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03/02/2021 10:27 AM Pages: 1 of 8 Fees: \$110.50
Skagit County Auditor

Return Address:

Washington Dept. of Fish and Wildlife

Real Estate Services

600 Capitol Way N. Olympia WA 98501

Document Title:

Department of the Army Permit

Reference Number (if applicable): NWS-2020-157

Grantor(s):

☐ additional grantor names on page ____.

1) Washington Department of Fish and Wildlife

2) _____

Grantee(s):

☐ additional grantor names on page ____.

1) The Public

2) _____

Abbreviated Legal Description:

☐ full legal on page(s) ____.

That one-acre portion of Section 7, Township 35 North,
Range 03 East W.M., Skagit County, Washington, specifically
defined as the South fifty (50) feet of the West 875 feet of
the Northeast quarter of the Northwest quarter thereof.

Assessor Parcel /Tax ID Number:

☐ additional parcel numbers on page ____.

P 33877

Bridgette D. Glass, WDFW

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Exhibit A. DEPARTMENT OF THE ARMY PERMIT**Permittee:** Bridgette D. GlassWashington
Department of Fish and
Wildlife
600 Capitol Way North
Olympia, Washington 98501-**Permit No:** NWS-2020-157
1076**Issuing Office:** Seattle District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the U.S. Army Corps of Engineers (Corps) having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: Fill 0.41 acre of an unnamed wetland to construct a parking lot within Washington Department of Fish and Wildlife Samish River Wildlife Management Unit in accordance with the plans and drawings dated April 28, 2020, attached hereto which are incorporated in and made a part of this permit. The purpose of the project is to provide safe public access point to the Samish River Wildlife Unit.

Project Location: In an unnamed wetland in the Samish River Wildlife Unit at 6445 Bayview Edison Road near Edison, Skagit County, Washington.

Permit Conditions:*General Conditions:*

1. The time limit for completing the work authorized ends on January 7, 2024. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least 1 month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in accordance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification to this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For

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your convenience, a copy of the certification is attached if it contains such conditions.

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

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

Special Conditions:

- a. You must provide a copy of the permit transmittal letter, the permit form, and drawings to all contractors performing any of the authorized work.
- b. Permittee shall comply with the conditions specified in the Washington State Department of Ecology Coastal Zone Management Consistency Determination dated November 25, 2020.
- c. You shall implement and abide by the mitigation plan, Samish River Unit Parking Lot - Final Mitigation plan dated October 22, 2020. Mitigation shall be constructed before or concurrent with the work authorized by the permit.
- d. A status report on the implementation of the authorized work and on the construction of the mitigation shall be submitted annually to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch (Corps) by October 31st each year until mitigation construction is complete as determined by the Corps. This report must prominently display the reference number NWS-2020-157.
- e. An as-built mitigation construction report and as-built drawings of the mitigation area shall be submitted upon completion of mitigation construction, in lieu of the status report described in Special Condition "b." This report must be submitted to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch (Corps) for review and approval and must prominently display the reference number NWS-2020-157. The year mitigation construction is completed, as determined by the Corps, represents Year 0 for mitigation monitoring.
- f. Mitigation monitoring reports shall be submitted annually for 5 years to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch (Corps) by December 31 of each monitoring year. Year 1 monitoring will occur at least one year after completion of the mitigation site as determined by the Corps. All reports must prominently display the reference number NWS-2020-157.
- g. A delineation using the currently approved federal wetland delineation manual and appropriate regional supplement must be included with the final monitoring report and shall include all mitigation areas. If a performance standard requires increasing the rating category, the wetlands must be evaluated using the most current version of the Washington State Wetlands Rating System for Western Washington.
- h. To ensure the long-term protection of the mitigation site, you shall record on the mitigation site property deed a copy of this Department of the Army permit and a description of the mitigation area identified in the final mitigation plan. These documents shall be recorded with the Registrar of Deeds or other appropriate official charged with maintaining records on real property. Proof of this recorded documentation must be submitted to the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch prior to project construction.

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i. Your responsibility to complete the required compensatory mitigation as set forth in Special Conditions "c" through "h" will not be considered fulfilled until you have demonstrated mitigation success and have received written verification from the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch.

Further Information:

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:

- ☐ Section 10 of the Rivers and Harbor Act of 1899 (33 United States Code (U.S.C.) 403).
- ☒ Section 404 of the Clean Water Act (33 U.S.C. 1344).
- ☐ Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, State, or local authorization required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of the permit.

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b. The information provided by you in support of your application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 Code of Federal Regulations (CFR), Part 325.7 or enforcement procedures such as those contained in 33 CFR, Parts 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by

this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR, Part 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

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

Bridgette Glass

NAME OF PERMITTEE

1/6/2021

(DATE)

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

Matthew J. Bennett

for

Alexander "Xander" L.
Bullock Colonel, Corps of
Engineers District
Commander

7 January 2021

(DATE)

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

(TRANSFEE)

(DATE)

Exhibit B.

Proposed Mitigation Site

Washington Department of Fish and Wildlife (WDFW) owns the properties where the parking lot will be installed (Samish River Unit) and the wetland will be created as compensatory mitigation (Samish Unit). The Samish River Unit and the Samish Unit are part of the Skagit Wildlife Area. The units are located in Skagit County off Bayview Edison Road approximately one mile apart (Figure 1). The units are primarily used by the public for waterfowl hunting, fishing access to the Samish River, in the case of the Samish River Unit, and wildlife viewing and photography. Existing soil and vegetation will be removed from the site.

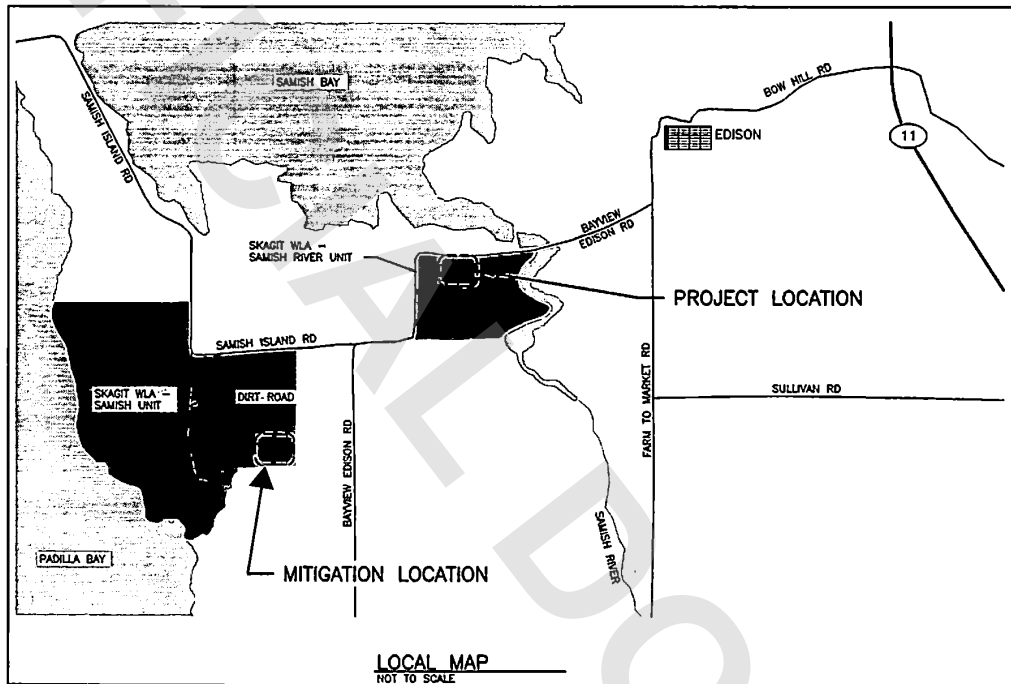


Figure 1. Overview of Construction and Mitigation for Samish River Unit Parking Lot Project.

The site was selected to mitigate for impacts within the same watershed where the impacts are occurring. The proposed development site is less than 200 meters from the Samish Bay. Studies have concluded that sea spray and deposition of salt is highest up to 200 meters from the coast and decreases the farther inland the site is (Blew & Edmonds, 1995; Hossain & Easa, 2011; Yu et al., 2013). The wetland unit in which the parking lot will be constructed does not meet the criteria for an estuarine wetland, but due to its proximity to Samish Bay, the wetland likely receives more salt deposition than wetlands located farther inland. The Samish River and Samish wildlife area units were former estuaries before dikes were installed suggesting similar soil types and histories. There is still some salt-water intrusion due to the proximity to Samish Bay and the high groundwater table that mixes with the surface water. This amount of salt deposition from the air, current seepage near the dikes, and that from previous land uses as an estuary in the soil, likely influences the ecology and vegetation found in the wetland unit. The proposed mitigation site at the Samish Unit is approximately 500 meters from Padilla Bay and likely has similar ecological characteristics to the wetland being impacted with the creation of the parking lot on the Samish River Unit. The compensatory wetland mitigation site has been chosen based on the similar soils, proximity to sea water, similar land use history, potential to increase size of existing wetlands in the Samish Unit, and the location provides the best alternative for replacing the functions that are lost within the same watershed.

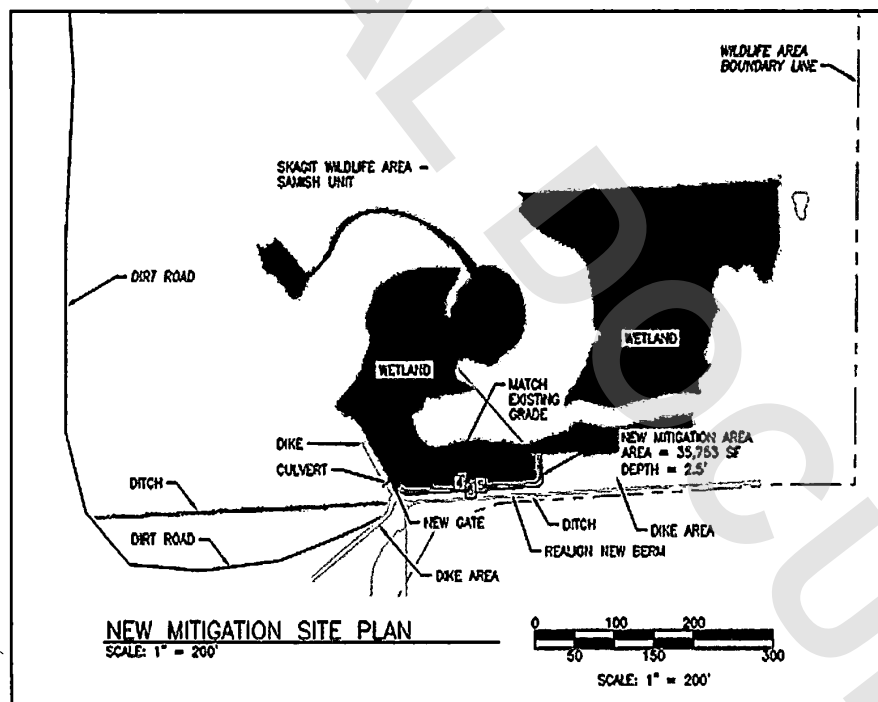


Figure 2. Proposed Mitigation Location