



US Army Corps
of Engineers
Seattle District

Public Notice of Application for Permit

Regulatory Branch
Post Office Box 3755
Seattle, Washington 98124-3755
Telephone (360) 734-3156
ATTN: Randel Perry, Project Manager

Public Notice Date: May 19, 2016
Expiration Date: June 18, 2016
Reference: NWS-2016-92
Name: Lummi Nation Planning and
Public Works

Interested parties are hereby notified that the U.S. Army Corps of Engineers (Corps) has received an application to perform work in waters of the United States as described below and shown on the enclosed drawings dated January 4, 2016. The Corps will review the work in accordance with Section 404 of the Clean Water Act (CWA).

APPLICANT: Lummi Nation Planning and Public Works Department
Attention: Mr. Tim Ellis
2665 Kwina Road
Bellingham, Washington 98226
Telephone: (360) 312-2334

AGENT: Northwest Ecological Services, LLC
Attention: Ms. Molly Porter
2801 Meridian Street, Suite 202
Bellingham, Washington 98225
Telephone: (360) 734-9484

LOCATION: In wetlands abutting unnamed tributaries of Slater Slough on the Lummi Indian Nation reservation near Bellingham, Whatcom County, Washington.

WORK: Place fill in 1.44 acres of wetlands to construct a fireworks sales area with associated infrastructure (parking and stormwater treatment).

PURPOSE: Provide additional vending facilities at an existing commercial (fireworks sales) site.

ADDITIONAL INFORMATION: The proposed project is the expansion of an existing fireworks stand area. The applicant proposes to fill 1.44 acres of PEM Cat III wetlands (Wetland 2014-04) to provide up to 90 fireworks booth spaces and 181 parking spaces. Project will also result in 0.73 of an acre of indirect impacts to Wetland 2014-04 via designation as "buffer" due to the proximity of proposed development. Fill area will be pervious, compacted gravel. Stormwater from new pollutant-generating impervious surfaces will be detained and treated in a water quality cell (wetpool) prior to release into the adjacent wetland.

Copies of this public notice which have been mailed or otherwise physically distributed feature project drawings in black and white. The electronic version features those drawings in color, which we think more accurately communicates the scope of project impacts. 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 scroll down the alphabetical listing of District elements, and click on "Regulatory" and then "Regulatory – Permits" for the Seattle District's Regulatory homepage. Select

the prominently displayed “Public Notices” heading and a list of recently-issued public notices will appear, in chronological order of the date of issuance. Select and view the listing for this project.

MITIGATION: As mitigation for the loss of 1.44 acres of wetlands and indirect impacts to 0.73 of an acre of wetlands, the applicant proposes the purchase of 1.62 credits from the Lummi Wetland and Habitat Mitigation Bank (1:1 ratio for direct impacts; 0.25:1 for indirect impacts).

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 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 U.S. Army Corps of Engineers 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 Corps has determined that the proposed action will not adversely affect designated EFH for federally managed fisheries in Washington waters. No further EFH consultation is necessary.

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 proposed work is of such a limited nature and extent that little likelihood exists for the project to impinge upon an unrecorded historic property. The Corps has completed consultation with the Lummi Tribal Historic Preservation Officer who concurred with the determination of no historic properties affected. 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 Native American Tribes in accordance with Section 106 of the National Historic Preservation Act, as appropriate.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

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. The fill material will be clean pit run gravel obtained from a commercial source and soils from the site.

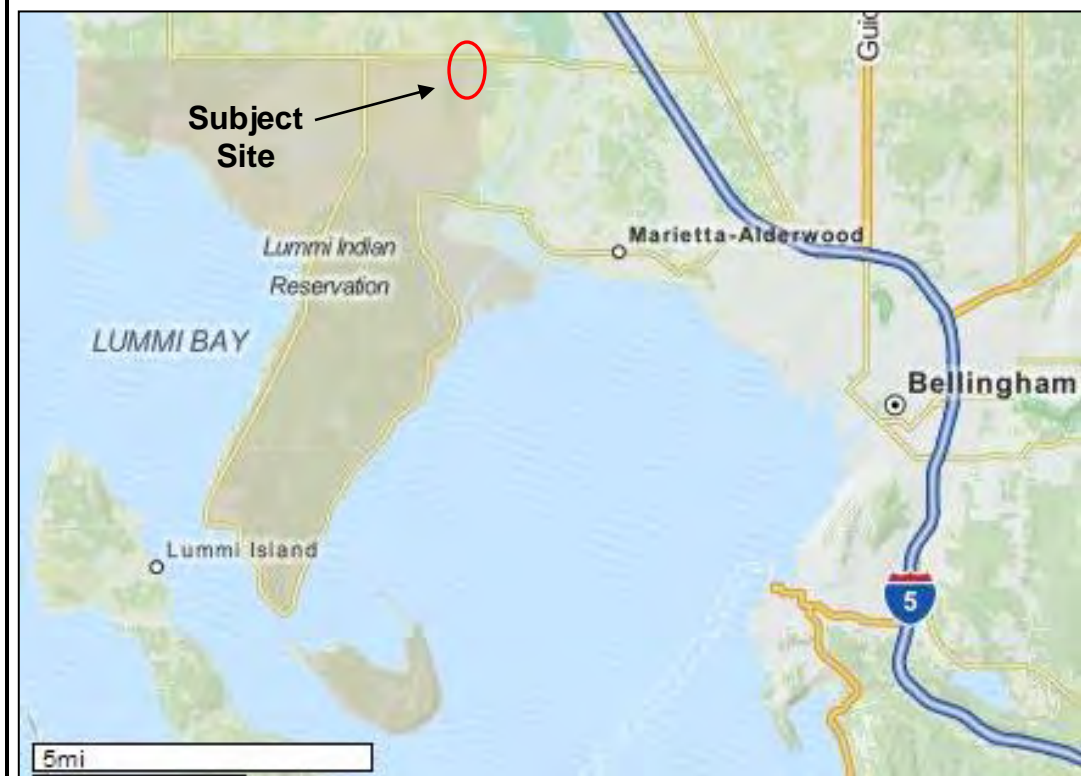
ADDITIONAL EVALUATION: The Lummi Indian Nation is reviewing this work for compliance with the applicable Federal water quality standards pursuant to Section 401 of the CWA.

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.

All e-mail comments should be sent to randel.j.perry@usace.army.mil. Conventional mail comments should be sent U.S. Army Corps of Engineers, Regulatory Branch, P.O. Box 3755, Seattle, Washington 98124-3755. Both conventional mail and e-mail comments must include the permit applicant's name and reference number, as shown below, and the commenter'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. Please include the following name and reference number:

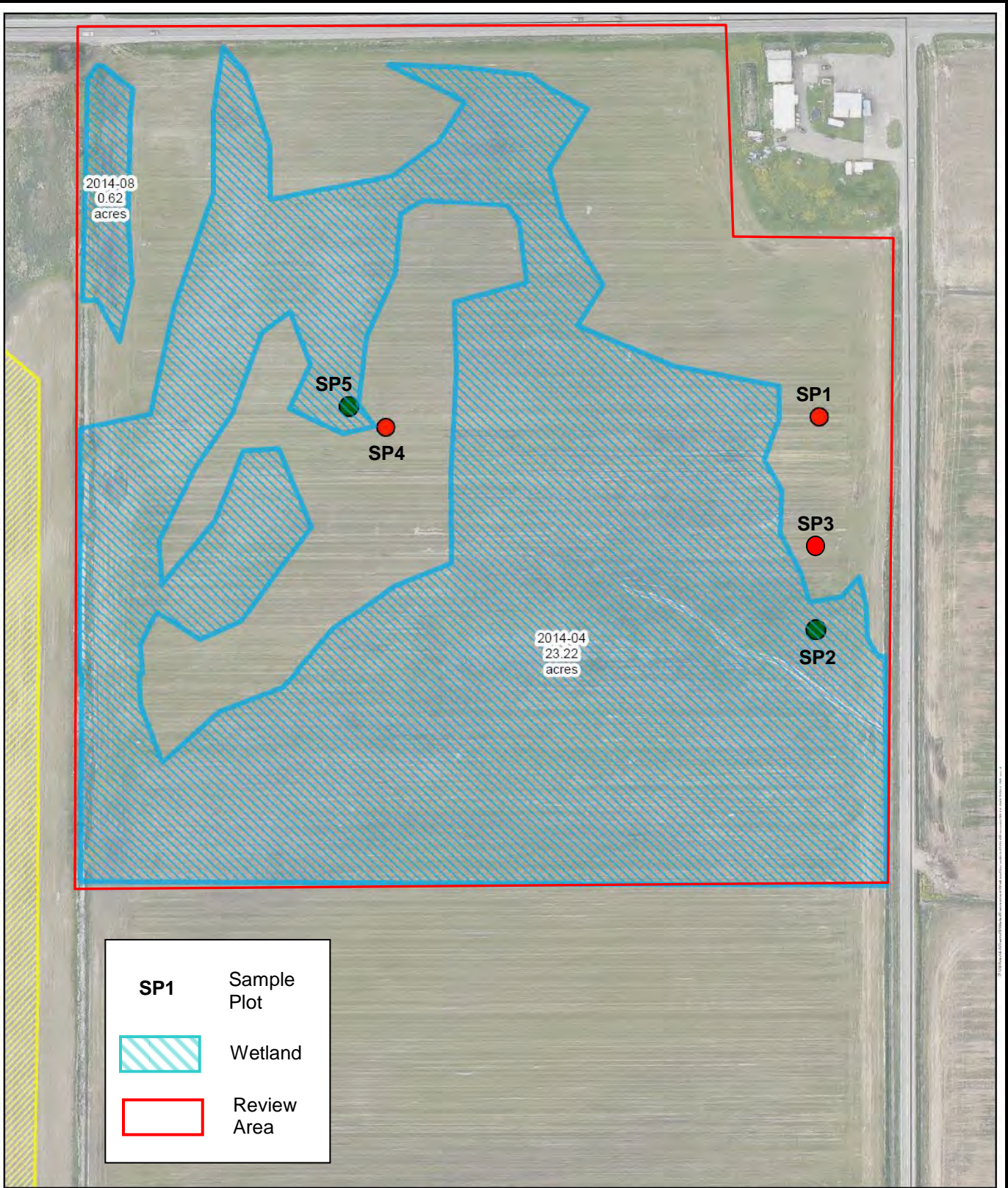
To ensure proper consideration of all comments, responders must include the following name and reference number in the text of their comments: Lummi Commercial Company, NWS-2016-92.



Encl: 8 Figures



Lat: 48.81753
 Long: -122.5979

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| <p>Purpose: Commercial Development Applicant: Lummi Plan. Public Works Dept. Project #: Corps Ref# NWS-2016-92 Adjacent Prop. Owners: See JARPA Date: 01/04/16</p> | <p>Ferndale Road Firework Stands Phase II Vicinity Map</p> | <p>In: Wetlands Location: Lummi Indian Reservation Sec/Twp/Rng: 06/38N/02E County: Whatcom State: WA Sheet 1 of 8</p> |
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| SP1 | Sample Plot |
|  | Wetland |
|  | Review Area |

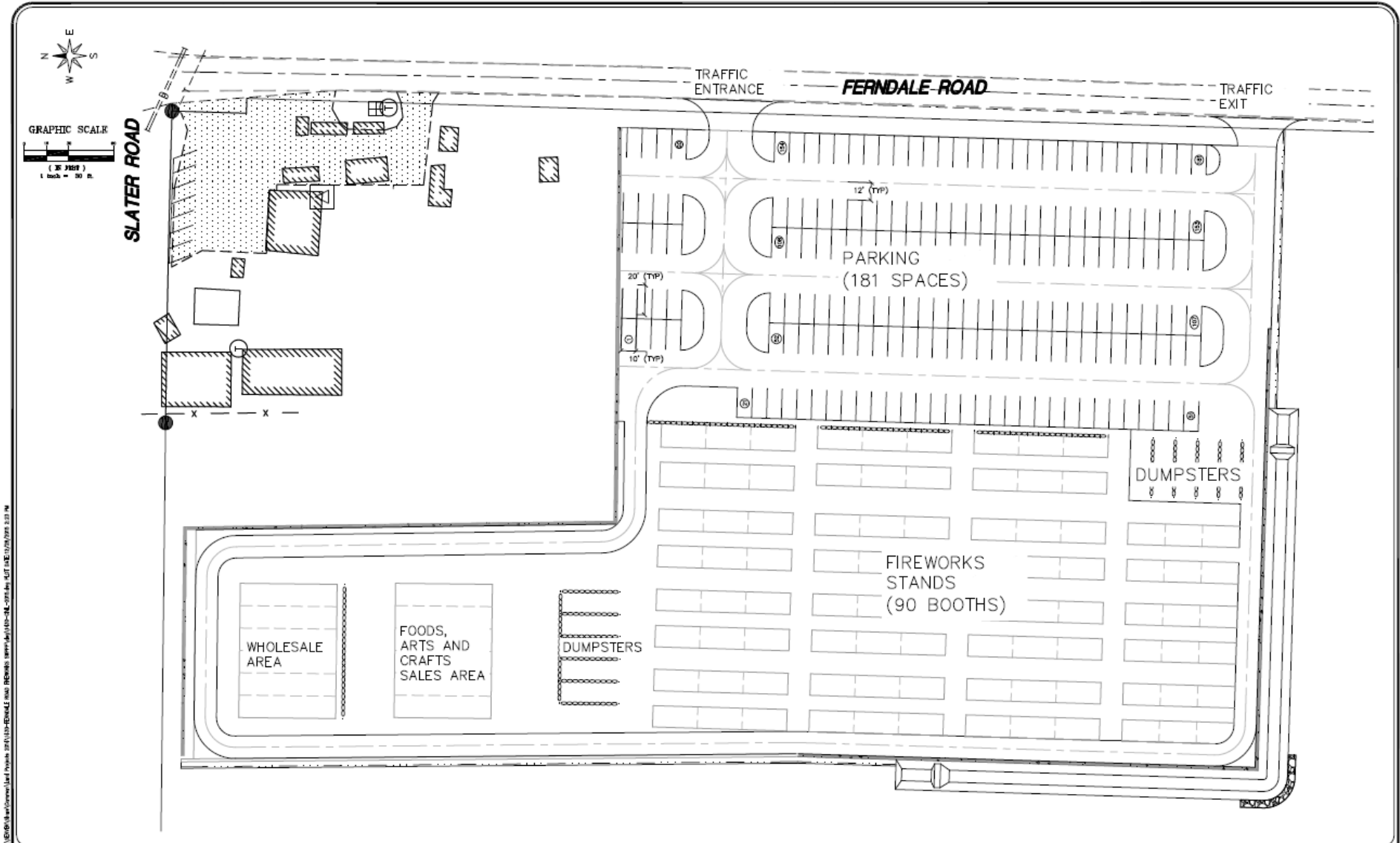
**"Firework Stands"
Wetlands**
3/27/2014

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|--|---|
|  Wetland (Field Verified) |  Upland Pit |
|  Wetland (Not Verified) |  Wetland Pit |
|  | Roads (Lummi) |






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| <p>Purpose: Commercial Development Applicant: Lummi Plan. Public Works Dept. Project #: NWS-2016-92 Adjacent Prop. Owners: See JARPA Date: 01/04/16</p> | <p>Ferndale Road Firework Stands Phase II</p> <p>Wetland Map</p> | <p>In: Wetlands Location: Lummi Indian Reservation Sec/Twp/Rng: 06/38N/02E County: Whatcom State: WA Sheet 2 of 8</p> |
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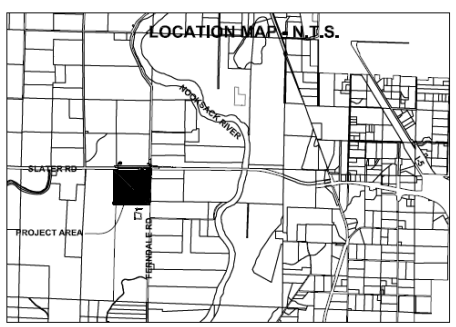
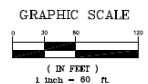
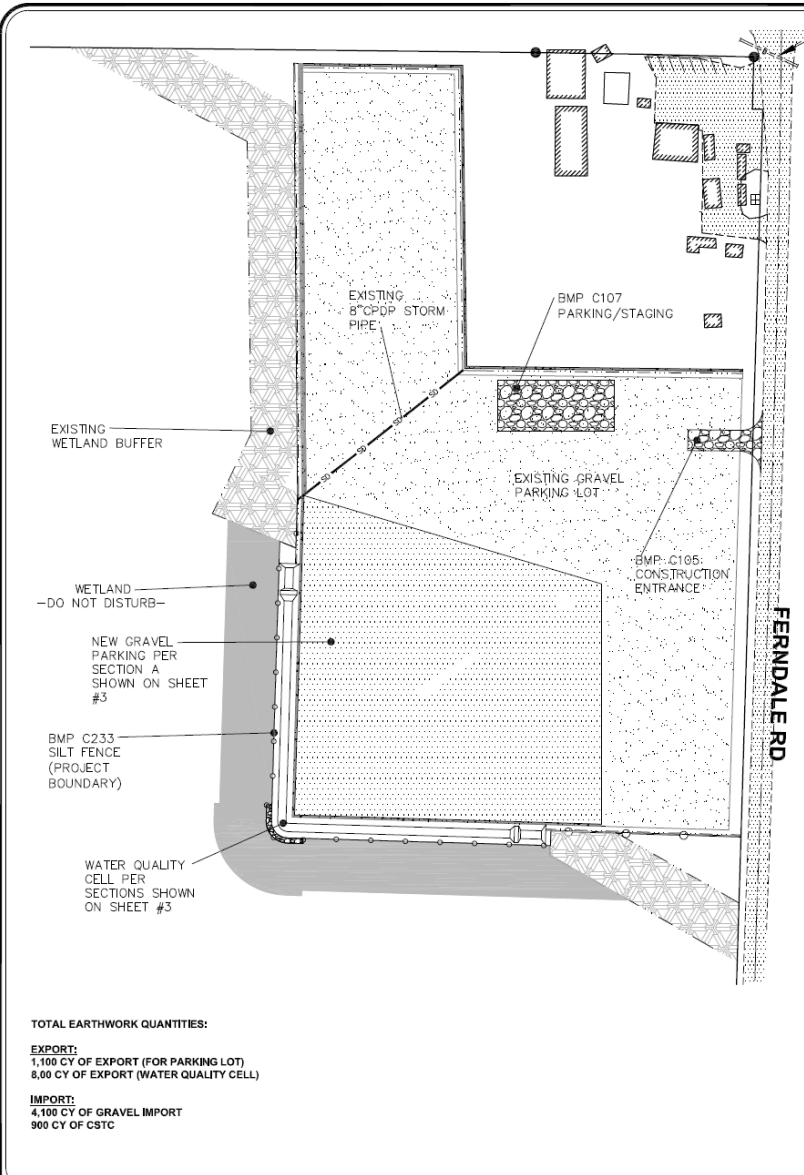
LDES, INC.
 5160 INDUSTRIAL PL, #108
 FERNDALE, WA 98248
 PHONE 360-383-0620
 FAX 360-383-0639

JOB NO.: 1430
 DWG. NAME:
 DESIGNED BY: AD
 DRAWN BY: AD

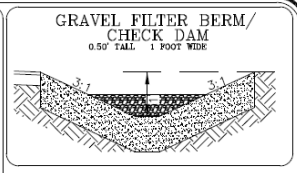
SITE PLAN
FERNDALE ROAD
FIREWORKS SITE

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|---|---|---|
| Purpose: Commercial Development Applicant: Lummi Plan. Public Works Dept. Project #: NWS-2016-92 Adjacent Prop. Owners: See JARPA Date: 01/04/16 | Ferndale Road Firework Stands Phase II Site Plan | In: Wetlands Location: Lummi Indian Reservation Sec/Twp/Rng: 06/38N/02E County: Whatcom State: WA <div style="text-align: right;">Sheet 4 of 8</div> |
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- EROSION CONTROL NOTES**
- GENERAL ALL WORK ACCOMPLISHED UNDER THIS CONTRACT SHALL BE IN ACCORDANCE WITH THESE PLANS AND SPECIFICATIONS. ALL CONSTRUCTION SHALL CONFORM TO THE APRA CURRENT STANDARD SPECIFICATIONS AND SHALL ALSO BE IN FULL COMPLIANCE WITH ALL RELATED PERMITS.
 - SITE ACCESS: PARTICULAR CARE SHALL BE EXERCISED DURING CLEARING ACTIVITIES AT AND NEAR PRIVATE ROAD AT THE CONCLUSION OF EACH DAYS WORK. THE CONTRACTOR SHALL SWEEP, DIRT, AND DEBRIS FROM PRIVATE ROAD AND THE ENTRY ACCESS ROADS.
 - TEMPORARY EROSION AND SEDIMENTATION CONTROL: THE CONTRACTOR WILL EMPLOY BEST PRACTICES TO AVOID FLOODING, SILTATION, AND EROSION OF PROPERTIES WHICH ARE CONTIGUOUS TO THE WORK AREA. SILT FENCE SHALL BE EXTENDED ALONG THE LIMITS AS SHOWN HEREON.
 - RESEEDING CLEARED AREAS UPON COMPLETION OF GRUBBING ACTIVITIES, THE CONTRACTOR SHALL MINIMIZE THE DISTURBED AREAS NOT UNDER CONSTRUCTION.
 - FROM OCTOBER 1 THROUGH APRIL 30, NO SOILS SHALL REMAIN EXPOSED AND UNPROTECTED FOR MORE THAN 2 DAYS. FROM MAY 1 TO SEPTEMBER 30 NO SOILS SHALL REMAIN EXPOSED AND UNPROTECTED FOR MORE THAN 7 DAYS. THIS CONDITION APPLIES TO ALL SOILS ON SITE, WHETHER AT FINAL GRADE OR NOT.



NOTE:
INSTALL CHECK DAM ALONG PERIMETER SWALE IF NECESSARY

LUMMI NATION STANDARD NOTES FOR CONSTRUCTION PLANS AND SPECIFICATIONS

THE CONTRACTOR SHALL INSTALL AND MAINTAIN TEMPORARY SILT FENCES AT THE LOCATIONS SHOWN IN THE PLANS. THE SILT FENCES SHALL BE CONSTRUCTED IN THE AREAS OF CLEARING, GRADING, OR DRAINAGE PRIOR TO STARTING THOSE ACTIVITIES. A SILT FENCE SHALL NOT BE CONSIDERED TEMPORARY IF THE SILT FENCE MUST FUNCTION BEYOND THE LIFE OF THE PROJECT.

THE SILT FENCE SHALL PREVENT SOIL CARRIED BY RUNOFF WATER FROM GOING BENEATH, THROUGH, OR OVER THE TOP OF THE SILT FENCE. IT SHALL ALLOW THE WATER TO PASS THROUGH THE FENCE AT THE MINIMUM HEIGHT OF THE TOP OF SILT FENCE SHALL BE 2 FEET AND THE MAXIMUM HEIGHT SHALL BE 2.5 FEET ABOVE THE ORIGINAL GROUND SURFACE.

THE GEOTEXTILE SHALL BE SEWN TOGETHER AT THE POINT OF MANUFACTURE, OR AT AN APPROVED LOCATION AS DETERMINED BY THE ENGINEER, TO FORM GEOTEXTILE LENGTHS AS REQUIRED. ALL SEWN SEAMS SHALL BE LOCATED AT A SUPPORT POST. ALTERNATIVELY, THE SECTIONS OF SILT FENCE CAN BE OVERLAPPED, PROVIDED THE CONTRACTOR CAN DEMONSTRATE, TO THE SATISFACTION OF THE ENGINEER, THAT THE OVERLAP IS LONG ENOUGH AND THAT THE ADJACENT FENCE SECTIONS ARE CLOSE ENOUGH TOGETHER TO PREVENT SILT LIQUID WATER FROM ESCAPING THROUGH THE FENCE AT THE OVERLAP.

THE GEOTEXTILE SHALL BE ATTACHED ON THE UP-SLOPE SIDE OF THE POSTS AND SUPPORT SYSTEM WITH STAPLES, WIRE, OR IN ACCORDANCE WITH THE MANUFACTURER'S RECOMMENDATIONS. THE GEOTEXTILE SHALL BE ATTACHED TO THE STAPLES, WIRE, OR OTHER CONNECTION DEVICE. SILT FENCE BACK-UP SUPPORT FOR THE GEOTEXTILE IN THE FORM OF A WIRE OR PLASTIC MESH IS DEPENDENT ON THE PROPERTIES OF THE GEOTEXTILE SELECTED FOR USE. IF WIRE OR PLASTIC BACK-UP MESH IS USED, THE MESH SHALL BE FASTENED SECURELY TO THE UP-SLOPE OF THE POSTS WITH THE GEOTEXTILE BEING UP-SLOPE OF THE MESH BACK-UP SUPPORT.

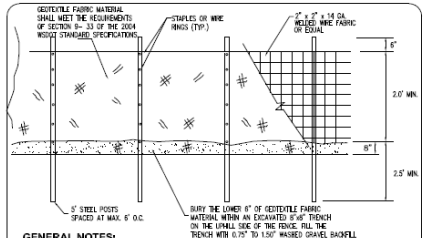
THE GEOTEXTILE AT THE BOTTOM OF THE FENCE SHALL BE BURIED IN A TRENCH TO A MINIMUM DEPTH OF 4 INCHES BELOW THE GROUND SURFACE. THE TRENCH SHALL BE BACKFILLED AND THE SOIL TAMPED IN PLACE OVER THE BURIED PORTION OF THE GEOTEXTILE SUCH THAT NO FLOW CAN PASS BENEATH THE FENCE AND SCOURING CANNOT OCCUR. WHEN WIRE OR POLYMERIC BACK-UP SUPPORT MESH IS USED, THE WIRE OR POLYMERIC MESH SHALL EXTEND INTO THE TRENCH A MINIMUM OF 3 INCHES.

THE FENCE POSTS SHALL BE PLACED OR DRIVEN A MINIMUM OF 18 INCHES, A MINIMUM DEPTH OF 12 INCHES IS ALLOWED IF TOPSOIL OR OTHER SOFT SUBSTRATE SOIL IS NOT PRESENT AND A MINIMUM DEPTH OF 18 INCHES CANNOT BE REACHED. FENCE POST DEPTHS SHALL BE INCREASED BY 6 INCHES IF THE FENCE IS LOCATED ON SLOPES OF 3:1 OR STEEPER AND THE SLOPE IS PERPENDICULAR TO THE FENCE. IF REQUIRED, MOST DEPTHS CANNOT BE OBTAINED, BRACING OR GUYING TO PREVENT OVERTURNING OF THE FENCE DUE TO WINDMILLING SHALL ADEQUATELY SECURE THE POSTS.

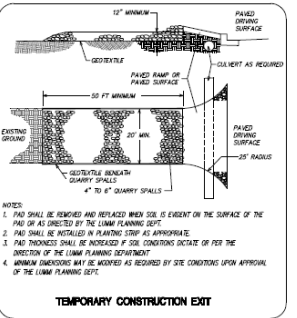
SILT FENCES SHALL BE LOCATED ON CONTOUR AS MUCH AS POSSIBLE EXCEPT AT THE END OF THE FENCE WHERE THE FENCE SHALL BE TURNED UPHILL SUCH THAT THE SILT FENCE CAPTURES THE RUNOFF WATER AND PREVENTS WATER FROM FLOWING AROUND THE END OF THE FENCE.

IF THE FENCE MUST CROSS CONTOURS, WITH THE EXCEPTION OF THE ENDS OF THE FENCE, GRAVEL CHECK DAMS, PLACED PERPENDICULAR TO THE BACK OF THE FENCE, SHALL BE USED TO MINIMIZE CONCENTRATED FLOW AND EROSION ALONG THE BACK OF THE FENCE. THE GRAVEL CHECK DAMS SHALL BE APPROXIMATELY 1-FOOT DEEP AT THE BACK OF THE FENCE. IT SHALL BE CONTINUED PERPENDICULAR TO THE FENCE AT THE SAME ELEVATION UNTIL THE CHECK DAM INTERCEPTS THE GROUND SURFACE BEHIND THE FENCE. THE GRAVEL CHECK DAMS SHALL CONSIST OF CRUSHED SURFACING BASE COURSE, GRAVEL BACKFILL FOR WALLS, OR SHOULDER BALLAST. THE GRAVEL CHECK DAMS SHALL BE LOCATED EVERY 10 FEET ALONG THE FENCE WHERE THE FENCE MUST CROSS CONTOURS. THE SLOPE OF THE FENCE LINE, WHERE CONTOURS MUST BE CROSSED, SHALL NOT BE STEEPER THAN 3:1.

WOOD, STEEL OR EQUIVALENT POSTS SHALL BE USED. WOOD POSTS SHALL HAVE MINIMUM DIMENSIONS OF 2 INCHES BY 2 INCHES BY 3 FEET MINIMUM LENGTH, AND SHALL BE FREE OF DEFECTS SUCH AS KNOTS, SPLITS, OR GUILDS. STEEL POSTS SHALL CONSIST OF EITHER 1/2\"/>



- GENERAL NOTES:**
- ANY DAMAGE TO FENCING SHALL BE REPAIRED IMMEDIATELY.
 - IF CONSTRUCTION PLANS ARE EXERCISE UPHILL OF THE FENCE, THEN THE WATER MUST BE INTERCEPTED AND CONVERTED TO A FULLY-FUNCTIONING SEDIMENT TRAP, POND, OR CONVEYANCE SYSTEM.
 - IT IS IMPORTANT TO PERPENDICULARLY OPEN THE UPHILL SIDE OF FENCING FOR JOBS OF LOGGING IF LOGGING OCCURS. THE FENCE WILL ACT AS A BARRIER TO FLOW, WILL CAUSE CHANNELIZATION PARALLEL TO THE FENCE TO REMOVED SITE. THE CONTRACTOR SHALL RELIEVE THE FENCE AND/OR REMOVE THE TRAPPED SEDIMENT.
 - SILT FENCING SHALL BE CONSTRUCTED IMMEDIATELY AFTER CLEARING AND GRUBBING IS COMPLETE. THE FENCE SHALL ONLY BE REMOVED WHEN CONSTRUCTION OF UTILITIES BEHIND IT HAS BEEN COMPLETED. IMMEDIATELY AFTER UTILITIES ARE IN-PLACE, THE SILT FENCING SHALL BE RECONSTRUCTED.



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LDES, INC.
5160 INDUSTRIAL PL. #108
FERNDALE, WA 98248
PHONE 360-383-0620
FAX 360-383-0639

JOB NO.: 1430
DWG. NAME:
DESIGNED BY: AD
DRAWN BY: AD

SITE PLAN & TESC

FERNDALE ROAD
FIREWORKS SITE

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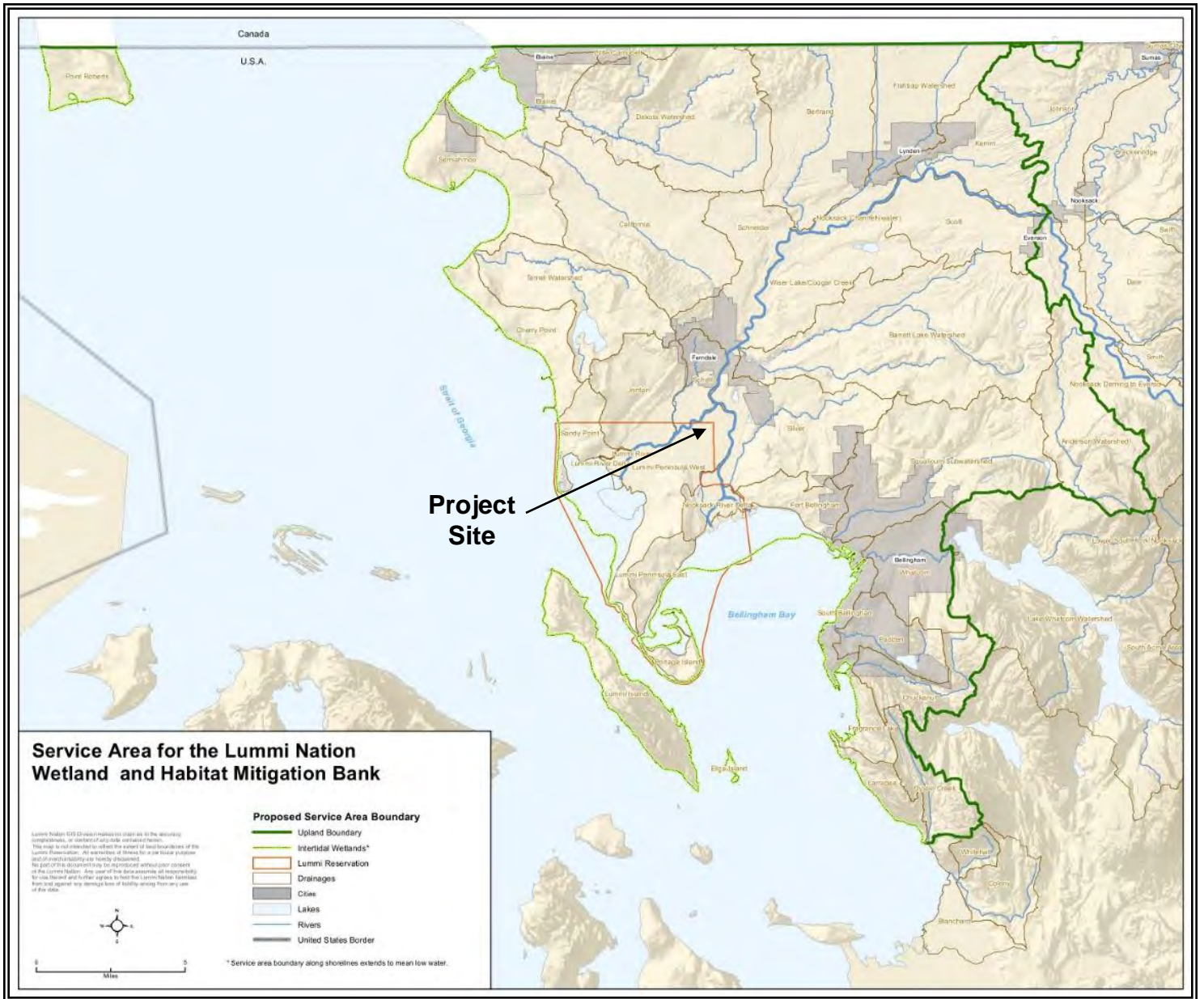
Purpose: Commercial Development
Applicant: Lummi Plan. Public Works Dept.
Project #: NWS-2016-92
Adjacent Prop. Owners: See JARPA
Date: 01/04/16

Ferndale Road Firework Stands Phase II

In: Wetlands
Location: Lummi Indian Reservation
Sec/Twp/Rng: 06/38N/02E
County: Whatcom **State:** WA

Site Plan with TESC Detail

Sheet 5 of 8



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| <p>Purpose: Commercial Development Applicant: Lummi Plan. Public Works Dept. Project #: NWS-2016-92 Adjacent Prop. Owners: See JARPA Date: 01/04/16</p> | <p>Ferndale Road Firework Stands Phase II Wetland Mitigation Bank Service Area</p> | <p>In: Wetlands Location: Lummi Indian Reservation Sec/Twp/Rng: 06/38N/02E County: Whatcom State: WA Sheet 8 of 8</p> |
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