January 10, 2011

Comments on Amendments to Maytown Sand and Gravel SUP and Likely Issuance of MDNS by Thurston County

Dear Mr. Kain,

The Confederated Tribes of the Chehalis Reservation wish to have the following comments entered in the record for the above-referenced matters regarding taw somix (Rocky Prairie).

We strongly oppose the issuance of the MDNS as a response to the missing of deadlines by the applicant. Because the applicant is out of compliance, the County has the right under SEPA regulations and Thurston County Code to revoke the permit and instigate a new, thorough environmental investigation of the site. Given the following information, information we were not given the opportunity to provide at the time of the original permitting, that is what should occur.

1. The Tribes were deprived of our right to comment on this area of historical and cultural importance to us because we were not contacted at the time of the original permit application, in 2002, or permit issuance in 2005.

2. The section known as Mine Area 1 is one of the few remaining prairies, yet it has been included in the mine project boundary. The site was and is known to have important cultural resources, such as the chocolate tulip (lily) observed by me on a site tour in 2009 in that NE section. These resources need protecting. Furthermore, WDFW surveys in 2009 revealed the presence there of many prairie specialist plants and animals, including at-risk butterflies.

The Habitat Management Plan submitted by the applicant indicates that they pre-decided that any area that had been disturbed, such as the NE sector, could no longer fit the Critical Areas Ordinance definition of prairie, and so it wasn’t investigated. But since that area had been logged prior to 1996, this was not a defensible scientific position; most of the prairie plants take fewer than 4 years to re-grow after disturbance, and if the investigations had occurred from 2002 - 2005 as they should have, these plants would have helped identify the prairie as qualifying Native Outwash Prairie under the County's Critical Areas Ordinance at that time. This indicates, per SEPA law, a lack of material disclosure by the applicant and is reason in and of itself to pursue a new environmental investigation.
3. The environmental studies being used to go forward on this project are all between 5 and 8 years old. The environmental checklist was prepared in 2002. The eco-system is ever-changing; conditions on site may well have changed dramatically since then. New studies are needed on the entire site to investigate any missed critical areas as well as new ones that may be there now.

4. The site involves and affects our Tribal Study Area, the area on and adjacent to Beaver Creek. The salmon run there could be affected by any drawdown of water levels resulting from industrial use. The headwaters of Beaver Creek are on the project site.

5. The watershed of the Chehalis Basin is over-allocated and we are concerned about the use of water. The history of the site's usage, as seen on the DOE website regarding clean-up there, reveals that any industrial water rights associated with this property have been relinquished due to non-use. We expect the County and DOE to defend that position, as seen in Condition # 21 of the MDNS.

6. The company that did the original archaeological survey has informed me that, due in part to the size of the property, they did a very basic reconnaissance at the time, not the in-depth study that we would have insisted on had we been consulted at the time, as we should have been. We request another, thorough archaeological investigation, since even the cursory one pointed to areas with the possibility of artifacts.

7. We are already on record as opposing any amendments to this permit. We do not support the applicant being allowed to change SEPA requirements in order to get around a missed deadline. WAC 197-11-706 provides for changing a SEPA to provide "additional information or analysis" about a site, not to remove conditions that weren't complied with.

In concluding, we assert our right to be fully involved in a new investigation of the Maytown gravel mine site on Rocky Prairie, as we should have been when the mining permit was applied for years ago. We also note that SEPA's goal is to prevent irreparable harm from being done to the environment, and the County should use every means at its disposal to ensure that goal is met on taw somix.

Sincerely,

[Signature]
Richard Bellon
General Manager
Confederated Tribes of The Chehalis Reservation