BEFORE THE HEARING EXAMINER IN AND FOR THE COUNTY OF THURSTON

In the Matter of the Application of
MAYTOWN SAN D & GRAVEL, LLC,
For Amendments to a Mineral Extraction Special Use Permit (SUPT-02-0612)

Hearing Examiner Sharon A. Rice
No. 2010101170
PORT OF TACOMA’S WITNESS AND EXHIBIT LIST

Party of Interest Port of Tacoma discloses the following information regarding potential hearing witnesses and exhibits. All Port witnesses can be contacted through Foster Pepper, counsel for the Port, at Foster Pepper PLLC, 1111 3rd Ave Suite 3400, Seattle, WA 98101, (206) 447-4400.

WITNESSES

The following list represents the Port’s good-faith effort to name witnesses it intends to rely upon in the hearing on MSG’s request for amendments and the accompanying SEPA determination. The Port reserves the right to call as its own witness any person identified as a witness by any other party. The Port further reserves the right to offer additional witnesses on rebuttal as necessitated by other parties’ arguments and witnesses.

1. Jack Hedge, Real Estate Manager
   Port of Tacoma

   Mr. Hedge has knowledge of all aspects of the requested amendments. He has personal knowledge of the Port’s ownership of and strategy for the Maytown property that predates the Port’s ownership. Mr. Hedge may testify regarding the Port’s involvement with the Property, including steps the Port took while it owned the Property to preserve the special use permit for mining.
2. Scott Hooten, Environmental Programs Manager  
    Port of Tacoma

    Mr. Hooten has knowledge of the environmental cleanup effort the Port expended in  
    conjunction with the Agreed Order with Ecology, as well as mining entitlements the Port sought  
    and obtain, and may testify to both.

3. Charles Ellingson, Hydrogeologist  
    Pacific Groundwater Group  
    2377 Eastlake Ave  
    Seattle, WA 98102  
    206.329.0141

    Charles Ellingson a state-licensed hydrogeologist and a principal of Pacific Groundwater  
    Group. He has served as the consulting hydrogeologist since before Jay Allen filed the  
    application for mining in 2002. He drafted the 2005 Groundwater Monitoring Plan that formed  
    the basis of MDNS 6 and worked in cooperation with Nadine Romero to draft the 2011 Ground  
    and Surface Water Monitoring Program. He may testify regarding the differences between  
    MDNS 6 and the 2005 GMP, the reasons for the timing provisions in the 2005 GMP and MDNS  
    6, the purpose of background monitoring, and the potential for environmental impacts resulting  
    from the failure to comply with the timing provisions.

4. Anthony Kantas, former Thurston County Planner  
    Contact information currently unknown

    Mr. Kantas was the planner in charge of the 2002 application for the SUP. He is the  
    author of the 2005 MDNS and the County's October 29, 2008 and November 25, 2008 letters to  
    the Port. Among other topics, Mr. Kantas may testify about the process through which the  
    County drafted MDNS Condition 6.

EXHIBITS

At this time, the Port expects to rely upon the following exhibits at the hearing:

1. 2005 Settlement Agreement between BHAS and Jay Allen & Co.;
2. 2005 Groundwater Monitoring Program drafted by Pacific Groundwater Group;
3. October 24, 2005 Mitigated Determination of Non-Significance;
4. 2005 BHAS letter in support of 2005 MDNS;
5. Special Use Permit for mining, SUPT #02-0612, finalized January 3, 2006;
6. Building permit issued October 16, 2008;
7. The Port’s property marketing materials;
8. December 12, 2009 e-mail from Mike Kain to Jeff McCann re: Maytown Aggregate  
    Special Use Permit Questions, Project #020612;
9. January 4, 2010 memo from Foster Pepper on behalf of the Port to Thurston County, with attachments;

10. February 16, 2010 letter from Mike Kain to Tayloe Washburn, counsel for the Port, and accompanying memoranda (February 16, 2010 memo by Mike Kain and February 9, 2010 memo by Nadine Romero);

11. Port’s statement of appeal of the February 16, 2010 memo;

12. Closing documents, dated April 1, 2010;

13. Memorandum from Nadine Romero dated June 8, 2010;


16. Resume of Roy Garrison;

17. Resume of Charles Ellingson;


20. January 25, 2011 letter from John Hempelmann to Mike Kain re: Request for Thurston County to Authorize Pre-Mining Activities under Maytown Sand & Gravel’s Special Use Permit 02-0612;

21. February 7, 2011 letter from Mike Kain to John Hempelmann re: Request to Authorize Pre-Mining Activities at MSG Site;

22. February 28, 2011 letter from John Hempelmann to County re: Maytown Sand & Gravel/Pre-mining Activities;

23. March 1, 2011 letter from Mike Kain to John Hempelmann re: pre-mining activities;
This list represents the Port's good-faith effort to name the witnesses and documents the Port intends to rely upon at the March 7, 2011 hearing. However, the Port reserves the right to offer different or additional witnesses and exhibits in the event new facts come to light as it prepares for the hearing and in response to evidence presented by opposing parties. The Port further reserves the right to offer additional or different witnesses and exhibits not disclosed herein as rebuttal evidence.

DATED this 2nd day of March, 2010.

FOSTER PEPPER PLLC

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