

August 21, 2006

Star Value Herring Sales
Attn: Derwin H. Hostetler
15 Lorenz Road KPN
Lakebay WA 98349

RE: CASE NO.: AA4-05
HERRING PEN OPERATION IN MAYO COVE
APPLICATION NUMBER 530906

Dear Applicant:

Transmitted herewith is the decision of the Pierce County Hearing Examiner regarding the reconsideration filed in above-entitled matter.

Very truly yours,

MARK E. HURDELBRINK
Deputy Hearing Examiner

MEH/dd

cc: Parties of Record
PIERCE COUNTY PLANNING AND LAND SERVICES
PIERCE COUNTY CODE ENFORCEMENT
PIERCE COUNTY DEVELOPMENT ENGINEERING DEPARTMENT
PIERCE COUNTY PUBLIC WORKS AND UTILITIES DEPARTMENT
TACOMA-PIERCE COUNTY HEALTH DEPARTMENT
FIRE PREVENTION BUREAU
PIERCE COUNTY PARKS AND RECREATION
PIERCE COUNTY COUNCIL
PIERCE COUNTY RESOURCE MANAGEMENT

OFFICE OF THE HEARING EXAMINER

PIERCE COUNTY

DECISION ON RECONSIDERATION

CASE NO.: **CASE NO.: AA4-05**
HERRING PEN OPERATION IN MAYO COVE
APPLICATION NUMBER 530906

APPLICANT: **Star Value Herring Sales**
Attn: Derwin H. Hostetler
15 Lorenz Road KPN
Lakebay WA 98349

A Decision denying the appeal of a Cease and Desist Order was issued on April 21, 2006. A Request for Reconsideration of Decision was submitted by Appellant on May 3, 2006. On May 24, 2006 a letter was received from attorney James Handmacher in opposition to the Request for Reconsideration. The following is an analysis of each request made by the appellant:

1. *Errors of Procedure and Misinterpretation of Fact, including the determination by the Hearing Examiner that Hydraulic Project Approval and a Section 10 Permit from United States Army Corp of Engineers was required for herring pens in 1969 that were affixed to a commercial moorage and marina services dock and not anchored to the water bed.*

This issue was argued at the time of hearing. No new information was submitted that would necessitate any change in the Findings, Conclusions or Decision.

2. *Clerical mistakes including the failure to issue a copy of the decision to the appellant's attorney, Michael J. McKasy and only issuing the decision to appellant postmarked April 24, 2006, which he received Friday, April 28, 2006. Appellant's attorney did not see a copy of the decision until his client provided it to him o [sic] Monday, May 1, 2006.*

Although there may have been a mistake in the Decision not being sent to Appellant's attorney, this did not have any bearing on the ultimate Decision. It did not prejudice either the Appellant or the Appellant's attorney.

3. *Appellant would request a continuing stay of the previous cease and desist order pending the review of this Motion for Reconsideration.*

No stay is appropriate, especially given that this request is denied.

The Request for Reconsideration of the Appellant is hereby denied. The Appeal of the Cease and Desist Order is as originally ordered – Denied.

ORDERED this _____ day of August, 2006

MARK E. HURDELBRINK
Deputy Hearing Examiner

TRANSMITTED this _____ day of August, 2006, to the following:

APPELLANT: Star Value Herring Sales
Attn: Derwin H. Hostetler
15 Lorenz Road KPN
Lakebay WA 98349

APPELLANT'S
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APPEAL OF EXAMINER'S DECISION: The final decision by the Examiner may be
appealed in accordance with ch. 36.70C RCW.