Department of Revenue
Washington State

# Application for Classification or Reclassification
## Open Space Land
### Chapter 84.34 RCW

**File With The County Legislative Authority**

Name of Owner(s): Notebuyers LLC, ET Al Phone No: (360) 910-3245

Email Address: jslaughter60@gmail.com

Address: 16700 SE 35th WAy Vancouver WA 98683

Parcel Number(s): 011970000000, 011969013002, 011969013001

Legal Description: **See Attached exhibit "A" "B"**

Total Acres in Application: ~~190+-~~ 185.40

Indicate what category of open space this land will qualify for:

- ☒ Conserve or enhance natural, cultural, or scenic resources
- ☒ Protect streams, stream corridors, wetlands, natural shorelines, or aquifers
- ☒ Protect soil resources, unique or critical wildlife, or native plant habitat
- ☐ Promote conservation principles by example or by offering educational opportunities
- ☒ Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries, or other open spaces
- ☐ Enhance recreation opportunities
- ☐ Preserve historic or archaeological sites
- ☐ Preserve visual quality along highway, road, street corridors, or scenic vistas
- ☐ Retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the granting authority
- ☐ Farm and agricultural conservation land previously classified under RCW 84.34.020(2), that no longer meets the criteria
- ☐ Farm and agricultural conservation land that is "traditional farmland" not classified under Chapter 84.33 or Chapter 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and has a high potential for returning to commercial agriculture

1. Describe the present use of the land.
vacant land with no structures

2. Is the land subject to a lease or agreement which permits any other use than its present use? ☐ Yes ☒ No

If yes, attach a copy of the lease agreement.

3. Describe the present improvements (residence, buildings, etc.) located on the land.
no structures

4. Is the land subject to any easements? ☒ Yes ☐ No

If yes, describe the type of easement, the easement restrictions, and the length of the easement.

See Attached Exhibit 'B'

5. If applying for the farm and agricultural conservation land category, provide a detailed description below about the previous use, the current use, and the intended future use of the land.

NOTICE:
**The county and/or city legislative authorities may require owners to submit additional information regarding the use of the land.**

As owner of the parcel(s) described in this application, I hereby indicate by my signature below that I am aware of the additional tax, interest, and penalties involved when the land ceases to be classified under the provisions of Chapter 84.34 RCW. I also certify that this application and any accompanying documents are accurate and complete.

The agreement to tax according to use of the property is not a contract and can be annulled or canceled at any time by the Legislature (RCW 84.34.070)

**Print the name of each owner:** **Signature of each owner:**

Note Buyers LLC
John D Morse, Trustee of the Morse trust dd 11/16/98
John G Slaughter 401 k Trust Trustee

The granting or denial of an application for classification or reclassification as open space land is a legislative determination and shall be reviewable only for arbitrary and capricious actions. Denials are only appealable to the superior court of the county in which the land is located and the application is made.

**Statement of Additional Tax, Interest, and Penalty Due Upon Removal of Classification**

1. Upon removal of classification, an additional tax shall be imposed which shall be due and payable to the county treasurer 30 days after removal or upon sale or transfer, unless the new owner has signed the Notice of Continuance. The additional tax shall be the sum of the following:

   (a) The difference between the property tax paid as "Open Space Land" and the amount of property tax otherwise due and payable for the last seven years had the land not been so classified; plus

   (b) Interest upon the amounts of the difference (a), paid at the same statutory rate charged on delinquent property taxes; plus

   (c) A penalty of 20% will be applied to the additional tax and interest if the classified land is applied to some other use except through compliance with the property owner's request for withdrawal as described in RCW 84.34.070(1).

2. The additional tax, interest, and penalty specified in (1) shall not be imposed if removal resulted solely from:

   (a) Transfer to a governmental entity in exchange for other land located within the State of Washington.

   (b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power.

   (c) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of such property.

   (d) Official action by an agency of the State of Washington or by the county or city where the land is located disallows the present use of such land.

   (e) Transfer of land to a church when such land would qualify for property tax exemption pursuant to RCW 84.36.020.

   (f) Acquisition of property interests by State agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 (See RCW 84.34.108(6)(f)).

   (g) Removal of land classified as farm & agricultural land under RCW 84.34.020(2)(f) (farm home site).

   (h) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification.

   (i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120.

   (j) The creation, sale, or transfer of a conservation easement of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040.

   (k) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as designated forest land under chapter 84.33 RCW, or classified under this chapter 84.34 RCW continuously since 1993. The date of death shown on the death certificate is the date used.

   (l) The discovery that the land was classified in error through no fault of the owner.

**FOR LEGISLATIVE AUTHORITY USE ONLY**

Date application received: _____ By: _____

Amount of processing fee collected: $

- Is the land subject to a comprehensive land use plan adopted by a city or county? ☐ Yes ☐ No

  If yes, application should be processed in the same manner in which an amendment to the comprehensive land use plan is processed.

  If no, application must be acted upon after a public hearing and notice of the hearing shall have been given by one publication in a newspaper of general circulation in the area at least ten days before the hearing.

- If the land is not subject to a comprehensive land use plan, is the land located within an incorporated part of the county? ☐ Yes ☐ No

  If yes, application must be acted upon by three members of the county legislative authority and three members of the city legislative authority. See RCW 84.34.037(1) for details.

  If no, application must be acted upon by three members of the county legislative authority.

☐ Application approved ☐ In whole ☐ In part

☐ Application denied ☐ Date owner notified of denial (Form 64 0103):

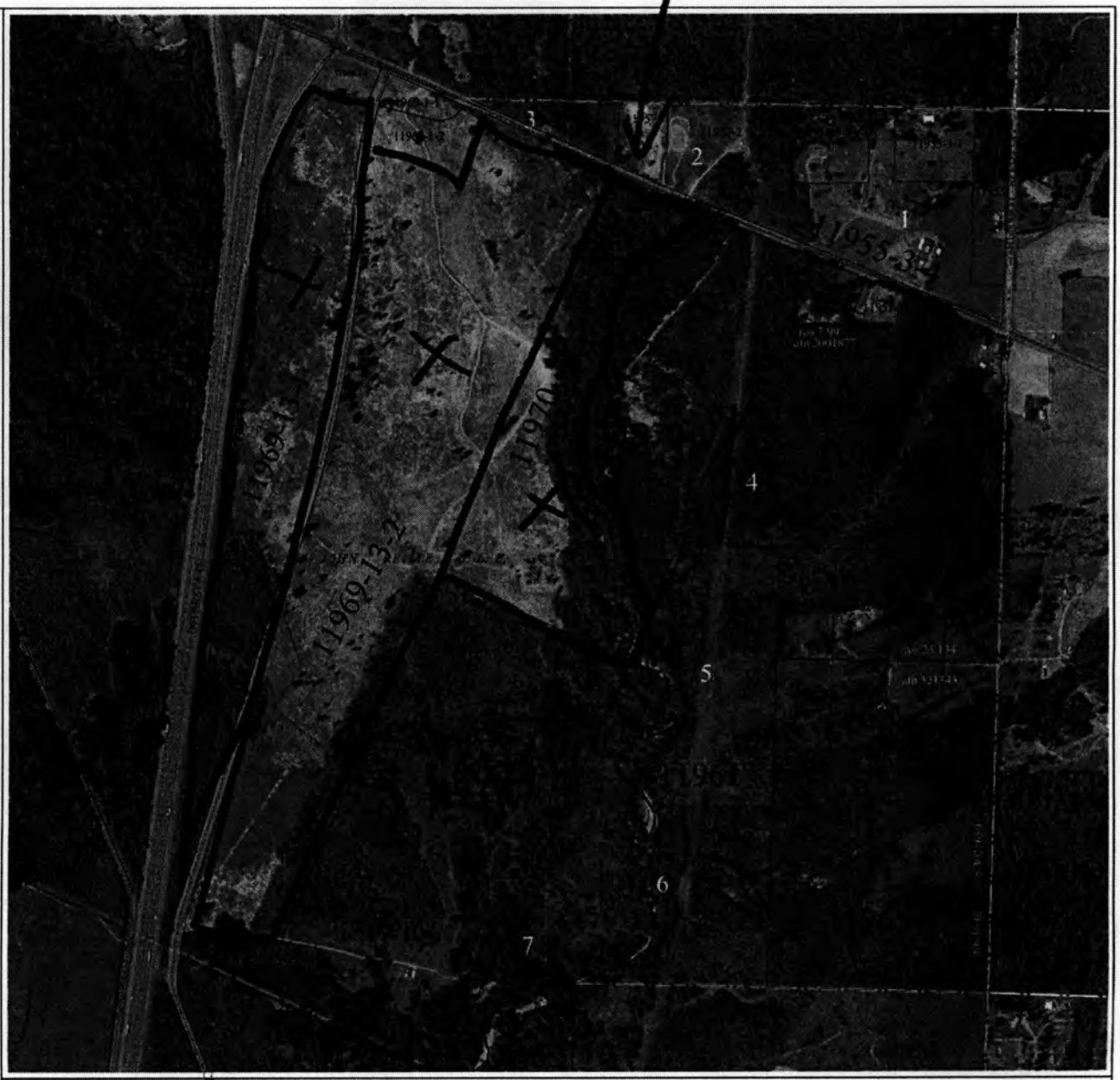
If approved, date Open Space Taxation Agreement (OSTA) was mailed to owner:

Signed OSTA received by Legislative Authority on:

Copy of signed OSTA forwarded to Assessor on:

To ask about the availability of this publication in an alternate format for the visually impaired, please call (360) 705-6715. Teletype (TTY) users, please call (360) 705-6718. For tax assistance, call (360) 534-1400.

725 St Rt 505




SCALE : 1 in = 400 ft

LEWIS COUNTY ASSESSOR'S MAPPING

Date: DEC-28-2012

LEWIS COUNTY G.I.S.

Section 1

Township 11 N Range 02 W

Map for Locating Property Only
Measurements Not Guaranteed
Scale May Change When Printed

Road centerline from mobile GPS, Lewis Co.
PLSS lines modified from WA Dept. Nat. Res
2008 digital orthophoto from WA Dept. Nat. Res.
Parcel lines digitized from LC Assessor Maps
& adjusted to the GPS roads & PLSS lines.

LEWIS COUNTY

Lewis County • Since 1845

# Property Account Summary

As Of 12/23/2014 Status: Active

**Account No.:** 011970000000 **Alternate Property Number:**

**Account Type:** Real Property

**TCA:** 370F

**Situs Address:** 0 CAMUS RD
WINLOCK WA

**Legal:** Section 01 Township 11N Range 02W E2 NE4 J B REILLE DLC LY W CRK EX HWY

**Parties:**

| Role | Name & Address |
|---|---|
| Owner | NOTEBUYERS LLC ET AL<br>6100 NE HWY 99<br>VANCOUVER WA 98665 |
| Taxpayer | NOTEBUYERS LLC ET AL<br>6100 NE HWY 99<br>VANCOUVER WA 98665 |

**Property Values:**

| Value Name | 2014 | 2013 | 2012 |
|---|---|---|---|
| Taxable Value Regular | $60,000 | $60,000 | $60,000 |
| Market Total | $60,000 | $60,000 | $60,000 |
| Assessed Value | $60,000 | $60,000 | $60,000 |
| Market Land | $60,000 | $60,000 | $60,000 |
| Market Improvement | $0 | $0 | $0 |
| New Construction | | | |
| Added Improvement | $0 | $0 | $0 |

**Property Characteristics:**

| Tax Year | Characteristic | Value |
|---|---|---|
| 2014 | Use Code | 91 Residential Land - Undivided |
| | Size | 40.00 |
| | Appraiser ID | PEW |
| | FP Acres | 40.0 |

**Exemptions:**

*(End of Report)*

LEWIS COUNTY

Lewis County • Since 1845

# Property Account Summary

As Of 12/23/2014 Status: Active

**Account No.:** 011969013002 **Alternate Property Number:**

**Account Type:** Real Property

**TCA:** 390

**Situs Address:** 0 CAMUS RD
WINLOCK WA

**Legal:** Section 01 Township 11N Range 02W PT W CAMUS RD

**Parties:**

| Role | Name & Address |
|---|---|
| Owner | NOTEBUYERS LLC ET AL<br>6100 NE HWY 99<br>VANCOUVER WA 98665 |
| Taxpayer | NOTEBUYERS LLC ET AL<br>6100 NE HWY 99<br>VANCOUVER WA 98665 |

**Property Values:**

| Value Name | 2014 | 2013 | 2012 |
|---|---|---|---|
| Taxable Value Regular | $310,500 | $310,500 | $310,500 |
| Market Total | $310,500 | $310,500 | $310,500 |
| Assessed Value | $310,500 | $310,500 | $310,500 |
| Market Land | $310,500 | $310,500 | $310,500 |
| Market Improvement | $0 | $0 | $0 |
| Added Improvement | $0 | $0 | $0 |

**Property Characteristics:**

| Tax Year | Characteristic | Value |
|---|---|---|
| 2014 | Use Code | 91 Residential Land - Undivided |
| | Size | 103.48 |
| | Appraiser ID | PEW |

**Exemptions:**

*(End of Report)*

LEWIS COUNTY

Lewis County • Since 1845

# Property Account Summary

As Of 12/23/2014 Status: Active

**Account No.:** 011969013001 **Alternate Property Number:**

**Account Type:** Real Property

**TCA:** 390

**Situs Address:** 108 CAMUS RD
WINLOCK WA

**Legal:** Section 01 Township 11N Range 02W PT E I-5 W CAMUS RD

**Parties:**

| Role | Name & Address |
|---|---|
| Owner | NOTEBUYERS LLC ET AL<br>6100 NE HWY 99<br>VANCOUVER WA 98665 |
| Taxpayer | NOTEBUYERS LLC ET AL<br>6100 NE HWY 99<br>VANCOUVER WA 98665 |

**Property Values:**

| Value Name | 2014 | 2013 | 2012 |
|---|---|---|---|
| Taxable Value Regular | $168,000 | $168,000 | $168,000 |
| Market Total | $168,000 | $168,000 | $168,000 |
| Assessed Value | $168,000 | $168,000 | $168,000 |
| Market Land | $168,000 | $168,000 | $168,000 |
| Market Improvement | $0 | $0 | $0 |
| Added Improvement | $0 | $0 | $0 |

**Property Characteristics:**

| Tax Year | Characteristic | Value |
|---|---|---|
| 2014 | Use Code | 91 Residential Land - Undivided |
| | Size | 42 00 |
| | Appraiser ID | PEW |

**Exemptions:**

*(End of Report)*

Exhibit "C"

**From:** Brooks, Allyson (DAHP)
**To:** Laurie, Tom (ECY);
**cc:** Turner, Joyce (GOV); Drew, Kathleen (GOV); Bill, Craig (GOIA); Sturdevant, Ted (ECY); Phillips, Keith (GOV); Cline, Mark (ECY);
**Subject:** Another Ecology issue - Lewis County Equestrian Center
**Date:** Tuesday, February 19, 2008 1:13:56 PM

---

Tom -

I don't know if you are aware of this, but the property owner for the proposed Lewis County Equestrian Center went ahead and graded his property in preparation for the project *without* environmental review, an archaeological survey and any required permits.

There was a meeting this morning with Ecology, EPA, DAHP, Corps and Lewis County and the Cowlitz and Chehalis Tribes. Apparently EPA is considering a criminal investigation and taking a civil action.

The tribes have legitimate concerns about cultural resources. Ecology is going to order the owner to take an emergency action on the property that includes sediment control as well as the installation of silt retention fences.

The fences will be 6 inches in the ground.

The Tribes at a minimum want to see monitoring but in discussions with them, in all reality, the cleared surface area should be surveyed for artifacts that may indicate the presence of cultural resources. This should be done before sediment control actions and fencing so that any cultural resources are not disturbed during these other remediation actions.

Tom, we really need to coordinate on cultural resource issues so we do not have another "Clements" incident. I believe there is another meeting of all parties forthcoming soon but I want to reinforce the cultural resource issues.

Bottom line: Ecology or the property owner needs to conduct an archaeological survey of the project area prior to any sediment control actions.

Thanks.

All the best

Allyson

Allyson Brooks Ph.D.
Director/State Historic Preservation Officer
Department of Archaeology and Historic Preservation
Ph: 360-586-3066
allyson.brooks@dahp.wa.gov

Commissioners,

The subject property consists of approximately 190 acres located at the SE corner of I-5 and exit 62. The property is bordered on the west by Interstate 5, on the north by SR 505 and on the east by Lacamas Creek. Camas RD runs south from SR505 bisecting the property and meets a driveway that forms the southern boundary.

The current condition of the property is it's dotted with approximately 140 acres of wetlands according the attached report by the Yvonne Vallette an Aquatic Ecologist with the EPA.
Ms. Vallette in her May 5, 2009 "executive summary" (attached exhibit "A") which addresses the "wetland and stream characterization" of the subject property as part of an EPA enforcement action against Phillip Smith.

In her report which characterizes her "factual findings" Ms. Vallette noted, "there are approximately 123 acres of wetlands on the property which have a continuous surface hydrologic connection with five streams that flow across the site and drain into Lacamas Creek. " "Lacamas Creek is a perennial stream, which is designated a shoreline of the state. "See exhibit D". Lacamas Creek then flows into the Cowlitz River, which flows into the Columbia River." She continues "Lacamas creek is part of the lower Columbia River endangered species Unit (ESU) and provides critical Habitat for Steelhead, Coho salmon, Chum salmon and Chinook salmon." "The Cowlitz River has been a top Steelhead producer that support recreational fishery in Washington State".

One of the tributaries #4 drains from the right of way of Interstate 5 along the western boundary of the property then under Camas Rd where it then spreads out before entering Lacamas creek. Tributary 1 runs under SR 505 through two culverts that carry two channels to the site. Obviously these streams collect contaminated runoff from each of these roadways and filter it through the property

Ms, Vallette's report sites on page 18 a wetland inventory done by The Resource Co identifies wetlands A and B (table 1) as containing either a sensitive plant species or a plant community that is documented and recorded with the Washington State Department of Natural resources Natural Heritage Program.

With the stream corridors, wetlands, sensitive or endangered plant species, critical habitat and possible historic and archeological artifacts this property clearly meets the following requirements of RCW 84.34.037 to be dedicated as "open space".

(i) **Conserve or enhance natural, cultural, or scenic resources**
**ii) Protect streams, stream corridors, wetlands, natural shorelines and aquifers,**
**(iii) Protect soil resources and unique or critical wildlife and native plant habitat,**
**(iv) Promote conservation principles by example or by offering educational opportunities,**
**(v) Enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open spaces,**

(vii) **Preserve historic and archaeological sites,**

(The Cowlitz and Chehalis Tribes have both expressed their concerns about possible cultural resources on the property in a meeting with Allison Brooks, Director state Historic Preservation Officer at the Department of Archaeology and Historic Preservation). See attached exhibit "C"

**(viii) Preserve visual quality along highway, road, and street corridors.**

It appears we have two choices to deal with this property over the next 5 to 10 years. One option is to lease or sell the property to a farmer to plant some crop that will produce in that environment. Another option is to plant cottonwood trees that we could harvest for either pulp or log in 5 to 15 years depending on what the markets is at that time. Both of these activities are currently approved on this property despite the wetlands. We would rather put the property into open space than take on either of those options which would increase the likely hood of fertilizer and pesticides flowing to the creek.

I realize the resulting revenue loss or tax shift is a consideration in the granting of an "open space application". The county assessor just doubled the assessment of the three properties to$1, 0390,000.00 from $538,000.00. We believe there is no justification for this increase; in fact we believe it should have been reduced below the previous year's valuation. We have appealed to the BOE.

Our Action plan is to continue to work with Francis Naglich at Ecological Land Services as we have for the last four years making sure the property continues to heal. Francis has been in contact with the Department of Ecology and Army Corps of Engineers for their input and any activities we need to undertake to preserve and protect the wetlands. The property has only one accesses a gravel road which off SR 505 which has been blocked by a locked cable crossing the road. We do not plan to allow anyone other than the owners or government agencies on the property and vehicle access will be restricted to the upland areas unless approved by the Army Corps of Engineers. These measure combined will protect the property from any further damage and will allow the wetland ecosystems to flourish.

I appreciate your consideration of this application.

Sincerely

John Slaughter
Owners Group Representative

Exhibit "D"

October 26, 2007

**CERTIFIED MAIL**
**7006 0100 0002 2925 6846**

Mr. Phil Smith
1536 Bishop Road
Chehalis, WA 98532

**RE: Potential Shoreline and Wetland Violation on Parcels 011969013001, 011969013002, and 011970000000 in Lewis County, WA**

Dear Mr. Smith:

It has come to the attention of the Washington Department of Ecology (Ecology) that you may have cleared and graded wetlands without state authorization. According to Lewis County's Critical Areas and Resource Lands website, Parcel 011970000000 does not contain any mapped National Wetlands Inventory (NWI) wetlands. However, most of Parcel 011969013001 and portions of Parcel 011969013002 **are** mapped as NWI wetlands. I inspected these parcels on October 19, 2007, and determined that wetlands extend across much of the cleared parcels and beyond the NWI mapped wetlands. Additionally, the wetlands described above are associated with Lacamas Creek, which is a shoreline of the state.

This letter is intended to gather the information necessary to determine whether or not a wetland and shoreline violation has occurred, and if so, what kind of enforcement action is appropriate under the circumstances.

Impacting wetlands without prior authorization is a violation of state law. Therefore, Ecology is investigating this incident in order to obtain reasonable assurance that water quality standards and other applicable requirements of state law will be met as required by Section 401 of the Clean Water Act (33 USC Section 1341) and 40 CFR Section 121.2; see also WAC 173.201A and RCW 90.48. Please understand that any person who violates the provisions of Chapter 90.48.080 RCW can be liable for a penalty of up to ten thousand dollars ($10,000) per violation for each day of continuing noncompliance.

Regarding Lacamas Creek and the associated wetlands, this letter does not constitute an order or directive under RCW 90.58.210. However, Ecology has authority to issue an administrative order and penalty of up to one thousand dollars per day on this matter.

Since wetlands and shorelines are waters of the state, Ecology is issuing this letter in order to gather additional information. Likewise, through this letter, we are providing you an opportunity to present your view of this matter. To that end, please submit the following information within 15 days of receipt of this letter.

- Dates clearing and grading activities occurred in areas identified as wetlands and shorelines;
- Wetland delineation;
- List of all persons responsible for the unauthorized clearing and grading;
- Purpose of the project; and,
- A site restoration plan.

When we gather this information, Ecology shall determine its response in light of the facts and applicable law, and shall notify you by certified mail. In the meantime, if you have any questions regarding this letter please contact me at (360) 407-7273 or mcli461@ecy.wa.gov.

Sincerely,

Mark Cline
Wetlands Specialist
Shorelands and Environmental Assistance Program

MC:dn

cc: Deborah Cornett, Ecology Water Quality
Perry Lund, Ecology Shorelands and Environmental Assistance
Kerry Carroll, Ecology Shorelands and Environmental Assistance Enforcement
Alisa Ralph, U.S. Army Corps of Engineers
Linda Storm, U.S. Environmental Protection Agency
Tim Rymer, Washington Department of Fish and Wildlife
Kernen Lien, Lewis County Development Services

Exhibit "A"

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

May 5, 2009

**MEMORANDUM**

**SUBJECT:** **Wetland and Stream Characterization of Philip Smith Property at 1536 Bishop Road, Chehalis, WA**

**FROM:** **Yvonne Vallette, Aquatic Ecologist, ARU**

**TO:** **Ankur Tohan, Assistant Regional Council, ORC**

## EXECUTIVE SUMMARY

This report characterizes the factual findings and analysis of waters, which include streams and wetlands, on tax parcel numbers 011969-013-001, 011969-013-002, 011969-001-001, 011969-001-002, 011970-000-000 (collectively "the Site"), owned by Mr. Philip Smith of 1536 Bishop Road, Chehalis, Washington 98532-8710. These five tax parcels encompass approximately 190 acres of upland, wetland and other waters.

This report was developed to support documentation of alleged Clean Water Act ("CWA") Section 404 violations at the Site. The alleged violations involved mechanized land-clearing with heavy earth moving equipment that resulted in a discharge of dredged material into waters of the U.S.

Of the 190 acre Site, approximately 137 acres were cleared of vegetation. Approximately 123 acres of the Site were wetlands. Of the wetlands on Site, approximately 98 acres were cleared by mechanized land-clearing where the vegetation was removed and the soils dredged and redeposited. The land-clearing activities are the subject of U.S. Environmental Protection Agency ("EPA") Region 10's CWA Section 404 enforcement action against Mr. Smith. An additional 8 acre wetland area west of Camus Road on the Site was cleared by hog brushing, while two other wetland areas were not disturbed by mechanized land clearing or hog brushing. Those two wetland areas make up the remaining 17 acres of wetlands on the Site.

All the wetlands on the Site have a continuous surface hydrologic connection with five streams that flow across the Site and drain into Lacamas Creek. Flow was observed in all those streams in April, May and July, 2008. Lacamas Creek is a perennial stream that flows into the Cowlitz River. The Cowlitz River flows into the Columbia River. Lacamas Creek is part of the Lower Columbia River Endangered Species Unit ("ESU") and provides Critical Habitat for steelhead, coho salmon, chum salmon and Chinook salmon. The Cowlitz River has been a top Steelhead producer that supports an important recreational fishery in Washington State.

## INTRODUCTION

This report characterizes the factual findings and analysis of waters, which include stream tributaries and wetlands, on tax parcel numbers 011969-013-001, 011969-013-002, 011969-001-001, 011969-001-002, 011970-000-000 (collectively the "Site"), owned by Mr. Philip Smith of 1536 Bishop Road, Chehalis, Washington 98532-8710. These five tax parcels encompass approximately 190 acres of upland, wetland and other waters.

This work was completed by staff at the EPA, Region 10, Aquatic Resources Unit with support from the U.S. Army Corps of Engineers ("Corps"), the Washington Department of Ecology ("Ecology"), and the Washington Department of Transportation ("DOT").

The Site is located in Lewis County, Washington in Section 01, Township 11 North, Range 02 West, Willamette Meridian (S1, T11N, R2W, W.M.) at Latitude: 46°28'26.18"N to 46°27'37.15"N, Longitude: -122°52'48.88"W to -122°53'1.29"W, just southeast of exit 63 at the intersection of Interstate 5 (I-5) and State Route (SR) 505 between the towns of Winlock and Toledo, Washington. The physical address for the Site is 108 Camus Rd, Winlock, Washington 98596. I-5 borders the western edge of the Site, while SR 505 borders its northern edge, and Lacamas Creek forms the eastern edge of portions of the Site. Camus Road runs south from SR 505, through the Site for about a mile, and meets a driveway that forms the southern boundary of the Site (Figure 1).

The Site is located in Ecoregion 2i, Cowlitz/Newuaukum Prairie Floodplains, which is a subdivision of the Puget Lowland Ecoregion. Historically, coniferous forest dominated the vegetation in the Puget Lowlands. The native conifer forests are dominated by Douglas fir, western red cedar, and western hemlock. Also present are a mix of riparian habitats, oak woodlands, and prairies. The Site is interspersed with both wet and dry prairie grasslands, wetlands and streams. The average annual rainfall is approximately 51 inches.

### Case History to Date

On October 15, 2007, Ecology notified the Corps of a potential violation of CWA Section 404 at the Site. The alleged violation involved mechanized land-clearing with heavy earth moving equipment, which included clearing and removal of trees and other vegetation over a large area of land. Soil and vegetation was scraped across the Site and pushed into piles. The piles were then burned. According to the Corps and Ecology, on October 19, 2007 approximately one-half of parcel 011969-013-001 had been cleared of vegetation, all of parcel 011699 011969-013-002 east of Camus Road was cleared, and parcel 011970 000-000 on the east side toward Lacamas Creek had been cleared leaving a forested buffer between the creek and the cleared area. In addition, the two smaller parcels (011969-001-001, 011969-001-002) on the Site were also cleared.

On October 19, 2007, the Corps and Ecology visited the Site and observed the location and distribution of wetlands and flowing streams. They documented evidence of discharges into wetlands and other waters from recent land-clearing activities. The land-clearing activities were unpermitted under CWA Section 404 or Section 402. On October 26, 2007, Ecology's Shorelines Program sent a letter to Mr. Smith citing potential violations of CWA Section 401 and state laws and on October 29, 2007, Ecology's Water Quality Program issued a warning letter. The Corps issued a cease and desist letter to Mr. Smith on November 7, 2007, ordering him to stop work. The Corps referred the case to EPA for enforcement on December 19, 2007.

On January 4, 2008, EPA issued an administrative compliance order (CWA 10-2008-0050) requiring Mr. Smith to cease all dredge and fill activities and to provide information about the alleged violation. Additionally, EPA issued a second administrative compliance order (CWA 10-2008-0106) requiring Mr. Smith to remove all unauthorized dredged and fill materials from waters of the US at the Site, develop a restoration work plan to restore the Site, and provide information about the alleged violation. To date, Mr. Smith has missed the deadlines for removing fill and developing a restoration plan associated with the second administrative compliance order.

As part of its investigation, EPA conducted inspections of the Site to (1) characterize and delineate the extent of aquatic resources, *i.e.*, streams and wetlands on the Site; (2) characterize the extent of dredged or fill material discharges into those aquatic resources; and (3) describe the extent of environmental harm to those aquatic resources. Site inspections were completed on February 12, April 28 through May 1, and July 10, 2008. Field data collected during the period April 28 through May 1, 2008, and July 10, 2008, as well as review of in-office material and aerial photograph interpretation were used to characterize and delineate waters on the Site.

## METHODS

### Wetland Determination and Delineation

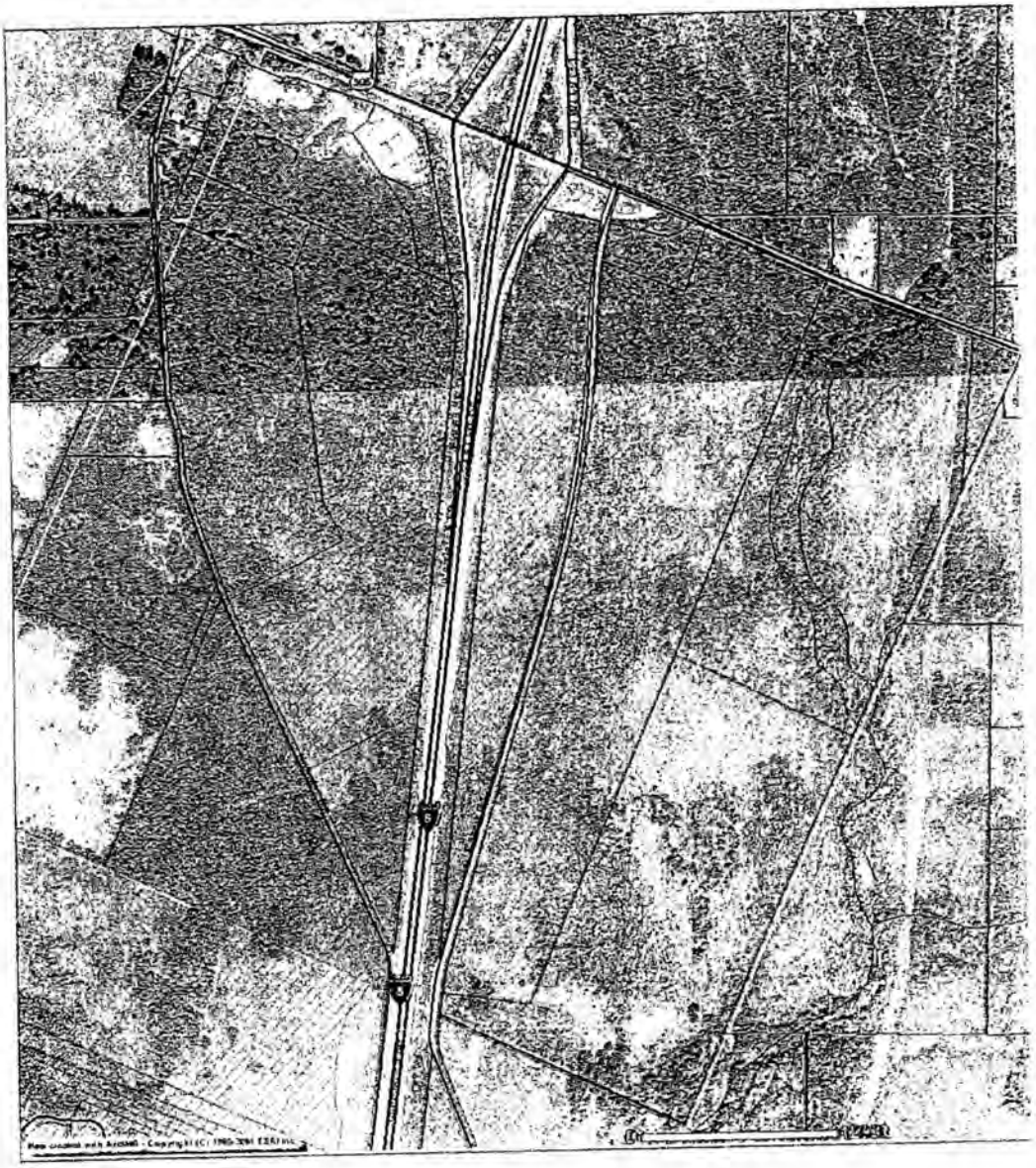
*Pre-Field Work Preparation and Findings*

In accordance with the 1987 Corps' Wetlands Delineation Manual ("1987 Manual") (USACOE 1987), existing information was reviewed in-office before field data was collected at the Site to document the occurrence and extent of wetlands and other waters of the U.S. Information reviewed included Lewis County Soil Survey (USDA 1972), National Wetland Inventory ("NWI") (USFWS 2009) maps, U.S. Geological Survey topographic maps, and aerial photographs. EPA also obtained and reviewed an earlier wetland investigation of the Site completed by The Resource Company, Inc. ("TRC") in 1995[1] (TRC, 1995). Aerial photographs reviewed included ortho-rectified aerials from 1948, 1964, 1984, 1990, 1990, 2003, 2006 (July and October), as well as oblique aerials from November 2007

[1] TRC was also hired by Mr. Smith to complete a wetland delineation in 2008

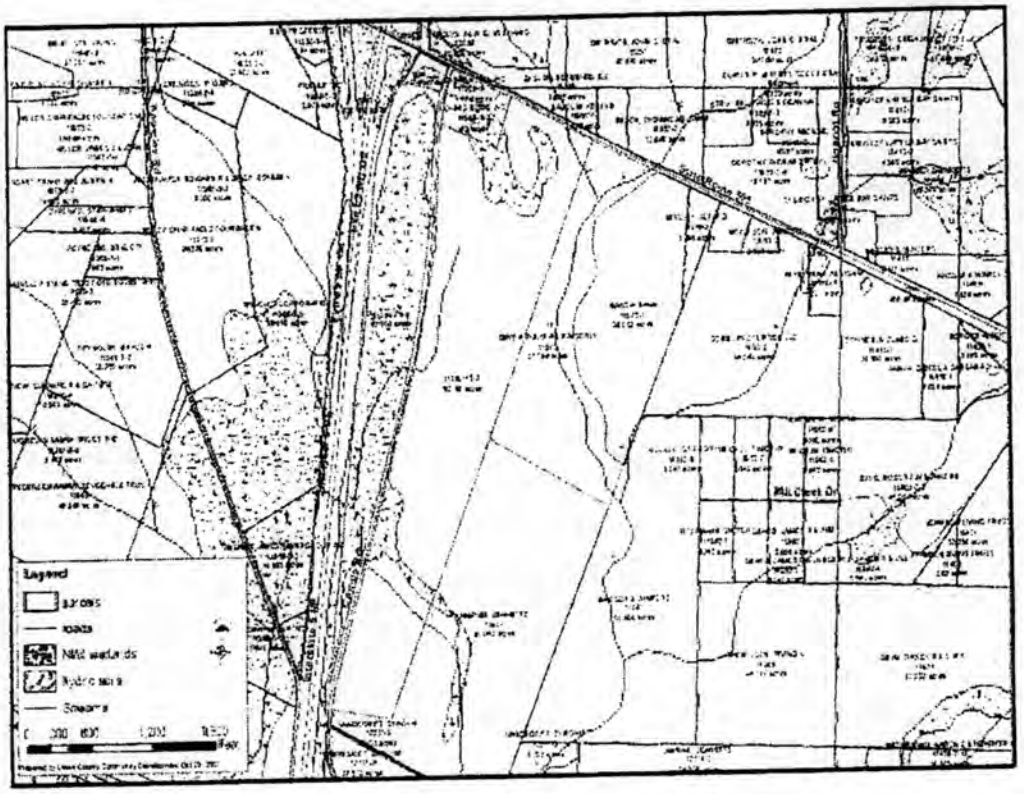
The NWI map shows approximately 42 acres of wetlands on the Site west of Camus Road. Areas east of Camus Road are identified as containing wetlands as well (Figure 1). The NWI shows wetlands east of Camus Road in two places; along a tributary that flows into Lacamas Creek and the north end of the Site on parcel #011969013002.

**Figure 1.** National Wetland Inventory Mapped Wetlands on 2003 Aerial Photo.



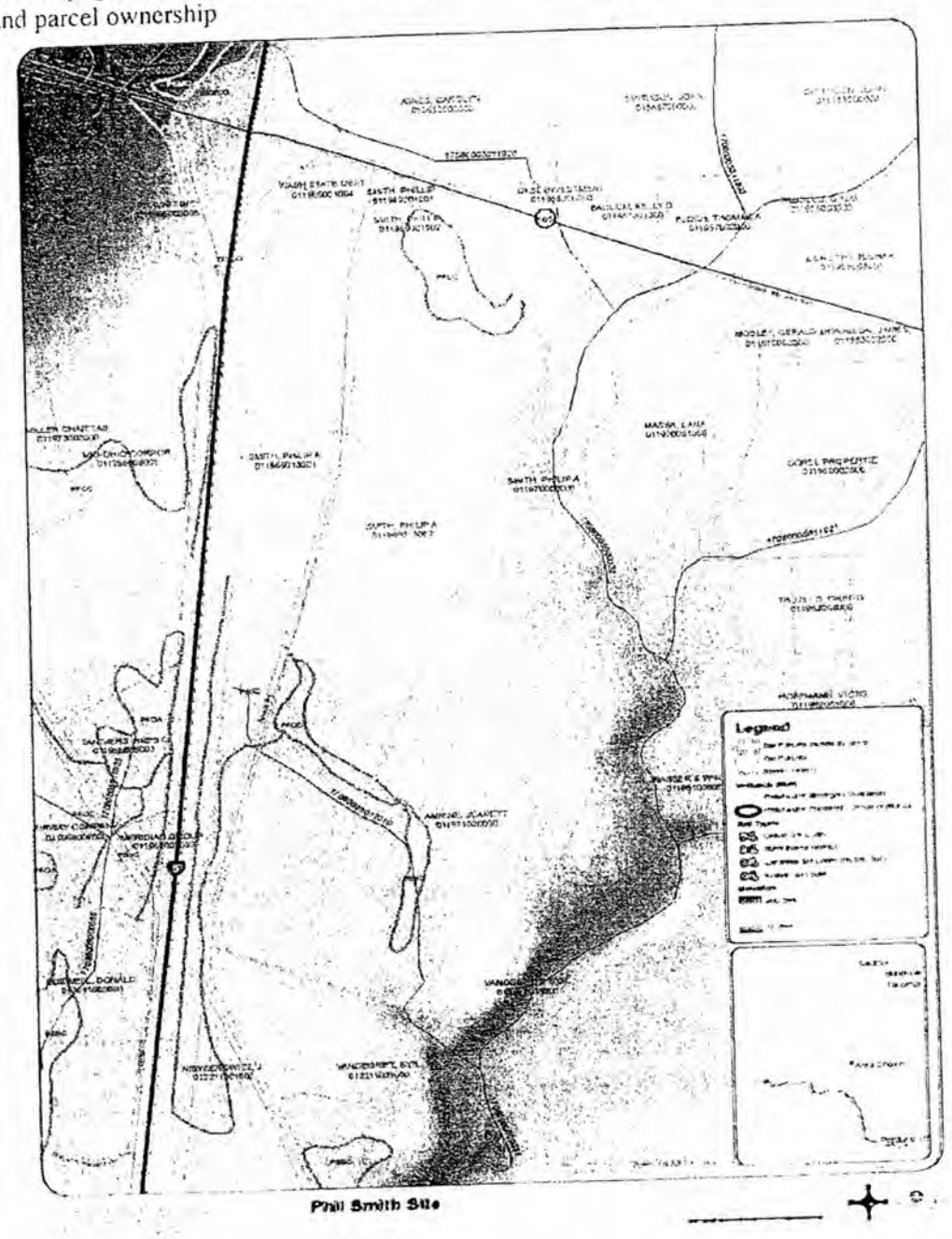
The Lewis County Soil Survey identifies the majority of the Site as Lacamas Silt loam, which is a hydric soil (Figure 2). The Lacamas soil series consists of very deep, poorly drained soils formed in mixed alluvium weathered from glacial and sedimentary sources. Lacamas silt loam occurs on broad plains, terraces, and bottom land floodplains. In this case, Lacamas silt loam occurs on a terrace and throughout much of the Site.

**Figure 2.** Map with NRCS mapped hydric soils (Lacamas silt loam), NWI mapped wetlands, state mapped streams and county parcel ownership and boundaries. Map created by Lewis County.




With these data, a reference map was created for use in the field using the aerial ortho-photograph from June 2006, which was overlaid with tax parcel boundaries of Mr. Smith's properties.

**Figure 3**. Topographic shaded relief, NRCS soils, NWI mapped wetlands, state stream layer, and parcel ownership



*Field Work*

Field methods for identifying and delineating wetlands followed the 1987 Manual and the 2008 Western Mountains, Valleys and Coastal Regional Supplement for the 1987 Manual ("WMVCRS") (USACOE, 2008). A modified comprehensive approach to identifying and delineating wetlands was used following the 1987 Manual. Data sheets from the 1987 Manual for the routine method and from the WMVCRS were used in the field to record field observations. See Appendix A for examples of the data sheets used.

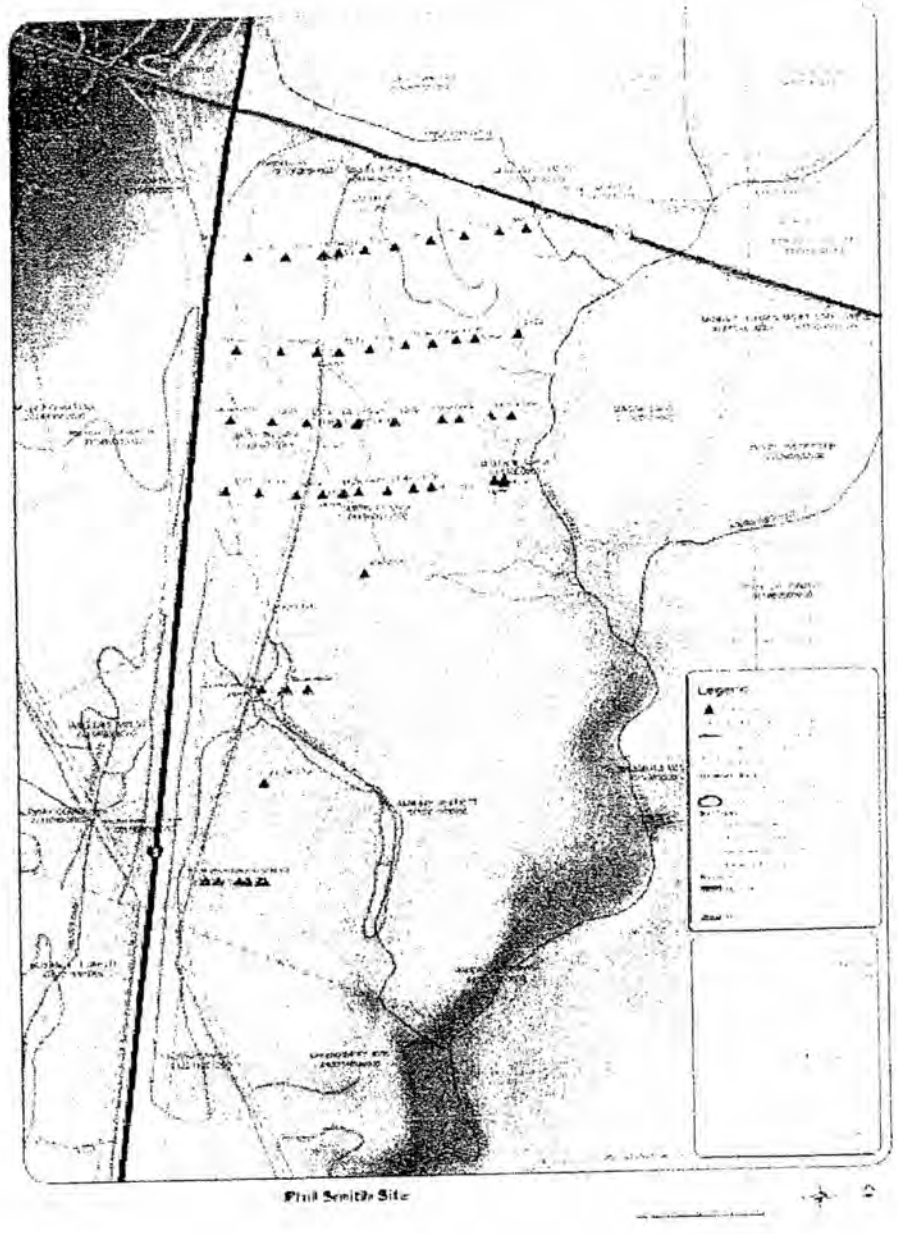
The three parameters used to identify and delineate wetlands are the presence of hydrology, hydric soils and hydrophytic vegetation. Generally indicators for all three parameters must be positively documented to identify and delineate a wetland. However, under atypical situations, such as when a Site has been disturbed, the 1987 Manual and the WMVCRS allow positive indicators for two of the three parameters to identify and delineate a wetland (Section F. Atypical Situations Corps Manual). Atypical situation procedures can be applied in circumstances where (1) vegetation has been removed or significantly altered, (2) fill material is placed over hydric soils, or (3) site hydrology has been altered from unauthorized human activities.

A baseline was established along Camus Road (according to Step 6, Figure 17, Section E. Comprehensive Determinations, 1987 Manual) prior to data collection at the Site. Camus Road runs generally north/south and parallel to Lacamas Creek. Six transects were established roughly perpendicular to the baseline. Along each transect, sampling plots were established to capture conditions across the Site. Fifty sample plots were established along transects. Transects varied in length and location, based on site dimensions at that location.

An average of eight sample plots were placed per transect. In addition, four samples were taken off-transect to establish reference conditions for wetland and upland soil and to document the type of disturbance (e.g., to determine whether the area had been mowed, but not filled or graded). Sample plots consisted of 10 meter diameter circles. Plot locations were labeled according to the transect number (e.g., T1, T2, etc.), plot numbers (e.g., P1, P2, etc.) and east or west (E or W) of Camus Road. For example, a plot labeled "T1P1W" translates to "Transect 1, Plot 1, West side of Camus Road."

Figure 4 shows a distribution of sample plots at the Site. The number and distribution of sampling plots allowed EPA to characterize hydrology, soils, and vegetation across the Site.

**Figure 4**. Sample plot locations along transects on topographic shaded relief map with NRCS soils, NWI mapped wetlands and state stream layer only.



All vegetation, soils, and hydrology indicators observed within each sample plot were recorded on either the 1987 Manual data form (Appendix A) or the WMVCRS data form (Appendix B). For each sample plot a team of technical experts recorded vegetation data on a data sheet, while another team recorded soil/hydrology data. All data sheets with the same transect/plot number from the two teams were combined by stapling them together at the end of the day for later review. Voucher specimens were collected of each plant species observed within the plots.

Quality control and data sheet completion was done in the office after fieldwork was completed. Voucher specimen identification was verified and vegetation calculations completed. Soil indicators were reviewed to ensure WMVCRS hydric soil indicators were recorded on data sheets where applicable. All data sheets were reviewed for accuracy once data was transcribed onto electronic field data forms.

## RESULTS

TRC identified seven different wetland areas (TRC 2008). These wetland areas are separated by Camus Road, an interior access road, old fill pads and a few upland knolls. TRC's delineated wetlands are summarized in Table 1.

**Table 1: The Resource Company (TRC) wetland delineation results**

| TRC Wetland Name | Size (Acres) | Washington State Wetland Rating System Category | Cowardin Classification type (before clearing) | Hydrologic connectivity to Lacamas Creek |
|---|---|---|---|---|
| Wetland A | 41.4 ac | I* | Scrub-Shrub | Culverts under Camus Road via Tributaries 4 & 5 |
| Wetland B | 56.3 ac | I* | Forested | Tributaries 4, 5 |
| Wetland C | 21.0 ac | III | Forested | Tributaries 1 & 2 |
| Wetland D | 1.6 ac | IV | Emergent | Tributary 1 |
| Wetland E | 94 sq. ft. | III | Forested | Tributary 1 |
| Wetland F | 12.3 ac | III | Emergent, Scrub-shrub | Tributaries 3 & 4 |
| Wetland G | 1,071 sq. ft | II | Forested | Tributary 4 |

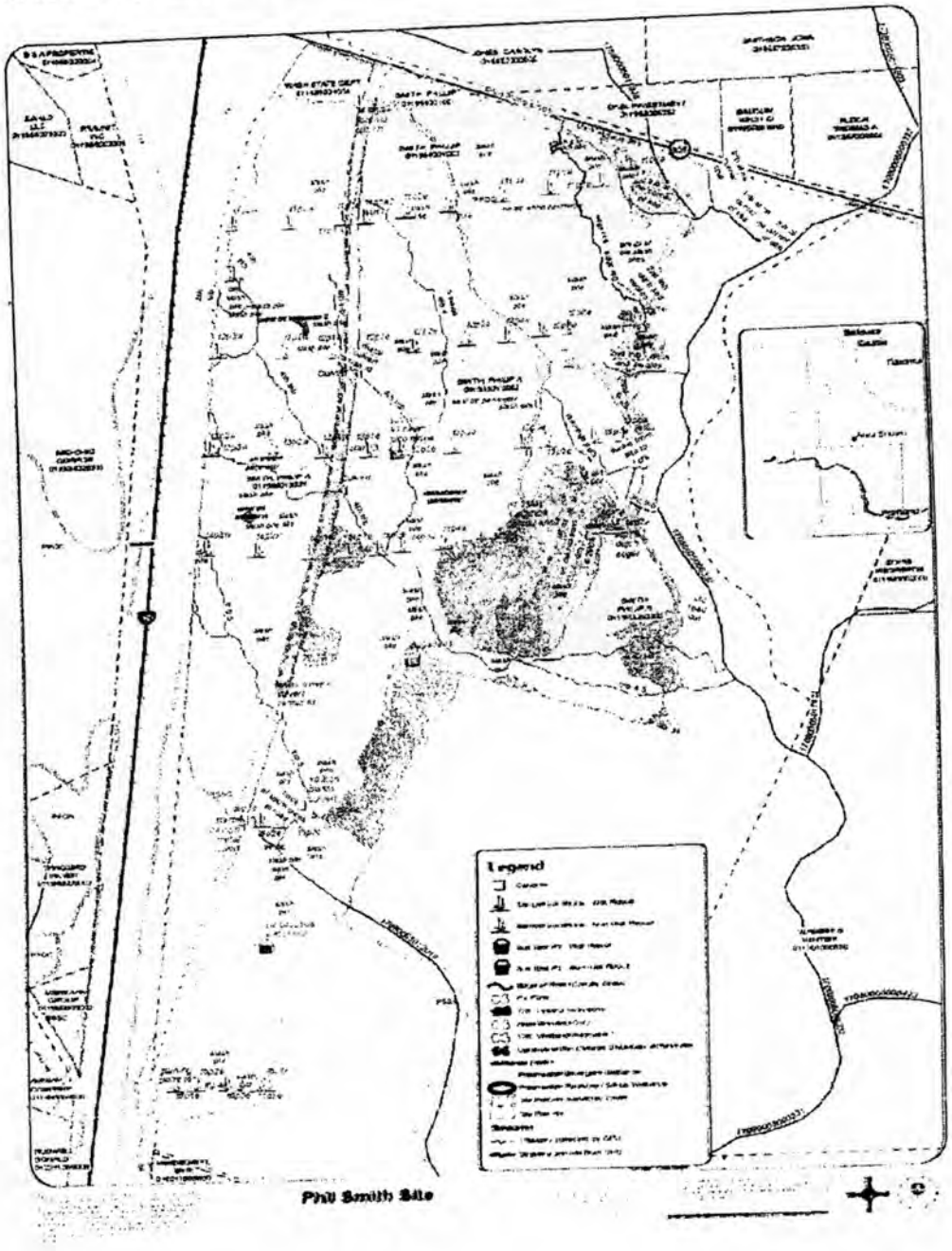
The presence and extent of wetlands identified by TRC were confirmed by field data collected by EPA staff during April 28 – May 1, 2008 and July 10, 2008. EPA's field work also revealed that the wetlands are hydrologically connected by culverts and five surface water streams. Wetland and non-wetland determinations for each of the sample plots along the six transects and the additional four off-transect sample plots are summarized in Appendix B. Of the fifty-four sample plots, thirty-eight (70%) met wetland criteria and sixteen (30%) did not. Appendix E shows whether hydrology, hydric soils and hydrophytic vegetation indicators were met at each sample plot. Appendix F contains each of the Field Data Sheets for each sampled plot, providing details on vegetation and hydrology indicators met at each sample plot.

Most of the Site was significantly altered from mechanized land-clearing activities. Nevertheless, of the 38 sample plots determined to be wetland, seven were specifically identified as meeting atypical situations. In most of the sample plots, evidence of hydrology, hydric soils and hydrophytic vegetation was present even though the Site had been significantly altered. Of the seven sample plots where atypical situations were documented, either vegetation had been completely removed or soils were disturbed by the recent mechanized land-clearing that resulted in scraping and re-depositing of fill material. The remaining woody debris and soils were scraped and piled and then burned. In other areas, material was spread over the Site and re-deposited. In sample plots where soils had been re-deposited, anywhere from 2 – 14 inches of fill covered or altered the natural hydric soil profile, creating a disturbed soil horizon. In several of those cases hydric soil indicators were still met.

Two sample plots lacked one of the three indicators and were determined not to meet wetland conditions. In these instances, hydrology and/or hydric soil indicators were not present, but hydrophytic vegetation indicators were present. In nine of the sample plots (T1P2W, T1P6E, T1P7E, T2P6E, T2P7E, T3P3E, T3P7E, T4P1W, T4P1E) it appeared that the soil profile was altered in the past from fill that could not be clearly tied to the recent mechanized land-clearing activity. Additionally, there were two upland plots not meeting any indicators for hydrology, hydric soils or hydrophytic vegetation.

Wetlands were mapped by walking the perimeter with a handheld Trimble mapping unit. Debris piles, uplands and stream courses were mapped in the same manner. This data was then overlaid on aerial photography and other figures using ArcGIS 9.3.

**Figure 5.** Results of Wetland Data Collection (See Appendix C Results of Wetland Delineation by Sample Plots)



## OVERVIEW OF WETLANDS AND OTHER WATERS

Wetlands cover 123 acres of the Site. The total area of disturbance is approximately 137 acres. Approximately 98 acres were impacted by the discharge of dredge activities involving the redeposit of dredged material into wetlands by way of mechanized land-clearing activities. EPA's wetland analysis correlates with and confirms the wetland boundaries delineated by the TRC. There are minor differences between EPA results and TRC's wetland boundary. These include results at sample plot locations T1P6E, T2P6E, T5P3E & T5P4E. These are plots where EPA found errors in the TRC delineation, which incorrectly delineated uplands as wetlands. T2P6E is within the recently cleared area, but did not meet any indicators for hydrology, hydric soil or hydrophytic vegetation. For T5P3E and T5P4E, EPA extended the upland boundary of TRC's delineation to include more area to the west. Figure 8 shows the label for each sample plot on the map and indicates whether the plot result was wetland or non-wetland.

The Site has five streams that are tributaries to Lacamas Creek; all five streams were flowing or ponded during the April 28 – May 1, 2008, field work. These stream channels are labeled Tributary 1 through Tributary 5 starting at the north end of the property and proceeding south.

**Tributary 1** is a channelized stream and flows across the Site from the northeast corner of the property. It flows under SR 505 through two culverts that carry two channels onto the property. These two channels converge and then flow southeastward to Lacamas Creek.

**Tributary 2** is formed by the convergence of a channel which carries flows through the property from the northwest and from a swale just north of Mt. Smith's camp site. Surface water flows through a surface channel. The channel ends at the flood plain of Lacamas Creek.

**Tributary 3** is a small swale connecting the Site with the floodplain of Lacamas Creek just south of a camp area. Tributary 3 leaves the Site as a swale lined with jute matting and forms a channel close to Lacamas Creek. The channel spills over a bluff into Lacamas Creek.

**Tributary 4** carries surface flows and drains much of the Site. Flow comes onto the property from the right-of-way of Interstate 5 along the western boundary of the property west of Camus Road. Tributary 4 has three to four branches connecting wetlands west of Camus Road with wetlands east of Camus Road. The combined flow passed under Camus Road through several culverts, coalescing east of Camus Road immediately off the site to the east. Tributary 4 forms a channel with defined bed and banks. The stream flow of this channel continues off site onto the flood plain of Lacamas Creek, where it spreads out for several feet then converges into a side channel of Lacamas Creek, then into the main channel of Lacamas Creek.

**Tributary 4.5** is immediately south of Tributary 4 and might be considered a distributary channel of the later.

**Tributary 5** is channelized and flows into a natural channel (this is state mapped stream #17080005012010). It flows across the site and onto the neighboring undisturbed property and ultimately discharges into Lacamas Creek

The wetlands across the Site abut and are hydrologically connected to one or more of these five streams.[2]

*Historical Changes at the Site*

Mr. Smith purchased portions of the Site in June, 2005[3] and September 2007.[4] The period from June 2005 through October 2007 was of particular interest because this was the period when Smith cleared the Site. Oblique photographs taken from an aircraft in November 2007 by the Chehalis Tribes' Natural Resources Program show conditions after the Site had been completely cleared (Photo 1).

**Photo 1.** Aerial photo of the Site taken by Chehalis Tribe on 11/1/2007

[2] See April 17, 2009 Memo: Analysis of Clean Water Act Jurisdiction for Waters at the Phil Smith Property

[3] Tax parcels 011970 000 000

[4] Tax Parcels 011969 001 001 - 011969 001 002

Aerial photograph interpretation was used to quantitatively estimate changes in land cover before the unauthorized fill was discovered in 2007. Ortho-rectified aerial photographs from 1948 through 2006 were analyzed to determine changes in vegetation cover and land-use at the Site[5]. No ortho-rectified aerial photographs were available for 2007 or 2008

**Figure 6. Changes in vegetative and land cover types through time (Figure 1 excerpted from SAIC 2008).**

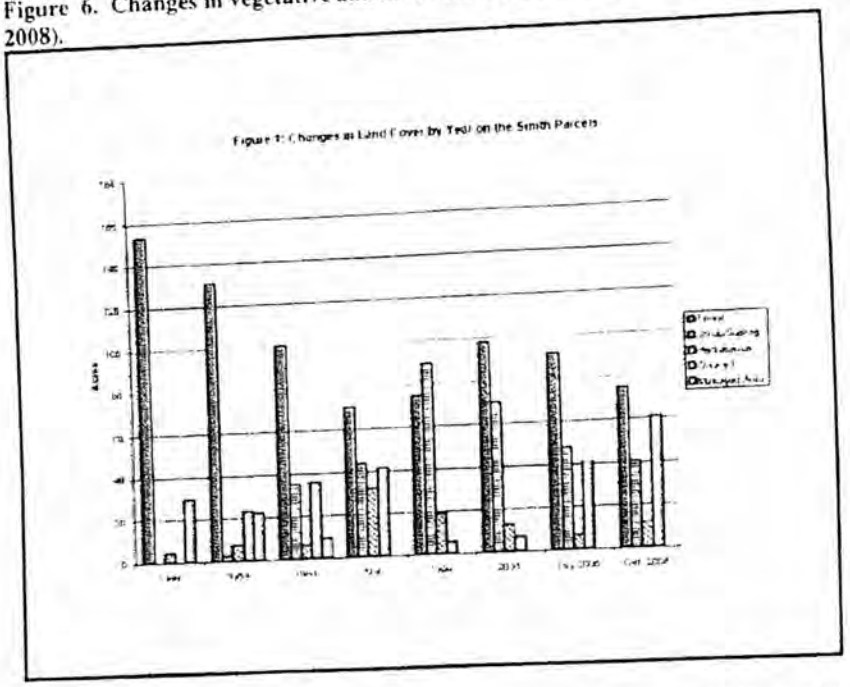


Figure 6 shows that forest cover decreases between 1948 and 2006. Colonization of the opened forest by shrubs, saplings and herbaceous plants results in an increase in cover by these elements. Cleared ground increases over the course of forest removal, decreases as the site is recolonized and finally, in 2006 increases again in relation to Mr Smith's activities.

The tree canopies of forested areas provide shade and reduce evaporation from the soil. This shading effect also reduces temperature and provides a more moderate climate

[5]Aerial photographs for 1948, 1964, 1984, and 1999 were received from Lewis County Community Development. Lewis County or www.digitalglobe.com should be contacted for metadata, resolution and spatial accuracy information. Data sources for 1990, 2005, July and October 2006 aerial photographs. Aerial photographs from 2008 were acquired from the Washington Department of Transportation

| Data Source | Date | Resolution | Spatial Accuracy | Type |
|---|---|---|---|---|
| USGS | 1990/06/21 | 1.0 m | 1:12000 | Panchromatic (B&W) |
| FSDA NAIP | 2005/07/17 | 2.0 m | | Color |
| Digitalglobe | 2006/07/23 | 1.0 m | 1:12000 | Color |
| Digitalglobe | 2006/10/01 | 0.5 m | 1:4000 | Color |

for plant growth The tree canopy provides shelter from the wind and protects the soil from the impacts of heavy rain, reducing erosion. Leaf litter acts as mulch reducing evaporation, soil runoff, and erosion. Incorporation of leaves into soil adds organic material and improves soil quality and texture. Tree roots penetrate into deeper soil layers then herbaceous plants, while bringing nutrients to the surface via leaf fall.

The loss of forest cover often entails environmental degradation and subsequent decline in site productivity. Repeated logging and landclearing activities can eventually affect the productivity of soils by removing available carbon and nitrogen. This restriction of available nutrients results in slower reforestation and growth. Soil compaction has also been an indirect effect by restricting root growth and reducing productivity. Reduced productivity and disturbance usually invites reoccupation by non-native invasive species that can outcompete native colonizers.

*Environmental Effects*

Prior to the recent land clearing, wetlands at the Site provided several interrelated ecological functions and services. These functions are part of ecosystem processes working on the Site and interacting with downstream river systems like the Columbia River that then contributes to other aquatic systems like the Pacific Ocean. Table 2 lists functions and related services provided by wetlands at the Site.

**Table 2. Wetland functions and services provided at the Smith Site prior to recent disturbance (adapted from Brinson 1995)**

| Function | Environmental Effect | Societal Services |
|---|---|---|
| ***Hydrologic*** | | |
| Short-term water surface water storage | Reduced downstream flood peaks | Reduced damage from flood waters |
| Long-term surface water storage | Maintenance of base flows, season distribution of flow | Maintenance of fish habitat throughout the seasons |
| Maintenance of water table | Maintenance of groundwater<br>Maintenance of hydrophytic community | Groundwater available for human use<br>Maintenance of biodiversity<br>Maintenance of baseflow in nearby streams |
| ***Biogeochemical*** | | |
| Transformation, cycling of elements | Maintenance of nutrients with in wetland | Wood production |
| Retention and removal of imported substances | Reduced transport of nutrients and pollution downstream | Maintenance of water quality |
| Accumulation of inorganic sediments | Retention of sediments and some nutrients | Maintenance of water quality |
| ***Habitat and Food Web Support*** | | |
| Maintenance of characteristic plant communities | Food, nesting, cover for animals | Maintenance of biodiversity |
| Maintenance of physical aquatic habitat | Food and rearing habitat for juvenile salmon | Maintenance of fisheries |
| Maintenance of nutrient flow | Food | Maintenance of biodiversity and fisheries |

Clearing the Site affected wetland functions in the following ways:

Alterations to Hydrology

Water moving onto the Site prior to this disturbance was slowed by roughness on the ground created by woody debris, soil microtopography and the dense vegetation that was present. The surface water then, either: slowly flowed downstream into Lacamas Creek, seeped into the ground to become ground water or evaporated (directly to the air or through uptake by plants). All of these had the effect of spreading the flow of water over time and space. As a result discharge from the Site to Lacamas Creek was spread over time. Ground water levels were maintained and plant growth was maintained.

Clearing eliminated much of the retentiveness of the Site for water. It reduced the roughness of the Site and compacted the soils. Water moving across the Site to Lacamas Creek became less impeded by vegetation and less able to soak into the soil. Peak flows in Lacamas Creek were elevated by the increment of water received from the Site and base flows were reduced by the increment that was not allowed to percolate to the ground water table. These conditions also result in reduced aquatic habitat quantity and quality in the wetlands, Lacamas Creek and downstream waters.

Alterations to Biogeochemistry

The loss of this function is significant to downstream water quality because of the proximity of wetlands on the Site to I-5. I-5 discharges large amounts of pollutants such as sediment, oil and material worn from tires. Copper from automobile tires has recently been implicated in reducing juvenile salmon stocks in Washington streams. Biogeochemical cycling of nutrients and pollutants is related to physical and biological processes in the water moving through the Site. The rate of water movement affects settling rates and the time that materials are available for transformation physical processes and microorganisms.

As described above the disturbance has increased the rate at which water moves across the Site. Physical and biological processes have less time to act and more pollutants move past the Site and into downstream waters. Sediment moving onto the Site is carried to Lacamas Creek where it combines with sediment eroded from the bare soils. The sediment is then available to: clog salmon spawning gravel, eliminate habitat for aquatic insects that are fed upon by salmon and eliminate rearing habitat for juvenile salmon. Large deposits of fine sediment were documented along Lacamas Creek adjacent to the Site.

Finally, the lack of vegetative cover exposes waters moving through the Site to unfiltered sun light, increasing water temperature. A segment of Lacamas Creek down stream of the Site has been identified by the State of Washington as exceeding the State's Water Quality Standards for temperature. It is included as an "impaired water" for the purposes of CWA Section 303(d) (WADOE, 2008). Activities on the Site exacerbate this problem.

Habitat and Food Web Support

Prior to disturbance, the Site contained a mosaic of plant communities including mature trees, shrubs, saplings and wetland prairie. Plant community mosaics tend to be sites of high biodiversity because of the variety of food, nesting sites and cover opportunity available to animals. In addition, a forested wetlands have a high capacity to retain water. Water is retained by woody debris as trees loose branches or topple over. This water is very good habitat for a variety of aquatic and amphibious animals, such as salmon and salamanders, which the National Oceanic and Atmospheric Administration Fisheries ("NOAA Fisheries") identifies as essential elements for listed salmon and steelhead Evolutionarily Significant Units ("ESUs") (70 FR 52685). Lewis County has been designated for Critical Habitat for four federally listed ESUs: Lower Columbia River Chinook salmon, Columbia River chum salmon, Middle Columbia River steelhead, and Lower Columbia River steelhead (70 FR 52684). Of particular importance locally, these habitats are also valuable for Coho Salmon.

Clearing of the Site eliminates virtually all habitat value. The rich plant and animal biodiversity of the Site is gone. Terrestrial habitat has been mostly eliminated. Water flowing across the Site has been confined to rills, ruts and tire tracks in most cases, or to excavated ditches, where it moves through the Site quickly, lacking the habitat characteristics needed by fish and amphibians.

In addition, a healthy wetland supports downstream food webs by releasing a measured amount of nutrients downstream in dissolved and particulate form. Most of these materials are processed and retained on the Site, preventing overloading of down stream systems. But some material is released by the wetland providing an increment of support for organisms downstream, in this case, all waters down to the Columbia River and eventually to the Pacific Ocean.

*Cumulative Effects*

All of the above losses must also be considered in terms of the cumulative losses throughout the Lacamas Creek, Cowlitz River and Columbia River systems. While losses on the Site are significant in and of themselves, as an increment of cumulative loss they have far reaching consequences. These losses, in combination with others throughout the region, are partially responsible for the decline in salmon stocks in the Lacamas, Cowlitz, and Columbia riverine systems. They are also partially responsible for the long list of endangered plants and animals in Washington State.

Certain streams and plant species carry with them conservation designations, established by the State of Washington (WDNR 2008a). On the Site, streams 1 and 5 have been designated as a "Type F" stream under the Washington Forest Practices Act, meaning that they contain fish or have the physical criteria to be potentially used by fish. Stream 4 could also be designated a Type F stream, if mapped by the State of Washington

TRC's Wetland Report identifies Wetlands A and B (Table 1) as containing either a sensitive plant species or a plant community that is documented and recorded with the Washington State Department of Natural Resources ("WDNR") Natural Heritage Program (WDNR 2008b). WDNR Natural Heritage Program identifies the Section, Township and Range of the Site as containing Natural Heritage Features associated with wetlands (WDNR, 2008c). WDNR verified that the south east corner of this Section, Township and Range, which lies on the east side of I-5, contains Natural Heritage Features associated with wetlands.[6] Under Ecology's wetlands rating system, if the Natural Heritage Program identifies the Site as containing a Natural Heritage plant community, sensitive species, or threatened and endangered plant species, the wetlands are considered 'Category I" wetlands under the Washington Department of Ecology's wetland rating system (WDOE, 2006). Category I wetlands require higher mitigation ratios or buffers for protection under state and local requirements.

The Site as has been altered to the point that these conservation values are eliminated or greatly diminished.

*Invasive Species*

Finally, land-clearing activities at the Site increased the likelihood that lost ecological functions and services will not recover because the Site is susceptible to invasive species colonization, such as reed canary grass (*Phalaris arundinacea*). This grass invades wetland sites with a dense thatch of stems that eliminates all other vegetation. It creates single species expanses that are of little habitat value to local animals. Reed canary grass is already on the Site and available to colonize the recently disturbed areas.

## RESTORATION

The goal of restoration at the Site should be to reestablish wetland functions that existed prior to Smith's land-clearing activities. A plan should be developed to reestablish stream channels, plant communities, and hydrology across disturbed areas. A nearby, undisturbed, wetland site with similar plant communities could serve as a reference for predisturbance conditions on the Site. The reference site should inform the restoration design. Existing slash piles should be spread across the Site because the organic material contained in those piles are important to retain and rebuild soils while facilitating revegetation..

The Site restoration plan should include the following:

Stream Channel:

- identification of references reaches from a nearby forested wetland;
- reach slope;

[6] 1/12/2009 Personal Communication between Rebecca Chu, U.S. EPA and Sandy Moody, DNR

- overall slope,
- sinuosity,
- methods of stabilization,
- geomorphic units within the channel (riffle, pool, run, etc.),
- no rock or other hard substances other than wood may be used in the channel design,
- stream channel restoration will be considered successful if five years after completion of the recreated channels channel parameters are within the range specified in the restoration plan.

Vegetation:

- identification of a reference forested wetland nearby,
- inventory of plant species composition, abundance and distribution at the reference site,
- a strategy for replanting the Smith Site to mimic the reference site, keeping in mind interactions between species and growth times for various species,
- a strategy for controlling invasive species from the Site throughout the planting and monitoring period,
- a strategy for monitoring the Site for successful restoration,
- the monitoring period shall be for five years after the restoration activities are complete,
- a strategy for correcting unsuccessful aspects of restoration,
- restoration will be deemed successful if after five years woody species aerial cover is equal to or great than 50%, non-woody species aerial cover is equal or greater then 80% and non-native species aerial cover is less then 20%.

**References:**


Brinson, Mark. 1995. The HGM Approach Explained. National Wetlands Newsletter. Volume 31, Number 2.

The Resources Company, Inc. 1995. Wetland Assessment and Delineation. Skye Village Golf Course. Prepared for Meridian Group, Inc. April 1995. 12pp.

The Resources Company, Inc. 2008. Wetland Delineation and Assessment. Phillipville Master Planned Resart, Lewis County, Washington. May 28, 2008

SAIC. 2008. Results of Aerial Photograph Interpretation – Smith Site. Science Applications International Corporation, Winlock, Washington. September 17, 2008. Perpared for the the U.S. Environmental Protection Agency.

USACOE. 1987. Corps of Engineers Wetlands Delineation Manual. Final Report. USACE, Waterways Experiment Station, Vicksburg, MS. Pp 134.

USACOE. 2008. Western Mountains, Valleys and Coast Region Regional Suppliment to the 1987 Manual. USACE, Research and Development Center, Vicksburg, MS. pp115.

USDA. 1972. United States Department of Agriculture, Soil Conservation Service. http://websoilsurvey.nrcs.usda.gov accessed July 2008.

USFWS. 2009. National Wetlands Inventory for Washington State. United States Fish and Wildlife Service. http://wetlandsfws.er.usgs.gov accessed March 2009 on wetland designations.

WDNR. 2008a. Washington Department of Natural Resources - Forest Practices Application Review Systems. http://www3.wadnr.gov accessed March 2009 on stream designations.

WDNR. 2008c. Washington Department of Natural Resources- Sections that Contain Natural Heritage Features Associated with Wetlands http://www1.dnr.wa.gov/nhp/refdesk/datasearch/wnhpwetlands.pdf. Accessed April 1, 2009 for information on Natural Heritage Features associated with wetlands.

WDOE. 2006. Washington State Wetland Rating System for Western Washington. Ecology Publication # 04-06-025.

WDOE. 2008. Washington State Department of Ecology 2008 Water Quality Assessment for Lacamas Creek. http://apps.ecy.wa.gov/wats08. Accessed April 1, 2009

**LEWIS COUNTY TITLE COMPANY**
P.O. BOX 1165
625 S. MARKET BLVD.
CHEHALIS, WA 98532

"B"

TELEPHONE (360) 748-8641
FAX (360) 748-4799
1-800-780-6074

Order No.: **T-114817**
**SECOND REPORT**

**CLARK COUNTY TITLE**
**1503 NE 78TH STREET, #12**
**VANCOUVER WA 98665**
Attn: **JAN**
RE: **SMITH**

# COMMITMENT FOR TITLE INSURANCE

## Schedule A

1. Effective Date: **June 5, 2006** at **8:00 A.M.**

2. Policy or policies to be issued:

   a. **None** Amount $
   Proposed Insured:

   b. **Extended Coverage Mortgage Policy** Amount **$625,000.00**
   Proposed Insured:
   **NOTE BUYER LLC**

   c. **None** Amount $
   Proposed Insured:

PREMIUM INFORMATION:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| A. | | $ | | Tax: $ | | Total: $ | |
| B. | **Re-Organization Rate** | $ | 933.00 | Tax: $ | 73.31 | Total: $ | 1,006.71 |
| C. | | $ | | Tax: $ | | Total: $ | |

3. The estate or interest in the land described herein and which is covered by this commitment is:

   **FEE SIMPLE**

4. The estate or interest referred to herein is at Date of Commitment vested in:

   **PHILIP A. SMITH and KIMBERLY G. SMITH, HUSBAND AND WIFE**

5. The land referred to in this Commitment is situated in the County of **Lewis**, State of Washington and is more fully described as follows:

   **See Exhibit A attached hereto and made a part hereof.**

Countersigned by **Lewis County Title Company**, as Agent for **Transnation Title Insurance Company**

By: **Roxie Stroup**

# COMMITMENT FOR TITLE INSURANCE

## Schedule B

Commitment No.T-114817

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company.

GENERAL EXCEPTIONS:

A. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed Insured acquires of record for value the estate or interest or mortgage thereon covered by this Commitment.

B. Any policy issued pursuant hereto will contain the Exclusions From Coverage and, under Schedule B, the standard exceptions as set forth and identified as to the type of policy on the attached Schedules of Exclusions and Exceptions.

SPECIAL EXCEPTIONS:

1. **Delinquent general taxes for the years 2005, 2006, in the respective sums of $975.54, and $2,904.02, plus interest and penalties.**
   **Parcel No.: 011969-001-003 (Parcel A)**

   **Delinquent general taxes for the years 2005, 2006, in the respective sums of $241.20, and $712.09, plus interest and penalties.**
   **Parcel No.: 011970-000-000 (Parcel B)**

2. DEED OF TRUST AND THE TERMS AND CONDITIONS THEREOF:

| | |
|---|---|
| GRANTOR: | Phillip A. Smith and Kimberly G. Smith, Husband and wife |
| TRUSTEE: | Robert B. Spetzer, |
| BENEFICIARY: | Covenant Mortgage Corporation |
| AMOUNT: | $367,000.00 |
| DATED: | June 7, 2005 |
| RECORDED: | June 22, 2005 |
| RECORDING NO.: | 3225309 (Includes other property) |

   **Said Deed of Trust is a re-record of that document recorded June 16, 2005 under Auditor's File No. 3224815.**

3. DEED OF TRUST AND THE TERMS AND CONDITIONS THEREOF:

| | |
|---|---|
| GRANTOR: | Philip A. Smith and Kimberly G. Smith, Husband and Wife |
| TRUSTEE: | Robert B. Septzer, Esq. |
| BENEFICIARY: | Covenant Mortgage Corporation |
| AMOUNT: | $617,500.00 |
| DATED: | December 8, 2005 |
| RECORDED: | December 14, 2005 |
| RECORDING NO.: | 3239856 (Includes other property) |

## SCHEDULE B - continued

Commitment No. **T-114817**

4. **AMENDED TRANSCRIPT OF DISTRICT COURT JUDGEMENT:**

| | |
|---|---|
| AGAINST: | Philip A. Smith and Kimberly Smith |
| IN FAVOR OF: | Dynamic Collectors, Inc. |
| AMOUNT: | $1,871.00 |
| ENTERED: | February 3, 2006 |
| LEWIS COUNTY JUDGEMENT NO.: | 02-9-00802-3 |
| SUPERIOR COURT CAUSE NO.: | 02-2-00688-2 |
| ATTORNEY FOR CREDITOR: | Joseph O. Enbody |

5. **JUDGMENT:**

| | |
|---|---|
| AGAINST: | Philip A. Smith |
| IN FAVOR OF: | Howard C. Nixon and Fairway Collections LLC |
| AMOUNT: | $1,508.73 |
| ENTERED: | May 23, 2006 |
| LEWIS COUNTY JUDGMENT NO.: | 06-9-00763-1 |
| SUPERIOR COURT CAUSE NO.: | 06-2-00652-4 |

6. Relinquishment of access to State Highway No. 505, (formerly Highway 603) and of light, view and air, by Deed to the State of Washington recorded February 11, 1953 under Auditor's File No. 516232. (Affects Parcel A)

7. **EASEMENT AND THE TERMS AND CONDITIONS THEREOF:**

| | |
|---|---|
| GRANTEE: | Pacific Northwest Pipeline Corporation, a Delaware corporation |
| PURPOSE: | Pipeline for transportation of oil, gas and products |
| AREA AFFECTED: | A portion of Parcel B |
| DATED: | November 16, 1955 |
| RECORDED: | January 10, 1956 |
| RECORDING NO.: | 555011 |

8. **EASEMENT AND THE TERMS AND CONDITIONS THEREOF:**

| | |
|---|---|
| GRANTEE: | State of Washington |
| PURPOSE: | Construction and maintenance of drainage installations |
| AREA AFFECTED: | Westerly of a line 350 feet Easterly and at right angles from the Center of State Route 5 |
| DATED: | June 28, 1956 |
| RECORDED: | July 23, 1956 |
| RECORDING NO.: | 562952 |

9. Relinquishment of access to State Highway No. 603 and Primary State Highway No. 1 (I-5) and of light, view and air, by Deed to State of Washington recorded December 11, 1975 under Auditor's File No. 809601. (Affects Parcel A)

## SCHEDULE B - continued

Commitment No. T-114817

10. EASEMENT AND THE TERMS AND CONDITIONS THEREOF:

| | |
|---|---|
| DISCLOSED BY: | Temporary Drainage Construction Permit recorded under Auditor's File No. 809602 |
| PURPOSE: | In the event of an emergency endangering the adjacent roadway the grantee, its agents or assigns, may re-enter upon the permit across where necessary for the purpose of performing such emergency maintenance as may be necessary for the protection of said roadway |
| AREA AFFECTED: | A portion of Parcel A |

11. Reservation of access to State Highway 505 and of light, view and air, in Deed from the State of Washington recorded on December 24, 1990 under Auditor's File ;No. 9013481.

    Said Deed is a correction of instrument recorded May 15, 1990 under Auditor's File No. 9004604. (Affects Parcels A & B)

12. Any change in the boundary or legal description of the real property, or title to the estate insured, that may arise due to shifting and changing in course of Lacamus Creek. (Affects Parcel B)

13. Unrecorded leaseholds, if any; rights of vendors and holders of security interests on personal property installed upon said property; and rights of tenants to remove trade fixtures at the expiration of the term.

14. NOTICE OF MORATORIUM ON NON-FORESTRY USE OF LAND AND THE TERMS AND CONDITIONS THEREOF:

| | |
|---|---|
| RECORDED: | August 2, 2005 |
| RECORDING NO.: | 3228606 |
| AFFECTS: | Parcel A |

END OF SCHEDULE B

# COMMITMENT FOR TITLE INSURANCE

## Schedule C

Commitment No. **T-114817**

The following matters will not be listed as Special Exceptions in Schedule "B" of the Policy to be issued pursuant to this Commitment. Notwithstanding the absence of a Special Exception in Schedule "B" of the Policy to be issued, there will be no coverage for loss arising by reason of the matters listed below because these matters are either excepted from coverage under the General Exceptions section of Schedule "B", excluded from coverage under the Exclusions from Coverage or are not matters for which coverage is afforded under the insuring clauses of the Policy.

**NOTES AND REQUIREMENTS:**

A. Requirements: Instruments necessary to create the estate or interest to be insured must be properly executed, delivered and duly filed for record.

B. Requirements: Payment of cancellation fee in accordance with our filed rate Schedule, to be imposed if this transaction is canceled for any reason.

C. This Commitment shall not obligate the Company to issue any Endorsement. All Endorsements to be issued must be agreed to by the Company and appropriate for the estate insured.

D. Any sketch or map enclosed as an attachment herewith is furnished for information purposes only to assist in property location with reference to streets and other parcels. No representation is made as to accuracy and the Company assumes no liability for any loss occurring by reason of reliance thereon.

E. Unless otherwise requested, the forms of policy to be issued in connection with this commitment will be ALTA 1992 policies, or, in the case of standard lender's coverage, the CLTA Standard Coverage Policy - 1990. The policy committed for or requested may be examined by inquiry at the office which issued the commitment. A specimen copy of the policy form(s) referred to in this commitment will be furnished promptly upon request.

**ADDITIONAL NOTES AND REQUIREMENTS:**

1. **The ALTA Extended coverage lender's policy to issue will contain no exceptions to coverage for unrecorded material or labor liens, parties in possession, violation of restrictions, or matters dependent upon a survey.**

2. **The Company requires the proposed insured to verify that the land covered by this commitment is the land intended to be conveyed or encumbered in this transaction. If the application for title insurance contained incomplete or inaccurate information, the description of the land may be incorrect. Notify the Company before closing if changes are necessary. Closing instructions must indicate that the legal description has been reviewed and approved by all parties.**

3. **Abbreviated Legal Description: A portion of the North half of Reille Donation Land Claim.**

**END OF EXCEPTIONS**

**Investigation should be made to determine, if there are any services, installation, maintenance or construction charges for sewer, water or electricity.**

**In the event this transaction fails to close, a cancellation fee will be charged for services rendered in accordance with our rate schedule.**

**END OF SCHEDULE C**

**sol**

Exhibit A

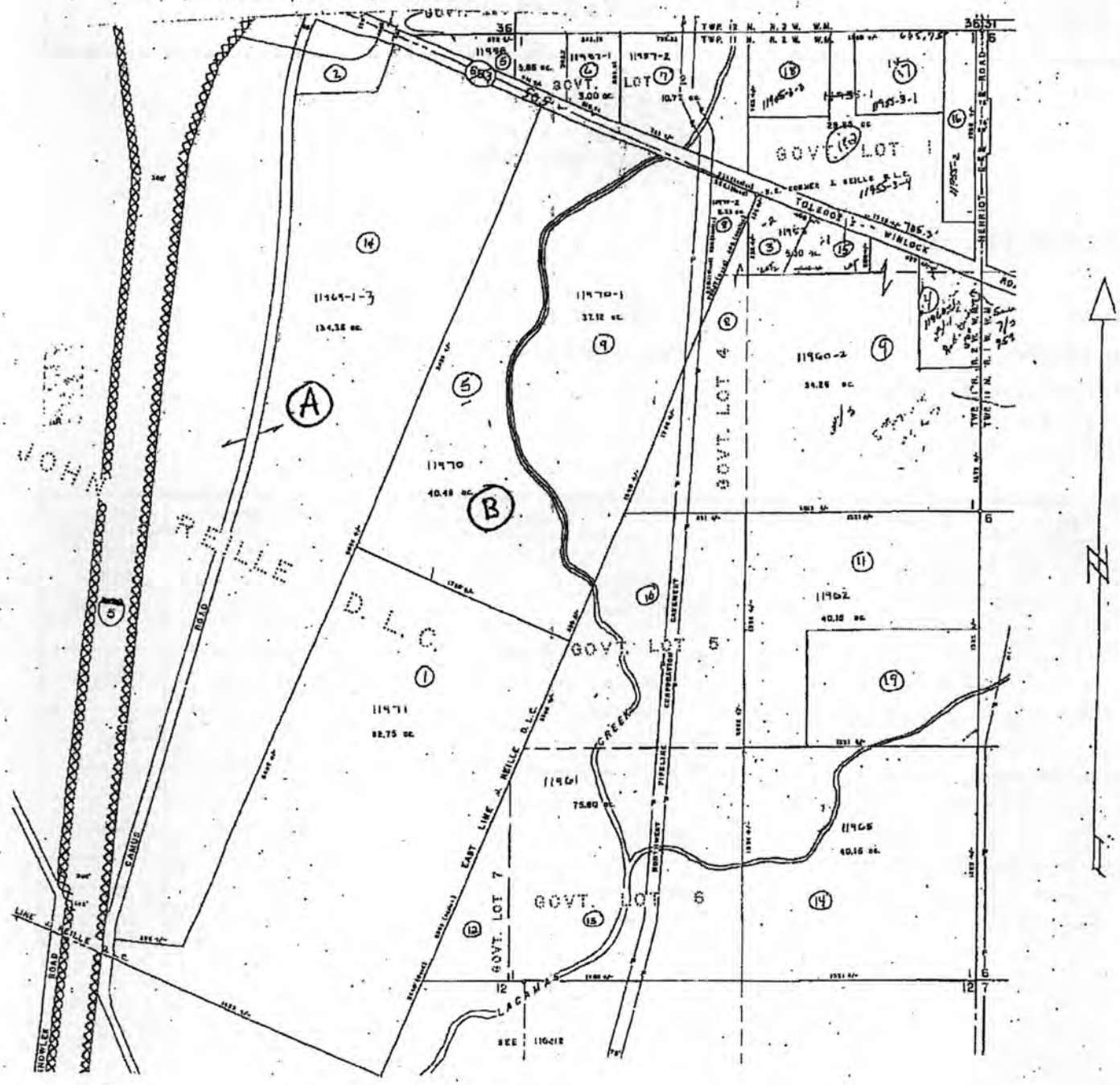
PARCEL A:

That portion of the East half of the West half and the West half of the East half of the John B. Reille Donation Land Claim, in Sections 1 and 2, Township 11 North, Range 2 West, W.M., and Sections 35 and 36, Township 12 North, Range 2 West, W.M., lying Easterly of Primary State Highway No. 1 (I-5), as described in deeds recorded under Auditor's File No. 516232 and 809601.
EXCEPT that portion described as follows:
BRGINNING at the Southeast corner of said West half of the East half of said Donation Land Claim; thence Northeasterly along the East line of said subdivision 252 feet; thence Westerly to a point on Camus Road 68 feet Northwesterly from its intersection with the South line of said Donation Land Claim; thence Southeasterly 68 feet to the South line of said Donation Land Claim; thence East to the Point of Beginning.
EXCEPT ALSO that portion described as follows:
BEGINNING at a point on the East side of Camus Road 467 feet South of the intersection of Camus Road and Highway 505; thence in a Northerly direction along Camus Road to the intersection with Highway 505; thence Easterly along Highway 505, 467 feet; thence in a Southerly direction 467 feet to a point 467 feet East of the Point of Beginning; thence in a Westerly direction to the Point of Beginning.
EXCEPT ALSO Highway 505 and Camus Road.

PARCEL B:

That portion of the following described property lying Westerly of Lacamas Creek:
That portion of the JOHN B. REILLE DONATION LAND CLAIM in Section 1, Township 11 North, Range 2 West, W.M., described as follows:
BEGINNING at the South one-quarter corner of said Section 1; thence West 437.58 feet (6.63 chains); thence North 22°45' East a distance of 2046 feet (31 chains) to the True Point of Beginning; thence North 67°15' West a distance of 1320 feet (20 chains); thence North 22°45' East a distance of 2640 feet (40 chains); thence South 67°15' East a distance of 1320 feet (20 chains) to the Northeast corner of said Donation Land Claim; thence South 22°45' West to the Point of Beginning.
EXCEPT Highway 505.

LEWIS COUNTY, WASHINGTON




This sketch is provided, without charge, for your information. It is not intended to show all matters related to the property, including, but not limited to, area, dimensions, easements, encroachments, or location of boundaries. It is not a part of, nor does it modify, the commitment or policy to which it is attached. The Company assumes NO LIABILITY for any matter related to this sketch. Reference should be made to an accurate survey for further information..

Lewis County, WA
Since 1845

# Lewis County Assessor

360 NW North Street
MS:ASR01
Chehalis, WA 98532

Phone: 360-740-1392
Fax: 360-740-1262

*Receipt No. 2014*

**Date:** **12/19/2014**

**Applicant:**

**Notebuyers LLC et al**
**16700 SE 35th Way**
**Vancouver, WA 98683**

Parcel No.
**11970, 11969-13-2, 11969-13-1**

| Date | Type | Check # | Description | Amount | Payment |
|---|---|---|---|---|---|
| 12/19/2014 | OSL | 2021 | Classification Application | $200.00 | $200.00 |
| | OSL | | Add'l Parcel | $55.00 | $55.00 |
| | OSL | | Add'l Parcel | $55.00 | $55.00 |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | **Total** | $310.00 |

## Inspector's Notes

Parcel No. 11970, 11969-13-2, 11969-13-1 Date: 11/27/15

Type: DFL OST OSFA OSFA CONS OSOS

This Property is Majority wet ground with lots of Brush & no very many trees. No Animals or Fencing (See Photos)

Sketch (if needed)

Inspector's Signature

**Lewis County, Washington**
**DEPARTMENT OF COMMUNITY DEVELOPMENT**

**Critical Area and Natural Resource Review on Application for Open Space Reclassification Lewis County Code 3.50.090(4)(a)**

**Applicant Name:** Notebuyers, LLC

**TAX PARCEL:** 011970000000, 011969013002, 011969013001

**Total Acres:** 40.00 ac, 103.40 ac and 42.00 ac

**Current Land Use Zoning (LCC 17):** RDD-20 & County Urban Reserve

**Furtherance of the Objectives of Chapter 17.30 LCC Resource Lands:**
*"The purpose of this chapter is to identify and conserve long-term commercially significant forest, agricultural and mineral resource lands designated pursuant to this chapter as required by the Growth Management Act of 1990…to conserve resource lands and protect human health and safety."*

1. FEMA Flood Zone: 530103 0465B; Flood Zone A, B & C;
   530103 0445B; Flood Zone C

2. Population Zone: NW ___, SW _X__, Mid-County ___, Gateway ___

3. Soil Type:

| | SCS#: | SCS Name: | Hydric | | Class: |
|---|---|---|---|---|---|
| | | | Yes | No | |
| a. | 118 | Lacamas silt loam | X | | Slight III |
| b. | 248 | Xerorthents | | X | Slight III |
| c. | 116 | Klaber silt loam | | X | Moderate II |
| d. | | | | | |

4. Mapped NWI wetlands: Yes _X_ No __

5. Water Type: None S Fa Fb Np Ns or if zoned ARL, None 1 2 3 4 5

6. Shoreline Jurisdiction? No ___ Yes _X__ Environment: Conservancy

7. Sensitive Wildlife Habitat? No ___ Yes _X__ Type: Spotted Owl Habitat

8. Geological Hazards? Slopes> 30%: Yes _ No _X_; Slide Area: Yes___ No _X_

9. Proximity of Resource Lands:

   a. Forestry Resource Lands within 500 feet? Yes __ No _X__
   b. Mineral Resource Lands within 1320 feet? Yes ___ No _X_
   c. Agricultural Resource Lands within 1320 feet? Yes __ No _X__

10. Would approval of this application further the objectives of LCC 17.30 Resource Lands? N/A

Consistency with the Lewis County Comprehensive Plan:
Natural Environment Sub Element, Page 4-61
GMA Requirements (9) *Open space and Recreation—Encourage the retention of open space and development of recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and discourage incompatible land uses.*

Open Space Goals: *The County recognizes the importance of open space corridors linking regions of the county and providing physical and visual relief to the built environment. In Lewis County the character of rural Lewis County is derived from its association with large acreage of lands in both the eastern and western portions of the county which are either park, wilderness or resource lands. Connecting these large blocks of land are corridors which flow to and through both the rural and urban areas, defining and separating the developed lands, defining the cities, and providing access and habitat for wildlife. The corridors follow the stream and river valleys and are comprised of steep slopes, agricultural resource land and flood hazard areas. Unlike park and recreation areas, open space lands may be either public or private ownership and are often to generally available to public access.*

Relevant Natural Environment Policies:
*NE 4.2 Encourage the preservation of natural buffers along the County's rivers, lakes and streams.*
*NE 4.3 Encourage the preservation of wetlands, open lands, and habitat areas for the benefit of the county's indigenous fish and wildlife and quality of life of county residents.*

Would approval of this application be consistent with the Lewis County Comprehensive Plan?
_yes_____

**Recommended conditions to assure conformity with any applicable zoning, the comprehensive plan, the neighborhood, and other applicable regulations:**_____

None_____