



US Army Corps
of Engineers
Seattle District



Joint Public Notice

Application for a Department of the Army Permit and a Washington Department of Ecology Water Quality Certification and/or Coastal Zone Management Consistency Concurrence

US Army Corps of Engineers
Regulatory Branch
Post Office Box 3755
Seattle, WA 98124-3755
Telephone: (206) 766-6439
Attn: Ron Wilcox, Project Manager

WA Department of Ecology
SEA Program
Post Office Box 47600
Olympia, WA 98504-7600
Telephone: (360) 407-6068
Attn: SEA Program, Federal Permit
Coordinator

Public Notice Date: 30 Aug 2012
Expiration Date: 29 Sep 2012

Reference No.: NWS-2012-435
Name: BNSF Railway

Interested parties are hereby notified that the U.S. Army Corps of Engineers (Corps) and the Washington Department of Ecology (Ecology) have received an application to perform work in waters of the United States as described below and shown on the enclosed drawings.

The Corps will review the work in accordance with Section 404 of the Clean Water Act (CWA). Ecology will review the work pursuant to Section 401 of the CWA, with applicable provisions of State water pollution control laws.

APPLICANT: BNSF Railway
2454 Occidental Avenue South, Suite 2-D
Seattle, Washington 98134-1451
Attention: Mr. Glen Gaz, Manager Engineering
Telephone: (206) 625-6150

AGENT: JLP Environmental
Post Office Box 1724
Sandpoint, Idaho 83864
Attention: Mr. Pierre Bordenave
Telephone: (208) 263-9391

LOCATION: In wetlands within the existing BNSF Longview rail yard between milepost 100 and milepost 101, approximately 3 miles south of the City of Longview, Cowlitz County, Washington.

WORK: The proposed "wye" rail track relocation project would impact up to 0.69 acres of palustrine emergent (PEM) and palustrine scrubshrub (PSS) wetlands. Up to 13,000 cubic yards of structural rock fill material would be discharged into wetlands. The replacement track would be constructed as a 2000-foot long extension adjacent to and approximately 50 feet southeast of the existing 1050-foot long "wye" track. An access road would be constructed adjacent to the replacement wye track.

PURPOSE: The purpose of the transportation project is to improve rail operations between the Longview Industrial Area and the BNSF Seattle Subdivision Mainline.

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ADDITIONAL INFORMATION: Copies of this public notice which have been mailed or otherwise physically distributed feature project drawings in black and white. To access the electronic version of this public notice, go to the Seattle District's web page at <http://www.nws.usace.army.mil/> and under the heading Open Public Comment Periods select Regulatory Public Notices. Recently-issued public notices are listed in chronological order of the date of issuance. Select and view the listing for this project.

BNSF is a federally regulated common carrier freight railroad, and this section of the BNSF Mainline is an integral part of BNSF's interstate rail system. Under ICC Termination Act (ICCTA), 49 U.S.C. § 10501(b), the federal Surface Transportation Board has exclusive jurisdiction over railroad operations and facilities. State and local agencies do not have jurisdiction to require railroads to submit to state or local permitting requirements as a condition of improving the railroads' interstate facilities. This is particularly true of environmental or construction permitting requirements. *City of Auburn v. United State*, 154 F.3d 1025 (9th Cir. 1998); *Flynn v. Burlington Northern S.F. Corp.*, 98 F.Supp.2d 1186 (E.D. Wash. 2000); *Soo Line R.R. v. City of Minneapolis*, 38 F.Supp.2d 1096 (D. Minn. 1998); *North San Diego County Transit Dev. Bd.—Pet. For Dec. Order*, 2002 WL 1924265 (S.T.B.) (2002). As such, this proposal is exempt from the requirement of obtaining a Shorelines Substantial Development permit or Critical Areas Evaluation for this project by local jurisdiction. All local agency input will be obtained through the CWA 404, 401, and 402 public notice process.

MITIGATION: The compensatory mitigation proposed for the 0.69-acres of permanent wetland impacts would occur off-site through the purchase of mitigation credits at the Columbia River Mitigation Bank (CRMB) at Vancouver, Clark County, Washington. The existing wetland areas on the project site are bordered by uplands, an access road, the railway prism ballast to east side (essentially no wetland buffer) and a railway prism and wetland complexes to the west side. The wetland complex within the project area provides wildlife habitat including open water habitat, and functions as roadside drainage, infiltration, and flood storage. The existing wetland buffer impacts would be minimal.

ENDANGERED SPECIES: The Endangered Species Act (ESA) requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and/or U.S. Fish and Wildlife Service (USFWS) pursuant to Section 7 of the ESA on all actions that may affect a species listed (or proposed for listing) under the ESA as threatened or endangered or any designated critical habitat.

After receipt of comments from this public notice, the Corps will evaluate the potential impacts to proposed and/or listed species and their designated critical habitat.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The proposed action would impact EFH in the project area.

If the Corps determines that the proposed action may adversely affect EFH for federally managed fisheries in Washington waters, the Corps will initiate EFH consultation with the NMFS. The Corps' final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

CULTURAL RESOURCES: The Corps has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible and other sources of information. There are no recorded historic properties within the permit area. The permit area has been so extensively disturbed by modern

development that little likelihood exists for the proposed project to impinge upon an undisturbed historic property. The Corps invites responses to this public notice from Native American Tribes or tribal governments; Federal, State, and local agencies; historical and archeological societies; and other parties likely to have knowledge of or concerns regarding historic properties and sites of religious and cultural significance at or near the project area. After receipt of comments from this public notice, the Corps will evaluate potential impacts and consult with the State Historic Preservation Officer and Native American Tribes in accordance with Section 106 of the National Historic Preservation Act, as appropriate.

EVALUATION – CORPS: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The Corps is soliciting comments from the public; Native American Nations or tribal governments; Federal, State, and local agencies and officials; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for the work. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

The described discharge will be evaluated for compliance with guidelines promulgated by the Environmental Protection Agency under authority of Section 404(b)(1) of the CWA. These guidelines require an alternatives analysis for any proposed discharge of dredged or fill material into waters of the United States.

SOURCE OF FILL MATERIAL: The source of the fill and rock material would be from within the rail yard, other BNSF work sites, and/or from local commercial quarries and transported to the work site via rail cars or trucks.

EVALUATION – ECOLOGY: Ecology is soliciting comments from the public; Federal, Native American Nations or tribal governments, State, and local agencies and officials; and other interested parties in order to consider and evaluate the impacts of this activity. Ecology will be considering all comments to determine whether to certify or deny certification for the proposed project.

COMMENT AND REVIEW PERIOD: Conventional mail or e-mail comments on this public notice will be accepted and made part of the record and will be considered in determining whether it would be in the public interest to authorize this proposal. In order to be accepted, e-mail comments must originate from the author's e-mail account and must include on the subject line of the e-mail message the permit applicant's name and reference number as shown below. Either conventional mail or e-mail comments must include the permit applicant's name and reference number, as shown below, and the commentator's name, address, and phone number. All comments whether conventional mail or e-mail must reach this office, no later than the expiration date of this public notice to ensure consideration.

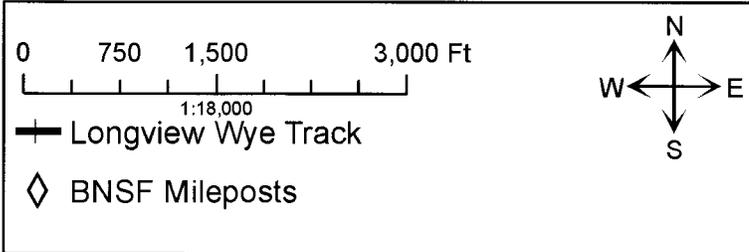
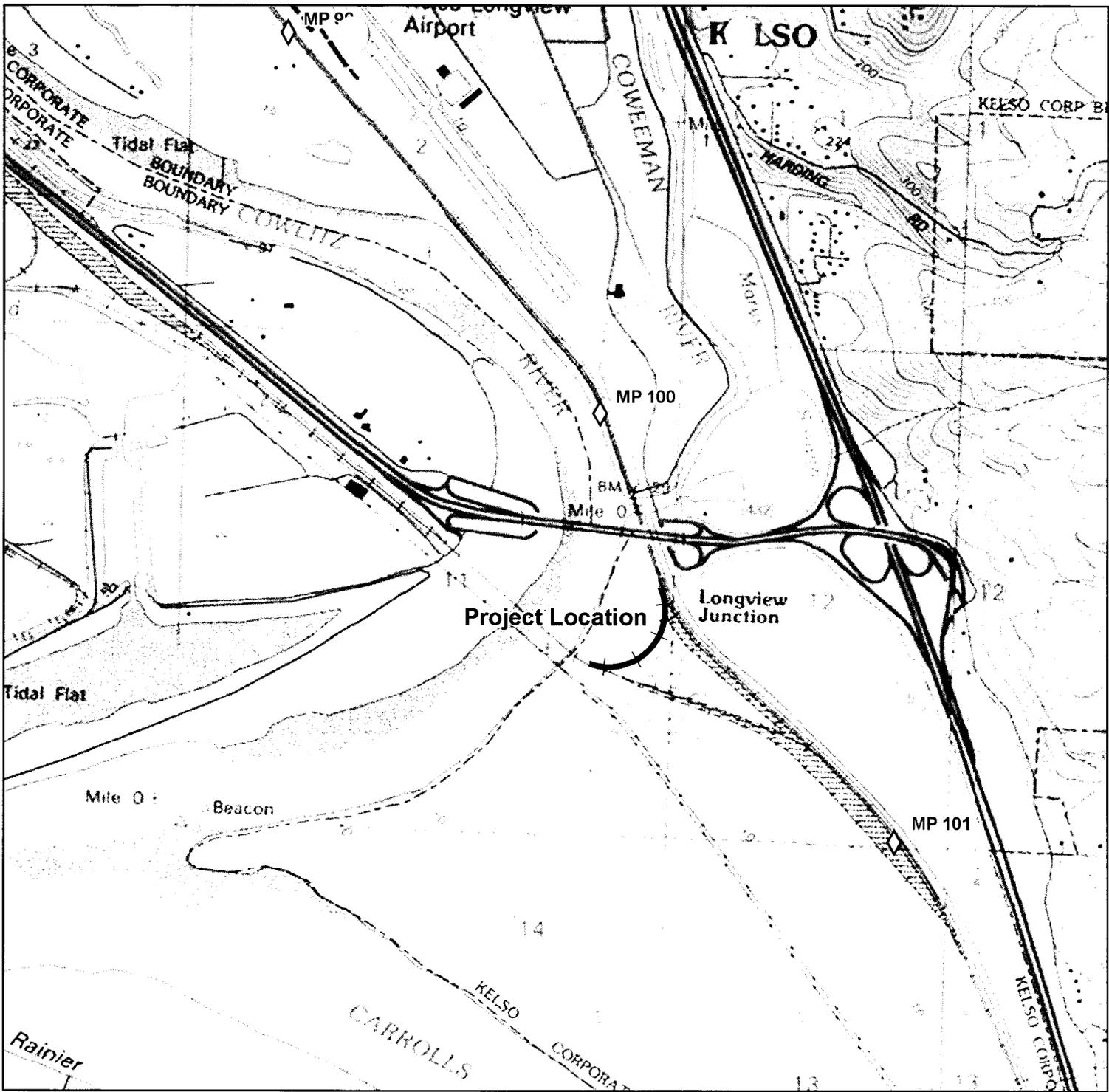
NWS-2012-435

CORPS COMMENTS: All e-mail comments should be sent to ronald.j.wilcox@usace.army.mil. Conventional mail comments should be sent to: U.S. Army Corps of Engineers, Regulatory Branch, Attention: Mr. Ron Wilcox, Post Office Box 3755, Seattle, Washington 98124-3755.

ECOLOGY COMMENTS: Any person desiring to present views on the project pertaining to a request for water quality certification under Section 401 of the CWA and/or Coastal Zone Management consistency concurrence, may do so by submitting written comments to the following address: Washington State Department of Ecology, Attention: SEA program – Federal Permit Coordinator, Post Office Box 47600, Olympia, Washington 98504-7600, or e-mail to ecyrefedpermits@ecy.wa.gov.

To ensure proper consideration of all comments, responders must include the following name and reference number in the text of their comments: BNSF Railway; NWS-2012-435

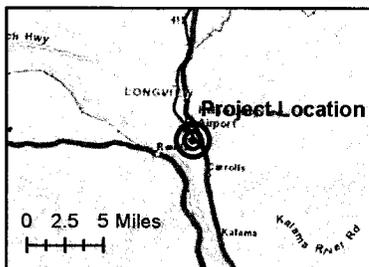
Encl: Figures (1-5)



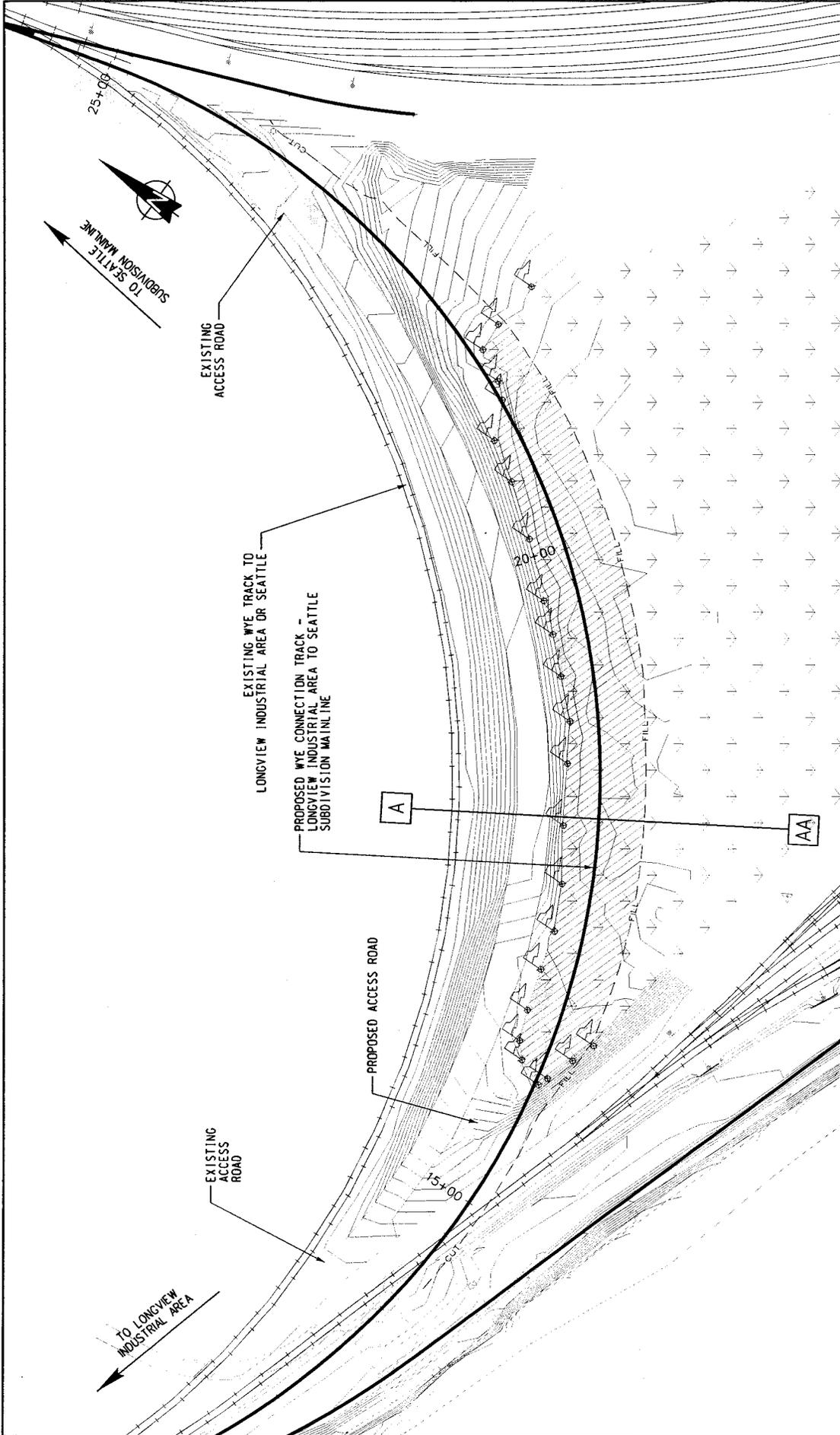
PROJECT LOCATION/VICINITY

USACE REF NO.: *NWS-2012-435*
 PROJECT NAME: LONGVIEW WYE TRACK RELOCATION
 APPLICANT/OWNER: BNSF RAILWAY
 BNSF LOCATION: NW DIVISION, SEATTLE SUB,
 LS 162, LONGVIEW JUNCTION, WYE TRACK 1030, MP 100-101
 LEGAL (STR): PARTS OF S11 & S12, T7N, R2W
 APPROX. LAT/LONG CENTER OF PROJECT:
 N 46°6'11.67" : W 122°53'20.35"
 WATERWAY: COWLITZ RIVER,
 TRIBUTARY TO COLUMBIA RIVER
 STATE: WASHINGTON
 COUNTY: COWLITZ
 DATE: APRIL 2012

1 of 5



DATA SOURCES: US GEOLOGICAL SURVEY (TOPOGRAPHY - 7.5' QUAD "KALAMA RAINIER")
 PRODUCED BY JLP - ENVIRONMENTAL: 101 N. 4TH AVE, SUITE 203, SANDPOINT, ID 83864



PROJECT AREA AND PROPOSED WORK - PLAN DETAIL

USACE REF. NO.: NWS-2012-435
 STUDY AREA: BNSF LONGVIEW WYE TRACK RELOCATION
 FOR: BNSF RAILWAY
 2454 OCCIDENTAL AVE, S. SUITE 2-D
 SEATTLE, WA 98134-1451
 LEGAL: IN PORTIONS OF SECTIONS 11, 12, & 13, T7N, R2W
 APPROX. LAT/LONG: 48° 06'11.66"N; 122° 53'20.90"W
 WATERWAY: WETLANDS ASSOCIATED WITH PRESUMED GROUNDWATER CONNECTIONS TO THE COLUMBIA RIVER
 CITY: LONGVIEW COUNTY: COWLITZ STATE: WASHINGTON
 DATE: APRIL 2012

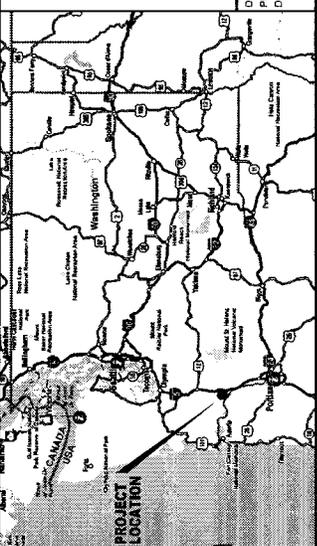
	SQUARE FEET	ACRES	VOLUME
OVERALL WETLAND A	285,630	6.56	
IMPACT TO WETLAND A	30,235	0.69	13,000 CY

LEGEND:

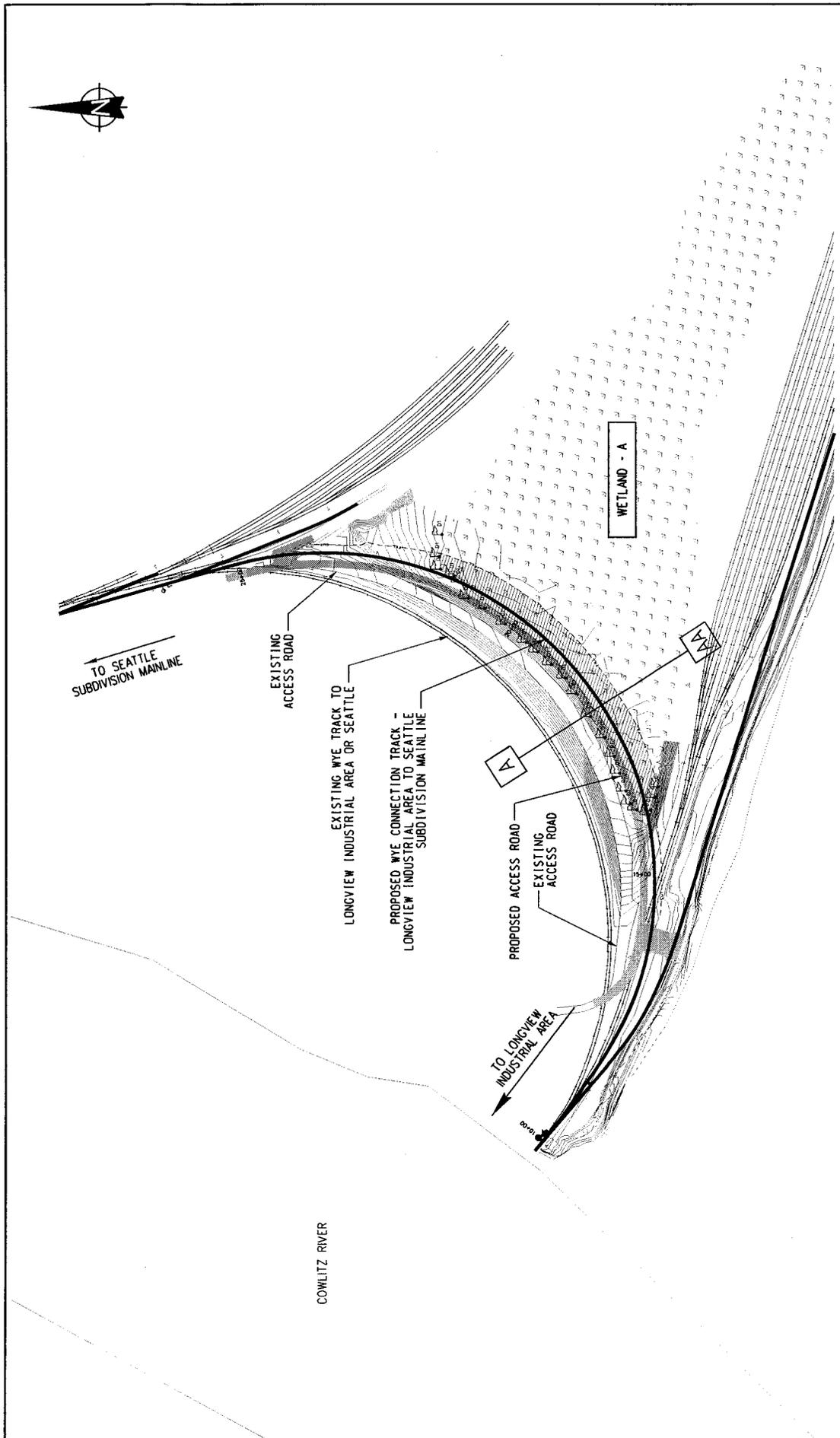
- WETLANDS
- WETLAND FILL

DESIGN BY: BNSF ENGINEERING SERVICES & INTB
 DATE: FEBRUARY 8, 2012

APPROX. GRAPHIC SCALE: 1" = 100'



DRAWING NO. WL-P01 SHEET NO. 3 OF 5 SCALE AS SHOWN



PROJECT AREA AND PROPOSED WORK - PLAN OVERVIEW

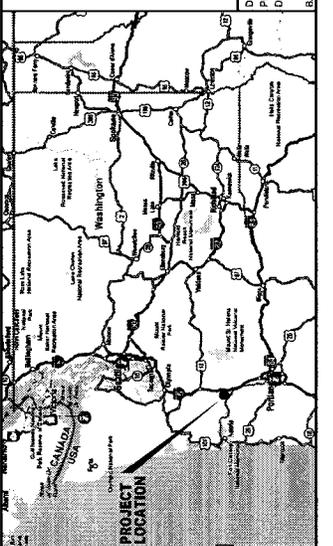
USACE REF. NO.: NWS-2012-435
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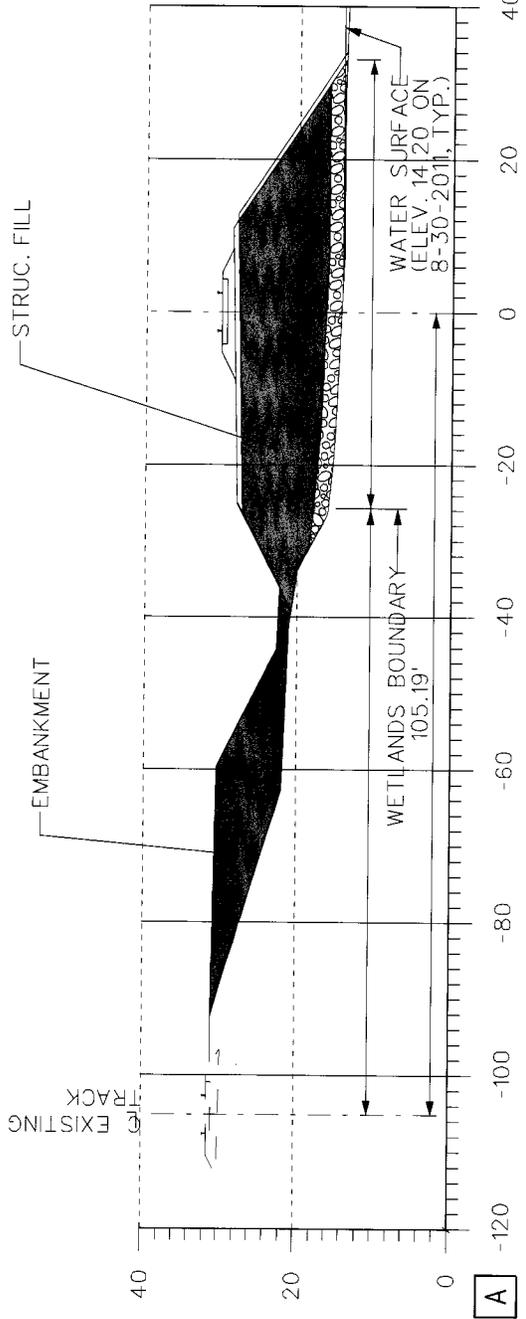
LEGEND:

- WETLANDS
- WETLAND FILL

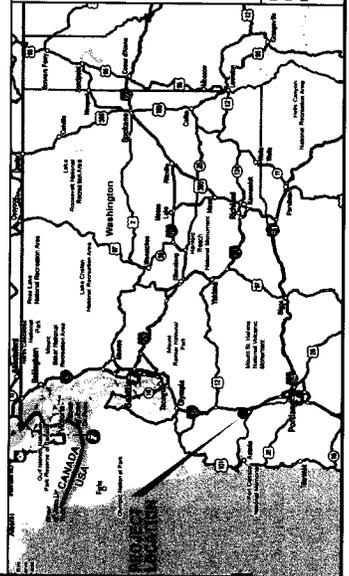
DESIGN BY: BNSF ENGINEERING SERVICES & INTB
 DATE: FEBRUARY 6, 2012
 BASE MAP: GOOGLE EARTH/AERIAL IMAGE



DRAWING NO. **3** OF **5** SCALE **NOT TO SCALE**



WYE STA 18+00



EXISTING CONDITIONS AND PROPOSED WORK - TYPICAL CROSS SECTIONS

USAGE REF. NO.:
 STUDY AREA: BNSF LONGVIEW WYE TRACK RELOCATION
 FOR: BNSF RAILWAY
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 SEATTLE, WA 98134-1451
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 DATE: APRIL 2012

DESIGN BY: BNSF ENGINEERING SERVICES & INTB
 PROJECT #: 50105_450
 DATE: FEBRUARY 8, 2012

DRAWING NO. **RX-01** SHEET NO. **04** OF **05** SCALE **NOT TO SCALE**

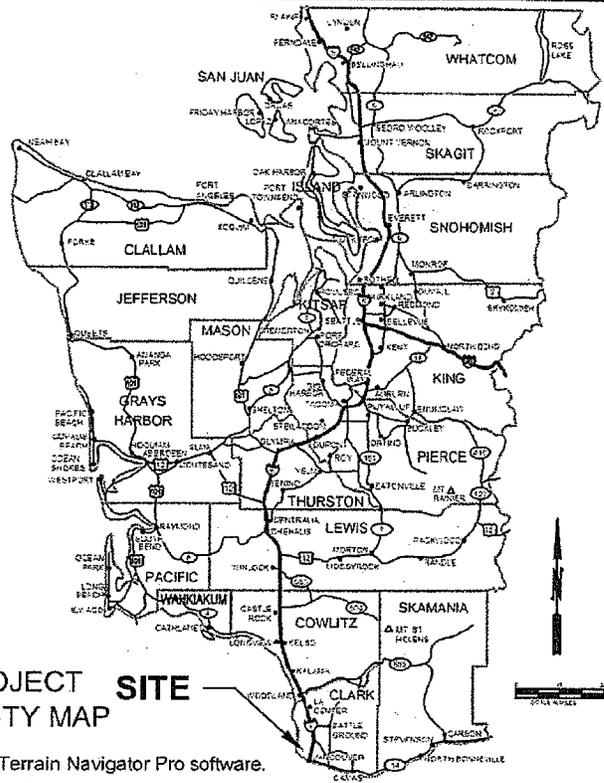
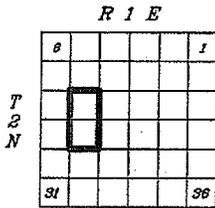
Clark-WA County-Projects\1209-Habitat Banc NW\1209.03-Columbia River Wetland Mitigation Bank Site\1209.03-Figures\Master Drawings\1209.03-Vicinity Map.dwg Brian Bottorff

WASHINGTON



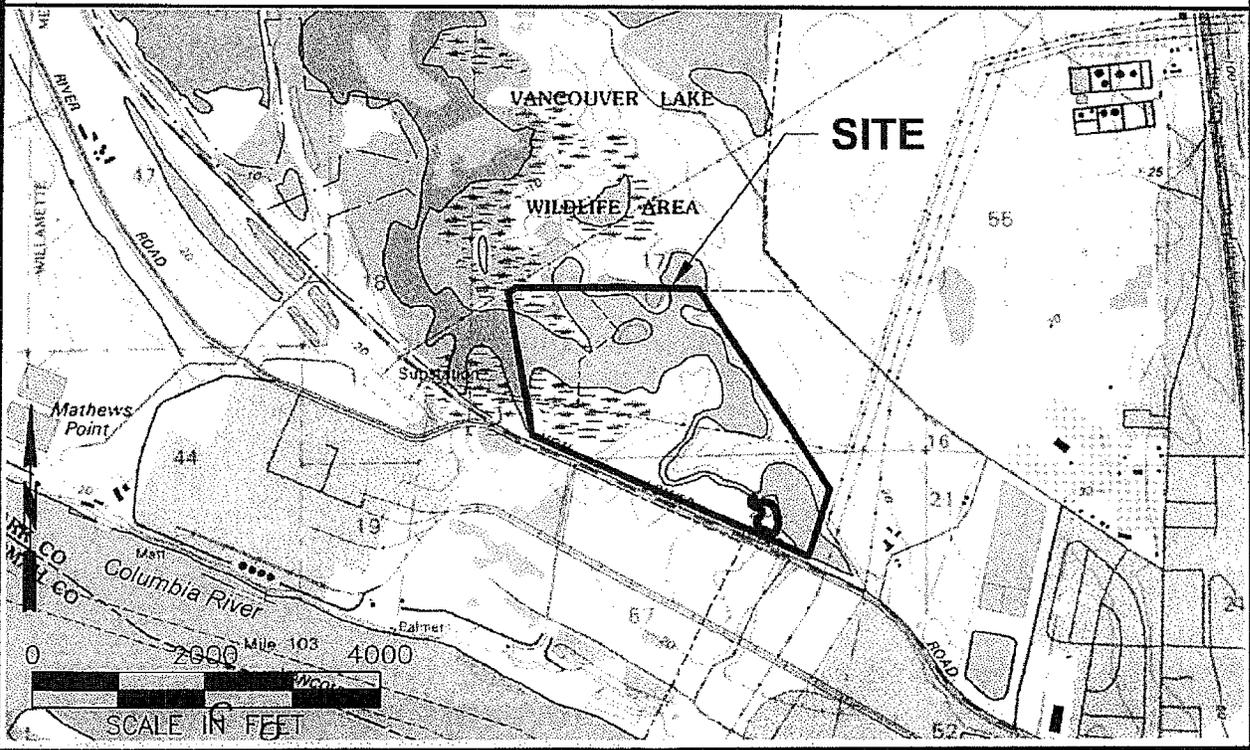
Latitude 45° 39' 4" North
Longitude 122° 42' 43" West

LOCATION MAP



PROJECT SITE VICINITY MAP

NOTE:
USGS topographic quadrangle map reproduced using MAPTECH Inc., Terrain Navigator Pro software.



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VICINITY MAP
 Columbia River Wetland Mitigation Bank
 Clark County Mitigation Partners, LLC
 City of Vancouver, Clark County, Washington
 Sections 17 & 20, Township 2N, Range 1E, W.M.

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8/17/12