

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

**Applicant:** Day Creek Sand & Gravel  
30881 South Skagit Highway  
Sedro-Woolley, WA 98284

**File No:** PL05-0164

**Request:** Waiver of Development Moratorium

**Location:** 30882 South Skagit Highway, within a portion of the  
NE1/4 Sec. 30, T35N, R6E, W.M.

**Land Use Designation:** Rural Resource Natural Resource Land/  
Mineral Resource Land Overlay

**Summary of Proposal:** To obtain a waiver of the six-year development moratorium  
imposed on receipt of a non-conversion forest practice  
permit. The waiver is sought to allow the County to  
proceed with a Special Use Permit application for  
expanded mining operations.

**Public Hearing:** After reviewing the report of Planning and Development  
Services, the Hearing Examiner conducted a public  
Hearing on May 11, 2005.

**Decision:** The application is approved, subject to a condition.

## **FINDINGS OF FACT**

1. Day Creek Sand and Gravel (applicant) seeks a waiver of the development moratorium imposed on receipt of a non-conversion forest practice permit. The permit (#2803387) was issued by the Washington Department of Natural Resources on January 25, 2000.

2. The property consists of nine acres within Parcels #P42076 and a portion of #42077 (See Sheet C-5, Exhibit B.) The land is within a portion of the NE1/4 Sec. 30, T35N, R6E, W.M.

3. Donald Bockelman, the prior owner, obtained the forest practice permit and logged the site. The property was purchased from him in July of 2004.

4. If not lifted, the development moratorium on the property will remain in effect through January 25, 2006. The lifting of the moratorium is sought in order to expand mining operations currently underway on adjacent land.

5. Aqua-Terr Systems, Inc. submitted a site assessment in February 2005, delineating at Category II wetland nearby. None of this wetland lies within the nine acres for which waiver of the moratorium is sought. However a portion of the buffer does lie within the site.

7. After review of the assessment, the Staff concluded that the logging which occurred did not affect either the wetland or the buffer area.

8. Under the Critical Areas Ordinance (CAO), SCC 14.24.110(6)(e)(i-ii), the applicable criteria for lifting a moratorium are as follows:

(i) A critical areas site assessment must be prepared. . . . The site assessment shall determine the level of impact to County regulated critical areas and associated buffers that have occurred due to logging and associated conversion activity. The site assessment shall also include an estimated time needed for recovery of the critical area to a state comparable to what it was before the forest practice took place.

(ii) If, based on the prepared site assessment and comments received the . . . Hearing Examiner . . . determines that recovery of the critical area(s) and associated buffers can be achieved within six years then a mitigation plan shall be prepared and implemented, consistent with the CAO and the waiver shall be lifted.

8. Because no effect to any critical areas or buffers has occurred, there is no need in this case for a mitigation plan for recovery. The critical areas remain in a state comparable to their condition before the forest practice took place.

9. The CAO review conducted to date has only been with respect to the question of waiving the moratorium. Further CAO review shall take place in connection with the Special Use Permit process.

10. There was no public comment at the hearing. Two comment letters were received. Both were concerned with issues relevant to the Special Use Permit and not to lifting the moratorium per se.

11. Rebecca Bradley of Leonard, Boudinot Skodje, Inc. testified in support of the waiver. She reiterated that no damage has occurred to any critical area or buffer.

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

### **CONCLUSIONS OF LAW**

1. The Hearing Examiner has jurisdiction over the persons and the subject matter of the proceeding. SCC 14.24.110(6).

2. The facts support a conclusion that the applicant has met the criteria for waiver of the six-year moratorium for the subject property.

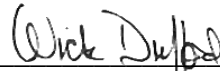
3. Compliance of any property development with the CAO will need to be evaluated with the application for such future action.

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

## DECISION

The requested waiver of moratorium request is approved, subject to the following condition:

Additional Critical Areas review, including but not limited to, additional review fees, site assessment requirements, mitigation measures and Protected Critical Areas requirements pursuant to Chapter 14.24 SCC may be required with applications for development on the parcels reviewed under this application.



---

Wick Dufford, Hearing Examiner

Date of Action: June 7, 2005

Date Transmitted to Applicant: June 7, 2005

## RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with Planning and Development Services within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with Planning and Development Services within 14 days after the date of the decision, or decision on reconsideration, if applicable.