

ISLAND COUNTY HEARING EXAMINER

RE: Site Plan Review	)	File Numbers: SPR 072/10
	)	
	)	FINDINGS OF FACT
Applicant: Miles Sand & Gravel	)	CONCLUSIONS OF LAW
Co., Inc.	)	AND DECISION

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**SUMMARY OF APPLICATION AND DECISION**

APPLICATION: Miles Sand & Gravel Company, Inc. seeks Site Plan Review Approval for the proposed expansion of an existing 40-acre sand and gravel extraction and processing surface mine to 70-acres. The 30-acre expansion will allow the mining of approximately 4.2 million cubic yards of material over a 36 year period. The proposal includes, in addition to the mining activity itself, processing of the materials, and concrete production.

DECISION: The proposed expansion and additional processing and concrete production are approved subject to conditions.

**FINDINGS OF FACT**

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted herein and evidence presented at the public hearings on April 21, 2011 and May 19, 2011.

I.

PRELIMINARY INFORMATION

Applicant: Miles Sand & Gravel Co., Inc.

Property Location: Property is accessed from Sleeper Road and/or Taylor Road  
Oak Harbor, Washington

Assessor's Parcel Nos. R23318-165-4650, R23318-203-3340, R23318-071-3790

Applicable Ordinances, Statutes and Regulations:  
16.15 ICC – Site Plan Review Ordinance Chapter  
16.19 ICC – Land Use Review Ordinance Chapter  
17.03 ICC – Zoning Ordinance Chapter  
ICC 17.03.180.A – Land Use Standards  
ICC 17.03.180.U – Surface Mine Standards

SEPA: Final SEPA Threshold Determination, dated 3/30/2011

Publication: May 28, 2010, March 31, 2011, April 26, 2011

Mailing of Notice to Applicant: May 14, 2010 and April 15, 2011

Sign Posted: April 15, 2010 and May 12, 2010

Mailing of Staff Report: April 22, 2011

Date of Application: April 15, 2010

Hearing Date: May 5, 2011

Exhibit Log:

1. Staff Report
2. Final SEPA Threshold Determination, dated 3/30/2011
3. Pre-Application conference (Pre) Application, received 3/16/2009
4. Pre-Application Narrative from Concrete Nor'West, received 3/16/2009
5. Land Development Permit Application, received 3/16/2009
6. Applicant Authorization From, received 3/16/2009
7. Map of Surface Mine existing conditions, received 3/16/2009
8. Map of Site and Segment Plan, received 3/16/2009
9. Map of Final Reclamation Plan and X-Sections, received 3/16/2009
10. Map of Segment 1 – Processing Plan, received 3/16/2009
11. Map of SE 1/4, Sec. 18, Twp. 33N R 2E, received 3/16/2009
12. North Whidbey Island Vicinity Map, received 3/16/2009
13. Taylor Road Site Map, received 3/16/2009
14. Aggregate Resource Evaluation Report by Associated Earth Sciences, Inc, received 3/16/2009
15. Water Well Reports, received 3/16/2009
16. Request for Comment by CW, received 3/16/2009
17. Letter from Andreana Richardson to Jason Fields, scheduling pre-app conference, dated April 3, 2009
18. Map of SE 1/4, Sec 18, Twp 33N, R2E, outlining Mineral Lands, no date
19. Arc Explorer Map Title, no date
20. Pre-App Staff Comments from Brandon Sweezea to Jason Fields, dated 4/20/2009
21. Letter from John Bertrand to Brandon Sweezea, dated 4/21/2009
22. Pre-Application Meeting Sign In, dated 4/23/2009
23. Letter from Aneta Hupfauer to Jason Fields, dated 4/23/2009
24. Letter from Andreana Richardson to Fakkema & Kingma, Inc, scheduling pre-app conference, dated January 11, 2010
25. Project contact information, received 4/15/2010
26. Site Plan Review application Table of Contents, received 4/15/2010

27. Master Land Development Permit Application, received 4/15/2010
28. Application for Site Plan Review for surface mine, received 4/15/2010
29. SEPA Environmental Checklist, received 4/15/2010
30. Meeting Minutes from Community Meeting held 1/28/2010, received 4/15/2010
31. Notice of Community Meeting Sign, received 4/15/2010
32. Affidavit of Posting the Public Notice Sign, received 4/15/2010
33. Field Indicators Worksheet and Hydrology Map, received 4/15/2010
34. Reclamation Narrative, received 4/15/2010
35. Environmental Protection Plan, received 4/15/2010
36. Application for Reclamation Permit from DNR, received 4/15/2010
37. Land Descriptions, no date
38. Puget Power Easement, received 4/15/2010
39. Visual Analysis Site Map, no date
40. North View picture of property, received 4/15/2010
41. NorthWest and West Views of property, received 4/15/2010
42. South and East Views of property, no date
43. Transportation Impact Analysis by Heffron Transportation, received 4/15/2010
44. Letter from Connie Bowers to Jason Fields, dated 11/19/2009
45. Certificate of Transportation concurrency, received 4/15/2010
46. Note regarding Access Permit No. A5380 for Taylor Rd, Received 4/15/2010
47. Application for Access to county road right of way, received 4/15/2010
48. Associated Earth Sciences, Inc Addendum Report, received 4/15/2010
49. Water Well Reports, received
50. Environmental Noise Report by ENVIRON International Corp., received 4/15/2010
51. Letter from Vin Sherman to Dan Cox, received 4/15/2010
52. I.C.H.D. Site Registration, no date
53. Solid Waste Permit Application, received 4/15/2010
54. Storm Drainage Analysis by David Harmsen, PE, received 4/15/2010
55. Map of Existing Conditions, received 4/15/2010
56. Map of Reclamation Sequencing Plan, received 4/15/2010
57. Map of Final Reclamation Plan & X-Section, received 4/15/2010
58. Map of Erosion & Sediment Control Plan, received 4/15/2010
59. Map of Processing area Grading & Drainage Plan, received 4/15/2010
60. Map of Final Reclamation Plan & X-Section, no date
61. Island County Request for Agency Comments, dated 4/15/2010
62. Email from Dan Cox to Brandon Sweeza, dated 7/14/2010
63. Letter from Brandon Sweeza to Jason Fields requesting additional information, dated 9/3/2010
64. Response to Staff Comments Table of Contents, received 10/19/2010
65. Letter from Jason Fields to Brandon Sweeza, received 10/19/2010
66. Updated Reclamation Narrative, received 10/19/2010
67. Revised Storm Drainage Analysis, received 10/19/2010
68. Associated Earth Sciences Addendum Letter- Response to comments, received 10/19/10
69. Fueling Area Operation, received 10/19/2010
70. Letter from Erica Martell to Dan Cox, received 10/19/2010
71. Letter from Brandon Sweeza to Jason Fields requesting additional information, dated 1/26/2011
72. Letter from Jason Fields to Brandon Sweeza, received 2/15/2011
73. Map of Existing Conditions, received 2/15/2011
74. Map of Reclamation Sequencing Plan, no date
75. Map of Final Reclamation Plan & X-Sections, no date
76. Map of Erosion & Sediment Control Plan, received 2/15/2011
77. Map of Processing Area Grading and Drainage Plan, no date
78. Parcel data information, no date
79. Letter from John Bertrand to Brandon Sweeza, no date
80. Letter from Jennifer Meyer, NAS Whidbey to Brandon Sweeza, dated 5/28/10

81. Letter from John Bertrand to Brandon Sweeza, dated 7/13/2010
82. Letter from Erica Martell to Dan Cox, dated 10/7/2010
83. Letter from John Bertrand to Brandon Sweeza, dated 11/3/2010
84. Letter from Aneta Hupfauer to Brandon Sweeza, dated 12/3/2010
85. Letter from Aneta Hupfauer to Brandon Sweeza, dated 2/25/2011
86. Notice of complete application, dated 5/7/2010
87. Affidavit of Posting the Public Notice Sign, received 5/12/2010
88. Affidavit of Mailing the Public Notice to contact person, dated 5/14/2010
89. Affidavit of Mailing the Public Notice to parties of record and/or property owners within 300' of parcels, dated 5/14/2010
90. Island County Notice of Application with SEPA, dated 5/19/2010
91. Notice of Application in Newspaper, received 5/28/2010
92. Email from Judi Gilbert to Brandon Sweeza, dated 9/3/2010
93. Letter from Paula Bradshaw, Office of the Island County Hearing Examiner to Jason Fields dated 3/30/11 (notification of corrected hearing date).
94. Affidavit of mailing notification of hearing date, dated 3/31/11.
95. Letter from Paula Bradshaw, Office of the Island County Hearing Examiner to Jason Fields dated 3/31/11 (notification of corrected hearing date).
96. Affidavit of mailing notification of corrected hearing date, dated 3/31/11.
97. Letter from Paula Bradshaw, Office of the Island County Hearing Examiner to Jason Fields dated 4/15/11 (confirming correct hearing date).
98. Affidavit of mailing notification of corrected hearing date, dated 4/15/11.
99. Letter from Paula Bradshaw to Fakkema & Kingma, with attached Staff Report, dated 4/22/11
100. Affidavit of mailing Staff Report, dated 4/22/11
101. Affidavit of publication of hearing, dated 4/26/11
102. Memo from the Island County Hearing Examiner Michael Bobbink, dated 5/31/11
103. Memo from the Island County Hearing Examiner Michael Bobbink, dated 6/6/11
104. Memorandum from Brandon Sweeza to Michael Bobbink, John Bertrand, Aneta Hupfauer, and Dan Cox regarding revised conditions of approval, dated 6/14/11.
105. Public Works revised comments dated June 10, 2011
106. Email from Dan Cox to Brandon Sweeza, dated June 10, 2011 confirming agreement with revised conditions.
107. Memorandum from Dan Cox, Concrete Nor'West to Island County Hearing Examiner, dated May 5, 2011

## HEARING TESTIMONY

Brandon Sweeza  
Planning & Community Development  
P.O. Box 5000  
Coupeville, WA 98239

Dan Cox  
Concrete Nor'West  
P.O. Box 280  
Mount Vernon, WA 98273

Bill Lynn  
P.O. Box 1157  
Tacoma, WA 98401

Robert H. Pederson, Director  
Planning & Community Development

Island County Hearing Examiner  
SPR 072/10 Concrete Nor'West

II.

Island County Planning and Community Development recommended approval of the proposed expansion and processing, subject to conditions. Staff's Findings of Fact are set forth in the Staff Report, Exhibit No. 1 in the Hearing Examiner file. The Applicants indicated that the factual matters set forth in the Staff Report are accurate. There was no public hearing testimony from members of the public. The record as a whole supports Staff's Findings of Fact.

The Hearing Examiner adopts the Findings of Fact set forth in Exhibit No. 1, a copy of which is attached hereto, and incorporates them as Findings of Fact herein by this reference.

There was one public comment received in writing during the comment period. This comment expressed concerns about potential groundwater contamination, dust, and noise emanating from the operation. The Hearing Examiner has concluded that these concerns are adequately met by the Conditions of Approval attached to this Decision.

Noise and other potential adverse impacts are minimized by the limited hours of operation and by the implementation of the recommendations of a Noise Study performed for the Applicants. The mine has been in operation for a number of years and there is no history of complaints about or problems with the operation of the mine in the record.

III.

The proposal was reviewed by Staff of the Island County Health, Engineering (Public Works), and Planning and Community Development Departments. Subject to compliance with recommended conditions, no County agency objects to Site Plan Review Approval for this proposed sand and gravel extraction and processing operation.

#### IV.

At the public hearing on this matter, the Applicants submitted a memorandum to the Hearing Examiner, dated May 5, 2011, and marked as Exhibit No. 107. In this memorandum, Concrete Nor'West raised a number of issues regarding the Conditions of Approval proposed in the Staff Report. The Applicant requested revision or deletion of several of the conditions and addressed each of them. The Applicant also referred to RCW 78.44 and suggested that some of the conditions, and perhaps some of the requirements in the Island County Code, were inconsistent with, or in conflict with, RCW 78.44 and the regulations set forth in Chapter 332-18 WAC, Surface Mine Reclamation.

Staff and the Applicant agreed to meet and review the concerns raised by the Applicant. After the close of the public hearing, the Hearing Examiner reviewed the concerns of the Applicant, the applicable sections of the Island County Zoning Ordinance, RCW 78.44 and WAC 332-18. This review led to a memorandum from the Hearing Examiner to the Parties indicating that the Hearing Examiner lacked jurisdiction to resolve the possible conflicts between the Island County Code and applicable State law. The Hearing Examiner indicated his opinion that both Staff and the Hearing Examiner were required to apply the Island County Code to the proposal and that resolution of any claimed conflicts between the Island County Code as adopted and State law would have to be resolved by the Courts.

In response, the Applicant indicated that they were in negotiations with Staff and believed that they could reach an agreement with Island County Planning and Community Development on conditions which addressed their concerns but were still consistent with the Island County Code. As a result of discussions between Staff and the Applicant, the Parties have submitted to the Hearing Examiner a revised set of conditions set forth in a memorandum to the Hearing Examiner, dated June 14, 2011. The proposed modifications to the Conditions of Approval were reviewed by Island County Public Works. The Public Works Department indicated no objection to Preliminary Site Plan Review Approval,

subject to a new set of conditions set forth by Public Works in a memorandum to Brandon Sweeza, dated June 10, 2011.

Based on Public Works review and the agreement reached between the Applicants and Staff, new Conditions of Approval were proposed. The Hearing Examiner has reviewed the revised recommendation and Conditions of Approval in light of the Surface Mining Requirements set forth in ICC 17.03.180.U and other applicable County Ordinances.

V.

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following:

**CONCLUSIONS OF LAW**

I.

Subject to the revised and agreed to the recommended Conditions of Approval set forth in the memorandum, dated June 14, 2011, from Brandon Sweeza, Associate Land Use Planner, to the Hearing Examiner, the Hearing Examiner concludes that Preliminary Site Plan Review Approval will be consistent with the Land Use Standards and Surface Mine Standards of the Island County Zoning Ordinance, ICC 17.03.180.A and ICC 17.03.180.U, as well as the requirements for Site Plan Review Approval, pursuant to ICC 16.15.

Both Island County Public Works and the Island County Health Department have submitted conditions for approval.

The Island County Hearing Examiner should grant Preliminary Site Plan Review Approval to the Applicant for the proposed mineral extraction and processing, subject to the Conditions of Approval, contained in Staff Memorandum, dated June 14, 2011, Exhibit No. 104.

## II.

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following:

### **DECISION**

Preliminary Site Plan Review Approval is hereby granted to Miles Sand & Gravel Company, Inc., approving the expansion of an existing 40-acre sand and gravel extraction surface mine and associated processing on a 70-acre site, consisting of Assessor's Parcel No. R23318-165-4650, R23318-203-3340, and R23318-071-3790, subject to the following conditions:

1. Prior to commencement of site preparations, the landowner must obtain all necessary permits which may include (but not limited to) a Reclamation Permit from Department of Natural Resources (DNR) and a NPDES Permit from the State Department of Ecology (DOE).
2. Compliance with all conditions of the Island County Engineering Division as specified in the memorandum, dated June 10, 2011 (Exhibit A).
3. Compliance with all conditions of the Island County Public Health as specified in the memorandum, dated February 25, 2011 (Exhibit B).
4. Use of Parcel R23318-071-3790 is limited only to access for the proposed operation. No extractive, processing, or other activities associated with the surface mine are permitted on this parcel.
5. All Surface Mining activities shall comply with the Washington State Surface Mining standards contained in 78.44 RCW.
6. Hours of Operation. All operations at the pit site shall be limited as described below:
  - a.) Gravel washing & crushing, excavation, and use of the Sleeper Road access for transporting materials shall only be permitted to occur between 7:00am-6:00pm, Monday-Saturday.
  - b.) All operations not described above shall be permitted to occur between 6:00a.m. & 10:00 p.m. following that truck traffic only utilizes the Taylor Road access.
  - c.) Operation of only the concrete batch plant is permitted to begin at 5:00 a.m. from June to August.

Exceptions to Normal Operating Hours: Expanded hours to accommodate projects where construction work necessitates that materials be delivered outside of regular business hours are allowed following that notification is provided to the Planning & Community Development Department prior to initiating operation outside of the hours provided above. Notification must include the duration of extended hours, reason extended hours are needed, and a beginning and ending date. Such operations may be subjected to additional conditions by the County.

- d.) Only activities limited to operation and loader feeding for the concrete batch plant, loader feeding of trucks, and transportation of material offsite may occur between the hours of 10:00 p.m. to 6:00 a.m. and on Sundays following that notification is provided to the County prior to initiating extended operations.
- 7) The following recommendations included in the submitted Noise Report prepared by Environ for mitigating environmental impacts shall be implemented.
  - a.) Construct 12-foot high berms in the northwest corner of the excavation area and on the northern and part of the of the southern property lines in the eastern section of the site. These berms were included in the proposed project mining plan and were included in the noise impact modeling.
  - b.) As indicated in the mining proposal, excavate the material in segments, with the final excavation occurring in the northwest corner of the site (i.e., Segment 6). In addition, maintain the proposed berm in the northwest corner as long as possible during excavation in Segment 6.
- 9) Noise levels at the property boundaries shall not exceed the maximum environmental noise levels outlined in WAC 173-60. If levels are found to exceed state standards, the County reserves the right to modify the approved site plan hours or require additional noise mitigation measures.
- 10) Installation of utilities shall be underground.
- 11) Gravel excavation is only allowed to occur in fifteen (15) acre, segments. Reclamation of each segment upon completion of mining shall be completed within one (1) year. This area does not include the processing area delineated on R-5 of the approved site plan, area used for roads, or areas cleared prior to issuance of this permit.
- 12) Notification must be sent by the operator to Island County Planning & Community Development prior to initial mining of each 15 acre segment. The County may require an inspection of any reclaimed segments before progressing to mine the next segment. If a report is requested, the operator must submit a narrative prior to inspection including, but not limited to: current site conditions, reclamation progress, survival rates for installed vegetation, and sizes of areas being actively mined, and areas undergoing reclamation.

- 13) Reclamation shall begin within one year of any segment no longer needed for excavation or maneuvering of vehicles. A combination of native trees and understory shall be planted on the mine floor of reclaimed segments so as to minimize the colonization of non-native species. All planted, seeded, or transplanted species shall be native and reflect surrounding plant communities.
- 14) Mining operations shall conform to clean air requirements of the Northwest Air Pollution Control Authority.
- 15) Security fencing at least 5.5 feet in height shall be erected around the perimeter of the expansion and signage provided pursuant to ICC 17.03.180.U.4(e).
- 16) Explosives shall not be used on-site.
- 17) The following Best Management Practices shall be followed:
  - a.) Utilize groundwater protective measures, such as impervious surfaces under vehicle storage and maintenance areas.
  - b.) On-site storage of hazardous materials shall conform to WAC 173-304.
  - c.) Above ground storage tanks must comply with the proposed best management practices.
  - d.) Maintain an undisturbed 20-foot vertical buffer between the aquifer and the bottom of the excavation.
  - e.) All vehicle storage, refueling, washing, etc shall occur within the impervious containment area or shed.
  - f.) Spill response kits shall be located in all vehicles operated onsite and in the structure.
  - g.) All employees operating machinery onsite shall be properly trained in the use of the spill response kits.
- 18) Prior to final mine closure, all topsoil stockpiles will be distributed throughout the site, all areas will be seeded and planted, all debris, garbage, structures, equipment and other substances will be removed from the site.
- 19) Upon termination of mining, all debris, garbage, structures, old mining equipment, potentially toxic substances, and all other substances, materials, or equipment shall be removed from the site.
- 20) Drainage and Erosion Controls as described in the Drainage Report and on the face of the approved site plan map shall be incorporated into surface mining activities.
- 21) Reclamation of mined lands shall be carried out in accordance with the requirements the approved Reclamation Plan and Chapter 78.44 RCW. The operator shall guarantee all Reclamation work accomplished for a period of two (2) years or such greater period as may be determined necessary by the Hearing Examiner to assure the permanency of any or all physical Reclamation features. Upon Reclamation, no condition shall remain which will or could lead to the degradation of water quality.

- 22) Prior to installation of any on-site lighting, a lighting plan must be submitted and approved by the County. Any lighting or proposed signage shall meet standards provided in ICC 17.03.180.R.
- 23) Final slopes shall be in accordance with the approved Reclamation Plan and DNR requirements.
- 24) Upon completion or discontinuance of Surface Mining, the operator shall file with the Planning Department a final Reclamation Report which complies with ICC17.03.180.U.
- 25) All permanently exposed lands that have been denuded by Surface Mining shall be re-vegetated consistent with the surrounding native plant community.
- 26) Processing plants, buildings, structures and equipment shall be removed from the property within one (1) year of completion of Surface Mining unless such plants, buildings or structures are an integral part of the Reclamation Plan.
- 27) Permanent piles or dumps of Overburden and Mining Waste placed on the land surface shall be made stable, shall not block natural drainage without provision for diversion, shall have an overall smooth or even profile and, where practical, shall be placed in the least visible location.
- 28) Back-filling and Grading. Back-filled and graded areas shall be compacted to avoid excessive settlement and to the degree necessary, accommodate future Permitted Uses. If future Permitted Uses of the site include Structures for human occupancy, fill placement shall conform to the Uniform Building Code except that alternate methods of back-filling and Grading may be used when incorporated in the approved Reclamation Plan. Material used in refilling shall be of a quality suitable to prevent contamination and pollution of groundwater.
- 29) All development and use of the land to which pertains shall be in conformance with the approved Site Plan application and the following requirements unless they are amended in conformance with 16.15 ICC.

The above requirements are subject to change if any information provided by the Applicant or their authorized representative proves inaccurate.

Entered this 24<sup>th</sup> day of June 2011, pursuant to authority granted under the laws of the State of Washington and Island County.

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MICHAEL BOBBINK  
Island County Hearing Examiner

APPEAL PROCESS:

PLP  
SDP

This decision of the Hearing Examiner shall be a final and conclusive decision unless within fourteen (14) days following the mailing of such decision a written statement of appeal is filed with the Island County Board of Commissioners by the applicant, a Department of the County, or Party of Record, who is also an Aggrieved Person. Said statement shall set forth any alleged errors and/or the basis for appeal and shall be accompanied by a fee pursuant to the fee schedule adopted by the Board; provided that such appeal fee shall not be charged to a department of the County or to other than the first appellant ICC 16.13.100.b; ICC 16.19.190.

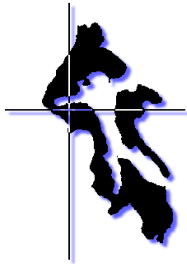
The decision of the Hearing Examiner in this matter shall be a final and conclusive unless a written statement of appeal is filed with the Board of Island County Commissioners within (14) calendar days following this decision, in accordance with the appeal procedures set forth in ICC 16.19 190, WAC 173-27 (Shoreline Civil Penalties), or Chapter 16.21 ICC (Shoreline Administration); or is appealed in accordance with RCW 90.58.180 (Shorelines Hearings Board Appeals).

APPEAL PROCESS:

APP (SEPA)

Appeal Process for SEPA Related Appeal Issues:

This decision of the Hearing Examiner is a final decision at the County level. Any further appeals must be taken in conformity with RCW 43.21C.075 and WAC 197-11-680.



## ISLAND COUNTY PLANNING & COMMUNITY DEVELOPMENT

Robert Peterson, AICP  
Director

PHONE: (360) 679-7339 ■ from Camano (360) 629-4522 ■ from S. Whidbey (360) 321-5111  
FAX: (360) 679-7306 ■ P. O. Box 5000, Coupeville, WA 98239-5000  
Internet Home Page: <http://www.islandcounty.net/planning/>

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~ **MEMORANDUM** ~

TO: Michael Bobbink; Island County Hearing Examiner  
John Bertrand; Public Works  
Aneta Hupfauer; Health  
Dan Cox; Concrete Nor'West

FROM: \_\_\_\_\_  
Brandon Sweeza, Associate Land Use Planner

DATE: June 14, 2011

SUBJECT: File No. 072/10 SPR; Miles Sand & Gravel  
Assessor Parcel No. R23318-165-4650, R23318-203-3340, &  
R23318-071-3790

Planning staff has worked with the applicants regarding SPR 072/10 and conditions for approval as requested by the Hearing Examiner on May 5<sup>th</sup>, 2011. The below recommendations have been revised in underline strikethrough format to highlight changes made. Staff has included the following attached documents with this memo:

1. Modifications to Public Work's conditions have also been included and are attached with this memorandum dated June 10, 2011 from John Bertrand and labeled Exhibit A.
2. Email from Dan Cox of Concrete Nor'West, dated June 10, 2011 supporting both Planning & Community Development's and Public Work's revised conditions.

### **REVISED RECOMMENDATIONS FOR 072/10 SPR**

Based on the foregoing Findings, Analysis, and Conclusions, the Community Development Division recommends that Site Plan Review application number SPR 072/10, submitted by Miles Sand & Gravel Inc. on Assessor's Parcels R23318-165-4650, R23318-203-3340, & R23318-071-3790, be approved with the following conditions.

- 1) Prior to commencement of site preparations, the landowner must obtain all necessary permits which may include (but not limited to) a Reclamation Permit from Department of Natural Resources (DNR) and a NPDES Permit from the State Department of Ecology (DOE).
- 2) Compliance with all conditions of the Island County Engineering Division as specified in the memorandum dated June 10, 2011 (Exhibit A).
- 3) Compliance with all conditions of the Island County Public Health as specified in the memorandum dated February 25, 2011 (Exhibit B).
- 4) Use of Parcel R23318-071-3790 is limited only to access for the proposed operation. No extractive, processing, or other activities associated with the surface mine are permitted on this parcel.
- 5) All Surface Mining activities shall comply with the Washington State Surface Mining standards contained in 78.44 RCW.
- 6) Hours of Operation. All operations at the pit site shall be limited as described below:
  - a.) Gravel washing & crushing, excavation, and use of the Sleeper Road access for transporting materials shall only be permitted to occur between 7:00am-6:00pm, Monday-Saturday.
  - b.) All operations not described above shall be permitted to occur between 6:00am & 10:00pm following that truck traffic only utilizes the Taylor Road access.
  - c.) Operation of only the concrete batch plant is permitted to begin at 5:00am from June to August.

Exceptions to Normal Operating Hours: Expanded hours to accommodate projects where construction work necessitates that materials be delivered outside of regular business hours are allowed following that notification is provided to the Planning & Community Development Department prior to initiating operation outside of the hours provided above. Notification must include the duration of extended hours, reason extended hours are needed, and a beginning and ending date. Such operations may be subjected to additional conditions by the County.

- a.) Only activities limited to operation and loader feeding for the concrete batch plant, loader feeding of trucks, and transportation of material offsite may occur between the hours of 10pm to 6:00am and on Sundays following that notification is provided to the County prior to initiating extended operations.
- 7) The following recommendations included in the submitted Noise Report prepared by Environ for mitigating environmental impacts shall be implemented.

- a.) Construct 12-foot high berms in the northwest corner of the excavation area and on the northern and part of the of the southern property lines in the eastern section of the site. These berms were included in the proposed project mining plan and were included in the noise impact modeling.
  - b.) As indicated in the mining proposal, excavate the material in segments, with the final excavation occurring in the northwest corner of the site (i.e., Segment 6). In addition, maintain the proposed berm in the northwest corner as long as possible during excavation in Segment 6.
- 8) Noise levels at the property boundaries shall not exceed the maximum environmental noise levels outlined in WAC 173-60. If levels are found to exceed state standards, the County reserves the right to modify the approved site plan hours or require additional noise mitigation measures.
  - 9) Installation of utilities shall be underground.
  - 10) Gravel excavation is only allowed to occur in fifteen (15) acre segments. Reclamation of each segment upon completion of mining shall be completed within one (1) year. This area does not include the processing area delineated on R-5 of the approved site plan, area used for roads, or areas cleared prior to issuance of this permit.
  - 11) Notification must be sent by the operator to Island County Planning & Community Development prior to initial mining of each 15 acre segment. The County may require an inspection of any reclaimed segments before progressing to mine the next segment. If a report is requested, the operator must submit a narrative prior to inspection including, but not limited to: current site conditions, reclamation progress, survival rates for installed vegetation, and sizes of areas being actively mined, and areas undergoing reclamation.
  - 12) Reclamation shall begin within one year of any segment no longer needed for excavation or maneuvering of vehicles. A combination of native trees and understory shall be planted on the mine floor of reclaimed segments so as to minimize the colonization of non-native species. All planted, seeded, or transplanted species shall be native and reflect surrounding plant communities.
  - 13) Mining operations shall conform to clean air requirements of the Northwest Air Pollution Control Authority.
  - 14) Security fencing at least 5.5 feet in height shall be erected around the perimeter of the expansion and signage provided pursuant to ICC 17.03.180.U.4(e).
  - 15) Explosives shall not be used on-site.
  - 16) The following Best Management Practices shall be followed:

- a.) Utilize groundwater protective measures, such as impervious surfaces under vehicle storage and maintenance areas.
  - b.) On-site storage of hazardous materials shall conform to WAC 173-304.
  - c.) Above ground storage tanks must comply with the proposed best management practices.
  - d.) Maintain an undisturbed 20-foot vertical buffer between the aquifer and the bottom of the excavation.
  - e.) All vehicle storage, refueling, washing, etc shall occur within the impervious containment area or shed.
  - f.) Spill response kits shall be located in all vehicles operated onsite and in the structure.
  - g.) All employees operating machinery onsite shall be properly trained in the use of the spill response kits.
- 17) Prior to final mine closure, all topsoil stockpiles will be distributed throughout the site, all areas will be seeded and planted, all debris, garbage, structures, equipment and other substances will be removed from the site.
- 18) Upon termination of mining, all debris, garbage, structures, old mining equipment, potentially toxic substances, and all other substances, materials, or equipment shall be removed from the site.
- 19) Drainage and Erosion Controls as described in the Drainage Report and on the face of the approved site plan map shall be incorporated into surface mining activities.
- 20) Reclamation of mined lands shall be carried out in accordance with the requirements the approved Reclamation plan and Chapter 78.44 RCW. The operator shall guarantee all Reclamation work accomplished for a period of two (2) years or such greater period as may be determined necessary by the Hearing Examiner to assure the permanency of any or all physical Reclamation features. Upon Reclamation, no condition shall remain which will or could lead to the degradation of water quality.
- 21) Prior to installation of any on-site lighting, a lighting plan must be submitted and approved by the County. Any lighting or proposed signage shall meet standards provided in ICC 17.03.180.R.
- 22) Final slopes shall be in accordance with the approved Reclamation Plan and DNR requirements.
- 23) Upon completion or discontinuance of Surface Mining, the operator shall file with the Planning Department a final Reclamation report which complies with ICC 17.03.180.U.
- 24) All permanently exposed lands that have been denuded by Surface Mining shall be revegetated consistent with the surrounding native plant community.

- 25) Processing plants, Buildings, Structures and equipment shall be removed from the property within one (1) year of completion of Surface Mining unless such plants, Buildings or Structures are an integral part of the Reclamation plan.
- 26) Permanent piles or dumps of Overburden and Mining Waste placed on the land surface shall be made stable, shall not block natural drainage without provision for diversion, shall have an overall smooth or even profile and, where practical, shall be placed in the least visible location.
- 27) Back-filling and Grading. Back-filled and graded areas shall be compacted to avoid excessive settlement and to the degree necessary, accommodate future Permitted Uses. If future Permitted Uses of the site include Structures for human occupancy, fill placement shall conform to the Uniform Building Code except that alternate methods of back-filling and Grading may be used when incorporated in the approved Reclamation plan. Material used in refilling shall be of a quality suitable to prevent contamination and pollution of groundwater.
- 28) All development and use of the land to which pertains shall be in conformance with the approved Site Plan application and the following requirements unless they are amended in conformance with 16.15 ICC.
- 29) The above requirements are subject to change if any information provided by the applicant or their authorized representative proves inaccurate.