

ATTACHMENT 17 - Response to Suquamish Tribe Comments, The Watershed Company

June 4, 2020

Karen Deal
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Via email: Karen.Deal@lakesideindustries.com

Re: Responses to Suquamish 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 Suquamish 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 Alison Osullivan to Fereshteh Dehkordi, King County Senior Project Manager, DLS-Permitting Division, on March 9, 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.

"it is requested that an Environmental Impact Statement (EIS) be completed to study, develop and describe appropriate alternatives as per 42 U.S.C. §§ 4332."

The commenter requests an EIS under the National Environmental Policy Act (NEPA). NEPA applies to federal projects or any project requiring a federal permit, receiving federal funding, or located on federal land. Certain activities associated with the proposed project may require a federal permit from the US Army Corps of Engineers. In the specific areas of the site where these activities are proposed, NEPA would apply; however, NEPA is not anticipated to apply to the entirety of the proposed project site. In any event, the project is not anticipated to meet the threshold for an EIS under NEPA, which is a major federal action significantly affecting the quality of the human environment.

It is unclear from the materials we were able to review how the classification of onsite streams was determined. Was the determination made based on the Department of Natural Resources hydro layer? If so, this layer is based on computer modeling and is similar to the National Wetlands Inventory in the fact that it is a starting point and not a reflection of what is actually on the ground and should not be used in regulatory decision making. If there was an onsite determination made was there WDFW and Tribal concurrence?

Stream classification determinations were not based on the Department of Natural Resources hydro layer. Rather, they were made based on field observations and measurements whereby it was determined that the streams A and C did 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, nor for Stream A due to its documented steep gradient above the codified threshold. These classifications, based on these criteria, were substantiated by Laura Casey of King County with the benefit of her own field observations. We understand that WDFW has reported the Stream C crossing of SR169 to be a partial barrier, 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)).

We did not observe fish to be using Stream B nor do we know of any documented fish use of that stream. Even so, it has been classified as a Type F stream and has been assigned the consequent buffer width according to King County code because it is greater than 2 feet in width and has a gradient of less than 16%. As such, it exhibits the physical criteria requiring a presumption of fish use until or unless actual or potential fish use is refuted according to an accepted protocol. Such a protocol may include the "Section 13 protocol" (Washington State Forest Practices Board Manual, Section 13 Guidelines for Determining Fish Use for the Purpose of Typing Water under WAC 222-16-030, and the Washington Department of Natural Resources Forest Practices Board Emergency Rules, adopted 11/14/96, updated 7/1/01, 2/2002).

Of the fish species listed above bull trout, sockeye salmon, coho salmon, chinook salmon and steelhead trout are designated as Species of Greatest Concern (as per the Cedar River Habitat Conservation Plan) for which current population status indicates that immediate measures

*need to be taken in order to halt or reverse serious regional population decline. Preparation of an EIS is required when significant adverse impacts on the environment are **probable** not just when they are inevitable.*

Adverse impacts to these species or their habitat due to the proposed project are not “likely” or “probable.” Rather, modest or moderate net benefits to downstream and limited on-site habitat for these species is expected as a direct result of project implementation. These benefits would follow from land use improvements for the betterment of their habitat which have been incorporated into and so have become part of the project proposal.

Stormwater management at the site will be materially improved through the application of current Department of Ecology stormwater management standards as required for project approval by King County. Demonstrable improvements in both water quality and quantity measures are expected to result. In addition, full-width functional stream and wetland buffers will be restored on-site through implementation of the included mitigation plan. These stream and wetland improvements will further improve water quality and quantity characteristics extending downstream for the improvement of aquatic habitat in the Cedar River where all of these fish species live.

None of these species are known to currently use the tributary streams which occur or whose basins occur, partially, on the site. It is possible that coho salmon, and more likely cutthroat trout, could eventually use Type F Stream B if access across SR 169 is eventually provided. As noted, though, all of these species which inhabit waterways downstream of the site will benefit from the improvement of stormwater quality and quantity made possible by conversion of the site from its past, highly impactful uses to uses with much lower levels of impacts going forward.

Tribes, agencies as well as local and state governments have spent millions of dollars on salmon recovery and restoration in the Cedar River watershed. Allowing activities directly adjacent to the Cedar River that can potentially degrade habitat and affect ESA listed species are in direct conflict with these efforts.

As described above, the project proposal is not in direct conflict with these recovery and restoration efforts 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. As a result, any effects on ESA-listed species will be beneficial rather than adverse.

The project is not directly adjacent to the Cedar 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 Cedar River buffer functions are minimal to nil. Even so, ample mitigation is proposed to be provided for impacts to these narrow and isolated shoreline jurisdiction and buffer areas.

The Suquamish Tribe concurs with the comments submitted by the Muckleshoot Indian Tribe.

Responses to comments submitted by the Muckleshoot Indian Tribe are provided in a separate, attached letter.

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

