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May 15, 2017

Via E-mail: Johnc@co.skagit.wa.us

Skagit County Planning and Development Services
1800 Continental Place
Mount Vernon, WA 98273
Attn: John Cooper, Planner/Geologist

RE: March 14, 2017 Request for Additional Information (PL16-0097)

Dear Mr. Cooper,

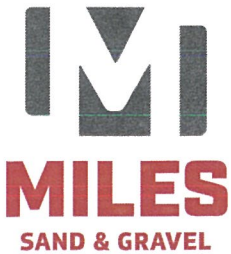
Thank you for your March 14, 2017 letter request for additional information relative to the above noted application. We are providing answers to each of the questions below.

In the second paragraph of the letter you discuss conditions related to two significant issues that we will respond to. In both cases the County provides no rationale to support the arbitrary conditions suggested. Please consider our response below and revision of those proposed conditions.

The first is the maximum number of truck trips per day, in which you state that based on the information we provided, 46 truck trips per day is a reasonable limit. The information we provided describes 46 truck trips per day – on average – as being easily accommodated by the existing road system. This is not a limit but rather an average volume used by the Traffic Engineer to evaluate the existing road system's ability to function at the annual volumes we've proposed. As an average there are certainly days where this would be exceeded and others when the traffic would be lower. Any proposed traffic condition should refer to 46 trips per day as an average rather than as a limit. Attached is a November 30, 2016 Addendum by DN Traffic Consultants that further describes the capacity of the existing road system in terms of limits. Any traffic condition related to limits should reflect the trips proposed in this November 30, 2016 Addendum.

With regard to the second issue, you state operations will be limited to Monday through Friday, 7:00 a.m. to 5:00 p.m. (except holidays). The ability to limit hours of operation lies with the Hearing Examiner, but only in certain situations. As you are aware, SCC 14.16.440(10)(i) states: Hours of operation shall vary according to the locations on the site as stated below and may be shortened by the HE based on site-specific circumstances.

- (i) Within designated natural resource lands, the hours of operation may be unlimited. The Hearing Examiner may limit hours of operation to daylight hours or to such other reasonable limitation deemed necessary to address potential significant adverse impacts to existing adjacent land uses, on any portion of the mining site where



mining activity is proposed to occur less than 1/4 mile from existing Rural Intermediate, Rural Village, or Urban Growth Area designated lands;

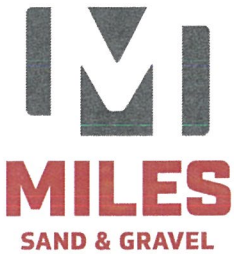
Three significant facts are presented in this code section. First is that the Hearing Examiner is the authority charged with imposing hours limits. The staff is to make recommendations and act as the SEPA Official. There is no basis for a finding of a probable significant noise impact to support a condition. Second, in Natural Resource Lands, like the property here, hours of operation may be unlimited. That is the default standard. Third, the Hearing Examiner may consider limiting hours of operation on “any portion of the mine site where mining activity is less than ¼ mile from Rural Intermediate, Rural Village, or Urban Growth Area designated lands.” Since our project is not within ¼ mile from any of those zones, our hours of operation may not be limited. We are, of course, required to comply with maximum allowable noise level per Chapter 173-60 which you’d previously described in your staff report and recommended as a condition of approval. That mitigation must be taken into account in the SEPA process.

For the remaining items, I will respond below in the same order of the bulleted items from your letter:

1. Based on comments received, the County requested a professional archaeological survey for the project area. Please see the attached March 9, 2017 Archaeological Survey by Cultural Resources Consultants which concludes that “no cultural resources were identified during the survey.” This report should not be made available to the public because it contains information about archaeological sites, which are exempt from public disclosure requirements under state law (RCW 42.56.300). Please protect this document in your records as required by State law.
2. This second item deals with the County’s request for our Forest Road to meet Skagit County Private Road Standards. “Forest Roads” are defined under WAC 222-16-010. Forest Road construction and maintenance is regulated through WAC 222-24. The Forest Road standards are “intended to assist landowners in proper road planning, construction and maintenance so as to protect public resources.” The Skagit County Road Standards, International Building Code and International Fire Code referenced in the SCC are intended to address structures and residential lots. These standards apply to all building permits and the platting and land division regulations.

The internal roadway is not a Private Road as described in the Skagit County Road Standards that will be open at all times to be traversed by the public. This Forest Road has been in continuous use and maintained for forest practice since before 1974 as defined in WAC 222-16-010. This is a gated internal roadway that will be used by professional drivers that will be in contact with their dispatch and each other by radio just the same as any emergency vehicle.

This Forest Road is all that is necessary for the temporary extraction and transport of minerals to the County Road and the ongoing and future management and harvest of the timber resources. In Skagit County there are many miles of Forest Roads operated and managed by private, state and federal managers. These roadway systems are not required to be built to the Skagit County Road and development standards unless they serve structures and residences. No structures



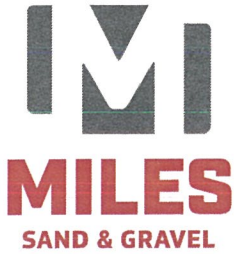
are proposed or required for this mine operation. IFC Appendix D103.2 Fire Department Vehicle Access Roads referenced in SCC 15.040 are defined by length of road and numbers of residential lots.

We assert that the Forest Road standards and existing roadway are sufficient and all that is necessary to transport the mine materials to the County Road and provide for adequate emergency response. In your letter you mention additional Critical Areas review for improvements to the haul road to County Road standards. The County should re-consider this approach and discourage any unnecessary impacts to critical areas. It is environmentally irresponsible to develop these roads to a greater standard than is necessary for the safe removal of the natural resources.

We are submitting for your review our Timber Management Plan dated November 9, 2009. This contains our Forest Road plan for this property. We can agree to maintain the Forest Road at an average 20 foot width and graveled surface under the Forest Road standards per WAC 222-16-010 which has already been approved for this road system. Maintaining the road to this standard will provide the necessary ingress and egress for emergency vehicle access to the proposed mine site as well as supporting the dominate land use of ongoing forest management on the remaining 650 acres of this approximate 730 acre ownership. Finally, as requested, we are submitting a memo from Jordan Janiki, PE certifying the bridge over Swede Creek at the required HS-25 rating.

3. This third bullet requests clarification as to whether a 2,000 gallon fuel tank may be stored on site and requests our spill control and countermeasure plan. All sand and gravel mines in Washington State are regulated by the Department of Ecology under the Sand And Gravel General Permit (SGGP) in compliance with the provisions of The State of Washington Water Pollution Control Law Chapter 90.48 Revised Code of Washington and The Federal Water Pollution Control Act (The Clean Water Act) Title 33 United States Code, Section 1251 et seq. (copy attached). That mitigation must be taken into account in the SEPA process. RCW 43.21C.240. Once local and state surface mining approvals have been obtained, coverage under the Sand And Gravel General Permit will be obtained prior to mining. Section S5 of the SGGP requires a Site Management Plan (SMP). The SMP consists of 4 main sections, including:
 - a. Erosion and Sediment Control Plan (ESCP)
 - b. Monitoring Plan
 - c. Stormwater Pollution Prevention Plan (SWPPP)
 - d. Spill Control Plan (SCP)

Section S8 SMP Section 3 of the SWPPP requires an inventory of materials stored on-site, including fuel, and has specific requirements for source control Best Management Practices in the event fuel will be stored on site. So to answer the questions posed in your letter, yes fuel "may" be stored on-site, and if it is it will be done in compliance with the Sand And Gravel



General Permit which authorizes this activity and protects water quality. We will be happy to provide the County a copy of our site specific Site Management Plan, once completed, for your file. Although this requirement does not need to be restated by the County, we are certainly comfortable with the County conditioning the approval to require that coverage under the Sand And Gravel General Permit must be obtained prior to beginning mining operations on-site.

4. The fourth item is a request for clarification regarding screening or processing of material. We are not proposing either activity in this application.

5. The last item requests an update to the Fish & Wildlife / Wetland site assessment to address Threatened and Endangered Species and the appropriate width of the riparian buffer. The August 20, 2015 Site Assessment by Graham Bunting & Associates at Section 4.1, Threatened, Endangered and Sensitive Species, concludes that "No impacts to threatened, endangered or sensitive species above the existing baseline are anticipated, provided that the standard riparian buffer is applied." Even so, based on the County's request, GBA has provided the attached April 18, 2017 addendum which further addresses the issues raised during the public comment, including habitat requirements for the Oregon Spotted Frog, and concludes that the proposed critical area protections will provide the required protection. Finally, Section 5.2.2 Land Use Intensity of the August 20, 2015 Report fully describes the rationale and justification for the moderate intensity land use and 200' buffer. Since this item is fully addressed in the existing Site Assessment, we have not asked our consultant to provide any update at this time.

Please contact me if you require any additional information or to discuss any of the items above.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dan Cox', written in a cursive style.

Dan Cox

Environmental, Land Use & Safety Manager

encls:

November 30, 2016 DN Traffic Consultants Addendum

November 5, 2009 Timber Management Plan

April 13, 2017 DCG Engineering Bridge Rating Letter

April 18, 2017 GBA Fish & Wildlife Addendum

March 9, 2017 Archaeological Survey by Cultural Resources Consultants

Washington State Department of Ecology Sand & Gravel General Permit