

**SHORELINE MANAGEMENT PERMIT  
ACTION SHEET**

RECEIVED  
AUG 23 2010  
Douglas County TLS

**Application #:** SP-10-06  
**Administering Agency** Douglas County Transportation and Land Services

**Type of Permit:** ■ Shoreline Substantial Development  
**Action:** ■ Approved □ Denied

**Date of Action:** August 20, 2010

**Date Mailed to DOE/AG**

Pursuant to Chapter 90.58 RCW and the Shoreline Master Program of Douglas County, a permit is hereby granted to:

**Grant County PUD  
15655 Wanapum Village Ln., SW  
Beverly, WA 99321**

To undertake the following development: for a shoreline substantial development permit for the installation of shoreline stabilization measures along the shoreline. Stabilization measures include soil lifts, placement of soil mats and soil bags, quarry spall placement, and mitigation plantings;

Upon the following property: The subject property is described as being located in Sections 16 and 25, Township 21N., Range 22 E., W.M., Douglas County, Washington;

Within 200 feet of Columbia River and/or its associated wetlands.

The project will be within a shoreline of state-wide significance (RCW 90.58.030). The project will be located within a Commercial Agriculture 10 acres (AC-10) Zoning District designation. The Douglas County Shoreline Master Program is applicable to this development.

Development pursuant to this permit shall be undertaken in conformance with the following terms and conditions:

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The project shall proceed in substantial conformance with the plans and application materials of file submitted on May 19, 2010 and amended on August 2, 2010 except as amended by the conditions herein.

3. Prior to commencing work, the applicant shall obtain all necessary permits from agencies with jurisdiction. This may include, but is not limited to: the Washington State Department of Fish and Wildlife (Hydraulic Project Approval), the United States Army Corps of Engineers Regulatory Branch (Section 10 &/or 404) the Washington State Department of Ecology (Section 401 Water Quality Certification), Washington State Department of Natural Resources Aquatic Use Authorization.
4. The applicant shall comply with all applicable local, state and federal regulations.
5. A copy of this permit and attached conditions shall be kept on-site and provided to the contractor and all others working within the shoreline area at all times. The applicant, contractor, machinery operators and all others working within the shoreline area shall have read this permit and attached conditions and shall follow its conditions at all times.
6. The erosion control fencing shall remain in place and be maintained until the installed vegetation has taken hold to protect the buffer from erosion and siltation.
7. The project application shall proceed consistent with the Biological Assessment and Engineering Plan Sheets prepared by Mason, Bruce & Girard, Inc., dated received on May 19, 2010, revised August 2, 2010.
8. Mitigation plantings shall be watered, as necessary, to ensure the survival requirements in Condition 11 are achieved. The amount, timing and method of watering shall be tailored to address the specific needs of riparian and shrub steppe vegetation.
9. Mitigation planting as shown on the amended engineering plan sheets, included with the memorandum from Justin Moffett, dated August 2, 2010 shall be planted upon completion of the project work.
10. A five year monitoring period shall commence upon placement of the planting materials.
11. The mitigation sites shall be maintained to ensure the management and mitigation plan objectives are successful. Maintenance shall ensure 80% survival during the 5 year monitoring period and shall include corrective actions to rectify problems, include rigorous, as-needed elimination of undesirable plants; protection of shrubs and small trees from competition by grasses and herbaceous plants, and repair and replacement of any dead plants.
12. Monitoring reports shall be submitted to Douglas County Transportation and Land Services 1 year after mitigation installation; 3 years after mitigation installation; and 5 years after mitigation installation. Monitoring reports shall be submitted by a qualified biologist, as defined by Douglas County Code. The biologist must verify that the conditions of approval and provisions in the biological assessment and engineering plan sheets submitted by Mason, Bruce & Girard, Inc., dated received May 1, 2010 and amended via the memorandum from Justin Moffett, dated August 2, 2010 have been satisfied.

13. If at the conclusion of the 5 year monitoring period, 80% survivability is not achieved, then corrective actions as outlined in Condition #8 shall be taken and yearly monitoring shall continue until 80% survivability can be demonstrated from the previous year.
14. Notwithstanding all other conditions, because the applicant has submitted an alternative irrigation plan due to special site considerations (no power or water system) therefore the biologist of record will provide a report on the plantings every other month during the growing season for the first year after planting to show that the irrigation plan is functioning and that the plantings are surviving. The reports will include photos of the mitigation planting areas.
15. If the irrigation plan fails to ensure survival of the mitigation plantings, then the Land Services Director has the authority to amend the mitigation plan to consider relocation of the failing mitigation plantings to a site where environmental conditions are more suitable for plant survival. If the parties cannot agree on the amendment to the plan, the project shall be remanded back to the Hearing Examiner for resolution.
16. Where a condition imposed herein may be found inconsistent with the requirements of the Washington State Department of Fish and Wildlife, HPA Permit, or permitting issued by the United States Army Corps of Engineers, the Douglas County Land Services Director shall have discretion to allow for project redesign consistent with the approvals granted by said agencies; if the redesign can be found consistent with the Douglas County Code, the Shoreline Master Program, and the Shoreline Management Act.
17. Substantial progress toward construction of the project for which this permit has been granted must be accomplished within two (2) years of the filing date of this permit. Authorization to conduct development activities granted by the permit shall terminate five (5) years from the filing date of the permit.

### **FINDINGS OF FACT**

1. The applicant is Grant County PUD, 15655 Wanapum Village Ln. SW, Beverly WA.
2. General Description: An application for a shoreline substantial development permit for the installation of shoreline stabilization measures along the shoreline. Stabilization measures include soil lifts, placement of soil mats and soil bags, quarry spall placement, and mitigation plantings.
3. The subject property is described as being located in Sections 16 and 25, Township 21N., Range 22 E., W.M., Douglas County, Washington.
4. The Comprehensive Plan Designation is Commercial Agriculture 10 acres (AC-10).
5. The subject property is located in the AC-10 zoning district.
6. The Columbia River Shoreline section of the subject property is designated as "Rural Conservancy" by the Douglas County Shoreline Master Program.

7. WAC 173-27-150 establishes minimum review criteria for Shoreline Management Substantial Development Permits. This criteria states that a substantial development permit shall be granted only when the development proposed is consistent with the policies and procedures of the Act; the provisions of this regulation; and the applicable master program adopted or approved for the area.
8. Wetlands are present at sites 4 and 6. Typing utilizing the Wetlands Rating System for Eastern Washington yielded that both wetlands are Type III wetlands. According to Section 2.050(B), Appendix H of the Douglas County Shoreline Master program; low to moderate intensity development requires a 75 foot buffer.
9. The biological assessment dated March 23, 2010 and the engineering plan sheets meet the basic criteria for a wetland management and mitigation plan found in Section 2.035, Appendix H of the shoreline master program.
10. All of the proposed activity will be located either within the aquatic habitat or the terrestrial buffer of the Columbia River.
11. The biological assessment dated March 23, 2010 and the engineering plan sheets meet the basic criteria for a fish and wildlife habitat management and mitigation plan found in Section 3.037, Appendix H of the shoreline master program.
12. The project analysis determined that a total of 31,780 square feet of mitigation is required. The applicant proposes to install 38,551 square feet of mitigation. This mitigation is proposed to be located within the stabilization areas, as well as, adjacent areas of sparse vegetation. The updated project engineering plan sheets included as attachment A to the memorandum from Justin Moffett detail the planting plan for the mitigation.
13. Section 2.035(J), Appendix H of the shoreline master program establishes the performance monitoring standards for wetland buffer mitigation.
14. Section 3.037(I), Appendix H of the shoreline master program establishes the performance monitoring standards for fish and wildlife habitat area mitigation.
15. No comments from reviewing agencies were received.
16. Grant County PUD issued a Determination of Non-significance on March 25, 2010 in accordance with WAC 197-11-340(2). The comment period ran from March 26, 2010 to April 26, 2010.
17. Surrounding property owners were given the opportunity to comment on the proposals, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
18. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.

19. WAC 173-27-090 requires that construction must be commenced within 2 years of the effective date of the shoreline permit and that authorization for construction shall terminate 5 years after the effective date of the shoreline permit.
20. The Douglas County Department of Land Services recommended approval of the requested permit, subject to the recommended conditions of approval.
21. An open record public hearing after legal notice was held on August 19, 2010. Appearing and testifying at the hearing on behalf of the applicant was Justin Moffett. Mr. Moffett testified that he was an agent authorized to appear and speak on behalf of the applicant. Mr. Moffett testified that the requested change in the irrigation plan, from irrigation to hand watering through an independent contractor, was due to the remote location of the site and the fact that there was no power on the site in order to run an irrigation system, and concerns over vandalism. Mr. Moffett testified that the applicant did not have any objection to any of the proposed conditions of approval and did not have any objection to any of the two new proposed conditions of approval.
22. Two members of the public spoke at this hearing.
  - 22.1 The first was Mike Sachs. Mr. Sachs testified that he was partial owner of property adjoining the subject property. He requested that the record remain open in order to discuss the project with the applicant's representatives to determine whether or not he wished to submit any written comments.
  - 22.2 Also testifying was Linda Robertson. Ms. Robertson had questions regarding the notice of the action that was mailed to her. She had concerns that there may be activity for the project done upland on her property.
23. Testifying on behalf of the applicant was Brandon Little with the Grant County Public Utility District. Mr. Little confirmed that all access to the subject property would be by barge and all activity on the subject property would be on the shoreline and not on the upland portions of the property.
24. In addition, Mr. Lillquist of Douglas County Transportation and Land Services stated that the notice provided to Ms. Robertson had outlined in blue the entire subject property for ease of convenience, and was not meant to portray that the project would take place over the entire parcel of property.
25. At the conclusion of the open record public hearing the Hearing Examiner left the record open until August 26, 2010, at 5:00 p.m. in the event Mr. Sachs or Ms. Robertson wished to submit any additional written testimony. The Hearing Examiner also stated that if, after speaking with the applicant's representatives, Mr. Sachs and Ms. Robertson did not wish to submit any additional written testimony, that they were to so notify Mr. Lillquist and that the Hearing Examiner would then promptly close the public record portion of the hearing and issue a written decision within the next 10 working days.
26. On August 19, 2010, approximately 4:00 p.m., Mr. Lillquist notified the Hearing Examiner that after speaking with the applicant's representatives, that Mr. Sachs and

Ms. Robertson both notified Mr. Lillquist that they did not intend to submit any additional written testimony and that the record may be closed.

27. By this decision, the Hearing Examiner therefore closed the open record portion of the hearing on August 19, 2010.
28. At the open record public hearing, the entire planning staff file was admitted into the record.
29. Supplemental materials were submitted by Staff at the hearing, including Exhibit 1 which is an August 18, 2010, memorandum from Land Services Staff to the Hearing Examiner with attachments.
30. Public agencies with potential jurisdiction over this project were given an opportunity to review the proposal. Agencies that responded with comments were admitted into the record and considered by the Hearing Examiner in rendering this Decision.
31. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

### **CONCLUSIONS**

1. The Hearing Examiner has been granted authority to render this Decision.
2. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
3. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Douglas County Countywide Comprehensive Plan and the Douglas County Shoreline Master Program.
4. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
5. As proposed, revised, and conditioned, potential impacts of the project can be mitigated.
6. Public interests will be served by approval of this proposal.
7. As conditioned, the proposal is consistent with Title 18 "Zoning" and Title 19 "Environment" of the Douglas County Code.
8. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

**This permit is granted pursuant to the Shoreline Master Program of Douglas County, as amended, and nothing in this permit shall excuse the applicant from compliance with any other federal, state, or local statutes, ordinances, or regulations applicable to this project, but not inconsistent with the Shoreline Management Act of 1971 (Chapter 90.58 RCW).**

This permit may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms and conditions hereof.

**CONSTRUCTION PURSUANT TO THIS PERMIT SHALL NOT BEGIN NOR IS AUTHORIZED UNTIL TWENTY-ONE (21) DAYS FROM THE DATE OF FILING AS DEFINED IN RCW 90.58.140(6) AND WAC 173-14-090, OR UNTIL ALL REVIEW PROCEEDINGS INITIATED WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SUCH FILING HAVE TERMINATED; EXCEPT AS PROVIDED IN RCW 90.58.140(5)(a)(b)(c).**

Substantial progress toward construction of the project for which this permit has been granted must be accomplished within two (2) years of the filing date of this permit. Authorization to conduct development activities granted by this permit shall terminate five (5) years from the filing date of this permit.

Approved this 20<sup>th</sup> day of August, 2010.

DOUGLAS COUNTY HEARING EXAMINER



---

Andrew L. Kottkamp

**Anyone aggrieved by this decision has twenty-one (21) days from the “date of receipt” as defined in RCW 43.21B.001 to file a petition for review with the Shorelines Hearings Board as provided for in Washington law.**

**THIS SECTION FOR DEPARTMENT OF ECOLOGY USE ONLY IN REGARD TO A  
CONDITIONAL USE OR VARIANCE PERMIT**

Date received by the Department \_\_\_\_\_

Approved \_\_\_\_\_

Denied \_\_\_\_\_

This conditional use/variance permit is approved/denied by the Department pursuant to Chapter 90.58 RCW.

Development shall be undertaken pursuant to the following additional terms and conditions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Authorized Department Official