

# Mentor Law Group PLLC

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Joe Mentor, Jr.  
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July 3, 2008

Kittitas County Planning Commission  
Kittitas County Courthouse  
Ellensburg, WA 98926

RE: SEPA Determination for Tumbling Ridge Re-zone (Z-07-16) and  
Tumbling Ridge 14-lot Preliminary Plat (P-07-61)

Dear Commissioners:

I am writing for Suncadia, LLC to comment on Kittitas County's Mitigated Determination of Nonsignificance (MDNS) for the above-referenced proposals by Tumbling Ridge LLC to rezone and subdivide 17 acres of land in upper Kittitas County.<sup>1</sup> The Tumbling Ridge property is bordered on three sides by the Suncadia Resort, and unmitigated environmental impacts will cause Suncadia irreparable harm. Suncadia respectfully requests the Planning Commission return the MDNS to Community Development Services with instructions to 1) prepare an environmental impact statement for the project as required under RCW 43.21C.030 and WAC 197-11-360; and 2) impose additional conditions to mitigate adverse environmental impacts from the proposals.

Specifically, Community Development Services failed to consider the impacts of reasonably foreseeable, connected actions as required under Ch. 43.21C RCW, the State Environmental Policy Act (SEPA) and has not properly addressed the impacts of the proposals. Additionally, Community Development Services failed to comply with the recently-signed Memorandum of Agreement between Kittitas County and the Washington Department of Ecology (Kittitas-Ecology MOA) when considering the impact of using a permit-exempt groundwater withdrawal as the project's primary water supply. The County should impose additional conditions on the project to require full compliance with the Memorandum of Agreement. The proposed conditions also should be modified to 1) prevent out-of-priority water use; 2) protect senior water rights from impairment; and 3) limit water use on the subject parcel, together with

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<sup>1</sup> Kittitas County Community Development Services, Mitigated Determination of Nonsignificance (MDNS), Tumbling Ridge Re-zone (Z-07-16) and Tumbling Ridge 14-lot Preliminary Plat (P-07-61).

water use on an adjacent parcel, to 5,000 gallons per day (gpd) or, alternatively, to require the applicant to obtain a water right permit from Ecology for the project. Finally, the applications should be denied because the applicant has failed to demonstrate the availability of an adequate, reliable water supply as required under RCW 58.17.110.

### I. Background

The Tumbling Ridge LLC parcel results from a short plat recorded on January 26, 2007, on which Tumbling Ridge LLC subdivided a 35-acre parcel into two, 17-acre parcels.<sup>2</sup> On June 27, 2007, Tumbling Ridge LLC executed a quit claim deed purporting to convey the southern parcel to an entity called the Nathan and Lisa Weis Family LLC (Weis Family LLC).<sup>3</sup> The excise tax affidavit filed with the quit claim deed, however, claims an exemption from the real estate excise tax on the grounds the conveyance merely represented a change of identity, not a change of ownership.<sup>4</sup> Consequently, ownership of the two parcels remains essentially unchanged.

Under the present applications Tumbling Ridge is only proposing to subdivide the northernmost parcel (Parcel No. 20-15-31050-0001), into 14 building lots and a residual open space parcel. Nevertheless, development activities on both parcels are proceeding contemporaneously. On or about February 8, 2007, Tumbling Ridge drilled a well on the northernmost parcel. On June 18, 2007, a Notice of Intent was filed to drill a domestic supply well on the southern parcel. On December 7, 2007, Tumbling Ridge filed the present applications to divide the northern parcel. In May 2008 Weis drilled a well on

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<sup>2</sup> Tumbling Ridge Short Plat, recorded with the County Auditor on January 26, 2007 (Original Parcel No. 20-15-31020-0001), attached hereto as Exhibit A.

<sup>3</sup> Quit Claim Deed from Tumbling Ridge LLC to the Nathan and Lisa Weis Family LLC (June 27, 2007), attached hereto as Exhibit B; Real Estate Excise Tax Affidavit (June 28, 2007), attached hereto as Exhibit C.

<sup>4</sup> RCW 82.45.060 imposes an excise tax upon each sale of real property. RCW 82.45.010 provides an exemption from the real estate excise tax for a transfer of real property, however affected, if the transfer merely changes the identity or form of ownership of an entity where there is no change in the beneficial ownership. RCW 82.45.010(3)(o). Furthermore, we question if this was even an effective conveyance of the property. According to the records of the Washington State Secretary of State's office, the Weis Family LLC was administratively dissolved on May 1, 2007, over a month before the south parcel purportedly was conveyed to the Weis Family LLC. Wash. Secretary of State, Certificate of Administrative Dissolution for the Nathan and Lisa Weis Family LLC (May 1, 2007), attached hereto as Exhibit D; See also Wash. Secretary of State, Certificate of Administrative Dissolution for Tumbling Ridge LLC (March 3, 2008), attached hereto as Exhibit E.

the southern parcel.<sup>5</sup> Shortly thereafter, Tumbling Ridge constructed a single access road from Jenkins Road to serve both parcels. Since then, Tumbling Ridge began site clearing and surveying for both parcels.

The two projects also are functionally interrelated. The projects will share a road and presumably other utilities.<sup>6</sup> According to the Tumbling Ridge PUD Preliminary Site Plan, the 14 lots will be served by a pre-existing access easement that runs south from Jenkins Drive through the northern portion of the northern lot, and then southward. This easement would be the only access road for the south parcel because that parcel does not have county road frontage. It is obvious from survey stakes that both parcels will be divided - and developed - as several individual building lots.<sup>7</sup> The functional interrelationship between the two parcels clearly demonstrates a common plan to develop both parcels.

These circumstances suggest that the applicant intends to develop two parcels as a single project, but is attempting to avoid comprehensive review through piecemeal applications. There is other evidence to support this contention. For example, on August 18, 2006, Tumbling Ridge filed a Notice of Intent to drill a well on the north parcel and represented that the well would be used for one single-family residence.<sup>8</sup> Now the applicant proposes to use the well to supply water for 14 residential connections. Similarly, on June 18, 2007, just nine days before Tumbling Ridge LLC conveyed the southern lot to the Weis Family LLC - members of the Weis family filed a Notice of Intent to drill a well on the south parcel, again representing that the well would be used for one single-family residence.<sup>9</sup> Survey stakes recently placed on the property,

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<sup>5</sup> Ecology Notice of Intent No. WE06850 (June 18, 2007), attached hereto as Exhibit F; compare with Ecology Notice of Intent No. W226248 (Aug. 18, 2006) attached hereto as Exhibit G. Photographs taken of the Site on May 28, 2008 show the access road, lot corner markers, clearing and the drilling of another well on the adjacent parcel, attached hereto as Exhibit H. WAC 173-160-151 requires that notice be given to Ecology before the drilling of a groundwater well.

<sup>6</sup> Tumbling Ridge PUD Preliminary Site plan relies on access from Jenkins Drive via an existing access easement. Tumbling Ridge PUD Preliminary Site Plan (Dec. 13, 2007).

<sup>7</sup> Photographs taken of the site on May 28, 2008, that show the access road, lot corner markers, clearing and the drilling of another well on the adjacent parcel, attached hereto as Exhibit H.

<sup>8</sup> Ecology Notice of Intent No. W226248 (Aug. 18, 2006).

<sup>9</sup> Ecology Notice of Intent No. WE06850 (June 18, 2007). The Notice of Intent represents that Lydia and Dylan Weis are the property owners, even though Tumbling Ridge LLC was the record owner at the time.

however, clearly indicate the owner's intention to divide the south parcel into several building lots.

All these machinations ignore one crucial fact: Tumbling Ridge's 2007 short plat on its face limits the developer to a single, 5,000 gallons per day groundwater withdrawal.<sup>10</sup> Tumbling Ridge cannot avoid this restriction by filing piecemeal applications or by attempting to obfuscate the identity of the developer. Notes on a plat map are binding conditions for approval of a land division, and cannot be changed by a subsequent property owner without County approval. For this reason alone the County should deny the Tumbling Ridge applications.

## II. The SEPA Determination Is Inadequate

### A. The SEPA Determination Fails to Consider Connected Actions

The scope of environmental review must include connected and similar actions. WAC 197-11-060(2), (3); WAC 197-11-792(2)(a). SEPA regulations require that the environmental review include "[p]roposals or parts of proposals that are related to each other closely enough to be, in effect, a single course of action . . . ." WAC 197-11-060(3)(b). Two ostensibly separate projects are considered to be effectively one proposal if the projects:

- (i) Cannot or will not proceed unless the other proposals (or parts of proposals) are implemented simultaneously with them; or
- (ii) Are interdependent parts of a larger proposal and depend on the larger proposal as their justification for their implementation.<sup>11</sup>

Agencies also may analyze "similar actions." Projects that are similar and undertaken by the same developer should be considered as one proposal. The SEPA regulations explain that:

Proposals are similar if, when viewed with other reasonably foreseeable actions, they have common aspects that provide a basis for evaluating their environmental consequences together, such as common timing, types of impacts, alternatives, or geography. This section does not require agencies or applicants to analyze similar actions in a single environmental document or require applicants to

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<sup>10</sup> See Tumbling Ridge Short Plat, Sheet 2 of 2, Note 9 (Recording No. 2007012660060)(January 26, 2007).

<sup>11</sup> WAC 197-11-060(3)(b).

prepare environmental documents on proposals other than their own.<sup>12</sup>

Under either standard, the County Community Development Services should consider the development of the adjacent proposal because there is common ownership, contemporaneous development and common infrastructure. For these reasons, the County's environmental review should consider both projects.

The MDNS is inadequate because it fails to consider connected actions. The actions reviewed in the MDNS and the actions occurring on the adjacent property are effectively parts of the same project. The two parcels are owned by the same party. Development of both parcels will likely require the same road because the southern parcel does not have direct county road access, and will involve some type of residential development because a well has already been drilled. Therefore, the environmental review should have included these two projects because they are parts of one larger proposal.

**B. The SEPA Determination Fails to Address Water Supply Impacts**

Furthermore, the MDNS failed to consider cumulative impacts of the project as required under WAC 197-11-060(4) and WAC 197-11-792(2)(c). SEPA regulations require consideration of the direct, indirect and cumulative impacts of a proposed action.<sup>13</sup> The County is required to consider the impacts to "Surface water movement/quantity/quality" and "Ground water movement/quantity/quality."<sup>14</sup> The MDNS does not accurately address the proposal's impacts to water resources.

The developer's piecemeal approach results from a transparent strategy to avoid compliance with the permitting requirements of the state water code, and to rely instead on multiple exempt wells to supply potable water to the development. Under Washington's groundwater code, a permit is required for any groundwater use, except for uses described in the statute as exempt from the permit requirement. Wells to provide water for exempt groundwater uses are commonly known as "permit-exempt" wells or "exempt" wells. These wells are exempt from Ecology permitting but otherwise subject to Washington's water code. RCW 90.44.050 reads in pertinent part that --

any withdrawal of public ground waters for stock-watering purposes, or for the watering of a lawn or of a noncommercial

<sup>12</sup> WAC 197-11-060(3)(c)(i).

<sup>13</sup> WAC 197-11-060(4).

<sup>14</sup> WAC 197-11-444(1).

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garden not exceeding one-half acre in area, or for single or group domestic uses in an amount not exceeding five thousand gallons a day, or as provided in RCW 90.44.052, or for an industrial purpose in an amount not exceeding five thousand gallons a day, is and shall be exempt from [permitting] but, to the extent that it is regularly used beneficially, shall be entitled to a right equal to that established by a permit . . . .<sup>15</sup>

The Washington State Supreme Court interpreted RCW 90.44.050 in Ecology v. Campbell & Gwinn. In Campbell & Gwinn, the Court found that multiple exempt withdrawals for a 20-lot subdivision constituted a single "group domestic use," the cumulative withdrawals for which would exceed 5,000 gallons per day (gpd).<sup>16</sup> The Campbell & Gwinn Court reasoned that the developer of a subdivision is, "necessarily," planning for a group domestic use and therefore is entitled to only *one* 5,000 gpd exempt withdrawal for a project, regardless of the number of wells used for the development. The Court ruled that the 5,000 gpd limit applied to the project, not to the appropriator.<sup>17</sup> The Court reasoned that -

The one seeking an exemption from permit requirements is necessarily the one planning the construction of wells or other works necessary for withdrawal of water and is the one who would otherwise have to have a permit before construction commences or wells are dug. Thus, under RCW 90.44.050, and related statutes, *qualifications for the exemption does not depend . . . solely on who ultimately withdraws the water and puts it to beneficial use. It also concerns the person planning the wells or other works, before any water is ever withdrawn. . . .*

[T]he exemption does not apply here to allow a withdrawal for each lot in the residential subdivision under separate, individual 5,000 gpd exemptions. In this case, it is the developer, not the homeowner, who is seeking the exemption in order to drill wells on the subdivision's lots and provide for group domestic uses in excess of 5,000 gpd. The developer may not claim multiple exemptions for the homeowner.<sup>18</sup>

<sup>15</sup> RCW 90.44.050 (emphasis added).

<sup>16</sup> 146-Wn.2d 1, 43 P.3d 4 (2002).

<sup>17</sup> Campbell & Gwinn, 146 Wn.2d at 13.

<sup>18</sup> Campbell & Gwinn, 146 Wn.2d at 13-14.

Thus, only one permit exemption was available for the entire subdivision because the project reflected a "group domestic use," a conclusion which would not change simply because the developer provided individual exempt wells to serve individual lots within the subdivision.<sup>19</sup>

Relevant to the Tumbling Ridge proposal, development of the adjacent property began in June 2007 when the notice of intent to drill a well was submitted to Ecology. A well rig was seen on the property in May 2008. Given that the parcel is currently undeveloped, drilling a well indicates that there is an intent to put at least one residence on the property. Based on the surveyed lot corners, there could be several residences on the property. Moreover, the parcels are adjacent and development activity will likely need to be interconnected. Two wells have been drilled, one on the property that is subject to this current application, and one on the adjacent parcel. The two parcels also share a common road network and will share other utilities. The two projects are entitled to a single exempt withdrawal given the spatial, temporal and functional relationships between them.

**C. The SEPA Determination is Inadequate to Ensure Compliance with the MOA and SEPA.**

The MDNS fails to comply with the recently-signed Memorandum of Agreement between the County and Ecology regarding regulation of exempt groundwater wells in Kittitas County. The MOA clarified the circumstances under which an exempt well can be relied on for building and subdivision applications. The MOA declares that:

New residential developments served by exempt wells will be limited to one ground water exemption of 5,000 gallons per day. In no case shall a development, regardless of acreage, be allowed more than a single exemption.<sup>20</sup>

Under the MOA, a Hydrogeologic Investigation and Characterization Report may be required when a project relies on the Ground Water Permit Exemption to meet its water supply requirements. Furthermore,

[i]n accordance with provisions of WAC 197-11-335, a Hydrogeologic Report would be required when insufficient information is available to support a SEPA Threshold Determination. An example of a proposal for which a

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<sup>19</sup> Campbell & Gwinn, 146 Wn.2d at 21.

<sup>20</sup> Memorandum of Agreement Between Kittitas County and the State of Washington, Department of Ecology Regarding Management of Exempt Ground Water Wells in Kittitas County, at 2 (April 7, 2008) (emphasis added).

Hydrogeologic Report may be required would include proposed divisions of land that are in close proximity to the Yakima River or its major tributaries.<sup>21</sup>

The proposed development relies on groundwater wells in close proximity to the Cle Elum River. Obviously the Cle Elum River is a major tributary to the Yakima River. The County failed to meet its agreed obligations under the MOA by not requiring the applicant to provide a Hydrogeologic Report. Such a report should clarify the extent to which the well may affect flows on the Cle Elum River. The well is subject to curtailment to protect stream flows on the Cle Elum River. Use of the well also would be interrupted whenever water supply is insufficient to satisfy senior water users.

### **III. Additional Conditions Are Required**

Conditions must be included and imposed to adequately address the potential adverse environmental impacts of this project. SEPA regulations allow an agency to impose conditions to reduce the environmental impacts below the level of significance and issue a mitigated DNS for the proposal.<sup>22</sup> In order to address the impacts of the water use, the County should impose three additional conditions:

1. A notice recorded on the plat stating that water supply for Parcel Nos. 20-15-31050-0001 and 20-15-31050-0002 will be considered as a single "group domestic use" and therefore entitled to rely on one exempt well to serve development on both parcels.

The Kittitas-Ecology MOA requires that any new residential developments served by exempt wells will be limited to one ground water exemption of 5,000 gallons per day, regardless of acreage. Water use on the two parcels is limited to a single 5,000 gallon-per-day exemption under RCW 90.44.050. Furthermore, this condition will reiterate the condition placed on the 2007 short plat.

2. A notice recorded on the plat stating that use of an exempt well on the property may be subject to curtailment to protect senior water rights from out-of-priority water use.

The applicant's groundwater withdrawal is exempt from the permit requirements of RCW 90.44.050 but remains subject to the prior appropriations doctrine. Consequently, water use from the well is subject to curtailment to protect senior water rights. Given the depth of the applicant's well relative to the surface elevation of the Yakima River, the applicant's water use should be

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<sup>21</sup> Memorandum of Agreement at 5.

<sup>22</sup> WAC 197-11-172; WAC 197-11-350.



interrupted under the same terms and conditions as apply to post-1905 surface water users during times of proration for surface water users.

- 3. A notice recorded on the plat stating that use of an exempt well on the property may be subject to curtailment to protect senior water rights from impairment and to protect specified flow levels on the Cle Elum River.

Water use from the well is subject to interruption to protect senior water users from impairment. Furthermore, water use should be allowed from the well when stream flow in the Cle Elum River exceeds levels recommended by the Bureau of Reclamation, Yakima Field Office, in consultation with Systems Operations Advisory Committee for the Cle Elum River Project. This is the same condition Ecology imposed when Suncadia LLC transferred its mainstem surface water rights with 1884 and 1893 priority dates to add a point of withdrawal on the Cle Elum River.<sup>23</sup>

**IV. Water Availability Requirements**

RCW 58.17.110 requires a county legislative body, when considering a land division for approval, to determine if appropriate provisions are made for potable water supplies. Specially, the Subdivision Act (Ch. 58.17 RCW) provides that a proposed subdivision of land "shall not be approved unless" the agency finds that "[a]ppropriate provisions are made" for potable water supplies and public health and safety. RCW 58.17.110(2). Here, the applications in question would allow residential development to occur that would rely on a water supply that is junior in priority and interruptible to protect salmon rearing flows in the Cle Elum River. Furthermore, the development is part of a larger scheme or project for which the lots to be developed under the present applications would consume the entire available water supply. For these reasons, the applicant has failed to demonstrate the availability of an adequate and reliable water supply and the applications should be denied under RCW 58.17.110.

**V. Conclusion**

The MDNS is inadequate and therefore the Planning Commission should return it to Community Development Services with instructions to prepare an EIS. The Water Code and the MOA are clear, a developer is entitled to only one "group domestic use" exemption per development. Tumbling Ridge LLC is effectively trying to circumvent this requirement by transferring the property to

<sup>23</sup> Water Right Change Applications Nos. CS4-10724(A)CTCL, CS4-01724(B)CTCL, CS4-01724(C)CTCL, CS4-YRB07CC01724@1, CS4-YRB07CC01724@2, and CS4-YRB07CC01724@3. Suncadia's points of withdrawal utilize shallow infiltration wells to withdraw water from the Cle Elum River under Suncadia's surface water rights.

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a different, commonly-owned legal entity. Tumbling Ridge is trying to take twice the water it would be allowed under the Water Code and MOA. Furthermore, the proposal would harm fishery resources in the Cle Elum River and would interfere with senior water rights. This project would have a detrimental effect on water resources. Kittitas County needs to properly examine these impacts and place appropriate conditions on the project, as outlined above. Alternatively, the applications should be denied because the applicant has failed to demonstrate the availability of an adequate, reliable water supply as required under RCW 58.17.110.

Sincerely,

MENTOR LAW GROUP, PLLC



JOE MENTOR, JR.

Enclosures

CC:

Tom Tebb, Washington State Department of Ecology  
Tumbling Ridge LLC

# Exhibit A



# TUMBLING RIDGE SHORT PLAT KITITAS COUNTY SHORT PLAT NO. 09-84 P.M. OF THE N1/2 OF SEC. 31, T.20N., R.19E., W.M. KITITAS COUNTY, WASHINGTON

RECORDING NO. 200701260060

**OWNER:**  
Tumbling Ridge LLC  
PO BOX 100  
FREDONIA WA 98841  
OWNER'S ADDRESS: 1000 W. 10TH ST.  
SPokane, WA 99201  
OWNER'S PHONE: 509-325-1000

### ABSTRACT

THIS PLAT IS MADE BY THESE PERSONS THAT THROUGH THIS PLAT A SUBDIVISION OF LAND IS MADE AND THE UNDIVIDED QUARTER IN THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 20 NORTH, RANGE 19 EAST, COUNTY OF KITITAS, STATE OF WASHINGTON, BEING PART OF THE N1/2 OF SEC. 31, T.20N., R.19E., W.M., KITITAS COUNTY, WASHINGTON, AS SHOWN ON THE ORIGINAL MAP OF SAID PLAT, AND THE SAID QUARTER IS DIVIDED INTO TWO EQUAL PARTS, EACH PART BEING ONE HALF OF SAID QUARTER, TO WIT: PART 1, BEING THAT PART OF SAID QUARTER WHICH IS BOUNDED BY THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 20 NORTH, RANGE 19 EAST, COUNTY OF KITITAS, STATE OF WASHINGTON, AS SHOWN ON THE ORIGINAL MAP OF SAID PLAT, AND PART 2, BEING THAT PART OF SAID QUARTER WHICH IS BOUNDED BY THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 20 NORTH, RANGE 19 EAST, COUNTY OF KITITAS, STATE OF WASHINGTON, AS SHOWN ON THE ORIGINAL MAP OF SAID PLAT.



### DEDICATION

THE SAID PARTS OF SAID QUARTER ARE HEREBY DEDICATED TO THE PUBLIC AS A PUBLIC UTILITY EASEMENT FOR THE PURPOSE OF PROVIDING WATER SERVICE TO THE SAID QUARTER AND THE SAID PARTS OF SAID QUARTER ARE HEREBY DEDICATED TO THE PUBLIC AS A PUBLIC UTILITY EASEMENT FOR THE PURPOSE OF PROVIDING WATER SERVICE TO THE SAID QUARTER.

**APPROVED:**  
STATE OF WASHINGTON  
COUNTY OF KITITAS



**NOTICE:**  
THIS PLAT IS MADE BY THESE PERSONS THAT THROUGH THIS PLAT A SUBDIVISION OF LAND IS MADE AND THE UNDIVIDED QUARTER IN THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 20 NORTH, RANGE 19 EAST, COUNTY OF KITITAS, STATE OF WASHINGTON, BEING PART OF THE N1/2 OF SEC. 31, T.20N., R.19E., W.M., KITITAS COUNTY, WASHINGTON, AS SHOWN ON THE ORIGINAL MAP OF SAID PLAT, AND THE SAID QUARTER IS DIVIDED INTO TWO EQUAL PARTS, EACH PART BEING ONE HALF OF SAID QUARTER, TO WIT: PART 1, BEING THAT PART OF SAID QUARTER WHICH IS BOUNDED BY THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 20 NORTH, RANGE 19 EAST, COUNTY OF KITITAS, STATE OF WASHINGTON, AS SHOWN ON THE ORIGINAL MAP OF SAID PLAT, AND PART 2, BEING THAT PART OF SAID QUARTER WHICH IS BOUNDED BY THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 20 NORTH, RANGE 19 EAST, COUNTY OF KITITAS, STATE OF WASHINGTON, AS SHOWN ON THE ORIGINAL MAP OF SAID PLAT.

### PLAT 1:

THE SAID QUARTER OF THE GOOD LUCK LANE IS IN THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 20 NORTH, RANGE 19 EAST, COUNTY OF KITITAS, STATE OF WASHINGTON, AS SHOWN ON THE ORIGINAL MAP OF SAID PLAT, AND THE SAID QUARTER IS DIVIDED INTO TWO EQUAL PARTS, EACH PART BEING ONE HALF OF SAID QUARTER, TO WIT: PART 1, BEING THAT PART OF SAID QUARTER WHICH IS BOUNDED BY THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 20 NORTH, RANGE 19 EAST, COUNTY OF KITITAS, STATE OF WASHINGTON, AS SHOWN ON THE ORIGINAL MAP OF SAID PLAT, AND PART 2, BEING THAT PART OF SAID QUARTER WHICH IS BOUNDED BY THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 20 NORTH, RANGE 19 EAST, COUNTY OF KITITAS, STATE OF WASHINGTON, AS SHOWN ON THE ORIGINAL MAP OF SAID PLAT.

**ADJACENT OWNERS:**  
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S. 1/4 - 1000-0019  
S. 1/4 - 1000-0020

### NOTES:

- 1. THE SURVEY WAS RECORDED UNDER A PLAT NO. 1000-0010, THE CONTINGENT PLAT AND PROPERTY RIGHTS THEREON ARE RESERVED, STATED AND SAVED ACCORDINGLY.
- 2. A PUBLIC UTILITY EASEMENT IS SET IN AND IS RESERVED ALONG ALL LOT LINES TO A DEPTH OF 12 INCHES FOR THE PURPOSE OF PROVIDING WATER SERVICE TO THE SAID QUARTER AND THE SAID PARTS OF SAID QUARTER.
- 3. THE SAID PARTS OF SAID QUARTER ARE HEREBY DEDICATED TO THE PUBLIC AS A PUBLIC UTILITY EASEMENT FOR THE PURPOSE OF PROVIDING WATER SERVICE TO THE SAID QUARTER.
- 4. THE SAID PARTS OF SAID QUARTER ARE HEREBY DEDICATED TO THE PUBLIC AS A PUBLIC UTILITY EASEMENT FOR THE PURPOSE OF PROVIDING WATER SERVICE TO THE SAID QUARTER.
- 5. ACCORDING TO THE 1982-1983 PLAT NO. 1000-0010, THE SAID PARTS OF SAID QUARTER ARE HEREBY DEDICATED TO THE PUBLIC AS A PUBLIC UTILITY EASEMENT FOR THE PURPOSE OF PROVIDING WATER SERVICE TO THE SAID QUARTER.
- 6. AN APPROVED ACCESS EASEMENT SHALL BE PROVIDED FROM THE DEPARTMENT OF PUBLIC UTILITIES TO THE SAID PARTS OF SAID QUARTER.
- 7. THE SAID PARTS OF SAID QUARTER ARE HEREBY DEDICATED TO THE PUBLIC AS A PUBLIC UTILITY EASEMENT FOR THE PURPOSE OF PROVIDING WATER SERVICE TO THE SAID QUARTER.
- 8. THE SAID PARTS OF SAID QUARTER ARE HEREBY DEDICATED TO THE PUBLIC AS A PUBLIC UTILITY EASEMENT FOR THE PURPOSE OF PROVIDING WATER SERVICE TO THE SAID QUARTER.
- 9. THE SAID PARTS OF SAID QUARTER ARE HEREBY DEDICATED TO THE PUBLIC AS A PUBLIC UTILITY EASEMENT FOR THE PURPOSE OF PROVIDING WATER SERVICE TO THE SAID QUARTER.
- 10. THE SAID PARTS OF SAID QUARTER ARE HEREBY DEDICATED TO THE PUBLIC AS A PUBLIC UTILITY EASEMENT FOR THE PURPOSE OF PROVIDING WATER SERVICE TO THE SAID QUARTER.
- 11. THE SAID PARTS OF SAID QUARTER ARE HEREBY DEDICATED TO THE PUBLIC AS A PUBLIC UTILITY EASEMENT FOR THE PURPOSE OF PROVIDING WATER SERVICE TO THE SAID QUARTER.

**NOTES:**  
THE SAID PARTS OF SAID QUARTER ARE HEREBY DEDICATED TO THE PUBLIC AS A PUBLIC UTILITY EASEMENT FOR THE PURPOSE OF PROVIDING WATER SERVICE TO THE SAID QUARTER.



**RECORDED:**  
RECORDED IN THE OFFICE OF THE COUNTY CLERK OF KITITAS COUNTY, WASHINGTON, ON THIS 10TH DAY OF APRIL, 2007.

**DEPARTMENT OF AGRICULTURE:**  
THE SAID PARTS OF SAID QUARTER ARE HEREBY DEDICATED TO THE PUBLIC AS A PUBLIC UTILITY EASEMENT FOR THE PURPOSE OF PROVIDING WATER SERVICE TO THE SAID QUARTER.

**PLAT NO. 09-84:**  
P.M. N1/2 OF SEC. 31, T.20N., R.19E., W.M.  
KITITAS COUNTY, WASHINGTON.

**ENCOMPASS:**  
100 EAST AND STREET  
CLEVELAND, WASHINGTON  
PHONE: 509-425-1000  
FAX: 509-425-1001

I/117

200701260060

# Exhibit B

Kititas Co Auditor WESTERN 200705250050  
Page: 1 of 1  
06/29/2007 03:17P  
32.00

WHEN RECORDED RETURN TO:

Nathan and Lisa Weis Family LLC  
P.O. Box 246  
Ronald Wa, 98940

Real Estate Excise Tax  
Exempt  
Kititas County Treasurer  
By: D. Eagle  
Affidavit No. 2007-1301  
Date: 6-29-07

Filed for Record at Request of:

QUIT CLAIM DEED

THE GRANTOR(S) Tumbling Ridge LLC, a Washington Limited Liability Company, for and in consideration of change name of entity in hand paid, conveys and quit claims to The Nathan and Lisa Weis Family LLC, together with all after acquired title of the grantor(s) herein, the following described real estate, situated in the County of Kititas, State of Washington:

Lot 2 of the Tumbling Ridge Short Plat as recorded in Book 1 of Short Plats, pages 116 and 117, recorded in Kititas County Under auditor's file Number 200701260060, located in Section 31, Township 20 North, Range 15 East., W.M., Kititas County, State of Washington.

Abbreviated Legal: (Required if full legal not inserted above)

Tax Parcel Number(s): 20-15-31050-0002

Dated: June 27, 2007

David R. Lumsden  
Tumbling Ridge LLC  
Manager

STATE OF Washington

ss.

COUNTY OF Kititas

I certify that I know or have satisfactory evidence that David R. Lumsden is the person who appeared before me, and said person acknowledged that (he/she/they) signed this instrument, on oath stated that (he/she/they) (is/are) authorized to execute the instrument and acknowledged it as the Manager of to be the free and voluntary act of such party(ies) for the uses and purposes mentioned in this instrument.

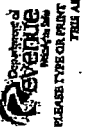
Dated: June 27, 2007



Karleen M. Brown  
Notary name printed or typed: Karleen M Brown  
Notary Public in and for the State of Washington  
Residing at Castor  
My appointment expires: 6-29-10

# Exhibit C





REAL ESTATE EXCISE TAX AFFIDAVIT  
CHAPTER 82.46 RCW - CHAPTER 45B-61A WAC  
THIS AFFIDAVIT MUST NOT BE ACCEPTED UNLESS ALL AREAS ON ALL PAGES ARE FULLY COMPLETED

1. Name: Timothy Ridge LLC  
 2. Mailing Address: 26 Washington Limited Liability Company  
 3. City/Township: Bothell  
 4. State: WA  
 5. Parcel No. (including area code): 95-2640  
 6. Assessor's Parcel No. (APN): 20-15-21050-010  
 7. Date of acquisition: 1999

91

8. Legal description of property (if more than one parcel, you may attach separate sheets to each page of this affidavit):  
Lot 2 of the Timber Ridge Subdiv as recorded in Book 1 of Short Plots, page 116 and 117, located in King County under auditor's file number 200-101-26060, located in Section 31, Townships 20 North, Range 15 East, with King County, State of Washington

9. Is this property exempt from property tax per chapter 82.46 RCW?  
 YES  NO   
 10. Is this property exempt from property tax per chapter 45B-61A WAC?  
 YES  NO   
 11. Is this property subject to special valuation as described in RCW 82.46.030?  
 YES  NO   
 12. Is this property subject to special valuation as described in RCW 82.46.035?  
 YES  NO   
 13. Is this property subject to special valuation as described in RCW 82.46.040?  
 YES  NO

14. Reason for exemption:  
Quit Claim - change of identity

15. Type of Document:  
Quit Claim Deed

16. Date of Document:  
June 27, 2007

17. Personal Property (depreciated):  
 Taxable Selling Price: 0.00  
 Excise Tax: State: 0.00  
 Local: 0.00

18. Personal Property (not depreciated):  
 Taxable Selling Price: 0.00  
 Excise Tax: State: 0.00  
 Local: 0.00

19. Total Due: 0.00

20. Signature of Grantor or Grantee:  
David R. Lumsden

21. Name (Print):  
David R. Lumsden

22. Date & City of Signing:  
June 27, 2007 Bothell WA

23. Signature of Grantor or Grantee:  
David R. Lumsden

24. Name (Print):  
David R. Lumsden

25. Date & City of Signing:  
June 27, 2007 Bothell WA

2007-1301

# Exhibit D

STATE of WASHINGTON



SECRETARY of STATE

Corporation Name:

NATHAN AND LISA WEIS FAMILY LLC  
c/o SC&B SERVICES INC  
999 THIRD AVE #3000  
SEATTLE WA 98104

U.B.I. Number:  
602 467 427

## CERTIFICATE OF ADMINISTRATIVE DISSOLUTION

In accordance with RCW 23B.14.210, the above corporation is hereby administratively  
dissolved as of May 01, 2007.

This action was taken due to the failure of the corporation to file an annual list of  
officers/license renewal within the time set forth by law.

A copy of this certificate is on file in this office:

Corporations Division  
Office of the Secretary of State  
PO Box 40234  
Olympia, Washington 98504-0234  
(360) 753-7115

*Given under my hand and the seal of the State  
of Washington at Olympia, the State Capital.*

Sam Reed, Secretary of State

# Exhibit E

STATE of WASHINGTON



SECRETARY of STATE

Corporation Name:

TUMBLING RIDGE LLC  
c/o SC&B SERVICES INC  
999 3RD AVE STE 3000  
SEATTLE WA 98104-4088

U.B.I. Number:  
602 558 389

## CERTIFICATE OF ADMINISTRATIVE DISSOLUTION

In accordance with RCW 23B.14.210, the above corporation is hereby administratively  
dissolved as of March 03, 2008

This action was taken due to the failure of the corporation to file an annual list of  
officers/license renewal within the time set forth by law.

A copy of this certificate is on file in this office:

Corporations Division  
Office of the Secretary of State  
PO Box 40234  
Olympia, Washington 98504-0234  
(360) 753-7115

*Given under my hand and the seal of the State  
of Washington at Olympia, the State Capital.*

Sam Reed, Secretary of State

# Exhibit F




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**View Notice of Intent**

**Notice** NOI #: WE06850 Rcv DI: 6/18/2007  
 CJ Number: 481K3183 CJ Date: Amount: 200  
 Refund Date: Wells Rfnd: Amt Rfnd:

**Owner Site** Property Owner: LYDIA AND DYLAN WEIS Consulting Firm:  
 County: Kittitas

**Rights** STR/QQ: 31, 20, 15E / NE/4NE/4  
 LAT time: LONG time: Method:  
 Parcel #: 952140  
 Water Right Required?: N WR #:

**Plans** Work Type: New Well Use: Single Domestic Fed Project:  
 Est Start: 6/27/2007 # of Homes: 1 # of Wells: 1

**Drilling** Drilling Company: 42 Fogle Pump & Supply Inc (800)  
 Driller: 2427 MEYER, DAVID WTR- A RP- A

**Variance**

**Well Reports**

Log ID	Log Rcv	Work Cmpl	Tag	Proj ID	Diam	Depth	Flow Type	PSI	Static Level	GPM	Well Test	Well Site Address	LAT Deg:Min:Sec	LONG Deg:Min:Sec	Parcel Number	Horizontal Collection Method
No Records Found.																


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[Ecology Home](#) | [Water Resources](#) | [Notice of Intent Home](#) | [BACK](#)

# Exhibit G





Well reports received for a Notice of Intent can generally be viewed by clicking on the  button below. If the well log is not present, you can probably find it by doing a search using the Well Log Web Site

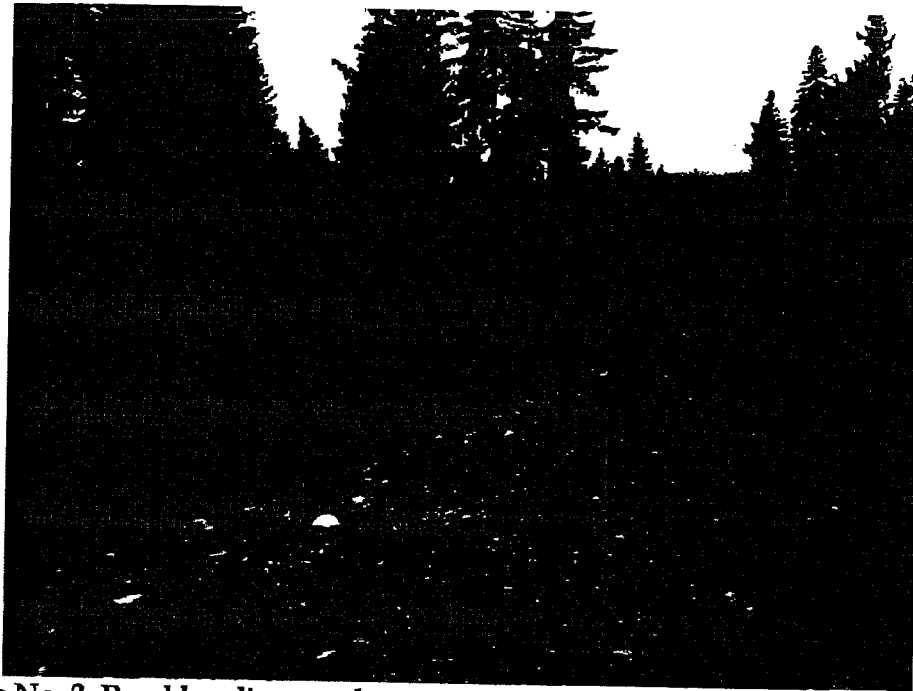
### View Notice of Intent

**Notice**      NOI #: **W226248** Rcv Dt: **8/18/2006**  
                   CJ Number: **461K1885** CJ Date: Amount: **200**  
                   Refund Date: Wells Rfnd: Amt Rfnd:  
**Owner**      Property Owner: **TUMBLING RIDGE** Consulting Firm:  
**Site**            County: **Kittitas**  
                   STR/QQ: **31, 20, 15E / NE/4NW/4**  
                   LAT time:    LONG time:    Method:  
                   Parcel #: **201531020-0001**  
**Rights**        Water Right Required?: **N** WR #:  
**Plans**         Work Type: **New** Well Use: **Single Domestic** Fed Project:  
                   Est Start:    # of Homes: **1** # of Wells: **1**  
**Drilling**      Drilling Company: **130 Water Man Well Drilling**  
                   Driller: **1335 MILLS, STEVEN** WTR- A    RP- A  
**Variance**

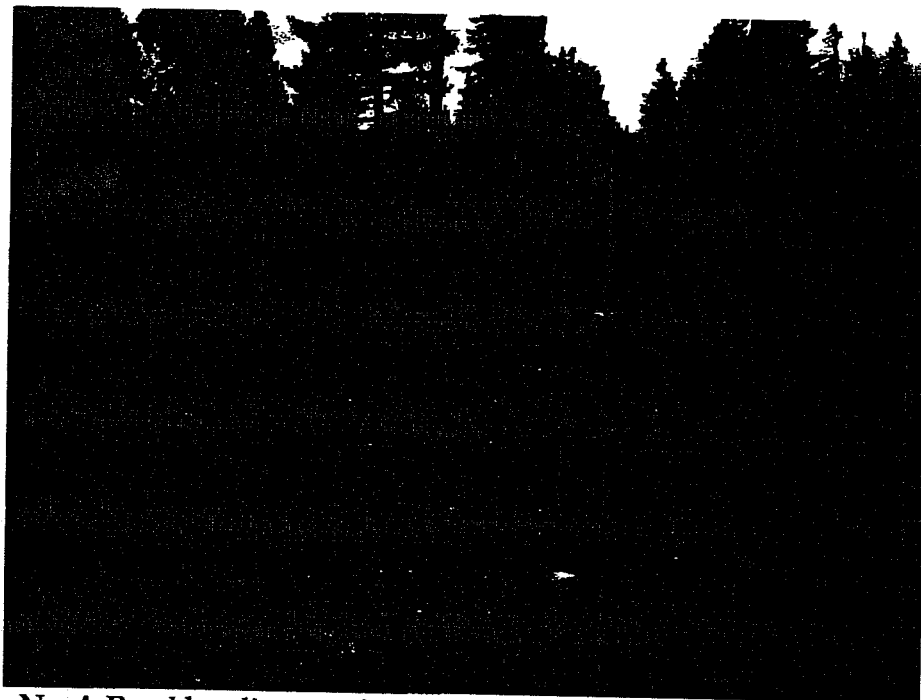
Well Reports																
Log ID	Log Rcv	Work Cmpl	Tag	Proj ID	Diam	Depth	Flow Type	PSI	Static Level	GPM	Well Test	Well Site Address	LAT Deg:Min:Sec	LONG Deg:Min:Sec	Parcel Number	Horizontal Collection Method
254832	2/28/2007	2/8/2007	APG955		6	525	Static Level		3	12	Air Test	RONALD			201531020-0001	

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# Exhibit H



Picture No. 3: Road heading south



Picture No. 4: Road heading south



Picture No. 1: Clearing near road



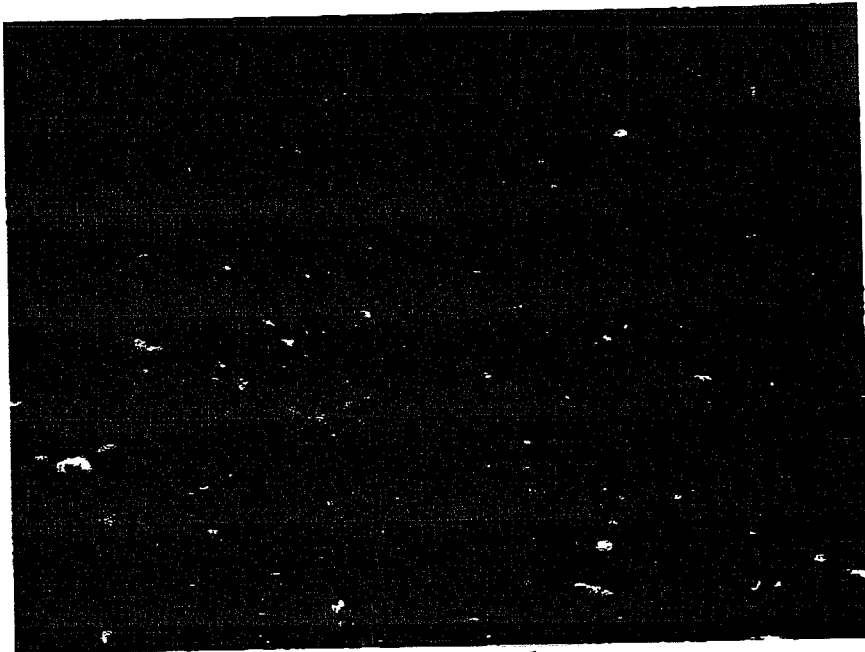
Picture No. 2: Clearing of road heading south



Picture No. 5: Surveying on the south parcel



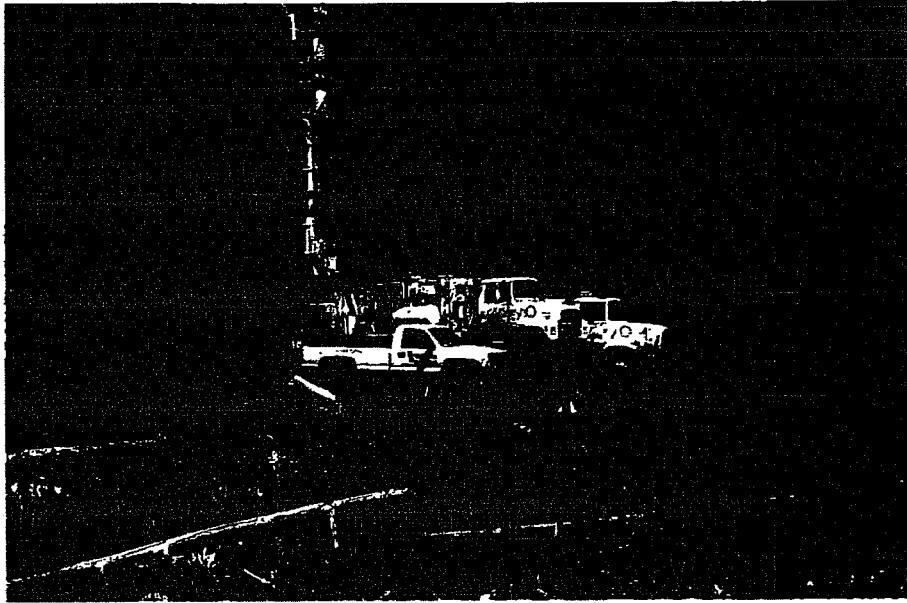
Picture No. 6: Lot surveying on the south parcel



Picture No. 7: Lot surveying on the south parcel



Parcel No. 8: Lot surveying on the south parcel



Picture No. 9: Well drillers on the south parcel