

## John Cooper

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**From:** Martha Bray <mbray1107@gmail.com>  
**Sent:** Wednesday, January 16, 2019 12:52 PM  
**To:** Hal Hart; John Cooper  
**Cc:** jday0730@gmail.com; Julie S. Nicoll  
**Subject:** Status of CNW Grip Road Gravel Mine application?

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Hello Hal and John,

Now that we are well into the new year, many months since CNW appealed your denial of their proposed gravel mine near Grip Road, I see no new information on the County website. It is far past a reasonable amount of time to provide the community with some answers regarding the status of this proposal. We would really appreciate hearing what is happening and when the public can expect some accountability.

Thank you,  
Martha Bray

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**From:** Hal Hart <hhart@co.skagit.wa.us>  
**Sent:** Tuesday, December 4, 2018 8:22 AM  
**To:** 'Martha Bray' <mbray1107@gmail.com>  
**Subject:** RE: status of CNW Grip Road Gravel Mine application?

Good morning Martha:

The attorney for the County and for the gravel mining operation are still working to resolve the appeal issues. We will continue monitoring the conditions in the area and intend to have folks out there later today.

Sincerely,

**Hal Hart, AICP**  
Director

**Skagit County Planning & Development Services**  
1800 Continental Place  
Mount Vernon, WA 98273  
360-416-1328 | [HHart@co.skagit.wa.us](mailto:HHart@co.skagit.wa.us)



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**From:** Martha Bray <mbray1107@gmail.com>  
**Sent:** Monday, December 3, 2018 6:35 PM

**To:** John Cooper <[johnc@co.skagit.wa.us](mailto:johnc@co.skagit.wa.us)>; Hal Hart <[hhart@co.skagit.wa.us](mailto:hhart@co.skagit.wa.us)>

**Subject:** status of CNW Grip Road Gravel Mine application?

Hello John and Hal,

Can you please update me on what is happening with the Miles Sand and Gravel's proposal to develop a gravel mine off of Grip Road? We would really appreciate knowing approximately when you expect to release some information.

Thank you,  
Martha Bray

**Corrected email -- Attend Prehearing Conference for CNW appeal?**

Martha Bray [mbray1107@gmail.com]

**Sent:** Monday, February 25, 2019 8:34 PM**To:** Julie S. Nicoll; Stevee Kivi - Hearing Examiner/Records**Cc:** Hal Hart; John Cooper

Dear Ms. Nicoll and Ms. Kivi,

I apologize, I accidentally sent an incomplete draft of this email a few minutes ago. Please disregard that message.

Community members informally known as Central Samish Valley Neighbors respectfully request, as parties of record, to attend, observe and possibly participate in any PreHearing Conference held, regarding Concrete Nor'West's appeal of the of the Denial of the Mining Special Use Permit Application (PL16-0097). As stipulated in the Hearing Examiner Rules, we will designate an authorized representative to speak for us. Please let me know the dates and any necessary details of said conference.

Thank you,

Martha Bray  
6368 Erwin Ln  
Sedro-Woolley, WA 98284  
360.856.0644

**Re: Corrected email -- Attend Prehearing Conference for CNW appeal?**

Martha Bray [mbray1107@gmail.com]

Sent: Tuesday, February 26, 2019 8:55 AM

To: Julie S. Nicoll

Cc: Stevee Kivi - Hearing Examiner/Records; Hal Hart; John Cooper; Betsy D. Stevenson

Hello again,  
Our group is not represented by counsel at this time.  
Thank you,  
Martha

On Feb 26, 2019, at 8:12 AM, Julie S. Nicoll <[julien@co.skagit.wa.us](mailto:julien@co.skagit.wa.us)> wrote:

Ms. Bray,

Can you please clarify if you and/or your group is represented by counsel?

Thank you,

Julie Nicoll

Deputy Prosecuting Attorney  
Skagit County  
Civil Division – Planning & Development Services  
(360) 416-1638

**From:** Martha Bray <[mbray1107@gmail.com](mailto:mbray1107@gmail.com)>

**Sent:** Monday, February 25, 2019 8:34 PM

**To:** Julie S. Nicoll <[julien@co.skagit.wa.us](mailto:julien@co.skagit.wa.us)>; Stevee Kivi - Hearing Examiner/Records <[skivi@co.skagit.wa.us](mailto:skivi@co.skagit.wa.us)>

**Cc:** Hal Hart <[hhart@co.skagit.wa.us](mailto:hhart@co.skagit.wa.us)>; John Cooper <[johnc@co.skagit.wa.us](mailto:johnc@co.skagit.wa.us)>

**Subject:** Corrected email -- Attend Prehearing Conference for CNW appeal?

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Thank you,

Martha Bray  
6368 Erwin Ln  
Sedro-Woolley, WA 98284  
360.856.0644

**FW: Corrected email -- Attend Prehearing Conference for CNW appeal?**

Julie S. Nicoll

**Sent:** Monday, March 4, 2019 8:01 AM**To:** John Cooper; Betsy D. Stevenson

FYI

**From:** Martha Bray <mbray1107@gmail.com>**Sent:** Saturday, March 2, 2019 3:46 PM**To:** Julie S. Nicoll <julien@co.skagit.wa.us>**Cc:** Hal Hart <hhart@co.skagit.wa.us>**Subject:** RE: Corrected email -- Attend Prehearing Conference for CNW appeal?

Ms. Nicoll,

I apologize if my request was untimely. However, our experience in the past was that we were not notified of matters related to the appeal. Therefore we are trying to make sure we don't miss anything important. Given our long standing interest in this matter, we feel it is reasonable to request that at least a couple of representatives from our group attend any prehearing conference -- not necessarily to participate, but at least to observe and listen. If this is not possible, please provide us with citations in the code that support excluding concerned members of the public. I look forward to hearing from you.

Thank you,  
Martha Bray

**From:** Julie S. Nicoll <julien@co.skagit.wa.us>**Sent:** Tuesday, February 26, 2019 9:27 AM**To:** 'Martha Bray' <mbray1107@gmail.com>; Stevee Kivi - Hearing Examiner/Records <skivi@co.skagit.wa.us>**Cc:** Hal Hart <hhart@co.skagit.wa.us>; John Cooper <johnc@co.skagit.wa.us>; Betsy D. Stevenson <betsyds@co.skagit.wa.us>; 'Lynn, Bill' <BLynn@gth-law.com>**Subject:** RE: Corrected email -- Attend Prehearing Conference for CNW appeal?

Ms. Bray,

To date, no request has been made to the Hearing Examiner for a pre-hearing conference. The parties are still coordinating on this matter, so the Hearing Examiner has not been made aware of this request and is likely confused by your e-mail. The parties will be contacting the Hearing Examiner about this request at a later date once our schedules are coordinated. We respectfully disagree that your group should be allowed to participate in any future prehearing conference based on the Hearing Examiner's prior ruling denying the motion to intervene.

Sincerely,

Julie Nicoll

Deputy Prosecuting Attorney

Skagit County

Civil Division -- Planning &amp; Development Services

(360) 416-1638

**From:** Martha Bray <mbray1107@gmail.com>**Sent:** Monday, February 25, 2019 8:34 PM**To:** Julie S. Nicoll <julien@co.skagit.wa.us>; Stevee Kivi - Hearing Examiner/Records <skivi@co.skagit.wa.us>**Cc:** Hal Hart <hhart@co.skagit.wa.us>; John Cooper <johnc@co.skagit.wa.us>**Subject:** Corrected email -- Attend Prehearing Conference for CNW appeal?

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Thank you,

Martha Bray  
6368 Erwin Ln  
Sedro-Woolley, WA 98284  
360.856.0644

March 11, 2019

Skagit County Hearing Examiner  
700 S. 2nd Street, Rm. 100  
Mount Vernon, WA 98273

Via email only

**RE: Request regarding the scheduling of any hearings related to the application for Mining SUP -- PL-16-0097 and/or the Appeal of the Decision to Deny Application**

Dear Mr. Dufford:

For more than two-and-half years, we have been deeply involved with our community's effort to review and comment on Concrete Nor'West/Miles Sand and Gravel's Mining Special Use Permit Application (PL-16-0097). This application proposes a new gravel mine near Grip and Prairie Roads. As you know the County's denial of this application was appealed by the applicant last year, and was in settlement discussions until recently. It now appears that the matter will go forward to appeal, but the appeal hearing has not yet been scheduled. We have a long-standing plan to be out of the country from April 10<sup>th</sup> through May 22<sup>nd</sup> of this year. Therefore, we respectfully request that any hearings related to this matter not be scheduled before May 25, 2019 so that we can fully participate.

Thank you for your time and consideration.

Sincerely,



Martha Bray and John Day  
6368 Erwin Ln.  
Sedro-Woolley, WA 98284

Cc: Stevee Kivi  
Julie Nicoll  
Hal Hart  
William Lynn

March 11, 2019

Skagit County Hearing Examiner  
700 S. 2nd Street, Rm. 100  
Mount Vernon, WA 98273

Via email only

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Thank you for your time and consideration.

Sincerely,



Martha Bray and John Day  
6368 Erwin Ln.  
Sedro-Woolley, WA 98284

Cc: Stevee Kivi  
Julie Nicoll  
Hal Hart  
William Lynn

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20 March 2019

John Cooper  
Skagit County Planning & Development Services  
800 Continental Place  
Mount Vernon, WA 98273

Re: Concrete Nor'west/Miles Sand & Gravel; PL16-0097, Mining Special Use Permit

Dear Mr. Cooper,

I have reviewed a letter from Mr. William Lynn representing Miles Sand and Gravel (Miles) to Julie Nicoll, Deputy Prosecuting Attorney of Skagit County Prosecuting Attorney's Office, dated 29 January 2019 and have the following comments. During my review of said letter, I have again read previous submitted reports, and have a few additional comments, clarifications, concerns, and recommendations.

In Mr. Lynns' referenced letter, 1<sup>st</sup> page, last paragraph, he refers to the "City's" March 14, 2017 letter. I assume this is a typographical error and should read "County's letter".

On page 2 of said Lynn letter, **Fueling**, Lynn states "*yes fuel "may" be stored on site..*" This is inconsistent with, at a minimum, the AESI 21 August 2015 letter/report, page 00170, second paragraph, **Ground Water Quality**, last sentence states "*No permanent fueling or maintenance facilities are proposed for the Site*". "*May be*", and "*no permanent*" fueling, indicate that it will occur in the future, therefore all necessary environmental impacts need to be considered and included in their permit package.

On page 2 of said letter, 4<sup>th</sup> paragraph, **Processing**, Mr. Lynn states "*Again, the May 15, 2017 letter from Miles Sand & Gravel to the County makes clear that no processing is proposed.*" Mr. Lynn's statement is inconsistent with, at a minimum, the AESI, 21 August 2015 letter/report page 00170, 2<sup>nd</sup> paragraph, **Ground Water Quality**, "*The proposal is for a surface mining operation with on-site processing limited to stock piles and dry screening.*" Dry screening is "processing". This is also inconsistent with the Revised Application Narrative dated 2 August 2018, page 1, first paragraph, "*The gravel will be loaded into trucks and transported to one of Concrete Nor'West's nearby facilities for processing.*" In other words, we request clarification, will processing occur on site, if so when, or, will gravel forever be hauled off site for processing?

### **Transportation**

Additionally on page 00167 of the AESI letter/report, it states "*The mined resource will be loaded into trucks and transported to market*". This statement is inconsistent with several of Miles' narratives such as their Revised Application Narrative that states, page 1, 3<sup>rd</sup> paragraph, "*The gravel will be loaded into trucks and transported to one of*

*concrete Nor'west's nearby facilities for processing. Operations onsite will be limited to excavation and removal from the site. No process is proposed onsite at this time.*" To reiterate, these two previous quotes are in conflict. If said mined gravel will be transported to market, all potential haul routes must be included in all reports such as vibration and noise, road safety, and biological impacts.

On page 3 of Mr. Lynn's letter, first paragraph, he references vibration screening process...again...*"The gravel will be loaded into trucks and transported to one of concrete Nor'west's nearby facilities for processing. Operations onsite will be limited to excavation and removal from the site. No process is proposed onsite at this time."* "At this time" indicates it will proceed in the future. Therefore, it is apparent Miles is planning on processing on site. Such processing and subsequent cumulative impacts need to be addressed in their application at this time.

Item 4, page 3, 4<sup>th</sup> paragraph, Mr. Lynn states in Road Issues *"We have previously submitted an as-built drawing of the existing logging access road"*. This statement lacks clarity as to which as-built this is? Is it prior to the 2018 road maintenance, i.e. as the timber harvest roads have been for many years, or is it the "new" condition as-builts from the recent "road maintenance" that occurred summer of 2018 where the mine haul road was widened, ditched, and resurfaced? We require clarity to respond accordingly.

#### **Habitat**

Within the contents of the Graham-Bunting Associates 18 April 2017 Addendum to Fish and Wildlife Site Assessment" Parcels 50155, 125644, 125645, said report discussed the identification of critical habitat associated with the Oregon Spotted Frog (*Rana pretiosa*) in the wetland adjacent to the Samish River on the Miles mine property. Due to the presence of a mapped Endangered Species Act (ESA) listed species on the subject property, the Wetland Rating Form that was within the Graham Bunting original wetlands report, said rating needs to be updated to include this finding (the presence of a listed species), and, updated using the "Wetland Rating System for Western WA; 2014 Update Rating Form – Effective January 1, 2015".

Thank you for the opportunity to express my concerns. Additional comments are warranted however most have been expressed previously. A short list of additional comments include, but are not limited to:

1. We need a survey of the field flagged wetlands and Ordinary High Water Mark (OHWM) of the Samish River and any additional Skagit County regulated critical areas within the regulated buffers of all past work and proposed work on the Miles parcels.
2. Miles has never provided clarity of their intention to not be nearer than 10 feet above the ground water table when excavating gravel in the mine. There is no mention of how they will determine to ensure that ground water is not penetrated.

3. One of the arguments within the Graham and Bunting wetlands report as it pertains to a 200-foot buffer, and, in the Revised Application Narrative that states, page 4, 7<sup>th</sup> bullet "*No processing or industrial activity is proposed in conjunction with the project*". If processing is to occur on site in the future, the above statements and subsequent rating need rectified.
4. We request Miles resubmit their application, with edits to all reports, to be consistent. Otherwise which narrative, checklist, or report are we to use for our comments.
5. The haul road was recently widened and bolstered for hauling gravel. I formally request all survey data, pre-Miles ownership, pre-Miles logging, and post summer 2018 road maintenance. Please include all field notes of Skagit county personnel on this specific matter.

Respectfully,



Jim Wiggins  
21993 Grip Road  
Sedro-Woolley, WA 98284

Cc: Hal Hart  
Julie Nicoll

April 3, 2019

Skagit County Hearing Examiner  
700 S. 2nd Street, Rm. 100  
Mount Vernon, WA 98273

Via email only

**RE: Status of Mining SUP / PL-16-0097**

Dear Examiner Dufford:

Thank you for sending us a copy of your March 29, 2019 Order regarding "Next Steps" for Concrete Nor'West/Miles Sand and Gravel's Mining Special Use Permit Application (PL-16-0097). We very much appreciate being kept informed of the status of this application. It is with some hesitation that we write to you concerning this matter, as we do not want to burden you with more complaints about this application process before a hearing is even scheduled. However, since the applicant's attorney seems to have successfully argued for more time to complete their application based on inadequacies in County procedures, we need to point out even more critical procedural errors that are not acknowledged by the applicant and that have afflicted this application process from the beginning. These are consequential errors that we feel should matter to you, but we are concerned they may have gotten "back-burnered" during this long, drawn-out application period.

We have kept a chronology of the application process since the first Notice of Development Application was issued in March of 2016. An abbreviated version of this chronology is attached. When reviewing this, please understand that we are concerned citizen volunteers who do not have the training to describe this application process in the most precise legal terms. But we have done our best to accurately document the steps in the process as we understand it, and to point out where it appears that proper procedures or county code were not followed. There are two issues we feel most relevant to the current status of the application. The first is related to notification and the second to application extensions.

As you may recall there was a failure to issue proper notice in 2016 for the original application, the SEPA Threshold Determination and the Notice of Public Hearing. As a result, only 8 landowners out of the 34 who were legally entitled to it, received notice. This faulty notice was only corrected after the period had passed for appealing the SEPA Threshold Determination, denying many landowners a chance to appeal. When the matter of the faulty notice was identified in December 2016, the original hearing was cancelled or "continued" (shown on attached Chronology under "November – December 2016").

Sometime after the hearing was continued, the County created a link on the County's public website where all of the project documents and public comments have been posted [<https://skagitcounty.net/Departments/PlanningAndPermit/gravelmine.htm>]. From the beginning, the narrative on this public website that explains the status of the application includes the following language (emphasis ours):

*Because there were factual discrepancies in Concrete Nor'West's application, project description, SEPA Checklist, traffic study, and fish & wildlife site assessment, Skagit County requested updated materials from the applicant. Once Skagit County reviews the updated materials, it will*

issue a revised SEPA threshold determination for public comment and hearing. Since certain neighbors were inadvertently excluded from the original notice list prepared by the applicant, Skagit County will update the list and ensure that proper notice is provided. Subsequently, Skagit County will revise its Staff Report regarding the Special Use Permit. A public comment period and hearing before the Hearing Examiner will follow.

This matters because the applicant continues to assert that the original 2016 SEPA threshold determination is valid and that the application should proceed to hearing without a revised SEPA threshold determination, despite the faulty notice issue and numerous other procedural discrepancies. The clear intent on part of the County as stated on the public website is to issue a revised SEPA determination. This is what the community has been promised. And, despite the County's laudable efforts, and the extended comment period, the applicant still has not addressed significant community concerns surrounding public safety and the environment. The proposal, including the SEPA threshold determination, needs the full public review process required under Skagit County Code and state statutes.

The second issue is the process by which the application was extended in the fall of 2017, which was done informally by phone and email between the former planning director and the applicant, without a written request and determination, as is required by SCC 14.06.105(1); and the extension was granted well past the required deadline for such a request (shown on attached Chronology under "October – December 2017"). And yet now, one-and-half years later, the applicant has succeeded in getting even more time extensions, arguing that the County violated county code by not stating in writing specific requirements. This seems a double standard at best.

We respectfully request that these significant procedural matters be taken into consideration as this application proceeds to hearing. And, please continue to keep us informed about the status of this appeal and any prehearing conference. Thank you for your time and consideration.

Sincerely,



Martha Bray and John Day  
6368 Erwin Ln.  
Sedro-Woolley, WA 98284

Cc: Stevee Kivi  
Julie Nicoll  
Hal Hart  
John Cooper  
William Lynn

Attachment: Abbreviated Chronology of Proposed SUP for Grip Road/Samish River Gravel Mine

**SAMISH RIVER / GRIP ROAD PROPOSED GRAVEL MINE  
SPECIAL USE PERMIT APPLICATION (PL16-0097)  
TIMELINE March 2016 – March 2019**

March – October 2016

- Skagit County Department of Planning and Development Services ('County') publishes Notice of Development Application for Mining Special Use Permit (3/31/2016), from Miles Sand and Gravel/Concrete Nor'West ('CNW'). "Letter of Completeness" for application issued on 3/22/2016.
- County issues State Environmental Policy Act (SEPA) Threshold Determination – Mitigated Determination of Non-Significance (MDNS) (5/24/2016).
- Community members who are aware of project send in comments.

November – December 2016

- County issues Notice of Special Use Permit Public Hearing and staff report (11/18/2016).
- On the day of the Public Hearing, County reveals that proper Notices for both the Development Application and the SEPA Threshold Determination, as well as the Notice of Public Hearing, were not issued to many of the landowners surrounding the proposed mine as required by law (12/7/2016).
- Public Hearing convened & then cancelled by Hearing Examiner due to Notice issues (technically Hearing is "continued") (12/7/2016).
- Further investigation reveals that the required list of adjacent landowners, provided by the applicant to the County for notification purposes, was based on those landowners who were located 300 feet from the Assessor parcels containing the proposed mine site, not 300 feet from all of the applicant's contiguous 700+ acre ownership. This resulted in only 8 landowners being contacted instead of 34; less than one-quarter of the surrounding landowners that were legally entitled to Notice received it.
- County issues a new Notice of Development Application on 12/15/2016 after the Public Hearing is continued.
- County extends the public comment period, but does not withdraw its original SEPA Determination, even though the deadline for appealing the SEPA determination passed well before many landowners received legal Notice.
- As community members are alerted to concerns, many more comments are submitted.

January – April 2017

- More than one-hundred comments received by County from the community about traffic safety and environmental concerns.
- County responds by requiring more information from the applicant and stating that a new staff report and SEPA threshold determination will be issued after additional information is received from CNW, but still does not formally withdraw its previous SEPA determination.

May – June 2017

- CNW sends a response to the County basically arguing that their original application materials are adequate and stating that the County already issued a letter of completeness, MDNS, etc (Cox to Cooper 5/15/17).
- County sets up link on County website with documents posted about the project including public comments and written correspondence between County and CNW.

July – August 2017

- County sends letter to CNW stating that the revised application materials submitted are incomplete and that the application will not be processed until requested information is provided (Cooper-Cox 7/06/17).

### October – December 2017

- County sends letter to CNW stating that their application is still incomplete, and that they have 120 days from the County's 7/06/2017 letter to submit requested information; and stating that the County will deny the permit if complete information is not received by 11/03/17 (Pernula to Cox 10/25/2017).
- County Attorney (Nicoll) forwards to Bray a series of email exchanges between Mr. Pernula (County Planning Director) and Mr. Cox (CNW Project Manager) regarding a phone conversations between them, whereby an extension of CNW's application was apparently granted (Nicoll – 10/30/2017). In this email exchange Pernula states that: 1) CNW needs to provide a schedule for submission of additional info by 11/03/2017; 2) all required information must be submitted by 2/25/2018; 3) the parties also discuss meeting in person to "clarify" what additional information is required.
- Community members submit letter to the County objecting to the way the application extension was granted without any written record, nor meeting other requirements set out in SCC 14.06.105(1). The letter also expressed concerns about the lack of transparency and clear process, and asking to be kept informed regarding what the County is requiring of the applicant (Bray/Day to Pernula – 11/02/2017).
- CNW does not submit a schedule for its submission of additional information by the 11/3/2018 date cited by Pernula in his email to Cox and County does not follow-up to enforce deadline.
- CNW sends letter to County on 11/21/2017 referencing a meeting held with County staff on 11/20/2017, and vaguely responding to requirements to submit a schedule for submittal of additional info. CNW's letter mentions a Noise and Vibration Study, and makes opaque references to the "remaining issues".

### January – April 2018:

- County issues formal Decision to deny CNW's Special Use Permit Application as incomplete and for failure to timely submit requested information (Hart-Cox 4/5/2018 & Notice of Decision 4/5/2018).
- CNW formally appeals County's Decision to Deny Application to the Hearing Examiner (Cox & Lynn/received by County April 16, 2018).
- Eleven community members file a request to Hearing Examiner to be recognized as interveners or party to the appeal (Bray to Dufford 5/8/2019).
- Community members and their attorney attend Prehearing Conference, where the County Attorney announces that community members request to intervene "is moot" because "settlement discussions" were already being held between the County and the applicant (5/5/2018).
- Hearing Examiner issues Order that denies Community member's request to intervene, citing that community members have recourse available, which is to appeal any reversal of County's decision to deny application. The Order also states: *"The appeal is continued for 90 days from the date of this Order – to August 14, 2018. Prior to or on that date, the County shall advise the Hearing Examiner of the status of settlement discussions. An appropriate further Order will be entered by the Examiner on receipt of the County's report."* (Dufford Order 5/17/2018).

### July – August 2018

- Bray and Day contact the County asking procedural questions regarding what the timeline and process will be if and when a settlement is reached. Director Hart responds with a prepared statement: *"The attorneys are handling settlement negotiations directly, so I am not at liberty to discuss it. Per the Hearing Examiner order, the County will provide an update on or before August 14<sup>th</sup> regarding the status of the settlement."*
- The deadline for the County to report on the settlement discussions is extended by the Hearing Examiner from 8/14/2018 to 9/17/2018 (Kivi email to Interested Parties -- 8/10/2018)

- During this settlement period, CNW conducts major work on its two-mile long proposed private gravel haul road including major earthmoving work, with dozens of dump trucks hauling gravel and other material to the site. Community members raise concerns with the County about this work being done apparently without an approved permit (Bray email to Cooper 7/30/2018). CNW's explanation about road work is that the work is all "routine maintenance" of forest roads allowed under their Forest Practice Application (Lynn email to Nicoll 7/30/2018). Numerous comments are sent to the County and to the WA Dept. of Natural Resources (DNR) stating that the haul road work is clearly to upgrade the road to haul gravel in preparation for the conversion of the site to a mine and as such it should be under jurisdiction of the County. Comments state that CNW is exploiting a loophole in the regulations to upgrade its haul road without regulatory oversight. They urge the County to exercise its authority over "land conversions" to properly oversee the work (Wiggins to Klingbiel & Cooper 9/13/2018; Bray/Day to Hart 10/2/2018). The County does not respond.

#### September – December 2018

- Bray and Day inquire repeatedly to the County regarding the status of CNW's appeal and settlement negotiations, and regarding the Hearing Examiner's September (extended) deadline for a status report on the settlement discussions (no status report of the settlement discussion was ever made public). Eventually Planning Director Hart forwards an email to Bray, from the County attorney to the Hearing Examiner. It states that the application materials requested from CNW have been received but the County had not had a chance to review them yet, and staff will update the Hearing Examiner when the review is complete (Nicoll to Kivi -- 9/17/2018).
- County Staff provide to Bray and Day these additional "application materials" that were submitted by CNW and they are posted on the public website.

#### January – February 2019

- For nine months from the date of the original appeal -- April 2018 through Jan 2019 -- no information is provided to the public by the County regarding the appeal or the status of the settlement discussions.
- County Attorney forwards to Bray a letter sent to CNW's attorney stating that *"Despite our best efforts to settle this matter, it appears we must proceed to hearing on the appeal of the denial of the incomplete application."* The letter goes on to detail the numerous "outstanding items supporting the denial of the application" (Nicoll to Lynn 2/22/2019).

#### March – April 2019

- CNW's attorney sends letter to Hearing Examiner objecting to how County has conducted settlement process, and requesting a Prehearing conference or a written list from the County of all deficiencies in the application (Lynn to Dufford 3/22/2019).
- Hearing Examiner issues an Order requiring the County to provide the Applicant a written list of deficiencies in application, and giving Applicant 30 days from receipt of said letter to respond, and recommending a settlement conference during that 30 day period. A tentative date for a prehearing conference is set for May 29, 2019 (Dufford to 'Parties' 3/29/2019)

**Public records referenced herein, application documents, and public comment letters can be found @:**  
<https://skagitcounty.net/Departments/PlanningAndPermit/gravelmine.htm>



## Grip Road Gravel Pit

Kayla Kjallin [kayla.kjallin@savvylane.com]

Sent: Wednesday, April 24, 2019 2:19 PM

To: John Cooper

Hello John,

Can you please get back to me and let me know if there has been any kind of decision made on this yet? If not, when can we expect a decision to be made?

I appreciate your help on this matter.

--

Thank you,

**Kayla Kjallin | SAVVY LANE**

**C** [425-231-4113](tel:425-231-4113)

**P** [800-915-9174](tel:800-915-9174)

**F** [800-273-4836](tel:800-273-4836)

[kayla.kjallin@savvylane.com](mailto:kayla.kjallin@savvylane.com)

[www.savvylane.com](http://www.savvylane.com)

CA LIC: 01993358 | OR LIC: 201214678 | WA LIC: 30348

This communication may contain confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

29 May 2019

John Cooper  
Skagit County Planning & Development Services  
800 Continental Place  
Mount Vernon, WA 98273

Re: Concrete Nor'west/Miles Sand & Gravel; PL16-0097, Mining Special Use Permit  
17 May 2019 letter from William Lynn to Wick Dufford.

Dear Mr. Cooper,

I have reviewed the above referenced letter written by Mr. William Lynn, representing Miles Sand and Gravel, (Miles) to Wick Dufford, Skagit County Hearing Examiner. Said letter generally voices concerns about the County's "*best effort to explain what it is looking for and will respond accordingly*". My concern with this letter is the reference to the access road from Grip Road to the proposed mine site. The focus of said road has shifted from a maintained logging road to a county approved road to access a non-permitted gravel mine.

An excerpt from said letter, from the top of page 2, Mr. Lynn states:

*"For example, there was an onsite meeting with County and Miles representatives to discuss the road. At that meeting, Miles understood that it would be a relatively simple matter to process a variance to modify County road requirements to avoid critical areas impacts that all agreed were unnecessary. However, in the County's May 15 letter, the County attorney simply asserts that the road fails to meet private road standards. We hope that by allowing the normal kinds of staff-to-staff communications that predominate in normal application review these discrepancies can be quickly resolved."*

I assume Mr. Lynn is referring to the mine access road running between Grip Road and the proposed mine site. Miles used their DNR FPA for logging their entire property and to complete this recent "road maintenance" as referenced in Mr. Lynn's letter. However, as per Mr. Lynn's letter, the county is requiring Miles to bring this logging road up to private road/county standards.

What is the purpose of this access road? Is it for logging or to access the proposed mine and continue using said road for selling gravel? It is obvious, the purpose of the road and recent maintenance, "*to bring said access road to county private road standards*", is to access the proposed mine to sell gravel, not to log the property. Particularly since there are no commercial trees remaining on the property as all logging occurred just prior to the recent road maintenance.

I have a few additional questions, comments and requests in regard to Mr. Lynn's statements in his letter.

1. Mr. Lynn states, "*normal application review*". What does this statement, i.e. "*normal*", mean? Nothing about Miles' use of their the DNR, FPA, has been normal. This is a complex project and is becoming obfuscated by Miles and Mr. Lynn.
2. What is the "*relatively simple matter to process a variance to modify County road requirements to avoid critical areas impacts*"? Obtaining a variance is a permitting process beginning with avoidance of critical area impacts and finally mitigating for any impacts. Also, what and where are the critical areas? Has there been a critical areas report completed for the existing and proposed access road? If so, I request a copy of said report, a map of critical areas, the proposed critical area impacts, and proposed mitigation plan. A survey of the access road prior to any road work, a design of the proposed conditions, and quantification of critical area impacts and permitting requirements is necessary for all to review and adequately comment on Miles' proposed work.
3. To reiterate, the road work between Grip Road and the proposed mine site will carry product extracted (gravel) from a mine and will be sold to the public. As such, the road maintenance for logging no longer applies. Therefore, all permits for critical area impacts, stormwater impacts, and private road standards must be met.

I look forward to hearing from you. Thank you for your time.

Respectfully,



Jim Wiggins  
21993 Grip Road  
Sedro-Woolley, WA 98284

Cc: Hal Hart  
Julie Nicoll

**Attending PreHearing Conference**

Martha Bray [mbray1107@gmail.com]

**Sent:** Thursday, June 20, 2019 2:21 PM**To:** Stevee Kivi - Hearing Examiner/Records; Julie S. Nicoll; Hal Hart; John Cooper

Dear Ms. Kivi and others,

I just wanted to inform you that a number of community members plan to attend the PreHearing Conference next Wednesday June 26 at 1pm in Commissioner's Hearing Room. This conference concerns the appeal of the County's denial of Miles Sand and Gravel application for a Mining Special Use Permit.

At least five community members plan to attend, perhaps a few more. We do not intend to participate, just observe and listen. Please let me know if anything changes regarding the schedule of this conference.

Thank you,  
Martha Bray

**RE: Continuance for Prehearing Conference**

Lynn, Bill [BLynn@gth-law.com]

**Sent:** Thursday, June 20, 2019 4:05 PM**To:** Stevee Kivi - Hearing Examiner/Records; Julie S. Nicoll; John Cooper; Betsy D. Stevenson; Martha Bray [mbray1107@gmail.com]; John Day [jday0730@gmail.com]; John Sitkin [jsitkin@chmelik.com]; Hal Hart**Cc:** Dan Cox (Dan.Cox@miles.rocks); Brad Barton [Brad.Barton@miles.rocks]; john@semrau.com

Good afternoon. The Applicant would like to request a continuance of the prehearing conference scheduled for June 26<sup>th</sup>. We have a package of documents to be delivered to the County tomorrow and that will not allow sufficient time for review. Ms. Nicoll and the staff may have another idea but we would like to suggest the County have 30 days for review. Hopefully that would allow enough time for a meeting if necessary to resolve any outstanding issues. Thank you for your consideration.

**William T. Lynn****Attorney at Law****T** 253 620 6416**F** 253 620 6565**From:** Stevee Kivi - Hearing Examiner/Records <skivi@co.skagit.wa.us>**Sent:** Wednesday, May 22, 2019 11:14 AM**To:** Lynn, Bill <BLynn@gth-law.com>; Julie S. Nicoll <julien@co.skagit.wa.us>; John Cooper <johnc@co.skagit.wa.us>; Betsy D. Stevenson <betsyds@co.skagit.wa.us>; Martha Bray <mbray1107@gmail.com>; 'John Day' <jday0730@gmail.com>; John Sitkin <jsitkin@chmelik.com>; Hal Hart <hhart@co.skagit.wa.us>**Subject:** Continuance for Prehearing Conference

Hello,

Attached is a memo from the Hearing Examiner, regarding a continuance for the May 29, 2019 prehearing hearing conference.

*Stevee Kivi**Skagit County Public Disclosure/ Hearing Coordinator**700 S. Second Street, Room 100**Mount Vernon, WA 98273*

**Re: Prehearing Conference Continuance on Miles Sand and Gravel/Concrete Nor'west**

Martha Bray [mbray1107@gmail.com]

Sent: Monday, June 24, 2019 9:11 PM

To: Stevee Kivi - Hearing Examiner/Records

Cc: Julie S. Nicoll; blynn@gth-law.com; John Cooper; Betsy D. Stevenson; Hal Hart; John T. Burke; Dan Cox [dan.cox@miles.rocks]; John Day [jday0730@gmail.com]

Ms Kivi,

We have long standing plans to be out of town from July 26 through July 31st. We request that the PreHearing Conference please not be scheduled when we are out of town.

Thank you,

Martha Bray and John Day

On Jun 24, 2019, at 3:28 PM, Stevee Kivi - Hearing Examiner/Records <[skivi@co.skagit.wa.us](mailto:skivi@co.skagit.wa.us)> wrote:

Hello,

Attached is a memo from the Hearing Examiner regarding a continuance for the Wednesday, June 26, 2019 prehearing conference.

*Stevee Kivi  
Skagit County Public Disclosure/ Hearing Coordinator  
700 S. Second Street, Room 100  
Mount Vernon, WA 98273*

<Miles Sand Gravel conference continuance.pdf>

July 24, 2019

Wick Dufford, Skagit County Hearing Examiner  
700 2<sup>nd</sup> Ave, Room 100  
Mount Vernon, WA 98273

Hal Hart, Director  
Skagit County Planning and Development Services  
1800 Continental Place  
Mount Vernon, WA 98273

Re: PL16-0097 Mining Special Use Permit  
PL18-0200 Appeal of Administrative Decision

VIA EMAIL ONLY

Dear Hearing Examiner Dufford and Director Hart:

We are submitting this letter for the record in support of the County's denial of Miles Sand and Gravel's (Miles) Mining Special Use Permit, PL16-0097. The Notice of Decision of the denial was originally posted on April 5, 2018, for reasons set forth in Planning and Development Services (PDS) Director Hal Hart's letter to Miles representatives, dated April 25, 2018, and then again in Skagit County Deputy Prosecuting Attorney Julie Nicoll's letter to Miles' attorney dated February 22, 2019. There is no substantive change to the facts since the application was originally denied. The County should not bow to pressure to settle this appeal. Likewise we respectfully request that the Hearing Examiner review the long history of this application process, which clearly shows a continuing pattern of late submittals of incomplete, confusing and contradictory information on the part of the applicant. The denial should be upheld, and Miles should be required to start the application process over again.

Fifteen months have passed since the County originally denied this application for "failure to timely submit requested information". During this fifteen month period, since Miles' appeal of the application denial, there has been no avenue for the public to participate in the application process because the parties have been in "settlement" discussions and, as you know, community members were denied intervener status.

Nonetheless, community members continue to be very concerned about the impact of this mining proposal on the environment and especially on public safety due to the proposed numbers of gravel trucks on Grip and Prairie Roads. Over the last two years, since the County has responded to community concerns, we have seen very little genuinely new information forthcoming from Miles, and certainly our primary concerns have not been addressed.

Mr. Hart's original April 2018 denial letter details several deadlines that had already passed at time of writing, and it references information requests made by the County to Miles well over two years ago, in March of 2017. After these original deadlines had passed, Miles submitted "additional information" on several occasions, always at the last minute. Most recently, they

submitted a package on Friday June 21, 2019, just three business days before the PreHearing Conference on the appeal that was scheduled on Wednesday June 24<sup>th</sup>. The PreHearing Conference was then postponed (“continued”) again.

Because there is still no public process, we had to obtain Miles’ most recent submittal of “additional information”, dated June 21, 2019, through a public records request. We have done our best to review this information and conclude that it does not change the basic facts as stated by Ms. Nicoll, in her February 2019 letter: Miles has failed from the outset in 2016 to define the scope of its proposed gravel mine operations in a way that allows all the impacts of those operations to be analyzed as required by law. Miles most recent submissions, as outlined in John Semrau’s June 21, 2019 letter to the County, add little or nothing to what was previously submitted and instead seem to further obfuscate the issues.

For example, the most recent memorandum from DN Traffic Consultants, dated June 6, 2019 purports to “summarize the traffic studies prepared to address traffic impacts”. First, let’s be clear, no real traffic “study” has ever been conducted, only several vague and contradictory “traffic memos”. Referencing “studies” in another “memorandum” just creates an illusion that studies have actually been conducted. For two years, we have been asking for a Traffic Impact Analysis as required by Skagit County Code. Despite the volumes of additional information submitted, this has not been forthcoming. And still, no real mitigation to address public safety from large volumes of truck traffic on narrow winding substandard County roads has been proposed.

In addition, Miles has still not stated what the peak output and number of truck trips generated by the mine could be. These figures are required to assess the impacts of mine operations. Miles and its consultant have put forth various scenarios for the number of truck trips in a given time period without ever stating the maximum number of trips that could be generated. Miles has fallen back repeatedly on its projection of an average of 46 truck trips per day. The seasonal nature of the gravel market, combined with Miles’ contention that it is allowed unlimited hours of operation, makes this daily truck traffic figure meaningless.

In his June 6, 2019 Traffic Summary Memo, Norris throws out an “extreme volume” production scenario of 5,000 tons per day generating a total of 394 truck trips per day, but there is no indication that this represents an actual maximum production level as opposed to an arbitrary number. Norris states once again in his “Summary” that the Grip Road/Prairie Road intersection could handle up to 110 trips per hour without exceeding the county’s LOS C minimum standard. Given possible unlimited hours of operation (and notwithstanding the issues with limited sight distance and the record of serious accidents at this and other intersections on the proposed haul route), we would have to assume that the maximum truck traffic would be 2,640 trips over a 24-hour period.

In the absence of any clear statement to the contrary from Miles, a Traffic Impact Analysis must be based on this figure. Similarly, noise, dust, and vibration impacts must be based on this level



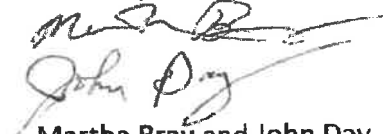
of production, which, at 1,320 outgoing trips per day and 34 tons per trip, would be 44,880 tons per day.

This is just one example of the problem with the way in which the application information has been submitted. The County website that posts the information about this proposal lists some 30 separate pieces of information submitted by Miles just between 2016 through 2018 (<https://www.skaqitcounty.net/Departments/PlanningAndPermit/gravelmine.htm>). Some of those materials have been "updated" or "supplemented" several times, but they have not been consolidated or reconciled with the older materials, and are not stand-alone documents. Instead we are expected to figure out how they fit together and how they may change or amend the original submissions. The originals and additions are not cross-referenced or linked together, perhaps because to do so would reveal the many inconsistencies and missing pieces. It is a bewildering, disorganized and repetitive collection of materials that do not add up to a comprehensive application package. Furthermore, the list of documents on the website has not been updated in 2019. So, we can add to that list of 30 documents at least another 6 from the latest submittal.

Reviewers of this application, be they County staff, state agencies or the public, should not be expected to have to piece together fragmented, contradictory studies, memos, and "clarification letters" that are layered on top of each other haphazardly, to try to decipher what this proposal is really about. Miles needs to start fresh with a new application and consolidate their information into a coherent and consistent whole. It is long past time to deny this application and do it right from the beginning.

Thank you for your time and consideration.

Sincerely,



Martha Bray and John Day  
6368 Erwin Lane  
Sedro Woolley, WA 98284

Cc: Julie Nicoll, Deputy Prosecuting Attorney  
John Cooper, Senior Planner, PDS

## John Cooper

---

**From:** Lynn, Bill <BLynn@gth-law.com>  
**Sent:** Tuesday, August 6, 2019 9:13 AM  
**To:** Stevee Kivi - Hearing Examiner/Records  
**Cc:** Julie S. Nicoll; John Cooper; Betsy D. Stevenson; John T. Burke; jday0730@gmail.com; Martha Bray; Hal Hart; Dan Cox  
**Subject:** Re: Prehearing Conference on Appeal 18-0200

Can I ask when we might expect the county's update so we understand what the alleged shortcomings are?

Sent from my iPhone

On Aug 6, 2019, at 9:01 AM, Stevee Kivi - Hearing Examiner/Records <[skivi@co.skagit.wa.us](mailto:skivi@co.skagit.wa.us)> wrote:

Hello,

This email is to inform you that the Hearing Examiner will hold a prehearing conference tomorrow, August 7<sup>th</sup> at 1:00 pm in the Commissioner's Hearing Room.

*Stevee Kivi  
Skagit County Public Disclosure/ Hearing Coordinator  
700 S. Second Street, Room 100  
Mount Vernon, WA 98273*

## John Cooper

---

**From:** Julie S. Nicoll  
**Sent:** Monday, August 12, 2019 3:53 PM  
**To:** Michael Cerbone; Betsy D. Stevenson  
**Subject:** FW: question per next steps with appeal of PL16-0097

FYI.

**From:** Martha Bray <[mbray1107@gmail.com](mailto:mbray1107@gmail.com)>  
**Sent:** Monday, August 12, 2019 1:15 PM  
**To:** Hal Hart <[hhart@co.skagit.wa.us](mailto:hhart@co.skagit.wa.us)>; Julie S. Nicoll <[julien@co.skagit.wa.us](mailto:julien@co.skagit.wa.us)>  
**Cc:** Stevee Kivi - Hearing Examiner/Records <[skivi@co.skagit.wa.us](mailto:skivi@co.skagit.wa.us)>  
**Subject:** FW: question per next steps with appeal of PL16-0097

Hello Mr. Hart and Ms. Nicoll,

I sent the inquiry below to Ms. Kivi regarding next steps with CNW's appeal of the County's denial of their application for mining SUP, but apparently Ms. Kivi is out of the office this week. If possible, can you please clarify what the next steps are regarding this matter. Do you know if there will be a written order forthcoming from the Hearing Examiner?

Thank you,  
Martha Bray

**From:** Martha Bray <[mbray1107@gmail.com](mailto:mbray1107@gmail.com)>  
**Sent:** Monday, August 12, 2019 12:45 PM  
**To:** 'Steeve Kivi - Hearing Examiner/Records' <[skivi@co.skagit.wa.us](mailto:skivi@co.skagit.wa.us)>  
**Subject:** question per next steps with appeal of PL16-0097

Hello Ms. Kivi,

I was in attendance last Wednesday Aug. 7<sup>th</sup>, at the PreHearing Conference regarding Concrete Nor'west's appeal of the County's denial of their application for a Mining Special Use Permit. It was difficult to hear everything that was discussed, and it seemed things were not really resolved between the parties. Can you please tell me if any written decision or order regarding that conference will be forthcoming from the Hearing Examiner, and/or what other next steps community members might expect regarding this matter from the Hearing Examiner?

Thank you,  
Martha Bray

## John Cooper

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**From:** Julie S. Nicoll  
**Sent:** Monday, August 26, 2019 8:08 AM  
**To:** 'Martha Bray'; Hal Hart  
**Cc:** Betsy D. Stevenson; Michael Cerbone  
**Subject:** RE: question per next steps with appeal of PL16-0097

Martha,

There has been no resolution to date, so the October hearing will remain scheduled at this time.

Thanks,

Julie Nicoll

Deputy Prosecuting Attorney  
Skagit County  
Civil Division – Planning & Development Services  
(360) 416-1638

---

**From:** Martha Bray <mbray1107@gmail.com>  
**Sent:** Sunday, August 25, 2019 4:00 PM  
**To:** Julie S. Nicoll <julien@co.skagit.wa.us>; Hal Hart <hhart@co.skagit.wa.us>  
**Subject:** RE: question per next steps with appeal of PL16-0097

Dear Mr. Hart and Ms. Nicoll,

Is there any update you can provide us regarding the discussions with CNW, especially as to whether you expect the hearing (on the appeal of the denial of CNW's application) to occur in October?

Thank you,  
Martha Bray

**From:** Julie S. Nicoll <julien@co.skagit.wa.us>  
**Sent:** Monday, August 12, 2019 3:52 PM  
**To:** 'Martha Bray' <mbray1107@gmail.com>; Hal Hart <hhart@co.skagit.wa.us>  
**Cc:** Stevee Kivi - Hearing Examiner/Records <skivi@co.skagit.wa.us>  
**Subject:** RE: question per next steps with appeal of PL16-0097

Martha,

The Hearing Examiner will likely issue an written order soon. We can forward that to you upon receipt. During the pre-hearing conference, the Hearing Examiner asked County staff to meet again with the applicant to discuss the outstanding issues. This is scheduled for August 14. We also set October 23 at 10 am as the future hearing date. Finally, the following motion schedule was agreed upon: motions to be filed by October 9, response by Oct. 16, and Hearing Examiner ruling on Oct. 18.

Thanks,

Julie Nicoll

Deputy Prosecuting Attorney  
Skagit County  
Civil Division – Planning & Development Services  
(360) 416-1638

**From:** Martha Bray <[mbray1107@gmail.com](mailto:mbray1107@gmail.com)>  
**Sent:** Monday, August 12, 2019 1:15 PM  
**To:** Hal Hart <[hhart@co.skagit.wa.us](mailto:hhart@co.skagit.wa.us)>; Julie S. Nicoll <[julien@co.skagit.wa.us](mailto:julien@co.skagit.wa.us)>  
**Cc:** Stevee Kivi - Hearing Examiner/Records <[skivi@co.skagit.wa.us](mailto:skivi@co.skagit.wa.us)>  
**Subject:** FW: question per next steps with appeal of PL16-0097

Hello Mr. Hart and Ms. Nicoll,

I sent the inquiry below to Ms. Kivi regarding next steps with CNW's appeal of the County's denial of their application for mining SUP, but apparently Ms. Kivi is out of the office this week. If possible, can you please clarify what the next steps are regarding this matter. Do you know if there will be a written order forthcoming from the Hearing Examiner?

Thank you,  
Martha Bray

**From:** Martha Bray <[mbray1107@gmail.com](mailto:mbray1107@gmail.com)>  
**Sent:** Monday, August 12, 2019 12:45 PM  
**To:** 'Stevee Kivi - Hearing Examiner/Records' <[skivi@co.skagit.wa.us](mailto:skivi@co.skagit.wa.us)>  
**Subject:** question per next steps with appeal of PL16-0097

Hello Ms. Kivi,

I was in attendance last Wednesday Aug. 7<sup>th</sup>, at the PreHearing Conference regarding Concrete Nor'west's appeal of the County's denial of their application for a Mining Special Use Permit. It was difficult to hear everything that was discussed, and it seemed things were not really resolved between the parties. Can you please tell me if any written decision or order regarding that conference will be forthcoming from the Hearing Examiner, and/or what other next steps community members might expect regarding this matter from the Hearing Examiner?

Thank you,  
Martha Bray

## John Cooper

---

**From:** Hal Hart  
**Sent:** Monday, October 28, 2019 7:59 AM  
**To:** Betsy D. Stevenson  
**Cc:** Julie S. Nicoll  
**Subject:** FW: Status of Grip Rd gravel mine permit application?

Can we provide a carefully worded update? Thank you team.

-----Original Message-----

**From:** Martha Bray <mbray1107@gmail.com>  
**Sent:** Sunday, October 27, 2019 1:12 PM  
**To:** Hal Hart <hhart@co.skagit.wa.us>  
**Subject:** Status of Grip Rd gravel mine permit application?

Dear Mr. Hart,

I am following up regarding our phone conversation over a week ago, during which you said you would get back to me last week. I would appreciate hearing back from you regarding the status of the proposed Grip Rd gravel mine. Again, my questions are: what is the expected time frame for releasing a new staff report; and who will be the lead planner on the project since John Cooper has retired.

Also, please confirm that the County plans to issue a revised SEPA Determination as described in Ms. Nicoll's response to our renewed motion to intervene in the appeal, and as has been promised on the County website for a year and a half. FINALLY PLEASE NOTE, I will be out of town this coming week, the best phone number is my cell: 360.770.1352. Or an email response is fine.

Thank you,  
Martha Bray

## John Cooper

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**From:** Jim Wiggins <jimwiggins@fidalgo.net>  
**Sent:** Thursday, November 7, 2019 11:25 AM  
**To:** Betsy D. Stevenson  
**Subject:** RE: Grip road mine 1

thanks

**From:** Betsy D. Stevenson <betsyds@co.skagit.wa.us>  
**Sent:** Thursday, November 7, 2019 10:04 AM  
**To:** 'jimwiggins@fidalgo.net' <jimwiggins@fidalgo.net>  
**Subject:** RE: Grip road mine

Sounds good. See you then.

**From:** Jim Wiggins <jimwiggins@fidalgo.net>  
**Sent:** Thursday, November 7, 2019 9:18 AM  
**To:** Betsy D. Stevenson <betsyds@co.skagit.wa.us>  
**Subject:** RE: Grip road mine

Betsy, thanks so much for your reply. How about tomorrow, Friday the 8<sup>th</sup>, at 2:30?

Jim W

**From:** Betsy D. Stevenson <betsyds@co.skagit.wa.us>  
**Sent:** Thursday, November 7, 2019 8:51 AM  
**To:** 'jimwiggins@fidalgo.net' <jimwiggins@fidalgo.net>  
**Subject:** RE: Grip road mine

Hi Jim,

I hope you had a great trip! I have time tomorrow afternoon. 2:30 or later. Next week is a little up in the air. Monday is a holiday and I have jury duty Wednesday-Friday. It's municipal court, so it may be quick and over in a day. If you're flexible we could play it by ear for Wednesday or Thursday? Friday and Saturday I hope to be attending the Marine Resources Committees' Annual Conference in Everett. I could do it today from 1-2, if that would work, too. I'm sorry there aren't more options. I could meet you on Monday the 11<sup>th</sup>, too. I have an appointment at 8 and another one at 1, but could meet you for coffee that morning? My dog has an appointment at the groomer, so I drop her at 8, then have some time to kill before I can pick her up. If none of these work for you, I can go further into November, but you're looking for information sooner than that. Thank you.

Betsy

Betsy Stevenson, AICP  
Senior Planner, Natural Resources Team Supervisor  
Skagit County Planning and Development Services  
1800 Continental Place  
Mount Vernon, WA 98273  
(360) 416-1323

## John Cooper

---

**From:** Jim Wiggins <jimwiggins@fidalgo.net>  
**Sent:** Thursday, November 7, 2019 7:21 AM  
**To:** Betsy D. Stevenson  
**Subject:** Grip road mine

Hello Betsy. Are you available for me to come to the county and have a short talk about the status of the proposed Miles Grip Road mine? My schedule is somewhat open, please give me some days and times that works for you.

Thanks, Jim Wiggins



## John Cooper

---

**From:** Jim Wiggins <jimwiggins@fidalgo.net>  
**Sent:** Wednesday, November 13, 2019 9:34 AM  
**To:** Betsy D. Stevenson  
**Subject:** Grip SEPA

Hello Betsy. Thanks for meeting with me last week. Our conversation was good. Is there a way that I can be in the loop when the county determines who will be writing the SEPA revisions and staff report. I'd like to talk with that person. If the county will be soliciting for that position, can I be put on that list too? I might know of some good people that might be interested.

Stay safe.

Jim W

## John Cooper

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**From:** Jim Wiggins <jimwiggins@fidalgo.net>  
**Sent:** Thursday, December 19, 2019 3:01 PM  
**To:** Betsy D. Stevenson  
**Subject:** RE: Grip mine

Thanks.....

**From:** Betsy D. Stevenson <betsyds@co.skagit.wa.us>  
**Sent:** Thursday, December 19, 2019 11:18 AM  
**To:** 'jimwiggins@fidalgo.net' <jimwiggins@fidalgo.net>  
**Cc:** John Cooper <johnc@co.skagit.wa.us>; abbe@abberolnick.com  
**Subject:** RE: Grip mine

Hi Jim,

Not at this time. Happy holidays to you as well.

Thank you,

Betsy

Betsy Stevenson, AICP  
Senior Planner, Natural Resources Team Supervisor  
Skagit County Planning and Development Services  
1800 Continental Place  
Mount Vernon, WA 98273  
(360) 416-1323  
[betsyds@co.skagit.wa.us](mailto:betsyds@co.skagit.wa.us)

**From:** Jim Wiggins <[jimwiggins@fidalgo.net](mailto:jimwiggins@fidalgo.net)>  
**Sent:** Thursday, December 19, 2019 9:51 AM  
**To:** Betsy D. Stevenson <[betsyds@co.skagit.wa.us](mailto:betsyds@co.skagit.wa.us)>  
**Cc:** John Cooper <[johnc@co.skagit.wa.us](mailto:johnc@co.skagit.wa.us)>; [abbe@abberolnick.com](mailto:abbe@abberolnick.com)  
**Subject:** Grip mine

Hello Betsy and John.

A happy holidays to you both. Is there any word on timing for the county processing the CNW's permit application for their proposed Grip Road mine?

Thanks,  
Jim Wiggins

## John Cooper

---

**From:** Jim Wiggins <jimwiggins@fidalgo.net>  
**Sent:** Tuesday, January 14, 2020 8:27 AM  
**To:** John Cooper; Betsy D. Stevenson  
**Subject:** Miles Grip Pit

Hello you two and a good cold morning to you both.

John, are you still with the county? I have heard rumors.

Otherwise do either of you know what the timing is for the Miles Grip Road permit application.

Thanks.

Jim W

## John Cooper

---

**From:** Rick Brumfield <rbb123@frontier.com>  
**Sent:** Thursday, February 13, 2020 9:26 AM  
**To:** Commissioners  
**Cc:** John Cooper  
**Subject:** Hazardous Intersections and Application #PL16-0097

**CAUTION: This email originated from an external email address. Do not click links or open attachments unless you recognize the sender, you are expecting this email and attachments, and you know the content is safe.**

Tuesday, 2/4, about 7:10 am we were run off Grip Road by one of the large gravel truck/trailer combos. In this case we were traveling east turning south at the intersection of Grip Rd and Brookings Rd. About half-way through the turn a large gravel truck/trailer combo (traveling north then east) approached the intersection and forced us to pull off to the right-hand "shoulder" of our lane (there's very little shoulder there, plus a telephone pole, then the ditch). The truck/trailer combo was over the center lane by about two or three feet as he?/she? cut the corner. I'm not a civil engineer, but am highly suspicious re whether these trucks can even make legal turns on these tight 90° turns (this may be true of the SWSD "long" buses too). There are several of these tight 90° turns in the immediate area (see the 3/5/18 and 3/14/18 exchange of e-mails with John Cooper (copies below).

Here's a couple of Images of the Grip/Brookings intersection:



Possible solutions?:

- Roundabouts? (too expensive?, enough space??)
- Lane dividers? (gaps would need to be left for "through" traffic, i.e. traffic proceeding east on Grip to Brookings, or turning left from Brookings to head south on Grip)
- Restrict traffic for these huge gravel truck/trailer combos to non-trailered vehicles on these "90° area" roads
- Spend a little \$ on some traffic engineers who have experience in solving these types of problems ... they might have much better solutions/recommendations

This is really a very dangerous situation and will only get worse (maybe much worse) if the traffic volume contemplated in the gravel pit project comes anywhere close to the projected levels.

Please do something about this ... doing nothing about this (which seems what's happened to date) doesn't seem like a very good option. Knowing about this dangerous situation and doing nothing about it would only seem to expose the county to negligence claims ... what if someone were to get seriously injured or even killed? I'd rather see the county spend our \$'s on improvements vs. having to fight lawsuits.

Finally, this ties very much to the planned gravel pit project ... the projected volumes are almost unbelievable and certainly could not be considered non-significant ... the county needs to revisit its obligations as lead agency in the related determination of non-significance ... the volumes seem very significant and would seem to demand a full EIS.

This is not the first time this has happened to us (again, see copies of the March, 2018 e-mails copies below).

Offered in the spirit of wanting safer roads for our county.

Please feel free to contact me if you have any questions, comments, and/or concerns.

Rick Brumfield  
253-670-3606  
[rbb123@frontier.com](mailto:rbb123@frontier.com)

**From:** John Cooper <[johnc@co.skagit.wa.us](mailto:johnc@co.skagit.wa.us)>  
**Sent:** Wednesday, March 14, 2018 10:39 AM  
**To:** 'Rick Brumfield' <[rbb123@frontier.com](mailto:rbb123@frontier.com)>  
**Subject:** RE: Application #PL16-0097

Thank you for sharing that event/information. Your email will be included in the public record and I will pass your email on to our public works department for their review.

Sincerely,

*John Cooper, LG, LHg  
Geologist/Hydrogeologist/Natural Resource Planner  
Skagit County Planning and Development Services  
1800 Continental Place  
Mount Vernon, WA 98273  
[johnc@co.skagit.wa.us](mailto:johnc@co.skagit.wa.us)  
(360) 416-1334*

**From:** Rick Brumfield [<mailto:rbb123@frontier.com>]  
**Sent:** Monday, March 5, 2018 8:01 PM  
**To:** Hal Hart <[hhart@co.skagit.wa.us](mailto:hhart@co.skagit.wa.us)>; Ryan Walters <[rrwalters@co.skagit.wa.us](mailto:rrwalters@co.skagit.wa.us)>; John Cooper <[johnc@co.skagit.wa.us](mailto:johnc@co.skagit.wa.us)>; Paul A. Randall-Grutter <[paulrg@co.skagit.wa.us](mailto:paulrg@co.skagit.wa.us)>  
**Subject:** Application #PL16-0097

I've been following, a bit, the progress on the gravel pit application and staying in touch with the community group that's interested ... got your email addresses there.

I wanted to take the opportunity to share two recent traffic incidents that shed some light on concerns re traffic safety and then an additional comment re environmental impact.

The traffic incidents first:

1. On Friday, March 2, at about 3:30 p.m., my wife and I were traveling south & west on Grip towards Prairie. As we approached (southbound) the Grip/Lillian Ln. 90° turn, we were “met” by one of the large gravel trucks with a trailer traveling in the opposite direction. We were virtually “run off the road”. In order to make the east to north turn the truck/trailer combination had to cut the corner and thus crossed the center line into our lane forcing us to pull off Grip onto the right shoulder. The truck driver’s other option would have been to make a “wide turn” traveling east then north onto the shoulder of Grip to stay in his/her own lane. The problem is there are no such shoulders on Grip. All shoulders on Grip are either non-existent or very narrow and almost all have steep drainage ditches immediately adjacent to Grip. The truck/trailer driver did not stop. It’s very possible the driver didn’t even know he/she was causing a problem.

After the truck passed, we pulled back onto Grip and as we passed the entrance (from Grip) to the Gravel Mine road, we noticed the gate was open (that’s unusual). We don’t know if that’s where the truck/trailer combo came from.

I’m not sure those large truck/trailer combos can physically make the various 90° turns in the area without:

1. encroaching onto the (driver’s side) oncoming lane, or
2. making wide (passenger side) “off lane/shoulder” turns where there are no shoulders.

The first represents a very dangerous situation for the oncoming traffic (the situation we found ourselves facing on March 2). The second implies there are shoulders available ... very unrealistic, and even if there were shoulders available, the use thereof would require constant maintenance by who???, the county? ... might be a good question to answer as part of the application process or the EIS. My experience says too wide vehicles require lead/following signed vehicles.

Here’s a picture (from Google maps) looking west from the 90° Grip/Lillian Ln. turn ... we were forced to pull off the road to the right, before the pole and guy-wire ... virtually no room to maneuver. Any further to the right and we would have been down in the ditch. We couldn’t go forward because of the guy-wire and pole, we couldn’t stay in our lane, the truck/trailer was there ... very scary, very dangerous.



2. A few minutes later we were at the intersection of Grip and Prairie getting ready to turn left onto westbound Prairie from Grip. That intersection is a “blind corner” intersection re traffic approaching westbound from Prairie. As we pulled onto Prairie from a full stop on Grip, another vehicle came speeding around the corner, westbound on Prairie ... no accident, but another “close call” ... very dangerous. If the county is going to allow all the additional traffic proposed by the applicant’s operations of hours, that will make that intersection all the more dangerous.

There are many 90° or near 90° turns throughout the area the truck and/or truck/trailer combos would have to take to access the gravel pit ... here’s a table of what I believe are the dangerous “90” turn locations. There may be more. The latitude and longitude numbers are from Google Maps, the [What3Words](#) are from that application.

90° Problem Areas					
Row	#	Location	what3words	Lat.	Long.
4	1	Franke and Old Highway 99	trep.cegillbrj.coun.stn	48.556800	-122.37247
5	2	Franke turning from north to east	lntkng.ltkp.stg	48.556206	-122.37274
6	3	Franke and Grip	wegjn.gmlns.kwpkka	48.556905	-122.37093
7	4	Grip and entrance to west jet parcel	stngl.rnrtm.usfthrcst	48.556552	-122.37049
8	5	Grip at Millen Dr.	rdployed.grow.pnchutw	48.556687	-122.36949
9	6	Grip at Insiders	lnstlans.blsscomng.pccsvng	48.556147	-122.36889
10	7	Grip at three wheel tracks	chwrtwz.lflessnfly.cdnkbls	48.556930	-122.37005
11	8	Grip at Bushy Rd.	scared.stove.nrgphtltd	48.557357	-122.37054
12	9	Grip and Hospital Rd.	tonelfy.wlnter.fkcnfnggr	48.557820	-122.37021
13	10	Grip and Master Rd.	tblhvc.cdlkrcpghd	48.558016	-122.36969
14	11	Grip and Bassett Rd.	shlllcnsrdns.nrcovrd	48.558091	-122.36900
15	12	Bassett Rd. at MacIntosh Rd.	flmrcvrdtd.qunrture	48.558057	-122.36866
16	13				
17	14	Hospital Rd. to 500	shctans.lscspn.wrgpound	48.558225	-122.36815
18	15	Master Rd to 500	shrd.chunks.dlghly	48.558102	-122.36879
19	16	Bassett Rd. to 500	brndltgl.lscsvnglbr	48.558057	-122.36866



One other point re environmental impact, I don't know what legally constitutes "significance" in terms of the determination of non-significance, or who gets to decide, but both the road safety issues (identified above) and the proposed operational hours issues would seem to constitute "significant" and require a full EIS. If the county is not requiring the gravel mine proposer to address these issues, it would seem the county is taking on liability. Do we really want to do that? As a county tax payer I would hope not, but ???

Hope this helps.

Please contact me if you have any questions, comments, concerns.

Rick Brumfield

[rbb123@frontier.com](mailto:rbb123@frontier.com)

253-670-3606

**RE: follow-up from conference call per proposed Grip Road Gravel Mine**

Michael Cerbone

**Sent:** Monday, May 18, 2020 4:53 PM**To:** Martha Bray [mbray1107@gmail.com]**Cc:** jday0730@gmail.com; Kyle Loring [kyle@loringadvising.com]; John Cooper

Martha,

Thank you for following up and summarizing our call. I do not believe you have mischaracterized our conversation. We are hoping to get the website updated in the next week. I will be in touch once we do that.

Respectfully,

MC

Michael Cerbone, AICP

(360) 416-1336

**From:** Martha Bray <mbray1107@gmail.com>**Sent:** Sunday, May 17, 2020 9:53 PM**To:** Michael Cerbone <mcerbone@co.skagit.wa.us>**Cc:** jday0730@gmail.com; 'Kyle Loring' <kyle@loringadvising.com>**Subject:** follow-up from conference call per proposed Grip Road Gravel Mine

**CAUTION: This email originated from an external email address. Do not click links or open attachments unless you recognize the sender, you are expecting this email and attachments, and you know the content is safe.**

Dear Michael,

Thank you for meeting with us via conference call last week regarding the proposed gravel mine near Grip and Prairie Roads. We appreciate your effort to reach out, your stated commitment to public process, and your willingness to be accessible for providing information about the project.

To summarize a few key points from our discussion:

1. We understand from the discussion that the County's consultant, HDR, is no longer going to conduct the permit review. Instead, HDR is only acting as the County's transportation engineer, reviewing the applicant's traffic 'studies'. County staff will now be reviewing all other elements of the application, preparing staff reports, evaluating SEPA, etc. You (Michael Cerbone) will be working closely with John Cooper on this and you will be the contact person for questions from the community. We expressed the hope that we do not have to continue to obtain routine and/or important information that the public needs to know about this permit through public records requests, and you agreed.
2. We had a lengthy discussion about the SEPA review. There is a long history regarding the original SEPA determination the County issued nearly 4 years ago, in 2016. We are convinced that the original SEPA process was flawed in that inadequate notice was issued to neighboring landowners and that this had real consequences in terms of the ability for the public to participate. We have raised this concern repeatedly over the years. We attempted to explain some of the issues regarding this, and since you are new to the County and this project, we agreed to send you selected comment letters that we have submitted in the past to help you understand our concerns. Furthermore, the County has told the community for years that it is committed to issuing a new or revised SEPA Threshold Determination because of these issues. This is in writing in several locations. We are confident that once you review these materials, you will agree that re-issuing SEPA is the best path forward to allow a legitimate public process. It is our understanding that the county can conduct the SEPA process

simultaneously with the other permit review processes, so it need not create more delays, nor be a significant burden on staff time. This is a great opportunity for the County to put this application review process on a solid footing as it moves forward, and to live up to its commitment to the community. While we agree that it is in everyone's best interest to move the process forward, if it is not done right, it will only exacerbate the problems that have plagued this application for years.

3. We discussed the draft HDR traffic review. We are concerned that the traffic information and data that was submitted years ago by the applicant is inaccurate and incomplete, and that HDR is accepting the applicant's claims and figures without question. This appears to be leading HDR to the erroneous conclusion that a Level 1 Traffic Impact Analysis (TIA) is not needed. Again, to summarize our concerns about this: 1) The applicant's traffic consultant used an annualized average to arrive at the estimated number of 46 truck trips per day and less than six "peak PM hour" truck trips per day. This figure is meaningless as the applicant and everyone else knows that the nature of gravel extraction is seasonal and market driven, and the actual number of truck trips in the summer, and when the market is high, will be much higher than the stated average. The applicant has essentially acknowledged this in their repeated refusal to accept the county's attempts to use their own figure of 46 trips per day as a limit on the number of daily trips. They state that the actual number of daily trips will be market driven. The question of how many peak PM hour trips the project will realistically generate isn't an engineering question per se, it's a piece of essential information that the applicant has thus far refused to provide. This needs to be taken into consideration by HDR and the applicant when evaluating traffic safety. 2) The data used by the applicant's consultant regarding the baseline level of traffic on Grip and Prairie Roads are now nearly 5 years old – community members are convinced that average routine background traffic has increased significantly on these roads, but no updated data or studies are being required. 3) It is apparently no longer in HDR's assignment to conduct any kind of on-site field review. The condition of the roads and nature of the safety hazards needs to be evaluated in-person. We don't see how a conclusion or recommendation can be reached without even looking at the site. For the County and its consultants to rely solely on the applicant's flawed analysis leaves the burden of proof on community members. You suggested that we hire our own expert if we disagree with HDR's conclusions, but why should community members have to pay for the work in order to get it done right? To just point to the 'experts' is not enough. We believe it is the job of County staff to actually review the relevant information and ask intelligent questions of their consultants and the applicant. We understood you to say that you would discuss our specific concerns with HDR.
4. We expressed concern about conducting a Special Use Permit Hearing on this application during a time when the public either cannot attend in person because of Governor's orders related to COVID-19, or would not feel safe doing so. We have deep reservations about the ability for the public, particularly this community, to participate meaningfully in the hearing process if it is conducted remotely. We will continue to urge the County not to schedule any hearings on this matter until restrictions have been lifted and everyone feels safe to participate in person.

Please let us know if we have mischaracterized anything, or missed something important. We have attached some documents for your consideration. In some, we have highlighted in yellow certain key items. Since you are new to the County, we have also included a timeline that we have maintained that attempts to record the history of application permit process since 2016.

We look forward to further conversations. Thank you for your time and consideration.

Sincerely,

Martha Bray and John Day

-  
ATTACHMENTS:

- 03/02/2017 -- Letter to John Cooper from Jon Sitkin (our attorney at the time), concerning the defective SEPA process

- 04/12/2017 – Comments submitted by John Day (via PDS on-line comment link) regarding County Road Standards and criteria for requiring TIA
- 03/07/2018 – Letter to Hal Hart from John Day and Martha Bray, summarizing a number of concerns, and in particular the TIA issue (beginning on page 2)
- 10/02/2018 – Letter to Hal Hart from John Day and Martha Bray, objecting to the settlement process and summarizing the issues with the flawed SEPA process (beginning on page 2)
- 10/04/2019 – Skagit County’s Response to Renewed Motion to Intervene, SC Prosecuting Attny, states in document on page 2, line 26, its intent to issue a revised SEPA determination
- 05/15/2020 – Text from quoted from Skagit County’s public website regarding the intention to re-issue SEPA.
- Permitting Timeline

25 May 2020

Michael Cerbone, Assistant Planning Director  
Skagit County Planning and Development Services

Dear Mr. Cerbone,

Regarding:  
Miles Sand and Gravel  
Concrete Nor'West  
Proposed Grip Road Gravel Mine  
SUP PL 16-0097

This letter (email) is to express our concerns regarding our inability to respond/appeal in the legal and timely fashion as per the SEPA determination issued by Skagit County for the above referenced proposed project. As described below, we request a revised/new SEPA determination be issued that would allow us to comment and appeal said determination as appropriate.

Said project is a gravel mine proposed by Concrete Nor'West situated on Grip Road, SUP PL 16-0097. A Letter of Completeness was issued on March 22, 2016 and a mitigated determination of non-significance was issued Spring of 2016 with comments to be received by June 10, 2016.

Our said inability to respond was due to an application with erroneous information submitted by the applicant, Concrete Nor'West, that did not show our property at 21993 Grip Road as abutting the proposed project site. Therefore, we did not receive said notification and obviously could not respond or appeal said determination.

As per on the Skagit County website, second paragraph:

*Because there were factual discrepancies in Concrete Nor'West's application, project description, SEPA Checklist, traffic study, and fish and wildlife site assessment, Skagit County requested updated materials from the applicant. Once Skagit County review the updated materials, it will issue a revised SEPA threshold determination for public comment and hearing. Since certain neighbors were inadvertently excluded from the original notice list prepared by the applicant, Skagit County will update the list and ensure that proper notice is provided. Subsequently, Skagit County will revise its Staff Report regarding the Special Use Permit. A public comment period and hearing before the Hearing Examiner will follow.*

Additionally, in a "Skagit County's response to renewed motion to intervene", on page 2 of 4, 3<sup>rd</sup> paragraph, Ms. Julie Nicoll of the Skagit County Prosecuting Attorney's Office, states:

*As noted in the Hearing Examiner's prior decision, the Neighbors can appeal the merits of the actual permit decision once it is made by the County and the completeness dispute is resolved. Once the County receives a complete application, the County will conduct further analysis of potential project impacts, re-issue public notice, publish a new staff report with recommendations on the Special Use Permit conditions, issue a revised SEPA determination, another public comment period and public hearing will follow.*

To summarize, we did not receive a SEPA determination notification of a proposed project that abuts our property. This did not allow us to respond in the legal time frame. The Skagit County website states a revised SEPA threshold determination will be issued. Ms. Nicoll states the County will issue a revised SEPA determination. Therefore; a revised SEPA determination is required. We look forward to receiving all information in your reissued response.

Please do not hesitate to contact us at 360-856-2139 if you have any questions.

Respectfully,



Jim Wiggins



Abbe Rolnick

21993 Grip Road  
Sedro-Woolley, WA 98284