

August 14, 2015

Steven L. Pfeiffer
SPfeiffer@perkinscoie.com
D +1.503.727.2261
F +1.503.346.2261

VIA ELECTRONIC MAIL

Heather Wade
Oregon Coastal Management Program
Oregon Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

Re: Certification of Consistency with the Enforceable Policies of the Oregon Coastal Management Program/NWP 2007-1024-2 North Coast, LLC

Dear Ms. Wade:

North Coast Retail, LLC ("North Coast") is seeking a permit from the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act (33 U.S.C. 1344) for the discharge of dredged or fill material into waters of the United States. Specifically, North Coast plans to fill 1.9 acres of jurisdictional wetland areas in order to facilitate relocation of an existing Ford dealership to the north coast in Warrenton, Oregon (the "Project"). The Project will be constructed on an approximately 6.62-acre site, and include one large commercial building, potential necessary structures, and a car storage and parking area to cover the remainder of the site. Additionally, the existing stormwater pond A2 will be revised to accommodate the proposed development and will continue to discharge into the existing stormwater outfall.

The Project will be located in the coastal zone of Clatsop County in the State of Oregon and is required to obtain a federal approval or permit, described above. Accordingly, the Coastal Zone Management Act requires that the Project be consistent with the applicable enforceable policies of the Oregon Coastal Management Program ("OCMP"). North Coast certifies that the proposed activity complies with these enforceable policies of the Oregon-approved management program and will be conducted in a manner consistent with the OCMP. Pursuant to the National Oceanic and Atmospheric Administration regulations at 15 C.F.R. § 930.58, North Coast must submit the information set forth in this letter and attached exhibits in support of its certification of consistency, and the State of Oregon has thirty days to advise of any missing information. North Coast is specifically obligated to supply the following:

1. A copy of the application for the federal license or permit

A copy of North Coast's application to the U.S. Army Corps of Engineers for approval to fill 1.9 acres of jurisdictional wetland areas in order to facilitate development of the Project under Section 404 of the Clean Water Act (the "Application") is attached hereto as Exhibit A.

2. All material relevant to a state's management program provided to the federal agency in support of the application

A copy of environmental documentation supporting the Application is attached hereto as Appendices A, B and C to Exhibit A.

3. To the extent not provided pursuant to the above, a detailed description of the proposed activity, its associated facilities, the coastal effects, and any other information relied upon by the applicant to make the certification that "[t]he proposed activity complies with the enforceable policies of the Oregon Coastal Management Program and will be conducted in a manner consistent with such program"

The exhibits provided pursuant to numbers 1 and 2 above satisfy this requirement.

4. Information specifically identified in the management program as required necessary data and information for an applicant's consistency certification

No specific data have been identified as being required for applicant's consistency certification under the OCMP. OAR 660-035-0050(5) requires that "supporting information shall include a detailed description of the proposal, a brief assessment of likely effects on the coastal zone, and findings indicating that the proposed activity, its associated facilities, and their combined effects are all consistent with the provisions of the OCMP. Any draft and final environmental impact statements and supplements shall also be included in the supporting information. The applicant may use the information it has provided for local, state and/or federal permits if such information also meets the requirements of this section." The required information is included in the local, state, and federal permit applications. A summary of the information is provided below and in the attached exhibits.

5. An evaluation that includes a set of findings relating the coastal effects of the proposal and its associated facilities to the relevant enforceable policies of the management program

The enforceable policies of the OCMP include: (1) Oregon's Statewide Planning Goals, (2) the applicable acknowledged city or county comprehensive plans and land use regulations, and (3) selected state authorities (e.g., the Oregon Department of State Lands, the Oregon Department of Fish and Wildlife, the Oregon Department of Environmental Quality, the Marine Board, and the Oregon Parks and Recreation Department). The principal mechanism by which an applicant demonstrates consistency with the OCMP is by obtaining the state and local permits and approvals that are required by the selected state authorities and the City of Warrenton, pursuant to the Oregon land use planning system.

The following required permits have been obtained for the Project, which demonstrates consistency with the OCMP:

a) State Permits

- i. Department of State Lands, Removal-Fill Permit No. 56938-FP. The Oregon Department of State Lands permit is attached as Exhibit B.
- ii. Construction Stormwater Control Permit, EPA Number ORR10C352. The Oregon Department of Environmental Quality's permit is attached as Exhibit C.
- iii. Section 401 Water Quality Certification for the North Coast Retail Center Ford dealership, Warrenton, OR, No. 2007-01024-2. The Oregon Department of Environmental Quality's certification is attached as Exhibit D.

b) Local Permits

- i. City of Warrenton, Notice of Decision and Order, Richenbach Applications SDR 15-4 and V15-1. The City's Notice of Decision and Order is attached as Exhibit E.

We appreciate your consideration. Please advise if any additional information is required to demonstrate North Coast's consistency with the enforceable policies of the OCMP.

Very truly yours,



Steven L. Pfeiffer

TGJ

EXHIBIT A

Joint Permit Application

This is a joint application, and must be sent to both agencies, who administer separate permit programs. Alternative forms of permit applications may be acceptable; contact the Corps and DSL for more information.

DATE STAMP



U.S. Army Corps of Engineers
Portland District



Oregon Department of State Lands

Corps Action ID Number	DSL Number
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(1) APPLICANT AND LANDOWNER CONTACT INFORMATION

	Applicant	Property Owner (if different)	Authorized Agent (if applicable) <input checked="" type="checkbox"/> Consultant <input type="checkbox"/> Contractor
Name	Wes Giesbrecht		Martin Schott
Mailing Address	North Coast Retail, LLC		Schott and Associates
City, State, Zip	PO Box 791		PO Box 589
Business Phone	Mercer Island, WA 98040		Aurora, OR 97002
Cell Phone	206.749.9600		503.678.6007
Fax			503.678.6011
Email	atlin@qwestoffice.net		martin@schottandassociates.com

(2) PROJECT INFORMATION

A. Provide the project location.

Project Name North Coast Retail Center	Project Address / Location SW corner of SE Ensign Lane and SE 19 th Street	Tax Lot # 7300
County Clatsop	City (nearest) Warrenton	Latitude & Longitude* 46.1443/-123.9133
Township 8N	Range 10W	Section 27
Quarter/Quarter C		

Brief Directions to the Site
Highway 101 North, Right on SE Ensign Lane. Site is south of Ensign Lane, across from Costco.

B. What types of waterbodies or wetlands are present in your project area? (Check all that apply.)

River / Stream Non-Tidal Wetland Lake / Reservoir / Pond
 Estuary or Tidal Wetland Other Pacific Ocean

Waterbody or Wetland Name** Wetland 1, 2, 3, 4, 5, 6	River Mile	6 th Field HUC Name Skipanon River- Frontal Columbia River	6 th Field HUC (12 digits) 170800060208
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C. Indicate the project category. (Check all that apply.)

Commercial Development Industrial Development Residential Development
 Institutional Development Agricultural Recreational
 Transportation Restoration Bank Stabilization
 Dredging Utility lines Survey or Sampling
 In- or Over-Water Structure Maintenance

(2) PROJECT INFORMATION

Other:

* In decimal format (e.g., 44.9399, -123.0283)

** If there is no official name for the wetland or waterway, create a unique name (such as "Wetland 1" or "Tributary A"). The name should be consistent with other project documents, such as a wetland delineation report and drawings.

(3) PROJECT PURPOSE AND NEED

Provide a statement of the purpose and need for the overall project.

To allow for Astoria Ford, a business that has been in this area for 90 years, a site of a size and location with necessary retail visibility to allow the retailer to expand, modernize, and compete in this market area by providing a full range of automotive services and vehicle inventory for sale.

Currently Astoria Ford is located on a two acre site in a relatively isolated location on the south side of Astoria. There is little supporting retail and no other car dealerships in the vicinity. The buildings were constructed in the early 1900s and are not adequate to facilitate the services necessary for an automotive sales center in 2014. The existing site is approximately 2 acres which is less than half of the 5+ acres required by Ford Motor Corporation to open a new facility, as reflected in the attached 2014 Planning Guide outlining Ford's requirements for a new car dealership. Under such siting requirements, Ford requires at least 5.02 net useable acres. North Coast Retail LLC can provide 5.3 developable acres (1.33 acres have been reserved for stormwater facilities) at a price that Astoria Ford can justify economically and at a highly effective retail location.

It is important for Astoria Ford to locate to the North Coast Retail Center for two reasons. First, the North Coast Retail has become the retail hub for the North Coast with Costco, Home Depot, Goodwill, T.J. Maxx, Fred Meyer, a proposed Wal-Mart super store, and others providing the largest concentration of retail in the region. These major retailers are a significant draw and attract traffic from all over the market area. Second, car dealerships tend to be more successful when there is complimentary shopping. Toyota, Scion, Chrysler, Dodge, Ram, Jeep, Kia, Chevrolet, GMC, Oldsmobile, and Cadillac all have dealerships in this neighborhood and Ford is the only major not in the vicinity. Larger, concentrated shopping areas provide consumers with a variety of shopping options in one location.

The proposed development will provide more sales and service opportunities for the growing populations of Warrenton, Astoria, and surrounding communities, as well as provide a range of job opportunities from entry-level administrative to management and professional sales. Astoria Ford currently employs 30 people. The proposed expansion would create 15 additional jobs within the local community, for a total of 45 employees. These jobs include mechanics, entry level administration, management positions, and sales personnel.

Astoria Ford has been in business in this location for over 90 years. Its main competitors have all moved to the North Coast area into modern facilities where they benefit from proximity to each other. In order to remain a viable business Astoria Ford needs to expand into new buildings in a location that offers high visibility and is large enough to provide all of the functions necessary to operate a successful car dealership.

(4) DESCRIPTION OF RESOURCES IN PROJECT AREA

A. Describe the existing physical and biological characteristics of each wetland or waterway. Reference the wetland and waters delineation report if one is available. Include the list of items provided in the instructions.

Based on soil, vegetation and hydrology data taken in the field six depressional wetlands totaling 82,560sf (1.9 acres) were identified on the subject property. All wetlands were palustrine emergent (PEM) except

(4) DESCRIPTION OF RESOURCES IN PROJECT AREA

for Wetland 6. Also present were two non-jurisdictional stormwater detention ponds and a portion of a jurisdictional stormwater outfall (2,758sf onsite). A delineation report (WD#2013-0284) was submitted to DSL and concurred with in April 2014. Wetlands were assessed using the Oregon Rapid Wetland Assessment Method (ORWAP).

Wetland 1 (68,824sf onsite) was a series of depressions and drainage swales covering the majority of the western one half of the subject property. Vegetation within the wetland was dominated by slough sedge (*Carex obnupta*) and soft rush (*Juncus effusus*). An old vegetated ditch draining south was thick with water parsley (*Oenanthe sarmentosa*). Soils were mixed and appeared to be fill or subsoil but were determined to meet hydric soil criteria. Algal matting and low topographic position characterized all the wetland areas. The adjacent upland areas were slightly to significantly topographically higher. Soils were also mixed but did not exhibit hydrology indicators. Vegetation was a similar mix of species as that found in the wetlands, but with a dominance of trailing blackberry (*Rubus ursinus*) as well as common velvet grass (*Holcus lanatus*). Scot's broom (*Cytisus scoparius*) was thick along the fill slopes. The ditch extended south and the wetland continued offsite.

Wetland 2 was an isolated 189sf depression located between Wetland 1 and Storm Water Pond A1. Vegetation within the wetland was composed entirely of slough sedge, with algal matting observed in the remaining bare ground. Soils were mixed, but met the Depleted Matrix (F3) hydric soil criteria and were determined to be wetland primarily based on vegetation and hydrology indicators. The adjacent upland was significantly higher topographically. Vegetation was dominated by trailing blackberry or a mix of trailing blackberry and slough sedge. Water observed in the storm water pond east of the wetland was approximately 5 feet deeper than the adjacent upland. Water from the facility was diverted east and south. The wetland was not connected to the water quality facility.

Wetland 3 (7,337sf) was another isolated depression located in the south central portion of the property, just west of Storm Water Pond A2. Vegetation was dominated by slough sedge as well as velvet grass, arctic rush (*Juncus arcticus*) and Hookers willow (*Salix hookeri*). Soils met the F3 hydric soil indicator and algal matting was observed. The adjacent upland was characterized by thick salal (*Gaultheria shallon*) as well as trailing blackberry and sword fern (*Polystichum munitum*). Soils were mixed and plots were topographically higher than the adjacent wetland with no hydrology indicators.

Wetland 4 (1,724sf) and Wetland 5 (851sf) were smaller isolated depressions located in the eastern part of the site. Vegetation in these wetlands was predominantly slough sedge. Soils met the Redox Dark Surface (F6) hydric soil indicator and saturation was observed within six inches from the surface during the March site visit. Adjacent upland vegetation was a mix of hydrophytic and non-hydrophytic species including salal, trailing blackberry and slough sedge. Soils were mixed and no hydrology indicators were observed.

Wetland 6 (877sf onsite) was a palustrine scrub shrub (PSS) wetland of which only the northern portion was located onsite. It was indirectly connected to the offsite water quality ditch. Vegetation was dominated by Hookers willow, velvet grass and colonial bentgrass. Soils were depleted (F3) and saturation was observed 3 inches from the surface. The adjacent upland area was dominated by velvet grass. Soil and hydrology criteria were not met.

Two water quality ponds were also present onsite. These ponds were man-made for stormwater detention when SE Ensign Lane was constructed. Water flows from the north pond south along SE 19th Street into the south pond and then west off the site. These ponds are not jurisdictional and were not assessed.

The outfall swale from stormwater pond A2 (2,758sf onsite) was determined to be state jurisdictional.

Wetlands are not connected to any fish bearing waterway and no access to the site is available to fish, including listed species. Wetlands and water quality ponds may provide breeding habitat for amphibians.

(4) DESCRIPTION OF RESOURCES IN PROJECT AREA

Deer were observed browsing the site during the wetland delineation. Due to the connectivity of the site to a larger undeveloped area it is expected that there is intermittent use of the site by deer and possibly elk or other large mammals for feeding. The site likely provides habitat to small mammals.

Wetlands were assessed using ORWAP. Wetlands 2, 3, 4 and 5 are small isolated depressions with a mix of native and non-native grasses and forbs. Because the wetlands retain water unreasonably high scores were given for water quality group functions. There are no sources of nitrogen or phosphorus to be retained and the wetlands should not have these high scores. Other functions were generally low except for Aquatic Support Group which scored high for amphibian and reptile habitat. Onsite wetlands do not provide the appropriate type of vegetation combined with seasonal inundation to support amphibian breeding. No amphibians or reptiles were observed onsite during any of the site visits. This function is also believed to be erroneously high.

Wetlands 1 and 6 have either a direct or indirect outlet to the offsite water quality ditch and were assessed separately. Scores are similar to those for the other onsite wetlands with the exception of the Water Quality Function which was somewhat lower presumably because they are not isolated wetlands. Wetland 1 is the largest and most convoluted wetland with a direct connection to the offsite water quality swale. Data sheets and summary pages of assessed wetlands are included in the appendix to this application.

No vernal pools, bogs, fens, mature forested wetland, seasonal mudflats, or native wet prairies were identified in or near the project area

B. Describe the existing navigation, fishing and recreational use of the waterway or wetland.
None.

(5) PROJECT SPECIFIC CRITERIA AND ALTERNATIVES ANALYSIS

Describe project-specific criteria necessary to achieve the project purpose. Describe alternative sites and project designs that were considered to avoid or minimize impacts to the waterway or wetland.

Project Criteria

When searching for a location for the new Astoria Ford facility, the following criteria represent minimum siting requirements (see Appendix A):

- Located within the northern end of Tillamook-Astoria corridor. (sales tax and population density considerations)
- Highway 101 direct accessibility.
- Highway 101 visual retail exposure.
- Consistent with local land entitlement requirements.
- Developable property at least 5.02 acres in size.
- Single ownership.
- Generally flat topography.
- Proximity to other auto dealerships.
- Utilities readily available.
- Available for purchase at suitable price.

These minimum project criteria require a site with necessary site characteristics at a suitable location within the northern segment of the Tillamook-Astoria corridor, based upon the need for immediate proximity to Washington residents and the highest population density within the corridor. Generally,

(5) PROJECT SPECIFIC CRITERIA AND ALTERNATIVES ANALYSIS

flat topography is needed for functional car display, maneuvering and storage. Exposure and ready access to Highway 101 is essential to attract customers. The property also needs to accommodate the proposed Astoria Ford facilities with a preferred layout of indoor show space, administrative offices, service bays, and minimum acceptable parking for buyers as well as inventory storage (see Appendix B). The proposed layout for the updated Astoria Ford improvements with necessary amenities will cover approximately 5.3 acres, with an additional 1.33 acres dedicated to stormwater facilities. It is also critical that there are other car dealerships in the vicinity to facilitate competitive shopping. Additional selection criteria for the property included consistency with local land uses, readily available utilities, available for purchase, and under single ownership.

Locational Requirements

- *Regional Hub*

Warrenton has become the regional retail hub of the Oregon north coast and Washington south coastal area. Highway 101 provides a major arterial that allows traffic to flow north south on a relatively flat open roadway. To access similar full services auto oriented retail facilities, customers currently travel along one of two heavily congested mountain roads, namely Highway 26 or 30 to either Portland or Longview. The purpose for locating a Ford dealership in Warrenton is to give auto purchasers a range of goods and services that are not currently available in this market without depending upon the lengthy, time consuming and often dangerous travel routes noted above.

- *Alternate Locations*

Geographically, Warrenton's proximity to Highways 101, 26, 30, and 202 allows customers convenient access from up and down the coast and from the inland areas, and no other coastal towns offer the same level of central access or, as described below, acceptable sites.

- Astoria: Although the largest population center in the service area, Astoria is located at the north end of the corridor and is inconvenient to access from other parts of the region. The topography within Astoria's urban area consists primarily of exceedingly steep terrain down to the Columbia River, and there are no parcels of land large enough to accommodate a new auto dealership facility within this city's urban growth boundary. Due to this lack of appropriately zoned land as well as no other nearby dealerships, Astoria is not a viable option.
- Seaside: This town simply lies too far south on the Hwy 101 corridor to provide adequate accessibility for the significant number of customers living in Astoria or east along Hwy 30. Further, the absence of adequately sized parcels of appropriately zoned land and no concentration of major retail, other than an outlet center and a small Safeway store, Seaside is not an acceptable location to serve the market demand.
- Cannon Beach: This is primarily a beach resort town with a preponderance of tourist users and has no ability to accommodate an auto facility of this size. Specifically, there are no adequately sized parcels of flat commercially zoned land available, it is even further south than Seaside, and there are no other nearby retailers necessary to provide retail sales synergy.
- Tillamook: Although Astoria Ford will draw from as far south as this town, this is the distant southern boundary of the service area. This town would be extremely inconvenient for shoppers to access from the north end of the market. Further, there are no appropriately zoned flat parcels of adequate size available for a facility of this size and locational requirements. These circumstances, together with the lack of

(5) PROJECT SPECIFIC CRITERIA AND ALTERNATIVES ANALYSIS

adjacent auto retail facilities, render Tillamook an inappropriate location for a new Astoria Ford dealership.

For the above reasons, Warrenton, with its central location, proximity to the majority of households in the service area, convenient and constructed highway access and retail viability, a large parcel of appropriately zoned commercial land next to other major retailers is the only practicable location for the proposed dealership of this scale within the defined service area.

- *Existing Traffic Infrastructure*

The North Coast Retail Center is located at the corner of Highway 101 and Ensign Lane, which is one of the highest traffic count intersections in the area. With multiple turn and deceleration lanes and a multi-phase traffic signal, this reconstructed intersection is designed to accommodate in excess of 40,000 cars a day. This is the only intersection in the entire region that has this capacity to handle this volume of traffic. In addition, Ensign Lane connects directly to Hwy 101 alternate which is in effect the Astoria bypass and short cut to the coast from Hwy. 30. This combination of convenient and adequate access to local residents and the confluence of regional arterials of adequate roadway capacity and retail visibility make this the only practicable retail location in the area.

- *Retail Proximity*

Other major retailers have recognized the strategic location of Warrenton and the North coast Retail Center. Costco, Home Depot, Fred Meyer, Ross Dress for Less, T.J. Maxx, Goodwill, Staples, Rite Aid, Walgreens, Petco, and Dollar Tree have all located in this market due its convenient location. This significant co location of retail uses provides significant and essential synergy between retailers in that the creation of such a larger critical mass of retail services generates a broader range of goods and services that will attract even more customers and give consumers less incentive to take their dollars out of the market area. Until the recent assemblage of significant retailers at this location, there was substantial retail leakage in this market as consumers have historically not had a broad range of retail options necessary to foster a reliance upon local retail services.

- *Exposure to Hwy 101*

For retailers, exposure to roadways with high traffic counts is an essential siting requirement. The subject site not only enjoys significant visibility from Hwy 101 and adjacent development retail sites but has existing and readily accessible access from this main highway to the proposed site via Ensign Lane. None of the other sites evaluated provide this combination of access and exposure.

- *Appropriate Zoning*

The site is zoned C-1 which is a highway commercial zoning. There is a very limited amount of this type of zoning in the vicinity so there is limited opportunity to develop a new dealership in immediate proximity to other dealerships.

- *Demographics*

The overall region has strong demographics and consists of about 100,000 people. To the north the market area extends past the Long Beach Peninsula and south along Hwy 101 to Tillamook and Manzanita. Estimated household income is just under \$50,000. These are strong demographic characteristics for an auto dealership.

This combination of strategic and highly visible location within the overall regional commercial hub, adequate local and regional highway access and roadway capacity, the synergy of other retail, the

(5) PROJECT SPECIFIC CRITERIA AND ALTERNATIVES ANALYSIS

existence of critical utilities, along with the appropriate zoning and strong demographics make Warrenton and the North Coast Retail Center the best site for the proposed auto dealership.

Evaluation of Alternatives

Four different project locations (Figure 3), including the proposed location, were analyzed to determine which site would best meet the site location, accessibility and on-site development requirements. These sites include: 1) the North Coast Retail Center Site, 2) the Warrenton Fiber Property, 3) the Port of Astoria Property, and 4) the Willener Property. An evaluation of how these sites meet or do not meet the project criteria is discussed below. All properties are located within northern segment of the Tillamook/Astoria corridor, in the City of Warrenton, Oregon. A brief reconnaissance for critical areas was conducted at all sites.

1. The North Coast Retail Center Site has exposure to Highway 101 with significant frontage along Ensign Lane, which is to be dedicated as a State Highway. Convenient access is provided through a large volume intersection at Ensign Lane and Highway 101. The property is zoned commercial and is at the hub of the retail core with the proposed Wal-Mart directly to the west and Costco across Ensign Lane to the north. The main entrance that will serve both Wal-Mart and Costco will provide access to the Astoria Ford property. Further, the direct vehicular access to the Astoria Ford site is via a shared driveway with Wal Mart, which will ensure direct retail visual exposure for both the overall Ford dealership and, more specifically, for the new used vehicle display activity. The site has 5.3 developable acres, which is flat and includes utilities. An additional 1.33 acres have been developed with stormwater facilities. All major car dealers in the market are in the vicinity, the site is under single ownership, and it is available for purchase at a price that works economically for Astoria Ford. According to the DSL concurred wetland delineation dated April 28, 2014 approximately 45 percent of the site is covered by non-significant wetlands.
2. The Warrenton Fiber Property is located along Highway 101 Alternate Route with no direct Highway 101 access. The property could only be accessed from the east-bound lane. Exposure is good along Highway 101 Alternate Route and zoning is currently commercial. All major auto dealerships are in the vicinity. Topography is flat, utilities are available, and the site is under single ownership. Although the site is for sale the owners are unwilling to carve off a 4-5 acre parcel for Astoria Ford. All wetlands have been filled but the underlying soils conditions are such that the site will be extremely difficult and expensive to develop for Astoria Ford's intended use, and we can provide additional geotechnical and attendant supplemental mitigation cost information as necessary.
3. The Port of Astoria Property is located along East Harbor Street. Although it is close to the original Warrenton downtown, this site is too far from the majority the traffic generating retail, Highway 101, and the other car dealerships to be a viable candidate. Topography is generally flat, utilities are readily available, and the site is zoned commercial. At 2.48 acres the site is too small. Field reconnaissance indicates it contains 95 percent wetlands, which are mapped as Significant by the LWI.
4. The Willener Property is located near the intersection of Highway 101 and the Highway 104 Spur. Exposure to Highway 101 is limited and access from 101 is unlikely because of Oregon Department of Transportation requirements for traffic light spacing. Zoning is currently residential and the City of Warrenton is not supportive of a rezone. The property is available for purchase, utilities are readily available, topography is flat, and there is a single landowner; however, the site was found to be approximately 80 percent wetland, which are mapped by the

(5) PROJECT SPECIFIC CRITERIA AND ALTERNATIVES ANALYSIS

LWI as Non-significant.

Upon examination of the properties detailed above, the Warrenton Fiber Property was eliminated based on difficult access, very poor soils conditions and attendant geotechnical mitigation costs, and the unwillingness of the ownership to sell a parcel that is the appropriate size for Astoria Ford. As it is too far from the commercial hub with no exposure to Highway 101 and is only 2.48 acres the Port of Astoria site is not a viable alternative. The Willener Property was not chosen because of difficult access, lack of exposure to Highway 101, it was found to be nearly 80 percent covered in wetlands, and very significant fill would be required to raise the property out of the flood plain to obtain FEMA compliance. The North Coast Business Park Site was selected because it met the minimum acceptable levels of the project criteria.

Alternative Site Designs and Avoidance

At 5.3 developable acres the North Coast Retail site is ideal for Astoria Ford. Guidelines established by Ford Motor Corporation require a site with approximately 5 acres of useable land (see Appendix B). To meet their requirements as nearly as possible there is no room to avoid the impacting of virtually all wetlands on the site to achieve maximum usable area. As noted above, the direct vehicular access to the Astoria Ford site is via a shared driveway with Wal Mart, which will ensure direct retail visual exposure for both the overall Ford dealership and, more specifically, for the new used vehicle display activity. Further, due to the irregular shape of the wetlands, it is not practical to place the building and parking lot in areas that do not impact wetlands. Designing the parking lots and interior roads to avoid wetlands, even if feasible, also would result in surrounding most wetlands with impervious surfaces, functionally isolating and indirectly impacting them. Structured parking is not an option as it is prohibitively expensive at approximately \$30,000 per stall. Astoria Ford needs 459 stalls so the total costs would be about \$13,770,000 to provide structured parking. By comparison the costs of creating a surface parking stall is about \$2,000 for an approximate total of \$918,000. No car dealership in a suburban market can afford added costs of this magnitude to avoid filling wetlands. For the above reasons, there are no practicable alternatives to achieve the Astoria Ford project purposes which will not impact all of the wetlands on the proposed site. See Appendix C, Site Plan, for a full depiction of site design features.

Conclusion

After a comparing the alternative sites with the project criteria, the Applicant determined that the North Coast Retail Center Site was the most viable option, meeting the minimum acceptable levels for all criteria. The 5.3-acre commercial development will impact approximately 1.9 acres of wetlands. Due to the configuration of the wetlands it is not practical to select a layout that will not affect all of the wetlands on the site and still meet Astoria Ford's facilities requirements. Wetland impacts will be fully mitigated by participating in DSL's fee-in-lieu program achieving the goal of no net loss. It is acknowledged the fee-in-lieu contribution from the Astoria Ford project will be used to restore wetland functions in habitat of much greater ecological value than currently provided by the wetlands on the Astoria Ford site.

References

Clatsop County Community Profile. March 2005. Clatsop County Demographics and General Overview.

Oregon Employment Department. November 2006. Regional Profile Population in Region 1.

(5) PROJECT SPECIFIC CRITERIA AND ALTERNATIVES ANALYSIS

Portland State University Population Research Center. 2007. Population Growth in Oregon: 2000-2007.

(6) PROJECT DESCRIPTION

A. Briefly summarize the overall project, and describe activities within waters and wetlands as well as sources of fill material and disposal locations if known.

The proposed project is a Ford dealership to include one large commercial building and a car wash, with a car storage and parking area to cover the remainder of the site. All onsite wetlands (1.9 acres) are proposed to be filled for construction. Stormwater Pond A2 will be resized to accommodate the proposed development and will continue to outfall into the existing jurisdictional stormwater outfall. See attached summary table below.

Is any of the work underway or already complete? Yes No
If yes, describe.

B. Fill Volumes and Dimensions (if more than 3 impact sites, include a summary table as an attachment)

Wetland / Waterbody Name *	Fill Dimensions					Duration of Impact**	Material***
	Length (ft.)	Width (ft.)	Depth (ft.)	Area (sq. ft. or acres)	Volume (c.y.)		
Wetland 1	Varies	Varies	Varies	68,824sf	17,844	Permanent	Soil, gravel, concrete
Wetland 2	17	12		189	35	Permanent	Soil, gravel, concrete
Wetland 3	65	100		7,337	1,630	Permanent	Soil, gravel, concrete
Wetland 4	80	20		1,724	192	Permanent	Soil, gravel, concrete
Wetland 5	55	15		851	220	Permanent	Soil, gravel, concrete
Wetland 6	170	Varies		877	225	Permanent	Soil, gravel, concrete
SW Area	65	43		2,758	600	Permanent	Soil, gravel, culvert
Total Fill impacts	Stream length (if applicable)			Area (sq. ft or acres)		Volume	
				82,560sf		20,746cy	

C. Removal Volumes and Dimensions (if more than 3 impact sites, include a summary table as an attachment)

Wetland / Waterbody Name*	Removal Dimensions					Duration of Impact**	Material***
	Length (ft.)	Width (ft.)	Depth (ft.)	Area (sq. ft. or acres)	Volume (c.y.)		
Total Removal Impacts	Stream length (if applicable)			Area (sq. ft or acres)		Volume	

* If there is no official name for the wetland or waterway, create a unique name (such as "Wetland 1" or "Tributary A"). The name should be consistent with other project documents, such as a wetland delineation report and drawings.

** Indicate the days, months or years the fill or removal will remain. Enter "permanent" if applicable. For DSL, permanent removal or fill is defined as being in place for 24 months or longer.

*** Example: soil, gravel, wood, concrete, pilings, rock etc.

D. Construction Methods. Describe how the removal and/or fill activities will be accomplished to minimize impacts to waters and wetlands.

Construction methods will be determined by the contractor onsite. The entire site will be graded and filled. Fill material will be imported from offsite. Best management practices for erosion control will be followed including installation of rock construction entrance and placement of sediment fencing. Stockpile and staging areas will be located outside existing wetlands

Estimated project start date: June 2015 Estimated project completion date: October 2016

(6) PROJECT DESCRIPTION

Number of drawings included with this application: 8

(7) ADDITIONAL INFORMATION

Are there any state or federally listed species on the project site? Yes No Unknown

Is the project site within designated or proposed critical habitat? Yes No Unknown

Is the project site within a national Wild and Scenic River? Yes No Unknown

Is the project site within the 100-year floodplain? Yes No Unknown

* If yes to any of the above, explain in Block 4 and describe measures to minimize adverse effects to these resources in Block 5.

Is the project site within the Territorial Sea Plan (TSP) Area? Yes No Unknown

* If yes, attach TSP review as a separate document for DSL.

Is the project site within a designated Marine Reserve? Yes No Unknown

* If yes, certain additional DSL restrictions will apply.

Will the overall project involve construction dewatering or one acre or more of ground disturbance? Yes No Unknown

* If yes, you may need a 1200-C permit from the Oregon Department of Environmental Quality (DEQ)

Is the fill or dredged material a carrier of contaminants from on-site or off- site spills? Yes No Unknown

Has the fill or dredged material been physically and/or chemically tested? Yes No Unknown

*If yes, explain in Block 4 and provide references to any physical/chemical testing report(s).

Has a cultural resource (archaeological) survey been performed on the project area? Yes No Unknown

* If yes, provide a copy of the survey with this application. Do not describe any resources in this document.

Identify any other federal agency that is funding, authorizing or implementing the project.

Agency Name	Contact Name	Phone Number	Most Recent Date of Contact

List other certificates or approvals/denials required or received from other federal, state or local agencies for work described in this application. For example, certain activities that require a Corps permit also require 401 Water Quality Certification from Oregon DEQ.

Approving Agency	Certificate/ approval / denial description	Date Applied
DEQ	401 Water Quality Certification	

Other DSL and/or Corps Actions Associated with this Site (Check all that apply.)

Work proposed on or over lands owned by or leased from the Corps

State owned waterway DSL Waterway Lease #

Other Corps or DSL Permits Corps # DSL #

Violation for Unauthorized Activity Corps # DSL #

Wetland and Waters Delineation Corps # DSL # 2013-0284

A wetland / waters delineation has been completed (if so, provide a copy with the application)

(7) ADDITIONAL INFORMATION

- The Corps has approved the wetland / waters delineation within the last 5 years
- DSL has approved the wetland / waters delineation within the last 5 years

(8) IMPACTS, RESTORATION/REHABILITATION, COMPENSATORY MITIGATION

A. Describe unavoidable environmental impacts that are likely to result from the proposed project. Include permanent and temporary and direct and indirect impacts.

All 1.9 acres of onsite wetlands are proposed to be permanently filled for the proposed project. Wetlands are depressional and located within an already disturbed area. Functions as assessed by ORWAP are generally low except for inflated high scores given to Water Quality Functions. Indirect impacts are not expected to the southern (offsite) portion of Wetland 1 or Wetland 6. The western (offsite) edge of Wetland 1 is included in the proposed impacts addressed for that wetland in this application.

B. For temporary removal or fill or disturbance of vegetation in waterways, wetlands or riparian (i.e., streamside) areas, discuss how the site will be restored after construction.

n/a

Compensatory Mitigation

C. Proposed mitigation approach. Check all that apply:

- | | | | |
|--|---|--|---|
| <input type="checkbox"/> Permittee-responsible Onsite Mitigation | <input type="checkbox"/> Permittee-responsible Offsite mitigation | <input checked="" type="checkbox"/> Mitigation Bank or in-lieu fee program | <input type="checkbox"/> Payment to Provide (not approved for use with Corps permits) |
|--|---|--|---|

D. Provide a brief description of mitigation approach and the rationale for choosing that approach. If you believe mitigation should not be required, explain why.

Mitigation is proposed at the Lower Columbia in Lieu Fee Area. Onsite mitigation is not reasonable based on the proposed project and mitigation at a larger managed area is generally preferred by both agencies as the best way to provide lost functions within the watershed

As per 141-085-0680(2) Principal Objectives for CWM, for projects where impacts to wetlands or tidal waters cannot be avoided, CWM will be required to compensate for the reasonably expected adverse impacts in fulfillment of the following principal objectives.

(a) The principal objectives of CWM are to:

(A) Replace functions and values lost at the removal-fill site; Functions and values of the onsite wetlands are generally low and will be replaced by contributing to the Lower Columbia in Lieu Fee Area.

(B) Provide local replacement for locally important functions and values, where appropriate; Locally important functions and values are not significantly provided by the wetlands to be impacted. Wetlands were primarily isolated and dominated by non-native grass species. Local replacement of any locally important functions and values will be provided via contribution to the in Lieu Fee Area which includes preservation, restoration and creation of wetlands in Warrenton.

(C) Enhance, restore, create or preserve wetlands or tidal areas that are self-sustaining and minimize long-term maintenance needs; The applicant shall contribute to the Lower Columbia in Lieu Fee Area which is held by the North Coast Land Conservancy with the purpose of preserving, restoring and creating wetlands

(8) IMPACTS, RESTORATION/REHABILITATION, COMPENSATORY MITIGATION

that are self-sustaining and minimize long term maintenance needs.

(D) Ensure the siting of CWM in ecologically suitable locations considering: local watershed needs and priorities; appropriate landscape position for the wetland types, functions and values sought; connectivity to other habitats and protected resources; and the absence of contaminants or conflicting adjacent land uses that would compromise wetland functions; Contribution to the in lieu fee area designated for this watershed ensures siting of the CWM in an ecologically suitable location.

(E) Minimize temporal loss of wetlands and tidal waters and their functions and values. The in Lieu Fee Area is a property which is held by the North Coast Land Conservancy which has already begun restoring the site by excavating fill material, removing ditches used to drain wetlands, creating a new wetland, and planting both wetlands and uplands with native species. Advance credits are available for purchase ensuring that the temporal loss of wetland functions and values is minimal for this project.

In accordance with the principal objectives payment to the Lower Columbia in Lieu Fee Area will provide local replacement of functions within the same watershed and without temporal loss fulfilling compensatory mitigation requirements.

Mitigation Bank / In-Lieu Fee Information:

Name of mitigation bank or in-lieu fee project: Lower Columbia ILF
 Type of credits to be purchased: PEM/depressional, /flat

If you are proposing permittee-responsible mitigation, have you prepared a compensatory mitigation plan?

- Yes. Submit the plan with this application and complete the remainder of this section.
 No. A mitigation plan will need to be submitted (for DSL, this plan is required for a complete application).

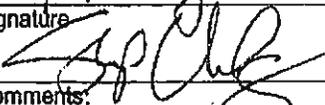
Mitigation Location Information (Fill out only if permittee-responsible mitigation is proposed)

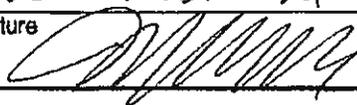
Mitigation Site Name/Legal Description	Mitigation Site Address	Tax Lot #	
County	City	Latitude & Longitude (in DD.DDDD format)	
Township	Range	Section	Quarter/Quarter

(9) ADJACENT PROPERTY OWNERS FOR PROJECT AND MITIGATION SITE*

	Adjacent Property Owner #1	Adjacent Property Owner #2	Adjacent Property Owner #3
Property Owner Name	Costco	Warrenton Fiber Company	Clatsop County
Mailing Address	1804 SE Ensign Lane	PO Box 100	800 Exchange Street, Suite 410
City, State Zip Code	Warrenton, OR 97146	Warrenton, OR 97146	Astoria, OR 97103
	Adjacent Property Owner #4	Adjacent Property Owner #5	Pre-printed mailing labels of adjacent property owners attached separately <input type="checkbox"/>
Property Owner Name Mailing Address City, State Zip Code			

* Attach pre-printed labels if more than 5 adjacent property owners

CITY OF WARRANDON PLANNING DEPARTMENT LAND USE APPLICATION TO BE COMPLETED BY LOCAL PLANNING OFFICIAL		
<p>I have reviewed the project described in this application and have determined that:</p> <p><input type="checkbox"/> This project is not regulated by the comprehensive plan and land use regulations.</p> <p><input type="checkbox"/> This project is consistent with the comprehensive plan and land use regulations.</p> <p><input checked="" type="checkbox"/> This project will be consistent with the comprehensive plan and land use regulations when the following local approval(s) are obtained:</p> <p><input type="checkbox"/> Conditional Use Approval</p> <p><input type="checkbox"/> Development Permit</p> <p><input checked="" type="checkbox"/> Other Permit (see comment section)</p> <p><input type="checkbox"/> This project is not consistent with the comprehensive plan. Consistency requires:</p> <p><input type="checkbox"/> Plan Amendment</p> <p><input type="checkbox"/> Zone Change</p> <p><input type="checkbox"/> Other Approval or Review (see comment section)</p> <p>An application <input type="checkbox"/> has <input type="checkbox"/> has not been filed for local approvals checked above.</p>		
Local planning official name (print)	Title	City/County
Skip Holting	Comm Dev Director	Warrandon
Signature	Date	
	23 Sept 2014	
Comments:		
Site Design Review Approved		

COASTAL ZONE CERTIFICATION	
<p>If the proposed activity described in your permit application is within the <u>Oregon coastal zone</u>, the following certification is required before your application can be processed. A public notice will be issued with the certification statement, which will be forwarded to the Oregon Department of Land Conservation and Development (DLCD) for its concurrence or objection. For additional information on the Oregon Coastal Zone Management Program, contact DLCD at 835 Capitol Street NE, Suite 150, Salem, Oregon 97301 or call 503-373-0050.</p> <p>CERTIFICATION STATEMENT</p> <p>I certify that, to the best of my knowledge and belief, the proposed activity described in this application complies with the approved Oregon Coastal Zone Management Program and will be completed in a manner consistent with the program.</p>	
Print /Type Name	Title
Wes Ciesbrecht	North West Retail LLC Managing Member
Signature	Date
	7-29-15

(12) SIGNATURES

Application is hereby made for the activities described herein. I certify that I am familiar with the information contained in the application, and, to the best of my knowledge and belief, this information is true, complete and accurate. I further certify that I possess the authority to undertake the proposed activities. By signing this application I consent to allow Corps or DSL staff to enter into the above-described property to inspect the project location and to determine compliance with an authorization, if granted. I hereby authorize the person identified in the authorized agent block below to act in my behalf as my agent in the processing of this application and to furnish supplemental information in support of this permit application. I understand that the granting of other permits by local, county, state or federal agencies does not release me from the requirement of obtaining the permits requested before commencing the project. I understand that payment of the required state processing fee does not guarantee permit issuance. To be considered complete, the fee must accompany the application to DSL. The fee is not required for submittal of an application to the Corps.

Fee Amount Enclosed \$1,126.00

Applicant Signature

Print Name Wes Giesbrecht Title *Managing Member of Northeast Retail LLC*

Signature *[Handwritten Signature]* Date 8/5/14

Authorized Agent Signature

Print Name Martin Schott Title Principal

Signature _____ Date 8/5/14

Landowner Signature(s)

Landowner of the Project Site (if different from applicant)

Print Name _____ Title _____

Signature _____ Date _____

Landowner of the Mitigation Site (if different from applicant)

Print Name _____ Title _____

Signature _____ Date _____

Department of State Lands Property Manager (to be completed by DSL)

If the project is located on state-owned submerged and submersible lands, DSL staff will obtain a signature from the Land Management Division of DSL. A signature by DSL for activities proposed on state-owned submerged/submersible lands only grants the applicant consent to apply for a removal-fill permit. A signature for activities on state-owned submerged and submersible lands grants no other authority, express or implied and a separate proprietary authorization may be required.

Print Name _____ Title _____

Signature _____ Date _____

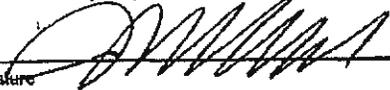
INCUMBENCY CERTIFICATE FOR CORPORATIONS AND PARTNERSHIPS

* North Coast Retail LLC, (business entity name as recorded with the Secretary of State, Oregon)

* I, Wes Giesbrecht, do hereby certify that:

1. I am the duly elected and acting Managing Member (position) of North Coast Retail LLC (business entity name as recorded with the Secretary of State, Oregon), a limited liability company (business entity type) organized and existing in good standing under the laws of the State of Oregon (the "Company").
2. I certify that I have the authority to submit, on behalf of the Company, this application for a permit to conduct removal fill within waters of the state (as evidenced by my signature on the application) and to commit the Company to comply with all resulting permit conditions, including any mitigation obligations, resulting from the issuance of the permit.

Witness, my signature and the seal of the Company this 5 day of August, 2014

Signature 

Name: Wes Giesbrecht

Title: Managing Member

Company Seal

(13) ATTACHMENTS

- Drawings (items in bold are required)
 - Location map with roads identified
 - U.S.G.S topographic map
 - Tax lot map
 - Site plan(s)
 - Cross section drawing(s)
 - Recent aerial photo
 - Project photos
 - Erosion and Pollution Control Plan(s), if applicable
 - DSL/Corps Wetland Concurrence letter and map, if approved and applicable
- Pre-printed labels for adjacent property owners (if more than 5)
- Restoration plan or rehabilitation plan for temporary impacts
- Mitigation plan
- Wetland functional assessment and/or stream functional assessment
- Alternatives analysis
- Biological assessment (if requested by Corps project manager during pre-application coordination.)
- Stormwater management plan
- Other:

Send Completed form to:

U.S. Army Corps of Engineers
ATTN: CENWP-OD-GP
PO Box 2946
Portland, OR 97208-2946
Phone: 503-808-4373

Counties:
Baker, Clackamas,
Clatsop, Columbia,
Gilliam, Grant, Hood
River, Jefferson, Lincoln,
Malheur, Marion, Morrow,
Multnomah, Polk,
Sherman, Tillamook,
Umatilla, Union,
Wallowa, Wasco,
Washington, Wheeler,
Yamhill

OR

U.S. Army Corps of Engineers
ATTN: CENWP-OD-GE
1600 Executive Parkway
Suite 210
Eugene, OR 97401-2156
Phone: 541-465-6868

Counties:
Benton, Coos, Crook,
Curry, Deschutes,
Douglas Jackson,
Josephine, Harney,
Klamath, Lake, Lane,
Linn

Send Completed form to:

DSL - West of the Cascades:

Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301-1279
Phone: 503-986-5200

OR

DSL - East of the Cascades:

Department of State Lands
1645 NE Forbes Road, Suite 112
Bend, Oregon 97701
Phone: 541-388-6112

Send all Fees to:
Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301-1279
Pay by Credit Card by Calling 503-986-5253

INSTRUCTIONS FOR PREPARING THE JOINT APPLICATION

This is a joint application, and must be sent to both agencies, who administer separate permit processes. For more complete instructions, contact the Corps and/or DSL or refer to online resources:

- [DSL's Removal-Fill Guide](#); or,
- The Corps' "Permitting 101" video: <http://www.nwp.usace.army.mil/Missions/Regulatory.aspx>

General Instructions and Tips

- Provide the information in the appropriate blocks of the application form. If you need more space, provide a summary in the space provided and attach additional detail as an appendix to the application.
- Not all items on the application form will apply to all projects.
- For most applications, binding and section dividers are not necessary and require additional handling.

The information requested on the form is necessary for the agencies to begin their review. For complex projects or for those that may have more than minimal impacts, additional information may be necessary to complete the evaluation and make a permit decision. Alternative forms of permit applications may be acceptable; contact the Corps and DSL for more information.

Section 1. Applicant and Landowner Contact information

Applicant: The applicant is the responsible party. If the applicant is an agency, business entity or other organization, indicate the name of the organization and a person that has the authority to sign the application.

Authorized Agent: An authorized agent is someone who has permission from the applicant to represent their interests and supply information to the agencies. An agent can be a consultant, an attorney, builder, contractor, or any other person or organization. An authorized agent is optional.

Landowner: Provide landowner information if different from the applicant. The landowner must also sign the application.

Section 2. Project Location

Latitude and longitude can be found by zooming in to your respective project location and reading off the coordinates displayed on the bottom of the map. Provide location information, and any prior Corps or DSL actions.

Section 3. Project Purpose and Need

Explain the purpose and need for the project. Also include a brief description of any related activities needed to accomplish the project objectives.

The following items are required by DSL, as applicable:

- If the removal-fill would satisfy a public need and the applicant is a public body, include any pertinent findings regarding public need and benefit.
- If the project involves fill in the estuary for a non-water dependent use, explain how the project is for public use and/or satisfies a public need.
- If the project is located within a marine reserve or marine protected area, explain how the project is needed to study, monitor, evaluate, enforce or protect the designated area.

Section 4. Description of Resources in Project Area

Territorial Sea: For activities in the Territorial Sea (lowest tide seaward 3 miles), provide a separate evaluation of the resources and effects determination.

For each wetland, include:

- Whether the wetland is freshwater or tidal, and the Cowardin class and Hydrogeomorphic (HGM) class.
- Dominant plant species by layer (herb, shrub, tree).
- A functional assessment of the wetland to be impacted (for impacts greater than 0.2 acre, DSL requires use of ORWAP or HGM), should be attached as a separate document.
- Identify any vernal pools, bogs, fens, mature forested wetland, seasonal mudflats, or native wet prairies in or near the project area.
- Refer to wetland delineation report if available, and provide copies to agencies (if not previously provided).
- Describe existing uses, including fish and wildlife use (type, abundance, period of use, significance of site).

For rivers, streams, other waterways, lakes and ponds, include a description of, as applicable:

- Streamflow regime (e.g., perennial year-round flow, intermittent seasonal flow, ephemeral event-driven flow). If flow is ephemeral, provide streamflow assessment data sheet or other information that supports your determination.
- Field indicators used to identify the Ordinary High Water Mark (OHWM).
- Channel and bank conditions.
- Type and condition of riparian (streamside) vegetation.
- Channel morphology (structure and shape).
- Stream substrate.
- Assessment of the functional attributes including hydrologic, geomorphic, biological and chemical and nutrient related functions.
- Fish and wildlife (type, abundance, period of use, significance of site).

Section 5. Alternatives to Avoid and Minimize Impacts to Waters

Provide a brief explanation describing how impacts to waters and wetlands are being avoided and minimized on the project site. For DSL, the alternatives analysis must include:

- Project-specific criteria that are needed to accomplish the stated project purpose.
- A range of alternative sites and designs that were considered with less impact.
- An evaluation of each alternative site and design against the project criteria and a reason for why the alternative was not chosen.
- If the project involves fill in an estuary for a non-water dependent use, a description of Alternative non- estuarine sites must be included.

Section 6. Project Description

Narrative Description. Provide a description of the proposed project, including:

- Each removal or fill activity proposed in waters or wetlands, as well as any construction or maintenance of in-water or over-water structures.
- The number and dimensions of in-water or over-water structures (i.e., pilings, floating docks) proposed within waters or wetlands.
- The source(s) of fill materials (if known).
- Locations for disposal area(s) for dredged material, if applicable. If dredged material is to be discharged on an upland site, identify the site and the steps to be taken (if necessary) to prevent runoff from the dredged material back into a waterbody. If using an upland disposal area that is not a DEQ-regulated landfill, a Solid Waste Letter of Authorization or a Beneficial Use Determination from DEQ may be required.

Summary of removal and fill activities. Summarize the dimensions, volume and type/composition of material being placed or removed in each waterbody or wetland. Describe each impact on a separate row. For instance, if two culverts are being removed from Clear Creek, use two rows. Add extra rows if needed, or include an attachment.

Construction Methods. Describe how the removal and/or fill activities will be accomplished including the following:

- Construction methods, equipment to be used, access and staging areas, etc.
- Measures you will use during construction to minimize impacts to the waterway or wetland. Examples may include isolating work areas, controlling construction access and using specialized equipment or materials. Attach work area isolation and/or erosion and pollution control plans, if applicable.
- Proposed start and end dates.

Section 7. Additional Information

Any additional information you provide helps the reviewer(s) understand your project and the other approvals or reviews that may be required.

Section 8. Site Restoration/Rehabilitation and Compensatory Mitigation

Site Restoration/Rehabilitation. For temporary disturbance of soils and/or vegetation in waterways, wetlands or riparian (streamside) areas, discuss how you will restore the site after construction. This may include the following:

- Grading plans to restore pre-existing elevations.
- Planting plans and species list (native species only) to replace vegetation in riparian or wetland areas.
- Maintenance and monitoring plans to document restoration to wetland condition and/or vegetation establishment.
- Associated erosion control for site stabilization.

Compensatory Mitigation. Describe your proposed compensatory mitigation approach, or explain why you believe compensatory mitigation is not required. If proposing permittee-responsible mitigation for permanent impact to wetlands, see OAR 141-085-0705 and 33 CFR 332.4(c) for plan requirements. For permanent impact to waters other than wetlands, see OAR 141-085-0765 and 33 CFR 332.4(c) for plan requirements.

Section 9. Adjacent Property Owners for Impact and Mitigation Site(s)

Names and addresses for properties that are adjacent to the project site and permittee responsible mitigation site (if applicable), are required. "Adjacent" means those properties that share or touch upon a common property line or are across the street or stream. If more than 5, attach pre-printed labels. A list of property owners may be obtained by contacting the county tax assessor's office.

Section 10. City/County Planning Department Land Use Affidavit

This section is required to demonstrate land use compatibility for removal fill permits and water quality certifications. Provide this form to your local planning official for them to complete and sign.

Section 11. Coastal Zone Certification

Your signature for this statement is required for projects within the coastal zone (generally, west of the summit of the Coast Range).

Section 12. Signatures

The application must be signed by the responsible party, landowner and agent, as identified in section 1.

Section 13: Attachments

Project Drawings. A complete application must include a location map, site plan, cross-section drawings and recent aerial photo. All drawings should be clear, legible and formatted for 8.5 by 11 printing. Use the fewest number of sheets necessary for your drawings or illustrations. While illustrations need not be professionally prepared, they should be clear, accurate, and contain all necessary information, as follows:

Location maps (with subject property identified):

- Location map with roads identified
- U.S.G.S. Topographic map
- Tax lot map (with subject tax lot(s) identified)

Site plan(s), including:

- Entire project site and activity areas
- Existing and proposed contours
- Location of ordinary high water, wetland boundaries or other jurisdictional boundaries (include wetland delineation report if not previously provided)
- Identification of temporary and permanent impact areas within waterways or wetlands
- Map scale or dimensions and north arrow
- Location of staging areas and construction access
- Location of cross section(s), as applicable
- Location of mitigation area, if applicable

Cross section drawing(s), including:

- Existing and proposed elevations
- Identification of temporary and permanent impact areas within waterways or wetlands

- Ordinary high water and/or wetland boundary or other jurisdictional boundaries
- Map scale or dimensions

Recent Aerial photo

- 1:200, or if not available for your site, highest resolution possible

DSL Wetland Concurrence (map and letter)

Table 1: North Coast Retail Center Alternative Site Analysis Matrix

CRITERIA	PROPOSED LOCATION (1)	WARRENTON FIBER PROPERTY (2)	PORT OF ASTORIA PROPERTY (3)	WILLENER PROPERTY (4)
Tillamook / Astoria Corridor	Eastside of Hwy 101 and south of Ensign Lane, Warrenton.	Northeast corner of Hwy 101 and Hwy 101 Alt., Warrenton.	NE corner of E. Harbor St. and NE King Ave., Warrenton.	Northwest corner of Hwy 104 Spur and Hwy 101, Warrenton
Highway 101 Access	Good Hwy 101 access through new intersection.	Difficult right in-right out access of Hwy 101 Alt. and no direct access off Hwy 101.	Considerable distance from Hwy. 101.	No access off of Hwy 10.
Highway 101 Exposure	Good exposure on Ensign Lane visible from Hwy. 101	Good exposure.	No exposure to Hwy 101.	Limited exposure.
Zoning	Zoned commercial	Zoned commercial.	Zoned commercial	Would require rezone of residential to commercial, City of Warrenton not supportive.
At Least 5.02 Developable Acres	5.3 acres	17 acres. Owner will not split off 4-5 acres.	2.48 acres...too small.	Approximately 100 acres.
Single Ownership	Yes	Yes	Yes	Yes
Topography	Flat	Flat	Flat	Flat
Utilities	Readily available	Readily available	Readily available	Readily available
Proximity to other auto dealerships	All major auto dealers in vicinity	All major auto dealers in vicinity	No major auto dealers in vicinity.	All major auto dealers in vicinity
Availability	For Sale	For Sale	For sale	For Sale
DECISION	Meets minimum acceptable levels for all criteria.	Pass on site due to difficult access, difficult soils and owner does not want to split off a parcel.	Pass on site. No exposure to Hwy 101 and too small.	Pass on site due to difficult access, lack of exposure, and significant wetland and flood plain fill required to develop property.

APPENDIX A

2014 Planning Guide

For Dealership and Integrated Quick Lane Facility

Sales Expectancy: 100
 Quick Lane: 0 No

Summary

Approx. Total Building	29294 SF
Approx. Net Usable Land	5.02 Acres

NR = Not Required

Building Detail

Customer	SF	1200	Administration	SF	1764
Cust Lounge	SF	800	Dealers Office	SF	200
Customer Business Area	SF	NR	Gen. Manager	SF	150
Customer Business Area(s)		NR	Admin. Office	SF	720
Child Play Area	SF	120	Admin. Staff		6
Retail Display	SF	100	Conference Room	SF	374
Retail Parts Counter	SF	100	Secured Records Storage	SF	240
Cashier Counter	SF	80	Computer Room	SF	80
Sales	SF	4416	Parts	SF	4876
Showroom	SF	2600	Parts Manager Office	SF	96
Vehicle Display(s)		4	Control Clerk Office	SF	80
Sales Consult Offices	SF	480	Parts Storage Total	SF	4500
Sales Consult Office(s)		6	Parts Storage Footprint	SF	2250
Sales Staff		17	Receiving Area	SF	200
F&I Offices	SF	192	Quick Lane	SF	0
F&I Staff		2	OL Reception, Lounge & Retail	SF	0
Sales Manager Offices	SF	192	QL Storage & Misc.	SF	0
Sales Manager Staff		2	QL Service Stall(s)		0
Sales Work Area	SF	952	QL Service Stalls	SF	0
New Car Delivery Areas	SF	NR	Building Support	SF	2214
New Car Delivery Area(s)		NR	Corridors, Closets, Restrooms		0
Service	SF	14824	Electrical & Mechanical Rooms		0
Service Stalls	SF	11286			
Service Stall(s)		22			
Storage	SF	790			
Lunchroom, Toilets & Lockers	SF	330			
Service Write-Up	SF	320			
Service Write-Up(s)		4			
Service Write-Up Lanes	SF	1800			
Service Lane(s)		2			
Service Vehicle(s)		6			
Filing Area	SF	42			
Service Manager Office	SF	96			
Warranty Office	SF	80			
Dispatch Office	SF	80			

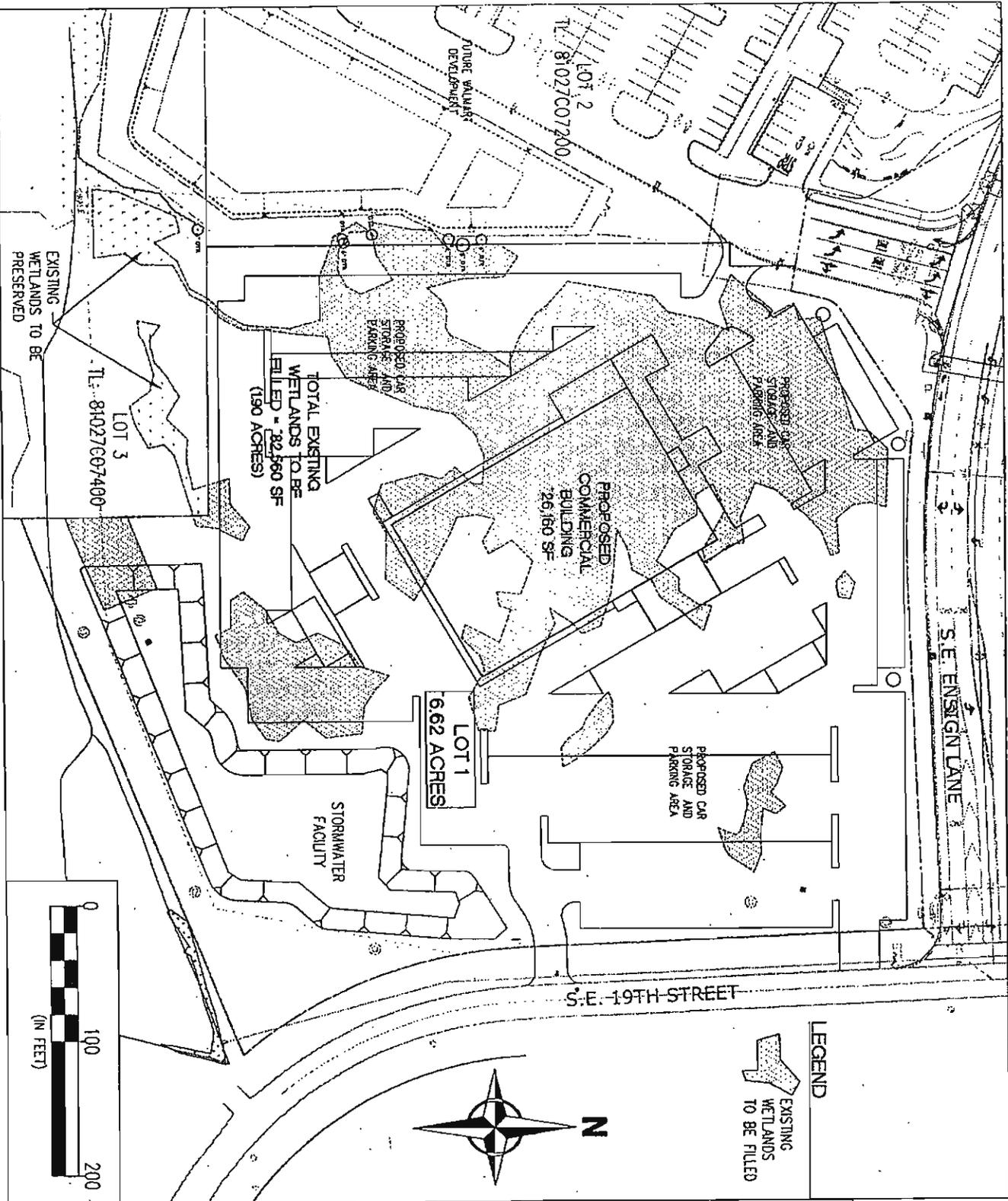
Land Detail

Parking, Display and Storage 4.32 Acres
 459 Spaces
 New Vehicle Inventory 150

Note:

The information listed on this sheet

New Vehicle Inventory	Ac	1.03	is based on the following inputs.
Used Vehicle Inventory	#	168	Sales Expectancy 1000
Used Vehicle Inventory	Ac	1.16	Quick Lane: Excluded
Service Vehicle Holding(s)	#	66	60-Day Supply of New Vehicles
Service Vehicle Holding	Ac	0.53	"Site Circulation and Landscape Area is not included in the Net Usable Area
Employee Parking	#	55	
Employee Parking	Ac	0.44	Double Stacked Storage Requires Min. Height Clearance 0116 FT.
Customer Parking	#	20	
Customer Parking	Ac	0.16	



NORTH COAST RETAIL CENTER - LOT 1
WARRENTON, OR
SITE DEVELOPMENT PLAN

SCALE: 1" = 100'

3/12/15

PACLAND

6400 S.E. Lake Road,
Suite 300
Portland, OR 97222

T (503) 659-9500
F (503) 659-2227
www.PacLand.com

EXHIBIT B

Department of State Lands
775 Summer Street, Suite 100
Salem, OR 97301-1279
☎ 503-986-5200

Permit No.:	<u>56938-FP</u>
Permit Type:	<u>Fill</u>
Waterway:	<u>Wetland</u>
County:	<u>Clatsop</u>
Expiration Date:	<u>August 12, 2016</u>

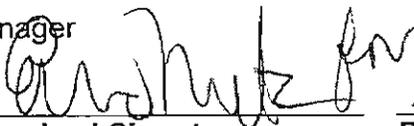
NORTH COAST RETAIL, LLC

IS AUTHORIZED IN ACCORDANCE WITH ORS 196.800 TO 196.990 TO PERFORM THE OPERATIONS DESCRIBED IN THE ATTACHED COPY OF THE APPLICATION, SUBJECT TO THE SPECIAL CONDITIONS LISTED ON ATTACHMENT A AND TO THE FOLLOWING GENERAL CONDITIONS:

1. This permit does not authorize trespass on the lands of others. The permit holder shall obtain all necessary access permits or rights-of-way before entering lands owned by another. For new linear facility projects, the removal-fill activity cannot occur until the permit holder obtains either the landowner's consent, a right, title or interest with respect to the property that is sufficient to undertake the removal or fill activity, or a court order or judgment authorizing the use of the property.
2. This permit does not authorize any work that is not in compliance with local zoning or other local, state, or federal regulation pertaining to the operations authorized by this permit. The permit holder is responsible for obtaining the necessary approvals and permits before proceeding under this permit.
3. All work done under this permit must comply with Oregon Administrative Rules, Chapter 340; Standards of Quality for Public Waters of Oregon. Specific water quality provisions for this project are set forth on Attachment A.
4. Violations of the terms and conditions of this permit are subject to administrative and/or legal action, which may result in revocation of the permit or damages. The permit holder is responsible for the activities of all contractors or other operators involved in work done at the site or under this permit.
5. Employees of the Department of State Lands and all duly authorized representatives of the Director shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this permit.
6. Any permit holder who objects to the conditions of this permit may request a hearing from the Director, in writing, within twenty-one (21) calendar days of the date this permit was issued.
7. In issuing this permit, the Department of State Lands makes no representation regarding the quality or adequacy of the permitted project design, materials, construction, or maintenance, except to approve the project's design and materials, as set forth in the permit application, as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196, 390, and related administrative rules.
8. Permittee shall defend and hold harmless the State of Oregon, and its officers, agents, and employees from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.
9. Authorization from the U.S. Army Corps of Engineers may also be required.

NOTICE: If removal is from state-owned submerged and submersible land, the applicant must comply with leasing and royalty provisions of ORS 274.530. If the project involves creation of new lands by filling on state-owned submerged or submersible lands, you must comply with ORS 274.905 to 274.940. This permit does not relieve the permittee of an obligation to secure appropriate leases from the Department of State Lands, to conduct activities on state-owned submerged or submersible lands. Failure to comply with these requirements may result in civil or criminal liability. For more information about these requirements, please contact the Department of State Lands, 503-986-5200.

Lori Warner-Dickason, Aquatic Resource Manager
Aquatic Resource Management
Oregon Department of State Lands


Authorized Signature

August 12, 2015
Date Issued

ATTACHMENT A

Permit Holder: North Coast Retail, LLC

Project Name: Astoria Ford

Special Conditions for Removal/Fill Permit No. 56938-FP

READ AND BECOME FAMILIAR WITH CONDITIONS OF YOUR PERMIT.

The project site may be inspected by the Department of State Lands (DSL) as part of our monitoring program. DSL has the right to stop or modify the project at any time if you are not in compliance with these conditions. A copy of this permit shall be available at the work site whenever authorized operations are being conducted.

1. **Responsible Party:** By signature on the application, Wes Giesbrecht is acting as the representative of North Coast Retail, LLC. By proceeding under this permit, North Coast Retail, LLC agrees to comply with and fulfill all terms and conditions of this permit, unless the permit is officially transferred to another party as approved by DSL.
2. **Authorization to Conduct Removal and/or Fill:** This permit authorizes the placement of up to 20,746 cubic yards of material in T8N R10W Section 27C, Tax Lot 7300, Wetland, Clatsop County, as described in the attached permit application, map and drawings, received October 22, 2014, March 25, and April 1, 2015. In the event information in the application conflicts with the permit conditions, the permit conditions prevail. See Attachment B for project location.
3. **Changes to the Project or Inconsistent Requirements from Other Permits:** It is the permittee's responsibility to ensure that all state, federal and local permits are consistent and compatible with the final approved project plans and the project as executed. Any changes made in project design, implementation and/or operating conditions to comply with conditions imposed by other permits must be approved by DSL prior to implementation.
4. **DSL May Halt or Modify:** DSL retains the authority to temporarily halt or modify the project in case of unforeseen damage to natural resources.
5. **DSL May Modify Conditions Upon Permit Renewal:** DSL retains the authority to modify conditions upon renewal, as appropriate, pursuant to the applicable rules in effect at the time of the request for renewal or to protect waters of this state.

Pre-Construction

6. **Local Government Approval Required Before Beginning Work:** Issuance of this permit is contingent upon acquisition of a Site Design Review from the City of Warrenton.
7. **Stormwater Management Approval Required Before Beginning Work:** Issuance of the permit is contingent upon acquisition of a National Pollution Discharge Elimination System (NPDES) permit from the Oregon Department of Environmental Quality (DEQ), if one is required by DEQ.
8. **Pre-construction Resource Area Flagging:** Before any site grading, the surveyed boundaries of the avoided wetlands shall be surrounded by bright orange construction fencing, which shall be

maintained during construction of the project. There shall be no heavy equipment within fenced areas.

General Construction Conditions

9. **Water Quality Certification:** The Department of Environmental Quality (DEQ) may evaluate this project for a Clean Water Act Section 401 Water Quality Certification (WQC). If the evaluation results in issuance of a Section 401 WQC, that turbidity condition will govern any allowable turbidity exceedance and monitoring requirements.
10. **Erosion Control Methods:** The following erosion control measures (and others as appropriate) shall be installed prior to construction and maintained during and after construction as appropriate, to prevent erosion and minimize movement of soil into waters of this state.
 - a. All exposed soils shall be stabilized during and after construction in order to prevent erosion and sedimentation.
 - b. Filter bags, sediment fences, sediment traps or catch basins, leave strips or berms, or other measures shall be used to prevent movement of soil into waterways and wetlands.
 - c. To prevent erosion, use of compost berms, impervious materials or other equally effective methods, shall be used to protect soil stockpiled during rain events or when the stockpile site is not moved or reshaped for more than 48 hours.
 - d. Unless part of the authorized permanent fill, all construction access points through, and staging areas in, riparian and wetland areas shall use removable pads or mats to prevent soil compaction. However, in some wetland areas under dry summer conditions, this requirement may be waived upon approval by DSL. At project completion, disturbed areas with soil exposed by construction activities shall be stabilized by mulching and native vegetative plantings/seeding. Sterile grass may be used instead of native vegetation for temporary sediment control. If soils are to remain exposed more than seven days after completion of the permitted work, they shall be covered with erosion control pads, mats or similar erosion control devices until vegetative stabilization is installed.
 - e. Where vegetation is used for erosion control on slopes steeper than 2:1, tackified seed mulch shall be used so the seed does not wash away before germination and rooting.
 - f. Dredged or other excavated material shall be placed on upland areas having stable slopes and shall be prevented from eroding back into waterways and wetlands.
 - g. Erosion control measures shall be inspected and maintained as necessary to ensure their continued effectiveness until soils become stabilized.
 - h. All erosion control structures shall be removed when the project is complete and soils are stabilized and vegetated.
11. **Hazardous, Toxic, and Waste Material Handling:** Petroleum products, chemicals, fresh cement, sandblasted material and chipped paint, wood treated with leachable preservatives or other deleterious waste materials shall not be allowed to enter waters of this state. Machinery refueling is to occur at least 150 feet from waters of this state and confined in a designated area to prevent spillage into waters of this state. Barges shall have containment system to effectively prevent petroleum products or other deleterious material from entering waters of this state. Project-related spills into waters of this state or onto land with a potential to enter waters of this state shall be reported to the Oregon Emergency Response System (OERS) at 1-800-452-0311.
12. **Federally Listed Endangered or Threatened Species:** When listed species are present, the authorization holder must comply with the Federal Endangered Species Act. If previously

unknown listed species are encountered during construction, all construction activity shall immediately cease and the permit holder must contact DSL.

13. **Archaeological Resources:** If any archaeological resources and/or artifacts are encountered during construction, all construction activity shall immediately cease. The State Historic Preservation Office shall be contacted at 503-986-0674.
14. **In-lieu fee Mitigation:** Wetland mitigation for the unavoidable loss of 1.9 acres of palustrine emergent and scrub shrub wetland has been accomplished via payment to the Department's Removal-Fill Mitigation Fund in the amount of \$148,979. Once the permitted fill has commenced, the payment is non-refundable.

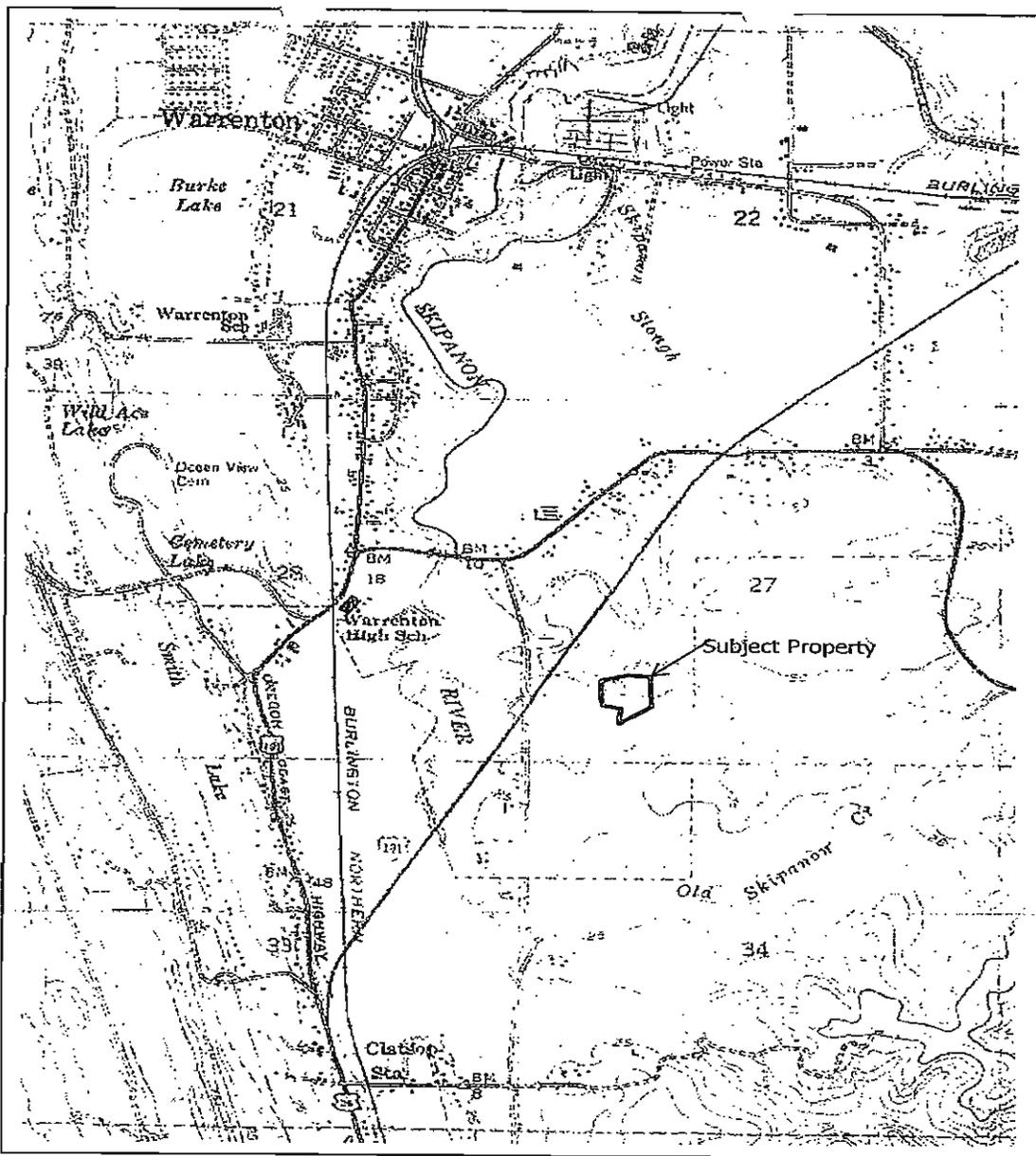
Issued: August 12, 2015

ATTACHMENT B

Permit Holder: North Coast Retail, LLC

Project Name: Astoria Ford

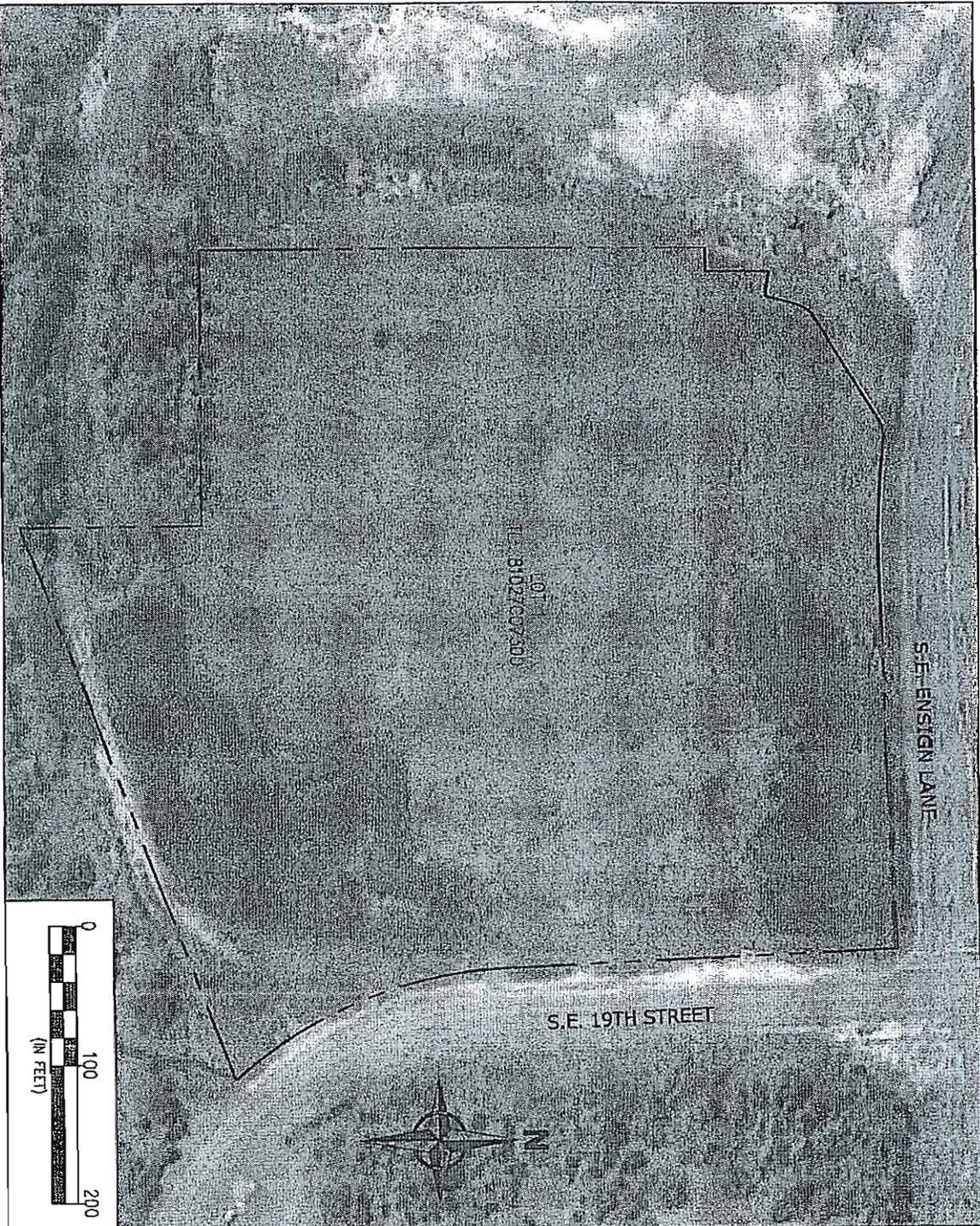
Maps and Drawings for Removal/Fill Permit No. 56938-FP



Site Location Map - Topographic Map
North Coast Retail Lot 1
S&A#2266

Schott & Associates
P.O. Box 589
Aurora, OR. 97002
503.678.6007

P:\Oregon\Warrenton\NorthCoast Lot 1\Drawings\Lot 1 - Aerial Map.dwg

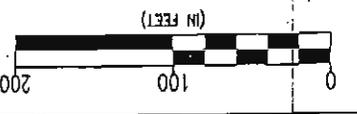
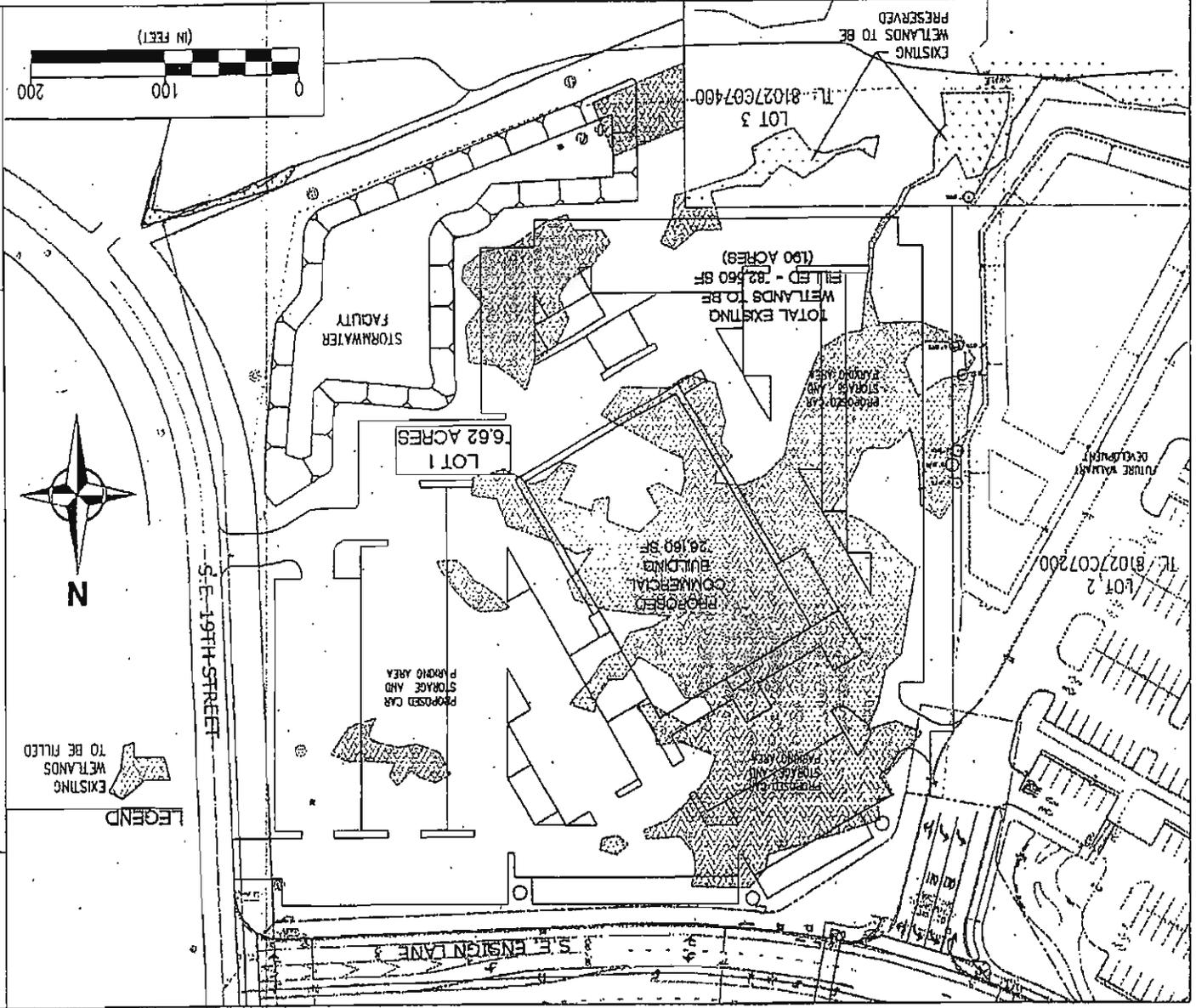


PAC LAND
6400 S.E. Lake Road,
Suite 300
Portland, OR 97222
T (503) 639-5530
F (503) 639-2227
www.paclaw.com

**NORTH COAST RETAIL CENTER - LOT 1
WARRENTON, OR
AERIAL PHOTOGRAPHY**
SCALE: 1" = 100' 7/14/14

EXHIBIT F

P:\Oregon\Warrenton\North Coast Retail\NorthCoast Lot 1\Drawings\Lot 1 - Site Development Plan.dwg



LEGEND
 EXISTING WETLANDS TO BE FILLED

PACILAND
 7 (503) 834-8000
 4 (503) 834-3222
 Portland, OR 97222
 500 S.E. Union Road
 Portland, OR 97222

NORTH COAST RETAIL CENTER - LOT 1
 WARRENTON, OR
 SITE DEVELOPMENT PLAN
 SCALE: 1" = 100'
 3/12/15

APPENDIX C

EXHIBIT C

**GENERAL PERMIT
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
STORMWATER DISCHARGE PERMIT**

Oregon Department of Environmental Quality
811 SW Sixth Avenue, Portland OR 97204
Telephone: (503) 229-5279 or 1-800-452-4011 (toll free in Oregon)

Issued pursuant to ORS 468B.050 and Section 402 of the Federal Clean Water Act

ISSUED TO: 12/17/10

GEN12C

Clatsop/NWR

File No. 118621

ORR10C352

Wes Giesbrecht
7900 SE 28th St Ste 330
Mercer Island, WA 98040-2974

Site: North Coast Retail

SOURCES COVERED BY THIS PERMIT:

- Construction activities including clearing, grading, excavation, materials or equipment staging and stockpiling that will disturb one or more acres and may discharge to surface waters or conveyance systems leading to surface waters of the state.
- Construction activities including clearing, grading, excavation, materials or equipment staging and stockpiling that will disturb less than one acre that are part of a common plan of development or sale if the larger common plan of development or sale will ultimately disturb one acre or more and may discharge to surface waters or conveyance systems leading to surface waters of the state.
- This permit also authorizes discharges from any other construction activity (including construction activity that disturbs less than one acre and is not part of a common plan of development or sale) designated by DEQ, where DEQ makes that designation based on the potential for contribution to an excursion of a water quality standard or for significant contribution of pollutants to waters of the state.

This permit does not authorize the following:

- In-water or riparian work, which is regulated by other programs and agencies including the Federal Clean Water Act Section 404 permit program, the Oregon Department of State Lands, the Oregon Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, the U.S. Army Corp of Engineers, the National Marine Fisheries Service, and the Department of Environmental Quality Section 401 certification program.
- Post-construction stormwater discharges that originate from the site after completion of construction activities and final stabilization.
- Discharges to underground injection control (UIC) systems.



Neil Mullane, Administrator
Water Quality Division

Effective: December 1, 2010
Expiration Date: November 30, 2015

PERMITTED ACTIVITIES

Until this permit expires, is modified or revoked, the permit registrant is authorized to construct, install, modify, or operate erosion and sediment control measures and stormwater treatment and control facilities, and to discharge stormwater and certain specified non-stormwater discharges to surface waters of the state or conveyance systems leading to surface waters of the state in conformance with all the requirements, limitations, and conditions set forth in the permit including attached schedules as follows:

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**SCHEDULE A
CONTROLS AND LIMITATIONS FOR STORMWATER DISCHARGES,
AND EROSION AND SEDIMENT CONTROL PLAN**

CONSTRUCTION ACTIVITIES REQUIRED TO REGISTER FOR PERMIT

An owner or operator of construction activities must register for coverage under this permit with DEQ before any soil disturbance occurs, if they are not automatically covered as described in the 1200-CN permit.

1. Registering New Construction Activities

- a. Applicants seeking registration for coverage under this permit for construction activities that will disturb one or more acres must submit a complete application to DEQ or Agent at least 30 calendar days before the planned soil disturbance, unless otherwise approved by DEQ or Agent (see Schedule D for description of Agent). The application must include:
 - i. A DEQ-approved application form;
 - ii. One paper copy and one electronic copy (PDF) of an Erosion and Sediment Control Plan (ESCP);
 - iii. A Land Use Compatibility Statement (LUCS) indicating that the proposed activities are compatible with the local government's acknowledged comprehensive plan; and
 - iv. Applicable permit fees.
- b. Applicants seeking registration for coverage under this permit for construction activities that will disturb less than one acre that are part of a larger common plan of development or sale must, at least 30 calendar days before the planned soil disturbance, submit:
 - i. A DEQ-approved application form;
 - ii. One copy of an Erosion and Sediment Control Plan that covers the individual lot(s); and
 - iii. Applicable permit fees.
- c. Applicants seeking registration for coverage under this permit for construction activities that disturb or are likely to disturb five (5) or more acres over the life of the project, are subject to a 14-calendar day public review period before permit registration is granted. The public review period will not begin if the application form or ESCP are incomplete. These applicants must submit to DEQ or Agent an additional paper copy of an ESCP (total of two paper copies and one PDF copy).
- d. DEQ or Agent will notify the applicant in writing if registration is approved or denied. Permit coverage does not begin until the applicant receives written notice that the registration is approved. If registration is denied or the applicant does not wish to be regulated by this permit, the applicant may apply for an individual permit in accordance with OAR 340-045-0030.

2. Renewal Application for Permit Coverage

- a. An owner or operator of construction activities registered under the 1200-C permit that expires on November 30, 2010 must submit to DEQ or Agent a complete renewal application, using a DEQ-approved renewal application form by November 30, 2010 to ensure uninterrupted permit coverage for construction stormwater discharges.
- b. If registration is denied or the applicant does not wish to be regulated by this permit, the applicant may apply for an individual permit in accordance with OAR 340-045-0030.

3. Transfer of Permit Registration

- a. To transfer permit registration, the new owner or permit registrant must submit a DEQ-approved transfer form and applicable fees prior to permit expiration and within 30 calendar days of the planned transfer.
- b. If ownership changes (through sale, foreclosure or other means) and the previous owner cannot be found:
 - i. The new owner must register for coverage under the permit (Schedule A, Part II, condition 1) if the site is not stabilized.

- ii. The new owner must register for coverage under the permit (Schedule A, Part II, condition 1) prior to any additional soil disturbance.
- iii. The new owner does not need to register for coverage under the permit if the site meets the conditions for termination (see Schedule B) and there is no ongoing or additional soil disturbance planned.
- iv. DEQ will attempt to contact the previous owner at the address on record. If there is no response, after 60 days DEQ may terminate the previous owner's permit coverage.

4. Authorized Stormwater Discharges

Subject to compliance with the terms and conditions of this permit, and provided that all necessary controls are implemented to minimize sediment transport, the following stormwater discharges from construction sites are authorized (unless otherwise prohibited by local ordinances):

- a. Stormwater associated with construction activity described in the "Sources Covered" section of the permit.
- b. Stormwater from support activities at the construction site (for example, concrete or asphalt operations, equipment staging yards, material storage areas, excavated material disposal areas and borrow areas) provided:
 - i. The support activity is directly related to the construction site covered by this NPDES permit;
 - ii. The support activity is not a commercial operation serving multiple unrelated construction projects by different permit registrants;
 - iii. The support activity does not operate beyond the completion of the construction activity at the last construction project it supports; and
 - iv. Appropriate control measures are used to ensure compliance with discharge and water quality requirements.

5. Authorized Non-Stormwater Discharges

Subject to compliance with the terms and conditions of this permit, and provided that all necessary controls are implemented to minimize sediment transport, the following non-stormwater discharges from construction sites are authorized (unless otherwise prohibited by local ordinances):

- a. Potable water including uncontaminated water line flushing (refer to DEQ guidance);
- b. Vehicle washing that does not use detergents or hot water;
- c. External building wash down that does not use detergents or hot water;
- d. Pavement wash waters where stockpiled material, spills or leaks of toxic or hazardous materials have not occurred (unless all stockpiled and spilled material has been removed) and where detergents or hot water are not used;
- e. Construction dewatering activities (including groundwater dewatering and well drilling discharge associated with the registered construction activity), provided that:
 - i. the water is land applied in a way that results in complete infiltration with no potential to discharge to a surface water of the state, or
 - ii. Best Management Practices (BMPs) or an approved treatment system is used to ensure compliance with discharge and water quality requirements;
- f. Foundation or footing drains where flows are not contaminated with process materials such as solvents; and
- g. Landscape irrigation.

For other non-stormwater discharges, a separate permit may be needed. The disposal of wastes to surface waters or on-site are not authorized by this permit. The permit registrant must submit a separate permit application for such discharges.

6. Limitations on Coverage

The following discharges are not authorized by this permit:

- a. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
- b. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
- c. Soaps or solvents used in vehicle and equipment washing.

7. Control Measures

The following controls and practices are required, if appropriate for the site.

- a. Wet Weather BMPs.
 - i. Avoid or minimize excavation and bare ground activities during wet weather.
- b. Temporarily stabilize soils at the end of the shift before holidays and weekends, if needed. It is the owner/operator's responsibility to ensure that soils are stable during rain events at all times of the year. Erosion Prevention (Prevent or minimize the initial disturbance of sediment).
 - i. Clearing and Grading.

Phase clearing and grading to the maximum extent practical to prevent exposed inactive areas from becoming sources of erosion. Minimize erosion during and after soil disturbance using BMPs such as temporary seeding and planting, permanent seeding and planting, mulches, compost blankets, erosion control blankets and mats, and soil tackifiers.
 - ii. Wind Erosion/Dust Control. Water or use a soil-binding agent or other dust control technique as needed to avoid wind-blown soil.
 - iii. Vegetative Erosion Control.
 - (1) Preserve existing vegetation and re-vegetate open areas when practical.
 - (2) Do not remove temporary sediment control practices until permanent vegetation or other cover of exposed areas is established.
 - (3) Identify the type of seed mix (percentages of the various seeds of annuals, perennials and clover) and other plantings.
- c. Runoff Control (Divert, collect, convey or control flow; prevent or minimize scouring).

Use BMPs such as diversion of run-on; trench drains, slope drains, french drains and subsurface drains that discharge to the surface; temporary diversion dikes; earth dikes; grass-lined channels (such as turf reinforcement mats); drainage swales; energy dissipaters; rock outlet protection; drop inlets; and check dams. Note that any underground injection must comply with OAR Chapter 340, Division 44.
- d. Sediment Control (Retain and/or remove sediment through filtration and settling).
 - i. Control sediment along the site perimeter and at all operational internal storm drain inlets at all times during construction. Retain and remove sediment both internally and at the site boundary by using BMPs such as sediment fences, vegetative buffer strips, sediment traps, rock filters, compost berms/compost socks, fiber rolls/ loose non-compacted straw wattles, storm drain inlet protection, and temporary or permanent sedimentation basins.
 - ii. Sediment Tracking and Transport Control.
 - (1) Prevent tracking of sediment onto public or private roads using BMPs such as:
 - (a) Establish graveled (or paved) exits and parking areas prior to any land disturbing activities.
 - (b) Gravel all unpaved roads located onsite.
 - (c) Use an exit tire wash.
 - (2) Cover all sediment loads leaving the site.
 - (3) When trucking saturated soils from the site, either use water-tight trucks or drain loads on site.
- e. Pollution Prevention and Control.
 - i. Pollution Prevention.
 - (1) Use BMPs to prevent pollution of stormwater or to treat flow from dewatering operations, ponded water management, paving operation controls, and temporary equipment bridge use.
 - (2) Use BMPs to prevent or minimize stormwater from being exposed to pollutants from spills; vehicle and equipment fueling, maintenance, and storage; other cleaning and maintenance activities; and waste handling activities. These pollutants include fuel, hydraulic fluid, and

- other oils from vehicles and machinery, as well as debris, leftover paints, solvents, and glues from construction operations.
- ii. **Stockpile Erosion and Sediment Control Practices.**
 - (1) Stockpiles located away from the construction activity but still under the control of the permit registrant must be protected to prevent significant amounts of sediment or turbid water from discharging to surface waters or conveyance systems leading to surface waters.
 - (2) At the end of each workday soil stockpiles must be stabilized or covered, or other BMPs must be implemented to prevent discharges to surface waters or conveyance systems leading to surface waters.
 - (3) In developing these practices, at a minimum the following must be considered: diversion of uncontaminated flows around stockpiles, use of cover over stockpiles, and installation of sediment fences (or other barriers that will prevent the discharge of sediment or turbidity) around stockpiles.
 - iii. **Solid Waste and Hazardous Materials Management.**

Implement the following BMPs when applicable: written spill prevention and response procedures, employee training on spill prevention and proper disposal procedures, spill kits in all vehicles, regular maintenance schedule for vehicles and machinery, material delivery and storage controls, training and signage, and covered storage areas for waste and supplies.
 - f. **Additional BMP Requirements During Inactive Periods.**
 - i. If all construction activities cease at the site for thirty (30) days or more, the entire site must be stabilized using temporary seeding, vegetation, a heavy mulch layer, or another method.
 - ii. On any significant portion of the site, if construction activities cease for fourteen (14) calendar days or more, install temporary covering with blown straw and a tackifier, loose straw, or an adequate covering of compost mulch.
- 8. Implementation of Control Measures**
- a. All permit registrants must implement the ESCP (Paragraph A.12). Failure to implement any of the control measures or practices described in the ESCP is a violation of the permit.
 - b. All permit registrants must prevent the discharge of significant amounts of sediment to surface waters or conveyance systems leading to surface waters. The following conditions indicate that a significant amount of sediment has left or is likely to leave the site:
 - i. Earth slides or mud flows;
 - ii. Concentrated flows of stormwater such as rills, rivulets or channels that cause erosion when such flows are not filtered, settled or otherwise treated to remove sediment;
 - iii. Sediment laden or turbid flows of stormwater that are not filtered or settled to remove sediments and turbidity;
 - iv. Deposits of sediment at the construction site in areas that drain to unprotected stormwater inlets or to catch basins that discharge to surface waters. Inlets and catch basins with failing sediment controls due to lack of maintenance or inadequate design are considered unprotected;
 - v. Deposits of sediment from the construction site on any property (including public and private streets) outside of the construction activity covered by this permit.
 - c. The permit registrant must ensure the control measures or practices described in the ESCP are implemented according to the following sequence:
 - i. **Before Construction.**
 - (1) Identify, mark, and protect (with construction fencing or other means) critical riparian areas and vegetation including important trees and associated rooting zones and vegetation areas to be preserved.
 - (2) Identify vegetative buffer zones between the site and sensitive areas (for example, wetlands), and other areas to be preserved, especially in perimeter areas.
 - (3) Hold a pre-construction meeting of project construction personnel that includes the inspector required by condition A.12.b.iii to discuss erosion and sediment control measures and construction limits.

- (4) Stabilize site entrances and access roads including, but not limited to construction entrances, roadways and equipment parking areas (for example, using geotextile fabric underlay).
 - (5) Install perimeter sediment control, including storm drain inlet protection as well as all sediment basins, traps, and barriers.
 - (6) Establish concrete truck and other concrete equipment washout areas before beginning concrete work.
 - (7) Establish material and waste storage areas, and other non-stormwater controls.
 - (8) Stabilize stream banks and construct the primary runoff control measures to protect areas from concentrated flows.
- ii. During Construction.
 - (1) Land Clearing, Grading and Roadways.
 - (a) Begin land clearing, excavation, trenching, cutting or grading only after installing applicable sediment and runoff control measures.
 - (b) Provide appropriate erosion and sediment control BMPs for all roadways including gravel roadways.
 - (c) Install additional control measures as work progresses as needed.
 - (d) Phase clearing and grading to the maximum extent practical to prevent exposed inactive areas from becoming a source of erosion.
 - (2) Surface Stabilization.

Apply temporary or permanent soil stabilization measures (for example, temporary and permanent seeding, or mulching) immediately on all disturbed areas as work is completed. Stabilization of disturbed areas must be initiated immediately whenever any earth disturbing activities have permanently ceased on any portion of the site.
 - (3) Construction and Paving.

Keep erosion and sediment control measures in place for the duration of construction, including protection for active storm drain inlets and appropriate non-stormwater pollution controls.
 - iii. Final Stabilization and Landscaping.
 - (1) Provide permanent erosion prevention measures on all exposed areas.
 - (2) Remove and properly dispose of construction materials and waste, including sediment retained by temporary BMPs.
 - (3) Remove all temporary control measures as areas are stabilized, unless doing so conflicts with local requirements.

9. BMP Maintenance

- a. The permit registrant must establish and promptly implement procedures for maintenance and repair of erosion and sediment control measures.
- b. General Site Maintenance.
 - i. Significant amounts of sediment that leave the site must be cleaned up within 24 hours, placed back on the site and stabilized, or disposed of properly. In addition, the source(s) of the sediment must be controlled to prevent continued discharge within 24 hours. Any in-stream cleanup of sediment must be performed according to requirements and timelines set by the Oregon Department of State Lands.
 - ii. Sediment must not be intentionally washed into storm sewers or drainage ways. Vacuuming or dry sweeping and material pickup must be used to cleanup released sediments.
 - iii. If fertilizers are used to establish vegetation, the application rates must follow manufacturer's guidelines and the application must be done in such a way to minimize discharge of nutrients to surface waters.
- c. Maintenance of Erosion and Sediment Controls.
 - i. Sediment fence: remove trapped sediment before it reaches one third of the above ground fence height.
 - ii. Other sediment barriers (such as biobags): remove sediment before it reaches two inches depth above ground height.

- iii. Catch basins: clean before sediment retention capacity has been reduced by fifty percent.
- iv. Sediment basins: remove trapped sediments before design capacity has been reduced by fifty percent.
- d. Stormwater Treatment Systems.
If a stormwater treatment system (for example, electro-coagulation, flocculation, filtration, etc.) for sediment or other pollutant removal is employed, submit an operation and maintenance plan (including system schematic, location of system, location of inlet, location of discharge, discharge dispersion device design, and a sampling plan and frequency) before operating the treatment system. The plan must be approved before operating the treatment system. The treatment system must be operated and maintained according to manufacturer's specifications.

10. In-stream Water Quality Standards

- a. The permit registrant must not cause or contribute to a violation of in-stream water quality standards.
- b. If the permit registrant develops, implements, and revises the control measures and practices described in the ESCP in compliance with Schedule A of this permit, DEQ assumes that the discharges authorized by this permit will not cause or contribute to a violation of water quality standards unless there is evidence to the contrary.

11. Water Quality Requirements for TMDL and 303(d) Listed Waterbodies

In addition to other applicable requirements of this permit, if a permit registrant's construction project has the potential to discharge to a portion of a waterbody that is listed for turbidity or sedimentation on the most recently EPA-approved Oregon 303(d) list or that have an established Total Maximum Daily Load (TMDL) for sedimentation or turbidity (available at www.deq.state.or.us/WQ/assessment/assessment.htm), the permit registrant must implement one or more of the BMPs listed below to control and treat sediment and turbidity. The selected BMP(s) must be identified in the ESCP as addressing this condition of the permit, and the rationale for choosing the selected BMP(s) must also be provided.

- a. Compost berms, compost blankets, or compost socks;
- b. Erosion control mats;
- c. Tackifiers used in combination with perimeter sediment control BMPs;
- d. Established vegetated buffers sized at 50 feet (horizontally) plus 25 feet (horizontally) per 5 degrees of slope;
- e. Water treatment by electro-coagulation, flocculation, or filtration; and/or
- f. Other substantially equivalent sediment or turbidity BMP approved by DEQ or Agent.

12. Erosion and Sediment Control Plan (ESCP)

- a. Preparation.
 - i. The permit registrant must ensure that an ESCP is prepared and revised as necessary for the construction activity regulated by this permit and submitted to DEQ or Agent as required by this permit.
 - ii. Qualifications to Prepare ESCP.
 - (1) For construction activities disturbing 20 or more acres, the ESCP must be prepared and stamped by an Oregon Registered Professional Engineer, Oregon Registered Landscape Architect, Oregon Certified Engineering Geologist, or Certified Professional in Erosion and Sediment Control (Soil and Water Conservation Society).
 - (2) If engineered facilities such as sedimentation basins or diversion structures for erosion and sediment control are required, the ESCP must be prepared and stamped by an Oregon Registered Professional Engineer.
- b. Required ESCP Elements
 - i. Name of the site.
 - ii. Local Government Requirements.
Include any procedures necessary to meet applicable local government erosion and sediment control or stormwater management requirements.

- iii. Erosion and Sediment Control Inspector.
 - (1) Inspections must be conducted by a person knowledgeable in the principles and practice of erosion and sediment controls who possesses the skills to assess conditions at the construction site that could impact stormwater quality, is knowledgeable in the correct installation of the erosion and sediment controls, and is able to assess the effectiveness of any sediment and erosion control measures selected to control the quality of stormwater discharges from the construction activity.
 - (2) Inspections must be conducted by a designated Erosion and Sediment Control Inspector.
 - (3) Provide the following for all personnel that will conduct inspections:
 - (e) Name and title;
 - (f) Contact phone number and, if available, e-mail address; and
 - (g) Description of experience and training.
- iv. Narrative Site Description.
 - (1) Nature of the construction activity;
 - (2) Proposed timetable indicating when each erosion and sediment control BMP is to be installed and the duration that it is to remain in place;
 - (3) Estimates of the total area of the permitted site and the area of the site that is expected to undergo clearing, grading or excavation;
 - (4) Nature of the fill material to be used, and of the insitu soils; and
 - (5) Names of the receiving water(s) for stormwater runoff.
- v. Site Map and Drawings.
 - (1) The site map and drawings must be kept on site and must represent the actual BMP controls being used onsite, particularly those BMPs identified in the most recent ESCP;
 - (2) The site map must show sufficient roads and features for DEQ or Agent to locate and access the site;
 - (3) The site map and drawings must include (but is not limited to) the following features (as applicable):
 - (a) Total property boundary including surface area of the development;
 - (b) Areas of soil disturbance (including, but not limited to, showing cut and fill areas and pre- and post-development elevation contours);
 - (c) Drainage patterns before and after finish grading;
 - (d) Discharge points;
 - (e) Areas used for the storage of soils or wastes;
 - (f) Areas where vegetative practices are to be implemented;
 - (g) All erosion and sediment control measures or structures;
 - (h) Impervious structures after construction is completed (including buildings, roads, parking lots and outdoor storage areas);
 - (i) Springs, wetlands and other surface waters on site or adjacent to the site;
 - (j) Temporary and permanent stormwater conveyance systems;
 - (k) Onsite water disposal locations (for example, for dewatering);
 - (l) Storm drain catch basins depicting inlet protection, and a description of the type of catch basins used (for example, field inlet, curb inlet, grated drain and combination);
 - (m) Septic drain fields;
 - (n) Existing or proposed drywells or other UICs;
 - (o) Drinking water wells on site or adjacent to the site;
 - (p) Planters;
 - (q) Sediment and erosion controls including installation techniques; and
 - (r) Detention ponds, storm drain piping, inflow and outflow details.

- c. ESCP Revisions
 - i. ESCP revisions must:
 - (1) Clearly identify any changes (such as type or design) to the BMPs identified in the ESCP, their location, maintenance required, and any other revisions necessary to prevent and control erosion and sediment runoff.
 - (2) Include contact information and any applicable certification, training and experience for changes in Erosion and Sediment Control Inspector.
 - ii. Approval of the revisions by DEQ or Agent prior to implementation is not required.
 - iii. Submission of all ESCP revisions is not required. ESCP revisions must be submitted only if they are made for any of the following reasons:
 - (1) Part of a Corrective Action (A.13).
 - (2) Change (increase or decrease) in the size of the project.
 - (3) Change (increase or decrease) in the size or location of disturbed areas.
 - (4) Change to BMPs (for example, type, design or location).
 - (5) Change in erosion and sediment control inspector.
 - iv. If submission of ESCP revisions is required, submit two paper copies and one electronic PDF to DEQ or Agent within 10 days of the revision. These revisions should be submitted as revised pages of the ESCP or drawings only; it is not necessary to submit the entire ESCP. If the permit registrant does not receive a response to the revisions from DEQ or Agent within 10 days of receipt, the proposed revisions are deemed accepted.
 - v. DEQ or Agent may require the permit registrant to revise the ESCP at any time. The permit registrant must submit the revisions according to the timeframe specified by DEQ or Agent.

13. Corrective Actions

- a. Corrective actions are required if any of the following occur:
 - i. Significant amounts of sediment or turbidity (as described in A.8.b) are visibly detected in: 1) the discharge to a conveyance system leading to surface waters; 2) the discharge to surface waters 50 feet downstream; or 3) the discharge in surface waters at any location where more than one-half of the width of the receiving surface waters is affected.
 - ii. The construction activity causes or contributes to a violation of in-stream water quality standards (A.10.a).
 - iii. DEQ or the Agent requires the permit registrant to take corrective actions to prevent or control the discharge of significant amounts of sediment or turbidity to surface waters or to conveyance systems that discharge to surface waters.
- b. If corrective actions are required, the registrant must:
 - i. Immediately, but no later than 24 hours after initial detection, take corrective actions or implement additional effective BMPs until the significant amounts of sediment or turbidity are no longer visually detectable and to ensure that the requirements of Conditions A.8.b and A.10.a are met.
 - ii. Document in the inspection records the corrective actions taken.
 - iii. Evaluate the control measures and practices to determine the cause of the noncompliance. Submit a written report to DEQ or Agent within 10 days of identifying the need to take corrective action as required in condition 13.a above. This report must include:
 - (1) The site common name and DEQ file number.
 - (2) Identification of outfalls that were out of compliance.
 - (3) Names of personnel conducting inspections.
 - (4) A description of the noncompliance and its cause.
 - (5) The period of noncompliance.
 - (6) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance (such as specific BMPs that will be implemented or increased inspection frequency).
 - (7) ESCP revisions, if revisions were required to prevent and control erosion and sediment discharges.

**SCHEDULE B
 MINIMUM MONITORING AND RECORDKEEPING REQUIREMENTS**

1. Inspections

- a. The following must be inspected by a designated Erosion and Sediment Control Inspector:
 - i. All areas of the site disturbed by construction activity to ensure that BMPs are in proper working order.
 - ii. Discharge point(s) identified in the ESCP for evidence of or the potential for the discharge of pollutants (including sediment and turbidity), and to ascertain whether erosion and sediment control measures are effective in preventing significant impacts to surface waters. Where discharge points are inaccessible, nearby downstream locations must be inspected to the extent that such inspections are practical.
 - iii. BMPs identified in the ESCP and any ESCP revisions to assess whether they are functioning properly.
 - iv. Locations where vehicles enter or exit the site for evidence of off-site sediment tracking.
 - v. Areas used for storage of materials that are exposed to precipitation for evidence of spillage or other potential to contaminate stormwater runoff.

- b. All ESCP controls and practices must be inspected visually according to the following schedule:

Site Condition	Minimum Frequency
1. Active period	Daily when stormwater runoff, including runoff from snow melt, is occurring. At least once every two (2) weeks, regardless of whether stormwater runoff is occurring.
2. Prior to the site becoming inactive or in anticipation of site inaccessibility	Once to ensure that erosion and sediment control measure are in working order. Any necessary maintenance and repair must be made prior to leaving the site.
3. Inactive periods greater than fourteen (14) consecutive calendar days	Once every two (2) weeks.
4. Periods during which the site is inaccessible due to inclement weather	If practical, inspections must occur daily at a relevant and accessible discharge point or downstream location.

- c. Documentation of inspections.

All inspections must be documented in writing as follows:

- i. Inspection date and inspector's name.
- ii. Observations for each discharge location. If a discharge location is inaccessible due to inclement weather, record the inspections noted at a relevant discharge point or downstream location if practical.
 - (1) Where to make observations:
 - (a) At the discharge location if the discharge is to a conveyance system leading to surface waters;
 - (b) From the discharge point to 50 feet downstream if the discharge is to surface waters; and
 - (c) At any location where more than one-half of the width of the receiving surface water is affected.
 - (2) How to make observations:
 - (a) For turbidity and color, describe any apparent color and the clarity of the discharge, and any apparent difference in comparison with the surface waters.
 - (b) Describe any sheen or floating material, or record that it is absent. If present, it could indicate concern about a possible spill or leakage from vehicles or materials storage.

- iii. Location(s) of BMPs that need to be maintained, inspections of all BMPs, including erosion and sediment controls, chemical and waste controls, locations where vehicles enter and exit the site, status of areas that employ temporary or final stabilization control, soil stockpile area, and non-stormwater pollution (for example, paints, oils, fuels, or adhesives) controls.
- iv. Location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location;
- v. Location(s) where additional BMPs are needed that did not exist at the time of inspection; and
- vi. Corrective action required and implementation dates.

2. Recordkeeping

- a. **ESCP and All Revisions Retained Onsite.** A copy of the ESCP and all revisions must be retained on site and made available on request to DEQ, Agent, or the local municipality. During inactive periods of greater than seven (7) consecutive calendar days, the ESCP must be retained by the permit registrant but does not need to be at the construction site.
- b. **Inspection Results.**
 - i. All inspection records must be kept on site and maintained by the permit registrant.
 - ii. During inactive periods of greater than seven (7) consecutive calendar days, the inspection records must be retained by the permit registrant but do not need to be at the construction site.
 - iii. All inspection records must be made available to DEQ, Agent, or local municipality upon request; and must include:
 - (1) The construction site name as it appears on the registrant's permit and the file or site number.
 - (2) All revisions and documentation of reasons for changes or modifications to the ESCP and other corrective measures.
 - (3) Records must be delivered or made available to DEQ or Agent within three (3) working days of request.
 - iv. All inspection records must be retained by the permit registrant for at least three (3) years after project completion.

**SCHEDULE D
SPECIAL CONDITIONS**

1. Schedule Precedence

In the event of any inconsistency between Schedules A through D and F, Schedules A through D will apply.

2. Other Requirements

Registration under this permit does not relieve the permit registrant from all other permitting and licensing requirements. Prior to beginning construction activities, the permit registrant must obtain all other necessary approvals.

3. Termination of Permit Registration

- a. If the project never started (there was no construction activity and no soil disturbance):
 - i. Complete and submit a Notice of Termination form to DEQ or Agent.
- b. For all construction activity, the following conditions must be met prior to termination:
 - i. All portions of the site for which you are responsible must meet final stabilization criteria (B.3.c.i – B.3.c.vi); and
 - ii. For a common plan of development or sale:
 - (1) All portions of the original common plan of development or sale that have been sold must either meet final stabilization criteria (B.3.c.i – B.3.c.vi) or be covered by the 1200-C or 1200-CN; and
 - (2) The owner/operator of the common plan must submit an update of the ESCP depicting new site boundaries (based on the sale of portions of the common plan).
- c. Final stabilization is determined by satisfying the following criteria:
 - i. There is no reasonable potential for discharge of a significant amount of construction related sediment or turbidity to surface waters.
 - ii. Construction materials and waste have been removed and disposed of properly. This includes any sediment that was being retained by the temporary erosion and sediment controls.
 - iii. All temporary erosion and sediment controls have been removed and disposed of properly, unless doing so conflicts with local requirements.
 - iv. All soil disturbance activities have stopped and all stormwater discharges from construction activities that are authorized by this permit have ceased.
 - v. All disturbed or exposed areas of the site are fully stabilized as defined in condition D.5.1.
 - vi. All outstanding compliance issues have been resolved.
- d. To terminate permit registration:
 - i. Submit photo-documentation that depicts site stabilization, unless the site has been inspected by DEQ or Agent; and
 - ii. Complete and submit a Notice of Termination form to DEQ or Agent.

4. Local Public Agencies Acting as DEQ's Agent

DEQ authorizes local public agencies to act as its Agent in implementing this permit if they entered into a Memorandum of Agreement (MOA). The Agent may be authorized to conduct the following activities, including but not limited to: application and ESCP review, inspections, monitoring data review, stormwater monitoring.

5. Permit-specific Definitions

- a. *Agent* means a governmental entity that has an agreement with DEQ to administer this general permit within their jurisdictional boundaries.
- b. *Best Management Practices or BMPs* means schedules of activities, prohibitions of practices, maintenance procedures, and other physical, structural or managerial practices to prevent or reduce the pollution of waters of the state. BMPs include treatment systems, erosion and sediment control, source

- control, and operating procedures and practices to control site runoff, spillage or leaks, and waste disposal.
- c. *Borrow Area* means the area from which material is excavated to be used as fill material in another area.
 - d. *Clean Water Act or CWA* means the Federal Water Pollution Control Act enacted by Public Law 92-500, as amended by Public Laws 95-217, 95-576, 96-483, and 97-117; USC 1251 et seq.
 - e. *Conveyance System* means a sewer, ditch, or swale that is designed to carry water; or any combination of such components.
 - f. *DEQ* means the Oregon Department of Environmental Quality.
 - g. *Detention* means the temporary storage of stormwater to improve quality or reduce the volumetric flow rate of discharge or both.
 - h. *Dewatering* means the removal and disposal of surface water or groundwater during site construction.
 - i. *Discharge Point* means the location where stormwater leaves the site. It includes the location where stormwater is discharged to surface water or a stormwater conveyance system.
 - j. *Erosion* means the movement of soil particles or rock fragments by water or wind.
 - k. *Erosion and Sediment Control BMPs* means BMPs that are intended to prevent erosion and sedimentation, such as preserving natural vegetation, seeding, mulching and matting, plastic covering, sediment fences, and sediment traps and ponds. Erosion and sediment control BMPs are synonymous with stabilization and structural BMPs.
 - l. *Fully Stabilized* means the completion of all soil disturbing activities at the site by the permit registrant, and the establishment of a permanent vegetative cover, or equivalent permanent stabilization measures (such as riprap, gabions or geotextiles) to prevent erosion.
 - m. *Hazardous Materials* means the materials defined in 40 CFR part 302 Designation, Reportable Quantities, and Notification.
 - n. *Local Government* means any county, city, town, or service district.
 - o. *National Pollutant Discharge Elimination System or NPDES* means the national program under Section 402 of the Clean Water Act for regulation of point source discharges of pollutants to waters of the United States.
 - p. *Non-Stormwater Pollution Controls* means general site and materials management measures that directly or indirectly aid in minimizing the discharge of sediment and other construction related pollutants from the construction site.
 - q. *Owner or operator* means the owner or operator of any "facility or activity" subject to regulation under the NPDES program. Owners or operators may be individuals or other legal entities. Owners or operators of automatically covered construction activities are not permit registrants. Operator for the purpose of this permit and in the context of stormwater associated with construction activity, means any party associated with a construction project that meets either of the following two criteria:
 - (1) The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
 - (2) The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a ESCP for the site or other permit conditions (for example, they are authorized to direct workers at a site to carry out activities required by the ESCP or comply with other permit conditions).
 - r. *Permanent Control Measures* means erosion prevention materials designed to provide long-term protection to underlying soils. This may include but not limited to buildings, paving, a uniform (evenly distributed, without large bare areas) perennial vegetative cover, riprap, gabions, or geotextiles.
 - s. *Permit Registrant* means the owner or operator of the construction activity regulated by this permit who has submitted an application and received notice of registration under this general permit by DEQ or Agent. Owners or operators of automatically covered construction activities are not permit registrants.
 - t. *Pollutant* as defined in 40 CFR §122.2 means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, domestic sewage sludge (biosolids), munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, cellar dirt and industrial, municipal, and agricultural waste discharge into water. It does not mean sewage from vessels

- within the meaning of section 312 of the FWPCA, nor does it include dredged or fill material discharged in accordance with a permit issued under section 404 of the FWPCA.
- u. *Pollution or Water Pollution* as defined by ORS 468B.005(3) means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof.
 - v. *Runoff Controls* means BMPs that are designed to control the peak volume and flow rate or to prevent scour due to concentrated flows.
 - w. *Sediment* means mineral or organic matter, typically deposited by water, air, or ice.
 - x. *Site* means the area where the construction activity is physically located or conducted.
 - y. *Stormwater Conveyance* means a sewer, ditch, or swale that is designed to carry stormwater; a stormwater conveyance may also be referred to as a storm drain or storm sewer.
 - z. *Stormwater as defined by 40 CFR §122.26(b)(13)* means stormwater runoff, snow melt runoff, and surface runoff and drainage.
 - aa. *Surface Runoff* means that portion of stormwater that does not infiltrate into the ground or evaporate, but instead flows onto adjacent land or watercourses or is routed to stormwater conveyance systems.
 - bb. *Surface Water* means all water naturally open to the atmosphere (for example, rivers, lakes, reservoirs, ponds, streams, impoundments, oceans, estuaries, springs, etc.).
 - cc. *Total Maximum Daily Load or TMDL* means a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet state water quality standards. It is the sum of the allowable loads of a single pollutant from all contributing point and nonpoint sources. Percentages of the TMDL are allocated by DEQ to the various pollutant sources.
 - dd. *Turbidity* means the optical condition of waters caused by suspended or dissolved particles or colloids that scatter and absorb light rays instead of transmitting light in straight lines through the water column. Turbidity may be expressed as nephelometric turbidity units (NTUs) measured with a calibrated turbidity meter.
 - ee. *Underground Injection Control* means any system, structure, or activity that is created to place fluid below the ground or sub-surface (for example, sumps, infiltration galleries, drywells, trench drains, drill holes, etc.)
 - ff. *Water or Waters of the State as defined by ORS 468B.005(8)* means lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

**SCHEDULE F
NPDES GENERAL CONDITIONS**

SECTION A. STANDARD CONDITIONS

1. **Duty to Comply**

The permit registrant must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of Oregon Revised Statutes (ORS) 468B.025, the Clean Water Act and 40 Code of Federal Regulations (CFR) §122.41(a), and is grounds for enforcement action; for permit termination, revocation and/or reissuance, or modification; or for denial of a permit renewal application.
2. **Penalties for Water Pollution and Permit Condition Violations**

ORS 468.140 allows the Director to impose civil penalties up to \$25,000 per day for violation of a term, condition, or requirement of a permit. ORS 468.943 creates the criminal offense of unlawful water pollution in the second degree, for the criminally negligent violation of ORS chapter 468B or any rule, standard, license, permit or order adopted or issued under ORS chapter 468B. Unlawful water pollution in the second degree is punishable by a fine of up to \$25,000 or imprisonment for not more than one year, or both. In addition, OAR 468.946, creates the offense of unlawful water pollution of the first degree, which is a Class B felony.
3. **Duty to Mitigate**

The permit registrant must take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit. In addition, upon request of the department, the permit registrant must correct any adverse impact on the environment or human health resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge.
4. **Duty to Reapply**

If the permit registrant wishes to continue an activity regulated by this permit after the expiration date of this permit, the permit registrant must apply for and have the permit registration renewed. The application must be submitted at least 180 days before the expiration date of this permit. The department may grant written permission to submit an application less than 180 days in advance but no later than the permit expiration date.
5. **Permit Actions**

This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:

 - a. Violation of any term, condition, or requirement of this permit, a rule, or a statute
 - b. Failure to pay fees when they are due
 - c. Obtaining this permit by misrepresentation or failure to disclose fully all material facts
 - d. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge
 - e. The permit registrant is identified as a Designated Management Agency or allocated a wasteload under a Total Maximum Daily Load (TMDL)
 - f. New information or regulations
 - g. Modification of compliance schedules
 - h. Requirements of permit re-opener conditions
 - i. Correction of technical mistakes made in determining permit conditions
 - j. Determination that the permitted activity endangers human health or the environment
 - k. Other causes as specified in 40 CFR §§122.62, 122.64, and 124.5

DEQ will give permit registrant notice of the right to a contested case hearing in the event DEQ issues a Notice of Revocation, Suspension or Refusal to Renew the permit.

The filing of a request by the permit registrant for a permit modification, revocation or reissuance, termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. Toxic Pollutants
The permit registrant must comply with any applicable effluent standards or prohibitions established under Oregon Administrative Rules (OAR) 340-041-0033 for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

7. Property Rights
The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege, nor does it authorize any injury to persons of property or invasion of any other private rights, nor any infringement of federal, tribal, state, or local laws or regulations.

8. Permit References
Except for effluent standards or prohibitions established under Section 307(a) of the Clean Water Act and OAR 340-041-0033 for toxic pollutants, all rules and statutes referred to in this permit are those in effect on the date this permit is issued.

9. Permit Fees
The permit registrant must pay the fees required by OAR 340-045-0070 to 0075.
The permit registrant must pay annual compliance fees by the last day of the month prior to when the permit was issued. For example, if the permit was issued or last renewed in April, the due date will be March 31st. If the payment of annual fees is 30 days or more past due, the permit registrant must pay 9% interest per annum on the unpaid balance. Interest will accrue until the fees are paid in full. If DEQ does not receive payment of annual fees when they are due, DEQ will refer the account to the Department of Revenue or to a private collection agency for collection.

SECTION B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Proper Operation and Maintenance
The permit registrant must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permit registrant to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by a permit registrant only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Duty to Halt or Reduce Activity
For industrial or commercial facilities, upon reduction, loss, or failure of the treatment facility, the permit registrant must, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced or lost. It is not a defense for a permit registrant in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. Bypass of Treatment Facilities

a. Definitions
i. "Bypass" means intentional diversion of waste streams from any portion of the treatment facility. The term "bypass" does not apply if the diversion does not cause effluent limitations to be exceeded.

provided the diversion is to allow essential maintenance to assure efficient operation or the diversion is due to nonuse of nonessential treatment units or processes at the treatment facility.

ii. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities or treatment processes that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Prohibition of bypass.

i. Bypass is prohibited unless:

(1) Bypass was necessary to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventative maintenance; and

(3) The permit registrant submitted notices and requests as required under General Condition B.3.c.

ii. The department may approve an anticipated bypass, after considering its adverse effects and any alternatives to bypassing, when the department determines that it will meet the three conditions listed above in General Condition B.3.b.(1).

c. Notice and request for bypass.

i. Anticipated bypass. If the permit registrant knows in advance of the need for a bypass, a written notice must be submitted to the department at least ten days before the date of the bypass.

ii. Unanticipated bypass. The permit registrant must submit notice of an unanticipated bypass as required in General Condition D.5.

4. Upset

a. Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permit registrant. An upset does not include noncompliance to the extent caused by operation error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of General Condition B.4.c are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance is not final administrative action subject to judicial review.

c. Conditions necessary for a demonstration of upset. A permit registrant who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

i. An upset occurred and that the permit registrant can identify the causes(s) of the upset;

ii. The permitted facility was at the time being properly operated;

iii. The permit registrant submitted notice of the upset as required in General Condition D.5, hereof (24-hour notice); and

iv. The permit registrant complied with any remedial measures required under General Condition A.3 hereof.

d. Burden of proof. In any enforcement proceeding, the permit registrant seeking to establish the occurrence of an upset has the burden of proof.

5. Treatment of Single Operational Upset

For purposes of this permit, A Single Operational Upset that leads to simultaneous violations of more than one pollutant parameter will be treated as a single violation. A single operational upset is an exceptional incident that causes simultaneous, unintentional, unknowing (not the result of a knowing act or omission),

temporary noncompliance with more than one Clean Water Act effluent discharge pollutant parameter. A single operational upset does not include Clean Water Act violations involving discharge without a NPDES permit or noncompliance to the extent caused by improperly designed or inadequate treatment facilities. Each day of a single operational upset is a violation.

6. **Overflows from Stormwater Conveyance Systems (privately owned)**
 - a. **Definitions**
 - i. "Overflow" means the diversion and discharge of waste streams from any portion of the wastewater conveyance system through a designed overflow device or structure, other than discharges to the wastewater treatment facility.
 - ii. "Severe property damage" means substantial physical damage to property, damage to the conveyance system which causes it to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of an overflow.
 - iii. "Uncontrolled overflow" means the diversion of waste streams other than through a designed overflow device or structure.
 - b. **Prohibition of overflows. Overflows are prohibited unless:**
 - i. Overflows were unavoidable to prevent an uncontrolled overflow, loss of life, personal injury, or severe property damage;
 - ii. There were no feasible alternatives to the overflows, such as the use of auxiliary conveyance systems, or maximization of conveyance system storage; and
 - iii. The overflows are the result of an upset as defined in General Condition B.4 and meeting all requirements of this condition.
 - c. **Uncontrolled overflows are prohibited where wastewater is likely to escape or be carried into the waters of the State by any means.**
 - d. **Reporting required. Unless otherwise specified in writing by the department, all overflows and uncontrolled overflows must be reported orally to the department within 24 hours from the time the permit registrant becomes aware of the overflow. Reporting procedures are described in more detail in General Condition D.5.**

7. **Public Notification of Effluent Violation or Overflow**

If effluent limitations specified in this permit are exceeded or an overflow occurs, upon request by the department, the permit registrant must take such steps as are necessary to alert the public about the extent and nature of the discharge. Such steps may include, but are not limited to, posting of the river at access points and other places, news releases, and paid announcements on radio and television.

8. **Removed Substances**

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters must be disposed of in such a manner as to prevent any pollutant from such materials from entering waters of the state, causing nuisance conditions, or creating a public health hazard.

SECTION C. MONITORING AND RECORDS

1. **Representative Sampling**

Sampling and measurements taken as required herein must be representative of the volume and nature of the monitored discharge. All samples must be taken at the monitoring points specified in this permit, and shall be taken, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points may not be changed without notification to and the approval from the department.

2. **Flow Measurements**

Appropriate flow measurement devices and methods consistent with accepted scientific practices must be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices must be installed, calibrated and maintained to insure that the accuracy of the

measurements is consistent with the accepted capability of that type of device. Devices selected must be capable of measuring flows with a maximum deviation of less than ± 10 percent from true discharge rates throughout the range of expected discharge volumes.

3. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in this permit.

4. Penalties of Tampering

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit may, upon conviction, be punished by a fine of not more than \$10,000 per violation, imprisonment for not more than two years, or both. If a conviction of a person is for a violation committed after a first conviction of such person, punishment is a fine not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both.

5. Reporting of Monitoring Results

Monitoring results must be summarized each month on a Discharge Monitoring Report form approved by the department. The reports must be submitted monthly and are to be mailed, delivered or otherwise transmitted by the 15th day of the following month unless specifically approved otherwise in Schedule B of this permit.

6. Additional Monitoring by the Permit registrant

If the permit registrant monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 part CFR part 136 or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report. Such increased frequency must also be indicated. For a pollutant parameter that may be sampled more than once per day (e.g., Total Chlorine Residual), only the average daily value must be recorded unless otherwise specified in this permit.

7. Averaging of Measurements

Calculations for all limitations that require averaging of measurements must utilize an arithmetic mean, except for bacteria which shall be averaged as specified in this permit.

8. Retention of Records

The permit registrant must retain records of all monitoring information, including: all calibration, maintenance records, all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the department at any time.

9. Records Contents

Records of monitoring information must include:

- a. The date, exact place, time, and methods of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

10. Inspection and Entry

The permit registrant must allow the department or an authorized representative upon the presentation of credentials to:

- a. Enter upon the permit registrant's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and
- d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by state law, any substances or parameters at any location.

SECTION D. REPORTING REQUIREMENTS

1. Planned Changes

The permit registrant must comply with OAR chapter 340, division 52, "Review of Plans and Specifications" and 40 CFR §122.41(l)(1). Except where exempted under OAR chapter 340, division 52, no construction, installation, or modification involving disposal systems, treatment works, sewerage systems, or common sewers may be commenced until the plans and specifications are submitted to and approved by the department. The permit registrant must give notice to the department as soon as possible of any planned physical alternations or additions to the permitted facility.

2. Anticipated Noncompliance

The permit registrant must give advance notice to the department of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

3. Transfers

This permit may be transferred to a new permit registrant provided the transferee acquires a property interest in the permitted activity and agrees in writing to fully comply with all the terms and conditions of the permit and the rules of the Commission. No permit may be transferred to a third party without prior written approval from the department. The department may require modification, revocation, and reissuance of the permit to change the name of the permit registrant and incorporate such other requirements as may be necessary. The permit registrant must notify the department when a transfer of property interest takes place.

4. Compliance Schedule

Reports of compliance or noncompliance with, or any progress reports on interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date. Any reports of noncompliance must include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirements.

5. Twenty-Four Hour Reporting

The permit registrant must report any noncompliance that may endanger health or the environment. Any information must be provided orally (by telephone) within 24 hours, unless otherwise specified in this permit, from the time the permit registrant becomes aware of the circumstances. During normal business hours, the department's Regional office must be called. Outside of normal business hours, the department must be contacted at 1-800-452-0311 (Oregon Emergency Response System).

A written submission must also be provided within 5 days of the time the permit registrant becomes aware of the circumstances. Pursuant to ORS 468.959 (3) (a), if the permit registrant is establishing an affirmative defense of upset or bypass to any offense under ORS 468.922 to 468.946, delivered written notice must be made to the department or other agency with regulatory jurisdiction within 4 (four) calendar days of the time the permit registrant becomes aware of the circumstances. The written submission must contain:

- a. A description of the noncompliance and its cause;

- b. The period of noncompliance, including exact dates and times;
- c. The estimated time noncompliance is expected to continue if it has not been corrected;
- d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and
- e. Public notification steps taken, pursuant to General Condition B.7.

The following must be included as information that must be reported within 24 hours under this paragraph:

- a. Any unanticipated bypass that exceeds any effluent limitation in this permit.
- b. Any upset that exceeds any effluent limitation in this permit.
- c. Violation of maximum daily discharge limitation for any of the pollutants listed by the department in this permit.
- d. Any noncompliance that may endanger human health or the environment.

The department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

6. Other Noncompliance

The permit registrant must report all instances of noncompliance not reported under General Condition D.4 or D.5, at the time monitoring reports are submitted. The reports must contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times;
- c. The estimated time noncompliance is expected to continue if it has not been corrected; and
- d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

7. Duty to Provide Information

The permit registrant must furnish to the department within a reasonable time any information that the department may request to determine compliance with this permit. The permit registrant must also furnish to the department, upon request, copies of records required to be kept by this permit.

Other Information: When the permit registrant becomes aware that it has failed to submit any relevant facts or has submitted incorrect information in a permit application or any report to the department, it must promptly submit such facts or information.

8. Signatory Requirements

All applications, reports or information submitted to the department must be signed and certified in accordance with 40 CFR §122.22.

9. Falsification of Information

Under ORS 468.953, any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, is subject to a Class C felony punishable by a fine not to exceed \$100,000 per violation and up to 5 years in prison. Additionally, according to 40 CFR §122.41(k)(2), any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a federal civil penalty not to exceed \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

10. Changes to Discharges of Toxic Pollutant

The permit registrant must notify the department as soon as it knows or have reason to believe of the following:

- a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in the permit, if that discharge will exceed the highest of the following "notification levels:

- i. One hundred micrograms per liter (100 $\mu\text{g/l}$);
 - ii. Two hundred micrograms per liter (200 $\mu\text{g/l}$) for acrolein and acrylonitrile; five hundred micrograms per liter (500 $\mu\text{g/l}$) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR §122.21(g)(7); or
 - iv. The level established by the department in accordance with 40 CFR §122.44(f).
- b. That any activity has occurred or will occur that would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant that is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
- i. Five hundred micrograms per liter (500 $\mu\text{g/l}$);
 - ii. One milligram per liter (1 mg/l) for antimony;
 - iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR §122.21(g)(7); or
 - iv. The level established by the department in accordance with 40 CFR §122.44(f).

SECTION E. DEFINITIONS

1. Technology based permit effluent limitations means technology-based treatment requirements as defined in 40 CFR §125.3, and concentration and mass load effluent limitations that are based on minimum design criteria specified in OAR 340-041.
2. mg/l means milligrams per liter.
3. Grab sample means an individual discrete sample collected over a period of time not to exceed 15 minutes.
4. Month means calendar month.
5. Week means a calendar week of Sunday through Saturday.

EXHIBIT D



Oregon

Kate Brown, Governor

Department of Environmental Quality
Northwest Region Portland Office/Water Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232
(503) 229-5263
FAX (503) 229-6957
TTY 711

July 28, 2015

North Coast Retail LLC
PO Box 791
Mercer Island, WA 98040

RE: 2007-01024-2; North Coast Retail LLC 401 Water Quality Certification

Dear Mr. Giesbrecht:

The Department of Environmental Quality (DEQ) has reviewed the U.S. Army Corps of Engineers (USACE) Permit application #2007-01024-2 (Department of State Lands [DSL] #56938), pursuant to a request for a Clean Water Act Section 401 Water Quality Certification (WQC) received on December 3, 2014. DEQ's 401 WQC public comment opportunity was circulated with the USACE public notice, and DEQ received no water quality comments.

According to the application, you propose to impact waters to construct a commercial development to allow the relocation of an existing Ford dealership. The project is located in wetlands tributary to the Skipanon River in the city of Warrenton, Clatsop County, Oregon (Section 27, T8N/R10W).

Project Description: The project includes the construction of a retail building, an auto dealership building, a parking lot, and associated infrastructure on a 6.62-acre site.

The development site contains existing stormwater for the adjacent Costco site. The onsite pipeline used to route treated stormwater runoff from the adjacent Costco site to the wetlands on Lot 3 will remain onsite. The onsite constructed wetlands pond will be removed and the onsite detention pond will be retrofitted to include constructed wetlands capable of treating and detaining flows from both the Costco site and this project.

The project will fill all 1.9 acres of onsite wetlands. The applicant proposes to purchase advance credits from the Lower Columbia In Lieu Fee Program.

Status of Affected Waters of the State: The Skipanon River is classified as water quality limited under the Federal Clean Water Act. The Skipanon River is on the Section 303(d) list of impaired water bodies for dissolved oxygen, E. coli, and fecal coliform.

The above listed parameters impair the following beneficial uses in the Skipanon River: fish & aquatic life and water contact recreation. Other beneficial uses in the Skipanon River include public domestic water supply, private domestic water supply, industrial water supply, irrigation, livestock watering, wildlife & hunting, fishing, boating, water contact recreation, and aesthetic quality.

Certification Decision: Based on the information provided by the applicant and USACE, DEQ is reasonably assured that implementation of the project will be consistent with applicable provisions of Sections 301, 302, 303, 306, and 307 of the federal Clean Water Act, state water quality standards set forth in Oregon Administrative Rules Chapter 340 Division 41, and other appropriate requirements of state law, provided the following conditions are incorporated into the USACE permit and strictly adhered to by the applicant.

401 CERTIFICATION CONDITIONS

1. **Duration of Certification:** This 401 WQC is valid for five years from the date of issuance of the USACE 404 permit. A new 401 WQC must be obtained prior to any substantial modification of the USACE permit.
2. **Stormwater Management Plan:** The applicant has submitted a post-construction stormwater management plan (SWMP). The SWMP describes how Best Management Practices (BMPs) will be implemented to prevent or treat pollution in stormwater generated by the proposed project, in order to comply with water quality standards.

Stormwater runoff from the 4.38 acres of new impervious surface areas will be pre-treated by Lynch-style catch basins that collect oil and floating materials and allow some settlement. Stormwater runoff will then be routed through a pre-settling forebay and into an onsite constructed wetland. The onsite constructed wetland will be created by retrofitting an existing detention pond and will be sized to treat the stormwater runoff from this development plus continue to treat off-site stormwater runoff from 5.81 acres of the adjacent Costco site. The constructed wetlands will discharge through a swale to the existing Lot 3 wetland.

Within 30 days of project completion, the applicant must submit a copy of the 'As-Builts' or red-lined construction drawings showing all stormwater management facilities.

3. **Cessation of Work:** Cease project operations under high flow conditions that may result in inundation of the project area, except for efforts to avoid or minimize turbidity or other resource damage as a result of the exposed project area.
4. **Erosion Control:** Projects that disturb one acre or more require an NPDES 1200C Storm Water Discharge Permit. Contact the appropriate DEQ regional office for more information (Contact information can be found at <http://www.deq.state.or.us/about/locations.htm>).
5. **Deleterious waste materials:** Biologically harmful materials and construction debris including but not limited to petroleum products, chemicals, cement cured less than 24 hours, welding slag and grindings, concrete saw cutting by-products, sandblasted materials, chipped paint, tires, wire, steel posts, asphalt and waste concrete may not be placed in or where they could enter waterways or wetlands:
 - a. Concrete, cement, or grout must be cured for at least 24 hours prior to any contact with flowing waters.
 - b. Only clean fill free of waste and polluted substances may be used.
 - c. Best Management Practices must be employed to prevent discharges of spills of deleterious materials to surface or ground water.

- d. An adequate supply of materials needed to contain deleterious materials during a weather event must be maintained at the project construction site and deployed as necessary.
 - e. All foreign materials, refuse, and waste must be removed from the area.
6. **Spill Prevention:** Vehicles must be fueled, operated, maintained, and stored and construction materials must be stored in areas that minimize disturbance to habitat and prevent adverse effects from potential discharges. In addition, the following specific requirements apply:
- a. Vehicle staging, cleaning, maintenance, refueling, and fuel storage must take place in a vehicle staging area placed 150 feet or more from any waters of the state. Provided that equal or greater spill containment and effect avoidance is maintained, an exception to this distance can be made if all practicable prevention measures are employed and this distance is not possible because of any of the following site conditions:
 - i. Physical constraints that make this distance not feasible (e.g., steep slopes, rock outcroppings) or
 - ii. Natural resource features would be degraded as a result of this setback.
 - b. All vehicles operated within 150 feet of any waters of the state must be inspected daily for fluid leaks before leaving the vehicle staging area. Any leaks detected must be repaired before the vehicle resumes operation.
 - c. Before operations begin and as often as necessary during operation, equipment must be steam cleaned (or undergo an approved equivalent cleaning) until all visible external oil, grease, mud, and other visible contaminants are removed if the equipment will be used below the bank of the water body.
 - d. An adequate supply of materials (such as straw matting/bales, geotextiles, booms, diapers, and other absorbent materials) needed to contain spills must be maintained at the project construction site and deployed as necessary.
7. **Spill & Incident Reporting:**
- a. In the event that petroleum products, chemicals, or any other deleterious materials are discharged into state waters, or onto land with a potential to enter state waters, the discharge must be promptly reported to the Oregon Emergency Response Service (OERS, 1-800-452-0311). Containment and cleanup must begin immediately and be completed as soon as possible.
 - b. If the project operations cause a water quality problem that results in distressed or dying fish, the operator must immediately: cease operations; take appropriate corrective measures to prevent further environmental damage; collect fish specimens and water samples; and notify DEQ, the Oregon Department of Fish and Wildlife, and other appropriate regulatory agencies.

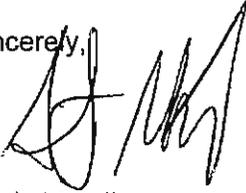
8. Vegetation Protection and Restoration:

- a. Riparian, wetland, and shoreline vegetation in the authorized project area must be protected from disturbance to the maximum extent practicable through one or more of the following:
 - i. Minimization of project and impact footprint;
 - ii. Designation of staging areas and access points in open, upland areas;
 - iii. Fencing and other barriers demarking construction areas; and
 - iv. Use of alternative equipment (e.g., spider hoe or crane).
 - b. If authorized work results in unavoidable vegetative disturbance and the disturbance has not been accounted for in planned mitigation actions, riparian, wetland and shoreline vegetation must be successfully reestablished to a degree that it functions (for water quality purposes) at least as well as it did before the disturbance. The vegetation must be reestablished by the completion of authorized work.
9. Provide a buffer zone, where practicable (minimum width of 50 feet recommended), in order to protect existing riparian areas and existing and mitigation wetlands.
 10. The applicant must notify DEQ of any change in ownership and obtain DEQ review and approval before undertaking any change to the project that might significantly affect water quality.
 11. DEQ may modify or revoke this 401 WQC in accordance with OAR 340-048-0050 in the event of project changes or new information indicating that the project activities are having a significant adverse impact on state water quality or beneficial uses.
 12. A copy of this 401 WQC letter shall be kept on site and readily available for reference by the applicant and its contractors, USACE, DEQ and other appropriate state and local government inspectors.
 13. This 401 WQC is invalid if the project is operated in a manner not consistent with the project description contained in the permit application materials.
 14. The applicant and its contractors must allow DEQ site access at reasonable times as necessary to monitor compliance with these 401 WQC conditions.

If the applicant is dissatisfied with the conditions contained in this certification, a contested case hearing may be requested in accordance with OAR 340-048-0045. Such request must be made in writing to the DEQ Office of Compliance and Enforcement at 811 SW 6th Avenue, Portland Oregon 97204 within 20 days of the mailing of this certification.

The DEQ hereby certifies this project in accordance with the Clean Water Act and state rules, with the above conditions. If you have any questions, please contact Amy Simpson at simpson.amy@deq.state.or.us, by phone at 503 229-5051 or at the address on this letterhead.

Sincerely,

A handwritten signature in black ink, appearing to read 'S Mrazik', written over the word 'Sincerely,'.

Steve Mrazik
Water Quality Manager
Northwest Region

2007-01024-2 North Coast Retail LLC.doc

cc: Marcia Heer, USACE
Dan Cary, DSL

EXHIBIT E

"Making a difference through excellence of service"



CITY OF WARRENTON

NOTICE OF DECISION AND ORDER
Richenbach Applications SDR 15-4 and V 15-1
July 24, 2015

Applicant: Richenbach Construction (North Coast Retail LLC/Astoria Ford)

Applications: Site Design Review, Variance

Location: Tax Lot 81027C007300 at the southwest corner of SE Ensign Drive and SE 19th Avenue.

Application Date: April 14, 2015

Application Complete: June 22, 2015

120 Day Deadline: October 20, 2015

Criteria: C1 zone development standards (16.40.040);
C1 zone design standards (16.40.050)
C1 zone other applicable standards (16.40.060)
Commercial design standards (16.116.030)
Access and Circulation Design Standards (16.120)
Design Standards for Landscaping, Street Trees, Fences, and Walls (16.124)
Design Standards for Vehicle and Bicycle Parking (16.128)
Design Standards for Clear Vision Areas (16.132)
Stormwater and Surface Water Management Standards (16.140)
Design Standards for Signs (16.144)
Wetland and Riparian Corridor Development Standards (16.156)
Large-Scale Developments (16.192)
Site Design Review Application and Review Procedures (16.212)
Variances (16.272)
Type III Procedure 16.208.050

Hearing and Record: The Planning Commission held a public hearing July 23, 2015 after which it reached a decision to approve both the site design and variance submit to 10 conditions of approval as follows:

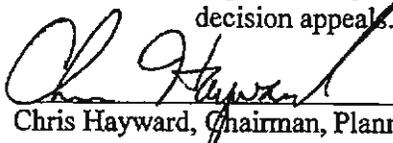
1. Final building plans will show any outdoor storage

- areas; all roof-, ground-, or wall-mounted exterior HVAC units; and all ground-level utility enclosures associated with the proposed building. The Community Development Director will approve their location and design when the requirements of 16.116.030.C.6 are met.
2. Final building/site plans will include at least two of the features mentioned in 16.116.030.D, such a patio/seating area, water feature, art work or sculpture, clock tower, pedestrian plaza with park benches, open spaces, or other features, such as a park acceptable to the Community Development Director.
 3. The final building/site plans will show all exterior building lighting, if any. The Community Development Director will approve the lighting if it meets the requirements of 16.116.030.E.
 4. If the final design meets the Fire Chief's requirements, the Community Development Director will approve the final design.
 5. The wall around the proposed trash/recycling area shall be no more than six feet high.
 6. Final building/site plans will need to include an erosion control element acceptable to the Public Works Director.
 7. Final storm drainage plans will be reviewed by the Public Works Director, City Engineer, and Building Official prior to construction.
 8. Separate applications shall be submitted for the construction/installation of all signage.
 9. Unless waived by the City, a soils analysis consistent with 16.192.030 shall be provided prior to final plan approval.
 10. When the civil plans are submitted for a formal review by Public Works the requirements in the City of Warrenton Engineering Design Criteria Manual will apply, including adding the City's standard general notes. The details for the utility lines shown on sheet S-3 will need to be a more clear regarding the size and type of connections for the water, sewer, sand/oil interceptor and fire lines to the public utilities. Sheet S-3 shows one utility line that is not identified that runs down the drive aisle to SE 19h Street.

Any appeal of this decision shall be pursuant to Warrenton Municipal Code 16.208.050 H. The deadline for an appeal of this decision is 5:00 p.m., August 7, 2015.

Notice of appeal. Any person with standing to appeal may appeal a Planning Commission Decision by filing a Notice of Appeal according to the following procedure:

1. **Time for filing.** A notice of appeal shall be filed with the Community Development Director within 14 days of the date the Notice of Decision was mailed. **A notice of appeal must be received in the Warrenton Planning Department by 5:00 p.m. August 7, 2015;**
2. **Content of notice of appeal.** The notice of appeal shall contain:
 - a. an identification of the decision being appealed, including the date of the decision;
 - b. a statement demonstrating the person filing the notice of appeal has standing to appeal;
 - c. a statement explaining the specific issues raised on appeal;
 - d. if the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period; and
 - e. filing fee.
3. **Scope of Appeal.** The appeal of a Type III quasi-judicial decision shall be limited to the specific issues raised during the written comment period or at the public hearing, as provided under Subsection ii.D above, unless the City Commission allows additional evidence or testimony concerning any other relevant issue. The City Commission may allow such additional evidence if it determines that such evidence is necessary to resolve the case. Written or oral comments received during the comment period or public hearing will usually limit the scope of issues on appeal. Only in extraordinary circumstances should new issues be considered by the City Commission on appeal of a Type III Quasi-Judicial Decision.
4. **Appeal Procedures.** Type III notice as provided in this section and hearing procedures as provided by Section 16.208.060 shall be used for all Type III quasi-judicial decision appeals.


Chris Hayward, Chairman, Planning Commission

7/24/15
Date

Distribution: Applicant
Property Owner