

Christine Shilley

From: April Allen <april.r.allen@gmail.com>
Sent: Friday, June 20, 2025 8:09 AM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050 which REQUIRES mitigation "to achieve no net loss of stream function."

Scientists in the Final EIS admit "significant unavoidable adverse impacts" including:

83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
Vashon Aquifer levels dropping 8+ feet permanently
Multiple wetlands losing 1-3 feet of water forever
Creek temperatures getting too hot for fish survival
Seep wetlands along the creek ravine disrupted permanently
The EIS states the restoration plan "would likely NOT mitigate these impacts."

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project. The sovereign tribal nation is formally appealing the Final EIS, citing:

Failure to properly identify tribal cultural resources
Violation of tribal consultation requirements
No adequate mitigation for impacts to sacred sites
How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

Violates city law (Comprehensive Plan AND Critical Area Ordinance)
Requires fixing damage scientists say CANNOT be fixed?
Demands impossible mitigation conditions?
This is legally impossible. DENY the approval.

Sincerely,

April Allen, M.Ed.
2188 Forrest Pl, DuPont, WA 98327
253-844-5777
april.r.allen@gmail.com

Christine Shilley

From: Simone Amadee <simone45@comcast.net>
Sent: Saturday, June 14, 2025 3:18 PM
To: Barbara Kincaid
Subject:  URGENT: STOP DUPONT MINE EXPANSION

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050, which **REQUIRES** mitigation "to achieve no net loss of stream function."

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How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say **CANNOT** be fixed?

- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely,

Simone Amadee
3183 Brown Loop
253-241-3104
simone45@comcast.net

Sent from my iPhone

Christine Shilley

From: Carman Ambrose <carmanambrose@gmail.com>
Sent: Friday, June 20, 2025 8:42 AM
To: Barbara Kincaid
Subject: Oppose Mine Expansion

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050 which REQUIRES mitigation "to achieve no net loss of stream function."

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You cannot approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely, Carman Ambrose 1849 McDonald Ave DuPont, WA carmanambrose@gmail.com

Christine Shilley

From: KRISTA ANDERSON <kanders4@Tacoma.K12.Wa.US>
Sent: Tuesday, June 17, 2025 7:01 PM
To: Barbara Kincaid
Subject: Aggregate Mine

I have lived in DuPont since our master-planned community was first conceived. I bought my first home on the promise of a clean, safe, quiet, and environmentally responsible community. The green spaces, trails, ponds, Sequalitchew Creek, and Puget Sound waterfront are where my children, dogs, and I spent countless hours together. Now my grandchildren are enjoying the same spaces their parents cherished as children and still today.

DuPont is such a unique and special place. I am sickened by the idea of Aggregate Mines destroying my perfect little town. This was never the intent of the original Northwest Landing community development plans!

Since the company's planning meeting is during my work hours this Friday, I disappointingly can't attend. What I do understand is that their mitigate plan falls disparaging short and is based on unpromised federal funds.

I urge you to deny approval of Aggregate Mine's proposed expansion plan. Don't let them rape our beloved community!

Krista

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Christine Shilley

From: Jim Bags <gymbags@yahoo.com>
Sent: Monday, June 16, 2025 9:44 PM
To: Barbara Kincaid
Subject: Oppose Pioneer Aggregate Mine Expansion

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it “does not align with Comprehensive Plan policies” and admits “no mitigation is provided for the significant unavoidable impacts to the surface water bodies” – directly violating DMC 25.105.050 which **REQUIRES** mitigation “to achieve no net loss of stream function.”

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How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Lastly, the long term effect of this project is not set to make sure that the company and the city work in harmony. That in its self is going to do more harm in the long run. Think about it!

James Baglio
707 Louviers Ave, DuPont Wa 98327
Cell 360-915-3765

[Yahoo Mail: Search, Organize, Conquer](#)

Christine Shilley

From: Laura Barber <lauraabarber@gmail.com>
Sent: Friday, June 13, 2025 1:52 PM
To: Barbara Kincaid
Subject: Comment against Pioneer Aggregates Gravel Mine Expansion

Hello,

I want to register my comment opposing the expansion of the Pioneer Aggregates CalPortland Gravel Mine in Dupont. Draining the Vashon Aquifer to gain access to the gravel beneath risks drying out Sequalitchew Creek, endangering birds, salmon, and other wildlife that rely on the riparian forest habitat the creek supports. Riparian forests rely on steady sources of groundwater, so draining this aquifer will lead to drastic habitat changes and tree die off along the beloved Sequalitchew Creek Trail. In addition to endangering the forest, draining the Vashon Aquifer may destabilize slopes, exacerbating preexisting erosion risks, and mining in the area will disturb Nisqually tribal burial sites.

Thank you for listening!

Laura Barber

Christine Shilley

From: ROBIN BARROW <barpow1@msn.com>
Sent: Thursday, June 19, 2025 8:52 PM
To: Barbara Kincaid
Subject: Pioneer Aggregate South Parcel Mine Expansion
Attachments: Dear Hearing Examiner.docx

Dear Mrs. Kincaid,
Attached is my letter to the Hearing Examiner on the South Parcel Mine Expansion.
Thank you for the work you do.
Robin Barrow

Dear Hearing Examiner,

Date: June 16, 2025

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLMG 2021-006)

Water is a resource needed by all living things.

With over 60% of drinking water in Washington State supplied by groundwater any alteration in the Aquifer will negatively impact the community. Our aquifers are protected in part by the impervious layer of till that drapes the land like a tarp. Recharge zones are critical for replenishing our water supply. They are also, by nature extremely fragile. Too much water will be taken out of the system due to over-pumping. An aquifer's ability to hold water can be reduced by compaction and damage due to excessive water extraction. Too little water in the form of precipitation entering the system due to drought will also limit the aquifer. At this time DuPont is in an abnormal drought cycle.

The aquifer behaves based on the ease with which water can move into and through it and the quality of that water will vary with the geology. Basalt, shale, clay, sandstone, carbonate, silt, sand, and gravel each geologic unit has a range of values for how well it transmits water and how much is available. The layers of gravel can also influence water quality. An aquifer can actually change the water it holds. The type and degree of change depends on the mineral composition and its recharge rate. Longer flow paths slowly change the chemistry of the water. pH goes up, dissolved oxygen comes down. These chemical shifts help to leach certain things out of the rock. Iron, manganese, arsenic, and hydrogen sulfide are a few elements of compounds dissolved in the local ground water. When you reduce the volume of water, as much as 30%, you increase the concentration of the elements, thus permanently impacting any and all dependent vegetation, wildlife and humans. Without the water the vegetation dies, the animals are forced to find other resources, or die.

Once the rock and water are removed the land will be forever changed. Surrounding surfaces beyond the mine will be impacted by the drain on runoff instead of being an Aquifer recharge zone.

Creating a new wetland will not replenish the vegetation as it is by nature in existence. The new wetland will not have the same elemental compounds because it will be made up of unused sand and gravel that has been permanently changed. In my opinion, creating new is not a viable alternative to the destruction of another. You cannot replace what has been taken away.

I am also concerned that Pioneer Aggregate has noted within the proposal that they will pay for any restoration to the creek and the habitat. However, there is nothing within the documents that guarantees this will happen. No money has been set aside to fund the project, such as a promissory note or bond in holding with the city for the purpose of the restoration.

We must do more to protect the natural areas that connect our community and provide respite, recreation, and habitat for wildlife. We must do more to ensure everyone can access green spaces, particularly those most impacted by unequal investment in this important neighborhood infrastructure.

I ask that you deny the approval.

Sincerely,

Robin Barrow
3102 McAllister St.
DuPont, WA. 98327
206-437-5582
Barpow1@msn.com

Christine Shilley

From: Nicole Bennett <nicoles6837@aol.com>
Sent: Monday, June 16, 2025 8:45 AM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050 which REQUIRES mitigation "to achieve no net loss of stream function."

Scientists in the Final EIS admit "significant unavoidable adverse impacts" including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
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- Seep wetlands along the creek ravine disrupted permanently

The EIS states the restoration plan "would likely NOT mitigate these impacts."

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project. The sovereign tribal nation is formally appealing the Final EIS, citing:

- Failure to properly identify tribal cultural resources
- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely,
Nicole Bennett

47 Silver Beach DR Steilacoom

253-290-2827

nicole6837@aol.com

Christine Shilley

From: Jen Bowen <jenjohnstonbowen@gmail.com>
Sent: Monday, June 16, 2025 8:22 AM
To: Barbara Kincaid
Subject: Expansion of the CalPortland Gravel Mine

Hi Barb,

I'm writing in strong opposition to the proposed expansion of the CalPortland Gravel Mine.

Draining the Vashon Aquifer to access gravel beneath it would devastate Sequalitchew Creek—drying up critical habitat for salmon, birds, and other wildlife, and damaging the riparian forest along the popular Sequalitchew Creek Trail. The Final EIS confirms groundwater could drop by 30 feet, reducing the creek's flow by up to 79%. This threatens decades of restoration work, including efforts to recover salmon and orca populations.

The project would also destroy over 170 acres of forest, Edmond Marsh wetlands, and violate DuPont's Critical Area Ordinance. It risks slope instability and irreparable cultural harm by disturbing Nisqually Tribe burial grounds. The Tribe has clearly stated its opposition, and their voices must be respected.

This mine expansion would worsen climate change, harm public health, and degrade a cherished community space. It's the wrong project in the wrong place.

Thanks for your consideration,
Jen Bowen

235 Del Monte Avenue
Fircrest, WA 98466
jenjohnstonbowen@gmail.com
(781) 635-2390

Christine Shilley

From: BRYAN BRIGHT <lbright@comcast.net>
Sent: Monday, June 16, 2025 5:59 AM
To: Barbara Kincaid
Subject: Hearing Examiner
Attachments: Letter to the Hearing Examiner.docx

Ms. Kincaid,

Please, ensure that the hearing examiner in regard to the mine expansion receives the attached letter.

Thank you,

Bryan and Leslie Bright

Letter to the Hearing Examiner

Opposition to Pioneer Aggregates South Parcel Mine Expansion Project

TO: Hearing Examiner

EMAIL: bkincaid@dupontwa.gov

RE: PLNG2021-006, PLNG2021-009, PLNG2021-010, PLNG2021-002

FROM: Bryan and Leslie Bright

DATE: June 16, 2025

DENY THIS LEGALLY IMPOSSIBLE APPROVAL

Dear Hearing Examiner,

I urge you to DENY the Pioneer Aggregates South Parcel Mine Expansion Project (PLNG2021-006) because it presents a legal impossibility: the city admits it violates municipal law while requiring mitigation of environmental damage that scientists have already proven cannot be mitigated.

1. CITY STAFF ADMITS THIS VIOLATES MUNICIPAL LAW

Comprehensive Plan Violations: The Staff Report explicitly states the project "does not align with Comprehensive Plan policies LU-3.6, LU-10 and LU 10.2 for the protection of the long-term integrity of the natural environment."

These violated policies include:

- LU-3.6: "Employ practices that protect the long-term integrity of the natural environment, adjacent land uses, and the long-term productivity of resource lands."
- LU-10: "Recognize the value of mineral resource extraction while protecting the integrity of the natural environment."
- LU-10.2: Requires understanding that mining activities must maintain environmental protection standards.

Natural Environment Goal NE-1.1 also requires: "Preserve environmentally sensitive areas and those that are valuable natural and aesthetic resources to the city."

Staff explicitly concludes: *"without mitigation for impacts to the wetlands located to the south of Sequalitchew Creek, the proposal does not align with Comprehensive Plan policies LU-3.6, LU-10 and LU 10.2 for the protection of the long-term integrity of the natural environment."*

Critical Area Ordinance Violations (DMC 25.105.050): Staff admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies located to the south of Sequalitchew Creek" and requires the applicant to prepare critical area reports that do not currently exist.

The Staff Report explicitly states: *"However, no mitigation is provided for the significant unavoidable impacts to the surface water bodies located to the south of Sequalitchew Creek (Wetland 1D; Pond Lake; Wetland#8, #9, #10, and #11; and Old Fort Lake)... these impacts do not align with Comprehensive Plan policies for protection of the long-term integrity of the natural environment."*

DMC 25.105.050(2)(a) (D) requires that "unavoidable impacts to streams and stream functions shall be mitigated to achieve no net loss of stream function." Yet staff admits no mitigation exists for the unavoidable impacts.

How can you legally approve a project that city staff admits violates two fundamental municipal ordinances.

2. SCIENTISTS PROVE THE ENVIRONMENTAL DAMAGE CANNOT BE MITIGATED

The Final EIS documents "significant unavoidable adverse impacts" including:
Creek Destruction:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Creek will be dry 10% of the time
- Water temperatures exceeding 16°C from May to September - too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently

Groundwater Devastation:

- Vashon Aquifer levels dropping 8+ feet permanently with no recovery
- Groundwater discharge in Sequalitchew Creek ravine decreasing by up to 83%
- Long-term groundwater level declines of up to 8.73 feet at Edmond Marsh

Wetland Destruction:

- Multiple wetlands losing 1-3 feet of water forever:
 - Wetland 1D: 3 feet loss
 - Pond Lake: 2 feet loss
 - Wetlands #8, #9, #10, #11: 1 foot loss each
 - Old Fort Lake: 0.5 feet loss

The EIS explicitly states: "Implementation of the Restoration Plan would likely NOT mitigate these impacts."

3. THE CONDITIONAL APPROVAL REQUIRES THE IMPOSSIBLE

The Staff Report recommends 38 conditions requiring CalPortland to mitigate environmental damage that the city's own scientific analysis proves cannot be mitigated.

Impossible Conditions Include:

- Condition #21: Prepare mitigation plans for off-site wetlands the EIS says cannot be mitigated
- Condition #2: Implement restoration plans that scientists say "would likely NOT mitigate these impacts"
- Condition #7: Protect water resources while permanently damaging the Vashon Aquifer

- Condition #23: Monitor vegetation and slope stability while eliminating the groundwater that sustains them

This creates a legal fiction: conditional approval based on conditions that are factually impossible to fulfill.

4. THE LEGAL IMPOSSIBILITY

You are being asked to approve a project that:

1. Violates city law (Comprehensive Plan AND Critical Area Ordinance)
2. Causes permanent environmental damage that scientists prove cannot be fixed
3. Requires 38 impossible conditions to mitigate unmitigatable damage

This is not lawful discretionary approval - it is approval of the legally impossible.

5. ENVIRONMENTAL DEVASTATION IN DETAIL

Our Community Will Permanently Lose:

The Living Creek: The natural seeps and springs that have fed Sequalitchew Creek for millennia will dry up. Families walking the beloved Sequalitchew Creek trail will find a mostly dry streambed where a vibrant creek once flowed. Fish habitat will be destroyed by overheated water.

Underground Water Systems: The Vashon Aquifer - a geological formation that took thousands of years to develop - will be permanently damaged with groundwater levels dropping over 8 feet and never recovering.

Wetland Ecosystems: Multiple wetlands will shrink permanently, losing 1-3 feet of water depth. These are not temporary impacts during construction - they are permanent ecological destruction.

CONCLUSION

The evidence is overwhelming and comes from the city's own documents:

- City staff admits this violates municipal law
- Scientists prove the damage cannot be mitigated
- 38 conditional requirements demand the impossible

How can a hearing examiner legally approve a project that violates city law and requires the factually impossible. The conditional approval becomes meaningless when the conditions cannot be fulfilled.

For the sake of legal integrity and environmental protection, I urge you to DENY this application.

Respectfully submitted,
Bryan and Leslie Bright

2245 McDonald Avenue, DuPont WA 98327
lbright@comcast.net

ATTACHMENTS REFERENCED:

- Staff Report and Recommendation (PLNG2021-006)
- Final Environmental Impact Statement (May 22, 2025) - All 38 Conditions of Approval requiring impossible mitigation
- DuPont Municipal Code Critical Areas Ordinance 25.105

Christine Shilley

From: Angela Brinkhaus <abrinkha@hotmail.com>
Sent: Wednesday, June 18, 2025 2:37 PM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050, which **REQUIRES** mitigation "to achieve no net loss of stream function."

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How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely,
Angela Brinkhaus
1413 Bobs hollow ln
253-273-2243
Abrinkha@hotmail.com

Christine Shilley

From: Diana B. <kukurun_@hotmail.com>
Sent: Sunday, June 15, 2025 12:29 PM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion-PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

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Demands impossible mitigation conditions?
This is legally impossible. DENY the approval.
Sincerely,
Diana Buffington
2702 McNeill St
RDianaBuffington@outlook.com

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

Christine Shilley

From: Karen Burch <burchtrees1@hotmail.com>
Sent: Monday, June 16, 2025 8:14 AM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

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- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely, Michael and Kate Burch, 2900 Hyland St., DuPont, WA, 253-209-2083 and 253-209-1097,
burchtrees1_@hotmail.com

Christine Shilley

From: diane <gogirl315@gmail.com>
Sent: Friday, June 13, 2025 9:05 AM
To: Barbara Kincaid
Subject: Draining an aquifer in order to increase gravel mining? It makes no sense

Hello Barbara,

I wanted to reach out to you as a concerned citizen regarding expanding the gravel pit and draining the vashon aquifer. During a time of climate change, when the Southern orca pods are experiencing malnutrition due to a lack of salmon, why would we even consider draining an aquifer to expand a gravel pit? Salmon are an endangered species. Bird habitat and green spaces are critical for the well-being of not just humans, but the entire ecosystem.

I know cities want to increase their tax revenue but we need to start taking the long view. How are we making this Earth a better place for our children, the next generation? Instead of being part of the problem and increasing Urban heat, please limit the expansion of the gravel pit and maintain the aquifer and the surrounding green space.

Thank you for your consideration ,

Diane Burke.

Christine Shilley

From: Lauren Burlison <lauren.burlisona@yahoo.com>
Sent: Wednesday, June 18, 2025 5:57 PM
To: Barbara Kincaid
Subject: Sequalitchew Creek Hearing

Hello Barb

Please accept this email as a response to the request for continued mining by CalPortland.

I will not discuss what the regulations are and whether or not the mining violates our City's comprehensive Plan.

I was fortunate to be born in Washington and appreciate that the Army sent my father here in the 50's. My parents were born and raised in Omaha, Nebraska. They fell in love with the beauty of Washington and were lucky enough to get a total of three tours here. They eventually retired in Lakewood.

But unfortunately I've seen the state change greatly. Some of the changes have been very good. We have good paying jobs, good schools and universities. It is still a state that a lot of people want to visit or want to live in.

You hear this all the time, DuPont is a great city. A wonderful place to raise a family. We have great trails and some beach access. Why are we being asked to give up more of the beauty of DuPont and its coastline. The environmental impact will not just affect DuPont. The impact includes the creek, the land surrounding the creek and aquifers. As a city, we have an obligation to protect our surroundings.

Is there something wrong with saying no to expanding the gravel pit. We can't fix what is removed. At some point we need to consider the land first and the devastation that will happen if CalPortland gets its way. The damage can be minimized but once touched by mining it will never be the same. It can't be repaired.

Thank you,
Lauren Burlison

Sent from Yahoo Mail for iPhone

Christine Shilley

From: Castle, Mary <mary.castle@weyerhaeuser.com>
Sent: Friday, June 20, 2025 5:49 AM
To: Barbara Kincaid
Subject: Weyerhaeuser Pioneer Aggregates Comment Letter
Attachments: Weyerhaeuser Dupont Hearings Ex Letter 6.20.25.pdf

Dear Director,
Please find attached our comments about the proposed expansion.

Thank you,

Mary Castle

Energy and Natural Resources
Director, Minerals
(O): 503-479-2309
(C): 541-954-9738

OUR VISION: Working together to be the world's premier timber, land, and forest products company

OUR VALUES: Safety | Integrity | Citizenship | Sustainability

 Weyerhaeuser

WY Seattle HQ • 220 Occidental Ave S • Seattle, WA 98104

Mary Castle
(503)-879-2309
Mary.Castle@wy.com

June 20, 2025

Barb Kincaid
Public Services Director
City of Dupont
Bkincaid@Dupontwa.gov

Subject: Pioneer Aggregates South Parcel Mine Expansion Project

On behalf of Weyerhaeuser, I'm submitting this letter in support of the Pioneer Aggregates South Parcel Mine Expansion proposed for Weyerhaeuser-owned property within the City of DuPont. Thoughtful planning around the use of this parcel and other lands commonly referred to as "Northwest Landing" has been ongoing for more than 40 years. This long-term vision is reflected in the DuPont Comprehensive Plan which identifies residential and commercial development, along with the use of the high-quality sand and gravel deposits on the property to be consistent with the City's planning objectives.

For nearly 30 years, the excavation of sand and gravel at the Pioneer Aggregates site has supported sustainably managed growth throughout the southern Puget Sound region. We fully support this proposed expansion, which will allow for continued operations using the processing plant presently operated by CalPortland and existing transportation infrastructure. It is important to note that use of this property for mining is only near-term, and following reclamation, the site will be available for future development aligned with the City's evolving needs.

Approval of the South Parcel expansion would yield substantial public benefits. First, the post-mining reclamation plan would lead to the restoration of Sequalitchew Creek with increased buffer protections. Second, mining will facilitate further clean-up, enabling the site to support a broader range of future uses for the City. As a result of clean-up activities Weyerhaeuser undertook in the 1990s, the site is presently available for industrial use. However, post-mining conditions will meet more stringent standards, allowing for greater flexibility in future planning, whether for recreational, commercial or residential uses. Mining is the only practical path to achieving this outcome.

Weyerhaeuser recognizes that some in the community may have concerns about the proposed expansion. However, based on our understanding of those concerns, the comprehensive permitting process designed to address this project, and the long-term benefits of the project, we believe the expansion to be environmentally responsible and a compatible use for the property under consideration. Accordingly, we strongly support CalPortland's proposal and the City's staff recommendation for approval.

Regards,



Mary Castle
Director Minerals
Weyerhaeuser Company

Christine Shilley

From: ERIC CHANDLER <e_jchandler@comcast.net>
Sent: Monday, June 16, 2025 3:30 PM
To: Barbara Kincaid
Subject: City of DuPont - Pioneer Aggregates South Parcel Project - PUBLIC COMMENT SUBMISSION
Attachments: COMMENTS - Reference Proposed Opening of the South Parcel of the Pioneer Mine for Digging.doc

Importance: High

Ms Kincaid.

Attached is our ***Comment Submission***. Please ensure it is given to the *Hearing Examiner* as a 2-citizen vote **against** allowing the *Pioneer Aggregates South Parcel Project* to proceed to fruition.

Thanx in advance for doing this for us.

Eric & Jen Chandler
563 Lake Louise Drive, Southwest
Lakewood, WA 98498-3151
253-677-9408

**COMMENT.....AGAINST
ALLOWING the SOUTH PARCEL OF THE PIONEER MINE
for
DIGGING**

SEQUALITCHEW CREEK faces a **challenge** to its **very existence** with the *Pioneer Aggregates* Gravel Mine's submission of a proposal to **DEWATER** the **VASHON AQUIFER** and **EXPAND** into **Sequalitchew's LAST FOREST**, dubbed, **INNOCUOUSLY & SUBLIMELY**, AS the "South Parcel".

The **FINAL ENVIRONMENTAL IMPACT STATEMENT** reveals **alarming consequences**:

- **Dewatering** the **VASHON AQUIFER** could **reduce GROUNDWATER LEVELS** by up to **30-feet** (!!!), **threatening the health** of **Sequalitchew Creek** **and** its **TRIBUTARIES**.
- This would **result in the loss of up to 79%** of the creek's flow,
 - **DISRUPTING** salmon habitat, and
 - **UNDERMINING** decades of restoration efforts.
- The expansion **THREATENS TO**:
 - **ELIMINATE** **Edmond Marsh**, a **CLASS I WETLAND**, and
 - **DESTROY**:
 - **OVER 170 ACRES OF FOREST**,
 - **10.8 ACRES** of the **KETTLE WETLAND**, and
 - at least **90 LANDMARK TREES**.
- **DESTRUCTION** of **ALL FUNGAL SPECIES** in the area, **including** the **distinct possibility** of **ANY NEW, UNKNOWN SPECIES**.

These are a **violation** of DuPONT'S **CRITICAL AREA ORDINANCE AND GROWTH MANAGEMENT POLICIES**, which mandate **No Net Loss** of **WETLAND** and **STREAM FUNCTIONS**.

The **proposed MITIGATION MEASURES** are **INSUFFICIENT and TEMPORARY**, leaving the **environment vulnerable in the long-term**.

PLEASE PROTECT OUR WATER, FORESTS (INCLUDING FUNGI), AND SALMON BY DISALLOWING THIS PROJECT TO PROCEED!

You might ask....why **PROTECT FUNGI** ? Read what follows and you will get the answer.

Although we are Lakewood residents we have on several occasions visited the **Sequalitchew Creek Trail** to find and identify **FUNGI/MUSHROOMS** for the **North American Fungal Diversity Survey**, as well as the **North American Mycological Association (NAMA)** projects, and.....**we have had the pleasure of having discovered SEVERAL SPECIES that ARE UNIQUE to THIS AREA**.

Be advised, Jen and I are amateur mycologists, belonging to these organizations:

- **NAMA**
- **Puget Sound Mycological Society**
- **South Sound Mushroom Club**,

COMMENT.....AGAINST
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We have **14 years** of *Mushroom Hunting* experience behind us, starting in 2011 when we were focusing on edibles. However, starting in **2018** we became **much-more** interested in non-edible fungi, particularly ***FUNGAL SCIENCE***, and since then have focused our efforts on the ***DETAILS ASSOCIATED*** with:

- **FINDING**,
- **IDENTIFYING**, and
- **RECORDING**:
 - *Site Location & Field Details Data*
 - *Complete Morphological Descriptions*, along with
 - *In-Situ and Detailed, Closeup Photos* for:
 - **478 Fungal observations** on the *iNaturalist* website, including
 - **298 First-time Fungal Observations** of **UNIQUE SPECIES**.
 - **169** have achieved a “**Research Grade**” designation because **at-least-3** other *iNaturalist* users **have confirmed** the **species** data we provided.
- By the way.....we have also found around **12 Fungi** that had **NEVER been identified** or **rarely recorded** for **existing** in the **PACIFIC NORTHWEST**.

So, **WHAT** got us started in looking at **all FUNGAL SPECIMENS** we found?

On our ***First foray***, my wife Jen found what is likely a **new fungal species**....in fact, through **DNA testing** we discovered that she had discovered the **very first** existence and recording of the species ***Hygrocybe phaeoccocinea*** in the **CONTINENTAL US** !! Since that time we have used every opportunity to explore anywhere we legally can to find some more rare/new fungal species....that includes the **Sequalitchew Creek area**.

Since 2018 my wife and I have taken **FIVE** trips to explore **both** the ***Eastern*** and ***Western*** areas of ***Sequalitchew Creek***, including the original ***Nisqually Fort*** property, (with a Dupont Guide).

During those self-guided trips we have found **30 fungal species** unique to that area **including** some of the grounds that are known as the ***South Parcel, Pioneer Aggregates Mine***.

SEQUALITCHEW CREEK AREA FORAYS:

- 13 OCT 2018, 4 Species
- 18 NOV 2019, 7 Species
- 28 JUN 2020, 6 Species
- 13 APR 2021, 8 Species, including the Mine area
- 19 OCT 2021, 5 Species, excluding the Mine area

Now, **HAD WE KNOWN THAT A GOOD PORTION OF THE AREA WE HAD PREVIOUSLY EXPLORED WAS POTENTIALLY GOING TO BE RAZED FOR MINE-EXPANSION, WE WOULD HAVE SPENT MORE TIME THERE.**

Being unaware of that possibility we spent **Only One Foray** into that area ***during the Spring of 2021***, yet we had a very-good impression that the forest grounds there had a **POTENTIAL** of being

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EXCELLENT for **FALL FUNGAL HARVESTS**....mainly due the extensive moss-covered areas and plenty of other features that fungus like, particularly good amounts and sizes of conifers, along with copious amounts of Dead fall.

Unfortunately, **FALL 2021-2023** were a “bust” for fungal pursuits **due to inadequate rainfall**, and, we found that to be the case in **nearly all** of our favorite foray areas here in WA.

Bottom Line....we have a very-REAL APPREHENSION ABOUT THE POTENTIAL LOSS OF HABITAT FOR FUNGI AND THE NATURAL SYSTEMS THEY SUPPORT...OF NOT ONLY THE MINE AREA, BUT SURROUNDING GROUNDS NEAR THERE.

Remember....in just **ONE Spring Foray**, in what was essentially a **POOR Spring Mushroom Season**, we still managed to find **EIGHT (8) SEPARATE SPECIES** in the **SOUTH PARCEL AREA**.

Considering our **14-years** of **PACIFIC NW FUNGAL PURSUITS**, with proper weather conditions, we are **ABSOLUTELY certain** we would have found **many WHO-KNOWS-WHAT FUNGAL SPECIES**, with the **DISTINCT POSSIBILITY** of a ***NEW SPECIES*** for the Pacific NW, ***if not the WORLD***.

And, now, the **RESPONSIBLE PARTIES ARE POSSIBLY GOING to ALLOW the COMPLETE DESTRUCTION of this AREA?**

The South Parcel Area *Potential*

- That **ENTIRE** area is covered for-the-most-part by 2nd-growth Conifers, predominantly Douglas Firs.
- The ground itself is thick with **Moss BEDS**, and
- Underneath that the ground is **LOADED WITH NUTRIENTS** necessary for **both** Fungal and **Floral** growth.
- Based on our 14-years of experience in **MANY** Pacific Northwest Fungal Foraging environments, all of these natural features found in the ***South Parcel Area*** are **perfect for Fungal Growth: FROM LATE AUGUST, ALL THE WAY INTO JANUARY....**depending on the weather.
- In other words, **LATE SUMMER** thru **EARLY WINTER**, when the **TEMPERATURE** and **RAINS** are **MOST-CONDUCTIVE** to **MAKING** the **ENVIRONMENT** **IDEAL** for ***MYCELIAL GROWTH***.

Our **MAJOR DISTRESS** is the **IMPACT** on the **FOREST** AND **WATER** AREAS this mine-expansion will likely cause as well as the concomitant effects on these **PRIMARY LIFE** areas:

- Surface/Ground Waters
- Soil Nutrients/Depth
- Fungi (Mushrooms)
- Flora (Plants)
- Fauna (Animals)
- Fisheries

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ESPECIALLY CONCERNING IS THE EFFECT ON FUNGI....an *equally important ELEMENT-OF-LIFE* on our planet. One has to understand that ELIMINATION / CONTAMINATION of areas that support fungi has WIDE-RANGING ECOLOGICAL IMPLICATIONS.

One must be aware what the term “fungi” **really** covers. This general, and usually misunderstood, term is actually referring to the component which is the actual living-being and is called “**MYCELIA**”. What you see in the store, called **Mushrooms**, is only the edible portion produced by those Mycelia, **MYCELIA**, are like trees and other plants, **BUT** they grow either underground or within some entity that feeds it. The Mushrooms they produce and usually visible are the **FRUIT** of the fungal species. These Mushrooms contain what we call **SPORES**, somewhat like the seeds found in the fruit and vegetables we eat nearly every day.

Fungi feed the land and environment in two ways thru their **Mycelia** (hyphae/roots) that can cover 100's to even 1000's of acres underground. There are two **Primary Types** of **Fungi**:

1) **Symbiotic**, where the Mycelia exchange water and nutrients with plants (i.e., trees, bushes, flowers, grass, moss....any living organism that the Mycelia can connect with, (i.e., like roots) providing those living beings with the water and elements necessary for plant growth. This allows plants to perform their absolutely essential work of releasing Oxygen to and removal of Carbon Dioxide of the Earth's “Air”. The Mycelia, in turn/ receive sugars and other nutrients from the plants.

Most interesting, AS WELL AS IMPORTANTLY, is THAT PARTICULAR FUNGI WILL HAVE A **SYMBIOTIC RELATIONSHIP WITH ONLY A CERTAIN PLANT OR TREE AND SHARE IT WITH NO OTHER.**

2) **Saprophytic**, where the Mycelia break down non-living matter (i.e., wood, leaves, cones/seed pods, grass, scat, carcasses....i.e., dead things) releasing carbon and nitrogen back into the soil, providing nutrition and an environment that is receptive to new plant growth.

For instance, the **LARGEST KNOWN “LIVING ORGANISM” ON PLANET EARTH** is a fungus/mushroom species belonging to the *Armillaria* genus which is living in a mixed-conifer forest in the *Blue Mountains* of northeast Oregon. It is colloquially called the “Oregon Humongous Fungus”, and according to the **US FOREST SERVICE**, it has set the record as The **LARGEST SINGLE LIVING ORGANISM ON EARTH**, covering an area of 2,385 acres, or about 3.7-Square-Miles.

What ‘**IF**’ there is **ANOTHER FUNGUS/MUSHROOM OF EQUAL/MORE-EQUAL IMPORTANCE, LIVING, YET UNDISCOVERED WITHIN THE BOUNDARIES of the South Parcel of the existing Pioneer Aggregates Mine area.**

Again, based on our 14-years of experience in Fungal Research we are **CERTAIN** that **APPROVING THIS EXPANSION WILL HAVE SERIOUS DELETERIOUS EFFECTS** on the **ENVIRONMENTS** of **BOTH** the mining parcel as well as surrounding areas that depend on the **ECOLOGICALLY IMPORTANT ASSISTANCE PROVIDED BY FUNGI.**

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DIGGING**

One other consideration....in the most-recent extension of the Dupont Mine, the **2011 Settlement Agreement for the DuPont Mine Agreement**, indicated Several Mitigation Efforts were supposed to have been done, such as the:

"RESTORATION OF SEQUALITCHEW CREEK WATERSHED, AND PRESERVATION OF PUGET SOUND SHORE-LANDS AND ADJACENT OPEN SPACE".

Well.....Were They?

Lastly, but certainly importantly, one needs to remember that Jen and I have just barely explored the **Sequalitchew Creek Area** for existence of Fungi, **AND EVEN LESS SO** for the **South Parcel**.

Also, remember that we have been successful in **FINDING, IDENTIFYING, and RECORDING DETAILS** for **30 FUNGAL SPECIES** in those areas. IMAGINE HOW MANY OTHER SPECIES WE COULD FIND WITH MORE TIME.

Finally, who knows what **Sequalitchew Creek**, including the **South Parcel** area, **might have hiding away in the form of an UNDISCOVERED SPECIES OF FUNGI**....mayhaps one that could also **BE OF BENEFIT TO MANKIND** for **SOME MEDICAL, LIFE-SAVING MEANS**, such as these, already found in WA?

- ***Psilocybe***: this mushroom has been proven to be of use in treating our military personnel who are suffering from *PTSD*.
- ***Cordyceps***: This fungus contains cordycepic acid and cordycepin, which may help stabilize blood sugar metabolism, and increase oxygen use, and produce ATP. It may also protect organs from heart, kidney, and liver disease. Some research suggests that cordyceps has anti-inflammatory and cancer-fighting properties.
- ***Pleurotus pulmonarius***: A hot-water extract of this fungus may reduce the proliferation and invasion of liver cancer cells.
- ***Hedgehog mushrooms***: Some believe that Washington's *hedgehog* mushrooms, such as **H. washingtonianum** and *Sweet Tooth* (*H. oregonense*), may have anti-tumor and anti-microbial properties.

Other **MEDICINAL MUSHROOMS** include: *Lion's mane, Reishi, Chaga, Shiitake, and Turkey tail*.

Remember.....*Penicillin* is the product of "**MOLD**" fungi.....these are microscopic fungi that grow in multicellular filaments called ***mycelium***, which normally appear as fine, white threads on the surface of food, causing discoloration and a fuzzy appearance.

MOLDS can be found indoors and outdoors, and have the important role in nature by breaking down organic matter, a.k.a., **SAPROPHYTIC FUNGI**.

And **GUESS WHAT WE FOUND** on one of our forays on the **SEQUALITCHEW CREEK TRAIL?**

COMMENT.....**AGAINST**
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A MOLD

- by the scientific **GENUS** name of: *Fuligo* ,
- quite possibly the species *septica* or some derivation
- a *Slime Mold* in the scientific **Class Myxomycetes**.
- It is commonly known as:
 - **scrambled egg slime** or **flowers of tan** because of its peculiar **yellowish** appearance;
 - it is also known as **dog-vomit slime mold**.
 - **AND**....here is our *iNaturalist Observation to prove our find:*

<https://www.inaturalist.org/observations/30738169>

This **slime mold** is relatively common with a worldwide distribution, often being found on bark mulch in urban areas after heavy rain or excessive watering.

Even so, it is a **MOLD**, like **Penicillin**....a **FUNGI**, and ONLY GOD KNOWS WHAT OTHER FUNGI **OF USE** TO HUMAN BEINGS is in these **313 Acres**.

THEREFORE, CONSIDERING WHAT HAS BEEN POINTED OUT ABOVE, *IT WOULD BE A TRAVESTY TO THROW AWAY THESE 313 ACRES OF LAND TO MINING FOR GRAVEL (????) !!!.*

SUCH USE IS LIMITED FOR HUMAN-KIND BENEFITS.....

WHEN COMPARED to the BENEFITS that the PRESENCE of FUNGI WILL HAVE !!!!

Christine Shilley

From: Dr Elly <drelly@sound-decisions.org>
Sent: Tuesday, June 17, 2025 10:40 AM
To: Barbara Kincaid
Cc: Beth Elliott
Subject: DuPont Gravel Mine Project Comment
Attachments: DuPont Gravel Mine 06172025.pdf

Hello Barbara,

Attached and below is Climate Pierce County's letter in opposition to the CalPortland Gravel Mine expansion project. I cannot make it to the Public Hearing on Friday because of a conflict. If there are any later opportunities please let me know. Also would appreciate knowing the outcome.

Thanks so much,

Elly Claus-McGahan

June 17, 2025
City of DuPont Hearing Examiner
1700 Civic Drive
DuPont, WA 98327

RE: Opposition to Expansion of the CalPortland Gravel Mine – Irreversible Harm to Sequalitchew Watershed and Regional Climate Resilience

Dear Hearing Examiner,

[Climate Pierce County](#) is a coalition of groups that supports efforts around the County to collaborate on finding solutions to climate challenges. We track Comprehensive Plans on our website and share resources countywide. We advocate to the PC Council, PCRC, and were instrumental in getting the PC Climate Conversation, a forum for councilmembers from around the County, off the ground.

On behalf of Climate Pierce County, we respectfully submit this letter in strong opposition to the proposed expansion of the CalPortland Gravel Mine in DuPont. The Final Environmental Impact Statement (FEIS) makes clear that this project would permanently degrade critical hydrological, ecological, and cultural systems in violation of the City's own environmental protections and Washington State's Growth Management Act.

We wish to draw particular attention to the systemic threats posed by this project to the Sequalitchew watershed, regional groundwater sustainability, climate resilience goals, and tribal cultural heritage. We urge you to reject the expansion based on the following substantive findings.

1. Groundwater Depletion and Permanent Hydrological Damage

The FEIS acknowledges that mining would induce up to 64 feet of drawdown beneath the South Parcel and up to 79% reduction of groundwater contributions to Sequalitchew Creek. The aquifer system is tightly interwoven with surface water flows; dewatering here is not temporary; it causes long-term reconfiguration of the hydrological regime. This includes:

- Desiccation of Marsh Complexes: Water levels will drop by up to 9.2 feet in West Edmonds Marsh, fundamentally altering seasonal hydrology and risking conversion of wetlands into uplands.
- Disruption of Critical Baseflow: Creek baseflows currently range from 0.5–2.5 cfs; the proposal would reduce annual average flow to 0.34 cfs, a collapse that cannot be offset by engineering solutions.
- Elimination of Seep Wetlands: Wetlands along Sequalitchew Creek Trail — currently sustained by hillside springs — would dry out during the growing season, eliminating rare native vegetation and increasing fire risk.

This type of groundwater manipulation is incompatible with ecological recovery and violates the Critical Areas Ordinance, which requires protection of hydrologic functions.

2. Unacceptable Threat to Salmon Habitat and Tribal Stewardship

The projected 86% reduction in groundwater inflow during summer months will raise water temperatures in Sequalitchew Creek to 21°C (69.8°F) – above safe thresholds for juvenile salmon rearing. The creek is already impaired; this expansion would lock in ecological failure at the exact moment when recovery is possible. These impacts include:

- Disrupted Spawning and Migration: Springs essential to mid-ravine flows will be reduced or eliminated, disconnecting life cycles for coho and chum salmon and coastal cutthroat trout.
- Cascading Ecosystem Failure: With estuary planning underway, the loss of upstream flows would undercut the entire restoration vision, at odds with state and tribal investments in salmon recovery and orca survival.

Importantly, the Nisqually Indian Tribe has formally opposed the mine expansion due to risks to ancestral graves, sacred sites, and loss of stewardship connection to the Sequalitchew landscape. To approve this project would be to prioritize short-term extraction over millennia of sustainable Indigenous land care.

3. Climate Contradictions and Long-Term Ecological Debt

The project would clear 188 acres of mature forest, releasing substantial carbon while erasing long-term sequestration capacity. These emissions are not just "incremental;" they are additive in a system already overburdened by cumulative industrial and suburban development.

- Direct emissions: From equipment, transport, and processing over a 14-year extended timeline.
- Indirect emissions: From forest loss and intensified hydrologic disturbance.
- Cumulative footprint: The project aligns with none of Washington's or Pierce County's climate goals. It fragments habitat corridors, raises local temperatures, and exacerbates regional water stress.

The climate impact is not limited to carbon accounting; it is embedded in the unraveling of the forest-hydrology-wildlife system that supports long-term resilience.

4. Community, Health, and Equity Impacts

Residents of DuPont and surrounding areas will bear the brunt of the mine's daily operations for over a decade:

- Air quality degradation: Fine particulate emissions (PM_{2.5}, PM₁₀) from blasting and truck traffic threaten respiratory and cardiovascular health, especially for children and elders.
- Loss of recreational value: The Sequalitchew Creek Trail will suffer noise pollution, visual degradation, and ecological decline.
- Equity concerns: The environmental burdens fall heavily on local communities, while the economic benefits accrue to corporate shareholders outside the watershed.

5. False Trade-Offs: Infrastructure vs. Ecosystem Collapse

We acknowledge the argument that gravel is needed for roads and development. But this project's scale, location, and impacts make it a textbook case of unsustainable sourcing. Washington's infrastructure ambitions cannot be premised on the destruction of a salmon-bearing watershed and Indigenous heritage landscape. In the current context of higher temperatures, drought conditions, and sea level rise, this project is not a responsible choice given its aquifer impact and salmon stream impact. Both are resources that demand protection.

Other sources exist. Cumulative ecological triage is not a materials plan. The State must prioritize low-carbon concrete alternatives, urban material recycling, and aquifer-safe siting policies. The choice is not "gravel or nothing." The choice is "gravel with ecological justice—or gravel that destabilizes ecosystems for generations."

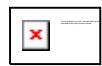
The CalPortland expansion is not a benign industrial update. It is a permanent transformation of a sensitive hydrological and cultural system. The mitigation measures offered are inadequate, contingent, and reversible only on paper. Sequalitchew Creek, Edmond Marsh, and the Nisqually cultural landscape deserve legal protection, not exploitation.

We respectfully urge the Hearing Examiner to reject the proposed expansion.

Sincerely,

Elly Claus-McGahan, PhD
Lead Organizer
Climate Pierce County

Elly Claus-McGahan, PhD
Climate Pierce County
<https://climatepiercecounty.com/>
dnelly@sound-decisions.org
253-219-9129



Virus-free www.avast.com

June 17, 2025
City of DuPont Hearing Examiner
1700 Civic Drive
DuPont, WA 98327

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- Equity concerns: The environmental burdens fall heavily on local communities, while the economic benefits accrue to corporate shareholders outside the watershed.

5. False Trade-Offs: Infrastructure vs. Ecosystem Collapse

We acknowledge the argument that gravel is needed for roads and development. But this project's scale, location, and impacts make it a textbook case of unsustainable sourcing. Washington's infrastructure ambitions cannot be premised on the destruction of a salmon-bearing watershed and Indigenous heritage landscape. In the current context of higher temperatures, drought conditions, and sea level rise, this project is not a responsible choice given its aquifer impact and salmon stream impact. Both are resources that demand protection.

Other sources exist. Cumulative ecological triage is not a materials plan. The State must prioritize low-carbon concrete alternatives, urban material recycling, and aquifer-safe siting policies. The choice is not "gravel or nothing." The choice is "gravel with ecological justice—or gravel that destabilizes ecosystems for generations."

The CalPortland expansion is not a benign industrial update. It is a permanent transformation of a sensitive hydrological and cultural system. The mitigation measures offered are inadequate, contingent, and reversible only on paper. Sequalitchew Creek, Edmond Marsh, and the Nisqually cultural landscape deserve legal protection, not exploitation.

We respectfully urge the Hearing Examiner to reject the proposed expansion.

Sincerely,

Elly Claus-McGahan, PhD
Lead Organizer
Climate Pierce County

Christine Shilley

From: daniel correll <dcorr19@gmail.com>
Sent: Saturday, June 14, 2025 3:56 PM
To: Barbara Kincaid
Cc: Dan Correll
Subject: 📲 SUBJECT: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

✉ TO: bkincaid@dupontwa.gov
📝 SUBJECT: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050, which REQUIRES mitigation "to achieve no net loss of stream function."

Scientists in the Final EIS admit "significant unavoidable adverse impacts" including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
- Multiple wetlands losing 1-3 feet of water forever
- Creek temperatures getting too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently

The EIS states the restoration plan "would likely NOT mitigate these impacts."

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project. The sovereign tribal nation is formally appealing the Final EIS, citing:

- Failure to properly identify tribal cultural resources
- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely,

Daniel Correll
1334 foreman rd DuPont wa 98328
3013464983
Dcorr19@gmail.com

Christine Shilley

From: Logan Danzek <ldanzek@healthybay.org>
Sent: Thursday, June 19, 2025 11:12 AM
To: Barbara Kincaid
Cc: Melissa Malott; SHERI TONN
Subject: Comment Letter - Pioneer Aggregates (CalPortland) South Parcel Project
Attachments: CommentLetter_CalPortlandGravel.pdf

Dear City of DuPont Hearing Examiner and Planning Services Staff,

Thank you for the opportunity to review and comment on the [Pioneer Aggregates \(CalPortland\) South Parcel Project](#). The attached comment letter is submitted on behalf of Communities for a Healthy Bay (CHB).

Please don't hesitate to contact me if any questions arise regarding our comments.

Sincerely,

Logan Danzek (he/him) | Policy Manager
[Communities for a Healthy Bay](#) | Tacoma, WA
253-383-2429 x3

Connect with us: [Facebook](#) | [Twitter](#) | [Instagram](#)
[LinkedIn](#) | [Subscribe to our enews](#)





Hearing Examiner
City of DuPont
1700 Civic Drive
DuPont, WA 98327

June 19, 2025

Via email to Barb Kincaid | bkincaid@dupontwa.gov

Re: Pioneer Aggregates (CalPortland) South Parcel Project

Dear Hearing Examiner and Planning Services Staff,

For over 35 years, Communities for a Healthy Bay (CHB) has been working to engage people in the protection of Commencement Bay, the waters of the South Sound, and the diversity of life they sustain. We are a 501(c)3 nonprofit working with residents, businesses, and government to offer practical, solutions-based environmental leadership in the Puget Sound area. We strive to mobilize popular support for decisions that make our communities healthier and more vibrant.

I am writing on behalf of CHB to voice our organization's staunch opposition to the expansion of the CalPortland Gravel Mine. We believe the proposed expansion, as outlined in the Final Environmental Impact Statement (FEIS) and related documents, poses unacceptable risks to the environment and nearby communities. Our concerns center on the project's environmental justice impacts, ecological and human health risks, the inadequacy of mitigation and accountability measures, and inconsistency with existing comprehensive plans. For the reasons explained below, we urge you to deny approval of the South Parcel Mine Expansion.

Environmental Justice Impacts

This project would have major and disproportionate impacts on Indigenous cultural resources. According to the Nisqually Tribe, the landscapes within the Sequalitchew Creek watershed – and more broadly, the City of DuPont – are of immense cultural significance. The City's staff report for the project even recognizes that the project site is “known to be the location of cultural and historical activities” and that the Nisqually Tribe regards the Sequalitchew Ancestral Village Landscape as eligible for the National Register of Historic Places.

The entire area is the ancestral homeland of the Nisqually people, who should not be subjected to even more compounding inequities and destruction of their lands. Despite the clear cultural significance of the site, the FEIS failed to meaningfully engage with these Indigenous concerns. A SEPA appeal has been filed alleging that the FEIS improperly limited its cultural resource analysis to a narrow “area of direct impacts,” ignoring indirect and cumulative impacts on the broader cultural landscape. The appeal also argues that the FEIS did not propose adequate

mitigation measures to address adverse impacts on cultural resources of significance to the Nisqually Tribe. These are serious procedural and substantive shortcomings.

The City of DuPont's Comprehensive Plan underscores the need for "heritage of the early settlements (American Indian, Hudson Bay, and DuPont Company) [to be] featured with development, not obscured." It calls for active collaboration with Tribes in protecting cultural resources (e.g. Policy CR-1.4, which envisions memoranda of agreement with the Nisqually Tribe for cultural resource protection). Approving this project in its current form would directly contradict those principles. It would perpetuate environmental injustice by disregarding Tribal voices and threatening irreplaceable cultural heritage. We urge the Hearing Examiner to honor the government-to-government relationship with the Nisqually Tribe and the City's commitments to cultural preservation by rejecting a project that so clearly endangers a landscape of deep Indigenous significance.

Ecological and Health Risks

The FEIS and staff report make it abundantly clear that the South Parcel mine expansion would have significant adverse impacts on groundwater, surface waters, and wetlands, which in turn pose risks to both ecological and human health. The proposed mining would extend into previously undisturbed areas and involve dewatering the Vashon aquifer, pumping out groundwater to support more invasive mining. The consequences of this would be dire for Sequalitchew Creek, Edmond Marsh, and connected wetlands:

- **Loss of Wetland Hydrology and Flow:** By the project's own analysis, Edmond Marsh's water levels would drop substantially, in some areas by several feet, as a direct result of aquifer drawdown. The mine operators openly acknowledge that they intend to pump groundwater out of the mine, which "will lower the groundwater level to the extent that they can mine gravel... under dry conditions." This drawdown threatens to dry out Edmond Marsh and its feeder seeps. A healthy Edmond Marsh is not only an ecological treasure (supporting waterfowl, amphibians, and other wildlife), but it also provides natural water filtration and flood attenuation for the community. Its loss or degradation would be irreversible and could create secondary public health issues (such as stagnant water and invasive species) in the marsh's remnants.
- **Reduction or Elimination of Sequalitchew Creek Base Flows:** Sequalitchew Creek is sustained largely by groundwater discharge from the aquifer and wetlands. Lowering the water table would dramatically reduce base flows in the creek. The FEIS states that flows in Sequalitchew Creek would be lower under the proposed action. During critical dry periods, flows could cease altogether when dewatering pumps eventually stop. City staff concluded that, even with mitigation, creek flows might be lower than existing conditions. This is an alarming prospect: a once-perennial stream that locals, visitors, and tribal members have enjoyed and depended on could run dry in summer months, devastating aquatic life. Historically, Sequalitchew Creek supported salmonids; the 1994 settlement agreement with the mine's former owners explicitly promised "no future mining that would significantly impact the flow of Sequalitchew Creek or destroy

ecological conditions for native salmon populations in the Sequalitchew Creek Basin.” The proposed expansion blatantly violates the spirit of that promise by imperiling the creek’s very flow.

- **Water Quality Degradation:** Altering the hydrology also degrades water quality. The FEIS acknowledges, for example, that “water temperature in Sequalitchew Creek would be warmer than under existing conditions... likely exceeding the 7-day average maximum of 16°C” during summer months. Warmer water and reduced flows mean lower dissolved oxygen, harming fish and other aquatic organisms. Moreover, the proposed “Restoration Plan” involves supplementing creek flow by diverting surface water from Sequalitchew Lake into Edmond Marsh. This is not a solution – surface outflow from the lake (and other nearby marshes like Bell Marsh) carries stormwater runoff and has low dissolved oxygen, and would “not meet clean water standards” for sustaining the marsh or creek ecosystem. The plan could introduce poorer-quality water into a stressed system, further harming water quality. There are also concerns about groundwater quality impacts. Dewatering can alter groundwater flow paths and potentially mobilize contaminants. While the FEIS did not highlight a specific contamination risk, the area’s industrial history (including the former DuPont explosives plant) urges caution. Any risk of releasing legacy pollutants or increasing turbidity in the aquifer is a human health concern for those who rely on local groundwater.
- **Wildlife and Recreation Impacts:** Sequalitchew Creek and Edmond Marsh form an interconnected habitat corridor, home to diverse wildlife and used by residents for recreation and education. Drying of the marsh and creek would destroy habitat for fish, birds, and amphibians, fragmenting the wildlife corridor. In particular, the efficacy of state and regional resources dedicated to salmon and orca protections would likely be impacted by the additional burden placed on these habitats. The City’s Comprehensive Plan rightly seeks to “maintain important wildlife habitats and functional wildlife corridors to link important natural areas such as Edmond Marsh and Sequalitchew Creek” (Goal NE-5.3), yet the project would do the opposite by eliminating the very water that sustains those habitats. Additionally, the popular Sequalitchew Creek trail, which runs along the creek to Puget Sound, is at risk. If creek flows diminish and the adjacent wetlands degrade, the scenic and educational value of this trail will be greatly reduced. There may also be physical conflicts with trail use if the mine expands closer to the ravine. Loss of this recreational asset would be a social and health blow to the community, particularly affecting families and elderly residents.

The available reports show probable, significant adverse impacts to critical water resources and habitats from this expansion. These impacts carry direct and indirect human consequences, from the loss of subsistence and cultural uses for the Nisqually Tribe, to diminished quality of life and accessibility to outdoor spaces for residents. They also raise public health and safety questions: What happens to the area when groundwater pumping stops and watercourses shrink? Will increased dry areas elevate wildfire risk or invite invasive species or other pests?

These concerns reinforce why this project is ill-advised and dangerous to both people and nature.

Inadequate Mitigation and Accountability Measures

Proponents have offered a Sequalitchew Creek Restoration Plan and other mitigation measures as a supposed remedy for the anticipated impacts. However, these proposals are fundamentally inadequate, temporary, and lack robust accountability, as evidenced by the FEIS itself. The mitigation plan essentially boils down to artificially pumping water to areas of need to address the negative impacts of the mining operation, extracting groundwater during mining to then pump some of it into Edmond Marsh or the creek to try to compensate for lost baseflow. This approach is deeply flawed:

- **Temporary and Unsustainable Fix:** Even if the pumping mitigates some impacts in the short term, it is not a permanent solution. The FEIS concedes that many of the proposed measures are “at best, a temporary action because pumping in perpetuity is not feasible.” The mitigation pumping is only planned to continue until mining is complete. Once the dewatering pumps are turned off after around 14 years of operation, the creek’s flow would cease, and Edmond Marsh would effectively be left dry. In other words, the “Restoration Plan” only delays the inevitable harm until the mining company has extracted its profit and left. This is unacceptable – a true mitigation plan must ensure long-term, self-sustaining protection of resources, not a band-aid that expires when the project does.
- **Unproven Effectiveness:** There is considerable uncertainty around whether the proposed mitigation will even work as intended during those years. The plan contemplates a suite of contingent measures (such as augmenting flows during droughts with additional pumping or adjusting outflows), but these are listed only as “measures for consideration and/or further study,” not firm commitments. The FEIS highlights “potential drawbacks” in the plan – for example, if pumping is done year-round, it could “over-mitigate” and cause other ecological disruptions. These equivocal statements underscore that the mitigation is an experiment with uncertain outcomes, and success is far from guaranteed. What happens if the marsh still dries or the creek still falters despite pumping? The documents do not present a clear fallback plan aside from vague “adaptive management.” In effect, the community is asked to trust that the operator will figure it out on the fly. This is not a responsible approach for safeguarding critical environmental resources.
- **Lack of Monitoring Enforcement:** While the project proposes a monitoring and adaptive management program, it is unclear who will enforce it or how corrective actions will be ensured. Adaptive management can only be as good as the will and capacity to enforce mid-course corrections. If flows drop below thresholds or water quality degrades, will mining cease? Or will we see more studies and half-measures while damage proceeds? These questions remain unanswered. The City must recognize that once the wetland and aquifer are irreversibly damaged, no amount of monitoring reports will bring

them back. Mitigation promises need to be ironclad before damage occurs, not simply reactive.

- **Climate Resilience Overlooked:** The mitigation plan fails to account for the compounding effects of climate change. We are in an era of longer dry seasons and more extreme weather. Aquifer levels and stream flows are already stressed by climate-related changes, and Edmond Marsh's ability to recover from disturbance is likely decreasing. Yet the project assumes historical hydrologic patterns will more or less hold. This is a dangerous assumption. Lower groundwater levels due to mining, combined with lower recharge in future drought years, could push the ecosystem to collapse. Moreover, the project would strip vegetation and potentially prevent full regrowth. A lowered water table could make re-establishment of the forest canopy difficult, undermining long-term carbon sequestration and climate resilience. True climate accountability would require a far more precautionary approach than what is proposed.

Given the above, it is no surprise that the FEIS's adequacy is under legal challenge. As noted, appellants argue the FEIS "fails to propose adequate mitigation measures to address [the project's] impacts," in violation of SEPA's requirements. The City should heed these warnings. Approving the project with such flimsy mitigation and procedural safeguards would leave the community highly vulnerable. If the Hearing Examiner cannot be certain that Sequalitchew Creek and Edmond Marsh will be fully protected for the long term (and the current reports illustrate they will not be), the only accountable decision is to deny the proposal. As it stands, the project asks the public to bear the environmental costs and long-term risks, with no binding assurance that those will ever be rectified. That is the textbook example of environmental injustice and a lack of accountability.

Inconsistency with Comprehensive Plans

The South Parcel Mine Expansion is also fundamentally at odds with numerous policies and goals in the City of DuPont's Comprehensive Plan – the very policies that are meant to guide sound, sustainable development in the City. The inconsistency is noted in the Staff Report and cannot be overstated here. Under DuPont Municipal Code 25.175.040, projects lacking specific development regulations must be evaluated for consistency with the Comp Plan. In this case, critical topics like aquifer protection and cultural resource protection rely on Comprehensive Plan guidance. The verdict from that evaluation is clear: this project conflicts with DuPont's adopted vision for cultural, environmental, and natural resource management. Key Comprehensive Plan mandates that the project fails to meet include:

- **No-Net-Loss of Critical Areas Functions:** DuPont's policies and codes direct that there should be "no net loss of wetland and stream function, value, and area within the city," and that adverse impacts to water quality, streams, and habitats be prevented. The FEIS, however, effectively concedes that both action alternatives would cause a net loss of wetland function (Edmond Marsh) and eliminate groundwater discharge that sustains Sequalitchew Creek. A project that knowingly reduces wetland area and stream flow flies

in the face of the City's no-net-loss standard – a standard rooted in both local policy and state environmental law.

- **Natural Environment (NE) Goals – Protect and Restore Watershed:** The Comp Plan's Natural Environment Element emphasizes protecting sensitive ecosystems. NE Goal 1.1 calls for preserving environmentally sensitive areas and working with stakeholders "to restore and improve the flow of water through Sequalitchew Creek." Similarly, Policy NE-5.1 seeks to "maintain and where possible restore and enhance" the ecological functions of the Sequalitchew Creek watershed, including its lakes, marshes, streams, and wetlands. Policy NE-5.3 commits to maintaining wildlife habitat and corridors linking natural areas like Edmond Marsh and Sequalitchew Creek. Approving a project that will diminish creek flows, degrade marsh hydrology, and fragment habitat connectivity is a direct violation of these policies. Rather than restoring or enhancing the watershed, the mine expansion would irrevocably harm it. City staff explicitly acknowledged that the mine's impacts "do not align with Comprehensive Plan policies for protection of the long-term integrity of the natural environment."
- **Land Use (LU) Goals – Balance Resource Extraction with Environment:** DuPont's Land Use Element contemplates mineral resource extraction but with important caveats. Policy LU-3.6 and LU-10 (and sub-policies) require that mining be conducted in a manner that protects the long-term environmental integrity and that, once mining is done, lands are reclaimed for appropriate future uses. In fact, when DuPont created the Mineral Resource Overlay in its planning area, it envisioned a two-step process: allow mining but then fully reclaim and integrate the land into the community for parks, open space, or other development. The proposed expansion, by threatening to leave Edmond Marsh and surrounding areas ecologically gutted, does not fulfill the spirit of these policies. City staff noted the proposal was not consistent with LU-3.6, LU-10, and LU-10.2 regarding environmental protection, and had to impose additional conditions to even attempt consistency with LU-10.3 (protection of water resources). The need for such extraordinary conditions highlights the project's incompatibility with the City's land use vision. If a project cannot uphold the "long-term integrity" of our natural environment during and after resource extraction, it should not move forward under our local policy framework.
- **Cultural Resources and Historic Preservation:** As discussed in the environmental justice section, the Comprehensive Plan's Chapter 6 emphasizes preservation of cultural resources. Goal CR-1 is to "Identify, protect, and preserve significant historic and cultural resources" in DuPont. The plan even references existing agreements (e.g. a Memorandum of Agreement from 1989 and others in the 1990s) meant to safeguard the City's archaeological and cultural heritage. The Nisqually Tribe's sacred sites and the historical significance of Sequalitchew cannot be brushed aside without violating these principles. The FEIS's narrow focus on "no designated sites within the mine footprint" misses the larger picture of the cultural landscape – a perspective the Comp Plan clearly embraces. Approving the mine expansion despite known Tribal opposition and

unresolved cultural impacts would be inconsistent with the City's stated goals of honoring and integrating its rich cultural history into future development.

The mine expansion is antithetical to DuPont's Comprehensive Plan on multiple fronts: natural resource protection, water resource management, and cultural resource preservation. The Plan is the product of community values and public input; ignoring those values in this decision would set a troubling precedent. The Hearing Examiner, as the steward of the City's policy compliance in land use decisions, should find that this proposal cannot be reconciled with DuPont's adopted policies and must therefore be denied.

Conclusion

For all the reasons above, the Pioneer Aggregates South Parcel Mine Expansion Project should not be approved. We respectfully urge you to deny the Site Plan Review, Critical Areas Permit, and any other approvals for this project. Any potential benefits of this expansion (producing ever more gravel for private profit) are far outweighed by the profound and lasting costs that would be borne by the public, by the Nisqually Tribe, and by the environment we all share.

DuPont has an opportunity to uphold its Comprehensive Plan vision of balancing growth with preservation of its natural and cultural legacy. We ask that you stand with the community and overburdened populations in insisting on genuine accountability and environmental stewardship. Please protect Sequalitchew Creek, Edmond Marsh, and the irreplaceable heritage of this place by saying no to this mine expansion.

Thank you for considering these comments and for the opportunity to support communities throughout the South Sound region. We trust that you will properly weigh the substantial harm and policy conflicts posed by this project.

Sincerely,



Logan Danzek, Policy Manager

ldanzek@healthybay.org

Christine Shilley

From: Tichomír Dunlop <tiskolin@gmail.com>
Sent: Friday, June 20, 2025 9:11 AM
To: Barbara Kincaid
Subject: Public comment correction

Dear Ms. Kincaid,

I just sent in a public comment about the gravel mine, but I believe I inadvertently left my mother's address in the form when I used Action Network's address template after her on the computer.

My address is tiskolin@gmail.com. I sent another message with my correct address. Please discard the one with the address "manetti@uw.edu".

Thank you very much.

Sincerely,
Tichomir Dunlop

Christine Shilley

From: sara valentine <swingkid45@yahoo.com>
Sent: Friday, June 20, 2025 10:20 AM
To: Barbara Kincaid
Subject: Dupont Gravel

Good morning,
I am a Tacoma resident and I am against the expansion of the gravel mine. WA is already suffering from climate change with more wildfires, heatwaves that affect salmon spawning, and the spread of bark beetles. As a parent of two elementary students I believe we need to be putting our children's future first and not profits. This project would harm the riparian habitat and affect salmon runs.

Thank you,

Sara Bailly
253-279-2327

Christine Shilley

From: Stuart Earley <searley@tahomabirdalliance.org>
Sent: Friday, June 20, 2025 5:19 PM
To: Barbara Kincaid
Subject: CalPortland gravel mine
Attachments: Tahoma bird Alliance - Letter to Dupont Hearing Examiner.docx

Hi Barb,

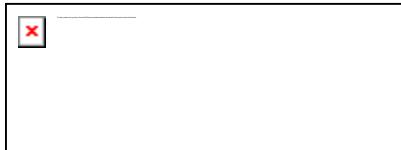
We sent in a submission re the CalPortland gravel mine project which we now need to withdraw and I've attached a formal letter of withdrawal.

I have been in post for only two years and we have a document retention and destruction policy that requires most documents to be destroyed after seven years and we think the 2011 settlement agreement that our organization signed before we changed our name was either destroyed or misfiled so we were not aware that we were a signatory to the agreement that was first agreed in 1994. Irrespective of whether it was wise to sign an agreement in perpetuity my understanding is that we are bound by that agreement, no matter how much circumstances have changed in the last 30 years, and therefore we need to withdraw our previous submission.

Thank you for your understanding.

Stuart

Stuart Earley
Executive Director





protecting
birds and
nature

City of DuPont Hearing Examiner
1700 Civic Drive
DuPont, WA 98327

June 20th, 2025

Dear Hearing Examiner,

I am writing to retract the June 10, 2025, letter submitted to you concerning the CalPortland gravel mine. Due to the passage of time and change in leadership at our organization, we were not aware of the 2011 Settlement Agreement to which our organization is a party. In light of that, we write to express support for the proposed CalPortland gravel mine as expressed and qualified by the Nisqually Delta Association in its November 4, 2021, letter to Barb Kincaid of the City of Dupont.

Yours sincerely

Stuart Earley
Executive Director

Christine Shilley

From: Heather Eckstein <heather.eckstein@midwifery.edu>
Sent: Sunday, June 15, 2025 9:15 AM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050 which REQUIRES mitigation "to achieve no net loss of stream function."

Scientists in the Final EIS admit "significant unavoidable adverse impacts" including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
- Multiple wetlands losing 1-3 feet of water forever
- Creek temperatures getting too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently

The EIS states the restoration plan "would likely NOT mitigate these impacts."

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project. The sovereign tribal nation is formally appealing the Final EIS, citing:

- Failure to properly identify tribal cultural resources
- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely,
Heather Eckstein
1282 Burnside Pl, DuPont, WA 98327
heather.eckstein@midwifery.edu

--
Heather Eckstein, LM, CPM, IBCLC

Christine Shilley

From: Beth Elliott <bethelliott1953@gmail.com>
Sent: Sunday, June 15, 2025 9:11 AM
To: Barbara Kincaid
Cc: Beth Elliott
Subject: letter for Hearing Examiner
Attachments: June 2025 Public Comment to Hearing Examiner.docx

Good morning Barb,

Attached is my letter for the hearing examiner regarding the South Parcel Mine Expansion proposal.

Take care,

Beth

June 14, 2025

To: DuPont Hearing Examiner

From: Beth Elliott, DuPont Resident

Subject: Oppose the South Parcel Mine Expansion

Dear Hearing Examiner:

I do not understand how our city could approve this proposal, even with conditions. This proposal clearly violates our Critical Areas Ordinance and our Comprehensive Plan, as stated in the EIS.

DMC 25.105.050 (Critical Area Ordinance) requires mitigation sequence and measures if development or alteration impacts are unavoidable in or adjacent to a critical area, and requirements for management and protection of critical areas. Our staff admits in the EIS that "no mitigation is provided for the significant unavoidable impacts to the surface water bodies located to the south of Sequalitchew Creek".

These surface water bodies are wetlands that include Wetland 1D; Pond Lake; Wetlands 8, 9, 10, and 11 and the Old Fort Lake. These wetlands will lose up to 3 ft of groundwater forever. The west end of Edmond Marsh will lose up to 8.73 feet of groundwater. Many of these go dry during the summer months therefore a significant amount of rain would be needed to re-coop the loss of groundwater to refill these wetlands, if it is even possible.

CalPortland has had over 15 years to provide this mitigation, yet none has been provided. Why not and why give them more time?

Our Comprehensive Plan policies are being violated too. Our staff states the project does not align with Comprehensive Plan policies without mitigation to the wetlands south of Sequalitchew Creek, mentioned above.

LU-3.6 states: "Employ practices that protect the long-term integrity of the natural environment, adjacent land uses, and the long-term productivity of resource lands",

LU-10 states, "Recognize the value of mineral resource extraction while protecting the integrity of the natural environment",

LU 10.2 states, "Requires understanding that mining activities must maintain environmental protection standards".

Again, no mitigation measures have been provided. Why give them more time?

DMC 25.105.050 (2) (a) (D) requires that unavoidable impacts to streams and stream functions shall be mitigated to achieve no loss of stream function.

The groundwater flowing into Sequallitchew Creek will significantly decrease by 83%. During the summer months, even with mitigation, the creek will experience dry periods where no water will be flowing 10% of the time. How can fish and other amphibians survive that rely on the water? What will happen to other habitats?

Water temperatures in the creek during the summer months will be too high for fish survival.

The EIS clearly states the "Implementation of the Restoration Plan would likely NOT mitigate these impacts".

Clearly, there are unavoidable impacts to Sequallitchew Creek that cannot be mitigated by this proposal even with the proposed restoration plan.

In closing, DMC 25.105.010 Critical Area Purpose states: The purposes of this chapter are to protect the public health, safety and welfare by preventing the adverse environmental impacts of development by: (3) Directing a policy of no net loss of wetland and stream function, value and area within the city.

As demonstrated above there will be a loss of wetland and stream function.

Even with the mitigation plan for Sequallitchew Creek the flow to the creek will be reduced by 83% and it will go dry 10% of the time destroying fish and other habitat.

The ground water in our wetlands will be forever lost and their functions will be greatly reduced. No mitigations were provided for this loss.

Please reject this proposal as it clearly violates our Critical Area Ordinance and our Comprehensive Plan.

Thank you,
Beth Elliott
DuPont Resident

Christine Shilley

From: Carol Else <l.else@comcast.net>
Sent: Thursday, June 12, 2025 5:56 PM
To: Barbara Kincaid
Subject: Oppose the expansion of the Gravel Mine in Dupont

To Whom it may concern:

I like in Lakewood and often walk the trail in Dupont.

I OPPOSE the expansion of the GRAVEL MINE IN DUPONT.

Why must we as humans always ruin our beautiful nature?

Enough is ENOUGH!!

Just say NO!!

Carol Else

Christine Shilley

From: Sharon Ferreira <Joxerphile@outlook.com>
Sent: Wednesday, June 18, 2025 1:20 PM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050, which **REQUIRES** mitigation "to achieve no net loss of stream function."

Scientists in the Final EIS admit "significant unavoidable adverse impacts" including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
- Multiple wetlands losing 1-3 feet of water forever
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The EIS states the restoration plan "would likely NOT mitigate these impacts."

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project. The sovereign tribal nation is formally appealing the Final EIS, citing:

- Failure to properly identify tribal cultural resources
- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had **OVER 15 years** to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say **CANNOT** be fixed?

- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely,
Sharon Ferreira
2301 Wallace St
Dupont, WA 98327
714-404-9419
joxerphile@outlook.com

🔗 My letter to the hearing examiner:
<https://docs.google.com/document/d/18eR5pQuzykW1QvHPLm8GXnTDIz1TQ0ZuGyhgnCG7dYo/edit?usp=sharing>

👉 THE SMOKING GUNS:

1. City staff admits it violates city law
2. Scientists say damage CANNOT be mitigated

Result: How can this be approved?

📋 SUPPORTING DOCUMENTS REFERENCED:

- CalPortland Staff Report June 2025 (PLNG2021-006) https://wa-dupont.civicplus.com/DocumentCenter/View/8880/20250613-South-Parcel-Project-Staff-Report_1
- Pioneer Aggregates South Parcel Project Final EIS (May 22, 2025) <https://wa-dupont.civicplus.com/DocumentCenter/View/8843/Pioneer-Aggregates-South-Parcel-Project-Final-EIS---May-22-2025---FULL-DOCUMENT>
- DuPont Municipal Code 25.105 Critical Areas Ordinance
<https://www.codepublishing.com/WA/DuPont/html/DuPont25/DuPont25105.html>
- Sequalitchew Creek Restoration Plan <https://wa-dupont.civicplus.com/DocumentCenter/View/7831/20240430-PLNG2023-007-RFI-Sequalitchew-Creek-Creek-Restoration-Plan-PDF>

Nisqually Tribe FEIS Appeal <https://wa-dupont.civicplus.com/DocumentCenter/View/8875/Pioneer-Aggregates-Notice-of-Appeal-FEIS-06-05-2025>

Sent from my iPad

Christine Shilley

From: Kari Gallagher <bailey72499@yahoo.com>
Sent: Friday, June 20, 2025 8:18 AM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050 which REQUIRES mitigation "to achieve no net loss of stream function."

Scientists in the Final EIS admit "significant unavoidable adverse impacts" including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
- Multiple wetlands losing 1-3 feet of water forever
- Creek temperatures getting too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently

The EIS states the restoration plan "would likely NOT mitigate these impacts."

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project. The sovereign tribal nation is formally appealing the Final EIS, citing:

- Failure to properly identify tribal cultural resources
- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely,

Kari Gallagher

1794 McLeod Circle

DuPont, WA 98327

563-340-8662

Christine Shilley

From: Alyce Gatlin <alycegatlin@gmail.com>
Sent: Wednesday, June 18, 2025 10:53 AM
To: Barbara Kincaid
Subject: OPPOSE the Mining Expansion

I oppose the mining expansion in DuPont. Our environment is at stake. PLEASE, don't do it!!

Sincerely,

Alyce Gatlin
10926 99th Ave Ct SW
Lakewood, WA 98498

Christine Shilley

From: Gayle <pnwjazz1@centurylink.net>
Sent: Wednesday, June 18, 2025 9:28 AM
To: Barbara Kincaid
Subject: Aggregate mines

I received a flyer on my door yesterday
I'd like to Deny Approval of the Aggregate Mines.

Dupont Resident for 20 years.

Sent from my iPhone

Christine Shilley

From: Steven Graham <cptstevengraham@hotmail.com>
Sent: Tuesday, June 17, 2025 4:56 PM
To: Barbara Kincaid
Subject: Deny mine expansion

Thank you for your involvement in the city of DuPont. I will be unable to attend the meeting on Friday, regarding the mining expansion. Therefore, I will like to inform you of my disapproval. Please vote against the mining expansion. Thank you.

Sent from my iPhone

Christine Shilley

From: jocygrant@gmail.com
Sent: Sunday, June 15, 2025 11:48 AM
To: Barbara Kincaid
Subject: Opposition to CalPortland Gravel Mine Expansion

Dear Hearing Examiner,

As a western Washington resident, I'm writing to register my opposition to the expansion of the CalPortland Gravel Mine. The project represents a danger to the environment, including a salmon habitat creek and wetlands which are only becoming more vital to preserve. Now is not the time to allow more destruction. I urge you to reject the expansion.

Thank you,
Jocelyn Grant

Christine Shilley

From: Noel Hagens <noelhagens@gmail.com>
Sent: Thursday, June 12, 2025 6:02 PM
To: Barbara Kincaid
Subject: opposition to expansion of the gravel mine

I wish to state my opposition to the proposed expansion of the gravel mine. Draining the Vashon Aquifer in the Sequalitchew Creek area would bring severe harm to the natural environment. Birds, wildlife, salmon, and trees would all experience damage in the lovely creek area.

The Creek brings people to the Dupont area, and Dupont has a reputation as an area of beauty.

Also, cultural sites important to the Nisqually Tribe would be impacted.

Please convey my protests to the Hearing examiner.

Thank you

Noel Hagens
3214 N 27th St, Tacoma, WA 98407

Christine Shilley

From: hansolo870 (null) <rick.hanley@yahoo.com>
Sent: Sunday, June 15, 2025 8:23 AM
To: Barbara Kincaid
Subject: Oppose Pioneer Aggregates Mine Expansion - PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050, which **REQUIRES** mitigation "to achieve no net loss of stream function."

Scientists in the Final EIS admit "significant unavoidable adverse impacts" including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
- Multiple wetlands losing 1-3 feet of water forever
- Creek temperatures getting too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently

The EIS states the restoration plan "would likely NOT mitigate these impacts."

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project. The sovereign tribal nation is formally appealing the Final EIS, citing:

- Failure to properly identify tribal cultural resources
- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had **OVER 15 years** to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say **CANNOT** be fixed?

- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

1. City staff admits it violates city law
2. Scientists say damage CANNOT be mitigated

Result: How can this be approved?

V/R
Rick Hanley
2866 Martin St.
Dupont, WA 98327
253-318-7042

Christine Shilley

From: kmhemmel@gmail.com
Sent: Sunday, June 15, 2025 6:45 AM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050 which REQUIRES mitigation "to achieve no net loss of stream function."

Scientists in the Final EIS admit "significant unavoidable adverse impacts" including:

- 83% creek flow loss along the Sequaltchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
- Multiple wetlands losing 1-3 feet of water forever
- Creek temperatures getting too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently

The EIS states the restoration plan "would likely NOT mitigate these impacts."

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The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely,

Kristin Hemmelgarn
820 Birch St. Steilacoom 98388
253 720 3795

p.s. There are many lovely native plants along this trail and a remnant salt marsh area worth preserving and conserving

Christine Shilley

From: NADINE HIBBS <nhibbs@comcast.net>
Sent: Saturday, June 14, 2025 3:21 PM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050, which REQUIRES mitigation "to achieve no net loss of stream function."

Scientists in the Final EIS admit "significant unavoidable adverse impacts" including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
- Multiple wetlands losing 1-3 feet of water forever
- Creek temperatures getting too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently

The EIS states the restoration plan "would likely NOT mitigate these impacts."

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project. The sovereign tribal nation is formally appealing the Final EIS, citing:

- Failure to properly identify tribal cultural resources
- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance. How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely,

Nadine Hibbs
1893 McNeil Circle, DuPont
253-363-7263
nhibbs@comcast.net

Christine Shilley

From: Naomi Himley <naomihimley@gmail.com>
Sent: Thursday, June 12, 2025 6:26 PM
To: Barbara Kincaid
Subject: Public Comment opposing Pioneer Aggregates Gravel Mine Expansion

Hello,

Please find my comments below opposing Pioneer Aggregates gravel mine expansion project.

I am a resident of Pierce County, wildlife biologist and professional mariner. From a professional and personal perspective, I oppose the expansion of Pioneer Aggregates gravel mine project. As outlined in the Tahoma Bird Alliance's statement against this project, I also oppose it due to the combination of environmental and cultural damages involved. In particular, I am concerned about the effects on local bird populations. I have worked for four years on various bird conservation projects throughout the West as well as in Alaska and Hawai'i. My work experience includes the US Fish and Wildlife Service, the State of Hawai'i as well as multiple non profits and Universities. I frequent Sequalitchew Creek for birding and strongly desire that it remains intact.

Furthermore, I am deeply concerned about the possible impacts on Nisqually grave sites and other sites of cultural importance. In my view, this is really a standalone issue which makes it completely unconscionable to move forward with this project. I voice my concern as a bird biologist as only secondary to this important issue.

Thank you for your time and consideration,
Naomi Himley

Christine Shilley

From: Vicki <vickikeys@comcast.net>
Sent: Wednesday, June 18, 2025 11:03 AM
To: Barbara Kincaid
Subject: Opposition to Pioneer Aggregates South Parcel Mine Expansion Project PLNG2021-006, PLNG2021-009, PLNG2021-010, PLNG2021-002

DATE: June 18, 2025
TO: Hearing Examiner
EMAIL: bkincaid@dupontwa.gov
RE: PLNG2021-006, PLNG2021-009, PLNG2021-010, PLNG2021-002
FROM: Victoria Keys. 2848 Martin St, DuPont WA (Resident of 20 years)

PLEASE DENY THIS LEGALLY IMPOSSIBLE APPROVAL

Dear Hearing Examiner,

I vehemently urge you to DENY the Pioneer Aggregates South Parcel Mine Expansion Project (PLNG2021-006) because it presents a legal impossibility: the city admits it violates municipal law while requiring mitigation of environmental damage that scientists have already proven cannot be mitigated:

1. CITY STAFF ADMITS THIS VIOLATES MUNICIPAL LAW

Comprehensive Plan Violations: The Staff Report explicitly states the project "does not align with Comprehensive Plan policies LU-3.6, LU-10 and LU 10.2 for the protection of the long-term integrity of the natural environment."

These violated policies include:

- LU-3.6: "Employ practices that protect the long-term integrity of the natural environment, adjacent land uses, and the long-term productivity of resource lands."
- LU-10: "Recognize the value of mineral resource extraction while protecting the integrity of the natural environment."
- LU-10.2: Requires understanding that mining activities must maintain environmental protection standards.

Natural Environment Goal NE-1.1 also requires: "Preserve environmentally sensitive areas and those that are valuable natural and aesthetic resources to the city."

Staff explicitly concludes: *"without mitigation for impacts to the wetlands located to the south of Sequalitchew Creek, the proposal does not align with Comprehensive Plan policies LU-3.6, LU-10 and LU 10.2 for the protection of the long-term integrity of the natural environment."*

Critical Area Ordinance Violations (DMC 25.105.050): Staff admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies located to the south of Sequalitchew Creek" and requires the applicant to prepare critical area reports that do not currently exist.

The Staff Report explicitly states: *"However, no mitigation is provided for the significant unavoidable impacts to the surface water bodies located to the south of Sequalitchew Creek (Wetland 1D; Pond Lake; Wetland#8, #9, #10, and #11; and Old Fort Lake)... these impacts do not align with Comprehensive Plan policies for protection of the long-term integrity of the natural environment."*

DMC 25.105.050(2)(a) (D) requires that "unavoidable impacts to streams and stream functions shall be mitigated to achieve no net loss of stream function." Yet staff admits no mitigation exists for the unavoidable impacts.

How can you legally approve a project that city staff admits violates two fundamental municipal ordinances.

2. SCIENTISTS PROVE THE ENVIRONMENTAL DAMAGE CANNOT BE MITIGATED

The Final EIS documents "significant unavoidable adverse impacts" including:

Creek Destruction:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Creek will be dry 10% of the time
- Water temperatures exceeding 16°C from May to September - too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently

Groundwater Devastation:

- Vashon Aquifer levels dropping 8+ feet permanently with no recovery
- Groundwater discharge in Sequalitchew Creek ravine decreasing by up to 83%
- Long-term groundwater level declines of up to 8.73 feet at Edmond Marsh

Wetland Destruction:

- Multiple wetlands losing 1-3 feet of water forever:
 - Wetland 1D: 3 feet loss
 - Pond Lake: 2 feet loss
 - Wetlands #8, #9, #10, #11: 1 foot loss each
 - Old Fort Lake: 0.5 feet loss

The EIS explicitly states: "Implementation of the Restoration Plan would likely NOT mitigate these impacts."

3. THE CONDITIONAL APPROVAL REQUIRES THE IMPOSSIBLE

The Staff Report recommends 38 conditions requiring CalPortland to mitigate environmental damage that the city's own scientific analysis proves cannot be mitigated.

Impossible Conditions Include:

- Condition #21: Prepare mitigation plans for off-site wetlands the EIS says cannot be mitigated
- Condition #2: Implement restoration plans that scientists say "would likely NOT mitigate these impacts"
- Condition #7: Protect water resources while permanently damaging the Vashon Aquifer
- Condition #23: Monitor vegetation and slope stability while eliminating the groundwater that sustains them

This creates a legal fiction: conditional approval based on conditions that are factually impossible to fulfill.

4. THE LEGAL IMPOSSIBILITY

You are being asked to approve a project that:

1. Violates city law (Comprehensive Plan AND Critical Area Ordinance)
2. Causes permanent environmental damage that scientists prove cannot be fixed
3. Requires 38 impossible conditions to mitigate unmitigatable damage

This is not lawful discretionary approval - it is approval of the legally impossible.

5. ENVIRONMENTAL DEVASTATION IN DETAIL

Our Community Will Permanently Lose:

The Living Creek: The natural seeps and springs that have fed Sequalitchew Creek for millennia will dry up. Families walking the beloved Sequalitchew Creek trail will find a mostly dry streambed where a vibrant creek once flowed. Fish habitat will be destroyed by overheated water.

Underground Water Systems: The Vashon Aquifer - a geological formation that took thousands of years to develop - will be permanently damaged with groundwater levels dropping over 8 feet and never recovering.

Wetland Ecosystems: Multiple wetlands will shrink permanently, losing 1-3 feet of water depth. These are not temporary impacts during construction - they are permanent ecological destruction.

CONCLUSION

The evidence is overwhelming and comes from the city's own documents:

- City staff admits this violates municipal law
- Scientists prove the damage cannot be mitigated
- 38 conditional requirements demand the impossible

How can a hearing examiner legally approve a project that violates city law and requires the factually impossible. The conditional approval becomes meaningless when the conditions cannot be fulfilled. For the sake of legal integrity and environmental protection, I urge you to DENY this application.

Respectfully submitted,

Victoria Keys
2848 Martin St. DuPont, WA 98327
(DuPont resident x 20 years)

Phone 206-856-4755
vickikeys@comcast.net

ATTACHMENTS REFERENCED:

- Staff Report and Recommendation (PLNG2021-006)
- Final Environmental Impact Statement (May 22, 2025) - All 38 Conditions of Approval requiring impossible mitigation
- DuPont Municipal Code Critical Areas Ordinance 25.105

Christine Shilley

From: Kirk Kirkland <kirkkirkland9@gmail.com>
Sent: Thursday, June 19, 2025 5:08 PM
To: Barbara Kincaid
Subject: Coment letter onf FEIS for Pioneer Aggrgates south parcel Project
Attachments: letter for FEIS & for dupnt mine dewatering & lack of mitigation final .doc

Hello Barbara

Please find comments about FEIS for Pioneer Aggregates south parcel Project

Kirk Kirkland
Environmental Coalition of Pierce County

253 761 1693 | kirkkirkland9@gmail.com



Subject: FEIS for Pioneer Aggregates South Parcel Projects

Date: June 19, 2025

To: Barbara Kincaid, City of DuPont SEPA Official,

Thank you for the opportunity to comment on the Pioneer Aggregates South Parcel Project, City File No. SEPA2021-002. My name is Kirk Kirkland and I have reviewed various Settlement Agreement since 1994, between CalPortland, City of Dupont and Nisqually Delta , Black Hills National Audubon Society and Tahoma Audubon Society.

1 Sequalitchew Restoration Plan

The Sequalitchew Creek Restoration Plan Funding Agreement with CalPortland created in March of 2021 is flawed. Sequalitchew Lake can never be a suitable water source for Edmond Marsh and Sequalitchew Creek. A close examination shows that dewatering the Vashon aquifer will cut off the discharge as the sole source of water in Edmond Marsh and in the upper and lower reach of Sequalitchew Creek.

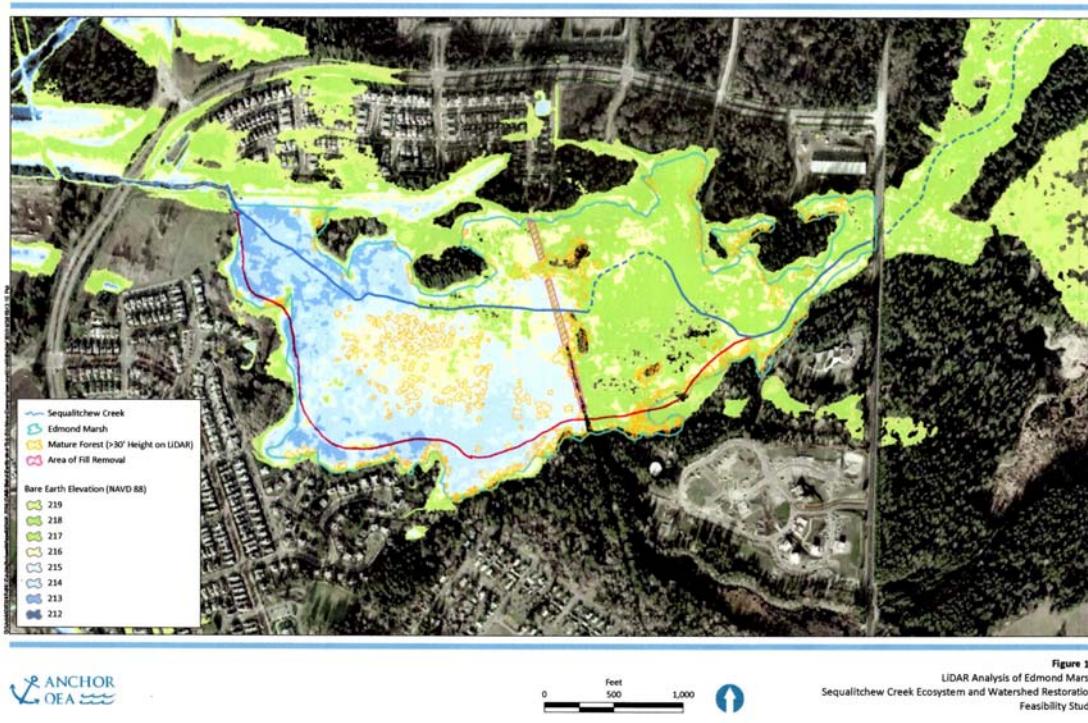
The 1994 lawsuit called for (on Page 22), "WRECO and Lone Star agree to seek no permits in the future to mine in a manner that would significantly impact the flow of Sequalitchew Creek".

2 Cumulative Impact Analysis is incomplete:

In the FEIS there is no Cumulative Impact Analysis of Edmond Marsh complex when the pumps are turned off. The proposed mitigation is "temporary".

3 Dewatering and the City's CAO and Comprehensive Plan

The dewatering proposal is in violation of the Critical Areas Ordinance and the City's 2015 Comprehensive Plan. The proposed South Parcel Mine Expansion can not proceed because it is not consistent with the 1994 agreement with CalPortland (former Lone Star) over the expansion of the gravel mine.



Discussion:

Sequalitchew Creek Restoration Plan

Comprehensive Plan acknowledges this is a Mineral Resources Overly Area, and the proposal is consistent with 2011 Settlement Agreement. The proposal however does not "conserve "resource lands of long-term commercial significance" as required by the Settlement Agreement.

The proposed Sequalitchew Creek Restoration Plan does not adequately address these five essential action elements prescribed by the Agreement that governed the original Conditional Use Permit.

This proposal to dewater the aquifer is does not based upon an understanding of : (1) the natural hydrological condition and functioning of the Sequalitchew Creek watershed, (2) of the watershed's current impaired condition, and (3) of habitat conditions that existed when native salmon populations did inhabit this watershed.

The proposed Restoration Plan, if implemented, will not result in realization of the Restoration Plan's stated vision and more important, *the mitigation does not provide long- term flow in the creek when the pumps are turned off in 2038.*

2 Non-member of the Environmental Caucus:

The *Environmental Coalition of Pierce County* was not a member of the "core group" which included the Environmental Caucus which represented a number of non-profit organizations including the Nisqually Delta Association (NDA), the Black Hills Audubon Society, Washington Environmental Council (WEC), the National Audubon Society, People for Puget Sound, the Tahoma Audubon Society, the Seattle Audubon Society

Many of these organizations involved in the agreement have since changed their name or their mission or are no longer in existence which include Tahoma Audubon Society, People for Puget Sound, Washington Environmental Council and Seattle Audubon Society. Tahoma Audubon has changed its name to Tahoma Bird Alliance.

In their comment letter about the FEIS the Tahoma Bird Alliance "urges the Hearing Examiner "to reject the expansion of the CalPortland Gravel Mine to protect our water, forests, wildlife, and the cultural and environmental." In particular they find that the "The cumulative impacts of this project—environmental degradation, cultural desecration, and community harm—are unacceptable. The proposed mitigation measures are inadequate and fail to address the long-term consequences of the mine's expansion.

Turning off the pumps after 14 years of draining the aquifer is not permanent mitigation as does not meet the standard for mitigation as required in the State Environmental Policy Act.

Section 4.5.3 of Agreement.

The *Environmental Coalition of Pierce County* is not a member of the Environmental Caucus and not party to any agreeenemt with Cal Portlant by the Caucus. We do, However, agree with the Tahoma s Bird Alliance and stand with them, as the proposal to de-water the mine does not provide, "adequate mitigation of all direct and indirect impacts of mining on Sequalitchew Creek", according to WAC 197-110-768 (Page 78 of 1995 pages).

3 City of Dupont's Municipal Code and Comp Plan Goals

Since this original Agreement was signed several conditions have changed and the Agreement no longer meets the requirements of the Revised Code of Washington and the City of Dupont's Municipal Code and Comp Plan Goals regarding critical area ordinances

Dewatering impacts on Wetland Marshes

In Chapter 4 page 4-27 the FEIS Cumulative Impact Analysis does not acknowledge the long term impacts of dewatering Edmunds March after 14 years when the pumps are turned off:

As described in Section 3.4.2 of the EIS (under Cumulative Impacts with Proposed Action and Sequalitchew Creek Restoration Plan heading), the Sequalitchew Creek Restoration Plan seeks to restore and enhance stream flow from Sequalitchew Lake through Edmond Marsh into Sequalitchew Creek by **sequentially restoring flows currently diverted by the Joint Base Lewis McCord (JBLM) diversion structure back to the creek.**

This lowering of the water elevation of the Edmond Marsh complex will provide a gradient for flows through the wetland complex to the creek, and facilitating flows through existing "losing reaches". This would help stream

flow, aquatic habitat, particularly for anadromous fish. It would decrease water levels in the Edmond Marsh complex and reduce the area of wetlands.

This dewatering proposal is in violation of the Critical Areas Ordinance and the City's 2015 Comprehensive Plan. The proposed South Parcel Mine Expansion can not proceed because it is not consistent with the 1994 Agreement with CalPortland (former Lone Star) over the expansion of the gravel mine. This Agreement called for not seeking change in mine that would "significantly impact the flow of Sequalitchew Creek".

4 Mineral Resources Overly Area

Comprehensive Plan acknowledges this is a Mineral Resources Overly Area, and the proposal is consistent with 2011 Settlement Agreement. The proposal however does not "conserve "resource lands of long-term commercial significance.".

On Chapter 4 page 4-28 The Comprehensive Plan provides a Mineral Resource Overlay intended to conserve resource lands of long-term commercial significance.

The South Parcel site is underlain by commercially significant mineral resources and is designated as a Mineral Resources Overlay area. The Comprehensive Plan acknowledges that phased mining and reclamation may occur in the Overlay area subject to City review.

Additionally, the Proposed Action is intended to be consistent with the 2011 Settlement agreement that is described in Section 2.3 of the DEIS. The agreement, which was approved by the City Council, stipulates that mining would not be allowed without funding of the Restoration Plan

5 Mitigation plan missing for these Significant Unavoidable Adverse impacts:

The following list of Significant Unavoidable Adverse impacts are listed on page 405 of the DEIS):

- "Water temperature in Sequalitchew Creek would be warmer than under existing conditions from April through September and would likely exceed the 7-day average of daily maxima criterion of 16°C in multiple months between May and September.
- "Water levels in Edmond Marsh would be lower than existing conditions by up to 3 feet. This impact is primarily attributable to the Restoration Plan and is necessary to achieve flow from Sequalitchew Lake to the Sequalitchew Creek ravine. However, the change in water level also includes the impact of changes in groundwater levels from dewatering for mining.
- "Water levels in isolated lakes and kettle wetlands would be lower by the amount of the change in groundwater levels from dewatering. The decrease would be 3 feet for Wetland 1D, 2 feet for Pond Lake, 1 foot for Wetlands #8 to #11, and 0.5 feet for Old Fort Lake. •

6 Mitigation of Edmund Marsh plan is temporary

As mentioned before the potential drawback of CalPortland's mitigation Action is that it is, at best, a temporary action. Pumping in perpetuity is not feasible, and groundwater discharge/infiltration to the Vashon-Sea Level Aquifer would substantially decrease, according to the DEIS on page 36.

The DEIS recognizes on Page #6 that "Many of the mitigation measures are likely at best, **a temporary action because pumping in perpetuity is not feasible.**"

This proposed restoration technique is flawed because it will provide substantial pumped groundwater flow from the west end of Edmond Marsh and down the ravine to reach of Sequalitchew Creek. However, once the dewatering pumps are turned off, it will remove water in Edmond Marsh from flowing flow in the ravine and down Sequalitchew Creek.

The proposed Restoration Plan does not include a long-term solution for the loss of Edmunds Marsh and associated wetlands. In the year 2038 there will be no viable salmon habitat in the Sequalitchew Creek watershed, no functional Edmond Marsh wetland, and no groundwater discharge flow in Sequalitchew Creek. This is a net loss of wetland values and functions and not permitted under SEPA.

7 Comprehensive Plan & Mineral Resources Overlay Area

In Chapter 4 page 4-28 The Comprehensive Plan provides a Mineral Resource Overlay intended to conserve resource lands of long-term commercial significance. The South Parcel site is underlain by commercially significant mineral resources and is designated as a Mineral Resources Overlay area. **The Comprehensive Plan acknowledges that phased mining and reclamation may occur in the Overlay area** subject to City review.

Additionally, the Proposed Action is intended to be consistent with the 2011 Settlement agreement that is described in Section 2.3 of the DEIS. **The agreement, which was approved by the City council, stipulates that mining would not be allowed without funding of the Restoration Plan.**

Dupont Municipal Code (DMC 25.105.010):

Directing a policy of no net loss of wetland and stream function and value, to areas within the city.

DMC 25.105.010: Preventing, to the extent practicable, adverse cumulative impacts to water quality, wetlands, stream corridors, and fish and wildlife habitats using best available science

2015 Comp Plan Goals

Natural Environment Goal NE-1: Protect DuPont's natural environment by meeting the needs of today's citizens without compromising the needs of future generations.

- NE 1.1 Preserve environmentally sensitive areas and those that are valuable natural and aesthetic resources to the City

- **NE 1.4** Work with JBLM, The Department of Ecology, Glacier NW, environmental groups, and other affected parties to restore and improve the flow of water through Sequalitchew Creek.

8 Cumulative Impacts Analysis:

In Chapter 4 page 4-32 of FEIS incorrectly describes the Cumulative Impacts effect on habitat loss of dewatering the mine states because it does not describe the net loss of wetland and marsh functioning after the pumps are turned off:

Cumulatively, implementation of the Sequalitchew Creek Restoration Plan would further mitigate for the loss of wetland acreage associated with the proposal. The Sequalitchew Creek Restoration Plan, described in section 3.6 (Plants & Animals), would reduce these unavoidable adverse impacts to a non-significant status.

Natural Environment Goal NE-5:

Restore historic stream flow, improve habitat conditions, and promote long term preservation efforts within the City.

- **NE 5.1** Maintain and where possible restore and enhance ecological functions and values of the Sequalitchew Creek Watershed, lakes, marshes, streams, wetlands, bluffs, and recognize the potential for passive public access on or at Old Fort Lake.
- **NE 5.3.** Maintain important wildlife habitats and function wildlife corridors to link important natural areas such as Edmond Marsh and Sequalitchew Creek.

This FEIS does not implement the legal agreements of 1994, 2011 and 2021 that calls for the *permanent* wetland function of Edmunds Marsh in the 1994 agreement "to seek no permits in the future to mine in a manner that would significantly impact the flow of Sequalitchew Creek".

The Dewatering Proposal is in violation of the Critical Areas Ordinance and the City's 2015 Comprehensive Plan. Such Dewatering will result in these Impacts which have not been mitigated long term:

Dewatering the Vashon Aquifer will severely impact the Sequalitchew Creek Ravine. According to the proposal on page 3.1-14. The seeps and springs that sustain the creek year-round will be drastically reduced or eliminated. The potential consequences of this dewatering will result in:

- **Drying up of vegetation:** The lush vegetation that thrives in wet conditions may struggle or die off. Plants adapted to moisture may wilt, lose leaves, or become dormant.
- **Soil erosion:** Without the binding effect of wet soil, erosion becomes a concern. Rainwater can wash away loose soil particles, leading to gullies and landslides.
- **Loss of wildlife habitat:** Animals and insects that rely on the wet environment may move elsewhere or face challenges finding food and shelter.
-

The potential consequences of this dewatering will result in: *(Continued ...)*

- **Temperature changes in the creek:** The loss of cool groundwater and the drying up of vegetation will lead to significant temperature changes in the creek, affecting aquatic life.
- **Decreased biodiversity:** The impact on groundwater will lead to decreased biodiversity in the ravine.
- **Drying up of the tree canopy:** The extensive tree canopy, which provides shade, cooler temperatures, and habitat for wildlife, will dry up, altering the landscape dramatically.
- **Loss of Aquifer seeps:** No mitigation measures in the proposal effectively address the loss of the Vashon Aquifer seeps, leading to the irreversible degradation of the Sequalitchew Creek watershed.

The restoration proposal for the FEIS calls for action which uses warm, low dissolved oxygen concentration of surface water flow from Sequalitchew Lake that includes additional stormwater runoff and other surface water flow from Bell, McKay and Hamer Marshes that will not meet clean water standards.

Selection of Alternatives.

The notion that Alternative One Restoration Plan will restore Edmond Marsh wetland is a fatally flawed.

Selection of Alternative 2 is the only way to comply with **Dupont's Comp Plan of 2015, Natural Environment Goal 5.1** which required to "maintain" and "enhance ecological functions and values of the Sequalitchew Creek Watershed, lakes, marshes, streams, wetlands."

Conclusion:

Since the first Settlement Agreement in 1994, CalPortland and the following mining owners have delivered on several critical mitigation requirements that laid a foundation for restoring the gravel mine by not de-water the aquifer.

Such prior mitigation included the reduction of dock size, removal of dock lighting that would have affected birds in the adjacent National Wildlife Refuge. And one of the most important mitigation requirement was to retain the tree buffer along the railroad tracks and beaches of Puget Sound.



border and mind and sound.jpg

Photo of mine showing previous mitigation retaining forested buffers along the shore. Other mitigation eliminated bright lights on docks that disturb migrating birds and eliminated use of gravel trucks for delivery in Puget Sound and to the dock on Puget sound..

Look at the scar left by Chamber Bay Golf course and the millions of dollars required to create a 400 acre recreation area there. These mitigation requirements in Dupont were very important for the neighboring National Wildlife Refuge and residents on Anderson Island. Large docking facilities with truck delivery with bright lights were required by State Environmental Policy Act for mitigation for light and glare regulations.

Now after 30 years of operation, Edmunds Marsh has been a valued area for migrating birding and wildlife that provides a place for quiet. Some of the over 20,000 people in Northwest Landing & Dupont are found on any weekend hiking the Sequalitchew Creek Trail.

As proposed Action One for the expansion of the mine would result in the loss of existing conifer forest/scrublands, the existing kettle wetland, and associated animal habitat on the site. These areas are protected by Dupont Municipal Code and Comp Plan goals. Even more important is that the proposed Restoration Plan has no lasting value beyond 14 years.

We urge the Hearing Examiner to select Alternative 2 to allow the mining operation to continue without the dewatering the aquifer.

Thank you for this opportunity to comment.

Kirk Kirkland

For the Environmental Coalition
253 761 1693 | kirkkirkland9@gmail.com

Christine Shilley

From: karenkonrad@aol.com
Sent: Monday, June 16, 2025 1:34 PM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050, which REQUIRES mitigation "to achieve no net loss of stream function."

Scientists in the Final EIS admit "significant unavoidable adverse impacts" including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
- Multiple wetlands losing 1-3 feet of water forever
- Creek temperatures getting too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently

The EIS states the restoration plan "would likely NOT mitigate these impacts."

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project. The sovereign tribal nation is formally appealing the Final EIS, citing:

- Failure to properly identify tribal cultural resources
- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely,
[Your Name]
[Your Address]
[Your Phone/Email]

My letter to the hearing examiner:

<https://docs.google.com/document/d/18eR5pQuzykW1QvHPLm8GXnTDIz1TQ0ZuGyhgnCG7dYo/edit?usp=sharing>

THE SMOKING GUNS:

1. City staff admits it violates city law
2. Scientists say damage CANNOT be mitigated

Result: How can this be approved?

SUPPORTING DOCUMENTS REFERENCED:

- CalPortland Staff Report June 2025 (PLNG2021-006) <https://wa-dupont.civicplus.com/.../20250613-South-Parcel...>
- Pioneer Aggregates South Parcel Project Final EIS (May 22, 2025) <https://wa-dupont.civicplus.com/.../Pioneer-Aggregates...>
- DuPont Municipal Code 25.105 Critical Areas
Ordinance <https://www.codepublishing.com/.../DuPont25/DuPont25105.html>
- Sequalitchew Creek Restoration Plan <https://wa-dupont.civicplus.com/.../20240430-PLNG2023-007...>

Nisqually Tribe FEIS Appeal <https://wa-dupont.civicplus.com/.../Pioneer-Aggregates...>

• Please honor the purpose of your work and those you work for

Thank you

Karen Konrad

Christine Shilley

From: Corey Larson <coreylars@gmail.com>
Sent: Thursday, June 19, 2025 4:13 PM
To: Barbara Kincaid
Subject: Public Comment- Pioneer Aggregates South Parcel Mine Expansion Project
Attachments: Public Comment- South Parcel Expansion.docx

Dear Barbara Kincaid,

Please find the attached letter with public comments regarding Pioneer Aggregates South Parcel Expansion Project- City File Nos. PLNG2021-006 (Site Plan Review), PLNG2021-009 (Tree Modification), PLNG2021-010 (Critical Areas Permit), PLNG2021-002 (SEPA). Thank you for your time and consideration.

Sincerely,
Corey Larson

June 19th, 2025

Barbara Kincaid
Public Services Director
City of DuPont
1700 Civic Drive
DuPont, WA 98327

RE: Public Comment on Pioneer Aggregates South Parcel Mine Expansion Project
City File Nos. PLNG2021-006 (Site Plan Review), PLNG2021-009 (Tree Modification),
PLNG2021-010 (Critical Areas Permit), PLNG2021-002 (SEPA)

Dear Barbara Kincaid,

Thank you for the opportunity to comment on the Pioneer Aggregates South Parcel Mine Expansion Project. I am a historian and much of my research focuses on the Hudson Bay Company's Fort Nisqually. HBC employees kept detailed records that are important primary source materials for understanding regional history. These documents include significant information about nearby Indigenous Peoples and landscapes prior to American settlement and colonization. The HBC documents provide detailed accounts of the Sequalitchew community and how Nisqually residents interacted with their surrounding lands and waters.

Upon reviewing the South Parcel Mine Expansion Project proposal, there doesn't seem to be any mention of these important historical records. Below are two excerpts from HBC employee documents that locate the Nisqually community of Sequalitchew directly on the South Parcel. The first passage by Edward Huggins describes the village site in relation to Fort Nisqually and provides a rough estimate of the population. In the second passage, the Fort Nisqually journal describes annual diplomatic and ceremonial practices on the site over a four-year period. The journal also recorded the establishment of the Methodist Mission in close proximity to the village. The third passage from anthropologist Marian Smith provides context for the above diplomatic and ceremonial practices based on interviews with Puyallup and Nisqually tribal members in the 1930s. These accounts, along with many other HBC documents, provide valuable insights into the cultural resources of this area and should be taken into consideration.

Sincerely,
Corey Larson

Huggins, Edward. "Story of Tom." Edward Huggins papers, 1850-1905. University of Washington Libraries, Special Collections, Box 1, Folder 25.

"Between the years of 1849 and '54 a large number of Indians, Squallyamish, Snohomish and Puyallups were living in the *open space surrounding Fort Nisqually to the westward, along the North bank of the picturesque Seguallichew creek...* numbering in all- I should think about 200 souls."*

Dickey, George (ed.). *The Journal of Occurrences at Fort Nisqually*. Fort Nisqually Association, 1989.

April 5th, 1835- “There has been *five different tribes on the ground*, as usual a little disagreement amongst them. This is owing principally to Chiefs who are jealous of one another. The *natives of the place performed their devotions...*”

April 2nd, 1837- “The Indians are *gambling across the small river north of us.*”

April 3rd, 1837- “The natives still *gambling.*”

April 4th, 1837- “Some quarreling took place amongst the gamblers.”

April 9th, 1838- “This afternoon See-yat [Seattle] arrived with fourteen of his tribe, all armed...They have remained the night to gamble with the natives of this place.”

April 10th, 1839- “This evening the Rev’d Mr. Leslie and Brother William arrived with an intention of making at this place a small Missionary Establishment for converting the Indians around.”

Smith, Marian. *The Puyallup- Nisqually*. Columbia University Press, 1940.

“Contests between leaders which could not be decided by force were normally solved by competitions which involved skill and physical prowess, *by gambling* or by the eating contest.”

“The disc gamble was the high point in challenge affairs. In addition to testing the abilities of the leaders, it drew every man and woman of their respective villages into the contest, for *this was a true ceremonial occasion* in which the powers of the main protagonists were keyed up to fullest performance by the powers of their supporters.

“As in all ceremonial expenditure, the property was thought to stimulate and please the powers... the Indians of the southern Sound *substituted gambling for hostilities*, and the significance of gambling can only be understood against this background.”

**Italics* added for emphasis.

Christine Shilley

From: Marianne Lincoln <marianne26435@gmail.com>
Sent: Thursday, June 19, 2025 11:19 PM
To: Barbara Kincaid
Subject: Comment - Pioneer Aggregates South Parcel Mine Expansion Project
Attachments: Testimony on South Parcel Gravel Mine.docx

Here is my attached comment on the Pioneer Aggregates South Parcel Mine Expansion Project.

Marianne Lincoln
16008 11th Ave Ct E, Tacoma, WA 98445
253-847-8000

Marianne Lincoln
16008 11th Ave Ct E, Tacoma, WA 98445
253-847-8000
Marianne26435@gmail.com

June 19, 2025

To: Barb Kincaid at bkincaid@dupontwa.gov

Testimony on the Pioneer Aggregates South Parcel Expansion Project, Dupont, Washington

As a supporter of water in creeks, fish habitat, water to drink for a quickly growing population in a sole source aquifer, and a person who is aware there have been aquifer busting accidents on more than one occasion in Washington State by gravel operations (Cadman/Monroe for instance) I oppose the dewatering of an aquifer to mine gravel in this location. I am not opposed to mining the gravel, but I am opposed to breaking into and dewatering the aquifer.

My testimony will not be exactly what is expected of someone who is on the boards of several water related organizations and has a degree in chemistry and experience testing water. No, because in addition to those, I grew up friends with a dowser and sensitive to the interaction of water and the human energy surrounding me.

In 2004, I became the historian for the Descendants of Fort Nisqually Employees Association that met here in Dupont for many years. Descendants of the Kittson's, McPhail's, McLeod's, Rosses, Byrd's, Smiths, Chief Scanewa, Satiacums, Chalifaux and others were part of this group during my membership. I also grew up with descendants of Benstons, Chambers, Meyers, and Rice's.

You see, I did not become the historian for DFNEA just because I had done a significant amount of research on Fort Nisqually, the families, and the Methodist Mission. I grew up in areas where those employees lived and went to school with their descendants. I walked in the tidelands of the Nisqually Reach and played with the salmon fry in the lagoon at Hogum Bay as a child. Each time my family drove past the fort sites, the Treaty Tree, and the Dupont Powder works, I heard stories from my mother about them all. I strolled through the woods where these people lived, even with their houses gone, I photographed the sites. I have a computer file titled ghosts, because as anyone who ever photographed the Aurora Borealis knows, the camera picks up magnetics difficult to see with the naked eye.

I became the historian because I was called to be there. I was not a descendant, but I listened to them all, those living and those who called from the past. Look over here and take a photo there. My truck broke down on a road to the Mashel Massacre site, just in time to meet the owner of the Nisqually Trail property at her mailbox. Coincidences? It doesn't seem like it when they happen time after time.

The City of Dupont sits on a crossroad of history. It isn't just a plot of land with a fence and a stylish historical sign. It is a living, breathing anomaly in time from when the natives of the past began to interact with the visitors from far away who bought livestock, tools, weapons, knowledge, and, sadly, diseases with them. The souls of that past still inhabit this place. They called to me my entire childhood, until I could finally actually access this site. They helped me rent a kayak on Christmas Day 2004, on the 150th anniversary of the Medicine Creek Treaty and survive the paddle down McAllister Creek in the

rain. It was only 15 days after Leschi's Exoneration Trial, which I had attended. The Treaty Tree fell in a windstorm two years later on December 15. Billy Frank Jr. was photographed cradling the fallen monarch.

You may steal the water from the creek. You may prevent the salmon from spawning in the waters of the Sequalitchew. You may try to hide the historical record and remains of places that were here by plowing, grading and building concrete mega warehouses on top of them. But you will never be able to prevent the energy leftover from those lives from existing in this place.

I have a box of statistics, notes, comments, research and poignant data from Don Russel. I have history from my mother who testified in past years to stop the deep-water port in the Nisqually Reach. I have stories of the battles and offers of developers who approached Ken Braget from visits with him.

Dupont is not just a little city wedged between a military base and Puget Sound. The inception of Dupont touched all of Pierce County, Washington State Territorial history, and the navigation of Puget Sound to the Cowlitz and Columbia Rivers. in their records and journals, its early residents recorded the lives of native American families, the trails over the Cascades, the routes through the state waterways, and married into Indian families who settled the land and are today still prominent in local tribes to this day.

Dupont may be bustling today with houses, businesses, families and pets, but it will always be at the epicenter of a profound local historical spiritual force that will not stay unseen.

Doctor Tolmie always warned settlers not to disturb the north side Sequalitchew Creek because of that profound ancient spiritual force. And I leave you today with that same warning. Not in numbers, statistics, research, or environmental law, but in knowledge that there really is something to these places to which thousands of years of human existence have learned to pay heed.

[MCTreatyTree.avi <https://www.youtube.com/watch?v=AfW4PBQFQg&t=10s>](https://www.youtube.com/watch?v=AfW4PBQFQg&t=10s)

Marianne Lincoln

Affiliations:

Historian, Descendants of Fort Nisqually Employees Association

Miller Family Hogum Bay Property, Nisqually Land Trust

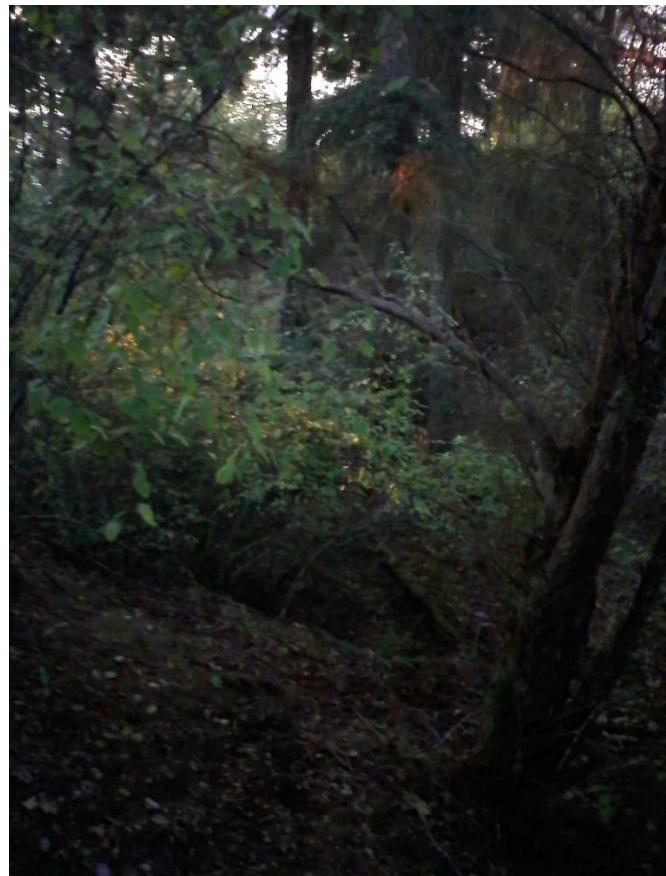
Chamber Clover Watershed Council

Clover Creek Restoration Alliance

Spanaway Community Association | PiercePrariePost.com

Past employee of Washington Rock Quarries

Dupont photos from 2011



Christine Shilley

From: Marianne Lincoln <marianne26435@gmail.com>
Sent: Friday, June 6, 2025 10:24 AM
To: Don Russell
Cc: Sean Arent; Renee Buck; Kirk Kirkland; Al Schmauder; Kurt Reidinger; Barbara Kincaid
Subject: Re: Pioneer Aggregate Vashon aquifer dewatering proposal

Thank you Don. We will take a look at doing just that.

Marianne

On Fri, Jun 6, 2025 at 10:21 AM Don Russell <krdr1juno@gmail.com> wrote:
Correct attachments to my previous email on this subject included below.

Don

Christine Shilley

From: Kathleen Lind <klind4003@yahoo.com>
Sent: Tuesday, June 17, 2025 8:53 AM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion – PLNG2021-006

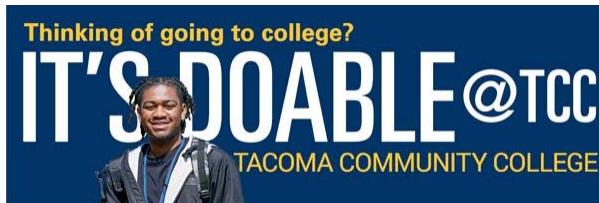
Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it “does not align with Comprehensive Plan policies” and admits “no mitigation is provided for the significant unavoidable impacts to the surface water bodies” – directly violating DMC 25.105.050 which **REQUIRES** mitigation “to achieve no net loss of stream function.”

Scientists in the Final EIS admit “significant unavoidable adverse impacts” including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
- Multiple wetlands losing 1-3 feet of water forever
- Creek temperatures getting too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently



The EIS states the restoration plan “would likely NOT mitigate these impacts.”

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project. The sovereign tribal nation is formally appealing the Final EIS, citing:

- Failure to properly identify tribal cultural resources
- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?



This is legally impossible. DENY the approval.

Kathleen Lind
4003 Southgate Ave SW

Lakewood, WA 98499

klind4003@yahoo.com

Sent from my iPhone

Christine Shilley

From: Jack Lindberg <johndlindberg444@gmail.com>
Sent: Tuesday, June 17, 2025 6:49 AM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion – PLNG2021-006

Please shut this down. Everywhere you look this natural gem is being attacked and destroyed

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it “does not align with Comprehensive Plan policies” and admits “no mitigation is provided for the significant unavoidable impacts to the surface water bodies” – directly violating DMC 25.105.050 which **REQUIRES** mitigation “to achieve no net loss of stream function.”

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How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

John Lindberg

Christine Shilley

From: pweymiller@aol.com
Sent: Friday, June 20, 2025 12:53 PM
To: Barbara Kincaid
Subject: Comments on Gravel Mine Expansion.

Hi Barb,

Thank you for all your time describing the processes and approvals, and for extending the deadline to submit comments.

Please accept mine:

My name is Pete Weymiller, and I represent GH Climate Resiliency.

Thank you for allowing me to comment on something important to protecting the ecological quality of Puget Sound.

I am expressing my strong opposition to the proposed gravel mining project due to its significant and far-reaching impacts on clean water, public health, and already federally threatened salmon populations.

The scientific experts and the applicants could not provide no-net-loss mitigation for the critical shoreline, wetlands, floodplain or stream habitat from the loss of freshwater due to this project. And this does not calculate the predicted sea level rise and increasingly extreme weather from climate change.

Having spent years restoring salmon habitat, I have witnessed juvenile salmon leap from streams to escape sediment-choked waters—a direct result of habitat degradation. I have seen photos of Chinook salmon jumping from the Duwamish River to flee chemical contamination. These illustrate the potential ecological distress caused by projects like these. Mining in this location will only compound those harms, especially as climate change increases stream temperatures and depletes oxygen levels critical to aquatic life.

With already increasing rain and drought the extremes in weather due to climate change, *more* forest cover is recommended in stream riparian zones by the best available science, *not less*.

Already across the salmon stream is a golf course, another development detrimental to salmon streams for their oxygen-depleting fertilizers and toxic pesticides.

The expansion's own environmental impact statement highlights its threats to limited freshwater resources. Moreover, this proposal directly contradicts Washington's Climate Commitment Act directives and violates the principles of the Medicine Creek Treaty, which affirms both environmental stewardship and Indigenous rights. The purpose of many of these mandates is to *restore* salmon habitats and not further compromise them as this expansion will surely do, according to the best available science.

Because of climate change, our most at-risk salmon must survive in the stream up to 3 years with already increasingly extreme heat, drought, and rain events, and increasing risks of wildfires and erosion. Imagine what it must be like for an adult salmon returning to spawn or a young fry trying to survive, experiencing just one choking “duststorm” of sediment, or gasping for too little dissolved oxygen, with no refuge. Of course, they will die, either by remaining in their temporarily uninhabitable home, or, by jumping out onto land trying to escape it.

Scientists behind the EIS concluded that lower stream water levels caused by this project would decrease the oxygen levels even more than those from climate change, and the mitigation plan *only* “may” reduce water temperatures for adequate levels of dissolved oxygen for salmon survival.

Wetlands are meant to filter contaminants and sediments from development, and the EIS claimed that this proposal would reduce the water level in wetlands by as much as 3'. Any uncertainty as to the impact of this drop in water level on the effectiveness of the wetland should be addressed with an abundance of caution, not a wait-and-see approach, not with our water and salmon. I didn't see anywhere in the Climate Commitment Act or the Med. Cr. Treaty that directs the wait-and-see approach. No net loss cannot be guaranteed by the applicants nor the expert scientists conducting environmental reviews.

The project is also on a critical floodplain, and FEMA is unsure of the ecological value this has for the salmon. With rising oceans due to climate change, coastal flooding will be inevitable, and the impacts higher seas and stronger storms will have on the shoreline and floodplains with threatened and endangered species are unknown; again, we need to proceed with caution, not wait and see.

There are too many unknowns regarding the risks to salmon and drinking water. With so much degradation already to federally threatened and endangered salmon and orca habitats, why would we consider an unknown risk on a shoreline, wetlands, floodplain, and stream habitat that are all critical to threatened salmon?

I respectfully urge you to require that mining does not occur here, but in areas with far less environmental and human cost risk. We can meet development needs with careful planning while safeguarding our irreplaceable natural resources and honoring our legal and moral responsibilities.

For the well-being of future generations, please follow the mandates approved by voters and treaty signers, as well as the evidence-based expertise from the best available science, and not further risk dwindling salmon populations and freshwater supplies in critical areas with detrimental and inevitable but uncertain climate impacts.

Thank you for your time.

Pete Weymiller

Gig Harbor Climate Resiliency

Christine Shilley

From: Cara E Mitchell <caraemitch@gmail.com>
Sent: Wednesday, June 18, 2025 8:17 PM
To: Barbara Kincaid
Subject: Public comment: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050, which **REQUIRES** mitigation "to achieve no net loss of stream function."

Scientists in the Final EIS admit "significant unavoidable adverse impacts" including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
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- Failure to properly identify tribal cultural resources
- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

Because dewatering of the aquifer will potentially impact properties far outside the mining area per the EIS, consent should be required for potentially impacted property owners. Also, a mitigation fund must be established for potentially impacted properties, in perpetuity.

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed.
- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely,

Cara Mitchell

2221 McDonald Avenue , DuPont, WA 98327

253-353-3495

Caraemitch@gmail.com

Christine Shilley

From: anne.muir@me.com
Sent: Thursday, June 19, 2025 4:09 PM
To: Barbara Kincaid
Subject: No to Pioneer Aggregate Mine

Ms. Kincaid

I am a DuPont resident and am expressing that I DO NOT want to have the Pioneer Aggregate Mine expanded. The irreparable environmental damage would fundamentally change DuPont and would further affect the endangered Southern Resident Orca population. The Sequalitchew Creek trail would no longer be the enjoyable hike that it is—particularly if the creek is running dry for many months (which will also increase the fire risk). At a time when DuPont should be prioritizing the families that live here and businesses that will provide them goods and services, this plan would take DuPont in the wrong direction. We should be working to maximize our green spaces and bring business downtown, not increasing pollution levels and adding additional heavy equipment traffic to our roads.

I love DuPont for all that it provides—a safe, small town environment with plenty of outdoor space and safe roads, sidewalks, and trails for biking, running and walking. This mine would destroy all of this. There are no benefits to the residents of DuPont with the expansion of this mine.

Please vote NO on the mine expansion proposal it is not worth the future of DuPont.

Anne Muir

anne.muir@mac.com

Christine Shilley

From: Whitney Neufeld-Kaiser <whitney.n.k@gmail.com>
Sent: Sunday, June 8, 2025 5:02 PM
To: Barbara Kincaid
Subject: Comment on Pioneer Aggregates South Parcel Project

Below is the letter that has been suggested I send to the Hearing Examiner regarding this proposal. I will preface it by saying that it is astonishing to me that, given all that people have learned about climate change, about the importance of the natural environment to our mental health, about the decimation of bird and insect populations in the last 30 years, about the destruction of salmon runs and the detrimental impact on the orca population....all that we've learned about ways to co-exist with other living creatures, to come up with alternatives to raping the land....how can proposals like this even see the light of day?

This proposal is going to extend the life of this gravel mine by FOURTEEN YEARS. Not 50, not 100, not 200. Just FOURTEEN. Are you kidding me? Pioneer Aggregates proposes to obliterate 180 acres of forest, dry up multiple marshes and the water source for Sequalitchew Creek....destruction that would take at least decades to recover from, and which can't actually be "mitigated"....all for FOURTEEN more years?

This is appalling, and I hope the City of Dupont advocates and comes down in favor of the people who live in Dupont (and other parts of Puget Sound) and cherish the natural areas of Sequalitchew Creek trail, who are working to see salmon return to the creek and for orca to thrive in Puget Sound.

Whitney Neufeld-Kaiser
Seattle, WA

The Final Environmental Impact Statement reveals alarming consequences: dewatering the Vashon Aquifer could reduce groundwater levels by up to 30 feet, threatening the health of Sequalitchew Creek. This would result in the loss of up to 79% of the creek's flow, disrupting salmon habitat and undermining decades of restoration efforts. Additionally, the expansion threatens to eliminate Edmond Marsh, a Class I wetland, and destroy over 170 acres of forest, 10.8 acres of the Kettle Wetland, and at least 90 landmark trees. These impacts violate DuPont's Critical Area Ordinance and Growth Management policies, which mandate no net loss of wetland and stream functions. The proposed mitigation measures are insufficient and temporary, leaving the environment vulnerable in the long term.

Impacts to the Nisqually Tribe

The Nisqually Tribe has expressed concerns about the potential desecration of ancestral graves and sacred sites within this landscape. Hereditary Chief Leonard Squally has highlighted the importance of protecting these areas, which have sustained the Nisqually people since time immemorial. The proposed mining activities pose risks of disturbing these sacred sites, leading to irreversible cultural losses. The Nisqually people have inhabited the Sequalitchew area since time immemorial, with archaeological evidence indicating human presence in the broader Puget Sound region for at least 8,000 to 12,000 years.

The Nisqually Tribe's concerns are substantiated by their formal comments submitted to the City of DuPont's Hearing Examiner, emphasizing the adverse impacts on cultural resources and urging for the protection of these irreplaceable sites.

In light of these considerations, it is imperative to oppose the proposed mine expansion to safeguard the cultural heritage and environmental integrity of the Nisqually Tribe.

Threat to Groundwater

Lowering the groundwater table can reduce the pressure that keeps saline water from encroaching into freshwater aquifers, especially in coastal areas. If the Vashon Aquifer experiences significant drawdown, it could potentially allow for the upward movement of saline water from deeper layers or lateral intrusion from nearby saline sources, leading to salinization of the aquifer.

Moreover, dewatering could impact nearby wetlands and marshes, such as Edmond Marsh, by lowering groundwater levels, which may lead to ecological degradation. The loss of these wetlands could further alter the natural recharge and filtration processes that protect aquifer water quality.

An Assault on Salmon and Orca Recovery

The mining project's dewatering activities are expected to lower groundwater levels, diminishing the flow from springs that currently feed Sequalitchew Creek. This reduction will lead to decreased streamflow, particularly during dry periods, adversely affecting salmon habitats. The Final Environmental Impact Statement (EIS) notes that "the contribution from springs with the Proposed Action and Sequalitchew Creek Restoration Plan would be lower than under existing conditions," potentially impacting fish migration and spawning.

Lower groundwater inputs can result in higher stream temperatures, which are detrimental to salmon, especially during summer months. The EIS anticipates that "creek temperatures in the summer—particularly June through August—are expected to rise to 21°C," a level that can stress salmon populations.

Changes in groundwater levels are expected to alter the hydrology of nearby wetlands, such as Edmond Marsh, which serve as critical rearing habitats for juvenile salmon. Disruptions to these wetlands could impair their ability to support salmon life stages.

The Sequalitchew Creek Restoration Plan is proposed to mitigate some impacts of the mining project, but it is ultimately more of a re-engineering plan designed to foil public outcry over the destruction of so much habitat. Its implementation is closely tied to the mining proposal, raising concerns about potential delays or dependencies that could hinder timely restoration efforts. Most importantly, a more robust and accurate restoration plan could be created and funded without dependency on the gravel mine.

The combined effects of reduced streamflow, increased temperatures, and altered habitats could cumulatively impact salmonid species, including coho and chum salmon, as well as cutthroat trout. These species rely on specific habitat conditions that may be compromised by the proposed mining activities. With planning beginning to allow the Sequalitchew estuary to flow freely and rebuild, this project is in direct contradiction. Salmon are a vital food source for the endangered Southern Resident Orca, and the Sequalitchew system once supported thousands of fish. This project would greatly impair

our ability to rebuild this break in the food chain.

A Climate Catastrophe

The project's expansion would lead to both direct and indirect GHG emissions

Direct Emissions: Arising from on-site activities such as excavation, processing, and transportation of materials.

Indirect Emissions: Resulting from electricity consumption and the production of materials used in operations.

While the Environmental Impact Statement (EIS) acknowledges that these emissions would constitute a small percentage of the state's total GHG inventory, they are nonetheless additive and contribute to cumulative climate impacts.

The expansion entails clearing approximately 188 acres of previously undisturbed forest and shrubland. This vegetation currently acts as a carbon sink, absorbing CO₂ from the atmosphere. Its removal not only releases stored carbon but also diminishes the area's future carbon sequestration capacity.

The project is anticipated to extend mining activities by approximately 14 years. This prolonged period of operation means sustained emissions from machinery and vehicles, as well as ongoing habitat disruption, which can have long-term ecological and climatic effects.

When combined with other regional developments and industrial activities, the project's emissions and environmental disturbances contribute to broader cumulative climate impacts. These include exacerbated local air quality issues, increased regional temperatures, and strain on local ecosystems already vulnerable to climate change.

The mine expansion threatens to degrade and fragment critical habitats for bats, birds, and the western gray squirrel, leading to declines in these wildlife populations.

A Threat to Community and Recreation

The proposed expansion of the Pioneer Aggregates South Parcel Project poses significant threats to the Sequalitchew Creek Trail, a cherished recreational asset in DuPont, Washington.

The expansion would bring mining operations closer to the trail, leading to increased noise and visual disruptions. The construction of a 20-foot-high berm on the south side of Phase 2C is planned to mitigate noise, but the proximity of mining activities may still detract from the trail's natural ambiance.

Dewatering activities associated with the mine could lower groundwater levels, affecting the flow of Sequalitchew Creek. Frequent trail walkers will notice the groundwater seeps that sustain the lush hillside, including a rare native Chain Fern, that grows out of this specific habitat. De-watering would eliminate these cool-water seeps likely in their entirety.

The removal of forested areas and wetlands for mining will lead to habitat loss for various wildlife species. This degradation may reduce opportunities for wildlife observation along the trail, impacting the

experience for nature enthusiasts.

The project is anticipated to extend mining activities by approximately 14 years. This prolonged period of operation means sustained disturbances, potentially affecting trail accessibility and enjoyment over a significant timeframe while increasing localized air pollution and heat island effects.

The mining activities are expected to elevate levels of particulate matter (PM), particularly PM₁₀ and PM_{2.5}, due to operations such as excavation, blasting, and transportation. These fine particles can travel long distances, affecting air quality in surrounding communities.

Exposure to elevated levels of particulate matter is linked to various health issues:

Respiratory Problems: Inhalation of fine particles can lead to reduced lung function and exacerbate conditions like asthma and chronic bronchitis.

Cardiovascular Diseases: Air pollution contributes to heart diseases and can increase the risk of heart attacks and strokes.

Neurological Effects: Long-term exposure has been associated with cognitive decline and neurological disorders.

Vulnerable Populations: Children, the elderly, and individuals with pre-existing health conditions are particularly susceptible to the adverse effects of air pollution.

The applicant's relentless pursuit of profit in plundering this archaeologically and ecologically unique landscape is an affront to the residents of Dupont and our entire region. Reject this proposal. Please enter these comments into the record.

Christine Shilley

From: Maia Bellon <mbellon@cascadialaw.com>
Sent: Friday, June 20, 2025 8:30 AM
To: Barbara Kincaid
Cc: Alexander M. Wu; Steve Roos; beach.brad@nisqually-nsn.gov; Gordon Karg; Louis Russell; Steve Parkinson; Phil Olbrechts
Subject: Nisqually Tribe's Public Comments on Pioneer Aggregates South Parcel Mine Expansion Project
Attachments: Nisqually Public Comment Pkg 2025-06-20.pdf

Dear Ms. Kincaid:

Attached please find the Nisqually Indian Tribe's public comments on the Pioneer Aggregates South Parcel Mine Expansion Project (City File Nos: PLNG2021-006 (Site Plan Review), PLNG2021-009 (Tree Modification), PLNG2021-010 (Critical Areas Permit), PLNG2021-002 (SEPA)).

Please do not hesitate to let me know if you have any questions.

Maia D. Bellon
Cascadia Law Group

mbellon@cascadialaw.com | (360) 556-8809
606 Columbia St. NW, Suite 212 Olympia, Washington 98501 cascadialaw.com

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June 20, 2025

Barbara Kincaid
Public Services Director
City of DuPont
1700 Civic Drive
DuPont, WA 98327

RE: Public Comments on Pioneer Aggregates South Parcel Mine Expansion Project
City File Nos: PLNG2021-006 (Site Plan Review), PLNG2021-009
(Tree Modification), PLNG2021-010 (Critical Areas Permit), PLNG2021-002 (SEPA)

Dear Ms. Kincaid:

Enclosed please find Nisqually Indian Tribe's public comments regarding the above-referenced matter. These comments include:

- Expert Report Regarding the Sequalitchew Ancestral Village Landscape (SAVL)
- Sequalitchew Creek CalPortland Mine Expansion Map
- Nisqually Indian Tribe July 17, 2024, comment letter
- Nisqually Indian Tribe December 23, 2024, comment letter

In addition, the Tribe urges the hearing examiner not to grant the land-use applications under consideration for the following reasons.

As project proponent, CalPortland/Glacier Northwest has the burden of proof to demonstrate conformity between the project applications and DuPont's Comprehensive Plan. DuPont Municipal Code (DMC) 25.175.050(5). The applications must be supported by substantial evidence that they conform to the Comprehensive Plan and that any significant adverse environmental impacts have been adequately mitigated. *Id.*

CalPortland has not demonstrated such conformity here, as the project applications are inconsistent with provisions in the Comprehensive Plan, including, but not limited to, the following goals and policies:

Goal CR-1 Protect cultural resources by continuing to implement regulations that insure cultural resources will not be destroyed, damaged, or disregarded during the planning and development process.

...
CR-1.2 - Encourage protection and preservation of cultural resources as well as efforts to promote awareness of the community's natural and historic assets.

...
CR-1.4 - Encourage identification, protection, preservation and or restoration of cultural resource sites of documented significance as outlined in the:

- Memorandum of Agreement among the Washington State Historical Preservation Office, the Weyerhaeuser Real Estate Company, and the City of DuPont dated August 7, 1989, including any subsequent amendments.

...
City of DuPont, 2015 Comprehensive Plan, pp. 103-04.

The 1989 Memorandum of Agreement (MOA), incorporated by the Comprehensive Plan, requires, among other obligations:

Prior to commencement of any development activities undertaken by WRECO or the City on the Property, the Cultural Resources Consultant shall survey the Property, locate all previously identified Cultural Resources; and evaluate, using National Register of Historic Places criteria set forth at 36 CFR Section 60.4, all Cultural Resources within the Property that could reasonably be considered directly or indirectly impacted by development activities proposed by WRECO or the City. The survey will involve an existing data search including, but not limited to, archival and literature search, ethnographic research and informant interviews, and will be followed by an intensive field survey.

1989 MOA, § A(2)(C).

CalPortland has the burden to prove, with substantial evidence, that its application conforms with CR-1.2 and CR-1.4. This includes compliance with the 1989 Memorandum of Agreement. Since the proposed mine expansion does not encourage the protection of cultural resources significant to the Nisqually Tribe, the planning process has not identified numerous cultural resources that are documented as part of the SAVL Traditional Cultural Place (TCP) for protection, and neither the City, Weyerhaeuser, or CalPortland have performed the “intensive field survey” or other requirements of the 1989 MOA, CalPortland has not satisfied its burden.

Regarding PLNG2021-009 (Tree Modification), CalPortland has not sufficiently investigated the presence of Culturally Modified Trees (CMT) within the southern parcels. The Landmark Tree Inventory Report prepared by Anchor QEA includes an image of a candelabra-style tree exhibiting characteristics consistent with a Nisqually burial tree. Additionally, the Tribe is aware of the existence of a Douglas Fir directional CMT in Lot Y, which is directly south of the southern parcels. The presence of this nearby CMT is a strong indicator of additional CMTs in the project area.

While the City’s Staff Report states a consistency finding, it effectively concedes that CalPortland has not performed adequate consultation or analysis on cultural resources:

Ongoing coordination with Tribes is needed to identify and potentially mitigate for [cultural resources] impacts. . . .

It is not known if Sequalitchew Creek and the Sequalitchew Ancestral Village Landscape are eligible for listing in the NRHP. If they are, mining activities could constitute a significant adverse impact to them. In that scenario, DAHP and the affected Tribes should be consulted for guidance regarding appropriate mitigation measures, which would be consistent with CR-1.2 and CR-1.4.

Staff Report, p. 15 (emphasis added).

Barbara Kincaid

June 20, 2025

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Because CalPortland has not performed the required cultural resources investigation or consultation to demonstrate consistency with CR-1.2 and -CR-1.4—a conclusion that the Staff Report appears to agree with—the Hearing Examiner should deny the land-use applications under DMC 25.175.050(7).

Thank you for your consideration.

Sincerely,



Maia D. Bellon

Phone: (360) 556-8809

Email: mbellon@cascadialaw.com

Office: Olympia

Enclosure

Barbara Kincaid

June 20, 2025

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cc: Phil Olbrechts, City of Dupont Hearing Examiner
Brad Beach, THPO, Nisqually Indian Tribe
Gordon Karg, City Attorney
Steve Roos
Alexander M. Wu

**Expert Report Regarding the
Sequalitchew Ancestral Village Landscape**

Karen Capuder, PhD

Foundations Consulting LLC

18 June 2025

Name and Affiliation

Karen Marie Capuder, Ph.D.
Foundations Consulting, LLC

I. PROFESSIONAL BACKGROUND

Education

- B.A. Native American and World Indigenous Peoples Studies, The Evergreen State College (2004)
- M.A. American Indian Studies, University of Arizona (2006)
- M.A. Sociocultural Anthropology, University of Washington (2009)
- Ph.D. Sociocultural Anthropology, University of Washington (2013)

Professional Qualifications

- 22.5 years' experience as a cultural resource professional working with Tribal Nations in Washington and Oregon.
- Meets the Secretary of the Interior's Professional Qualifications Standards in both Archaeology and Cultural Anthropology.
- Employed for 10.5 years by the Confederated Tribes of the Colville Reservation History/Archaeology Program, serving as a Senior Archaeologist and the Tribal Historic Preservation Officer's (THPO's) policy analyst and lead for consultation with numerous federal and state agencies and local governments.
- Currently serves as the Senior Legislative/Policy Analyst for the Colville Tribes' Traditional Territories Program, an administrative arm of the Colville Business Council.
- Owner of/Principal Investigator for Foundations Consulting, LLC, a cultural resources consultancy providing services to Tribal Nations and professional development and training opportunities for government agencies.
- Has successfully listed 39 Traditional Cultural Properties (TCPs) on the Washington Heritage Register, and 26 TCPs on the National Register of Historic Places (NRHP), with an additional 24 TCPs currently under consideration for listing on the NRHP.
- Has authored over one hundred successful interagency consensus determinations of NRHP eligibility for individual archaeological sites and TCPs, as well for the Rufus Woods Lake Archaeological and TCP District, which contains hundreds of individual historic properties eligible for listing on the NRHP.

Doctoral Dissertation

My doctoral dissertation, *Forked Tongues at Sequalitchew: A Critical Indigenist Anthropology of Place in Nisqually Territory* (Capuder 2013), is a 745-page cultural history of the Sequalitchew Ancestral Village Landscape (SAVL) written in collaboration with the late Nisqually Hereditary Chief, Leonard Squally. It provides extensive detail regarding the enduring spiritual, cultural, historical, and archaeological significance of this landscape to Nisqually and other Coast Salish people. The significant elements of this landscape include its ethnographically and

archaeologically documented ancestral burial locations, a number of its pre contact and historic era archaeological sites, its ethnographically and historically documented resource gathering locations, locations associated with significant events, locations associated with spiritual teachings and practices, and locations associated with culturally central non-human beings among others.

This work also analyzes the impacts of dispossession, enclosure, resource extraction, munitions manufacturing, and residential and industrial development within the SAVL. This landscape is unquestionably one of the most culturally and spiritually significant areas within the homelands of the Nisqually people, as well as one of the most archaeologically and historically significant locations in the state of Washington. My dissertation is publicly available online through the University of Washington Libraries, as well as being hosted in the Cultural Surveys layer of the Washington Information System for Architectural and Archaeological Records Data (WISAARD).

II. THE SAVL IS AN ELIGIBLE TCP UNDER THE NATIONAL REGISTER OF HISTORIC PLACES

A. TCPS AND THE NATIONAL REGISTER OF HISTORIC PLACES

The NRHP was established via the enactment of the National Historic Preservation Act (NHPA) of 1966, as amended, 54 U.S.C. § 300101. The regulations setting forth the requirements for listing properties on the NRHP are found at 36 C.F.R. pt. 60. Five historic property types are recognized as being potentially eligible for listing on the NRHP: sites, districts, objects, structures, and buildings. 54 U.S.C. § 300308. These resources are considered eligible for listing if they satisfy one or more of the NRHP criteria of evaluation, and retain measures of NRHP integrity. 36 C.F.R. § 60.4. The NRHP evaluative criteria require that an historic property eligible for listing:

- (a) be associated with events that have made a significant contribution to the broad patterns of our history; or
- (b) be associated with the lives of persons significant in our past; or
- (c) embody the distinctive characteristics of a type, period, or method of construction, or represent the work of a master, or possess high artistic values, or represent a significant and distinguishable entity whose components may lack individual distinction; or
- (d) have yielded, or may be likely to yield, information important in prehistory or history.

Integrity is the ability of an historic property to convey its significance and is assessed in terms of location, design, setting, materials, workmanship, feeling, and association. 36 C.F.R. § 60.4; National Park Service (NPS) 2024:19.

Guidance regarding the identification, documentation, and evaluation, of Traditional Cultural Places (formerly Traditional Cultural Properties) (TCPs) issued by NPS, known as National Register Bulletin 38, was recently updated (NPS 2024) and builds upon the previous version of

this Bulletin (Parker and King 1998). The newly revised version of Bulletin 38 states the following:

In National Register practice, a “traditional cultural place”—“TCP,” for short—is defined as a building, structure, object, site, or district that may be listed in (or determined eligible for listing in) the National Register for its significance to a living community because of its association with cultural beliefs, customs, or practices that are rooted in the community’s history and that are important in maintaining the community’s cultural identity.

NPS 2024:3.

A TCP is a *physical place* for which a boundary can be determined:

Often those who value such a place have never had occasion to think about its boundaries [...] Community engagement or Tribal consultation is important in determining appropriate boundaries [...] In some cases, it may be impossible to achieve agreement on a boundary, and the preparer of the nomination will find it necessary to set the boundary using their best judgment to provide a clear justification for the boundary.

NPS 2024:85.

Central to understanding the enduring significance of TCPs and their eligibility for listing on the NRHP is the fact that, “A place does not have to have been in continuous use by a community to retain its significance to that community. This nation’s long history of displacement of Indigenous peoples and minority communities may have resulted in physical dislocation from a place, but the place may continue to be of significance to a group.” NPS 2024:16. In addition, “A place may retain its traditional cultural significance for a community even though it has been substantially altered.” NPS 2024:69.

It is, therefore, essential that TCPs be evaluated “from the standpoint of those who may ascribe such significance to them, whatever one’s own perception of them, based on one’s own cultural values, may be.” Parker and King 1998:4. An assessment of the eligibility of a TCP for listing on the NRHP “should be based on an understanding of the significance of the place as well as the physical and nonphysical aspects that characterize and convey the perspective of the traditional community that values the place.” NPS 2024:70. Furthermore, “Intangible cultural values that may make a place eligible for listing in the National Register should be addressed in a way that avoids personal biases. The traditional knowledge of those who value a place is an independent line of evidence provided by the people who are the authorities in their culture and the connection that culture has to the place.” NPS 2024:18.

1. NRHP Criterion A

Bulletin 38 sets forth criteria for determining if a TCP is eligible for listing on the NRHP. Under Criterion A, TCPs are eligible for listing “if they are associated with events, or a pattern of events, significant to the cultural traditions of a community.” NPS 2024:47. As examples, TCPs

may be determined eligible for listing due to “the long-standing participation of an ethnic group in an area’s history” or “a community’s long-standing interactions with a landscape’s natural environment.” NPS 2024:47. Importantly, “exactly when a traditional event took place may be unclear; in such cases, it may be impossible and to some extent irrelevant to document with certainty that the place in question existed when the traditional event occurred.... As long as the events are rooted in the history of the community, and by tradition associated with the place, the association should be accepted.” NPS 2024:48.

2. NRHP Criterion B

Under Criterion B, properties eligible for listing must be associated with the lives of persons significant in our past. In performing this evaluation, the word "persons" can refer to a physical human being whose existence in the past can be documented from historical, ethnographic, or other research, as well as an ancestor, mythical figure, or spirit who features in the traditions of a group.” NPS 2024:48. The association of a human or non-human person with a specific place on the landscape “must be a significant one from the standpoint of those who value the place.” NPS 2024:49.

3. NRHP Criterion C

Under Criterion C, properties eligible for listing embody the distinctive characteristics of a type, period, or method of construction, or represent the work of a master, or possess high artistic values, or represent a significant and distinguishable entity whose components may lack individual distinction.

With regard to these specific subcriteria, a TCP satisfies Subcriterion C(1) if it expresses distinctive characteristics of a type, period, or method of construction, or contains constructed objects, located “in a place that has traditionally been occupied by a particular ethnic group.” NPS 2024:49. However, TCPs have been both formally listed and determined eligible for listing on the NRHP under this subcriterion for other reasons, including the creation of landforms by non-human persons. Capuder 2020: Section F, at 9.

A TCP may be eligible for listing under Subcriterion C(2) if it is “identified in tradition or suggested by scholarship to be the work of a traditional master builder or artisan.” NPS 2024:50.

A TCP can be determined eligible for listing under Subcriterion C(3) “if it ‘fully expresses an aesthetic ideal’ valued by a group for traditional cultural reasons.” NPS 2024:50.

A TCP can be determined eligible for listing under Subcriterion C(4) if it is “regarded as representing a significant and distinguishable entity, even if many of its parts appear to lack individual distinction to the casual observer. These parts, when considered together, may represent a larger entity of traditional cultural importance.” NPS 2024:50. Many of these types of TCPs “are landscapes with many components—hills, springs, rock outcrops, plant communities, former habitation sites—and may be considered districts under Criterion C, although they are usually eligible under Criterion A as well, and they may be classified as sites rather than districts.” NPS 2024:52.

4. NRHP Criterion D

Under Criterion D, a TCP can be determined eligible for listing for having yielded, or being likely to yield, information important in prehistory or history. While Criterion D is often construed to be solely applicable to archaeological sites, TCPs may qualify for listing under this Criterion, regardless of the presence or absence of cultural materials. “Information potential” is not exclusive to archaeological data; it can include continued cultural knowledge and identity. For example, the Luiseño Ancestral Origin Landscape in California continues to provide important ethnographic and historic information about the Luiseño People.” NPS 2024:52. A TCP may be determined eligible for listing under this Criterion if it has yielded, or may be likely to yield, any type of information important in prehistory or history, including ethnographic and oral historical data that is of traditional cultural importance to a community. In addition, it is critical to understand that many archaeological sites are considered to be TCPs by descendant communities because they are associated with cultural beliefs, customs, or practices rooted in the community’s history and important in affirming and maintaining the community’s cultural identity and cultural continuity.

5. NRHP Integrity Evaluation

With regard to the measures of NRHP integrity, “Most TCPs retain integrity of location by virtue of being in their traditional locations,” while some may not occupy their original location but still have locational integrity. NPS 2024:63. Examples provided include “traditional plant gathering that was relocated from one place to another because plant distributions have changed due to changing climatic conditions” and a “former location of ancestral remains [that] continues to be significant to a community.” NPS 2024:60, 63. Integrity of setting, or the physical environment of an historic property, can be critical to the significance of a TCP. “Just how critical depends on the views of those who value the place; they may, for example, very much dislike the fact that the place’s surroundings have been encroached upon by development, but still treasure the place itself.” NPS 2024:64. Integrity of the design of a TCP “may reflect traditional historic functions and technology as well as aesthetics.” NPS 2024:64, and can include such places as rock art sites, rock feature sites, resource gathering locations and habitation locations. To retain integrity of materials, a TCP “should be made of whatever has traditionally made it up,” and can be considered in relation to cultural materials and features, as well as landscape elements. NPS 2024:64. To retain integrity of workmanship, a TCP must show “evidence of human labor and skill in constructing or altering a building, structure, object, or site.” NPS 2024:66.

With regard to integrity of feeling and association, the two most important questions to ask regarding TCPs are: “1) Does the place have an essential relationship to traditional cultural beliefs or practices? [and] 2) Does the relationship with the place endure, despite any alterations, in the view of those who value it?” NPS 2024:68. In response to the first question, “If the place is known or likely to be regarded by a traditional cultural group as important in maintaining or passing on a belief, or to the performance of a practice, the place can be said to have an ‘essential relationship’ with the belief or practice.” NPS 2024:68. In response to the second question, it is critical to understand that, “A place may retain its traditional cultural significance for a community even though it has been substantially altered.” NPS 2024:69. The integrity of a

TCP's feeling and association must be evaluated from the perspective of traditional cultural practitioners for, "if in their opinion these aspects of integrity have *not* been lost, it has likely retained integrity." NPS 2024:70.

6. *Landscapes as TCPs*

The recently revised Bulletin 38 provides some examples of sites, districts, objects, structures, and buildings that can be considered TCPs: "a church (building), shrine (structure), rock (object), vernacular landscape (site), or urban neighborhood (district)." NPS 2024:8. A vernacular landscape is one of four types of cultural landscapes recognized by NPS, with the other three being historic designed landscapes, historic sites, and ethnographic landscapes. "Ethnographic landscapes are associated with contemporary groups who use and value the land in ways that continue long-established cultural practices." NPS 2023. Just as vernacular landscapes can be conceptualized as sites for NRHP purposes, so can ethnographic landscapes. Ethnographic landscapes associated with cultural beliefs, customs, or practices that are rooted in the community's history and that are important in maintaining the community's cultural identity, and that satisfy one or more NRHP criteria of evaluation, and retain measures of integrity, are sites that are considered TCP eligible for listing on the NRHP.

B. THE SEQUALITCHEW ANCESTRAL VILLAGE LANDSCAPE IS AN NRHP-ELIGIBLE TCP

The Sequalitchew Ancestral Village Landscape is an ethnographic landscape comprised of dozens of constituent TCPs that are located within the greater Sequalitchew Creek watershed. Each of these constituent TCPs, and the ancestral village landscape TCP which they comprise, are associated with the cultural beliefs, customs, and practices of contemporary members of the Nisqually Indian Tribe, and are unquestionably central to maintaining their collective cultural identity. The Nisqually THPO has determined that the Sequalitchew Ancestral Village Landscape is eligible for listing on the NRHP as a TCP under all four criteria for evaluation and retains sufficient integrity to convey its significance.

In addition, my dissertation provides extensive support for a recommendation by cultural resource professional that the Sequalitchew Ancestral Village Landscape, along with those of its constituent TCPs addressed therein, are eligible for listing on the NRHP under one or more evaluative criteria and retain several measures of NRHP integrity. Among the numerous ways that this TCP and its constituent elements may be said to satisfy the NRHP criteria of evaluation, and regarding which data is provided in my dissertation, are the following: Criterion A for its association with broad patterns of Indigenous settlement, subsistence, trade, spirituality and land use, assimilation, dispossession, and resistance, as well as specific historical events such as the creation of the prairies by Tacobet and the extrajudicial lynching of Leschi; Criterion B due to its association with important human and non-human persons including, but not limited to, Leschi, Quiemuth, Lahalet, Tacobet (Mount Rainier), and the numerous culturally and spiritually significant non-human beings who inhabit this landscape; Criterion C because some of the TCPs that comprise this landscape embody the distinctive characteristics of a method of construction, such as the prairies created by Tacobet and geological features associated with the activities of certain non-human beings; and Criterion D because of its extensive history of revealing, and

potential to yield additional, information important in history and prehistory, be it archaeological, ethnographic, historical, or spiritual. Capuder 2020; NPS 1997, 2024; Parker and King 1998. The Sequalitcew Ancestral Village Landscape retains varying degrees of integrity of location, design, setting, materials, and feeling, as well as full integrity of association, and its retention of these elements is more than sufficient to convey its significance.

III. THE SAVL IS AN ELIGIBLE TCP UNDER THE WASHINGTON HERITAGE REGISTER CRITERIA

A. TCPs AND THE WASHINGTON HERITAGE REGISTER

The Washington Heritage Register (WHR) was established in 1971 as an alternative to the NRHP and includes “districts, sites, buildings, structures, and objects that have been identified and documented as being significant in local or state history, architecture, archaeology, engineering or culture.” DAHP 2025. While governed by several state laws including RCW 27.34.020, WAC 25-12, and Senate Bill 363, “no specific administrative rules have been developed for the program.” DAHP 2025.

According to the WHR Guidebook, among the properties that can be determined eligible for listing on the WHR are TCPs. Within the context of the WHR, a TCP is defined as:

[a] parcel of land, which has been important throughout time as the location of a specific activity which has documented religious or cultural value to a group of people. The parcel may include natural or human made features which are essential for conducting the activity, such as plant material, bodies of water, or rock formations, and may also include archeological deposits or human made features. When traditional cultural properties are strictly spiritual in nature there may be no visible alteration of the land.

DAHP 2021.

There are nine specific areas of significance within which properties may be found eligible for listing on the WHR:

- The property belongs to the early settlement, commercial development, or original native occupation of a community or region.
- The property is directly connected to a movement, organization, institution, religion, or club which served as a focal point for a community or group.
- The property is directly connected to specific activities or events which had a lasting impact on the community or region.
- The property is associated with legends, spiritual or religious practices, or life ways which are uniquely related to a piece of land or to a natural feature.
- The property displays strong patterns of land use or alterations of the environment which occurred during the historic period (cultivation, landscaping, industry, mining, irrigation, recreation).
- The property is directly associated with an individual who made an important contribution to a community or to a group of people.

- The property has strong artistic, architectural or engineering qualities, or displays unusual materials or craftwork belonging to a historic era.
- The property was designed or built by an influential architect, or reflects the work of an important artisan.
- Archaeological investigation of the property has or will increase our understanding of past cultures or life ways.

In addition to being significant within one or more of these areas, to be listed or determined eligible for listing on the WHR, a property must retain a degree of integrity, defined as “the ability of the property to accurately represent the past through original design qualities, materials, landscape, setting, etc.” DAHP 2021.

B. THE SEQUALITCHEW ANCESTRAL VILLAGE LANDSCAPE IS A WHR-ELIGIBLE TCP

The Sequalitchew Ancestral Village Landscape and its constituent elements are TCPs eligible for listing on the WHR in relation to eight of the nine Areas of Significance within which a property may qualify for listing. The landscape itself and many of its constituent elements: (1) belong to the original Nisqually occupation of this landscape; (2) are directly connected to a religion which served as a focal point for the Nisqually community; (3) are directly connected to specific activities and events which had a lasting impact on the Nisqually community and the region; (4) are associated with Nisqually and Coast Salish legends, spiritual and religious practices, as well as Nisqually and Coast Salish life ways which are uniquely related to this piece of land and many of its natural features; (5) display strong patterns of land use or alterations of the environment which occurred during the historic period; (6) are directly associated with individuals who made important contributions to the Nisqually people; (7) display unusual materials or craftwork belonging to an historic era; and (8) the Sequalitchew Ancestral Village Landscape and the archaeological sites that contribute to its significance and eligibility have increased, and will continue to increase, our understanding of past cultures or life ways.

The Sequalitchew Ancestral Village Landscape and all the cultural resources of which it is comprised retain their ability to represent the past in relation to their specifically associated measures of WHR integrity.

IV. THE FEIS IMPROPERLY RELIES UPON A DESKTOP ANALYSIS TO DETERMINE TCP ELIGIBILITY FOR THE SAVL

A. WISAARD IS NOT AN ADEQUATE TOOL ON ITS OWN TO DETERMINE THE PRESENCE OF TCPs OR THEIR ELIGIBILITY BECAUSE OF THE STATE-RECORDED TCP DATA GAP

Of the many TCPs significant to Tribal Nations in what is now Washington State, only seven are depicted as such within the TCP layer in WISAARD and formally recorded on TCP forms provided by DAHP. There are a number of reasons for this data gap. Tribes are by and large hesitant, if not unwilling, to provide sensitive and proprietary cultural and spiritual information

regarding TCPs to governmental entities and private contractors for a variety of reasons including, but not limited to: desecration, looting, cultural appropriation, the violation of hereditary teachings, and the violation of hereditary rights to certain bodies of knowledge and cultural and spiritual practices. This perceived data gap is greatly increased because many nontribal cultural resource practitioners do not acknowledge the traditional cultural significance of archaeological sites to Tribes as TCPs. Therefore, these TCPs are solely represented geospatially in the archaeological sites layer in WISAARD, and are not included in the TCP layer. Because of this practice, the cultural and spiritual significance of these TCPs remain shrouded to many outside researchers. For example, the SAVL is not included in the WISAARD TCP layer even though the Nisqually Tribe maintains its own formal documentation of the SAVL as a TCP.

There is no requirement in SEPA or its implementing regulations that only cultural resources previously documented on forms provided by DAHP and visible in the WISAARD database be considered during environmental analyses conducted under SEPA. In addition, the current version of the *Washington State Standards for Cultural Resources Reporting* states that, “TCP data is only revealed to qualified researchers via the WISAARD interface with the *express written consent* of the submitting party.” DAHP 2023:22. Cultural resources, inclusive of TCPs, potentially impacted by a proposed project that have not been previously recorded with DAHP, or regarding which the sharing of data via WISAARD requires express consent, are routinely identified during background research, field investigations and, most importantly, through tribal consultation and/or contracting, as well as through other methods of inquiry, undertaken by a lead agency or its contractors to fulfill SEPA’s mandates. Potential impacts to these resources are to be analyzed within an EIS.

B. THE SEQUALITCHEW ANCESTRAL VILLAGE LANDSCAPE IS A CULTURAL RESOURCE SUBJECT TO SEPA

Section B.13 of the SEPA Checklist specifically asks a project proponent to identify and describe 1) “any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers,” as well as 2) “any landmarks, features, or other evidence of Indian or historic use or occupation,” and 3) “any material evidence, artifacts, or areas of cultural importance on or near the site.” These elements are also found at WAC 197-11-960.

It is, therefore, not solely those properties “listed in or eligible for listing” in historic registers that must be considered during SEPA review. Because the Sequalitchew Ancestral Village Landscape TCP and all of its constituent TCPs provide “evidence of Indian or historic use or occupation,” they are among the elements of the environment that must be analyzed during SEPA review. The Sequalitchew Ancestral Village Landscape TCP and each of its constituent TCPs are also “areas of cultural importance on or near the site” subject to environmental review under SEPA.

C. INADEQUACY OF A DESKTOP ANALYSIS FOR IDENTIFYING ALL CULTURAL RESOURCES SUBJECT TO SEPA

A cultural resources desktop analysis is primarily geared toward the presentation of data pertaining to cultural resources that have been previously formally recorded on forms provided by DAHP, and previously entered into the WISAARD database as archaeological sites, TCPs, or other types of properties. A desktop analysis does not constitute a reasonable and good faith effort to identify, document, and evaluate all of the cultural resources potentially impacted by a project, or the potential impacts thereto, within an EIS as is required by SEPA. While cultural resources that have not yet been formally recorded with DAHP can be identified during government-to-government consultation or through public participation, and can be, and sometimes are, incorporated into desktop analyses, the limited nature of this type of investigation is not appropriate to the scale and scope of any proposed project with significant environmental impacts for which an EIS is being prepared.

The inadequacy of the desktop analysis undertaken in relation to the South Parcel project with regard to the identification, documentation, evaluation of cultural resources potentially impacted by the project, along with an analysis of those impacts, is explicitly acknowledged by the contractor who produced it:

The Sequalitchew Ancestral Village Landscape, as described in the Nisqually Tribe's comment letter, is a potentially NRHP-eligible TCP. The ADI intersects with this watershed-based resource. Although the importance of this resource to the Nisqually is undeniable, limited information is available at this time; its boundary and character-defining features are not currently known, and its potential NRHP eligibility has not been determined. Without more details regarding the boundary and the character-defining features, it is impossible to assess exactly whether and what direct, indirect, or cumulative physical impacts the project would have on the resource.

Compas 2024:42.

It is clear that the limited scope of a desktop review, particularly one prepared by a contractor with no connection to, or specialized expertise regarding, the Nisqually Tribe, is inadequate to obtaining the information necessary to analyze what direct, indirect, or cumulative physical impacts the project would have on the Sequalitchew Ancestral Village Landscape, and on those cultural resources of which it is constituted, within an EIS.

The contractor asserts that a "complete evaluation of potential impacts" to the Sequalitchew Ancestral Village Landscape and one of its constituent TCPs, namely Sequalitchew Creek, "can only be assessed if both resources are recorded and their NRHP eligibility is determined." Compas 2025:ii. However, as previously noted, cultural resources potentially impacted by a project need not be previously recorded with DAHP and visually represented in WISAARD, or listed or eligible for listing on the NRHP or any state or local historic register, in order to be subject to SEPA review and analysis.

Under Section B.13 of the SEPA Checklist, proponents are asked to “list any professional studies conducted at the site to identify such [cultural] resources.” My dissertation is a professional study that identifies cultural resources within and surrounding the “Area of Direct Impact” (ADI) of the proposed Pioneer Aggregates South Parcel Project. While omitted as such from the list comprising Table 2-1 of the contractor’s desktop analysis, my dissertation is hosted in the WISAARD “Cultural Surveys” layer and became available to the contractor when they conducted background research in WISAARD for information pertaining to their research radius of one mile. Compas 2025:5.

As stated above, and as clearly indicated by its title and its abstract, my dissertation is *specifically* centered on, names, describes, and documents the enduring cultural, spiritual, historical, and archaeological significance of the Sequalitchew Ancestral Village Landscape to Nisqually Tribe and other Coast Salish people. The contractor cites my dissertation in their desktop analysis as support for their assertion that, “The name of the Tribe, ‘Nisqually,’ is an Anglicized version of the name of a single village and comprises the descendants of several politically independent watershed-based groups of Coast Salish peoples (Capuder 2013:3).” Compas 2025:37. However, the contractor inexplicably ignores the sentence in my dissertation that *immediately precedes* the one they reference here, which states that the Sequalitchew Ancestral Village Landscape is the very topic of my dissertation. The contractor subsequently fails to directly cite the remainder of the 745 pages of text of my dissertation that specifically document the cultural, spiritual, historical, and archaeological significance of the Sequalitchew Ancestral Village Landscape to the Nisqually and other Coast Salish people. They do, however, conclude that, “The Sequalitchew Ancestral Village Landscape, *as described in the Nisqually Tribe’s comment letter*, is a potentially NRHP-eligible TCP.” Compas 2025:42.

Despite having obtained my dissertation via WISAARD and citing it within their desktop analysis, the contractor claims that documentation regarding the Sequalitchew Ancestral Village Landscape and its constituent cultural resources is “unavailable to cultural resource professionals in WISAARD.” Compas 2025:26. They subsequently contradict this statement by *indirectly* citing my dissertation as support for their conclusion that, “The landscape within and surrounding the ADI is the location of numerous places of cultural, historical, and spiritual importance to past and contemporary Nisqually peoples (Beach 2024a; Capuder 2013).” Compas 2025:38.

Based solely on reading the content of my dissertation, the average cultural resource professional can be expected to offer sound initial recommendations regarding the eligibility of the Sequalitchew Ancestral Village Landscape for listing on historic registers for consideration by lead agencies and consulting parties. At the bare minimum, based on a review of my dissertation, a professional cultural resources contractor should be reasonably expected to provide recommendations in a desktop analysis report regarding the necessity of additional research regarding the “evidence of Indian or historic use or occupation” and “areas of cultural importance” documented in my dissertation that are located within and/or encompass the ADI so that impacts to these cultural resources posed by the South Parcel Project can be appropriately analyzed within an EIS.

Rather than providing recommendations for additional research, documentation, and analysis, the contractor solely recommends that, “If it is determined that any resources are eligible for listing in the NRHP and that mining activities would constitute a significant adverse impact to them,

then DAHP and the affected Tribes should be consulted for guidance regarding appropriate mitigation measures.” Compas 2025:45. The contractor once again seemingly fails to understand that SEPA is not solely applicable to those cultural resources determined eligible for listing on the NRHP.

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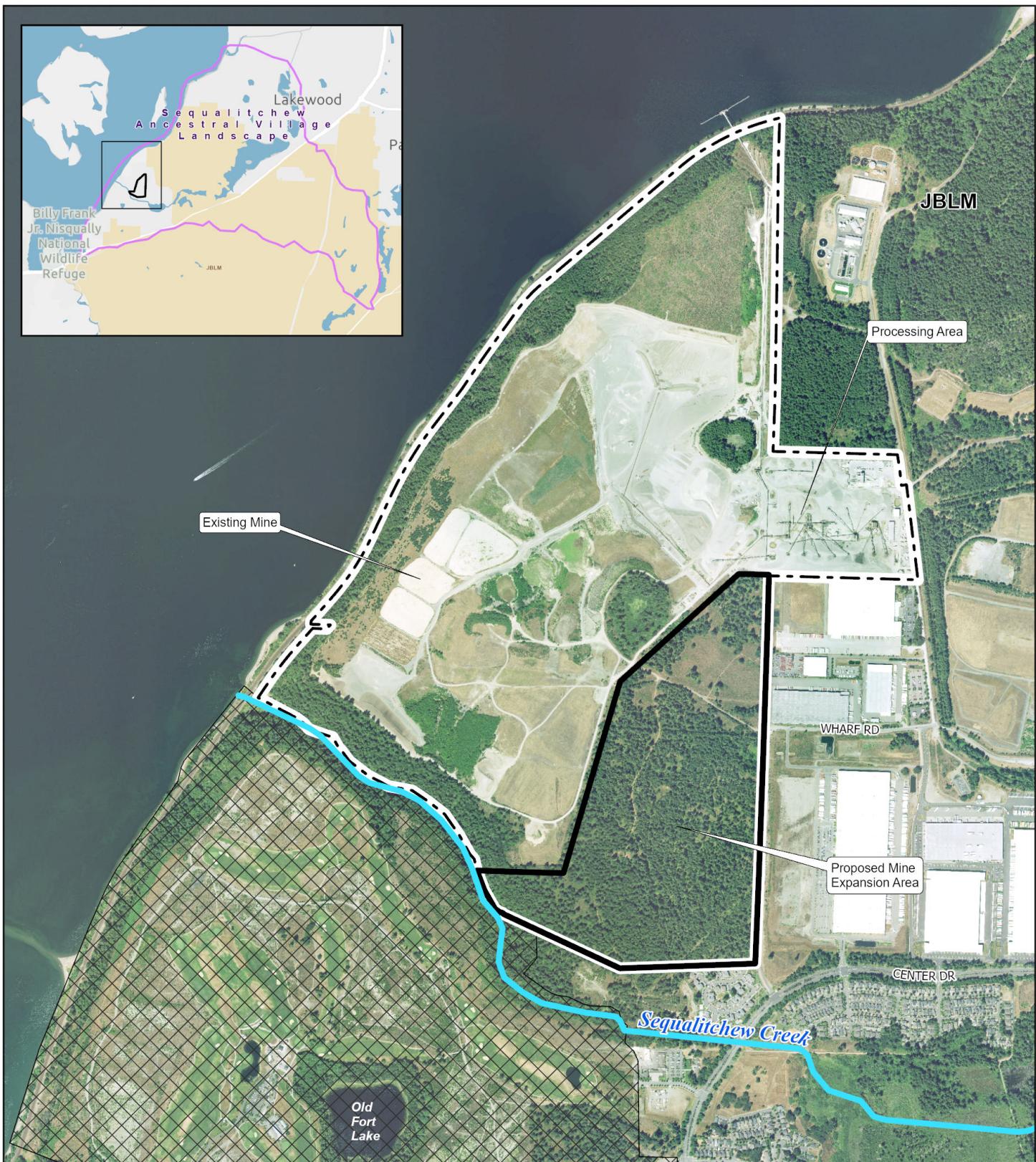
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Sequalitchew Creek CalPortland Mine Expansion

Pioneer Aggregates Property

DuPont Munitions Works

Proposed Mine Expansion

MTCA Site



Data derived from: Pierce County Parcels; Statewide Imagery Consortium 2022

Feet
500 0 500 1,000

Nisqually Indian Tribe
Cartography by: K. Anderson, 6/16/2025



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July 17, 2024

To: Barbara Kincaid
Director of Public Services
City of DuPont
1700 Civic Drive
DuPont, WA 98327

Re: Pioneer Aggregates South Parcel Project DEIS

We've received a copy of the Draft Environmental Impact Statement (DEIS) prepared by the City of DuPont as the lead agency for review of the proposed Pioneer Aggregates South Parcel Project under the provisions of Revised Code of Washington (RCW) 43.21C, the State Environmental Policy Act (SEPA). This proposed project lies within the traditional territories of the Nisqually Tribe, which is governed by the Nisqually Tribal Council. The Nisqually Tribal Council has delegated to the Nisqually Tribal Historic Preservation Officer (THPO) the responsibility of representing the Tribe with regard to cultural resources management issues throughout our traditional territories under Nisqually Tribal Council Resolutions 26-2014 and 17-2024.

The Nisqually THPO is submitting the following comments pertaining to the adequacy of identification efforts regarding cultural resources of significance to the Nisqually Tribe potentially affected by the proposed project, and the analysis of potential impacts to these resources, as currently reflected in the DEIS and its appendices. Please note that other Nisqually tribal programs may submit comments on the DEIS based on their own areas of expertise.

We first offer that, as a sovereign nation, rather than members of the general public, we respectfully encourage our governmental partners to provide opportunities for consultation and review under SEPA that acknowledge that distinction, rather than requesting tribal review via the public comment process. We nevertheless offer our comments on the DEIS at this time in order to better ensure that the final EIS both accounts for, and adequately analyzes potential effects on, the full range of cultural resources potentially impacted by the proposed mining of the South Parcel, the associated dewatering of the Vashon Aquifer, and the remediation of mining activities via the "restoration" of Sequalitchew Creek as represented in the analysis of cumulative impacts contained within the South Parcel DEIS.

This proposed project is located within a landscape of deep and enduring significance to the Nisqually Tribe and our members. Inclusive of saltwater, shorelands and tidelands, forested uplands, glacial outwash prairies, and a vast, interconnected system of fragile glacially-created wetlands and kettle lakes, this landscape has sustained the Nisqually people for countless generations; a time depth of which the current archaeological record provides only the smallest glimpse. Through living within and actively managing this landscape since time immemorial, our

people have left their legacy as represented within the pre contact and historic era archaeological sites and non-archaeological places of enduring historical, cultural, and spiritual significance encompassed therein. These cultural resources are the very reasons that the late Hereditary Chief, Leonard Squally, devoted the closing years of his life to trying to protect the places central to Nisqually tribal identity and well-being that constitute the ancestral village landscape of Sequalitchew, within which the City of DuPont is located.

The cultural resource review and analysis contained within the DEIS is wholly inadequate to the representation of the history and significance of cultural resources potentially impacted by the proposed South Parcel Project. The inadequacy of this review and analysis is due to its improperly limited geographic scope, its methodological unsuitability and associated topically limited content, and the culturally uninformed identification efforts, analyses, and recommendations it contains. The cultural resource review and analysis undertaken to inform the DEIS fails to provide the City of DuPont with adequate information to “ensure that presently unquantified environmental amenities and values will be given appropriate consideration in decision making,” as SEPA’s mandates demand (RCW 43.21C.030). As currently written, the DEIS neither reflects a reasonable and good faith effort to identify all cultural resources potentially affected by this proposed project, nor offers adequate analysis of the Project’s potential effects on those resources. We offer the following comments in support of that statement:

Geographic Scope

- The contractors who prepared the *Pioneer Aggregates South Parcel Project Cultural Resources Desktop Analysis* and its associated appendices included within the DEIS defined what they term as the “area of direct impacts (ADI)” for the proposed project within which they undertook their cultural resource identification and analysis efforts. The term “area of direct impacts” has no regulatory meaning within the context of SEPA. The geographic area that is to be analyzed during SEPA review is the “affected area” of the project, as required under the SEPA Rules at WAC 197-11-430(e). The delineation of the affected area of a proposed project under SEPA does not in any way distinguish between “direct” and “indirect” impacts. We offer a proposed boundary for the affected area of this project below.
- With further regard to the analysis of “direct” impacts, the contractors seem to be equating the term “direct” with “ground disturbance,” thereby inherently delimiting both the number and types of cultural resources, and the range of cultural resource impacts, under analysis. Rather than being defined within SEPA, the term “direct effects” as commonly used within cultural resource identification and analysis efforts is derived from the National Historic Preservation Act of 1966 (54 USC 300101 et seq), and its implementing regulations, commonly referred to as the Section 106 process, found at 36 CFR Part 800. As recently clarified by the United States Court of Appeals for the District of Columbia Circuit (*National Parks Conservation Association v. Semonite*, No. 18-5179[D.C. Cir. 2019]), the term “direct effects” refers to the *causality* of the effect, rather than the *physicality* of the effect. The Court determined that *direct effects are those that arise from the same project at the same time and place with no intervening cause, regardless of specific type*. By limiting their review to their unilaterally determined and inadequate “ADI,” the contractors have failed to account for all cultural resources within the affected area of the proposed project, as well

as the full range of potential project-related impacts to these resources, as required under SEPA.

- The contractors selected a 1/8-mile radius around their “ADI” within which prior cultural resource efforts and previously recorded archaeological and historic-era resources have been briefly considered in their identification and analysis efforts. Please note that Section V.A.1. of the current version of the *Washington State Standards for Cultural Resource Reporting* (March 2023) states that the current knowledge regarding archaeological resources within a one-mile radius of a proposed project location should be presented within cultural resource reporting.
- Due to the improperly limited geographic scope of the contractor’s cultural resource review and analysis, the DEIS fails to account for both the presence of all cultural resources potentially affected by the proposed South Parcel Project, and the full array of potential effects of the proposed project on these resources. Please instruct the contractors to identify all cultural resources within the entire *affected area* of the proposed project, a definition of which is proposed below, as well as within a one-mile radius of the affected area of the project. This will help to better ensure that their efforts both meet contemporary cultural resource investigation and reporting standards and provide the City with the data necessary understanding the full range of potential project impacts on all cultural resources of significance to the Nisqually Tribe.

Methodologies

- The contractors performed a “Desktop Analysis,” rather than conducting an on the ground survey inclusive of subsurface testing, paired with a standard contemporary ethnographic review inclusive of Traditional Cultural Properties (TCPs). Given the scale and scope of proposed landscape modification associated with the South Parcel Project, a Desktop Analysis such as that undertaken by the contractors simply does not constitute a reasonable and good-faith effort to identify cultural resources potentially affected by the project. A cultural resource “Desktop Analysis” is inherently unsuitable to the parameters of environmental review required within an EIS, given the failure of this approach to provide any insight into the very “*unquantified* environmental amenities and values” that are mandated to be identified and analyzed under SEPA. The methodological inadequacy of this desktop-based effort within the context of the South Parcel Project DEIS is further magnified by the improperly limited geographic scope of the contractor’s analysis.
- Being limited solely to the identification and analysis of *previously recorded archaeological resources* within, and within 1/8-mile of, the improperly delineated affected area of the proposed project, the Desktop Analysis produced by the contractors fails to account for both previously *unrecorded archaeological resources* potentially affected by the project, and a vast array of *non-archaeological* places and landscapes of traditional cultural, historical, and spiritual significance to the Nisqually Tribe, that may be impacted by the proposed South Parcel Project.
- The contractor’s Desktop Analysis also lacks the depth of ethnographic and ethnohistoric inquiry necessary to the understanding of the existence and variety of cultural resources of

deep and enduring historic, archaeological, cultural, and spiritual significance to the Nisqually Tribe within the affected area of this proposed project. The contractor's failure to adequately consider ethnographic and contemporary cultural data have resulted in their failure to identify all cultural resources potentially affected by the proposed project, and their failure to analyze, or even recognize, the impacts of the project on these resources.

Identification and Analysis

- Most contemporary cultural resource professionals are aware of the necessity of taking a landscape approach to the proper identification, and analysis of the significance, of cultural resources significant to affected tribes. Most are also aware that culturally uninformed archaeological research is of extremely limited utility when engaged in the identification of such resources and the evaluation of their eligibility for listing on the NRHP and other historic registers. Because it lacks both landscape-level contextualization and ethnographic research that meets contemporary professional standards and expectations, the identification effort undertaken by the contractor fails to account for all cultural resources potentially affected by the proposed South Parcel Project.
- It is the position of the Nisqually THPO that, given the scale and scope of the proposed project and its potential impacts on cultural resources of significance to the Nisqually Tribe, the affected environment that is to be analyzed under SEPA is the Sequalitchew Ancestral Village Landscape, which is, itself, a Traditional Cultural Property (TCP) eligible for listing on the National Register of Historic Places (NRHP) under all four NRHP Criteria of Evaluation. While not formally mapped at this time, the boundaries of the Sequalitchew Ancestral Village Landscape TCP can be said to largely mirror those of the greater Sequalitchew Creek watershed and its environs. Given the proposed dewatering of the Vashon Aquifer and associated dewatering of vast portions of the watershed itself, the impacts of the proposed project on the NRHP-eligible TCP that is the Sequalitchew Ancestral Village Landscape, and all of the cultural resources of significance to the Nisqually Tribe encompassed within that landscape, must be analyzed in the DEIS.
- The Sequalitchew Ancestral Village Landscape TCP is a single historic property that is itself comprised of numerous historic properties and cultural resources of archaeological, historical, cultural, and spiritual significance to the Nisqually Tribe, consisting of both previously recorded and unrecorded pre contact and historic era archaeological and ethnographic sites and landscapes. Among these are seasonal and permanent village sites; resource gathering locations; locations of spiritual and ritual practice and prayer; places associated with important people and events; ancestral burial locations and cemeteries; and locations associated with spiritually powerful and culturally central entities. The failure of the contractors to engage in the level of ethnographic and ethnohistorical research necessary to identifying and analyzing potential impacts to these resources posed by the proposed project renders largely meaningless the consideration of cultural resource impacts within the DEIS.
- The vast majority of the cultural resources contained within the larger Sequalitchew Ancestral Village Landscape TCP are, themselves, NRHP-eligible historic properties, owing to their archaeological and/or traditional cultural significance, as well as simultaneously contributing to the significance of the overarching Sequalitchew Village Ancestral Landscape TCP. Because of the cultural and spiritual teachings and practices, important

people, and historical patterns and events with which it is associated, the significance of the Sequalitchew Ancestral Village Landscape TCP and its constituent archaeological sites, TCPs, and landscapes to contemporary members of the Nisqually Tribe cannot be overstated.

- One of the many archaeologically, culturally, and spiritually significant cultural resources at the heart of the Sequalitchew Ancestral Village Landscape TCP that the contractors fail to address as a cultural resource is Sequalitchew Creek, the mouth of which is the subject of an oral tradition known as the “Giant of Sequalitchew,” a Nisqually fisherman who use this beach for seine fishing. Sequalitchew Creek is, itself, an NRHP-eligible TCP owing, in part, to its historic spiritual use by practitioners of *Seowin*, the ancient and enduring lifeways of the Nisqually and other Coast Salish people, still vibrant today. The proposed dewatering of the Vashon Aquifer will not just adversely impact, but will irreparably damage, Sequalitchew Creek both as a water resource and as a critically important and spiritually central cultural resource, the cultural and spiritual significance of, and impacts to which, have not been addressed by the contractors.
- As another example, the glacial kettle lakes and interconnected wetlands that will be cleared, eliminated, and/or otherwise impacted by this proposed project are, in fact, cultural resources and, quite likely, NRHP-eligible TCPs, owing to the fact that these types of geophysical locations being integral to a specific ancestral cultural practice central to Coast Salish identity and well-being. Furthermore, a number of these kettle lakes are associated with culturally important non-human beings, rendering them further eligible for listing on the NRHP as TCPs. The kettle lakes and wetlands that will be impacted by the proposed project are cultural resources, yet were not identified as such by the contractors, and the analysis of the cultural and spiritual impacts of their destruction is, therefore, completely absent.
- The proposed gravel removal footprint of the South Parcel Project, specifically the expansion area, encompasses some of the last remaining undeveloped lands within the City’s jurisdiction. These lands have significant potential for the restoration of the rare glacial outwash prairie habitat of Sequalitchew that once hosted a wealth of *Camassia esculenta*, or blue camas, a food of immeasurable significance and nutritional value to the Nisqually people. These areas were seeded with camas by a culturally central non-human Person and are, therefore, eligible for listing on the NRHP as TCPs. As the contractors failed to undertake adequate ethnographic and ethnohistorical research, they have failed to identify this association which is well-documented in the published ethnographic literature available to them. No consideration has been given by the contractors to those NRHP-eligible TCPs consisting of areas within which plants of traditional cultural significance were long gathered and within which they have the potential to be restored so that they can, once again, fulfill their role as physical, cultural, and spiritual resources for the Nisqually people.
- The contractors attempt to provide an analysis of the cumulative impacts of both the proposed South Parcel Project and the associated Sequalitchew Creek Restoration Plan (Restoration Plan) on cultural resources within their improperly delineated “ADI.” Neither a DEIS nor a final EIS analyzing the environmental impacts of the Restoration Place has, in fact, been produced, which renders the consideration of cumulative impacts completely

meaningless. Both the June 2023 and January 2024 SEPA Environmental Checklists for the Restoration Plan state that there are no cultural resources that will be affected by the implementation of the plan, and that no studies were undertaken to make that determination. The Nisqually THPO therefore has no choice but to conclude that the analysis of cumulative impacts on cultural resources contained within the South Parcel DEIS is completely without scientific value or merit. We further note that project proponents are not permitted to provide the sole word “No” as a response to a SEPA Checklist question, and request that the SEPA Checklist of the Restoration Plan be amended by the proponent in conformity with regulatory requirements.

- The dewatering of the Vashon Aquifer to facilitate mining will have expansive and devastating effects on animals that are culturally and spiritually central to the lifeways of the Nisqually people, including our salmon relatives whose habitat is protected by the 1854 Treaty of Medicine Creek alongside our inherent sovereign rights to manage and harvest them. To the Nisqually people, salmon are a cultural resource, and the lack of consideration given in the DEIS to the very real cultural harms posed by the dewatering of an entire aquifer and devastation of environmental elements central to supporting healthy salmon habitat is unconscionable. The many years and countless millions of dollars that have already been spent on salmon habitat restoration activities by the Nisqually Tribe and the State of Washington within the Sequalitchew estuary and the greater Nisqually Basin renders the dewatering of the Vashon Aquifer completely unconscionable. The dewatering of the Vashon Aquifer would, in fact, violate the inherent and treaty-protected sovereign rights of the Nisqually Tribe.
- The exploitation of the Nisqually ancestral homelands by others for financial gain, and the attendant physical destruction of the places and landscapes for which we have been given the ancestral responsibility to care, as well as the duty to stewards for future generations, has devastating effects on the physical, mental, emotional, and spiritual health of contemporary Nisqually tribal members. The disparate impacts of the proposed project on the well-being of the Nisqually Tribe and our members have not been considered. The lack of environmental justice analysis within the DEIS, and the failure to quantify and adequately analyze the land-based traumas and other cultural and spiritual harms to the Nisqually people posed by the potential South Parcel Project is a glaring and unacceptable oversight that must be addressed in the final EIS for the project.
- The release of confidential information regarding the existence and location of cultural resources of significance to the Nisqually Tribe in the final appendices to the DEIS is itself a cultural harm that must be rectified immediately through the deletion of those portions of the publicly available DEIS, and their omission from the publicly available version of the final EIS when it is released.

Overall, the cultural resource-related portions of the DEIS fail to both satisfy contemporary professional standards for cultural resource practitioners and provide adequate and accurate information related to cultural resource impacts upon which the City of DuPont can make the most fully informed decisions regarding the proposed South Parcel Project. Given the unacceptable shortcomings of the cultural resource identification and analysis undertaken to inform the DEIS, the Nisqually THPO requests extensive revisions, including:

- An expansion of the parameters of review to the *entire affected area* of the project as required under SEPA, namely the boundaries of the NRHP-eligible Sequalitchew Ancestral Village Landscape TCP and the numerous cultural resources of which it is comprised;
- The documentation, assessment of the significance of, and robust analysis of the potential impacts of the proposed project on all *archaeological and non-archaeological cultural resources* significant to the Nisqually Tribe within the affected area of the proposed project; and
- An environmental justice analysis of both the *cultural harms, and the impairment of treaty-protected inherent sovereign rights*, to which the members of the Nisqually Tribe would be subjected as a result of the implementation of the South Parcel Project.

We genuinely thank you for the thoughtful consideration of our comments and look forward to further consultation to assist the City of DuPont in obtaining the data that it needs in order to make a fully informed decision regarding the project.

Sincerely,

Brad Beach, THPO
Nisqually Indian Tribe
360-528-1084
360-456-5221 ext 1277
beach.brad@nisqually-nsn.gov

cc: Annette Bullchild, Director, Nisqually Indian Tribe



NISQUALLY INDIAN TRIBE
Tribal Historic Preservation Office

4820 She-Nah-Num Drive S.E.
Olympia, Washington 98513
360.456.5221 (main)
877.768.8886 (toll free)
www.nisqually-nsn.gov

December 23, 2024

To: Barbara Kincaid
Director of Public Services
City of DuPont
1700 Civic Drive
DuPont, WA 98327

RE: Pioneer Aggregates South Parcel Project, City File No. SEPA2021-002;
EIS Comment

Dear Ms. Kincaid,

Squalli Absch (the Nisqually Indian Tribe or Tribe) is a federally recognized sovereign nation and a successor-in-interest to the bands and tribes who were signatories to the 1854 Treaty of Medicine Creek. See *United States v. Washington*, 384 F. Supp. 312, 367–68 (W.D. Wash. 1974), *aff'd* 520 F.2d 676 (9th Cir. 1975), *cert. denied*, 423 U.S. 1086, 96 S. Ct. 877 (1976); see also *Treaty of Medicine Creek*, 10 Stat. 1132 (1854). Since time immemorial, the Nisqually people have lived on and stewarded the waters and lands of South Puget Sound (Salish Sea) to Mt. Rainier (*təqʷu'ma'*) and beyond. Nisqually ancestral territories encompass lands and watersheds from the shores of the Sound eastward, centering on the Nisqually River, through prairies and forested uplands and slopes of Mount Rainier. The entity known as the Nisqually Indian Tribe was established to facilitate the “negotiation” process of the Treaty of Medicine Creek. The Treaty recognizes the Tribe’s sovereign right to self-governance and self-determination and guarantees the Tribe the reserved “right of taking fish, at all usual and accustomed grounds and stations [(U&A)], ... together with the privilege of hunting, gathering roots and berries, and pasturing ... horses on open and unclaimed lands[.]” 10 Stat. 1132, Art. 3. The Tribe is a co-manager of the fisheries resource with the State of Washington, and the Tribe has dedicated innumerable resources to protecting and restoring the surrounding ecosystem, including Endangered Species Act-listed salmon and their habitat.

Within the easternmost portion of the Nisqually River Delta sits the Nisqually ancestral village landscape of Sequalitchew. The Nisqually people actively managed this landscape, which includes saltwater, shorelands and tidelands, forested uplands, glacial outwash prairies, and a vast interconnected system of fragile glacially created wetlands and kettle lakes and continue to do so. It has sustained the Nisqually people for countless generations. Nisqually ancestors lived year-round at the mouth of Sequalitchew Creek, and, during the summer months, their village

extended onto the beach. They pastured horses and gathered resources, including *Camassia quamash*, a food of immeasurable significance and nutritional value planted by a culturally central non-human Person; undertook spiritual and ritual prayer and practices, including *Seowin*, an ancient and enduring lifeways of the Nisqually and other Coast Salish people still vibrant today; and buried their loved ones. This Sequalitchew Ancestral Village Landscape is a Traditional Cultural Property (TCP) that itself includes numerous historical properties and cultural resources of archaeological and spiritual significance to the Tribe and its Members.

The City of DuPont was built upon Sequalitchew. CalPortland's proposal to expand mining horizontally and vertically within the City of DuPont (the proposed Pioneer Aggregates South Parcel Project or Project) will adversely impact the Nisqually Indian Tribe in enduring ways that cannot be fully measured or mitigated.¹ The proposed Project will adversely impact: 1) the Tribe's ability to exercise and enjoy its Treaty rights, 2) the Sequalitchew Ancestral Village Landscape TCP and the countless pre-contact and historic era archaeological and ethnographic sites, landscapes, and cultural resources within it, and 3) natural resources which the Tribe depends upon and has committed immeasurable resources to protect and restore. While no mitigation measures can eliminate the proposed Project's significant adverse impacts on Tribal Treaty, cultural, and natural resources, we strongly encourage CalPortland to collaborate and coordinate with the Tribe to identify a mitigation plan that may reduce the proposed Project's harm.

The proposed Project will adversely impact the Tribe's Treaty rights. For example, it will degrade nearshore habitat supporting numerous species of fish and marine invertebrates, including coho and chum salmon, which will, in turn, reduce returns and impair the Tribe's Treaty right to take fish within its U&A. Deforestation associated with the proposed Project will also result in a loss of habitat throughout the Tribe's ancestral lands where traditional activities, such as the gathering of first foods and culturally significant plants, have occurred and will occur again. The proposed Project also will directly and indirectly impact the Sequalitchew Ancestral Village Landscape TCP and the historical properties and cultural resources within it, such as by altering the unique physical and spiritual character of the landscape and the Tribe's cultural practices associated with it.

We request that, *at a minimum*, the City of DuPont supplement its identified mitigation measures for impacts to the Tribe's cultural resources by continuing to enforce all agreements between the Tribe and Weyerhaeuser and adding the following measures in its Final Environmental Impact Statement as a requirement for CalPortland's proceeding with permitting and operating its proposed Project.

¹ We incorporate herein our July 17, 2024, comment letter, describing insufficiencies of the proposed Project's draft environmental impact statement.

Cost Estimate	Mitigation Measure	Explanation
\$250,000+ NIT Archives	Feasibility study/conceptual design of an archival facility	The Tribe has relied on outside facilities to house artifacts and documents for projects throughout Northwest Landing. These items should remain with the Tribe.
\$2,250,000+ NIT THPO/Admin	1+ full-time employee for the lifetime of the proposed Project (estimated as \$75k/yr + fringe for 15 yrs)	A Secretary of the Interior-qualified archaeologist is needed to act as an ongoing cultural resource site monitor within the boundary of the mine and to act as a liaison to the City of DuPont for all projects within the boundaries of the original Northwest Landing properties.
\$850,000+ NIT Admin	Minimum of 1%+ mineral extraction fee/rent as partial compensation for taking of the Tribe's historical subsurface resources	A compensation structure in the form of fee or rent related to the ongoing desecration of the Sequalitchew Ancestral Village Landscape TCP is proper.
\$250,000+ NIT THPO/Archives	Feasibility study/conceptual design for a longhouse on existing Nisqually Sequalitchew property	There is a need to acknowledge and display the Tribe's presence throughout the Sequalitchew Ancestral Village Landscape TCP.

The Tribe reserves all rights, remedies, and claims and does not waive any legal avenue for relief available to it. The Tribe looks forward to further consultation with the City of DuPont. Please contact me with any questions.

Sincerely,

Brad Beach, THPO
Nisqually Indian Tribe
360-528-1084
360-456-5221, ext 1277
beach.brad@nisqually-nsn.gov

CC: The Honorable E. Ken Choke, Chairman, Nisqually Indian Tribe
Annette Bullchild, Director of Archives, Nisqually Indian Tribe
Nate Cushman, Tribal Attorney, Nisqually Indian Tribe
Maia Bellon, Partner, Cascadia Law Group
Stephanie Jolivette, Local Government Archaeologist, Department of
Archaeology and Historic Preservation

Christine Shilley

From: Judy Norris <piebaldsatil@gmail.com>
Sent: Tuesday, June 10, 2025 3:54 PM
To: Ronald Frederick; Barbara Kincaid
Subject: CalPortland Mine Expansion Recommendation

Dear Ron and Barb,

The city's upcoming recommendation to the hearing examiner regarding the CalPortland mine expansion is a moral one.

I've read the Final Environmental Impact Statement. And here's what it tells us—plainly:

- **The Vashon Aquifer will be drawn down by over 64 feet** beneath the mine site, resulting in a **nearly 9-foot drawdown of Edmond Marsh**.
- **Up to 79% of the groundwater that feeds Sequalitchew Creek will be lost**.
- **In summer, the creek's lower reaches will run dry**.
- Water levels in **Strickland, Grant, Pond, and Old Fort Lakes will drop by as much as 3 feet**.
- **The Kettle Wetland will vanish entirely**.
- Wetlands along the Sequalitchew Trail will dry out, convert to upland scrub, and increase fire risk.
- **90 landmark trees will be cut down and 130 acres of forestland will be devastated**.

These are not “activist projections.” They’re from your own environmental review. And the report is clear: **these impacts are unavoidable—even with mitigation**.

The EIS also acknowledges that **climate change will bring more frequent and prolonged dry periods**, just as this mine removes the very groundwater buffers we'll depend on to survive them.

This project doesn't align with climate resilience. And it **certainly doesn't align with our city's environmental values. I believe people move to DuPont because of the natural environment. I certainly did, almost 30 years ago**.

The EIS lays it out: this mine causes **irreversible harm** to our most critical resources. To recommend the mine's expansion, even with the proposed mitigations, will cause irreparable harm.

**It would be a failure of courage.
A failure of stewardship.
And a moral failure by this administration.**

You have the power to say no. I urge you to use it.

Thank you,

Judy Norris

--

"Be well, be love, be loved"

"Faith is the bird that feels the light when the dawn is still dark."

Sir Rabindranath Tagore

Letter to the Hearing Examiner

Opposition to Pioneer Aggregates South Parcel Mine Expansion Project

TO: Hearing Examiner

EMAIL: bkincaid@dupontwa.gov

RE: PLNG2021-006, PLNG2021-009, PLNG2021-010, PLNG2021-002

FROM: Judy Norris

DATE: June 15, 2025

DENY THIS LEGALLY IMPOSSIBLE APPROVAL

Dear Hearing Examiner,

I urge you to DENY the Pioneer Aggregates South Parcel Mine Expansion Project (PLNG2021-006) because it presents a legal impossibility: the city admits it violates municipal law while requiring mitigation of environmental damage that scientists have already proven cannot be mitigated.

1. CITY STAFF ADMITS THIS VIOLATES MUNICIPAL LAW

Comprehensive Plan Violations: The Staff Report explicitly states the project "does not align with Comprehensive Plan policies LU-3.6, LU-10 and LU 10.2 for the protection of the long-term integrity of the natural environment."

These violated policies include:

- LU-3.6: "Employ practices that protect the long-term integrity of the natural environment, adjacent land uses, and the long-term productivity of resource lands."
- LU-10: "Recognize the value of mineral resource extraction while protecting the integrity of the natural environment."
- LU-10.2: Requires understanding that mining activities must maintain environmental protection standards.

Natural Environment Goal NE-1.1 also requires: "Preserve environmentally sensitive areas and those that are valuable natural and aesthetic resources to the city."

Staff explicitly concludes: "*without mitigation for impacts to the wetlands located to the south of Sequalitchew Creek, the proposal does not align with Comprehensive Plan policies LU-3.6, LU-10 and LU 10.2 for the protection of the long-term integrity of the natural environment.*"

Critical Area Ordinance Violations (DMC 25.105.050): Staff admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies located to the south of Sequalitchew Creek" and requires the applicant to prepare critical area reports that do not currently exist.

The Staff Report explicitly states: *"However, no mitigation is provided for the significant unavoidable impacts to the surface water bodies located to the south of Sequalitchew Creek (Wetland 1D; Pond Lake; Wetland #8, #9, #10, and #11; and Old Fort Lake)... these impacts do not align with Comprehensive Plan policies for protection of the long-term integrity of the natural environment."*

DMC 25.105.050(2)(A) (d) requires that "unavoidable impacts to streams and stream functions shall be mitigated to achieve no net loss of stream function." Yet staff admits no mitigation exists for the unavoidable impacts.

You cannot legally approve a project that city staff admits violates two fundamental municipal ordinances.

2. SCIENTISTS PROVE THE ENVIRONMENTAL DAMAGE CANNOT BE MITIGATED

The Final EIS documents "significant unavoidable adverse impacts" including:

Creek Destruction:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Creek will be dry 10% of the time
- Water temperatures exceeding 16°C from May to September - too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently

Groundwater Devastation:

- Vashon Aquifer levels dropping 8+ feet permanently with no recovery
- Groundwater discharge in Sequalitchew Creek ravine decreasing by up to 83%
- Long-term groundwater level declines of up to 8.73 feet at Edmond Marsh

Wetland Destruction:

- Multiple wetlands losing 1-3 feet of water forever:
 - Wetland 1D: 3 feet loss
 - Pond Lake: 2 feet loss
 - Wetlands #8, #9, #10, #11: 1 foot loss each
 - Old Fort Lake: 0.5 feet loss

The EIS explicitly states: "Implementation of the Restoration Plan would likely NOT mitigate these impacts."

3. THE CONDITIONAL APPROVAL REQUIRES THE IMPOSSIBLE

The Staff Report recommends 38 conditions requiring CalPortland to mitigate environmental damage that the city's own scientific analysis proves cannot be mitigated.

Impossible Conditions Include:

- Condition #21: Prepare mitigation plans for off-site wetlands the EIS says cannot be mitigated
- Condition #2: Implement restoration plans that scientists say "would likely NOT mitigate these impacts"
- Condition #7: Protect water resources while permanently damaging the Vashon Aquifer
- Condition #23: Monitor vegetation and slope stability while eliminating the groundwater that sustains them

This creates a legal fiction: conditional approval based on conditions that are factually impossible to fulfill.

4. THE LEGAL IMPOSSIBILITY

You are being asked to approve a project that:

1. Violates city law (Comprehensive Plan AND Critical Area Ordinance)
2. Causes permanent environmental damage that scientists prove cannot be fixed
3. Requires 38 impossible conditions to mitigate unmitigable damage

This is not lawful discretionary approval - it is approval of the legally impossible.

5. ENVIRONMENTAL DEVASTATION IN DETAIL

Our Community Will Permanently Lose:

The Living Creek: The natural seeps and springs that have fed Sequalitchew Creek for millennia will dry up. Families walking the beloved Sequalitchew Creek trail will find a mostly dry streambed where a vibrant creek once flowed. Fish habitat will be destroyed by overheated water.

Underground Water Systems: The Vashon Aquifer - a geological formation that took thousands of years to develop - will be permanently damaged with groundwater levels dropping over 8 feet and never recovering.

Wetland Ecosystems: Multiple wetlands will shrink permanently, losing 1-3 feet of water depth. These are not temporary impacts during construction - they are permanent ecological destruction.

CONCLUSION

The evidence is overwhelming and comes from the city's own documents:

- City staff admits this violates municipal law
- Scientists prove the damage cannot be mitigated
- 38 conditional requirements demand the impossible

How can a hearing examiner legally approve a project that violates city law and requires the factually impossible. The conditional approval becomes meaningless when the conditions cannot be fulfilled.

For the sake of legal integrity and environmental protection, I urge you to DENY this application.

Respectfully submitted,

Judy Norris
1485 Kitson Street
picbaldsatil@gmail.com

253 370 6246

DOCUMENTS REFERENCED:

- Staff Report and Recommendation (PLNG2021-006)
- Final Environmental Impact Statement (May 22, 2025)
- DMC 25.105 Critical Areas Ordinance
- 2015 DuPont Comprehensive Plan

Christine Shilley

From: Krista Novak <kristamnovak@yahoo.com>
Sent: Thursday, June 19, 2025 4:59 PM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050 which REQUIRES mitigation "to achieve no net loss of stream function."

Scientists in the Final EIS admit "significant unavoidable adverse impacts" including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
- Multiple wetlands losing 1-3 feet of water forever
- Creek temperatures getting too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently

The EIS states the restoration plan "would likely NOT mitigate these impacts."

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project. The sovereign tribal nation is formally appealing the Final EIS, citing:

- Failure to properly identify tribal cultural resources
- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely,
Krista Novak
1449 Kittson St
253 778 9295

Christine Shilley

From: Lynn Okita <lmonp13@gmail.com>
Sent: Sunday, June 15, 2025 4:08 PM
To: Barbara Kincaid
Subject: SUBJECT: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

Dear Hearing Examiner,

I strongly oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050 which REQUIRES mitigation "to achieve no net loss of stream function."

Scientists in the Final EIS admit "significant unavoidable adverse impacts" including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
- Multiple wetlands losing 1-3 feet of water forever
- Creek temperatures getting too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently
- The EIS states the restoration plan "would likely NOT mitigate these impacts."

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project.

The sovereign tribal nation is formally appealing the Final EIS, citing:

- Failure to properly identify tribal cultural resources
- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

This is legally impossible. Please DENY the approval!

Sincerely,

Lynn Okita

1827 Miller Drive, DuPont, WA (Bell Hill)

lmonp13@gmail.com

360-789-2944

Christine Shilley

From: Celeste <celeste.papier@gmail.com>
Sent: Tuesday, June 17, 2025 12:53 PM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion – PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it “does not align with Comprehensive Plan policies” and admits “no mitigation is provided for the significant unavoidable impacts to the surface water bodies” – directly violating DMC 25.105.050 which REQUIRES mitigation “to achieve no net loss of stream function.”

Scientists in the Final EIS admit “significant unavoidable adverse impacts” including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
- Multiple wetlands losing 1-3 feet of water forever
- Creek temperatures getting too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently

The EIS states the restoration plan “would likely NOT mitigate these impacts.”

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project. The sovereign tribal nation is formally appealing the Final EIS, citing:

- Failure to properly identify tribal cultural resources
- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely,

Celeste Papier

1631 Kennedy Place

DuPont WA 98327

602-513-0247

Christine Shilley

From: Tricia Parsons <hi@triciaparsons.com>
Sent: Monday, June 16, 2025 1:36 PM
To: Barbara Kincaid
Subject: Pioneer Aggregates Mine Expansion Opposition – PLNG2021-006

Dear Hearing Examiner,

Please make me a party on record.

I oppose the Pioneer Aggregates South Parcel Mine Expansion

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it “does not align with Comprehensive Plan policies” and admits “no mitigation is provided for the significant unavoidable impacts to the surface water bodies” – directly violating DMC 25.105.050 which REQUIRES mitigation “to achieve no net loss of stream function.”

Scientists in the Final EIS admit “significant unavoidable adverse impacts” including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
- Multiple wetlands losing 1-3 feet of water forever
- Creek temperatures getting too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently

The proposed mitigation measures are insufficient and temporary, leaving the environment vulnerable in the long term. Please take action now to protect our water, forests, and salmon!

The city's conditional approval requires 38 conditions to “mitigate” environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

1. City staff admits it violates city law
2. Scientists say damage CANNOT be mitigated

Result: How can this be approved?

Please oppose the Pioneer Aggregates Mine Expansion. Thank you.

Tricia Parsons - 10807 Greendale Drive SW, Lakewood, WA 98498

Tricia Parsons | Art Director - Designer | www.triciaparsons.com

Christine Shilley

From: Aife Pasquale <aife.olivia@gmail.com>
Sent: Thursday, June 19, 2025 11:03 AM
To: Barbara Kincaid
Subject: Gravel mine hearing written comment

Hello!

My name is Aife Pasquale, I'd like to comment on the gravel mine development near Sequalitchew. This place is historically significant to both First Peoples and recent European history. It would be breaking the Medicine Creek Treaty to ecologically harm Sequalitchew. There are things in this world more important profit, and preserving Sequalitchew as a historic natural area is an absolute necessity.

Thank you,
Aife

Christine Shilley

From: trenap60@gmail.com
Sent: Saturday, June 14, 2025 2:42 PM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050 which REQUIRES mitigation "to achieve no net loss of stream function."

Scientists in the Final EIS admit "significant unavoidable adverse impacts" including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
- Multiple wetlands losing 1-3 feet of water forever
- Creek temperatures getting too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently

The EIS states the restoration plan "would likely NOT mitigate these impacts."

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project. The sovereign tribal nation is formally appealing the Final EIS, citing:

- Failure to properly identify tribal cultural resources
- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)

- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely,

Trena Payton

1295 Bell Hill Place

253-964-1745

Christine Shilley

From: Kathy Preston <klprestonwa@gmail.com>
Sent: Sunday, June 15, 2025 4:14 PM
To: Barbara Kincaid
Subject: Oppose the Pioneer Aggregate South Parcel Mine Expansion

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050 which REQUIRES mitigation "to achieve no net loss of stream function."

Scientists in the Final EIS admit "significant unavoidable adverse impacts" including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
- Multiple wetlands losing 1-3 feet of water forever
- Creek temperatures getting too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently

The EIS states the restoration plan "would likely NOT mitigate these impacts."

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project. The sovereign tribal nation is formally appealing the Final EIS, citing:

- Failure to properly identify tribal cultural resources
- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely,

Kathryn Preston

1907 Braget St.

DuPont, WA 98327

3602922558

Christine Shilley

From: Kirsten Quinn <kirstenquinn253@gmail.com>
Sent: Wednesday, June 18, 2025 3:37 PM
To: Barbara Kincaid
Subject: Sequalichew Creek

Hello!

I'm a Lakewood resident who often hikes on the Sequalichew Creek trail in DuPont. This area, with its trees and native plants, is a haven for wildlife as well as overheated hikers on a hot day. The sound of the creek is always present. I oppose the expansion of the gravel mine. Any disturbance to the land will affect the creek, perhaps eventually drying it up.

There is no need to expand gravel mining in this area, and every reason to protect and preserve this beautiful natural area.

Thank you,
Kirsten Quinn

Christine Shilley

From: Amy Rakes <arakes01@gmail.com>
Sent: Friday, June 20, 2025 1:47 PM
To: Barbara Kincaid
Subject: Mine Expansion Letter-I could not stay to speak today at today's hearing
Attachments: Sequalitchew Trail letter.pdf

June 20, 2025

City of DuPont Hearing Examiner
1700 Civic Drive
DuPont WA 98327

Dear Hearing Examiner,

As a resident of DuPont, I am writing to state my strong opposition to the proposed expansion of the CalPortland Gravel Mine. It is my belief that the expansion will cause irreparable harm to the Sequalitchew Trail environment and its ecosystem, as well as the cultural and recreational importance of the area. Additionally, the expansion violates the City of Dupont's Comprehensive Plan and Critical Area Ordinance as stated in the City Staff Report on the Final EIS.

First and foremost, the expansion of the mine is a threat to the Sequalitchew Trail and its environs. The Final EIS states that there would be an 83% creek flow loss along the Trail from drying up natural seeps and springs. Groundwater levels would be diminished reducing the Sequalitchew Creek's flow to a trickle destabilizing salmon habitats that feed the Southern Resident Orca, as well as creating a loss of wetlands and forest that surround the Creek. Mine expansion would also impact the Edmund March, a class 1 wetland and the Vashon Aquifer. Wetlands would lose 1-3 feet of water that can never be replaced. The Aquifer level would drop 8+ feet permanently, potentially increasing salination levels and degrading water quality. Water recharge capacity and quality in our area is a precious resource and must be preserved at all costs. The Mine expansion would be against DuPont's Critical Area Ordinance policies which mandate no net loss of wetland and stream functions. Also the Final EIS states that any mitigation efforts would not be sufficient to offset the damage that would occur.

Second, the Mine expansion would impact the Nisqually Tribes's sacred sites including ancestral graves sites creating irreversible cultural harm to the Tribe. The Tribe did not sign the 2011 Settlement Agreement for the Mine Expansion proposal. How can you mitigate for impacts to sacred sites of one of Washington's indigenous tribes? They are the original stewards of the Sequalitchew Creek and have filed an official appeal of the Final EIS.

Third, the Sequalitchew Trail is a valued recreational asset used not only by DuPont residents but many others in the region and state who come to walk the trail for its beauty, wildlife including deer and bald eagles and lush vegetation. The trees along the trail, which would be lost with mine expansion, provide essential shade in the summer and sound of the water running along the Creek provides a respite from urban life. It is the place I take visitors to experience natural beauty in DuPont. As part of the recreation the trail provides, our youth have the chance to see thick fern growth, nurse trees, ant hills, and life cycles of trees as they grow and fall due to weather events. My grandsons and I explored the trail almost weekly when they lived here. It encouraged their interest in ecology and ecosystems. With Mine expansion, we would be showing them how to destroy an ecosystem.

In closing, due to the environmental, cultural and recreation impacts of the CalPortland mine expansion and the fact that it violates the City's Comprehensive Plan and Critical Area Ordinance, I urge you to NOT approve the expansion of the mine.

Sincerely,

Amy Rakes
3103 Walker Rd.
DuPont WA 98327

Christine Shilley

From: Stephanie reasor <reasor.bates@gmail.com>
Sent: Friday, June 13, 2025 1:02 PM
To: Barbara Kincaid

Dear Barb Kincaid,

I am writing this email in opposition to expanding the Pioneer Aggregates CalPortland Gravel Mine in Dupont. The risks to the habitat are far too great to consider doing such a thing. I am vehemently opposed to this expansion and I stand with the position of the Tacoma Bird Alliance.

Thank you for your time.

Stephanie Reasor

Christine Shilley

From: Kurt Reidinger <aldertonkayaks@gmail.com>
Sent: Thursday, June 19, 2025 4:05 PM
To: Barbara Kincaid
Subject: Comments on Final EIS for Pioneer Aggregates South Parcel Project
Attachments: FEIS Comments Pioneer Aggregates South Parcel Project.pdf

To Whom It May Concern,

Attached are my comments regarding the above.

I wish to be kept informed on future developments for this project by the City of Dupont.

Thank you,
Kurt Reidinger

City of Dupont
1700 Civic Drive
DuPont, WA 98327
Attention: Barbara Kincaid

June 19, 2025

**RE: Comments on Final Environmental Impact Statement (FEIS) for Gravel Mining Proposal -
Pioneer Aggregates South Parcel Project**

To Whom It May Concern:

I have the following comments regarding the above. My comments not only cover the FEIS but touch on related, accessory documents such as the Sequalitchew Creek Restoration Plan (SCRP). My most concerning issues are the mining effects to Sequalitchew Creek, its riparian zone, and associated wetlands. But I also have concerns about the hydrological modeling underpinning the overall project, the handling of stormwater, and the destruction of the existing, unnamed kettle wetland and mitigation for that destruction. I consider these comments an extension of my previous ones covering the DEIS.

Because the project encompasses permanent destruction of key local environments and the EIS is incompletely structured, I strongly urge the City of Dupont to deny approval for the mining project.

1. EIS structure

At the outset, I question whether the EIS is properly structured. From WAC 197-11-060(3)(b)¹ we have the following:

“ ... Proposals or parts of proposals that are related to each other closely enough to be, in effect, a single course of action shall be evaluated in the same environmental document. (Phased review is allowed under subsection (5).) Proposals or parts of proposals are closely related, and they shall be discussed in the same environmental document, if they:

- (i) Cannot or will not proceed unless the other proposals (or parts of proposals) are implemented simultaneously with them; or
- (ii) Are interdependent parts of a larger proposal and depend on the larger proposal as their justification or for their implementation.” (*underline added*)

Given that the City of Dupont has repeatedly stated that the Pioneer Aggregates South Parcel Project is dependent on the SCRP², it would seem the latter has to be evaluated in the current EIS as the mining project is dependent on it. If the SCRP isn’t viable, then the conditions and features of the mining project designed to support the SCRP are akin to empty promises.

I’ll give you an example. The mining project has the potential of altering the hydrology of the marshes in the area downstream of Sequalitchew Lake³. If water levels in the marshes are diminished by the mining project, this may alter the system’s carrying capacity to host stream resident fishes, and in part

¹ <https://app.leg.wa.gov/wac/default.aspx?cite=197-11-060>

² For example, on p. 3.3-36 of the EIS it states: “... the 2011 Settlement Agreement states that permits for the Pioneer Aggregates South Parcel Project shall not be effective until permits for the Sequalitchew Creek Restoration Plan are in place, as a separate but related action”.

³ See, for example, “Cumulative Impacts”, FEIS pp. 3.3-36, 37 as well as graphs in Figures 3.4-4 and 3.4-5.

determine whether self-sustaining populations can be maintained if they are reintroduced as part of the SCRP⁴. Thus, the mining project will likely have wider local impacts that are not addressed in the current EIS.

Here's another example. One aspect that must be covered in the SCRP and that the current project may have a bearing on is the timing of future stream flows. If the proposed mining project alters timing of stream flows, it may alter the viability of restoration activities involving reintroduction of extirpated fish stocks. Stream flows can determine when anadromous fish use creeks and populations typically evolve over time to make optimal use of flows for upstream access and spawning. For example, some populations of adult coho salmon in the Chambers-Clover watershed made upstream spawning migrations up until March, probably to gain access to spawning areas that were not accessible until high winter flows made their spawning areas available⁵. Thus, availability and selection of appropriate genetic sources for restoration could in part determine the success of the SCRP, and that project's viability will in turn affect the gravel mine project.

Because the SCRP figures so prominently in the EIS, in addition to the fact that the Applicant's project is contingent on this plan, this plan should have been included as part of the EIS so that everyone understands what it is expected to accomplish and how. Not including the SCRP as part of the EIS is a critical omission.

2. Impacts to Sequalitchew Creek, its riparian zone, and associated marshes and wetlands

The proponents admit that their project will divert groundwater away from Sequalitchew Creek and its springs. Some of this groundwater will be captured by their dewatering system⁶. The FEIS further makes the assertion with respect to groundwater, modeled and actual, that:

“... The trends for the Puget Sound Region likely will apply to the DuPont area with similar annual rainfall, a slight increase in springtime rainfall, and summer seasons that may become slightly drier. Because drier conditions are projected to occur largely during the summer months when aquifer recharge is already minimal (as reflected in monitoring data and incorporated into the DuPont model), average groundwater levels are not expected to be negatively impacted as a result of climate-related changes in precipitation; however yearly variation may differ more than currently and individual dry years and series of drier years may occur more often. On average, the impacts projected from the groundwater drawdown of the aggregate mine under the Proposed Action are likely to be similar to the modeled results.”⁷

⁴ Coho salmon (*Oncorhynchus kisutch*) were likely part of the original fauna before the Sequalitchew system's ecological integrity was destroyed. The juvenile animals typically spend a year in freshwater before departing to live in marine waters. The summer period after emergence is a critical period of potentially high mortality, and the quantity of freshwater rearing area (measured as accessible surface area) can be a determinant of the number of animals available to reach saltwater. See for example pp. 420-421 of Sandercock, F.K. Life history of coho salmon (*Oncorhynchus kisutch*) in Groot, C. and L. Margolis, eds. 1991. Pacific salmon life histories. Univ. of British Columbia Press, Vancouver; and Chapter 11, “Juvenile salmonids in streams” from: Quinn, T.P. 2005. The behavior and ecology of Pacific salmon and trout. American Fisheries Society. Bethesda MD.

⁵ Correspondence between the State Supervisor of Hydraulics and State Supervisor of Fisheries, March 1930, Washington State Archives.

⁶ FEIS, p. 3.3:27-28

⁷ FEIS, p. 3.3-31

The proponents do not provide justification for these statements. They also don't provide evidence that they examined groundwater levels with their model under reduced precipitation conditions. They didn't do a risk analysis to show whether the project will have potentially greater impacts to groundwater and surface waters due to climate change.⁸

It is also concerning that in their groundwater characterizations, they focused on the precipitation record covered by their modeling time frame, 2004-2015, even though they have data for a much longer period of time, e.g., Figure 3.3-13. I question whether this recent, limited time frame adequately captures the long-term precipitation trends necessary to put the current water situation in perspective. For example, rather than simply computing annual averages and noting the variability in precipitation, a more meaningful analysis would be to formally (i.e., with statistical methods) test for trends, most importantly including subperiods within a year (e.g., the critical May-September time period). This is especially the case if a goal is to attempt to re-create ecological conditions conducive to reestablishment of certain fish populations (e.g., coho salmon, *Oncorhynchus kisutch*, and other resident fishes) that have been extirpated from the system.

The FEIS also does not consider the cumulative impacts of drought. For example, it mentions there are "buffering effects" that obscure the relationship between rainfall and groundwater measurements in some wells (e.g., p. 3.3-29) but it doesn't seem to mention that these effects can also be cumulative and longer-lasting in periods of extended drought, i.e., it will take groundwater (and surface water) levels longer to respond or recover under these conditions. This highlights the fact that when precipitation occurs will also be a critical factor.

The EIS estimates large fractions of the seep and spring flows to the creek in both winter and summer will be lost due to the mining project:

"... With passive dewatering at the end of mining, reductions in spring flows leading to the creek are anticipated to occur throughout the entire year and to range from 76% (in January) to 86% (in summer). Base flow and peak flow in the creek are accordingly expected to be reduced. The annual average flow in Sequalitchew Creek is anticipated to be reduced from approximately 1.6 cfs to approximately 0.34 cfs".⁹

Moreover, the SCRP would have no effect on the ravine spring flows¹⁰. Yet, in addition to the effects to the creek itself, there is at least one state-threatened plant species in the ravine. This is contrary to the assertion under 3.1.5 Rare Plants and Plant Communities, that "... The Project would not directly impact rare plants or rare plant communities".¹¹ The project will have a direct effect on ravine springs and the plant, a fern, probably dependent on seeps in the ravine, will likely be impacted. I have a somewhat recent photo of the plant. It is not my place to reveal the name and/or location of the plant and it's the applicant's responsibility to contact the Department of Natural Resources Natural Heritage Program and find out the protocol for handling this issue for their project.¹² I have a list of other plant species in the

⁸ Pacific Northwest Water Year 2024 Impacts Assessment, available at: <https://www.drought.gov/documents/2024-pacific-northwest-water-year-impacts-assessment>

⁹ FEIS, p. 1-8

¹⁰ See "4.5.3.2 Upper Sequalitchew Creek Ravine" in Appendix B, Earth and Water Resources Report.

¹¹ See 3.1.5 Rare Plants and Plant Communities in Appendix H, Plants and Animals Technical Report.

¹² DNR Natural Heritage Program at <https://www.dnr.wa.gov/natural-heritage-program>; the vascular plant in question is listed on the 2021 WA Vascular Plant Species of Conservation Concern List at <https://www.dnr.wa.gov/NHPlists>.

ravine area that will likely be affected by the project, yet I don't see anything comparable in the FEIS, only a very short narrative with a restricted number of plants.¹³

3. Sequalitchew Creek Restoration Plan

In the fall of 1957, a worker from the then Washington Department of Fisheries visited Sequalitchew Creek to assess the stream's ability to support salmon¹⁴. Accompanied by an employee of the Dupont Powder Company, he walked along portions of the stream noting its character. He didn't make formal measurements but remarked on salient features such as areas that would appear to be conducive to spawning, channelized reaches, and an apparent blockage due to a beaver dam. He didn't have appropriate equipment for access but noted there was a definite channel through the marsh. The Dupont official reported that three years previous "... a good salmon run came up the stream (several hundred fish)". The WDF employee presumed they were "silvers", i.e., coho salmon.

Restoration of Sequalitchew Creek, implies not only restoration of stream flows, but the reintroduction of this species as well as others that may no longer be present. Note that these fish likely survived in numbers because of the existence of wetlands adjacent to the stream which provided additional low flow rearing during late summer and early fall.

The applicant asserts that the SCRP¹⁵

"...has the potential to restore an annual average of 12.9 cfs to a 1,200-foot reach of Sequalitchew Creek that currently experiences little to no consistent flow. Seasonally, the flows in this reach following restoration are predicted to be between 2.5- cfs in August up to just over 26 cfs in March. Flows of this magnitude would reestablish a functioning stream in the now frequently dry channel, providing new aquatic and riparian habitat and a connection between the Sequalitchew Creek ravine and the marshes." (*underline added*)

But the creek still could be dry in some years despite the SCRP.¹⁶

"... However, even with the Restoration Plan, there may still be periods of dry, no-flow conditions in the losing reach of the creek. The number of no-flow days at the midravine would be expected to increase under the Proposed Action and Restoration Plan scenario because of reduced or eliminated groundwater seepage to the ravine section of the creek that would no longer be present to add flows to the creek. These lower predicted flows in the creek are anticipated to occur typically in the period from July through October." (*underline added*)

The implication is that ravine habitat outside the project area is likely to change and become drier and less habitable for riparian vegetation, and the creek would have limited value as stream habitat for fishes that reside all year long in freshwater. The two issues regarding reintroduction of coho salmon I mentioned previously are related to these effects.

¹³ See 2.1.3.2.3 Sequalitchew Creek Ravine Riparian Wetlands in Appendix H, Plants and Animals Technical Report.

¹⁴ "Survey of Sequalitchew Creek", internal WDF memo from R. Kramer, Engineer to H.T. Heg, Supervisor, Stream Improvement, October 28, 1957, Washington State Archives.

¹⁵ FEIS, p. 3.6-20.

¹⁶ FEIS., p. 1-9.

As it stands now, and into the future, JBLM controls most of the water available that could replenish Sequalitchew Creek flows under any restoration, and this control is outside the State's regulatory framework; for example, the FEIS states¹⁷:

"... JBLM's legal access to water is embedded in the base's federal status as a military base, as such it is allowed to access water for the base's primary purposes which includes the drinking water system that serves its population. Sequalitchew Springs generally provides more flow that needed by JBLM for water supply." (*underline added*)

So, it's imperative that the FEIS explain precisely what objectives the SCRP is expected to achieve, what is the timeline for the SCRP, and how they will the objectives be attained given these jurisdictional discontinuities. Most importantly, the EIS needs to consider what will happen under climate change if JBLM decides to take more groundwater.

Both the DEIS and the FEIS state that the South Parcel Project "...shall not be effective until permits and approvals needed for implementation of the Sequalitchew Creek Restoration Plan (SCRP) developed by CalPortland and the Environmental Caucus are in place"¹⁸. Thus, the SCRP is a critical component of gravel mining project, yet the proponent and City of Dupont are attempting keep the two projects separate. Understanding whether the SCRP is a viable mitigation measure for this project is key to evaluating the gravel mining FEIS. Yet this component project is missing from the FEIS. Both projects should be covered in one EIS.

4. Stormwater

It is now known that stormwater runoff often contains man-made chemicals that are harmful to aquatic life. Some of these (e.g., additives found in rubber tire residues) are acutely toxic and will kill fishes like coho salmon and related animals like as cutthroat trout (*Oncorhynchus clarki clarki*) in small quantities. Others impact small invertebrate animals that are the basis for aquatic food chains¹⁹. Thus it's imperative that any stormwater containing tire residues, petroleum, and petroleum combustion products not be allowed to enter natural waters. This includes any stormwater originating upstream from JBLM that may be diverted into the system.

In addition, the project intends to destroy the existing Kettle wetland on the site and attempt replace it with a wetland mitigation site on already mined ground. The FEIS indicates that:²⁰

"... Once the site is reclaimed, stormwater from the eastern slope of the proposed mine expansion would be collected along with groundwater inflows and drain to a mitigation wetland to be

¹⁷ See 3.1.5.2 Joint Base Lewis-McChord in Appendix B, Earth and Water Resources Report.

¹⁸ FEIS, p. 3.5-10.

¹⁹ For the effects on salmonids, see for example: Zhenyu Tian et al. 2021. A ubiquitous tire rubber-derived chemical induces acute mortality in coho salmon. *Science* 371:185-189. <https://www.science.org/doi/10.1126/science.abd6951> and Shankar, P. et. al. 2025. Evaluation of 6PPD-Quinone Lethal Toxicity and Sublethal Effects on Disease Resistance and Swimming Performance in Coastal Cutthroat Trout (*Oncorhynchus clarkii clarkii*). <https://doi.org/10.1021/acs.est.5c03697>. For impacts to invertebrates, see for example: Peter, K.T., et. al. 2022. Characterizing the Chemical Profile of Biological Decline in Stormwater-Impacted Urban Watersheds. *Environmental Science & Technology* 56(5):3159-3169.

<https://pubs.acs.org/doi/10.1021/acs.est.1c08274>

²⁰ FEIS, p. 2-21.

constructed on the floor of the Existing Mine to provide hydrologic support to the wetland".
(underline added)

This is a bad idea. Stormwater contaminants entering a wetland will: 1) pollute the wetland's waters and affect the animals living within it and on its borders, and 2) be potentially transmitted outside the wetlands.²¹

Evidence from studies of stormwater ponds finds that animals (e.g., birds, bats, frogs, etc.) are attracted to such aquatic features and are unwittingly exposed to the chemicals within. Thus, these water bodies are "chemical traps" that have deleterious effects on both aquatic and terrestrial ecosystems²².

5. Hydrological Modeling Predictions

The applicant used groundwater modeling with the goal of predicting impacts from dewatering and gravel mining²³:

"... This report documents the updated analysis used to predict groundwater levels during and after the proposed dewatering and mining of the South Parcel at CalPortland's Pioneer Aggregate facility in DuPont, Washington." (underline added)

The applicant used proprietary software²⁴ in conjunction with data collected locally to develop the model. While the applicant considered some modeling uncertainties,²⁵ I didn't find mention of climate change effects that might overshadow these hydrological analyses. For example, the modelers note that²⁶:

"... For the purposes of this modeling effort, we assumed surface water levels in the wetlands will be similar to historical conditions".

This may be a flawed assumption and not taking into account climate change impacts on groundwater could make predicted outcomes unrealistic.

I brought up the need to consider expanded drought conditions in my DEIS comments last year, noting that the published 2011 USGS model study of the Chambers-Clover watershed²⁷ explicitly considered a 20% precipitation reduction to illustrate the potential climate change effects under watershed exploitation levels in that model. As far as I can see, however, the applicant has not updated the EIS to consider reduced precipitation effects in their model.

²¹ See for example: Previšić, Ana, et. al. 2021. Aquatic Insects Transfer Pharmaceuticals and Endocrine Disruptors from Aquatic to Terrestrial Ecosystems. *Environmental Science & Technology* 55(6):3736-3746.

<https://pubs.acs.org/doi/10.1021/acs.est.0c07609>

²² See, for example: Sievers, M., K.M. Parris, S.E. Swearer, and R. Hale. 2018. Stormwater wetlands can function as ecological traps for urban frogs. *Ecological Applications* 28(4):1106–1115. <https://doi.org/10.1002/eap.1714>

²³ FEIS Appendix E Groundwater Model Update.

²⁴ MODFLOW-SURFACT, p. 12 in FEIS Appendix E. The open-source USGS MODFLOW program is an example of a similar groundwater modeling framework: https://www.usgs.gov/mission-areas/water-resources/science/modflow-and-related-programs?qt-science_center_objects=0#qt-science_center_objects

²⁵ Section 2.4 Model Uncertainty in Appendix E of the FEIS.

²⁶ Page 30, Section 6 in Appendix E, Groundwater Model Update-DuPont Mine South Parcel Expansion Area.

²⁷ Johnson, K.H., Savoca, M.E., and Clothier, Burt. 2011. Numerical simulation of the groundwater-flow system in the Chambers-Clover Creek Watershed and Vicinity, Pierce County, Washington: U.S. Geological Survey Scientific Investigations Report 2011-5086, 108 p.

After my DEIS comments of last year, the USGS released a newer, expanded groundwater model of the Chambers-Clover watershed which includes adjacent watersheds²⁸. They simulated several scenarios with their new model. These included not just one, but at least four (4) different levels of precipitation reduction²⁹. Drought is clearly a critical aspect of groundwater as well as surface water availability. In fact, it will also be a key issue in assessing the viability of the SCRP.

For example, Johnson et. al. (2011)³⁰ in their numerical simulations of groundwater flow in the nearby Chambers-Clover watershed attempted to account for climate change affects by considering a 20% reduction in rainfall with its resultant effects on surface waters. The modelers for the proposed project could certainly carry out a similar exercise, or possibly even consider time varying changes (e.g., simultaneously reducing rainfall amounts while altering the distribution of rainfall within a year). This would allow decision makers to see a broader range of potential water-related outcomes.

Thank you for the opportunity to comment.

Sincerely,



Kurt Reidinger
P.O. Box 44105
Tacoma, WA 98448

²⁸ Welch, W.B., Bright, V.A.L., Gendaszek, A.S., Dunn, S.B., Headman, A.O., and Fasser, E.T. 2024. Conceptual hydrogeologic framework and groundwater budget near the southeastern part of Puget Sound, Washington, v. 1 of Welch, W.B., and Long, A.J., eds., Characterization of groundwater resources near the southeastern part of Puget Sound, Washington, 3 chap. (A–C): U.S. Geological Survey Scientific Investigations Report 2024–5026–A–C, [variously paged; 71 p.], 1 pl., <https://doi.org/10.3133/sir20245026v1>; and Long, A.J., Wright, E.E., Fuhrig, L.T., and Bright, V.A.L. 2024. Numerical model of the groundwater-flow system near the southeastern part of Puget Sound, Washington, v. 2 of Welch, W.B., and Long, A.J., eds., Characterization of groundwater resources near the southeastern part of Puget Sound, Washington, 2 chap. (D–E): U.S. Geological Survey Scientific Investigations Report 2024–5026–D–E, [variously paged; 103 p.], <https://doi.org/10.3133/sir20245026v2>.

²⁹ See “Scenario 1 Suite—Drought”, pp. E3–E7 in Vol. 2 of the Southeast Sound Groundwater Model.

³⁰ Johnson, K.H., Savoca, M.E., and Clothier, Burt. 2011. Numerical simulation of the groundwater-flow system in the Chambers-Clover Creek Watershed and Vicinity, Pierce County, Washington: U.S. Geological Survey Scientific Investigations Report 2011–5086, 108 p.

Christine Shilley

From: Oscar <oremmington1957@gmail.com>
Sent: Thursday, June 5, 2025 3:37 PM
To: Barbara Kincaid
Cc: Gordon Karg; Ronald Frederick; Tom Wargo; Mike Winkler; Susan Walton; Maame Bassaw; Kevin Ballard; Beth Elliott; Shawna Gasak
Subject: Pioneer Aggregates Environmental Impact Statement
Attachments: DuPont Pioneer 2025.06.05.txt

Ms Kincaid;

This is a comment on the proposed Pioneer Aggregate proposal and a placeholder for the appeal of the adequacy of the Final Environmental Impact Statement

SUMMARY

The major facts addressed include:

1. There can be no valid appeal of the adequacy of the Final Environmental Impact Statement at this time. The DuPont Municipal Code DuPont Municipal Code (DMC) 23.01.210 .B.1.C provides for appeal after within 14 days of the "adequacy of a final environmental impact statement." The code says nothing about the appeal period being initiated at release of the Final EIS. This is because adequacy of an EIS can only be assessed in terms of its adequacy in relation to a specific application of the information to a particular action or decision. RCW 43.21C.075(2) (b) provides that "Appeals of environmental determinations made (or lacking) under this chapter shall be commenced within the time required to appeal the governmental action which is subject to environmental review." Similar language is contained in WAC 197-11-680 (3) (vii). As a Type III review is required for this proposal, the initiation of the appeal of EIS adequacy would appear to occur at the time notice is given of the public hearing for the Type III permit, at which time the responsible official can make the determination that the EIS is adequate for that specific purpose.
2. The aggregate mine does not meet applicable code standards for application materials, specifically the applicant has not provided written documentation and therefore cannot have carried the burden of proof in documenting that all relevant code provisions and mitigation of environmental impact.
3. The existing aggregate mine in operation since the mid-1990s has adversely affected Sequalitchew Creek by re-routing groundwater flows by reducing overburden, causing isostatic rebound which has made remaining material less dense and therefore increase transmissivity which has diverted groundwater flow away from the stream. This is

not analyzed in the EIS as a cumulative impact, which renders the EIS invalid. It also subjects the operator and the city to liability due to adverse effects on tribal treaty rights by degrading fish habitat (see

<https://www.sciencedirect.com/science/article/pii/S2095268618303719>)

4. The so called Sequalitchew Creek Restoration Plan (referred to subsequently as the "Sequalitchew Creek Lake Flow Augmentation and Wetland Destruction Plan" cannot be relied upon as mitigation by the applicant because the adverse impacts of the plan violates city code standards, results in significantly worse impacts as compared to reasonable mitigation consisting of returning diverted flows to the stream, the entire plan is dependent on Federal Action of modification of the diversion structure which is not funded and likely will not be funded within the next 4 years.

5. The lack of surface water flows from Lake Sequalitchew into Sequalitchew Creek is almost entirely the result of action by Fort Lewis (now Joint Base Lewis McCord) in the 1950s of lowering the lake level plus ongoing diversion of water for domestic use. As a donated facility JBLM has no prior reserved rights per *Winters v. United States* (1908). Tribal treaty rights are vested over any rights of JBLM. JBLM alone is liable to restore flows to the creek in accordance with reversal the adverse effects on tribal treaty rights by degrading fish habitat which can only be done by raising the water level which preserves natural flows into wetlands and Sequalitchew Creek. Any adverse impacts on infrastructure (which is between 75 and 100 years old) is irrelevant and is secondary to treaty rights. (See <https://www.thefreelibrary.com/PROTECTING+FEDERAL+RESEVED+WATER+RIGHTS+ON+MILITARY+INSTALLATIONS.-a0587016736>)

6. There are many and substantial adverse impacts that are inaccurately described in the Environmental Impact Statement for the project, rendering it invalid.

These issues are addressed in the attached document

Oscar Remmington

June 5, 2025

Barbara Kincaid
Public Services Director
City of DuPont
1700 Civic Drive
DuPont, WA 98327

CC: Other Interested Parties

SUBJECT: Averred Appeal Period for Pioneer Aggregates Final EIS

Dear Ms. Kincaid;

This is a comment on the proposed Pioneer Aggregate proposal and a placeholder for the appeal of the adequacy of the Final Environmental Impact Statement

SUMMARY

The major facts addressed include:

1. There can be no valid appeal of the adequacy of the Final Environmental Impact Statement at this time. The DuPont Municipal Code DuPont Municipal Code (DMC) 23.01.210 .B.1.C provides for appeal after within 14 days of the “adequacy of a final environmental impact statement.” The code says nothing about the appeal period being initiated at release of the Final EIS. This is because adequacy of an EIS can only be assessed in terms of its adequacy in relation to a specific application of the information to a particular action or decision. RCW 43.21C.075(2)(b) provides that “Appeals of environmental determinations made (or lacking) under this chapter shall be commenced within the time required to appeal the governmental action which is subject to environmental review.” Similar language is contained in WAC 197-11-680 (3)(vii). As a Type III review is required for this proposal, the initiation of the appeal of EIS adequacy would appear to occur at the time notice is given of the public hearing for the Type III permit, at which time the responsible official can make the determination that the EIS is adequate for that specific purpose.
2. The aggregate mine does not meet applicable code standards for application materials, specifically the applicant has not provided written documentation and therefore cannot have carried the burden of proof in documenting that all relevant code provisions and mitigation of environmental impact.
3. The existing aggregate mine in operation since the mid-1990s has adversely affected Sequalitchew Creek by re-routing groundwater flows by reducing overburden, causing isostatic rebound which has made remaining material less dense and therefore increase transmissivity which has diverted groundwater flow away from the stream. This is not analyzed in the EIS as a cumulative impact, which renders the EIS invalid. It also subjects the operator and the city to liability due to adverse effects on tribal treaty rights by degrading fish habitat (see <https://www.sciencedirect.com/science/article/pii/S2095268618303719>)

4. The so called Sequalitchew Creek Restoration Plan (referred to subsequently as the Sequalitchew Creek Lake Flow Augmentation and Wetland Destruction Plan cannot be relied upon as mitigation by the applicant because the adverse impacts of the plan violates city code standards, results in significantly worse impacts as compared to reasonable mitigation consisting of returning diverted flows to the stream, the entire plan is dependent on Federal Action of modification of the diversion structure which is not funded and likely will not be funded within the next 4 years.

5. The lack of surface water flows from Lake Sequalitchew into Sequalitchew Creek is almost entirely the result of action by Fort Lewis (now Joint Base Lewis McCord) in the 1950s of lowering the lake level plus ongoing diversion of water for domestic use. As a donated facility JBLM has no prior reserved rights per *Winters v. United States* (1908). Tribal treaty rights are vested over any rights of JBLM. JBLM alone is liable to restore flows to the creek in accordance with reversal the adverse effects on tribal treaty rights by degrading fish habitat which can only be done by raising the water level which preserves natural flows into wetlands and Sequalitchew Creek. Any adverse impacts on infrastructure (which is between 75 and 100 years old) is irrelevant and is secondary to treaty rights. (See <https://www.thefreelibrary.com/PROTECTING+FEDERAL+RESERVED+WATER+RIGHTS+ON+MILITARY+INSTALLATIONS.-a0587016736>)

6. There are many and substantial adverse impacts that are inaccurately described in the Environmental Impact Statement for the project, rendering it invalid.

These issues are addressed below, in a slightly different numbering system. Where references are made to the Environmental Impact Statement text, it is the page number of the overall text as posted on the city's website. The document is far too complex to reference the many separate page numbering systems.

This transmittal contains and consists of:

1 Appeal of the adequacy of the environmental impact statement:

1.1 Procedural Issues relating to notice and time period for commending and appeal

1.1.1 DuPont Municipal Code (DMC) 23.01.210 .B.1.C provides that:

Time Requirement. An appeal shall be delivered, with the appropriate appeal fee, to the Director by mail or by personal delivery before 5:00 p.m. within 14 days of the issuance of the threshold determination or adequacy of a final environmental impact statement.

1.1.2 This wording clearly does not relate to the issuance of the Final EIS. It requires a separate issuance of a statement of adequacy. One may note that the 2-page NOTICE OF AVAILABILITY OF FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS) which appears immediately after the cover of the Final EIS says nothing about adequacy . Merely issuing an EIS document does not address whether it is adequate for the specific governmental decision it is applied to.

1.1.3 An EIS once issued can be used in reference to any number of decisions including decisions by different agencies.

1.1.4. It is clear that the intent of the DuPont Code is to require the decision maker to address adequacy of an EIS in terms of its adequacy in relation to a specific application of the information to a particular action or decision.

1.1.5 This is consistent with RCW 43.21C.075(2)(b):

Appeals of environmental determinations made (or lacking) under this chapter shall be commenced within the time required to appeal the governmental action which is subject to environmental review.”

Similar language is contained in WAC 197-11-680 (3)(vii).

This clearly ties notice to the notice of the underlying action, not to the date of issuance of an informational document

1.1.6 As a Type III review is required for this proposal, the initiation of the appeal of EIS adequacy would appear to occur at the time notice is given of the public hearing for the Type III permit, at which time the responsible official can make the determination that the EIS is adequate for that specific purpose. issuance of adequacy of a final environmental impact statement as the date the final environmental impact statement is issued, but that is not what the code says. It is requested that the Hearing Examiner toll the deadline for submission of an appeal due to the lack of clarity of the code, and also toll ancillary requirements such as the timely submittal of fees.

1.1.7 It is requested that the Hearing Examiner toll the deadline for submission of an appeal of the EIS to the date of the notice of the public hearing for the Type III decision on the proposal.

1.2 Hand delivery or US Mail transmittal. This appears to be a holdover from the dinosaur era of public communication. This appeal is being delivered by email. The Draft EIS allowed comments to be submitted by email. issuance of adequacy of a final environmental impact statement. It is requested that the Hearing Examiner toll the requirement for hand delivery or delivery by US mail to accept email submission. Email submission provides just as effective (in fact is more effective) than a hard copy delivered by hand or US Mail as it can be forwarded to interested parties (such as the city attorney, or applicant) without scanning or other means.

1.3 The file accessible online at

<https://www.dupontwa.gov/577/Pioneer-Aggregates-South-Parcel-Project> which purports to be the file for the project does not contain evidence that notice was given according to WAC 197-11-460(2)

The responsible official shall send the FEIS, or a notice that the FEIS is available, to anyone who commented on the DEIS and to those who received but did not comment on the DEIS. If the agency receives petitions from a specific group or

organization, a notice or EIS may be sent to the group and not to each petitioner. Failure to notify any individual under this subsection shall not affect the legal validity of an agency's SEPA compliance.

It is requested that the Hearing Examiner toll the deadline for filing an appeal should be extended to the date that the city files an affidavit that confirms that notice in accordance to the above was given. Note: Since the statute includes those who received but did not comment on the DEIS it would appear that anyone who downloaded the Draft EIS from the city website should receive notice.

1.4 It is clear that DMC 23.01.210 .B.1.C (4)(A) provides for a combined hearing: The hearing of an appeal of a determination of nonsignificance with or without mitigations or adequacy of an environmental impact statement on a proposed land use action which requires a hearing shall be held concurrently with the hearing on the underlying land use application request and shall be conducted in accordance with this chapter and Chapter 1.11 DMC.

However, in order to hold a concurrent hearing, it necessary that all requirements of said hearing be met, specifically (in this case) the staff report of the city required by 25.175.050(2)(v):

It is clear that the agency's recommendation on the proposed underlying governmental action is a critical element of the EIS appeal. Without knowing how the city staff recommends incorporating the information in the EIS into the action on the proposal, the appeal of the EIS is necessary broad and ambiguous.

It is requested that the Hearing Examiner toll the deadline for filing an appeal should to the date that the city files an staff report with a recommendation for action, including conditions based on environmental impacts.

2. The application submitted does not meets specific code requirements and therefore cannot be acted upon. No hearing for consideration of a Type III permit may be initiated and no combined EIS appeal can be initiated without compliance with all application requirements.

2.1. The proposed expansion of the aggregate mine does not meet the application criteria of DMC 25.175.020(2) specifically

(g) Written narrative demonstrating how the development proposal meets the applicable decisional criteria;

This written documentation is not included in any permit application materials, specifically 06-04-2021 Land Use Application (PDF) and 08-11-2021 Cover Letter - Response to Notice of Incomplete Application (PDF) and as evidence of a negative cannot be produced as documentation is not present, there is no written demonstration of meeting the wide range of applicable code provisions as enumerated in more detail below.

2.2 As the applicant has the burden of proof, pursuant to DMC 25.175.050(5)

Except for Type V actions, the burden of proof is on the proponent. The project permit application must be supported by substantial evidence that it conforms to the applicable elements of the city's development regulations and comprehensive plan. The proponent must also prove that any significant adverse environmental impacts have been adequately mitigated.

It is essential that the applicant provide the argumentation and documentation in written narrative such that all parties have the opportunity to examine the specifics offered by the applicant, and if they chose, dispute the specific contentions that the applicant is relying upon to meet the burden of proof. This required narrative is missing in the record and commenters and appellants are faced with a nebulous and extensive record without the ability to focus on specific assertions critical to the burden of proof.

This is a fatal flaw and must be addressed prior to any decision on the proposal.

2.3 In addition, it is requested that the Hearing Examiner toll the deadline for comments on the proposal and for filing an appeal of the EIS until the proponent meets the legal requirements DMC 25.175.020(2)(g) and DMC 5.175.050(5) by providing a written narrative demonstrating how the development proposal meets the applicable decisional criteria; and proving that any significant adverse environmental impacts have been adequately mitigated.

2.4 The proposed expansion of the aggregate mine does not meet the criteria of DMC 25.175.040(1) Consistency with development regulations for:

2.4.1 Shoreline Management Act Permits: The proposal which includes the alteration of Edmonds Marsh is clearly an associated wetland of Lake Sequalitches and the marsh itself may be a lake.

2.4.1.1 Lake Sequalitchew is clearly under the jurisdiction of the State of Washington because Fort Lewis (now Joint Base Lewis McCord) was established by gift from Pierce County. It does not meet the criteria in the Constitution of the State of Washington Article XXV Jurisdiction, Section 1 Authority of the United States, and Article XXVI Compact with the United States. This is because the land within the base were not held or reserved by the government of the United States at the time of statehood.

2.4.1.2 The bed of the lake is clearly public in accordance with the State Constitution ARTICLE XVII. This is confirmed by the U.S. Supreme Court case of Pollard v. Hagen of 1845 that established that the equal footing doctrine holds that all subsequent states shall take title to navigable waters on the same basis as the original 13 states. The bed and water column of Lake Sequalitchew are under the ownership of the State of Washington and subject to all state laws, including the Shoreline Management Act RCW 90.58.

2.4.1.3 The area of Lake Sequalitchew in its entirety is in excess of 20 acres and is therefore a shoreline of the state.

2.4.1.4 Edmonds Marsh is an associated wetlands ie. those wetlands that are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the SMA

<https://apps.ecology.wa.gov/publications/parts/1106010part5.pdf>

2.4.1.5 Alteration of associated wetland by a variety of the actions proposed for the project requires shoreline permits.

Actions by JBLM on the base do not qualify for the exemption under RCW 90.58.355 because they do not relate to navigation.

2.4.2 Alteration of streams

2.4.2.1 The DuPont Critical Area Regulations in DMC 25.105.020(5) require avoidance of impacts as the primary approach. The proposed “Sequalitchew Creek Lake Flow Augmentation and Wetland Destruction Plan” substantially alters existing wetlands and degrades their functions.

2.4.2.2 The proposal, and the EIS does not include Practicable alternative. Means an alternative available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having less impacts to critical areas. It may include using an area not owned by the applicant which can reasonably be obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed development. DMC 25.105.030.270

2.4.3 Alteration of wetlands.

2.4.3.1 Alteration of wetlands is to be avoided as the preferred alternative to any proposal per DMC 25.105.050(1). This is not accomplished by the proposed Sequalitchew Creek Restoration Lake Flow Augmentation and Wetland Destruction Plan substantially alters existing wetlands and degrades their functions. The EIS must consider all alternatives which would include avoidance including the return of diverted groundwater to Sequalitchew Creek without implementation of the Sequalitchew Creek Restoration Lake Flow Augmentation and Wetland Destruction Plan , or raising the lake level of Lake Sequalitchew to natural levels.

2.4.3.2 If approved, wetland mitigation required by (1)(d)(vii) would require approximately 120 acres of compensatory wetland creation, which is not included in the Sequalitchew Creek Restoration Lake Flow Augmentation and Wetland Destruction Plan if the criteria for avoidance were met.

2.5 The proposed expansion of the aggregate mine does not meet the criteria of DMC. 25.60.050 Performance standards.

Potential impacts related to traffic, dust control, light emission, visual screening, loss of tree cover, noise emission and protection of environmentally sensitive areas shall be examined. The city recognizes impacts to other elements of the environment including air and water quality are regulated by the state, regional and federal authorities. (Ord. 17-1017 2 (Exh. B); Ord. 02-707 1. Formerly 25.60.030)

The proposal does not adequately examine protection of environmentally sensitive areas because of inadequate EIS analysis as documented in Section 2, below.

3. Consideration of inadequacy of the adequacy of the Environmental Impact Statement:

3.1. Adequate opportunities for public and agency review were not provided:

3.1.1 The 30 day comment period for the Draft Environmental Impact Statement was not adequate for a document of the complexity of the DEIS. The 45 day comment period provided under WAC 197-11-455 was the minimum reasonable comment period.

3.1.2 The city in their Draft EIS online comment form limited and mislead the public as to the range of comments solicited. The online form asked for comments on "concerns" and therefore did not provide the public with an opportunity to comment on the full range of EIS issues provided in WAC 197-11-455 which include the accuracy and completeness of the environmental analysis, the methodology used in the analysis, and the need for additional information and/or mitigation measures. By directing the public to comment on concerns the city deliberately misled or misdirected the public as to the wider range of comment opportunities available and essential to providing an accurate EIS analysis.

3.2 Adequate alternatives were not included.

3.2.1 The proposal involves proposed alteration of Edmonds Marsh critical natural facilities located on public land through the "Sequalitchew Creek Lake Flow Augmentation and Wetland Destruction Plan" which is an integral part of the proposal and not a separate action by separate parties. The inclusion of the action on public land involves a level of public involvement in the project that warrants consideration of the range of alternatives appropriate to a public project (See Weyerhaeuser, 124 Wash.2d at 39-40, 873 P.2d 498).

3.2.2. In this case, the consideration of alternative sites for gravel extraction is required. This is also specifically the case since the applicant, does not own the land in question, the proposal includes mining materials that are not Steilacoom gravels but are Vashon Outwash that is present throughout the Puget Sound region. Any lands owned, or leased by the applicant, or that they could reasonably acquire should be considered alternatives which may have less impact than the significant adverse impacts on Sequalitchew Creek and Edmonds Marsh.

3.2.3 The alternative of returning groundwater flows to the stream and mitigating for adverse impacts of aquifer drawdown on Edmonds Marsh should be considered as an alternative to incorporation into the mine proposal of the "Sequalitchew Creek Lake Flow Augmentation and Wetland Destruction Plan". This is not simply a mitigation measure but is an alternative that should be fully analyzed in every element of the environment rather than just relegated to a paragraph or two. The fact that it was a proposal by the applicant in 2007 and was approved by the city in 2009 warrants this as a full alternative.

3.2.4 The alternative of simply raising the lake level to the natural levels that

would provide flows through Edmonds Marsh without alteration of natural features such as beaver dams together with potential changes in diversion of water for JBLM domestic use must be considered as a full alternative. Raising the level of the lake 0.56 feet is mentioned briefly in passing in the EIS (FEIS p 194) which mentions Raising the lake level higher than that is possible but would reportedly require a significant reconstruction of the facilities at the spring. on tribal treaty rights by degrading fish habitat and can only be done by raising the water level which preserves natural wetlands and other systems. Any adverse impacts on infrastructure (which is between 75 and 100 years old) is irrelevant and is secondary the need to adequately analyze all feasible alternatives and, as discussed above, such infrastructure considerations are clearly irrelevant in view of the damage to fisheries resources addressed by treaty rights.

3.2.5 The proposed aggregate mine and the incorporated “Sequalitchew Creek Lake Flow Augmentation and Wetland Destruction Plan”(in conjunction with impacts of the existing mine which have not been disclosed as cumulative impacts) may not be considered as an EIS alternative as it is not lawful as it substantially diverts groundwater from Sequalitchew Creek and degrades fish habitat and is therefore in violation of Native American Treaty rights as explicated in United States v. State of Washington (1974) (the Boldt Decision) and United States v. State of Washington (1980) (the William Orrick Decision) because the approval of the aggregate mine, together with cumulative effects of the existing mine, and the resulting effects on flows within Sequalitchew Creek affect the treaty rights of tribes that are under the sole jurisdiction of the United States. The affected tribes (particularly the Nisqually Tribe) can assert this in appeal of this decision, or through federal court action.

3.2.5.1 The US Army (and JBLM) as the party that altered the level of Lake Sequalitchew is the primary responsible party. The Army is responsible for returning the lake level to the point where natural flows through Edmonds Marsh with beaver dams intact as an element of the natural stream and extend to the Sequalitchew Creek ravine. JBLM may also be required to reduce water withdrawals from the lake. JBLM has no reserved rights regarding the lake and stream as the land on which the base is located was donated.

3.2.5.2 CalPortland is liable for restoration of flows of groundwater to the stream from the existing as proposed mine expansion as groundwater interflow is a critical component of stream flows particularl low summer flows and maintenance of temperature for aquatic species.

3.2.5.3. The City, is responsible as it has granted past pemits and if it grants additional permits, may be liable for damages or substantial costs of restoration under federal law for both the existing mine and the proposed expansion. The provisions of RCW 65.40 do not protect the city in federal court. In addition, for approval of the 1994 gravel mine the city is liable because they accepted a \$ 1 million payment as part of the settlement agreement with no documentation that it mitigates specific impacts and therefore the payment was a bribe.

3.3 Significant Unavoidable Adverse Impacts

3.3.1 The characterization of effects of the proposal throughout the application and environmental impacts statement are invalid because an accurate assessment of pre-project conditions is not provided pursuant to WAC 197-11-440(6).

3.3.1.1 The existing Pioneer Aggregate Mine is responsible for diversion of groundwater from Sequalitchew Creek due to changes in transmissivity due to isostatic rebound and is a significant component of the decrease in flows in the stream and this has not been considered as a cumulative effect, ie. results of the proposed action when added to other past, present, and reasonably foreseeable future actions.

3.3.1.2 The removal of overburden from the existing aggregate mine in operation since the mid-1990s has adversely affected Sequalitchew Creek by re-routing groundwater flows by reducing overburden, causing isostatic rebound which has made remaining material less dense and therefore increase transmissivity which has diverted groundwater flow away from the stream. (see <https://www.sciencedirect.com/science/article/pii/S2095268618303719>)

3.3.1.2.1 The major effect of this is to create a parallel underground river (in laymans terms) which is about 500 feet east of Sequalitchew Creek. This area of reduced density of glacial deposits and increased transmissivity results in similar effects as the complete diversion of flows by the current proposal, although somewhat less.

3.3.1.2.2 This effect of increased transmissivity in the parallel underground river is magnified by retention of existing overburden between the existing mine and Sequalitchew Creek, which in effect operates as an underground dam (in laymans terms) further decreasing the natural flows to Sequalitchew Creek.

3.3.1.2.3 This is a cumulative impact of the past, existing and future proposed actions that much be analyzed from the perspective of changes resulting from the affected environment of the conditions prior to opening the first phase of the mine. In other words, affected environment is the conditions that existed prior to the mid-1990s.

3.3.1.2.1 In some cases, affected environment should include reference to the natural conditions prior to alteration of the stream through lowering of the lake level by Fort Lewis in the 1950s.

The Washington State WAC does not contain a definition of cumulative impacts. The almost universally used definition is:

“... effects on the environment that result from the incremental effects of the action when added to the effects of other past, present, and reasonably foreseeable actions 40 CFR section 1508.1(g)(3)

This lack of accurate description of cumulative impacts invalidates the entire Environmental Impact Statements.

3.4 The impacts throughout are analyzed by consultants under direct contract to the applicant. This involves them in a conflict of interest in serving the interest of their client and their own corporate interests in ongoing future contracts with the applicant. This results in many instances of minimizing impact description as

pointed out in specific examples below.

3.5. The analysis of impacts on groundwater is seriously deficient because key assumptions and analytic methods are either not disclosed or have been chosen to present minimized descriptions of impacts.

3.5.1 The groundwater model is described as an 11 year model, however it is based on a two year USGS model and is simply adjusted in an undisclosed manner to account for other years. The specific method used to extend the groundwater model to other years is an essential issue in the validity of analysis and because it is undisclosed it was not subject to public or agency review and therefore cannot be relied upon.

3.5.2 The USGS model which was the basis of the analysis is from 2011 and has been replaced with a 2024 model. The 2011 model was replaced because of inadequacies. The differences in the two models should be thoroughly discussed and if significant, additional modeling based on the 2024 model should be provided and used as the basis for impact analysis.

3.5.3 The groundwater model does not include the specific calibration methods used. As the raw results of the model were altered by calibration, the exact methods used are essential and undisclosed it was not subject to public or agency review and therefore cannot be relied upon.

3.5.4 The information provided on model results and calibration is provide in a series of graphs at a very small scale with overlapping lines which render them almost incomprehensible. The lack of provision of detailed information in a readily accessible form is essential and undisclosed it was not subject to public or agency review and therefore cannot be relied upon.

3.6 The surface water analysis is inadequate for a number of reasons:

3.6.1 The affected environment does not adequately describe conditions in Sequalitchew Creek and Edmonds Marsh prior to the operation of the existing mine.

3.6.2 There is no documentation of Lake Sequalitchew levels prior to construction of the diversion dam. The specific elevation and seasonal variation is essential as this is the headwaters of Sequalitchew Creek. Since the water level is proposed to be altered by the Sequalitchew Creek Restoration Lake Flow Augmentation and Wetland Destruction Plan it is essential to The lack of essential information renders subsequent analysis inadequate.

3.6.3 There is no description of the depth of water levels in the various poritons of Edmonds Marsh. Since the water level is proposed to be altered by the Sequalitchew Creek Restoration Lake Flow Augmentation and Wetland Destruction Plan it is essential to know this information to guage the significance of adverse impacts. This lack of this essential information renders subsequent analysis inadequate.

3.6.4 There is no documentation of previous channel creation or modification by the

Washington Department of Fish and Wildlife (WDFW). There is no documentation of the source of information. It is unknown whether this was minor augmentation of an existing channel or a new channel. There is no information about how often such channel alternation or enhancement was performed. There is no discussion of the presence or absence of beaver dams during such periods and whether this was actually the reason channel maintenance was employed. It is equally likely that simple movement of displaced peat back into any maintained channel was the primary reason for channel maintenance. This lack of this essential information with adequate references as to reliable sources renders the information unreliable and subsequent analysis inadequate.

3.6.5 The analysis of flows into the Edmonds Marsh system is entirely based on the judgement or conjecture of the consultants performing the analysis and has no basis in reliable data. Specifically, the contribution of groundwater is simply a guess.

The response to comments that challenge the conclusions regarding groundwater recharge of the marshes to the groundwater recharge element in Final EIS comment responses is inadequate as it only provides only additional description of the analysis previously performed and does not address the specific issue that groundwater elevations shown indicate that groundwater elevations are seasonal higher than marsh levels such that groundwater recharge must occur. The consultant proposal that no groundwater recharge in West Edmond Marsh occurs west of the railroad grade has no basis and is contrary to reason.

3.6.6 The analysis of flows to the Edmonds Marsh system is not calibrated. In fact, for 2008 the results reported are up to 1.5 feet different than the observed levels in as indicated in Appendix E to the technical report. The significance of this is impossible to judge since the depth of the various components of the marsh system are not disclosed. If the marsh is 3 feet deep, the discrepancy is 50%. If the depth is more or less, the subsequent accuracy varies accordingly.

Notwithstanding, this level of accuracy is not adequate for accurate assessment of impacts. This is in marked contrast to the reported model calibration for groundwater which is stated to be within 10%. A 50% accuracy for flows into wetland is not adequate for accurate assessment of impacts. This is further reason that the EIS is inadequate.

3.6.7 The EIS consistently states that The Sequalitchew Marsh wetland complex has increased in size by more than 30 acres since the late 1990s when efforts to maintain a channel through the system were abandoned, and beaver dams began to raise water levels (FEIS page 234). There is, however, no consistent documented basis for this. The initial statements in the 2010 assessment of alternatives for negotiation of revisions to the Settlement states Water 14 levels in these areas have been elevated by recent beaver activity, as seen in the drowning of 15 Douglas fir and other species at the wetland edge (Aspect Consulting 2005) . This reference however is not contained in the reference table and therefore may be presumed to not exist. At the very least, it is not available for review or confirmation of validity. The EIS itself states: and provides the following reference: SPSSEG (South Puget Sound Salmon Enhancement Group), 2014. Final Briefing Memo Sequalitchew Creek Watershed Core Group Recommendations for a Restoration Plan. January 14, 2014. This document was not, in fact produced by the SPSSG but was produced by Aspect Consulting under contract to the aggregate mine

proponent. It simply repeats the undocumented assertions, or conjecture by consultants beholden to the proponent. This is further reason that the EIS is inadequate.

3.6.8 The conditions that may have existing in the 1990s when channel dredging by WDFW allegedly reduced wetland area is not the appropriate measure of the affected environment. The affected environment is the naturally occurring wetland complex which has existed for thousands of years and is generally consistent with peat deposits in the area. Cherry picking a certain period of man-induced degraded conditions as a baseline provides an inaccurate basis for assessment of impacts. This is further reason that the EIS is inadequate.

3.7 The assessment of impacts on fish does not accurately describe the affected environment . The description of how Sequalitchew Creek functioned prior to the aggregate mine operation is essential to understanding impacts.

3.7.1 A more accurate description is provided in Murray/Sequalitchew Watershed Plan Final 3-105 March 2007 (See [https://yosemite.epa.gov/oa/eab_web_docket.nsf/Attachments%20By%20ParentFilingId/7F584BD79D5D15C185257C6200537752/\\$FILE/Att%2016a%20%20Murray%20Sequalitchew%20Watershed%20Plan.pdf](https://yosemite.epa.gov/oa/eab_web_docket.nsf/Attachments%20By%20ParentFilingId/7F584BD79D5D15C185257C6200537752/$FILE/Att%2016a%20%20Murray%20Sequalitchew%20Watershed%20Plan.pdf)) This provides much more comprehensive information and references studies dating back to the 1970s. This is further reason that the EIS is inadequate. The EIS must assess natural conditions before major alterations such as lowering lake levels and diverting flows.

3.7.2 The EIS documents the use of Sequalitchew Creek by coho salmon (*Oncorhynchus kisutch*), chum salmon (*O. keta*), and cutthroat trout and bull trout (*Salvelinus confluentus*), a threatened species, as occurring in the site vicinity (FEIS p. 209). The EIS, however, focuses on benefits of the Sequalitchew Creek Lake Flow Augmentation and Wetland Destruction Plan on Chum Salmon (FEIS p. 209) but downplays the effects of increased temperature on the other species. This type of slanted analysis is designed to support the proposal of the proponent (who retained the consult and paid all fees) rather than provide a balanced analysis of impacts on all species. This is further reason that the EIS is inadequate.

RELEVANT INFORMATION

Standing: I am a past and future resident of DuPont. My wife owns a residence. We plan to return to DuPont upon retirement.

FEES: None specified per DMC 23.01.180

- (i) The name and mailing address of the appellant and the name and address of his/her representative, if any;
- (ii) The appellant's legal residence or principal place of business;
5801 W Adams Ave., Temple, TX 76502
- (iii) A copy of the decision which is appealed;

See City of DuPont website where it is posted in its entirety.

(iv) The individual grounds upon which the appellant relies;
Above

(v) A concise statement of the factual and legal reasons for the appeal;

Above

(vi) The specific nature and intent of the relief sought;
Above

(vii) A statement that the appellant has read the appeal and believes the contents to be true, followed by his/her signature and the signature of his/her representative, if any. If the appealing party is unavailable to sign the appeal, it may be signed by his/her representative.

Electronic signature per 15 U.S. Code Chapter 96

/Oscar Remmington

Christine Shilley

From: Sara Ruhl <birdsong03@gmail.com>
Sent: Saturday, June 14, 2025 6:05 PM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050 which REQUIRES mitigation "to achieve no net loss of stream function."

Scientists in the Final EIS admit "significant unavoidable adverse impacts" including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
- Multiple wetlands losing 1-3 feet of water forever
- Creek temperatures getting too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently

The EIS states the restoration plan "would likely NOT mitigate these impacts."

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project. The sovereign tribal nation is formally appealing the Final EIS, citing:

- Failure to properly identify tribal cultural resources
- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)

- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely,

Sara Ruhl
1135 Harrington Pl., DuPont
979-255-6584
Birdsong03@gmail.com

AN INCONVENIENT TRUTH ABOUT THE CALPORTLAND/ENVIRONMENTAL CAUCUS APPROVED SEQUALITCHEW CREEK BASIN RESTORATION PLAN

The Claim

CalPortland and the Environment Caucus claim that its characterization of the Sequalitchew Creek watershed is correct and that implementation of the five essential elements as prescribed in its Sequalitchew Creek Basin Restoration Plan will “*... restore flows and ecological conditions for native salmonid populations in the Sequalitchew Creek Basin.*”

The Truth

The foundation upon which the CalPortland and the Environmental Caucus Plan is based is the notion that increased surface water flow from Sequalitchew Lake is essential to “*... restore flows and ecological conditions for native salmonid populations in the Sequalitchew Creek Basin.*”

The only water entering Edmond Marsh and Sequalitchew Creek (other than direct precipitation and, in West Edmond Marsh, surface water runoff) after the effective severing of the connection between Sequalitchew Lake and Sequalitchew Creek Marsh in the mid-1950s has been groundwater discharge which enters the Marsh along its southeastern shoreline. The details of how this is so is explained in a companion paper titled: [Edmond Marsh Fact vs. Fiction](#)

The only time that native salmonid populations inhabited the upper Edmond Marsh reach of Sequalitchew Creek after severing Sequalitchew Creek Marsh from Sequalitchew Lake was during the time that the Washington Department of Fisheries (WDF) routinely removed all beaver dam impediments to east to west groundwater flow through Edmond Marsh.

After WDF discontinued routine removal of beaver dams in Edmond Marsh in 1998 the east to west flow of discharging groundwater through the Marsh ceased. What occurred instead was groundwater discharge induced flooding of the areas behind each beaver dam. Each successive year the beaver response to the overtopping of their dams has been to build them ever higher. At the present time the western most beaver dam located just above the wooden foot bridge stands approximately six to seven feet above Sequalitchew Creek’s existing cobble and gravel steam bed.

Photographic Proof of the Effect that Beaver Dams have on Sequalitchew Creek Flow

The upper photos on the following pages shows the 1997 late spring flow in Sequalitchew Creek at the time when WDF was removing beaver dams in Edmond Marsh (photos courtesy of Professor Jill Whitman of PLU). The lower photos show the present condition of Sequalitchew Creek (photos courtesy of Don Russell).



Students standing in 33 inches of running water (at 2 ft/sec) at the RR berm culvert in 1998



Stagnant water at this same location is 65 inches deep in 2014



Looking downstream from just north of the wooden foot bridge in 1997



Same view in 2014



Sequalitchew Creek looking upstream from Center Drive in 1997



Same view of the so called “dry reach” of Sequalitchew Creek in 2014



Sequalitchew Creek at Center Drive Over Pass in 1997



Same view in 2014



Looking downstream from Center Drive in 1997



Same view in 2014

In 1997 the students from PLU concluded that reed canary grass infestation was interfering with water flow and salmon passage in Sequalitchew Creek and that something should be done about this condition. So in 1998 the students returned to Sequalitchew Creek and participated with a number of DuPont citizens in an effort to remove reed canary grass and invasive riparian vegetation as illustrated in following two photos.



Sequalitchew Creek is in dire need of similar citizen involvement, stewardship and ongoing maintenance of Sequalitchew Creek and Edmond Marsh - Don Russell 6/2/14

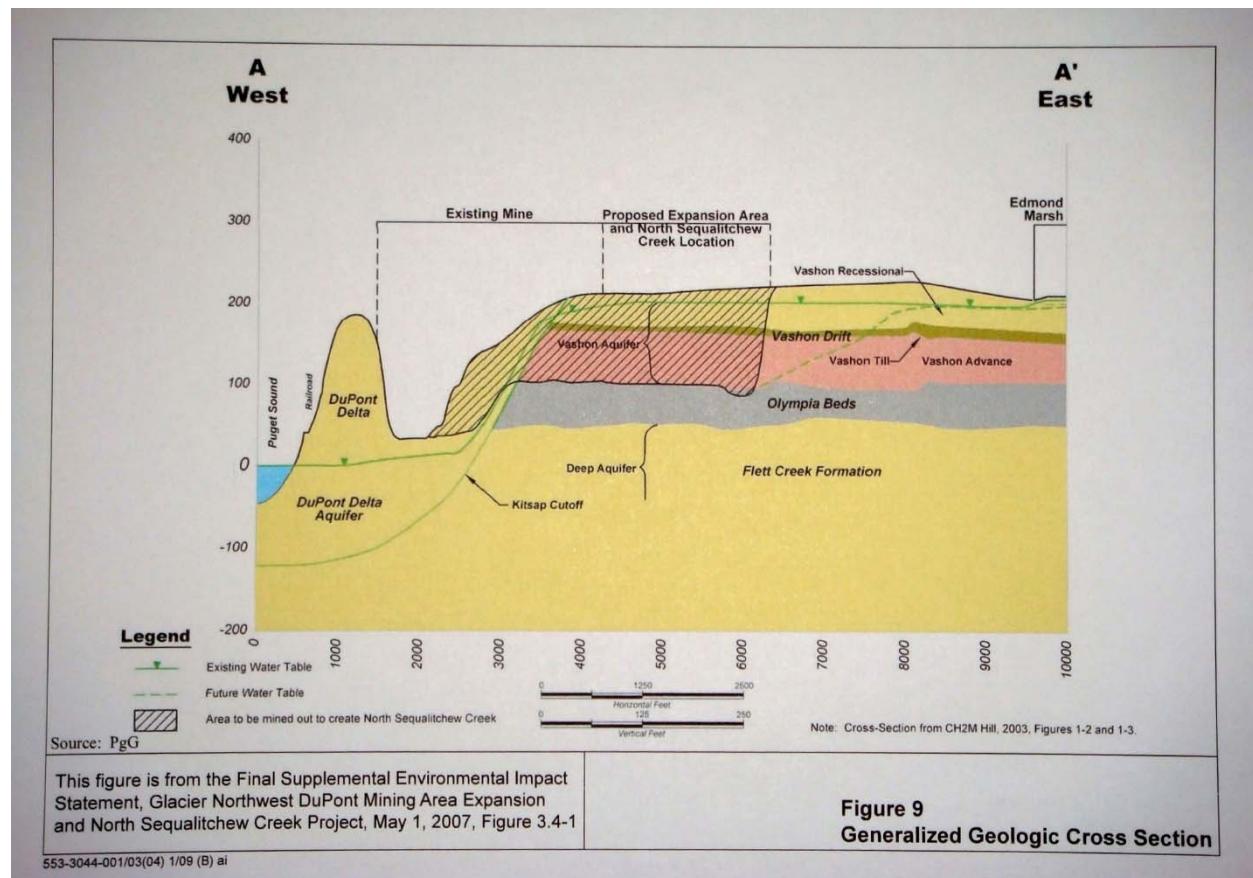
THE EFFECT OF DEWATERING THE VASHON AQUIFER

Preface

This paper is in response to Al Schmauder's question about the effect of CalPortland dewatering the Vashon aquifer to access groundwater saturated gravel in 117 acres of its present mine plus 177 acres in a south expansion area of its gravel mine. His question was: *If groundwater is withdrawn from the Vashon aquifer SE of Edmunds Marsh, wouldn't it dry up the marsh?*

The short answer to that question is Yes. A more detailed answer to the question is provided below.

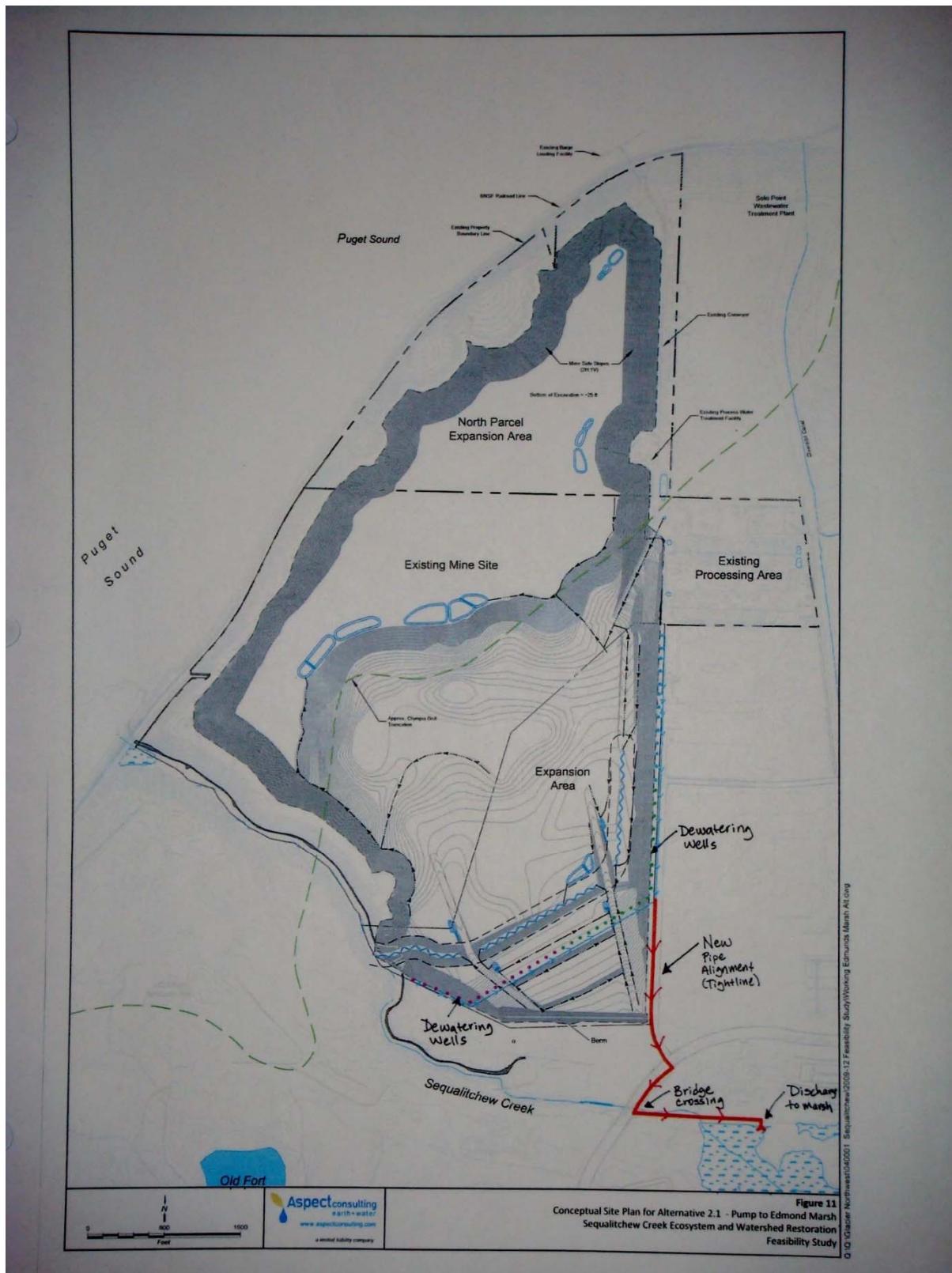
Pre and post Vashon aquifer groundwater level before, during and after dewatering



This is the cross section of the hydrogeology of the area. The green line with inverted pyramids shows the existing Vashon aquifer groundwater level. The green dotted line shows the Vashon aquifer groundwater level during and after CalPortland's dewatering of the area.

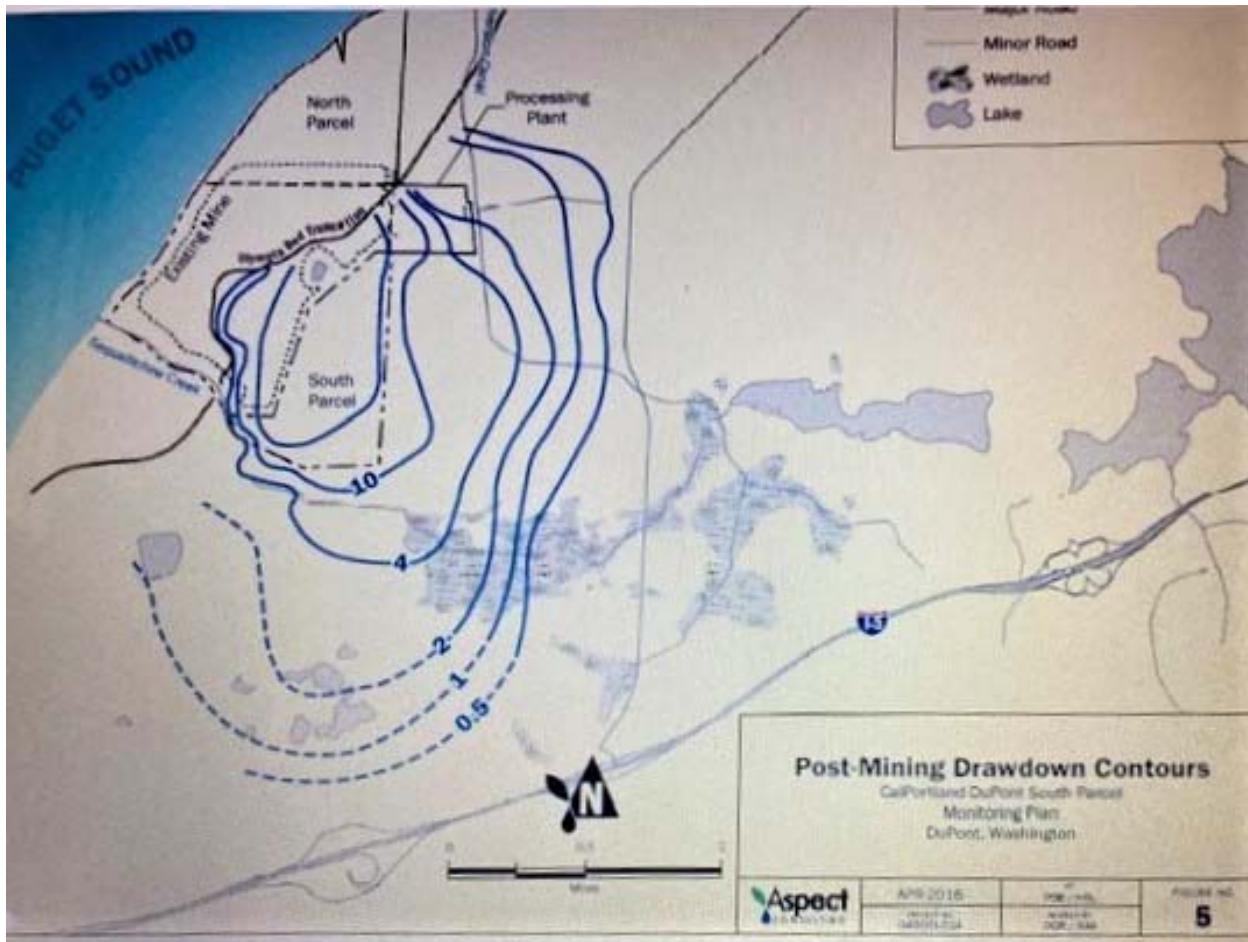
Note that the solid green line is shown as underlying and supporting groundwater that currently manifests itself as surface water in Edmond Marsh whereas after the dewatering pumps are turned off and removed that the Vashon aquifer groundwater level will be well below Edmond Marsh. Disconnect the groundwater that supports Edmond Marsh and it will dry up.

How CalPortland proposes to dewater the Vashon aquifer is show in the below illustration.



Note the extensive array of dewatering pumps around the south and east perimeter of the mine pit. Also note that the combined discharge of these pumps is discharged into Edmond Marsh.

This technique will provide substantial pumped groundwater flow from the west end of Edmond marsh and down the ravine reach of Sequalitchew Creek. However, once the dewatering pumps are turned off and removed water in Edmond Marsh and flow in the ravine reach of Sequalitchew Creek will disappear. The effect of dewatering on groundwater level is illustrated below.

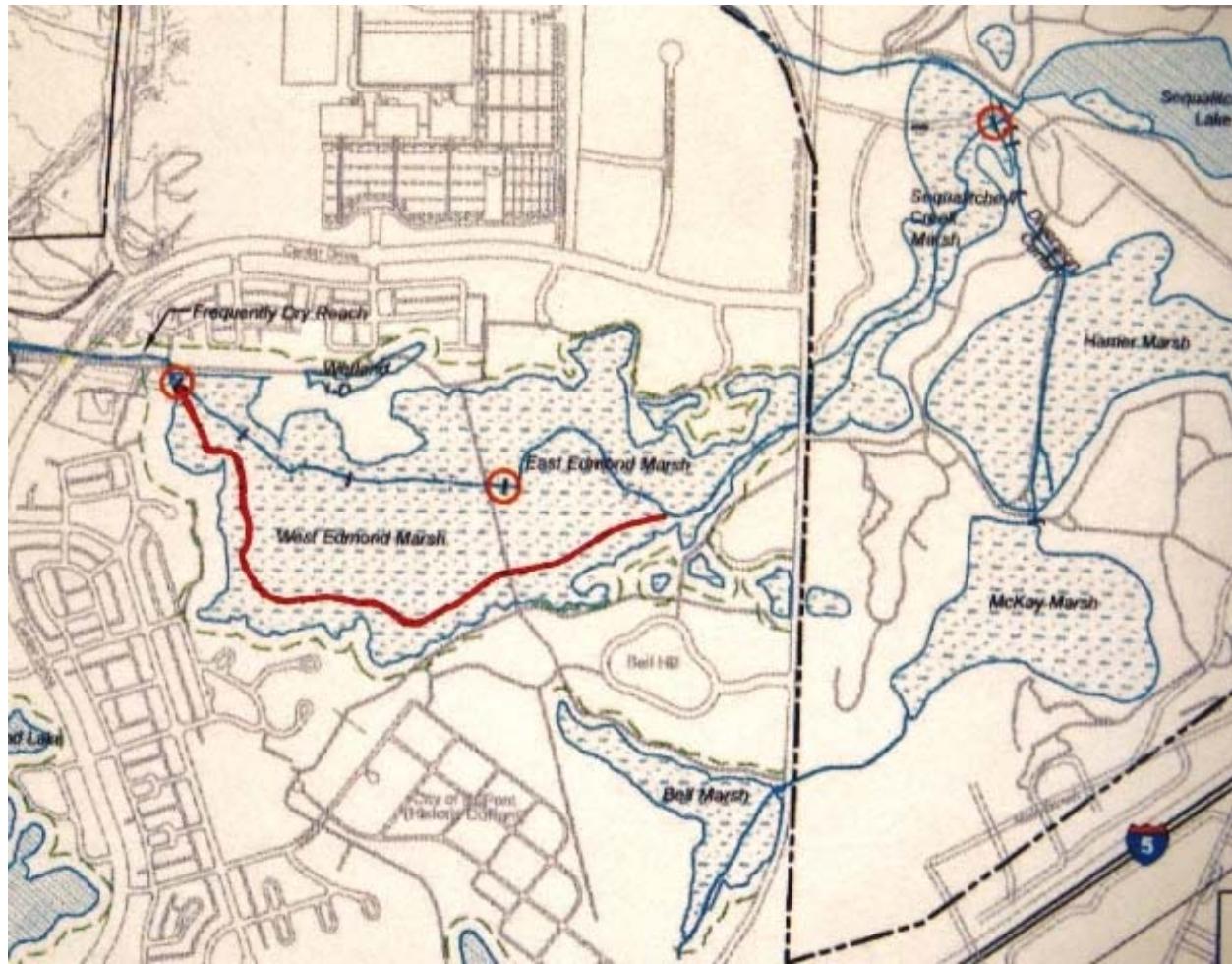


Consequence of permitting dewatering of the Vashon aquifer

It will only become evident when the dewatering pumps are turned off 14 years hence that the disastrous ecological effect will become evident to the Department of Ecology, Environmental Caucus members, Nisqually Tribe, WDFW, DNR and the citizens of DuPont.

There will be no viable salmon habitat in the Sequalitchew Creek sub watershed, no functional Edmond Marsh wetland, and no groundwater discharge flow in Sequalitchew Creek. In other words, the Sequalitchew Creek watershed will become as groundwater discharge deprived and dysfunctional as much of the Clover Creek subbasin watershed.

There is an environmentally friendly way of lowering the Vashon aquifer groundwater level beneath the South Parcel. That is, to intercept the southeast to northwest subsurface groundwater flow of the Vashon aquifer by constructing a groundwater interception and discharge fed Sequalitchew Creek all along the eastern boundary of Edmond Marsh as shown in red on the below illustration.



Such a constructed Vashon aquifer groundwater interception channel would assure perennial Coho salmon inhabitable groundwater discharge flow from east to west through Edmond Marsh and down the ravine reach of Sequalitchew Creek.

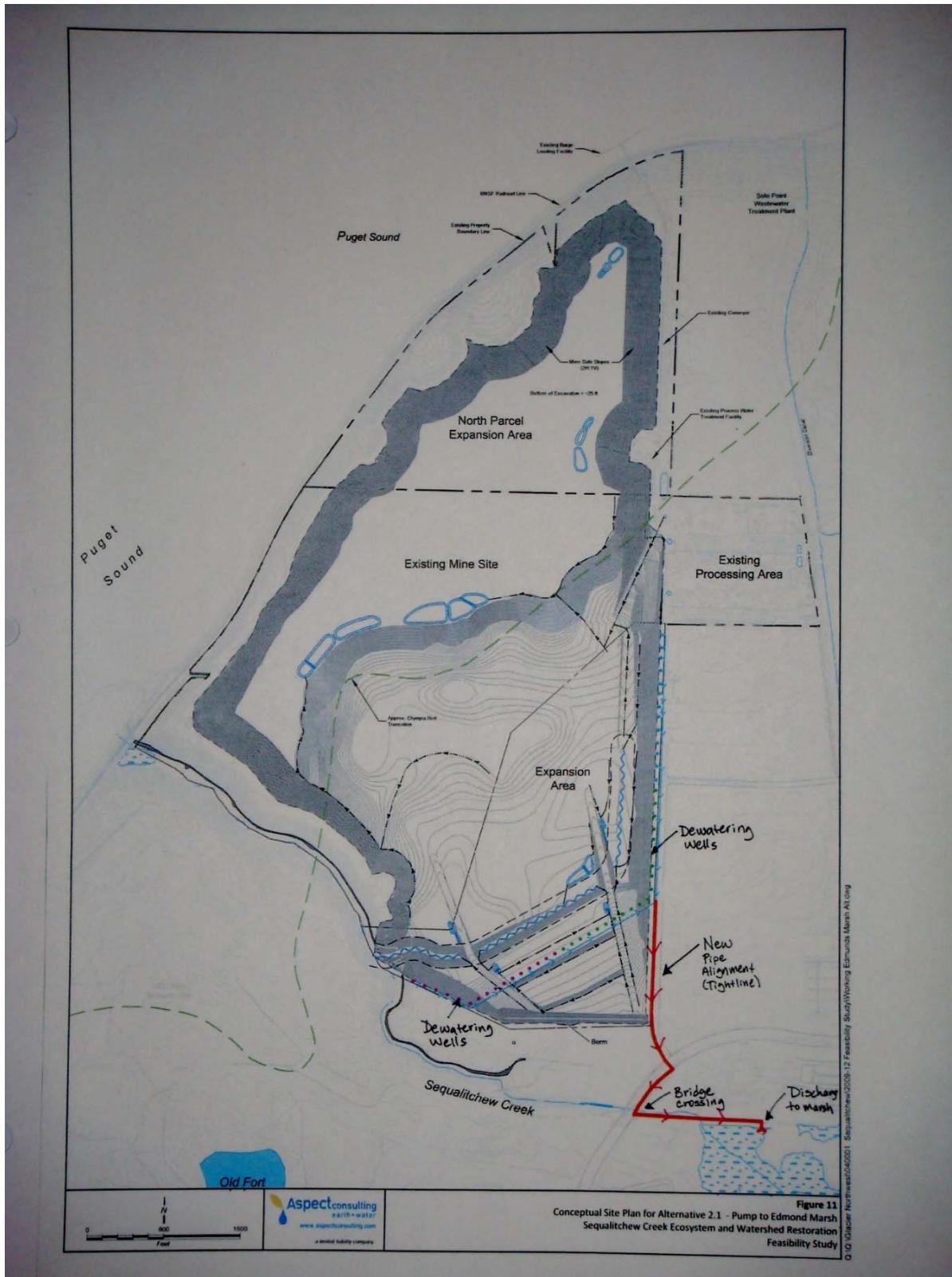
The notion that warm, low dissolved oxygen concentration surface water flow from Sequalitchew Lake and stormwater runoff polluted surface water flow from Bell, McKay and Hamer Marshes can restore a natural functioning Edmond Marsh wetland and upper flowing reach of Sequalitchew Creek is a fatally flawed.

Such a Plan as mitigation for the irreversible ecological damage that executing CalPortland's proposed dewatering of the Sequalitchew Creek sub basin watershed will have should be embraced by no one who is familiar with Coho salmon habitat requirements.

Don Russell

9/19/21

CALPORTLAND DEWATERING PROPOSAL

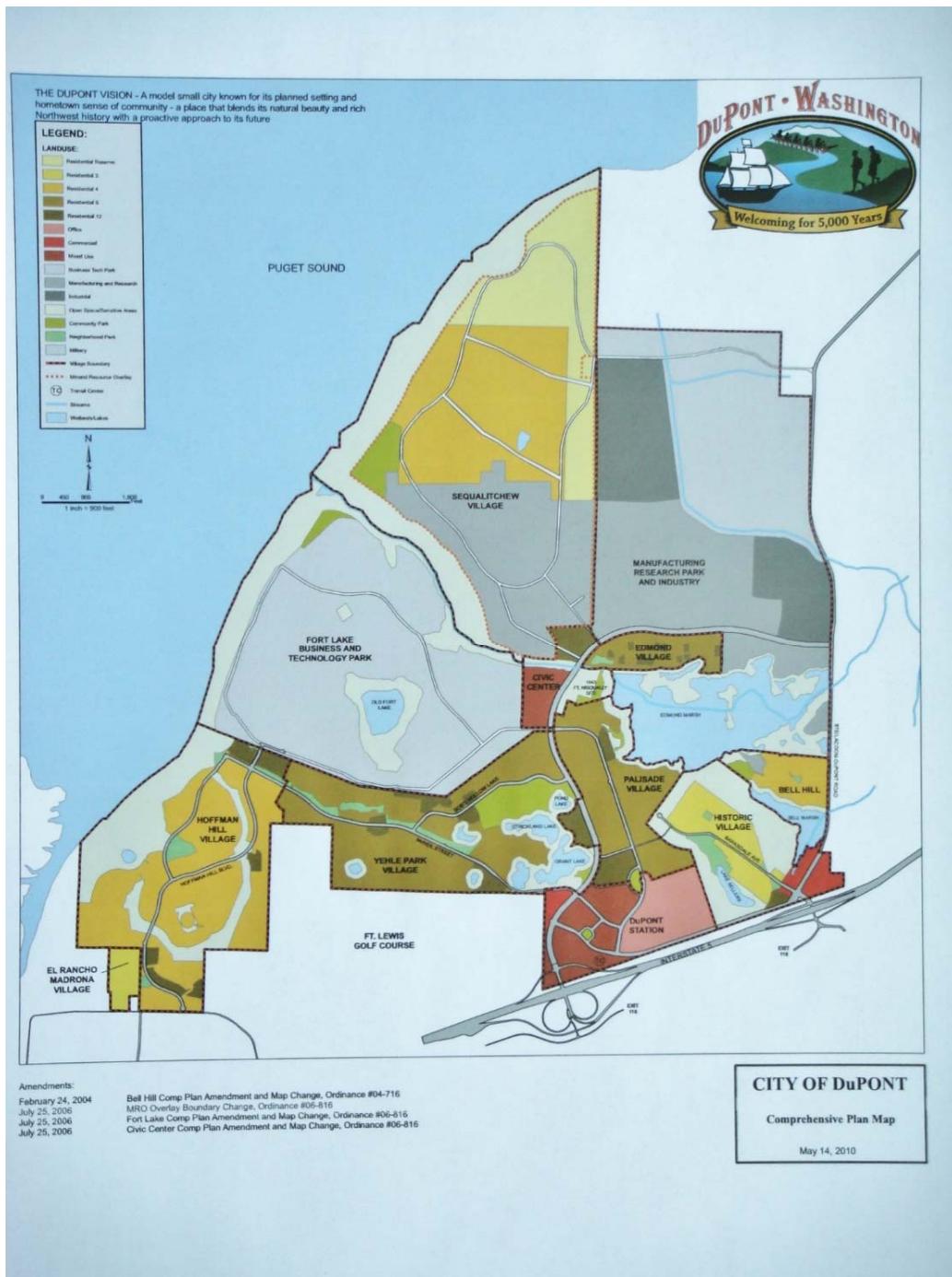


CALPORTLAND'S SEQUALITCHEW CREEK RESTORATION PLAN

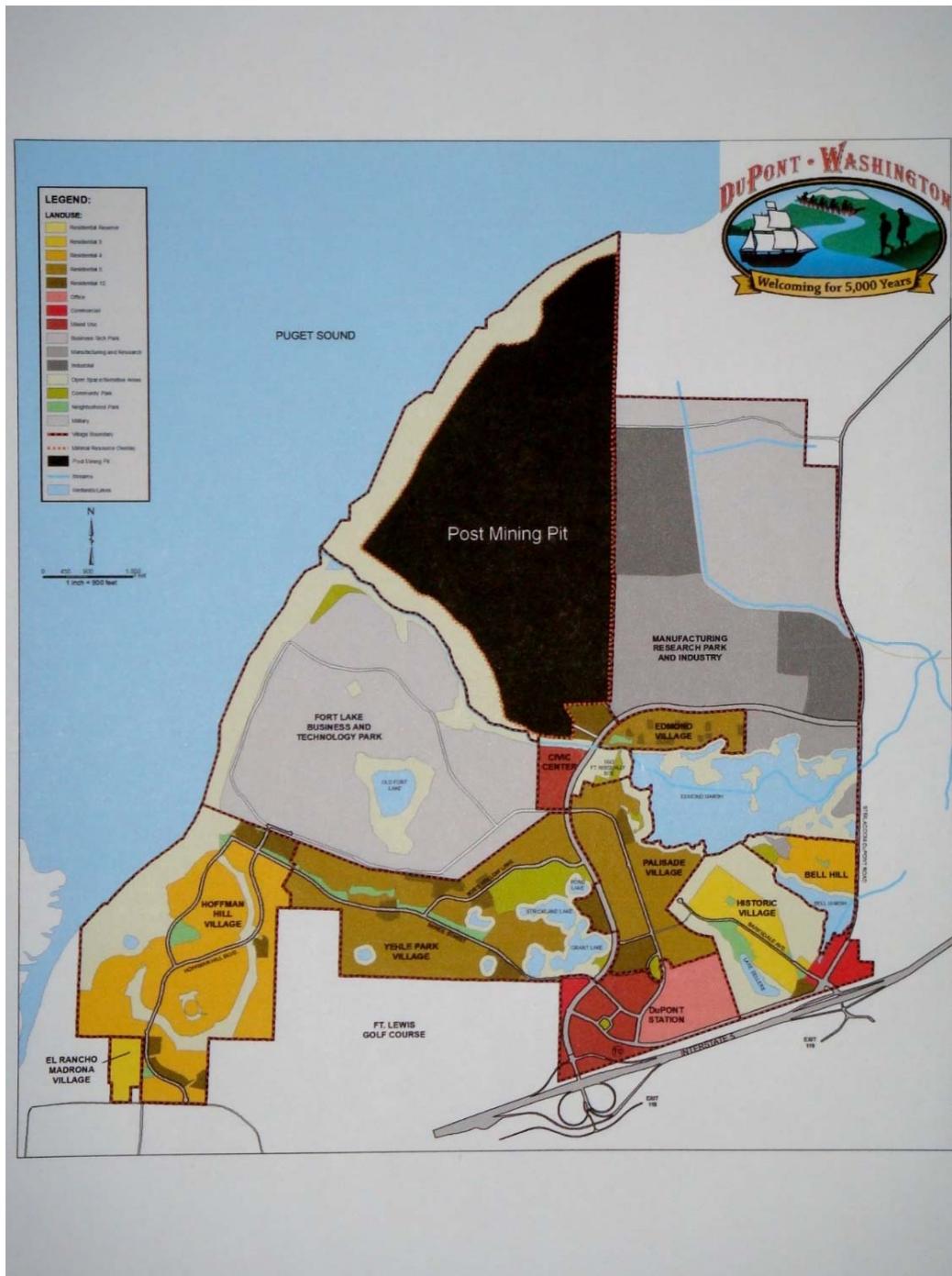
Preface

This paper describes how Weyerhaeuser and CalPortland (under its several alias) have succeeded in manipulating events, data and people into accepting their version of the future of a once forested 700 acres of prime DuPont real estate.

Weyerhaeuser's Vision as presented to DuPont's private property owners



Weyerhaeuser/CalPortland's Vision of 700 acres of prime DuPont real estate



CalPortland's proposal for reconciling these two contrasting and contradictory visions

In exchange for the City of DuPont issuing a conditional use permit to mine approximately 300 acres of Vashon aquifer groundwater saturated gravel contained within the footprint of its 700 acre gravel pit CalPortland has offered the City of DuPont a Sequalitchew Creek Restoration Plan that upon its implementation will render the site unfit for its intended future development.

Origin of the Sequalitchew Creek Restoration Plan

The CalPortland/Environmental Caucus/South Puget Sound Salmon Enhancement Group drafted Sequalitchew Creek Restoration Plan is the result of three decades of CalPortland's manipulation of events, data and people as chronicled below.

1993 DuPont Quality-of-Life Committee Newsletter

In June, 1993 a Neighbor to Neighbor citizen newsletter “*...dedicated to the great proposition that DuPonters have the right (and responsibility) to protect our quality-of-life and this region's historical and environmental integrity*” published an article in opposition to a proposed Weyerhaeuser/Lone Star DuPont 700 acre gravel mine.

The article is insightful since it described in detail Lone Star's (CalPortland) strategy for overcoming citizen opposition to its acquisition of a conditional use permit to mine gravel in land that it either leased or purchased in the City of DuPont under conditions that it dictated.

CalPortland's 1993 strategy was to provide DuPont's Planning Manager the necessary funding and consultants to draft a request that the City issue a conditional use permit to mine dry gravel in City designated mineral resource overlay areas and to convince the Mayor and City Council that approval of such a conditional use permit would benefit the City of DuPont. Should issuance of a conditional use permit to mine gravel be legally challenged by any outside party, i.e., citizens of DuPont or environmental advocacy group CalPortland would pay all the City's legal expenses necessary to defend the City Council's approval of issuance of a conditional use permit.

Application of this CalPortland strategy is manifest in all CalPortland manipulated events that have taken place since 1993. This strategy has been instrumental in determined the outcome of subsequent actions related to the development of the CalPortland/Environmental Caucus/South Puget Sound Salmon Enhancement Group drafted Sequalitchew Creek Restoration Plan. The Sequalitchew Creek Restoration Plan contains no relevant citizen stakeholder input.

Provisions of RCW 90.82 Watershed Planning assure that “*DuPonters have the right (and responsibility) to protect [their] quality-of-life and this region's historical and environmental integrity*” as codified below.

“*The purpose of this chapter is to develop a more thorough and cooperative method of determining what the current water resource situation is in each water resource inventory area of the state and to provide local citizens with the maximum possible input concerning their goals and objectives for water resource management and development.*” RCW 90.82.005

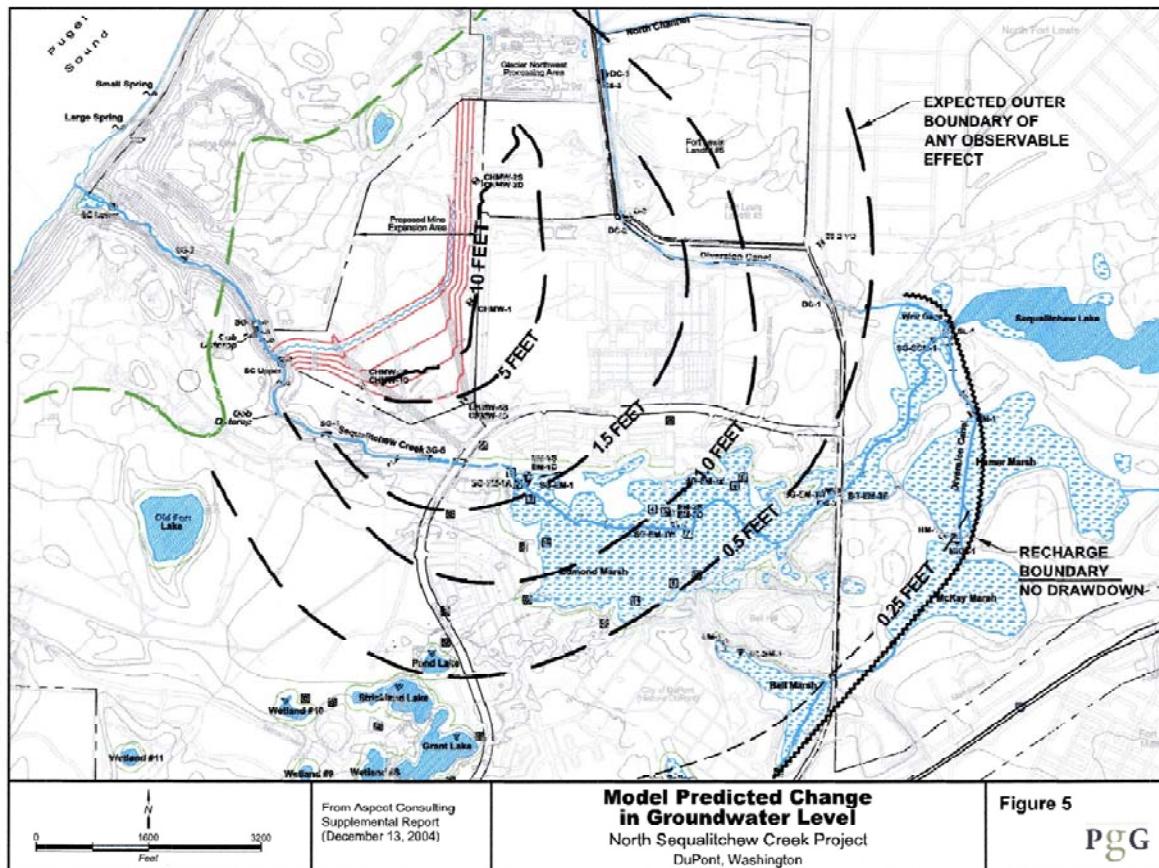
“*The local development of these plans serves vital local interests by placing it in the hands of people: Who have the greatest knowledge of both the resources and the aspirations of those who live and work in the watershed; and who have the greatest stake in the proper, long-term management of the resources.*” RCW 90.82.010

DuPonters have been denied “*the right (and responsibility) to protect [their] quality-of-life and [DuPont's] historical and environmental integrity*” contrary to provisions of RCW 90.82.

The 1994 Settlement Agreement

In 1994 in exchange for limited access and use of Weyerhaeuser owned land the City and several environmental advocacy groups (Environmental Caucus) entered into an Agreement that granted Lone Star (CalPortland) a conditional use permit to mine gravel in a 360 acre designated mineral resource overlay area. A key provision of that Agreement was “*WRECO and Lone Star agree to seek no permit in the future to mine...in a manner that would significantly impact the flow of Sequalitchew Creek.*”

During 2002-2006 Glacier Northwest (CalPortland) employed several consulting firms to study the hydrogeology of its existing 360-acre gravel mine and a proposed 170 acre south expansion area of its mine. The task was to come up with a plan (North Sequalitchew Creek) to access the Vashon aquifer saturated gravel that existed in 117 acres of its existing mine and in 170 acres of a leased south mine expansion area. These two areas were jointly referred to as the South Parcel.



The results of CalPortland consultants' studies are shown in the above illustration, i.e., a ground and surface water drainage ditch constructed at the base of the southeastern wall of the south mine expansion area. This in mine drainage ditch was intended to discharge its comingled groundwater and stormwater runoff through a cut in the southwestern mine wall and into lower Sequalitchew Creek. This proposal was called the North Sequalitchew Creek project.

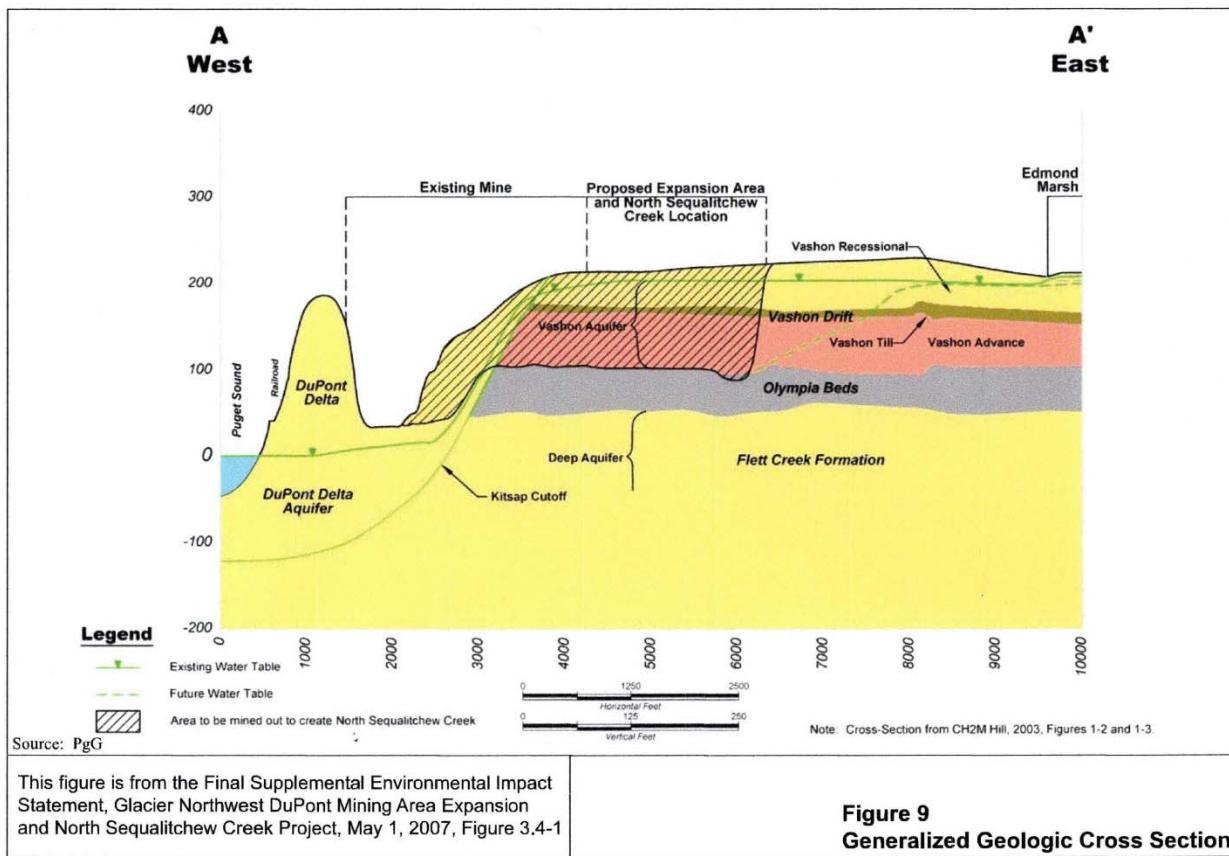


Figure 9
Generalized Geologic Cross Section

The above illustration shows the location of the proposed in mine breached Vashon aquifer groundwater and stormwater runoff interceptor drainage ditch (aka North Sequalitchew Creek) perched upon impervious post mining exposed Olympia Bed material (center of the illustration). Note also that the post mining condition exposes impervious Olympia Bed material westward to a 25 foot drop off into the pervious bottom of the existing CalPortland DuPont mine.

Expansion of DuPont's mineral resource overlay area

In 2006 CalPortland persuaded the DuPont City Council to designate the entire 700 area shown in black on the second iteration of DuPont's Comprehensive Plan Map as a mineral resource overlay area. It included the South Parcel and a CalPortland owned North Parcel.

2006-2008 The City of DuPont modifies its Comprehensive Plan

The modification was done to reflect the expanded mineral resource overlay area and facilitate the permitting of Glacier Northwest's mining of both the South and North Parcels.

2008 Nisqually Delta Association Intervention

On July 16, 2008 the Nisqually Delta Association asserted that the proposed expansion of Lone Star's (CalPortland) gravel mine violated section II.B.5 of the 1994 Settlement Agreement's

provision “...not to seek any permits to mine within the shoreline jurisdiction, within 100 feet of the top of the bank of Sequalitchew Creek, or in a manner that would significantly impact the flow of Sequalitchew Creek.”

On January 4, 2009, the Nisqually Delta Association sent a Notice of Breach of the 1994 Settlement Agreement and Request for Mediation to Glacier Northwest and the City of DuPont.

February 13, 2009 Don Russell submittal to DuPont's Hearing Examiner

In my submittal I expressed opposition to the City's issuing a conditional use permit to Glacier Northwest for mining the South Parcel as proposed by Glacier Northwest's consultants and as conditioned by DuPont's Planning Manager on several bases.

Glacier Northwest's proposal envisioned the creation of an in mine 4000 foot long drainage ditch (aka North Sequalitchew Creek) to intercept 6.5 million gallons per day of breached Vashon aquifer groundwater discharging from the face of the steep eastern bank of the expanded South Parcel gravel mine plus any stormwater runoff from 287 acres of exposed South Parcel Olympia Bed impervious surface. This comingled discharging groundwater and polluted surface water runoff would then be conveyed through 500 feet of pipeline bored through the south wall of the mine and discharge into the Sequalitchew Creek ravine. Above this point of discharge there would be no groundwater discharge supplied base flow in Sequalitchew Creek.

I noted that execution of the proposed North Sequalitchew Creek plan would result in the elimination of Kettle Wetland and Sequalitchew Creek canyon Seep and Riparian Forest wetlands in violation of several of DuPont's sensitive areas regulations and RCW 78.44 that states “...reclamation of mined lands is necessary to prevent or mitigate conditions that would be detrimental to the environment and to protect the general welfare, health, safety, and property rights of the citizens of the state.” The post mining condition of a dewatered DuPont gravel mine would be in violation of provisions of this RCW mandate.

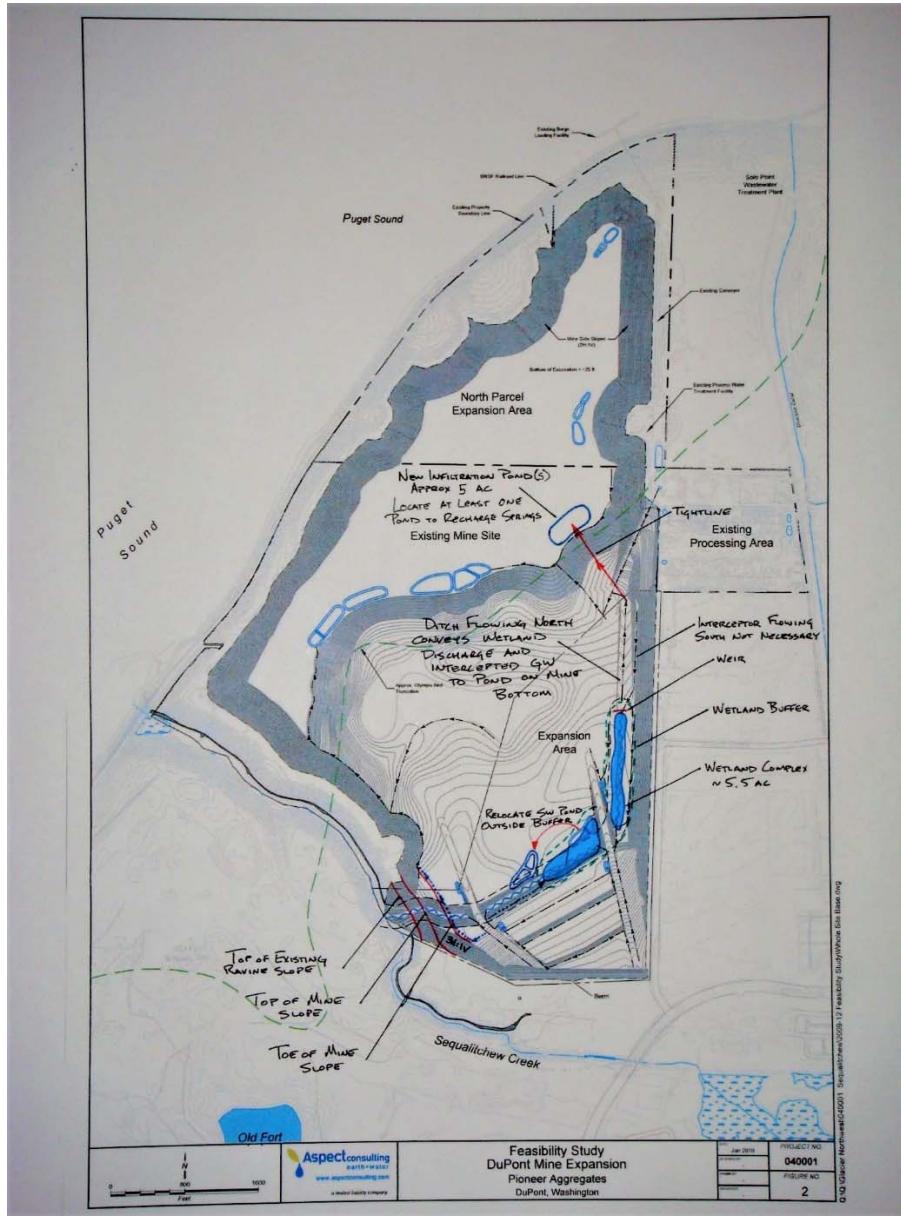
Subsequently a decision was made by the parties signatory to the 1994 Settlement Agreement to abandon the Hearing Examiner approach to resolving the dispute between the Nisqually Delta Association, Glacier Northwest (CalPortland) and the City of DuPont in favor of what became known as the Memorandum of Understanding/Feasibility Study process.

Memorandum of Understanding/Feasibility Study process

In 2010 CalPortland proposed that the concerned parties enter into a Memorandum of Understanding Agreement. This CalPortland drafted MOU Agreement contained the following provisions: (1) *This MOU reflects the parties understanding of the process that will be followed in an effort to avoid protracted litigation concerning the 1994 Settlement Agreement.* (2) *The purpose of the Feasibility Study will be to identify and evaluate potential alternatives for improving ecosystem functions in the Sequalitchew Creek's watershed. The parties expressly recognize that mine dewatering is one such an alternative, and* (3) *The parties will meet to develop a list of possible actions that would mitigate the potential impacts of the proposed project by improving, enhancing, or protecting ecosystem functions in the Sequalitchew Creek watershed.*

On February 2, 2010 I advised DuPont City Council to not enter into such an MOU/Feasibility Study Agreement on the basis that the CalPortland proposed North Sequalitchew Creek South Parcel mining proposal, if executed, would violate several DuPont sensitive area regulations and the post mining restoration provisions of RCW 78.44, as would any other dewatering proposal.

All of the identified and evaluated potential alternatives for improving ecosystem function in the Sequalitchew Creek watershed were fatally flawed. Nevertheless, one alternative was chosen as a result of the MOU/FS process. It was alternative 1.6 titled: Infiltrate a Portion of Dewatering and Post-mining Groundwater Discharge to Recharge Puget Sound Springs.



Derek Booth of Stillwater Sciences, consultant for the Environmental Caucus, described alternatives that proposed infiltration of dewatering water within the mine as: “*We find no basis to expect they will offer any net environmental gain and do not support their advancement.*”

I submitted a paper titled The Consequence of Dewatering the Vashon Aquifer to all parties to the MOU/FS Agreement that stated that the 1.6 alternative was more seriously flawed than was the original CalPortland proposed North Sequalitchew Creek dewatering proposal.

In September 2010 Ron Frederick requested that Mayor Jenkins form a citizen advisory group to advise the Mayor and City Council regarding growing citizen concern about CalPortland's undue influence on DuPont's Planning Manager and Hearing Examiner, the lack of application and enforcement of existing City of DuPont's sensitive area regulations, and the very limited opportunity afforded citizens to participate in the ongoing CalPortland/Environmental Caucus/City watershed planning process.

2011 Settlement Agreement

On June 24, 2011 Sally Toteff (DOE), Pete Stoltz (CalPortland) and Tom Skjervold (Nisqually Delta Association) announced "**Agreement reached on plan to help restore Sequalitchew Creek, allow new mining proposal.**" This Agreement essentially removed most of the constraints to CalPortland's obtaining a permit to mine dry (North Parcel) and Vashon aquifer groundwater saturated gravel (South Parcel) from CalPortland's expanded (from 360 acres under provision of the 1994 Settlement Agreement to 700 acres under provisions of the 2011 Settlement Agreement) DuPont gravel mine.

I advised DuPont Council members in numerous papers (one of which was titled: Grounds for Not Approving the Settlement Agreement) and via public testimony that the City should not become a signatory to the 2011 Settlement Agreement for a variety of reasons. All of which would significantly reduce the City's ability to bargain with CalPortland for significant benefits that would accrue to DuPont's residents, private property owners, visitors, and tourists.

On January 26, 2012, the City of DuPont Council authorized Mayor Grayum to sign on behalf of the City of DuPont the CalPortland lawyer drafted 2011 Settlement Agreement.

Sequalitchew Creek Restoration Plan

The 2011 Settlement Agreement required that the Sequalitchew Creek Restoration Plan incorporate the below five elements (as defined by CalPortland's consultants Aspect and Anchor) in order for the Plan to be approved by CalPortland and the Environmental Caucus.

4.1.1. Improvement of gradients so [surface] water discharges from Hamer and Bell Marshes flow into Edmond Marsh rather than into the diversion canal.

4.1.2. Improvements to create significant [surface water] flows from Sequalitchew Lake into the Edmond Marsh complex to support a functional creek ecosystem, and provide for the passage of migratory fish in the Sequalitchew Creek system. To achieve this goal, the Parties will consider, at minimum, modification of the diversion canal flood control structure and gradients.

4.1.3. Rehabilitation of Edmond Marsh by removal of sufficient fill and other flow impediments to provide the hydraulic gradients and capacity necessary to achieve and maintain adequate [surface water] flows through the Marsh.

4.1.4. Rehabilitation of Sequalitchew Creek below Edmond Marsh to reduce seepage, improve fish habitat, and help restore year-round [surface water] flows.

4.1.5. Active management of beaver activities to maintain the hydraulic gradients that provide [surface water] flows through Hamer, Bell, and Edmond marshes. For purposes of this section, “active management of beaver activities” means management commencing with the least intrusive method and progressing to more intrusive methods only as necessary to maintain hydraulic gradients and flows, with lethal removal utilized only as a last resort.

The above inserted bracketed words make it clear that CalPortland incorrectly assumed that Sequalitchew Creek is a surface water driven system. It is not. It is a groundwater discharge driven system. Herein lies the fallacious foundation of the CalPortland consultant drafted Sequalitchew Creek Restoration Plan.

Unfortunately, these CalPortland consultant prescribed elements were never vetted by others to determine whether or not they were grounded in a proper characterization of the 2011 condition of the Sequalitchew Creek watershed. What existed then (on the left) and what exists now (on the right) is best illustrated by a comparison of the two below photographs. In stream flows are dependent upon shallow aquifer groundwater levels. Ground water withdrawals (dewatering) are antithetical to surface water flow in the Edmond Marsh/Sequalitchew Creek ecosystem.



CalPortland’s consultants characterized the Sequalitchew Creek/Edmond Marsh complex as a surface water driven system. It is not. It was a groundwater driven system that over the years has been adversely impacted by ever declining Vahon aquifer groundwater levels and ever increasing quantities of stormwater runoff being discharged into this once pristine salmon bearing groundwater fed stream and associated wetland complex.

What CalPortland’s consultants monitored during the period from 2003 up until till 2011 and upon which the Sequalitchew Creek Restoration Plan was built no longer represents the condition of the Sequalitchew Creek watershed today. The Sequalitchew Creek Restoration Plan proposed by CalPortland’s consultants is not relevant to addressing today’s degraded condition of Edmond Marsh and what little is left of a naturally flowing and functioning Sequalitchew Creek.

A Relevant Sequalitchew Creek Restoration Plan

A relevant Sequalitchew Restoration Plan would recognize that a further and permanent lowering of the Vashon aquifer groundwater level beneath the Edmond Marsh/Sequalitchew Creek complex as proposed by CalPortland's dewatering proposal is antithetical to restoration of a groundwater discharge fed salmon bearing Sequalitchew Creek flowing through an associated groundwater sustained Edmond Marsh wetland.

The elements of such a plan would be the control of the surface water levels of upgradient groundwater fed, occasionally stormwater runoff polluted, Bell, McKay and Hamer Marshes so as to provide the necessary hydraulic head to cause water contained in these marshes to infiltration into the underlying groundwater that flows subsurface (not on the surface) to discharge into lower elevation level Edmond Marsh.

To facilitate the interception of this subsurface flow of groundwater and enhance the volume of its discharge into Edmond Marsh a Sequalitchew Creek channel should be constructed (dug) all along the eastern boundary of Edmond Marsh by CalPortland. This is the proper location for constructing a discharging Vashon aquifer groundwater intercepotor channel, not at the bottom of a breached Vashon aquifer groundwater discharge/stormwater runoff flooded gravel mne pit!

Action Required

The Mayor and City Council should start acting on behalf of the citizens of the City of DuPont that they represent instead of acceding to CalPortland's under threat of "*protracted litigation*" demands.

The proposed Sequalitchew Creek Restoration Plan offered by CalPortland is a bright and shiny bauble to attract attention away from the fact that its execution will cause permanent and irreversible environmental harm to a groundwater disconnected Edmond Marsh/Sequalitchew Creek complex and a lost opportunity for what could become a salmon bearing Sequalitchew Creek flowing through the center of the City of DuPont.

If the proposed CalPortland Sequalitchew Restoration Plan is executed not only will Edmond Marsh/Sequalitchew Creek be lost forever, DuPont private property owners will be paying to operate and maintain an in mine facility to handle 6.5 million gallons per day of discharging groundwater comingled with a like quantity of polluted stormwater runoff in an area designated by the City to become Sequalitchew Village residential and industrial area real estate.

Conclusion

I have written and circulated numerous papers on the proper characterization of the Edmond Marsh/Sequalitchew Creek complex, how Mother Nature intended this complex to work, how the actions of humans have impaired its natural function, almost beyond the ability to restore it, and, importantly, how at this late date this complex can be restored as desirable salmon habitat, an aesthetic ammenity to be enjoyed by the citizens of DuPont, and a popular tourist destination.

References

1953 Graduate (BS) of the University of Washington School of Fisheries, high school biology teacher, chemist, 21 year Pierce Conservation District volunteer stream and lake water quality monitor, long time member of the Chambers-Clover (Sequalitchew) Creek Wateshed Council (serve on its executive committee and as its former technical director), for seven years (2008-2014) observed, photo documented, took and analysed water samples from Sequalitcheww Lake, Edmond Marsh, Sequalitchew Creek and related marshes and authored numerous papers on the condition of the Sequalitchew Creek watershed and what would be required to restore its lost beneficail uses for salmon and people.

February 13, 2009 Letter to DuPont Hearing Examiner opposing Pioneer Aggregate-Glacier Northwest Mine Expansion into 180 acres of forested land located adjacent to and southeast of its existing and approved by the 1994 Settlement Agreement 360 acre DuPont gravel (aggregate) mine.

February 25, 2009 paper titled: DuPont's Approval of Glacier Nothwest's Mine Expansion. This paper properly characterized the Edmond Marsh/Sequalitchew Creek ecosystem and cited the adverse environmental impacts that permitting CalPortland to expand its mining operations into 177 acres in a south extention would do to the environment.

June 28, 2009 paper titled Why Should the City of DuPont Care? This paper asks and answers the question "Why should the City of DuPont care about CalPortland's proposal to dewater the Vashon aquifer so that it can remove aggregate in an area of the City zoned for residential and industrial use?"

December 14, 2009 paper titled An Analysis of Glacier Northwest's MOU Strategy

January 10, 2110 Letter to Dawn Masko, DuPont City Administrator raising questions about the propriety of DuPont's Land Use Administrative Practices, i.e., specifically concerns about the City's practice of severly limiting public participation in land use decisions.

February 2, 2010 paper titled In Responseed to GN's MOU Preliminary Draft Feasibility Study

February 4, 2010 paper titled Restoration of the Sequalitchew Creek Watershed

February 10, 2010 Stillwater Sciences Technical Memorandum that comments on the feasibility of each of CalPortland/Core Group's proposed dewatering alternatives. None were adequate.

May 17, 2010 paper titled The Consequence of Dewatering the Vashon Aquifer.

September 2, 2010 paper titled An Examination and Evaluation of Alternative 2.1.6 Infiltrate Stormwater and Groundwater Discharges to Recharge Puget Sound Springs. Followed by a paper titled Glacier Northwest's MOU/FS Strategy viewed in Context

October 1, 2010 Mayor Jenkins establishes a Sequalitchew Creek and Edmond Marsh Committee chaired by Ron Frederick to advise her about the environmental condition of Sequalitchew Creek and land use practices and regulations that might protect the ecosystems of Sequalitchew Creek and Edmond Marsh from irreparable damage. I respond with an October 3, 2010 letter that addresses the subject The effectiveness of mitigation vs no impact in wetlands permitted citing the six goals of the Puget Sound Partnership that would be violated if DuPont issued a permit to CalPortland to dewater the Vashon aquifer. This was followed up by a October 8, 2010 paper titled Science and CalPortland's Dewatering Proposal

October 11, 2010 Letter advising a group of concerned DuPont citizens about CalPortland's Track Record of Promises vs Its Performance. This letter concluded with the statement that: *"There is simply no mitigation that will offset the permanent adverse impacts that will occur to Edmond Marsh and Sequalitchew Creek should CalPortland be permitted to dewater the Vashon aquifer!"*

October 22, 2010 paper titled Edmond Marsh and Sequalitchew Creek Watershed. This paper was written in response to the Mayor appointed Edmond Marsh and Sequalitchew Creek Committee's quest to understand the current environmental condition of Edmond Marsh and Sequalitchew Creek and the measures needed to preserve, protect and restore their historical function and values.

November 12, 2010 paper titled Misconceptions and Clarifications. This paper was written to address certain misconceptions and clarifications about citizen and governmental agency response to CalPortland's proposed expansion of its DuPont gravel mining operations.

November 25, 2010 paper titled Origin and History of the Diversion Canal

January 11, 2011 paper titled Message to DuPont City Council and Mayor This paper described the inferior position of citizen interests vis a vis the superior position of the Mayor and City staff in determining the fate of environmental conditions in the City of DuPont, i.e., the existence of an inverted power pyramid.

March 14, 2011 DJR discovery of the source of iron pollution in West Edmond Marsh

May 15, 2011 DJR commentary on the environmental impact on Sequalitchew Creek of the construction of Creekside Village and Center Drive access road modification.

July 6, 2011 paper titled Commentary on the Settlement Agreement sent to Mayor and Council members with an attachment titled CalPortland's Promises vs Its Performance noting that CalPortland has a poor track record of fulfilling its promises as evidenced by its violation of provisions of the 1994 Settlement Agreement and DNR provisions of its mining permit.

July 8, 2011 paper titled The Untold Story Behind the Settlement Agreement

July 9, 2011 DJR refutes Ecology's claim that there will be no adverse impact on the City of DuPont's domestic water supply as a result of permitting CalPortland to dewater the Vashon aquifer.

Sometime in July 2011 the October 1, 2010 Mayor appointed Sequalitchew Creek/Edmond Marsh Committee issues its Final Report. It contained 10 Recommendations on how the City of DuPont and its citizens can work together to provide protection of its valuable natural resources.

August 2, 2011 paper titled Grounds for Not Approving the Settlement Commentary on Settlement Agreement submitted to the Mayor and City Council members.

September 2, 2011 DJR Letter to Sally Toteff (Ecology) with copies to City Council members complaining about the brief amount of time allowed five citizens to speak of their opposition to the City Council authorizing the City of DuPont Mayor to become a signatory to the 2011 Settlement Agreement.

September ?, 2011 Gendler and Mann (attorneys) letter to Mayor Jenkins and City Council stating: *"You may believe that the Settlement Agreement does not bind you to any specific course of action and that you may therefore approve it prior to your review of the SEPA analysis. This belief is wrong for at least two significant reasons. First and foremost, ask yourselves the simple questions - if the Settlement Agreement does not bind the City to any course of action, then why are you signing it? Why does CalPortland want you to sign it? The answer should be obvious -by committing itself to the Settlement, the City is giving at least the appearance of cooperation and that it will issue the future permits. Indeed, the Settlement Agreement confirms in Section 12 that "based on existing information and analysis the Governmental parties believe they can issue permits consistent with this agreement." But the City is not in "believe" that permits may be issued for this project - especially at this early date. The City owes to itself and its citizens the responsibility and duty to remain absolutely and completely neutral."* The letter went on to state: *"The City should decline to participate in the Settlement. The City should instead follow the process set out by SEPA and its implementing regulations, and, prior to making any decisions on CalPortland's proposal, fully educate itself on the complete environmental ramifications of your decisions."*

September 6, 2011 DJR Power Point presentation titled Hydrology and Geology of DuPont.

September 27, 2011 DJR addresses the Mayor and City Council expressing opposition to the City signing the 2011 Settlement Agreement since it would commit the City staff to support CalPortland's quest to dewater and mine the South Parcel. That address is documented in a paper titled Public Hearing Comments on the 2011 Settlement Agreement.

September 30, 2011 DJR Power Point presentation titled Commentary on Settlement Agreement

October 2, 2011 Diana Barbera Letter published in The Suburban Times bearing the title DuPont Resident opposes [2011 Settlement] agreement.

January 26, 2012 paper titled Final Comments on the 2011 Settlement Agreement citing reasons why the City Council should not authorize the Mayor to become a signatory to the 2011 Settlement. It concluded by stating: “*...the role of the DuPont City Council should be to preserve, protect, restore and enhance the wellbeing, property values and quality of life for the citizens of DuPont by not approving the 2011 Settlement Agreement which promotes the commercial interests of CalPortland whose expanded South Parcel mining activities would diminish the value of all that the citizens of DuPont cherish about their City.*”

On January 26, 2012, the City Council voted in favor of authorizing the Mayor to sign the 2011 Settlement Agreement that pledged the City to support CalPortland’s 1994 to 2011 quest to obtain a permit to dewater and mine the South Parcel.

January 29, 2012 DJR submits a Letter to the Editor of The Suburban Times under the banner The Consequence of the City of DuPont Council Approving the 2011 Settlement Agreement. That article concluded with the statement: “*There is no mitigation that will offset the adverse impacts that lowering the groundwater level in DuPont to facilitate mining saturated gravel in 117 acres of CalPortland’s existing mine and in 180 acres of a leased south expansion area collectively known as the South Parcel will have on the natural function of Edmond Marsh, Sequalitchew Creek, Kettle Lake (to be eliminated), Sequalitchew Creek Ravine Riparian Forest and Springs and Puget Sound Shoreline Springs all of which are dependent upon their connectivity to and continuity with Vashon aquifer groundwater.*”

What followed in subsequent years was CalPortland’s consultants (Anchor and Aspect), Nisqually Delta Association (Tom Skjervold) and South Puget Sound Salmon Enhancement Group (Lance Winecka) discussions on how to implement provisions of CalPortland lawyers’ crafted 2011 Settlement Agreement. These discussions were closely held, resulting in precluding any DuPont citizen and concerned watershed stakeholder input. What emerged from these discussion was the CalPortland consultant crafted Sequalitchew Creek Restoration Plan.

In 2017 I provided the City of DuPont a proposed City managed Edmond Marsh/Sequalitchew Creek restoration plan. This plan was based upon a proper characterization of the condition of the Edmond Marsh and Sequalitchew Creek ecosystem. It was titled Edmond Marsh Fact vs [CalPortland’s] Fiction.

Bottom line: CalPortland’s proposed Vashon aquifer dewatering interception channel should be constructed by CalPortland paralleling the eastern shoreline of Edmond Marsh and be named coho salmon friendly groundwater fed Sequalitchew Creek and its off channel associated Edmond Marsh wetlands. It should not be located at the bottom of a mined out gravel pit that is subsequently slated to be developed as Sequalitchew Village (featuring Kettle Lake) and light industrial park that does not experience, in perpetuity, continuous groundwater discharge exacerbated by intermittent stormwater runoff flooding events.

Don Russell

November 15, 2020

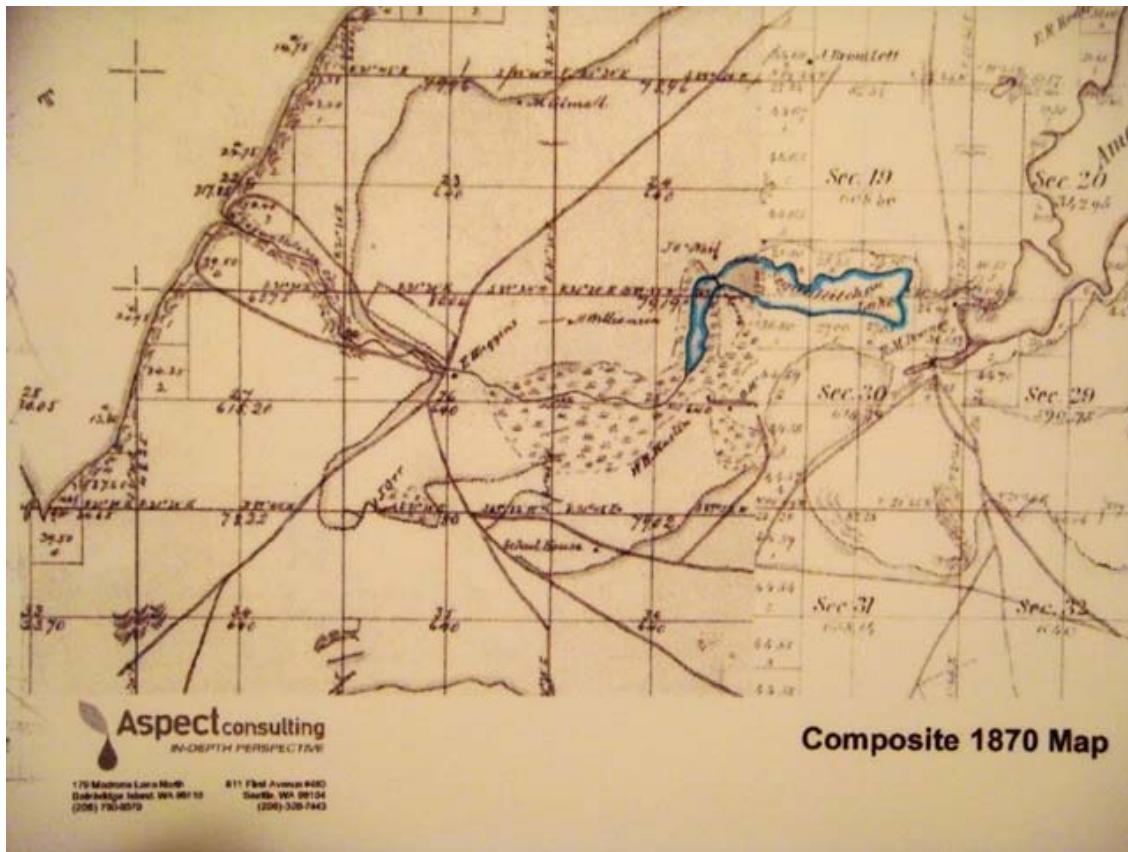
EDMOND MARSH FACT VS FICTION

Preface

This paper contrasts Edmond Marsh fact with CalPortland consultants' Sequalitchew Creek Watershed Restoration Plan's fictitious characterization of Edmond Marsh.

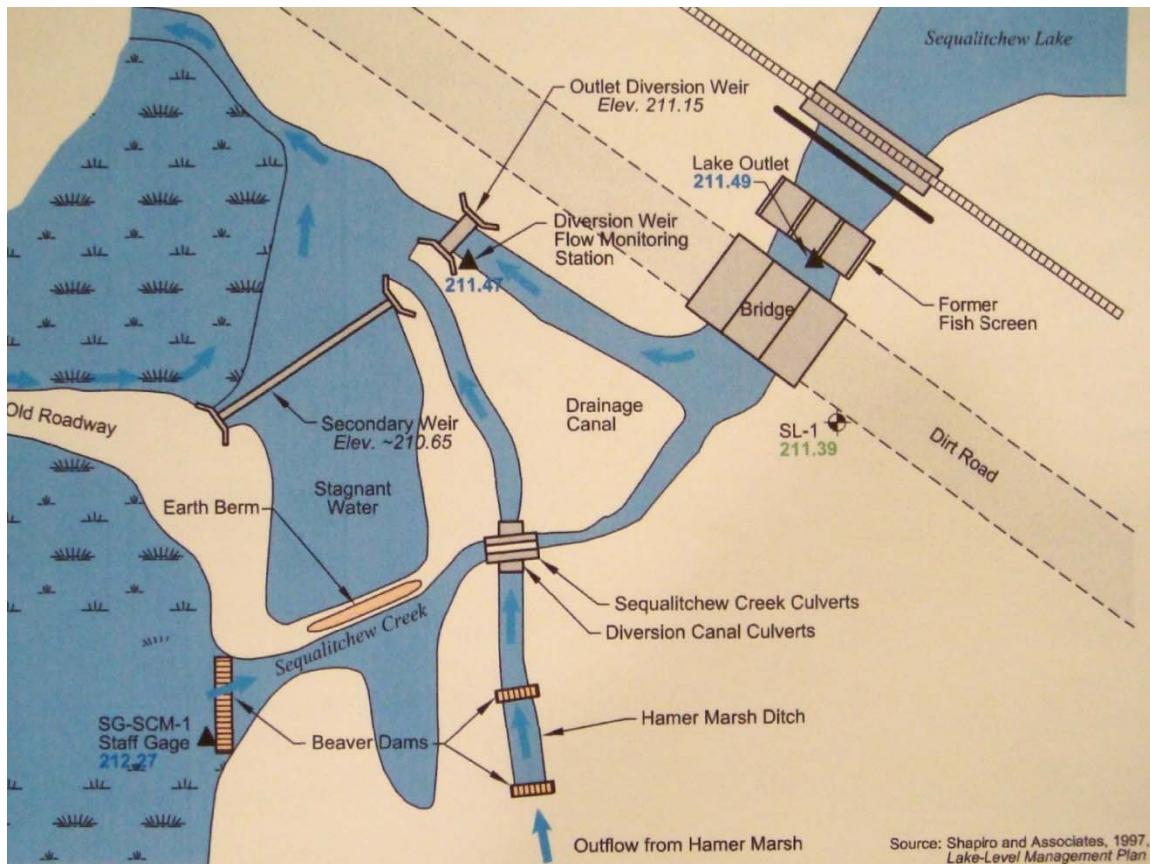
What was?

The historic condition of Edmond Marsh was a Sequalitchew Lake that had a southern appendage that extended to DuPont-Steilacoom Road. Water from groundwater fed Sequalitchew Lake flowed into a spawning gravel bed and groundwater fed Sequalitchew Creek at this point and continued as a flowing salmon bearing Sequalitchew Creek all the way to Puget Sound. Adjacent to Sequalitchew Creek were groundwater fed and seasonally connected wetlands as shown in this early map of the area. This area teemed with coho salmon and steelhead.



What happened to what was?

The historic connection of Sequalitchew Lake with Sequalitchew Creek was severed in the mid-1950s as a result of construction of the diversion canal (a dewatering channel), a Sequalitchew Lake level control weir and cross over culverts as noted in the following illustration.



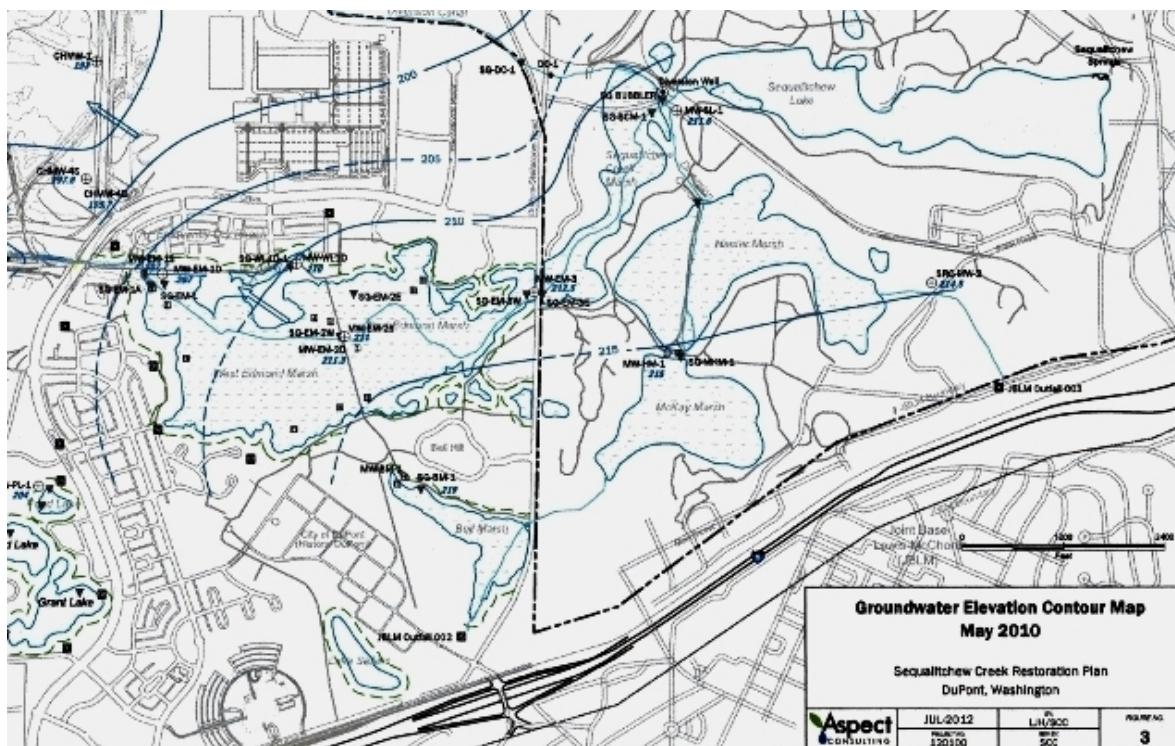
Note that the surface water level at the extreme east end of Edmond Marsh (lower left) is higher (212.27) than the Sequalitchew Lake controlled water level at the outlet diversion weir (211.47). Also note that the arrow at the east end of Edmond Marsh shows flow from the Marsh through the beaver dam eastward toward Sequalitchew Lake. Contrary to the 2011/2012 Settlement Agreement's and Sequalitchew Creek Watershed Restoration Plan's assertion, this is proof that surface water flow from level controlled Sequalitchew Lake into Edmond Marsh is not the source of Edmond Marsh's water, nor has it been since construction of the diversion canal, Sequalitchew Lake surface water level control weir and cross over culverts in the mid 1950's.

The beaver dam shown above at located SG-SCM-1, which is at the extreme east end of Edmond Marsh, is preventing water in Edmond Marsh from flowing eastward into the diversion canal outlet of Sequalitchew Lake rather than preventing surface water from Sequalitchew Lake flowing into Sequalitchew Creek. Former Sequalitchew Creek located westward of this dam is now inundated by the several feet of groundwater flooding that is occurring in Edmond Marsh as a result of a series of beaver dams that block east to west flow through Edmond Marsh.

The diversion canal whose bottom is several feet below Sequalitchew Lake's controlled surface water level functions to dewater groundwater beneath what is shown on this illustration as "Sequalitchew Creek", thus it has become a losing reach rather than gaining reach.

What is the source of Edmond Marsh's water?

The below Aspect illustration clearly indicates that the source of water in Edmond Marsh is groundwater that is discharging into Edmond Marsh. You will note that the groundwater level along the southeast shore line of Edmond Marsh is at an elevation of 215 feet whereas the surface water level in central Edmond Marsh is at approximately 213 feet due to beaver dam impoundment. Water level in Sequalitchew Lake is controlled at approximately 211.5 feet. Surface water flow from Sequalitchew Lake into Edmond Marsh is not and cannot be the source of water in Edmond Marsh since water does not run uphill.



Groundwater is entering Edmond Marsh all along its southeastern shoreline. Beaver dams, culverts and the railroad berm obstructions to east to west water flow through Edmond Marsh has resulted in inundation of former Sequalitchew Creek, its adjacent wetlands and caused extensive flooding of areas of former dry land. These same obstructions to east to west flow have created stagnant pools of water that have high dry season water temperatures, low dissolved oxygen, low pH, high concentrations of dissolved methane gas and in West Edmond Marsh high concentrations of dissolved and particulate iron and a recipient (i.e., detention and infiltration pond) of storm water runoff from Palisades Village.

What are the action elements of a fact based restoration plan?

A restoration plan for the Sequalitchew Creek watershed that is based upon an understanding of the *hydrology* of the area, *native salmonid habitat requirements* and the *conditions* that now

adversely impact water quality and salmonid habitat in the Sequalitchew Creek watershed would embody the following essential action elements executed in the sequence proposed.

Phase 1. Remove culvert by City Hall and walkway beneath Center Drive

Restoration action should start with simultaneous removal of the culvert beneath the berm located in the vicinity of City Hall and its replacement with either an open box culvert or a foot bridge and removal of the sidewalk beneath the Center Drive overpass. Both of these actions should be undertaken and completed before removing existing beaver dams. The culvert and sidewalk are physical obstructions to flow in a surface water drainage ditch (euphemistically referred to as a “dry reach of Sequalitchew Creek”) that should be removed as an integral part of the City’s obligation to properly design, construct, operate and maintain its surface water management system. DuPont city codes recognize such drainage ditch work as necessary and highly desirable. Furthermore this work can be undertaken as soon as practical without an HPA permit since no in water work of a salmon bearing stream is involved. Such an opportunity will be negated by releasing up gradient beaver dam impound water prior to this work being completed.

Compare this fact based Phase 1 approach with the fiction based Sequalitchew Creek Watershed Restoration Plan that advocates removal of Edmond Marsh’s eastern most beaver dam that prevents water in Edmond Marsh flowing eastward and draining into the diversion canal and placing pond levelers in the balance of Edmond Marsh’s beaver dams! Beaver dam ponds are the proximate cause of water flow and water quality problems in Edmond Marsh!! The Restoration Plan’s stated Vision, if it is to be realized, requires that all beaver dams, culverts, sidewalk below Center Drive and the railroad berm obstructions to east to west flow of discharging groundwater and salmon passage be removed.

Phase 2. Remove westernmost beaver dam, then those eastward, except eastern most

Once removal of the culvert and side walk impediments to surface water runoff flow is accomplished the western most West Edmond Marsh beaver dam should be removed (not provided with a pond leveled) so that the pond that it contains is lowered to its pre beaver dam impact level. Following its removal the next upstream Edmond Marsh beaver dam should be removed. This sequencing of beaver dam removals should proceed until all beaver dam impediments to east to west flow are removed from East and West Edmond Marsh. The eastern most beaver dam should remain in place unless it is established that surface water flow from Sequalitchew Lake is necessary to augment groundwater discharge flowing into Sequalitchew Creek Marsh/East Edmond Marsh/West Edmond Marsh is inadequate to achieve sufficient flow from groundwater discharge alone.

The result of beaver dam removal and clearing existing culverts will be a lower surface water level throughout Edmond Marsh (its historic condition) and restoration of a significant and unimpeded east to west flow of a seasonally fluctuating in quality, quantity and mix of surface and ground water flowing through the system. Beaver dam removal and the clearing of existing culverts will enhance water flow through Edmond Marsh to the extent that accumulated fine grained sediment contained in groundwater fed areas of Edmond Marsh will be flushed out of the Marsh and become the “seal” material to reduce surface water infiltration losses in the “dry reach

of Sequalitchew Creek”, thus assuring enhanced surface water flow through this “dry” drainage ditch mid reach of Sequalitchew Creek.

Phase 3. Remove south end of railroad trail, span with bridge

Once water levels are lowered in East and West Edmond Marsh as a result of beaver dam removal and existing culverts are cleaned out, the south end of the railroad berm trail should be removed and the gap spanned by a pedestrian bridge. This is the one major capital project that will require design, HPA permitting and construction. When this final obstruction to east west flow in Edmond Marsh is completed historic groundwater fed, gravel bed, meandering Sequalitchew Creek (as described in The 1997 Chambers-Clover Creek Watershed Management Committee Watershed Characterization report) will reestablish itself along the southeast shoreline of Edmond Marsh and native salmonid will once again inhabit the low gradient glacial flood plain upland portion of the Sequalitchew Creek watershed.

Conclusion

The three illustrations contained in this paper are from CalPortland’s consultants Anchor and Aspect. These consults have been providing technical advice to the South Puget Sound Salmon Enhancement Group representative Lance Winecka and Core Group members. They are well aware of the correct interpretation of the meaning of the data contained in these illustrations. Yet they have advised SPSSEG’s Lance Winecka and Core Group members that increasing surface water flow from Sequalitchew Lake into Edmond Marsh and down Sequalitchew Creek will restore flow and ecological conditions for native salmonid populations.

Why would they advocate such fiction? Because it serves their client’s (CalPortland’s) best interests in obtaining a conditional use permit from the City of DuPont to dewater the Vashon aquifer to access millions of tons of now saturated (with Vashon aquifer groundwater) gravel under dry gravel mining conditions.

CalPortland consultant’s motive, as they have influenced the drafting of the 2011/2012 Settlement Agreement and Sequalitchew Creek Watershed Restoration Plan, is to provide surface water augmentation from Sequalitchew Lake as an offset (mitigation) for the diminished groundwater discharge into the canyon reach of Sequalitchew Creek that will occur as a result of dewatering the Vashon aquifer and mining the South Parcel.

The restoration of native salmonid populations in Sequalitchew Creek and Edmond Marsh requires increased, not diminished, groundwater discharge into Edmond Marsh and Sequalitchew Creek and its unimpeded east to west flow through Edmond Marsh and down Sequalitchew Creek. The restoration plan incorporated into this paper, if implemented, will result in realization of the Vision. The SPSSEG/CalPortland/ Environmental Caucus Restoration Plan, if implemented, will not result in realization of the Restoration Plan’s stated Vision.

Don Russell
January 23, 2014

Christine Shilley

From: Jakob Seaberg <jaseaberg@gmail.com>
Sent: Thursday, June 12, 2025 6:03 PM
To: Barbara Kincaid
Subject: Say No to Dupont Gravel Mine Expansion

Hello Ms. Kincaid,

Please oppose the Dupont Gravel Mine Expansion. The draining of the stream will destroy the salmon habitat. Our salmon are a key species to our land and without them the environment and the species which rely on them cannot thrive. Once again, please oppose the expansion of the Dupont Gravel Mine.

Thank you,

Jakob Seaberg, a concerned citizen of Thurston County

Christine Shilley

From: Dave Shaw <shawdave45@gmail.com>
Sent: Tuesday, June 17, 2025 11:16 AM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion – PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it “does not align with Comprehensive Plan policies” and admits “no mitigation is provided for the significant unavoidable impacts to the surface water bodies” – directly violating DMC 25.105.050 which REQUIRES mitigation “to achieve no net loss of stream function.”

Scientists in the Final EIS admit “significant unavoidable adverse impacts” including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
- Multiple wetlands losing 1-3 feet of water forever
- Creek temperatures getting too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently



The EIS states the restoration plan “would likely NOT mitigate these impacts.”

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project. The sovereign tribal nation is formally appealing the Final EIS, citing:

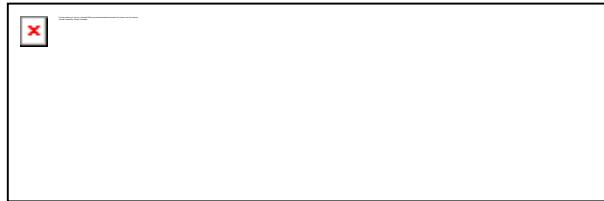
- Failure to properly identify tribal cultural resources
- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?



This is legally impossible. DENY the approval.

David Shaw
1536 Bob's Hollow Ln.

DuPont, WA 98327

Ph: 253-582-5835

Christine Shilley

From: JACKIE L SMITH <jakenterry@msn.com>
Sent: Tuesday, June 17, 2025 3:30 PM
To: Barbara Kincaid
Subject: Why are we fighting this again

I thought when we fought the large scale mining, etc in the 90's it was a done deal. Why are we looking at this again. DuPont has already said they want to limit the aggregate mining, in fact the counsel was willing to be taken to court over this project. What do we need to do to stop this?

Terry Smith

Christine Shilley

From: Linda Smith <lums94@earthlink.net>
Sent: Tuesday, June 17, 2025 9:47 AM
To: Barbara Kincaid
Cc: Harold Schmidt
Subject: Mine expansion

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it “does not align with Comprehensive Plan policies” and admits “no mitigation is provided for the significant unavoidable impacts to the surface water bodies” – directly violating DMC 25.105.050 which **REQUIRES** mitigation “to achieve no net loss of stream function.”

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- Seep wetlands along the creek ravine disrupted permanently

The EIS states the restoration plan “would likely NOT mitigate these impacts.”

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project. The sovereign tribal nation is formally appealing the Final EIS, citing:

- Failure to properly identify tribal cultural resources

- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

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How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Linda M Smith and Harold F Schmidt

2084 McDonald Ave

DuPont Wa 98327
2535765805

2539616957

THE SMOKING GUNS:

1. City staff admits it violates city law
2. Scientists say damage CANNOT be mitigated

Result: How can this be approved?

SUPPORTING DOCUMENTS REFERENCED:

- CalPortland Staff Report June 2025 (PLNG2021-006)
- Pioneer Aggregates South Parcel Project Final EIS (May 22, 2025)

- DuPont Municipal Code 25.105 Critical Areas Ordinance
- Sequalitchew Creek Restoration Plan
- Nisqually Tribe FEIS Appeal

Christine Shilley

From: Madison Smith <madisongrace146@gmail.com>
Sent: Thursday, June 12, 2025 8:22 PM
To: Barbara Kincaid
Subject: Regarding the expansion of the CalPortland Gravel Mine

Hi Barbara,

I am writing to add my voice against the expansion of the DuPont CalPortland Gravel mine. Contiguous habitat for wildlife, especially wetlands, is becoming increasingly rare and is something we won't be able to get back once it is gone. Expanding the mine is not worth this loss.

Thank you,

**Madison Greenley,
Employee of King Conservation District and resident of Kent, WA**

Christine Shilley

From: Norm Stephenson <ncluvstravel@gmail.com>
Sent: Wednesday, June 18, 2025 4:23 PM
To: Barbara Kincaid
Subject: PLNG2021-006, -009, -010, -002

Dear Hearing Examiner,

I urge you to deny the Pioneer Aggregates South Parcel Mine Expansion Project. The project violates municipal law by ignoring the protection of the long-term integrity of the natural environment of the city of DuPont. It would have adverse impacts on Sequalitchew Creek and devastate the Vashon Aquifer levels, with no recovery. It would adversely affect our wetlands, permanently shrinking water depth.

The negative impact of this project would forever change the ecological environment of our beautiful city. Many of us moved here to enjoy the outdoors, trails, and wetlands for walking and recreation. I urge you to deny this expansion project.

Thank you,
2193 McDonald Ave
253-350-2467
ncluvstravel@gmail.com

Christine Shilley

From: Steve Storer <minnstorger@yahoo.com>
Sent: Friday, June 13, 2025 4:25 PM
To: Barbara Kincaid
Subject: Pioneer Aggregates South Parcel Project

Barb,

I am writing this email to let you know that I oppose the expansion of this project in Dupont. I feel that this would be a disruption to the wildlife in the area. The impact on the environment would be invasive also. We need to leave these areas intact as there aren't many spaces like this anymore especially in these developed parts of our state.

Thank you for your consideration.

Linda Storer

Christine Shilley

From: Jugal Thakor <jugal.thakor@gmail.com>
Sent: Friday, June 20, 2025 8:26 AM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

To: Hearing Examiner,

I Jugal Thakor, a long term Dupont Citizen, oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050, which REQUIRES mitigation "to achieve no net loss of stream function."

Scientists in the Final EIS admit "significant unavoidable adverse impacts" including:

83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs

Vashon Aquifer levels dropping 8+ feet permanently.

Multiple wetlands losing 1-3 feet of water forever.

Creek temperatures getting too hot for fish survival.

Seep wetlands along the creek ravine disrupted permanently

The EIS states the restoration plan "would likely NOT mitigate these impacts."

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project.

The sovereign tribal nation is formally appealing the Final EIS, citing:

Failure to properly identify tribal cultural resources
Violation of tribal consultation requirements

No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

Violates city law (Comprehensive Plan AND Critical Area Ordinance)

Requires fixing damage scientists say CANNOT be fixed?

Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Thanks.

Jugal Thakor

Christine Shilley

From: linda thompson <lindathompsen@gmail.com>
Sent: Thursday, June 12, 2025 9:09 PM
To: Barbara Kincaid
Subject: Mine expansion.

As an Audubon member, I oppose the expansion of the Pioneer Aggregates Gravel Mine in Dupont. The negative effects far outweigh potential profits for this company. Thank you for considering my comments.

Christine Shilley

From: DON THOMPSON <donteleski@msn.com>
Sent: Monday, June 16, 2025 8:39 PM
To: Barbara Kincaid
Subject: Sequalitchew Creek

Please don't approve the project to allow Pioneer Aggregates, and the CalPortland Gravel Mine, to expand operations to remaining forest along Sequalitchew Creek in the 150-acre+ woods , dubbed the "South Parcel' to extract more gravel. Their proposal to do this by clear-cutting the forest and draining the Vashon Aquifer, the sole source aquifer for the Clover-Chambers watershed would severely impact Salmon runs. In addition, it would eliminate a favorite hike that my wife and I enjoy several times a year.

[Letter: Death Comes for Sequalitchew – The Suburban Times](#)

Thanks,
Don Thompson
415 Pacific
Steilacoom, WA 98388

Christine Shilley

From: Kim Underwood <sunnyfurdays1@gmail.com>
Sent: Friday, June 20, 2025 9:51 AM
To: Barbara Kincaid
Subject: Cal-Portland Expansion

Please accept the comments below on the Cal-Portland Expansion Project and make me a party to the official record.

Respectfully,

Kim Underwood

June 18, 2025

Dupont City Hall
c/o Barbara Kincaid
Community Development- Public Services Director
1700 Civic Drive
DuPont, WA 98327
[\(253\) 964-8121](tel:(253)964-8121)

Re: Cal-Portland Expansion

To whom it may concern,

My name is Kim Underwood. I am a member of the Chambers-Clover Creek Watershed Council and the Chambers-Clover Creek Restoration Alliance. The comments I am providing today are my own and do not reflect the official positions of either organization. My perspective is informed by more than 40 years of firsthand experience living within a watershed that has suffered from chronic mismanagement.

The Vashon Aquifer serves as the sole municipal drinking water source for the City of DuPont, as well as nearby areas, and it lies in a sub-basin that the Washington State Department of Ecology has already designated as closed to new withdrawal due to its limited recharge capacity and ecological vulnerability. The consequences of ignoring such closures are not hypothetical; they are visible. One only needs to look north to the Clover Creek sub-basin, where the unregulated dewatering of a sole-source aquifer has led to ecological collapse. Today, Clover Creek runs dry for most of the year, void of water, void of life! What was once a vital hydrological system is now an unsustainable and fragmented watershed. Municipalities in our sub-basin have exhausted water rights and now depend on other jurisdictions for the community's basic water needs. In allowing CalPortland to dewater the Vashon Aquifer, the City of Dupont would be repeating these very mistakes, undermining the long-term sustainability of your only drinking water source and accelerating the collapse of a fragile and already overdrawn hydrological system.

Under RCW 90.54 and RCW 90.44, Washington State law grants paramount protection to sole-source aquifers. Similarly, the Washington Water Resources Act prioritizes the preservation of groundwater aquifers that serve as the sole source of public drinking water. Specifically, RCW 90.54.140 mandates that the protection of

groundwater aquifers, which are the sole drinking water source for a given jurisdiction, shall be of the utmost priority for the Department of Ecology and all relevant agencies.

Accordingly, the Vashon Aquifer, which supplies DuPont's municipal wells, clearly qualifies as such an aquifer. Therefore, any proposal that poses a risk to this aquifer must be evaluated with the highest level of scrutiny and firm commitment to its protection.

Given the strength and clarity of this state mandate, it is deeply troubling that this proposal is even under consideration. Why is the protection of your only drinking water source coming into question at all?

Washington's groundwater code is clearly written, making all-natural groundwater subject to appropriation by permit. RCW 90.44.050 expressly states, "no withdrawal of public groundwaters of the state shall be begun" without a water-right permit (except narrowly for specific small domestic, irrigation, or stock-water uses. CalPortland's mine would involve vastly more than the minimal exemptions (5,000 gpd or ½-acre lawn), so a water-right permit would be legally required. Has Ecology granted this exception?

Moreover, RCW 90.44.020 makes clear surface-water rights are senior to later groundwater rights: "If the withdrawal of groundwater may affect the flow of any spring, watercourse, lake, or other body of surface water, the right of an appropriator and owner of surface water shall be superior to any subsequent... groundwater right." The Chambers-Clover streams in WRIA 12 have established instream flows (senior water rights) set by Ecology. Any pumping of the Vashon Aquifer that captures or reduces those flows would impair those senior rights, which RCW 90.44.020 prohibits.

Ecology's instream-flow rule for Chambers-Clover (WAC 173-518) formally closed the aquifer to new withdrawals. This rule defines "closure" to mean that water is no longer available for future appropriations without mitigation to offset the use. Simply put, after a closure finding, no new pumping may be authorized unless fully offset (e.g., via water banking) so as not to impair existing rights. Moreover, the rule explicitly states that even permit-exempt withdrawals remain subject to these limits: a "permit-exempt withdrawal" is still governed by the water code and instream flow rules. Hence, Ecology has already determined that WRIA 12 waters (including the Vashon Aquifer) are closed to new appropriations, meaning CalPortland cannot lawfully pump water without offsetting impacts that cannot practically be met.

Building on the above (RCW 90.44.230), Washington law recognizes that a groundwater body cannot be drawn down indefinitely. In any water-right adjudication under RCW 90.44.220, the findings must fix "the level below which the groundwater body shall not be drawn down by appropriators" and determine a "safe sustaining water yield" to prevent depletion." The fact that the Vashon Aquifer is administratively closed reflects that existing withdrawals have essentially reached the safe yield. Dewatering the aquifer for mining would necessarily draw water below the level that must be preserved for existing users, thereby violating the concept of safe yield. Once again, look north to the Clover Creek sub-basin!

The Shoreline Management Act imposes additional constraints. The shoreline policy (RCW 90.58.020; WAC 173-26) emphasizes protecting natural shoreline ecology and water quality. It requires that permitted shoreline uses be designed to "minimize... any resultant damage to the ecology and environment of the shoreline area." Even though the mine site is located upland, its extensive dewatering will undoubtedly impact wetlands, streams, or Puget Sound shoreline ecology (through groundwater-surface water interaction). Under RCW 90.58.020, such uses cannot cause net damage or pollution of the waters. Moreover, the SMA guidelines explicitly identify aquifer recharge areas for drinking water as a "critical area" within shorelines. Ultimately,

draining a sole-source aquifer will conflict with the SMA's mandate to protect shoreline water resources and ecological functions!

Lastly, DuPont's municipal code (DMC 25.105) is supposed to treat aquifer recharge zones as critical areas requiring strict protection. The code defines aquifer recharge areas as lands underlain by aquifers "used as drinking water sources for the City of DuPont (here, the Red Salmon Springs and Outwash/Lakewood Glacier aquifers). Any development in these areas must meet stringent standards. Critically, the CAO mandates that if a regulated project results in degradation of aquifer recharge areas or aquifer water quality, the developer must fully restore the area and provide substantial compensation. Compensation can include fines and the provision of drinking water for areas dependent on the degraded aquifer. In practical terms, this means CalPortland would have to replace DuPont's sole water supply, an unfeasible requirement. The local ordinance, therefore, recognizes that it impacts the aquifer. Therefore, it cannot simply be mitigated by habitat restoration measures; the only "mitigation" is delivering alternate potable water!

Ultimately, dewatering a closed sole-source aquifer, causing irrevocable loss of water supply, would fall squarely under Washington State's Environmental Protection Act. Under these regulations, no one agency can lawfully approve an action that violates other statutes or fundamental policies; mitigation cannot override an explicit legal prohibition. Accordingly, here, because the aquifer is closed and protected by law, no feasible mitigation can render the project allowable.

CalPortland's plan to pump the Vashon Aquifer is prohibited by multiple layers of law. Any loss of the only public water source, which cannot be adequately offset, would be deemed a significant adverse impact, and no amount of mitigation can offset the legal and practical defects. For all the above reasons, this dewatering proposal should not be permissible and cannot be made acceptable by mitigation.

As an elected official, it is your responsibility to make decisions that serve the long-term well-being and sustainability of your community. Consider the lessons learned from your neighbors to the north, where unfortunate consequences followed decisions that have compromised a sole-source aquifer.

Respectfully,
Kim Underwood,
12111 Clover Creek Dr. SW
Lakewood, WA. 98499
253-324-8786

Christine Shilley

From: Kim Underwood <sunnyfurdays1@gmail.com>
Sent: Thursday, June 19, 2025 6:27 PM
To: Barbara Kincaid
Subject: Re: Dupont-Gravel Mine Expansion
Attachments: Cal-Portland Comments.docx

Please accept the comments I've attached on the Cal-Portland Expansion Project and make me a party to the official record.

Respectfully,
Kim Underwood
253-324-8786

June 18, 2025

Barbara Kincaid
Community Development- Public Services Director
1700 Civic Drive
DuPont, WA 98327
[\(253\) 964-8121](tel:(253)964-8121)

Re: Cal-Portland Expansion

To whom it may concern,

My name is Kim Underwood. I am a member of the Chambers-Clover Creek Watershed Council and the Chambers-Clover Creek Restoration Alliance. However, the comments I am providing today are my own and do not reflect the official positions of either organization. My perspective is informed by more than 40 years of firsthand experience living within a watershed that has suffered from chronic mismanagement.

The Vashon Aquifer serves as the sole municipal drinking water source for the City of DuPont, as well as nearby areas, and it lies in a sub-basin that the Washington State Department of Ecology has already designated as closed to new withdrawal due to its limited recharge capacity and ecological vulnerability. The consequences of ignoring such closures are not hypothetical; they are visible! One only needs to look north to the Clover Creek sub-basin, where the unregulated dewatering of a sole-source aquifer has led to ecological collapse. Today, Clover Creek runs dry for most of the year, void of water, void of life! What was once a vital hydrological system is now an unsustainable and fragmented watershed. Municipalities in our sub-basin have exhausted water rights and now depend on other jurisdictions for the community's basic water needs. In allowing CalPortland to dewater the Vashon Aquifer, the City of Dupont would be repeating these very mistakes, undermining the long-term sustainability of your only drinking water source and accelerating the collapse of a fragile and already overdrawn hydrological system.

Under RCW 90.54 and RCW 90.44, Washington State law grants paramount protection to sole-source aquifers. Similarly, the Washington Water Resources Act prioritizes the preservation of groundwater aquifers that serve as the sole source of public drinking water. Specifically, RCW 90.54.140 which mandates that the protection of groundwater aquifers which are the sole drinking water source for a given jurisdiction shall be of the uppermost priority for the Department of Ecology and all relevant agencies.

Accordingly, the Vashon Aquifer, which supplies DuPont's municipal wells, clearly qualifies as such an aquifer. Therefore, any proposal that poses a risk to this aquifer must be evaluated with the highest level of scrutiny and firm commitment to its protection.

Given the strength and clarity of this state mandate, it is deeply troubling that this proposal is even under consideration. Why is the protection of your only drinking water source coming into question at all?

Washington's groundwater code is clearly written, making all-natural groundwater subject to appropriation by permit. RCW 90.44.050 expressly stating, "no withdrawal of public groundwaters of the state shall be begun" without a water-right permit (except narrowly for specific small domestic, irrigation, or stock-water uses. CalPortland's mine would involve vastly more than the minimal exemptions (5,000 gpd or ½-acre lawn), so a water-right permit would be legally required. Has Ecology granted this exception?

Moreover, RCW 90.44.020 makes clear surface-water rights are senior to later groundwater rights: "If the withdrawal of groundwater may affect the flow of any spring, watercourse, lake, or other body of surface water, the right of an appropriator and owner of surface water shall be superior to any subsequent... groundwater right." The Chambers-Clover streams in WRIA 12 have established instream flows (senior water rights) set by Ecology. Any pumping of the Vashon Aquifer that captures or reduces those flows would impair those senior rights, which RCW 90.44.020 prohibits.

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Building on the above (RCW 90.44.230), Washington law recognizes that a groundwater body cannot be drawn down indefinitely. In any water-right adjudication under RCW 90.44.220, the findings must fix "the level below which the groundwater body shall not be drawn down by appropriators" and determine a "safe sustaining water yield" to prevent depletion." The fact that the Vashon Aquifer is administratively closed reflects that existing withdrawals have essentially reached the safe yield. Dewatering the aquifer for mining would necessarily draw water below the level that must be preserved for existing users, thereby violating the concept of safe yield. Once again, look north to the Clover Creek sub-basin!

The Shoreline Management Act imposes additional constraints. The shoreline policy (RCW 90.58.020; WAC 173-26) emphasizes protecting natural shoreline ecology and water quality. It requires that permitted shoreline uses be designed to "minimize... any resultant damage to the ecology and environment of the shoreline area." Even though the mine site is located upland, its extensive dewatering will undoubtedly impact wetlands, streams, or Puget

Sound shoreline ecology (through groundwater-surface water interaction). Under RCW 90.58.020, such uses cannot cause net damage or pollution of the waters. Moreover, the SMA guidelines explicitly identify aquifer recharge areas for drinking water as a “critical area” within shorelines. Ultimately, draining a sole-source aquifer will conflict with the SMA’s mandate to protect shoreline water resources and ecological functions!

Lastly, DuPont’s municipal code (DMC 25.105) is supposed to treat aquifer recharge zones as critical areas requiring strict protection. The code defines aquifer recharge areas as lands underlain by aquifers “used as drinking water sources for the City of DuPont (here, the Red Salmon Springs and Outwash/Lakewood Glacier aquifers). Any development in these areas must meet stringent standards. Critically, the CAO mandates that if a regulated project results in degradation of aquifer recharge areas or aquifer water quality, the developer must fully restore the area and provide substantial compensation. Compensation can include fines and provision of drinking water for areas dependent on the degraded aquifer. In practical terms, this means CalPortland would have to replace DuPont’s sole water supply, an unfeasible requirement. The local ordinance, therefore, recognizes that it impacts the aquifer. Therefore, it cannot simply be mitigated by habitat restoration measures; the only “mitigation” is delivering alternate potable water!

Ultimately, dewatering a closed sole-source aquifer causing irrevocable loss of water supply, would fall squarely under Washington State’s Environmental Protection Act. Under these regulations, no one agency can lawfully approve an action that violates other statutes or fundamental policies; mitigation cannot override an explicit legal prohibition. Accordingly, here, because the aquifer is closed and protected by law, no feasible mitigation can render the project allowable.

CalPortland’s plan to pump the Vashon Aquifer is prohibited by multiple layers of law. Any loss of the only public water source – which cannot be adequately offset – would be deemed a significant adverse impact, and no amount of mitigation can offset the legal and practical defects. For all the above reasons, this dewatering proposal should not be permissible and cannot be made acceptable by mitigation.

As an elected official, it is your responsibility to make decisions that serve the long-term well-being and sustainability of your community. Consider the lessons from your neighbors to the north, where unfortunate consequences followed decisions that have compromised a sole-source aquifer.

Respectfully,
Kim Underwood,
12111 Clover Creek Dr. SW
Lakewood, WA. 98499
253-324-8786

Christine Shilley

From: marcella velazquez <tuangelmjv2@yahoo.com>
Sent: Saturday, June 14, 2025 10:21 PM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion - PLNG2021-006

Do you walk the beautiful DuPont Sequalitchew Creek Trail? If so, please help preserve the beauty of this regional treasure.

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it "does not align with Comprehensive Plan policies" and admits "no mitigation is provided for the significant unavoidable impacts to the surface water bodies" - directly violating DMC 25.105.050 which REQUIRES mitigation "to achieve no net loss of stream function."

Scientists in the Final EIS admit "significant unavoidable adverse impacts" including:

83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs

Vashon Aquifer levels dropping 8+ feet permanently

Multiple wetlands losing 1-3 feet of water forever

Creek temperatures getting too hot for fish survival

Seep wetlands along the creek ravine disrupted permanently

The EIS states the restoration plan "would likely NOT mitigate these impacts."

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project.

The sovereign tribal nation is formally appealing the Final EIS, citing:

Failure to properly identify tribal cultural resources

Violation of tribal consultation requirements

No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

Violates city law (Comprehensive Plan AND Critical Area Ordinance)

Requires fixing damage scientists say CANNOT be fixed?

Demands impossible mitigation conditions?

This is legally impossible. DENY the approval.

Sincerely,

Marcella Velazquez

1320 Rowan Ct Dupont WA 98327

808-780-5301

[Yahoo Mail: Search, Organize, Conquer](#)

Christine Shilley

From: sara valentine <swingkid45@yahoo.com>
Sent: Friday, June 20, 2025 10:20 AM
To: Barbara Kincaid
Subject: Dupont Gravel

Good morning,
I am a Tacoma resident and I am against the expansion of the gravel mine. WA is already suffering from climate change with more wildfires, heatwaves that affect salmon spawning, and the spread of bark beetles. As a parent of two elementary students I believe we need to be putting our children's future first and not profits. This project would harm the riparian habitat and affect salmon runs.

Thank you,

Sara Bailly
253-279-2327

Christine Shilley

From: MARK WALLACE <mardine1@comcast.net>
Sent: Thursday, June 19, 2025 4:31 PM
To: Barbara Kincaid
Subject: Proposed gravel mine expansion - no support

Hello. I live in Tacoma but enjoy walking the Sequalitchew trail area in Dupont. It's so beautiful to see this area and all its trees and birdlife, which are dependent on the riparian features. I also enjoy the insect life. I am totally opposed to the expansion of this gravel mine. We should respect what intact areas we have left for wildlife and respect what God has created. Only God can create a tree, to quote Joyce Kilmer.

Thank you for listening

Nadine Wallace

Christine Shilley

From: Kate Walsh <3mcwals@gmail.com>
Sent: Tuesday, June 17, 2025 11:30 AM
To: 3mcwals@comcast.net; Barbara Kincaid; oremmington1957@gmail.com; Judy Norris
Subject: mine expansion comment

Ms. Kincaid,

I am a DuPont homeowner and plan on continuing to live in DuPont, which, regardless of population growth, has in fact has become "my hometown." I offer my comment on the proposed Pioneer Aggregate environmental impact statement and my request that you DENY Pioneer Aggregates South Parcel Mine Expansion request.

I agree with Mr. Oscar Remmington's 10-page comment on the proposed Pioneer Aggregate Environmental Impact statement and placeholder for the appeal of the adequacy of the Final Environmental Impact Statement, dated June 5, 2025. I also agree with the 2-page letter Mr. Remmington filed. It appears you received these documents by email, as did I, in a courtesy copy. I adopt and incorporate by reference both these documents, and their conclusions, which Mr. Remmington thoughtfully and thoroughly researched. He appropriately relied on relevant Washington law, including the RCWs, WAC's, and DMC. I adopt Mr. Remmington's conclusions, including those summarized in points 1 through 6 of his two-page comment.

In addition, I want to emphasize that:

I object to aggregate mines eliminating 188 acres of forest , which will dramatically damage the DuPont ecosystem, including by fatally raising stream temperatures beyond wild life endurance;

I object to aggregate mine's plan, which the city admits violates its comprehensive plan and its critical area ordinances;

I object to aggregate mine's plan which will reduce Sesqualitchew Creek flow by 83 percent, leaving the creek dry part of each year;

I object to aggregate mine's plan which will destroy beyond repair marsh land and environmentally sensitive ecosystems and areas designated for salmon recovery, including a permanent 8 foot lowering of the Vashon aquifer, and loss of the Edward Marsh, and the Kettle Marsh;

I object to aggregate mine's mitigation plan which relies on federal funding that has not been allocated and is not likely to be available in four years or whenever it is needed;

I object to aggregate's proposed plan which ignores Nisqually Tribal rights. The tribe never signed the agreement that underlies aggregate mine's proposed project and aggregate mines fails to properly identify cultural resources or consult with the Tribe as required or address mitigation of negative impacts of the plan on the tribe's sacred sites.

Finally, I object to the noise, industrial pollution, intrusive lights and traffic of the mine's proposed project, which will destroy the value of DuPont homes, its pocket parks and green spaces, and its attributes as a city for pedestrians and bikers, retirees and young families: all the attributes that have in fact made DuPont many families hometown.

In sum, deny approval of aggregate mines proposed south parcel mine expansion.

Sincerely,
Kate Walsh
2180 Palisade Blvd.
DuPont WA 98327
360-888-5983

Christine Shilley

From: DAHP SEPA <sepa@dahp.wa.gov>
Sent: Monday, June 9, 2025 8:21 PM
To: Barbara Kincaid
Subject: RE: City of DuPont - Pioneer Aggregates South Parcel Project - Notice of Public Hearing

Hi Barb,

It was very nice to speak with you earlier today. I would like to participate in the public hearing on June 20th to give comments on the cultural resources work that have been conducted so far for this project.

Regards,
Dennis

Dennis Wardlaw, M.A.
Transportation Archaeologist
Dept. of Archaeology and Historic Preservation
1110 Capitol Way South, Suite 30
Olympia, WA 98501
Phone: 360-485-5014

 please consider the environment before printing this email

From: Christine Shilley <PermitTech@dupontwa.gov>
Sent: Wednesday, June 4, 2025 10:38 AM
Cc: Barbara Kincaid <bkincaid@dupontwa.gov>
Subject: City of DuPont - Pioneer Aggregates South Parcel Project - Notice of Public Hearing

External Email

Hello,

You are receiving this email because you are listed as an interested party/stakeholder to the **Pioneer Aggregates South Parcel Project**.

Please see the attached Notice of Public Hearing for the Pioneer Aggregates South Parcel Project.

Thank you for your interest.

Regards,
Chris

Chris Shilley | Permit Technician | [City of DuPont](#) | Direct (253) 912-5217
DuPont City Hall | 1700 Civic Drive, DuPont, WA 98327
Open Monday – Thursday 9 AM – 4 PM



Christine Shilley

From: Gayle West <gaylewest151@gmail.com>
Sent: Monday, June 9, 2025 12:27 PM
To: Barbara Kincaid
Subject: CalPortland Mine Expansion

Follow Up Flag: Flag for follow up
Flag Status: Flagged

To Whom It May Concern;

Please do not let CalPortland Mine Expansion take over The Sequalitchew Creek Trail in [Dupont, Washington](#), it is a popular, relatively easy trail that leads to the Puget Sound. The trail is known for its flat terrain, scenic views, and historical context. It's a great option for a variety of activities, including walking, hiking, and biking.

Here's a more detailed look at the trail:

- **Length and Difficulty:**

The trail is approximately 3.0 miles roundtrip and is considered easy to moderate.

- **What to Expect:**

The trail offers a diverse experience, passing through urban areas, an estuary, a forest, an old railroad tunnel, and finally, a beach.

- **Features:**

The trail features views of the Puget Sound, including Anderson Island and the Olympic Mountains on a clear day. You'll also find interpretive signs along the way, highlighting the area's history, including its past use as a wharf for the DuPont company.

- **History:**

The area was once the ancestral home of the [Nisqually Tribe](#) and later became part of the DuPont company's operations, including the production of explosives.

- **Parking:**

Parking is available at the Civic Center near Palisade Blvd and Center Dr,

- This area is like being far away in an old growth forest but is right in town. Many people come from all over to enjoy its beauty. The creek needs to be brought back for the salmon.
- Destroying this slice of nature should not be considered.
- Sincerely,
- Gayle West
- Lakewood Resident

Christine Shilley

From: Bjw515 <bjw515@gmail.com>
Sent: Wednesday, June 18, 2025 9:32 AM
To: Barbara Kincaid
Subject: OPPOSE Pioneer Aggregates Mine Expansion – PLNG2021-006

Dear Hearing Examiner,

I oppose the Pioneer Aggregates South Parcel Mine Expansion (PLNG2021-006).

City staff admits this project violates the Comprehensive Plan AND Critical Area Ordinance. The Staff Report states it “does not align with Comprehensive Plan policies” and admits “no mitigation is provided for the significant unavoidable impacts to the surface water bodies” – directly violating DMC 25.105.050 which **REQUIRES** mitigation “to achieve no net loss of stream function.”

Scientists in the Final EIS admit “significant unavoidable adverse impacts” including:

- 83% creek flow loss along the Sequalitchew Creek trail from drying up natural seeps and springs
- Vashon Aquifer levels dropping 8+ feet permanently
- Multiple wetlands losing 1-3 feet of water forever
- Creek temperatures getting too hot for fish survival
- Seep wetlands along the creek ravine disrupted permanently

The EIS states the restoration plan “would likely NOT mitigate these impacts.”

The Nisqually Indian Tribe never signed the 2011 Settlement Agreement that underlies this entire project. The sovereign tribal nation is formally appealing the Final EIS, citing:

- Failure to properly identify tribal cultural resources
- Violation of tribal consultation requirements
- No adequate mitigation for impacts to sacred sites

How can you approve a project without consent from the sovereign tribal nation on their ancestral lands?

The city's conditional approval requires 38 conditions to "mitigate" environmental damage that the reports already prove cannot be mitigated. You cannot require the impossible. Plus, CalPortland has had OVER 15 years to provide the mitigation requirements in the Critical Areas Ordinance.

How can you approve a project that:

- Violates city law (Comprehensive Plan AND Critical Area Ordinance)
- Requires fixing damage scientists say CANNOT be fixed?
- Demands impossible mitigation conditions?
- This is legally impossible.
- DENY the approval
-
- Barbara Williams
13013 106th Ave Ct E

Puyallup, WA 98374

bjw515@gmail.com

(253) 381-5474

Christine Shilley

From: winkler4@comcast.net
Sent: Tuesday, June 17, 2025 5:00 PM
To: Barbara Kincaid
Subject: Pioneer Aggregates South Parcel Mine Expansion Project Written Comments
Attachments: Hearing Examiner Ltr - NW.pdf; Hearing Examiner Ltr - MW.pdf

Ms. Kincaid

Please find attached our written comments for the hearing examiner for the proposed Pioneer Aggregates South Parcel Mine Expansion.

Thank you for your work on this and many other issues affecting our city.

Sincerely,

Nanette and Mike Winkler
1448 Montgomery Street
DuPont, WA 98327

DuPont Hearing Examiner

June 17, 2025

RE: Oppose the South Parcel Mine Expansion

Please reject the proposed CalPortland South Parcel mine expansion. If approved, it would greatly reduce the groundwater in the wetlands. This could dry out surrounding vegetation, resulting in a potential increase of fire danger for our residents, our homes, and our businesses.

Of specific concern is the projected drop in the groundwater level of up to 8.73 feet in Edmonds Marsh. Other areas of concern include the drop in ground water level in Pond Lake; wetlands 8, 9, and 10; and Old Fork Lake. In addition, another concern is the elimination of the Kettle Wetland and that the seeps and springs feeding Sequalitchew Creek will likely dry up. This drop in groundwater level will likely dry out the vegetation surrounding the City of DuPont.

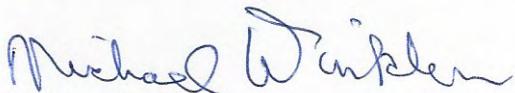
It is important to note climate conditions have worsened since the 2011 Settlement Agreement was prepared. The City of DuPont is surrounded by forest and climate change is already increasing the risk of fire to our residents. The resulting decrease in the ground water level from the mine expansion will likely put the residents of DuPont at even a greater risk of fire danger. We must realize that fire danger has increased here, just as it has done throughout the west coast. This concern is highlighted in a January 17, 2025 Tacoma News Tribune Article entitled "Can the LA wildfires happen in Western WA? The answer is complicated and sobering". This article includes sources from the Department of Natural Resources and the University of Washington. The article itself can be located at:

<https://www.thenewstribune.com/news/local/article298592038.html>

While restoring Sequalitchew Creek is a goal we should all be working toward, I do not believe it should be dependent upon dewatering the Vashon Aquifer. As outlined above, the decrease in the groundwater level throughout the area will likely have a huge negative environmental impact on the vegetation and the wildlife in the area. We would simply be changing one environmental problem for another. This new environmental problem likely increases the risk of fire for the residents of DuPont.

Thank you for your consideration and work on this very important matter.

Sincerely,


Michael Winkler
1448 Montgomery Street
DuPont, WA 98327
253-459-4756

DuPont Hearing Examiner

June 17, 2025

RE: CalPortland South Parcel

I wish to take a moment to urge you to disapprove the CalPortland South Parcel mine expansion. The published EIS shows that the proposed expansion violates DuPont's Critical Areas Ordinance and Comprehensive Plan. The EIS report shows that there is no mitigation for significant unavoidable impacts to surface water in this area if the mine expansion were to proceed.

Climate change has become an increasing problem for all of us, with a special note of the increased fires on the west coast, to include western Washington. The City of DuPont is surrounded by forest and the projected decrease in the ground water level from the mine expansion will likely make these forests more susceptible to fire. This, in turn, would put the residents of DuPont at a higher risk of fire danger.

A review of the documents show that the projected drop in the groundwater level in Edmonds Marsh is up to 8.73 feet. There is also a projected drop in ground water levels in Pond Lake; wetlands 8, 9, and 10; and Old Fork Lake. Also, the Kettle Wetland would be eliminated and Sequalitchew Creek will likely dry up. Again, the impact on vegetation and the potential increase in fire danger is very concerning.

Thank you for reviewing my concerns and for ensuring the safety of our residences and the protection of our surrounding environment.

Sincerely,



Nanette Winkler

1448 Montgomery Street
DuPont, WA 98327
253-441-1282

Christine Shilley

From: Ken_Zirinsky_ <ellenkenab@yahoo.com>
Sent: Friday, June 20, 2025 2:23 AM
To: Barbara Kincaid
Subject: Comment Opposing the CalPortland Gravel Mine Expansion/ Pioneer Aggregates South Parcel Project

To: Barbara Kincaid
Community Development Director, City of DuPont

Re: Comment Opposing the CalPortland Gravel Mine Expansion/ Pioneer Aggregates South Parcel Project

Dear Ms. Kincaid,

I am writing to express my opposition to the proposal to expand the CalPortland Gravel Mine.

According to the Final Environmental Impact Statement (EIS): "The annual average flow in Sequalitchew Creek is anticipated to be reduced from approximately 1.6 cfs to approximately 0.34 cfs."

This would be a 79% reduction in the annual average flow of the Sequalitchew Creek. The EIS also states that the creek temperature is expected to rise in the summer.

These changes would have a significant negative impact on salmon that migrate and spawn in the creek and on the orca that feed on these salmon.

The EIS also concludes that the proposed gravel mine expansion would have a negative impact on birds and mammals. The EIS states: "Foraging and breeding habitat for birds and mammals would be reduced and degraded. Clearing of vegetation would increase the fragmentation and isolation of remaining habitat.

The Sequalitchew Creek Trail, a highly valued recreational asset, would be degraded by the loss of wildlife, stream flow, and habitat, along with the increased noise pollution and air pollution created by the expanded mine.

Finally, this proposal would potentially degrade or destroy several potential traditional, Native American cultural places. There are at least three known archaeological sites that could be negatively impacted. Potential traditional, Native American cultural properties identified in the EIS include: a Sequalitchew Ancestral Village Landscape, Sequalitchew Creek, Kettle Lakes and Wetlands, and Camas Gathering Areas.

In summary, the proposal to expand the CalPortland Gravel Mine would damage the Sequalitchew Creek and the Sequalitchew Creek Trail. It would have a negative impact on the birds, mammals, salmon, and orca that are found in this area. It could also degrade or destroy Native American cultural places. For these reasons, I strongly oppose the implementation of this proposal to expand the CalPortland Gravel Mine.

Thank you very much for all your work evaluating this proposal and for your time considering this comment.

Ken Zirinsky
3612 N 33rd St.
Tacoma, WA
ellenkenab@yahoo.com