

Appendix C

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND RESERVATIONS

The Port of Tacoma (hereafter referred to as the “Declarant”) is the owner in fee simple of certain real property located in Pierce County, State of Washington, which is more particularly described in Exhibit A and depicted in Figure 1, attached hereto and by this reference incorporated herein. A portion of such real property extending up to elevation +11.8 feet above mean lower low water is depicted in the attached Figure 1 (incorporated herein by this reference) and hereinafter referred to as the “Project Site.”

For the purpose of implementing the requirements of the consent decree entered by the United States District Court for the Western District of Washington in *United States of America, et al. v. Occidental Chemical Corporation, et al.*, Civil Action No. _____ (hereinafter referred to as the “Consent Decree”), and for the purpose of enhancing and protecting the physical conditions of the Project Site, Declarant hereby declares that all of the Project Site and each part of the Project Site shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, and reservations which shall constitute covenants running with the land and shall be binding upon the Project Site and all parties having any right, title or interest in the Project Site or any part of the Project Site, their heirs, successors and assigns.

USE RESTRICTIONS AND RESERVATIONS

1. Log Rafting Prohibition. The Project Site and each part of the Project Site shall not be used for log rafting.
2. Habitat Conservancy. Subject to the reservations set forth below in Paragraph 3, the Project Site and each part of the Project Site shall be a habitat conservancy area that is to remain in its current physical conditions (as modified by the requirements of the Consent Decree’s Appendix A, as modified by the activities contemplated by the Consent Decree and below in Paragraph 3, and as modified by the environment of the Project Site). Such status as a habitat conservancy area shall only impact the Project Site and shall impose no requirements or restrictions upon adjacent lands.
3. Reservations. The Project Site and each part of the Project Site may be used for any purpose other than log rafting, including but not limited to the implementation of additional habitat improvement projects (within or adjacent to the Project Site) that modify any physical conditions of the Project Site and may involve temporal impacts to the Project Site conditions, provided, however, that any such uses that will modify any physical conditions of the Project Site shall be undertaken only as provided in this paragraph below.

Washington, residing at _____.

[Exhibit A --- Real Property Description]

[Figure 1 --- Project Site Depicted]

Exhibit A

Legal Description

Portions of the South Half and a portion of the Northwest Quarter of Section 26, Township 21 North, Range 3 East of the Willamette Meridian, City of Tacoma, Pierce County Washington, described as follows:

COMMENCING AT THE CENTER OF SECTION 26, TOWNSHIP 21 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, THENCE ALONG THE EAST—WEST CENTERLINE OF SAID SECTION NORTH 88°08'43" WEST A DISTANCE OF 133.86 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF MARINE VIEW DRIVE AND THE TRUE POINT OF BEGINNING: THENCE SOUTH 36°05'16" EAST ALONG SAID RIGHT OF WAY 117.28 FEET; THENCE SOUTH 53°56'59" WEST ALONG THE NORTHWESTERLY EXTENDED EDGE OF EXISTING SIDEWALK A DISTANCE OF 156.17 FEET TO A POINT NORTH 57°05'55" WEST 3.0 FEET FROM AN EXISTING FIRE HYDRANT; THENCE SOUTH 01°14'42" WEST THROUGH AN ANGLE POINT IN EXISTING CONCRETE SLAB TO THE EDGE OF TIDELANDS BEING 13.9 FEET MLLW A DISTANCE OF 203.84 FEET; THENCE ALONG SAID EDGE OF TIDELANDS IN FIVE LEGS: SOUTH 29°56'06" EAST 119.12 FEET; THENCE SOUTH 41°05'08" EAST 143.01 FEET; THENCE SOUTH 05°22'36" EAST 128.21 FEET; THENCE SOUTH 07°11'54" WEST 75.61 FEET; THENCE SOUTH 19°44'15" EAST 31.29 FEET TO A POINT ON SAID EDGE OF TIDELANDS BEARING NORTH 39°53'33" WEST FROM THE END OF AN EXISTING CHAIN LINK FENCE; THENCE SOUTH 39°53'33" EAST ALONG SAID FENCELINE EXTENDED AND FENCE A DISTANCE OF 92.95 FEET; THENCE SOUTH 02°37'21" WEST ALONG SAID FENCE 55.92 FEET AND FENCE EXTENDED 60.70 FEET TO A CONCRETE WALL BEING PART OF THE EXISTING DOCK; THENCE NORTH 68°03'02" WEST PARALLEL TO THE LINE OF THE HYLEBOS WATERWAY 419.07 TO A POINT OFFSET 10' FROM THE CORNER OF SAID DOCK; THENCE SOUTH 21°55'45" WEST 10' OFFSET FROM SAID DOCK 29.48 FEET; THENCE; NORTH 68°03'02" WEST PARALLEL AND 10' OFFSET FROM AN EXISTING FINGER PIER 365.88 TO A POINT 10' OFFSET FROM THE END OF SAID FINGER PIER; THENCE SOUTH 21°56'58" WEST 89.67 FEET TO THE NORTH LINE OF SAID HYLEBOS WATERWAY; THENCE NORTH 68°03'02" WEST A DISTANCE OF 952.16 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF ELEVENTH STREET EAST; THENCE NORTH 44°08'49" EAST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 768.06 FEET; THENCE SOUTH 79°14'39" EAST 60.08 FEET; THENCE SOUTH 64°01'07" EAST 68.62 FEET TO A POINT ON THE EAST—WEST CENTERLINE OF SAID SECTION 26; THENCE SOUTH 63°10'40" EAST 74.04 FEET; THENCE SOUTH 36°49'11" EAST 81.72 FEET; THENCE NORTH 44°35'17" EAST A DISTANCE OF 129.41 FEET TO A POINT ON SAID EAST—WEST LINE; THENCE SOUTH 88°08'43" EAST ALONG THE NORTH LINE OF GOVERNMENT LOT 4 A DISTANCE OF 635.30 FEET TO THE WESTERLY RIGHT-OF-WAY SAID MARINE VIEW DRIVE AND TRUE POINT OF BEGINNING.

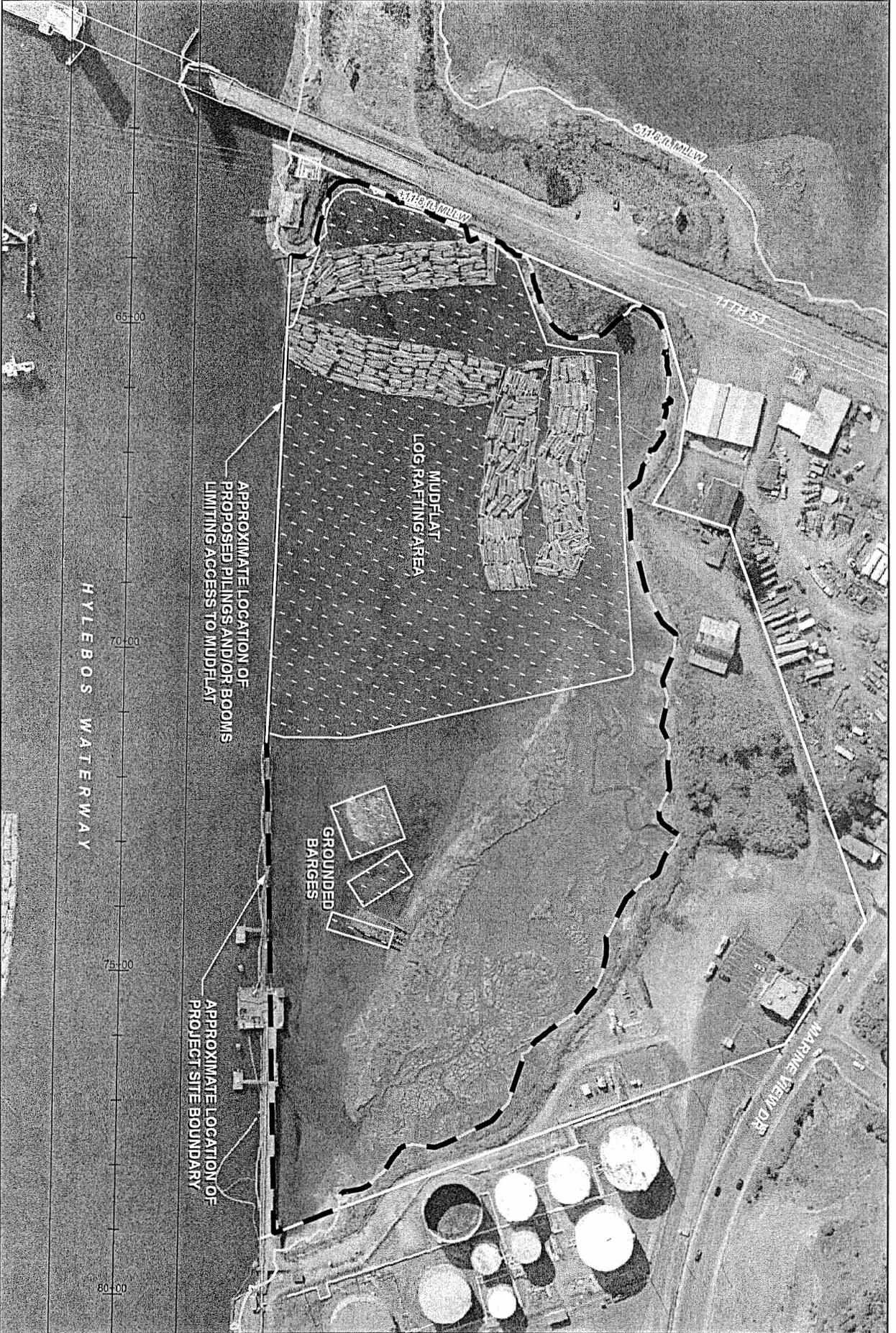
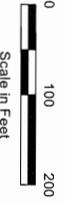


Figure 1
Project Site