

PORT OF KALAMA

P.O. BOX 7

KALAMA, WASHINGTON, 98625, U.S.A.

(360) 673-2325

July 11, 1986

JUL 14 1986

Mr. David Mudd
Habitat Management
Washington State Department of Game
600 North Capitol Way, PJ-11
Olympia, WA 98504

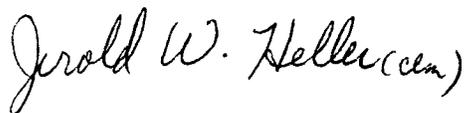
RE: Port of Kalama/North Port
Mitigation Agreement dated: February 1982
Amendment: dated as of March 31, 1986

Dear David,

Enclosed for your reference is an executed copy of the Amendment to Mitigation Agreement dated March 31, 1986. All agencies will be receiving an executed copy of this agreement.

Thank you very much for your assistance in this matter.

Sincerely,



Jerold W. Heller
Port Attorney

JWH/clm

Encl.

AMENDMENT TO MITIGATION AGREEMENT

DATE OF AMENDMENT: AS OF MARCH 31, 1986

RE: Port of Kalama Bulk Facility
COE Permit No.: 071-OYA-2-003557
MITIGATION AGREEMENT Dated: February 1982
Parties: Washington Department of Game ("WDG")
Washington Department of Fisheries ("WDF")
U.S. Fish & Wildlife
Cowlitz County Department of Community Development ("the
County")
Port of Kalama ("the Port")

I. Recitals

- A. The Parties hereto have previously entered into an agreement entitled Mitigation Agreement, dated February 1982, a copy of which (with Exhibit 1 only) is attached hereto as Exhibit A and by this reference incorporated.
- B. Subsequently, the developer, Pacific Resources, Inc., withdrew from the project contemplated in the Mitigation Agreement. The Port of Kalama has no immediate plans to proceed with the construction of a coal facility. However, the wetlands within the project site have been filled and the Port wishes to continue with filling and sand relocation activities.
- C. The nature of some of the mitigation contained in the Mitigation Agreement was project specific. Appropriate mitigation measures can be identified to provide for a more general development concept.
- D. The parties wish to bring the status of the mitigation up-to-date and make certain amendments to the Mitigation Agreement.
- E. It is in the best interest of all parties to enter into this amendment.

II. Agreement

NOW, THEREFORE, in consideration of the covenants and agreements set forth below the parties agree to amend that certain Mitigation Agreement dated February 1982, as follows:

- A. Cottonwood Road shall be aligned as deemed appropriate and approved by Cowlitz County, provided that the road does not cross or affect the mitigation areas, wetlands, or areas below ordinary high water.
- B. Areas 5, 6, 7, 8a, 8b, and 9 as identified in the Mitigation Agreement, are completed.
- C. Areas 2 and 4a, as identified in the Mitigation Agreement, shall be completed and maintained as set forth in that document entitled Status and Proposed Mitigation Plan for Sites 2 and 4a, a copy of which is attached hereto as exhibit B and by this reference incorporated herein.
- D. Areas 1, 3, and 3n, as identified in the Mitigation Agreement, shall not be completed. In lieu thereof, the Port shall complete the plan set forth in that document entitled Status and Proposed Mitigation Plan for Sites 1, 3, and 3n, a copy of which is attached hereto as exhibit C and by this reference incorporated herein. The document is dated the 31st day of March, 1986, and was prepared by Ogden Beeman and Associates and Enviro Science, Inc.

The 16.3 acre site discussed in said plan is depicted in the map attached hereto as Exhibit D and by the reference incorporated herein.

- E. During the design and construction phase the Cowlitz County Department of Community Development, the Department of Game, the Department of Fisheries, U.S. Fish and Wildlife Service, and the Port of Kalama may review and participate in the design of all specific mitigation measures as set forth in Paragraphs C and D above, provided, however, that the final plan is subject to the approval of the fish and wildlife agencies.
- F. The Port shall complete all the above-referenced mitigation, except maintenance of areas 2 and 4a, on or before December 31, 1986.
- G. To secure performance of the plan as set forth above in paragraphs C and D, the Port shall provide a "bond" in the amount of \$10,000. The bond shall be in the form of a certificate of deposit in the name of the Port which shall be delivered to the Washington State Department of Fisheries to be held until completion of the plan. Upon completion, except as to the annual maintenance work on Areas 2 and 4a, the certificate shall be delivered back to the Port.
- H. Completion of the mitigation as set forth herein satisfies all mitigation requirements for the wetland filling in the project area.

This agreement shall be effective as of the date first above written and shall continue in effect until amended or rescinded by the parties and shall be binding on the successors and/or assigns of the parties.

ACCEPTED AND APPROVED:

WASHINGTON DEPARTMENT OF GAME


By DIRECTOR
Title

Dated: 6/17/86

WASHINGTON DEPARTMENT OF FISHERIES

By W.R. Webb
Title _____

Dated: 7-7-86

U.S. FISH AND WILDLIFE SERVICE

By Russell D. Peterson
Title Field Supervisor

Dated: 6-13-86

COWLITZ COUNTY DEPARTMENT OF
COMMUNITY DEVELOPMENT

By Sarah Deatherage
Title DIRECTOR

Dated: 6-11-86

PORT OF KALAMA

By John Frost
Title manager

Dated: 6-13-86

APPROVED AS TO FORM:

KENNETH O. EIKENBERRY
ATTORNEY GENERAL, STATE OF WASHINGTON

By Annelle Womac
Title Assistant Attorney General

KALAMA BULK TRANSSHIPMENT FACILITY
KALAMA, WASHINGTON

MITIGATION AGREEMENT

Pacific Resources, Inc. (PRI) has proposed to construct and operate coal, coke and other bulk commodities transshipment facilities (the "Project") just north of the confluence of the Kalama and Columbia Rivers on property under lease and sublease from the Port of Kalama ("Port"). PRI and Port are desirous of protecting the wildlife and fisheries resources on the property and providing mitigation of unavoidable adverse impacts from the construction of the Project.

The Washington Department of Game, Washington Department of Fisheries, U.S. Fish and Wildlife Service and Cowlitz County Department of Community Development (the "Agencies") have their respective responsibilities concerning the achievement of a common goal of preserving, protecting and perpetuating wildlife and fisheries resources in the State of Washington.

The impacts from this Project on the wildlife and fisheries resources and their habitat have been identified and appropriate measures have been agreed upon by all parties hereto.

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. The specific areas for their implementation are designated in Exhibit 1 which is attached hereto and fully incorporated herein. These lands consist of approximately 81 acres. These lands shall be dedicated to and used for wildlife, fisheries and recreational mitigative purposes as described below in accordance with applicable law for the life of the project. Cross-section details are provided in Exhibits 2-5, also herein incorporated. The acreages for each area are best estimates based on small scale draft site plans and not detailed surveys; therefore, all such indicated acreages may vary plus or minus 10%. Final alignment of "Cottonwood Road" shall be as shown on the attached Mitigation Site Plan (Exhibit 1) with minor alterations of road intersections and curve alignments allowed to meet County road standards.

AREA 1 (6.40 acres) (See Exhibit 2)

This area includes the southern terminus of what is known as the westernmost wetland. This area will be graded to an elevation appropriate to create habitat as is presently found in the undisturbed areas of the westernmost wetland. "Benches" will be constructed on the slopes surrounding the perimeter of the area for the development of vegetation

buffers. These benches are not to exceed 30% of the total width of Area 1, except at the southern terminus. All slopes in this area will be constructed so as to avoid slope failures, and soils will be properly prepared to support the proposed habitat.

AREAS 2 and 4a: (19 acres) (See Exhibits 1 and 2)

Portions of this area will be graded as is appropriate for the purpose of fish stranding and entrapment protection. All locations where a potential exists for shipwash stranding or entrapment will be graded at a continuous 9% slope or greater to the Columbia River, except where emergent wetlands or trees presently exist. Grading will occur around these vegetated areas as is appropriate, maintaining the grades at 9% or greater. An unimproved recreation access road may extend into the southern quarter of Area 4a from Area 7, but this road will not extend northward of the location of the conveyor system proposed for Berth No. 3 (the southernmost berth). An entrapment protection berm will traverse a portion of Area 4a to protect Area 3 from the 25-year flood, to be constructed so as to minimize impacts to existing trees. Final design and locations for all grading will be approved by the Departments of Fisheries and Game.

AREA 3: (7.5 acres) (See Exhibit 3)

This area will be developed into an emergent wetland habitat with a meander-type depression constructed generally through its middle. The border to the north will be a narrow "bench" for woody-type plants placed at the bottom of the road berm (adjacent to the wetland). The base of the wetland will be graded to below Ordinary High Water (OHW) of the Columbia River (approximately 12' MSL). Water sources will be groundwater and local surface water run-off. The meander depression will be of varying widths, graded from 2-3 feet below the average grade elevation of the wetland area, to create an open-water habitat. The emergent wetland habitat will surround the open-water habitat. The southern portion of Area 3 will grade in a natural-like manner into the existing wooded area referred to as Area 7. Existing trees and understory will not be adversely impacted by this work. A berm will be built to the southwest and west of this area, in portions of Areas 4a and 7, to prevent fish entrapment from occurring in Area 3. The berm shall be constructed to protect the site from a 25 year flood of the Columbia River, and will be constructed to avoid impacts to existing trees.

All slopes required in this area will be engineered to prevent slope failure. Soils will be properly prepared to support the anticipated vegetation communities.

AREA 3-NORTH (2.40 acres)

This area will be lowered from its existing elevation of 25-30' MSL to approximately 15-20' MSL, and will be planted with cottonwoods, willows, alders or other tree species as appropriate to develop a vegetation buffer screen for Area 1. Soils will be properly prepared to support the proposed vegetation.

AREA 5: (2.41 acres) (See Exhibit 4)

The existing trees will not be adversely impacted. Two "potholes" will be constructed in this area, one on each side (north and south) of the existing tree line. These potholes will be steep-sloped to maximize the resultant open-water. The holes will be dug at least 4 feet deep, to reach normal groundwater. The potholes will range between one-eighth to one-fourth acre in size. Surrounding ground elevations will be maintained at existing levels. Excavated soils will be removed from the area. If adjacent soils are compacted so as to inhibit vegetative growth, then soil rehabilitation measures will be employed.

AREA 6: (3.57 acres)

This area will remain in its present wooded state. Public access will be permanently available to the area for pedestrian ingress-egress only. Disturbances to the area caused by project construction activity will be repaired or replaced.

AREA 7: (10.88 acres)

This area is to remain a wooded area with limited recreation use. The northern portions are primarily planned for wildlife habitat purposes, to be integrated with Area 3 (wetland). A one lane (10 foot) unimproved dirt or gravel public access road will be constructed along the south and west perimeter of the area. Unimproved parking areas will be made available for not more than a total of 10-12 cars in the west or northwest portions of the area (near the Columbia River). A berm will traverse a portion of this area as per Area #3 description. All work in this area will be done so as to avoid adverse impacts to existing trees.

AREAS 8a and 8b: (5.85 acres and 8.00 acres)

These areas are to remain in their existing condition. They will be permanently reserved for public access. Recreation facilities will not be developed. In Area 8b a utility electrical station may be constructed, which will require a small area for station location (approximately one-half acre) and an unimproved service road for that station.

AREA 9: (15 acres) (See Exhibit 5)

This area is to remain in its present condition, except for the lowering of the open areas of reed-canary grass (non-wooded) to an elevation ranging between 1 and 3 feet below existing grade to promote an emergent wetland habitat with at least seasonally open-water areas. An access channel will be constructed for fishery use to the main channel of the westernmost wetland. This channel will be a minimum of 3 feet wide and will be graded to protect fish from entrapment (as will the wetland excavation). The access channel will be constructed through the trees to the west in a manner that will minimize any adverse impacts to the existing vegetation. Filling and compacting of soils around existing trees will be minimized.

During the design and construction phase the Cowlitz County Department of Community Development, the Department of Game, Department of Fisheries, U.S. Fish and Wildlife Service and Port of Kalama may review and participate in the design of all specific mitigation measures set forth herein. Construction work for these mitigation activities will be undertaken during overall facility construction. All mitigation activities will be completed prior to the shipment of bulk commodities from this site. A priority for mitigation activity will be the grading of the Columbia River shoreline to prevent fish stranding by shipwash action. However, this activity will not be finalized until all shoreline construction work has been completed.

This agreement shall be effective as of the date of execution by all parties for the life of the Project and shall be implemented upon completion of construction and continue in force and effect so long as the Project is so used by the Port of Kalama or its successors or assigns.

ACCEPTED AND APPROVED:

WASHINGTON DEPARTMENT OF GAME

By Larry Jensen
Its

Dated: 2/17/82

WASHINGTON DEPARTMENT OF FISHERIES

By Rob Schmidt
Its

Dated: 3-2-82

U.S. FISH & WILDLIFE SERVICE

By Joseph Blum
Its Area Manager

Dated: 3/3/82

COWLITZ COUNTY DEPARTMENT OF
COMMUNITY DEVELOPMENT

By Mark Cant
Its

Dated: 2/17/82

PORT OF KALAMA

By John W. Fratt
Its manager

Dated: 2-16-82

APPROVED AS TO FORM:

KENNETH O. EIKENBERRY
ATTORNEY GENERAL, STATE OF WASHINGTON

James M. Johnson
James M. Johnson
Senior Assistant Attorney General
State of Washington

STATUS AND PROPOSED MITIGATION PLAN
FOR SITES 2 AND 4a

Based on a March 24, 1986 Report
Prepared by Ogden Beeman and Associates
and
Enviro Science, Inc.

Mitigation Plan for Sites 2 and 4^a

The original mitigation agreement called for the Port of Kalama to slope and contour the North Port shoreline to remove fish entrapment conditions resulting from vessel wakes. This effort was to be accomplished when the coal port facility and dock was constructed.

Subsequent to the mitigation agreement the coal facility and dock was not constructed, due to withdrawal of the project sponsor. With no dock construction, the Port of Kalama assumed the mitigation requirement was not applicable.

In late 1985, the Corps of Engineers, Portland District, released a public notice of intent to fill along the shoreline of the North Port Site. This is the same area to have been sloped and contoured by the Port for mitigation. Purpose of the Corps fill was to reduce channel widths, thereby resulting in increased natural depths for navigation. Concerns expressed from resource agencies has resulted in delay for completion of that work pending further coordination.

The Port of Kalama now desires to complete the mitigation package to satisfy requirements for wetland fill. Discussions with the Washington Department of Fisheries, site visit and review of alternatives, suggests the following criteria:

- o Key to successful mitigation is stable bank line that avoids continued bench creation.
- o Avoid work in the water; i.e., wait for low water to slope shoreline materials.
- o Attempt to place additional sand along shoreline to straighten shoreline and provide continuous smooth

slope (no flat benches). Sand sediments are to be placed river-ward of vegetation line.

Applying these criteria, the parties concur in the following analysis:

o Stable Bankline -

A "stable" bankline could be accomplished either by placement of a rip-rap armored shoreline; or

A "passive stable" bankline could be accomplished by vegetation, smaller sediment armoring (gravels) or by annual replacement of materials eroded during the bench creation.

o Low Water Activity -

The Parties agree that, in order to protect fish life, the mitigation-related work must not be performed in the water, without specific approval from WDF.

Along the bank of the North Port site the vegetation line is approximately a 14 foot msl elevation and sloping of materials with a dozer must occur in the 2 to 14 foot msl elevation.

However, during the spring freshet runoff river stages will remain at 8 to 14 feet. Thus, work shall not be performed at this site during the spring runoff, typically prior to July-August.

o Material Availability -

The site is now benched, and it is believed additional material would assist in shaping and sloping the bank line. The Corps of Engineers, Portland District, intends to dredge the Upper Dobelbower Bar navigation channel in late March to April time frame. Coordination with them has been completed, and they are

willing to place some sand materials along the bank that can be reworked during future low water.

Plan of Action.

The site under consideration is identified in the attached photo xerox. It covers approximately 5 acres +/- at an elevation of +2 to +14 feet msl. These elevations are based on water surface elevations of September 1985 and March 1986. A representative cross-section of existing conditions is attached.

The Port has opted to construct a "passive stable" bankline. To accomplish this, the Port will coordinate with the Corps of Engineers to have approximately 50,000 cyd, or 1 to 2 days of dredging activity, placed along the shoreline. It will be placed river-ward of the vegetation line and discharged so as to leave a reasonably smooth but submerged bankline.

In the event Corps dredged material is not available, the Port will accomplish the mitigation according to a plan approved by WDF.

The Port of Kalama will shape the sand bankline to create a smooth and continuous slope in July after the freshet, when water surfaces are below 4 feet msl. They will do this using a dozer. At that time, the Port also shall construct permanent bench marks to be used as reference points in future surveys.

Bankline Maintenance and Evaluation.

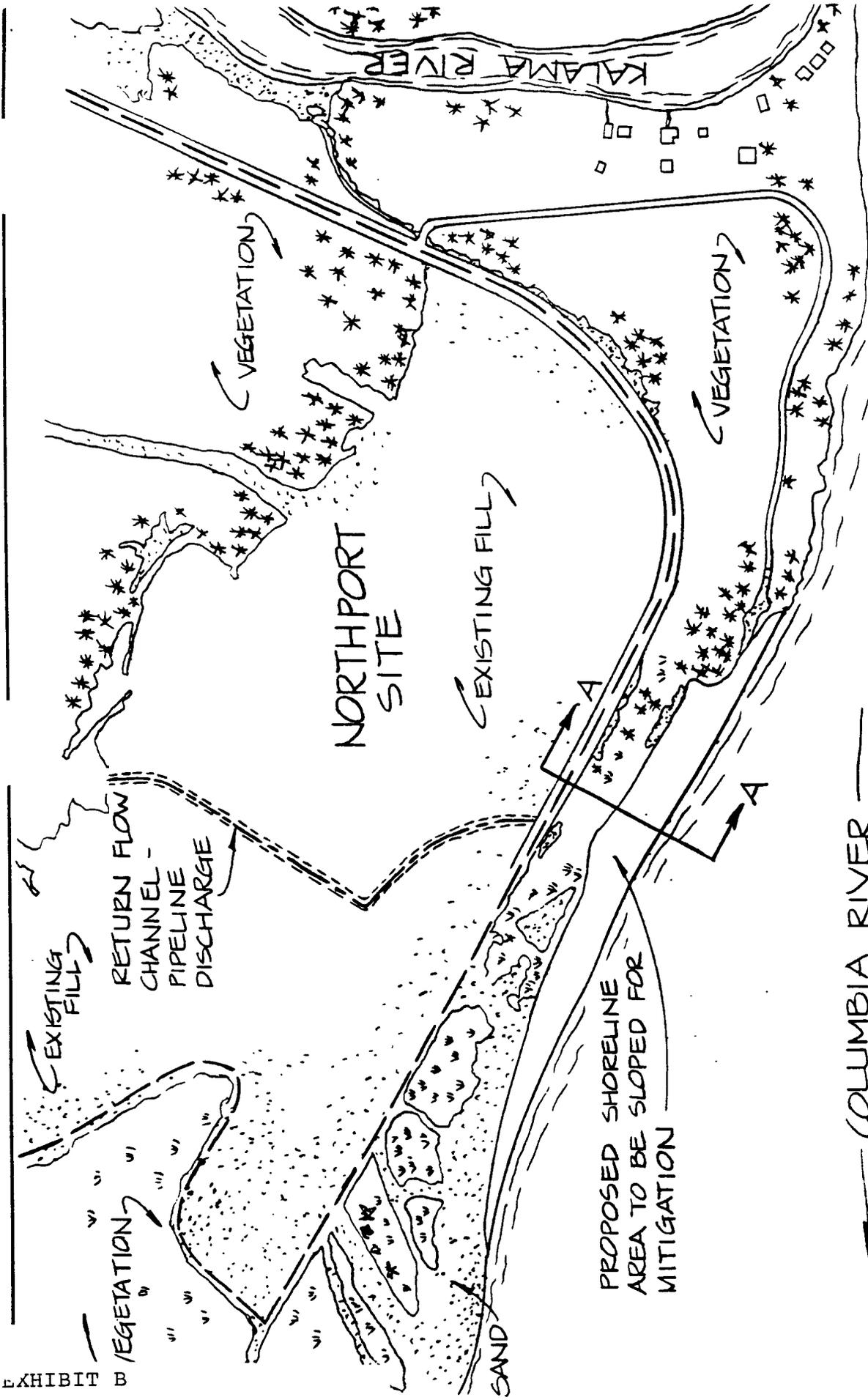
The Port shall use its best efforts to maintain a continuous smooth bankline with a minimum grading of 9% slope. To insure such maintenance, the Port, in coordination with WDF, shall evaluate the status of the bankline annually following the freshet. After an initial inspection, if deemed necessary by WDF, the Port shall survey the bank to ascertain the current grade. The above referenced benchmarks shall be used in the survey. Also, the Port shall maintain the bank by reworking the beach

sediments and/or coordinating with the Corps of Engineers to obtain additional sediments (from future Corps of Engineers maintenance dredging) as necessary. The Port shall perform this maintenance annually, or more or less often as WDF determines necessary.

Amendments.

Either the Port or WDF may request a change in this Mitigation Plan for Sites 2 & 4a which only shall become effective when set forth in writing and signed by said parties.

This provision shall govern any request for amendment due to significant changes in the bankline or the construction of a new project.

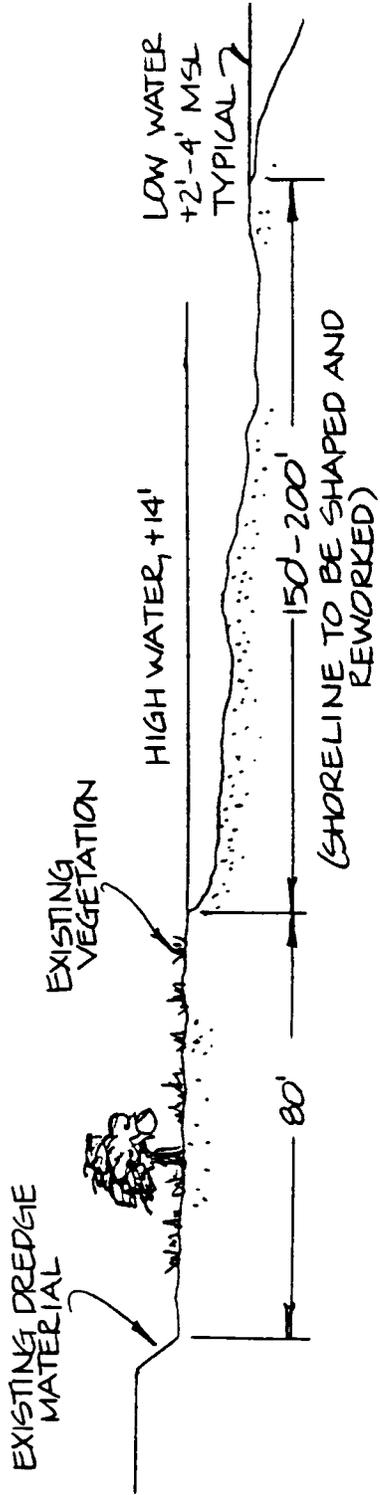


Ogden Beeman & Associates, Inc.

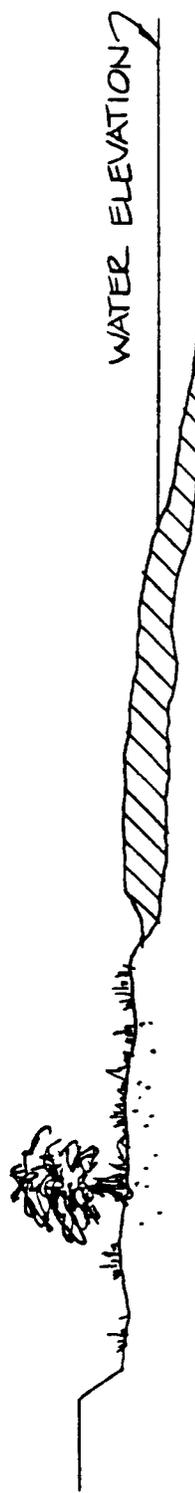
Consulting in the development of ports, waterways and marine facilities

**PORT OF KALAMA - NORTHPORT SITE
SHORELINE MITIGATION**

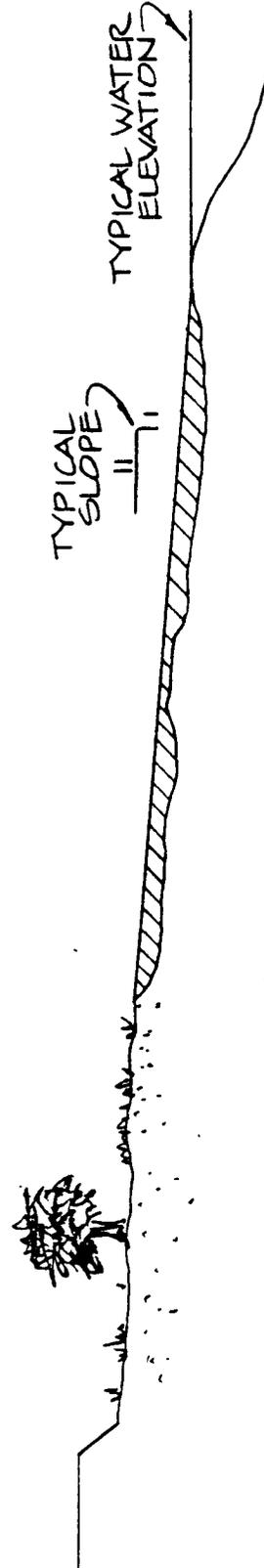
DATE	SCALE	JOB NO.
MARCH 14, 1984	1:5000	862220



EXISTING CONDITIONS
 SECTION A-A



MATERIAL DEPOSITION BY CORPS OF ENGINEERS
 MARCH/APRIL 1986



MATERIAL REWORKED
BY PORT OF KALAMA
 JULY 1986

Ogden Beeman & Associates, Inc

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 and marine facilities

PORT OF KALAMA - NORTHPORT SITE
 SHORELINE MITIGATION

DATE
 MARCH 14, 1986

SCALE
 1" = 10'

JOB NO.

06220

STATUS AND PROPOSED MITIGATION PLAN
FOR SITES 1, 3, and 3n

Dated March 31, 1986

Prepared by Ogden Beeman and Associates
and
Enviro Science, Inc.

Mitigation Plan for Sites 1, 3 & 3n

A total property area of 16.3 acres will be set aside for the purpose of Northport site fill mitigation. This area is located immediately south and adjacent the 15 acre parcel of property that was previously set aside for mitigation purposes in the original Mitigation Plan (site 9). The new site is at a typical elevation of 9 feet to 12 feet msl. It has a vegetation cover of dense brush, trees and canary grass.

The new site will be enhanced by construction of waterways into the area predominantly covered with the canary grass and similar vegetation cover. The site boundaries and proposed waterway construction is identified in the attached figure.

Waterway Construction

The waterway will be a continuation of the existing enhancement pond on the previous site 9 parcel. It will be constructed by backhoe during the August-September time period when river and ground water levels are low. Care will be taken to avoid unnecessary disturbance of existing vegetation by equipment. The waterway will be a shallow ditch with a typical maximum depth of 3 feet at the thalweg. The waterway will have a typical width varying from 5 to 9 feet. The outer 1 to 3 feet of the ditch will be less than 1 foot deep.

Excavated materials from the waterway ditch will be placed in the area adjacent to the waterway to a thickness not to exceed 6", except for occasional isolated mounds of one to two feet height. This is to assure the return of native vegetation over a short term (1 year period) while providing higher elevation land for greater vegetation diversity. The bed of the waterway will be constructed to assure that no fish entrapment conditions exist when river levels drop in the spring and summer. This will be done by providing a continuous gradient in the waterway from the most distance points to the enhancement pond.

COLUMBIA RIVER

SLOUGH

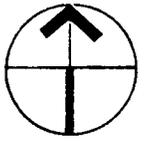
PROPERTY
BOUNDARIES

LOWLAND
AREA

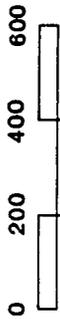
DITCH

PROPOSED
MITIGATION
(16.3 AC.)

EXISTING
MITIGATION
(15 AC.)



NORTH



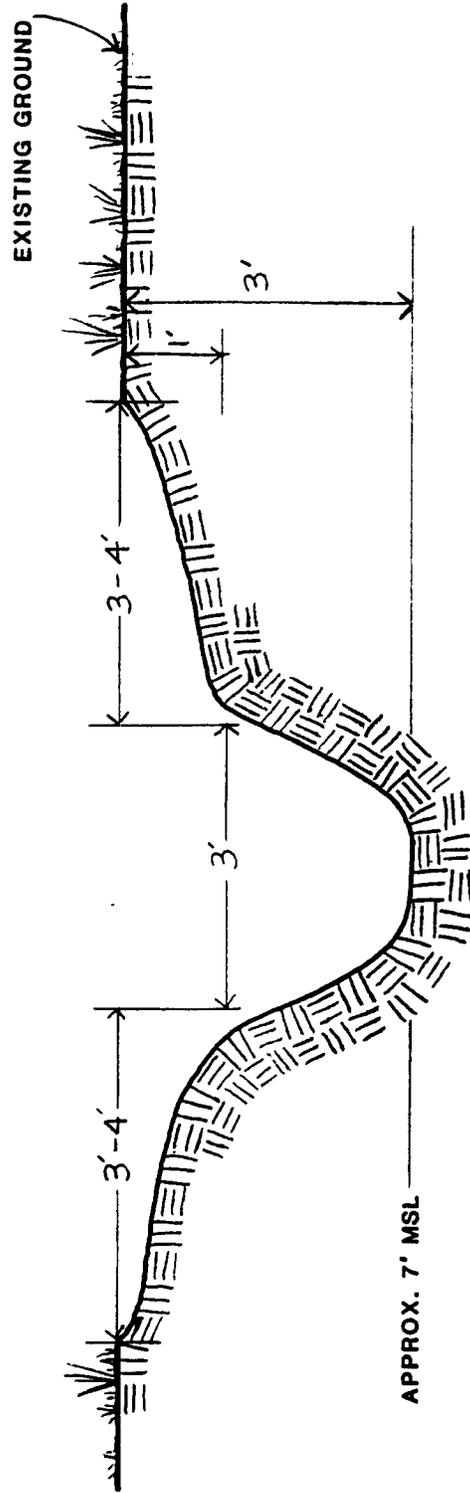
SCALE - 1"=400'

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and marine facilities

PORT OF KALAMA
OFFSITE MITIGATION PLAN

DATE 4/18/86 SCALE 1"=400' JOB NO. III-1



TYPICAL CROSS SECTION
 OF EXCAVATED AREA

SECTION A-A

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PORT OF KALAMA
 OFFSITE MITIGATION PLAN

DATE	SCALE	JOB NO.
4/18/86	1"=20'	III-2

