

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Public Utility District No. 1 of Skagit County
Attn: Michael Benton
P.O. Box 1436
Mount Vernon, WA 98273
- Consultant:** HDR, Inc.
Attn: Malia Bassett
929 108th Ave. NE, Suite 1300
Bellevue, WA 98004
- Request:** Shoreline Substantial Development Permit/
Conditional Use Permit, PL19-0249

Administrative Special Use Permit, PL19-0248
- Summary of Proposal:** To replace the existing 24-inch water pipeline with a new pipeline, preliminarily sized at 36 inches in diameter. The new 5.3 mile pipeline will be installed mainly by open-cut construction methods, with trenchless methods used in selected locations and a new bridge across the East Fork of Nookachamps creek. A conduit system for fiber optic cables will parallel the pipeline.
- Location:** Extending northwesterly from SR 538 in the City of Mount Vernon to the PUD Water Treatment Plant at Judy Reservoir, following an abandoned railroad bed west of SR 9, then turning east under the highway to connect to easements until reaching the treatment plant.
- Land Use Designations:** Multiple zoning designations including Ag-NRL, RRv, RRc-NRL, and OSRSI.
Multiple shoreline designations including Rural, Rural Residential and Conservancy.
- Public Hearing:** May 27, 2020. Testimony by Planning and Development Services (PDS) Staff and Applicant. One member of the public testified.
- Decision/Date:** The application is approved, subject to conditions. June 11, 2020
- Reconsideration/Appeal:** See Order, page 6 of written decision.
- Online Text:** The entire decision can be viewed at:
www.skagitcounty.net/hearingexaminer

FINDINGS OF FACT

1. Public Utility District No. 1 of Skagit County seeks permits for Phase 2 of the replacement of its existing water pipeline from the City of Mount Vernon to the treatment plant at Judy Reservoir. Phase 1, between North Laventure road and SR 538 in Mount Vernon. was completed in 2009.
2. The project will encompass 5.3 miles of piping, commencing at SR 538. The line will cross under Nookachamps Creek to an abandoned railroad bed west of SR9 and will then parallel SR9 within the railroad bed. Adjacent to the highway bridge over the East Fork of Nookachamps Creek, the line will cross the creek, and then continue in the railroad bed until turning east under SR9 to connect with easements from the treatment plant.
3. The project will also include installation of a 4-inch conduit for fiber optic cables paralleling the full 5.3 miles.
4. The new pipeline will have a 36-inch diameter, providing a long-term replacement for the existing 24-inch line. The new line is needed to satisfy increased demand and will provide redundancy and resiliency to the water system.
5. The pipeline will cross through multiple zoning designations: Agriculture-Natural Resource Land (Ag-NRL), Rural Reserve (RRv), Rural Resource-Natural Resource Land (RRc-NRL), and Open Space of Regional and Statewide Importance (ORSI). The project will also pass through multiple shoreline designation: Rural, Rural Residential, and Conservancy.
6. Land use along the corridor includes agricultural, residential, and recreational. These uses will not change with construction of the project. Future construction of buildings on top of the corridor will be subject to limitations on development.
7. Construction of the project is planned to occur in 2020 and 2021. The majority of the route will use open-cut methods. The proposed pipeline is expected to be in service by the end of 2021.
8. The alignment will cross both SR 9 and SR 538, a number of county roads, and a number of small streams. Highways and streams will be crossed by either trenchless construction methods or open-cut construction. After installation all roads will be restored to jurisdictional standards.
9. Trenchless construction will utilize horizontal directional drilling (HDD) or auger boring. This is the method to be used for the Nookachamps Creek crossing. Streams crossed by open-cut will require a temporary cofferdam, and a culvert or pump around the work area, with all in-water work during a window approved by the Washington Department of Fish and Wildlife.

10. A new bridge adjacent to the existing SR 9 bridge will be built to accommodate an aerial crossing of the East Fork of Nookachamps Creek.

11. Construction will be accompanied by numerous traffic control measures, including:

- (a) Meeting requirements for construction signing, night lighting, barricades, and all other regulations for in-street work.
- (b) Advising Skagit Transit, school districts and emergency service providers in advance of construction dates and project schedule updates.
- (c) Posting of construction schedules on area roads and providing such schedules to local papers and by mail where appropriate.
- (d) Placing flaggers at both ends of construction areas where two-way traffic is limited to a single lane to regulate traffic flow and minimize delays.
- (e) Using flaggers for traffic control when construction vehicles and equipment are entering the roadways.
- (f) Employing traffic control according to the Federal Highway Administration's Manual on Uniform Traffic Control Devices, including channelization and detours.
- (g) Removal of construction equipment from the immediate area of the roadway at the end of each work day.
- (h) Identifying intersections and roadways of concern and addressing impacts of the proposal in a Traffic Control Plan.

12. The existing 24-inch pipeline, installed in 1961, will be abandoned. New water distribution and service lines will be installed to provide water to identified properties along the route that are now fed by the old line. An 8-inch distribution line from a future higher elevation reservoir will be added along Old Day Creek Road and a separate distribution line will be added on Timber Lane off of Old Day Creek Road.

13. After an extensive routing analysis, the PUD concluded that the selected alignment will limit temporary disturbance within wetlands and will provide better pipeline access for maintenance and better resiliency for the system. However, the alignment will unavoidably fill wetlands at eight locations. Overall permanent wetland impacts will total approximately 1.04 acres. Mitigation of these impacts will be achieved by purchasing mitigation credits from the Skagit Environmental Bank.

14. Temporary impacts to wetlands will be addressed by regrading disturbed areas to preconstruction contours, placing native wetland soils and then replanting with native vegetation to restore hydrologic and water quality functions. The temporary loss of habitat functions is expected to be minimal as the wetlands are active pasture or within the existing maintained easement.

15. Trenching will be accomplished with trackhoe-type equipment. A typical trench section will be approximately 8 to 10 feet deep. The pipe will be placed on a base course of

bedding material and covered with at least 3 feet 6 inches of soil. After pipe installation, the trench will be back-filled to pre-construction grade, compacted as necessary.

16. After the application was deemed complete, a Notice of Development Application was published on June 20, 2019 and again on June 27, 2019. The notice was posted and mailed as required by law. A Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) was issued on November 8, 2019.

17. Four written comments were received. Two concerned impacts on specific addresses which were satisfactorily answered by the applicant. The third concerned potential impacts to wildlife and monitoring of restoration. The fourth concerned a new trail system and safety along SR 9. The author of the last of these comments also testified at the public hearing.

18. The proposal is accompanied by an array of technical studies including a Biological Assessment, a Wetlands and Stream Delineation Report (two volumes) and a Critical Areas Study. The record does not disclose any likely significant impacts to wildlife. The applicant is required to obtain approval from both Federal and State fish and wildlife agencies. The Examiner finds that adequate protections will be imposed for such wildlife impacts as may occur restoration of habitat, where disturbed, will be accomplished wherever possible.

19. Trail development and use is not the subject of this permit application and is therefore not addressed in this County application. Traffic control on Highway 9 during construction is discussed above. The project will not permanently impact Highway 9.

20. The Staff evaluated the application in light of the local Shoreline Master Program (SMP) and the criteria for Special Use Permits. Based on this evaluation, the Staff determined that the project, as conditioned, will comply with the applicable requirements for approval. The Hearing Examiner concurs with this evaluation and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

21. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over these proceedings. SMP 9.06, SCC 14.06.050(1).
2. The requirements SEPA have been met.
3. As conditioned, the requested Shoreline Substantial Development/Conditional Use Permit meets the relevant approval criteria. SMP 9.02, 11.03.
4. The project meets the definition of Minor Utility Development under SCC 14.04.020. As conditioned, the requested Administrative Special Use Permit meets the approval criteria for such development. SCC 14.16.900(1)(b)(v).
5. Any finding herein that may be deemed a conclusion is hereby adopted as such.

CONDITIONS

1. The project shall be constructed as described in the application materials, except as the same may be modified by these conditions.
2. The applicant shall obtain all required permits and approvals and abide by the conditions of same.
3. The applicant shall comply with all conditions and recommendations listed in the SEPA checklist dated June 2018.
4. Replanting with appropriate native vegetation shall follow the recommendations of the Critical Areas Study, dated May 13, 2019.
5. The applicant and its contractors shall comply with all applicable State regulations, including but not limited to, Chapters 173-200 and 173-201A WAC (water quality) and Chapter 173-60 WAC (noise), except as may be allowed under the noise exemption pursuant to WAC 173-60-050(1)(3) and WAC 173-60(4)(f).
6. The applicant and its contractors shall comply with all applicable County ordinances, including but not limited to Chapter 14.16 SCC (zoning) and Chapter 14.32 (stormwater). In particular, temporary erosion/sedimentation control measures shall be used.
7. Prior to approval of the grading permit application, the applicant shall provide proof of purchase for credits from Skagit Environmental Bank.
8. The project shall be commenced within two years of Shoreline permit approval and Special Use permit approval. The project shall be completed within five years thereof.

9. Failure to comply with any permit condition may result in permit revocation. SCC 14.16.900(1)(b)(iii).

ORDER

The requested Shoreline Substantial Development/Conditional Use Permit (PL19-0249) and Administrative Special Use Permit (PL19-0248) are approved subject to the conditions set forth above.

SO ORDERED, this 11th, day of June, 2020.



Wick Dufford, Hearing Examiner

Transmitted to Applicant, Consultant, County staff and interested parties, June 11, 2020.

RECONSIDERATION/APPEAL

Shorelines: Reconsideration may be requested by filing with Planning and Development Services (PDS) within 5 days of this decision. Appeal is to the Board of County Commissioners by filing with PDS within 5 days of this decision or decision on reconsideration if applicable.

Special Use: Reconsideration may be requested by filing with PDS within 10 days of this decision. Appeal is to the Board of County Commissioners by filing with PDS within 14 days of this decision or decision on reconsideration if applicable.