

Exhibit A-54: Skagit River System  
Cooperative letter re: Concrete  
Nor-West gravel pit (March 9,  
2022)



## Skagit River System Cooperative

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March 9, 2022

Kevin Cricchio, Senior Planner  
Skagit County Planning and Development Services  
1800 Continental Place  
Mount Vernon, WA 98273

Reference: Concrete Nor'West gravel pit (PL16-0097 and PL16-0098)

*Sent electronically via email and submitted through Skagit County PDS Comments Form*

Dear Kevin,

SRSC has completed our review of the SEPA Mitigated Determination of Nonsignificance received from Skagit County for the Concrete NorWest gravel pit and haul route. We are not satisfied with the findings of the MDNS and request additional public and agency review take place before the County issues such a decision. We have the following comments and correction actions that should be addressed by the County prior to the reissuance of a SEPA decision.

***Impacts due to Haul Route Development have not been considered***

In review of the Impact Assessment & Mitigation Plan, the document's scope is described as "This project describes existing conditions". The impact assessment explains that "The haul road is currently gravel, and the drive surface is approximately 20 to 25 feet wide on average. Ditches border both sides, meeting Skagit County road standards. The project does not include expansion of the road footprint." The assessment goes on to state "The project does not include an expansion of the road footprint" and that "The project does not include any direct wetland, stream, or buffer impact. Therefore, traditional mitigation measures such as wetland or buffer enhancement have not been presented."

A substantial impact to wetlands, critical areas, and typed streams has occurred along this haul route, and there is no existing permit that has authorized the work and no mitigation for realized impacts to wetlands and streams have been realized. In 2018, the road was doubled in width. The road is approximately 2 miles long, and the action increased the road width from the

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Suiattle and Swinomish Indian Tribes

pre-existing (pre-2018) prism width of 15 feet, to an as-built width averaging 20 feet, resulting in a conversion of 1.2 acres of forestland to non-forest activities.

We raise concerns that this forest land conversion and development activity took place in preparation for the mining activities without a permit and without mitigation for its impacts. The Forest Practices Conversion Permit PL16-0098 associated with the Skagit County project file<sup>1</sup> does not address any conversion activities outside of parcels P125644, P125645, or P50155 and indicates that roads are “existing – no new roads needed for logging activity”. The FPAs for timber harvest in the years leading up to the road construction development activity never indicated that road work, road construction, or conversion activities would be carried out under the FPAs. As defined in WAC 222-16-010, “road construction” includes “road work outside of an existing road prism”. The development activity was clearly not road maintenance (or within an existing road prism). Road ‘daylighting’, or clearing of roadside vegetation, was in fact included in one of the FPAs and is not part of this concern, which is focused on road construction outside of the pre-existing road prism.

DNR also offers clear examples for forestry “conversion activities” (in WAC 222-16-010) including “construction of, or improvement of, roads to a standard greater than needed to conducted forest practice activities”, and “construction of, or improvement of, roads to a standard greater than needed to conduct forest practice activities”. Further, culverts were replaced in at least one or more Type F stream (DNR Class II activity), and a corridor of nearly 2 miles was converted from forest land to an improved road that now meet Skagit County private road standards through its Alternative.

In the August 7, 2019 Skagit County Prosecutor’s letter to the Hearing Examiner<sup>2</sup>, the Prosecutor lists outstanding items from Concrete Nor’West that supported the denial of the application at the time. In that letter, Item #6 indicates that a letter from Skagit County on April 5, 2018 to the application indicates that Concrete Nor’West’s “application materials were not updated to ensure the access road is in compliance with the private road standards pursuant to SCC 14.16.440(8)(i). In a letter dated March 14, 2017, we asked you to provide a plan indicating the proposed improvements to the access road to achieve private road standards. In a letter dated July 6, 2017, this issue was raised again. However, this plan was never received. To date, the County has only received as-builts of the access road.”

In a May 15, 2017 letter (prior to the road widening) from Miles Sand & Gravel (MS&G) to the Skagit County PDS<sup>3</sup>, MS&G indicated to PDS that “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.” However at the time the road

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<sup>1</sup> <https://skagitcounty.net/PlanningAndPermit/Documents/GravelMine/FPA%20Concrete%20Norwest.pdf>

<sup>2</sup> <https://skagitcounty.net/PlanningAndPermit/Documents/GravelMine/PI18-0200%20Nicol%20letter%20to%20Hearing%20Examiner%20August%207%202019.pdf>

<sup>3</sup>

<https://skagitcounty.net/PlanningAndPermit/Documents/GravelMine/Alternative%20Road%20Standard%20Request%20June%2014%202019.pdf>

was much narrower and no permissions were in place with DNR to construct a new wider road outside of the existing road prism for the purposes of mine access, and road improvements such as this constitute a conversion activity and are not covered by any existing FPA for the site. This correspondence indicates that the applicant could “agree to” widening the road in response to PDS requirements for Private Roads. The applicant points out to PDS that “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.”

At the time of this exchange between the County and applicant, the road was not yet widened. We encourage those interested to view the road north of Swede Creek in Google Earth and compare the road conditions between 7/2017 (the road is a ‘two track’ that is 12-15 feet wide) and 7/2018 (earth moving equipment are underway and finished sections of the road are 20-30 feet wide).

In a later letter, dated June 14, 2019 (after the road widening) from the MS&G engineer to Skagit County engineer, Skagit County is assured that “the existing gravel access road has the minimum 20’ driving surface in all but three locations.” There is no further account of the Critical Areas review for improvements to the haul route that was mentioned by PDS in the above-cited letter.

This correspondence indicates that the project proponent was working to meet County requirements for the use of the haul route, and that the pre-existing dimensions from the time the road served as an ‘internal logging road’ were insufficient to meet the County standards. The improvements constitute a “development” under SCC 14.04.020 since they included filling, grading and earthmoving activities and “requires(d) a permit, approval or authorization from the County” as described in the correspondence between the project proponent and PDS and described in the above referenced letters. It appears that the 2018 road widening development activities were not pre-authorized as required by the County Code. It also appears that no assessments or mitigation were completed for road development impacts to adjacent natural areas.

SRSC raised concerns and observations for road widening in our letter dated April 30, 2021 and requested “details of the design and regulatory approvals for this substantial road widening project...”. We have had no response to this request to receive the regulatory approvals through Skagit County, which would require mitigation measures to offset impacts to the wetlands, critical areas, and streams affected by the work. We are extremely concerned about what appears to be unpermitted development in 2018, the impacts to sensitive habitats, and whether any of those permissions must now be obtained after the fact, and impacts mitigated fully and completely.

We requested in our letter in 2021 for the widening along the haul route to “be fully assessed by a qualified consultant who can identify sensitive areas, priority habitat areas, wetlands, and

streams; quantify the impact; and suggest mitigation measures to reduce impacts resulting from this project,” but to date we have not received any results from this assessment or any indication the concern was addressed.

We challenge the findings of the Impact Assessment and Mitigation Plan that “Because the road is an existing impact, and proposed use is consistent with the current use, no direct impacts are anticipated.” At the outset of permitting this gravel mine in 2016, the haul route was a 15-foot wide forest road. It was subsequently improved and widened to 20-feet wide or more to meet standards for Private Roads within Skagit County in order to develop the haul route for a mining use constituting a conversion activity from forestry. The Impact Assessment and Mitigation Plan must be updated to include the already completed development activities conducted in preparation for the mine haul route and all associated adverse impacts to sensitive habitat areas. This impact assessment update must occur prior to any further activity or permits being issued on this project, and mitigation must account for the impacted wetlands and stream affected by the road widening, per SCC 14.24.240(6)(a) and SCC 14.24.540(5). We believe the project proponent should be required to post a bond for the mitigation necessary to address impacts to wetlands and streams that occurred in 2018 as the road widening development, and additional mitigation for the four years that the habitat has been impacted without addressing any impacts.

However, the new MDNS and supporting documentation does not evaluate the impacts of the road widening that occurred and recognizes the widened road an “existing condition” despite the development being done in preparation for the mine under consideration of this SEPA. Skagit County must consider all impacts associated with the haul route, including the completed improvements to County-agreed Private Road standards that were made in preparation for its use as a mining haul route. If the haul route improvements made along the haul route are not going to be incorporated into this SEPA, we request a detailed written justification for that decision prior to the permit being issued. We likely will want to schedule a staff-level government-to-government to try and remedy these serious concerns.

### ***Swede Creek Gorge***

The haul route passes through a ravine with over-steepened slope. For any slope failure within the ravine, there is a distinct possibility of sediment delivery to Swede Creek which is a known and important salmon-bearing stream offering habitat to protected aquatic species. We continue to have great concern about the potential impacts of the mine use of this road through the Swede Creek gorge.

A substantial sidecast crack along the fillslope shoulder at the location of the geologic hazard within the gorge was previously described in our April 2021 letter. This sidecast crack was observed in a period where there was no ongoing truck activity in recent months traveling along the road, nor saturating weather conditions. It is possible that the fillslope failure had been graded over by the time of the engineering geologist’s September 2021 site visit and was no longer detectable.

In the vicinity of the sidecast crack in the gorge, the geologist did describe “pistol-handle”-shaped trunk curvature, which can indicate shallow-seated soil creep is occurring” however, supporting the concern for unstable soils and soil creep on a slope exceeding 60 percent. These would not necessarily present a concern just anywhere on the landscape, but where sediment delivery to a type F stream is a possibility, these conditions merit serious concern with careful and detailed surface water management incorporated with numerous redundant water management measures, including cross drains, dips, and downpipes. Sediment can have negative effects on downslope fish habitat. Fine sediment from surface runoff, and more substantial delivery due to slope failures and mass wasting which can originate at locations with fillslope cracking, can affect egg survival and delivery of coarse sediment can affect channel structure and rearing habitat.

### ***Road Maintenance Plan***

Due to the 25-year planned use of this road as a Private Road accessing an active mining site, and its crossing of important fish-bearing waters, we requested in our April 2021 letter that the proponent provide a “see applicant submit a maintenance plan for all stormwater and drainage conveyance systems, including the assignment of responsibility for such maintenance. We would like to see a schedule of periodic on-site bridge inspection to assess the Swede Creek bridge and the anticipated traffic level and loads. The road maintenance provisions and the stormwater and drainage maintenance plan must be recorded with the permitting of the mine, and enforced and carried out, to prevent impacts to surface waters and wetlands in the vicinity of the haul route.” We have not been able to review such a maintenance plan to date.

It seems that a maintenance plan is included with Private Road standards for Skagit County, as well, as described in the document Skagit County Road Standards<sup>4</sup> such that “A written road maintenance agreement addressing the rights and responsibilities of all benefited property owners shall be provided to the County and approved by the Director – Planning and Permitting Center prior to final approval of the land development.” No such maintenance agreement has been presented for the public review to date. We request a maintenance agreement is provided to the County by the project proponent and such document is offered for public review. In light of site-specific concerns, we request that the maintenance plan include the responsibilities of periodic bridge inspections, inspections of surface water management BMPs, and identified responsibility and financial liability for maintaining such infrastructure.

If this road is to be plowed during winter for continued operations in the snow, management of water in rutted 2-track roads or where cross drains are affected by windrows left by a snowplow must be considered and described in the maintenance plan and BMPs utilized to protect over-steepened unstable slopes in gorges where delivery is a possibility. In our June 2021 letter, we requested an improved design with additional cross-road drainage (dips or

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<https://skagitcounty.net/PublicWorksDevelopmentReview/Documents/road%20standards/roadstandards2000.pdf>

culverts) to manage surface runoff and offer redundancy, but no such improvements have been offered.

### ***Reclamation***

In our April 2021 letter, we requested a mine reclamation plan be prepared and offered for public review, and this has not happened. Obsolete gravel pits have a tendency to become a dumping ground for waste and trash and can leave an undesirable legacy on the landscape for the surrounding community. We request that such a plan be prepared and offered for public review to allow a complete review of this project and the potential impacts.

### ***Conclusion***

SRSC has serious, outstanding concerns with this proposed MDNS. We believe that the application is incomplete, and before the SEPA is reissued, it is essential that the concerns above be fully addressed.

As always, SRSC appreciates the opportunity to comment on this proposal, and we look forward to continuing our collaboration with the County on these matters. If you have any questions about our comments, or if there is anything that we can provide, please don't hesitate to call me at (360) 391-8472 or email at [nkammer@skagitcoop.org](mailto:nkammer@skagitcoop.org).

Sincerely,

A handwritten signature in cursive script, appearing to read "Nora Kammer".

Nora Kammer

Cc: Elizabeth Babcock, NOAA Fisheries  
Brendan Brokes, WDFW