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February 23, 2018

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

RECEIVED
FEB 23 2018
SKAGIT COUNTY

RE: Replying to November 20, 2017 Meeting and November 21, 2017 Letter from Dan Cox to Dale Pernula PL16-0097)

Dear Mr. John Cooper,

Since our meeting and last correspondence, we have completed the Noise and Vibration Study and made additions to the Environmental Protection Plan. We are still looking forward to your third-party review of the traffic impacts. We would appreciate the opportunity to review and comment on that report once available. Following is our updated response.

1. With regard to the proposed hours of operation, we understand the County's recommendation was for Monday through Friday, 7:00 a.m. to 5:00 p.m. We presented our rationale for unlimited hours in our application and in our May 15, 2017 letter. Based on the results of our Noise and Vibration Study (described under Item 2 below), we continue to request "the hours of operation may be unlimited."
2. Our consultant, Ramboll US Corporation, completed a Noise and Vibration Study on February 20, 2018. In this study you will find that the model sound levels from the onsite mining and haul trucks are well below both the daytime and nighttime limits and expects no impacts from onsite mining operations. This study also considered the potential for vibration impacts from haul trucks traveling along Grip Road and Prairie road and found no impacts to residences from these trucks traveling to and from the mine site.
3. With regard to truck trips, the County letter from July 6, 2017 does not accurately represent what we have proposed. Our proposal is clearly presented in the reports by DN Traffic Consultants, which have previously been approved by Public Works; and the conclusions of those approvals were conditions in the September 12, 2016 Staff Report to the Hearing Examiner. In addition, our recently completed Noise and Vibration Study indicates no potential adverse effects from noise and vibration of haul truck traffic, therefore, the initial County recommendation to limit the number of truck trips should be dropped.

Miles Sand & Gravel Company

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4. We continue to disagree with the County defining our haul road as a “Private Road” as defined by the Skagit County Road Standards, Section 3.07, Private Roads. The proposed haul road will remain gated, private and is an internal haul road to be used by professional drivers. We do however understand the County’s need to ensure emergency vehicle access which we support as we discussed in our November meeting. For these reasons we are comfortable with a reasonable performance standard of Section 3.08B, Emergency Vehicle Access Road, (except as constrained by the existing approach and bridge over Swede Creek) as a condition of approval.
5. We have made a couple of small additions to the Environmental Protection Plan as we discussed in our November 20, 2017 meeting. This division of Miles Sand and Gravel manages 17 of these permits for sites under the Sand & Gravel General Permit through the Washington State Department of Ecology.
6. With regard to the appropriate land use intensity rating and buffer requirement, this issue has already been decided and approved by the County through its subject matter experts. The County has already issued a development permit associated with this application predicated on medium intensity use, as described in our application, and a 200’ buffer. This project started with a more conservative than required approach to determining ordinary high water mark and wetland edge. “Samish River (Ordinary High Water Mark/Wetland Edge)”, letter report by Graham-Bunting Associates (GBA), May 18, 2015, proposed shoreline jurisdiction, 200 feet from the toe of the slope, when in fact the active channel varies between 50 feet and 300 feet from said toe location. GBA also characterized the subject proposal to be a “moderate land use intensity” in their report “Fish and Wildlife Site Assessment: Parcels 50155, 125644, 125645”, August 20, 2015.

5.2.2 Land Use Intensity – Chapter 14.04 of the Skagit County Unified Development Code defines high intensity land uses as:

“Land uses which area associated with high levels of human disturbance or substantial habitat impacts including, but not limited to, medium and high density residential (more than one home per five acres), multifamily residential, some agricultural practices and commercial and residential land uses.”

While at face, the subject dry mining activity appears to be a high intensity land use, GBA also considered the following elements of the subject proposal:

- The mine site is located greater than 200 horizontal feet landward of the OHWM
- The mine site is also separated vertically approximately 90 feet above the OHWM
- Mining activities will be separated from the OHWM by a protective berm
- The dry mine floor will maintain a maximum depth of 10 feet above the underlying water table
- All surface water will drain through the gravel floor of the mine site – no surface water will drain directly to the Samish River



- The mine site is located in an area logged during the 1990s by a previous landowner
- No processing or industrial activity is proposed in conjunction with the project
- Aggregate extraction will be maintained at a relatively low volume level
- The project will utilize an existing interior road system
- The area contiguous to the berm will be mined first and reclaimed pursuant to a reclamation plan to be approved by the Washington State Department of Natural Resources. The goal of the reclamation plan will be to return the site to forest management or low density residential which are considered low and moderate land use intensities respectively.

Graham-Bunting Associates & Environmental & Land Use Services CNW Assessment: August 20, 2015
Based on the elements of the project listed above, GBA would characterize the subject proposal as a moderate land use intensity. Moderate land use intensity is defined as:

“ Land uses which are associated with moderate levels of human disturbance or substantial habitat impacts including, but not limited to, low density residential (no more than one home per five acres), active recreation, and moderate agricultural land uses.”

In short, the subject proposal is to utilize an existing mineral resource area by extracting relatively low volumes of aggregate with an excavator, loading the material into a dump truck and hauling the material to an authorized offsite processing facility.

The County has already issued a development permit associated with this application predicated on medium intensity use as described in our application and a 200' buffer. If the County is no longer concurring with the GBA characterization of a “moderate land use intensity” we need to know that and would like to see your rebuttal and reasons for this change.

Public comment regarding the appropriate land use intensity can be presented to the Hearing Examiner, where we will have an opportunity to respond.

7. In response to your request to update our application materials and our review of the applications, SEPA and project record, we found that the “Samish River (ordinary High Water Mark/Wetland Edge)” report by Graham-Bunting Associates, dated May 18, 2015, submitted to the County in June 2016 and referenced in SEPA checklist, has not been included in the record. We are including a copy of that memo with this letter.

As we discussed in our meeting on November 20, 2017, we have also gone through the list of material discrepancies found on pages 4 and 5 of the letter from Jonathan K. Sitkin and Nolan F. Davidson to John Cooper, Skagit County Planning and Development Services, March 2, 2017.



Traffic Figures:

February 8, 2016 traffic study was submitted with the MSUP application in March 7, 2017. The SEPA checklist also refers to the March 7, 2017 study. The MSUP application, Section A and Section B referenced the May 2015 report in three places on pages 9, 12 and 13. This has been corrected to reference the February 8, 2016 study and is attached for submittal.

Hours of Operation:

Proposal is for "unlimited" hours of operation as proposed in Section A, Item 2 of the application. "Normal" hours of operation would be 7:00 a.m. to 5:00 p.m., Monday through Friday as stated in Section A, Item 4 of the application.

Depth of Mine

The SEPA checklist, mine plan and mine cross-sections are based on survey information and work performed after the August 21, 2015 Hydrogeologic Site Assessment and bore hole exploration. Bore holes were plotted on the mine maps and the depth to ground water was converted to the survey map datum, NAVD88. The groundwater and bottom of the mine have been plotted on the cross sections and the separation of 10 feet is maintained. Hydrogeologic Site Assessment concludes the ground water is present "at an elevation of approximately 145 to 155 feet (msl)." There is no discrepancy between the "approximate" elevations in the Hydrogeologic report and the surveyed or rectified elevations in the SEPA and on the Mine Plans. The mine bottom will be a minimum 10 feet above the ground water table.

Amount of Gravel to be Removed

The SEPA Checklist, Special Use Permit and Staff Report all correctly report that 4.28 million cubic yards are proposed to be excavated over the life of the mine. The February 2016 traffic study uses 200,000 tons to be removed annually as an estimate for calculating the number of truck trips.

On Site Processing

No processing of gravel material is proposed on site as correctly stated in the MSU application and the Fish and Wildlife Site Assessment, August 20, 2015. Please disregard the reference to dry screening found in the Hydrogeologic Site Assessment, August 21, 2015.

Noise

A noise and vibration study has been completed and is being submitted for your review. The Staff Report can be revised to reflect the findings of the study.

Please include this document in the record and let us know if there are any further discrepancies in our application that need correction.



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We are looking forward to your review and our working with the County to move this project back to the Hearing Examiner so that a decision can be made. Please contact me to discuss any additional questions or issues.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dan Cox', is written over a light blue horizontal line.

Dan Cox

General Manger

encl:

Noise and Vibration Study, February 20, 2018

Site Specific Spill Control Plan

Samish River (Ordinary High water Mark/Wetland Edge), May 18, 2015

MSUP application Section A and B