

**SKAGIT COUNTY PLANNING AND DEVELOPMENT SERVICES  
SEPA Environmental Review Staff Report**

**Application Number:** Lake Erie Gravel Mine Expansion  
Special Use Permit Application PL16-0556

**Applicant:** Mr. Bill Wooding  
Lake Erie Pit LLC  
13540 Rosario Road  
Anacortes, WA 98221

**Representative:** Mr. Stephan Taylor  
McLucas & Associates, Inc.  
PO Box 5352  
Lacey, WA 98509

**County Contact Person:** John Cooper, LG  
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**Project Description:** The proposal includes the expansion of an existing mining operation from 17.78 acres to approximately 53.5 acres. The gravel mining operation will remove approximately 2,250,000 cubic yards of gravel over an approximately 60 year period and extend to a depth of approximately 50 feet below existing grade. Gravel will be removed from the site by truck and trailer, generating an average of 13 loads per day or 26 truck trips per day. The mining operation will process material onsite with a screen and rock crusher. During the spring and/or fall, a rock crusher will be temporarily brought onsite to process larger rocks generated by the screening process. The site is accessed from Rosario Road on an existing private gravel driveway. No offices or structures are proposed to be built onsite. The subject site is located within the mineral resource overlay and the Rural Resource-Natural Resource Land zoning/comprehensive plan designated area. For additional information contact the County.

**Project Location:** The subject site is located south of the intersection of Rosario Road and Marine Drive, within a portion of the northwest quarter of Section 11, Township 34 North, Range 1 East, Skagit County, WA. (Parcel numbers: P19108, P19155, P19158, P19161, P19162, P19164, P19165, & P90028).

**Recommendation:** Based on analysis of probable impacts from the proposal, the Responsible Official has made a SEPA threshold determination to issue a Mitigated Determination of Non-Significance with a 15 day comment period followed by a 14 day appeal period.

**SEPA Process Timeline**

Benchmark date:	Date:	Authority:
Application submitted	12.02.16	SCC 14.06.090
Application determined as incomplete	12.13.16	SCC 14.06.100
Application complete & Notice of Development Application (NoDA) issued	02.02.17	SCC 14.06.150
NoDA comment period ends	02.17.17	SCC 14.06.150(2)
Application on hold pending submittal of information in response to comments received.	02.17.17	SCC 14.06.105(1)
Received Critical Areas Reconnaissance report	02.24.17	SCC 14.24.060
Received addendum to the traffic report	05.12.17	SCC 14.16.440
Received amended application & site plan	09.21.17	NA
Received addendum to the hydrogeologic report	09.28.17	SCC 16.12.110
MDNS issued with comment & appeal period	11.14.18	SCC 16.12.110(6)
Open record public hearing	Pending	SCC 14.06.120(7)

**Environmental Element Impacts and Mitigations**

The County reviewed the application under SEPA, RCW 43.21C, Skagit County Code 16.12, and GMA, RCW 36.70A. Authority to require mitigation WAC 197-11-660.

***Earth Element***

Potential Impacts: Gravel mine expansion will include the removal of approximately 2,250,000 cubic yards (SEPA checklist indicates 3,200,000 tons) of sand and gravel over a 60 year period. The geology of the site consists of glacially derived sands and gravels suitable for commercial applications. Potential impacts from the operation include destabilization of slopes due to mining activities and potential increase in erosion due to mined slopes and vegetation removal.

The SEPA checklist indicates that 85% slopes are currently present onsite from current mining operations. The slopes are stable and consist of glacial derived sands and gravel. Due to the permeability of the geologic formation, the checklist concludes that no significant erosion is anticipated to occur on site.

Staff finds that gravel mining operations often result in near vertical sidewalls within the interior of the mine resulting in high erosion rates and destabilized slopes. Shallow

surficial landslides resulting from the near vertical sidewalls often occur as part of the mining operation. No significant surface water runoff from the site or erosional deposition is anticipated due to the high permeability of the sand and gravel formation onsite.

**Mitigation Measures:** To mitigate for potential future destabilization and erosion, the applicant proposes a 100-foot setback from the property line to provide an adequate buffer to prevent failures from encroaching onto neighboring properties. Final reclamation will re-grade the parcel to simulate the natural topography of the area which will include reshaping slopes to stable configurations, approximately 50% slope. As proposed, potential earth disturbance impacts are adequately addressed by local, state, and federal regulations, permits (Sand and Gravel permit, NPDES permit, special use permit) and best management practices (DNR's Best Management Practices for Reclaiming Surface Mines in Washington and Oregon, OFR 96-2). Staff finds there are no significant adverse earth disturbance impacts created by the proposal other than that normal to the surface mining process. No additional mitigation measures are required.

**Nexus:** SCC Chapters 14.32 (Stormwater Management), SCC 14.16.440 (Mineral Resources), SCC 14.16.900 (Special Use), SCC 14.16.840 (additional Special Use criteria), and SCC 14.24.110 (timber harvest).

#### ***Air Element***

**Potential Impacts:** Gravel mine expansion will include operation of excavation/transport equipment on that generate vehicle emissions and dust.

The SEPA checklist indicates that gravel mine expansion will continue to pose a risk of dust generation as a potential emission from the site. The checklist indicates that dust generation will be controlled by spraying water on dust generating activities.

Staff finds that the proposed use is not expected to generate excessive vehicle emissions or odors with the exception of dust generation. Dust generation may occur with excavation and processing of sand and gravel.

**Mitigation Measures:** The applicant has provided an air quality best management practices control plan which includes spraying water on roads and equipment to control fugitive dust. Vehicle emissions and dust generation impacts are adequately addressed by local, regional (Northwest Clean Air Agency), state, and federal regulations, permits (Sand and Gravel permit, NPDES permit, special use permit) and best management practices (DNR's Best Management Practices for Reclaiming Surface Mines in Washington and Oregon, OFR 96-2). Staff finds there are no significant adverse air pollution created by the proposal provided the applicant complies with Northwest Clean Air Agency (NWCAA) requirements and standards, and implements the air quality best management practices during operations, and if necessary, modifies the plan as necessary to control dust emissions. At no time shall dust emissions exceed standards established by the Northwest Clean Air Agency.

Nexus: SCC Chapters 14.16.440 (Mineral Resources), SCC 14.16.900 (Special Use), and SCC 14.16.840 (additional Special Use criteria).

### *Water Element*

Potential Impacts: Gravel mine expansion may result in increased surface water runoff and impacts to groundwater quality. The expanded gravel mining operation may have an impact on perched and unconfined aquifers and result in draining surface water resources and wetlands, including Devil's Elbow Lake.

The SEPA checklist does not indicate that the expansion will result in impacts to surface water or groundwater resources on or in the vicinity of the subject site as a result of the gravel mining operation.

### *Stormwater*

Staff finds that all surface water runoff/drainage from mining operations will be directed into the interior of the gravel mine and collected in a temporary detention pond that will be maintained in the interior of the gravel mine. Stormwater collected within the detention pond will infiltrate onsite. The sand and gravel resources onsite are highly permeable with high infiltration rates minimizing the risk of surface water runoff leaving the site.

### *Hydrogeologic Impacts*

As required by SCC 14.16.440, the applicant submitted a Hydrogeologic Report prepared by Maul Foster Alongi, dated September 28, 2016. The report discusses water quality and quantity impacts resulting from the mine expansion and concludes that mining activities on the subject site will not have an adverse impact on groundwater quality or quantity or result in draining surface water resources adjacent to the mine site.

Mitigation Measures: Potential storm water and hydrogeologic impacts are adequately addressed by local, state, and federal regulations, permits (Sand and Gravel permit, NPDES permit, special use permit) and best management practices (DNR's Best Management Practice for Reclaiming Surface Mines in Washington and Oregon, OFR 96-2). Sand and Gravel Mines are regulated by the Washington Department of Ecology and require a Sand and Gravel General permit for mining operations. The Sand and Gravel General Permit requires the applicant to comply with the provisions of the Washington State Water Pollution Control law (RCW 90.48) and the Federal Water Pollution Control Act (Clean Water Act), Title 33 United States Code, Section 1251.

Runoff during construction will be handled in conformance with the County's regulations and standards. A NPDES permit from the State of Washington Department of Ecology for the mining activities may be required for this project. Refueling and maintenance of mining vehicles and equipment will occur offsite. Staff finds there are no significant adverse storm water impacts created by the proposal. No additional mitigation measures are required, provided the mining operations direct storm water into an on-site infiltration facility.

Nexus: SCC Chapters 14.32 (Stormwater Management), SCC 14.16.440 (Mineral Resources), SCC 14.16.900 (Special Use), and SCC 14.16.840 (additional Special Use criteria).

***Plants & Animals Elements***

Potential Impacts: Gravel mine expansion may result in potential impacts to critical areas including wetlands, fish and wildlife habitat conservation areas, sensitive, threatened or endangered species.

The SEPA checklist indicates that the proposed expansion will encroach into vegetated areas and may encroach into local wildlife habitat for birds, deer, raccoons and squirrels. No threatened or endangered species are known to be on or in the vicinity of the site.

Staff finds that SCC 14.24, Skagit County's Critical Areas ordinance includes regulations that protect critical areas (wetlands, fish and wildlife habitat conservation areas, sensitive, threatened or endangered species). Skagit County's Critical Areas Ordinance incorporates best available science to achieve no net loss of critical area function and values while encouraging cost effective and efficient use of lands within the County thereby accomplishing State's growth management goals.

As required by SCC 14.24, a critical areas review was completed and a Critical Areas Reconnaissance report was submitted by the applicant, dated February 24, 2017. The report indicates that no critical areas were identified onsite, however, a category III wetland was identified offsite, 170 feet south of the southern property boundary. The 150 foot buffer associated with the category III wetland does not extend onto the project site.

Mitigation Measures: As no critical areas are present onsite, staff finds there are no significant adverse impacts to plants and animals created by the proposal. No additional mitigation measures are required.

Nexus: SCC Chapters 14.24 (Critical Areas), 14.32 (Stormwater Management), SCC 14.16.440 (Mineral Resources), SCC 14.16.900 (Special Use), and SCC 14.16.840 (additional Special Use criteria).

***Energy and Natural Resources/Environmental Health Elements***

Potential Impacts: Gravel mine expansion will result in the use of petroleum fuels for equipment operations and may have a potential impact to environmental health in the event of a fuel spill.

The SEPA check list indicates that the proposed mine expansion will continue to use petroleum fuels for equipment operation but will not result in any impacts to energy or natural resources on or off site. As fueling and equipment maintenance is done off site on impermeable surfaces, the risk of a fuel spill onsite is minimized, no impacts to environmental health of the area is anticipated.

Mitigation Measures: Staff finds that no petroleum products or toxic material will be stored onsite, staff finds there are no significant adverse impacts to energy, the use of natural resources or a significant adverse risk to environmental health created by the proposal. No additional mitigation measures are required. Any indirect impacts are adequately addressed by local, state, and federal regulations, permits (Sand and Gravel permit, NPDES permit, special use permit) and best management practices (DNR's Best Management Practice for Reclaiming Surface Mines in Washington and Oregon, OFR 96-2).

Nexus: SCC 14.16.440 (Mineral Resources), SCC 14.16.900 (Special Use), and SCC 14.16.840 (additional Special Use criteria).

### *Noise Element*

Potential Impacts: It is anticipated that proposed expansion operations of the Lake Erie pit may produce noise levels in excess of Washington State residential noise standards during the hours of operation (Proposed operating hours are Monday through Friday 8 am – 5 pm and Saturday 8 am – 12 pm).

The SEPA check list indicates the operation of excavation and transportation equipment will generate noise onsite during hours of operation. The SEPA checklist indicates that the noise generated by the mining operations will generally be muffled by the topography to the site except to the north.

Staff finds that the applicant submitted a noise study for the proposed mine expansion. The noise study indicates that the maximum allowable noise level per Chapter 173-60 WAC allowed to be emitted from this property, a Class C EDNA property, onto a Class A EDNA property (residential) is 60 decibels and between the hours of 10:00 PM and 7:00 AM levels must be reduced by 10 decibels (or 50 decibels). Analysis of the operation indicates noise levels during operations may exceed state standards unless noise mitigations are installed.

Mitigation Measures: Staff concludes the noise control mitigation measures consistent with the noise study, shall be included as mitigation measures in the SEPA process. The noise mitigation measures include the following:

- Maintain a 100 foot mining setback from Rosario Road and all property lines,
- No mining shall occur on parcel P19108,
- Prior to mining on parcels P19158 and P90028, a 14 foot high earthen berm or equivalent noise barrier shall be constructed to shield the excavation equipment on the western side of the parcel,
- Prior to mining on parcels P19161, a 16 foot high earthen berm or equivalent noise barrier shall be constructed to shield the excavation equipment on the northern and eastern side of the parcel,
- Prior to mining on parcels P19164, a 12 foot high earthen berm or equivalent noise barrier shall be constructed to shield the excavation equipment on the northern and eastern side of the site,
- Rock crushing and screening operations are limited to the processing area as

indicated on the site plan.

The noise study indicates that the mining operation is anticipated to be in compliance with both day and night Washington State and Skagit County noise regulations provided the recommendations included in the Lake Erie Pit Expansion Noise Study are fully implemented.

Nexus: SCC 14.16.840(5).

***Land & Shoreline Use/Housing Elements***

Potential Impacts: Gravel mine expansion may impact local land/shoreline use and nearby housing and residential use. Potential impacts to land/shorelines use and residential use is noise, vehicle emissions, traffic impacts associated with mining operations and dust generation.

The SEPA checklist indicates that the proposed expansion of the mining operations will not impact land & shoreline use or housing. But will support development in the area requiring sand & gravel resources.

Staff finds that the proposed mine expansion is located 850 feet from nearest shoreline and within 200 feet of the nearest housing/residential use. As described in the previous elements above, excessive noise, emissions and dust generation are not anticipated to impact land/shorelines use and residential use provided the mitigation measures are implemented. Impacts from traffic and transportation is addressed below in the transportation section

Mitigation Measures: Vehicle emissions and dust generation impacts are adequately addressed by local, state, and federal regulations, permits (Sand and Gravel permit, NPDES permit, special use permit) and best management practices (DNR's Best Management Practices for Reclaiming Surface Mines in Washington and Oregon, OFR 96-2). Mitigations for noise impacts are addressed in the Noise element. Mitigations for traffic impacts are addressed in the transportation element. Staff finds there are no significant adverse Land/Shoreline use/housing impacts created by the proposal other than that normal to the current surface mining processes.

Nexus: SCC Chapters 14.16.440 (Mineral Resources), SCC 14.16.900 (Special Use), and SCC 14.16.840 (additional Special Use criteria).

***Aesthetics/Light & Glare Elements***

Potential Impacts: Gravel mine site expansion and development may impact local aesthetics including impacts from equipment operation generating light and glare.

The SEPA checklist indicates that the proposed mine expansion will not have an adverse impact to aesthetics, light or glare.

Staff finds that the topographic location of the existing mining site will continue to minimize aesthetic impacts by ongoing mining operations due to existing topography. However mining operations will continue to be visible from the north and east. Additional aesthetic impacts are anticipated due to an increase in scale of the mining operation and the removal of trees and vegetation from the areas proposed for expanded mining operations. Lights from trucks may be visible when trucks are accessing or traveling down Rosario Road and Marine Drive in the early morning and early evening hours of the winter months.

Existing perimeter vegetated buffers and the proposed noise control perimeter berms to the north, south, east and west will control some of the potential light and glare impacts. It is anticipated that the aesthetic impacts of operating trucks and equipment will decrease as the operational mining depth decreases. After completion of sand and gravel extraction, the area will be graded (reclamation) to simulate the natural topography of the area, the top soil initially stripped from the mine area will be returned, and the mine area will be reforested. Staff finds there are no adverse aesthetic impacts created by the proposal that should be mitigated through the SEPA process.

Mitigation Measures: Impacts to aesthetics and light/glare are adequately addressed by site topography and the addition of noise control perimeter berms. Application of the “Best Management Practices” (DNR’s Best Management Practices for Reclaiming Surface Mines in Washington and Oregon, OFR 96-2) will limit impacts by light and glare. Staff finds there are no significant adverse impacts to aesthetics & light/glare created by the proposal that is currently present by ongoing mining operations.

Nexus: SCC Chapters 14.16.440 (Mineral Resources), SCC 14.16.900 (Special Use), and SCC 14.16.840 (additional Special Use criteria).

### ***Recreation Element***

Potential Impacts: Gravel mine expansion may impact local recreational opportunities in the area.

The SEPA checklist indicates that the proposed mine expansion will not have an impact on recreation.

Staff finds that there are no known recreational opportunities on or in the vicinity of the mine and proposed expansion area. However some recreational target shooting has occasionally been reported within the boundaries of the existing mine. The recreational target shooting is not available to the general public and only occurs with the permission of the mine owner/operator. No recreational shooting will occur during mining operations. Staff finds there are no adverse recreational impacts created by the proposal that should be mitigated through the SEPA process.

Mitigation Measures: Staff finds there are no adverse recreational impacts created by the proposal that should be mitigated through the SEPA process.



Nexus: SCC Chapters 14.16.440 (Mineral Resources), SCC 14.16.900 (Special Use), and SCC 14.16.840 (additional Special Use criteria).

***Historic and Cultural Preservation Element***

Potential Impacts: Gravel mine expansion may impact historic buildings or structures onsite or encroach into areas of cultural importance.

The SEPA checklist indicates there are no known historic buildings or structures onsite and no known areas of cultural importance.

Mitigation Measures: Staff finds there are no adverse historic or cultural preservation impacts created by the proposal that should be mitigated through the SEPA process. However, should any human remains, archaeological, historic or cultural materials be discovered during mining operations, work in the affected area shall cease immediately and the area shall be secured. Within 24 hours, of the discovery, or as soon thereafter as possible, the developer shall notify the Skagit County Sheriff's office, Skagit County Planning and Development Services, the Washington State Department of Archeology and Historic Preservation and affected tribes. If following consultation with the above parties it is determined that an archaeological and cultural resource assessment is required, the project developer shall retain the services of a professional archaeologist to prepare such an assessment. Project work in the affected area shall only continue when in conformance with applicable state and federal laws.

Nexus: SCC Chapters 14.16.440 (Mineral Resources), SCC 14.16.900 (Special Use), and SCC 14.16.840 (additional Special Use criteria).

***Transportation Element***

Potential Impacts: Expanded gravel mining operations will increase truck and trailer traffic, generating an average of 13 loads per day or 26 truck trips per day or 3,380 truck trips per year. Approximately 8 new truck trips anticipated during peak hour traffic. Proposed operating hours are Monday through Friday 8 am – 5 pm and Saturday 8 am – 12 pm.

The SEPA checklist for the transportation element indicates Rosario Road, Marine Drive and Havekost Road will be utilized during mining operations. The checklist indicates that no impact will occur as a result of the increased operations.

The County's development regulations with regard to traffic impacts are found in Skagit County Code, Title 11. The traffic report submitted by the applicant for this proposal was forwarded to Skagit County Public Works, Engineering Division and the Washington Department of Transportation to evaluate traffic impacts. Skagit County Public Works Engineering Divisions response to these issues are attached. Key conclusions from the evaluation concluded that upon review of the County's existing regulations, there are no adverse impacts to the traffic created by the mining expansion proposal.

Mitigation Measures: Two conditions onsite that may be mitigated through the SEPA process. The site distance to the west of the access road to the mine does not meet AASHTO guidelines for intersection sight distance, and the existing access to the site does not adequately minimize tracking of soil offsite. Mitigations include increasing the site distance to Marine Drive for trucks entering Rosario Road. SEPA conditions include clearing parcel P19108 of brush, trees and site grading as necessary to increase the site distance to Marine Drive. In addition SEPA conditions include placing an asphalt apron, with rumble strips, on the existing gravel mining access road to prevent tracking of mud and debris offsite.

Nexus: SCC Title 10 & 11, and Skagit County Road Engineering Standards. See Skagit County Public Works Memorandum.

### ***Public Services & Utilities Elements***

Potential Impacts: Gravel mine expansion may impact public services and utilities.

The SEPA checklist indicates that the gravel mine expansion will not increase the need for public services or use additional utilities on the subject site.

Mitigation Measures: As the gravel mine expansion will not increase the use of public services and utilities, Staff finds there are no adverse impacts created by the proposal that should be mitigated through the SEPA process.

Nexus: SCC Chapters 14.16.440 (Mineral Resources), SCC 14.16.900 (Special Use), and SCC 14.16.840 (additional Special Use criteria).

### **County and Agency Comments**

The proposal has been circulated internally to applicable County Departments and to all of the following agencies and tribes: WA State Department of Ecology, WA State Department of Fish and Wildlife, WA State Department of Natural Resources, WA State Department of Transportation, WA State Department of Archeology and Historic Preservation, NW Clean Air Agency, City of Anacortes, Samish Tribal Council, Skagit River System Cooperative, Swinomish Tribal community.

Copies of all Comments are contained in the Official File

Copies of Comments received from County Staff and Agencies are attached to this report

The following is a list of the comments received from County Staff and Agencies:

- Email from Steve Ranten with WA State Department of Natural Resources, dated January 31, 2017. The DNR commented that a Class IV General forest practice conversion will be required for any timber harvest associated with the mine expansion (a condition was added to the SEPA threshold determination requiring

a Class IV G forest practice permit for timber harvest onsite meeting Class IV general thresholds).

- Email from Libby Grage with the City of Anacortes, dated January 31, 2017. The City of Anacortes requested a copy of the site plan for the proposed mine expansion (A site plan was forwarded to the City of Anacortes).
- Email and letter from Doug Gresham with WA Department of Ecology, dated February 10, 2017. Washington Department of Ecology comments that a wetland is near the mining proposal (Devils Elbow Lake) and requests a wetland evaluation. (A wetland site assessment was completed and forwarded to Ecology for review. No additional comments were received from Ecology.)

### ***Other Public Comments***

The proposal has been circulated to property owners near the subject site. Comments received from neighbors and other concerned citizens are listed, and briefly summarized below. Comments from staff, if applicable, are incorporated below.

Copies of all Comments are contained in the Official File

### ***Public Comment Summary***

- Letter from Frank Jeretzky, 13664 Rosario Road, dated February 6, 2017, supportive of the proposal.
- Letter from Paul and Janice Flinn, 4929 Sharpe Road, dated February 6, 2017, concerned about decreased property values, aesthetic impacts, groundwater contamination, increased noise, and impacts associated with increased truck traffic.
- Email from Jesse Brown, 13060 South Wildwood Lane, dated February 8, 2017, supportive of the proposal.
- Email from Abbey Jacobs, 13159 Deane Drive, dated February 12, 2017, concerned about environmental impacts to land stability, forest & wildlife habitat destruction, water runoff and pollution, increased noise and impact associated with increased truck traffic.
- Email comment from Sherry Hill, 13159 Deane Drive, dated February 12, 2017, concerned about land stability, increased traffic, disturbance to wildlife habitat, water pollution and increased noise.
- Email comment from Brinkley Meyer, 13650 Rosario Road, dated February 17 & 21, 2017, concerned about increased noise, increased truck traffic, impacts to property values, and land stability.
- Email from C. Thomas Moser, 1204 Cleveland Avenue, Mount Vernon, attorney on behalf of his client concerned about the impact of the mining operation on Devils Elbow Lake (located offsite to the south).
- Email from Velma V. McKelvey, 1175 Baughman Dr. Claremont CA, opposes the operation of a gravel pit at that location.
- Email from Andy Dunn of RH2 (on behalf of Doddridge Family), 22722 29<sup>th</sup> Drive SE, suite 210, Bothell, WA, dated June 12, 2017, inquired about question on the status of the application.

- Email from Andy Dunn of RH2 (on behalf of Doddridge Family), 22722 29<sup>th</sup> Drive SE, suite 210, Bothell, WA, dated June 15, 2017, concerned about the hydrogeological impacts of the proposal on Devils Elbow Lake.
- Email from Andy Dunn of RH2 (on behalf of Doddridge Family), 22722 29<sup>th</sup> Drive SE, suite 210, Bothell, WA, dated June 20, 2017, question about the content of the wetland and Fish & wildlife site assessment.
- Email from Andy Dunn of RH2 (on behalf of Doddridge Family), 22722 29<sup>th</sup> Drive SE, suite 210, Bothell, WA, dated June 30, 2017, requesting that Parcel P19164 be removed from the proposal.
- Email from Andy Dunn of RH2 (on behalf of Doddridge Family), 22722 29<sup>th</sup> Drive SE, suite 210, Bothell, WA, dated July 6, 2017, provided advice on the location for installation of a monitoring well.

Before responding to the concerns, comments and claims summarized above, staff has provided brief background information to aid in understanding the limitations PDS has with regard to approving, denying, and/or conditioning the subject project.

**Background:** Skagit County is a Growth Management Act (GMA) county (RCW 36.70A). As such, the primary role of the SEPA process is to focus on environmental impacts not addressed by the County's existing, adopted, development regulations, Comprehensive Plan, and other applicable local, state and federal laws and regulations (RCW36.70B.030). This means that staff does not analyze previous legislative actions resulting in existing, zoning, adopted regulations or other similarly adopted land use decisions. Staff comments have been organized by the topic areas as follows:

#### **Wetland/Fish & Wildlife Habitat/Geologic Hazard Impacts**

Two comment letters were received concerned about impacts that the mining expansion would have on land stability, wetlands, forest and wildlife habitat destruction in the area. SCC 14.24, Critical Areas, contains the County's regulations with regard to critical areas (wetlands, fish and wildlife habitat conservation areas, and unstable slopes, etc). Skagit County's Critical Areas Ordinance incorporates best available science to achieve no net loss of critical area function and values while encouraging cost effective and efficient use of lands within the County thereby accomplishing State's growth management goals. The property has been evaluated for the presence of critical areas onsite and no wetlands or fish & wildlife habitat conservation areas or associated buffers encroach onto the subject property. The nearest wetland/fish and wildlife habitat conservation area is Devils Elbow Lake located 170 feet offsite to the south. The wetland was rated as a category III wetland with a 150 foot buffer.

Gravel mining operations may result in near vertical sidewalls within the interior of the mine and extend to a point approximately 100 feet from the property boundary. Shallow surficial landslides resulting from the near vertical sidewalls often occur as part of the mining operation. To mitigate for potential future impacts, the applicant proposes a 100-foot setback from the property line which will provide an adequate buffer to prevent failures from encroaching onto neighboring properties. Final reclamation will re-grade the parcel to simulate the natural topography of the area which will include reshaping

slopes to stable configurations, approximately 50% slope. There are no impacts that should be mitigated through the SEPA process.

### **Hydrogeologic Impacts**

Andy Dunn, a hydrogeologist with RH2 consulting, representing the property owner adjacent and south of the mining expansion area, submitted a comment letter indicating the hydrogeologic report did not evaluate the possible presence of a perched aquifers onsite. The nearby presence of Devils Elbow Lake and shallow groundwater conditions on parcels P19020 and P19138 indicate the possible presence of a perched aquifer in this location.

In response to the concern, the applicant commissioned a hydrogeologic study and submitted an Observation Well Installation letter. The letter represents a hydrogeologic evaluation for the presence of a perched aquifer between Devil's Elbow Lake and the mining area. The evaluation included advancing an observation well near the southern property boundary, adjacent to Devil's Elbow Lake and evaluating the area for the presence of a perched aquifer. The results of the evaluation concluded that a perched aquifer is not present in the area. In response to the neighboring property owners concern, the applicant voluntarily increased the buffer along the southern boundary of the property to 200 feet for 20 years to minimize disturbance to the neighboring property owner to the south.

As required by SCC 14.16.440, the applicant submitted a Hydrogeologic Report prepared by Maul Foster Alongi, dated September 28, 2016. The report discusses water quality and quantity impacts resulting from the mine expansion and concludes that mining activities on the subject site will not have an adverse impact on local groundwater or surface water quality or quantity.

### **Impacts from Storm Water Runoff**

One comment letter was received from Abbey Jacobs concerned about storm water runoff. All surface water runoff/drainage from mining operations will be directed into the interior of the gravel mine and collected in a temporary detention pond that will be maintained in the interior of the gravel mine. Storm water collected within the detention pond will infiltrate onsite. The sand and gravel resources onsite are highly permeable with high infiltration rates minimizing the risk of surface water runoff leaving the site.

### **Aesthetic Impacts**

One comment letter was received from Paul and Janice Flinn concerned about the impact of the expansion on aesthetics of the area. The topographic location of the existing mining site will continue to minimize aesthetic impacts by ongoing mining operations due to existing topography and the presence of the proposed and existing perimeter berms onsite. However mining operations will continue to be visible from the north. Additional aesthetic impacts area anticipated due to an increase in scale of the mining operation and the removal of trees and vegetation from the areas proposed for expanded mining operations. Lights from trucks may be visible when trucks are accessing or traveling

down Rosario Road and Marine Drive in the early morning and early evening hours of the winter months.

Existing perimeter vegetated buffers and the proposed noise perimeter berms to the north, south, east and west will control some of the potential light and glare impacts. It is anticipated that the aesthetic impacts of operating trucks and equipment will decrease as the operational mining depth decreases. After completion of sand and gravel extraction, the area will be graded (reclamation) to simulate the natural topography of the area, the top soil initially stripped from the mine area will be returned, and the mine area will be reforested. Skagit County PDS finds there are no adverse aesthetic impacts created by the proposal that should be mitigated through the SEPA process.

### **Noise Impacts**

Four comment letters were received from the public concerned about noise impact resulting from the mine expansion. It is anticipated that proposed expansion operations of the Lake Erie pit may produce noise levels in excess of Washington State residential noise standards during the hours of operation (Proposed operating hours are Monday through Friday 8 am – 5 pm and Saturday 8 am – 12 pm).

The maximum allowable noise level per Chapter 173-60 WAC allowed to be emitted from this property, a Class C EDNA property, onto a Class A EDNA property (residential) is 60 decibels and between the hours of 10:00 PM and 7:00 AM levels must be reduced by 10 decibels (or 50 decibels). The applicant has indicated that the mining operation is anticipated to be in compliance with both day and night Washington State and Skagit County noise regulations provided the recommendations included in the Lake Erie Pit Expansion Noise Study are fully implemented.

Staff concludes the noise control mitigation measures consistent with the noise study, shall be included as conditions on the SEPA threshold determination. The noise mitigation measures include the following:

- Maintain a 100 foot mining setback from Rosario Road and all property lines,
- No mining shall occur on parcel P19108,
- Prior to mining on parcels P19158 and P90028, a 14 foot high earthen berm or equivalent noise barrier shall be constructed to shield the excavation equipment on the western side of the parcel,
- Prior to mining on parcels P19161, a 16 foot high earthen berm or equivalent noise barrier shall be constructed to shield the excavation equipment on the northern and eastern side of the parcel,
- Prior to mining on parcels P19164, a 12 foot high earthen berm or equivalent noise barrier shall be constructed to shield the excavation equipment on the northern and eastern side of the site,
- Rock crushing and screening operations are limited to the processing area as indicated on the site plan.

### **Transportation and Traffic Impacts**

Four comment letters were received from the public concerned about traffic impacts resulting from the expanded gravel operations. Expanded gravel mining operations will increase truck and trailer traffic, generating an average of 13 loads per day or 26 truck trips per day. Approximately 8 new truck trips anticipated during peak hour traffic. Proposed operating hours are Monday through Friday 8 am – 5 pm and Saturday 8 am – 12 pm.

In general, the concerns expressed fall into the categories of increased traffic volumes and pedestrian safety. To respond to these concerns staff forwarded the traffic report to Skagit County Public Works, Engineering Division to evaluate traffic impacts, concerns, and provide responses. Skagit County Public Works Engineering Divisions response to these issues is attached. Key conclusions from the evaluation concluded that upon review of the County's existing regulations, there are no adverse impacts to the traffic created by the mining expansion proposal.

Staff concludes there are two conditions onsite that should be mitigated through the SEPA process. The site distance to the west of the access road to the mine does not meet AASHTO guidelines for intersection sight distance and the existing access to the site does not adequately minimize tracking of soil offsite. Improvements include increasing the site distance to Marine Drive for trucks entering Rosario Road. SEPA conditions include clearing parcel P19108 of brush, trees and grading the site as necessary to increase the site distance to Marine Drive. The SEPA threshold determinations includes a condition to construct an asphalt apron, with rumble strips, on the existing gravel mining access road to prevent tracking of mud and debris offsite.

### **Property Values**

One comment letter was received from Paul and Janice Flinn concerned about the impact of the expansion on property values in the area. Potential increases or decreases in property values are not criteria that County staff evaluates with development proposals. Staff notes, too, that new development almost always has some effect, sometimes negative and sometimes positive, on property values of abutting or nearby properties. This is a function of new development. Our conclusion is that no evidence was identified with which to support a negative economic impact to the expansion of the mining operation. Staff finds there are no adverse impacts created by the proposal that should be mitigated through the SEPA process.

### **Mitigation Measures**

The lead agency has determined that the requirements for environmental analysis, protection, and mitigation measures have been adequately addressed in the development regulations and comprehensive plan adopted under chapter 36.70A RCW, and other applicable local, state, or federal laws or rules, as provided by RCW 43.21C.240 and WAC 197-11-158.

The following conditions have been identified that will be used to mitigate the impacts of the proposal:

1. The public right-of-way shall be kept clean. Tracking of mud and debris off site shall not be allowed. An asphalt apron, with rumble strips, shall be constructed from the asphalt edge of Rosario Road 100 feet into the property on the existing/proposed gravel mine access road to prevent tracking of mud and debris off site.
2. The applicant shall comply with Northwest Clean Air Agency (NWCAA) requirements, including all dust control requirements both on and offsite. Visible dust generation shall require immediate best management plan (BMP) implementation as described in the Lake Erie Pit air quality best management practices recommendation memorandum by Maul Foster Alongi, dated September 15, 2016.
3. Temporary erosion/sedimentation control measures, as approved by the Skagit County Planning and Development Services, shall be in place prior to the initiation and maintained for the duration of the project pursuant to Skagit County Code (SCC) 14.32, Stormwater Management Ordinance.
4. The project shall comply with noise, vibration, and light/glare limitations as per SCC 14.16.840. Noise control mitigation measures, consistent with the noise study, shall include:
  - a. Maintain a 100 foot mining setback from Rosario Road and all property lines,
  - b. No mining shall occur on parcel P19108,
  - c. Prior to mining on parcels P19158 and P90028, a 14 foot high earthen berm or equivalent noise barrier shall be constructed to shield the excavation equipment on the western side of the parcel,
  - d. Prior to mining on parcels P19161, a 16 foot high earthen berm or equivalent noise barrier shall be constructed to shield the excavation equipment on the northern and eastern side of the parcel,
  - e. Prior to mining on parcels P19164, a 12 foot high earthen berm or equivalent noise barrier shall be constructed to shield the excavation equipment on the northern and eastern side of the site,
  - f. Rock crushing and screening operations are limited to the processing area as indicated on the site plan,
5. The project is limited to those activities described in the SEPA checklist and supporting documents. Significant deviation from the proposal may require additional review and approval by Skagit County Planning and Development Services.
6. The site distance to the west of the access road to the mine does not meet AASHTO guidelines for intersection sight distance. The applicant shall clear parcel P19108 of brush, trees and perform site grading as necessary to increase the site distance to Marine Drive.
7. The applicant shall comply with the provisions of Washington State Administrative Code (WAC) 173-200 & 173-201A as required to prevent surface water quality and groundwater impacts. Best management practices shall be utilized to prevent interference and/or degradation of water quality.
8. Gravel mining operations shall not extend to a depth closer than 10 feet above the seasonal high groundwater table as established by the Hydrogeologic Site



Assessment report by Maul Foster Alongi, dated September 28, 2016.

9. All soil imported for reclamation of the parcel must be certified as “clean soils”, as defined by WAC 173-350-100, by a consulting environmental geologist and independent testing laboratory. Written certification of the clean soils for each source of soil shall be provided to Skagit County Planning and Development Services and the Skagit County Health Department prior to transportation and placement of the soil material onsite. The certification shall indicate the source of the soil tested, locations of the samples obtained, laboratory test results for each source of soil, and the soil sampling data forms.
10. All fill soil imported to the site for the purpose of raising the mine base floor elevation to 300 feet mean sea level shall be placed in lifts not to exceed 8 inches in depth and compacted to 95% of ASTM D- 1557 modified proctor. Soils compaction test reports from a licensed geotechnical engineer verifying compaction shall be provided to the Skagit County PDS annually. The report shall indicate the source of the soil tested, locations of the compaction tests onsite, depth of fill at time of testing, proctor test results for each source of soil, and the soil compaction test data form.
11. A Class IV General forest practice permit shall be obtained from the Washington Department of Natural Resource prior to harvest of any timber onsite.
12. A Construction Stormwater General or Industrial Permit may be required by the Department of Ecology (WSDOE) for this project. Contact the WSDOE Bellingham Field Office to determine if a permit is required.
13. Should any human remains, archaeological, historic or cultural materials be discovered during mining operations, work in the affected area shall cease immediately and the area shall be secured. Within 24 hours, of the discovery, or as soon thereafter as possible, the developer shall notify the Skagit County Sheriff’s office, Skagit County Planning and Development Services, the Washington State Department of Archeology and Historic Preservation and affected tribes. If following consultation with the above parties it is determined that an archaeological and cultural resource assessment is required, the project developer shall retain the services of a professional archaeologist to prepare such an assessment. Project work in the affected area shall only continue when in conformance with applicable state and federal laws.

**Determination Comment & Appeal Process**

The County is using its discretion under WAC 197-11-350 to issue a MDNS. Comments on the above-listed information used to inform the issuance of this Mitigated Determination of Non-Significance (MDNS) must be submitted, in writing, no later than 4:30 p.m. on **December 7, 2018**.

Comments should be as specific as possible. Any person may comment on the application, receive notice of and participate in the public hearing, and request a copy of the decision once it is made.

Appeals of the environmental determination must be filed in writing on or before 4:30 PM on **December 21, 2018**.

Appeals must be submitted in writing on the appropriate Appeal form together with the required \$1000.00 application fee to: Hearing Examiner, Skagit County PDS, 1800 continental Place, Mount Vernon, WA 98273.

Appeals to the Examiner are governed by SCC 14.06.160. Additional information regarding the appeal process may be obtained from the Skagit County Planning and Development Services by calling (360)416-1320.

