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**BEFORE THE HEARING EXAMINER  
FOR SKAGIT COUNTY**

In the Matter of the Application for a  
Special Use Permit by

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

&

In the Matter of the Appeal of

**Central Samish Valley Neighbors**

of a Mitigated Determination of  
Nonsignificance,

No. PL16-0097; No. PL16-0098  
Appeal No. PL22-0142

**APPELLANT CENTRAL SAMISH  
VALLEY NEIGHBORS'  
REQUEST FOR  
RECONSIDERATION**

**I. INTRODUCTION**

Appellant Central Samish Valley Neighbors (“CSVN”) respectfully requests reconsideration (“Request”) of the document titled “Final Decision of Former Hearing Examiner Reeves (Absent Reconsideration)” (“Ruling”) that Skagit County Planning and Development Services (“PDS”) circulated on February 2, 2024 as a final decision in the above-captioned permit applications and State Environmental Policy Act (“SEPA”) appeal, case numbers PL16-0097, PL16-0098, and Appeal No. PL22-0142. That Ruling omits any rationale for its ultimate approval of “whatever the Applicant was seeking throughout the permit process” or its denial of “all tangential issues and appeals that have stood in the Applicant’s way” other

1 than the threat of serving time in jail, which does not qualify under SEPA or the Skagit County  
2 Unified Development Code (“Code”) as a legitimate basis for granting permits or upholding a  
3 deficient SEPA determination. For that matter, the Ruling does not expressly state that it denies  
4 the SEPA appeal. Because the Ruling’s lack of any legal grounds demonstrates that a material  
5 legal error has occurred and because the absence of any material facts shows that all of the  
6 material factual issues have been overlooked, the Code dictates that this Request be granted and  
7 that a hearing examiner conduct a review of the applications and SEPA appeal. Further, the  
8 record demonstrates that the Mitigated Determination of NonSignificance (“MDSN”) that PDS  
9 issued for the mine be withdrawn and the permits denied.  
10

11 In conjunction with this request, CSVN asks that the matter be reviewed by a different  
12 hearing examiner than Mr. Reeves so that the parties may obtain a decision supported by  
13 findings of facts and conclusions of law. Mr. Reeves’ 15-month delay in issuing his empty  
14 Ruling, when combined with the sarcastic and frivolous content of that Ruling, demands that the  
15 matter receive review by a different hearing examiner.  
16

17 CSVN is aware that Cougar Peak LLC has filed a Notice of Appeal of the Ruling, and  
18 has filed this Request in an effort to more efficiently return the matter to a Hearing Examiner for  
19 review. We understand that prosecution of the appeal must await the outcome of this  
20 reconsideration to avoid the Board of Commissioners issuing a premature, advisory decision.  
21 Once a County Hearing Examiner issues a facially valid decision, if the grounds for that appeal  
22 remain, the appeal would presumably move forward.  
23

24 A copy of the Notice of Decision and Ruling are attached hereto as Exhibit A.

## 25 **II. BACKGROUND**

26 This matter involves applications by Concrete Nor’West/Miles Sand and Gravel

1 (“Applicant”) for a special use mining permit (PL16-0098) and forest practice conversion  
2 (PL16-0097) to convert 51 acres of largely forested land to a gravel mine and an appeal by  
3 CSVN of a Mitigated Determination of Significance (“MDNS”) that PDS issued for that  
4 development in late February, 2022. In March, 2022, CSVN submitted first a comprehensive set  
5 of comments identifying numerous deficiencies in the MDNS and, when that failed to achieve  
6 withdrawal of the MDNS, a Notice of Appeal to request its invalidation and the completion of  
7 an appropriate review of the proposal’s likely significant environmental impacts.  
8

9 The hearing on CSVN’s appeal and the applications was scheduled to commence on  
10 July 11, 2022, but was canceled by the Hearing Examiner approximately 30 minutes before the  
11 scheduled start time. The hearing subsequently occurred over seven days in August and  
12 September, 2022. CSVN alone called nine (9) witnesses and provided approximately 60  
13 exhibits. Through these witnesses and the exhibits, CSVN demonstrated that the project would  
14 have significant adverse impacts, that other likely significant impacts had not been explored,  
15 and that the project did not satisfy the standards for a Mining Special Use Permit pursuant to  
16 Chapter 14.24 of the Code due to noncompliance with wetland and stream protections and its  
17 traffic and noise impacts. The following two sections summarize the project impacts based on  
18 CSVN’s evidence at hearing.  
19  
20

21 **A. Evidence of significant, unmitigated impacts.**

22 **1. Traffic Impacts.**

- 23 • Hauling east of the mine site on Grip Road--Brian Bowser shared video showing that a  
24 truck and trailer likely would be unable to stay within their lanes along the haul route’s  
25 numerous tight turns, including one across train tracks. Bowser Test.; Ex. A-27.  
26
- Hauling on F&S Grade Road – witnesses testified to the sharp curve that would need to

1 be negotiated at the intersection with Prairie Road, in addition to the intersection with  
2 Kelleher Road.

3 • Unstable and flooded roads – photographs depicted the unstable shoulder toward the top  
4 of the Grip Road hill, and flooding near the intersection of Grip and Prairie Roads. Exs. A-  
5 14 and A-15. Bowser testified that flooding can be severe enough to close the road, yet the  
6 application does not evaluate measures to mitigate the impacts of redirected mine hauling  
7 traffic as a result of the flooding or ensuring that the unstable road shoulder receives timely  
8 repairs when impacted by mine traffic.

9  
10  
11 • Sight distance at Prairie and Grip Road intersection – the applicant asserted at hearing  
12 that it would be too expensive to address the sight distance by cutting into the slope and  
13 removing the impediment but failed to produce figures or analysis to support that claim.  
14 Testimony from Tilghman and Bowser demonstrated that, consistent with WSDOT draft  
15 guidance, this step should have been taken before relying on a mechanical stopgap like  
16 beacon lights. In addition, Bowser testimony indicated that the cost for additional right-of-  
17 way would not have been significant.

18  
19 • Grip Road hill – While the Applicant offered during the hearing to take some steps to  
20 address the narrow road, acknowledging the need to take action there, the Applicant did not  
21 offer a concrete proposal and the MDNS does not include a specific condition to ensure that  
22 the road can accommodate the anticipated mine traffic.

23  
24 **2. Noise Impacts.**

25 • Adjacent properties – Kristen Wallace acknowledged that the sound studies relied on  
26 residential receptors far from property lines and testified that at 100 feet, which is the actual

1 width of the setback between the mine and adjacent residential properties, mining equipment  
2 will generate noise as high as 75-76 dBA. Yet the MDNS does not include mitigation for  
3 those impacts on neighbors like Linda Walsh and her family when they enjoy the woods  
4 along the boundary line. At a minimum, such measures could include limited hours for  
5 excavating near adjacent properties.

### 6 **3. Wildlife, Wetland, and Stream Impacts.**

7

- 8 • Samish River wetland – Matt Mahaffie, an expert in critical areas and SEPA application  
9 with a background as a private consultant and a government employee, testified that the  
10 MDNS did not mitigate for the impacts of an undersized 200-foot buffer when the County’s  
11 Critical Areas Ordinance requires a 300-foot buffer for the high impact industrial land use,  
12 with an additional 25 feet above the top of a 25% slope (Semrau Exhibit, C-36 at 41, shows  
13 average slopes of nearly 50% rising from the wetlands). This testimony was consistent with  
14 the County’s July 6, 2017 letter to Applicant (Ex. A-34) and the Department of Ecology  
15 comments to Skagit County (Exs. A-36, A-37, A-38, A-39). Mahaffie testified that the mine  
16 characteristics cited by Graham for reducing the buffer do not actually minimize its impacts  
17 and were not consistent with Appendix 8C recommendations for reducing the buffer based  
18 on the land use impact, and Graham testified that he was not familiar with Appendix 8C.  
19 Molly Porter, another Applicant consultant, testified that she would typically characterize  
20 surface mines as high impact land uses.  
21

- 22 • Haul Road – Mahaffie testified that the 2018 work identified by Nora Kammer and John  
23 Day on the 2.2-mile-long haul road, including vegetation removal, graveling the surface,  
24 and any widening of the road, caused impacts in wetland and stream buffers that have not  
25 been mitigated. Porter testified that she had not examined those impacts based on her  
26

1 assumption that the road size, surface, and devegetation preexisted the application. While  
2 there may be an allegation that the road widening occurred in conjunction with forestry  
3 activities, Kammer explained that the forestry applications submitted by Applicant had not  
4 identified the need to conduct road work, and had indicated that no work would occur in the  
5 vicinity of streams. Exs. A-41, A-42. This information demonstrated that the road widening,  
6 hardening, and devegetation were conducted in anticipation of mine traffic, and should have  
7 been evaluated for the project. Mahaffie also testified that daily use of the haul road by  
8 gravel truck and trailer traffic would cause greater impacts than periodic logging operations  
9 in the form of a distinct habitat break, noise, dust, and lights that would affect amphibians  
10 and other species, yet the MDNS does not mitigate for the increased scope and scale of  
11 impacts above historic forestry impacts.  
12

## 13 **B. Evidence of unexamined impacts.**

### 14 **1. Traffic Impacts**

15 • Substantial increase in truck traffic on substandard Grip Road – Applicant’s traffic  
16 studies showed that large truck traffic would increase from approximately 3/week to an  
17 average of 230/week over a 25-year period, with a maximum of 5,040/week<sup>1</sup> -- this is an  
18 increase of 70-1680 times current traffic (*compare* Ex. 49-S-13 and the 6-8 axle truck that  
19 Applicant would use to haul gravel *with* Ex. C-18 at pages 57-67). Yet Applicant did not  
20 conduct a conflicts analysis. Tilghman testified that the authorization for up to 30 trucks and  
21 trailers also should have been reviewed for safety under the county road standards because  
22 the trucks and trailers stretch out for 75 feet and state guidance typically characterizes this as  
23  
24  
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26

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<sup>1</sup> Under the extended hours scenario, Applicant would be authorized to run 30 trips per hour for 24 hours per day over a 7-day week, resulting in 5,040 trips.

1 2 vehicles. Further, SEPA functions as supplemental authority and a conflicts analysis  
2 should have occurred to fully evaluate the mine's hauling impacts. WAC 173-11-030(1).

3 That analysis would have evaluated safety issues like:

- 4 ○ Bicycle impacts. Phil McLoud testified to the use of Prairie and Grip Roads and the  
5 lack of rideable shoulders and thus safety risks of adding large gravel hauling trucks  
6 without improving the roads. Though Norris claimed during his testimony that  
7 Applicant surveyed bicycle use, the vehicle counts do not do so.
- 8 ○ Potential conflicts with school buses and emergency vehicles;
- 9 ○ Roadway geometries;
  - 10 ▪ Safety along the steep Grip Road grade and the possibility of brake failure;
  - 11 ▪ Safety with just 20-22 feet of pavement and lack of usable shoulder; and
- 12 ○ Maintenance needs for the roads as the truck/trailers override the pavement edge.
- 13 ● Speeds traveled – Gary Norris conceded that although actual travel speeds on Grip Road  
14 are significantly higher than posted speeds, as seen on Ex. 49-S-6, Applicant's analysis used  
15 posted speeds for its review, presumably including those for turns. This significantly under-  
16 represented traffic risks from the mine's substantial increase of heavy truck traffic on Grip  
17 Road.  
18
- 19 ● Cumulative impacts – Applicant's testimony conceded that they have purchased and  
20 operate a gravel mine (Proctor Pit) to the east on Grip Road, but did not study the  
21 cumulative traffic impacts of hauling gravel from both mines.  
22

## 23 2. Climate Change and Carbon Emissions.

- 24 ● The application did not evaluate air pollution like diesel or carbon emissions. Tilghman  
25 testified that mine excavation and hauling would generate a significant amount of  
26

1 emissions—at least 718 metric tons annually, not including the carbon impacts of removing  
2 68 acres of trees, shrubs, and soils at the site that would otherwise absorb carbon. In *Wash.*  
3 *State Dairy Fed. v. State*, 490 P.3d 290, 317 (Wn. App. 2021), the court held that Ecology  
4 erred when it failed to consider climate change when drafting waste discharge permits,  
5 indicating that SEPA requires review of these impacts.

### 6 **3. Noise Impacts**

7  
8 • The Applicant declined to study noise impacts from gravel hauling based on an  
9 exemption that does not apply to SEPA, which provides supplemental authority to study  
10 impacts like the noise of compression brakes when traveling down Grip Road’s 8% grade,  
11 or the noise and vibration from crossing the bridge on Prairie Road.

### 12 **4. Slope stability impacts along the private haul road near Swede Creek**

13  
14 • Unevaluated slope instability -- Dan McShane testified that, based on his experience in  
15 the vicinity of the mine and as an engineering geologist, no responsible geologist could  
16 conclude that the private haul road is not at risk from landslides or does not pose a risk of  
17 increasing landslides or erosion. Applicant’s geotechnical report erroneously assumed the  
18 existence of high strength glacially consolidated sediments and thereby overlooked:

- 19  
20 ○ Swede Creek’s stream processes and potential slope undercutting;  
21 ○ Convergent topography below the east-west portion of the road; and  
22 ○ Dessication fractures.

23  
24 McShane provided further un rebutted testimony that the report failed to identify  
25 numerous areas of potential instability, including non-planar features like:

- 26  
○ An Incised creek – during the hearing, Applicant’s consultant acknowledged this  
issue but the Applicant has not proposed a method to address it other than



generally suggesting that they would do so;

- Likely landslides;
- Convergent topography;
- Very steep slope above the creek; and
- Eroded stream bank.

- **Salmon impacts**—Kammer testified that the application did not study the impacts of the slope instability and potential sedimentation on multiple salmon species, including protected salmonids like bull trout, Chinook, Coho, that inhabit the Samish River and its Swede Creek tributary.

#### **5. Wildlife, Wetland, and Stream Impacts.**

- Wildlife corridor – Mahaffie testified that the application did not investigate the impacts of clearing and mining a significant portion of one of the area’s last forested wildlife corridors through the overall property, and its use by bears, cougars, bobcats, and other species. The SEPA checklist did not identify these species at the site and John Semrau, who prepared it, had no explanation for that omission.

- Redirected water -- Mahaffie testified that the application did not evaluate the impact of removing the top of the hill above the wetland or redirecting water away from it.

Post-hearing briefing concluded by October 28, 2022. CSVN’s SEPA appeal brief provided the above summary and CSVN’s permit application brief discussed the need to deny the mining special use permit due to its inconsistency with the Code’s wetland buffer protections and stream and stream buffer protections, and with noise and traffic standards.

On May 31, 2023, after more than six (6) months without a decision and in response to a

1 request by the parties, the Hearing Examiner held a status conference and projected a decision  
2 date of July 10, 2023. After the July 10, 2023 day passed without a decision, the parties  
3 requested a second status conference, which occurred on August 17, 2023. The Hearing  
4 Examiner pledged to issue a decision by August 25, 2023. During that conference, CSVN  
5 learned that the Applicant had, unbeknownst to the parties to the SEPA appeal and permit  
6 application hearing, filed a lawsuit against Skagit County and Andrew Reeves in his individual  
7 capacity to compel Mr. Reeves to issue a decision. Upon reviewing the complaint, CSVN also  
8 learned that the lawsuit sought damages against the County and Mr. Reeves.  
9

10 Ultimately, after threat of jail, the Hearing Examiner submitted the Ruling to Skagit  
11 County Superior Court on February 1, 2024. It reads in pertinent part as follows:

12 But.... Out of an abundance of caution given the very clear threat of being put in  
13 jail for an indeterminate length of time – as the Applicant and County convey as a  
14 common solution to the problem of how to deal with non-financially motivated  
15 former appointed part-time staff who they believe must complete whatever tasks  
16 previously assigned no matter the status of their contract – deferral to the  
Applicant’s desires and County’s wishes is appropriate, inevitable, and definitely,  
100%, totally uncoerced.

17 Accordingly, the Hearing Examiner APPROVES whatever the Applicant was  
18 seeking throughout the permit process and denies all tangential issues and appeals  
that have stood in the Applicant’s way.

19 The Ruling did not discuss material facts or identify applicable legal standards for the permit  
20 review or SEPA appeal, and did not articulate whether the material facts satisfied or did not  
21 satisfy those standards.  
22

23 PDS subsequently deemed this text a final decision and circulated a Notice of Decision  
24 (“NOD”) on February 2, 2024. The NOD sets the 14-day appeal date twelve days later, on  
25 February 14, 2024. It also states that the MDNS was upheld and modified. The Ruling did not  
26 address the MDNS.

1 CSVN now submits this Request so that PDS may designate a new hearing examiner to  
2 review the evidence provided in this matter through testimony and exhibits and to issue a  
3 decision consistent with the weight of that evidence to grant CSVN's SEPA appeal and require  
4 an adequate environmental review, and to deny the permits in the meantime.

### 5 **III. QUESTIONS PRESENTED**

6 A. Should CSVN's Request be granted where reconsideration should be granted when a  
7 material legal error has occurred or a material factual issue has been overlooked that would  
8 change the previous decision given that the Ruling omitted any legal discussion and set forth no  
9 material facts necessary to determine whether the application and the SEPA appeal warrant  
10 denial or approval?

11 B. In conjunction with granting CSVN's Request, should Skagit County Planning and  
12 Development Services ("PDS") engage a different hearing examiner given that Mr. Reeves has  
13 demonstrated that he is incapable of rendering a decision based on the material facts and  
14 applicable law for the application and SEPA appeal?  
15

### 16 **IV. ARGUMENT**

17 A party to a Skagit County Hearing Examiner hearing may seek reconsideration of a  
18 final decision by filing with PDS a written request for reconsideration that alleges specific  
19 errors within 10 calendar days of the date of the decision. SCC 14.06.180. The Hearing  
20 Examiner may grant the request and may call for argument in accordance with the procedures  
21 for closed record appeals in doing so. *Id.* When a material legal error has occurred or a material  
22 factual issue has been overlooked that would change the previous decision, reconsideration  
23 should be granted. *Id.* Here, reconsideration must be granted because the Ruling is bereft of any  
24 legal reasoning or statements of material fact and the matter therefore must be reviewed  
25  
26

1 completely based on the briefing and the record provided to the prior hearing examiner over the  
2 7-day hearing. SCC 14.06.180.

3 The Ruling is facially void because it did not contain any of the elements required of a  
4 Hearing Examiner decision, and should not have been circulated with a notice of decision. SCC  
5 14.06.160(9). Skagit County directs that a decision shall include:

- 6 • a statement of the applicable criteria and standards from the Skagit County  
7 Comprehensive Plan, Skagit County Code, and other applicable law;
- 8 • a statement of the facts that the Hearing Examiner found showing the application does or  
9 does not comply with each applicable approval criterion;
- 10 • assurance of compliance with applicable standards;
- 11 • the reasons for the decision to approve or deny the development permit or appeal; and
- 12 • any conditions or modifications deemed necessary.

13 The Rule omitted all of these elements, and thus failed to contain indicia that it should be  
14 deemed a decision. Indeed, the Ruling omits even an express reference to the SEPA appeal or  
15 the challenged MDNS.

16 Instead, the Ruling contains sarcastic text indicating that Mr. Reeves issued it on the  
17 grounds that he felt coerced to grant the approval in the face of the combined pressure brought  
18 to bear against him by the Applicant and PDS. Regardless of the veracity of that impression,  
19 these are not legally cognizable grounds for denying a SEPA appeal or granting a mining  
20 special use permit.

21 Thus, the Ruling must be reconsidered and a decision must be issued that includes the  
22 elements identified above for both the SEPA appeal and the project permits. In its comments,  
23 prehearing briefing, and post-hearing briefing, as referenced above, CSVN has set forth the  
24 reasons that the appeal must be granted to allow a full understanding of the project's impacts  
25 and that the permits must be denied because, as currently defined, the project does not satisfy  
26

1 the County’s mining special use criteria.

2 Moreover, this reconsideration serves as a stay on any appeal to the Board of  
3 Commissioners (“Board”), which may then be filed or occur after a decision on reconsideration.  
4 For both the MDNS, which qualifies as a Level I permitting decision, and the Mining Special  
5 Use Permit, which qualifies as a Level II permitting decision, reconsideration must occur prior  
6 to appellate review by the Board. SCC 14.06.110(13), 14.06.120(9). Both a Level I decision and  
7 a Level II decision may be appealed to the Board within 14 days after “the date of the Hearing  
8 Examiner decision, **or decision on reconsideration, if applicable.**” SCC 14.06.110(13),  
9 14.06.120(9) (emphasis added). Thus, an appeal to the Board is neither required nor appropriate  
10 during the period in which the Hearing Examiner reviews and acts upon a request for  
11 reconsideration.  
12

### 13 V. RELIEF REQUESTED

14 CSVN respectfully requests the following relief:

- 15 • the designation by PDS of a dedicated Hearing Examiner to review this Request;
- 16 • the preparation by PDS of transcripts of the hearing testimony to enable the Hearing  
17 Examiner and parties to properly prosecute this Request;
- 18 • the granting of this Request and reconsideration of the Ruling based on the  
19 comprehensive record created by the parties;
- 20 • the opportunity to provide oral argument to support this Request;
- 21 • the granting of CSVN’s SEPA appeal, withdrawal of the MDNS, and direction to  
22 properly evaluate the environmental impacts listed at Section II above and in CSVN’s  
23 Notice of Appeal and post-hearing briefing;
- 24 • denial of the Forest Practice Conversion application, PL16-0097 and Mining Special  
25  
26

1 Use Permit application, PL16-0098; and

- 2 • such other and further relief as the Hearing Examiner deems just and equitable.

3 **VI. CONCLUSION**

4 The Ruling is facially invalid and must be reconsidered. CSVN respectfully requests that  
5 this occur with a new Hearing Examiner, with a transcribed record, and with a meaningful  
6 opportunity to provide that new Hearing Examiner with oral argument to orient them to the  
7 flaws in the MDNS and the applications.  
8

9  
10 RESPECTFULLY SUBMITTED this 9th day of February, 2024.

11  
12 LORING ADVISING PLLC

13  
14 By



15 Kyle A. Loring, WSBA No. 34603  
16 Attorney for Appellants  
17  
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26

**DECLARATION OF SERVICE**

I declare under penalty of perjury under the laws of the State of Washington, that on the date and in the manner indicated below, I caused the following:

- **Appellant Central Samish Valley Neighbors’ Request for Reconsideration; and**
- **Declaration of Service**

to be served on:

Jason D’Avignon [ ] By United States Mail  
 Skagit County Civil Deputy [x] By Electronic mail  
 Prosecuting Attorney  
 jasond@co.skagit.wa.us

William T. Lynn [ ] By United States Mail  
 Reuben Schutz [x] By Electronic mail  
 Attorneys for Miles Sand and Gravel  
 blynn@gth-law.com  
 rschutz@gth-law.com

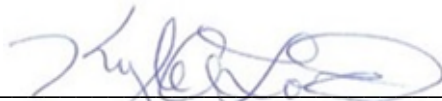
with courtesy copy to:

Tom Ehrlichman [ ] By United States Mail  
 Attorney for Cougar Peak [x] By Electronic mail  
 tom@dykesehrlichman.com

and filed with:

Office of the Hearing Examiner  
 Skagit County Office of Land Use Hearings  
 hearings@co.skagit.wa.us

DATED this 9th day of February, 2024, at Friday Harbor, Washington.

  
 \_\_\_\_\_  
 Kyle A. Loring

# EXHIBIT A



**SKAGIT COUNTY PLANNING AND DEVELOPMENT SERVICES  
NOTICE OF DECISION**

Concrete Nor'west Special Use Permit; PL16-0097;  
Forest Practice Conversion, PL16-0098; &  
SEPA MDNS Appeal, PL22-0142

Notice is hereby given that on February 1, 2024, the Hearing Examiner approved Special Use Permit PL16-0097 and Forest Practice Conversion Application PL16-0098 to permit a proposed gravel mine/quarry on the subject properties. Additionally, the Hearing Examiner denied appeal PL22-0142 filed by the appellant of Skagit County Planning and Development Services Department's issued SEPA Mitigated Determination of Non-Significance (MDNS) threshold determination associated with the subject Special Use Permit application. The subject property lies within the Rural Resource Natural Resource Lands (RR-NRL) Zoning/Comprehensive Plan designated area as indicated in the Skagit County Comprehensive Plan and associated maps. The proposed properties subject to the mining operation are located approximately 1.5 miles north of Grip Road and south/southwest of the Samish River, within a portion of the Southeast Quarter of Section 27; Township 36 North; Range 04 East; Willamette Meridian within unincorporated Skagit County, Washington. Proposed Mine/Quarry: P125644, P125645, & P50155. Haul Road (Under Same Ownership Providing Access to Mine): P125646, P125647, P125626, P125627, P125628, P125629, P125630, P125631, P125623, P125624, P125632, P125633, & P35704

**APPLICANT:**

Concrete Nor'West / Miles Sand & Gravel  
P.O. Box 280  
Mount Vernon, Washington 98273

**LANDOWNER:**

Lisa Incorporated  
400 Valley Avenue Northeast  
Puyallup, Washington 98372

Pursuant to Skagit County Code 14.06.200, the Notice of Decision shall be forwarded to the applicant, parties of record, and other applicable parties of interest. The applicant and/or a parties of record may appeal the decision to deny the subject Special Use Permit to Skagit County Board of County Commissioners pursuant to the provisions of Section 14.06.110. The applicant and/or parties of record may appeal the decision to uphold and modify the SEPA MDNS to the Skagit County Superior Court pursuant to Section SCC 14.06.220 (Judicial Appeals). Parties with standing to appeal must appeal within 14 calendar days of the date of the decision.

Transmitted to the Skagit Valley Herald: February 2, 2024  
Please publish: February 6, 2024  
Appeals must be submitted by: February 14, 2024

Kevin Cricchio, AICP, ISA, Senior Planner; Phone: (360) 416-1423  
Skagit County Planning and Development Services Department  
1800 Continental Place, Mount Vernon, WA 98273

E-FILED  
Skagit County Clerk  
Skagit County, WA  
2/1/2024

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR SKAGIT COUNTY

CONCRETE NOR'WEST, a division of  
MILES SAND AND GRAVEL, a Washington  
corporation

Plaintiff,

v.

SKAGIT COUNTY, a political subdivision of  
the State of Washington and ANDREW  
REEVES, an individual and Hearing Examiner  
for Skagit County

Defendants.

NO. 23-2-00631-29

FINAL DECISION OF FORMER  
HEARING EXAMINER REEVES  
(ABSENT RECONSIDERATION)



Moreover, while Hearing Examiner Reeves is specifically named in said contract, the County's contract was, prior to termination, with "Sound Law Center," a single-member LLC wholly owned by another attorney, Ted Hunter, whose bar number is much lower and clearly has the experience and background to step in and complete this matter should the County desire it... Especially given Mr. Hunter's having severed Mr. Reeves' ties with SLC and earlier conveyed such information to the County.

Even further, to ensure there is no confusion, Mr. Reeves would like to clearly to convey to the County that he is releasing any right they have conferred upon him with termination of the previous Hearing Examiner agreement to retain jurisdiction of this matter, and supports the County's clear ability to appoint someone else as needed to conclude it.

But... Out of an abundance of caution given the very clear threat of being put in jail for an indeterminate length of time – as the Applicant and County convey as a common solution to the problem of how to deal with non-financially motivated former appointed part-time staff who they believe must complete whatever tasks previously assigned no matter the status of their contract – deferral to the Applicant's desires and County's wishes is appropriate, inevitable, and definitely, 100%, totally uncoerced.

Accordingly, the Hearing Examiner **APPROVES** whatever the Applicant was seeking throughout the permit process and denies all tangential issues and appeals that have stood in the Applicant's way.

So decided this 1<sup>st</sup> day of February 2024.



---

ANDREW M. REEVES  
Hearing Examiner

#### 14.06.180 Reconsideration.

A party to a hearing before the Hearing Examiner may seek reconsideration only of a final decision by filing a written request for reconsideration at Planning and Development Services within 10 calendar days of the date of decision. The request shall set forth the specific errors alleged. The Hearing Examiner shall consider the request, without public comment or argument by the party filing the request. If the request is denied, the previous action shall become final. If the request is granted, the Hearing Examiner may revise and reissue its decision or may call for argument in accordance with the procedures for closed record appeals. Reconsideration should be granted only when a material legal error has occurred or a material factual issue has been overlooked that would change the previous decision. A request for reconsideration shall not be required, however, prior to exercising any rights to appeal. (Ord. O20070009 (part); Ord. 17938 Attch. F (part), 2000)