



1 claim that consideration of noise impacts is inadequate. The Notice of Appeal mentions neither lighting impacts to  
2 plants and animals nor noise impacts to animals.

3 On September 13, 2002, the Seattle Audubon Society voluntarily withdrew its appeal. In her Pre-hearing  
4 Order dated September 16, 2002 and corrected September 17, 2002, the Examiner established a deadline of  
5 September 24, 2002 for the remaining parties to file and serve a document listing SAS issues that they intended to  
6 raise.<sup>2</sup> Parks has been served with no such documents.

7 On October 17, 2002, FOSPMP made its first public records request to Parks. Following discussion with Mr.  
8 Steel and clarification of the request, the documents were made available to FOSPMP on October 28, 2002. On  
9 November 22, 2002, FOSPMP made six separate additional public record requests. See attachments to Steel  
10 December 10, 2002 letter. These requests are for a large number of documents. Parks is currently in the process of  
11 assembling these documents and making them available to FOSPMP.

12 On December 10, 2002, LIHI voluntarily withdrew its appeal. FOSPMP's request for yet a third continuance  
13 followed.

### 14 **III. ARGUMENT**

15 This appeal has been pending for almost five months now. Because the reasons cited by FOSPMP  
16 to justify more delay are insufficient, the Examiner should deny the continuance.

17 FOSPMP says that it needs more time to review documents sought through its public record requests.  
18 FOSPMP does not explain why it waited more than two months after filing its appeal before making its first record  
19 request. FOSPMP's second record request was even latter. Moreover, FOSPMP's record requests are extremely  
20 broad. They encompass literally every document in Parks' possession related in any way the Sandpoint/Magnuson  
21 Park. See e.g., Request 6 attached to the Steel letter. FOSPMP does not explain why all or any of these documents are  
22 relevant to issues raised in its Notice of Appeal. If appellants were able, without limitation, to delay hearings by

23 <sup>2</sup> The Examiner couched the "adoption deadline" in terms of LIHI because it was they who raised the issue at the pre-hearing  
conference. Parks believes that this deadline should and does apply to FOSPMP as well.

1 making late public records requests, the ability of the Examiner to effectively maintain a reasonable review schedule  
2 would be compromised.

3 FOSPMP also contends that it needs more preparation time because of the recent withdrawal by LIHL.  
4 Specifically, they say they must suddenly find witnesses concerning lighting impacts to plants and animals and noise  
5 impacts to animals. SEPA appeals are limited to issues cited in the notice of appeal. While FOSPMP's Notice of  
6 Appeal refers broadly to lighting and noise impacts, it does not mention plants and animals. Moreover, it is  
7 significant that FOSPMP declined to adopt any of SAS's issues when the Examiner gave it the opportunity to do so  
8 when it had the opportunity to do so. In light of the above, the Examiner should not be persuaded by FOSPMP's  
9 assertion that it would be "severely prejudiced" if it were denied more time to prepare for what are plainly tangential  
10 issues to it. The bottom line is that FOSPMP has had nearly five months to prepare for hearing. No additional time is  
11 warranted.

12 Finally, Parks would be prejudiced by significant further delay. Maintenance of the current construction  
13 schedule requires that certain site work be accomplished in the spring of 2003. If this were made impossible due to  
14 further delay, then the project would be set back an entire year.

15 The Examiner should deny the continuance.

16 DATED this 11<sup>th</sup> day of December, 2002.

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