

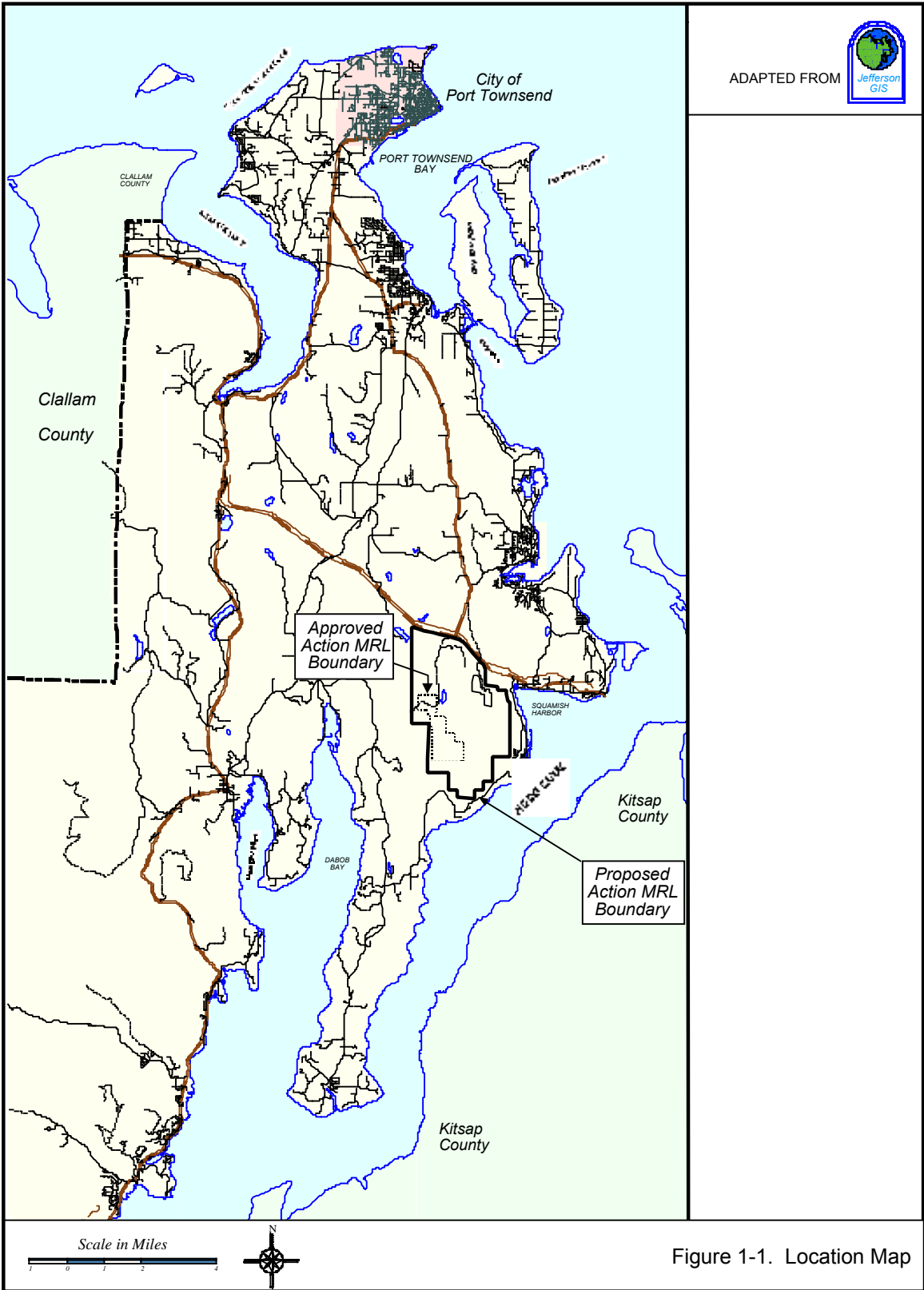
**DEPARTMENT OF COMMUNITY DEVELOPMENT
SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT**

—FINAL—

**Jefferson County Comprehensive Plan
Amendment Environmental Analysis
for Adoption of
Mineral Resource Land Overlay
(MLA 02-235: Fred Hill Materials)**

A Supplemental EIS to the
2002 Comprehensive Plan Amendment SEIS

May 2004



ADAPTED FROM

Figure 1-1. Location Map

FINAL
SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT (SEIS)

Jefferson County Comprehensive Plan

A Supplement to the 2002 SEIS to Supplement the
Comprehensive Plan Draft and Final EIS (1997-1998) and
Comprehensive Plan Amendments Draft and Final SEIS (1999)

Prepared for Review and Comments
by Citizens and Government Agencies
in compliance with
The State Environmental Policy Act of 1971
Chapter 43.21C, Revised Code of Washington

and
SEPA RULES, Effective April 4, 1984
Chapter 197-11, Washington Administrative Code (as revised)

and
Jefferson County Unified Development Code, Section 8.10

Department of Community Development
Jefferson County, Washington

Date of Issuance: May 12, 2004

FACT SHEET

Proposed Action

The Draft Supplemental Environmental Impact Statement (SEIS) analyzed potential impacts of adoption of a mineral resource land (MRL) overlay district within Jefferson County, Washington. The Draft SEIS and this Final SEIS supplement Jefferson County's 2002 SEIS that examined a variety of proposals for 2002 Jefferson County Comprehensive Plan amendments as part of the County's phased environmental review process for amending its Comprehensive Plan. Several SEPA-related issues were remanded to Jefferson County in an appeal process on Ordinance MLA 02-235. The Draft SEIS examined additional alternatives, issues related to intensity of use with each alternative, and additional transportation issues. This Final SEIS clarifies, corrects, and provides additional to information provided in the Draft SEIS.

This SEIS process is programmatic (non-project based) and examines three alternatives: the Proposed Action Alternative (6,240-acre MRL), the Approved Action Alternative (690-acre MRL), and the No Action alternative. One of the two MRL alternatives may result in adoption of an additional MRL overlay district as a Comprehensive Plan amendment after completion of this process.

Location

Jefferson County, Washington.

MRL Applicant

Fred Hill Materials, Inc.
Contact: Dan Baskins
P.O. Box 6
Poulsbo, WA 98370
(360) 779-4431 Ext. 114

Lead Agency

Jefferson County Department of Community Development
621 Sheridan Street
Port Townsend WA 98368
(360) 379-4450

Responsible Official

Al Scalf, Director
Jefferson County Department of Community Development
621 Sheridan Street
Port Townsend WA 98368
(360) 379-4450

Contact Person

Greg Ballard
Jefferson County Department of Community Development
621 Sheridan Street
Port Townsend WA 98368
(360) 379-4492

EIS Authors And Principal Contributors

Wheeler Consulting Group, Inc. (primary author and contributor)
P.O. Box 29586
Bellingham, WA 98226
(360) 724-0476

Required Approvals

- Legislative decision to adopt one of the three alternatives discussed and analyzed in this SEIS
- Western Washington Growth Management Hearings Board concurrence through a compliance hearing

Documents Incorporated By Reference

- Draft Environmental Impact Statement (DEIS) dated February 24, 1997 and Final Environmental Impact Statement (FEIS) dated May 27, 1998 and addenda for the Comprehensive Plan adopted August 28, 1998.
- Draft and Final Supplemental EIS (DSEIS/FSEIS) and addenda for Comprehensive Plan amendments (1999)
- Draft and Final Supplemental EIS (DSEIS/FSEIS) for Comprehensive Plan amendments (2002)

Date Of Issuance

May 12, 2004

EIS Information

Background material and supporting documents may be reviewed at the offices of Jefferson County Department of Community Development.

Cost of Final SEIS

- Twenty (20) copies of the first printing of the bound Final SEIS are available to the public and government agencies free of charge
- Electronic copies of the Final SEIS in .pdf format are available to the public and government agencies free of charge.
- Documents will be available for purchase at SOS Printing, 2319 Washington Street, Port Townsend, WA 98368., (360) 385-4194

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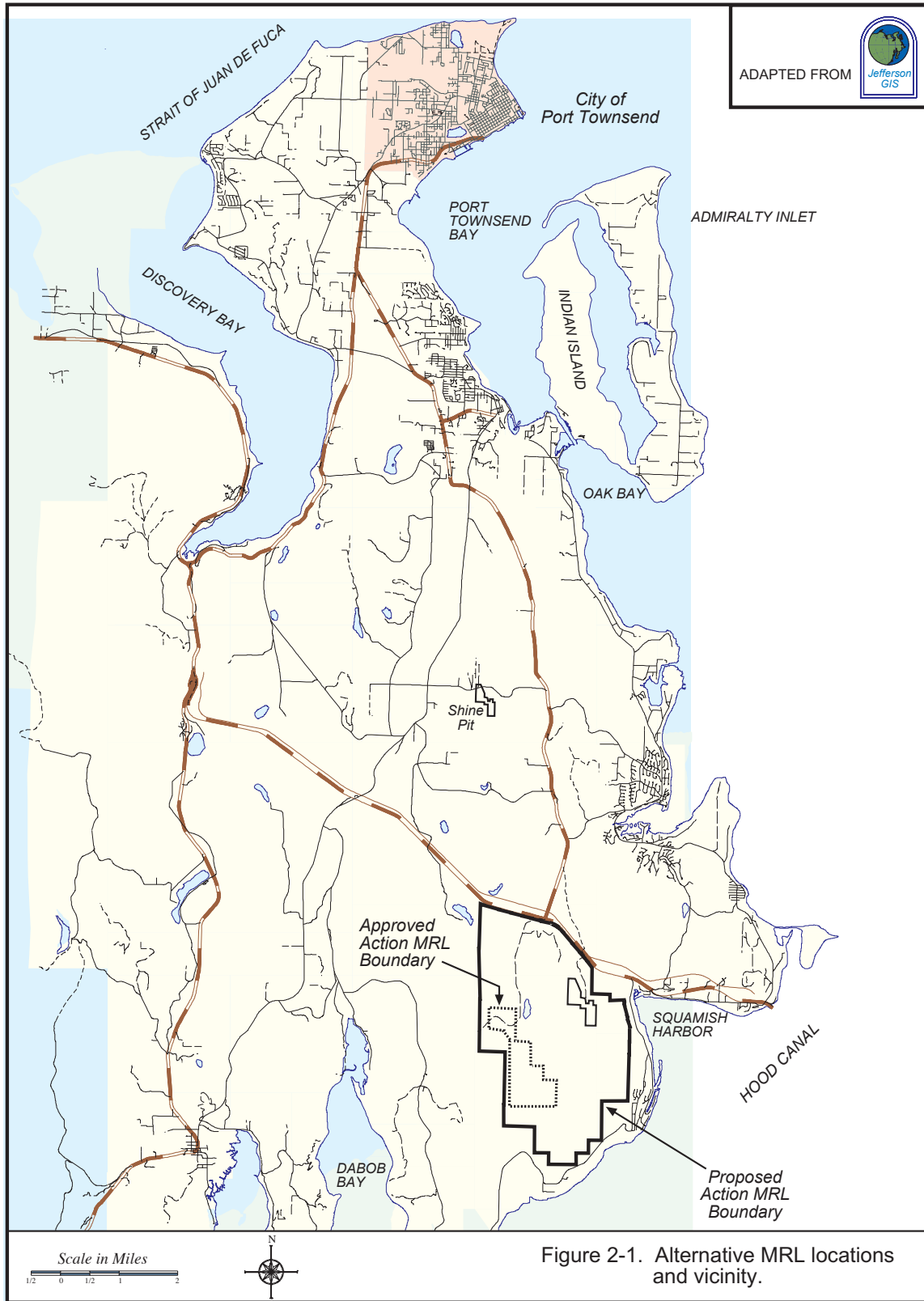


Figure 2-1. Alternative MRL locations and vicinity.

1.0 DRAFT SEIS SUMMARY

1.1 INTRODUCTION AND SUMMARY

The Draft Supplemental Environmental Impact Statement (SEIS) provides additional environmental review to supplement Draft and Final SEIS documents issued by Jefferson County in 2002 that examined a variety of proposals for Jefferson County Comprehensive Plan amendments. In April 2002 the Jefferson County Department of Community Development (DCD) received an application from Fred Hill Materials Inc. (FHM) for a Comprehensive Plan Amendment (MLA 02-235) to place a Mineral Resource Land (MRL) overlay district on 6,240 acres principally designated Commercial Forest. This area is located west of Hood Canal Bridge and south of State Route (SR)104 within the Thorndyke Block of the Pope Resources 72,000 acre Hood Canal Tree Farm. The Draft SEIS issued August 21, 2002 examined the potential MRL with the knowledge that the applicant, FHM, intended to apply for necessary permits for future mining within an unspecified 400 to 800 acres located outside of environmentally sensitive areas to be utilized for mineral extraction, processing, and transport to augment their existing sand and gravel extraction and processing facility, the Shine Hub.

On October 23, 2002 FHM representatives offered to modify their original proposal to mine an unspecified 400 to 800 acres within a 6,240 acre MRL overlay district to a specific 765 acre area for the application of a MRL overlay district. The modified proposal was reduced to 690 acres by DCD to provide an additional buffer to Thorndyke Creek. The modified proposal eliminates many of the concerns associated with not knowing where in the 6,240 acre area that mining would occur. DCD issued a Final Supplemental EIS on November 25, 2002 that described the modified proposal of a 690 acre MRL overlay district.

On December 13, 2002 the Jefferson County Board of County Commissioners adopted Ordinance 14-1213-02, placing the MRL overlay district on 690 acres. This action was appealed to the Western Washington Growth Management Hearings Board (WWGMHB) and was remanded to Jefferson County for additional environmental review as outlined by WWGMHB Case 03-2-0006. Jefferson County was given 180 days from August 15, 2003 to bring MLA 02-235 into compliance with the State Environmental Policy Act (SEPA), codified at Ch. 43.21C RCW; a compliance report must be submitted to the WWGMHB by May 28, 2004.

The 6,240-acre MRL was labeled by Jefferson County as the Proposed Action. The 6,240-acre MRL proposal, as described, was revised to a 690-acre MRL. The revised MRL was labeled by Jefferson County as the Approved Action. The Draft SEIS analyzed the two MRL alternatives, the Proposed Action and the Approved Action, along with the No Action alternative, the study of reasonable alternatives required by the WWGMHB and under SEPA.

1.2 PROPOSAL GOALS

The Washington Growth Management Act (GMA) (RCW 36.70A.170) requires counties to identify and conserve natural resource lands, including mineral resource lands. Jefferson County

identified and adopted mineral resource lands based on existing WDNR reclamation permits and developed a process for adopting additional MRLs. With these activities, Jefferson County met GMA goals to designate and protect mineral resource supplies in Jefferson County and to protect those resources from incompatible uses.

The MRL applicant, FHM, to ensure a future mineral resource supply in close proximity to their Jefferson County processing facility (Shine Hub), which includes crushing, sorting, stockpiling, offices, scales, transportation facilities, equipment storage, and an asphalt plant, followed the Jefferson County application process for designating additional MRLs and proposed an amendment to the County's Comprehensive Plan that would have created a 6,240-acre MRL.

Information provided by the applicant, including goals in proposing a MRL overlay district, are available for review at the offices of Jefferson County DCD.

1.3 PHASED REVIEW

This SEIS is a component of a phased environmental review process for adoption and subsequent amendment of the Jefferson County Comprehensive Plan. This SEIS supplements the Draft and Final SEIS prepared by Jefferson County DCD in 2002 that examined several Comprehensive Plan amendments. The 2002 SEIS was remanded to Jefferson County by the WWGMHB for additional review of the alternatives described in Section 1.1, above, issues described in Section 2.5.5 of the Draft SEIS, and issues described in Section 2 of this Final SEIS. The SEIS also supplements the following as part of this phased environmental review process:

- Draft and Final Environmental Impact Statements (DEIS/FEIS) and addenda for Comprehensive Plan adoption (1997 and 1998).
- Draft and Final Supplemental EIS (DSEIS/FSEIS) and addenda for Comprehensive Plan amendments (1999).

Information presented in the listed environmental review documents is incorporated by reference into this Draft SEIS according to WAC 197-11-600, inclusive, and is not reprinted or re-examined. These documents, as well as the FHM application materials, County and public comment transcripts, and additional supporting information are available for review at the Jefferson County DCD offices.

As clarified in this Final SEIS (refer to Section 2), Jefferson County has repeatedly stated that FHM's proposals will require project-specific environmental review. Project-specific environmental review would be required for FHM's proposed excavation activities, the central conveyor and pier (pit-to-pier) proposal, and any future expansion of the Shine Hub.

1.4 KEY FEATURES OF THE PROPOSAL AND ALTERNATIVES

The Draft SEIS analyzed the potential environmental impacts of adopting one of the proposed MRLs as a Comprehensive Plan amendment, along with analysis of the No Action alternative. Adoption of Comprehensive Plan amendments is a programmatic (non-project) action under

SEPA and is not intended to satisfy individual project-specific SEPA requirements for mining-related activity.

1.4.1 PROPOSED ACTION ALTERNATIVE

The Proposed Action is for a Jefferson County Comprehensive Plan amendment that would designate a MRL overlay district over 6,240 gross acres with largely underlying forestry designation uses. The property owner for this area is Pope Resources and the applicant for MRL designation is FHM; the Proposed Action MRL incorporates FHM's Shine Hub.

The Proposed Action MRL proposal identified and excluded shoreline areas (streams and lakes), wetlands, and fish and wildlife habitat as required in the MRL designation procedures, effectively reducing the portion of the MRL on which mining activities can occur to 4,970 acres. The MRL designation procedures also require identification of mineral resources; FHM submitted geological studies that show mineral resources (sand and gravel) to be extensive within the MRL.

1.4.2 APPROVED ACTION ALTERNATIVE

After County and public review of the 6,240-acre MRL proposal, FHM offered to revise their proposal to include 765 gross acres. Jefferson County eliminated 75 acres of this smaller proposed MRL to protect Thorndyke Creek. Jefferson County adopted a 690-acre MRL based on the FHM proposal. The 690-acre MRL, referred to as the Approved Action MRL, was remanded to the County by the WWGMHB for additional environmental review.

The 690-acre Approved Action MRL, like the Proposed Action MRL, also includes extensive mineral resources within its boundaries. There are several small streams within the proposed MRL, no mapped wetlands or lakes, and no mapped priority wildlife habitats.

1.4.3 NO ACTION ALTERNATIVE

The No Action alternative would not result in adoption of either the Proposed Action MRL or the Approved Action MRL, but would be a continuation of Jefferson County's existing approach to regulating mineral resource activities outside of MRLs. Acceptance of the No Action alternative would not preclude firms or persons from submitting additional MRL proposals to the County under the Jefferson County Unified Development Code (UDC) Section 3.6.3 in the future, including the intent of FHM to seek permission to mine inside the boundary of the Proposed Action MRL with or without the presence of an MRL overlay designation (refer to Section 2.1 of this Final SEIS).

Under existing Jefferson County rules, mineral extraction is a permitted use outside of MRLs within resource land designations and as a conditional use within any land designated rural residential. Application for new mineral resource operations outside of a designated MRL overlay district can be submitted only for disturbed areas of 10 acres or less. There is, however, no limit on the number of 10-acre segments that could be incorporated into a larger mining plan. In the absence of an MRL, the person or entity extracting the natural resource is not provided with GMA-based protections from nuisance claims and incompatible adjacent uses.

This EIS does not and should not speculate on the number, if any, of applications seeking permission to extract minerals that would be submitted for parcels not designated with an MRL and their potential significant adverse environmental impacts. For the purposes of this environmental review process, only the general environmental impacts that may occur with mining in areas allowed for mining under UDC regulation outside of MRLs or MRL overlay districts (refer to Section 2.8 of the Draft SEIS and Sections 2.3 and 2.4 of this Final SEIS) were studied.

1.5 ADDITIONAL DISCUSSION UNDER SEPA

WAC 197-11-440(4) states that the summary of an EIS shall briefly state major conclusions, significant areas of controversy and uncertainty, and issues to be resolved, including environmental choices to be made among alternative courses of action and effectiveness of mitigating measures.

1.5.1 MAJOR CONCLUSIONS

- Designation of additional MRLs in Jefferson County would protect mineral resources for future use.
- Designation of additional MRLs in Jefferson County would implement GMA notice and nuisance provisions implemented through the County's development regulations. These provisions discourage incompatible adjacent uses, and result in reduced environmental impacts of resource extraction or processing activities within MRLs on users and owners of adjacent parcels, e.g., residences.
- Future mining-related activity within the Proposed Action MRL would not be limited in the size of disturbed area or mining segment size since the Jefferson County UDC does not impose a cap on mining segment size when the mining is occurring within an MRL
- Because of conditions imposed by the Board of County Commissioners on its approval of the Approved Action, mining-related activity within the Approved Action MRL would be limited to 40-acre mining segment size. In addition, no mineral processing would be allowed, and material transport from the MRL to processing machinery located at the Shine Hub may occur only by conveyor
- The No Action alternative would allow only disturbed areas of no more than 10 acres at any given time, but may result in similar levels of impact to those described for the two MRL alternatives as a result of overall mine size, since overall mine size will be a function of market conditions and available mine area; reclamation would, however, occur more quickly
- Uses and activities within a designated MRL overlay district would be controlled and protected by the various requirements of the Jefferson County UDC
- Increased mining will be an impact of the possible approval of the marine transport system and not vice-versa

1.5.2 AREAS OF CONTROVERSY AND UNCERTAINTY

Uses and activities within a designated MRL overlay district would be controlled and protected by the various requirements of the Jefferson County UDC. The UDC provides a basis for

protecting the natural and built environments and for mitigation through State and County permitting processes.

The primary area of uncertainty would occur with the No Action alternative, which allows mining outside of designated MRLs in 10-acre disturbed area increments, but does not restrict overall mine size in terms of possible inclusion of multiple 10-acre segments. Mining outside of MRLs is allowed in the resource lands designation and in the rural residential designation with a conditional use permit, and could result in relatively large mining and processing facilities being located near residential uses. The person or firm extracting the mineral resources would not have the GMA-granted protection from nuisance claims or incompatible adjacent uses.

Another area of uncertainty is that the intensity of the potential significant adverse impacts of mining will be a function of how quickly the resources are extracted and how much land is being mined at any particular time, rather than the size of the MRL. The rate at which resources are proposed for extraction would be a function of the market for mineral resources.

1.5.3 ISSUES AND ENVIRONMENTAL CHOICES

Issues to be resolved, including environmental choices to be made among alternative courses of action, presented in the Draft Supplemental EIS, are the regulatory conditions for future mineral extraction primarily related to size of disturbed area or mining segment.

In addition, the Approved Action MRL does not include the environmental features of the Proposed Action MRL, in terms of mapped streams, lakes, wetlands, and fish and wildlife habitat.

1.5.4 BENEFITS AND DISADVANTAGES OF FUTURE IMPLEMENTATION

WAC 197-11-440(5)(c)(vii) requires discussion of the benefits and disadvantages of reserving for some future time, the implementation of the proposal, as compared with immediate implementation. Designation and protection of mineral resource lands at some point in the future may result in loss of those lands to other uses. The land studied as part of these MRL alternatives is primarily designated and used as commercial forest, but may be subject to development over the next years or decades. On land with a commercial forest designation, residential uses are allowed at densities of one residence per 80 acres. Residential or any other future use allowed in the forest designations may preclude future MRL designation and a realization of future resource supply.

1.5.5 SUMMARY OF IMPACTS, MITIGATING MEASURES, AND UNAVOIDABLE ADVERSE IMPACTS

1.5.5.1 Mitigation Summary

The Draft SEIS includes both programmatic mitigation and project-specific mitigation for activities that may occur in the future with implementation of a MRL. Programmatic mitigation is summarized below.

Project-specific mitigation is mitigation to be applied to individual projects through application of UDC requirements. The UDC requirements are not duplicated or summarized here, but applicable UDC sections are listed under each element of the environment analyzed in the Draft SEIS. The Approved Action MRL includes additional mitigation attached to the MRL as conditions of adoption. These conditions are included in Table 2-3 of the Draft SEIS.

Earth Resources

MRL designation procedures outlined in UDC Section 3.6.3 consider the geology of an area in terms of mineral resource presence as a primary designation factor. The UDC designation criteria do not address steep slopes, erosion potential, landslide areas, or seismic hazards as designation factors. These earth elements should be examined at the project level on a site-specific basis by implementing other sections of the UDC. No programmatic mitigation would be necessary for designating additional MRLs within Jefferson County; designating resource lands would be consistent with GMA and Jefferson County policies.

No programmatic mitigation would be necessary for the No Action alternative. The UDC provides the regulatory basis for mining 10-acre disturbed area increments and no change to this regulatory framework is proposed.

Air Quality

Air quality-related impacts would not result from designation and protection of mineral resource lands in the form of adoption of a MRL overlay district and would require no programmatic mitigation. Air quality issues are typically evaluated and addressed on a project-by-project basis and depend on activities that may be proposed.

Water Resources

The MRL overlay district designation criteria consider the presence of shorelines and wetlands and exclude them and their associated buffer areas from potential MRL designation. The designation criteria also require compliance with the performance standards of Sections 4 and 6 of the UDC. The identification and buffering of existing surface water, together with UDC water-related protections included in UDC Sections 4 and 6, provide significant mitigation for potential impacts to surface and groundwater.

RCW 78.44, the Washington State Surface Mining Act, requires that mining operations be phased, or occur in mining segments (see Section 2.8 of the Draft SEIS). A limited active mining area is allowed to be cleared and actively mined at any one time, prior to

reclamation/restoration, reducing the potential for impacts to water resources. Under RCW 78.44, where mining is contemplated within critical aquifer recharge areas, such as those found in the study area, a thoroughly documented hydrogeologic analysis of the reclamation plan may be required.

Plants and Animals

The MRL overlay district designation criteria (UDC 3.6.3) consider the presence of fish and wildlife habitat areas and exclude them and their associated buffer areas from potential MRL designation. This identification and buffering of existing fish and wildlife habitat, together with UDC fish and wildlife habitat protections and stormwater management requirements, provide significant mitigation for potential impacts to habitat that may result from mining-related activities if one of the MRL alternatives is adopted.

Environmental Health

On a programmatic level, adopting a MRL overlay district designation only after considering proximity to adjacent land uses would reduce the potential for noise impacts from future mining-related activity. UDC Section 3.6.3.e requires that an area to be considered for MRL designation may not be located within a rural village center or within one-half mile of any established or potential urban growth area or rural village center boundary.

Land Use

Land use conflicts arising from designation of mineral resource lands are addressed, for the most part, through the exclusion from consideration as MRLs lands that do not meet the UDC Section 3.6.3 MRL designation criteria. Criteria for exclusion of potential MRLs from more populous areas provide mitigation for land use incompatibility and, indirectly, for aesthetic impacts by removing the potential for high concentrations of sensitive viewers.

Transportation

Transportation-related impacts would not result from designation and protection of mineral resource lands in the form of adoption of a MRL overlay district and would require no programmatic mitigation. The impacts that would arise from adoption of either MRL overlay would be a function of how quickly FHM chooses to extract the resources present within the MRL overlay districts. Alternative methods of transportation of materials to market, e.g., the pit to pier transport system, could lessen capacity issues with SR-104, and could result in new markets for material, affecting the rate of extraction. Transportation issues associated with mining-related activities are typically evaluated and addressed on a project-by-project basis to maintain an existing level of service on area roadways.

1.5.5.2 Unavoidable Adverse Impacts Summary

Unavoidable adverse impacts are those impacts that may remain after implementation of mitigating measures. No unavoidable adverse impacts are anticipated as a result of designation of one of the MRL overlay district alternatives. Future mining-activity, assuming that one of the MRL alternatives is adopted, would be project-specific and site-specific. No specific project is analyzed in the Draft SEIS. Each future project would be analyzed in terms of potential environmental impacts, and appropriate mitigating measures would be applied. Unavoidable adverse impacts that may remain after application of mitigating measures would depend on the individual project proposal.

1.5.5.3 Impacts Summary

Designation of an MRL overlay district and subsequent adoption as a Comprehensive Plan amendment would not result in impacts to either the natural or built environments. Impacts addressed in the Draft SEIS are the impacts likely to occur with possible future utilization of the MRL overlay district, e.g., when mineral resource extraction and processing activities begin. The impacts associated with each of the MRL alternatives examined in the Draft SEIS, along with the impacts of the No Action alternative are summarized in Table 1-1.

Table 1-1. Summary of impacts of implementation of the Proposed Action MRL alternative, the Approved Action MRL alternative, and the No Action alternative.

	PROPOSED ACTION	APPROVED ACTION	NO ACTION
EARTH RESOURCES	<ul style="list-style-type: none"> Adoption of the Proposed Action MRL would protect 6,240 acres of mineral resource land and would be consistent with the directives of both GMA and the Jefferson County Comprehensive Plan. The Proposed Action MRL is consistent with UDC requirements for designating MRL overlay districts. Implementation of the Proposed Action MRL through resource extraction could impact earth resources, including soil disturbance, increased erosion potential, topographic alteration. 	<ul style="list-style-type: none"> Adopting the Approved Action MRL overlay district would be consistent with the directives of both GMA and the Jefferson County Comprehensive Plan for mineral resource protection. This alternative would designate and protect a smaller area of mineral resource land. Implementation of the Approved Action MRL would result in a lower level of impact to earth resources than the Proposed Action MRL because of its significantly reduced area. 	<ul style="list-style-type: none"> No mineral resource lands are proposed for protection under this alternative. Impacts associated with the No Action alternative would be similar to typical project-specific impacts addressed for the MRL alternatives, although in smaller increments or segments. Smaller areas of soil would be disturbed in any mining phase prior to initiation of reclamation. Segments/disturbed areas of 10 acres, incorporated into a larger mining plan, for mining outside of MRL overlay district in deep, unconsolidated deposits would be inefficient in terms of non-renewable resource recovery because of mandatory setbacks and the need to mine in accordance with DNR best management practices, which would limit the angles of any slope between the top of the quarry and the bottom.

	PROPOSED ACTION	APPROVED ACTION	NO ACTION
AIR QUALITY			
	<ul style="list-style-type: none"> Mineral extraction and processing activities associated with mining and processing that may occur with implementation of this alternative could increase air quality impacts over the existing condition. Typical emission sources would likely be similar to those that exist in and around the Shine Hub, including vehicular emissions from earth-moving equipment, haul truck movement on paved and unpaved on-site surfaces, rock crushing and screening equipment, conveyor engines, and wind and water contact with storage piles and other open areas. The rate of extraction once mining began would be the most important factor in determining the impact upon air quality this MRL alternative would have. 	<ul style="list-style-type: none"> Potential air quality impacts that could occur with this alternative would be associated with mineral extraction and conveyance only. This alternative is limited to extracted resource transportation by conveyor to the Shine Hub. Mineral processing activities are not allowed under this alternative. These restrictions may result in fewer potential air quality impacts than either the Proposed Action MRL alternative or the No Action alternative. The rate of extraction once mining began would be the most important factor in determining the impact upon air quality this MRL alternative would have. 	<p>Potential project-level impacts from mining and processing activities that may occur with the No Action alternative would be similar to those described for the Proposed Action MRL alternative. With the potential for mining associated with the No Action alternative to occur in rural residential areas, possible air quality impacts on neighboring properties would be more likely with this alternative.</p>
WATER RESOURCES			
	<ul style="list-style-type: none"> This alternative is consistent with MRL designation criteria included in UDC Section 3.6.3.1.e-f, requiring exclusion of shoreline-designated areas and regulated wetlands, along with their associated buffers from the MRL. Lack of a limit on mining depth in relation to the water table may impact in-stream flows to surface waters and may alter recharge, affecting area wells. Implementation of this alternative would likely result in vegetation and soil disturbance during resource extraction operations, possibly leading to erosion, sedimentation, and increased turbidity to downstream water bodies, including wetlands. Resource extraction and processing could also result in runoff with elevated levels of contaminants, including suspended solids, nutrients, heavy metals, and toxic organics from mining machinery. The Proposed Action MRL includes deep 	<ul style="list-style-type: none"> The Approved Action MRL includes few streams and no mapped lakes or wetlands. This alternative is consistent with MRL designation criteria included in UDC Section 3.6.3.1.e-f, excluding shorelines and wetlands from the MRL. Implementation of this alternative would likely result in vegetation and soil disturbance leading to possible erosion, sedimentation, and increased turbidity to downstream water bodies on a level similar to that described for the Proposed Action alternative, but would likely be of shorter duration because of the smaller area included within the MRL. The 10-foot limit on mining above the water table would likely prevent impacts to surface water in-stream flows and groundwater recharge. Potential groundwater impacts that may occur as a result of mineral resource extraction would be similar to those described for the Proposed Action alternative because of the types of deposits that occur within the Approved Action MRL. 	<ul style="list-style-type: none"> Potential water-related impacts associated with the No Action alternative would be similar to typical project-specific impacts addressed for the Proposed Action alternative. Ten-acre disturbed area segments would allow less soil to be disturbed in each mining phase, resulting in a lower possibility of erosion and/or sedimentation. As with the MRL alternatives, surface water buffering and stormwater management would be required, and UDC requirements for mining within critical aquifer recharge areas would also apply. Impacts to aquifers that may occur with this alternative would be related to the depth of mining related to the location of the aquifer.

	PROPOSED ACTION	APPROVED ACTION	NO ACTION
	aggregate deposits within outwash channels; these outwash channels are designated as susceptible aquifer recharge areas. Mining activity that may occur within the Proposed Action MRL overlay district has the potential to affect groundwater conditions.		
PLANTS AND ANIMALS			
	<ul style="list-style-type: none"> Implementation of the Proposed Action MRL could result in direct impacts to plants and animals from clearing existing vegetation. Clearing results in increased edge habitat, effectively excluding species that rely on more heavily forested areas. Clearing can also disrupt migration routes of some species. Increased human activity and machinery operation can disrupt both reproduction and foraging activities for some species and will cause others to relocate. Direct impacts to wildlife and their habitats could occur as a result of improperly managed stormwater runoff from mining sites. See clarified issues on conveyor systems in Sections 2.2 and 2.3 of this Final SEIS. 	<ul style="list-style-type: none"> The Approved Action MRL is located outside of known territories of priority species as listed in the WDFW PHS database, but potential direct impacts to plants and animals would be similar to those described for the Proposed Action. Mineral processing is prohibited with this alternative and may result in a lower level of machinery operation than the Proposed Action MRL alternative. Fewer indirect impacts to plants and animals would be likely to occur with this alternative. Operation of a conveyor system may result in less truck traffic, but a conveyor corridor could disrupt wildlife movement. 	Potential impacts to wildlife described for the Proposed Action MRL could also occur with the No Action alternative. The magnitude of potential impacts to plants and animals would vary depending on mine location, an overall mining plan, the number of contiguous 10-acre mining segments and the rate of extraction. See clarified issues on conveyor systems in Sections 2.2 and 2.3 of this Final SEIS.
ENVIRONMENTAL HEALTH			
	<ul style="list-style-type: none"> Noise associated with mining-related activities depend on the nature, extent, and duration of the activity and can vary depending on project-specific operational factors, including extraction rate, topographic features of the immediate mining area, buffering and vegetative screening, and prevailing meteorological conditions. Noise associated with mineral processing may occur with this alternative. Noise from truck traffic is perceived to be the largest noise source associated with mining. Noise from traffic on public roads is exempt from the State and County noise limits. 	<ul style="list-style-type: none"> The potential for noise-related impacts associated with this alternative may be lower than potential impacts identified for the Proposed Action alternative because processing activities are prohibited with this MRL alternative. The rate of extraction once mining began would be an important factor in determining noise impacts with this MRL alternative. The Proposed Action MRL is smaller and located within the westerly portion of the study area, away from most sensitive receivers, reducing the potential for noise impacts to neighboring properties. Use of conveyors within this MRL to move material to the Shine Hub would likely reduce noise impacts associated with truck traffic. 	<ul style="list-style-type: none"> Future mining activities associated with the No Action alternative could include mineral processing activities and truck transportation of extracted resources. These activities may occur in closer proximity to sensitive receivers located within adjacent land uses. With the many different types of mineral resources in Jefferson County, the potential for blasting to be necessary outside of the described MRL alternative areas is higher.

	PROPOSED ACTION	APPROVED ACTION	NO ACTION
LAND USE			
	<ul style="list-style-type: none"> The Proposed Action MRL meets UDC Section 3.6.3 criteria for designating mineral resource lands. No impacts would occur that relate to compatibility of land uses. While portions of the Proposed Action MRL are located within view corridors adjacent to roadways and waterways, aesthetic impacts resulting from future mining activities would be site-specific and, depending on the location and type of any proposed mining activity within the Proposed Action MRL, aesthetic impacts would vary. The magnitude of the impact would depend on the location of the impact and the potential for screening with vegetation, topography, or other measures. 	<ul style="list-style-type: none"> As with the Proposed Action, Jefferson County, in examining this alternative for adoption, has deemed this alternative consistent with UDC MRL designation criteria for land use compatibility. This alternative is proposed for location in the westerly portion of the study area, away from existing residential uses located east and south of the study area and away from SR 104, possibly resulting in a lower level of impact than would be anticipated with the Proposed Action MRL. The potential for aesthetic impacts with this alternative would be similar to the impact potential described for the Proposed Action MRL, but would likely be lower because of its smaller size and distance from roadways, waterways, and adjacent residentially-designated areas. 	<ul style="list-style-type: none"> Mining or processing activities proposed to occur outside of a designated MRL are allowed in resource land or rural residential (with a conditional use permit) land use designations. While the UDC provides standards and BMPs for mining-related activities, there may be land use incompatibility. With small-scale mining-related activities allowed in resource land or rural residential land use designation areas, these activities may occur in areas where there are more sensitive viewers.
TRANSPORTATION			
	<ul style="list-style-type: none"> Mining-related activities within the study area would require access to SR-104, increasing traffic volumes. Impacts would be a function of the rate of extraction. Extraction rates would presumably increase if an alternative form of transportation, e.g., pit to pier, is developed, although pit to pier would not impact area roadways, but instead would complement truck transport of materials. Additional truck traffic may decrease the level of service on area roadways (refer to Section 2.2 of this Final SEIS for clarification) Project-specific transportation analyses would be required to fully determine impacts associated with material transfer from the Proposed Action MRL. For resources extracted from the study area to be marketed both within and outside of Jefferson County, SR-104 and other rural roadways would experience increased traffic volumes, primarily from haul vehicles. 	<ul style="list-style-type: none"> Traffic impacts on area roadways may be less if a conveyor system is used to transport extracted material from the MRL to the Shine Hub. Impacts would be a function of the rate of extraction. Extraction rates would presumably increase if an alternative form of transportation, e.g., pit to pier, is developed, although pit to pier would not impact area roadways, but instead would complement truck transport of materials. Project-specific transportation analyses would be required to fully determine impacts associated with material transfer from the Approved Action MRL. Other transportation-related impacts associated with the Approved Action MRL would be similar to impacts that may occur with the Proposed Action MRL, but would likely be of shorter duration because of the adoption of a significantly smaller area as a MRL overlay district. 	<p>Mining-related activity can occur within resource land or rural residential designated areas with a conditional use permit. Transportation-related impacts would depend upon mine location, extraction rates, on-site processing activities, and numbers of employees, to name a few, and would require a project-specific transportation analysis.</p>

2.0 ADDITIONS, CORRECTION, CLARIFICATIONS

As described in Section 2.1 of the Draft SEIS, this environmental review process is underway to provide decision-makers with adequate information to approve the legislative adoption and amendment of the Jefferson County Comprehensive Plan to designate and conserve one of the two examined MRL overlay district alternatives. The Jefferson County Responsible Official will recommend a choice between one of the two MRL overlay district alternatives or the No Action alternative to the Jefferson County Board of County Commissioners. This section of this Final SEIS includes additions, corrections, and clarifications to information provided in the Draft SEIS primarily related to issues remanded to Jefferson County by the Western Washington Growth Management Hearings Board (WWGMHB). These additions, corrections, and clarifications include:

- Appropriateness and depth of discussion of FHM’s Pit-to-Pier proposal
- Transportation issues related to MRL overlay district adoption, related proposals, and the No Action alternative
- Clarification of Intensity of Use and impacts associated with mining segment size
- Clarification of the No Action alternative.

As described in the Draft SEIS, no specific physical development is proposed as part of any of the alternatives being analyzed in this SEIS. Adoption of one of the mineral resource land overlay district alternatives would not result in direct physical changes or effects to the environment, but would establish regulatory conditions for future project-based mining activity within the designated MRL overlay district.

2.1 FHM’S PIT-TO-PIER PROPOSAL: ANALYSIS IN THIS SEIS PROCESS

The WWGMHB stated in their Final Decision and Order, “[w]e agree with the County that it was premature for the County to fully evaluate the pit-to-pier project as part of the EIS for the mineral resource overlay designation....Rather than analyzing the pit-to-pier project, the EIS should include the transportation impacts of the various alternatives.” The general transportation-related impacts of the MRL overlay district alternatives and the No Action alternative are discussed in the Draft SEIS and in the following section of this Final SEIS. It should be noted that statements relating to “alternative transport” and “other forms of transport” that occur in the Draft SEIS refer to FHM’s pit-to-pier proposal.

It should be noted also that FHM’s proposals are not dependent upon this MRL overlay district adoption process. FHM, in their correspondence transmitting their application for a central conveyor and pier facility (available for review at the Jefferson County Department of Community Development), notes that the application is independent of designation and classification of a MRL overlay district and acknowledges that the action of designating mineral lands as part of the Comprehensive planning process in Jefferson County does not authorize specific mining activity. The application materials specifically state, “[t]he Central Conveyor

and Pier application does not require or rely upon the County’s MRL approval (the Central Conveyor and Pier are allowed uses/activities subject to applicable permits, including a Jefferson County Conditional Use Permit, and the mineral resources to support this infrastructure could be provided by sequential application for and approval of mining segments less than ten acres in size which under the UDC do not require MRL designation/classification).”

FHM makes it clear that their proposals, including pit-to-pier, will be pursued regardless of the outcome of MRL overlay district adoption, even under the 10-acre maximum disturbed area outside of MRLs constraint of the UDC (analyzed in this SEIS process as the No Action alternative). FHM also acknowledges, however, that the larger mining segment size allowed within a MRL overlay district would allow higher extraction rates (see Sections 2.2 and 2.3 of this Final SEIS.

Jefferson County has repeatedly stated that FHM’s proposals will require project-specific environmental review. Project-specific environmental review would be required for FHM’s proposed excavation activities, the central conveyor and pier (pit-to-pier) proposal, and any future expansion of the Shine Hub.

2.2 TRANSPORTATION ISSUES RELATED TO MRL OVERLAY DISTRICT ADOPTION AND RELATED PROPOSALS

The WWGMHB, in their Final Decision and Order stated, “[i]n looking at the potential environmental impacts of the increased site size within the two alternative overlay areas (690 acres and 6,240 acres), the EIS should consider increased production and the consequent need to transport the aggregate mined.” Jefferson County’s approach, in the Draft SEIS, was to catalog the differences between the alternatives in terms of potential mining segment size, production rates, and the transportation limitations based on the existing County transportation system for resource transport. The following sections clarify and augment information included in the Draft SEIS.

2.2.1 Transportation and the Approved Action Alternative

The Draft SEIS, in Section 2.9, notes that resource extraction rates would be dependent on market conditions, is cost-based, and transportation-dependent. FHM, in their March 27, 2003 application materials provided production rates associated with their existing and proposed operations. Production rates disclosed by FHM assumed approval and adoption of the Approved Action alternative (690-acre MRL overlay district). While the Draft SEIS incorporates the FHM application materials by reference, the following is a brief synopsis of FHM’s expected production rates for existing facilities and operations and for proposed facilities and operations.

As described in Sections 2.5.4 and 2.6.2 of the Draft SEIS, the 690-acre Approved Action MRL resulted from the reduction in area of the 6,290-acre Proposed Action MRL to avoid impacts to sensitive areas and critical wildlife habitat. The maximum area that can be included in a mining proposal for the Approved Action alternative would be subject to sensitive area reconnaissance and field verification (ground-truthing) of sensitive areas and required mining setbacks.

Sensitive area setbacks typically range up to 200 feet and WDNR-mandated mining setbacks are 50 feet. The maximum mineable area within a MRL overlay district would depend on a specific mining proposal; for the 156-acre Wahl extraction area proposal, sensitive area reconnaissance and field verification (ground-truthing) and a mining/reclamation plan have been completed, resulting in a maximum mine area of 137 acres. FHM's Wahl extraction area reclamation plan and application is available for review at the Jefferson County Department of Community Development.

As described in Section 3.1.3 of the Draft SEIS, the Approved Action MRL alternative includes a limitation on mining to a depth of 10 feet above the water table.

Wahl Extraction Area

FHM's Shine Hub processes 500,000 tons of sand and gravel resources mined within its 144-acre MRL boundary annually, but will exhaust its supply in 2004. The extraction areas are described in Section 2.6.2 of the Draft SEIS. FHM proposed/agreed to a modification of the Proposed Action MRL to a reduced size (see Draft SEIS Section 2.5.4) which would incorporate FHM's proposed Wahl and Meridian extraction areas.

If FHM obtains necessary mining permits for the 156-acre Wahl extraction area, FHM expects to maintain the existing truck-based operation and rate of production at the Shine Hub (500,000 tons annually), then, over time and based upon market conditions, to increase to 750,000 tons of annual production. Existing market conditions have resulted in a prediction of this increase occurring in 10 to 15 years from the commencement of mining activities. The increase in production would result in a proportional truck traffic increase to and from Rock To Go Road which intersects SR-104 (see Draft SEIS Section 3.2.3).

As described in Section 3.2.3 of the Draft SEIS, mining within the Wahl extraction area would require use of a conveyor system that would move mined material to the Shine Hub for processing, thus eliminating truck trips that would otherwise be necessary between the point of excavation and the Shine Hub. Section 3.2.3 of the Draft SEIS also notes that WSDOT recorded 2001 eastbound average daily traffic levels on SR-104 to be 13,000; Jefferson County projected from this count a SR-104 eastbound daily traffic volume of 24,917 in 2018. An estimated 9/10 of the traffic exiting Rock to Go Road onto SR-104 turns right (easterly) toward the Hood Canal Bridge, presumably because that is where FHM, the Applicant, sells the majority of its products.

Application materials submitted by FHM in 2003 included a roadway level of service analysis for the expected increase in traffic associated with the production increase expected if the Wahl extraction area is approved. The level of service analysis (available for review of the Jefferson County Department of Community Development) shows that the expected increase [approximately 63 to 98 new trips including employee trips and 22 additional truck trips] would not decrease the roadway level of service over background growth increases (6.09%). The additional volume represented by the 98 new daily trips (9/10 of the 98 additional trips as estimated by FHM) therefore adds 0.7% to the volume already using that segment of SR-104. Put another way, for every 1,000 vehicles that currently travel that segment of SR-104, there would be approximately seven additional vehicles on that segment resulting from FHM's increased production rate estimates. Jefferson County can reasonably conclude that this is not a

probable significant adverse environmental impact. The analysis shows that SR-104 would experience the lowest level of service (“F”—see Draft SEIS Section 3.2.2) at all intersections analyzed by 2013 with or without the FHM proposal for production increase.

Jefferson County, at the time of specific project review, may limit truck traffic as a mitigation measure for the low level of service to be experienced on SR-104. Mitigation adequacy for transportation impacts would be analyzed as part of project-specific review.

Meridian Extraction Area

Upon completion of mining of the Wahl extraction area, FHM would move the mobile conveyor system from the Wahl extraction area to the Meridian extraction area to avoid truck trips associated with material movement to processing facilities located at the Shine Hub. Impacts addressed for the Approved Action alternative in the Draft SEIS associated with conveyor placement and the conveyor corridors would apply to both the Wahl and Meridian extraction areas and would apply not only to the Approved Action alternative, but also to the Proposed Action alternative and the No Action alternative (refer to Section 2.1 of this Final SEIS).

Prior to the end of the mining life of the Wahl extraction area, FHM intends to complete necessary permitting for a central conveyor and pier facility (pit-to-pier) and for the Meridian extraction area (see Draft SEIS Section 2.5.4) to move processed material from the Shine Hub to a marine pier located on Hood Canal for transport to market areas. If pit-to-pier approvals were to be realized, the Shine Hub processing area would be expanded to accommodate an increase in annual processing capacity from 750,000 tons to 7.5 million tons, expected by FHM to occur over approximately 25 years depending on market conditions. Sand and gravel resources would be extracted from the Wahl extraction area until it is expended and then from the 525-acre Meridian extraction area.

With approval of the pit-to-pier facility, FHM projects that they would begin marine barging approximately 10 years after initiation of mining of the Wahl extraction area. With operation of the central conveyor and marine pier, FHM expects to transport 2 million tons annually on barges, in addition to the ongoing truck operation of 750,000 tons of annual production for an approximate 10 year period. FHM, after approximately 25 years, expects to further increase annual production and transportation to 4 million tons by barge, 2.5 million tons on ships that would require opening the Hood Canal Bridge, and 750,000 tons would continue to be shipped by truck. At the projected rate of 7.5 million tons extracted annually, resources within the areas proposed for extraction are predicted by FHM to be exhausted in approximately 40 years. FHM has stated that marine transport, if approved, would supplement rather than replace truck traffic.

Without approval of the pit-to-pier facility, FHM would process 750,000 tons annually through the life of the Wahl and Meridian extraction areas. The resources within the extraction areas would supply FHM’s truck-based Shine Hub operations for decades (a period of time beyond the scope of any traffic analysis).

Both with and without approval of the pit-to-pier facility, impacts to the existing Jefferson County roadway system would be the same (negligible, as described above). Without pit-to-pier approval, truck traffic is expected to be consistent as described above, but would depend on

market conditions. With pit-to-pier approval, the impact to the existing roadway system would remain unchanged, but production at the Shine Hub would increase significantly. Impacts associated with the proposed Shine Hub production increase on the natural and built elements of the environment would be examined in project-specific environmental review (see Draft SEIS Section 3.2.2). In addition, both FHM’s proposed extraction activities and proposed pit-to-pier facility would require project-specific environmental review.

Transportation Approvals Required For Approved Action MRL Activities Proposed

The Shine Hub, as described in Section 2.5 of the Draft SEIS is located within a designated MRL. The Shine Hub, to accommodate a 50% increase in processing capability and then an increase in capacity to process 7.5 million tons annually with possible expansion to 100 acres, would require expansion approval for sand and gravel processing uses on the site, in addition to any asphalt or concrete production that may be proposed. As described in Section 2.5 of the Draft SEIS, any use within an existing MRL that is proposed for expansion would fall within UDC regulation. UDC regulation would require environmental review associated with a stormwater permit.

FHM submitted applications to WDNR and Jefferson County for mining activities within the Wahl extraction area and for the conveyor system to the Shine Hub. Neither Jefferson County nor WDNR have processed the application. Jefferson County will issue a threshold determination on the application and would require full environmental review of the proposed activities, included an analysis of the impact on public services such as emergency services.

In addition, Jefferson County will specifically require environmental review and transportation analysis to determine the optimum hours for truck access to SR-104. Jefferson County has prohibited processing activities within the Approved Action MRL; processing and related truck traffic would occur from the Shine Hub only.

The pit-to-pier proposal would require a variety of approvals, not only from Jefferson County, but from both state and federal agencies. Possible shoreline clearing and forest practices activities require WDNR approval, shoreline permits require WDOE approval, shore and near-shore activities require WDFW approval, marine development activities would require the approval of the U.S. Army Corps of Engineers, the National Marine Fisheries Service, and the U.S. Coast Guard.

2.2.2 Transportation and the Proposed Action Alternative

As described in Section 2.6.1 of the Draft SEIS, the 6,240-acre Proposed Action MRL was reduced by 1,270 acres to a gross “developable” acreage of 4,970 acres to protect sensitive areas. As with the Approved Action MRL, project-specific proposals, as described in Section 3.1.4 of the Draft SEIS, would require sensitive area reconnaissance and field verification (ground-truthing) to further evaluate and protect sensitive areas that may be present within the MRL overlay district, possibly further reducing the area that may be included in a mining plan. Mining setbacks would be required for project-specific mining plans that may be proposed within the Proposed Action MRL.

Jefferson County assumes that FHM would follow through with project-specific proposals for the Wahl and Meridian extraction areas, the pit-to-pier proposal, and expansion of the Shine Hub if the Proposed Action MRL alternative is adopted, the Approved Action MRL is adopted, or the No Action alternative is chosen (see Section 2.1 of this Final SEIS) by Jefferson County, resulting in transportation impacts as described in the Draft SEIS and in Section 2.2 of this Final SEIS.

In addition, as described in Section 3.2.3 of the Draft SEIS, Jefferson County has not assumed that, if the Proposed Action MRL is adopted, that FHM may be the only mining entity to forward project-specific mining applications within the Proposed Action MRL area. The possibility of multiple mining entities operating simultaneously within the Proposed Action MRL area is limited. Jefferson County would likely utilize, within the Proposed Action MRL, of alternative transportation methods (i.e., a conveyor) to move material from any approved extraction area to processing facilities to avoid significant increases in truck traffic on impacted roadways. If the Proposed Action MRL is adopted by Jefferson County, it is likely that the County would impose restrictions on mining depth in relation to the water table (see Draft SEIS Section 3.1.3) and on processing activities that may occur within the MRL overlay district, similar to the restrictions placed on the Approved Action MRL.

2.2.3 Transportation and the No Action Alternative

As noted in Section 2.8 of the Draft SEIS, mining in 10-acre segments would be less efficient and result in a lower level of resource recovery than would occur with the mining segment sizes possible with either of the MRL overlay district alternatives (40 acres for the Approved Action alternative, and no limit for the Proposed Action alternative). In addition, it is likely that, if resource processing is included in a proposal that may occur outside of a designated MRL, then processing activities would have to occur within the same 10-acre disturbed area as active mining, further reducing rates and volumes of resource recovery. A lower level of resource recovery would result in a lower level of resource transportation. With the No Action alternative, there would also be no possibility of the production increases that may be possible with the MRL overlay district alternatives.

The Jefferson County Comprehensive Plan Transportation Element includes listings of County, State, and Federal roadways and their level of service. Project-specific mining proposed outside of an existing MRL would be reviewed by Jefferson County staff to determine appropriate conditions or mitigation for roadway level of service and safety.

2.3 CLARIFICATION OF INTENSITY OF USE

Neither the Surface Mining Act (RCW 78.44) nor Best Management Practices for Reclaiming Surface Mines in Washington and Oregon (1997) describe or require any specific mine segment size for any particular mining-related activity. As described in Section 2.8 of the Draft SEIS, WDNR has found that miners who submit project-specific plans do not typically propose mining segments that are not manageable for the mining entity both in terms of extraction and

reclamation (Matt Brookshier, WDNR, Personal Communication 01/30/04). The Best Management Practices for Reclaiming Surface Mines in Washington and Oregon (1997) note that extraction and reclamation plans may include one to several segment sizes to accommodate topographic changes or features (critical/sensitive areas). In determining appropriate mine segment sizes for both mining-related activities to be managed under the UDC outside of MRLs and for mining-related activities that may occur within MRLs, Jefferson County consulted with WDNR staff. The results of the consultations were both the 10-acre disturbed area managed under the UDC for areas within designated resource lands and rural residential designated areas with a conditional use permit (i.e., lands lacking a MRL overlay) and the 40-acre segment limitation imposed on the Approved Action MRL.

Section 2.8 of the Draft SEIS describes the implications of mining segment size on intensity of use. Section 2.9 describes the No Action alternative (mining that may occur outside of MRLs or MRL overlay districts as regulated by the Jefferson County UDC) and its limitation to 10 acres of disturbed area at any given time and its lack of limitation in terms of the number of contiguous 10-acre mining segments (mine planning areas) that may be incorporated into a larger mining plan. Jefferson County currently interprets its UDC to allow, at a location lacking an MRL overlay, no more than a single 10-acre disturbed area at any one time. A similar limit does not apply for contiguous 10-acre mining segments in an area lacking MRL overlay according to the current interpretation of the UDC.

In summary, in terms of intensity of use, mining-related activities regulated by the UDC that occur outside of designated MRLs or MRL overlay districts would occur on a smaller scale than would those associated with the MRL overlay district alternatives examined in the Draft SEIS, but may eventually cover a similar area and result in a similar level of environmental impact based on the demand for mineral resources. Mining-related activities that may occur under the No Action alternative would depend on individual mining plans in terms of overall area to be mined; mining, however, would be required to occur in no more than one 10-acre disturbed area increment at a time.

The WWGMHB determined that the change in intensity of mining and the environmental impacts of that change should have been examined. The WWGMHB also determined that the 40-acre segment restriction imposed on the Approved Action MRL must be considered part of the Approved Action MRL proposal and analyzed as such in the Draft SEIS. Chapter 3 of the Draft SEIS describes the general environmental impacts that would result from implementation of adoption of any of the given alternatives in terms of overall “developable” area for each of the MRL alternatives and the implications of mining those areas. The No Action alternative is compared to the MRL alternatives in the impacts analysis for each element of the environment in terms of the 10-acre mining segment size limitation and the 10-acre disturbed area limitation.

Section 2.8 of the Draft SEIS describes the fact that WDNR would examine any mining plan that included any size and configuration of mining segments. WDNR noted that mining segment size is typically proportional to the mining company submitting the mining plan in terms of what can be managed, both in terms of mining and reclamation (Matt Brookshier, WDNR, Personal Communication 01/30/04). The Draft SEIS, in section 2.8 also noted that reclamation can lag one to several segments behind the active mine segment and that under RCW 78.44.11,

reclamation is typically required to be initiated within two years of deactivation of the mining segment (completion of mining the segment).

Accordingly and as appropriate to non-project proposals, the Draft SEIS examined the maximum potential mining area for each of the MRL alternatives

The following is a listing of impacts according to element of environment for the alternatives examined in the Draft SEIS and the implications of mining segment size for each alternative. The listing includes the information presented in the Draft SEIS that applies to this comparison; the information is augmented where necessary.

- Earth:
 - 10-acre Disturbed Area:
 - Less soil would be disturbed in any given segment in preparation for mining
 - 50-foot mining setbacks would be required within the mining segment
 - mineral extraction and mineral processing, if proposed would occur within the same 10-acre active mining segment
 - a smaller quantity of non-renewable resources would be recovered in a mine area of 10-acre segments because of mandatory setbacks and the need to create moderate angles of repose between the surface and the quarry floor that serve to limit slides and erosion.
 - reclamation would be required after completion of mining the 10-acre segment to the satisfaction of Jefferson County (employing RCW 78.44 reclamation definition) prior to approval of additional mining.
 - 40-acre Mining Segment:
 - More soil would be disturbed in preparation for active mining
 - Extraction would occur for a longer duration
 - More resource may be extracted because mining setbacks would be required in an overall plan, not for each mine segment: pit wall angles required to maintain safety within unconsolidated deposits require a large area to accommodate the necessary angle; with larger mining segments, deeper mining may occur, along with more extensive mining from required pit walls and faces, allowing higher levels of resource recovery
 - Reclamation would lag up to years behind each active mine segment resulting in slower restoration to the previous land use.
- Air:
 - 10-acre Disturbed Area:
 - Mineral processing may be allowed with mining outside of MRLs or MRL overlay districts with a conditional use permit, possibly resulting in air quality impacts that may affect a higher number of sensitive receptors due to their closer location to mining-related activities.
 - 40-acre Mining Segment:
 - With higher extraction rates and an expected longer duration of extraction activities, fugitive dust may become an issue.

- Water:
 - 10-acre Disturbed Area:
 - Setbacks from shorelines and wetlands would be required per UDC regulations
 - Below-the-water table mining may be possible with WDNR and Jefferson County approval for specific proposals
 - Erosion control to protect water bodies would be implemented at the project level per UDC regulations.
 - 40-acre Mining Segment:
 - Setbacks from shorelines and wetlands would be required per UDC regulations
 - A limitation to 10-feet above the water table exists for the Approved Action alternative and would likely be imposed on the Proposed Action alternative if recommended for adoption
 - With production levels proposed for the FHM projects described in the Draft SEIS and Section 2.2.1 of this Final SEIS, the possibility of indirect impacts to water bodies exists that would require project-specific mitigation and monitoring to avoid erosion and sedimentation.
- Plants and Animals:
 - 10-acre Disturbed Area:
 - Vegetation clearing (tree removal) would be required prior to soil disturbance
 - With less soil being disturbed in any given segment, impacts to plants and animals would occur in small areas, allowing wildlife to adjust or relocate
 - Impacts associated with human activity would be at a lower level because of the small area being mined, even with possible mineral processing activities
 - Reclamation would begin more quickly.
 - 40-acre Mining Segment:
 - Large areas of soil would be disturbed for each segment
 - Vegetation clearing (tree removal) would be required prior to soil disturbance
 - Without processing activities (prohibited with the Approved Action alternative) human activity would still occur at a significantly higher level than would occur with 10-acre segment, especially if the magnitude of production described in Section 2.2 of this Final SEIS is realized
 - Reclamation would occur at a significantly slower rate, leaving large areas of land bare (for up to several years) largely uninhabitable by wildlife; temporal loss of plants and animals within the mine area would be a certainty.
- Noise:
 - 10-acre Disturbed Area:
 - Noise levels that would result from mineral extraction and, possibly, mineral processing activities may be high, but would be of relatively short duration because of the relatively small areas that can be mined at any given time
 - Sensitive receptors may be located closer to extraction and processing areas.
 - 40-acre Mining Segment:

- Noise may occur at a similar level with larger mining areas in terms of mineral extraction, but without processing, lower noise levels may be realized
 - Noise that may occur with extraction would likely occur for a longer duration
 - Noise associated with the magnitude of extraction and processing proposed by FHM would require project specific environmental review, along with regulation of the Shine Hub under the UDC for expanded activities (see Section 2.1.2 of this Final SEIS).
- Land Use:
 - 10-acre Disturbed Area:
 - Compatibility with surrounding land uses would be determined by Jefferson County prior to permitting mining outside of a MRL overlay district
 - The chance for residential uses being located closer to mining activities would be higher, although the impact on those uses may be lower if there are relatively few mining segments proposed
 - The potential for aesthetic impacts would likely be higher with the No Action alternative, but may be of shorter duration because the chance of reclamation commencing more quickly is higher with this alternative.
 - 40-acre Mining Segment:
 - Compatibility with surrounding land uses would be determined by Jefferson County prior to permitting activities for a specific mining plan
 - The Approved Action MRL alternative is not located adjacent to any residentially-designated uses
 - Aesthetic impacts would typically be higher with larger mining segments that remain unreclaimed for longer periods; the Approved Action MRL, however, is located away from primary view corridors. The Proposed Action alternative is located closer to sensitive viewers and may result in greater aesthetic impacts.
 - Transportation:
 - 10-acre Disturbed Area:
 - Impacts to area roadways with small mining segments would likely be low because of smaller volumes of resources recovered and mining occurring over a shorter duration
 - Mining proposed in areas where roadways are impacted would require project-specific mitigation
 - 40-acre Mining Segment:
 - See Section 2.1.2 of this Final SEIS.

2.4 CLARIFICATION OF THE NO ACTION ALTERNATIVE

The WWGMHB, in their Final Decision and Order (page 22), paraphrased and referred to WAC 197-11-440(6)(e) in stating that,

“An analysis of the no-action alternative should have shown the impacts of ten-acre mining sites in the region. The discussion should include impacts upon and quality of the physical surroundings, as well as the cost of and effects on public services.”

The full text of the WAC referenced states:

“Significant impacts on both the natural environment and the built environment must be analyzed, if relevant (WAC 197-11-444). This involves impacts upon the quality of the physical surroundings, whether they are in wild, rural, or urban areas. Discussion of significant impacts shall include the cost of and effects on public services, such as utilities, roads, fire, and police protection, that may result from a proposal. EISs shall also discuss significant environmental impacts upon land and shoreline use, which includes housing, physical blight, and significant impacts of projected population on environmental resources, as specified by RCW 43.21C.110(1)(d) and (f), as listed in WAC 197-11-444.”

This portion of the SEPA Rules (Chapter 197-11 WAC) describes the requirements for discussion in an EIS of the affected environment, significant impacts, and mitigation measures. The portion of the WAC section on EIS contents (WAC 197-11-440) included above describes the fact that significant impacts on the elements of the environment, both built and natural, that are scoped for the EIS must be discussed. WAC 197-11-444 lists the elements of the environment available for scoping (see WAC 197-11-408 for discussion of “scoping”). The WWGMHB essentially “scoped” the SEIS by requiring that the 13 factors discussed in Jefferson County’s 2002 SEIS be discussed in this supplement to the 2002 SEIS. The 13 factors are listed in Section 2.5.5 of the Draft SEIS as categorized under WAC 197-11-444. The significant impacts on the elements of the environment, both natural and built, listed in Section 2.5.5 of the Draft SEIS are discussed in Section 3 of the Draft SEIS for each alternative, including the No Action alternative. Discussion of these significant impacts are clarified and augmented in this Final SEIS.

The County assumes it is unlikely that the WWGMHB intended, in their paraphrasing of WAC 197-11-440(6)(e) to open every element of the environment listed in WAC 197-11-444 for discussion in this SEIS process. Public services and utilities were not specifically scoped for discussion by either the WWGMHB or Jefferson County. The primary impacts to public services that occur with project-specific mining activities are typically related to emergency call-outs for roadway accidents involving haul vehicles and are discussed in conjunction with transportation impacts and mitigation at the project level. Transportation impacts are discussed in the Draft SEIS and clarified and augmented in Section 2.2 of this Final SEIS. Roadway safety and emergency services would be more specifically analyzed in project-specific review that would be required for mining proposals that may occur under any of the alternatives examined in this SEIS process.

3.0 RESPONSES TO COMMENTS ON THE DRAFT SEIS

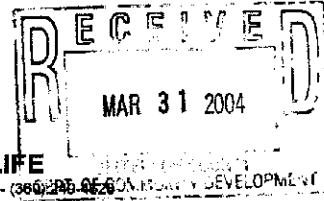
The following are summaries of comments included in six comment letters received in response to the Draft SEIS and responses to those comments. One additional letter was also received by DCD, but did not include comments on the content of the Draft SEIS. Comment summary numbers correspond to the full text of comments in attached comment letters.

3.1.1 Washington Department of Fish and Wildlife

Randi Thurston, Habitat Biologist
Washington Department of Fish and Wildlife
Region 6 Office
46 Devonshire Rd
Montesano WA 98563-9616

- 1. As stated in the DSEIS, adverse impacts to fish and wildlife habitats will likely be unavoidable from mining operations. As a result, WDFW will likely comment on the specific proposed mining projects within the MRL as well as outside the MRL and request mitigation for fish and wildlife habitat.**

Comment noted.



State of Washington
DEPARTMENT OF FISH AND WILDLIFE
 Region 5 Office: 48 Devonshire Road - Montezano, Washington 98663-8818 - (360) 225-4226

March 31, 2004

Jefferson County Department of Community Development
 ATTENTION: Greg Ballard
 621 Sheridan Street
 Port Townsend, WA 98368

Dear Mr. Ballard:

SUBJECT: Comprehensive Plan Amendment Environmental Analysis for the Adoption of Mineral Resource Land Overlay March 2004; Jefferson County

The Washington Department of Fish and Wildlife (WDFW) has reviewed the above-referenced document and offers the following comments at this time. Other comments may be offered as the project progresses.

WDFW recognizes the approved action alternative 690 acre MRL reduces the potential impact to sensitive areas such as wetlands, lakes and streams as well as WDFW priority habitats and species identified in the originally proposed 6280 acre MRL. However, as stated in the letter dated October 1, 2002 written to Jefferson County by WDFW commenting on the 2002 Comprehensive Plan Amendment, the Puget Trough Ecoregional Planning effort in which WDFW has been involved has identified the Toandos Peninsula as an area that should be maintained in permanent commercial forest production in order to maintain wildlife species population and diversity. As stated in the Comprehensive Plan Amendment Environmental Analysis, adverse impacts to fish and wildlife habitats will likely be unavoidable from mining operations. As a result, WDFW will likely comment on specific proposed mining projects within the MRL as well as outside the MRL and request mitigation for impacts to fish and wildlife habitat.

} 1

Thank you for the opportunity to provide this information. If you have any questions, please contact me at (360) 895-6123.

Sincerely,

Randi L. Thurston

Randi L. Thurston
 Area Habitat Biologist

RLT:rlt

3.1.2 Gendler & Mann, LLP

Gendler & Mann, LLP

on behalf of the Hood Canal Coalition, Olympic Environmental Council, Jefferson County Green Party, People for a Liveable Community, Kitsap Audubon Society, Hood Canal Environmental Council, and People for Puget Sound

1424 Fourth Avenue, Suite 1015
Seattle, WA 98101

- 1. The SEPA rules require an EIS to include a "list of all licenses which the proposal is known to require. The licenses shall be listed by name and agency; the list shall be as complete and specific as possible." WAC 197-11-440(2)(d). This DSEIS does not meet this requirement.**

The Draft SEIS has, in fact, met the requirement of WAC 197-11-440(2)(d). The list of licenses and permits required for this possible nonproject action of adoption of an MRL overlay district is included in the Draft SEIS Fact Sheet on page ii, under the heading of Required Approvals. The issue of the appropriateness and depth of discussion of FHM's pit-to-pier proposal is included in Section 2.1 of this Final SEIS.

- 2. The DSEIS incorrectly describes as "mitigation" the preparation of a consultant's report. But this report already is required by existing county law, and therefore is not "mitigation."**

WAC 197-11-440(6)(c)(iii) states that the affected environment, significant impacts, and mitigation measures section of an EIS must, "[c]learly indicate those mitigation measures...,if any, that could be implemented or might be required, as well as those, if any, that agencies or applicants are committed to implement."

The requirement for a geologic study constitutes mitigation for all of the alternatives examined in the Draft SEIS, not only because it would be required to be implemented under the UDC, but would be necessary to form the basis for mitigation for any project-specific mining activity, either within a MRL overlay district or outside of an MRL.

- 3. The SEPA rules also require that the EIS include specification of "the type and timing of any subsequent environmental review to which the lead agency or other agencies have made commitments, if any." WAC 197-11-440(2)(j). The DSEIS mentions and relies on "phased review," but does not clearly identify what the phases will include and when they will be completed.**

Section 1.3 of the Draft SEIS provides a description and list of environmental review documents

that have been included in Jefferson County's Comprehensive Plan development and review process. This Draft and Final SEIS process is a supplement to the original Comprehensive Plan EIS, completed in 1997 and 1998. Jefferson County cannot anticipate additional Comprehensive Plan amendments or Comprehensive Planning phases that would require additional environmental review. Project-specific environmental review that may be required as a result of an adopted Comprehensive Plan amendment also cannot be anticipated. While FHM has made application to Jefferson County for projects associated with the areas described for MRL adoption, the proposals do not rely on the outcome of the proposed Comprehensive Plan amendment for adoption of a MRL overlay district. Jefferson County has stated that environmental review would be required if FHM follows through with its pit-to-pier proposal, such project-specific environmental review is not considered part of the Comprehensive Plan phased environmental review process. The Draft SEIS discloses FHM's intentions, as well as the County-imposed environmental review requirement.

- 4. The SEPA rules require that a nonproject EIS "identify subsequent actions that would be undertaken by other agencies as a result of the nonproject proposal, such as transportation and utility systems." WAC 197-11-442(3). The EIS should identify the government actions that would be expected to occur with respect to transportation systems for each of the alternatives.**

Adoption of a MRL overlay district within Jefferson County would not result in a transportation or utility system to be undertaken by other agencies as would, for example, adoption of a regional transportation plan. It is not appropriate to examine the project-specific proposals in this non-project SEIS process at a level of detail found in a project-specific environmental review process. Refer to Section 2.2 of this Final SEIS for a general discussion of agencies that would be involved in future approvals required for FHM's project-specific proposals.

- 5. WAC 197-11-440(2)(e) requires that the authors and principal contributors to the EIS be identified.**

The Draft SEIS, on page ii, the Fact Sheet, lists Wheeler Consulting Group, Inc. as the primary author and contributor to the Draft SEIS, meeting the requirement of WAC 197-11-440(2)(e). No other authors or contributors participated in the Draft SEIS preparation process. The qualifications of those persons employed by Wheeler Consulting Group, Inc. who prepared these documents are on file with the Jefferson County Department of Community Development.

In responding to Jefferson County's RFP for Consultant Services, Wheeler Consulting Group, Inc. teamed with Intergroup Development Corporation, an entity whose employee(s) provided Jefferson County with guidance in GMA-related issues and did not participate in preparation of the SEIS.

- 6. The Board directed the County to evaluate alternatives, including the no-action alternative, in terms of the 13 factors that the EIS had listed.**

The 13 factors that the 2002 SEIS listed are evaluated for each alternative in Section 3 of the

Draft SEIS. The locations of the 13 factors, in terms of elements listed in WAC 197-11-444 and as included in Section 3, are listed in Section 2.5.5 of the Draft SEIS.

7. **The Board directed that the County's evaluation consider the maximum possible mining development that could occur under each scenario consistent with existing Jefferson County regulations. FDO at 27, citing Ullock v Bremerton 17 Wn. App. 573 at 575, 565 P.2d 1179 (1977). We request that the DSEIS examine each alternative on the basis of the "maximum possible mining development that could occur under each scenario."**

The WWGMHB noted that a mineral resource designation would cause different development regulations to be applicable to any area so designated and would set new conditions for mining. The WWGMHB also described the need for evaluation of the higher intensity of use associated with the MRL overlay district alternatives over the area included in each MRL alternative. The WWGMHB cited Ullock v Bremerton as support of a maximum use evaluation, essentially the same as adequate review required under SEPA, for each of the MRL overlay district alternatives.

The WWGMHB required the County to analyze for environmental impacts the “maximum possible mining development that could occur under each scenario (alternative).” Maximum possible mining development (or “MPMD”) can be defined in at least two ways. It can be defined by the geographical boundaries of the maximum allowable mining area (acreage) for both the Proposed Action and the Approved Action alternatives, both of which are described in the Draft SEIS. Defined geographically, the MPMD is the area that would remain available for submission of a mining plan after reductions for mining setbacks and mapped sensitive areas, including critical aquifer recharge areas. For the No-Action alternative, the MPMD would encompass the 6,240 acres described for the MRL overlay district alternatives, since FHM has stated its intent to continue to extract mineral resources from within those 6,240 acres regardless of the outcome of the MRL overlay adoption process (refer to Section 2.1 of this Final SEIS), along with those areas within Jefferson County where mining may be proposed outside of a MRL or MRL overlay district under UDC regulation (refer to Section 2.8 of the Draft SEIS and Sections 2.3 and 2.4 of this Final SEIS). The Draft SEIS notes that specific critical areas analyses would be required by Jefferson County for each project-specific mining proposal that may be submitted within an adopted MRL overlay.

Another way to define MPMD is by the depth of any particular ‘hole’ that a mining entity extracting mineral resources would choose to dig. For a programmatic analysis of MRL overlay district adoption, which causes different development regulations to apply (a change noted by the WWGMHB), geologic data are not available that would allow a three-dimensional production analysis. Geologic information presented in Section 3.1 of the Draft SEIS provide information to generally determine the quality and extent of the mineral deposits present within the area covered by the MRL alternatives; these data are included in the analysis “at a level of detail appropriate to a non-project proposal.” Thus, a geographical maximum, as described above and based on the maximum zoning analysis requirement of Ullock v. Bremerton, must not be confused with maximum production potential of any given mining area.

The comment letter also mentions the WWGMHB's use of the phrase "intensity of uses." When the WWGMHB uses the phrase "intensity of use" and asks that differences in the "intensity of use" be analyzed, the County assumes that the WWGMHB was directing the County to analyze the differences (if any) in the probable significant adverse environmental impacts (if any) that might arise when the segment limit for mining is 10 acres as opposed to when the segment limit is 40 acres. The different environmental impacts of mining in 10-acre segments as opposed to mining in segments up to 40 acres in size is discussed in Section 2.8 of the Draft SEIS and in some detail in Section 2.3 of this Final SEIS.

8. The Board held that the County was required to analyze the impacts that increased intensity of mining would have on transportation and include an analysis of transportation alternatives to trucking.

Refer to Section 2.2 of this Final SEIS.

9. The Board requires that transportation impacts associated with FHM's pit-to-pier proposal be included in the analysis.

The premise of this comment is incorrect and does not accurately reflect the mandate from the WWGMHB. The precise directive from the WWGMHB, found on page 29 of the FDO, was as follows: "rather than analyzing the pit-to-pier project, the EIS should include the transportation impacts of the alternatives." Since the Hearings Board had previously decided that the pit-to-pier was not an alternative to the MRL overlay (see the FDO at p. 28-29), the pit-to-pier proposal is not an alternative whose transportation impacts required further study.

Regardless of the inaccuracy of the comment, the impacts of different forms of transportation are discussed in Section 3.2.3 of the Draft SEIS and in Sections 2.1 and 2.2 of this Final SEIS.

There has been confusion about the two purposes that conveyors would serve, firstly to bring raw materials to the Shine Hub for processing and secondly, upon approval of a marine transport system, to convey processed materials from the Shine Hub to the pier for transport by barge to FHM's more distant customers. FHM already has in place a conveyor for the first purpose (conveying raw materials to the Shine Hub) and would continue to use its conveyor (the conveyor system is mobile) for that purpose from any site where resources are being extracted, whether or not the MRLO is approved. Any conveyor that conveys raw materials to the Shine Hub for processing eliminates the need for internal truck routes and for numerous truck trips.

The presence of the second conveyor, the one that would take processed goods to the pier, would greatly increase the rate of extraction and would also increase the amount of raw materials being processed at the Shine Hub, with associated environmental impacts as discussed at Sections 2.1 and 2.2 of the Final SEIS. The presence of marine transport generates both the need for more product and thus a greater rate of extraction, rather than vice-versa.

In addition, it is evident that there has been confusion on the part of some readers of the Draft

SEIS, resulting in the mistaken understanding that transport over water (“pit to pier”) would be an alternative to trucking. As discussed in Sections 2.1 and 2.2 of the FSEIS both would continue even upon approval of a marine transport system.

10. SEPA (WAC 197-11-442-(4)) requires that an EIS include a discussion of alternatives "formally proposed" or "reasonably related" to the proposed non-project action.

WAC 197-11-442 provides guidance for preparation of EISs on nonproject proposals. WAC 197-11-442(4) includes guidance on narrowing the range of alternatives to be discussed in a nonproject EIS, and does specifically state that, “[t]he EIS content may be limited to a discussion of alternatives which have been formally proposed or which are, while not formally proposed, reasonably related to the proposed action.” SEPA maintains, through selection of alternatives to be analyzed in an EIS, the notion of alternatives that are to be “reasonable” [WAC 197-11-440(5)(b)].

(b) Reasonable alternatives shall include actions that could feasibly attain or approximate a proposal’s objectives, but at a lower environmental cost or decreased level of environmental degradation.

(i) The word “reasonable” is intended to limit the number and range of alternatives, as well as the amount of detailed analysis for each alternative.

The Draft SEIS is a component of Jefferson County’s Comprehensive Planning phased environmental review (see Section 1.3 of the Draft SEIS). The alternatives examined in the Draft SEIS are for two MRL overlay districts that would augment existing zoning within two specific areas of Jefferson County, and the No Action alternative, which assumes that neither MRL overlay district alternative would be adopted. The Draft SEIS describes FHM’s intention to further two project-specific actions (see Section 2.5 of the Draft SEIS and Section 2.1 and 2.2 of this Final SEIS) after completion of this SEIS process. The project-specific actions would occur within the area encompassed by the MRL overlay district alternatives examined in the Draft SEIS, but are both inappropriate and unreasonable as alternatives to the MRL overlay district alternatives discussed in the Draft SEIS. As stated in the Draft SEIS in Section 3.2.2, FHM’s pit-to-pier proposal would require additional environmental review (see Section 2.1 of this Draft SEIS). A consistent misunderstanding of the difference between programmatic (non-project) environmental review and project-specific environmental review has been evident throughout the MRL overlay district adoption process. Project-specific environmental review follows general programmatic environmental review to avoid extrapolation based on speculation.

In addition, the WWGMHB, in their FDO (pages 28 and 29) confirmed all of the above when it wrote:

“Although the applicant did advise the County that it might propose such a project after the mineral resource overlay designation was obtained, a pit-to-pier project involves many more specific elements than the designation of a type of land use area and those specific elements are best evaluated at the project level.”

AND

“The pit-to-pier project was not an alternative to the mineral resource overlay. Instead, it was a possible impact resulting from potentially increased mining activity. Rather than

analyzing the pit-to-pier project, the EIS should include the transportation impacts of the various alternatives.”

The transportation impacts of the various alternatives are discussed in Section 3.2.3 of the Draft SEIS and clarified in Section 2.2 of this Final SEIS.

- 11. The DSEIS states that the designation of either the Proposed Action or the Approved Action would protect mineral resource lands, but that the No Action alternative would not. There is nothing in the DSEIS that shows that the adoption of a no-action alternative would not protect mineral resources area or that it would not be consistent with the directives of both the GMA and the Jefferson County Comprehensive Plan as implemented by the UDC. This argument does not show that the "no-action" alternative fails to protect mineral resource lands from incompatible development. The statement is wrong, and we request it be deleted.**

The Draft SEIS does not state that, “the designation of either the Proposed Action or the Approved Action would protect mineral resource lands, but that the No Action alternative would not.” The Draft SEIS Summary of the No Action alternative includes the statement that, “No mineral resource lands are proposed for protection under this alternative.” This is a true statement that is unrelated to the FDO. The alternatives, as examined in the Draft EIS, include two possible areas where a mineral resource land overlay district may become a reality, thus protecting that area as required under GMA by providing nuisance protection to the mineral extractor and providing notice to adjacent property owners (see Section 2.5 of the Draft SEIS).

As described in Section 2.7 of the Draft SEIS, the No Action alternative assumes that neither of the MRL alternatives discussed in the Draft SEIS is adopted and mining would occur, if an application is put forth to WDNR and Jefferson County, under existing State and Jefferson County UDC regulations. Section 2.7 of the Draft SEIS describes the fact that existing UDC regulations allow mineral extraction in resource land areas, including agricultural and forestry, and in rural residential areas with a conditional use permit. This continuation of existing regulation of mining under the UDC would not result in a zoning overlay that would protect any lands that include mineral resources that occur in rural residential areas or agricultural lands from incompatible uses, while those lands within a mineral resource land overlay would be protected from uses that would be incompatible with extracting mineral resources.

WAC 365-190-070(1)(f)(i), Mineral Resource Lands, describes the requirement for counties to consider the effects of proximity to population areas and the possibility of intensity of land use based on general land use patterns of an area. Skagit County, in their Comprehensive Plan Land Use Element EIS Addendum for Designation of Resource Lands (1996) notes in relation to land use patterns,

“Aggregate mining, by the very nature of its activity and character of its facilities, is an industrial use. As a mine is encroached upon by residential development, even in rural areas, the site becomes more visible and open to possible nuisance complaints. Consequently, it often becomes the focus of attention with surrounding residences. Mining operations are often identified as a *LULU*, “locally undesirable land use” or a *NIMBY*, “not in my back yard”. While there are choices in locating most types of land

uses, this option does not exist where aggregate mine operations are concerned. The resource can only be extracted from those deposits that are economically viable.”

Mineral resources located outside of MRLs or MRL overlay districts would not be provided the scrutiny in locating adjacent land uses mandated by GMA and acknowledged in UDC MRL classification criteria. Rural residential development, allowed at densities as low as one dwelling unit per five acres, would be considered to be an incompatible use adjacent to mineral resource lands as is described in the Draft SEIS.

The portion of the FDO that is referenced for this comment specifically describes the de facto protection of mineral resources within areas designated for forestry uses. Neither the FDO nor prior examinations of resource lands describe any such protection of mineral resources within agricultural lands or rural residential areas. Although the Draft SEIS neither states nor implies that mineral resources would not be protected under the No Action alternative, other than the true statement that the No Action Alternative does not include a specific proposal for protection of mineral resource land, the No Action alternative does not meet the mandates of GMA, in part, because the notice provision found in the County’s development regulations [UDC Section 3.6.3(3)] does not match up with the notice language expressly mandated by RCW 36.70A.060(1). The hierarchy of GMA begins with the protection of critical areas then adds protection of natural resource lands. The State planning goals encourage the conservation of productive natural resource lands and discourage incompatible uses. This goal can be fulfilled by assuring that the use of lands adjacent to natural resource lands do not interfere with the continued use, in the accustomed manner, of the production of food and agricultural products, timber, and extraction of minerals. Therefore, consistent with GMA would be Jefferson County’s adoption of a right to mine ordinance that incorporates the nuisance and notice provisions of GMA, along with GMA’s classification criteria, as is found in other jurisdictions.

The Draft SEIS points out that both MRL alternatives are consistent with the mandates of GMA, the Jefferson County UDC, and the recommendations of WDNR. The WWGMHB confirmed this in the FDO at the bottom of page 37 where it concludes “[i]n all other respects, the Petitioners have failed to meet their burden in showing that the challenged action is inconsistent with the County’s comprehensive plan and development regulations.” The notation of consistency of the alternatives with these mandates, rules, and recommendations is not contrary to the acknowledgement in the FDO of the County’s implicit protection of resources within forestry designated areas.

- 12. The DSEIS also states that there is no limit on the number of ten-acre segments that could be incorporated into a larger mining plan (DSEIS 1-3). This is inconsistent with UDC 4.24(2). "Any disturbed areas in excess of 10 gross acres shall require an MRL designation in accordance with Section 3.6.3 of this UDC." See UDC § 4.24(2). This statement is another example of an attempt to bias the result against the "no action" alternative by suggesting that the alternative has impacts, but where the argument is unsupported by analysis and is contrary to existing county law. If the County intends to stand by this unsupported statement, we request an explanation of how mining an unlimited number of ten-acre segments purports to comply with the County's UDC.**

The Introduction and Summary (Section 1.0) includes, as a summary should, a few descriptive statements about each subject that is further described in subsequent sections of the Draft SEIS. Section 2.7, the portion of the Draft SEIS on which the above description of the lack of UDC-based limitation on the number of 10-acre segments allowed to be included in mining activity outside of an MRL is based, includes the following text:

“Mineral extraction is a permitted use in agricultural and forest (resource land) designations, and requires a conditional use permit in rural residential designated areas (See UDC Table 3-1). Regardless of whether the mineral extraction is a permitted use or a conditional use, mining-related activity proposed outside of a designated MRL overlay district is limited to 10 acres of disturbed area at any given time. Jefferson County does not restrict contiguous 10 acre segments provided that less than 10 acres is disturbed at any given time; any applicant may submit necessary application materials to WDNR for an overall mine area that includes an unlimited number of 10-acre mining segments.”

There is a distinction both in the Draft SEIS and the administration of the UDC (since its inception) between “disturbed area” and 10-acre segment. The Draft SEIS, both in Section 2.7 and throughout the elements included in Section 3, describes the possibility of a large overall mine area in which no more than 10 acres may be disturbed at any given time prior to reclamation. The impacts analysis included in the Section 3 of the Draft SEIS is based on 10-acre disturbed segments that may or may not be included within a large mining plan, in which only 10 acres may be disturbed at any given time.

- 13. The DSEIS asserts that the County must identify new mineral resource lands because the County's access to the resource does not meet its projected need. See DSEIS 2-6. The asserted rationale is that 90 percent of the aggregate produced from mines in Jefferson County is in private ownership and the market trend is to sell this aggregate outside of the county. Id. "Given the likelihood that the current conditions reflect future trends, it is possible that future Jefferson County demand would require additional resources since in-county resources may be exported before they can be utilized by County residents." Id. This rationale provides no support for approving an application for a mineral land overlay by a private company that has stated in its MRL request (and elsewhere) its intent to sell its aggregate to distant markets out of the county, state, and country. Indeed, approving this MRL will exacerbate the asserted problem by facilitating FHM's plans to sell its aggregate outside of the County.**

The Draft SEIS text, in Section 2.5, provides an historical background of Jefferson County's MRL designation process and GMA compliance. The text, in Sections 2.5.2.2 and 2.5.2.3 describe the County's resource needs and supply, along with discussion of where resources are sold. The text does not assert that the county must, “identify new mineral resource lands because the County's access to the resource does not meet its projected need”. The text concludes:

Section 2.5.2.2: “...Jefferson County staff estimated that to meet the 50-year county aggregate need per capita, the required aggregate supply would be 25 million tons (Jefferson County

2002b).

Section 2.5.2.3: “Jefferson County (2002b) could not determine whether the reserves in the permitted mines could meet the 50-year demand. It was also noted, however, that there are adequate resources in Jefferson County to meet the demand of the projected county population.” Section 2.5.2.4 goes on to state that, “Jefferson County has acknowledged that it must identify resource lands of long-term commercial significance by creating a process through UDC adoption for such designation.” The subsequent discussion describes the County’s reasoning behind the UDC-based support for mineral lands designation to provide both in-county resources and an export market. The County’s reasoning, as noted in the Draft SEIS, is based on WDNR recommendations and previous WWGMHB decisions (see Section 2.5.2.4 of the Draft SEIS.) The UDC MRL overlay adoption criteria do not require that all resources be used within and for the benefit of Jefferson County and do not preclude application by and for private companies. Jefferson County staff must process Comprehensive Plan amendment applications as required under the UDC for all proposals that meet the amendment criteria.

Furthermore, the Approved action was found to be compliant with the County’s comprehensive plan and development regulations by the WWGHMB. The reader is again referred to page 37 of the FDO. Thus, the subject matter of this comment is arguably not part of what is before the WWGMHB as the parties approach the Compliance Hearing, since only the County’s SEPA-derived work was found to be deficient or in GMA terms, non-compliant.

14. Both the "proposed" and "approved" alternatives undercut the responsibility of providing resource to the County because large quantities of unrenovable resources will be depleted, yet not benefit county residents or fulfill the asserted justification to meet there needs. This is another example of unsupported assertions which do not stand up to the light of day and which illustrate indefensible bias in the DSEIS.

There is no portion of the Draft SEIS text that states that the MRL alternatives would add to the County’s inventory of mineral resources that meet the GMA-mandated supply. The Draft SEIS states that Jefferson County, in adopting a process designating resource lands beyond those described in Draft SEIS Section 2.5, acknowledges the need for identifying resource lands of long term commercial significance. There is no assumption that either of the MRL alternatives, if adopted, would exclusively provide resources to Jefferson County. The Draft SEIS text goes on to note that WDNR recommended to the Legislature in 1991 that MRLs in excess of the required 50-year supply be designated and protected in resource rich counties to provide an export market.

Furthermore, the Approved action was found to be compliant with the County’s comprehensive plan and development regulations by the WWGHMB. The reader is again referred to page 37 of the FDO. Thus, the subject matter of this comment is arguably not part of what is before the WWGMHB as the parties approach the Compliance Hearing, since only the County’s SEPA-derived work was found to be deficient or in GMA terms, non-compliant.

- 15. The DSEIS states that the county has provided mitigation to the "approved" alternative. Requirements that already are found in existing law do not qualify as "mitigation." We request that the DSEIS explain how enforcement of the County's existing law that already applies to these lands can be described as "mitigation" for the "approved" alternative.**

Refer to the response to Comment 2, as numbered for this Final SEIS, of the Gendler & Mann LLP comment letter.

- 16. In the Plants and Animals section, the DSEIS does not address, for the analysis of the "proposed" action and the "approved" action alternatives, the adverse effects of having larger amounts of unreclaimed land at any given time. The failure to explain this biases the document against the "no action" alternative, which has lesser impact because smaller quantities of land would be in disturbed or reclamation status at any one time. We request that the DSEIS analyze the impacts on wildlife and plants, and on forestry resources, resulting from having larger amounts of unreclaimed land at any given time and from the slow process of reclamation associated with the two MRL alternatives in comparison to the "no action" alternative.**

Mining segment size for the Proposed Action and Approved Action alternatives are described in various sections of the Draft SEIS and intensity of use related to mining segment size is discussed in Section 2.8 of the Draft SEIS. Section 3.1.4 of the Draft SEIS describes the potential significant adverse impacts of the implementation of either of the MRL overlay district alternatives and the No Action alternative on plants and animals. Section 3.1.4 of the Draft SEIS describes the impacts, both direct and indirect that may occur with each alternative. These impacts, as described in the Draft SEIS, include forest clearing for future mining, disruption of wildlife (foraging, reproduction, migration), and increased human activity. Unavoidable adverse impacts, those impacts that may remain after implementation of mitigation measures, include a description of the possibility of loss or degradation of habitats and their associated inhabitants.

Section 2.8 of the Draft SEIS notes that reclamation is governed by WDNR and that RCW 78.44.111 requires the permit holder to reclaim each segment of the mine within two years of mining completion. The acknowledgement of potential direct impacts to plants and animals in terms of loss of habitat and disruption of populations described in Section 3.1.4 from mining activities that may occur in described large segments provides an adequate and accurate picture of the potential loss of plants and animals, along with duration. The knowledge, from Section 2.8, that reclamation is required after two years and that reclamation may lag one to several segments behind the active mining segment, means that loss of vegetation and habitat during site clearing would be ongoing for at least several years.

The discussion of the No Action alternative included in Section 3.1.4 of the Draft SEIS is an expansion of Section 2.8 in terms of the relationship between mining segment size and disturbed area limitations, the analysis of intensity of use required by the WWGMHB. The discussion of the No Action alternative notes that potential impacts to plants and animals may be lower if there

are few mining segments included in an overall mining plan. Section 2.8 describes the possibility of many 10-acre segments being included in a mining plan and the similarity of scope between this possibility and the overall area included in each of the MRL overlay district alternatives. Section 3.1.4 notes in its description of the No Action alternative that inclusion of many segments may result in a high level of impact, similar (based on Section 2.8) to the level impact that may occur with the MRL alternatives.

- 17. The DSEIS attempts to justify the "approved" alternative on the basis that the "no action" alternative would encourage mining activities to occur outside of designated MRLs. Because resource uses are not purportedly not protected from nuisance claims, the argument goes, this could result in impacts to surrounding land uses. DSEIS at 3-35.**

The Draft SEIS neither states nor implies that the No Action alternative would encourage mining activities outside of a designated MRL. The Draft SEIS analyzes the No Action alternative as mining under existing UDC rules, which allow mineral extraction outside of MRLs or MRL overlay districts in resource land (agricultural and mining) areas and rural residential areas with a conditional use permit. As described in Section 2.5 of the Draft SEIS, RCW 36.70A.170 required that Jefferson County adopt regulations that discourage incompatible uses.

Section 3.2.2 of the Draft SEIS notes that the MRL alternatives would be afforded GMA-mandated mineral lands protections as overlay districts and mining that may occur under the No Action alternative would not.

- 18. The land use conflict in terms of the incompatibility of the industrial pit-to-pier proposal on a conservancy shoreline and on the residential area through which the four mile conveyor would pass has not been examined. The SEIS should discuss this land use conflict. It also needs to acknowledge that there are no industrial uses of the conservancy Hood Canal shoreline, and address the precedential and cumulative impacts associated with allowing a first such use.**

Refer to Section 2.2 of this Final SEIS. The pit-to-pier proposal will be the subject of a detailed environmental review with many opportunities for public comment and analysis. This programmatic EIS is not the proper place for such a review.

- 19. We request that the SEIS analyze how there could be a greater likelihood of land use conflict with surrounding land uses from a "no action" alternative than from either the "proposed" action or "approved" action alternatives.**

The No Action alternative acknowledges that mining may occur under existing UDC regulations for areas outside of MRLs or MRL overlay districts and that such mining activities would not be afforded the GMA protections of mining activities that would occur within MRLs or MRL overlay districts. These GMA protections are from nuisance claims and incompatible uses.

Mining activities that may occur under the No Action alternative may be located in Rural Residential areas adjacent to 5-acre lots: lot owners may file claims against nearby mine operators and mining activities may impact nearby residential uses. See response to Comments 11 and 17, above.

- 20. The SEIS also needs to address the land use conflicts inherent in the transportation mode proposed by FHM, which would introduce industrial use into residential and shoreline conservancy areas.**

Refer to Section 2.2 of this Final SEIS.

- 21. An EIS is required to summarize existing land use and shoreline plans, and zoning regulations, and explain how a proposal is consistent or inconsistent with them. WAC 197-11-440(6)(d)(1). The 2004 Legislature passed Engrossed Substitute Senate Bill 6401, which has been signed into law by Governor Locke. FHM's pit-to-pier proposal, which the Board has directed to be evaluated in this SEIS, may threaten the ability of the Naval Submarine Base at Bangor to fulfill its mission requirements by causing marine traffic conflicts with Navy traffic and operations. The SEIS should assess the potential conflict and evaluate whether the MRL comprehensive plan amendment can be approved consistent with ES SB 6401.**

Engrossed Substitute Senate Bill 6401 will require Jefferson County to review military installation protection issues. This review would be part of a large and comprehensive process that may undergo its own environmental review process. As described in the Draft SEIS and in Sections 2.1 and 2.2 of this Final SEIS, FHM's conveyor and pier facility proposal would require subsequent environmental review. Section 2.2 also describes other agencies whose review and approval would be required in project-specific analysis of the pit-to-pier proposal. As noted, marine transport would require U.S. Army Corps of Engineers approval with U.S. Coast Guard concurrence. Review required under Engrossed Substitute Senate Bill 6401, if Jefferson County has not initiated their review, would be conducted in project-specific environmental review.

It is not appropriate to study the project-specific impacts that might arise from the pit-to-pier project in a non-project or programmatic environmental analysis such as this one relating to a Comprehensive Plan amendment. Jefferson County has repeatedly stated that project-specific environmental review would be required for FHM's proposed excavation activities, the central conveyor and pier (pit-to-pier) proposal, and any future expansion of the Shine Hub.

The comment on the necessity of discussing Engrossed Substitute Senate Bill 6401 is based on the incorrect premise that the WWGMHB required the County to study the pit-to-pier proposal, when, in fact, the WWGMHB determined that the pit-to-pier proposal was and is not an alternative to the MRL overlay alternatives examined in this non-project SEIS. (FDO 28-29). In addition, FHM has informed Jefferson County that discussions are underway with the U.S. Navy about its pit-to-pier proposal.

22. **As required by the Growth Board's decision, the SEIS must evaluate the impacts of higher extraction rates associated with alternate means of transporting minerals. The SEIS needs to evaluate the traffic impacts associated with each alternative. We request that the DSEIS analyze alternate transportation, specifically the conveyor, pier and marine transport proposal, with respect to the adverse impacts associated with the increased rate of extraction that the project would facilitate and also its direct adverse traffic impacts. Any claim in the SEIS that marine transport would alleviate SR 104 traffic needs to be supported by analysis to quantify and support the claim.**

Refer to Section 2.2 of this Final SEIS.

GENDLER & MANN, LLP

ATTORNEYS-AT-LAW

Michael W. Gendler*
David S. Mann
Melissa S. Arias

1424 FOURTH AVENUE, SUITE 1015
SEATTLE WA 98101

(206) 621-8868
Fax (206) 621-0512

*Also admitted in Oregon

arias@gendfermann.com
www.gendfermann.com

April 2, 2004

VIA EMAIL, FACSIMILE TO 360-379-4473 AND US MAIL

Greg Ballard
Jefferson County Department of
Community Development
621 Sheridan Street
Port Townsend, WA 98368

RE: Jefferson County Comprehensive Plan Amendment Environmental Analysis for
Adoption of Mineral Resource Land Overlay (MLA 02-235: Fred Hill Materials)

Dear Mr. Ballard:

We appreciate the opportunity to comment on the Draft Supplemental Environmental Impact Statement (DSEIS) to the 2002 Comprehensive Plan Amendment SEIS. We have reviewed the draft and are submitting the following comments on behalf of the Hood Canal Coalition, Olympic Environmental Council, Jefferson County Green Party, People for a Liveable Community, Kitsap Audubon Society, Hood Canal Environmental Council, and People for Puget Sound.

As stated in past comments to Jefferson County regarding the Fred Hill Materials MRL request, this is a complex proposal that requires careful, reasoned analysis of the potential environmental impacts to Jefferson County and its resources. In this letter, we will be addressing the following areas of concern:

1. The DSEIS fails to meet the basic requirements of WAC 197-11-400 through -460.
2. The DSEIS does not address the issues specified in the County by the Western Washington Growth Management Hearings Board's Final Decision and Order.
3. The DSEIS makes conclusory and unsupported statements, all of which bias the document to support the "adopted" alternative.

I. THE DSEIS FAILS TO MEET THE BASIC REQUIREMENTS
OF WAC 197-11-400 THROUGH -460

SEPA requires the disclosure and full consideration of environmental impacts in governmental decision-making.¹ The EIS provides a basis upon which the jurisdiction can make the balancing judgments required by SEPA.²

The required contents of an EIS are set out in WAC 197-11-440. For non-project actions such as Comprehensive Plan amendments, the general rule for the content of an EIS apply except that the lead agency is granted more flexibility in preparing an EIS than in project actions. WAC 197-11-442.

The SEPA rules require an EIS to include a “list of all licenses which the proposal is known to require. The licenses shall be listed by name and agency; the list shall be as complete and specific as possible.” WAC 197-11-440(2)(d). This DSEIS does not meet this requirement. The FSEIS should identify clearly all “licenses” (i.e., permits and any other government approvals) which will be required to implement each of the alternatives. This must include licenses and permits required for the various means of transportation that may be employed in conjunction with processing and shipment of mineral from the MRL lands, including FHM’s “pit to pier” proposal for which application already has been made and which was referenced in FHM’s application for this MRL. It will benefit the County and public to have a clear and complete specification of the licensing steps that are required. } 1

Another benefit of complying with WAC 197-11-440(2)(d) is that there will be clarification of existing legal requirements. For example, the DSEIS incorrectly describes as “mitigation” the preparation of a consultant’s report. See DSEIS at 3-6. See also discussion in section III(A)(3) *infra*. But this report already is required by existing county law, and therefore is not “mitigation.” The proper identification of existing legal requirements will help to avoid such misstatements, and avoid also the inaccurate impression fostered by this DSEIS that the proposal includes measures intended to minimize the impacts of the “approved” alternative. } 2

The SEPA rules also require that the EIS include specification of “the type and timing of any subsequent environmental review to which the lead agency or other agencies have made commitments, if any.” WAC 197-11-440(2)(j). The DSEIS mentions and relies on “phased review,” but does not clearly identify what the phases will include and when they will be completed. } 3

¹ Polygon Corp. v. Seattle, 90 Wn.2d 59, 61, 578 P.2d 1309 (1978).

² SWAP v. Okanogan County, 66 Wn. App. 439, 441, 832 P.2d 503 (1992).

The SEPA rules require that a nonproject EIS “identify subsequent actions that would be undertaken by other agencies as a result of the nonproject proposal, such as transportation and utility systems.” WAC 197-11-442(3). The Growth Board has directed the County to include discussion of alternative modes of transporting mineral, and discuss generally the impacts of the modes. This rule complements the Board’s directive. The EIS should identify the government actions that would be expected to occur with respect to transportation systems for each of the alternatives. } 4

WAC 197-11-440(2)(e) requires that the authors and principal contributors to the EIS be identified, together with the nature and subject area of their contributions. Wheeler Consulting Group, Inc. has failed to provide this basic information in the DSEIS. No authors or principal contributors have been identified, in violation of this regulation. Without this required information, the public has no way of determining whether the authors and principal contributors have proper qualifications in the areas of “expertise” for which they have been assigned. This is particularly important where, as this DSEIS, there are numerous unsupported assertions which are biased in favor of the “approved” alternatives. The FSEIS needs to identify each author and principal contributor, specify the nature and subject area of the contributions of each, and state each author’s and contributor’s qualifications specific to the sections to which they contributed. } 5

II. THE DSEIS DOES NOT ADDRESS THE ISSUES REMANDED TO THE COUNTY
BY THE WESTERN WASHINGTON GROWTH MANAGEMENT
HEARINGS BOARD’S FINAL DECISION AND ORDER

On December 13, 2002, the Jefferson County Board of County Commissioners adopted Ordinance No. 14-1213-02 amending the Comprehensive Plan to designate a mineral resource land overlay (MRL) requested by Fred Hill Materials. On February 21, 2003, the Hood Canal Coalition, Olympic Environmental Council, Jefferson County Green Party, People for a Liveable Community, Kitsap Audubon Society, Hood Canal Environmental Council, and People for Puget Sound petitioned to the Western Washington State Growth Management Hearings Board (“WWGMHB” or “Board”) for review of this Comprehensive Plan amendment. On August 15, 2003, the WWGMHB remanded the Comprehensive Plan amendment to the County for further review under SEPA.

In its Final Decision and Order (FDO), the Board found that the environmental review that was done for the mineral resource overlay designation was inadequate because of the absence of “sufficient information for a reasoned choice among alternatives.” Final Decision and Order at 8 (Aug. 15, 2003). The Board stated that its decision was based upon the need to identify specific environmental impacts associated with a mineral resource overlay designation and present information about the significance of the analysis of environmental impacts on the decision to the County commissioners. FDO at 8 (“SEPA review is intended to provide information about

environmental impacts so that the decision-makers can know the possible environmental consequences of their choices”).

The Board directed the County to evaluate alternatives, including the no-action alternative, in terms of the 13 factors that the EIS had listed. The Board also directed that the County’s evaluation consider the maximum possible mining development that could occur under each scenario consistent with existing Jefferson County regulations. FDO at 27, citing Ullock v. Bremerton, 17 Wn. App. 573 at 575, 565 P.2d 1179 (1977) (“we hold that an EIS is adequate in a non-project zoning action where the environmental consequences are discussed in terms of the maximum potential development of the property under the various zoning classifications allowed”).

The Board held that the County was required to analyze the impacts that increased intensity of mining would have on transportation and include an analysis of transportation alternatives to trucking. This analysis is to include the transportation impacts associated with FHM’s pit-to-pier proposal, for which an application has been filed. FDO at 9, 29. Independent of the Board’s decision, SEPA requires that a nonproject EIS include consideration of the impacts of related proposals for which applications are pending. WAC 197-11-442(4) (“The EIS content may be limited to a discussion of alternatives which have been formally proposed or which are, while not formally proposed, reasonably related to the proposed action”).

The Board held that “there are aspects of the future pit-to-pier project that are appropriate for environmental review at this time. Those aspects arise from the need to transport the mineral extracted under the new mineral resource overlay designation. A conveyor project of some kind is a likely consequence of an enhanced excavation, something of which the applicant itself apprised the County.” FDO at 28. The Board directed:

In looking at the potential environmental impacts of the increased site size within the two alternative overlay areas (690 acres and 6,240 acres), the EIS should consider the increased production and the consequent need to transport the aggregate mined. If the roads are already at capacity, then the need for some kind of conveyor system should be considered. Since the applicant has already flagged this possibility, the EIS should evaluate the transportation impact generally.

FDO at 29.

The Draft SEIS has failed to meet both of these directives by the Board. First, this DSEIS does not review the environmental impacts of each alternative from the standpoint of the “maximum

possible mining development that could occur under each scenario.” Second, the DSEIS did no evaluation of the known intent of the applicant to transport the aggregate mined by a conveyor, pier, and marine transportation system as an alternative to trucking.

A. The DSEIS fails to review the environmental impacts of each alternative from the standpoint of “maximum possible mining development”

Section 2.8 in the DSEIS examines the “intensity of use.” However, this section does not analyze the alternatives from the standpoint of the “maximum possible mining development that could occur under each scenario.” Nor does any other section of the DSEIS meet the Board’s mandate to do this.

For example, section 2.8 does not analyze the intensity of use of the resource land with regard to the “proposed” alternative. Nor does it analyze the intensity of use from the standpoint of the maximum possible mining development that could occur under the approved alternative or the “no action” alternative. The failure of the DSEIS to compare the alternatives from the standpoint of maximum possible mining is also evident throughout sections 3.1; 3.1.2; 3.1.3; 3.1.4; 3.2.1; 3.2.2; and 3.2.3.

We request that the DSEIS examine each alternative on the basis of the “maximum possible mining development that could occur under each scenario.”

B. The DSEIS fails to evaluate the pit-to-pier conveyor as required by the FDO

Almost a full year before the creation of this DSEIS, FHM submitted project-specific applications for both a reclamation permit for the Wahl Lake mineral resource area and for a pit-to-pier conveyor, pier and marine transport operation. Prior to filing these applications for approval, FHM stated in its MRL amendment request that its intention was to transport aggregate via conveyor to a pier facility where it would be loaded on barges and ships for export out of Jefferson County.³ However, at no point does the DSEIS even apprise the decision-maker of these two pending applications, let alone discuss them. The DSEIS therefore violates the Board’s directive that “aspects of the future pit-to-pier project ... are appropriate for environmental review at this time.” FDO at 28. The failure to acknowledge the Board’s ruling, identify the aspects that are appropriate for environmental review at this time, and conduct that review also are contrary to the Board’s observation that a governmental non-project action can “snowball and acquire virtually unstoppable administrative inertia.” See FDO at 29, citing King

³ “Expansion of their extraction, processing and transport operations, including a request to permit the development of a conveyor and pier facility that would enable FHM to serve Washington interstate markets”

7 (cont.)

9 (cont.)

County v. Boundary Review Board, 122 Wn.2d 648, 664. See also WAC 197-11-442-(4) (SEPA requires that an EIS include a discussion of alternatives “formally proposed” or “reasonably related” to the proposed non-project action).

This DSEIS invokes phased review as the reason for not evaluating impacts related to future projects. But the Board rejected the very argument that phased review excuses the County’s obligation to consider environmental impacts of already proposed projects. The Board directed that the proposed alternative transportation system (conveyor and pier) for the pit-to-pier project must be evaluated “generally.” See FDO at 28-29. Not even this “general” analysis was done. The only sentence in the DSEIS does not even identify any transportation alternative to trucking, “If alternatives to truck transport of material to markets are developed, capacity issues with SR 104 could be avoided.” DSEIS 3-43. The conclusion asserted in the sentence is unsupported by any data or analysis. No data is provided to support the premise that there are capacity issues with SR 104, which need to be avoided. Moreover, marine transport would create new traffic congestion impacts on SR 104 due to bridge openings, and threatens catastrophic impacts to SR 104 (and to the entire Peninsula economy and way of life) if a barge or ship hits the Hood Canal Bridge forcing a lengthy bridge closure. The failure to identify or discuss the potential adverse impacts of the vaguely referenced “alternatives to truck transport” is another example of a biased presentation plainly intended to favor the “approved” alternative.

The specific location of the conveyor, the height, length, amount of aggregate it is capable of carrying, and how it will be utilized, is information that was included with the MRL request application. Additional information has been provided in subsequent applications submitted to the County. Yet the DSEIS does not provide even the most basic analysis of the impacts that would be associated with transporting the aggregate from this resource area along a four-mile-long conveyor to a 1,100-foot pier where the mineral will be loaded onto barges the size of football fields, or ore ships. This transportation alternative will have land use impacts, shoreline and water resource impacts, noise impacts, plant and wildlife impacts, visual impacts and traffic impacts.

The premise of the DSEIS that the Board’s directives required only evaluation of the one mile conveyor from the “approved” MRL to the Shine pit is disingenuous. The Board’s order explicitly identified the already proposed pit to pier project as ready for some level of environmental review at this nonproject point now, FDO at 28-29, and plainly required identification and discussion of alternative means of transporting processed minerals from FHM property to market delivery points by truck and other modes. Additionally, the Board cited concern for truck traffic over-taxing the roads. Order on Reconsideration at 3. There is no road between the “approved” MRL and the Shine Pit. Discussion of this conveyor does not meet the requirements of the Board’s order.

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We request that the DSEIS address the impacts of an alternative transportation system of the pit-to-pier project as directed by the Board in its FDO.

III. THE DSEIS MAKES CONCLUSORY AND UNSUPPORTED STATEMENTS, ALL OF WHICH BIAS THE DOCUMENT TO SUPPORT THE "ADOPTED" ALTERNATIVE

A. Earth Resources

1. Protection of resource lands

The DSEIS makes several inaccurate and conclusory statements, indeed statements that already have been discredited by the County's prior SEPA documents. The DSEIS states that the designation of either the Proposed Action or the Approved Action would protect mineral resource lands, but that the No Action alternative would not. See 1-6. This argument has already been rejected by the Growth Board, which quoted and relied on the County's own prior statements:

Both the County and the Intervenor argue that the County could not adopt the no-action alternative and meet the County's obligation to designate and protect mineral resource lands under the GMA. . . However, the County disposed of this argument in the 1997 environmental impact statement (EIS) to the comprehensive plan:

[Therefore,] the inclusion of mineral extraction and primary processing as a permitted use on designated forest land will protect mineral resource lands from the encroachment of incompatible development, conserve the mineral resource land base of Jefferson County, and allow for its future utilization by the mining industry. . .

The 1997 EIS also explained why the County had elected to use a mineral resource overlay rather than using a mineral resource lands designation:

An overlay is used because mining operations are eventually depleted and sites are converted to other uses and thus the mineral lands designation is not permanent. Upon completion of mining operations and following the recommendation of a site, it will be removed from the mineral land designation and will be subject to the

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underlying land use designation depicted on the land use map . . .

Thus, the County's rationale for protecting its mineral resource lands with a commercial designation was settled in 1998.

Final Decision and Order at 19.

This argument has been made and rejected, and should not have been renewed. Not surprisingly, there is nothing in the DSEIS that shows that the adoption of a no-action alternative would not protect mineral resources area or that it would not be consistent with the directives of both the GMA and the Jefferson County Comprehensive Plan as implemented by the UDC. DSEIS at 3-5. UDC § 3.6.3.2 provides that allowable uses within an MRL overlay district are the uses of the underlying designation. The DSEIS argues that if an MRL overlay is not imposed, the commercial forest designated lands could be encroached on by incompatible uses as development is allowed in one home per 80 acres. However, as stated in UDC § 3.6.3.2, the allowable uses within the overlay district are the same uses as the underlying designation. The same development (1:80) would be allowed under the "approved" or "proposed" MRL. This argument does not show that the "no-action" alternative fails to protect mineral resource lands from incompatible development. To the contrary, the County in its GMA planning recognized that the commercial forest designation protects both timber lands and the mineral resources lying below. While not being mined, these lands can continue to be used as forest resource areas with identical protection against incompatible uses or development.

11 (cont.)

The repetition of this discredited rationale demonstrates the County's refusal to accept the Board's decision, its refusal to accept its own prior SEPA analysis on which the Board relied, and ultimately its refusal to accept the reality that the "protection of resource" argument simply does not wash. The statement is wrong, and we request it be deleted. If the County believes that circumstances have changed such that its prior analysis is wrong and that it is free to disregard the Board's holding, we request that the SEIS provide an analysis of how the no-action alternative fails to protect resource lands from incompatible development. Such an analysis would need to explain how circumstances have changed, why the County's 1997 EIS is now wrong, and why the County believes it can disregard the Board's holding, and not simply repeat the discredited argument.

The DSEIS also states that there is no limit on the number of ten-acre segments that could be incorporated into a larger mining plan (DSEIS 1-3). This is inconsistent with UDC 4.24(2). "Any disturbed areas in excess of 10 gross acres shall require an MRL designation in accordance with Section 3.6.3 of this UDC." See UDC § 4.24(2). This statement is another example of an attempt to bias the result against the "no action" alternative by suggesting that the alternative has impacts, but where the argument is unsupported by analysis and is contrary to existing county

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law. If the County intends to stand by this unsupported statement, we request an explanation of how mining an unlimited number of ten-acre segments purports to comply with the County's UDC.

2. Designation of resource lands

The DSEIS asserts that the County must identify new mineral resource lands because the County's access to the resource does not meet its projected need. See DSEIS 2-6. The asserted rationale is that 90 percent of the aggregate produced from mines in Jefferson County is in private ownership and the market trend is to sell this aggregate outside of the county. *Id.* "Given the likelihood that the current conditions reflect future trends, it is possible that future Jefferson County demand would require additional resources since in-county resources may be exported before they can be utilized by County residents." *Id.* This rationale provides no support for approving an application for a mineral land overlay by a private company that has stated in its MRL request (and elsewhere) its intent to sell its aggregate to distant markets out of the county, state, and country. Indeed, approving this MRL will exacerbate the asserted problem by facilitating FHM's plans to sell its aggregate outside of the County.

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The Growth Management Act makes it incumbent on the County to use all practical means so that the state and its citizenry may "fulfill the responsibilities of each generation as trustee of the environment for succeeding generations." RCW 36.70A.020(2)(a). Both the "proposed" and "approved" alternatives undercut this responsibility because large quantities of unrenueable resources will be depleted, yet not benefit county residents or fulfill the asserted justification to meet there needs. This is another example of unsupported assertions which do not stand up to the light of day and which illustrate indefensible bias in the DSEIS.

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The assertion that meeting in-county need justifies the "approved" or "proposed" alternatives should be deleted. If this justification is mentioned at all, the SEIS should recognize that the "no action" alternative does more to meet local needs than either of the other alternatives. If the SEIS continues to assert meeting local need as an argument for any other alternative, the EIS needs to explain how approval of an MRL for a self-proclaimed export company would meet local needs.

3. Mitigation

The DSEIS states that the county has provided mitigation to the “approved” alternative:

Prior to the approval and operation of a surface mine in the Wahl Lake or Meridian area of the Thorndyke Tree Farm, the proponent shall submit and satisfy all requirements of the (UDC) including, but not limited to:

Performance Standards of Section 4:

Extraction report prepared by a professional geologist with elements required pursuant to UDC 4.24.2a-f.

See DSEIS at 3-6. These performance standards and an extraction report already are required by the County’s UDC. The requirements already are applicable to any new surface mine in or out of an MRL. Requirements that already are found in existing law do not qualify as “mitigation.” Moreover, the DSEIS emphasizes the preparation of a report, but preparation of a report is not “mitigation.”

The inaccurate assertion of mitigation is another example of bias in favor of the “approved” alternative. We request that the DSEIS explain how enforcement of the County’s existing law that already applies to these lands can be described as “mitigation” for the “approved” alternative. The SEIS would better serve its intended purpose if it identified and described real “mitigation,” consisting of actual on the ground new measures (not preparation of reports) intended to minimize adverse impacts.

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B. Other impacts on the natural and built environment

1. Plants and wildlife

The DSEIS states that while reclamation would have to commence after disturbing ten acres, reclamation is a relatively slow process that cannot quickly replace vegetation and/or habitat that is displaced. See DSEIS at 3-26. With larger mine areas that may include many segments, the level of impact would be high as a result of prolonged human activity and noise. The impacts would be exacerbated by the relatively slow process of replacing mature vegetation. Id. If either the “proposed” or “approved” MRL is adopted, then mining in unlimited segments (proposed) or 40-acre segments (approved) also would take more timber resources out of production for longer periods than would be the case for ten-acre segments (under the no action alternative), as reclamation to enable reuse as timber lands would take longer for those larger segments.

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Accordingly, the “approved” and “proposed” alternatives adversely effect other resource use as well as habitat, compared to the “no action” alternative.

In its analysis of the “proposed” action and the “approved” action alternatives, the DSEIS does not address the adverse effects of having larger amounts of unreclaimed land at any given time. The failure to explain this biases the document against the “no action” alternative, which has lesser impact because smaller quantities of land would be in disturbed or reclamation status at any one time.

We request that the DSEIS analyze the impacts on wildlife and plants, and on forestry resources, resulting from having larger amounts of unreclaimed land at any given time and from the slow process of reclamation associated with the two MRL alternatives in comparison to the “no action” alternative.

2. Incompatible land uses

The DSEIS attempts to justify the “approved” alternative on the basis that the “no action” alternative would encourage mining activities to occur outside of designated MRLs. Because resource uses are not purportedly not protected from nuisance claims, the argument goes, this could result in impacts to surrounding land uses. DSEIS at 3-35. To the extent that the DSEIS applies this argument to forestry lands, it is flawed for the reasons stated in this comment Section A! regarding protection of resource lands. To the extent the argument is aimed at mining outside of any designated (and therefore already protected) resource lands, it similarly has no merit. This is because none of the alternatives would change the level of protection from incompatible land uses or nuisance claims for mining activities outside of a designated MRL. Accordingly, the potential for land use conflicts resulting from mining outside of designated MRLs is the same for all alternatives.

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However, there is a land use conflict which was omitted but does need to be acknowledged and evaluated in this SEIS, the incompatibility of the industrial pit-to-pier proposal on a conservancy shoreline and on the residential area through which the four mile conveyor would pass. The SEIS should discuss this land use conflict. It also needs to acknowledge that there are no industrial uses of the conservancy Hood Canal shoreline, and address the precedential and cumulative impacts associated with allowing a first such use.

18

We request that the SEIS analyze how there could be a greater likelihood of land use conflict with surrounding land uses from a “no action” alternative than from either the “proposed” action or “approved” action alternatives. The SEIS also needs to address the land use conflicts inherent in the transportation mode proposed by FHM, which would introduce industrial use into residential and shoreline conservancy areas.

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An EIS is required to summarize existing land use and shoreline plans, and zoning regulations, and explain how a proposal is consistent or inconsistent with them. WAC 197-11-440(6)(d)(1). The 2004 Legislature passed Engrossed Substitute Senate Bill 6401, which has been signed into law by Governor Locke. This new law requires counties such as Jefferson County to review their comprehensive plans and to make the amendments necessary to protect military installations against incompatible land uses. Section 2(3) of the new law specifies that a comprehensive plan amendment should not allow development in the vicinity of a military installation that is incompatible with the installation's ability to fulfill its mission requirements. This new law applies to this MRL application. FHM's pit-to-pier proposal, which the Board has directed to be evaluated in this SEIS, may threaten the ability of the Naval Submarine Base at Bangor to fulfill its mission requirements by causing marine traffic conflicts with Navy traffic and operations. The SEIS should assess the potential conflict and evaluate whether the MRL comprehensive plan amendment can be approved consistent with ESSB 6401.

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3. Traffic

The DSEIS states for both the "approved" and "proposed" action alternatives that if an alternative transportation mode was developed, extraction rates would likely increase. DSEIS at 3-43. As explained in section II(B) *supra*, the DSEIS was required to evaluate an alternative transportation system, specifically the conveyor, pier and marine transport operation, which has been identified in FHM's filed application for its proposed pit-to-pier project. The DSEIS admits that an alternative transportation system would impact the extraction rate. Therefore, as required by the Growth Board's decision, the SEIS must evaluate the impacts of higher extraction rates associated with alternate means of transporting minerals. This would include recognition that the transportation system proposed by FHM will result in lands being disturbed at a faster rate, more lands awaiting reclamation, more impacts on wildlife and plants, impacts on the fragile conservancy shoreline, and land use conflicts between the industrial conveyor and pier facility and the conservancy shoreline and residential areas into which it would intrude.

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The SEIS also needs to evaluate the traffic impacts associated with each alternative. As mentioned earlier in this comment, this includes the potential for worsening traffic on SR 104 on a routine basis due to bridge closures, and the severe and extraordinary impacts to the County's economy, health, and environment that would be associated with a barge or ship collision which deprived the public of the use of the Hood Canal Bridge.

We request that the DSEIS analyze alternate transportation, specifically the conveyor, pier and marine transport proposal, with respect to the adverse impacts associated with the increased rate of extraction that the project would facilitate and also its direct adverse traffic impacts. Any claim in the SEIS that marine transport would alleviate SR 104 traffic needs to be supported by analysis to quantify and support the claim.

Greg Ballard
April 2, 2004
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IV. CONCLUSION

The foregoing comments indicate the changes and analyses needed to bring the SEIS into compliance with SEPA's requirements and the Growth Board's directives. We encourage the County to take these steps and avoid a final SEIS which suffers from an openly biased presentation and from the same flaws as the DSEIS as identified in our comments.

Very truly yours,

GENDLER & MANN, LLP

Michael W. Gendler

Melissa S. Arias

MSA:den
cc: Clients

3.1.3 Todd McGuire

Todd McGuire
504 V St.
Port Townsend, WA 98368
360-379-1749

1. The report content in section 1 does not follow the table of contents numbering.

Comment noted.

2. This DSEIS does not provide adequate background on the history or summary of this judgment in 1.0 (and 1.1?) Introduction and Summary. Nor is section 2.5.5 on the Remand adequate in description of the detail that should be pursued in this Supplemental.

Section 1.0 of the Draft SEIS is a summary of the Draft SEIS issues being examined, discussion of how the Draft SEIS meets the various requirements of WAC 197-11, and a summary of impacts, mitigating measures, and unavoidable adverse impacts analyzed in the Draft SEIS. Section 2.5.5 provides a brief synopsis of the remand issues. The WWGMHB decision does not require full reiteration in the Draft SEIS as it is incorporated by reference, as are other documents included in this Comprehensive Planning process. See also Section 2.2 of this Final SEIS.

3. In general, this document provides only cursory, minimal improvement over the original version with a clear goal of supporting the decisions already made by DCD and Board of Commissioners. The public testimony provided by hundreds of concerned, educated and informed citizens should be cited in the document text and Reference section.

Comment noted.

4. The lack of detail and quantitative analysis for the areas of evaluation is contrary to the RFP work plan and a disservice to the taxpayers of the County who will suffer the economic and environmental costs and reap no benefits from the projects envisioned by Fred Hill Materials and Olympic Resource Management. The people paying for this study deserve a far higher quality product with a thorough analytical evaluation as indicated in the work plan.

The RFP and work plan were a starting point for preparation of the Draft SEIS and were not considered by DCD to be a roadmap SEIS development. Jefferson County entered into a reimbursement agreement with FHM for the entire balance for Draft SEIS production. The

Jefferson County UDC provides criteria for amending the County Comprehensive Plan, requiring staff to manage amendment processes and environmental review processes associated with Plan amendment.

- 5. Neither 1.4.3, 2.7 nor 3.1 quantitatively address the impacts on physical surroundings or costs and effects on public services for any of the alternatives, including the No-Action. This represents the biggest shortcoming of the presentation to the public.**

Refer to Section 2.4 of this Final SEIS.

- 6. Section 1.5.2 Areas of Controversy and Uncertainty is severely limited, merely citing the presence of the UDC as a panacea for any future action.**

WAC 197-11-440(4) requires that the Summary of an EIS, “..shall briefly state the proposal’s objectives, specifying the purpose and need to which the proposal is responding, the major conclusions, significant areas of controversy and uncertainty, if any, and the issues to be resolved, including the environmental choices to be make among alternative courses of action and the effectiveness of mitigation measures.” The areas of controversy and uncertainty that remain after completion of the Draft SEIS that may occur with implementation of either of the examined MRL overlay district alternatives or the No Action alternatives are briefly described in Section 1.5.2, as required.

- 7. A detailed explanation of how the UDC, and current enforcement mechanisms, will adequately address the following should be included: Per County's Comprehensive Plan: NRP 7.2.**

The UDC was developed to support and enforce the goals and policies of the Comprehensive Plan. The policies listed in NRP 7.2 are discussed in the Draft SEIS and the UDC enforcement mechanisms are listed for each element of the environment discussed.

- 8. FHM's documented history of noise abatement failure, operations outside of allowed schedules and replanting failures at their current locations should be included. This was well detailed in the public comment but fails to appear in this evaluation. Mitigation enforcement issues are likewise unexamined.**

FHM’s existing activities within the designated MRL that encompasses the Shine Hub are not at issue in this Draft SEIS.

- 9. Risk Assessment: Litigation potential (and potential tax payer cost) from various entities including: 1. Corporate buyer - potential for "lost profits" claim in the event of MRL designation w/out pier project approval per World Trade Organization**

prerogatives on local project requirements. 2. Land value impact claims from various private and corporate neighbors. Adequate risk management by the County would include a legal opinion on applicable court precedents and risk exposure from various types of potential litigation. This issue should be included in the EIS.

These issues are neither within the scope of WAC 197-11 nor within the remand issues by the WWGMHB and are, therefore, not within the purview of this SEIS. WAC 197-11-448 (5) states, “Examples of information that are not required to be discussed in an EIS are: Methods of financing proposals, economic competition, profits and personal income and wages, and social policy analysis...”

10. Needs Assessment and Economic Evaluation: Per Comp Plan, 50 year need is a maximum, not a minimum.

Fifty years of known, designated, and protected mineral supply by GMA counties is a minimum, per a previous WWGMHB decision. See Draft SEIS Section 2.5.2.4. The FDO from the WWGMHB found the Approved Action in compliance with the County’s Comprehensive Plan. Therefore this comment is not within the subject matter of what is before the WWGMHB for a Compliance Hearing.

11. Needs Assessment and Economic Evaluation: Local vs "global" market emphasis. Even "local" now is out of County

Comment noted.

12. Study to include economic viability (document other businesses which have gone out of business on Sound).

This issue is not within the purview of this SEIS process. Refer to Section 2.5.5 for a listing of elements of the environment that are examined in the Draft SEIS, along with remand issues by the WWGMHB that are examined. See also Section 2.0 of this Final SEIS.

13. Bonding capacity for reclamation needs to be evaluated. All should be addressed in the EIS.

As described the Draft SEIS, this SEIS process is a programmatic (non-project) EIS that does not include analysis of any specific project or mining plan by any certain entity. FHM’s existing proposals to Jefferson County have been acknowledged and discussed in terms of transportation-related impacts that may occur if they were implemented in the future (assuming adoption of one of the examined MRL alternatives).

14. Pit / Pier Linkage: This is the reality for the FHM plan and should be acknowledged

as such.

Refer to Section 2.1.2 of this Final SEIS.

- 15. The Shoreline Master Plan is outdated and may not adequately address impacts of a project of this size. The status and legal relevance of the Shoreline Mater Plan should be included in the discussion.**

Shoreline-related permits that may be required under the Jefferson County Shoreline Master Plan (SMP) and the pit-to-pier project's relationship to the SMP would be discussed in a project-specific environmental review process. Only transportation-related impacts of the pit-to-pier proposal on the existing County transportation system are examined in this SEIS process (see Section 2.0 of this Final SEIS).

- 16. Pier investment would drive need for expanded MRL designation. The Approved Action paves the way for eventual adoption of area included in the Proposed Action. The eventual expansion of an MRL area in the thousands of acres would then become economically driven to feed the pier.**

Adoption of the one of the MRL alternatives that may occur as a result of the FHM Comprehensive Plan amendment application and environmental review process would not assume adoption of any of the other examined alternatives, either now or in the future. Designation and adoption of additional MRL overlay district areas within Jefferson County would require that an applicant follow the Comprehensive Plan amendment process as outlined in the UDC. The applicant has further provided information that it foresees extracting resources from no more than 400 to 800 acres over the next two decades.

- 17. Reclamation w/out restoration: Timber on MRL designated land would be harvested, but DNR reclamation does not include restoration, so long term viability for re-plant and re-harvest is highly questionable. Designating and developing MRL precludes underlying intent of renewable timber resource.**

As described in Section 3.1.4 of the Draft SEIS, WDNR's Best Management Practices for Reclaiming Surface Mines in Washington and Oregon require reclamation and restoration to the previous land use. In the case of the MRL alternatives examined in this SEIS process, reclamation to forest land would be required by WDNR.

- 18. Without soil importation, setbacks and maximum allowable slopes could leave perched aquifers and creek beds far above final elevations of surrounding land.**

As described in Section 3.1.4 of the Draft SEIS, the Approved Action MRL would be limited to an excavation depth of 10 feet above the water table. It is likely that Jefferson County would attach a similar limitation on the Proposed Action MRL if it is recommended to the Jefferson

County Planning Commission for adoption.

19. **1.5.3 Issues and Environmental Choices** mentions regulatory considerations, but does not provide any insight or detail on jurisdictional authority. DNR and JeffCo as co-lead agencies is fraught with disastrous possibilities and cost implications. We need a written description of how this would happen. Is there a precedent? Has it worked? Also need to acknowledge (describe and include in MOU?) DOE's sand and gravel permit involvement. Who monitors the permit terms and compliance?

Refer to the response to Comment 6 of this letter summary for a description of the SEPA-based requirement for information required in the Summary of an EIS. Refer to the response to Comment 9 of this letter summary for cost issues not included in an EIS. RCW 78.44.131 details WNDR's role in sand and gravel permitting, regulation, and enforcement. WNDR works with local (county and city) jurisdictions routinely for surface mining permitting and monitoring. Permit terms and compliance required under the Jefferson County UDC are discussed in the Draft SEIS and project-specific permits for projects that may occur within an adopted MRL overlay district will be reviewed at the project level.

20. **1.5.4 Benefits and Disadvantages** mentions only the supply and demand of MRL designations. It should emphasize that the primary benefit is for out of county consumers, in contradiction to the intent of the Comprehensive Plan, and production owners and workers. Adequate review of environmental impacts should also include a summary look at the 13 criteria mentioned by the WWGMHB and the Comprehensive Plan in far greater detail than provided in the DSEIS.

As described in Section 1.5.4 of the Draft SEIS, WAC 197-11-440(5)(c)(iii) requires discussion of the benefits and disadvantages of reserving for some future time, the implementation of the proposal, as compared with immediate implementation. The issues associated with adoption of a MRL overlay district now or in the future relate specifically to supply and demand, along with possibility of a change in land use occurring. As described in Section 2.5.5 of the Draft SEIS, the 13 criteria are examined under the elements of the environment listed in that section and described in Chapter 3. Section 1.5.5 of the Draft SEIS includes a summary of the impacts, mitigating measure, and unavoidable adverse impacts that would occur with possible implementation of one of the examined alternatives. See also Chapter 2 of this Final SEIS. The FDO from the WWGMHB found the Approved Action in compliance with the County's Comprehensive Plan. Therefore this comment is not within the subject matter of what is before the WWGMHB for a Compliance Hearing.

21. **From the DSEIS : "Designation and protection of mineral resource lands at some point in the future may result in loss of those lands to other uses." The accelerated timber harvest required to accommodate the mining will increase environmental impacts and undercut the ability to introduce improved forest management practices. Timber harvest is not mentioned in the DSEIS and is a requirement of**

the work plan

Section 3.1.4 of the Draft SEIS described the fact that vegetation clearing would be necessary with implementation of either the Proposed Action or Approved Action alternative. As described in the Draft SEIS, the area that encompasses the Proposed Action and Approved Action alternatives is owned by Pope Resources and is a component of the Thorndyke Block of the 72,000-acre Hood Canal Tree Farm. FHM's application materials, available for review at the Jefferson County DCD office, includes documentation of Pope Resources' permission to apply for mining-related permits within the 690 acres described under the Approved Action alternative. The application materials note that the areas have been recently harvested. Additionally, forest management activities of Pope Resources, a private forestry enterprise, are not at issue in this SEIS process. Section 2.8 of the Draft SEIS notes that reclamation of mineral resources land must be to the previous use; in this case reclamation would be required by WDNR to forestry use.

22. **1.5.5.1 Impacts Summary and 3.1 Elements of the Natural Environment. A more thorough evaluation of many of the attributes of the following criteria could well result in a determination of the site as "Not Suitable for Designation":**
- A. Access Distance to Market: More than 20 miles. This should be the primary determining factor. Export of the materials increases the County's future reliance on imports,**
 - B. Compatible w/ Nearby Areas: Adjacent land uses effected by current operation (residential, long term logging)**
 - C. Impact of Noise: see un-addressed complaints from local residents**
 - D. Impact of truck traffic: Highway 104 / Hood Canal bridge impacts of non-pier traffic volume not adequately addressed.**
 - E. Visual Impact: The original site checklist indicated that there would not be any visual impact of the existing operation. This is clearly not the case fir the existing operation..**
 - F. Surface and ground water impacts: Potential adverse impacts exist**
 - G. Truck traffic: trips per day w/out pier are not quantified. Should include log truck traffic when areas to be mined are clearcut.**
 - H. Biological Impacts: Rare / endangered species not adequately addressed relative to MRL (vs pier project); invasive species introduction to Hood Canal via ship traffic; harm to shellfish industry**
 - I. Impact of Flooding: Not addressed for entire topography. Determination unknown.**

Comment noted.

23. **2.6.2 Approved Action Discussion should include demonstration of structure and funding for enforcement of the various mitigation elements described in the text and Table 2-3, as well as the internal mechanisms for notifying and engaging staff for the listed reviews, meetings, etc.**

Comment noted. Refer to the response to Comment 9 of this comment letter summary.

- 24. 2.7 No Action Alternative It should be noted that the County's SEPA Responsible Official failed to observe the law stated in the beginning of this section, leading to the remand.**

Comment noted.

- 25. Under the No-Action, FHM can continue as a viable, profitable local business without the MRL by doing small, incremental expansion under a more tightly managed scenario. This would allow the business to thrive while protecting local resource base, environment and economy. This should be emphasized in the DSEIS.**

Comment noted. FHM's ability to conduct business is not within the purview of this SEIS.

- 26. 2.8 Intensity of Use The statement: "The lack of a UDC-based limitation on contiguous disturbed area segments, however, could result in large, segmental mining sites being located outside of MRLs in resource land or rural residential designated areas" indicates that such an amendment to the UDC should be pursued regardless of the Action adopted during this process. This should be included as a mitigation strategy in the No Action considerations, as well.**

This statement is based on the existing UDC and its administration. See Section 2.1.3 of this Final SEIS.

- 27. 3.2.2 Land Use "During mining operations, dust shall be controlled by the proponent, through means of watering or other methods that are acceptable to the SEPA Responsible Official." Aside from the lack of competence exhibited by the SEPA RO up to this point, the lack of detail and obligation relative to dust mitigation is unacceptable. This is exactly the kind of issue that should be resolved in an EIS. Dust has huge potential for damage, including exacerbating the low dissolved oxygen problems in the Canal. Given FHM's track record on lack of compliance, the idea of them providing adequate control lacks credibility.**

Comment noted.

- 28. 3.2.3 Transportation As with most of the report, there is very little of substance here.**

Comment noted.

- 29. Local market demand, trips per day, and associated levels of service and references to conveyors are all mentioned but no real detail or conclusion is provided.**

Refer to Section 2.1.2 of this Final SEIS for additional detail.

- 30. The assessment of the number of trips per day by truck if FHM ramps to pier-based production capacity w/out having pier facility in place has not been started.**

Refer to Section 2.1.2 of this Final SEIS for additional detail.

- 31. County and State tax \$'s to develop and implement traffic study for needed road / bridge improvements should be identified.**

Project-specific actions that may occur within an adopted MRL overlay district would require transportation analysis. Both the analysis and its implementation costs would be borne by the applicant/developer. See Section 3.2.3 of the Draft SEIS.

- 32. No mention of bridge impacts and related closures due to barge traffic is mentioned, even though the WWGMHB has called for such potential pier features to be addressed. Effect of bridge closure on tourism, bridge operations, security issues not addressed. Increased noise and air quality issues associated w/ these trips per day not addressed.**

Refer to Section 2.2 of this Final EIS for a general discussion of the transportation impacts of FHM's pit-to-pier proposal on the County's existing transportation network. Little information is available on the pit-to-pier proposal; project specific environmental review will be required (see Section 3.2.3 of the Draft SEIS). The marine transportation component of FHM's proposal would require approval by state and federal agencies. FHM's application materials, available for review at the Jefferson County DCD offices, note that barge traffic would not require bridge opening; FHM may eventually implement ship hauling that would require bridge opening some years after initiation of barge traffic.

- 33. Overall the DSEIS document is confusing, poorly organized, repetitive and lacking in depth and presentation of new or complete information. It does not answer the WWGMHB requirement to provide "sufficiently detailed analysis to each reasonable alternative to permit a comparative evaluation of the alternatives including the proposed action."**

Comment noted.

- 34. The process is driven to benefit FHM's & ORM's business case. The BOCC should be able to make the business case to the taxpayers and much of that detail should be included in this document. As a potential "investor" in FHM's proposal, I am not comfortable with the lack of cost / benefit analysis, long term return on investment identified and level of risk that has been determined or presented so far.**

Comment noted.

- 35. Mineral resource is currently protected under Forest Land designation. Leaving it as such will require future expansion to be more closely monitored in an incremental fashion.**

Comment noted.

- 36. The large and important volume of information provided by the public has been ignored. This is primarily their document and, as such, should present their diversity of input.**

An EIS is a decision-making document only, providing factual analysis for use by agencies, the public, and affected tribes in determining the outcome of a proposal. The SEPA process is a public process in which agencies, the public, and affected tribes can provide input based on the EIS. The information is then used by decision-makers, along with the remainder of the record which, in this case, includes past public testimony, in making a decision on the alternatives described in the EIS process.

- 37. MRL development accelerates timber harvest cycle and radically alters topography.**

Comment noted. As described in the Draft SEIS, the proposals are for designation of a MRL overlay district. The designation, itself, would not result in environmental impacts. Impacts associated with project-specific development within a MRL overlay district is examined, in a general sense in this SEIS process.

- 38. From staff report: The MRL overlay determination is the only opportunity to decide whether we want the pit to pier to happen. Once the MRL is designated, the pier is much more likely. We need to determine if this additional MRL designation is needed in the market at this time. The discussion to that decision in this document is inadequate.**

As described in Section 3.23 of the Draft SEIS, project-specific environmental review, a public input process, would be required. In addition, shoreline permits would be required, allowing public testimony for WDOE and County decisions on shoreline permit issuance. This SEIS is

for possible designation of a mineral resource land overlay only and does not provide approval or certainty for any project-specific mining activity (see Section 2.1 of the Draft SEIS).

- 39. FHM can continue as a viable, profitable local business without the MRL doing small, incremental expansion under a more tightly managed scenario.**

Comment noted.

- 40. Other issues which have not been adequately described or addressed include FHM's existing operations and violations.**

FHM's activities are not within the purview of this SEIS. Jefferson County staff will consider the entire record in making a decision on alternatives presented in this SEIS.

- 41. Process and Procedural Issues not adequately described or addressed:**
- a. Public staff time to support and assist FHM development (what is the \$ value of staff resource already donated to FHM by taxpayers?) should be identified. All agencies seem to be working backward from a pre-determined outcome. Namely "How do we make this happen?" The default approach should be "Should this happen at all?"**
 - b. Lack of stakeholder involvement**
 - c. Poor record of response to complaints of existing operations**
 - d. Media blitz by FHM demonizing local residents who question or complain**

Comment noted.

April 2, 2004

Jefferson County Department of Community Development
621 Sheridan Street
Port Townsend WA, 98368

To Whom it May Concern,

I was a Jefferson County Planning Commissioner during the consideration of this comprehensive plan amendment. I have reviewed the comments I developed during Planning Commission deliberation and presented at the Dec 2002 public hearing before the Board of County Commissioners to re-familiarize myself with the issues at hand.

My review of this DSEIS document is focused on its address of the Conclusions of the WWGMHB Case No. 03-2-0006 Final Decision and Order of August 15, 2003 relative to the appealed EIS document's compliance with SEPA (Part V. ANALYSIS AND DISCUSSION OF ISSUES). From the Discussion of that section (*italics* added for emphasis):

"The County analyzed the 690-acre proposal according to the 13 factors it established to consider in evaluating proposals for mineral resource overlays:

1. Quality of Deposit
2. Size of Deposit
3. Access Distance from Market
4. Compatible with Nearby Areas
5. Impact of Noise
6. Impact of Blasting
7. Impact of Truck Traffic
8. Visual Impact
9. Surface and Ground Water Impacts
10. Wetlands Impact
11. Slopes
12. Biological Impact
13. Impact of Flooding

Ex. 13-21, at 2-28 to 2-30.

Inexplicably, the County did not analyze the three alternatives (including the no-action alternative) in terms of these factors. Instead, the County only evaluated the 690-acre alternative with respect to the listed factors. Ex. 3-21, at 2-31 to 2-32. The County argues that the 690-acre alternative was compared to the 6,240-acre alternative in response to comments received regarding the draft SEIS. County's Brief at 11-12. However, the County only points to a comparison of visual impacts (Ex. 3-21, at 3-13, response to #38) and to water resources analysis in a letter dated November 20, 2002 from the Department of Ecology regarding the proposed 6,240-acre site and the 690-acre alternative. County Brief at 12. No other factors were considered. We have not been able to discern any comparison of the named alternatives in either of the environmental review documents (Ex. 3-12 and 3-21) except in a matrix of the proposed comprehensive plan amendments. Ex. 3-21, at 1-8. That matrix lists the Fred Hill proposal as follows:

Environmental Impacts: Proposed Action	Environmental Impacts: No Action Alternative	Environmental Impacts: Final Staff Recommendation Alternative	Staff Proposed Mitigation
Probably significant adverse impacts	Not Significant	Mitigated to moderate impacts. Area reduced from 6,240 acres to 690 acres. Water quantity and quality impacts at non-project level reviewed by Ecology	State law, UDC regulations, list of mitigation measures in Part 2.

None of this constitutes a "sufficiently detailed analysis to each reasonable alternative to permit a comparative evaluation of the alternatives including the proposed action." WAC 197-11-440(5)(c)(v). As the Washington Supreme Court stated in *Weyerhaeuser v. Pierce County*, 124 Wn.2d 26 at 35, 813 P.2d 498 (1994), "it is impossible from the brief, conclusory descriptions to engage in any meaningful comparison of the alternatives" (discussing the adequacy of the EIS for a public project requiring consideration of off-site alternatives in addition to onsite alternatives).

The County argues that the review that was conducted at this stage was appropriate because the County has flexibility in preparing an EIS and a general discussion of the impacts of alternate proposals is proper because the comprehensive plan affected a land use designation. WAC 197-11-442(1) and (4). However, this regulation does not excuse the County from an analysis and evaluation of environmental impacts of alternatives; it just means that the impacts and alternatives may be discussed “in the level of detail appropriate to the scope of the nonproject proposal and to the level of planning for the proposal.” WAC 197-11-442(2).

As our initial analysis concluded, the mineral resource designation has the effect of changing applicable development regulations and setting new conditions for mining. Therefore, the “level of detail appropriate to the scope of the nonproject proposal” must include the change in intensity of use (site size increase from 10 to 40 acres). We have already discussed how this change in intensity of use should be analyzed in the no-action alternative. In addition, the potential area over which this increased intensity will apply requires evaluation. Here, the County’s chosen alternatives should be evaluated in terms of the County’s list of 13 factors. The County’s evaluation should consider the maximum possible mining development that could occur under each scenario, in keeping with Jefferson County regulations. “We hold that an EIS is adequate in a nonproject zoning action where the environmental consequences are *discussed in terms of the maximum potential development* of the property under the various zoning classifications allowed.” *Ullock v. Bremerton*, 17 Wn. App.573, 575, 565 P.2d 1179 (1977).

The alternatives analysis here lacks sufficient information to make a meaningful comparison of the environmental impacts possible under each alternative. It is therefore inadequate.”

I have also reviewed the work plan attached to the consultant’s RFP to develop this document at an estimated cost of \$20,000. In particular, the following requirements are noted (*italics* added for emphasis):

In addition, provide a general analysis of the likely impacts of the three alternatives including but not limited to the following areas: *an estimation on the total number of acres and depth of mining required to obtain the desired amount of aggregate*; transportation alternatives, including using conveyors belts and marine transport; impacts

upon and quality of physical environment; *cost of and effect on public services; to forest lands*; long term mineral resource protection; and other SEPA requirements.

Describe the existing environment affected by the proposal, analyze significant impacts of alternatives (including proposed action), and describe reasonable mitigation measures to mitigate any identified impacts. Analyze the 15 conditions of approval to mitigate potential impacts adopted as part of Ordinance 14-1213-

My comments are as follow (*italics* added for emphasis):

1. The report content in section 1 does not follow the table of contents numbering which contributes to an overall sense of confusion and poor quality about the document. I have utilized the numbering in the report body instead of the Table of Contents for my section 1 references. } 1
2. This DSEIS does not provide adequate background on the history or summary of this judgment in 1.0 (and 1.1?) Introduction and Summary. Nor is section 2.5.5 on the Remand adequate in description of the detail that should be pursued in this Supplemental. In general, this document provides only cursory, minimal improvement over the original version with a clear goal of supporting the decisions already made by DCD and Board of Commissioners. The public testimony provided by hundreds of concerned, educated and informed citizens should be cited in the document text and Reference section. } 2
3. The lack of detail and quantitative analysis for the areas of evaluation is contrary to the RFP work plan and a disservice to the taxpayers of the County who will suffer the economic and environmental costs and reap no benefits from the projects envisioned by Fred Hill Materials and Olympic Resource Management. The people paying for this study deserve a far higher quality product with a thorough analytical evaluation as indicated in the work plan. } 3
4. Section 1.4.3 No Action Alternative: Relative to evaluation of the No-action alternative, the WWGMHB Decision includes the following: } 4

“An analysis of the no-action alternative should have shown the impacts of ten-acre mining sites in the region. The discussion should *include impacts upon and quality of the physical surroundings, as well as the cost of and effects on public services.* WAC 197-11-440(6)(e). Because transportation of the aggregate is necessarily a part of any mining operation, the *EIS should describe the truck traffic or other means necessary to transport the aggregate mined from a site of such a size and the impacts of transport on the environment.* Because the proposed mineral resource overlay has a number of critical areas within its boundaries, the *EIS should*

describe the type of wildlife habitat disruption that might be anticipated and provide mitigating measures that might be adopted in response. This evaluation would serve as a benchmark to which the other alternatives could be compared.

At a minimum, this no-action alternative should have been compared with what was proposed and adopted. The EIS should disclose, discuss and substantiate by opinion and data a proposed action's environmental effects. *Kiewit Constr. Group v. Clark County*, 82 Wn. App. 133, 920 P.2d 1207 (Div. II, 1996). Thus, at a minimum, the EIS should have discussed the difference between the existing ten-acre limitation and the new 40-acre limitation. In this case, the site size limitation was set as a condition of the mineral resource overlay at 40 acres. Ex. 13-1 at 17-18. However, there was no analysis of what environmental impacts a 40-acre site might have. In fact, we could find *no explanation of how this size limitation was chosen*. An analysis of the no-action alternative would have caused the County to also consider the environmental impacts of the actual condition it imposed. This was not done."

- Neither 1.4.3, 2.7 nor 3.1 quantitatively address the impacts on physical surroundings or costs and effects on public services for any of the alternatives, including the No-Action. This represents the biggest shortcoming of the presentation to the public. } 5
- 5. Section 1.5.2 Areas of Controversy and Uncertainty is severely limited, merely citing the presence of the UDC as a panacea for any future action. Per WWGMHB Discussion above: "As our initial analysis concluded, the mineral resource designation has the effect of changing applicable development regulations and setting new conditions for mining." A detailed explanation of how the UDC, and current enforcement mechanisms, will adequately address the following should be included: } 6
 - A. Per County's Comprehensive Plan:
 - NRP 7.2 Provide for the following factors in mineral resource land use decisions:
 - a. The range of environmental impacts, including short-term and long-term effects arising over the *lifetime* of the proposal;
 - b. The ability of the site to *confine or mitigate all operational impacts*;
 - c. The *compatibility of operations with adjacent land uses* when mitigating measures are applied;
 - d. The *capacity of transportation facilities to handle safely the transport of products* from the site; and,
 - e. The *adequacy of plans for reclamation* of the site for appropriate future use.
 - B. FHM's documented history of noise abatement failure, operations outside of allowed schedules and replanting failures at their current locations should be included. This } 8

- was well detailed in the public comment but fails to appear in this evaluation. Mitigation enforcement issues are likewise unexamined. } 8 (cont.)
- C. Risk Assessment: Litigation potential (and potential tax payer cost) from various entities including: }
1. Corporate buyer – potential for “lost profits” claim in the event of MRL designation w/out pier project approval per World Trade Organization prerogatives on local project requirements. }
 2. Land value impact claims from various private and corporate neighbors. Adequate risk management by the County would include a legal opinion on applicable court precedents and risk exposure from various types of potential litigation. This issue should be included in the EIS. }
- D. Needs Assessment and Economic Evaluation: }
- i. Per Comp Plan, 50 year need is a maximum, not a minimum. }
 - ii. Local vs “global” market emphasis. Even “local” now is out of County }
 - iii. Study to include economic viability (document other businesses which have gone out of business on Sound). }
 - iv. Bonding capacity for reclamation needs to be evaluated. }
- All should be addressed in the EIS. }
- E. Pit / Pier Linkage: This is the reality for the FHM plan and should be acknowledged as such. The Shoreline Master Plan is outdated and may not adequately address impacts of a project of this size. The status and legal relevance of the Shoreline Mater Plan should be included in the discussion. }
- Future Implications: }
1. Pier investment would drive need for expanded MRL designation. The Approved Action paves the way for eventual adoption of area included in the Proposed Action. The eventual expansion of an MRL area in the thousands of acres would then become economically driven to feed the pier. }
 2. Reclamation w/out restoration: Timber on MRL designated land would be harvested, but DNR reclamation does not include restoration, so long term viability for re-plant and re-harvest is highly questionable. Designating and developing MRL precludes underlying intent of renewable timber resource. }
 3. Without soil importation, setbacks and maximum allowable slopes could leave perched aquifers and creek beds far above final elevations of surrounding land. }
6. 1.5.3 Issues and Environmental Choices mentions regulatory considerations, but does not provide any insight or detail on jurisdictional authority. DNR and JeffCo as co-lead agencies is fraught with disastrous possibilities and cost implications. We need a written description of how this would happen. Is there a precedent? Has it worked? Also need to acknowledge (describe and include in MOU?) DOE’s sand and gravel permit involvement. Who monitors the permit terms and compliance? }

7. 1.5.4 Benefits and Disadvantages: Mentions only the supply and demand of MRL designations. It should emphasize that the primary benefit is for out of county consumers, in contradiction to the intent of the Comprehensive Plan, and production owners and workers. Adequate review of environmental impacts should also include a summary look at the 13 criteria mentioned by the WWGMHB and the Comprehensive Plan in far greater detail than provided in the DSEIS. } 20
- From the DSEIS : “Designation and protection of mineral resource lands at some point in the future may result in loss of those lands to other uses.” The accelerated timber harvest required to accommodate the mining will increase environmental impacts and undercut the ability to introduce improved forest management practices. Timber harvest is not mentioned in the DSEIS and is a requirement of the work plan } 21
8. 1.5.5.1 Impacts Summary and 3.1 Elements of the Natural Environment: A more thorough evaluation of many of the attributes of the following criteria could well result in a determination of the site as “Not Suitable for Designation”:
- A. Access Distance to Market: More than 20 miles. This should be the primary determining factor. Export of the materials increases the County’s future reliance on imports,
 - B. Compatible w/ Nearby Areas: Adjacent land uses effected by current operation (residential, long term logging)
 - C. Impact of Noise: see un-addressed complaints from local residents
 - D. Impact of truck traffic: Highway 104 / Hood Canal bridge impacts of non-pier traffic volume not adequately addressed.
 - E. Visual Impact: The original site checklist indicated that there would not be any visual impact of the existing operation. This is clearly not the case fir the existing operation..
 - F. Surface and ground water impacts: Potential adverse impacts exist
 - G. Truck traffic: trips per day w/out pier are not quantified. Should include log truck traffic when areas to be mined are clearcut.
 - H. Biological Impacts: Rare / endangered species not adequately addressed relative to MRL (vs pier project); invasive species introduction to Hood Canal via ship traffic; harm to shellfish industry
 - I. Impact of Flooding: Not addressed for entire topography. Determination unknown.
- } 22
9. 2.6.2 Approved Action: Discussion should include demonstration of structure and funding for enforcement of the various mitigation elements described in the text and Table 2-3, as well as the internal mechanisms for notifying and engaging staff for the listed reviews, meetings, etc.. The whole concept that this intricate and detailed process would actually be adhered to strains credibility. It should also include the long history of non-compliance with existing regulations by FHM at other sites documented during public hearings. } 23

10. 2.7 No Action Alternative: It should be noted that the County’s SEPA Responsible Official failed to observe the law stated in the beginning of this section, leading to the remand. This failure to represent the public interest and the resulting cost to taxpayers should be recognized and a suitable form of accountability determined. } 24
- Under the No-Action, FHM can continue as a viable, profitable local business without the MRL by doing small, incremental expansion under a more tightly managed scenario. This would allow the business to thrive while protecting local resource base, environment and economy. This should be emphasized in the DSEIS. } 25
11. 2.8 Intensity of Use: The statement: ” The lack of a UDC-based limitation on contiguous disturbed area segments, however, could result in large, segmental mining sites being located outside of MRLs in resource land or rural residential designated areas” indicates that such an amendment to the UDC should be pursued regardless of the Action adopted during this process. This should be included as a mitigation strategy in the No Action considerations, as well. } 26
12. 3.2.2. Land Use: “During mining operations, dust shall be controlled by the proponent, through means of watering or other methods that are acceptable to the SEPA Responsible Official.” Aside from the lack of competence exhibited by the SEPA RO up to this point, the lack of detail and obligation relative to dust mitigation is unacceptable. This is exactly the kind of issue that should be resolved in an EIS. Dust has huge potential for damage, including exacerbating the low dissolved oxygen problems in the Canal. Given FHM’s track record on lack of compliance, the idea of them providing adequate control lacks credibility. } 27
13. 3.2.3 Transportation: As with most of the report, there is very little of substance here. } 28
“Project-Level Mitigation: Transportation issues associated with mining-related activities are typically evaluated and addressed on a project-by-project basis to maintain a high level of service on area roadways.” This is an example of the poor quality and address exhibited throughout the report. These Actions are close enough to project level determinations that many aspects could and should be addressed in this document. } 29
Local market demand, trips per day, and associated levels of service and references to conveyors are all mentioned but no real detail or conclusion is provided. } 29
The assessment of the number of trips per day by truck if FHM ramps to pier-based production capacity w/out having pier facility in place has not been started. } 30
County and State tax \$’s to develop and implement traffic study for needed road / bridge improvements should be identified. } 31
No mention of bridge impacts and related closures due to barge traffic is mentioned, even though the WWGMHB has called for such potential pier features to be addressed. } 32
Effect of bridge closure on tourism, bridge operations, security issues not addressed. } 32
Increased noise and air quality issues associated w/ these trips per day not addressed. } 32

Summary Conclusions:

Overall the DSEIS document is confusing, poorly organized, repetitive and lacking in depth and presentation of new or complete information. It does not answer the WWGMHB requirement to provide “sufficiently detailed analysis to each reasonable alternative to permit a comparative evaluation of the alternatives including the proposed action.” } 33

The process is driven to benefit FHM’s & ORM’s business case. The BOCC should be able to make the business case to the taxpayers and much of that detail should be included in this document. As a potential “investor” in FHM’s proposal, I am not comfortable with the lack of cost / benefit analysis, long term return on investment identified and level of risk that has been determined or presented so far. } 34

Mineral resource is currently protected under Forest Land designation. Leaving it as such will require future expansion to be more closely monitored in an incremental fashion. } 35

The large and important volume of information provided by the public has been ignored. This is primarily their document and, as such, should present their diversity of input. } 36

MRL development accelerates timber harvest cycle and radically alters topography. } 37

From staff report: The MRL overlay determination is the only opportunity to decide whether we want the pit to pier to happen. Once the MRL is designated, the pier is much more likely. We need to determine if this additional MRL designation is needed in the market at this time. The discussion to that decision in this document is inadequate. } 38

FHM can continue as a viable, profitable local business without the MRL doing small, incremental expansion under a more tightly managed scenario } 39

Other issues which have not been adequately described or addressed:

Historical Problems at the current location batch plant operation in violation of existing standards: } 40

- a. Noise
- b. Hrs of operation
- c. Checklist inaccuracies w/ existing operation
- d. PT site problems (DNR’s statement of compliance points out how deep rooted the problems are (define acceptable compliance?))
- e. Enforcement: No workable proposal. DNR says County is to do operational enforcement. Existing enforcement inadequate to handle current and past violations and no determination of how to pay for it has been demonstrated.

Process and Procedural Issues:

- a. Public staff time to support and assist FHM development (what is the \$ value of staff resource already donated to FHM by taxpayers?) should be identified. All agencies seem to be working backward from a pre-determined outcome. Namely "How do we make this happen?" The default approach should be "Should this happen at all?"
- b. Lack of stakeholder involvement
- c. Poor record of response to complaints of existing operations
- d. Media blitz by FHM demonizing local residents who question or complain

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Respectfully submitted,



504 V St.
Port Townsend, WA 98368
360-379-1749

3.1.4 Frank Kelley

Frank Kelley
773 South Point Road
Port Ludlow, WA 98365

1. **Jefferson County has not performed an adequate analysis of the transportation related impacts of the major transport alternatives (including conveyor / marine transport). Jefferson County has not given each of these alternatives a reasonable degree of study in equal detail as directed by the WWGMHB.**

Refer to Section 2.2 of this Final SEIS for augmented transportation information.

2. **There is no required study of the conveyor / pier transport alternative that was proposed by the applicant in their SEPA checklist.**

Refer to Sections 2.1 and 2.2 of this Final SEIS.

3. **There are no studies to support the statement that "SR-104 and other transportation routes from the area are at or near capacity" as claimed on page 2-20. The impact of transport alternatives is not addressed in any manner other than conjecture.**

Information on the level of service of County roadways can be found in the Jefferson County Comprehensive Plan. Supplemental information was provided by Jefferson County in their 2002 SEIS, incorporated into this SEIS by reference. Refer to Section 2.2 of this Final SEIS for additional discussion of transportation impacts and issues for each alternative.

4. **There is no analysis of the impact of conveyor/marine transport alternative on the main vehicular transport corridors. Specifically there is omission of the relevant secondary effects of this alternative, such as Hood Canal Bridge openings. The applicant has conceded that this method of transport would require bridge openings and therefore affect the same transportation route (SR-104) that would be impacted by truck transport (1). This DSEIS only addressed the transport of materials to the Shine hub for the conveyor transport alternative but provided many assumptions about the truck transport of materials to distant markets. This practice is inconsistent with an adequate, impartial SEPA analysis.**

Refer to Section 2.1 and 2.2 of this Final SEIS.

- 5. The "No Action" alternative that the county has chosen to present is the most unreasonable and unlikely no-action scenario that can be conceived. It includes no mitigation measures as required by WAC 197-11-400(2).**

The No Action alternative, as described in the Draft SEIS assumes that neither MRL overlay district alternative is adopted and the current system for managing mining projects under the UDC would continue. Non-project mitigation and UDC-based mitigation for continued regulation of mining under the UDC is included in Section 3.0 of the Draft SEIS.

- 6. The county insists in several passages that it's UDC (Section 3.6.3) permits smaller mines, which would have a greater impact on the surroundings and (less protection for miners) than the two much larger MRLO alternatives provide. However the county and the Department of Natural Resources notes in the DSEIS that mine operators do not typically mine in segments of 10 acres or less as it is not economical. The reasonable and likely "No Action" Alternative would involve no additional permitted mining in the study area. The county argues that a reasonable alternative would involve a mine operator applying multiple mines of ten acres or less in a mining plan. If we apply this logic, an MRLO the size of the entire county (with appropriate buffers as required by the UDC and other laws) would have the least impact as there is no limitation on the number of contiguous small mines. The conclusion the county reaches in the DSEIS, that small mines have a greater impact than large mines must omit the project level review and mitigation required of all mines. Making no new mining in the study area as the No Action alternative provides a wider degree of reasonable options on this action. This No Action alternative would also better achieve the objectives of SEPA, the Growth Management Act and the Jefferson County Comprehensive Plan.**

Comment noted. Also see response to previous comment. The definition of the No Action alternative as presented in the Draft SEIS has been supported by WDOE environmental review staff.

- 7. Jefferson County has not performed an adequate analysis of the intensity of the alternatives and their related impacts as directed by the WWGMHB. This DSEIS omits the relationship between mine size and extraction rate.**

Refer to Section 2.8 of the Draft SEIS and Section 2.3 of this Final SEIS.

- 8. On page 1-4 the county notes that the related impacts of the alternatives are a function of the extraction rate rather than the mine size. This variable is not analyzed among the alternatives. The county appears to conceal the known approximate extraction rate information that has been made public by the applicant.**

Refer to Section 2.2 of this Final SEIS.

-----Original Message-----

From: Frank and Julie Kelley [mailto:kelley@ncplus.net]
Sent: Friday, April 02, 2004 4:22 PM
To: Greg Ballard
Cc: fabianj@olympus.net; Frank Kelley
Subject: Public comments on Fred Hill Materials Mineral Lands Overlay DSEIS

Mr. Greg Ballard, Mr. Al Scaff and Jefferson County Board of County Commissioners,

I appreciate the opportunity to comment on the revised Draft Supplemental Environmental Impact Statement (DSEIS) for the Fred Hill Mineral Lands Overlay (Ordinance #02-235 of the 2002 Comprehensive Plan Amendments).

I have some specific objections to several arguments made by the Jefferson County staff in their support of the Approved Action Alternative (690-acre) which I will address in more detail below. As a whole this DSEIS appears intellectually dishonest as well as incomplete. I do not have legal training so I won't attempt to cite specific case law references but I believe the State Environmental Protection Act and the Growth Management Act was written to be accessible to all citizens for just this kind of situation.

In several passages the county asserts that their application of this Mineral Lands Overlay process and the Approved Action Alternative offers more protection for the elements of the natural and built environment than the "No Action" Alternative. This is an interesting contradiction as the Hearings Board forced this very process, environmental review upon the county.

Specific Objection # 1:

Jefferson County has not performed an adequate analysis of the transportation related impacts of the major transport alternatives (including conveyor / marine transport). Jefferson County has not given each of these alternatives a reasonable degree of study in equal detail as directed by the WWGMHB.

- a. There is no required study of the conveyor / pier transport alternative that was proposed by the applicant in their SEPA checklist.
- b. There are no studies to support the statement that "SR-104 and other transportation routes from the area are at or near capacity" as claimed on page 2-20. The impact of transport alternatives is not addressed in any manner other than conjecture.
- c. There is no analysis of the impact of conveyor/marine transport alternative on the main vehicular transport corridors. Specifically there is omission of the relevant secondary effects of this alternative, such as Hood Canal Bridge openings. The applicant has conceded that this method of transport would require bridge openings and therefore affect the same transportation route (SR-104) that would be impacted by truck transport (1). This DSEIS only addressed the transport of materials to the Shine hub for the conveyor transport alternative but provided many assumptions about the truck transport of materials to distant markets. This practice is inconsistent with an adequate, impartial SEPA analysis.

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Specific Objection # 2:

The "No Action" alternative that the county has chosen to present is the most unreasonable and unlikely no-action scenario that can be conceived. It includes no mitigation measures as required by WAC 197-11-400(2).

The county insists in several passages that it's UDC (Section 3.6.3) permits smaller mines, which would have a greater impact on the surroundings and (less protection for miners) than the two much larger MRLO alternatives provide. However the county and the Department of Natural Resources notes in the DSEIS that mine operators do not typically mine in segments of 10 acres or less as it is not economical. The reasonable and likely "No Action" Alternative would involve no additional permitted mining in the study area. The county argues that a reasonable alternative would involve a mine operator applying multiple mines of ten acres or less in a mining plan. If we apply this logic, an MRLO the size of the entire county (with appropriate buffers as required by the UDC and other laws) would have the least impact as there is no limitation on the number of contiguous small mines. The conclusion the county reaches in the DSEIS, that small mines have a greater impact than large mines must omit the project level review and mitigation required of all mines. Making no new mining in the study area as the No Action alternative provides a wider degree of reasonable options on this action. This No Action alternative would also better achieve the objectives of SEPA, the Growth Management Act and the Jefferson County Comprehensive Plan.

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Specific Objection #3:

Jefferson County has not performed an adequate analysis of the intensity of the alternatives and their related impacts as directed by the WWGMHB. This DSEIS omits the relationship between mine size and extraction rate.

On page 1-4 the county notes that the related impacts of the alternatives are a function of the extraction rate rather than the mine size. This variable is not analyzed among the alternatives. The county appears to conceal the known approximate extraction rate information that has been made public by the applicant. Representatives of Fred Hill Materials have stated it expects to export 7.5 million tons of gravel annually during the life cycle of this mine if the "pit to pier" project is completed (2). The current rate of extraction is between 437,000 and 600,000 tons (3). The contention that a 10-acre mine or a series of small mines can produce or sustain similar extraction rates is not reasonable given permitting and reclamation requirements. The Proposed and Approved Alternatives both have higher impacts on the built and natural environments if they are studied adequately.

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- 1. Fort Townsend Leader from Wednesday November 2, 2002 (<http://www.pleader.com/archive/021106fredhillmaterials742.htm>)
- 2. Fort Townsend Leader from Wednesday November 6, 2002 (<http://www.pleader.com/archive/020410shinequarryconvey773.htm>)
- 3. Memo to Jefferson County Planning Commission from Al Scaff regarding 2002 Comprehensive Plan Amendment (MLA #02-235) from October 25, 2002.

Submitted by Frank Kelley (kelley@ncplus.net) 4/2/04 by e-mail

773 South Point Road
Port Ludlow, WA
98385

3.1.5 John Fabian

John Fabian
100 Shine Road
Port Ludlow, WA 98365

1. **The document does not represent the government of Jefferson County as an honest broker, protecting the rights and privileges of its citizens, or the environment in which we all live. The DSEIS consists of little more than a highly slanted series of unsupported proclamations that endorse the earlier decision of the County Commissioners. There is not the slightest tinge of fairness, nor any semblance of factual content in the repeated claims favoring the county and the developers. There is no analysis related to protecting wildlife, commercial timber resources, transportation infrastructure, property values, or the regional economy.**

Comment noted.

2. **The document ignores the mandate of the WWGMHB to consider aspects of the pit to pier project as a part of environmental impact studies on the MRL. The treatment of transportation issues is faulty, biased, and transparent.**

Refer to Sections 2.1 and 2.2 of the Final SEIS.

-----Original Message-----

From: John Fabian [mailto:fabiani@olvmplus.net]
Sent: Friday, April 02, 2004 3:57 PM
To: Greg Ballard
Subject: DSEIS

Dear Mr. Ballard

Please incorporate these general remarks into the file of public comments on the DSEIS for the FHM MRL.

1. The document does not represent the government of Jefferson County as an honest broker, protecting the rights and privileges of its citizens, or the environment in which we all live. The DSEIS consists of little more than a highly slanted series of unsupported proclamations that endorse the earlier decision of the County Commissioners. There is not the slightest tinge of fairness, nor any semblance of factual content in the repeated claims favoring the county and the developers. There is no analysis related to protecting wildlife, commercial timber resources, transportation infrastructure, property values, or the regional economy.

} 1

2. The document ignores the mandate of the WWGMHB to consider aspects of the pit to pier project as a part of environmental impact studies on the MRL. The treatment of transportation issues is faulty, biased, and transparent.

} 2

Thank you for the opportunity to comment on the DSEIS.

John Fabian
100 Shine Road
Port Ludlow, WA 98365

3.1.6 James C. Tracy

James C. Tracy

Representing Fred Hill Materials
18887 State Hwy #305 NE, Suite 500
Poulsbo, WA 98370-7401

1. **In paragraph 1 it is asserted that FHM "intended" to utilize 400 to 800 acres within the proposed 6240 acre MRL for mineral extraction, processing, and transport to "augment" their existing extraction and processing facilities, the Shine Hub.. This description is incomplete and potentially misleading. In paragraph 2, the description of FHM's proposed modification is incomplete and potentially misleading.**

Section 1 of the Draft SEIS is a summary, as is stated in the title, and includes brief synopses of other portions of the Draft SEIS along with an overview of the Comprehensive Plan amendment process that has occurred to date. The interpretation of the process as it occurred is that of Jefferson County DCD staff.

2. **In paragraph 2, the DSEIS asserts that FHM's requested the proposed MRL "to ensure a future mineral resource supply in close proximity to their Jefferson County processing facility (Shine Hub)" This assertion is false and misleading.**

Jefferson County DCD staff determined this summary statement to be reasonable. The Draft SEIS notes that FHM's application materials are on file and available for review at the Jefferson County DCD offices. The previous proceedings and documents prepared as part of the Comprehensive Plan amendment process are incorporated by reference and do not require complete reiteration in this SEIS process.

3. **In fact, both Jefferson County and FHM recognize that FHM as the ability to continue mining operations as a use allowed outright throughout commercial forest lands without any local approval from Jefferson County if the individual disturbed area is less than ten acres. Disturbed areas greater than ten acres require an MRL designation pursuant to the process set forth in the Jefferson County Uniform Development Code.**

Mining outside of a MRL in 10-acre increments is not, in fact allowed outright. Mining would require obtaining mining and reclamation plan approvals from both WDNR and Jefferson County, along with the UDC-based requirements described in the Draft SEIS. Drainage permits required under the UDC invoke SEPA.

- 4. FHM is the applicant for this MRL amendment to the Jefferson County Comprehensive Plan. FHM's goals for this proposal were to accomplish three specified objectives. An appropriate understanding of the goals and effects of the proposed MRL Comprehensive Plan Amendment is critical to an understanding of the non-project environmental analysis required by WAC 197-11-442, SEPA Rules.**

Comment noted.

- 5. Section 1.4.2 should be revised to accurately reflect both the original FHM proposal and the FHM proposed "revision" per the commentary in Sections 1.1 and 1.2, above and should also reflect the provision for "ground-truthing" contained in the approved MRL.**

Comment noted.

- 6. The no action alternative summary should specifically state the area to which it applies. The "Study area" of this DSEIS is the acreage of the Proposed Action MRL, 6240 acres as delineated in the document (See Fig. 1-1, Fig 2-1 as examples.) Impact analysis is likewise done as to the "Study Area", as in the Transportation Section at page 3-42. Therefore, the No Action Alternative should be stated as "No change to the status quo with regard to mineral extraction in the 6240 acre Study Area."**

This is a faulty interpretation of the No Action alternative. As determined by Jefferson County, given the discretion under SEPA to determine the form of the No Action alternative, if neither of the MRL alternatives examined in the Draft SEIS were adopted, regulation of 10-acre disturbed area mining under the UDC would not be restricted to the study area or even the Commercial Forest designation. The UDC allows 10-acre disturbed area segmental mining within the resource designations of forestry and agriculture and within areas designated rural residential with a conditional use permit.

Neither the Draft SEIS nor the Final SEIS limit transportation impacts examined under the No Action alternative to the study area. The Draft SEIS and the Final SEIS describe the SR-104 and other low level of service roadways within the County and describe the fact that transportation on major roadways would be the limiting factor for County mining. The general transportation impacts of the alternatives, as required under SEPA, were examined in the SEIS documents, with particular focus on the FHM proposals that are expected to be forwarded regardless of the alternative adopted in this SEIS process.

- 7. Major conclusions should include: identification and mitigation of probable significant adverse impacts of any actual mining operations within the area of the proposed MRLs or the No Action Alternative will be conducted through the State Environmental Policy Act (SEPA) process in conjunction with State and/or County permitting processes under any of the alternatives examined.**

Comment noted.

8. **Suggest moving first paragraph to a bullet in Section 1.5.1 . Uses and activities within a designated MRL are controlled and regulated by the requirements of the Jefferson County UDC, the State Environmental Policy Act, and the Surface Mining Act. This is not an area of any uncertainty or controversy.**

Comment noted.

9. **Section 1.5.3: Suggest adding to Second Paragraph the fact that the Approved Action MRL would provide significantly less effective GMA/UDC notice and nuisance protections to known commercially viable mineral deposits demonstrated to exist within the Proposed Action MRL because of its smaller size and remoteness from adjacent uses not classified or zoned for resource management activities. In addition, the first sentence of paragraph 2 should be deleted because these features were not included in the Proposed MRL and therefore there are no material environmental implications on regulated critical areas between the Proposed and Approved Action MRLs or the No Action Alternative.**

Comment noted.

10. **Section 1.5.4: Suggest adding "Postponing" or "Delaying" as the first word in the second sentence number 2, and adding "...or encroachment upon these known commercially viable deposits of minerals by adjacent/nearby uses that may compromise mineral extraction activities on these lands in the future..." at the end of the second sentence.**

Comment noted.

11. **Section 1.5.5: Table 1-1: Transportation - Last bullet under Approved Action - Suggest deleting last phrase regarding duration of impacts since actual mining area proposed over 20-40 years is essentially unchanged between the Proposed and Approved Alternatives, and would likely be very similar in size and location under the No Action Alternative.**

Comment noted.

12. **1.5.5.2 Transportation - Suggest revising Sentence fourth sentence by deleting "affect" and inserting "accelerate". Suggest deletion of "high" from last sentence as a modifier to "level of service". Levels of Service are adopted, not necessarily**

"high" levels of service. Any deficiency in levels of service could be remedied in a number of ways at such time as a project with actual impacts is proposed.

Comment noted.

- 13. Section 1.5.5.3: Suggest revision of third sentence. Future mining within the study area, with or without either MRL alternative or under the No Action Alternative, will be project-specific and site-specific.**

Comment noted.

- 14. Section 2.3: This section should specify the methods (notice, nuisance protection, etc.) by which preservation and protection is accomplished.**

References to GMA and the Jefferson County Comprehensive Plan are adequate and citation of specific preservation and protection measures are unnecessary in terms of providing the reader with sufficient information and background.

- 15. Section 2.4: Last sentence of first paragraph is incorrect, suggest it be deleted or rewritten. All surface mining and reclamation activities must meet the requirements of UDC Section 4.24, whether within or outside of an MRL. (For example, see SDEIS at page 2-18).**

Comment noted.

- 16. Section 2.5.1: Suggest adding RCW 36.70A.060 to citations. Suggest adding the full text of disclosure required in Jefferson County UDC 3.6.3 (3)(b).**

Comment noted. As previous documents related to the issues discussed in this SEIS process, including FHM's various application materials are incorporated by reference, reciting the full text is unnecessary. Adequate information to guide the lay reader and to provide decision-makers with enough information to discern the benefits and disadvantages of the alternatives examined in this process are the primary directives of SEPA.

- 17. Section 2.5.4: Paragraph two should be revised to accurately reflect the record. (See 1.1, above.)**

Comment noted. See response to previous comment.

18. Section 2.6.1: See attached suggestions for additions to Table 2-3.

As described in Section 2.5.5 of the Draft SEIS, the WWGMHB determined that the conditions applied to the Approved Action alternative were to be examined in this supplemental SEIS process are part of the proposal, itself. Table 2-3 was included in the Draft SEIS to provide a “roadmap” of the primary portion of the Draft SEIS where the conditions attached to the Approved Action alternative could be found. While the conditions may have been discussed in other sections and apply to other elements of the environment, Table 2-3 their primary location in the Draft SEIS analysis.

19. Section 2.6.2: Second to last sentence on page 2-11 is a fragment in its current form.

Comment noted.

**20. Section 2.9: Suggest revision of first paragraph, first sentence, as follows:
"Resource extraction rates, with or without an MRL designation, are a function of (1) market demand for the materials, (2) capability to transport materials to markets economically, and (3) permitting of excavation and related mining and transportation facilities and activities by applicable regulatory agencies and governments."**

Comment noted.

21. Section 2.9: Second paragraph is in error. FHM proposed the conveyor/belt line for movement of materials between its proposed 765 revised MRL and processing facilities at the Shine Hub (See James C. Tracy letter of October 23, 2002) and that fact does not impact area roadways. Replace "is" with "are" in last sentence of this section.

Comment noted.

JEFFERSON COUNTY DCD

APR - 2 2004

RECEIVED

THE LAW OFFICES OF
JAMES C. TRACY

ATTORNEY & COUNSELOR AT LAW
OLYMPIC PEAKS BUILDING
18887 STATE HWY #305 NE - SUITE 500
POULSBRO, WA. 98370-7401
Ph: (360) 779-7889 Fax: (360) 779-8197

April 2, 2004

Mr. Al Scalf, Director
Jefferson County Department of Community Development
621 Sheridan St.
Port Townsend, WA 98368

In Re: Draft Supplemental Environmental Impact Statement - MLA 02-235

Dear Mr. Scalf:

Thank you for the opportunity to comment on the Draft Supplemental Environmental Impact Statement for Fred Hill Materials, Inc.'s 2002 application for a Mineral Resource Land Overlay District, Jefferson County Comprehensive Plan Amendment MLA 02-235.

As you know, the Jefferson County Commissioner's prior action to approve MLA 02-235, subject to conditions, was subject to a Petition For Review filed on behalf of the Hood Canal Coalition and others.

The Western Washington Growth Management Hearings Board remanded the case for further consideration under the requirements of SEPA, RCW 43.21C. That decision required the County to perform additional work (adequate analysis) regarding the environmental effects of the "no action" alternative (i.e. maintaining the status quo with mining segments no larger than 10 acres), the 6240 acre original proposal (with mining segments of less than 40 acres) and the 690 acre staff/planning commission recommended and approved MRL (with mining segments less than 40 acres). These three alternatives were specifically found to be reasonable by the WWGMHB. (See FDO at page 24, lines 11-13.) Further, the WWGMHB indicated that the question of adequacy of mitigation measures would await the completion of this enhanced environmental review of the identified alternatives.

Also in that decision, the WWGMHB rejected all other claims of the Petitioners, specifically finding that:

1. The MRL **does not** violate the Growth Management Act (FDO at page 31, lines 21-26); and,
2. The MRL **does not** violate the Comprehensive Plan or the Unified Development

Page 1 of 6

- Code of Jefferson County (See FDO at 37, lines 26-31); and,
- 3. Public participation during the MRL process **was not** “clearly erroneous”, the standard of proof necessary to find Jefferson County’s procedure out of compliance with applicable law (See FDO at page 33, lines 21-24); and,
- 4. Petitioners **failed** to meet their burden of proving that the County’s action substantially interferes with the goals of GMA and therefore the “presumption of validity” remains with the County’s MRL approval.

The County has issued this Supplemental Draft Environmental Impact Statement (SDEIS) to comply with the WWGMHB directives in this matter. The following specific comments of Fred Hill Materials, Inc. (FHM) are intended to provide information that will clarify and supplement the information contained in the SDEIS. Specific section references, keyed to the document precede each comment.

1.1 In paragraph 1 it is asserted that FHM “intended” to utilize 400 to 800 acres within the proposed 6240 acre MRL for mineral extraction, processing, and transport to “augment” their existing extraction and processing facilities, the Shine Hub.. This description is incomplete and potentially misleading. Prior to FHM’s application for this MRL, FHM informed the County that it expected to exhaust existing excavation sites at the Shine Hub and needed to expand excavation areas, hopefully to a location outside of the public viewshed. To that end, FHM already had an application pending before the Department of Natural Resources for a 165 acre extraction area expansion know as the “Wahl Extraction Area” for approximately 13 months. (See Project Description and Environmental Checklist, incorporated herein as though fully set forth.) In fact, FHM applied for a “gross” MRL of 6240 acres, excluded regulated critical areas from within that external boundary resulting in a “preliminary net” MRL of 4970 acres, which was to be subject to “ground-truthing” to further exclude any additional regulated critical areas encountered during the process of actual application for mining operations within the MRL.

1

In paragraph 2, the description of FHM’s proposed modification is incomplete and potentially misleading. After discussions with County staff and consideration of public input received at the initial hearing on the MRL and consideration of results of further site evaluation, because of the public perception that the proposal was simply “too big” as well as staff concern that the actual areas of probable mining were not specifically identified in the initial proposal, FHM proposed to reduce the overall size of the MRL request to a specific 765 acre area (subject to “ground-truthing” and exclusion of any subsequently discovered regulated critical areas) within the original proposal (but not containing the Shine Hub) contingent upon the County’s acceptance of a list of 12 conditions - in toto. (See Letter from James C. Tracy of October 23, 2002, incorporated herein by this reference as though fully set forth.) Among those proposed conditions was a provision that the 765 acre MRL would not contain any processing or heavy equipment maintenance, with actual mining to be conducted in segments not to exceed 40 acres in size and pursuant to Best Management Practices of the Washington Department of Natural Resources.

2

This FHM proposal was not accepted by Jefferson County and therefore self extinguished. Rather, County Staff utilized many of the components of FHM'S conditional proposal to develop their own proposal to reduce and specify the location of the proposed MRL, including a proposed set of conditions that included many but not all of the originally proposed FHM conditions, and a reduction of the size of the FHM proposed modification (765 acres) to 690 gross acres (subject to "ground-truthing" as was the original FHM proposal) to provide an additional buffer between Thorndyke Creek and the boundary of the recommended MRL.

The Staff proposed MRL Revision was recommended for adoption by the Board of County Commissioners by the Planning Commission with the addition of non-binding recommendations for further study/analysis.

The Staff proposed MRL Revision was adopted by the Board of County Commissioners on December 13, 2002, with conditions of approval in addition to those recommended by the Staff. Actual mining within the 690 acre approved MRL is estimated to be 639 acres over a 20-40 year time period (excluding the conveyor corridor and known critical areas and buffers, subject to "ground-truthing" to exclude any subsequently discovered regulated critical areas).

} 2 (cont.)

- 1.2 In paragraph 2, the DSEIS asserts that FHM's requested the proposed MRL "...to ensure a future mineral resource supply in close proximity to their Jefferson County processing facility (Shine Hub)....." This assertion is false and misleading.

In fact, both Jefferson County and FHM recognize that FHM as the ability to continue mining operations as a use allowed outright throughout commercial forest lands without any local approval from Jefferson County if the individual disturbed area is less than ten acres. Disturbed areas greater than ten acres require an MRL designation pursuant to the process set forth in the Jefferson County Uniform Development Code.

} 3

FHM is the applicant for this MRL amendment to the Jefferson County Comprehensive Plan. FHM's goals for this proposal were to accomplish three specified objectives:

1. To provide adequate notice to adjacent landowners and purchasers that mining activities were likely to occur with the boundaries of the MRL (Note: FHM submitted evidence in the record of this matter that current notice to adjacent property owners, as required by RCW 36.70A.060 was improper and incomplete as to mining); and,
2. To avail FHM of the protections offered in the UDC against nuisance claims for mining activities conducted within a designated MRL; and,
3. To allow FHM to pursue project permit applications within the MRL for excavation sites over ten acres in size, consistent with the

} 4

recommendations of the Department of Natural Resources regarding commercially and environmentally feasible excavation cell sizes.

The record in this matter is clear and replete with references to these three FHM objectives. (See, for example, Application for Comprehensive Plan Amendment, Supplemental Narrative, April 25, 2002, at page 6; see also, Letter from James C. Tracy, December 6, 2002, at page 3.) An appropriate understanding of the goals and effects of the proposed MRL Comprehensive Plan Amendment is critical to an understanding of the non-project environmental analysis required by WAC 197-11-442, SEPA Rules.

4 (cont.)

- 1.4.2 This section should be revised to accurately reflect both the original FHM proposal and the FHM proposed “revision” per the commentary in Sections 1.1 and 1.2, above.

5

This section should also reflect the provision for “ground-truthing” contained in the approved MRL.

- 1.4.3 The no action alternative summary should specifically state the area to which it applies. The “Study area” of this DSEIS is the acreage of the Proposed Action MRL, 6240 acres as delineated in the document (See Fig. 1-1, Fig 2-1 as examples.) Impact analysis is likewise done as to the “Study Area”, as in the Transportation Section at page 3-42. Therefore, the No Action Alternative should be stated as “No change to the status quo with regard to mineral extraction in the 6240 acre Study Area.”

6

- 1.5.1 Major conclusions should include:

- Identification and mitigation of probable significant adverse impacts of any actual mining operations within the area of the proposed MRLs or the No Action Alternative will be conducted through the State Environmental Policy Act (SEPA) process in conjunction with State and/or County permitting processes under any of the alternatives examined.

7

- 1.5.2 Suggest moving first paragraph to a bullet in Section 1.5.1. Uses and activities within a designated MRL are controlled and regulated by the requirements of the Jefferson County UDC, the State Environmental Policy Act, and the Surface Mining Act. This is not an area of any uncertainty or controversy.

8

- 1.5.3 Suggest adding to Second Paragraph the fact that the Approved Action MRI would provide significantly less effective GMA/UDC notice and nuisance protections to known commercially viable mineral deposits demonstrated to exist within the Proposed Action MRL because of its smaller size and remoteness from adjacent uses not classified or zoned for resource management activities.

9

In addition, the first sentence of paragraph 2 should be deleted because these features were not included in the Proposed MRL and therefore there are no material

environmental implications on regulated critical areas between the Proposed and Approved Action MRLs or the No Action Alternative.

- 1.5.4 Suggest adding “Postponing” or “Delaying” as the first word in the second sentence number 2, and adding “...or encroachment upon these known commercially viable deposits of minerals by adjacent/nearby uses that may compromise mineral extraction activities on these lands in the future...” at the end of the second sentence. } 10
- 1.5.5 Table 1-1
Transportation - Last bullet under Approved Action - Suggest deleting last phrase regarding duration of impacts since actual mining area proposed over 20-40 years is essentially unchanged between the Proposed and Approved Alternatives, and would likely be very similar in size and location under the No Action Alternative. } 11
- 1.5.5.2 Transportation - Suggest revising Sentence fourth sentence by deleting “affect” and inserting “accelerate”.
Suggest deletion of “high” from last sentence as a modifier to “level of service”. Levels of Service are adopted, not necessarily “high” levels of service. Any deficiency in levels of service could be remedied in a number of ways at such time as a project with actual impacts is proposed. } 12
- 1.5.5.3 Suggest revision of third sentence. Future mining within the study area, with or without either MRL alternative or under the No Action Alternative, will be project-specific and site-specific. } 13
- 2.3 This section should specify the methods (notice, nuisance protection, etc.) by which preservation and protection is accomplished. } 14
- 2.4 Last sentence of first paragraph is incorrect, suggest it be deleted or rewritten. All surface mining and reclamation activities must meet the requirements of UDC Section 4.24, whether within or outside of an MRL. (For example, see SDEIS at page 2-18) } 15
- 2.5.1 Suggest adding RCW 36.70A.060 to citations. } 16
- 2.5.4 Suggest adding the full text of disclosure required in Jefferson County UDC 3.6.3 (3)(b). Paragraph two should be revised to accurately reflect the record. (See 1.1, above.) } 17
- 2.6.1 See attached suggestions for additions to Table 2-3. } 18
- 2.6.2 Second to last sentence on page 2-11 is a fragment in its current form. } 16
- 2.9 Suggest revision of first paragraph, first sentence, as follows: } 20

“Resource extraction rates, with or without an MRL designation, are a function of (1) market demand for the materials, (2) capability to transport materials to markets economically, and (3) permitting of excavation and related mining and transportation facilities and activities by applicable regulatory agencies and governments.

} 20 (cont.)

Second paragraph is in error. FHM proposed the conveyor/belt line for movement of materials between its proposed 765 revised MRL and processing facilities at the Shine Hub (See James C. Tracy letter of October 23, 2002) and that fact does not impact area roadways.

} 21

Replace “is” with “are” in last sentence of this section.

Conclusion

Once again, FHM appreciates the opportunity to comment on this DSEIS. We look forward to the publication of the County’s FSEIS and the further consideration of this matter by the Board of County Commissioners. Please feel free to call on me at any time should you have questions or require any additional information.

Sincerely,



James C. Tracy, WSBA #15656
Land Use Counsel
Fred Hill Materials

Table 2-3. Mitigation attached to a proposed 690 acre MRL overlay district as conditions for actions within the overlay district and area of discussion within this Draft SEIS.

	Mitigation/Conditions	Elements of the Environment						
		Earth	Air	Water	Plants and Animals	Noise	Land Use	Transportation
	<p>protocol shall be established during review of future mineral extraction permit application. Any planned, temporary exceeding of these standards must be authorized beforehand by the Administrator and documented in the compliance case file.</p> <p>h. Outdoor lighting shall meet the specifications of the US National Park Service Interim Design Guidelines for Outdoor Lighting. Building lighting shall be located high on the structures and include forward throw optics to direct lighting away from the sides of the buildings and onto the ground. Lighting required for mineral extraction, processing, and transportation activities shall be independently mounted (not directly attached to equipment) to allow for a more downward throw of light to further limit the potential for direct light to reach offsite areas.</p> <p>c. Transportation options shall be fully studied in project action environmental review, including optimum hours for truck access to RR 104.</p> <p>d. A visual impact mitigation plan shall be a mandatory element of project action environmental review, including but not limited to the establishment of berms, vegetative plantings, and other measures to mitigate offsite visual impacts.</p>				✓	✓		
3.	Gravel mining operations shall, prior to approval and operation, obtain from the Washington Department of Ecology Water Quality Program a national Pollutant Discharge Elimination System and State Waste Discharge General Permit (NPDES) for process water, stormwater and mine dewatering water discharges. All activities within the MRL overlays shall be subject to the standards of the latest edition of the Department of Ecology Stormwater Management Manual for Western Washington.			✓				
4.	Mining operations located within a designated Aquifer Recharge Area shall demonstrate that the proposed activities will not cause degradation of the groundwater quality below the standards described in Chapter 173-200 WAC (Water Quality Standards for Ground Waters of the State of Washington):			✓				
	a. The proponent shall prepare a Best Management Practices Report pursuant to the criteria explained below, describing how the operators will integrate other necessary and appropriate mitigating measures in the design, installation, and management of the proposed facility or use.			✓				
	b. The report shall be prepared by, or done under the direction of or designed by, a qualified person with demonstrated expertise in the industry or field as demonstrated by a statement of qualifications and at least three references from parties familiar with common business practices in the subject field or known expertise in the field.			✓				
	c. The report will identify appropriate BMPs and how they will be employed to prevent degradation of groundwater. Examples of BMPs are available at the DCD Permit Center. All necessary technical data, drawings, calculations, and other information to describe application of the BMPs must be supplied.			✓				

?

Table 2-3. Mitigation attached to a proposed 690 acre MRL overlay district as conditions for actions within the overlay district and area of discussion within this Draft SEIS.

Mitigation/Conditions	Elements of the Environment						
	Earth	Air	Water	Plants and Animals	Noise	Land Use	Transportation
1. Prior to approval and operation of a surface mine in the Wahl Lake or Meridian area of the Thorndyke Tree Farm, the proponent shall submit and satisfy all requirements of the Unified Development Code (UDC) including, but not limited to:							
a. Protection of environmentally sensitive areas per Section 3:							
• Mining is prohibited in Fish and Wildlife Habitat areas or their buffers.							
• Mining is prohibited in Wetlands or their associated buffers.							
• Submission of an Aquifer Recharge Area Report, Drainage, and Erosion Control Plan, and Grading Plan, the combination of which shall demonstrate that the proposed activities will not cause degradation of groundwater or surface waters.							
• Submission of a Habitat Management Plan.							
b. Performance standards of Section 4:							
• Full compliance with the Washington State Surface Mining Act (RCW 78.44) shall be required prior to any mining activity that exceeds 3 acres of disturbed area.							
• Extraction report prepared by a professional geologist with elements required pursuant to UDC 4.24.2.a-f.							
• All extraction and reclamation activities that create a noise disturbance must take place between 7:00 a.m. and 7:00 p.m.							
c. Development standards of section 6:							
• Stormwater management standards and practices.							
• Best Management Practices for drainage and erosion control and sedimentation control.							
• Mineral extraction Best Management Practices in Aquifer Recharge Areas.							
d. Jefferson County procedures and policies at UDC Section 8 for implementation of the State Environmental Policy Act (SEPA).							
e. Any failure to abide by Jefferson County regulations shall be investigated and enforced as provided by the requirements and procedures of Section 10.							
2. As a matter of policy, the legal, nonconforming use (i.e., established prior to adoption of the UDC) at the Shine Pit hub of 144 acres (including an existing MRL overlay of 121 acres) shall be subject to operational standards a. and b. upon adoption of a Wahl Lake/Meridian MRL overlay and mineral extraction activities in the Wahl Lake/Meridian MRL overlay.							
a. The maximum permissible sound level at any and all receiving properties outside of the Thorndyke Tree Farm shall be 57 dB(A) between 7:00 a.m. and 7:00 p.m. on weekdays and 47 dB(A) on weekends, holidays, and between 7:00 p.m. and 7:00 a.m. on weekdays. Compliance							

Jefferson County Comprehensive Plan Draft Supplemental EIS: MLA 02-235

Draft SEIS and Final SEIS References

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List Of Acronyms

A

ADT – average daily traffic
a-f/yr – acre-feet per year

B

BMP(s) – best management practice(s)

C

CTED – Community, Trade, and Economic
Development

D

dB – decibels
DCD – Department of Community Development
DEIS – Draft Environmental Impact Statement
DS – Determination of Significance

E

EDNA – environmental designation for noise abatement
EIS – environmental impact statement
EPA – U.S. Environmental Protection Agency
ESA – Endangered Species Act

F

FEIS – Final Environmental Impact Statement
FEMA – Federal Emergency Management Act
FHM – Fred Hill Materials, Inc.

G

GMA – Growth Management Act

L

LOS – Level of Service

M

MRL – Mineral Resource Land
Mg/L – milligrams per liter

N

NPDES – National Pollutant Discharge Elimination
System
NWI – National Wetlands Inventory

O

OFM – Office of Financial Management
ORCAA – Olympic Region Clean Air Agency

P

PM₁₀ – particulate matter smaller than 10 micrometers
in mass-mean diameter

R

RCW – Revised Code of Washington

S

SEIS – Supplemental Environmental Impact Statement
SEPA – State Environmental Policy Act
SMM – Stormwater Management Manual
SR – State Route

U

UDC – Unified Development Code
UGA – urban growth area
USGS – United States Geological Survey

W

WAC – Washington Administrative Code
WDFW – Washington State Department of Fish &
Wildlife
WDNR – Washington State Dept. of Natural Resources
WDOE – Washington State Department of Ecology
WRIA – Water Resource Inventory Area
WSDOT – Washington State Dept. of Transportation
WWGMHB – Western Washington Growth
Management Hearings Board

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Growth Management Program
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Jefferson County Public Utility District
#1
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Olympic Environmental Council
Wild Olympic Salmon
North Olympic Salmon Coalition
People for a Livable Community
Better Brinnon Coalition
Hood Canal Coalition
Point-No-Point Treaty Council
Port Gamble S'Klallam Tribe
Jamestown S'Klallam Tribe
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