GordonDerr
ATTORNEYS AT LAW

October 5, 2009

VIA HAND DELIVERY
Carol Lumb and Members of the Tukwila City Council
c/o City of Tukwila Department of Community Development
6300 Southcenter Blvd., #100
Tukwila, WA 98188

Re: Supplemental Comments on City of Tukwila Shoreline Master Program (SMP) Update

Dear Ms. Lumb and Council Members:

We represent the James Campbell Co. LLC, which owns property in the City of Tukwila including four parcels along the Green River. This letter addresses an important issue that has been discussed during the City Council work sessions regarding the SMP: the circumstances under which the proposed 125-foot buffer in areas with levees could be reduced following reconstruction of a levee. We are proposing what we believe is a mutually beneficial solution on this issue. We trust that copies of this letter will be provided to the members of the City Council.[1]

A. Background of Buffer Reduction Issue

The proposed 125-foot buffer encroaches on existing buildings and site improvements on the James Campbell Company's property in a number of places. *See* Survey, attached as Exhibit A (the buffer line is highlighted in yellow). The proposed 125-foot buffer width reflects the City's estimate of the maximum width that would be required to accommodate reconstruction of a levee in conformance with the City's preferred levee "profile".[2] That profile includes a number of elements: riverside levee faces with a maximum slope of 2h:1v, a 15-foot-wide vegetated mid-slope bench, a 20-foot wide levee top, a landward levee face (e.g., backslope) with a maximum slope of 2:1, and a 10-foot access easement.

Depending on site-specific circumstances, the horizontal distance required to accommodate this profile will vary. During the working sessions, the Council directed staff to propose language allowing the buffer to be reduced, upon levee reconstruction, to the actual width required to accommodate the City's profile (with the elements of that profile being very

[1] At the July 20 hearing, the city attorney indicated that written comments would continue to be accepted up to the Council's decision and would be provided to the Council. We also appreciate the Council's expressed desire, at the last work session, to receive comments that propose solutions to outstanding issues, which is our intent here.

[2] The levee "profile" is more accurately referred to as the levee "cross-section", but this letter uses the City's terminology.

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specifically defined). Staff has not yet released that language. We believe, however, that the foregoing approach does not provide sufficient flexibility in light of the realities of levee reconstruction. As discussed below, our client's properties vividly illustrate these realities and the need for a more flexible approach.[3] We are proposing language that provides the needed flexibility; that language is attached as Exhibit B and also discussed below.[4]

B. Buffer Reduction in Connection with Future Levee Reconstruction Projects

Two of the parcels owned by the James Campbell Co. are located inside a bend in the Green River at the south end of the City. These parcels are developed with very large commercial/light industrial buildings (shown in the aerial photo on the first page of Exhibit C). The King County Flood Control District intends to undertake a levee reconstruction project along this stretch of river in the very near future.

We retained a consultant to evaluate levee reconstruction options for these parcels, and the consultant determined that, in many places, there is not sufficient room to accommodate a levee reconstruction project incorporating every element of the City's preferred levee profile without encroaching on existing site improvements. *See* Geoengineers Figures, attached as Exhibit C.

For example, at Conceptual Levee Section D, the City's profile would result in the levee backslope and access easement being located on a portion of the existing building access road, which provides access to building openings and parking. At Conceptual Levee Section E, the City's profile would result in the backslope and access easement impacting the existing building access road and a parking area that is needed to meet parking requirements. Most significantly, at Conceptual Levee Section F, the City's profile would result in the backslope covering the existing railroad line (without any room for a levee access easement between the backslope and the building).

However, there are alternatives to the City's profile that allow the City to achieve its key goals without impacting the existing improvements. For example, at Conceptual Levee Sections D and E, the levee access easement could be combined with the existing building access road. If the levee backslope left insufficient area for an adequate access road and parking, it might be necessary to use a floodwall in lieu of the backslope, reduce the levee top, or use some other alternative. More important, at Conceptual Levee Section F, the consultant determined that a "double" floodwall could be used to fit the reconstructed levee into the area waterward of the railroad line (assuming that the levee access easement could coexist with the railroad).[5]

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[3] We do not waive our previous legal arguments regarding the validity of the City's buffer approach. However, as it is clear that the City is not inclined to consider changes to the proposed 125-foot buffer prior to levee reconstruction, we are trying in this letter propose changes that we believe the City could accept.

[4] The first paragraph in Exhibit B would contain the language that the City Council has directed staff to develop regarding buffer reduction. We envision that the language in Exhibit B would replace the last paragraph in section 7.7.C of the draft SMP (page 66 of the "clean" Planning Commission version) and would also be used in the cells of Table 3 that address areas with an Urban Conservancy designation and a 125' proposed buffer.

[5] All of these comments reflect conceptual design ideas, and the required variations and solutions could be different when comprehensive design work is undertaken.

Crucially, because the alternatives set forth by Geoengineers primarily vary the back side of the levee (with only minor potential modifications to the levee profile on the river side of the levee) and continue to provide a midslope bench, these alternatives would not interfere with the City's preferred approach to increasing river capacity and providing habitat improvements.

Both the City and U.S. Army Corps of Engineers recently approved a levee profile substituting a floodwall for an earthen backslope, and making other modifications to the City's preferred profile, in a recent levee reconstruction project directly across the river from the James Campbell Co.'s property. In addition, we have discussed this matter with King County personnel, who did not believe the City's profile was the only acceptable one and were particularly receptive to taking an alternative approach in order to avoid existing improvements.[6]

Thus, we propose the following language to address this issue:

> Upon reconstruction of a levee, the Director shall reduce the buffer to the width of the reconstructed levee, notwithstanding that the reconstructed levee varies from the City's standard levee profile, if the City's standard levee profile would encroach on site improvements (e.g., buildings and/or related facilities such as parking, access roads, rail spurs, etc.).

We see no reason why the City would not want to draft the SMP to allow flexibility to accommodate design variation at the time of levee reconstruction. Any levee reconstruction project will require approval by some combination of the following agencies: the City of Tukwila, King County, U.S. Army Corps of Engineers, and National Marine Fisheries Service (to ensure Endangered Species Act compliance). Without question, these agencies will ensure that the design of any levee reconstruction project serves the City's key goals even if the design varies somewhat from the City's preferred levee profile. Moreover, if these agencies found that too many design compromises would be required to reconstruct a levee without impacting existing site improvements, the lead agency would condemn the land and improvements needed to achieve the City's preferred profile, and the buffer reduction issue discussed herein would be moot.

By the same token, if the SMP does not anticipate the possibility that alternative levee profiles are possible (and, indeed, are likely to be used), the City could find itself in a difficult position: upon completion of a levee reconstruction using an alternative profile, the SMP would not allow the City to reduce the buffer to the width of the reconstructed levee. This would leave a portion of the property burdened by a buffer that served absolutely no purpose, which would be

---

[6] We note that all of the pertinent agencies should be concerned about avoiding encroachment by levee reconstruction projects on existing improvements. To the extent that any agency believed that the 125-foot buffer would reduce their condemnation costs, it bears emphasis that such a strategy will not be successful and the condemning agency will ultimately be required to pay the pre-buffer value of any property that is condemned. *City of Bellevue v. Kravik*, 69 Wash. App. 735 (1993). Thus, it is in everyone's interest to avoid the need to condemn existing improvements.

illegal under the various legal doctrines set forth in our previous comment letters, including giving rise to a claim of inverse condemnation subjecting the City to damages.

C. Buffer Reduction in Connection with Completed Levee Reconstruction Projects

In addition to the foregoing, it is also necessary to allow buffer reduction in the (very rare) case where a levee reconstruction project has recently occurred. While progress on levee reconstruction has not been rapid in recent years due to funding constraints, one such project occurred in 1998-2003 and reconstructed the levee adjacent to two of the James Campbell Co.'s other parcels (one of which is occupied by the "Glacier Building"). *See* King County Project Descriptions, attached as Exhibit D.

This County reconstruction project (which included consultation under the Endangered Species Act) "set back" the existing levee to achieve adequate stability and created a densely vegetated midslope bench, as well as adding large woody debris below the ordinary high water mark to create salmon habitat. The developer of the Glacier Building, which was built in the same timeframe as the levee reconstruction, relocated the proposed building further landward to allow the levee reconstruction, and the reconstructed levee immediately abuts the edge of the building. In connection with the levee reconstruction project, the public access trail was also completely rebuilt.

There is no reason to contemplate reconstruction, within the time horizon of the SMP, of a levee that has been completely reconstructed in the past ten years with the inclusion of the foregoing habitat elements. Thus, we propose the following language to address this issue:

> Where a levee has been reconstructed after 1997 and before adoption of this SMP, the Director shall reduce the buffer to the width of the reconstructed levee, notwithstanding that the reconstructed levee varies from the City's standard levee profile, if the reconstructed levee could not be extended significantly further landward without interfering with site improvements (e.g., buildings and/or related facilities such as parking, access roads, rail spurs, etc.) existing as of the date of adoption of this SMP.

This language is carefully drafted to ensure that it only applies to reconstruction projects that are consistent with the City's goals. The limitation to reconstruction projects subsequent to 1997 ensures that any included projects incorporated modern levee standards and habitat improvements and went through review under the Endangered Species Act. Moreover, the requirement that existing site improvements preclude landward extension of the reconstructed levee preserves the City's future options in the case of undeveloped properties.[7]

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[7] If the City wished to further limit the applicability of the foregoing language, we note that the abovereferenced reconstruction project is the only levee setback project that is included in the list of completed restoration projects in the City's May, 2007, Shoreline Restoration Plan for the Shoreline Master Program Update. *See* Restoration Plan, Table 3.

Again, we see no reason why the City would not wish to provide itself flexibility to reduce the 125-foot buffer in this case. Indeed, given the lack of need for any further levee reconstruction at this location, the City should want the SMP to allow reduction of the buffer on this property, as allowing the buffer to burden any portion of the existing improvements violates the various legal doctrines set forth in our previous comment letters, including giving rise to a claim of inverse condemnation subjecting the City to damages.

D. Conclusion

We appreciate your consideration of the foregoing. We believe there is the potential for a win-win solution on this issue and would be happy to meet with City staff, and/or Council members, to further discuss our proposed language.

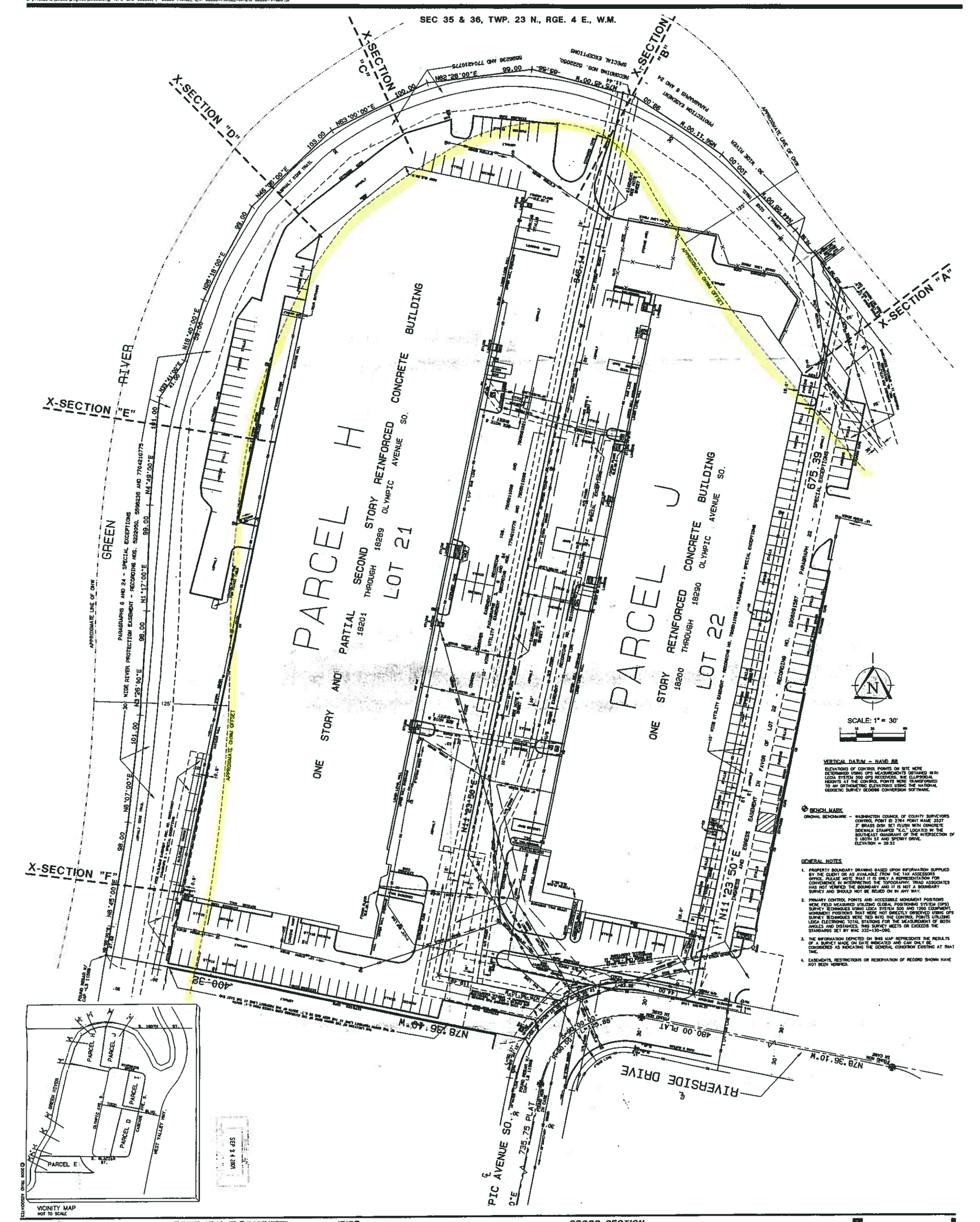
Very truly yours,

GORDONDERR LLP

Jeff S. Weber

Attachments
cc: Clyde Skeen (w/att.)

EXHIBIT A



VERTICAL DATUM - NAVD 88

ELEVATIONS OF CONTROL POINTS ON SITE WERE DETERMINED USING GPS MEASUREMENTS OBTAINED WITH LEICA SYSTEM 500 GPS RECEIVERS. THE ELLIPSOIDAL HEIGHTS AT THE CONTROL POINTS WERE TRANSFORMED TO MV ORTHOMETRIC ELEVATIONS USING THE NATIONAL GEODETIC SURVEY GEOID99 CONVERSION SOFTWARE.

BENCH MARK

ORIGINAL BENCHMARK – WASHINGTON COUNCIL OF COUNTY SURVEYORS CONTROL POINT ID 3764 POINT NAME 3537 3" BRASS DISK SET FLUSH WITH CONCRETE SIDEWALK STAMPED "X,C" LOCATED IN THE SOUTHEAST QUADRANT OF THE INTERSECTION OF S 180TH ST AND SPERRY DRIVE. ELEVATION = 29.52

GENERAL NOTES

1. PROPERTY BOUNDARY DRAWING BASED UPON INFORMATION SUPPLIED BY THE CLIENT OR AS AVAILABLE FROM THE TAX ASSESSORS OFFICE. PLEASE NOTE THAT IT IS ONLY A REPRESENTATION FOR CONVENIENCE IN INTERPRETING THE TOPOGRAPHY. TRIAD ASSOCIATES HAS NOT VERIFIED THE BOUNDARY AND IT IS NOT A BOUNDARY SURVEY AND SHOULD NOT BE RELIED ON IN ANY WAY.
2. PRIMARY CONTROL POINTS AND ACCESSIBLE MONUMENT POSITIONS WERE FIELD MEASURED UTILIZING GLOBAL POSITIONING SYSTEM (GPS) SURVEY TECHNIQUES USING LEICA SYSTEM 500 AND 1200 EQUIPMENT. MONUMENT POSITIONS THAT WERE NOT DIRECTLY OBSERVED USING GPS SURVEY TECHNIQUES WERE TIED INTO THE CONTROL POINTS UTILIZING LEICA ELECTRONIC TOTAL STATIONS FOR THE MEASUREMENT OF BOTH ANGLES AND DISTANCES. THIS SURVEY MEETS OR EXCEEDS THE STANDARDS SET BY WAC 332-130-090.
3. THE INFORMATION DEPICTED ON THIS MAP REPRESENTS THE RESULTS OF A SURVEY MADE ON DATE INDICATED AND CAN ONLY BE CONSIDERED AS INDICATING THE GENERAL CONDITION EXISTING AT THAT TIME.
4. EASEMENTS, RESTRICTIONS OR RESERVATION OF RECORD SHOWN HAVE NOT BEEN VERIFIED.

CROSS SECTION
LAYOUT SHEET

GEOENGINEERS, INC.

GREEN RIVER BANK LEVEE

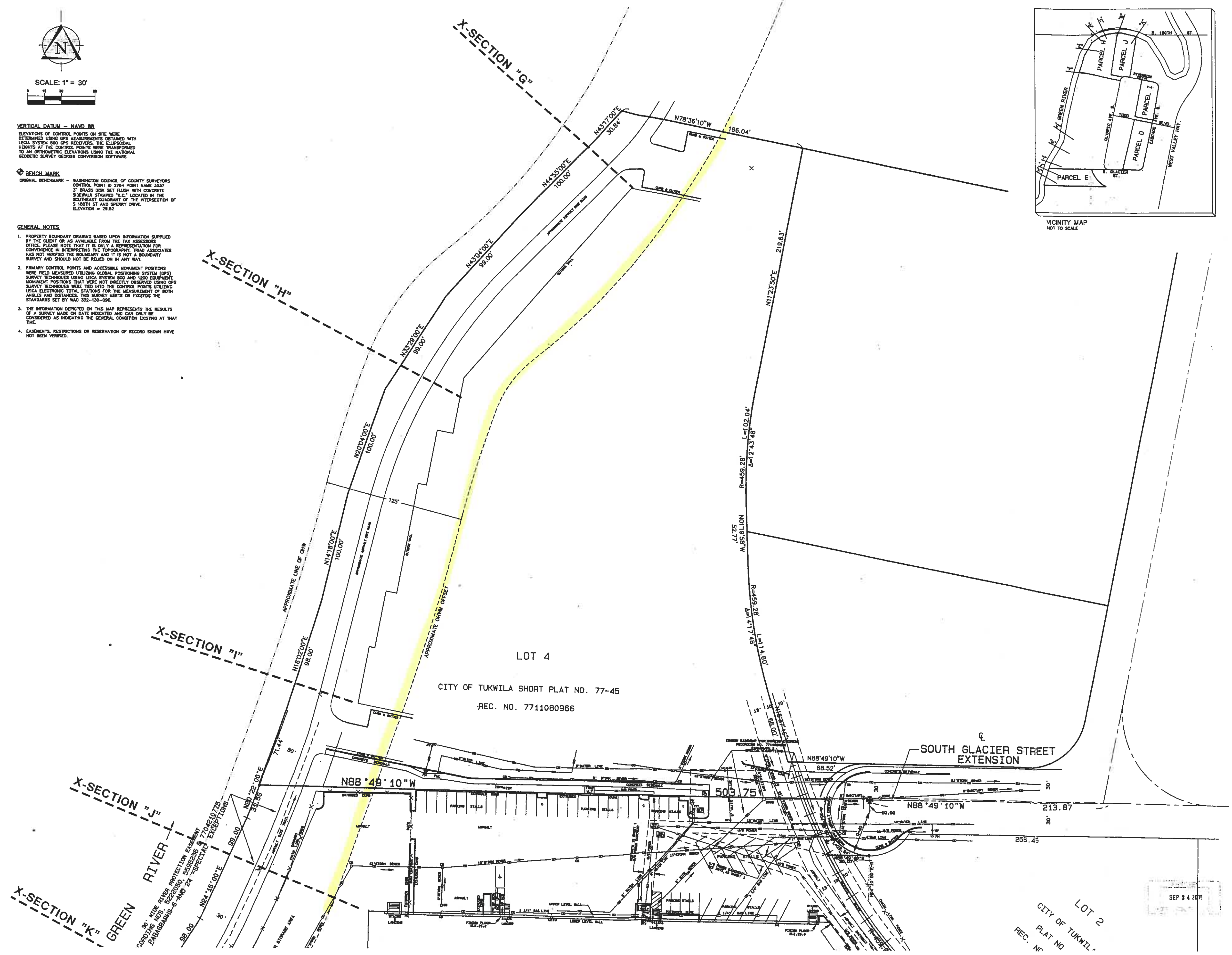
CITY OF TUKWILA, WASHINGTON

TRIAD ASSOCIATES

09-090

3 of 7

SEC 35 & 36, TWP. 23 N., RGE. 4 E., W.M.



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VERTICAL DATUM – NAVD 88

ELEVATIONS OF CONTROL POINTS ON SITE WERE DETERMINED USING GPS MEASUREMENTS OBTAINED WITH LECIA SYSTEM 500 GPS RECEIVERS. THE ELLIPSOIDAL HEIGHTS AT THE CONTROL POINTS WERE TRANSFORMED TO AN ORTHOMETRIC ELEVATIONS USING THE NATIONAL GEODETIC SURVEY GEOID96 CONVERSION SOFTWARE.

BENCH MARK

ORIGNAL BENCHMARK – WASHINGTON COUNCIL OF COUNTY SURVEYORS CONTROL POINT ID 2764 POINT NAME 3537 3" BRASS DISK SET FLUSH WITH CONCRETE SIDEWALK STAMPED "K.C." LOCATED IN THE SOUTHEAST QUADRANT OF THE INTERSECTION OF S 180TH ST AND SPERRY DRIVE. ELEVATION = 28.52

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CROSS SECTION LAYOUT SHEET

GEOENGINEERS, INC.

GREEN RIVER BANK LEVEE

CITY OF TUKWILA, WASHINGTON

David A. Robertson, Pls
PROJECT MANAGER
PROJECT SURVEYOR
Peter M. Brackett, Pls
PROJECT ENGINEER
PROJECT LANDSCAPE ARCHITECT
FIRST SUBMITTAL DATE: 09/23/09
SCALE: HORIZ.: 1"=30' VERT.:

STAMP NOT VALID UNLESS SIGNED AND DATED

JOB NO. 09-090

SHEET NO. 2 OF 7

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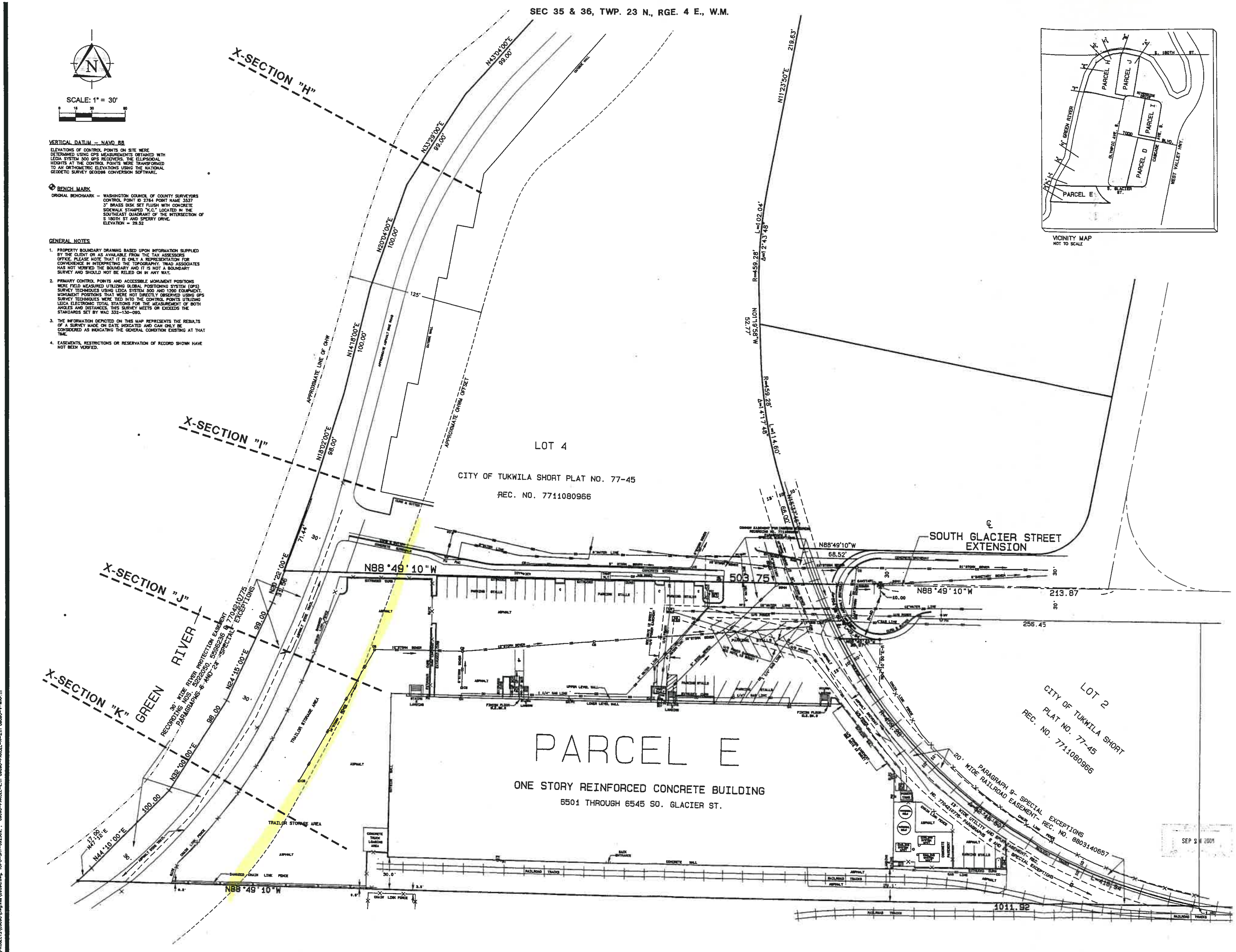

SCALE: 1" = 30'
X-SECTION "H"
X-SECTION "I"
X-SECTION "J"
X-SECTION "K"
GREEN RIVER
LOT 4
CITY OF TUKWILA SHORT PLAT NO. 77-45
REC. NO. 7711080966
SOUTH GLACIER STREET EXTENSION
N88°49'10"W
503.75
213.87
256.45
1011.92
PARCEL E
ONE STORY REINFORCED CONCRETE BUILDING
5501 THROUGH 6545 SO. GLACIER ST.
LOT 2
CITY OF TUKWILA SHORT PLAT NO. 77-45
REC. NO. 7711080966
20' WIDE RAILROAD EASEMENT REC. NO. 8803140657
PARAGRAPH 9 SPECIAL EXCEPTIONS
30' WIDE RIVER PROTECTION EASEMENT
TRAILOR STORAGE AREA
APPROXIMATE LINE OF OHW
APPROXIMATE OHW OFFSET
RAILROAD TRACKS
VICINITY MAP
NOT TO SCALE
PARCEL E
PARCEL D
PARCEL I
PARCEL J
PARCEL H
GREEN RIVER
WEST VALLEY HWY.
S. 180TH ST.
SEP 24 2009

VERTICAL DATUM – NAVD 88

ELEVATIONS OF CONTROL POINTS ON SITE WERE DETERMINED USING GPS MEASUREMENTS OBTAINED WITH LECIA SYSTEM 500 GPS RECEIVERS. THE ELLIPSOIDAL HEIGHTS AT THE CONTROL POINTS WERE TRANSFORMED TO AN ORTHOMETRIC ELEVATIONS USING THE NATIONAL GEODETIC SURVEY GEOID96 CONVERSION SOFTWARE.

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GEOENGINEERS, INC.

GREEN RIVER BANK LEVEE

CITY OF TUKWILA, WASHINGTON

NO.	DATE	REVISION	BY	CK

David A. Robertson, PLS
PROJECT MANAGER
PROJECT SURVEYOR
Peter M. Brackett, PLS
PROJECT ENGINEER
PROJECT LANDSCAPE ARCHITECT
FIRST SUBMITTAL DATE: 09/23/09
SCALE: HORIZ.: 1"=30' VERT.:

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JOB NO. 09-090

SHEET NO. 1 OF 7

EXHIBIT B

New language to replace last paragraph in section 7.7.C and pertinent cells in Table 3: [1]

1. Upon reconstruction of a levee in accordance with the City's standard levee profile, the Director shall reduce the buffer to the actual width required. The City's standard levee profile shall consist of [insert description]. [2]
2. Upon reconstruction of a levee, the Director shall reduce the buffer to the width of the reconstructed levee, notwithstanding that the reconstructed levee varies from the City's standard levee profile, if the City's standard levee profile would encroach on site improvements (e.g., buildings and/or related facilities such as parking, access roads, rail spurs, etc.).
3. Where a levee has been reconstructed after 1997 and before adoption of this SMP, the Director shall reduce the buffer to the width of the reconstructed levee, notwithstanding that the reconstructed levee varies from the City's standard levee profile, if the reconstructed levee could not be extended significantly further landward without interfering with site improvements (e.g., buildings and/or related facilities such as parking, access roads, rail spurs, etc.) existing as of the date of adoption of this SMP.

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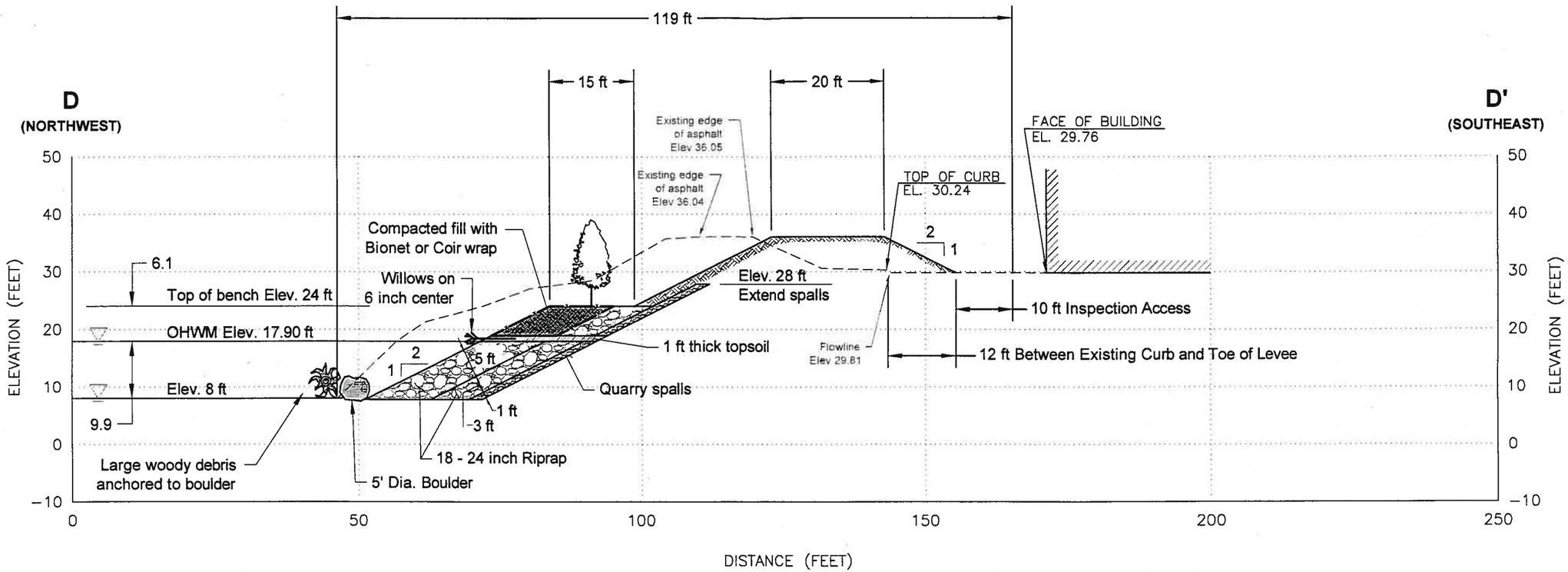
[1] We envision that the language on this exhibit would replace the last paragraph in section 7.7.C of the draft SMP (page 66 of the "clean" Planning Commission version) and would also be used in the cells of Table 3 that address areas with an Urban Conservancy designation and a 125' proposed buffer.

[2] Paragraph 1 would contain the language that the City Council has directed staff to develop regarding buffer reduction.

EXHIBIT C

PHOTO SHOWING LOCATIONS OF LEVEE CROSS-SECTIONS
(DIAGRAMS OF CROSS-SECTIONS D, E, AND F
FOLLOW THIS PAGE)



Notes

1. The locations of all features shown are approximate.
2. This drawing is for information purposes. It is intended to assist in showing features discussed in an attached document. GeoEngineers, Inc. can not guarantee the accuracy and content of electronic files. The master file is stored by GeoEngineers, Inc. and will serve as the official record of this communication.

HORIZONTAL SCALE: 1"= 20'
VERTICAL SCALE: 1"= 20'
VERTICAL EXAGGERATION: 1X

20 0 20
FEET

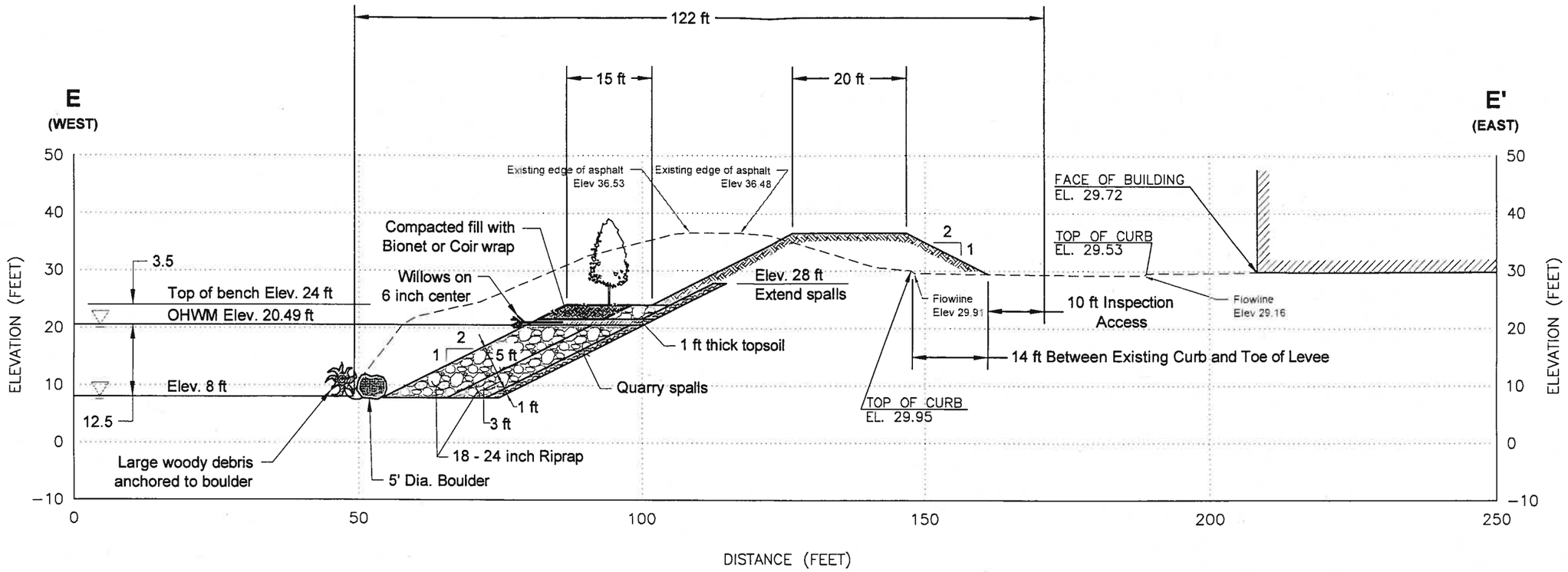
Conceptual Levee Section D-D'

Green River Levee Site
Tukwila, Washington

GeoEngineers

Figure 3

P:\18\892200\00\CAD\REPORT FIGURES\892200\00 X-SECTIONS.DWG\TAB:D-D MODIFIED BY TMICHAUD ON OCT 05, 2009 - 11:03



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VERTICAL SCALE: 1"= 20'
VERTICAL EXAGGERATION: 1X

20 0 20
FEET

Conceptual Levee Section E-E'

Green River Levee Site
Tukwila, Washington

GeoEngineers

Figure 4

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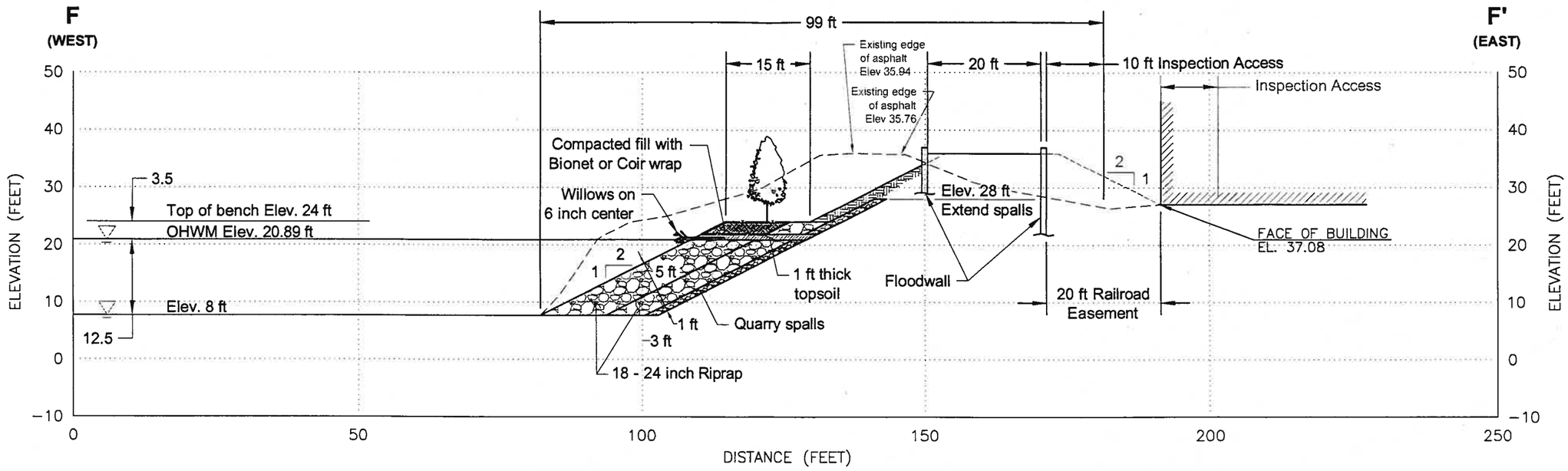

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VERTICAL SCALE: 1"= 20'
VERTICAL EXAGGERATION: 1X

20 0 20
FEET

Conceptual Levee Section F-F'

Green River Levee Site
Tukwila, Washington

GeoEngineers

Figure 5

P:\1892200\00\CAD\Report Figures\1892200100 X-SECTIONS.dwg\TAB:F-F Modified by THICHAUD on Oct 05, 2009 - 11:59

EXHIBIT D

- Flooding services
- Flood warning system
- Flood buyouts and elevation
- Floodplain maps
- Flooding documents
- Historical floods
- Flood Control District
- Bank stabilization projects
  - Guidelines for Bank Stabilization Projects
- Regulations update
- Levee vegetation speech
- Community rating system
- Archived news
- Site map

To offer a suggestion or report an error on the Water and Land Resources' Web site, please contact Fred Bentler, webmaster.

Green River Bank Stabilization & Habitat Restoration Project

Project Name	Year Completed	Approx. Number of Logs Installed	Approx. Linear Feet	Bank	Approx. River Mile
Desimone Levee Toe Repair	2002	70	1300	Right	15.4
Desimone Levee Repair (Tukwila 205)	1998 & 1999	0	1300	Right	15.4

Negotiations with adjoining property owners allowed for relocation of planned building construction and setback reconstruction of the eroding Desimone levee along the Right Bank of the Green River at River Mile 15.4. Work began in 1998 and concluded with in-water portions of the construction in 2003 following completion of required ESA documentation and consultation. Altogether, over 1,300 feet of the levee was relocated some twenty to twenty-five feet landward of its original top-of-bank location in a heavily-developed warehouse district. This allowed the creation of a densely vegetated midslope bench which serves as low-velocity flood refuge for salmonids during common levels of winter flows released from reservoir storage for flood control. Altogether over 75 large logs with intact rootwads were secured below the Ordinary High Water Mark to create low-velocity zones and cover for juvenile salmonids, which have been observed utilizing this habitat during monitoring efforts in 2003.

For questions about Boating on King County Rivers, please contact Steve Bleifuhs, Program Analyst, Rivers Section.

Related information

- Boating on King County Rivers
- Drinking Water
- Salmon and Trout
- Wetlands
- King County Watersheds Map
- Green River Watershed
- Environmental Data & Trends
- Stormwater Services

Related agencies

- Department of Natural Resources and Parks
- Water and Land Resources Division

- Flooding services
- Flood warning system
- Flood buyouts and elevation
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To offer a suggestion or report an error on the Water and Land Resources' Web site, please contact Fred Bentler, webmaster.

Desimone Levee Planting

Microsoft employees volunteer to improve fish and wildlife habitat

Nearly one hundred Microsoft employees, organized through the United Way of King County Day of Caring (September 13, 2002), volunteered to help reduce the risk of major flood damage and improve fish and wildlife habitat damage in the lower Green River Valley.

The Microsoft volunteers broke a good sweat (as well as a few hand tools) under the hot sun as they planted their way along a quarter-mile segment of the Desimone levee. Within six hours, the volunteers, aided by young adults from the Earthcorps program, planted 3,420 native plants -- a number that exceeded the wildest expectations of the King County project managers.

Microsoft Employees working on the levee (put mouse on photo to see larger)

King County hopes to continue to use volunteer groups to help complete a series of seven projects that will stabilize riverbanks at seven locations on the lower Green River. These projects include the addition or replacement of large rock along the riverbank and large logs for fish habitat. Also, blackberry- and grass-covered banks will be replaced with a diverse community of native plants. Native vegetation helps reduce erosion and thus the risk of flooding. The native plants also provide more diverse shoreline habitat for both fish and wildlife, and will eventually provide shade to help keep the river cool for salmonids.

Currently, King County is working to complete seven bank stabilization projects on the lower Green River. Two of the seven projects, one in Kent and one in Tukwila, will be completed in 2002. King County Department of Transportation crews finished the heavy construction work on both projects during July and August. The Microsoft volunteers helped finish the project in Tukwila. Additional volunteer planting events on October 15 and October 26 should result in the completion of both projects.

The Green River Flood Control Zone District, and the project team, would like to thank these hard working volunteers, as well as Earthcorps, for their efforts to improve the riverbank for fish and wildlife along this critical levee and popular recreational trail.

For information about volunteer opportunities on King County's flood control facilities contact John Koon at 206-296-8062.

Related information

- Boating on King County Rivers
- Drinking Water
- Salmon and Trout
- Wetlands
- King County Watersheds Map
- Green River Watershed
- Environmental Data & Trends
- Stormwater Services

Related agencies

- Department of Natural Resources and Parks
- Water and Land Resources Division

Carol Lumb - SMP Language

From: "Jeff Weber"
To: "Carol Lumb"
Date: 10/19/2009 3:13 PM
Subject: SMP Language
Attachments:

Carol,

Thanks for providing me with staff's proposed language on the buffer reduction issue. As I mentioned this morning, we appreciate the City's pulling back on its proposed language regarding costs, indemnity, etc.

Prior to our meeting with you on Thursday, I thought it would be helpful to list our comments/suggestions on particular portions of the language. I've attached a redline showing our proposed changes, which address the following points:

--It is likely that most levee reconstruction projects will be done by government agencies, so we have added a reference to cover that.

--As I explained this morning, we don't think the concept of an overall slope of 2.5 to 1 captures what we think you are trying to accomplish – e.g., to specify the minimum standards for the levee profile the city would accept for buffer reduction purposes. I think what you are after is a requirement that the levee front slopes (above and below the midslope bench) be no steeper than 2:1. (Note - the levee cross sections depicted in the attachments to our comment letter do not provide an overall slope of 2.5 to 1. Mathematically, a levee profile that includes a 15 foot midslope bench with 2:1 slopes above and below the bench is only going to result in a overall slope of 2.5 to 1 in the case of one height of levee, which is not the levee height existing at this location of the river.)

--We see no reason why it should not be possible to substitute a floodwall for all of the backslope, as well as a portion of the backslope.

--As you can see from the attachments to our comment letter, space is very tight along the western edge of the James Campbell Co. property. While we assume and hope that a reasonable access road and the existing required parking can be preserved without needing to use a floodwall, we would like the option for a floodwall to be used if needed to preserve reasonable access or required parking that cannot be accommodated elsewhere on the site. Thus, we think it is too restrictive to say that a floodwall can only be used to avoid encroachment on a structure.

--We request that you allow the width of the levee top to be reduced by up to 25% if that is necessary to keep ten feet of clearance between a floodwall and a building. In a very tight situation, that extra room may be critical, and minor variations to the levee top do not undermine the City's key goals. I note that, if the levee adjacent to the Glacier building were ever reconstructed, a reduction in the levee top would be needed to avoid the existing building (with 10' clearance) even if a floodwall were used.

--As we've previously noted, there is a serious issue related to the existing railroad easement on the JCC property; thus, we request that you allow floodwalls to be used, and other minor variations to be made, where necessary to avoid encroachment on railroad easements. Otherwise, the railroad issue could preclude timely reconstruction of the levee in this area.

--Finally, we liked the concept you suggested regarding not including the no build area in the buffer if the property owner grants the City a maintenance easement, and we have proposed specific language on that score.

Thanks for your consideration of these matters. We will see you on Thursday.

Jeff

<<bufferreductionrevisions.doc>>

Jeff Weber

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As an alternative to the 125 foot buffer for leveed areas, a property owner or government agency may construct levee or riverbank improvements that meet the Army Corps of Engineers, King County Flood Control District, and the City of Tukwila levee standards. These standards at a minimum shall include ~~an overall slope of 2.5:1 from the toe of the levee to the riverward edge of the crown,~~ a 15 foot mid slope bench, levee front slopes (above and below the midslope bench) of no steeper than 2:1, 20' access across the top of the levee, a 2:1 back slope, and an additional 10 foot no-build area measured from the landward toe for inspection and repairs. A floodwall is not the preferred back slope profile for a levee and may be substituted for all or a portion of the back slope only where compliance with the foregoing standards would result in ~~necessary to avoid~~ encroachment upon or damage to a structure legally constructed prior to the date of adoption of this Master Program, required parking for such a structure that cannot be accommodated elsewhere on the site, or a reasonable access road serving such a structure. The floodwall shall be designed to be the minimum necessary to provide 10' clearance between the levee and the building, or the minimum necessary to preserve required parking or a reasonable access road, while meeting all engineering safety standards; provided that, if there is insufficient space to provide 10' clearance between the floodwall and building, the width of the levee top may be reduced by up to 25% in order to provide 10' clearance. A floodwall may also be used, and other minor variations made, where necessary to avoid encroachment on a railroad easement. ~~As a condition of approval of a floodwall, the property owner shall sign a Hold Harmless, Indemnity and Reimbursement Agreement in a form approved by the City Attorney, in which the property owner commits to reimburse the City for all design, construction, and inspection costs related to the floodwall; indemnify, defend and hold the City harmless from any damages arising from the floodwall; and maintain the floodwall at no cost to the City.~~

In areas of the river where ~~this condition~~a levee meeting the foregoing requirements currently exists or where the owner or a government agency has constructed ~~the~~se improvements meeting those requirements, the buffer will be reduced to the actual ~~distance~~ width of the levee as measured from the ordinary high water mark to the landward toe of the levee or face of a floodwall, plus ten feet. Provided that, the ten feet referenced in the preceding sentence shall not be included in the buffer in cases where the property owner grants the City a ten-foot inspection and maintenance easement (measured ten feet landward from the landward toe of the levee or face of a floodwall) meeting the following standards:

a. Construction of structures that would interfere with the City's maintenance and inspection activities shall be prohibited in the easement area. Facilities allowed within the easement area shall include, but not be limited to, pavement for parking or access roads, as well as underground utility facilities.
b. Temporary obstruction of the easement area shall be permitted to facilitate construction and maintenance of structures located landward of the easement area, as well as improvements permitted in the easement area.
c. If the landward toe of the levee or floodwall face is moved closer to the river, the easement area shall be relocated to be adjacent to the new levee toe or floodwall face.

Carol Lumb - Fw: Tukwila SMP - ER 408

From:
To:
Date: 10/27/2009 3:06 PM
Subject: Fw: Tukwila SMP - ER 408

Sent from my Verizon Wireless BlackBerry

From: "Jeff Weber" <jweber@GordonDerr.com>
Date: Mon, 26 Oct 2009 09:18:38 -0700
To: BOB STERBANK<BOB@kenyondisend.com>
Subject: Tukwila SMP - ER 408

Bob,

Since I have not heard back from you in response to my voicemail on Friday and I know the executive session is later today, I wanted to follow up on the issues that we discussed at the meeting last Thursday.

The James Campbell Company very much appreciates the efforts the City is making to revise the SMP in response to their concerns. You asked under what circumstances JCC would be able to write a letter in support of the proposed SMP. I have discussed that with my client and here are the issues they would need to see addressed in order to do that.

Buffer reduction upon levee reconstruction

The version of Section 7.7 that staff handed out at the meeting on Thursday represented substantial progress, which we appreciate. As we discussed at the meeting, we would request modest additional changes to that version of Section 7.7, particularly allowing a floodwall in order to avoid encroachment on required parking that cannot be accommodated elsewhere on the site.

Addressing situation where levee was recently reconstructed

We appreciate staff's willingness to consider changes to mitigate the effect of the proposed buffer on a property (like JCC's Glacier Building) where the levee has recently been reconstructed. Since staff was reluctant to reduce the buffer itself in such a situation, we believe the cleanest way to deal with this issue is to not apply the use regulations for the buffer area to the portion of the building lying within the buffer. We suggest the following language:

> Where a levee has been reconstructed after 1997 and before adoption of this Master Program and the reconstruction included creation of a midslope bench and planting of native vegetation, and a structure is located landward of such levee and was legally constructed prior to the date of adoption of this Master Program, the portion of such structure that lies within the buffer shall not be subject to the use regulations for the buffer, and may be devoted to any use allowed in the applicable shoreline environment outside the buffer, so long as the structure retains its nonconforming status.

Delayed implementation of use regulations for buffer pending levee reconstruction

As I indicated at the meeting, JCC still has serious concerns about the workability of the City's proposed CUP process for changing nonconforming uses. It is not commercially practical from a leasing standpoint for the property owner to have to go through a many-month CUP process in order to know whether he can lease space to a given tenant. In addition, the City is setting itself up for an administrative nightmare. A property owner making best efforts to keep his property leased will

need to submit a CUP application in response to every inquiry from a potential tenant (there may be many such inquiries for each completed lease) for virtually every space of any size located in the buffer. The City is potentially looking at hundreds of CUP applications every year up and down the river.

A limited solution to this issue would be to defer implementation of the use regulations for the buffer area where a levee reconstruction project is programmed. When a reconstruction project is imminently contemplated that is going to result in reduction of the buffer so that the building is no longer in the buffer, it makes no sense for the property owner and the City to waste their time on CUP applications to change uses; they should just focus on getting the reconstruction project done. Indeed, delaying implementation of the use regulations for the buffer area in this situation will provide the property owner with an incentive to help get the reconstruction project done quickly. We suggest the following language:

> Where a structure is located landward of a levee and was legally constructed prior to the date of adoption of this Master Program, and at the time of adoption of this Master Program a project to reconstruct such levee is programmed (in whole or in part) in the 6-year Capital Improvement Plan of an agency such as the King County Flood Control District, the portion of such structure that lies within the buffer shall not be subject to the use regulations for the buffer, and may be devoted to any use allowed in the applicable shoreline environment outside the buffer, for a period of six years after the date of adoption of this Master Program; provided that, if the levee reconstruction project starts within six years after the date of adoption of this Master Program but has not been finished within that period, the six year period shall be extended until the reconstruction is complete.

The foregoing provision would be of limited applicability. The King County Flood Control District's 2009 CIP includes relatively few levee reconstruction projects in the City of Tukwila: Desimone #1-4; Segale #2, 3 and 4; and Gaco Western. All of these are located at the extreme southern end of the City.

I would be happy to discuss any of this with you. Obviously, feel free to forward our proposed language to staff. We look forward to seeing the proposed revisions that staff ultimately recommends to the Council. Thank you for your consideration.

Jeff

Jeff Weber

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GordonDerr
ATTORNEYS AT LAW

November 10, 2009

VIA HAND DELIVERY
Carol Lumb and Members of the Tukwila City Council
c/o City of Tukwila Department of Community Development
6300 Southcenter Blvd., #100
Tukwila, WA 98188

Re: Supplemental Comments on City of Tukwila Shoreline Master Program (SMP) Update

Dear Ms. Lumb and Council Members:

We represent the James Campbell Company LLC, which owns property in the City of Tukwila including four parcels along the Green River. We appreciate the willingness of City staff and various Council members to meet with us to discuss the City's proposed Shoreline Master Program (SMP). In a meeting with Councilmember Quinn last week, he requested additional information regarding the reconstruction of the levee adjacent to the James Campbell Company's "Glacier Building" as well as any language we might wish to propose to address the situation of that building.

The levee adjacent to the Glacier Building was reconstructed by King County approximately ten years ago. Copies of the plans for King County's reconstruction of the levee are attached hereto as Exhibit A. The King County Flood Control District has no programmed capital improvement project for the levee adjacent to the Glacier Building. *See* Map, Exhibit B hereto.[1]

As you know, on October 21, 2009, staff transmitted to Council additional proposed changes to the SMP, including changes addressing the City's "preferred levee profile". Based on staff's proposal, the James Campbell Company's consultant, Geoengineers, evaluated the levee adjacent to the Glacier Building. While the levee does not, in its current configuration, comply with the City's "preferred levee profile," Geoengineers determined that, in the event of further reconstruction of that levee, the City's "preferred levee profile" could be accommodated without encroaching on the existing building, with the exception of a small variation in the width of the

[1] The District's programmed capital improvement projects are shown in purple on the map; no project is shown for the levee adjacent to the Glacier Building. As shown by the other materials in Exhibit B, the District's Desimone #4 project terminates to the north of the Glacier Building and the District's Briscoe project terminates well to the south of the Glacier Building.

levee top that would not affect the stability of the levee. *See* Geoengineers Letter, Exhibit C hereto.[2]

Given that the levee could be reconstructed in the manner described above without encroaching on the existing building, we see no justification for the City to impose a buffer that includes any portion of the building. Such a buffer constitutes a taking and violates RCW 82.02.020 and the James Campbell Company's substantive due process rights. Moreover, we do not believe that allowing the buffer to be reduced upon reconstruction of the levee resolves the foregoing legal defects. This would be true even if reconstruction were imminent; however, no reconstruction of the levee adjacent to the Glacier Building is likely to occur in the foreseeable future given that the County reconstructed the levee ten years ago and no further reconstruction is programmed.

Upon adoption of the proposed SMP, the uses in the portion of the Glacier Building within the buffer would become nonconforming. As detailed in our previous comment letters, the proposed SMP's provisions regarding nonconformance do not provide sufficient protection to the property owner. Unfortunately, staff's proposal to address this issue -- by allowing existing uses to be changed to different nonconforming uses upon approval of a Conditional Use Permit -- does not protect the owner's ability to continue to use the building in a commercially reasonable manner.[3]

The commercial/industrial leasing market is highly competitive, particularly in the current economic climate. Prospective tenants will not wait to lease space in a building where a CUP process involving both City of Tukwila and Department of Ecology review – a months long process – is required in order to determine whether the lease is allowable. *See* Letter from Clyde Skeen, Exhibit D. In cases (like that of the Glacier Building) where such a CUP is likely to be needed to re-lease space that becomes vacant, the CUP requirement is likely to preclude re-leasing of the space as a practical matter. *Id.* Moreover, while we do not believe the CUP process represents a workable solution to the nonconformance issue as a general matter, the CUP process is particularly unworkable where (as with the Glacier Building) no reconstruction is likely to occur in the foreseeable future, such that CUPs will be needed for new tenants for a period of decades.

In our October 5, 2009, comment letter, we proposed language to address a situation (like that of the Glacier Building) where the levee has recently been reconstructed and the landward edge of the levee is immediately adjacent to a building. We suggested that, in such cases (of which there are likely to be very few), the buffer extend no further than the landward edge of the levee. While we still believe this is the best approach, we are also open to an approach under which the use regulations for the buffer area would not be applied to the portion of a building lying within the buffer area as long as that building retains its nonconforming status:

---

[2] Indeed, even the variation of the levee top width appears to be consistent with the City's "preferred levee profile" given that staff's proposed language states that "minor variations of the profile" may be allowed in order to provide 10' clearance between a floodwall and a structure existing at the time of adoption of the SMP.

[3] Staff's proposed language on this point was first presented as part of the materials for the September 22, 2009, working session.

Where a levee has been reconstructed after 1997 and before adoption of this Master Program and the reconstruction included creation of a midslope bench and planting of native vegetation, and a structure is located landward of such levee and was legally constructed prior to the date of adoption of this Master Program, the portion of such structure that lies within the buffer shall not be subject to the use regulations for the buffer, and may be devoted to any use allowed in the applicable shoreline environment outside the buffer, so long as the structure retains its nonconforming status.

We hope that staff and/or Councilmembers will be willing to propose, and that the Council will adopt, language addressing the Glacier Building situation either as proposed in our October 5 letter or as proposed above. Again, we appreciate the time and efforts of staff and the Council and would be happy to engage in further discussions regarding this matter. Thank you for your consideration.

Very truly yours,

GORDONDERR LLP

Jeff S. Weber

Attachments
cc: Clyde Skeen (w/att.)

EXHIBIT A

Desimone Levee

Bank Stabilization & Habitat Enhancement Project

A two phase approach to repair and structurally stabilize a levee damaged by major floods in 1995 and 1996, and to incorporate large woody debris (logs) and native streambank vegetation to enhance salmon habitat in response to the listing of Puget Sound chinook salmon and bull trout under the Endangered Species Act.

Construction Dates and Cost

September 1998	$442,435
September 1999	$309,608
June-August 2002	$548,354
Total Costs	$1,300,397

Funding

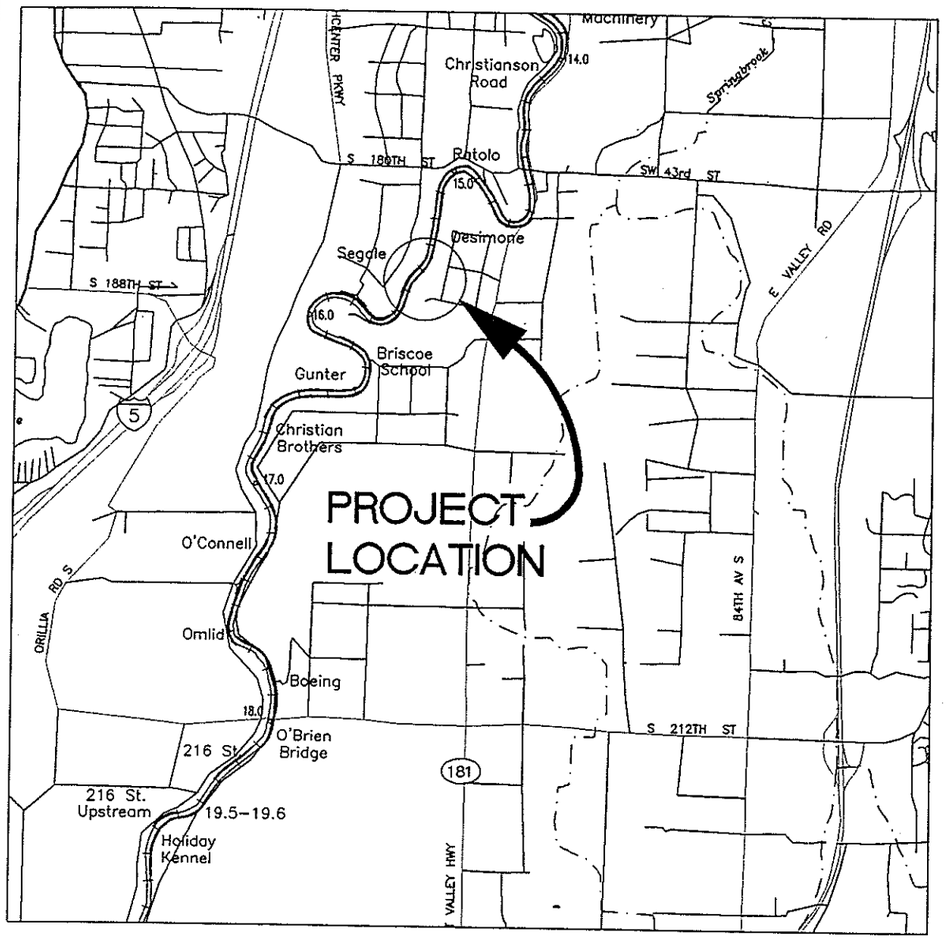
Green River Flood Control Zone District
Federal Emergency Management Agency
State of Washington

For More Info:

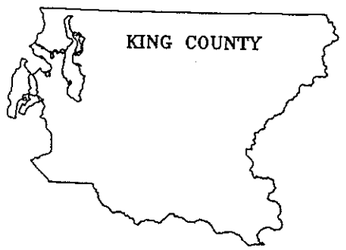
King County
Department of Natural Resources and Parks
Water and Land Resources Division
206-296-6519

Green River Flood Control Zone District
Serving Auburn, Kent, Renton, Tukwila, and King County

DESIMONE
LEVEE STABILIZATION
GREEN RIVER
RIVER MILE 15.45 RIGHT BANK



LOCATION MAP



CONSTRUCTION NOTES

1. STAGING AREAS IS ALONG THE CREST OF THE LEVEE, UPSTREAM OF THE PROJECT LIMITS. THE LIMITS OF THE STAGING AREA WILL BE DELINEATED IN THE FIELD BEFORE THE START OF CONSTRUCTION. FOLLOWING CONSTRUCTION, CONSTRUCTION MATERIALS WILL BE REMOVED AND BARE SOIL IN THE STAGING AREA WILL BE HYDROSEEDED.

2. STARTING AT BOTH THE UPSTREAM AND DOWNSTREAM ENDS OF THE PROJECT SITE, THE EXISTING RAISED LEVEE FILL WILL BE EXCAVATED AND REPLACED LANDWARD IN THE SETBACK LEVEE ALIGNMENT. THE REMAINDER OF THE BENCH WILL BE EXCAVATED EITHER BY EQUIPMENT OPERATING ALONG THE RELOCATED CREST OF THE SETBACK LEVEE, OR VIA CONSTRUCTION RAMPS AT BOTH THE UPSTREAM AND DOWNSTREAM ENDS OF THE BENCH. TOE TRENCHES WILL BE EXCAVATED EITHER FROM THIS BENCH, OR BY DRAGLINE OPERATING FROM THE TOP-OF-BANK.

3. HEAVY EQUIPMENT WILL OPERATE EITHER FROM THE TOP-OF-BANK, OR FROM A BENCH WELL ABOVE THE WATER. THE EXCAVATOR BUCKET WILL ENTER THE WATER ONLY TO EXCAVATE MATERIAL TO ALLOW PLACEMENT OF TOE ROCK, ECOLOGY BLOCK ANCHORS AND/OR LOG STRUCTURES. ALL WORK, INCLUDING EXCAVATION FOR PLACEMENT OF TOE ECOLOGY BLOCK ANCHORS AND/OR LOG STRUCTURES, WILL OCCUR WITHIN THE PROFILE OF THE SLOPE PRIOR TO FAILURE.

4. THE POSITIONING OF LARGE LOGS WILL BE FIELD DIRECTED BY THE PROJECT ENGINEER AND ECOLOGIST.

5. ALL GAS AND OIL CONTAINERS FOR SMALL EQUIPMENT SHALL BE SAFELY AND SECURELY STORED IN UTILITY VEHICLES.

EROSION CONTROL AND VEGETATION NOTES

1. VEGETATION TO BE PRESERVED AND LIMITS OF CLEARING WILL BE FLAGGED IN THE FIELD PRIOR TO START OF CONSTRUCTION.

2. BRUSH LAYERS IN THE TRENCHES WILL BE MADE OF LIVE NATIVE WILLOW AND/OR DOGWOOD CUTTINGS OF EIGHT TO TWELVE (8-12) FEET IN LENGTH. BUTT ENDS OF THE CUTTINGS CAN BE UP TO FOUR (4) INCHES IN DIAMETER. EXPOSED ENDS OF CUTTINGS WILL EXTEND NO MORE THAN ONE FOOT FROM THE FINISHED SLOPE.

3. CUTTINGS WILL BE COLLECTED FROM AN EXISTING STAND OFF-SITE IN A MANNER THAT CONSERVES THE NATURAL STAND. NO MORE THAN ONE-HALF OF THIS STAND SHALL BE REMOVED. STEMS SHALL BE CUT ABOVE THE GROUND TO ALLOW REGENERATION.

4. EROSION CONTROL GRASS MIX WILL BE USED AS INITIAL GROUND COVER.

5. THE TEMPORARY ACCESS RAMP AND ALL DISTURBED SURFACES WILL BE RESEEDED WITH EROSION CONTROL GRASS MIX IMMEDIATELY FOLLOWING CONSTRUCTION.

SEQUENCE OF CONSTRUCTION

REPAIR WILL BE CONSTRUCTED IN FOUR PHASES: (1) PRELIMINARY CLEARING AND GRUBBING, AND ESTABLISHMENT OF TEMPORARY STAGING AREA; (2) EXCAVARION OF TRENCHES AND PLACEMENT OF TRENCH ROCK, LOG FLOW DEFLECTORS. (3) RECONSTRUCTION OF VEGETATED GEOGRIDS WITHIN THE TRENCHES ABOVE OHWM. (4) EXCAVATING THE EXISTING LEVEE MATERIALS AND RELOCATING THE NEW SETBACK LEVEE LANDWARD.

(1) PRELIMINARY CLEARING AND GRADING.

1. ACCESS THE SITE FROM THE RECREATIONAL TRAIL ADJOINING RUSSELL ROAD.
2. CLEAR AND GRUB VEGETATION FROM BOTH FAILURE SITES AND TEMPORARY STAGING AREA AS NEEDED.
3. GRADE STAGING AREA AS NEEDED TO PROVIDE TEMPORARY STOCKPILING OF MATERIALS AND EQUIPMENT.

(2) REVETMENT REPAIR.

1. EXCAVATE TRENCHES AT TOE OF SLOPE USING DRAGLINES, OR CONSTRUCT TEMPORARY ACCESS RAMP AND EXCAVATE BENCH DOWN TO APPROX. 10-12 FT ABOVE THE OHWM.
2. EXCAVATE TRENCHES IN 10-15 FT SEGMENTS TO BELOW THE OHWM FOR PLACEMENT OF ECOLOGY BLOCK ANCHORS AND TOE ROCK.
3. IMMEDIATELY STABILIZE EXCAVATED AREA WITH 2-FT. LAYER OF LIGHT-LOOSE RIPRAP AND QUARRY SPALL BEDDING FOR TOE ROCK.
4. PLACE ECOLOGY BLOCK ANCHORS AND LOG FLOW DEFLECTORS. SECURE IN PLACE WITH 4-6 FT. DIAMETER TOE ROCK. TOP ELEVATION OF 4-6 FT. DIAMETER TOE ROCK SHOULD MATCH THE OHWM.
5. PLACE LIGHT-LOOSE RIPRAP AND QUARRY SPALLS TO FILL VOIDS ON TOP OF TOE ROCK IN TRENCHES TO APPROXIMATELY ONE FOOT ABOVE THE OHWM.
6. PLACE ALTERNATING LAYERS OF CUTTINGS AND POTTED PLANTS IN TOPSOIL AND LIFTS OF CLEAN SAND AND GRAVEL WRAPPED IN COIR FABRIC ("GEOGRIDS"), FOR A TOTAL OF THREE CUTTING LAYERS AND FOUR LIFTS OF CLEAN FILL WRAPPED IN COIR IN EACH TRENCH.
7. PLACE TOPSOIL ON THE UPPER EMBANKMENT SLOPE AS NEEDED.
8. HYDROSEED DISTURBED SOIL AREAS.
9. INSTALL ADDITIONAL POTTED PLANTS ON RIVERWARD BENCH AND SIDE SLOPES DURING 1998-1999 AND 1999-2000 PLANT DORMANCY SEASONS.

SURVEYED: KC RIVERS	97-98						
BASE MAP PLOT:							
DESIGN PLOT:							
CHECKED:							
FIELD BOOK:							
BY	DATE	REVISION		BY	DATE		

PROJECT MANAGER: ANDY LEVESQUE DATE: 8-19-98

PROJECT ECOLOGIST: RUTH SCHAEFER DATE: 8-19-98

DESIGNED: ANDY LEVESQUE DATE: 8-19-98

DRAWN: KEN ZWEIG DATE: 8-19-98

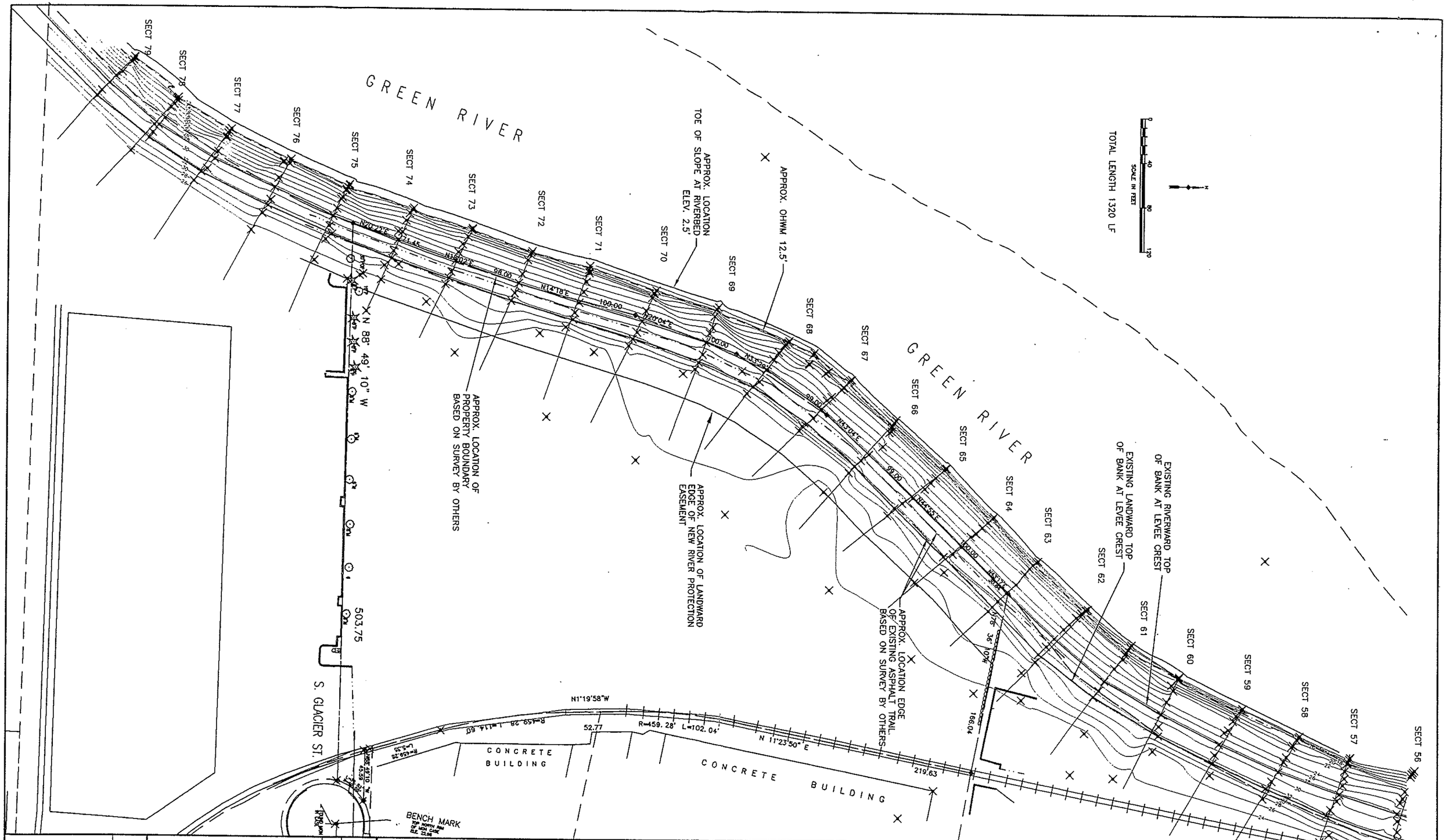
U.S DEPARTMENT OF HOUSING & URBAN DEVELOPMENT COMMUNITY BLOCK GRANT PROJECT NO. C96658

PROJECT No. 089565

KING COUNTY DEPT. OF NATURAL RESOURCES
PAM BISSONNETTE, DIRECTOR
WATER AND LAND RESOURCES DIVISION

DESIMONE LEVEE STABILIZATION
GREEN RIVER, RIVER MILE 15.45 R.B.
COVER

SHEET 1 OF 7 SHEETS



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BASE MAP PLOT:							
DESIGN PLOT:							
CHECKED:							
FIELD BOOK:							
BY	DATE	REVISION	BY	DATE			

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PROJECT ECOLOGIST: RUTH SCHAEFER DATE: 8-19-98

DESIGNED: ANDY LEVESQUE DATE: 8-19-98

DRAWN: KEN ZWEIG DATE: 8-19-98

U.S DEPARTMENT OF HOUSING & URBAN DEVELOPMENT COMMUNITY BLOCK GRANT PROJECT NO. C96658

PROJECT No. 089565

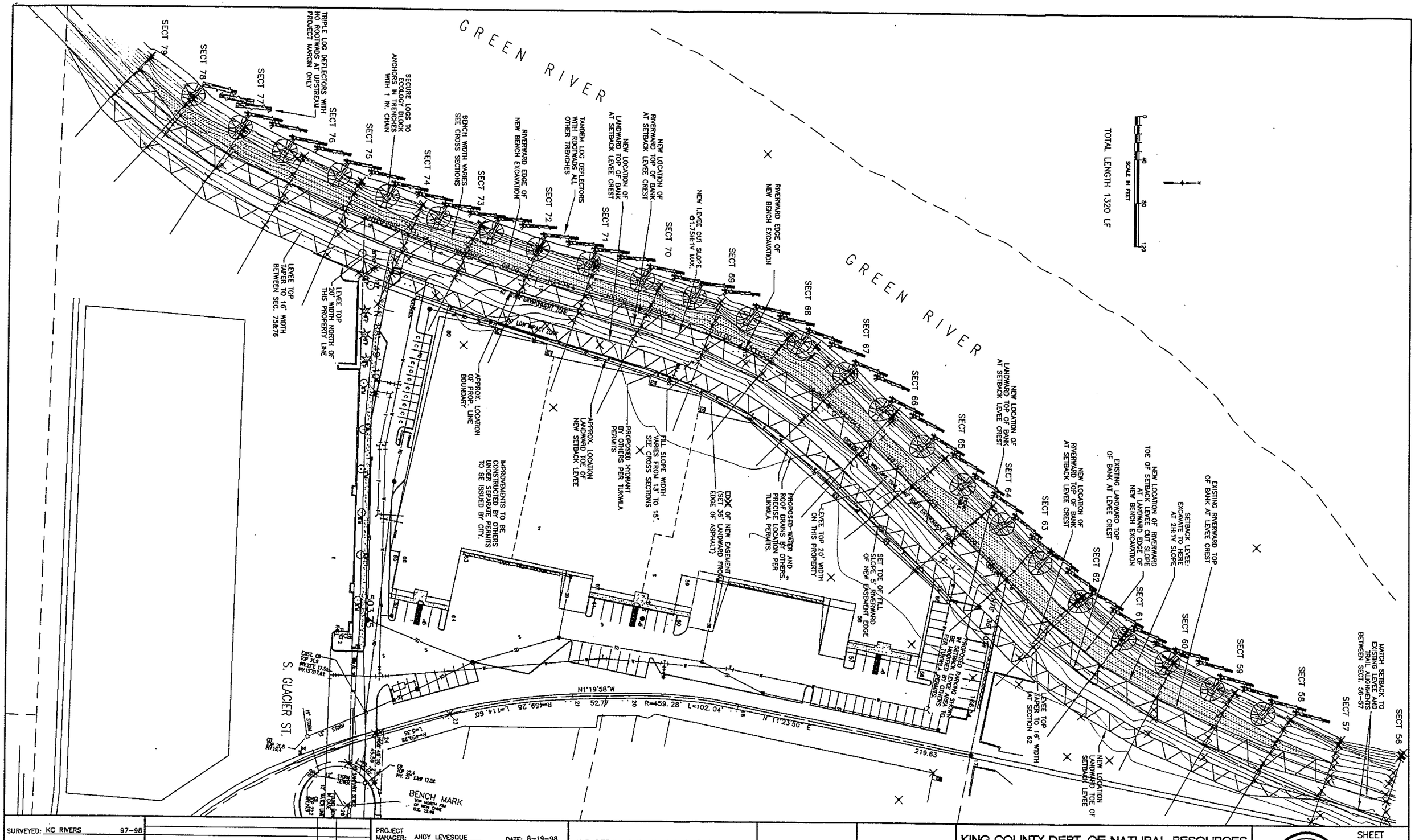
KING COUNTY DEPT. OF NATURAL RESOURCES
PAM BISSONNETTE, DIRECTOR
WATER AND LAND RESOURCES DIVISION

DESIMONE LEVEE STABILIZATION

GREEN RIVER, RIVER MILE 15.45 R.B.
EXISTING PLAN VIEW

SHEET 2 OF 7 SHEETS

RIVERS SECTION



SURVEYED: KC RIVERS 97-98
BASE MAP PLOT:
DESIGN PLOT:
CHECKED:
FIELD BOOK:

BY	DATE	REVISION	BY	DATE

PROJECT MANAGER: ANDY LEVESQUE DATE: 8-19-98
PROJECT ECOLOGIST: RUTH SCHAEFER DATE: 8-19-98
DESIGNED: ANDY LEVESQUE DATE: 8-19-98
DRAWN: KEN ZWEIG DATE: 8-19-98

U.S DEPARTMENT OF HOUSING & URBAN DEVELOPMENT COMMUNITY BLOCK GRANT PROJECT NO. C96658

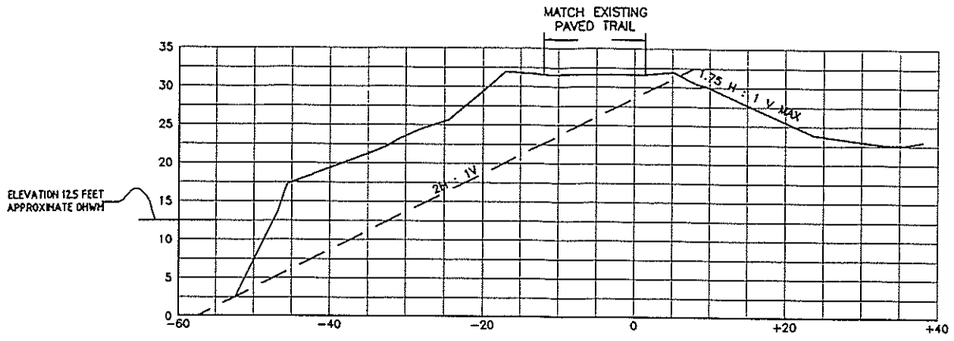
PROJECT No. 089565

KING COUNTY DEPT. OF NATURAL RESOURCES
PAM BISSONNETTE, DIRECTOR
WATER AND LAND RESOURCES DIVISION

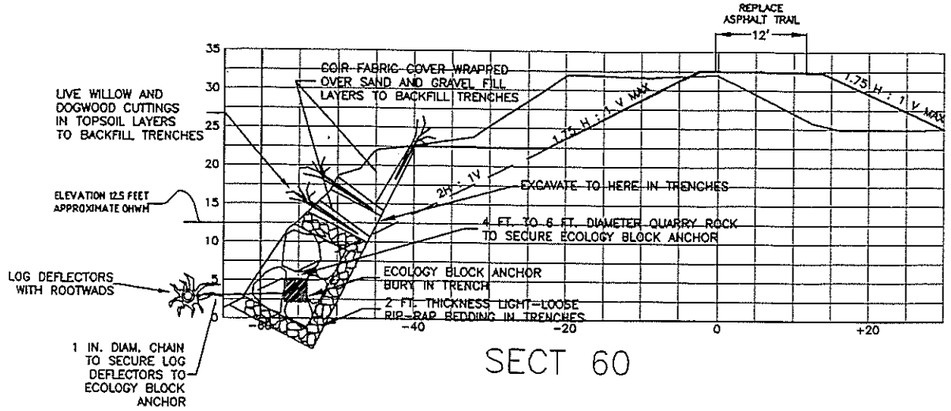
DESIMONE LEVEE STABILIZATION

GREEN RIVER, RIVER MILE 15.45 R.B.
PROPOSED PLAN VIEW

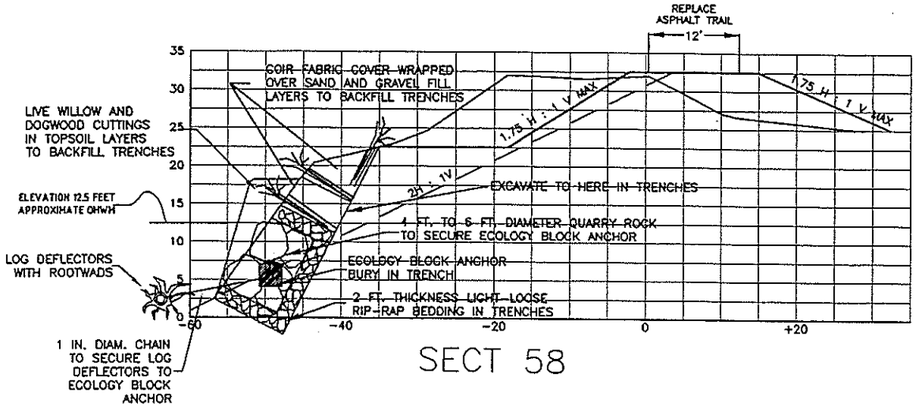
SHEET 3 OF 7 SHEETS



SECT 57



SECT 60



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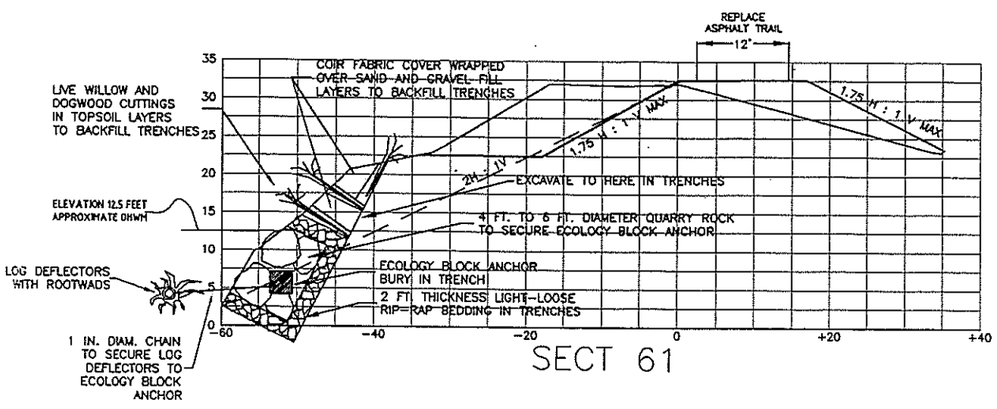

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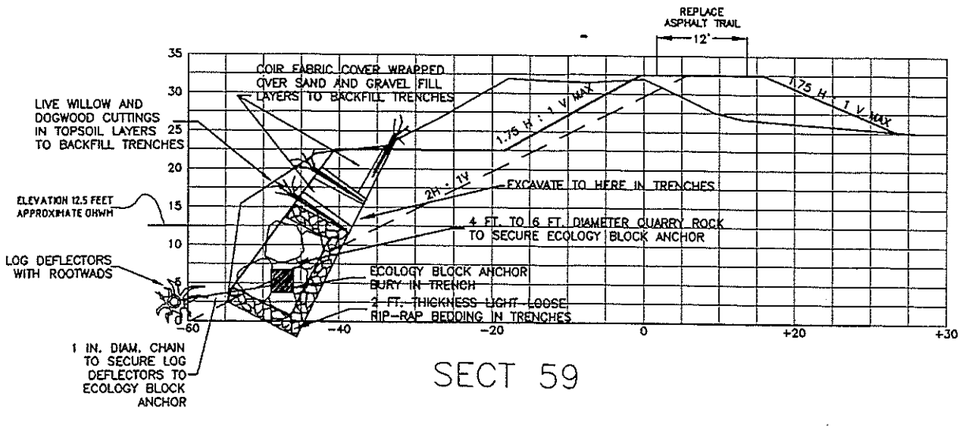

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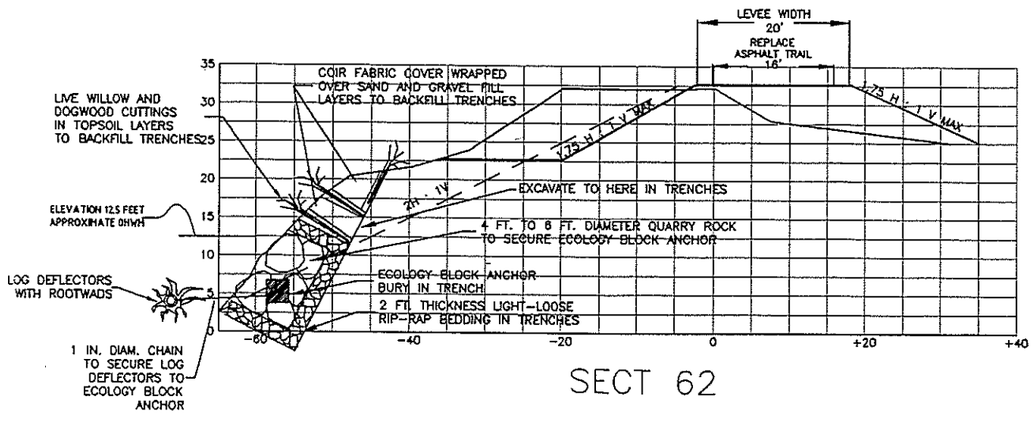


SECT 62

SURVEYED: KC RIVERS 97-98	PROJECT MANAGER: ANDY LEVESQUE DATE: 8-5-98	U.S DEPARTMENT OF HOUSING & URBAN DEVELOPMENT COMMUNITY BLOCK GRANT PROJECT NO. C96658
BASE MAP PLOT:	PROJECT ECOLOGIST: RUTH SCHAEFER DATE: 8-5-98	
DESIGN PLOT:	DESIGNED: ANDY LEVESQUE DATE: 8-5-98	PROJECT No. 089565
CHECKED:	DRAWN: KEN ZWEIG DATE: 8-5-98	
FIELD BOOK:		

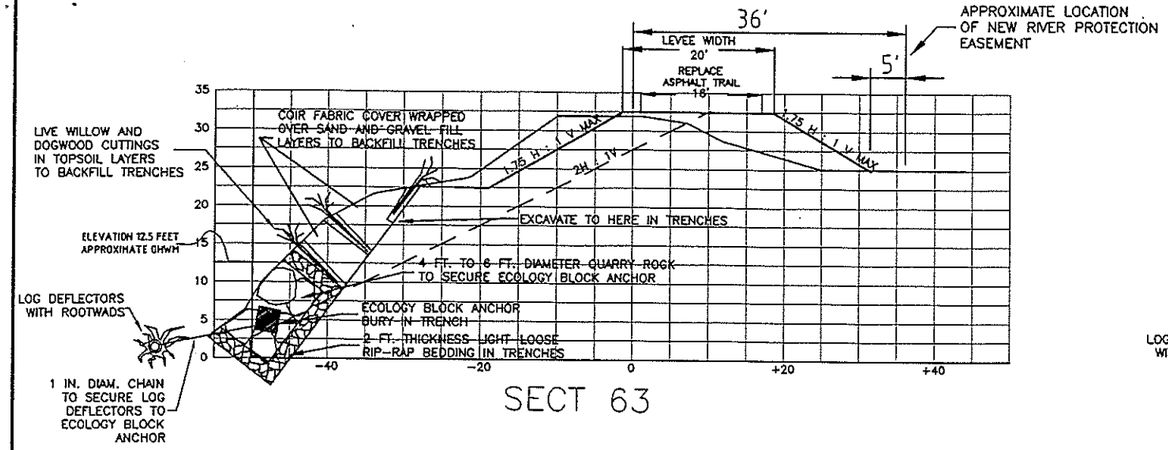
KING COUNTY DEPT. OF NATURAL RESOURCES
PAM BISSONNETTE, DIRECTOR
WATER AND LAND RESOURCES DIVISION

DESIMONE LEVEE STABILIZATION

GREEN RIVER, RIVER MILE 15.45 R.B.
CROSS SECTIONS

SHEET 4 OF 7 SHEETS

RIVERS SECTION



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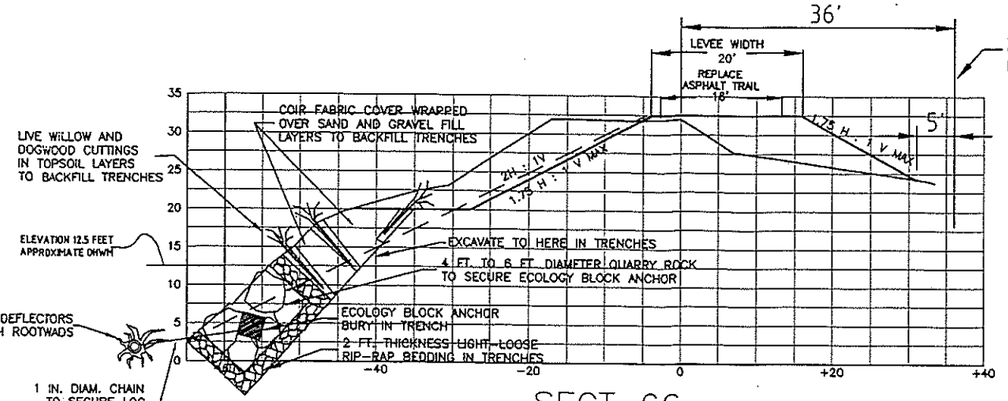

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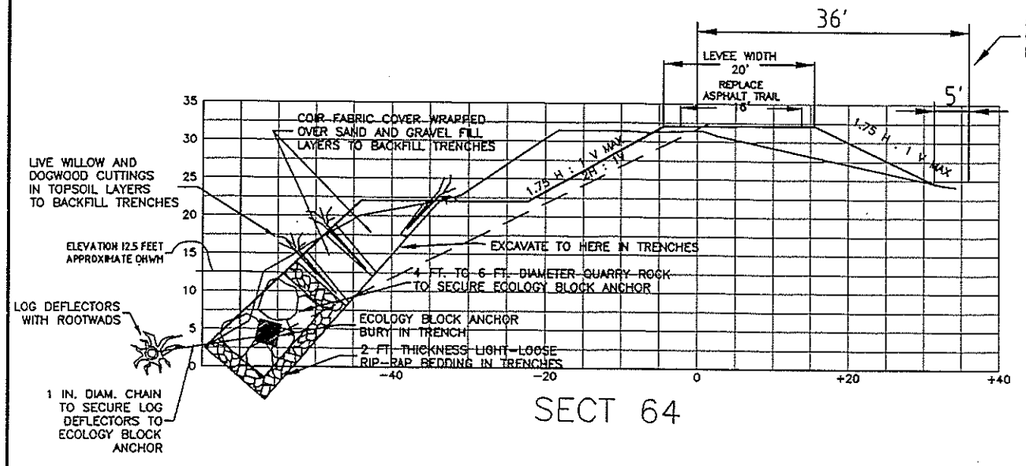

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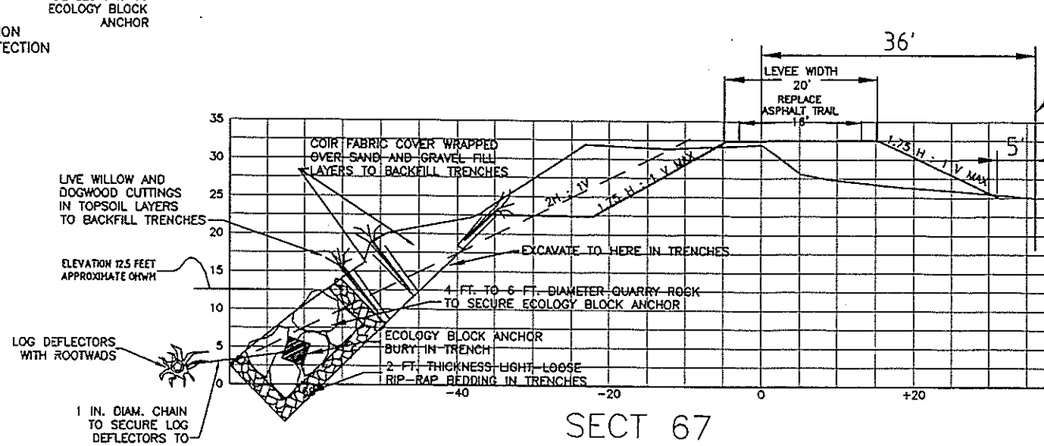

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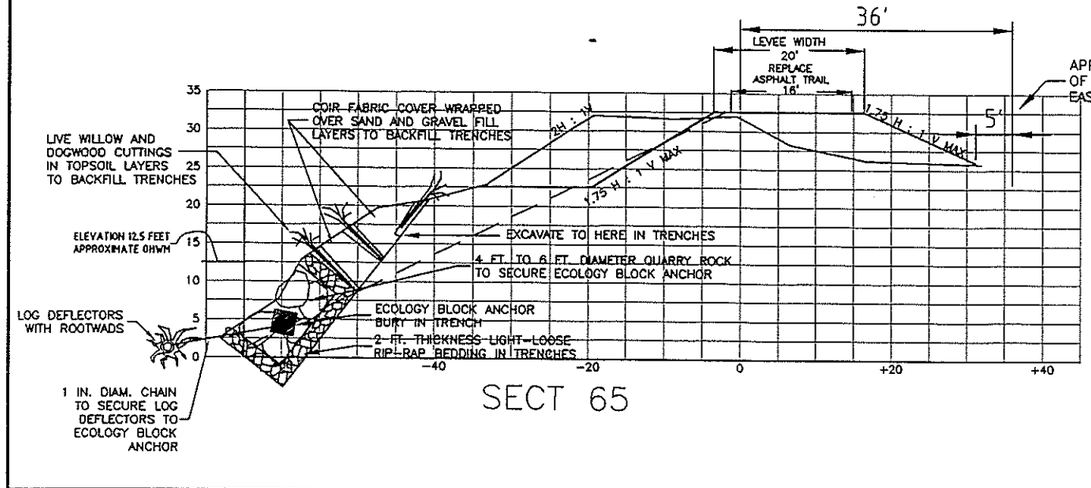

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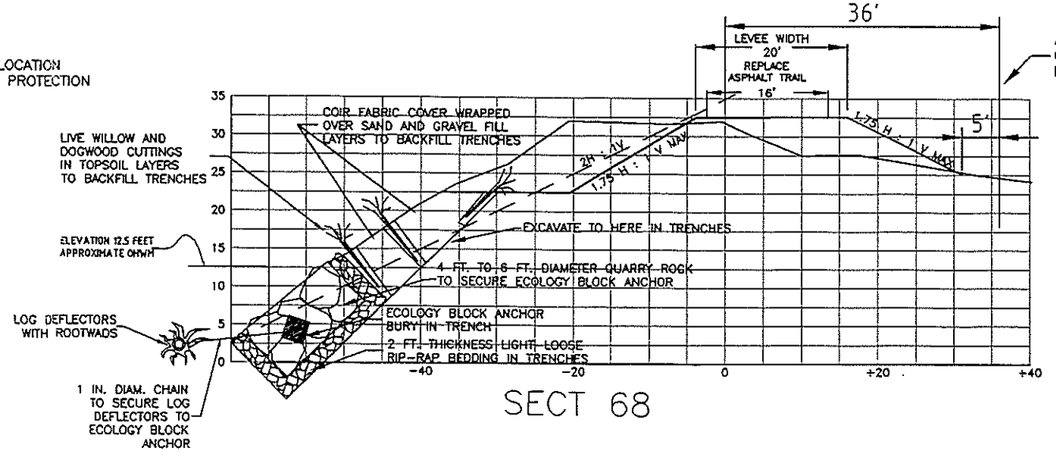
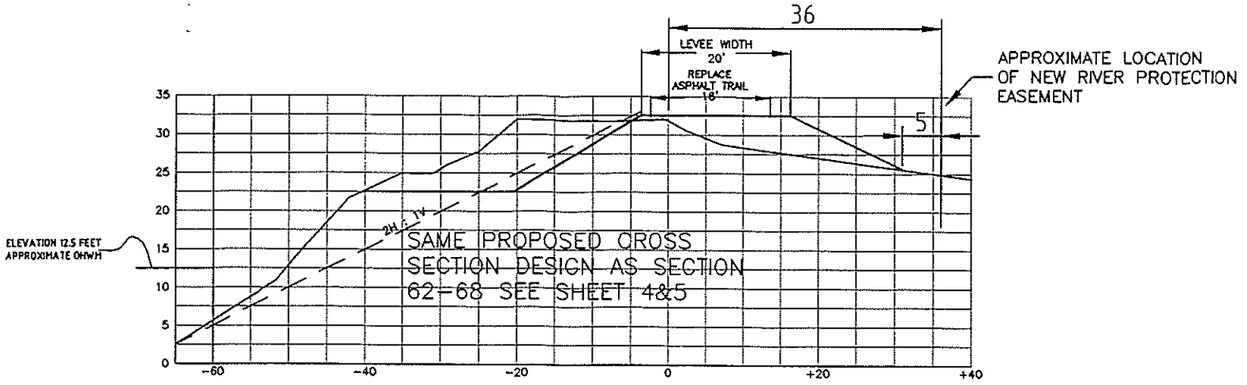


SECT 68

SURVEYED: KC RIVERS	97-98			PROJECT MANAGER: ANDY LEVESQUE	DATE: 8-5-98	U.S DEPARTMENT OF HOUSING & URBAN DEVELOPMENT COMMUNITY BLOCK GRANT PROJECT NO. C96658	KING COUNTY DEPT. OF NATURAL RESOURCES PAM BISSONNETTE, DIRECTOR WATER AND LAND RESOURCES DIVISION
BASE MAP PLOT:				PROJECT ECOLOGIST: RUTH SCHAEFER	DATE: 8-5-98		DESIMONE LEVEE STABILIZATION GREEN RIVER, RIVER MILE 15.45 R.B. CROSS SECTIONS
DESIGN PLOT:				DESIGNED: ANDY LEVESQUE	DATE: 8-5-98	PROJECT No. 089565	SHEET 5 OF 7 SHEETS
CHECKED:				DRAWN: KEN ZWEIG	DATE: 8-5-98		RIVERS SECTION
FIELD BOOK:							
BY	DATE	REVISION	BY	DATE			



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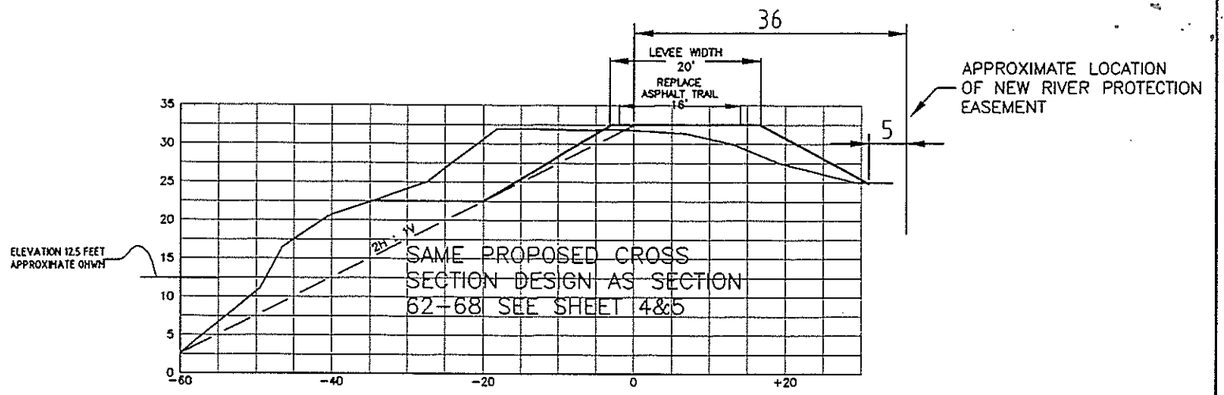

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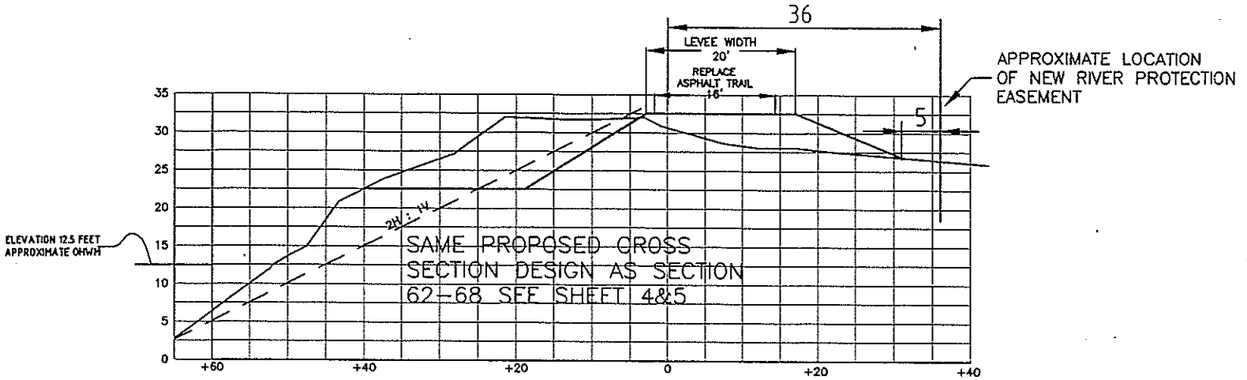

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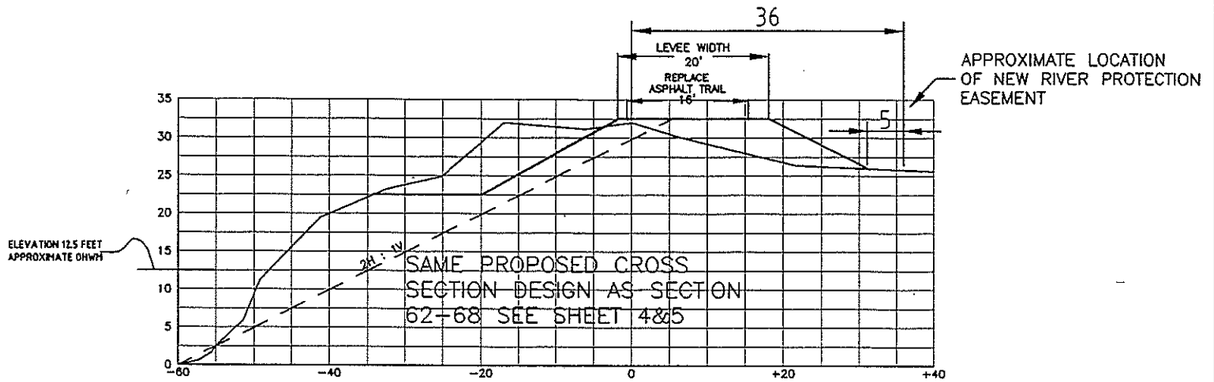

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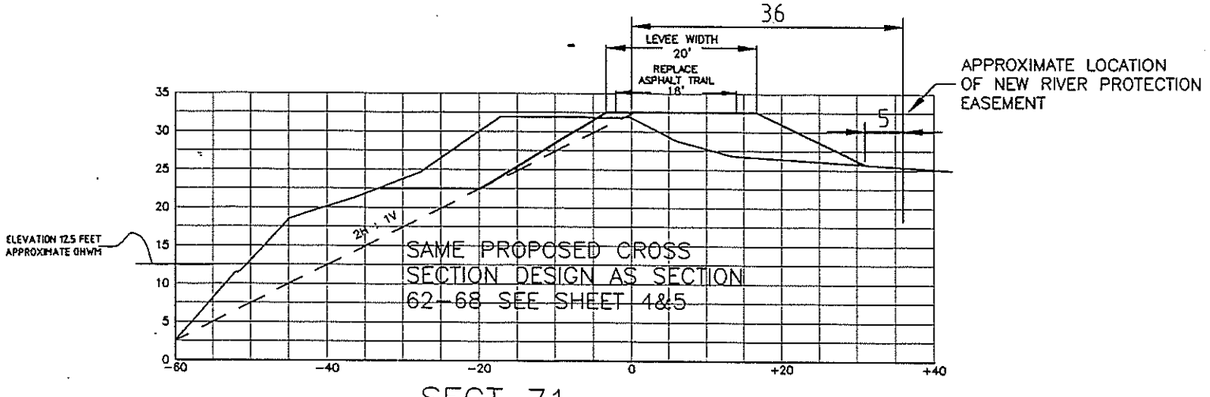

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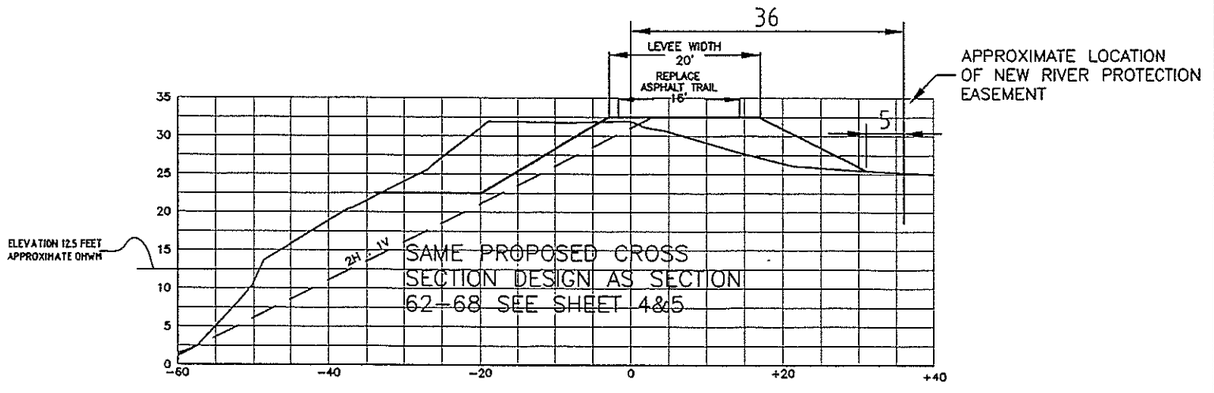
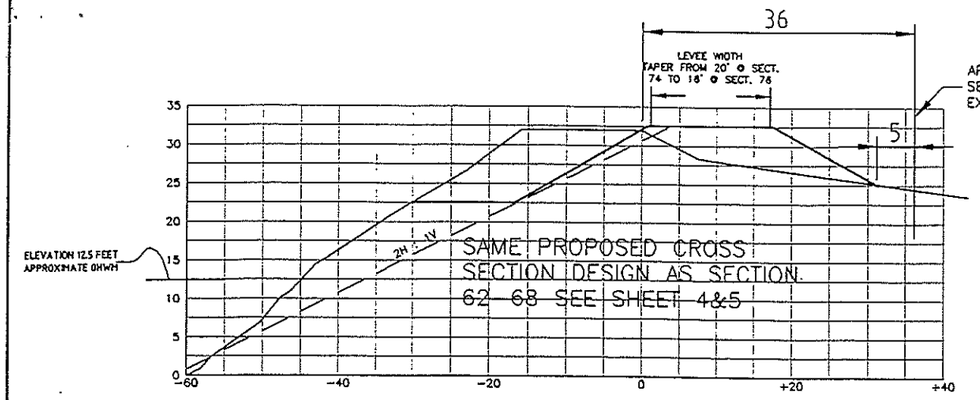


SECT 74

SURVEYED: KC RIVERS	97-98			PROJECT MANAGER: ANDY LEVESQUE DATE: 8-5-98	U.S DEPARTMENT OF HOUSING & URBAN DEVELOPMENT COMMUNITY BLOCK GRANT PROJECT NO. C96658		KING COUNTY DEPT. OF NATURAL RESOURCES PAM BISSONNETTE, DIRECTOR WATER AND LAND RESOURCES DIVISION
BASE MAP PLOT:				PROJECT ECOLOGIST: RUTH SCHAEFER DATE: 8-5-98			DESIMONE LEVEE STABILIZATION GREEN RIVER, RIVER MILE 15.45 R.B. CROSS SECTIONS
DESIGN PLOT:				DESIGNED: ANDY LEVESQUE DATE: 8-5-98			
CHECKED:				DRAWN: KEN ZWEIG DATE: 8-5-98	PROJECT No. 089565		SHEET 6 OF 7 SHEETS
FIELD BOOK:							RIVERS SECTION
BY	DATE	REVISION	BY	DATE			



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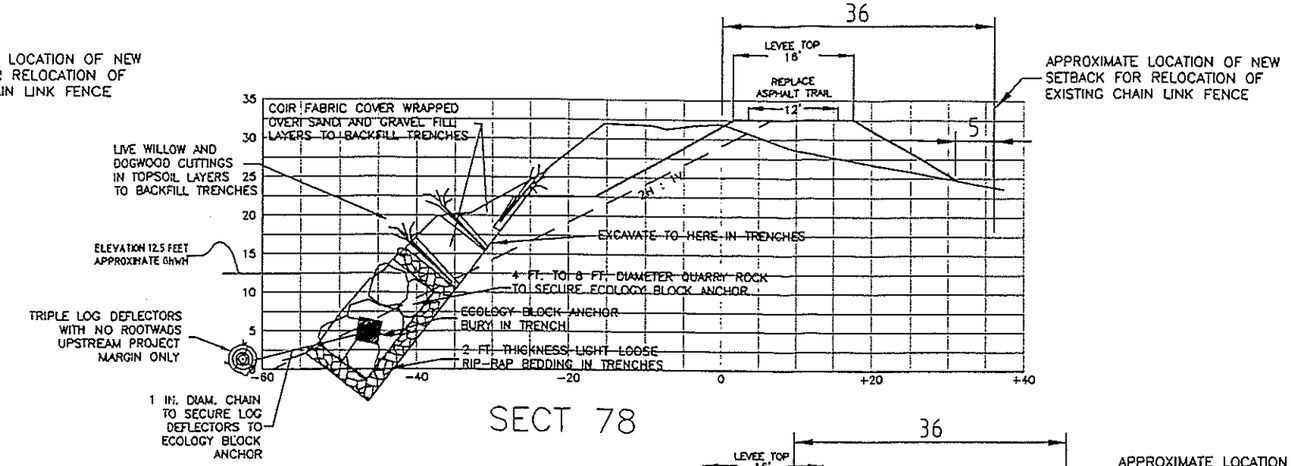

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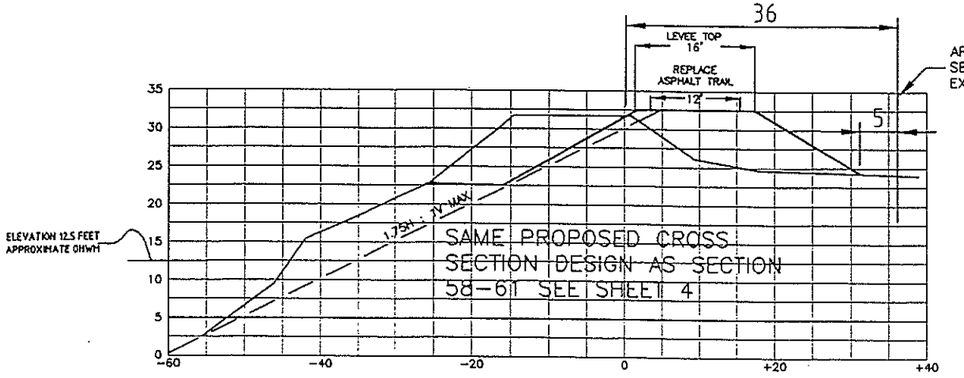

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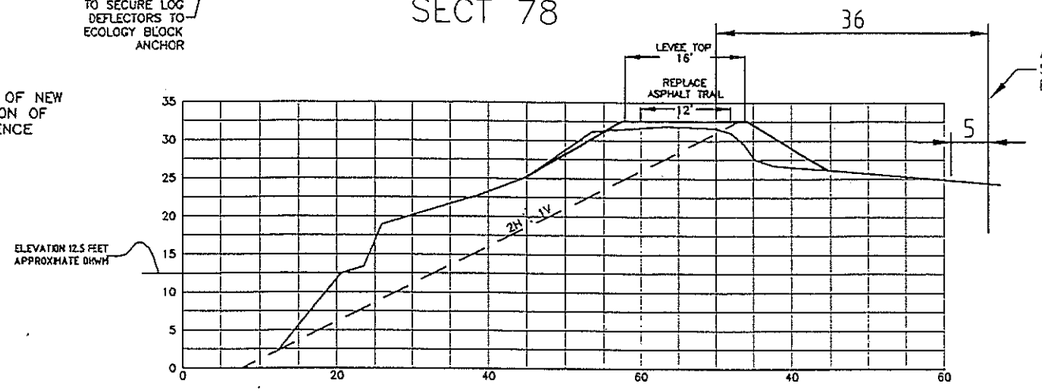

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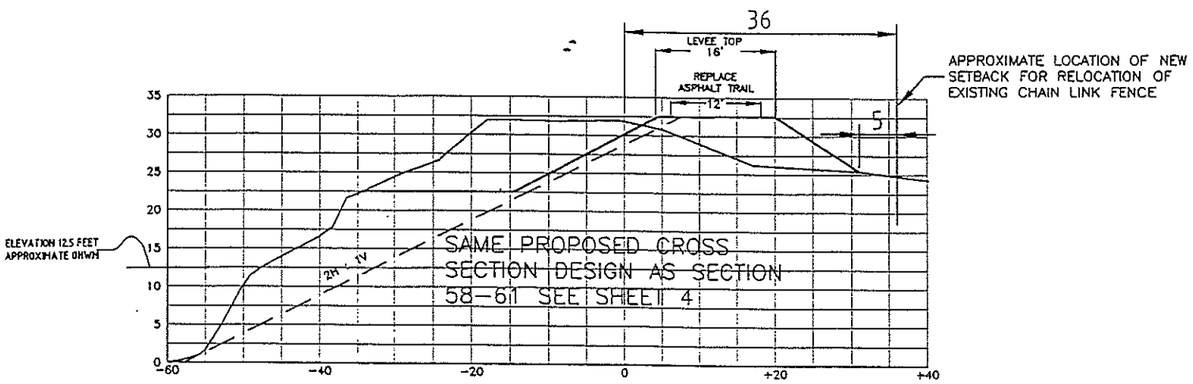


SECT 77

PLANT SCHEDULE

Quantity	Common Name	Species Name	Pot Size
		TREES	
80	Bigleaf Maple	Acer macrophyllum	1 gallon
200	Sitka Spruce	Picea sitchensis	1 gallon
120	Black Cottonwood	Populus trichocarpa	1 gallon
80	Douglas Fir	Pseudotsuga menziesii	1 gallon
200	Western Red Cedar	Thuja plicata	1 gallon
680	Total Trees		
		SHRUBS	
800	Red-osier Dogwood	Cornus stolonifera	1 gallon
120	Oceanspray	Holodiscus discolor	1 gallon
120	Black Twinberry	Lonicera involucrata	1 gallon
90	Indian Plum	Oemleria cerasiformis	1 gallon
300	Pacific Ninebark	Physocarpus capitatus	1 gallon
300	Nootka Rose	Rosa nutkana	1 gallon
240	Thimbleberry	Rubus parviflorus	1 gallon
120	Red Elderberry	Sambucas racemosa	1 gallon
400	Snowberry	Symphoricarpos alba	1 gallon
2490	Total Shrubs		
3170	Total Potted Plants	≈1500 LF	

$\frac{560}{1500} = 0.375$

SURVEYED: KC RIVERS	97-98	
BASE MAP PLOT:		
DESIGN PLOT:		
CHECKED:		
FIELD BOOK:		

PROJECT MANAGER: ANDY LEVESQUE DATE: 8-5-98

PROJECT ECOLOGIST: RUTH SCHAEFER DATE: 8-5-98

DESIGNED: ANDY LEVESQUE DATE: 8-5-98

DRAWN: KEN ZWEIG DATE: 8-5-98

U.S DEPARTMENT OF HOUSING & URBAN DEVELOPMENT COMMUNITY BLOCK GRANT PROJECT NO. C96658

PROJECT No. 089565

KING COUNTY DEPT. OF NATURAL RESOURCES
PAM BISSONNETTE, DIRECTOR
WATER AND LAND RESOURCES DIVISION

DESIMONE LEVEE STABILIZATION

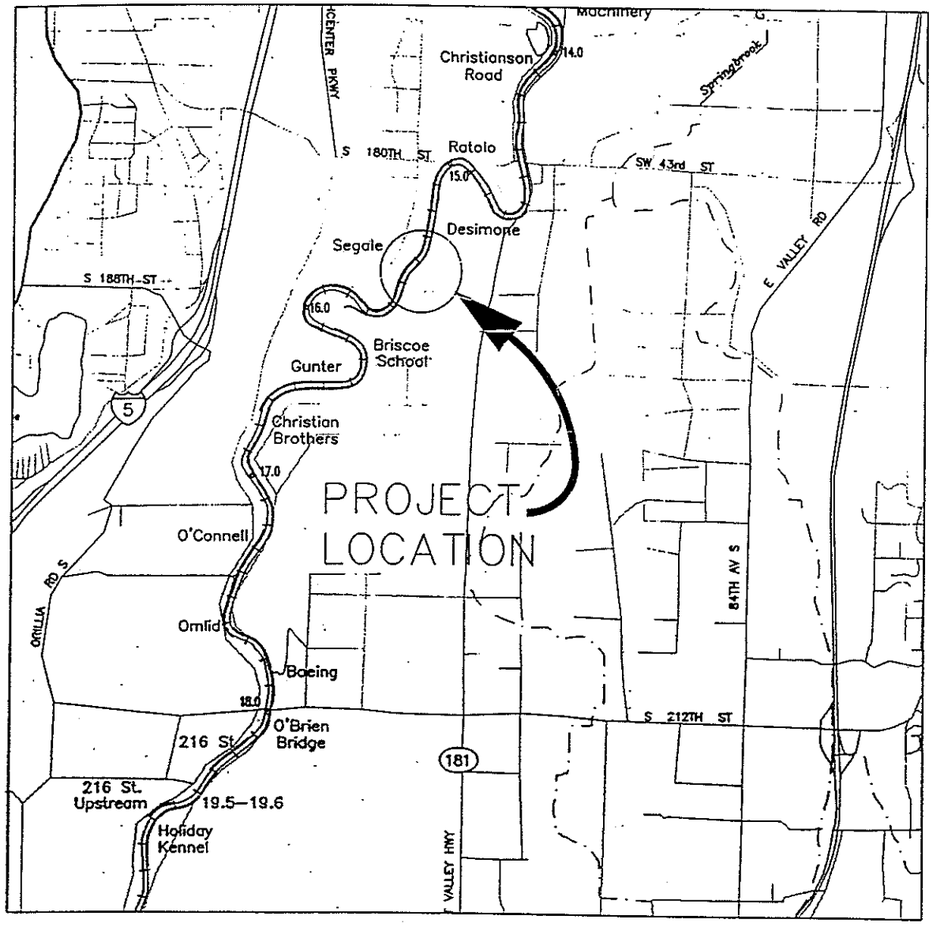
GREEN RIVER, RIVER MILE 15.45 R.B.
CROSS SECTIONS

SHEET 7 OF 7 SHEETS

RIVERS SECTION

DESIMONE LEVEE TOE REPAIR

GREEN RIVER, RIVER MILE 15.45 RIGHT BANK



LOCATION MAP

Desimone Levee Repair (proposed for construction in 2001)

Temporary Erosion and Sediment Control (TESC):

- The following will be brought to the site and staged on a daily basis as needed:
- Straw bales for slope mulching
- Silt fencing for perimeter siltation control
- Crushed or washed rock for control of soil pumping on exposed soils in heavy traffic areas
- 5/8 inch minus crushed rock for staging areas and road shoulders
- Pea gravel for filter berms and silt fence installations
- Hand brooms, street sweepers, and wash trucks for control of sediments on paved traffic surfaces.
- An undisturbed band of existing vegetation will be left intact along the waterline until excavation of failed or damaged toe buttress areas for installation of crushed rock bedding, toe rock, LWD anchor rocks, and LWD.
- A turbidity curtain will be installed at the site during in-water construction.
- All in-water construction will occur between June 15 and August 15, 2001, to avoid extended periods of rainy weather and high river discharge, and to coincide with the period of minimum habitat utilization by juvenile and adult salmonids.
- All paved traffic areas will be kept free from sediment accumulations by daily sweeping and washing.
- Turbidity will be monitored at the construction site, at flagged sampling stations 50 feet upstream from the excavation area and 250 feet downstream from the excavation area to facilitate compliance with limits on turbidity set forth in Washington Department of Ecology Order No. DE 97WQ-007 (February 24, 1997), and at a flagged sampling station located one mile downstream from the site.

Construction Sequence; Toe and Bank Repair:

1. Stake limits of construction area at site.
2. Shape ramps to access bench from existing levee crest upstream and downstream of bench area.
3. Operating from the levee bench, detach the LWD rock anchor chains from the poplars previously staged on the low bench.
4. Starting at the downstream project limits, install the floating turbidity curtain in 175-foot-long increments to isolate the instream work area(s) from the flowing stream.
5. Starting at downstream project limits, construct toe repairs in fifteen foot long (maximum) increments, as follows:
6. Starting at the downstream end of the project, clear and grub existing blackberries and reed canarygrass from the lower bank slope, above the OHWM, in 15 foot increments. Export these plant and soil materials to an approved disposal location (Pacific Topsoil site in Kent or King County Roads Division soil recycling center in Renton).
7. Excavate existing failed levee rip-rap and unsuitable subgrade materials from the lower embankment slope, above the water surface elevation, in the same 15 foot increments. Export these materials to an approved disposal location (Pacific Topsoil site in Kent or King County Roads Division soil recycling center in Renton).
8. Excavate failed or damaged toe buttress areas and unsuitable subgrade materials from below the water surface elevation for placement of new crushed rock bedding, toe rock, and LWD anchor rocks, in the same 15 foot increments. Working from the embankment side toward the water's edge, leave an intact earthen "plug" at the riverward edge of the toe rock and LWD anchor rock excavation area until the moment of actual toe buttress bedding and rock placement in order to minimize turbidity.
9. Excavate and remove the earthen "plug" from along the water's edge, completing the excavation to depth as rapidly as possible. Immediately place 2-1/4" crushed railroad ballast and quarry spalls to stabilize the exposed riverbed and embankment soils, and to provide suitable bedding conditions for placement of toe and LWD anchor rock. Complete this work within the same 15 foot increments.
10. Place rock LWD anchors within the prepared toe buttress bedding area at a 25 foot spacing, with anchor chains already attached to quarry holes drilled in the rock. Place additional toe buttress rocks in place to firmly secure the LWD anchors in place, and to secure the entire toe buttress against undercutting erosion, working within the same 15 foot increments as above. Level the top edge of the rock toe buttress at a finished elevation approximately one foot above the OHWM, using light loose rip-rap, 2-1/2" crushed ballast, and 1-1/4" crushed gravel to provide a secure base for subsequent soil lifts and plantings.
11. Using the trackhoe bucket, gently place the poplars and additional coniferous LWD into the water column, securing them along the bankline to the anchor rock with the chain attachments, and to each other, starting at the downstream end and proceeding upstream. Overlap cut log ends riverward of the next rootwad protruding downstream and secure overlapped logs to each other with additional one-inch diameter anchor chain. The LWD should overlap in a downstream direction as shown on the plan sheets. To the maximum extent, anchoring of the LWD should secure the logs as far below the OHWM as practical while minimizing the potential for individual logs to float up and become lodged on the bankline, during flood events. Precise placement of individual LWD pieces will be accomplished under the supervision of the project engineer and the Senior Ecologist.
12. Proceed as specified above in 15 foot increments upstream, relocating the floating turbidity curtain as needed for subsequent portions of the instream work, to the end of the project repair reach.
13. Remove turbidity curtain.

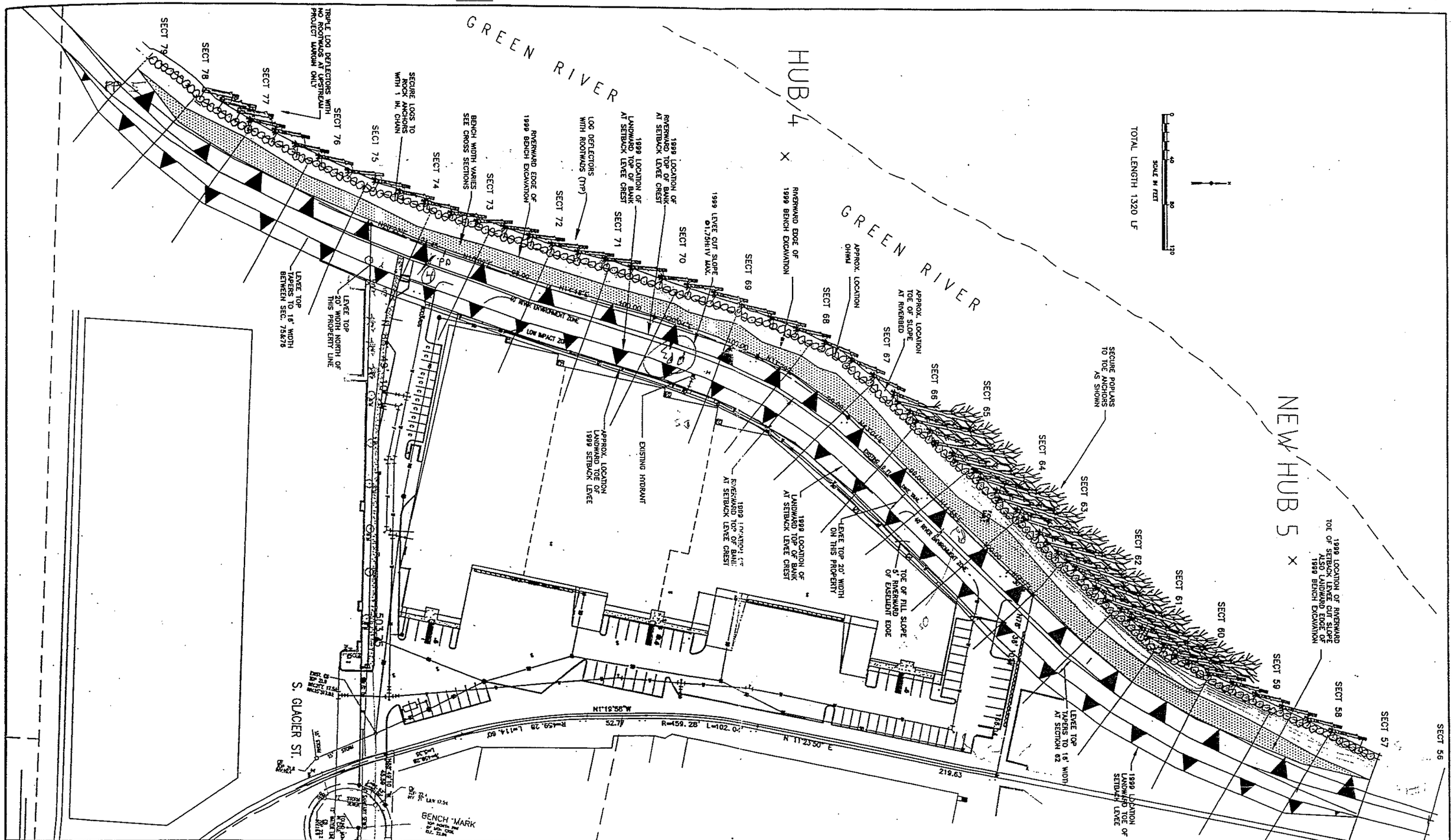
Levee Slope Reconstruction:

1. Following completion of all instream toe buttress construction and LWD placement, place a 3-inch lift of crushed quarry screenings the full length of the toe buttress along the top edge of the newly placed rock. Seal all underlying voids and to create a secure base for subsequent placement of soil lifts and planting layers. Make sure the top surface of the screenings is located at a minimum of six inches above the OHWM elevation.
2. Place an 8-inch layer of Groco-amended planting soil (≥ 20% Groco content) along the full length of the bench adjoining the riverbank within the project area, extending for a minimum of eight feet in width. Place a layer of live willow and dogwood cuttings onto the planting soil layer as shown on the cross section drawings. The cuttings will up to 10 feet in length in order to extend the width of the prepared soil lifts. Place additional potted native riparian shrub and tree species into the exposed edge of the soil lift as specified in the planting schedule. Butt ends of the cuttings can be up to four inches in diameter; exposed ends of the cuttings will extend no more than one foot riverward from the finished slope. Cover the layer of cuttings and potted plants with an additional 6 to 8 inches of planting soil and compact lightly with a single pass of the trackhoe or bulldozer tracks. Once installed in this manner, each layer of plantings will be embedded in a one foot minimum thickness of Groco-amended planting soil.
3. Import selected levee fill soils to the site and compact them in eight inch lifts to form fill layers between the layers of live cuttings. Each fill layer will be composed of three compacted soil lifts, extending the full length of the riverbank within the project area. Each finished fill layer will be wrapped with coir fabric for erosion protection.
4. Selected fill soils will be supplemented in lifts with crushed rock materials as noted above during periods of rainfall to provide for adequate compaction and to prevent pumping of mud in areas subject to equipment passage and truck traffic.
5. Alternate planting layers and coir wrapped fill and reconstruct lower embankment slopes to finished grade as shown on the cross section drawings and plan sheet.
6. The lower embankment slope lifts will be brought as close as possible to finished grade and mulched with straw on a daily basis as needed during any anticipated periods of rainy weather.
7. Hydroseed any remaining disturbed soil surfaces immediately following completion of all construction activities.
8. Stake slope areas subject to winter inundation with coir fabric over the completed hydroseed cover as needed to prevent winter erosion.
9. Plant middle and upper slope areas with additional potted native shrubs during the following plant dormancy season (October 1 through March 31) in accordance with planting plan and plant schedule shown on the project drawings.
10. Water plants and grass seed as needed, twice a week minimum, until the onset of fall rains
11. Equipment Used: PC 225, 230 and 330 track hoes, 10 CY dump trucks, 18 CY belly dump trucks, pickup trucks, 1 ton flatbed trucks, 30' bed trash hauler, hydroseed truck, water truck, and D6 bulldozer.

Long Term ESC Monitoring:

All stabilized slope areas will be monitored for signs of erosion during wet winter months and immediately repaired. Repairs can include straw mulching, straw mulch packing of incipient rills, gravel patching of incised rills, additional placement of topsoil, additional hand- and/or hydroseeding, additional installation of willow & dogwood live cuttings and/or potted native riparian shrubs and trees, placement of washed rock filter berms, and localized placement of additional silt fencing. The goal is to maintain a vigorous establishment of dense, deeply rooted erosion control grasses and native riparian vegetation on all disturbed slope areas at all times.

SURVEYED: KC RIVERS	97–98				PROJECT MANAGER: ANDY LEVESQUE	DATE: 1/01	PROJECT No. 089565	KING COUNTY DEPT. OF NATURAL RESOURCES PAM BISSONNETTE, DIRECTOR WATER AND LAND RESOURCES DIVISION DESIMONE LEVEE TOE REPAIR GREEN RIVER, RIVER MILE 15.45 R.B. COVER
BASE MAP PLOT:					PROJECT ECOLOGIST: RUTH SCHAEFER	DATE: 1/01		SHEET 1 OF 5 SHEETS RIVERS SECTION
DESIGN PLOT:					DESIGNED: ANDY LEVESQUE	DATE: 1/01		
CHECKED:					DRAWN: KEN ZWEIG	DATE: 1/01		
FIELD BOOK:								
BY	DATE	REVISION	BY	DATE				



SURVEYED: KC RIVERS 97-98	TOR REPAIR REVISED	AL	12/00
BASE MAP PLOT:			
DESIGN PLOT:			
CHECKED:			
FIELD BOOK:			
BY DATE	REVISION	BY	DATE

PROJECT MANAGER: ANDY LEVESQUE DATE: 1/01
PROJECT ECOLOGIST: RUTH SCHAEFER DATE: 1/01
DESIGNED: ANDY LEVESQUE DATE: 1/01
DRAWN: KEN ZWEIG DATE: 1/01

PROJECT No. 009565

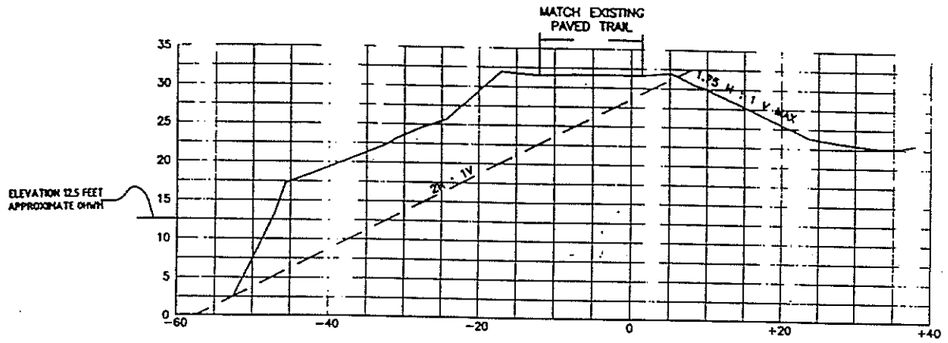
KING COUNTY DEPT. OF NATURAL RESOURCES
PAM BISSONNETTE, DIRECTOR
WATER AND LAND RESOURCES DIVISION

DESIMONE LEVEE TOE REPAIR

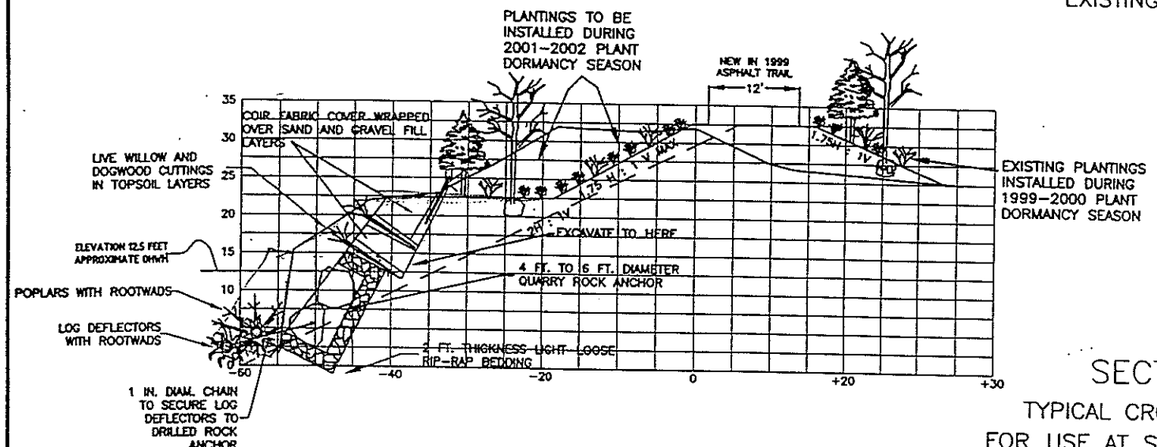
GREEN RIVER, RIVER MILE 15.45 R.B.
PROPOSED PLAN VIEW

SHEET 2 OF 5 SHEETS

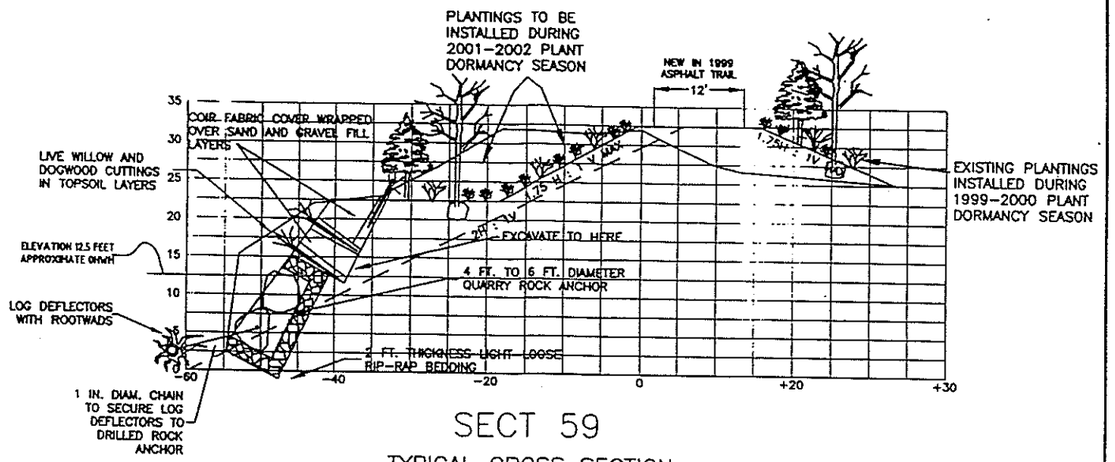
RIVERS SECTION



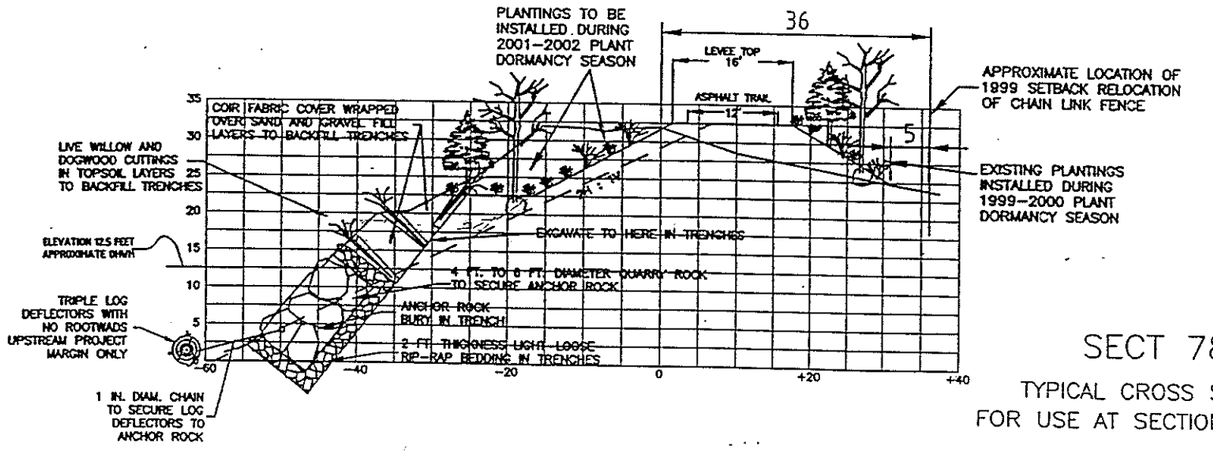
SECT 57
MATCH GRADES TO EXISTING SLOPE



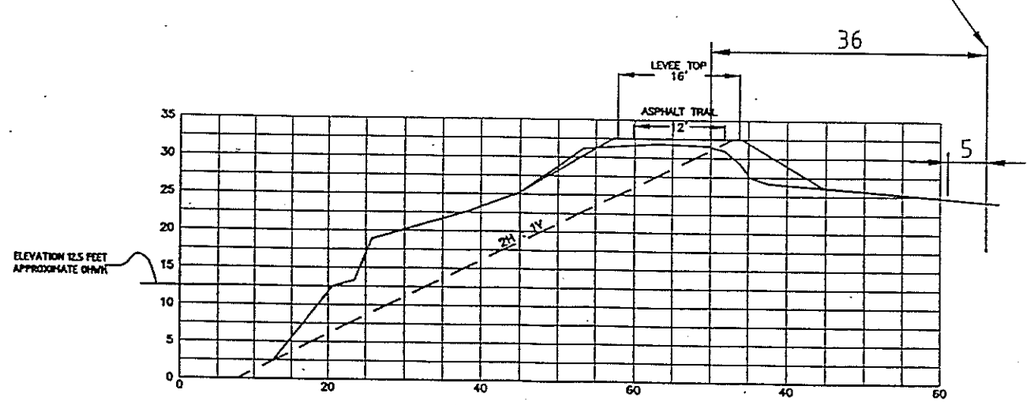
SECT 62
TYPICAL CROSS SECTION
FOR USE AT SECTIONS 60–66



SECT 59
TYPICAL CROSS SECTION
FOR USE AT SECTIONS 58, 59 & 67–76

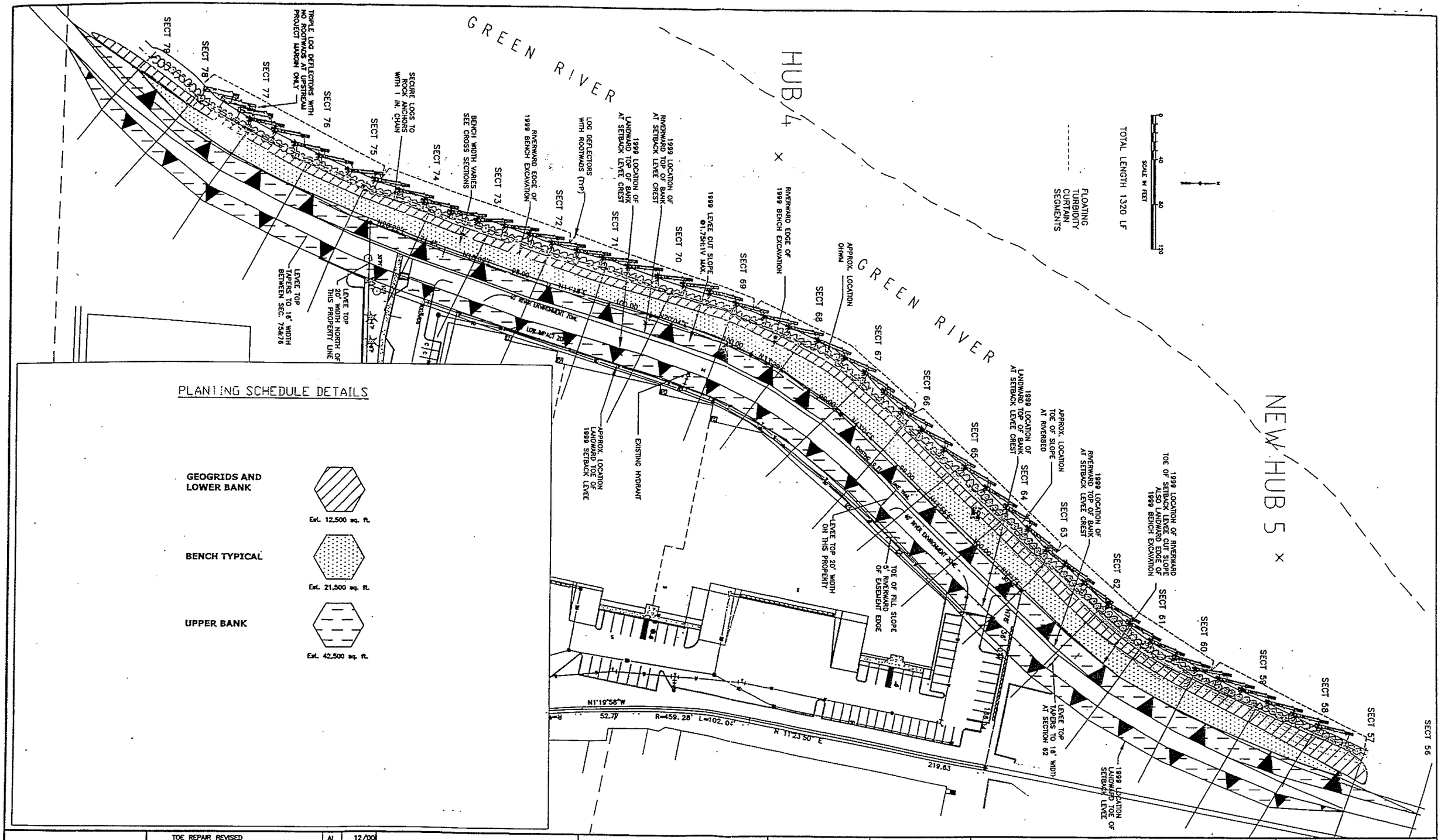


SECT 78
TYPICAL CROSS SECTION
FOR USE AT SECTION'S 77, 78



SECT 79
MATCH GRADES TO EXISTING SLOPE

SURVEYED: KC RIVERS	97–98				PROJECT MANAGER: ANDY LEVESQUE DATE: 1/01			KING COUNTY DEPT. OF NATURAL RESOURCES PAM BISSONNETTE, DIRECTOR WATER AND LAND RESOURCES DIVISION	SHEET 3 OF 5 SHEETS
BASE MAP PLOT:					PROJECT ECOLOGIST: RUTH SCHAEFER DATE: 1/01			DESIMONE LEVEE TOE REPAIR	
DESIGN PLOT:					DESIGNED: ANDY LEVESQUE DATE: 1/01			GREEN RIVER, RIVER MILE 15.45 R.B. CROSS SECTIONS	RIVERS SECTION
CHECKED:					DRAWN: KEN ZWEIG DATE: 1/01				
FIELD BOOK:									
BY	DATE	REVISION	BY	DATE	PROJECT No. 089585				



PLANTING SCHEDULE DETAILS

GEOGRIDS AND LOWER BANK

Est. 12,500 sq. ft.

BENCH TYPICAL

Est. 21,500 sq. ft.

UPPER BANK

Est. 42,500 sq. ft.

SURVEYED: KC RIVERS 97--98	TOE REPAIR REVISED	AL	12/00
BASE MAP PLOT:			
DESIGN PLOT:			
CHECKED:			
FIELD BOOK:			
BY DATE	REVISION	BY	DATE

PROJECT MANAGER: ANDY LEVESQUE DATE: 1/01

PROJECT ECOLOGIST: RUTH SCHAEFER DATE: 1/01

DESIGNED: ANDY LEVESQUE DATE: 1/01

DRAWN: KEN ZWEIG DATE: 1/01

PROJECT No. 059565

KING COUNTY DEPT. OF NATURAL RESOURCES
PAM BISSONNETTE, DIRECTOR
WATER AND LAND RESOURCES DIVISION

DESIMONE LEVEE TOE REPAIR

GREEN RIVER, RIVER MILE 15.45 R.B.
TEMPORARY EROSION & SEDIMENT CONTROL & PLANTING PLAN

SHEET 4 OF 5 SHEETS

RIVERS SECTION

PLANTING SCHEDULE

Total Plants By Species		Common Name	Species Name	Typical Pot Size	Approx. Spacing	Lower Bank	Bench	Upper Bank
			TREES					
50		Bigleaf Maple	Acer macrophyllum	1 gallon	10'+		55	0
185		Red Alder	Alnus rubra	1 gallon	6'+		185	0
185		Oregon Ash	Fraxinus latifolia	1 gallon	6'+	45	185	
185		Sitka Spruce	Picea sitchensis	1 gallon	10'+		185	
235		Black Cottonwood	Populus trichocarpa	1 gallon	6'+	45	320	
185		Western Crabapple	Pyrus fusca	1 gallon	6'+	45	185	
185		Western Red Cedar	Thuja plicata	1 gallon	6'+		185	0
Total Trees	1210				TOTAL	135	1300	0
			SHRUBS					
548		Serviceberry	Amelanchier alnifolia	1 gallon	4'+			548
415		Red-osier Dogwood	Cornus stolonifera	1 gallon	4'+	275	140	
548		Western Hazelnut	Corylus cornutus	1 gallon	4'+			548
688		Black Hawthorn	Crataegus douglasii	1 gallon	4'+		140	548
548		Oceanspray	Holodiscus discolor	1 gallon	4"+			548
415		Black Twinberry	Lonicera involucrata	1 gallon	4"+	275	140	
274		Indian Plum	Oemleria cerasiformis	1 gallon	4'+			274
415		Pacific Ninebark	Physocarpus capitatus	1 gallon	4'+	275	140	
274		Red Flowering Current	Ribes sanguineum	1 gallon	3'+			274
427		Nootka Rose	Rosa nutkana	1 gallon	3'+		140	274
427		Baldhip Rose	Rosa pisocarpa	1 gallon	3'+		140	274
274		Thimbleberry	Rubus parviflorus	1 gallon	4'+			274
140		Salmonberry	Rubus spectabilis	1 gallon	4'+		140	
3425		Red Elderberry	Sambucus racemosa	1 gallon	2'+		1300	2125
688		Snowberry	Symphoricarpos alba	1 gallon	4'+		140	548
Total Shrubs	9506				TOTAL	825	2420	6235

SURVEYED: KC RIVERS 97–98
BASE MAP PLOT:
DESIGN PLOT:
CHECKED:
FIELD BOOK:

BY	DATE	REVISION	BY	DATE
		TOE REPAIR REVISED	AL	12/00

PROJECT MANAGER: ANDY LEVESQUE DATE: 1/01
PROJECT ECOLOGIST: RUTH SCHAEFER DATE: 1/01
DESIGNED: ANDY LEVESQUE DATE: 1/01
DRAWN: KEN ZWEIG DATE: 1/01

PROJECT No. 099565

KING COUNTY DEPT. OF NATURAL RESOURCES
PAM BISSONNETTE, DIRECTOR
WATER AND LAND RESOURCES DIVISION

DESIMONE LEVEE TOE REPAIR

GREEN RIVER, RIVER MILE 15.45 R.B.
PLANTING PLAN

SHEET 5 OF 5 SHEETS

RIVERS SECTION

EXHIBIT B

Flood Protection Capital Improvement Projects

Flood project selection

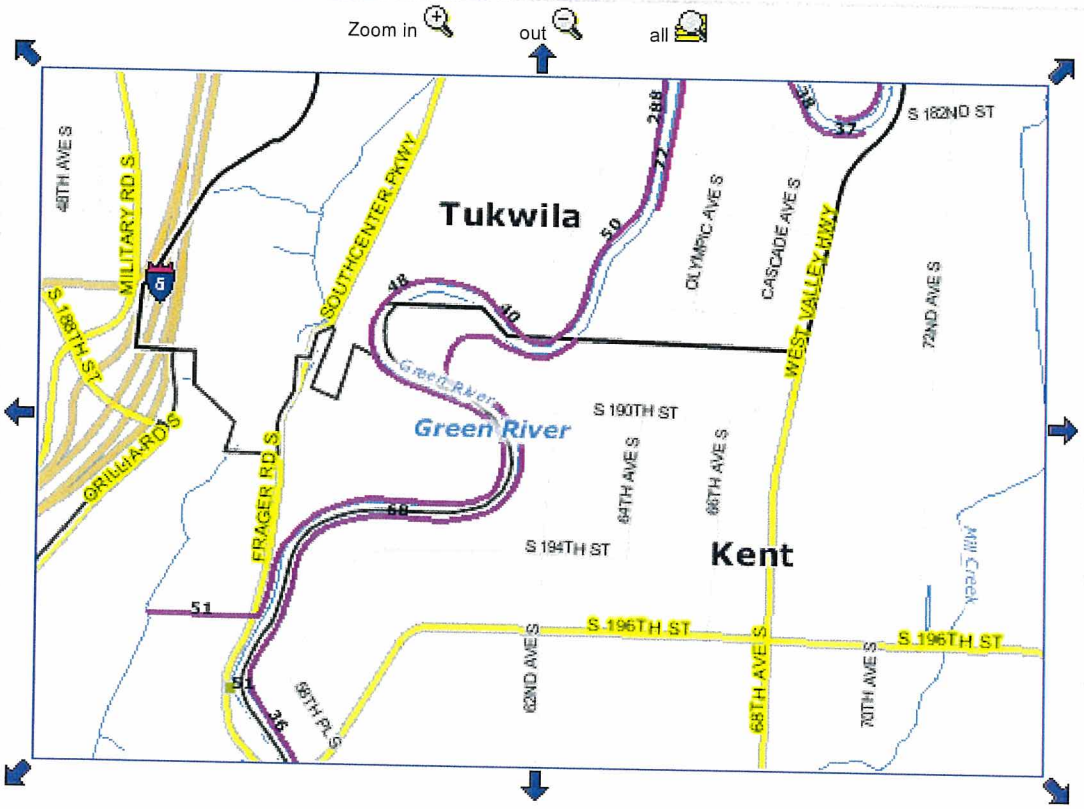
River: select river... go

or

Project: select project... go

see all projects

Map



Project List +

Project details -

please select a project.

Flood Protection Capital Improvement Projects

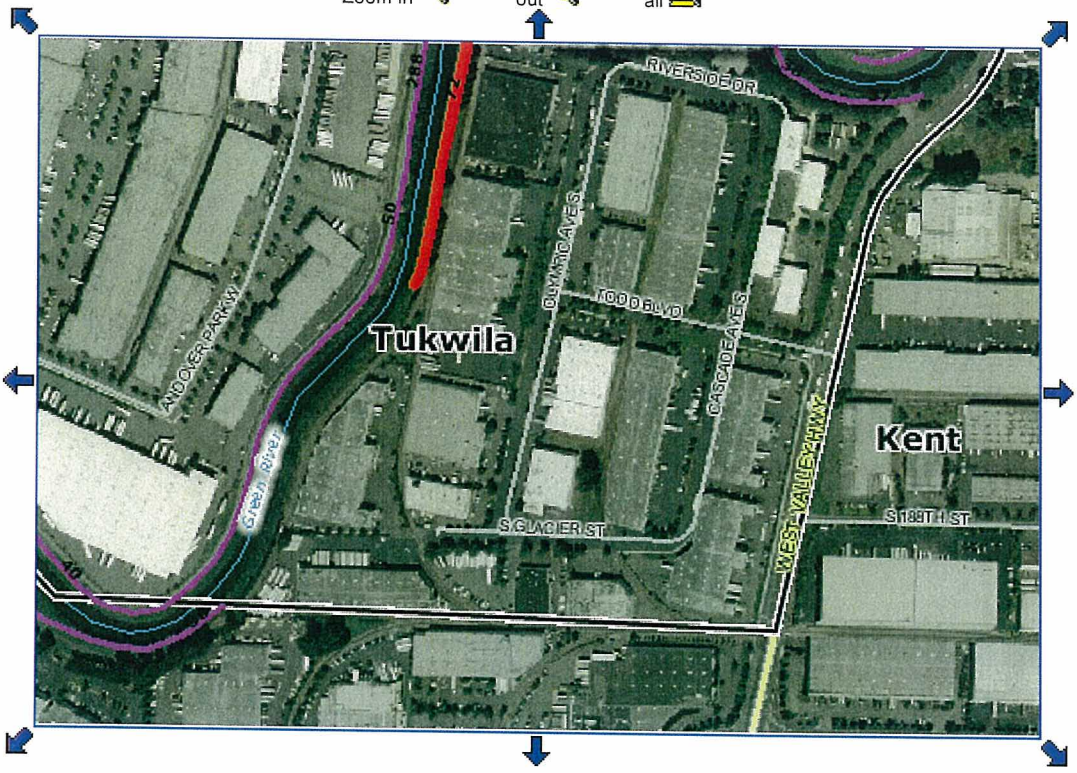
Flood project selection

Desimone Levee #4 search again

Project details +

Map

Zoom in out all



118 Projects (point, e.g. restoration project)

Projects (line, e.g. levee repair or setback)

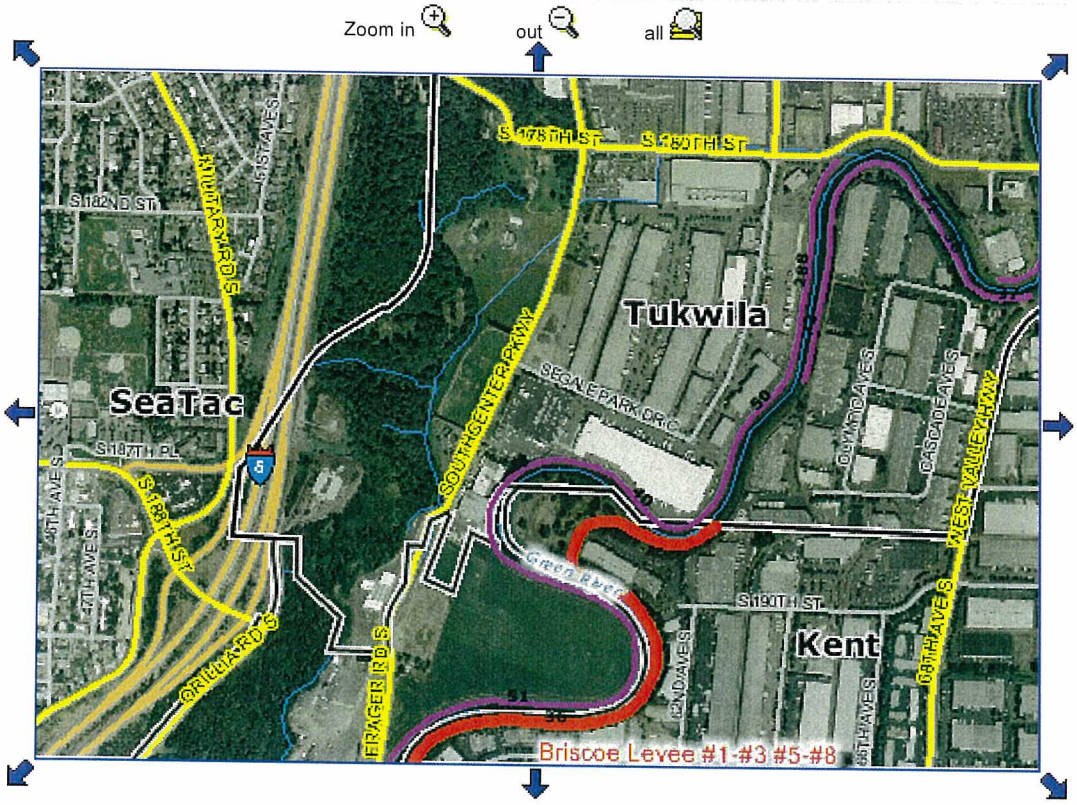
Flood Protection Capital Improvement Projects

Flood project selection

Briscoe Levee #1-#3 #5-#8 search again

Project details +

Map



118 Projects (point, e.g. restoration project)

Projects (line, e.g. levee repair or setback)

EXHIBIT C

GeoEngineers

2924 Colby Avenue
Everett, Washington 98201
425.252.4565

November 10, 2009

James Campbell Company, LLC
425 California Street, Suite 1000
San Francisco, California 94104

Attention: Mr. Clyde Skeen, Regional Manager

Subject: Addendum Letter
Geotechnical and Hydrologic Consultation
Conceptual Levee Section, Glacier Building
Tukwila, Washington
File No. 18922-001-00

This letter documents our additional geotechnical and hydrologic consultation and evaluation of the Green River levee located adjacent to the Glacier Building within the James Campbell Company property in Tukwila, Washington. The James Campbell Company property includes four parcels situated between S. 180th Street and S. 190th Street along the east side of the Green River. This letter is site specific to the Glacier Building parcel, Parcel No. 7888900120, located roughly 2,000 feet south of South 180th Street.

We understand that, in its proposed Shoreline Master Program (SMP), the City of Tukwila is proposing a 125-foot buffer to accommodate reconstruction of levees in accordance with the City's "Preferred Levee profile". The "Preferred Levee Profile" is defined and depicted in the draft SMP attached to staff's October 21, 2009, memorandum to the City Council. Excerpts from the October 21, 2009 version of the draft SMP indicating circumstances under which alternatives such as a floodwall could be used are included as Attachment A.[1] The City's Preferred Levee Profile is included as Figure 1.

We developed a conceptual levee section for the levee adjacent to the Glacier Building, presented as Section I-I' on attached Figure 2. The specific location of Section I-I' is shown on the Triad survey previously submitted to the City. The conceptual levee section in Figure 2 is generally representative of the situation on the Glacier Building parcel as a whole.

Consistent with the SMP language in Figure 1, our conceptual levee section utilizes a floodwall in lieu of an earthen backslope in order to provide 10' clearance from the building. The only element of the City's "Preferred Levee Profile" not included in our conceptual levee section is an 18-foot wide levee top. Due to space constraints, a

[1] The handwritten language on the pages in Attachment A and Figure 1 represents corrections presented by staff at the October 27, 2009, City Council working session.

16-foot wide levee top is provided. This reduction in the width of the levee top does not impact the stability of the levee, in our opinion.

We appreciate the opportunity to provide services to James Campbell Company and Gordon Derr on this project. Our services have been completed in accordance with our agreement dated September 18, 2009 for the purposes of developing conceptual levee profiles. Please call if you have any questions regarding our services or about this letter.

Sincerely,
GeoEngineers, Inc.

Debra C. Overbay, PE
Senior Engineer

Gordon M. Denby, PE, PhD
Senior Principal

GMD:DCO:ta
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Attachment A: City of Tukwila Proposed SMP Buffer Definition
Figure 1. City of Tukwila Preferred Levee Profile
Figure 2. Conceptual Levee Section I-I'

cc: Jeff Weber
Gordon Derr, Attorneys At Law
2025 First Avenue, Suite 500
Seattle, Washington 98121-3140

SECTION 7.7

Buffer in Levee Areas:

For properties located behind the Army Corps of Engineers (ACOE) Certified 205 levee and County constructed levees, the buffer will extend 125 feet landward from the ordinary high water mark, determined at the time of development or redevelopment of the site or when levee replacement or repair is programmed. This buffer width is the maximum needed to reconfigure the river bank to achieve an overall slope of 2.5:1, the "angle of repose" or the maximum angle of a stable slope. The establishment of the 2.5:1 slope along the Corps certified 205 levee in the Tukwila Urban Center will allow for incorporating a mid-slope bench that can be planted with vegetation to improve river habitat. The mid-slope bench also will allow access for maintenance equipment, when needed. As the Corps of Engineers does not permit planting on the levee prism, the only way to improve habitat along the 205 levee portion of the river is to create a bench that can be vegetated that will not create a hazard for the stability of the levee. A ten foot easement necessary to allow access for levee inspection is required on the landward side of the levee at the toe. As noted earlier, the ACOE has indicated the 2.5:1 levee profile with the mid-slope bench **(D.R. 07/09)** will be the template for future levee repairs.

As an alternative to the 125 foot buffer for leveed areas, a property owner may construct levee or riverbank improvements that meet the Army Corps of Engineers, King County Flood Control District, and City of Tukwila ~~levee standards~~preferred levee profile. These standards at a minimum shall include an overall slope of 2.5:1 from the toe of the levee to the riverward edge of the crown, a 15 foot mid slope bench, ~~20~~18' access across the top of the levee, a 2:1 back slope, and an additional 10 foot no-build area measured from the landward toe for inspection and repairs. In instances where an existing building that has not lost its nonconforming status prevents the complete construction of the preferred levee profile, achieving an overall slope of 2.5:1 may be difficult – however, the slope should be as close to 2.5:1 as possible.

A floodwall is not the preferred back slope profile for a levee and may be substituted for all or a portion of the back slope only where necessary to avoid encroachment or damage to a structure legally constructed prior to the date of adoption of this Master Program and which has not lost its nonconforming status. The floodwall shall be designed to be the minimum necessary to provide 10' (ten foot) clearance between the levee and the building or the minimum necessary to preserve access needed for building functionality while meeting all engineering safety standards, provided that minor variations may be allowed in order to provide the 10' (ten foot) clearance. A floodwall may also be used, and other minor variations made, where necessary to avoid encroachment on a railroad easement.

In areas of the river where ~~this condition~~ the preferred levee profile currently exists or where the property owner or a government agency has constructed these ~~improvement~~preferred profile, the ~~setback~~buffer will be reduced to the actual distance as measured from the ordinary high water mark to the landward toe of the levee or face of a ~~pre-existing~~ floodwall, plus 10 feet. In the event that the owner provides the City with a 10-foot levee maintenance easement measured landward from the landward toe of the levee or levee wall (which easement prohibits the construction of any structures and allows the City to access the area to inspect the levee), then the buffer shall be reduced to the landward toe of the levee, or landward edge of the levee floodwall, as the case may

be.

In cases where fill is placed along the back slope of the levee, the shoreline buffer may be further reduced to the point where the ground plane intersects the back slope. The area between the landward edge of the buffer and a point ten (10) feet landward of the underground levee toe shall be covered by an easement prohibiting the construction of any structures and allowing the City to access the area to inspect the levee and/or floodwall and make any necessary repairs.

& for any other public agency

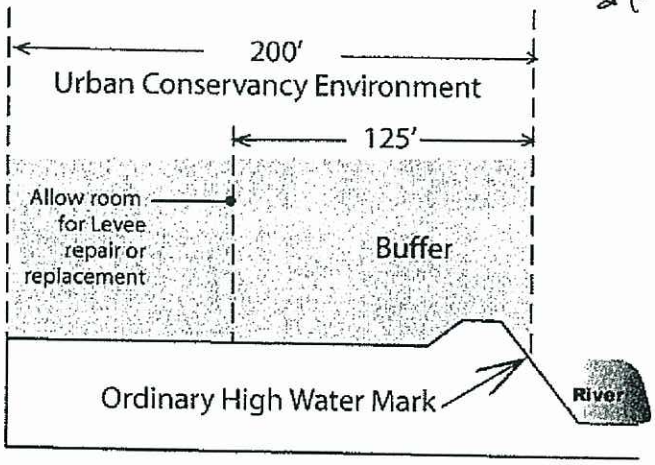


Figure 4. Schematic of Proposed Shoreline Jurisdiction and Buffers for the Urban Conservancy Environment in Areas with Levees

SECTION 3 DEFINITIONS: SUMMARY SHEET

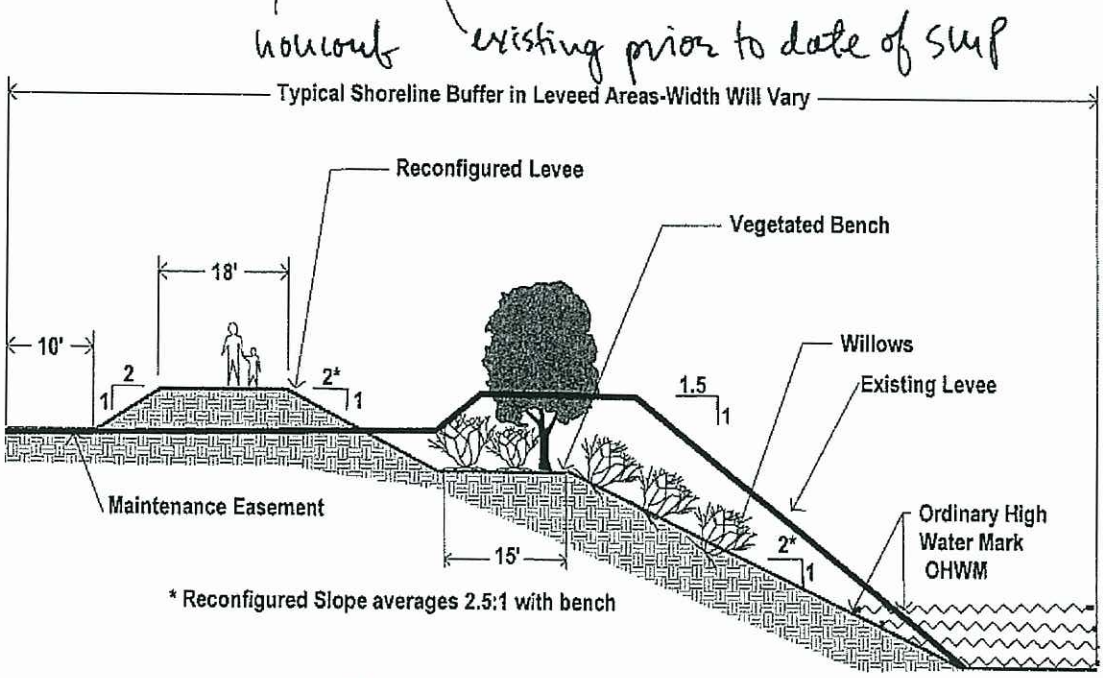
PROPOSED NEW DEFINITION #1

Technical Correction

New definition..... 11

Provide a definition that identifies the City's preferred levee profile.

Levee, Preferred Profile: shall mean, where there is room, the preferred levee profile for any new or reconstructed levees is the King County "Briscoe Levee" profile – 2.5:1 overall slope with 15 foot mid-slope bench for maintenance access and native vegetation plantings. Where there is insufficient room for a levee backslope due to the presence of ~~existing~~ structures, a floodwall may be substituted. See Figure X for an illustration of the preferred profile.

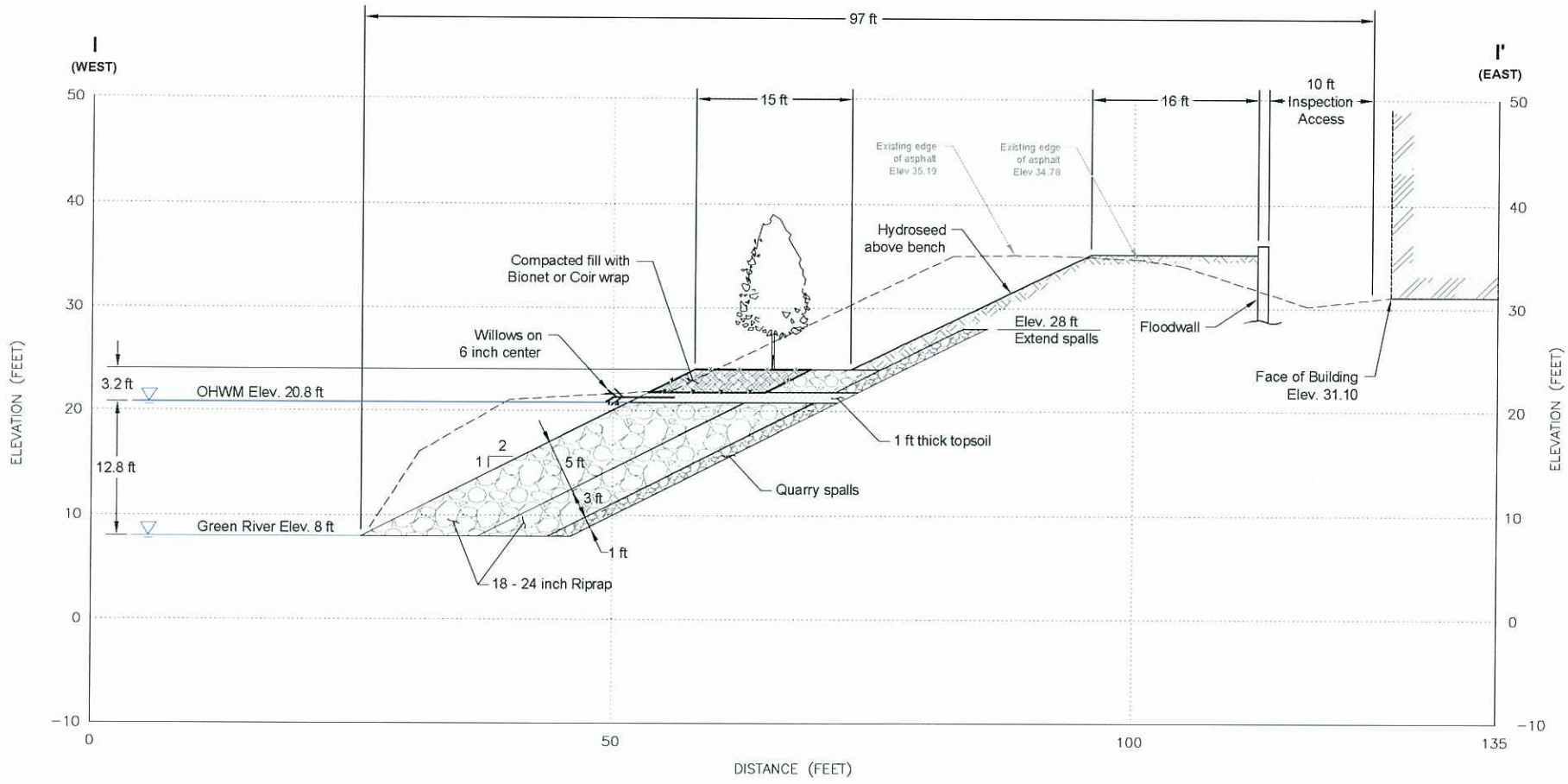


Preferred Levee Profile

Not To Scale

Staff Recommended Solution

Staff recommends including the new definition and the illustration of the preferred profile.



Notes

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2. This drawing is for information purposes. It is intended to assist in showing features discussed in an attached document. GeoEngineers, Inc. can not guarantee the accuracy and content of electronic files. The master file is stored by GeoEngineers, Inc. and will serve as the official record of this communication.

HORIZONTAL SCALE: 1"= 10'
VERTICAL SCALE: 1"= 10'
VERTICAL EXAGGERATION: 1X

10 0 10
FEET

Conceptual Levee Section I-I' with Floodwall

Green River Levee Site
Tukwila, Washington

GeoEngineers

Figure 2

EXHIBIT D

JAMES CAMPBELL COMPANY LLC

November 10, 2009

Members of the Tukwila City Council
6200 Southcenter Blvd.
Tukwila, WA 98188

Dear City Council Members:

Re: Comments on Shoreline Master Program

I am the Vice President, Regional Manager for the James Campbell Co. LLC, which owns a number of parcels in the City of Tukwila, including the parcel developed with the "Glacier Building." I previously submitted a comment letter dated April 17, 2009. This letter addresses an issue that has arisen since that time, e.g., City staff's proposed changes to the SMP's nonconformance provisions that were first presented with the materials for the Council's September 22, 2009, working session.

As set forth in my original letter, the SMP's provisions regarding nonconforming uses and structures would greatly interfere with the continued use and operation of the Glacier Building. Among other problems, the SMP construes use categories very narrowly, so an owner of a building impacted by the proposed buffer could retain nonconforming status only by finding a replacement tenant whose business was virtually the same as the vacating tenant's, effectively eliminating the possibility of timely finding a replacement tenant.

Staff's proposal to allow a nonconforming use to be changed to a different nonconforming use upon approval of a Conditional Use Permit (CUP) does not constitute an acceptable solution to this issue. The commercial/industrial leasing market is highly competitive, particularly in the current economic climate. Commercial/industrial leasing deals often must occur in a matter of weeks if the property owner is to land the new tenant. In the current market, tenants in the Kent Valley have a vast number of choices and any factor that increases the time needed to negotiate a lease with a particular property owner is highly problematic.

The obligation to obtain a CUP would typically be placed on the prospective tenant. The typical prospective tenant in the commercial/industrial sector (many of whom are small businesses) will be unwilling to go through a CUP process. When faced with such a requirement, the tenant will simply find another building (either outside of the shoreline zone in Tukwila, or in another city) in which to lease space. Moreover, the need to obtain a CUP for buildings along the river in Tukwila will create a negative impression of the Tukwila business environment among tenants in this sector.

425 California Street Suite 1000 San Francisco, California 94104 Phone (415) 397-4000 Fax (415) 291-5720 Website: www.jamescampbell.com

As owners of buildings impacted by the buffer find that the CUP requirement prevents them from landing tenants, the owners will initiate the CUP process on behalf every prospective tenant in hopes of leasing their space. Since leasing a given space often requires dealing with multiple prospective tenants, the City will potentially be faced with a large volume of CUP applications. In the end, however, most if not all of these applications will be dropped (though only after causing substantial administrative burdens on the City). In the commercial/industrial sector, prospective tenants will not wait to lease space in a building where they are required to go through a CUP process involving the hiring of an attorney to guide them through both the City of Tukwila and Department of Ecology review. This will be a months long complex process – where the outcome will not be known until the process is completed. Businesses need efficiency, cost effectiveness and certainty when making decisions and commitments as to where to locate their operations.

Thus, in cases (like the Glacier Building) where the uses engaged in by current tenants mean that a CUP is likely to be needed to re-lease space that becomes vacant, the CUP requirement is likely to preclude re-leasing of the space as a practical matter. The owner will ultimately lose the use of the building, giving rise to an inverse condemnation claim against the City. It bears emphasis that the CUP requirement is particularly problematic in a situation (like the Glacier Building) where no levee reconstruction is likely to occur for the foreseeable future and thus the buffer will continue to burden the building for many years. The Glacier Building is approximately ten years old and has a long remaining useful life. It is highly likely that use of some or all of this building will be prematurely lost if the nonconformance provisions as proposed by staff (including the CUP process) are adopted by the Council.

I respectfully request that you make the changes to the draft SMP recommended by our attorney in order to address the issues discussed herein. Thank you for your consideration.

Very truly yours,

Clyde Skeen
Vice President
Regional Manager

GordonDerr
ATTORNEYS AT LAW

November 20, 2009

VIA HAND DELIVERY
Members of the Tukwila City Council
c/o City of Tukwila City Clerk
Tukwila City Hall
6200 Southcenter Blvd.
Tukwila, WA 98188

Re: Supplemental Comments on City of Tukwila Shoreline Master Program (SMP) Update

Dear Council Members:

We represent the James Campbell Company LLC, which owns property in the City of Tukwila including four parcels along the Green River. At the Council working session on November 17, the Council declined to request changes to the draft SMP to address the situation of the "Glacier Building". As described in our prior comments, there is sufficient room to reconstruct the levee adjacent to the Glacier Building in accordance with the City's minimum levee profile (with only a minor variation to the levee top that does not affect the stability of the levee) without encroaching on the existing building.

Based on Councilmember Robertson's comments at the working session, the apparent rationale for the Council's refusal to adopt the changes to the SMP proposed by James Campbell Company in its November 10, 2009, comment letter is that, in the event of future sloughing of the levee, additional horizontal distance may be required to achieve the City's minimum levee profile, and thus the buffer line should be set landward of the edge of the existing building.

As explained in the attached letter from Geoengineers, there is no engineering basis for this rationale. *See* Geoengineers Letter, Exhibit A hereto. In the event of sloughing, the levee should be repaired, but such repairs can be made within the existing levee configuration and, assuming repairs are promptly made, there is no reason to expect any additional horizontal distance will be required over the long term to reconstruct the levee. While this letter takes no position as to what entity, if any, might have an obligation to make such repairs, if no public agency timely made the necessary repairs, the landowner would reserve, at its discretion, the right to make the repairs itself in order to preserve the potential for reconstructing the levee without encroaching on the existing building (such that buffer impacts to the building could be avoided).

To address the City's concern consistent with the engineering principles set forth by Geoengineers, we would suggest the following language for the SMP (which modifies the language proposed in our November 10 comment letter):

2025 First Avenue, Suite 500, Seattle, WA 98121-3140 206-382-9540 fax 206-626-0675 www.GordonDerr.com

Where a levee has been reconstructed after 1997 and before adoption of this Master Program and the reconstruction included creation of a midslope bench and planting of native vegetation (but varied in other respects from the Minimum Levee Profile established under this Master Program), and a structure is located landward of such levee and was legally constructed prior to the date of adoption of this Master Program, the portion of such structure that lies within the buffer shall not be subject to the use regulations for the buffer, and may be devoted to any use allowed in the applicable shoreline environment outside the buffer, so long as the structure retains its nonconforming status. Provided that, if repairs are required to such a levee in order to remedy sloughing/erosion and reestablish the preexisting levee toe (not including work to repair damage to a substantial portion of the levee resulting from unusually high water levels or work that goes beyond reestablishing the preexisting levee configuration), the owner of the property adjacent to the levee shall have the option, at its discretion, to make the necessary repairs.

In sum, we continue to see absolutely no justification for the City to impose a buffer that encroaches on the Glacier Building, and again request that the City either not impose such a buffer under the SMP or not apply the use regulations for the buffer area to the portion of the existing building within the buffer as set forth above. Given the SMP's highly unforgiving treatment of nonconforming uses, imposing a buffer that encroaches on the Glacier Building will provide the building owner with little alternative but to consider all remedies available to redress the matter.

Thank you for your consideration.

Very truly yours,

GORDONDERR LLP

Jeff S. Weber

Attachment
cc: Clyde Skeen (w/att.)

EXHIBIT A

GeoEngineers

600 Stewart Street, Suite 1700
Seattle, Washington 98101
206.728.2674

November 19, 2009

James Campbell Company, LLC
425 California Street, Suite 1000
San Francisco, California 94104

Attention: Mr. Clyde Skeen, Regional Manager

Subject: Addendum Letter
Geotechnical and Hydrologic Consultation
Conceptual Levee Section, Glacier Building
Tukwila, Washington
File No. 18922-001-00

This letter provides our additional opinions regarding the Green River levee and proposed buffer adjacent to the Glacier Building within the James Campbell Company property in Tukwila, Washington. We provided a conceptual levee profile adjacent to the building and an evaluation of the City of Tukwila preferred levee profile in a previous letter dated November 10, 2009. Our previous conceptual levee profile I-I' located adjacent to the Glacier Building is also attached to this letter for reference.

We understand that the City of Tukwila has concerns that reconstruction of the levee adjacent to the Glacier Building may require additional horizontal distance in the landward direction, beyond that shown in our profile I-I', in the event of future sloughing of the levee (such that the buffer line should be set further landward than the edge of the existing building). In our opinion, any sloughing of the existing levee including erosion of the toe should be repaired immediately to reduce potential additional impacts to the downstream levee. Such repairs should be completed as soon as practical to re-establish the armored toe and levee slope, and can be achieved within the current levee configuration. Assuming such repairs are promptly made, we do not expect that any additional horizontal distance, beyond that shown in profile I-I', would be required over the long term in order to reconstruct the levee in the configuration shown in that profile. As shown in the figure, the current toe can be maintained and the slope flattened to a 2H:1V inclination, including a midslope bench, without encroaching on the existing building.

We appreciate the opportunity to provide services to James Campbell Company and Gordon Derr on this project. Our services have been completed in accordance with our agreement dated September 18, 2009 for the purposes of developing conceptual levee profiles.

Please call if you have any questions regarding our services or about this letter.

Sincerely,
GeoEngineers, Inc.

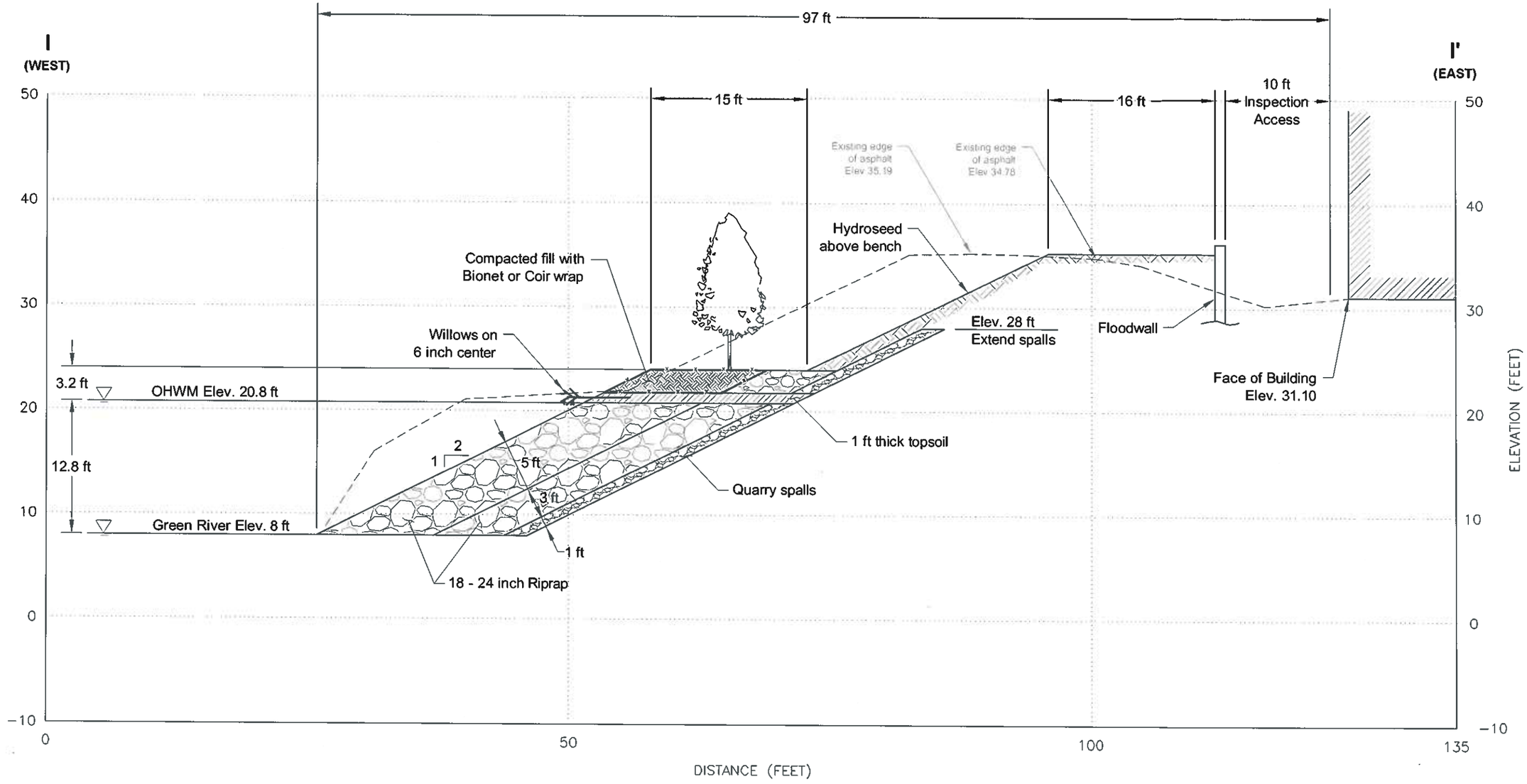
Debra C. Overbay, PE
Senior Engineer

Gordon M. Denby, PE, PhD
Senior Principal

GMD:DCO:ta
Seat:\P:\18\18922001\00\Finals\1892200100ltr3.docx

Attachment: Figure 1. Conceptual Levee Section I-I'

cc: Jeff Weber
Gordon Derr, Attorneys At Law
2025 First Avenue, Suite 500
Seattle, Washington 98121-3140



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HORIZONTAL SCALE: 1"= 10'
VERTICAL SCALE: 1"= 10'
VERTICAL EXAGGERATION: 1X

10 0 10
FEET

Conceptual Levee Section I-I' with Floodwall

Green River Levee Site
Tukwila, Washington

GeoEngineers

Figure 1

P:\18\1892200\00\CAD\Report Figures\1892200100 X-SECTIONS.dwg\TAB:I-I Modified by TMICHAUD on Nov 10, 2009 - 10:37