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AFTER RECORDING RETURN TO:  
SKAGIT COUNTY HEARING EXAMINER  
302 SOUTH FIRST STREET  
MOUNT VERNON, WA 98273

DOCUMENT TITLE: Order on Annual Review PL 02 0213  
(Conditional Use Permit CU 75 0233)

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: WASHINGTON DEPARTMENT OF NATURAL RESOURCES

ASSESSOR PARCEL NO: P17890

ABBREVIATED LEGAL DESCRIPTION: The subject property is located east of Big Lake off Walker Valley Road, Mount Vernon, WA; a portion of Section 4, Township 33 N, Range 5 East, W.M. Skagit County, Washington.

**SKAGIT COUNTY HEARING EXAMINER**  
**STATE OF WASHINGTON**

In the Matter of )  
**WASHINGTON DEPARTMENT OF** ) PL 02 0213  
**NATURAL RESOURCES (DNR)** )  
Conditional Use Permit #CU 75-0233 ) **ANNUAL REVIEW**  
\_\_\_\_\_ )

**FINDINGS OF FACT**

1. The Hearing was held on February 13, 2002 before Bradford E. Furlong, Hearing Examiner *Pro Tem*. The public hearing was advertised in accordance with Skagit County Code Section 14.06.150 (3).
2. The following witnesses gave testimony in this matter:  
Linda Kuller of Skagit County Planning and Permit Center (Planning), Tom Murley of DNR, Stan Kurowski of DNR, Charles Whitman, Doug Waterman, Jim Martin, Bill Cameron, Lawrence Wilson, Dennis Ross, David Nicholson, Tod Petersen, Ben Wills, and Duane Rhodes.

3. The following documents were submitted and entered into the record:

<u>Exhibit #</u>	<u>Date</u>	<u>Description</u>	<u>Author</u>
1	1-30-2002	Staff Report & supporting docs	Planning
2	2-24-1975	CON 75 0233	DNR
3		Slide #2, microfiche	Planning
4		Slide #3, microfiche	Planning
5		Slide #4, microfiche	Planning
6	2-5-2002	Walker Valley Health & Safety Concerns	Walker Valley Residents
7	1-2-2002	Letter Re: Annual Review	DNR
8	2-28-2002	Revised Staff Report	Planning
9	2-25-2002	Memo, Dave Sheridan to Linda Kuller	Skagit County Public Works
10	2-26-2002	Letter, David Stafford to Brad Furlong	Skagit County Undersheriff
11	3-11-2002	E-mail DNR comments	Tom Murley
12	3-11-2002	E-mail DNR comments	Sheryl Wimberly
13	3-18-2002	E-mail DNR comments	Stan Kurowski
14	3-15-2002	Letter on comments	Tod Petersen

4. The application for conditional use permit submitted by DNR in February of 1975 indicated a use for "day use area for ATV users, equestrians, and picnic users." The application states, "the site is to be a primitive day use area with minimum facilities, there will be parking facilities, unloading ramp, chemical



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toilets, horse stalls, picnic units (table and stove) and garbage cans. Trees will be planted for screening to make the sites aesthetically pleasing.”

5. The minutes of the Skagit County Board of Adjustment of April 10, 1975 indicate that the Board heard a “conditional use request of the Department of Natural Resources to develop *an all terrain vehicle recreation area*, located east of Big Lake off the Walker Valley Road.” (emphasis supplied) The minutes of the Board of Adjustment hearing indicate clearly that the proposed trail head area was meant to carry out the legislative mandate to provide for recreation planning, and in particular in this case, planning for access to DNR trails for off-road vehicle recreational use. Much of the discussion before the Board of Adjustment is related to the use of the trail system adjacent to the proposed day use access area. The minutes reflect that the conditional use permit was approved subject to a yearly review.
6. The notice of hearing with the Board of Adjustment indicated that the purpose was to determine “whether the Board of Adjustment should grant a conditional use permit to the Department of Natural Resources to develop *an all terrain vehicle recreation area* located east of Big lake off the Walker Valley Road...” The written order of the Skagit County Board of Adjustment with respect to the DNR application found that “*designated areas for use of all terrain vehicles* in the county are practically non-existent. There is a demonstrated need for such areas within Skagit County. The department of Natural Resources is the designated agency to *construct and maintain ATV trails* within Skagit County .” (emphasis supplied)
7. The DNR prepared and implemented an Operating Plan for Walker Valley ORV area in 1977 and has completed an Off Road Vehicle Draft Management Plan for Walker Valley authored by Terry Graham of DNR. The Draft Management Plan addresses issues both within the trail system and at the day use/trail head area.
8. The day use/trail head area constructed pursuant to the conditional use permit serves as a primary access point the Walker Valley ORV trail system and has served to attract ORV users not only to the trail head area but to the ORV trail system in general.
9. The ORV day use/trail head area and trail system provide an important recreation opportunity for Skagit County residents and other residents in the northwest Washington area. The Walker Valley ORV trail system is utilized by organized groups, individuals and families for important, legitimate recreation purposes.
10. The Walker Valley ORV day use/trail head area and trail system have caused detrimental, adverse impacts including the following:
  - Insufficient area for parking leading to parking on county right of ways;
  - Unlawful discharge of firearms;
  - Use of ORV’s outside of daylight hours;
  - ORV user/resident conflicts over noise and intrusion of privacy;
  - ORV user trespass and interference with the adjacent Boy Scout Camp causing potential danger to camp users and staff;
  - Congregation of non-ORV users at the trail head area for parties and unlawful carousing.



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11. DNR staff, due both to vacancies and funding deficiencies from the Washington State Legislature, are unable to provide adequate policing of the day use/trail head area and the adjacent trail system.
12. Organized ORV groups are "self-policing" and appear ready and willing to promote lawful, safe use of the day use/trail head area and adjacent trail system.
13. The "day use"/trail head is utilized for overnight camping. Overnight camping at the "day use"/trail head is pursuant to Skagit County Code Section 14.16.410 Industrial Forest - Natural Resource Land, permitted as a "primitive campground" as defined in Skagit County Code Section 14.04, Definitions.

### CONCLUSIONS OF LAW

1. The review hearing of February 13, 2002 was properly advertised by proper notice.
2. The Skagit County Hearing Examiner has jurisdiction over the subject matter of this review.
3. While the Conditional Use Application of 1975 from the Department of Natural Resources listed specific improvements at the day use/trail head area, it is clear from the application materials and discussion before the Board of Adjustment that the application before the Board of adjustment was part and parcel of DNR's development of an ORV recreation area, including both the day use/trail head area and the adjacent trail system.
4. Because the day use/trail head area promotes the use of the adjacent ORV trail system and facilitates the increased use of the adjacent ORV trail system, it is imperative to consider the uses and misuses of the adjacent ORV trail system when reviewing the day use/trail head area. The criteria for review of conditional use permits in the Skagit County Code clearly contemplate a review of a development's offsite effects and impacts.
5. Whether the day use/trail head area is the only subject of the initial conditional use application or whether the day use/trail head area and adjacent ORV trail system were the subject of the initial conditional use application, because of the Skagit County review criteria for similar permits and because the trail system and the day use/trail head area are components of a single, integrated development, the impacts to the area from use of the adjacent ORV trail system are properly before the Hearing Examiner for review required by the Conditional Use Permit issued by the Board of Adjustment.



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## DECISION and ORDER

The Walker Valley ORV recreation area, including the trail system and day use/trail head area must be considered in the review of the Conditional Use Permit granted by the Board of Adjustment in 1975. The recreation area provides a needed, legitimate and important recreation opportunity to numerous individuals, organizations and families. Due to unlawful and abusive activities by individuals, the operation of the area causes unacceptable adverse impacts on neighboring property owners and burdens the Skagit County Sheriff's Department and the Skagit County Public Works Department. It is the responsibility of the Department of Natural Resources to address and mitigate these impacts in a responsible fashion. A lack of funds and failure to retain adequate employees do not excuse the inability to adequately and properly manage this resource area. It is imperative that the Department of Natural Resources devote adequate management and financial resources to the monitoring and mitigation of impacts caused in this area.

The Walker Valley ORV recreation area including the trail system and day use/trail head area shall remain open for use by the general public pursuant to the following conditions:

1. The day use/trail head area shall be maintained by the Department of Natural Resources in a presentable fashion with trash and litter removed on a regular basis.
2. The Department of Natural Resources shall monitor the adequacy of the parking at the trail head in a manner approved by the Skagit County Department of Public Works and shall, in conjunction with the Skagit County Department of Public Works, determine whether the parking is adequate for the use made of the site to avoid parking on county right-of-way. If, in the judgment of the Skagit County Public Works Department parking is not adequate, the Department of Natural Resources shall undertake those steps necessary to increase the parking or limit its use so that overflow parking does not utilize or obstruct Skagit County right-of-ways.
3. The Department of Natural Resources shall develop a method by which use of the trail system is limited to daylight hours only. As an initial first step, the Department of Natural Resources shall post all trail heads as "day use only" and provide educational materials to users of the area emphasizing the day use limitation. By the date of the next review of this conditional use permit, the Department of Natural Resources shall have developed a comprehensive plan in conjunction with user groups to limit use of the ORV trail system to daylight hours. All alternatives shall be considered and addressed.
4. The Department of Natural Resources shall, in conjunction with the Skagit County Sheriff's Department, develop a comprehensive plan to control unlawful discharge of firearms by the date of next review of this conditional use permit. All trail heads and trails and the day use area shall be posted with "No Shooting" or other signage as appropriate under state or county law. The Department of Natural Resources shall, in conjunction with its legal counsel and the Skagit County Sheriff's Department, determine applicable statutory ordinance or



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regulatory limitations on the use of firearms within the ORV trail system and day use area.

5. The Department of Natural Resources shall institute measures during the next twelve months to adequately police the use of the ORV day use/trail head area. Steps shall include an enforcement presence and educational contacts with ORV users as well as emphasis patrols coordinated with the office of the Skagit County Sheriff.
6. The Department of Natural Resources shall solicit comments, both written and in person from the operators of the Boy Scout Camp and other residents in the area, as well as user groups, to monitor and address adverse impacts including, but not limited to, ORV user trespassing in the private property including the Boy Scout Camp, unlawful discharge of firearms, use of ORV's outside of daylight hours and invasion of privacy of adjacent private property owners. DNR shall solicit ideas from and utilize the volunteer services of, if offered, user groups to monitor and police the Walker Valley ORV recreation area. These user groups have a great stake in the continued operation of the recreation area, are in a position to provide insight, monitor impacts and educate other users with respect to lawful, proper utilization of this resource.
7. This Conditional Use Permit shall be set for a second "annual" review before the Skagit County Hearing Examiner within 12-13 months of the date of this order. At that time, the Department of Natural Resources in conjunction with the Skagit County Planning and Permit Center and other county agencies as applicable, shall set forth a detailed report with respect to compliance with the foregoing conditions, including the willingness of user groups to participate in the activities set forth above. At that time, the Hearing Examiner may consider additional or alternate conditions and an appropriate schedule for reviewing compliance with the conditions of this permit or conditions imposed by orders on review.

Dated this 23<sup>rd</sup> day of April, 2002.

*BE Furlong*  
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BRADFORD E. FURLONG  
HEARING EXAMINER PRO TEM

### RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with the Planning and Permit Center within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with the Planning and Permit Center within 14 days after the date of the decision, or decision on reconsideration, if applicable.



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