

Exhibit A-06: Loring Advising letter re:
File No. PL16-0097 & PL16-0098
Concrete Nor'West Grip Road Gravel
Mine Critical Areas Review (Feb. 7,
2022)

By Electronic Portal, Email, and U.S. Mail

February 7, 2022

Kevin Cricchio, Senior Planner
Skagit County Planning and Development Services
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kcricchio@co.skagit.wa.us

Re: File No. PL16-0097 & PL16-0098
Concrete Nor'West Grip Road Gravel Mine Critical Areas Review

Dear Mr. Cricchio,

I am writing on behalf of Central Samish Valley Neighbors ("CSVN") to request that Skagit County Planning and Development Services ("PDS") address several significant oversights in Miles Sand and Gravel's ("Miles")¹ December 21, 2021 response to the critical areas review requested by Skagit County Planning and Development Services ("PDS"). Those omissions include the lack of evaluation of the impacts associated with the road work that Miles conducted in 2018 along the full length of the 2.2 mile-long haul road, as well as an analysis based on the proper wetland buffer sizes for high intensity land uses, large gravel trucks and trailers, and unstable slopes near Swede Creek. The absence of such an evaluation under either of Skagit County's State Environmental Policy Act ("SEPA") rules or critical areas regulations is particularly remarkable given that Miles' consultant identified 36 wetlands, one fish bearing stream, and 21 seasonal, non-fishbearing streams within 300 feet of the roadway. The potential environmental impacts of the road improvements and identified use fall well within the critical areas review information requested for the haul route in PDS' September 2, 2021 letter, and the oversight must be remedied consistent with that request and to inform PDS' forthcoming issuance of a threshold determination under SEPA. While my client appreciates that the formal public comment period has been limited so that it will not recommence until issuance of that threshold determination, we are submitting this letter now to assist the County in issuing a fully-informed determination. Please note that this letter addresses only the haul road impacts; earlier SEPA comments address other environmental review flaws associated with the project.

This letter briefly explores the historical use of the overall Miles property within the context of the applications that Miles submitted in 2016 for a special use permit (PL16-0097) and forest practice conversion (PL16-0098), and then identifies critical omissions in the

¹ Note that references to "Miles" in this letter are intended to refer to Concrete Nor'West as well.

biological and geotechnical reports that the applicant submitted in December 2021 and the legal framework that requires that information. These omissions include an evaluation of the road improvements that Miles conducted in 2018 in conjunction with its projected gravel hauling, an analysis of impacts with the 300-foot buffers for high intensity uses, and potential impacts to Swede Creek from the road; associated steep, unstable slopes; and stream processes.

A. Procedural History and Haul Road Use and Development.

The property (“Property”) that contains the proposed gravel mine site (“Site”) has been owned for the purpose of forestry for at least twenty years. According to a 2009 Forest Management Plan (“Forest Plan”) prepared for Trillium Corporation, the Property spans approximately 722.6 acres and has been managed for forestry for a few decades.² The Forest Plan, prepared in conjunction with Miles assuming ownership of the Property, notes that Miles wished to maintain the current forest designation, and “the integrity of the property shall be maintained by managing the property as a productive tree farm,” that would “provide timber production, wildlife habitat, watershed management and recreational activities.”³ Miles has since applied to convert 68 acres to a gravel mine.

1. Mining site permit applications.

On March 7, 2016, Miles submitted two applications to PDS, one for a forest practice conversion (PL16-0098) and one for a mining special use permit (PL16-0097). The forest conversion application seeks to facilitate the mining by clearing 68 acres of land of their soil, trees, and other vegetation, including 50,000 board feet of timber and associated stumps. The mining application seeks approval to excavate approximately 4,280,000 cubic yards of sand and gravel within that same 68-acre expanse.⁴ While the mining application has been made publicly available on a PDS website dedicated to the project review, the forest conversion application, which the PDS Permits website indicates was approved in 2016, is not available there or on the Permits website.⁵ An active public records request seeks that document.

² Randy R. Bartelt, Timber Management Plan, Skagit County, Washington, for Trillium Corporation Lands (Nov. 5, 2009).

³ *Id.* at unnumbered page 2.

⁴ CNW, Revised Project Description (Section A), 8 of 17 (received Feb. 23, 2018).

⁵ While the project website (<https://www.skagitcounty.net/Departments/PlanningAndPermit/gravelmine.htm>) includes a link for “Forest Practice Conversion Permit, PL16-0098,” that link directs the view to a DNR document titled “Forest Practices Application/Notification: Western Washington,” rather than a Skagit County permit.

2. Application materials initially did not acknowledge the existence of the project's private haul road or its environmental impacts.

A consistent theme in the application process has been the lack of acknowledgment of impacts from the 2.2 mile-long haul road that would connect the mining portion of the property with the public road system. For example, the application initially implied that such a road did not exist, stating that the “site is accessed via Grip Road, which is a County Road,” and that “[t]he mine site will not have a defined road system per se, as the mine floor and elevation will be constantly changing as mining progresses.”⁶ The March 2, 2016 SEPA Checklist conceded the existence of this internal road, but omitted any reference to impacts from development or use of that road, stating merely that “[s]ite will access on Grip Road from an existing private forest road at an existing gate approximately 0.7 miles east of the intersection of Grip Road to Prairie Road.”⁷

This overlooked haul road would be subject to a significant amount of heavy truck traffic. A September 10, 2020 Traffic Impact Analysis (“TIA”) by DN Traffic Consultants estimates that under “extended hours conditions,” the Mine would generate 29.4 truck-and-trailer trips per hour.⁸ The TIA does not define extended hours or explain why the site would be limited to that number of trips if demand were high enough to require greater production. DN Traffic Consultants’ earlier memo, aptly-titled “Maximum Daily Truck Traffic,” estimated that a realistic maximum number of trips for truck-and-trailer was 60 trips per hour.⁹ Thus, the application anticipates as many as one truck and trailer every 1-2 minutes.

Presumably to accommodate this new volume of heavy traffic, in 2018, significant road construction activities appear to have occurred along the full length of the haul road, expanding its width, significantly building up the surface, replacing culverts, and cutting vegetation. Under “Conditions on Approval / Reasons for Disapproval,” the DNR Notice of Decision for FPA #2816283 by Dave Klingbiel sets out conditions to be met “Prior to truck haul” and “during rock haul activities,” clearly indicating that the work is being done for mining use, not forestry. An April 30, 2021 letter by Skagit River System Cooperative (“SRSC”) noted that google map images showed that the forest roads were widened and that three culverts were replaced.¹⁰ SRSC estimated that the widening of the haul route by approximately 10 feet over its two miles and the conversion to a gravel surface had added 2 acres of compacted gravel.

⁶ CNW, Revised Project Description (Section A), 9 of 17 (received Feb. 23, 2018).

⁷ SEPA Checklist, at 3.

⁸ DN Traffic Consultants, Traffic Impact Analysis for Grip Road Mine (Sept. 10, 2020).

⁹ DN Traffic Consultants, Memo re: Grip Road Gravel Pit, Maximum Daily Truck, 2 Traffic (Nov. 30, 2016).

¹⁰ Letter from N. Kammer to M. Cerbone re: Concrete Nor’West gravel pit (April 30, 2021).

Historical forest practices documents for the site indicate that the road was not widened and graveled for forestry purposes. From the time that Miles purchased the Property in 2009 through two forest practices applications submitted to the Washington Department of Natural Resources (“DNR”) in 2015 and 2018, Miles communicated a lack of intent to further develop existing roads for forestry. The Forest Plan stated that “[a]n extensive all-season forest road system services the property,” and noted that all of the road maintenance contemplated by a 2002 Road Maintenance and Abandonment Plan had been implemented.¹¹ A July 29, 2015 Forest Practices Application/Notification (“FPA”) discussed the harvest of 125 acres of trees, at least some on very unstable soils, as well as wetland soils and riparian management zones for fish-bearing waters. That document noted that the roads had been maintained for forestry standards. A 2018 FPA proposed to harvest timber on the three parcels that would become the gravel mine and noted that no new roads would be needed for the logging and the attached RMAP checklist stated that the roads are maintained to forest practices standards. Although the earlier Forest Plan contemplated the possibility of substituting a lift of surface rock for grading, and a Miles representative later attempted to characterize the road work as associated with forestry activities, both the 2015 and 2018 FPAs indicated that no new roadwork was necessary for the proposed forestry activities. Nor did either of those FPAs include an environmental evaluation of the impacts of doing so.

While PDS initially declined to require a review of the haul road’s impacts, it reversed that decision on June 17, 2021 when it issued a letter to Dan Cox that requested that a critical areas review be conducted for the haul road.¹² PDS noted that the presence of steep slopes, wetlands within 300 feet, and streams within 200 feet of the haul road warranted critical areas review by a qualified consultant. On August 30, 2021, after Miles appealed that letter decision, the Hearing Examiner upheld the determination.

3. Recently submitted reports describe a property interlaced with sensitive ecological features but omit essential impact evaluations due to unwarranted assumptions.

On December 1, 2021, Miles submitted two reports: (1) Impact Assessment & Mitigation Plan; and (2) Response to Skagit County Geologic Hazard Requirement (“Geotech Report”). The Impact Assessment consultants investigated the haul road and its environs and found that it lay within 300 feet of a remarkable number of ecologically sensitive features.¹³ For example, a

¹¹ *Id.* at unnumbered page 3.

¹² Letter from H. Hart to D. Cox re: PL16-0097/98 Determination of need to complete Standard Critical Areas Review (June 17, 2021).

¹³ NW Ecological Servs., Grip Road Gravel Mine Impact Assessment & Mitigation Plan, i (Dec. 2021).

wetland that supplies the habitat needs of the federally threatened and state endangered Oregon spotted frog reaches within approximately 200 feet of the road.¹⁴ The Impact Assessment limited its analysis to “the use of the roadway to transport materials from the mine site only.”¹⁵ The report did acknowledge that the project would include the paving of a steeper section of roadway by the bridge across Swede Creek.

a. The Impact Analysis failed to evaluate road construction impacts.

Notwithstanding this rich ecological setting, and the submission of the mining applications in 2016, the Impact Assessment overlooked the impacts of the 2018 road expansion and graveling on those critical areas and failed to fully evaluate the impacts of its use by mining trucks and trailers. First, the report did not evaluate the road surfacing, expansion, culvert replacement or installation, vegetation cutting, or material stockpiling that occurred in 2018. This omission appears to be the result of a misunderstanding whereby the report authors were not aware of the 2018 roadwork. Thus, the report assumed that “[t]he proposed change in use does not extend the footprint of the road prism,” and that “[d]ue to the length of time the road has been present, no actions proposed outside the existing road prism, and continued similar use, no new direct impacts to wetlands, streams, or buffers are anticipated.”¹⁶ However, the report does note that the road is an existing impact, and states that “[t]he majority of water quality impacts to adjacent wetlands and buffers occurred with the installation of the roadway some time ago when the road was cleared, graded, compacted, and developed.”¹⁷ Because some of those impacts occurred in 2018 in conjunction with preparation of the road for the mining project, they must be evaluated, including potential impacts on wetlands intersecting with the road, as identified on Figures 4 through 9 of the Impact Assessment.

b. The road use analysis erroneously relied on a significant undercount of the trucking and assumed no difference between logging and gravel trucks.

The Impact Assessment incorporated erroneous assumptions about the road use and thus does not support its conclusion that the road use will cause “minor” indirect impacts to water quality and potentially wildlife functions associated with site critical areas and buffers. First, the report states that a 2019 traffic study projected just 46 trips per day for the haul road.¹⁸ However, as noted above, a 2020 memo by that consultant projected almost 30 trips

¹⁴ Impact Assessment, at i. The study did not survey the boundaries of the wetlands and streams it identified, so their precise location remains an estimate.

¹⁵ *Id.*

¹⁶ *Id.* at ii.

¹⁷ Impact Assessment, at 12, 13.

¹⁸ Impact Assessment, at 12.

per hour under extended conditions.¹⁹ This substantial difference between the traffic load assumed for environmental impacts and that projected by the applicant's traffic consultant likely led to a significant underrepresentation of project impacts. In particular, this may affect the statement that even the increased traffic levels assumed by the report "may detour wildlife from the area immediately around the roadway when trucks are present...but is not anticipated to deter use of this habitat all together."²⁰ Second, the report does not appear to appreciate any difference between past logging trucks and gravel trucks other than an increase in volume for the mine. Consequently, the report should be revised to reflect the different nature of gravel truck traffic. According to SRSC, the applicable gravel truck and pup will weigh 105,500 pounds, approximately 20% heavier than the typical 88,000 pound logging truck.

c. The Impact Analysis applied the wrong buffer sizes.

In addition, the report must be revised because it relied on buffer sizes for moderate intensity land uses rather than the buffers that apply to the proposed high intensity land use of frequent gravel hauling by trucks and trailers.²¹ The report argues that a moderate land use intensity applies but fails to note that the definition for moderate impact land uses includes such development as low-density residential development like one home/five or more acres, active recreation, and moderate agricultural land uses.²² According to the Skagit County Code, "high intensity land uses" include "land uses which are 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 industrial land uses."²³ The proposed gravel mine and trucking qualify as an industrial use and therefore warrant buffers accordingly.²⁴ Consequently, the report must revisit its conclusion that the haul road "does not overlap with the regulated buffer for wetlands A, B, D, G, J, K, L, and X."²⁵ The applicable buffers for those wetlands are 10 to 40 feet wider than assumed by the report authors.

d. The Geotech Report does not address potential instabilities.

In its SEPA comment letter, SRSC identifies several concerns with the unstable slopes near the Swede Creek Gorge that are not addressed by the Geotech Report. For example, SRSC identifies the existence of a 60-80-foot long sidecast crack and slump (12-18" deep) on the

¹⁹ DN Traffic Consultants, Traffic Impact Analysis for Grip Road Mine (Sept. 10, 2020).

²⁰ Impact Assessment, at 17.

²¹ See Impact Assessment, at 8.

²² SCC 14.24.230(1)(a).

²³ SCC 14.040.020 (emphasis added).

²⁴ *Id.*

²⁵ Impact Assessment, at 12.

fillslope near the top of the hill north of Swede Creek, and opines that further failure could risk damaging sediment delivery to Swede Creek.²⁶ The letter also identifies two cutslope failures that slumped and filled the ditchline and requested that all three failures be addressed to prevent further damage to the drainage infrastructure.²⁷

The Geotech Report does not address the geological failures identified by SRSC. Nor does it address hydrological processes associated with Swede Creek that could impact the slope even though it concludes that the area qualifies as a landslide hazard area in part because it is a “[p]otentially unstable area[] resulting from rapid stream incision, stream bank erosion, and undercutting by wave action.”²⁸ It concludes that the change in haul road usage based on truck type can avoid impacts to the geologic hazards near the haul road but does not explain how it reached that conclusion.²⁹ For example, it does not compare the type of truck or volume of traffic proposed for the mine with the current use of the road to show that the significant increase can be accommodated without impacting the unstable slopes.

Further, like the Impact Assessment, the Geotech Report incorrectly assumed that it should not evaluate the impacts of the road construction activities in 2018.³⁰ Instead, with the exception of the asphaltting of an approach to the Swede Creek bridge, the report stated that it would base its impacts assessment on “the change in use of the haul road to a route used for aggregate mine trucking...”³¹ The unfounded assumption that “th[e] same haul road was used in the past to transport harvested logs from the surrounding area,” may have led the author to underappreciate the impacts of adding 30 hourly 105,500 pound trucks on a road that was altered significantly since much forestry occurred on the site, and must be corrected.³²

B. SEPA Requires Full Evaluation of the Road Impacts.

Prior to PDS issuance of a new threshold determination, Miles must address the omissions identified above so that PDS may fully consider the environmental effects of the haul road development and hauling use. RCW 43.21C.030; *see Boehm v. City of Vancouver*, 111 Wn. App. 711, 717, 47 P.3d 137 (2002). SEPA requires agencies to “consider total environmental and ecological factors to the fullest extent when taking ‘major actions significantly affecting the quality of the environment.’” *Lassila v. City of Wenatchee*, 89 Wn.2d 804, 814, 576 P.2d 54 (1978) (quoting *Sisley v. San Juan County*, 89 Wn.2d 822, 830, 567 P.2d 1125 (1977)). To

²⁶ SRSC letter, at 4.

²⁷ *Id.*

²⁸ Geotech Report, at 5 (citing SCC 14.24.410(2)(e)).

²⁹ Geotech Report, at 8.

³⁰ Geotech Report, at 5.

³¹ Geotech Report, at 5.

³² Geotech Report, at 6.

determine whether an environmental impact statement is required for a major action, the responsible governmental body must first determine whether the action will cause significant impacts and render a threshold determination accordingly. RCW 43.21C.030(2)(c); *Boehm*, 111 Wn. App. at 717.

A major action significantly affects the environment when it is reasonably probable that the action will have more than a moderate effect on the quality of the environment. WAC 197-11-794; *Boehm*, 111 Wn. App. at 717 (citing *Norway Hill Pres. & Prot. Ass'n v. King County Council*, 87 Wn.2d 267, 278, 552 P.2d 674 (1976)). Significance involves a proposal's context and intensity; an impact may be significant if its chance of occurrence is low but the resulting impact would be severe. WAC 197-11-794.

To evaluate an action's effects, a responsible official like PDS must: (1) review the environmental checklist and independently evaluate the responses of the applicant; (2) determine if the proposal is likely to have a probable significant environmental impact; and (3) consider mitigation measures that the applicant will implement as part of the proposal. WAC 197-11-060(1); WAC 197-11-330; *Indian Trail Prop. Ass'n v. Spokane*, 76 Wn. App. 430, 442, 886 P.2d 209 (1994). In reviewing a project's impacts, an official must review both direct and indirect impacts and both short-term and long-term impacts. WAC 197-11-060(4). If the responsible official's review concludes that the proposal will not cause probable significant adverse environmental impacts, she issues a determination of nonsignificance ("DNS"). WAC 197-11-340. Conversely, a finding of probable significant adverse environmental impact leads to the issuance of a Determination of Significance ("DS"). WAC 197-11-360. A determination of significance triggers the need for an environmental impacts statement to review the project's identified impacts. WAC 197-11-360.

An agency that determines that a proposal will not result in a significant impact bears the burden of demonstrating "that environmental factors were considered in a manner sufficient to be prima facie compliance with the procedural dictates of SEPA." *Bellevue v. Boundary Rev. Bd.*, 90 Wn.2d 856, 867, 586 P.2d 470 (1978) (quoting *Lassila*, 89 Wn.2d at 814). For example, the threshold determination must be based on information sufficient to evaluate the proposal's environmental impact. *Boehm*, 111 Wn. App. at 718. In addition, a court will not uphold a DNS unless the record demonstrates that the government gave actual consideration to the environmental impact of the proposed action or recommendation. *Boehm*, 111 Wn. App. at 718. An incorrect threshold determination will be vacated because it thwarts SEPA's policy to ensure the full disclosure of environmental information so that environmental matters can be given proper consideration during decision-making. *Norway Hill Pres. & Prot. Ass'n v. King*

County Council, 87 Wn.2d 267, 273, 552 P.2d 674 (1976)).

As described above, the reports that Miles submitted in December 2021 continue to omit essential information about impacts associated with the applications, including impacts associated with widening and surfacing the haul road with gravel, the use of larger gravel trucks and trailers, and potential destabilization of existing unstable slopes. The information made available to date indicates that those impacts, which are a direct result of the applications to mine the Property, have not been evaluated. Absent that information, PDS would not be able to adequately consider the environmental factors, “in a manner sufficient to be a prima facie compliance with the procedural dictates of SEPA.” *Lassila v. City of Wenatchee*, 89 Wn.2d 804, 814, 576 P.2d 54 (1978).

Furthermore, Miles’ forest conversion application documents indicate that the road was not upgraded to support forestry at the site. Regardless, the impacts of that development have never been evaluated, and since the current SEPA review process affords the first opportunity to do so, we urge you to request that information.

C. The Critical Areas Regulations Require a Full Review of the Road Impacts.

Skagit County has incorporated the goals, policies, and purposes of its Critical Areas Ordinance (“CAO”) into its SEPA policies.³³ PDS recognized its duty to review the haul road’s critical areas impacts when it communicated that requirement to the applicant. While the reports submitted in December provided previously undisclosed information about wetlands, streams, and unstable slopes that might be affected by the project, the information gaps discussed above fall short of the critical areas analysis directives.

For example, the reports did not describe efforts made to apply the mitigation sequence to the road development or the fillslope or cutslope failures or propose a mitigation plan to address those impacts.³⁴ Nor did they result in a delineation and permanent marking of critical areas and their buffers.³⁵ Ultimately, the reports did not ensure that these proposed alterations to wetlands, streams, and their associated buffers would maintain the functions and values of those critical areas or prevent risk from the unstable slopes.³⁶ It should be noted that the conversion of the forest practices to a mine are subject to these critical areas requirements.³⁷

³³ SCC 14.24.060(3).

³⁴ SCC 14.24.080(4)(c) (requiring site assessment that addresses mitigation sequence and proposes mitigation plan).

³⁵ SCC 14.24.090, .220.

³⁶ SCC 14.24.080(5)(a).

³⁷ SCC 14.24.110(1).

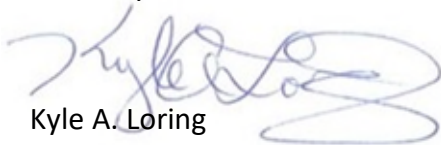
The Geotech Report also appears to omit several elements of the requisite site assessment, including: (1) a site plan depicting the height of the slope, slope gradient and cross section indicating the stratigraphy of the site; (2) a description of load intensity, surface and groundwater conditions, fills and excavations; and (3) a description of the extent and type of vegetative cover including tree attitude.³⁸ The August 2015 Hydrogeologic Site Assessment (by the same consultant) that Miles submitted along with its original permit application includes some of the above elements, but only addresses the actual mine site, not the haul road.

D. Conclusion.

We appreciate the effort work that PDS has put into obtaining sufficient information about the applications to conduct the applicable SEPA and critical areas review. As a result, the December 2021 reports submitted by Miles provided a significant amount of new information about site conditions and the vast amount of ecologically sensitive areas along the haul road. Now they must be amended to address the impacts of road upgrades that occurred in conjunction with the forest conversion to mining operations, as well as the impacts from high intensity, industrial use of the road.

If you have any questions, please contact me at 360-622-8060 or kyle@loringadvising.com.

Sincerely,



Kyle A. Loring
Counsel for Central Samish Valley CSVN

Cc: Leah Forbes
Jason D'Avignon
Martha Bray
John Day

Attachments: SRSC Letter

³⁸ Compare Geotech Report with SCC 14.24.420(2).



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April 30, 2021

Michael Cerbone
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Reference: Concrete Nor'West gravel pit
(submitted electronically via: County Comment Portal)

Dear Michael,

The Skagit River System Cooperative (SRSC) has reviewed the resubmittal of the proposal by Concrete Nor'West for a gravel pit near the Samish River (PL16-0097 and PL16-0098). The steelhead and coho salmon that spawn and rear in the Samish River and its tributaries are important tribal resources, so we are submitting comments on behalf of the Swinomish Indian Tribal Community and Sauk-Suiattle Indian Tribe.

Depth of Quarry Excavation

We would like to reiterate our previously stated concerns about the bottom depth of excavation for the pit. It is important to prevent any interaction of surface water and ground water in order to prevent pollution and protect water quality. We understand from the project documents that the extent of gravel mining will not go deeper than 10-feet higher than the groundwater levels surrounding the Samish River in order to prevent this interaction between groundwater and surface water. Limiting the depth of excavation should prevent the gravel pit from becoming a pond, and from river water being affected by groundwater interaction. However, it is important to consider the practicality of conveying this provision to the on-the-ground employees operating the pit decades from now, when that maximum depth of excavation will be approached.

For clarity and certainty, we would like the specific elevation of final excavation to be established as part of the permitting process, and that elevation should be based on Samish River water surface elevations at normal winter flow, not during summer low flow. On-the-ground monumentation should be available onsite with clear signage, located where it won't be disturbed by decades of mining, but close enough to be useful when the pit begins to exhaust its capacity.

Additionally, we would like to see periodic site evaluations every five years with reporting to the Department of Ecology. The evaluations should include a rod-and-level survey to determine the current depth of excavation using onsite monumentation, and an evaluation of the depth of excavation

remaining. This evaluation will serve to continue to convey the provisions and on-the-ground expectations to the employees operating this mine.

We expect there to be no surface runoff from the gravel mine, as pits create a topographically closed depression. Finally, we expect there to be no on-site processing of gravel, as stated in the plans.

Haul Route

The project proponent must expand their environmental assessment to include the haul route from the gate at Grip Road to the mine site itself. The existing onsite haul route is about 2 miles long and was developed for forestry activities. The quantity, seasonality, and duration of traffic; types and weights of vehicles; agency with jurisdiction; and maintenance responsibility will all change with this proposal, and as such, impacts must be considered. The route crosses numerous wetlands, a couple of typed streams, and the gorge and large stream Swede Creek, a known salmon-bearing stream. We have concerns on how the proposal will affect these sensitive areas.

The haul route was apparently widened recently. The as-built drawings recently provided by Semrau Engineering indicate the road is approximately 22 feet wide as-built. Archived airphotos and Google Earth indicate that this road was previously much narrower, approximately 15 feet as measured from airphotos.

I am unclear what permits were acquired to do the road widening, or if the work was under DNR jurisdiction (under FPA # 2816283 or FPA # 2814718) or Skagit County as improvements to a private road at the time. The two FPA's referenced do not indicate any road work or culvert replacements at typed streams would occur, but the roadwork did in fact replace culverts at approximate STA 12+27, STA 64+00, and STA 64+95 which with a cursory assessment and details in the FPA indicate would be Type N or Type F streams.

When this work occurred happens to be easy to ascertain. A 7/15/2018 Google Earth airphoto shows the work underway, with the northern portion of the haul route widened to more than 20 feet, and the southern part of the haul route remains narrow at about 10-12 feet and as in an apparent 2-track condition. An excavator is working at 48.563041, -122.280407. A roller is parked at 48.569462, -122.276716. The widening of the road adds up to more than 2 acres of new compacted gravel (2 miles x 10 feet). We would like to hear details of the design and regulatory approvals for this substantial road widening and project to replace all culverts.

Moving forward, we expect an environmental assessment to survey the road for stream crossings, wetlands, and seeps (of which there are many) to support a design that meets the Skagit County Drainage Ordinance and allows free flow of all surface waters across the road through appropriately sized culverts and ditches for streams and cross drains. We expect all culverts to be appropriately spaced and located, in particular those at approximate road stations STA 12+27, STA 64+00, and STA 64+95 where we believe typed streams to be present. All culverts must be appropriately sized to meet Skagit County Code or Washington State Forest Practices, whichever is more restrictive.

We feel that over the long term that the gravel operations use of this road presents an impact to surface waters and aquatic habitat due to sedimentation and runoff, and presents a greatly increased risk of slope failures that threaten to directly impact Swede Creek. We presume that the BMPs in the ditchline along the road were implemented concurrently with the above-described road work and the 2018 FPA. While remnants of the BMPs were evident in the ditchline (decayed straw wattles) recently, these BMPs

are clearly short-term treatments for forest practices, which typically represent a short duration of heavy use along a forestry road, as in during the harvesting and subsequent replanting activities. However, the proposed mine will have a very long duration (25 years) of a very heavy use (documents indicate 4.6 up to 30 trucks per hour). Typical forest practices short-term BMPs and management of stormwater are likely insufficient, unless scrupulously maintained, to effectively prevent runoff into surface waters.

The type of vehicle that will be utilizing this haul route is also notably different than a typical log truck, which can typically weigh around 88,000 pounds. The application materials indicate that the typical loaded gravel truck and pup will weigh 105,500 pounds, or 20% heavier. This, combined with the vastly greater number of vehicles and duration of the action, must be considered in an adequate drainage and stormwater management plan.

The road and all crossing structures must be assessed to ensure that they are capable of handling the types of traffic expected on the mine service road. We would like to see information specific to the age of the bridge and an onsite assessment by a bridge engineer that the bridge is capable of handling long-term usage by 105,500 pound vehicles; the provided memo is based on a typical engineering drawing dated 1999 and “from the original bridge installation and “photos and descriptions” sent to the engineer by the project proponent. This seems like an insufficient assessment of a bridge that serves as the key haul route for this mining project and is central to our concerns about the risk to aquatic habitat.

From our perspective, the risk of failure at this bridge would bring substantial harm to downstream aquatic habitat and we would like to be assured that this timber bridge is capable of handling the mine traffic. Traffic along the haul route must be adequately planned for, maintained, and mitigated. We request an onsite bridge inspection be completed prior to permitting, and repeated periodically at no less than every 5 years for the duration of the mine. We request this bridge inspection schedule and submittal of inspection reports to Skagit County Public Works be a provision of the permitting of this mine.

We would like to see the applicant submit a maintenance plan for all stormwater and drainage conveyance systems, including the assignment of responsibility for such maintenance. 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 as a provision to the permit, to prevent impacts to surface waters and wetlands in the vicinity of the haul route throughout the duration of this mine. We also feel that the 2-mile haul route, which has been essentially doubled in width ahead of this mining activity, should be fully assessed by a qualified consultant who can identify sensitive areas, priority habitat areas, wetlands, and streams; quantify the impact; and suggest appropriate and mitigation measures to reduce impacts resulting from this project.

When identifying mitigation measures, we would like to draw attention to an undersized and impassable culvert on a Type F stream located along a spur road on the subject property that we have recorded in a inventory of barrier culverts (48.563983, -122.275181). We suggest as a potential mitigation measure to compensate for road expansion and impacts to remove this culvert and naturalize the stream, or replace this culvert with an appropriately sized culvert based on an assessment of channel dimensions and fish use.

Swede Creek gorge

We have specific concerns about the haul route through the steep valley at Swede Creek. The route crosses a bridge at Swede Creek, which the proponent has designated will be a one-lane bridge with signage. The engineer, Semrau, has provided an as-built drawing set, dated 2018, for the haul route, which supported this review.

Firstly, we would like to see no additional road widening within the Swede Creek gorge. Should any widening be absolutely necessary, the road should be cut into the hillslope and not be built further onto the fillslope.

The slopes in this gorge are very steep, well over 70% at some locations, with delivery possible since Swede Creek is at the toe of steep slopes.

There are a couple of existing road failure issues within the gorge that must be corrected as soon as possible to prevent any further road failures or degradation to water bodies. These existing road failures serve as an example of the types of road issues we are very concerned about. There is presently a 60-80 foot long sidecast crack and slump (12-18" deep) on the fillslope near the top of the hill north of Swede Creek. Any further failure risks sediment delivery directly into Swede Creek. The sidecast failure occurred recently, at a time with relatively little road traffic. With the constant impact of loaded 105,500-pound gravel trucks passing by at a rate of 4.6 to 30 trucks per hour, the compaction, vibration, and degradation of appropriate ditches and drainage features will be constant, greatly increasing the risks that use of this road presents to Swede Creek.

In addition to the sidecast cracking, there are two cutslope failures that have slumped and filled the ditchline. All three of these failures must be immediately addressed to ensure that no further damage to the drainage infrastructure or Swede Creek occur.

In an environment like the Swede Creek gorge, water management is of the utmost importance. This fact cannot be understated. Cross drains and backup cross drains must efficiently transport surface runoff across the road surface and not be allowed to run haphazardly down the ditchline. The outlet of cross drains must be carefully selected by an experienced road designer to ensure that erosion or failure of the fill slope will not be aggravated.

Slope failures and debris slides are disastrous for fish habitat. Debris slides can decimate instream biota and adjacent riparian areas, bury redds and appropriate spawning substrates, and contribute to downstream water quality problems. Road management and reducing the risk of debris torrents originating at forest roads is something that our organization has invested a great deal of time, effort, and money to address and correct, and remains a significant concern of ours at this location. We understand that the road is proposed for paving at STA 21+00 to 26+00, located within the Swede Creek gorge and within the riparian buffer of Swede Creek. While there are some negative impacts and risks associated with paving due to increased impervious area and increased runoff quantity and speed, we recognize that paving can greatly reduce sediment delivery to streams. We recognize that sediment delivery is one of the greater threats to the aquatic habitat adjacent to this proposal. For that reason, we would like to see consideration of paving both the north and south approaches to the Swede Creek bridge, from hillcrest down to the bridge.

Washington State Forest Practices Board Manual suggests paving within 200 feet of a stream as a BMP for sediment control. "In situations where sediment control devices need to be used long-term consider surfacing that requires little to no maintenance such as chip sealing or paving portions of roads." We feel that would be a prudent BMP in this situation, where permanent management of sediment must be

required. However, as will all surface water management in a steep gorge, paving must be designed with care by an experienced road engineer with experience working with these building materials in steep terrain, to ensure that runoff is carefully managed to avoid erosion or slope failure, and disconnect from streams and wetlands.

We would like to see some improvements to drainage management within the gorge, with additional cross drains installed to ensure capacity and redundancy in the case of slumping into the ditchline, as is presently occurring. This ensures that water can get off the road if a culvert is clogged, rather than run down the road and trigger further slope failures and damage to the aquatic environment. In risky terrain for forest roads, redundancy and maintenance are key. The outlet of any cross drains in the gorge should be disconnected from directly contributing to Swede Creek; this may be in the form of swales, settling basins, sediment curtains, or straw wattles that can prevent pollution from reaching a surface water body. Permanent treatment BMPs should be considered and utilized. Substantial rock aprons should be built at the outlet of all culverts, with particular attention and size emphasized at culverts within the Swede Creek gorge. We feel strongly that to reduce sediment runoff in the gorge, paving, permanent BMPs, and ample cross drainage opportunities can help to reduce impacts.

Road Maintenance

We understand the access road from Grip Road to the quarry (nearly 2 miles) will be designated a Private Road by Skagit County, and the landowner(s) of the road will be responsible for its maintenance. We are concerned about impacts of this road should it go unmaintained over the 25-year duration of this project. Ditches and culvert inlets that become clogged with debris and sediment, potholes, washboards, winter snowplowing that forms windrows along road edges, damaged culverts and aprons, or damage to the Swede Creek bridge all present situations where there are increased and avoidable impacts to surface water bodies.

We would like to see an adequate drainage and stormwater management plan assessing and prescribing improvements to the private haul route. We would like to 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.

Reclamation

We would like to see the proponent submit a reclamation plan for their proposal, and this plan should be provided for ours and public review. The mine reclamation plan for this site should specify access controls that are adequate to assure that no dumping will occur, either by Concrete Nor'West or any authorized or unauthorized parties. Obsolete gravel pits have a tendency to become dumping grounds for all kinds of waste and trash. If some of that trash were to leach toxic materials into the permeable gravel at the pit, the result could be devastating for Samish River fish. A robust plan to prevent dumping at the pit would be a prudent step at this stage of permitting the mine.

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.

Sincerely,

A handwritten signature in black ink that reads "Nora Kammer". The signature is written in a cursive, flowing style.

Nora Kammer
Environmental Protection Ecologist
Skagit River System Cooperative