

# **PROJECT HISTORY: HYDE GRAVEL**

## **Historic Use, Legal Non-conforming, Permitting, Surveys**

Palmer Coking Coal Company's 24.5-acre Hyde Gravel site has long been contemplated for surface mining operations. Palmer Coking Coal Co. (hereinafter "Palmer") entered into a real estate contract to acquire the property in 1953. Palmer obtained fee title in 1956. From the 1950s to the 1970s, the property was mined under a lease to a silica sand mining company. From 1969 through 1975, King County Public Works was granted leases to store, stockpile, and remove gravel on leased property. In 1971, the Section 30-21-7 property was segregated between two ownerships: 111 acres was acquired by Morris & Sons, Inc. (now Green Section 30) while the remainder was retained by Palmer. From 1979 through the 1990s, Palmer leased the site to several different oil, gas, and mineral recovery companies.

When King County began working on the Enumclaw Community Plan in the late 1980s, Palmer provided detailed information regarding mineral resource properties it owned in the Enumclaw planning area (see Nov. 19, 1987 letter to Carol Lumb, King County Planning, and July 8, 1988 letter plus attachments to Tom Fitzpatrick, King County Planning and Community Development). Palmer's mineral resources were identified by Section-Township-Range, then cross-referenced through tax account numbers, resource type (i.e. coal, oil, natural gas, sand & gravel, and quarry rock), with approximate acreages for each. Highlighted King County Kroll maps were attached to illustrate the specific properties. Palmer provided significant comment and background information during the writing of the plan. Palmer communicated frequently with planners who sought information and strategies for developing the mineral and mining policies later adopted in the July 1990 Enumclaw Community Plan. Several Palmer properties were designated as existing and potential extraction sites (see Enumclaw Community Plan, 1990 – Mineral Resource and Existing / Potential Extraction Sites, page 63, together with highlighted close-up focused on Palmer's current Lot Q rezone).

In Oct 1991, Wheeler Topsoil, Inc. applied for a grading permit under a lease from Morris & Sons, Inc. for portions of their property historically used or planned for mining (and formerly owned by Palmer). King County's Building and Land Development (BALD) division reviewed the application and on Jan. 7, 1992, recommended a Mitigated Determination of Non-Significance (MDNS) be issued for the project. BALD also determined the property was entitled to grading permits for mining under a legal, nonconforming use. An appeal was filed against the decision by Doreen Johnson of the Plateau Preservation Society. The case was heard by the Office of Zoning and Subdivision Examiner on Nov. 12, 1992 under File No. C9102861. The Hearing Examiner's decision was issued Dec. 9, 1992.

The appeal was denied and the grading permit was recommended for conditional approval, and eventually issued.

In August 1994, Palmer's representative, Mark Abernathy met with Randy Sandin, Supervisor at King County Dept. of Development and Environmental Services (DDES) requesting a determination of historic mining uses for the Hyde Gravel site in Section 30 (see Aug. 23, 1994 letter to Randy Sandin with attachments). During the meeting, Sandin requested additional information consisting of detailed maps and evidence that mining commenced before the establishment of zoning in 1958. Palmer assisted Abernathy in preparing the requested materials. Abernathy followed with a Sept. 9, 1994 letter accompanied by a detailed three-page chronology plus a 3-ring binder with ten supporting exhibits (see Sept. 9, 1994 letter to Randy Sandin with lists of attachments).

Abernathy, together with Palmer and its attorney, Joel Haggard met with Gary Kohler and Sandin on Nov. 28, 1994 at the DDES office in Bellevue. On January 11, 1995, King County DDES issued 14 findings, including Finding Nos. 1 and 2 as follows:

1. Palmer Coking Coal Company (Palmer) owner intends to pursue a grading permit to remove sand, gravel, and sandstone from the property.
2. The site is approximately 27 acres lying south of an active sand and gravel mine operated by Wheeler Topsoil, Inc. (King County Grading Permit #3496-778).

The Report and Decision reached five conclusions resulting in the following decision:

"The eastern 1,320 feet of the Palmer Coking Coal site, tax lots #302107-9037 and #302107-9040 is a nonconforming site for the excavation, screening, crushing, and stockpiling of materials. Any operation of the site will be subjected to a King County grading permit."

– Signed: Gary G. Kohler, January 11, 1995

(see DDES Report and Decision – Palmer Coking Coal – Nonconforming Status dated January 11, 1995 consisting of the three-page decision and a color-coded exhibit map).

The legal descriptions for tax parcels #302107-9037 (Parcel 15-G) and #302107-9040 (Parcel 19-G) had been prepared by Geo Dimensions, Inc. on Oct. 22, 1991 under GDI Job. No. 91005 (see Oct. 24, 1991 letter from Geo Dimensions with

attachments). The legal descriptions were approved and adopted by the King County Assessor pursuant to Palmer's approved large lot segregation (see Palmer letter dated Aug. 7, 1992; stamped received by the Dept. of Assessments on Aug. 11, 1992; and returned to Palmer by Phillis Jackson). The color-coded map of those two tax parcels was part of Palmer's earlier submittal package to Sandin (see Historic Mining Use, SW 1/4, Sec. 30-21N-7E, Exhibit 2).

Over the two years following King County's legal, non-conforming use decision, Palmer prepared detailed information required for a grading permit. Simultaneously, Palmer applied to the Dept. of Natural Resources (DNR) for a state Surface Mining Permit. Applications for both grading and mining permits were submitted to King County DDES and State DNR in Sept. 1997. The maps submitted by Palmer showed the same site configuration as approved by DDES's Gary Kohler in Sept. 1995 (see Nov. 6, 1997 letter to Fred White from DNR and King County Pre-Ap Meeting A97M0352, together with proposed mine maps prepared by Palmer). The site was not formally surveyed but was estimated by someone to be 22+/- acres during those permitting processes. It is not known who made that estimate or why it differed from the DDES's 27-acre findings in January 1995.

In October, King County requested additional information and studies. The State DNR did the same in November. Palmer applied for permits from Puget Sound Air Pollution Control Agency and Washington Dept. of Ecology in Nov. 1997.

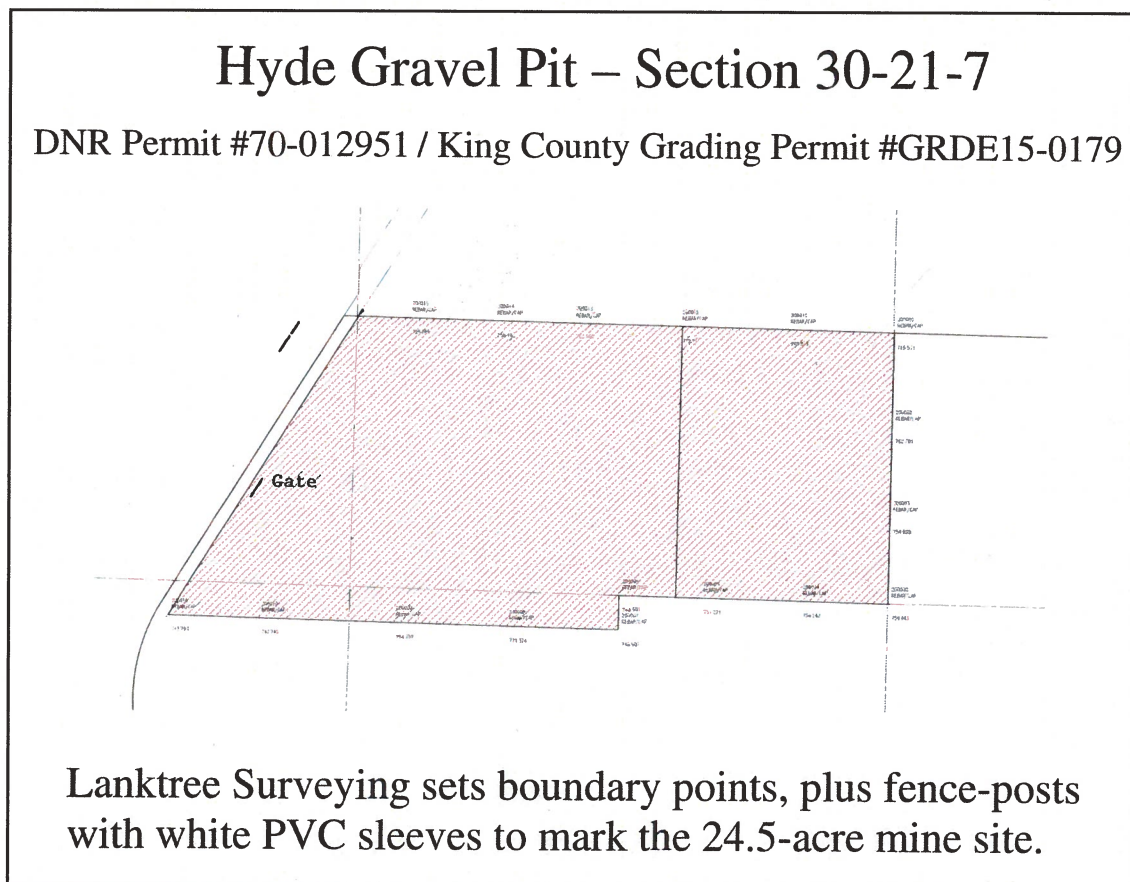
On Feb. 9, 1998, King County accepted the application as complete. On July 2, July 27, and Sept. 25, 1998, Palmer submitted written inquiries requesting timely review of Palmer's completed application. No response was received to any of Palmer's requests. On Nov. 29, 1998, Palmer submitted a formal complaint to King County for failure to complete review during the required 120-day review period. King County responded 30 days later stating SEPA review was underway. A Notice of Application was advertised on Feb. 17, 1999 and the MDNS completed. However, the MDNS was not yet issued. More delays occurred and additional information was provided. Finally, on Oct. 20, 1999, Craig Comfort of DDES wrote a memo to Ramon Locsin stating that DDES recommends, "You can now approve this project." A MDNS for Hyde Gravel was issued on Oct. 26, 1999 under Files No. E98E0220 and L98G0056. Two appeals to the MDNS were filed in November.

An appeal hearing was heard by the Office of Hearing Examiner on March 2 and 3, 2000. During the hearing, William Kombol, Manager presented testimony outlining steps and efforts taken by Palmer to ensure compliance with King County's planning and regulatory goals (see March 1, 2000 testimony by William Kombol). The Hearing Examiner followed DDES's recommendation and denied the appeals allowing further review of the permit and ultimate approval. On Aug.

1, 2000, King County DDES issued Grading Permit L98G0056. On Sept. 5, 2000, State DNR issued Surface Mining Permit No. 70-012951. Both permits for Hyde Gravel have since been regularly renewed on an annual or biennial basis.

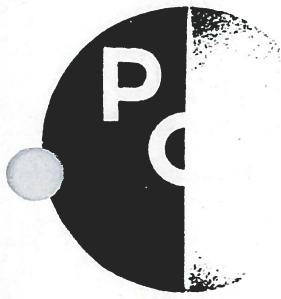
As to the varying size estimates applied to the mining area, it is not clear from where the earlier 27-acre or later 22+/- acre figures were derived. Neither were correct. There are several possible reasons why those estimates were off. Early King County Assessor maps carried imprecise locations for the Enumclaw-Franklin Road, which possibly impacted the size of the site. Later surveying in Section 30 no doubt provided more detailed information for acreage calculations within the overall section. And, possibly inexperience or human error in estimation may have contributed to each miscalculation.

In January 2020, Palmer retained Lanktree Land Surveying to stake the boundaries of the mine site boundaries approved by DDES as a legal, non-conforming use and subsequently issued grading permit. Lanktree's survey of the staked boundaries determined the site contained 24.5 acres (see Trevor Lanktree statement dated Feb. 10, 2021). A copy of Lanktree's survey map is attached and shown below. It is also shown on the attached Lot Q site map. Lot Q was established under Boundary Line Adjustment No. BLAD 18-0014.



## **Attachments:**

- ◆ November 18, 1987 letter to Carol Lumb
- ◆ July 8, 1988 letter to Tom Fitzpatrick with attachments
- ◆ Enumclaw Community Plan, 1990 – Mineral Resource & Existing / Potential Extraction Sites, page 63 (11” x 17”)
- ◆ Highlighted close-up of page 63 focused on Palmer’s Lot Q rezone
- ◆ October 24, 1991 Geo Dimensions letter with attachments
- ◆ August 7, 1992 letter to Dept. of Assessment, stamped and returned to Palmer
- ◆ August 23, 1994 letter to Randy Sandin with attachment
- ◆ September 9, 1994 letter to Randy Sandin with attachments
- ◆ January 11, 1995 DDES Report and Decision by Gary G. Kohler
- ◆ Historic Mining Use Map, SW 1/4 Sec. 30-21N-7E, Exhibit 2
- ◆ November 6, 1997 letter to Fred White with attachments (some 11” x 17”)
- ◆ March 1, 2000 testimony by William Kombol before Hearing Examiner
- ◆ Lot Q Site Map with Hyde Mine highlighted in yellow (11” x 17”)
- ◆ Trevor Lanktree Statement dated February 10, 2021 with Exhibit A
- ◆ Hyde Gravel survey map with King County & DNR permit numbers



# PALMER COKING COAL COMPANY

P.O. Box 10, 31407 Hwy 169, Black Diamond, Washington 98010  
(206) 886-2841 (206) 432-3542

November 19, 1987

Carol Lumb  
King County Planning  
707 Smith Tower Building  
506 Second Avenue  
Seattle, Washington 98104

RE: Enumclaw Community Plan  
Mineral Issues

Dear Carol:

I was pleased to speak before the Enumclaw Citizen Advisory Committee at your November 18, 1987 meeting. The following is a recap of the remarks I made at that time.

As a member of the Citizen Advisory Committee to the 1985 Comprehensive Plan and a person who worked closely on the Tahoma/Raven Heights Community Plan, I have some insight into the mineral issues. The two most important goals of your committee in dealing with minerals must be to protect the mineral resource and notify area residents of their existence and likelihood of extraction.

Before mineral resources can be extracted, four key elements must come together:

- 1) There must be a viable mineral deposit.
- 2) There must be a market for that mineral.
- 3) The landowner or mineral owner must intend to extract the resource.
- 4) Regulatory approval must be obtained.

We believe the more information available to area residents, the better. Currently, good information exists in State and County geologic maps to provide an inventory of viable mineral deposits. Market information, in a general sense, is available which indicates what minerals might be extracted and in what quantities. The regulatory approval process (i.e. Q/M zoning, U.U.P., grading permits, Federal, State, and Local environmental regulations) can be explained to the area residents in a general fashion. However, the most important component of future mineral extraction potential is the intent of the landowner or mineral owner to develop the deposit. Fortunately, this is also an area where it is fairly easy to get good information. Landowners and mineral owners in the Enumclaw Planning area can easily be asked to identify those properties which are being held for future extractive potential. Landowners who choose to supply the information will provide area residents with an indication of their future intentions. Planners

Carol Lumb  
November 19, 1987  
Page 2

and residents can then make better decisions where to site residential expansions. Landowners who wish to keep mineral development ideas confidential will simply not get the full benefits of disclosure.

Our company makes the following recommendations to your committee in dealing with mineral extraction issues.

- 1) Utilize existing geologic maps to identify areas of possible mineral extraction.
- 2) Allow landowners and mineral owners to identify those properties which are being held with the intent of some future mineral activity.
- 3) Express full support for completion of the Mineral Resource Functional Plan.
- 4) Express full support for the 1985 Comprehensive Plan mineral policies.

We have attached copies of a portion of the Tahoma/Raven Heights Community Plan dealing with mineral issues. We hope this information will be useful. We applaud your efforts to provide residents and mineral owners the opportunity to exchange information and ideas. We hope this effort will lead to better and more informed decision making.

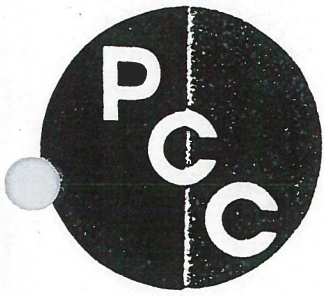
Very truly yours,



William Kombol, Manager  
Palmer Coking Coal Company

Enclosure

cc: Julie Quinn  
Riley Atkins  
Tom Fitzpatrick



# PALMER COKING COAL COMPANY

P.O. Box 10, 31407 Hwy 169, Black Diamond, Washington 98010  
(206) 886-2841 (206) 432-3542

July 8, 1988

Tom Fitzpatrick  
King County Planning and Community Development  
707 Smith Tower  
506 Second Avenue  
Seattle, Washington 98104

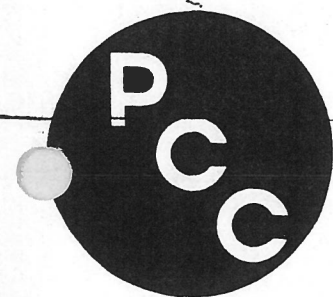
RE: Enumclaw Community Plan

Dear Tom:

Attached please find the following information regarding development of mineral resource data for the Enumclaw Community Plan. We have included a Mineral Resource Information sheet together with two vicinity maps highlighted in a color coded manner. If you need additional information please don't hesitate to contact me.

Very truly yours,

William Kombol, Manager  
Palmer Coking Coal Company



# PALMER COKING COAL COMPANY

P.O. Box 10, 31407 Hwy 169, Black Diamond, Washington 98010

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## MINERAL RESOURCE INFORMATION

(Enumclaw Community Plan)

<u>Sec-Twn-Rng</u>	<u>Tax Acct No. and Location</u>	<u>Resource</u>	<u>Approx. Acreage</u>
26-21-6	9011	C,O,G	80
36-21-6	9001 (West)	C,O,G	80
	9001 (East)	C,O,G,S	80
19-21-7	9001	C,O,G,S,QR	273
	9012, 9022, 9024, 9025 9026, 9027, 9028, 9030 9031, 9032	C,O,G	171
30-21-7	9001 (East of Enumclaw -Franklin Rd)	C,O,G,S	267
	9001 (West of Enumclaw -Franklin Rd)	C,O,G	40
	9018	C,O,G	20
	9020, 9021, 9023, 9024	C,O,G	100
	9026	C,O,G	60

### Resource key

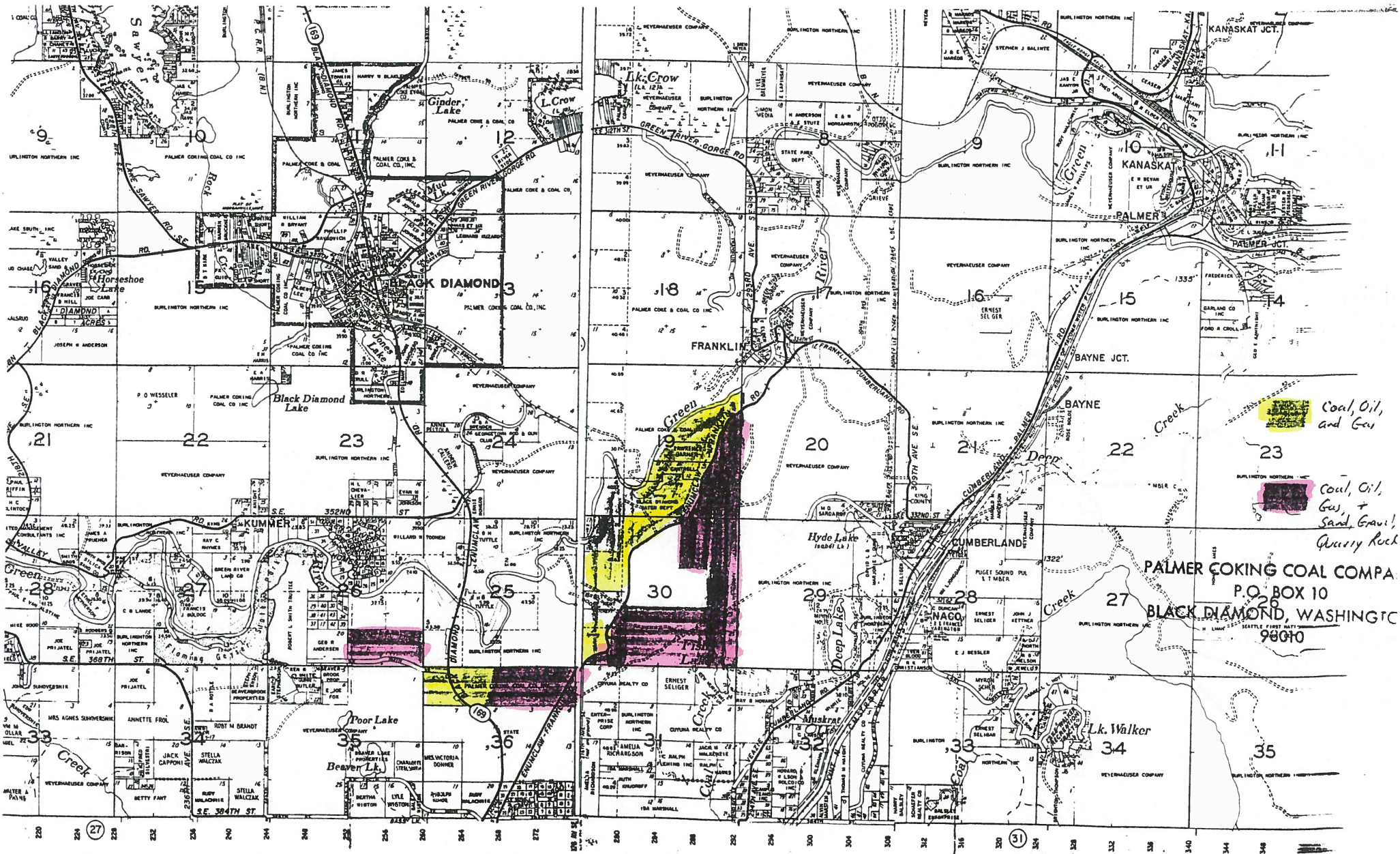
C - Coal

O - Oil

G - Natural Gas & Methane

S - Sand and Gravel

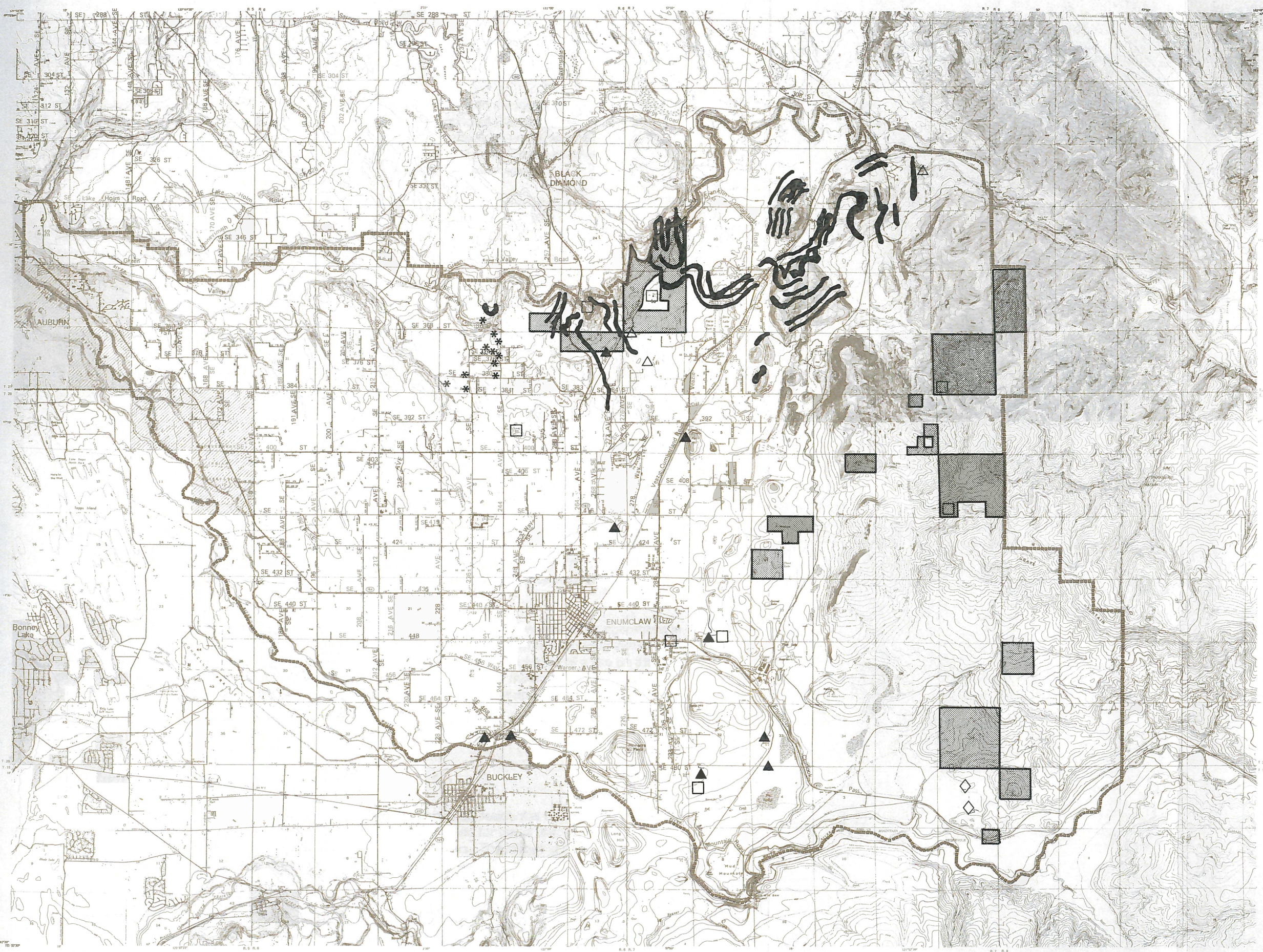
QR - Quarry Rock



Coal, Oil, and Gas

Coal, Oil, Gas, + Sand, Gravel, Quarry Rock

PALMER COKING COAL COMPA  
P.O. BOX 10  
BLACK DIAMOND, WASHINGTON  
98040



**MINERAL RESOURCES AND EXISTING/POTENTIAL EXTRACTION SITES**

- △ Clay Pits
- Coal Seams
- \* Oil and Gas Wells
- ▲ Quarries
- Sand and Gravel Pits
- Mineral Reserves (Oil, Gas, Coal, Sand and Gravel)
- ◇ Silica Quarries

Source: "Geology and Mineral Resources of King County, Washington," 1971, Livingstone; land use survey, King County Planning and Community Development Division; and letters from local mineral resource owners/operators.

NOTE: This map shows approximate locations of known sand, gravel, coal and other mineral resource deposits and extraction sites in the Enumclaw planning area. This map does not constitute a land use designation: inclusion or noninclusion of a site on this map will not prejudice review of a mineral extraction proposal under applicable policies and regulations. The purpose of this map is to notify the public of the location of existing sites and where potential new operations may occur in the future.



# Enumclaw

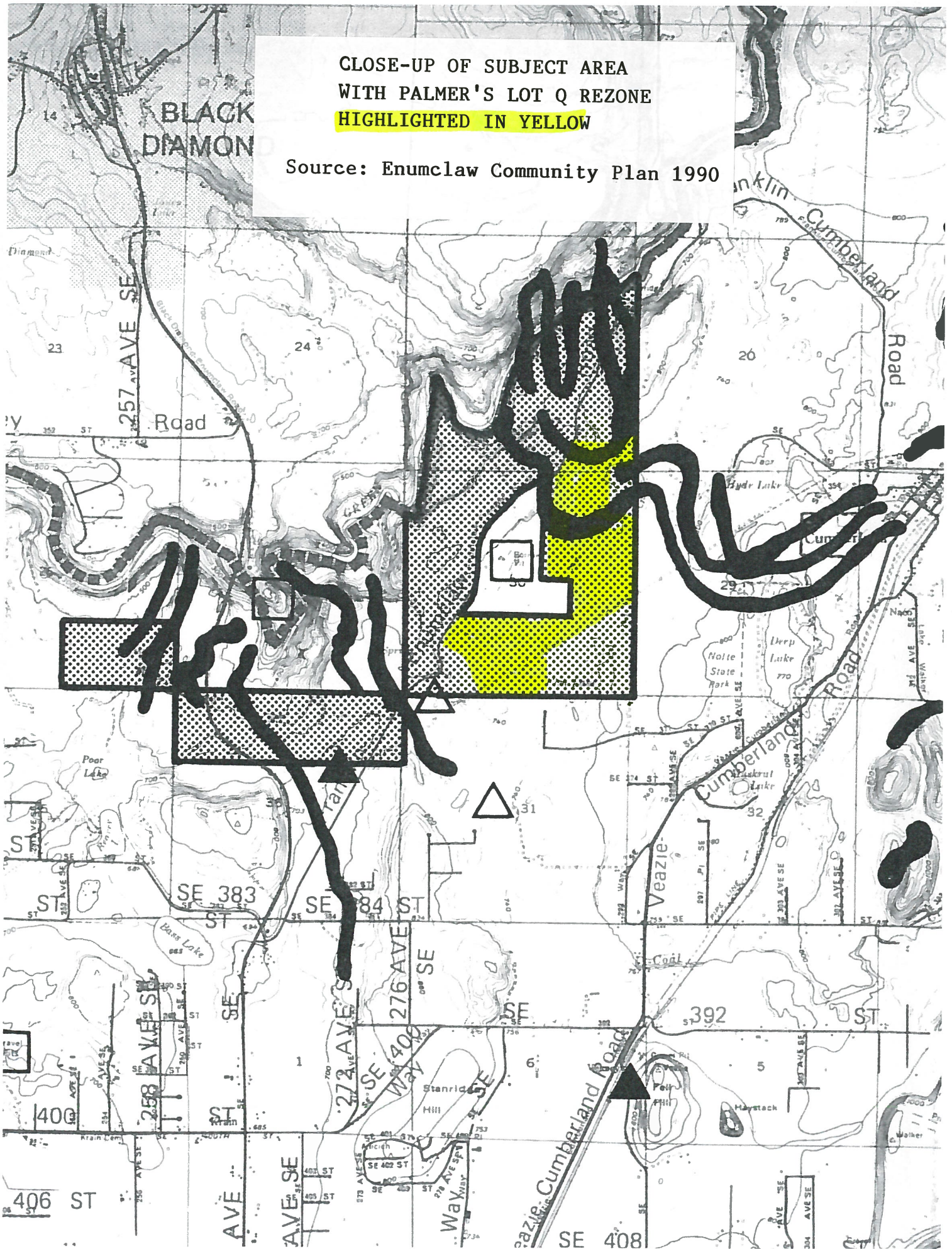
Community Plan

King County Planning and Community Development Division



CLOSE-UP OF SUBJECT AREA  
WITH PALMER'S LOT Q REZONE  
HIGHLIGHTED IN YELLOW

Source: Enumclaw Community Plan 1990



**October 24, 1991**

Land Surveying

Civil Engineering

Planning

10230 NE Points Drive

Suite 220

Kirkland, WA 98033

Phone (206) 827-5855

Fax 828-3684

**Mr. Bill Kombol**  
**PALMER COKING COAL**  
**31407 HWY 169**  
**Black Diamond, WA 98010**

**Re: 20 Acre Segregation**

**Dear Bill:**

*Enclosed are the revised 20 Acre Segregation maps per our last meeting. I have also had Chuck Richardson, our person who computed the parcels, put together a brief description of the mathematical basis from which we computed the dimensions of the parcels (enclosed). We have also written the legal descriptions of the parcels per the counties' requirements.*

*Please review the drawings and upon your approval we will submit the data to the county.*

*Sincerely,*

**GEODIMENSIONS, INC.**

A handwritten signature in cursive script, appearing to read "Ed Green".

**Edwin J. Green Jr., P.L.S.**  
**President**

**EJG/jam**  
**Enclosure**

**PALMER COKING COAL  
20 ACRE SEGMENTATION**

**Basis of Information**

**TOWNSHIP 21 NORTH, RANGE 6 EAST**

The parcels in Sections 10, 11, 12, 13, 14, and 22 are based on breakdowns of the section using information shown on the Pacific Coast Coal Co. Maps.

The parcels in Section 26 are based on the breakdown of the section using the information shown on the King County Assessor's map.

**TOWNSHIP 21 NORTH, RANGE 7 EAST**

The parcels in Section 7 are based on the breakdown of the section using the information shown on a survey by Walter Olsen (V.51, p. 177) and also using the G.L.O. Township Plat for proportioning Government Lots 1 and 2. The location of the GREEN RIVER GORGE ROAD is based on information from, and scaling off of, the King County Assessor's map. The Westerly lines of the parcels are based on a combination of information from adjoining property deeds and scaling from an aerial photo.

The parcels in Section 18 are based on the breakdown of the section using a combination of information on surveys by Walter Olsen of Section 7 (V. 51, P. 177) and by Robert Millpointer of Section 19 (V. 81, P. 117), and also

information of Section 18 from the Pacific Coast Coal Co. map, and also information on the G.L.O. Township Plat for proportioning the government lots.

The parcels in Section 19 are based on the section breakdown using the information on a survey by Robert Millpointer (V. 81, P. 117). The location of the ENUMCLAW-FRANKLIN ROAD and Green River are by scaling off of the King County Assessor's map. The parcels north of the old railroad right of way are, as of now, based on scaling the railroad centerline on the Pacific Coast Coal Co. map.

The parcels in Section 30 are based on the section information on a survey by John Cramer (V. 81, P. 117). The location of the ENUMCLAW-FRANKLIN ROAD is based on a combination of information on the Cramer survey and scaling off of the King County Assessor's maps. The location of the P.S.P. & L. Trans. Line Easement is based on scaling from the King County Assessor's map.

The parcels in Section 31 are based on a combination of the section information on a survey by Warren Lay (V. 46, P. 139) and the State of Washington D.N.R. survey of Section 36 by Mike Kinnaman, and also using G.L.O. Township Plat for proportioning government lots.

October 22, 1991

302107-9037

GDI Job No. 91005

**PARCEL 15 G**

The South 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 30, Township 21 North, Range 7 East, W.M., in King County, Washington.

EXCEPT that portion thereof, lying Southeasterly of the Puget Sound Power and Light Co. transmission line easement centerline.

TOGETHER WITH that portion of the South 1/2 of the Northeast 1/4 of the Southwest 1/4 of said Section, being more particularly described as follows:

BEGINNING at the Northeast corner of said subdivision; thence N 89°44'31" W along the North line of said subdivision 512.15 feet; thence S 0°14'58" E 656.43 feet to the South line of said subdivision; thence S 89°38'01" E 513.37 feet; thence N 0°21'20" W 657.42 feet to the POINT OF BEGINNING.

October 23, 1991

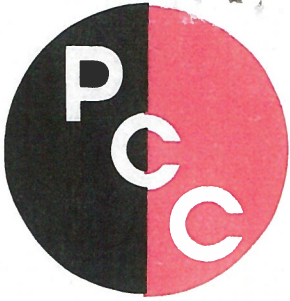
302107-9040

GDI Job No. 91005

**PARCEL 19 G**

That portion of the Southwest 1/4 of Section 30, Township 21 North, Range 7 East, W.M., in King County, Washington, being more particularly described as follows:

BEGINNING at the intersection of the North line of the South 1/2 of the Northeast 1/4 of said subdivision with the Easterly right-of-way margin of ENUMCLAW - FRANKLIN ROAD; thence S 89°44'31" E along said line a distance of 791.54 feet; thence S 0°14'58" E 656.43 feet to the North line of the East 1/2 of the Southeast 1/4 of the Southwest 1/4 of said Section; thence N 89°38'01" W along said line a distance of 138.61 feet to the Northwest corner of said East 1/2; thence S 0°14'58" E along the West line of said East 1/2 a distance of 82.52 feet; thence N 89°38'01" W 1345 feet, more or less, to said margin; thence Northeasterly along said margin to the POINT OF BEGINNING.



# PALMER COKING COAL COMPANY

P.O. Box 10, 31407 Hwy 169, Black Diamond, Washington 98010

(206) 886-2841 (206) 432-3542

FAX (206) 432-3883

August 7, 1992

King County Assessor's Office  
500 - 4th Ave. Room 708  
Seattle, WA 98104

We recently had some large tax parcels split into smaller ones. Since the parcels are forest land, I was told that the information regarding acreage was not available over the telephone. I would appreciate your assistance in obtaining the acreage on the following tax parcel numbers:

302107-9001	<u>20</u>
302107-9031	<u>30</u>
302107-9032	<u>19.37</u>
302107-9033	<u>19.39</u>
302107-9034	<u>19.42</u>
302107-9035	<u>23</u>
302107-9036	<u>19.67</u>
302107-9037	<u>28</u>
302107-9038	<u>24</u>
302107-9039	<u>25</u>
302107-9040	<u>29</u>
302107-9021	<u>19.45</u>
302107-9041	<u>19.64</u>
NE 362106-9058	<u>19.66</u>
NW 362106-9062	<u>25.65</u>
NE 362106-9063	<u>19.66</u>
NE 362106-9064	<u>30.23</u>
NW 362106-9065	<u>20.53</u>

DEPT. OF ASSESSMENTS  
92 AUG 11 PM 1:09

Thank you for your assistance in this matter. A self-addressed envelope is enclosed for your convenience.

Very truly yours,

*Chris Aalto*

Chris Aalto  
Palmer Coking Coal Company

encl.

8-12-92  
*P. Jackson*  
H  
*Phyllis Jackson*

**MARK C. ABERNATHY**

*Professional Engineer*

*15105 Starr Rd. S.E.*

*Olalla, WA 98359*

*(206) 851-1897*

August 23, 1994

Mr. Randy Sandin  
Supervisor-Site Development Services  
Department of Development and Environmental Services  
King County, Washington  
3200 136th Place S.E.  
Bellevue, Wa. 98006

Re: Request for Determination of Status-Historic Mining Use-  
King County Tax Lots #302107-9037 & 302107-9040

Dear Mr. Sandin,

I represent Palmer Coking Coal Company (Palmer) in the matter referenced above. Palmer intends to pursue a grading (mining) permit for its property located within Section 30 of Township 21 North, Range 7 East, W.M., in King County, Washington. Specifically, Palmer has identified King County Tax Lot #302107-9040 and a portion of Tax Lot #302107-9037 as historic mining sites and intends to permit this property for sand, gravel, and sandstone extraction.

The tax lots identified above are adjacent to the south border of an active sand and gravel mine operated by Wheeler Topsoil, Inc. (King County Grading Permit #3496-778). The Wheeler operation is located on property owned by David and Robert Morris that is identified as a legal, nonconforming mining site within the current AR zone. David and Robert Morris are partners in Palmer Coking Coal Company.

According to David Morris and William Kombol (current manager of Palmer), the Palmer and Morris properties were managed a common unit until the Wheeler operation began. In fact, Palmer owned the Morris property until 1971, when it was sold to the Morris family. This property sale was part of a larger property distribution within the Palmer partners and was not intended to sever land-uses or property management goals. Jack Morris, the purchaser for the Morris family, was even the manager of Palmer at the time the transaction took place. After the sale was complete, both properties were still managed as a single unit.

Palmer's objective in this request is to resolve land-use and zoning issues before applying for permits to mine on the property. Palmer intends to work with Wheeler Topsoil, Inc. to manage the site as a single, logical mining unit. Mining plans for Palmer will "dovetail" the mining activities by Wheeler. The benefits of such contemporaneous planning are obvious, particularly as the relate to extraction along a common border.

In order to assist King County review this request I have compiled a chronology of activity on the Palmer property which verifies the historic mining use of the site. The chronology is supported by exhibits that follow this report.

The chronology and exhibits show that from the mid-1950's through 1970's Palmer leased, for the purposes of mining, an area described as:

*The South half of the Northwest quarter and the Northeast quarter of the Southwest quarter of Section 30, Township 21 North, Range 7 East, W.M., King County Washington*

As can be seen in the chronology, even after division of this property between Palmer and Morris in 1971 all areas within the original lease were still managed as mining properties. King County even leased portions of the Palmer and Morris property for the purposes of gravel extraction and stockpiling in 1969 and 1972.

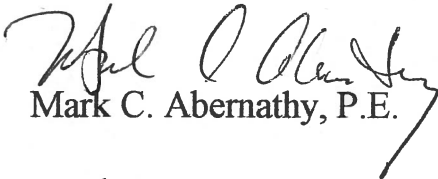
In a 1986 memo to Bryan Glynn (Exhibit 1), the King County Prosecution Attorney's Office stated that :

*"The courts have further concluded that abandonment of a non-conforming use can only be found where the facts establish both an intent on the part of the user to abandon the non-conforming use and an overt act or failure to act which implies such abandonment."*

It is clear in the chronology and exhibits that there has been no intent or action by Palmer or the Morris family to abandon the non-conforming use on any part of the original lease area. Palmer requests that King County acknowledge the legal, non-conforming use on Tax Lot #302107-9040 and the western third of Tax Lot #302107-9037 as it has for the Morris property directly to the north.

Feel free to contact Mr. William Kombol or myself if you have any questions regarding this request for determination. I look forward to your reply.

Sincerely,



Mark C. Abernathy, P.E.

attachments

xc: William Kombol, Palmer Coking Coal

## CHRONOLOGY OF MINING ACTIVITY FOR PALMER SECTION 30-21N-7E PROPERTY

<u>Date</u>	<u>Activity</u>	<u>Exhibit Reference</u>
195(?) -71	Smith Brothers Silica Companies lease and operate a mine on property described as the S1/2 of NW1/4 and the NE1/4 of the SW1/4 of Section 30-21N-7E.	2,3,4,6
1961-62	Palmer exploration and feasibility study for light weight aggregate and shale in Section 30.	9
1962	Smith Brothers Silica Sand incorporates and modifies lease with Palmer.	4
1967-71	Palmer grants Right of First Refusal to Manley Sand for lease or sale of Section 30 property to parties other than Smith Brothers.	5
1969	USGS/DNR paper recognizes potential for economic sandstone and clay recovery in Section 30-21N-7E.	9
1969	Palmer modifies lease agreement with Smith Brothers to allow lessor (Palmer) to extract gravel.	6
1969	King County leases a portion of the Section 30 site for extraction and stockpiling of 50,000 tons of gravel.	2,6
1971	USGS/DNR paper recognizes potential for commercial quantities of sand and gravel in Section 30-21N-7E.	9
Nov., 1971	Manley Right of First Refusal Expires.	5
Dec., 1971	Palmer distributes a portion of the original mining lease area to Morris.	7
Jan., 1972	Smith Brothers Silica Sand, Inc. cancels lease.	4
1972-75	King County leases a portion of the Morris and Palmer properties (within the original Smith lease area) to store, stockpile, and remove gravel.	2,6
1973	Palmer sells gravel from Section 30 pit to Marine Asphalt Co., Inc.	8
1973-74	Morris and Sons rent a portion of the gravel pit (outside the King County lease) to Sea Mesh Corporation.	8

## CHRONOLOGY OF MINING ACTIVITY FOR PALMER SECTION 30-21N-7E PROPERTY

<u>Date</u>	<u>Activity</u>	<u>Exhibit Reference</u>
1974-75	Palmer income statement support schedules 1974 -75 carry crushed rock inventory from Section 30.	9
1977-79	Palmer sells screened gravel to Moulden and Sons, Inc. from Section 30 property.	3,8
1979	Palmer leases oil, gas, and mineral recovery rights to Transcontinent Oil Company for properties including Section 30.	7,8
1981	Palmer notifies King County of intent to sell gravel from Section 30 property.	8
1987	Palmer requests that King County survey landowners in the Enumclaw Planning area for intent to develop mineral deposits.	9
1988	Palmer submits mineral resource information, including Section 30, to King County for inclusion in the Enumclaw Community Plan	9
May, 1989	Palmer stockpiles and hauls gravel from Morris and Palmer property.	3,8
Nov., 1989	Palmer leases oil, gas, and mineral recovery rights to Sharon Resources, Inc. for properties including Section 30.	8
1990	Palmer includes Section 30 mining plan in it's 1990 Long Term Business Plan.	9
Apr., 1991	Palmer leases oil, gas, and mineral recovery rights to Palo Petroleum, Inc. for properties including Section 30.	8
Oct., 1991	Wheeler Topsoil, Inc. applies for Grading Permit on Morris Section 30 property.	10
Jan., 1992	King County Code Enforcement reviews Wheeler proposal and determines it is legal in the underlying zone classification.	10
Dec., 1992	King County Hearing examiner denies appeal by Plateau Presevation Society on SEPA threshold determination (DNS-mitigated) for Wheeler Topsoil proposal.	10

# CHRONOLOGY OF MINING ACTIVITY FOR PALMER SECTION 30-21N-7E PROPERTY

<u>Date</u>	<u>Activity</u>	<u>Exhibit Reference</u>
Apr., 1993	Wheeler Topsoil, Inc. issued Grading Permit King County on Morris property.	10
May, 1993	Palmer leases oil, gas, and mineral recovery rights to Sharon Resources, Inc. for properties including Section 30.	8
1994	Palmer provides potential mineral resource sites, including Section 30, to King County for the 1994 Comprehensive Plan.	8
1994	Palmer applies to Ecology for a General Permit to discharge stormwater at Section 30 and other sites. General Permit is issued on August 16, 1994	8

## LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Contents</u>
1	* July 11, 1986 memo from Greg Montgomery, Deputy Prosecuting Attorney, to Bryan Glynn, Manager of BALD, defining Non-Conforming Uses.
2	* Map showing historic mining uses of SW 1/4 of Section 30-21N-7E.
3	* January 6, 1994 letter from Ronald Moulden to William Kombol attesting to haulage of minerals from the subject property in the 1950's, 60's, 70's, and 80's.
4	* Production, inventory, and lease information for Smith Brothers Silica Sand, Inc. 1962-71.
5	* Granting of Right of First Refusal to on Section 30 property to Manley Sand 1967-71.
6	* Modification of Lease agreement with Smith Brothers Silica Sand, Inc. to allow lessor (Palmer) to extract gravel. * 1969 Lease agreement with King County to extract 50,000 tons of gravel. (Area on Exhibit 2) * 1972-1975 Lease agreement with King County to extract gravel from Morris and Palmer properties. (Area on Exhibit 2)
7	* Northwest Title Insurance Policy (1986) showing the transition of ownership of the Morris property.
8	* Mineral, Oil, and Gas sales and leases 1973-93 for Section 30-21N-7E.
9	* Land-use and planning activity for Palmer Section 30 property.
10	* Land-use decisions and grading permit information for Wheeler Topsoil, Inc. on Morris property (1992-93).

**MARK C. ABERNATHY**  
*Professional Engineer*  
*15105 Starr Rd. S.E.*  
*Olalla, WA 98359*  
*(206) 851-1897*

September 9, 1994

Mr. Randy Sandin  
Supervisor-Site Development Services  
Department of Development and Environmental Services  
King County, Washington  
3200 136th Place S.E.  
Bellevue, Wa. 98006

Re: Additional Information-  
Request for Determination of Status-Historic Mining Use-  
King County Tax Lots #302107-9037 & 302107-9040

Dear Mr. Sandin,

Thank you for meeting with me on August 23rd to discuss the land-use classification for the Palmer Coking Coal Property referenced above. During our discussion you mentioned additional material which may be necessary or helpful in determining the historic mine use status of this property. These items were:

- 1) Detailed maps showing the current status and ownership of the property.
- 2) Evidence that the site had mining activity before zoning was established, i.e. pre-1958.

To address these deficiencies I have attached to this letter copies of maps which show that the King County Comprehensive Plan designates the site as a Legal, Non-Conforming Mining Site. I have also included a map which shows the location of Palmer Coking Coal land ownership on an around the subject property. Additionally, I have provided copies of affidavits from Carl G. Faulk and Evan D. Morris, Sr. who state that mining activity on the site started no later than 1955.

With these submittals I have included copies of a revised chronology and exhibit list to replace those provided in the binder at our meeting. The maps should be added to Exhibit 2, the affidavits should placed at the start of Exhibit 4.

I hope this material satisfies your requests. I appreciate the opportunity to submit this information, please feel free to contact me if I can be of more assistance.

Sincerely,



Mark C. Abernathy, P.E.



attachments (2 sets)

xc: William Kombol, Palmer Coking Coal

## CHRONOLOGY OF MINING ACTIVITY FOR PALMER SECTION 30-21N-7E PROPERTY

<u>Date</u>	<u>Activity</u>	<u>Exhibit Reference</u>
1955-71	Smith Brothers Silica Companies lease and operate a mine on property described as the S1/2 of NW1/4 and the NE1/4 of the SW1/4 of Section 30-21N-7E.	2,3,4,6
1961-62	Palmer exploration and feasibility study for light weight aggregate and shale in Section 30.	9
1962	Smith Brothers Silica Sand incorporates and modifies lease with Palmer.	4
1967-71	Palmer grants Right of First Refusal to Manley Sand for lease or sale of Section 30 property to parties other than Smith Brothers.	5
1969	USGS/DNR paper recognizes potential for economic sandstone and clay recovery in Section 30-21N-7E.	9
1969	Palmer modifies lease agreement with Smith Brothers to allow lessor (Palmer) to extract gravel.	6
1969	King County leases a portion of the Section 30 site for extraction and stockpiling of 50,000 tons of gravel.	2,6
1971	USGS/DNR paper recognizes potential for commercial quantities of sand and gravel in Section 30-21N-7E.	9
Nov., 1971	Manley Right of First Refusal Expires.	5
Dec., 1971	Palmer distributes a portion of the original mining lease area to Morris.	7
Jan., 1972	Smith Brothers Silica Sand, Inc. cancels lease.	4
1972-75	King County leases a portion of the Morris and Palmer properties (within the original Smith lease area) to store, stockpile, and remove gravel.	2,6
1973	Palmer sells gravel from Section 30 pit to Marine Asphalt Co., Inc.	8
1973-74	Morris and Sons rent a portion of the gravel pit (outside the King County lease) to Sea Mesh Corporation.	8

## CHRONOLOGY OF MINING ACTIVITY FOR PALMER SECTION 30-21N-7E PROPERTY

<u>Date</u>	<u>Activity</u>	<u>Exhibit Reference</u>
1974-75	Palmer income statement support schedules 1974 -75 carry crushed rock inventory from Section 30.	9
1977-79	Palmer sells screened gravel to Moulden and Sons, Inc. from Section 30 property.	3,8
1979	Palmer leases oil, gas, and mineral recovery rights to Transcontinent Oil Company for properties including Section 30.	7,8
1981	Palmer notifies King County of intent to sell gravel from Section 30 property.	8
1987	Palmer requests that King County survey landowners in the Enumclaw Planning area for intent to develop mineral deposits.	9
1988	Palmer submits mineral resource information, including Section 30, to King County for inclusion in the Enumclaw Community Plan	9
May, 1989	Palmer stockpiles and hauls gravel from Morris and Palmer property.	3,8
Nov., 1989	Palmer leases oil, gas, and mineral recovery rights to Sharon Resources, Inc. for properties including Section 30.	8
1990	Palmer includes Section 30 mining plan in it's 1990 Long Term Business Plan.	9
Apr., 1991	Palmer leases oil, gas, and mineral recovery rights to Palo Petroleum, Inc. for properties including Section 30.	8
Oct., 1991	Wheeler Topsoil, Inc. applies for Grading Permit on Morris Section 30 property.	10
Jan., 1992	King County Code Enforcement reviews Wheeler proposal and determines it is legal in the underlying zone classification.	10
Dec., 1992	King County Hearing examiner denies appeal by Plateau Presevation Society on SEPA threshold determination (DNS-mitigated) for Wheeler Topsoil proposal.	10

## CHRONOLOGY OF MINING ACTIVITY FOR PALMER SECTION 30-21N-7E PROPERTY

<u>Date</u>	<u>Activity</u>	<u>Exhibit Reference</u>
Apr., 1993	Wheeler Topsoil, Inc. issued Grading Permit King County on Morris property.	10
May, 1993	Sharon Resources, Inc. releases interest in oil and gas leases in Section 30.	8
1994	Palmer provides potential mineral resource sites, including Section 30, to King County for the 1994 Comprehensive Plan.	8
1994	King County Comprehensive Plan map designates the area as a Legal, Non-Conforming Mining Site.	2
1994	Palmer applies to Ecology for a General Permit to discharge stormwater at Section 30 and other sites. General Permit is issued on August 16, 1994	8

## LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Contents</u>
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2	* Maps showing historic mining uses, comprehensive plan designation, and ownership of subject property.
3	* January 6, 1994 letter from Ronald Moulden to William Kombol attesting to haulage of minerals from the subject property in the 1950's, 60's, 70's, and 80's.
4	* Operating dates, lease, and production information for Smith Brothers Silica Sand, Inc. 1955-71.
5	* Granting of Right of First Refusal to on Section 30 property to Manley Sand 1967-71.
6	* Modification of Lease agreement with Smith Brothers Silica Sand, Inc. to allow lessor (Palmer) to extract gravel. * 1969 Lease agreement with King County to extract 50,000 tons of gravel. (Area on Exhibit 2) * 1972-1975 Lease agreement with King County to extract gravel from Morris and Palmer properties. (Area on Exhibit 2)
7	* Northwest Title Insurance Policy (1986) showing the transition of ownership of the Morris property.
8	* Mineral, Oil, and Gas sales and leases 1973-93 for Section 30-21N-7E.
9	* Land-use and planning activity for Palmer Section 30 property.
10	* Land-use decisions and grading permit information for Wheeler Topsoil, Inc. on Morris property (1992-93).

Affidavit

I, Carl G. Falk, am 74 years of age and live at 18415 - 102nd Avenue, S.E., Renton, Washington 98055. I have lived in South King County, Washington for 67 years. From 1948 until 1984, I worked for Palmer Coking Coal Company, Inc. and Palmer Coking Coal Company in a number of capacities. From 1956 through 1976, I served as the office manager for Palmer and as such, was very familiar with the business records of the company. I also held the position of Secretary of the corporation.

Palmer has owned or had an interest in real property located in Section 30, Township 21 North, Range 7 East, W.M., King County since 1953. This property has been used for a variety of mining operations including the mining and processing of sand, the mining and processing of gravel, the mining, crushing and stockpiling of crushed gravel, and related mining activities since about 1955, and possibly earlier. My knowledge of these operations is based upon my involvement in management office operations of Palmer Coking Coal Company and upon the numerous viewings of company operations that I would make during the course of my employment.

I declare under penalty of perjury that the foregoing is true and correct, based upon my personal knowledge and pursuant to the laws of the State of Washington.

Executed at Black Diamond, Washington on August 27, 1994.

  
Carl G. Falk


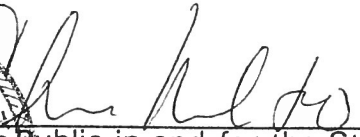
STATE OF WASHINGTON )

County of King )

ss

On this 27<sup>th</sup> day of AUGUST, 1994, before me, the undersigned, a Notary Public in and for the State of Washington duly commissioned and sworn, personally appeared Carl G. Falk, to me known to be the individual that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said individual for the uses and purposes therein.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

   
NOTARY Public in and for the State of  
Washington, residing at Kent, WA  
Commission expires 7-6-97.

## DECLARATION OF EVAN D. MORRIS SR.

1. I reside at 30435 - 232nd Place SE, Kent, Washington 98042. I am currently self-employed in a number of business operations that I own. I make this declaration of my own personal knowledge.
2. I have been an employee, shareholder, partner, officer, and member of management of Palmer Coking Coal Company (Palmer) and its predecessor corporations since 1946.
3. My principal responsibilities for Palmer have included timber management, property management, new business development, and operations management, during the active portion of my career with Palmer.
4. On or about 1960, I wrote and helped develop a plan for Palmer to diversify operations by entering into new mineral extraction ventures such as aggregates and expandable shales.
5. One of the primary areas of interest was an existing sandstone mine operated by Smith Brothers Silica Sand Company on Palmer property in Section 30-21-7.
6. The Smith Brothers silica mine had been operated on property owned by Palmer and its corporate predecessors since at least the mid 1950's.
7. Throughout Palmer's ownership of the property, our company's management has been interested in continuing and expanding our mineral operations on this property. Towards that end, Palmer has taken a number of steps including active operations, mineral leases, stockpile leasing, material sales, etc.
8. During the mid 1960's, Palmer entered into an agreement with King County to move and relocate the Enumclaw Franklin Road which was interfering with Palmer's plans for mineral operations on the subject property. We helped undertake the costs and expenses involved with such a road relocation with the promise and intent that Palmer would be able to fully develop our mineral resources located on our Section 30 property. Since that road relocation, Palmer has continued our long-term goal of preserving and enhancing our mineral resource opportunities.

I make this declaration from my own personal knowledge and declare that the foregoing is true and correct under penalty of perjury.



Evan D. Morris Sr.  
30435 - 232nd Place SE  
Kent, WA 98042

STATE OF WASHINGTON

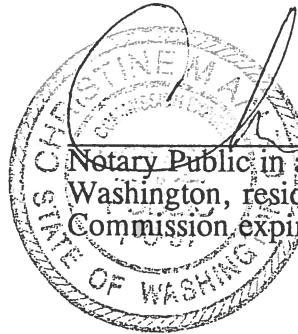
County of King

)  
)  
)

ss

On this 24<sup>th</sup> day of August, 1994, before me, the undersigned, a Notary Public in and for the State of Washington duly commissioned and sworn, personally appeared Evan D. Morris Sr., to me known to be the individual that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said individual for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



[Signature]  
Notary Public in and for the State of  
Washington, residing at 23414 SE 305<sup>th</sup> St, Kent  
Commission expires 7-6-97.

DEPARTMENT OF DEVELOPMENT AND ENVIRONMENT SERVICES  
LAND USE SERVICES DIVISION  
KING COUNTY, WASHINGTON  
3600 - 136th Place Southeast  
Bellevue, WA 98006-1400  
Phone: (206) 296-6640

REPORT AND DECISION  
PALMER COKING COAL - NONCONFORMING STATUS  
January 11, 1995

**REQUEST:**

King County tax lot #302107-9040 and a portion of tax lot #302107-9037 be designated as a nonconforming mining site.

**FINDINGS:**

1. Palmer Coking Coal Company (Palmer) owner intends to pursue a grading permit to remove sand, gravel, and sandstone from the property.
2. The site is approximately 27 acres lying south of an active sand and gravel mine operated by Wheeler Topsoil, Inc. (King County Grading Permit #3496-778).
3. The subject property is a portion of the land covered by a lease to Smith Brothers Silica Sand Company in the mid-1950's and modified April 30, 1962 and again in 1969.
4. In 1969, King County was granted a one-year lease to remove gravel. 1972 - 1975 King County was granted a second lease to store, stockpile, and remove gravel.
5. 1973 Marine Asphalt Co. hauled material from the pit.
6. 1974 Sea Mesh Corporation leased a portion of the gravel pit.
7. 1977 - 1979 Moulden and Sons, Inc. remove material from the site.
8. 1979 Palmer leases oil, gas, and mineral recovery rights to Transcontinent Oil Company.
9. 1989 Palmer leases oil, gas, and mineral recovery rights to Sharon Resources, Inc.
10. 1991 Palmer leases oil, gas, and mineral recovery rights to Palo Petroleum, Inc.
11. 1991 Wheeler Topsoil applies for grading permit.
12. 1992 King County determines Wheeler proposal is legal as a nonconforming use.
13. December, 1992 King County Hearing Examiner denied appeal by Plateau Preservation Society on SEPA Threshold determination.
14. 1993 Palmer leases oil, gas, and mineral recovery rights to Sharon Resources, Inc.

## EXHIBITS:

1. Affidavits
  - a. Carl Falk - worked for Palmer Coking Coal from 1948 - 1984. States site has been used for a variety of mining operations since 1955.
  - b. Evan D. Morris, Sr. - An employee, shareholder partner, officer, and member of management of Palmer Coking Coal Company since 1946. Smith Brothers silica mine operated since the mid-1950's. Palmer has continued to manage the site in order to preserve and enhance mineral resource opportunities.
  - c. Letter from Ron Moulden, President - States that his company hauled material from the site in the 1950's, 1960's, 1970's, and in 1989.
2. Notebook "Request for Determination of Status Legal Nonconforming Use at Historic Mining Site King County Tax Lots #302107-9037 and #302107-9040"
3. King County Assessor Map Section 30-21-7 with ownership in green, original lease in yellow, King County leases in orange and blue, active mine site outlined in black, and the requested site in red.
4. Olen V. Andrew, et al v. King County, et al - "A temporary cessation of a nonconforming use does not by itself amount to abandonment or discontinuance for purpose of terminating the use."
5. Meridian Minerals Company, et al v. King County, et al -
 

"Public policy favors the phasing out of nonconforming use."

"Whether a nonconforming use of land can be intensified, enlarged, or expanded depends on whether the changed use will be different in kind from the nonconforming use in existence at the time the ordinance went into effect."

"...due process prevents the abrupt termination of what one had been doing lawfully."

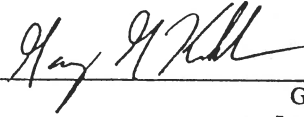
"If a zoning authority seeks to immediately abolish a nonconforming use it must show a condition substantially detrimental to the public health, safety, morals or welfare..."

## CONCLUSION:

1. The Palmer site is a portion of land which contained an established legal mining operation prior to the adoption of the King County Zoning Code in 1958.
2. A nonconforming use is not extinguished simply because there may have been a cessation of use for a period of one year or more.
3. There has been no intent of the property owners to abandon the nonconforming use.
4. Before an operation may begin, a grading permit is required.
5. The original lease to Smith Brothers Silica Sand Company does not cover the western third of the subject request.

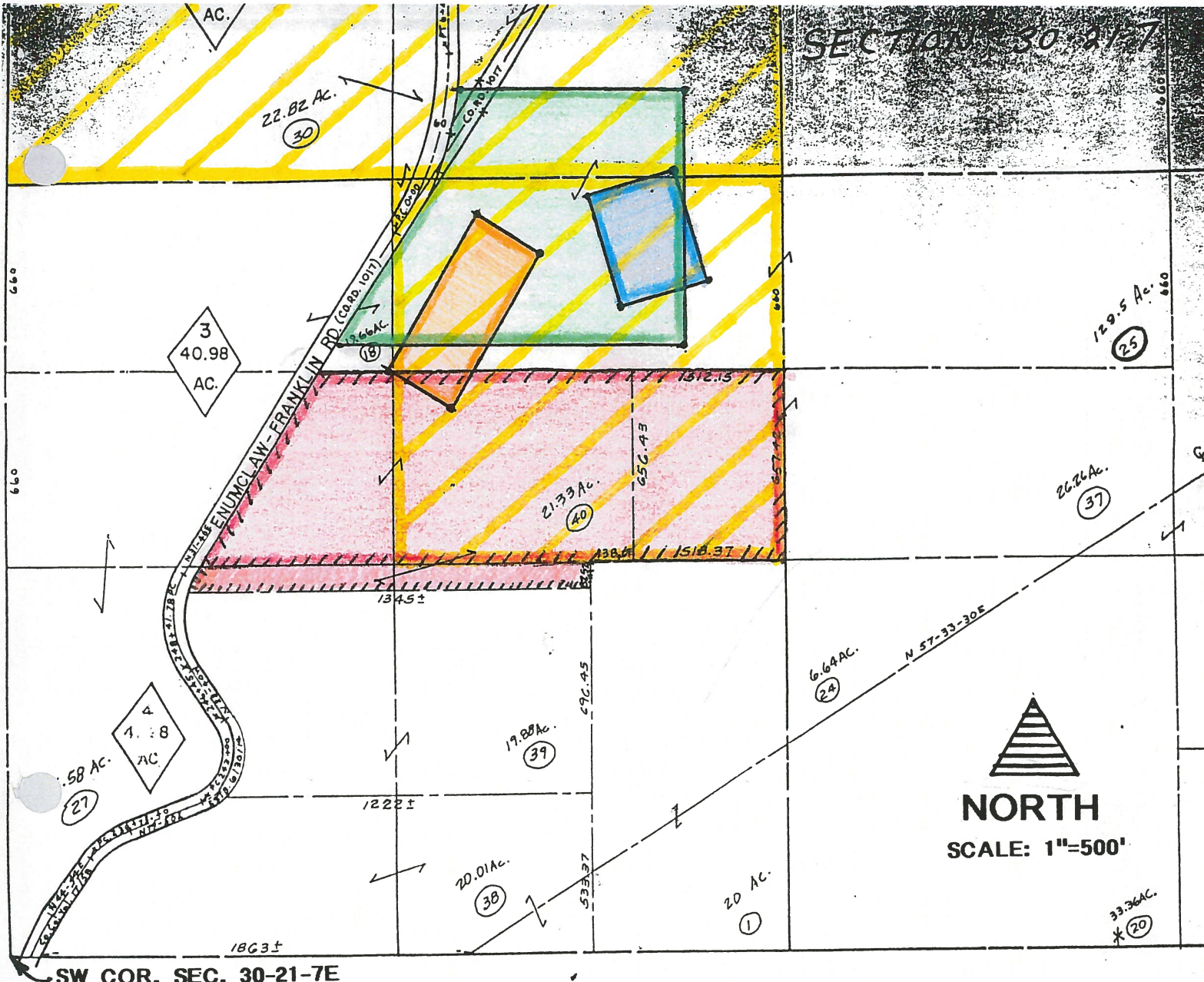
**DECISION:**

The eastern 1,320 feet of the Palmer Coking Coal site, tax lots #302107-9037 and #302107-9040 is a nonconforming site for the excavation, screening, crushing, and stockpiling of materials. Any operation of the site will be subjected to obtaining a King County grading permit.








---

Gary G. Kohler  
January 11, 1995



**LEGEND:**

-  HISTORIC MINE AREA-SMITH BROS. LEASE
-  PROPOSED PALMER PERMIT AREA
-  KING COUNTY LEASE AGREEMENT 1969
-  KING COUNTY LEASE AGREEMENT 1972
-  ACTIVE MINE SITE

**HISTORIC MINING USE  
SW 1/4 SEC. 30-21N-7E**



RECEIVED

07 NOV 10 PM 3: 22

WASHINGTON STATE DEPARTMENT OF  
**Natural Resources**  
K.C.D.D.E.S.

JENNIFER M. BELCHER  
Commissioner of Public Lands

November 6, 1997

Fred White, Site Development Specialist  
King County Department of Development and Environmental Services  
900 Oakesdale Avenue Southwest  
Mailstop 1B  
Renton, WA 98055-1219

Re: Application for Surface Mine Reclamation Permit  
Section 30, Township 21 North, Range 7 East  
Palmer Coking Coal Company Hyde Gravel - Wheeler Extension

Dear Mr. White:

The department has worked with the proponent and their consultant to assemble a reclamation plan for this site. The reclamation plan meets the standards of the Surface Mine Reclamation Act (RCW 78.44).

The department has given conceptual approval for the reclamation plan. Please include this plan with your SEPA review process.

Thank you for your cooperation. If you have questions, I can be reached through the South Puget Sound Region Office at (360) 825-1631.

Sincerely,

Bonnie B. Bunning  
Region Manager

David S. Pierce *sh*  
Surface Mine Field Inspector

DSP/bh  
NOV97/12



**King County  
Department of Development  
and Environmental Services**

900 Oakesdale Avenue Southwest  
Renton, WA 98055-1219



**William Kombol  
Palmer Coking Coal Company  
P.O. Box 10  
Black Diamond, WA 98010**

**RE: Preapplication Meeting for A97M0352**

Dear Mr. Kombol:

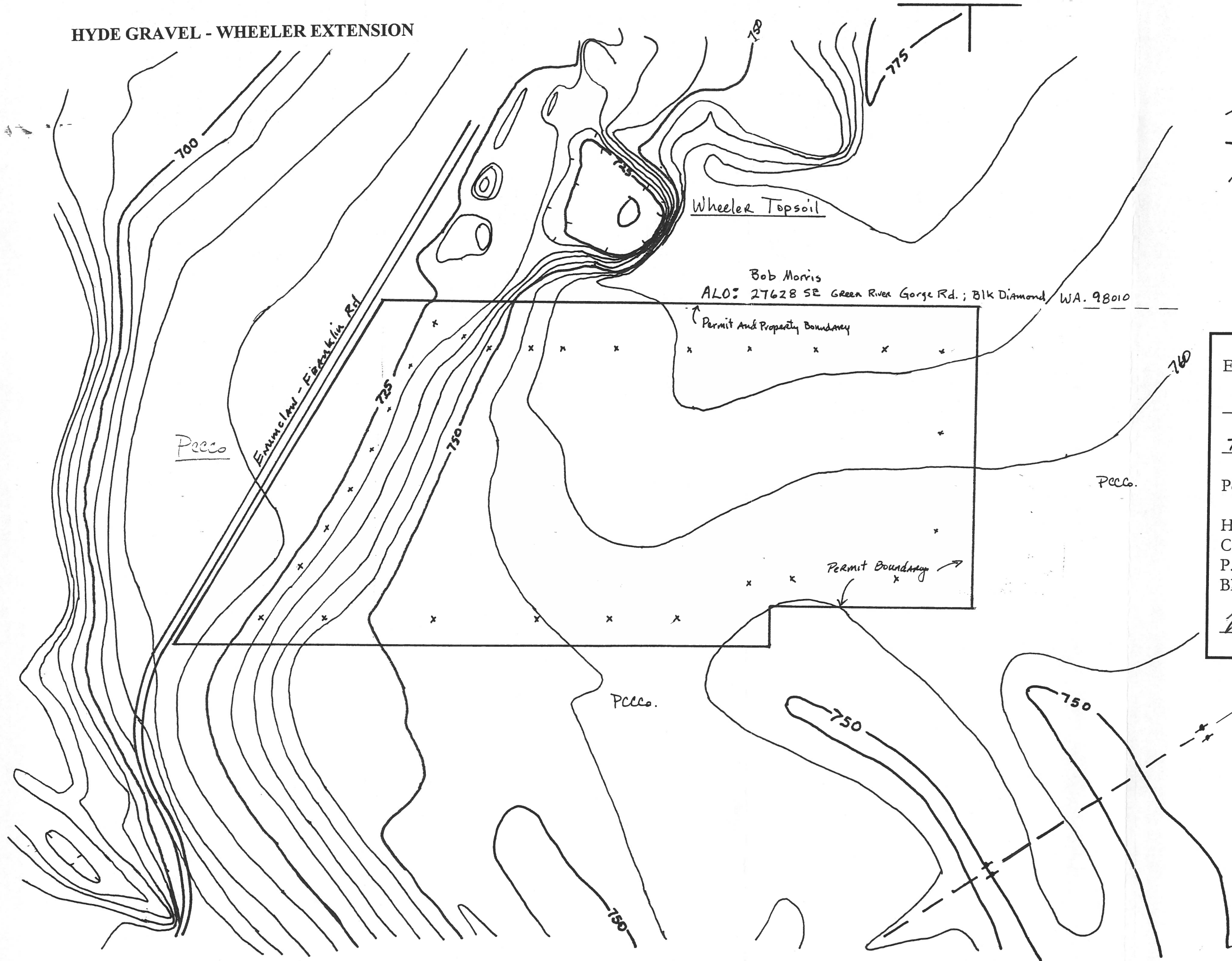
A preapplication meeting has been scheduled for Thursday, October 23, 1997, at 10:00 a.m. in room C1 of our office. Please check in at the front counter and I will escort you to the meeting.

I will be conducting a field check of the property on October 15, 1997. If you are available to show me the site or have someone available, it would be helpful. Please call me if you have any questions.

Sincerely,

**Fred M. White  
Lead Site Development Specialist**

HYDE GRAVEL - WHEELER EXTENSION



Explanation

- 750- contour line in feet
- + - Utility Lines
- ALO Adjacent Land Owner
- x Reclamation Setback

Bob Morris  
 ALO: 27628 SE Green River Gorge Rd.; Blk Diamond, WA. 98010

Permit And Property Boundary

Permit Boundary

Exhibit No. \_\_\_\_\_

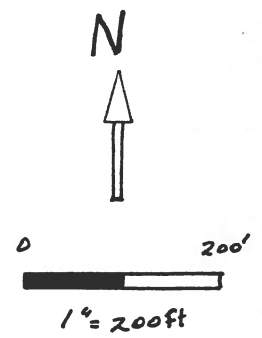
PRE-MIXING

TOPOGRAPHIC MAP.

Permit No. \_\_\_\_\_

Hyde Gravel - Wheeler Extension  
 C/O PCCCo.  
 P.O. Box 10  
 Black Diamond, WA 98010

*[Signature]*  
 applicant's signature



J.C. Duntton P.G.

**William Kombol's Testimony before the King County Hearing Examiner  
March 1, 2000**

**Hyde Gravel - Wheeler Extension (KC DDES File Number L98G0056)  
Section 30-21-7 : Tax Parcels 302107-9037 and 302107-9040**

***Palmer's history of ownership of the subject property***

Palmer Coking Coal Company (Palmer) is a family owned partnership comprised of thirty-eight partners, the vast majority of whom live and work in King County. Our company has owned the subject property since about 1953. We purchased both the surface ownership and the mineral ownership from a mining company which had owned the property for approximately 50 years prior to our ownership. During the 1950s, the subject property was leased to a sand mining company which conducted operations for about 16 years. During the 1960s and 1970s, King County Public Works leased portions of the subject property for the purpose of storing, stockpiling, and extracting gravel. Around 1966-68, King County Public Works relocated approximately 3,000 lineal feet of the Enumclaw-Franklin Road in order to facilitate the extraction of additional sand and gravel resources on the property. During the 1970s, a number of asphalt, gravel, and trucking firms purchased gravel from the property. During the 1970s, 1980s, and 1990s, Palmer leased the oil, gas, and certain mineral recovery rights to in the property to a number of mineral exploration firms.

***Planning efforts at the subject property***

In 1988, Palmer worked with planning staff from King County so as to include the subject property and others in King County's Enumclaw Community Plan and Area Zoning as potential mineral extraction sites. Palmer's property was delineated as a mineral resource site containing a valuable deposit of oil, gas, coal, sand and gravel. The purpose of the King County mapping effort was "to notify the public of the location of existing mineral extraction sites and where potential new operations may occur in the future." In 1994, pursuant to RCW 36.70A.060 (Natural Resource Lands protection) under the Growth Management Act, King County began designating mineral resource sites and potential mineral resource sites. In 1994, the subject property was classified as

a potential mineral resource site whose legal non-conforming status was undergoing review.

In 1991, Wheeler Topsoil applied for a grading permit to extract sand and gravel on the property due north and adjacent to the Palmer site. In 1992, King County determined that the Wheeler proposal was a legal non-conforming use and in December of the same year, the King County Hearing Examiner denied an appeal by Doreen Johnson of the SEPA threshold determination for the Wheeler proposal.

### *The screening process and further evaluation*

Following the start-up and successful operation of the Wheeler sand and gravel pit and the demonstrated market need for sand and gravel in this part of southeast King County, Palmer began investigating potential sites for a similar operation. Palmer screened a number of properties before deciding upon a further evaluation of the subject property as a possible site. Following its selection as a possible site, Palmer first went to King County DDES and requested a determination as to the status of our historic mining use of the property. In January, 1995, Palmer received a report and decision by King County DDES designating the subject property as a non-conforming mining site. In December, 1995, the King County Comprehensive Plan / 1995 Amendment was adopted and the subject property was designated in the Comprehensive Plan as a legal non-conforming use. The property surrounding the subject property retained its potential mineral resource status. Both the 1997 update to the King County Comprehensive Plan and the Executive proposed 2000 update to the Comprehensive Plan designate the subject property as a legal non-conforming mineral resource site with surrounding properties identified as potential surface mineral resource sites.

In the summer of 1997, Palmer retained the services of John Dunton, a Professional Geologist, to assemble relevant information about the subject property with a goal of creating a mine plan that protected public resources, complied with the new state surface mining and reclamation requirements, and allowed Palmer to mine its resource. One of Mr. Dunton's first tasks was a determination of the approximate depth to ground water.

To determine the ground water depth, Mr. Dunton examined detailed topographic maps, the elevation of nearby bodies of water, and a three volume set of detailed geohydrology reports prepared by Metro in connection with their nearby silviculture project. Mr. Dunton prepared a phased mining plan which divided the property in four segments which would be mined sequentially. Following development of the mining plan which conforms to the State Surface Mining Act, Palmer sought preliminary comment from Department of Natural Resource personnel who review surface mining plans.

The next step in Palmer's site verification process involved a request for information from appropriate state agencies on rare plants or high quality ecosystems in our property's vicinity and on priority habitats and species. Neither information search identified rare plants, high quality ecosystems, or priority habitat and species that either occupy the subject property or are in close proximity thereto. Following the obtaining of this information, a Wildlife and Habitat Study was commissioned and prepared by Terra Associates, Inc. During this period of time, Palmer also investigated permit requirements and needed approvals from the Puget Sound Air Pollution Control Agency and the Department of Ecology. An on-site noise reconnaissance was also performed by King County personnel to determine the noise output from the Wheeler operation and the likely noise output that the Palmer proposal might have on surrounding properties.

Palmer's next step was to schedule a pre-application review with King County DDES staff to explain our proposal and seek feedback. Based upon that feedback, Palmer prepared additional reports and information to address identified concerns. In November, 1997, Palmer began submitting the various reports and information necessary to allow King County DDES to review our proposal. In February, 1998 our proposal was formally submitted. In May, 1998, Palmer's application was determined to be complete and over \$24,000 in review fees were paid to the County. Following over a year and a half of study, including several requests for additional clarification, King County issued a mitigated determination of non-significance for the proposal.

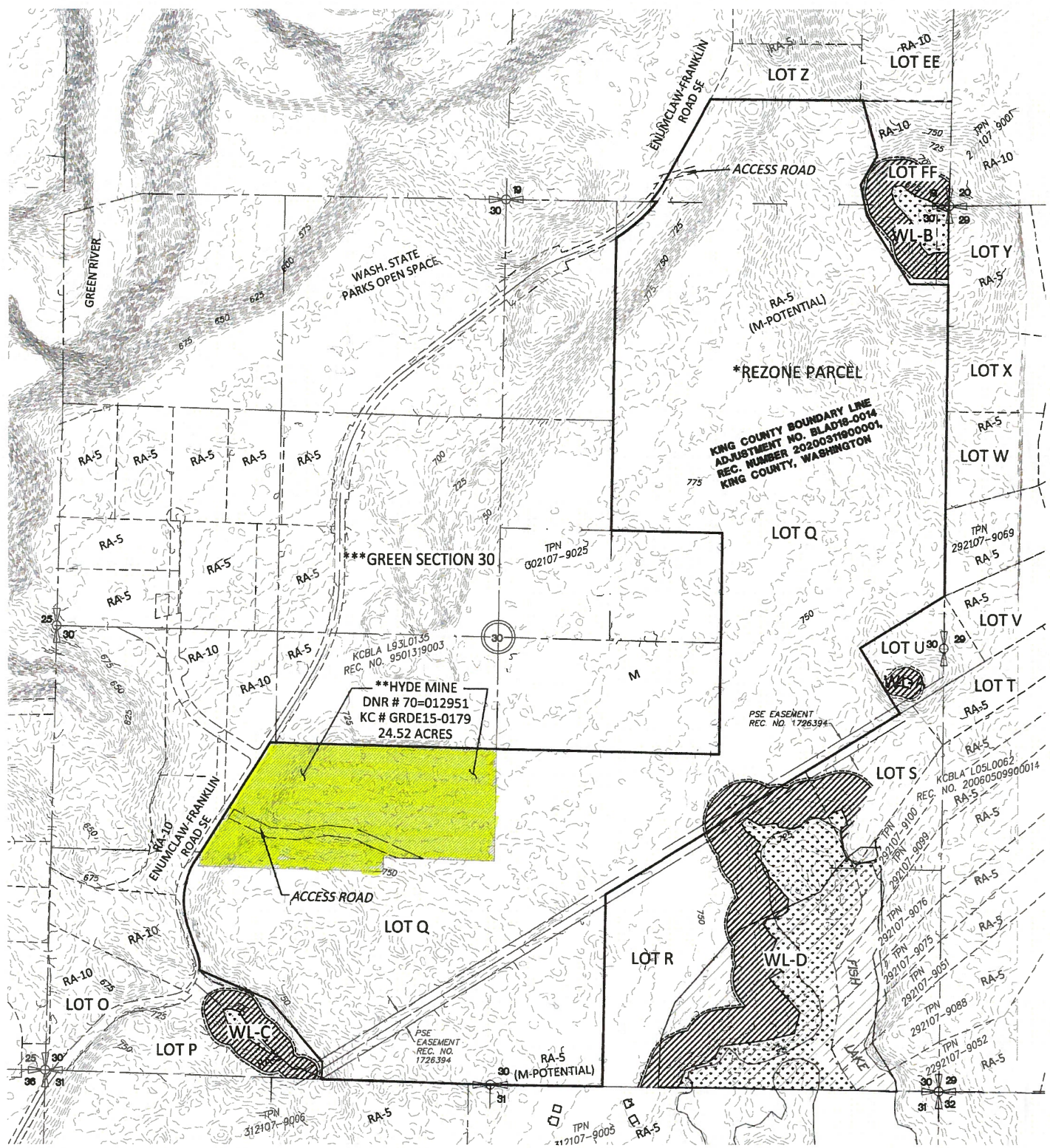
***Summary of the subject property and the proposal***

In summary, the subject property contains a valuable and GMA protected natural resource deposit that can be extracted without any significant impacts to the environment. Our proposal involves an at-grade (as opposed to a below-grade pit type) excavation of a sand and gravel deposit next door to an existing sand and gravel mining operation. The property has a legal non-conforming status which allows for the excavation, screening, crushing, and stockpiling of materials. The property is further surrounded by properties which are designated by King County as potential mineral extraction sites. The subject property is at least 1,000 feet away from the nearest body of water and 3,000 feet away from the Department of Game's fish rearing ponds on the Green River. The proposed mine plan is 20-50 feet above the regional ground water level. State mining regulations allow mining into the water table, however, when a separation is recommended it is customary to utilize a 3 to 10 foot separation between the mining floor and groundwater levels. The nearest resident is nearly 2,000 feet away. There are no sensitive areas either within or near the proposed mining area. Our proposal meets all code requirements. Our proposal is supported by numerous detailed studies that confirm our proposal is not likely to have any probable significant adverse impacts. The surrounding topography has been used as a surface sand and gravel site for more than forty years with no known impacts to Icy Creek or the Pautske ponds. In fact, the greatest impacts on Icy Creek have been visited upon this stream by the Department of Game's dams, culverts, diversions, intake structures, channelization, man-made ponds, weirs, roadways and fencing utilized for the Department's fish rearing facilities. The subject property is one of the most ideal sites that I have seen for conducting sand and gravel mining operations.

***Palmer's reclamation award***

In addition, our company has great experience in the mining and reclamation of sand and gravel deposits as well as surface coal mines. In 1996, the State Department of Natural Resources instituted their first ever awards for superior and exemplary reclamation activities. I am pleased to share with you that our company's McKay Section 12 surface coal mine which was operated from 1982 to 1986 won the Special Recognition Award and photos of our reclaimed mine site were featured in the June, 1997 statewide DNR publication, Washington Geology.

POR. OF SE 1/4 SEC. 19, TWP. 21 N., RGE 7 E., W.M.  
 POR. NE 1/4 AND SW 1/4 OF SEC. 30, TWP. 21 N., RGE 7 E., W.M.



SCALE: 1" = 400'  
 5' CONTOUR INTERVAL

**LEGAL DESCRIPTION**  
 LOT Q OF KING COUNTY BOUNDARY LINE ADJUSTMENT NO. BLAD18-0014 RECORDED UNDER RECORDING NUMBER 2020031900001, RECORDS OF KING COUNTY, WASHINGTON

**OWNER APPLICANT**  
 PALMER COOKING COAL COMPANY, LLP  
 P.O. BOX 10, BLACK DIAMOND, WA. 98010  
 (425) 432-4700

**EXISTING ZONING CLASSIFICATION**  
 RA-5 - RURAL AREA ONE DWELLING UNIT PER 5 ACRES (M-POTENTIAL)

**PROPOSED ZONING CLASSIFICATION**  
 MINERAL-M

**ACREAGE WITHIN PROPERTY BOUNDARIES**  
 24.0 ACRES

**FIRE DISTRICT**  
 ENUMCLAW - KCFD #28

**SCHOOL DISTRICT**  
 ENUMCLAW #216

**WATER DISTRICT**  
 DOES NOT APPLY

**SEWER DISTRICT**  
 DOES NOT APPLY

**PROJECT PURPOSE**  
 REZONE OF PROPERTY TO MINERAL

\* REZONE PARCEL TO BE CONFIGURED BY BOUNDARY LINE ADJUSTMENT TO PROTECT WETLANDS AND MOVE EXTRA LOTS OFF-SITE THROUGH BLA.

\*\* THE HYDE MINE IS A LEGAL NON-CONFORMING USE SITE PER KING COUNTY DPER CLEARING & GRADING PERMIT #GRDE15-0179 AND WASHINGTON STATE DNR SURFACE MINING PERMIT #70-012951.

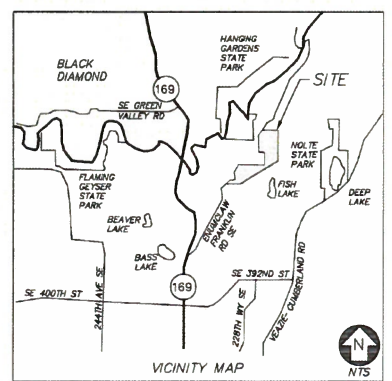
\*\*\* GREEN SECTION 30'S ± 111± ACRES WAS REZONED TO ZONE M PER KING COUNTY ORDINANCE #2010-0461 (ENACTMENT #17981)

**GENERAL NOTES**

1.) BOUNDARY LINES AND EASEMENTS SHOWN ARE PER KING COUNTY BOUNDARY LINE ADJUSTMENT NUMBER BLAD18-0014 RECORDED UNDER RECORDING NUMBER 2020031900001, RECORDS OF KING COUNTY, WASHINGTON.

2.) ENVIRONMENTALLY SENSITIVE AREAS (COAL MINE HAZARD AND WETLANDS) AND EXISTING ZONE CLASSIFICATIONS ARE PER KING COUNTY GIS MAPS ACCESSSED ON THE KING COUNTY IMAP WEBSITE.

3.) THE CONTOURS SHOWN HEREON WERE INTERPOLATED FROM PUBLIC DOMAIN AIRBORNE LIDAR DATA ACQUIRED IN 2003 BY THE PUGET SOUND LIDAR CONSORTIUM (PSLC). LIDAR HAS DEMONSTRATED ADVANTAGES IN DEFINING GROUND SURFACES IN SHADOWED AREAS BUT MAY NOT ADEQUATELY DEFINE THE GROUND IN OBSCURED AREAS. THE ACCURACY OF THE CONTOURS AND DIGITAL TERRAIN MODEL IS CONTINGENT ON THE ACCURACY OF THE PSLC DATA. IT IS NOT EXPECTED THAT THESE CONTOURS CONFORM TO NATIONAL STANDARDS FOR SPATIAL DATA ACCURACY. THIS DATA IS INTENDED FOR PRELIMINARY SITE EVALUATION ONLY.



**TITLE EXCEPTIONS (SCHEDULE B NOTES)**  
 PER COMMITMENT FOR TITLE INSURANCE BY FIRST AMERICAN TITLE INSURANCE COMPANY GUARANTEE NUMBER 5003353-3521607, DATED JULY 17, 2020.

19. EASEMENT FOR THE PURPOSES ELECTRIC TRANSMISSION LINE AND TELEPHONE AND TELEGRAPH RECORDING NO.: 1726394

20. EASEMENT FOR THE PURPOSE OF ROAD RECORDING NO.: 5703482

21. ANY RIGHTS, INTERESTS, OR CLAIMS BY MATTERS DISCLOSED BY SURVEY, RECORDING DATE: APRIL 17, 1992 RECORDING NO.: 9204179004 (R11) SUPERCEDES RECORDING NO. 9106199003. (DOES NOT CREATE ANY EASEMENTS)

22. EASEMENTS FOR THE PURPOSE OF ROAD RECORDING NO.: 9603299015 (DOES NOT CREATE ANY EASEMENTS (R10))

23. COVENANTS, CONDITIONS AND RESTRICTIONS ON KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L96L0131, RECORDING NO. 9904059010 (NO EASEMENTS CREATED BY DOCUMENT (R5))

24. COVENANTS, CONDITIONS AND RESTRICTIONS AS SET FORTH IN THE KING COUNTY 20 ACRE SEGREGATION: RECORDING NO. 19990817900015 (SURVEY REFERENCE (R9) - NO EASEMENTS CREATED)

25. RESERVATIONS AND EXCEPTIONS, INCLUDING THE TERMS AND CONDITIONS THEREOF RECORDING NO. 20030612002066 (MINERAL RIGHTS)  
 (NO EXAMINATION HAS BEEN MADE REGARDING THE TRANSFER OR TAXATION OF THE RESERVED RIGHTS)

26. THE TERMS AND PROVISIONS CONTAINED IN DOCUMENT ENTITLED "STATEMENT OF CLAIM OF MINERAL INTEREST" RECORDING NO. 20031113001841 (MINERAL RIGHTS)

27. SENSITIVE AREA NOTICE AND TERMS AND CONDITIONS THEREIN, RECORDING NO.: 20040210000608 (NOTICE ON FORMER PARCELS 302107-9067 AND 302107-9068, WHICH IS NOW THE WESTERN MOST TIP OF 302107-9080, WHICH IS THE AREA SHOWN HEREON AS NEW LOT P)

28. SENSITIVE AREA NOTICE AND TERMS AND CONDITIONS THEREIN, RECORDING NO.: 20040210000607

29. THE MATTERS SET FORTH IN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS UNDER RECORDING NO.: 20050131000078

MODIFICATIONS AND/OR AMENDMENT BY INSTRUMENT: RECORDING NO. 20060801000785 (BLANKET CC&R AFFECTING PARCEL NO. 292107-9101)

(COVENANTS, CONDITIONS AND RESTRICTIONS FOR SERENITY LOTS OF THIS SURVEY AND CONTAIN EASEMENT FOR STORM DRAINAGE ALONG INTERIOR LOT LINES-AS SHOWN) AMENDMENTS AND MODIFICATIONS OF SAID DECLARATION, RECORDING NO.: 20060801000786 (NOTING BLA OF SOME OF THE LOTS WITHIN SERENITY)

30. COVENANTS, CONDITIONS AND RESTRICTIONS ON KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L05L0062, RECORDING NO. 20060509900014 (SURVEY REFERENCE (R8)-NO EASEMENTS CREATED)

31. SENSITIVE AREA NOTICE ON TITLE, RECORDED UNDER RECORDING NUMBER 20060808001130

RE-RECORDED UNDER RECORDING NO.'S 20190205000288 20190205000289 AND 20190205000290.

32. EASEMENT FOR INGRESS, EGRESS AND UTILITIES RECORDING NO. 20121115001929 (DOES NOT AFFECT SUBJECT PROPERTY)

33. EASEMENT FOR INGRESS, EGRESS AND UTILITIES RECORDING NO. 20121115001931 (DOES NOT AFFECT SUBJECT PROPERTY)

34. ANY AND ALL OFFERS OF DEDICATION, CONDITIONS, RESTRICTIONS, EASEMENTS, BOUNDARY DISCREPANCIES OR ENCROACHMENTS, NOTES AND/OR PROVISIONS SHOWN OR DISCLOSED BY SHORT PLAT NO. L50350024 RECORDED UNDER RECORDING NO. 2012112090029. (DOES NOT AFFECT SUBJECT PROPERTY)

35. EASEMENT, INCLUDING TERMS AND PROVISIONS CONTAINED THEREIN RECORDING NO. 20130103001979 (DOES NOT AFFECT SUBJECT PROPERTY)

36. COVENANTS, CONDITIONS AND RESTRICTIONS AS SET FORTH IN THE KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L11L0009, RECORDING NO. 20130618900005

AFFIDAVITS OF MINOR CORRECTION OF MAP: RECORDING DATE: JULY 19, 2013 AND SEPTEMBER 29, 2014 RECORDING NOS.: 20130719001475 AND 20140929001136, RESPECTIVELY

ACCESS/UTILITY EASEMENT RELINQUISHMENT, RECORDED UNDER RECORDING NUMBER 20190205000285, 20190205000286 AND 20190205000287.

DOCUMENT RELINQUISHMENT TO EASEMENT DELINEATED ON KING COUNTY BLA NO. L11-L0009, RECORDING NO. 20130618900005

37. COVENANTS, CONDITIONS AS RESTRICTIONS AS SET FORTH IN THE KING COUNTY LARGE LOT SEGREGATION NO. EMSC 13-0023, RECORDING NO.: 20131114900008 (DOES NOT CREATE ANY EASEMENTS)

38. COVENANTS, CONDITIONS AND RESTRICTIONS AS SET FORTH IN THE KING COUNTY BOUNDARY LINE ADJUSTMENT NO. BLAD15-0004, RECORDING NO.: 20150612900002 (NO PLOTTABLE EASEMENTS CREATED)

39. RECIPROCAL ACCESS AND UTILITIES EASEMENT FOR THE BENEFIT OF LOT S OF THIS BOUNDARY LINE ADJUSTMENT, RECORDING UNDER RECORDING NOS. 20190205000297, 20190205000298 & 20190205000299.

40. TERMS, COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS, BOUNDARY DISCREPANCIES AND ENCROACHMENTS AS CONTAINED IN RECORDED LOT LINE ADJUSTMENT (BOUNDARY LINE REVISION) RECORDING NO. 2020031900001

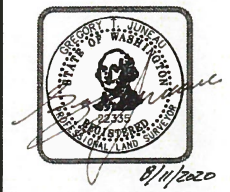
**LEGEND**

	WETLAND PER SEWELL WETLAND CONSULTING INC.	RA-5	ZONE RURAL AREA ONE DWELLING UNIT PER 5 ACRES
	WETLAND BUFFER PER SEWELL WETLAND CONSULTING INC.	RA-10	ZONE RURAL AREA ONE DWELLING UNIT PER 10 ACRES
	HYDE MINE**	M	MINERAL
	BUFFER SETBACK LINE (NOT REQUIRED ADJACENT TO M-ZONED SITE)	WL	WETLAND
	MAJOR CONTOURS		
	MINOR CONTOURS		
	TAX PARCEL NUMBER		
	SENSITIVE AREAS ORDINANCE		
	TAX PARCEL NUMBER		
	SENSITIVE AREAS ORDINANCE		

**DAVID EVANS AND ASSOCIATES INC.**  
 20000 Woodville Snohomish Rd NE  
 Woodville Washington 98072  
 Phone: 425.415.2000

**30-21-7 REZONE SITE PLAN FOR**  
**PALMER COOKING COAL COMPANY, LLP**  
 P.O. BOX 10, BLACK DIAMOND, WA. 98010  
 KING COUNTY, WASHINGTON

NO.	DATE	REVISION	DATE	BY	DATE	REVISION
1	01-17-20	ISSUED PER NEW TITLE REPORT AND BOUNDARY SURVEY PER UPDATED TITLE REPORT	02-16-20	ARJ	02-16-20	ARJ



STAMP NOT VALID UNLESS SIGNED AND DATED

FIRST SUBMITTAL DATE: 06-02-16  
 SCALE: MODEL: 1"=400FEET; 5' CONTOURS

PROJECT NO.  
**PCCC0000001**

SHEET NO.  
**1**

Plot Date: 8/6/2020 12:22 PM  
 Save Date: 8/6/2020 1:18 PM  
 By: Bobby Johnson  
 File: P:\PCC\00000001\0400CAD\SV\BASE\SV-PCCC00000001\_081620.dwg



Lanktree Land Surveying, Inc.  
25510 74th Avenue South  
Kent, WA 98032  
(253) 653-6423  
www.lanktreelandsurveying.com

February 10, 2021

William Kombol, Manager  
Palmer Coking Coal Company, LLP

RE: Calculation of Area Known as Hyde Mine  
(LLS Project# 2568)

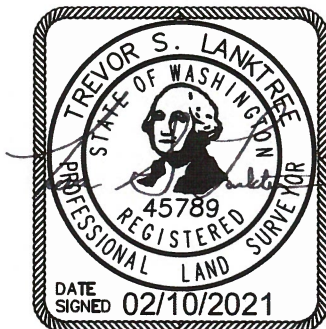
Dear William:

As requested, Lanktree Land Surveying, Inc. is submitting this explanation of the calculation process for determining the area known as Hyde Mine from provided historical permit documentation.

In January 2020, Palmer Coking Coal Co. requested Lanktree Land Surveying, Inc. to survey the legal description of what Palmer called the Hyde Mine. Lanktree was provided with a Report and Decision dated January 11, 1995 from King County's Land Use Services Division, signed by Gary G. Kohler. Page 1 of the decision mentioned the site was approximately 27 acres and south of an active sand and gravel pit. Page 3 of the decision provided a legal description tied to tax parcels which existed in 1995, but have since been altered by boundary line adjustments. A color coded King County Assessor map of those tax parcels titled Exhibit 2 - Historic Mining Use, SW ¼ Sec. 30-21N-7E accompanied the legal description.

The attached Exhibit "A", together with the below explanation is the resultant Hyde mine area as calculated. Palmer also provided legal descriptions for Parcel 15 G and Parcel 19 G, which corresponded with tax parcels 302107-9037 and 302107-9049. On attached sketch, the Blue bold outline is the Legal Description of Parcels 15 G (302107-9037) and Parcel 19 G (302107-9040) within the Document. Within the Decision, final paragraph, lists the Eastern 1320', which was taken as intended to be Section Subdivisional measure, based on the sketch attached thereto, filled on attached Exhibit in Green. The remainder is cross-hatched in Red, as the Hyde mine calculation.

After mapping the above described area, Lanktree Land Surveying delineated the calculated Hyde Mine boundary with Survey Rebar and Cap. The area of the Hyde Mine was calculated to be 24.52 acres, based on above calculations and survey.



Sincerely,


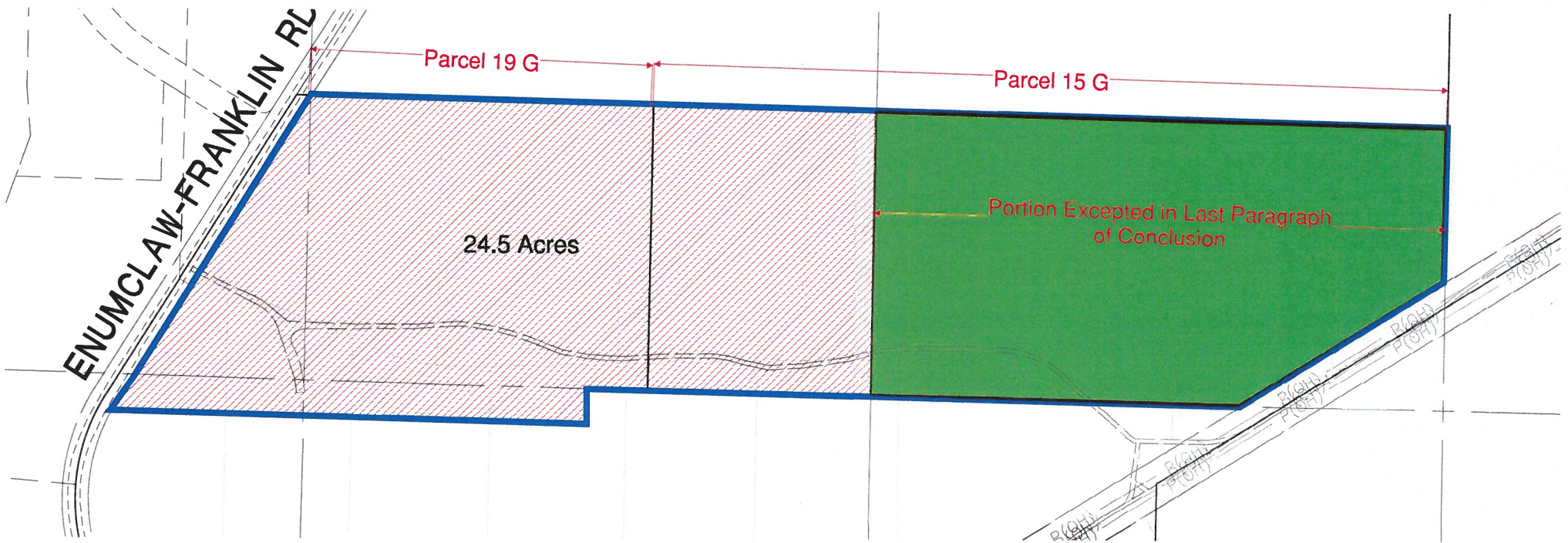
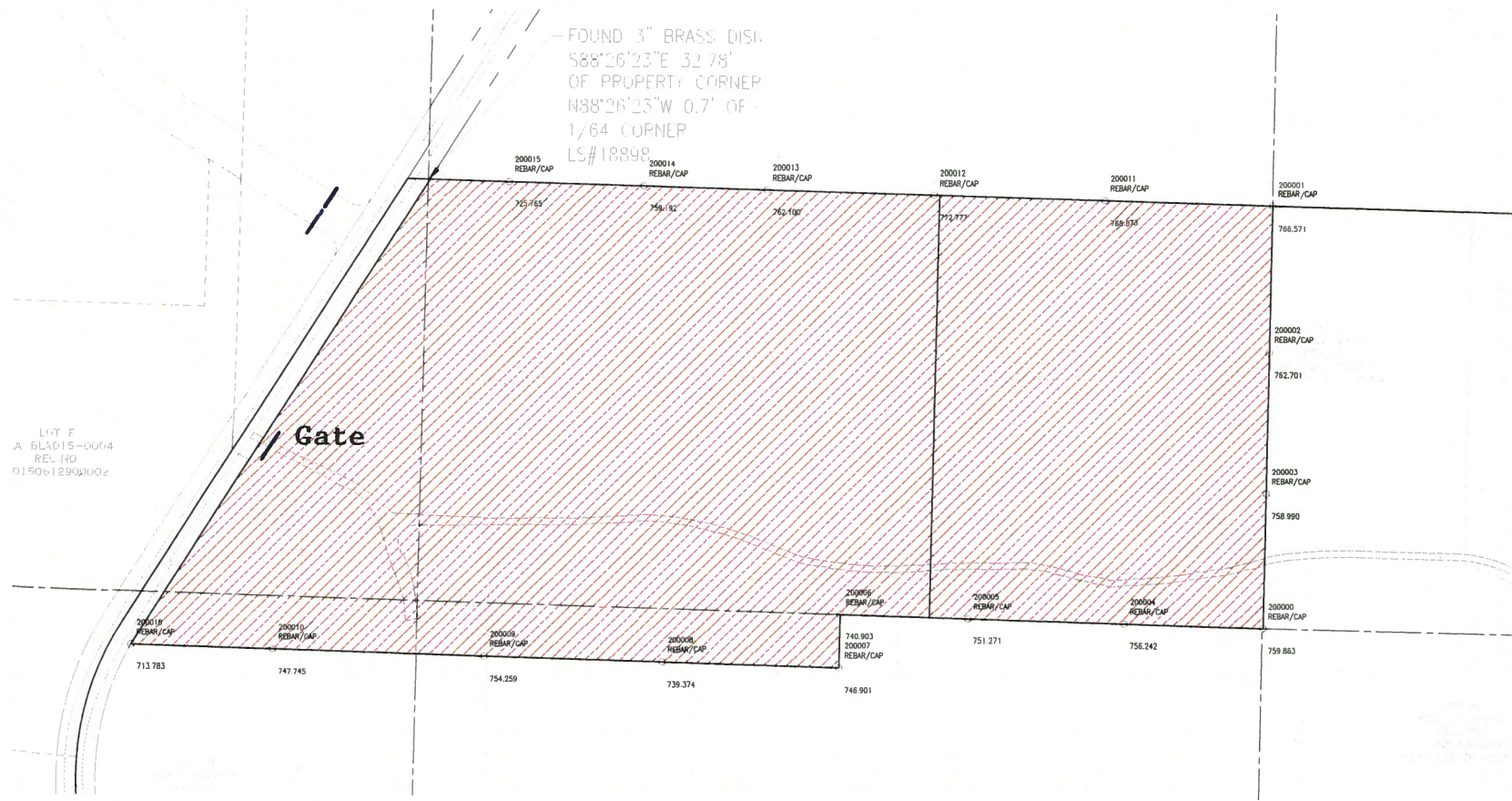
  
Trevor S. Lanktree, P.L.S.  
President

Exhibit "A"



# Hyde Gravel Pit – Section 30-21-7

DNR Permit #70-012951 / King County Grading Permit #GRDE15-0179



Lanktree Surveying sets boundary points, plus fence-posts with white PVC sleeves to mark the 24.5-acre mine site.