HYDRAULIC PROJECT APPROVAL

Washington Department of
Fish & Wildlife
PO Box 43234
Olympia, WA 98504-3234
(360) 902-2200

Issued Date: November 05, 2024
Project End Date: November 04, 2029

Permit Number: 2024-6-414+01
FPA/Public Notice Number: N/A
Application ID: 35421

PERMITTEE	AUTHORIZED AGENT OR CONTRACTOR
Kitsap County Parks	Grette Associates
ATTENTION: Alex Wisniewski	ATTENTION: Sasha Ertl
614 Division St.	2709 Jahn Ave NW, Suite H-5
Port Orchard, WA 98366	Gig Harbor, WA 98335

Project Name: Point No Point Park Phase 2 Restoration and Repair Project

Project Description: The project consists of repairs and replacements at Point No Point County Park.

Rock Bulkhead Replacement: Replace 440ft long bulkhead using an excavator.

Curb wall: Replacement of the current parking lot curb wall and placement of cobbles in front to reduce scour.

Plantings: Install plantings: 18,500 SF of native dune grasses in upper elevations and 33,000 SF of native dune grasses, shrubs, and trees in the foredune area.

Nourishment: Placement of nourishment along the north and eastern portion of the beach. The place nourishment will be similarly sized to what is found on site currently.

Removal of a creosote-treated crib wall.

PROVISIONS

AUTHORIZED WORK TIMES

1. TIMING LIMITATION: To protect fish and shellfish habitats at the job site, work below the ordinary high water line must occur from July 15 and October 15 of any year. Because this project location is adjacent to a documented surf smelt or Pacific sand lance intertidal spawning beach work will also be allowed from October 16 through December 31 and January 1 through February 15 of any year if a biologist approved by the Department of Fish and Wildlife does not detect surf smelt or sand lance eggs during a beach survey. Work must begin within seventy-two hours of survey and you must complete the work within two weeks of the survey. The biologist must follow the department-approved intertidal forage fish spawning protocol and use the standard department data sheets when conducting forage fish spawning beach surveys. Further information is available on the department's web site https://wdfw.wa.gov/fishing/management/marine-beach-spawning. The biologist must submit the completed, data sheets to the department within seventy-two hours of completing the survey to WDFW by e-mail at HPAapplications@dfw.wa.gov; mail to Post Office Box 43234, Olympia, Washington 98504-3234; or fax to (360) 902-2946. In addition, the biologist must preserve the winnowed portion of the sediment samples and retain them for a minimum of four weeks. The sediment samples must be provided to WDFW staff upon request.

Work landward of the ordinary high-water line may occur year round.

2. APPROVED PLANS: Work must be accomplished per plans and specifications submitted with the application and approved by the Washington Department of Fish and Wildlife, entitled "REV_PNP Ph2 JARPA Figures_20241001.pdf",

uploaded to APPS on 10/04/2024, and "20240419-JARPA_PNP Phase 2_sig.pdf", uploaded to APPS on 06/25/24, except as modified by this Hydraulic Project Approval. You must have a copy of these plans available on site during all phases of the project construction.

NOTIFICATION

3. NOTIFICATION: You, your agent, or contractor must contact the Washington Department of Fish and Wildlife by e-mail at HPAapplications@dfw.wa.gov; mail to Post Office Box 43234, Olympia, Washington 98504-3234; or fax to (360) 902-2946 at least three business days before starting work. The notification must include the permittee's name, project location, starting date, and the hydraulic Project Approval permit number.

4. PHOTOGRAPHS: You, your agent, or contractor must take photographs of the job site before the work begins and after the work is completed. You must upload the photographs to the post-permit requirement page in the Aquatic Protection Permitting System (APPS) or mail them to Washington Department of Fish and Wildlife at Post Office Box 43234, Olympia, Washington 98504-3234 within 30-days after the work is completed.

5. FISH KILL/ WATER QUALITY PROBLEM NOTIFICATION: If a fish kill occurs or fish are observed in distress at the job site, immediately stop all activities causing harm. Immediately notify the Washington Department of Fish and Wildlife of the problem. If the likely cause of the fish kill or fish distress is related to water quality, also notify the Washington Military Department Emergency Management Division at 1-800-258-5990. Activities related to the fish kill or fish distress must not resume until the Washington Department of Fish and Wildlife gives approval. The Washington Department of Fish and Wildlife may require additional measures to mitigate impacts.

STAGING, JOB SITE ACCESS AND EQUIPMENT

6. Confine the use of equipment to specific access and work corridor shown in the approved plans.

7. Establish the staging area (used for activities such as equipment storage, vehicle storage, fueling, servicing, and hazardous material storage) in a location and manner that will prevent contaminants like petroleum products, hydraulic fluid, fresh concrete, sediments, sediment-laden water, chemicals, or any other toxic or harmful materials from entering waters of the state.

8. Clearly mark boundaries to establish the limit of work associated with site access and construction.

9. Limit the removal of native bankline vegetation to the minimum amount needed to construct the project.

10. Retain all natural habitat features on the beach larger than twelve inches in diameter including trees, stumps, logs, and large rocks. These natural habitat features may be moved during construction but they must be placed near the preproject location before leaving the job site.

11. Check equipment daily for leaks and complete any required repairs before using the equipment in or near the water.

12. Lubricants composed of biodegradable base oils such as vegetable oils, synthetic esters, and polyalkylene glycols are recommended for use in equipment operated in or near water.

13. Work being conducted by barge:
a. Operate vessels with minimal propulsion power and in adequate water depth to prevent impacts from grounding and propeller wash to seagrass, kelp, and forage fish spawning beds.
b. Do not deploy anchors or spuds in seagrass or kelp.
c. Maintain anchor cable tension, set and retrieve anchors vertically, and prevent mooring cables from dragging to avoid impacts to seagrass and kelp.

14. Work being conducted by excavator or other heavy machinery:
a. Limit the use of equipment waterward of the ordinary high-water line to that necessary to complete the project.
b. Do not conduct project activities when the work area is inundated by tidal waters.

15. Do not stockpile construction material waterward of the ordinary high water line.

CONSTRUCTION-RELATED SEDIMENT, EROSION AND POLLUTION CONTAINMENT

16. Do not conduct project activities when the work area is inundated by tidal waters.

17. Prevent contaminants from the project, such as petroleum products, hydraulic fluid, fresh concrete, sediments, sediment-laden water, chemicals, or any other toxic or harmful materials, from entering or leaching into waters of the state.

18. Use tarps or other methods to prevent treated wood, sawdust, trimmings, drill shavings and other debris from contacting the bed or waters of the state.

BULKHEAD - ROCK

19. As shown in the approved plans, the length of the new rock bulkhead must not exceed 440 feet

20. Establish the waterward distance of the rock bulkhead from a permanent benchmark(s) (fixed objects) before starting work on the project. The benchmarks must be located and shown on the approved plans, marked in the field, and protected to serve as a post-project reference for ten years.

21. Remove the existing rock bulkhead from the beach and deposit the bulkhead in an upland area above the limits of extreme high tidal water. Rock from the previous rock may be reused if suitable.

22. The waterward face of the rock bulkhead must be located no further waterward than the face of the existing functioning bulkhead as shown in the approved plans.

23. Bury base rocks a minimum of 36 inches below the pre-project natural beach grade.

24. Keep the use of equipment on the beach to a minimum, confined to a single access point, and limited to a 25-foot work corridor waterward of the base rocks. Construction material must not touch the beach outside beach outside this work corridor.

25. Do not stockpile excavated materials containing silt, clay, or fine-grained soil waterward of the ordinary high water line.

26. Prior to tidal inundation, backfill all trenches, depressions, or holes created during construction waterward of the ordinary high water line.

NOURISHMENT

27. Sand placed on the beach should be appropriately sized to provide forage fish spawning substrate following the provisions below:
a. For sand lance spawning beaches, only sand material shall be used with at least 75 percent of the material by weight between 1/100-inch (.25mm) and 1/25-inch (1mm).
b. Do not use gravel, or crushed or angular rock.
c. The mix must not contain fine silt or clay type soils.
d. These sediment requirements only apply to the elevation of +5 to the Mean High-Water Line (HWL)

28. The rounded cobble that is being placed must not be exposed to the surface waterward of the ordinary high-water line.

29. Any nourishment being placed in accordance with this project should be similarly sized to what is found on site.

DEMOBILIZATION/CLEANUP

30. Remove all trash and unauthorized fill in the project area, including concrete blocks or pieces, bricks, asphalt, metal, treated wood, glass, floating debris, and paper, that is waterward of the ordinary high water line and deposit upland.

31. Reshape beach area depressions created during project activities to preproject beach level upon project completion.

32. Remove all debris or deleterious material resulting from construction from the beach area or bed and prevent from entering waters of the state.

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33. Replace damaged or destroyed riparian vegetation during the first dormant season (late fall through late winter) after project completion. Maintain plantings for at least three years to ensure at least eighty percent of the plantings survive. Failure to achieve the eighty percent survival in year three will require you to submit a plan with follow-up measures to achieve requirements or reasons to modify requirements.

LOCATION #1:	Site Name: Point No Point Park 8997 NE Point No Point Rd., Hansville, WA 98340					
WORK START:	November 5, 2024			WORK END:	November 4, 2029	
WRIA		Waterbody:			Tributary to:	
15 - Kitsap		Wria 15 Marine			9231	
1/4 SEC:	Section:	Township:	Range:	Latitude:	Longitude:	County:
NE 1/4	15	28 N	02 E	47.911656	-122.529529	Kitsap
Location #1 Driving Directions						
Travel on I-5 South to Tacoma and take exit 132B to merge on to SR-16. Continue on W State Highway 16 for 26 miles and then merge onto WA-3 N. After 17.7 mi, take the WA-305 S exit toward Poulsbo/Bainbridge Island; use any lane to turn right onto WA-305 S. In 0.6 mi, use the left 2 lanes to turn left onto WA-307 N/Bond Rd. NE. In 5.2 mi continue onto WA-104 E/NE State Hwy 104. Stay on the highway for 1.5 mi, then turn left onto Hansville Rd. NE. In 7.4 mi, turn right onto NE Point No Point Rd, and in approximately 1 mi you will have arrived at the parking lot of the Project Site.						

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. 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 civil action against you, including, but not limited to, a stop work order or notice to comply, and/or a gross misdemeanor criminal charge, possibly punishable by fine and/or imprisonment.

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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 unless this is a General HPA. If this is a General HPA you must use the Major Modification process described below. Any approved minor modification will require issuance of a letter documenting the approval. A minor modification to the required work timing means any change to the work start or end dates of the current work season to enable project or work phase completion. Minor modifications will be approved only if spawning or incubating fish are not present within 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. If you originally applied for your HPA through the online Aquatic Protection Permitting System (APPS), you may request a minor modification through APPS. A link to APPS is at http://wdfw.wa.gov/licensing/hpa/. If you did not use APPS you must submit a written request that clearly indicates you are seeking a minor modification to an existing HPA. Written requests must include the name of the applicant, the name of the authorized agent if one is acting for the applicant, the APP ID number of the HPA, the date issued, the permitting biologist, the requested changes to the HPA, the reason for the requested change, the date of the request, and the requestor's signature. 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. 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 originally applied for your HPA through the online Aquatic Protection Permitting System (APPS), you may request a major modification through APPS. A link to APPS is at http://wdfw.wa.gov/licensing/hpa/. If you did not use APPS you must submit a written request that clearly indicates you are requesting a major modification to an existing HPA. Written requests must include the name of the applicant, the name of the authorized agent if one is acting for the applicant, the APP ID number of the HPA, the date issued, the permitting biologist, the requested changes to the HPA, the reason for the requested change, the date of the request, and the requestor's signature. Send your written request by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234. You may email your request for a major modification 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.

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A. INFORMAL APPEALS: WAC 220-660-460 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 HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, PO Box 43234, Olympia, Washington 98504-3234; 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 may conduct an informal hearing or review 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 220-660-470 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 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 HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, PO Box 43234, Olympia, Washington 98504-3234; 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.

Habitat Biologist	adam.samara@dfw.wa.gov		for Director
Adam Samara	360-522-6035		WDFW

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT
4735 EAST MARGINAL WAY SOUTH, BLDG 1202
SEATTLE, WA 98134-2388

Regulatory Branch April 15, 2025

Mr. Alex Wisniewski
Kitsap County Parks
614 Division Street
Port Orchard, Washington 98366

Reference: NWS-2023-125
Kitsap County Parks
(Point No Point Park
Phase 2 Restoration and
Repair)

Dear Mr. Wisniewski:

We have reviewed your application to place beach nourishment material, gravel, sand, filter material, coir matting, plantings, cobble, armor rock, and replace a concrete curb wall to repair and restore eroded beach areas, raise the shoreline area and nearby uplands, and protect the historic lighthouse at Point No Point in Puget Sound at 8997 Northeast Point No Point Road, Hansville, Kitsap County, Washington. Based on the information you provided to us, Nationwide Permit (NWP) 3, *Maintenance* and NWP 27, *Aquatic Habitat Restoration, Establishment, and Enhancement Activities* (Federal Register December 27, 2021, Vol. 86, No. 245), authorizes your proposal as depicted on the enclosed drawings dated April 2024.

In order for this authorization to be valid, you must ensure the work is performed in accordance with the enclosed *NWP 3 and 27, Terms and Conditions* and the following special conditions:

a. In order to meet the requirements of the Endangered Species Act you may conduct the authorized activities from July 16 through February 15 in any year this permit is valid. You shall not conduct work authorized by this permit from February 16 through July 15 in any year this permit is valid. Your work window is also subject to the forage fish restriction detailed in Special Condition "b" below.

b. Forage fish may be spawning in the project area during the allowed work window. If work is occurring between October 14 and February 15, in order to meet the requirements of the Endangered Species Act and for the protection of

Pacific herring, sand lance, and surf smelt, prior to construction, you must have an approved biologist confirm, in writing, that no forage fish are spawning in the area. For information on approved biologists for conducting forage fish surveys, contact the Washington Department of Fish and Wildlife (WDFW). If a WDFW Habitat Biologist has volunteered to conduct a survey as part of the Hydraulic Project Approval, this survey may be submitted to the U.S. Army Corps of Engineers (Corps). The letter or memorandum from the approved biologist or the WDFW Habitat Biologist must include the date of the inspection, the forage fish spawning findings, and must be provided to the Corps, Seattle District, Regulatory Branch via email to sarah.l.albright@usace.army.mil (with a copy sent to nws.compliance@usace.army.mil), prior to construction. Include reference number NWS-2023-125. If the approved biologist or WDFW Habitat Biologist confirms that no forage fish are spawning in the project area, you have two weeks from the date of the inspection to complete all work waterward of the High Tide Line.

c. In order to meet the requirements of the Endangered Species Act (ESA) and the Magnuson Stevens Fishery Conservation and Management Act (MSA), you must implement and abide by the applicable terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" and the applicable Essential Fish Habitat Conservation Recommendations as set forth in the Salish Sea Nearshore Programmatic (SSNP) Biological Opinion (BO) (National Marine Fisheries Service (NMFS) Reference Number WCRO-2019-04086) dated June 29, 2022, and U.S. Fish and Wildlife Service (USFWS) Reference Number FWS/R1/2022-0048454 dated July 29, 2022). The specific General Construction Measures, Project Design Criteria, Essential Fish Habitat Conservation Measures, and monitoring and/or reporting requirements applicable to this permit are identified in the enclosed *Notification Summary Sheet* dated May 6, 2024 (NMFS Reference Number WCRO-2019-04086-7240; USFWS Reference Number 2022-0048454-S7-041). The BO is available on the U.S. Army Corps of Engineers (Corps) website (https://www.nws.usace.army.mil/Missions/Civil-Works/Regulatory/Permit-Guidebook/Endangered-Species/). You must provide the Corps and NMFS the information requested in the enclosed Notification Summary Sheet. All information must prominently display the reference number NWS-2023-125 Failure to comply with these requirements constitutes non-compliance with the ESA and your Corps permit. The NMFS and USFWS is the appropriate authority to determine compliance with the terms and conditions of their BO

and with the ESA. If you cannot comply with the terms and conditions of this programmatic consultation, you must, prior to commencing construction, contact the Corps, Seattle District, Regulatory Branch for an individual consultation in accordance with the requirements of the ESA and/or the MSA.

d. You shall implement and abide by the "Point No Point Beach Repair Phase 2, Cultural Resources Monitoring and Inadvertent Discovery Plan" dated February 2025. A professional archaeologist shall be on-site to monitor for the presence of archaeological resources during all ground disturbing activities.

e. You shall prepare and submit a summary report of the findings of the archaeological monitoring (positive or negative) to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch within 60 days after monitoring has been completed. The report must prominently display the reference number NWS-2023-125.

f. If human remains, historic resources, or archaeological resources are encountered during construction, all ground disturbing activities shall cease in the immediate area and you shall immediately (within one business day of discovery) notify the U.S. Army Corps of Engineers (Corps), Seattle District, Regulatory Branch. You shall perform any work required by the Corps in accordance with Section 106 of the National Historic Preservation Act and Corps regulations.

We have reviewed your project pursuant to the requirements of the Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act and the National Historic Preservation Act. We have determined this project complies with the requirements of these laws provided you comply with all of the permit general and special conditions.

Please be reminded that Special Condition “c” of your permit requires that you implement and abide by the Endangered Species Act (ESA) requirements set forth in the programmatic Biological Opinion (BO) for this project. In particular, note that the BO requires you submit the enclosed *Certificate of Compliance with Department of the Army Permit*. All documents must be submitted to the Corps at nws.compliance@usace.army.mil, NMFS at projectreports.wcr@noaa.gov, and USFWS at SSNP_WA@fws.gov. Failure to comply with the commitments above constitutes non-compliance with the ESA and with this authorization.

Please note that National General Condition 21, *Discovery of Previously Unknown Remains and Artifacts*, found in the *Nationwide Permit Terms and Conditions* enclosure,

details procedures that must be followed should an inadvertent discovery occur. You must ensure that you comply with this condition during the construction of your project.

A conditioned Water Quality Certification (WQC) (Order Number: 23255, dated January 6, 2025) and Coastal Zone Management (CZM) consistency determination decision dated March 18, 2025, has been issued by the Washington State Department of Ecology for your project and is enclosed. You must comply with the conditions specified in the WQC and CZM decision for this NWP authorization to be valid.

You have not requested a jurisdictional determination for this proposed project. If you believe the U.S. Army Corps of Engineers does not have jurisdiction over all or portions of your project you may request a preliminary or approved jurisdictional determination (JD). If one is requested, please be aware that we may require the submittal of additional information to complete the JD and work authorized in this letter may not occur until the JD has been completed.

Our verification of this NWP authorization is valid until March 14, 2026, unless the NWP is modified, reissued, or revoked prior to that date. If the authorized work for the NWP authorization has not been completed by that date and you have commenced or are under contract to commence this activity before March 14, 2026, you will have until March 14, 2027, to complete the activity under the enclosed terms and conditions of this NWP. Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act. You must also obtain all local, State, and other Federal permits that apply to this project.

Upon completing the authorized work, you must fill out and return the enclosed *Certificate of Compliance with Department of the Army Permit*. All compliance reports should be submitted to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch electronically at nws.compliance@usace.army.mil. Thank you for your cooperation during the permitting process. We are interested in your experience with our Regulatory Program and encourage you to complete a customer service survey.

Referenced documents and information about our program are available on our website at www.nws.usace.army.mil, select “Regulatory Permit Information”. A copy of this letter with enclosures will be furnished to Ms. Jennifer Allen at jennifer@gobluecoast.com. If you have any questions, please contact me at sarah.l.albright@usace.army.mil or (206) 561-6746.

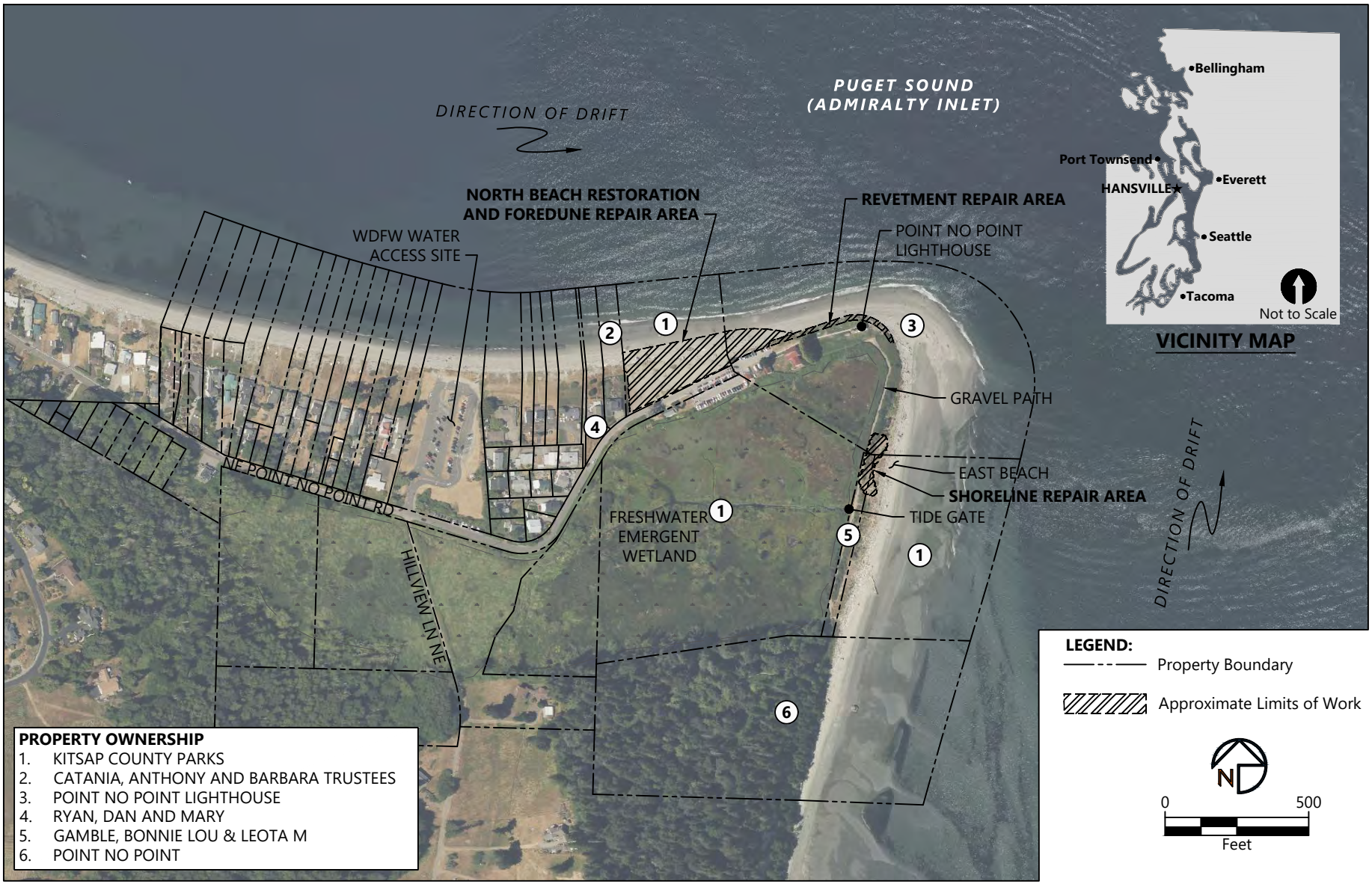
Sincerely,

Sarah Albright

Sarah Albright-Garland, Project Manager
Regulatory Branch

Enclosures

cc:
Ecology (ecyrefedpermits@ecy.wa.gov)
USFWS (SSNP_WA@fws.gov)



BLUE COAST ENGINEERING

REFERENCE #:

APPLICANT: KITSAP COUNTY

LOCATION: 8997 NE POINT RD
HANSVILLE, WA 98340

ADJACENT PROPERTY OWNERS:
CATANIA ANTHONY AND BARBARA, GAMBLE BONNIE LOU & LEOTA M, RYAN DAN AND MARY, POINT NO POINT

NAME: POINT NO POINT PARK REHABILITATION PROJECT

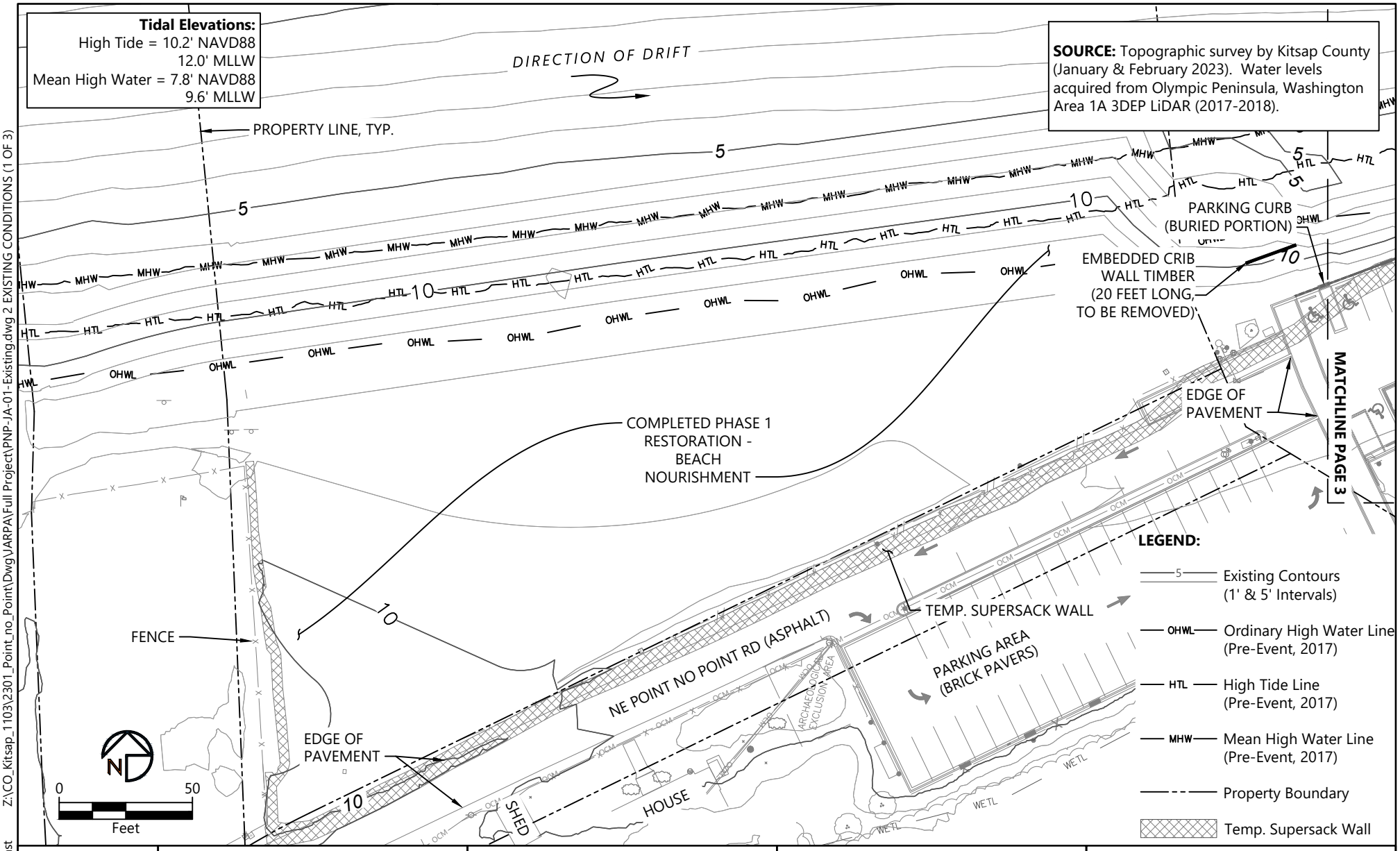
PROPOSED: PHASE 2 BEACH AND REVETMENT REPAIR

PURPOSE: BEACH REPAIR

HORIZONTAL DATUM: WSP NORTH, NAD83, US SURVEY FEET
VERTICAL DATUM: NAVD88, FEET
LATITUDE: N47.911961°
LONGITUDE: W122.528366°
S-T-R: S15-T28N-R02E
IN: HANSVILLE
NEAR/AT: ADMIRALTY INLET, PUGET SOUND
COUNTY: KITSAP
STATE: WASHINGTON
DATE: APRIL 2024

SITE & VICINITY MAP

Mar 29, 2024 5:01pm bluecoast Z:\CO_Kitsap_1103\2301_Point_no_Point\Dwg\ARPA\Full Project\PNP-JA-01-Site Vicinity.dwg 1 SITE & VICINITY MAP



Z:\CO_Kitsap_1103\2301_Point_no_Point\Dwg\JARPA\Full Project\PNP-JA-01-Existing.dwg 2 EXISTING CONDITIONS (1 OF 3)

Mar 29, 2024 5:01pm bluecoast

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REFERENCE #:

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HANSVILLE, WA 98340

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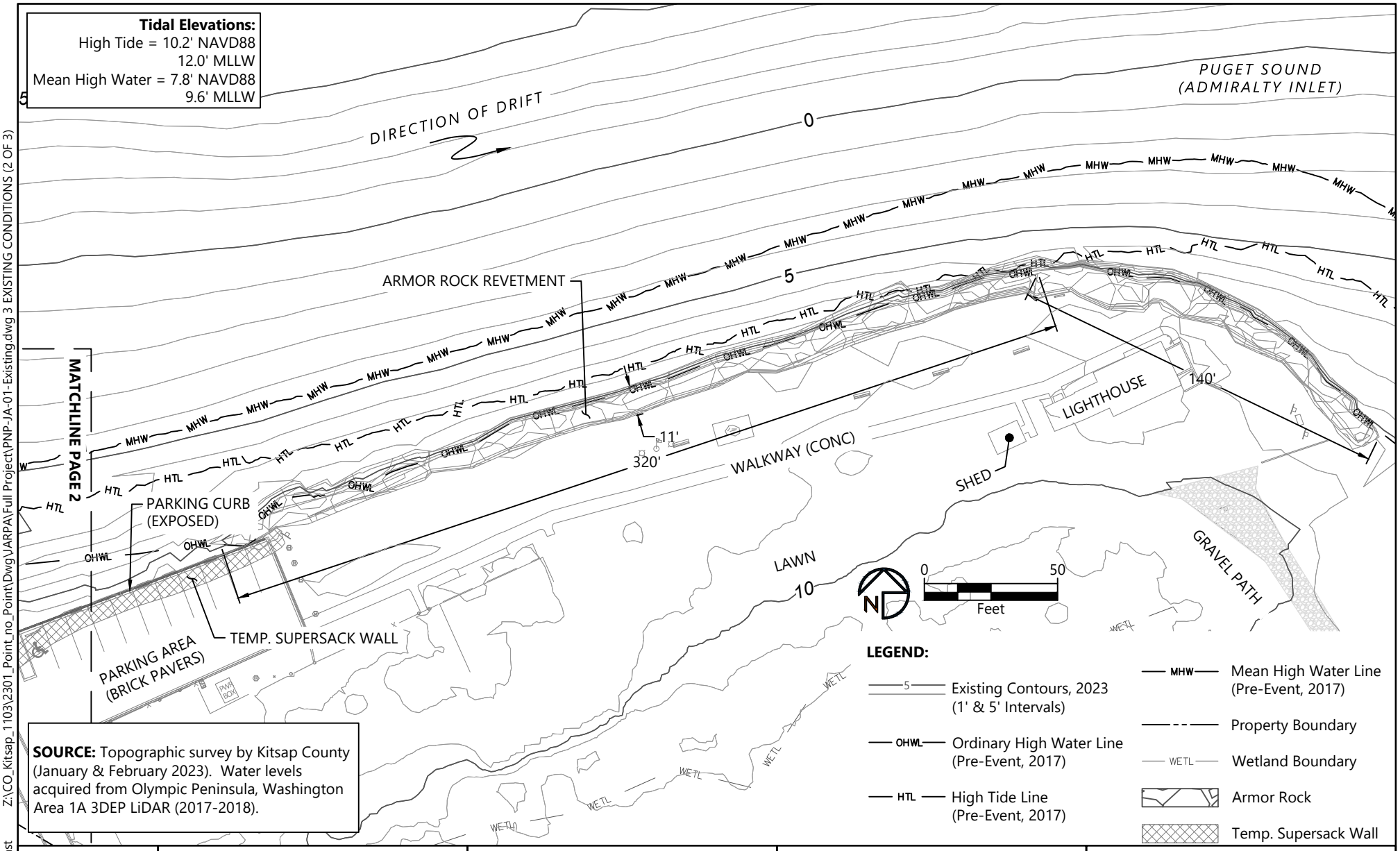
PURPOSE: BEACH REPAIR

HORIZONTAL DATUM: WSP NORTH, NAD83, US SURVEY FEET
VERTICAL DATUM: NAVD88, FEET
LATITUDE: N47.911961°
LONGITUDE: W122.528366°
S-T-R: S15-T28N-R02E
IN: HANSVILLE
NEAR/AT: ADMIRALTY INLET, PUGET SOUND
COUNTY: KITSAP
STATE: WASHINGTON
DATE: APRIL 2024

EXISTING CONDITIONS (1 OF 3)



SOURCE: Topographic survey by Kitsap County (January & February 2023). Water levels acquired from Olympic Peninsula, Washington Area 1A 3DEP LiDAR (2017-2018).

BLUE COAST ENGINEERING

REFERENCE #:

APPLICANT: KITSAP COUNTY

LOCATION: 8997 NE POINT RD
HANSVILLE, WA 98340

ADJACENT PROPERTY OWNERS:
CATANIA ANTHONY AND BARBARA, GAMBLE BONNIE LOU & LEOTA M, RYAN DAN AND MARY, POINT NO POINT

NAME: POINT NO POINT PARK REHABILITATION PROJECT

PROPOSED: PHASE 2 BEACH AND REVETMENT REPAIR

PURPOSE: BEACH REPAIR

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EXISTING CONDITIONS (2 OF 3)

Mar 29, 2024 5:01pm bluecoast

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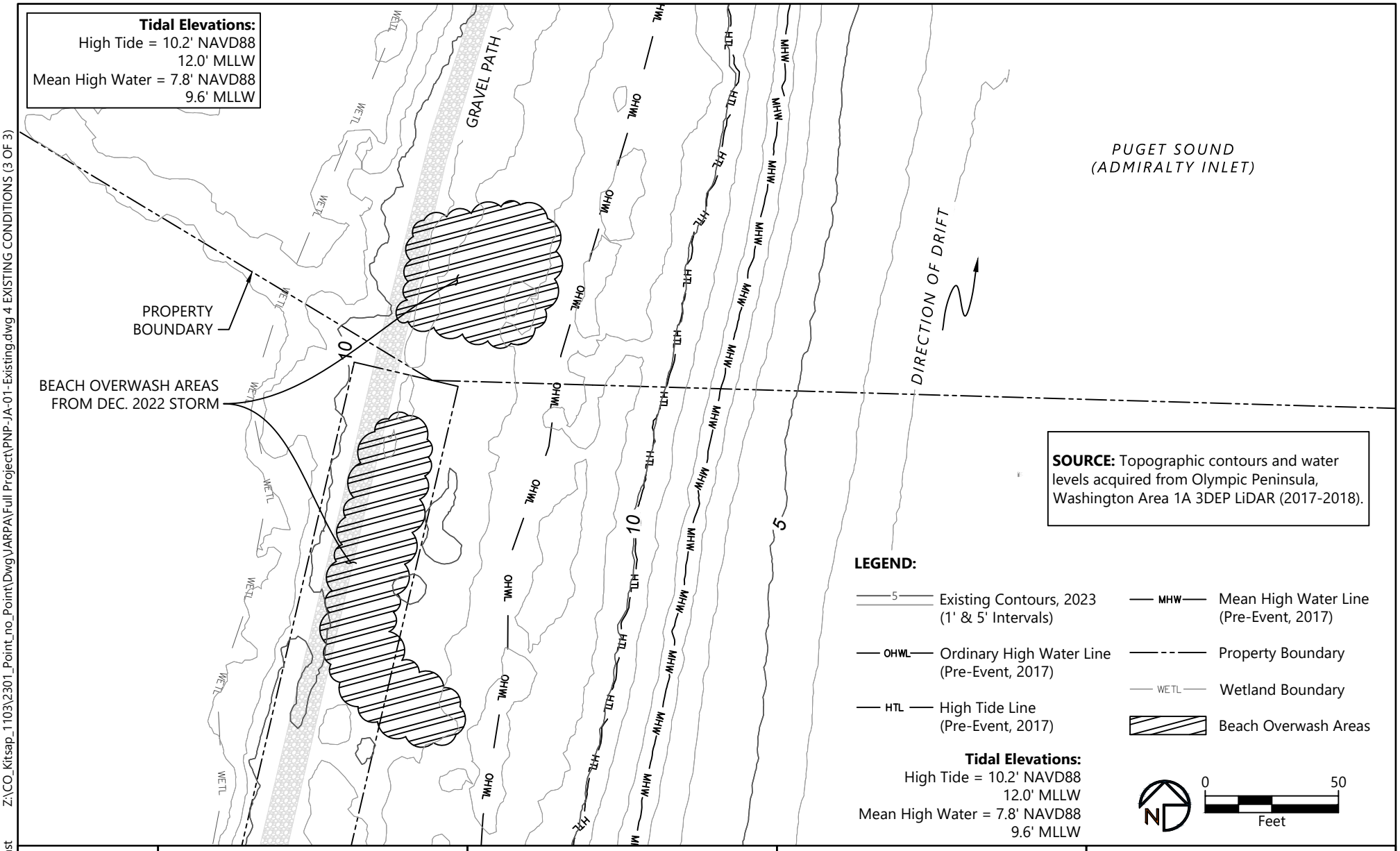

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EXISTING CONDITIONS (3 OF 3)

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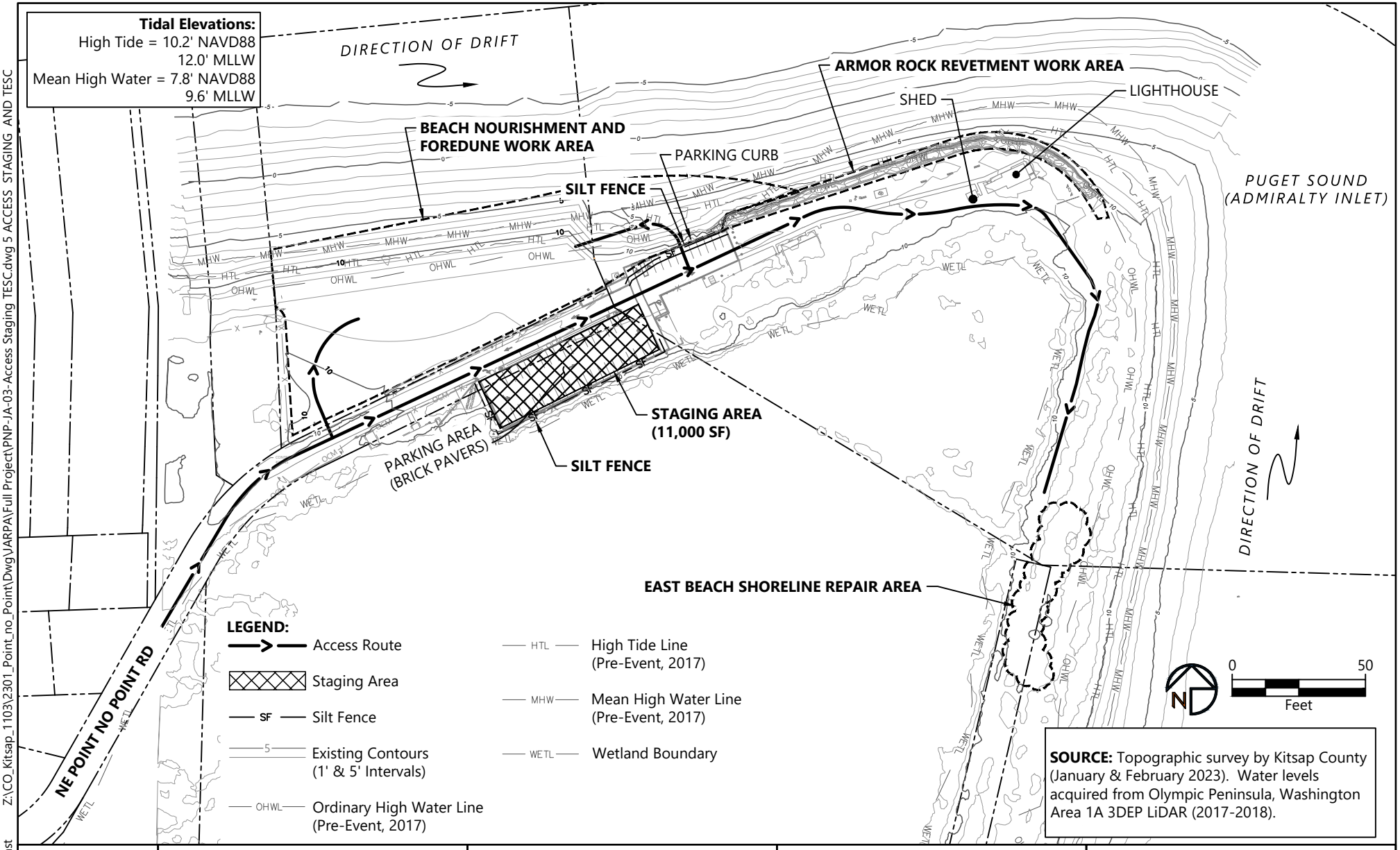

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ACCESS, STAGING, AND TESC

Mar 29, 2024 5:01pm bluecoast

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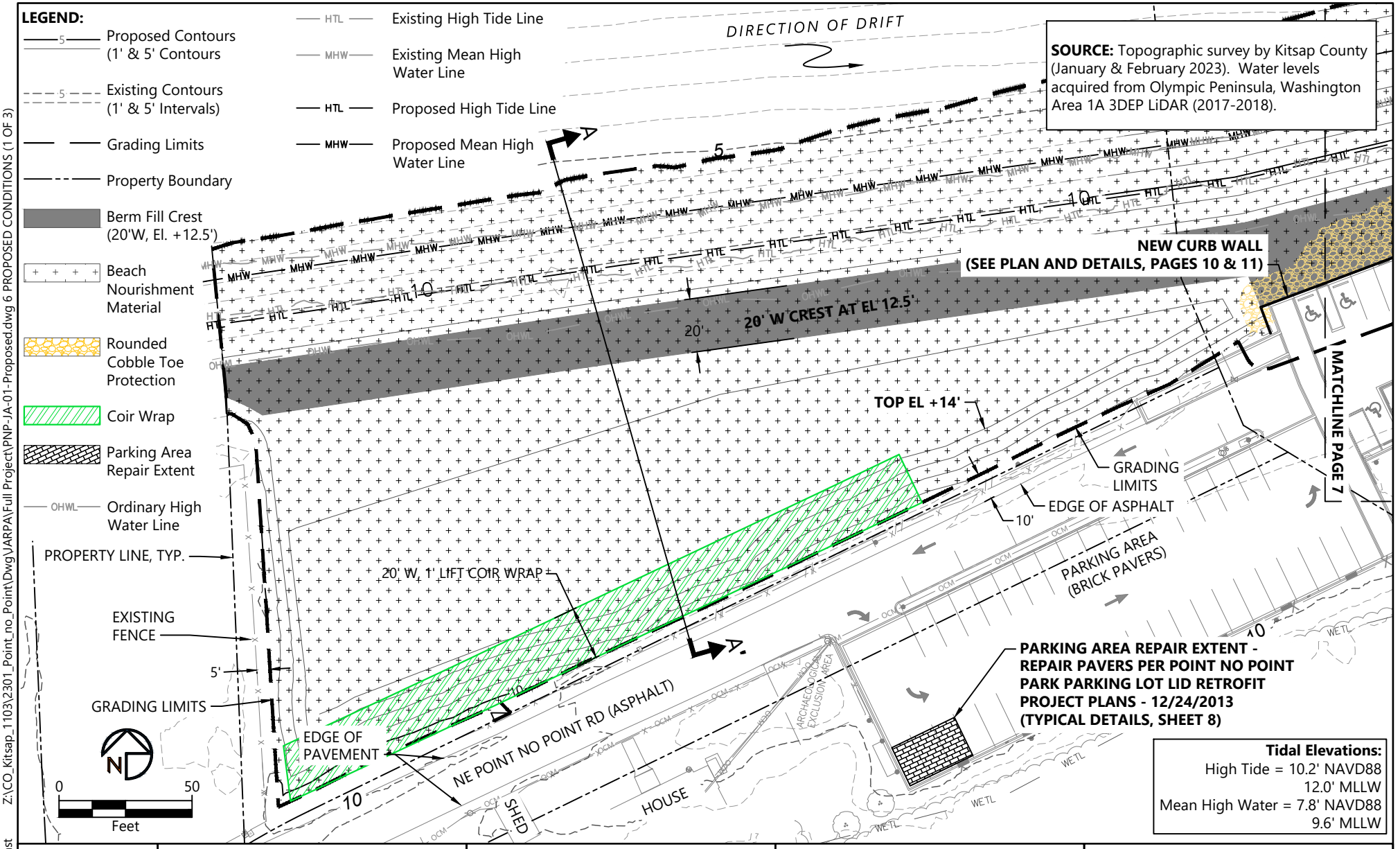

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Mar 29, 2024 5:01pm bluecoast

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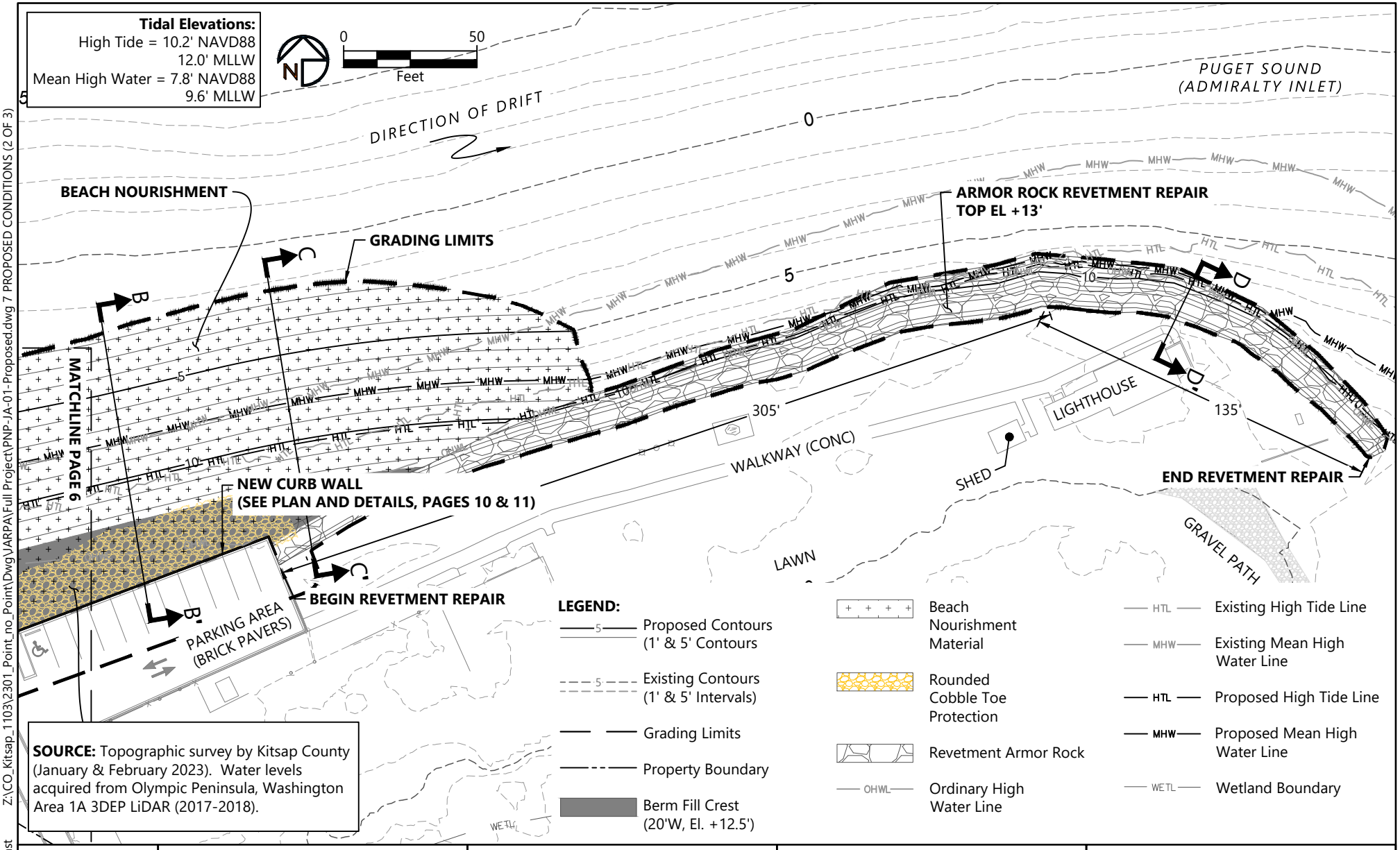
PROPOSED CONDITIONS (1 OF 3)



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PROPOSED CONDITIONS (2 OF 3)

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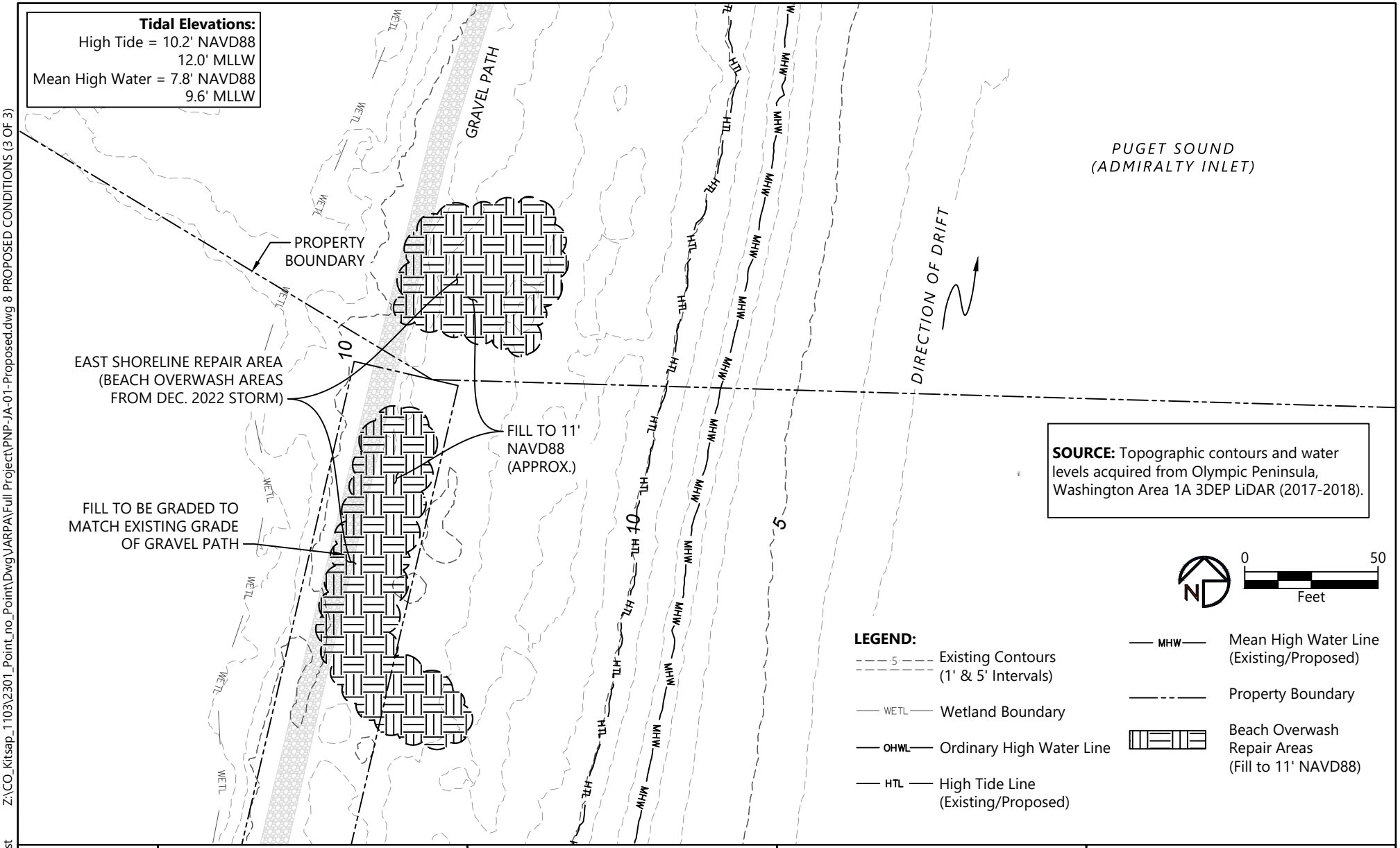

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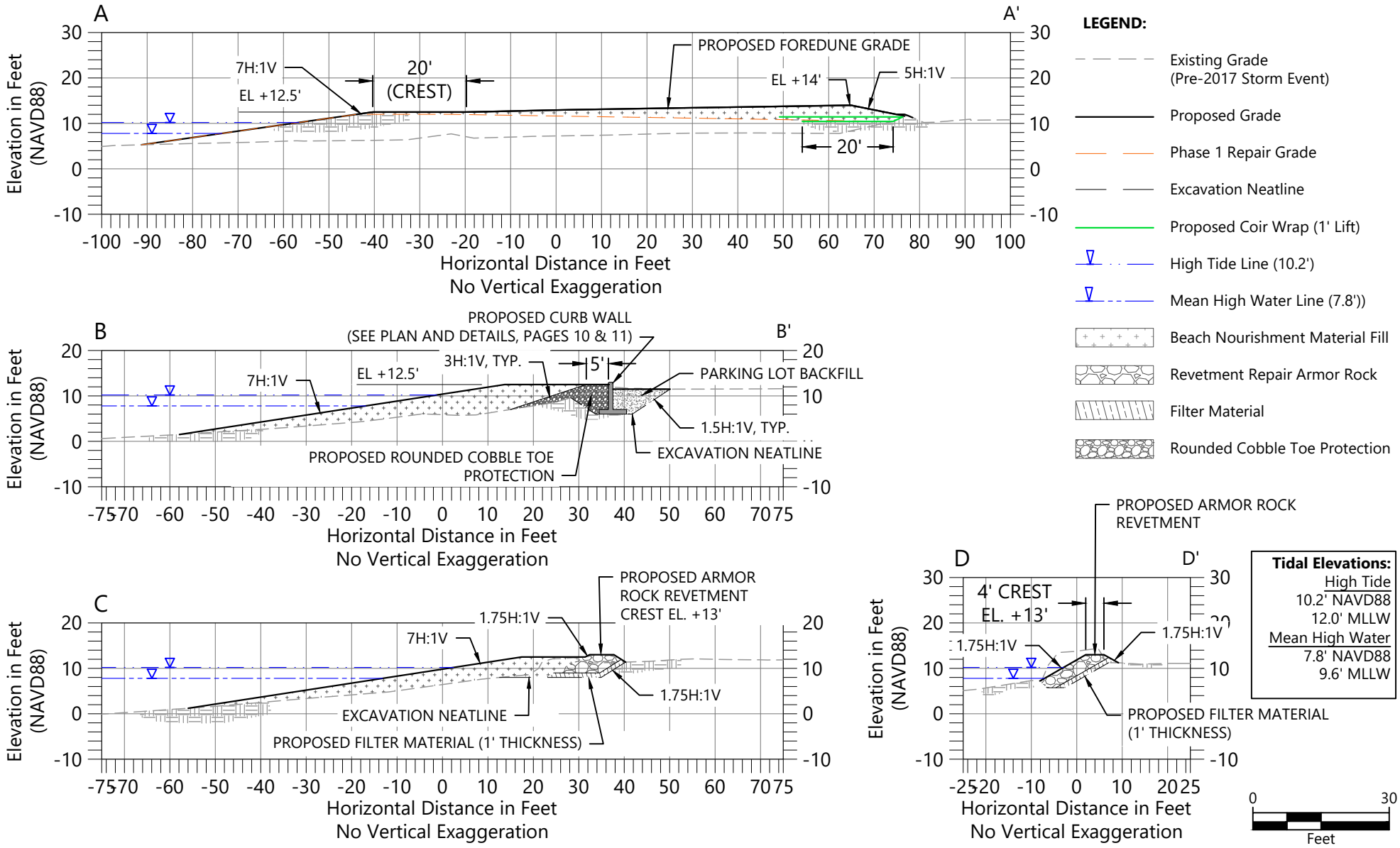

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Mar 29, 2024 5:01pm bluecoast

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PROPOSED CONDITIONS CROSS-SECTIONS

GENERAL NOTES:

1. CONSTRUCTION SAFETY IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR. THESE PLANS AND NOTES ARE NOT INTENDED TO DIRECT THE CONTRACTOR'S METHODS, TECHNIQUES, SEQUENCES, OR PROCEDURES EXCEPT AS DESCRIBED FOR CONSIDERATION IN DESIGN.
2. THE CONTRACTOR SHALL LOCATE UTILITIES IN THE WORK AREA PRIOR TO BEGINNING CONSTRUCTION.
3. THE CONTRACTOR SHALL FIELD VERIFY ALL DIMENSIONS, SITE CONDITIONS, FEATURES, AND ELEVATIONS PRIOR TO FABRICATION OR CONSTRUCTION. THE ENGINEER SHALL BE NOTIFIED IF DIFFERING CONDITIONS ARE FOUND OR IF THE DESIGN IS TO BE MODIFIED.
4. REPAIR AND PATCH ALL EXISTING SURFACES DAMAGED OR ALTERED BY NEW WORK. ALL PATCHED SURFACES SHALL BE SMOOTH, CONTINUOUS, FREE OF IMPERFECTIONS, AND IN PROPER CONDITION TO RECEIVE THE FINISH AS SPECIFIED, IN PATCHED AREAS OF ANY AREA WHERE A FINISH IS NOT SPECIFIED. CORRECTIVE WORK SHALL MATCH ADJACENT SURFACE FINISHES.
5. PROVIDE TEMPORARY BRACING TO UNFINISHED PORTIONS OF THE STRUCTURE UNTIL STABILITY OF THE FINISHED STRUCTURE IS ACHIEVED.
6. NOTIFY THE ENGINEER OF ANY OMMISSIONS OR CONFLICTS REGARDING ELEMENTS SHOWN IN THE STRUCTURAL DRAWINGS BEFORE PROCEEDING WITH CONSTRUCTION.
7. THESE DRAWINGS ARE INTENDED TO PROVIDE A GENERAL DESCRIPTION OF THE SCOPE OF WORK AND SHOULD BE REVIEWED FOR INTENT AS WELL AS SPECIFIC INFORMATION. IT IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR TO EXECUTE THE WORK WITH GENERALLY ACCEPTED STANDARDS OF QUALITY CONSTRUCTION TO PROVIDE A COMPLETED PROJECT, FULLY USABLE FOR ITS INTENDED PURPOSE.

DESIGN CRITERIA:

CODES AND STANDARDS

1. AMERICAN CONCRETE INSTITUTE (ACI) 318-14, BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE
2. ACI 301, (2016) SPECIFICATION FOR STRUCTURAL CONCRETE
3. INTERNATIONAL CODE COUNCIL (ICC) INTERNATIONAL BUILDING CODE (IBC), 2018, AS WELL AS STATE AND LOCAL AMENDMENTS

LOADS:

1. RETAINING WALL LATERAL EQUIVALENT FLUID PRESSURE: 39 PCF
2. PARKING LOT SURCHARGE: 100 PSF

CONCRETE:

REINFORCEMENT:
ASTM A615 DEFORMED BARS GRADE 60

CONCRETE MIX:

THE MIXTURE PROPORTIONS AND WATER-CEMENTITIOUS MATERIALS RATIO FOR MARINE CONCRETE SHALL BE DEVELOPED BY THE CONTRACTOR IN ACCORDANCE WITH ACI 301 4.2.3 TO PRODUCE THE DESIGN STRENGTH (F'C) AND TO PROVIDE DURABILITY, WORKABILITY, AND MIXTURE CONSISTENCY TO FACILITATE PLACEMENT, COMPACTION INTO THE FORMS AND AROUND REINFORCEMENT WITHOUT SEGREGATION OR BLEEDING.

(1) MINIMUM 28-DAY COMPRESSIVE STRENGTH F'C
(2) MAXIMUM WATER/CEMENT RATIO
(3) NOMINAL MAXIMUM SIZE OF COARSE AGGREGATE
(4) TARGET AIR ENTRAINMENT
(5) MAXIMUM WATER-SOLUBLE CHLORIDE ION CONCENTRATION IN CONCRETE, BY % WEIGHT OF CEMENT, CONTRIBUTED BY INGREDIENTS INCLUDING WATER, AGGREGATES, CEMENTITIOUS MATERIALS, AND ADMIXTURES, SHALL BE DETERMINED ON THE CONCRETE MIX BY ASTM C1218 AT AGE BETWEEN 28 AND 42 DAYS.

	(1)	(2)	(3)	(4)	(5)
RETAINING WALL	5,000 PSI	0.4	2"	5%/-1.5	0.15

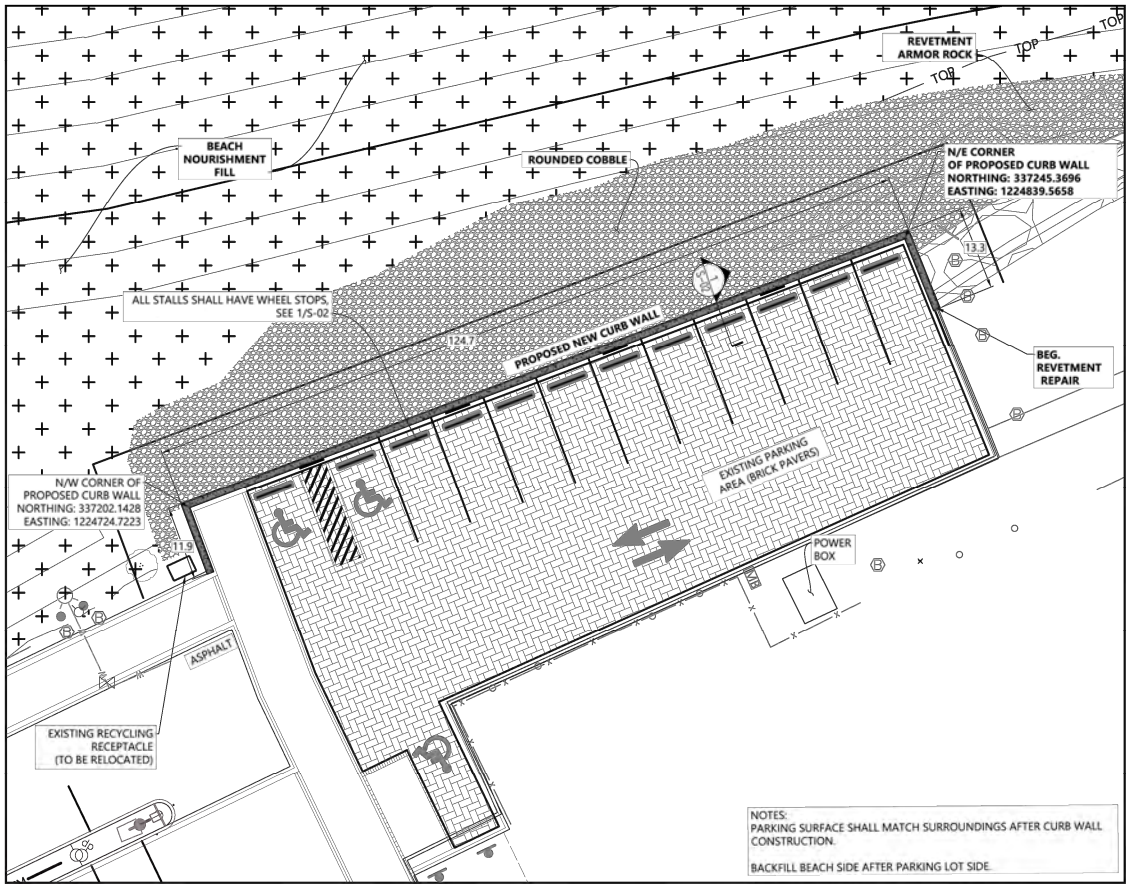
CEMENTITIOUS MATERIALS SHALL BE PORTLAND CEMENT OR CEMENT BLENDED WITH SUPPLEMENTARY CEMENTING MATERIALS. PORTLAND CEMENT: ASTM C150 TYPE II OR V. LOW ALKALI. THE MINIMUM AMOUNT OF PORTLAND CEMENT BY MASS OF TOTAL CEMENTING MATERIALS IS 50%

FLY ASH OR OTHER POZZOLAN: ASTM C618, MAX % OF TOTAL CEMENT BY WEIGHT: 25%
SLAG CEMENT: ATM C989, MAX % OF TOTAL CEMENT BY WEIGHT: 50%
SILLICA FUME IS NOT PERMITTED

THE CONCRETE MIXTURE SHALL BE PROPORTIONED TO HAVE, AT THE POINT OF DEPOSIT, A MAXIMUM SLUMP OF 4 INCHES AS DETERMINED BY ASTM C143 WHEN ADMIXTURES THAT AFFECT SLUMP ARE NOT USED. WHERE AN ASTM C494 TYPE F OR G ADMIXTURE IS USED, THE SLUMP AFTER THE ADDITION OF THE ADMIXTURE SHALL NOT EXCEED 8 INCHES. SLUMP TOLERANCES SHALL COMPLY WITH THE REQUIREMENTS OF ACI 117.

DOCUMENTATION OF CONCRETE MIXTURE CHARACTERISTICS SHALL BE SUBMITTED FOR REVIEW BY THE ENGINEER BEFORE THE MIXTURE IS USED AND BEFORE MAKING CHANGES TO A MIXTURE ALREADY IN USE. INCLUDE EVIDENCE OF THE ABILITY OF THE PROPOSED MIXTURE TO COMPLY WITH THE CONCRETE MIXTURE REQUIREMENTS. THE EVIDENCE SHALL BE BASED ON FIELD TEST RECORDS OR LABORATORY TRIAL BATCHES.

DEBRIS AND ICE SHALL BE REMOVED FROM SPACES TO BE OCCUPIED BY CONCRETE BEFORE PLACING. STANDING WATER SHALL BE REMOVED FROM PLACE OF DEPOSIT BEFORE CONCRETE IS PLACED UNLESS A TREMIE IS TO BE USED. DO NOT EXCEED A FREE VERTICAL DROP OF 3 FEET FROM THE POINT OF DISCHARGE.



1 S-01 NEW CURB WALL PLAN
1"=10'

N

0 10 20
SCALE IN FEET

ART ANDERSON
830 PACIFIC AVE, BREMERTON, WA 98337
(360) 479-5800 / www.artandersen.com

BLUE COAST ENGINEERING

REFERENCE #:

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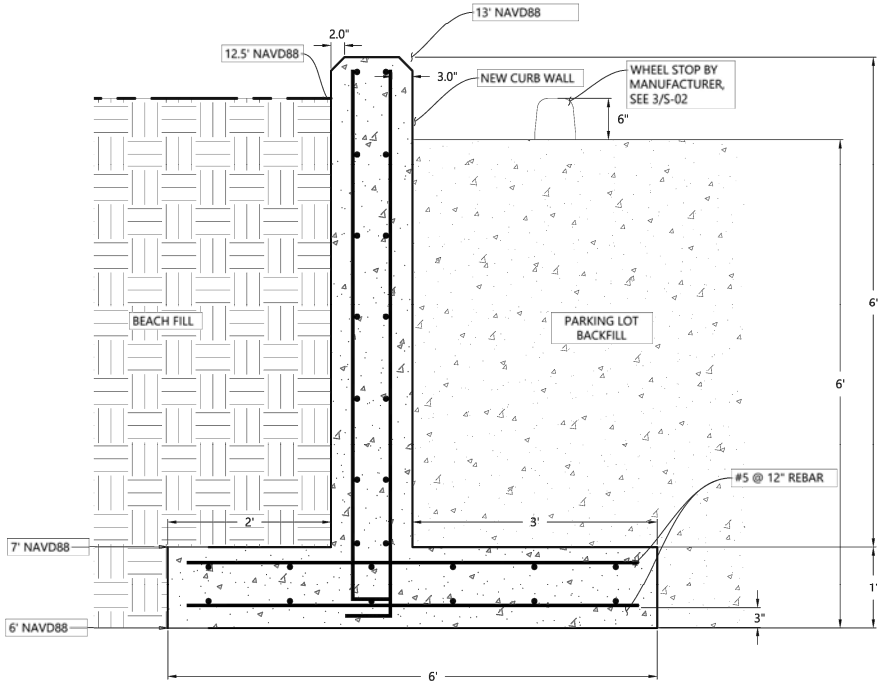
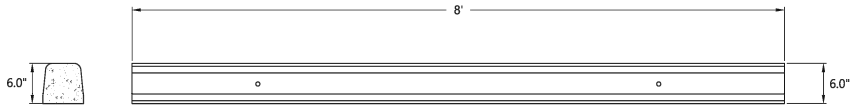
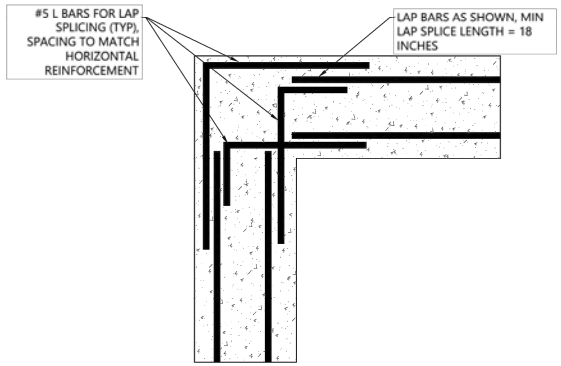
CURB WALL PLAN



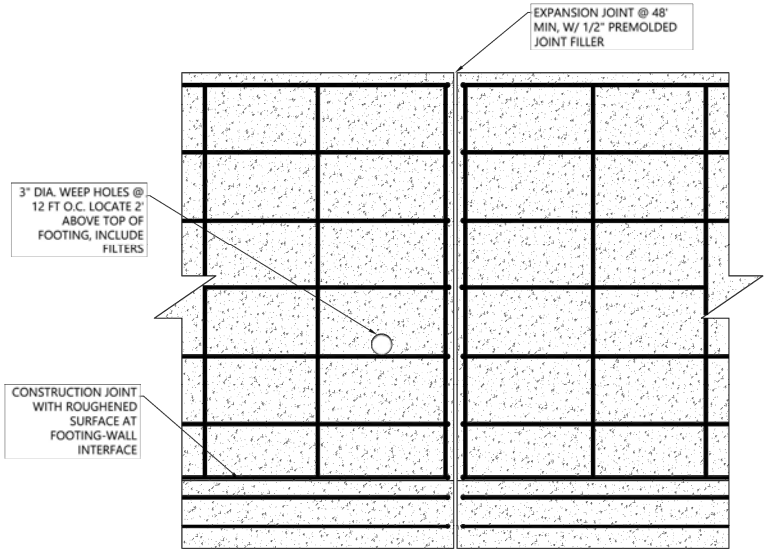
1 S-02 NEW CURB WALL DETAIL
NOT TO SCALE



3 S-02 WHEEL STOP DETAIL
1" = 1'-0"



2 S-02 RETAINING WALL CORNER DETAIL
1-1/2" = 1'-0"



3 S-02 RETAINING WALL JOINT DETAIL
1" = 1'-0"

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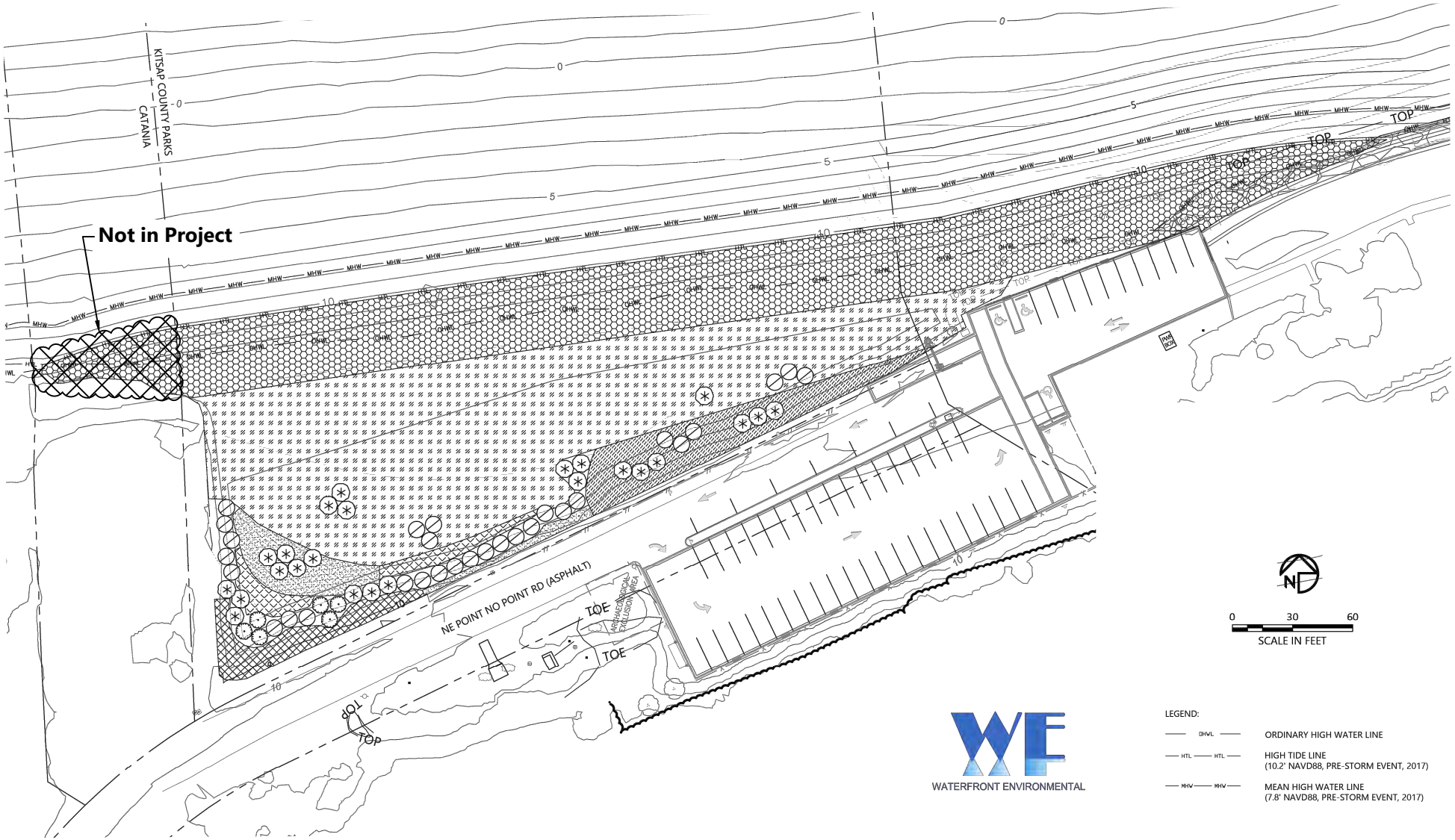
CURB WALL DETAILS

Mar 29, 2024 5:02pm bluecoast Z:\CO_Kitsap_1103\2301_Point_no_Point\Dwg\ARPA\Full Project\PNP-JA-01-Proposed.dwg 11 CURB WALL DETAILS



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PLANTING PLAN

	Scientific Name		Common Name	Size	Spacing
Trees & Shrubs					
Trees					
⊛	*Picea sitchensis*	(Zone C)	Sitka Spruce	5 gal.	10' O.C.
⊙	*Pinus contorta var. contorta*	(Zone C)	Shore Pine	5 gal.	10' O.C.
Shrubs					
▨	*Amelanchier alnifolia*	(Zone C)	Serviceberry	2 gal.	10' O.C.
▨	*Holodiscus discolor*	(Zone C)	Oceanspray	2 gal.	10' O.C.
▨	*Gaultheria shallon*	(Zone C)	Salal	1 gal.	5' O.C.
⊘	*Morella californica*	(Zone C)	Pacific Wax Myrtle	5 gal.	10' O.C.
▨	*Rosa nutkana*	(Zone C)	Nootka Rose	2 gal.	5' O.C.
▨	*Rosa pisocarpa*	(Zone C)	Peafruit Rose	2 gal.	5' O.C.
▨	*Symphoricarpos albus*	(Zone C)	Snowberry	2 gal.	5' O.C.
Perennials, Grasses & Forbs					
▨	*Fragaria chiloensis*	(Zone B)	Beach Strawberry	4" pot	2' O.C.
▨	*Grindelia integrifolia*	(Zone B)	Puget Sound Gumweed	10-in plug	2' O.C.
▨	*Lupinus litteralis*	(Zone B)	Seashore Lupine	10-in plug	2' O.C.
▨	*Symphiotrichon subspicatum*	(Zone B)	Douglas Aster	10-in plug	2' O.C.
▨	*Abronia latifolia*	(Zone A)	Coastal Sand Verbena	10-in plug	2' O.C.
▨	*Ambrosia chammissonis*	(Zone A)	Silver Burweed	10-in plug	2' O.C.
▨	*Cakile edentula*	(Zone A)	American Searocket	10-in plug	2' O.C.
▨	*Deschampsia cespitosa*	(Zone A)	Pacific Silverweed	10-in plug	2' O.C.
▨	*Glehnia leiocarpa*	(Zone A)	Beach Silvertop	10-in plug	2' O.C.
▨	*Honkenya peploides*	(Zone A)	Sea Sandwort	10-in plug	2' O.C.
▨	*Leymus mollis*	(Zone A)	American Dunegrass	10-in plug	2' O.C.

WATERFRONT ENVIRONMENTAL

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S-T-R: S15-T28N-R02E
IN: HANSVILLE
NEAR/AT: ADMIRALTY INLET, PUGET SOUND
COUNTY: KITSAP
STATE: WASHINGTON
DATE: APRIL 2024

CANDIDATE PLANT LIST

US Army Corps of Engineers
Seattle District

NATIONWIDE PERMIT 3
Terms and Conditions

2021 NWPs - Final 41; Effective Date: February 25, 2022
amended with RGCs 10-14 June 28, 2024

In addition to any special condition that may be required on a case-by-case basis by the District Engineer, the following terms and conditions must be met, as applicable, for a Nationwide Permit (NWP) authorization to be valid in Washington State.

A. DESCRIPTION OF AUTHORIZED ACTIVITIES

3. Maintenance. (a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. This NWP also authorizes the removal of previously authorized structures or fills. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications, including the removal of material from the stream channel, must be immediately adjacent to the project. This NWP also authorizes the removal of accumulated sediment and debris within, and in the immediate vicinity of, the structure or fill. This NWP also authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

(b) This NWP also authorizes the removal of accumulated sediments and debris outside the immediate vicinity of existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.). The removal of sediment is limited to the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend farther than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an area that has no waters of the United States unless otherwise specifically approved by the district engineer under separate authorization.

(c) This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After conducting the maintenance

activity, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

(d) This NWP does not authorize maintenance dredging for the primary purpose of navigation. This NWP does not authorize beach restoration. This NWP does not authorize new stream channelization or stream relocation projects.

Notification: For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 32). The pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Authorities: Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (Sections 10 and 404))

Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance.

B. CORPS NATIONAL GENERAL CONDITIONS FOR ALL 2021 NWPs - FINAL 41

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) 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 or her 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 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.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Structures and Fills. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: http://www.rivers.gov/.

17. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of "effects of the action" for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding "activities that are reasonably certain to occur" and "consequences caused by the proposed action."

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at http://www.fws.gov/ or http://www.fws.gov/ipac and http://www.nmfs.noaa.gov/pr/species/esa/ respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a

vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory

mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible

mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. (a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:
(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

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

_____
(Transferee)

_____
(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or

completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification. (a) *Timing*. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification*: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) (i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification*: The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be

used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination*: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

C. SEATTLE DISTRICT REGIONAL GENERAL CONDITIONS: The following conditions apply to the 2021 NWPs - Final 41 NWPs for the Seattle District in Washington State, as applicable.

RGC 1, Project Drawings
Drawings must be submitted with a pre-construction notification (PCN). Drawings must provide a clear understanding of the proposed project, and how waters of the United States will be affected. Drawings must be originals and not reduced copies of large-scale plans. Engineering drawings are not required. Existing and proposed site conditions (manmade and landscape features) must be drawn to scale.

RGC 2, Aquatic Resources Requiring Special Protection
A PCN is required for activities resulting in a loss of waters of the United States in wetlands in dunal systems along the Washington coast, mature forested wetlands, bogs and peatlands, aspen-dominated wetlands, alkali wetlands, vernal pools, camas prairie wetlands, estuarine wetlands, and wetlands in coastal lagoons.

RGC 3, New Bank Stabilization in Tidal Waters of Puget Sound
Activities involving new bank stabilization in tidal waters in Water Resource Inventory Areas (WRIAs) 8, 9, 10, 11, and 12 (within the areas identified on Figures 1a through 1e) cannot be authorized by NWP.

RGC 4, Commencement Bay
No permanent losses of wetlands or mudflats within the Commencement Bay Study Area may be authorized by any NWP (see Figure 2).

RGC 5, Bank Stabilization
All projects including new or maintenance bank stabilization activities in waters of the United States where salmonid species are present or could be present, requires PCN to the U.S. Army Corps of Engineers (Corps) (see NWP general condition 32).

For new bank stabilization projects only, the following must be submitted to the Corps:

a. The cause of the erosion and the distance of any existing structures from the area(s) being stabilized.

b. The type and length of existing bank stabilization within 300 feet of the proposed project.

c. A description of current conditions and expected post-project conditions in the waterbody.

d. A statement describing how the project incorporates elements avoiding and minimizing adverse environmental effects to the aquatic environment and nearshore riparian area, including vegetation impacts in the waterbody.

In addition to a. through d., the results from any relevant geotechnical investigations can be submitted with the PCN if it describes current or expected conditions in the waterbody.

RGC 6, Crossings of Waters of the United States
Any project including installing, replacing, or modifying crossings of waters of the United States, such as culverts or bridges, requires submittal of a PCN to the U.S. Army Corps of Engineers (see NWP general condition 32).

If a culvert is proposed to cross waters of the U.S. where salmonid species are present or could be present, the project must apply the stream simulation design method from the Washington Department of Fish and Wildlife located in the Water Crossing Design Guidelines (2013), or a design method which provides passage at all life stages at all flows where the salmonid species would naturally seek passage. If the stream simulation design method is not applied for a culvert where salmonid species are present or could be present, the applicant must provide a rationale in the PCN sufficient to establish one of the following:

a. The existence of extraordinary site conditions.

b. How the proposed design will provide equivalent or better fish passage and fisheries habitat benefits than the stream simulation design method.

Culverts installed under emergency authorization that do not meet the above design criteria will be required to meet the above design criteria to receive an after-the-fact nationwide permit verification.

RGC 7, Stream Loss
A PCN is required for all activities that result in the loss of any linear feet of streams.

RGC 8, Construction Boundaries

Permittees must clearly mark all construction area boundaries within waters of the United States before beginning work on projects that involve grading or placement of fill. Boundary markers and/or construction fencing must be maintained and clearly visible for the duration of construction. Permittees should avoid and minimize removal of native vegetation (including submerged aquatic vegetation) to the maximum extent possible.

RGC 9, ESA Reporting to NMFS
For any nationwide permit that may affect threatened or endangered species:

Incidents where any individuals of fish species, marine mammals and/or sea turtles listed by National Oceanic and Atmospheric Administration Fisheries, National Marine Fisheries Service (NMFS) under the Endangered Species Act appear to be injured or killed as a result of discharges of dredged or fill material into waters of the U.S. or structures or work in navigable waters of the U.S. authorized by this Nationwide Permit verification shall be reported to NMFS, Office of Protected Resources at (301) 713-1401 and the Regulatory Office of the Seattle District of the U.S. Army Corps of Engineers at (206) 764-3495. The finder should leave the animal alone, make note of any circumstances likely causing the death or injury, note the location and number of individuals involved and, if possible, take photographs. Adult animals should not be disturbed unless circumstances arise where they are obviously injured or killed by discharge exposure or some unnatural cause. The finder may be asked to carry out instructions provided by the NMFS to collect specimens or take other measures to ensure that evidence intrinsic to the specimen is preserved.

RGC 10, Limitations on New Bank Stabilization Within the Salish Sea
The length of new bank stabilization within waters of the U.S., including new bank stabilization associated with maintenance activities that would expand previously authorized armoring length, cannot exceed 50 linear feet within the Salish Sea under any NWP.

RGC 11, Effects to Forage Fish Spawning Beaches, Drift Cells, and Feeder Bluffs)
No NWP activity can:

a. cause more than minimal adverse effects to forage fish spawning beaches or drift cells; or

b. prevent the functioning of feeder bluffs, including more than minimal adverse effects to sediment recruitment, transport, or deposition.

This regional general condition applies to all NWP activities within the Salish Sea. Information regarding the location of forage fish spawning beaches is available on the Washington Department of Fish and Wildlife's (WDFW) Forage Fish Spawning Map at https://wdfw.maps.arcgis.com/home/webmap/viewer.html?webmap=19b8f74e2d41470cbd80b1af8dedd6b3. Information regarding the location and movement of drift cells, shoreline stability, and coastal landforms, to include feeder bluffs, is available at the Washington State Department of Ecology's Coastal Atlas Map website: https://apps.ecology.wa.gov/coastalatlasmap. These maps are resources that can be used to help identify the location of forage fish spawning beaches, drift cells, and feeder bluffs; they are not a substitute for site-specific data. Information about forage fish, their spawning habitats, and spawning behavior are available through the WDFW. Additional information about the importance of these species as prey species for Endangered Species Act listed salmonids can be found on the National Marine Fisheries Service website.

RGC 12, Bank Stabilization Design Considerations
Bank stabilization activities, including maintenance activities, shall utilize living shorelines, vegetative stabilization, bioengineering, including but not limited to large woody material with intact root wads, and other soft bank stabilization approaches to the maximum practicable extent before considering hard bank stabilization methods such as bulkheads and rock revetments.

RGC 13, PCNs for Activities in Areas Where There May Be Treaty-Reserved Tribal Rights

To ensure compliance with General Condition 17, Tribal Rights, a pre-construction notification (PCN) is required for all NWPs associated with structures or fills in areas where Tribes have retained via treaty the right to fish in their usual and accustomed grounds and stations.

RGC 14, Maintenance of Existing Bank Stabilization Structures and Fills
(Applicable to NWP 3, Maintenance Activities) Maintenance of existing bank stabilization structures that expand the existing structure's footprint or dimensions either waterward, vertically, or linearly along the shoreline within the geographic jurisdiction of the U.S. Army Corps of Engineers are not eligible for NWP 3.

D. SEATTLE DISTRICT REGIONAL SPECIFIC CONDITIONS FOR THIS NWP: None

E. 401 WATER QUALITY CERTIFICATION: Depending on the geographic region of the work authorized by this verification, the appropriate 401 certifying authority has made the following determinations:

Washington Department of Ecology (Ecology) (Projects in all areas except as described for the other certifying agencies listed below): General and Specific WQC Conditions

A. State General Conditions for all Nationwide Permits

In addition to all of the U.S. Army Corps of Engineers' (Corps) national and Seattle District'sregional permit conditions, the following state general Water Quality Certification (WQC) conditions **apply to all NWPs whether granted or granted with conditions** in Washington where Ecology is the certifying authority.

Due to the lack of site specific information on the discharge types, quantities, and specific locations, as well as the condition of receiving waters and the quantity of waters (including wetlands) that may be lost, Ecology may need to review the project if one of the following stategeneral conditions is triggered.

This case-by-case review may be required, and additional information regarding the project and associated discharges may be needed, to verify that the proposed project would comply with state water quality requirements and if an individual WQC is required or if the project meets this programmatic WQC.

1. **In-water construction activities**. Ecology WQC review is required for projects or activities authorized under NWPs where the project proponent has indicated on the Joint Aquatic Resource Permit Application (JARPA) question 9e that the project or activity will not meet State water quality standards, or has provided information indicating that the project or activity will cause, or may be likely to cause or contributeto an exceedance of a State water quality standard (Chapter 173-201A WAC) or sediment management standard (Chapter 173-204 WAC).

Note: In-water activities include any activity within a jurisdictional wetland and/orwaters.

2. **Projects or Activities Discharging to Impaired Waters**. Ecology WQC review is required for projects or activities that will occur in a 303(d) listed segment of a waterbody or upstream of a listed segment and may result in further exceedances of the specific listedparameter to determine if the project meets this programmatic WQC or will require individual WQC.

To determine if your project or activity is in a 303(d) listed segment of a waterbody, visitEcology's Water Quality Assessment webpage for maps and search tools.

3. **Aquatic resources requiring special protection**. Certain aquatic resources are unique and difficult-to-replace components of the aquatic environment in Washington. Activities that would affect these resources must be avoided to the greatest extent practicable. Compensating for adverse impacts to high value aquatic resources is typically difficult, prohibitively expensive, and may not be possible in some landscapesettings.

Ecology WQC review is required for projects or activities in areas identified below to determine if the project meets this programmatic WQC or will require individual WQC.

a. Activities in or affecting the following aquatic resources:
    i. Wetlands with special characteristics (as defined in the Washington State Wetland Rating Systems for western and eastern Washington, Ecology Publications #14-06-029 and #14-06-030):
        - Estuarine wetlands.
        - Wetlands of High Conservation Value.
        - Bogs.
        - Old-growth forested wetlands and mature forested wetlands.
        - Wetlands in coastal lagoons.
        - Wetlands in dunal systems along the Washington coast.
        - Vernal pools.
        - Alkali wetlands.

    ii. Fens, aspen-dominated wetlands, camas prairie wetlands.

    iii. Category I wetlands.

    iv. Category II wetlands with a habitat score ≥ 8 points.

b. Activities in or resulting in a loss of eelgrass (Zostera marina) beds.

This state general condition does not apply to the following NWPs:
NWP 20 – Response Operations for Oil and Hazardous Substances
NWP 32 – Completed Enforcement Actions
NWP 48 – Commercial Shellfish Mariculture Activities

4. **Loss of More than 300 Linear Feet of Streambed.** For any project that results in the lossof more than 300 linear feet of streambed Ecology WQC review is required to determineif the project meets this programmatic WQC or will require individual WQC.

5. **Temporary Fills.** For any project or activity with temporary fill in wetlands or other waters for more than six months Ecology WQC review is required to determine if theproject meets this programmatic WQC or will require individual WQC.

6. **Mitigation.** Project proponents are required to show that they have followed the mitigation sequence and have first avoided and minimized impacts to aquatic resourceswherever practicable. For projects requiring Ecology WQC review or an individual WQC with unavoidable impacts to aquatics resources, a mitigation plan must be provided.

    a. Wetland mitigation plans submitted for Ecology review and approval shall be based on the most current guidance provided in Wetland Mitigation in Washington State, Parts 1 and 2 (available on Ecology's website) and shall, at aminimum, include the following:

        i. A description of the measures taken to avoid and minimize impacts to wetlands and other waters of the U.S.

        ii. The nature of the proposed impacts (i.e., acreage of wetlands and functions lost or degraded).

iii. The rationale for the mitigation site that was selected.

iv. The goals and objectives of the compensatory mitigation project.

v. How the mitigation project will be accomplished, including construction sequencing, best management practices to protect water quality, proposed performance standards for measuring success and the proposed buffer widths.

vi. How it will be maintained and monitored to assess progress toward goals and objectives. Monitoring will generally be required for a minimum of five years. For forested and scrub-shrub wetlands, 10 years of monitoring will often be necessary.

vii. How the compensatory mitigation site will be legally protected for the long term.

Refer to Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Ecology Publication #06-06-011b) and Selecting Wetland Mitigation Sites Using a Watershed Approach (Ecology Publications #09-06-032 (Western Washington) and #10-06-007 (Eastern Washington)) for guidance on selecting suitable mitigation sites and developing mitigation plans.

Ecology encourages the use of alternative mitigation approaches, includingcredit/debit methodology, advance mitigation, and other programmatic approaches such as mitigation banks and in-lieu fee programs. If you are interested in proposing use of an alternative mitigation approach, consult with the appropriate Ecology regional staff person. Information on alternative mitigation approaches is available on Ecology's website.

b. Mitigation for other aquatic resource impacts will be determined on a case-by-case basis.

7. **Stormwater Pollution Prevention**. All projects involving land disturbance or impervious surfaces must implement stormwater pollution prevention or control measures to avoiddischarge of pollutants in stormwater runoff to waters.

a. For land disturbances during construction, the applicant must obtain and implement permits (e.g., Construction Stormwater General Permit) where required and follow Ecology's current stormwater manual.

b. Following construction, prevention or treatment of on-going stormwater runofffrom impervious surfaces shall be provided.

Ecology's Stormwater Management and Design Manuals and stormwater permitinformation are available on Ecology's website.

8. **Application**. For projects or activities that will require Ecology WQC review, or anindividual WQC, project proponents must provide Ecology with a JARPA or the equivalent information, along with the documentation provided to the Corps, as described in national general condition 32, Pre-Construction Notification (PCN), including, where applicable:

a. A description of the project, including site plans, project purpose, direct and indirect adverse environmental effects the project discharge(s) would cause, best management practices (BMPs), and proposed means to monitor the discharge(s).

b. List of all federal, state or local agency authorizations required to be used for anypart

of the proposed project or any related activity.

c. Drawings indicating the OHWM, delineation of special aquatic sites, and other waters of the state. Wetland delineations must be prepared in accordance with thecurrent method required by the Corps and shall include Ecology's Wetland Rating form. Wetland Rating forms are subject to review and verification by Ecology staff.

Guidance for determining the OHWM is available on Ecology's website.

d. A statement describing how the mitigation requirement will be satisfied. A conceptual or detailed mitigation or restoration plan may be submitted. See stategeneral condition 5.

e. Other applicable requirements of Corps NWP general condition 32, Corps regional conditions, or notification conditions of the applicable NWP.

Ecology **grants with conditions Water Quality Certification** (WQC) for this NWP provided that Ecology individual WQC review is not required per the state general conditions (see above)) and the following conditions:

1. The project or activity involves the complete replacement of a shoreline stabilizationusing hard armoring.

2. The project or activity increases the original footprint of the structure by more than1/10th acre in wetlands; or

3. The project or activity includes adding a new structure, such as a weir, flap gate/tidegate, or culvert to the site.

Environmental Protection Agency (EPA) (on Tribal Lands where Tribes Do Not Have Treatment in a Similar Manner as a State and Lands with Exclusive Federal Jurisdiction in Washington):

On behalf of the 28 tribes that do not have treatment in a similar manner as a state and for exclusive federal jurisdiction lands located within the state of Washington, EPA Region 10 has determined that CWA Section 401 WQC for the following proposed NWPs is granted with conditions. EPA Region 10 has determined that any discharge authorized under the following proposed NWPs will comply with water quality requirements, as defined at 40 C.F.R. § 121.1(n), subject to the following conditions pursuant to CWA Section 401(d).

General Conditions:

EPA General Condition 1 – Aquatic Resources of Special Concern

Activities resulting in a point source discharge in the following types of aquatic resources of special concern shall request an individual project-specific CWA Section 401 WQC: mature forested wetlands; bogs, fens and other peatlands; vernal pools; aspen-dominated wetlands; alkali wetlands; camas prairie wetlands; wetlands in dunal systems along the Oregon or Washington Coast; riffle-pool complexes of streams; marine or estuarine mud-flats; salt marshes; marine waters with native eelgrass or kelp beds; or marine nearshore forage fish habitat. To identify whether a project would occur in any of these aquatic resources of special concern, project proponents shall use existing and available information to identify the location and type of resources, including using the U.S. Fish and Wildlife Service's online digital National Wetland Inventory maps, identifying project location on topographical maps, and/or providing on-site determinations as required by the Corps. When a project requires a Pre-Construction Notification (PCN) to the Corps, project proponents shall work with the Corps to identify whether the project is in any of these specific aquatic resources of special concern.

EPA General Condition 2 – Soil Erosion and Sediment Controls

Turbidity shall not exceed background turbidity by more than 50 Nephelometric Turbidity Units (NTU) above background instantaneously or more than 25 NTU above background for more than ten consecutive days.[8] Projects or activities that are expected to exceed these levels require an individual project-specific CWA Section 401 WQC.

The turbidity standard shall be met at the following distances from the discharge:

Wetted Stream Width at Discharge Point	**Approximate Downstream Point to Sample to Determine Compliance**
Up to 30 feet	50 feet
>30 to 100 feet	100 feet
>100 feet to 200 feet	200 feet
>200 feet	300 feet
Lake, Pond, Reservoir	Lesser of 100 feet or maximum surface distance

For Marine Water	**Point of Compliance for Temporary Area of Mixing**
Estuaries or Marine Waters	Radius of 150 feet from the activity causing the turbidity exceedance

Measures to prevent and/or reduce turbidity shall be implemented and monitored prior to, during, and after construction. Turbidity monitoring shall be done at the point of compliance within 24 hours of a precipitation event of 0.25 inches or greater. During monitoring and maintenance, if turbidity limits are exceeded or if measures are identified as ineffective, then additional measures shall be taken to come into compliance and EPA shall be notified within 48 hours of the exceedance or measure failure.

EPA General Condition 3 - Compliance with Stormwater Pollution Prevention and the National Pollutant Discharge Elimination System Permit Provisions

For land disturbances during construction that 1) disturb one or more acres of land, or 2) will disturb less than one acre of land but are part of a common plan of development or sale that will ultimately disturb one or more acres of land, the permittee shall obtain and implement Construction Stormwater General Permit requirements,[9] including:

1. The permittee shall develop a Stormwater Pollution Prevention Plan (SWPPP)[10] and submit it to EPA Region 10 and appropriate Corps District; and
2. Following construction, prevention or treatment of ongoing stormwater runoff from impervious surfaces that includes soil infiltration shall be implemented.

EPA General Condition 4 – Projects or Activities Discharging to Impaired Waters

Projects or activities are not authorized under the NWPs if the project will involve point source discharges into an active channel (e.g., flowing or open waters) of a water of the U.S. listed as impaired under CWA Section 303(d) and/or if the waterbody has an approved Total Maximum Daily Load (TMDL) and the discharge may result in further exceedance of a specific parameter (e.g., total suspended solids, dissolved oxygen, temperature) for which the waterbody is listed or has an approved TMDL. The current lists of impaired waters of the U.S. under CWA Section 303(d) and waters of the U.S. for which a TMDL has been approved are available on EPA Region 10's web site at: https://www.epa.gov/tmdl/impaired-waters-and-tmdls-region-10.

EPA General Condition 5 – Notice to EPA

All project proponents shall provide notice to EPA Region 10 prior to commencing construction activities authorized by a NWP. This will provide EPA Region 10 with the opportunity to inspect the activity for the purposes of determining whether any discharge from the proposed project will violate this CWA Section 401 WQC. Where the Corps requires a PCN for an applicable NWP, the project proponent shall also provide the PCN to EPA Region 10. EPA Region 10 will provide written notification to the project proponent if the proposed project will violate the water quality certification of the NWP.

EPA General Condition 6 – Unsuitable Materials

The project proponent shall not use wood products treated with leachable chemical components (e.g., copper, arsenic, zinc, creosote, chromium, chloride, fluoride, pentachlorophenol), which result in a discharge to waters of the U.S., unless the wood products meet the following criteria:

1. Wood preservatives and their application shall be in compliance with EPA label requirements and criteria of approved EPA Registration Documents under the Federal Insecticide, Fungicide, and Rodenticide Act;
2. Use of chemically treated wood products shall follow the Western Wood Preservatives Institute (WWPI) guidelines and BMPs to minimize the preservative migrating from treated wood into the aquatic environment;
3. For new or replacement wood structures, the wood shall be sealed with non-toxic products such as water-based silica or soy-based water repellants or sealers to prevent or limit leaching. Acceptable alternatives to chemically treated wood include untreated wood, steel (painted, unpainted or coated with epoxy petroleum compound or plastic), concrete and plastic lumber; and
4. All removal of chemically treated wood products (including pilings) shall follow the most recent "EPA Region 10 Best Management Practices for Piling Removal and Placement in Washington State."

NWP Specific Conditions:

NWP 3 is conditionally certified, subject to the general conditions listed above, for all maintenance, repair or replacement activities authorized under this NWP, <u>except</u> that an individual project-specific WQC is required when the project involves:

1. Maintenance, repair, or replacement of shoreline stabilization using hard armoring approaches; or
2. Extending existing infrastructure beyond its prior footprint in fish bearing waters of the U.S.; or
3. Excavation or dredging in marine waters.

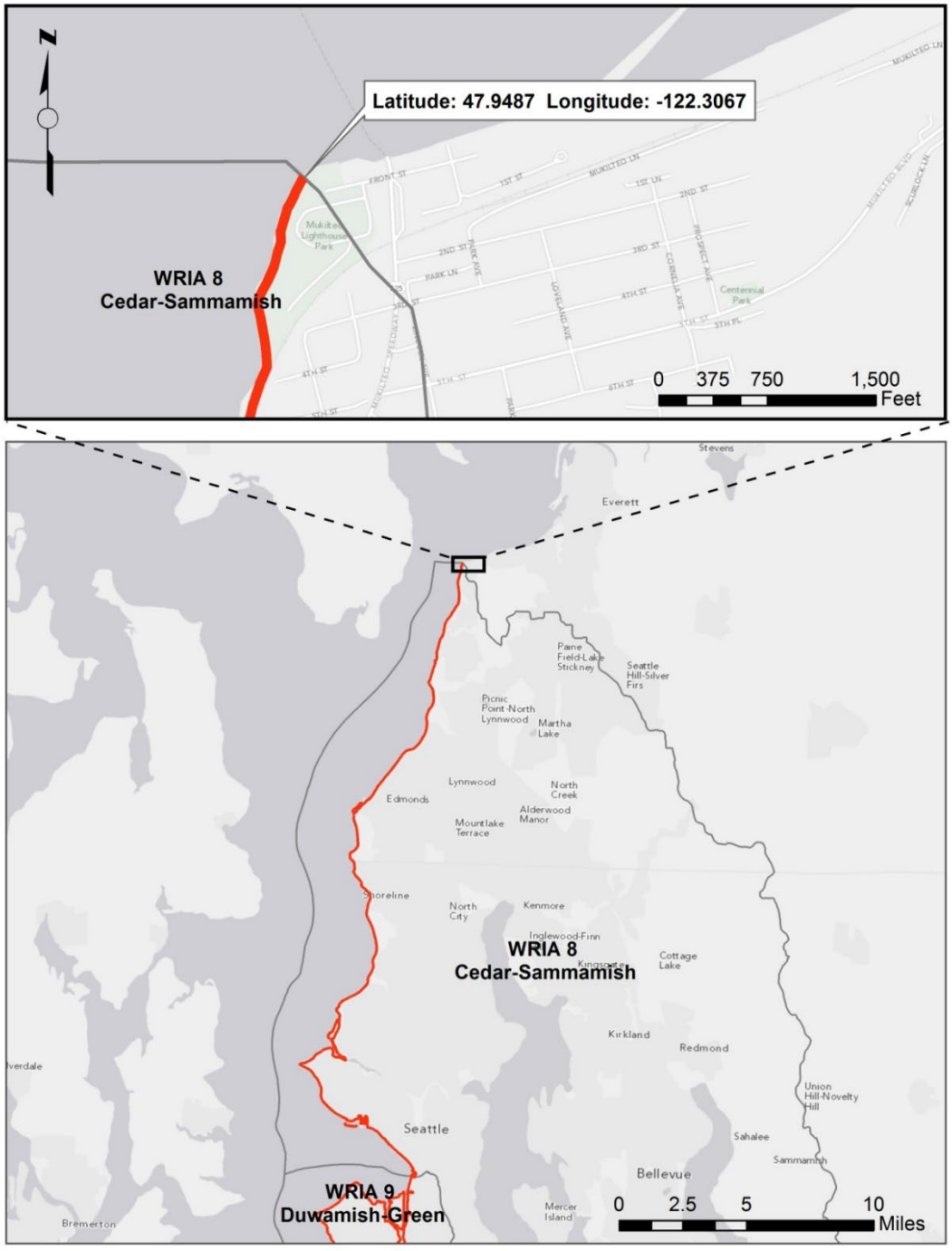
Specific Tribes with Certifying Authority (Projects in Specific Tribal Areas):
WQC was issued by the Swinomish Indian Tribal Community. WQC was waived by the Confederated Tribes of the Chehalis Reservation and Colville Indian Reservation, Kalispel Tribe of Indians, Port Gamble S'Klallam Tribe, Quinault Indian Nation, and the Spokane Tribe of Indians. WQC was denied by the Lummi Nation, Makah Tribe, Puyallup Tribe of Indians, and the Tulalip Tribes; therefore, individual WQC is required from these tribes.

F. COASTAL ZONE MANAGEMENT ACT (CZMA) CONSISTENCY RESPONSE FOR THIS NWP:

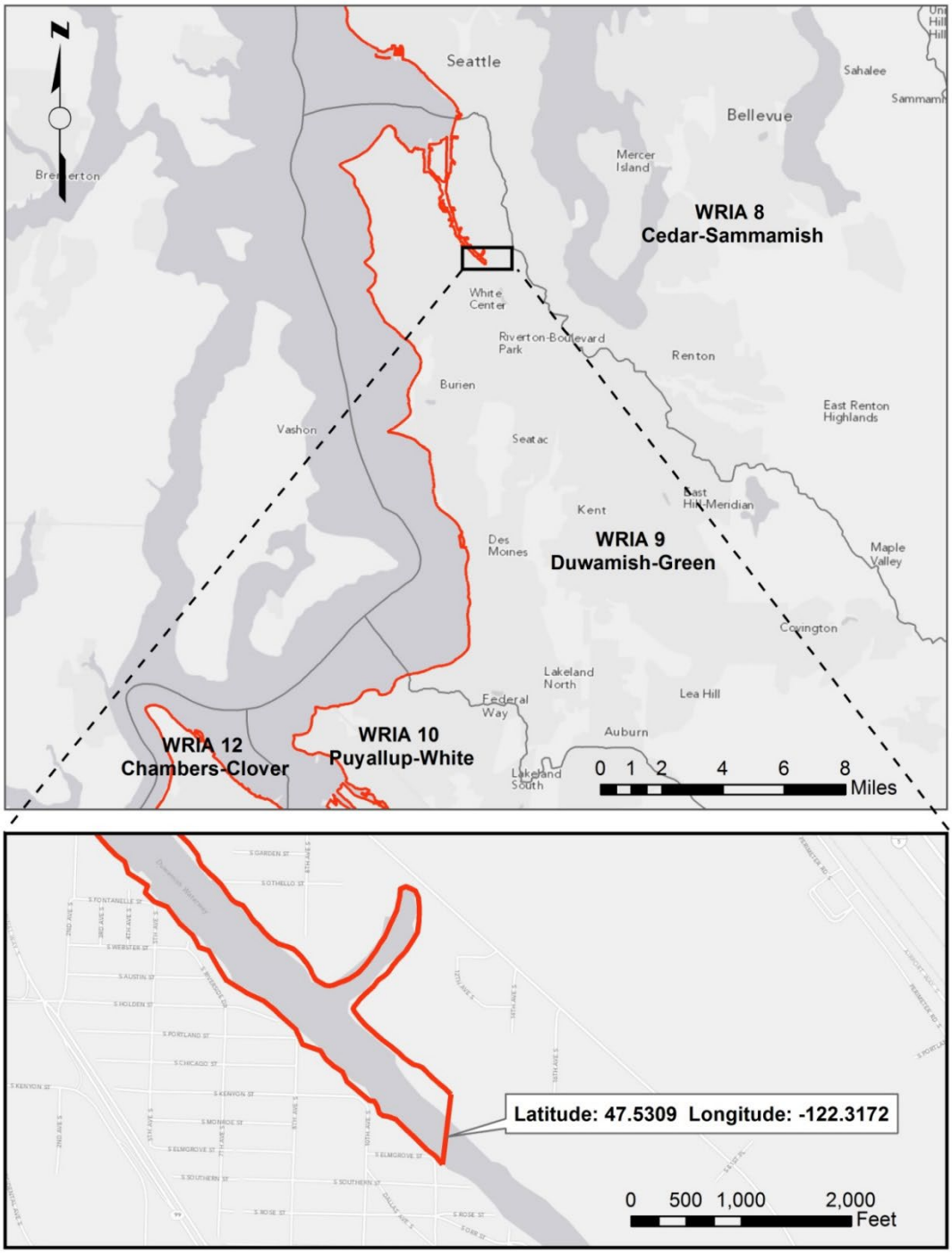
Ecology's determination is that they concur with conditions that this NWP is consistent with CZMA.

1. A CZM Federal Consistency Decision is required for projects or activities under this NWP if a State 401 Water Quality Certification is required.

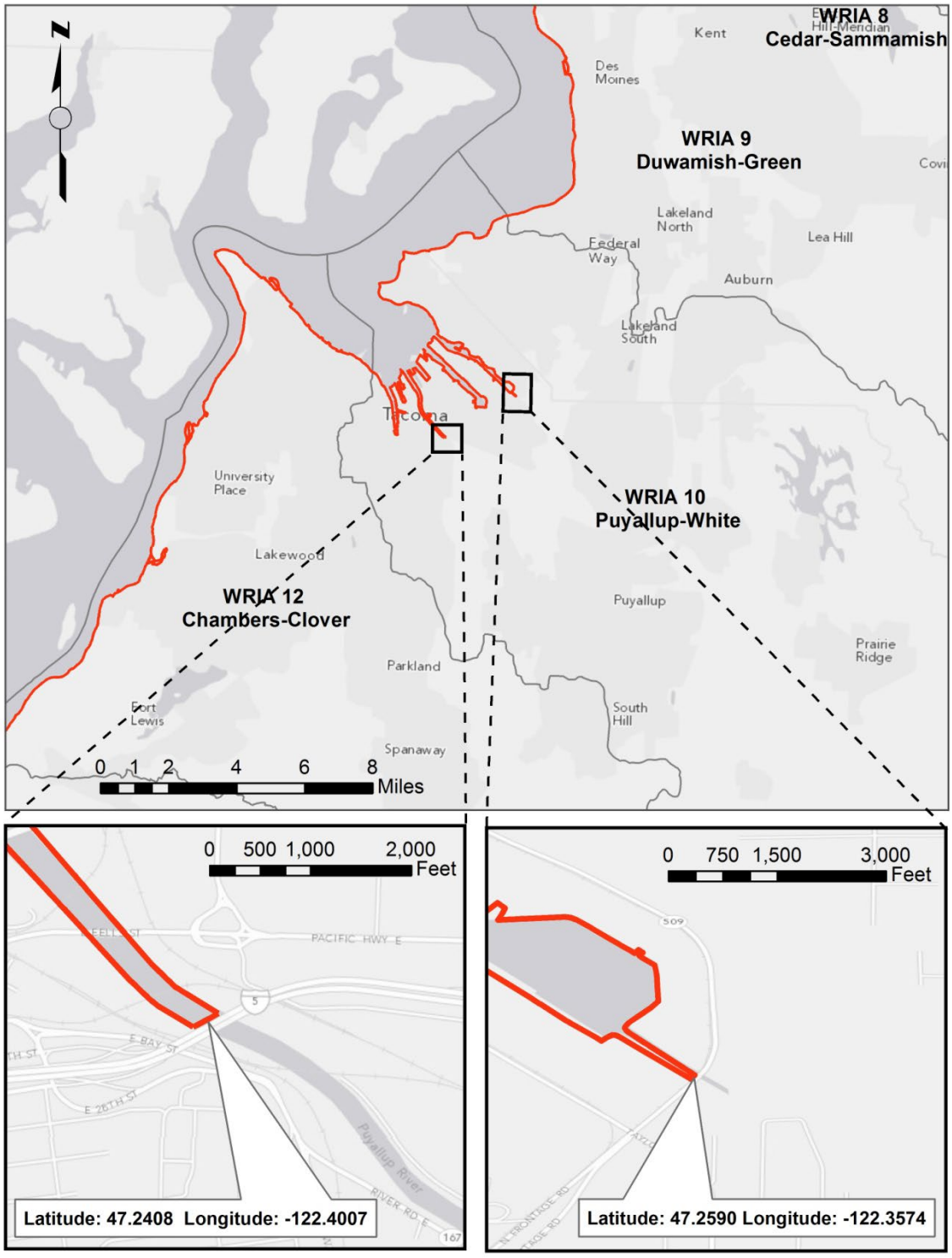
Seattle District Regional General Conditions - Figures
Figure 1: RGC 3 - WRIAs 8, 9, 10, 11, and 12
a. WRIA 8



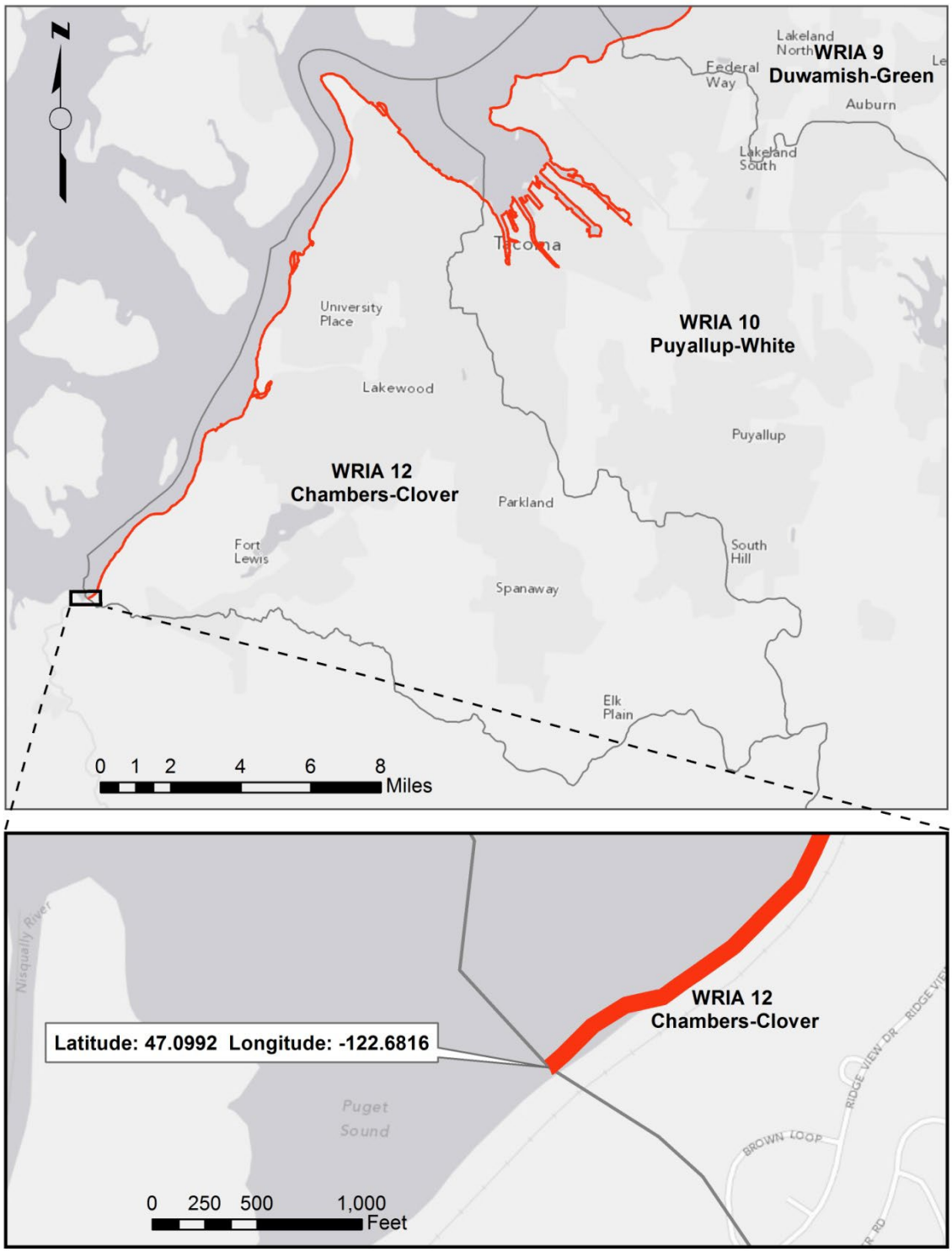
b. WRIA 9


N
Seattle
Sahalee
Bellevue
Mercer Island
Bremerton
WRIA 8
Cedar-Sammamish
White Center
Riverton-Boulevard Park
Renton
Burien
East Renton Highlands
Vashon
Seatac
East Hill-Meridian
Kent
Des Moines
WRIA 9
Duwamish-Green
Maple Valley
Covington
Lakeland North
Lea Hill
Federal Way
Auburn
WRIA 12
Chambers-Clover
WRIA 10
Puyallup-White
Lakeland South
0 1 2 4 6 8
Miles
Latitude: 47.5309 Longitude: -122.3172
0 500 1,000 2,000
Feet

c. WRIA 10


N
WRIA 8
Cedar-Sammamish
Kent
Des Moines
WRIA 9
Duwamish-Green
Lakeland North
Federal Way
Lea Hill
Auburn
Lakeland South
Tacoma
University Place
WRIA 10
Puyallup-White
Lakewood
WRIA 12
Chambers-Clover
Puyallup
Prairie Ridge
Parkland
Fort Lewis
South Hill
Spanaway
0 1 2 4 6 8 Miles
0 500 1,000 2,000 Feet
PACIFIC HWY E
E BAY ST
E 26TH ST
Puyallup River
RIVER RD E
Latitude: 47.2408 Longitude: -122.4007
0 750 1,500 3,000 Feet
509
Latitude: 47.2590 Longitude: -122.3574

d. WRIA 12


N
Lakeland North
WRIA 9
Duwamish-Green
Federal Way
Auburn
Lakeland South
Tacoma
University Place
WRIA 10
Puyallup-White
Lakewood
Puyallup
WRIA 12
Chambers-Clover
Parkland
Fort Lewis
South Hill
Spanaway
Elk Plain
0 1 2 4 6 8
Miles
Nisqually River
Latitude: 47.0992 Longitude: -122.6816
WRIA 12
Chambers-Clover
Puget Sound
BROWN LOOP
RIDGE VIEW DR
0 250 500 1,000
Feet

e. WRIA 11

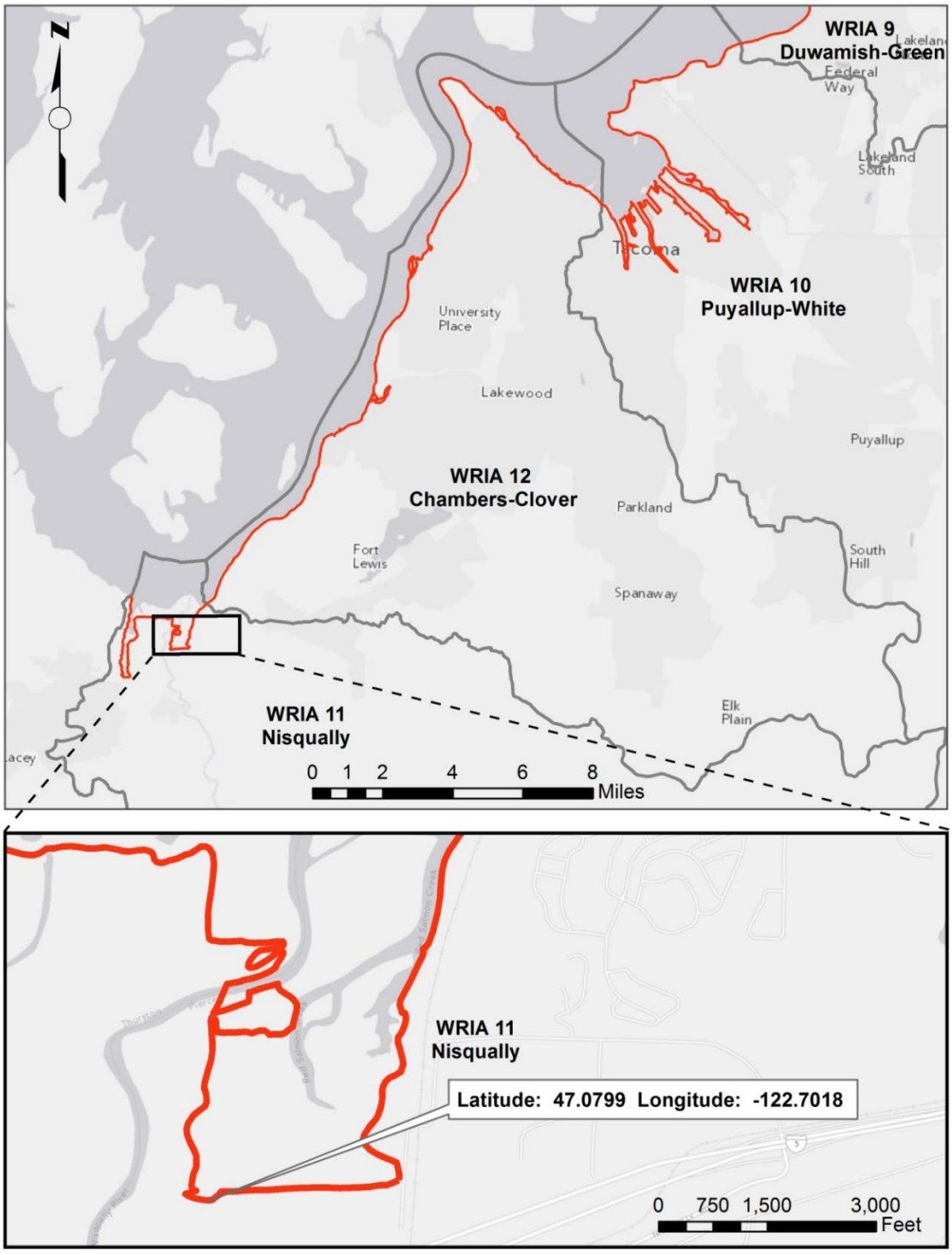
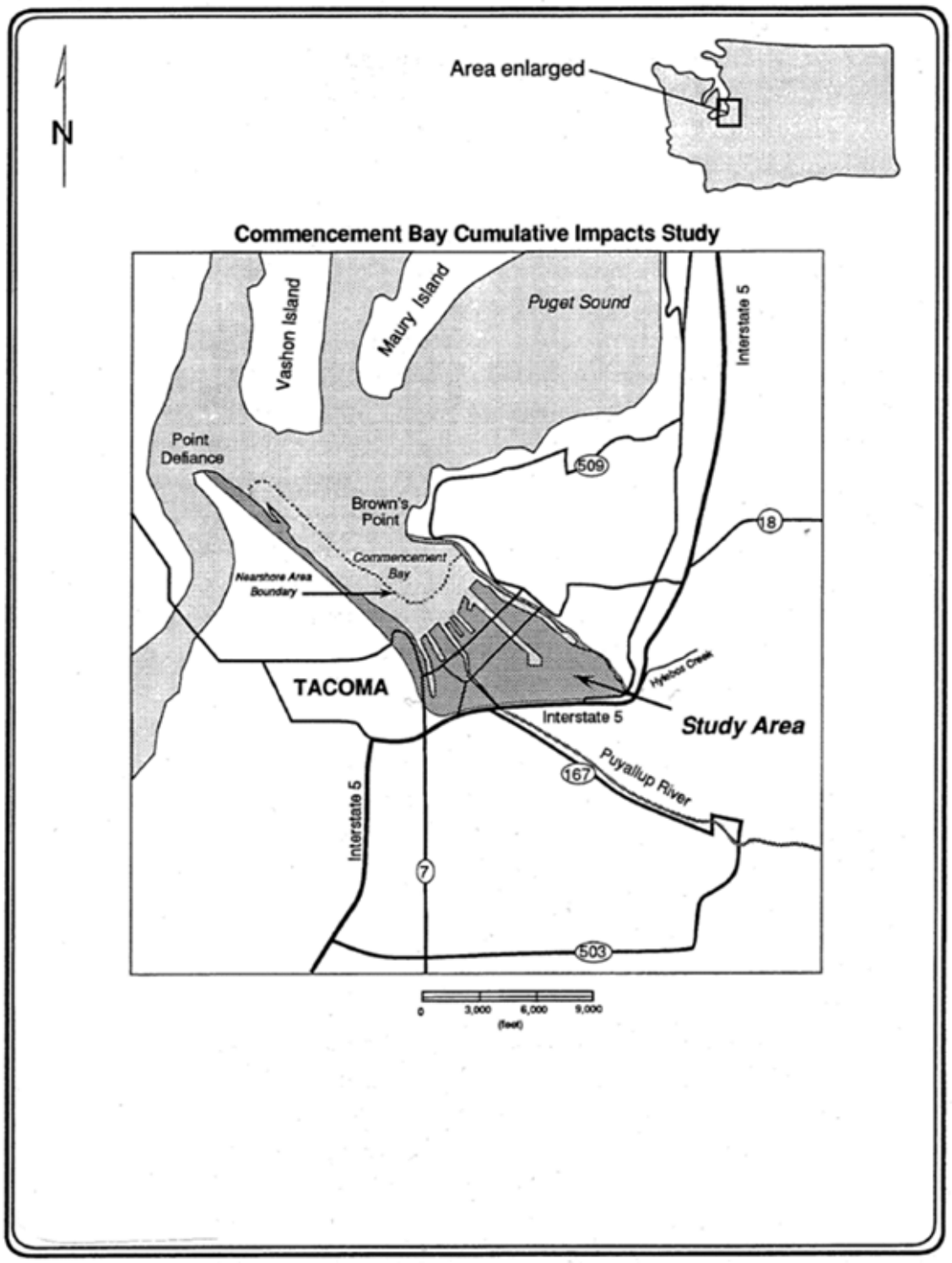

WRIA 9
Duwamish-Green
Federal Way
Lakeland South
Tacoma
WRIA 10
Puyallup-White
University Place
Lakewood
Puyallup
WRIA 12
Chambers-Clover
Parkland
Fort Lewis
South Hill
Spanaway
Elk Plain
Lacey
WRIA 11
Nisqually
0 1 2 4 6 8
Miles
WRIA 11
Nisqually
Latitude: 47.0799 Longitude: -122.7018
0 750 1,500 3,000
Feet

Figure 2. RGC 4 - Commencement Bay Study Area



US Army Corps of Engineers
Seattle District

NATIONWIDE PERMIT 27
Terms and Conditions

2021 NWPs - Final 41; Effective Date: February 25, 2022
amended with RGCs 10-14 June 28, 2024

In addition to any special condition that may be required on a case-by-case basis by the District Engineer, the following terms and conditions must be met, as applicable, for a Nationwide Permit (NWP) authorization to be valid in Washington State.

A. DESCRIPTION OF AUTHORIZED ACTIVITIES

27. Aquatic Habitat Restoration, Enhancement, and Establishment Activities. Activities in waters of the United States associated with the restoration, enhancement, and establishment of tidal and non-tidal wetlands and riparian areas, the restoration and enhancement of non-tidal streams and other non-tidal open waters, and the rehabilitation or enhancement of tidal streams, tidal wetlands, and tidal open waters, provided those activities result in net increases in aquatic resource functions and services.

To be authorized by this NWP, the aquatic habitat restoration, enhancement, or establishment activity must be planned, designed, and implemented so that it results in aquatic habitat that resembles an ecological reference. An ecological reference may be based on the characteristics of one or more intact aquatic habitats or riparian areas of the same type that exist in the region. An ecological reference may be based on a conceptual model developed from regional ecological knowledge of the target aquatic habitat type or riparian area.

To the extent that a Corps permit is required, activities authorized by this NWP include, but are not limited to the removal of accumulated sediments; releases of sediment from reservoirs to maintain sediment transport continuity to restore downstream habitats; the installation, removal, and maintenance of small water control structures, dikes, and berms, as well as discharges of dredged or fill material to restore appropriate stream channel configurations after small water control structures, dikes, and berms are removed; the installation of current deflectors; the enhancement, rehabilitation, or re-establishment of riffle and pool stream structure; the placement of in-stream habitat structures; modifications of the stream bed and/or banks to enhance, rehabilitate, or re-establish stream meanders; the removal of stream barriers, such as undersized culverts, fords, and grade control structures; the backfilling of artificial channels; the removal of existing drainage structures, such as drain tiles, and the filling, blocking, or reshaping of drainage ditches to restore wetland hydrology; the installation of structures or fills necessary to restore or enhance wetland or stream hydrology; the construction of small nesting islands; the construction of open water areas; the construction of oyster habitat over unvegetated bottom in tidal waters; coral restoration or relocation activities; shellfish seeding; activities needed to reestablish vegetation, including plowing or discing for seed bed preparation and the planting of appropriate wetland species; re-establishment of submerged aquatic vegetation in areas where those plant communities previously existed; re-establishment of tidal wetlands in tidal waters where those wetlands previously existed; mechanized land clearing to remove non-native invasive, exotic, or nuisance vegetation; and other related activities. Only native plant species should be planted at the site.

This NWP authorizes the relocation of non-tidal waters, including non-tidal wetlands and streams, on the project site provided there are net increases in aquatic resource functions and services.

Except for the relocation of non-tidal waters on the project site, this NWP does not authorize the conversion of a stream or natural wetlands to another aquatic habitat type (e.g., the conversion of a stream to wetland or vice versa) or uplands. Changes in wetland plant communities that occur when wetland hydrology is more fully restored during wetland rehabilitation activities are not considered a conversion to another aquatic habitat type. This NWP does not authorize stream channelization. This NWP does not authorize the relocation of tidal waters or the conversion of tidal waters, including tidal wetlands, to other aquatic uses, such as the conversion of tidal wetlands into open water impoundments.

Compensatory mitigation is not required for activities authorized by this NWP since these activities must result in net increases in aquatic resource functions and services.

Reversion. For enhancement, restoration, and establishment activities conducted: (1) In accordance with the terms and conditions of a binding stream or wetland enhancement or restoration agreement, or a wetland establishment agreement, between the landowner and the U.S. Fish and Wildlife Service (FWS), the Natural Resources Conservation Service (NRCS), the Farm Service Agency (FSA), the National Marine Fisheries Service (NMFS), the National Ocean Service (NOS), U.S. Forest Service (USFS), or their designated state cooperating agencies; (2) as voluntary wetland restoration, enhancement, and establishment actions documented by the NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards; or (3) on reclaimed surface coal mine lands, in accordance with a Surface Mining Control and Reclamation Act permit issued by the Office of Surface Mining Reclamation and Enforcement (OSMRE) or the applicable state agency, this NWP also authorizes any future discharge of dredged or fill material associated with the reversion of the area to its documented prior condition and use (i.e., prior to the restoration, enhancement, or establishment activities). The reversion must occur within five years after expiration of a limited term wetland restoration or establishment agreement or permit, and is authorized in these circumstances even if the discharge of dredged or fill material occurs after this NWP expires. The five-year reversion limit does not apply to agreements without time limits reached between the landowner and the FWS, NRCS, FSA, NMFS, NOS, USFS, or an appropriate state cooperating agency. This NWP also authorizes discharges of dredged or fill material in waters of the United States for the reversion of wetlands that were restored, enhanced, or established on prior-converted cropland or on uplands, in accordance with a binding agreement between the landowner and NRCS, FSA, FWS, or their designated state cooperating agencies (even though the restoration, enhancement, or establishment activity did not require a section 404 permit). The prior condition will be documented in the original agreement or permit, and the determination of return to prior conditions will be made by the Federal agency or appropriate state agency executing the agreement or permit. Before conducting any reversion activity, the permittee or the appropriate Federal or state agency must notify the district engineer and include the documentation of the prior condition. Once an area has reverted to its prior physical condition, it will be subject to whatever the Corps Regulatory requirements are applicable to that type of land at the time. The requirement that the activity results in a net increase in aquatic resource functions and services does not apply to reversion activities meeting the above conditions. Except for the activities described above, this NWP does not authorize any future discharge of dredged or fill material associated with the reversion of the area to its prior condition. In such cases a separate permit would be required for any reversion.

Reporting. For those activities that do not require pre-construction notification, the permittee must submit to the district engineer a copy of: (1) the binding stream enhancement or restoration agreement or wetland enhancement, restoration, or establishment agreement, or a project description, including project plans and location map; (2) the NRCS or USDA Technical Service Provider documentation for the voluntary stream enhancement or restoration action or wetland restoration, enhancement, or establishment action; or (3) the SMCRA permit issued by OSMRE or the applicable state agency. The report must also include information on baseline ecological conditions on the project site, such as a delineation of wetlands, streams, and/or other aquatic habitats. These documents must be submitted to the district engineer at least 30 days prior to commencing activities in waters of the United States authorized by this NWP.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing any activity (see general condition 32), except for the following activities:

(1) Activities conducted on non-Federal public lands and private lands, in accordance with the terms and conditions of a binding stream enhancement or restoration agreement or wetland enhancement, restoration, or establishment agreement between the landowner and the FWS, NRCS, FSA, NMFS, NOS, USFS or their designated state cooperating agencies;

(2) Activities conducted in accordance with the terms and conditions of a binding coral restoration or relocation agreement between the project proponent and the NMFS or any of its designated state cooperating agencies;

(3) Voluntary stream or wetland restoration or enhancement action, or wetland establishment action, documented by the NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards; or

(4) The reclamation of surface coal mine lands, in accordance with an SMCRA permit issued by the OSMRE or the applicable state agency.

However, the permittee must submit a copy of the appropriate documentation to the district engineer to fulfill the reporting requirement. (Authorities: Sections 10 and 404)

Note: This NWP can be used to authorize compensatory mitigation projects, including mitigation banks and in-lieu fee projects. However, this NWP does not authorize the reversion of an area used for a compensatory mitigation project to its prior condition, since compensatory mitigation is generally intended to be permanent.

B. CORPS NATIONAL GENERAL CONDITIONS FOR ALL 2021 NWPs - FINAL 41

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) 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 or her 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 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.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be

used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Structures and Fills. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: http://www.rivers.gov/.

17. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of "effects of the action" for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding "activities that are reasonably certain to occur" and "consequences caused by the proposed action."

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant

of the Corps' determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at http://www.fws.gov/ or http://www.fws.gov/ipac and http://www.nmfs.noaa.gov/pr/species/esa/ respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will

verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal,

and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the

required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already

meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. (a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:
(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.
(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

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

_____
(Transferee)

_____
(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification. (a) *Timing*. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification*: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) (i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or

other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification*: The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination*: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

C. SEATTLE DISTRICT REGIONAL GENERAL CONDITIONS: The following conditions apply to the 2021 NWPs - Final 41 NWPs for the Seattle District in Washington State, as applicable.

RGC 1, Project Drawings
Drawings must be submitted with a pre-construction notification (PCN). Drawings must provide a clear understanding of the proposed project, and how waters of the United States will be affected. Drawings

must be originals and not reduced copies of large-scale plans. Engineering drawings are not required. Existing and proposed site conditions (manmade and landscape features) must be drawn to scale.

RGC 2, Aquatic Resources Requiring Special Protection
A PCN is required for activities resulting in a loss of waters of the United States in wetlands in dunal systems along the Washington coast, mature forested wetlands, bogs and peatlands, aspen-dominated wetlands, alkali wetlands, vernal pools, camas prairie wetlands, estuarine wetlands, and wetlands in coastal lagoons.

RGC 3, New Bank Stabilization in Tidal Waters of Puget Sound
Activities involving new bank stabilization in tidal waters in Water Resource Inventory Areas (WRIAs) 8, 9, 10, 11, and 12 (within the areas identified on Figures 1a through 1e) cannot be authorized by NWP.

RGC 4, Commencement Bay
No permanent losses of wetlands or mudflats within the Commencement Bay Study Area may be authorized by any NWP (see Figure 2).

RGC 5, Bank Stabilization
All projects including new or maintenance bank stabilization activities in waters of the United States where salmonid species are present or could be present, requires PCN to the U.S. Army Corps of Engineers (Corps) (see NWP general condition 32).

For new bank stabilization projects only, the following must be submitted to the Corps:

a. The cause of the erosion and the distance of any existing structures from the area(s) being stabilized.

b. The type and length of existing bank stabilization within 300 feet of the proposed project.

c. A description of current conditions and expected post-project conditions in the waterbody.

d. A statement describing how the project incorporates elements avoiding and minimizing adverse environmental effects to the aquatic environment and nearshore riparian area, including vegetation impacts in the waterbody.

In addition to a. through d., the results from any relevant geotechnical investigations can be submitted with the PCN if it describes current or expected conditions in the waterbody.

RGC 6, Crossings of Waters of the United States
Any project including installing, replacing, or modifying crossings of waters of the United States, such as culverts or bridges, requires submittal of a PCN to the U.S. Army Corps of Engineers (see NWP general condition 32).

If a culvert is proposed to cross waters of the U.S. where salmonid species are present or could be present, the project must apply the stream simulation design method from the Washington Department of Fish and Wildlife located in the Water Crossing Design Guidelines (2013), or a design method which provides passage at all life stages at all flows where the salmonid species would naturally seek passage. If the stream simulation design method is not applied for a culvert where salmonid species are present or could be present, the applicant must provide a rationale in the PCN sufficient to establish one of the following:

a. The existence of extraordinary site conditions.

b. How the proposed design will provide equivalent or better fish passage and fisheries habitat benefits than the stream simulation design method.

Culverts installed under emergency authorization that do not meet the above design criteria will be required to meet the above design criteria to receive an after-the-fact nationwide permit verification.

RGC 7, Stream Loss
A PCN is required for all activities that result in the loss of any linear feet of streams.

RGC 8, Construction Boundaries
Permittees must clearly mark all construction area boundaries within waters of the United States before beginning work on projects that involve grading or placement of fill. Boundary markers and/or construction fencing must be maintained and clearly visible for the duration of construction. Permittees should avoid and minimize removal of native vegetation (including submerged aquatic vegetation) to the maximum extent possible.

RGC 9, ESA Reporting to NMFS
For any nationwide permit that may affect threatened or endangered species:

Incidents where any individuals of fish species, marine mammals and/or sea turtles listed by National Oceanic and Atmospheric Administration Fisheries, National Marine Fisheries Service (NMFS) under the Endangered Species Act appear to be injured or killed as a result of discharges of dredged or fill material into waters of the U.S. or structures or work in navigable waters of the U.S. authorized by this Nationwide Permit verification shall be reported to NMFS, Office of Protected Resources at (301) 713-1401 and the Regulatory Office of the Seattle District of the U.S. Army Corps of Engineers at (206) 764-3495. The finder should leave the animal alone, make note of any circumstances likely causing the death or injury, note the location and number of individuals involved and, if possible, take photographs. Adult animals should not be disturbed unless circumstances arise where they are obviously injured or killed by discharge exposure or some unnatural cause. The finder may be asked to carry out instructions provided by the NMFS to collect specimens or take other measures to ensure that evidence intrinsic to the specimen is preserved.

RGC 10, Limitations on New Bank Stabilization Within the Salish Sea
The length of new bank stabilization within waters of the U.S., including new bank stabilization associated with maintenance activities that would expand previously authorized armoring length, cannot exceed 50 linear feet within the Salish Sea under any NWP.

RGC 11, Effects to Forage Fish Spawning Beaches, Drift Cells, and Feeder Bluffs)
No NWP activity can:

a. cause more than minimal adverse effects to forage fish spawning beaches or drift cells; or

b. prevent the functioning of feeder bluffs, including more than minimal adverse effects to sediment recruitment, transport, or deposition.

This regional general condition applies to all NWP activities within the Salish Sea. Information regarding the location of forage fish spawning beaches is available on the Washington Department of Fish and Wildlife's (WDFW) Forage Fish Spawning Map at https://wdfw.maps.arcgis.com/home/webmap/viewer.html?webmap=19b8f74e2d41470cbd80b1af8dedd6b3. Information regarding the location and movement of drift cells, shoreline stability, and coastal landforms, to include feeder bluffs, is available at the Washington State Department of Ecology's Coastal Atlas Map website: https://apps.ecology.wa.gov/coastalatlasmap. These maps are resources that can be used to help identify the location of forage fish spawning beaches, drift cells, and feeder bluffs; they are not a substitute for site-specific data. Information about forage fish, their spawning habitats, and spawning behavior are available through the WDFW. Additional information about the importance of these species as prey species for Endangered Species Act listed salmonids can be found on the National Marine Fisheries Service website.

RGC 12, Bank Stabilization Design Considerations
Bank stabilization activities, including maintenance activities, shall utilize living shorelines, vegetative stabilization, bioengineering, including but not limited to large woody material with intact root wads, and other soft bank stabilization approaches to the maximum practicable extent before considering hard bank stabilization methods such as bulkheads and rock revetments.

RGC 13, PCNs for Activities in Areas Where There May Be Treaty-Reserved Tribal Rights
To ensure compliance with General Condition 17, Tribal Rights, a pre-construction notification (PCN) is required for all NWPs associated with structures or fills in areas where Tribes have retained via treaty the right to fish in their usual and accustomed grounds and stations.

RGC 14, Maintenance of Existing Bank Stabilization Structures and Fills
(Applicable to NWP 3, Maintenance Activities) Maintenance of existing bank stabilization structures that expand the existing structure's footprint or dimensions either waterward, vertically, or linearly along the shoreline within the geographic jurisdiction of the U.S. Army Corps of Engineers are not eligible for NWP 3.

D. SEATTLE DISTRICT REGIONAL SPECIFIC CONDITIONS FOR THIS NWP:

NWP 27 Specific Regional Conditions:
1. A pre-construction notification (PCN) must be submitted to the district engineer (see NWP general condition 32) for any proposed project located in a Department of the Army permit compensatory mitigation site, Comprehensive Environmental Response, Compensation and Liability Act (Superfund) site, Resource Conservation and Recovery Act hazardous waste clean-up site, Washington State Department of Ecology compensatory mitigation site, or Washington State Model Toxics Control Act clean-up site.

2. For projects subject to PCN, if there is a loss of waters of the U.S. the project proponent must explain in the PCN why the loss is necessary. The project proponent must also demonstrate how despite the loss of waters the overall project would result in a net increase in aquatic/ecological functions .

3. The PCN must contain a description of pre-project site conditions including presence of wetlands (including photographs) and aquatic/ecological functions the site provides within the watershed.

4. For projects that would result in a loss of waters of the U.S., the project proponent must include maintenance and monitoring plans with the PCN.

5. Restoration projects involving shellfish seeding must use shellfish native to the watershed.

E. 401 WATER QUALITY CERTIFICATION: Depending on the geographic region of the work authorized by this verification, the appropriate 401 certifying authority has made the following determinations:

Washington Department of Ecology (Ecology) (Projects in all areas except as described for the other certifying agencies listed below): General and Specific WQC Conditions

A. State General Conditions for all Nationwide Permits

In addition to all of the U.S. Army Corps of Engineers' (Corps) national and Seattle District'sregional permit conditions, the following state general Water Quality Certification (WQC) conditions **apply to all NWPs whether granted or granted with conditions** in Washington where Ecology is the certifying authority.

Due to the lack of site specific information on the discharge types, quantities, and specific locations, as well as the condition of receiving waters and the quantity of waters (including wetlands) that may be lost, Ecology may need to review the project if one of the following stategeneral conditions is triggered.

This case-by-case review may be required, and additional information regarding the project and associated discharges may be needed, to verify that the proposed project would comply with state water quality requirements and if an individual WQC is required or if the project meets this programmatic WQC.

1. **In-water construction activities**. Ecology WQC review is required for projects or activities authorized under NWPs where the project proponent has indicated on the Joint Aquatic Resource Permit Application (JARPA) question 9e that the project or activity will not meet State water quality standards, or has provided information indicating that the project or activity will cause, or may be likely to cause or contributeto an exceedance of a State water quality standard (Chapter 173-201A WAC) or sediment management standard (Chapter 173-204 WAC).

Note: In-water activities include any activity within a jurisdictional wetland and/orwaters.

2. **Projects or Activities Discharging to Impaired Waters**. Ecology WQC review is required for projects or activities that will occur in a 303(d) listed segment of a waterbody or upstream of a listed segment and may result in further exceedances of the specific listedparameter to determine if the project meets this programmatic WQC or will require individual WQC.

To determine if your project or activity is in a 303(d) listed segment of a waterbody, visitEcology's Water Quality Assessment webpage for maps and search tools.

3. **Aquatic resources requiring special protection**. Certain aquatic resources are unique and difficult-to-replace components of the aquatic environment in Washington. Activities that would affect these resources must be avoided to the greatest extent practicable. Compensating for adverse impacts to high value aquatic resources is typically difficult, prohibitively expensive, and may not be possible in some landscapesettings.

Ecology WQC review is required for projects or activities in areas identified below to determine if the project meets this programmatic WQC or will require individual WQC.

a. Activities in or affecting the following aquatic resources:
    i. Wetlands with special characteristics (as defined in the Washington State Wetland Rating Systems for western and eastern Washington, Ecology Publications #14-06-029 and #14-06-030):
        - Estuarine wetlands.
        - Wetlands of High Conservation Value.
        - Bogs.
        - Old-growth forested wetlands and mature forested wetlands.
        - Wetlands in coastal lagoons.
        - Wetlands in dunal systems along the Washington coast.
        - Vernal pools.
        - Alkali wetlands.

    ii. Fens, aspen-dominated wetlands, camas prairie wetlands.

    iii. Category I wetlands.

    iv. Category II wetlands with a habitat score ≥ 8 points.

b. Activities in or resulting in a loss of eelgrass (Zostera marina) beds.

This state general condition does not apply to the following NWPs:

NWP 20 – Response Operations for Oil and Hazardous Substances
NWP 32 – Completed Enforcement Actions
NWP 48 – Commercial Shellfish Mariculture Activities

4. **Loss of More than 300 Linear Feet of Streambed.** For any project that results in the lossof more than 300 linear feet of streambed Ecology WQC review is required to determineif the project meets this programmatic WQC or will require individual WQC.

5. **Temporary Fills.** For any project or activity with temporary fill in wetlands or other waters for more than six months Ecology WQC review is required to determine if theproject meets this programmatic WQC or will require individual WQC.

6. **Mitigation.** Project proponents are required to show that they have followed the mitigation sequence and have first avoided and minimized impacts to aquatic resourceswherever practicable. For projects requiring Ecology WQC review or an individual WQC with unavoidable impacts to aquatics resources, a mitigation plan must be provided.

    a. Wetland mitigation plans submitted for Ecology review and approval shall be based on the most current guidance provided in Wetland Mitigation in Washington State, Parts 1 and 2 (available on Ecology's website) and shall, at aminimum, include the following:

        i. A description of the measures taken to avoid and minimize impacts to wetlands and other waters of the U.S.

        ii. The nature of the proposed impacts (i.e., acreage of wetlands and functions lost or degraded).

        iii. The rationale for the mitigation site that was selected.

        iv. The goals and objectives of the compensatory mitigation project.

        v. How the mitigation project will be accomplished, including construction sequencing, best management practices to protect water quality, proposed performance standards for measuring success and the proposed buffer widths.

        vi. How it will be maintained and monitored to assess progress toward goals and objectives. Monitoring will generally be required for a minimum of five years. For forested and scrub-shrub wetlands, 10 years of monitoring will often be necessary.

        vii. How the compensatory mitigation site will be legally protected for the long term.

Refer to Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Ecology Publication #06-06-011b) and Selecting Wetland Mitigation Sites Using a Watershed Approach (Ecology Publications #09-06-032 (Western Washington) and #10-06-007 (Eastern Washington)) for guidance on selecting suitable mitigation sites and developing mitigation plans.

Ecology encourages the use of alternative mitigation approaches, includingcredit/debit methodology, advance mitigation, and other programmatic approaches such as mitigation banks and in-lieu fee programs. If you are interested in proposing use of an alternative mitigation approach, consult with the appropriate Ecology regional staff person. Information on alternative mitigation approaches is available on Ecology's website.

b. Mitigation for other aquatic resource impacts will be determined on a case-by-case basis.

7. **Stormwater Pollution Prevention**. All projects involving land disturbance or impervious surfaces must implement stormwater pollution prevention or control measures to avoiddischarge of pollutants in stormwater runoff to waters.

    a. For land disturbances during construction, the applicant must obtain and implement permits (e.g., Construction Stormwater General Permit) where required and follow Ecology's current stormwater manual.

    b. Following construction, prevention or treatment of on-going stormwater runofffrom impervious surfaces shall be provided.

Ecology's Stormwater Management and Design Manuals and stormwater permitinformation are available on Ecology's website.

8. **Application**. For projects or activities that will require Ecology WQC review, or anindividual WQC, project proponents must provide Ecology with a JARPA or the equivalent information, along with the documentation provided to the Corps, as described in national general condition 32, Pre-Construction Notification (PCN), including, where applicable:

    a. A description of the project, including site plans, project purpose, direct and indirect adverse environmental effects the project discharge(s) would cause, best management practices (BMPs), and proposed means to monitor the discharge(s).

    b. List of all federal, state or local agency authorizations required to be used for anypart of the proposed project or any related activity.

    c. Drawings indicating the OHWM, delineation of special aquatic sites, and other waters of the state. Wetland delineations must be prepared in accordance with thecurrent method required by the Corps and shall include Ecology's Wetland Rating form. Wetland Rating forms are subject to review and verification by Ecology staff.

    Guidance for determining the OHWM is available on Ecology's website.

    d. A statement describing how the mitigation requirement will be satisfied. A conceptual or detailed mitigation or restoration plan may be submitted. See stategeneral condition 5.

    e. Other applicable requirements of Corps NWP general condition 32, Corps regional conditions, or notification conditions of the applicable NWP.

Ecology **grants with conditions Water Quality Certification** (WQC) for this NWP provided that Ecology individual WQC review is not required per the state general conditions (see above) and the following conditions:

Ecology Section 401 Water Quality Certification – Granted with conditions.

1. Ecology WQC review is required if the project or activity is in a known contaminatedor cleanup site to determine if an individual WQC is required or the project meets the programmatic WQC for this NWP.

2. Ecology individual WQC is required for projects or activities authorized under thisNWP

if:

a. The project or activity directly impacts ½ acre or more of tidal waters; or
b. The project or activity affects ½ acre or more of wetlands; or
c. The project or activity is a mitigation bank or an advance mitigation site.

Environmental Protection Agency (EPA) (on Tribal Lands where Tribes Do Not Have Treatment in a Similar Manner as a State and Lands with Exclusive Federal Jurisdiction in Washington):

On behalf of the 28 tribes that do not have treatment in a similar manner as a state and for exclusive federal jurisdiction lands located within the state of Washington, EPA Region 10 has determined that CWA Section 401 WQC for the following proposed NWPs is granted with conditions. EPA Region 10 has determined that any discharge authorized under the following proposed NWPs will comply with water quality requirements, as defined at 40 C.F.R. § 121.1(n), subject to the following conditions pursuant to CWA Section 401(d).

General Conditions:

EPA General Condition 1 – Aquatic Resources of Special Concern

Activities resulting in a point source discharge in the following types of aquatic resources of special concern shall request an individual project-specific CWA Section 401 WQC: mature forested wetlands; bogs, fens and other peatlands; vernal pools; aspen-dominated wetlands; alkali wetlands; camas prairie wetlands; wetlands in dunal systems along the Oregon or Washington Coast; riffle-pool complexes of streams; marine or estuarine mud-flats; salt marshes; marine waters with native eelgrass or kelp beds; or marine nearshore forage fish habitat. To identify whether a project would occur in any of these aquatic resources of special concern, project proponents shall use existing and available information to identify the location and type of resources, including using the U.S. Fish and Wildlife Service's online digital National Wetland Inventory maps, identifying project location on topographical maps, and/or providing on-site determinations as required by the Corps. When a project requires a Pre-Construction Notification (PCN) to the Corps, project proponents shall work with the Corps to identify whether the project is in any of these specific aquatic resources of special concern.

EPA General Condition 2 – Soil Erosion and Sediment Controls

Turbidity shall not exceed background turbidity by more than 50 Nephelometric Turbidity Units (NTU) above background instantaneously or more than 25 NTU above background for more than ten consecutive days.[8] Projects or activities that are expected to exceed these levels require an individual project-specific CWA Section 401 WQC.

The turbidity standard shall be met at the following distances from the discharge:

Wetted Stream Width at Discharge Point	**Approximate Downstream Point to Sample to Determine Compliance**
Up to 30 feet	50 feet
>30 to 100 feet	100 feet
>100 feet to 200 feet	200 feet
>200 feet	300 feet
Lake, Pond, Reservoir	Lesser of 100 feet or maximum surface distance

For Marine Water	**Point of Compliance for Temporary Area of Mixing**

Estuaries or Marine Waters	Radius of 150 feet from the activity causing the turbidity exceedance

Measures to prevent and/or reduce turbidity shall be implemented and monitored prior to, during, and after construction. Turbidity monitoring shall be done at the point of compliance within 24 hours of a precipitation event of 0.25 inches or greater. During monitoring and maintenance, if turbidity limits are exceeded or if measures are identified as ineffective, then additional measures shall be taken to come into compliance and EPA shall be notified within 48 hours of the exceedance or measure failure.

EPA General Condition 3 - Compliance with Stormwater Pollution Prevention and the National Pollutant Discharge Elimination System Permit Provisions

For land disturbances during construction that 1) disturb one or more acres of land, or 2) will disturb less than one acre of land but are part of a common plan of development or sale that will ultimately disturb one or more acres of land, the permittee shall obtain and implement Construction Stormwater General Permit requirements,[9] including:

1. The permittee shall develop a Stormwater Pollution Prevention Plan (SWPPP)[10] and submit it to EPA Region 10 and appropriate Corps District; and
2. Following construction, prevention or treatment of ongoing stormwater runoff from impervious surfaces that includes soil infiltration shall be implemented.

EPA General Condition 4 – Projects or Activities Discharging to Impaired Waters

Projects or activities are not authorized under the NWPs if the project will involve point source discharges into an active channel (e.g., flowing or open waters) of a water of the U.S. listed as impaired under CWA Section 303(d) and/or if the waterbody has an approved Total Maximum Daily Load (TMDL) and the discharge may result in further exceedance of a specific parameter (e.g., total suspended solids, dissolved oxygen, temperature) for which the waterbody is listed or has an approved TMDL. The current lists of impaired waters of the U.S. under CWA Section 303(d) and waters of the U.S. for which a TMDL has been approved are available on EPA Region 10's web site at: https://www.epa.gov/tmdl/impaired-waters-and-tmdls-region-10.

EPA General Condition 5 – Notice to EPA

All project proponents shall provide notice to EPA Region 10 prior to commencing construction activities authorized by a NWP. This will provide EPA Region 10 with the opportunity to inspect the activity for the purposes of determining whether any discharge from the proposed project will violate this CWA Section 401 WQC. Where the Corps requires a PCN for an applicable NWP, the project proponent shall also provide the PCN to EPA Region 10. EPA Region 10 will provide written notification to the project proponent if the proposed project will violate the water quality certification of the NWP.

EPA General Condition 6 – Unsuitable Materials

The project proponent shall not use wood products treated with leachable chemical components (e.g., copper, arsenic, zinc, creosote, chromium, chloride, fluoride, pentachlorophenol), which result in a discharge to waters of the U.S., unless the wood products meet the following criteria:

1. Wood preservatives and their application shall be in compliance with EPA label requirements and criteria of approved EPA Registration Documents under the Federal Insecticide, Fungicide, and Rodenticide Act;
2. Use of chemically treated wood products shall follow the Western Wood Preservatives Institute (WWPI) guidelines and BMPs to minimize the preservative migrating from treated wood into the aquatic environment;
3. For new or replacement wood structures, the wood shall be sealed with non-toxic products such as water-based silica or soy-based water repellants or sealers to prevent or limit leaching. Acceptable alternatives to chemically treated wood include untreated

wood, steel (painted, unpainted or coated with epoxy petroleum compound or plastic), concrete and plastic lumber; and

4. All removal of chemically treated wood products (including pilings) shall follow the most recent "EPA Region 10 Best Management Practices for Piling Removal and Placement in Washington State."

EPA NWP Specific Conditions:

NWP 27 is conditionally certified, subject to the general conditions listed above, except that an individual project-specific WQC is required when the project:

1. Involves dam removal; or
2. Involves greater than 1 acre of impacts to waters of the U.S.; or
3. Would impact greater than 500 linear feet of waters of the U.S.; or
4. Involves greater than 1/2 acre of impacts to tidal wetlands or waters.

Specific Tribes with Certifying Authority (Projects in Specific Tribal Areas):
WQC was issued by the Swinomish Indian Tribal Community. WQC was waived by the Confederated Tribes of the Chehalis Reservation and Colville Indian Reservation, Kalispel Tribe of Indians, Port Gamble S'Klallam Tribe, Quinault Indian Nation, and the Spokane Tribe of Indians. WQC was denied by the Lummi Nation, Makah Tribe, Puyallup Tribe of Indians, and the Tulalip Tribes; therefore, individual WQC is required from these tribes.

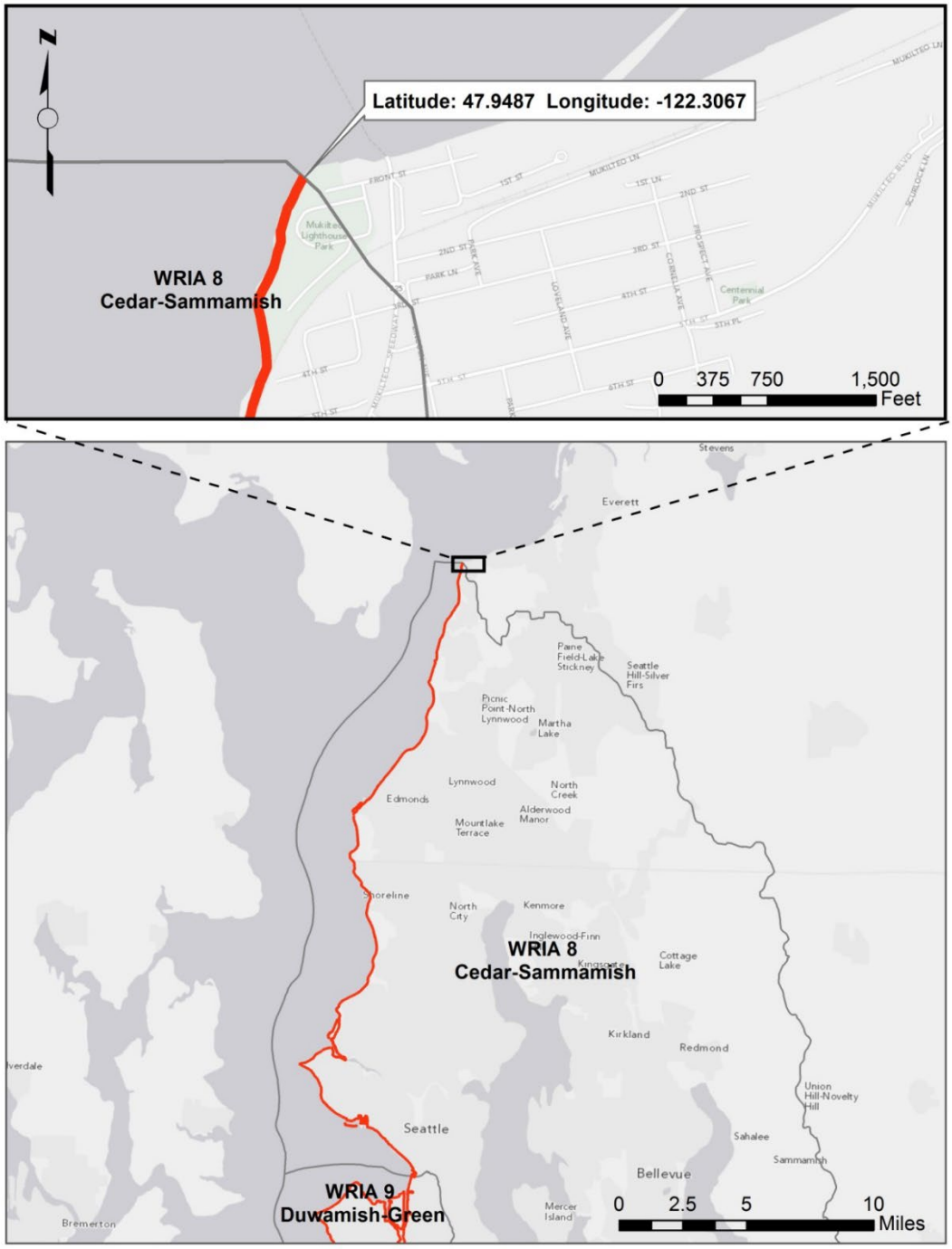
F. COASTAL ZONE MANAGEMENT ACT (CZMA) CONSISTENCY RESPONSE FOR THIS NWP:

Ecology's determination is that they concur with conditions that this NWP is consistent with CZMA.

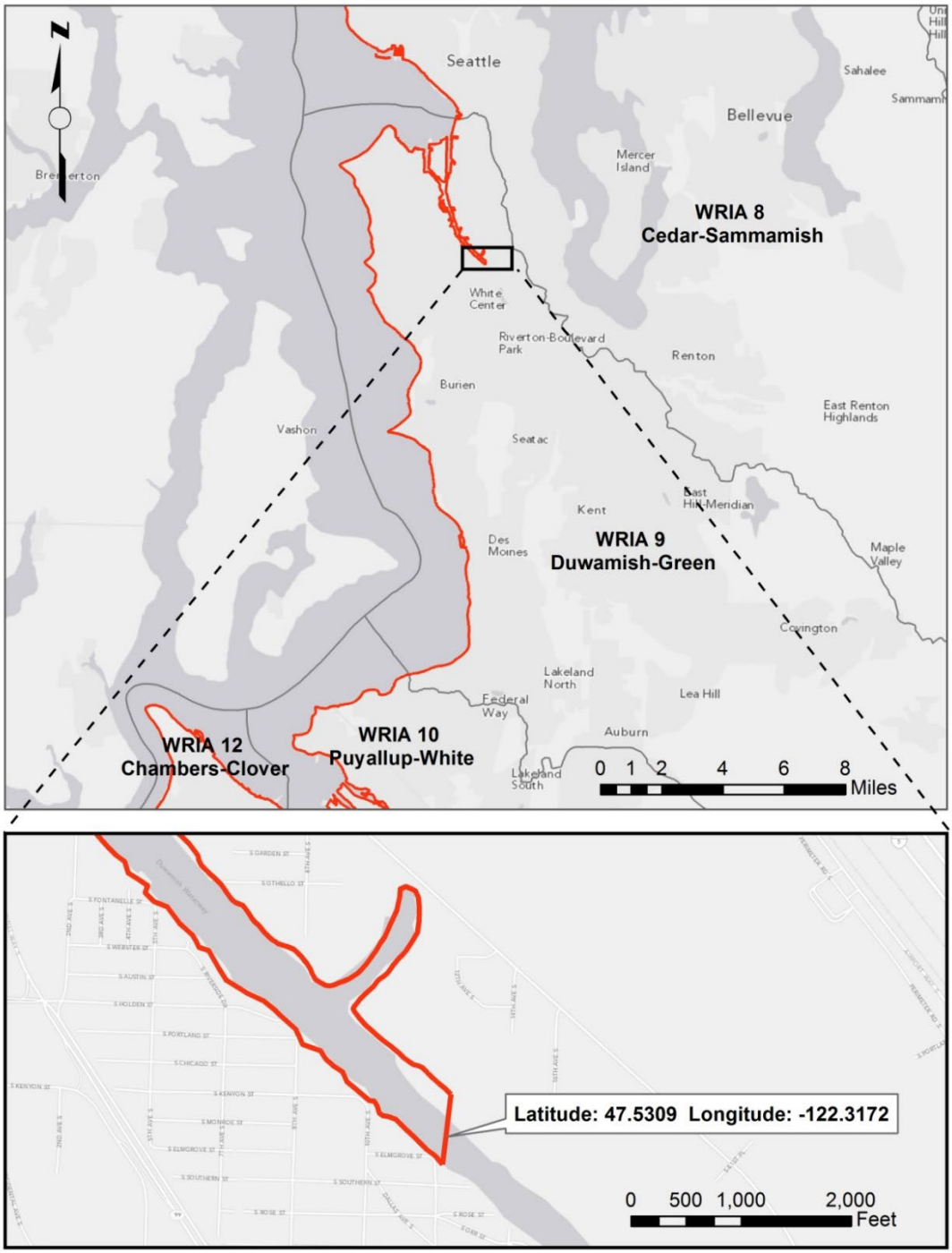
CZM Federal Consistency Response – Concur with Conditions.

1. A CZM Federal Consistency Decision is required for projects or activities under this NWP if a State 401 Water Quality Certification is required.

Seattle District Regional General Conditions - Figures
Figure 1: RGC 3 - WRIAs 8, 9, 10, 11, and 12
a. WRIA 8



b. WRIA 9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Sahalee
Bellevue
Mercer Island
Bremerton
WRIA 8
Cedar-Sammamish
White Center
Riverton-Boulevard Park
Renton
Burien
East Renton Highlands
Vashon
Seatac
East Hill-Meridian
Kent
Des Moines
WRIA 9
Duwamish-Green
Maple Valley
Covington
Lakeland North
Lea Hill
Federal Way
Auburn
WRIA 12
Chambers-Clover
WRIA 10
Puyallup-White
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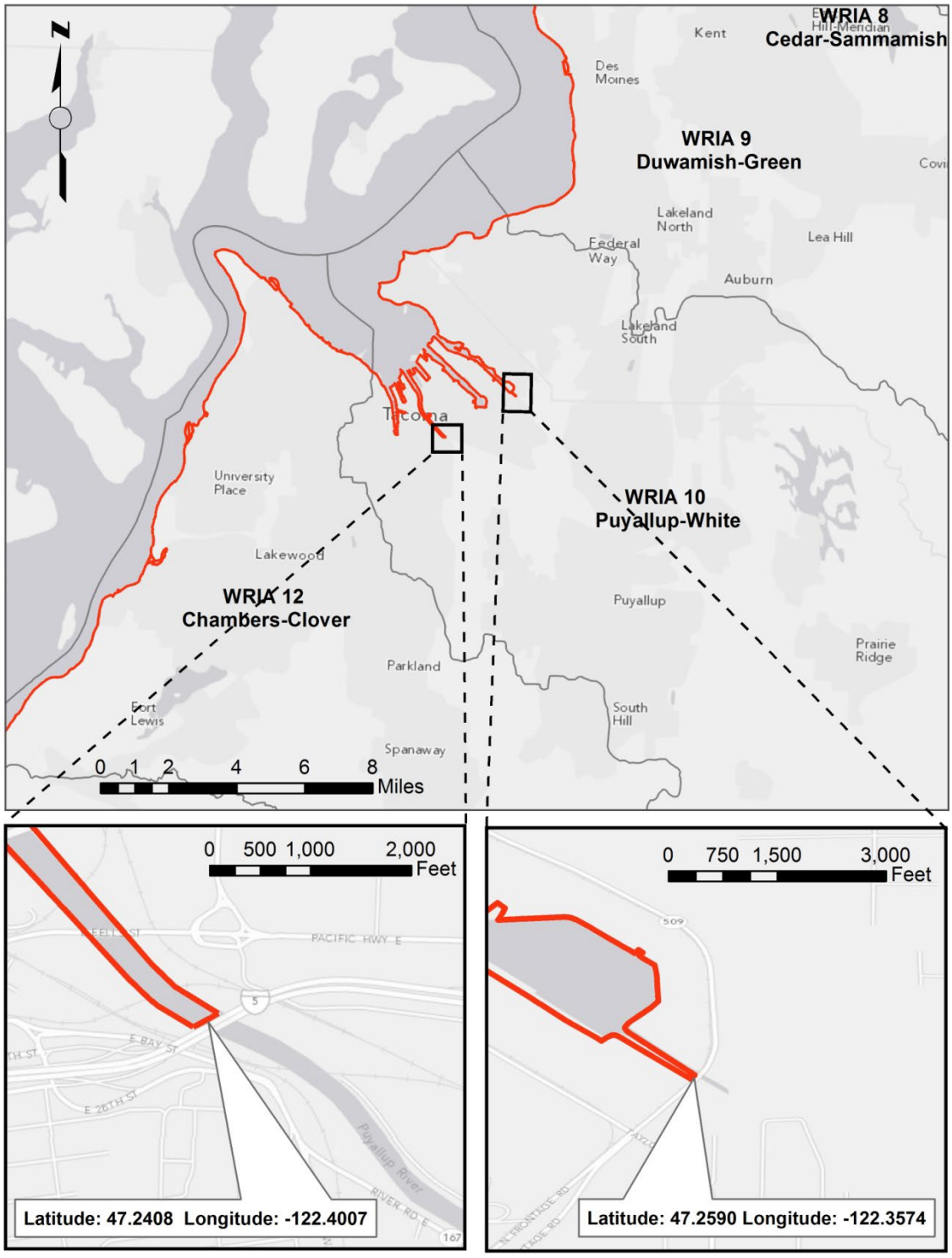
Feet

c. WRIA 10


N
WRIA 8
Cedar-Sammamish
Kent
Des Moines
WRIA 9
Duwamish-Green
Lakeland North
Federal Way
Lea Hill
Auburn
Lakeland South
Tacoma
University Place
WRIA 10
Puyallup-White
Lakewood
WRIA 12
Chambers-Clover
Puyallup
Prairie Ridge
Parkland
Fort Lewis
South Hill
Spanaway
0 1 2 4 6 8 Miles
0 500 1,000 2,000 Feet
PACIFIC HWY E
E BAY ST
E 26TH ST
Puyallup River
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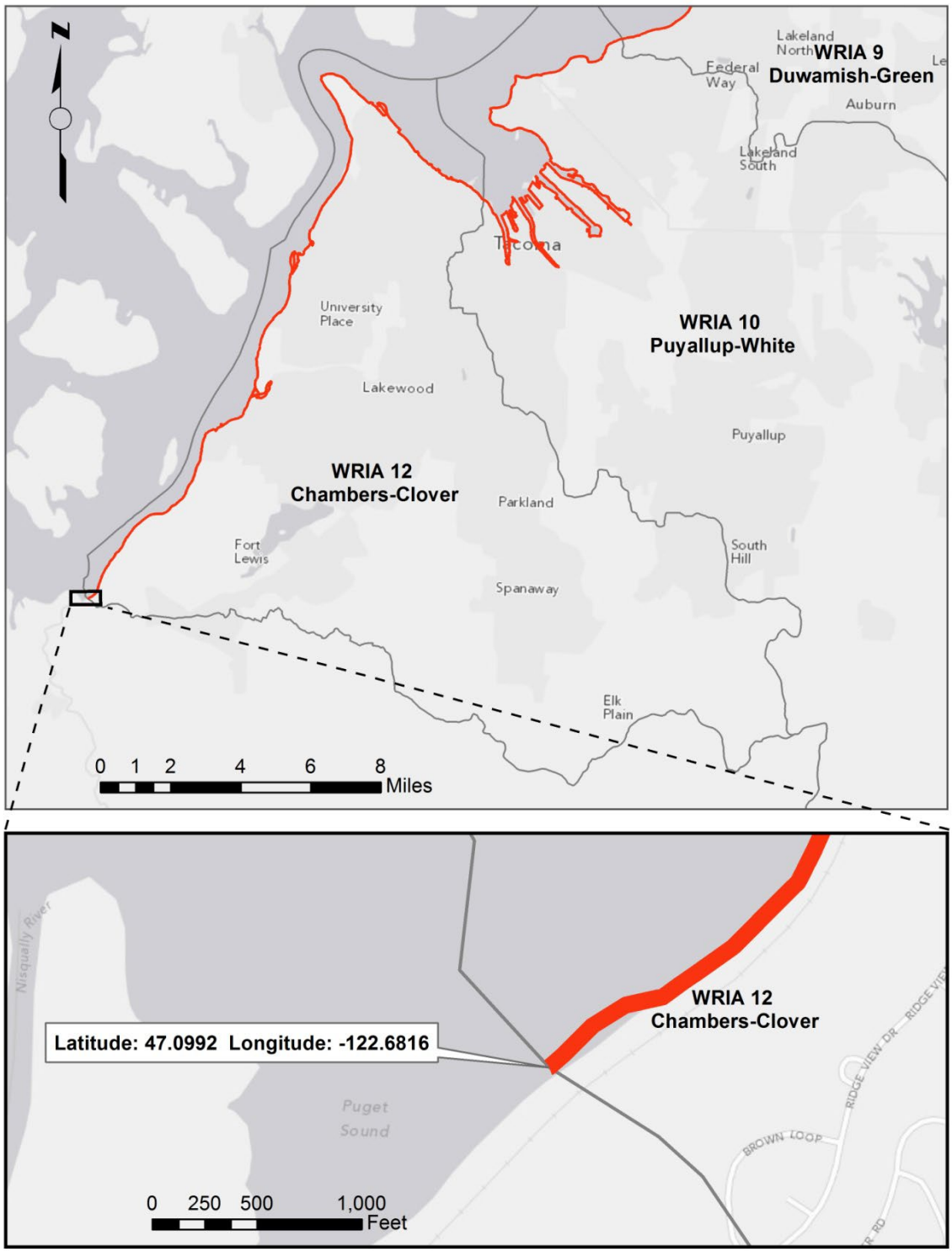
d. WRIA 12


N
Lakeland North
WRIA 9
Duwamish-Green
Federal Way
Auburn
Lakeland South
Tacoma
University Place
WRIA 10
Puyallup-White
Lakewood
Puyallup
WRIA 12
Chambers-Clover
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Fort Lewis
South Hill
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Elk Plain
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Miles
Nisqually River
WRIA 12
Chambers-Clover
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Puget Sound
BROWN LOOP
RIDGE VIEW DR
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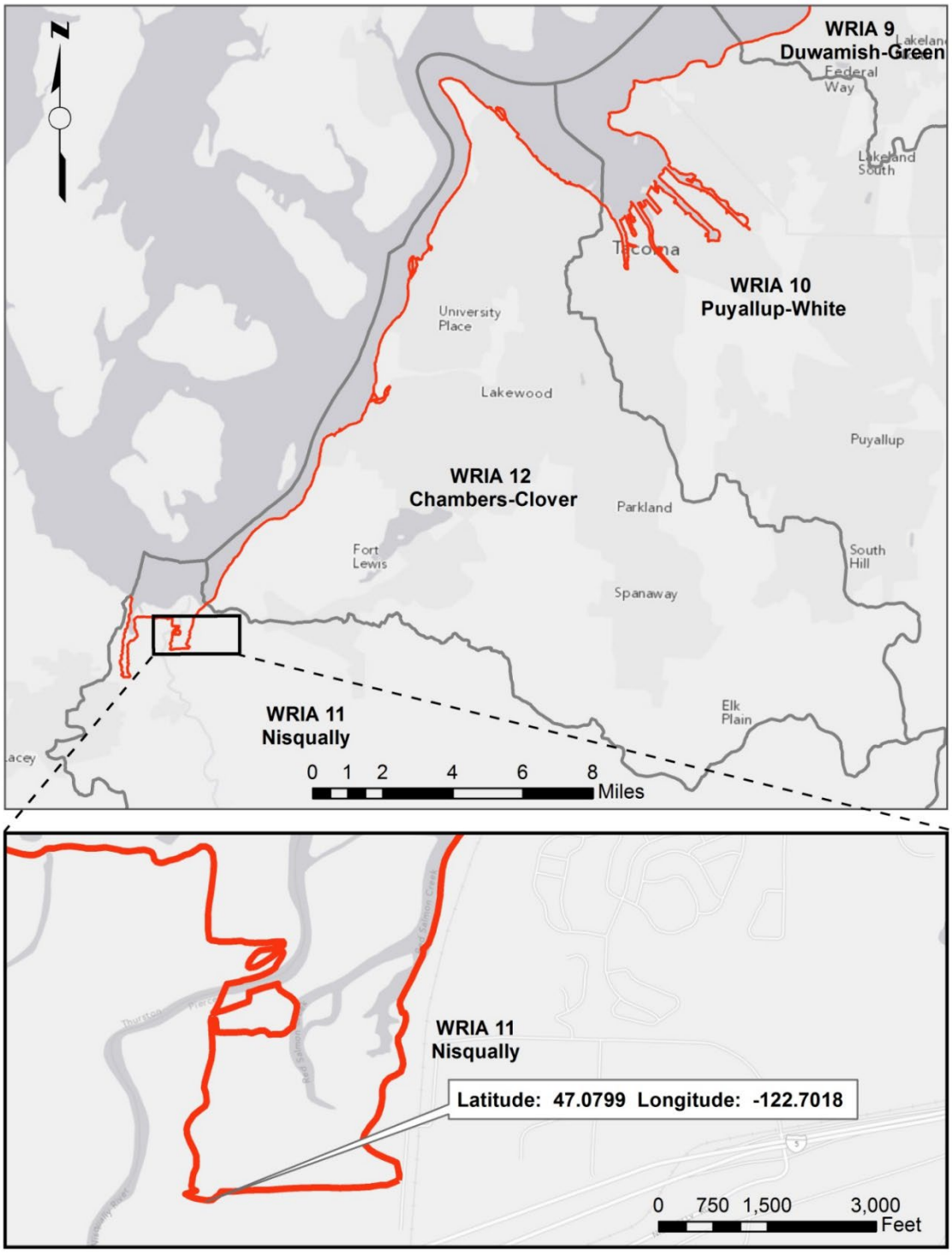
Feet

e. WRIA 11


WRIA 9
Duwamish-Green
Federal Way
Lakeland South
Tacoma
WRIA 10
Puyallup-White
University Place
Lakewood
Puyallup
WRIA 12
Chambers-Clover
Parkland
Fort Lewis
South Hill
Spanaway
Elk Plain
WRIA 11
Nisqually
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Miles
WRIA 11
Nisqually
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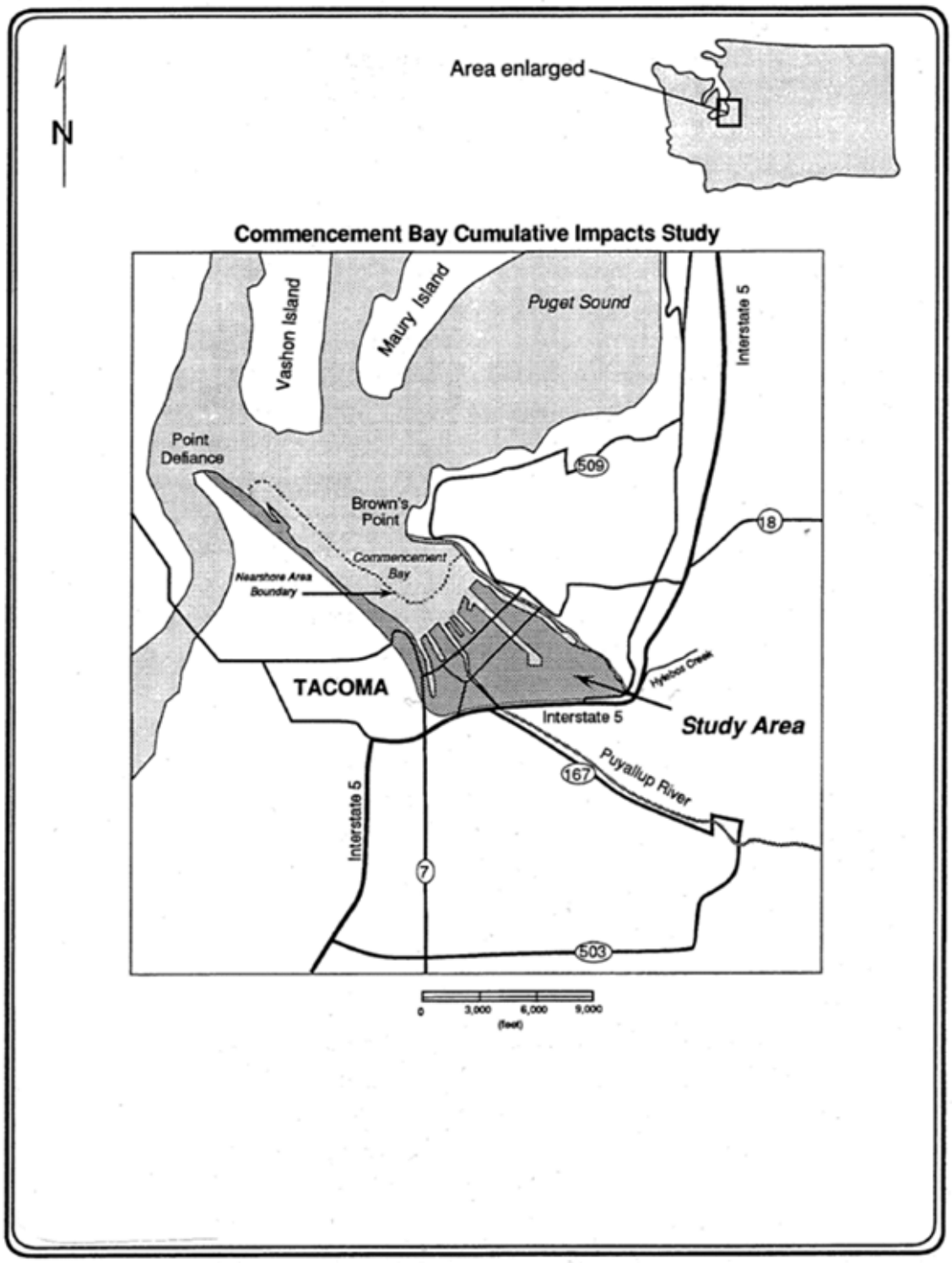
Feet

Figure 2. RGC 4 - Commencement Bay Study Area



SALISH SEA NEARSHORE PROGRAMMATIC (SSNP) CONSULTATIONS

Version: August 1, 2023

<table>
<tr><th colspan="4">Implementation Steps</th></tr>
<tr><td colspan="4">Corps Prepares SSNP Notification/Verification</td></tr>
<tr><td colspan="2">Review the applicable List of Requirements for Project Design Criteria (PDC), General Construction Measures (GCM) and EFH Conservation Recommendations. Confirm the applicant meets the applicable requirements.</td><td colspan="2">Note the programmatic does not require a BA under SSNP if relevant project information is included in other supporting documents (i.e. JARPA, memorandum, etc.). Supporting documents must be submitted to the Services as part of the SNNP Notification/Verification package.</td></tr>
<tr><td colspan="2" rowspan="2">If conservation offsets are required per the PDC:</td><td colspan="2">Review the Conservation Calculator for the following:
1. Ensure all of the Project D Tab project description and fields are correctly entered and matches the proposed work as described in the supporting documents.
2. Determine initially whether the applicant has proposed sufficient offsets (i.e. the debit balance is zero or positive in Summary Tab).
3. Ensure the file size does not exceed 17 MB when transmitting emails.</td></tr>
<tr><td colspan="2">If the Calculator’s balance is negative, ensure there is a sufficient plan to offset the negative balance (i.e. statement that credits would be purchased). Projects submitted should not include pre-sale agreements until a final calculator is verified by the Services.</td></tr>
<tr><td colspan="2">Ensure applicant has provided a response to the EFH Conservation Recommendations.</td><td colspan="2"></td></tr>
<tr><td colspan="2">Complete a Notification Summary Sheet.</td><td colspan="2"></td></tr>
<tr><td colspan="2">Corps submits a completed Notification Summary Sheet and any required reports/plans to NMFS at ssnp-wa.wcr@noaa.gov. Following initial submission, subsequent project updates are emailed to the assigned biologist and consultationupdates.wcr@noaa.gov</td><td colspan="2">Corps submits a completed Notification Summary Sheet and any required reports/plans to USFWS at SSNP_WA@fws.gov</td></tr>
<tr><td colspan="2">NMFS Receipt and Review</td><td colspan="2">USFWS Receipt and Review</td></tr>
<tr><td>NMFS confirms receipt of submittal within 5 days.</td><td>If receipt is not confirmed within 5 days, the Corps will seek to confirm whether the materials were received.</td><td>USFWS confirms receipt of submittal within 5 days.</td><td>If receipt is not confirmed within 5 days, the Corps will seek to confirm whether the materials were received.</td></tr>
<tr><td>NMFS will endeavor to provide a response regarding verification within 30 days from the date of the email submittal.</td><td>The Corps must receive an affirmative response form from NMFS before verification is complete unless the project fully falls under PDC # 2 or PDC # 8 (notification only).</td><td>For projects requiring notification only (i.e., when no alternations are requested):</td><td>If the Corps does not receive further response within 30 days of confirmation of receipt, the Corps has met its obligations under Section 7 and can proceed with a permit decision.</td></tr>
</table>

<table>
<tr><td rowspan="3">For projects requiring verification (i.e., All PDCs except # 2 and #8 and when any alteration from a PDC/GCM is requested):</td><td rowspan="3">NMFS will document any project changes from the original notification, provide their decision and list any after action requirements using the NMFS Response Form.</td><td rowspan="3">For projects requiring verification (i.e., when any alteration from a PDC/GCM is requested):</td><td>USFWS will endeavor to provide a response regarding verification within 60 days from the date of confirmation of receipt or from the date of submittal of the final calculator.</td></tr>
<tr><td>The Corps must receive an affirmative response form from USFWS before verification is complete.</td></tr>
<tr><td>USFWS will provide their decision and list any after-action requirements using the USFWS Response Form.</td></tr>
<tr><td rowspan="2">If conservation offsets are required:</td><td>NMFS will review the calculator and provide the Corps a “final version”.</td><td rowspan="3">If conservation offsets are required:</td><td>The Corps will provide the final Conservation Calculator and signed presale agreement (if applicable) to USFWS at SSNP_WA@fws.gov before the Corps can proceed with a permit decision.</td></tr>
<tr><td>Corps provides “final version” of calculator to applicant. If the applicant proposes the purchase of credits from a bank, the applicant will use the final version of the calculator to submit a signed presale agreement to the Corps and NMFS.</td><td>If an alteration is not requested, providing a final Conservation Calculator does not require an additional 30-day review period by USFWS.</td></tr>
<tr><td colspan="2">NMFS provides the Corps a NMFS Response Form or email receipt to “notification only” submittal.</td><td>If an alteration is requested, the Corps must receive an affirmative response from USFWS before verification is complete.</td></tr>
<tr><td colspan="2" rowspan="2">If changes to a project occur after the original notification as a result of NMFS review process (i.e. design alterations, calculator updates, signed pre-sale agreement, etc.), the Corps will notify USFWS of such changes prior to a permit decision. If there are changes to the project description (i.e. design alterations such as an altered project footprint, pile driving not previously proposed, etc.), re-notification/verification with USFWS is required, and another 30-days allowed for their review.</td><td rowspan="2">If changes to the project description occur after the original notification:</td><td>The Corps will notify USFWS of such changes.</td></tr>
<tr><td>USFWS will have 30 days to review the project from the time USFWS receives notification that such changes have occurred.
a) If these changes do not constitute an alteration from any PDC/GCM, the Corps can proceed with a permit decision if the Corps does not receive a response within 30 days of receipt.
b) If these changes do constitute an alteration from a PDC/GCM, the Corps must receive an affirmative response from USFWS before verification is complete. USFWS will endeavor to provide a response regarding verification within 60 days of receipt of notification</td></tr>
<tr><td colspan="2"></td><td colspan="2">USFWS Provides the Corps a USFWS Response Form or email receipt to “notification only” submittal.</td></tr>
<tr><td colspan="4">Corps Proceeds with Permit Decision if Affirmative Response from Services Received</td></tr>
</table>

SALISH SEA NEARSHORE PROGRAMMATIC (SSNP) CONSULTATIONS
Version: August 1, 2023

Notification Summary Sheet

The following information is provided as notification and/or a request for verification for Section 7 Endangered Species Act and/or Magnuson-Stevens Fishery Conservation Management Act coverage under the Salish Sea Nearshore Programmatic (SSNP) consultations with the National Marine Fisheries Service (NMFS), WCRO-2019-04086, and the U.S. Fish and Wildlife Service (USFWS), FWS/R1/2022-0048454.

Date of Notification:	5/6/24		
Project Name:	Kitsap County Parks (Shoreline Restoration)		
Corps Reference Number:	NWS-2023-125	Corps PM Email:	sarah.l.albright@usace.army.mil
Location (Lat./Long.):	47.911656, -122.529529		
Type of Request	NMFS	USFWS	
	☐ Notification Only ■ Notification and Verification Request	■ Notification Only ☐ Notification and Verification Request	
Statutory Authority	☐ NMFS: ESA and EFH	☐ USFWS: ESA Only	
General Information	■ JARPA enclosed ☒Project Drawings Enclosed		
Plans/reports required per PDC/GCM's:	PDC's: ■ Calculator Enclosed ☐ Proposal to purchase credits to offset remaining debits ☐ Habitat Improvement Plan ☐ Aquatic Vegetation Survey ☐ Minimization and Avoidance Plan ☐ Riparian Vegetation Planting Plan ☐ Pre-dredging and post-dredging report ☐ Minimization and Avoidance Plan ☐ Pre-construction topo and bathymetric profile survey and agreement for post-construction survey GCM's: ☐ Marine Mammal Survey ☐ Marbled Murrelet Survey ☐ Post-Construction Stormwater Management Plan		

Project Description	The project proposes to repair and restore eroded beach areas through beach nourishment material, gravel, sand, filter material, coir matting, plantings, cobble, armor rock, and concrete curb wall. The restoration portion of the project is intended to raise the shoreline area and nearby uplands to create protective foredunes to limit wave and tidal overtopping of the northern and eastern shorelines to reduce the flooding potential along NE Point No Point Road, add native vegetation to the shoreline riparian zone to improve salmon and forage fish habitat in a way that aligns with the adjacent estuary restoration design project, and to allow for restoration of two-lane vehicular access to Point No Point Park. The revetment replacement is intended to set back the current armoring and allow for continued protection of the historic lighthouse at Point No Point. Table and descriptive list of impacts located in JARPA
Indicate which conservation offset pathway is proposed:	☐ N/A, offsets are not required per the PDC ■ Option 1, design project to avoid and minimize ■ Option 2, applicant-responsible habitat improvements ☐ Option 3, fund a local habitat restoration "sponsor" ☐ Option 4, purchase conservation credits

Review the *Project Design Criteria* (*PDC) List of Requirements* for each applicable activity category:

Applicable? Y/N	Criteria Met? N/A, Y, N	Activity Category	Project Design Criteria (PDC)
		Culvert and bridge repair and replacement resulting in improvements for fish passage	PDC #1
		Utilities	PDC #2
		Stormwater facilities and outfalls	PDC #3
x		Shoreline modifications	PDC #4
		Expand or install a new in-water or overwater structure	PDC #5
		Repair or replace an existing structure	PDC #6
		Minor maintenance of an existing structure	PDC #7
		Repair, replace, or install a new aid to navigation, scientific measurement device, or tideland marker	PDC #8
		Dredging for vessel access	PDC #9

		Dredging and debris removal to maintain functionality of culverts, water intakes, or outfalls	PDC #10
x		Habitat enhancement activities	PDC #11
		Set-back or removal of existing tidegates, berms, dikes or levees	PDC #12
x		Beach nourishment	PDC #13
		Sediment remediation	PDC #14

If applicable project design criteria are not met, describe why and how the work would not result in any adverse effects beyond those considered in the programmatics. **Verification is required from both NMFS and USFWS if any PDC is not fully met**:

Review the *General Construction Measure (GCM) List of Requirements* for each applicable activity category:

Applicable? Y/N	Criteria Met? N/A, Y, N	Criteria	General Construction Measure (GCM)
y		Minimize Construction Impacts at Project Site	GCM #1
y		In-Water Work Timing	GCM #2
n		Isolation of Concrete Work	GCM #3
n		Fish Screens	GCM #4
n		Drilling, Boring, and Tunneling	GCM #5
n		Pile Installation	GCM #6
n		Marbled Murrelet Monitoring Plan	GCM #7
n		Treated Wood Piles	GCM #8
n		Pile Removal – Intact	GCM #9
n		Pile Removal – Broken or Intractable	GCM #10
n		Treated Wood for Uses Other Than Piles	GCM #11
n		Barge Use	GCM #12
n		Stormwater Management	GCM #13
y		Pollution and Erosion Control	GCM #14
n		Fish Capture and Release	GCM #15
n		Marine Mammals	Program Administration # 9

If applicable GCM(s) are not met, describe why and how the work would not result in any adverse effects beyond those considered in the programmatics. **Verification is required from both NMFS and USFWS if any applicable GMC is not fully met**:

Essential Fish Habitat Conservation Measures:

Applicable Y/N	If applicable but will **not** be implemented, explain.	**Where appropriate and feasible, and to the maximum extent practicable:**
N		1. Projects resulting in a loss of eelgrass habitat, are required to follow eelgrass mitigation monitoring requirements put forth in the WDFW "Eelgrass/Macroalgae Habitat Interim Survey Guidelines" unless it conflicts with Seattle District Corps guidelines, in which case the Corps guidelines apply.
N		2. New moorings buoys should be anchored in areas where SAV habitat is absent. New mooring buoys should, to the maximum extent practicable, be in waters deep enough so that the bottom of the vessel remains a minimum of 18 inches off the substrate during extreme low tide events.
N		3. When repairing or replacing mooring buoys, within SAV habitat, should be of the type that use midline floats to prevent chain scour to the substrate.
N		4. Encircle the pile with a silt curtain that extends from the surface of the water to the substrate.
N		5. Drive piles during low tide periods when substrates are exposed in intertidal areas.
N		6. Any cross/transverse bracing should be placed above the plane of MHHW to avoid impacts to water flow and circulation.
N		7. Minimize the footprint of the overwater structure.
N		8. Design structures in a north-south orientation to minimize persistent shading over the course of a diurnal cycle.
N		9. For residential dock and pier structures, the height of the structure above water should be a minimum of 5 feet above MHHW.
N		10. The use of floats should be minimized to the extent practicable and should be restricted to terminal platforms placed in deep water where appropriate and feasible and when the Corps determines there will not be a navigation hazard.
N		11. When breakwaters are required, floating breakwaters are preferred. Encourage seasonal use of breakwaters.
Y		12. Use soft approaches (e.g., beach nourishment, soft or hybrid armoring, vegetative plantings, and placement of LWD) in lieu of "hard" shoreline stabilization and modifications (such as concrete bulkheads and seawalls, concrete or rock revetments).
Y		13. If planting in the riparian zone, use an adaptive management plan with ecological indicators and performance standards to oversee monitoring and ensure mitigation objectives are met, unless it is contrary to a Corps approved riparian planting plan.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

January 6, 2025

Kitsap County Parks
ATTN: Alex Wisniewski
614 Division Street
Port Orchard, WA 98366

Re: Water Quality Certification Order No. **23255** (Corps No. **NWS-2023-125**), Point No Point Park Phase 2 Restoration and Repair project, Kitsap County, Washington

Dear Alex Wisniewski:

On July 15, 2024, Kitsap County Parks submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Point No Point Park Phase 2 Restoration and Repair project, Kitsap County, Washington.

On behalf of the state of Washington, the Department of Ecology certifies with conditions that the work described in the Water Quality Certification Request and supplemental documents complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and applicable state laws. **This certification is subject to the enclosed Water Quality Certification Order (WQC Order).**

Please ensure that anyone doing work under this WQC Order has read, is familiar with, and is able to follow all of the provisions within the attached WQC Order.

If you have any questions about this decision, please contact Sonia Mendoza at (360) 918-1342. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

Loree' Randall

Loree' Randall, Section Manager
Aquatic Permitting & Protection Section
Shorelands and Environmental Assistance Program

Enclosure (1)

By certified mail: 91 7199 9991 7036 8715 4522

Sent via e-mail: AWisniewski@kitsap.gov

E-cc: Sarah Albright-Garland, U.S. Army Corps of Engineers
Jessie Sampayan, Kitsap County
Jennifer Allen, Blue Coast Engineering
Sasha Ertl, Grette Associates LLC
Erin Hanlon Brown, Ecology
Sonia Mendoza, Ecology
ECYREFEDPERMITS@ecy.wa.gov

In The Matter of Granting a Water Quality Certification with Conditions to Kitsap County Parks pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC

Kitsap County Parks
Attn: Alex Wisniewski
614 Division Street
Port Orchard, WA 98366

WQC Order No.	23255
Corps Reference No.	NWS-2023-125
Site Location	Point No Point Park Phase 2 Restoration and Repair project located within Puget Sound, Hansville, Kitsap County, Washington.

Kitsap County Parks submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Point No Point Park Phase 2 Restoration and Repair project, Kitsap County, Washington. The following required processing dates are listed below:

- On April 1, 2024, the Kitsap County Parks submitted a pre-filing meeting request.
- On April 24, 2024, the U.S. Army Corps of Engineers (Corps) sent an email notification to Ecology that they are reviewing the project for authorization under the Nationwide Permit (NWP) Program.
- On July 15, 2024, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On July 19, 2024, Kitsap County Parks submitted additional information, and the Department of Ecology (Ecology) considered the Request valid on this date.
- On August 5, 2025, Ecology issued a public notice for the project.
- Ecology's "Reasonable Period of Time" for this project has been established as January 15, 2025.

The project proposes to repair and restore eroded beach areas through beach nourishment material, gravel, sand, filter material, coir matting, plantings, cobble, armor rock, and concrete curb wall. The restoration portion of the project is intended to raise the shoreline area and nearby uplands to create protective foredunes to limit wave and tidal overtopping of the northern and eastern shorelines to reduce the flooding potential along NE Point No Point Road, add native vegetation to the shoreline riparian zone to improve salmon and forage fish habitat in a way that aligns with the adjacent estuary restoration design project, and to allow for

restoration of two-lane vehicular access to Point No Point Park. The revetment replacement is intended to set back the current armoring and allow for continued protection of the historic lighthouse at Point No Point.

For parking lot repairs, the project proposes to remove 130 linear feet (LF) of existing concrete curb (above the high tide line (HTL)), 230 cubic yards (CY) of soil material for salvage and reuse (100 CY below HTL), and 2,750 square feet of parking lot pavers to be salvaged and reused (above HTL). 130 LF of cast-in-place concrete curb (above HTL) and 235 CY imported rounded beach cobble (above HTL) would be installed along with salvaged soil material, imported soil materials, and pavers.

For replacing the revetment, the project proposes to remove 2 CY of concrete rubble and debris, remove 70 CY (30 CY below HTL) of soil material from setback and revetment area, remove and reuse 400 CY existing shoreline armor rock (6 CY below HTL, the rest above HTL), and remove without reusing 210 CY of existing armor rock (30 CY below HTL). 320 CY of filter rock layer would be installed (37 CY below HTL) along with 400 CY of salvaged armor rock and 195 CY of imported armor rock.

For north beach restoration, the project proposes to remove 20 LF of creosote-treated timber crib wall (above HTL) and install: up to 4,600 CY of imported medium-sand beach nourishment material (1,070 CY below HTL), up to 37,800 square feet of biodegradable coir matting (above HTL), 18,500 square feet of plantings in the beach nourishment area (above HTL), 33,000 square feet of plantings in the foredune area (above HTL), and 500 LF of sand fencing on the perimeter of beach nourishment areas and along the road (above HTL).

For east beach restoration, 200 CY of imported beach nourishment material is proposed to be placed above HTL.

During construction, access to the site would be completed primarily by land via the existing road. Site access by water may be required for work along the armor rock revetment to protect the existing historic structures and culturally significant area, which will be determined by the contractor. The contractor would sometimes need to operate heavy equipment along the beach to place and grade beach nourishment material. When feasible, work would be conducted from the uplands to minimize impacts to the beach during construction. If work along the beach is necessary, it would occur in the dry when work areas are not inundated by the tides. Repairs along a damaged section of the perimeter walking trail would occur from the trail (no heavy equipment would operate on the beach at this repair location). Imported beach materials would be stockpiled in the parking areas, upland areas north of NE Point No Point Road, or offsite.

The project site is located at 8997 Northeast Point No Point Road, Hansville, Puget Sound, Kitsap County, Washington, Section 15, Township 28N., Range 02E., within Water Resource Inventory Area (WRIA) 15 - Kitsap.

With this WQC Order, Ecology is granting with conditions Kitsap County Parks' request for a Section 401 Water Quality Certification for the Point No Point Park Phase 2 Restoration and Repair project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on July 15, 2024, and the following supporting documentation:

1. The Water Quality Monitoring Plan dated October 2024, received on October 21, 2024.

Based on the information submitted, Ecology has determined that the discharge from the project will comply with state water quality requirements. Prior to undertaking any changes that materially alter the project, Kitsap County Parks must contact Ecology to determine whether a new Section 401 Water Quality Certification is required.

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize Kitsap County Parks to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC), or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this Section 401 Water Quality Certification absolves Kitsap County Parks from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

Special Conditions:

1. This Certification is not effective until the U.S. Corps of Engineers (Corps) Seattle District issues a Department of the Army (DA) permit for this project. WQC Order No. **23255** will remain valid until June 30, 2026.

    - Justification – Certifications are required for any license or permit that authorizes an activity that may result in a discharge or fill material into waters. This WQC Order is not valid until the Federal agency issues a permit. Additionally, Ecology needs to be able to specify how long the WQC Order will be in effect.

    - Citation – Chapter 90.48 RCW, Chapter 173-201A WAC, and WAC 173-225-010.

2. Kitsap County Parks shall send a copy of the final Federal permit via e-mail to fednotification@ecy.wa.gov and cc to Federal Permit Manager prior to the starting of any work authorized by this WQC Order. If the Federal Agency determines the proposed project does not require a Federal permit, Kitsap County Parks shall immediately inform Ecology.

    - Justification - This condition is needed to ensure that the federal permit has been issued and all the conditions of the WQC Order have been included into the federal permit.

    - Citation - 40 CFR 121.10, 40 CFR 121.11, and Chapter 90.48 RCW.

3. To transfer this WQC Order to a new owner or operator Kitsap County Parks shall:

    a. Complete a Request for Transfer of Order with a specific transfer date of the WQC Order's obligations, coverage, and liability and submit it to Ecology at fednotification@ecy.wa.gov and cc to Federal Permit Manager. Link to form: https://apps.ecology.wa.gov/publications/SummaryPages/ECY070695.html;

    b. Provide a copy of this WQC Order to the new owner or operator; and

    c. The transfer is not considered valid until Kitsap County Parks receives written notification from Ecology that the transfer has been approved.

        - Justification – Ecology has independent state authority to ensure protection of state water quality. Ecology needs to ensure that anyone conducting work at the project, including any new owners or operators, are aware of and understand the required conditions of this WQC Order to ensure compliance with the water quality standards and other applicable state laws.

        - Citation – 40 CFR 121.5, Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, and WAC 173-225-010.

4. Any work that causes distressed or dying fish or discharges of oil, fuel, or other chemicals into state waters or onto land with a potential for entry into state waters is prohibited. If such work, conditions, or discharges occur, immediately notify Ecology's Regional Spill Response Office at 360-407-6300 and the Washington State Department of Fish & Wildlife with the nature and details of the problem, any actions taken to correct the problem, and any proposed changes in operation to prevent further problems. You will also need to notify the Washington Emergency Management Division at 1-800-258-5990, for spills to water only. This condition is necessary to prevent oil and other hazardous materials spills from causing environmental damage and to ensure compliance with water quality requirements. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm.

        - Justification - This condition is necessary to prevent oil and hazardous materials spills from causing environmental damage and to ensure compliance with water quality requirements. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.

- Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, RCW 90.56.280, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and WAC 173-303-145.

In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, this WQC is granted with conditions to the Kitsap County Parks for the Point No Point Park Phase 2 Restoration and Repair project.

Your right to appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. “Date of receipt” is defined in RCW 43.21B.001(2).

To appeal, you must do all of the following within 30 days of the date of receipt of this Order:

- File your notice of appeal and a copy of this Order with the PCHB (see filing information below). “Filing” means actual receipt by the PCHB during regular business hours as defined in WAC 371-08-305 and -335. “Notice of appeal” is defined in WAC 371-08-340.
- Serve a copy of your notice of appeal and this Order on the Department of Ecology by mail, in person, or by email (see addresses below).

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Filing an appeal

Filing with the PCHB

For the most current information regarding filing with the PCHB, visit: https://eluho.wa.gov/ or call: 360-664-9160.

Service on Ecology

Street Addresses:

Department of Ecology
Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

Mailing Addresses:

Department of Ecology

Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

E-Mail Address:

ecologyappeals@ecy.wa.gov

Americans with Disabilities Act Information

Accommodation Requests

To request ADA accommodation including materials in a format for the visually impaired, call Ecology at 360-407-6831 or visit https://ecology.wa.gov/accessibility. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.

Contact Information

Please direct all questions about this WQC Order to:

Sonia Mendoza
Department of Ecology
(360) 918-1342
Sonia.Mendoza@ecy.wa.gov

More Information

- **Pollution Control Hearings Board Website**
  https://eluho.wa.gov
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
  http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B
- **Chapter 371-08 WAC – Practice And Procedure**
  http://app.leg.wa.gov/WAC/default.aspx?cite=371-08
- **Chapter 34.05 RCW – Administrative Procedure Act**
  http://app.leg.wa.gov/RCW/default.aspx?cite=34.05
- **Chapter 90.48 RCW – Water Pollution Control**
  http://app.leg.wa.gov/RCW/default.aspx?cite=90.48

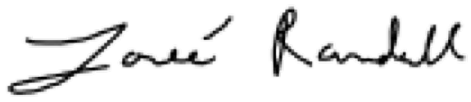
- **Chapter 173.204 WAC – Sediment Management Standards**
  http://apps.leg.wa.gov/WAC/default.aspx?cite=173-204

- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**
  http://apps.leg.wa.gov/WAC/default.aspx?cite=173-200

- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**
  http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A

Signature

Dated this 6th day of January 2025 at the Department of Ecology, Lacey, Washington.



Loree' Randall, Section Manager
Aquatic Permitting & Protection Section
Shorelands and Environmental Assistance Program

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
Northwest Region Office
PO Box 330316, Shoreline, WA 98133-9716 • 206-594-0000

March 18, 2025

Kitsap County Parks
ATTN: Alex Wisniewski
614 Division Street
Port Orchard, WA 98366

Re: Coastal Zone Management Federal Consistency Decision for Point No Point Park Phase 2 Restoration and Repair (Corps No. NWS-2023-0125-2), Puget Sound, Hansville, Kitsap County, Washington

Dear Alex Wisniewski:

On May 15, 2024, the Department of Ecology (Ecology) received a Certification of Consistency with the Washington State Coastal Zone Management Program (CZMP) for the above project. Ecology issued a 21-day public notice on August 5, 2024. Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with Alex Wisniewski's determination that the proposed work is consistent with Washington's CZMP.

On October 24, 2024, Alex Wisniewski and Ecology agreed to stay the CZM until January 15, 2025, in order for the Alex Wisniewski to obtain the 401 Water Quality Certification and shoreline permit. A second stay was agreed to on December 23, 2024, extending the review period until April 1, 2025, in order for Alex Wisniewski to obtain the 401 Water Quality Certification and shoreline permit.

The project proposes to repair and restore eroded beach areas through beach nourishment material, gravel, sand, filter material, coir matting, plantings, cobble, armor rock, and a concrete curb wall. The restoration portion of the project is intended to raise the shoreline area and nearby uplands to create protective foredunes to limit wave and tidal overtopping of the northern and eastern shorelines to reduce the flooding potential along NE Point No Point Road, add native vegetation to the shoreline riparian zone to improve salmon and forage fish habitat in a way that aligns with the adjacent estuary restoration design project, and to allow for restoration of two-lane vehicular access to Point No Point Park. The revetment replacement is intended to set back the current armoring and allow for continued protection of the historic lighthouse at Point No Point.

For parking lot repairs, the project proposes to remove 130 linear feet (LF) of existing concrete curb (above the high tide line (HTL)), 230 cubic yards (CY) of soil material for salvage and reuse (100 CY below HTL), and 2,750 square feet of parking lot pavers to be salvaged and reused (above HTL). 130 LF of cast-in-place concrete curb (above HTL) and 235 CY imported rounded beach cobble (above HTL) would be installed along with salvaged soil material, imported soil materials, and pavers.

For replacing the revetment, the project proposes to remove 2 CY of concrete rubble and debris, remove 70 CY (30 CY below HTL) of soil material from setback and revetment area, remove and reuse 400 CY existing shoreline armor rock (6 CY below HTL, the rest above HTL), and remove without reusing 210 CY of existing armor rock (30 CY below HTL). 320 CY of filter rock layer would be installed (37 CY below HTL) along with 400 CY of salvaged armor rock and 195 CY of imported armor rock.

For north beach restoration, the project proposes to remove 20 LF of creosote-treated timber crib wall (above HTL) and install: up to 4,600 CY of imported medium-sand beach nourishment material (1,070 CY below HTL), up to 37,800 square feet of biodegradable coir matting (above HTL), 18,500 square feet of plantings in the beach nourishment area (above HTL), 33,000 square feet of plantings in the foredune area (above HTL), and 500 LF of sand fencing on the perimeter of beach nourishment areas and along the road (above HTL). For east beach restoration, 200 CY of imported beach nourishment material is proposed to be placed above HTL.

During construction, access to the site would be completed primarily by land via the existing road. Site access by water may be required for work along the armor rock revetment to protect the existing historic structures and culturally significant area, which will be determined by the contractor. The contractor would sometimes need to operate heavy equipment along the beach to place and grade beach nourishment material. When feasible, work would be conducted from the uplands to minimize impacts to the beach during construction. If work along the beach is necessary, it would occur in the dry when work areas are not inundated by the tides. Repairs along a damaged section of the perimeter walking trail would occur from the trail (no heavy equipment would operate on the beach at this repair location). Imported beach materials would be stockpiled in the parking areas, upland areas north of NE Point No Point Road, or offsite.

This activity would occur in Puget Sound, Hanville, Kitsap County, Washington.

If you have any questions regarding Ecology's decision, please contact Austin Schmalz at 425-301-6989.

Your right to appeal

You have a right to appeal this decision to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal, you must do all of the following within 30 days of the date of receipt of this decision:

- File your notice of appeal and a copy of this decision with the PCHB (see filing information below). "Filing" means actual receipt by the PCHB during regular business hours as defined in WAC 371-08-305 and -335. "Notice of appeal" is defined in WAC 371-08-340.
- Serve a copy of your notice of appeal and this decision on the Department of Ecology by mail, in person, or by email (see addresses below).

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Address and Location Information

Filing with the PCHB

For the most current information regarding filing with the PCHB, visit: https://eluho.wa.gov/ or call: 360-664-9160.

Service on Ecology

Street Addresses:

Department of Ecology
Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

Mailing Addresses:

Department of Ecology
Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

E-Mail Address:

ecologyappeals@ecy.wa.gov

Sincerely,

Joe Burcar, Section Manager
Northwest Region Office
Shorelands and Environmental Assistance Program
Sent via e-mail: AWisniewski@kitsap.gov

E-cc: Sarah Albright-Garland, U.S. Army Corps of Engineers
Sonia Mendoza, Ecology
Austin Schmalz, Ecology
fedconsistency@ecy.wa.gov

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

May 20, 2025

Alex Wisniewski
Kitsap County Parks
614 Division St
Port Orchard, WA 98366-4614

WAR314051
Point No Point Park Phase 2
8997 NE Point No Point Rd
Hansville, WA 98340

RE: Reminder to reapply for your Construction Stormwater General Permit–WAR314051

Dear Alex Wisniewski:

We are writing to remind you that your Construction Stormwater General Permit (CSWGP) requires you to reapply for permit coverage at least 180 days prior to the expiration date of the current permit (General Condition G8). **You must reapply for the Construction Stormwater General Permit by July 3, 2025, even if you think your project will be done before the end of the year.** Reapply or receive official permit termination approval by July 3 to avoid violating your current permit. If you have already submitted a renewal application, please disregard this additional notice.

If you fail to reapply for the CSWGP, your permit coverage will expire on December 31, 2025. If your permit expires and you discharge pollutants to waters of the state you are in violation of the federal Clean Water Act and Chapter 90.48 of the Revised Code of Washington (RCW).

To determine whether a renewal application was submitted for your permit, please visit https://fortress.wa.gov/ecy/paris/PermitSearch.aspx and search by entering the permit number or project name. Scroll down and click on the project name. A "draft" application (aka Notice of Intent) should appear in the list of documents (see "Facility Documents" section). Ecology will notify you if any additional information is required.

To Reapply Online

The Washington State Department of Ecology (Ecology) uses SecureAccess Washington (SAW) to maintain security of your data. To submit an electronic application through SAW, please see the CSWGP renewal instructions at https://fortress.wa.gov/ecy/ezshare/wq/permits/CSWGP-2026-RenewalInstructions.pdf.

You can use your existing SAW account. If you do not have a SAW account, you can create one through the SAW login webpage at https://secureaccess.wa.gov/myAccess/saw/select.do.

For instructions on setting up a SAW account, visit Ecology's WQWebPortal guidance webpage: https://ecology.wa.gov/WQWebPortal

Changes to Your Permit Coverage

Changes to your permit coverage–such as site acreage or permitted organization–may **not** be made in this renewal process.

If you need to update the acreage of your permit please submit a modification of coverage form available at: https://fortress.wa.gov/ecy/publications/documents/ecy070558.pdf.

If you need to update the permittee or organization responsible for permit coverage please submit a transfer of coverage form available at: https://fortress.wa.gov/ecy/publications/documents/ecy02087a.pdf.

Additional forms for modifying coverage are found on the Construction Stormwater General Permit webpage at https://ecology.wa.gov/ConstructionStormwaterPermit#apply. Locate the "Applications and forms" section and click the plus (+) icon to the right of "Changes in coverage" to expand the content and access forms.

For additional questions about changes in coverage please contact your permit administrator: Jasper Sogn at jsog461@ecy.wa.gov or (360) 972-6524.

Questions

Ecology is in the process of updating and reissuing the Construction Stormwater General Permit. If you have questions about the permit reissuance process, please contact Kendra Henderson at kendra.henderson@ecy.wa.gov or 360-870-6757. For more information, please visit Ecology's Construction Stormwater General Permit webpage at https://ecology.wa.gov/ConstructionStormwaterPermit.

Sincerely,

Jeff Killelea, Manager
Permit and Technical Services Section
Water Quality Program

Kitsap County

619 Division Street, MS-36, Port Orchard WA 98366
(360) 337-5777
www.kitsapgov.com/dcd

24-04116

C-RET/WALL

PROJECT NAME: POINT NO POINT LIGHTHOUSE - Curb Wall Replacement that Supports Parking Lot Area
SITE ADDRESS: 9001 NE POINT NO POINT RD

ISSUED: 5/8/2025
EXPIRES: 5/8/2026

PARCEL: 222802-1-005-2009
Zone: P

Setbacks: **Front:**
Rear:
Side 1:
Side 2:
Other:

APPLICANT: POINT NO POINT LIGHT HOUSE
415-362-7255

OWNER: POINT NO POINT LIGHT HOUSE
415-362-7255

AUTHORIZED AGENT: Allen, Jennifer
18320 47th Pl NE
Lake Forest Park, WA 98155
3609206578

GENERAL CONTRACTOR: By Owner - Acknowledgement in application or form
See owner info
See owner info, WA 00000

License: 0000000000
Expires: 01/01/2199

VALUATIONS:		
Bid Price - Enter cost & installation for project	80000.00	$80,000.00
Total:		**$80,000.00**

FEES:	Paid	Due
Permit Center Base Fee	$90.00	$0.00
Building Permit Fee, Commercial (all except TI)	$1,096.00	$0.00
Technology Fee	$32.88	$0.00
State Surcharge Commercial	$25.00	$0.00
Total Due:		**$0.00**

OTHER REQUIREMENTS

The following permits are associated with this permit and must be completed prior to final

Permit Number	Permit Type	Description
24-02117	SSDP	Shoreline Substantial Development Permit

REQUIRED INSPECTIONS

Commercial Final Building Inspection

Residential Foundation, Footing Inspection

Kitsap County

619 Division Street, MS-36, Port Orchard WA 98366
(360) 337-5777
www.kitsapgov.com/dcd

24-04116 **C-RET/WALL**

PROJECT NAME: POINT NO POINT LIGHTHOUSE - Curb Wall Replacement that Supports Parking Lot Area
SITE ADDRESS: 9001 NE POINT NO POINT RD

ISSUED: 5/8/2025
EXPIRES: 5/8/2026

Commercial Temporary Silt & Erosion Control. ----------
Note: This is not a standalone inspection, it will be done with all building inspections and will not be approved until final inspection. You will not need to request this inspection unless you're instructed to by your Inspector.

Commercial Foundation, Footing Inspection

Commercial Foundation, Stem Wall Inspection

Inspection of final plantings

CONDITIONS

Permit Expiration: Building permits expire 365 days after permit issuance, or 180 days after the last approved inspection activity is performed. The Building Official may extend the time for action for a period not exceeding 180 days, upon the receipt of a written extension request indicating that circumstances beyond the control of the permit holder have prevented action from being taken. Additional fees may be due to reactivate the permit. _____

Reinspection Fee: All approved plans for this permit and the printed building permit with conditions are required to be on-site for inspection purposes, and work to be inspected shall be complete and ready for inspection. If an inspection is called for and plans are not available on site, or the work is not ready for inspection, or if previously identified corrections have not been made, approval will not be granted. In addition, a re-inspection fee will be charged and must be collected by the Department of Community Development prior to any further inspections being performed or approvals granted. _____

Final Inspection Required: All building permits shall have a final inspection performed and approved by the Kitsap County Department of Community Development prior to permit expiration. The failure to request a final inspection or failure to obtain final approval prior to expiration will be documented in the legal property records on file with Kitsap County as being non-compliant with Kitsap County ordinances and building regulations and will be referred to Kitsap County Code Compliance for action. _____

Drainage mitigation method: Site Development Activity Permit (SDAP)
All site plan construction and stormwater systems shall be installed as designed per SDAP #:
Stormwater mitigation that does not match the approved SDAP will not be allowed without further review by Kitsap County Department of Community Development _____

Issuance of this permit certifies that the applicant has read and examined this application and knows the same to be true and correct. All provisions of Laws and Ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state/local law regulating construction or the performance of construction. _____

Subject to the conditions of the Geotechnical report associated with this permit and on file at the Department of Community Development. _____

Permit approval subject to inspection of clearing limits prior to commencement of work. A cultural resources specialist is required to be on site during all site clearing activities on the parcel. Please contact Kitsap County Department of Community Development before any clearing (360)337-5777. _____

Kitsap County

619 Division Street, MS-36, Port Orchard WA 98366
(360) 337-5777
www.kitsapgov.com/dcd

24-04116 **C-RET/WALL**

PROJECT NAME: POINT NO POINT LIGHTHOUSE - Curb Wall Replacement that Supports Parking Lot Area
SITE ADDRESS: 9001 NE POINT NO POINT RD

ISSUED: 5/8/2025
EXPIRES: 5/8/2026

Any work done below the ordinary high water mark requires a Hydraulic Project Approval permit from the Washington Department of Fish and Wildlife. Information regarding an HPA can be found at http://www.wdfw.wa.gov/hab/hpapage.htm. _____

Vegetation planting shall occur as specified in the approved planting plan produced in support of this permit. Planting of native vegetation shall occur within the first dormant season once the permitted project has been constructed and approved. When planting is complete, the applicant must contact Development Service and Engineering Staff at (360)337-5777 for a site inspection and as-built approval. Monitoring and maintenance of the planted area shall be conducted for three years after DCD staff approves planting. Monitoring includes live and dead vegetation counts and records of all maintenance activities. Maintenance activities can be defined as, but are not limited to, removal practices on invasive or nuisance vegetation and watering schedules. Monitoring information shall be summarized in a letter with photographs depicting conditions of the vegetation and overall site. Monitoring reports are due to Kitsap County Department of Community Development Services and Engineering Division by December 31 of each monitoring year. If more than 20 percent of the plantings do not survive within any of the monitoring years, the problem areas shall be replanted, and provided with better maintenance practices to ensure higher plant survival. _____

The placement of the bulkhead is for the protection of the upland property and not for the indirect intent of creating uplands at the expense of tidelands. The placement of the bulkhead shall be subject to the approved site plan and shall follow the natural contours of the shoreline and shall be placed at or above Ordinary High Water. _____

Permit approval subject to conditions in the Hearing's Examiner Decision. _____

Monitoring and maintenance of the planted area shall be conducted for five years, and extended if necessary, after DCD staff approves planting. Monitoring includes live and dead vegetation counts and records of all maintenance activities. Maintenance activities can be defined as, but are not limited to, removal practices on invasive or nuisance vegetation and watering schedules. Monitoring information shall be summarized in a letter with photographs depicting conditions of the vegetation and overall site. Monitoring reports are due to Kitsap County Department of Community Development Services and Engineering Division annually. If more than 20 percent of the plantings do not survive within any of the monitoring years, the problem areas shall be replanted, and provided with better maintenance practices to ensure higher plant survival. The construction of the permitted project is subject to inspections by the Kitsap County Department of Community Development. Extensions of the monitoring period may be required if original conditions are not met. All maintenance and construction must be done in full compliance with Kitsap County Code, including the Kitsap County Critical Area Ordinance (Title 19 KCC) and Shoreline Master Program (Title 22 KCC). Any corrections, changes or alterations required by a Kitsap County Development Engineer Inspector shall be made prior to additional inspections. Any assignment of savings, financial surety or other like security for maintenance of the buffer mitigation plan shall only be released if monitoring requirements are satisfied in the final year of the monitoring term. _____

Kitsap County

619 Division Street, MS-36, Port Orchard WA 98366
(360) 337-5777
www.kitsapgov.com/dcd

24-04116 **C-RET/WALL**

PROJECT NAME: POINT NO POINT LIGHTHOUSE - Curb Wall Replacement that Supports Parking Lot Area
SITE ADDRESS: 9001 NE POINT NO POINT RD

ISSUED: 5/8/2025
EXPIRES: 5/8/2026

I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of Laws and Ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state/local law regulating construction or the performance of construction.

_____
Print Name

_____ _____
Signature Date

Let us know how we are doing by taking the short customer survey at www.surveymonkey.com/s/DCDCustomerSurvey

Rafe Wysham
Director

KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

To enable the development of quality, affordable, structurally safe and environmentally sound communities.

Notice of Administrative Decision

Date: 3/18/2025

To: Kitsap County Parks, AWisniewski@kitsap.gov
Parks Planner, Jessie Sampayan,
614 Division St MS - 1 PORT ORCHARD, WA 98366
Capital Projects, Rylan Knuttgen, rknuttgen@kitsap.gov
Interested Parties and Parties of Record

RE: Permit Number: 24-02117
Project Name: KITSAP COUNTY PARKS - Shoreline Substantial Development for Beach Repair
Type of Application: Shoreline Substantial Development Permit (SSDP)

The Kitsap County Department of Community Development has **APPROVED** the land use application for **Permit 24-02117: KITSAP COUNTY PARKS - Shoreline Substantial Development for Beach Repair (SSDP)**, **subject to the conditions outlined in this Notice and included Staff Report**.

THE DECISION OF THE DEPARTMENT IS FINAL, UNLESS TIMELY APPEALED TO THE KITSAP COUNTY HEARING EXAMINER ON OR BEFORE 14 DAYS FROM THE DATE OF DECISION PER KITSAP COUNTY CODE 21.04.290.

The written appeal shall be made on, or attached to, an appeal form titled: *'Appeal/Objection of an Administrative Decision'* found on DCD's website, through the Online Permit Application Portal: https://app.oncamino.com/kitsapcounty/login.

Please note affected property owners may request a change in valuation for property tax purposes, notwithstanding any program of revaluation. Please contact the Assessor's Office at 360-337-5777 to determine if a change in valuation is applicable due to the issued Decision.

The complete case file is available for review by contacting the Department of Community Development; if you wish to view the case file or have other questions, please contact help@kitsap1.com or (360) 337-5777.

CC:
Engineer: Farallon Consulting LLC, 13555 SE 36th Street, Suite 320 Bellevue, WA 98006; Jennifer Allen - Blue Coast Engineering, jennifer@gobluecoast.com, Grette & Associates Environmental, 2012 N 30th St Ste A Bremerton WA 98403
Biologist: Sasha Ertl, sashae@gretteassociates.com
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26

Dept of Archaeological Historic Preservation
Point No Point Treaty Council
Port Gamble S'Klallam Tribe
Puyallup Tribe
Skokomish Tribe
Squaxin Island Tribe
Suquamish Tribe
WA Dept of Fish & Wildlife
WA Dept of Natural Resources
WA State Dept of Transportation
DCD Staff Planner: Steve Heacock
Interested Parties: Taylor Harriman - Suquamish Tribe Archaeologist, tharriman@suquamish.nsn.us
Parks
Navy
DSE
Kitsap Transit
North Kitsap Fire District
North Kitsap School District
Puget Sound Energy
Water/Sewer Purveyor: KPUD 1
WA State Dept of Ecology-SEPA
WA State Dept of Ecology-Shoreline Review
WA State Dept of Ecology-Wetland Review

Kitsap County Department of Community Development

ADMINISTRATIVE STAFF REPORT

Report Date: March 12, 2025

Application Submittal Date: May 2, 2024
Application Complete Date: May 21, 2024

Project Name: Kitsap County Parks Point No Point Phase 2 Beach Repair Project
Type of Application: Shoreline Substantial Development (SSDP) - Administrative (Type II)
Permit Number: 24-02117

Project Location
8997 Point No Point Road NE
Hansville, WA

VICINITY MAP

Assessor's Account #
222801-1-010-2002;
222801-1-005-2009

Applicant/Owner of Record
Kitsap County Parks
614 Division Street, MS-1
Port Orchard, WA 98366

Project Contact
Jennifer Allen, Senior Managing Scientist, Blue Coast Engineering

Recommendation Summary
Approved subject to conditions listed under Section 13 of this report.

1. Background

During a large storm and king tide event in December 2022, tidal waters overtopped the Point No Point North Beach and the armored shoreline and flooded NE Point No Point Road and nearby properties. Tidal waters also overtopped the pedestrian trail along the East Beach, flooding into the marsh area. In the days following this extreme weather event, the receding tidal waters from NE Point No Point Road and the marsh transected the public Park, cutting a deep channel through the North Beach. Foundation elements of the Park's east parking area were also exposed. In response to these events, Kitsap County has temporarily lined the Park's drive aisle (NE Point No Point Road) with sand-filled supersacks under an emergency permit until the permanent repair can be constructed. Due to the nature and extent of the storm damage, an imminent danger situation was declared requiring immediate action to avoid threats to the public and private property and NE Point No Point Road which provides regular and emergency access. As a result, this phase of work was permitted independently of the

larger planned repair. During the initial Point No Point Flood North Beach Repair Project completed Winter 2023/2024, beach nourishment and beach gravel materials were placed in north beach area to bring the elevation of the eroded beach areas back up to pre-storm conditions. This was intended to provide temporary protection during the storm season as permits are acquired for a full reconstruction project. The Winter 2023/2024 project:

- Placed approximately 585 tons of imported coarse sand to infill the post-storm beach channel landward of the high tide line (HTL).
- Placed approximately 2,955 tons of imported beach nourishment material (medium sand) in the beach nourishment area above and below the HTL.
- Installed 600 linear feet of sand fencing along the perimeter of the beach nourishment area including along the edge of the Park's drive aisle (NE Point No Point Road).
- Placed existing large wood in the shoreline area.

2. Project Request

During the upcoming project phase of work (to be completed under this permit application), beach nourishment materials (medium sand and gravel) will be placed in the shoreline area and nearby uplands to create protective foredunes; public areas between NE Point No Point Road and Admiralty Inlet will be planted with native vegetation; subsurface layers of biodegradable coir mats will be placed in the highest elevations of the beach nourishment placement area (foredune area) to slow erosion while native vegetation gets established; a creosote-treated timber crib wall will be removed waterward of the east parking lot; a derelict concrete curb at the parking area will be replaced; rounded beach cobble will be placed waterward of the parking area structural elements; the aging armor rock revetment in the Park and lighthouse area will be repaired; and beach nourishment materials will be placed in the east beach area to repair storm damage inflicted on the shoreline during the December 2022 storm event.

Specific project elements are described below (West to East; see Site Design analysis section of this report):

North Beach Restoration:
Removal:

- Removal of 20 LF of creosote-treated timber crib wall (40 Cubic feet or 1.5 Cubic Yards total to be removed). The crib wall is located above the high tide line (HTL) and Ordinary High Water Mark (OHWM), but waterward of the east parking lot. Only the surficial two feet of exposed wall will be removed.

Installation*:*

- Place approximately 4,600 cubic yards (CY) of imported beach nourishment material (medium sand) in the beach nourishment and foredune area above and below the HTL.
- Place biodegradable coir matting with 1-foot of beach nourishment cover (i.e., 1-foot lifts) within the north beach nourishment berm crest area (up to 37,800 square feet

of total matting) with up to 3 layers of coir matting in the location near NE Point No Point Road).
- Plant 18,500 SF of native dune grasses in upper elevations of the beach nourishment area (Planting Zone A).
- Plant 33,000 SF of native dune grasses, shrubs, and trees in the foredune area (Planting Zones B and C).
- Install 500 feet of sand fencing on the perimeter of the beach nourishment and foredune areas including along the edge of the Park's drive aisle (NE Point No Point Road).

Parking Lot Repairs:
Removal:
- Remove existing 130 linear-foot concrete curb.
- Excavate and stockpile 230 CY of soil material at the toe of the east parking area.
- Remove and stockpile a 15-foot width of pavers along the 130-foot section of curb to be re-placed after curb replacement (1,950 SF) at the east parking lot.

Installation:
- Cast-In-Place approximately 130 linear-foot concrete curb.
- Place 235 CY of imported rounded beach cobble waterward of the exposed parking area to reduce potential for scour and end-effect erosion between beach nourishment material and structural elements.
- Re-place 130 CY of excavated soil (landward of the curb wall) and 100 CY of excavated sand (waterward of the curb wall) materials as part of replacement of approximately 130 linear foot of concrete curb wall at the toe of the east parking area.
- Re-place 1,950 SF of pavers at the east parking lot (the 15-foot width of pavers previously removed and stockpiled).
- Repair 800 SF of pavers in southwest corner of parking lot south of NE PNP Road. (Pavers will be removed by hand. Material will be placed and compacted with light duty equipment. Pavers will be re-placed by hand.)

Revetment Replacement:
Removal:
- Remove and dispose of 2 CY of concrete rubble and other shoreline debris.
- Excavate and dispose of up to 70 CY of soil material from the setback area.
- Remove 210 CY of existing armor rock for upland disposal.
- Salvage and stockpile approximately 400 CY of existing shoreline armor rock.

Installation:
- Place 320 CY imported filter rock as the base layer in the armor rock revetment repair areas.
- Place 195 CY imported armor rock (including chinking rock) and 400 CY of salvaged

armor rock in revetment repair areas.

East Beach Restoration:
Installation:

- Place 200 CY of imported beach nourishment material on the observed beach over-wash locations on the east beach.

During construction, access to the site will be completed primarily by land via the existing road. Site access by water may be required for work along the armor rock revetment to protect the existing historic structures and culturally significant area, which will be determined by an archaeologist. The contractor will sometimes need to operate heavy equipment along the beach to place and grade beach nourishment. When feasible, work will be conducted from the uplands to minimize impacts to the beach during construction. If work along the beach is necessary, it will occur in the dry days/months when work areas are not inundated by the tides. Repairs along a damaged section of the perimeter walking trail will occur from the trail. No heavy equipment will operate on the beach at this repair location. Imported beach materials will be stockpiled in the parking areas and/or upland areas north of NE Point No Point Road or offsite.

3. SEPA (State Environmental Policy Act)

A SEPA Determination of Non-Significance was issued on September 4, 2024, under KCC 18.04 and the State Environmental Policy Act. The County used the optional DNS process in WAC 197-11-355. Opportunities for public comment were combined with the Notice of Application issued on August 7, 2024 and included a 30-day comment period. One comment was received from the Suquamish Tribe which was addressed by the applicant. The SEPA determination was not appealed, the SEPA DNS is considered final.

4. Physical Characteristics

Point No Point Park (Project Site) is a Kitsap County Park located at the northeastern tip of the Kitsap Peninsula near the entrance to Puget Sound from Admiralty Inlet. The Park is comprised of a low-lying, sandy, barrier beach at the western portion of the park (North Beach), a historic lighthouse and various outbuildings surrounded by manicured lawn and an armored revetment on the point, and a walking trail along the eastern shoreline with various access points to the East Beach. Point No Point Park includes two parking areas, a restroom facility, and a picnic area. The two parking areas, the east and west parking lots, respectively, are oriented diagonally from one another and are connected via NE Point No Point Road. The west parking lot abuts NE Point No Point Road to the north and a wetland to the south; the east parking lot is at the end of NE Point No Point Road and abuts the beach to the north and buildings to the south.

The Project Site also features a historic US Coast Guard (USCG) lighthouse and guest houses. These structures are now leased as vacation rentals by Kitsap County Parks and the US Lighthouse Society headquarters. The Project Site is bordered by privately owned lands with residences to

the west and a Kitsap County owned 32-acre estuarine wetland to the south. The park properties are popular public recreation areas for walking, hiking, birdwatching, and fishing. The Park and perimeter walking trail include nearly 2,040 feet of shoreline, 1,580 feet of which is unarmored, sandy beach, and 460 feet of which is protected by an aging armor rock revetment. The 1,060-foot perimeter walking trail runs south along the eastern shoreline from the northeastern tip of the park.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Public Facility Zone: Park	Standard	Proposed
Minimum Density	N/A	N/A
Maximum Density	0 dwelling units	
Minimum Lot Size	N/A	N/A
Maximum Lot Size	N/A	N/A
Minimum Lot Width	N/A	N/A
Minimum Lot Depth	200 feet	N/A
Maximum Height	35 feet	N/A
Maximum Impervious Surface Coverage	N/A	N/A*
Maximum Lot Coverage	N/A	N/A

Applicable footnotes: None

Staff Comment: *The site is located entirely within the Point No Point Park and the proposal is restoration and reconstruction of the existing facility bulkhead structures and portion of the paved parking lot surfaces. The proposal removes and adds impervious surfaces and results are not considered a change in the existing impervious surfaces on site. See Stormwater Analysis in Section 10.

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (West)	20 feet	N/A
Side (North and South)	10 feet; includes Shoreline Rural Conservancy buffers	N/A; North and South are Rural Conservancy with 130-foot buffer (standard) 100-foot (reduced). The proposal includes existing impervious surfaces as an existing roadway and parking lot.

		See Section 10 for more details.
Rear (East)	10 feet; includes Shoreline Rural Conservancy buffers.	Rural Conservancy with 130-foot buffer (standard) 100-foot (reduced).

Staff Comment: N/A

Table 3 - Surrounding Land Use and Zoning

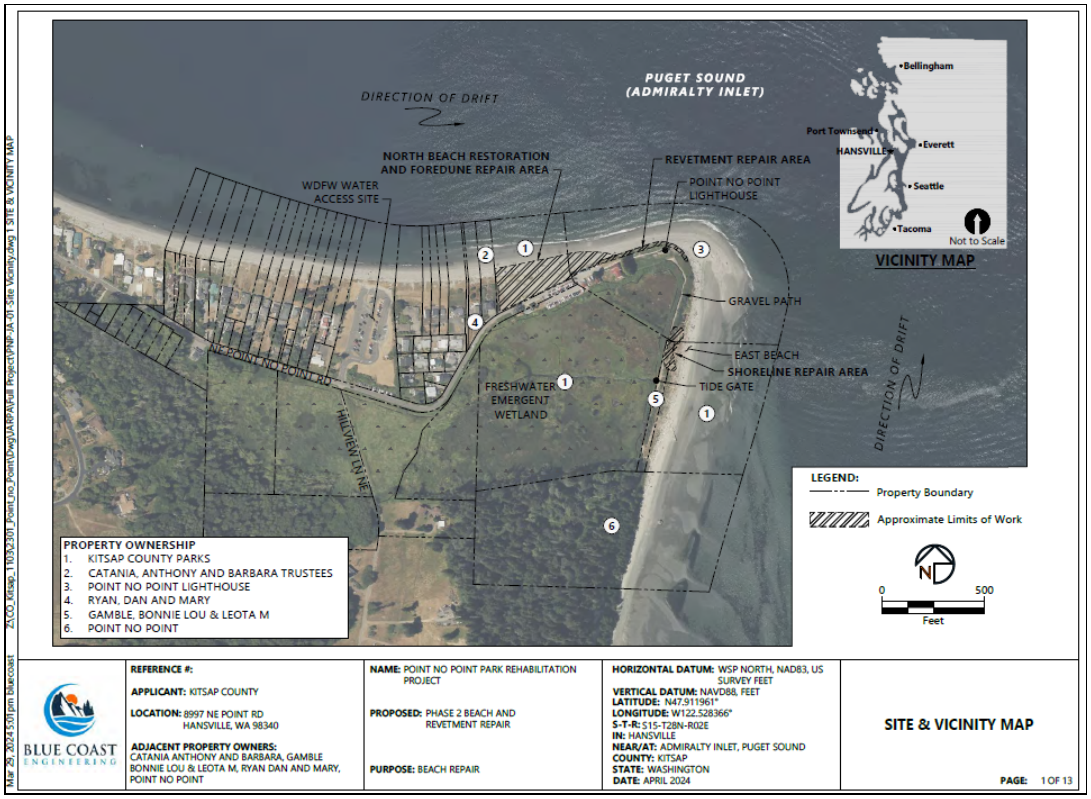
Surrounding Property	Land Use	Zoning
North	Puget Sound	Park
South	Park	Park
East	Puget Sound	Park
West	Single-family residences	Rural residential

Table 4 - Public Utilities and Services

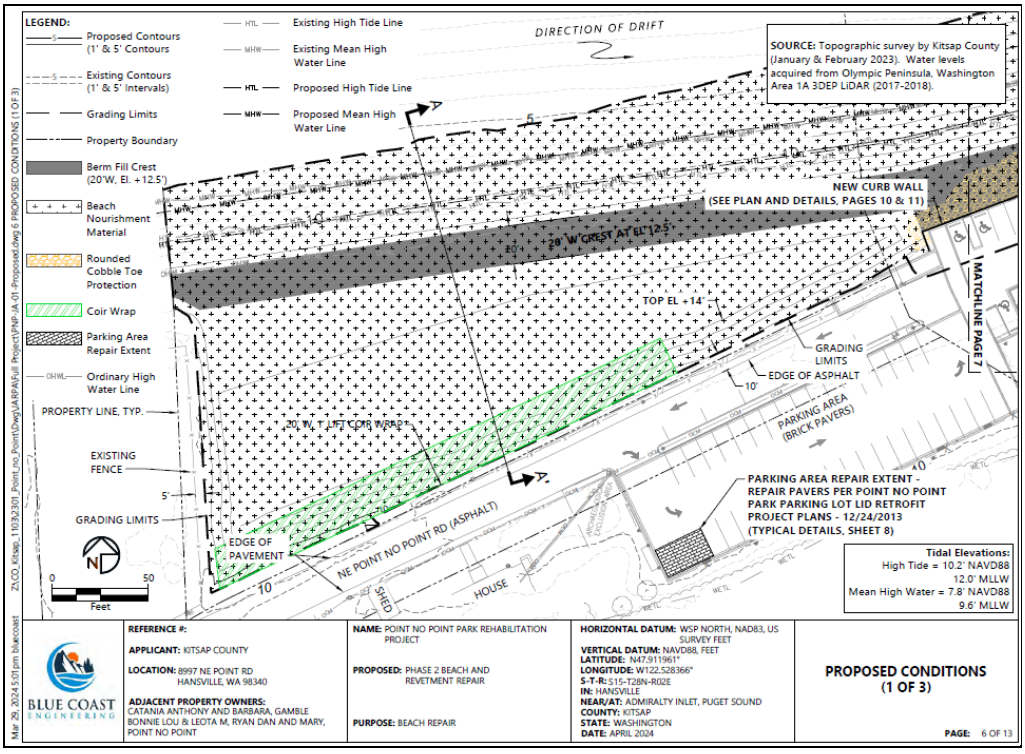
	Provider
Water	PUD 1
Power	Puget Sound Energy
Sewer	N/A; septic systems
Police	Kitsap County Sherriff
Fire	North Kitsap Fire & Rescue
School	North Kitsap School District #400

5. Site Design

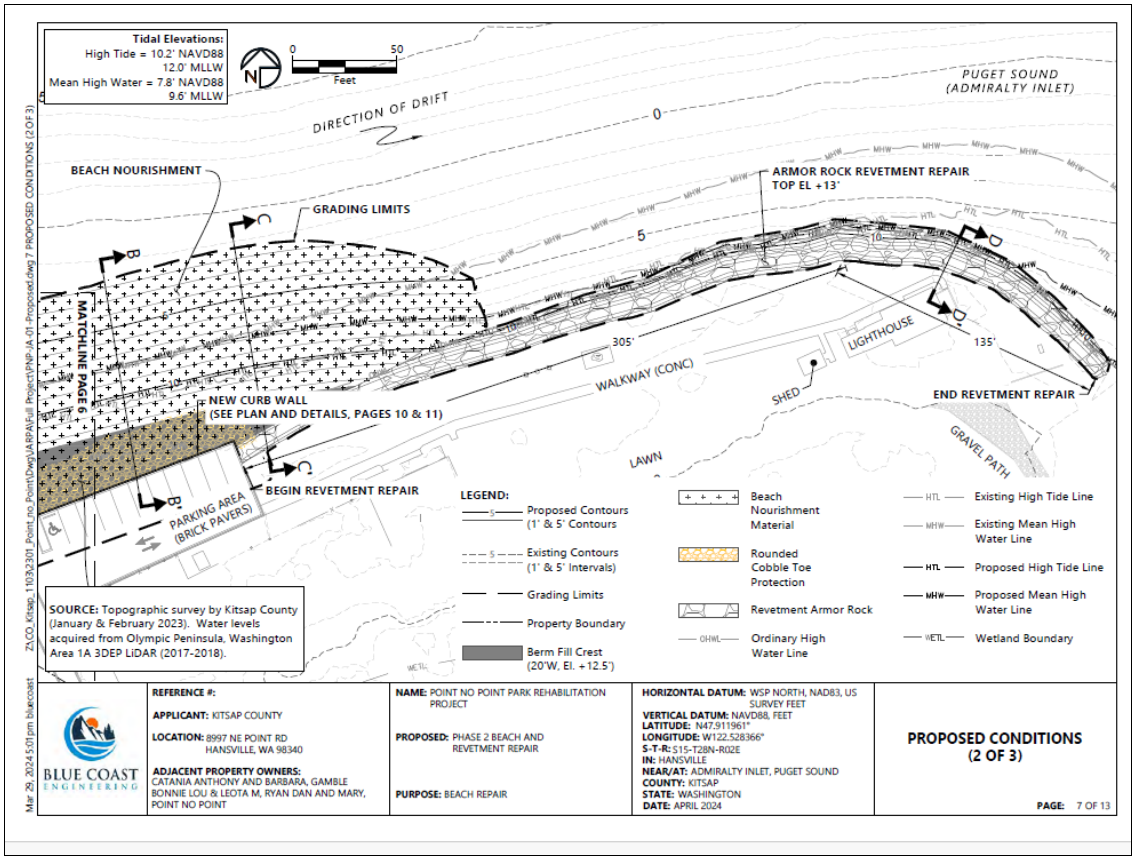
The submitted site plans show shoreline and upland improvements, roadway and parking areas, landscaping and native plan restoration areas, ADA-compliant walkways and access, and shoreline restoration. The site plan below is the Phase 2 Permit drawings, sheet 1 (overview), sheet 6 (West detail) and sheet 7 (East detail).


PUGET SOUND
(ADMIRALTY INLET)
DIRECTION OF DRIFT
NORTH BEACH RESTORATION
AND FOREDUNE REPAIR AREA
WDFW WATER
ACCESS SITE
REVETMENT REPAIR AREA
POINT NO POINT
LIGHTHOUSE
GRAVEL PATH
EAST BEACH
SHORELINE REPAIR AREA
TIDE GATE
FRESHWATER
EMERGENT
WETLAND
POINT NO POINT RD NE
HILLVIEW LN NE
DIRECTION OF DRIFT
VICINITY MAP
Bellingham
Port Townsend
HANSVILLE
Everett
Seattle
Tacoma
Not to Scale
LEGEND:
Property Boundary
Approximate Limits of Work
0
500
Feet
PROPERTY OWNERSHIP
1. KITSAP COUNTY PARKS
2. CATANIA, ANTHONY AND BARBARA TRUSTEES
3. POINT NO POINT LIGHTHOUSE
4. RYAN, DAN AND MARY
5. GAMBLE, BONNIE LOU & LEOTA M
6. POINT NO POINT
BLUE COAST ENGINEERING
REFERENCE #:
APPLICANT: KITSAP COUNTY
LOCATION: 8997 NE POINT RD
HANSVILLE, WA 98340
ADJACENT PROPERTY OWNERS:
CATANIA ANTHONY AND BARBARA, GAMBLE
BONNIE LOU & LEOTA M, RYAN DAN AND MARY,
POINT NO POINT
NAME: POINT NO POINT PARK REHABILITATION
PROJECT
PROPOSED: PHASE 2 BEACH AND
REVETMENT REPAIR
PURPOSE: BEACH REPAIR
HORIZONTAL DATUM: WSP NORTH, NAD83, US
SURVEY FEET
VERTICAL DATUM: NAVD88, FEET
LATITUDE: N47.911961°
LONGITUDE: W122.528366°
S-T-R: S15-T28N-R02E
IN: HANSVILLE
NEAR/AT: ADMIRALTY INLET, PUGET SOUND
COUNTY: KITSAP
STATE: WASHINGTON
DATE: APRIL 2024
SITE & VICINITY MAP
PAGE: 1 OF 13

West detail


LEGEND:
Proposed Contours (1' & 5' Contours)
Existing Contours (1' & 5' Intervals)
Grading Limits
Property Boundary
Berm Fill Crest (20'W, El. +12.5')
Beach Nourishment Material
Rounded Cobble Toe Protection
Coir Wrap
Parking Area Repair Extent
Ordinary High Water Line
Existing High Tide Line
Existing Mean High Water Line
Proposed High Tide Line
Proposed Mean High Water Line
DIRECTION OF DRIFT
SOURCE: Topographic survey by Kitsap County (January & February 2023). Water levels acquired from Olympic Peninsula, Washington Area 1A 3DEP LiDAR (2017-2018).
NEW CURB WALL
(SEE PLAN AND DETAILS, PAGES 10 & 11)
20' W CREST AT EL 12.5'
TOP EL +14'
MATCHLINE PAGE 7
GRADING LIMITS
EDGE OF ASPHALT
10'
PARKING AREA (BRICK PAVERS)
PROPERTY LINE, TYP.
20' W, 1' LIFT COIR WRAP
EXISTING FENCE
5'
GRADING LIMITS
EDGE OF PAVEMENT
NE POINT NO POINT RD (ASPHALT)
SHED
HOUSE
PARKING AREA REPAIR EXTENT -
REPAIR PAVERS PER POINT NO POINT
PARK PARKING LOT LID RETROFIT
PROJECT PLANS - 12/24/2013
(TYPICAL DETAILS, SHEET 8)
Tidal Elevations:
High Tide = 10.2' NAVD88
12.0' MLLW
Mean High Water = 7.8' NAVD88
9.6' MLLW
0
50
Feet
BLUE COAST ENGINEERING
REFERENCE #:
APPLICANT: KITSAP COUNTY
LOCATION: 8997 NE POINT RD
HANSVILLE, WA 98340
ADJACENT PROPERTY OWNERS:
CATANIA ANTHONY AND BARBARA, GAMBLE
BONNIE LOU & LEOTA M, RYAN DAN AND MARY,
POINT NO POINT
NAME: POINT NO POINT PARK REHABILITATION
PROJECT
PROPOSED: PHASE 2 BEACH AND
REVETMENT REPAIR
PURPOSE: BEACH REPAIR
HORIZONTAL DATUM: WSP NORTH, NAD83, US
SURVEY FEET
VERTICAL DATUM: NAVD88, FEET
LATITUDE: N47.911961°
LONGITUDE: W122.528366°
S-T-R: S15-T28N-R02E
IN: HANSVILLE
NEAR/AT: ADMIRALTY INLET, PUGET SOUND
COUNTY: KITSAP
STATE: WASHINGTON
DATE: APRIL 2024
PROPOSED CONDITIONS
(1 OF 3)
PAGE: 6 OF 13

East Detail



6. Policies and Regulations Applicable to the Subject Proposal

The Growth Management Act of the State of Washington, RCW 36.70A, requires that the County adopt a Comprehensive Plan, and then implement that plan by adopting development regulations. The development regulations must be consistent with the Comprehensive Plan. The Comprehensive Plan process includes public involvement as required by law, so that those who are impacted by development regulations have an opportunity to help shape the Comprehensive Plan which is then used to prepare development regulations.

Kitsap County Comprehensive Plan, adopted June 30, 2016; amended April 27, 2020.

The following Comprehensive Plan goals and policies are most relevant to this application:

Land Use Goal 4. Coordinate with other jurisdictions, tribal governments, agencies, special districts, and property owners to ensure coordinated and compatible land use planning and

utilize Urban Growth Area Management Agreements with cities, as feasible.

Land Use Policy 22. Preserve and protect features of historic, archaeological, cultural, scientific and educational value or significance through coordination and consultation with the appropriate local, state and federal authorities, affected Indian tribes, and property owners, through non-regulatory means.

Land Use Goal 13. Protect Kitsap County's unique rural character.

Land Use Policy 50. Limit the designated rural area to low residential densities that can be sustained by minimal infrastructure improvements, cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service.

Chapter 3- Environment, incorporates by reference the goals and policies of the Kitsap County Shoreline Master Program, as follows:

Critical Areas and Ecological Protection (KCC 22.300.100)

Staff Comment: The proposed Project will comply with all applicable critical areas and ecological protection regulations as outlined in SMP 22.300.100 to protect and conserve shoreline natural resources:

A. Policy SH-1. Protect and conserve shoreline areas that are ecologically intact and minimally developed or degraded. Develop incentives and regulations for privately owned shorelines that will protect and conserve these areas while allowing reasonable and appropriate development.

Staff Comment: The Project site is developed and minimally degraded; as a result, the shoreline is not fully ecologically intact. The restoration activities involved in this Project (creating a protective foredune in the back beach and installing native plants throughout the shoreline buffer at north beach) will improve the ecological functions the shoreline can provide.

B. Policy SH-2. Recognize that nearly all shorelines, even substantially developed or degraded areas, retain important ecological functions.

Staff Comment: The shoreline at Point No Point Park provides valuable ecological functions, and measures taken to minimize temporary adverse impacts to the shoreline within this Project and to restore the existing shoreline show the commitment to preserve the ecological functions of the shoreline. The Project will result in a net improvement to shoreline ecological functions. This assessment is supported by the National Marine Fisheries Service's (NMFS) Salish Sea Nearshore Programmatic (SSNP) Conservation Calculator, which returned a zero debit balance for the Project.

C. Policy SH-3. Utilize transfer of development rights as allowed by Chapter 17.580 as an option to protect ecological functions.

Staff Comment: Not Applicable N/A.

D. Policy SH-4. Permitted uses and developments should be designed and conducted in a manner that protects the current ecological condition and prevents or mitigates adverse impacts. Mitigation measures shall be applied in the following sequence of steps listed in order

of priority:

1. Avoid the impact altogether by not taking a certain action or parts of an action;
2. Minimize impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
3. Rectify the impact by repairing, rehabilitating or restoring the affected environment;
4. Reduce or eliminate the impact over time by preservation and maintenance operations;
5. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments, including utilization of the in-lieu fee process where appropriate; and
6. Monitor the impact and the mitigation projects and take appropriate corrective measures.

Staff Comment: Mitigation sequencing has been utilized in previous documents; please refer to the HMP (Grette Associates 2024) for details.

E. Policy SH-5. Shoreline ecological functions that should be protected include, but are not limited to:

1. Habitat (space or conditions for reproduction, resting, hiding and migration; and food production and delivery);
2. Water quality maintenance; and
3. Water quantity maintenance.

Staff Comment: The restoration portion of the Project is designed to restore and improve habitat functions of the shoreline. The native plantings will provide cover for shorebirds and similar species, and, along with placement of large woody debris, provide nutrients and food to the nearshore. Beach nourishment material will provide forage fish spawning habitat. The revetment will be replaced within the same footprint but at a setback angle, which will reduce scour from wave energy, providing improved habitat conditions. In addition, construction BMPs will be followed to minimize potential temporary adverse impacts to habitat and water quality, including conducting work in the dry whenever possible. The repaired/replaced revetment will be installed at a setback angle, which will result in an increase in water quantity available to species. Please refer to the HMP (Grette Associates 2024) for details on specific BMPs utilized in this Project.

F. Policy SH-6. Shoreline processes, both freshwater and marine, that should be protected to support the above functions include but are not limited to the delivery, loss and movement of:

1. Sediment;
2. Water;
3. Nutrients;
4. Toxins;
5. Pathogens; and
6. Large woody material.

Staff Comment: Protection of shoreline processes was considered and incorporated into design for this Project. The beach restoration will naturally protect the uplands from flooding events and erosion, while subsequently providing a source of nutrients to the marine shoreline. Replacement/repair of the revetment to result in a shallower slope angle will reduce wave energy and resulting scour at the revetment toe. Littoral drift will not be altered by the Project. Water

movement from flooding during king tide storm events will be altered; instead of overtopping the shoreline and resulting in channels of erosion on the beach when the water recedes, water will encounter a slightly elevated beach. Shoreline processes reliant on delivery, loss, and movement of water will not be altered.

Nutrients will be delivered in the nearshore from the native vegetation and large wood.

A portion of creosote-treated timber crib wall will be removed from the shoreline buffer, which will remove a source of toxins. Vegetation can serve as a barrier and filter for pathogens that my otherwise enter the waterway. Large woody material will be placed on the beach as part of the Project, and design does not obstruct future natural large wood recruitment. Standard construction BMPs will be in place to minimize the potential for temporary adverse impacts to habitat, hydrology, and water quality, including controlling the potential for increased temporary sedimentation, controlling spills and possible introduction of toxins to the environment, and preserving beach material and large woody debris already present on the site. For a more complete analysis of coastal processes that occur at the site, please see the Point No Point Flood Protection Design Alternatives and Preliminary Basis of Design (Blue Coast Engineering 2024).

G. Policy SH-7. In assessing the potential for new uses and developments to impact ecological functions and processes, the following should be taken into account:
1. On-site and off-site impacts;
2. Immediate and long-term impacts;
3. Cumulative impacts, from both current and reasonably foreseeable future actions, resulting from the project; and
4. Any mitigation measures or beneficial effects of established regulatory programs to offset impacts.

Staff Comment: There will not be new uses or developments in this Project; Project components include restoration and repair of existing structures and beaches.

H. Policy SH-8. Critical areas in the shoreline jurisdiction shall be protected in a manner that results in no net loss to shoreline ecological functions. Pursuant to RCW 36.70A.030(5), critical areas include:
1. Wetlands.
2. Frequently flooded areas.
3. Fish and wildlife habitat conservation areas.
4. Geologically hazardous areas.
5. Critical aquifer recharge areas.

Staff Comment: The protection of critical areas was incorporated into Project design and is *addressed in the HMP (Grette Associates 2024). Further, the SSNP Conservation Calculator prepared for this Project resulted in a zero debit balance. Please refer to those documents for details. The Project will result in no net loss to shoreline ecological function.*

Vegetation Conservation (KCC 22.300.105)

Staff Comment: The proposed Project will comply with all applicable vegetation conservation regulations as outlined in KCC 22.300.105 to protect and conserve shoreline natural resources:

A. Policy SH-9. Preserve native plant communities on marine, river, lake and wetland shorelines. In order to maintain shoreline ecological functions and processes, development along the shoreline should result in minimal direct, indirect, or cumulative impacts. This includes:
1. Keeping overhanging vegetation intact along the shoreline edge to provide shading and other ecological functions;
2. Preserving established areas of native plants and minimizing clearing and grading near bluff edges and other erosion or landslide-prone areas in order to maintain slope stability and prevent excess surface erosion and stormwater runoff;
3. Designing and placing structures and associated development in areas that avoid disturbance of established native plants, especially trees and shrubs; and
4. Removal of noxious weeds in accordance with WAC 16-750-020.

Staff Comment: The restoration portion of the Project includes planting approximately 1 acre of native dune grasses, shrubs, and trees above the OHWM and an additional 7,300 SF of native dune grasses below the OHWM in a currently unvegetated beach area with the intent of establishing native plant communities along the marine shoreline. The Project does not anticipate requiring the removal of native vegetation.

B. Policy SH-10. Shoreline landowners are encouraged to preserve and enhance native woody vegetation and native groundcovers to stabilize soils and provide habitat. When shoreline uses or modifications require a planting plan, maintaining native plant communities, replacing noxious weeds and avoiding installation of ornamental plants are preferred. Nonnative vegetation requiring use of fertilizers, herbicides/pesticides, or summer watering is discouraged.

Staff Comment: The purpose of the restoration portion of this Project is to enhance native woody vegetation and native groundcovers to stabilize soils and provide habitat. Any existing native vegetation will be preserved as part of this Project.

C. Policy SH-11. Maintaining native or ecologically functional vegetation is preferred over clearing to provide views or lawns. Limited and selective clearing may be allowed when slope stability and ecological functions are not compromised. Limited trimming and pruning is generally preferred over removal of native vegetation.

Staff Comment: No clearing or native vegetation removal is anticipated to be required in this Project.

Water Quality and Quantity (KCC 22.300.110)

Staff Comment: The proposed Project will comply with all applicable Water Quality and Quantity regulations as outlined in SMP 22.300.110.

A. Policy SH-12. Shoreline use and development should minimize impacts that contaminate surface or groundwater, cause adverse effects on shoreline ecological functions, or impact aesthetic qualities and recreational opportunities, including healthy shellfish harvest.

Staff Comment: The Project is designed to convert the existing unvegetated sandy north beach to a fully-vegetated area with enhanced shoreline ecological function. The beach restoration

design also incorporates access paths for public enjoyment. The work will repair the parking lot and restore two-lane access to the Park and thus will continue to support recreational activities.

The Project will minimize temporary construction effects by following construction BMPs as addressed in the HMP (Grette Associates 2024).

B. Policy SH-13. Ensure mutual consistency with other regulations that address water quality and stormwater quantity, including standards as provided for in Title 12 (Stormwater Drainage) and Chapter 173-201A WAC (Water Quality Standards).

Staff Comment: The Project will comply with all stormwater and water quality standards, as addressed in Title 12 of the KCC and Chapter 173-201A of the WAC.

C. Policy SH-14. Utilize pervious materials and other appropriate low impact development techniques where soils and geologic conditions are suitable and where such practices could reduce stormwater runoff.

Staff Comment: No new impervious surface is proposed as part of this Project. The only impervious materials used in the Project include the replacement rock revetment wall, the replacement parking lot curb wall, and the repaired parking lot pavers. None of these activities involving impervious surfaces will include the expansion of impervious surfaces; the features will be repaired or replaced within the existing footprints.

D. Policy SH-15. All shoreline uses and development shall be conducted in accordance with Title 15 (Flood Hazard Areas). The subdivision of land should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway. When evaluating alternate flood control measures or floodplain restoration opportunities, consider the removal or relocation of structures in flood-prone areas.

Staff Comment: The entire Project will take place within a Flood Hazard Area (100 Year Floodplain). Flood control measures (vegetated foredune) to be installed as part of this Project have been designed to provide habitat restoration and lift. The Project will increase the beach elevation and install native vegetation to combat flooding events with the potential to damage infrastructure. The revetment will be repaired/replaced so as to protect the historic lighthouse and U.S. Coast Guard tower, both of which are active aids to navigation and essential to protection of public health, safety, and welfare.

No subdivision of land is involved in the Project, and this Project is intended to not only repair the damage from the December 2022 flood, but to minimize impacts from flooding in the future. Construction activities will comply with regulations in Title 15 of the KCC.

Economic Development (KCC 22.300.115)

Staff Comment: The project will provide economic opportunities for nearby local establishments.

Historical, Archaeological, Cultural, Scientific, and Educational Resources (KCC 22.300.120)

Staff Comment: Per the Point No Point Park Beach Repair Phase 1 and revised Phase 2 Cultural Resources Assessment (CR Assessment), historic properties and resources on the Project parcels

include the following (Environmental Science Associates [ESA] 2023):

Historic Properties
• Point No Point (PNP) lighthouse (1879) – listed in the National Registry of Historic Properties (NRHP) and Washington Heritage Register

Historic Resources
• Point No Point Lighthouse Shed, Department of Archeology and Historic Preservation (DAHP) Property ID 672299 (1957), determined not eligible
• Maggs House, DAHP Property ID 56164 (ca.1920), determined not eligible
• Maggs Shed, DAHP Property ID 56165 (ca.1940), determined not eligible
• Lighthouse Keeper's Quarters – identified by Cultural Resource Consultant, not recorded in Washington State Information System for Architectural and Archeological Records Data (WISAARD)
• Utility shed – east of the parking lot; pre-dates 1951, identified by Cultural Resource Consultant, not recorded in WISAARD

In addition, in 2014, human remains believed to be ancient were discovered at the Park, along with historic artifacts associated with cottage construction. For more details on these historical structures and other findings please see the CR Assessment. The CR Assessment suggests that Phase 2 of this Project has the potential to affect the site during ground disturbance for the replacement of the parking lot curb wall and reconstruction of the revetment (ESA 2023). Per coordination with the Port Gamble S'Klallam and Suquamish Tribes, an archaeological monitor will be onsite during these activities to observe the soils and identify any potential cultural resources.

The Project will comply with all applicable regulations pertaining to Historic, Archeological, Cultural, Scientific, and Educational resources as addressed below:

A. Policy SH-18. Prevent damage or destruction of historic, archaeological, cultural, scientific and educational (HASCE) sites through coordinated identification, protection and management with the appropriate local, state and federal authorities and registrars, affected Indian tribes, and property owners.

Staff Comment: The replacement of the rock revetment wall adjacent to the historic lighthouse is designed to prevent flood damage to the historic, archaeological, and cultural sites on the Project parcels. The additional layers of sand and restoration plantings are designed to prevent further flood damage to the beach and Park itself, including historic and archaeological resources. Excavation will be limited to the minimum area necessary to remove the curb wall and repair/replace the existing revetment.

Local, state, and federal authorities, the Port Gamble S'Klallam and Suquamish Tribes, and the public, including adjacent property owners have been engaged in discussions throughout the design of this Project.

B. Policy SH-19. Provide opportunities for education and appreciation related to HASCE

features where appropriate and where maximum protection of the resource can be achieved.

Staff Comment: The Park has several information panels throughout the Park educating visitors on the natural habitat and the historic use of the site, therefore this regulation is met.

Shoreline Use and Site Planning (KCC 22.300.125)

Staff Comment: The Project will comply with all applicable Shoreline Use and Site Planning regulations as addressed below:

A. Policy SH-20. For shoreline use and development activities, including plats and subdivisions at full build-out, employ innovative development features to achieve no net loss of ecological functions, such as sustainable and low impact development practices where appropriate.

Staff Comment: As a repair and restoration project, the Project will result in no net loss of ecological functions, and with the restoration activities, the Project will instead enhance natural functions. All Project activities relating to impervious surfaces, including the repair of the parking lot and the replacement of the revetment rock wall and parking lot curb wall, will take place within the existing footprint of these features. The north beach restoration will convert an unvegetated sandy beach to fully vegetated habitat in the shoreline buffer, and placement of beach nourishment in the nearshore will provide habitat lift for an area of beach mapped as forage fish spawning habitat.

B. Policy SH-21. Give preference to water-dependent uses and single-family residential uses that are consistent with preservation of shoreline ecological functions and processes. Secondary preference should be given to water-related, and water-enjoyment uses. Non-water-oriented uses should be limited to those locations where the above-described uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the Act. For use preference within shorelines of statewide significance, see Section 22.300.145(B).

Staff Comment: This Project will continue to allow access to Puget Sound for water-enjoyment use, including public beach access for saltwater fishing, sunbathing, and sightseeing. Because this is a repair and restoration project, no change in use is proposed.

C. Policy SH-22. Designate and maintain appropriate areas for protecting and restoring shoreline ecological functions and processes to control pollution and prevent damage to the shoreline environment and/or public health.

Staff Comment: This Project is designed to restore the natural shoreline elements in the north beach area (installation of native vegetation and beach nourishment) to provide improved shoreline ecological functions. In addition, repair activities are designed to prevent damage to the shoreline environment and the onsite aids to navigation that are essential for public health, safety, and welfare from future flood events. No pollution or damage to the shoreline environment or public health is anticipated as a result of this Project.

D. Policy SH-23. Through appropriate site planning and use of the most current, accurate and complete scientific and technical information available, shoreline use and development should be located and designed to avoid the need for shoreline stabilization or actions that

would result in a net loss of shoreline ecological functions.

Staff Comment: The Project has been designed to avoid new hard armoring of the shoreline. A protective foredune area, composed of beach nourishment material, will protect the Park from future flooding and erosion events using soft shoreline treatments including vegetation and coir matting. The existing revetment will be repaired/replaced, not expanded, to provide continued protection for the active aids to navigation and cultural resources found on the point. These aids to navigation are essential to public health, safety, and welfare.

Policy SH 24- 28 (E through I) are not applicable to this Project.

J. Policy SH-29. Upland uses and modifications should be properly managed to avoid degradation of water quality of existing shellfish areas.

Staff Comment: As a beach repair and restoration project, no degradation of water quality is anticipated. The majority of the Project activities include adding beach nourishment material and native plantings. In addition, there is no expansion of impervious areas in the upland areas, which is limited to the replacement of a parking lot curb wall and the repair of a parking lot using existing materials. No new upland land use is being proposed. During construction, BMPs, as addressed in the HMP (Grette Associates 2024), will be used to minimize the risk of spills and other hazards to water quality.

L. Policy SH-31. Noncommercial and small-scale aquaculture projects should be encouraged through the shoreline exemption process (Section 22.500.100(C)).

Staff Comment: This Project is not related to any form of aquaculture; therefore, this regulation is not applicable.

Public Access and Recreation (KCC 22.300.130)

Staff Comment: All activities involved in this Project will adhere to regulations pertaining to Public Access and Recreation, as addressed below:

A. Policy SH-32. Protect the public's opportunity to enjoy the physical and visual qualities of the shoreline by balancing shoreline use and development in such a way that minimizes interference with the public's use or enjoyment of the water. This may be achieved through regulatory provisions, incentives or other cooperative agreements.

Staff Comment: This Project will repair the damaged upland infrastructure (road and parking lot) that provide access to the Park for the public and restore the beach to allow for the continued enjoyment of the Park by the public. The revetment repair/replacement will provide continued protection of the historic lighthouse and other resources on the site, also for the public's enjoyment.

B. Policy SH-33. Evaluate site-appropriate types and methods of required public access when reviewing all public shoreline development projects and private subdivision of land into more than four parcels. Based on project-specific circumstances, this may include physical or visual access on or off site.

Staff Comment: The Project will involve the repair of the existing parking lot and parking curb

wall, allowing continued public access from the road.

C. Policy SH-34. Acquire, maintain and improve diverse physical and visual shoreline access through public and private efforts. This should be accomplished in a comprehensive and prioritized manner through the use of existing plans and programs, including those that address population growth and shoreline access demands such as the Kitsap County Comprehensive Plan, the Kitsap County Parks, Recreation and Open Space (PROS) Plan, and other port and state park plans.

Staff Comment: This Project is designed to provide physical and visual shoreline access through creation of a designated path that leads to the beach through the areas of new native plantings and dunes.

D. Policy SH-35. Publicly owned, undeveloped road-ends, tax-title lands and rights-of-way adjacent to salt and freshwater shorelines should be evaluated for use as public access points. These lands may be developed for access by a community organization, consistent with Chapter 11.36.1

Staff Comment: Access to the Park is already acquired by a road end access point. This Project will restore two-lane traffic for the road and will repair the parking areas at the end of the road.

E. Policy SH-36. Use shoreline public access points to enhance the public's understanding and appreciation of shoreline ecology, cultural history, maritime heritage, and location specific rules and boundaries by incorporating educational and interpretive signage and other tools into public access facilities.

Staff Comment: Educational and interpretive signage is already utilized in the Park for both shoreline ecology and history; therefore, this regulation is not applicable to this particular phase.

Restoration and Enhancement (KCC 22.300.135)

Staff Comment: The proposed Project will adhere to all applicable Restoration and Enhancement regulations as described below:

A. Policy SH-37. Integrate and facilitate voluntary and incentive-based cooperative restoration and enhancement programs between local, state, and federal public agencies, tribes, nonprofit organizations, and landowners to address shorelines with impaired ecological functions and/or processes.

Staff Comment: Kitsap County Parks is coordinating with local, state, and federal agencies and Tribes, including the Kitsap County Department of Community Development (DCD), Washington Department of Fish and Wildlife (WDFW),Washington State Department of Ecology, U.S. Coast Guard (USCG), U.S. Army Corps of Engineers (USACE), NMFS, U.S. Fish and Wildlife Service (USFWS), and the Port Gamble S'Klallam and Suquamish Tribes to integrate voluntary restoration and enhancement of the north beach into Project design.

B. Policy SH-38. Identify restoration opportunities through sources such as the Kitsap County Shoreline Inventory and Characterization Report, salmon recovery plans, local watershed plans, Puget Sound Nearshore Ecosystem Restoration Project (PSNERP), and the Salmon Recovery Lead Entity Habitat Work Schedule, and authorize, coordinate and facilitate

appropriate publicly and privately initiated restoration projects. This shall be accomplished through the shoreline restoration plan (Appendix C to the ordinance codified in this title), which addresses the following:

1. Identification of degraded areas and sites with potential for ecological restoration;
2. Restoration goals and priorities;
3. Existing and ongoing projects and programs;
4. Additional projects and programs to achieve the restoration goals;
5. Funding sources, timelines and benchmarks for implementation; and
6. Monitoring effectiveness of restoration projects.

Staff Comment: The Kitsap County Shoreline Inventory and Characterization Report identifies the north beach area (Nearshore Assessment Unit [NAU] 155) as a "Conserve and Restore" prioritization recommendation, with the dominant process (DP) to be protected listed as "Wave Deposition (Open Shore)" and the DP Stressor listed as "Armoring" (Kitsap County 2010). The completed Project will result in the upland beach and adjacent infrastructure being protected from flood risk without introducing armoring that would disrupt the wave deposition process. The armored point (NAU 154) is listed as a "Restore" prioritization recommendation with the DP listed as "Wave Deposition" and the stressor listed as "Armoring." Although the armoring is essential for public health, safety, and welfare, and therefore must remain, the new design will be placed at a shallower angle so as to reduce scour and erosion from wave reflection. This will improve the conditions for wave deposition. The PSNERP mapper identifies the project as "Restore High" to "protect and restore sediment input and transport processes in littoral drift cells where wave energy results in bluff erosion that sustains beach structure" (https://wdfw.wa.gov/species-habitats/habitat-recovery/puget-sound/project-maps; accessed April 24, 2024).

The proposed Project supports the goals of the shoreline restoration plan, as outlined in the code above. This Project identified a site with potential for ecological restoration in the north beach restoration area. The current condition of the beach is flat, unvegetated sand; the restoration will install foredunes vegetated with native trees, grasses, and shrubs to enhance the habitat conditions within the shoreline buffer. Although the Shoreline Restoration Plan is not readily available online, the Kitsap County Regional Shoreline Restoration Project goals include identifying priority reaches for protection and restoration of feeder bluffs and other sediment sources, and priority drift cells. The Project area falls within two priority drift cells (https://www.kitsap.gov/dcd/Pages/KC_ Shoreline_Restoration.aspx; accessed April 24, 2024).

Mid Sound Fisheries Enhancement Group is conducting the Point No Point Estuary Restoration Project on the adjacent land to the south of the Project area. The restoration portion of this Phase 2 Project is intended to raise the shoreline area and nearby uplands to create protective foredunes to limit wave and tidal overtopping of the northern and eastern shorelines to reduce the flooding potential along NE Point No Point Road while adding native vegetation to the shoreline riparian zone to improve salmon and forage fish habitat in a way that aligns with the adjacent estuary restoration design project. Because the current proposed Project and the Point No Point Estuary Restoration Project are intended to result in a restored shoreline at Point No Point, no additional projects or programs are planned at this time. The proposed Project is funded, and work will commence as soon as permits are received, within the permitting in-water work window. Target

construction is August 2024.

Monitoring of the plantings will occur following the monitoring schedule as outlined in the HMP (Grette Associates 2024).

C. Policy SH-39. Encourage and facilitate restoration and enhancement projects for priority habitats and species (Washington Department of Fish and Wildlife, PHS Program).

Staff Comment: This Project will enhance the Puget Sound Nearshore, which is a priority habitat for priority species that include forage fish and salmonids. This, in turn, may increase foraging opportunities for priority avian species, including pelagic sea birds, ducks, and shore birds. The vegetated dunes will also provide more complex habitats for upland PHS species, including birds and insects.

D. Policy SH-40. Shoreline ecosystem protection and restoration projects shall be prioritized, located and designed utilizing the most current, accurate and complete scientific and technical information available to promote resiliency of habitats and species.

Staff Comment: Blue Coast Engineering prepared a thorough Basis of Design Report (Blue Coast Engineering 2024) in which they evaluate the most current, accurate, and complete scientific and technical information available to consider all coastal processes in order to design the Project to best promote resiliency of habitats and species. Please see that report for a comprehensive analysis.

Transportation and Utilities (KCC 22.300.140)

Staff Comment: The proposed Project complies with the following applicable policies for transportation and utilities as outlined below:

A. Policy SH-41. Plan, locate and design proposed transportation, parking facilities, and utility facilities where routes will avoid a net loss of shoreline ecological functions or will not adversely impact existing or planned water-dependent uses.

Staff Comment: The proposed Project involves the repair of an existing parking lot and the replacement of an existing curb wall. In order to avoid net loss of shoreline ecological functions, these activities will take place within the footprint of the existing structures. Further, the Project will allow for removal of sand filled super sacks, a temporary flood-control measure installed to protect the road. This will result in restoration of two-lane traffic to the Park, including the active aids to navigation. These features will continue to allow public enjoyment of the shoreline and of the Park as a whole.

B. Policy SH-42. Parking facilities in shorelines are not a preferred use. Such facilities shall only be allowed as necessary to support an authorized use and only when environmental and visual impacts are minimized.

Staff Comment: There will be no new impacts from the repaired parking lot or replaced parking lot curb wall. Project activities pertaining to those uses will take place within the footprint of the existing features and will continue to support authorized use. In addition, the continued use of pavers rather than concrete will minimize environmental and visual impacts of the parking lot.

C. Policy SH-43. New or expanded transportation routes and essential utility facilities shall, to the extent feasible:
1. Be located in areas that do not require shoreline stabilization, dredging, extensive cut/fill and other forms of shoreline alteration;
2. Be limited to local access and public shoreline access routes;
3. Be located in existing rights-of-way and corridors; and
4. Not be built within shoreline jurisdiction when other options are available.

Staff Comment: No new or expanded transportation routes or utility facilities will be built. The damaged parking lot will be repaired, and the parking curb wall will be replaced, both within the current footprints of those features.

D. Policy SH-44. Transportation and utility projects shall be consistent with the public access policies and plans of this program.

Staff Comment: No new transportation or utility projects are involved in this Project.

E. Policy SH-45. Provide for alternate modes of travel, including pedestrian, bicycle and public transportation, where appropriate.

Staff Comment: No alternate modes of travel are proposed or provided for in this Project.

Kitsap County Parks 14 April 2024 Point No Point Phase 2 Restoration and Repair Project Grette Associates Kitsap County Shoreline Consistency Narrative
F. Policy SH-46. Maintenance of existing transportation corridors and utility facilities shall be carried out in a manner that:
1. Will avoid a net loss of shoreline ecological functions; and
2. Where feasible and appropriate, improve shoreline ecological functions.

Staff Comment: In order to avoid a net loss of shoreline ecological functions, the repair of the parking lot and the replacement of the parking lot curb wall will take place within the footprint of those existing structures. Shoreline ecological function will be improved by installing native vegetation in the sandy buffer between the parking lot/curb wall and the Puget Sound Nearshore.

Shorelines of Statewide Significance (KCC 22.300.145)

Staff Comment: Point No Point County Park is abutted on the northern and eastern borders by Puget Sound, designated a shoreline of statewide significance by KCC 200.300.145(A). Project activities will comply with all regulations pertaining to shorelines of statewide significance as addressed below:

1. Policy SH-47. Recognize and protect the statewide interest over local interest.
a. The Washington Departments of Fish and Wildlife and Ecology, affected tribes, other resources agencies, and interest groups should be consulted for development proposals that could affect anadromous fisheries or other priority species or habitats.
b. Recognize and take into account state agencies' policies, programs and recommendations in developing and administering use regulations.

Staff Comment: Pre-application meetings have included all applicable agencies and Tribes. All recommendations have been addressed and/or incorporated into Project design.

2. Policy SH-48. Preserve the natural character of the shoreline.
a. Administer shoreline environments and regulations to minimize damage to the unique character and ecology of shorelines of statewide significance.
b. Where natural resources of statewide importance are being diminished over time by human activities, restoration of those resources should be facilitated.
c. In order to reduce adverse impacts to the environment while accommodating future growth, new intensive development activities should upgrade and redevelop those areas where intensive development already occurs, rather than allowing high-intensity uses to extend into low-intensity use or underdeveloped areas.

Staff Comment: This Project is designed to restore and enhance the natural character of the shoreline.

3. Policy SH-49. Result in the long-term over short-term benefit.
a. Preserve sufficient shorelands and submerged lands to accommodate current and projected demand for economic resources, such as shellfish beds and navigable harbors.
b. Actions that would convert resources into irreversible uses or detrimentally alter natural conditions that are characteristic of shorelines of statewide significance should be severely limited.
c. Evaluate the short-term economic gain or convenience of developments in relationship to long-term and potentially costly impairments to the natural environment.
d. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or for the general enhancement of shoreline areas.

Staff Comment: The Park is not a high-demand area for economic resources, so economic concerns are not applicable. Resources and land uses will not be altered, except for restoration of the north beach. Project activities will restore the shoreline and shoreland through installation of foredunes and supplemental plantings. In addition, the repair of the parking lot and replacement of the parking lot curb wall will take place within the footprint of the existing features in order to avoid altering natural conditions. This will result in long-term benefits to the Project area.

4. Policy SH-50. Protect the resources and ecology of the shoreline.
a. Projects shall be required to consider incremental and cumulative impacts while ensuring no net loss of shoreline ecosystem processes and functions.
b. In order to ensure the long-term protection of ecological resources of statewide importance, activities impacting anadromous fish habitats, forage fish spawning and rearing areas, shellfish beds and other unique environments should be severely limited.
c. Limit public access where improvements would result in a loss of shoreline ecological functions, such as in priority or sensitive habitats.

Staff Comment: The Project will restore the resources and ecology of the shoreline through installation of native plantings on a currently unvegetated beach. These plantings will contribute nutrients and prey (e.g., insects) to the nearshore, including to anadromous fish. Further, the Project will place beach nourishment material in the nearshore to improve forage fish spawning habitat on the documented sand lance spawning beach.

Temporary disturbance to the shoreline will be minimized through implementation of

construction BMPs, as addressed in the HMP (Grette Associates 2024). In addition, while shellfish beds and forage fish spawning habitats are mapped below the high tide line, much of the Project will take place above the OHWM and entail increased beach material and supplemental plantings. The only Project activities below the OHWM are the replacement of the rock revetment wall by the historic lighthouse and some beach nourishment material placed below the OHWM. Work below the OHWM will be conducted within the designated work window.

5. Policy SH-51. Increase public access to publicly owned areas of the shorelines.
a. Preserve and encourage public access with special scenic or cultural qualities.
b. Give priority to developing paths and trails to shoreline areas and linear access along the shorelines, where appropriate.
c. Locate development, including parking, as far inland from the OHWM as is feasible so that access is enhanced.

Staff Comment: The intent of Point No Point Park is to provide public access to publicly-owned areas of the shoreline. Restoration of the north beach area will allow for super sacks to be removed from the road, restoring two-way public access to the Park. The parking lot repairs will restore parking at the Park within the existing footprint of the lots. The public will again be able to access the beaches (north and east), walking path, and historical lighthouse at the site.

6. Policy SH-52. Increase recreational opportunities for the public in the shoreline.
a. Public access and recreation requirements should take into account the activities of state agencies and the interests of the citizens of the state to visit public shorelines.
b. Plan for and encourage development of facilities for recreational use of the shorelines, but reserve areas for lodging and related facilities on uplands well away from the shoreline, with provisions for nonmotorized access to the shorelines.

Staff Comment: The Park is already utilized for public recreational opportunities. Repairing the parking lots and removing the Super sacks along NE Point No Point Road will improve public access. The restored north beach area will have designated beach access paths through the vegetated dunes, and the east beach access point will be improved with the addition of beach nourishment material.

The County's development regulations are contained within the Kitsap County Code. The following development regulations are most relevant to this application:

Code Reference	Subject
Title 12	Storm Water Drainage
Title 13	Water and Sewers
Title 14	Buildings and Construction
Title 17	Zoning
Title 19	Critical Areas
Title 22	Shoreline Master Program
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures

7. Documents Consulted in the Analysis

A complete index of exhibits is located in the project file. To date, the index to the record consists of 15 Exhibits listed below.

Exhibit #	Document	Dated
1	Concurrency waivers	May 5, 2024
2	Site Photos	May 5, 2024
3	Cultural Resources Report	May 5, 2024
4	SEPA Checklist	May 5, 2024
5	Habitat Management Plan/No Net Loss	May 5, 2024
6	JARPA	May 5, 2024
7	Project Description	May 5, 2024
8	SMP Consistency Narrative	May 5, 2024
9	CAO report	May 5, 2024
10	Flood Protection and Alternatives (Geotechnical)	May 5, 2024
11	Notice of Application	August 7, 2024
12	SEPA DNS	September 4, 2024
13	Revised Phase 2 Cultural Resources Report	January 18, 2025
14	Suquamish Tribe Concurrency Memo	February 18, 2025
15	Public Comments Received	

8. Public Outreach and Comments

A Notice of Application was distributed pursuant to Title 21 Land Use and Development Procedures, which provided recipients with project information and an opportunity for public comment. There were no public comments received by the department. There was one comment from the Suquamish Tribe related to a revised phase 2 Cultural Resources Assessment (CRR) which was provided by the applicant, and we forwarded a copy to the Tribe. The file was very large, so we re-transmitted a copy on February 17th. The Tribe provided an e-mail that they received the report and concurred with the recommendations to have a Cultural Resources specialist on site during all soil disturbance work. Should there be any comments provided after the 3 day review, we will include them here.

Issue Ref. No.	Summary of Concern
1	*Comment by the Suquamish Tribe 8/23/2024*

Issue Ref. No.	Staff Response
1	*The Suquamish Tribe concurs with the CRR on 2/18/2025*

9. Analysis

a. Planning/Zoning

The proposal is within the Park zone (Park) zone and the Rural Conservancy Shoreline designation. Shoreline stabilization actions to repair existing facilities are a permitted use in the Rural Conservancy shoreline designation per Kitsap County Code (KCC) 22.500.100 3 b (normal repair and maintenance of existing structures) and beach restoration activities as further guided in 22.600.175. The restoration activities planned in the beach areas are considered under an SDP within KCC 22.600.165 barrier development, with ecological restoration as the primary purpose. As described in Table 1 and 2 of this report, the proposal meets zoning dimensional and design standards of the Park zoning designation.

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

The repair of the beach and stabilization structures will not impact existing parking and does not change parking configurations nor parking spaces on site. Approximately 48 parking stalls exist on the site, including 4 dedicated ADA parking spaces.

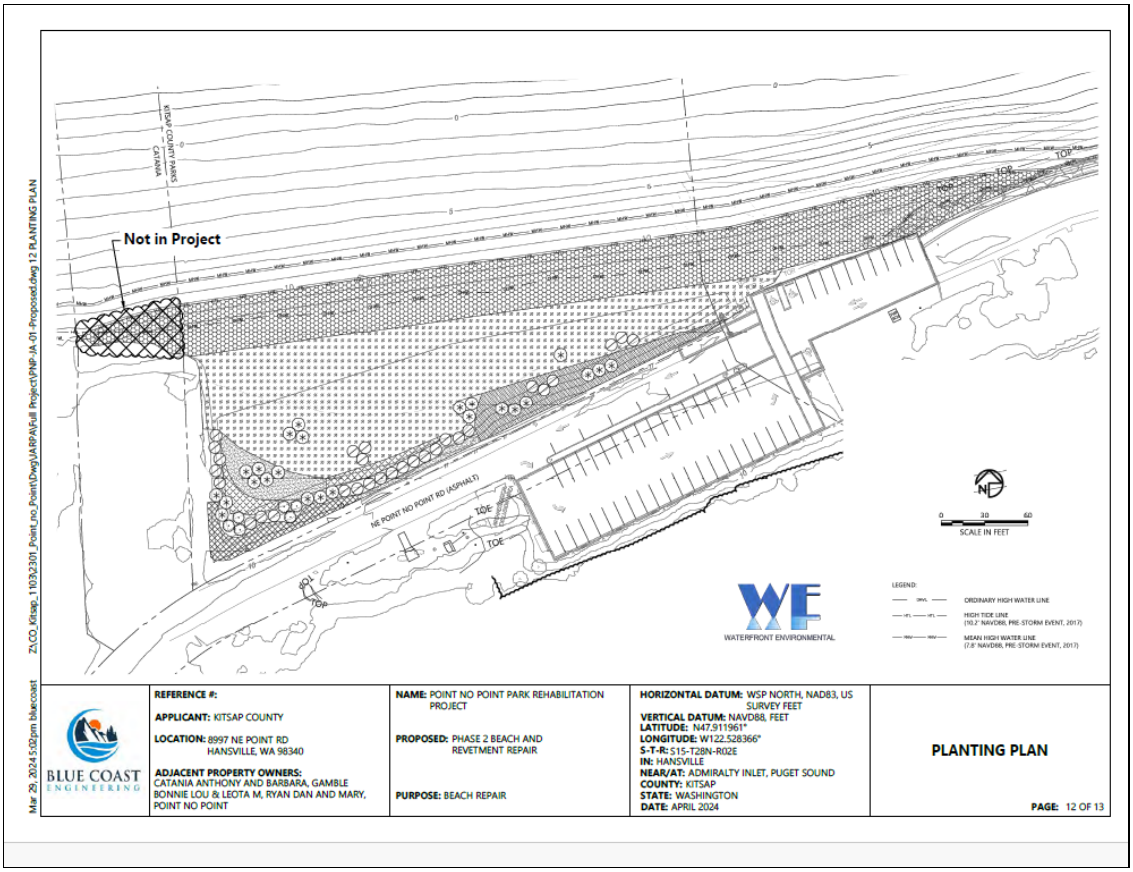
d. Signage

No signage is proposed or required. Future signage will need to be consistent with application requirements of Title 17 Zoning. An informational kiosk may be considered as educational elements of the Park.

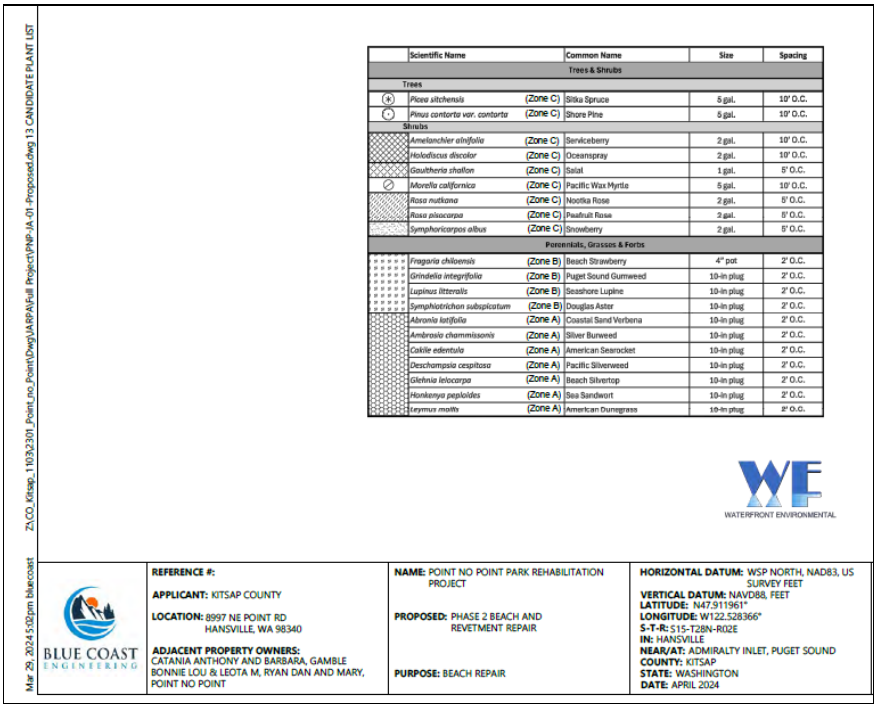
e. Landscaping

The project abuts residential areas to the west, but the restoration aspect will not alter or impact adjacent residential uses. Some landscape buffering is proposed, including shoreline enhancements.

There was a No Net Loss determination, inclusive of the National Marine Fisheries Service mitigation calculator, which declared there was no effect for the restoration action. The proposal will include installation of native landscaping. This is shown in the landscape plan below and additional analysis included in Section 10.i of this report. Planting plan is located on page 12 and 13 of the Project design.



Plant list



	Scientific Name		Common Name	Size	Spacing
Trees & Shrubs					
Trees					
⊕	*Picea sitchensis*	(Zone C)	Sitka Spruce	5 gal.	10' O.C.
⊕	*Pinus contorta var. contorta*	(Zone C)	Shore Pine	5 gal.	10' O.C.
Shrubs					
	Amelanchier alnifolia	(Zone C)	Serviceberry	2 gal.	10' O.C.
	Holodiscus discolor	(Zone C)	Oceanspray	2 gal.	10' O.C.
	Gaultheria shallon	(Zone C)	Salal	1 gal.	5' O.C.
⊘	*Morella californica*	(Zone C)	Pacific Wax Myrtle	5 gal.	10' O.C.
	Rosa nutkana	(Zone C)	Nootka Rose	2 gal.	5' O.C.
	Rosa pisocarpa	(Zone C)	Peafruit Rose	2 gal.	5' O.C.
	Symphoricarpos albus	(Zone C)	Snowberry	2 gal.	5' O.C.
Perennials, Grasses & Forbs					
	Fragaria chiloensis	(Zone B)	Beach Strawberry	4" pot	2' O.C.
	Grindelia integrifolia	(Zone B)	Puget Sound Gumweed	10-in plug	2' O.C.
	Lupinus littoralis	(Zone B)	Seashore Lupine	10-in plug	2' O.C.
	Symphiotrichon subspicatum	(Zone B)	Douglas Aster	10-in plug	2' O.C.
	Abronia latifolia	(Zone A)	Coastal Sand Verbena	10-in plug	2' O.C.
	Ambrosia chammissonis	(Zone A)	Silver Burweed	10-in plug	2' O.C.
	Cakile edentula	(Zone A)	American Searocket	10-in plug	2' O.C.
	Deschampsia cespitosa	(Zone A)	Pacific Silverweed	10-in plug	2' O.C.
	Glehnia leiocarpa	(Zone A)	Beach Silvertop	10-in plug	2' O.C.
	Honkenya peploides	(Zone A)	Sea Sandwort	10-in plug	2' O.C.
	Leymus mollis	(Zone A)	American Dunegrass	10-in plug	2' O.C.

f. Frontage Improvements

The site is located entirely within the Parks zoning designation. No frontage improvements are required or planned.

g. Design Districts/Requirements

The subject property is not within a design district.

h. Development Engineering/Stormwater

Development Services and Engineering has reviewed the restoration concepts for this project and finds the concept supportable in its approach to civil site development. As the project does not create additional impervious surfaces, there were no stormwater impacts identified.

i. Environmental

Regulations:

General Regulations (KCC 22.400)

Existing Development (KCC 22.400.100)

Staff Comment: The proposed Project contains the following activities pertaining to existing development: restoration of the north beach, including an increase in beach elevation through installation of dunes; the repair of the parking lot using existing pavers; replacement of the parking lot curb wall; replacement of the rock revetment wall; and the east beach repair. All Project activities involve restoration, repair, and/or replacement of existing structures without changing existing uses. All Project components will comply with the following applicable Existing Development regulations as addressed below:

A. Existing Uses.

1. Lawfully established uses occurring as of the effective date of this program shall be considered conforming to this program, with the exception of existing over-water residences and existing non-water-oriented commercial or industrial uses, which shall be considered nonconforming.

2. All lawfully established uses, both conforming and nonconforming, may continue and may be repaired, maintained, expanded or modified consistent with the Act and this program.

3. Any change in use shall conform to the standards of this program and may require a conditional use permit (CUP) in accordance with Section 22.500.100(D). A CUP may be granted only if no reasonable alternative use meeting the standards is practical, and the proposed use will be at least as consistent with the policies and provisions of this program and the Act and as the uses in the area as the preexisting use. Conditions may be imposed that are necessary to assure compliance with the above findings and with the requirements of this program and the Act, to assure that the use will not become a nuisance or a hazard, and to assure that the use will not result in a net loss of the ecological function of the shoreline.

4. If a use is discontinued for twelve consecutive months or for twelve months during any two-year period, any subsequent use, if allowed, shall comply with the Act and this program.

B. Existing Structures.

1. Lawfully Constructed Structures.
a. Lawfully constructed structures, including those approved through a variance, built before the effective date of this program shall be considered conforming, with the exception of existing over-water residences, which shall be considered nonconforming.
b. All lawfully constructed structures may continue and may be repaired or maintained in accordance with the Act and this program.
d. In the event that a legally existing structure is damaged or destroyed by fire, explosion or other casualty, it may be reconstructed to configurations existing immediately prior to the time the structure was damaged or destroyed, provided a complete application submittal is made for the necessary permits within twelve months of the date the damage or destruction occurred, and the restoration is completed within two years of permit issuance or the conclusion of any appeal on the permit.
2. Existing Appurtenances to Single-Family Residences. Those legally existing appurtenances that are common to existing single-family residences shall be considered conforming to this program. Such appurtenances may include garages and sheds, but shall not include bulkheads, over-water structures or other shoreline modifications.
3. Vegetation conservation standards of this program shall not apply retroactively in a way which requires lawfully existing uses and developments, including residential landscaping and gardens, to be removed, except as required as mitigation for new and expanded development.
4. Structures, improvements, docks, fills or developments lawfully placed in or over navigable waters prior to December 4, 1969, shall be considered nonconforming, but may continue in accordance with RCW 90.58.270.

Staff Comment: The proposed Project will increase the elevation of a flood-damaged beach through installation of vegetated dunes, repair a parking lot by removing pavers, regrading, and re-laying the same pavers, replace a parking lot curb wall, remove a portion of a creosote-treated crib wall, and repair a rock revetment, all restoring existing structures and uses to pre-flood or better conditions. All uses were lawfully established, and all repairs and replacements will take place within the footprint of the existing structures. There will be no change in use, as the Park will continue to provide recreational opportunities to the public, and the only structure below the OHWM is the rock revetment wall. Fill placed within the project boundaries is considered a component of the restoration project and is essential beach nourishment material.

Proposed Development (KCC 22.400.105)

"Proposed development" refers to the north beach repair and restoration Project as this activity will raise the elevation of the beach by approximately 2 feet and add ecologically complex sand dunes. The proposed Project complies with the following applicable Proposed Development regulations as addressed below:

A. Location.
1. New development shall be located and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
2. New development shall be located and designed to avoid the need for future shoreline stabilization for the life of the structure. Likewise, any new development which would require

shoreline stabilization which causes significant impacts to adjacent or down-current properties shall not be allowed.

3. New development on lots constrained by depth, topography or critical areas shall be located to minimize, to the extent feasible, the need for shoreline stabilization.

4. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis.

5. Subdivision shall be planned to avoid the need for shoreline stabilization for newly created lots, utilizing geotechnical analysis where applicable.

6. Non-water-oriented facilities and accessory structures, except for preferred shoreline uses, such as single-family residences and single-family residential appurtenances when consistent with buffer provisions in this chapter, must be located landward of buffers and adjacent water-oriented uses, or outside shoreline jurisdiction, unless no other location is feasible.

Staff Comment: The development proposed is restoration of the eroded beach front with foredune and roadside restoration. The beach elevation will be increased by approximately 0.5 feet at the existing beach crest and two feet along NE Point No Point Road to protect the drive aisles, infrastructure, and adjacent properties from future flood events. Work is limited to installing beach nourishment material in the north beach area, raising the beach elevation and adding ecologically complex sand dunes, planting native vegetation, repair/replacement of existing structures (parking lot, curb wall, and revetment), and removal of a portion of creosote-treated timber crib wall. The revetment repair/replacement will be conducted within the existing footprint of the current revetment but placed at a setback angle to reduce scour from wave reflection. The finished Project will not require maintenance dredging or further shoreline work. This Project will not include subdivision or construction on steep slopes or bluffs.

B. Standards for Work Waterward of OHWM.

1. Water-dependent in-water structures, activities, and uses are not subject to the shoreline buffers established in this program.

2. Projects involving in-water work must obtain all applicable state and federal permits or approvals, including those from the U.S. Army Corps of Engineers, Ecology, Washington Department of Fish and Wildlife (WDFW), and/or Washington Department of Natural Resources.

3. Projects involving in-water work must comply with timing restrictions as set forth by state and federal project approvals.

4. Protection of Bank and Vegetation.

a. Alteration or disturbance of the bank and bank vegetation must be limited to that necessary to perform the in-water work.

b. All disturbed areas must be restored and protected from erosion using vegetation or other means.

5. If, at any time, water quality problems develop as a result of in-water work, immediate notification must be made to any appropriate state or federal agency, e.g., Ecology, WDFW, National Marine Fisheries Service, U.S. Fish and Wildlife Service, etc. Affected tribes shall also be notified.

Staff Comment: All applicable permits are being obtained for this Project, including from the US Army Corps of Engineers (Section 10 of the Rivers and Harbors Act, Section 404 of the Clean Water Act), WDFW (Hydraulic Project Approval), and Washington Department of Ecology (Water Quality Certification). All in-water work will take place in the dry at low tide. For all work to be conducted below the OHWM, all work windows will be adhered to.

KCC 22.400.110 Mitigation

Kitsap SMP section 22.400.110 requires that proposed uses and development implement mitigation sequencing and ensure the proposal will achieve no net loss of shoreline ecological functions. The applicant provided the following responses.

Mitigation sequencing is a set of steps demonstrating how a project prevents and/or minimizes avoidable impacts to the environment. The summary below demonstrates the proposed Project will adhere to the requirements defined KCC 22.400.110. No net loss of shoreline ecological functions will occur as a result of the proposed Project.

Avoidance

Project design alternatives were considered in an effort to avoid unnecessary environmental impacts. The no-action alternative is to avoid all disturbances through not conducting the project. KCP has identified objectives for this Project including restoring the north beach to create protective foredunes, which will limit wave and tidal overtopping of the northern and eastern shorelines and reduce the flooding potential along NE Point No Point Road, add native vegetation to the shoreline riparian zone to improve salmon and forage fish habitat in a way that aligns with the adjacent estuary restoration design project (not related to this permit application), and to allow for restoration of two-lane vehicular access to Point No Point Park. The project will also avoid new impacts to the point by repairing and replacing an existing revetment within the same footprint so as to avoid larger impacts if the existing revetment were to fail.

To accomplish these objectives, the no-action alternative is not a feasible option. The no-action alternative would result in infrastructure damage and resulting environmental impacts due to future flooding events. Further, per the NMFS Conservation Calculator, the project is self-mitigating, with the restoration of the north beach offsetting the temporal impact of the replacement of the revetment.

Temporary disturbances are proposed to the buffer of Wetland A which minimally projects into the southern portion of the parking lot within the Project Area, but permanent buffer impacts will be avoided. Although the 130-foot buffer of Wetland A does project onsite, the functional limits of the buffer end at the edge of the pavement of NE Point No Point Road. The "buffer" area that falls within the Project consists of brick pavers for an existing parking lot. This area of the parking lot is devoid of native vegetation, lacks a hydrologic connection to Wetland A through a culvert or stream, and provides no buffer function to the wetland. The proposed Project actions will not change the existing condition of this section of buffer, as the pavers are proposed to be removed and replaced within the same footprint, with the same material.

Upland parking areas are accessory to the use of the principal water-oriented structures and uses on site. Parking is also essential to the water oriented uses in the immediate vicinity. ADA public

access is incorporated in the design. Appendix B of KCC 22.800 was used to determine mitigation requirements to result in no net loss of habitat (see Habitat Management Plan for further detail).

Minimization

The proposed Project is designed to minimize impacts to the shoreline and its associated buffers through disturbing the minimum area necessary to restore the beach area, protecting the site from future habitat-damage from storm events, conducting maintenance activities that will avoiding habitat disruption that may be required for larger replacement projects, and restoring the washed out beach areas. The area of fill is proposed in the smallest footprint feasible to minimize disturbance while also achieving restoration goals of this Project. The revetment repairs are limited to the existing footprint and incorporate a more gradual slope design to reduce wave reflection and the resulting erosion effects, and to avail more aquatic habitat in the nearshore.

Restoration

The Project proposes planting approximately 51,500 square-feet of native trees, shrubs, and grasses in the shoreline buffer to provide a net lift in ecological function. Existing large woody debris will be re-installed along the shoreline to stabilize the beach nourishment materials and plantings, as well as provide fish refuge along the intertidal habitat areas onsite. Removal of the creosote-treated timber crib wall onsite adjacent to the intertidal habitat will also result in restoration of the shoreline habitat and will provide habitat and water quality improvements.

With the above restoration actions, this Project is anticipated to result in an overall net gain in shoreline ecological functions.

KCC 22.400.115 Critical Areas

The following are the critical areas present within the Project limits, with a summary of each. For a more detailed evaluation of wetlands and natural waters, please refer to the 2023 Critical Areas Report (Grette Associates 2023; Appendix A). For the purposes of this HMP, only the critical areas and/or their buffers where proposed Project activities will occur are discussed.

Shorelines

The Project is situated along the marine shoreline of Puget Sound. Kitsap County's SMP requires standard shoreline buffers based on each shoreline designation. According to Kitsap County's shoreline designation maps, the shoreline designation at the Project site is Rural Conservancy. Per KCC 22.400.120, rural conservancy designated shoreline areas are subject to a 130-foot buffer. The shoreline buffer onsite contains intertidal beach, the existing revetment, impervious surfaces (NE Point No Point Road), portions of two parking lots surfaced with brick pavers, grass areas associated with the historic lighthouse and outbuildings, and an estuarine wetland on the south side of the road. Because of the development and limited native vegetation, the current condition of the shoreline buffer is degraded.

Wetlands

WDFW's Priority Habitats and Species (PHS) online mapper tool identifies estuarine and marine

wetlands as aquatic habitat located along the entire shoreline around Point No Point Park; however, no wetland vegetation is present along the shoreline of the site (WDFW 2024a). Coastal salt marsh wetlands are also identified by PHS within 300 feet of the Project, with freshwater emergent wetlands mapped on the interior of the saltmarsh wetland complex. No saltmarsh vegetation is present along the shoreline; however, an estuarine wetland is present south of NE Point No Point Road and west of the walking path along the eastern shoreline. More details on the wetland identified in the 2023 field investigation by Grette can be found in the Critical Areas Report (Appendix A). These habitats are all classified as FWHCAs per KCC 19.300.310.B.

Fish and Wildlife Habitat Conservation Areas

According to WDFW's SalmonScape on-line mapper (WDFW 2024b), coastal cutthroat trout are known to occur in the natural water feature (Stream 1) entering Wetland A, located south of NE Point No Point Road (see Grette Associates 2023; Appendix A). According to the 2023 revision of the Washington State Priority Habitats and Species List for Kitsap County, the Puget Sound Nearshore is also a priority habitat found at the site (WDFW 2008).

KCC 22.400.120 Vegetation Conservation Buffers

The site is currently developed as a park with active and passive recreational uses within the buffer. Associated vegetation conservation buffer standards for this proposal are analyzed under the Rural Conservancy buffer criteria in 22.400.120.B.1.a requiring a 130-foot standard buffer. The existing uses of the shoreline and activities within the buffer will remain. As analyzed earlier in this section, impervious surfaces within the buffer will be reduced and significant native plantings installed.

KCC 22.400.125 Water Quality and Quantity

A preliminary drainage plan was submitted. The project as proposed has been reviewed under KCC Title 12 and does not require stormwater review. A Hydraulic Project Approval (HPA) will be required from the Washington State Department of Fish and Wildlife.

KCC 22.400.130 Historic, Archaeological, Cultural, Scientific and Educational Resources

A Cultural Resources Study has been conducted. A condition of approval has been added that Kitsap County DCD, the Washington State Office of Archaeology and Historic Preservation (DAHP), and the affected tribes must be notified if archaeological resources are uncovered during excavation. The cultural resources report has stipulated that a cultural recourses specialist be on site dure all related grading activities. The project proponent and contractor shall notify Suquamish Tribe archaeologists of the planned start date of construction at least two weeks prior to the start of ground disturbing activities.

KCC 22.400.135 View Blockage

N/A. No structures are proposed.

KCC 22.400.140 Bulk and Dimension Standards

N/A.

KCC 22.400.150 Flood Hazard Reduction Measures

A. Environment Designations Permit Requirements. CUP is required for installation of flood hazard reduction measures in all environment designations.

Staff Comment: although there was flooding damages from the King tide and atmospheric storm of December 2022, this project is considered a restoration action and is not altering the floodplain nor reducing flood hazards; revetment replacement and restoration of the parking curb stabilization elements are not altering the floodplain and are being replaced at the historic elevations.

B. Development Standards.

1. Development in floodplains shall not significantly or cumulatively increase flood hazard.

2. New structural flood hazard reduction measures in shoreline jurisdiction are allowed only when a scientific and engineering analysis documents all of the following:

a. They are necessary to protect existing development;

b. Nonstructural measures are not feasible;

c. Impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss; and

d. Appropriate vegetation conservation actions are followed.

Staff Comment: this is not a flood reduction project. The phase 2 project actions, in unison with the planned adjacent creek restoration project to the south incorporates significant mitigation elements for beach and foredune restoration. The net result will be intertidal restoration of the stream outlet currently in a piped outfall. The overall project is planned to restore salt water estuarine elements to the south.

3. The following uses and activities may be appropriate and/or necessary within the channel migration zone (see Appendix D to the ordinance codified in this title, Channel Migration Zone Maps) or floodway; provided, that they provide appropriate protection of ecological functions and do not exacerbate flood risk on site or in nearby areas:

a. Actions that protect or restore the ecosystem-wide processes or ecological functions.

b. Forest practices in compliance with the Washington State Forest Practices Act and its implementing rules.

c. Existing and ongoing agricultural practices; provided, that no new restrictions to channel movement occur.

d. Mining when conducted in a manner consistent with WAC 173-26-241(3)(h) and this program.

e. Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists, or the alternative would result in unreasonable and disproportionate cost. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected section of watershed or drift cell.

f. Repair and maintenance of an existing legal use.

g. Modifications or additions to an existing legal use; provided, that channel migration is not further limited.

h. Development in designated UGAs where existing structures prevent active channel movement and flooding.

i. Measures to reduce shoreline erosion; provided, that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and that the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.

j. Development with the primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.

Applicants for shoreline development or modification may submit a site-specific channel migration zone study if they do not agree with the mapping in Appendix D to the ordinance codified in this title.

Staff Comment: A through J are not applicable to the project.

4. Structural flood hazard reduction measures shall be consistent with the county's adopted multi-hazard mitigation plan that evaluates cumulative impacts to the watershed system.

Staff Comment: N/A.

5. New structural flood hazard reduction measures shall be situated landward of associated wetlands and designated vegetation conservation areas, unless actions are intended to increase ecological functions or if it is determined through a geotechnical analysis that no other alternative to reduce flood hazard to existing development is feasible.

Staff Comment: Ecological functions will be enhanced.

6. New structural flood hazard reduction measures on public lands or funded by the public shall provide or improve public access pathways unless such improvements would cause unavoidable health or safety hazards, significant ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

Staff Comment: This conforms to the requirement.

7. The removal of gravel for flood management purposes may be permitted only if a biological and geomorphological study shows that extraction:

a. Has a long-term benefit to flood hazard reduction;

b. Results in no net loss of ecological functions; and

c. Is part of a comprehensive flood management solution.

Staff Comment: N/A

KCC Title 22.600 Use Review

KCC 22.600.165 *Recreation and Public Access*

The proposed Project complies with the following applicable Recreation and Public Access regulations as addressed below:

A. Environment Designations Permit Requirements. Where recreational development is proposed in the following designations, the identified permit requirements shall apply:
1. Natural:
a. Prohibited for non-water-oriented recreational development;
b. SDP for nonmotorized, water-oriented recreational development; and
c. CUP for all other forms of recreation, except when demonstrated to be consistent with approved park plans prior to application, and then with an SDP.
2. Rural conservancy, urban conservancy, shoreline residential, high intensity: SDP.
3. Aquatic: The required permit type will be determined by the specific recreational development proposed as set forth in this chapter. For example, see Section 22.600.125, Boating facilities.
B. Application Requirements. In addition to the general permit requirements, a description of how the proposed use is water-oriented is required if applicable.
C. Development Standards.
1. Recreational development shall not result in a net loss of shoreline ecological functions or ecosystem-wide processes.
2. All recreational facilities shall be designed, located and operated in a manner consistent with the purpose of the environment designation in which they are located.
3. Water-oriented recreation may be allowed in shoreline buffers. The removal of on-site native vegetation shall be limited to the minimum necessary for the recreational development areas, such as picnic areas, campsites, selected views, or other permitted structures or facilities.
4. Preference shall be given to activities which are consistent with approved state and local park plans for water-oriented recreational development.
5. Non-water-oriented recreational facilities, such as golf courses, playing fields, and facilities with extensive impervious surfaces, shall observe critical area buffers and vegetation conservation standards (Sections 22.400.115 and 22.400.120, respectively).
6. Commercial recreational development shall be consistent with Section 22.600.130 (Commercial development).
7. Vehicular traffic is prohibited on beaches, bars, spits and streambeds, except for permitted construction and boat launching, or in areas where it can be demonstrated that a historical use has been established.
8. Public road-ends, tax-title lands and rights-of-way adjacent to shorelines of the state shall be preserved for public access, unless the property is zoned for industrial uses. Pursuant to RCW 36.87.130, as now or hereafter amended, vacation of such shall only occur if the purpose is to:
a. Enable any public authority to acquire the vacated property for port purposes, boat moorage or launching sites; or
b. Provide for park, viewpoint, recreational, educational or other public purpose.

9. Trail access shall be provided to link upland facilities to the beach area where feasible and where impacts to ecological functions can be mitigated.
10. When applicable, recreational development shall make adequate provisions for:
a. Vehicular parking and pedestrian access;
b. Proper wastewater and solid waste disposal methods;
c. Security and fire protection;
d. The prevention of overflow and trespass onto adjacent properties, including, but not limited to, landscaping, fencing, and posting of property;
e. Screening of such development from adjacent private property to prevent noise and light impacts.
11. Shoreline trails and pathways shall be located, designed, and constructed to protect bank stability.
12. As required by RCW 90.58.100(4), applications providing for wilderness beaches, ecological study areas, and recreational uses for the public on state-owned shorelines shall be considered a preferred use.
13. Public access sites shall be made barrier-free and accessible for physically disabled uses where feasible, and in accordance with the Americans with Disabilities Act (ADA).

Staff Comment: This Project is water-oriented as it takes place in a park that provides shoreline access to the public. Many members of the community use this Park for fishing, sunbathing, and sightseeing. The Project will allow for continued public access and enjoyment of the shoreline area and for access to the aids to navigation that are essential for protection of public health, safety, and welfare. No new recreational features will be built; the purpose of the Project is to create a protective foredune the north beach elevation and restore the shoreline buffer with native vegetation to protect against flooding while also improving ecological function of the buffer and nearshore, repair/replace the Park infrastructure within the same footprint to achieve pre-flood conditions, and replace a rock revetment wall with the lowest impact possible to continue to provide protection to the historic lighthouse and other aid to navigation on the point. An SDP is being pursued per Section A of KCC 22.600.165 as the Park is located within the Rural Conservancy shoreline designation. A CUP is also being requested because fill will be placed below the OWHM. The Project has been designed to not only avoid net loss but result in net improvement of shoreline ecological function. Regulations relating to boat launches and other boating facilities is not applicable; a public boat launch is located offsite to the west of the Park.

KCC 22.600.175 Shoreline Stabilization

A. Environment Designations Permit Requirements. Based on the type of shoreline modification proposed, the identified permit requirements shall apply for all designations:
1. SDP for soft shoreline stabilization, unless otherwise exempt.
2. Administrative CUP for hard shoreline stabilization.
3. Administrative CUP for hybrid shoreline stabilization, unless the applicant can demonstrate the project meets the intent of soft shore as described in Ecology's Soft

Shoreline Stabilization SMP Planning and Implementation Guidance (Ecology Publication No. 14-06-009).

4. Restoration and enhancement projects, including hybrid projects requiring hard shoreline stabilization to accommodate transition to adjacent properties, that are authorized in writing by both the shore friendly Kitsap program and by the Washington State Department of Fish and Wildlife shall require an SDP, unless otherwise exempt.

Staff Comment: The proposed project is considered a soft shore stabilization project, and elements of hard-armoring are replacements that meet the qualification in exemptions, below.

B. Exemptions from Substantial Development Permit for Shoreline Stabilization.

1. The construction of a normal protective bulkhead common to single-family residences shall not require an SDP if it meets the exemption criteria listed in Section 22.500.100(C)(3)(c), or as further amended in WAC 173-27-040.

2. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion.

3. A letter of permit exemption will be prepared for qualifying shoreline stabilization activities in accordance with Section 22.500.100(C)(4). The county shall track exemption activities in the permit system.

Staff Comment: The replacement of the revetment and parking lot curb stabilization elements are considered as existing structures, qualified under the replacement statute in KCC 22.500.100 C. 3. b. "Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements".

As the project as a whole is guided under the SDP, then it meets the requirements under KCC 22.500.100 C. 2. e. "If any part of a proposed development is not eligible for exemption, then an SDP is required for the entire proposed development project."

C. Application Requirements. In addition to the general application requirements, applications for shore protection and bluff stabilization shall include the following information, when applicable:

1. Upland, on-site improvements and any existing shoreline structures;

2. Type of proposed shore protection and a description of alternatives to hard approaches where proposed, and a thorough discussion of the environmental impacts of each alternative;

3. Habitat survey prepared by a qualified professional biologist that describes the anticipated effects of the project on fish and wildlife resources and marine vegetation;

4. A description of any proposed vegetation removal, and a plan to revegetate the site following construction;
5. Tidal elevations and field-verified line of ordinary high water;
6. Ownership of the tidelands, shorelands and/or bedlands;
7. Purpose of shore protection;
8. Direction of net longshore drift (for marine shoreline);
9. Plan and profile of existing bank and beach;
10. Profile of adjacent existing bulkhead;
11. In addition to the general geotechnical report requirements in Section 22.700.120, the following information shall be included for shoreline stabilization proposals:

a. Address the need to prevent potential damage to a primary structure through the use of shoreline stabilization measures.

b. Estimate time frame and rates of erosion to report on the urgency associated with the specific situation. "Urgent" means:

i. That the primary structure will be damaged within three years as a result of natural shoreline erosion in the absence of hard armoring structures; or

ii. Where waiting until the need is that immediate would foreclose the opportunity to use measures that avoid impacts on ecological functions.

c. If the report determines that the need is not as immediate as three years, it still may be used to justify a more immediate authorization to protect against erosion using soft measures.

d. The geotechnical analysis shall evaluate on-site drainage issues and address drainage problems away from the shoreline edge;

12. Any other information that may be required to demonstrate compliance with the review criteria referenced in this section and the guiding provisions at WAC 173-26-231(3)(a).

Staff Comment: All elements in 1-12 have been met by the applicant design team. The Geotechnical alternatives analysis, No Net Loss/Habitat Management Plan, Critical Area Report and Mitigation Plan are lined out in the project review in the analysis of KCC 22.400, et al.

D. Development Standards.

1. General Regulations.

a. These standards shall be guided by the provisions at WAC 173-26-231(3)(a).

b. Applications for shore protection will be reviewed pursuant to comments made by the Washington Department of Fish and Wildlife pertaining to impacts on critical salt and freshwater habitats, and comments made by the Washington Department of Natural Resources for projects proposed on state-owned aquatic lands.

c. Soft shoreline stabilization measures shall be utilized unless demonstrated through a geotechnical analysis not to be sufficient to protect primary structures, dwellings and businesses. Alternatives for shoreline stabilization shall be based on the following order of preference:

i. No action, increase building setbacks, or relocate structures;
ii. Soft shoreline stabilization constructed of natural materials including bioengineering, beach nourishment, protective berms, or vegetative stabilization;
iii. Hybrid shoreline stabilization, usually constructed of a mix of rock, logs and vegetation;
iv. Hard shoreline stabilization constructed of materials such as rock, riprap or concrete.
d. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the OHWM.
e. Hybrid shoreline structural stabilization projects, with the exception of restoration and enhancement projects, composed of hard shoreline stabilization that cumulatively covers greater than fifteen percent of the total shoreline length parallel to the OHWM shall comply with hard shoreline stabilization project requirements in this section.
f. When hard shoreline stabilization measures are demonstrated to be necessary, they must:
i. Limit the size of stabilization measures to the minimum necessary.
ii. Assure no net loss of shoreline ecological functions.
iii. Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions.
iv. Where feasible, incorporate ecological restoration and public access improvements into the project.
g. Shoreline stabilization measures shall not be for the purpose of creating dry land. Leveling or extending property, creating or preserving residential lawns, yards or landscaping shall not be allowed except when otherwise allowed in this section due to health and safety.
h. Minimize disturbance pertaining to beach access by avoiding switchback trails which require hard stabilization. Where such avoidance is not feasible, mitigation for impacts to shoreline ecological functions shall be required.
i. Bluff stabilization walls shall be prohibited unless proven necessary through a geotechnical report.
j. Placement of shoreline stabilization methods shall follow the natural contour of the existing shoreline, be parallel to and at or above the OHWM.
k. Shoreline stabilization on marine feeder bluffs, when determined necessary pursuant to the standards of this section, may require additional mitigation measures, including those necessary to offset the loss of sediment supply.
l. Shoreline stabilization must be designed by a professional engineer licensed in the state of Washington with demonstrated experience in hydraulic activities of shorelines. Alternatively, soft shoreline stabilization may be designed by a habitat biologist or a professional with demonstrated expertise in designing soft shoreline stabilization structures.

m. Depending on the degree of hard or soft elements to the project, the department, WDFW, and/or U.S. Army Corps of Engineers may require varying degrees of mitigation or other permit conditions.

n. Shoreline stabilization structures shall not result in a net loss of shoreline ecological functions.

o. Shoreline stabilization, as applied in this section, is generally distinguished from shoreline restoration activities. However, specific shoreline stabilization elements of restoration activities shall be guided by this section.

Staff Comment: All elements of the restoration activities and stabilization in a. through o. are met. See the analysis within this report under KCC 22.400 and further within the Geotechnical Analysis, CAO report, No Net Loss/Habitat Management Plan and Mitigation Plan.

2. New and Expanded Shoreline Stabilization.

a. If shoreline stabilization is necessary pursuant to a geotechnical analysis, the method, either hard or soft, shall not result in a net loss of shoreline ecological functions. To meet this requirement, on- and off-site mitigation measures may be required.

b. Shoreline stabilization structures shall not be constructed with waste materials such as demolition debris, derelict vessels, tires, concrete or any other materials which might have adverse toxic or visual impacts on shoreline areas.

c. New structural stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:

i. To protect legally existing primary structures:

(A) New or enlarged structural shoreline stabilization measures for the existing primary structure, including residences and their primary appurtenant structures or uses, shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the lawfully established, primary structure is in imminent danger from shoreline erosion caused by tidal actions, currents, or waves;

(B) Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need;

ii. In support of water-dependent development when all of the following apply:

(A) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage;

(B) Nonstructural measures, planting vegetation, or installing on-site drainage improvements is not feasible or not sufficient;

(C) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report;

iii. In support of new non-water-dependent development, including single-family residences, when all of the following apply:

(A) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage;

(B) Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient;
(C) The need to protect the primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal action, currents and waves;
iv. To protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to Chapter 70.105D RCW when nonstructural measures, planting vegetation, or installing on-site drainage improvements is not feasible or sufficient.

Staff Comment: The expansion of the stabilization is the minimum necessary and meets all elements of the requirements in a. through c. See the analysis in KCC 22.400, above.

3. Replacement and Repair of Existing Shoreline Stabilization and Armoring.
a. Additions to or increases in the size of existing shoreline stabilization measures shall be considered new structures.
b. An existing stabilization structure may be replaced with a similar structure if there is a demonstrated need, through a geotechnical report, to protect principal uses or structures from erosion caused by currents, tidal action or waves.
c. If the OHWM has been re-established, the replacement structure must be located at or near the new OHWM. In general, replacement of the shoreline stabilization structure within one year of damage will ensure recognition of the previous OHWM.
d. Alternative or soft stabilization approaches shall be considered prior to in-kind replacement.
e. The replacement structure shall:
i. Be designed, located, sized and constructed to assure no net loss of ecological functions.
ii. Perform the same stabilization function of the existing structure and does not require additions to or increases in size.
iii. Not encroach waterward of the OHWM or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.
f. When possible or as an element of mitigation sequencing, failing, harmful, unnecessary, or ineffective structures should be removed, and shoreline ecological functions and processes should be restored using nonstructural or soft and/or long-term stabilization measures.

Staff Comment: All elements in a. through f are met.

j. Access, Traffic and Roads

Staff Comment: No comments at this time.

k. Fire Safety

Staff Comment: No comments at this time.

l. Solid Waste

Staff Comment: No comments at this time

m. Water/Sewer

Staff Comment: No comments at this time.

n. Kitsap Public Health District

Staff Comment: No comments at this time.

10. Review Authority

The Director has review authority for this Shoreline Substantial Development Permit application under KCC 21.04.100. The Director may approve, approve with conditions, or deny this application.

11. Findings

The proposal is consistent with the Comprehensive Plan and the zoning standards for the Park (P) zone in Title 17.

The proposal is consistent with policies, standards, and development regulations of the Shoreline Master Program, Title 22 and the Critical Area Ordinance in Title 19.

12. Recommendation

Based upon the analysis above and the decision criteria found in KCC Title 22.500.100.B and C; KCC Title 19.200 and 19.300; KCC Title 22.600.165 and KCC Title 22.600.175; and KCC Title 21.04, the Department of Community Development recommends that the Shoreline Substantial Development Permit be **approved**, subject to the following conditions:

a. Planning/Zoning

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.
3. The decision set forth herein is based upon representations made and exhibits

contained in the project application. Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.

b. Development Engineering

General

4. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to said plan acceptance.

Stormwater

5. The information provided demonstrates this proposal is a considered a minor project. Stormwater controls do not require a separate grading permit at this time.
6. If site conditions change to require a grading permit application, Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 effective at the time the Shoreline Substantial Development Permit. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with Kitsap County Ordinances in effect at the time of SDAP application.
7. Any project that includes offsite improvements that create additional hard surface such as lane widening, sidewalk or shoulder installation or intersection channelization shall provide stormwater mitigation in accordance with Kitsap County Code Title 12 effective at the time this permit application was deemed fully complete.
8. All publicly maintained drainage systems outside public dedicated right of way shall be located either in a tract dedicated to Kitsap County or in an easement, granted to Kitsap County, for ingress, egress, operations, and maintenance of the stormwater facilities contained therein.
9. The owner shall be responsible for maintenance of storm drainage facilities for this development following construction. Before issuance of Occupancy Permits for this development, the person or persons holding title to the subject property for which the storm drainage facilities were required shall record a Declaration of Covenant that guarantees the County that the system will be properly maintained. Wording must be included in the covenant that will allow the County to inspect the system and perform the necessary maintenance in the event the system is not performing properly. This would be done only after notifying the owner and giving him a reasonable time to do the necessary work. Should County forces be required to do the work, the owner will be billed the maximum amount allowed by law.
10. If the project proposal is modified from that shown on the submitted and

approved site plan, Development Services and Engineering will require additional review and potentially new conditions.

Traffic and Roads

11. Any work within the County right-of-way shall require a Public Works permit and possibly a maintenance or performance bond. This application to perform work in the right-of-way shall be submitted as part of the SDAP process (or building permit if no SDAP is required). The need for and scope of bonding will be determined at that time.

Other

12. This project includes the re-construction of rock walls or other retaining facilities. A shore structure permit may be required as a separate building permit requiring an engineered design. This note shall be placed on the face of the final construction drawings.

c. Environmental

13. A Hydraulic Project Approval (HPA) permit is required for work at or below the ordinary high water mark or as required by the project biologist. Prior to SDAP or Building Permit approval, the applicant shall submit an approved HPA from the Washington Department of Fish and Wildlife (WDFW), or documentation from WDFW specifying that a HPA is not required. Information regarding HPA's can be found at http://www.wdfw.wa.gov/hab/hpapage.htm or by calling the Office of Regulatory Assistance at (360) 407-7037.
14. Construction techniques shall implement best management practices to ensure protection of the shoreline, its associated buffer, and local water quality. Such best management practices shall include protective silt fencing, protective orange construction fencing along defined work areas, working during periods of limited rainfall and minimizing potential for adverse erosion, and seeding of exposed soils as needed to prevent adverse erosion.
15. Approval and subsequent development is subject to the conditions and recommendations of the Geotechnical Report associated with this permit and on file at the Department of Community Development.
16. As shown on the approved site plan, 18,500 square feet of native dune grass plantings shall be installed within the shoreline buffer. Other re-vegetation includes installation of 33,000 square feet of native dune grass, shrubs and trees in the restored foredune, for a total replanting for the project of 51,500 square feet.
17. The project shall adhere to the mitigation measures and recommendations within the approved Habitat Management Plan (HMP) prepared by Grette and Associates dated June . Per the report, areas within the buffer and project perimeter shall be revegetated.
18. Vegetation planting shall occur as specified in the approved planting plan

produced in support of this permit. Planting of native vegetation shall occur within the first dormant season once the permitted project has been constructed and approved. When planting is complete, the applicant must contact Development Service and Engineering Staff at (360) 337-5777 for a site inspection and as-built approval.

19. Monitoring and maintenance permit required. Monitoring and maintenance of the planted area shall be conducted for three years after DCD staff approves planting. Monitoring includes live and dead vegetation counts and records of all maintenance activities. Maintenance activities can be defined as, but are not limited to, removal practices on invasive or nuisance vegetation and watering schedules. Monitoring information shall be summarized in a letter with photographs depicting conditions of the vegetation and overall site. Monitoring reports are due to Kitsap County Department of Community Development Services and Engineering Division by December 31 of each monitoring year. If more than 20 percent of the plantings do not survive within any of the monitoring years, the problem areas shall be replanted and provided with better and higher gain maintenance practices to ensure higher plant survival.

d. Cultural Resources

20. The project shall adhere to the Cultural Resources Assessment provided by the applicant.
21. The project proponent and contractor shall notify Suquamish Tribe archaeologists of the planned start date of construction at least two weeks prior to the start of ground disturbing activities. A cultural resources specialist shall be on site during all excavation work per the Cultural Resources Analysis.

e. Fire Safety

None at this time.

f. Solid Waste

None at this time.

g. Kitsap Public Health District

None at this time.

Report prepared by:

Steve Heacock / DSE Planner

March 10, 2025
Date

Report approved by:

Darren Gurnee, DSE Supervisor — 3/10/2025 Date

Attachments:
Attachment A – Zoning Map
Attachment B – Critical Areas Map

CC:

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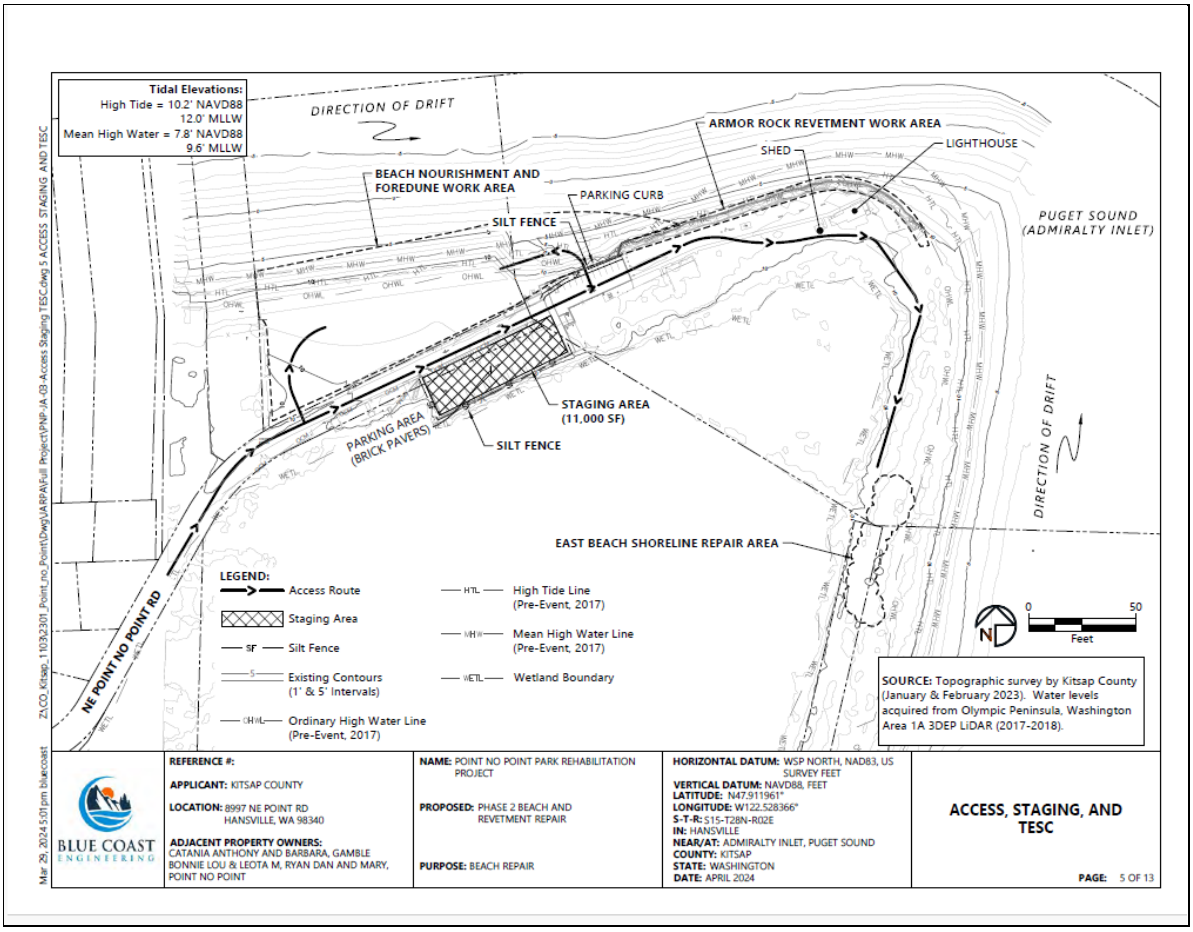
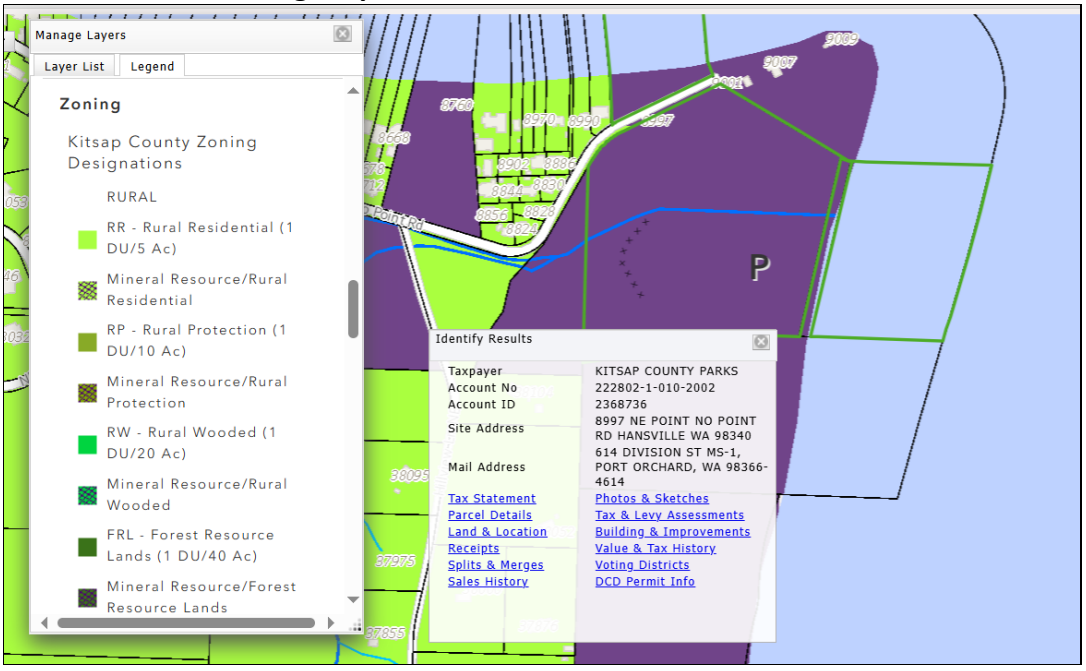
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Steve Heacock

Site Plan



Attachment A – Zoning Map



Attachment B – Critical Areas Map