

David Wayne Johnson
Jefferson County Office of Community Development
621 Sheridan Street
Port Townsend, WA 98368
dwjohnson@co.jefferson.wa.us

Case number: BLD10-00054
Notice of Determination of Significance
and Request for Comments on
Scope of EIS

Dear Mr. Johnson,

These comments are respectfully submitted on behalf of concerned citizens of the Port Ludlow Master Plan Resort (MPR) in response to the “Notice of Determination of Significance and Request for Comments on Scope of EIS.” A shared priority among all the citizens attached to this comment letter is to ensure the preservation and integrity of the residential area of Port Ludlow MPR and to make certain any mining activities being conducted on or near the residential area do not have deleterious effects on the environment or economy of Port Ludlow. This comment letter intentionally echoes, but does not duplicate, a petition containing over five hundred signatures, presented to the Jefferson County Commissioners in 2008.

On February 25, 2010, Iron Mountain Quarry (IMQ) submitted an application to operate a quarry “approximately 3 miles west of the town of Shine, to the north of State Route 104 and to the east & southeast of the existing Shine Quarry.”¹ This area is extremely close to the Port Ludlow MPR.² The mine, stretching over one hundred forty-two acres in total, plans to operate five days a week and occasionally on Saturdays.³ The New Shine Quarry is estimated to produce as much as four hundred thousand tons of product per year, for an expected lifespan of forty years.⁴

The Jefferson County Department of Community Development (DCD) made a determination, and sent notice on March 22, 2010, that IMQ’s proposal is “likely to have a significant adverse impact on the environment,” requiring IMQ to conduct an environmental impact statement (EIS) pursuant to RCW 43.21C.030(2)(c).⁵ In that notice, the DCD flagged several areas to be studied in the upcoming EIS, including the effects on ridgeline, soils, air quality, surface water, groundwater, plants, animals, traffic,

¹ Iron Mountain Quarry, Master Permit Application Extended Answers and Legal Description (2010).

² See www.googlemaps.com (URL edited).

³ Master Permit Application, supra note 1.

⁴ Id.

⁵ Jefferson County Department of Community Development, Notice of Determination of Significance and Request for Comments of Scope of EIS, pg. 1-2 (2010).

fly rock, noise, vibration, land use and aesthetics.⁶ We do not disagree with this assessment. In fact, the DCD encompassed the majority of our concerns in their evaluation. Our position, however, is based on a shared desire to protect the environment and wildlife in the Port Ludlow MPR area, as well as to preserve the integrity and economy of our town and community. It is for that reason that we submit the following comments, detailing our concerns over this proposed project.

I. NONE OF THE REPORTS ADDRESS COMMUNITY GROWTH OVER THE COURSE OF THE QUARRY'S LIFE.

Washington law states "Agencies shall carefully consider the range of probable impacts, including short-term and long-term effects. Impacts shall include those that are likely to arise or exist over the lifetime of a proposal or, depending on the particular proposal, longer."⁷ None of the reports, however, address potential expansion of Port Ludlow as a community over the course of the New Shine Quarry's life. IMQ and their consultants seems to assume that Port Ludlow and the surrounding area will remain consistent in all aspects over the life of the mine. For example, the Traffic Impact Analysis assumes that the vehicle load on SR-104 will remain at 13,000 vehicles per day for the next 40 years.⁸ This assumption is inherently flawed. Traffic will inevitably grow as time goes on. Similarly, the Existing Ground Water Conditions and Critical Aquifer Recharge Areas reports suggest that the consumption of water by citizens of Port Ludlow will remain stagnant for the duration of the mine.⁹ This assumption ignores the possibility that growth in the community will increase water consumption. This same assumption flows through every study filed in connection with the New Shine Quarry proposal, inherently skewing the results of all the environmental reports submitted to the DCD. Communities such as Port Ludlow rarely remain motionless.

Approximately 2,000 citizens call Port Ludlow home.¹⁰ While the Port Ludlow MPR is by no means a community of rapid-growth, it does have the potential to expand. Port Ludlow is a designated Washington State Master Planned Resort, signifying a defined plan for community growth.¹¹ Washington State Law defines a Master Planned

⁶ Id.

⁷ WAC 197-11-060(4).

⁸ Transportation Solutions Inc., Traffic Impact Analysis, pg. 6 (2009)("It is assumed that existing traffic volumes will remain stable and adjustments to reflect an annual growth in background traffic volumes are not warranted.").

⁹ See Memorandum from Environ on the Discussion of Existing Ground Water Conditions Beneath & In The Vicinity Of The New Shine Quarry (NSO) Site (June 16, 2009); See also Memorandum from Environ on Critical Aquifer Recharge Areas Report for the New Shine Quarry (February 2, 2010).

¹⁰ See United States Census Bureau, 2000 Census, available at <http://factfinder.census.gov/> (hyperlink edited).

¹¹ The Port Ludlow Master Plan Resort Agreement is a joint agreement between Jefferson County Board of Commissioners, Pope Resources, Olympic Property Group, Olympic Resorts, Olympic Water And Sewer, and Olympic Real Estate Development

Resort as “a self-contained and fully integrated planned unit development, in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities.”¹² This agreement created a very specific growth plan for the Port Ludlow community that is not taken into account by any of the reports filed by IMQ. As the Port Ludlow Village Counsel points out in the comments they filed on April 20, 2010, there is not a single reference to “Master Planned Resort” or the acronym “MPR” in any of the supporting documentation filed by IMQ.¹³ This is a significant oversight by IMQ and their consultants. The potential growth within the confines of the MPR agreement, and the potential environmental conflicts from the proposed Quarry on that growth, must be taken into consideration.

II. THE COMMUNITY NOISE ASSESSMENT INACCURATELY CHARACTERIZES THE POTENTIAL FOR INCREASED NOISE.

The Community Noise Assessment report, prepared by AMEC Geomatrix (AMEC) of Seattle, Washington, does not accurately assess the actual amount of noise created by the machinery that will be used at the new site nor does it assess the amount of noise created by factors outside the scope of said machinery.

a. The Community Noise Assessment Report does not adequately test the noise capacity of the machinery used in connection with the proposed site.

To assess the noise created by the machinery at the New Shine Quarry, AMEC tested machines used at the existing Iron Mountain Quarry.¹⁴ These machines are stated as similar to the ones IMQ intends to use at the new quarry site.¹⁵ Just because the machines tested are similar does not mean that the noise output from each machine will be the same. The noise assessment explicitly states that the “larger blasting hole drill to extract rock from the quarry areas” tested are a different size and model than the one proposed for the new site.¹⁶ Similarly, the trucks used to test the noise capacity are a different size than those proposed for the new site.¹⁷ There has not been a test of the machines that will actually be used at the New Shine Quarry. The machines to be implemented, while smaller, may be constructed differently, with different parts, motors and capacity for noise.

that covers approximately 1,200 acres of land owned by Pope Resources in Jefferson County. The full document is available at <http://pl-wa.org/content/mpr-development-agreement>.

¹² RCW 36.70A.360.

¹³ The Port Ludlow Village Counsel, Comments Regarding Iron Mountain Quarry’s SEPA Permit Application, April 20, 2010, pg. 8.

¹⁴ AMEC Geomatrix, Community Noise Assessment for the Proposed Iron Mountain Quarry, pg. 6 (2009).

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

Furthermore, the drills to be used at the New Shine Quarry weren't even tested for sound output. AMEC states that on the day of noise testing "[t]he two drills were not operating on the day of the measurements, so noise emissions of these items were determined from vendor data (for the DM-60) and noise measured by AMEC from a similar drill operating at a quarry in Canada."¹⁸ There is no explanation of where or how the vendors compiled their information on the capacity of noise for the DM-60 drills, nor is there any comparison of how that data relates to the noise these machines will create on the basalt rock found at the new site. At the time these comments were written, no vendor data was available for the DM-60 model.¹⁹ Similarly, there is no explanation of the conditions the pioneering drill was tested under at the Canadian quarry. Without this information, or suitable testing of the proposed machines, at the proposed site, there is no way to know the true capacity of noise production that these machines contain.

Additionally, the report unequivocally states that the machines were tested on a different type of rock than is found at the new site.²⁰ The rock the equipment was tested on is harder than the basalt rock found at the proposed site.²¹ AMEC brushes off this discrepancy in density by simply stating, "[a] softer rock would yield to processing less force and thus less noise than a harder rock."²² This generalization is not supported by any study. While a study may prove this assertion correct, there is no way of knowing the validity of this statement if the equipment that will be used at the site is not tested on the type of rock found at the site. Without this sort of site specific testing, the results of any noise assessment are greatly skewed and cannot offer any valid analysis towards the impact noise from the site may produce.

The noise report also fails to address the noise created by additional heavy trucks traveling to and from the proposed site. The Traffic Impact Analysis estimates in the beginning stages, while the production levels are at 200,000 tons per year, it will add an additional 54 daily heavy truck trips.²³ When the quarry begins operating at total capacity, 400,000 tons per year, that number would rise to 108 truck trips per day.²⁴ Over the stated operating schedule of 275 days a year, the quarry will be generating 29,700 additional heavy truck trips per year. Any type of vehicle coming and going with this level of frequency must be included in the noise assessment test. Yet, this additional noise source is excluded from any auditory testing. The required environmental impact statement must mandate an adequate test of the proposed machinery, under the conditions that will be found at the New Shine Quarry, to adequately assess the auditory impact this site will have on the community.

¹⁸ Id.

¹⁹ See Atlas-Copco's inventory, available at <http://pol.atlascopco.com>. The DM-60 model is not even listed as available on the Atlas-Copco website.

²⁰ Community Noises Assesment, supra note 14, at pg. 7.

²¹ Id.

²² Id.

²³ Traffic Impact Analysis, supra note 8, at pg. 6.

²⁴ Id.

b. AMEC misinterpreted the existing EDNA classifications and did not test noise levels at the closest EDNA Class A location.

Jefferson County Code adopted the Maximum Environmental Levels established by the Washington State Department of Ecology (DOE).²⁵ The DOE established the Environmental Designation of Noise Abatement (EDNA) system to define the noise levels allowable for different types of property.²⁶ The different classes range from EDNA Class A to EDNA Class C.²⁷ EDNA Class A, the quietest, covers lands where human beings live and sleep,²⁸ whereas EDNA Class C, the loudest, covers commercial properties.²⁹ The DOE also created allowable maximum environmental noise levels that are based on the EDNA classes of the sending and receiving property.³⁰ The noise levels established are measured in A-weighted decibels (dBA).³¹

Under Washington law, EDNA Class A areas include both residential areas and recreational areas.³² AMEC tested the closest EDNA Class A property, the Northeast corner of the intersection of SR-104 and Beaver Valley Road, the future site of “Gateway Park”.³³ This constitutes an inadequate study of the nearest Class A property. This site is an undeveloped parcel located to the west of the proposed quarry site, far away from Port Ludlow’s existing residential or recreational areas.³⁴ The impact to this parcel of land is minimal since nothing exists there to have an impact on. AMEC also tested the nearest residential area with “a clear view towards the proposed quarry.”³⁵ While this area falls into the EDNA Class A type of property, AMEC seems to have overlooked that Class A properties also include recreational areas such as hiking trails and camping areas.³⁶ There are numerous hiking trails stretching southwest from the Port Ludlow area towards the proposed quarry site.³⁷ There has been no testing of noise levels at these Class A areas, which are significantly closer and more at risk for excessive noise than the sites AMEC tested. The noise levels must be tested at these sensitive areas as well as in the residential areas.

²⁵ J.C.C. 18.30.190 (“The intensity of sound emitted by any commercial or industrial activity shall not exceed levels established by the Washington State Department of Ecology under Chapter 173-60 WAC.”).

²⁶ See WAC 173-60-020(6), WAC 173-60-030 & WAC 173-60-040.

²⁷ WAC 173-60-030.

²⁸ WAC 173-60-030(1)(a).

²⁹ WAC 173-60-030(1)(c).

³⁰ WAC 173-60-040.

³¹ WAC 173-60-020(2).

³² WAC 173-60-30(1)(a)(i) &(iii).

³³ Community Noise Assessment, supra note 14, pg. 4.

³⁴ Id.

³⁵ Id at pg. 6.

³⁶ WAC 173-60-30(iii).

³⁷ See Timberton Loop Trail Map, available at <http://www.portludlowchamber.org/24.html>.

III. THE REPORTS FAIL TO ANALYZE THE IMPACTS OF INCREASED TRAFFIC TO AND FROM THE PROPOSED SITE WILL HAVE ON EXISTING INFRASTRUCTURE.

The Traffic Impact Analysis estimates that SR-104, the state route that leads to the proposed site, carries approximately 13,000 vehicles per day.³⁸ Of those 13,000, only 17%, or 2,210 vehicles, going westbound were heavy trucks.³⁹ On the eastbound side, that number shrinks to 14%, or 1,820 vehicles.⁴⁰ The traffic analysis further states that while the mine produces 200,000 tons of material per year, it will add an additional 54 daily truck trips.⁴¹ This means that for the first couple of years of operation, with activity 275 days per year, there will be an additional 14,850 heavy truck trips every year.⁴² When the mine begins operating at total capacity, 400,000 tons per year, the number of daily truck trips will rise to 108 truck trips,⁴³ or 1,458 tons per year. The report defines “trip” as a one-way drive.⁴⁴ The Traffic Impact Analysis does not take into account the impact that this increased heavy truck traffic will have on the local infrastructure.

While this does not seem to be a significant increase in the amount of trucks, there is a dramatic increase in the stress and strain put on the roads from the weight of the extra trucks. Each truck leaving the quarry is expected to carry approximately 27 tons of material.⁴⁵ Assuming only outgoing trucks will be carrying the heavy load, 27 trucks will leave the quarry every day in the initial years of operation, each carrying 27 tons of materials. This calculates to an additional 729 tons of weight being carried over the local roads everyday of operation. Simple arithmetic shows that, over the 275 expected days of operation, an additional 200,475 tons of weight will be carried over the roads, every year for the first few years the quarry is in operation.

Once the quarry reaches full production of 400,000 tons of material per year, the number of heavy truck trips per day is estimated to rise to 108. This means that 54 outgoing trips per day will be carrying extra tonnage. This calculates into an additional 1,458 tons per day and an extra 400,950 tons per year.⁴⁶ Assuming the mine reaches full capacity of production by year five,⁴⁷ over the next thirty-six years of the quarry’s life,

³⁸ Traffic Impact Analysis, supra note 8, at pg. 2.

³⁹ Id at pg. 3.

⁴⁰ Id.

⁴¹ Id at pg. 6.

⁴² This figure was calculated using the stated number of 54 truck trips per day multiplied by 275 days of expected mine activity.

⁴³ Traffic Impact Analysis, supra note 8, at pg. 6.

⁴⁴ Id.

⁴⁵ Id at pg. 2.

⁴⁶ These figure were calculated by multiplying the 54 outgoing truck trips with the 27 tons of material each truck carries, then multiplying this number against the expected 275 days the quarry will operate per year.

⁴⁷ Traffic Impact Analysis, supra note 8, at pg. 1.

14,434,200 tons of weight will be hauled over the local roads. This is a significant increase in the amount of weight being carried, yet there is no study of the impact this additional weight will have on the roads.

Increased stress and strain of this nature on the roads leads to a faster deterioration of the roads, which in turn leads to increased and more frequent maintenance. More frequent maintenance has the potential to lead to increased taxes to offset the costs of said maintenance and/or poorer quality of local roads. The effect this increased traffic has on local roads must be studied and suitable alternatives to increased maintenance and costs must be looked at.

IV. THERE IS NO STUDY OF THE IMPACT THIS PROPOSED QUARRY WILL HAVE ON AIR QUALITY IN THE AREA.

No study was conducted on the effect the mining and processing of the excavated rock will have on the air quality of the area. The reports indicated that several large machines will be constantly active at the site, including a small pioneering drill, a blasting hole drill, a large excavator, multiple trucks, a feed hopper, a jaw crusher, a track hoe, front end loaders and a main processing plant equipped with even more machinery.⁴⁸ It is more than likely impossible for these machines to operate without producing some by-product that has the potential to alter the quality of the air in the area. This possibility, however, has yet to be studied.

By-products from this type of activity can occur from two different actions, dust created from the mining operation itself or exhaust from the machines. Each outcome could occur individually, but it is possible, and more than likely in this case, that both will occur. It is hard to believe that such heavy machinery, such as the type used in quarries like the one proposed here, can operate without creating one, if not both, of these types of exhaust. Yet there is no study of the output of exhaust from the machines or the potential amount of rock dust that could be created. Nor is there any study of how these potential by-products will affect the air quality in the area. The possibility that the air quality could be drastically altered as a result of this project exists and therefore must be studied. The draft EIS must address this issue.

V. THE VISUAL IMPACT REPORT IS INHERENTLY FLAWED AND FAILS TO ACCURATELY ASSESS THE SHORT AND LONG TERM VISUAL EFFECTS OF THE MINING OPERATION.

The Visual Impact Report is inherently flawed and fails to take into account the effect on local recreational sports such as hiking and biking or the long-term visual effects the mining operation will have on topography and aesthetic value of the area.

a. The Visual Impact Report fails to use pre-determined, impartially selected viewpoints to assess the visual impact of the New Shine Quarry.

⁴⁸ Community Noise Assessment, supra note 14, at pg. 6.

The language used in the Visual Impact Report makes it emphatically clear the view points were chosen almost by happenstance instead of pre-determined, carefully selected locations. There is no evidence of the criteria used to select sites except for the vague notion of “anticipating potential visual impact.”⁴⁹ View points one and two were chosen simply because they were located in residential areas. The researchers state they “found View Point 2 while traveling further up the Mt. Constance Way road in search of a higher elevated location with views of the valley and hills looking westward.”⁵⁰ View points three and four, located on a nearby golf course, were selected because the researchers “could not find any other open areas at higher elevations.”⁵¹

Selecting view sites in this manner, by just driving around and randomly stumbling upon areas to take pictures, automatically biases the result. The lack of predetermined, carefully selected sites chosen before the research begins, creates a situation where the projected visual impact depends solely on what the researchers happen to find on that particular day. This is a far cry from the unbiased and carefully controlled research necessary to create a true representation of the visual impacts from the proposed site.

b. The Visual Impact Report fails to acknowledge or take into account the visual impact on local hiking trails.

Outdoor recreation is a significant draw to the Port Ludlow area. The Visual Impact Report fails to examine or take into account the visual impact of the proposed quarry from local hiking trails. The four viewpoints examined are all located to the northeast of the proposed site.⁵² The Timberlon Loop, a popular local hiking trail lies just to the southwest of these areas.⁵³ A 4.5-mile loop, the trail extends a significant distance to the southwest of the viewpoints selected.⁵⁴ There is no study of quarry’s visibility from this trail. Any potential “eyesores” visible from the trail, which is significantly closer to the proposed site, could ward off potential hikers and tourists, depriving them of what was once a unique and beautiful experience.

c. The Visual Impact Report only addresses the visual impact under existing conditions, not the visual impact after mining operations have commenced.

⁴⁹ Centerpointe Consultants, Inc., Visual Impact of the New Shine Quarry, pg. 3 (2009).

⁵⁰ Id at pg. 4.

⁵¹ Id at pg. 5.

⁵² See Visual Impact Analysis, supra note 49, Figure 1.

⁵³ See Timberlon Loop Trail Map, available at <http://www.portludlowchamber.org/24.html>. The driving range where viewpoints three and four are located is visible on this map.

⁵⁴ Id.

SEPA review requires that “[a]gencies shall carefully consider the range of probable impacts, including short-term and long-term effects.”⁵⁵ The Visual Impact Report was conducted under existing conditions, before mining operations change the topography of the area. The Operations Narrative submitted by IMQ states that the New Shine Quarry has the potential to produce up to 400,000 tons of rock per year.⁵⁶ This means that, if operated at full capacity for the expected lifespan of 40 years, the quarry has the potential to manufacture and displace 16,000,000 tons of rock.⁵⁷ Displacing such a significant amount of rock will unquestionable change the topography of the area. Any changes in topography will inherently result in changes to the views offered from the surrounding hills. The Visual Impact Report fails to examine this aspect of the mining operations.

The mine operation will be split into three stages.⁵⁸ The first stage of the operation calls for mining the southeast portion of the site to a minimum elevation of 155 feet.⁵⁹ The second phase requires the southwestern portion of the site to be mined to a minimum elevation of 217 feet.⁶⁰ Finally, the third phase advances the first phase mining from the south to the north.⁶¹ The existing topography is undulating, with a maximum elevation of 340 feet at the highest ridge.⁶² These are fairly significant changes in elevation. Furthermore, IMQ dropped any ridgeline preservation from the master plan they submitted for SEPA review, further allowing possible changes in topography to the proposed site.⁶³ Over the life of the mine, these changes in topography have the potential to offer different views than those seen under current conditions.

Additionally, the reports fully acknowledge that some of the trees that offered protection from the unsightly view of quarry operations will be displaced. Much of the reason that the visual impact report found there was no impact was due to the forestry in the area.⁶⁴ The trees were simply blocking any view of the quarry site. The mining operations will necessarily have to eliminate some of that forest cover. The effect that this sort of deforestation will have on visibility of the site, however, was overlooked. Until changes in topography and forestry from the proposed mining operations are examined and taken into account, the visual impact of the site will largely remain a mystery.

⁵⁵ WAC 197-11-060(4).

⁵⁶ Iron Mountain Quarry, Mining Operations and Reclamation Narrative (2010).

⁵⁷ This figure was calculated assuming that the quarry will mine 400,000 tons of rock per year over the course of forty years.

⁵⁸ Mining Operations and Reclamation Narrative, *supra* note 55.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² AMEC, Geologic Geohazard Assessment, pg. 2 (2008).

⁶³ See Comments Regarding Iron Mountain Quarry’s SEPA Permit Application, *supra* note 13, pg. 17.

⁶⁴ See Visual Impact Report, *supra* note 49.

VI. THE EXISTING GROUNDWATER AND AQUIFER RECHARGE REPORTS INADEQUATELY EXAMINE THE IMPACT GROUNDWATER CONDITIONS AND EFFECT FROM THE PROPOSED QUARRY.

a. The Existing Ground Water Conditions Report and the Critical Aquifer Recharge Report fail to conclusively establish the lack of a hydrologic connection between the ground water under the proposed quarry and the aquifers that supply water to the Port Ludlow community.

The Existing Groundwater Conditions Report and the Critical Aquifer Recharge Areas Report (“groundwater reports” or “the reports”), both conducted by Environ and submitted with IMQ’s permit application, fail to test groundwater flow under the site and to adequately show that there is no hydrogeologic connection between groundwater flow at the site and the wells that provide the water source for the Port Ludlow community.

The most telling fact in the set of groundwater reports is that the groundwater movement in the basalt structure found under the proposed site was not tested.⁶⁵ The logical implication from this statement is that Environ cannot know exactly where the ground water flows. To quell this uncertainty, they used data about the hydrogeologic conditions in and around the proposed site, taken from well logs and published reports, and then factored in the topography of the area to come up with what is essentially an educated guess.⁶⁶ This still leaves a level of uncertainty that is incompatible with the goals of the SEPA process.

For example, the Aquifer Recharge report finds that “it is *unlikely* that groundwater flow within bedrock at the proposed NSQ site would be in communication with nearby water supply wells located to the southeast and to the northeast.”⁶⁷ Similarly, the Existing Ground Water Conditions Report finds that “[i]t is *likely* that there is no hydrogeologic connection between this [Jefferson County Public Works Well] and the NSQ site, based on distance.”⁶⁸ While it is entirely possible that these statements are true, the ground water flow from the site has not been tested. In the event that some unwanted chemical seeps into the ground water at the site, there is no telling where it will end up. The ground water flow must be determine conclusively before any action can be taken towards this site.

⁶⁵ See Discussion of Existing Ground Water Conditions, *supra* note 9, pg. 2 (“Ground water movement in basalt is fracture-controlled and difficult to predict, and formal studies of ground water movement in bedrock have not been completed in Eastern Jefferson County.”); See also Critical Aquifer Recharge Areas Report, *supra* note 9, pg. 5.

⁶⁶ Critical Aquifer Recharge Areas Report, *supra* note 9, at pg. 5

⁶⁷ *Id* at pg. 5 (emphasis added)(parentheticals omitted).

⁶⁸ Existing Ground Water Conditions, *supra* note 9, pg. 3 (emphasis added). The reference well is located 0.8 miles to the west-northwest of the proposed quarry site.

b. IMQ does not address who holds the existing water rights for the ground water it intends to use during operation of the quarry.

IMQ has not addressed the issue of water rights in any of their documentation. Washington State follows the prior appropriation system of water rights management, meaning that for any water uses, no matter the location or source, the actor must get an appropriations permit from the state. The law states “all waters within the state belong to the public, and any right thereto, or to the use thereof, shall be hereafter acquired only by appropriation for a beneficial use and in the manner provided.”⁶⁹ The law similarly applies to ground water in the state.⁷⁰ Groundwater is defined as “all waters that exist beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water within the boundaries of this state, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves.”⁷¹ Natural ground water is ground water that exists due to natural processes.⁷² The language used in the statute suggests that all water that occurs underground is by definition public ground water and necessitates an appropriation permit to withdraw.

IMQ has stated that the water supply needed for the proposed quarry include “process water for mining operations (dust control) and sanitary purposes.”⁷³ To achieve these water needs, IMQ plans on drawing water from an exempt industrial well and an exempt domestic well.⁷⁴ Between these two wells IMQ plans to take up to 10,000 gallons per day.⁷⁵ This raises serious concern about the water rights in the area. Withdrawing up to 10,000 gallons of water a day puts IMQ in serious contention for water rights with other members of the Port Ludlow community. There is nothing in the supporting documents to suggest that IMQ has acquired or even applied for the rights to use this much water. Furthermore, the ground water reports seem to ignore the possibility of pre-existing water rights in the area. Any water rights acquired by IMQ would be subservient to water rights already in existence.⁷⁶ IMQ must determine whether it has the right to withdraw ground water for use in the quarry operations and make that right known to the public. If they lack the right to do so, they must acquire the necessary appropriations permit from the State of Washington before they proceed with any activity.

⁶⁹ RCW 90.03.010.

⁷⁰ RCW 90.44.040 (“Subject to existing rights, all natural groundwaters of the state as defined in RCW 90.44.035, also all artificial groundwaters that have been abandoned or forfeited, are hereby declared to be public groundwaters and to belong to the public and to be subject to appropriation for beneficial use under the terms of this chapter and not otherwise.”).

⁷¹ RCW 90.44.035(3).

⁷² RCW 90.44.035(4).

⁷³ Critical Aquifer Recharge Areas Report, supra note 9, at pg. 1.

⁷⁴ Id at pg. 1-2.

⁷⁵ Id at pg. 2.

⁷⁶ See RCW 90.03.010 (“...as between appropriations, the first in time shall be the first in right.”).

VII. THE ECONOMIC EFFECTS OF THE MINING OPERATION MUST BE STUDIED AND MEASURES MUST BE TAKEN TO ENSURE THE MINIMIZATION OF THESE EFFECTS.

Above all else, the main concern held by citizens of Port Ludlow is the economic effect the New Shine Quarry will have on property values. Washington state law requires that “[a]ll state agencies and local government entities with rule-making authority under state law or local ordinance shall adopt methods and procedures which will insure that economic values will be given appropriate consideration in the rule-making process along with environmental, social, health, and safety considerations.”⁷⁷ This language suggests that economic value can, and in this case, should be considered as part of the environmental impact statement.

It goes without question that every aspect of the operation of the New Shine Quarry can and will have an impact on the value of the surrounding land. The location of the New Shine Quarry is less than five miles from the Port Ludlow MPR. It is impossible for a commercial operation of this magnitude, situated this close to an existing community, to avoid disrupting the status quo. Furthermore, there is concern that Port Ludlow will be seen as a “mining town” making it significantly harder to draw in tourism and prospective homeowners. Any adverse impact from the mining site, whether it is from the operation of the quarry or simply from changes in the perception of Port Ludlow, will have the unintended consequence of driving down property value in the surrounding area. This impact must be studied and any adverse effects from the mining operation must be eradicated.

We strongly oppose the prospective development and operation of the New Shine Quarry and insist that the areas of concern state above be addressed in the draft environmental impact statement that will result from this process. Please feel free to contact us if you have any questions or require further clarification.

Sincerely,

Kathy Traci
Kathy Traci, Ph.D.
103 Twinsview Ct.
Port Ludlow, WA 98365
360-437-7874
Tracipkt@aol.com

⁷⁷ RCW 43.21H.020.

Paul Traci

Paul Traci, Ph.D.
103 Twinsview Ct.
Port Ludlow, WA 98365
360-437-7874
Tracipkt@aol.com

Linda Karp

Linda Karp
61 B N. Chandler Ct.
Port Ludlow, WA 98365
360-437-0175
georgekarp@aol.com