

**William T. Lynn**  
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August 1, 2019

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

RE: Concrete Nor'west/Miles Sand & Gravel  
PC16-0097 – County Decision to Deny Application dated April 5, 2018

Dear Examiner Dufford:

Because we do not yet have a County response to the submittal package and because the County planner will not be available next week, we are requesting a 2- or 3-week continuance of the Prehearing Conference. You will recall that the applicant submitted all of its materials to the County on June 24, 2019. On that same date, Ms. Nicoll wrote to the Examiner requesting that the Prehearing Conference be rescheduled to the week of July 29 (this week) or later to allow for sufficient review time. At the request of another individual, the hearing was continued to August 7, allowing the County even more time.

Since the information was submitted, Dan Cox from Miles has made a number of efforts to communicate with the County as to its review. He did speak with Mr. Cooper early in the week of July 8 and understood Mr. Cooper was to be reviewing the documents that week. To date we have heard nothing substantive from the County staff. Yesterday I received an email from Ms. Nicoll stating:

The submittal does not address all of the County's repeated requests for additional information outlined in the February 22, 2019 and May 15, 2019 letters. Accordingly, at this time, the County cannot change its prior determination that the Application is incomplete.

The County email goes on to state:

The County will provide its written findings in advance of the Pre-Hearing Conference.

Reply to:

Tacoma Office  
1201 Pacific Ave., Suite 2100 (253) 620-6500  
Tacoma, WA 98402 (253) 620-6565 (fax)

Seattle Office  
600 University, Suite 2100 (206) 676-7500  
Seattle, WA 98101 (206) 676-7575 (fax)

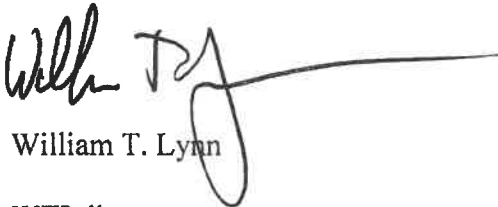
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We do not know the basis for this determination.

We cannot communicate how frustrating this is. Recall that the Applicant has received broad statements like this before from the County. These are far different from normal County reviews that advise the Applicant what it must do to make its application complete. You may also recall that in our May 17, 2019 letter, a copy of which is attached, we expressed frustration about this, but said we would do the best we could to respond to the County's very general comments. We also asked that Miles representatives be permitted to communicate with the County staff. Although you granted that request, there has been very little communication. Since our submittal to the County in June we have made repeated requests but heard no real response at all until yesterday. Now we have Ms. Nicoll's communication but a complete absence of detail.

In light of Ms. Nicoll's promise that we will receive written communications before next Wednesday, and Mr. Cooper's unavailability, we are requesting that the Pre-Hearing Conference be continued yet again so that we have a chance to review those comments and can be prepared to address them prior to the scheduled Pre-Hearing Conference and so that we can have staff available for the Applicant and Examiner.

Very truly yours,



William T. Lynn

WTL:lb

Enclosure

cc: Julie Nicoll  
Brad Barton  
Dan Cox  
Mike Schuh  
Hal Hart  
John Cooper  
Betsy Stevenson  
Paul Randall-Grutter  
Martha Bray  
John Day  
Jon Sitkin

[4846-0906-4606]



**William T. Lynn**  
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May 17, 2019

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

RE: Concrete Nor'west/Miles Sand & Gravel  
PC16-0097 – County Decision to Deny Application dated April 5, 2018

Dear Examiner Dufford:

I am writing again on behalf of Concrete Nor'West/Miles Sand & Gravel (Miles) regarding this Application. We have received Ms. Nicoll's letter dated May 15, 2019, purporting to respond to your Order of March 29, 2019. In your order, you directed the County to provide a

“formal written request to the Applicant stating the “specific requirements” still needed for a complete application.”

We have not received that written request, though we have continued to request it since your order was issued. See my April 25, 2019 letter attached, which was the most formal of our requests. We do not believe Ms. Nicoll's letter complies with your Order. In fact, it relies for compliance on a letter (February 22, 2019) that we had in hand when we requested your intervention in the first place. And, you had it in hand when you wrote your Order requiring a more clear written statement from the County. Had the February 22, 2019 letter been sufficient, we would not have written our letter and the Examiner likely would not have issued the Order.

Nonetheless, in the interests of avoiding further delay, we will accept the February 22, 2019 letter as being the County's “best effort” to explain what it is looking for and will respond accordingly. We request two things. First, we ask for the 30 days provided by your Order in which to respond to the County's “written request.” We ask that the Prehearing Conference be scheduled at least 30 days after May 15, 2019, which was the date of the County's statement.

Second, we request that the Miles representatives be permitted to communicate with the County Staff directly. In recent times, there has apparently been some kind of roadblock as routine calls are not returned. This is essential to our ability to respond. For example, there was an onsite

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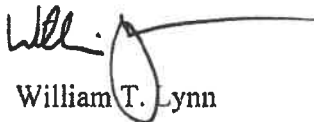
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meeting with County and Miles representatives to discuss the road. At that meeting, Miles understood that it would be a relatively simple matter to process a variance to modify County road requirements to avoid critical areas impacts that all agreed were unnecessary. However, in the County's May 15 letter, the County attorney simply asserts that the road fails to meet private road standards. We hope that by allowing the normal kinds of staff-to-staff communications that predominate in normal application review these discrepancies can be quickly resolved.

Again, we are frustrated by not receiving what we believe the Hearing Examiner clearly ordered. Nonetheless, we believe the path described presents some hope for getting all information the County needs to make its recommendation to the Hearing Examiner.

If you think a telephone conference would help bring any of these items into greater clarity, we would be happy to make the necessary arrangements. We are also willing to mediate should this effort be unsuccessful.

Very truly yours,



William T. Lynn

WTL:lb

Enclosures

cc: Julie Nicoll  
Brad Barton  
Dan Cox  
Mike Schuh  
Hal Hart  
John Cooper  
Betsy Stevenson  
Paul Randall-Grutter  
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