

JOHN SPELLMAN
Governor



FRANK LOCKAR
Director

STATE OF WASHINGTON

COLUMBIA BEND

DEPARTMENT OF GAME

600 North Capitol Way, GJ-11 • Olympia, Washington 98504 • (206) 753-5700

August 16, 1984

[Handwritten notes, possibly a list or checklist, mostly illegible]

TO: Jack Smith

FROM: Chris Drivdahl *Chris*

SUBJ: Additional Material for Commission Notebook

The attached mitigation agreement and conservation easement was received today from the Attorney General's office. It should be distributed to the Commission and Administration for their notebooks in Habitat Management Division item #3: Proposed Conservation Easement from Columbia Bend, Ltd.

CD:cv
Attachment

MITIGATION AGREEMENT AND CONSERVATION EASEMENT

This agreement is made between Columbia Bend Development, Ltd., hereinafter called "Grantor," and the State of Washington Department of Game, hereinafter called "Grantee."

1. The purpose of this agreement is to allow Grantor the opportunity to develop portions of their land situated on the west shore of Puget Island on the Columbia River, Wahkiakum County, while protecting fish, wildlife, and their habitat and providing mitigation for unavoidable adverse impacts. The development consists of preparing and selling lots for purposes set forth below between Ostervald Road and the Columbia River.

2. Grantor will fill .75 acres of wetland for purposes set forth below, in an area identified as "Parcel C" on Exhibits 1 and 2 attached hereto and by this reference made a part hereof. Grantor will set aside and protect from development certain wetlands identified as "Parcel B" on Exhibits 1 and 2, and mitigate unavoidable adverse impacts to wildlife from development of the land by preserving in their natural state wetlands identified as "Parcel A" on Exhibit 3, attached hereto and by this reference made a part hereof.

Parcel C is more particularly described as:

The north 100 feet of the south 310 feet of

Government Lot 2, lying westerly of and extending 200 feet from the toe of the dike in Government Lot 2, Section 9, Township 8 North, Range 6 West, W.M., situated in Wahkiakum County, all lying outside (westerly) of the toe of the dike as same existed February 25, 1920, and east of the Columbia River; and

The south 100 feet of the north 500 feet of Government Lot 3 lying westerly of and extending 180 feet westerly of the toe of the dike in Government Lot 3, Section 9, Township 8 North, Range 6 West, W.M., situated in Wahkiakum County, all lying outside (westerly) of the toe of the dike as same existed February 25, 1920, and east of the Columbia River.

3. The location of the wetlands identified as Parcel B in Exhibits 1 and 2 below the ordinary high water line of the Columbia River, situated beyond the boundaries of Parcel C described above, will not be filled.

4. Mitigation lands, shown as Parcel A in Exhibit 3, will be preserved in their natural condition. Mitigation lands are more particularly described as:

That portion of Government Lot Four (4), in Section Nine (9), Township Eight (8) North, Range Six (6) West, of the Willamette Meridian, lying outside (westerly) of the toe of the dike as the same existed February 25, 1920, and lying east of Grove Slough, TOGETHER WITH tidelands of the second and third class adjacent and adjoining thereon to the West, which tidelands are more particularly described in those certain deeds filed for record January 30, 1903, and October 30, 1914, in Volumes "I" and "1" of Deeds, Pages 312 and 508 respectively, records of Wahkiakum County, Washington; SUBJECT TO Consolidated Diking District No. One dike right-of-way, the County Road, and easements located thereof.

Situated in the County of Wahkiakum, State of Washington.

5. The Washington State Department of Game has the responsibility to preserve, protect, and perpetuate fish and wildlife resources in the State of Washington. This responsibility includes the authority to issue a hydraulic permit for this project. Through this agreement and the implementing of conservation easements and restrictive covenants, the Department also implements its responsibilities under the Fish and Wildlife Coordination Act, 16 U.S.C. Engineers regarding appropriate measures for mitigating the adverse impacts of this project on the fish and wildlife resources. The Department agrees to meet these responsibilities through the implementation of this agreement.

6. The impacts of this project upon the fish and wildlife resources and their habitat have been identified. Appropriate mitigation measures have been identified by the Department. This document memorializes the agreement of the parties hereto with respect to all mitigation measures which have been agreed upon. These measures are set forth below.

7. Grantor herein agrees to deliver to Grantee signed bona fide conservation easements for Parcels A and B, respectively, copies of which are attached hereto as Exhibit 4 and by this reference incorporated herein. The parties agree that this agreement and the respective conservation easements shall be executed with the intent on behalf of both parties to create an

area of conservation, preservation, and recreation benefit of the general public, subject to the specific terms and conditions in those easements.

8. Grantor agrees that the terms, conditions, and restrictions of these easements will be inserted or incorporated by reference by Grantor in any subsequent deed or other legal instrument by which Grantor divests itself in whole or in part of either fee simple title or of its possessory interests in Parcels A and B.

9. Grantor promises that the terms, conditions, and restrictions of the following restrictive covenants will be inserted by Grantors in any subsequent deed or other legal instrument by which Grantor divests itself in whole or in part of either fee simple title or of its possessory interests in Parcels B and C.

The sale is made subject to the following conditions and restrictions:

This property may be used for recreation, camping, farming and forestry, and any use otherwise allowed by local zoning, provided that the highest density of residential activity for which occupancy permits are granted pursuant to Washington law and local ordinances shall be one single family residence on a lot of not less than twenty thousand square feet, plus ancillary structures

and improvements such as garages, sheds, service driveways, roadways, parking areas, and so forth. Not more than 30 percent of each lot situated westerly of the dike shall be covered by single family residences, recreational vehicle pads, structures, or other impervious surfaces such as asphalt, concrete, gravel, and other similar cover material.

No vegetation shall be removed from any portion of Parcel B.

Grantee shall have the right of access to land in Parcel B in accordance with the conditions and restrictions contained in that certain conservation easement between Grantor and Grantee attached hereto (attach the easement in Exhibit 4 which affects Parcel B).

10. This agreement is subject to Game Commission approval and shall be effective as of the date of execution and shall be effective against the parties, their heirs, successors, assigns, and purchases.

COLUMBIA BEND DEVELOPMENT, LTD.


STATE OF WASHINGTON,
DEPARTMENT OF GAME

APPROVED:


Asst. Attorney General

CONSERVATION EASEMENT

The Grantor, Columbia Bend Development, Ltd., for and in consideration of the covenants contained herein and the benefits to be derived therefrom, hereby conveys a conservation easement in perpetuity to the State of Washington Department of Game over "Parcel A," real property described in Paragraph (1) below. The Grantor, Columbia Bend Development, Ltd., shall include, when used herein, their heirs, assigns, purchasers, and other successors in interests to its real property, or portions thereof as may be more particularly described and covenanted below. The Grantee, State of Washington Department of Game, shall include, when used herein, its successors and assigns.

1. The Grantor is the owner in fee of certain real property situated on or adjacent to Puget Island, Wahkiakum County, State of Washington, more particularly described as:

Government Lot Four (4) in Section Nine (9), Township Eight (8) North, Range Six (6) West, Willamette Meridian, lying outside (westerly) of the toe of the dike as the same existed February 25, 1920, and lying east of the Columbia River, TOGETHER WITH tidelands of the second and third class adjacent and adjoining thereon to the west, for which tidelands are more particularly described in those certain deeds filed for record January 30, 1903, and October 30, 1914, in Volumes "I" and "1" of Deeds, pages 312 and 508, respectively, records of Wahkiakum County, Washington; SUBJECT TO Consolidated Diking District No. One dike right-of-way, the County Road, and esements located thereon.

2. The real property is in a relatively natural state of habitat for fish, wildlife and is scenic open space which may be viewed by the general public and is an area able to support outdoor recreation and be used for the education of the general public. Grantor and Grantee acknowledge that this easement and restrictions are granted: in mitigation of the impacts of the development of other land owned by Grantor for the conservation purposes of protection and perpetuation of the real property's relatively natural habitat for fish, wildlife, and plants, and for the preservation of Parcel A as open space.

3. To effect the conservation purpose set forth above and in consideration of wildlife mitigation by Grantee to Grantor, Grantor conveys and transfers to Grantee, without reservation, express or implied, except those reservations specifically enumerated below, an easement set forth below.

4. Grantees are permitted the right to manage and preserve Parcel A in its natural, scenic and open condition. Grantee is further granted the right to enter upon Parcel A at all times for the purpose of managing, utilizing and controlling the use of said property and enforcing the rights assigned and restrictions adopted and generally for the management of Parcel A at its discretion for the perpetuation, preservation, and enhancement of plants, fish, and wildlife. This grant of easement shall include the right to

take appropriate action to prevent any activity or use which is inconsistent with the intents and purposes of this instrument and undertake or cause to undertake restoration of the property where restoration is made necessary through damage by activities or uses contrary to provisions of this grant.

5. The grant of easement shall also include the right of Grantee to permit access to Parcel A by the public for recreational purposes including fishing and education, but not including hunting or camping, in accordance with the rules and regulations established by Grantee, provided, however, that Grantee warrants that Grantor is held harmless for any and all liabilities or claims by any person or entity arising therefrom, and further the Grantee accepts all costs of defending Grantor against all such liabilities and claims including but not limited to payment of Grantor's attorneys fees and court costs.

6. No vegetation shall be removed from any portion of Parcel A.

7. In the event that Grantor, its heirs, or assigns, agents, or employees, or other successors in interest to Parcel A violate any of the covenants and restrictions set forth herein, Grantee may immediately seek all remedies available under law including, but not limited to, injunctive relief, recession, and damages. Grantee does not by a prior failure to act, waive, or forfeit the right to

take other legal action as may be necessary to insure compliance with the terms, conditions, and purposes of these restrictive covenants.

8. Neither this instrument or conveyance nor the restrictive covenants herein shall be altered or amended unless the alteration or amendment shall be made with the written consent of Grantee. Any such amendment shall be consistent with the purposes of this agreement.

9. Grantor agrees that the terms, conditions, and restrictions of these restrictive covenants will be inserted or incorporated by reference by Grantor in any subsequent deed or other legal instrument by which Grantor divests itself in whole or in part of either fee simple title or of its possessory interest in Parcel A.

10. Grantor and Grantee agree that the terms, conditions, restrictions, and covenants imposed above shall be binding upon the Grantor, its agents, contractors, personal representatives, heirs, assigns, or other successors in interest to Parcel A and shall be a covenant running with said land. Grantor covenants and agrees that should Grantor, its agents, contractors, heirs, personal representatives, assigns, or other successors in interest to Parcel A take any activity inconsistent or not compatible with the terms of this easement, such party shall be required to restore that

portion of Parcel A affected by such activity substantially to the condition that existed prior to the undertaking of such activity. In such cases, the cost of restoration shall be borne by Grantor or those of its heirs, personal representatives, assigns, or successors in interest to Parcel A, against which/whom a judgment is entered.

11. Each provision of this instrument shall be binding upon the Grantor, including, without limitation, any person, partnership, trust corporation, or other entities, heirs, assigns, or purchasers, or other successors in interest to Parcel A, whichever/whomever comes into ownership or control of any legal or equitable interest in Parcel A or in possession of the foregoing or of Parcel A or any part thereof whether by operation of law or otherwise.

12. The rights and restrictions granted hereunder shall be considered additionally as covenants continuing as a servitude running in perpetuity with Parcel A.

13. Grantor, its heirs, personal representatives, assigns or other successors in interest to Parcel A, agrees to pay all taxes, fees, assessments, or other charges as the same shall become due which become a lien on Parcel A.

14. In the event any provision of this easement shall be determined to be invalid or unenforceable, then the said

invalidation determination of unenforceability shall not effect the balance of the instrument and the remainder thereof. The application of the balance of the instrument shall not be affected thereby.

15. This easement shall be binding upon the Grantor and its heirs, assigns, employees, agents, licenses or other successor in interest to Parcel A, and upon the Grantee and its heirs, successors, assigns, employees, agents or licenses, forever and shall constitute a servitude upon Parcel A.

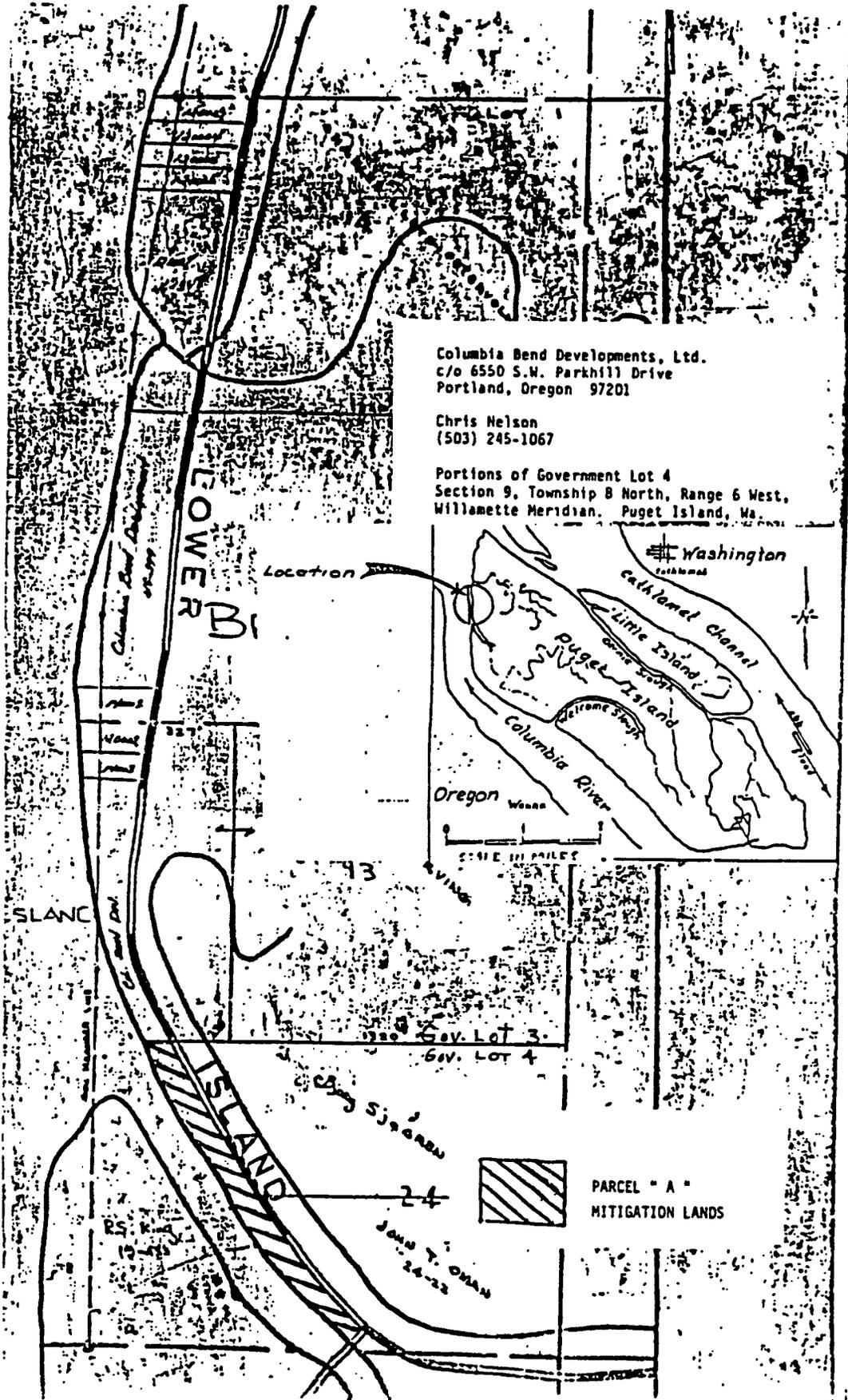
IN WITNESS WHEREOF, the undersigned Grantors and Grantees have executed this instrument on this ____ day of _____, 1984.

COLUMBIA BEND DEVELOPMENT, LTD.



STATE OF WASHINGTON,
DEPARTMENT OF GAME

EXHIBIT 3



CONSERVATION EASEMENT

The Grantor, Columbia Bend Development, Ltd., for and in consideration of the covenants contained herein and the benefits to be derived therefrom, hereby conveys a conservation easement in perpetuity to the State of Washington Department of Game over "Parcel B," a portion of real property described in Paragraph (1) below. The Grantor, Columbia Bend Development, Ltd., shall include, when used herein, their heirs, assigns, purchasers, and other successors in interest to its real property, or portions thereof as may be more particularly described and covenanted below. The Grantee, State of Washington Department of Game, shall include, when used herein, its successors and assigns.

1. The Grantor is the owner in fee of certain real property situated on or adjacent to Puget Island, Wahkiakum County, State of Washington, more particularly described as:

The South one-half of Government Lot Two (2), EXCLUDING THEREFROM the southern 210 feet, in Section Nine (9), Township Eight (8) North, Range Six (6) West, Willamette Meridian, lying outside (westerly) of the toe of the dike as the same existed February 25, 1920, and lying east of the Columbia River, TOGETHER WITH tidelands of the second and third class adjacent and adjoining thereon to the west, which tidelands are more particularly described in those certain deeds filed for record January 30, 1903, and October 30, 1914, in Volumes "I" and "1" of Deeds, pages 312 and 508 respectively, records of Wahkiakum County, Washington; SUBJECT TO

Consolidated Diking District No. One dike right-of-way, the County Road, and easements located thereon, and:

The North 500 feet of Government Lot Three (3), EXCLUDING THEREFROM the Northern 220 feet, in Section Nine (9), Township Eight (8) North, Range Six (6), West, Willamette Meridian, lying outside (westerly) of the toe of the dike as the same existed February 25, 1920, and lying east of the Columbia River, TOGETHER WITH tidelands of the second and third class adjacent and adjoining thereon to the west, which tidelands are more particularly described in those certain deeds filed for record January 30, 1903, and October 30, 1914, in Volumes "I" and "1," pages 312 and 508, respectively, records of Wahkiakum County, Washington, SUBJECT TO Consolidated Diking District No. One dike right-of-way, the County Road and easements located thereon.

The location of the wetlands to be filled are shown as Parcel C in Exhibits 1 and 2, attached hereto and by this reference incorporated herein, more particularly described as:

The north 100 feet of the south 310 feet of Government Lot 2, lying westerly of and extending 200 feet from the toe of the dike in Government Lot 2, Section 9, Township 8 North, Range 2 West, W.M., Wahkiakum County, all lying outside (westerly) of the toe of the dike as the same existed February 25, 1920, and east of the Columbia River; and

The south 100 feet of the north 500 feet of Government Lot 3 lying westerly of and extending 180 feet westerly of the toe of the dike in Government Lot 3, Section 9, Township 8 North, Range 6 West, W.M., Wahkiakum County, all lying outside (westerly) of the toe of the dike as the same existed February 25, 1920, and east of the Columbia River.

The location of the wetlands within the real property which will not be filled is that land which is below the line of ordinary high water of the Columbia River outside of the boundaries of

Parcel C; such area is identified as Parcel B in Exhibits 1 and 2.

2. The real property is in a relatively natural state of habitat for fish, wildlife, and is scenic open space which may be viewed by the general public. Grantor and Grantee acknowledge that this easement and restrictions are granted: in mitigation of the impacts of the development on Parcel C for the conservation purposes of protection and perpetuation of the real property's relatively natural habitat for fish, wildlife, and plants, and; for the preservation of Parcel B as open space.

3. To effect the conservation purpose set forth above and in consideration of wildlife mitigation by Grantee to Grantor, Grantor conveys and transfers to Grantee, without reservation, express or implied, except those reservations specifically enumerated below, an easement set forth below.

4. Grantees are permitted the right to manage and preserve Parcel B in its natural, scenic and open condition. Grantee is further granted the right to enter upon Parcel B at all times for the purpose of managing, utilizing and controlling the use of said property and enforcing the rights assigned and restrictions adopted and generally for the management of Parcel B at its discretion for the perpetuation, preservation, and enhancement of plants, fish, and wildlife. This grant of easement shall include the right to take appropriate action to prevent any activity or use which is

inconsistent with the intents and purposes of this instrument and undertake or cause to undertake restoration of the property where restoration is made necessary through damage by activities or uses contrary to provisions of this grant.

5. No vegetation shall be removed from any portion of Parcel B.

6. In the event that Grantor, its heirs, or assigns, agents, or employees, or other successors in interest to Parcel B violate any of the covenants and restrictions set forth herein, Grantee may immediately seek all remedies available under law including, but not limited to, injunctive relief, recession, and damages. Grantee does not by a prior failure to act, waive, or forfeit the right to take other legal action as may be necessary to insure compliance with the terms, conditions, and purposes of these restrictive covenants.

7. Neither this instrument or conveyance nor the restrictive covenants herein shall be altered or amended unless the alteration or amendment shall be made with the written consent of Grantee. Any such amendment shall be consistent with the purposes of this agreement.

8. Grantor agrees that the terms, conditions, and restrictions of these restrictive covenants will be inserted or incorporated by reference by Grantor in any subsequent deed or other

legal instrument by which Grantor divests itself in whole or in part of either fee simple title or of its possessory interest in Parcels B and C.

9. Grantor and Grantee agree that the terms, conditions, restrictions, and covenants imposed above shall be binding upon the Grantor, its agents, contractors, personal representatives, heirs, assigns, or other successors in Parcel B and shall be a covenant running with said land. Grantor covenants and agrees that should Grantor, its agents, contractors, heirs, personal representatives, assigns, or other successors in interest to Parcel B take any activity inconsistent or not compatible with the terms of this easement, such party shall be required to restore that portion of Parcel B affected by such activity substantially to the condition that existed prior to the undertaking of such activity. In such cases, the cost of restoration shall be borne by Grantor or those of its heirs, personal representatives, assigns, or other successors in interest to Parcel B, against which/whom a judgment is entered.

10. Each provision of this instrument shall be binding upon the Grantor, including, without limitation, any person, partnership, trust corporation, or other entities, heirs, assigns, or purchasers, or other successors in interest to Parcel B, whichever/whomever comes into ownership or control of any legal or

equitable interest in Parcel B or in possession of the foregoing or of Parcel B or any part thereof whether by operation of law or otherwise.

11. The rights and restrictions granted hereunder shall be considered additionally as covenants as a servitude running in perpetuity with Parcel B.

12. Grantor, its heirs, personal representatives, assigns, or other successors in interest to Parcel B, agrees to pay all taxes, fees, assessments, or other charges as the same shall become due.

13. In the event any provision of this easement shall be determined to be invalid or unenforceable, then the said invalidation determination of unenforceability shall not affect the balance of the instrument and the remainder thereof. The application of the balance of the instrument shall not be affected thereby.

14. This easement shall be binding upon the Grantor and its heirs, assigns, employes, agents, licensees or other successors in interest to Parcel B, and upon the Grantee and its heirs, successors, assigns, employees, agents, or licensees, forever and

shall constitute a servitude upon Parcel B.

IT WITNESS WHEREOF, the undersigned Grantors and Grantees have executed this instrument on this _____ day of _____, 1984.

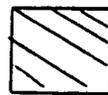
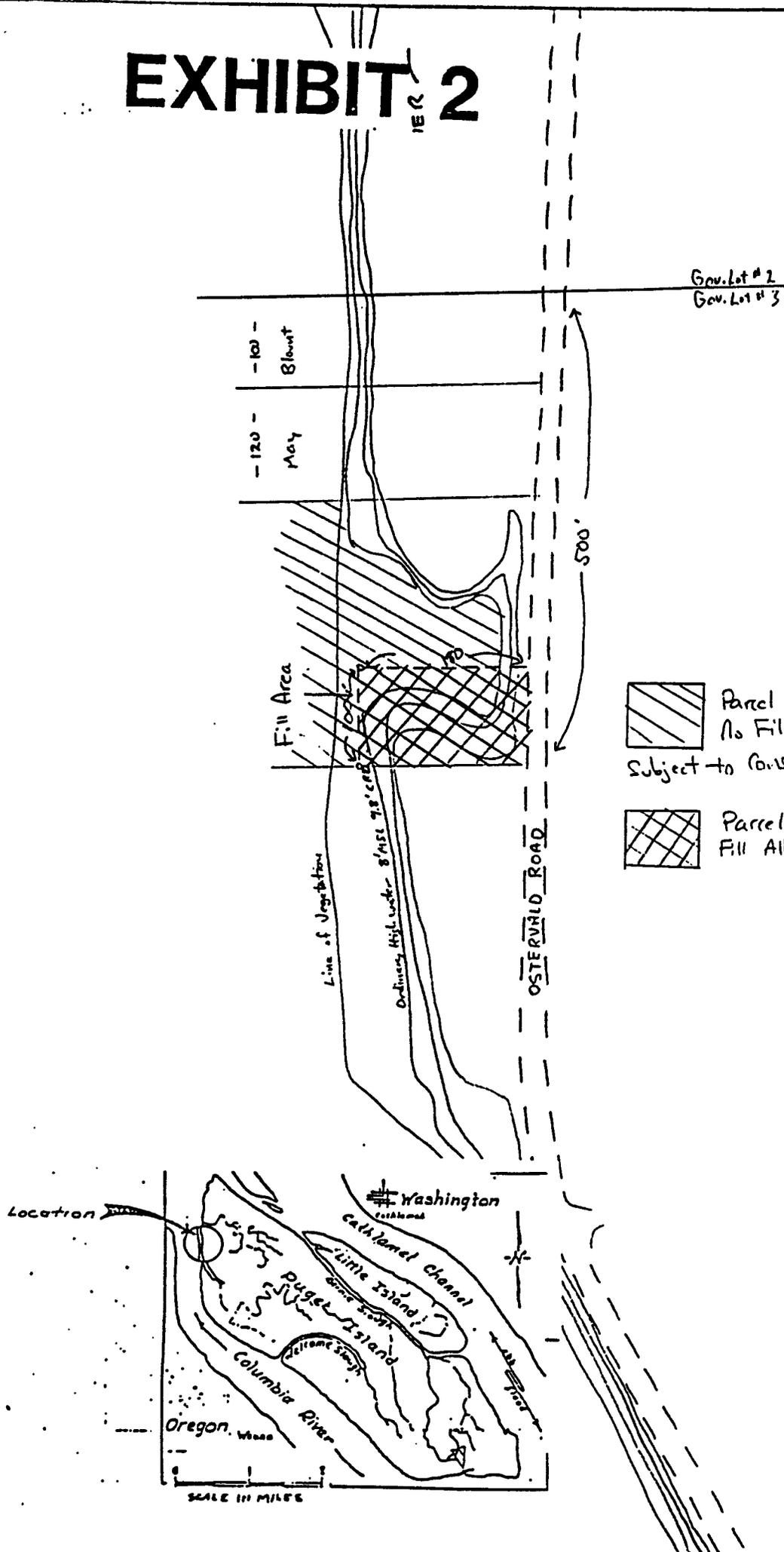
COLUMBIA BEND DEVELOPMENT, INC.



STATE OF WASHINGTON
DEPARTMENT OF GAME

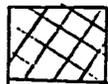
EXHIBIT 2

18C

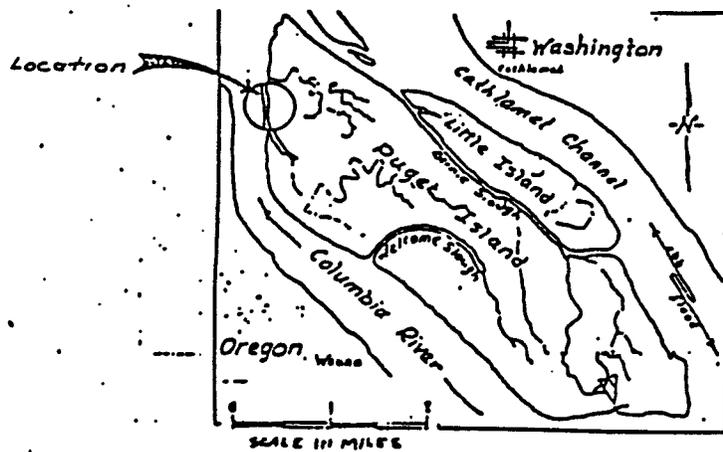


Parcel "B"
No Fill

Subject to Construction Easement

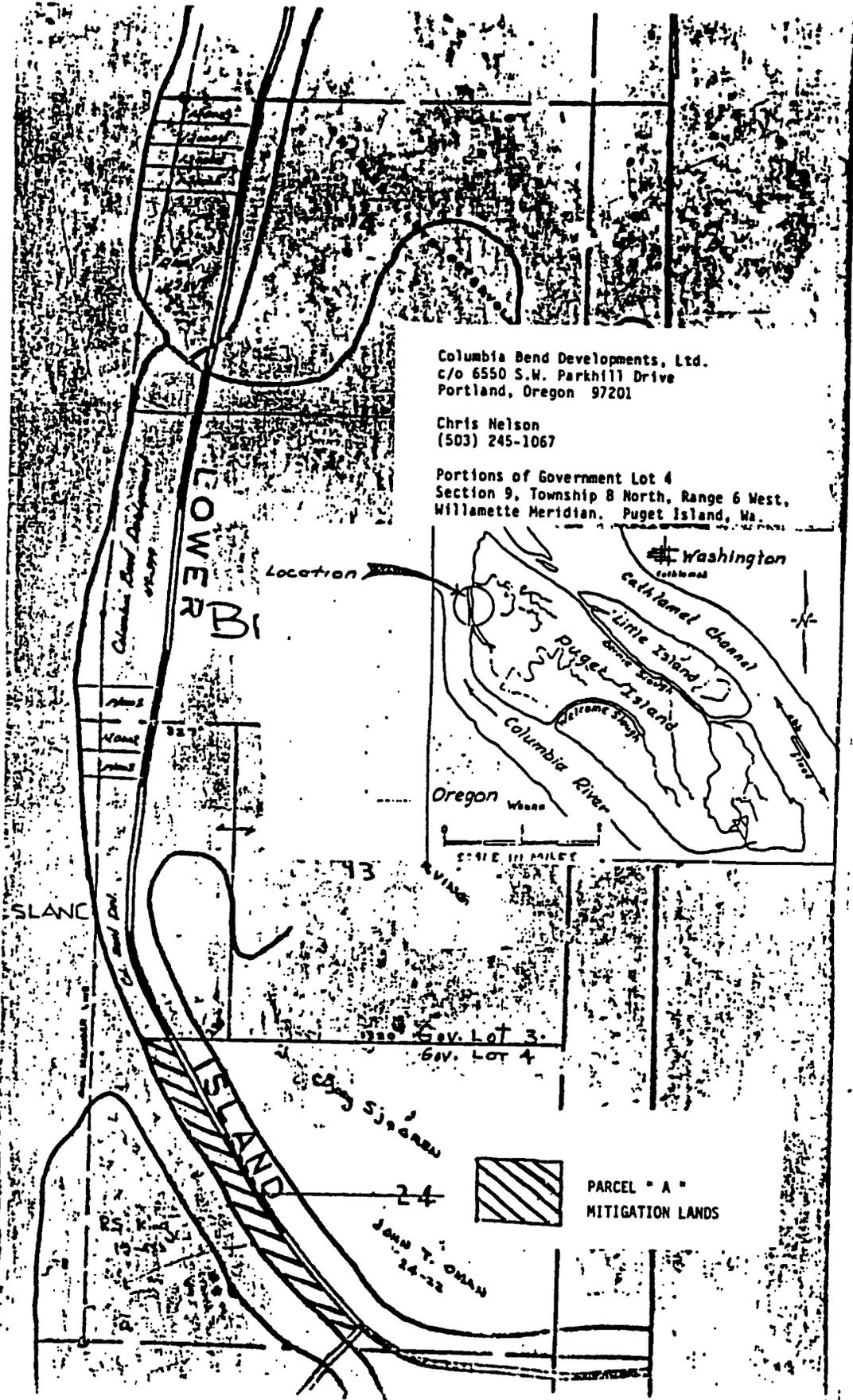


Parcel "C"
Fill Allowed



A Portion of Gov. Lot 7 in Section 9, T8N, R6W, W.M. Wakarusa Co.	
SCALE:	DATE: 6-84
DRAWN BY:	REVISED:
Columbia Bend Development, Ltd c/o Chris Melton 3340 SW Hamilton Ct Portland, Oregon 97201	
PROJECT NUMBER:	DRAWING NUMBER:

EXHIBIT 3



JOHN SPELLMAN
Governor



FRANK LOCK
Director

STATE OF WASHINGTON
DEPARTMENT OF GAME

MAY

5405 N.E. Hazel Dell Avenue
Vancouver, Washington 98663

March 26, 1985

TO: DORIS GAMBILL, LANDS MANAGER
FROM: RAY CROSWELL, REGIONAL LANDS AGENT *Ray*
RE: MITIGATION AGREEMENT AND CONSERVATION EASEMENT, COLUMBIA
BEND LTD.

The agreement has not been signed and returned nor have the easements been recorded. Claude Stoddard mailed the agreement after the August Commission Meeting to them. At that point, they seem to have dropped out of sight. See (attached memo from Claude).

Claude has tried through the Auditor's office, phone company, etc., but has been unable to come up with a good address and phone number.

Within the next couple of weeks I will go down to the area to see if I can get some information on them.

RC:pav

Enclosure:

cc: Keith O'Neil

Claude Stoddard ✓

MITIGATION AGREEMENT AND CONSERVATION EASEMENTS

This agreement is made between Columbia Bend Development, Ltd., hereinafter called "Grantor", and the State of Washington Department of Game, hereinafter called "Grantee."

1. The purpose of this agreement is to allow Grantor the opportunity to develop portions of their land situated on the west shore of Puget Island on the Columbia River, Wahkiakum County, while protecting fish, wildlife, and their habitat and providing mitigation for unavoidable adverse impacts. The development consists of preparing and selling lots for purposes set forth below between Ostervald Road and the Columbia River.

2. Grantor will fill .75 acres of wetland for purposes set forth below, in an area identified as "Parcel C" on Exhibits 1 and 2 attached hereto and by this reference made a part hereof. Grantor will set aside and protect from development certain wetlands identified as "Parcel B" on Exhibits 1 and 2, and mitigate unavoidable adverse impacts to wildlife from development of the land by preserving in their natural state wetlands identified as "Parcel A" on Exhibit 3, attached hereto and by this reference made a part hereof.

Parcel C is more particularly described as:

The north 100 feet of the south 310 feet of Government Lot 2, lying westerly of and extending 200 feet from the toe of the dike in Government Lot 2, Section 9, Township 8 North, Range 6 West, W.M., situated in Wahkiakum County, all lying outside (westerly) of the toe of the dike as same existed February 25, 1920, and east of the Columbia River; and

The south 100 feet of the north 500 feet of Government Lot 3 lying westerly of and extending 180 feet westerly of the toe of the dike in Government Lot 3, Section 9, Township 8 North, Range 6 West, W.M., situated in Wahkiakum County, all lying outside (westerly) of the toe of the dike as same existed February 25, 1920, and east of the Columbia River.

3. The location of the wetlands identified as Parcel B in Exhibits 1 and 2 below the ordinary high water line of the Columbia River, situated beyond the boundaries of Parcel C described above, will not be filled.

8. Grantor agrees that the terms, conditions, and restrictions of these easements will be inserted or incorporated by reference by Grantor in any subsequent deed or other legal instrument by which Grantor divests itself in whole or in part of either fee simple title or of its possessory interests in Parcels A and B.

9. Grantor promises that the terms, conditions, and restrictions of the following restrictive covenants will be inserted by Grantors in any subsequent deed or other legal instrument by which Grantor divests itself in whole or in part of either fee simple title or of its possessory interests in Parcels B and C:

This sale is made subject to the following conditions and restrictions:

This property may be used for recreation, camping, farming and forestry, and any use otherwise allowed by local zoning, provided that the highest density of residential activity for which occupancy permits are granted pursuant Washington law and local ordinances shall be one single family residence on a lot of not less than twenty thousand square feet, plus ancillary structures and improvements such as garages, sheds, service drive-ways, roadways, parking areas, and so forth. Not more than 30 percent of each lot situated westerly of the dike shall be covered by single family residences, recreational vehicle pads, structures, or other impervious surfaces such as asphalt, concrete, gravel, and other similar cover material.

No vegetation shall be removed from any portion of Parcel B.

Grantee shall have the right of access to land in Parcel B in accordance with the conditions and restrictions contained in that certain conservation easement between Grantor and Grantee attached hereto (attach the easement in exhibit 4 which affects Parcel B).

10. This agreement is subject to Game Commission Approval and shall be effective as of the date of execution and shall be effective against the parties, their heirs, successors, assigns, or purchasers.

COLUMBIA BEND DEVELOPMENT, LTD.

STATE OF WASHINGTON, DEPARTMENT OF GAME

Approved:

4. Mitigation lands, shown as Parcel A in Exhibit 3, will be preserved in their natural condition. Mitigation lands are more particularly described as:

That portion of Government Lot Four (4), in Section Nine (9), Township Eight (8) North, Range Six (6) West, of the Willamette Meridian, lying outside (westerly) of the toe of the dike as the same existed February 25, 1920, and lying east of Grove Slough, TOGETHER WITH tidelands of the second and third class adjacent and adjoining thereon to the West, which tidelands are more particularly described in those certain deeds filed for record January 30, 1903, and October 30, 1914, in Volumes "I" and "1" of Deeds; Pages 312 and 508 respectively, records of Wahkiakum County, Washington; SUBJECT TO Consolidated Diking District No. One dike right-of-way, the County Road, and easements located thereon.

Situated in the County of Wahkiakum, State of Washington.

5. The Washington State Department of Game has the responsibility to preserve, protect, and perpetuate fish and wildlife resources in the State of Washington. This responsibility includes the authority to issue a hydraulic permit for this project. Through this agreement and the implementing of conservation easements and restrictive covenants, the Department also implements its responsibilities under the Fish and Wildlife Coordination Act, 16 USC 661, et. seq., to consult with and report to the Corps of Engineers regarding appropriate measures for mitigating the adverse impacts of this project on the fish and wildlife resources. The Department agrees to meet these responsibilities through the implementation of this agreement.

6. The impacts of this project upon the fish and wildlife resources and their habitat have been identified. Appropriate mitigation measures have been identified by the Department. This document memorializes the agreement of the parties hereto with respect to all mitigation measures which have been agreed upon. These measures are set forth below.

7. Grantor herein agrees to delivery to Grantee signed bonafide conservation easements for Parcels A and B, respectively, copies of which are attached hereto as Exhibit 4 and by this reference incorporated herein. The parties agree that this agreement and the respective conservation easements shall be executed with the intent on behalf of both parties to create an area of conservation, preservation, and recreation benefit of the general public, subject to the specific terms and conditions contained in those easements.