

Douglas County Hearing Examiner

Andrew L. Kottkamp, Hearing Examiner

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
SP-69-A)	DECISION AND
Calvin White Compliance Review)	CONDITIONS OF APPROVAL

I. FINDINGS OF FACT

1. On August 22, 2007, the Hearing Examiner issued a Decision in the above-referenced matter regarding compliance violations on property located within Douglas County as more specifically described in said Decision.
2. On December 24, 2008, the Hearing Examiner issued a Decision granting a six-month extension of completion of the remediation process.
3. All Findings of Fact, Conclusions of Law and Order set forth in the August 22, 2007, Decision as well as the December 24, 2008, Decision are hereby incorporated herein by this reference except as specifically modified herein.
4. On June 18, 2009, the Hearing Examiner reconvened the hearing regarding remediation efforts in the above-referenced matter.
5. Admitted into the record and considered by the Hearing Examiner is the entire Planning Staff file, including all correspondence submitted regarding this matter.
6. Specifically submitted was a June 8, 2009, letter from Robert Steele, State of Washington Department of Fish and Wildlife, to Glen DeVries; a June 15, 2009, letter from Mr. Calvin White to the Douglas County Hearing Examiner; a letter submitted by Nelson Geotechnical Associates dated June 17, 2009; and a June 18, 2009, memorandum to the Hearing Examiner from Douglas County Transportation & Land Services.
7. Testifying at the hearing was Mr. Calvin White. Mr. White was in agreement with timeframes set forth in the June 18, 2009, memorandum from Douglas County Transportation & Land Services to the Hearing Examiner.

SP-69-A
Calvin White Compliance Review
Page 1 of 4

8. Also providing comment was Mr. Robert Steele of Washington State Department of Fish and Wildlife. Mr. Steele indicated that the Washington State Department of Fish and Wildlife was in agreement with all of the proposed dates set forth in the June 18, 2009, memorandum referenced above. Also, when specifically questioned by the Hearing Examiner, Mr. Steele indicated that all of the specific requirements requested out of all engineering studies to be completed by the applicant could be found in Mr. Steele's December 1, 2008, letter and Ms. Gina McCoy's letter dated December 1, 2008.
9. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has the authority to render this Decision.
2. This Decision is consistent with all requirements of the Douglas County Shoreline Master Program.
3. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

The Hearing Examiner finds that there is good cause to continue remediation efforts in this matter subject to the following conditions.

IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. Based upon the engineering analysis there could be two different courses for remediation, one of which would apply:

Assumption A. *Engineering analysis indicates that onsite retaining walls are necessary to maintain the integrity of the single family residence on the site.*

Actions-

1. *June 25, 2009, Calvin White's engineering consultant submits a geotechnical report.*
2. *July 25, 2009, agencies with jurisdiction provide review comments, questions, and required revisions to proposed remediation plans.*
3. *August 25, 2009, the applicant's consultants provide revised remediation plans to address comments, questions and required changes.*
4. *Agencies with jurisdiction provide final comments for the Hearing Examiner's consideration by September 18, 2009.*
5. *The Douglas County Hearing Examiner shall hold a final compliance hearing on September 30, 2009.*

Assumption B. *Engineering analysis indicates that onsite retaining walls are not necessary to maintain the integrity of the single family residence on the site.*

Actions-

1. *June 25, 2009, Calvin White's engineering consultant submits a geotechnical report.*
 2. *July 25, 2009, agencies with jurisdiction provide review comments, questions, and required revisions to proposed remediation plans.*
 3. *August 25, 2009, the applicant's consultants provide revised remediation plans to address comments, questions and required changes.*
 4. *September 21, 2009, agencies with jurisdiction review required changes and direct any final revisions to the remediation plan.*
 5. *October 9, 2009, the applicant's consultants provide final draft remediation plans for the Hearing Examiner's consideration.*
 6. *Agencies with jurisdiction provide final comments for the Hearing Examiner's consideration by October 30, 2009.*
 7. *The Douglas County Hearing Examiner shall hold a final compliance hearing on November 12, 2009.*
3. Site remediation is to be completed by January 31, 2010, with the exception of mitigation plantings. Mitigation plantings must be installed no later than May 15, 2010. Written verification that site remediation has occurred consistent with the approved remediation plans must be provided by the consulting engineer and biologist of record no later than June 1, 2010.
 4. An estimate of the cost of all remedial work shall be prepared by a contractor with qualifications and experience to perform the required work and who is not related to the permit holder. A performance bond shall be purchased in favor of Douglas County at 125% of the cost of the remedial work to assure its completion, no later than December 18, 2009.

5. An additional surety will be necessary to guarantee the survival of the plantings for a five year period following completion of the project. The performance surety must be completed no later than December 18, 2009.
6. If the direct or indirect cause of not meeting the time requirements of Condition No. 2 are the result of actions or inactions of Mr. White or his agents, then the property owner shall sign a statement authorizing Douglas County to enter the property to complete the remedial work.

Dated this 23rd day of June, 2009.

DOUGLAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Any aggrieved party or agency of record may request a reconsideration of this Hearing Examiner's decision. Motions for reconsideration must be filed with the Department within ten (10) days from the date of issuance as defined by RCW 36.70C.040(4)(a). Unless otherwise provided, the filing of a motion for reconsideration shall not stop or alter the running of the period provided to appeal the Hearing Examiners decision to Superior Court. Motions for reconsideration are governed by Douglas County Code 2.13.150.

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Douglas County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as "(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available" or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) "...the date the decision is entered into the public record." Anyone considering an appeal of this decision should seek legal advice.