

1600 SE 190th Ave, Portland OR 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-2016-6246
Permit: Significant Environmental Concern
Location: 26610 NW Reeder Rd
Tax Lot 600, Section 26A
Township 3 North, Range 1 West, W.M.
Tax Account #R695200100
**Applicants/
Owners:** Troy and Rebecca Brugh
Base Zone: Multiple Use Agriculture – 20 (MUA-20)
Overlays: Significant Environmental Concern (SEC)

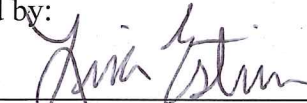
Summary: Applicants are proposing a riverbank stabilization project on the eastern portion of their property adjacent to the Columbia River. A Significant Environmental Concern permit is required to authorize the project.

Decision: Approved with Conditions

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Wednesday, September 6, 2017 at 4:00 pm.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals until all local appeals are exhausted.

Issued by:



Lisa Estrin, Planner

For: Michael Cerbone, AICP
Planning Director

Date: Wednesday, August 23, 2017

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Lisa Estrin, Staff Planner at 503-988-0167 or lisa.m.estrin@multco.us.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 34.4500 – MCC 34.4550: SEC Permits, MCC 34.4555: SEC Standard

Copies of the referenced Multnomah County Code (MCC) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at multco.us/landuse/zoning-codes under the link Ch 34: Sauvie Island/Multnomah Channel Rural Area Plan.

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

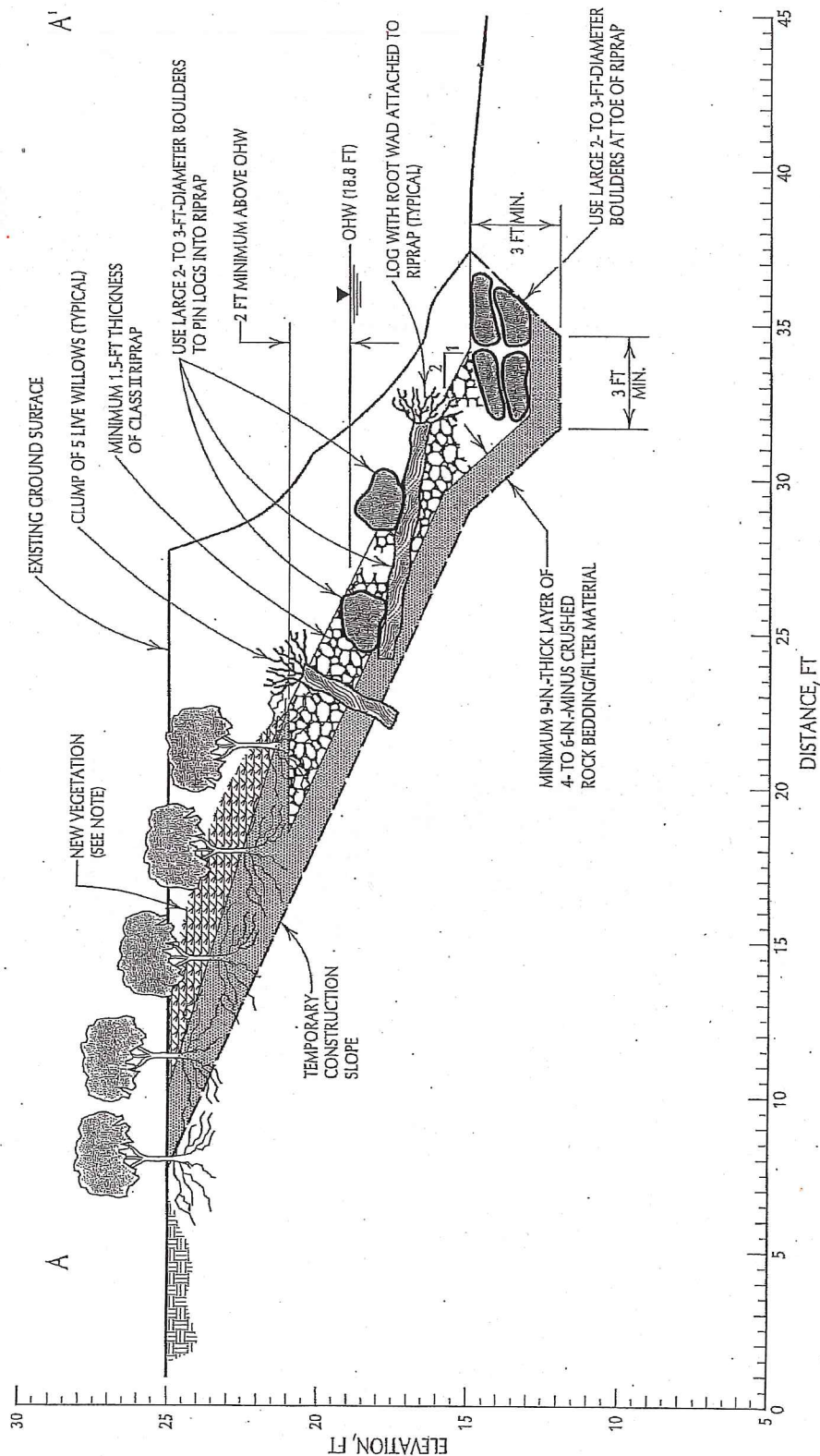
1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. This land use permit expires two years from the date the decision is final pursuant to MCC 37.0690(B):
 - (a) When construction has not commenced within two years of the date of the final decision. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility or development or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway.
 - (b) When the structure has not been completed within four years of the date of commencement of construction. Completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval. All work shall be limited to the subject property and may not encroach or trespass onto adjacent properties. The property owner shall have the property line marked and clearly delineated to prevent trespass.

The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period. [MCC 37.0550]

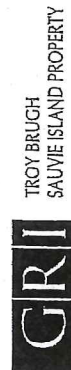
3. The toe of the armoring (2 to 3-ft diameter boulders at toe of riprap) shall not extend beyond the toe of the existing ground surface (toe of the existing bank). No placement of fill is authorized to extend the upland eastward towards the Columbia River.

- a. Prior to any ground disturbance, the property owner shall have an Oregon licensed surveyor document and mark the exact location of the existing bank in relation to the eastern property line.
 - b. After completion of the project, the property owner shall have the same Oregon, licensed surveyor survey the exact location of the finished riprap project and demonstrate on a stamped survey that it has not encroached further than the existing riverbank prior to construction. A copy of the stamped survey shall be submitted to Land Use Planning within 45 days of installation of the riprap completion. [MCC 34.4555(A)]
4. If any Cultural Resources and/or Archaeological Resources are located or discovered on the tax lot or within the project area, including finding any evidence of historic campsites, old burial grounds, implements, or artifacts, the following procedures shall be implemented:
 - a. Halt Construction – All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
 - b. Notification – The project applicant shall notify the County Planning Director and the State Historic Preservation Office (SHPO) within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours. This includes the Yakama Nation, contact Cultural Specialist for the Cultural Resources Program at: (509) 865-5121 extension 4720; Fax number (509) 865-4664.
 - c. Survey and Evaluation – The applicant shall follow any and all procedures outlines by SHPO and if necessary obtain the appropriate permits (see ORS 273.705 and ORS 358.905 to 358.955).
 - d. All survey and evaluation reports and mitigation plans shall be submitted to the Planning Director and SHPO. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.
 - e. Construction activities may recommence when SHPO requirements are satisfied. [MCC 34.4555(H)]
5. The following procedures shall be in effect if human remains are discovered during excavation or construction (human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts):
 - a. Halt Activities – All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
 - b. Notification – Local law enforcement officials, the Multnomah County Planning Director, State Historic Preservation Office and the Indian tribal governments shall be contacted immediately.
 - c. Inspection – The State Medical Examiner shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.
 - d. Jurisdiction – If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and this protection process may conclude.

- e. Treatment – Prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in Oregon Revised Statutes, Chapter 97.740 to 97.760. [MCC 34.4555(H)]
- 6. Best Management Practices for sediment and erosion control shall be used for the entirety of the project. No ground disturbance shall occur until such time as the grading and erosion control and the flood development permit (T1-2016-6247) is issued by the County. [MCC 35.4555(J)]
- 7. A post-construction report shall be prepared, stamped and signed by an Oregon Professional Engineer and provided to Multnomah County Land Use Planning within 90 days of completion of the project. The post-construction report shall confirm the project has been completed in compliance with approved designs and all conditions of Multnomah County Land Use Permit T2-2017-6483. Any variation from approved designs or conditions of approval shall be clearly indicated. The post-construction report shall include:
 - a. Dated pre- and post-construction photos taken for the six identified projects marked on Exhibit B.3. The photos should clearly show the site conditions before and after construction.
 - b. A narrative that describes any deviation from the approved plans.
- 8. The property owner shall have their representative, SWCA Environmental Consultants or other professional consultant monitor the project site to verify that 80% of each type of vegetation (dogwoods, willows and ground cover) planted for the subject project continues to live, thrive and grow for a minimum period of 5 growing seasons after completion of all the initial plantings. Annual monitoring reports are required.
 - a. For any replanted species identified in Exhibit 10 that falls below the 80% threshold shall be replanted during the next planting season.
 - b. Annual Monitoring Report Due Date: Annual monitoring reports are due by November 30th of each year.
 - c. Extension of the Monitoring Period: The monitoring period may be extended, at the discretion of Land Use Planning, for failure to provide monitoring reports, failure of the site to meet performance standards for two consecutive years (without irrigation or replanting) or when needed to evaluate re-planting or other corrective or remedial actions.
 - d. Release of Monitoring Obligation: Monitoring is required until Land Use Planning has officially released the site from further monitoring.
 - e. Failure to Submit Monitoring Reports: Failure to submit the required monitoring report by the due date may result in an extension of the monitoring period and/ or enforcement action.
- 9. The annual monitoring report shall include the following information:
 - a. The permit number, monitoring date, report year, and a determination of whether the site is meeting performance standard of Condition No. 8.
 - b. Post construction photographs of each monitoring area taken within the last 30 day prior to the report date.



NOTE: THROUGHOUT THE RIVERBANK STABILIZATION AREA ABOVE THE RIPRAP, A COMBINATION OF SHRUB WILLOW AND WESTERN DOGWOOD (CORNUS SERICA) WILL BE PLANTED ON A 3-FT GRID PATTERN. THE TRUNK DIAMETER WILL BE A MINIMUM OF 1 IN. IN ADDITION, A GRASS COVER CONSISTING OF WESTERN FESCUE (FESTUCA OCCIDENTALIS) WILL BE PLANTED IN THE DISTURBED AREA ABOVE THE RIPRAP. THE AREA OF THE GRASS COVER IS ESTIMATED TO BE OVER 2,100 SQ. FT.



CROSS SECTION A-A'



Exhibit A.5

- c. A brief narrative that describes maintenance activities and recommendations to meet performance standard. This includes when irrigation occurred and when the above ground portion of the irrigation system was or will be removed from the site.
 - d. Any other information necessary or required to document compliance with the performance standard listed in Condition No. 8.
10. Prior to placement of the riprap project, all existing construction debris between the house and the Columbia River shall be collected by the property owner or his representative and shall be disposed of properly at a Metro Transfer Station. The property owner shall contact Code Compliance at 503.988.5508 and request a site inspection once the debris is removed. Evidence of proper disposal shall be provided to Code Compliance.

Note: Transportation may require a right-of-way permit if modifications to the property's access point are proposed. In addition, all public right-of-ways and roads shall be kept clear of materials or cleaned immediately if any earth materials enter the public roads from vehicles, tires, etc. Please contact Right of Way at row.permits@multco.us or [503.988.3582](tel:503.988.3582) for permit requirements.

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

1.00 Project Description:

Staff: The applicant has provided the following project description. “The proposed project involves stabilizing 181 feet of river bank along the Columbia River. The bank will be excavated to a flatter slope, generally 3H:1V, but no steeper than 2H:1V, a rock toe will be constructed, and a bedding/filter layer of 4-to 6-inch minus crushed rock and a 1.5-foot-thick layer of Class II rock armor will be place on the slope. Eighteen to 20 pieces of large wood with root wads attached will be keyed into the bank using 2- to 3-foot diameter boulders as ballast. Vegetation will be incorporated into the design of the armored bank. The vegetation will be installed in two layers as the rocks is place on the slope. Below ordinary high water, live cuttings of Columbia River willow (*Salix fluviatilis*) will be placed in 4-inch diameter protective plastic conduits that extend into the riverbank soils to facilitate grown. Above ordinary high water, Scouler’s willow (*Salix scouleriana*) and red osier dogwood (*Cornus sericea*) will be planted in the same manner. The willows will be placed in clumps of five cuttings spaced about every 10 feet along the length of the rock armor – protected slope. Details of the large wood with root wad and will placements are shown on attached Figures 2 and 4.

An access ramp approximately 5 feet wide will be constructed to allow beach access for foot traffic and launching small water craft. The ramp will be constructed with the same materials as the bank protection.

Throughout the riverbank stabilization area above the rock armoring, a combination of native Scouler’s willow (*Salix scouleriana*) and red osier dogwood (*Cornus sericea*) will be planted on a 3-foot grid pattern. The trunk diameter will be a minimum of 0.5 inch. In addition, a grass cover consisting of Re-Green or another appropriate erosion control native grass seed mix will be seeded in the disturbed area above the rock armor.”

2.00 Property Description & History (if needed):

Staff: The subject property is a 3.42 acre site adjacent to the Columbia River. It contains an existing single family dwelling which was constructed in 1988 and an existing accessory building constructed in 1997. The accessory building was approved via SEC 15-97. In 2009, Multnomah County issued a stop work order for placement of fill without land use review and approval. Since that time, the originally placed loose fill has eroded from the property during annual high water events. This application will review the existing conditions and allow for the armoring of the Columbia River bank to prevent further erosion.

3.00 Significant Environmental Concern Criteria:

3.01 § 34.4555 CRITERIA FOR APPROVAL OF SEC PERMIT

The SEC designation shall apply to those significant natural resources, natural areas, wilderness areas, cultural areas, and wild and scenic waterways that are designated SEC on Multnomah County sectional zoning maps. Any proposed activity or use requiring an SEC permit shall be subject to the following:

(A) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, or floodwater storage area.

Staff: The engineer has determined that to prevent erosion of adjacent parcels due to this project, the location of the riprap must "...transition the existing grades to the newly constructed riprap slope at the upstream and downstream property lines to limit the risk of localized erosion occurring in these areas" (Exhibit A.19). The location where the riprap is installed site specific. While the riprap installation is not landscaped, it will be planted with two types of willows and red osier dogwood (Exhibit A.9, A.10, A.15 and A.16). A conditions of approval has been included that the riprap installation be installed where proposed and be planted with the proposed vegetation. *Through conditions, criterion met.*

3.02 (B) Agricultural land and forest land shall be preserved and maintained for farm and forest use.

Staff: The subject property is 3.42 acres and is not used for farm or forest uses. The property is used for residential purposes only based upon review of aerial photos (Exhibit A.13) and taxation records (Exhibit B.1). *Criterion met.*

3.03 (C) A building, structure, or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance.

Staff: The proposed work to armor a portion of tax lot 3N1W26A – 00600 constitutes a "structure" as defined by MCC 34.0005 Definitions. A "Structure" is "that which is built or constructed. An edifice or building or any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner." The Columbia River and its bank western bank is a protected environmental area that the County has determined is significant based on the Significant Environmental Concern "Purposes" described in MCC 34.4500.

The armoring of the riverbank is to protect a single family residence on private property and encroaches into property owned by the citizens of Oregon via the Department of State Lands. The applicant is proposing to install a significant amount of vegetation into the project to restore the area and protect the riprap from further erosion (Exhibit A.9, A.10, A.15 and A.16). A condition of approval has been included requiring that the area be replanted to help restore the area of environmental significance. *Through a condition, criterion will be met.*

3.04 (D) Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflict with areas of environmental significance.

Staff: The subject property is used for residential purposes only. No public recreation is proposed or exists in the area other than the ability for the public to walk along the shore. The proposed project will continue to allow pedestrians access along the shore but will limit it some due to the required root wads to be installed below ordinary high water. *Criterion met.*

3.05 (E) The protection of the public safety and of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.

Staff: The proposed armoring of the riverbank will not increase the potential of vandalism or trespass across the residential property. *Criterion met.*

3.06 (F) Significant fish and wildlife habitats shall be protected.

Staff: The proposed project is required to occur during the in-water work period established in the Department of State Lands and Army Corps (Exhibit A.20) permits. *Criterion met.*

- 3.07 (G) The natural vegetation along rivers, lakes, wetlands and streams shall be protected and enhanced to the maximum extent practicable to assure scenic quality and protection from erosion, and continuous riparian corridors.**

Staff: Presently, the existing riverbank does not have significant vegetation at present. The property owner had dumped a significant amount of earth material in the past that has eroded away due to high-water events. After the project is installed, the riprap will be replanted with willow and dogwood (Exhibit A.9, A.10, A.15 and A.16). A condition of approval has been included requiring that the property owner to plant, maintain and replace the vegetation proposed as needed. *Through conditions of approval, criterion can be met.*

- 3.08 (H) Archaeological areas shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry.**

Staff: There are no known archaeological resources in the area. A condition of approval has been included that if cultural artifacts are found, the work shall cease immediately. *Through a condition, criterion will be met.*

- 3.09 (I) Areas of annual flooding, floodplains, water areas, and wetlands shall be retained in their natural state to the maximum possible extent to preserve water quality and protect water retention, overflow, and natural functions.**

Staff: The applicant will need to demonstrate through the Flood Development permit that there will be “no rise” to flood waters due to this permit. A condition of approval has been included that no work on the project be completed until such time as the flood development permit is issued. *Through a condition, criterion met.*

- 3.10 (J) Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices and may include restriction on timing of soil disturbing activities.**

Staff: The proposed project is to riprap the bank of the Columbia River to try to preserve the upland area of tax lot 3N1W26A – 00600 (Exhibit A.9). The work can only occur during the in-water work period to protect salmonid species from potential illness or death (Exhibit A.20). A condition of approval has been included that no work occur on the project until such time as the Grading and Erosion Control permit is issued. In addition, a condition restricts the project to the in-water work period authorized by DSL permit. *Through conditions, criterion met.*

- 3.11 (K) The quality of the air, water, and land resources and ambient noise levels in areas classified SEC shall be preserved in the development and use of such areas.**

Staff: The proposed project will utilize best management practices while installing the proposed project. Noise levels will only be elevated during the construction period and will return to ambient noise levels when it is completed. *Criterion met.*

- 3.12 (L) The design, bulk, construction materials, color and lighting of buildings, structures and signs shall be compatible with the character and visual quality of areas of significant environmental concern.**

Staff: No buildings are proposed. The riprap structure will be constructed of various rocks, gravel, root wads and living vegetation. The materials are consistent with the character of the area along the riverbank. *Criterion met.*

- 3.13 (M) An area generally recognized as fragile or endangered plant habitat or which is valued for specific vegetative features, or which has an identified need for protection**

of the natural vegetation, shall be retained in a natural state to the maximum extent possible.

Staff: The Columbia River including its banks has been identified for protection via the Significant Environmental Concern. After completion of the riprap project, the site will be revegetated to return it to its natural state to the maximum extent possible. *Criterion met.*

3.14 (N) The applicable policies of the Comprehensive Plan shall be satisfied.

Staff: The applicant has demonstrated compliance with Comprehensive Plan Policy 11.13 for septic review (Exhibit A.18 and A.26). *Criterion met.*

4.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern permit to armor land adjacent to the Columbia River to prevent further erosion and protect the existing dwelling and site in the Multiple Use Agriculture – 20 zone. This approval is subject to the conditions of approval established in this report.

5.00 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

‘D’ Comments Received (if needed)

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2016-6246 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	11/3/2016
A.2	1	Project Description	11/3/2016
A.3	8	Grading and Erosion Control Worksheet	11/3/2016
A.4	1	Cross – Section A-A’	11/3/2016
A.5	1	Site Plan	11/3/2016
A.6	1	Letter of Transmittal	5/2/2017
A.7	2	Response Letter to Incomplete Letter	5/2/2017
A.8	1	Significant Environmental Concern Cover Sheet	5/2/2017
A.9	7	Narrative	5/2/2017
A.10	3	Planting and Monitoring Plan for Brugh Riverbank Stabilization Project	5/2/2017
A.11	1	Floodway Narrative	5/2/2017
A.12	1	Location Map for Brugh Riverbank Stabilization Project	5/2/2017

A.13	1	Tax Lot Map and Aerial Photo for Brugh Riverbank Stabilization Project	5/2/2017
A.14	1	Site Plan	5/2/2017
A.15	1	Cross Section A-A	5/2/2017
A.16	1	Cross Section B-B	5/2/2017
A.17	7	Septic Review Certification Cover Sheet – 1 page a. Septic Review Certification (Not Completed by Sanitarian) – 2 page b. Authorizing Representative form – 1 page c. Aerial Photograph with septic location shown – 1 page d. Topographic Survey for Geotechnical Resources Inc. (Reduced) – 1 page e. Dept of Environmental Services / Permit Section Permit # 10636 – 1 page	5/2/2017
A.18	13	Grading and Erosion Control Cover Sheet – 1 page a. Responses to Incomplete Letter – 2 b. Grading and Erosion Control Worksheet – 8 pages c. Erosion and Sediment Control Plan – 1 page d. Topographic Survey for Geotechnical Resources Inc. (Reduced) – 1 page	5/2/2017
A.19	3	Appendices Cover Sheet – 1 page a. Appendix A Narrative – 2 pages	5/2/2017
A.20	8	DSL Removal/Fill Permit #55415-RF – 6 pages a. Attachment B: Maps and Drawings for Removal/Fill Permit No. 55415 – RF – 1 page b. Attachment B: Site Plan – 1 page	5/2/2017
A.21	31	Joint Permit Application #2009-622(1)	5/2/2017
A.22	3	Email from Steve Johnson to Army Corps of Engineers dated September 1, 2016	5/2/2017
A.23	9	DEQ 2009 – 00622: Sauvie Island Bank Stabilization 401 Water Quality Certification	5/2/2017
A.24	1	Topographic Survey map Cover Sheet	5/2/2017
A.25	1	Topographic Survey for Geotechnical Resources, Inc. Sheet 1 of 1	5/2/2017
A.26	3	Sanitation Review Certification Signed by Sanitarian	5/17/2017

'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information for 3N1W26A - 00600	11/04/2016
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete Letter	11/29/2016
C.2	1	Applicant's Acceptance of 180 Day Clock	12/14/2016
C.3	1	Complete Letter (Day 1)	5/02/2017
C.4	5	Opportunity to Comment	8/07/2017
C.5	11	Administrative Decision	8/22/2017