

**WHATCOM COUNTY HEARING EXAMINER**

RE: Shoreline Substantial Development Permit	)	SHR2020-0003
SEPA	)	SEP2020-0008
Application for	)	
	)	
<b><i>Puget Sound Energy</i></b>	)	FINDINGS OF FACT,
"A System Maintenance &Reliability Project"	)	CONCLUSIONS OF LAW,
	)	AND DECISION

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**SUMMARY OF APPLICATION AND DECISION**

Application: The Applicant seeks a Shoreline Substantial Development Permit for a system maintenance and reliability project along their Nugent-25 circuit, which begins at the SR-9 and Mt. Baker Highway 542 intersection and extends just north of Cole Road and SR-9 intersection.

Decision: The requested permit is granted, subject to conditions.

**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 hearing.

**FINDINGS OF FACT**

I.

**PRELIMINARY INFORMATION**

Applicant: Puget Sound Energy

Property Location: Along SR-9 from Mt. Baker Highway 542 to just North of Cole Road. The project starts just south of 5712 Lawrence Road, Everson, Washington.

Legal Description: Within Section 08, Township 37 North, Range 04 East, W.M.  
Adjacent Water Body: Nooksack River  
Shoreline Designation: Conservancy  
Statewide Significance: Yes  
SEPA Review: Whatcom County issued a Determination of Non-Significance [DNS] on August 10, 2020 under file #SEP2020-0008.  
Notice Information: Application submitted: February 18, 2020  
Notice of Completeness: March, 2020  
Notice of Application: March 9, 2020  
Comment Period Ended: April 13, 2020  
Authorizing Ordinances: SMP 23.50 Applicability  
SMP 23.70.010 Administration  
SMP 23.70.030 Hearing Examiner

Applicable Shoreline Program Provisions

SMP 23.20 Goals and Objectives  
SMP 23.30.020 Official Shoreline Map  
SMP 23.30 Shoreline Designations  
SMP 23.60.010 Substantial Development Permit Criteria  
SMP 23.90 General Policies & Regulations  
SMP 23.100 Shoreline Use Policies & Regulations  
SMP 23.100.160 Utilities

Legal Notices: Published – Notice of Public Hearing, August 6, 2020  
Posted – Notice of Public Hearing, August 6, 2020  
Mailed – Notice of Public Hearing, July 30, 2020

Hearing Date: August 19, 2020

Parties of Record

Emily Hagin, Agent  
Puget Sound Energy  
1110 Kentucky Street  
Bellingham, WA 98229

Andrew Hicks, Shoreline Administrator  
Planning and Development Services  
Whatcom County

**Exhibits:**

- **R2020-00003-PSE Tree Wire Reconductor**

Displaying items 1 - 17 of 17

<u>Display Name</u>	<u>Size (KB)</u>
<u>01. shr2020-00003-shoreline-substantial-application-packet-20200210</u>	547
<u>02. shr2020-00003-project-narrative-20200210</u>	49
<u>03. shr2020-00003-site-plans-20200210</u>	2681
<u>04. shr2020-00003-vicinity-map-20200210</u>	114
<u>05. shr2020-00003-ca-report-20200210</u>	20628
<u>06. sep2020-00008-sepa-checklist-20200210</u>	1237
<u>07. shr2020-00003-health-memo-20200312</u>	96
<u>08. shr2020-00003 pw eng memo 20200327</u>	71
<u>09. shr2020-00003-pse-poles-pe-memo-20200323</u>	70
<u>10. shr2020-00003-wet HCA-Memo-20200728 PSE pole replacement</u>	69
<u>13. shr2020-00003-DAHP Correspondence</u>	87
<u>14. shr2020-00003-Public Comment Dave Torres</u>	43
<u>15. shr2020-00003-Public Comment Keith Bode</u>	11
<u>16. shr2020-00003-Public Comment Wendy Harris</u>	13
<u>17. SHR2020-000003-Revised Staff Report and Recommendation, dated Aug. 19, 2020</u>	164

## II.

The proposed project will consist of upgrading the existing conductor to tree wire. In order to support the weight and size of the tree wire, 113 distribution poles will be replaced and 12 transmission poles. Poles P24 to P121 will be relocated to private property to comply with WSDOT's Control Zone requirements along SR 9. PSE is currently in the easement acquisition process for the private property relocations.

## III.

The Whatcom County Shoreline Administrator has recommended approval of the requested Shoreline Substantial Development Permit for the proposed system maintenance and reliability project along PSE Nugent-25 circuit. The project will consist of upgrading the existing conductor to tree wire. The Shoreline Administrator's Revised Staff Report [Exhibit 17] is entitled "Findings, Conclusions, and Recommendations," dated August 19, 2020, a copy of which is attached hereto. The Applicant has indicated that the Revised Staff Report is factually correct. The Applicant stated no objection to the Conditions of Approval recommended by Staff. There were three public comments on this matter during the public comment period and Staff has submitted these comments into the record and notified the parties of the upcoming public hearing. There were no public comments at the public hearing. The Findings of Fact contained in the Revised Staff Report, supported by the record as a whole and are adopted and incorporated herein by this reference.

## IV.

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.

The Conclusions of Law are set forth in the Revised Staff Report, dated August 19, 2020, are adopted and incorporated herein by this reference as Conclusions of Law.

Subject to the Conditions of Approval recommended by Staff, the Hearing Examiner also concludes that the proposal is consistent with the Goals, Policies, and Purpose of the Shoreline Management Act, RCW 90.58020 and would not produce significant adverse effects to the shoreline ecological functions and processes other users, including the Goals and Policies of the Whatcom County Shoreline Management Program.

## 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**

*A Shoreline Substantial Development Permit is hereby granted to Puget Sound Energy for a system reliability project along PSE Nugent -25 circuit, which begins at the SR-9 and Mt. Baker Highway 542 intersection and extends just north of Cole Road and SR-9 intersection. The project starts just south of 5712 Lawrence Road, Everson, Washington. The Permit is granted subject to the following Conditions of Approval:*

1. The proposed shoreline developments shall be consistent with the scope and site plan approved by this shoreline substantial development permit. Any changes to the proposed development may require additional review and approval by the Whatcom County Shoreline Administrator and/or Whatcom County Hearing Examiner.
2. The Applicant has indicated that fill will be native soil and gravel and that appropriate Best Management Practices (BMPs) and Temporary Erosion and Sediment Control will be utilized during construction to control erosion and stormwater runoff. Per the Department of Ecology Stormwater Management Manual, utility projects that replace the ground surface with in-kind material or materials are only subject to Minimum Requirement #2, Construction Stormwater Pollution Prevention and the preventative measures noted above appear to satisfy this requirement.
3. Construction and/or demolition debris shall be removed from the shoreline area upon completion of the project. Debris from construction shall be disposed of at an approved facility.

4. All disturbed surfaces will be restored to original condition or better upon completion of construction.
5. *If inadvertent impacts to wetlands, streams, or buffers occur, a contingency plan will be prepared by the applicant, and mitigation may be required.*
6. *All development shall comply with the Whatcom County Code (WCC) and the Whatcom County Development Standards (WCDS).*
7. *As no work is proposed within the County ROW, a revocable encroachment permit is not required.*
8. As WSDOT would have lead jurisdiction for work within the SR9 ROW, comments/conditions should be secured from WSDOT for all work within the state highway ROW.
9. The project shall comply with all applicable federal, state and local laws and regulations.
10. Washington State Department of Ecology Water Quality Standards shall be maintained.
11. The project shall not result in significant degradation of ground or surface waters and shall be completed during periods of dry weather.
12. Should archaeological resources (e.g. shell midden, faunal remains, stone tools) be observed during project activities, all work in the immediate vicinity should stop, and the area should be secured. The Washington State Department of Archaeology and Historic Preservation (Gretchen Kaehler, Local Government Archaeologist 360-586-3088) and the Lummi Nation Tribal Historic Preservation Office (Lena Tso, THPO 360-312-2257; Tamela Smart, Deputy THPO 360-312-2253) should be contacted immediately in order to help assess the situation and to determine how to preserve the resource(s). Compliance with all applicable laws pertaining to archaeological resources is required.
13. If ground disturbing activities encounter human skeletal remains during the course of construction, then all activity will cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance. The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-

forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

14. Construction shall commence within two years of the effective date of the shoreline variances and substantial development permit as defined by WAC 173-27-090 (3), provided that the Whatcom County Hearing Examiner may authorize a single extension for a period not to exceed one year based on reasonable factors if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology.

### **NOTICE OF POTENTIAL REVOCATION AND PENALTIES UNDER SHORELINE MANAGEMENT PROGRAM**

Pursuant to WCC 23.60.180, this Approval is subject to all of the above-stated conditions. Failure to comply with them may be cause for its revocation. Complaints regarding a violation of the conditions of this permit should be filed with Whatcom County Planning and Development Services. The Hearing Examiner may not take any action to revoke this approval without further public hearing.

In addition to incurring civil liability under Shoreline Management Program Section 23.80.20 and RCW 90.58.210, pursuant to RCW 90.58.220 any person found to have willfully engaged in activities on shorelines of the state in violation of the provisions of the act or the Shoreline Management Program or other regulations adopted pursuant thereto shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than \$25 or more than \$1,000 or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment; provided that the fine for the third and all subsequent violations in any five year period shall not be less than \$500 nor more than \$10,000. Any person who willfully violates any court order, regulatory order or injunction issued pursuant to the Shoreline Management Program shall be subject to a fine of not more than \$5,000, imprisonment in the county jail for not more than 90 days, or both.

### **NOTICE OF APPEAL PROCEDURES FROM FINAL DECISIONS OF THE WHATCOM COUNTY HEARING EXAMINER ON SHORELINE DECISIONS**

This action of the Hearing Examiner is final. The following review procedure is available from this decision and may be taken by the Applicant, any opponent of record, or any County department.

Appeals to the shoreline hearings board of a decision on a shoreline substantial development permit, shoreline variance or shoreline conditional use permit may be filed by the applicant/proponent or any aggrieved party pursuant to RCW 90.58.180 within 21 days of filing the Final Decision by Whatcom County with the Department of Ecology.

Whatcom County Council shall consider an appeal of a decision on a shoreline substantial development permit, shoreline variance or shoreline conditional use only when the applicant/proponent waives his/her right to a single appeal to the shoreline hearings board. Such waivers shall be filed with the County in writing concurrent with a notice of appeal within 10 days of a final action. When an applicant/proponent has waived his/her right to a single appeal, such appeals shall be processed in accordance with the appeal procedures of WCC 23.60.150.H and shall be an open record hearing before the Hearing Examiner.

More detailed information about appeal procedures is contained in the Shoreline Management Program at WCC 23.60.150. Whatcom County Code can be viewed online at <http://www.codepublishing.com/WA/WhatcomCounty>.

DATED this day 21<sup>st</sup> of August 2020.



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Michael Bobbink, Hearing Examiner



**WHATCOM COUNTY**  
Planning & Development Services  
5280 Northwest Drive  
Bellingham, WA 98226-9097  
360-778-5900, TTY 800-833-6384  
360-778-5901 Fax



**Mark Personius, AICP**  
Director

**EXHIBIT**

# 17 revised

August 19, 2020

**WHATCOM COUNTY SHORELINES SUBSTANTIAL DEVELOPMENT PERMIT**

Shoreline Substantial Development ) SHR2020-00003  
Permit for ) & SEP2020-00008  
**Puget Sound Energy** ) STAFF RECOMMENDATIONS

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**I. SUMMARY OF APPLICATION AND RECOMMENDATION**

Application: PSE is planning a system maintenance and reliability project along their Nugent-25 circuit, which begins at the SR-9 and Mt. Baker Highway 542 intersection and extends just north of Cole Road and SR-9 intersection. The project will consist of upgrading the existing conductor to tree wire. In order to support the weight and size of the tree wire, 113 distribution poles will be replaced along with 12 transmission poles.

Recommendation: Staff recommends approval of the requested developments, subject to the conditions of approval.

**II. PRELIMINARY INFORMATION**

Applicant: Emily Hagin  
c/o Puget Sound Energy  
1329 N State St  
Bellingham, WA 98225

Property Location: The project is located along SR-9 from Mt. Baker Highway 542 to just North of Cole Road. The project starts just south of 5712 Lawrence Rd., Everson, WA

Legal Description: Within Section 8, Township 37 North, Range 4 East, W.M.

Adjacent Water Body: Nooksack River

Shoreline Designation: Conservancy

Statewide Significance: Yes

Application Submitted: February 18, 2020

Notice of Completeness: March 3, 2020

Notice of Application: March 9, 2020

End of Comment Period: April 13, 2020

SEPA Review: Whatcom County issued a Determination of Non-Significance (DNS) on August 10, 2020 under file #SEP2020-00008.

Authorizing Ordinances: WCC 23.50 Applicability  
WCC 23.70.010 Administration  
WCC 23.70.030 Hearing Examiner

Applicable Shoreline Program Provisions:

WCC 23.20 Goals and Objectives  
WCC 23.30.020 Official Shoreline Map  
WCC 23.30 Shoreline Designations  
WCC 23.60.010 Substantial Development Permit Criteria  
WCC 23.90 General Policies & Regulations  
WCC 23.100 Shoreline Use Policies & Regulations  
WCC 23.100.160 Utilities

**III. PROJECT DESCRIPTION**

**Proposal:** PSE is pursuing a system reliability project along their Nugent-25 circuit, which begins at the SR-9 and Mt. Baker Highway 542 intersection and extends just north of Cole Road and SR-9 intersection. The project will consist of upgrading the existing conductor to tree wire. In order to support the weight and size of the tree wire, 113 distribution poles will be replaced and 12 transmission poles. Poles P24 to P121 will be relocated to private property to comply with WSDOT’s Control Zone requirements along SR 9. PSE is currently in the easement acquisition process for the private property relocations.

A total of 97.75 cubic yards will be excavated and a total of 50 cubic yards of fill will be required to complete the project. Disturbed surfaces will be restored to previous condition or better.

**Project Area Description:** The project is located along SR-9 from Mt. Baker Highway 542 to just North of Cole Road. Poles P24 to P121 will be relocated to private property to comply with WSDOT’s Control Zone requirements along SR 9. The project starts just south of 5712 Lawrence Rd, Everson, WA. The topography is relatively flat and there is

minimal vegetation other than grass in the area of the project, as it is predominately adjacent to the SR-9 roadway.

#### **IV. PUBLIC NOTICE AND COMMENT**

Requirements for public notice for shoreline permits are contained in WCC 23.60.080.

**Notice of Application:** Formal legal notice for this project was published on March 9, 2020 in the Bellingham Herald and mailed to all property owners within 1,000-feet of the project site. The formal public comment period ran from March 9, 2020 through October April 13, 2020.

**Public Input:** Three (3) public comments were received. These comments have been submitted into the record and all commenting parties have been notified directly of the upcoming public hearing.

#### **V. ANALYSIS AND CONSISTENCY WITH REGULATIONS**

**Shoreline Jurisdiction:** According to the Official Shoreline Map as outlined in WCC 23.30.020.A, the project is located entirely within the "Conservancy" shoreline designation. Pursuant to WCC 23.30.020.B, the map does not necessarily identify or depict the lateral extent of shoreline jurisdiction nor does it identify associated wetlands. The lateral extent of the shoreline jurisdiction extends 200' from the marine OHWM and shall be determined on a case-by-case basis based on the location of the OHWM, floodway and presence of associated wetlands. The Official Shoreline Map is contained in Appendix E of the SMP and provides the lateral extent of shoreline jurisdiction associated with the Nooksack River. A portion of the subject project is within the area identified as shoreline jurisdiction on the Official Shoreline Map.

**Shorelines of Statewide Significance:** The main stem of the Nooksack River is considered a shoreline of statewide significance, and therefore subject to the regulations of WCC 23.40. In accordance with RCW 90.58.020, the following management and administrative policies apply to all shorelines of statewide significance in unincorporated Whatcom County, as defined in RCW 90.58.030(2)(e) and identified in WCC 23.40.020. Consistent with the policy contained in RCW 90.58.020, preference shall be given to the uses that are consistent with the statewide interest in such shorelines. These are uses that:

- A. Recognize and protect the statewide interest over local interest.
- B. Preserve the natural character of the shoreline.
- C. Result in long-term over short-term benefit.
- D. Protect the resources and ecology of the shoreline.
- E. Increase public access to publicly owned areas of the shoreline.
- F. Increase recreational opportunities for the public in the shoreline.
- G. Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

Staff has concluded that the proposed tree wire conductor improvement project is consistent with the policies for shorelines of statewide significance, as the area to be converted is currently roadside ditching and offers minimal ecological function. This project will not significantly alter the natural character of the shoreline. The tree wire conductor improvement project is intended to ensure the long-term viability of electrical transmission wires serving a large region of Whatcom County. The project will not hinder public access to publicly owned areas of the shoreline.

**Public Hearing Requirement:** Pursuant to WCC 23.60.130, a public hearing shall be required when the project meets one of the eight criteria enumerated in that section. One criterion for requiring a public hearing is for any proposal with a cost or fair market value in excess of \$100,000. Application documents state that the anticipated cost of the project is \$212,655; therefore, a public hearing is required and has been scheduled for August 19, 2020 at 1:30 p.m.

**Substantial Development Permit Requirement:** The proposal requires approval of a shoreline substantial development permit pursuant to WCC 23.60.010.A, as it does not strictly meet one of the exemptions listed in WCC 23.60.022.

For shoreline substantial developments to be approved, the proposals must satisfy the criteria of WCC 23.60.010, as addressed below.

According to 23.60.010.B, in order to be approved, the decision maker must find that the proposal is consistent with the following criteria:

1. All regulations of the SMP appropriate to the shoreline designation and the type of use or development proposed shall be met, except those bulk and dimensional standards that have been modified by approval of a shoreline variance under SMP 23.60.030;
2. All policies of the SMP appropriate to the shoreline area designation and the type of use or development activity proposed shall be considered and substantial compliance demonstrated;
3. For projects located on shorelines of statewide significance, the policies of WCC 23.40 shall also be adhered to.

General and use-specific policies and regulations are found within Sections 23.90 and 23.100 respectively. Applicable policies and regulations associated with the proposed development are listed in italics and discussed below.

The policies and regulations that are applicable to the drainage improvement project are contained in the following sections of the SMP:

- WCC 23.90.030 – Ecological protection and critical areas
- WCC 23.90.040 – Water quality and quantity
- WCC 23.90.050 – Views and aesthetics
- WCC 23.90.060 – Vegetation Conservation
- WCC 23.90.070 – Archaeological, historic and cultural resources
- WCC 23.90.070 – Public access

WCC 23.90.090 – Site Planning  
WCC 23.90.100 – Landfill and excavation  
WCC 23.100.160 - Utilities

Staff has reviewed this proposal against all pertinent regulations and finds that, with the recommended conditions enumerated below in Section VII of this report, the project is consistent with all SMP policies and regulations.

**Archaeological, Historic and Cultural Resources:** The project site is not within 500' of known archaeological resources. However, the application materials were distributed to the Department of Archaeology and Historic Preservation (DAHP) and all local tribes.

**Cumulative Impact Analysis:** In the granting of all shoreline substantial development permits, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area. Pursuant to WCC 23.60.010.C, WCC 23.60.030.G and WCC 23.60.040.D the project was reviewed for consideration of potential cumulative impacts that would result if similar developments were permitted under similar circumstances. Staff has determined that this proposal will not result in any net loss of ecological function or habitat (see memorandum from Amy Dearborn, dated July 27, 2020). Staff also finds that if similar shoreline substantial development permits were granted for other developments in the area where similar circumstances exist, the sum of the permitted actions would also remain consistent with the policy of RCW 90.58.020 and would not produce significant adverse effects to the shoreline ecological functions and processes or other users.

## **VI. AGENCY COMMENTS**

Sarah Cierebiej, Public Health Specialist – Environmental Health: Submitted a memorandum on March 12, 2020 signing off on project approval.

Curtis Metz, Building Official – Planning & Development Services: Submitted a memorandum on March 23, 2020 signing off on project approval with conditions that have been included in the recommendation below (Section VII).

Jim Deasy, Engineering Technician – Public Works: Submitted a memorandum on March 27, 2020 signing off on project approval with conditions that have been included in the recommendation below (Section VII).

Amy Dearborn, Critical Areas Planner – Planning & Development Services: Submitted a memorandum on July 27, 2020 signing off on project approval with conditions that have been included in the recommendation below (Section VII).

## **VII. RECOMMENDATIONS**

*Based on the above findings, Staff recommends approval of the Shoreline Substantial Development Permit subject to the following conditions:*

- 1. The proposed shoreline developments shall be consistent with the scope and site plan approved by this shoreline substantial development permit. Any changes to*

*the proposed development may require additional review and approval by the Whatcom County Shoreline Administrator and/or Whatcom County Hearing Examiner.*

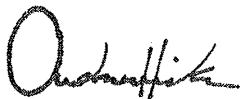
- 2. The applicant has indicated that fill will be native soil and gravel and that appropriate Best Management Practices (BMPs) and Temporary Erosion and Sediment Control will be utilized during construction to control erosion and stormwater runoff. Per the Department of Ecology Stormwater Management Manual, utility projects that replace the ground surface with in-kind material or materials are only subject to Minimum Requirement #2, Construction Stormwater Pollution Prevention and the preventative measures noted above appear to satisfy this requirement.*
- 3. Construction and/or demolition debris shall be removed from the shoreline area upon completion of the project. Debris from construction shall be disposed of at an approved facility.*
- 4. All disturbed surfaces will be restored to original condition or better upon completion of construction.*
- 5. If inadvertent impacts to wetlands, streams, or buffers occur, a contingency plan will be prepared by the applicant, and mitigation may be required.*
- 6. All development shall comply with the Whatcom County Code (WCC) and the Whatcom County Development Standards (WCDS).*
- 7. As no work is proposed within the County ROW a revocable encroachment permit is not required.*
- 8. As WSDOT would have lead jurisdiction for work within the SR9 ROW, comments/conditions should be secured from WSDOT for all work within the state highway ROW.*
- 9. The project shall comply with all applicable federal, state and local laws and regulations.*
- 10. Washington State Department of Ecology Water Quality Standards shall be maintained.*
- 11. The project shall not result in significant degradation of ground or surface waters and shall be completed during periods of dry weather.*
- 12. Should archaeological resources (e.g. shell midden, faunal remains, stone tools) be observed during project activities, all work in the immediate vicinity should stop, and the area should be secured. The Washington State Department of Archaeology and Historic Preservation (Gretchen Kaehler, Local Government Archaeologist 360-586-3088) and the Lummi Nation Tribal Historic Preservation Office (Lena Tso, THPO 360-312-2257; Tamela Smart, Deputy THPO 360-312-2253) should be contacted immediately in order to help assess the situation and to determine how to preserve the resource(s). Compliance with all applicable*

laws pertaining to archaeological resources is required.

13. *If ground disturbing activities encounter human skeletal remains during the course of construction, then all activity will cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance. The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.*
  
14. *Construction shall commence within two years of the effective date of the shoreline variances and substantial development permit as defined by WAC 173-27-090 (3), provided that the Whatcom County Hearing Examiner may authorize a single extension for a period not to exceed one year based on reasonable factors if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the Department of Ecology.*

**Report prepared by:**  
**Official: Andrew Hicks**

**Title: Shoreline Program Administrator**



Dated: August 19, 2020