



3000 Rockefeller Ave., M/S 604
Everett, WA 98201-4046
(425) 388-3311
www.snoco.org

January 24, 2018

Gary Huff
Karr Tuttle Campbell
701 Fifth Avenue, Suite 3300
Seattle, WA 98104

Dave Somers
County Executive

Sent Via Email & U.S. Mail

Dear Gary:

In your letter dated January 12, 2018, you requested an extension of the June 30, 2018 permit application expiration date for File Nos. 11-101457 LU, 11-101461 SM, 11-101464 RC, 11-101008 LDA, and 11-101007 SP (the "Applications"). The grounds cited for requesting the extension include: 1) the complexity of the Applications; 2) the time PDS spent reviewing the April 2017 resubmittal; 3) the level of project detail requested by PDS; and 4) the time required to respond to PDS's comments. BSRE requests the expiration date for the Applications be extended by a minimum of 18 to 24 months. Additionally, your January 12, 2018, letter suggests an even longer extension might be required to allow for the Department of Ecology to conduct environmental review of the site remediation.

The expiration period for applications, approvals, and permits is contained in SCC Table 30.70.140(1). BSRE's extension request was submitted under SCC 30.70.140(2)(a), which provides: "When an EIS is required, the expiration period of an application will be suspended until the FSEIS is issued. The suspension of the expiration period for an application shall not exceed 18 months unless approved by the director." The decision to extend the application expiration period beyond the standard 18-month suspension period is a discretionary decision by the PDS Director.

The Applications were submitted in February and March of 2011. BSRE requested three separate extensions to the Applications and each of those extensions were granted by PDS, resulting in a cumulative extension of 3.5 years (extension periods of 12 months, 15 months, and 15 months). BSRE was provided notice of the June 30, 2018, application expiration date on March 31, 2016. A majority of the information and materials requested by PDS in its October 6, 2017, Review Completion letter were identified over four years ago in the April 12, 2013, Review Completion Letter, but BSRE did not submit supplemental application materials resolving the issues raised in 2013.

After 3.5 years of granted extensions, BSRE has not submitted project application materials that demonstrate the project does or can meet applicable codes and regulations. The grounds cited for the current extension request do not justify an additional extension of 18 to 24 months, with potential additional requests for extension to follow based on Department of Ecology's environmental review process. To date, BSRE has provided no information regarding whether the Department of Ecology has commenced its review process. BSRE's request also must be weighed against the public's interest in having an application evaluated against regulations that currently are in effect. The granting of an additional 24-month extension would result in PDS evaluating a project application that is over nine years old. This application duration is not consistent with the balancing test required by the state's vesting laws. Your request to extend the June 30, 2018, application

expiration date under SCC 30.70.140(2)(a) for File Nos. 11-101457 LU, 11-101461 SM, 11-101464 RC, 11-101008 LDA, and 11-101007 SP is denied.

As indicated in the PDS letter dated January 19, 2018, BSRE is not precluded from providing the resubmittal materials identified in the October 6, 2017, Review Completion Letter. While materials provided after January 8, 2018, may not be included in the PDS recommendation due to the timing of BSRE's proposed resubmittal, it does not preclude BSRE from submitting application materials that may be considered by the hearing examiner in making a determination whether the applications satisfy the County Code requirements.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Mock".

Barbara Mock, Director
Snohomish County Planning and Development Services