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**BEFORE THE HEARING EXAMINER  
FOR SKAGIT COUNTY**

In the Matter of the Application for a  
Special Use Permit

No. PL16-0097, No. PL16-0098

**Concrete Nor'West/Miles Sand  
and Gravel SUP**

COUGAR PEAK LLC'S  
RESPONSE TO APPELLANT'S  
MOTION IN LIMINE TO  
EXCLUDE NEW GRIP ROAD  
TRAFFIC ANALYSIS

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**I. INTRODUCTION**

Cougar Peak LLC ("Cougar Peak") is a party to the Special Use Permit proceeding, which is a combined hearing with an appeal under the State Environmental Policy Act, RCW ch. 43.21C ("SEPA") by Central Valley Samish Neighbors ("Neighbors"). At hearing yesterday, Neighbors objected to the introduction of a new supplemental traffic safety report by the Applicant's traffic engineer. The Applicant asserts that the supplement will show Grip Road shoulder improvements are warranted and the applicant will voluntarily agree to those improvements in two locations. The report is not yet in the record.

Neighbors raise a procedural objection to introduction of this supplemental traffic report related to their rights under the County's SEPA appeal procedures. Cougar Peak is a party of record to the Special Use Permit proceeding but is not a party in the SEPA appeal. Without comment on Neighbors' procedural rights under the SEPA Appeal, Cougar Peak

COUGAR PEAK LLC'S RESPONSE TO MOTION IN  
LIMINE TO EXCLUDE TRAFFIC REPORT  
Page 1

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1 hereby requests that the Hearing Examiner deny Neighbor's motion to the extent it relates in  
2 any way to the record for the Special Use Permit hearing. The report is centrally relevant to  
3 the single issue Cougar Peak has in the permit case, namely the adequacy of proposed traffic  
4 safety mitigation for Grip Road to be imposed by conditions on the Special Use Permit.

5 Cougar Peak's ability to adequately prepare for examination of Applicant and County  
6 traffic experts at hearing on its key issue is undermined if it is not allowed to view the report  
7 in advance of those examinations. Cougar Peak requests a ruling that first allows the  
8 Applicant to introduce at hearing and in writing its new analysis of traffic safety deficiencies  
9 on Grip Road related to lack of adequate shoulders and the potential for truck crossovers into  
10 opposing lanes, and then provides Cougar Peak and other parties adequate time to review the  
11 report and ask questions of traffic witnesses..

12 Cougar Peak makes the following two requests:

13 (a) That the Hearing Examiner allow the Applicant to introduce the supplemental report  
14 into the Special Use Permit record and provide adequate time for review and questions; and  
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16 (b) To the extent the introduction of the supplemental report follows the conclusion of  
17 Cougar Peak's questioning of traffic witnesses, that the Hearing Examiner allow Cougar Peak  
18 to recall those witnesses to allow additional questioning limited to the new report and related  
19 testimony.

20 Respectfully submitted this 30th day of August,

21 DYKES EHRLICHMAN LAW FIRM

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25 Tom Ehrlichman, WSBA No. 20952  
26 Counsel for Cougar Peak LLC

CERTIFICATE OF FILING

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I, Tom Ehrlichman, am a partner at the Dykes Ehrlichman Law Firm and hereby certify that I caused this *Response to Motion* to be filed with the Clerk for the Skagit County Hearing Examiner and counsel for all parties of record in the above-captioned matter, all via electronic mail on August 30, 2022.

Signed, August 30, 2022:



Tom Ehrlichman, WSBA No. 20952