

Return Address: Don Gibson, Partner
Six Partners Limited Partnership
PO Box 1588
Yakima, WA 98907

Doc # 2006162223
Page 1 of 12
Date: 07/07/2006 09:12A
Filed by: SCHWABE WILLIAMSON & WYATT
Filed & Recorded in Official Records
of SKAMANIA COUNTY
J. MICHAEL GARVISON
AUDITOR
Fee: \$43.00

Skamania County Department of Planning and Community Development

Skamania County Courthouse Annex
Post Office Box 790
Stevenson, Washington 98648
509 427-3900 FAX 509 427-3907

Letter Amendment to Administrative Decision NSA-05-45-L1, based on settlement agreement

APPLICANT: Don Gibson, Partner

FILE NO.: Amendment to NSA-05-45

REFERENCE NO.: Administrative Decision for NSA-05-45, recorded as Auditor's File # 2006162222, recorded on the 7th day of July, 2006 in the Skamania County Auditor's Office.

PROJECT: Originally a request to recognize 13 individual parcels as legally created parcels that currently comprise the ownership known as Six Partners Limited Partnership (SK Orchards) and to recognize the 5 residences located on the property as legally existing residences (single-family dwellings). **This application does not include any physical development, alterations to any structures, replacement of any structures, changes to historic cultivation locations nor any new ground disturbing activities.**

LOCATION: The orchard is comprised of the majority of the west half of Section 19, Township 3 North, Range 10 East of the Willamette Meridian, Skamania County Assessor's Tax Lot Number 03-10-19-0-0-0300-00 (233 acres); a small sliver of land on the southern edge of the southwest quarter of the southeast quarter and the southeast quarter of the southwest quarter of Section 18, Township 3 North, Range 10 East of the Willamette Meridian, Skamania County Assessor's Tax Lot Number 03-10-00-0-0-1190-00 (2.2 acres); and the east half of the east half of

the southeast quarter of the southeast quarter of Section 24, Township 3 North, Range 9 East of the Willamette Meridian, Skamania County Assessor's Tax Lot Number 03-09-24-0-0-0800-00 (10.6 acres). The property is located west of the intersection of Asplund Road and Cook-Underwood Road in Underwood, Washington. The property is in the General Management Area, zoned Large-Scale Agriculture (Ag-1) with a 60 acre minimum lot size, and Open Space. The orchard is approximately 245.8 acres in size according to the Assessor's records.

LEGAL:

See attached page 5.

ZONING:

General Management Area - Large Scale Agriculture (Ag-1) with a 60 acre minimum lot size and Open Space.

June 5, 2006

Dear Mr. Gibson,

The Planning Department issued a final Administrative Decision on December 15, 2005 for the above referenced application recognizing eleven legally created parcels and five single-family dwellings. Friends of the Columbia Gorge (FOCG) appealed that Administrative Decision on January 4, 2006. On May 16, 2006, through your attorney, you submitted a letter requesting an amendment to your Administrative Decision based on a settlement agreement between you and FOCG to recognize only eight of the parcels as legally created parcels and to recognize the five single-family dwellings. In the settlement agreement, the final configuration of the eight lots is the result of first the eight lots being recognized and then a boundary line adjustment to the eight lots. On May 22, 2006, a map (Exhibit 1) showing the eight parcels that can be recognized based on the deeds was submitted. On May 26, 2006, the map (Exhibit B from the settlement agreement) and boundary line adjustment deeds to reconfigure the eight parcels were submitted.

Pursuant to SCC §22.06.080(B), a change or alteration to an approved action, if determined to be minor by the Director, may be "deemed consistent with the provisions of this Title and the findings and conclusions on the original application." The proposed request constitutes a minor change; therefore, the original decision shall be amended as stated above.

The site plan drawing shown, as Exhibit 1 (see attached page 6) to this Letter Amendment shall replace that attached to your original Administrative Decision of December 15, 2005, and shall be known as the **amended final site plan**. The amendment is hereby approved with the following conditions of approval to be replaced:

Old Condition #2:

- 2) Of the thirteen parcel requested to be recognized as legally created parcels, only eleven of them are hereby recognized as legally created parcels. The two attached site plans show the proposed and final configurations. The **proposed site plan** shows the requested parcels and homes to be recognized and the **final site plan** shows the approved recognized parcels and homes. Both site plans shall be recorded as part of this decision.

New Condition #2:

- 2) Of the thirteen parcels originally requested to be recognized as legally created parcels, only eight of them are hereby recognized as legally created parcels. The map shown in Exhibit 1 depicts the approved recognized eight parcels and the five recognized single-family dwellings and is known as the **amended final site plan**.

The following condition of approval shall be added to the administrative decision:

Condition #6:

- 6) The owners (SK Orchards) and/or its successor(s)-in-interest shall be required to convert House # 5 within in nine (9) months of approval of this letter amendment to use as only a single-family dwelling (including the removal of seven (7) of the eight (8) kitchens), unless a complete land use application is submitted within that time period to convert the use of House #5 into a farm labor dwelling, or if within this time period, there is an application to replace House #5 with another dwelling as a replacement single-family dwelling.

All of the other original conditions in the Administrative Decision are still valid and shall be complied with. As a reminder, **this letter amendment and your original administrative decision need to be recorded at the County Auditor's office**. If you have any questions, please give me a call at 509-427-3900.

Sincerely,



Karen A. Witherspoon, AICP
Director

APPEALS

The Director reserves the right to provide additional comment and findings of fact regarding this decision, if appealed.

This Letter Amendment Decision shall be final unless reversed or modified on appeal. A written Notice of Appeal form must be filed by an interested person within 20 days from the date hereof. Appeals are to be made to the Skamania County Board of Adjustment, P.O. Box 790, Stevenson, WA 98648. Notice of Appeal forms are available at the Planning Department Office and must be accompanied by a \$1,000.00 nonrefundable filing fee.

WARNING

On November 30, 1998 the Columbia River Gorge Commission overturned a Skamania County Director's Decision 18 months after the 20-day appeal period had expired. You are hereby warned that you are proceeding at your own risk and Skamania County will not be liable for any damages you incur in reliance upon your Director's Decision or any amendments thereto.

cc: Skamania County Building Division
Skamania County Assessor's Office
Skamania County Health Dept.
Persons w/in 500 feet
Yakama Indian Nation
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of the Warm Springs
Nez Perce Tribe
Columbia River Gorge Commission
U.S. Forest Service - NSA Office
Board of County Commissioners
Friends of the Columbia Gorge
Department of Archaeology and Historic Preservation
Washington Department of Community Development - Dee Caputo

Attached: Letter request for Amendment
Amended final site plan
Vicinity Map

The east half of the east half of the southeast quarter of the southeast quarter of Section 24, Township 3, North, Range 9 E.W.M.

A tract of land in the North half of the Northeast quarter of Section 19, Township 3 North, Range 10 E.W.M., described as follows: Beginning at a brass hub marking the center of the said Section 19; thence north 1,320 feet to an iron pipe and the initial point of the tract hereby described; thence east 1,389.6 feet to an iron pipe; thence north 28° east 152.5 feet to an iron pipe; thence north 60° west 173.6 feet to an iron pipe; thence north 85° west 772.2 feet to an iron pipe; thence west 309 feet to an iron pipe; thence north 06°45' west 1,042 feet; thence west 107.1 feet to an iron pipe; thence south 1,320 feet to the initial point.

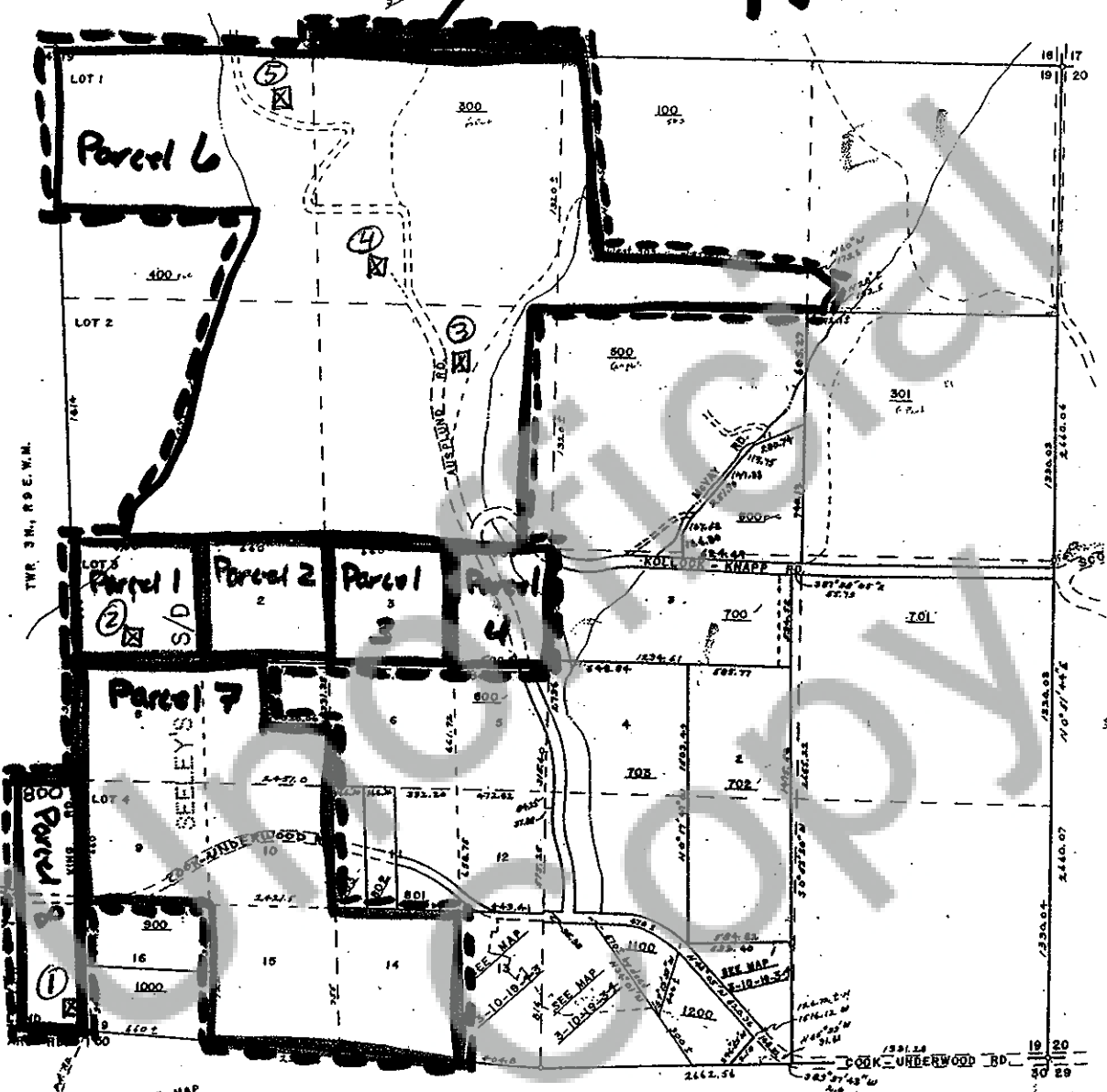
Government Lots 1 and 2 (being also described as the W. 1/2 of the NW 1/4), and the East half of the Northwest quarter of Section 19, Township 3 North, Range 10 E.W.M.; EXCEPT the east 8 rods of the Southeast quarter of the Northwest quarter of the said Section 19; AND EXCEPT a tract of land consisting of 32.01 acres, more or less, conveyed to Broughton Lumber Company by deed dated July 16, 1952, and recorded July 24, 1952, at page 342 of Book 35 of Deeds, under Auditor's File No. 44316, Records of Skamania County, Washington.

Lots 1, 2, 3, 4, 7, 8, 9, 10, 14 and 15 of Seeley's Subdivision of the Southwest quarter of Section 19, Township 3 North, Range 10 E.W.M., according to the official plat thereof on file and of record in the office of the Auditor of Skamania County, Washington, EXCEPT the Northeast quarter of the said Lot 7.

That portion of the Southwest quarter of the Southeast quarter, and of the Southeast quarter of the Southwest quarter of Section 18, Township 3 North, Range 10 E.W.M., described as follows:

Beginning at an iron pipe 2,640 feet north of a brass hub marking the center of Section 19, Township 3 North, Range 10 E.W.M.; thence east 107.1 feet; thence north 06°45' west 66.7 feet to an iron pipe; thence west 1,420.3 feet to intersection with the east line of the Southeast quarter of the Southwest quarter of the said Section 18; thence south 66 feet to the south line of the said section 18; thence east 1,320 feet to the point of beginning.

Amended Final Site Plan Parcel 5



☒ = house (single-family dwelling)

Exhibit 1



SCHWABE, WILLIAMSON & WYATT
ATTORNEYS AT LAW

Pacwest Center, 1211 SW 5th Ave., Suite 1900, Portland, OR 97204 | Phone 503-222-9981 | Fax 503-796-2900 | www.schwabe.com

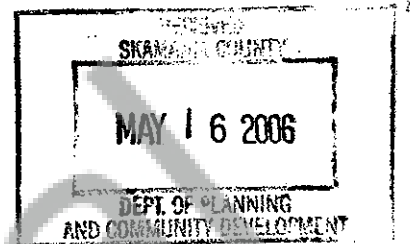
BRADLEY W. ANDERSEN

Admitted in Washington and Oregon

Direct Line: Vancouver (360) 905-1431; Stevenson (509) 427-0093

E-Mail: bandersen@schwabe.com

May 16, 2006



BY HAND

Karen Witherspoon
Planning Director
Skamania County Planning and Community
Development
P.O. Box 790
Stevenson, WA 98648

Re: Minor Amendment to NSA-05-45 and Revision to BLA 06-01
Our File No.: 112797/141104

Dear Karen:

On behalf of our client, Six Partners Limited Partnership and Bloxom Orchards Corporation (the "Property Owners"), we are requesting a Minor Amendment to your December 15, 2005 National Scenic Area Approval (NSA-05-45) which recognized eleven (11) legally existing parcels and five (5) existing homes. We are also simultaneously requesting a minor revision to our clients' previously submitted and vested Boundary Line Adjustment application (BLA 06-01) which modified the boundaries of the 11 legally existing parcels. In the interest of time, please process these requests together.

To recap, the Friends of the Gorge ("FOG") appealed your Approval of the 11 parcels to the Board of Adjustments in January, 2006. Subsequently, we reached a settlement with FOG, a copy of which is enclosed for your convenience. The two main components of the Agreement were 1) a reduction to the number of legal lots that were approved by the Planning Department from eleven (11) legal parcels to eight (8) legal parcels and 2) a modification to the final configuration of the lots shown on our Boundary Line Adjustment application. The final result is the "Revised Map", a copy of which is enclosed.¹ This Revised Map depicts how the agreed upon lots have been reconfigured pursuant to the terms of the Settlement Agreement. In return, FOG has agreed, provided you approve the Revised Map, to dismiss their appeal, making your Decision final.

Since both the requested minor amendment of the Director's Decision and the amendment to our boundary line adjustments are incorporated into the Revised Map and the

¹ The acreages depicted on the "Revised Map" are only approximations.

Karen Witherspoon

May 16, 2006

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Settlement Agreement, we think it makes most sense for you to process them together; there is no reason to delay your review of our requested boundary line adjustment. The Friends of the Gorge have given their approval to the lots as depicted on the Revised Map.

As you can see, Section B(3)(b) of the Agreement also has set forth specific time lines for our clients. Those time lines might be difficult to meet if the minor amendment and the boundary line adjustments are processed separately. We therefore ask that you review these requests simultaneously.

With regard to the requested Minor Amendment of the Director's Decision, we are specifically requesting that the land use approval be modified to reflect eight (8) legally existing parcels identified as Parcels 1 through 7 and Parcel 11 on your Final Site Plan. We understand that once this Minor Amendment request is submitted via this letter, it will be processed accordingly and a Revised Director's Decision will be issued. This Revised Director's Decision will have a 20-day appeal period as did the original decision. We have enclosed a check for \$50.00 for the processing fee of this Minor Amendment.

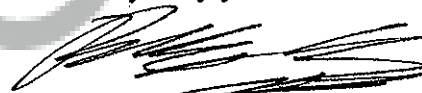
In addition, and in order to comply with the terms of the Agreement, the Property Owners are requesting a revision to the map and legal descriptions submitted with the original Boundary Line Adjustment application on January 4, 2006. The revised map shows adjustments to the eight (8) legal parcels as agreed to by both parties and as referenced above. The Revised Map shows the proposed changes. We will forward to you the Revised legal descriptions and a new boundary line adjustment deed once they have been reviewed by Gary Martin. We hope that will be sometime next week.

We understand from your office that the requested changes will not affect the vesting status of our application. It is also our understanding that no additional application fees are required for these changes.

As you know, time is of the essence with regards to the processing of these applications as the Property Owners have already spent a considerable amount of time and money negotiating the Settlement Agreement with FOG. We would greatly appreciate your prompt attention to these requests and would be more than happy to answer any questions you may have regarding these revisions. Please call if you have any questions or want to meet with any of us.

We look forward to hearing from you soon.

Very truly yours,



Bradley W. Andersen

BWA

Enclosures

cc: Don Gibson
Jack Bloxom
Austin Bell

SW
S&W



SCHWABE, WILLIAMSON & WYATT
ATTORNEYS AT LAW

Pacwest Center, 1211 SW 5th Ave., Suite 1900, Portland, OR 97204 | Phone 503-222-9981 | Fax 503-796-2900 | www.schwabe.com

KARI R. FAGERNESS
PARALEGAL
Direct Line: (503) 796-2434
E-Mail: kfagerness@schwabe.com



May 19, 2006

VIA UPS

Karen Witherspoon
Director of Planning and Community
Development
Skamania County Planning Department
P.O. Box 790
170 NW Vancouver Avenue
Stevenson, WA 98648

Re: Minor Amendment to NSA-05-45 and Revision to BLA-06-01
Our File No.: 112797/141104

Dear Karen,

Thank you again for meeting with me on Friday regarding the above National Scenic Area application and the Boundary Line Adjustment application. As we discussed, enclosed please find a map depicting the 8 parcels as referenced in Attorney Andersen's letter dated May 16, 2006. As part of the Amendment we are requesting that Parcel # 7 as shown on the Final Site Plan attached to the original Director's Decision, be revised to include Parcels 8, 9 and 10.

With regards to the Revision requested for the Boundary Line Adjustment referenced in Attorney Andersen's letter, we received the revised legal descriptions from the surveyor on May 18, 2006. According to the surveyor, Gary Martin has reviewed and approved the legal descriptions as drafted. I am in the process of drafting the revised boundary line adjustment deed with the new legal descriptions and will forward the deed to you early next week. I will also send a copy to Gary so he can confirm with you that he has completed his review of the legal descriptions.

We also discussed the possibility of reviewing the above-referenced applications concurrently (or as close to concurrent as possible). You seemed willing to do this with the condition that the boundary line adjustment notice of decision would contain language indicating it would not be final/valid until the appeal period has expired for NSA-05-45.

Portland, OR 503-222-9981 | Salem, OR 503-399-7712 | Bend, OR 541-749-4044
Seattle, WA 206-622-1711 | Vancouver, WA 360-694-7551 | Washington, DC 202-488-4302

PDX/112797/141104/KRF/1428071.1

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Karen Witherspoon
May 19, 2006
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Please let me know if you have any further questions regarding the maps that I have enclosed or any questions regarding the summary of our discussion as referenced above.

I look forward to working with you on finalizing these applications.

Sincerely,

Kari R. Fagerness

Kari R. Fagerness
Paralegal

KRF:krf

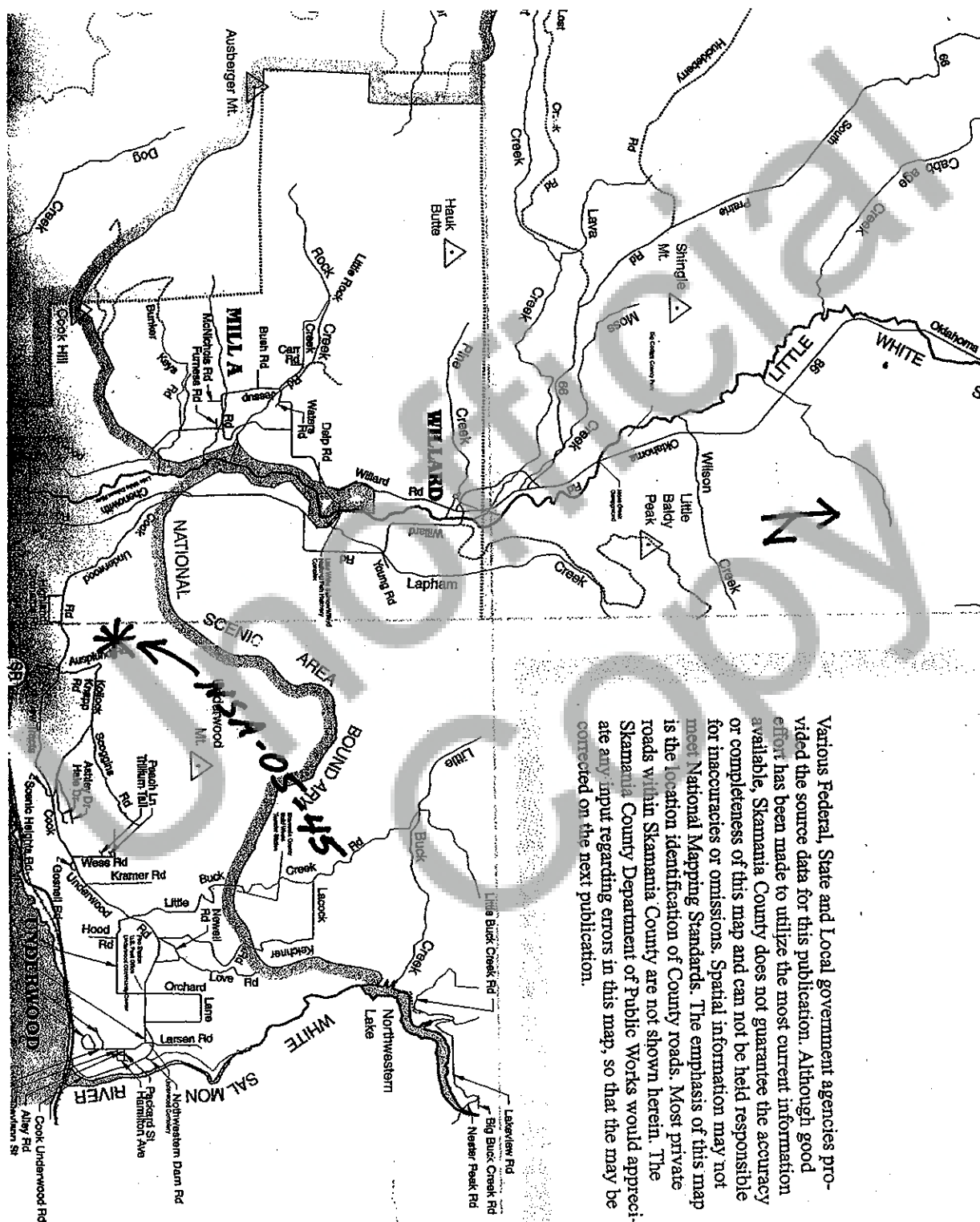
Enclosures

cc: Don Gibson
Brad Andersen

Unofficial Copy

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Various Federal, State and Local government agencies provided the source data for this publication. Although good effort has been made to utilize the most current information available, Skamania County does not guarantee the accuracy or completeness of this map and can not be held responsible for inaccuracies or omissions. Spatial information may not meet National Mapping Standards. The emphasis of this map is the location identification of County roads. Most private roads within Skamania County are not shown herein. The Skamania County Department of Public Works would appreciate any input regarding errors in this map, so that the map be corrected on the next publication.

SMA-002, SHEET 10

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

PRODUCED JANUARY 1987 BY PACIFIC NORTHWEST REGION
THE INFORMATION ON THESE MAPS WAS TAKEN FROM THE OFFICIAL N
OF P.L. 99-663 AND LOCATED IN THE CHIEF'S OFFICE, USDA - FOF
MILLARD 1:62,500

