

Kaycee Hathaway

From: Neil Caulkins
Sent: Wednesday, September 09, 2015 4:59 PM
To: Kaycee Hathaway
Subject: SEPA condition issue

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Dear Miss Hathaway,

How are you? I am fine. SEPA condition IV(B) states "*A grading permit is required per KCC 14.05.*" Public Works is requiring the grading permit to ensure the integrity of the slopes and cuts. The applicant is not subject to a DNR mining permit because it's operation is under 3 acres and the DOE Sand and Gravel Permit is a Clean Water Act Permit unrelated to structural integrity. Hence, the applicant is not subject to another permit that would regulate the issue of stability other than the SEPA, and so is not exempt. Said another way, the exemption only applies if there's another permit, unless there's a concern about stability, which there is here, so the exemption does not apply. Additionally, the desire of the BOCC to actually strike this SEPA condition is legally invalid because it would constitute amending/challenging SEPA conditions outside the prescribed process set in CH. 36.70C RCW and Ch. 43.21C RCW. The BOCC has no authority to amend SEPA conditions outside the processes set in those chapters. It may merely add additional conditions to clarify SEPA conditions.

Neil Caulkins

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