

KB2009-524 ✓

DISTRIBUTED TO

NOV 02 2009

ALL COUNCIL MEMBERS
WHATCOM COUNTY COUNCIL

LINCOLN L. RUTTER

8373 SEMIAHMOO DRIVE
BLAINE, WASHINGTON 98230
EMAIL: ZAJAL@AOL.COM

FACSIMILE TRANSMITTAL SHEET

TO:	The County Council	FROM:	Lincoln Rutter
COMPANY:	Whatcom County	DATE:	November 2, 2009
FAX NUMBER:	(360) 738-2550	TOTAL NO. OF PAGES INCLUDING COVER:	5
PHONE NUMBER:	(360) 676-6690	SENDER'S REFERENCE NUMBER:	Class III vs Class IV FPA Permit Criteria in Question
RE:	Tax Status Audit Merited in this Case	YOUR REFERENCE NUMBER:	Investigation Request

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

Whatcom County Council:

Please investigate the DNR Forest Practices Act (FPA) Permits that were the subject of the enclosed letter from DNR to Whatcom County PDS to determine if land "conversion" should have been triggered by the action of stump pulling in this case.

Please ask our Commissioner of Public Lands if the West Blaine UGA "designated forestland" acreage should have experienced a land "conversion" because the ACTIVE underlying tax status should help indicate a parcel's actual character for GMA planning purposes, including proper UGA sizing. Please let me know if you have any questions.

Thank you for your help in this important UGA sizing issue.

Best Regards,

Lincoln L. Rutter

EXHIBIT #4

**JOHN GOLD & COMPANY,
CONSULTING FORESTERS**

Timber Cruising and Appraisal
Timber Sale Preparation
Management Plans

1405 11th Street
Anacortes, WA 98221
Voice & Fax 360/299-8166

Additional information for Trillium Corporation's Conversion Option Harvest Plan application located in Sections 15, 21, and 22, Township 40 North, Range 1 West, W.M.

Post-harvest Management Plan: There are no plans to convert or subdivide the subject property in the immediate future.

The current conditions are a moderately to poorly stocked forest of principally low value hardwoods with scattered conifers. The understory consists of a dense brush layer of salmonberry, vine maple, snowberry and other shrubs. The owner would like to establish a productive conifer forest with such species as grand fir, Douglas fir, and red cedar. The site conditions and in particular the potential for severe brush competition dictates that intensive plantation management will be required following planting. The typical practice on industrial forestland is repeated aerial application of herbicide. However, because of proximity and density of residential neighbors as well as environmental concerns, the landowner would like to minimize chemical brush control. Instead, mechanical brush control using a CAT ASV brush-hog mower will be practiced on at least an annual basis for at least five years. Because of the limitations of mowing equipment, greater than average site preparation will be required. Subsequent to harvest, the landowner intends to conduct Class I site preparation (confer WAC 222-16-050 (3)(n)) consisting of removal and piling of harvest debris and non-merchantable material, including stumps. Slash piles will be burned in accordance with applicable regulations and WDNR permit conditions. Following burning, the entire harvest area will be replanted in conformance with WDNR reforestation requirements. Planting will most likely be scheduled for the first season following harvest.

WASHINGTON STATE DEPARTMENT OF
Natural ResourcesEXHIBIT # 5
DOUG SUTHERLAND
Commissioner of Public Lands

RECEIVED

JUN 04 2002

May 31, 2002

Whatcom County P&DS

Lisa Haley
Whatcom County Planning
5280 Northwest Drive
Bellingham, WA 98226

RE: Trillium Proposal in Sections 15, 21, 22, Township 40 North, Range 1 West

Dear Lisa,

Please accept this letter in reference to the above-noted proposal by Trillium Corporation. I have spoken in detail with John Gold about this proposal. In light of the constraints under which Trillium is managing the property in question, I believe their proposal to pull stumps as part of their reforestation plan is a creative solution which will allow them to harvest timber from the site, and to maintain the property in forestland (as defined in WAC 222-16-010). As such, DNR is prepared to process the Forest Practice Application (FPA) for this proposal as a class III with a Conversion Option Harvest Plan (COHP), and will not consider the stump pulling as conversion activity.

As noted above, I view this proposal as appropriate given the circumstances specific to this situation and the constraints under which the landowner is managing the property. In rare cases such as this, when it can be justified as part of an overall plan that will facilitate reforestation and/or plantation maintenance, DNR will consider proposals that include pulling stumps as part of non-conversion FPAs. However, please let this letter serve to reiterate that, in general, pulling stumps is considered by DNR to be conversion activity.

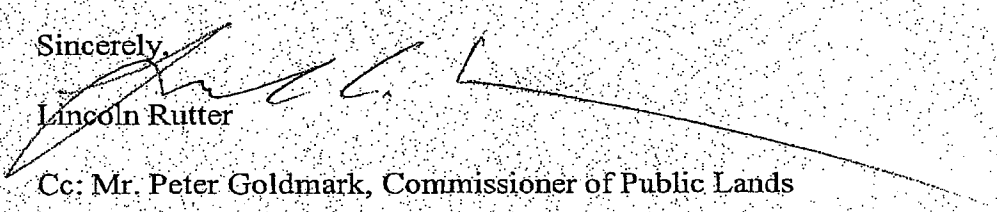
Sincerely,

Paul McFarland
Bellingham Forest Practices ForesterCc Nancy Joseph
Dan Pugmire
Randy Bartelt
John Gold

liberties with their interpretation of their duty, which failed to trigger proper land conversion by Whatcom County and/or a change in tax status. Because the taxpayer's rights have already potentially been abused in this case by the DNR, it would be a compounding of that obvious wrong to now allow that landowner to be awarded a PUD during the period of that, in my uneducated opinion, wrongful tax exemption, which also roughly corresponds to the time period during which Whatcom County was itself in non-compliance with our state's GMA laws. Therefore, I urge Whatcom County and the DNR to immediately investigate these permits.

Accordingly, I ask Council to *either* establish a moratorium on PUD's until the Review is completed, or vote on the WBUGA sizing "review" to happen immediately or at least prior to "vesting" any more PUD's within that or any other UGA's. To do otherwise would be an economic injustice. Washington State taxpayers deserve better treatment from their governmental agencies than to see any corporation's land manipulated in its tax treatment by low level governmental officials if indeed that has occurred. Thank you.

Sincerely,



Lincoln Rutter

Cc: Mr. Peter Goldmark, Commissioner of Public Lands

LINCOLN L. RUTTER
8373 SEMIAHMOO DRIVE
BLAINE, WA 98230
(360) 371-3134
FAX: (360) 371-8179
EMAIL: Zajal@aol.com

November 2, 2009

To the Whatcom County Council:

In the matter of the West Blaine Urban Growth Area (WBUGA) size review, enclosed please find a letter from the Washington State Department of Natural Resources (DNR) to Whatcom County Planning and Development Services (PDS) which breached the normal policy of the DNR in such a manner as to cost state and Whatcom County taxpayers thousands if not millions of dollars during the period from June 4, 2002 until the present. That letter, written by a low level "forester" allowed for the hundreds of "Designated Forestland" zoned acres within the WBUGA to be cleared of trees and their stumps pulled out under a "Class III" DNR permit (even though the site received "Class I" site preparation) rather than enforce the DNR regulation that legally considers stump-pulling a "conversion activity" which should rightfully have terminated the tax exempt status upon the applicant's decision to clear the land in question.

The present Commissioner of Public Lands, Mr. Peter Goldmark, had a campaign advertisement that stated something to the effect that: when his predecessor, Doug Sutherland, made deals with corporations the taxpayers of the State of Washington were often the losers. I believe that the document referred to above may well have been one of those types of "deals," and accordingly should now be thoroughly investigated by the DNR's and Whatcom County's internal auditors. It seems to me that since the land never was replanted the tax exemption designed to incent reforestation should not have been issued and this principle would have been obvious to all parties involved if the land conversion had transpired according to DNR's normal, proper regulations.

The reason that Whatcom County Council should now reject that same applicant's decision to suddenly apply for a Planned Unit Development (PUD) for that same land, just days before the December 1, 2009, deadline for Whatcom County to comply with the Western Washington Growth Management Hearings Board (WWGMHB) UGA Review ruling, is because our state's Growth Management Act (GMA) fully intends that such natural resource land be protected by both County governments and the DNR from urbanization. The principle that "the land speaks for itself" should legally be interpreted in this case by Whatcom County to mean that the current property tax exemption status of the land in question unequivocally identifies the land as such protected "forestland." The fact that the WBUGA on its face also violates the legal standards for density as set by the GMA, as it relates to the County adopted Office of the Financial Management (OFM) population forecast, is further evidence that the land in question should neither have been included in a UGA in 1997 nor in 2009.

The fact of the matter is, in my opinion, that the land in question should never have received a "Class III" land clearing permit from the DNR in the first place. The "aerial application of herbicide" versus "mechanical brush control" logic of the forester is nonsense and replanting of trees never took place. It should have been legally considered a "conversion" Forest Practices Act (FPA) Permit, although the Northwest Regional Office of the DNR took totally inappropriate

