

**DOUGLAS COUNTY**

**DEPARTMENT OF HEARING EXAMINER**

140 19<sup>th</sup> Street NW  
East Wenatchee, WAS 98802-4109

**BEFORE THE DOUGLAS COUNTY HEARING EXAMINER**

<b>IN THE MATTER OF</b>	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW, AND</b>
CUP-14-01	)	<b>DECISION AND</b>
Selland	)	<b>CONDITIONS OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on January 15, 2015, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

**I. FINDINGS OF FACT**

1. The applicant is Selland Construction, Inc., P.O. Box 119, Wenatchee, Washington 98807.
2. The property owner is Double Down Properties, LLC., 1300 South Webb Place, East Wenatchee, Washington 98802.
3. General Description: A conditional use permit application to permanently fill a steep-walled gulley, approximately 2 acres in size, with an estimated 70,000 cubic yards of inert material (concrete, asphalt, rock, dirt, sand and gravel) over the lifetime of the fill. There is no estimated closure date for the fill site. A stormwater bypass culvert, to allow upstream precipitation events to pass through the fill, is proposed through the bottom of the gulley.
4. The inert waste landfill will be located at the east end of 8th Street SE. The subject property is further described as being located within a portion of the NW 1/4 of Section 24, Township 22N, Range 21 EWM.
5. The Douglas County Assessor's parcel numbers is: 22212410007.
6. The Comprehensive Plan Designation is Commercial Agriculture 10 Acres.
7. The subject property is located in the AC-10 zoning district.
8. DCC 18.80 "Conditional Uses" establishes minimum review criteria for inert waste landfills.
9. The proposed project is a permitted conditional use within the AC-10 zoning district pursuant to DCC 18.80.

10. WAC 173-350-410 establishes minimum review criteria for Inert Waste.
11. The applicant has provided a plan of operation and a dust abatement plan consistent with the requirements of WAC 173-350-410.
12. A haul route agreement was entered into between Selland Construction, Inc. and Douglas County Transportation.
13. The applicant has provided a storm drainage report dated November, 2014 consistent with the requirements of the Douglas County Code and utilizing the guidance of the Stormwater Management Manual for Eastern Washington, as amended.
14. The applicant has provided a geologic hazard assessment including conclusions and recommendations, dated October 23, 2014 consistent with the requirements of Douglas County Code Chapter 19.18D.
15. A traffic impact analysis indicated that the project will add 1-2 additional vehicular trips per day and 5-10 vehicular trips per day during peak operations. The additional vehicular trips per day is minimal and will have no impact on existing transportation facilities.
16. Comments from reviewing agencies have been considered and addressed where appropriate.
17. Douglas County issued a Determination of Non-significance on December 24, 2014 in accordance with WAC 197-11-355 (Optional DNS).
18. A neighborhood meeting was completed by the applicant on October 20, 2014 pursuant to the requirements of DCC 14.08.012.
19. Surrounding property owners were given the opportunity to comment on the proposals, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
20. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
21. As conditioned, those public facilities and services necessary to support the conditional use will be adequate and available concurrently with the demand for such services and locally adopted level of service standards for public facilities and services will not fall below standards as set forth in the Douglas County Countywide Comprehensive Plan.
22. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
23. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.

24. An open record public hearing after due legal notice was held on January 15, 2015.
25. The entire Planning Staff file was admitted into the record at the public hearing.
26. The Douglas County Department of Land Services recommended approval of the requested permit, subject to the recommended conditions of approval.
27. The applicant did not appear at the hearing. The applicant was given legal notice of the date, place and time of the hearing.
28. No member of the public appeared at the hearing.
29. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.
30. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
31. The cumulative impact of additional requests for like actions (the total of the conditional uses over time or space) will not produce significant adverse effects to the environment that cannot be mitigated by conditions of approval.
32. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
33. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
34. Land uses, activities, and structures that are allowed by this conditional use permit will comply with the required performance standards specified.
35. 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 been granted authority to render this decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Douglas County Countywide Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public interests will be served by approval of this proposal.

5. As conditioned, the proposal is consistent with Title 18 "Zoning" and Title 19 "Environment" of the Douglas County Code.
6. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Douglas County Code and Comprehensive Plan.
7. As conditioned, the proposal does conform to the standards specified in Douglas County Code.
8. As conditioned, the use will comply with all required performance standards as specified in Douglas County Code.
9. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Douglas County Code or the Comprehensive Plan.
10. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
11. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

### **III. DECISION**

Based on the above Findings of Fact and Conclusions of Law, Application CUP-14-01 is hereby APPROVED subject to the following Conditions of Approval.

### **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. The project shall proceed in substantial conformance with the plans and application materials of file submitted on November 10 & November 13, 2014 except as amended by the conditions herein.
3. Owners/operators shall be responsible to obtain and comply with any applicable federal, state, and local laws, and must obtain all necessary permits and approvals prior to operation.
4. Prior to commencing site preparation or filling operations the applicant shall obtain a Solid Waste Handling Facility Permit from the Chelan-Douglas Health District and provide a copy to Douglas County Land Services.
5. The inert fill landfill shall be operated in accordance with the Plan of Operation submitted November 10, 2014 and on file with the County, except as may be amended. Amendments to

the Plan of Operations shall be provided to Douglas County Land Service for approval and certification of compliance with the conditions of approval.

6. Ingress and Egress, and route maintenance to and from the site shall be consistent with the Haul Route Agreement dated December 23, 2014.
7. All operations will be conducted in a manner that complies with the applicable requirements of WAC 173-60, including the maximum permissible environmental noise levels specified in WAC 173-60-040 and the provisions of DCC 8.04 *Noise*.
8. Delivery of inert fill materials and the operation of heavy equipment shall not occur before 7 AM and not after 7 PM, Monday through Saturday.
9. Selland Construction, Inc. shall be the sole operator of the inert fill site.
10. Prior to commencing site preparation or fill operations onsite, written verification shall be submitted to the Douglas County Land Services from the Department of Ecology that an NPDES Construction Stormwater General Permit has been obtained or that the permit is not necessary.
11. In the event cultural sites or isolated finds are identified during operations, work in the immediate vicinity will be halted until the site or find can be evaluated by a qualified archaeologist and applicable state and tribal entities can be consulted.
12. At final closure, the site will be graded and seeded to ensure that excessive soil erosion does not occur.
13. The field engineer/geologist shall provide Douglas County Land Services a written report certifying that all conditions/recommendations related to site work, erosion controls, bench cut into the existing slope, and sediment control measures listed in the geotechnical report are complied with at the conclusion of each lift prior to placement of additional inert fill.
14. The applicant is responsible for compliance with applicable state regulations including but not limited to acquisition of the Department of Ecology, Construction Stormwater Permit, and registration of UIC facilities, prior to construction.

Dated this 20<sup>th</sup> day of January, 2015.

DOUGLAS COUNTY HEARING EXAMINER



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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.**