



November 24, 2008

Sharon Dillon, Ken Dahlstedt, Don Munks
1800 Continental Place, Suite 100
Mount Vernon, WA 98273

RE: Your letter dated September 11, 2008

Dear Commissioners:

I am writing in response to your letter addressed to me dated September 11, 2008 regarding the Deluxe proposal. I have carefully reviewed your letter and discussed it with our planning director and outside counsel.

You specifically request that the City “defer any further review of the Deluxe proposal to the Solid Waste System Governance Board and its planning process.” Also in your letter, you state that the “County Board of Commissioners will not permit, approve or authorize any private municipal solid waste facility that is not a product of and responsive to an RFP approved by the Governance Board,” citing significant adverse environmental impacts from the Deluxe proposal.

After review of your letter and the rules the City is obligated to follow, we have come to the following conclusions:

1. The City does not believe it has the legal right to refuse to process an application which it has determined to be complete for purposes of administrative processing and which it has determined to be for an allowed use under the City’s zoning code.
2. The City recognizes, however, that other approvals will be required before Deluxe may open its doors for the use requested in the present proposal, including without limitation, county permits for solid waste handling and a county operating permit.
3. The City also recognizes that pursuant to the 2008 Interlocal Agreement and the 2008 County Comprehensive Solid Waste Management Plan (“CSWMP”), the Solid Waste System Governance Board (“SWSGB”) must decide to initiate an RFP process before any privatization of the solid waste system may occur.

4. Based on the county permits required for the Deluxe proposal and the direction provided in the 2008 CSWMP, the County is clearly an agency with jurisdiction over the Deluxe proposal for purposes of SEPA.
5. For private projects that require permit approvals from both City and County government, the lead agency shall be the jurisdiction in which the greatest portion of the project area is located. WAC 197-11-932. For purposes of this rule, the jurisdiction of the County shall not include the portion of a project within the city. *Id.* In the present case, the Deluxe project area is in the City and therefore the City is the lead agency.
6. Any agency with jurisdiction, which would include the County, may assume lead agency status if all agencies with jurisdiction agree. WAC 197-11-942.
7. The City hereby requests that the County assume lead agency status under SEPA for the Deluxe proposal, pursuant to WAC 197-11-942. This seems particularly appropriate given the strong interest the County has in the Deluxe proposal, the importance of the County permits in the approval process, and the greater resources available to the County to properly evaluate the proposal. Other agencies with jurisdiction include Department of Ecology ("Ecology") and the SWSGB. With the concurrence of Ecology and the SWSGB, the County may become lead agency for the Deluxe proposal for SEPA process purposes.

The City respectfully requests that the County agree to assume lead agency status for the Deluxe proposal without delay. The City will fully cooperate with the County in establishing its lead agency status.

I look forward to your reply. As the developers in this matter have been in contact with the City and are eager to see this process continue, I ask that you respond not later than December 2, 2008.

Sincerely,

CITY OF SEDRO-WOOLLEY



Mike Anderson, Mayor