

Re: Concrete Nor'west (CNW) application mining special use permit, PL 16-0097.

Fish and Wildlife, and Water Quality (regulated Critical Areas) review, comments and questions. Wiggins, November 2020.

The information provided to date by CNW for the above referenced project regarding biological issues is insufficient to determine impacts the proposed project will have on regulated critical areas. At a minimum, we need to have maps, surveys, and descriptions of all regulated critical areas (species and habitats) including those in and near the proposed mine site, and, all roads, specifically the proposed haul road. In addition, we need to know all permit conditions that will be proposed to mitigate for impacts identified in this larger footprint. Only then can we assess impacts and adequately comment on how the proposed mine and other related project details will have on the biological environment.

SCC 14.24.060 Authorizations Required, of the county Critical Areas Ordinance, states: With the exception of activities identified as Allowed without Standard Review under SCC 14.24.107, any land use activity that can impair the functions and values of critical areas or their buffers including suspect or known geologically hazardous areas, through a development activity or by disturbance of the soil or water, and/or by removal of, or damage to existing vegetation shall require critical areas review and written authorization pursuant to this Chapter.

The July 2015 Graham Bunting Associates (GBA) Fish and Wildlife Habitat Site Assessment report does not include descriptions nor data of the 63-acre mine site, wetland/stream buffers, wooded slope, nor the access road. It focuses only on the Samish River and adjacent wetlands with no data sheets to corroborate their findings. Because CNW has not submitted an updated critical area report for the entire impact area (proposed mine site, private road, and adjacent public roads) it is not known what type of impacts to County Critical Areas, species and habitats, and their buffers will occur. Furthermore, Critical Areas Reports require to be updated every 5 years. Said GBA report is over 5 years old.

The critical areas report completed by GBA for the wetlands associated with the Samish River recommends a 200' buffer. SCC 14.24.230 Wetland Protection Standards, requires a 300' buffer for High Intensity Land use, which the proposed mine is per the definitions section of the SCC CAO as follows: Land Use Intensity, High; 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. Therefore, the Samish River and its associated wetlands require a 300-foot buffer. It is inherent in the proposed use of the site as a commercial gravel mine, there will be a significant increase in noise, dust, and general overall on-site movement of heavy equipment. The assumed existing buffer between the proposed mine and the Samish River and its associated wetlands is a wooded slope, protecting, in this case, all flora and fauna, such as migratory salmonids, trout, avian species, and large and medium fauna such a deer, elk, bear, cougar, coyote, and fox. Additionally, we are now aware Oregon Spotted Frog (*Rana pretiosa*) habitat occurs along the Samish River adjacent to the proposed mine site. Bull trout

(*Salvelinus confluentus*) are also known to use the Samish River sometime during their lifecycle. A biological assessment is needed to address these species.

The Scope of a SCC critical areas study requires a full description of the proposed project and all biological features whether said features are regulated by the local, state, or federal government or not and is a combined quantitative (on the ground data collection) and qualitative (literature and map review) report. A description of all features such as flora and fauna, soils, topography (a survey of the top of slope), land use, a general description of the surrounding area needs to be included to provide us with an understanding of what the study area looks like and what features are present. Current and historical photographs help with this understanding of the study area. A broad-based literature review with the on-the-ground data collection of all potential areas that will be impacted needs to be studied and included in the contents of the report.

In the GBA assessment, the singular wetland rating they completed appears accurate. However, the land use intensity (moderate) they concluded does not conform to the land use intensity description put forth in Appendix 8C of WA DOE Publication No. 05-06-008 as required if using the alternative buffers in SCC 14.24.230(1)(b), Department of Ecology (Doug Gresham, DOE), the authors (DOE) of the said referenced publication. The land use intensity for a full-time gravel mining operation is high. A high habitat score (supplied by GBA wetland rating) requires a 300-foot wetland buffer per SCC 14.24.230, not 200 foot as proposed.

The review/assessment also neglected SCC 14.24.230(2), where in general, buffers are to extend 25 feet past the top of sloping areas that are 25% or greater. The site plan as indicated shows areas where this provision is applicable. Regardless of the aforementioned land use intensity issue, the buffer likely should still extend past the line indicated in areas unless there is a rational reason put forth not to, which does not appear to have been done specific to this project.

Going from an access only road that is used infrequently for forestry purposes to a gravel mine haul road that could have dozens of truck trips per day for many years will be an impact to the environment in numerous areas. This will be a distinct habitat break in what is presently one of the largest undeveloped tracts of land remaining in lowland Skagit County, home to deer, bear, cougar, and elk *as well as many avian and small mammal species, and amphibians (** while CNW's application does not mention these species, local knowledge confirms their presence*). Heavily trafficked corridors are well known to affect the habits of such species. The haul road also drains to a salmon stream that has turbidity problems, i.e. Swede Creek, and it is not practical that the increased road traffic and maintenance/improvements without stormwater control will further affect the onsite wetlands, streams and riparian areas.

No meaningful protective measures have been assessed to the buffers of the critical areas adjacent to the mine operations. While recording of a Protected Critical Area (PCA) site plan is standard and generally adequate for a single family home, a commercial operation with employees on heavy equipment, no oversight, and no vested interest in the observation of the buffers will not protect said buffers. If there is no survey or mapping, how will anyone know

where the critical areas and their regulated buffers are? The buffers need to be demarcated in the field, a standard practice, and should be fenced as well.

Because a Critical Areas Review and Fish and Wildlife Assessment has not been completed on the entire project area, it is likely additional biological critical areas occur on and near the project area, such as wetlands and Swede Creek and they need to be identified and surveyed. Also, because the GBA report is over 5 years old, by code, a new study needs to be completed. Not to mention recently (summer 2019) much of the land owned by Miles has been logged and the haul road has been widened and resurfaced, thus because of these new modifications to the site, necessitates an updated report.

Additional questions:

- What mitigation is proposed for CA impacts?
- How will mine excavation be monitored to ensure the “bottom” of the mine will remain greater than 10 feet above the seasonal high water table?
- Will the project occur beyond the mine site and proposed access road? If so, will there be road maintenance, widening, ditch maintenance, Grip/Prairie Road intersection maintenance/reconstruction? If so, said areas need to be assessed for regulated critical areas and mitigated for buffer impacts, habitat impacts, and stormwater quality.
- Because the mine site will be converted from forestry to a gravel mine, all habitat for the cursory list of species listed in this letter will be obliterated. For species such as amphibians that require upland habitat for a portion of their lifecycle further necessitates, at a minimum, the need for a 300-foot buffer off the wetlands adjacent to the Samish River. Also, other wetlands near the proposed mine and haul road mapped in the FPA further necessitates the need to complete an updated wetland/habitat reconnaissance and delineation report for all land within 300 feet of the mine and haul road.
- What mitigating measures have been included in the report for the introduction of invasive plant species such as Butterfly bush (*Buddleja* sp.) and spotted knapweed (*Centaurea* sp.) both of which occur on their Bellville pit site.
- What species and species habitats, such as Oregon Spotted Frog, Bulltrout, or other listed species occur in the Samish River watershed? Their presence needs to be assessed by qualified biologists and mitigation strategies addressed.



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