

APPENDIX E
Project Permits



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

Regulatory Branch

JUL 20 2007

RECEIVED

JUL 23 2007
PORT OF ANACORTES

Port of Anacortes
Connie Thoman, Environmental Administrator
Post Office Box 297
Anacortes, Washington 98221

Reference: 200501451
Anacortes, Port of

Dear Ms. Thoman:

Enclosed is a Department of the Army permit which authorizes performance of the work described in your referenced application. You are cautioned that any change in the location or plans of the work will require submittal of revised plans to this office for approval prior to accomplishment. Deviation from the approved plans may result in imposition of criminal or civil penalties.

Your attention is drawn to General Condition 1 of the permit which specifies the expiration date for completion of the work. Upon completing the authorized work, please fill out and return the enclosed *Certificate of Compliance with Department of the Army Permit* form.

We are interested in your experience with our Regulatory Program and encourage you to complete a customer service survey form. This form and information about our program is available on our website at: www.nws.usace.army.mil (select "Regulatory" and then "Regulatory/Permits").

If you have any questions, please contact Randel Perry at (206) 764-6985 or via email at Randel.J.Perry@usace.army.mil.

Sincerely,

Michelle Walker
Chief, Regulatory Branch

Enclosure

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

7. After a detailed and careful review of all the conditions contained in this permit, the permittee acknowledges that, although said conditions were required by the Corps, nonetheless the permittee agreed to those conditions voluntarily to facilitate issuance of the permit; the permittee will comply fully with all the terms of all the permit conditions.

Special Conditions:

a. You must provide a copy of the permit transmittal letter, the permit form, and drawings to all contractors performing any of the authorized work.

b. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the U.S. Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

c. The permittee must notify the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch, by telephone, (206) 764-3495, at least 14 days prior to the permittee's intent to begin the dredging and disposal work.

d. At least 7 days prior to dredging and disposal, the permittee must submit in writing to the U.S. Army Corps of Engineers (Corps), Seattle District, Regulatory Branch, FAX (206) 764-6602, a quality control plan for dredging and disposal which will ensure: the separation of contaminated material from sediments suitable for open-water disposal, the removal of all floatable and nonfloatable debris, and the accuracy of disposal within the specified surface disposal zone. The plan must include a description of the methods and equipment to be used and must be approved by the Corps and Washington State Department of Natural Resources prior to commencement of open-water disposal.

e. The permittee, the contractor's representative, and the contractor's site positioning supervisor shall attend a Predisposal Conference to review the quality control plan and procedures to be used for separation of contaminated materials from sediments suitable for open-water disposal, debris removal, and disposal positioning. A predisposal dry run may be required by the U.S. Army Corps of Engineers (Corps). At the discretion of the Corps, an enforcement project manager may ride out to the disposal site during the predisposal dry run or the first disposal run to verify positioning accuracy.

f. Disposal of dredged material shall be limited to daylight hours during periods of Indian treaty fishing at the disposal sites. The permittee must coordinate any nighttime disposal with the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch. Approval must be received from the District Engineer prior to conducting nighttime disposal.

- g. Disposal of dredged material shall occur only when there is no Indian treaty fishing occurring at the disposal site. Coast Guard "COMOT INST M 16672.2A International - Inland" dated December 23, 1983, shall apply at all times.
- h. The United States Coast Guard (USCG) Vessel Traffic Service (VTS) must be contacted by radio prior to each disposal for positioning and verification of location within the surface target disposal zone. Disposal may not commence until verification is received from the USCG. Information required by the USCG must be provided for recording of the dump.
- i. The United States Coast Guard must be notified by letter 14 days prior to commencing dredge operations. Notification should be sent to Commander, Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174-1067 or faxed to (206) 220-7265, Attention: Commander. Dredging operations from and north of Marrowstone Point Light must monitor VHF-FM Channels 13 and 5A. Dredging operations south of Marrowstone Point Light must monitor VHF-FM Channels 13 and 14.
- j. Prior to each maintenance dredging activity, the permittee shall contact the U.S. Army Corps of Engineers, Dredged Material Management Office for coordination with the Puget Sound Dredged Disposal Analysis (PSDDA) agencies, to determine whether additional sediment characterization is required. If additional characterization is required, no disposal of dredged material will be allowed at a PSDDA open-water disposal site until the material has been determined suitable by the PSDDA agencies and the disposal is approved by the District Engineer.
- k. You must have a copy of this permit available on the vessel used for the authorized transportation and disposal of the dredged material.
- l. The permittee shall implement and abide by the document titled, "*Project Pier 1 Mitigation Plan*," dated November 18, 2005. Monitoring will occur for a period of ten years with monitoring reports submitted per the schedule found in the approved mitigation plan. All reports must be submitted to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch and NMFS and must prominently display the reference number 200501451.
- m. The shoreline intertidal habitat areas (the Log Pocket Mitigation Site, the O Avenue Mitigation Site) created and restored as compensatory mitigation for work authorized by this permit, shall not be made the subject of a future individual or general Department of the Army permit application for fill or other development, except for the purposes of enhancing or restoring the mitigation associated with this project. In addition, a description of the mitigation area identified in the final mitigation plan as approved, and any subsequent permit mitigation area revisions, will be recorded with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records to or interest in real property. Proof of this recorded documentation must be provided to the Corps, Seattle District, Regulatory Branch within 60 days from the date of permit issuance and prior to construction.
- n. A status report on the mitigation construction, including as-built drawings, must be submitted to the Corps, Seattle District, Regulatory Branch, 13 months from the date of permit issuance. Annual status reports on mitigation construction are required until mitigation construction is complete.
- o. This U.S. Army Corps of Engineers (Corps) permit does not authorize you to take a threatened or endangered species, in particular the Chinook salmon or bull trout. In order to legally take a listed species, you must have a separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or ESA Section 7 consultation Biological Opinion [BO] with non-discretionary "incidental take" provisions with which you must comply). The enclosed BO(s) prepared by the National Marine Fisheries Service (NMFS) dated April 4, 2007 and the U.S. Fish and Wildlife Service (USFWS) dated May 2007 contains mandatory terms and conditions to

implement the reasonable and prudent measures that are associated with the specified "incidental take" in the BO (NMFS Reference Number 2006/02942, USFWS Reference Number 1-3-06-F-0369). Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the attached BO(s). These terms and conditions are incorporated by reference in this permit. Failure to comply with the commitments made in this document constitutes non-compliance with the ESA and your Corps permit. The USFWS/NMFS is the appropriate authority to determine compliance with ESA.

p. In order to protect coastal-Puget Sound bull trout, Puget Sound Chinook salmon, and spawning forage fish (Pacific herring), the permittee may conduct the authorized activities from July 15th through January 15th in any year this permit is valid. The permittee shall not conduct work authorized by this permit from January 16th through July 14th in any year this permit is valid.

q. For the protection of southern resident killer whales, you must implement the provisions of the document titled, "*Port of Anacortes, Project Pier 1, Proposed Killer Whale Monitoring Plan*," dated February 23, 2007 and the addendum dated April 6, 2007.

r. For the protection of marbled murrelets, you must implement the provisions of the document titled, "*Marbled Murrelet Monitoring Protocol for the Port of Anacortes, Project Pier 1*," dated February 23, 2007.

s. A professional archaeologist must be on-site to monitor for the presence of archaeological resources during all ground disturbing construction activities within the Pier 1 Project area. Within 2 months of permit issuance and prior to construction, an archaeological monitoring plan must be submitted to the U.S. Army Corps of Engineers (Corps), Seattle District, Regulatory Branch. Ground disturbing construction activities shall not begin until the permittee receives approval of the archaeological monitoring plan from the Corps, Seattle District, Regulatory Branch.

t. A summary report of the findings of the archaeological monitoring, or a status report on the monitoring activities, must be prepared and submitted to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch within 13 months of permit issuance. Status reports on monitoring activities must be submitted every 6 months until the final summary report of the findings of the archaeological monitoring is submitted and approved.

u. If human remains, historic resources, or archaeological resources are encountered during construction, all ground disturbing activities shall cease in the immediate area and the permittee shall immediately (within one business day of discovery) notify the U.S. Army Corps of Engineers (Corps), Seattle District, Regulatory Branch, The Swinomish Indian Tribal Community, the Samish Tribe of Indians, and the Washington State Department of Archeological and Historic Preservation. The permittee shall perform any work required by the Corps in accordance with Section 106 of the National Historic Preservation Act and Corps regulations.

Further Information:

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:
 - (X) Section 10 of the Rivers and Harbor Act of 1899 (33 U.S.C. 403).
 - (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C 1413).
2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, State, or local authorization required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
- a. Damages to the permitted project or uses thereof as a result of other permitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require include, but are not limited to, the following:
- a. You fail to comply with the terms and conditions of the permit.
 - b. The information provided by you in support of your application proves to have been false, incomplete, or inaccurate (See 4 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a

reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

X *Cornie Thoman* 7/17/07
 Port of Anacortes *Environmental Administrator* (DATE)

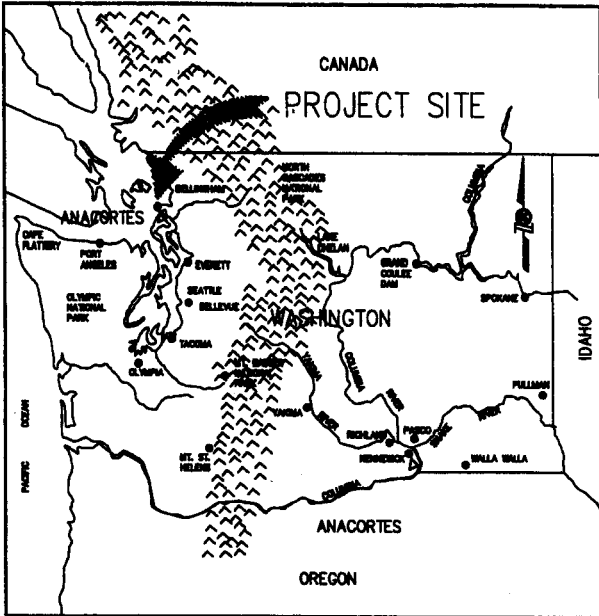
This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Michael McCornick 7/20/07
 Michael McCornick (DATE)
 Colonel, Corps of Engineers
 District Engineer

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

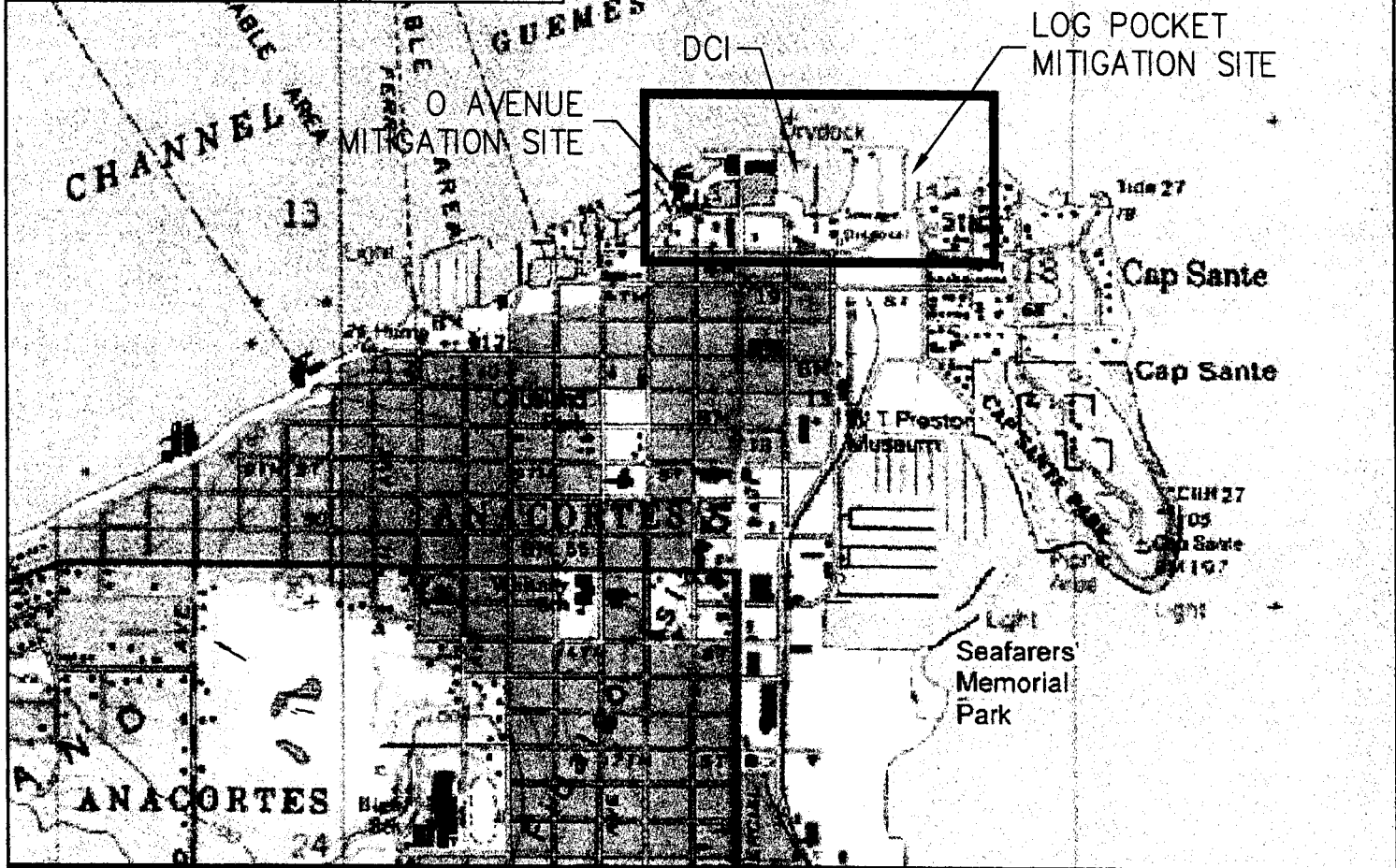
(TRANSFEEE)

(DATE)



TIDAL INFORMATION

ANACORTES WASHINGTON LAT. 48°31'15"N, LONG. 122°36'35"W
 EXTREME HIGH WATER (EHW) = 11.0'
 MEAN HIGHER HIGH WATER (MHHW) = 8.2'
 MEAN HIGH WATER (MHW) = 7.4'
 MEAN TIDE LEVEL (MTL) = 5.0'
 MEAN SEA LEVEL (MSL) = 4.4'
 MEAN LOW WATER (MLW) = 2.6'
 MEAN LOWER LOW WATER (MLLW) = 0.0'
 EXTREME LOW WATER (ELW) = -4.5'



PURPOSE: MODERNIZE AND UPGRADE FACILITIES TO INCREASE CAPACITY, FLEXIBILITY AND EFFICIENCY

DATUM: 0.0 M.L.L.W.

ADJACENT PROPERTY OWNERS:

- 1) PORT OF ANACORTES
- 2) CITY OF ANACORTES

**PROJECT PIER 1
 LOCATION &
 VICINITY MAP**

PROPOSED: CREATE A DEEPWATER MOORAGE BASIN, CONSTRUCT/RECONFIGURE 3 REPAIR/ACCESS PIERS, RECONFIGURE UPLANDS

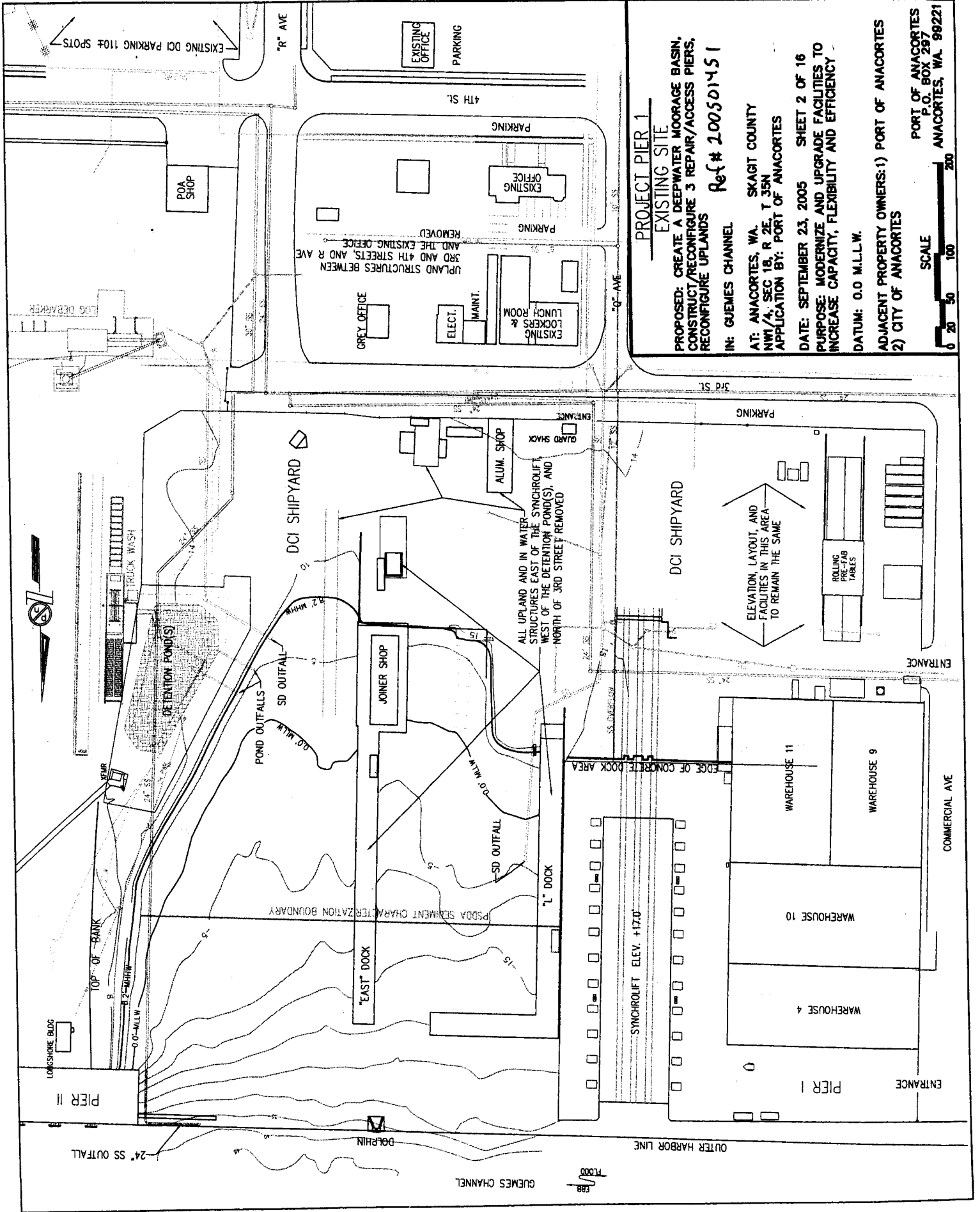
IN: GUERMES CHANNEL

AT: ANACORTES, WA. SKAGIT COUNTY
 NW1/4, SEC 18, R 2E, T 35N
 APPLICATION BY: PORT OF ANACORTES

DATE: SEPTEMBER 23, 2005 SHEET 1 OF 16

PORT OF ANACORTES
 P.O. BOX 297
 ANACORTES, WA. 99221

Corps Ref 2005 01451



**PROJECT PIER 1
EXISTING SITE**

PROPOSED: CREATE A DEEPWATER MOORAGE BASIN,
CONSTRUCT/RECONFIGURE 3 REPAIR/ACCESS PIERS,
RECONFIGURE UPLANDS **Ref # 200501451**

IN: GUEMES CHANNEL

AT: ANACORTES, WA, SKAGIT COUNTY
NW1/4, SEC 18, R 2E, T 35N
APPLICATION BY: PORT OF ANACORTES

DATE: SEPTEMBER 23, 2005 SHEET 2 OF 16
PURPOSE: MODERNIZE AND UPGRADE FACILITIES TO
INCREASE CAPACITY, FLEXIBILITY AND EFFICIENCY

DATUM: 0.0 M.L.L.W.

ADJACENT PROPERTY OWNERS: 1) PORT OF ANACORTES
2) CITY OF ANACORTES

PORT OF ANACORTES
P.O. BOX 297
ANACORTES, WA, 99221



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NORTH OF 3RD STREET REMOVED

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FACILITIES IN THIS AREA
TO REMAIN THE SAME

24" SS OUTFALL

TOP OF BANK

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POA SHOP

EXISTING DCI PARKING 1104 SPOTS

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LONGSHORE BLDG

PIER II

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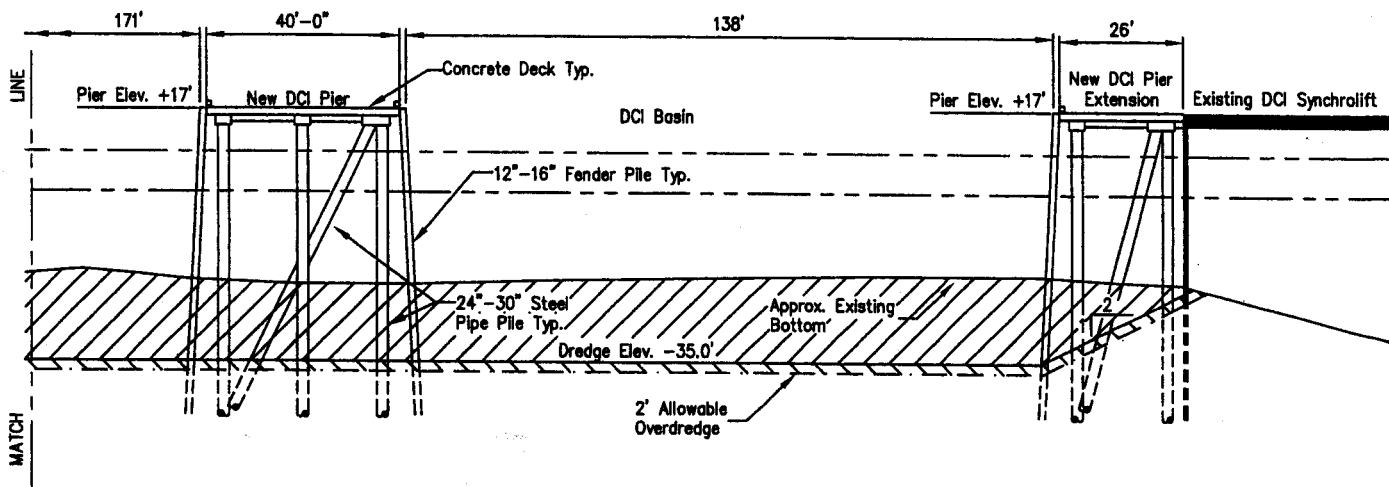
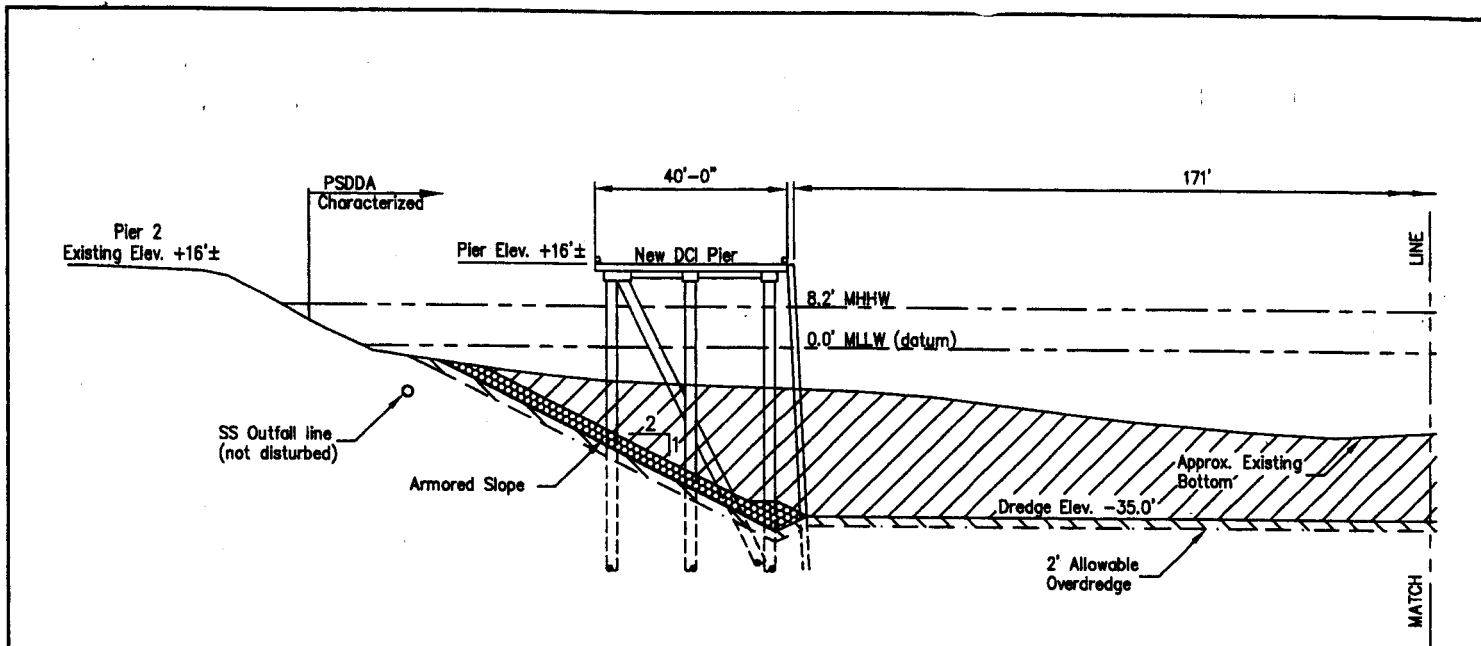
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PIER II

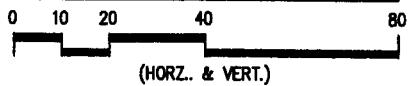
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TRUCK WASH

DETENTION POND(S)



SECTION A-A



PURPOSE: MODERNIZE AND UPGRADE FACILITIES TO INCREASE CAPACITY, FLEXIBILITY AND EFFICIENCY

DATUM: 0.0 M.L.L.W.

ADJACENT PROPERTY OWNERS:
 1) PORT OF ANACORTES
 2) CITY OF ANACORTES

**PROJECT PIER 1
 EAST-WEST SECTIONS**

PORT OF ANACORTES
 P.O. BOX 297
 ANACORTES, WA. 99221

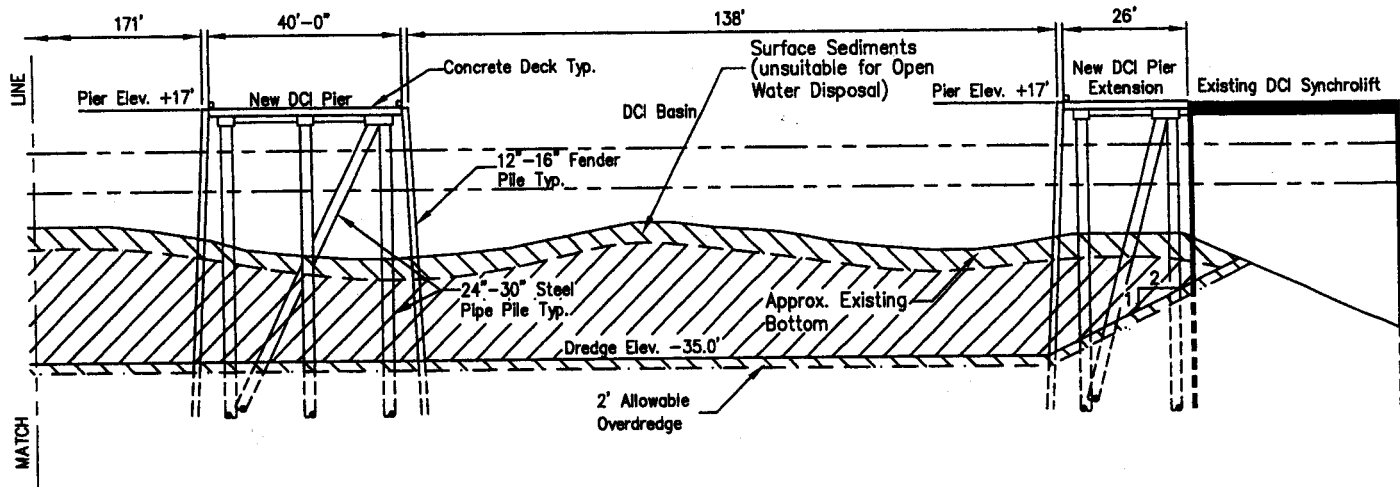
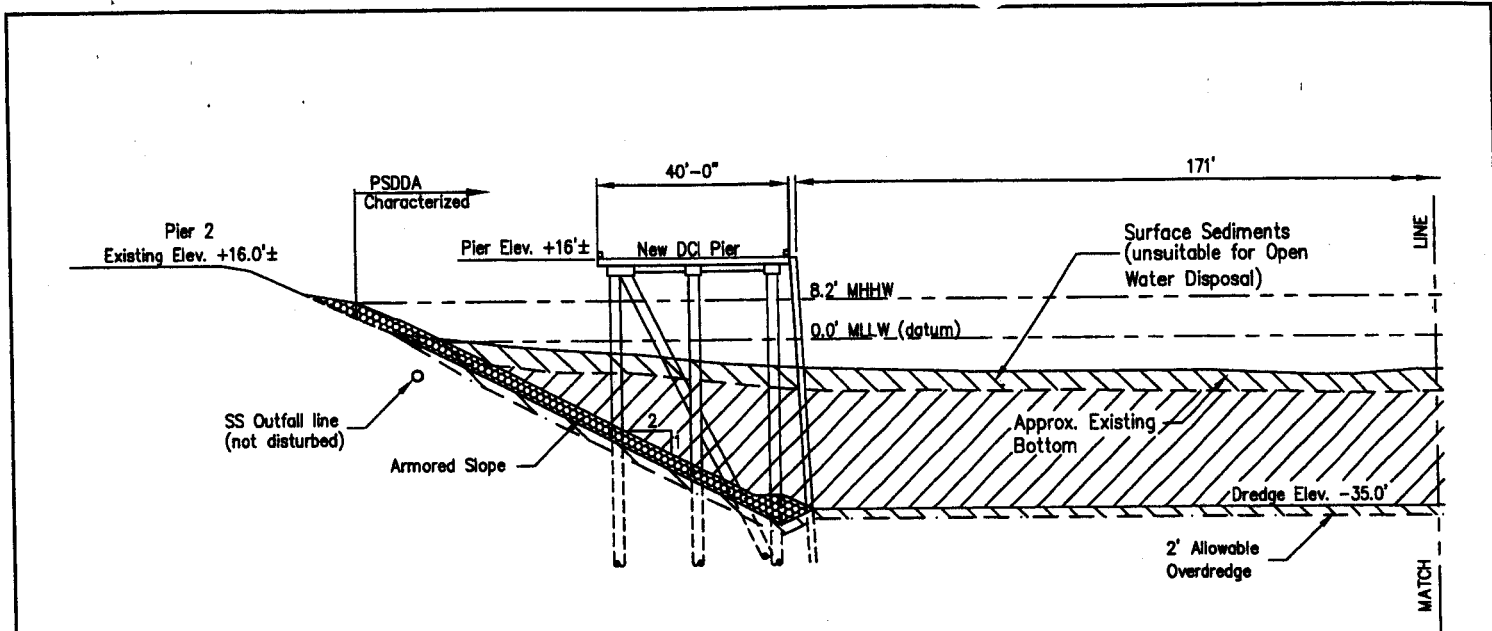
PROPOSED: CREATE A DEEPWATER MOORAGE BASIN, CONSTRUCT/RECONFIGURE 3 REPAIR/ACCESS PIERS, RECONFIGURE UPLANDS

IN: GUEMES CHANNEL

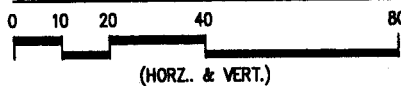
AT: ANACORTES, WA. SKAGIT COUNTY
 NW1/4, SEC 18, R 2E, T 35N
 APPLICATION BY: PORT OF ANACORTES

DATE: SEPTEMBER 23, 2005 SHEET 4 OF 16

Ref # 200501451



SECTION B-B



PURPOSE: MODERNIZE AND UPGRADE FACILITIES TO INCREASE CAPACITY, FLEXIBILITY AND EFFICIENCY

DATUM: 0.0 M.L.L.W.

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**PROJECT PIER 1
EAST-WEST SECTIONS**

PROPOSED: CREATE A DEEPWATER MOORAGE BASIN, CONSTRUCT/RECONFIGURE 3 REPAIR/ACCESS PIERS, RECONFIGURE UPLANDS

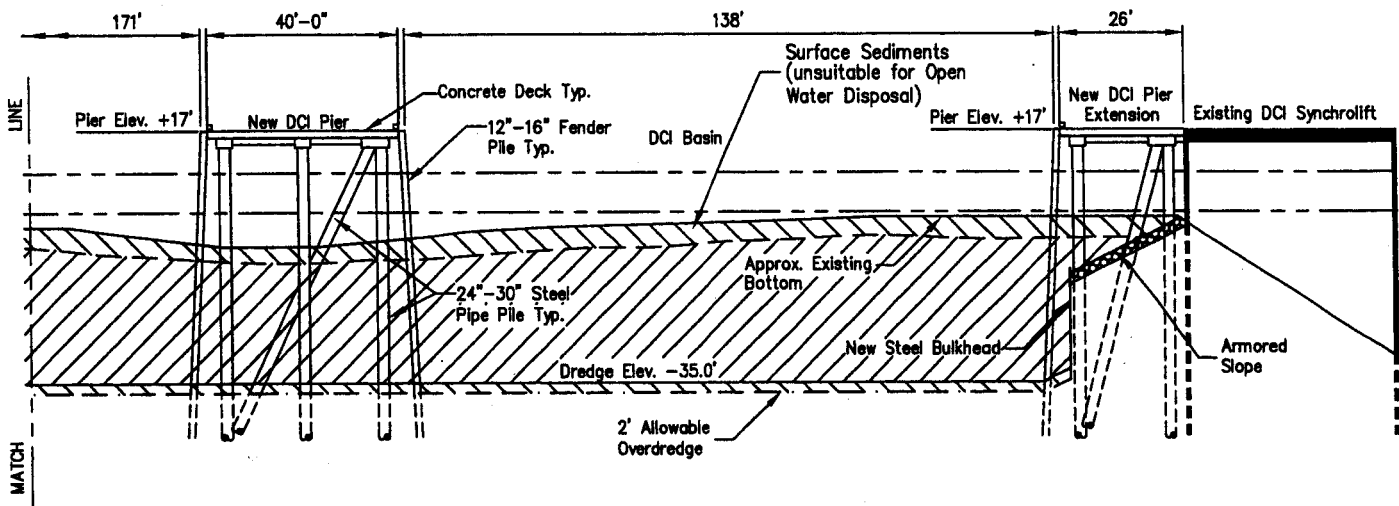
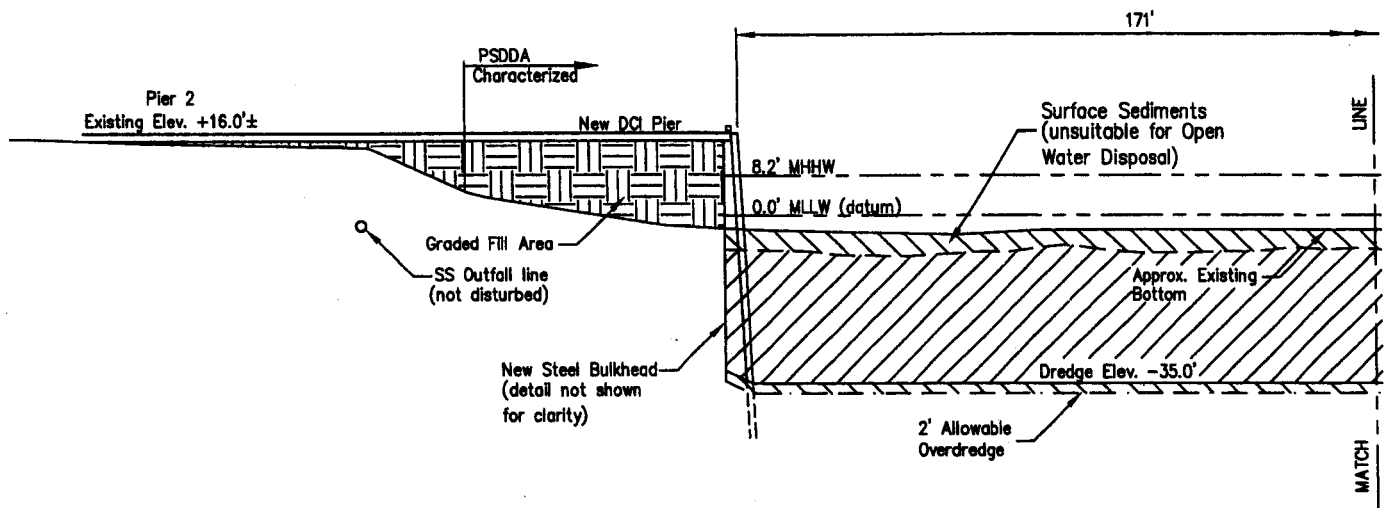
IN: GUEMES CHANNEL

AT: ANACORTES, WA. SKAGIT COUNTY
NW1/4, SEC 18, R 2E, T 35N
APPLICATION BY: PORT OF ANACORTES

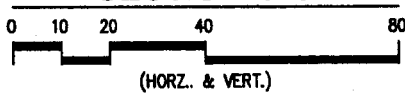
DATE: SEPTEMBER 23, 2005 SHEET 5 OF 16

PORT OF ANACORTES
P.O. BOX 297
ANACORTES, WA. 99221

Ref # 200501451



SECTION C-C



PURPOSE: MODERNIZE AND UPGRADE FACILITIES TO INCREASE CAPACITY, FLEXIBILITY AND EFFICIENCY

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**PROJECT PIER 1
EAST-WEST SECTIONS**

PROPOSED: CREATE A DEEPWATER MOORAGE BASIN, CONSTRUCT/RECONFIGURE 3 REPAIR/ACCESS PIERS, RECONFIGURE UPLANDS

IN: GUEMES CHANNEL

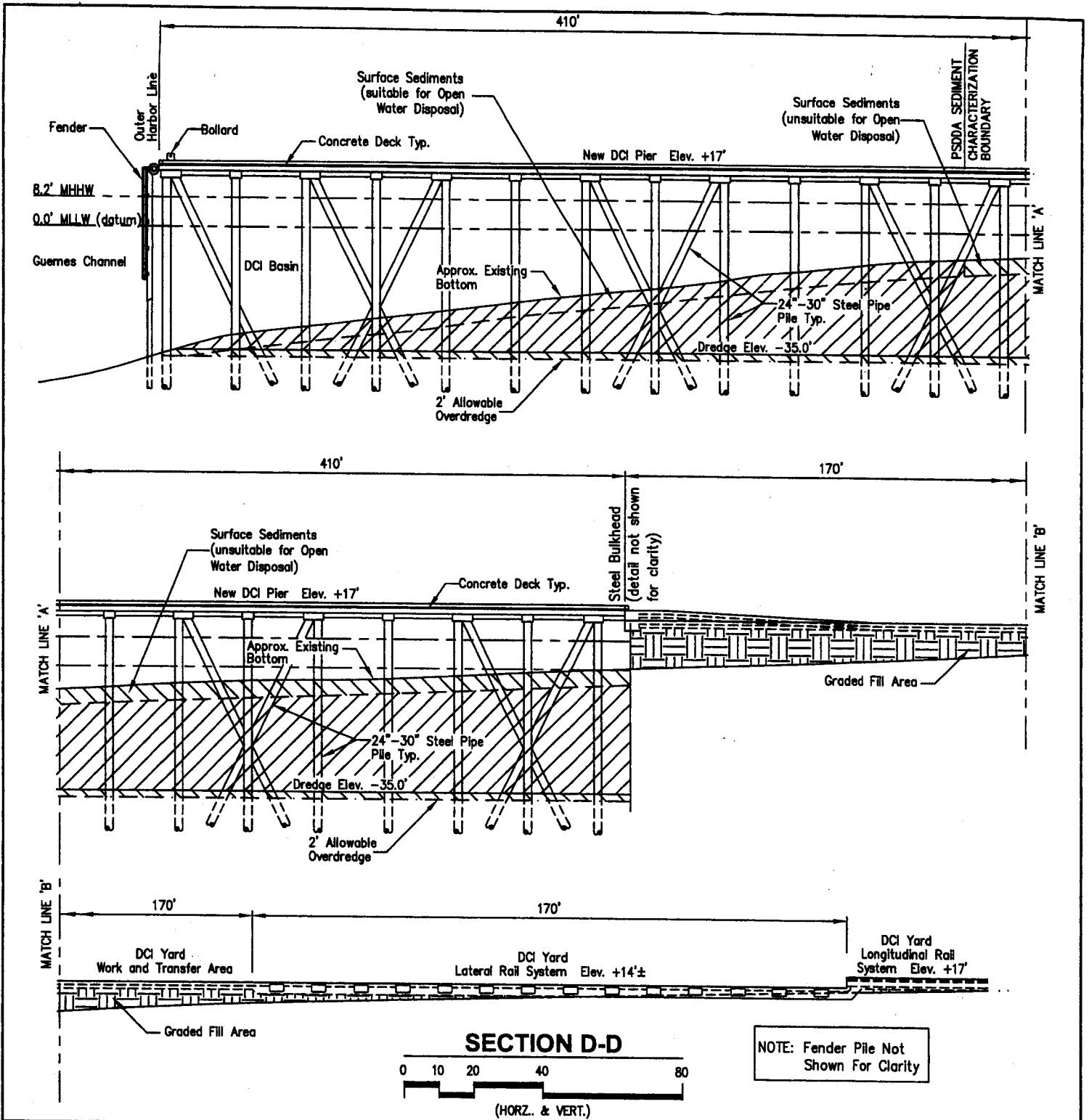
AT: ANACORTES, WA. SKAGIT COUNTY
NW1/4, SEC 18, R 2E, T 35N
APPLICATION BY: PORT OF ANACORTES

DATE: SEPTEMBER 23, 2005

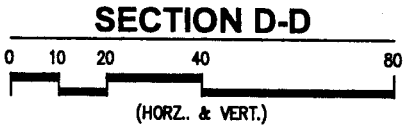
SHEET 6 OF 16

PORT OF ANACORTES
P.O. BOX 297
ANACORTES, WA. 99221

Ref # 200501451



NOTE: Fender Pile Not Shown For Clarity



PURPOSE: MODERNIZE AND UPGRADE FACILITIES TO INCREASE CAPACITY, FLEXIBILITY AND EFFICIENCY

DATUM: 0.0 M.L.L.W.

ADJACENT PROPERTY OWNERS:
 1) PORT OF ANACORTES
 2) CITY OF ANACORTES

PROJECT PIER 1
NORTH-SOUTH SECTIONS

PORT OF ANACORTES
 P.O. BOX 297
 ANACORTES, WA. 99221

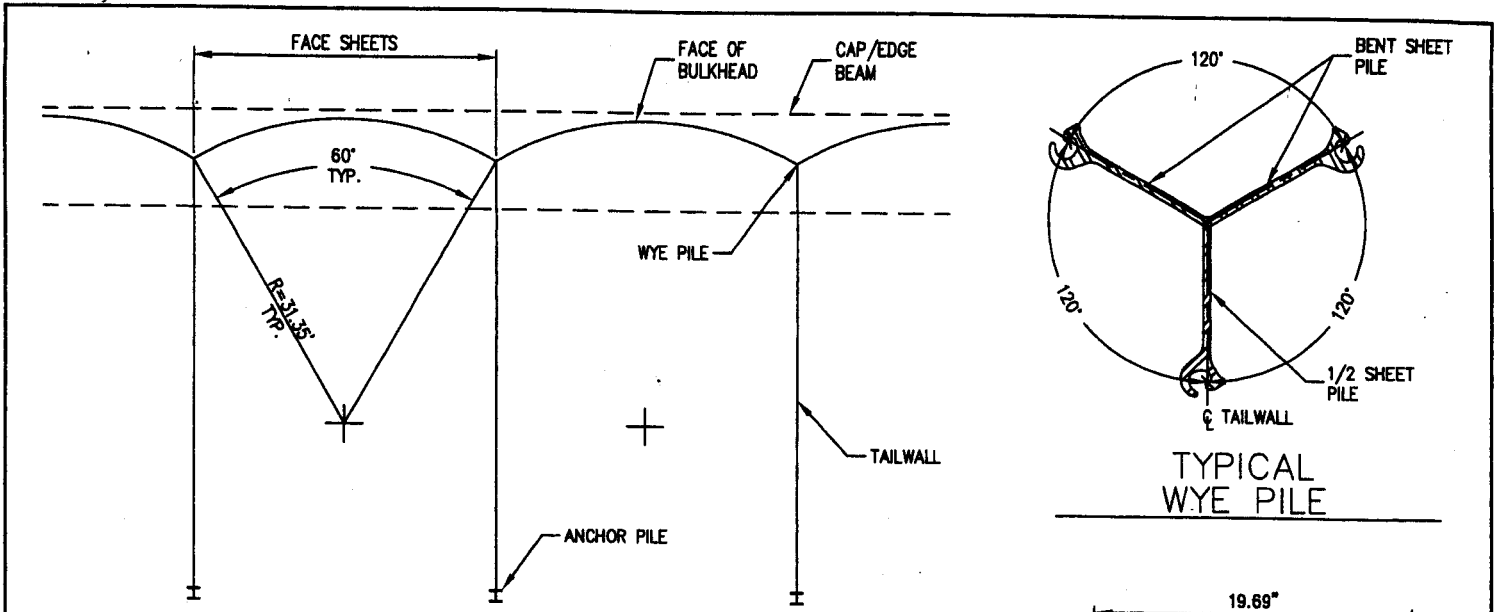
PROPOSED: CREATE A DEEPWATER MOORAGE BASIN, CONSTRUCT/RECONFIGURE 3 REPAIR/ACCESS PIERS, RECONFIGURE UPLANDS

IN: GUEMES CHANNEL

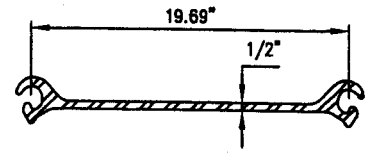
AT: ANACORTES, WA. SKAGIT COUNTY
 NW1/4, SEC 18, R 2E, T 35N
 APPLICATION BY: PORT OF ANACORTES

DATE: SEPTEMBER 23, 2005 SHEET 7 OF 16

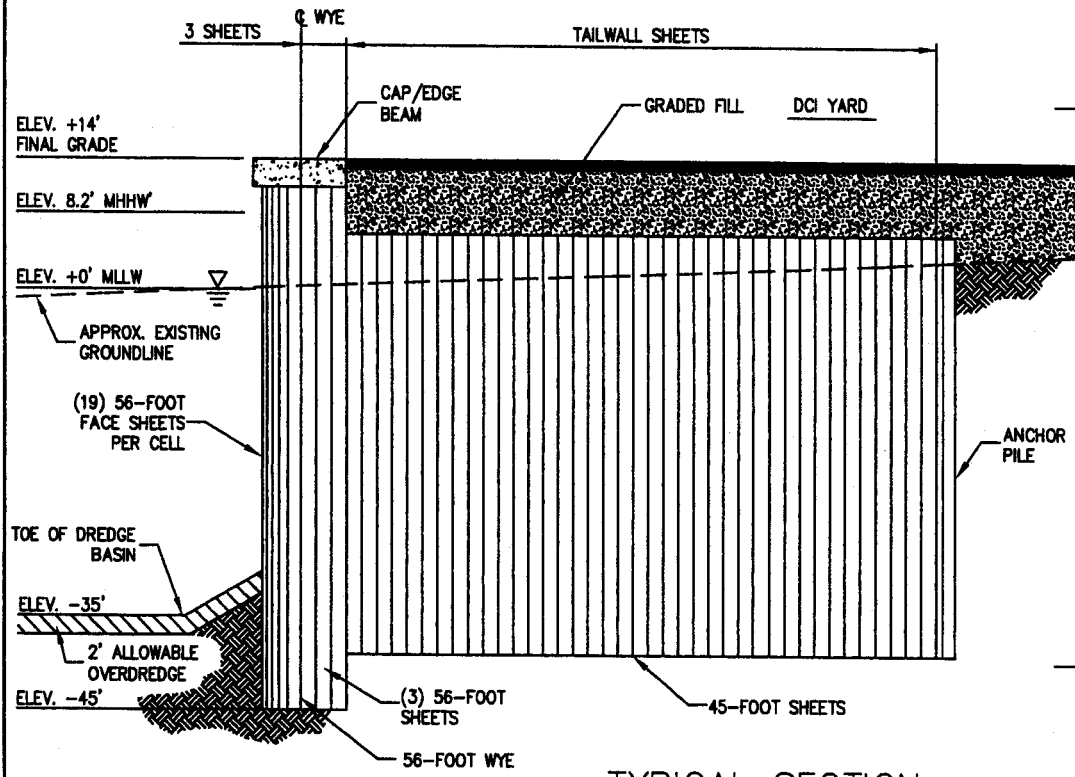
Ref# 200501451



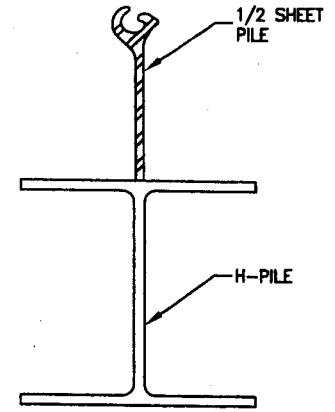
PARTIAL PLAN



TYPICAL SHEET PILE



TYPICAL SECTION



TYPICAL ANCHOR PILE

NOTE:
PIER AND FENDER PILE
NOT SHOWN FOR CLARITY

PURPOSE: MODERNIZE AND UPGRADE FACILITIES TO INCREASE CAPACITY, FLEXIBILITY AND EFFICIENCY

DATUM: 0.0 M.L.L.W.

ADJACENT PROPERTY OWNERS:
1) PORT OF ANACORTES
2) CITY OF ANACORTES

**PROJECT PIER 1
BULKHEAD DETAILS**

PORT OF ANACORTES
P.O. BOX 297
ANACORTES, WA. 99221

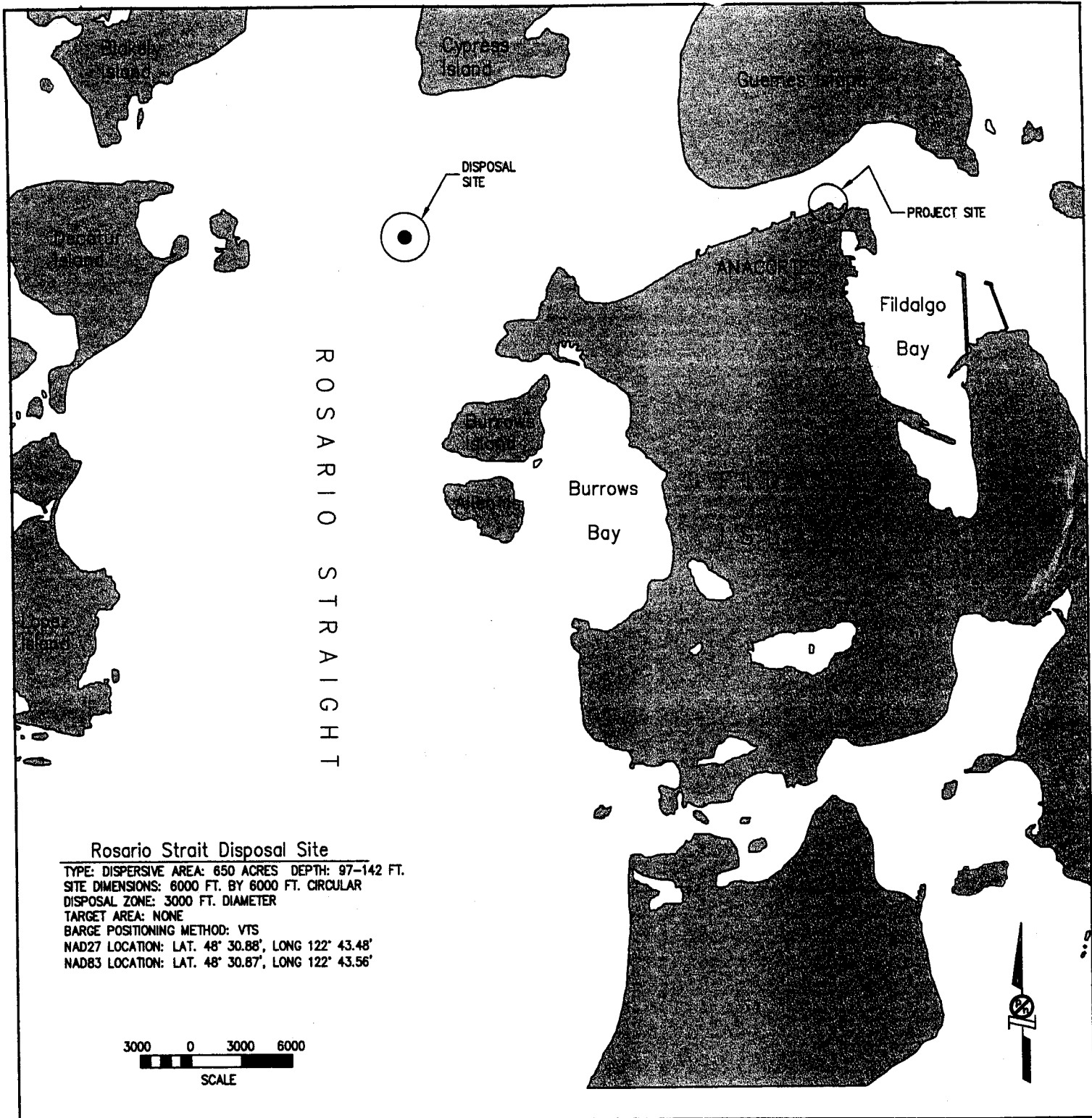
PROPOSED: CREATE A DEEPWATER MOORAGE BASIN, CONSTRUCT/RECONFIGURE 3 REPAIR/ACCESS PIERS, RECONFIGURE UPLANDS

IN: GUMES CHANNEL

AT: ANACORTES, WA. SKAGIT COUNTY
NW1/4, SEC 18, R 2E, T 35N
APPLICATION BY: PORT OF ANACORTES

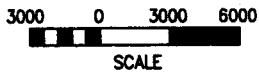
DATE: SEPTEMBER 23, 2005 SHEET 8 OF 16

Ref# 200501451



Rosario Strait Disposal Site

TYPE: DISPERSIVE AREA: 650 ACRES DEPTH: 97-142 FT.
 SITE DIMENSIONS: 6000 FT. BY 6000 FT. CIRCULAR
 DISPOSAL ZONE: 3000 FT. DIAMETER
 TARGET AREA: NONE
 BARGE POSITIONING METHOD: VTS
 NAD27 LOCATION: LAT. 48° 30.88', LONG 122° 43.48'
 NAD83 LOCATION: LAT. 48° 30.87', LONG 122° 43.56'



PURPOSE: MODERNIZE AND UPGRADE FACILITIES TO INCREASE CAPACITY, FLEXIBILITY AND EFFICIENCY

DATUM: 0.0 M.L.L.W.

ADJACENT PROPERTY OWNERS:
 1) PORT OF ANACORTES
 2) CITY OF ANACORTES

**PROJECT PIER 1
 DREDGE DISPOSAL SITE**

PROPOSED: CREATE A DEEPWATER MOORAGE BASIN, CONSTRUCT/RECONFIGURE 3 REPAIR/ACCESS PIERS, RECONFIGURE UPLANDS

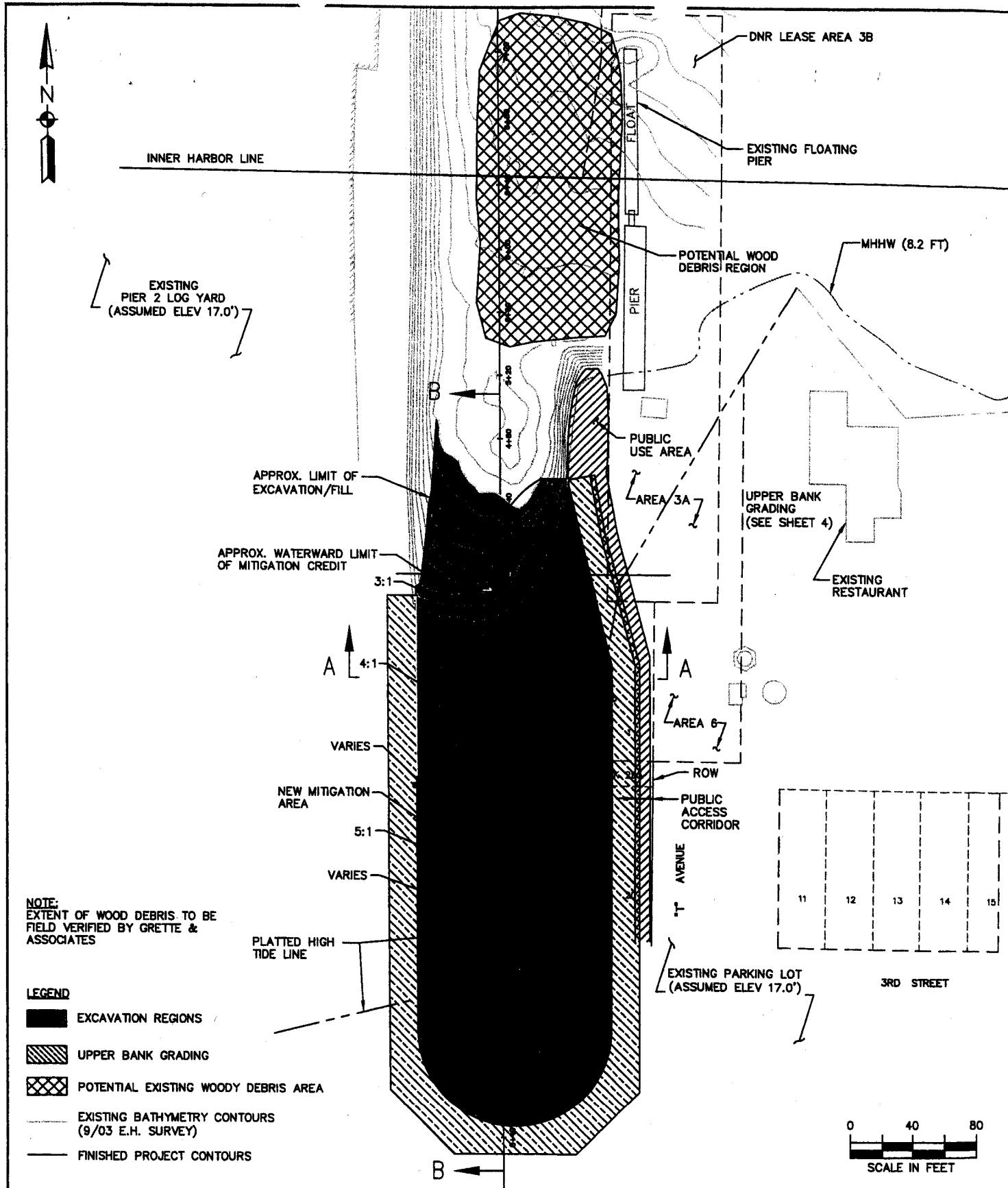
IN: GUEMES CHANNEL

AT: ANACORTES, WA. SKAGIT COUNTY
 NW1/4, SEC 18, R 2E, T 35N
 APPLICATION BY: PORT OF ANACORTES

DATE: SEPTEMBER 23, 2005 SHEET 9 OF 16

PORT OF ANACORTES
 P.O. BOX 297
 ANACORTES, WA. 99221

Ref # 200501451



NOTE:
 EXTENT OF WOOD DEBRIS TO BE
 FIELD VERIFIED BY GRETTIE &
 ASSOCIATES

LEGEND

- EXCAVATION REGIONS
- UPPER BANK GRADING
- POTENTIAL EXISTING WOODY DEBRIS AREA
- EXISTING BATHYMETRY CONTOURS
(9/03 E.H. SURVEY)
- FINISHED PROJECT CONTOURS

PURPOSE: MODERNIZE AND UPGRADE FACILITIES
 TO INCREASE CAPACITY, FLEXIBILITY AND
 EFFICIENCY

DATUM: 0.0 M.L.L.W.

ADJACENT PROPERTY OWNERS:

- 1) PORT OF ANACORTES
- 2) CITY OF ANACORTES

**PROJECT PIER 1
 LOG POCKET MITIGATION SITE
 PLAN VIEW**

PORT OF ANACORTES
 P.O. BOX 297
 ANACORTES, WA. 99221

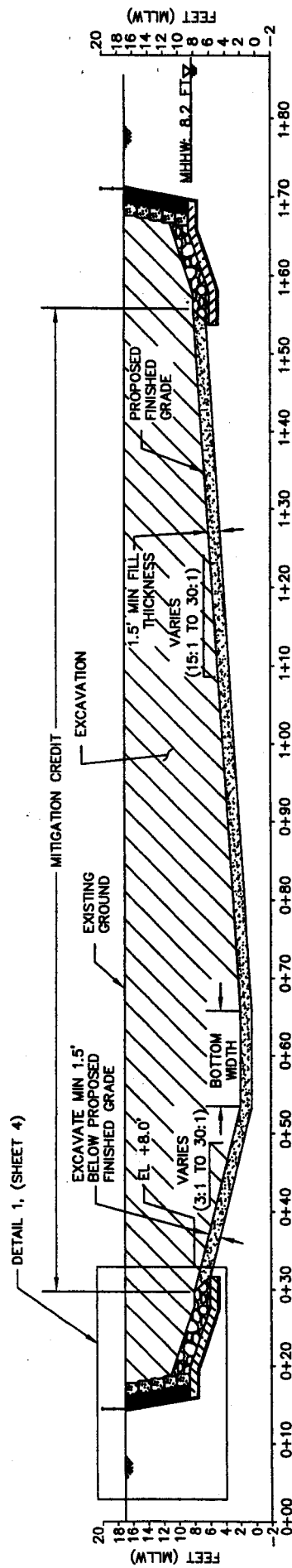
PROPOSED: CREATE A DEEPWATER MOORAGE BASIN,
 CONSTRUCT/RECONFIGURE 3 REPAIR/ACCESS PIERS,
 RECONFIGURE UPLANDS

IN: GUEMES CHANNEL

Ref # 200501451

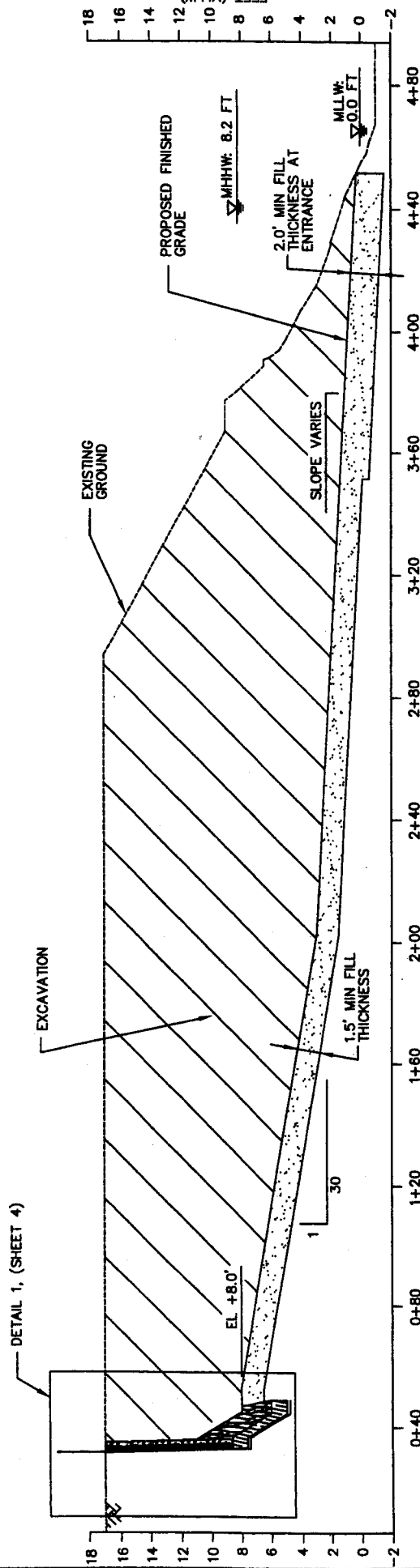
AT: ANACORTES, WA. SKAGIT COUNTY
 NW1/4, SEC 18, R 2E, T 35N
APPLICATION BY: PORT OF ANACORTES

DATE: SEPTEMBER 23, 2005 **SHEET 10 OF 16**



SECTION A-A

HOR. SCALE: 1"=10'
VERT. SCALE: 1"=10'

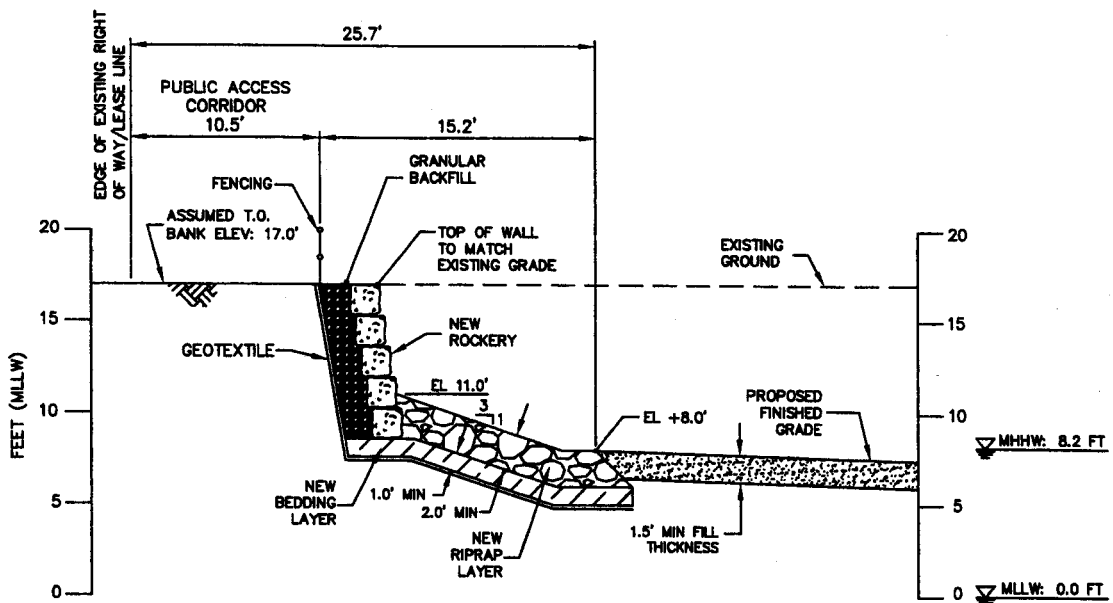


PROPOSED: CREATE A DEEPWATER MOORAGE BASIN,
CONSTRUCT/RECONFIGURE 3 REPAIR/ACCESS PIERS,
RECONFIGURE UPLANDS
IN: GUEMES CHANNEL
AT: ANACORTES, WA. SKAGIT COUNTY
NW1/4, SEC 18, R. 2E, T. 35N
APPLICATION BY: PORT OF ANACORTES
DATE: SEPTEMBER 23, 2005
SHEET 11 OF 16

PROJECT PIER 1
LOG POCKET MITIGATION SITE
CROSS SECTIONS
PORT OF ANACORTES
P.O. BOX 297
ANACORTES, WA. 99221

PURPOSE: MODERNIZE AND UPGRADE FACILITIES
TO INCREASE CAPACITY, FLEXIBILITY AND
EFFICIENCY
DATUM: 0.0 M.L.L.W.
ADJACENT PROPERTY OWNERS:
1) PORT OF ANACORTES
2) CITY OF ANACORTES

Ref # 200501M51



DETAIL 1
(ROCKERY/REVETMENT)



PURPOSE: MODERNIZE AND UPGRADE FACILITIES TO INCREASE CAPACITY, FLEXIBILITY AND EFFICIENCY

DATUM: 0.0 M.L.L.W.

ADJACENT PROPERTY OWNERS:
1) PORT OF ANACORTES
2) CITY OF ANACORTES

PROJECT PIER 1
LOG POCKET MITIGATION SITE
UPPER BANK GRADING DETAIL

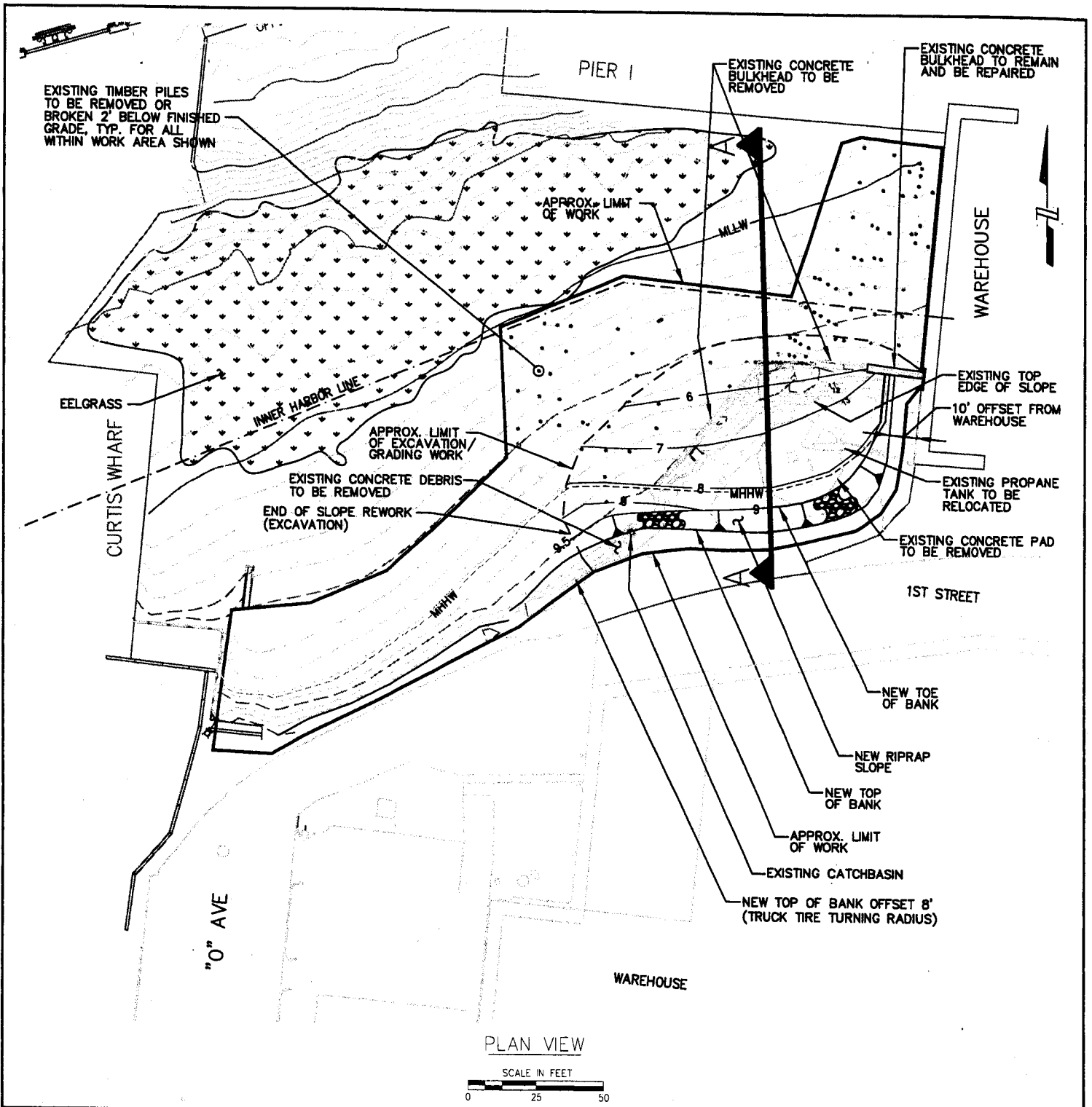
PORT OF ANACORTES
P.O. BOX 297
ANACORTES, WA. 99221

PROPOSED: CREATE A DEEPWATER MOORAGE BASIN, CONSTRUCT/RECONFIGURE 3 REPAIR/ACCESS PIERS, RECONFIGURE UPLANDS

IN: GUEMES CHANNEL Ref# 200501451

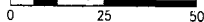
AT: ANACORTES, WA. SKAGIT COUNTY
NW1/4, SEC 18, R 2E, T 35N
APPLICATION BY: PORT OF ANACORTES

DATE: SEPTEMBER 23, 2005 SHEET 12 OF 16



PLAN VIEW

SCALE IN FEET



PURPOSE: MODERNIZE AND UPGRADE FACILITIES TO INCREASE CAPACITY, FLEXIBILITY AND EFFICIENCY

DATUM: 0.0 M.L.L.W.

ADJACENT PROPERTY OWNERS:

- 1) PORT OF ANACORTES
- 2) CITY OF ANACORTES

PROJECT PIER 1 O AVENUE MITIGATION SITE PLAN VIEW

PROPOSED: CREATE A DEEPWATER MOORAGE BASIN, CONSTRUCT/RECONFIGURE 3 REPAIR/ACCESS PIERS, RECONFIGURE UPLANDS

IN: GUEMES CHANNEL

AT: ANACORTES, WA. SKAGIT COUNTY

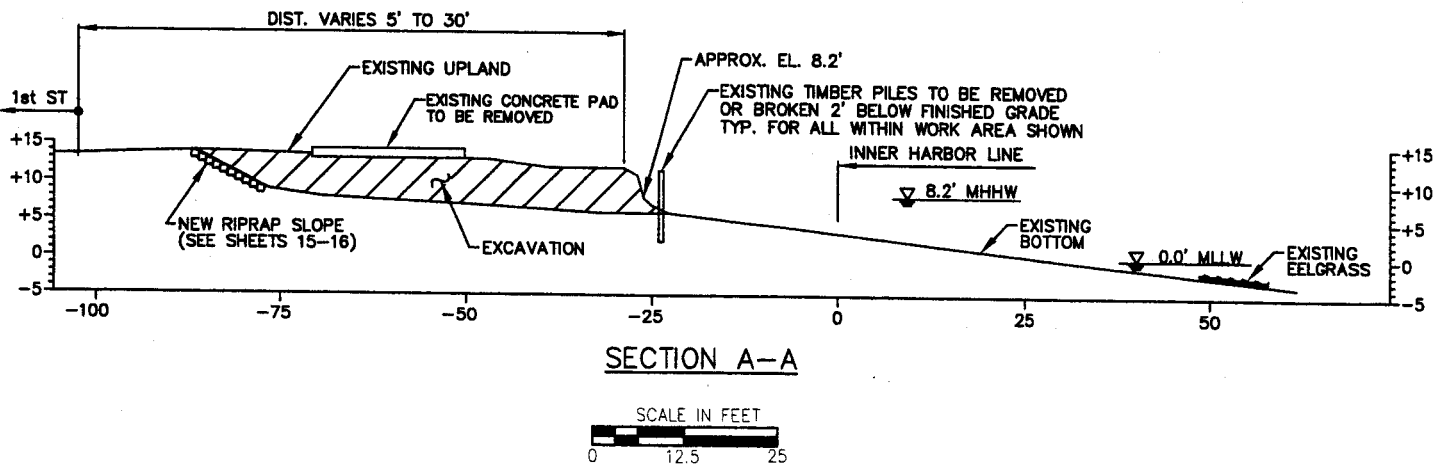
NW1/4, SEC 18, R. 2E, T. 35N

APPLICATION BY: PORT OF ANACORTES

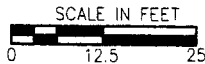
DATE: SEPTEMBER 23, 2005 SHEET 13 OF 16

PORT OF ANACORTES
P.O. BOX 297
ANACORTES, WA. 99221

Ref # 200501451



SECTION A-A



PURPOSE: MODERNIZE AND UPGRADE FACILITIES TO INCREASE CAPACITY, FLEXIBILITY AND EFFICIENCY

DATUM: 0.0 M.L.L.W.

ADJACENT PROPERTY OWNERS:

- 1) PORT OF ANACORTES
- 2) CITY OF ANACORTES

PROJECT PIER 1
O AVENUE MITIGATION SITE
CROSS SECTION

PORT OF ANACORTES
 P.O. BOX 297
 ANACORTES, WA. 99221

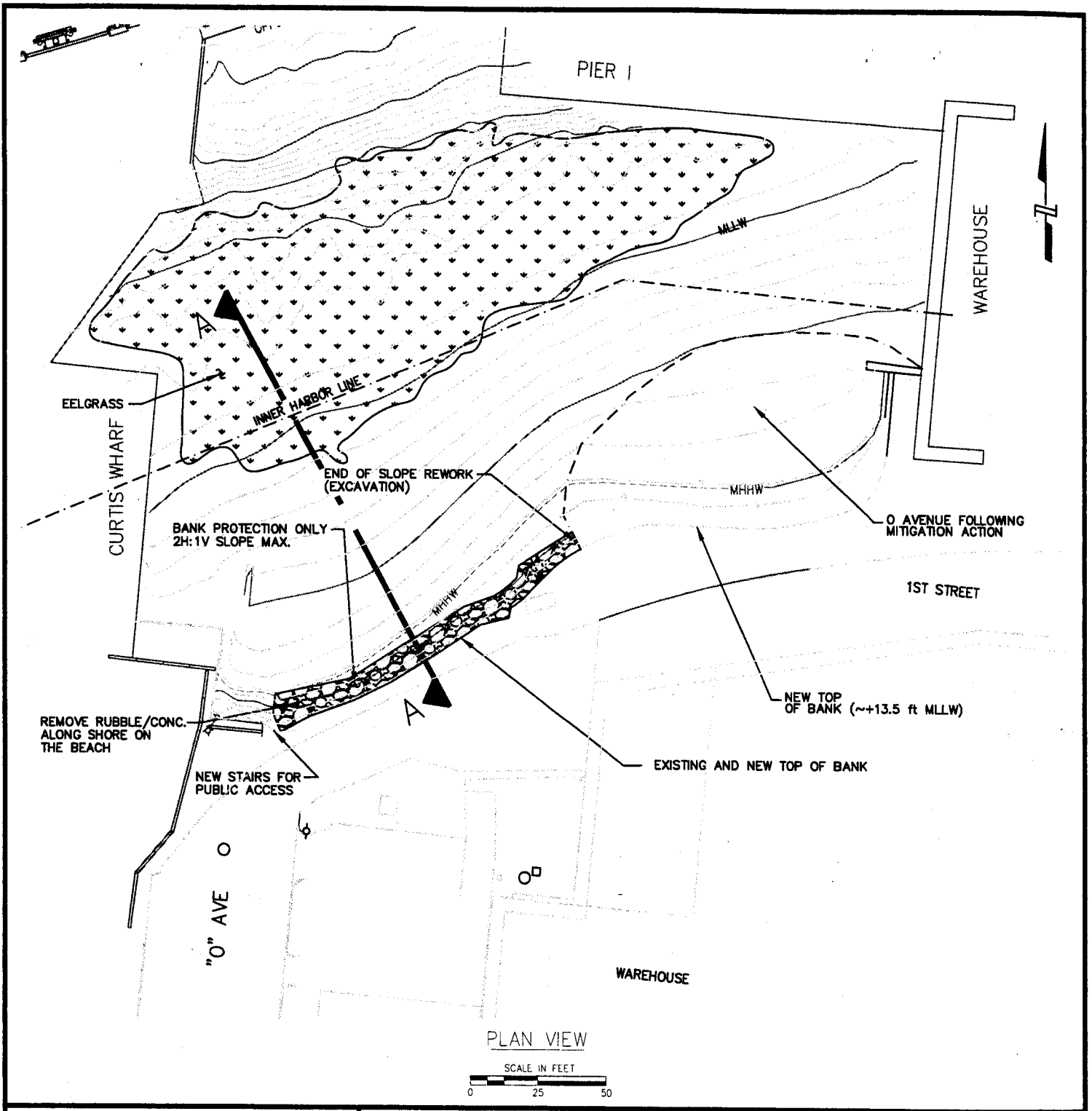
PROPOSED: CREATE A DEEPWATER MOORAGE BASIN, CONSTRUCT/RECONFIGURE 3 REPAIR/ACCESS PIERS, RECONFIGURE UPLANDS

IN: GUEMES CHANNEL

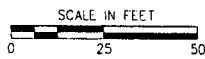
AT: ANACORTES, WA. SKAGIT COUNTY
 NW1/4, SEC 18, R 2E, T 35N
 APPLICATION BY: PORT OF ANACORTES

DATE: SEPTEMBER 23, 2005 SHEET 14 OF 16

Ref# 200501451



PLAN VIEW



PURPOSE: MODERNIZE AND UPGRADE FACILITIES TO INCREASE CAPACITY, FLEXIBILITY AND EFFICIENCY

DATUM: 0.0 M.L.L.W.

ADJACENT PROPERTY OWNERS:
 1) PORT OF ANACORTES
 2) CITY OF ANACORTES

**PROJECT PIER 1
 BANK PROTECTION TO
 OCCUR AT O AVENUE
 MITIGATION SITE
 PLAN VIEW**

PORT OF ANACORTES
 P.O. BOX 297
 ANACORTES, WA. 99221

PROPOSED: CREATE A DEEPWATER MOORAGE BASIN, CONSTRUCT/RECONFIGURE 3 REPAIR/ACCESS PIERS, RECONFIGURE UPLANDS

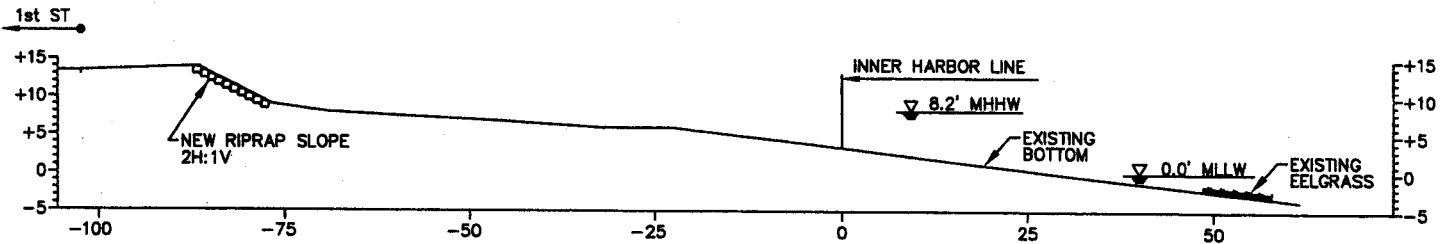
IN: GUEMES CHANNEL

AT: ANACORTES, WA. SKAGIT COUNTY
 NW1/4, SEC 18, R 2E, T 35N
 APPLICATION BY: PORT OF ANACORTES

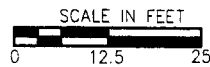
DATE: SEPTEMBER 23, 2005

SHEET 15 OF 16

Ref # 200501451



SECTION A-A



PURPOSE: MODERNIZE AND UPGRADE FACILITIES TO INCREASE CAPACITY, FLEXIBILITY AND EFFICIENCY

DATUM: 0.0 M.L.L.W.

ADJACENT PROPERTY OWNERS:

- 1) PORT OF ANACORTES
- 2) CITY OF ANACORTES

**PROJECT PIER 1
BANK PROTECTION TO
OCCUR AT O AVENUE
MITIGATION SITE
CROSS SECTION**

PORT OF ANACORTES
P.O. BOX 297
ANACORTES, WA. 99221

PROPOSED: CREATE A DEEPWATER MOORAGE BASIN, CONSTRUCT/RECONFIGURE 3 REPAIR/ACCESS PIERS, RECONFIGURE UPLANDS

IN: GUEMES CHANNEL

AT: ANACORTES, WA. SKAGIT COUNTY
NW1/4, SEC 18, R 2E, T 35N
APPLICATION BY: PORT OF ANACORTES

DATE: SEPTEMBER 23, 2005

SHEET 16 OF 16

Ref # 200501451



APR 25 2006

REG-001-10

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
TTY 711 or 800-833-6388 (for the speech or hearing impaired)

REGISTERED MAIL

April 21, 2006

Ms. Margaret Schwertner
Port of Anacortes
P.O. Box 297
Anacortes WA 99221-0297

RE: Water Quality Certification - Order #3246/Corps Public Notice 200501451 -
Rehabilitation of an existing waterfront industrial area and upgrade of facilities by removing
existing structures, reconfiguring an existing basin, and installing new overwater and upland
structures in Guemes Channel near Anacortes, Skagit County, Washington

Dear Ms. Schwertner:

The above-referenced public notice for proposed work in waters of the state has been reviewed
in accordance with all pertinent rules and regulations. On behalf of the State of Washington, we
certify that the work proposed in the public notice complies with applicable provisions of
Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and other appropriate
requirements of State law. This letter also serves as the State response to the Corps of Engineers.

Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended,
Ecology concurs with the Applicant's determination that this work is consistent with the
approved Washington State Coastal Zone Management Program.

This certification is subject to the conditions contained in the enclosed Order and may be
appealed by following the procedures described in the Order. If you have any questions
concerning the content of the Order, please contact Helen Pressley at (360) 407-6076.

Sincerely,

Brenden McFarland, Section Supervisor
Environmental Review and Transportation Section Manager
Shorelands and Environmental Assistance Program

cc: Randel Perry, Corps
Penny Keys, Ecology



**IN THE MATTER OF GRANTING A
WATER QUALITY
CERTIFICATION TO**

Port of Anacortes

in accordance with 33 U.S.C. 1341
(FWPCA § 401), RCW 90.48.120, RCW
90.48.260 and Chapter 173-201A WAC

) **ORDER # 3246**
) **Corps Reference No. 200501451**
) Rehabilitation of an existing waterfront industrial
) area and an upgrade to existing facilities by
) removing existing structures, reconfiguring an
) existing basin, and installing new overwater and
) upland structures in Guemes Channel,
) Anacortes, Skagit County, Washington

TO: Ms. Margaret Schwertner
Port of Anacortes
P.O. Box 297
Anacortes WA 98221

On December 20, 2005 the Port of Anacortes submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A public notice regarding the request was distributed by the U.S. Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on March 2, 2006.

The applicant proposes to rehabilitate an existing waterfront industrial area and upgrade facilities by removing existing structures, reconfiguring an existing basin, and installing new overwater and upland structures. The purpose of this work is to upgrade an industrial facility to meet current market demands and ensure operational safety. These proposed actions are part of facility improvements at the Dakota Creek Industries (DCI) site, a commercial ship repair facility. Work involves removal of 2 existing docks, piling, marine railways, and associated overwater and upland structures; installation of 3 new piers with associated overwater and upland structures; dredging of 168,000 cubic yards (cy) of material and installation of 670 linear feet of sheetpile bulkhead to reconfigure the existing DCI ship basin; and installation of 250 linear feet of riprap along the east boundary of the basin.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, 16 U.S.C. § 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 303, 306 and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW and with other applicable state laws; and

3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will not violate applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260, and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

1. For purposes of this Order, the term "Applicant" shall mean the Port of Anacortes, and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Headquarters to the Federal Permit Coordinator, PO Box 47600, Olympia WA 98504. Any submittals shall reference Order No. 3246 and Corps No. 200501451.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on December 20, 2005. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.
4. Within 30 days of receipt of an updated JARPA Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.
5. This Order shall be rescinded if the Army Corps of Engineers does not issue an individual 404 water quality permit.
6. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
7. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the project manager, construction managers and lead workers, and state and local government inspectors.

8. The Applicant shall provide access to the project site and the mitigation site upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
9. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (*e.g.*, violations of water quality standards, erosion, etc.), or if additional conditions are necessary to further protect water quality.
10. The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins at the project.
11. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
12. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000.00) per violation for each day of continuing noncompliance.

B. Water Quality:

1. No Further Impairment of Existing Water Quality.

Guemes Channel, (WRIA 3, WA-PS-0200) is a Class AA water of the state. Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (173-201A WAC) or sediment quality standards (Chapter 173-204 WAC). Water quality criteria contained in WAC 173-201A-030(1) and WAC 173-201A-040 shall apply to this project.

This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-110(3). Furthermore, nothing in this certification shall absolve the Port of Anacortes from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

2. Guemes Channel has been identified on the current 303(d) list of impaired water bodies as exceeding water quality standards for PCB 1254. This proposed project shall not result in a further exceedance of this standard, and will be out of compliance with this

certification if discharges from the project exceed limits for those contaminants identified in 173-201A-030(1) WAC and/or 173-201A-040 WAC.

C. Dredging and Disposal:

1. All dredging is to be done using a clamshell dredge. Use of any other type of dredge will require prior approval from the DMMP agencies.
2. Up to 168,000 cy of dredged material will be excavated for this project. The PSDDA (Puget Sound Dredge Disposal Analysis) agencies have determined that 156,500 cy of this material is suitable for unconfined disposal at the PSDDA nondispersive (or dispersive) open-water disposal site in Rosario Straits. The remaining 11,500 cy were found unsuitable for open-water disposal and will be loaded onto trucks and transported to an approved upland disposal site.
3. All debris (larger than 2 feet in any dimension) shall be removed from the dredged sediment prior to disposal. Similar sized debris found floating in the dredging or disposal area shall also be removed. All debris shall be disposed of at an appropriate upland location.
4. A **Dredging Plan** is required and shall be made available for review and approval at the pre-dredge meeting to be convened at the Seattle Corps of Engineers office prior to the start of dredging. One week prior to the pre-construction meeting, a copy of the plan shall be sent to the Federal Permit Coordinator, Department of Ecology, PO Box 47600, Olympia WA 98504-7600 for review prior to the meeting.

D. Construction and Demolition:

1. Work in or near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Sediment and erosion control Best Management Practices suitable to prevent exceedances of state water quality standards (e.g. filter fences, silt curtains, etc.), shall be in place before starting work at the impact site. BMPs shall be maintained throughout construction.
2. All construction debris shall be properly disposed of on land so that it cannot enter the waterway or cause water quality degradation to state waters.
3. All excess excavated upland material shall be disposed of above the 100-year floodplain and shall be contained so as to prevent its re-entry into waters of the state.
4. Erosion control devices (e.g., filter fences, silt or bubble curtains, etc.) suitable to prevent exceedances of state water quality standards shall be in place before starting project construction and shall be maintained throughout construction.
5. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall not be discharged into state waters except as authorized by an NPDES or state waste discharge permit.

6. Piling Removal and Placement:

- a. During piling removal a containment boom and absorbent pads shall be placed around the perimeter of the work area to capture wood debris and other materials released into the waters as piling are pulled. All accumulated debris shall be collected and disposed of upland at an approved disposal site.
- b. During inwater work the Applicant shall have a boat available on site at all times to retrieve debris from the water.
- c. Piles removed from substrate shall be removed immediately from the water into a barge lined with filter fabric or straw bales around the perimeter or upland into an area that is similarly contained. The pile shall not be shaken, hosed-off, left hanging to drip or any other action intended to clean or remove adhering material from the pile.
- d. All existing creosote treated pilings shall be completely extracted, removed from marine waters, and disposed of at an approved upland disposal site. If the pilings are cannot be completely removed they shall be cut off at a minimum of three (3) feet below grade as required by the Washington Department of Fish and Wildlife Hydraulic Project Approval. The hole then shall be capped with clean sand.
- e. All new pilings shall be steel with the exception of timber fender piles.
- f. The Applicant shall employ a bubble curtain or equivalent Best Management Practice around steel piles when using an impact hammer. The bubble curtain shall be deployed in a manner to ensure that bubbles completely engulf the piles during the impact driving.

E. Monitoring:

1. During and immediately after project completion, the Applicant or contractor shall visually monitor the area for distressed or dying fish. If water quality exceedances are observed outside the dilution zone, in-water work shall cease immediately and the Applicant or the contractor shall contact Ecology at Ecology's Northwest Regional Spill Response Office at (425) 649-7000, a 24-hour number.

F. Mitigation:

1. Impacts to aquatic resources shall be mitigated by providing a total of 3.36 acres of eelgrass and non-eelgrass habitat within the intertidal and shallow subtidal zone, through excavation at the Log Pocket and O Avenue Mitigation Sites, and restoring 2.3 acres of eelgrass habitat at the Fidalgo Bay Habitat Site, as described in the following documents, except as modified by this Certification and Order:

- Port of Anacortes - Project Pier 1 Mitigation Plan, prepared by Grette Associates Environmental Consultants, November 18, 2005; including 16 sheets of drawings.
2. In addition to mitigation measures described in the above-referenced documents, the following requirements shall be conditions of this Order:
- Timing: The compensatory mitigation plan shall be implemented prior to or concurrently with the site construction for the development.
 - Record Report and Drawings: A report documenting the final design of the mitigation measures shall be prepared when site construction and planting is completed. The report shall include the following:
 - Vicinity map;
 - Project documentation, including drawings, photographs, surveys, etc.; and
 - An analysis of any changes to the mitigation plan that occurred during construction.

A copy of the Record Report shall be sent to Helen Pressley at Ecology within six months of completing construction at the Log Pocket and O Avenue Mitigation Sites. The project monitoring period shall commence with Ecology's acceptance of the Record Report.

- Performance Standards: The project performance standards shall be as listed in Table 6, Section 7.2, Project Pier 1 Mitigation Plan. These include:
 - Convert 1.00 acres of upland into aquatic habitat below elevation +8.2 feet MLLW at the Log Pocket Mitigation Site.
 - Convert 0.06 acres of upland into aquatic habitat below the elevation +8.2 feet MLLW at the O Avenue Mitigation Site.
 - Observe use by juvenile salmonids as evidenced by beach seine sampling at Log Pocket and O Avenue Mitigation Sites.
 - Provide approximately 140,000 eelgrass turions at Fidalgo Bay Habitat Site.
- Monitoring: Monitoring to insure that the project performance standards are met shall be performed as described Section 7.3, Monitoring Activities, in the Project Pier 1 Mitigation Plan. Monitoring shall take place over a period of six years for the Log Pocket and O Avenue Mitigation Sites, with monitoring performed in years 1, 2, 4 and 6. Monitoring at the Fidalgo Bay Habitat Site shall take place for ten years, with monitoring performed in years 2, 3, 6 and 10. **Copies of all monitoring reports shall be submitted to Ecology at PO Box 47600, Olympia, WA 98504, as well as to the U.S. Army Corps of Engineers.**

- **Contingency Plans:** The applicant is responsible for ensuring that the mitigation sites meet their performance standards. The contingency planning process for this project is explained in Section 7.4, Project Pier 1 Mitigation Plan.
- **Permanent Protection:** The applicant shall provide documentation showing the means of long-term protection for the Log Pocket and O Avenue Mitigation Sites, as described in Section 6.6.3, Project Pier 1 Mitigation Plan, to Helen Pressley at Ecology within 60 days of completing construction, and in no case later than December 31, 2008. It is understood that the Fidalgo Bay Habitat Site would be sub-leased by the Port from the City of Anacortes, which would lease it from the State Department of Natural Resources. There is no long-term guarantee that the Fidalgo Bay Habitat Site will not be subject to future development actions, although it would be subject to protective regulations in place at the time of any proposed development.

F. Emergency and Contingency Measures:

1. Any in-water work that is out of compliance with the provisions of this Order, or any discharge of oil, fuel, or chemicals into state waters or onto land with a potential for entry into state waters, is prohibited. If these occur, the operator shall immediately take the following actions:
 - a. Cease operations.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
2. Spills into state waters, spills onto land with a potential for entry into state waters, or other significant water quality impacts, shall be reported immediately to Ecology's Northwest Regional Spill Response Office at (425) 649-7000, a 24-hour number.
3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters, including wetlands.

G. Timing Requirements:

1. In-water work is subject to a fishery closure window described in Washington State Department of Fish and Wildlife's (WDFW) Hydraulic Project Approval (HPA) #104269-1 dated March 3, 2006. All in-water work shall be completed by the work window identified in the most current HPA issued for this project. Any project change that requires a new or revised HPA should also be sent to Ecology for review.

2. This Order shall remain in effect for a period of five (5) years from date of issuance. Continuing this project beyond the five year term of this Order will require separate certifications every five years.

H. Notification Requirements:

1. **The department shall be notified at least 72 hours prior to the start of dredging.** Contact Helen Pressley at Department of Ecology, PO Box 47600, Olympia WA 98504-7600, (360) 407-6076, or hpre461@ecy.wa.gov.

I. Appeal Process:

You have the right to appeal this Order to the Pollution Control Hearings Board. Pursuant to chapter 43.21B RCW, your appeal must be filed with the Pollution Control Hearings Board, and served on the Department of Ecology within thirty (30) days of the date of your receipt of this document.

To appeal this Order, your notice of appeal must contain a copy of the Ecology Order you are appealing.

Your appeal must be filed with:

The Pollution Control Hearings Board
4224 - 6th Avenue SE, Rowe Six, Bldg. 2
P.O. Box 40903
Lacey, Washington 98504-0903

Your appeal must also be served on:

The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia, Washington 98504-7608.

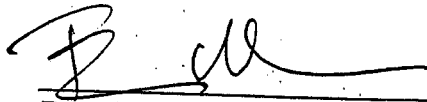
In addition, please send a copy of your appeal to:

Federal Permit Appeals Coordinator
Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

For additional information: Environmental Hearings Office Website: <http://www.eho.wa.gov>

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with Ch. 43.21B RCW.

Dated April 21, 2006 at Lacey, Washington.



Brenden McFarland, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington

Attachment #A

Water Quality Certification Statement of Understanding

I, _____, state that, as an agent or contractor for construction and/or dredging at the Port of Anacortes, Pier 1/DCI Redevelopment, located between O Ave and T Ave north of 4th St, Anacortes, Skagit County, Washington. I have read and understand the relevant conditions of Washington State Department of Ecology Water Quality Certification Order #3247 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Company



US Army Corps
of Engineers ®
Seattle District

CERTIFICATE OF COMPLIANCE WITH DEPARTMENT OF THE ARMY PERMIT



Permit Number: 200501451

Name of Permittee: Port of Anacortes

Date of Issuance: JUL 20 2007

Upon completion of the activity authorized by this permit, please check the applicable boxes below, sign this certification, and return it to the following address:

Department of the Army
U.S. Army Corps of Engineers
Seattle District, Regulatory Branch
Post Office Box 3755
Seattle, Washington 98125-3755

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with the terms and conditions of your authorization, your project is subject to suspension, modification, or revocation.

- The work authorized by the above-referenced permit has been completed in accordance with the terms and conditions of this permit.
- The mitigation required (not including monitoring) by the above-referenced permit has been completed in accordance with the terms and conditions of this permit.

Signature of Permittee



2010

WASHINGTON STATE Joint Aquatic Resources Permit Application (JARPA) Form¹

USE BLACK OR BLUE INK TO ENTER ANSWERS IN WHITE SPACES BELOW.



US Army Corps
of Engineers®
Seattle District

AGENCY USE ONLY

Date received: _____

Agency reference #: _____

Tax Parcel #(s): _____

Part 1—Project Identification

1. Project Name (A name for your project that you create. Examples: Smith's Dock or Seabrook Lane Development) [help] ²
Wyman's Property Habitat Mitigation (Pier 1 Redevelopment Mitigation)

Part 2—Applicant

The person or organization responsible for the project. [\[help\]](#)

2a. Name (Last, First, Middle) and Organization (if applicable)			
Port of Anacortes		Teri Switalski, Contracts Administrator	
2b. Mailing Address (Street or PO Box)			
100 Commercial Avenue			
2c. City, State, Zip			
Anacortes, WA 98221			
2d. Phone (1)	2e. Phone (2)	2f. Fax	2g. E-mail
(360) 299-1830	(360) 293-3134	(360) 293-9608	teri@portofanacortes.com

Part 3—Authorized Agent or Contact

Person authorized to represent the applicant about the project. (Note: Authorized agent(s) must sign 11b. of this application.) [\[help\]](#)

3a. Name (Last, First, Middle) and Organization (if applicable)
3b. Mailing Address (Street or PO Box)

¹Additional forms may be required for the following permits:

- If your project may qualify for Department of the Army authorization through a Regional General Permit (RGP), contact the U.S. Army Corps of Engineers for application information (206) 764-3495.
- If your project might affect species listed under the Endangered Species Act, you will need to fill out a Specific Project Information Form (SPIF) or prepare a Biological Evaluation. Forms can be found at http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=mainpage_ESA
- If you are applying for an Aquatic Resources Use Authorization you will need to fill out and submit an Application for Authorization to Use State-Owned Aquatic Lands form to DNR, which can be found at http://www.dnr.wa.gov/Publications/aqr_use_auth_app.doc
- Not all cities and counties accept the JARPA for their local Shoreline permits. If you think you will need a Shoreline permit, contact the appropriate city or county government to make sure they will accept the JARPA.

²To access an online JARPA form with [help] screens, go to

http://www.epermitting.wa.gov/site/alias__resourcecenter/jarpa_jarpa_form/9984/jarpa_form.aspx.

For other help, contact the Governor's Office of Regulatory Assistance at 1-800-917-0043 or help@ora.wa.gov.

3c. City, State, Zip			
3d. Phone (1)	3e. Phone (2)	3f. Fax	3g. E-mail
()	()	()	

Part 4–Property Owner(s)

Contact information for people or organizations owning the property(ies) where the project will occur. [\[help\]](#)

- Same as applicant. (Skip to Part 5.)
- Repair or maintenance activities on existing rights-of-way or easements. (Skip to Part 5.)
- There are multiple property owners. Complete the section below and fill out [JARPA Attachment A](#) for each additional property owner.

4a. Name (Last, First, Middle) and Organization (if applicable)			
4b. Mailing Address (Street or PO Box)			
4c. City, State, Zip			
4d. Phone (1)	4e. Phone (2)	4f. Fax	4g. E-mail
()	()	()	

Part 5–Project Location(s)

Identifying information about the property or properties where the project will occur. [\[help\]](#)

- There are multiple project locations (e.g., linear projects). Complete the section below and use [JARPA Attachment B](#) for each additional project location.

5a. Indicate the type of ownership of the property. (Check all that apply.) [help]
<input type="checkbox"/> State Owned Aquatic Land (If yes or maybe, contact the Department of Natural Resources (DNR) at (360) 902-1100) <input type="checkbox"/> Federal <input checked="" type="checkbox"/> Other publicly owned (state, county, city, special districts like schools, ports, etc.) <input type="checkbox"/> Tribal <input type="checkbox"/> Private
5b. Street Address (Cannot be a PO Box. If there is no address, provide other location information in 5p.) [help]
100 Commercial Avenue
5c. City, State, Zip (If the project is not in a city or town, provide the name of the nearest city or town.) [help]
Anacortes, WA 98221
5d. County [help]
Skagit

5e. Provide the section, township, and range for the project location. [\[help\]](#)

¼ Section	Section	Township	Range
NW	18	35N	02E

5f. Provide the latitude and longitude of the project location. [\[help\]](#)

- Example: 47.03922 N lat. / -122.89142 W long. (NAD 83)

48°31' N, 122°36' W

5g. List the tax parcel number(s) for the project location. [\[help\]](#)

- The local county assessor's office can provide this information.

The aquatic portion of the site is non-taxable in-water property within the inner harbor line under the Port's Management Agreement with DNR. Upland parcels numbers: P56526; P56511; P56510.

5h. Contact information for all adjoining property owners. (If you need more space, use [JARPA Attachment C.](#)) [\[help\]](#)

Name	Mailing Address	Tax Parcel # (if known)
Port of Anacortes	100 Commercial Avenue Anacortes, WA 98221	All upland & in-water adjacent property
City of Anacortes	P.O. Box 547 Anacortes, WA 98221	"U" Avenue and 3 rd Street rights of way

5i. List all wetlands on or adjacent to the project location. [\[help\]](#)

N/A

5j. List all waterbodies (other than wetlands) on or adjacent to the project location. [\[help\]](#)

South side of Guemes Channel

5k. Is any part of the project area within a 100-year flood plain? [\[help\]](#)

Yes No Don't know

5l. Briefly describe the vegetation and habitat conditions on the property. [\[help\]](#)

The site consists of nearshore aquatic habitat, sandy to rocky shoreline habitat, and upland. The site is highly developed and includes in-water and pile-supported over-water structures, mooring piles and dolphins, bulkheads, shoreline debris, armored slopes, a boat launch, buildings, and paved areas.

Aquatic habitat encompasses intertidal, shallow subtidal and subtidal zones, from mean higher high water (MHHW) down to beyond -10 ft MLLW. Nearshore substrate consists of sand with rock outcrops along the shoreline in the eastern portion of the project site. Eelgrass (*Zostera marina*) is present in the lower portion of the aquatic habitat, with macroalgae present in the upper portion among the rocky substrate. Structures within the aquatic portion of the Project Site include:

- Six mooring dolphins approximately 200 ft offshore, each of which includes five to seven creosote-treated timber piles, totaling 37 piles.
- 19 isolated creosote-treated timber piles, either as single piles or pairs.
- An 18-ft wide concrete boat launch, which extends out to approximately -4.5 ft MLLW.
- Four steel mooring piles along the boat launch.
- Two existing timber pile clusters immediately east of the steel mooring piles, each of which includes 20 creosote-treated timber piles.
- A 2,290 sq ft (0.05 acre) fuel float, which includes a gangway ramp and three floating docks. The floats are anchored by eight creosote-treated timber piles.
- A pile-supported pier encompassing approximately 5,320 sq ft (0.12 acre) below MHHW. The pier includes a large concrete deck as well as a timber deck in the northeast corner from which the fuel float ramp extends. The pier is supported by 178 creosote-treated timber piles.

Large concrete and asphalt debris is also present in the nearshore area.

5m. Describe how the property is currently used. [\[help\]](#)

The property is currently vacant.

5n. Describe how the adjacent properties are currently used. [\[help\]](#)

Adjacent properties are owned by the Port of Anacortes and are used for manufacturing and shipping. A boat ramp, used for transport of vehicles and goods to and from the San Juan Islands, is along the western property boundary.

5o. Describe the structures (above and below ground) on the property, including their purpose(s). [\[help\]](#)

The site is a former marina property and there is a derelict vacant building and a pile supported pier, non-functional fuel dock, gangway and various associated floats in poor condition on the site. The remainder of the upland consists of flat concrete and unpaved parking areas.

5p. Provide driving directions from the closest highway to the project location, and attach a map. [\[help\]](#)

From Interstate 5, take Exit #230 (Hwy 20 West toward Anacortes). Go through the Hwy 20 Spur light and turn right at the roundabout and follow Commercial Street to 4th Street. Turn right on 4th, and go to "T" Avenue. Turn left on "T" Avenue, and the site is north of 3rd Street between "T" and "U" Avenues.

Part 6–Project Description

6a. Summarize the overall project. You can provide more detail in 6d. [\[help\]](#)

The Port of Anacortes (Port) is proposing to construct an intertidal habitat mitigation site at the former Wyman's Marina site located at the northern terminus of "U" Avenue along the Guemes Channel in Anacortes, Washington. The Wyman's Mitigation Site is being proposed to replace the mitigation action at the Log Pocket, which was approved as part of the compensatory mitigation package for the Project Pier I Project (Corps reference 200501451; HPA #104269-1). The construction of the Log Pocket Mitigation Site was required by the permitting agencies to be completed by July 2010; however, the site is subject to sediment cleanup in cooperation with the Washington Department of Ecology and as such, will not be available for construction within a reasonable time frame. The Port is seeking to expedite fulfillment of the mitigation requirements and is proposing the former Wyman's Marina Property as an alternate location for the replacement of aquatic habitat affected by the Pier 1 shipyard redevelopment. The Port proposes to revise the shoreline substantial development permit for the shipyard redevelopment (City Permit No. 282, which identified a different site for the mitigation action), request shoreline permit approval for mitigation at the Wyman's site, and amend state and federal aquatic permit authorizations for the shipyard redevelopment. The Port is not proposing any changes in the original project purpose, expansions of uses or structures, or exceedances of City design standards. The proposed replacement of mitigation sites will include shoreline public access equivalent to the originally permitted development.

The Wyman's Mitigation Site will involve excavating up to approximately 13,000 cy of upland and intertidal material along the southern shoreline of Guemes Channel to provide high quality intertidal habitat for juvenile salmonids. The Wyman's Mitigation Site will provide the required compensatory mitigation through the restoration of ecological functions to existing aquatic habitat and the construction of new aquatic habitat. The restoration of shoreline ecological function will occur through the removal of the existing Wyman's pile supported pier, fuel dock, bulkhead, gangway, mooring and miscellaneous piles and surficial concrete and asphalt debris from the shoreline. In total the removal of these structures will eliminate approximately 7,610 sq. ft. of overwater structure (~0.17 acre; floating fuel dock, gangway, and pile supported pier). The removal of the fixed pile pier will also entail the removal of concrete debris and a concrete bulkhead present under the pier. This action will not only remove the overwater structure but will also restore natural substrates to the shoreline. The removal of surficial concrete and asphalt from approximately 2,312 sq. ft (0.05 acre) will occur to the east of the existing pier. Both of these actions would restore the ecological functions to these portions of the intertidal shallow subtidal habitats. .

The construction of new aquatic habitat will occur through the conversion of approximately 0.41 acre of upland to intertidal habitat ranging from gravel/cobble to fish mix habitat. The Wymans Mitigation Site will be constructed with a symmetrical design with gradual slopes (approximately 100H:1V through the middle of the site) to facilitate finer substrates and higher quality aquatic habitat. The final grades below +8.2 ft MLLW, will be achieved through the placement of 418 bank cubic yards (bcy) of gravel/cobble substrates (5" minus) and 530 bcy of fish mix (2" minus). The gravel/cobble substrates will be placed on the northern portion of the site and then covered with a layer of the fish mix, due to the energy in that portion of the site. Substrate placement in the southern portion of the site will consist of fish mix only. Above approximately +7 ft MLLW in the northern portion of the site, the slope of the shoreline will be approximately 2H:1V and armored with 12" minus armor rock. In order to improve the habitat provided by this rock, fine substrates (sand/gravel) will be placed to fill the interstices of the armor rock while leaving the edges of the rock exposed for macroalgae attachment. The fine substrates are expected to reach equilibrium with the site energy forces and will not be maintained over time.

The Wymans Mitigation Site will also entail the construction of a salt marsh fringe located between +8.2 ft and 10 ft MLLW in the southern portion of the site. A final grade of 5H:1V will be established by the placement of approximately 100 bcy of sand and gravel over approximately 2,403 sq ft (0.06 acre). The placement of select substrate and gradual slope will result in conditions optimal for salt marsh development. Natural colonization of the salt marsh fringe is expected; however, salt marsh vegetation will be planted within ten (10) 10 ft long by 5 ft wide plot within the salt marsh fringe to assist with the establishment of salt marsh habitat. Species to be installed (either seed or bare root) will include pickleweed (*Salicornia virginica*) and orache (*Atriplex patula*). Landward of the salt marsh fringe (between +10 ft and approximately +18 ft MLLW), the transition slope will be sloped at 2H:1V and consist of finer material that will be planted with native riparian low growing trees, shrubs, and groundcover (6,111 sq ft – 0.14 acre). A retaining wall will be installed at +18 ft MLLW. Additional riparian planting (3,151 sq ft – 0.07 acres) will be installed at the southern end of the mitigation site above the retaining wall. Riparian vegetation to be installed will consist of native riparian low growing trees, shrubs, and groundcover.

6b. Indicate the project category. (Check all that apply) [\[help\]](#)

Commercial Residential Institutional Transportation Recreational
 Maintenance Environmental Enhancement

6c. Indicate the major elements of your project. (Check all that apply) [\[help\]](#)

<input type="checkbox"/> Aquaculture	<input type="checkbox"/> Culvert	<input type="checkbox"/> Float	<input type="checkbox"/> Road
X Bank Stabilization	<input type="checkbox"/> Dam / Weir	<input type="checkbox"/> Geotechnical Survey	<input type="checkbox"/> Scientific Measurement Device
<input type="checkbox"/> Boat House	<input type="checkbox"/> Dike / Levee / Jetty	<input type="checkbox"/> Land Clearing	<input type="checkbox"/> Stairs
<input type="checkbox"/> Boat Launch	<input type="checkbox"/> Ditch	<input type="checkbox"/> Marina / Moorage	<input type="checkbox"/> Stormwater facility
<input type="checkbox"/> Boat Lift	<input type="checkbox"/> Dock / Pier	<input type="checkbox"/> Mining	<input type="checkbox"/> Swimming Pool
<input type="checkbox"/> Bridge	<input type="checkbox"/> Dredging	<input type="checkbox"/> Outfall Structure	<input type="checkbox"/> Utility Line
<input type="checkbox"/> Bulkhead	<input type="checkbox"/> Fence	<input type="checkbox"/> Piling	
<input type="checkbox"/> Buoy	<input type="checkbox"/> Ferry Terminal	X Retaining Wall (upland)	
<input type="checkbox"/> Channel Modification	<input type="checkbox"/> Fishway		

X Other: Excavation of upland area to create intertidal and salt marsh habitat mitigation site.

6d. Describe how you plan to construct each project element checked in 6c. Include specific construction methods and equipment to be used. [\[help\]](#)

- Identify where each element will occur in relation to the nearest waterbody.
- Indicate which activities are within the 100-year flood plain.

Construction methods for the mitigation action are described below.

- Removal of over/in water structures and concrete and asphalt debris: Demolition at the Wymans Mitigation Site would be completed either by means of waterborne equipment or equipment located on the adjacent uplands. Work performed from the land would include use of jackhammers, backhoes, cranes, and dump trucks to remove, gather, and transfer material from the site to an appropriate disposal site or recycling center. Removal activities to occur from the water would be conducted via barge-mounted cranes. All material would be transferred to the uplands for transport to an appropriate disposal site or recycling center. Piles would be either removed completely (vibratory) or cut or broken off at the mudline. Debris associated with removal activities would be captured and not allowed to enter Guemes Channel. However, earth-moving activities during existing structure removal would result in exposure of soils and increased potential for erosion: therefore sedimentation and erosion minimization and control measures and Best Management Practices (BMPs) would be implemented.
- Excavation of uplands and placement of select material on the finished slopes: Prior to the excavation of the uplands the existing building and associated structures will be removed using land based excavators. The majority of the upland excavation would also be completed using land based excavators and will occur primarily isolated from Guemes Channel. As part of the excavation of the mitigation site, a berm consisting of in-place material will be left landward of the MHHW. This berm will help to isolate the excavation of the uplands. This will also allow for the excavation to occur in the dry, thus eliminating turbidity impacts. Once the inner slopes of the mitigation site are established, the berm will be removed to final grade and finish materials will be placed to finish the slopes. To the extent possible this work will occur in the dry during low tides; however, due to the lack of suitable low tides during daylight hours during the work window some of this work may occur in the wet. During any work in the wet a silt curtain will be installed at the mouth of the mitigation site. Placement of material would include the placement of gravel/cobble and fish mix, as well as the fine substrates on the slope protection. Turbidity associated with the placement of select substrates and the removal of the berm is expected to be minimal due to the coarse nature of the substrates and the compliance with the BMPs.
- Public access: A public access corridor will be constructed along the eastern perimeter of the mitigation site, parallel with "U" Avenue. The public access will include a constructed trail comprised of crushed gravel to meet ADA requirements. The trail will terminate at the northeast portion of the excavation area where a viewpoint will be created, providing public views of the shoreline, Guemes Channel, and port activities. Landscaping consisting of riparian vegetation, plants, and shrubs will be placed between the top of the revetment to the trail and from the trail to the eastern property line. The existing greenbelt located east of the property line will be preserved. The existing fence will remain or will be modified accordingly to define the eastern boundary of the site.

6e. What are the start and end dates for project construction? (month/year) [help]		
<ul style="list-style-type: none"> If the project will be constructed in phases or stages, use JARPA Attachment D to list the start and end dates of each phase or stage. 		
Start date: Fall 2012	End date: Spring 2013	<input type="checkbox"/> See JARPA Attachment D
6f. Describe the purpose of the project and why you want or need to perform it. [help]		
<p>The purpose of the project is to create an intertidal habitat mitigation site to replace habitat functions that were lost due to filling and alteration of aquatic areas in the mooring basin of the Pier 1 shipyard redevelopment, and to create shoreline public access to Guemes Channel.</p>		
6g. Fair market value of the project, including materials, labor, machine rentals, etc. [help]		
\$1.5 million		
6h. Will any portion of the project receive federal funding? [help]		
<ul style="list-style-type: none"> If yes, list each agency providing funds. 		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't know		

Part 7–Wetlands: Impacts and Mitigation

- Check here if there are wetlands or wetland buffers on or adjacent to the project area.
(If there are none, skip to Part 8.) [\[help\]](#)

7a. Describe how the project has been designed to avoid and minimize adverse impacts to wetlands. [help]		
X Not applicable		
7b. Will the project impact wetlands? [help]		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't know		
7c. Will the project impact wetland buffers? [help]		
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know		
7d. Has a wetland delineation report been prepared? [help]		
<ul style="list-style-type: none"> If yes, submit the report, including data sheets, with the JARPA package. 		
<input type="checkbox"/> Yes <input type="checkbox"/> No		

7e. Have the wetlands been rated using the Western Washington or Eastern Washington Wetland Rating System? [\[help\]](#)

- **If yes**, submit the wetland rating forms and figures with the JARPA package.

Yes No Don't know

7f. Have you prepared a mitigation plan to compensate for any adverse impacts to wetlands? [\[help\]](#)

- **If yes**, submit the plan with the JARPA package and answer 7g.
- **If No, or Not applicable**, explain below why a mitigation plan should not be required.

Yes No Not applicable

7g. Summarize what the mitigation plan is meant to accomplish, and describe how a watershed approach was used to design the plan. [\[help\]](#)

7h. Use the table below to list the type and rating of each wetland impacted; the extent and duration of the impact; and the type and amount of mitigation proposed. Or if you are submitting a mitigation plan with a similar table, you can state (below) where we can find this information in the plan. [\[help\]](#)

Activity (fill, drain, excavate, flood, etc.)	Wetland Name ¹	Wetland type and rating category ²	Impact area (sq. ft. or Acres)	Duration of impact ³	Proposed mitigation type ⁴	Wetland mitigation area (sq. ft. or acres)

¹ If no official name for the wetland exists, create a unique name (such as "Wetland 1"). The name should be consistent with other project documents, such as a wetland delineation report.
² Ecology wetland category based on current Western Washington or Eastern Washington Wetland Rating System. Provide the wetland rating forms with the JARPA package.
³ Indicate the days, months or years the wetland will be measurably impacted by the activity. Enter "permanent" if applicable.
⁴ Creation (C), Re-establishment/Rehabilitation (R), Enhancement (E), Preservation (P), Mitigation Bank/In-lieu fee (B)

Page number(s) for similar information in the mitigation plan, if available: _____

7i. For all filling activities identified in 7h., describe the source and nature of the fill material, the amount in cubic yards that will be used, and how and where it will be placed into the wetland. [\[help\]](#)

7j. For all excavating activities identified in 7h., describe the excavation method, type and amount of material in cubic yards you will remove, and where the material will be disposed. [\[help\]](#)

Part 8—Waterbodies (other than wetlands): Impacts and Mitigation

In Part 8, “waterbodies” refers to non-wetland waterbodies. (See Part 7 for information related to wetlands.) [\[help\]](#)

Check here if there are waterbodies on or adjacent to the project area. (If there are none, skip to Part 9.)

8a. Describe how the project is designed to avoid and minimize adverse impacts to the aquatic environment.

[\[help\]](#)

Not applicable

Mitigation and conservation measure that will be incorporated into the project will include:

- Timing restrictions specifying that in-water work must occur when juvenile salmonids are absent or present in very low numbers would be strictly observed. Timing restrictions that may be established by the Corps, NOAA, USFWS or WDFW would also be strictly observed.
- Project construction will limit the impact of turbidity to a defined mixing zone and will otherwise comply with WAC 173-201A.
- Any discharge of oil, fuel or chemicals into state waters is prohibited by state law. As such, fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters. Proper security shall also be maintained to prevent vandalism.
- Corrective actions will be taken in the event of any discharge of oil, fuel, or chemicals into Guemes Channel, including:
 - Immediate containment and cleanup of spilled materials. These efforts will be completed as soon as possible and will take precedence over normal work. Cleanup will include proper disposal of any spilled material and used cleanup material.
 - Determination of the cause of the spill. Appropriate actions will then be taken to prevent further incidents or environmental damage.
- Spills of oil or hazardous materials shall be reported immediately to National Response Center at 1 (800) 424-8802 and Washington Emergency Management Division at 1 (800) 258-5990 or 1 (800) OILS-911.
- Spills and/or conditions resulting in distressed or dying fish shall be reported immediately to Ecology’s Northwest Regional Spill Response Office at (425) 649-7000 (a 24-hour phone number).
- Intertidal work including excavation, backfilling, and fill placement will be completed during low tide periods whenever possible.
- When excavation in the dry is not possible, a silt curtain will be installed across the mouth of the mitigation site to contain suspended sediments during exposed intertidal work.
- The contractor will comply with all timing restrictions specific to the performance of work below MHHW or any other jurisdictional boundary.
- The contractor will comply with water quality restrictions imposed by Ecology and implement corrective measures if temporary water quality standards are exceeded.
- Short-term impacts to water quality will be minimized during shoreline stabilization by careful placement of crushed rock, bedding, armor rock, and sand/gravel surface treatment.
- The contractor will be required to capture any debris associated with Project activities and not allow it to enter Guemes Channel.
- Excess or waste materials will not be disposed of waterward of MHHW or allowed to enter waters of the state.
- The contractor will have a spill containment kit, including oil-absorbent materials, on site to be used in the event of a spill or if any oil product is observed in the water.
- The contractor is responsible for the preparation of a Spill Prevention, Control, and Countermeasures (SPCC) plan to be used for the duration of the Project.
- The SPCC plan will: 1) identify construction planning elements and recognize potential spill sources in the Action Area, 2) outline the response actions in the event of a spill or release and identify notification and reporting procedures, 3) outline contractor management elements such as personal responsibilities, site security and inspections, and training, and 4) outline what measures shall be taken by the contractor to prevent the release or spread of hazardous materials, either found on-site and encountered during construction but not identified in contract documents, or any hazardous materials that the contractor stores, uses, or generates on the construction site during construction activities. Hazardous materials include but are not limited to gasoline, oils, and chemicals, and are further defined in RCW 70.105.010.

8b. Will your project impact a waterbody or the area around a waterbody? [\[help\]](#)

Yes No

8c. Have you prepared a mitigation plan to compensate for the project's adverse impacts to non-wetland waterbodies? [\[help\]](#)

- **If yes**, submit the plan with the JARPA package and answer 8d.
- **If No, or Not applicable**, explain below why a mitigation plan should not be required.

Yes No Not applicable

8d. Summarize what the mitigation plan is meant to accomplish. Describe how a watershed approach was used to design the plan.

- If you already completed 7g., you do not need to restate your answer here. [\[help\]](#)

The overall goal of the Port's proposed mitigation action is to replace the compensatory mitigation provided by the previously proposed Log Pocket Mitigation Site for ecological functions affected by the Project Pier 1 redevelopment. The Port believes this overall goal is consistent with the mitigation policies pertinent to the local, state, and federal regulatory programs. WDFW stresses "no loss of productive capacity of the habitat of food and shellfish resources". The Corps final rule, pertinent to the Section 404 program, determines the level of mitigation based solely on the functions and services of aquatic resources to be impaired, with a national goal of a minimum of 1:1 functional replacement (i.e., no net loss). The U.S. Fish and Wildlife Service (USFWS) Mitigation Policy, pertinent to the Section 404 program, defines mitigation planning goals based on the value (combination of biological and cultural value) and scarcity of particular habitats. The goals of the Mitigation Plan are as follows:

1. *Replace functions provided by the approved Log Pocket Mitigation Site.*
2. *Restore, enhance, and protect viable habitat that provides connective corridors along Guemes Channel.*
3. *Restore, enhance, and protect natural habitat-forming processes that create and maintain habitat (e.g., enhance shoreline riparian vegetation, reduce bulkheading, and reduce breakwaters and other in-water structures that affect sediment transport patterns).*
4. *Restore lost or limited habitat functions through substrate modification (e.g. removal of concrete and asphalt debris).*
5. *Restore lost or limited habitat functions through removal of overwater and inwater structures (e.g., pile supported pier, fuel float, piling, and gangway).*
6. *Promote a no net loss in aquatic function.*
7. *Maximize habitat restoration and protection opportunities (including marine buffers) with remediation and shoreline projects.*
8. *Provide high quality intertidal habitat for juvenile salmonids with a range of substrate types.*
9. *Provide a salt marsh fringe and riparian vegetated buffer to increase the overall function of the mitigation site (on site and export) for fish and wildlife species.*

8e. Summarize impact(s) to each waterbody in the table below. [\[help\]](#)

Activity (clear, dredge, fill, pile drive, etc.)	Waterbody name¹	Impact location²	Duration of impact³	Amount of material to be placed in or removed from waterbody	Area (sq. ft. or linear ft.) of waterbody directly affected
Pile removal	Guemes Channel	Waterbody	Permanent	Approx. 262 piles to be removed	Piles will be removed from under the pile supported pier and throughout the open Project Area
Removal of derelict overwater structures	“	“	Permanent	Removal of pier, bulkhead, fuel floats, and gangway,	0.17 acre; 7,610 sf of overwater coverage to be removed
Removal of surficial concrete, asphalt, and debris	“	“	Permanent	Removal of concrete, asphalt, and debris	Debris will be removed from under the pile supported pier (5,320 sq ft; 0.12 acre) and in the eastern portion of the site (2,312 sq ft; 0.05 acre)
Slope protection	“	Majority of substrate placed on excavated uplands isolated from Guemes Channel.	Permanent	200 bcy 12” minus rock, 100 bcy 4” minus rock	Approx 0.07 acre; 3,147 sq.ft.
Mitigation – shoreline modification placement of gravel/cobble and fish mix on new excavated mitigation site	“	“	Permanent	418 bcy of gravel/cobble (5” minus) and 130 bcy of fish mix (2” minus)	Approx. 0.16 acre; 6,971 sq ft
Mitigation – substrate modification placement of fish mix on new excavated mitigation site	“	“	Permanent	400 bcy of fish mix (2” minus)	Approx. 0.25 acre; 10,824 sq ft
Mitigation— substrate modification placement of sand and gravel for saltmarsh habitat surface on new excavated mitigation site	“	“	Permanent	100 bcy of sand/gravel	Approx. 0.06 acre; 2,403 sq ft.
Placement of quarry spall on east side of boat launch	“	“	Permanent	35 bcy of quarry spall	Approx 0.01 acre; 610 sq ft

¹ If no official name for the waterbody exists, create a unique name (such as "Stream 1") The name should be consistent with other documents provided.

² Indicate whether the impact will occur in or adjacent to the waterbody. If adjacent, provide the distance between the impact and the waterbody and indicate whether the impact will occur within the 100-year flood plain.

³ Indicate the days, months or years the waterbody will be measurably impacted by the work. Enter "permanent" if applicable.

8f. For all activities identified in 8e., describe the source and nature of the fill material, amount (in cubic yards) you will use, and how and where it will be placed into the waterbody. [\[help\]](#)

All material for the project will be from a local rock quarry. Type of fill materials and volume of fill, including for slope modifications and habitat substrate (all volumes are approximate, in bank cubic yards):

Slope Protection will be placed at the northern end of the mitigation site between elevation +8.2 ft and 18 ft MLLW.:

- 12-inch minus rock (armor stone): 200 bcy
- 4-inch minus rock (bedding stone): 100 bcy

Habitat Surface:

- Lower marine habitat surface – 5-inch minus gravel and cobbles: 418 bcy
- Upper marine habitat surface – 2-inch minus gravel ("Fish Mix"): 530 bcy
- Salt Marsh habitat surface – sand and gravel: 100 bcy
- Slope protection habitat surface – sand and gravel: 40 bcy

Boat Ramp Shoulder:

- Quarry Spalls: 3540 bcy

8g. For all excavating or dredging activities identified in 8e., describe the method for excavating or dredging, type and amount of material you will remove, and where the material will be disposed. [\[help\]](#)

The project includes the excavation of up to 13,000 cubic yards of upland soils to create intertidal habitat, salt marsh, and vegetated riparian slopes. A pre-characterization study will be completed on the excavation soil prism to identify any areas of contamination. Contaminated soil, if identified will be excavated separate from the clean material and managed separately on site. The disposal of any contaminated material will be by transport offsite to an approved landfill facility. Clean material will be transported and disposed or beneficially reused at an approved off-site location. Construction debris, including piles, derelict in-water structures, concrete, and building debris will be transported and disposed of at an approved landfill facility.

Part 9—Additional Information

Any additional information you can provide helps the reviewer(s) understand your project. Complete as much of this section as you can. It is ok if you cannot answer a question.

9a. If you have already worked with any government agencies on this project, list them below. [\[help\]](#)

Agency Name	Contact Name	Phone	Most Recent Date of Contact
US Army Corps of Engineers	Randel Perry	(206) 764-6985	April 15, 2012
WA Dept of Fish & Wildlife	Doug Thompson	(360) 466-4345 ext 251	April 15, 2012
City of Anacortes	Don Measamer	(360)293-1901	June 12, 2012

<p>9b. Are any of the wetlands or waterbodies identified in Part 7 or Part 8 on the Washington Department of Ecology's 303(d) List? [help]</p> <ul style="list-style-type: none"> • If yes, list the parameter(s) below. • If you don't know, use Washington Department of Ecology's Water Quality Assessment tools at: http://www.ecy.wa.gov/programs/wq/303d/.
<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Waters of Guemes Channel are listed on the Department of Ecology 303(d) list for PCB only.</p>
<p>9c. What U.S. Geological Survey Hydrological Unit Code (HUC) is the project in? [help]</p> <ul style="list-style-type: none"> • Go to http://cfpub.epa.gov/surf/locate/index.cfm to help identify the HUC.
<p>HUC 17110002</p>
<p>9d. What Water Resource Inventory Area Number (WRIA #) is the project in? [help]</p> <ul style="list-style-type: none"> • Go to http://www.ecy.wa.gov/services/gis/maps/wria/wria.htm to find the WRIA #.
<p>WRIA 3</p>
<p>9e. Will the in-water construction work comply with the State of Washington water quality standards for turbidity? [help]</p> <ul style="list-style-type: none"> • Go to http://www.ecy.wa.gov/programs/wq/swqs/criteria.html for the standards.
<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not applicable</p>
<p>9f. If the project is within the jurisdiction of the Shoreline Management Act, what is the local shoreline environment designation? [help]</p> <ul style="list-style-type: none"> • If you don't know, contact the local planning department. • For more information, go to: http://www.ecy.wa.gov/programs/sea/sma/laws_rules/173-26/211_designations.html.
<p><input type="checkbox"/> Rural <input type="checkbox"/> Urban <input type="checkbox"/> Natural <input type="checkbox"/> Aquatic <input type="checkbox"/> Conservancy <input checked="" type="checkbox"/> Other <u>Urban Maritime</u></p>
<p>9g. What is the Washington Department of Natural Resources Water Type? [help]</p> <ul style="list-style-type: none"> • Go to http://www.dnr.wa.gov/BusinessPermits/Topics/ForestPracticesApplications/Pages/fp_watertyping.aspx for the Forest Practices Water Typing System.
<p><input checked="" type="checkbox"/> Shoreline <input type="checkbox"/> Fish <input type="checkbox"/> Non-Fish Perennial <input type="checkbox"/> Non-Fish Seasonal</p>
<p>9h. Will this project be designed to meet the Washington Department of Ecology's most current stormwater manual? [help]</p> <ul style="list-style-type: none"> • If no, provide the name of the manual your project is designed to meet.
<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Name of manual:</p>
<p>9i. If you know what the property was used for in the past, describe below. [help]</p>
<p>Recreational and commercial marina, formerly.</p>
<p>9j. Has a cultural resource (archaeological) survey been performed on the project area? [help]</p> <ul style="list-style-type: none"> • If yes, attach it to your JARPA package.
<p>X Yes <input type="checkbox"/> No</p>

9k. Name each species listed under the federal Endangered Species Act that occurs in the vicinity of the project area or might be affected by the proposed work. [\[help\]](#)

Federally listed or threatened/endangered species that could potentially occur in the Guemes Channel include the Puget Sound Chinook salmon, Puget Sound Steelhead Trout, Coastal-Puget Sound Bull Trout, Steller Sea Lion, Humpback Whale, Leatherback Sea Turtle, Marbled Murrelet, Southern Resident Orca, Bocaccio rockfish, yelloweye rockfish, and canary rockfish.

9l. Name each species or habitat on the Washington Department of Fish and Wildlife's Priority Habitats and Species List that might be affected by the proposed work. [\[help\]](#)

None are known.

Part 10–SEPA Compliance and Permits

Use the resources and checklist below to identify the permits you are applying for.

- Online Project Questionnaire at <http://apps.ecy.wa.gov/opas/>.
- Governor's Office of Regulatory Assistance at (800) 917-0043 or help@ora.wa.gov.
- For a list of agency addresses to send your application, click on the “where to send your completed JARPA” at <http://www.epermitting.wa.gov>.

10a. Compliance with the State Environmental Policy Act (SEPA). (Check all that apply.) [\[help\]](#)

- For more information about SEPA, go to www.ecy.wa.gov/programs/sea/sepa/e-review.html.

A copy of the SEPA determination or letter of exemption is included with this application.

A SEPA determination is pending with _____ (lead agency). The expected decision date is _____.

I am applying for a Fish Habitat Enhancement Exemption. (Check the box below in 10b.) [\[help\]](#)

This project is exempt (choose type of exemption below).

Categorical Exemption. Under what section of the SEPA administrative code (WAC) is it exempt?

Other: _____

SEPA is pre-empted by federal law.

10b. Indicate the permits you are applying for. (Check all that apply.) [\[help\]](#)

LOCAL GOVERNMENT

Local Government Shoreline permits:

Substantial Development (*and* Revision to City of Anacortes SSDP No. 282, dated March 28, 2006)

Conditional Use Variance

Shoreline Exemption Type (explain):

11c. Property Owner Signature (if not applicant). [\[help\]](#)
Not required if project is on existing rights-of-way or easements.

I consent to the permitting agencies entering the property where the project is located to inspect the project site or any work. These inspections shall occur at reasonable times and, if practical, with prior notice to the landowner.

Property Owner Printed Name

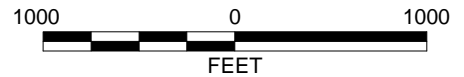
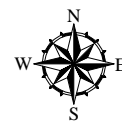
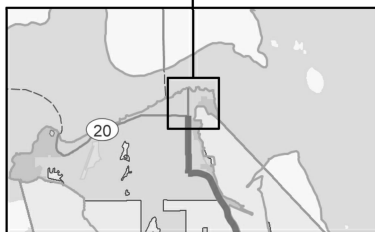
Property Owner Signature

Date

18 U.S.C §1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years or both.

If you require this document in another format, contact The Governor's Office of Regulatory Assistance (ORA). People with hearing loss can call 711 for Washington Relay Service. People with a speech disability can call (877) 833-6341.
ORA publication number: ENV-019-09

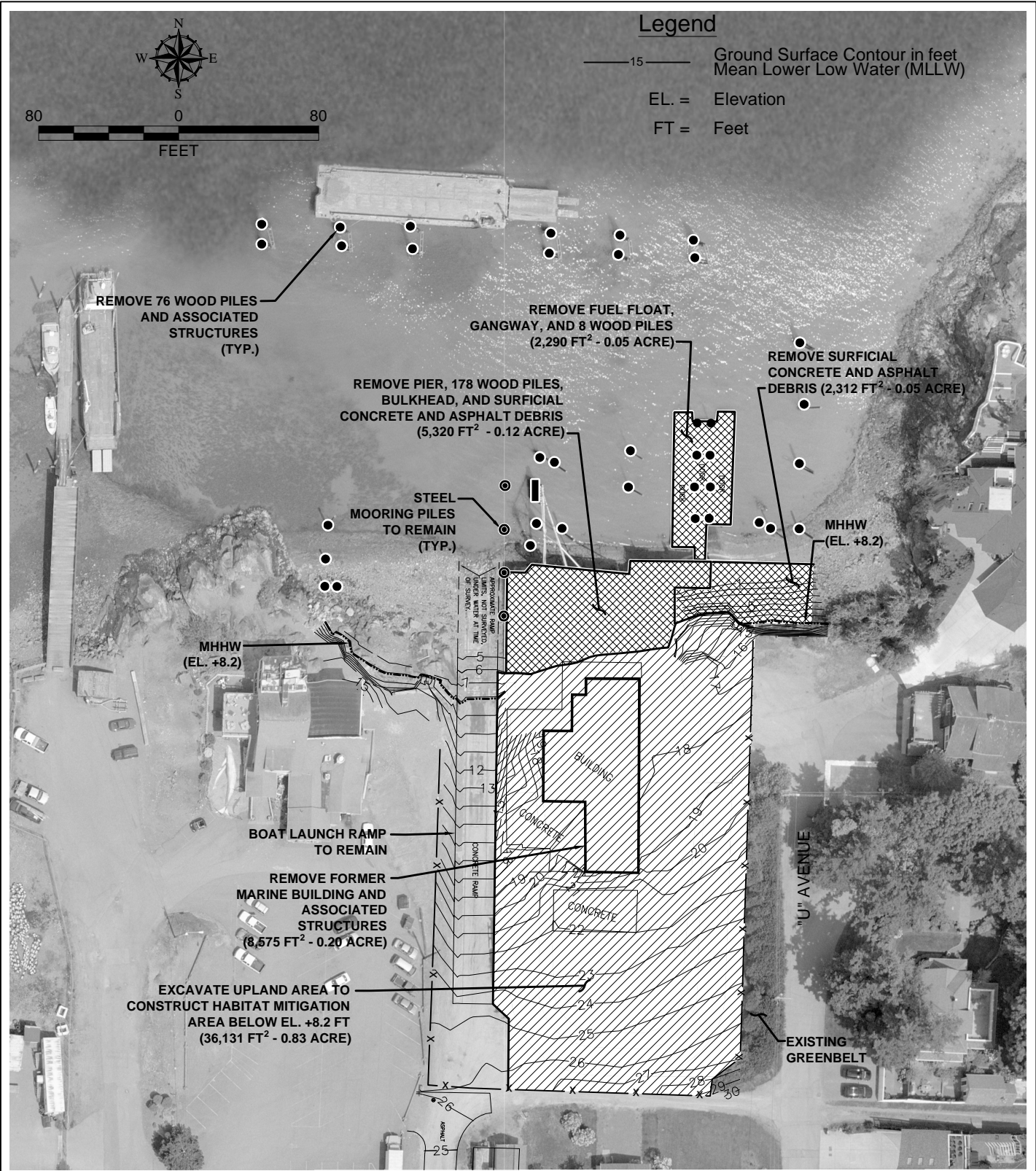
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Reference: ESRI Data & Maps, Street Maps 2005.

<p>PURPOSE: WYMAN'S PROPERTY HABITAT MITIGATION</p> <p>ADJACENT PROPERTY OWNERS:</p> <ol style="list-style-type: none"> 1. PORT OF ANACORTES 2. CITY OF ANACORTES 	<p>VICINITY MAP</p> <p>LATITUDE: 48°31'14.97"N LONGITUDE: 122°36'18.25"W SECTION, TOWNSHIP, RANGE: 18, 35N, 02E MEAN HIGHER HIGH WATER = 8.2' MEAN LOWER LOW WATER = 0.0'</p>	<p>CITY OF: ANACORTES COUNTY OF: SKAGIT STATE OF: WASHINGTON APPLICATION BY: PORT OF ANACORTES</p> <p>SHEET: 1 OF 6 DATE MAY 24, 2012</p>
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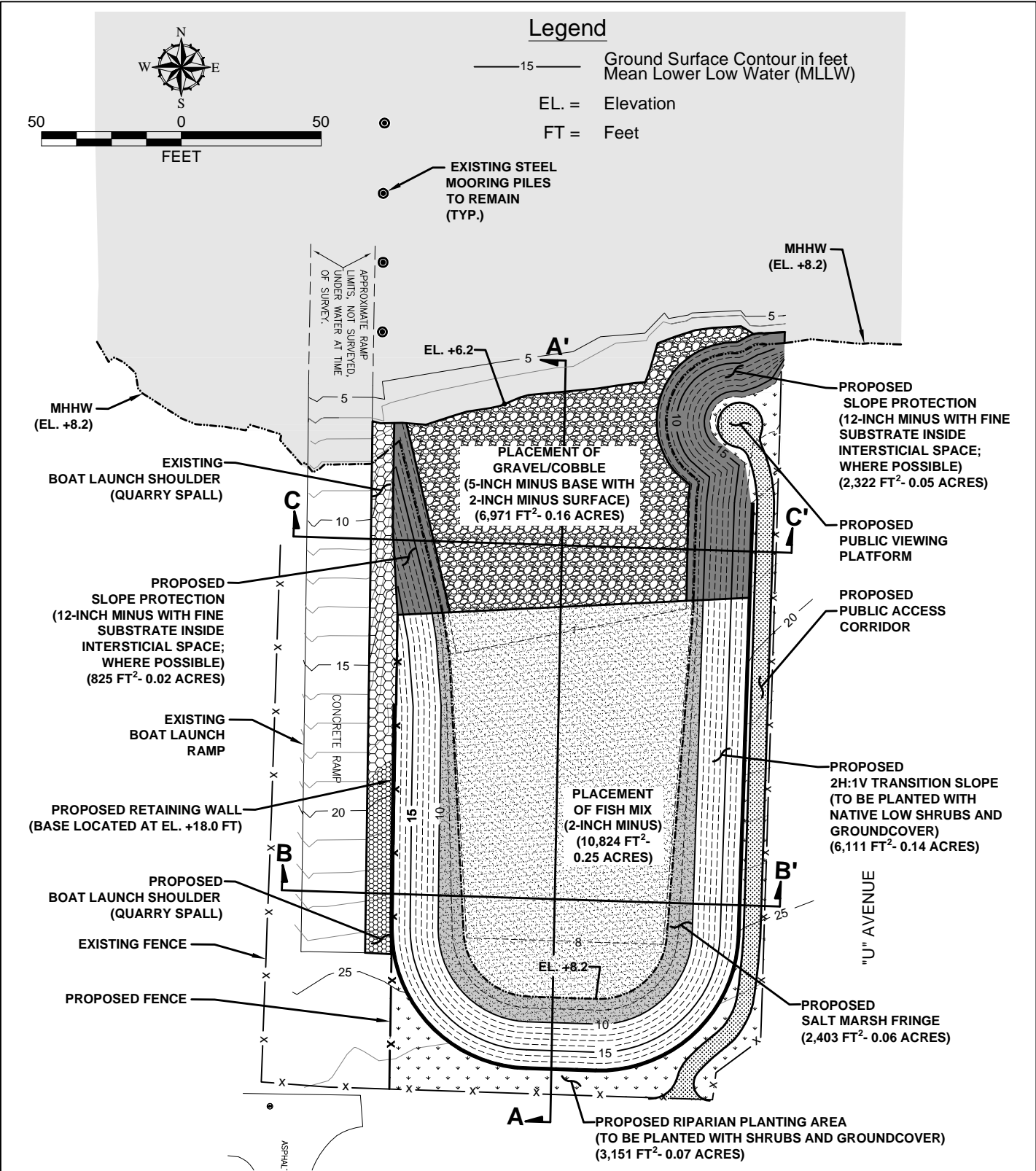
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Reference: Base Aerial taken by David C. Smith & Associates, Inc. on 6/17/2009.

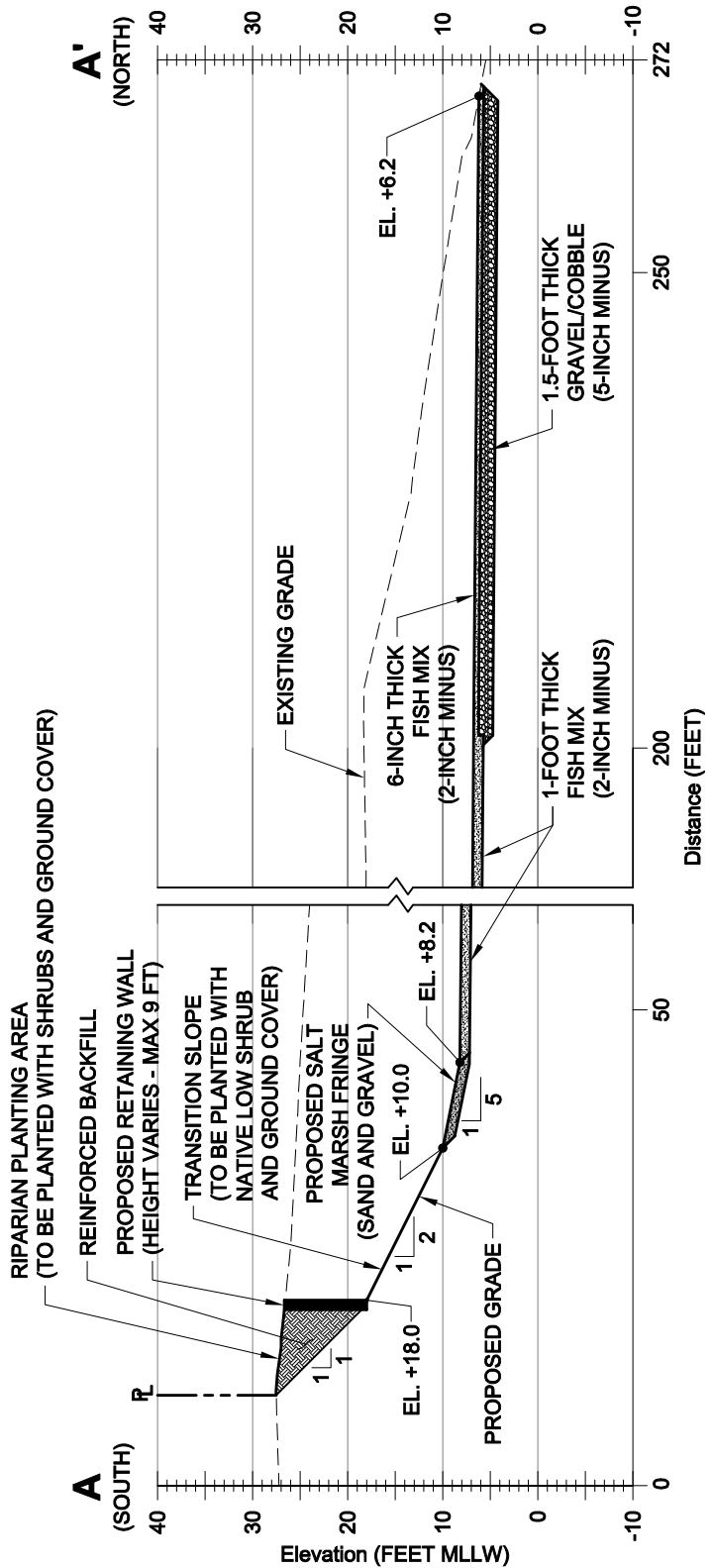
<p>PURPOSE: WYMAN'S PROPERTY HABITAT MITIGATION</p>	<p>PROPOSED DEMOLITION AND LAND DISTURBANCE</p>	<p>CITY OF: ANACORTES COUNTY OF: SKAGIT</p>
<p>ADJACENT PROPERTY OWNERS: 1. PORT OF ANACORTES 2. CITY OF ANACORTES</p>	<p>LATITUDE: 48°31'14.97"N LONGITUDE: 122°36'18.25"W SECTION, TOWNSHIP, RANGE: 18, 35N, 02E MEAN HIGHER HIGH WATER = 8.2' MEAN LOWER LOW WATER = 0.0'</p>	<p>STATE OF: WASHINGTON APPLICATION BY: PORT OF ANACORTES SHEET: 3 OF 6 DATE MAY 24, 2012</p>

P:\15\147019\04\CAD\JARPA SHEETS\147019-04_JARPA HABITAT MITIGATION AREAS.DWG\TAB:2 TO 1 MODIFIED BY TMICHAUD ON JUN 01, 2012 - 13:51



Reference: Base Aerial taken by David C. Smith & Associates, Inc. on 6/17/2009.

<p>PURPOSE: WYMAN'S PROPERTY HABITAT MITIGATION</p> <p>ADJACENT PROPERTY OWNERS:</p> <ol style="list-style-type: none"> PORT OF ANACORTES CITY OF ANACORTES 	<p>PROPOSED HABITAT MITIGATION AREA</p> <p>LATITUDE: 48°31'14.97"N LONGITUDE: 122°36'18.25"W SECTION, TOWNSHIP, RANGE: 18, 35N, 02E MEAN HIGHER HIGH WATER = 8.2' MEAN LOWER LOW WATER = 0.0'</p>	<p>CITY OF: ANACORTES COUNTY OF: SKAGIT STATE OF: WASHINGTON APPLICATION BY: PORT OF ANACORTES</p> <p>SHEET: 4 OF 6 DATE MAY 24, 2012</p>
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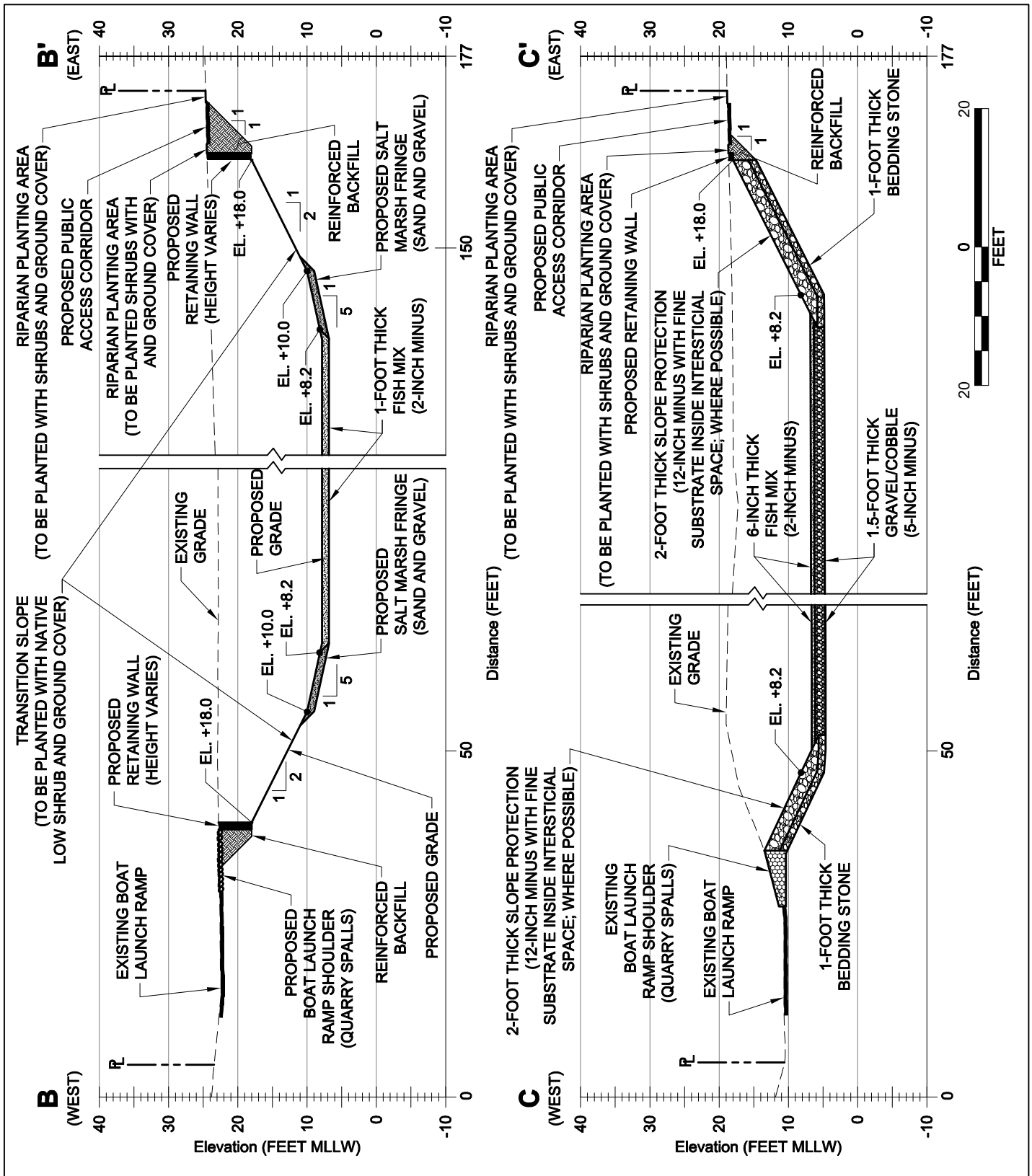
PURPOSE:
WYMAN'S PROPERTY
HABITAT MITIGATION

- ADJACENT PROPERTY OWNERS:
1. PORT OF ANACORTES
 2. CITY OF ANACORTES

CROSS-SECTION A-A'

LATITUDE: 48°31'14.97"N
 LONGITUDE: 122°36'18.25"W
 SECTION, TOWNSHIP, RANGE:
 18, 35N, 02E
 MEAN HIGHER HIGH WATER = 8.2'
 MEAN LOWER LOW WATER = 0.0'

CITY OF: ANACORTES
 COUNTY OF: SKAGIT
 STATE OF: WASHINGTON
 APPLICATION BY:
 PORT OF ANACORTES



<p>PURPOSE: WYMAN'S PROPERTY HABITAT MITIGATION</p> <p>ADJACENT PROPERTY OWNERS: 1. PORT OF ANACORTES 2. CITY OF ANACORTES</p>	<p>CROSS-SECTION B-B' & C-C'</p> <p>LATITUDE: 48°31'14.97"N LONGITUDE: 122°36'18.25"W SECTION, TOWNSHIP, RANGE: 18, 35N, 02E MEAN HIGHER HIGH WATER = 8.2' MEAN LOWER LOW WATER = 0.0'</p>	<p>CITY OF: ANACORTES COUNTY OF: SKAGIT STATE OF: WASHINGTON APPLICATION BY: PORT OF ANACORTES SHEET: 6 OF 6 DATE MAY 24, 2012</p>
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HYDRAULIC PROJECT APPROVAL

RCW 77.55.021 - See appeal process at end of HPA

North Puget Sound
16018 Mill Creek Boulevard
Mill Creek, WA 98012-1296
(425) 775-1311

Issue Date: February 04, 2013

Control Number: 129207-2

Project Expiration Date: December 31, 2014

FPA/Public Notice #: N/A

PERMITTEE

Port of Anacortes
ATTENTION: Teri Switalski
100 Commercial Avenue
Anacortes, WA 98221
360-299-1830
Fax: 360-293-9608

AUTHORIZED AGENT OR CONTRACTOR

Project Name: Wyman's Property Habitat Mitigation

Project Description: Construct an intertidal and salt marsh habitat mitigation site with a vegetated riparian buffer to replace habitat functions lost in the Dakota Creek (Pier 1) Shipyard Renovation project authorized under HPA 104269-1. The original mitigation site, designated as the Log Pocket Mitigation Site, is replaced under this current HPA with the Wyman's Property Mitigation Site. The project will excavate approximately 13,000 cubic yards of upland soils and remove 7,610 square feet of derelict overwater structure consisting of Wyman's Pier, fuel dock, concrete bulkhead, and gangway. In addition, 262 creosote piles will be removed from the nearshore, and concrete and asphalt debris will be removed from the beach east of the pier.

PROVISIONS

1. The project may begin immediately and shall be completed by December 31, 2014.
2. Work below the ordinary high water line shall not occur from March 15 through June 14 of any year for the protection of migrating juvenile salmonids.
3. NOTIFICATION REQUIREMENT: The Area Habitat Biologist (AHB) listed below shall receive written notification (FAX or mail) from the person to whom this Hydraulic Project Approval (HPA) is issued (permittee) or the agent/contractor no less than three working days prior to the start of construction activities. The notification shall include the permittee's name, project location, starting date for work, and the control number for this HPA.
4. Work shall be accomplished per plans and specifications approved by the Washington Department of Fish and Wildlife entitled JARPA, dated June 19, 2012, and per Project Pier 1 (NWS 200501451) Mitigation Plan Addendum prepared by Grette and Associates, dated June 15, 2012, except as modified by this Hydraulic Project Approval. A copy of these plans shall be available on site during construction.

OVERWATER STRUCTURE AND DEBRIS REMOVAL

5. The existing Wyman's pier, ramp, and fuel dock, consisting of approximately 7,610 square feet of overwater structures, as shown on sheet 3 of 6 entitled Proposed Demolition and Land Disturbance

Issue Date: February 04, 2013

Control Number: 129207-2

Project Expiration Date: December 31, 2014

FPA/Public Notice #: N/A

and dated May 24, 2012, shall be removed and disposed of upland such that they do not re-enter such waters.

6. All manmade debris on the beach beneath the overwater structure consisting of the deteriorating concrete bulkhead, support piles and concrete rubble shall be removed and disposed of upland such that it does not enter waters of the state.

7. Concrete rubble and asphalt along the shoreline east of the pier as shown on sheet 3 of 6 entitled Proposed Demolition and Land Disturbance and dated May 24, 2012, shall be removed and disposed of upland such that it does not enter waters of the state.

8. Equipment used for this project shall work from the bank landward of the ordinary high water line or from a floating work barge during all phases of debris removal.

9. All natural habitat features on the beach larger than 12 inches in diameter, including trees, stumps, logs, and large rocks, shall be retained on the beach following debris removal. These habitat features may be moved during removal activities if necessary.

PILE REMOVAL

10. As specified in the application, 262 creosote treated piles used as pier support piles and mooring piles shall be removed and disposed of upland such that they do not enter waters of the state.

11. Piling shall be removed by a vibratory hammer and shall be fully extracted.

12. In the event piling cannot be removed without breaking they shall be cut off two feet below the mudline and the resulting hole shall be filled with clean sand or gravel.

13. Eelgrass and kelp shall not be adversely impacted due to any pile removal activities (e.g., barge shall not ground, equipment shall not operate, and other project activities shall not occur in eelgrass and kelp).

SHORELINE EXCAVATIONS, GRADING, HABITAT FEATURES

14. All Upland excavation (0.41 acre) shall be isolated and conducted in the dry with a berm of in-place material kept landward of the MHHW.

15. Berm shall be removed only after all interior mitigation work is completed and finish materials placed to final grade.

Issue Date: February 04, 2013

Control Number: 129207-2

Project Expiration Date: December 31, 2014

FPA/Public Notice #: N/A

16. A silt curtain shall be in place at the north end of the project during berm removal and excavation to final grade.

17. Mitigation site shall be constructed with a symmetrical design with gradual tapering slopes of approximately 100H:1V through the middle of the site as shown on sheet 4 of 6, entitled Proposed Habitat Mitigation Area and sheet 5 of 6 entitled Cross Section A-A, both dated May 24, 2012.

18. The existing boat ramp, which is to remain in place along the west side of the mitigation site, shall have 35 bank cubic yards (bcy) of quarry spall placed along the eastern boat ramp shoulder adjacent to the mitigation site as shown on sheet 4 of 6, entitled Proposed Habitat Mitigation Area and sheet 6 of 6 entitled Cross Section C-C, both dated May 24, 2012.

19. Final grade below +8.2 MLLW shall be achieved through the placement of 418 bcy of gravel cobble substrate (5-inch minus) and 530 bcy of fish mix (2-inch minus) as shown on sheet 4 of 6, entitled Proposed Habitat Mitigation Area and sheet 5 of 6 entitled Cross Section A-A, both dated May 24, 2012.

20. Gravel and cobble substrate placed in the high energy northern portion of the mitigation site shall be covered with fish mix to fill the interstices as shown on sheet 4 of 6, entitled Proposed Habitat Mitigation Area and sheet 6 of 6 entitled Cross Section C-C, both dated May 24, 2012.

21. Substrate placement within the low energy southern portion of the site shall consist of fish mix only as shown as shown on sheet 4 of 6, entitled Proposed Habitat Mitigation Area and sheet 6 of 6 entitled Cross Section B-B, both dated May 24, 2012.

22. Above +7.0 feet MLLW in the northern portion of the site, the shoreline slope shall be at approximately 2H:1V and armored with 12-inch minus armor rock as shown on sheet 4 of 6, entitled Proposed Habitat Mitigation Area and sheet 6 of 6 entitled Cross Section C-C, both dated May 24, 2012. Interstitial spaces within the armor rock shall be filled with a finer sand and gravel substrate.

23. Salt marsh fringe habitat shall be constructed in the southern portion of the site between +8.2 and +10 feet MLLW as shown on sheet 4 of 6, entitled Proposed Habitat Mitigation Area and dated May 24, 2012. Final grade shall be at 5H:1V topped with 100 bcy of sand and gravel over approximately 2,403 square feet (0.06 acre) as shown on sheet 6 of 6 entitled Cross Section B-B and dated May 24, 2012.

24. Salt marsh vegetation consisting of pickleweed (*Salicornia virginica*) and orache (*Atriplex patula*) shall be planted within ten, 10-foot long by 5-foot wide plots to augment natural colonization.

25. Landward of the salt marsh fringe a transition slope between +10 to +18 feet MLLW shall be graded to 2H:1V and topped with soil to allow for planting of native riparian low growing trees, shrubs, and ground cover as shown on sheet 4 of 6 entitled Proposed Habitat Mitigation Area,



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sheet 5 of 6 entitled Cross Section A-A, and sheet 6 of 6 entitled Cross Section C-C, all dated May 24, 2012.

26. A retaining wall shall be installed at the southern end of the mitigation site at approximately +18 feet MLLW and additional riparian vegetation shall be planted above the wall.

WATER QUALITY

27. Project activities shall be conducted to minimize siltation of the beach area and bed.

28. All debris or deleterious material resulting from construction shall be removed from the beach area and bed and prevented from entering waters of the state.

29. Environmental crews shall be on site during all overwater demolition and in-water excavation activities to prevent debris associated with project activities from being released into waters of the state.

30. No petroleum products or other deleterious materials shall enter surface waters.

31. Project activities shall not degrade water quality to the detriment of fish life.

32. If at any time, as a result of project activities, fish are observed in distress, a fish kill occurs, or water quality problems develop (including equipment leaks or spills), immediate notification shall be made to the Washington Military Department's Emergency Management Division at 1-800-258-5990, and to the Area Habitat Biologist listed below.

PROJECT MITIGATION

33. Unavoidable impacts to fish life and the habitats upon which they depend shall be mitigated per the terms and conditions specified in the Port of Anacortes Project Pier 1 (NWS 200501451) Mitigation Plan Addendum prepared by Grette Associates and dated June 15, 2012.

34. Physical and biological monitoring of the Wyman Mitigation Site shall be implemented per the terms and conditions in Section 6, Proposed Mitigation, and Section 7, Post-Project Monitoring Program, specified in the Port of Anacortes Project Pier 1 (NWS 200501451) Mitigation Plan Addendum prepared by Grette Associates and dated June 15, 2012.

35. The physical and biological monitoring reports shall be submitted to the Area Habitat Biologist listed below within 6 months of completing a given years monitoring activities.

36. Mitigation contingency planning and response shall be implemented per the terms and conditions specified in the Port of Anacortes Project Pier 1 Mitigation Plan prepared by Grette and



HYDRAULIC PROJECT APPROVAL

RCW 77.55.021 - See appeal process at end of HPA

North Puget Sound
16018 Mill Creek Boulevard
Mill Creek, WA 98012-1296
(425) 775-1311

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Associates and dated November 18, 2005.

PROJECT LOCATIONS

Location #1 Wyman's Mitigation Site

WORK START: February 04, 2013				WORK END: December 31, 2014		
WRIA: 03.9070		Waterbody: Wria 03 Marine		Tributary to: Puget Sound		
1/4 SEC: SW 1/4	Section: 18	Township: 35 N	Range: 02 E	Latitude: N 48.52069	Longitude: W 122.60515	County: Skagit
<p><u>Location #1 Driving Directions</u></p> <p>From Interstate 5, take Exit #230 (Hwy 20 West toward Anacortes). Go through the Hwy 20 Spur light and turn right at the roundabout and follow Commercial Street to 4111 Street. Turn right on 4111 and go to "T" Avenue. Turn left on "T" Avenue, and the site is north of 3rd Street between "T" and "U" Avenues.</p>						

APPLY TO ALL HYDRAULIC PROJECT APPROVALS

This Hydraulic Project Approval pertains only to those requirements of the Washington State Hydraulic Code, specifically Chapter 77.55 RCW (formerly RCW 77.20). Additional authorization from other public agencies may be necessary for this project. The person(s) to whom this Hydraulic Project Approval is issued is responsible for applying for and obtaining any additional authorization from other public agencies (local, state and/or federal) that may be necessary for this project.

This Hydraulic Project Approval shall be available on the job site at all times and all its provisions followed by the person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work.

This Hydraulic Project Approval does not authorize trespass.

The person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work may be held liable for any loss or damage to fish life or fish habitat that results from failure to comply with the provisions of this Hydraulic Project Approval.

Failure to comply with the provisions of this Hydraulic Project Approval could result in a civil penalty of up to one hundred dollars per day and/or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.

All Hydraulic Project Approvals issued under RCW 77.55.021 are subject to additional restrictions, conditions, or revocation if the Department of Fish and Wildlife determines that changed conditions require such action. The person(s) to whom this Hydraulic Project Approval is issued has the right to appeal those decisions. Procedures for filing appeals are listed below.

MINOR MODIFICATIONS TO THIS HPA: You may request approval of minor modifications to the required work timing or to the plans and specifications approved in this HPA. A minor modification to the required work timing means up to a one-week deviation from the timing window in the HPA when there are no spawning or incubating fish present within

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the vicinity of the project. You may request subsequent minor modifications to the required work timing. A minor modification of the plans and specifications means any changes in the materials, characteristics or construction of your project that does not alter the project's impact to fish life or habitat and does not require a change in the provisions of the HPA to mitigate the impacts of the modification. Minor modifications do not require you to pay additional application fees or be issued a new HPA. To request a minor modification to your HPA, submit a written request that clearly indicates you are requesting a minor modification to an existing HPA. Include the HPA number and a description of the requested change and send by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234, or by email to HPAapplications@dfw.wa.gov. Do not include payment with your request. You should allow up to 45 days for the department to process your request.

MAJOR MODIFICATIONS TO THIS HPA: You may request approval of major modifications to any aspect of your HPA. Any approved change other than a minor modification to your HPA will require issuance of a new HPA. If you paid an application fee for your original HPA you must include payment of \$150 with your written request or request billing to an account previously established with the department. If you did not pay an application fee for the original HPA, no fee is required for a change to it. To request a major modification to your HPA, submit a written request that clearly indicates you are requesting a major modification to an existing HPA. Include the HPA number, check number or billing account number, and a description of the requested change. Send your written request and payment, if applicable, by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234. If you are charging the fee to a billing account number or you are not subject to the fee, you may email your request to HPAapplications@dfw.wa.gov. You should allow up to 45 days for the department to process your request.

APPEALS INFORMATION

If you wish to appeal the issuance, denial, conditioning, or modification of a Hydraulic Project Approval (HPA), Washington Department of Fish and Wildlife (WDFW) recommends that you first contact the department employee who issued or denied the HPA to discuss your concerns. Such a discussion may resolve your concerns without the need for further appeal action. If you proceed with an appeal, you may request an informal or formal appeal. WDFW encourages you to take advantage of the informal appeal process before initiating a formal appeal. The informal appeal process includes a review by department management of the HPA or denial and often resolves issues faster and with less legal complexity than the formal appeal process. If the informal appeal process does not resolve your concerns, you may advance your appeal to the formal process. You may contact the HPA Appeals Coordinator at (360) 902-2534 for more information.

A. INFORMAL APPEALS: WAC 220-110-340 is the rule describing how to request an informal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete informal appeal procedures. The following information summarizes that rule.

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request an informal appeal of that action. You must send your request to WDFW by mail to the Washington Department of Fish and Wildlife HPA Appeals Coordinator, 600 Capitol Way North, Olympia, Washington 98501-1091; e-mail to HPAapplications@dfw.wa.gov; fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. WDFW must receive your request within 30 days from the date you receive notice of the decision. If you agree, and you applied for the HPA, resolution of the appeal may be facilitated through an informal conference with the WDFW employee responsible for the decision and a supervisor. If a resolution is not reached through the informal conference, or you are not the person who applied for the HPA, the HPA Appeals Coordinator or designee will conduct an informal hearing and recommend a decision to the Director or designee. If you are not satisfied with the results of the informal appeal, you may file a request for a formal appeal.

B. FORMAL APPEALS: WAC 220-110-350 is the rule describing how to request a formal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete formal appeal procedures. The following information summarizes that rule.

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request a formal appeal of that action. You must send your request for a formal appeal to the clerk of the Pollution Control Hearings



HYDRAULIC PROJECT APPROVAL

RCW 77.55.021 - See appeal process at end of HPA

North Puget Sound
16018 Mill Creek Boulevard
Mill Creek, WA 98012-1296
(425) 775-1311

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Boards and serve a copy on WDFW within 30 days from the date you receive notice of the decision. You may serve WDFW by mail to the Washington Department of Fish and Wildlife HPA Appeals Coordinator, 600 Capitol Way North, Olympia, Washington 98501-1091; e-mail to HPAapplications@dfw.wa.gov; fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, you may request a formal appeal within 30 days from the date you receive the Director's or designee's written decision in response to the informal appeal.

C. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS: If there is no timely request for an appeal, the WDFW action shall be final and unappealable.

ENFORCEMENT: Sergeant Chandler (34) P2

Habitat Biologist
Doug Thompson

360-466-4345

for Director
WDFW

CC:



DEPARTMENT OF PLANNING, COMMUNITY & ECONOMIC DEVELOPMENT

DATE: November 14, 2012
TO: Mayor and City Council
FROM: Libby Grage *LG*
Senior Planner
SUBJECT: SDP-2012-0005
Wyman Mitigation Site – Shoreline Permit & Shoreline Setback Variance
application
November 19, 2012 Closed Record Review

Briefing

The Port of Anacortes has requested approval of a shoreline substantial development permit and shoreline variance to construct a habitat mitigation site and public access path at the former Wyman Marina. A public hearing before the Planning Commission was held on October 24, 2012 and the Planning Commission recommended approval of the shoreline substantial development permit and shoreline setback variance applications subject to conditions. There were no appeals of the Planning Commission's recommendation.

Background

Please see the attached Planning Commission recommendation and staff report for background information related to the request.

Recommendation

Move to approve the shoreline substantial development permit and shoreline setback variance subject to the recommended conditions in the Planning Commission's Recommendation and direct staff to prepare City Council's Findings of Fact, Conclusions of Law and Decision for Council review and approval.

Financial Implications

N/A

Impacts if Action Not Taken

N/A

Attachments

1. Planning Commission Findings of Fact, Conclusions of Law & Recommendation dated 10/26/12
2. Draft Minutes – 10/24/12 PC meeting
3. Planning Commission Packet



Planning, Community, and Economic Development
904 – 6th Street
P.O. Box 547
Anacortes, WA 98221-0547

**PLANNING COMMISSION
FINDINGS OF FACT, CONCLUSIONS OF LAW & RECOMMENDATION**

File No: SDP-2012-0005

Project Title: Wyman's Property Habitat Mitigation

Location: On Guemes Channel, north of 3rd Street, between T and U Avenues

Applicant/Contact: Port of Anacortes
Teri Switalski
P.O. Box 297
Anacortes, WA 98221

Open Record Public Hearing Date: October 24, 2012

Nature of Request: Shoreline Substantial Development Permit & Shoreline Setback Variance

Current Zoning / 2010 Comprehensive Plan Land Use Designation: Commercial Marine 1 (CM1)

2010 Shoreline Master Plan Designation: Urban Maritime and Aquatic

Date of PC Recommendation: October 26, 2012

**PLANNING COMMISSION
RECOMMENDATION: APPROVE WITH CONDITIONS**

I. INTRODUCTION AND PROCEDURAL MATTERS

The applicant, The Port of Anacortes, seeks approval of a Shoreline Substantial Development Permit and a shoreline setback variance to construct an intertidal habitat mitigation site and public access path at the former Wyman's Marina property.

The Planning Commission conducted a site visit on October 24, 2012 prior to the open record public hearing on this matter in order to become familiar with the site. Planning Commission members, staff and members of the public were present. No public testimony was accepted during the site visit.

Planning, Community and Economic Development (PCED) staff recommended approval of the Shoreline Substantial Development Permit and shoreline setback variance application. The public hearing on this application was held on October 24, 2012 before the Planning Commission. PCED was represented by Ms. Libby Grage, Senior Planner and Mr. Ryan Larsen, Director - PCED. The Port of Anacortes was represented by Mr. Bob Hyde, Executive Director; Mr. Jenkins Dossen, Facilities Manager; and Mr. John Herzog, Engineer. One member of the general public, Mr. Ross Barnes, spoke at the open record public hearing.

After due consideration of the record and evidence elicited during the open record public hearing, the following shall constitute the findings of fact, conclusions and recommendation of the Planning Commission to City Council.

II. FINDINGS OF FACT

Site and Vicinity

1. The site is generally located on Guemes Channel, north of 3rd Street between T and U Avenues, in the SW quarter of Section 18, Township 35 N, Range 02 E WM (Assessor Parcel Numbers P32868, P56526, P56511 & P56510).
2. The property extends into the Guemes Channel on its north side and is located within shoreline jurisdiction. The project area includes in-water, shoreline and upland areas consisting of approximately 0.92 acres.
3. The site is designated as Commercial Marine 1 (CM1) on the City's zoning and comprehensive plan maps and as "Aquatic" and "Urban Maritime" in the 2010 Shoreline Master Plan.
4. In-water and shoreline areas currently include a pile-supported pier, non-functional fuel dock, gangway, various associated floats, mooring dolphins, and multiple isolated creosote-treated timber piles. Undeveloped nearshore areas consist of sand with rock outcrops, and large concrete and asphalt debris. There is a boat ramp, used for transport of vehicles and goods to and from the San Juan Islands, along the western property boundary. Upland areas consist of a derelict vacant building and associated structures, and concrete and gravel parking areas.

5. The site and surrounding properties are zoned and developed as follows:

	Use	Zone	SMP Designation
Site	Former marina; boat ramp	CM1	Urban Maritime & Aquatic
North	Guemes Channel	N/A	Aquatic
East	U Avenue; Single-family residential development	R2	Shoreline Residential
South	Alley; Single-family homes; gravel lot	M/S	N/A
West	Paved parking area; Randy's Pier 61 restaurant	CM1	Urban Maritime

Proposal

6. A shoreline substantial development permit is requested for the removal of existing in-water and upland structures, excavation of upland and intertidal material, shoreline restoration, and construction of new aquatic habitat and public access.
7. A shoreline setback variance is requested to construct a public access path and viewing platform closer than 25-feet to the Ordinary High Water Mark (OHWM). At its closest, the path would be located approximately 15-feet from the reconfigured OHWM.
8. The proposed action would replace the mitigation action previously proposed at the Log Pocket site, located within the marine terminal on the east side of Pier 2. The mitigation is required to compensate for impacts associated with construction of the Pier 1 Redevelopment Project (City Shoreline Permit SDP#282). The application indicates that Wyman Marina is proposed as an alternative mitigation site due sediment cleanup requirements at the Log Pocket resulting in further delay in mitigation implementation at that site. A revision to SDP #282 to account for the change in mitigation location is being requested.
9. Mr. Bob Hyde, Executive Director of the Port of Anacortes, testified that, for mitigation purposes, the Wyman Marina site is preferred over the Log Pocket site to avoid bifurcation of the marine terminal and to conserve the log pocket for that potential use in the future. Additionally, historically, it has been difficult to site a viable business at the Wyman Marina property due to wave action in Guemes Channel, height restrictions, and other factors. Construction of the habitat mitigation area would put the property to use and provide a transition between the marine terminal uses to the west and the Cap Sante residential neighborhood to the east.
10. The existing boat launch ramp on the west side of the site is proposed to be retained and remain operational. Mr. Hyde testified that the Port of Anacortes would work with the barge operators and other users of the ramp to identify an acceptable location for pre-staging and parking of vehicles and equipment.
11. Construction of the mitigation proposal would move the OHWM landward, thus moving shoreline jurisdiction equally landward, causing properties not previously within shoreline

jurisdiction to be included and subject to Shoreline Master Program regulations. The Port of Anacortes currently owns all but three of the affected properties. In 2009, the State Legislature adopted amendments to the Shoreline Management Act to alleviate concerns over additional regulatory restrictions when the OHWM changed due to mitigation or restoration projects in urban areas. RCW 90.58.580 allows for relief from these additional regulations in certain cases if specific criteria are met. The Port of Anacortes, as project proponent and affected property owner, is not eligible for said relief; however private property owners affected by the shift are eligible.

Affected private property owners were provided notice of the application, opportunity to comment, and open record public hearing date. Additionally, letters more specifically describing potential impacts of the shift in OHWM, available relief, and soliciting comments were also mailed. As of the date of the open record public hearing, no comments from the affected private property owners had been received.

Public Comments

12. One written comment was received regarding impacts of the proposal on users of the boat ramp.
13. Mr. Ross Barnes provided oral testimony at the public hearing requesting that project's retaining walls be designed to incorporate irregular features so as to reflect the Cap Sante rock formation to the east.

Applicable Review Criteria and Process

14. The Port of Anacortes acted as lead agency for the proposal and issued Addendum #2 to the Final Supplemental Environmental Impact Statement (SEIS) on the Pier 1 Redevelopment Project on June 8, 2012.
15. Proper notice of the application and hearings was provided consistent with relevant Municipal Code and Shoreline Master Plan requirements. Applicable City departments reviewed the proposal for consistency with pertinent Anacortes Municipal Code Titles and Chapters, the 2010 Comprehensive Plan and 2010 Shoreline Master Plan goals, policies and regulations. PCED staff recommended approval of the Shoreline Substantial Development Permit and shoreline setback variance application. The PCED Staff Recommendation dated October 18, 2012 (Exhibit 1) provides an analysis of consistency with the applicable items.
16. The Planning Commission conducted a site visit of the property on October 24, 2012. No public testimony was taken at the site visit. The required open-record public hearing was held before the Planning Commission on October 24, 2012, and because the project improvements valued at one million dollars or more, the City Council will decide in a closed record appeal format upon the recommendation of the Planning Commission.

III. CONCLUSIONS OF LAW

1. The Planning Commission, having fully reviewed the PCED Staff Recommendation, hereby adopts said document as properly setting forth the issues, the land use requests, consistency with the existing regulations, policies, conditions and their effect upon the request. It is therefore adopted by the Planning Commission as a conclusion as if set forth in full here in. There are no recommended changes to the recommendations of the staff report.
2. The proposed Shoreline Substantial Development and shoreline setback variance, as conditioned, conform to the general purposes of the city comprehensive plan, the city's planning standards and specifications of the zoning ordinance, the 2010 Shoreline Master Plan and other ordinances applicable to the proposal. Additionally, the proposal is consistent with the Shoreline Management Act of 1971.
3. The Planning Commission bases its Findings of Fact and Conclusions of Law on the entire record, including all testimony and exhibits. Any finding which would be deemed a Conclusion of Law, and any Conclusion of Law which should be deemed a finding is hereby adopted as such.

IV. RECOMMENDATION

The Planning Commission recommends approval of the Shoreline Substantial Development and shoreline setback variance application, subject to the following applicable development conditions:

1. All applicable local, state and federal permits shall be secured prior to work beginning on the site. Copies of said approval documents shall be provided to the Planning, Community & Economic Development Department (PCED).
2. The scope of this project shall not exceed that as set-out in the shoreline permit application (including attachments), and as necessary to comply with permit conditions.
3. Work hours shall be limited to the hours of 7 am to 7 pm. Work proposed to take place outside of those hours shall require the applicant request a noise variance and approval by the City Council.
4. Prior to work taking place at the site, civil construction plans meeting City requirements shall be submitted to the Building and Public Works Department for review and approval. Plans shall include a boundary survey, a plan for material stockpiling, sedimentation and erosion control measures, emissions (dust, exhaust, etc.) control, etc.
5. Prior to work taking place at the site a work plan shall be provided for Planning Department review and approval. The work plan shall describe truck haul routes, staging areas, traffic control plan, work hours, public safety measures during construction, and location for disposal of excavated material.

6. Prior to work taking place at the site, a detailed plan depicting the public access path, including proposed materials, signage, maintenance, etc. shall be submitted for Planning Department review and approval.
7. A draft of the proposed deed restriction for the habitat mitigation and public access element shall be provided to the City of Anacortes for review and approval prior to recording by the Port of Anacortes.
8. The project completion report and habitat monitoring reports shall be provided to the City of Anacortes for review.
9. A road maintenance mitigation fee shall be assessed as determined by the Public Works Director based on cubic yards of import and export material. Any fee owing shall be paid to the City of Anacortes prior to work taking place at the site.
10. Prior to work taking place at the site, the truck haul route condition shall be evaluated, including sidewalks, curb and paving, and documented by the contractor and city prior to construction activity taking place. Damage to the streets, sidewalks, paving, storm system and other appurtenances as a result of the project shall be fully restored as required by the public works department.
11. Upon completion of the project, the applicant shall submit as-built drawings which include the new location of the Ordinary High Water Mark.
12. A revision to Shoreline Permit #282 shall be processed to address the change in mitigation site location.
13. The applicant shall comply with all applicable state law requirements regarding preservation of archaeological and historic resources, including provisions to stop work and notify the appropriate agencies should protected resources be uncovered during excavation.
14. The applicant shall adhere to the applicable policies and development regulations contained in the City of Anacortes 2010 Shoreline Master Program including but not limited to those in: Section 5.6 *Aquatic*, Section 5.11 *Urban Maritime*, Chapter 6 *Environmental Protection General Regulations*, Chapter 7 *Shoreline Public Access*, Section 9.10 *Shoreline Habitat and Natural Systems Enhancement Projects*, and Section 9.11 *Shoreline Stabilization Measures & Flood Protection Works*.
15. The applicant shall be responsible for reimbursement to the City for the cost of posting, mailing and publication of the public hearing for this proposal. Payment shall be made prior to construction plan or building permit approval.

These Findings of Fact, Conclusions of Law and Recommendation were adopted by the Anacortes Planning Commission on **October 26, 2012.**

CITY OF ANACORTES, WASHINGTON
PLANNING COMMISSION

By M. Laumbattus
Marty Laumbattus, Planning Commission Chair

Appeals:

Any aggrieved party shall have five working days from date of the action to appeal the recommendation of the planning commission to the city council. The appeal shall be in writing and is to be filed with the city clerk. If an appeal is filed by an aggrieved party, this appeal shall be a closed record appeal to the city council who shall decide the matter.

Attachment:

Staff Recommendation (Exhibit 1)

Exhibits:

The following exhibits were offered and entered into the record (see list attached).

DRAFT

Planning Commission meeting 10/24/2012 - EXCERPT

New Business

Public Hearing: Wyman Habitat Mitigation site shoreline permit – Port of Anacortes (Action)

Ms. Libby Grage, Senior Planner, introduced the shoreline substantial development permit request and gave a brief overview of the project. Ms. Grage stated that staff recommended that the Planning Commission forward a recommendation for approval to City Council subject to the conditions included in the staff report. Ms. Grage stated that staff and the applicant's representative were available to answer any questions. Chair Laumbattus then opened the public hearing.

Mr. Bob Hyde, Executive Director of the Port of Anacortes. Mr. Hyde provided additional information and stated that he believes that this project is a solution to the problem presented by the aging Wyman Marina. This project will create a transitional zone between the Port and neighbors, it will add the .72 acres to waters of the state and it has a public access component. The ramp will be available for both commercial use and private use. In response to a question from Commissioner Folsom, Mr. Hyde provided the Port has conducted testing and found no hazardous materials. Mr. Hyde also stated that the creosote pilings would be removed along with all the waterfront structures that are part of the marina.

Mr. Ross Barnes, 1004 7th Street, Anacortes. Mr. Barnes provided he is not against this project but requests the design have a more natural look.

Chair Laumbattus made inquiry regarding the possibility of hitting bedrock during excavation. Mr. Jenkins Dossen, Project Manager, Port of Anacortes, provided that the Port has performed multiple borings at the site and determined that the excavation is outside the borders of the bedrock and do not anticipate hitting any bedrock during excavation. Chair Laumbattus asked how the Port plans to accommodate staging large trucks for loading on and off the barges. Mr. Hyde responded that long term they are working on a plan to accommodate the staging. Mr. Hyde provided that in the meantime, the property between Bowman's mini storage and Randy's are opportunities to stage vehicles.

Commissioner Archibald asked if there will be any signage providing how and when individuals can access the public access and trail. Mr. Hyde responded they could install signage directing visitors to the site and added that the area would be well marked. Commissioner Archibald asked where parking would be located to accommodate visitors to which Mr. Hyde responded there are approximately 20 plus stalls on T Avenue that are virtually unused.

In response to a question from Commissioner Muntean whether there is a reason a pathway does not connect to the Randy's property and if there would be any opposition to the suggestion of a more natural looking rock wall, Mr. Hyde responded that there is a gravel alley that connects the Randy's area and the public access trail. In regard to changing the rock wall to look more natural, Mr. Hyde responded that keeping the wall as is saves costs while keeping the wall structurally sound.

Commissioner Miller expressed concern whether the landowners affected by the change in the high water mark have provided any comment and if the City is confident that enough notice was provided to the homeowners. Ms. Grage provided the homeowners were notified of the original project application a few months ago and the City did send the more specific letters out last week. The City has not heard back from the property owners affected by the change in the high water mark. Ms. Grage provided additional information as to how the process would work if application was submitted for certain changes on the property.

In response to questions regarding making the shape of the excavation more natural, Mr. John Herzog, Port engineer, provided that one of the challenges of the project was to fit the required acreage of mitigation into the size of the property available by the Port. Another factor is the mitigation is required to fulfill certain target elevations that the State and federal agencies view as favorable habitat and so the primary function of the vertical wall that shoulders the excavation is to essentially get down to those elevations as quickly as possible and then to grade at what the state considers a more acceptable habitat slope. Those more favorable elevations and the vertical walls are designed to be a rock revetment as close as possible to blending in with the adjacent rock walls and also be and cost effective.

With no further comments from the public, Chair Laumbattus closed the public hearing and called for discussion from the Commissioners. Commissioner Gere provided she believes this will be a great addition to the area on Guemes Channel. Chair Laumbattus provided he supports this project and put forth a motion to recommend this project to the City Council. Chair Laumbattus reminded the Commissioners that there are two issues to consider; one is the permit and the other is the variance for the trail. Commissioner Muntean asked for clarification from staff on the issue on whether or not the Commissioners are required to take into consideration the affect on the neighbors. Mr. Larsen responded that the residents did not provide any comment on the project which is interpreted as no objection. Commissioner Muntean asked for the code that indicates the affect on neighbors with this permit. Ms. Grage provided that public comment is solicited on all shoreline substantial development permit applications and public comment was solicited in this case. Chair Laumbattus asked if one of these affected residents made an application, would it come before the Planning Commission. Ms. Grage stated that it would not as there would be no

requirement for a shoreline substantial development permit that is written into the relief section of that RCW.

Commissioner Gere made a motion to recommend that the Wyman Habitat Mitigation site shoreline permit and variance request for the trail be moved forward to the City Council with a recommendation of approval. Commissioner Muntean made a request to amend the motion to include the staff recommendations. Commissioner Folsom seconded the motion. The vote was unanimous in affirmation of the motion.

SDP-2012-0005
Wyman Mitigation Site – Port of Anacortes

Planning Commission Packet

October 24, 2012
Open Record Public Hearing



**DEPARTMENT OF PLANNING, COMMUNITY & ECONOMIC
DEVELOPMENT**

DATE: October 18, 2012

TO: Planning Commission

FROM: Libby Grage *LG*
Senior Planner - Planning, Community & Economic Development

SUBJECT: SDP-2012-000
Port of Anacortes Wyman Mitigation Site – Shoreline Permit Application
October 24, 2012 Open Record Public Hearing

Briefing

Please find attached the Planning Commission packet for the public hearing to consider the Port of Anacortes' request for a shoreline substantial development permit and shoreline variance to construct a habitat mitigation site at the former Wyman Marina.

Background

Please see the staff report for background information related to the request.

Recommendation

Move to forward a recommendation of approval of the shoreline substantial development permit and shoreline setback variance application subject to the staff-recommended conditions, and direct staff to prepare Findings of Fact & Recommendation for review and approval by the Planning Commission Chair.

PLANNING COMMISSION HEARING EXHIBIT LIST

Last updated October 24, 2012

Project Number: SDP-2012-0005
Project Name: Wyman Mitigation Site – Port of Anacortes
Meeting Date: October 24, 2012

Exhibit Number	Document	Dated	Date Received
1	Staff Report / Recommendation	9/6/12	-
2	Vicinity Map	-	-
3	Site Plan (sheets 1-5)	10/17/12	10/17/12
4	Master Permit Application	-	7/3/12
5	Applicant's project narrative	-	7/3/12
6	Applicant's response letter providing additional information	8/24/12	8/24/12
7	Revision request for SDP #282	7/3/12	7/3/12
8	JARPA	6/9/12	7/3/12
9	Addendum #2 to the Pier 1 Redevelopment Project SEIS	6/8/12	7/3/12
10	Biological Evaluation Addendum #3 (Grette Associates)	6/12	7/3/12
11	Mitigation Plan Addendum (Grette Associates)	6/12	7/3/12
12	Forwarded email comments (by Marty Starr) from Erica Pickett	7/19/12	7/19/12
13	Letter from City re: incomplete application and DRG comments	7/24/12	-
14	Letter from City re: complete application	9/7/12	-
15	Notice of Application & Declaration of Posting	-	-
16	Letters from City to private property owners potentially impacted by OHWM/shoreline jurisdiction shift	10/17/12	-
17	Map showing potentially impacted properties	-	-
18	Letter from Bob Fritzen, DOE	10/18/12	10/18/12



Planning, Community, and Economic Development
904 – 6th Street
P.O. Box 547
Anacortes, WA 98221-0547

STAFF REPORT / RECOMMENDATION

File No: SDP-2012-0005

Project Title: Wyman's Property Habitat Mitigation

Location: Generally located on Guemes Channel, north of 3rd Street, between T and U Avenues

Applicant/Contact: Port of Anacortes
Teri Switalski
P.O. Box 297
Anacortes, WA 98221

Date of Report: October 18, 2012

Open Record Public Hearing Date: October 24, 2012

Nature of Request: Shoreline Substantial Development Permit & Shoreline Setback Variance

Current Zoning/Comp. Plan Land Use Designation: Commercial Marine 1 (CM1)

2010 Shoreline Master Plan Designation: Urban Maritime and Aquatic

STAFF RECOMMENDATION: APPROVE WITH CONDITIONS

1. NATURE OF APPLICATION

A. Request

The Port of Anacortes is requesting approval of a Shoreline Substantial Development Permit and a shoreline setback variance to construct an intertidal habitat mitigation site and public access path at the former Wyman's Marina. The proposed action would replace the mitigation action previously proposed at the Log Pocket site and would complete compensatory mitigation requirements for the Pier 1 Redevelopment Project. A revision to SDP #282 to account for the change in mitigation location is being requested as part of this process.

The Wyman property mitigation proposal includes removal of existing in-water and upland structures, excavation of upland and intertidal material, construction of new aquatic habitat, shoreline restoration and public access. The existing boat launch ramp is proposed to be retained.

B. Applicable Review Criteria and Process

Review Criteria

City of Anacortes codes, plans and documents relevant to the subject application include, but are not limited to, the following:

- **Anacortes Municipal Code**

 - Title 18 – *Environmental Protection*
 - Chapter 18.16 – *Shoreline Master Plan*

- **2010 Shoreline Master Plan**

Review Process

Pursuant to Section 18.16.100.B AMC, all shoreline substantial development permits and shoreline variances require an open record public hearing be held before the Planning Commission. For project improvements valued at one million dollars or more or for project sites three acres or more in size, the Planning Commission makes a recommendation and the record is sent to the City Council, which shall decide in a closed record appeal format upon the recommendation of the Planning Commission. The subject project valuation is \$1.2 million.

C. Project Chronology/Background

Pier 1 Redevelopment & Mitigation

On March 22, 2006 the City of Anacortes issued Shoreline Substantial Development Permit #282 to the Port of Anacortes, authorizing shipyard improvements and waterway modifications to increase the operational flexibility and capacity of the Pier 1 shipyard ("Pier 1 Redevelopment Project"). The Pier 1 Redevelopment Project included mitigation actions to offset the loss of eelgrass habitat, conversion of intertidal and shallow habitat to subtidal habitat, and the conversion of intertidal habitat to uplands. Mitigation actions were proposed at the "Fidalgo Bay Habitat Site", the "O Avenue Mitigation Site" and the "Log Pocket Mitigation Site". The Pier 1 Redevelopment

Project and construction of mitigation at the Fidalgo Bay and O Avenue mitigation sites has been completed, leaving construction of the Log Pocket Mitigation Site needed to complete the project's habitat mitigation requirements.

According to the current application, the Log Pocket site is now subject to sediment cleanup requirements in cooperation with the Department of Ecology causing delay in implementation of the mitigation at the site. In order to expedite fulfillment of the mitigation obligation, the Port is proposing the Wyman site as an alternative location for construction of the remaining habitat mitigation required for the Pier 1 redevelopment project.

Current Application

The current shoreline substantial development permit application was submitted on July 3, 2012 and determined to be incomplete on July 24, 2012. The applicant submitted additional information, including a shoreline setback variance application, on August 24, 2012; the application was deemed complete on September 7, 2012. Public notice of the application and public hearing was made consistent with the requirements outlined in the Anacortes Municipal Code and Shoreline Master Plan.

The Port of Anacortes held a neighborhood meeting on October 2, 2012 to present the proposal to interested parties.

D. Site Location/Description

The Wyman property is generally located on Guemes Channel, north of 3rd Street between T and U Avenues, in the SW quarter of Section 18, Township 35 N, Range 02 E WM. The site is a former marina and includes in-water, shoreline and upland areas. In-water and shoreline areas currently include a pile-supported pier, non-functional fuel dock, gangway, various associated floats, mooring dolphins, and multiple isolated creosote-treated timber piles. Undeveloped nearshore areas consist of sand with rock outcrops, and large concrete and asphalt debris. There is a boat ramp, used for transport of vehicles and goods to and from the San Juan Islands, along the western property boundary. Upland areas consist of a derelict vacant building and associated structures, and concrete and gravel parking areas.

The site and surrounding properties are zoned and developed as follows:

	Use	Zone	SMP Designation
Site	Former marina; boat ramp	CM1	Urban Maritime & Aquatic
North	Guemes Channel	N/A	Aquatic
East	U Avenue; Single-family residential development	R2	Shoreline Residential
South	Alley; Single-family homes; gravel lot	M/S	N/A
West	Paved parking area; Randy's Pier 61 restaurant	CM1	Urban Maritime

2. PROJECT CONSISTENCY WITH APPLICABLE REGULATIONS IN TITLE 18 AMC, ENVIRONMENTAL PROTECTION REGULATIONS

A. Chapter 18.04 AMC, State Environmental Policy Act

The Port of Anacortes, the SEPA lead agency, issued Addendum #2 to the Final Supplemental Environmental Impact Statement (SEIS) on the Pier 1 Redevelopment Project on June 8, 2012. The addendum was issued under the authority provided in WAC 197-11-600(4)(c) and conforms to the procedures for preparing an addendum in WAC-197-11-625. The addendum provides additional information regarding improvements proposed as part of the Pier 1 Redevelopment Project that do not substantially change the analysis of impacts in the existing environmental documents for the project. The addendum addresses the proposed reconfiguration of the mitigation area and public access.

B. Chapter 18.16 AMC, Shoreline Master Plan

The majority of the site is located within shoreline jurisdiction (Urban Maritime and Aquatic environment designations). Processing of the application was consistent with the requirements and procedures outlined in this chapter. Consistency with applicable goals, policies and regulations of the Anacortes Shoreline Master Plan is outlined in Section 3 of this document.

3. PROJECT CONSISTENCY WITH APPLICABLE CITY OF ANACORTES 2010 SHORELINE MASTER PROGRAM DEVELOPMENT REGULATIONS

A. Chapter 5 – Shoreline Environments & Associated Policies and Regulations

This chapter provides development regulations for use, height limits and setbacks in each shoreline environment designation. Development regulations applicable to the subject application include, but are not limited to:

Uses

Table 5.1

Shoreline Use and Modification Matrix

Discussion: The use for which the mitigation is required is a water-dependent industrial/port facility which was previously permitted and already exists. The mitigation project elements include recreational facilities (water-enjoyment), shoreline habitat and natural systems enhancement, and shoreline stabilization (bioengineering or other soft structural stabilization technique and hard structural stabilization). All elements are a permitted in the Urban Maritime and Aquatic Environments.

Section 5.5 Shorelines of Statewide Significance

Within Anacortes shoreline jurisdiction, the waters of Puget Sound and Strait of Juan de Fuca lying seaward from the line of extreme low tide are designated as Shorelines of Statewide Significance.

Discussion: The proposal is consistent with the order of use preferences established by the Shoreline Management Act.

Section 5.6 Aquatic

Management Policies

Policy 5.6.1 Limit uses and activities within the Aquatic environment to water-dependent uses, ecological restoration and public access/recreational improvements designed to provide access to the shoreline for a substantial number of people, with few exceptions.

Discussion: The proposal includes habitat mitigation for the Pier 1 Redevelopment Project and includes public access by way of an access trail and viewing platform. Project-related activities in the Aquatic designation are limited to removal of structures and creation of intertidal habitat.

Design Elements

Policy 5.6.8 All developments and uses should be located and designed to minimize interference with surface navigation, to be compatible with adjacent aquatic and upland uses, and with wildlife resources, and to consider impacts to public view.

Discussion: The proposal includes removal of in-water structures, which will reduce interference with surface navigation; will create intertidal, salt marsh and riparian vegetated areas, enhance wildlife resources and will be compatible with adjacent uses. Public views will be improved with the removal of the in-water structures and derelict building.

Environmental Protection

Policy 5.6.9 Shoreline uses and modifications within the Aquatic environment should be designed and managed consistent with the Environmental Protection policies and regulations of Chapter 6 including, but not limited to, preservation of water quality, habitat (such as eelgrass, kelp, forage fish spawning beaches, etc.), natural hydrographic conditions, and safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

Discussion: The applicant submitted a Biological Evaluation Addendum that identifies measures to control water quality impacts during construction and found that the project will have no adverse effects on species of concern or essential fish habitat. The applicant will be required to obtain and comply with all state and federal permits which regulate protection of water quality and fish and wildlife habitat.

Policy 5.6.10 Remove abandoned over-water structures when they no longer serve their permitted use and provide no environmental benefit.

Discussion: The project will remove over-water structures and piling not associated with the boat ramp.

Section 5.11 Urban Maritime

Policy 5.11.6 Industrial and commercial development along Urban Maritime shorelines should provide protection of existing ecological functions where practicable and mitigated. It should also provide public access opportunities only where appropriate and where public safety would not be compromised and alternative off-site provision has been made.

Discussion: The project provides mitigation for a completed Port redevelopment project. Public access is proposed to be provided along the eastern perimeter of the site.

Development Regulations

DR-5.11.3 No net loss of shoreline ecological function shall result from new development.

DR-5.11.4 Any impacts to ecological functions shall be fully mitigated with the mitigation sequencing defined in Chapter 12. If mitigation is required for water-dependent use, off-site mitigation in conjunction with appropriate on-site mitigation would be most appropriate.

Discussion: The applicant has submitted application materials prepared by a qualified biologist that indicate the proposed actions will assure no net loss of ecological function by restoring habitat functions at the Wyman site equivalent to the functions provided by the approved Log Pocket Mitigation Site.

DR-5.11.9 New, permanent buildings and structures shall be set back a minimum of twenty-five (25) feet from the ordinary high water mark. Setbacks are measured landward, on a horizontal plane, perpendicular to the shoreline. Setback requirements shall apply to non-water-dependent structures and uses.

Discussion: The applicant is proposing a public access trail and platform that would be located within 15-feet of the OHWM. The applicant submitted responses demonstrating consistency with the criteria outlined in Section 3.2 of the ASMP for granting of variances and further discussion is provided in Section 3E of this report.

B. Chapter 6 – Environmental Protection General Regulations

This chapter provides development regulations pertaining to analysis of impacts, mitigation, bonding and monitoring; broad elements that comprise the shoreline environment (e.g. earth, air, and water); and specific regulations for “critical areas”.

Development regulations applicable to the subject application include, but are not limited to: DR-6.3.1, DR-6.3.2, DR-6.3.5, DR-6.3.6, DR-6.3.7, DR-6.3.9, DR-6.3.10, DR-6.3.11, DR-6.4.1, DR-6.4.2, DR-6.4.7, DR-6.4.8, DR-6.4.16, DR-6.4.22.

Discussion: The project is proposed to replace the previously-approved Log Pocket Mitigation Site, which was approved as part of the shoreline permit for the Pier 1 redevelopment project. The applicant submitted materials indicating that, over a total of 0.92 acres, the proposed Wyman site would provide the same level of habitat function as the 0.72 acres of aquatic habitat originally proposed at the Log Pocket site, a

replacement ratio of 1.27:1. *Biological Evaluation, Essential Fish Habitat, and Mitigation Plan addenda have been prepared and submitted to address the project's environmental impacts and mitigation equivalency. As conditioned, the proposal will be consistent with SMP development regulations relating to environmental elements, including air, archaeological/historical/cultural impacts, application of pesticides and fertilizers, public health and safety, and view protection/aesthetics and water quality.*

C. Chapter 7 – Shoreline Public Access

This chapter outlines policies and development regulations for provision of public access.

Development regulations applicable to the subject application include, but are not limited to: DR-7.4.3; DR-7.4.10; DR-7.4.13; DR-7.4.14; DR-7.4.16; DR-7.4.17; DR-7.4.19.

Discussion: The applicant proposes providing a public access path and viewing area along the eastern perimeter of the site adjacent to the U Avenue right-of-way. The public access is equivalent to that which was proposed at the Log Pocket site as mitigation for the Pier 1 redevelopment project impacts. A shoreline setback variance is requested for the location of the path and viewing area. The applicant proposes providing a deed restriction that will restrict the use of the property to habitat mitigation and public access; the deed restriction would run with the land in perpetuity.

D. Chapter 9 – Specific Shoreline Modification Policies and Development Regulations

This chapter contains performance standards for specific shoreline uses and modifications. Development regulations applicable to the subject application include, but are not limited to:

Section 9.10 – Shoreline Habitat and Natural Systems Enhancement Projects:

DR-9.10.1; DR-9.10.2; DR-9.10.3; DR-9.10.4; DR-9.10.5; DR-9.10.6; DR-9.10.7

Discussion: The applicant prepared the proposed mitigation plans in consultation with the US Army Corps of Engineers, State Department of Fish & Wildlife, and federal fisheries agencies. Biological Evaluation, Essential Fish Habitat, and Mitigation Plan addenda have been prepared and submitted to the permitting agencies and affected Tribes as part of the permitting process. Site development activities will be required to comply with plans that approved by the permitting agencies. The Mitigation Plan addendum includes a 6-year monitoring and contingency plan.

Section 9.11 Shoreline Stabilization Measures & Flood Protection Works

DR-9.11.4; DR-9.11.7; DR-9.11.10; DR-9.11.11

Discussion: According to the application materials, shoreline stabilization incorporated in the project is necessary for the reconfiguration of the shoreline for mitigation purposes. Stabilization measures are the minimum necessary and result in the highest potential for aquatic habitat functions at the site. Implementation of the mitigation project will assure no net loss of shoreline ecological functions. No filling is proposed for the purpose of creating land; the project will create aquatic habitat by excavating an upland site.

E. Chapter 3 – Administrative Provisions

This chapter outlines provisions governing the granting of conditional use permits, variances and regulations for nonconforming uses and structures. Regulations applicable to the subject application include, but are not limited to:

Section 3.2 – Variances

The proposed public access path proposed is considered to be a non-water dependent use, thus requiring a 25-foot setback in the Urban Maritime designation of the 2010 Shoreline Master Program.

1. Criteria for Granting Upland Variances. Variance Permits for development that will be located landward of the ordinary high water mark, including those areas designated by the Department of Ecology as wetlands pursuant to WAC 173-22, may be authorized provided the applicant can demonstrate all of the following:

- a. That the strict requirements of the bulk, dimensional, or performance standards set forth in the Master Program preclude or significantly interfere with a reasonable use of the property not otherwise prohibited by the Master Program;

Staff Review: The applicant is requesting relief from the minimum setback requirement of 25-feet for a non-water dependent use within the Urban Maritime environment. The proposed public access path encroaches into the 25-foot setback. If the variance is not allowed, the public access path would have to be removed from the project or shifted to the west, which would encroach into the area needed for mitigation.

- b. That the hardship described in subsection (a) above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program, and not, for example, from deed restrictions or the applicant's own actions;

Staff Review: The majority of the section of the public access path for which the setback variance is requested would be located adjacent to newly constructed shoreline resulting from excavation of uplands, which would not exist if the project does not move forward. The property is also constrained by the existing boat ramp to the west, and the U Avenue and 1st Street rights-of-way to the east and south.

- c. That the design of the project will be compatible with other authorized uses in the area and will not cause adverse effects to adjacent properties or the shoreline environment;

Staff Review: The public access path and habitat mitigation site will provide an appropriate visual and physical buffer between the Port's maritime industrial operations to the west and the residential neighborhood to the east. The scope of the project includes removal of paved impervious surfaces and derelict structures and replacement with pervious surfaces, aquatic habitat and native riparian vegetation.

- d. That the variance requested will not constitute a grant of special privilege not enjoyed by the other properties in the area;

Staff Review: The construction of the trail has been designed to provide physical and visual access to the public shoreline within a unique setting while minimizing environmental impacts to shoreline resources.

- e. That the variance requested is the minimum necessary to afford relief;

Staff Review: The construction of the trail has been designed to provide physical and visual access to the public shoreline within a unique setting while minimizing environmental impacts to shoreline resources.

- f. That the public interest will suffer no substantial detrimental effect.

Staff Review: The public interest will suffer no substantial detrimental effects due to the construction of the trail. The trail will provide better access to view and enjoy the Guemes Channel and the Fidalgo Island north shore marine.

4. CITY DEPARTMENT REVIEW

The subject application was reviewed by the following City Departments: Planning, Building, Public Works, Operations, Fire, Police, Museum/Historic Preservation, and Parks.

5. PUBLIC / AGENCY COMMENTS

The project application materials were routed for review by permitting agencies including the Department of Ecology, WDFW, DNR & USACE. The Department of Ecology provided comments regarding regulatory impacts of the landward shift in Ordinary High Water Mark and corresponding shift in shoreline jurisdiction boundary on adjacent properties not previously located within shoreline jurisdiction.

The City also received a comment regarding impacts to users of the existing boat ramp located at the Wyman site. The Port has indicated it is working with those users to address impacts.

6. APPROVAL CRITERIA

Pursuant to Section 18.16.090 AMC, *Decision maker approval criteria*, no permit shall be granted unless the proposed development is consistent with the provisions of th[e] master program, the Shoreline Management Act of 1971, and the rules and regulations adopted by the Department of Ecology thereunder.

Pursuant to the Washington Administrative Code (WAC 173-27-150(1)), a substantial development permit shall be granted only when the development proposed is consistent with WAC 173-27-150(1) a-c:

- (a) The policies and procedures of the act;
- (b) The provisions of this regulation; and

- (c) The applicable master program adopted or approved for the area. Provided, that where no master program has been approved for an area, the development shall be reviewed for consistency with the provisions of chapter 173-26 WAC, and to the extent feasible, any draft or approved master program which can be reasonably ascertained as representing the policy of the local government.

Pursuant to WAC 173-27-170, variance permits may be authorized provided the applicant can demonstrate that the proposal is consistent with the criteria outlined in WAC 173-27-170(2)(a-f).

Staff Review: The City of Anacortes has adopted a Shoreline Master Program consistent with the Shoreline Management Act as provided for in RCW 90.58. Staff has reviewed the application for consistency and found the proposed development, as conditioned, consistent with the requirements of the Shoreline Master Program (SMP) and associated code requirements identified in the SMP. Additionally, the shoreline setback variance request is consistent with the criteria outlined in the applicable WAC section.

7. STAFF RECOMMENDATION

Based on the foregoing information and analysis, the environmental documents submitted by the applicant, and the City regulatory authority to implement the policies, standards, and the regulations of the Shoreline Master Plan, Comprehensive Plan and Anacortes Municipal Code (AMC), staff respectfully recommends that the Planning Commission approve the shoreline substantial development permit application, subject to the following applicable development conditions:

1. All applicable local, state and federal permits shall be secured prior to work beginning on the site. Copies of said approval documents shall be provided to the Planning, Community & Economic Development Department (PCED).
2. The scope of this project shall not exceed that as set-out in the shoreline permit application (including attachments), and as necessary to comply with permit conditions.
3. Work hours shall be limited to the hours of 7 am to 7 pm. Work proposed to take place outside of those hours shall require the applicant request a noise variance and approval by the City Council.
4. Prior to work taking place at the site, civil construction plans meeting City requirements shall be submitted to the Building and Public Works Department for review and approval. Plans shall include a boundary survey, a plan for material stockpiling, sedimentation and erosion control measures, emissions (dust, exhaust, etc.) control, etc.
5. Prior to work taking place at the site a work plan shall be provided for Planning Department review and approval. The work plan shall describe truck haul routes, staging areas, traffic control plan, work hours, public safety measures during construction, and location for disposal of excavated material.

6. Prior to work taking place at the site, a detailed plan depicting the public access path, including proposed materials, signage, maintenance, etc. shall be submitted for Planning Department review and approval.
7. A draft of the proposed deed restriction for the habitat mitigation and public access element shall be provided to the City of Anacortes for review and approval prior to recording by the Port of Anacortes.
8. The project completion report and habitat monitoring reports shall be provided to the City of Anacortes for review.
9. A road maintenance mitigation fee shall be assessed as determined by the Public Works Director based on cubic yards of import and export material. Any fee owing shall be paid to the City of Anacortes prior to work taking place at the site.
10. Prior to work taking place at the site, the truck haul route condition shall be evaluated, including sidewalks, curb and paving, and documented by the contractor and city prior to construction activity taking place. Damage to the streets, sidewalks, paving, storm system and other appurtenances as a result of the project shall be fully restored as required by the public works department.
11. Upon completion of the project, the applicant shall submit as-built drawings which include the new location of the Ordinary High Water Mark.
12. A revision to Shoreline Permit #282 shall be processed to address the change in mitigation site location.
13. The applicant shall comply with all applicable state law requirements regarding preservation of archaeological and historic resources, including provisions to stop work and notify the appropriate agencies should protected resources be uncovered during excavation.
14. The applicant shall adhere to the applicable policies and development regulations contained in the City of Anacortes 2010 Shoreline Master Program including but not limited to those in: Section 5.6 *Aquatic*, Section 5.11 *Urban Maritime*, Chapter 6 *Environmental Protection General Regulations*, Chapter 7 *Shoreline Public Access*, Section 9.10 *Shoreline Habitat and Natural Systems Enhancement Projects*, and Section 9.11 *Shoreline Stabilization Measures & Flood Protection Works*.
15. The applicant shall be responsible for reimbursement to the City for the cost of posting, mailing and publication of the public hearing for this proposal. Payment shall be made prior to construction plan or building permit approval.



Project Vicinity Map
 (A detailed project site plan is available for review in the project file located at the Planning Dept.)

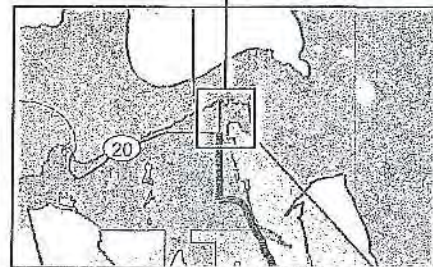
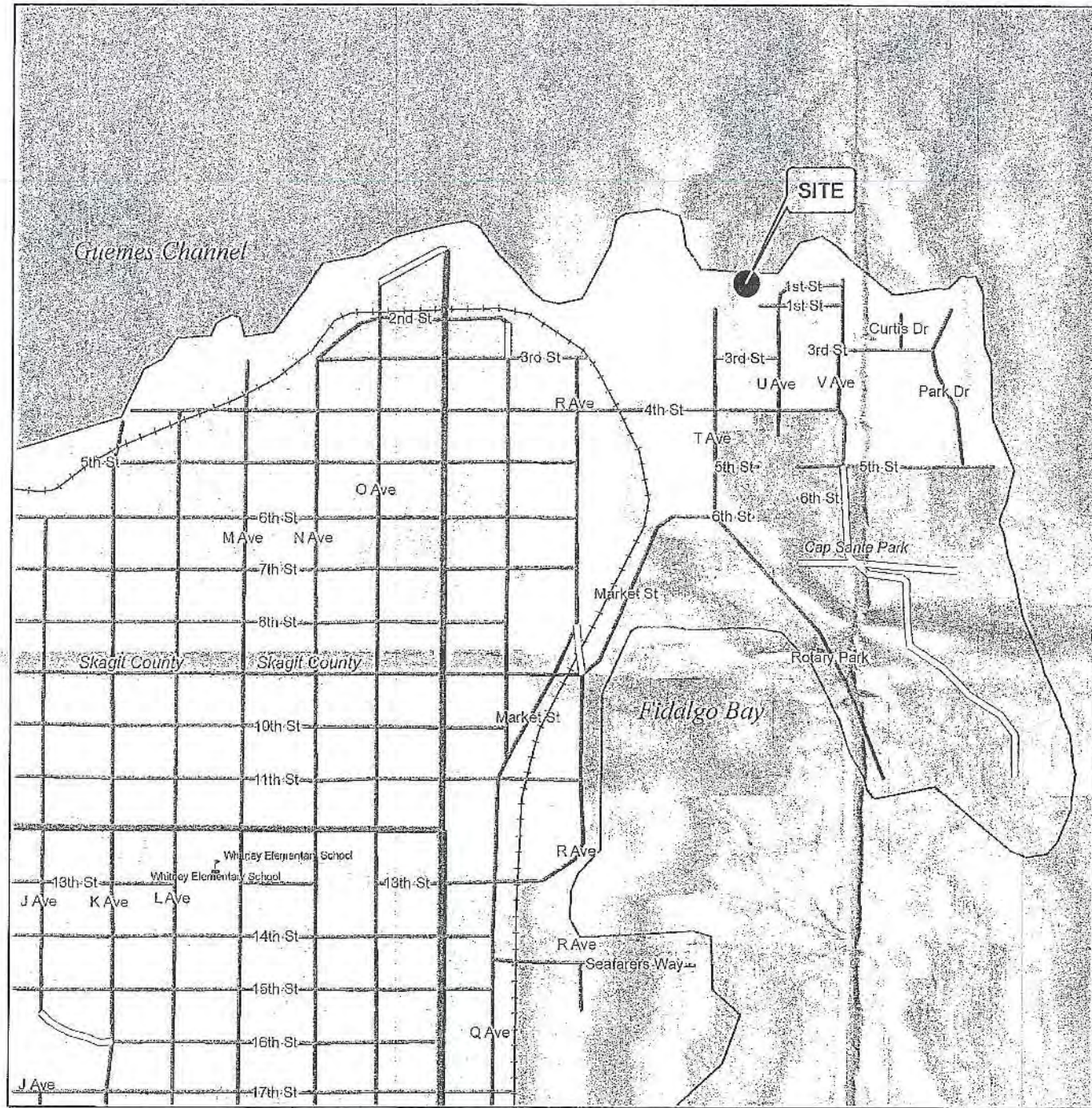


0 50 100 Feet

Shoreline Permit Application
 Wyman Property Habitat Mitigation

This map was created from available public records and other information. It is not a warranty of accuracy. While great care was taken in the preparation of this map, the City is not responsible for any errors or omissions. Aerial Photo July 2011

P:\151517\019\041\CAD\ANACORTES PLANNING RESPONSE DRAWING\1517010-04 FIRM RESPONSE DRAWING\TAB.2 TO 1 IMPROVED BY THORNTON ON JUL 27, 2012 - 12:50



Reference: ESRI Data & Maps, Street Maps 2005.

Site Info

SITE ADDRESS = 202 U AVENUE - ANACORTES, WA
 LATITUDE = 48°31'14.87"N
 LONGITUDE = 122°38'18.25"W
 SECTION, TOWNSHIP, RANGE: 18, 35N, 02E
 MEAN LOWER LOW WATER (MLLW) = 0.0'
 MEAN SEA LEVEL = +4.2' MLLW
 MEAN HIGHER HIGH WATER (MHHW) = 8.2'
 ORDINARY HIGH WATER MARK (OHWM) = 9.6'
 SHORELINE DESIGNATION = URBAN MARITIME
 PROPERTY OWNERS:
 1. PORT OF ANACORTES
 ADJACENT PROPERTY OWNERS:
 1. PORT OF ANACORTES
 2. CITY OF ANACORTES

RECEIVED
 OCT 17 2012
 10:50 AM

REV	Description	By	CHK	Rev

FILE NO. 1517-019-04	DATE 7/27/12	DESIGNED JMH	CHECKED JML
SCALE AS NOTED	DRAWN JMH		

GEOENGINEERS

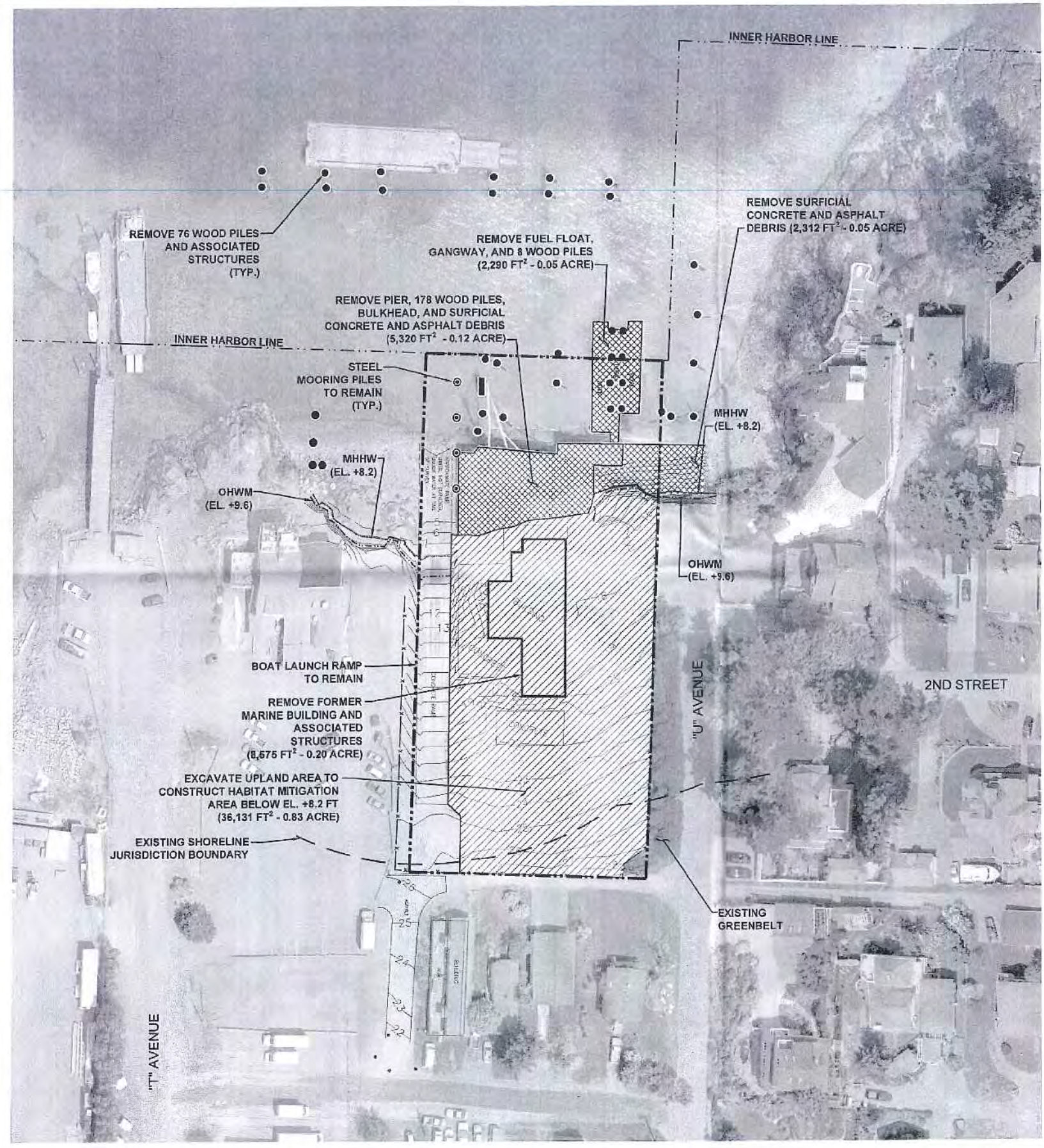
800 Stewart St. Suite 1700
 Seattle, WA 98101
 P: 206-735-2674
 F: 206-735-2732

**PORT OF ANACORTES
 WYMAN'S PROPERTY
 HABITAT MITIGATION**

VICINITY MAP

**SHEET
 1**

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Legend
 - - - - - Project Parcel Boundary
 --- Ground Surface Contour in feet
 --- Mean Lower Low Water (MLLW)
 EL. = Elevation
 FT = Feet

Site Info
 SITE ADDRESS = 202 U AVENUE - ANACORTES, WA
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 MEAN HIGHER HIGH WATER (MHHW) = 8.2'
 ORDINARY HIGH WATER MARK (OHWM) = 9.6'
 SHORELINE DESIGNATION = URBAN MARITIME

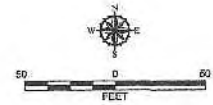
REV	Description	Date	By	CHK	Rev

FILE NO. 151547-019-04 DATE 7/27/12 DESIGNED JMH CHECKED JMH
 SCALE AS NOTED DRAWN TJM



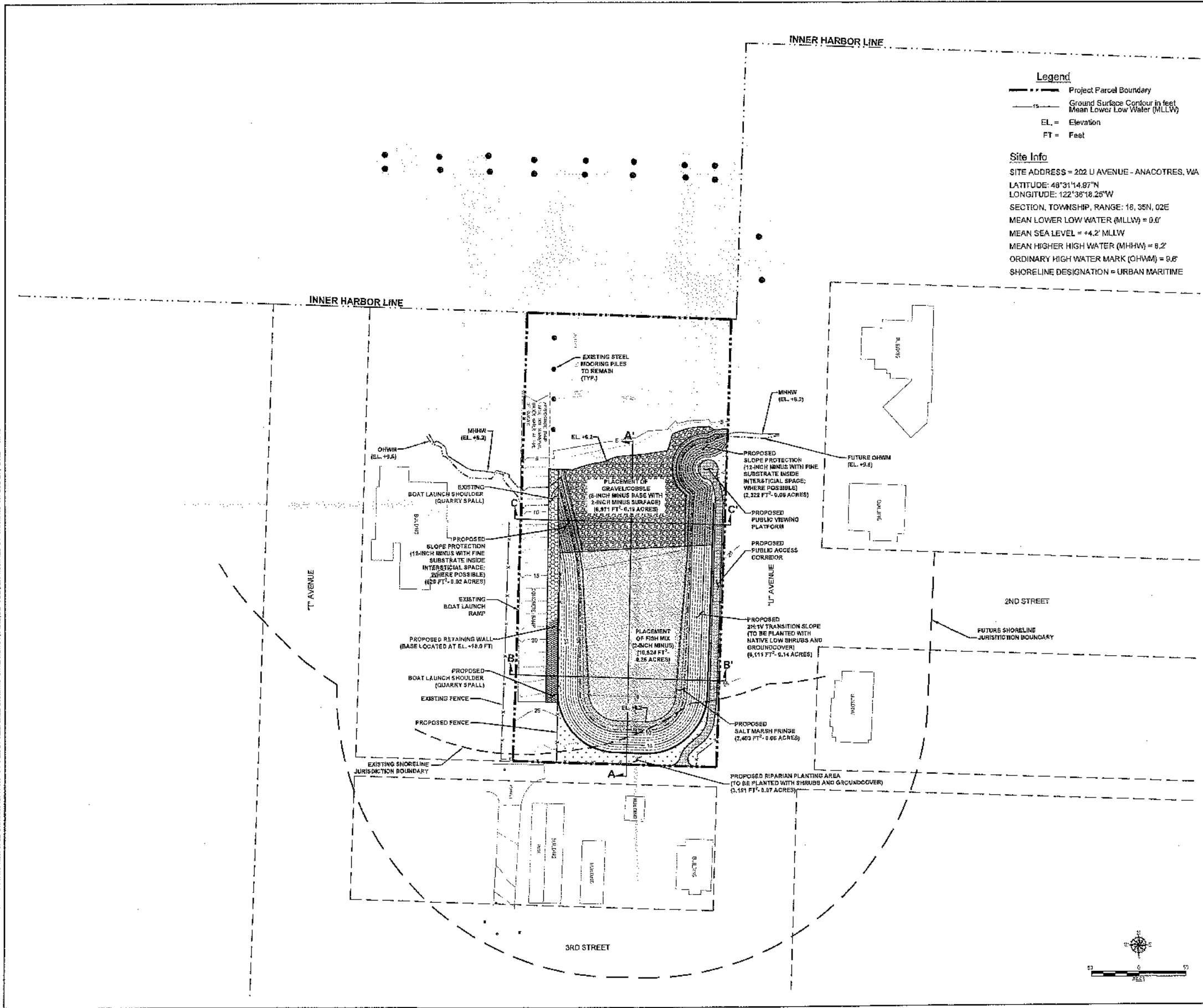
600 Stewart St., Suite 1700
 Seattle, WA 98107
 P: 206-728-2674
 F: 206-728-7732

PORT OF ANACORTES
 WYMAN'S PROPERTY
 HABITAT MITIGATION
 PROPOSED DEMOLITION AND
 LAND DISTURBANCE



SHEET
 3

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Legend
 - - - - - Project Parcel Boundary
 --- Ground Surface Contour in feet
 --- Mean Lower Low Water (MLLW)
 EL = Elevation
 FT = Feet

Site Info
 SITE ADDRESS = 202 U AVENUE - ANACORTES, WA
 LATITUDE: 48°31'14.97"N
 LONGITUDE: 122°38'18.26"W
 SECTION, TOWNSHIP, RANGE: 18, 35N, 02E
 MEAN LOWER LOW WATER (MLLW) = 0.0'
 MEAN SEA LEVEL = +4.2' MLLW
 MEAN HIGHER HIGH WATER (MHHW) = 8.2'
 ORDINARY HIGH WATER MARK (OHWM) = 9.8'
 SHORELINE DESIGNATION = URBAN MARITIME

REV	Description	Date	By	Chk	Rev

FILE NO. 15167-018-04 DATE 7/27/12 DESIGNED JMH CHECKED JML
 SCALE AS NOTED DRAWN JLM

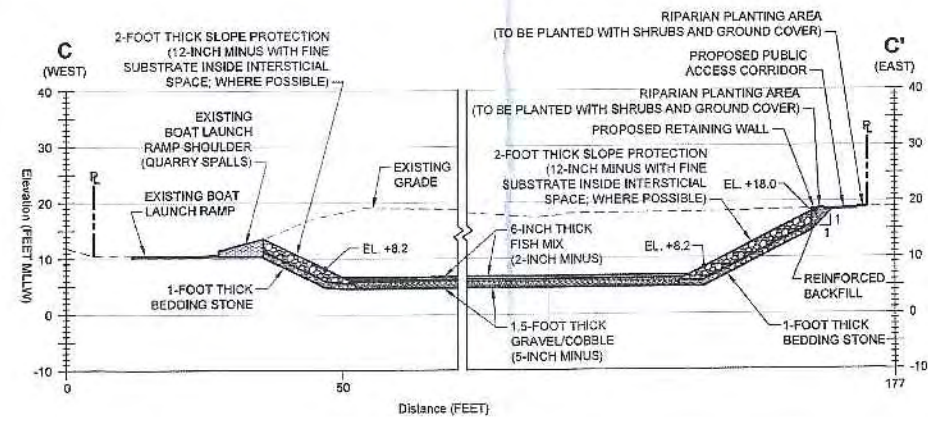
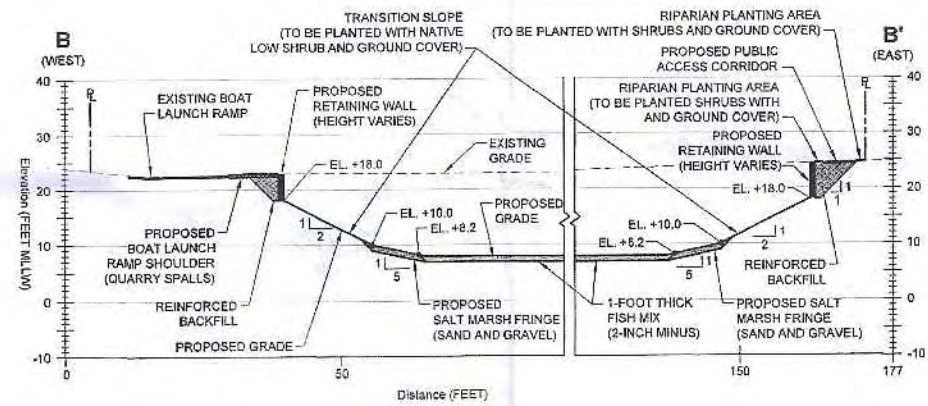
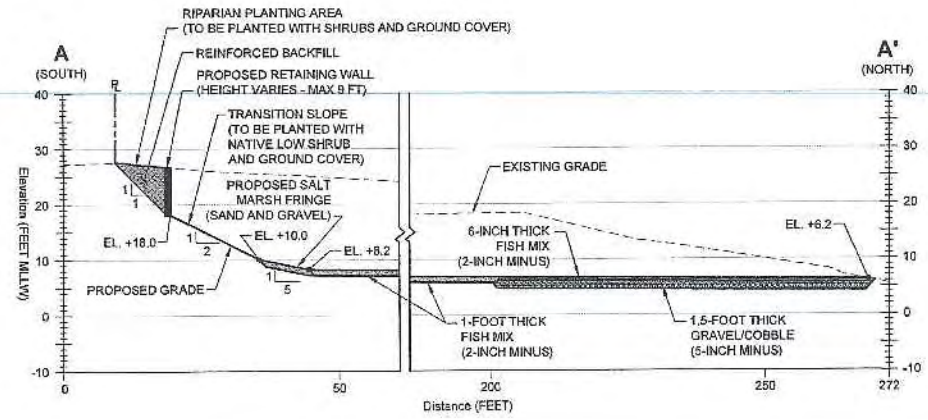
GEOENGINEERS

800 Stewart St., Suite 1703
 Seattle, WA 98101
 P: 206 738 2514
 F: 206 738 2512

PORT OF ANACORTES
 WYMAN'S PROPERTY
 HABITAT MITIGATION

PROPOSED HABITAT MITIGATION AREA

P:\15\16\7019\04\ANACORTES PLANNING RESPONSE DRAWING\15167019-04_FERMIT RESPONSE DRAWING_Sht_5.dwg\TAB.2 TO 1 MODIFIED BY THICHAUD ON JUL 27, 2012 - 9:41



REV	Description	Date	By	Chk	Rev

FILE NO. 5147-019-04
 DATE 7/22/12
 CHECKED JMH
 DESIGNED JMH
 DRAWN TOM
 SCALE AS NOTED

GEOENGINEERS
 800 Stewart St., Suite 1700
 Seattle, WA 98101
 P: 206-729-2924
 F: 206-729-2732

**PORT OF ANACORTES
 WYMAN'S PROPERTY
 HABITAT MITIGATION**

CROSS-SECTIONS

**SHEET
 5**

JUL 03 2012

City of Anacortes - Planning, Community, and Economic Development

906 - 6th Street, P.O. Box 547, Anacortes, WA 98221-0547

MASTER PERMIT APPLICATION

1.	Applicant	Contact Person (if different)
Name:	<u>Port of Anacortes</u>	<u>Teri Switalski</u>
Mailing Address:	<u>100 Commercial Ave</u>	<u></u>
City, State, Zip:	<u>Anacortes, WA 98221</u>	<u></u>
Phone#:	<u>360-299-1830</u>	<u></u>
Fax#:	<u>360-293-9608</u>	<u></u>
E-mail:	<u>teri@portofanacortes.com</u>	<u></u>

2. Applicant's Interest to Property (check one)
 Owner Contract Purchaser Lessee Other (specify) _____

3. All Persons/Firms having an ownership interest in the property:

Name: _____ Phone# _____
Address: _____
Name: _____ Phone# _____
Address: _____
Name: _____ Phone# _____
Address: _____

4. General location of property (including nearest intersection): SEC: 18 TWP: 35 RNG: 02
Generally located on Guemes Channel, north of 3rd Street between T and U Avenues

*By submittal of this application, the property owner/applicant grants permission for public officials at the City of Anacortes to enter the subject property, if necessary, for the purpose of site inspection.

5. Attach legal description of property. (If recording of legal description is required, the format MUST comply with Recording Requirements.)

6. List all Property Tax Account Numbers involved in this application (Attach separate pages if necessary):
P32868, P56526, P56511, P56510

7. Approximate acreage: .73 ac 8. Present zoning: manufacturing/shipping

9. Present use of property: Derelict dock, marina, buildings

10. Source of water supply and sewer supply: N/A

11. Permits requested from City:

- Annexation
- Boundary Line Adjustment
- Binding Site Plan
- Conditional Use Permit
- Comprehensive Plan Amendment
- Planned Unit Development
- Plat Modification
- Preliminary Plat
- Rezone
- Shoreline Exemption
- Shoreline Management Conditional Use Permit
- Shoreline Management Substantial Development
- Shoreline Variance
- Short Plat
- Special Use
- Variance
- Other: _____

12. Explain your request and ALL proposed uses included in this proposal: Construction of an intertidal habitat mitigation site at the former Wyman's Marina site, proposed to replace the mitigation action at the Log Pocket, which was approved for Project Pier 1 (permit revision submitted). Project includes removal of existing derelict structures, excavation, shoreline restoration, construction of new aquatic habitat and a public access corridor.

PLEASE FILL IN ALL APPLICABLE SECTIONS

FOR REZONES:

13. Requested zoning: _____

14. Comprehensive Plan designation: _____

15. Has anyone applied for a rezone of this property within the last five years? _____
If yes, who? _____ Year? _____

FOR SUBDIVISIONS (PLATS):

16. Plat Name: _____ 17. Number of Lots: _____

FOR SHORT SUBDIVISIONS (SHORT PLATS):

18. Number of Lots: _____ 19. Duplex Lots Proposed: _____

FOR SHORELINE MANAGEMENT SUBSTANTIAL DEVELOPMENT OR CONDITIONAL USE:

20. Total cost or fair market value (whichever is higher) of project (please state total value of all construction finishing work for which the permit will be issued, including all permanent equipment to be installed on the premises): \$1.2 million

21. Construction dates for which permit is requested (month & year): Begin: Sept / 2012
End: Dec / 2012

22. Does the project require a Shoreline/Floodplain location? If yes, please explain why: _____

23. Water Body: Guemes Channel 24. Shoreline Environment Designation: _____

FOR VARIANCE (ZONING AND SHORELINE):

25. Code sections involved: _____

26. Description of variance requested: _____

A notarized affidavit is required to be completed by all persons having an ownership interest in the subject property and the applicant, if different from the property owner(s). If the signatory is not listed as the owner in the title report, or if the signatory is signing on behalf of an entity, documentation authorizing the signatory to sign the affidavit on behalf of the individual or entity shall be provided.

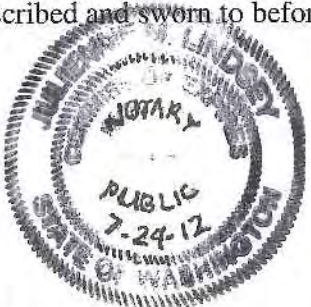
STATE OF WASHINGTON)

) ss

I (we) Robert W. Hyde, being duly sworn, depose and say that I am (we are) the **OWNER(s)** of the property involved in this application, and that I (we) have familiarized myself (ourselves) with the rules and regulations with respect to preparing and filing this application and that the statements and information submitted herewith are in all respects true and correct to the best of my (out) knowledge and belief.

Signed: 
Property Owner

Subscribed and sworn to before me this 28th day of June, 20 12



Julie M. Lindsey
Notary Public in and for the State of Washington
residing at Arcortes

STATE OF WASHINGTON)

) ss

I (we) _____, being duly sworn, depose and say that I am (we are) the **APPLICANT(s)** for this application, and that I (we) have familiarized myself (ourselves) with the rules and regulations with respect to preparing and filing this application and that the statements and information submitted herewith are in all respects true and correct to the best of my (out) knowledge and belief.

Signed: _____
Applicant

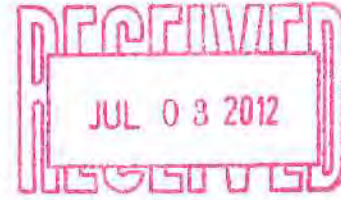
Subscribed and sworn to before me this _____ day of _____, 20 _____

Notary Public in and for the State of _____
residing at _____



A WASHINGTON PUBLIC UTILITY
OWNED BY THE RESIDENTS
OF THE LOCAL COMMUNITY

FIRST AND COMMERCIAL AVENUE • P.O. BOX 297 • ANACORTES, WA 98221 USA
(360) 293-3134 • FAX (360) 293-9608 • WWW.PORTOFANACORTES.COM



Port of Anacortes
Wyman's Property Habitat Mitigation (Pier 1 Redevelopment Mitigation)
Shoreline Substantial Development Permit
Project Narrative

Project Description

The Port of Anacortes (Port) is proposing to construct an intertidal habitat mitigation site at the former Wyman's Marina site located at the northern terminus of "U" Avenue along the Guemes Channel in Anacortes, Washington. The Wyman's Mitigation Site is being proposed to replace the mitigation action at the Log Pocket, which was approved as part of the compensatory mitigation package for the Project Pier I Project (Corps reference 200501451; HPA #104269-1). The construction of the Log Pocket Mitigation Site was required by the permitting agencies to be completed by July 2010; however, the site is subject to sediment cleanup in cooperation with the Washington Department of Ecology and as such, will not be available for construction within a reasonable time frame. The Port is seeking to expedite fulfillment of the mitigation requirements and is proposing the former Wyman's Marina Property as an alternate location for the replacement of aquatic habitat affected by the Pier 1 shipyard redevelopment. The Port proposes to revise the shoreline substantial development permit for the shipyard redevelopment (City Permit No. 282, which identified a different site for the mitigation action), request shoreline permit approval for mitigation at the Wyman's site, and amend state and federal aquatic permit authorizations for the shipyard redevelopment. The Port is not proposing any changes in the original project purpose, expansions of uses or structures, or exceedances of City design standards. The proposed replacement of mitigation sites will include shoreline public access equivalent to the originally permitted development.

The Wyman's Mitigation Site will involve excavating up to approximately 13,000 cy of upland and intertidal material along the southern shoreline of Guemes Channel to provide high quality intertidal habitat for juvenile salmonids. The Wyman's Mitigation Site will provide the required compensatory mitigation through the restoration of ecological functions to existing aquatic habitat and the construction of new aquatic habitat. The restoration of shoreline ecological function will occur through the removal of the existing Wyman's pile supported pier, fuel dock, bulkhead, gangway, mooring and miscellaneous piles and surficial concrete and asphalt debris from the shoreline. In total the removal of these structures will eliminate approximately 7,610 sq. ft. of overwater structure (~0.17 acre; floating fuel dock, gangway, and pile supported pier). The removal of the fixed pile pier will also entail the removal of concrete debris and a concrete bulkhead present under the pier. This action will not only remove the overwater structure but will also restore natural substrates to the shoreline. The removal of surficial concrete and asphalt from approximately 2,312 sq. ft (0.05 acre) will occur to the east of the existing pier. Both of these actions would restore the ecological functions to these portions of the intertidal shallow subtidal habitats.

The construction of new aquatic habitat will occur through the conversion of approximately 0.41 acre of upland to intertidal habitat ranging from gravel/cobble to fish mix habitat. The Wymans Mitigation Site will be constructed with a symmetrical design with gradual slopes (approximately 100H:1V through the middle of the site) to facilitate finer substrates and higher quality aquatic habitat. The final grades below +8.2 ft MLLW, will be achieved through the placement of 418 bank cubic yards (bcy) of gravel/cobble substrates (5" minus) and 530 bcy of fish mix (2" minus). The gravel/cobble substrates will be placed on the northern portion of the site and then covered with a layer of the fish mix, due to the energy in that portion of the site. Substrate placement in the southern portion of the site will consist of fish mix only. Above approximately +7 ft MLLW in the northern portion of the site, the slope of the shoreline will be approximately 2H:1V and armored with 12" minus armor rock. In order to improve the habitat provided by this rock, fine substrates (sand/gravel) will be placed to fill the interstices of the armor rock while leaving the edges of the rock exposed for macroalgae attachment. The fine substrates are expected to reach equilibrium with the site energy forces and will not be maintained over time.

The Wymans Mitigation Site will also entail the construction of a salt marsh fringe located between +8.2 ft and 10 ft MLLW in the southern portion of the site. A final grade of 5H:1V will be established by the placement of approximately 100 bcy of sand and gravel over approximately 2,403 sq ft (0.06 acre). The placement of select substrate and gradual slope will result in conditions optimal for salt marsh development. Natural colonization of the salt marsh fringe is expected; however, salt marsh vegetation will be planted within ten (10) 10 ft long by 5 ft wide plot within the salt marsh fringe to assist with the establishment of salt marsh habitat. Species to be installed (either seed or bare root) will include pickleweed (*Salicornia virginica*) and orache (*Atriplex patula*). Landward of the salt marsh fringe (between +10 ft and approximately +18 ft MLLW), the transition slope will be sloped at 2H:1V and consist of finer material that will be planted with native riparian low growing trees, shrubs, and groundcover (6,111 sq ft – 0.14 acre). A retaining wall will be installed at +18 ft MLLW. Additional riparian planting (3,151 sq ft – 0.07 acres) will be installed at the southern end of the mitigation site above the retaining wall. Riparian vegetation to be installed will consist of native riparian low growing trees, shrubs, and groundcover.

The Port of Anacortes, as lead agency, has prepared Supplemental Environmental Impact Statement (SEIS) Addendum #2 for the Pier 1 Redevelopment Project under the authority provided in WAC 197-11-600(4)(c), conforming to the procedures for preparing an addendum in WAC 197-11-625. The final SEIS was issued by the Port on August 25, 2003. The Port issued Addendum #1 on May 23, 2005 and Addendum #2 on June 8, 2012. The SEPA addendum was sent to all agencies with jurisdiction, as well as agencies, tribes, organizations, and individuals who requested copies or commented on the Draft or Final SEIS.

Consistency with 2010 City of Anacortes Shoreline Management Program

The Wyman's Property Habitat Mitigation project would be located inside the jurisdictional boundaries of the Shoreline Management Act (SMA) of 1971 [Chapter 90.58 RCW]. The shoreline designation of the Manufacturing and Shipping zone is Urban Maritime. Review of the City of Anacortes 2010 Shoreline Master Program finds that the proposed project is consistent with SMP goals, policies, and regulations as outlined below:

Shoreline Use Element

Policy 4.2.6. Develop existing public view and access easements to facilitate public access to the water and to the shoreline and pursue additional public access opportunities.

The proposed project includes the construction of a public access corridor which will include a constructed trail and viewpoint.

Conservation Element

Policy 4.7.9. In conjunction with State regulatory and resource agencies, affected tribes, and the County, establish clear requirements for mitigating development-related impacts to resources.

The proposed project will create an intertidal habitat mitigation site to replace habitat functions that were lost due to filling and alteration of aquatic areas in the mooring basin of the Pier 1 shipyard redevelopment.

Shoreline Environments & Associated Policies and Regulations

Policy 5.11.6 Industrial and commercial development along Urban Maritime shoreline should provide protection of existing ecological functions where practicable and mitigated. It should also provide public access opportunities only where appropriate and where public safety would not be compromised and alternative off-site provision has been made.

The proposed project will create intertidal, salt marsh, and riparian vegetated areas to mitigate for ecological functions that were affected by the filling and alteration of aquatic areas during the Pier 1 shipyard redevelopment. Implementation will assure no net loss of ecological function. The public access has been sited on the east side of the project site, where it will be appropriately separated from industrial and maritime activity, and will provide a buffer to adjacent non-commercial areas.

Table 5.1 Shoreline Use and Modification Matrix

The proposed mitigation action includes the shoreline use elements of recreational facilities (water dependent public access); upland disposal; shoreline habitat and natural systems enhancement; bioengineering or other soft structural stabilization technique; and hard structural stabilization. All are permitted uses within the Urban Maritime shoreline environment.

Environmental Protection General Regulations

Policy 6.3.3. Assure at a minimum that development and use within shoreline jurisdiction results in no net loss of ecological functions necessary to sustain shoreline natural resources. Development shall protect existing ecological functions and ecosystem-wide processes.

The proposed project will create intertidal, salt marsh, and riparian vegetated areas to mitigate for ecological functions that were affected by the filling and alteration of aquatic areas during the Pier 1 shipyard redevelopment. Implementation will assure no net loss of ecological function due to the shipyard redevelopment.

Policy 6.3.4. Encourage shoreline developments or activities that serve to enhance ecological functions and/or values and those that protect and/or contribute to the long-term restoration of properly functioning conditions for proposed, threatened, and endangered species consistent with the fundamental goals of this Master Program. Use of creosote or pentachlorophenol treated wood is prohibited. Use of other treated woods (e.g. CZA, ACZA) should be minimized as much as practicable.

The Port has prepared an analysis of potential impacts and benefits to listed species, and has consulted with the US Army Corps of Engineers, State Department of Fish & Wildlife, and federal fisheries agencies regarding potential effects, cumulative effects, and conservation measures related to these species. These evaluations have been provided to the City as part of the shoreline substantial development permit application. The project will remove approximately 262 creosote treated piles from the marine environment; no treated wood is proposed for installation.

Mitigation

DR-6.3.5 In addition to the requirements for critical areas reports contained in the shoreline-specific Critical Areas Regulations found in Appendix A, the mitigation plan shall address the following:

- a. Inventory existing shoreline environment including the physical, chemical and biological elements and provide an assessment of their condition.
- b. A discussion of the project's impacts and their effect on the ecological functions necessary to support existing shoreline resources.
- c. A discussion of any federal, state, or local special management recommendations which have been developed for wetlands or nearshore species or habitats located on the site;
- d. An assessment of habitat recommendations proposed by resource agencies and their applicability to the proposal;
- e. A discussion of measures to preserve existing habitats and opportunities to restore habitats that were degraded prior to the proposed land use activity.
- f. Planting and soil specifications; success standards; and contingency plans;
- g. A discussion of proposed measures which mitigate the impacts of the project to ensure no net loss of shoreline ecological functions, value, and proposed success criteria;
- h. An evaluation of the anticipated effectiveness of the proposed mitigation measures to ensure no net loss of ecological functions;
- i. A discussion of proposed management practices which will protect fish and wildlife habitat both during construction, and after the project site has been fully developed, including proposed monitoring and maintenance programs;
- j. Contingency plan if the mitigation fails to meet established success criteria;
- k. Any additional information necessary to determine the impacts of a proposal and mitigation of the impacts.

Mitigation plans and/or critical areas reports shall be forwarded to the appropriate state and/or federal resource agencies and affected Tribes for review and comment.

The Port has prepared an analysis of potential impacts and benefits to listed species, and has consulted with the US Army Corps of Engineers, State Department of Fish & Wildlife, and federal fisheries agencies regarding potential effects, cumulative effects, and conservation measures related to these species. The mitigation design regulations have been thoroughly met through preparation of the Biological Evaluation, Essential Fish Habitat, and Mitigation Plan addenda that have been prepared and submitted as part of the federal permit application

for the project. These documents have been provided to state and federal resource agencies and affected Tribes as part of the federal permit application process.

Earth

DR-6.4.7. An erosion and sedimentation control plan shall be submitted with a permit application for activities that involve removal of vegetation, stockpiling of earth or other materials, and any activity that could result in shoreline erosion or siltation. Said program shall conform to the City of Anacortes' Engineering Design Standards and shall at a minimum, utilize Best Management Practices (BMPs) to prevent shoreline erosion and siltation.

The Port has incorporated mitigation and conservation measures that will protect water quality and minimize erosion and sedimentation impacts during the construction of the habitat mitigation site. These measures are provided in the JARPA, section 8a, page 9 of the application. The project will comply with City design standards, and the contractor will comply with water quality control measures, including turbidity and erosion control, imposed by the Department of Ecology.

Water Quality

DR-6.4.21. The bulk storage of oil, fuel, chemicals, or hazardous materials, on either a temporary or a permanent basis, shall not occur in shorelines without adequate secondary containment and an emergency spill response plan in place.

DR-6.4.22. All development activities approved under this Shoreline Master shall be designed and maintained consistent with the City's Stormwater Management Plan and Engineering Design Standards.

DR-6.4.23. As a condition of approval of a permit issued in accordance with this Master Program, the Shoreline Administrator may apply the following conditions to protect water quality:

- a. The development, use or activity shall utilize Best Management Practices (BMPs) to minimize any increase in surface runoff and to control, treat and release surface water runoff to protect the quality and quantity of surface and ground water. Such measures may include, but are not limited to, catch basins or settling ponds, installation and required maintenance of oil/water separators, biofiltration swales, interceptor drains and landscaped shoreline setbacks.
- b. The release of oil, chemicals (including pesticides and herbicides), fertilizer or hazardous materials onto land or into the water is prohibited within the shoreline jurisdiction.
- c. Equipment for the transportation, storage, handling, or application of such materials shall be maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.

The Port has incorporated mitigation and conservation measures that will protect water quality and minimize erosion and sedimentation impacts during the construction of the habitat mitigation site. These measures are provided in the JARPA, section 8a, page 9 of the application. The project will comply with City design standards, and the contractor will comply with water quality control measures, including turbidity and erosion control, imposed by the Department of Ecology. The contractor will prepare a Spill Prevention, Control, and Countermeasures Plan to be used for the duration of the project.

Shoreline Public Access

Policy 7.3.14. Public access improvements should be designed and constructed to:

- a. Look and “feel” welcoming to the public and be usable by the greatest number and diversity of people including, to the extent possible, the physically handicapped.
- b. Connect to public areas, street-ends and other pedestrian or public thoroughfares.
- c. Be as close as possible to the water’s edge while preserving the natural character of the shoreline and protecting ecological functions and processes of shorelines and/or their associated wetlands.
- d. Be compatible with the surrounding character and appropriate for the anticipated intensity of use.
- e. Enhance the character of Anacortes, including the historic and economic activity of downtown, marine business and industry, Port activity, and natural areas.
- f. Avoid conflicts with water-dependent uses.
- g. Provide for public safety and minimize potential impacts to private property and individual privacy and security.
- h. Require low maintenance design.
- i. Ensure that construction incorporates environmentally sensitive design and materials.

The proposed public access trail will run parallel with “U” Avenue and will be comprised of crushed gravel to meet ADA requirements. The trail will terminate at the northeast portion of the excavation area where a viewpoint will be created, providing public views of the shoreline, Guemes Channel, and Port activities. Landscaping consisting of riparian vegetation, plants, and shrubs will be placed between the top of the revetment to the trail and from the trail to the eastern property line. The existing greenbelt located east of the property line will be preserved.

Shoreline Stabilization Measures & Flood Protection Works

Policy 9.11.4.b Allow structural stabilization methods only:

b. Where it has been demonstrated to be necessary to support or protect a legally established, inhabited structure or ongoing shoreline use that in danger of loss or substantial damage, or when necessary for reconfiguration of the shoreline for mitigation or enhancement purposes, or where necessary to the operation and location of a new, single-family or multifamily structure, or a water-dependent, water-related, or water-enjoyment use consistent with this Master Program. They will not be permitted for the indirect purpose of creating land by filling.

Shoreline stabilization incorporated in the project is necessary of the reconfiguration of the shoreline for a mitigation purpose. Stabilization measures incorporated in the design are the minimum necessary, and also considered the highest potential for aquatic habitat functions at the site. Implementation of the mitigation project will assure no net loss of shoreline ecological functions. No filling is proposed for the purpose of creating land; the project will create aquatic habitat area by excavating an upland site.

Teri Switalski
 Contract & Permits Administrator
 299-1830