



UNITED STATES DEPARTMENT OF COMMERCE
The Deputy Under Secretary for
Oceans and Atmosphere
Washington, D.C. 20230

APR 30 2001

TO ALL INTERESTED GOVERNMENT AGENCIES AND PUBLIC GROUPS:

Under the National Environmental Policy Act, an environmental assessment (EA) has been performed on the following action:

TITLE: Swan Creek Restoration Project

LOCATION: Commencement Bay, City of Tacoma, Washington

SUMMARY: The Commencement Bay Natural Resource Trustee Council has completed an Environmental Assessment (EA) to restore natural resources injured by the releases of hazardous substances or discharges of oil in Commencement Bay, Tacoma, Washington. The project will consist of creating a 530-foot meandering stream channel that will connect Swan Creek with the three-acre Haire Wetland. This approach will result in establishment of a freshwater marsh and an open water habitat within Commencement Bay. The project will create new off-channel rearing habitat, enhance existing spawning and wetland habitat in Swan Creek and in the drainage, provide a riparian buffer for both the existing and new habitat, and provide public access for education and passive recreation. The overall project is designed to establish freshwater marsh habitat for an assemblage of wetland-dependent marine, bird and plant species. The 12-acre parcel is located on property bordering one or both sides of Swan Creek on Pioneer Way near the Puyallup River with the Port of Tacoma habitat restoration project located to the north.

The public and other interested parties have participated in public meetings during the permitting process. The environmental review process has led us to conclude that these restoration actions will not have a significant effect on the human environment. Consequently, the National Oceanic and Atmospheric Administration submitted the plan for an issuance of a finding of no significant impact (FONSI) which was approved.



RESPONSIBLE OFFICIAL: William T. Hogarth, Ph.D.
Acting Assistant Administrator for
Fisheries
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, Maryland 20910
301/713-2239

Therefore, an environmental impact statement will not be prepared. A copy of the finding of no significant impact including the supporting EA is available upon request to the responsible Official.

Sincerely,

for 

Scott B. Gudes
Acting Under Secretary for
Oceans and
Atmosphere/Administrator
and Deputy Under Secretary

Enclosure



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, MD 20910

THE DIRECTOR

MEMORANDUM FOR: Scott B. Gudes
Acting Under Secretary for Oceans
and Atmosphere/Administrator and
Deputy Under Secretary

FROM: *William T. Hogarth*
William T. Hogarth, Ph.D.
Acting Assistant Administrator for Fisheries

SUBJECT: Swan Creek Restoration Project - Environmental
Assessment and Finding of No Significant Impact

The Commencement Bay Natural Resource Trustee Council has completed an Environmental Assessment (EA) to restore natural resources injured by the releases of hazardous substances or discharges of oil in Commencement Bay, Tacoma, Washington. The Trustees have been working with the City of Tacoma under a Consent Decree (United States v. City of Tacoma, Civ. No. C97-5336RJB (W.D. Wash., Dec. 30, 1997)) to construct five restoration projects, including this one. This project will consist of creating a 530-foot meandering stream channel that will connect Swan Creek with the three-acre Haire Wetland. Creation of this channel will establish a freshwater marsh and an open water habitat within Commencement Bay. The 12-acre project site is located on property bordering one or both sides of Swan Creek on Pioneer Way near the Puyallup River with the Port of Tacoma habitat restoration project located to the north.

The National Oceanic and Atmospheric Administration (NOAA) is the lead Federal agency for National Environmental Policy Act (NEPA) compliance for this project. Cooperating agencies and tribes include the other Commencement Bay Natural Resource Trustees -- the Puyallup Tribe of Indians, the Muckleshoot Indian Tribe, the Washington Department of Ecology (as lead state Trustee), the Washington Department of Fish and Wildlife, the Washington Department of Natural Resources, and the U.S. Department of the Interior (U.S. Fish and Wildlife Service and the Bureau of Indian Affairs).

The Trustees determined that excavation of the site to connect the stream channel and the adjacent wetland, resloping the banks and revegetating the upland and riparian borders of the site,

THE ASSISTANT ADMINISTRATOR
FOR FISHERIES



would provide beneficial habitat for fish and wildlife species in the area, including chinook salmon, a listed species under the Endangered Species Act and the Magnuson-Stevens Fishery Management and Conservation Act. The public and other interested parties have participated in public meetings during the permitting process.

The project will be constructed in compliance with all permits required by the State and Federal regulatory agencies. The proposed activities were evaluated under the goals and objectives and other evaluation criteria specified by the Commencement Bay NRDA Restoration Plan and with the evaluation factors under the National Environmental Policy Act (40 CFR 1508.27).

Based on review of the Environmental Assessment for the Swan Creek Restoration Project, NOAA and the Trustees have determined that no significant impacts to the quality of the human environment will result from the proposed action. Therefore, an environmental impact statement will not be prepared.

The purpose of this memo is to request your concurrence in the determination of a Finding of No Significant Impact. Please return this signed memorandum for our project files and for the Administrative Record.

Attachments

I concur: Margaret McCalla ^{for} Scott Gule 4/30/2001
Date

I do not concur: _____
Date



APR 23 2001

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

MEMORANDUM FOR: F - William T. Hogarth, Ph.D.

FROM: F/HC - Rolland A. Schmitt 

SUBJECT: Swan Creek Restoration Project - Environmental Assessment and Finding of No Significant Impact

The Commencement Bay Natural Resource Trustee Council has completed an Environmental Assessment (EA) to restore natural resources injured by the releases of hazardous substances or discharges of oil in Commencement Bay, Tacoma, Washington. The Trustees have been working with the City of Tacoma under a Consent Decree (United States v. City of Tacoma, Civ. No. C97-5336RJB (W.D. Wash., Dec. 30, 1997)) to construct five restoration projects, including this one. This project will consist of creating a 530-foot meandering stream channel that will connect Swan Creek with the three-acre Haire Wetland. Creation of this channel will establish a freshwater marsh and an open water habitat within Commencement Bay. The 12-acre project site is located on property bordering one or both sides of Swan Creek on Pioneer Way near the Puyallup River with the Port of Tacoma habitat restoration project located to the north.

The National Oceanic and Atmospheric Administration (NOAA) is the lead Federal agency for National Environmental Policy Act (NEPA) compliance for this project. Cooperating agencies and tribes include the other Commencement Bay Natural Resource Trustees -- the Puyallup Tribe of Indians, the Muckleshoot Indian Tribe, the Washington Department of Ecology (as lead state Trustee), the Washington Department of Fish and Wildlife, the Washington Department of Natural Resources, and the U.S. Department of the Interior (U.S. Fish and Wildlife Service and the Bureau of Indian Affairs).

The Trustees determined that excavation of the site to connect the stream channel and the adjacent wetland, resloping the banks and revegetating the upland and riparian borders of the site, would provide beneficial habitat for fish and wildlife species in the area, including chinook salmon, a listed species under the



Endangered Species Act and the Magnuson-Stevens Fishery Management and Conservation Act. The public and other interested parties have participated in public meetings during the permitting process.

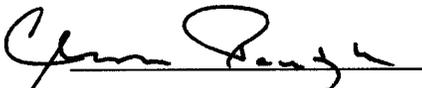
The project will be constructed in compliance with all permits required by the State and Federal regulatory agencies. The proposed activities were evaluated under the goals and objectives and other evaluation criteria specified by the Commencement Bay NRDA Restoration Plan and with the evaluation factors under the National Environmental Policy Act (40 CFR 1508.27). Based on a review of all of these factors and the referenced documents, NOAA and the Trustees concluded that the proposed activities would not have a significant effect on the quality of the human environment. Therefore, an environmental impact statement will not be prepared. A determination of a Finding of No Significant Impact (FONSI) is recommended.

In accordance with NOAA Administrative Order 216-6, the EA and FONSI are attached for your environmental review and transmittal for concurrence by NOAA's Office of Policy and Strategic Planning.

RECOMMENDATION

We request that you sign the attached memorandum for transmittal to the Office of Policy and Strategic Planning.

Attachments

I concur:  Date: 4-26-01

I do not concur: _____ Date: _____

**FINDING OF NO SIGNIFICANT IMPACT
ENVIRONMENTAL ASSESSMENT
FOR THE SWAN CREEK RESTORATION PROJECT
SEATTLE, WASHINGTON**

The National Oceanic and Atmospheric Administration (NOAA) is the lead Federal agency for National Environmental Policy Act (NEPA) compliance for the Swan Creek Restoration Project, Commencement Bay, Tacoma, Washington. This project is sponsored by the Commencement Bay Natural Resource Trustees and designed to help restore natural resources injured by the releases of hazardous substances or discharges of oil in Commencement Bay, Tacoma, Washington.

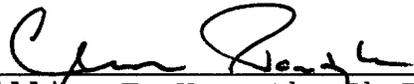
NOAA prepared this Environmental Assessment (EA) to set forth its decision making authority for this project, its determination that an alternative (the Excavation/Enhancement Alternative) other than the No Action Alternative would be the most ecologically sound alternative, and its determination that an environmental impact statement (EIS) will not need to be prepared for this project.

The Trustees determined that excavation of the site to connect the stream channel and the adjacent wetland, resloping the banks and revegetating the upland and riparian borders of the site would provide beneficial habitat for fish and wildlife species in the area, including chinook salmon, a listed species under the Endangered Species Act and the Magnuson-Stevens Fishery Management and Conservation Act. The public and other interested parties have participated in public meetings during the permitting process.

The project will be constructed in compliance with all permits required by the State and Federal regulatory agencies. The Biological Assessment for the project, and the informal consultations (National Marine Fisheries Service and the U.S. Fish and Wildlife Service addressing Endangered Species Act and Essential Fish Habitat) for the Swan Creek Restoration Project are part of the Administrative Record for this project. The proposed activities were evaluated under the goals and objectives and other evaluation criteria specified by the Commencement Bay NRDA Restoration Plan and with the evaluation factors under the National Environmental Policy Act (40 CFR 1508.27). Based on a review of all of these factors and the referenced documents, NOAA and the Trustees concluded that the proposed activities would not have a significant effect on the quality of the human environment. NOAA agrees with the Corps and the City of Tacoma that an EIS will not need to be prepared.

DETERMINATION:

Based upon an environmental review and evaluation of the Environmental Assessment for the Swan Creek Restoration Project, I have determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended. Accordingly, an environmental impact statement is not required for this project.

for 

William T. Hogarth, Ph.D.
Acting Assistant Administrator for Fisheries
National Marine Fisheries Service
National Oceanic and Atmospheric Administration

4/26/01
Date

**ENVIRONMENTAL ASSESSMENT
FOR THE SWAN CREEK RESTORATION PROJECT
SEATTLE, WASHINGTON**

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**ENVIRONMENTAL ASSESSMENT (EA)
FOR SWAN CREEK RESTORATION PROJECT
SEATTLE, WASHINGTON**

LEAD FEDERAL AGENCY FOR EA: National Oceanic and Atmospheric Administration

LEAD STATE AGENCY FOR EA: City of Tacoma

PARTICIPATING AGENCIES/TRIBES: Commencement Bay Natural Resource Trustees: U.S. Fish and Wildlife Service (U.S. Department of the Interior); State of Washington: Department of Ecology (Ecology, as lead state Trustee), Washington Department of Fish and Wildlife (WDFW), Washington Department of Natural Resources (WDNR); Puyallup Tribe of Indians; and Muckleshoot Indian Tribe.

PROJECT MANAGER FOR CITY: John O'Loughlin
City of Tacoma Utility Services
2201 Portland Ave.
Tacoma, WA 98421-2711
Phone: 253-502-2108

TRUSTEE CONTACT PERSON: Jennifer Steger, NOAA
Damage Assessment and Restoration Center NW
7600 Sand Point Way NE, Building 1
Seattle, Washington 98115-0070
Phone: (206) 526-4363
Fax: (206) 526-6665
Email: jennifer.steger@noaa.gov

ADMINISTRATIVE RECORD: Copies of the EA are available for download at:
<http://www.darcnw.noaa.gov/swan.htm> and by
contacting the person listed above.

ABSTRACT:

This Environmental Assessment (EA) has been prepared for the Swan Creek Restoration Project to set forth NOAA's decision making responsibilities for this project, its determination that an alternative other than the No Action Alternative would be the most ecologically sound alternative, and its determination that an environmental impact statement will not need to be prepared for this project. NOAA has independently reviewed the permitting and other regulatory documents in the Administrative Record and has determined that they adequately evaluate and mitigate as needed any potentially significant impacts to the human environment associated with this Commencement Bay, Washington restoration project.

The project will consist of creating a 530-foot meandering stream channel that will connect Swan Creek with the three-acre Haire Wetland. This approach will result in the establishment of a freshwater marsh and an open water habitat within Commencement Bay. The project will create new off-channel rearing habitat, enhance existing spawning and wetland habitat in Swan Creek and in the drainage, provide a riparian buffer for both the existing and new habitat, and provide public access for education and passive recreation. The overall project is designed to establish freshwater marsh habitat for an assemblage of wetland-dependent marine, bird and plant species. The 12-acre parcel is located on property bordering one or both sides of Swan Creek on Pioneer Way near the Puyallup River with the Port of Tacoma habitat restoration project located to the north.

Introduction

This Environmental Assessment (EA) has been prepared for the Swan Creek Restoration Project to set forth NOAA's decision making responsibilities for this project, its determination that an alternative (the Excavation/Enhancement Alternative) other than the No Action Alternative would be the most ecologically sound alternative, and its determination that an environmental impact statement (EIS) will not need to be prepared for this project. In accordance with the requirements of the National Environmental Policy Act (NEPA), NOAA has independently reviewed the permitting and other regulatory documents in the Administrative Record and has determined that they adequately evaluate and mitigate as needed any potentially significant impacts to the human environment associated with this Commencement Bay, Washington restoration project.

This project was evaluated by the Commencement Bay Natural Resource Trustees (Trustees) as to its suitability as a project to help restore natural resources injured by the releases of hazardous substances or discharges of oil in Commencement Bay, Tacoma, Washington. The Trustees have been working with the City of Tacoma under a Consent Decree (United States v. City of Tacoma, Civ. No. C97-5336RJB (W.D. Wash., Dec. 30, 1997)) to construct five restoration projects, including this project.

Chronology

In order to guide decision making regarding the implementation of natural resource restoration activities, in 1996 the Trustees prepared a draft Restoration Plan/Programmatic Environmental Impact Statement (RP/EIS). The Final Restoration Plan (Feb. 1997), set forth a number of screening criteria for the selection of restoration projects by the Trustees. During settlement discussions with the City of Tacoma, the Trustees evaluated the proposed Swan Creek Restoration Project against the criteria in the Restoration Plan and the environmental consequences discussions in the EIS, and determined that the site was consistent with the goals and objectives of the NRDA restoration program. This project was then approved by the Trustee Council and incorporated into the Consent Decree as Appendix B. Additional information about the Trustees' restoration activities, the Commencement Bay environment, and the restoration

projects under the settlement with the City of Tacoma can be found in the above-referenced documents, available from the NOAA Contact Person listed above.

The project site is approximately 12 acres in size and is a combination of vacant uplands and non-vegetated shoreline wetlands. The site is located almost entirely within 200 feet of either Swan Creek and/or the Haire Wetland, which principally borders the site on the south. The project goals and objectives are consistent with and complement the other NRDA restoration projects by establishing new estuarine or freshwater marsh habitat for an assemblage of wetland-dependent marine, bird and plant species, enhancing existing habitat, providing a riparian buffer for both the new and existing habitat, and providing public access for education and passive recreation. In total, the Trustees and the City of Tacoma anticipate that the project will improve over 5.8 acres of fish and wildlife habitat, including approximately four acres of riparian forest and three acres of access to wetlands for salmonid rearing habitat.

The upland area is generally flat to gently sloping, with steeper slopes (approximately 30%) at the boundaries. The restoration project will require excavation of approximately 6,200 cubic yards of fill material during the construction of the stream channel. Suitable excavated soil may be utilized to create topographic features, such as small berm between Pioneer Way and the restored wetland and/or between the pedestrian walkway and the habitat areas. The vegetation planting plan will clear the uplands of existing small constructed pathways/driveways and uproot invasive species to create a mixed deciduous and evergreen riparian forest to the south and replanting of shrubs and trees more appropriate for the uplands and stream channel erosion control. A detailed description of the project can be found in the "Design of Swan Creek Stream and Wetland Enhancement" document dated April 11, 2000 and included in the Administrative Record for this project.

Alternatives Considered and Selection of Preferred Alternative

There were only two alternatives to be considered for this project: the No Action Alternative and the Excavation/Enhancement Alternative. The No Action alternative was not selected because the Trustees' mandate is to restore where feasible natural resources that were injured as a result of a release of a hazardous substance or discharge oil into the Commencement Bay environment. The Trustees determined that the site would provide far more benefits to natural resources if the stream and wetland were connected and the site enhanced to increase invertebrate production and provide spawning habitat for chinook and coho salmon and cutthroat trout, with an estimate habitat increase of approximately 2,249 square feet. Enhancement of and restoring the native plant communities at the site will improve the natural biological support functions of both the wetland and upland plant communities. Bird and other wildlife species are anticipated to benefit from an increase in foraging food and nesting habitat.

The project design will taken into consideration the minimum flows needed to avoid creating fish passage barriers when the excavation of the site is taking place. Standard

construction techniques will be employed for the excavation stages. The habitat enhancement characteristics of the site are not technically complicated and are typical of restoration activities in this area that are designed to benefit fish and wildlife species. An adaptive management plan (Appendix A, 04/11/2000 design report) will be instituted to ensure that the enhancement efforts are monitored and evaluated.

Environmental Consequences

The State's environmental checklist provides additional information on a number of factors, such as earth, air, water, plants, animals, energy, environmental health, noise, land and shoreline use, housing, aesthetics, light and glare, recreation, historic and cultural preservation (National Historical Preservation Act and Environmental Justice), transportation, public services, and utilities. NOAA has reviewed the discussions and annotations in these documents and concurs in the responses and conclusions.

Any potential adverse environmental impacts associated with the excavation of the sediments and the removal of the various construction debris will be mitigated by use of best management practices and be consistent with traditional construction techniques applicable in the marine environment and in the conditions set out by the U.S. Army Corps of Engineers (Corps) in its Biological Assessment (BA) and its Nationwide Permit 27 conditions, and the State of Washington in its permitting documents. The potential adverse impacts are temporary and construction-related, but outweighed by the cumulative long-term benefits of converting a contaminated site into a clean, productive freshwater marsh and open water habitat suitable for chinook salmon (*Oncorhynchus tshawytscha*), a listed species under the Endangered Species Act (ESA), as well as other salmonid species and wildlife species in the Commencement Bay environment. As concluded in the BA and agency consultation letters, the project may affect but is not likely to adversely affect the above-listed species, and the agencies believe that this project provides an overall beneficial effect to the listed species and will have a beneficial increase in chinook salmon critical habitat. The permitting agencies concur in this assessment as well.

As can be seen from the permitting documents, incorporated herein by reference, the City will also be working with the regulatory agencies to ensure that the final constructed project meets applicable regulatory requirements, including EPA Sediment Quality Objectives, State Sediment Quality Standards, and State Model Toxic Control Act criteria. Specific conditions under which the work will be conducted will be memorialized in the Corps' section 404 permit and site-specific conditions, the State of Washington's 401 water quality certification, the BA and any additional conditions set forth by the National Marine Fisheries Service (NMFS) or the U.S. Fish and Wildlife Service (USFWS) as a result of the ESA and Essential Fish Habitat (ESH) consultations. This project will be constructed in compliance with all permits required by the State and Federal regulatory agencies.

Conclusion

The proposed activity was evaluated under the goals and objectives and other evaluation criteria specified by the Commencement Bay NRDA Restoration Plan and with the evaluation factors under the National Environmental Policy Act (40 CFR 1508.27). Based on a review of all of these factors and the referenced documents, NOAA and the other Trustees have concluded that the proposed activity would not have a significant effect on the quality of the human environment. NOAA concurs with the Corps NWP No. 27 Decision Document that an EIS will not need to be prepared for this project.

A proposed copy of NOAA's independent finding of a FONSI is attached for the Agency's review and approval.

List of Agencies Consulted:

National Oceanic and Atmospheric Administration (Dept. Of Commerce)
National Marine Fisheries Service (Dept. Of Commerce)
U.S. Fish and Wildlife Service (Dept. Of the Interior)
Puyallup Tribe of Indians
Muckleshoot Tribe of Indians
State of Washington Departments of: Ecology, Fish and Wildlife,
Natural Resources, Archaeology and Historic Preservation
U.S. Army Corps of Engineers
City of Tacoma

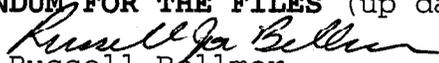
Documents Incorporated by Reference:

- 02/1997 Commencement Bay Natural Resource Trustees. Final Restoration Plan and Programmatic Environmental Impact Statement (RP/EIS).
- 03/1997 Swan Creek Stream Restoration. Project Concept Plan. Appendix B to United States v. City of Tacoma, Civ. No. C97-5336RJB (W.D. Wash., Dec. 30, 1997).
- 05/27/1999 Environmental Checklist, prepared by City of Tacoma
- 08/24/1999 Determination of Environmental Nonsignificance, City of Tacoma
- 08/24/1999 Wetland Development Permit Application. File No. WET 99-00005
- 11/03/1999 Biological Evaluation, Draft Report (by Pentac)
- 11/22/1999 JARPA Form
- 12/15/1999 Hydraulic Project Approval. Log No. 00-E3207-01
- 02/25/2000 Design of Swan Creek Stream and Wetland Enhancement (Pentac)
- 03/13/2000 Conditions of Wetland Approval (No. 293207)
- 04/11/2000 Revised Design of Swan Creek Stream and Wetland Enhancement (Pentac)

- 04/14/2000 NMFS Informal ESA Section 7 consultation - Determination of Not Likely to Adversely Affect Listed Species
- 04/14/2000 NMFS EFH Concurrence with Determination of No Adverse Effect
- 04/14/2000 Permit No. 1999-4-00766, Corps authorization under NWP 27
- 04/26/2000 USFWS IntraService Section 7 biological evaluation
- 07/14/2000 Corps' Nationwide Permit #27 and conditions
- 10/09/2000 State Letter of Verification; determination of consistency

MEMORANDUM FOR THE FILES (up dated April 2001)

APR 17 2001

FROM: 
Russell Bellmer

SUBJECT: EFH Concurrence with a Determination of no Adverse Effect for the Proposed Swan Creek Stream Restoration Project.

Proposed Project Site. The subject property is located in the northern section of Commencement Bay, in the City of Tacoma, Pierce County, Washington. The project site consists of four parcels, two upland parcels and two parcels of second class tidelands. The site is approximately 12 acres. In general, land uses include open space, residential, and industrial.

Proposed Project Description. The project will provide approximately 12 acres of habitat, preserved in perpetuity. The action area within the site involves only the footprint of the fill being removed and area for equipment access as a temporary disruption. The action consists of creating a 530-ft meandering stream channel that will connect Swan Creek to the existing 3-acre Haire Wetland providing access for salmonids. In addition the channel will provide salmonids with summer and winter rearing and spawning habitat. Two log structures (large woody debris) will be installed to increase invertebrate production and provide habitat for coho and cutthroat. The channel will be planted and maintained by locals to help ensure continued habitat use.

Heavy equipment used for construction will include backhoes, front-end loaders, bulldozers, and dump trucks. Neither drilling equipment nor blasting will be used during the project.

Timing/Chronology Of Specific Construction Actions A two-month window is anticipated for all construction, which is expected to include no more than 30 days of actual material and debris removal. The timing for in-water work will be determined by the Hydraulic Project Approval (HPA) issued by the Washington Department of Fish and Wildlife (WDFW). The expected in-water work window for this project will be between August 1 and 31, 2001 at low tides to minimize in-water work. This timing is also consistent with the in-water construction season for Commencement Bay (June 15 through the winter to March 14).

Determinations of Effect. In-water construction schedules are based on times of the year when few managed species will be in the proposed project area. The construction will observe seasonal conditions established by the Washington Department of Fish and Wildlife in their Hydraulic Project Approval and supported by the National Marine Fisheries Service to avoid impacts. The proposed project will not adversely affect any managed species or their habitats due to the methods and timing of all activities.

These include the following measures.

Construction shall only occur: within the work-window (1 August to 1 November) specified for the project and in the dry to the maximum extent possible.

The Temporary Erosion and Sedimentation Control Plan (TESCP) shall be implemented as shown in the contract documents and construction drawings. The TESCP shall be implemented before the start of any removal activities. The TESCP shall be based on the proponents current Best Management Practices and include measures such as silt fences, straw bale dikes, and dewatering to allow excavation to proceed in unsaturated conditions.

A responsible party shall inspect the site during construction to verify that the contractor is effectively implementing the TESCP. Work procedures that are out of compliance shall be terminated and an acceptable solution developed before work is allowed to continue.

No hazardous materials or toxic materials shall be transferred or stored within 50 feet of the MHHW of Swan Creek or Puyallup Waterway.

No equipment shall be refueled or maintained within 50 feet of the MHHW of Swan Creek or Puyallup Waterway. Equipment shall be serviced or maintained in designated areas where stormwater runoff can be prevented from directly entering the water.

An emergency spill kit shall be stored at each work site and construction crews trained in their proper use.

All crewmembers and all onsite personnel shall be informed of any and all environmental precautions. These precautions shall include: clearly marking the work area, clearly marked clearing limits, specifically identifying riparian vegetation to be removed, and all applicable laws and permit conditions.

EFH Determination. The area in which the restoration project is planned (fill material and debris removal, with placement of large woody debris) has been identified as EFH for species managed by the Pacific Fishery Management Council under the Amendment 11 to The Pacific Coast Groundfish Fishery Management Plan (March, 1999) and under the Amendment 14 to The Pacific Coast Salmon Plan (September, 2000).

The Groundfish Plan identifies twenty-four species and life stages within the estuarine composite EFH. These species include five species of Class Elasmobranchiomorphi and nineteen species of Class Osteichthyes. Eight species of Family Scorpaenidae (rockfish) and four species of Order Pleuronectiformes (flatfish) are identified within the Plan. Environmental conditions (i.e., temperature, salinity, water depth, substrate) greatly reduce the potential for the presence of these species in the project area

for even short periods of time during extreme high tides. The species that may occasionally visit the project area include: *Squalus acanthias* (spiny dogfish), *Raja inornata* (California skate), *Pleuronectes vetulus* (English sole), *Errex zachirus* (rex sole), *Citharichthys sordidus* (Pacific sanddab), and *Platichthys stellatus* (starry flounder). The eggs, larval stages, and some juvenile fish may occasionally be present in the Puyallup Waterway. However, due to construction activities in the dry or at extreme low tide during periods of the year with minimum fish activities, no adverse impacts will occur to EFH. Therefore, no additional EFH conservation measures have been provided.

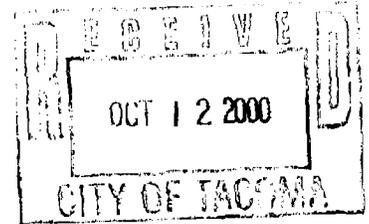
The Salmon Plan identifies three species and life stages within the Puget Sound EFH. These species include: chinook (*Oncorhynchus tshawytscha*), coho (*Oncorhynchus kisutch*), and pink (*Oncorhynchus gorbuscha*). In estuarine environments, coho salmon have two primary dispersal patterns: some juveniles spend several weeks in coastal waters before migrating offshore and others remain in coastal waters for at least the first summer before migrating offshore. Although both stream and ocean-type chinook salmon may reside in estuaries, stream-type chinook salmon generally spend a very brief period in the lower estuary before moving into coastal waters. The ocean-type chinook salmon typically reside in estuaries for several months before entering coastal waters. Pink salmon populations use estuarine areas differently. Some populations use it for extended periods to consume a variety of prey items and other populations move rapidly through the area. While still other populations remain within the area for their entire ocean residence period. Some juvenile and adult salmon may be present in the Puyallup Waterway at different times of the year. However, due to construction activities that incorporate all conservation measures identified in the Salmon Plan and being undertaken in the dry or at extreme low tide during periods of the year with minimum fish activities, no adverse impacts will occur to EFH. Therefore, no additional EFH conservation measures have been provided.

If the proposed project plans are substantially revised or if new information becomes available that affects the basis for no adverse effect determination, then EFH consultation will be undertaken.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

P.O. Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300



October 9, 2000

Mr. John O'Loughlin
Tacoma Public Works
747 Market St, Room 420
Tacoma, WA 98402

Dear Mr. O'Loughlin:

Re: Corps of Engineers Reference 1999-4-00766
State Letter of Verification

The Department of Ecology has received the U.S. Army Corps of Engineers' letter dated July 14, 2000, authorizing the issuance of nationwide permit (NWP) 27 for the proposed discharge of spawning gravel and the placement of weirs in Swan Creek at Tacoma, Pierce County, Washington. After reviewing your proposal, I have determined that it is consistent with the conditions the Department of Ecology previously approved for water quality certification and coastal zone management act (CZM) consistency for NWP 27.

Swan Creek, waterbody segment WA-10-1022, (WRIA #10, Class A water of the state) is on the current 303(d) list of impaired water bodies for exceeding water quality standards for fecal coliform. This project shall not result in further exceedances of that standard, and will be out of compliance with this certification if discharges from the project exceed limits for those contaminants identified in 173-201A-030(2) WAC and/or 173-201A-040 WAC.

This letter serves to verify that your project may proceed as described in the authorization letter issued by the Corps of Engineers, provided the proposal is constructed and/or operated in accordance with the Water Quality Standards for Surface Waters of the State of Washington contained in Chapter 173-201A of the Washington Administrative Code. Please note this letter of verification does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state and local agencies.

If you have any questions regarding this letter of verification, please call me at (360) 407-6926.

Sincerely,

Helen E. Pressley
Federal Permit Coordinator
Southwest Regional Office

cc: Jack Gossett, Corps
Linda Rankin, Ecology

HP:bl



REPLY TO
ATTENTION OF

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

Regulatory Branch

JUL 14 2000

Tacoma Public Works
ATTN: Mr. John O'Loughlin
747 Market Street, Room 420
Tacoma, Washington 98402

Reference: 1999-4-00766
Tacoma Public Works

Gentlemen:

The regulations which govern our permit program contain a series of Nationwide Permits (NWP). Each NWP authorizes a specific category of work, provided certain conditions are met. The NWP 27 (*Federal Register*, December 13, 1996, Vol. 61, No. 241 and/or March 9, 2000, Vol. 65, No. 47) authorizes Wetland and Riparian Restoration and Creation Activities. The entire text of NWP 27 and conditions are enclosed.

The NWP 27 authorizes the proposed discharge of spawning gravel and the placement of weirs in Swan Creek at Tacoma, Washington. The proposed work would provide additional fisheries habitat at the project site. The work must be performed as depicted on the enclosed drawings. The project will not fill any wetlands; however, the project calls for the discharge of spawning gravel in approximately 1,600 square feet of Swan Creek. You must meet specific requirements and conditions.

The U.S. Department of Commerce (NOAA) has completed the necessary coordination under Section 7 of the Endangered Species Act. I have determined you are in compliance with General Condition 11 and no further coordination is required.

The State of Washington has partially denied 401 Water Quality Certification (WQC) and Coastal Zone Management (CZM) Consistency Response under certain conditions. You need to check with the Washington State Department of Ecology (State) to determine any further 401 WQC and CZM requirements. Please telephone or send your plans to the following prior to starting work:

Washington State Department of Ecology
Southwest Regional Office
Post Office Box 47600
Olympia, Washington 98504-7600
Telephone (360) 407-6926

You must send us a copy of the individual 401 WQC and CZM Consistency Response authorizations for our file. In order for this NWP to be valid, you must comply with any conditions the State includes in their 401 WQC and CZM Consistency Response. You may then proceed to construction.

If more than 180 days pass and the State has not responded to your individual 401 WQC and CZM Consistency Response request, the 401 WQC and CZM Consistency Response become waived. To confirm this, you must send us a copy of only your 401 WQC application and then receive a letter from the U.S. Army Corps of Engineers before proceeding with your proposed work.

This NWP verification will be valid for 2 years from the date of this letter or until the NWPs are modified, reissued, or revoked.

The following special condition applies to your permit:

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

If the project meets all the conditions, you will need no further authorization from us for the above described project. You must still comply with other Federal, State, and local requirements which may pertain to the project. When you have finished the work, please fill out and return the enclosed compliance statement. If you have any questions, please contact me at telephone (206) 764-6902.

Sincerely,



Jack Gossett
Senior Project Manager
Application Review Section

Enclosures

27. WETLAND AND RIPARIAN RESTORATION AND CREATION ACTIVITIES.

Activities in waters of the United States associated with the restoration of former non-tidal wetlands and riparian areas, the enhancement of degraded wetlands and riparian areas, and creation of wetlands and riparian areas;

(i) On non-Federal public lands and private lands, in accordance with the terms and conditions of a binding wetland restoration or creation agreement between the landowner and the U.S. Fish and Wildlife Service or the NRCS or voluntary wetland restoration, enhancement, and creation actions documented by the NRCS pursuant to the NRCS regulations; or

(ii) On any Federal land; or

(iii) On reclaimed surface coal mined lands, in accordance with a Surface Mining Control and Reclamation Act permit issued by the Office of Surface Mining or the applicable state agency. (The future reversion does not apply to wetlands created, restored or enhanced as mitigation for the mining impacts, nor naturally due to hydrologic or topographic features, nor for a mitigation bank.); or

(iv) On any public or private land, provided the permittee notifies the District Engineer in accordance with the "Notification" general condition.

Such activities include, but are not limited to: installation and maintenance of small water control structures, dikes, and berms; backfilling of existing drainage ditches; removal of existing drainage structures; construction of small nesting islands; plowing or discing for seed bed preparation; and other related activities. This NWP applies to restoration projects that serve the purpose of restoring "natural" wetland hydrology, vegetation, and function to altered and degraded non-tidal wetlands and "natural" functions of riparian areas. This NWP does not authorize the conversion of natural wetlands to another aquatic use, such as creation of waterfowl impoundments where a forested wetland previously existed.

Reversion. For restoration, enhancement and creation projects conducted under paragraphs (ii) and (iv), 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 at that time would be required for any reversion. For restoration, enhancement and creation projects conducted under paragraphs (i) and (iii), 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 creation activities) within five years after expiration of a limited term wetland restoration or creation agreement or permit, even if the discharge occurs after this NWP expires. The five year reversion limit does not apply to agreements without time

limits reached under paragraph (i). 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. Prior to 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 back to its prior physical condition, it will be subject to whatever the Corps regulatory requirements will be at that future date. (Sections 10 and 404)

Notification Requirement -- Yes. *See National General Condition 13 - Notification, for requirements.*

Regional Conditions --

1. *Wetland restoration is not authorized in areas falling under the designation of a Federal Superfund site (Comprehensive Environmental Response, Compensation and Liability Act), hazardous waste clean-up site (Resource Conservation and Recovery Act), or State clean-up site (Model Toxics Control Act).*

2. *Restoration proposed in documented habitat for State-listed endangered, threatened, or sensitive animal species must be beneficial to those listed species present.*

Puyallup Tribe 401 Certification -- Denied without prejudice. *An individual 401 Certification is required for all Section 404 activities.*

EPA and State 401 Certification -- Partially denied without prejudice. *An individual 401 Certification is required for the following:*

1. *Discharges of dredged or fill material associated with the reversion of a restored wetland to its prior condition and use; or,*

2. *Impacts to waters of the U.S. adversely affecting more than 1/3 (one-third) acre.*

CZM Consistency Response -- Partially denied without prejudice *subject to the 401 Certification conditions. An individual CZM Consistency Response must be obtained for projects requiring individual 401 Certification and located within counties in the coastal zone.*

EXCERPT FROM CORPS OF ENGINEERS' SPECIAL PUBLIC NOTICE
DATED MARCH 5, 1997

NATIONAL CONDITIONS FOR NATIONWIDE PERMITS

The following general conditions must be followed in order for any authorization by a NWP to be valid.

GENERAL CONDITIONS:

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

2. **Proper Maintenance.** Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.

3. **Erosion and Siltation Controls.** Appropriate erosion and siltation 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.

4. **Aquatic Life Movements.** No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.

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

6. **Regional and Case-By-Case Conditions.** The activity must comply with any regional conditions which may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps [Seattle District] or by the state or tribe in its Section 401 water quality certification.

7. **Wild and Scenic Rivers.** No 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 effect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service.)

8. **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.

9. **Water Quality Certification**. In certain states, an individual Section 401 water quality certification must be obtained or waived (see 33 CFR 330.4(c)).

10. **Coastal Zone Management**. In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see Section 330.4(d)).

11. **Endangered Species**.

(a) No activity is authorized under any NWP which is likely to 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, or which is likely to destroy or adversely modify the critical habitat of such species. Non-Federal permittees shall notify the District Engineer if any listed species or critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

(b) Authorization of an activity by a nationwide permit does not authorize the "take" of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g., a Federal Endangered Species Act Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal "takes" of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. Fish and Wildlife Service and National Marine Fisheries Service or their world wide web pages at <http://www.fws.gov/~r9endspp/endspp.html> and http://kingfish.ssp.mnfs.gov/tmcintyr/prot_res.html#ES and Recovery, respectively.

[NOTE: See Regional General Conditions 6 and 7 for details on regional conditions for threatened and endangered species.]

12. **Historic Properties**. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the DE District Engineer] has complied with the provisions of 33 CFR Part 325, Appendix C. The prospective permittee must

notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)).

13. Notification.

(a) **Timing:** Where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a Pre-Construction Notification (PCN) as early as possible and shall not begin the activity:

(1) Until notified 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) If notified by the District or Division Engineer that an individual permit is required; or,

(3) Unless 30 days (or 45 days for NWP 26 only) have passed from the District Engineer's receipt of the notification and the prospective permittee has not received notice from the District or Division Engineer. 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 Notification:** The notification must be in writing and include the following information:

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

(2) Location of the proposed project;

(3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; 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; and

(4) For NWPs 14, 18, 21, 26, 29, 34, and 38, the PCN must also include a delineation of affected special aquatic sites, including wetlands (see paragraph 13.(f));

(5) For NWP 21, Surface Coal Mining Activities, the PCN must include an OSM [Department of the Interior, Office of Surface Mining] or State approved mitigation plan.

(6) For NWP 29, Single-Family Housing, the PCN must also include:

(i) Any past use of this NWP by the individual permittee and/or the permittee's spouse;

(ii) A statement that the single-family housing activity is for a personal residence of the permittee;

(iii) A description of the entire parcel, including its size, and a delineation of wetlands. For the purpose of this NWP, parcels of land measuring 0.5 acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than 0.5 acre in size, a formal wetland delineation must be prepared in accordance with the current method required by the Corps. (See paragraph 13.(f));

(iv) A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or the prospective permittee's spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed;

(7) For NWP 31, Maintenance of Existing Flood Control Projects, the prospective permittee must either notify the District Engineer with a Pre-Construction Notification (PCN) prior to each maintenance activity or submit a five year (or less) maintenance plan. In addition, the PCN must include all of the following:

(i) Sufficient baseline information so as to identify the approved channel depths and configurations and existing facilities. Minor deviations are authorized, provided that the approved flood control protection or drainage is not increased;

(ii) A delineation of any affected special aquatic sites, including wetlands; and

(iii) The location of the dredged material disposal site.

(8) For NWP 33, Temporary Construction, Access, and Dewatering, the PCN must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources.

(c) **Form of Notification:** The standard individual permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b)(1)-(7) [sic; (8) also] of General Condition 13. A letter may also be used. [NOTE: The Seattle District Corps also accepts the completed Joint Aquatic Resource Permit Application (JARPA) form as notification.]

(d) **District Engineer's Decision:** In reviewing the pre-construction notification for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may, optionally, submit a proposed mitigation plan with the pre-construction notification to expedite the process and the District Engineer will consider any optional mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects are minimal, the District Engineer will notify the permittee and include any conditions the DE deems necessary.

Any mitigation proposal must be approved by the District Engineer prior to commencing work. If the prospective permittee elects to submit a mitigation plan, the District Engineer will expeditiously review the proposed mitigation plan, but will not commence a second 30-day (or 45-day for NWP 26) notification procedure. If the net adverse effects of the project (with the mitigation proposal) are determined by the District Engineer to be minimal, the District Engineer will provide a timely written response to the applicant stating that the project can proceed under the terms and conditions of the nationwide permit.

If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then he will notify the applicant either:

(1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit;

(2) That the project is authorized under the NWP subject to the applicant's submitting a mitigation proposal that would reduce the adverse effects to the minimal level; or

(3) That the project is authorized under the NWP with specific modifications or conditions.

(e) **Agency Coordination:** 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 project's adverse environmental effects to a minimal level.

(i) For NWP 14, 21, 26 (between 1 and 3 acres of impact), 29, 33, 37, and 38, the District Engineer will, upon receipt of a notification, provide immediately, e.g., facsimile transmission, overnight mail or other expeditious manner, a copy to the appropriate offices of the Fish and Wildlife Service, State natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), and, if appropriate, the National Marine Fisheries Service. With the exception of NWP 37, these agencies will then have 5 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 10 calendar days (16 calendar days for NWP 26 PCNs) before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification. [NOTE: The Corps Seattle District requests one copy.]

(ii) **Optional Agency Coordination.** For NWPs 5, 7, 12, 13, 17, 18, 27, 31, and 34, where a Regional Administrator of EPA, a Regional Director of USFWS, or a Regional Director of NMFS has formally requested general notification from the District Engineer for the activities covered by any of these NWPs, the Corps will provide the requesting agency with notification on the particular NWPs. However, where the agencies have a record of not generally submitting substantive comments on activities covered by any of these NWPs, the Corps district may discontinue providing notification to those regional agency offices. The District Engineer will coordinate with the resources agencies to identify which activities involving a PCN that the agencies will provide substantive comments to the Corps. The District Engineer may also request comments from the agencies on a case by case basis when the District Engineer determines that such comments

would assist the Corps in reaching a decision whether effects are more than minimal either individually or cumulatively.

(iii) **Optional Agency Coordination, 401 Denial.** For NWP 26 only, where the state has denied its 401 water quality certification for activities with less than 1 acre of wetland impact, the EPA regional administrator may request agency coordination of PCNs between 1/3 and 1 acre. The request may only include acreage limitations within the 1/3 to 1 acre range for which the state has denied water quality certification. In cases where the EPA has requested coordination of projects as described here, the Corps will forward the PCN to EPA only. The PCN will then be forwarded to the Fish and Wildlife Service and the National Marine Fisheries Service by EPA under agreements among those agencies. Any agency receiving the PCN will be bound by the EPA timeframes for providing comments to the Corps.

(f) **Wetlands Delineations:** Wetland delineations must be prepared in accordance with the current method required by the Corps. For NWP 29 see paragraph (b)(6)(iii) for parcels less than 0.5 acres in size. The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 30-day period (45 days for NWP 26) will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

(g) **Mitigation:** Factors that the District Engineer will consider when determining the acceptability of appropriate and practicable mitigation include, but are not limited to:

(i) To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes;

(ii) To the extent appropriate, permittees should consider mitigation banking and other forms of mitigation including contributions to wetland trust funds, "in lieu fees" to organizations such as The Nature Conservancy, state or county natural resource management agencies, where such fees contribute to the restoration, creation, replacement, enhancement, or preservation of wetlands.

Furthermore, examples of mitigation that may be appropriate and practicable include but are not limited to:

- o Reducing the size of the project;
- o Establishing wetland or upland buffer zones to protect aquatic resource values; and

o Replacing the loss of aquatic resource values by creating, restoring, and enhancing similar functions and values.

In addition, mitigation must address wetland impacts, such as functions and values, and cannot be simply used to offset the acreage of wetland losses that would occur in order to meet the acreage limits of some of the NWPs (e.g., for NWP 26, 5 acres of wetlands cannot be created to change a 6-acre loss of wetlands to a 1 acre loss; however, 2 created acres can be used to reduce the impacts of a 3-acre loss).

14. **Compliance Certification.** Every permittee who has received a Nationwide permit verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter and will include:

a. A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions;

b. A statement that any required mitigation was completed in accordance with the permit conditions;

c. The signature of the permittee certifying the completion of the work and mitigation.

15. **Multiple Use of Nationwide Permits.** In any case where any NWP number 12 through 40 is combined with any other NWP number 12 through 40, as part of a single and complete project, the permittee must notify the District Engineer in accordance with paragraphs a, b, and c on the "Notification" General Condition number 13. Any NWP number 1 through 11 may be combined with any other NWP without notification to the Corps, unless notification is otherwise required by the terms of the NWPs. As provided at 33 CFR 330.6(c) two or more different NWPs can be combined to authorize a single and complete project. However, the same NWP cannot be used more than once for a single and complete project.

NATIONAL CONDITIONS FOR NATIONWIDE PERMITS

SECTION 404 ONLY CONDITIONS:

In addition to the General Conditions, the following conditions apply only to activities that involve the discharge of dredged or

fill material into waters of the U.S., and must be followed in order for authorization by the NWP's to be valid:

1. Water Supply Intakes. No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for repair of the public water supply intake structures or adjacent bank stabilization.

2. Shellfish Production. No discharge of dredged or fill material may occur in areas of concentrated shellfish production, unless the discharge is directly related to a shellfish harvesting activity authorized by NWP 4.

3. Suitable Material. No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.,) and material discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

4. Mitigation. Discharges of dredged or fill material into waters of the United States must be minimized or avoided to the maximum extent practicable at the project site (i.e., on-site), unless the District Engineer approves a compensation plan that the District Engineer determines is more beneficial to the environment than on-site minimization or avoidance measures.

5. Spawning Areas. Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.

6. Obstruction of High Flows. To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).

7. Adverse Effects from Impoundments. If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.

8. Waterfowl Breeding Areas. Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

9. Removal of Temporary Fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

REGIONAL GENERAL CONDITIONS FOR NATIONWIDE PERMITS

These conditions must be met for all projects authorized under NWPs in the State.

1. Mitigation or Restoration. Any activity or work authorized under these NWPs shall not adversely impact previously required Federal or State mitigation or restoration efforts.

2. Bog Systems. The use of NWPs is specifically prohibited in bog systems (as defined in the appendix of this public notice), except for projects provided coverage under NWP 34 -- Cranberry Production Activities.

3. Revegetation. Upon completion of the work in a wetland area, the site shall be replanted with native wetland vegetation during the next appropriate planting season. The applicant shall take appropriate measures to ensure revegetation success, as defined below.

The removal or destruction of existing shoreline (marine) or riparian (freshwater) vegetation shall be held to the absolute minimum needed for construction. Immediately following construction, shorelines or riparian zones affected by construction shall be replanted with native vegetation. The applicant shall take appropriate measures to ensure the success of the revegetation effort.

Success is defined as 80 percent of the planted area being covered with native species 5 years after construction is completed. If the percent of cover of native species does not equal or exceed 80 percent at the end of this 5-year period, remedial measures (e.g., replanting, soil amendments, additional monitoring, etc.) may be required until success is achieved.

Measures such as hydroseeding with annual or non-invasive grasses or groundcovers may be used for temporary erosion control.

4. National Wild and Scenic Rivers and Study Areas. The State and the EPA have denied 401 Certification for all proposed projects in National Wild and Scenic River and Study areas. An individual 401 Certification must be obtained for all projects in these areas, which currently include reaches of the following: the Klickitat, Skagit, Sauk, Suiattle, and White Salmon Rivers, and the Hanford Reach of the Columbia River.

5. Commencement Bay. An individual permit is required for activities in the Commencement Bay Study Area (CBSA) previously authorized by the following NWP:

- NWP 13 -- Bank Stabilization.
- NWP 14 -- Road Crossing.
- NWP 23 -- Approved categorical exclusions.
- NWP 26 -- Headwaters and Isolated Waters Discharges.

All other NWPs are still applicable within the CBSA.

The CBSA is located near the southern end of Puget Sound's main basin at Tacoma, Pierce County, Washington. The CBSA extends from Brown's Point around the bay to Point Defiance and includes the commercial waterways, wetlands, and any other jurisdictional waters. From Point Defiance, the line runs southeast to State Route 7 (Pacific Avenue), then south to the centerline of I-5; then east (northbound lanes) along I-5 to the Puyallup River. The boundary extends 200 feet on either side of the Puyallup River southeast to the Clark Creek Road (Melroy) Bridge. From the Puyallup River, the boundary extends east along I-5 to 70th Avenue East. The line then returns to Brown's Point to the northwest, following the 100-foot contour elevation above sea level located east of Hylebos Creek and Marine View Drive.

6. Prohibited Work Times for Fish Protection. For compliance with National General Condition 11, in-water construction activities are prohibited to protect three species of salmon listed as threatened and endangered under the Endangered Species Act as follows:

| | |
|--------------------------------|------------------------|
| Columbia River | |
| Mouth to Bonneville Dam | March 1 - October 30 |
| Bonneville Dam to John Day Dam | March 15 - November 15 |
| Upstream of John Day Dam | April 1 - November 30 |
| Snake River | |
| Mouth to Hells Canyon Dam (ID) | March 1 - December 15 |

Exceptions to these prohibited work times can be made by request to the Corps and approved by the NMFS.

Until specific timing restrictions are developed to protect salmonids and other fish species of concern in other river systems, please refer to the timing restrictions in the HPA for the project. Work outside the HPA timing restrictions must specifically be approved by the WDFW and the NMFS for waters with anadromous species or the WDFW and the USFWS for waters with resident species of fish.

7. Prohibited Work Times for Bald Eagle Protection. For compliance with National General Condition 11, the following construction activity prohibitions apply to protect bald eagles, listed as threatened under the Endangered Species Act:

a. No construction activity authorized under a NWP shall occur within 1/4 mile of an occupied bald eagle nest, nocturnal roost site, or wintering concentration area, within the following seasonal work prohibition times.

b. No construction activity authorized under a NWP shall occur within 1/2 mile BY LINE OF SIGHT of an occupied bald eagle nest or nocturnal roost site, within the following seasonal work prohibition times.

Work prohibition times: Bald eagle nesting occurs between January 1 and August 15 each year. Bald eagles are found at wintering areas between November 1 and March 31 each year. Exceptions to these prohibited work times can be made by request to the Corps and approved by the U.S. Fish and Wildlife Service (USFWS).

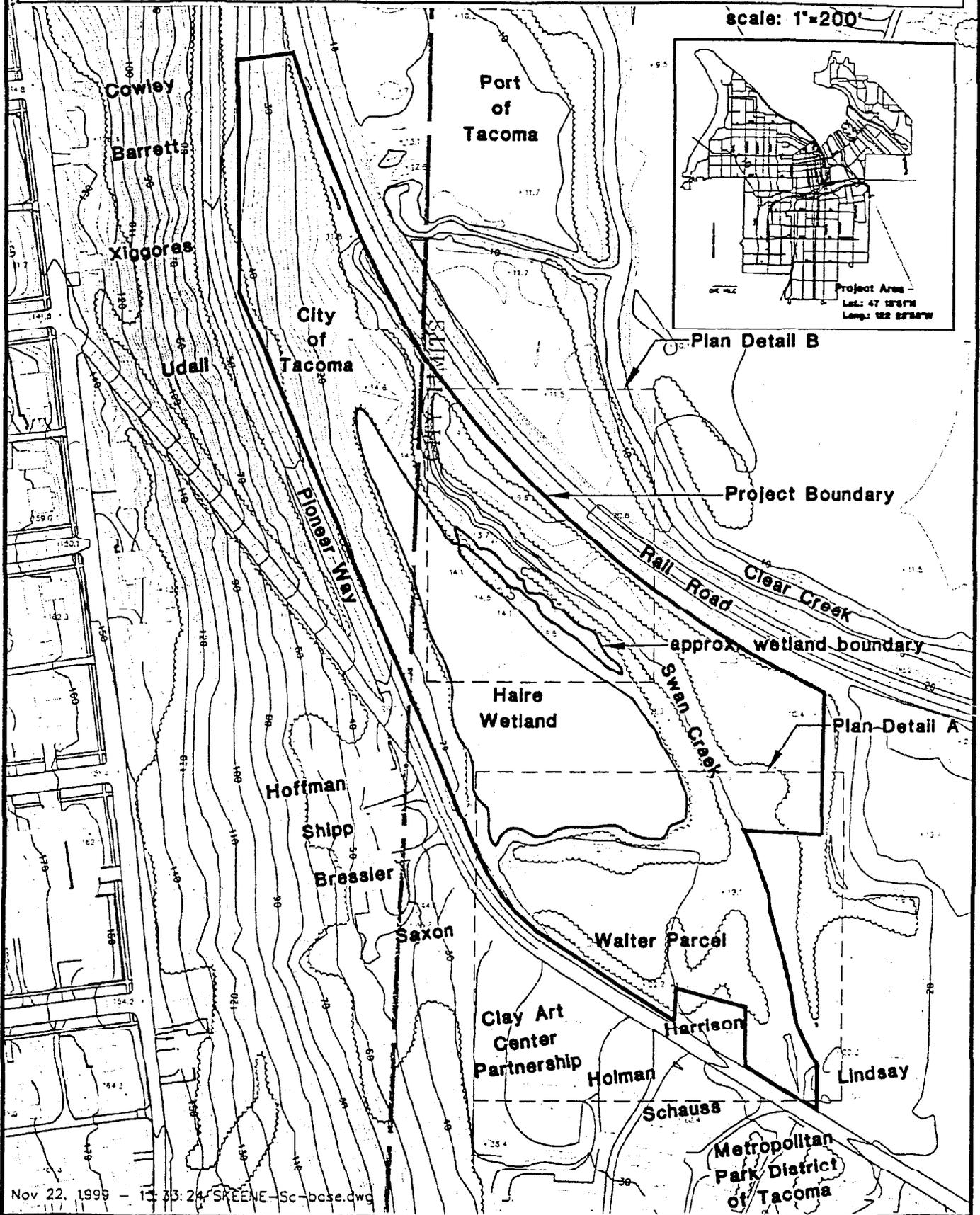
Contact the USFWS to determine if a bald eagle nest, nocturnal roost, or wintering concentration occurs near your proposed project:

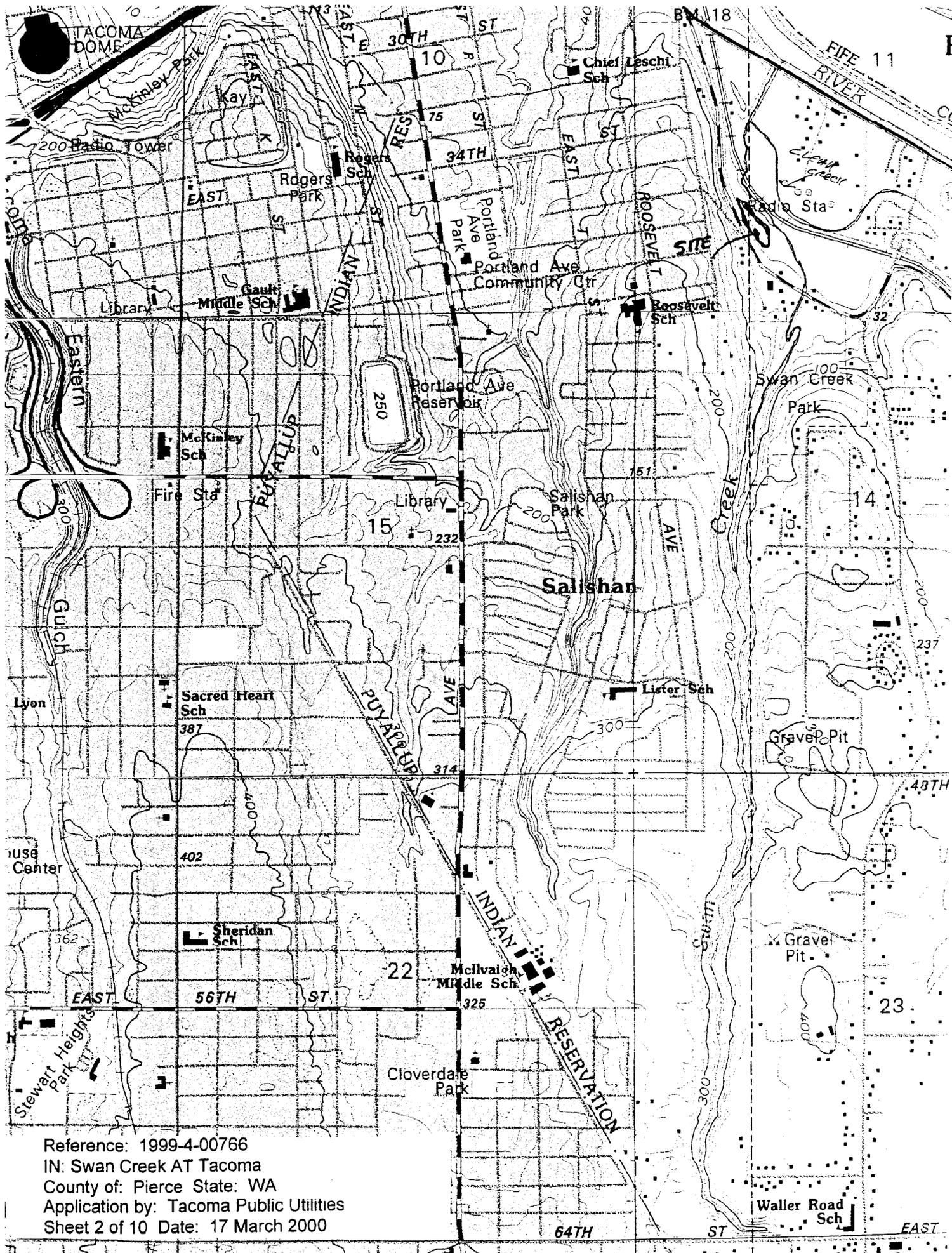
West of Cascades, Olympia Office - (360) 753-9440
East of Cascades, Moses Lake - (509) 765-6125, or
Spokane - (509) 891-6839
Mainstem of the Columbia River
downstream from McNary Dam - (503) 231-6179

Purpose: Swan Creek Stream Restoration
Existing Conditions and Vicinity Map
Datum: NGVD29

Reference: 1999-4-00766
IN: Swan Creek AT Tacoma
County of: Pierce State: WA
Application by: Tacoma Public Utilities
Sheet 1 of 10 Date: 17 March 2000

scale: 1"=200'

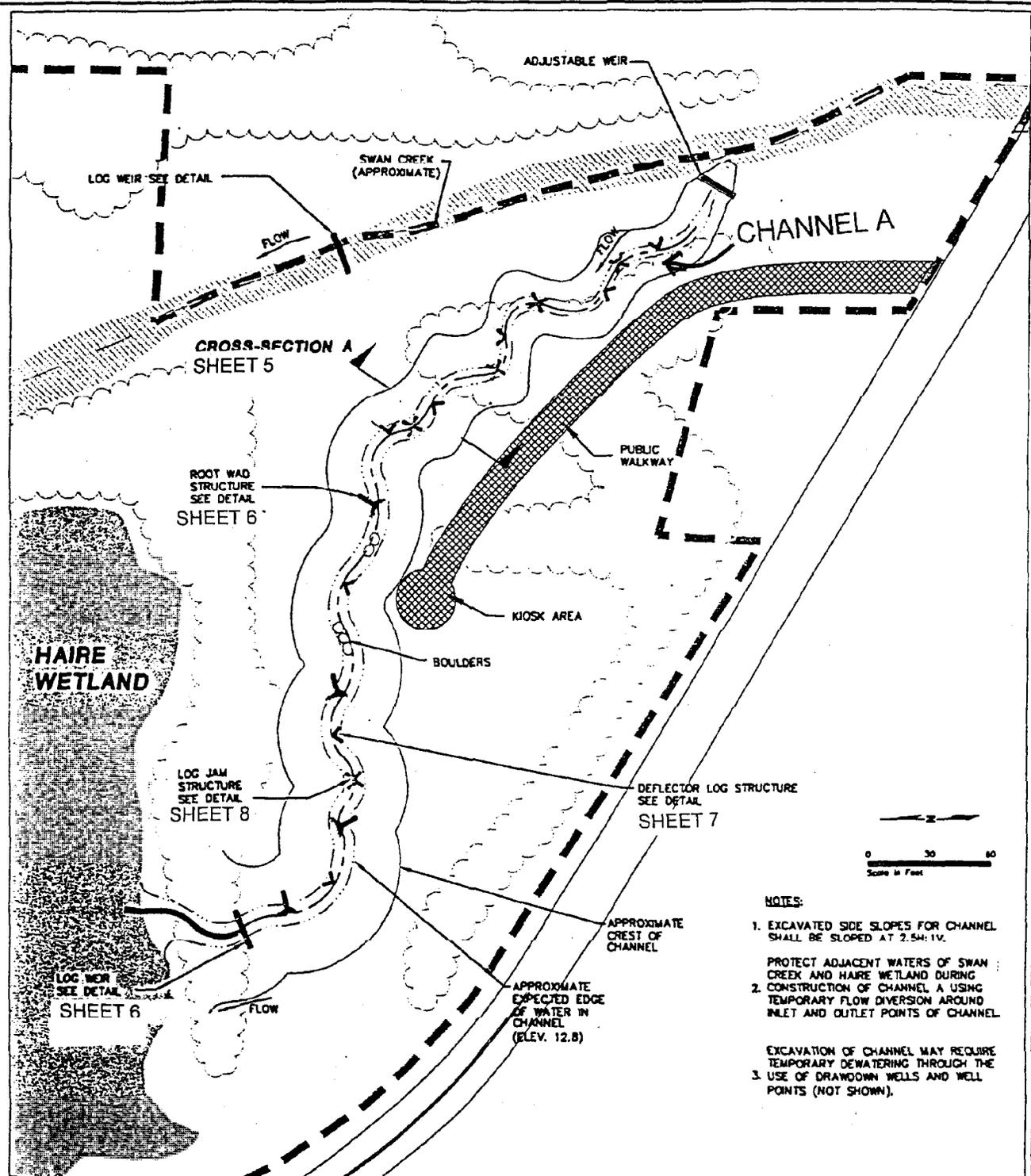




Reference: 1999-4-00766
 IN: Swan Creek AT Tacoma
 County of: Pierce State: WA
 Application by: Tacoma Public Utilities
 Sheet 2 of 10 Date: 17 March 2000

**Purpose: Swan Creek Stream Restoration
Plan Detail A, Constructed Channel A and
Public Access walkway
Datum: NGVD29**

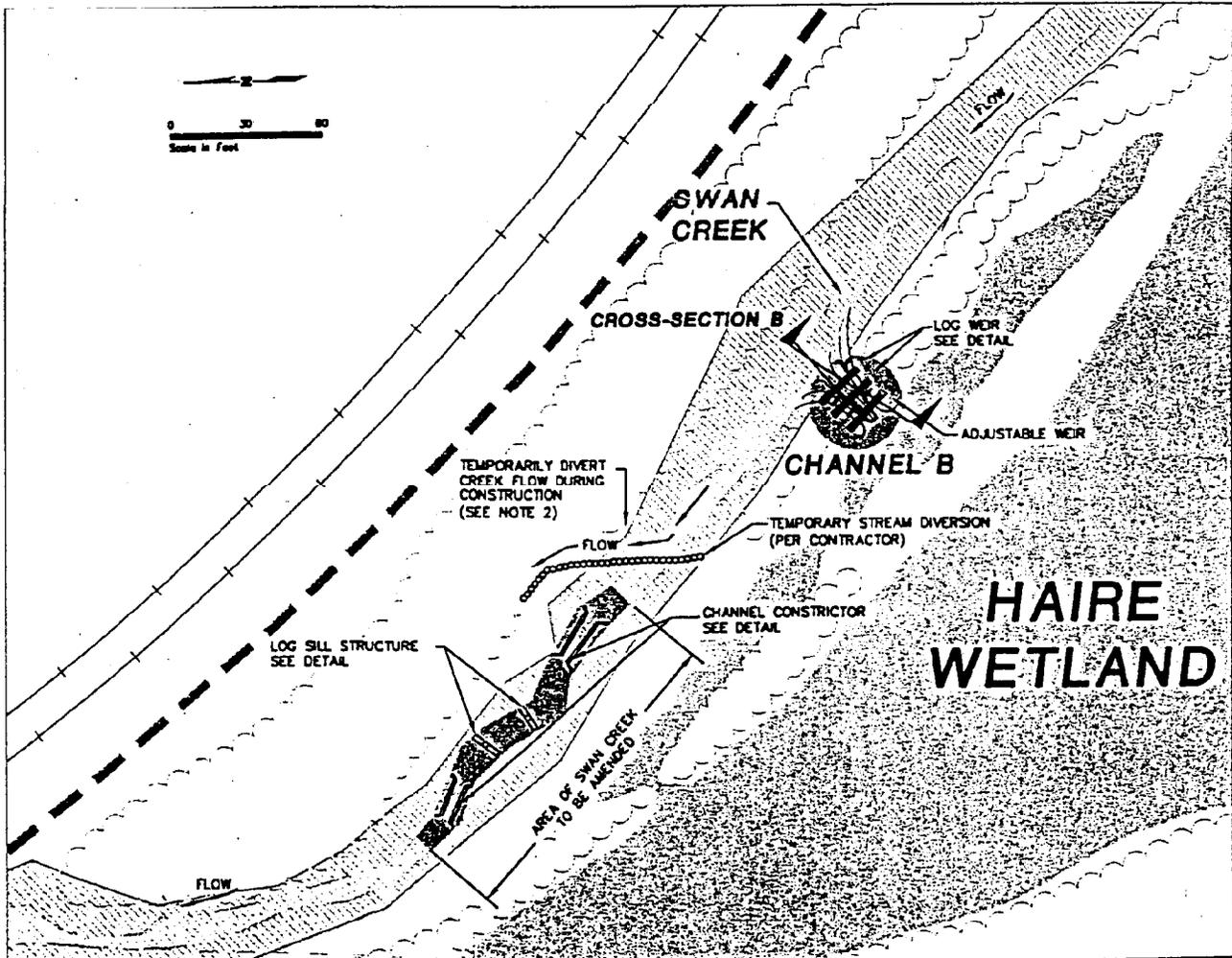
Reference: 1999-4-00766
IN: Swan Creek AT Tacoma
County of: Pierce State: WA
Application by: Tacoma Public Utilities
Sheet 3 of 10 Date: 17 March 2000



- NOTES:**
- EXCAVATED SIDE SLOPES FOR CHANNEL SHALL BE SLOPED AT 2.5H:1V.
 - PROTECT ADJACENT WATERS OF SWAN CREEK AND HAIRE WETLAND DURING CONSTRUCTION OF CHANNEL A USING TEMPORARY FLOW DIVERSION AROUND INLET AND OUTLET POINTS OF CHANNEL.
 - EXCAVATION OF CHANNEL MAY REQUIRE TEMPORARY DEWATERING THROUGH THE USE OF DRAWDOWN WELLS AND WELL POINTS (NOT SHOWN).

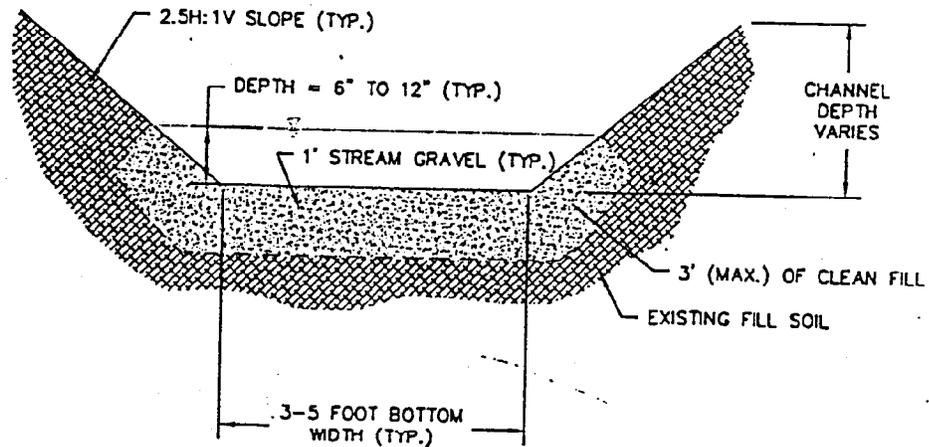
Purpose: Swan Creek Stream Restoration
Plan Detail B, Constructed Channel B at
Outlet of Haire Wetland to Swan Creek
Datum: NGVD29

Reference: 1999-4-00766
IN: Swan Creek AT Tacoma
County of: Pierce State: WA
Application by: Tacoma Public Utilities
Sheet 4 of 10 Date: 17 March 2000

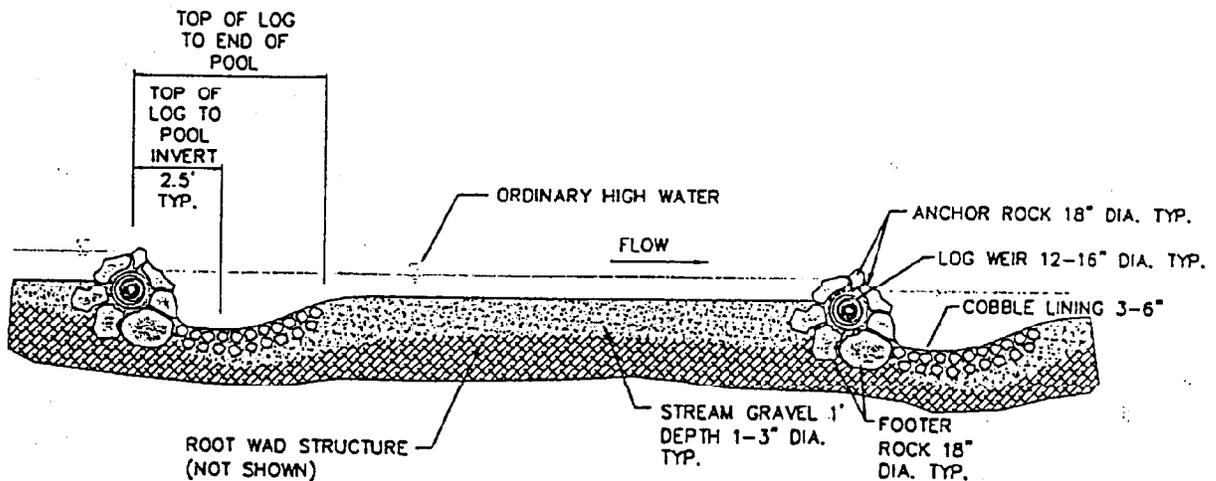


Purpose: Swan Creek Stream Restoration
Channel Cross Sections

Reference: 1999-4-00766
IN: Swan Creek AT Tacoma
County of: Pierce State: WA
Application by: Tacoma Public Utilities
Sheet 5 of 10 Date: 17 March 2000



CROSS SECTION A
NOT TO SCALE



PARTIAL CROSS SECTION ALONG CHANNEL B
NOT TO SCALE

CERTIFICATE OF COMPLIANCE WITH DEPARTMENT OF THE ARMY PERMIT

Permit Number: 1999-4-00766

Name of Permittee: TACOMA PUBLIC UTILITIES

Date of Issuance: JUL 14 2000

Upon completion of the activity authorized by this permit, sign this certification and return it to the following address:

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

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

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

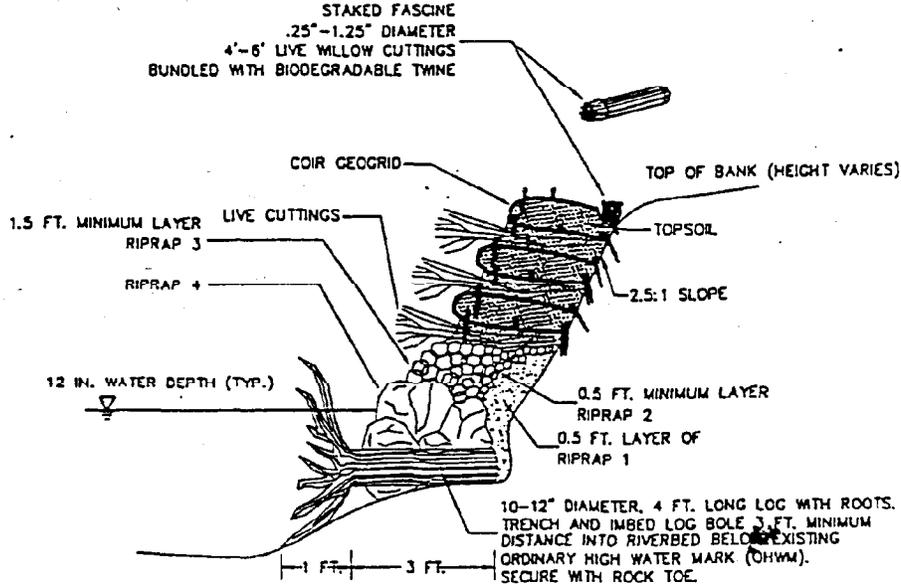
Signature of Permittee

NWP 27

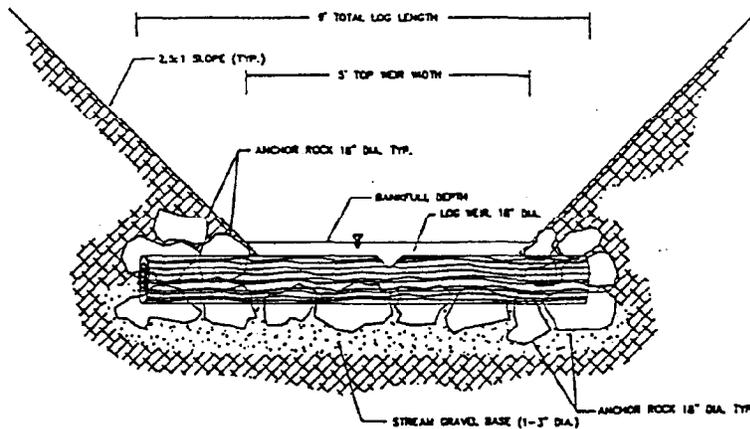
11 February 1997
CLM7; B: CERTCOMP.97

Purpose: Swan Creek Stream Restoration
Root Wad Structure detail and
Log Weir detail

Reference: 1999-4-00766
 IN: Swan Creek AT Tacoma
 County of: Pierce State: WA
 Application by: Tacoma Public Utilities
 Sheet 6 of 10 Date: 17 March 2000



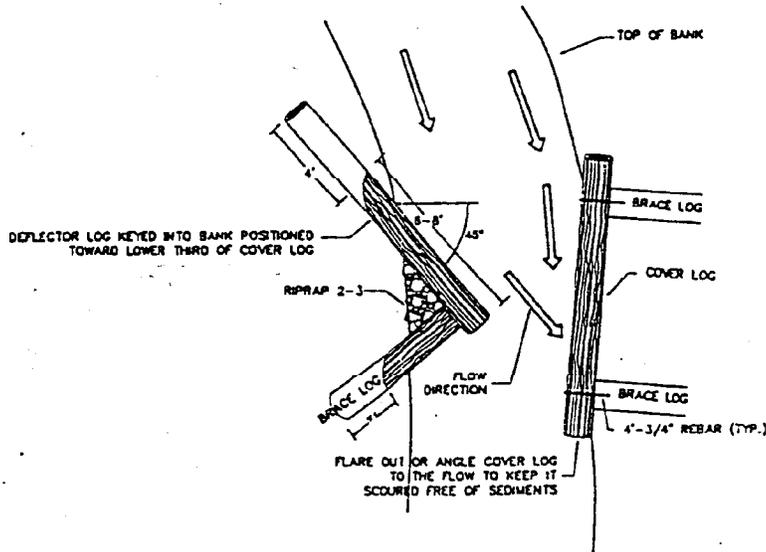
ROOT WAD STRUCTURE
 NOT TO SCALE



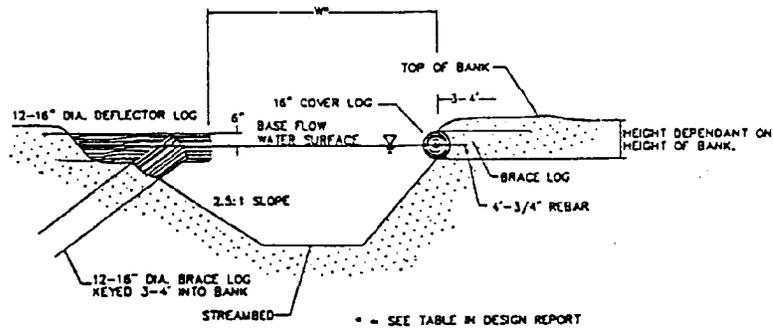
CROSS SECTION - LOG WEIR
 NOT TO SCALE

Purpose: Swan Creek Stream Restoration
Deflector Log Structure detail

Reference: 1999-4-00766
IN: Swan Creek AT Tacoma
County of: Pierce State: WA
Application by: Tacoma Public Utilities
Sheet 7 of 10 Date: 17 March 2000



PLAN VIEW



PROFILE VIEW

DEFLECTOR LOG STRUCTURE
NOT TO SCALE

Purpose: Swan Creek Stream Restoration

Log Jam Structure detail and

Log Sill Structure detail

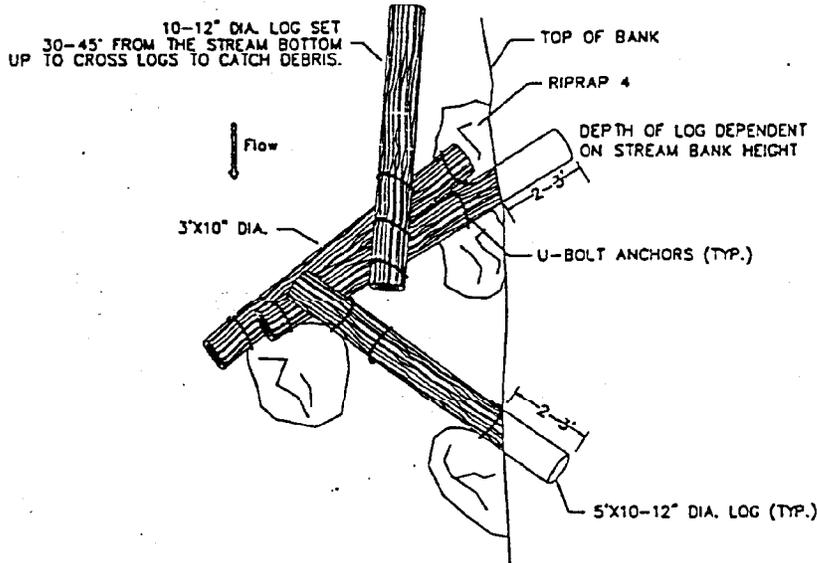
Reference: 1999-4-00766

IN: Swan Creek AT Tacoma

County of: Pierce State: WA

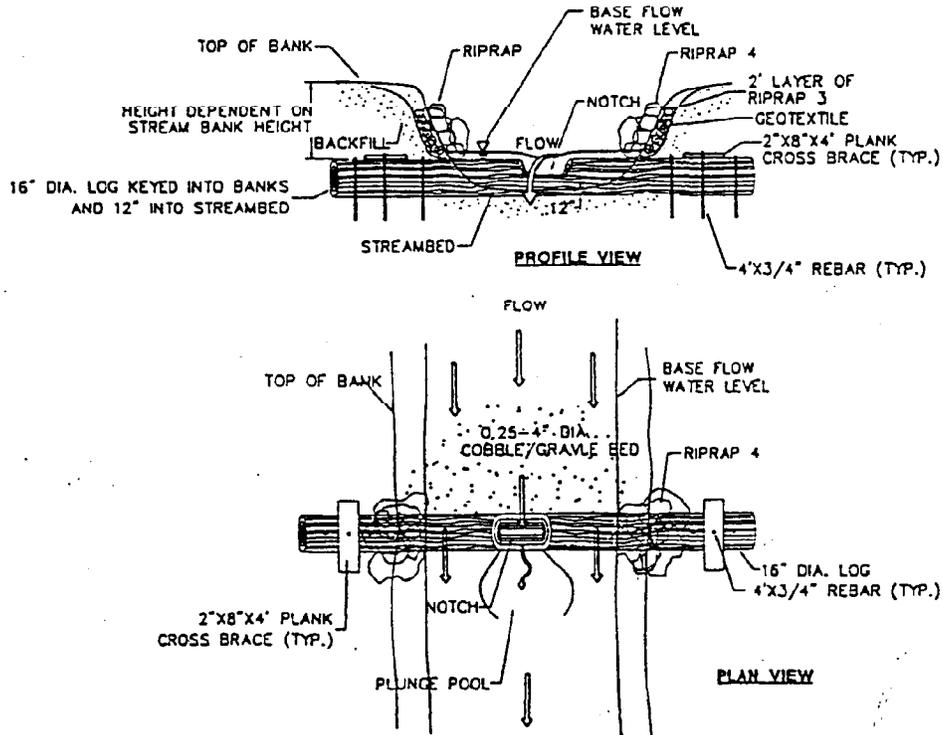
Application by: Tacoma Public Utilities

Sheet 8 of 10 Date: 17 March 2000



LOG JAM STRUCTURE

NOT TO SCALE



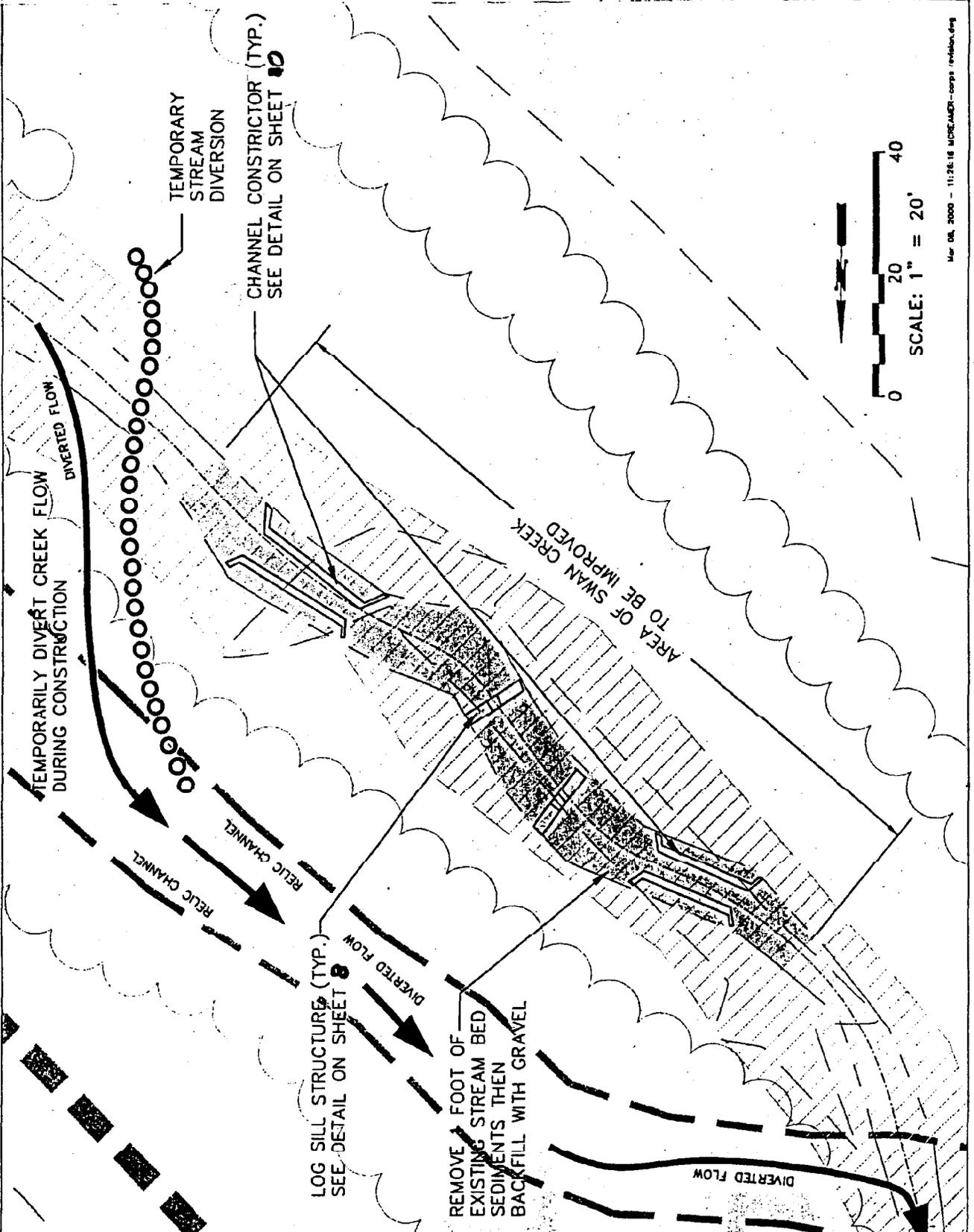
LOG SILL STRUCTURE

NOT TO SCALE

Purpose: Swan Creek Stream Restoration
Area of Swan Creek to be amended

Datum: NGVD29

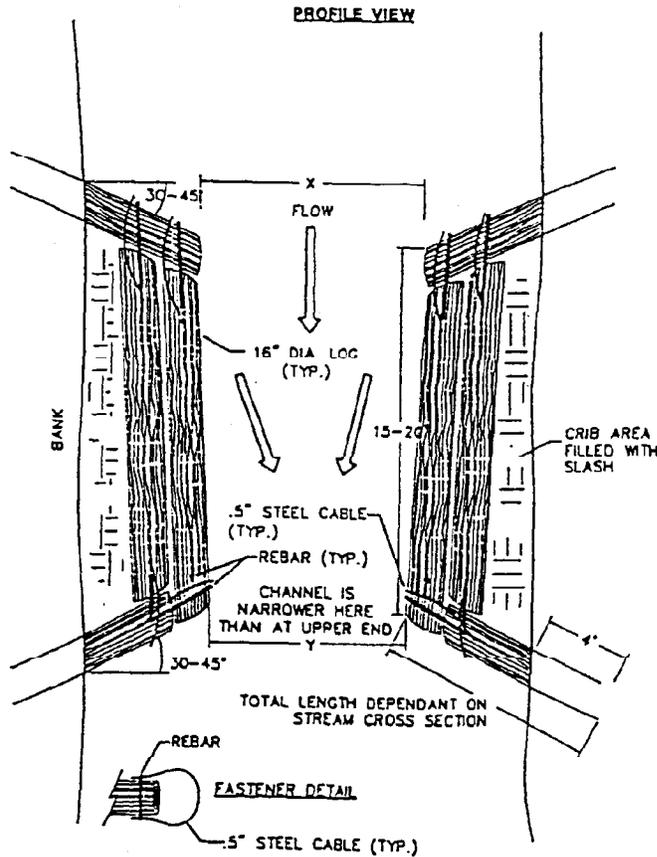
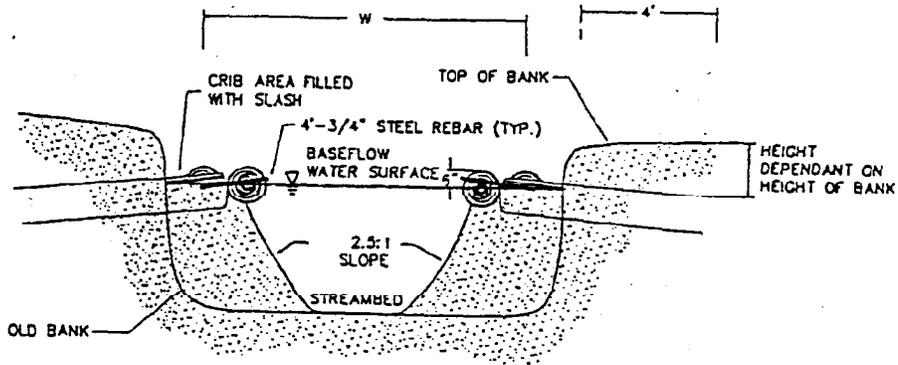
Reference: 1999-4-00766
IN: Swan Creek AT Tacoma
County of: Pierce State: WA
Application by: Tacoma Public Utilities
Sheet 9 of 10 Date: 17 March 2000



Mar 08, 2000 - 11:28:16 MCREAMER-corps revision.dwg

Purpose: Swan Creek Stream Restoration
Channel Constrictor detail

Reference: 1999-4-00766
IN: Swan Creek AT Tacoma
County of: Pierce State: WA
Application by: Tacoma Public Utilities
Sheet 10 of 10 Date: 17 March 2000



CHANNEL CONSTRICTOR
NOT TO SCALE

INTRA-SERVICE SECTION 7 BIOLOGICAL EVALUATION FORM
FWS Reference: 4-25-00-SP-1086

Originating Person: Judy Lantor
Telephone Number: (360) 753-6056
Date: April 26, 2000

- I. Region: Region 1
- II. Service Activity (Program): Contaminants;
Natural Resource Damage Assessment (NRDA),
Swan Creek/COT
Instream habitat restoration
- III. A. Listed species and/or their designated critical habitat within the action area:
1. Within the action area that will or may be affected:
- Species: Bull trout (*Salvelinus confluentus*)
Puget Sound, distinct population segment
Habitat: Tributary to Puyallup River, and associated wetlands
2. Within the action area that will not be affected:
- Species: Bald eagle (*Haliaeetus leucocephalus*)
Habitat: Swan Creek and adjacent riparian areas
- B. Proposed species and/or proposed critical habitat within the action area: none
- C. Candidate species within the action area: none
- IV. Geographic area or station name and action:
Commencement Bay, Tacoma, Washington,
Swan Creek a tributary to the Lower Puyallup River

Through the NRDA program, the U.S. Fish and Wildlife Service is cooperating with the other Commencement Bay Natural Resource Trustees including, the National Oceanic and Atmospheric Administration, State of Washington Departments of Ecology, Natural Resources and Fish & Wildlife, the Puyallup Tribe of Indians, and the Muckleshoot Indian Tribe (Trustees) to implement habitat restoration for Commencement Bay injured natural resources. The trustees

settled with the City of Tacoma for their natural resource damages liability. Under that settlement, the City, in cooperation with the trustees, has agreed to collaborate in developing and implementing five marine and freshwater restoration projects, beginning one each year over the next 5 years. The schedule has been delayed and it is hoped that two projects can be implemented in the year 2000. If permits are granted in sufficient time, the Swan Creek project would be constructed in the fall of 2000. If permits are delayed the project would be constructed in the summer of 2001.

V. Location (attach map):

- A. County and State: Pierce, Washington
- B. Section, township, and range (or latitude and longitude):
T20N, R03E, SW1/4S11
- C. Distance (miles) and direction to nearest town:
Approximately 2 miles southeast from downtown Tacoma
- D. Include species/habitat occurrence on a map, if possible.
See attached

VI. Description of proposed action (attach additional pages as needed):

Swan Creek is a tributary to the Puyallup River. It joins with Clear Creek near the confluence with the Puyallup River. The Swan Creek watershed is in a developing urban/suburban area. The creek has suffered from increased flow conditions and has downcut its channel in recent years. The lower reaches of the creek, where this restoration project is proposed, currently suffers from increased sediment loading.

The goal of this project is to enhance the Swan Creek corridor to benefit salmonids. Specific objectives include, 1) increase cutthroat and coho spawning habitat, 2) provide off-channel rearing habitat, and, 3) increase invertebrate production and salmonid spawning habitat in the lower reach of Swan Creek. To achieve these objectives, a meandering stream channel would be constructed between Swan Creek and the Haire wetland, to allow fish access to this habitat (Channel A). The Haire wetland would then be connected to the lower reach of Swan Creek by a second channel (Channel B). Enhancement work would also occur in the lower reach of Swan Creek. Two log sills structures would be installed to increase invertebrate production and provide potential spawning habitat for coho and cutthroat, and two flow constrictor structures would be installed to flush out sediment in this section. (See attached plan drawings).

Channel A would be excavated entirely on the former Walter wetland (now composed of fill material). This channel is designed to have a water depth of 6 to 12 inches. A weir would be installed in Swan Creek downstream from the inlet to channel A to ensure there is adequate flow through Swan Creek in the summer months. Channel A would be 530 feet in length with a sinuosity of 1.17. Instream structures and habitat would be placed as shown on the attached

drawings. The structures and boulders would be placed to provide lateral pools and cover.

A one foot thick gravel cobble substrate would be used in channel A and a brush mattress with an optional rock toe would be used to stabilize the banks. The banks would be constructed at a 3:1 slope and would be vegetated with native plant material. Appropriately sorted spawning gravel would be placed in the streambed to create interstitial habitat for invertebrates and potential spawning and rearing habitat for cutthroat trout and coho salmon. An evaluation of sediment transport capacity demonstrated that the normal range of flows would flush out silt and sand from the pools while leaving the spawning gravel unmodified (Pentec, 2000).

Channel B would be 43 feet in length with a sinuosity of 1.22, and would connect the lower end of Haire wetland to Swan Creek. Log weirs would be utilized to create a series of step pools designed to maintain a minimum water depth of 6 to 12 inches under low flow conditions. Logs would be placed every 10.5 feet for a total of three weirs, limiting the maximum drop to 4.8 inches, ensuring that none of the logs limits passage for salmonid fingerlings and fry.

Two flow constrictor log structures would be installed in Swan Creek below Haire wetland. These structures are designed to increase flow velocity and flush out sediment. The new stream corridor would be planted with native vegetation. The existing stream corridor would be enhanced through the removal of invasive vegetation and replanting with native vegetation. A long term maintenance, monitoring, and adaptive management plan would be implemented to ensure project success. (See project file, *Design of Swan Creek Stream and Wetland Enhancement, Review Draft*. Prepared for the City of Tacoma, by Pentec Environmental, February, 2000.)

VII. Determination of effects:

A. Explanation of effects of the action on listed species:

The Puget Sound distinct population segment of bull trout occurs within the Puyallup River system. Bull trout in the Puyallup River system have been separated into three stocks, Puyallup, White and Carbon River. These stocks are considered distinct based on their probable geographic isolation. It is not currently known whether these stocks are genetically distinct. The stocks are native and maintained by wild production. Life histories are unknown, but habitat is available for anadromous, fluvial and resident forms (WDFW, 1997).

Bull trout exhibit resident and migratory life history strategies through much of their current range. Migratory bull trout spawn in tributary streams where juvenile fish rear from one to four years before migrating to either a lake, river, or in certain coastal areas, to saltwater, where maturity is reached in one of the three habitats. Bull trout are opportunistic feeders. Food habits are primarily a function of size and life history strategy. Migratory bull trout prey on terrestrial and aquatic insects, amphipods, mysids, crayfish and small fish. Adult migratory bull trout are primarily piscivorous, feeding on various trout, salmon, whitefish, yellow perch and sculpin. (USFWS, 1999).

No known observations of bull trout have been made in the immediate vicinity of the project area. It is possible, however, that bull trout may use the area. Juvenile salmonids of other species are known to utilize the lower stream reaches and associated wetlands. Migratory and overwintering habitat for adult and sub-adult migratory bull trout includes large corridor areas such as the mainstem Puyallup River. It is unlikely that migratory bull trout would move into the reaches of Swan Creek proposed for construction activities in late summer due to increases in water temperature. However, project construction may result in short term increases in turbidity in Swan Creek. Any increases in turbidity could enter the mainstem Puyallup. Any increases in sedimentation would be entering the tidally influenced portion of the river which already has high sediment loads due to the influence of glacial flour and should not effect bull trout.

Due to the fact that bull trout have not been observed in the area, the project site is located in an area that bull trout are not likely to travel in late summer when water temperatures are elevated, and that any increases in sedimentation to the mainstem Puyallup would be negligible, the conclusion reached is bull trout may be affected, but they are not likely to be adversely affected.

B. Explanation of actions to be implemented to avoid, minimize, or reduce adverse effects:

All conditions of the Hydraulic Project Approval will be followed.

All elements of the erosion and sediment control plan would be followed. Silt fencing would be established immediately downslope of all construction activities, stabilized construction entrances would be established at either end of the project, temporary sand bag berms would be placed around inlet and outlet of channels to Haire wetland and Swan Creek, and temporary stream flow diversions would be established from Swan Creek during construction of stream improvements. Any siltation from construction of channel A that is not captured by the above erosion control methods would be filtered by the Haire wetland. Some siltation would occur with construction of stream improvements, but the overall impact would be to improve substrate embeddedness of the stream channel, thereby improving food resources and spawning habitat for other salmonid species.

A. Explanation of effects of the action on species:

There is a bald eagle nest approximately one mile southeast of the project site along Pioneer Avenue. Bald eagles may forage in the vicinity of the project area. They are commonly seen at the mouth of the Puyallup River, approximately 2.5 miles to the south. The upland buffer adjacent to the project site has trees of sufficient size to support bald eagle perching. Bald eagles occupy large feeding territories and it is doubtful that they use Commencement Bay exclusively over other feeding areas. Given the small size of the site and the temporary nature of construction disturbances, the project is not expected to impair foraging opportunities for eagles.

Heavy equipment (backhoe, loaders, dump trucks) will be employed during project construction. However, the project site is located along a busy roadway, Pioneer Avenue. Project construction

would occur approximately one mile from the nest site and no blasting or pile driving would occur. When such construction activities occur at this distance from a nest site or foraging area, no conservation measures are required under the Service's *Programmatic Biological Assessment for Service Habitat Restoration Activities* (USFWS, 1999). Therefore, there should not be any effects from construction activities on bald eagles in the area.

B. Explanation of actions to be implemented to avoid, minimize, or reduce adverse effects:

Since construction activities are not expected to be more disturbing than ambient conditions, no actions are proposed to reduce project effects on eagles.

VIII. Effect determination(s) and response(s) requested: [*optional]

A. Listed species/designated critical habitat:

Determination

Response requested

NO EFFECT

(species: Bald eagle (*Haliaeetus leucocephalus*)
(critical habitat: _____)

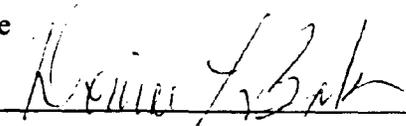
X *Concurrence
____ *Concurrence

IS NOT LIKELY TO ADVERSELY AFFECT

(species: Bull trout (*Salvelinus confluentus*)
(critical habitat: _____)

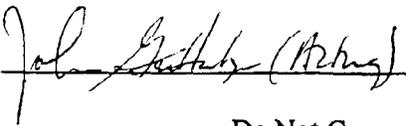
X Concurrence
____ *Formal Consultation
____ Concurrence
____ *Formal Consultation

IX. Signature Page

Initiating Officer  Date 5-1-00

X Concur _____ Do Not Concur

Comments:

Endangered Species Supervisor  (Rising) Date 5/9/00

X Concur _____ Do Not Concur

Comments:

REFERENCES:

Commencement Bay Natural Resource Trustees. 1995. Commencement Bay Phase I Damage Assessment Report. Prepared by EVS Environmental Consultants for the Commencement Bay Natural Resource Trustees and the NOAA Damage Assessment and Restoration Center, Seattle, WA.

Commencement Bay Natural Resource Trustees. 1997. Commencement Bay Natural Resource Damage Assessment Restoration Plan and Final Programmatic Environmental Impact Statement. Prepared by the U.S. Fish and Wildlife Service and National Oceanic and Atmospheric Administration for the Commencement Bay Natural Resource Trustees and Cooperating Agencies.

Pentec Environmental. 2000. Design of Swan Creek Stream and Wetland Enhancement. Review Draft prepared for the City of Tacoma.

U.S. Fish and Wildlife Service. 1999. Programmatic Biological Assessment for U.S. Fish and Wildlife Service Habitat Restoration Activities of the Western Washington Office, Upper Columbia River Basin Office, Moses Lake Fish and Wildlife Office and Mid-Columbia River Basin Fisheries Resource Office.

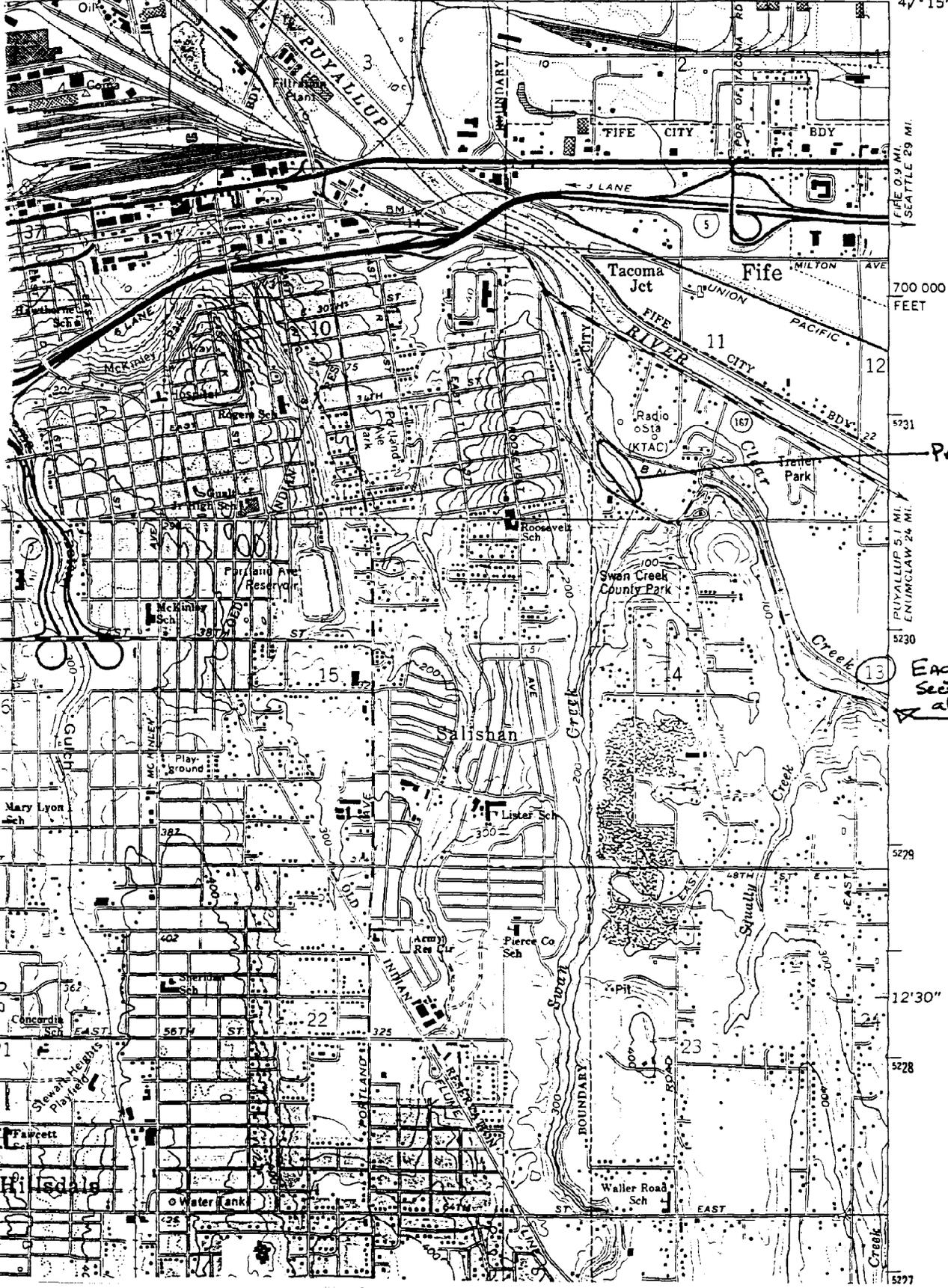
Washington Department of Fish and Wildlife. 1997. Washington State Salmonid Stock Inventory: Bull Trout and Dolly Varden.

SWAN CREEK, COY

TACOMA SOUTH QUADRANGLE
WASHINGTON-PIERCE CO.
7.5 MINUTE SERIES (TOPOGRAPHIC)
NW/4 TACOMA SOUTH 15' QUADRANGLE

1578 N SE
POVERTY BAY

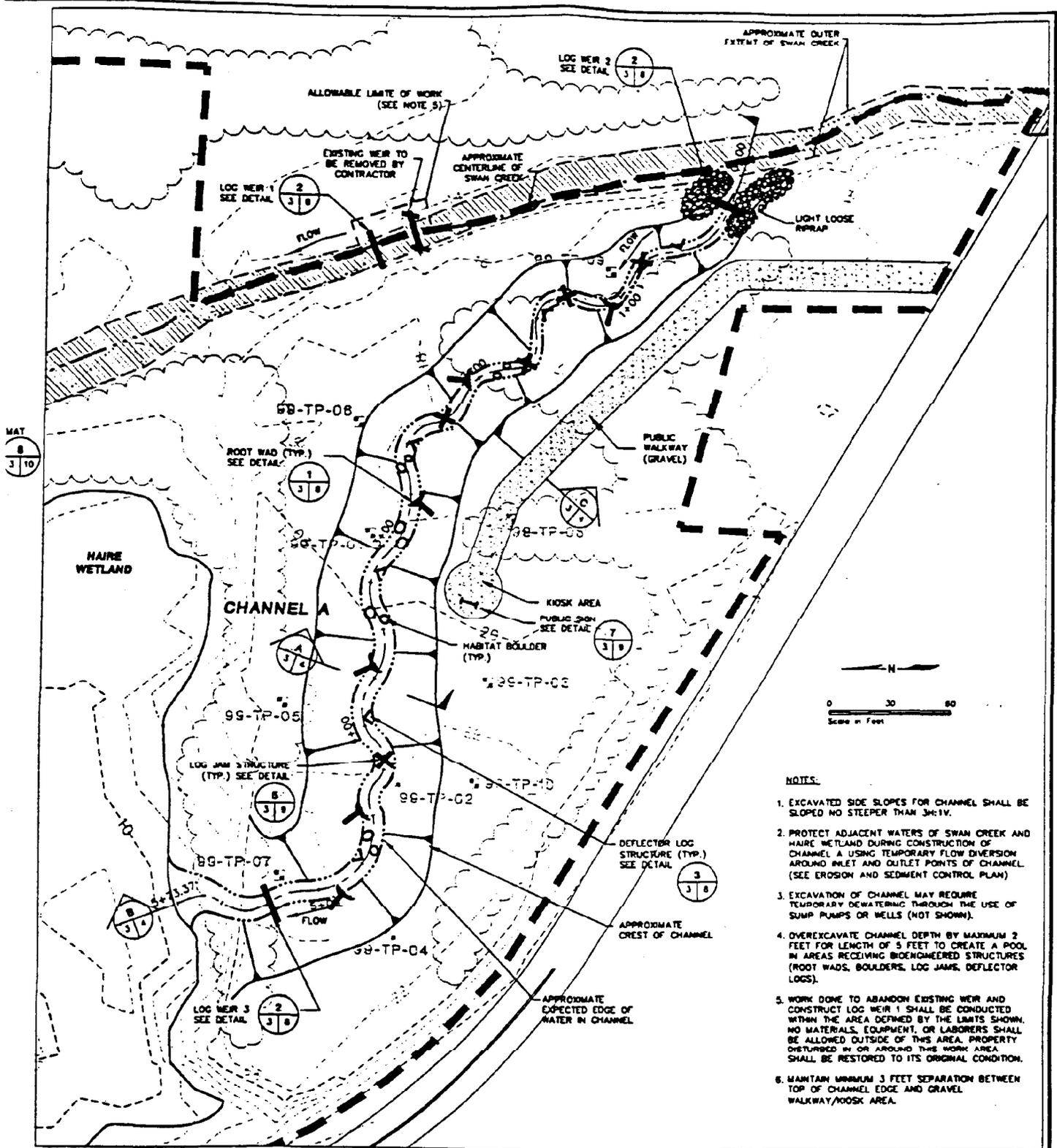
TM1 544 25' 545 1 530 000 FEET 547 122°22'30" 47'15'



5210
5230
5278
5278
5277

Project Site

Eagle nest in
Section 13
along Pione
A



- NOTES:**
- EXCAVATED SIDE SLOPES FOR CHANNEL SHALL BE SLOPED NO STEEPER THAN 3H:1V.
 - PROTECT ADJACENT WATERS OF SWAN CREEK AND HAIRE WETLAND DURING CONSTRUCTION OF CHANNEL A USING TEMPORARY FLOW DIVERSION AROUND INLET AND OUTLET POINTS OF CHANNEL. (SEE EROSION AND SEDIMENT CONTROL PLAN)
 - EXCAVATION OF CHANNEL MAY REQUIRE TEMPORARY DEWATERING THROUGH THE USE OF SUMP PUMPS OR WELLS (NOT SHOWN).
 - OVEREXCAVATE CHANNEL DEPTH BY MAXIMUM 2 FEET FOR LENGTH OF 5 FEET TO CREATE A POOL IN AREAS RECEIVING BIOENGINEERED STRUCTURES (ROOT WADS, BOULDERS, LOG JAMS, DEFLECTOR LOGS).
 - WORK DONE TO ABANDON EXISTING WEIR AND CONSTRUCT LOG WEIR 1 SHALL BE CONDUCTED WITHIN THE AREA DEFINED BY THE LIMITS SHOWN. NO MATERIALS, EQUIPMENT, OR LABORERS SHALL BE ALLOWED OUTSIDE OF THIS AREA. PROPERTY DISTURBED IN OR AROUND THIS WORK AREA SHALL BE RESTORED TO ITS ORIGINAL CONDITION.
 - MAINTAIN MINIMUM 3 FEET SEPARATION BETWEEN TOP OF CHANNEL EDGE AND GRAVEL WALKWAY/KIOSK AREA.

PLAN DETAIL: CHANNEL A

95 PERCENT DESIGN SUBMITTAL

CITY OF TACOMA
DEPARTMENT OF PUBLIC WORKS

**SWAN CREEK
STREAM RESTORATION PROJECT
CONSTRUCTION PLAN**

APW DRAWN BY: RZC
JW DATE: 2/28/00
E. VISION
MANAGER

PENTEC ENVIRONMENTAL
HARTCROWSER
1910 Fairview Avenue East
Seattle, Washington 98102-3699
TEL 206.324.9530 FAX 206.328.5561

DRAWING NO: 24x36 AS SHOWN SCALE: DATE: 2/28/00 DRAWING TYPE: DRAFT JOB NO: J-7197 SHEET: 3 of 11

PLAN DETAIL KEY



PLAN DETAIL
(SEE BELOW)

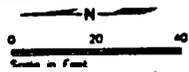


CHANNEL B

CHANNEL A

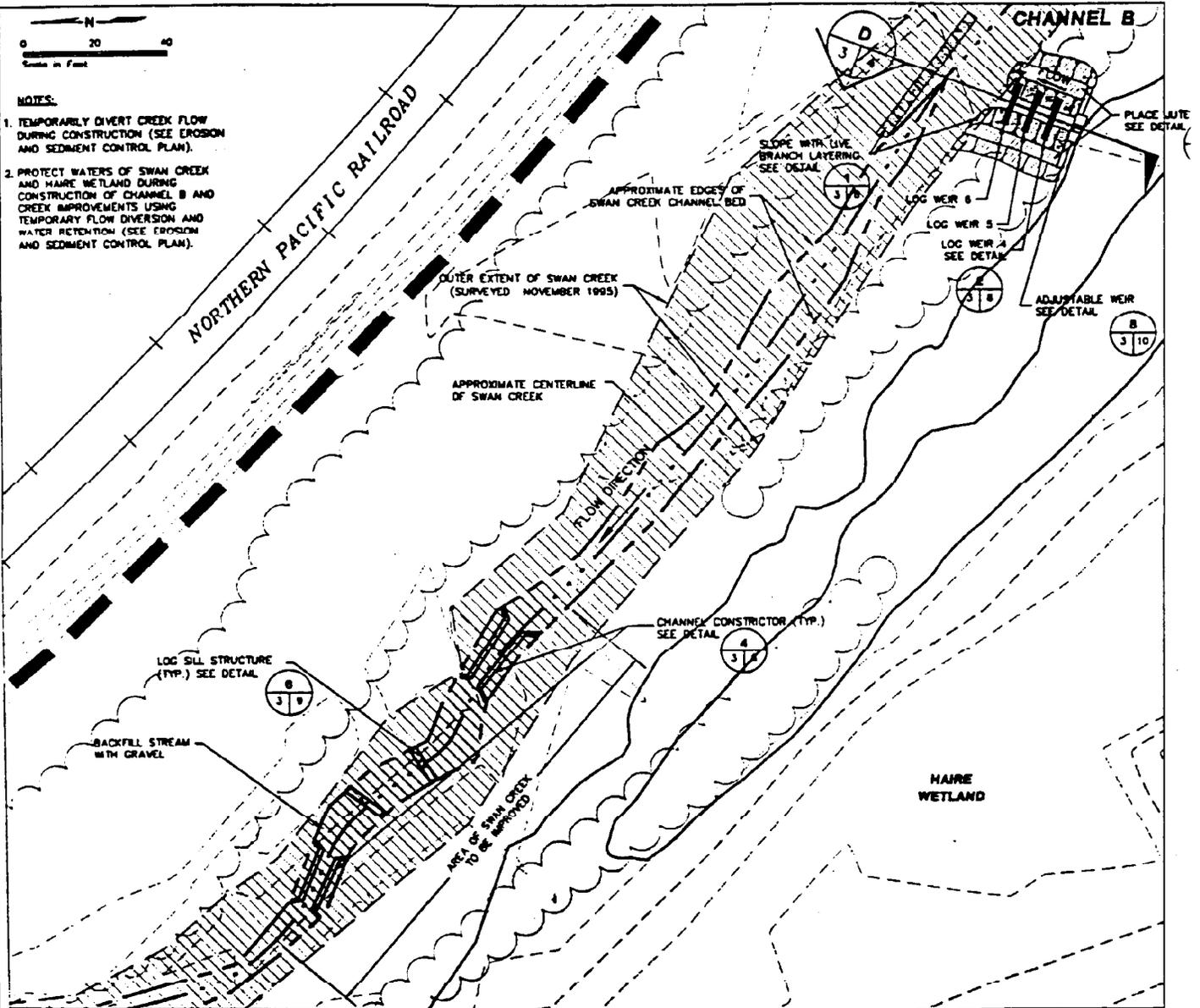
PROJECT BOUNDARY

PLAN DETAIL
(SEE TO RIGHT)



NOTES:

1. TEMPORARILY DIVERT CREEK FLOW DURING CONSTRUCTION (SEE EROSION AND SEDIMENT CONTROL PLAN).
2. PROTECT WATERS OF SWAN CREEK AND HAIRE WETLAND DURING CONSTRUCTION OF CHANNEL B AND CREEK IMPROVEMENTS USING TEMPORARY FLOW DIVERSION AND WATER RETENTION (SEE EROSION AND SEDIMENT CONTROL PLAN).



PLAN DETAIL: CHANNEL B AND SWAN CREEK IMPROVEMENTS

| | | |
|-------------|------|--------------|
| BENCH MARK: | | |
| PROJ. MGR.: | MPW | DESIGNED BY: |
| CHECKED BY: | JTW | APPROVED BY: |
| NO. | DATE | BY |
| | | |
| | | |

IF SHEET MEASURES LESS THAN 36"x24", IT IS A REDUCED PRINT. REDUCE SCALE ACCORDINGLY.

UTILITY SERVICES ENGINEERING - DIVISION

SPECIES LIST - U.S. FISH & WILDLIFE SERVICE
 WASHINGTON DEPARTMENT OF FISH & WILDLIFE
 Heritage Database - Wildlife Occurrences
 Project: SP.1086 Date: 00-04-25

Buffer: 1mi Only Federal Status Species are on this list
 USFWS use only: data subject to WDFW & WDNR sensitive data policies

| Township/Range/Sect | County | Federal Status | State Status | Year | Class | Mapping Accuracy | Species Code |
|----------------------|--------|----------------|--------------|------|-------|------------------|--------------|
| T20N R03E S13 SWOFNW | PIERCE | FT | ST | 1998 | SA | C | HALE |

OCCUR.SEQNO: 1194.1

Common Name: BALD EAGLE

Description: BALD EAGLE NEST IN COTTONWOOD TREE, ONE OF A FEW COTTONWOODS ON OF RR TRACKS. EASILY VISIBLE FROM PIONEER RD.

SPECIES LIST - U.S. FISH & WILDLIFE SERVICE

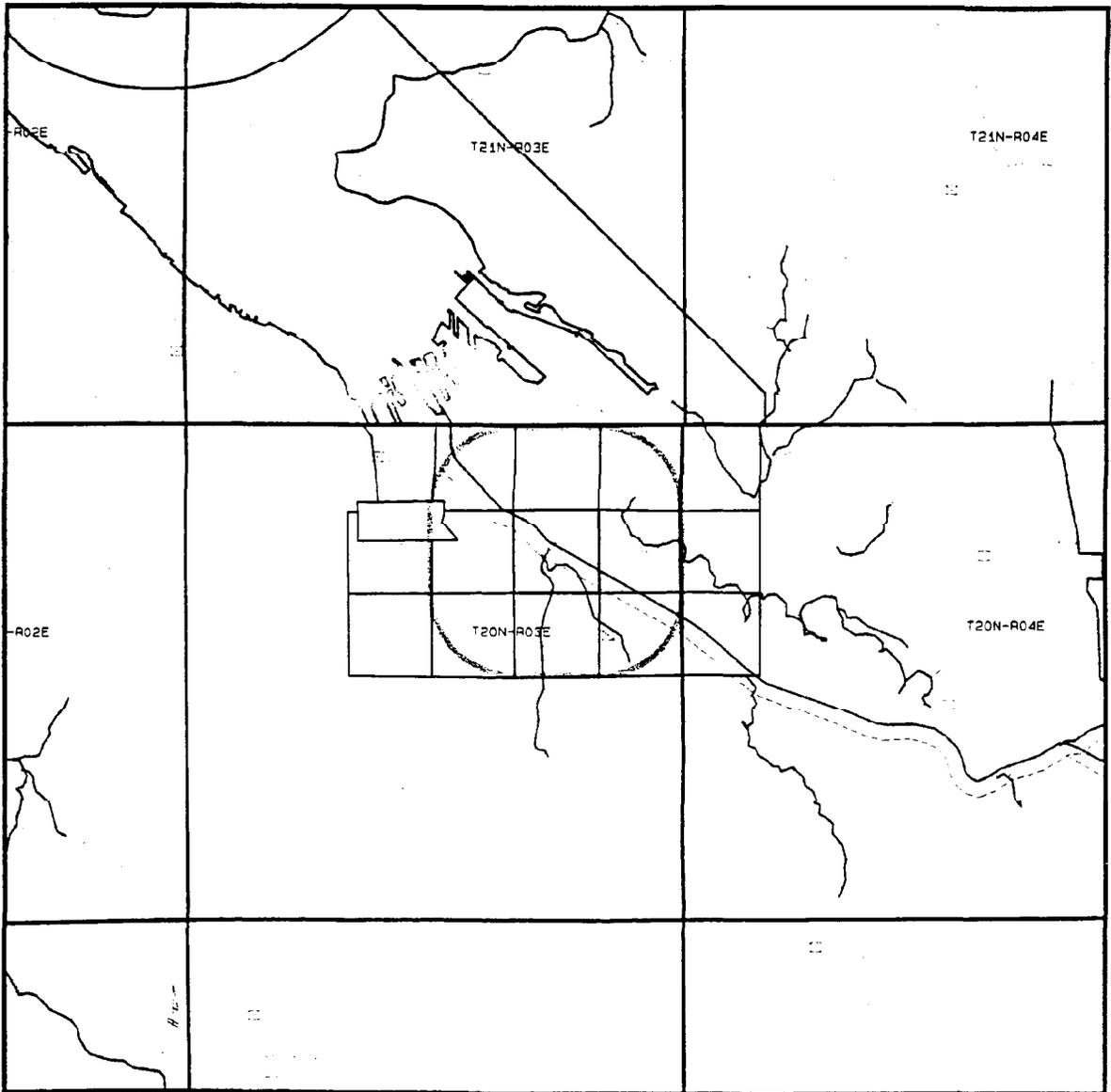
US National Marine Fisheries

Ecologically Significant Units

Project: SP.1086 Date: 00-04-25

Buffer: 1mi Only Federal Status Species are on this list
 USFWS use only: data subject to WDFW & WDNR sensitive data policies

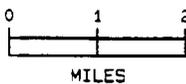
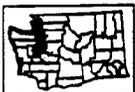
| Database | Name | Status | Name2 | S |
|----------|--------------------------------|---------------|-------|----|
| chinesu | 'Puget Sound' | PT | | |
| chumesu | 'Puget Sound' | NOT-WARRANTED | '' | '' |
| cohoesu | 'Puget Sound/Strait of Georgi' | CANDIDATE | '' | '' |
| cuttesu | 'Puget Sound' | NOT-WARRANTED | '' | '' |
| st98esu | 'Puget Sound' | NOT-WARRANTED | '' | '' |



Species List

Project: SP.1086

Date: 00-04-25



USFWS use only: data subject to WDFW & WDMR sensitive data policies

- | | | | |
|---|--|---|--|
| ○ | Northern Spotted Owl CHUs | ∩ | Spotted Owl Buffer |
| ○ | Marbled Murrelet CHUs | ∩ | Project Boundary (1 mile buffer) |
| ○ | WDFW Heritage (1)** Wildlife Occurrences | ∩ | Township/Range/Section (Sections within 1 mile buffer) |
| ○ | Wa DNR Heritage (0)** Plant Occurrences | ∩ | County Boundaries |
| ○ | WDFW Spotted Owl (0)** Site Centers | ∩ | Rivers |
| ○ | WDFW Marbled Murrelet Detections (0)** | ∩ | Anadromous Fish Presence |
| | | ∩ | Bull Trout Presence |

** (numbers) reflect occurrences within the project boundary
Only Federal Status Species are listed

MEMORANDUM FOR THE FILES

APR 14 2000

FROM: Russell Bellmer 

SUBJECT: Informal ESA Section 7 consultation and Concurrence with a Determination of Not Likely to Adversely Affect Listed Species for the Proposed Swan Creek Stream Restoration Project.

Proposed Project Site. The subject property is located in the northern section of Commencement Bay, in the City of Tacoma, Pierce County, Washington. The project site consists of four parcels, two upland parcels and two parcels of second class tidelands. The site is approximately 12 acres. In general, land uses include open space, residential, and industrial.

Proposed Project Description. The project will provide approximately 12 acres of fish and wildlife habitat, preserved in perpetuity. The action area within the site involves only the footprint of the fill being removed and area for equipment access as a temporary disruption. The action consists of creating a 530-ft meandering stream channel what will connect Swan creek to the existing 3-acre Haire Wetland providing access for salmonids. In addition the channel will provide salmonid with summer and winter rearing and spawning habitat. Two log structures (large woody debris) will be installed to increase invertebrate production and provide habitat for coho and cutthroat. The channel will be planted with native species and maintained to help ensure continued habitat use.

Heavy equipment used for construction will probably include backhoes, front-end loaders, bulldozers, and dump trucks. Neither drilling equipment nor blasting will be used during the project.

Proposed Project Site. The subject property is located in the northern section of Commencement Bay, in the City of Tacoma, Pierce County, Washington. The project site consists of four parcels, two upland parcels and two parcels of second class tidelands. The site is approximately 12 acres. In general, land uses include open space, residential, and industrial.

Proposed Project Description. The project will provide approximately 12 acres of habitat, preserved in perpetuity. The action area within the site involves only the footprint of the fill being removed and area for equipment access as a temporary disruption. The action consists of creating a 530-ft meandering stream channel what will connect Swan creek to the existing 3-acre Haire Wetland providing access for salmonids. In addition the channel will provide salmonid with summer and winter rearing and spawning habitat. Two log structures (large woody debris) will be installed to increase invertebrate production and provide habitat for coho and cutthroat. The channel will be planted and maintained by locals to help ensure continued habitat use.

Heavy equipment used for construction will probably include backhoes, front-end loaders, bulldozers, and dump trucks. Neither drilling equipment nor blasting will be used during the project.

Affected Species. Five species provided protection under the ESA are cited as possibly present in the vicinity of Commencement Bay: humpback whale (*Megaptera novaengliae*), leatherback sea turtle (*Dermochelys coriacea*), Steller sea lion (*Eumetopias jubatus*), bald eagle (*Haliaeetus leucocephalus*), and Puget Sound Evolutionarily Significant Unit (ESU) chinook salmon (*Oncorhynchus tshawytscha*). Additionally, the Puget Sound coastal bull trout (*Salvelinus confluentus*), and Puget Sound/Straight of Georgia ESU coho salmon, proposed and candidate species, respectively, under ESA provisions may occasionally be present in the proposed project area. Humpback whales, leatherback sea turtles and Steller sea lions do not inhabit the proposed project vicinity, and will not be effected from the proposed project.

Determinations of Effect. In-water construction schedules are based on times of the year when few salmon, if any, will be in the proposed project area. The construction will observe seasonal conditions established by the Washington Department of Fish and Wildlife in their Hydraulic Project Approval and supported by the National Marine Fisheries Service to avoid impacts. Therefore, potential short-term minor temporary impacts of turbidity, excavation releases, noise, and emissions from construction vehicles, if they occur, will not coincide with the presence of Coho (Candidate) and Chinook salmon at these sites. The proposed project will not likely adversely affect any endangered or threatened or candidate species or their habitats due to the methods and timing of all activities.

MEMORANDUM FOR THE FILES

APR 14 2000

FROM: Russell Belimer *Russell Belimer*

SUBJECT: EFH Concurrence with a Determination of no Adverse Effect for the Proposed Swan Creek Stream Restoration Project.

Proposed Project Site. The subject property is located in the northern section of Commencement Bay, in the City of Tacoma, Pierce County, Washington. The project site consists of four parcels, two upland parcels and two parcels of second class tidelands. The site is approximately 12 acres. In general, land uses include open space, residential, and industrial.

Proposed Project Description. The project will provide approximately 12 acres of habitat, preserved in perpetuity. The action area within the site involves only the footprint of the fill being removed and area for equipment access as a temporary disruption. The action consists of creating a 530-ft meandering stream channel what will connect Swan creek to the existing 3-acre Haire Wetland providing access for salmonids. In addition the channel will provide salmonid with summer and winter rearing and spawning habitat. Two log structures (large woody debris) will be installed to increase invertebrate production and provide habitat for coho and cutthroat. The channel will be planted and maintained by locals to help ensure continued habitat use.

Heavy equipment used for construction will probably include backhoes, front-end loaders, bulldozers, and dump trucks. Neither drilling equipment nor blasting will be used during the project.

Timing/Chronology Of Specific Construction Actions A two-month window is anticipated for all construction, which is expected to include no more than 30 days of actual material and debris removal. The timing for in water work will be determined by the Hydraulic Project Approval (HPA) issued by the Washington Department of Fish and Wildlife (WDFW). The expected in-water work window for this project will be between August 1 and 31, 2000 at low tides to minimize in-water work. This timing is also consistent with the in-water construction season for Commencement Bay (June 15 through the winter to March 14).

Determinations of Effect. In-water construction schedules are based on times of the year when few managed species will be in the proposed project area. The construction will observe seasonal conditions established by the Washington Department of Fish and Wildlife in their Hydraulic Project Approval and supported by the National Marine Fisheries Service to avoid impacts. The proposed project will not adversely affect any managed species or their habitats due to the methods and timing of all activities. These include the following measures.

Construction shall only occur within the work-window (1

August to 1 November) specified for the project and in the dry to the maximum extent possible.

The Temporary Erosion and Sedimentation Control Plan (TESCP) shall be implemented as shown in the contract documents and construction drawings. The TESCP shall be implemented before the start of any removal activities. The TESCP shall be based on the proponents current Best Management Practices and include measures such as silt fences, straw bale dikes, and dewatering to allow excavation to proceed in unsaturated conditions.

A responsible party shall inspect the site during construction to verify that the contractor is effectively implementing the TESCP. Work procedures that are out of compliance shall be terminated and an acceptable solution developed before work is allowed to continue.

No hazardous materials or toxic materials shall be transferred or stored within 50 feet of the MHHW of Swan Creek or Puyallup Waterway.

No equipment shall be refueled or maintained within 50 feet of the MHHW of Swan Creek or Puyallup Waterway. Equipment shall be serviced or maintained in designated areas where stormwater runoff can be prevented from directly entering the water.

An emergency spill kit shall be stored at each work site and construction crews trained in their proper use.

All crewmembers and all onsite personnel shall be informed of any and all environmental precautions. These precautions shall include: clearly marking the work area, clearly marked clearing limits, specifically identifying riparian vegetation to be removed, and all applicable laws and permit conditions.

EFH Determination. The area in which the restoration project is planned (fill material and debris removal, with placement of large woody debris) has been identified as EFH for species managed by the Pacific Fishery Management Council under the Amendment 11 to The Pacific Coast Groundfish Fishery Management Plan (October, 1998).

This Plan identifies twenty-four species and life stages within the estuarine composite EFH. These species include five species of Class Elasmobranchiomorphi and nineteen species of Class Osteichthyes. Eight species of Family Scorpaenidae (rockfish) and four species of Order Pleuronectiformes (flatfish) are identified within the Plan. Environmental conditions (i.e., temperature, salinity, water depth, substrate) greatly reduce the potential for the presence of these species in the project area for even short periods of time during extreme high tides. The species that may occasionally visit the project area include: *Squalus acanthias* (spiny dogfish), *Raja inornata* (California skate), *Pleuronectes vetulus* (English sole), *Errex zachirus* (rex sole), *Citharichthys*

sordidus (Pacific sanddab), and *Platichthys stellatus* (starry flounder). The eggs, larval stages, and some juvenile fish may occasionally be present in the Puyallup Waterway. However, due to construction activities in the dry or at extreme low tide during periods of the year with minimum fish activities, no adverse impacts will occur to EFH. Therefore, no additional EFH conservation measures have be provided.

If the proposed project plans are substantially revised or if new information becomes available that affects the basis for no adverse affect determination, then EFH consultation will be undertaken.