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SUPERIOR COURT OF WASHINGTON  
FOR KITSAP COUNTY

IRON MOUNTAIN QUARRY,  
LLC, a Washington Limited Liability  
Company, and POPE RESOURCES,  
a Delaware Limited Partnership;

Petitioners/Plaintiffs,

v.

JEFFERSON COUNTY, a  
Washington Municipal Corporation,  
acting through its Department of  
Community Development; and  
STACIE L. HOSKINS, Planning  
Manager, Jefferson County  
Department of Community  
Development;

Respondents/Defendants.

AND

PORT LUDLOW VILLAGE  
COUNCIL;

Intervener.

NO. 10-2-00181-5

DECLARATION OF ANTHONY U.  
SIMPSON, PRESIDENT OF PORT  
LUDLOW VILLAGE COUNCIL, IN  
SUPPORT OF MOTION TO  
INTERVENE

TO: CLERK OF THE COURT;

AND TO: Dale N. Johnson and Keith Moxon at GordonDerr LLP, Attorneys for  
Plaintiffs.

AND TO: Kenneth W. Harper and Quinn N. Plant at Menke Jackson Beyre Ehliis &  
Harper, LLP, Attorneys for Defendants.

1 1. I am over 18 years of age and competent to testify. I am the president and a  
2 director of the Port Ludlow Village Council, a Washington Nonprofit Corporation  
3 (PLVC). The PLVC board of directors approved this declaration by resolution at its  
4 General Meeting on August 5, 2010. The property owners elect the directors of the  
5 PLVC. The directors appoint the officers ([See Ex. \(B\)1, p. 3](#)). All PLVC directors,  
6 officers, and committee members are unpaid volunteers.

7 This declaration shows that the environmental rights of the property owners and  
8 residents of Port Ludlow are seriously threatened in the case before the court. The  
9 PLVC is the only organization exclusively dedicated to representing those rights and  
10 having the status to intervene.

11 2. Port Ludlow is an unincorporated community located at Port Ludlow, about five  
12 miles north of the Hood Canal Bridge. It lies adjacent to and surrounded by forest  
13 owned by Pope Resources and the Department of Natural Resources (DNR) ([See Ex.](#)  
14 [\(B\)2](#)). The County Assessor lists 1,650 residential properties and Port Ludlow's  
15 property value as \$687 million, 13.5 percent of the entire County ([See Ex. \(B\)3](#)). With a  
16 population estimated at roughly 2,500, the Port Ludlow Master Planned Resort (MPR)  
17 is the second most populated area in Jefferson County. People came to and bought  
18 property in Port Ludlow in large because of the environment promoted by its initial  
19 developer.

20 3. Pope Resources, which merged in 1985 with its predecessor, Pope and Talbot  
21 Development ([See Ex. \(B\)4](#)), was the owner and developer of Port Ludlow from 1968  
22 when they created it through August 2001 when they sold it to Port Ludlow Associates  
23 (PLA) ([See Ex. \(B\)5](#)). Pope Resources has multiple roles: as one of the petitioners in  
24 this case, as the lessor of Iron Mountain Quarry's (IMQ) proposed quarry next to Port  
25 Ludlow, as Port Ludlow's creator and developer, and as the continuing developer of  
26 Tala Point adjacent to and east of Port Ludlow.

1 4. On May 8, 2000, Pope Resources and Jefferson County entered into the Port  
2 Ludlow Development Agreement ([See Ex. \(B\)6](#)) implementing the Port Ludlow MPR, a  
3 designation created under Chapter 36.70. 360 and 362 ([See Ex. \(B\)7](#)). The MPR was  
4 established to provide a mix of residents and transient guests with outdoor recreational  
5 areas and amenities in a natural setting ([See Ex. \(B\)8](#)). Among these recreational  
6 amenities are a walking-trail system and a golf course developed by Pope Resources,  
7 both are located in the immediate vicinity of the proposed IMQ quarry. The trails run  
8 through a perpetual easement granted by Pope Resources to PLA ([See Ex. \(B\)9](#)), part of  
9 which is immediately adjacent to the new quarry along “GG” ([See Ex. \(B\)10](#)). The  
10 PLVC restores damage and maintains these trails, and indemnifies Pope Resources from  
11 claims, damages, liabilities, and losses, under an agreement between the PLVC and  
12 Pope Resources ([See Ex. \(B\)11](#)). The MPR boundary and its golf course are 623 yards  
13 ( $\frac{1}{3}$  mile) from the proposed quarry ([See Ex. \(B\)10](#)).

14 5. On September 1, 2000, Pope Resources made the PLVC the grantee of the Port  
15 Ludlow MPR’s Amended and Restated Master Declaration of Covenants, Conditions  
16 and Restrictions ([See Ex. \(B\)12](#)). The PLVC acts as the ex-officio representative of the  
17 Port Ludlow MPR property owners and residents to Jefferson County and may engage  
18 in lawful political and/or lobbying activities ([See Ex. \(B\)1, p. 1](#)).

19 In 2008, despite objections from IMQ regarding Port Ludlow’s participation at  
20 the nonconforming rights land-use decisions (See [Ex. \(B\)13](#), [Ex. \(B\)14](#), and [Ex. \(B\)42](#)),  
21 the Jefferson County Superior Court denied IMQ’s motion to dismiss standing and  
22 recognized that the PLVC had standing ([See Ex. \(B\)15, p. 2](#)). Subsequently, the PLVC  
23 presented its case ([See Ex. \(B\)16](#)). Later, IMQ served notice to the PLVC via complete  
24 copies of their storm-water permit application personally delivered on February 25,  
25 2010. Work on SEPA comments by the Port Ludlow community started immediately  
26 thereafter.

1 6. Jefferson County Department of Community Development (DCD) provided  
2 notice to the PLVC of the determination of significance ([See Ex. \(B\)17](#)) on March 24,  
3 2010 with a due date for EIS scoping comments of April 23, 2010. Community work on  
4 SEPA comments begun on February 25, 2010 were revised to respond to the EIS  
5 scoping comment request. Extensive investigation and analysis of the IMQ's storm-  
6 water permit application had been completed before the IMQ-Pope Resources Writ of  
7 Certiorari ([See Ex. \(B\)18](#)) was filed on April 7, 2010.

8 7. The PLVC responded to DCD's notice. A true and accurate copy of this response  
9 is attached hereto as Exhibit A ([See Ex. \(A\)](#)). It deals in depth with the multiple  
10 problems that the PLVC identified in the materials filed by IMQ in association with the  
11 SEPA questionnaire.

12 8. Without regard to its record keeping, DCD was aware of the details about this  
13 proposed quarry project since 2007. It has been through a number of administrative  
14 appeals involving its legality including nonconforming rights and conditional use permit  
15 appeals before the Jefferson County Superior Court. In association with such appeals,  
16 information about the general nature of the project was published.

17 9. IMQ states that it has made a substantial investment in developing information  
18 for DCD relative to environmental matters identified in WAC 197-11-444 ([See Ex.](#)  
19 [\(B\)19](#)). IMQ's complaint and attachments indicate as much. The filing of such  
20 information and the expenses that IMQ claims to have incurred with respect thereto are  
21 clear indication that IMQ viewed its project as raising factual questions of its impact on  
22 environmental issues and that it viewed those impacts as potentially material.

23 In his April 9, 2008 decision ([See Ex. \(B\)20, p. 12-13, #4](#)) granting IMQ and Pope  
24 Resources their nonconforming rights to quarry, Jefferson County Hearing Examiner  
25 Causseaux found in his fourth conclusion that "*Pope has not abandoned its*  
26 *nonconforming use rights by development of Port Ludlow. However, the location of*

1 Port Ludlow and its amenities must be considered in both SEPA review and review  
2 under the JCC mining requirements” (emphasis added). This second sentence of the  
3 Examiner’s conclusion is a qualification condition to the grant of nonconforming rights.  
4 The words “must be considered” make compliance mandatory. The second sentence is  
5 unnecessary unless the Examiner deliberately intended to make nonconforming rights  
6 conditional on protecting the residents from the adjacent quarry activities by the  
7 community’s developer. Moreover, the decision contains no severability clause; failure  
8 to fulfill part appears to void the whole. Further, in his April 15, 2009 decision ([See Ex.](#)  
9 [\(B\)21, p. 2](#)) denying Port Ludlow’s request for a Conditional Use Permit, Judge Verser  
10 concluded that “*There are ample protections afforded to the County under its general*  
11 *permitting authority including SEPA authority to insure that concerns relating to offsite*  
12 *effects of any mining (noise, vibration, dust, traffic, etc.) are addressed and that the*  
13 *public is protected from possible adverse impacts*” (emphasis added). This again  
14 confirms that the environmental rights of Port Ludlow property owners and resident  
15 must be well protected by the SEPA process—rights that IMQ’s Writ seeks to  
16 circumvent.

17 10. Jefferson County did not consider the project categorically exempt. Nor did it  
18 believe that environmental disclosure and compliance could be addressed adequately by  
19 either nonpublic determination of non-significance or mitigated determination of non-  
20 significance. Rather, Jefferson County considered that the project had significant  
21 environmental impact and issued a determination of significance requiring an EIS. The  
22 decision to require an EIS and the litigation that has arisen with respect thereto has  
23 brought community attention to the land use issues and the need for comment from the  
24 Port Ludlow community.

25 11. For brevity herein, the PLVC identifies only three of the manifold deficiencies  
26 and salient misstatements, non-statements, or misleading statements or conclusions

1 contained in the responses of IMQ and its “experts”. The PLVC addressed its full  
2 responses in a separate analysis set forth in Exhibit A ([See Ex. \(A\)](#)) and other Port  
3 Ludlow groups also submitted substantial responses (See [Ex. \(B\)22](#) and [Ex. \(B\)23](#)).

4 A. Transportation

5 (a) Transportation is a recognized element of environmental disclosure. It is  
6 specifically listed not only in WAC 197-11-444 ([See Ex. \(B\)19](#)), but also in the  
7 environmental checklist set forth in WAC 197-11-960 ([See Ex. \(B\)24](#)). IMQ’s  
8 “expert” failed to note that its access to state route 104 was limited to forestry  
9 tree farm use and did not include quarrying. Currently, the position of  
10 Washington State Department of Transportation (WSDOT) ([See Ex. \(B\)25](#)) is  
11 that IMQ, and the existing small quarry contiguous to IMQ’s property, do not  
12 have the right to access SR-104, the access route disclosed in its responses to the  
13 Environmental Checklist.

14 Since SR-104 is not available to IMQ, it must access on state route 19. This  
15 highway is the main roadway connection to Port Ludlow. An access onto SR-19  
16 moves the traffic problem about two miles closer to Port Ludlow, directly  
17 impacting traffic associated therewith. Moreover, access onto SR-19 is not  
18 disclosed in the IMQ disclosure documents making them immediately defective  
19 as to a material element.

20 Three or more quarries already enter SR-104 from the south opposite to or close  
21 to the SR-19 entrance. We understand that the south-side quarries are currently  
22 addressing mitigating roadway construction with WSDOT. The addition from the  
23 north of two more quarries compounds the problems exponentially. SR-104 is a  
24 60 mph two-lane road without traffic lights from before the hood canal bridge  
25 until after Sequim—over 30 miles. Clearly, fast traffic and a variety of slowly  
26 entering and exiting trucks to and from both sides of the road are cumulative

1 highway safety and construction issues that must be considered under full SEPA  
2 compliance.

3 (b) IMQ’s traffic study missed or inadequately treated the projected public  
4 use of the roadway ([See Ex. \(B\)22](#)). The existing 40-acres quarry is able to  
5 satisfy the local need for aggregate. IMQ’s proposed quarry is 142 acres, 350  
6 percent larger, giving it potential capacity far exceeding local demand. There is  
7 an implicit conflict between the potential production of the proposed quarry and  
8 the market for the product. Moreover, no mention was made in the IMQ reports  
9 that over time the reserves may be increased substantially by lowering the quarry  
10 floor and production may be increased by adding more processing equipment;  
11 potentially further aggravating the transportation issues.

12 (c) Because of weight and competing sources, it is unlikely that there is  
13 another sizable local land-based market for the aggregate—*“as a general rule, a*  
14 *25-mile-haul from their source will double the cost of most aggregates related*  
15 *products”* ([See Ex. \(B\)26, p. 6](#)). However, Pope Resources and IMQ have an  
16 alternative that keeps road hauling short and avoids use of SR-104. A potential  
17 scenario is that much of the aggregate is not designed for the local market but  
18 rather is intended to be barged to the entire Puget Sound, perhaps to California,  
19 or beyond—as is done extensively from British Columbia quarries north of Port  
20 Ludlow ([See Ex. \(B\)27](#)).

21 To barge the aggregate, a dock is required. There are three obvious possibilities,  
22 the dock facility at Port Gamble, the dock that is contemplated for the “Fred Hill  
23 Pit-to-Pier” project south of the Hood Canal floating bridge, and the dock facility  
24 at Mats Mats.

25 i. Extensive use of Port Gamble is unlikely because of the shallow nature of  
26 the bay, environmental concerns by the Port Gamble S’Klallam Indian

1 Tribe, the protected historic nature of the community, and the 11-mile  
2 road trip via SR-19 and SR-104.

- 3 ii. The “pit-to-pier” project is mired in litigation. There is no reason to  
4 believe that it will be available in any reasonable time.
- 5 iii. Glacier Northwest, a subsidiary of Taiheiyo Cement Corporation ([See Ex.](#)  
6 [\(B\)40](#)), is the owner of Mats Mats quarry and the Maury Island project.  
7 Mats Mats has twin dock facilities that previously barged 90 percent of  
8 Mats Mats quarry’s aggregate production ([See Ex. \(B\)30, p. 3.10-9](#)). The  
9 docks are still fully operational ([See Ex. \(B\)28](#)). They have been in use  
10 this year ([See Ex. \(B\)29](#)). The dock is only 7 road miles from IMQ’s  
11 proposed quarry and does not require access to SR-104. Mats Mats twin  
12 docks can process four 4,000-ton barges per day ([See Ex. \(B\)30 p 2-7](#)).  
13 Mats Mats could transship virtually all that IMQ’s proposed quarry could  
14 produce even if IMQ later purchased the lease to the adjacent 40-acre  
15 quarry and lowers both quarry floors well below the current 150 feet. For  
16 example, minus 60 feet (below sea level) is proposed for Mats Mats ([See](#)  
17 [Ex. \(B\)33, fig. 3.1-5](#)). This could involve transportation via about 500  
18 trucks per day to reach the approximate current capacity of the Mats Mats  
19 barge facilities.

20 Clearly, Mats Mats appears to be the most feasible and economical route.  
21 The negative is that it will require a large number of trucks per day to pass for  
22 two miles through the center of Port Ludlow, along the Bay around which the  
23 homes and amenities of the Port Ludlow MPR have been built.

24 (d) IMQ’s SEPA disclosures simply do not deal realistically with the potential  
25 market for the product and do not rule out shipping via Mats Mats. If the market  
26 is, as here posed, accessed by barge, that should be disclosed. A disclosure based

1 on “if I produce it they will come” is not sufficient to determine the impact of  
2 this project on SR-104, SR-19, or, if the actual shipping point is Mats Mats, Oak  
3 Bay Road which traverses through the center of Port Ludlow and immediately  
4 affects the Port Ludlow community.

5 Ignoring the market allows IMQ not to disclose the transportation impact.  
6 It should not be the obligation of the public or even DCD to guess at the impact  
7 because the disclosure is inadequate. What is obvious is that IMQ needs to  
8 disclose its actual marketing and transportation plan to DCD and the public.  
9 Requiring full SEPA compliance advances the resolution of SR-104, SR-19, and  
10 Oak Bay Road traffic problems that would obviously be associated with the  
11 project were the actual plan to use the Mats Mats dock via Oak Bay Rd.

12 B. Domestic Water

13 (a) The IMQ disclosure is inadequate in its treatment of the impact of the  
14 project on the domestic water system servicing Port Ludlow. The project  
15 proposes to access basaltic flows using a drill and shoot method. This means use  
16 of explosives.

17 IMQ’s disclosure deals with this issue by claiming that the nearest  
18 productive aquifer, the South Aquifer, which it states is more than a mile east of  
19 the quarry site, will not be affected ([See Ex. \(B\)32, p. 2](#)). The South Aquifer  
20 wells descend 12 to 137 feet below mean sea level ([See Ex. \(B\)31, p. 2](#)). IMQ  
21 concludes the aquifer will not be affected by its operations because the three  
22 productive Olympic Water & Sewer, Inc. (OWSI) wells do not extend to the  
23 zone that will be quarried ([See Ex. \(B\)32, pp. 2, 3](#)). (The Study doesn’t even  
24 identify the owner of OWSI correctly ([See Ex. \(B\)32, p. 6](#)); the original owner of  
25 OWSI was Pope Resources, but its successor, PLA, a company unaffiliated with  
26 Pope Resources, purchased Port Ludlow including OSWI in 2001.)

1 Port Ludlow and the OWSI wells that service it are located immediately  
2 either east or between Mats Mats and the proposed quarry (See [Ex. \(B\)31, fig. 1](#)  
3 and [Ex. \(B\)32, fig. 3](#)). It is clear from the analysis that the depth and deformation  
4 of the Eocene basaltic flow varies. It is surficial at Mats Mats and at the quarry  
5 site. A mile to the east, it allegedly is not encountered to a depth of more than  
6 four hundred feet. Its depth to the north between Mats Mats and the quarry site,  
7 the site of the remaining OWSI wells is known largely by core logs from wells  
8 drilled by OWSI and others. The report concludes that the South Aquifer, the site  
9 of wells 13, 14, and 16, overlies the Eocene basalt formation and is located in  
10 sand rich zones lying above the basaltic bedrock ([See Ex. \(B\)32, p. 2](#)).

11 (b) A key question in the aquifers themselves is the stability of the “sand rich  
12 zones” when exposed to vibrations resulting from drilling and shooting only a  
13 mile from the aquifer. A collapse or consolidation of the “sand rich zones” could  
14 certainly affect their permeability and porosity—i.e., the amount of water they  
15 hold and its flow.

16 (c) Although the report concludes that the aquifer itself does not extend to  
17 and is not hydrologically connected with the quarry site, what it does not treat is  
18 the sharing of the basaltic and sedimentary break bedding of the aquifer and the  
19 quarry ([See Ex. \(B\)41, p. 3](#)).

20 The problem lies in the lack of substantive information submitted by IMQ.  
21 Their report admits that the basaltic flow that it proposes to mine is the same  
22 formation that was mined four miles to the north at Mats Mats ([See Ex. \(B\)41, p.](#)  
23 [3](#)). Mats Mats quarry geology is described in detail in Huckell/Weinman EIS  
24 report. It includes a cross-section of the quarry ([See Ex. \(B\)33, fig. 3.1-5](#)) that  
25 defines 24 separate basalt flows separated by sedimentary layers, 9 basalt layers  
26 contain columnar jointed basalt, and 3 displacement faults. Columnar jointed

1 basalt, interflow sedimentary break layers, and displacement faults have potential  
2 for water permeability.

3 IMQ's Environ report acknowledges that "*Ground water movement in*  
4 *basalt is fracture-controlled and difficult to predict, and formal studies of ground*  
5 *water movement in bedrock have not been completed in Eastern Jefferson*  
6 *County*" ([See Ex. \(B\)34, p. 2](#)). Clearly, the proposed quarry's hydrogeology is  
7 complex but unknown.

8 Absent from IMQ's Environ geology report is the level of detail of the  
9 Mats Mats EIS report ([See Ex. \(B\)33, fig. 3.1-5](#)). However, some geological data  
10 was available from exposed rock at Pope Resources' leased small quarry next to  
11 the proposed IMQ quarry. Other data could have been available from the eight  
12 boreholes and presumable core samples that IMQ has already taken at the  
13 proposed quarry to verify their basalt mining reserves ([See Ex. \(B\)32, p. 4](#) and  
14 [Ex. \(B\)41, p. 6](#)). Limited information about the boreholes notes that some contain  
15 water ([See Ex. \(B\)34, p. 3](#)). Absent proper knowledge of the geology of IMQ's  
16 proposed quarry, the consequences of its implementation would be  
17 environmentally unpredictable.

18 Since this is important and possibly crucial environmental information for  
19 the wellbeing of Port Ludlow, its omission from IMQ's SEPA study begs the  
20 questions: Why were IMQ's and Pope Resources' boreholes and their assumed  
21 aerial survey and detailed core sample results not included? Did they intersect  
22 friable interflow sedimentation breaks allowing seepage, water permeable pillow  
23 basalt, displacement faults, etc? Did they go deep enough to verify sound sub-  
24 quarry bedding and the ultimate feasible quarry depth? Did they determine the  
25 actual flow-layer incline angle and direction, and the direction of water flow?  
26

1 (d) The second aquifer, the South Valley Aquifer, the IMQ report concludes  
2 is perched water and is not productive ([See Ex. \(B\)34, p. 2](#)). It goes on to site that  
3 “A portion of the South Valley Aquifer occupies the eastern portion of the  
4 [proposed quarry] site”. The South Valley Aquifer extends north into the MPR  
5 and may contain aquifers. Thus, IMQ’s study dismisses a possible source of  
6 supplementary Port Ludlow water as if it is of no import.

7 (e) Additionally, IMQ’s report omits that Port Ludlow’s water system,  
8 originally designed and operated by Pope Resources, appears already to be under  
9 threat:

10 i. The community has a current aquifer supply that meets demand as of the  
11 end of 2009. However, static water levels are declining. Though some  
12 variations can be expected, this effect has been noted since 2001. It now  
13 occurs in both north and south Port Ludlow wells. It may indicate an  
14 existing supply that is marginal ([See Ex. \(B\)35, p. 2](#)).

15 ii. OWSI delivers 185 gallons per day to the average single-family  
16 residential home in Port Ludlow ([See Ex. \(B\)36, p. 3-3](#)). This compares  
17 with the Washington State Department of Health’s (WSDOH)  
18 recommendation of about 350 gallons per day average for a community  
19 with a rainfall of about 30 inches per year. WSDOH also identifies a  
20 baseline minimum average of about 200 gallons per day ([See Ex. \(B\)37,](#)  
21 [App. D, pp. 219-227](#)). In other words, OWSI’s design supply is below the  
22 lowest end of the WSDOH expected average consumption.

23 Moreover, Port Ludlow properties are being purchased by younger  
24 working families whose average water consumption is substantially  
25 greater than that of seniors. This begs the question: as population and  
26 development expand on the west side of the Puget Sound and create jobs,

1           will Port Ludlow’s elderly owners or their heirs be able to sell the homes  
2           to average American families without creating a serious water shortage?

3           iii. OWSI has some production that cannot be used without mixing because  
4           of arsenic contamination (See [Ex. \(B\)36, p. 5-4](#) and [Ex. \(B\)31, p. 7](#)).

5           iv. The data suggest that OWSI requires development of additional wells to  
6           supply: existing Port Ludlow needs, needs of Port Ludlow to approved  
7           build-out under the MPR, Pope Resources’ planned Tala Point  
8           development, and to recognize competition from expansions occurring in  
9           Paradise Bay, Tala Shores, and rural residences that draw upon the same  
10          South Aquifer ([See Ex. \(B\)38](#)).

11          v. IMQ proposes an exempt industrial well to meet quarry dust control  
12          requirements and an exempt domestic well for personnel requirements  
13          ([See Ex. \(B\)32, p. 1-2](#)).

14          vi. OWSI is drawing sub sea-level water from the South Aquifer that is  
15          bedded in the basaltic deposit. One mile away IMQ intends to quarry  
16          using drilling and explosives at an unknown risk of damage due to  
17          collapse or consolidation of the aquifer’s “sand rich zones”, drainage via  
18          additional rock fracturing, intersection with porous or friable sedimentary  
19          layers, accidental contamination by chemicals, or sea water infiltration.

20          (f) Therefore, whatever the risk of a failure of the aquifer associated with  
21          drilling and shooting at the quarry, Port Ludlow’s water production rate appears  
22          to have no significant margin for such error. There is no plan in place that can  
23          replace the water. Even marginal effects on the aquifer could affect adversely the  
24          development plan for the Port Ludlow MPR as approved by Jefferson County  
25          and Washington State.

1 (g) If the risks were known and quantifiable, that would be one thing.

2 However, it is clear from IMQ's studies that the risks are not yet known.

3 (h) In a presentation to the Port Ludlow community on October 14, 2009,  
4 IMQ's president conceded that IMQ will form a separate corporation with  
5 unspecified capitalization that will own the quarry ([See Ex. \(B\)39, p. 108-109](#)).

6 While Pope Resources is traded as "POPE" on NASDAQ with a market  
7 capitalization of \$116 million as of market close on August 10, 2010, we  
8 understand that IMQ is a privately held partnership with undisclosed assets.

9 Apparently, their combined assets come nowhere near to the \$687 million  
10 property value of the community they propose to place at risk, and IMQ's quarry  
11 subsidiary will presumably have substantially fewer assets than IMQ.

12 (i) Concerned about the sufficiency of capitalization in the separate  
13 corporation to deal with loss of domestic water due to quarry operations, we  
14 recommended to DCD that IMQ be required to insure against the risk ([See Ex.](#)  
15 [\(A\) p. 29](#)). We do not know yet if such insurance is available. Such availability,  
16 however, would provide a financial measure of the risk. In any case, the risk of  
17 lower capacity or failure of the PLA's Olympic Water and Sewage Inc "OWSI"  
18 water system resulting from the quarrying activity and its method should be  
19 specifically addressed in full SEPA compliance to ensure that the risk is  
20 quantified and that adequate measures are in place as conditions to the project.

## 21 C Trails

22 (a) The proposed IMQ quarry project does not address the noise, dust, air  
23 pollution, and visual impacts (See [Ex. \(B\)22, p. 2](#), [Ex. \(B\)23, p. 5](#) and [Ex. \(A\),](#)  
24 [pp. 22 and 46](#)) resulting from the quarry's proximity to the recreational forest  
25 trail system, which was developed by Pope Resources. That trail system is a  
26 specifically identified recreational feature that helps justify the MPR

1 classification that Pope Resources sought and received from the Washington  
2 Legislature and from Jefferson County.

3 (b) Pope Resources, the landowner and lessor of the property that IMQ seeks  
4 to develop as a commercial quarry, has led Jefferson County, the Port Ludlow  
5 community, and the State of Washington, including WSDOT, to believe that all  
6 such property would remain in a commercial tree farm. It received access rights  
7 to SR-104 based on that basis ([See Ex. \(B\)25](#)). It is understood that it has also  
8 received tax benefits from having the property classified as forest. As forest, it is  
9 the home of various indigenous mammals and birds, including deer and bald  
10 eagles. The proposed quarry is located in part of an overall forest. The forest has  
11 non-human inhabitants. The question is not simply whether there are animals and  
12 birds on the specific property, but whether that property is part of a larger parcel  
13 that includes those populations. IMQ's discussions of flora and fauna in its  
14 disclosure do not deal adequately with the overall impact of the expansion of  
15 quarrying at or contiguous to the site as proposed in the project ([See Ex. \(A\) p.](#)  
16 [31](#)).

17 12. My remaining comments are set forth in Exhibit A ([See Ex. \(A\)](#)). I incorporate  
18 them by this reference. As can be seen from Exhibit A ([See Ex. \(A\)](#)) and from the  
19 discussion above, the IMQ disclosure is inadequate to permit any response by Jefferson  
20 County other than the determination of significance that it issued. To expect Jefferson  
21 County or the public to accept such disclosure as adequate would call to question the  
22 entire purpose and intent of SEPA.

#### 23 REFERENCES

24 [A PLVC SEPA Review Comments and Scope of EIS for NSQ 22-Apr-2010](#)

25 [B-1 PLVC Articles of Incorporation Amendment Nov-1-2005](#)


26 [B-2 Pope-DNR Land-Ownership Surrounding Port Ludlow 4-Mar-2009](#)

- 1 [B-3 Jefferson County Taxable Value of Port Ludlow Property Aug-5-2008](#)
- 2 [B-4 Pope and Talbot Development Merger Feb-15 1985](#)
- 3 [B-5 Pope Sale of Port Ludlow Development Assets to PLA-HCV Notice 10-Aug-](#)
- 4 [2001](#)
- 5 [B-6 JeffCo-Pope PL MPR Dev Agreement Grant Resolution 42-00 8-May-2000](#)
- 6 [B-7 RCW 36.70A.360](#)
- 7 [B-8 Master Planned Resorts “Washington Style” Introduction © 2003 by MRSC](#)
- 8 [B-9 Easement Grant Pope to PLA Aug-8-2001](#)
- 9 [B-10 Proposed IMQ Plan Modified L-Nobles Feb-2009](#)
- 10 [B-11 Pope and PLVC Trail Use Agreement March 4-2002](#)
- 11 [B-12 PLVC MPR Pope Grant by Amended CCRs Sept-1-2000](#)
- 12 [B-13 IMQ re Parties of Record at 14-Mar-2008 Hearing Only JeffCo and IMQ 12-](#)
- 13 [Mar-2008](#)
- 14 [B-14 IMQ-Pope Motion to Prevent Port Ludlow Standing 4-Jun-2008](#)
- 15 [B-15 Pope and IMQ Jeffco Court Order for Port Ludlow Standing 16-June-2008](#)
- 16 [B-16 Opening Brief on Iron Mountain Appeal Filed by R Shattuck 11-Aug-2008](#)
- 17 [B-17 JeffCo DCD MLA10-72 NSQ SEPA Determination of Significance and EIS 22-](#)
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- 19 [B-18 IMQ and Pope DS Appeal by Writ of Certiorari with Damages against JeffCo 7-](#)
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- 22 [B-20 Appeal 14-Mar-2008 Examiner Grants Pope-IMQ Legal Nonconforming Rights](#)
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- 24 [B-21 Pope and IMQ CUP LUPA Opinion by Jeffco Superior Court Apr-15-2009](#)
- 25 [B-22 IMQ SEPA Comments on Proposed Mining Operations SBCA 17-Apr-2010](#)
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- 1 [B-23 IMQ SEPA Comments re JeffCo Determination of Significance Traci-Traci-Karp](#)  
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- 4 [B-25 Severson WSDOT SR-104 Iron Mountain Quarry 23-Apr-2010](#)
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- 10 [B-31 Port Ludlow Groundwater Aquifer Monitoring 2009 Report Robinson-Noble for](#)  
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- 14 [B-34 NSQ SEPA Vol-2 Sec-4 ENVIRON Hydrogeology Tech Memo 25-Feb-2010](#)
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- 23 [B-42 Examiners Appeal Transcript re Pope-IMQ Nonconforming Rights 08-2-00142-](#)  
24 [2-31 14-Mar-2008](#)
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1 The foregoing is made under penalty of perjury under the laws of the state of  
2 Washington and is true and correct.

3 DATED this 26<sup>th</sup> day of August 2010

4  
5 By  \_\_\_\_\_  
6 Anthony U. Simpson  
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