mrs. Annmarie Kelly
10305 15th Ave. NW
Seattle, WA 98177

January 31, 2012



Dan Valoff
Kittitas Co.
Community Development Services
411 N Ruby St. #2
Ellensburg, WA 98926

Dear Mr. Valoff,

We are writing to express our concern about the pending decision to allow the development of a 65 acre Sand and Gravel Mining operation. A year ago we purchased 50 acres on Bettas Road (lots 6,7,8 and 9). Our property abuts immediately to the north of the proposed site. In short, we will have 65 acres of gravel pit right next door!

The noise and visual impact of crushing rock and regular trucks will certainly blight the beauty and tranquility of our little valley. Windermere realestate agent Jan Wanechek says that it will diminish the value of our property and compared it to "living next to an airport."

We purchased the property as a long term investment specifically toward the higher education of our 4 children. Now we wonder if we have just sunk well over \$100,000 into an unsellable piece of property, jeopardizing our investments.

The sight and sound of crushing rock and rumbling trucks will destroy our views, leave us feeling more stressed and makes walking and biking Bettus road unsafe for the residents, particularly for the children of Horse Canyon.

We realize there is a demand for gravel. But are these tradeoffs that we really want to make?

Please deny the conditional use permit. We look forward to your response.

Sincerely,

Dr. Robert Kelly
Annmarie Kelly

Two handwritten signatures in black ink. The top signature is "Robert Kelly" and the bottom signature is "Annmarie Kelly".

Horse Canyon Gravel Pit

In regards to the recent request for permit (CU-11-00004) .



I can find no reason to establish a major excavation site on or any where near Bettas road. This is one of the most beautiful places in the state of Washington for viewing wild life . Elk herds Sometimes number in the hundreds. Local deer and other herds migrating through the area will leave not to return. There is also a lot of local raptors, along with a list of local and migratory birds that this will have an effect on.

The quality of life we know in Horse Canyon will be destroyed with the constant coming and going of gravel trucks. The din of machinery constantly processing product will be a constant source of noise, not to mention the blasting that will go on.

My wife and I utilize Bettas road on horse back to access local trails, visit neighbors, and move our cows to pastures. This will become very difficult if not dangerous due to the constant coming and going of trucks.

We moved to horse canyon for the peace and quiet, the rural life style, and a better quality of life. I feel this gravel pit will destroy all of the reasons I have just stated.

Thank You
Bill and Barb Fitzgerald
Horse Canyon Ranch
1751 Bettas RD



2-7-2012

To: Kittitas County Community Development
Project: Horse Canyon Conditional Use Permit (CU-10-00004)

My name is Shannon Cogan
I reside at 3111 Bettas Rd
Cle Elum, WA. 98922
I have lived here eight years. This is my primary and only residence

The site for the requested conditional use permit (CUP) for the gravel pit site is directly across Bettas Rd from my home and property. My home and well are both approximately 100 yards below and across from the site boundary, my barn is approximately 150' from the site boundary, my property line is 60' from the site, and my driveway is directly across the street from the access and staging area for the requested sand and gravel pit.

People have a right to use their property how they see fit within governing laws, county and state codes, and regulations; I also have a right to enjoy my property. When neighboring properties in a rural residential area or anywhere else for that matter use their property in ways that have a huge negative impact on the surrounding area and my property, I am no longer able to enjoy my own property, property that I have a major financial investment in. A gravel pit within such close proximity with blasting, dust, pollution, noise, and constant commercial traffic would take my rights away. It would greatly reduce what's left of my property value, probably to no value whatsoever; potentially ruin my well based on groundwater and the relationship to gravel pit activity studies, as well as negatively impact my health, being forced to live within 60' of all the negative activities associated with a gravel pit. I couldn't sell, I couldn't move, I wouldn't have the resources.

There would most likely be structural damage to the buildings on my property with blasting so close; it can't be good for buildings.

I spent last year going through treatment for cancer and have been left with permanent residual damage, I have severe chronic pain and am losing my ability to walk. I am no longer able to work and am home most of the time. Having a gravel pit directly across from my home would make me even worse; I would have no quality of life. I am already in pain 24/7 and can barely walk but at least I have peace and quiet and can enjoy my own land, I have a right to quiet enjoyment. If I had to move because of a gravel pit I highly doubt anyone would even purchase my property unless it was priced far below what it is worth now. I never would have purchased this property had something like that been there, right across the street so why would anyone else? I moved here eight years ago because of the quiet location and peacefulness in this valley. I already have been forced to live with the wind farm; I certainly don't need a gravel pit right across the street. I just couldn't take it, looking at it, feeling the blasting, the dust, pollution, the constant truck traffic, and hearing all the noise.

I'm not playing the "pity me I'm the pathetic one". I'm already losing sleep over this battle and am physically ill; I just don't need another battle now. A battle I wouldn't be fighting if it weren't for Kittitas County's gross negligence.

I am firm believer when it comes to protecting your view or space, if you have the opportunity/resources to purchase adjacent property you need to buy it or don't complain when someone else does and builds a home that blocks your view or you feel invades your space, that's foreseeable. At gravel pit across the street from my home was not foreseeable or even fathomable to me.

I had absolutely no idea the land across the street was designated as mineral resource land and there could be mining activities associated with that designation until after I received the CUP notice in January 2012. On February 2nd 2012 I found out the mineral land designation was adopted in July of 1996, eight years prior to me purchasing my property. RCW 36.70A.060 (b) states:

"Counties and cities shall require that all plats, short plats, development permits, and building permits issued for development activities on, or within five hundred feet of, lands designated as agricultural lands, forest lands, or mineral resource lands, contain a notice that the subject property is within or near designated agricultural lands, forest lands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. The notice for mineral resource lands shall also inform that an application might be made for mining-related activities, including mining, extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals"

No such notice was on any documents or maps pertaining to my property when I purchased it. I would have never purchased in a location that would have allowed this type of activity had I known. I will have to disclose this to any potential buyer now or in the future unless this CUP is denied and the mineral land designation is removed.

Now because of Kittitas County's gross negligence I have to waste my time, health, and energy fighting this in order to protect my well being and my property. I'm losing sleep; I can't eat, and can't enjoy anything right now. Now I have to deal with this. Kittitas County is grossly negligent in not disclosing a material fact that they were required to disclose under RCW 36.70A.060

Just because the wind farm went through and the windmills are in doesn't mean anything goes now. From what I have found out there has been at least three times an application for a conditional use permit has been submitted since 1994 for a gravel pit on Bettas Rd, all have been denied. Why should it be any different now? I don't think any of those were as close to homes either.

I realize there are many things allowed under conditional use but it needs to comply or fit in with the surrounding areas to even be considered for approval. This certainly does not fit into the area whatsoever, maybe many decades ago when Bettas Rd was the highway and the abandoned gravel pit mentioned in the SEPA checklist was in use but not now or in the future. It is completely different here now then it was when that tiny gravel pit was in use.

This entire area is considered a critical area, with the priority habitat species being mule deer. There is also a very large elk herd that frequents the area. It has been, farms, graze land and homesteads for many, many decades, with more and more homes being built over the years and more being built now. It's a beautiful, peaceful, quiet area that should not be destroyed by a commercial business.

There is a stream directly below the proposed site; it would take all the runoff, runoff full of silt and toxins because of the ground disturbance and commercial activities at the pit site. There is a culvert that goes under Bettas Rd onto my property that feeds into the stream. It will most likely clog my culvert and cause the water to flow across my driveway, damaging that as well.

I've been reviewing Ellensburg Cement's recent appeal against the Gibson Quarry (CU-10-00004) and all the reasons Ellensburg Cement Products (ECP) states in the appeal to deny the CUP. (Attached as exhibit A)
ECP is trying to do the same thing as the Gibson Quarry on but on Bettas Rd, property which is also zoned AG-20, but is far more residential.

In a letter dated August 12th 2010 (attached as exhibit A) to Kittitas Community Development from ECP's attorney referencing the Gibson Quarry it states:
"The subject property is in the AG-20. Kittitas County's current zoning code is clear that rock crushing is neither an outright permitted use nor a conditional use in the AG-20 zone. As such the CUP Amendment should have been summarily rejected. The applicant should have been told that a CUP amendment simply cannot be issued under the existing zoning regulations, and that if it wanted to permit such operations, it would have to first request a rezone of the property"
It looks like ECP works things however it best benefits them.

ECP makes no mention of rock crushing on the Bettas Rd site in their SEPA Environmental Checklist but they do state "LOADING PROCESSED PRODUCTS". Gravel extraction and excavation involves several steps. First it is removed from the ground. Next it must be crushed to a more uniform size because it comes out of the ground as a bunch of different-sized rocks, not as uniform gravel from a vein of identically-sized pebbles. Next it must be sorted and washed. Water is needed to crush rock, where will this water come from and where will the runoff be diverted to?

I would like to know how the ground that's "blasted when necessary" will become a manageable size "processed product" without rock crushing. Will ECP be hauling boulders from Bettas Rd to another site state to be further processed or are they selling 80 minus rock now? This would not be feasible or realistic. *How and where will the material be processed?*

SEPA Checklist Omissions and Discrepancies

Environmental Elements Section 2 Air c

There is nothing in the SEPA checklist of any substance or any studies addressing dust control from the quarry. ECP states “Dust control by water truck for activities on site when needed and when site is active.” There is nothing of any substance addressing air quality impacts from all the dust or emissions that will become trapped in the valley *What about when the site is inactive? What will the dust control be then?*

Environmental Elements Section 3 Water a 1)

The SEPA checklist addresses seasonal streams. ECP mentions a spring fed pond that the adjacent owner has rights to. There is a seasonal stream (attached as exhibit B) within 100’ of the site. The ditch that follows Bettas Rd. runs along the western boundary of the proposed site and feeds into the stream by way of two culverts.

ECP made no mention of this stream on the SEPA checklist, a stream that flows into Swauk creek and eventually into the Yakima River. This is a fatal oversight, omission, or flat out lie, as it is obvious and is on maps. None of the maps ECP submitted with their CUP application show the stream or where it goes.

Environmental Elements Section 3 Water c and d)

ECP says “Type 1 Stormwater will be diverted from site”.

To where? The stream ECP failed to mention and the domestic wells in the area they also failed to mention.

There is no analysis whatsoever on the impact of the quarry on ground water, or any determination whatsoever regarding the vulnerability of groundwater in the vicinity of gravel mines. There is absolutely no information regarding the depth or proximity of the surrounding domestic wells. This is either a fatal oversight or ECP feels it is not worth mentioning.

Environmental Elements Section 4 Plants b

On the SEPA checklist ECP states” the site has possibly five trees they may or may not be removed, depending on the site excavation plan” You would have to be blind or unable to count to state that. There are far more than five trees on the site, closer to 50+.

Environmental Elements Section 5 Animals a

ECP did not check mammals even though this is a priority habitat for mule deer. There is also a large elk herd that frequents the proposed site.

Environmental Health Section 7 a

ECP states there is no exposure to the risk of fire. This is an area of extreme fire danger. It can take more than 30 minutes for emergency services to arrive. The elevated fire danger risk associated with the activities of a gravel mine should not be in a neighborhood, the public should not be exposed to the elevated unnecessary risk of fire danger where we live. We are annexed into a fire district but it can still take 30 minutes or more for someone to respond.

Environmental Health Section 7 b 2)

The question is asked, what types and levels of noise would be created by or associated with the project as well as indicate what hours noise would come from the site? ECP gives no answer to that question other than “Truck and heavy equipment, backup alarms, **LOADING PROCESSED PRODUCTS**” In fact there is no mention of the noise from blasting and probable rock crushing. ECP states “LOADING PROCESSED PRODUCTS” on the SEPA checklist. How will it be processed???? The site location is not a stream bed with small rocks, pebbles, and sand. ECP will have to crush rocks to have a processed product. Gravel extraction and excavation involves several steps. First it is dug from the ground. Next it must be crushed to a more uniform size because it comes out of the ground as a bunch of different-sized rocks, not as uniform gravel from a vein of identically-sized pebbles. Next it must be sorted and washed.

Environmental Health Section 7 b 3

The proposed measures to reduce noise are “Strategically placed stockpiles to reflect noise” this won’t do a thing for blasting and probable rock crushing, trucks, and heavy equipment.

It is my understanding gravel mines can operate 24/7; there is no set timeframe or guidelines to hours of operation. I know the Tomas pit on hwy 97 is allowed to operate 24/7 and it does.

Land and Shoreline Use Section 8 a

What is the current use of the site and adjacent properties?

ECP states “Vacant land, one home across from site”.

I know I’m repeating myself but this is definitely worth repeating. There are four homes not the one ECP mentioned on the SEPA checklist within 60’ of the site, two new residential developments, and surrounding homes, one of the developments is adjacent the site. ECP’s answer on the SEPA checklist is not true; in fact it is not even an oversight it is an outright lie. It is clear that there are four homes within 60’ of the site and several homes in the new developments, as well as others that surround the new developments. ECP is trying to cover-up the fact that this is a neighborhood.

Land and Shoreline Use Section 8 k 1

Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans.

ECP states” It is compatible with adjacent mineral land that has existing quarry site. Premium site for product” The mentioned quarry is not in use and has not been for I don’t know how long. Probably since 97 became the hwy and Bettas Rd became a quiet rural road many decades ago. It definitely is not compatible with the existing land use now and neither is the requested gravel pit.

This is a neighborhood, there are four homes within 60’ of the site and two new residential developments, and one of the developments is adjacent to the north side of the site. There are also several homes in the new developments, as well as others that surround the new developments.

Recreation Section 12 a

ECP states there's "Possibly hunting"

Recreation Section 12 b

ECP states the proposed project will not displace any recreational uses which is not true. There are birdwatchers, the residents take daily walks with their dogs, children, and grandchildren, people drive here from other areas just to take their walks, there are horseback riders, and bicyclists. They would all be displaced as Bettas Rd would be entirely too dangerous for public use because of all the commercial truck traffic.

Transportation Section 14 d

ECP states no improvements will be necessary to Bettas Rd.

Bettas Rd is a county maintained chip sealed road, with the commercial traffic the cost to the county to upgrade and maintain Bettas Rd will increase significantly. Bettas Rd was completely destroyed within a week of the road being used by commercial trucks during wind farm construction.

Transportation Section 14 g

There is no analysis or study regarding traffic safety and the impact of increased truck traffic on Bettas Rd other than this on the SEPA checklist ECP states "Truck traffic signs will be posted at either side of entrance" *The entrance is located on a blind corner, where is the study?* Bettas Rd is barely wide enough to accommodate two cars encountering each other, it definitely is not wide enough or designed for heavy commercial traffic, it is a chip sealed narrow road.

This shows how inaccurate and incomplete the SEPA checklist is, it should be rejected. The requested CUP should be denied.

Nothing on the SEPA checklist addresses the impacts from blasting and the probable rock crushing, rock crushing there certainly will be. Rock crushing will be necessary to process the large material. What about the vibration and it's affect on the surrounding properties from blasting and probable rock crushing or just blasting alone? What about the noise levels? These activities will severely affect the four homes within 60' of the site (attached as exhibit C); it will also affect the two new residential developments and surrounding homes not mentioned on the SEPA checklist. ECP makes brief mention of one home across from the site and vacant land on the SEPA checklist. What ECP says about the surrounding area is not true; in fact it is an outright lie. It is clear that there are four homes within 60' of the site and several homes in the new developments, as well as other homes that surround the new developments. ECP is trying to cover-up the fact that this is a neighborhood by omission on the SEPA checklist. You would have to be blind to not see what the surrounding area is. *What about the impact to all these homes, where are the studies?* This shows how inaccurate and incomplete the SEPA checklist is and should be rejected, and the requested CUP be denied.

Under the A-20 zoning 17.29.020 uses permitted #15 this type of activity is allowed:
Home occupations that do not involve outdoor work or activities, which do not produce noise

Why would gravel pit be permitted in a neighborhood? A commercial activity that produces so much noise, an activity that is injurious to public health, welfare, and safety.

Mining in this area would conflict with the current land use and must be reviewed in accordance with:

“GPO 2.144 New conflicting uses, such as residential and commercial uses, may be required by the County to locate, site, and/or be screened away from designated commercial mining activities.”

Bettas Rd. is a residential area period and this CUP should not be permitted to be considered in this location.

Everything associated with this CUP if approved would have significant material adverse impacts on the entire neighborhood.

The CUP requested by ECP cannot be approved. ECP has not been forthright whatsoever and has outright lied on their answers on the SEPA checklist.

This location cannot be found by Kittitas County to be:

- Desirable to public to health – Being a small valley the pollutants and dust from the gravel pit would be trapped in the valley forcing all of us that live here to breathe the stagnant polluted, dust filled air. The noise and vibration from blasting and probable rock crushing would echo through the valley. Our aquifers could become contaminated from blasting, spills, and runoff from the newly exposed earth. The stress to the public living in such close proximity to the activities associated with a mine operation would be overwhelming.
- Desirable to public safety – Bettas Rd is a very quiet road with very little vehicle traffic. Because of this people come here for their walks, there are horseback riders, pets, and children. It has been my understanding that this is open range area. The commercial truck traffic would make Bettas Rd a very dangerous road for the public and livestock.

You cannot approve this conditional use permit and allow my quality of life and my neighbors to be destroyed. We will be materially and adversely affected if this conditional use permit was approved.

Sincerely,
Shannon Cogan
3111 Bettas Rd
Cle Elum, WA 98922
509-857-2171

GROFF MURPHY
LAWYERS

"Exhibit A"

5 pages

August 12, 2010

RECEIVED

AUG 13 2010

Kittitas

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Michael J. Murphy

E-Mail: mmurphy@groffmurphy.com

VIA FACSIMILE
AND FEDERAL EXPRESS

Kittitas County Community
Development Services
411 N. Ruby, Suite 2
Ellensburg, WA 98926

Re: **Gibson Conditional Use Permit Application (CU-10-00004)**

To Whom It May Concern:

I represent Ellensburg Cement Products, Inc. ("ECP"), which is located at 2121 Highway 97, P.O. Box 938, Ellensburg, WA 98926. Pursuant to a Notice of Application dated July 29, 2010, ECP was notified of the proposed amendment to the CUP for the Gibson Quarry located north of Parke Creek Road in Section 8, Township 17 North, Range 20 East, W.M. (the "Application"). This letter is intended to provide ECP's written comments on the Application.

As a threshold matter, it is clear that the application should have been rejected by Kittitas County Community Development Services ("CDS") as being facially defective. The subject property is in the AG 20 Zone. Kittitas County's current zoning code is clear that rock crushing and asphalt plants are neither an outright permitted use nor a conditional use in the AG 20 Zone. As such, the requested CUP Amendment should have been summarily rejected. The applicant should have been told that a CUP amendment simply cannot be issued under the existing zoning regulations, and that if it wanted to permit such operations, it would have to first request a rezone of the property.

The application should have been summarily rejected for a second reason. The Gibson Quarry operation is currently violating the existing CUP (issued to John Miller on December 1997). The Gibson Quarry is currently operating on Parcel Map No. 17-20-08010-0006 (42.41 acres). The CUP issued in 1997 *only* applies to Parcel Map No. 17-20-08040-0011 (13.40 acres). In short, the gravel extraction operation (and occasional illegal rock crushing) currently operating on Parcel No. 17-20-08010-0006 (42.41 acres) is operating without *any* County permits and is thus an illegal operation. For purposes of the proposed CUP amendment, however, the critical point is that nothing in the Application suggests that the applicant is proposing to expand the *area* of the original CUP to include Parcel 17-20-08010-0006 (42.41

GROFF MURPHY, PLLC

300 EAST PINE STREET SEATTLE WASHINGTON 98122

(206) 628-9500 www.groffmurphy.com (206) 628-9506 FACSIMILE

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acres), where the quarry operations are now focused, or Parcel Numbers 17-20-08010-0003 through 0005 (an additional 9 acres), the parcels into which the applicant proposes to expand its mining operations. Hence, there is a clear inconsistency between what the Application says and what the applicant is actually asking the County to approve. For that reason the application should be rejected. Indeed, it should not have been accepted in the first place as it clearly incomplete and defective on its face.

Further, the Notice of Application states that "[t]he County expects to issue a Determination of Non-Significance (DNS) for [the] proposal." But as of June 29, 2010, when the application was deemed "complete", the applicant had not even submitted a SEPA checklist. A SEPA checklist was apparently submitted on July 13, 2010, but it is unsigned and undated and appears to be a copy of the two year old SEPA checklist given to the Department of Natural Resources in 2008 when Louie Gibson (improperly) requested a reclamation permit from DNR for a 60 acre mine, when the underlying County CUP for mining only covered 13.40 acres.

Further, it is clear that the old 2008 DNR SEPA checklist does not even remotely conform to the currently pending request:

- The new Application purports to apply to 84 acres, but the 2008 DNR SEPA checklist only applies to 60 acres.
- The 2008 DNR SEPA checklist says "rock crushing . . . might possibly occur in the future." The Application specifically requests that the CUP be amended to include "rock crushing."
- The 2008 DNR SEPA checklist says nothing about "washing", and claims that no ground water will be withdrawn, and no water will be discharged to ground water. The Application, however, specifically requests that the CUP be amended to include "washing," which will presumably require both ground water withdrawal and discharge.
- The 2008 DNR SEPA checklist says nothing about concrete batch plans or asphalt production, and claims that there will be no air quality impacts other than some "minor amounts of dust" and "normal engine exhaust." The Application, however, specifically requests that the CUP be amended to include concrete and asphalt production.
- The 2008 DNR SEPA checklist claims that the "nearest houses are owned by proponent" and that there are only "dispersed residences" on site and on adjacent properties. This outdated response fails to acknowledge that two residential short plats have been approved, one immediately to the north of the subject site (Sunny Sage Short Plat, SP 10-00006) and the other to the northwest of the subject site (Badger Bluff Short Plat, SP 09-00010).

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- The 2008 DNR SEPA checklist falsely claims that the subject property is zoned Rural 3. As noted above, the subject property is zoned Ag 20.

From the foregoing, it is clear that the 2008 DNR SEPA checklist is outdated, incomplete, and inaccurate.

Under controlling SEPA regulations, the use of the 2008 DNR SEPA checklist is improper. First, under WAC 197-11-315(4), "The lead agency *shall* prepare the checklist or require an applicant to prepare the checklist." (emphasis added). This is not optional, and it was not done. While the applicant may have submitted a checklist, none was prepared for this application, as is readily apparent from the bullet points set forth above.

Second, prior environmental documents cannot be used for a new "threshold determination" if there are "(i) Substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts . . . , or (ii) New information indicating a proposal's probable significant adverse environmental impacts. (This includes *discovery of misrepresentation* or lack of material disclosure.)" WAC 197-11-600(3)(b) (emphasis added).

Both circumstances are present here. The current proposal is a full 1/3rd larger than the one considered by DNR, is now adjacent to a residential subdivision, and now expressly includes operations such as washing, rock crushing, and concrete and asphalt production that have much greater environmental impacts than the surface mining and possible occasional rock crushing described in the 2008 DNR SEPA checklist.

Further, it is clear that the 2008 DNR SEPA checklist misrepresented critical information relevant to the pending Application: in particular the zoning of the property and the existence of a valid CUP for the mining operation on all 60 acres. As noted above, it is undisputed that the property is zoned AG 20 (which does not permit the requested activities) and the existing CUP only applies to 13.40 acres, not 60 and not 84. Accordingly, the 2008 DNR SEPA checklist cannot be used for the environmental review of this Application.

It is equally apparent from the content of the 2008 DNR SEPA checklist and the minimal amount time that has passed between its submission and the issuance of the Notice of Application on July 29, 2010 that no meaningful SEPA review has occurred. How the obvious deficiencies could be missed is shocking, and reflects a complete abdication of the SEPA review process by CDS. It is clear that CDS has simply tried to adopt DNR's determination without doing any review of the legal and environmental issues relevant to compliance with the County's land use and environmental regulations, which are the standards under which the Application must be judged.

Additional flaws in the environmental review process are apparent from the following undisputable facts:

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- Neither the SEPA Checklist nor any studies address noise impacts of the proposed expansion of the quarry or the new quarry operations, such as rock crushing and concrete and asphalt production. As noted above, there are now two residential developments near the expanded quarry.
- There is nothing in the SEPA Checklist of any substance nor any studies addressing dust control from the expanded quarry operations and potential rock crushing. Again, the impacts on the two new residential developments have not been considered or addressed at all.
- There is nothing of substance in the SEPA Checklist and no independent studies addressing odor control and air quality impacts, including toxic emissions from the proposed asphalt plant. These are likely to have significant material adverse impacts on the two new residential developments, one of which is immediately adjacent to the expanded quarry operation.
- Neither the SEPA Checklist nor any studies address impacts from blasting, including vibration, on the surrounding properties, including the two new residential developments.
- There is no analysis or study regarding traffic safety and the impact of increased truck traffic on Park Creek Drive.
- There is no analysis whatsoever of the impact of the quarry operation on groundwater, or any determination whatsoever regarding the vulnerability of groundwater to the impacts of toxic substances, the wastewater from the proposed washing operation, or storm water runoff. Indeed, there is no recognition, other than in the application, that there will be a washing operation. There is absolutely no information regarding the depth or proximity of surrounding wells or the hydraulic connectivity between the pit excavation areas, discharge areas from the washing operation, and the well recharge areas.
- There is no information provided with the Application or the SEPA Checklist indicating that the applicant has a water right for gravel washing at this location. Given the sensitivity of water use issues in Kittitas County, including currently pending proceedings before the State Supreme Court, the lack of any discussion of this issue is a fatal oversight.
- There is absolutely no substantive discussion, study or documentation regarding a spill prevention control and countermeasures plan, even though there will be refueling operations and asphalt liquid tanks and/or tanker trucks on sight.
- Finally, there is no substantive discussion or evaluation of habitat impacts or mitigation of same.

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Kittitas County Community Development Services
August 12, 2010
Page 5

It is painfully obvious from the foregoing list of deficiencies that in addition to ignoring the basic zoning requirements for the subject property, the SEPA review has been completely inadequate given the nature of the Application.

For the reasons set forth above, ECP requests that the Application be rejected and that the applicant be directed to comply with all applicable zoning, land use, and environmental laws in submitting a new application. ECP also requests that the County take action to shut down what is clearly an illegal mining operation on Tax Parcel 17-20-08010-0006 (42.41 acres) because the existing Conditional Use Permit only covers Tax Parcel 17-20-08040-0011 (13.40 acres), and there is no right under existing County land use regulations for there to be any mining operation on Tax Parcel 17-20-08010-0006 (42.41 acres). The fact that the applicant has a DNR reclamation permit is irrelevant because the law is clear that the State Surface Mining Act does not preempt local land use regulation. *Baker v. Snohomish County Department of Planning and Community Development*, 68 Wn. App. 581 (1992).

Very truly yours,

GROFF MURPHY, PLLC



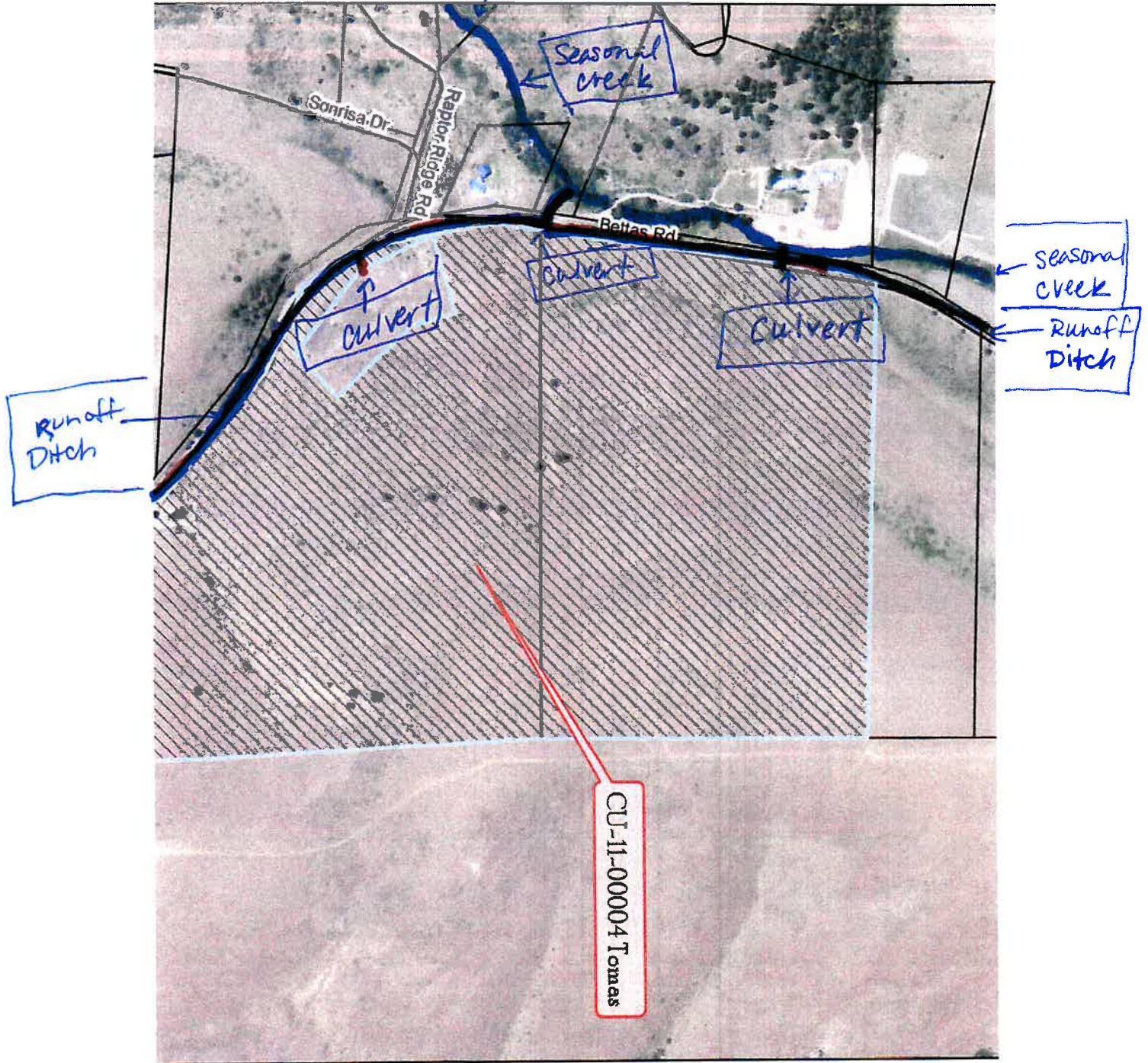
Michael J. Murphy

MJM:br

Exhibit "B"

7 pages

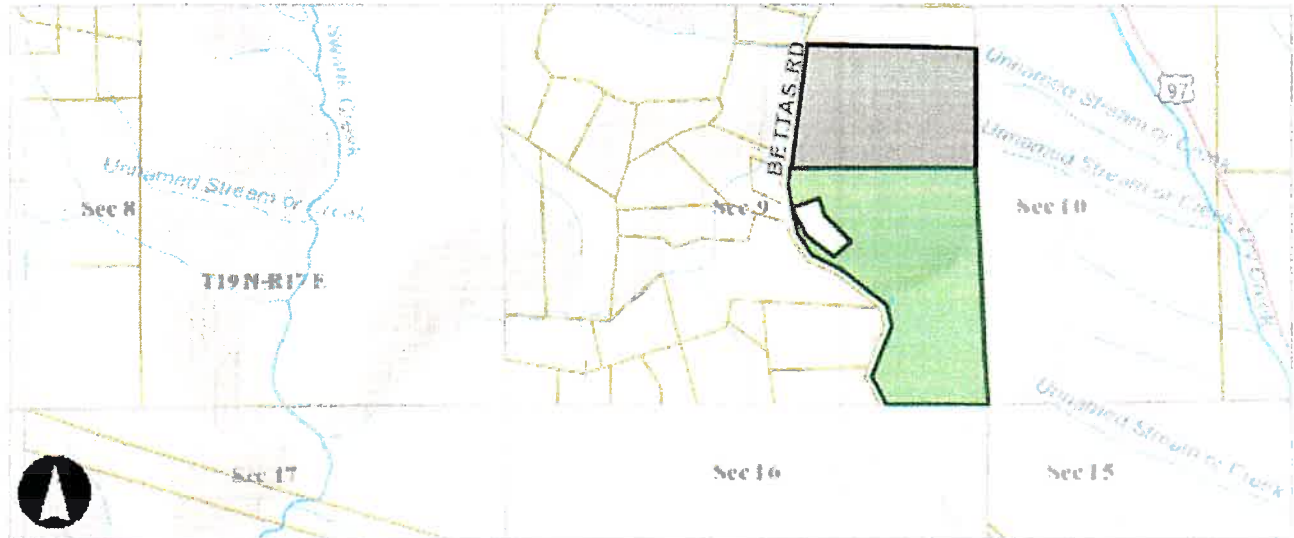
This stream runs into Swank Creek



Stream

" Exhibit B "

2 pages



Map Center: Township:19 Range:17 Section:9

Kittitas County Disclaimer

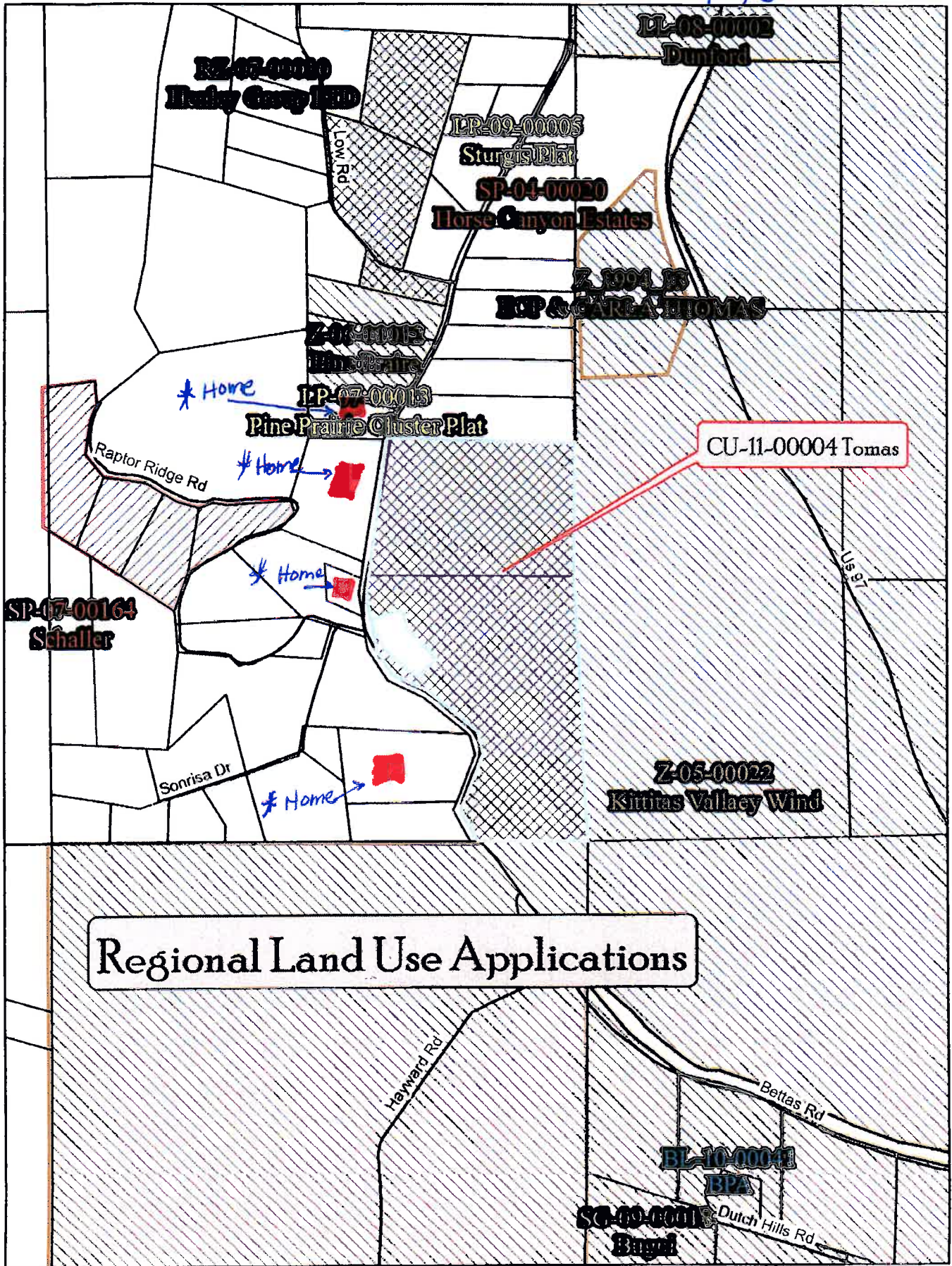
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"Exhibit C"

1 page



Regional Land Use Applications

Full time residences within 500' of proposed Pit
Property lines 60' from site

To Community Development Services

I live at 3201 Betty Rd Cle Elum
98922. The sit for the proposed gravel
pit is right across the road from my home.

I moved here because it was peaceful
and with all the noise & dust I will
not have that anymore.

I am home most of the time and am
low income. I spent most all my money
on this home and can not afford
any loss this gravel pit will bring.

I also see a lot of safety problems.
I truly hope you will not approve
Permit CU-10-00004.

Tom R. Colvin





1/21/2012

To Community Development Services

I live at 3201 Bettas Rd
Cle Elum, 98922

The site for the proposed gravel pit is right across the road from my home.
I moved here because it was peaceful and with all and with all the dust and noise I will not have that anymore.
I am home most of the time and am low-income. I spent most of my money on this home and cannot afford any loss this gravel pit will bring. I also see allot of safety problems.

I truly hope you will not approve permit CU-10 00004 Horse Canyon Conditional Use Permit.

Tom A Colvin

Tom R Colvin

David Firth

2082 Bettas Road
Cle Elum WA 98922
509.857.2009
509.857.2058 fax
dfirth@provel.us



Kittitas County Community Development Services

2.06.12

Re: CU-11-00004 Horse Canyon

The permit requires that the project is essential and " not detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood." Converting grazing land to a 65 acre gravel pit would change the character of the surrounding neighborhood not only by converting grazing land to industrial use, but also by adding noise and truck traffic to an otherwise quiet agricultural area with at least six nearby residences.

Sincerely,

A handwritten signature in black ink, appearing to read "David G. Firth". The signature is fluid and cursive, with a large initial "D" and "F".

David G. Firth

Kittitas County Community Development Services

February 2, 2012

411 N. Ruby, Suite 2, Ellensburg, WA 98926



Subject: Horse Canyon Conditional Use Permit

Dear Sirs,

I strongly oppose the issuance of a Conditional Use Permit for the development of the 65 acre sand and gravel mining operation located on Bettas Road north of Hayward, Road, Cle Elum, WA . , for the following reasons:

1. The noise from blasting and trucking of the material will ruin the quiet and peaceful atmosphere of Horse Canyon!
2. Blasting could damage the home foundations of nearby homes.
3. The noise from the operation will negatively affect the Property Values of the homes and lots in Horse Canyon.
4. Blasting will disturb the area wildlife and domestic animals. (horses and cattle)
5. The added use of gravel trucks in the operation will speed damage to Bettas Road, increasing road repairs.
6. Blasting could damage or change the Water Table in Horse Canyon.
7. Blasting could drive the elk away from Horse Canyon , the traditional migratory route for at least three different herds.

For these reasons, please do not issue the Conditional Use Permit for the development of the 65 acre sand and gravel operation on Bettas Road.

Charles J. Holtz
Sharon L Holtz

Charles J. and Sharon L. Holtz

108 Low Road

Cle Elum, WA, 98922

Dan Valoff

From: Bob Kelly [bobkelly@microsoft.com]
Sent: Wednesday, February 01, 2012 9:58 PM
To: Dan Valoff; Bob Kelly
Subject: Horse Canyon CUP application

Dr. Robert and Mrs. Annmarie Kelly
10305 15th Ave. NW
Seattle, WA 98177

January 31, 2012

Dan Valoff
Kittitas Co.
Community Development Services
411 N Ruby St. #2
Ellensburg, WA 98926

Dear Mr. Valoff,

We are writing to express our concern about the pending decision to allow the development of a 65 acre Sand and Gravel Mining operation. A year ago we purchased 50 acres on Bettas Road (lots 6,7,8 and 9). Our property abuts immediately to the north of the proposed site. In short, we will have 65 acres of gravel pit right next door!

The noise and visual impact of crushing rock and regular trucks will certainly blight the beauty and tranquility of our little valley. Windermere realstate agent Jan Wanechek says that it will diminish the value of our property and compared it to "living next to an airport."

We purchased the property as a long term investment specifically toward the higher education of our 4 children. Now we wonder if we have just sunk well over \$100,000 into an unsellable piece of property, jeopardizing our investments.

The sight and sound of crushing rock and rumbling trucks will destroy our views, leave us feeling more stressed and makes walking and biking Bettus road unsafe for the residents, particularly for the children of Horse Canyon.

We realize there is a demand for gravel. But are these tradeoffs that we really want to make?

Please deny the conditional use permit. We look forward to your response.

Sincerely,

Dr. Robert Kelly

Dan Valoff

From: Thomas Roth [teroth@earthlink.net]
Sent: Tuesday, January 31, 2012 9:45 AM
To: Thomas Roth
Subject: Horse Canyon Estates, proposed gravel pit

Dan Valoff
Kittitas Co.
Community Development Services
411 N Ruby St. #2
Ellensburg, WA 98926

Dear Dan,

I own 17, 21A and 21B in Horse Canyon Estates. Lots 21A and 21B total 49+ acres and are in a five acre zone. A total of nine five acre parcels will be created in 2013 and at that time Horse Canyon Estates will consist of 34 parcels. Most of these parcels are about a quarter of a mile away from the proposed gravel pit.

The valley is pristine and quiet with great views. Obviously I want to object to the proposed gravel pit just south of Horse Canyon Estates. The noise, road damage, dust and truck traffic are completely incompatible with the area. Why locate a gravel pit next to a development that has stable land values and people living in nice homes on a year around basis?

Please deny the conditional use permit. If I can do anything else please let me know.

Sincerely,

Tom Roth
10036 Valmay NW
Seattle, WA 98177
206-295-8589

BARTON H. CLENNON
2350 Maple Street
Wenatchee, WA 98801
(509) 663-3513

January 26, 2012

Dan Valoff
Kittitas County Community Development Services

Dear Dan,

I am writing in opposition to the proposed First Canyon conditional use permit (CU-10-00004).

I own, via my pension, three parcels of land that are just to the west (a little northwest) of the proposed pit site. There is one parcel between my land and the proposed site. The tax parcel numbers are 19-17-09010-0009, 19-17-09010-0008, and 19-17-09010-0010.

I feel this is inappropriate for many reasons including such things as road damage, noise, dust, etc. This is a peaceful valley that does not have a road put in for this type of use. It will have a significant negative impact on the values of not only my property, but many other in the area.

I strongly urge you to reject this conditional use permit. If I can provide any other input, please let me know.

Best regards,



Barton H. Clennon

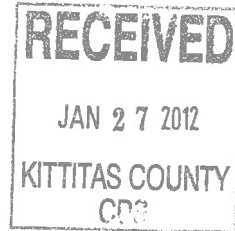


**Washington State
Department of Transportation**
Paula J. Hammond
Secretary of Transportation

South Central Region
2809 Rudkin Road, Union Gap
P.O. Box 12560
Yakima, WA 98909-2560

(509) 577-1600
TTY: 1-800-833-6388
www.wsdot.wa.gov

January 26, 2012



Kittitas County Community Development Services
411 N Ruby Street, Suite 2
Ellensburg, WA 98926

Re: Conditional Use Permit CU-10-00004

To whom it may concern:

The applicant's request for a conditional use permit (referenced above) seems to assume the use of the State's property for access and as a staging area. No such proposal has been made to the State.

The State is in the final stages of preparing that parcel for sale. In fact, in all likelihood, it will be offered to the abutter who is the applicant in this request before the County. To date though no such transaction has taken place.

To the extent that any of this information affects the County's decision making process I wanted to keep you informed. If you have any questions I can be reached in Yakima at (509) 577-1661.

Sincerely,

Stewart L. Reif
Propert Management Supervisor
South Central Region

slr/slr



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490



February 1, 2012

Dan Valoff
Kittitas County Community Development
411 N. Ruby St., Suite 2
Ellensburg, WA 98926

Re: CU-11-00004

Dear Mr. Valoff:

Thank you for the opportunity to comment during the optional determination of nonsignificance process for the development of a 65 acre sand and gravel mining operation, proposed by Lenny Morrison on behalf of Carla Thomas. We have reviewed the documents and have the following comments.

Please note that the property owner's name has been misspelled on several of the project documents (i.e., Notice of Application, and Conditional Use Permit application). The property owner is Carla Thomas and not Carla Tomas.

The Reclamation Permit is missing from the list of Required Permits on Kittitas County's Notice of Application dated January 20, 2012.

The following information, if applicable, should be included in the environmental checklist to facilitate environmental review:

- How much material is proposed to be removed and to what depth?
- Is there an existing scale house or will one be constructed?
- Describe all activities that will occur on this site during the sand and gravel operation. Will there be stockpiling, crushing, washing, and/or hauling of the materials? If so, please describe.
- It is recommended to list which BMP's will be used.
- What are the proposed days and hours of operation?
- At the peak, how many trucks trips will occur?





January 30, 2012

Kittitas County Community Development Services
411 N Ruby, Suite 2
Ellensburg, WA 98926



Subject: Comments for Horse Canyon Conditional Use Permit(CU-10-00004).

Dear Kittitas County Community Development Services,

Thank you for the opportunity to comment on the proposed 65 acre sand and gravel mine, Horse Canyon, at Section 9, Township 19 North, Range 17 East W.M. in Kittitas County. The 65 acre mine does require a Department of Natural Resources (DNR) Surface Mine Reclamation Permit (SMRP) as defined in RCW 78.44.031 (17).

(a) "Surface mine" means any area or areas in close proximity to each other, as determined by the department, where extraction of minerals results in:

(i) More than three acres of disturbed area;

(ii) Surface mined slopes greater than thirty feet high and steeper than 1.0 foot horizontal to 1.0 foot vertical; or

(iii) More than one acre of disturbed area within an eight acre area, when the disturbed area results from mineral prospecting or exploration activities.

(b) Surface mines include areas where mineral extraction from the surface or subsurface occurs by the auger method or by reworking mine refuse or tailings, when the disturbed area exceeds the size or height thresholds listed in (a) of this subsection.

(c) Surface mining occurs when operations have created or are intended to create a surface mine as defined by this subsection.

Failure to comply may result in a Stop Work Order per RCW 78.44.380. If you have any questions, please feel free to contact me.

Sincerely,

Carrie Gillum
Surface Mine Reclamation Specialist
WA Department of Natural Resources
360-902-1438
360-902-1785 (fax)