

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Washington State Department of Transportation

Contact: WSDOT (Maria Mayrhofer/Alan Soicher)
15700 Dayton Avenue North
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Seattle, WA 98133-9710

Request/File No: Shoreline Substantial Development Permit, PL09-0325

Location: State Route 530, along the Sauk River and a side channel, between mile post 58.85 and mile post 60 (between Darrington and Rockport), within Sections 5 and 6, T33N, R10E, W.M.

Summary of Proposal: (1) After the fact approval of emergency shoreline stabilization to arrest bank erosion. (2) Relocation of a highway section and installation of a protective log structure to minimize potential roadway loss due to stream bank erosion.

Shoreline Designation: Conservancy

SEPA Compliance: Two Determinations of Non-Significance (DNS's) covering both phases of the application were issued by WSDOT: (1) July 16, 2009, for the stream bank stabilization project; (2) February 10, 2010, for the road relocation project. No appeals.

Public Hearing: October 13, 2010. No public testimony. Planning and Development Services (PDS) recommended approval.

Decision: Approval, subject to conditions

Date of Decision: October 27, 2010

Reconsideration/Appeal: 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. (SMP 13.01)

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

FINDINGS OF FACT

1. The Washington State Department of Transportation (WSDOT) seeks a Shoreline Substantial Development Permit to authorize work on State Route 530 near the Sauk River to protect the road from bank erosion.

2. The project involves work between mile post 58.85 and mile post 60 on the shoreline of the Sauk River and a side channel thereof. The road segment is roughly midway between Darrington and Rockport, north of the Sauk-Suiattle confluence. The project is within Secs 5 and 6, T33N, R10E, W.M. The shoreline designation of the property is Conservancy.

3. The application covers both emergency construction already completed and new construction in the same vicinity. The second phase involves a realignment of the highway to effect a permanent solution to the problem.

4. At the time of the emergency construction, portions of the receding shoreline had reached into weight bearing slope of the road prism, posing an imminent threat to the structure and to public safety. WSDOT issued a Declaration of Emergency on July 9, 2008.

5. The emergency construction was carried out between September 15, and November 1, 2008. It involved installation of shoreline protection between mile post 58.93 and mile post 59.41. Three sections of log cribwalls with steel piling and rock ballast were installed along a side channel of the river for a distance of approximately 1050 linear feet. The design was selected to minimize impacts to fish habitat. Riparian vegetation along the streambank was replanted with native species.

5. The realignment project will supplement the prior emergency construction work by relocating a 0.71 mile segment of highway inland away from the river. This relocated roadway will be outside of shoreline jurisdiction, except for 325 feet at the upstream (southern) end where the road connects to the old highway.

6. The realignment project will not affect the log cribwalls or riprap embankment along the side channel which constituted the emergency installation. However, to further protect the road from erosive forces in the side channel, a log structure will be placed in the vicinity of the shoreline north of an existing log cribwall.

7. The relocation will route the road away from an area where it runs along the Sauk River mainstem. In this by-passed area the roadbed will be removed and regraded, pre-existing riprap embankment beside the affected river reach will be partially taken out, and riparian vegetation will be restored to the shore and former road area.

8. The effect of the realignment will be to restore natural channel migration processes and enhance the character of the Sauk River shoreline by removing artificial bank hardening. The log structure has been designed to emulate natural shoreline conditions while providing some protection to the road prism. The structure will be dominated by wood components which will create bank roughness.

9. The relocated road segment is currently covered by a stand of young Douglas fir. The realignment will be approximately 500 feet landward of the river at its farthest point. There is a U.S. Forest Service boat access to the river north of the project limits. This will not be affected by the project. Within the project limits there is no public access to the water. Indeed, currently there is a 15' to 60' foot drop off from the road prism to the river.

10. For the construction of the road realignment, approximately 75,000 cubic yards of soil and rock will be excavated. About 50,000 cubic yards of the excavated material will be reincorporated into the road prism for the realignment. The remainder of the excavated material will be hauled to a WSDOT approved site. In the area of the abandoned roadway, approximately 3,600 cubic yards of surfacing and asphalt concrete pavement will be removed. This material will also be hauled to a WSDOT approved disposal site.

11. Approximately 5,000 cubic yards of topsoil and compost will be used to amend the regraded area prior to re-vegetation. The source of topsoil will be from clearing operations for road realignment. Compost will be obtained from a WSDOT approved supplier. Access to the abandoned roadway will be blocked off with a physical barrier to protect the plat restoration site.

12. For the purpose of advance mitigation credit with the Department of Fish and Wildlife, WSDOT will also remove riprap placed by Skagit County in the 1980's along the Sauk River and side channel shoreline. This riprap removal will aid in the restoration of stream bank and channel migration processes. Approximately 1746 cubic yards of riprap and approximately 3,564 cubic yards of borrow adjacent to SR 530 will be removed along 775 feet. After riprap removal, the area will be planted with appropriate native vegetation.

13. No instream work is associated with the project.

14. The application and revised application were published, mailed and posted as required by County Code. No comment letters were received. At the hearing there was no public testimony.

15. Under the State Environmental Policy Act (SEPA), two Determinations of Non-Significance (DNS's) were issued by WSDOT - one on July 16, 2009 for the emergency stabilization project, and another of February 10, 2010, for the road relocation project. No comments were received. No appeals were filed.

16. The project was reviewed for compliance with the County Critical Areas Ordinance (CAO). Project activities will occur within a fish and wildlife habitat conservation area. In light of the presence of shorelines within 200 feet of the improvements, the applicant submitted a biological assessment, a stream buffer mitigation memo and a site and reach assessment addendum. Based on these assessments both the emergency log cribwall placement and the road realignment were determined by Staff to be in compliance with the CAO.

17. The project was reviewed for consistency with the policies and regulations of the local SMP relating to Stabilization and Flood Protection and to Transportation. The project

meets the criteria for threat by erosion to public works. Professional design by engineers for WSDOT was employed. No river realignment or straightening will occur. Natural vegetation will be preserved where possible and will be planted where disturbance has occurred with compatible self--sustaining, soil-stabilizing vegetation.

18. The relocation in moving the highway away from the river will minimize the need for future shoreline defense and stabilization measures. The inland route will reduce shoreline impacts. The relocation will not adversely affect natural resources. The proposed mitigation should improve fish habitat.

19. 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. SMP 9.06.

2. The requirements of SEPA have been met.

3. The requirements of the Critical Areas Ordinance have been met.

4. Where new protective structures are installed to abate an emergency, they may remain after the emergency has passed only if a permit is obtained. WAC 173-27-040.

5. The whole project is a substantial development under the Shoreline Management Act and thus a Substantial Development Permit is needed. RCW 90 58.140.

6. The development is consistent with the relevant policies and regulations of the SMP. Chapters 7.16 and 7.17 SMP.

7. The development is consistent with the policies of the Shoreline Management Act. No conflict with shoreline regulations adopted by the Department of Ecology has been identified.

8. As conditioned, the project meets the criteria for Substantial Development Permit approval. SMP 9.02.

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

CONDITIONS

1. The project shall be constructed and maintained as described in the application materials, except as the same may be modified by these conditions.

2. The applicant shall comply with all relevant State regulations, including those relating to water quality.

3. Temporary erosion/sedimentation control measures shall be used in accordance with Chapter 14.32 SCC (Drainage).

4. The applications shall comply with all other relevant County regulations.

5. The applicant shall comply with Northwest Clean Air Agency requirements.

6. Aesthetic impacts shall be minimized.

7. If any modification of the project is desired, the applicant shall apply to PDS for a permit revision.

8. Construction shall commence within two years of the issuance of the Shoreline Substantial Development Permit and shall be completed within five years thereof.

9. Violation of any permit condition may result in permit revocation.

DECISION

The requested Shoreline Substantial Development Permit (PL09-0325) is approved, subject to the conditions set forth above.

DONE this 27th day of October, 2010.



Wick Dufford, Hearing Examiner

Transmitted to Applicant on October 27, 2010.

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