

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Skagit Fisheries Enhancement Group
c/o Susan Madsen
P. O. Box 2497
Mount Vernon, WA 98273
- Request:** Special Use Permit, PL20-0031
- Location:** About one mile southwest of the City of Mount Vernon in the Washington Departments of Fish and Wildlife's Skagit Fork Management Unit, within Sec. 36, T34N, R3E, W.M. Parcel Nos. P128015, P23220 and an unnumbered parcel.
- Land Use Designation:** Agricultural-Natural Resource Lands (Ag-NRL)
- Summary of Proposal:** To restore a historic outlet channel from Britt Slough and connect a currently isolated six acre wetland to the Skagit River.
- Public Hearing:** By telephone on August 12, 2020. Testimony by Planning and Development Services (PDS) staff, by the applicant and by the Skagit Conservation District. No testimony from the general public.
- Decision/Date:** The application is approved, subject to conditions.
August 27, 2020.
- Reconsideration/Appeal:** 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.
- Online Text:** The entire decision can be viewed at:
www.skagitcounty.net/hearingexaminer

FINDINGS OF FACT

1. The Skagit Fisheries Enhancement Group (SFEG) has applied to change the outlet to the Skagit River from Britt Slough.

2. The project will be located in the Washington Department of Fish and Wildlife (WDFW) Skagit Forks Management Unit, located about one mile southwest of the City of Mount Vernon. The site is within a portion of Sec. 36, T34N, R3E, W.M. There are three parcels: P128025, P23220 and an unnumbered parcel. The property is owned by WDFW.

3. The property is on the riverward side of a dike owned and operated by Dike District 3, adjacent to Dike Road, between Britt Road on the north and Hickox Road on the south.

4. The Britt Slough drains several square miles of farmland and the southern portion of Mount Vernon. Water is currently pumped from the slough through District 3's dike to an outlet channel excavated in the 1950's that drains to the Skagit River. The existing Britt Slough outlet is located at the north end of the project site.

5. The plan is to fill the existing outlet channel and divert the flow of water to the south through roughly the historic channel configuration. The restored channel will be connected to a ponded wetland of approximately six acres.

6. The wetland is currently isolated from the slough's outlet channel. The restored channel will connect to the river from the south end of the wetland. The result will be more frequent backwatering of the slough from the Skagit.

7. The banks by the outlet of the wetland will be replanted with native trees and shrubs and invasive weed control will be carried out through the property. An undisturbed vegetative buffer of at least 35 feet will be maintained alongside the excavated channel.

8. The purpose of the project is habitat restoration and enhancement. Reconnecting the wetland will improve rearing habitat for juvenile Chinook and other salmon species. The project is being funded by the Washington State Salmon Recovery Funding Board, the National Fish and Wildlife Foundation, and the Washington Conservation Commission.

9. The site is flat and forested. The property appears to have been used historically for timber harvest, not as farmland. No utilities are available on site. Skagit Sewer District #2 operates a sewer line that crosses WDFW's property along the south boundary of lot P23220, ending in an outfall in the river. Care will be taken to avoid any interference with the sewer line. No conversion of agricultural land will be required for the proposed project. The project will not impact the Britt Slough pump operation.

10. Caldera, Inc. completed an archaeological survey of the area and produced a report which will be submitted in support of additional permit applications. Work will be conducted under a standard Unanticipated Discovery Protocol.

11. Northwest Hydraulic Consultants modeled flow velocities in the new (restored) channel. The flows are not expected to be high enough to create significant erosion. Nonetheless, the design includes vegetated geogrid along the toe of the new channel at the inlet to provide insurance against erosion.

12. The project was located outside of the dike in order to avoid impacts to flooding and flood levels. Design options that would result in increased potential for the river to shift closer to the dike were rejected. When flows in the river rise about 12 feet, water begins to back up into the Britt Slough channel. This situation will be virtually the same after project development. Expert evaluation concluded that the project will not exacerbate flood levels.

13. The feasibility and preliminary design work confirmed that sedimentation is not likely to be a problem and that the project can be implemented without the need for long-term maintenance, such as dredging. Even so, as a final factor of safety, a monitoring and adaptive management program will be implemented after construction.

14. The project site is surrounded by open farmland with scattered single family homes and agricultural buildings. It is not visible from Dike Road nor from properties to the west. The project will not involve the development of any parking. No vehicle access is anticipated once construction is complete. No negative aesthetic impacts are anticipated.

15. SFEG and WDFW held community and one-on-one meetings and site visits with neighboring landowners and stakeholders. Notice of Development Application was published on March 5, 2020. Notification by mail was provided to all owners within 300 feet of the property. One comment letter was received.

16. Concerns identified in meetings and the comment letter included: disruption of plants and wildlife, erosion on private property, increased flooding, and siltation. The Staff, in its findings, satisfactorily showed that all of these concerns have been considered and addressed. No significant adverse impacts are anticipated.

17. County agencies and departments identified no substantial concerns. Their comments are reflected in conditions of approval. The Building Official noted that the hydraulic consultant's study demonstrates compliance with the FEMA Policy on Fish Enhancement Structures in the Floodway.

18. Review under the State Environmental Policy Act (SEPA) resulted in issuance of a Determination of Non-Significance (DNS) dated May 28, 2020.

19. The project is expected to take three to four weeks to complete. Construction will likely be deferred until 2021.

20. The proposed use will maintain the character, landscape and lifestyle of the rural area.

21. The Staff evaluated the application in light of the Special Use Permit criteria and determined that, as conditioned, the proposal meets the criteria. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

22. Any conclusion that may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

1. In the Ag-NRL zone, the requested Special Use Permit is permitted as a Hearing Examiner Special Use under SCC 14.16.400(4)(d), The Examiner has jurisdiction over these proceedings. SCC 14.16.900(1)(b)(ii).

2. The requirements of the State Environmental Policy Act (SEPA) have been met.

3. The proposal, as conditioned, meets the relevant criteria for approval of a Special Use Permit. SCC 14.16.900(1)(b)(v).

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

CONDITIONS

1. The proposal shall be carried out as described in the application materials, except as the same may be modified by these conditions.

2. The applicant shall obtain all required permits, including but not necessarily limited to a grading permit and a floodplain development permit, and shall abide by the conditions of same.

3. Temporary erosion/sedimentation control measures shall be used in accordance with County stormwater management regulations, and all other requirements of Chapter 14.32 SCC shall be met.

4. The applicant shall comply with all other applicable State and County regulations, including but not necessarily limited to Chapter 14.34 SCC (flood damage prevention), SCC 14.16.840 (performance standards), Chapters 173-201A and 173-200 WAC (surface and ground water quality), Chapter 173-60 WAC (noise).

5. Further review will be needed by Planning and Development Services (PDS) if any major change occurs in the intensity of the use outlined in the application.

6. PDS shall be notified within 30 days of any change in ownership of the affected parcels by submitting a letter to the Planning Director referencing the permit number (PL20-0031).

7. The proposal shall be commenced within two years of the permit approval per SCC 14.16.900(d).

8. All outstanding planning review fees shall be paid prior to approval becoming final.
9. Failure to comply with any permit conditions may result in permit revocation. SCC 14.16.900(1)(b)(iii).

ORDER

The requested Special Use Permit (PL20-0031) is approved, subject to the conditions set forth above.

SO ORDERED, this 27th day of August, 2020.



Wick Dufford, Hearing Examiner

Transmitted to Applicant, County staff, WDFW, Skagit Conservation District, interested parties, August 27, 2020.