



**King County**

Department of Development  
and Environmental Services  
900 Oakesdale Avenue SW  
Renton, WA 98055-1219

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# Notice of Decision

(REVISED)

Shoreline Type 2

**File #s:** L02SH012 (Shoreline Conditional Use Permit)  
L02SH013 (Shoreline Management Substantial Development Permit)

**Applicant:** Northwest Aggregates (Glacier Northwest)  
P.O. Box 1730  
Seattle, WA 98111

**DDES Planner:** Matthew Caskey, 206-296-7198

**Project Location:** Portions of Section 28 and 29, Township 22N, Range 3E, on the eastern edge of Maury Island next to Vashon Island and along the East Passage in King County, WA.

**Project Description:** Shoreline Conditional Use Permit: To recognize mineral extraction and associated appurtenances, as an identified activity within the use elements of the Conservancy Shoreline Environment under Title 25 of the King County Code and the King County Shoreline Master Program. Shoreline Management Substantial Development Permit: To construct and operate a replacement barge-loading facility to transport sand and gravel material from an upland pit site. The proposed facility constitutes a larger loading pier and is to be located in deeper water than that which currently exists.

**Permits Requested:** Shoreline Conditional Use Permit (L02SH012)  
Shoreline Management Substantial Development Permit (L02SH013)

**Department Decision:** Approve the revised Shoreline Management Substantial Development Permit  
Approve the revised Shoreline Conditional Use Permit

**SEPA Determination:** See Final EIS dated June 2000  
See Addendum to Final EIS dated March 2004

**Date Mailed:** June 16, 2005

## Appeal Procedure:

Information on appeal procedures may be obtained from the Shoreline Hearings Board at (360) 459-6327 or the Washington State Department of Ecology Shoreline Appeals Coordinator at (360) 407-6528. To the extent further Shoreline Hearings Board appeals of this decision are available, such requests for review would need to be received by the Shoreline Hearings Board within twenty-one (21) days of the "date of filing" as defined by WAC 174-27-130.

If you require this material in braille, audio cassette, or large print, call 206-296-6600 (Voice), or 206-296-7217 (TTY)



**King County**  
**Department of Development and Environmental Services**  
**900 Oakesdale Avenue Southwest**  
**Renton, WA 98055-1219**  
**(206) 296-6600**

**REVISED REPORT AND DECISION  
FOR SHORELINE CONDITIONAL USE PERMIT  
AND SHORELINE MANAGEMENT SUBSTANTIAL DEVELOPMENT PERMIT**

**Application Nos.** Shoreline Conditional Use Permit DDES File L02SH012  
Shoreline Management Substantial Development Permit DDES  
File L02SH013

**Applicant:** Northwest Aggregates (also known as Glacier Northwest)

**Project Location:** Portions of Section 28 and 29, Township 22N, Range 3E, on the eastern edge of Maury Island next to Vashon Island and along the East Passage in King County, Washington.

**Waterbody:** Puget Sound

**Shoreline Designation:** Conservancy Environment

**Shoreline of State Significance:** Yes

**Date of Decision:** March 15, 2005, revised June 16, 2005

**INTRODUCTION/BACKGROUND:**

This revised report and decision is issued pursuant to the findings of fact, conclusions of law, and order of the State of Washington Shoreline Hearings Board in SHB#04-009 and 04-010; and pursuant to the Stipulation and Order and Order of Dismissal of the Shoreline Hearings Board in SHB#04-009 and 04-010 (Remand).

King County denied Northwest Aggregates' ("Glacier Northwest") shoreline permit application to replace an existing but non-functional conveyor and barge loading dock used to export sand and gravel, on March 16, 2004. The King County decision was appealed by the applicant, Preserve Our Islands, Washington Environmental Council, and People for Puget Sound to the Washington State Shoreline Hearings Board ("Board") within the 21-day "Notice of Filing" for Shoreline Management Substantial Development and Shoreline Conditional Use Permits (WAC 173-27-130 (6) & (7) Filing with the

department). The Board held a hearing in this matter from August 16-25, 2004. On November 3, 2004, the Board ordered that King County's denials of the subject Shoreline Management Substantial Development Permit (SSDP) and Shoreline Conditional Use Permit (SCUP) be reversed. The Board instructed King County to approve the subject SSDP & SCUP with eleven (11) specific project conditions. Those conditions are incorporated into the conditions section of this report. The Board further concluded that the SEPA review of the project was adequate, that the proposal will not have adverse environmental impacts in violation of SEPA or the Shoreline Management Act ("SMA"), but that absent conditions, the project as proposed could be inconsistent with King County Shoreline Management Program (KCSMP) and SMA requirements relating to recreation, noise, and the existing character of the shoreline.

The applicant (Glacier Northwest) sought approval to annually mine and export sand and gravel, using up to 10,000-ton barges. The 235-acre site on which proposed mining activities would occur is located on the eastern edge of Maury Island, King County, Washington (within portions of Section 28 and 29, Township 22N, Range 3E).

Glacier Northwest initially requested a King County Shoreline Exemption for repairs and upgrades to the existing barge and conveyer system, in order to make these features operational for the proposed exporting of excavated materials. Under the proposal for the exemption, the conveyer system would also have been replaced. The dock is likewise in substantial disrepair and has become overgrown with trees and bushes protruding through the structures. Glacier Northwest asserted that this proposal was exempt from shoreline permit requirements as "normal and routine maintenance and repair." King County denied the exemption request on May 31, 2002, upon determining that the project did not qualify as an exempt activity under WAC 173-27-040(2)(b).

In September 2002, Glacier Northwest applied for a shoreline management substantial development permit and a shoreline conditional use permit for a proposed replacement of the existing barge-loading facility on Maury Island. The applicant's September 2002 proposal was to replace and extend by approximately 72 feet the existing dock in Puget Sound to support barge loading and transport of sand and gravel. The proposed dock extension is one of the recommended mitigation options identified in the Final EIS. The dock extension is intended to move tugboats and barges farther away from nearby eelgrass to reduce potential impacts associated with shading and propeller wash. The applicant's revised proposal also incorporated other recommended mitigation measures identified in the Final EIS.

In May 2003, Glacier Northwest submitted a Draft Mitigation Plan describing measures that would be implemented to mitigate potential impacts from barge-loading operations at the extended dock. Mitigation is intended to address potential impacts from gravel spillage, shading, propeller wash, and noise associated with operations. In August 2003, Glacier Northwest submitted a Barge Approach and Departure Protocol to be incorporated into their proposal. The operational procedures specified by the applicant are intended to avoid potential impacts to eelgrass beds from tugboats maneuvering barges at or near the dock. A monitoring plan is also incorporated into the applicant's

proposal to monitor propeller wash velocities at the site to verify that the approach and departure protocol is working effectively.

On December 2, 2003, Glacier Northwest submitted a further revision to their proposal extending the dock an additional 20 feet from their previous proposed extension. The revised proposal ensures that the dock face is 120 feet at its closest point from eelgrass in the area. No additional pilings will be required to construct this additional extension from the previous design. Also on December 2, 2003, Glacier Northwest submitted a revision to the Barge Approach and Departure Protocol that incorporates the recommendations contained in a report by Tetra Tech FW, Inc. to improve the monitoring plan and to specify a contingency plan if eelgrass damage is detected.<sup>1</sup>

### **Shoreline Hearings Board Ruling:**

On November 3, 2004, the State of Washington Shoreline Hearings Board issued an order directing King County to issue shoreline permits for the proposed sand and gravel operation. Such shoreline permits are to include conditions set forth in the Board's order. This Revised Report and Decision implements the Shoreline Hearings Board's November 3, 2004 Order.

### **The Applicant's Project Description:**

Up to 193 acres were proposed to be mined in phases over 11 to 50 years, depending upon the rate of extraction. The rate would vary with market demand and limitations imposed by various permits. Bulldozers would excavate materials by pushing materials from the slope tops down to collection points, where material would be placed on a collection feeder. The feeder would load a conveyor belt, which would then deliver materials to waiting barges, tended by tugs, at the end of the loading dock.

Proposed mining would occur from 6 a.m. to 10 p.m. weekdays and from 9 a.m. to 6 p.m. on Saturdays. Barge loading would occur at any time, with up to four 10,000-ton barges (measuring 330 by 80 feet) or a greater number of smaller barges being loaded per day. Up to four 10,000-ton barges a day would be loaded at the facility. Each barge loading operation would take approximately 4.5 hours.

Glacier Northwest's proposal as of December of 2003 is summarized as follows:

- The dock would be open-grated steel with approximately 75 percent open area. Relative to the existing 270-foot in length dock, the new dock would extend 71.5 feet further into the water at the conveyor.

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<sup>1</sup> In addition to these shoreline modifications, on February 25, 2004, Glacier Northwest revised its mining site plans and submitted a revision to its grading permit application (C92G0075) reducing the area of mining along the bluff of the shoreline in order to address KC DDES environmental concerns. Except in areas where the bluffs are not present near the shore area, the revised boundary would be at least 400 feet along the shore of Puget Sound and greater in some areas. The applicant's original proposal was to maintain a 200-foot boundary from the shoreline.

- The existing conveyors and conveyor supports would be replaced with a similar conveyor system for loading barges. The new system would use steel channel conveyor frames, a steel-framed platform at the conveyor transfer location, a steel-framed take-up tower to keep tension in the barge-loading conveyor belt and cast-in-place concrete foundations.
- The new barge loading dock and conveyor system would require a total of between 62 and 82 piles depending on the results of the geotechnical testing, compared to 228 creosote-treated timber piles for the existing dock. All new piles would be made of steel.
- The main elements of the redesigned dock and conveyor system include a 54-inch-wide barge-loading conveyor that will connect the mine to the loading dock. The conveyor would start about 100 feet landward of the shoreline and would extend about 400 feet from shore over Puget Sound. The over-water section of the conveyor (between the shoreline and dock) would be fully enclosed within a 12-foot-diameter steel pipe called a gallery. The gallery would prevent spillage of materials from the conveyor into the water, reduce noise, and shield conveyor/walkway lighting.
- A telescoping spout will be attached to the discharge end of the conveyor to lower the material to the barge and reduce wind blown dust. The spout will have an adjustable "spoon" chute attached to the end to help distribute the material to the center of the barges.
- Seven dolphins will be constructed to berth and moor the barges. The actual number of piles would be determined during the final design, based on the geotechnical conditions at the site. The dolphins would be spaced about 85 feet apart and extend about 510 feet parallel to the shoreline. Each dolphin would consist of four to six steel piles, two feet in diameter that are connected at the top by a steel frame.
- A "haul-back" system – i.e., a system of winches, cables and pulley wheels used to position the barge during loading operations – would be attached to the top of the dolphin frames. This system will minimize the need for tugboats to use their propellers during barge loading.
- The dock and conveyor would be open-grated steel painted a gray/green color to reduce the appearance of bulk.
- The existing timber dock, trestle, conveyor and dolphins would be removed using water-borne equipment. The above-water portions of the structures will be cut, disassembled, and removed in sections using a derrick (i.e., barge-mounted crane). The removed material would be placed on a barge for transport to an off-site upland work area where it will be unloaded, cut into smaller pieces, and either recycled or trucked to an approved disposal site.

- The in-water work would involve the removal of 228 creosote-treated timber piles, including: 26 piles for the trestle, 71 piles for the dock, 105 piles for the dolphins and 26 piles for the submerged dolphins.

### **Applicable Standards for Reviewing Shoreline Conditional Use Permit**

WAC 173-27-160 indicates that “[t]he purpose of a conditional use permit is to provide a system within the master program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the local master program.”

The section further provides that “uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses in the master program. WAC 173-27-160(3).

King County’s Shoreline Code specifies: The Director is authorized to issue shoreline conditional use permits only under the following circumstances: 1) The development must be compatible with uses which are permitted within the master program environment in which the development is proposed. 2) The use will cause no unreasonable adverse effects on the shoreline or surrounding properties and uses. (3) The use will promote or not interfere with public use of surface waters. (4) The development of the site will not be contrary to the policies of the master program. KCC 25.32.050(A).

King County Shoreline Code makes clear that the burden of proving that a proposed shoreline conditional use permit meets the foregoing criteria rests with the applicant. Absence of such proof shall be grounds for denial of the application; provided, however, that the director is authorized to determine and impose, on a case by case basis, those conditions and standards which may be required to enable any proposed Shoreline conditional use to satisfy the conditional use permit criteria. KCC 25.32.050(B).

### **Applicable Standards for Reviewing Shoreline Substantial Development Permit**

The review criteria for substantial development permits are set forth in WAC 173-27-150. The section provides that: (1) A substantial development permit shall be granted only when the development proposed is consistent with: (a) The policies and procedures of the act; (b) The provisions of this regulation; and (c) The applicable master program adopted or approved for the area. WAC 173-27-150.

KC DDES has finalized its SEPA review of the proposed dock/barge/conveyor facility. A Final EIS was issued in June 2000. Subsequent to the publication of the Final EIS, the County issued an EIS Addendum in March 2003 that further evaluated project impacts on nearshore eelgrass beds. The County thereafter withdrew this Addendum in April 2003

in order to address additional issues raised by the Vashon Island community. Following further environmental analysis, DDES reissued an EIS Addendum on March 16, 2004.

**ACTION:**

**APPROVE** Shoreline Conditional Use Permit: DDES File No. L02SH012, subject to the following conditions;

**APPROVE** Shoreline Management Substantial Development Permit: DDES File No. L02SH013, subject to the following conditions:

**CONDITIONS**

1. Nothing in this permit shall be construed as excusing the applicant from compliance with any federal, state, or local statutes, ordinances, or regulations applicable to this project other than the permit requirements of the Shoreline Management Act of 1971.
2. This permit may be rescinded pursuant to RCW 90.58.140(8) in the event the permittee fails to comply with any conditions thereof.
3. Pursuant to RCW 90.58.140(5), construction pursuant to this permit may not begin until twenty-one (21) days from the date of filing as defined by RCW 90.58.140(6). RCW 90.58.140 may impose further restrictions on the timing of construction. Please note that additional restrictions on the applicant's ability to undertake construction pursuant to these permits are imposed as a result of the March 3, 2005 Stipulation and Order Regarding Stay in Preserve Our Islands, et al. v. Shoreline Hearings Board, King County Superior Court Case No. 04-2-37969-5SEA (Armstrong, J.).
4. The following requirements shall apply to these approvals (WAC 173-27-090):
  - i. Construction shall be commenced within two years of the effective date of the shoreline permits. Provided, that King County may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Washington State Department of Ecology.
  - ii. Construction of all elements of the proposal within shorelines jurisdiction shall be completed no later than five years after the effective date of this approval. Provided, that King County may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed

extension is given to parties of record and the Washington State Department of Ecology.

- iii. The effective date of the shoreline permits shall be the date of the last action required on the shoreline permits and all other government permits and approvals that authorize the development to proceed, including all administrative and legal actions on any such permit or approval. It is the responsibility of the applicant to inform King County of the pendency of other permit applications filed with agencies other than King County and of any related administrative and legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given to King County prior to the date established by the shoreline permits or the provisions of this section, the expiration date shall be based on the date of this approval.
  - iv. Conditions of the SSDP and SCUP related to construction shall be satisfied prior to occupancy or use of the barge loading facility.
  - v. Revisions to the shoreline permits may be authorized under WAC 173-27-100 after original permit authorization has expired under subsection (2) of Conditions #4 of this approval, provided, that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.
  - vi. King County is required to notify the Washington State Department of Ecology in writing of any change to the effective date of these permits under WAC 173-27-100, as authorized by the above subsections of Condition #4 of this approval, with an explanation of the basis for approval of the change. Any change to the time limits of these permits other than those authorized by the above subsections of Condition #4 of this approval shall require new permit applications.
5. Copies of other approved state and federal permits from the Washington State Department of Fish and Wildlife, U.S. Army Corps of Engineers, and the Washington State Department of Ecology shall be submitted to King County Land Use Services Division of the Department of Development and Environmental Services (DDES) prior to construction. Additionally, a copy of the executed Washington State Department of Natural Resources "Aquatic Lands Lease" shall also be submitted.
  6. The permittee shall be required to obtain a King County Building Permit for construction of the barge loading facility and associated structures. Minor modifications resulting from implementing conditions of the

Building Permit may be allowed provided they are within the scope and intent of the SSDP and SCUP approvals and no substantial adverse environmental impact will be caused by the project revision. Any subsequent changes to the approved shoreline plans (Exhibit D-7) may require the permittee to obtain a revision to the SSDP and SCUP pursuant to WAC 173-27-100.

7. Construction shall occur in conformance with the approved project plans. A copy of the approved Shoreline Management Substantial Development Permits and Building Permit plans shall be kept available on-site at all times.
8. The permittee or contractor shall notify the DDES of the anticipated project start date at least ten (10) days prior to initiating construction.
9. King County shall be notified within ten (10) days of completion of construction so that compliance with Shoreline Conditional Use Permit #L02SH012 and Shoreline Management Substantial Development Permit #L02SH013 can be verified.
10. All work and materials shall conform to King County standards and specifications, and to the specifications and details shown on approved Building Permit plans.
11. Compliance with the "Mitigation Plan: Maury Island Barge-Loading Operations (Extended Dock), Northwest Aggregates" dated June 2, 2004 is required as a condition of this approval. Compliance monitoring shall be completed by an independent consultant.
12. Elements of the "Mitigation Plan: Maury Island Barge-Loading Operations (Extended Dock), Northwest Aggregates" dated June 2, 2004 that require consent or approval from the Washington State Department of Fish and Wildlife shall also require the consent or approval of the King County DDES.
13. All monitoring reports specified within the "Mitigation Plan: Maury Island Barge-Loading Operations (Extended Dock), Northwest Aggregates" document dated June 2, 2004 that are to be submitted to the Washington State Department of Fish and Wildlife shall also be submitted to the King County DDES.
14. Compliance with the "Barge Approach and Departure Protocol: Northwest Aggregates – Maury Island Barge Loading Dock" dated December 2, 2003 is required as a condition of this approval. Compliance monitoring shall be completed by an independent consultant.
15. (Revised) To ensure compliance with the noise standards enumerated under King County Code 12.88 and control noise levels such that the character of the conservancy shoreline is maintained, the permittee will

engage the services of an independent consultant to produce and submit a noise monitoring plan for review and approval by the DDES prior to operation. The plan will propose a monitoring program to monitor noise levels produced by the operation of the conveyor and barge loading facility (including equipment and vessel operation in the vicinity of the berthing area) and will include required operator response to noise conditions that do not comply with the King County noise code or the noise mitigation conditions of this shoreline permit. Monitoring stations will, at a minimum be located within adjacent neighborhoods and properties, including the Sandy Shores and Gold Beach communities, and include at least one station representative of adjacent upland properties outside those communities. The same (or other) independent consultant will conduct the monitoring activities prescribed by the approved plan and report findings to King County in accordance with an approved reporting schedule. For those sources that are exempt from noise limitations of KCC 12.88, such as watercraft, in addition to abiding by the requirements specified in conditions 17, 31 and 60, the applicant shall comply with all noise-related mitigation measures specified in the June 2, 2004 Mitigation Plan. In particular, barges and tugs shall not operate shoreward of the dolphins; tugs shall not operate on the shoreward side of barges except under extreme emergency or adverse weather conditions; tug/barge configurations will approach and depart the dock at the slowest speed practical, given the weather and wind conditions at the time; and a haulback system shall be used to move the barge during loading. The applicant shall additionally utilize tugs that are equipped with appropriate devices to control unnecessary noise.

16. Should monitoring reveal noise levels exceeding allowable limits, the permittee shall immediately notify King County DDES, which may require project operations to cease until measures to prevent further exceedences can be identified and subsequently implemented.
17. Pursuant to Shoreline Hearings Board Order, Condition #1 (SHB No. 04-009,10), the hours of operation of the conveyor and barge loading dock shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Friday. King County may develop reasonable exceptions authorizing operation of the conveyor and barge loading dock during other time periods. Any requested exception to these hours of operation shall require additional review to insure that exceptions shall not produce conditions that are inconsistent with the 'Conservancy' shoreline environment or public health. Such review shall be completed through the revision process for modifying the King County Clearing and Grading Permit that authorizes the mine's operation. The revision process review will include notification to a list of interested parties maintained by the DDES, consultation with Seattle King County Department of Public Health, and review by the Critical Areas Section of the DDES, by the SEPA Section of DDES, and by the Site Development Services Section of the DDES.

18. The permittee will provide signage or other appropriate measures to notify the public that public access to the conveyor, barge loading dock, and mine site is prohibited.
19. Pursuant to Shoreline Hearings Board Order, Condition #11 (SHB No. 04-009,10), the permittee is encouraged to develop, in coordination with King County, other local, state, and federal agencies, citizens, and recreation associations and businesses, methods to inform the public of preferred times for recreational opportunity around the site.
20. (Revised) In order to permanently protect bluff functions in a manner consistent with the conclusions of the Shoreline Hearings Board, the bluff areas identified in Glacier Northwest's February 25, 2004 letter and the revised site map attached thereto (Exhibit A) shall remain free of any mining. Any proposed development within the protected bluff areas shall be reviewed pursuant to codes in effect at the time such proposals are submitted and in accordance with mitigation measures identified in the June 2000 Final Environmental Impact Statement and Hearings Board's decision. The specific requirement of this condition shall be recorded in a covenant, easement or other agreement in a form approved by King County.
21. Best Management Practices for piling removal shall be employed to control turbidity and sediments reentering the water column during pile removal, capture debris, and for pile/debris disposal, including but not limited to the following:
  - i. Existing pilings shall be removed by vibratory extraction. If pilings landward of the -12.0 MLLW elevation are too deeply embedded and cannot be removed by vibratory extraction, they may be removed by limited excavation around the base of the pile. Pilings waterward of the -12.0 MLLW elevation that cannot be removed by vibratory extraction may be cut off at least 1.0' below the mudline using a pneumatic underwater chainsaw. Project specific standards for pile-cutoff shall be set by the project engineer considering the mudline and tidal elevations. Upon completion of the piling removal portion of the project, the permittee shall provide the DDES with the number and location of pilings that have been cut off.
  - ii. If a pile is broken or breaks above the mudline during vibratory extraction, a chain shall be used to attempt to entirely remove the broken pile.
  - iii. To minimize turbidity in the water column as well as sediment disturbance, the crane operator shall be trained to remove piles slowly.
  - iv. Work surface on the barge deck shall include a containment basin for piles and any sediment removed during pulling. Basin may be

constructed of durable plastic sheeting with sidewalls supported by hay bales or support structure to contain all sediment. Water run off can be discharged back to the marine environment.

- v. Upon removal of piles from the substrate, they shall be moved expeditiously from the water and placed into the containment basins. The pilings shall not be shaken, hosed-off, left hanging to drip or any other action intended to clean or remove adhering material from the pile.
  - vi. Pilings, sediments, construction residue and plastic sheeting from the containment basins shall be disposed at a facility that complies with federal and state regulations.
  - vii. A floating surface boom shall be installed to capture floating surface debris produced during piling removal. Contained debris shall be collected and placed in containment basins.
22. Piling installation shall use vibratory insertion to the maximum extent possible.
  23. Where impact pile driving is necessary to install new pilings, bubble curtains shall be employed to reduce underwater noise impacts.
  24. Project activities (including construction and operation) shall be suspended when Killer Whales (*Orcinus orca*) are sited within 300 yards of the project site.
  25. (Revised) Following removal of existing creosote treated pilings, an independent consultant engaged by the applicant shall evaluate sediments in the area from which pilings that are landward of the -12.0 MLLW elevation contour have been removed (including but not limited to capped areas) and shall advise DDES and Ecology whether such sediments exceed cleanup standards enumerated by the Washington State Sediment Quality Standards (WAC Chapter 173--204). Such sediments exceeding cleanup standards that are attributable to the presence or historic operation of the existing facility shall be addressed in accordance with a response plan to be prepared by the independent consultant and diligently presented for concurrence of Ecology.
  26. All trenches, depressions, or holes created in the intertidal or subtidal area during construction shall be restored to pre-existing grade using clean (uncontaminated) sand.
  27. Dock lighting shall incorporate shields, screening and / or protective covering to minimize night time lighting of the water below the dock.
  28. To avoid spillage of sand and gravel into the marine environment,

- i. The conveyor will be designed to place the product in the center of the barge;
  - ii. A fixed downspout will be installed and maintained on the end of the conveyor to prevent wind from blowing material into the water as it is transferred from the conveyor into the barge.
29. The permittee shall routinely inspect, test and maintain the barge “haul back” system to insure its proper functioning.
30. Barge loading will not occur if the “haul back” system has been rendered inoperable for any reason.
31. Pursuant to Shoreline Hearings Board Order, Condition #11 (SHB No. 04-009,10), barge decks shall be lined with concrete, wood, asphalt, or other suitable material to minimize noise during barge loading.
32. If onsite containment of arsenic or other contaminants is an element of the final approved grading plan, there shall be no direct stormwater runoff pathway to Puget Sound from the containment cells.
33. All project-related debris or deleterious material resulting from construction shall be removed from the shoreline environment and disposed of in an approved landfill prior to initiating barge loading operations.
34. Extreme care shall be taken to ensure that no petroleum products, hydraulic fluid, or any other toxic or deleterious materials are allowed to enter or leach into surface waters. The permittee shall report all spills immediately to King County DDES and to the Washington Department of Ecology.
35. A spill control kit shall be on site at all times.
36. Wet concrete shall be prevented from entering the marine environment. Forms for any concrete structure shall be constructed to prevent leaching of wet concrete. Impervious materials shall be placed over any exposed concrete not lined with the forms that will come in contact with the water. Forms and impervious materials shall remain in place until the concrete is cured.
37. Chemically treated wood products are not approved for use in this project.
38. Excavated materials, construction materials and equipment shall not be staged or stockpiled on the seabed below the ordinary high water line.
39. Any excavated or stockpiled material placed in pre-approved staging and stockpiling areas shall be removed from the shoreline environment within seventy-two (72) hours of completion of work.

40. Project activities shall employ best management practices for temporary erosion and sediment control to minimize turbidity and siltation in the marine environment.
41. Project activities shall comply with all applicable water quality standards.
42. The permittee shall engage the services of an independent consultant to monitor construction for compliance with permit conditions during demolition and removal of the existing dock facility, and during construction of the new facility. The inspector(s) will report findings of noncompliance to the permittee, who will be responsible for immediately notifying King County (in writing) and taking immediate corrective actions. Construction monitoring shall include water quality monitoring to ensure that turbidity caused by construction activities does not exceed Washington State Water Quality Standards as required pursuant to subpart (viii) of Condition #50 of this approval.
43. If a fish kill occurs or fish are observed in distress, construction shall immediately cease and the King County DDES-Critical Areas Section (Contact phone #206-296-6600) and Washington Department of Fish and Wildlife shall be notified immediately.
44. Eelgrass shall not be adversely impacted due to project activities. Barges and all other vessels shall not ground, equipment shall not operate, and other project activities shall not occur in eelgrass anywhere on the project site. Compliance with this condition shall be documented by the pre-construction and post-construction eelgrass monitoring and reporting requirements enumerated in the "Mitigation Plan: Maury Island Barge-Loading Operations (Extended Dock), Northwest Aggregates" dated June 2, 2004.
45. Adverse impacts to macroalgae shall be avoided to the maximum extent practicable. Compliance with this condition shall be documented through the pre-construction and post-construction macroalgae monitoring and reporting requirements enumerated in the "Mitigation Plan: Maury Island Barge-Loading Operations (Extended Dock), Northwest Aggregates" dated June 2, 2004.
47. Should project activities (construction, maintenance or operation) result in significant impacts to eelgrass, it shall constitute a violation of the conditions of this approval. In such case, the permittee shall engage the services of an independent consultant to develop and submit an eelgrass restoration plan that outlines remedial measures necessary to reestablish pre-existing eelgrass conditions. The approved plan shall include performance standards and financial guarantee measures, and shall be implemented within one-year of its approval.

48. Unless otherwise modified by King County, tug and barge approach and departure operations are prohibited when tidal elevations are below 0' or Mean Lower Low Water (MLLW). This restriction may be lifted or modified if propeller wash monitoring results demonstrate to the satisfaction of King County that tide height does not affect propeller wash velocities in a way that could impact eelgrass.
49. Pre-construction eelgrass surveys completed between 2001 and the date of construction shall be used to (1) determine pre-construction eelgrass location and density, (2) determine interannual variability that can be attributed to natural and non-project related causes, and (3) provide a baseline for measuring post-construction eelgrass area extent and density for impact assessment. To this end, the permittee shall engage the services of an independent consultant to develop and submit to the DDES a report outlining statistical performance measures that will detect any changes in eelgrass bed location or density prior to initiating construction of the loading facility. These measures, which may include paired t-tests or ANOVA tests, shall be used to compare each required eelgrass survey with the referenced baseline data. The report outlining the statistical performance measures shall also clearly enunciate how data gathered in the reference eelgrass bed will be used. For consistency, the DDES prefers that the permittee re-engage the services of the independent consultant previously engaged in the eelgrass analysis (Ron Thom, Battelle Marine Sciences Lab). NOTE: Eelgrass studies completed prior to 2001, including the 1999 Jones & Stokes eelgrass report and video surveys, may be used as background information but are not suitable for use as statistical baseline data due to differences in data collection methods and scale.
50. Eelgrass monitoring and mitigation measures shall include but not be limited to the following:
  - i. To avoid physical damage to eelgrass during construction, the two eelgrass beds on the project site will be marked in a manner that will alert construction personnel of their presence and location. These beds shall remain marked throughout the course of construction activities.
  - ii. Marking of eelgrass beds prior to construction shall be done in a manner that does not degrade nor otherwise harm eelgrass beds.
  - iii. Both pre-construction and post- construction grid surveys and video transects shall use the same methods so that data will be comparable and changes over time can be identified.
  - iv. Prior to construction, eelgrass beds shall be videotaped by a qualified independent consultant to record pre-project conditions. Videotaping shall be conducted along transects parallel to the shoreline within each

of the two eelgrass beds on the site. Permanent stakes shall be used to ensure the reproducibility of the survey.

- v. Immediately following construction, a second set of video transects that mirror the pre-project transects shall be recorded to demonstrate (qualitatively) that impacts to eelgrass have been avoided during construction. Videotapes shall be submitted to King County DDES within thirty (30) days of the completion of construction. The DDES recognizes that eelgrass often loses its leaves during winter and that because construction is likely to occur during the late fall and winter construction window it is expected that some leaf loss may occur during construction from natural causes. As such, if the video transects are recorded during late fall, winter or early spring, an additional video transect will be recorded in the reference area for comparison. The DDES will consider seasonal eelgrass change when reviewing the monitoring results.
- vi. Pursuant to Shoreline Hearings Board Order, Condition #3 (SHB No. 04-009,10), section four (4) of the “Barge Approach and Departure Protocol: Northwest Aggregates – Maury Island Barge Loading Dock” dated December 2, 2003, which regards “Propeller Wash Monitoring”, shall be modified to include diver inspection of the north and south eelgrass beds on-site after the first twenty-five (25) barge loads. Table 1 of the “Mitigation Plan: Maury Island Barge-Loading Operations (Extended Dock), Northwest Aggregates” dated June 2, 2004 shall be amended to reflect this requirement.
- vii. During the dive inspection to be completed in accordance with subpart (vi) of Condition #50 of this approval, video monitoring shall occur at the seaward edge of each eelgrass bed concurrent with barge loading. The video recording device shall be stationed so that the substrate, eelgrass plants and a velocity meter (installed as close to the bottom as possible) are clearly visible, and the tug operator shall be directed to direct prop wash directly towards the velocity meter at the seaward edge of the bed. The tug shall be moored to the aft of the loaded barge, and slowly ramp prop wash velocities upwards toward seventy-five (75) cm / second without exceeding that threshold. The degree of sediment mobilization and affects on eelgrass observed by divers shall be noted, along with tidal elevation, time of day, and barge size. This information shall be included in a monitoring report to be submitted to King County within (30) days of the inspection. If at any time during the test eelgrass damage is observed, the test shall be immediately terminated, and the multidisciplinary group process described in subparts (viii) and (ix) of Condition #51 of this approval shall be initiated.
- viii. Water quality monitoring for turbidity shall be conducted concurrent with the eelgrass and prop wash monitoring required pursuant to subpart (vii) of Condition #50 of this approval. Water quality monitoring shall

include both water sampling and photographic documentation (taken from atop the facility) of conditions landward of the berthing face. Turbidity caused by construction activities from this project shall not exceed Washington State Water Quality Standards.

- ix. Statistical performance measures proposed pursuant to Condition #49 of this approval shall incorporate appropriate confidence intervals for determining whether any percent loss of eelgrass cover or density is statistically significant for any observation year. A decline will be considered statistically significant if it occurs outside the specified confidence interval when compared to trends at the reference site.
- x. Where unanticipated local factors cause the eelgrass reference area to the north of the project site to be unsuitable for statistical comparison, the comprehensive Washington State Department of Natural Resources (WDNR) eelgrass data set shall be used as a coarse-scale control to establish whether changes in eelgrass bed size or density on the project site are attributable to landscape level phenomena, such as fluctuations in climate, water chemistry or currents, or, whether changes are due to project activities. Should this scenario transpire, i.e. the reference site becomes unsuitable, statistical performance measures shall be modified accordingly and submitted for DDES approval. NOTE: WDNR data shall not be used for direct statistical comparison due to variability in data collection and spatial scale.
- xi. As specified in the eelgrass sampling design, the sampling frame for quantitative eelgrass monitoring shall continue to be adjusted as necessary to ensure that the entire area of each bed continues to be sampled if it extends out of the pre-existing sampling frame.
- xii. Monitoring results for quantitative (grid) and qualitative eelgrass surveys shall be reported together and submitted as a unified report to the extent the monitoring schedule allows. Otherwise, quantitative and qualitative surveys may be reported separately. All reports shall include clear and objective discussion of observed eelgrass bed density, bed area, bed shape, and estimate of total shoot count (calculated as bed area x density / sq. meter; this metric to be used for quantitative reporting only). Additionally, all reports shall include diver observations of bed scour, sedimentation, epiphyte growth, disease/pathogen outbreak, plant vigor, presence of associated organisms such as Dungeness crabs, herring spawn, and juvenile salmonids, and any / all other information collected by divers conducting transects that may be useful in assessing ecosystem health.
- xiii. Eelgrass monitoring reports that include mapped grid surveys shall also include data submitted in digital format (ArcView or CAD).

- xiv. Diver inspection completed after the twenty-fifth barge load pursuant to Shoreline Hearings Board Order, Condition #3 (SHB No. 04-009,10), shall be documented by video of permanent transects created in accordance with subparts (iv) and (v) of Condition #50 of this approval. A second iteration of the video prop wash monitoring described in subpart (vii) of Condition #50 of this approval shall also occur. Results will be reported to King County DDES within twenty (20) days of the inspection.
  - xv. Annual qualitative monitoring events described in Table 1 of the “Mitigation Plan: Maury Island Barge-Loading Operations (Extended Dock), Northwest Aggregates” dated June 2, 2004 shall include video transect surveys as described in subparts (iv) and (v) of Condition #50 of this approval.
  - xvi. Quantitative monitoring schedule described in Table 1 of the “Mitigation Plan: Maury Island Barge-Loading Operations (Extended Dock), Northwest Aggregates” dated June 2, 2004 shall be extended to include a quantitative eelgrass grid survey at year five (5) of operations to coincide with periodic review requirements associated with the mine operating (grading) permit. Grid survey shall be completed during the growing season for each of the two eelgrass beds on site as well as for the reference site, and results reported to the DDES during the periodic review process.
  - xvii. If at any time eelgrass monitoring results indicate that project activities have caused a statistically significant loss in eelgrass coverage or density in either of the two mapped eelgrass beds on the site, or video monitoring indicates that prop wash velocities are causing scour sufficient to expose the rhizomes of observed eelgrass plants, all barge loading operations will cease until additional prop wash or other necessary controls can be identified, tested, and reviewed in coordination with regulatory agencies to insure that any additional impacts to eelgrass will be avoided.
  - xviii. Prior to the implementation of any additional controls required by the multidisciplinary group, a revised mitigation monitoring schedule for quantitative and qualitative eelgrass monitoring surveys shall be submitted for review and approval.
51. Prop wash (velocity) mitigation and monitoring measures shall include but not be limited to the following:
- i. Prior to initiating barge loading, the permittee shall engage the services of an independent consultant to install and monitor velocity meters to measure current velocities at 0.5 second intervals during barge approach, berthing, and departure for the duration of the prop wash monitoring period. Velocity meters shall be installed at the seaward edge of both

eelgrass beds, as close to the seabed as possible, and shall be hard-wired to a data gathering device on the dock facility.

- ii. Diver inspection completed after the twenty-fifth barge load shall include inspection and testing of the installed velocity meters. Should the diver inspection indicate that velocity meters are not operating reliably, prop wash velocity data shall be collected and reported for another (25) twenty-five consecutive barge loads.
- iii. Prop wash velocity data collected during the first twenty five (25) barge loads shall be reported as unaveraged 0.5 second values. These unaveraged values shall be plotted against values averaged as five (5) second means and included with monitoring reports.
- iv. If unaveraged velocities do not exceed seventy-five (75) cm/sec, all additional monitoring, i.e. after the twenty-fifth barge load, may be reported solely as five (5) second averages, except as follows:
  - (a) If the first twenty-five (25) barge loads do not occur between July 1 and August 31, then unaveraged velocities will be reported for the first twenty-five (25) consecutive barge loads that occur during that time period;
  - (b) If quantitative surveys indicate that project activities are causing statistically significant reductions in eelgrass density or coverage, then unaveraged velocities will continue to be reported for all future velocity monitoring report requirements.
- v. If unaveraged velocities exceed seventy-five (75) cm/sec, they will continue to be reported for the remainder of the velocity monitoring period.
- vi. If five (5) second mean velocities between fifty (50) cm/sec and seventy-five (75) cm/sec are observed during the initial velocity monitoring period, then the velocity monitoring period will be extended for six (6) months. The extended velocity monitoring period shall commence such that at least sixty (60) days of the extended period occur between July 1 and September 30.
- vii. If five (5) second mean velocities greater than seventy-five (75) cm/sec but less than one-hundred (100) cm/sec are observed at any time during the monitoring period, a multidisciplinary group will be convened to review operations and provide recommendations on how to reduce velocities to below damage thresholds.
- viii. If five (5) second mean velocities equal to or greater than one-hundred (100) cm/sec are observed at any time during the monitoring period, barge loading operations will be required to immediately cease until additional prop wash controls can be identified, tested, and reviewed by

the multidisciplinary group, to insure that impacts to eelgrass will be avoided.

- ix. Should the multidisciplinary group be convened and subsequently require additional prop wash controls pursuant to the above subsections of Condition #51 of this approval, the prop wash velocity monitoring period shall be extended for at least (6) months following the installation of said controls. The extended monitoring period shall commence such that at least sixty (60) days of the extended period occur between July 1 and September 30.
- x. The multidisciplinary group convened to recommend additional prop wash controls will generally include representatives from King County Department of Development and Environmental Services, Washington State Department of Fish and Wildlife, Washington State Department of Natural Resources, the Washington State Department of Ecology, and the permittee or their assigned agent. Upon the convening of the multidisciplinary group, notice shall be made to a list of interested parties maintained by the DDES. Timely comments submitted by interested parties during the deliberations of the multidisciplinary group will be considered prior to issuing final recommendations. The final recommendations of the multidisciplinary group shall subsequently be made available to the interested parties prior to their implementation.
- xi. Recommendations resulting from the process enumerated in the subsections of Condition #50 and Condition #51 of this approval shall be required to be implemented by the permittee within a reasonable time frame or barge loading operations shall be required to cease.
- xii. The regulatory agency representatives in the multidisciplinary group shall concur that the additional prop wash controls developed pursuant to the above subsections of Condition #51 of this approval will be adequate to ensure that any further impacts to eelgrass will be avoided before barge loading will be allowed to resume.
- xiii. The duration of the prop wash monitoring period shall be extended as necessary to insure that the sample size (i.e. number of barge loadings) is adequate to evaluate prop wash across the full range of expected conditions. The monitoring data set shall contain no less than fifty (50) barge loadings, representing data collected during a representative range of tidal elevations. The monitoring data set shall include at least ten (10) loadings during an incoming tide, and ten (10) loadings during an outgoing tide. NOTE: The monitoring period may also need to be extended pursuant to subpart (xiv) of Condition #51 of this approval.
- xiv. Unless otherwise authorized by the King County DDES, prop wash velocity monitoring shall not terminate until at least ten (10) barge loadings have been recorded for each of the seven (7) possible tug

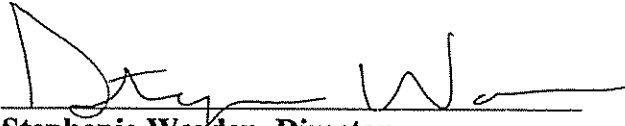
configurations ('make-ups'): three (3) for fixed drive tugs and two (2) each for Z-drive and cycloidal propulsion systems. Monitoring reports required pursuant to the "Mitigation Plan: Maury Island Barge-Loading Operations (Extended Dock), Northwest Aggregates" dated June 2, 2004, and the "Barge Approach and Departure Protocol: Northwest Aggregates – Maury Island Barge Loading Dock" dated December 2, 2003 shall include indication of the tug configuration correlating with each recorded barge loading, tide level, and arrival / departure times. In the event that specific tug types or configurations are not actually used in the operation of the facility, King County may waive the monitoring requirement for that tug type or configuration. In such case, use of the unevaluated tug type or configuration shall not subsequently occur unless specifically authorized by King County.

52. Anchors shall not be placed within twenty feet (20') of either of the sunken barge habitats on the site.
53. Anchor lines and chains shall be managed so as not to scour or otherwise degrade eelgrass, kelp and sunken barge habitats.
54. The permittee shall identify a designated fuel area to contain spills during equipment refueling. Spill containment best management practices shall be applied in the designated fuel area.
55. Drip pans or tarps will be placed under stationary construction vehicle engines to reduce the potential for petroleum contaminants entering surface waters.
56. Removal or destruction of shoreline vegetation within the corridor where the dock and conveyor meet the shoreline shall be avoided to the maximum extent possible.
57. Any vegetation maintenance necessary in the corridor where the dock and conveyor meet the shoreline shall employ best management practices for "Integrated Pest Management".
58. For the protection of migrating salmonids and forage fish, construction work below the OHWM shall be restricted to comply with timing limitations imposed by the Washington State Department of Fish and Wildlife's Hydraulic Project Approval (HPA) and Army Corps of Engineers Section 10 permit issued for this project.
59. The permittee shall notify the Washington State Department of Natural Resources and comply with any mitigation requirements that agency may impose for impacts to geoduck clams (*Panopea abrupta*).
60. Vessels being used during construction and for post-construction maintenance (i.e. painting, spall repairs, inspection, etc.) of the facility shall only operate at idle speeds, except as necessary to safely maneuver

construction barges into location and / or maintain vessel safety. In the event that construction and maintenance vessels are required to operate above idle speeds, they shall avoid directing prop wash towards known locations of eelgrass.

61. Vessels being used for construction and for post-construction maintenance at the project site shall maintain at least five feet (3') of clearance between the propeller and the seafloor.
62. Vessels used during loading operations shall remain waterward of the berthing face and maintain at least three (3') of clearance between the propeller and the seafloor.
63. If sea water is to be withdrawn for any construction or maintenance activities, pumps will not draw water if juvenile fish are observed within a distance of ten feet (10') of the pump intake.
64. All equipment that is used for in-water work shall be cleaned to remove external oil, grease, dirt and mud prior to placing the equipment in the water. Wash sites shall be placed so that wash water does not flow into Puget Sound without adequate treatment.
65. Garbage and non-biodegradable debris produced during any phase of the operations of the facility shall be removed from the site and disposed of or recycled as appropriate.
66. Unless otherwise authorized by King County, pressure washing and / or chemical controls to remove biofouling of pilings is prohibited.
67. Painting of the gallery enclosure should be undertaken prior to installation, outside of shoreline jurisdiction. If painting is to occur after installation, appropriate containment best management practices shall be employed to prevent paint from entering the marine environment.
68. To maintain safe navigation around the project area, the permittee shall clearly mark or submerge anchor lines and cables to prevent obstruction.
69. Toilet facilities for construction personnel shall be provided on site and regularly maintained. Sewage produced by the toilet facilities shall be transported off-site and legally disposed.

70. Pursuant to Shoreline Hearings Board Order, Condition #9 (SHB No. 04-009,10), the permittee is encouraged to continue allowing access to the beach and tidelands under its ownership.



**Stephanie Warden, Director**  
**King County DDES**

Transmittal Date: March 15, 2005.

Revision Date: June 16, 2005

TRANSMITTED to the following Parties and Persons of Interest: See Attachment B.

ATTACHMENTS:

Attachment A – Right to Appeal

Attachment B – Parties and Persons of Interest

**ATTACHMENT A**  
**RIGHT TO APPEAL**

**NOTE:** Any administrative appeal of this Shoreline Management Substantial Development Permit and / or Shoreline Conditional Use Permit decision is subject to WAC 173-27-130(9):

**WAC 173-27-130 (9) Filing with the Department.**

(9) When a permit has been appealed pursuant to RCW 90.58.180, upon conclusion of all review proceedings, a copy of the final order shall be provided to the local government and the department. When the project has been modified in the course of the review proceeding, plans or text shall be provided to the local government, consistent with the provisions of WAC 173-27-180, that clearly indicate the final approved plan and the local government shall reissue the permit accordingly and submit a copy of the reissued permit and supporting documents consistent with subsection (3) of this section to the department for completion of the file on this permit. The purpose of this provision is to complete and accurate and not to provide a new opportunity for appeal of the permit.

Information on appeal procedures may be obtained from the Shoreline Hearings Board at (360) 459-6327 or the Washington State Department of Ecology Shoreline Appeals Coordinator at (360) 407-6528.

**ATTACHMENT B**

**PARTIES AND PERSONS OF INTEREST**

Transmitted to:

ACKERMAN, WALTER & CLARINE  
ADAMS, BIRNEY  
ADAMS, CHARLES & MARY LOU  
ADAMS, KRISTINA M.  
ANDERSON, DANIEL & SHANNON  
ANDERSON, GARY  
ANDREWS, JILL \*NO ADDRESS ON EMAIL\*  
ANDRUS, STEPHEN & JEAN  
ARUM, JOHN B. ATTORNEY AT LAW  
AUSTIN, VIRGINIA  
BACKUS, CHARLES \*NO ADDRESS ON EMAIL\*  
BARTLETT, MERRILL & BLYTHE  
BELSHAW, MARY  
BETTS, SALLY \*NO ADDRESS ON EMAIL\*  
BLAIR, LESLIE  
BLOCH, PHILIP WSDNR  
BOYES, PAUL J.  
BROWN, ARLENE  
BUNNELL, KATIE  
CARLSON, RICKI  
CARPENTER, MAURICE  
CARUSO, CHRISTOPHER  
CASKEY, MATT PROJECT MGR II DDES/LUSD  
CEKOSH, BRUCE & DEBORAH  
CHART, MARK C.  
CHILBERT, MARK  
CHRISTIANSSEN, PERRY & BILLIE  
CLARK, JAMES G.  
COFFMAN, POLLY  
COLE, MR. & MRS. C.M.  
COLLIER, PAT  
COLLINS, SAM  
CORNELISON, JOHN  
CRUVER, KYLE VASHON-MAURY IS COMM COUNCIL  
CULLINAN, TIMOTHY AUDUBON WASHINGTON  
DAHMS, RICK & KRISTINE  
DALLY, JOHN  
DASCHE, RUTH  
DEAN, FRANCIS & CAROLYN  
DINSMORE, LISA CURRENT PLANNING SUPERVISOR  
DIXON, ROBERT  
DRAHOS, LESLIE

DU PEN, CAROLYN  
EASTMAN, KIRSTIN  
EGGEN, CAROL  
EMMONS, RICHARD  
ESTEVENIN, COURTNEY \*NO ADDRESS ON EMAIL\*  
FARRAR, RANDOLPH  
FRANCIS, ERIC \*NO ADDRESS ON EMAIL\*  
FUGATE, RUTH  
GARDENER, KEVIN  
GARRISON, BARBARA  
GASPERS, JULIE \*NO ADDRESS ON EMAIL\*  
GLACIER NORTHWEST  
GORDON, ANNE \*NO ADDRESS ON EMAIL\*  
GRABOW, KATIE J.  
GUBERLET, GREG  
HANOWELL, ELAINE  
HANSEN, MR. CHARLES  
HARDY, RICHARD  
HARLANDER, MARY LOU  
HARMON, ROB \*NO ADDRESS ON EMAIL\*  
HATHAWAY, ROXY \*NO ADDRESS ON EMAIL\*  
HENDRICKSON, KATHLEEN  
HENSON, THERESA  
HERBERT, PAT  
HERMES, DESTIA  
HERRING, THOMAS H.  
HESS, ROBIN 34TH DIST. MEMBER OF KCDCC  
HIGHET, STUART & PAT  
HOLLEY, SHARON WSDNR  
HOLTZ, RAYNA  
HOOVER, CAROLYN  
HOOVER, LON  
HOUSTON, HEATHER  
IGNATOR, JANNA  
JACK, DAVID & GIGI  
JACKSON, FRANK  
JENNINGS, KIRSTEN THE JENNINGS GROUP  
JOHNSON, DOUG & NANCY  
JONES, JEAN  
JONES, MARNIE  
KARUSAITIS, RHODA  
KAUFER, TOM \*NO ADDRESS ON EMAIL\*  
KIRKLAND, MICHAEL M.  
KLEMKA, DONNA LEE  
KNOWLES, DERRICK KETTLE RANGE CONVERSATION  
KOENIG, MARTIN  
KONCSEK, PATRICIA & JOSEPH  
KRITZMAN, ELLEN  
KRUSE, JEFF  
LANDE, ROBERT & DARLINE  
LANGBAUER, DEL  
LAW, JUDY  
LE MAIRE, KIMBERLY  
LEEPER, DAVID & ELKE  
LIPITZ, EUGENE  
LOVERING, RICHARD  
LUNDBOM, WILLIAM

MACLEOD, AINSLIE  
MALCZYK, JOHN  
MANN, CLAUD & LORIS  
MANTYNEN, ROBERT & SHIRLEY  
MARSLAND, DONALD  
MARTIN, AMELIA  
MCCARTHY, MARCY  
MCCULLOUGH, BEV  
MCGOVERN, BRUCE M.  
MCLARTY, LISBETH V.  
MICHAEL DONNELLY & CO INC.  
MITCHELL, MARK PROJECT MGR III DDES/LUSD  
MOORE, BRENDA & JOHN  
MOORE, CLIFFORD & BETSY  
MORGAN, DYLAN S.  
MORRISON, AMY \*NO ADDRESS ON EMAIL\*  
MULVIHILL, ED & ARLINE  
NELSEN, RUTH  
NELSON, GORDON  
NICHOLS, LISA WHITE, JEFFREY  
NIELSEN, JO ANN  
NOAH, LIN  
NULL, MARY & BOULE, HAROLD MERRYANT PUBLISHERS  
O'BRIEN, CINDY  
O'BRIEN, JAMES J.  
O'REILLY, FRANCES  
OHMERT, STEVEN  
PALAZZI, DAVID WSDNR  
PARKER, DAVID & JUDITH  
PEARSON, MARCIA  
PELLS, JUDY  
PERLA, BIANCA  
PHALMER, KRISTI \*NO ADDRESS ON EMAIL\*  
POTTER, JOHN & CAROL  
POWELL, CYNTHIA  
PRAYE, LAURA WDFW  
RAMANO, OLIVIA US ARMY CORPS OF ENGINEERS  
RAMAURO, DR. MICHELLE  
REES, MIKE & JANE  
RIMBOS, PETER & NAOMI  
RIPLEY, SANDRA \*NO ADDRESS ON EMAIL\*  
RITZHAUPT, PATRICIA  
ROBERTS' FAMILY  
ROBERTS, DALE & LISA  
ROHLFS, VICTORIA  
ROOS, STEPHEN H.HILLIS CLARK MARTIN PETERSON  
ROWE, WILLIAM  
RUSSELL, CECILIA  
SANDOL, KATE  
SASSARA, RICK & AMY  
SCARVIE, STAN  
SCHWARZ, ANDREW W.LAW OFFICE OF ANDREW SCHWARZ  
SCHWARZBECK, JUNE  
SHIPLEY, JONATHAN  
SIMARD, KRISTIE L.  
SIMMONS, EVAN  
SKOW, EARL A.

SLOAN, JON ENVIRON.SCIENTIST DDES/LUSD  
SMITH, PAMELA M.  
SMITH, ROLLAND  
SNELL, DAVID  
SNELL, G.C. & JEANNE  
SNELL, JENNIFER  
SPAGNOLI, CATHY \*NO ADDRESS ON EMAIL\*  
SQUIRE, HAL & MARGARET  
STARTZ, MS. AVALON T.  
STRATTON, REX B.  
STRATTON-BALLEW, ATTORNEYS  
SUMMERS, RONALD NORTHWEST AGGREGATES INC  
THOREEN, TOM  
TODD, HOWARD & GRACE  
TREVELLYAN, VERNON & CHRISTINE  
TRYPHON, FR/ABBOT OF THE MONASTERY \*NO ADDRESS ON EMAIL\*  
ULATOSKI, EDITH  
ULATOSKI, KARI \*NO ADDRESS ON EMAIL\*  
VAN BUREN, JOHN & HARRIET  
VAN FLEET, SARA E.  
VAN GILDER, JACQUELINE  
VANDER LEEST, C.T.  
VANDERPOOL, NANCY  
VOGEL, DAVID LAW OFFICES OF DAVID S. VOGEL, PLLC  
WALKER, MARY ELLEN  
WALLACE, ALAN  
WEISE, RACHEL  
WHITE, FRED SITE DEVEL. SPECIALIST DDES  
WHITLOCK, INA Y.  
WILKINSON, FAYE  
WOLFF, AMY  
ZECHER, MICHAEL G.  
ZIMMER, ROBIN MARIE