

When, as here, there are multiple independent parties, the Examiner does not believe that the Code intended for one party to be deprived of rights to reconsideration and appeal by the early filing of an appeal by another party. Here where Shorelines appeals are subject to a short (5 day) appeal period (SMP 13.01(1)), the practical effect of SPF's position would be to deprive FOOSC of such rights.

The Examiner therefore is entertaining and ruling on the Motion.

The Examiner hereby corrects the decision solely in regard to notification as to post-hearing rights. The paragraph titled "SEPA Appeals" (p.30) is changed to read:

"As provided in SCC 14.06.180, a request for reconsideration may be filed with Planning and Development Services within 10 days after the date of this decision. After the decision on reconsideration, the final decision may be appealed pursuant to the provisions of RCW 43.21C.075."

Otherwise, after evaluating the FOOSC Motion, the Examiner concludes that no legal error has occurred and no material factual issue has been overlooked that would change the previous decision. The Motion largely attempts simply to re-argue the case.

An audio transcript was supplied within five days of its being requested. Because the appeal period will start after entry of this Order, the claim of prejudice with regard to the availability of an audio transcript is rendered moot.

The allegation of conflict of interest was not previously raised. The Examiner rejects it. He has no pecuniary or other personal interest in the outcome of this proceeding. He has the same rights to association as any other citizen. There is no way that any ruling on this mitigation banking application, whether pro or con, could benefit the Washington Water Trust.

Accordingly, with the exception of the above informational amendment, the Motion for Reconsideration is denied. The appeal period for FOOSC starts to run with the entry of this Order.

SO ORDERED this 3rd day of February, 2009.



Wick Dufford, Hearing Examiner