

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Concrete Nor' West
c/o Dan Cox
P. O. Box 280
Mount Vernon, WA 98284

File No: PL08-0278

Request: Special Use Permit

Location: Immediately north of the Belleville Sand and Gravel Mine at 8198 Old Highway 99 North Road, within a portion of Sec. 18, T35N, R4E, W.M.

Parcel No: P36848

Land Use Designation: Rural Resource-Natural Resource Land (RRc-NRL) with a Mineral Resource Overlay (MRO).

Summary of Proposal: To extend surface mining of gravel to a 2.37 acre area on the Gary Dickman property at the northeast corner of the current permitted Belleville gravel mine. Material will be excavated to a maximum depth of 30 feet MSL and approximately 75,000 cubic yards will be removed. Final reclamation contours will be blended to match with the adjacent mined area. The proposed mining will be screened by 100-foot-wide undisturbed vegetated buffers on the east and north.

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on October 8, 2008.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. Concrete Nor'West seeks to expand its Bellevue Sand & Gravel Mine to include a 2.37 acre area adjacent to the northeast corner of the present mine. The new area is owned by Gary Dickman.
2. The 97-acre Belleville mine is located approximately 0.1 mile west of I-5 just north of the Samish River. The adjacent new mining site is at 8198 Old Highway 99 within a portion of Sec. 18, T35N, R4E, W.M. The zoning is Rural Resource-Natural Resource Land (RRc-NRL) within a Mineral Resource Overlay (MRO). The land to the west, north and south has the same zoning.
3. The Dickman property is an approximately five-acre parcel, much of which has been mined in the past by the Washington State Department of Transportation. The proposal is to remove approximately 75,000 cubic yards of material and flatten the grade on a portion of the property. Some trees and brush will need to be removed initially.
4. The material will be excavated to a maximum depth of 30 feet MSL. A minimum of 10 feet of separation between the groundwater table and the pit floor will be maintained. Geotechnical analysis concluded that adding the 2.37 acres of new mining area will not significantly change the ground water recharge nor significantly alter the potential water-quantity/quality impacts initially analyzed for the existing permitted mine.
5. The final reclamation contours will be blended to match the adjacent Belleville gravel mine. The proposed operations do not include blasting. The number of employees at the mine will not increase. The hours of operation will not change. The life of the overall project will remain at about 30 years.
6. A 100-foot undisturbed vegetated buffer will be preserved to the east and north. The visibility of mining operations from I-5 to the east will not change. Aesthetic impacts that can be observed from off of the site will not change. No critical areas will be affected.
7. All materials excavated from the Dickman property will be processed at the Belleville site and hauled out using the existing access route. Daily vehicle traffic over this route and elsewhere will not increase as a result of the expansion of the mine.
8. A noise assessment resulted in the conclusion that noise emitted from the expansion will be the same or slightly less than reported for adjacent permitted activities.

9. There are no water supply wells within 1,000 feet of the Dickman property. The property is hydraulically upgradient of the currently installed monitoring well network and, therefore, any effects from the new mining will be detected under the existing monitoring plan for the Belleville site.

10. Notice of the project was given as required by County code and no comments were received. A Mitigated Determination of Non-Significance (MDNS) under the State Environmental Policy Act (SEPA) was issued on August 14, 2008. No appeals were received. The MDNS contained the following conditions:

(1) Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works, shall be in place prior to the initiation of the project pursuant to Skagit County Code (SCC) 14.32, Drainage Ordinance. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage/Erosion/Sedimentation Control 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 all relevant provisions of 14.24 (Skagit County Critical Areas Ordinance).

(4) Operation of equipment/construction and daily operations shall comply with Maximum Environmental Noise Levels Chapter 173-60 WAC and address noise and vibration limitations and Skagit County Code 14.16.840 for light and noise conditions. This includes ventilation for safety, heating and cooling of any office and storage/garage/preparation/barns or recreational buildings, as well as operation of daily use and activities;

(5) Washington State WAC's 173-201A and 173-200 shall be complied with, as required to address surface water quality issues and ground water issues. Best management practices shall be utilized to prevent interference and/or degradation of water quality.

(6) The public right-of-way shall be kept clean. Tracking of mud and debris off site shall not be allowed.

(7) The applicant shall comply with the Fire Marshal requirements.

(8) The project is limited to those activities described in the SEPA checklist and supporting documents. Significant deviation from the proposal may require additional review and approval by Skagit County Planning & Development Services.

11. County agencies were consulted and their concerns were addressed during application review. At the hearing there was no public testimony. Gary Dickman testified in favor of the proposal.

12. The criteria for Special Use Permit approval are set forth at SCC 14.16.900(1)(b)(v), as follows:

- (a) The proposed use will be compatible with existing and planned land use and comply with the Comprehensive Plan.
- (b) The proposed use complies with the Skagit County Code.
- (c) The proposed use will not create undue noise, odor, heat, vibration, air and water pollution impacts on surrounding, existing, or potential dwelling units, based on the performance standards of SCC 14.16.840.
- (d) The proposed use will not generate intrusions on privacy of surrounding uses.
- (e) Potential effects regarding the general public health, safety, and general welfare.
- (f) For special uses in ... Natural Resource Lands ..., the impacts on long-term natural resource management and production will be minimized.
- (g) The proposed use is not in conflict with the health and safety of the community.
- (h) The proposed use will be supported by adequate public facilities and services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

13. The Staff Report analyzes the application in light of the above criteria and finds that, as conditioned, the project will be consistent with them. 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.

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 persons and the subject matter of this proceeding.

2. The requirements of SEPA have been met.

3. A Special Use Permit is required for extracting and processing mineral resources in the RRC-NRL zone “if located within a designated mineral resource overlay.” SCC 14.16.430(4)(g).

4. The proposed project, as conditioned, meets the criteria for Special Use Permit Approval. SCC 14.16.900(1)(b)(v).

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

CONDITIONS

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

2. The applicant shall obtain all other necessary permits and approvals, including appropriate amendments to the Mining Reclamation Plan.

3. The applicant shall comply with all conditions of the MDNS, issued August 14, 2008. (See Finding 10.)

4. The applicant shall comply with all applicable State and County regulations.

5. All pertinent conditions of the approval of the Belleville Sand and Gravel Mine (PL99-0131) shall apply to this extension.

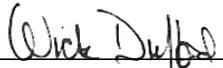
6. This permit shall be void if the use permitted has not been established within two years of permit approval.

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

DECISION

The request Special Use Permit (PL08-0278) is approved, subject to the conditions set forth above.

DONE this 22nd day of October, 2008.



Wick Dufford, Hearing Examiner

Date Transmitted to Applicants: October 22, 2008

RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with Planning and Development Services within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with Planning and Development Services within 14 days after the date of the decision, or decision on reconsideration, if applicable.