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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SKAGIT**

ANNIE JANICKI,  
  
Petitioner,  
  
v.  
  
CITY OF SEDRO WOOLLEY, a municipal  
corporation, and DELUXE RECYCLING AND  
DISPOSAL LLC, a Washington Limited  
Liability Company; and FIRE RIDGE, LLC,  
an Oregon Limited Liability Company,  
  
Respondents,  
  
v.  
  
SKAGIT COUNTY, a political subdivision in  
the State of Washington,  
  
Intervenor.

**NO. 08-2-01130-8**  
  
**DELUXE RECYCLING AND  
DISPOSAL LLC RESPONSE  
TO COURT ORDER REMAND**

**I.  
INTRODUCTION**

Deluxe Recycling and Disposal LLC attaches its proposed order on  
remand.

1  
2 **II.**  
3 **ARGUMENT**

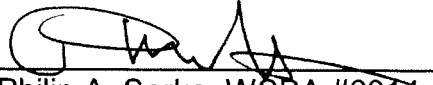
4 Deluxe does not believe the Court has the authority at this stage in the  
5 process to order the City of Sedro Woolley to withdraw its MDNS. Thus, the  
6 proposed order requires that the City SEPA official consider the letter as a part  
7 of the SEPA file on the Deluxe application and decide whether or not the  
8 substance of the letter compels the City official to change its previously issued  
9 MDNS. Thus, the official has the authority to (1) maintain the same MDNS with  
10 the same mitigative conditions; (2) alter the MDNS by adding or removing  
11 mitigative conditions; and (3) withdraw the MDNS and require that an  
12 environmental impact statement be required. However, this decision must be  
13 made by the city and not by this Court. If the City does not change its  
14 previously issued MDNS after consideration of the Jacobs' letter, then this  
15 matter should be referred back to Court for further consideration of the entire  
16 decision with a supplemented record. On the other hand, if the City changes  
17 the MDNS, then this decision will be considered a new threshold determination  
18 which is appealable to the Hearing Examiner in accordance with the City of  
19 Sedro Woolley ordinances.  
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22 Since the City of Sedro Woolley made the error here and not Deluxe, we  
23 would respectfully requests that if costs are to be paid, that the City of Sedro  
24 Woolley be ordered to reimburse for preparation of transcript costs and any  
25 statutory attorneys fees.  
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DATED this 29 day of September, 2008.

ADELSTEIN, SHARPE & SERKA LLP

By:   
Philip A. Serka, WSBA #6814  
Attorney for Respondent Deluxe  
Recycling and Disposal LLC

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DELUXE RECYCLING AND DISPOSAL LLC  
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