FINAL MITIGATED
DETERMINATION OF NON-SIGNIFICANCE
SEPA14-036
Smith Island Rail Terminal
February 10, 2015

Description of Proposal: The Applicant proposes the construction of a 61-acre railroad terminal on a 68-acre site on Smith Island where Concrete Norwest and Cedar Grove Composting operate. The terminal will deliver bulk compost and receive logs, autos, and other products. The proposal consists of constructing two tracks side by side that will make one loop approximately 8,400 feet in length and connect to the nearby mainline of BNSF with another 800 feet of track. A terminal office building approximately 600 square feet in area with paved parking, ancillary storage tracks and loading areas, paved equipment storage areas, stormwater collection and treatment facility, and large paved and unpaved storage areas will be constructed within the area of the looped track. The terminal, Cedar Grove Composting, and Concrete Norwest will be accessed by a new grade separated railroad undercrossing access road near the south end of the site. A new public access trail parking lot will be constructed at the end of the proposed road. The existing access road to Cedar Grove Composting and Concrete Norwest will be closed and the existing trail parking lot will be removed. A freestanding sign is proposed at the northwest corner of the access road and the SR 529 frontage road. The proposal will require approximately 685,000 cubic yards of fill material to be placed throughout the site. The fill will elevate the terminal above the 100-year flood elevation and will match the elevation of the BNSF main line. The proposed fill will remove approximately 13.7 acres of the 14.8 acres of existing wetlands and approximately 1.1 acres of regulated ditches. To mitigate the removal of the wetlands, the Applicant proposes to create 1.4 acres of on-site, in-kind palustrine wetlands and to convert and/or create 15.5 acres of on-site, out-of-kind intertidal salt marsh habitat, for a total of 16.9 acres.

Applicant: Smith Island Terminal LLC c/o John Brigham
7343 East Marginal Way South
Seattle, WA 98108

Representative: Mark Wolken
2903B Hewitt Ave
Everett, WA 98201

Location: West of SR 529 and the BNSF railroad near 36th Place NE on Smith Island within Section 5 of Township 29N Range 05E

Zoning: M-2, Heavy Manufacturing

General Plan: 5.1, Heavy Industrial

Lead Agency: City of Everett Planning Department

Contact Person: Steve Ingalsbe Phone: (425)257-8731

Mitigation Measures: The environmental impacts of this proposal are documented in the Environmental Checklist and other information on file with the City. The listed requirements are placed in response to our review of this information:

AGENCIES WITH JURISDICTION

The following agencies have been identified as potentially having jurisdiction. It is the applicant's responsibility to identify and obtain all required permits.

1. Washington Fish and Wildlife (Hydraulics Project Approval HPA)
2. U.S. Army Corps of Engineers (Section 404 Individual Permit under Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act, and Effects consultation under the ESA)
3. Department of Ecology (Section 401 Water Quality Certification, Construction Stormwater Permit, National Pollutant Discharge Elimination System (NPDES) permit, CZM Certification of Consistency)
4. Surface Transportation Board (Authorization to construct railroad line)
5. Snohomish County Health District

MITIGATION OF ADVERSE IMPACTS BY SEPA

1. Any grading/fill on this site shall be done so as to not impact the surrounding properties. (SEPA Earth, Land and Shoreline Use Policies.)

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An Environmental Impact Statement is not required under RCW 43.21C.030(2)(c). This determination assumes compliance with State law and City ordinances related to general environmental protection including but not limited to right-of-way improvement requirements, drainage, etc. This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request. This Mitigated Determination of Non-Significance is specifically conditioned on compliance with the conditions attached hereto which are incorporated by reference as if fully set forth herein.

This Final MDNS is issued under WAC 197-11-355. A 14-day public comment period for this proposal has been completed.

Responsible Official:	Allan Giffen, Director	Phone: (425)257-8731
Title:	Planning and Community Development Director	
Address:	2930 Wetmore Avenue, Suite 8-A, Everett, WA 98201	
Date:	February 10, 2015	
Signature:		

You may appeal this determination by filing an appeal on forms provided by the Planning Department and a fee to the Planning and Community Development Permit Services Counter at 3200 Cedar Street, 2nd Floor. The appeal period ends on February 25, 2015.

Contact Steve Ingalsbe to read or ask about the procedures for SEPA appeals.

Notes:

1. A MDNS may be withdrawn in the event of significant changes in the proposal, disclosure of new significant information, misrepresentation by the applicant, or failure to comply with the conditions upon which this Mitigated Determination of Non-Significance is predicated.

2. This land use permit shall terminate if applicant does not apply for a building permit within 18 months (or, with an extension, 24 months), except where a time limit on the land use permit is otherwise established under federal or state law, city ordinance, or an executed development agreement.

3. The issuance of this Determination of Non-Significance does not constitute project approval. The applicant must comply with all applicable requirements of Everett's Municipal Code (EMC) prior to receiving any permits.

RESPONSE TO PUBLIC COMMENTS:

Questions pertaining to the Environmental Checklist

A.11 "Page 6 and 7. The project description describes the proposed uses by the project partners and other potential users. These future users will generate future impacts (e.g. increased rail, shipping, trucking) that have not been assessed under this proposal. These future impacts could potentially occur offsite as transportation and utility infrastructure expands to meet demands. The environmental impacts from these future uses cannot be assessed under this proposal."

Response: Future significant off-site or on-site projects will require their own separate review to assess potential impacts. Although it can be expected that there will be increased shipping in the future as needs grow in the region, this facility will provide opportunity to use rail rather than truck.

B.1.d "Page 9. Do the plans take into account soils prone to liquefaction and sea level rise?"

Response: The applicant proposes to prevent impacts from liquefaction by pre-loading the site and monitoring the amount of settlement, and by ensuring that fill is placed on site at specified compaction rates confirmed by testing.

The 100 year flood elevation at this location is 11.9 feet. Chapter 30 of the City of Everett Zoning Code requires that the finished floor elevation of all structures and outdoor storage areas must be a minimum of two feet above the regulatory flood protection elevation. The proposed finished elevation will be 16 feet.

B.1.g "Page 9. It is stated here that 6% of the site will be impervious at completion, later it states a majority of the site will be paved. It is unclear how much of the site will be impervious, which is critical to determining stormwater infrastructure design."
B.2.c "Page 11. This section discusses automobile shipments and the need to pave the site. The checklist is unclear what level of impervious surface will be under current and future use of the site."

Response: At the outset, the applicant proposes to pave approximately 6% of the site. Future users of the site may require paved surfaces for their product such as automobiles in which case the stormwater treatment facility will be enlarged to accommodate the additional stormwater generated.

B.3.c.1)"Page 12. The applicant states they will provide appropriate stormwater planning. The site conditions including seasonal high groundwater and high tide conditions will impact design and functions of a new stormwater facility. No details were provided so we were unable to assess the adequacy or whether there may be impacts from stormwater for the proposal."

Response: Detailed stormwater facility designs are not required at this point in the project review process, but will be submitted to and approved by the Department of Ecology and the City prior to the issuance of construction permits for the proposed project. Both City and state standards address situations where high groundwater is present (facilities containing untreated stormwater must be lined) and backwater conditions due to high tides (the facilities must be designed to function in accordance with City and state requirements even during an extreme high tide).

B.13.c "Page 21 Contractors responsible for grading of the site should be trained to recognize culturally sensitive material and provide a plan that lays out steps to contact appropriate tribal and state agencies if cultural resources are discovered."

Response: Where excavations below present elevations will occur, the applicant proposes to use either monitoring by certified archaeologists or the training of employees involved or both. Everett Municipal Code 19.33D.060.A requires the shoreline permit to require developers to immediately stop work and notify the city and the Tulalip Tribes if anything of possible archaeological interest is uncovered during excavations or development and consult a professional archaeologist to inspect and evaluate the site.

Comments and questions pertaining to Cedar Grove

1. The SEPA Checklist does not address potential odor from disturbing composted materials and transporting the materials.
2. How will the compost be transported from the containment area to the rail cars?
3. Will the transport of material to the rail cars occur in the open air, or within an enclosed, air filtered containment area?
4. What type of rail cars will transport the material? Open Containers? Covered containers? Sealed containers with air filtering systems?
5. How will populations along the train route be impacted by odor during transportation to other parts of the State?
6. Will the bulk transport of compost materials result in a permanent reduction in the amount of compost stored on the site, or will this allow additional product to be brought in for composting and actually increase product processing and output?
7. "An extension was added to the tipping building; however presently this portion of the tipping building appears to be lacking its fabric skin yet there are materials presently stored within this portion of the building. In addition, it appears the tub grinder may not be covered which was a condition of the original shoreline permit. These deficiencies should be addressed prior to any new permitting associated with the Cedar Grove facility."

Response: The proposed project does not include changes to the permitted levels of production and storage of compost. The project will remove approximately ½ acre of Cedar Grove's storage area to accommodate the new tracks and access road. The proposed project will allow Cedar Grove to change how its product is exported. Currently the product is exported only by truck in which case not all loads are covered. Cedar Grove proposes to use a conveyor to load the finished product onto high volume rail cars. The rail cars will be covered with tarps after loading. The applicant states that every rail car used to ship the finished product will eliminate 7-10 one-way trips by trucks and that no more than 20% of the total volume of commodities moved from the rail facility will be compost. Overall, it is expected that there will not be an increase in the movement and/or quantity of compost than present day activities.

Cedar Grove must still comply with all of the conditions of shoreline permit SMA#03-007 that was issued for its current operation. That permit limits the amount of compost production to 164,000 tons annually. Any corrective action that needs to take place with the Cedar Grove operation must be pursued as a violation of specific conditions of approval established in the Cedar Grove shoreline permit (SMA#03-007) and not be part of this permit. The applicant is aware of the missing fabric roof which was destroyed in a wind storm. The replacement section has already been ordered from the manufacturer (which had to be made) and is in transit. It will be attached upon delivery.

Comments pertaining to Traffic

Negative Traffic impacts on local communities
Vehicular traffic- an increase in the number of large trucks on all the local roads feeding Smith Island, traveling; North Broadway, Marine View Drive, Hwy 529, Hwy 528, Hwy 2, Hwy 9, Hwy 92, Hwy 204 and Interstate 5.
Rail traffic- One should expect an increase in either the number of train trips to and from the proposed Cedar Grove Railroad Loop, or longer wait times at train crossings or both. This will directly impact every rail crossing in the local communities from the Edmonds Ferry dock to the communities north, in Marysville and Smokey Point, etc.
Can operate as a common carrier, meaning it could be used by anyone.
Miller Shingle Co has expressed an interest in the Rail Loop as it would allow them to receive more cut logs- additional truck traffic.
It could also by utilized by other cargo handlers to stage automobiles, construction steel or pipe and other dry cargo coming through the Port of Everett. Was this additional traffic of the proposed Cedar Grove Railroad Loop and common carrier use a mitigating factor in the outdated traffic study?
The outdated Transportation Solution Inc. study openly reports glaring problems such as; a) "Addition of the terminal would nearly double truck traffic to Cedar Grove's facility".
To state "that the trips generated would be spread throughout the day" is a misleading way of forewarning the public that the morning rush-hour traffic will last longer and that the afternoon gridlock can be expected to start earlier in the day.
One must ask why there is a disparity in the definition of threshold and what exactly is the "threshold" as it applies to the proposed Cedar Grove Railroad Loop?
In the years since the outdated 2008 Transportation Solution Inc. traffic study was produced, the immediate surrounding communities have experienced a lot of community growth, which is only expected to continue in the near future. Some suggested factors that need to be factored in a meaningful study:
1) Everett Community College growth.
2) Providence Medical Center, recent expansion and expected growth
3) Proposed Simpson Pad project east of 1-5 near the 41" Street interchange (235 homes)
4) Tulalip Casino and Outlet Mall projects.
5) Intended Kimberly Clark land project.
6) Numerous residential housing projects in the surrounding Everett, Marysville and Lake Stevens areas, just to name a few communities.
7) Downtown Everett condominium, hotel, apartment and commercial growth projects.
8) Port of Everett upgrades and projected 10% growth for 2015.
9) Proposed Landfill redevelopment mixed use project.
10) The proposed Eclipse Mill redevelopment project (190 town homes).
11) Projected rail traffic increase in coming years with more oil and coal trains- Was this factored into the outdated traffic study?

The studies conducted and relied upon for the determination of non-significance are insufficient and do not include consideration of the recent approval of Waterfront Place and the trip generation and parking demand for the Port of Everett Master Plan. The traffic analysis re-evaluation performed on behalf of Smith Island Terminal does not incorporate the proposed increase in traffic which will be generated by the Port of Everett improvements and the residential and retail proposals of Waterfront Place with housing, retail, hotels and restaurants. Smith Island Terminal's traffic study forecast does not include impact to southbound SR 529 from the new access road and Marine View Drive with the

increase of truck traffic to and from the proposed Terminal and the Port of Everett. The blanket statements in TSI's traffic impact forecast comparison dated 11/5/14 that: "Marine View Drive and other city streets are already impacted by existing auto transport operations so there is no net new impact on these roads." This report does not take into consideration the additional traffic related to the new Waterfront Place project. Further, the Smith Island Terminal's studies do not include the number of additional trains, the number of disruptions to the daily trains that already travel the tracks between Everett and Marysville; and the additional number of delays to Snohomish River traffic and the inability of the train bridge to open allowing river traffic to pass.
The additional truck traffic on SR 529 and the on ramp to SR 529 northbound and the off ramp SR 529 to Marine View Drive creates additional safety issues which has not been addressed by neither the Smith Island Terminal study nor the Port of Everett/Waterfront Place traffic analysis reports.

Response: The submitted Traffic Study meets the scope required by the City of Everett as explained below:

The submitted Traffic Study as part of this application was prepared in November of 2014. The above comments make reference to a 2008 study submitted as a part of a development application at Cedar Grove, but the current study is not an "update" of the 2008 study. The Traffic Study submitted indicates that this project would result in a net decrease in the number of truck trips to Cedar Grove because finished product currently transported by truck would instead be transported by rail. Intermodal facilities such as the proposed rail terminal typically do not generate traffic during the AM and PM peak (rush) hours because it is inefficient to have large trucks idling in traffic heading to or from the facility at those times. Short distance transfers (such as would occur between the Port of Everett and the proposed facility) generally occur outside of these hours of peak congestion, when there is ample capacity on the road network for the additional truck trips and minimal delay for their drivers (and, consequently, other roadway users).

The City of Everett's guidelines require Level of Service (LOS) analysis only at intersections impacted by 50 or more PM Peak Hour trips. This project will generate significantly less than 50 PM Peak Hour trips so no LOS analysis was triggered. Pipeline traffic from the Port of Everett development and other projects in the area is only relevant if intersection Level of Service (LOS) calculations are required.

The Supplement Traffic Analysis dated Dec 17, 2014 addresses other potential project users. This analysis did not address every possible rail line users but did address the scope of potential rail activity from additional project users. The analysis provided is sufficient to address the potential for increased use of this facility.

Traffic volumes in the project vicinity have been essentially unchanged since 2008. Traffic volumes along SR 529 crossing Smith Island have not changed measurably over this time frame based on WSDOT annual traffic volume data. Traffic volumes along W Marine View Dr between the Port of Everett and SR 529 have actually decreased over this time frame based on City of Everett data.

Comments pertaining to the Biological Evaluation

"Page 4.2.4 Fish and Wildlife- The Biological evaluation states "There are no reported spawning grounds for surf smelt, sand lance, or Pacific Herring in the vicinity of Smith Island (WDFW 2014b)." Estuary sampling by the Tulalip Tribes and NOAA have juvenile surf smelt, longfin smelt, Pacific Herring, and eulachon in the estuary."

Response: The applicant will need to address this in the Biological Evaluation.

INFORMATION FOR DEVELOPER:

The following information is provided for the developer's benefit. These are not SEPA conditions but are associated with other laws or requirements. All requirements are preliminary in nature, and are based upon the preliminary site plan and the ordinances in effect at time of submittal for SEPA review. **The proposal must comply with all ordinances in effect at the time a complete building permit application is filed, including those not specifically set forth herein.** Contact the Planning Department for information regarding appeals processes for the requirements listed in this document.

If in the future this project is subdivided into additional lots, tracts or parcels using the Binding Site Plan process, the applicant is advised that some building code standards will be different. The applicant is encouraged to contact the City's Building Department, at (425)257-8810 to determine how these standards will apply.

Fire Department: Jim Venturo

1. Access off of 36th Place NE shall have bollards placed; maintain an emergency crossing to access the rail yard.

2. Premise Identification - Premises shall be clearly identified by the correct address at the street entry. Buildings shall be clearly identified so as to be visible and legible from the access road. Individual apartments and suites, where applicable, shall be clearly and legibly identified from the access road. See EMC 16.03, Section 505.1.1 (Address Posting Policy).

3. Fire Hydrants - The Everett Municipal Code and the 2012 International Fire Code, Appendix C and Section 507.5-507.5.6, require that fire hydrants be provided within a maximum distance and of sufficient number and spacing to all new construction. The distance and number of hydrants varies based on type of construction and occupancy of the structure. **Four (4) hydrants shall be placed in the new rail yard area (interior). Four (4) hydrants shall be placed on the access road to Cedar Grove.**

4. When the required fire flow is over 2,500 gpm, the fire hydrant shall be served by a main which loops around the building or complex of buildings and reconnects back into a distribution supply main.

5. Fire flow for this project is 2,500 gpm.
   Note: Bridge clearance shall be 13'6" minimum. (EMC 16.03.030 "B" Section 503.2)

Planning Department: Steve Ingalsbe

1. Parking must be per City Zoning Code and City Design and Construction Standards and Specifications. A minimum of three paved, off-street parking stalls are required.

2. All garbage dumpsters and recycle bins must be screened from view from the street and from adjacent properties. This screening may be done using dense vegetation or by placing the dumpster or recycle bin in a structural enclosure.

3. Any rockeries or retaining walls proposed in required setback areas must be in conformance with Section 39.150 of the Zoning Code.

4. Rooftop mechanical equipment, including vents, must be screened per Section 39.040 of the Zoning Code.

5. There is a ten-foot rear building setback. Building height shall be a maximum of 35 feet.

6. A Shoreline and Floodplain Development permit is required.

7. A Critical Areas modification approval is required. All stream and wetland alterations must comply with Chapter 33D of the zoning code. At this time, the proposed buffers do not meet City standards.

EMC 19.33D.090.A.36 designates Palustrine wetlands as Category 2 wetlands and shall have a minimum buffer of one hundred feet. A function assessment must be completed for all projects to demonstrate that these buffers result in no net loss of wetland and stream function. A wider buffer will be required when necessary to protect wetland and stream functions. The buffers may be reduced in accordance with PDI 01-005 where there has been prior substantial legal alteration to the buffer and when the project applicant: (1) completes an approved function assessment, and (2) prepares an approved habitat management plan that includes buffer enhancement that would improve the functional performance of the buffer and associated critical area. In no case shall the buffers be reduced by more than fifty percent.

8. A sign permit is required for the proposed freestanding sign.

9. Landscaping must be provided per Section 35 of the Zoning Code. Landscape Category C applies and requires the following:
a. A landscape strip a minimum of 15 feet wide must be provided along public streets. This area shall be planted with Type III landscaping.
b. A landscape strip a minimum of 20 feet wide must be provided along all side lot lines. This area shall be planted with Type II landscaping.
c. The design of parking lot landscape areas must meet the requirements of Subsection 35.080 of the Zoning Code. Outdoor storage areas and vehicle sales do not require interior landscaping; however, such sites shall still provide landscaping along street frontages and other lot lines as required by subsection 35.080.A and Table 35-1 of the Zoning Code.
d. Prior to issuance of any permits, landscaping plans must be reviewed and approved by the Planning Department per Section 35.100 of the Zoning Code. The landscaping plan must show location and dimensions of required vegetated swales, wetponds, detention ponds, rockeries and retaining walls, and grading at 2 foot intervals. Irrigation systems must be provided in all landscaped areas per Section 35.130 of the Zoning Code. A two year maintenance assurance device must be provided for the landscaping per Section 35.130B of the Zoning Code.

10. The Washington State Clean Air Act requires the use of all known, available, and reasonable means of controlling air pollution, including dust. Dust generated during construction activities can be controlled by wetting those dust sources such as areas of exposed soils, washing truck wheels before they leave the site, and installing and maintaining gravel construction entrances. Construction vehicle track-out is also a major dust source. Any evidence of track-out can trigger violations and fines from the Department of Ecology or the Puget Sound Clean Air Agency.

Public Works: Gordon Witcher

1. No annual increase in the average PM Peak Hour traffic volume is projected per approved Traffic Analysis by Transportation Solutions, Inc. (TSI). Daily traffic volumes will increase as a consequence of this project but City of Everett Traffic Mitigation requirements are based on PM Peak Hour volume only. No Traffic Mitigation Fees are due for this project.

2. No new public rail crossing is supported. Existing rail crossing is private. Private roadway provides more flexibility for applicant regarding roadway geometry and access points. Site access roads shall be private roads. Undercrossing of the main RR line shall be a private road. Undercrossing surface water and/or ground water pumping system shall be private.

3. Public frontage road is located in WSDOT-controlled Right-of-Way (ROW). As such WSDOT has ultimate jurisdiction along this roadway. Public frontage road improvements required per Washington State Department of Transportation (WSDOT).

4. Stormwater from any portions of the project site not subject to an Industrial Stormwater Permit from the Washington State Department of Ecology shall be managed in accordance with City standards.

5. Dikes built for the purpose of this facility shall be private.

6. Stormwater facilities (ditches, structures, ponds, treatment, etc.) built for this facility shall be private.

7. No fire flow analysis for fire flow has been performed for this project.

Snohomish County PUD

1. The Snohomish County PUD currently has sufficient capacity to serve the proposed development. However, the existing District facilities in the local area may require upgrading. Please include any project-related utility work in all applicable permits.

Cost of any work, new or upgrade, to existing facilities that is required to connect this proposed development to the District electric system shall be in accordance with the applicable District policy. The developer will be required to supply the District with suitable locations/easements upon their property for any underground electrical facilities that must be installed to serve the proposed development.

We recommend contact with the District prior to design of the proposed project. For information about specific electrical service requirements, please call the District's Everett office at (425)783-8272 to contact a Customer Engineer.