

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Washington Department of Fish and Wildlife
c/o Loren Brokaw
16018 Mill Creek Boulevard
Mill Creek, WA 98012
- Project Partner:** Ducks Unlimited
c/o C.K. Eidem
1502 Rockefeller Ave.
Everett, WA 98201
- Request:** Special Use Application PL14-0499
- Location:** Samish Unit, Skagit Wildlife Area, 12296 Samish Island Road,
within a portion of Secs 1, 6, 7 and 12, T35N, R2E and R3E, W.M.
- Land Use Designation:** Agricultural Natural Resource Lands (Ag-NRL)
- Summary of Proposal:** Special Use application to improve the drainage system at the 409
acre Skagit Unit site for wildlife and agricultural purposes.
- SEPA Compliance:** Determination of Non-Significance (DNS) issued by WDFW on
September 11, 2014. No appeals.
- Public Hearing:** May 27, 2015. Testimony by Staff, applicant and project partner.
Brandon Roozen testified for the Western Washington Agriculture
Association. Planning and Development Services (PDS)
recommended approval.
- Decision/Date:** The application is approved, subject to conditions. June 15, 2015
- Reconsideration/Appeal:** Reconsideration may be requested within 10 days of this decision.
Appeal is to Board of County Commissioners by filing with PDS
within 14 days of the date of this 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 Washington Department of Fish and Wildlife (WDFW) seeks a Special Use Permit to make improvements to the drainage system at the Samish Unit of the Skagit Wildlife Area to improve water management for wildlife and agricultural purposes. The proposal is called the *Samish Wildlife Unit Enhancement* project.
2. The project is located on 409 acres of land along Samish Island Road between Padilla Bay and Samish Island Road. The property is at 12296 Samish Island Road, within a portion of Secs 1, 6, 7 and 12, T35N, R2E and R3E, W.M.
3. The property is zoned Agricultural Natural Resource Lands (Ag-NRL). The surrounding land uses are primarily agricultural in nature with scattered residential uses. The adjacent properties to the east, north and south are in agriculture and open space. There is only one residential structure immediately adjacent to the subject property, located to the northeast, north of Samish Island Road. Padilla Bay is adjacent to the site to the west on the west side of the existing dike system.
4. The proposal includes the installation of 10 flow control structures in existing ditches, the building of ditch plugs, maintenance of existing ditches and the addition or improvement of pipes, swales and ditches between duck ponds. The design will impound water in a portion of the property while better draining other portions, allowing rotation between flooded conditions and agriculture. The project will permit management to mimic seasonal wetland patterns and is specifically targeted to benefit waterfowl.
5. The project is expected to be constructed between July and the end of November 2015. The property will be open to the public with hunting hours dependent on regulations set by WDFW. Three Wildlife Area staff members will oversee management of this unit, along with other elements of the broader Skagit Wildlife Area. The working hours are Monday through Friday, 8 a.m. to 5 p.m. Enforcement Officers frequently patrol the area.
6. Access to the property is from Samish Island Road. There are no proposed changes to the existing access or existing parking area. No new internal roads are proposed. During construction no large quantities of materials are expected to be hauled from the site and traffic impacts are expected to be minimal.
7. The application was deemed complete on December 22, 2014, and a Notice of Development Application was published on December 25, 2014 and posted on the property and mailed to adjacent owners as required by law. Three comment letters were received.
8. Of the three comment letters, two were in support of the project. The third raised concerns about fecal coliform impacts on Samish Bay. WDFW responded showing that the location of the instant project makes such impacts unlikely. However, WDFW said it is interested in working with stakeholders to minimize fecal coliform bacteria issues in Samish Bay.

9. Because critical areas will be affected, a Wetland/Fish and Wildlife Assessment was prepared. The report concluded that the project will improve and diversify wetland functions while continuing large scale agriculture. Effects on waterfowl and shorebirds were found to be beneficial. No ESA-listed fish, wildlife or marine mammals will be impacted.

10. The application was routed to various County Departments. None had concerns. Public Works noted that the applicant will be required to get a fill and grade permit.

11. On April 29, 2015, an exemption from the Shoreline Substantial Development Permit requirement was obtained to stockpile material excavated from project swales. Stockpiling will occur on the existing dike. The material is to be used for dike repair and maintenance. At the hearing, it was noted that the project will stockpile spoils in the north rather than the south portion of the site. This is not expected to have adverse effects. A spokesman stated that the Western Washington Agriculture Association will work with the project sponsors to insure no adverse impacts.

12. The Staff report reviewed the project in light of the approval criteria for Special Use Permits and concluded that, as conditioned, it will be consistent with those criteria. 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.

13. The Examiner notes that habitat enhancement and/ or restoration projects are expressly allowed in the AG-NRL zone if the Special Use criteria are met. Here the use of the site will not change, existing public facilities are adequate, and the criteria are met. Both agriculture and wetland habitat are expected to improve as a result of the project.

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 this proceeding. SCC 14.06.050(1)(b)(ii).
2. The requirements of SEPA have been met.
3. As conditioned, the proposal meets the requirements of the Critical Areas Ordinance. SCC 14.24.120
4. The proposal, as conditioned is consistent with the approval criteria for a Special Use Permit. SCC 14.16.900(1)(b)(v).
5. Any finding which may be deemed a conclusion is hereby adopted as such.

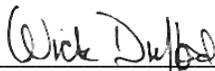
CONDITIONS

1. The project shall be carried out as described in the application materials, except as modified at hearing or by these conditions.
2. The applicant shall obtain all necessary permits and approvals and shall abide by the conditions of same.
3. The applicant shall comply with all relevant provision of the Skagit County Code, including but not limited to Chapter 14.24 SCC (critical areas), Chapter 14.16 SCC (zoning), SCC 14.16.840 (performance standards), Chapter 14.32 SCC (drainage).
4. The applicant shall comply with all other applicable regulations, including but not limited to Chapter 173-60 WAC (noise), Chapters 173-201A and 173-200 (surface and ground water quality).
5. The applicant shall submit a copy of this Order with development permit applications. Construction shall not begin until a grading permit has been obtained.
6. If the applicant proposes any modification of this project, it shall request a permit revision from PDS prior to the start of construction.
7. This approval shall not be final until all outstanding planning review fees are paid.
8. The project approved hereby shall be commenced within two years of the approval hereof.
9. Failure to comply with any permit condition may result in permit revocation.

DECISION

The requested Special Use Permit (PL14-0499) for the *Samish Wildlife Unit Enhancement* project is approved, subject to the conditions set forth above.

DONE, this 15th day of June, 2015.



Wick Dufford, Hearing Examiner

Transmitted to applicant and parties of record, June 15, 2015.

See Notice of Decision, page 1, for appeal information