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April 25, 2014

Hearing Examiner Wick Dufford
1800 Continental Place
Mount Vernon, WA 98273

Re: **Dike District No. 12 Shoreline Substantial Development Permit PL12-0191**
Memorandum to Parties dated April 24, 2014, RE: Transcripts

Dear Mr. Dufford:

I would concur with the response by Scott Thomas, City of Burlington Attorney. In the Motion Hearings, we were barraged by three different transcripts which were edited by Intervenor Kunzler and contained scandalous and unfounded allegations against parties. What purported to be accurate transcripts, turned out to be altered from the original oral recording. The City and the DD attorneys labored many hours to address these inappropriate attacks, which should have played no role in the hearing.

Even the latest transcript purporting to be "an unedited, unannotated version" is not. The exhibit submitted has an abridged section which was removed by Intervenor which lasts 17 minutes. NHC is highlighted throughout, which is the engineering firm Intervenor tried to disqualify. Even now, we are still dealing with this issue of an accurate transcript, whether relevant or not, after the submission of three edited versions. This latest "unedited" version continues to have numerous edits which appear not to be part of actual oral testimony. I have listened to the transcript, and compared it to Mr. Kunzler's submission.

I will not go through the entire transcript, but suffice it to say, at page 35, line 2 the oral testimony states: He **told me he** was a farmer and ..., with the boldface left out. At line 7 on the same page there is an insertion of "**(Chuck Bennett)**" which was added by Mr. Kunzler and not in testimony. At line 15-17, Mr. Kunzler's version adds two whole sentences: "**No stratification was observed. Based on these observations, the sample appears to be a volcanic ash deposit or tephra.**" This entire section was added by Mr. Kunzler **to his own testimony** but is not in the verbal testimony. At line 20, another word is left out. And this is **only one page** that has 4 alterations of testimony when it is represented to be a clean, unaltered transcript. It is helpful to read the submitted transcription before merely taking the word of the transcriber.

At pages 47, line 8 Intervenor Kunzler criticizes DD12 for **flooding their own people**. This criticism of DD12 is in italics as distinguished from the rest of the text. Also in italics is the statement: "**I'd be suing the shorts off that Dike District because I've been paying the Dike District all these years for protection and they are the ones responsible for backing the water up into my house.**" Obviously oral testimony which appears in italics is edited and

altered testimony. The same at page 54 where a statement is in italics which relates to criticism of DD12, and page 61, 62, and other pages there are italicized text where Mr. Kunzler either wants to emphasize a point, or influence the opinion of the reader. At page 43, the statutory sections regarding a FEMA regulation are cited as section 3 in two places where they should be section **63**. Argument is one thing, but altering oral testimony in a transcript and representing it as an accurate and unedited transcript is another thing, and is improper.

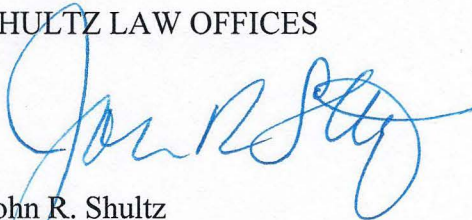
It has been tedious reviewing three transcripts, and both written and oral testimony, to determine what Mr. Kunzler has edited, added, deleted or what testimony has been altered, in order to respond to his allegations. What is absolutely clear, however, is that the transcriptions prepared by Mr. Kunzler do not accurately recite the testimony. This injects side issues in the case which are not needed and not necessary, but require responses.

DD12 strongly objects to having Mr. Kunzler prepare any transcript to be used in the proceedings, because he has demonstrated that he cannot do so in a fair, and accurate manner. We had suggested at the hearing, and would now suggest again that the County have the preparation of the transcript be with an unbiased, disinterested transcriber.

Thank you for your consideration of these issues. Please call if you have any questions or wish to discuss the above.

Very truly yours,

SHULTZ LAW OFFICES



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c:client