

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Skagit County Department of Public Works
1800 Continental Place
Mount Vernon, WA 98273

Request/File No: Shoreline Substantial Development Permit, PL 11-0411

Location: Just east of the Hansen Creek culvert crossing under Minkler Road, within NW1/4 Sec. 20, T35N, R5E, W.M.

Shoreline Designation: Rural

Summary of Proposal: Installation of a 4' tall by 8' wide concrete box culvert under Minkler Road just east of the existing Hansen Creek culvert crossing. The new 70-foot long culvert will be an overflow structure intended to improve flood conveyance capacity under Minkler Road, directing its flow into Hansen Creek downstream of the road culvert.

SEPA Compliance: Mitigated Determination of Non-Significance (MDNS) issued February 21, 2012. No appeals.

Public Hearing: April 25, 2012. No members of the public testified. Jan Flagan, Surface Water Manager, spoke for Public Works. Planning and Development Service (PDS) recommended approval.

Decision/Date: Approval, subject to conditions. Dated May 9, 2012.

Reconsideration/Appeal 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 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. The Skagit County Department of Public Works seeks a Shoreline Substantial Development permit to install a flood control structure in the right-of-way of Minkler Road.

2. The proposed structure will be a 4' tall by 8' wide by 70' long box culvert installed under Minkler Road just east of the Hansen Creek culvert. The location is within the NW1/4 Sec. 20, T35N, R5E, W.M.

3. Minkler Road at the site has a paved width of 24 feet within a 100 foot right-of-way. The proposal is intended as an overflow structure to improve flood conveyance capacity under Minkler Road and to direct flows into Hansen Creek just downstream of the road culvert. Light loose riprap will be placed between the end of the new structure and Hansen Creek to provide outlet protection.

4. The installation is part of a larger roadside ditch maintenance project. The ditch along the north side of Minkler Road will be cleaned and various undersized driveway-access culverts will be replaced with 36" corrugated polyethylene (CPE) pipe culverts. Overall, the project will help to decrease localized flooding that occurs along the north side of Minkler Road, reducing impacts to local landowners.

5. The proposed box culvert is within the shoreline of Hansen Creek. The proposed ditch maintenance does not require a shoreline permit. The site is within a special flood hazard area and will require a flood plain development permit prior to the start of construction.

6. The project site is within a Rural environment under the Skagit County Shoreline Master Program (SMP). The zoning designation is Agriculture-Natural Resource Land (Ag-NRL). The surrounding land is devoted to agriculture and single family residential uses.

7. Along Hansen Creek there is substantial riparian vegetation including both native and non-native species. Vegetation disturbance during construction will be minor, consisting mostly of blackberry removal near the culvert outlet. Native species will be protected to the extent feasible.

8. Plans are to commence and complete the project during the summer/fall of 2012. Temporary traffic disruptions are expected for about three days during the one-week construction period.

9. When complete, the entire ditch maintenance project should have little or no aesthetic impact. The driveway-access culverts will be located at existing access points. The box culvert under Minkler Road will not be visible to passing traffic. Any disturbed areas outside of the road prism will be replanted with native vegetation. For nearby landowners, the inlet and outlet of the new installation will be visually obscured by vegetation.

10. After environmental review pursuant to the State Environmental Policy Act (SEPA), a Mitigated Determination of Non-Significance (MDNS) was entered on February 21, 2012. The MDNS was not appealed. Conditions of the MDNS are as follows:

1. Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works, shall be in place prior to the disturbance of the site. 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.
2. The applicant shall comply with Northwest Clean Air Agency requirements.
3. The applicant shall comply with the provisions of Skagit County Code (SCC) 14.32 (Drainage Ordinance).
4. The applicant shall comply with all relevant provisions of SCC 14.24 (Critical Areas Ordinance).
5. The applicant shall receive all applicable state and federal permits before beginning any phase of construction.

11. Public notices for both the proposal and the hearing were made as required by law. Comments from nearby landowners were received and their concerns were incorporated into the project design.

12. The proposal was circulated to various County departments and no concerns were expressed. The proposal was deemed repair and maintenance for purposes of the Critical Areas Ordinance. Best management practices will be used and any affected areas will be restored after the project to the extent feasible.

13. The Staff Report analyzes the project under the Utilities chapter of the local shoreline master program and determines that the project, as conditioned will be consistent with the program. The Hearing Examiner concurs in this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

14. 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 project, as conditioned, is consistent with the policies and regulations of the SMP and of the Department of Ecology. It meets the criteria for approval of a Shoreline Substantial Development Permit. SMP 9.02.

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

CONDITIONS

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

2. The applicant shall comply with all conditions of the MDNS entered on February 21, 2012. See Finding 10 above.

3. The applicant shall comply with all applicable local, state and federal regulations, including but not limited to state water quality standards as set forth in Chapters 173-201A and 173-200 WAC.

4. The applicant shall obtain all necessary local, state and federal permits prior to commencing construction. This includes a flood plain development permit from the County. Permits or approvals may be required from the Washington State Department of Fish and Wildlife, the Washington State Department of Ecology and the U.S. Army Corps of Engineers.

5. If the applicant proposes any modification of the subject proposal, a permit revision shall be requested from PDS.

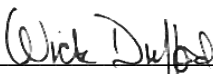
6. Construction shall be commenced within two years of the issuance of required permits and shall be completed within five years thereof.

7. Failure to comply with any conditions of this permit may result in permit revocation.

DECISION

The application (PL 11-0411) for a Shoreline Substantial Development Permit is approved, subject to the conditions set forth above.

DONE, this 9th day of May, 1012.



Wick Dufford, Hearing Examiner

Transmitted to Applicant on May 9, 2012
See Notice of Decision, Page 1, for Reconsideration and Appeal information.