

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant/Agent: Skagit County Sewer District #2
c/o Kelly Wynn
17079 State Route 9
Mount Vernon, WA 98724

Agent: CHS Engineers, LLC
% Rondey Langer/Susan Gardner
12507 Bel-Red Road
Bellevue, WA 98005

Requests/File Nos: Special Use Permit, PL09-0020
Shoreline Conditional Use/Variance Permit, PL09-0021

Location: North end of Big Lake at 17079 State Route 9, within a portion of
Sec. 36, T34N, R4E, W.M. (P29997)

Summary: To upgrade existing sewage treatment plant, adding 6,465 square feet
of new or improved structures; to upgrade influent pump station and to
install new electrical and communication conduits between the pump
station and the plant.

Use Designation: Zoning: Rural Village Residential (RVR)
Shoreline: Rural Residential

SEPA Compliance: Mitigated Determination of Non-Significance (MDNS) issued
April 2, 2009. No appeals.

Public Hearing: April 20, 2011. No public testimony. Planning and Development
Services (PDS) recommended approval.

Decision: Approve shoreline and special use, with conditions

**Reconsideration/
Appeal:** **Special Use:** A Request for Reconsideration may be filed with
PDS within 10 days of this decision. The decision may be appealed
to the Board of County Commissioners by filing an Appeal with
PDS within 14 days of the date of the decision or decision on
reconsideration, if applicable.

Shorelines: A Request for Reconsideration may be filed with PDS
within five days of this decision. The decision may be appealed
to the Board of County Commissioners by filing an Appeal with
PDS within five days of the date of the decision or decision on
reconsideration, if applicable.

Online Text: The entire decision can be viewed at
[www.skagitcounty.net/hearing examiner](http://www.skagitcounty.net/hearing_examiner)

FINDINGS OF FACT

1. Skagit County Sewer District No. 2 seeks permits to make improvements to the Waste Water Treatment Plant at the north end of Big Lake to increase capacity to accommodate future growth.

2. The plant is located on 2.5 acres adjacent to and east of State Route 9, within Sec. 36, T34N, R4E, W.M. The influent pump station is located in the Lakeview Boulevard right-of-way. The pump station conveys sewage to the treatment plant though approximately 500 lineal feet of piping between Lakeview Boulevard and SR 9.

3. The facility currently serves the greater Big Lake Rural Village Residential area. The plant is located within the Rural Village Residential (RVR) zoning district. The pump station is within shoreline jurisdiction, located in a Rural Residential shoreline designation.

4. The surrounding land uses consist primarily of residential uses with a few scattered commercial and recreational uses. An elementary school is located within the District's service area.

5. Initially the project contemplated reclaiming water and discharging it to Nookachamps Creek for instream flow augmentation. Ultimately, however, unresolved questions about this approach remained and it was decided to forego the Nookachamps discharge. The effluent from the plant is presently piped to the Skagit River for discharge. The instant project will not change this.

6. The new facilities at the treatment plant will involve approximately 6,465 square feet of new and upgraded structures. The new facilities will cover approximately one third of an acre, doubling the footprint of the plant. However, several structures are basins that will not contribute to stormwater runoff. The total impervious area - existing and new -- on the parcels impacted by the construction constitutes only 4.8% of the total area. All facilities are and will be located on relatively flat land. No difficulty in meeting the County Drainage Ordinance was suggested.

7. At the plant, secondary treatment will be achieved with membrane bioreactor technology. Ultraviolet disinfection will be employed. The improvements will include modification of the rotating biological contact area to create anoxic basins, a new headworks building, two new aeration basins, an associated distribution box, a membrane building and two basins, an electric blower building and miscellaneous structures associated with the membrane building. The existing clarifiers will be demolished after the upgraded system is online.

8. The project will also include improvements to the below-grade influent pump or lift station for the plant. In connection with these changes, an above-grade electrical cabinet will be installed on the existing gravel pad directly above the pump. The lift station upgrade and electric box placement will not change the amount of impervious surface from the existing condition.

9. The pump station is buried in the Lakeview Boulevard right-of-way with an above ground access manhole. It is situated about 40 feet from the Ordinary High Water Mark (OHWM) and is, therefore within shorelines jurisdiction. The proposed work involves equipment upgrades requiring no significant excavation. The cabinet above the pump (2' x 6' x'6') will be within the road right-of- way west of the traveled surface.

10. The lift station site is isolated from area residences. Above ground, the site has two power poles, and several small electrical boxes and associated appurtenances. The proposed new electrical cabinet will be consistent with the existing condition. Landscaping obscures the equipment. The box will be located so as not to endanger public health or safety.

11. The proposed pump station improvements are an upgrade to an existing facility. Physics and electrical codes require the power system to be as close to the load as possible. It is not feasible in this residential locale to locate the electrical cabinet farther from the OHWM.

12. Between the pump station and the treatment plant an electrical upgrade is proposed. This will require installation of two small-diameter conduits that will be located in a new utility easement running essentially parallel to SR 9. After installation the surface will be restored to its original condition or better.

13. The waste water treatment plant is in operation at all times and staffed from 7 a.m. to 4 p.m., Monday through Saturday, with a short shift on Sunday. Current staffing includes one to two persons at the plant and one person in the office. The hours and staffing will not change as a result of this project. Access to the plant is and will remain off the east side of SR 9. Traffic impacts will not change. The existing paved parking at the plant will continue to be adequate.

14. Trees currently provide screening for the plant site. New plantings will be made as needed. The project is almost totally concerned with internal modifications. Off site impacts will be minimal. The upgrade will increase the capacity of the treatment plant to accommodate future growth, but the development will remain consistent with other permitted activities in the area. The facilities involved are adequately served by existing infrastructure.

15. On the site the work will impose some impacts on existing wetlands and buffers. Because of the limited area, on-site compensation for these impacts is not feasible. The proposal includes the use of wetland mitigation banking credits. A condition will require that proof of purchase of such credits must be provided to the County prior to approval of the first grading or building permit. No impacts to fish or fish habitat are anticipated.

16. After environmental review, the County issued a Mitigated Determination of Non-Significance (MDNS) under the State Environmental Policy Act (SEPA) on April 2, 2009. The MDNS was not appealed. The following conditions were placed in the MDNS:

- a. Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works, shall be in place prior to the placement of any fill material. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage

Ordinance. Said measures shall remain in place until completion of the project.

- b. The applicant shall comply with Northwest Clean Air Agency requirements.
- c. The applicant shall comply with the provisions of Chapter 14.32 of the Skagit County Code, the Skagit County Drainage Ordinance, as it relates to increased runoff from additional impervious surfaces.
- d. The applicant shall comply with Fire Code Standards.
- e. An engineered soils compaction report shall be required for all structure placed on fill material.
- f. The applicant shall comply with all relevant provisions of 14.24 of the Skagit County Code (Skagit County Critical Areas Ordinance).
- g. The proposal shall comply with all applicable requirements of SCC 14.16, most notably, SCC 14.16.830 Landscaping, SCC 14.16.840 Performance Standards, and SCC 14.16.850 General provisions.
- h. A Construction Stormwater General Permit (NPDES) may be required by the Department of Ecology.

17. Public comments about the project focused mainly on the now-abandoned water reclamation feature of the proposal. However, questions were also raised about stormwater runoff and the propriety of using mitigation banking credits. Stormwater concerns were adequately addressed by the applicant. The use of mitigation banking credits is allowed in the absence of feasible on-site alternatives, provided that proof of purchase is supplied.

18. The treatment plant improvements require a Special Use Permit under the applicable zoning provision, SCC 14.16.310(4)(g). The proposed project is a "major utility development."

19. The upgrades to the sewage pump station requires a Shoreline Conditional Use Permit under the local Shoreline Master Program (SMP) section on Utilities, SMP 7.18.2(A)(2)(e).

20. The SMP establishes a setback of 100 feet for non-buried utilities in the Rural Residential designation. Therefore, a Shoreline Variance is required to locate the above-ground electrical cabinet within the setback. See SMP 7.18.2(C). Table U

21. The Staff Report evaluates the proposal in light of the criteria for approval for all three types of permits -- Special Use, Shoreline Conditional Use and Shoreline Variance -- and finds that, as conditioned, the development will be consistent with 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. The changes to the treatment plant will have little impact on other uses or on the surrounding area, except for modest visual differences in what can be observed through the landscaping from outside. The upgrade will be consistent with Comprehensive Plan and County Code requirements. The public health and safety will be benefited by the project.

23. Shoreline impacts of the proposal will be minor. The main work within the shoreline will be on an existing facility that is buried. All disturbed areas will be returned to their pre-existing condition. The shoreline impact of placing a small electric box in an already degraded right-of-way area will be negligible.

24. The treatment plant has been in operation since 1980. Since then elements of it have worn out, and technological advances have been made. The proposal will simply bring the facility into the modern era and prepare it to serve growth in the future.

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

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding. Since three different approvals are required, the application process has been consolidated for a single hearing before the Examiner under SCC 14.06.060.

2. The requirements of SEPA have been met.

3. The applicable criteria for approval of a Special Use Permit have been met. SCC 14.16.900(1)(b)(v).

4. The applicable criteria for a Shoreline Conditional Use Permit have been met. SMP 11.03.

5. The applicable criteria for a Shoreline Variance for development to be located landward of the OHWM have been met. SMP 10.03(1).

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

CONDITIONS

1. The project shall be constructed and operated in accordance with the application materials, except as the same may be altered by these conditions.

2. The applicant shall obtain all other necessary permits and approvals, including building and grading permits, and shall abide by the conditions of same. Grading permit plans must be prepared by a licensed civil engineer.

3. The applicant shall comply with all applicable policies and regulations of the Skagit County Code and the Washington Administrative Code, including but not limited to, Chapter 14.16 SCC (zoning), SCC 14.16.840 (performance standards), Chapters 173-700 and 173-201A WAC (surface water quality and groundwater), Chapter 173-60 WAC (noise)

4. The applicant shall comply with all conditions of the MDNS issued on April 2, 2009. (See Finding 16.)

5. Proof of purchase of the mitigation banking credits that are needed shall be provided to PDS prior to approval of the first grading or building permit.

6. The applicant shall comply with requirements of the Washington State Department of Transportation regarding access should any further enlargement of the treatment plant occur or should there be an increase in traffic volumes.


7. The project shall commence within two years of the issuance of these permits. The project shall be completed as required by SCC 14.16.900(1)(d) and WAC 173-27-090, as applicable.

8. Failure to comply with any condition may result in permit revocation.

DECISION

The requested Special Use Permit (PL09-0020) and Shoreline Conditional Use and Variance Permit (PL09-0021), are approved, subject to the conditions set forth above.

DONE, this 6th day of May 2011.



Wick Dufford, Hearing Examiner

Transmitted to Applicant on May 6, 2011

See Notice of Decision, Page 1, for Reconsideration and Appeal information.