

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

In the Matter of the Remand of the)
Application of)
)
SKAGIT COUNTY DIKE, DRAINAGE)
AND IRRIGATION DISTRICT NO. 12)
)
For a Shoreline Substantial Development)
Permit for Improvements to a Portion of)
Dike along the Skagit River)
_____)

PL 12-0191

**RULINGS ON
PREHEARING MOTIONS**

On April 9, 2013 at 1800 Continental Place in Mount Vernon, a hearing was held on issues raised by motion prior to the hearing on remand herein.

Appellant Sedro Woolley was represented by Craig Sjostrom, Attorney at Law. Intervenor Larry Kunzler appeared pro se. Respondent Dike District No. 12 was represented by John Shultz, Attorney at Law. Respondent City of Burlington was represented by Scott Thomas, Attorney at Law. Skagit County was represented by Jill Dvorkin, Attorney at Law.

Arguments for and against each motion were heard and the Examiner ruled orally on each. The following rulings were made:

MOTIONS

- 1) Dike District's and City of Burlington's Motions to Strike Allegations regarding a District Commissioner -- granted.
- 2) Dike District's Motion to Strike References to Altered Unofficial Transcript -- denied; fact of alteration goes to weight
- 3) Intervenor's Motion to Recuse/Disqualify Hearing Examiner -- denied.
- 4) Intervenor's Motion to Disqualify Applicant's Expert -- withdrawn
- 5) Burlington's and District's Motions to Limit Testimony and Exhibits to Remanded Issues -- granted
- 6) Burlington's Motion Regarding Vesting of Hydrology -- denied

ADDITIONAL RULINGS

In addition to the above, the Examiner made the following rulings:

1) Whether the applicant should have sought permits for actions taken in the past is irrelevant, as are the motives of the applicant in seeking a Shoreline Substantial Development Permit. The issue at hand is compliance of the project now proposed with the applicable Shoreline Master Program.

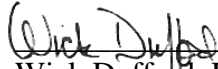
2) The remand hearing will focus on the most recent hydrology data set accepted by the Corps of Engineers. However, some data and related graphics from the past are reflected in exhibits already admitted in this proceeding.

3) Additional matters that may have been presented to the County Commissioners in the initial appeal to them are not a part of the record before the Examiner.

4) Attachments to briefs filed for the instant motion hearing are not a part of the evidentiary record, but merely aids to argument. The exhibits in the record are the 39 exhibits thus far admitted, as shown on the list attached hereto.

5) The limitation of testimony in the remand hearing to the remand issues applies to public testimony as well as testimony presented by the parties.

ENTERED, this 24th day of April, 2014.


Wick Dufford, Hearing Examiner