Exhibit A-07: Loring Advising letter re: File No. PL16-0097 & PL16-0098 (March 9, 2022)

LORING ADVISING

Exhibit A-7

By Electronic Portal, Email, and in-hand delivery

March 9, 2022

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Re: File No. PL16-0097 & PL16-0098; Concrete Nor'West Grip Road Gravel Mine
Skagit County Planning and Development Services Mitigated Determination of Nonsignificance

Dear Mr. Cricchio,

I'm writing on behalf of Central Samish Valley Neighbors ("CSVN") to request that Skagit County Planning and Development Services ("PDS") reconsider and withdraw the most recent Mitigated Determination of NonSignificance ("MDNS") that it issued for the clearing and development of a 51-acre sand and gravel mine ("Mine") along the Samish River. While this MDNS contains more conditions than the previous two threshold determinations that PDS issued and then withdrew for the mine, it continues to conflict with Washington's State Environmental Policy Act ("SEPA") because significant project impacts remain undisclosed and therefore unevaluated. Even six years after the initial application, the proponents have not evaluated such prominent issues as damage to the Samish River wetlands from an undersized 200-foot buffer, traffic impacts at potentially dangerous intersections, deforestation of 51 acres of a wildlife corridor, or carbon emissions, or slope instability that could cause sedimentation to Swede Creek. Absent this information and the numerous additional omissions identified below, PDS has not satisfied the SEPA requirement that it fully consider the environmental impacts of the Mine. The MDNS must be withdrawn.

Moreover, PDS must issue a Determination of Significance ("DS") because the information disclosed in the application materials for permits PL16-097 and PL16-0098 indicates that the Mine would cause significant impacts. For example, Concrete Nor'West's ("CNW") traffic impacts analysis confirms that dump trucks and trailers pose a threat to other users on the narrow, high-speed-limit roads that they will traverse.

CNW has had six years to address the potential impacts of its Mine, and while they have slowly piecemealed a few additional documents, they have not demonstrated that the Mine

will address the impacts. As the representative of the local community entrusted with ensuring that applicants for large, high-intensity industrial development analyze and address environmental impacts, PDS must respond accordingly and issue a DS and start the Environmental Impact Statement ("EIS") process to address the Mine's impacts.

This letter explains that: (1) the Project outlined by the application materials; (2) will have a variety of impacts, some unevaluated and others already identified as significant; on (3) its sensitive ecological surroundings and the local transportation network. The MDNS does not adequately condition the Mine to address those impacts.

In drafting this letter, we reviewed application materials that included the following:

(1) the March 7, 2016 fact sheet, special use narrative, and project description;
(2) subsequent special use narratives and revised project description;
(3) SEPA Checklist;
(4) fish and wildlife documents by Graham-Bunting Associates;
(5) the December 2021 NW Ecological Services' Impact Assessment & Mitigation Plan ("NES Report");
(6) the Hydrogeologic Site Assessment and December 16, 2021 Response to Skagit County Geologic Hazard Requirement from Associated Earth Sciences ("GeoTech Memo"); and
(7) traffic documents by DN Traffic Consultants.

We also reviewed comment letters by state agency officials and well-informed members of the public, consulted with a geologist, fish and wildlife officials, and a traffic engineer, and reviewed publicly-available information about the site and environs like aerial photographs and the regional bicycle map. We have attached the February 7, 2022 comments the we submitted to address the flaws in the NES Report and the GeoTech Memo, which have not been addressed since we submitted that letter, and incorporate it by reference.[1]

A. Project Details.

CNW has submitted two applications to allow it to convert three parcels, tallying 77 acres, into an open pit gravel mine. The first, PL16-0097 requests a Mining Special Use Permit to excavate approximately 4,280,000 cubic yards of sand and gravel in a 51-acre open pit mine in the Central Samish Valley.[2] The mining would excavate 90 feet down toward the water table.

[1] Attachment A.
[2] CNW, Revised Project Description (Section A), 8 of 17 (received Feb. 23, 2018). While the MDNS references

CNW projects that the mining would occur over 25 years, though the proposal would not be limited to a specified period of time and the rate of excavation would depend on demand for sand and gravel. To facilitate this mining, CNW has also requested a Forest Practice Conversion permit, PL16-0098, which would authorize it to fully clear 51 acres for the mine, including harvest of approximately 50,000 board feet, removal of stumps, and removal of all other vegetation and soils.[3] While the proposed mining would occur on three parcels totaling 77 acres, these parcels form just a portion of an overall block of parcels totaling more than 726 acres.[4] Although the SEPA Checklist suggests that there are no plans for future additions, expansion, or further activity related to or connected with the proposal, a large portion of the other 650+ acres of land have also been designated as Mineral Resource Overlay, with some of it approved for active harvest by the Washington Department of Natural Resources.[5]

While it is believed that CNW has not commenced gravel mining at the site, it appears to have already improved a forest road on the site in an effort to facilitate the gravel truck and pup shipping. Aerial photographs from 2018 indicate that the road was converted at that time to gravel, and possibly widened.

1. Hours and staffing.

According to the MDNS, standard mining hours at the site would extend Monday through Friday from 7:00 AM to 5:00 PM.[6] To address seasonal demand, CNW could expand these hours to Saturday, Sunday, and a longer work day upon approval by PDS.[7] CNW estimates that one to two full-time employees would work on-site and an unspecified number of truck drivers would haul gravel off-site throughout the day.[8] On-site operations would involve heavy equipment like a front-end loader, excavator, dozer, and dump trucks.[9]

2. Hauling routes and volume.

Application materials and the MDNS each offer varying estimates of the amount of truck traffic that the mine would generate. A September 10, 2020 Traffic Impact Analysis ("TIA") by DN Traffic Consultants estimates that under "extended hours conditions," the Mine would

[3] Skagit County, Notice of Withdrawn and Re-Issued MDNS, 1 (April 15, 2021) ("MDNS").
[4] CNW Special Use Narrative, at 2.
[5] SEPA Checklist, 2 of 18 (March 2, 2016); Attachment B shows a DNR timber harvest map for the area, with approved Class II timber harvests marked in blue overlay.
[6] MDNS.
[7] *Id.* at condition 2.
[8] CNW, Revised Project Description (Section A), 8 of 17 (received Feb. 23, 2018).
[9] CNW, Revised Project Description (Section A), 10 of 17 (received Feb. 23, 2018).

generate 29.4 truck-and-trailer trips per hour.[10] 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.[11] That study assumed that increased demand for material would lead to increased production at the site, limited only by the (likely artificial) logistical consideration of the number of truck and pups available in Skagit County.[12] DN Traffic explains in its TIA that the ~30 trips per hour that it estimates for a higher end number is based on the anticipation that the Mine could generate up to 5000 tons per day. It does not explain how this production amount was derived and does not explain the inconsistency between the ~30 trips figure and the 60 truck-and-trailer trips per hour that it deemed a realistic maximum in its Maximum Daily Truck Traffic memo.

Although CNW has not defined its exact haul route, its suite of proposed routes would involve the hauling of gravel and sand by trucks and trailers forced to navigate narrow rural roads with medium to high speed limits. The original road special use narrative stated that hauling would occur along Old Highway 99, Prairie Road, and Grip Road.[13] Subsequent documents identified Bow Hill Road and F&S Grade Road as potential route extensions. Road widths along these routes are just 20-22 feet and they allow speeds up to 50 mph. Although the TIA suggests that shoulders exist along each of these roads but Grip Road, the Skagit County Bike Map identifies Grip Road, Prairie Road, and F&S Grade Road as roads without shoulders.[14] A simple review of these roads through google maps' street view function confirms that paved shoulders are largely non-existent on those roads, though some stretches contain large gravel that promptly slopes down to a ditch. In addition, the TIA asserts that there are no known bike routes in the subject area, yet the readily-available Skagit County Bike Map identifies Prairie and F&S Grade Roads as part of a federal bike route, US Route 87. Local residents have communicated that guard rails have been installed along a significant stretch of Prairie Road, already shrinking the width available for cyclists and pedestrians outside the actual roadway.

The transportation documents associated with the application do not prescribe a haul route, but instead contemplate multiple options. The TIA states "[i]t is estimated that 95 percent of the trips will be assigned to and from the west on Prairie Road; with 80 percent south to the existing Belleville Pit Operation using either Old Highway 99N or I-5 south; ten (10)

[10] DN Traffic Consultants, Traffic Impact Analysis for Grip Road Mine (Sept. 10, 2020).
[11] DN Traffic Consultants, Memo re: Grip Road Gravel Pit, Maximum Daily Truck, 2 Traffic (Nov. 30, 2016).
[12] DN Traffic Consultants, Memo re: Grip Road Gravel Pit, Maximum Daily Truck, 2 Traffic (Nov. 30, 2016).
[13] CNW, Grip Road Special Use Narrative, page 9 of 17 (March 7, 2016).
[14] See Skagit Valley Bike Map, attached hereto as Attachment C.

percent of the trips to end users via I-5 south, five (5) percent to end users west of I-5 on Bow Hill Road; and five (5) percent to end users east of the Mine access via Grip Road."[15] One of the options in the TIA assumes that truck/trailer combinations using Old Highway 99 would be short-loaded to comply with current weight restrictions on the Old Highway 99 Samish River bridge or that those restrictions would be removed. The Application does not evaluate the number of truck trips that would be required if vehicles were short-loaded to meet current bridge weight limits. The Application's revised project description identifies a route through Grip Road, Prairie Road, and Old Highway 99 North.[16]

Within CNW's property, material would be transported on a 2.2-mile-long haul road that was not acknowledged to be a component of the mining project until five (5) years after the initial application. Presumably to accommodate the Mine's 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," a 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," indicating that the road work was done for mining use. 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.[17] 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. Although a recent NES Report found that 36 wetlands, one fish-bearing stream, and 21 seasonal, non-fishbearing streams lie within 300 feet of the roadway, the report did not evaluate the road conversion impacts on those ecological resources.[18] This appears to be attributable to the report authors' assumption about "the length of time the road has been present…."[19]

3. Hazardous materials.

The Application offers conflicting information about whether hazardous materials will be stored at the site. It responds "Yes" to a question about whether chemicals, waste oils, solvents, and fuels would be stored at the site, and describes the possibility of installing a 2,000-gallon diesel fuel tank.[20] But it also states that "[w]aste oils, solvents, etc. will not be

[15] DN Traffic Consultants, Traffic Impact Analysis for Grip Road Mine, 13 (Sept. 10, 2020).
[16] CNW, Revised Project Description (Section A), 9 of 17 (received Feb. 23, 2018).
[17] Letter from N. Kammer to M. Cerbone re: Concrete Nor'West gravel pit (April 30, 2021).
[18] NW Ecological Servs., Grip Road Gravel Mine Impact Assessment & Mitigation Plan, i (Dec. 2021).
[19] *Id.* at ii.
[20] CNW, Revised Project Description (Section A), 10 of 17 (received Feb. 23, 2018).

stored on site."[21]

B. Valuable Ecological Setting.

The 68-acre mine site and associated properties provide important terrestrial and aquatic habitats. The Samish River, a salmon-bearing river, winds for more than one-quarter mile along the eastern portion of the mine property. Associated wetlands extend toward the Mine from the river's active channel and floodplain, though it is unknown just how close the edges of the wetland reach to the proposed mining area because they have not been delineated.[22] The recent NES report also acknowledges that the internal haul route winds through and within 300 feet of a rich ecosystem consisting of 36 wetlands and 21 seasonal streams, and that it directly crosses Swede Creek, a fish-bearing tributary of the Samish River.

C. SEPA Requires Withdrawal of the MDNS Because the Application Does Not Supply PDS With Sufficient Information to Fully Consider the Project's Environmental Impacts.

PDS must withdraw the MDNS because it has not fully considered the environmental and ecological effects of CNW's sand and gravel mining proposal. RCW 43.21C.030; *see Boehm v. City of Vancouver*, 111 Wn. App. 711, 717, 47 P.3d 137 (2002). For example, PDS issued the MDNS without analyzing the impact of clearcutting and mining a large portion of a wetland buffer intended to protect wetland species like the federally-threatened and state-endangered Oregon spotted frog. Nor has the Application fully evaluated and mitigated for the impacts associated with the private haul road that will traverse Swede Creek and travel near identified wetlands and streams. The Application also omits a full analysis of the risk to human health and safety from a haul route that involves public roads where the proposed truck and trailer would not be able to stay in its lane on two-lane roads with speed limits up to 50 mph, and the risks associated with the sight distance at the intersection of Grip Road and the site access road. In the absence of this information, PDS has not satisfied its duty under SEPA to fully consider the project's adverse environmental impacts.

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 determine whether an

[21] CNW, Revised Project Description (Section A), 10 of 17 (received Feb. 23, 2018).

[22] As explained below, the applicant estimated average widths for the river, its floodplain, and associated wetlands, but did not survey or delineate the boundaries of those areas and thus has not specifically measured them.

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.

Agencies must first ensure that the proposal is properly defined. WAC 197-11-060(3). Every part of a proposal that combines to form a single course of action must be evaluated in the same environmental document. WAC 197-11-060(3)(b). Thus, where different parts of the same proposal could not proceed unless they are implemented simultaneously, they must be evaluated together. WAC 197-11-060(3)(b)(i). Because the Mine could not function without the use of the private haul road to transport the product off-site, environmental impacts associated with the use of that road must be evaluated as part of the project's SEPA review.

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)).

The MDNS, SEPA Checklist, and associated application materials here demonstrate that PDS did not 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). The MDNS is not based on information sufficient to evaluate the proposal's environmental impact, as identified below and as exemplified by the lack of response to riparian and wetland requirements noted by Doug Gresham, Ecology's wetland specialist for Skagit County.

1. The MDNS is not based on information sufficient to evaluate the proposal's environmental impact.

The sections below summarize some of the information omitted from the Application that is necessary to fully understand and consider the Mine's environmental impacts. For more detailed descriptions and additional flaws, please see the CSVN Letter dated March 8, 2022 and attached hereto as Attachment H.

a. Lack of sufficient information about transportation impacts.

The Application omits significant, necessary information about potential traffic impacts, including final maximum traffic generation numbers, site distance impacts for intersections like that at Grip Rd/site access road, modeling with speeds anticipated by Skagit County's Road standards, mitigation for site distance impacts, the impact of truck-trailers crossing the centerline between the site and Old Highway 99, travel east of the Mine, and the redistributed traffic to Cook Road. These must be addressed.

Although CNW has provided several documents about the Mine's traffic impacts, CSVN obtained an independent review by Jeffrey Hee, P.E., Senior Transportation Engineer at Transportation Solutions Incorporated ("TSI"). That review revealed that some impacts have yet

to be addressed and others have not been fully evaluated.[23] Mr. Hee analyzed project documents, including the traffic reviews by DN Traffic Consultants, and discovered the following unresolved issues:

- the maximum trip generation numbers and frequency of maximum trip hours and days for the Mine have not been finalized. The Application offers conflicting information about the maximum traffic to be generated. Also, the Application does not identify whether the trip generation numbers account for on-site workers and non-haul mining operations (page 3);

- site distance impacts were not evaluated based on common industry practice that contemplates the use of 85th-percentile design speeds from the County's Road Standards. Instead, even though those 85th-percentile speeds were readily available on the Skagit County of Governments website, DN Transportation relied on lower posted speeds for its modeling. This may underrepresent sight distance risks (page 4);

- site distance impacts were not evaluated for the intersection where the site access road meets Grip Road, based on the mistaken assumption that it wasn't required for a lower volume road (page 4);

- no mitigation was proposed to address site distance impacts at the Grip Road/access road intersection for egress to the east, and no analysis occurred to determine whether a gravel truck or truck/trailer combination can safely navigate the road network east of the mine (page 4);

- intersection sight distances were not evaluated for truck/trailer combinations at the intersection of F&S Grade Road and Prairie Road. Consequently, Mr. Hee recommended preventing the hauling on F&S Grade Road (page 5);

- the significant truck-trailer impacts that the TIA identifies between the site and Old Highway 99 have not been fully addressed (pages 1, 5);

- there has been no analysis of safety impacts associated with truck-and-trailer combinations traveling east of the Mine access. Mr. Hee recommended preventing hauling east of the Mine site (page 5-6);

- the Application does not evaluate traffic impacts associated with the redistribution of truck traffic onto Cook Road due to Samish River bridge weight limits. This is important given the traffic issues that WSDOT and Skagit County have identified for the Cook Road interchange at Old Highway 99 (page 6);

[23] Memorandum from Jeff Hee to John Day and Martha Bray re: Grip Road Gravel Mine Traffic Analyses Peer Review Comments (April 30, 2021) (attached hereto as Attachment I).

- the Application does not provide detailed specifications for the type(s) of vehicle(s) it modeled for transportation impacts, preventing confirmation of its results (page 5).

Specifically, with regard to site distance and haul route concerns, Mr. Hee notes at pages 5 and 6 that the following comments and questions should be answered:

- is the County's vision clearance triangle satisfied in the study area?
- what speed is needed to achieve site distance at the study locations?
- are sight distance exhibits available for public review?
- Why are total crashes different in some of the Tables in the TIA?
- Will the applicant complete the improvements recommended by the TIA for the intersection of Prairie Road and Old Highway 99?
- Why doesn't the TIA provide conclusions about whether the project traffic will increase the frequency and severity of collisions on the haul route given the route's geometric and sight distance constraints?

Absent analysis of these significant traffic impacts, and resolution of these questions, the MDNS is premature. Nor would the flashing beacon at the Prairie Road and Grip Road intersection, MDNS condition at 13.ii, address this issue because that would not benefit traffic at the intersection of the haul road and Grip Road or any traffic east of that intersection.

b. Insufficient review of impacts within the Project's full footprint.

With the submittal in December 2021 of two new reports on the haul road, the application materials now identify critical areas associated with the two-mile-long private haul road that transects the applicant's larger contiguous ownership and traverses Swede Creek. However, these reports do not reveal or analyze the full impacts of the industrial-scale use of this haul road, even though it is a crucial element of the Project. For more details regarding the shortcomings of this critical areas review, see Attachment A, the letter that we submitted on February 7, 2022 to explain the reports' shortcomings.

c. Lack of review of climate impacts associated with hauling sand and gravel.

No application materials, including the SEPA Checklist, evaluate the climate change impact associated with carbon emissions from mining and hauling more than 4 million cubic yards tons of sand and gravel over a 25-year period. Indeed, the SEPA Checklist asserts that,

"[t]here are no off-site sources of emissions that would impact the proposal."[24] For more information about this omission, see Attachment H, March 8, 2022 CSVN Letter at 5 (identifying off-site and cumulative impacts that were omitted and ignored), incorporated herein by reference.

d. Lack of analysis of the impacts caused by deforesting and mining 1/3 of the required Samish River wetland buffer, including impacts to listed species.

The MDNS conflicts with SEPA because neither CNW nor PDS evaluated the impacts of reducing the Samish River wetlands buffer by 100 feet over a stretch of approximately ¼ mile of the Samish River. Nor did either entity evaluate the impacts of this reduced buffer for the numerous wetlands and water courses along the haul road. Such impacts would include those imposed on the listed Oregon spotted frog that relies on the wetlands and environs for its habitat.

Rather than the 300-foot buffer that Skagit County's critical areas regulations require for the Samish River wetlands, the MDNS allows just a 200-foot buffer.[25] The MDNS suggests that this narrower buffer would be consistent with those regulations, but does not explain the discrepancy between its 200-foot figure and the 300-foot width required by the regulations.[26]

A buffer of at least 300 feet applies to the Mine as a high intensity land use adjacent to a Category II wetland.[27] 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."[28] The Mine qualifies as a commercial and industrial use of the land, and the removal of all vegetation and soil across at least 51 acres in order to gain access to underlying rock qualifies as a high level of human disturbance and substantial habitat impacts. In addition, the Application does not evaluate the angle of the slope in the buffer to determine whether it is greater than 25%, and thus warrants an extension of the buffer 25 feet past the top of the slope.[29]

By clearing 100 feet of the required forested buffer, the Mine would adversely affect

[24] SEPA Checklist, at 5.
[25] MDNS, condition 17.
[26] *Id.*
[27] Skagit County Code 14.24.230.
[28] SCC 14.040.020 (emphasis added).
[29] SCC 14.24.230(2).

functions that the forest furnishes the productive riparian zone, like: (1) maintaining water quality; (2) controlling fine sediment; (3) contributing large woody debris; (4) providing shade and moderating the microclimate; (5) contributing litter fall and organic matter; (6) moderating site hydrology and stabilizing slopes; and (7) providing fish and wildlife habitat.[30]

In addition to other individual species and ecosystem impacts, cutting into the riparian zone where the aquatic environment transitions to a terrestrial environment would affect habitat essential for the Oregon spotted frog--listed as endangered by Washington in 1997 and threatened federally in 2014--that relies on the wetlands and environs.[31] The US Fish & Wildlife Service has identified critical habitat for the frog that extends from far upstream on the Samish River and includes the mine property adjacent to the river.[32] The 2017 GBA Addendum acknowledges that these wetlands meet the definition of critical habitat for the spotted frog due to their size, saturated soils, and shallow ponds.[33] The GBA Addendum includes a photograph showing these ideal conditions, as well as a hand-drawn line intended to reflect the edge of the saturated area.[34]

However, neither the SEPA Checklist nor the Application's documents by Graham-Bunting evaluate the impact on the Oregon spotted frog or other wetland species of converting one-third of the riparian buffer into a gravel mine. Consistent with the proposal to mine up to 200 feet from the wetland, the GBA Addendum suggests that a 200-foot buffer is sufficient to protect aquatic life, but does not offer any justification for that assertion other than the absurd claim that clear-cutting a forest and converting it to a sand and gravel mine is a "medium" intensity use.[35] Nor does the GBA Addendum indicate why a 200-foot buffer would protect the Oregon spotted frog when Skagit County's critical areas ordinance requires a 300-foot buffer to protect the Category II wetland from the impacts of high intensity land uses like mining

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[30] *See* Washington Department of Fish & Wildlife, *Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications* (July 2020), *available at:* https://wdfw.wa.gov/sites/default/files/publications/01987/wdfw01987.pdf (last visited April 29, 2021); May, *Stream-Riparian Ecosystems in the Puget Sound Lowland EcoRegion: A Review of the Best Available Science*, 25-26 (2003) *available at:* https://salishsearestoration.org/images/d/d1/May_2003_riparian_best_available_science_puget_lowland.pdf (last visited April 29, 2021).

[31] Graham-Bunting Associates, Addendum to Fish and Wildlife Site Assessment: Parcels 50155, 125644, 125645, 1 (April 18, 2017) (hereafter "GBA Addendum").

[32] *See* US Fish and Wildlife Service Critical Habitat for Oregon Spotted Frog map attached to that addendum that shows critical habitat on the Mine property, attached hereto as Attachment D.

[33] GBA Addendum, at 1.

[34] GBA Addendum, at 2.

[35] GBA Addendum, at 2.

operations.[36] In fact, the GBA Addendum expressly disclaims that it is not intended to be used for the purpose of evaluating the spotted frog under the Endangered Species Act.[37]

e. Lack of response to Ecology concerns.

In addition to overlooking the impacts of developing 1/3 of the buffer intended to protect species such as the Oregon spotted frog, CNW declined to address state agency concerns expressed by Doug Gresham, the Washington Department of Ecology wetland specialist responsible for Skagit County. In his initial April 7, 2016 email, Mr. Gresham stated that wetland impacts should be avoided by refraining from excavating within the buffer area associated with the Samish River and its associated riparian wetlands and that any wetlands identified on the property that would be impacted should be delineated and permits should be submitted to Ecology.[38] In a June 1, 2016 comment letter, Gresham declared that additional wetland requirements include: (1) flagging of the ordinary high water mark along the Samish River banks by a qualified biologist, and survey of the boundaries; (2) a jurisdictional determination from the U.S. Army Corps of Engineers stating whether the delineated wetlands on the property are under federal jurisdiction; (3) ratings of all wetlands based on Ecology standards; (4) a critical area report describing wetland conditions on the property, wetland data sheets, wetland rating forms, and photographs; and (5) a mitigation plan for unavoidable wetland and buffer impacts per Ecology standards.[39] In addition, Mr. Gresham noted in his June 1, 2016 correspondence that the Application omitted maps showing associated wetlands or the ordinary high water mark of the Samish River.[40]

Six months later, Mr. Gresham supplemented his earlier comments by expressing a concern with CNW's use of a 200-foot buffer rather than the required 300-foot buffer.[41] Gresham stated that CNW needed to address the gravel mine's encroachment into the 300-foot buffer.[42] Gresham also stated that he had "a concern with the access road that will need to be improved to accommodate 46 truckloads a day, which could impact wetlands and streams. This access road may need to be widened, the Swede Creek bridge may need to be upgraded, and

[36] Skagit County Code 14.24.230.
[37] GBA Addendum, at 2.
[38] Email from Doug Gresham to Planning & Development Services re: PDS Comments (April 7, 2016) (attached hereto as Attachment E).
[39] Gresham letter to J. Cooper re: Ecology Comments on the Grip Road Gravel Mine, Project File # PL16-0097 and PL16-0098, 2 (June 1, 2016) (hereafter "Gresham June 2016 Comments") (attached hereto as Attachment F).
[40] Gresham June 2016 Comments.
[41] Gresham email to Planning & Development Services re: Ecology Comments on the Grip Road Gravel Mine, Project File # PL16-0097 (Dec. 23, 2016) (Attached hereto as Attachment G).
[42] *Id.*

storm water drainage features may need to be reconfigured."[43] Gresham noted that these issues had not been addressed.[44] The internal haul road documents that CNW submitted to the PDS likewise did not address the impact of the road development.

Notwithstanding these clearly-stated agency concerns, CNW continues to propose to excavate up to 200-feet from what it assumes is the ordinary high water mark of the Samish River and associated wetlands without delineating the specific location of the river's edge, its floodplain, or the associated wetlands, and the MDNS inexplicably accepts this reduced buffer as "Mitigation Measure #17." CNW did not supplement the Application with a survey or flagging of the edge of Samish River, actual delineation of wetlands on the property, critical area reports for wetlands near the mine area, or a mitigation plan. Instead, an engineering and surveying group drew a map with estimates for the location of Samish River "plotted from May 2011 aerial photo" and "wetland at toe of slope from LiDAR data and field observation," without a delineation survey.[45]

f. Water quality and quantity impacts.

Drainage from the site currently flows to the Samish River both above and below ground. The Application indicates that the mining would occur in an area that is currently elevated about 90 feet above the river and its associated wetlands (50-75 feet above the valley floor in the eastern portion of the site), and that groundwater from the site flows in a northerly direction and discharges to the Samish River.[46] According to the Application, CNW would construct a berm approximately 200 feet landward of the assumed wetland edge in order to direct drainage from the site to the gravel floor for infiltration into the groundwater.[47] The Application does not evaluate any dewatering effect this berm and mine infiltration would cause by redirecting water away from the sensitive wetlands and river complex.

g. Lack of sufficient information about wildlife impacts.

Notwithstanding that the Project would convert 51 acres of forested land to a gravel pit, the Application does not identify or analyze impacts to native fauna. CSVN have communicated to PDS that bears, cougars, and bobcats have been known to frequent the area and that local residents regularly observe the use of that area as a wildlife corridor between Butler Hill to the

[43] *Id.*
[44] *Id.*
[45] Semrau Engineering and Surveying, Pre-Mining Topographic Survey Map, Grip Road Gravel Mine (7-31-2018).
[46] GBA Assessment, at 3; Associated Earth Science Incorporated letter to Concrete Nor'West re: Hydrogeologic Site Assessment, Concrete Nor'West – Grip Road Mine, 3 (Aug. 21, 2015) (hereafter "Hydrogeo Assessment").
[47] GBA Assessment, at 3.

south and the Samish River valley and Anderson Mountain to the north. Yet the SEPA Checklist asserts that the property is not an animal migration route. In addition to providing critical habitat for the Oregon spotted frog, bull trout, and Puget Sound steelhead, the Samish River and its associated wetlands provide important habitat for a wide range of species that include river otters, beavers, bald eagles, belted kingfishers, great blue herons, spotted sandpipers, and numerous species of migratory songbirds. The Application should be supplemented to identify the animal species that inhabit or necessarily transit that area and analyze the impacts of turning that land into an open gravel pit and the impacts of converting what is presumably a lightly-used forest road to heavy industrial use.

h. Potential water pollution impacts.

The Application repeatedly states that stormwater will be infiltrated at the site, and notes that the groundwater flows to the nearby Samish River, but does not evaluate whether spills of fuels or other hazardous materials will impact the river's water quality after traveling through, ultimately, just 10 feet of ground before entering the groundwater.

The Application also does not evaluate potential impacts from stormwater runoff of the private haul road, or of sedimentation and petroleum products entering Swede Creek or wetlands surrounding that road. As discussed in our February 7, 2022 letter, the GeoTech Memo did not address several slope instabilities that the Skagit River System Cooperative identified, and that could lead to significant sedimentation in the event of a slope failure.[48] These areas include 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 and two cutslope failures that slumped and filled the ditchline.[49]

The MDNS contravenes SEPA in the absence of an evaluation of the potential for water pollution and the effects on the Samish River and Swede Creek.

i. Lack of requisite Critical Areas review.

Skagit County has incorporated the goals, policies, and purposes of its Critical Areas Ordinance ("CAO") into its SEPA policies.[50] Consequently, to satisfy its duties under SEPA, the County must require compliance with CAO directives like the standard review of impacts that includes the submission of a critical area checklist and/or a site plan that shows the location of

[48] Attachment A.
[49] SRSC letter, at 4.
[50] SCC 14.24.060(3).

the proposed activity and associated area of disturbance in relation to all known critical areas or critical areas indicators.[51] The County must then review these project documents, complete a critical areas staff checklist, inspect the site, and complete the critical areas field indicator form.[52] Because the MDNS authorizes mining in the outer 1/3 of the standard buffer, PDS must require a critical areas site assessment. Ultimately, this process should result in protected critical areas being delineated and their outer edges and buffers marked permanently.[53]

With regard to wetlands, any proposed high impact land use within 300 feet of wetland indicators, and any other proposed land use within 225 feet of wetland indicators, requires a wetland site assessment.[54] The site assessment must result in a wetland delineation, classification, site plan with wetland and buffer boundaries, and functions and values analysis.[55]

CNW's application does not satisfy these standards and thus does not meet Skagit County's SEPA requirements. The Application does not fully disclose and evaluate potential wetlands impacts associated with the proposed hauling of gravel in truck and trailers, or the road construction that occurred in 2018. The Application does not include a delineation, site plan with delineated boundaries depicted in relation to the Mine activities, or a full functions and values assessment for the impacts that would be imposed on the Samish River wetlands. Absent this information, the County does not have sufficient information to issue a threshold determination.

j. Lack of sufficient review of noise impacts.

The Application's noise studies rely on a flawed methodology and overlook the planned removal of the forest buffer between the Mine and neighboring properties. For more information about this omission, see Attachment H, March 8, 2022 CSVN Letter at 13-14.

k. Lack of sufficient review of recreation impacts.

The Application omitted any acknowledgement or analysis of impacts to cycling along regional and federal bicycle routes. For more information about this omission, see Attachment H, March 8, 2022 CSVN Letter at 14-15.

[51] SCC 14.24.080(1).
[52] SCC 14.24.080(2) (note that these reviews must occur to determine whether activities that are within 200 feet of critical areas or their buffers, or a distance otherwise specified by the CAO).
[53] SCC 14.24.090.
[54] SCC 14.24.210.
[55] SCC 14.24.220.

2. The MDNS authorizes unreviewed deviations from the proposal.

The MDNS states without clarification that only "significant deviation" from the proposal will require additional review and approval by PDS.[56] The MDNS does not identify what operational changes would be considered a significant deviation, or the quantum of deviation that could occur without review. This ambiguity, and the unspecified deviations permitted, prevent PDS from fully evaluating project impacts as required under SEPA.

3. PDS issued the MDNS absent consideration of applicable mitigation measures.

While the MDNS contains several conditions, it did not consider applicable measures that might reduce the Mine's impacts below the level of significance. Mitigation measures that should have been considered include:

- Scaled-back size of mine;
- Scaled-back rates of extraction;
- Limiting hours of operation to daylight hours during the workweek, without exceptions for extended hours conditions.
- Limiting the daily number of truck trips without exception for extended hours conditions;
- Protecting against sedimentation and stormwater drainage into Swede Creek;
- A drainage/runoff plan for the length of the private haul road to prevent surface water impacts from heavy traffic on the haul road;
- Requiring roadway upgrades to decrease the likelihood of collisions between Project trucks and other vehicles, bicycles, and pedestrians;
- Identifying a prescribed haul route; and
- Establishing a wildlife protection corridor through a permanent easement across the sensitive wetlands and streams and their buffers on the applicant's larger property.

D. Conclusion.

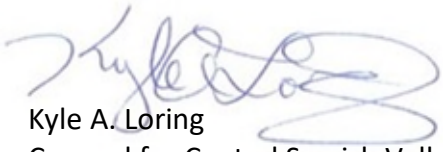
Notwithstanding the six-year interval since CNW initially applied for the special use permits, it has not supplied PDS with environmental information about the proposal sufficient to warrant a threshold determination. PDS issued the MDNS without fully considering the Project's significant environmental impacts, from loss of habitat for an endangered frog to traffic impacts to impacts associated with the private haul road. CSVN therefore asks PDS to correct that mistake by withdrawing the MDNS and by coordinating with the Applicant to conduct an EIS for the significant impacts referenced above.

[56] MDNS, condition 1.

In addition, CSVN requests that PDS publish online the comments submitted to address the MDNS as soon as possible.

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 Neighbors

Cc: Hal Hart, PDS Director
Martha Bray
John Day

Attachs:

A. Loring Advising Letter to Kevin Cricchio on behalf of CSVN re: CNW Grip Road Gravel Mine Critical Areas Review File #PL16-0097 (February 7, 2022)

B. WDNR timber harvest map

C. Skagit Valley Bike Map

D. US Fish and Wildlife Service Critical Habitat map for Oregon Spotted Frog

E. Email from Doug Gresham to Planning & Development Services re: PDS Comments (April 7, 2016)

F. Gresham letter to J. Cooper re: Ecology Comments on the Grip Road Gravel Mine, Project File # PL16-0097 and PL16-0098, 2 (June 1, 2016)

G. Gresham email to Planning & Development Services re: Ecology Comments on the Grip Road Gravel Mine, Project File # PL16-0097 (Dec. 23, 2016)

H. CSVN Letter re: Mitigated Determination of Nonsignificance (MDNS) for proposed Grip Road Gravel Mine File #'s PL16-0097 & PL16-0098 (March 8, 2022)

I. Grip Road Gravel Mine Peer Review Traffic Impact Analysis

ATTACHMENT A

LORING ADVISING

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

February 7, 2022

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

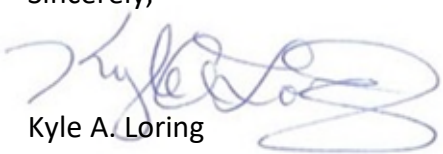
The Geotech Report also appears to omit several elements of the requisite site assessment, including: (1) a site plan depicting the height of the slope, slope gradient and cross section indicating the stratigraphy of the site; (2) a description of load intensity, surface and groundwater conditions, fills 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).

Skagit River System Cooperative
11426 Moorage Way • P.O. Box 368 LaConner, WA 98257-0368
Phone: 360-466-7228 • Fax: 360-466-4047 • www.skagitcoop.org

April 30, 2021

Michael Cerbone
Skagit County Planning and Development Services
1800 Continental Place
Mount Vernon, WA 98273

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 ant 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.

The 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.

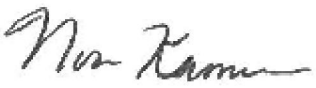
Reclamation

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.

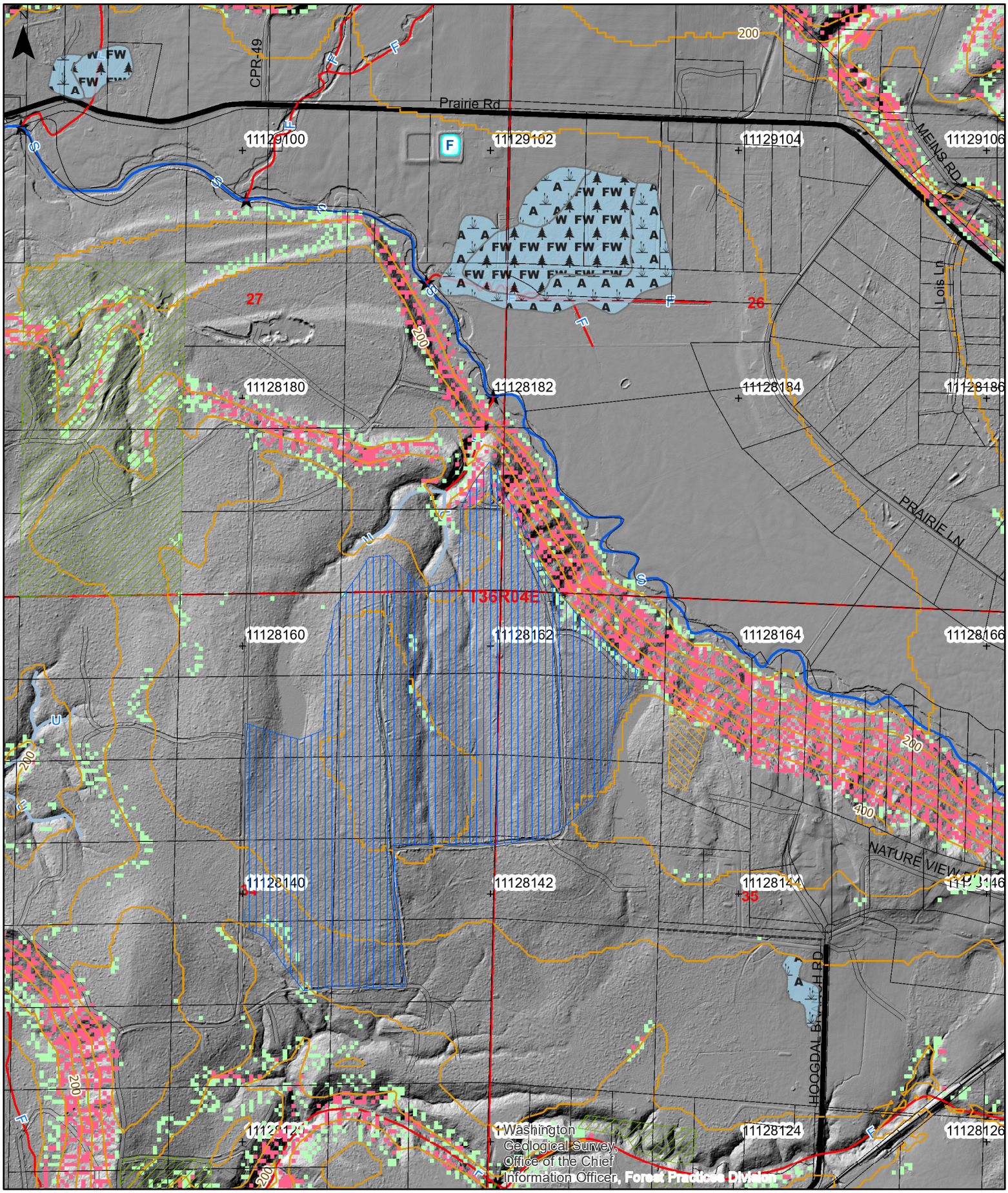
Sincerely,



Nora Kammer
Environmental Protection Ecologist
Skagit River System Cooperative

ATTACHMENT B

Active harvest -- Lisa Inc



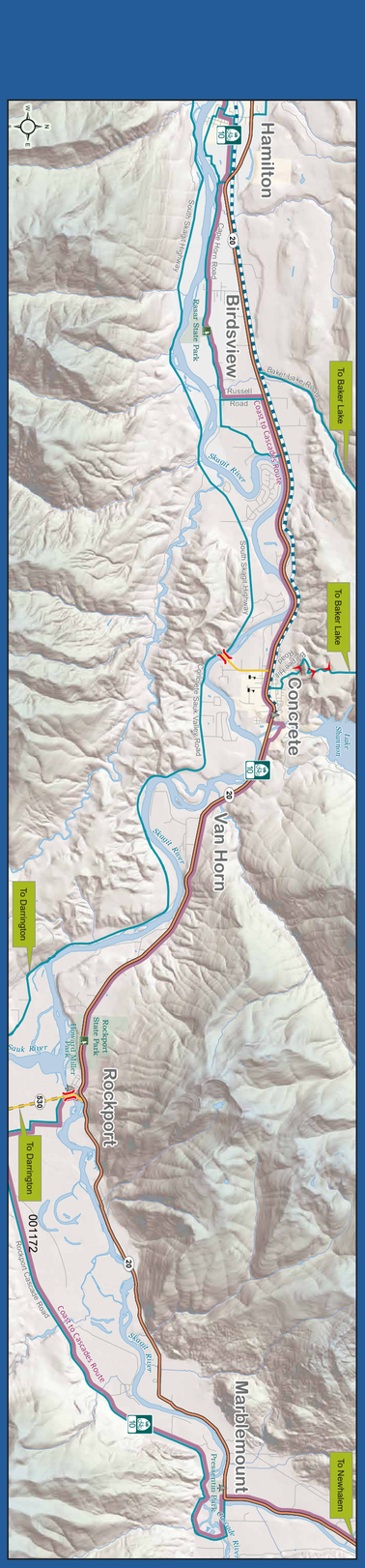
WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES

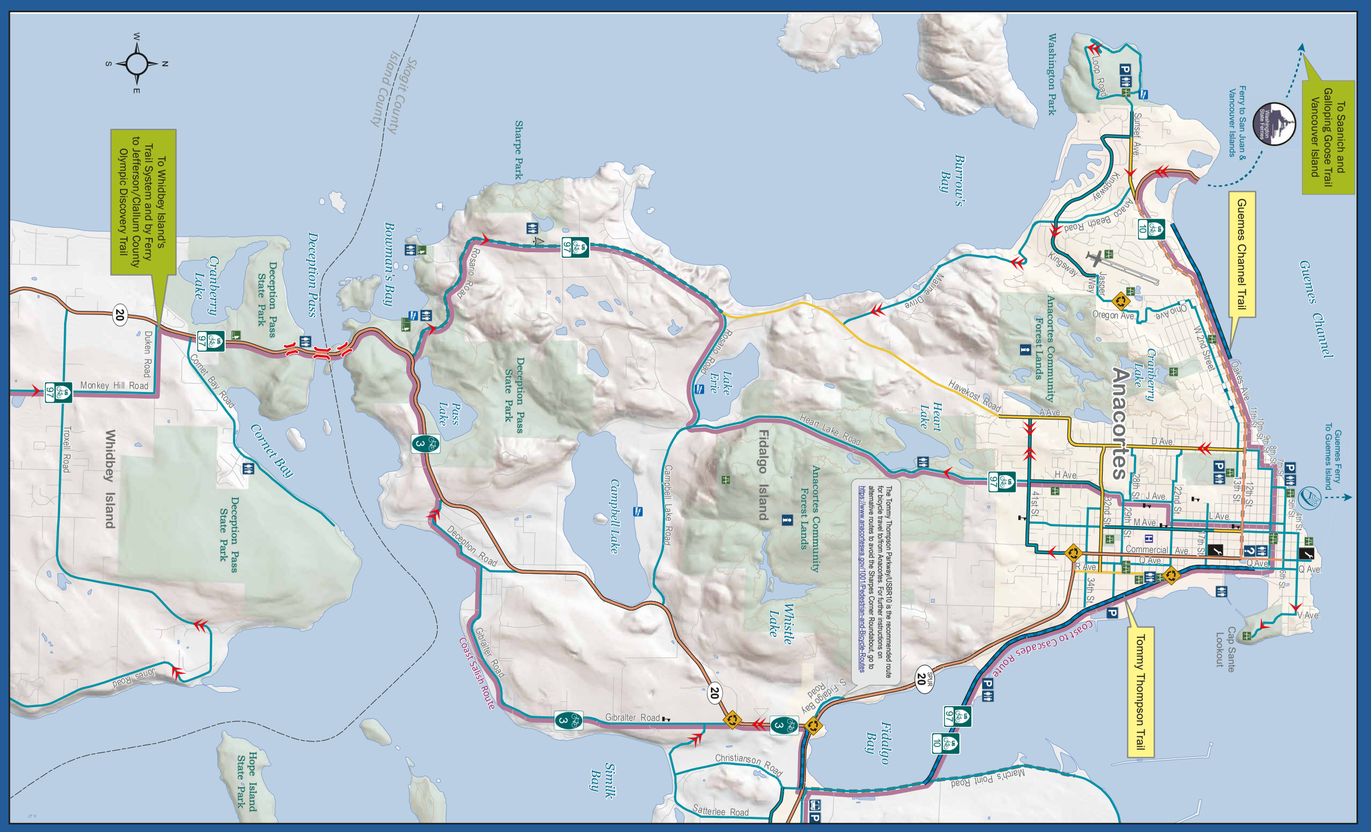
Extreme care was used during the compilation of this map to ensure its accuracy. However, due to changes in data and the need to rely on outside information, the Department of Natural Resources cannot accept responsibility for errors or omissions, and therefore, there are no warranties that accompany this material.

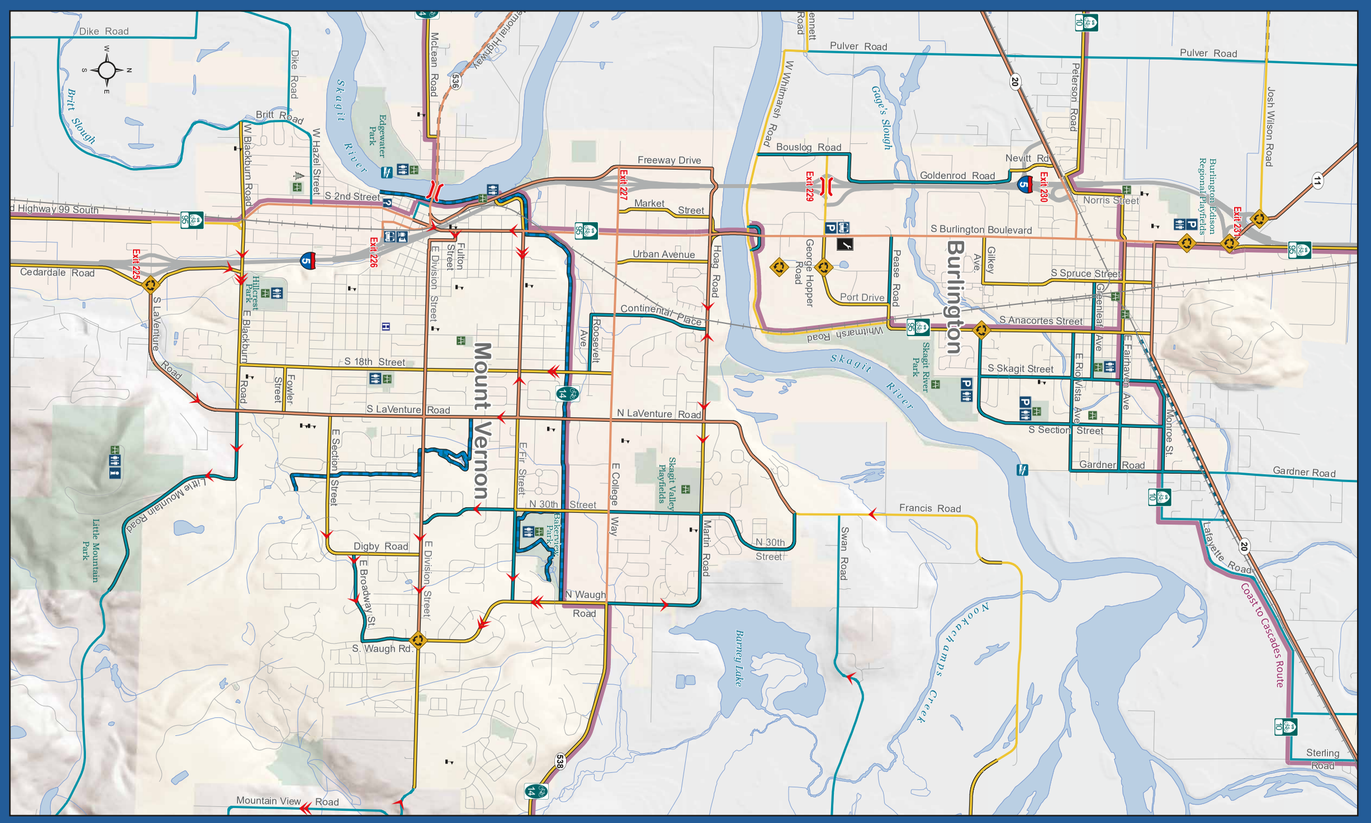
0 0.25 Miles

Date: 4/26/2021 Time: 5:05:00 PM

ATTACHMENT C







Discover the wonderful bicycling Skagit County has to offer.

The Skagit County Bike Map is intended to familiarize cyclists with the many great bicycling opportunities in Skagit County and to provide information to cyclists so they can make their own decisions as to which route is suited for their skill level.

The 2018 edition of the map is made possible with support and funding from: Skagit Regional Health, Anacortes Chamber of Commerce, bikespot, Skagit Bicycle Club, Island Hospital, Port of Skagit, Skagit Cycle Center, Sedro-Woolley Chamber of Commerce, Kiwanis Club of Burlington-Edison, Skagit Bank, Skagit Valley Food Co-Op, Sherman Physical Therapy, Shell Puget Sound Refinery and La Conner Chamber of Commerce.

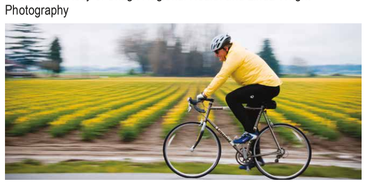
Special thanks to Skagit County Geographical Information Services, Skagit Council of Governments staff and Non-Motorized Advisory Committee members: Marie Erbstoeszer, Jeroldine Halberg, Steve Jahn, Liz McNett Crowl and Linda Talman. Thanks as well to Walt Farmer and John Pope for their assistance with the map.

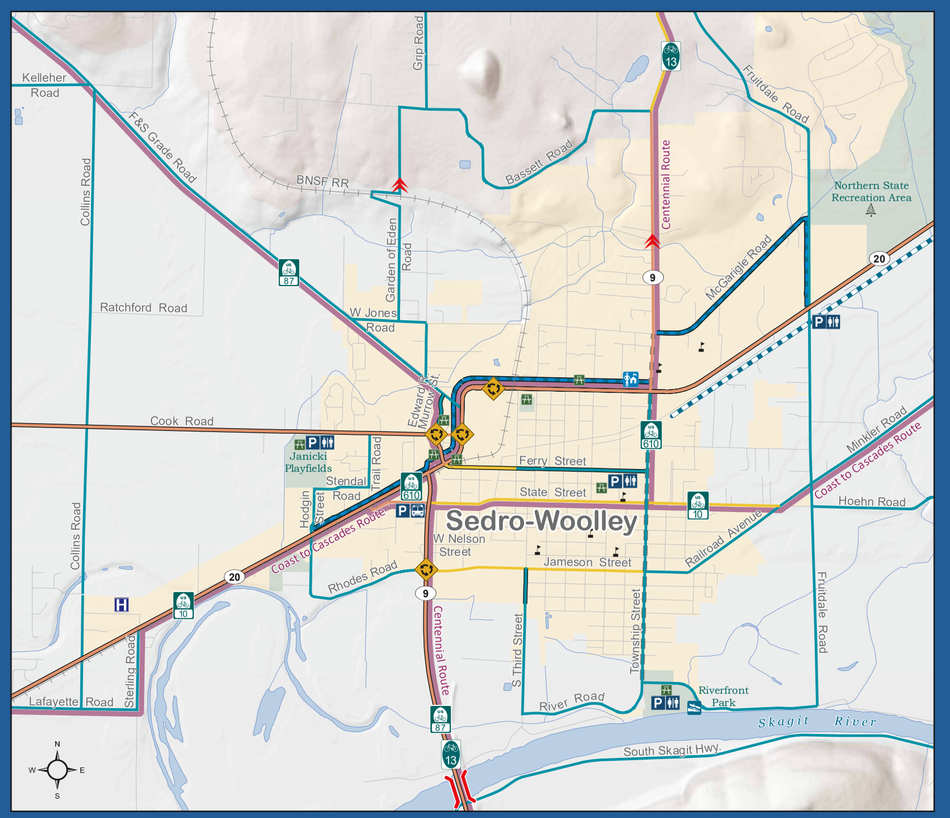
To contribute, request multiple copies, or to send comments and suggestions, contact info@scog.net.

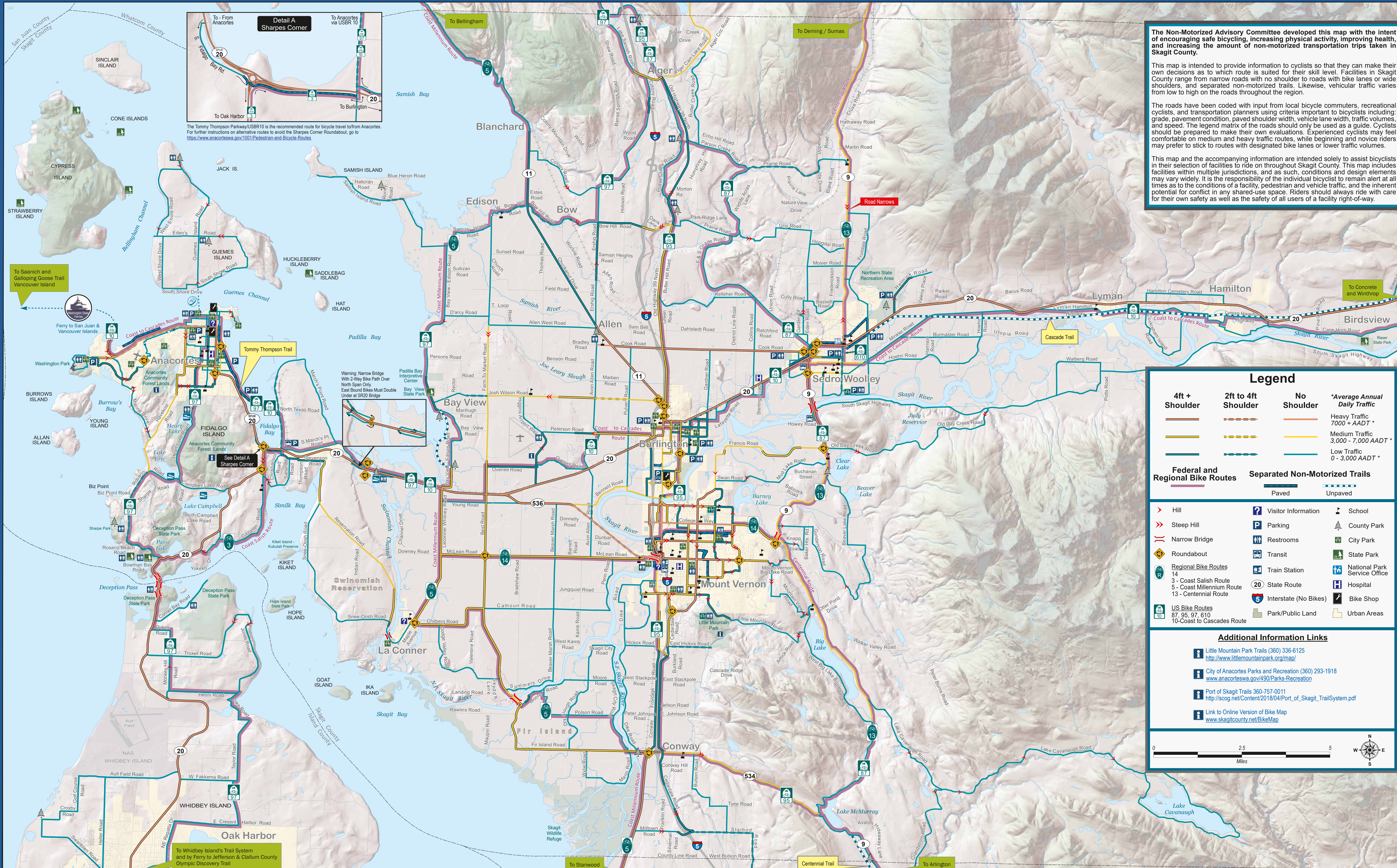
Cartography & Map Design: Kim Berry, Skagit County Geographical Information Services and Mapping Services

Graphic Design: Thomas Printing

Photos: Courtesy of Skagit Regional Health and Linda Wright Photography







The Non-Motorized Advisory Committee developed this map with the intent of encouraging safe bicycling, increasing physical activity, improving health, and increasing the amount of non-motorized transportation trips taken in Skagit County.

This map is intended to provide information to cyclists so that they can make their own decisions as to which route is suited for their skill level. Facilities in Skagit County range from narrow roads with no shoulder to roads with bike lanes or wide shoulders, and separated non-motorized trails. Likewise, vehicular traffic varies from low to high on the roads throughout the region.

The roads have been coded with input from local bicycle commuters, recreational cyclists, and transportation planners using criteria important to bicyclists including: grade, pavement condition, paved shoulder width, vehicle lane width, traffic volumes, and speed. The legend matrix of the roads should only be used as a guide. Cyclists should be prepared to make their own evaluations. Experienced cyclists may feel comfortable on medium and heavy traffic routes, while beginning and novice riders may prefer to stick to routes with designated bike lanes or lower traffic volumes.

This map and the accompanying information are intended solely to assist bicyclists in their selection of facilities to ride on throughout Skagit County. This map includes facilities within multiple jurisdictions, and as such, conditions and design elements may vary widely. It is the responsibility of the individual bicyclist to remain alert at all times as to the conditions of a facility, pedestrian and vehicle traffic, and the inherent potential for conflict in any shared-use space. Riders should always ride with care for their own safety as well as the safety of all users of a facility right-of-way.

SAME ROADS • SAME RIGHTS • SAME RULES

Be Visible • Wear a Helmet • Be Alert • Have Fun

BE PREDICTABLE
Ride so drivers can see you and predict your movements. Remember that the rules in the driver's manual apply to bicyclists also.

BE ALERT
Ride defensively and expect the unexpected. Remember, bicyclists are more vulnerable.

BE EQUIPPED
Always wear a helmet. Use protective gear and wear visible clothing.

USE HAND SIGNALS
Hand signals tell others what you intend to do. Signal as a matter of courtesy and self-protection.

RIDING ON SIDEWALKS MAY BE PROHIBITED
Pedestrians have the right-of-way. Give them an audible warning before you pass. Watch for vehicles at driveways and intersections.

BE VISIBLE AT NIGHT
The law requires a strong headlight and a rear reflector or taillight at night or when visibility is poor. Wear light-colored clothes with reflective tape for extra protection.

RIDE IN A STRAIGHT LINE
Ride in a straight line and far enough from parked cars so you can avoid suddenly opened doors. Riding in a straight line allows others to anticipate what you are likely to do.

OBEY TRAFFIC SIGNS, SIGNALS, AND LAWS
Bicyclists must follow the same laws as motorists. Stop at red lights and stop signs just as you would in a car.

CHOOSE THE BEST WAY TO TURN LEFT
1) Like an auto, signal, move into the left lane, and turn left. Do not turn left from the right lane.
2) Like a pedestrian, use the crosswalk and walk your bike across the sidewalk.

FOLLOW LANE MARKINGS
Do not go straight in a lane marked right-turn-only.

NEVER RIDE AGAINST TRAFFIC
Bicyclists must ride with traffic. Approach velocities are unsafe! Motorists are looking for oncoming traffic when turning right.

RIDE WITH BOTH HANDS READY TO BRAKE
You may need to stop suddenly at unexpected times. In rain, allow three times the normal braking distance.

SCAN THE ROAD AROUND YOU
Look ahead and anticipate what other traffic is likely to do. Watch for cars, people, pebbles, grates, etc. Learn to look back over your shoulder without losing your balance or swerving.

RIDE IN THE MIDDLE OF NARROW LANES
When the lane is too narrow for a car to pass you safely, ride in the middle of the lane.

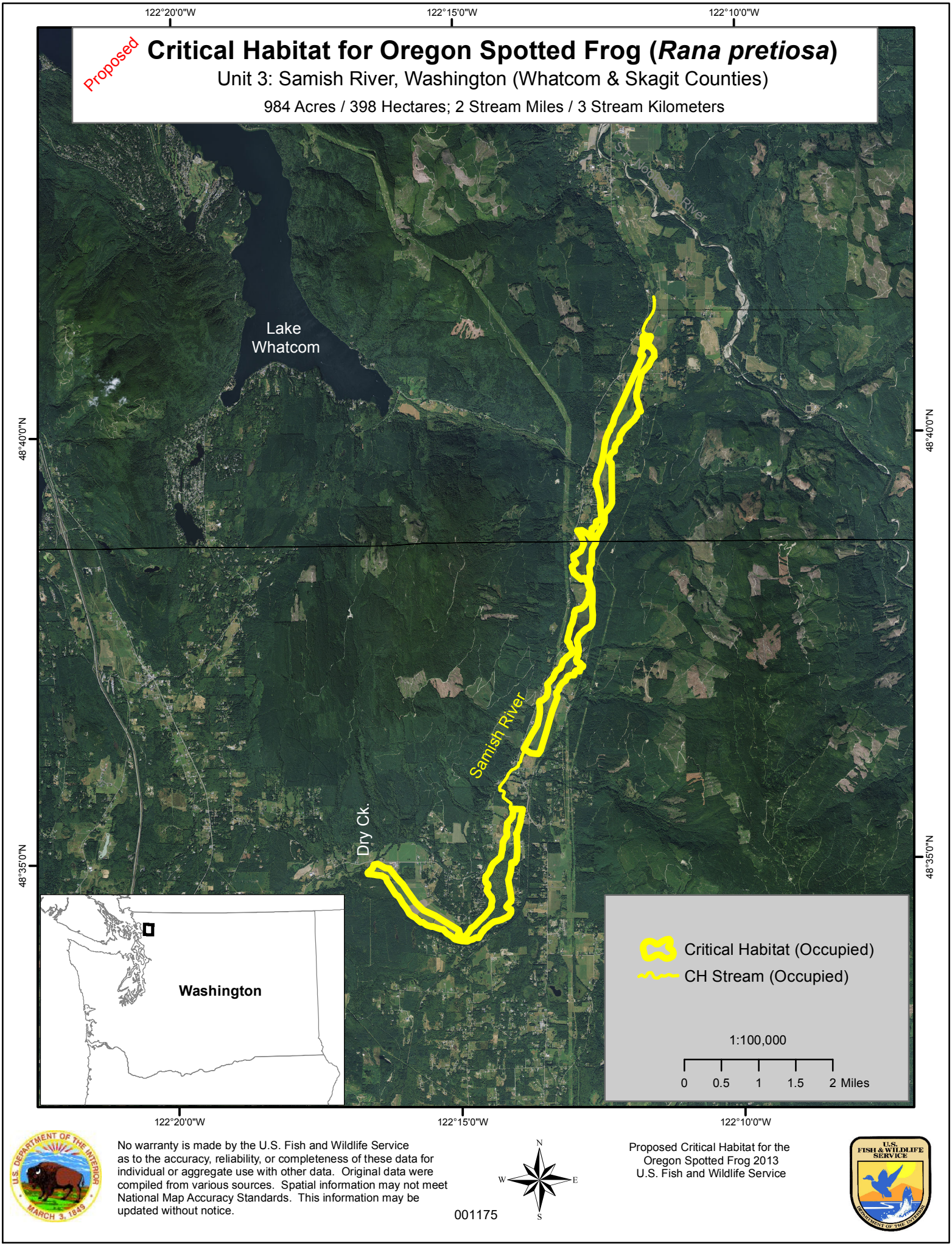
DO NOT PASS ON THE RIGHT
When approaching an intersection or driveway, be especially cautious and do not overtake a vehicle on its right; it might turn right in front of you.

YOU MAY LEAVE A BIKE LANE
When overtaking a bicycle, making a left turn, avoiding a road hazard or other obstruction or you are afraid a motorist might turn across your path, you may temporarily merge WITH CAUTION into the adjacent automobile lane for safety or better visibility.

RIDE SINGLE FILE
When riding with other bicyclists, ride in a single file line so automobiles can safely pass. Cyclists in front should warn those following of potential hazards.

001173

ATTACHMENT D


Proposed
Critical Habitat for Oregon Spotted Frog (Rana pretiosa)
Unit 3: Samish River, Washington (Whatcom & Skagit Counties)
984 Acres / 398 Hectares; 2 Stream Miles / 3 Stream Kilometers
122°20'0"W
122°15'0"W
122°10'0"W
48°40'0"N
48°35'0"N
Lake Whatcom
Samish River
Dry Ck.
Washington
Critical Habitat (Occupied)
CH Stream (Occupied)
1:100,000
0 0.5 1 1.5 2 Miles
No warranty is made by the U.S. Fish and Wildlife Service as to the accuracy, reliability, or completeness of these data for individual or aggregate use with other data. Original data were compiled from various sources. Spatial information may not meet National Map Accuracy Standards. This information may be updated without notice.
N
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E
S
001175
Proposed Critical Habitat for the Oregon Spotted Frog 2013
U.S. Fish and Wildlife Service

ATTACHMENT E

JohnCooper

From: LoriAnderson on behalf of Planning & Development Services
Sent: Friday, April 08, 2016 8:31 AM
To: JohnCooper
Subject: FW: PDS Comments

From Dept Email

Lori Anderson, Permit Technician
Skagit County Planning & Development Services
1800 Continental Place
Mount Vernon, WA 98273
360-416-1320
loria@co.skagit.wa.us

www.skagitcounty.net/planning

From: website@co.skagit.wa.us [mailto:website@co.skagit.wa.us]
Sent: Thursday, April 07, 2016 2:45 PM
To: Planning & Development Services
Subject: PDS Comments

Name : Doug Gresham
Address : 3190 160th Ave SE
City : Bellevue
State : WA
Zip : 98008
email : doug.gresham@ecy.wa.gov
Phone : (425) 649-7199
PermitProposal : PL16-0097 and PL16-0098
Comments : As a wetland specialist with the Washington Department of Ecology, I wish to enter my comments into the public record for this gravel mining operation by Concrete NW. Wetland impacts should be avoided by: not allowing any excavation within the buffer area associated with the Samish River and its associated riparian wetlands, don't excavate below the groundwater table to prevent dewatering the Samish River, and maintain a earthen berm between the gravel pit and the Samish River so storm water runoff can not discharge directly. Any wetlands identified on the property that would be impacted should be delineated and permits should be submitted to Ecology.

From Host Address: 198.239.77.118

Date and time received: 4/7/2016 2:41:22 PM

ATTACHMENT F

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
Northwest Regional Office 3190 160th SE Bellevue, Washington 98008-5452 (425) 649-7000

June 1, 2016

John Cooper, Natural Resource Planner
Skagit County Planning and Development Services Department
1800 Continental Place
Mt. Vernon, WA 98273

RE: Ecology Comments on the Grip Road Gravel Mine
Project File # PL16-0097 and PL16-0098

Dear Mr. Cooper:

Thank you for sending information on the Grip Road Gravel Mine to the Washington State Department of Ecology (Ecology) for our review and comment. As the Ecology Wetland Specialist responsible for Skagit County, I wish to have the following comments entered into the record. The project submittal provided to us included a mitigated determination of nonsignificance, SEPA environmental checklist, and engineering drawings.

Concrete Nor'west has submitted an application for a forest practice conversion and mining special use permit to develop a gravel mining operation. This 68-acre property consists of three lots (Parcels P125644, P125645, and P50155) that are located northwest of Sedro Woolley in unincorporated Skagit County. The property is located north of Grip Road, south of Prairie Road, and is bisected by the Samish River. The Skagit County iMAP shows the Samish River flowing across the northeast corner of the property in the Warner Prairie area.

The proposed action involves harvesting approximately 50,000 board feet of timber, removing the stumps, and converting the property to a gravel mining operation. This gravel mining operation will remove approximately 4,280,000 cubic yards of gravel over a 25 year period. Gravel will be removed by truck and trailer (generating about 46 truck trips per day) to one of Concrete Nor'wests nearby facilities for processing.

The gravel mine will cover 51 acres and be excavated to within 10 feet of the groundwater table. A 200' buffer of undisturbed vegetation will be provided between the Samish River and the gravel mine. A 50' setback will also be provided along the remaining perimeter of the gravel mine where no grading will occur. All storm water runoff generated within the gravel mine excavation should flow into the closed depression and be prevented from reaching the Samish River.

According to the SEPA environmental checklist, a Fish and Wildlife Site Assessment was prepared by Graham-Bunting Associates. They stated that the toe of the slope adjacent to the Samish River was mapped using LIDAR data. The engineering drawings show the 200' setback from wetlands associated with the Samish River, which I assume occurs at the toe of slope. However, there weren't any maps showing associated wetlands or the ordinary high water mark (OHWM) of the Samish River.

Any wetlands that occur on the property would be waters of the state subject to the applicable requirements of state law (see RCW 90.48 and WAC 173.201A) and Section 401 of the Clean Water Act (33 USC §1341) and 40 CFR Section 121.2. If any wetland impacts do occur, the applicant shall obtain all necessary state and federal authorizations prior to beginning any ground-disturbing activities or vegetation removal. To obtain state and federal authorization, the following items are required:

- A delineation of all wetlands on the property by a qualified wetland biologist, and survey of the delineated wetland boundaries;
- Flagging of the OHWM along the Samish River banks by a qualified biologist, and survey of the boundaries;
- A jurisdictional determination from the U.S. Army Corps of Engineers stating whether the delineated wetlands on the property are under federal jurisdiction;
- Ratings of all wetlands on this property using the current *Washington State Wetland Rating System for Western Washington*;
- A critical area report describing wetland conditions on the property, wetland data sheets, wetland rating forms, and photographs;
- A Joint Aquatic Resources Permit Application form for impacts to jurisdictional wetlands and the Samish River; and
- A mitigation plan for unavoidable wetland and buffer impacts following the standards in *Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance* (Ecology Publication #06-06-011a).

If you have any questions or would like to discuss my comments, please give me a call at (425) 649-7199 or send an email to Doug.Gresham@ecy.wa.gov.

Sincerely,

Doug Gresham

Doug Gresham, PWS
Wetland Specialist
Shorelands and Environmental Assistance Program

DG:awp

ATTACHMENT G

John Cooper

From: Planning & Development Services
Sent: Tuesday, December 27, 2016 9:45 AM
To: John Cooper
Cc: Betsy D. Stevenson
Subject: FW: PDS Comments

From: website@co.skagit.wa.us [mailto:website@co.skagit.wa.us]
Sent: Friday, December 23, 2016 9:45 AM
To: Planning & Development Services
Subject: PDS Comments

Name : Doug Gresham
Address : 3190 160th Ave SE
City : Bellevue
State : WA
Zip : 98008
email : doug.gresham@ecy.wa.gov
Phone : (425) 649-7199
PermitProposal : PL16-0097
Comments : December 23, 2016

John Cooper, Natural Resource Planner
Skagit County Planning and Development Services Department
1800 Continental Place
Mt. Vernon, WA 98273

RE: Ecology Comments on the Grip Road Gravel Mine
Project File # PL16-0097

Dear Mr. Cooper:

As the Washington State Department of Ecology (Ecology) Wetland Specialist responsible for Skagit County, I wish to have the following comments entered into the record for the Grip Road Gravel Mine. In addition to my previous comments for this project submitted on June 1, 2016, I want to address additional concerns during this second public notice period.

Concrete Nor'west submitted an application for a forest practice conversion and mining special use permit to develop a gravel mining operation. This 68-acre property consists of three lots (Parcels P125644, P125645, and P50155) that are located northwest of Sedro Woolley in unincorporated Skagit County. The property is located north of Grip Road, south of Prairie Road, and is bisected by the Samish River. The Skagit County iMAP shows the Samish River flowing across the northeast corner of the property in the Warner Prairie area.

The proposed action involves harvesting approximately 50,000 board feet of timber, removing the stumps, and converting the property to a gravel mining operation. This gravel mining operation will remove approximately 4,280,000 cubic yards of gravel over a 25 year period. Gravel will be removed by truck and trailer (generating about 46 truck trips per day) to one of Concrete Nor'wests nearby facilities for processing.

I have a concern with the wetland findings by Graham-Bunting Associates. They stated there will be a 200' setback from riverine wetlands associated with the Samish River. However, if these wetlands are rated as either Category I or II, then the standard buffer width may be 300' for a high land use intensity such as a gravel mine (Skagit County Code 14.24.230). We assume the proposed footprint of the gravel mine would encroach into this larger wetland buffer so this needs to be addressed.

I also have a concern with the access road that will need to be improved to accommodate 46 truckloads a day, which could impact wetlands and streams. This access road may need to be widened, the Swede Creek bridge may need to be upgraded, and storm water drainage features may need to be reconfigured. This access road would need to be upgraded to Skagit County higher standards for roads servicing mining operations but this was not addressed.

Any wetlands that occur on the property would be waters of the state subject to the applicable requirements of state law (see RCW 90.48 and WAC 173.201A) and Section 401 of the Clean Water Act (33 USC §1341) and 40 CFR Section 121.2. If any wetland impacts do occur, the applicant shall obtain all necessary state and federal authorizations prior to beginning any ground-disturbing activities or vegetation removal.

If you have any questions or would like to discuss my comments, please give me a call at (425) 649 7199 or send an email to Doug.Gresham@ecy.wa.gov.

Sincerely,

Doug Gresham, PWS
Wetland Specialist
Shorelands and Environmental Assistance Program

From Host Address: 198.239.77.118

Date and time received: 12/23/2016 9:44:17 AM

ATTACHMENT H

March 9, 2022

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

RE: Mitigated Determination of Nonsignificance (MDNS) for proposed Grip Road Gravel Mine
File #'s PL16-0097 & PL16-0098

Dear Mr. Cricchio,

Once again, we are writing on behalf of the local community group Central Samish Valley Neighbors (CSVN) to comment on a new Mitigated Determination of Nonsignificance (MDNS) for the proposed Grip Road Gravel Mine, File #'s PL16-0097 & PL16-0098. In addition to this letter, our attorney Kyle Loring, is also submitting comments on behalf of CSVN. This MDNS is for a large new gravel mine along the Samish River proposed by Miles Sand and Gravel/Concrete Nor'West (CNW), as part of their application for a mining Special Use Permit (SUP). This is the third MDNS issued for this project, with two previous ones withdrawn by the County in 2021. This letter attempts to summarize our ongoing concerns, most of which still have not been addressed despite all of the time that has passed and hundreds of comment letters submitted by community members. Based on our own review and consultation with our attorney, the project impacts identified in the application are significant and warrant additional analysis through an Environmental Impact Statement (EIS) that fully evaluates them and identifies appropriate alternatives and mitigation measures. The County needs to, once and for all, withdraw this MDNS and require a full EIS. Our comments identify information that the County still needs to obtain in order to conduct an adequate review of the impacts that the proposed mine would cause. This information involves the need for both clearer project details and more thorough evaluation of environmental impacts.

The application review has suffered from the absence of institutional memory and inconsistent oversight. We have followed this application since its inception six years ago. During that time, there have been more staff changes at Skagit County Planning and Development Services (PDS) than we can count – the PDS Director has changed, the County attorney representing PDS has changed at least twice, as has the Assistant Director position for PDS; and three different planners have been the lead on this project. The County's review of this application has suffered from a lack of institutional memory and consistent oversight. We are very concerned that County staff at PDS and Public Works do not have a full grasp of the scale of this proposed industrial scale mine, and the potential cumulative and long-term impacts of it. And, the very real public safety impacts from truck traffic have not been taken seriously.

Mitigation Measures are inadequate. Despite all of the public comments, and County staff time into this, very little has actually changed from the original proposal. Of the nineteen "mitigation measures" proposed in this latest MDNS, almost all are simply re-stating the obvious, that the project must comply with existing state and county regulations. The few specific mitigation measures that go beyond existing code are either inadequate to address the impact, or contain loopholes that make them practically meaningless. In the case of Mitigation Measure #17, the County's own Critical Areas Ordinance is disregarded in favor of a reduced buffer on the Samish River – this is certainly not mitigation in any true sense of the term. In addition, there are no monitoring or enforcement mechanisms proposed in any of these mitigation measures that would ensure compliance over the twenty-five year lifetime of this proposed mine.

Mistakes and delays are not a justification for incomplete environmental review. We know that PDS staff have their hands full with many important projects. And, understandably, people would like to see this project wrapped up. Nonetheless, having tracked it from the beginning, it is clear to us that most of the delays have been caused by the applicant's recalcitrance to respond to the County's reasonable requests for information. Avoidable delays have included two appeals filed by the applicant in attempts to avoid providing additional project information. The layers of often conflicting application documents, submitted over more than half a decade, have made it challenging for citizens and planners alike to understand the actual scope and impact of the project. This is quantity at the cost of quality. The applicant should have been required to start over with a comprehensive EIS years ago. Nonetheless, that error combined with the foot-dragging by the applicant should not force the County to now push the project through when there are still significant gaps remaining in the environmental review.

Summary of necessary information and environmental review omitted from the application materials. Based on our review of the March 7, 2016 SEPA Checklist, the August 2, 2019 Supplemental SEPA Checklist Information, the documents referenced in those materials, and the other documents posted to the County's project website (including the two new documents submitted by the applicant in Dec. 2021), the application continues to suffer from the SEPA inadequacies listed below.

1) <u>Project scale is under-represented</u>: The application minimizes and under-represents the scale of the mining activity by avoiding many details and using vague descriptors such as "extracting relatively low volumes of aggregate".

2) <u>Impact to the environment from use of the private haul road is not fully evaluated:</u> The applicant's new Critical Area reports[1] for the 2.2 mile long private haul road are the only application materials that review the impacts to the larger property owned by CNW, outside of the mine site itself, even though this haul road is an integral part of the project. These reports identify

[1] "Impact Assessment and Mitigation Plan", Northwest Environmental Services, Dec. 2021 and "Geo-Tech Memo", Associated Earth Sciences, Dec. 2021

many sensitive wetlands and streams, but use false assumptions to minimize the estimated impacts that industrial hauling would have on them.[2]

3) Off-site and cumulative impacts are omitted and ignored: The application omits and/or minimizes descriptions of off-site and cumulative impacts of the project, especially off-site impacts related to truck traffic.

4) Future plans not disclosed: The application omits plans for future on-site processing despite the suggestion in the application materials that the applicant may seek to operate on-site processing in the future. This omission prevents a complete evaluation of the impacts and identification of appropriate mitigation.

5) Impacts on Environmental Elements inadequately reviewed: Defects in application materials result in a failure to fully disclose impacts for all of the "Environmental Elements" required by SEPA.

6) Mitigation measures and project alternatives not fully considered: The application and the MDNS do not identify or evaluate appropriate mitigation measures or alternatives.

We discuss all of these issues further below, in the order listed.

1) **Project scale is under-represented.** The SEPA Checklist, Supplement and Special Use Narrative minimized and under-represented the scale of the proposed mining development by avoiding detail and using vague descriptors such as "extracting relatively low volumes of aggregate". The mining activity was described using generalities, and omitting many details. This approach obscured important information and it is unclear whether key details were used by the County in its SEPA review. Other examples of misleading application materials include the characterization of the site as "very remote" and the proposed mining as a "temporary" activity. The SEPA Checklist states, "traffic generated by the project will be typical of mining operations," but does not state any actual numbers. To the extent the submitted documents actually provide this information, many of those details are buried in the referenced studies and drawings.

   The truth is that this is a proposal for a 51-acre open pit mine that will eventually be ninety feet deep. This is a hole in the ground about the area of 38 football fields and ten stories deep. The Checklist states that there will be "4.28 million cubic yards of excavation". If 4 million cubic yards are hauled off site (assuming 1 yard equals 3,000 pounds), this would be approximately 6 million tons of sand and gravel removed from the site over a twenty-five year-period, or

[2] See attached letter submitted by Bray/Day on 1/11/2022

240,000 tons per year. We do not see this scale of land disturbance and trucking at this location as "low volume".

Furthermore, although the application characterizes the mining operation as a "temporary activity," its proposed daily operations over 25 years will feel permanent to the community, as will the long-term alterations to the landscape. The "very remote" characterization likewise ignores the actual setting – the site is located in an area where no prior industrial scale mining has occurred, and it would operate amidst a rural residential neighborhood with more than 100 homes within a mile of the site and 750 homes within three miles. And, an investigation into the DN Traffic memo (June 2019) reveals that the "typical" gravel truck traffic referenced in the SEPA Checklist is actually an estimated 11,765 tandem gravel truck trips per year on narrow substandard County roads.[3]

By avoiding details in the main project documents, the application appears complete, but does not actually address the full impacts of the project, nor does it explore less damaging alternatives or identify real mitigation measures.

2) **Impact to the environment from use of the private haul road is not fully evaluated.** The SEPA Checklist's description of the project site (Section A. #11) as only a 68-acre parcel of land did not describe full scope of the project; it and both the original and updated SEPA narratives failed to clearly identify the two-mile-long haul road across the applicant's 726-acre property that is required to get the gravel to Grip Road. In response to this failure, in 2021, the County required environmental review of the haul road. The applicant's new Critical Area report for the haul road revealed 36 wetlands and 21 seasonal streams within 300 feet of the haul road. One of the largest of these wetlands was identified as suitable habitat for the endangered Oregon spotted frog. Yet, this new report does not acknowledge the high intensity industrial use of the haul road. Instead, it downplays the difference between mining use and previous uses that involved an occasional forestry operation. The impact on these streams and wetlands from 11,000 trips per year by dump truck/trailer combinations weighing as much as forty tons each has simply not been evaluated. Impacts to the aquatic habitat include potential hydrocarbon pollution from road run-off, increased sedimentation, and changes to surface water hydrology, as well as significant disturbance from constant noise and vibration and diesel exhaust.

[3] Contrary to the volume of gravel stated in the SEPA checklist, the DN traffic memo assumes that 200,000 tons of material per year will be removed from the site. Using DN's math, and assuming the larger volume stated in the SEPA checklist, the number of truck trips per year would be actually be closer to 14,118 (240,000 tons/34 tons/truck*2), or an average of 54 truck trips per day (not 46 per day as stated in the DN memo). This is one of many examples of inconsistent and confusing information provided in the application materials.

In addition the impacts from haul road expansion and construction were ignored. The haul road was significantly expanded in 2018 for mining purposes without regulatory oversight. The new Critical Area report claims that any past impacts from road construction are not part of this project, even though this work was conducted two years after they submitted the mining application. These impacts were never acknowledged, causing ongoing habitat degradation. No corrective action and no mitigation for this construction activity has been required.

In addition, the potential impact of heavy truck traffic on unstable slopes in the Swede Creek gorge has not been adequately addressed. The haul road crosses Swede Creek, a fish bearing stream, in a steep gorge. Unstable slopes and existing road failure issues have been identified in the gorge. Road triggered landslides in these locations can have catastrophic effects on streams, delivering sudden huge debris and sediment loads to the creek. The new Geo-Tech memo takes a cursory look at these issues without truly addressing them. A more thorough evaluation by a qualified geologist that identifies appropriate remediation, as well as ongoing preventative management of the road's drainage system, is essential to avoid slope failure and protect the habitat in Swede Creek.

3) **Off-site and cumulative impacts omitted and ignored.** One of the most significant components of this proposal is the plan to haul approximately 4 million cubic yards of sand and gravel from the site to be processed at another facility. The material would be moved by truck along more than five miles of County roads over a period of 25 years. This trucking activity is a crucial part of the project that will cause significant environmental harm, yet the project description in the SEPA Checklist (Section A. #11), as well as the updated narrative for the Special Use Permit application, omit details of this aspect. The only mention of truck traffic is by reference – listing several "traffic memos" submitted by the applicant separately, together with piecemeal supplemental information and addenda. The County's pursuit of additional information on traffic impacts eventually led to a third-party desktop review by a consulting traffic engineer engaged by the County (HDR), and most recently (September 2020) a longer Traffic Impact Analysis (TIA) that was prepared by DN Traffic Consultants on behalf of CNW. However, all of the documents that look at the traffic impacts appear as a kind of postscript. This has the effect of concealing the severity of the truck traffic impacts and it considers only those impacts related to a narrow set of criteria regarding County road standards and "level of service". In reality, the off-site impacts from a heavy and sustained volume of truck traffic over a twenty-five year period are many-pronged and cumulative. These impacts include carbon emissions and air pollution, noise, vibration, public safety, and damage to public infrastructure. A full SEPA review needs to evaluate and identify mitigation measures for all of these impacts, not just those that fall under the narrowly defined criteria in County Code for triggering Traffic Impact Analyses (TIA). Furthermore, the applicant's TIA fails to meet some of the basic requirements for such documents included in Skagit County Road Standards, 2000, as incorporated by reference in the Skagit County Code.

To illustrate the scale of this proposal (using the conservative figures in the DN traffic studies) approximately 294,000 truck trips over a 25-year period are required to haul the amount of material the applicant proposes to excavate from the mine. The shortest haul route to CNW's Belleville Pit site on County roads is approximately 11.5 miles round trip, plus an additional 4 miles round trip on the private haul road. Cumulatively, this is more than 4,600,000 miles over 25 years, or more than 184,000 miles per year. This is equivalent to almost 800 round trips between Seattle and New York City.[4] Furthermore, one fully loaded standard gravel truck with pup trailer weighs more than 80,000 pounds. Very few of the off-site impacts associated with this hauling have been addressed in the application materials. Finally, the number of truck trips and cumulative mileage may actually be considerably higher than stated above depending on several factors, including weight limits on the bridge over the Samish River on Highway Old 99 and the extent of third-party sales.

Other off-site impacts that were minimized or inadequately described in the application documents include potential impacts to surface water; impacts of noise from mining equipment and hauling; and potential impacts to fish and wildlife. We address these concerns elsewhere in this letter under the specific environmental elements, in the order they appear in the SEPA Checklist.

4) **Future plans not disclosed.** The SEPA checklist asks specifically if there are any plans for future additions, expansion, or further activity related to or connected with this proposal (Section A. #7). The applicant answered 'no' to this question on the SEPA Checklist but implies elsewhere that they may conduct onsite processing at a future date. The applicant was asked to clarify this point, and in a letter to the County on May 15, 2017, states only that no processing was proposed "in this application" – implying that future on-site processing is contemplated. And, the revised "Special Use Narrative," dated Aug. 2, 2018, states in the third paragraph that "No processing is proposed onsite at this time" (*emphasis ours*). SEPA guidelines require that all parts of a proposal be disclosed, even if the applicant plans to do them "over a period of time or on different parcels of land." We find the inconsistency on this topic troubling. Given the cost of hauling raw materials 184,000 miles/year, we find it unlikely that CNW will not apply for an additional permit in the future to allow on-site gravel processing. Furthermore, the disclosure of future plans is essential here because the project buffers would need to be larger to accommodate on-site gravel processing, and because the project would be subject to even more rigorous scrutiny. On-site processing would trigger a significantly larger buffer (200 feet—double the 100 feet currently proposed) on the northern and western borders to reduce

[4] Different application documents identify conflicting amounts of material to be excavated and hauled from the site, as well as different haul routes and mileage and load weights. Using the higher extraction figures in the SEPA checklist (assuming 4 million cubic yards of excavation), 356,666 truck trips would be required over a 25-year period cumulatively more than 5,528,300 miles (220,000 miles per year), equivalent to 970 round trips between New York City and Seattle.

noise and vibration impacts to the neighboring private properties (SCC 14.16.440(10)). This would reduce the amount of gravel available for extraction, but it is an important mitigation measure for reducing impact to adjacent landowners. It is also reasonable to assume that the applicant plans to expand the mine itself over time to encompass more of the large property holding there. There have been many examples of Skagit County approving similar expansions and scope changes through the permitting process. Dividing the planned activities into separate development applications is a way to piecemeal SEPA review and thus under-evaluate project impacts. Under SEPA, the full scope of the proposed project must be considered in order to prevent inappropriate phased or piecemeal review (WAC 197-11-060(5)(d)(ii). Given that the applicant has expressly reserved the right to pursue processing at this site in the future, the project must be reviewed on the basis of what has been reserved as a potential future activity—that such processing would occur on the site. Therefore, the conditions on the permit need to anticipate potential future expansion with larger buffers and additional measures to reduce likely future impacts. Alternately, restrictions need to be put in place to prevent such changes to on-site activities in the future.

5) **Impacts on Environmental Elements inadequately reviewed.** As addressed below, defects in the application materials result in the lack of adequate review of the project's impacts to earth, air, water, and environmental health are minimized or not completely disclosed in the SEPA Checklist and supporting documents.

Earth (SEPA Checklist, Section B. #1): Although question #1.e. of the SEPA Checklist requests a description of any project filling, excavation and grading, the applicant's response limits its response to the 51-acre open-pit mine footprint. The Checklist does not describe such essential project elements as storage and management of excavated and side-cast materials. In fact, there is no description of what, if any, site preparation will occur outside of the footprint of actual mine.

The "Site Management Plan, Sand and Gravel Permit" document that the applicant submitted (also a requirement for WA Department of Ecology's NPDES permit) does not cure the Checklist defect. It is almost entirely generic, and simply lists typical Best Management Practices (BMPs) to prevent erosion and manage buffers. It is not site-specific and does not actually explain how the side-cast materials, or "overburden", will be handled or how buffers along property lines will be managed. It is unclear in this plan which, if any, of the BMPs listed will actually be implemented or when or where they will be used. This omitted information is essential for verifying that the project would protect water quality, minimize disturbance to wildlife habitat, and reduce noise, dust and vibration impacts on neighboring properties.

Numerous relatively small private parcels lie to the west and north of the proposed mine site. Noise, dust and vibration from the mine will impact these properties. An appropriately-scaled, undisturbed vegetated buffer must be established to protect these properties. It is unclear in

the application materials if the buffers between the mine and adjacent properties will be left undisturbed. In addition, there are repeated assertions in project documents that all runoff from the site will drain into the open pit and infiltrate into groundwater. This does not address any surface water runoff and contamination from side-cast material that the applicant states will be stockpiled outside of the footprint of the mine itself for use in reclamation when mining operations are completed. There is no way to evaluate the impact of this earth moving activity when it is not fully explained and described.

Question #1.g. asks if any impervious surfaces are proposed. The applicant states that no permanent, impervious surfaces are proposed. This is inaccurate. There would be a need for an on-site staging areas at the mine site for dozens of trucks and equipment. In addition, the entire two-mile private haul road will essentially be impervious, including the small stretch of the road they now plan to pave in the Swede Creek gorge. A site-specific surface water drainage plan that includes measures for protecting waterways from sediment and other contaminants from these impervious surfaces needs to be prepared and implemented.

Air (SEPA Checklist, Section B. #2): The applicant's response to question #2.a., which requests disclosure of the project's air emissions, avoids identifying the substantial amount of emissions to be expected over the project's 25-year lifespan. Instead, the answer characterizes air quality impacts as "temporary." Mining is an ongoing activity. It is not temporary construction. There will be earthmoving equipment generating emissions constantly during operating hours for decades. Additionally, there is no mention of the significant cumulative carbon and particulate emissions from 25 years of diesel truck traffic. This omission alone is fatal to SEPA review.

Question #2.b. The applicant states incredulously that there are no off-site sources of emissions or odor. This answer simply ignores emissions from diesel truck hauling. As stated above, the cumulative mileage of tandem diesel trucks hauling material from this mine is more than 4,600,000 miles, or more than 184,000 miles per year.[5] The diesel emissions from this hauling activity will be concentrated in a small area, day after day, year after year. Diesel emissions include both particulates that create localized health hazards and greenhouse gasses that contribute to global climate change. The type of diesel fuel used, maintenance and age of vehicles, speed and driving patterns, idling activities, etc. all influence the intensity of emissions. The applicant must disclose the true nature and quantity of these emissions and identify measures to reduce the impact to air quality. A simplistic calculation of the carbon emissions from just the hauling component of this project is more than 17,200 metric tons over 25 years, or around 690 metric tons per year[6]. The actual amount of carbon emissions

[5] Assumptions: round trip of 15.4 miles between the mine and Belleville Pit, 46 round trips per day, 260 days per year, for 25 years.

[6] Carbon emissions estimation based on the per ton/mile truck emissions estimates and sample calculations included in the Environmental Defense Fund publication produced to assist industry in reducing carbon emissions, "A Green Freight Handbook", Chapter 2, Establish Metrics, we estimate that depending again on which of the two proposed

will probably be considerably higher because, as discussed above, the mileage is under-represented. This is a very carbon-intensive proposal. The applicant needs to provide realistic estimates of the cumulative emissions from all of the truck hauling and on-site mining activities, as well as propose an adequate mitigation plan for them.

Water (SEPA Checklist, Section B. #3): Question #3.a. involves disclosing impacts to surface water. The Checklist does not fully disclose surface water impacts from the project's proposed undersized buffer. The applicant proposes a 200-foot vegetative buffer between the mine and the adjacent Samish River, and the MDNS accepts this in Mitigation Measure #17, but a 200-foot buffer is not adequate and is inconsistent with Skagit County Critical Areas Ordinance (SCC 14.24.230) requirements for the intensity of this land use. Additionally, when slopes of 25% or more are present, buffers are generally required to extend 25 feet beyond the top of the slope. We address this further in the section on "animals" below.

Years ago, in response to these concerns, PDS asked the applicant to submit drawings showing a 300 foot buffer, which they did. This drawing is labeled "Alternate 300 foot buffer" (dated July 2018). And yet, this "alternate" buffer has not been required as a condition of the permit.

In addition, mine site plans identify an unnamed tributary to the Samish River on the southeast corner of the site. The supplement to the SEPA checklist references the Site Management Plan to explain how surface water will be protected. Again, as discussed above in the "Earth" section, this Site Management Plan does is not site-specific and simply lists a number of BMPs without explaining where or how they may be implemented; except that Appendix B ("Site Map") of the plan identifies one "monitoring point" near the tributary stream. There is not enough information provided to determine if surface water will be adequately protected from sediment and other contaminants or if the minimal monitoring proposed will be adequate to detect such pollution. In addition, it is unclear from the project documents where all the surface water in the areas around the mine site may drain after the site is disturbed. The mine site is perched above the river and it is unclear if the proposed buffers encompass the entire slope edge between the mine and the river. There is not enough detail in the drawings and application materials to ensure that erosion and contaminated run-off will be prevented from making its way downslope to the river.

Question #3.b. involves disclosing impacts to groundwater. The applicant states that no waste discharge will occur into groundwater. The Supplement to the SEPA Checklist again references the Site Management Plan, and states that mining runoff will infiltrate into the bottom of the mine. However, the project description states that the intention is to mine within ten feet of the groundwater level. Given the pervious nature of the sand and gravel floor of the mine, we question if this method of preventing groundwater contamination is sufficient. This is

main haul routes is followed, annual (total) truck CO2 emissions will be between 271 (6,768) and 403 (10,064) metric tons.

especially concerning as the groundwater in this location will essentially flow directly into the Samish River and into designated critical habitat for the endangered Oregon Spotted Frog (discussed further below in the section about animals). Protection of groundwater requires further evaluation, especially in terms of the potential for fuel and other toxic material spills from heavy equipment in the mine (this issue is further discussed below under the section about environmental health and hazardous chemicals.)

Mitigation Measure #15 requires the applicant to work with their consultant to determine where the groundwater level is and to stay 10 feet above it. However, there is no requirement for groundwater monitoring wells to be installed, nor any compliance or enforcement mechanism discussed. It will be many years before the mining reaches these depths; in the absence of compliance monitoring and inspection, we have very little confidence that mine operators will be paying attention to the distance between the excavation and the groundwater.

Question #3.c. involves describing impacts from water runoff, including stormwater. In addition to the concerns related to runoff from the mining site described above in the 'earth' section, the impact of runoff from the haul road to surface water was not identified as a concern and has not been addressed. This involves impacts to both water quality and quantity -- to the wetlands on site, to Swede Creek and to the greater Samish watershed. There is the potential for sedimentation in Swede Creek, a fish-bearing stream, and for increased overland flows and downstream flooding. There are already significant flooding issues associated with Swede Creek. The ditch adjacent to Grip Road east of the bridge over the Samish River is an overflow channel of Swede Creek. The Public Works Department and local residents are well aware that this ditch routinely spills over its banks and floods the roadway during high rainfall events. In addition, the edge of the roadbed itself at this location has required repeated hardening and repair due to erosion caused by the high volume of water flowing through this ditch. The impacts to hydrology and the potential for exacerbating sedimentation and flooding problems from the increased impervious surface and heavy use of the haul road, especially in the gorge where the road crosses Swede Creek, needs to be evaluated and appropriate mitigation measures required. A stormwater management plan for the haul road needs to be prepared and implemented.

Mitigation Measure #5 states that the applicant shall comply with the County's Stormwater Management Ordinance, "as it relates to increased runoff resulting from additional impervious surfaces". It does not explain what "additional impervious surfaces" this refers to, leaving the question of whether it applies to the existing but recently reconstructed haul road. It also states that "Best Management Practices shall be utilized throughout the life of the project", but it is not clear if this relates to only impervious surfaces, or other land disturbance. It does not require that a specific Stormwater Management Plan be prepared and approved, thereby lacking enough specificity to be useful. And, again, there are no monitoring, inspection or

enforcement mechanisms included in this mitigation measure, making it ineffective, especially over the twenty-five year life time of this project.

Mitigation Measure #7 states that the applicant shall comply with the provisions of WAC 173-201, which is the law that sets standards and enforcement mechanisms for surface water quality. In absence of any specific prescriptions for this project and this site, this is a not a useful or enforceable condition, and certainly it is not proposing any meaningful mitigation for project impacts. Again, just restating existing law is not a mitigation measure.

Plants (SEPA Checklist Section B. #4): Notwithstanding that the mine would completely strip native vegetation from more sixty-five acres of land, the Checklist omits any discussion of ways to minimize this impact. A one-sheet survey drawing titled "Reclamation Plan and Mine Sequence" (May 2015) shows the proposed mine area divided into four quadrants labeled "1" through "4". These labeled quadrants presumably explain the "sequencing" of the mining activity, but there appears to be no narrative explaining how or when this sequencing may occur. Phasing the mining so that portions of the site remain forested until it is needed, and/or reclaiming sections over time while other sections are being mined would significantly reduce the impact to native vegetation. Simply reducing the scale of the proposed mine would be even more appropriate. Measures and alternatives that reduce the impact to the native vegetation must be evaluated.

Animals (SEPA Checklist Section B. #5): The Checklist omits significant animal species and potential project impacts on them. First, the Checklist states that no threatened or endangered species are known to be on or near the site. In fact, the US Fish and Wildlife Service and WA Department of Fish and Wildlife have designated Critical Habitat for the Oregon Spotted Frog (*Rana pretiosa*) along the Samish River directly adjacent to the site. In addition, there is designated Bull Trout (*Salvelinus confluentus*) Critical Habitat a few hundred feet downstream from the northeast corner of the mine site. The Oregon Spotted Frog was believed to be extirpated from this area until breeding sites were discovered in 2011-2012 in the upper Samish River. The Samish River system is the only place in Skagit County that the Oregon Spotted Frog has been found. It is listed as Endangered in Washington State, and Threatened federally. Bull Trout is a Candidate species for listing in Washington State and is listed as Threatened federally. The presence of designated critical habitat for species listed under the Endangered Species Act (ESA) was not disclosed in the SEPA Checklist nor in the accompanying Fish and Wildlife Assessment (GBA/August 2015). These are serious omissions.

At the request of the County, an Addendum to the Fish and Wildlife Assessment was submitted by the applicant to address the presence of the Oregon Spotted Frog habitat adjacent to the site (GBA/April 2017). However, the addendum simply states that in the consultant's opinion, their recommended 200-foot buffer is adequate to protect this designated critical habitat

without siting any clear science or expert biological opinion to back up the statements. In fact, a note in the Addendum states:

> "*Our original assessment and this addendum are not intended to constitute a biological evaluation pursuant to the requirements of the Endangered Species Act. The documents are intended solely to demonstrate compliance with the Skagit County Critical Areas Ordinance (SCC 14.24).*"

Further evaluation of the impact from the proposed mining to the Oregon Spotted Frog, Bull Trout, and their designated critical habitat, needs to be conducted, consistent with State requirements and the Federal ESA. As discussed in sections elsewhere in this letter (in "earth", "water" and "toxics"), measures are not clearly described that will protect the water quality of the Samish River, its tributaries, and the groundwater that flows to the river. This is a serious concern that must be addressed to ensure that the Oregon Spotted Frog, Bull Trout, and Puget Sound Steelhead habitat is adequately protected according to law.

In addition, the SEPA Checklist and Supplement do not acknowledge a number of large mammals that are known to frequent this area. These include bear, cougar and bobcat. Furthermore, the Checklist states that it is not an animal migration route even though local residents regularly observe the use of this area as a wildlife corridor between Butler Hill to the south and the Samish River Valley and Anderson Mountain to the north. Surrounding landowners have seen cougar, bobcat, and bear traveling across their properties on numerous occasions, and at least one resident located south of the subject property has captured many photos of these animals on remote trail cameras. These animals require large territories and are sensitive to disturbance. The subject property is the last large undeveloped property linking a larger landscape between Butler Hill to the south, and the Samish River to the north. The applicant's Fish and Wildlife Assessment does not address the impacts to this wildlife corridor. Measures could be taken to protect a swath of land and maintain intact vegetative buffers surrounding the mine on the applicant's larger ownership. This would help reduce this impact.

Finally, the applicant's Fish and Wildlife Assessment is more than six years old (August 2015), and its limited scope does not address the current data regarding threatened and endangered species. A new complete Fish and Wildlife Assessment needs to be prepared that considers the full footprint of the project, including the land area impacted by the private haul road, as well as all ESA species that may be impacted by the proposal.

Energy (SEPA Checklist Section B. #6): This is a very fossil fuel and carbon intensive project, both on and off site. As stated previously, just to haul the proposed volume of gravel to the applicant's processing site would require diesel truck/trailer combinations to drive more than 4,600,000 miles over 25 years, or more than 184,000 miles per year. This does not include the on-site energy consumption from the heavy equipment required for the mining activity. In

addition, there is no electrical power supply to the site. There is no mention of power supply in the application materials, but presumably the applicant plans to run generators to provide light and power to the site. This will create even more fossil fuel consumption (and noise pollution that has not been disclosed). The applicant has made no attempt to estimate the amount of energy required, nor the impacts to the environment from it. There are no proposed energy conservation measures. The applicant should be required to evaluate alternatives to such high rates of energy consumption, and a carbon budget should be calculated with mitigation identified to offset the effects of carbon emissions to the atmosphere.

Environmental Health (SEPA Checklist Section B. #7):

Question #7a. Toxics: The Supplement to the SEPA Checklist states that "mobile fueling vehicles" and "mobile maintenance vehicles" will be used and that "if fueling stations or other storage of these materials occurs on site, it will be in compliance with the NPDES Permit filed with the WA Department of Ecology". These vague and inconsistent statements fail to confirm whether fueling stations and fuel storage are planned or not. Furthermore, the application does not define "mobile fueling" or "mobile maintenance" or measures to control or respond to spills from them in different locations across the site. The applicant must explain how they will monitor this and provide specific management practices for use with mobile fueling and maintenance units.

Although the Site Management Plan provided by the applicant purports to address spill prevention, it merely recites generic BMPs. It does not state what specific measures will be used on this site, nor does it show any locations for fueling, fuel storage, etc. The applicant needs to disclose what the nature and location of the fuel storage and vehicle refueling and maintenance process will actually be, and what measures will be taken to prevent spills and toxins from entering surface and groundwater. As discussed previously, there is a real danger of surface water contamination and or groundwater contamination through the bottom of the mine floor if this issue is not properly addressed.

Mitigation Measure #12 addresses requirements for safe onsite fueling of mining equipment. However, this condition does not specifically address or prohibit "mobile fueling" and "mobile maintenance". Since these terms are used in the application materials, they need to be addressed in the mitigation measures, or there is a potential for contamination of ground and surface water.

Question #7.b. Noise: This section requires disclosure of health impacts related to noise generated from the project on-site and off-site. The applicant submitted an "Updated Noise and Vibration Study" (November 2018), which concludes through modeling that the noise generated from the mine, and from off-site trucking, is within the limits set forth in Skagit

County Code. There are several major flaws in this study that call into question its thoroughness and validity:

- Concerning the computer modeling of mine operation noise levels, the November 2018 noise study states "A front-end loader, dozer, and excavator were assumed to operate concurrently in the mine", with noise levels at 100 feet from each shown as 75, 75, and 76, dBA respectively. The study does not cite the source for these numbers. Presumably, different sizes and models of heavy equipment generate different levels of noise, and are not interchangeable for noise level modeling purposes.

- Furthermore, the noise study appears to address only "typical" mine production levels, not the "extended hours" production scenario of up to 5,000 tons per day described in the September 2020 DN Traffic Consultants Traffic Impact Analysis. Presumably, the latter would require more pieces of heavy equipment to accomplish, as well as more trucks. Based on the seasonal nature of sand and gravel demand, it seems likely that the mine would exceed "typical" or "average" production levels for extended periods during late spring, summer, and early fall. For a noise study to be valid, it must address the <u>maximum</u> production level.

- The computer modeled noise level receptor labeled "R3" is located approximately 900 feet north of the receiving property boundary, not at the receiving property boundary as required under WAC 173.58-020(11) and 173-60-040(1).

- The study does not address the significant noise fully loaded truck/trailer combinations will generate using their compression brakes while descending the Grip Road hill. Adding an "average" of 46 diesel trucks a day (or 30 trucks an hour, as under the "extreme" scenario from the DN Traffic Impact Analysis) onto Grip and Prairie Road will be a major change to the soundscape for residents along the haul route for the next 25 years regardless of whether the trucks exceed legal noise limits.

There are 100 homes within a mile radius of the proposed mine, and 375 homes within a 2 mile radius. Even if the applicant's consultant can somehow create a model that shows that the noise generated from the mine and truck traffic is below the thresholds set out in WAC and Skagit County Code, the ambient noise from the mine and the trucks will become a constant backdrop for the residents in the surrounding area. This noise will have a lasting impact on public health, on the quality of life in this quiet rural neighborhood, and on wildlife. Per an article titled "The Adverse Effects of Environmental Noise Exposure on Oxidative Stress and Cardiovascular Risk" in the National Institute of Health's online National Medical Library, "Epidemiological studies have provided evidence that traffic noise exposure is linked to cardiovascular diseases such as arterial hypertension, myocardial infarction, and stroke."

The SEPA checklist and accompanying documents contain no discussion of ways to reduce or mitigate noise impacts, instead the focus is simply on proving that this new unprecedented level of industrial scale noise pollution will somehow meet legal standards. What is "legal" and what is "acceptable" are not interchangeable.

Light and glare (SEPA Checklist Section B. #11. Notwithstanding that the applicant intends to operate the mine during dark hours, the application does not describe the type of lighting that will be used on site. Nor does the application identify whether, or what, lighting would be installed for security purposes. The 700 acres owned by the applicant is currently used only for forestry, and it is dark at night. The type of lighting used for heavy construction tends to be very bright and penetrates into the night sky. Measures need to be taken to minimize light pollution from the site . Impacts on migrating birds from even small amounts of outdoor lighting is well-documented (https://www.fws.gov/news/blog/index.cfm/2020/4/22/Lights-Out-for-Migrating-Birds). The applicant needs to describe the type and extent of the lighting systems that are planned, and appropriate mitigation measures need to be required, including down-shielding of all lights, and installing motion sensors and controls where constant lighting is unnecessary.

Recreation (SEPA Checklist Section B. #12: This section requires disclosing "designated and informal recreational opportunities" in the vicinity. The applicant's response mentions only hunting and fishing. In fact, local residents walk on Grip and Prairie Roads, and the haul route along Grip and Prairie Roads is a popular recreational bicycling route. The route is included in a "Skagit County Bike Map" produced by Skagit Council of Governments, and distributed by Skagit County Parks Department. This same bike map is also included in Skagit County's 2016 Comprehensive Plan, as the "Bicycle Network Map"; it includes Grip and Prairie Roads as part of the inventory of the County's non-motorized transportation system. In addition, a portion of Prairie Road and F&S Grade is part of U.S. Bike Route 87. Nonetheless, this important recreational activity was not disclosed in the SEPA checklist; nor were impacts to it evaluated. As discussed elsewhere in this letter, Grip and Prairie Roads are narrow and substandard with soft or nonexistent shoulders. There are many parts of this route where there is literally no option for a cyclist to move to the right to make room for a passing vehicle. The recent addition of guardrails on portions of Prairie Road have had the effect of eliminating options for a shoulder and narrowing the roadbed even further (guardrails were apparently installed more to protect power poles from vehicle collision than for public safety).

The introduction of an average of five tandem gravel trucks an hour (much less the 30 trucks an hour under the "extreme" scenario) to this route will render recreational cycling not only unpleasant, but very dangerous. Mitigation and alternatives could be identified for reducing the impact of trucking on these important recreational uses, such as widening and hardening road shoulders, limiting the number of trucks allowed per day on the road and designating 'safe passage' times during each day, when trucks are not allowed to haul from the site.

The omission in the SEPA checklist and project documents of the impact on pedestrians and bicyclists along the haul route is just one more example of the serious inadequacies in the application materials, and the disregard for public safety shown by the applicant. Issues regarding public safety related to truck traffic and the condition of County roads along the haul route are further discussed below under traffic.

Transportation/Traffic (SEPA Checklist Section B. #14): The SEPA Checklist and Supplement asserts that that no improvements to existing roads are necessary and that traffic generated will be "typical" of mining operations. The Checklist and Supplement then reference studies conducted by their traffic consultant DN Traffic Consultants without providing further details. However, a review of those documents reveals that "typical" traffic is a stunning 11,765 truck trips per year. The SEPA documents do not identify this number. DN Traffic goes on to calculate that this will "average" 46 truck trips per day. However, given the seasonal nature of gravel mining, this "average" is meaningless. The number of trucks that the applicant intends to deploy on a daily or weekly basis has never been clearly defined. This makes it impossible to evaluate the actual intensity of use and potential threats to public safety.

DN Traffic Consultants' more recent "Traffic Impact Analysis" (TIA), submitted in September 2020, seems intended to address the basic requirement that a TIA be done for this project (we have been requesting a TIA since we first learned about the permit application in 2016). It also seems intended to address at least some of the issues we have raised in the many comment letters we have submitted since that time. However, the document fails on both counts. While we intend to submit a detailed comment letter to the county on the entire TIA in the future, we provide below a summary of some of our main concerns.

- It does not meet the requirements and format for a Level II TIA as set out in Skagit County Road Standards, 2000 (SCRS). – See SCRS 4.01-4.02 and Appendix A
- It does not state whether the information included in the TIA supersedes previous inconsistent and/or contradictory information submitted by the consultant and the applicant regarding critical aspects of the project, including hours of operation and numbers of truck trips. This adds to the overall lack of definition for the project rather than clarifying it.
- It proposes that if the applicant finds that they need to exceed a limit of 46 truck trips per day to meet demand (up to a limit of 29.4 trips each way per hour, or 294 trips per 10-hour operating period), they will first request permission from the county, and then Public Works will be responsible for determining temporary safety measures to mitigate for the increased risks. This is problematic in several regards:
    - It does not state how often and for how long this "extended hours operation" could occur.
    - It seems to imply, without ever stating clearly, that hauling under this scenario would take place for only 10 hours per day, while mining would happen for

unspecified "extended hours." Since the applicant has repeatedly asserted their right to operate up to 24 hours per day, seven days per week, we must assume that both accelerated mining and hauling could take place during those hours. The actual number of round trips per 24-hour period under this scenario would be 706, meaning there would be 1,412 one-way truck trips every 24 hours, and 60 one way truck trips every hour. Mine traffic impacts must be evaluated on this basis, or limitations need to be placed on the number of daily truck trips allowed from the mine.

  - Without specifying what measures would need to be implemented to ensure traffic safety under this "extended hours" scenario, the applicant defers its obligation in this regard to the County and potentially exposes the County to liability.

- It contains false statements regarding existing road and future conditions and uses, such as:
  - As previously noted, the statement that there are no designated bicycle routes on the roads proposed for the haul route, when in fact a map of these routes is included in the non-motorized transportation component of the County Comprehensive Plan.
  - The statement that the shoulders on Prairie Road vary from two feet to four feet wide. In actuality, recently installed guardrails on the south side of the road practically eliminate the shoulder entirely for a considerable distance along the haul route.
  - The statement that there is no significant development planned that will impact traffic levels on the proposed haul route. In fact, the County has already approved bringing Kalloch Road and North Fruitdale Road up to arterial standards to provide better access from the north to the Sedro Woolley Innovation for Tomorrow (SWIFT) Center. The bulk of this traffic from the north will come via I-5, Bow Hill Road, Prairie Road, Grip Road, and Mosier Road. In addition, a major new residential development is planned for north of Sedro Woolley between SR9 and Fruitdale Road. This will also generate a significant amount of traffic to the north via these same roads.
- It omits key facts and conditions, such as:
  - The existence of several Burlington and Sedro-Woolley School District bus routes along the proposed haul route. It makes no mention of these bus routes; does not analyze the threats presented by mine truck traffic to the safety of schoolchildren, parents, or district employees and equipment; and proposes no mitigation actions for these risks.
  - A major roadway misalignment issue on the Grip Road Hill curves, which requires that a truck with pup trailer repeatedly encroach on both the centerline and the edge of the pavement (there is no fog line) while navigating this very narrow, steep section of the road.

    - The existing, progressive failure of the pavement and roadbed on the outside of the uphill (south side) lane of traffic in the above location. This presents both a safety hazard to the public and an ongoing maintenance liability for the county.
- It documents some of the other existing, critical road deficiencies and traffic hazards but either omits corresponding mitigating actions or proposes inadequate mitigation actions. For example:
    - It documents that a truck with pup trailer cannot navigate the two 90-degree curves on Prairie Road east of the Old Highway 99 intersection in either direction without encroaching significantly on both the fog line and centerline. It acknowledges that this constitutes a traffic safety hazard, but does not propose any mitigation actions. Instead, it states that the County is responsible for dealing with this issue.
    - It proposes a flashing yellow light warning system to mitigate for inadequate sight distance at the Prairie Road/Grip Road intersection, a measure the author of the TIA described as "temporary" in an earlier traffic memo. This is the same place where, in an email obtained via public records request, former PDS Senior Planner John Cooper described coming upon the scene of an auto accident at this intersection and being told by the attending Sheriff's Department officer (who himself was a former commercial truck driver) that a flashing yellow warning light would be insufficient to prevent accidents in that location (John Cooper email to Dan Cox, 1/30/2017).

In addition, in the TIA fails to disclose serious impacts with regard to use of the bridge over the Samish River on Old 99. In response to information about the bridge's weight restrictions, the TIA proposes either to reduce load weights or to use an alternate route that involves continuing west up Bow Hill Road from Prairie Road to I-5, heading south to the Cook Road exit, and then north on Old 99. However, these options either generate more truck trips than proposed (lighter loads equals more trucks trips) or follow a considerably longer haul route. The impacts from this longer haul route have not been analyzed. There are many concerns related to dozens of gravel trucks making their way up the steep Bow Hill Rd and entering and exiting two busy freeway interchanges, and passing through additional busy intersections that are already hazardous. And of course, either way, the cumulative mileage and emissions increase. These additional impacts have simply not been evaluated.

As we stated above, the comments included here on DN Traffic's TIA are only some examples of how woefully short this document falls when it comes to addressing the true scope of road and traffic safety risks associated with this project. Until these issues are thoroughly analyzed and comprehensive mitigation measures proposed, the only valid SEPA threshold determination for the proposed mine is a determination of significance (DS) requiring a full environmental impact statement (EIS).

Finally, to our knowledge, the County's hired traffic engineer/consultant, HDR, who has been reviewing the various traffic information submitted by the applicant, has never visited the site and actually observed the condition of the roads in question. All of the third-party review has been conducted remotely using information and data provided by the applicant and County – it is simply unacceptable that the reviewers signing off on the traffic studies have not observed in-person the problems with road conditions and safety.

Mitigation Measure #13 includes several conditions related to traffic impacts, including installation of a "Traffic Activated Beacon System" at two problematic intersections where there are site distance deficiencies. As discussed above, these beacon systems were recommended as a temporary solution by the applicant's own traffic consultant. Furthermore, the measure states that the beacon system will be "turned over to Skagit County for operation and maintenance", presumably at taxpayer's expense.

Mitigation #13 also states that the maximum daily truck traffic allowed is "limited to an average of 46 daily trips…not to exceed 30 trucks per hour under extended hours operations". It then states that the applicant will "seek permission from Skagit County prior to generating the higher truck volumes." Unfortunately it is not clear how these 'average' truck trips will be calculated – on a daily basis, a weekly basis, a yearly basis, or through the life-time of the project. It doesn't state how such calculation will be accomplished, nor by whom. Nor does it state what actions will be taken by the County to protect public safety should the applicant wish to run more trucks. This cuts out the affected public from any say in the matter; it doesn't even require the public to be informed. Firm, safe limitations on numbers of hourly truck trips must be imposed.

Public Services (SEPA Checklist Section B. #15). The applicant states that there will be no impacts to public services, but absent measures to address the road safety issues discussed above, the traffic collision rate in this area will undoubtedly increase. This will create a heavier demand on law enforcement and first responders. In addition, the need for road maintenance will increase considerably with the hauling of 200,000 tons of gravel per year on Grip and Prairie Roads. The applicant should be required to share costs of necessary infrastructure improvements as stated in Skagit County Comprehensive Plan Policies: *Policy 4D-5-3: Roads and Bridges: New public roads and bridges accessing designated Mineral Resource Overlay Areas shall be designed to sustain the necessary traffic for mineral extraction operations. Existing roads and bridges shall be improved as needed as each new extraction operation is developed. Cost sharing for the improvement of roads and bridges shall be negotiated between the permitting authorities and the applicant.*

6) **Appropriate mitigation measures and alternatives are still not identified.** As previously stated, the mitigation measures proposed in the MDNS do not address the full impacts of this proposal, and simply stating that the applicant must comply with existing laws is not

mitigation. In addition to those discussed above in appropriate sections, below are a few more examples of the concerns we have with more of the proposed mitigation measures in the MDNS:

Mitigation Measure #2 addresses Hours of Operation. It states a limit on hours of operation as 7am-5pm Monday-Friday, but it allows for extended hours if seasonal demand "indicates a need". It requires the applicant to request from the County a "temporary deviation" from these hours, and states that "such operations may be subject to additional conditions". While limiting standard hours of operation is an improvement, it does not state what conditions might be imposed under "extended hours" conditions, nor state any limitation on the duration or frequency of such extended hours, nor how the public would be consulted or notified. This mitigation measure lacks specificity and clarity.

Mitigation Measures need to be clear and specific and impose enforceable limitations. This mine proposes to operate for 25 years without any additional permitting required. Most of the mining activity will occur in areas inaccessible to public scrutiny. Mitigation measures must be enforceable. There must be compliance monitoring to ensure that conditions intended to protect the natural environment are actually followed, and the applicant should be required to pay an annual fee to cover the cost of monitoring. Given the long duration of these proposed mining operations, there needs to be a periodic permit review process every five years to ensure activities are in compliance with the original permit conditions.

7) **Identify and evaluate lower impact alternatives.** The overriding assumption in the application documents seems to be that this project requires very little mitigation. There simply is no real exploration of project alternatives or other ways proposed to reduce impacts. We find this very troubling, and it supports the need for a full EIS. Since key aspects of the proposal are still not clearly defined, it is difficult to fully explore appropriate permit conditions and mitigation measures. Nonetheless, it is clear to us that there are some pathways to addressing the project impacts. A few examples of alternatives that should be explored, and mitigation measures or permit conditions that should be required are discussed in the various sections of this letter, and identified below, along with a list of additional studies that need to be completed.

- Explore alternative project scenarios that include significantly scaled back rates of extraction, a smaller mine size and limits on daily truck trips.
- Limiting hours of operation to daylight hours during the workweek, without exceptions for extended hours conditions.
- Limiting the daily number of truck trips without exception for extended hours conditions.

- Require a larger buffer on Samish River consistent with the County's Critical Areas Ordinance and Department of Ecology's guidance for protecting river and associated wetlands and sensitive & critical habitat from industrial uses.
- Require protection of a wildlife corridor through a permanent Native Growth Protection Easement that encompasses and links the sensitive wetlands and streams and their buffers across the applicant's larger property. Permanent protection of forested habitat would also off-set some of the carbon emissions from the project.
- Require a larger undisturbed vegetated buffer between the active mine and adjacent private property, to reduce noise, vibration and dust. Do not allow side-casting material in these buffers, which would significantly reduce their effectiveness at reducing noise and dust impacts.
- Major road and safety upgrades along the haul route need to be included before hauling is allowed, including but not limited to:
    - Traffic lights and/or turn lanes at critical intersections including: Grip Road at the intersection with the mine access road; at intersection of Grip and Prairie Roads; at the intersection of F&S Grade and Prairie Roads, at intersection of Prairie Road and Old 99.
    - Improve site distance to the east at intersection of Prairie and Grip Roads
    - Widen Grip and Prairie roads and harden shoulders.
    - Straighten and widen curves on Grip Road hill or find an alternate access point to the mine below the 'S curves' and hill.
    - Improve the two ninety degree turns on Prairie Road so that trucks can stay in their lanes.
- Gravel trucks must be restricted to the identified haul route (presuming necessary road improvements have been made). There are numerous safety issues with other haul routes that have not been evaluated, including at least four ninety degree corners on Grip Road heading east where it is impossible for large trucks to stay in their lane.
- The above safety concerns are also applicable to sale of mined materials to private parties and independent truckers. The application materials are not consistent regarding whether CNW intends to sell directly to third parties. If this were to occur, these third party trucks would not necessarily stay on the identified haul route. Therefore sale to private parties and independent truckers from the site must be prohibited.

<u>Additional Assessments or Studies needed</u>:

- Fully updated Critical Areas study and Fish and Wildlife assessment that evaluates the impact of a reduced buffer on the Samish River, and fully identifies and mitigates for the impacts to wetlands and streams adjacent to the private haul road, taking into consideration the "high intensity" land use that industrial scale mining clearly represents.

- Further evaluation needs to be conducted of the impact to the listed Oregon Spotted Frog and Bull Trout consistent with State and Federal Endangered Species Act.
- Full geological evaluation of impacts of the heavy truck use of the haul road in the Swede Creek gorge, including the potential for slope failure that could damage this fish bearing stream. This evaluation needs to identify appropriate ongoing management practices to avoid slope failure through the life of the project.
- Evaluation of potential changes to hydrology and potential for exacerbating sedimentation and flooding problems from the increased impervious surface and heavy use of the haul road.
- Full Level II Traffic Impact Analysis.
- A realistic estimate of the cumulative emissions from all of the mining activities on-site, as well as the diesel emissions from truck hauling needs to be made, and a mitigation plan proposed.

Thank you for your time and consideration.

Sincerely,

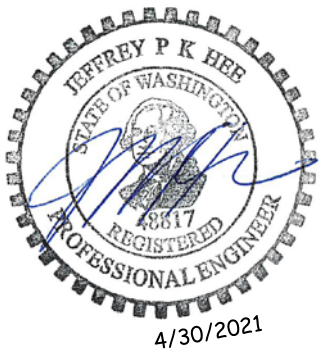
Martha Bray and John Day
6368 Erwin Lane
Sedro-Woolley, WA 98284

Cc: Hal Hart, Director PDS

Attachment: Bray/Day 01/11/2022 Letter to Cricchio, re.Haul Road Critical Areas Assessment

ATTACHMENT I

Transportation Solutions
INNOVATIVE | PRACTICAL | EQUITABLE



April 30, 2021

To: John Day and Martha Bray, Central Samish Valley Neighbors

From: Jeff Hee, PE, Transportation Solutions

Subject: Grip Road Grave Mine Traffic Analyses
Peer Review Comments

This memorandum provides my professional opinion comments on the Applicant's traffic impact analyses and responses to comments, Skagit County and HDR staffs' comments, and Skagit County's Re-Issued conditions for the proposed Grip Road Gravel Mine project. If you have any questions, please contact me at your convenience.

Main Comments/Questions

- What is the maximum trip generation and anticipated frequency of maximum trip hours and days? The November 30, 2016 Maximum Daily Truck Traffic memorandum forecasted a maximum trip generation of 60 truck trips per hour. The September 10, 2020 TIA documented an extended hours maximum haul operation of 29.4 truck trips per hour. The frequency and intensity of trips generated suggest a need for additional analysis and mitigation on the part of the Applicant.
- The County's April 15, 2021 Re-Issued MDNS gives the Applicant the option to improve substandard roadway conditions or to not use truck/trailer combinations. If the Applicant elects not to resolve substandard roadway conditions and use standard gravel trucks (no trailer), then the number of truck trips generated is anticipated to be higher than what was evaluated in the traffic analysis.
- The Applicant's mitigation measures do not address all impacts at the new mine access/Grip Road intersection. The intersection sight distance is not satisfied at the site access and the mitigation measures do not extend to Grip Road east of the new access. Additionally, it is my opinion that the sight distance impacts were not accurately disclosed.
- Safety impacts were identified on the proposed haul route in the vicinity of Friday Creek east of Old Highway 99. There are sections along the haul route where the roadside shoulder sections do not meet County standards. The analyses of roadway centerline and shoulder impacts just in the vicinity of Friday Creek, in my opinion, does not provide sufficient information to conclude the other sections along the haul route are adequate for gravel truck traffic.

This document is organized to present my comments and questions regarding the trip generation analysis, proposed site operations, sight distance analysis, roadway shoulder and centerline impacts, haul route impacts, and requests for additional information on the Applicant's traffic mitigation plans, level-of-service standards and impacts to Cook Road.

The comments that follow are based on criteria from the Skagit County Road Standards as applied to the analyses prepared by the Applicant's consultant. References include:

> Section 2.14. "Transportation and frontage improvements, SEPA mitigation, traffic impacts, fees, etc. or the proportionate cost share of the improvements based on peak hour trips and necessary to mitigate impacts of the development (or each phase of development if it is done in phases) shall be in place or paid no later than time of final plat approval or certificate of occupancy, whichever occurs first, for that development or

phase. If the improvements are not listed on the County Transportation Improvement Plan, they shall be installed prior to final plat approval.

"Frontage improvements will be required for all new development that front on an existing County road (See Section 13). Other transportation improvements that may be required will be identified in the Traffic Impact Analysis (See Section 4.06) and the Safety Analysis (See Section 4.09)."

Section 4.00. "All applications for land division and changes of land use shall include sufficient data to determine the amount of additional traffic generated by the development. Such data shall also be used as a guideline for access road and/or driveway requirements."

Section 4.06. "The County may require developments to make traffic impact contributions if the development significantly adds to a road's need for capacity improvement, to a roadway safety problem, or to the deterioration of a physically inadequate roadway. Such traffic impact contributions are in addition to transportation and frontage improvements required in the immediate area for access to and from the development. See also Section 2.14."

Documents Reviewed

- *Grip Road Gravel Pit Preliminary Traffic Information* February 8, 2016, DN Traffic Consultants.
- *Grip Road Gravel Pit Maximum Daily Truck Traffic* November 30, 2016, DN Traffic Consultants.
- *Grip Road Mine Response to Skagit County Request* April 13, 2020, DN Traffic Consultants.
- *Concrete Nor'West Grip Road Gravel Pit Project* April 28, 2020 Grip Road Gravel Pit Traffic Impact Analysis, HDR recommendations.
- *Concrete Nor'West Grip Road Gravel Pit Project* May 14, 2020 Grip Road Gravel Pit Traffic Impact Analysis by County Staff, HDR recommendations.
- *Mitigated Determination of Nonsignificance PL16-0097 and PL16-0098* May 26, 2016, Skagit County.
- PL16-0097 *Revised Request for Additional Information* July 31, 2020, Skagit County Planning and Development Services.
- *Grip Road Min Traffic Impact Analysis* September 10, 2020, DN Traffic Consultants.
- *PL 16-0097 Mining Special Use Permit Response to Additional Information Request, July 31, 2020,* October 8, 2020, Semrau Engineering and Surveying, PLLC mitigation plans.
- *Notice of Withdrawn and Re-Issued MDNS for Concrete Nor'West File #'s PL16-0097 and PL16-0098* April 15, 2021, Skagit County.

Trip Generation Impacts and Hours of Operation

Page 1 of the February 8, 2016 Preliminary Traffic Information memorandum states that hauling from the project is limited to 9 AM-3 PM on 260 working days (Monday-Friday) per year. The trip generation assumes an average and even distribution of truck traffic during those hours. The time frame is typically consistent with the consultant's conclusions that there will be negligible traffic impacts during the traditional AM (7-9 AM) and PM

(4-6 PM) peak hour traffic periods. The preliminary study forecasted the site's hourly trip generation to be 7.67 truck trips per hour.

Page 13 of the September 10, 2020 TIA changed the site operations to 7 AM-5 PM. Truck hauling was proposed to be limited to Monday-Friday and onsite activity proposed to extend to Saturday. Unlike the earlier project proposal, the current proposal will generate truck traffic during the peak hour periods. Under a typical operation, the TIA indicates that the site would generate an average of 4.6 combination truck/trailer trips per hour. The truck/trailer combination is assumed for all truck trips based on the 34-ton load capacity of the combination vehicle.

The frequency and to a degree the intensity of the peak number of truck trips generated by the site are unclear. The consultant's November 30, 2016 Maximum Daily Truck Traffic memorandum states that the maximum truck volume generated by the project could be up to 60 truck trips per hour, based on the availability of truck/trailer combinations in the County. The consultant's September 10, 2020 TIA computed a maximum truck volume of 29.4 trips per hour, assuming extended hours of operation and a higher daily volume transported for the site.

The forecasted maximum trip generation and frequency of maximum trip generating events needs to be clarified. It is assumed that maximum conditions will not occur every day or for every hour of the day; however, it is reasonable for the County to consider implementing restrictions on the project's operations. Restrictions such as prohibiting hauling during the weekday AM, PM, or school peak periods or limiting hauling to not to exceed 5 trucks per hour (based on the consultants 4.6 trucks per hour forecast) would reduce the potential for significant project impacts during peak traffic hours and during the time-periods associated with school bus pickup/drop-off.

Condition 12 of the County's April 15, 2021 Re-Issued MDNS allows the Applicant to limit their operations to non-truck/trailer combination vehicles unless other roadway safety mitigation measures are satisfied. If the Applicant elects to limit their operations to trucks without trailers, then the number of truck trips generated by the project is expected to be higher, due to the smaller hauling capacity of a gravel truck and assuming the same annual and daily tonnage goals provided by the Applicant.

A higher trip generation scenario, based on restrictions on the truck types, should be evaluated. Also, it is common practice to update level-of-service analyses provided in the September 10, 2020 TIA should the trip generation increase.

Trip Generation Impacts and Hours of Operation Additional Comments/Questions

- Does the trip generation account for onsite workers and mining/non-haul operations?
- The site operations have changed from 2013 to 2020. The average-normal hourly trip generation has ranged from 4.6 to 7.67 hourly truck trips. What is the peak hour trip generation anticipated?

Sight Distance Analysis

Sight distance factors include design speeds, brake reaction times, braking distances, and time gaps for turning vehicles, among other factors. Skagit County Road Standards Section 2.02 includes the following speed definitions:

Design Speed - A speed determined for design and correlation of the physical features of a highway that influence vehicle operation: the maximum safe speed maintainable over a specified section of road when conditions permit design features to govern.

Operating Speed - Used for determination of sight distance. Operating speed should be equal to the P85 speed for existing facilities and be equal to the design speed for new facilities.

Tables 5 and 6 from the September 10, 2020 TIA indicate that the posted speed was used to evaluate the sight distance requirements.

There are several locations where sight distance was identified as a concern. The County's Road Standards, suggest a design speed alternative to the posted speed. The Skagit Council of Governments (SCOG) publishes measured daily traffic volumes and 85th-percentile speeds on their website. A common practice is to use the 85th-percentile speed as the design speed when evaluating sight distance. The sight distance analyses should be revised to reflect the publicly available speed data from the SCOG. I note that in some instances the sight distance may be better than reported by the Applicant's consultant and in other instances sight distance may be worse, when revised using the SCOG data.

Page 11 of the September 10, 2020 TIA states that; "Existing sight distance at Prairie Road/Grip Road and Prairie Road/F&S Grade Road intersection is the responsibility of Skagit County. If sight distance deficiencies exist at these intersections, it is the responsibility of the County to make necessary improvement to provide acceptable sight distance."

Page 11 of the TIA states that; "The Applicant is responsible for providing acceptable SSD (stopping sight distance) and ISD (intersection sight distance) at Grip Road/site access." Page 12 of the TIA identifies intersection sight distance deficiencies at Prairie Road/Grip Road and Grip Road/site access. At Grip Road/site access the TIA states; "In this case, it is estimated there would be no more than one (1) left turning truck during the PM peak hour from the Mine access road. The WSDOT Design Manual (section 1310.05 Intersection Sight Distance), however, indicates that ISD is not required for low volume roadways such as Grip Road."

The Skagit County Road Standards are not based on the WSDOT Design Manual. The WSDOT Design Manual does not appear to include exemptions from sight distance requirements for low volume roads. The WSDOT Design Manual reference, does not deal with sight distance.

On April 28, 2020 HDR comments recommended a reanalysis of sight distance based on truck and trailer combinations and also mitigation for entering sight distance at the site access.

The September 10, 2020 TIA states that; "one (1) left turning truck is forecast during the PM peak hour from the Mine access road". There is no sight distance mitigation proposed to the east of the mine access. The warning beacon system proposed for sight distance mitigation, if still reasonable with any changes trip generation, should be extended to the east of the mine access, at minimum.

The warning devices are recommended by the Applicant and accepted by HDR and the County staffs. Since these devices are intended to mitigate and not resolve existing sight distance deficiencies, which the Applicant's consultant has indicated are the responsibility of the County, it is requested that the hours of hauling operations be limited to daylight hours to afford roadway users optimal conditions to navigate through sight distance impaired locations.

Sight Distance Analysis Additional Comments/Questions

- Is County's Vision Clearance Triangle (Road Standards Figure C-2) satisfied in the study area?
- Were sight distance exhibits submitted and are they available for review?
- What is the speed needed to achieve sight distance at the study locations?
- Intersection sight distance for truck/trailer combinations was not evaluated at the F & S Grade Road/Prairie Road intersection (Table 6 September 10, 2020 TIA); and thus, it is requested that mine traffic be prohibited from using F & S Grade Road, unless additional analysis or mitigation is provided.

Roadway Shoulder and Centerline Impacts

Page 20 of the September 10, 2020 TIA states; "Prairie Road has a number of curves which would force the dump truck/pup rigs to encroach on the centerline or the shoulder." Page 21 states; "The Consultant prepared an AutoTurn® analysis of these turns on Prairie Road approximately 1200 lineal feet and 1800 lineal feet east of the Prairie Road/Old Highway 99 intersection. Based on this analysis, it was estimated the dump truck/pup trailer combination is expected to encroach approximately two (2) to three (3) feet onto the shoulder of over the centerline." Page 21 later states; "Potential encroachment of the dump truck/pup combination on shoulder and center line is a safety concern. It should be noted the roadways are not consistent with current Skagit County Road Standards for shoulder widths."

The exhibits included in the TIA are hard to read. The exhibits do not provide dimensions and specifications for the non-standard, "custom", truck/trailer design vehicle. Common practice for reporting vehicle-turn results is to provide an exhibit clearly showing the design vehicle and its analysis specifications. This is reasonable considering the design vehicle is "custom" and was created for this analysis.

The Grip Road east of the Prairie Road and west of the site is narrow and includes ditches, curve warning and speed reduction signs, guardrails, no shoulder striping, limited available shoulder area and a relatively steep grade section. Common practice is to apply design vehicle turning templates to justify the roadway section(s) can support the desired vehicle. No turning templates or similar analyses were applied to Grip Road based on the materials provided to review.

The Re-Issued MDNS Condition 12 gives the Applicant an option to operate with gravel trucks (no trailers).

To verify that the proposed haul route can support truck/trailer combinations or gravel trucks (no trailers) the Applicant's consultant should provide additional turning templates to support use of the existing road section.

Haul Route Impacts

Page 1 of the County's July 2020 Request for Additional Information document identifies concerns that truck/trailers will not be able to navigate the 90-degree turns on Prairie Road directly east of Friday Creek.

The project trip distribution, Figures 4 and 6 in the September 10, 2020 TIA, shows truck trips to/from the east of the site on Grip Road.

The 90-degree turns on Grip Road directly of the site access have similar challenges as those on Prairie Road near Friday Creek. There is no analysis that supports a truck/trailer combination traveling to/from the east of the site. I recommend that the County limit the haul route to/from the west of the site unless the roadway

geometry to the east of the site is analyzed and there is documentation provided to support a haul route either for truck/trailer combinations or a truck (no trailer) vehicles east of the site.

The crash history on pages 9 and 10 of the September 10, 2020 TIA does not report or evaluate collision trends on road segments on the haul route. It is common to include segment crash trends in a TIA, particularly when the analyses disclose safety issues on the haul road segment in the vicinity of Friday Creek and also since the County is allowing the Applicant the option of not mitigating certain existing substandard conditions.

Haul Route Additional Comments/Questions

- It would be useful if turning templates could be amended to show the gravel truck (non-combination) impacts at key locations along the haul route.
- The total crashes at I-5 SB Ramps/Bow Hill Road and at Old Highway 99 N/Bow Hill Road/Prairie Road are different in Tables 2, 3, and 4 in the September 10, 2020 TIA.
- The TIA report recommends improvements at Prairie Road/Old Highway 99. Will the Applicant complete the improvements recommended in the report?
- The analysis does not provide any conclusions on if the project traffic will increase the frequency and severity of collisions on the haul route, given the haul route's geometric and sight distance constraints.

Mitigation Plans Additional Comments/Questions

The plans included for the Mine Access do not include street names and are difficult read. May new copies be sent of Sheets 3 and 10 and any other relevant sheet?

Other Comments/Questions

- The TIA does not address the segment LOS requirements, per the County Road Standards. Based on the analyses to date, this is not likely to be a significant issue, unless the trip generation radically increases.
- The TIA references a weight limitation on the Samish River bridge on Old Highway 99. The Re-Issued MDNS requires the project to comply with the weight restrictions on the bridge. Compliance to the bridge loading was addressed in the TIA by redistributing traffic to I-5 southbound to the Cook Road interchange. The WSDOT, SCOG and County have identified traffic issues on Cook Road at the interchange and at and on Old Highway 99 and related to the local railroad crossing. Does the redistribution of truck traffic to Cook Road affect traffic operations and warrant mitigation?