

**ATTACHMENT 16 - Response to Muckleshoot Tribe  
Comments, The Watershed Company**

June 4, 2020

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**Re: Responses to Muckleshoot Tribe comments, Proposed Maple Valley Asphalt Plant, 18825 SE Renton Maple Valley Road**

The Watershed Company Reference Number: 160414

Dear Karen:

Thank you for forwarding comments from the Muckleshoot Tribe to us that were issued in response to the Notice of Application, SEPA checklist, and Site Map as distributed by King County on Dec, 28, 2018 for the Proposed Maple Valley Asphalt Plant at 18825 SE Renton Maple Valley Road (COMM18-0014 & SHOR18-0032.) These comments were originally transmitted by email from Karen Walter to Fereshteh Dehkordi, King County Senior Project Manager, DLS-Permitting Division, on January 30, 2019.

Please note that we have responded herein only to those comments within or at least partly within our areas of expertise and involvement with the project. Tribal comments made regarding issues which are outside of our purview have been identified and a list of them provided to you separately so that they may be referred to others for response. The Tribe's comments are listed below in italics followed by our responses.

*For several decades, the Tribe has worked diligently to restore the salmon populations in the Cedar River in the interest of protecting their currently limited fishing opportunities and with the goal of restoring historical fishing opportunities protected under their treaty-rights. This project is a direct threat to these efforts.*

To the contrary, the project will not result in significant adverse impacts to salmon habitat in the Cedar River basin and will result in positive, though relatively small, habitat improvements. These improvements will occur due to correction of past deleterious site uses and implementation of a comprehensive and effective mitigation plan. The proposed mitigation plan includes on-site tributary stream channel restoration and non-native vegetation removal with implementation of a native-vegetation planting plan within stream and wetland buffer areas. These in addition to correcting past on-site stormwater management issues and otherwise bringing on-site

stormwater management up to the standards of the current stormwater design manual and other King County requirements.

*While the applicant has provided several documents that expand the responses in the environmental checklist, the nature of this commercial activity and its potential impacts from spills/transporting of materials, etc., its proximity to the Cedar River, and the current state of salmon runs in the river, and the lack of analysis on some potential environmental impacts all point to the need for a detail environmental impact statement under SEPA to fully evaluate the potential adverse impacts from this project.*

An environmental impact statement (EIS) under the State Environmental Policy Act (SEPA) is not anticipated to be required for the proposed project. Under SEPA, an EIS is required if the lead agency (in this case, King County) believes that a proposal may have a significant adverse impact. In deciding whether a project may have a significant adverse impact, the lead agency must take into account project mitigation, including the mitigating effects of applicable development regulations. Asphalt plants are a typical land use (accordingly, "Asphalt/Concrete Mixtures and Block" uses are specifically listed in King County's zoning code in Table 21.A.08.090). As a typical land use, regulatory codes have been developed in anticipation of their specific impacts. Regulatory codes have also been developed to address the impacts that may occur as a result of various types of typical development. Taking into account the mitigating effects of applicable development regulations, the proposed project is not anticipated to include any remaining impacts that would be considered significant adverse impacts. Therefore, an EIS is not anticipated to be required.

Spills of asphalt cement are unlikely to impact the Cedar River. Asphalt cement is an inert viscoelastic material that is only liquid when heated above 180 degrees Fahrenheit. If the heated, liquid asphalt were to be spilled, it could be readily collected upon cooling. Asphalt pavement is safely used throughout the world on roadways and other paved surfaces. Asphalt pavement was used to line several large juvenile salmon rearing ponds at the Issaquah State Salmon Hatchery. Similar examples of asphalt use to line fish rearing ponds are readily available for other fish culture and passage facilities.

The active project site is not directly adjacent to the river. A 5-lane, state highway with shoulders and a paralleling paved King County trail occupy much of the intervening area between the project site and the river. Thin slivers of buffer and SMP jurisdiction area do lie onsite, across the combined highway and trail from the river. Given the proximity of the combined highway and trail, on-site shoreline and river buffer functions are presently minimal to nil. Proposed mitigation will be sufficient to compensate for any impacts to these narrow and isolated shoreline jurisdiction and

buffer areas.

It is acknowledged that salmon runs in the river and throughout the region are depressed. However, the proposed project is not at all in conflict with the ongoing recovery and restoration efforts for these fish stocks but, rather, will make a moderate but meaningful contribution towards them. Mitigation has been incorporated into the project proposal such that a net degradation of habitat will not occur, either on-site or extending downstream. Stormwater management of the site in terms of both water quality and quantity will be improved by the project, thereby contributing to habitat improvements in the river downstream. As a result, any effects on salmonid species will be beneficial rather than adverse.

*The applicant needs to provide a site alternatives analysis to demonstrate that this project site meets the project's purpose and need with the fewest environmental impacts.*

The project site is zoned Industrial. "Asphalt/Concrete Mixtures and Block" uses are specifically allowed in lands zoned Industrial pursuant to King County code (Table 21.A.08.090). How the project applies mitigation sequencing—avoidance, minimization, mitigation—to address potential project environmental impacts is addressed in the project Critical Areas Report.

*It should be noted that WDFW recently determined that there is potential fish habitat above the SR 169 crossing at Stream C and the existing culvert is deemed a fish passage barrier (Culvert 3 in TIR; see <https://geodataservices.wdfw.wa.gov/hp/fishpassage/index.html> and Attachment 1). This culvert is likely subject to the Federal Court Injunction Standards under U.S. v Washington. As such it should be made fish passable. If the roadway improvements include highway roadway areas over this culvert, then the project should make this culvert fish passable by replacing it with a bridge or culvert designed using WDFW's stream simulation design method.*

We stand by our conclusion, with concurrence from King County, that Stream C is a Type N stream. As such, there should be little or no need for or benefit in making the referenced crossing fish-passable. We understand that WDFW has reported the single crossing at SR169 and the County trail to be a partial barrier (Site ID 996500), however we disagree that access to existing, potential, or reasonably recoverable salmonid fish habitat is blocked by the present culvert (see WAC 220-660-030 (52)).

During a site visit on Jan. 6, 2020, it was confirmed that the north end of this culvert is not connected directly to the river. Rather, a flat area of reed canarygrass about 40 feet

across occurs proceeding northward, and then an additional, badly deteriorated culvert occurs near the river's edge. This second, northerly culvert appears to be the subject of a fairly sketchy and perhaps incomplete WDFW Barrier Report for Site ID 934880. No photos or potential fish species are provided in that report, and the passability, given at 67%, appears overstated. The culvert should be rated as impassable.

It was determined by field measurement that Stream C does not exhibit the physical characteristics which would lead to the presumption of fish use. According to WAC 222-16-031, potential fish use of streams in Western Washington is inferred based on physical characteristics where the bankfull channel width is two feet or greater and slopes are less than or equal to 16% for basins less than or equal to 50 acres in size, or less than or equal to 20% for basins greater than 50 acres. On this basis, a presumption of fish use was not concluded for Stream C due to its observed and measured narrow channel width upstream from SR 169.

The project owner proposes to bridge the culvert inlet (only) with a 3-sided, pre-cast concrete bridge to accommodate the needed road widening. With this approach, the existing culvert would not be modified or otherwise directly affected by the project as proposed.

*An assessment of the proposed lighting plan should be completed in consultation with Roger Tabor at USFWS and the results of this assessment and proposed changes/mitigation sent to us for our review.*

Lighting at the new asphalt plant will be provided with the intent of lighting only the site itself, primarily for the purpose of supporting safety and security. Lighting will be directed downward, inward, and shielded or recessed to prevent light and glare impacts to adjacent properties, including SR 169, the adjoining King County trail, and riparian areas along the Cedar River beyond. It may be somewhat unusual to consider the shading effects of vegetation at night, but it should be noted that fairly dense vegetation lining the river in this vicinity, including medium-sized and fast-growing cottonwood trees, provide shading to river both day and night. This shading effect should increase over time as these trees continue to grow.

The site has been used for industrial purposes through several different ownerships and uses for many decades, and each of these uses has presumably included some level of site lighting. Any lighting increases or impacts from the plant will likely be indiscernible from existing lighting which occurs along the highway and trail, including abounding vehicle headlights, which are closer to the river than the plant will be. Note that the highway is used at all hours of the day and night and that it is heavily traveled

with two lanes in each direction. Unlike the lighting proposed for the project, vehicle headlights are not directed downward and away from adjacent properties and natural areas. To the contrary, and true to their intended function, they shine horizontally for long distances. With the advent of LEDs and other technologies, headlights are becoming increasingly bright.

Project lighting will conform to the applicable elements of KCC Section 21A.14.280, Rural industry development standards, as follow:

- B. The following development standards shall apply to uses locating in the industrial (I) zone within the rural area;
  - 6. Outdoor lighting shall be focused downward and configured to minimize intrusion of light into surrounding rural residential areas;

*The revised Critical Areas Report is lacking streambed gradient data to support the classification for Stream A.*

Reliable and readily-available contour mapping of the stream has shown that the gradient of Stream A is clearly above the threshold supporting a Type N classification.

Stream Classification: *Stream C is likely classified incorrectly and should be a Type F (see attached WDFW report).*

See response to previous comment, above.

Stream Impacts: *As noted previously, WDFW has determined there to be potential fish habitat above Culvert 3 which could affect the Stream C impact assessment. The applicant should provide additional information based on an re-evaluation of Stream C.*

See response to previous comment, above.

*Additional information is also needed regarding potential changes to the culvert conveying Stream B under SR 169. This culvert is likely a fish-passage barrier and given that Stream B meets the physical criteria for a Type F water, this culvert should be made fish passable if any roadway modifications are needed in this area.*

The Stream B culvert crossing is not located adjacent to or in the vicinity of the project site, and no roadway modifications related to the project are proposed that would affect that culvert.

Please call if you have any questions or if we can provide you with any additional information.

Sincerely,

Nell Lund  
Ecologist, PWS



Greg Johnston  
Senior Fisheries Biologist, EIT, CFP



Mark Daniel, AICP  
Associate Planner

