

March 16, 2012

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**  
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**REPORT AND DECISION**

SUBJECT: Development and Environmental Services File No. **E02G0320, E0200786**

**FRONTIER CORPORATION**  
Code Enforcement Appeal

Location: 15227 SE 283rd Place

Appellant: Frontier Corporation  
*represented by* **Bill Poppie**  
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King County: Department of Development and Environmental Services  
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**SUMMARY OF RECOMMENDATIONS/DECISION:**

Department's Preliminary Recommendation: Deny appeal, with revised compliance schedule  
Department's Final Recommendation: Deny appeal, with further revised compliance schedule  
Examiner's Decision: Stipulated denial of appeal, except for time extension request,  
sustaining Notice and Order with revised compliance schedule

**EXAMINER PROCEEDINGS**

Pre-hearing Conferences held: October 3, 2006, February 6, 2007, June 5, 2007  
Hearing Opened: September 6, 2007  
Hearing Continued: September 6, 2007  
Conference Held: May 28, 2009  
Hearing Reconvened: August 24, 2010  
Hearing Continued: August 24, 2010  
Hearing Closed: August 9, 2011

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Hearing Examiner's Office.

**FINDINGS, CONCLUSIONS AND DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:**

1. This matter involves the appeal of a code enforcement Notice and Order issued by the Department of Development and Environmental Services (DDES) on June 5, 2006. After the appeal was filed contesting the found violations, several pre-hearing conferences were held and the appeal hearing convened and then continued on call pending possible resolution/settlement. The activities conducted onsite which are the subject of the Notice and Order have since been discontinued in any active sense due to Appellant Frontier Corporation's business demise for economic reasons. The corrections remaining to be performed to bring the property into code compliance consist of removal of equipment associated with the former business's structural and grounds development, and obtainment of a clearing/grading permit for fill in a wetland buffer without a permit.
2. The Notice and Order found violations consisting of:
  - A. Operation of a heavy equipment business not permitted in the RA-5-SO zone applied to the property and also located in a critical aquifer recharge area;
  - B. Conversion of a residential structure into a commercial office without required permits, inspections and approvals and in a zone not allowing such use;
  - C. Operation of a firewood business in a zone not allowing such use and located in a critical aquifer recharge area;
  - D. Occupancy of a substandard dwelling (recreational vehicle (RV));
  - E. Construction of an accessory structure (an addition to an existing shop building) without required permits, inspections and approvals;
  - F. Placement of a commercial structure without required permits, inspections and approvals;
  - G. Accumulation of inoperable vehicles and vehicle parts and parking/storage of vehicles on non-impervious surfaces;
  - H. Accumulation of rubbish, salvage and debris;
  - I. Fill in a wetland buffer in excess of threshold dimensions without a grading permit; and
  - J. Storage and dispensing of flammable liquids in violation of the fire code and located in the critical aquifer recharge area.
3. The status of the violations is that:
  - A. The heavy equipment business is closed but materials associated with it must be removed from the property;
  - B. The commercial office is similarly closed but code inspection is required;
  - C. The firewood business is closed;

- D. The RV occupancy has been terminated;
  - E. The accessory structure addition to the existing shop building requires a building permit;
  - F. The commercial structure placement has been removed except that a shipping container must also be removed from the property;
  - G. The inoperable vehicles onsite have been removed but vehicle parts remain;
  - H. Rubbish, salvage and debris must be removed;
  - I. The wetland fill is required to undergo clearing and grading permit review (with a DDES notation that the natural regrowth which has occurred since the violation occurred may constitute sufficient restoration pending formal review); and
  - J. The storage and dispensing of flammable liquids has been ceased.
4. As noted, the Appellant initially contested the matter with a formal appeal but now has stipulated to the violations and made good faith progress toward bringing the matter into code compliance, although progress has been slow due to the Appellant's financial situation as the business has ceased for economic reasons, and the business partners' ability to haul away the materials required to be removed is limited by their physical limitations, financial limitations and the burden of hauling the material to eastern Washington where an available and economical storage site has been secured.
  5. The need to haul the materials to eastern Washington over Snoqualmie Pass subjects the work to seasonal limitations and impediments. Now that the spring of 2012 is nearly upon us, those seasonal limitations will be greatly and increasingly lessened through the oncoming spring and summer, and completion of the necessary corrections can reasonably be accomplished.
  6. The Appellant acknowledged the requirements of obtaining the aforementioned permits and has stipulated to a two-month timeframe in order to obtain them. The parties also agreed to a five-month time period for completing the removal of offending materials from the site to achieve final compliance with the Notice and Order.
  7. DDES offered evidence supporting its findings of violations in the Notice and Order; the preponderance of the evidence in the record supports the findings of violation in the Notice and Order, which as noted the Appellant no longer contests. The Examiner acknowledges the Appellant's generally good faith partial compliance to date, particularly by the cessation of all commercial activity on the site and reducing the remaining compliance issues to removal of the remaining code-violating materials and obtainment of the required clearing/grading permit.
  8. The amount of time permitted for final compliance measures imposed in the order below is reasonable, particularly as warm weather is now upon us and the seasonal limitations of travel over the mountains in winter conditions will soon generally pass, and is sufficient for compliance to be completed.
  9. DDES may be able to provide solid waste vouchers to the Appellant for free disposal of rubbish, salvage and debris at an approved solid waste facility in the local area. The Appellant should inquire of DDES as to such availability.

## CONCLUSIONS:

1. The preponderance of the evidence in the record supports the findings of violation in the Notice and Order which, other than to note the progress already accomplished and grant additional time for completing compliance, shall be sustained and the appeal denied with the compliance schedule revised as set forth below.
2. The time period for completion imposed by the order below in a revised compliance schedule provides a reasonable amount of seasonal weather time to achieve compliance given the amount of work left to be done and the representations of the Appellant that it can be accomplished. The Examiner shall also build in the standard allowance of extensions which may be granted by DDES, in its sole judgment, in the event of circumstances beyond the Appellant's control and diligent effort.

## DECISION:

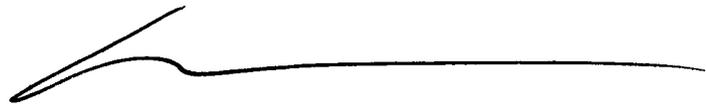
The appeal is DENIED and the Notice and Order sustained, except with respect to revising the compliance schedule to allow reasonable additional time to achieve compliance by the correction measures required in the order below.

## ORDER:

1. *By no later than May 16, 2012*, a complete application shall have been submitted to DDES for the already built construction (ABC) of the accessory structure delineated in violation number 5 of the Notice and Order. A pre-application conference may be required by DDES and, if so, shall be scheduled and attended in sufficient time to allow for submittal of the complete building permit application by the above deadline. After the complete building permit application is submitted, all deadlines for DDES-requested information associated with the permit review shall be met and the permit shall be obtained from DDES within required deadlines. If the permit application is denied, or not sought in a timely fashion, the non-permitted construction shall be demolished and removed, with such demolition to occur **within 60 days** from the date of formal permit denial, or *no later than July 16, 2012* if the permit is not sought in a timely fashion. A demolition permit may be required by DDES. The demolition debris shall be removed to an approved solid waste facility. (**Note:** retention of the accessory structure at issue may be subject to zoning code prohibitions or restrictions. Consultation with DDES is advised prior to performing substantial work on a building permit application.)
2. *By no later than May 16, 2012*, a complete application shall be submitted to DDES for a clearing/grading permit for the fill addressed by violation 9 of the Notice and Order. Again, a pre-application meeting may be required by DDES and should be scheduled and attended sufficiently in advance so as to meet the application deadline. Once the application is submitted, all deadlines established by DDES for requested information associated with the permit review shall be met and the permit obtained within required deadlines. Any restoration/mitigation work required by the permit shall be performed in compliance with permit-established deadlines and monitoring periods if applicable.
3. *By no later than August 16, 2012*, all code-violating materials onsite delineated in the violations cited by the Notice and Order or directly related thereto shall be removed from the property, with any materials disposed removed to an approved solid waste disposal facility. As noted, DDES may have solid waste vouchers available for assistance in such removal and disposal.

4. DDES is authorized to grant extensions of the above deadlines if warranted, in DDES's sole judgment, by circumstances beyond the Appellant's diligent effort and control. DDES is also authorized to grant extensions for seasonal, adverse weather and/or environmental impact reasons for the wetland clearing/grading permit matter.
5. No civil fines or penalties shall be assessed by DDES against the Appellant and/or the property if the above compliance requirements and deadlines are complied with in full (noting the possibility of deadline extensions pursuant to the above allowances). However, if the above compliance requirements are not complied with in full, DDES may impose penalties as authorized by county code retroactive to the date of this decision.

ORDERED March 16, 2012.



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Peter T. Donahue  
King County Hearing Examiner

#### NOTICE OF APPEAL

The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in King County Superior Court within 21 days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

PTD/gao

MINUTES OF THE SEPTEMBER 6, 2007, AUGUST 24, 2010, AUGUST 9, 2011, PUBLIC HEARING ON DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E02G0320, E0200786.

Peter T Donahue was the Hearing Examiner in this matter. Participating in the hearing were Jeri Breazeal for the Department of Development and Environmental Services, Bill Poppie representing the Appellant and Daniel Gerber.

The following Exhibits were offered and entered into the record:

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|---------------|--|
| Exhibit no. 1 | Development and Environmental Services staff report to the Hearing Examiner for file no. E02G0320, E0200786. |
| Exhibit no. 2 | Copy of the Notice and Order issued June 5, 2006   |
| Exhibit no. 3 | Copy of the Notice and Statement of Appeal received June 29, 2006  |
| Exhibit no. 4 | Copies of codes cited in the Notice and Order  |
| Exhibit no. 5 | Photographs  |
| Exhibit no. 6 | Aerial photographs from GIS  |
| Exhibit no. 7 | Copy of 2006 Docket Report   |
| Exhibit no. 8 | Copy of portion of the Comp Plan that lists the policy number cited in the Docket Report                     |
| Exhibit no. 9 | Copy of the map for the Comprehensive Plan   |