

## NOTICE OF DECISION

### BEFORE THE SKAGIT COUNTY HEARING EXAMINER

**Applicant:** Seattle City Light  
c/o Shelly Adams/Scott Luchessa  
P. O. Box 34023  
Seattle, WA 98124

**Request:** Shoreline Substantial Development & Conditional Use Permit,  
PL 14-0364  
Critical Areas Variance, PL 14-0365

**Location:** Northeast of Marblemount, adjacent to State Route 20, within  
SE1/4 Sec. 21, T36N, R11E, W.M. Parcels: P51824, P51825

**Land Use Designations:** Zoning: Industrial Forest-Natural Resource Land (IF-NRL) with  
Mineral Resource Overlay  
Shorelines: Conservancy (Shorelines of Statewide Significance)

**Summary of Proposal:** Placement of approximately 18,000 cubic yards of material within  
the Copper Creek Pit, a former borrow pit excavated several  
decades ago. The top two feet of fill will be amended with native  
soils. Two inches of salvaged soil will be spread over that and the  
surface will be covered with woodchips and logs. The site will  
then be planted with a variety of native trees, shrubs and grass.

**SEPA Compliance:** Determination of Non-Significance issued by City Light on June  
29, 2015. No appeals.

**Public Hearing:** October 28, 2015. Testimony by Staff, Applicant and one member  
of the public. PDS recommended approval.

**Decision/Date:** The application is approved subject to conditions. November 17, 2015

**Reconsideration/Appeal:** Critical Areas: Reconsideration may be requested by filing with  
PDS within 10 days of this decision. Appeal is to Board of County  
Commissioners by filing with PDS within 14 days of this decision  
or decision on reconsideration, if applicable.  
Shoreline: Reconsideration may be requested by filing with PDS  
within 5 days of this decision. Appeal is to Board of County  
Commissioners by filing with PDS within 5 days of this decision  
or decision on reconsideration, if applicable.

**Online Text:** The entire decision can be viewed at:  
[www.skagitcounty.net/hearing\\_examiner](http://www.skagitcounty.net/hearing_examiner)

## **FINDINGS OF FACT**

1. Seattle City Light seeks permission to dump dredged material into the Copper Creek borrow pit adjacent to the Skagit River.
2. The site is between the river and State Route 20, northeast of Marblemount. It is located within the SE1/4 Sec. 21, T36N, R11E, W.M. The parcel numbers are P51824 and P51825. The zoning is Industrial Forest with a Mineral Resource overlay. The site is designated Conservancy under the County's Shoreline Master Program
3. The material will be brought in from just below the Diablo Dam powerhouse in adjacent Whatcom County. At that location, aggradation has occurred at the confluence of Stetattle Creek and the Skagit River (Gorge Dam Reservoir). A bar composed mostly of cobbles and boulders has developed in the Skagit increasing the water elevation at the powerhouse tailrace.
4. The aggradation has constricted the river flow, resulting in a reduction of electrical generating capacity at the powerhouse. The expansion of the bar has caused a 2.8 foot loss in hydraulic head and 87,172 megawatt hours of lost power production from 2004 through 2013. The purpose of the project is to restore generating capacity by excavating material from the river below the powerhouse.
5. The excavation will involve approximately 18,000 cubic yards of material, which will be trucked about 15.5 miles southwest to the borrow pit site. The excavation site is on Diablo Road about a half mile from SR 20. Loaded trucks will enter SR 20 and pass through Newhalem between the excavation and the pit. At the pit, a stabilized construction entrance and temporary access road will be built.
6. The Copper Creek pit was previously an upland forest site. Several decades ago, it was stripped of vegetation and topsoil and excavated to a depth of 10 to 12 feet below adjacent grade at the southwest end and about 3 to 4 feet lower than adjacent grade at the northeast end. The pit has at times been used to stockpile organic material, such as large woody debris.
7. The proposed project will restore the site. Prior to placement of the dredged material, about 1000 cubic feet of soil will be salvaged and set aside. Once the dredged material is in place, the top two feet of fill will be emended with native soils and organic materials to provide a better growing medium. Two inches of salvaged soil be spread over the growing medium and blended with fertilizer. Then, the surface of the restored pit will be covered with four to six inches of wood chips and branches and 40 to 60 logs to mimic natural blowdown.
8. The final step will be to restore a natural forest by planting a variety of native trees and shrubs. Native grass and forb seed mix will be applied to establish groundcover.
9. The pit is not visible from the highway nor from the river. Within the property it is surrounded by thick forest. The expectation is that the former pit site will blend in with the surrounding forest within a few years.

10. For the duration of the project, hauling activity will increase traffic on SR 20. There is no information in the record as to how long the project will take, but the influx of trucks along the highway is not expected to unduly interfere with normal highway traffic. The increase in truck traffic will be mitigated by a traffic management plan conforming to Washington State Department of Transportation standards. Delays, if any, will be brief as trucks enter and exit the disposal site. City Light will develop and implement a traffic plan to ensure the safety of travelers on the highway for the life of the project.

11. The pit site is located in a forested area with little nearby development. The Copper Creek raft launch/takeout is just upstream. The ramp is primitive and there are no associated facilities other than a vault toilet. The entrance to the North Cascades National Park is approximately ½ mile to the northeast. A Boy Scout camp is located to the southwest on land owned by City Light. South of the site is the Mount Baker National Forest. To the west and south along the river are a few private parcels and properties owned by the Nature Conservancy and Skagit County. The project is not expected to interfere with any nearby existing uses or activities.

12. The project was reviewed pursuant to the National Environmental Policy Act (NEPA) by the National Park Service in coordination with Seattle City Light. The Park Service issued an Environmental Assessment on September 8, 2014. City Light adopted the NEPA documentation. A Determination of Non-Significance (DNS) by City Light is dated June 29, 2015. The DNS was not appealed.

13. Consulted County Departments had no objections to the proposal. The Health Department requested and received verification that no wells are present within 1000 feet of the project area.

14. The project was reviewed under the local Shoreline Master Program (SMP). The SMP allows landfills using vegetative stabilization and natural erosion control techniques in Conservancy environments as a conditional use. The proposal is essentially benign environmentally, restoring a forested area and interfering not at all with normal public use of the river and shore areas. The restoration contemplated will not have adverse cumulative impacts.

15. The project will not adversely implicate any of the policies preferences for Shorelines of Statewide Significance, set forth in RCW 90.58.020.

16. The Critical Areas impacts are likewise positive. Restoration of the site will improve the functions and values of the riparian buffer. Interruptions, if any, in public use of the nearby boat launch will be temporary.

17. The Staff reviewed the proposal in light of the applicable shoreline conditional use and critical areas variance criteria and determined that, as conditioned, the project will be consistent with the criteria. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

18. A member of the public suggested a problem with the notice, but notice for the Skagit County hearing held in Mount Vernon was properly given. A question raised about siltation referred to the dredging portion of the project which is under the permit-issuing jurisdiction of Whatcom County. No siltation will result from the landfill involved here.

19. Any conclusion herein which may be deemed as finding is hereby adopted as such.

### **CONCLUSIONS OF LAW**

1. The Hearing Examiner has jurisdiction over this proceeding. SMP 1102(1). SCC 14.06.050(1)(b)(i).

2. Through compliance with NEPA, the requirements of SEPA has been met.

3. As conditioned, the project meets the approval criteria for a Shoreline Substantial Development Permit and a Shorelines Conditional Use Permit. SMP 9.02. 11.03.

4. As conditioned, the project meets the approval criteria for a Critical Areas Variance. SCC 14.24.140(3).

5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

### **CONDITIONS**

1. The project shall be carried out as described in the application materials, except as the same may be modified by these conditions. The project site shall be restored with native vegetation as proposed.

2. A Protected Critical Area (PCA) site plan shall be recorded with the County Auditor's Office prior to approval of the grading permit application.

3. The applicant shall obtain all necessary permits and approvals and shall abide by the conditions of same.

4. The applicant shall comply with all relevant provisions of State and County regulations, including but not limited to State Water Quality Criteria for surface and ground water (Chapters 173-200 and 201A WAC), erosion and sedimentation control (Chapter 14.32 SCC), noise levels (Chapter 173-60 WAC).

5. The applicant shall submit a copy of this Order with the grading permit application.

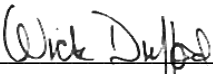
6. The Critical Areas Variance will expire if the use or activity for which it is granted is not commenced within three years of final approval. Knowledge of the expiration date is the responsibility of the applicant.

7. The project must be commenced with two years of the Shoreline approval and completed within five years thereof.
8. If the applicant proposes any modification of this project, it shall request a permit revision from Planning and Development Services (PDS) prior to the start of construction.
9. Failure to comply with any permit condition may result in permit revocation.

### **DECISION**

The requested Shoreline Substantial Development/Conditional Use Permit (PL14-0364) and Critical Areas Variance (PL4-0365) are approved, subject to the conditions set forth above.

**DONE**, this 17<sup>th</sup> day of November, 2015

  
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Wick Dufford, Hearing Examiner

Transmitted to Applicant, November 17, 2015

See Notice of Decision, page 1, for appeal information