

Exhibit B-46: Prosecutor's office
letter to Hearing Examiner
(May15, 2019)



Skagit County Prosecuting Attorney

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May 15, 2019

Via E-Mail Only: skivi@co.skagit.wa.gov

Skagit County Hearing Examiner
1800 Continental Place
Mount Vernon, WA 98273

RE: Update on Concrete Nor'West/Miles Sand & Gravel Mining Special Use Permit
(PL16-0097)

Dear Mr. Dufford,

In preparation for the pre-hearing conference scheduled on May 29, 2019, Skagit County has prepared a summary of events associated with this appeal. As you may recall, this appeal has been pending for over a year and the parties have participated in numerous settlement discussions in person, over the phone, and in writing. As previously reported, the parties have been unable to settle this matter.

Since the April 5, 2018 Administrative Decision by Skagit County to deny Concrete Nor'West's incomplete application, the following is a non-exhaustive list summarizing relevant communications between Skagit County and Concrete Nor'West:

- April 16, 2018 Concrete Nor'West filed appeal of Skagit County's decision to Hearing Examiner;
- May 9, 2018 pre-hearing conference with Hearing Examiner, attorney Jon Sitkin on behalf of neighborhood group, filed a Motion to Intervene, which was denied as

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memorialized in Hearing Examiner's May 17, 2018 Order; Hearing Examiner allows time for parties to settle matter before scheduling hearing;

- May 11, 2018 letter from Concrete Nor'West to Skagit County confirming what additional application information will be provided to the County based on settlement discussions;
- July 24, 2018 meeting with County staff, Concrete Nor'West, and respective attorneys to discuss settlement and application deficiencies;
- August 14, 2018 parties provide update to Hearing Examiner about settlement status;
- September 17, 2018 Skagit County received revised application materials from Concrete Nor'West; Skagit County sent update to Hearing Examiner;
- November 2, 2018 telephone conference between Skagit County's attorney and Concrete Nor'West's attorney regarding application deficiencies, Concrete Nor'West agreed to provide additional information;
- December 4, 2018 Skagit County Public Works' road inspection; determination that it fails to meet Skagit County private road standards;
- December 7, 2018 letter from Concrete Nor'West to Skagit County submitting revised project narrative and updated Noise and Vibration Study (incomplete response to Skagit County's requests for additional information);
- January 16, 2019 telephone conference between Skagit County's attorney and Concrete Nor'West's attorney regarding continuing application deficiencies;
- January 29, 2019 letter from Concrete Nor'West to Skagit County alleging previous information submitted is sufficient;
- February 22, 2019 letter from Skagit County to Concrete Nor'West summarizing list of outstanding items supporting denial of application;

- February 27, 2019 letter from Concrete Nor'West to Skagit County commenting on the County's February 22, 2019 letter but failing to provide additional information;
- March 22, 2019 letter from Concrete Nor'West to Hearing Examiner regarding status of case and request for a writing stating the "specific requirements" for a complete application;
- March 29, 2019 Order from Hearing Examiner requiring Skagit County to forward a formal written request to the Applicant stating the "specific requirements" needed for a complete application and scheduling a May 29, 2019 pre-hearing conference;
- April 18, 2019 e-mail from Concrete Nor'West's attorney to Skagit County requesting outstanding issues to resolve complete application and County's response referring back to the February 22, 2019 letter summarizing list of outstanding items supporting denial of application;
- April 25, 2019 letter from Concrete Nor'West to Skagit County requesting "written statement" again; and
- May 3, 2019 meeting between Skagit County Commissioner Dahlstedt, Skagit County Planning Director, and Concrete Nor'West staff (per Concrete Nor'West's request).

As shown above, Skagit County has spent a significant amount of time over the past year by phone, in-person, and in writing with Concrete Nor'West and its representatives to address the inadequacies of its application and settle this matter. At this time, an additional settlement negotiations without a mediator or another third party will likely be unsuccessful.

To recap, the majority of the ongoing deficiencies were identified over a year ago and were never resolved. New issues arose after additional information was submitted by Concrete Nor'West. **Skagit County re-submits the enclosed February 22, 2019 letter in response to Concrete Nor'West's request for the "specific requirements" still needed for a complete application.** Skagit County previously complied with the requirements of SCC 14.06.100, by providing "specific requirements" in writing to Concrete Nor'West via letter dated April 5, 2018, when it originally denied the application (see enclosed letter). The February 22, 2019 letter is an update to the original issues contained in the April 5, 2018 letter. To the extent there are any new County requirements in the February 22, 2019 letter, such new requirements are the direct result of additional information Concrete Nor'West submitted to the County thereafter.

Finally, it is Skagit County's understanding that the May 29, 2019 pre-hearing conference date was selected to accommodate the schedule of Martha Bray and John Day. These individuals are not parties to the case and the Hearing Examiner previously denied their attorney's motion to intervene. It remains unclear what their ongoing role in this litigation is. Since their motion to intervene was previously denied, the County respectfully asks that their participation in the pre-hearing conference be limited to non-participating audience members.

We look forward to discussing these matters with you further on May 29, 2019. Please let me know if you need any additional information in the meantime. Thank you for your assistance in this matter.

Sincerely,



Julie Nicoll

Enclosures: February 22, 2019 letter from Skagit County to Concrete Nor'West
April 5, 2018 letter from Skagit County to Concrete Nor'West

cc: Hal Hart

John Cooper

Betsy Stevenson

Paul Randall-Grutter

Dan Cox

Brad Barton

Bill Lynn

Martha Bray

John Day

Jon Sitkin