

From: Tom McCormick <tommccormick@mac.com>
Sent: Sunday, January 08, 2017 5:32 PM
To: Countryman, Ryan; MacCready, Paul
Subject: Fwd: Defective MDNS issued Dec. 21, 2016
Attachments: SKMBT_C364e17010311440.pdf

Begin forwarded message:

From: Tom McCormick <tommccormick@mac.com>
Subject: Re: Defective MDNS issued Dec. 21, 2016
Date: January 3, 2017 at 2:18:04 PM PST
To: Bill Trimm <bill@townofwoodway.com>
Cc: Eric Faison <eric@townofwoodway.com>, Mayor Carla Nichols <cnichols@townofwoodway.com>, Austen Wilcox <austen@townofwoodway.com>, Bill Trimm <bgtrimm@comcast.net>, Debbie Tarry <dtarry@shorelinewa.gov>, Kendra Dedinsky <kdedinsky@shorelinewa.gov>, Julie Ainsworth-Taylor <jainsworth-taylor@shorelinewa.gov>, Bill Willard <bill@billwillard.com>, John John <JJohn@GrahamDunn.com>, Tom Mailhot <tmailhot@frontier.com>, Jerry Patterson <jerryapat08@gmail.com>, Joe Bundrant <joeb@TridentSeafoods.com>, "Clayton P. Graham" <claytongraham@dwt.com>

To Bill Trimm, Responsible SEPA Official for the Town of Woodway:

I have just learned that the Town sent its MDNS to the Department of Ecology on Dec. 21, but it failed to attach the SEPA checklist as required by law. See WAC 197-11-340(b) and (d), reproduced below:

(b) The responsible official shall send the DNS **and environmental checklist** to agencies with jurisdiction, the department of ecology, and affected tribes, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal, and shall give notice under WAC 197-11-510.

(c) ...

(d) **The date of issue for the DNS is the date the DNS is sent to the department of ecology** and agencies with jurisdiction and is made publicly available.

As the attached PDF reveals, after receiving the Town's MDNS on Dec. 21, Fran Sant, the Department of Ecology's SEPA Technical Assistance/Rule Coordinator, advised the Town on Dec. 21 as follows:

“This is an incomplete submittal and cannot be posted to the SEPA register without the SEPA checklist. Please provide me the SEPA checklist.”

The Town sent the SEPA checklist to the Department of Ecology the next day, on Dec. 22, 2016. So in the eyes of the the Department of Ecology, the Town’s MDNS was not a complete submittal until Dec. 22. Thus, under state law, Dec. 22 is considered the MDNS Issue Date.

So we now have yet another reason why the Town’s MDNS is defective: it states inaccurately that the Issue Date is Dec. 21, when in fact the Issue Date is Dec. 22, the date that the Town submittal to the Department of Ecology was considered by the Department to be a complete submittal.

Please withdraw the the Town’s MDNS ASAP today and reissue it to accurately inform the public and agencies of their rights and deadlines for submitting comments and appealing.

Thank you.

Tom McCormick

On Jan 3, 2017, at 1:26 PM, Tom McCormick
<tommccormick@mac.com> wrote:

To Bill Trimm, Responsible SEPA Official for the Town of
Woodway:

The attached MDNS issued Dec. 21, 2016, is defective on its face, and accordingly, the MDNS must be withdrawn and reissued to comply with the requirement that all notices must provide accurate notice to the public and agencies of their rights.

As shown on the attached snippet,, the MDNS says that:

"In accordance with the provisions of WMC, you may appeal this determination to the Town Clerk at Town Hall, 23920 113th. Place West ,Woodway, Washington, no later than 15 days from the date issued above. To be considered, an appeal of this MDNS must be filed prior to 5:00 p.m.,

January 4, 2017 by submitting a written statement requesting an appeal, together with appropriate fees."

The above text sets two conflicting deadlines as to when the public must appeal. Thus, the MDNS does not accurately inform the public of its appeal rights, which makes the MDNS defective on its face.

The two conflicting dates:

- (1) At one place, the MDNS says the public must appeal no later than 15 days from the Dec. 21 MDNS Issue Date, which means the deadline is Jan. 5, 2017.
- (2) At another place, the MDNS says the public must appeal by 5:00 p.m. tomorrow, January 4, 2017.

Because the public has been misinformed as to the appeal deadline, the MDNS is defective on its face, and accordingly, the MDNS must be withdrawn and reissued to comply with the requirement that all notices must provide accurate notice to the public and agencies of their rights.

Please reply ASAP today to this email advising me that the defective MDNS will be withdrawn and reissued. TIME IS OF THE ESSENCE.

Thank you.

Tom McCormick

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<12-21-2016 MDNS.pdf>