



April 24, 2014

Hearing Examiner Wick Dufford  
1800 Continental Place  
Mount Vernon WA 98273

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

Dear Mr. Dufford:

We write to respond to the issue raised in your memorandum of April 24, 2014, concerning the matter of an accepted transcript for the second hearing before the Hearing Examiner, conducted on June 12, 2013. As you point out, Intervenor Larry Kunzler submitted a transcript of the June 12 hearing that had been prepared by himself, and attached that transcript as an exhibit to his Reply to Dike District No. 12's and the City of Burlington's Motions to Strike and Motions in Limine. You ask if the Parties are agreeable to adopting this version as an exhibit and including it in the record. Regrettably, the City of Burlington must object.

Mr. Kunzler has made clear that he intends to "appeal to the County Commissioners, the Shoreline Hearings Board, Superior Court in Thurston County, the Washington Court of Appeals and in all likelihood since the appeal before the Shoreline Hearings Board would be De Novo and constitutional rights are being violated that have not been alleged to date, the U.S. District Court for the Western District of Washington." *Motion to Recuse/Disqualify Hearing Examiner*, 16 – 17. Because an appeal to any of these bodies will be on the record developed before the Hearing Examiner (with the possible, and partial, exception of a lawsuit brought in the U.S. District Court), we believe that issues concerning the transcript may only be avoided by having the transcript prepared by a court reporter, licensed by the State pursuant to Chapter 18.145 RCW and Chapter 308-14 WAC. We therefore urge the Examiner to request Skagit County to prepare a transcript in compliance with these laws.

Respectfully,

Scott G. Thomas  
City Attorney

cc: All Parties of Record

**LEGAL DEPARTMENT**