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BEFORE THE HEARING EXAMINER
OF PIERCE COUNTY

TAYLOR SHELLFISH FARMS,

Appellant.

APPEAL APPLICATION NO. 612676

NO. AA16-07

WITNESS AND EXHIBIT LIST
OF INTERVENOR NORTH BAY
PARTNERS

Intervenor North Bay Partners, a family partnership through its managing partner M. Leslie Foss, submits the following list of witnesses and exhibits in the above-captioned matter.

A. WITNESS LIST

The following is a list of witnesses Intervenor reserves the right to call at hearing. If for any reason, any of these witnesses is unavailable, Intervenor reserves the right to substitute with another witness with similar qualifications, expertise or familiarity with the issues on review. Intervenor also reserves the right to call any witnesses on any other party's witness list submitted in these proceedings.

- 1. M. Leslie Foss
211 S. 6th St.
Mt. Vernon, WA 98274
Tel: (360) 336-9981


B. EXHIBIT LIST

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Intervenor intends to offer the following exhibits. Intervenor also reserves the right to submit as an exhibit any document included on any other party's exhibit list.

- 1. "Finding Thea"¹ or excerpts therefrom
- 2. North Bay Partners Conservancy Agreement with Pierce County
- 3. Photographs of North Bay Partners' property and improvements thereon

DATED this 19th day of October, 2007.



 JERRY R. KIMBALL, WSBA #8641

¹An award-winning documentary regarding the Foss family's roots in Puget Sound.

WITNESS AND EXHIBIT LIST OF INTERVENOR
 NORTH BAY PARTNERS - Page 2

LAW OFFICE OF
JERRY R. KIMBALL
 2020 IRM BUILDING
 1200 FIFTH AVENUE
 SEATTLE, WASHINGTON 98101
 FAX (206) 624-1361
 (206) 587-5701

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BEFORE THE HEARING EXAMINER
OF PIERCE COUNTY

TAYLOR SHELLFISH FARMS,

Appellant.

APPEAL APPLICATION NO. 612676

NO. AA16-07

PRE-HEARING STATEMENT BY
INTERVENOR NORTH BAY
PARTNERS A FAMILY PARTNERSHIP
THROUGH ITS MANAGING
PARTNER M. LESLIE FOSS

Intervenor: North Bay Partners, a family partnership through its managing partner
M. Leslie Foss, 211 South 6th St., Mt. Vernon, WA, 98274, Tel: (360) 336-9981.

Intervenor's Representative: Jerry R. Kimball, Attorney at Law, 1200 5th Ave.,
Suite 2020, Seattle, WA, 98101, Tel: (206) 587-5701.

Introduction

This hearing involves the August 8th, 2007 decision of the Assistant Director of
Pierce County's Department of Planning and Land Use Services [Administrative
Determination, SD22-00] that deeply affects the property owned by North Bay Partners.
In that decision, the Assistant Director effectively deprived North Bay of a substantial
economic use of its property. Additionally, the decision is contrary to Washington law
and the numerous representations of Pierce County since 2001.

Factual Statement

North Bay Partners is not a business. North Bay consists of some of the great-
grandchildren and great-great-grandchildren of Thea and Arthur Foss, early pioneers in

1 the Pierce County area. The property owned by North Bay Partners lies along the easterly
2 shore of Case Inlet on the western side of the Key Peninsula. It roughly contains 3,000
3 lineal feet of waterfront with 600 acres of uplands. The adjoining tidelands are also
4 owned by North Bay.

5 This property was acquired by the Foss family several generations ago. It has
6 been used solely as a family recreation site and kept in a rustic condition. There is a
7 small cabin, without running water or electricity. The cabin sits approximately 50 yards
8 back from the beginning of the beach and is used sporadically by family members as
9 shelter during beach outings.

10 The partners of North Bay Partners vary in age and abilities, from children to
11 adults, from financially comfortable to without separate from other family members. The
12 ownership of the property has costs. The most direct and measurable monetary cost is
13 the payment of annual real property taxes, which are quite substantial. Other costs of the
14 property are typically met with the volunteer labor of the owners, such as keeping the
15 rudimentary access road passable, the leaks in the cabin patched and other necessary
16 maintenance tasks.

17 The family has consciously made the decision to try to maintain the property in a
18 natural state. While there are lucrative economic uses to which the property could be
19 put, such as development, logging and others, the family goal is and always has been to
20 preserve this unique piece of Puget Sound. As will be shown, this is consistent with the
21 Foss family history in Tacoma, Pierce County and throughout Puget Sound.

22 In 1999/2000, North Bay Partners was approached by Taylor Shellfish ("Taylor")
23 concerning a lease of tidelands for the purpose of geoduck aquaculture. The testimony
24 will show that the managing partner and other family members were very cautious in
25 considering this arrangement. The focus of their concern was not just the economic
26 advantages and disadvantages, but more important, the potential effects of this project on
27 their long term stewardship goals. Regardless of economic benefit, if the project was
28 inconsistent with preservation of this unique property, the project would not be allowed.
29 Their research determined that geoduck aquaculture was not incompatible with their
30 preservation goals, if the aqua culture was closely monitored and controlled.

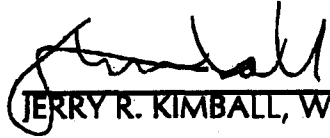
31 After entering into the current arrangement with Taylor, the North Bay partners
32 did not cease their vigilance about the project. They have personally monitored the
33 progress and effects of the ongoing aquaculture, contacting Taylor when concerns arose.
34 They have required and found Taylor to be responsive to their concerns. Taylor has

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adapted its methods to address perceived problems, cooperating with North Bay and honoring the preservation goals of the family.

The ongoing concerns of the family members to preserve and protect this land will be well-demonstrated in the evidence. The aquaculture activity is fully permissible as it currently exists.

Respectfully submitted this 19th day of October, 2007,


JERRY R. KIMBALL, WSBA #8641