

**INTERLOCAL AGREEMENT BETWEEN SNOHOMISH COUNTY AND
THE TULALIP TRIBES OF WASHINGTON
FOR THE FOYE CREEK RECONNECTION PROJECT**

This Interlocal Agreement Between Snohomish County and the Tulalip Tribes of Washington for the Foye Creek Reconnection Project (this “Agreement”), is made by and between Snohomish County, a political subdivision of the State of Washington (the “County”), and the Tulalip Tribes of Washington, a federally recognized Indian Tribe (the “Tribe”).

RECITALS

- A. The County owns the Centennial-Snoqualmie Trail, a former rail line and unopened and undeveloped trail property that runs from the King-Snohomish County line to the City of Monroe. An approximately 6.79-acre portion of the Centennial-Snoqualmie Trail, with property tax parcel number 27061300401700 runs adjacent to Foye Creek (the “County Premises”) as shown on Exhibit A attached hereto and incorporated herein by this reference;
- B. The Tribe has a floodplain restoration project that includes Foye Creek and is generally referred to as the Tualco Valley Connectivity Project (the “Project”), as detailed in the attached Exhibit B, which is incorporated herein by this reference. As part of the Project, the Tribe would like to gain certain privileges across the County Premises for temporary construction, staging and access for Project work to relocate Foye Creek into Riley Slough;
- C. The Project will benefit the Tribe and County by allowing salmon to spawn as they historically did in Foye Creek and Riley Slough and will further benefit the County by maintaining the integrity of the railroad grade associated with Centennial-Snoqualmie Trail;
- D. The County and the Tribe wish to clearly identify each entity’s responsibilities to manage and maintain the County Premises before, during and after the Project;
- E. RCW 39.34.080 authorizes public agencies, including the County,, to enter into contracts to perform governmental services, activities, or undertakings with public agencies, including the Tribe.

AGREEMENT

NOW, THEREFORE, in consideration of the respective agreements set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Tribe agree as follows:

1. PURPOSES OF AGREEMENT

The purpose of this Agreement is to set forth the pre- and post-construction management, monitoring, maintenance and adaptive management responsibilities at the County Premises to ensure the Project is meeting the Tribe and County's shared and distinct objectives.

2. DURATION OF AGREEMENT

- A. The term of this Agreement is execution through January 31, 2028, (the "Term") unless terminated sooner as provided herein.
- B. As provided by RCW 39.34.080, this Agreement shall not take effect unless and until it has (i) been duly executed by both parties, and (ii) either filed with the County Auditor or posted on the County's Interlocal Agreements website.

3. SCOPE OF PROJECT

As set forth in the plans attached hereto and incorporated herein as Exhibit B, the Tribe will use the County Premises for access and staging of materials and equipment related to the Project. As part of this work, the Tribe will connect a re-constructed berm with the existing railroad embankment to maintain trail integrity. During construction, the Tribe will install temporary erosion control consistent with the Snohomish County Drainage Manual best management practices at the edge of the disturbance area around the County Premises corner to stabilize existing construction access through the County Premises. The Tribe will not perform any clearing or grading of the staging area. The Tribe will seed the County Premises post-construction for erosion control.

4. COUNTY RIGHTS AND RESPONSIBILITIES

- A. Upon full execution of this Agreement, the County will grant the Tribe, its employees and contractors, a temporary construction easement, including for access and staging, in substantially the form attached hereto in Exhibit E.
- B. The County will issue a Notice to Proceed to the Tribe upon execution of this Agreement and execution of the temporary construction easement described above.
- C. Throughout the duration of the Project, the County reserves the right to inspect and accept or reject all work on County Premises. If the County determines the work contains errors, omissions, or otherwise fails to conform to the requirements of this Agreement, the County shall reject the work by providing the Tribe with written notice describing the problems with the work and describing the necessary corrections or modifications to same. In such event, the Tribe shall promptly remedy the problem or problems and re-submit the work to the County.
- D. Upon notification by the Tribe, the County will inspect and create a punch list of items to be completed on County Premises prior to substantial and physical completion. The County's approval and acceptance of punch list completion is required for Project closeout.
- E. County staff will monitor the County Premises post-physical completion for any concerns

- caused by the Project work as described in the monitoring plan attached hereto and incorporated herein as Exhibit F. Should the County identify any issue with the work performed on the County Premises, the Tribe shall promptly remedy the problem or problems to the County's satisfaction.
- F. Upon physical completion of the Project, the County will grant the Tribe, its employees and contractors, a right-of-entry for post-Project monitoring in substantially the form attached hereto in as Exhibit G.

5. TRIBE RESPONSIBILITIES

A. PRE-PROJECT IMPLEMENTATION

- a. The Tribe has already provided the County with its 90% design plan set, located at Exhibit B. The Tribe agrees to provide the County any other Project documentation upon County request.
- b. The Tribe agrees it will not proceed with any of the Project work on County Premises until it receives from the County the County's Notice to Proceed.
- c. The Tribe shall comply with any State or local requirements regarding use of the County Premises and survey the Project site in order to record the pre-construction conditions. The Tribe shall submit all documentation and photographs to the County.
- d. The Tribe shall be solely responsible for acquiring all permits and licenses as required by law for Project construction. By executing this Agreement, the County does not warrant that any permits or licenses are necessary or not necessary nor does the County waive any such requirements. As of the date of this Agreement, the Tribe has identified and/or obtained the permits listed in Exhibit D to this Agreement, the terms and conditions of which are incorporated herein as if fully set forth.

B. DURING PROJECT CONSTRUCTION

- a. The Tribe will perform all Project work on the County Premises during standard County working hours of 7:00 AM and 7:00PM, Monday through Friday, excluding County holidays. Project work may only occur outside of approved work hours only by written authorization of the County.
- b. The Tribe will timely notify and coordinate with the County on any "Substantial Changes" to the Project design elements located on the County Premises and receive written approval from the County prior to implementation. "Substantial Changes" is defined to consist of alterations that would modify the function of the County Premises or require a contractor change order for approval.
- c. The Tribe agrees to conduct a site visit with County staff prior to Project close-out to identify any punch list items.
- d. The Tribe agrees to repair or replace any damaged infrastructure or vegetation on County Premises to the satisfaction of the County.

C. POST-PROJECT COMPLETION

- a. Upon receipt of the fully executed right-of-entry for post-Project monitoring, as

described in Section 4F above, the Tribe shall provide staff and resources for the planting, maintenance, and stewardship (for at least 5 years) on the County Premises to ensure native plant cover and density objectives are being met. Maintenance and stewardship may include the use of herbicides and mechanical removal for the control and management of invasive species on County Premises as described in Exhibit C and F. Further, the Tribe shall monitor and maintain the County Premises as per permit requirements and agrees to adaptively manage the Project elements that are not meeting objectives as defined in the permits.

- b. The Tribe shall provide electronic copies of the following Project documents to the County within five (5) days of written request from the County:
 - i. All investigative studies, reports and analysis (.pdf)
 - ii. Survey (.dwg and .pdf)
 - iii. Approved construction plans, specifications and engineer's estimate (.dwg, .pdf)
 - iv. Approved permits
 - v. Construction Testing Reports
 - vi. As-built or record drawings (.dwg, .pdf)

D. PREVAILING WAGE

The Tribe agrees to comply with the prevailing wage provisions of RCW 39.12.010-39.12.030 on all contracts for any work, construction, alteration, repair or improvement on the County Premises. Failure to comply with this section shall constitute a default under the terms of this Agreement unless otherwise cured withing thirty (30) days of notice of such default.

6. PERFORMANCE

The Tribe shall furnish and supply all necessary labor, supervision, machinery, equipment, material and supplies other than those required to be furnished by the County under the terms of this Agreement. Any materials or equipment used by the Tribe in connection with performing the work under this Agreement shall be of good quality. The Tribe agrees to complete all work described in Exhibit B in a timely and professional manner and in accordance with generally accepted floodplain restoration practices prevailing in the western Washington region. The Tribe may use subconsultants or subcontractors to complete any portion of the work described in Exhibit B.

7. INDEPENDENT CONTRACTOR

The Tribe will perform all services under this Agreement as an independent contractor and not as an agent, employee, or servant of the County. The Tribe shall be solely responsible for control, supervision, direction and discipline of its personnel, who shall be employees and agents of the Tribe and not the County. The Tribe has the express right to direct and control the Tribe's activities in accordance with the specifications set out in this Agreement. The County shall only have the right to ensure performance.

8. COUNTY'S POWERS

Nothing contained herein shall be construed as in any way divesting the County of any of its powers with respect to the supervision, management, and control of County property, roads and streets within its boundaries.

9. ADMINISTRATION OF AGREEMENT

Each party to this Agreement shall designate an individual who may be designated by title or position to oversee and administer such party's participation in this Agreement. The parties' Administrators shall be the following individuals:

Snohomish County
Rich Patton
6705 Puget Park Drive
Snohomish, WA 98296
Phone: 425-388-6618
Email: rich.patton@snoco.org

Tulalip Tribes
Brett Shattuck
6406 Marine Dr.
Tulalip, WA 98271
Phone: 360-716-4618
Email: bshattuck@tulaliptribes-nsn.gov

Senior Park Planner
Ed Pottharst
6705 Puget Park Drive
Snohomish, WA 98296
Phone: 425-308-4108
Email: ed.pottharst@snoco.org

Tulalip Tribes
Joe Sambataro, Conservation Advisor
6406 Marine Dr.
Tulalip, WA 98271
Phone: 425-218-8234
jsambataro@tulaliptribes-nsn.gov

Either party may change its Administrator at any time by delivering written notice of such party's new Administrator to the other party.

10. AUDIT AND INSPECTION

The County and the Tribe shall maintain records pursuant to this Agreement in accordance with generally accepted accounting principles and practices consistently applied. The County and Tribe's records shall be available for inspection and audit by one another, the State Auditor, federal auditors, and any persons duly authorized by the parties. The Tribe and County shall preserve and make such records available to said parties until expiration of six (6) years from the date of final Project completion under this Agreement.

11. ENTIRETY OF AGREEMENT

This Agreement constitutes the entire agreement between the County and the Tribe and supersedes all proposals, oral and written, and all other communication between the parties in relation to the subject matter of this Agreement. No other agreement exists between the County and the Tribe with regards to the instant subject matter except as expressly set forth in this instrument. Except as otherwise provided herein, no modification of this Agreement shall be effective until reduced to writing and executed by both parties.

12. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be altered or amended by mutual agreement of both parties. Such alterations or amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

13. TERMINATION

Either party may terminate this Agreement at any time, with or without cause, upon not less than thirty (30) days' prior written notice to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

- A. In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to normal completion, either party may terminate this Agreement immediately by providing written notice to the other party. The termination notice shall specify the date on which the Agreement shall terminate.
- B. If for any cause either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party shall give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within thirty (30) working days, provided, however, that if the non-performance is of a type that could not reasonably be cured within said thirty (30) day period, then the non-performing party shall commence cure within said thirty (30) day period and thereafter diligently pursue cure to completion. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

14. RIGHTS AND REMEDIES

In the event a party violates any of these terms and conditions and fails to cure such failure or violation as provided in Section 13B, then the other party shall have the right to exercise any or all rights and remedies available to it in law or equity.

15. DISPUTE RESOLUTION

In the event differences between the parties should arise over the terms and conditions or the performance of this Agreement, the parties shall use their best efforts to resolve those differences on an informal basis. If those differences cannot be resolved informally, the matter shall be referred for mediation to a mediator mutually selected by the parties. If mediation is not successful, either of the parties may institute legal action for specific performance of this Agreement or for damages.

16. NOTICES

All notices required to be given by any party to the other party under this Agreement shall be in writing and shall be delivered either in person, by United States mail, or by electronic mail (email) to the applicable Administrator or the Administrator's designee. Notice delivered in person shall be deemed given when accepted by the recipient. Notice by United States mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, and addressed to the Administrator, or their designee, at the addresses set forth in Section 9 of this Agreement. Notice delivered by email shall be deemed given as of the date and time received by the recipient.

17. INSURANCE

Both the Tribe and the selected contractor shall carry for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Tribes, its agents, representatives, employees or subcontractors. Annual proof of insurance shall be submitted to the County.

The Tribe and selected contractor shall obtain insurance of the types described below:

- A. Minimum Scope and Limits of Insurance. The Tribes shall maintain coverage at least as broad as, and with limits no less than:
 - (i) General Liability: \$ 2,000,000 per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$ 4,000,000 aggregate limit. CG 00 01 current edition, including Products and Completed Operations;
 - (ii) Automobile Liability: \$2,000,000 combined single limit per accident for bodily injury and property damage. CA 0001 current edition, Symbol 1;
 - (iii) Workers' Compensation: Statutory requirements of the state of residency; and
 - (iv) Employers' Liability or "Stop Gap" coverage: \$ 1,000,000.
- B. Other Insurance Provisions and Requirements. The insurance coverages required in this Agreement for all liability policies except Workers Compensation are to contain, or be endorsed to contain, the following provisions:
 - (i) The County, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Tribes in connection with this Agreement. Such coverage shall be primary and non-contributory insurance as respects the County, its officers, officials, employees and agents. Additional Insured Endorsement shall be included with the certificate of insurance, "CG 2026 11/85" or its equivalent is required. **The County requires this Endorsement to complete the Agreement.**

- (ii) The Tribe and contractor insurance coverage shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.
- (iii) Any deductibles or self-insured retentions must be declared to, and approved by, the County. The deductible and/or self-insured retention of the policies shall not limit or apply to the Tribes liability to the County and shall be the sole responsibility of the Tribes.
- (iv) Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, until after forty-five (45) calendar days' prior written notice, has been given to the County.
- (v) Insurance coverage is to be placed with insurers with a Bests' rating of no less than A: VIII, or, if not rated with Bests', with minimum surpluses the equivalent of Bests' surplus size VIII.

If at any time any of the foregoing policies fail to meet minimum requirements, the Tribe shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements, for approval.

C. In the alternative, either party to this Agreement may fulfill the insurance obligation contained herein by maintaining membership in a joint self-insurance program authorized by Chapter 48.62 RCW. In this regard, the parties understand that the party to this Agreement who is a member of such a program is not able to name the other party as "additional insured" under the liability coverage provided by the joint self-insurance program.

18. HOLD HARMLESS

- A. **Tribe Held Harmless.** The County shall indemnify and hold harmless the Tribe and its officers, agents, and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of any negligent act or omission of the County, its officers, officials, agents, and employees, or any of them relating to or arising out of performing services pursuant to this agreement. In the event that any such suit based upon such a claim, action, loss, or damages is brought against the Tribe, the County shall defend the same at its sole cost and expense; provided that the Tribe reserves the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment in said suit be rendered against the Tribe, and its officers, agents, and employees, or any of them, or jointly against the Tribe and the County and their respective officers, officials, agents, and employees, or any of them, the County shall satisfy the same.
- B. **County Held Harmless.** The Tribe shall indemnify and hold harmless the County and its officers, officials, agents, and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by any

reason of or arising out of any negligent act or omission of the Tribe, its officers, agents, and employees, or any of them relating to or arising out of performing services pursuant to this agreement. In the event that any suit based upon such a claim, action, loss, or damages is brought against the County, the Tribe shall defend the same at its sole cost and expense; provided that the County reserves the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against the County, and its officers, officials, agents, and employees, or any of them, or jointly against the County and the Tribe and its respective officers, agents, and employees, or any of them, the Tribe shall satisfy the same.

C. Waiver Under Washington Industrial Insurance Act. The foregoing indemnity is specifically intended to constitute a waiver of each party's immunity under Washington's Industrial Insurance Act, Chapter 51 RCW, as respects the other party only, and only to the extent necessary to provide the indemnified party with a full and complete indemnity of claims made by the indemnitor's employees. The parties acknowledge that these provisions were specifically negotiated and agreed upon by them.

D. In no event shall the County be responsible for indemnifying the Tribe for damages caused by or resulting from the sole negligence of the Tribe, and its elected officials, officers, employees, agents, contractors and/or subcontractors. In no event shall the Tribe be responsible for indemnifying the County for damages caused by or resulting from the sole negligence of the County, and its elected officials, officers, employees, agents, contractors and/or subcontractors.

19. LIABILITY RELATED TO ORDINANCES, POLICIES, RULES AND REGULATIONS

In executing this Agreement, the County does not assume liability or responsibility for or in any way release the Tribe from any liability or responsibility which arises in whole or in part from the existence or effect of Tribal ordinances, policies, rules or regulations. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such Tribal ordinance, policy, rule or regulation is at issue, the Tribe shall defend the same at its sole expense and, if judgment is entered or damages are awarded against the Tribe, the County, or both, the Tribe shall satisfy the same, including all chargeable costs and reasonable attorney's fees.

In executing this Agreement, the Tribe does not assume liability or responsibility for or in any way release the County from any liability or responsibility which arises in whole or in part from the existence or effect of County ordinances, policies, rules or regulations. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such County ordinance, policy, rule or regulation is at issue, the County shall defend the same at its sole expense and, if judgment is entered or damages are awarded against the County, the Tribe, or both, the County shall satisfy the same, including all chargeable costs and reasonable attorney's fees.

20. COMPLIANCE WITH LAWS

In the performance of its obligations under this Agreement, each party shall comply with all applicable federal, state, and local laws, rules and regulations.

21. LIMITED WAIVER OF SOVEREIGN IMMUNITY, DISPUTE RESOLUTION, AND VENUE

A. Limited Waiver of Sovereign Immunity. The Tribe expressly retains and reserves all rights and benefits of its inherent sovereign rights as a sovereign Tribe, including its rights as a federally-recognized Tribe to sovereign immunity from suit in any state, federal or tribal court without the Tribes' explicit consent. Nothing in this Agreement shall be deemed as a waiver of sovereign immunity or as increasing the Tribes' liability beyond any statutory or other limitation of liability, except as expressly stated herein.

The Tribes hereby expressly provides a limited waiver of sovereign immunity, subject to and conditioned on the following:

- (i) This limited waiver of immunity shall not extend to interpretation of the Treaty of Point Elliott, 12 Stat. 927, or the rights reserved by the Tribe under that Treaty. This limited waiver of sovereign immunity shall not extend to or be used for or to the benefit of any other person or entity of any kind or description whatsoever, including any successor or assigns of the County;
- (ii) To the extent that jurisdiction obtains, this limited waiver of immunity shall be deemed a consent to jurisdiction only in the United States District Court, Western District of Washington, and if that court lacks jurisdiction, a court of competent jurisdiction for the sole purpose of enforcing a final, binding arbitration award or decision in accordance with Section 21(B)(iii) or for the purposes set forth in Section 21(C).
- (iii) This limited waiver of immunity in favor of the County shall commence and become effective as of the effective date of this Agreement and shall remain in effect and extend for ten (10) years from the ending date under Section 2 or ten (10) years from earlier termination of this Agreement as set forth in Section 12 herein. Notwithstanding any applicable statute of limitations or other law, upon expiration of the above ten (10) year period that extends from the ending date or early termination of this Agreement under Section 12, this limited waiver of immunity shall be deemed withdrawn without further action by the Tribes or notice to the County.
- (iv) Nothing contained in this Agreement shall be deemed a consent to levy of any judgment, lien or attachment upon any assets, property or interest of the Tribe, with the exception that the Tribe consents to the levy of monetary arbitration judgments in favor of the County in accordance with Section 21(B)(iii) and consents for the purposes set forth in Section 21(C). Nothing contained in this Agreement, nor any

activity of the Tribe, shall implicate or in any way involve the trust assets or credit of the Tribe or any of its members.

(v) The Tribes hereby expressly provides a limited waiver of sovereign immunity to suit with respect to a claim of indemnification by the County in accordance with Section 21(C) and to enforce a final, binding arbitration award in accordance with Section 21(B)(iii). The Tribe's total liability to which this limited waiver applies shall not exceed the Tribe's required insurance amount herein. The parties agree that in discharging this indemnification obligation, where the required insurance is procured, the County shall look only to the proceeds of the insurance procured by the Tribes herein and the policy of insurance obtained by the Tribes. The Tribes agrees that it shall not assert a defense of sovereign immunity to a claim made under the policy to indemnify the County. The Tribes warrants its authority to and agrees to assign over to the County, at its request, any and all of its rights against the insurer to effectuate a payment of its indemnification obligation to the County.

(vi) The Tribe's limited waiver of sovereign immunity to suit is only with respect to claims:

(a) brought by the County to enforce the terms of the Agreement; or

(b) upon a claim of indemnification by the County due to third party claims against the County relating to, or arising under, the Agreement.

B. Dispute Resolution.

(i) This Dispute Resolution section applies only to disputes between the County and the Tribes, as referenced in Section 21(A)(vi)(a). The County and the Tribes shall, if possible, first attempt to resolve any disputes through informal negotiations. If that is not possible or is unsuccessful, the County and the Tribe shall elect to resolve the dispute through binding arbitration.

(ii) Informal negotiations shall require the County and the Tribe to attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. Either the County or the Tribe may give the other party written notice of any dispute not resolved in the normal course of business. Within 15 days after delivery of the notice, the receiving party shall submit to the other a written response. The notice and response shall include with reasonable particularity (i) a statement of each party's position and a summary of arguments supporting that position, and (ii) the name and title of the executive who will represent that party and of any other person who will accompany the executive. Within 30 days after delivery of the notice, the executives of both parties shall meet at a mutually acceptable time and place. Unless otherwise agreed in writing by the negotiating parties, the above-described negotiation shall end at the close of the first meeting of executives described above. Such closure

shall not preclude continuing or later negotiations, if desired. All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the parties, their agents, employees, experts and attorneys, are confidential, privileged, and inadmissible for any purposes, including impeachment, in arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation.

(iii) Arbitration. In the event the County and the Tribe are unable to resolve any controversy, claim, or dispute concerning Section 21(A)(vi)(a). of this Agreement, the County and the Tribe shall resolve any such controversy, claim, or dispute through binding arbitration conducted under Judicial Arbitration and Mediation Services (JAMS) rules. Prior to invoking arbitration, the parties may agree to mediation, in which event the parties will use their best efforts to select a mediation as soon as possible. The mediator's costs and attendant costs of mediation shall be borne equally by the parties. Either party may make a written demand for binding arbitration before a qualified arbitrator in Seattle, Washington, or at another place as the parties may agree in writing. Request for binding arbitration under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute, or completion of any informal negotiations conducted by the parties concerning the disputed action or position, whichever is later. A qualified arbitrator will mean a person generally familiar with the subject matter of the controversy, claim, or dispute with at least five years of arbitration experience, and knowledge of federal Indian law, if federal Indian law is part of the dispute. If the parties cannot agree on a single arbitrator, a three-person arbitration panel shall be selected as follows: each party shall select an arbitration panel member and the two selected panelists shall select a third. If the panelists cannot agree on a third arbitrator, the third arbitrator shall be selected by JAMS. The arbitration shall be administered by JAMS pursuant to its Expedited Procedures as now written or hereafter amended. Each party will pay for its own attorneys' fees and costs. The substantially prevailing party is entitled to reimbursement from the other party of all moneys it paid to the third arbitrator or JAMS related to the arbitration proceeding. The arbitrator's award shall be binding upon the parties and no appeal shall be permitted, except for a request to vacate under RCW 7.04A.230 or 9 U.S.C. § 10. The parties expressly agree that any arbitration judgment may be enforced in Snohomish County Superior Court.

(iv) In disputes between the Tribes and the County, each party shall bear its own attorneys' fees and costs.

C. Third Party Claims. The Tribes consents to the jurisdiction of a state or federal court of competent jurisdiction upon a claim of indemnification by the County, pursuant to Section 21(A)(vi)(b), in the event of third party claims against the County relating to, or arising under, this Agreement.

22. RELATIONSHIP TO EXISTING LAWS

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws. In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- A. Applicable state and federal statutes and regulations;
- B. Scope of Work (Exhibit B); and
- C. Any other provisions of the Agreement, including materials incorporated by reference.

23. GOVERNING LAW AND VENUE

This Agreement shall be governed by the laws of the State of Washington and the parties stipulate that any lawsuit arising out of or relating to the performance, breach, or enforcement of this Agreement shall be commenced in Snohomish County Superior Court. The parties shall bear their own costs and attorney's fees in any action brought under this section.

24. NON-WAIVER

The failure of the County to insist on strict performance of any term of this Agreement, or to exercise any option conferred by it, in any one or more instances, shall not be construed to be a waiver or relinquishment of that right or any right by the County, but the same shall be and remain in full force and effect.

25. NO ASSIGNMENT

This Agreement shall not be assigned, either in whole or in part, by either party without the express written consent of the other party, which may be granted or withheld in such party's sole discretion. Any attempt to assign this Agreement in violation of the preceding sentence shall be null and void and shall constitute a default under this Agreement.

26. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of the Agreement as determined by the County.

27. PUBLIC RECORDS ACT

This Agreement and all public records associated with this Agreement shall be available from the County for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW. To the extent that public records then in the custody of the Tribe are needed for the County to respond to a request under the Act, as determined by the County, the Tribe agrees to make them promptly available to the County. If the Tribe

considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Tribe shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Tribe and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Tribe (a) of the request and (b) of the date that such information will be released to the requester unless the Tribe obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Tribe fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Tribe to claim any exemption from disclosure under the Act. The County shall not be liable to the Tribe for releasing records not clearly identified by the Tribe as confidential or proprietary. The County shall not be liable to the Tribe for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

28. COUNTY NON-DISCRIMINATION

It is the policy of the County to reject discrimination which denies equal treatment to any individual because of his or her race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability as provided in Washington's Law against Discrimination, Chapter 49.60 RCW, and the Snohomish County Human Rights Ordinance, Chapter 2.460 SCC. These laws protect against specific forms of discrimination in employment, credit transactions, public accommodation, housing, county facilities and services, and county contracts.

The Tribe shall comply with the substantive requirements of Chapter 2.460 SCC, which are incorporated herein by this reference. Execution of this Agreement constitutes a certification by the Tribe of the Tribe's compliance with the requirements of Chapter 2.460 SCC. If the Tribe is found to have violated this provision, or to have furnished false or misleading information in an investigation or proceeding conducted pursuant to this Agreement or Chapter 2.460 SCC, this Agreement may be subject to a declaration of default and termination at the County's discretion. This provision shall not affect the Tribe's obligations under other federal, state, or local laws against discrimination.

29. MISCELLANEOUS

- A. No obligation in this Agreement shall limit the Tribe in fulfilling its responsibilities otherwise defined by law.
- B. No obligation in this Agreement shall limit the County in fulfilling its responsibilities otherwise defined by law.

30. WARRANTY OF AUTHORITY

Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this Agreement on behalf of the party for whom he or she purports to sign this Agreement.

31. NO JOINT VENTURE

Nothing contained in this Agreement shall be construed as creating any type or manner of partnership, joint venture or other joint enterprise between the parties.

32. NO SEPARATE ENTITY

The parties agree that no separate legal or administrative entities are necessary to carry out this Agreement.

33. OWNERSHIP OF PROPERTY

Except as expressly provided to the contrary in this Agreement, any real or personal property used or acquired by either party in connection with its performance under this Agreement will remain the sole property of such party, and the other party shall have no interest therein.

34. EXECUTION IN COUNTERPARTS

This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

IN WITNESS WHEREOF, the County and the Tribe have executed this Agreement as of the date first above written.

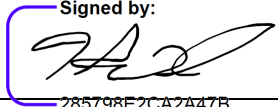
THE COUNTY:

Snohomish County, a political subdivision of the State of Washington

By _____
County Executive

THE TRIBE:

Tulalip Tribes of Washington, a federally-recognized Indian Tribe

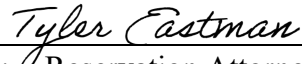
Signed by:
By  _____
Title: BOD Chair

Approved as to Form:

Guadamud, 
Rebecca
Deputy Prosecuting Attorney

Digitally signed by
Guadamud, Rebecca
Date: 2026.06.03
15:55:28 -07'00'

Approved as to Form:


Title: Reservation Attorney

Approved as to Insurance Provision:

Risk Management

EXHIBIT A Premises

A Portion of Tax Parcel Number: 27061300401700

Legal Description: That portion entirely within the Southeast Quarter of Section 13 Township 27 North, Range 6 East, W.M.:

That portion of Chicago Milwaukee St Paul, and Pacific Railway Company right-of-way including all extra-width right-of-way beginning perpendicular to the right-of-way centerline approximately 150 feet Southwest of the East-West Quarter line of the Northwest Quarter of Section 24, Township 27 North, Range 6 East, W.M. (Railroad Engineering Station 967+51.5) and proceeding in a generally Northerly direction through Sections 24 and 13, Township 27 North, Range 6 East, W.M., thence through Section 18, 7 and 6, Township 27 North, Range 7 East W.M., across the Skykomish River Bridge to the midpoint of the Woods Creek Bridge at the East-West half Section line, Section 6, Township 27 North, Range 7 East, W.M. (Railroad Engineering Station 1130+97).

SUBJECT TO Easements, restrictions, and reservations of record.

Situate in the County of Snohomish, State of Washington.

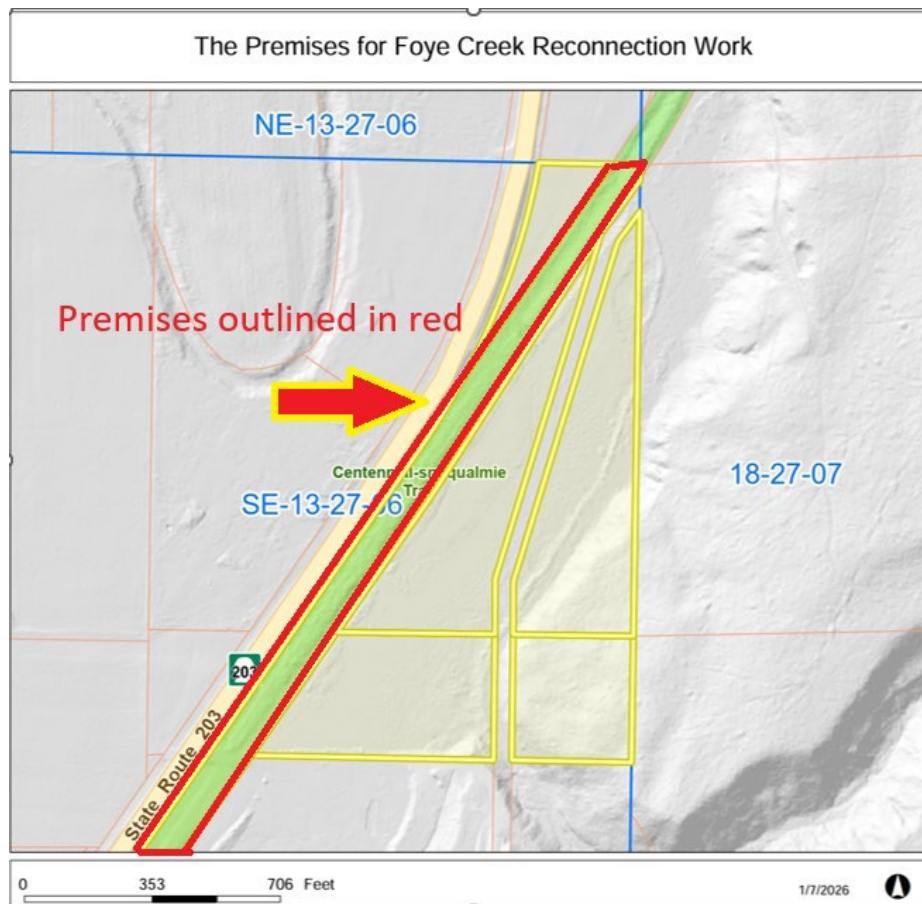
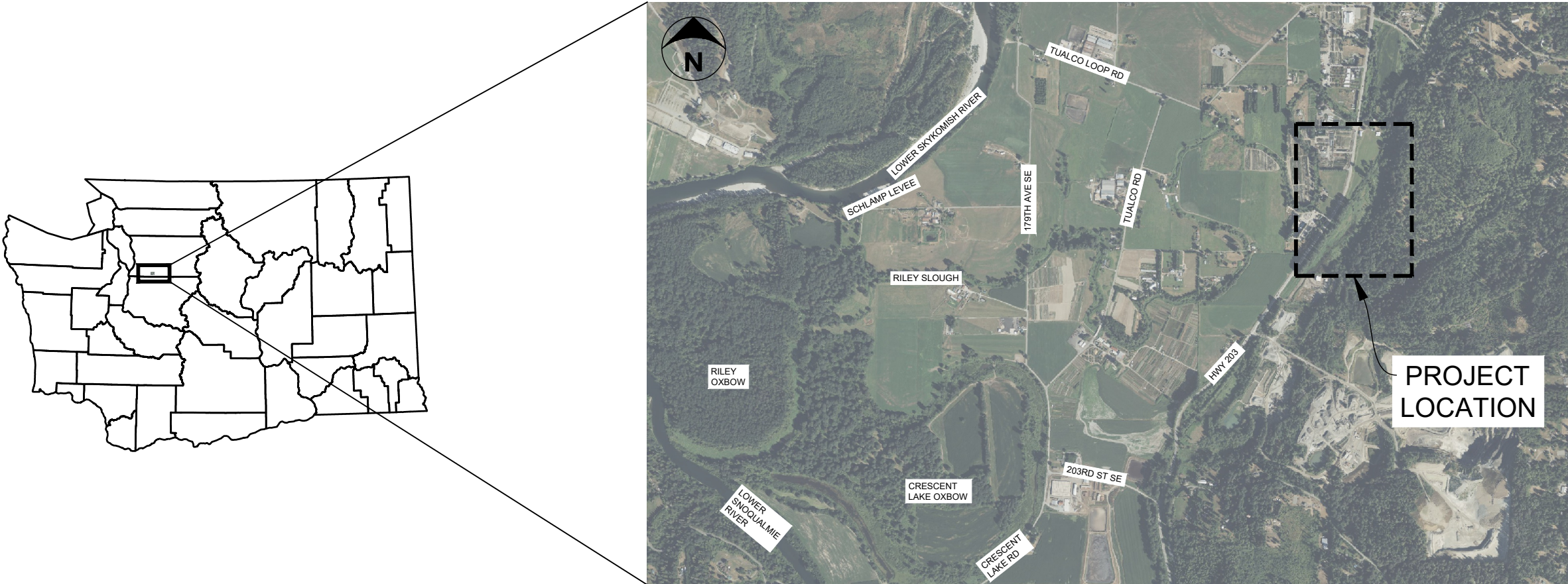


EXHIBIT B
Project Plans

TULALIP TRIBES FOYE CREEK RECONNECTION

90% DESIGN - NOT FOR CONSTRUCTION - MARCH 2025

PROJECT LOCATION: SNOHOMISH COUNTY, WASHINGTON



VICINITY MAP

1" = 1000'

SHEET INDEX	
SHEET ID	SHEET TITLE
G-1	COVER SHEET
G-2	GENERAL NOTES AND ABBREVIATIONS
C-01	EXISTING CONDITIONS WITH AERIAL
C-02	EXISTING CONDITIONS WITH LIDAR
C-03	PROPOSED SITE PLAN
C-04	PROPOSED SITE PLAN WITH LIDAR
C-05	LARGE WOOD PLACEMENT PLAN
C-06	BERM PROFILE AND DETAIL
C-07	BERM SECTIONS - 1
C-08	BERM SECTIONS - 2
C-09	CHANNEL PROFILE
C-10	CHANNEL GRADING SECTION
C-11	STAGING, ACCESS, & TESC
C-12	DETAILS - TESC
C-13	DETAILS - WOOD STRUCTURES (1)
C-14	DETAILS - WOOD STRUCTURES (2)
C-15	DETAILS - WOOD STRUCTURES (3)
C-16	SITE RESTORATION

PROJECT TEAM

PROJECT SPONSOR:

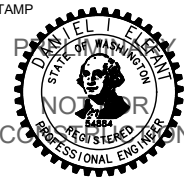
BRETT SHATTUCK
THE TULALIP TRIBES
6406 MARINE DR
TULALIP, WA 98271

PROJECT MANAGER / HYDRAULIC ENGINEER

DAN ELEFANT, PE
ENVIRONMENTAL SCIENCE ASSOCIATES
2801 ALASKAN WAY, SUITE 200
SEATTLE, WA 98121

HYDRAULIC ENGINEER

GREG WOLOVEKE, PE
ENVIRONMENTAL SCIENCE ASSOCIATES
2801 ALASKAN WAY, SUITE 200
SEATTLE, WA 98121



FOYE CREEK
RE-CONNECTION
CONCEPTUAL DESIGN
SNOHOMISH COUNTY, WA

REVISIONS		
#	DATE	DESCRIPTION

DESIGNED	--
DRAWN	--
CHECKED	--
IN CHARGE	--

PROJECT NUMBER	D202100832
ISSUE DATE	02/25/2025

SCALE IS AS SHOWN WHEN
PLOTTED TO FULL SIZE (22"x34")

PHASE	90% DESIGN
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SHEET TITLE

COVER SHEET

SHEET NUMBER

G-1

SHEET 1 OF 18

TESC NOTES

1. EVERY REASONABLE EFFORT SHALL BE MADE TO CONDUCT THE ACTIVITIES SHOWN IN THESE PLANS, IN A MANNER THAT MINIMIZES THE ADVERSE IMPACT ON WATER QUALITY, FISH AND WILDLIFE, AND THE NATURAL ENVIRONMENT.
2. ALL WORK SHALL BE IN COMPLIANCE WITH PERMIT CONDITIONS ISSUED BY PERTINENT REGULATORY AGENCIES. IT IS THE CONTRACTOR'S RESPONSIBILITY TO HAVE COPIES OF ALL PERMITS ON THE JOB SITE, UNDERSTAND AND COMPLY WITH ALL PERMIT CONDITIONS.
3. ALL WORK THAT DISTURBS THE SUBSTRATE, BANK, OR SHORE OF A WATERS OF THE STATE THAT CONTAINS FISH LIFE SHALL BE CONDUCTED ONLY DURING THE WORK PERIOD FOR THAT WATERBODY AS ALLOWED BY RELEVANT HYDRAULIC WORK PERMITS. THOSE PORTIONS OF THE PROJECT WORK THAT OCCUR OUTSIDE OR ABOVE THE ORDINARY HIGH WATER MARK (ABOVE THE USAGE JURISDICTIONAL LINE) ARE NOT SUBJECT TO THE WORK PERIODS DESCRIBED ABOVE UNLESS SPECIFIED IN THE RELEVANT PERMITS.
4. ALL ACTIVITIES THAT INVOLVE WORK ADJACENT TO, OR WITHIN THE WETTED CHANNEL SHALL AT ALL TIMES REMAIN CONSISTENT WITH ALL APPLICABLE WATER QUALITY STANDARDS AND MANAGEMENT PRACTICES ESTABLISHED PURSUANT TO THE CLEAN WATER ACT OR PURSUANT TO APPLICABLE STATE AND LOCAL LAW.
5. IF AT ANY TIME, AS A RESULT OF PROJECT ACTIVITIES, FISH ARE OBSERVED IN DISTRESS, A FISH KILL OCCURS, OR WATER QUALITY PROBLEMS DEVELOP (INCLUDING EQUIPMENT LEAKS OR SPILLS), OPERATIONS SHALL CEASE AND THE OWNER SHALL BE NOTIFIED IMMEDIATELY.
6. THE CONTRACTOR SHALL OBTAIN AT THEIR OWN EXPENSE ALL NECESSARY PERMITS, LICENSES, INSURANCE POLICIES, ETC., NOT ALREADY OBTAINED BY SNOHOMISH COUNTY.

1. TOPOGRAPHIC AND BATHYMETRIC DATA FROM MULTIPLE SOURCES INCLUDING:
 - 2014 LIDAR FROM WA DNR LIDAR PORTAL
2. A GROUND-BASED TOPOGRAPHIC SURVEY WAS COMPLETED BY ESA IN 2021 TO VALIDATE LIDAR TOPOGRAPHY. THE RESULTS FROM THIS SURVEY WERE NOT INCORPORATED INTO THE EXISTING CONDITIONS SURFACE AND INSTEAD WERE USED TO VERIFY ACCURACY OF LIDAR.
3. UNLESS NOTED OTHERWISE ON THE PLANS, THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING SURVEY MONUMENTS AND OTHER SURVEY MARKERS DURING CONSTRUCTION.
4. THE CONTRACTOR SHALL MAINTAIN A SET OF PLANS ON THE JOB SHOWING "AS-CONSTRUCTED" CHANGES MADE TO DATE. UPON COMPLETION OF THE PROJECT, THE CONTRACTOR SHALL SUPPLY TO OWNER A SET OF PLANS, MARKED UP TO THE SATISFACTION OF THE OWNER, REFLECTING THE AS-CONSTRUCTED MODIFICATIONS. OWNER SHALL REVIEW AS-BUILT NOTES AT WEEKLY CHECK-IN MEETINGS.
5. ELEVATIONS SHOWN ON THE PLANS FOR TOE OF SLOPE, TOPS OF BANKS, THALWEG, GRADE CONTROLS, ETC. ARE BASED UPON THE TOPOGRAPHIC INFORMATION SHOWN ON THE PLANS. THE CONTRACTOR SHALL VERIFY ALL NECESSARY SURFACE ELEVATIONS IN THE FIELD AND NOTIFY THE OWNER OF ANY DISCREPANCIES, WHICH MIGHT AFFECT PROPER ORIENTATION OF THE NEW FACILITIES BEFORE BREAKING GROUND AND PRIOR TO FACILITY INSTALLATION. THE OWNER SHALL BE CONTACTED IN THE EVENT ELEVATIONS ARE INCORRECT SO THAT THE PROPER ADJUSTMENTS CAN BE MADE BY ENGINEER PRIOR TO THE INSTALLATION OF THE FACILITIES, AS SET FORTH IN THE SPECIAL PROVISIONS.

THE CONTRACTOR SHALL PROVIDE, PLACE, AND MAINTAIN ALL LIGHTS, SIGNS, BARRICADES, FLAG PERSONS, OR OTHER DEVICES NECESSARY TO CONTROL TRAFFIC THROUGH THE CONSTRUCTION AREA AND FOR PUBLIC SAFETY AS ALLOWED BY THE COUNTY ENGINEER, THE STANDARD SPECIFICATIONS, AND THE FEDERAL HIGHWAY ADMINISTRATION (FHWA) MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD) CURRENT EDITION.

CONTRACTOR IS RESPONSIBLE FOR LOCATING UTILITIES PRIOR TO BEGINNING WORK.

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR IMPLEMENTING ALL TEMPORARY EROSION CONTROL MEASURES. THE EROSION CONTROL MEASURES SHALL BE IN ACCORDANCE WITH ALL FEDERAL, STATE, AND LOCAL REQUIREMENTS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE MAINTENANCE AND PERFORMANCE OF THE TEMPORARY EROSION CONTROL MEASURES THROUGHOUT THE DURATION OF THE PROJECT.
2. A SEDIMENT AND EROSION CONTROL PLAN SHALL BE DEVELOPED BY THE CONTRACTOR AND SUBMITTED FOR APPROVAL BY OWNER AND/OR THE ENGINEER BEFORE ANY CONSTRUCTION MAY BEGIN. THE SEDIMENT AND EROSION CONTROL PLAN WILL IDENTIFY BEST MANAGEMENT PRACTICES TO ENSURE THAT THE TRANSPORT OF SEDIMENT TO SURFACE WATERS, DRAINAGE SYSTEMS, AND ADJACENT PROPERTIES IS MINIMIZED.
3. ACTIVITIES SHALL BE DESIGNED AND CONSTRUCTED TO AVOID AND MINIMIZE ADVERSE IMPACTS TO STATE AND FEDERAL WATERS TO THE MAXIMUM EXTENT PRACTICAL THROUGH THE USE OF PRACTICAL ALTERNATIVES. ALTERNATIVES THAT SHALL BE CONSIDERED INCLUDE THOSE THAT MINIMIZE THE NUMBER AND EXTENT OF IN-WATER WORK AND EQUIPMENT CROSSINGS OF WETTED CHANNELS.
4. AT NO TIME SHALL SEDIMENT-LADEN WATER BE DISCHARGED OR PUMPED DIRECTLY INTO THE SUBJECT RIVER, STREAM, OR WETLAND. WATER SHALL BE DISCHARGED IN ACCORDANCE WITH REQUIREMENTS SET FORTH IN THE PROJECT PERMITS AND/OR SPECIFICATIONS.
5. IF HIGH WATER LEVEL CONDITIONS THAT CAUSE SILTATION OR EROSION ARE ENCOUNTERED DURING CONSTRUCTION, WORK SHALL STOP UNTIL THE WATER LEVEL SUBSIDES.
6. PERMIT CONDITIONS CONTAIN SPECIFIC REQUIREMENTS FOR THE CONTROL OF EROSION AND TURBIDITY FROM PROJECT OPERATIONS. TURBIDITY WILL BE MONITORED ON A FREQUENT BASIS BY THE PROJECT MANAGEMENT AND INSPECTION STAFF ON-SITE. TURBIDITY AMOUNTS IN EXCESS OF THE PERMITTED CONCENTRATIONS AND/OR DURATIONS WILL CAUSE WORK TO BE STOPPED UNTIL IMPROVED PRACTICES ARE IN EFFECT AND THE PROBLEMS CONTROLLED. THE CONTRACTOR IS COMPLETELY RESPONSIBLE FOR ANY PROJECT DELAYS THAT OCCUR BY NATURE OF THIS FAILURE TO ADEQUATELY CONTAIN SEDIMENT ON-SITE.
7. CONTRACTOR SHALL LIMIT MACHINERY MOVEMENT TO CONSTRUCTION AREAS DEFINED ON SITE PLAN OR IDENTIFIED AS ACCEPTABLE BY THE ENGINEER OR OWNER.
8. ALL EXTERNAL GREASE AND OIL SHALL BE PRESSURE-WASHED OFF EQUIPMENT PRIOR TO MOBILIZATION TO THE SITE.
9. ALL EQUIPMENT OPERATING BELOW OHWM SHALL UTILIZE READILY BIODEGRADABLE VEGETABLE-BASED HYDRAULIC FLUIDS [8-01.3(1)C6].
10. THE CONTRACTOR IS RESPONSIBLE TO ENSURE THAT NO PETROLEUM PRODUCTS, HYDRAULIC FLUID, SEDIMENTS, SEDIMENT-LADEN WATER, CHEMICALS, OR ANY OTHER TOXIC OR DELETERIOUS MATERIALS ARE ALLOWED TO ENTER OR LEACH INTO THE SUBJECT RIVER, STREAM, OR WETLAND.
11. THE CONTRACTOR SHALL HAVE AN EMERGENCY SPILL KIT ONSITE AT ALL TIMES.
12. NO TREES OR WETLAND VEGETATION SHALL BE REMOVED UNLESS THEY ARE SHOWN AND NOTED TO BE REMOVED ON THE PLANS OR AS DIRECTLY SPECIFIED ON-SITE BY THE CONTRACTING OFFICER. ALL TREES CONFLICTING WITH GRADING SHALL BE REMOVED. NO GRADING SHALL TAKE PLACE WITHIN THE DRIP LINE OF TREES NOT TO BE REMOVED UNLESS OTHERWISE APPROVED.
13. FOLLOWING CONSTRUCTION, SITE RESTORATION WILL INCLUDE NATIVE SEEDING TO ESTABLISH LONG-TERM EROSION PROTECTION MEASURES. EQUIPMENT AND EXCESS SUPPLIES WILL BE REMOVED AND THE WORK AREA WILL BE CLEANED. MAINTENANCE ACTIVITIES FOR THE NEWLY CONSTRUCTED RESTORATION PROJECTS ARE ANTICIPATED TO OCCUR PERIODICALLY.

IN	INCH	ST	STREET
INCL	INCLUDES	STA	STATION
LF	LINEAR FEET	TEMP	TEMPORARY
LGP	LOW GROUND PRESSURE	TESC	TEMPORARY EROSION AND SEDIMENT CONTROL
LIDAR	LIGHT DETECTION AND RANGING	THW	THALWEG
MAX	MAXIMUM	TP	TIMBER PILE
MIN	MINIMUM	TYP	TYPICAL
MUTCD	MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES	US	UPSTREAM
N	NORTH, NORTHING	VERT, V	VERTICAL
NO.	NUMBER	W	WEST
(N)	NEW	W/	WITH
NAD83	NORTH AMERICAN DATUM OF 1983	W/O	WITHOUT
NAVD88	NORTH AMERICAN VERTICAL DATUM OF 1988	WA	WASHINGTON
NTS	NOT TO SCALE	WSDOT	WASHINGTON STATE DEPARTMENT
OC	ON CENTER		OF TRANSPORTATION
OHW	ORDINARY HIGH WATER	W&W	WETLAND AND WATERS
PIP	PROTECT IN PLACE		
PR	PROPOSED		
PREP	PREPARATION		
QTY	QUANTITY		
RB	RACKING BUNDLE		
S	SOUTH		
SE	SOUTHEAST		
SF	SILT FENCE OR SQUARE FEET		
SHT	SHEET		



PROJECT NAME

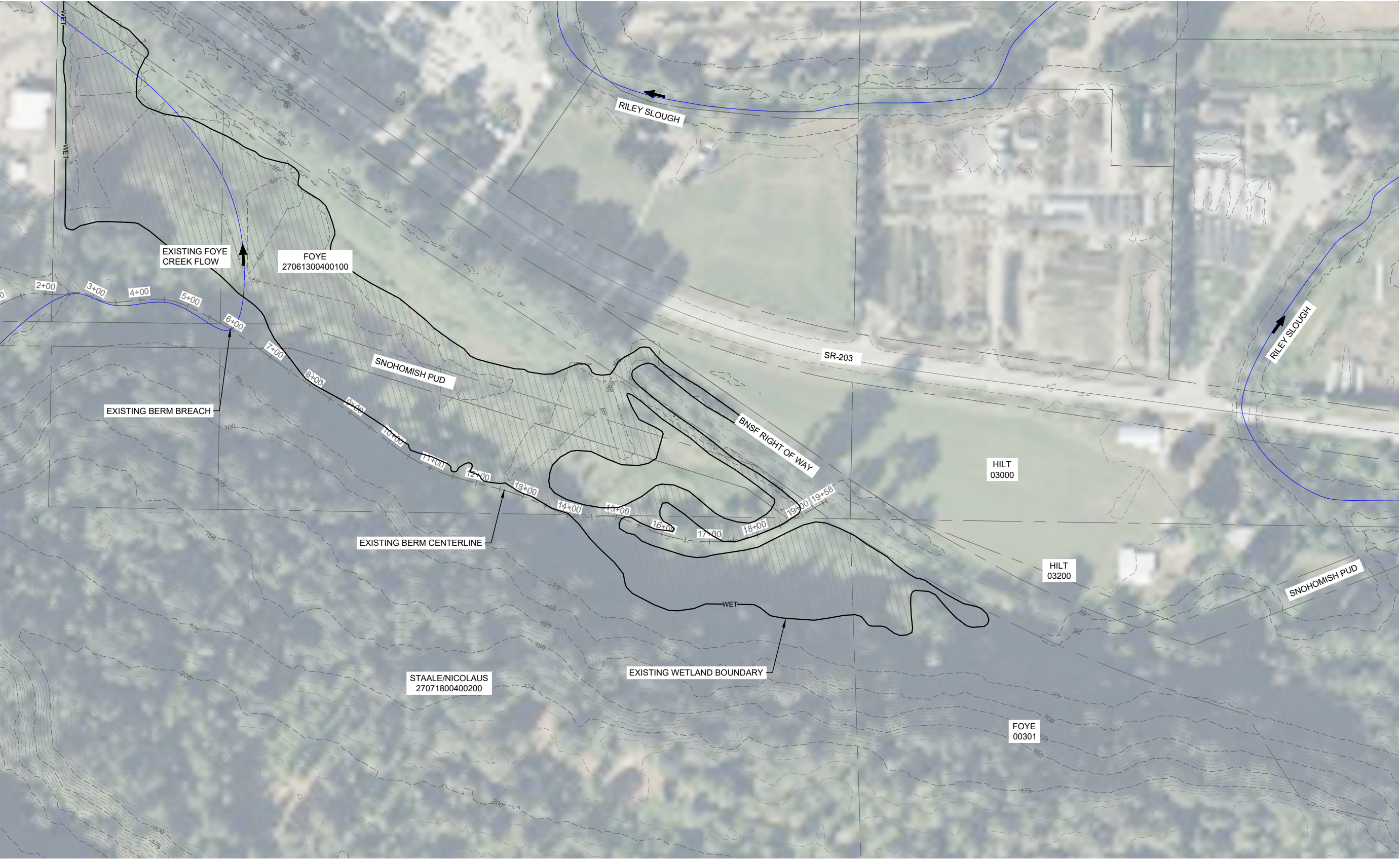
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SHEET TITLE

SHEET NUMBER

G-2

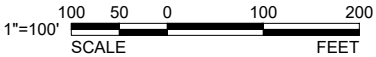
SHEET 2 OF 18



LEGEND

- PARCEL BOUNDARY
- STREAM
- 5' EXISTING CONTOUR
- 25' EXISTING CONTOUR
- EXISTING ROAD

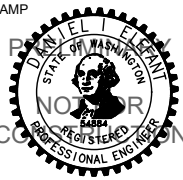
EXISTING CONDITIONS - FOYE CREEK
PLAN SCALE: 1" = 100'





2801 ALASKAN WAY,
SUITE. 200
SEATTLE, WA 98121
OFFICE - 206.789.9658
WWW.ESASSOC.COM

STAMP



CONSULTANT



PROJECT NAME

FOYE CREEK
RE-CONNECTION
CONCEPTUAL DESIGN

SNOHOMISH COUNTY, WA

REVISIONS		
#	DATE	DESCRIPTION
DESIGNED	--	
DRAWN	--	
CHECKED	--	
IN CHARGE	--	

PROJECT NUMBER D202100832
ISSUE DATE 02/25/2025
SCALE IS AS SHOWN WHEN
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PHASE
90% DESIGN

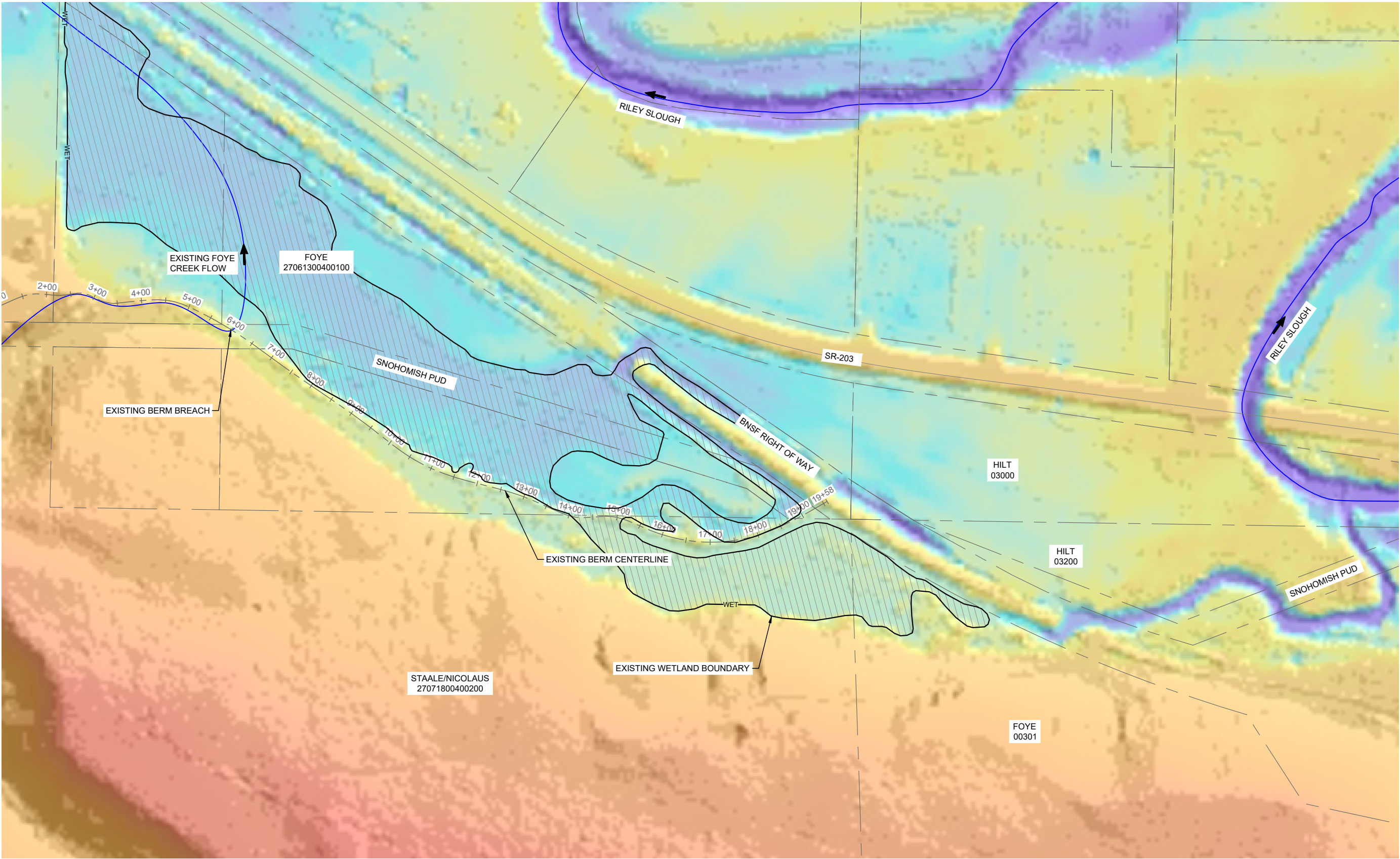
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EXISTING
CONDITIONS WITH
AERIAL

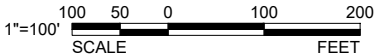
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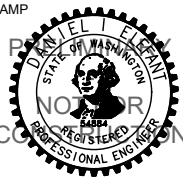
EXISTING CONDITIONS - FOYE CREEK
PLAN SCALE: 1" = 100'





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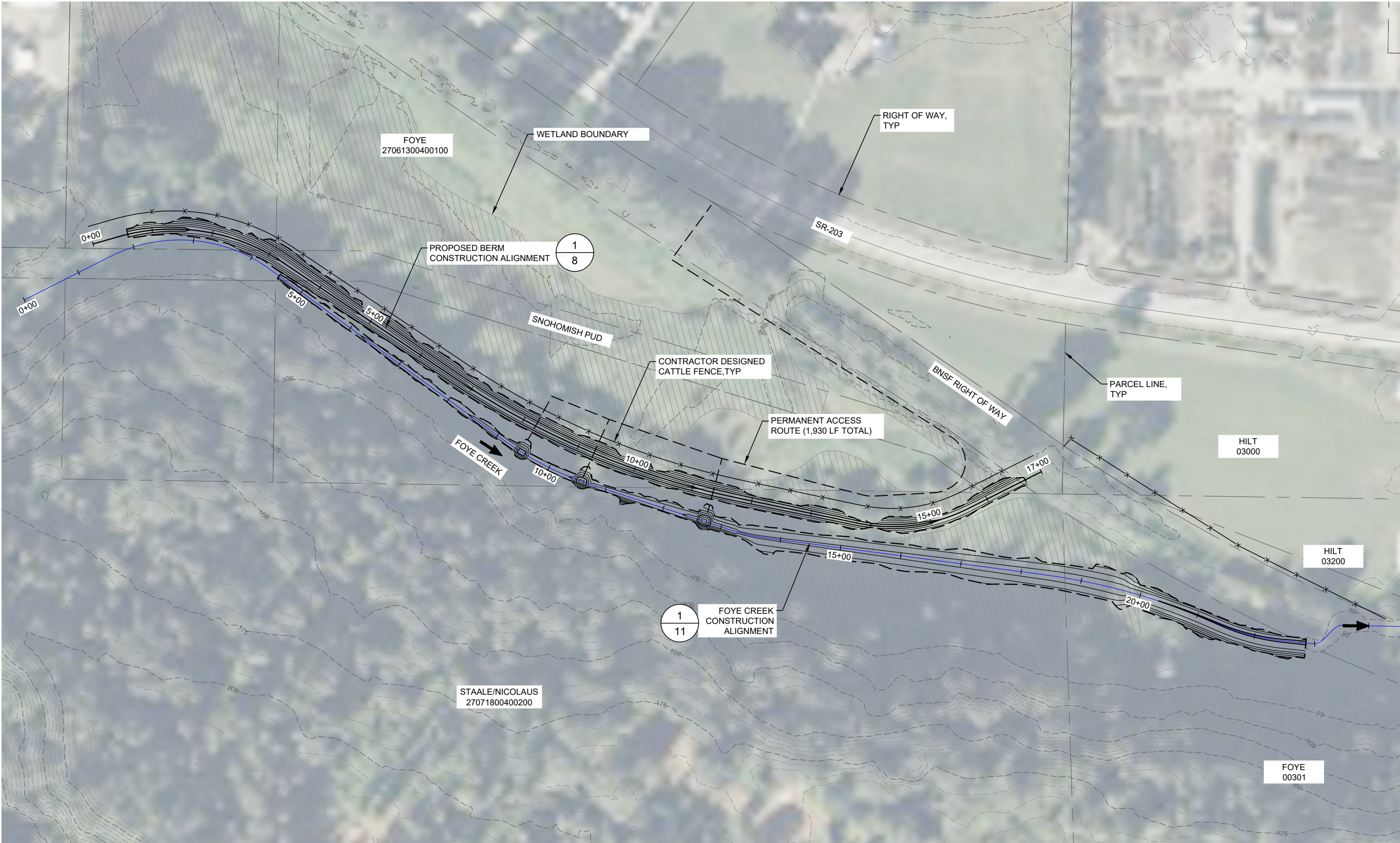
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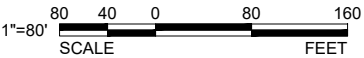
EXISTING
CONDITIONS WITH
LIDAR

SHEET NUMBER
C-02
SHEET 4 OF 18

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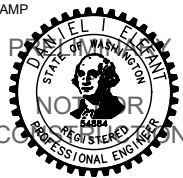
PROPOSED GRADING
PLAN SCALE: 1" = 80'





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SNOHOMISH COUNTY, WA

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PHASE

90% DESIGN

SHEET TITLE

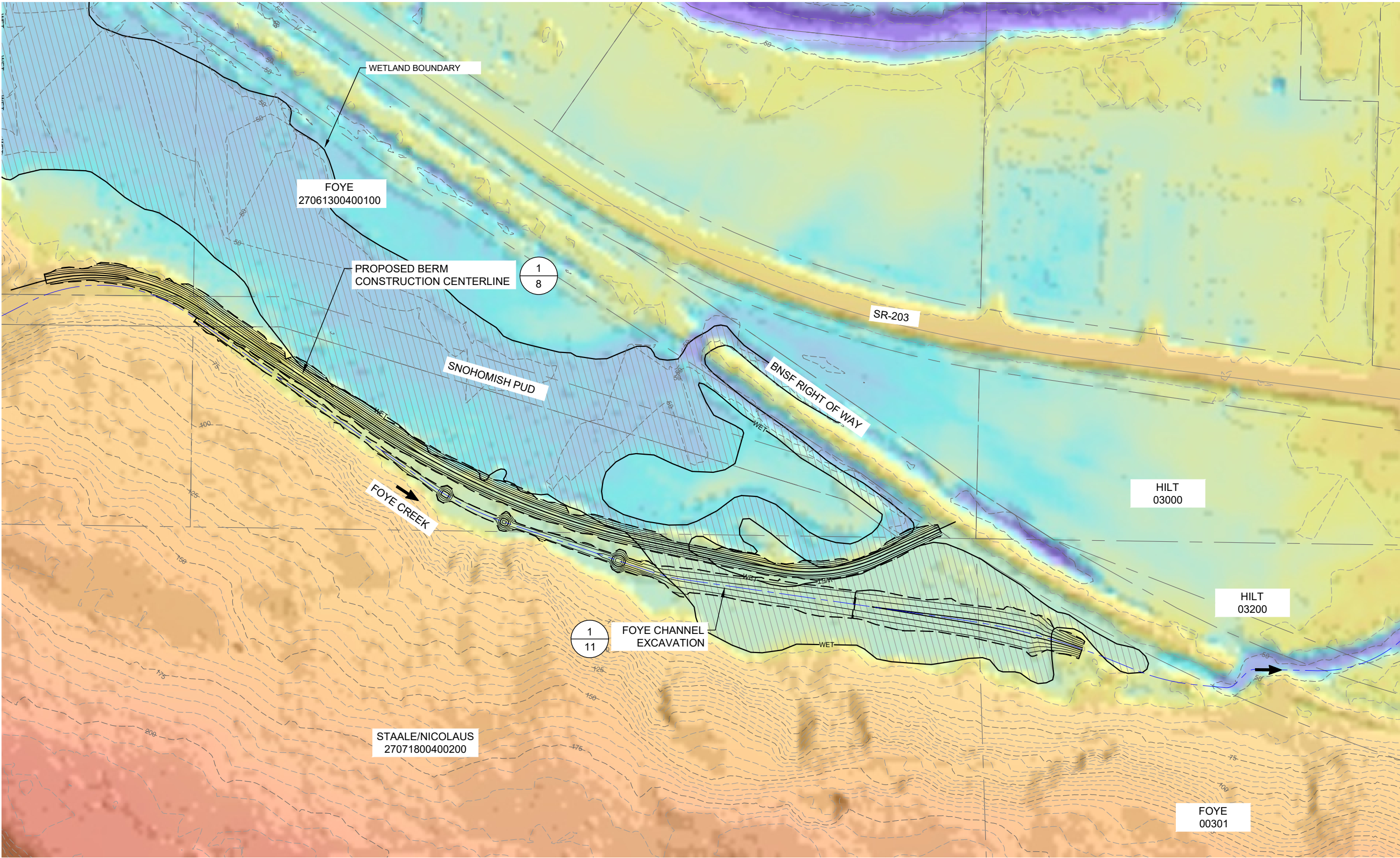
PROPOSED SITE
PLAN

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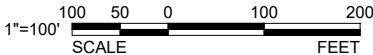
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SHEET 5 OF 18

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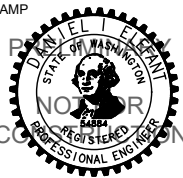
PROPOSED GRADING - LIDAR
PLAN SCALE: 1" = 80'





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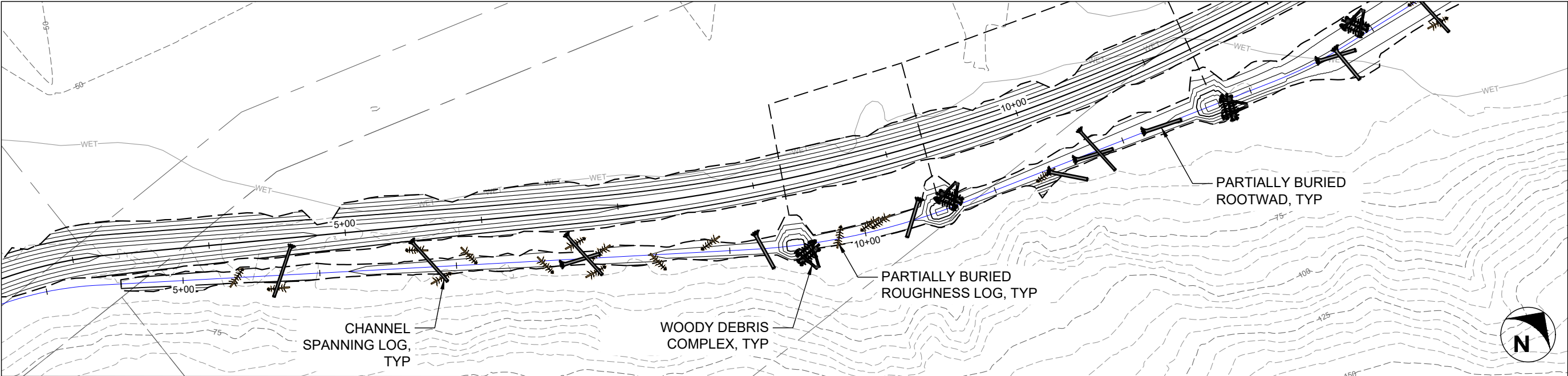
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1" = 80'

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90% DESIGN

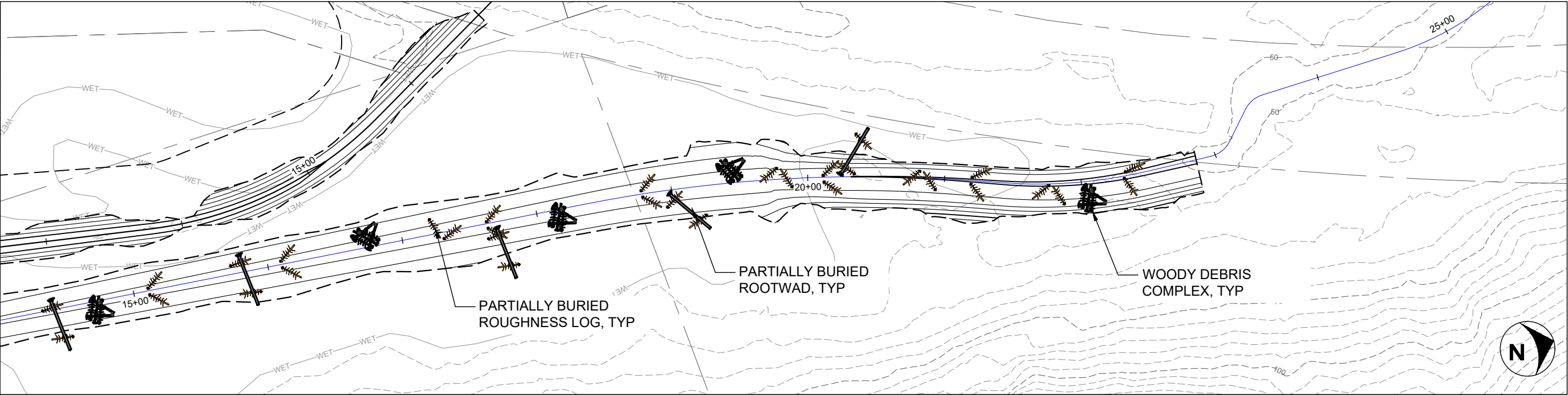
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PROPOSED SITE
PLAN WITH LIDAR

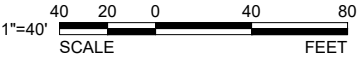
SHEET NUMBER
C-04
SHEET 6 OF 18



WOOD LAYOUT - STA 4+00 TO STA 14+00
PLAN SCALE: 1" = 40'



WOOD LAYOUT - STA 14+00 TO STA 23+00
PLAN SCALE: 1" = 40'



ESA
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OFFICE - 206.789.9658
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STAMP
DANIEL E. ELLIOTT
STATE OF WASHINGTON
REGISTERED
PROFESSIONAL ENGINEER

CONSULTANT
TULALIP TRIBES

PROJECT NAME
FOYE CREEK
RE-CONNECTION
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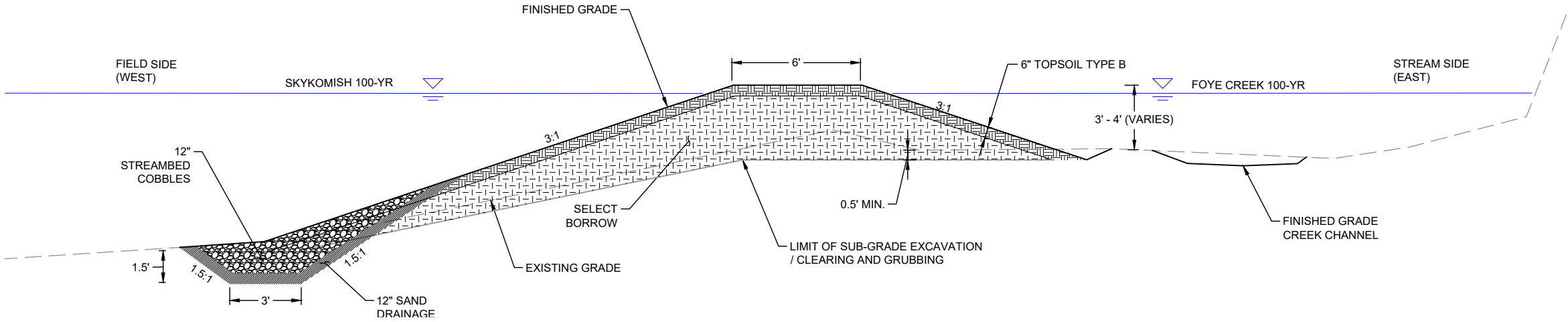
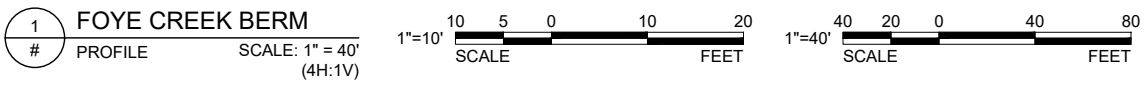
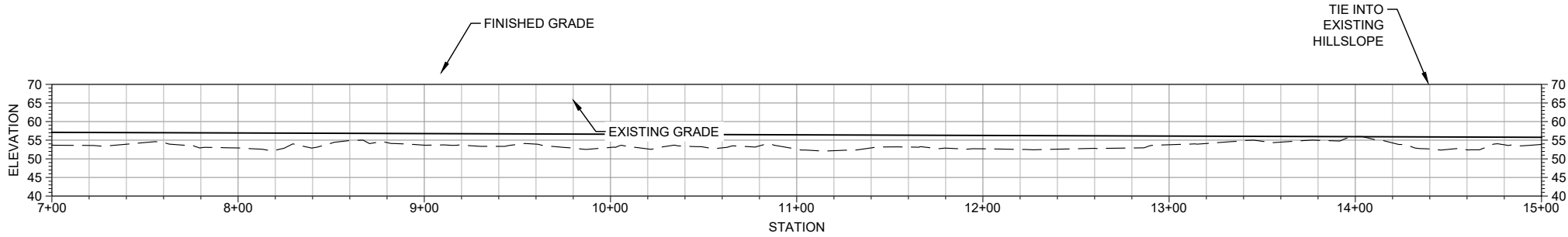
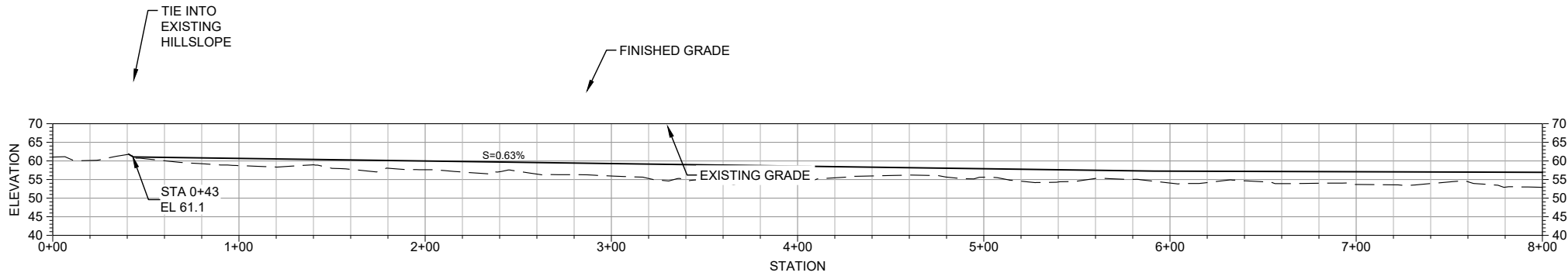
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PHASE
90% DESIGN

SHEET TITLE

LARGE WOOD
PLACEMENT PLAN

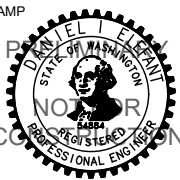
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SHEET 7 OF 18



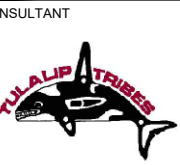


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CONSULTANT



PROJECT NAME

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SNOHOMISH COUNTY, WA

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SCALE IS AS SHOWN WHEN PLOTTED TO FULL SIZE (22"x34")

PHASE 90% DESIGN

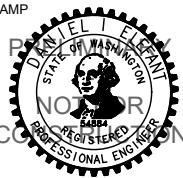
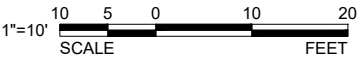
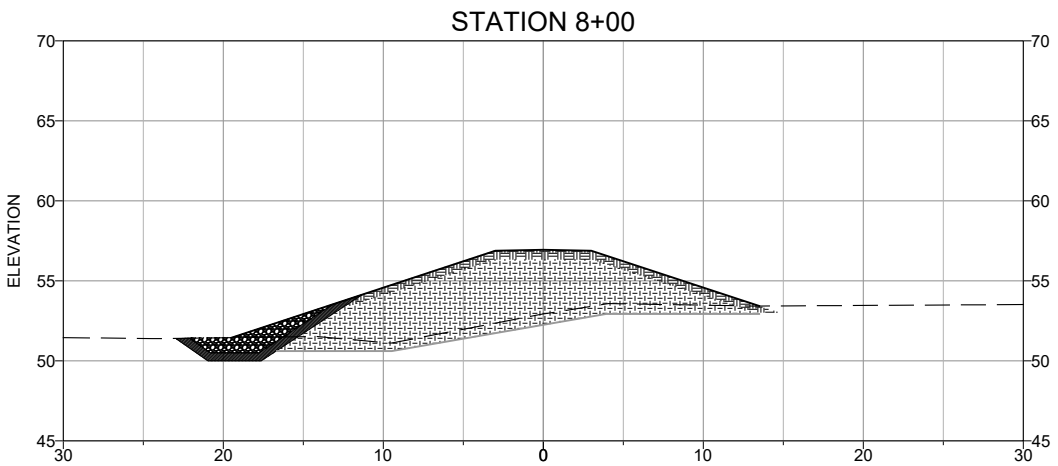
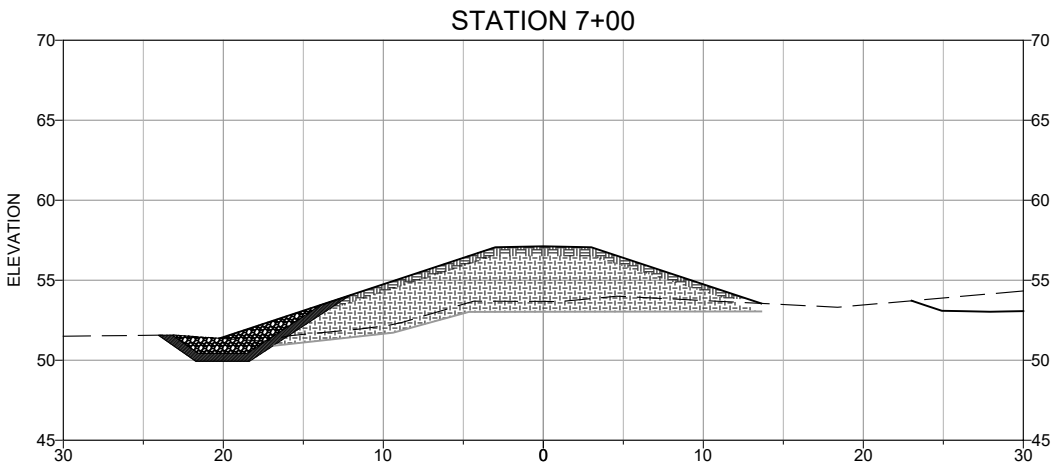
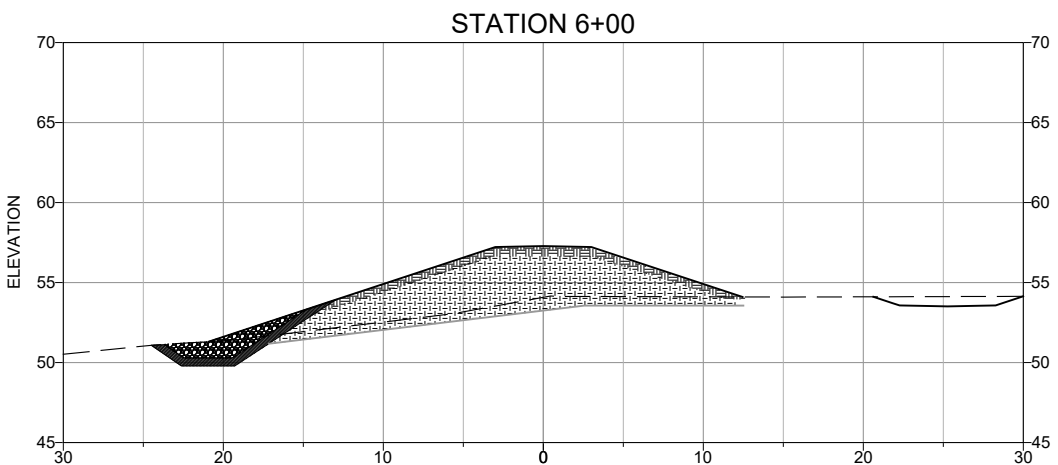
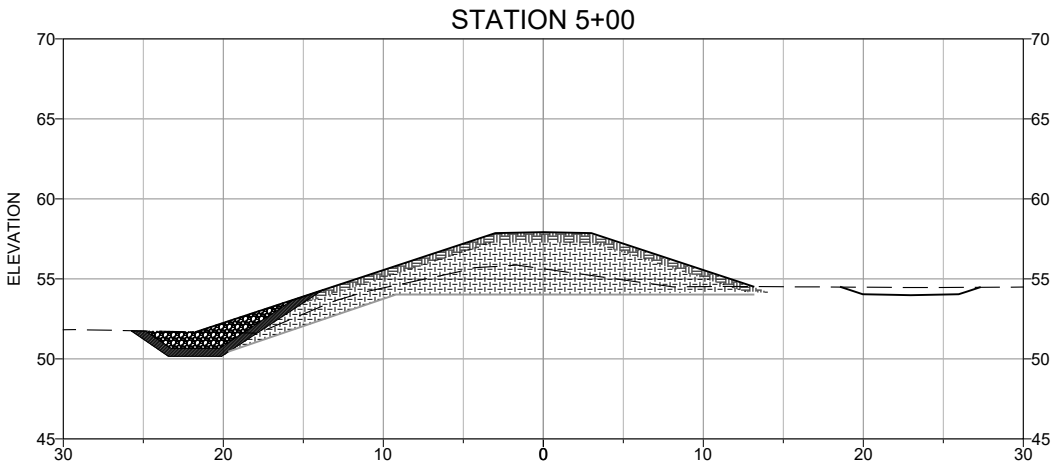
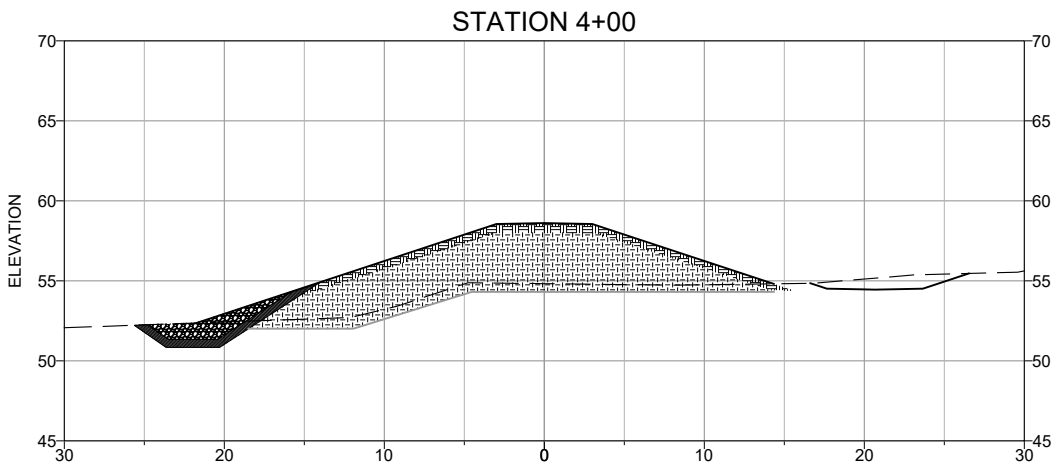
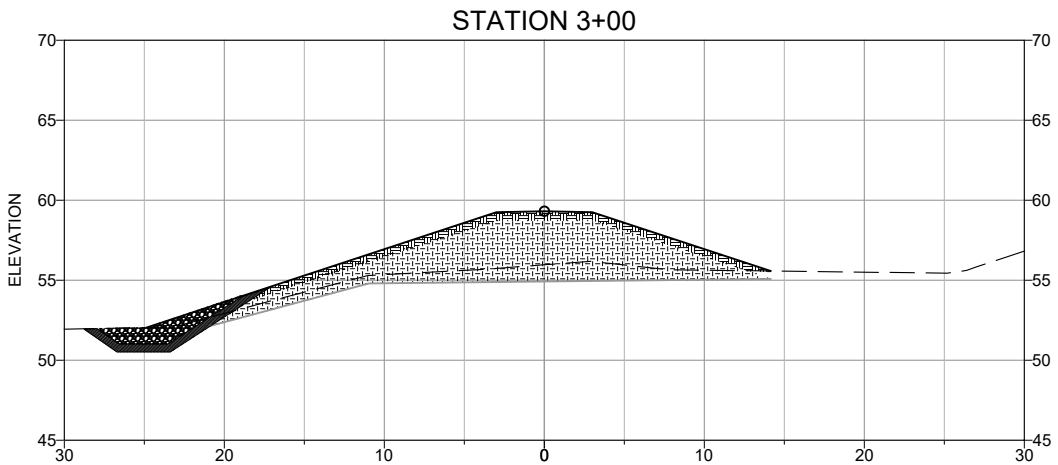
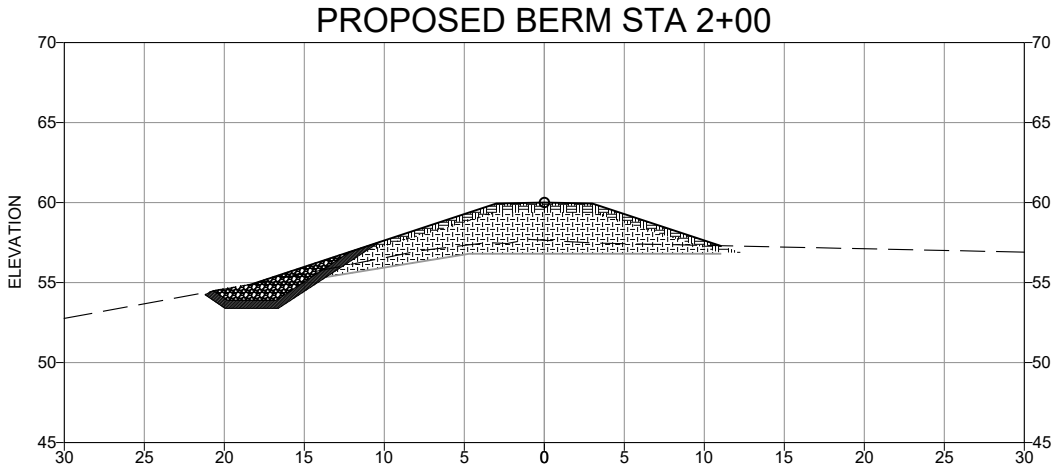
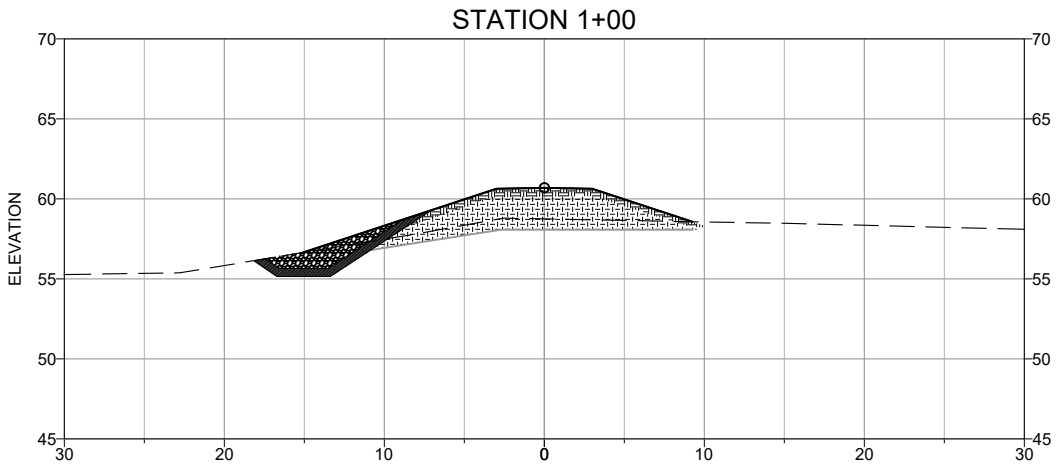
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BERM PROFILE AND
DETAIL

SHEET NUMBER

C-06

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PROJECT NAME

FOYE CREEK
RE-CONNECTION
CONCEPTUAL DESIGN

SNOHOMISH COUNTY, WA

REVISIONS		
#	DATE	DESCRIPTION
DESIGNED --		
DRAWN --		
CHECKED --		
IN CHARGE --		
PROJECT NUMBER D202100832		
ISSUE DATE 02/25/2025		
SCALE IS AS SHOWN WHEN PLOTTED TO FULL SIZE (22"x34")		

PHASE

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SHEET TITLE

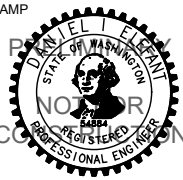
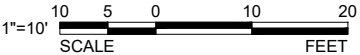
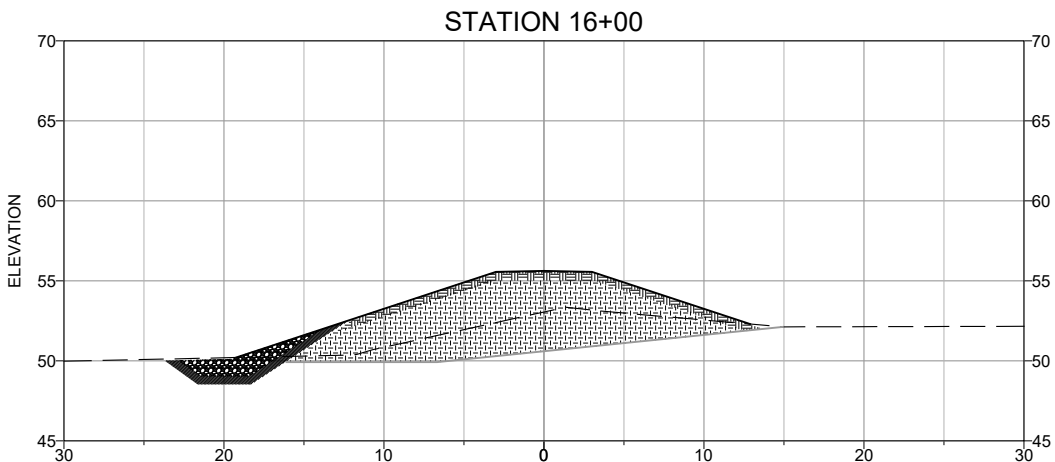
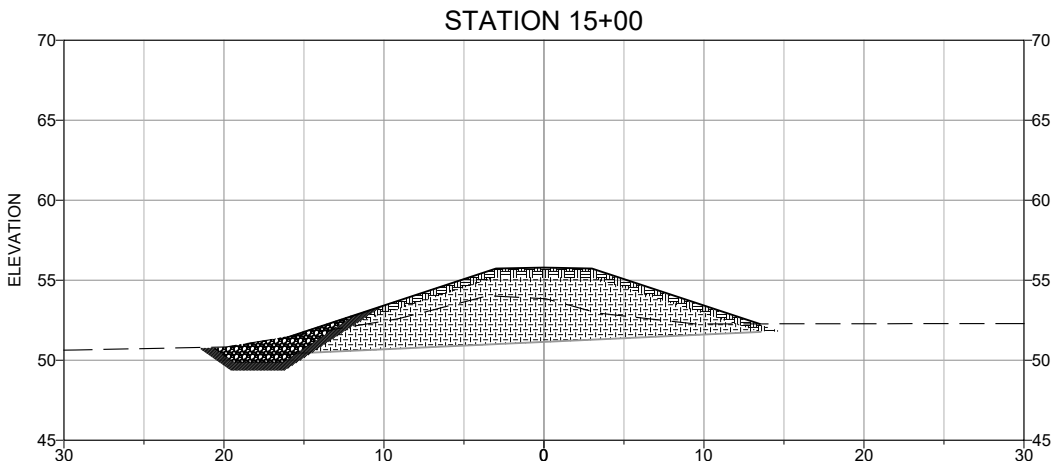
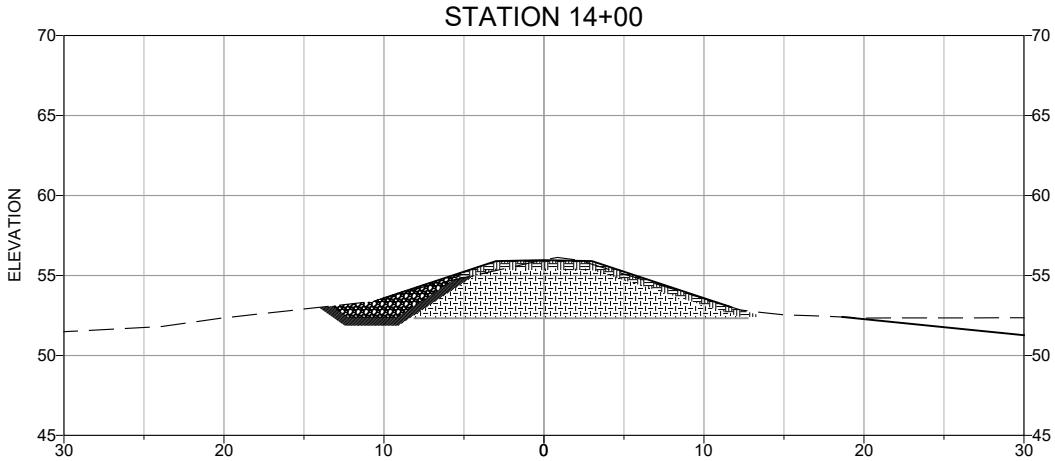
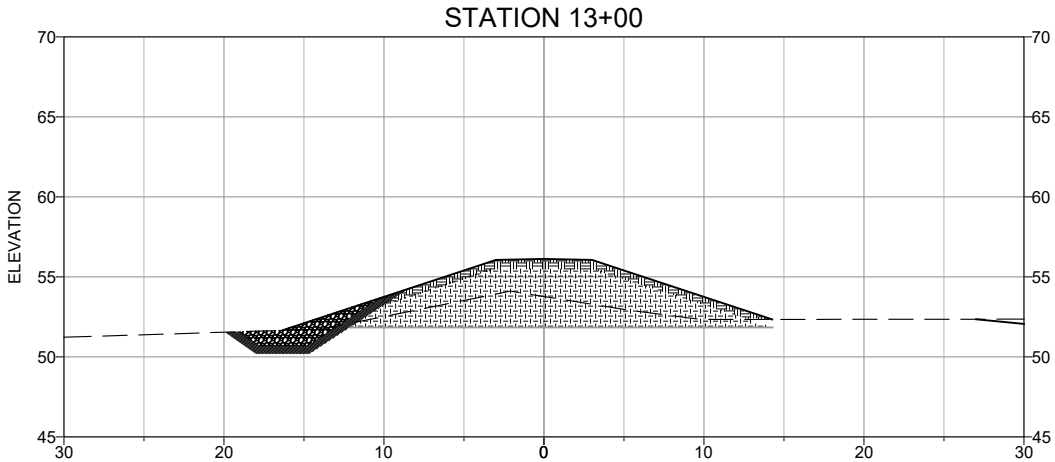
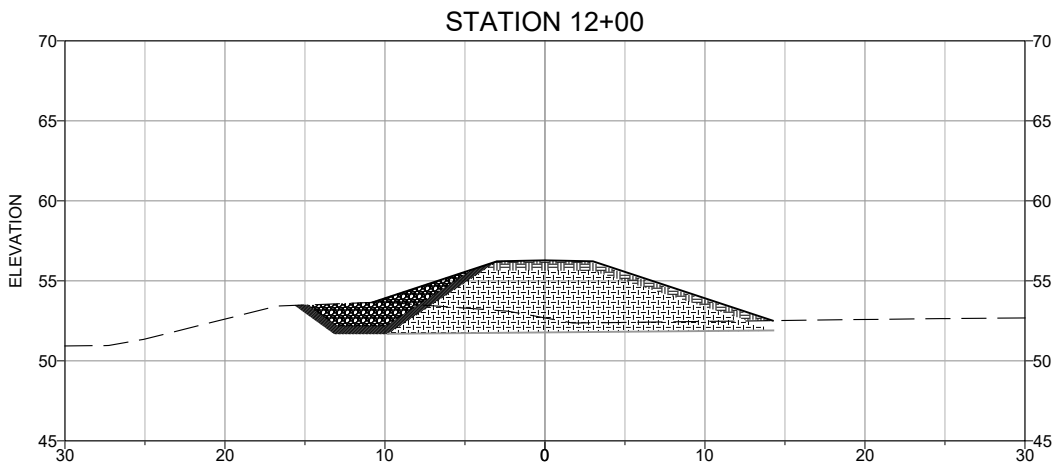
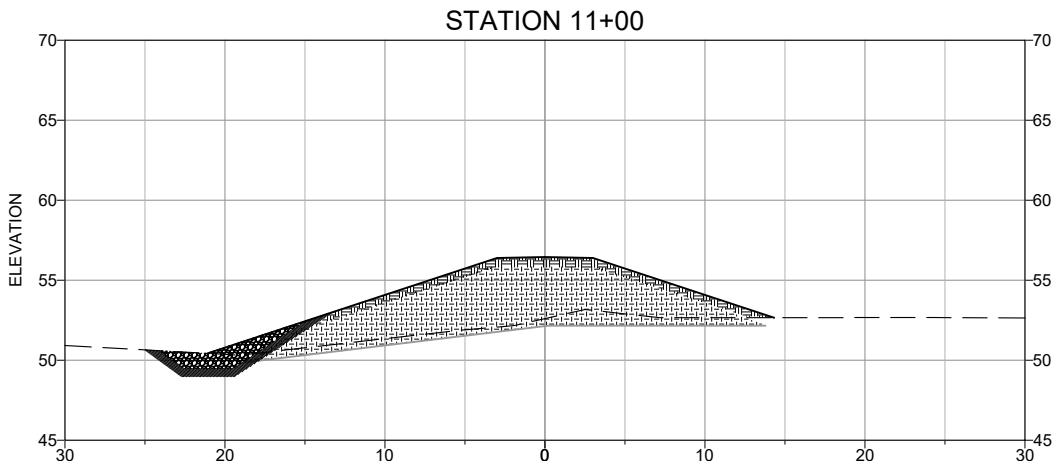
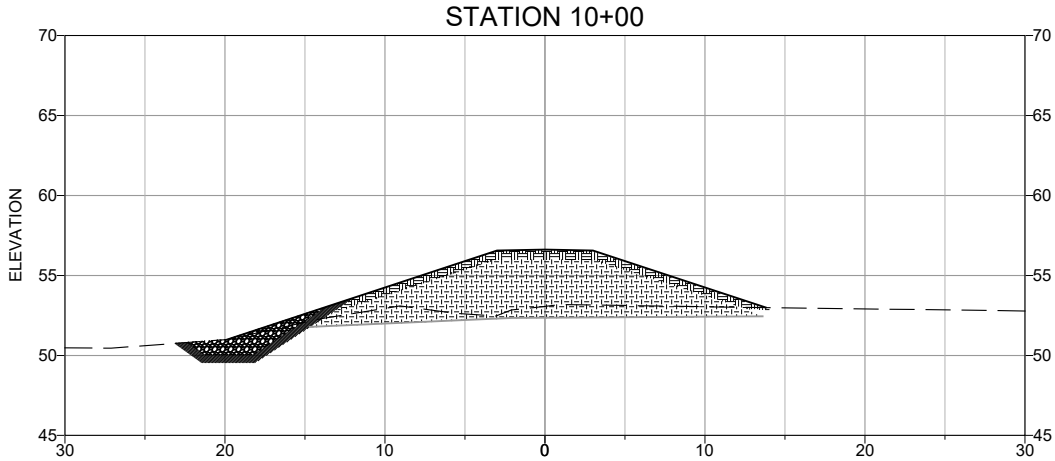
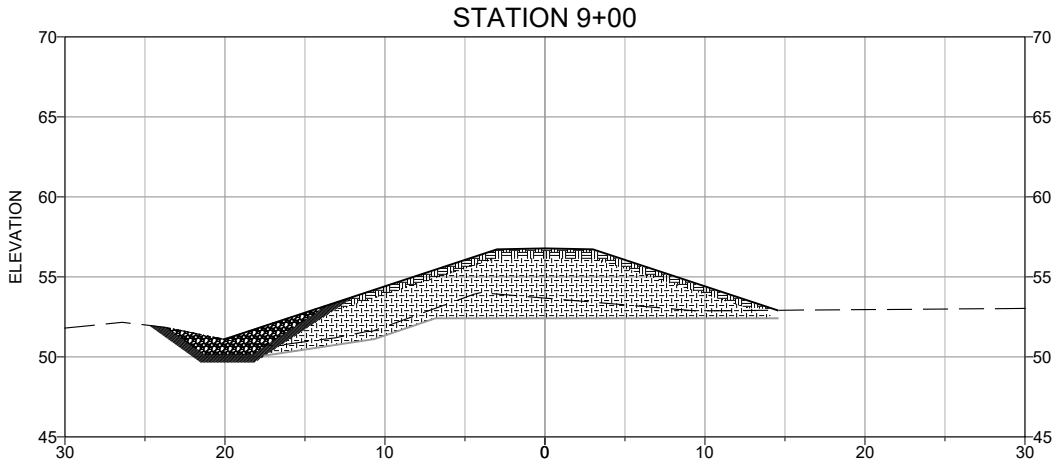
BERM SECTIONS - 1

SHEET NUMBER

C-07

SHEET 9 OF 18

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PROJECT NAME

FOYE CREEK
RE-CONNECTION
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SNOHOMISH COUNTY, WA

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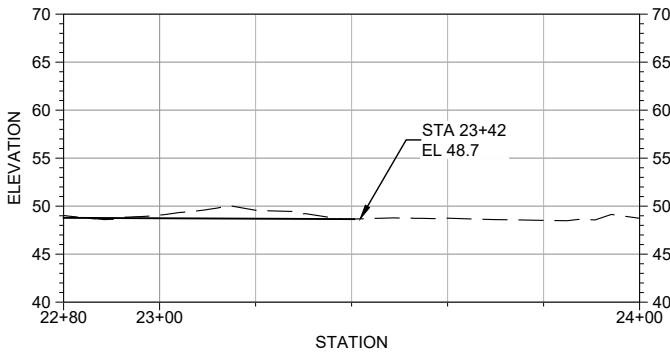
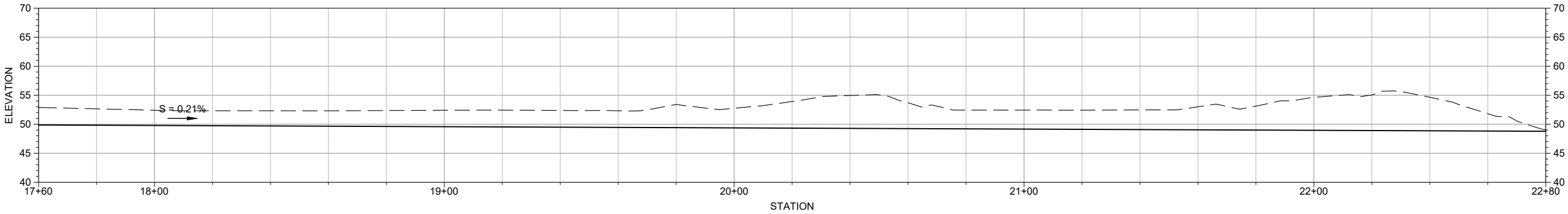
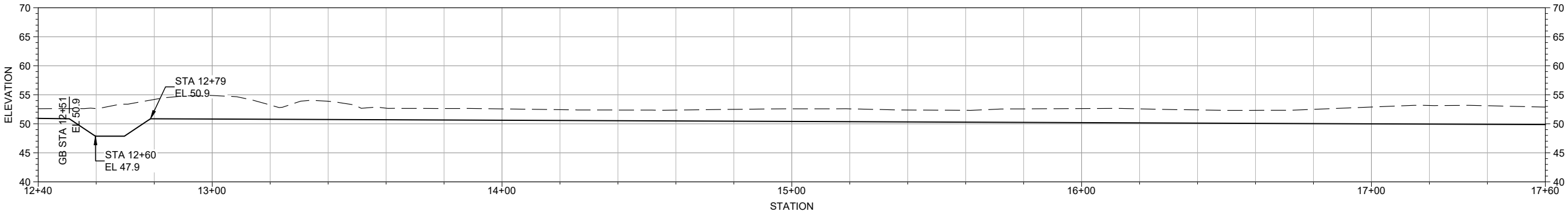
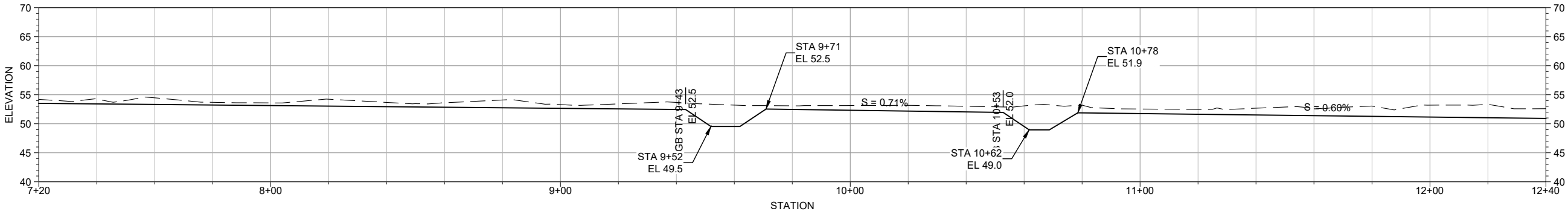
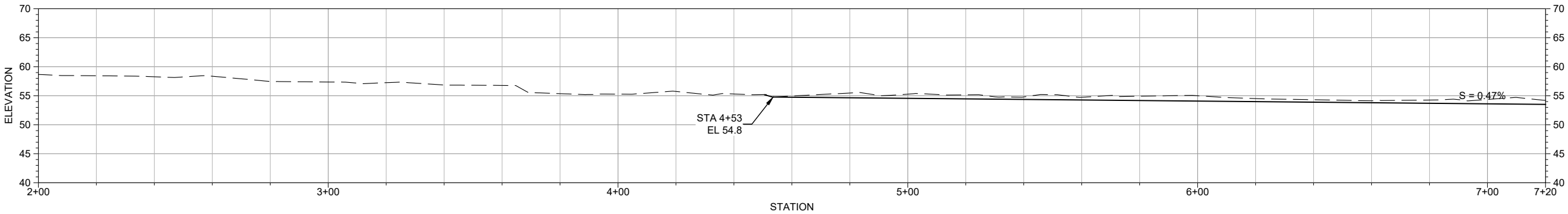
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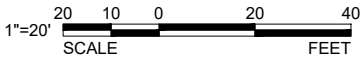
SHEET NUMBER

C-08

SHEET 10 OF 18



1
FOYE CHANNEL PROFILE
PROFILE SCALE: 1" = 20'



PROJECT NAME
FOYE CREEK
RE-CONNECTION
CONCEPTUAL DESIGN
SNOHOMISH COUNTY, WA

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ISSUE DATE 02/25/2025

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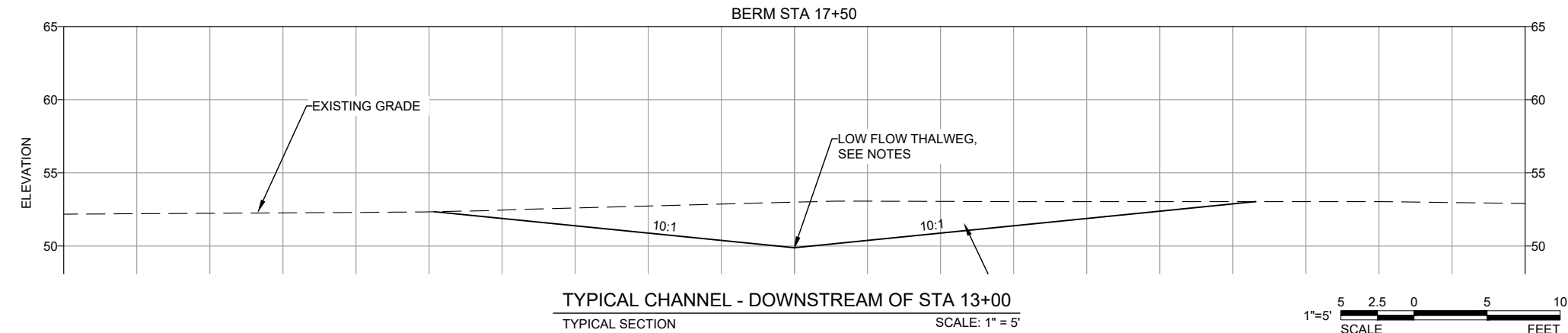
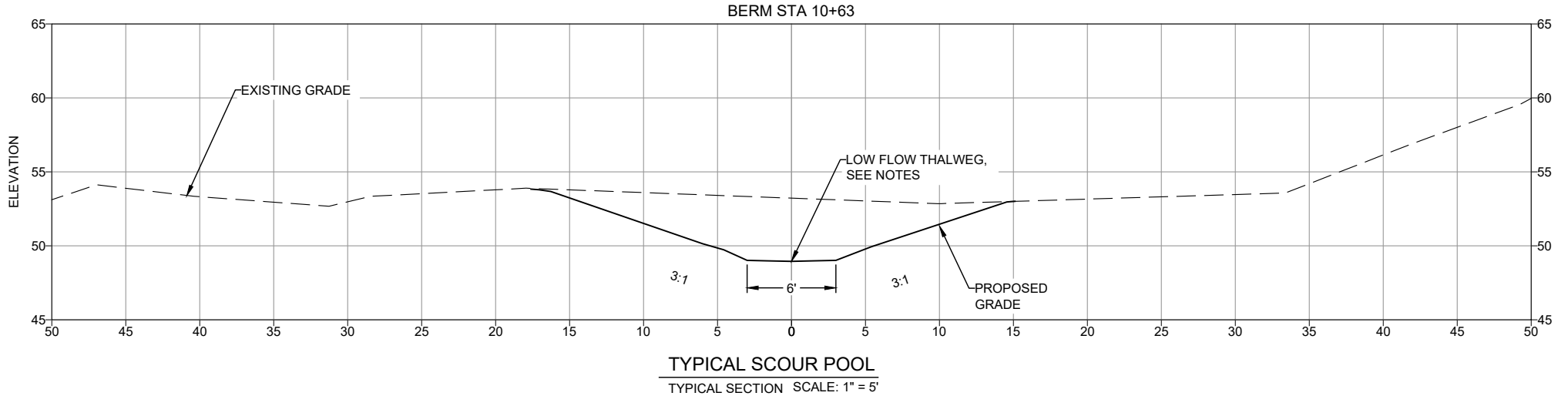
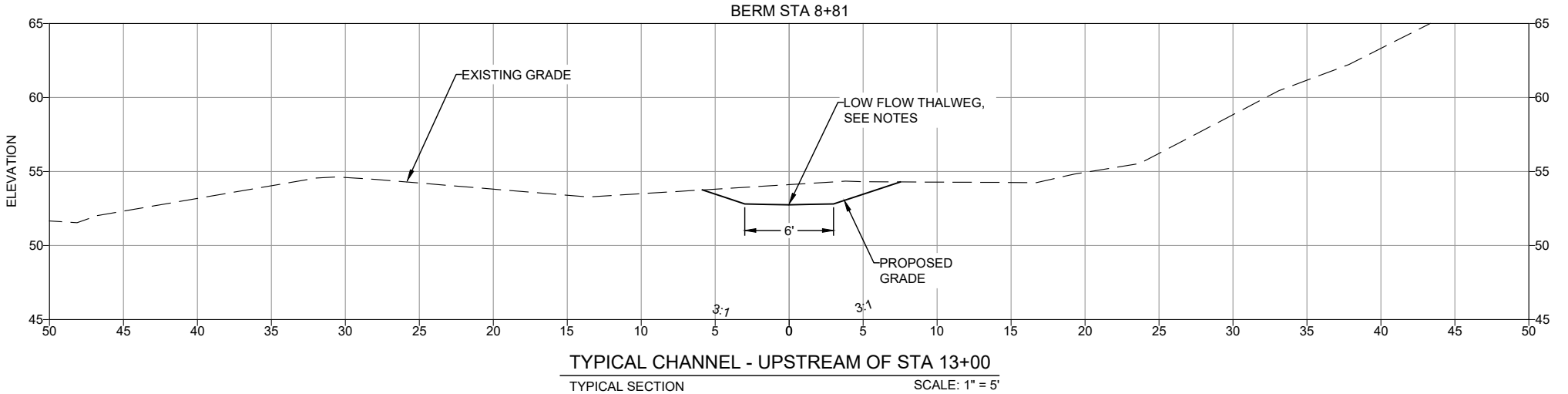
PHASE
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SHEET TITLE

CHANNEL PROFILE

SHEET NUMBER
C-09
SHEET 11 OF 18

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PROJECT NAME

FOYE CREEK
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CONCEPTUAL DESIGN

SNOHOMISH COUNTY, WA

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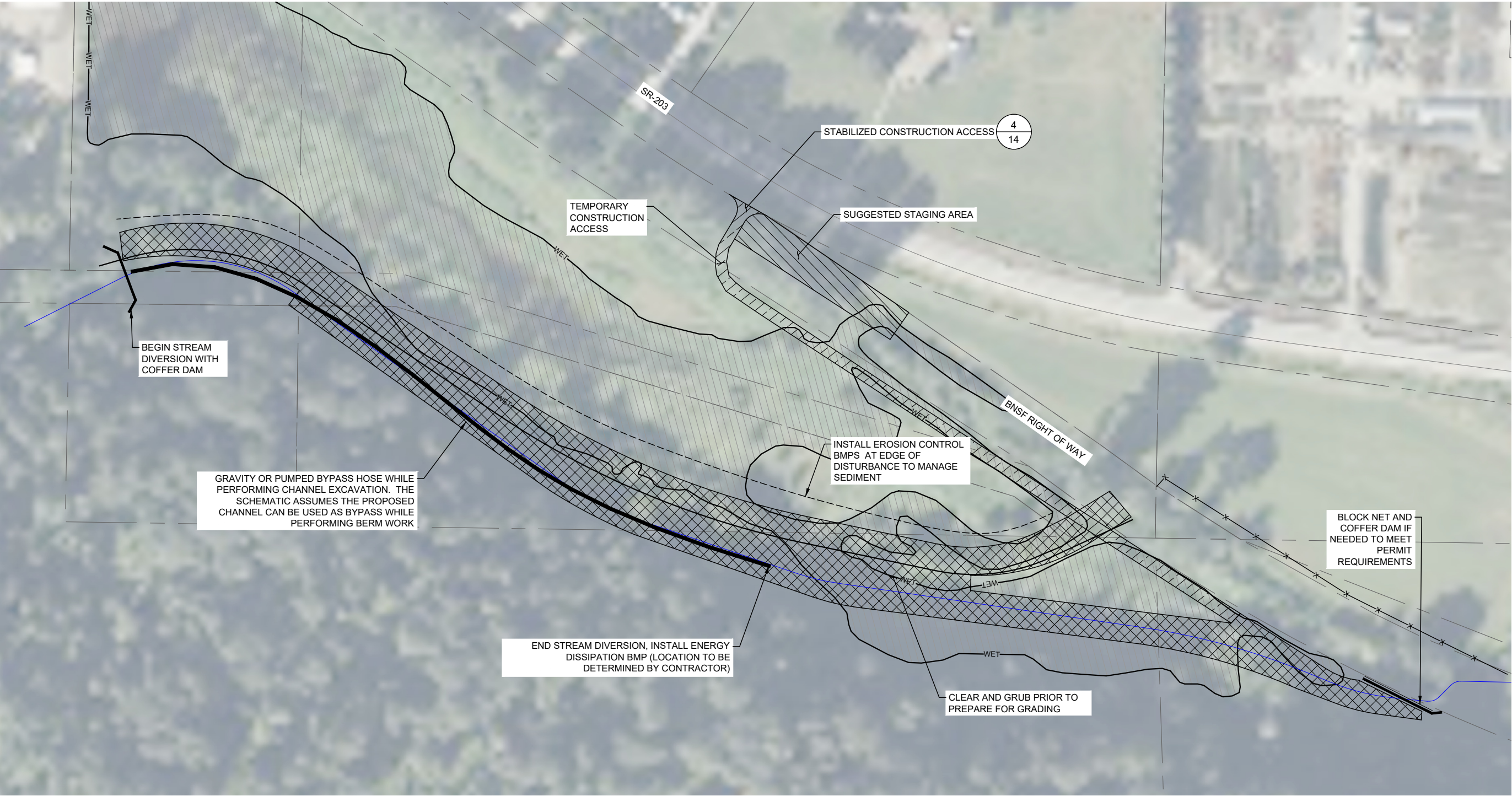
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CHANNEL GRADING
SECTION

SHEET NUMBER

C-10

SHEET 12 OF 18



WATER MANGEMENT NOTES

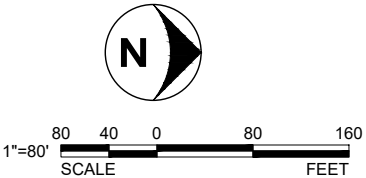
1. THE WATER MANAGEMENT PLAN SHOWN ON THIS SHEET IS SCHEMATIC ONLY AND MAY NOT REPRESENT THE FULL EXTENT OF WORK OF SEQUENCING NEEDING. THE CONTRACTOR SHALL PREPARE AND IMPLEMENT A WATER MANAGEMENT PLAN, WHICH SHALL ALSO ADDRESS GROUNDWATER. THE PLAN MAY INCLUDE MULTIPLE CONFIGURATIONS OF BYPASS HOSE AND DIVERSION LOCATIONS IN ORDER TO COMPLETE THE WORK. ONLY 1 CONFIGURATION IS SHOWN.
2. THE CONTRACTOR SHALL NOT WORK WITHIN THE WETTED PERIMETER OF FOYE CREEK WITHOUT TEMPORARY STREAM DIVERSION IN PLACE.
3. THE DIVERSION STRUCTURES SHALL BE HIGH ENOUGH TO PREVENT OVERTOPPING AND ALLOW ENOUGH FREEBOARD FOR INCLEMENT WATER CONDITIONS.
4. THE DIVERSION SYSTEM SHALL BE CAPABLE OF HANDLING THE EXPECTED FLOWS IN FOYE CREEK DURING THE CONSTRUCTION PERIOD. THE CONTRACTOR IS RESPONSIBLE FOR DETERMINING FLOWS.
5. ALL DEWATERING PUMPS SHALL HAVE WDFW-APPROVED FISH SCREENS INSTALLED AND MAINTAINED PER RCW 77.57.010 AND RCW 77.57.070. ADDITIONALLY, FISH EXCLUSION NETTING SHALL BE INSTALLED UPSTREAM AND DOWNSTREAM OF THE ISOLATED WORK AREA. THE MINIMUM OPEN AREA FOR ALL TYPES OF FISH SCREENS IS 27%. THE SCREENED INTAKE FACILITY MUST HAVE ENOUGH SURFACE AREA TO ENSURE THAT THE VELOCITY THROUGH THE SCREEN

IS LESS THAN 0.4 FEET PER SECOND.

6. FISH AND AQUATIC ORGANISM REMOVAL WILL BE CONDUCTED BY THE PROJECT OWNER PRIOR TO DEWATERING THE WORK AREA. FISH AND AQUATIC ORGANISMS WILL BE TEMPORARILY RELOCATED AS DIRECTED BY THE PROJECT OWNER OR ENGINEER.
7. ALL WORK WITHIN WATERS OF FOYE CREEK SHALL OCCUR DURING THE APPROVED IN-WATER WORK WINDOW PER PERMIT.
8. TURBIDITY LEVELS AT DISCHARGE MUST MEET ALL APPLICABLE PERMIT REQUIREMENTS.
9. THE CONTRACTOR SHALL INTRODUCE WATER TO THE NEW STREAM CHANNELS AND TRAP SEDIMENTS UNTIL THE STREAM SECTION IS FULLY REWATERED. REWATERING SHALL OCCUR AT A RATE TO AVOID LOSS OF SURFACE WATER DOWNSTREAM WHILE THE CHANNELS ARE REWATERED.

GENERAL NOTES

1. ALL AREAS OUTSIDE OF WORK LIMITS TO BE PROTECTED IN PLACE. ANY ELEMENTS DAMAGED DURING CONSTRUCTION SHALL BE REPAIRED IN KIND AT NO ADDITIONAL COST OF THE OWNER.
2. THE CONTRACTOR SHALL WORK WITH THE OWNER TO MINIMIZE CLEARING AND GRUBBING AND SITE DISTURBANCE TO THE EXTENT NEEDED TO PERFORM THE WORK.
3. BMPS SHOWN ON THIS SHEET ARE NOT EXHAUSTIVE. THE CONTRACTOR IS RESPONSIBLE FOR SUBMITTING A TESC PLAN AND MANAGING SEDIMENT TO COMPLY WITH PROJECT PERMITS.

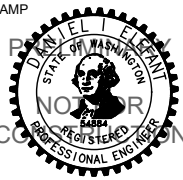


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PROJECT NAME
FOYE CREEK
RE-CONNECTION
CONCEPTUAL DESIGN
SNOHOMISH COUNTY, WA

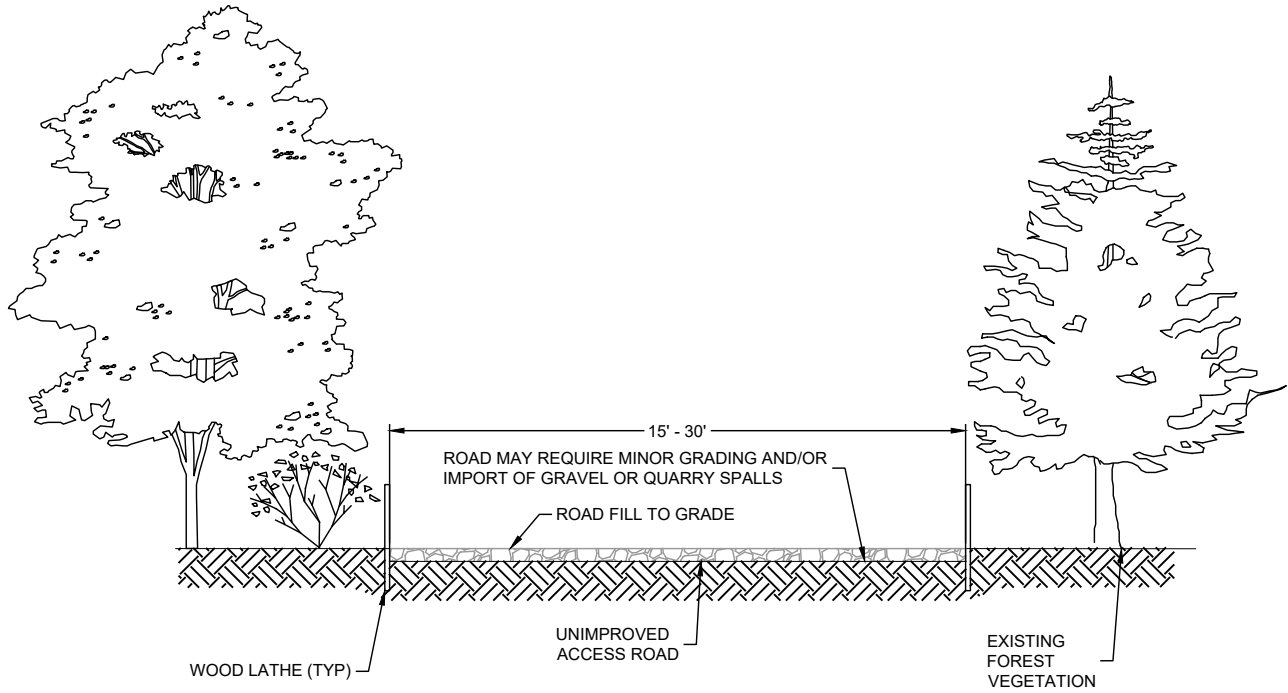
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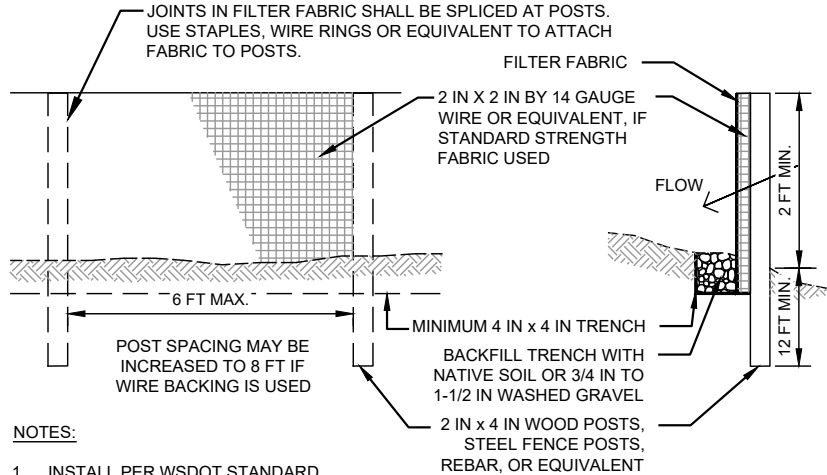
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STAGING, ACCESS, & TESC

SHEET NUMBER	C-11
SHEET 13 OF 18	



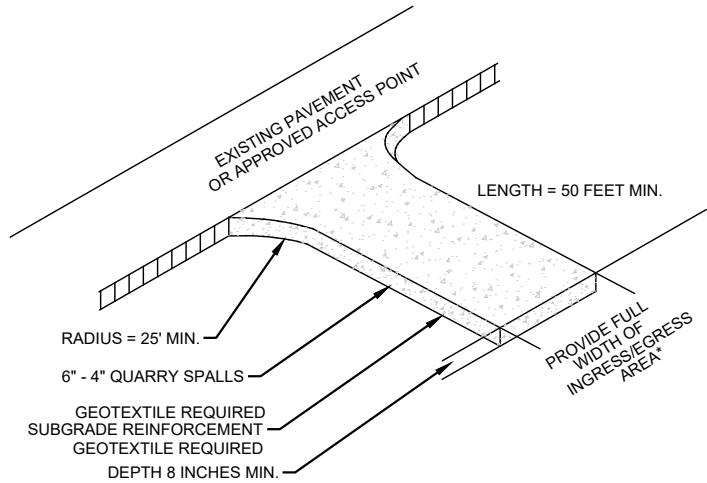
1 TEMPORARY CONSTRUCTION ACCESS ROAD
- PLAN SCALE: NTS



NOTES:

1. INSTALL PER WSDOT STANDARD PLAN 1-30.17-00.
2. SILT FENCES SHALL BE INSTALLED ALONG CONTOURS WHENEVER POSSIBLE.

2 SILT FENCE
- DETAIL SCALE: NTS



NOTES:

1. INSTALL PER WSDOT STANDARD PLAN 1-80.10-02.

3 STABILIZED CONSTRUCTION ENTRANCE
- DETAIL SCALE: NTS

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PROJECT NAME

FOYE CREEK
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CONCEPTUAL DESIGN
SNOHOMISH COUNTY, WA

REVISIONS

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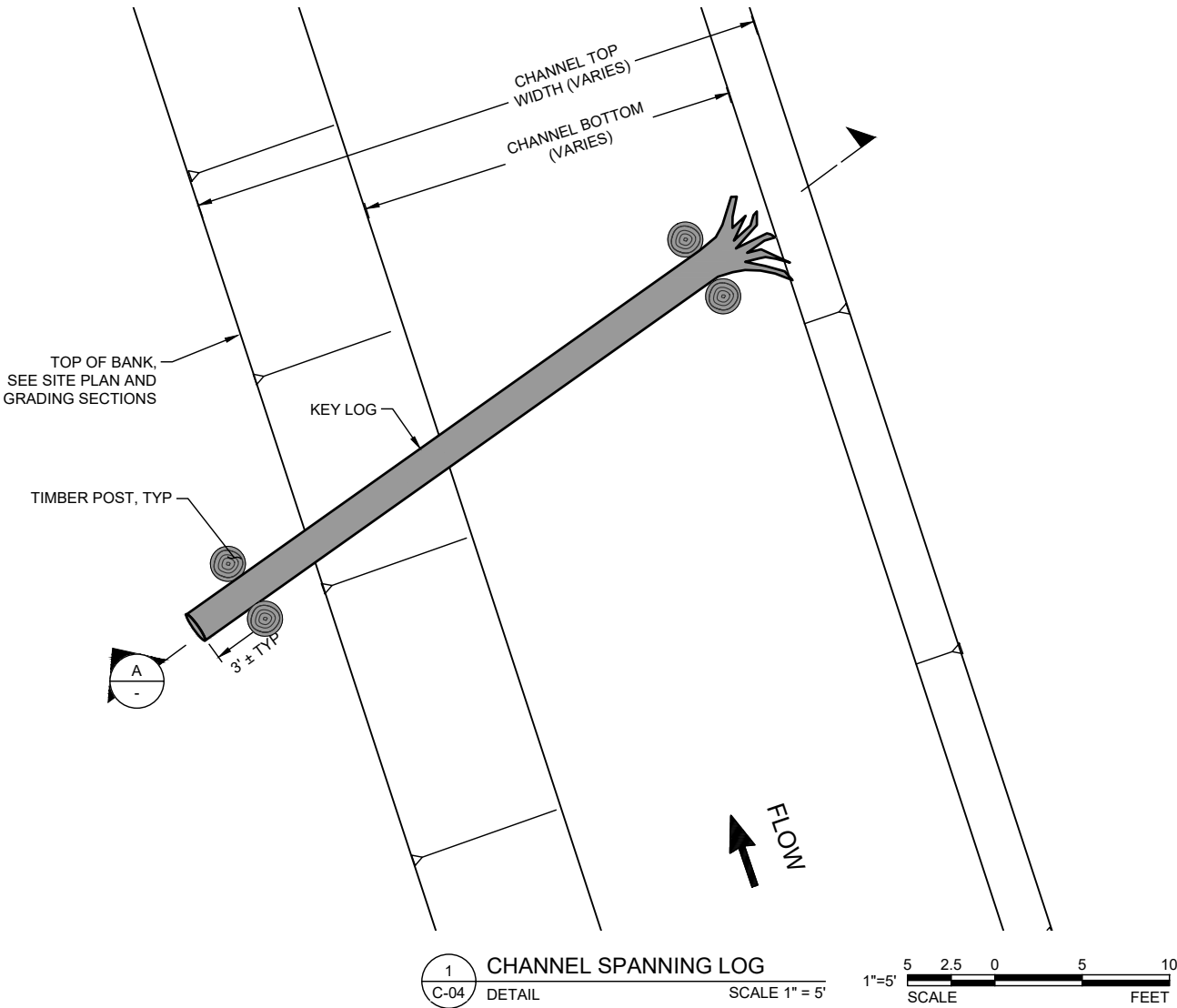
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DETAILS - TESC

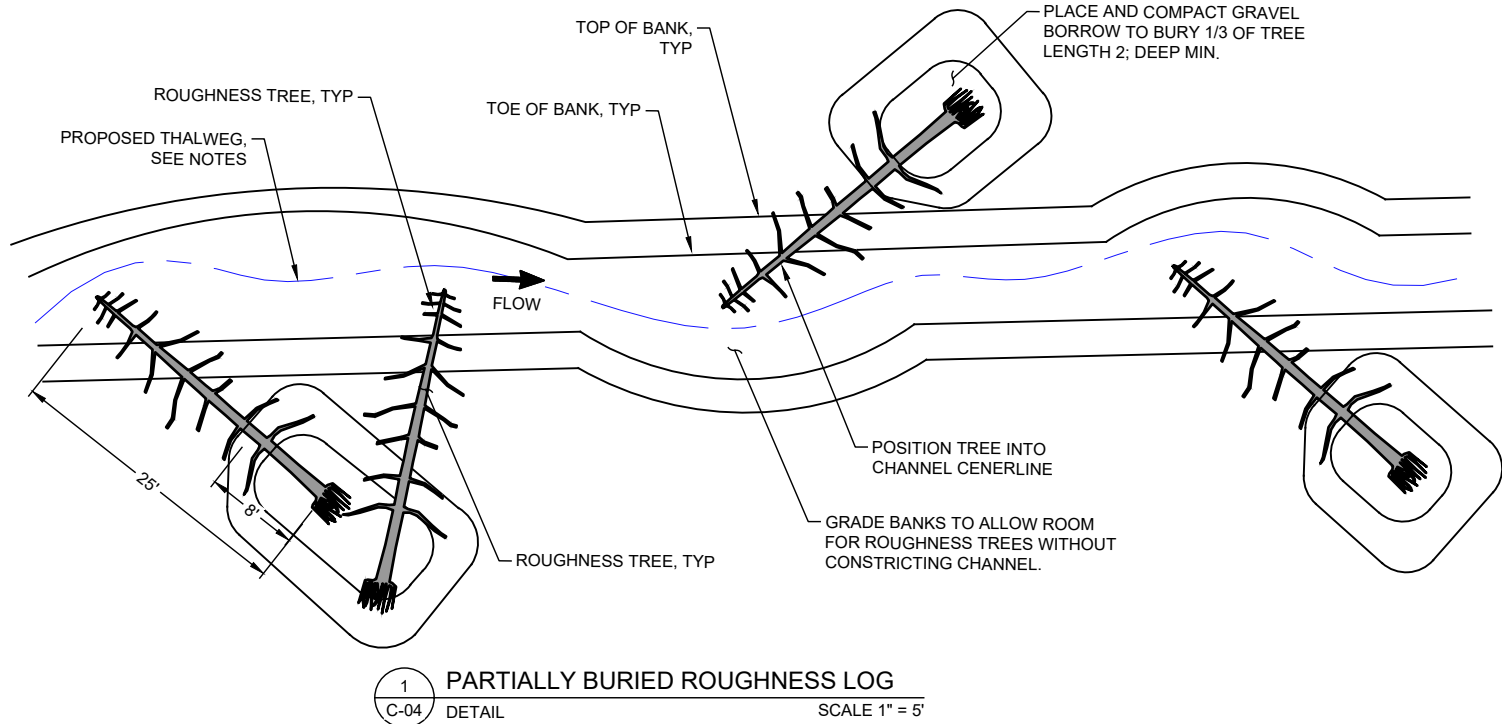
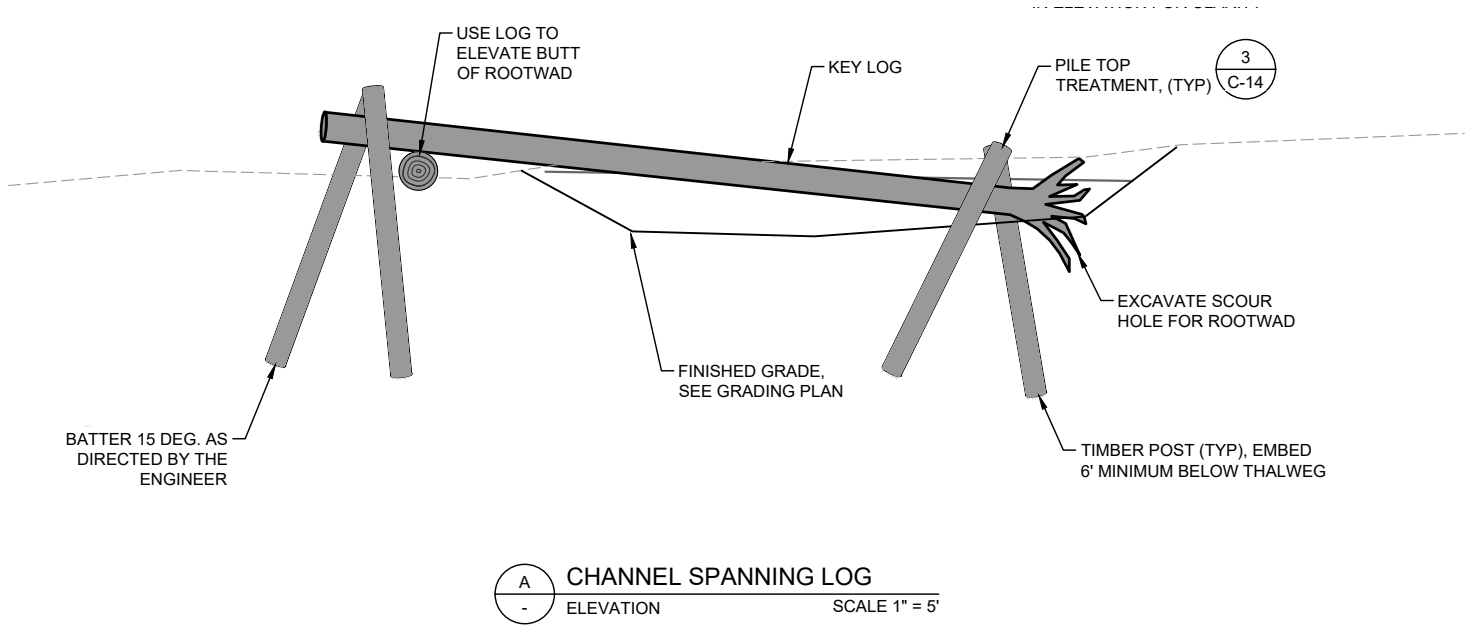
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C-12

SHEET 14 OF 18



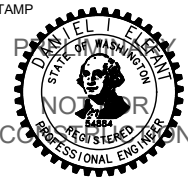
CHANNEL SPANNING LOG - MATERIAL SCHEDULE			
MATERIAL ID	DIAMETER (IN)	LENGTH (FT)	QUANTITY PER STRUCTURE
ROOTWAD	9" - 12"	30' - 35'	1
LOG	9" - 12"	15'	1
TIMBER POST	9"	15'	4
HARDWARE CONNECTION	--	--	2



GENERAL NOTES

- FILL MOUND SHALL BE CREATED FROM ON-SITE EXCAVATION.
- THE ENGINEER MAY DIRECT THE PLACEMENT AND ADJUSTMENT OF WOOD MATERIAL.
- THE CONTRACTOR SHALL EXCAVATE A SCOUR HOLE AND PARTIALLY EMBED LOG TIPS WHERE THEY'RE PLACED IN CONTACT WITH THE STREAMBED. THE OBJECTIVE IS INSTALL LOGS SUCH THAT THE STEM IS IN CONTACT WITH THE STREAMBED.
- THE CONTRACTOR SHALL GRADE BANKS AND FORM THE CHANNEL AROUND LOGS. THE CONTRACTOR IS ENCOURAGED TO WORK WITH THE OWNER'S REPRESENTATIVE TO NATURALIZE THE SHAPE OF FOYE CREEK.
- FILL MOUNDS SHALL COVER LOGS 2' DEEP MIN. AND COMPACTED TO 75% DENSITY. LOGS SHALL BE LIVE STAKED AFTER FILL IS COMPACTED.

PARTIALLY BURIED ROUGHNESS LOG - MATERIAL SCHEDULE			
CATEGORY	DIAMETER (IN)	LENGTH (FT)	QUANTITY PER STRUCTURE
ROUGHNESS TREE (RT1)	6"	25'	1



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SHEET TITLE

DETAILS - WOOD
STRUCTURES (1)

SHEET NUMBER

C-13

SHEET 15 OF 18





- GENERAL NOTES

- | WOODY DEBRIS COMPLEX - MATERIAL SCHEDULE | | | |
|--|---------------|-------------|------------------------|
| CATEGORY | DIAMETER (IN) | LENGTH (FT) | QUANTITY PER STRUCTURE |
| KEY LOG (K2) | 9" | 15' | 2 |
| ROUGHNESS TREE (RT1) | 6" | 15' | 2 |
| RACKING LOG | 3" - 6" | 5' - 10' | 10 |
| WOODY SLASH | N/A | N/A | 10 CY |
| TIMBER POST | 9" | 15' | 2 |
| HARDWARE CONNECTION | -- | -- | 2 |

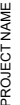
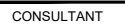


- LAYER 2

- LAYER 3

- LAYER 4

1. PLACE KEY LOG (K2)
2. INSTALL 2 MECHANICAL CONNECTIONS WHERE SHOWN.



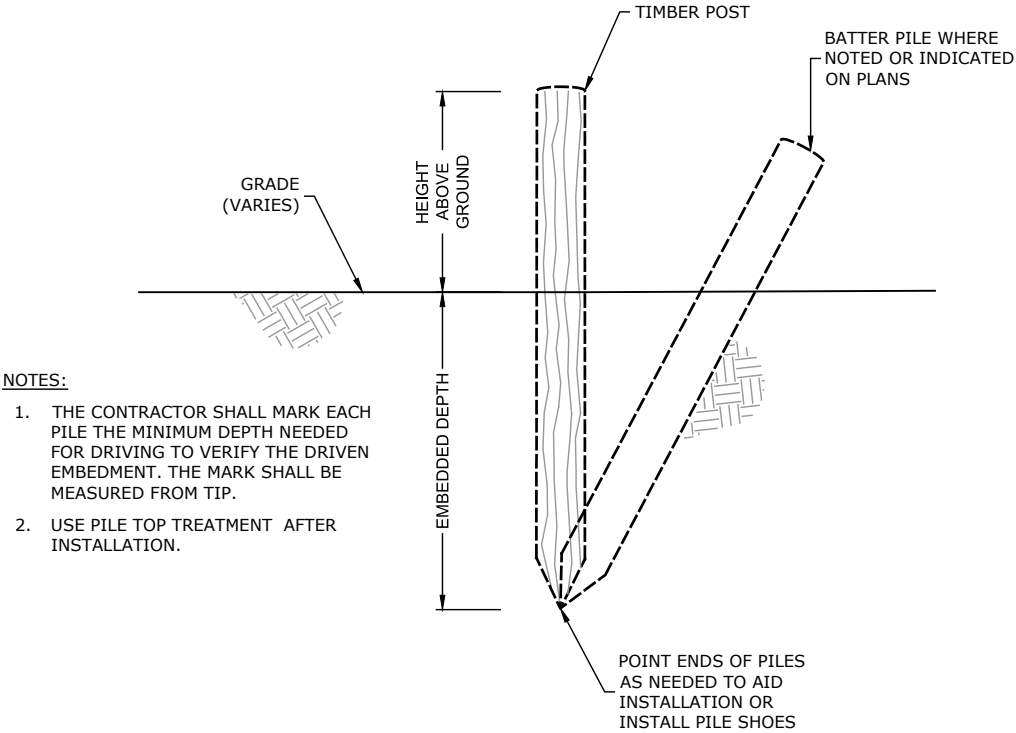
FOYE CREEK
RE-CONNECTION
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SNOHOMISH COUNTY, WA

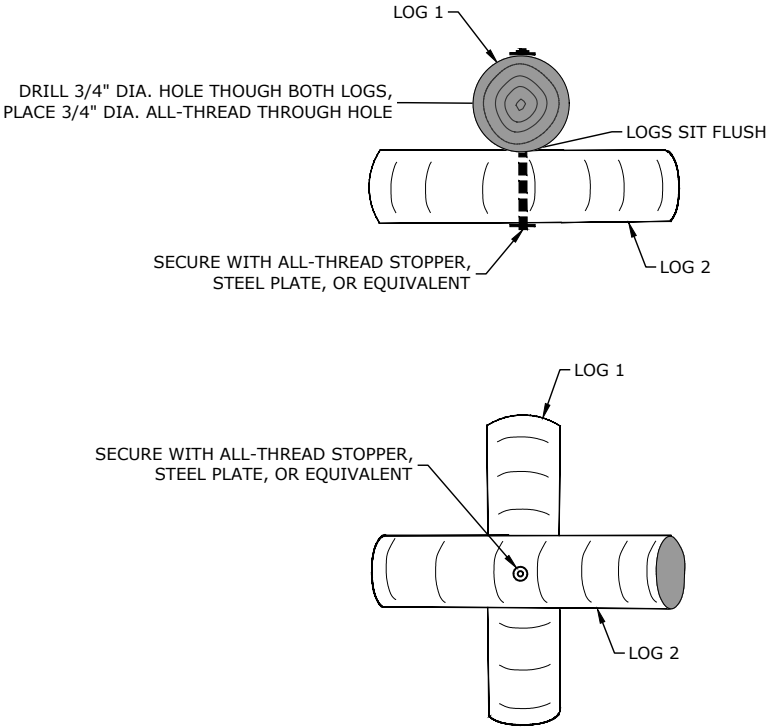
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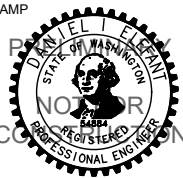
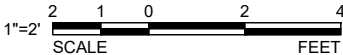
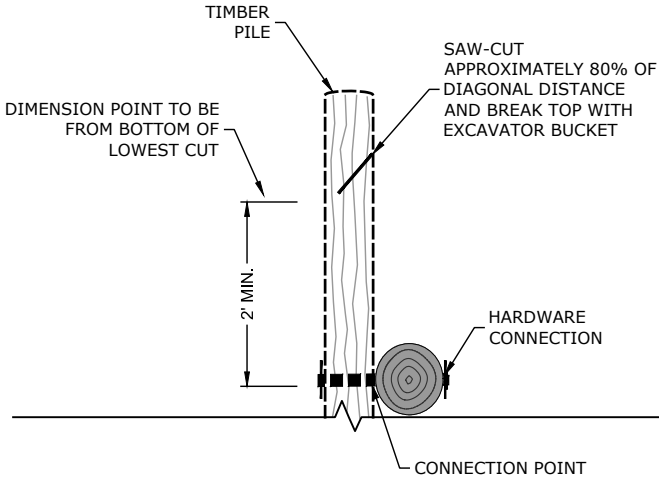
C-14



- NOTES:
1. THE CONTRACTOR SHALL MARK EACH PILE THE MINIMUM DEPTH NEEDED FOR DRIVING TO VERIFY THE DRIVEN EMBEDMENT. THE MARK SHALL BE MEASURED FROM TIP.
 2. USE PILE TOP TREATMENT AFTER INSTALLATION.



- CHAIN CONNECTION NOTES:
1. ALL HARDWARE USED FOR LASHING SHALL BE NON-GALVANIZED UNTREATED STEEL AND CONNECTIONS SHALL BE OF THE QUANTITY AND TYPE SPECIFIED BY THE MANUFACTURER WITH AN EQUAL OR GREATER STRENGTH THAN THE CHAIN BREAKING STRENGTH.



FOYE CREEK
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PHASE	90% DESIGN
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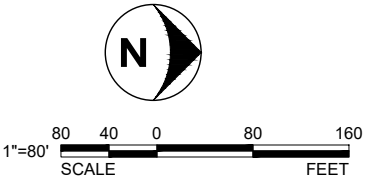
DETAILS - WOOD
STRUCTURES (3)

SHEET NUMBER	C-15
SHEET 17	OF 18



GENERAL NOTES

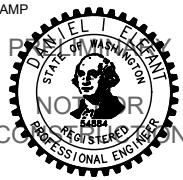
- 1. FOLLOWING COMPLETION OF WORK, THE CONTRACTOR SHALL DE-COMPACT ALL DISTURBED AREAS FOR SEEDING AND PLANTING.
- 2. THE CONTRACTOR SHALL PLANT UP TO THE TOE OF THE PROPOSED BERM. NO PLANTING SHALL BE PERFORMED WITHIN THE PROPOSED STREAM CHANNEL.
- 3. SEED ALL ADDITIONAL AREAS ASSOCIATED TO SITE ACCESS AND STAGING.





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SHEET TITLE

SITE RESTORATION

SHEET NUMBER	C-16
SHEET 18	OF 18

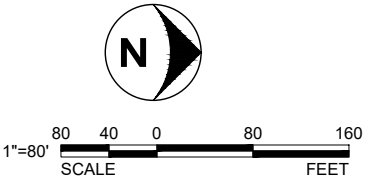
EXHIBIT C
Revegetation Plan for Snohomish County Parks Property

FILE: P:\01 CAD\2021\xxxx\202100832.dwg Tuleco Valley\DWG\PLANTING.dwg PLOT DATE: 3/20/2025 3:28:16 PM PLOTTED BY: GREG WOLOVEKE



GENERAL NOTES

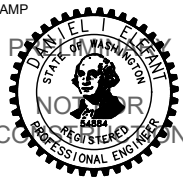
- 1. FOLLOWING COMPLETION OF WORK, THE CONTRACTOR SHALL DE-COMPACT ALL DISTURBED AREAS FOR SEEDING AND PLANTING.
- 2. THE CONTRACTOR SHALL PLANT UP TO THE TOE OF THE PROPOSED BERM. NO PLANTING SHALL BE PERFORMED WITHIN THE PROPOSED STREAM CHANNEL.
- 3. SEED ALL ADDITIONAL AREAS ASSOCIATED TO SITE ACCESS AND STAGING.





2801 ALASKAN WAY,
SUITE. 200
SEATTLE, WA 98121
OFFICE - 206.789.9658
WWW.ESASSOC.COM

STAMP



CONSULTANT



PROJECT NAME

FOYE CREEK
RE-CONNECTION
CONCEPTUAL DESIGN
SNOHOMISH COUNTY, WA

REVISIONS		
#	DATE	DESCRIPTION
DESIGNED	--	
DRAWN	--	
CHECKED	--	
IN CHARGE	--	

PROJECT NUMBER	D202100832
ISSUE DATE	02/25/2025
SCALE IS AS SHOWN WHEN PLOTTED TO FULL SIZE (22"x34")	

PHASE	90% DESIGN
-------	------------

SHEET TITLE

SITE RESTORATION

SHEET NUMBER	C-16
SHEET 18	OF 18

APPENDIX C
List of Project Permits

The Owner shall be responsible for obtaining the following permits and/or licenses:

Foye Creek Project

Permit	Issuing Org.	Status
Cultural Assessment	DAHP	Complete for Construction
Hydraulics Project Approval (FHEP)	WDFW	HPA/FHEP Submitted and under review
Flood Hazard Permit	County	Application Submitted
ESA Compliance	NOAA/USFWS	Complete
Water Quality Certification	Ecology	Complete
Nationwide Permit	Army Corps	JARPA Submitted/in process
WSDOT Access Permit	WSDOT	Initiated

EXHIBIT E
Form of Temporary Construction Easement

Snohomish County Property Management
3000 Rockefeller Avenue M/S 404
Everett, WA 98201



Snohomish County
Department of Conservation and Natural Resources
Parks & Recreation Division

TEMPORARY CONSTRUCTION EASEMENT

This Temporary Construction Easement (“Easement”) is entered into this ____ day of _____, 2026, by and between **Snohomish County, a political subdivision of the State of Washington** (“GRANTOR”), and **The Tulalip Tribes of Washington, a federally recognized Tribe**, (“GRANTEE”).

WHEREAS, Grantor is the owner of real property situated in the County of Snohomish, State of Washington, described as follows (hereinafter “Property”) and more specifically described as follows:

A Portion of Tax Parcel Number: 27061300401700

Legal Description:

That portion entirely within the Southeast Quarter of Section 13 Township 27 North, Range 6 East, W.M.:

That portion of Chicago Milwaukee St Paul, and Pacific Railway Company right-of-way including all extra-width right-of-way beginning perpendicular to the right-of-way centerline approximately 150 feet Southwest of the East-West Quarter line of the Northwest Quarter of Section 24, Township 27 North, Range 6 East, W.M. (Railroad Engineering Station 967+51.5) and proceeding in a generally Northerly direction through Sections 24 and 13, Township 27 North, Range 6 East, W.M., thence through Section 18, 7 and 6, Township 27 North, Range 7 East W.M., across the Skykomish River Bridge to the midpoint of the Woods Creek Bridge at the East-West half Section line, Section 6, Township 27 North, Range 7 East, W.M. (Railroad Engineering Station 1130+97).

SUBJECT TO Easements, restrictions, and reservations of record.

Situate in the County of Snohomish, State of Washington.

WHEREAS, the Grantee is desirous of acquiring certain privileges across, over, and upon that portion of an approximate 6.79 acres of the Property as shown in red outline on Exhibit A attached hereto (the “Premises”) for temporary construction, staging and access for relocation of Foye Creek into Riley Slough.

NOW, THEREFORE, the Parties agree as follows:

1. Right to Enter Premises and Perform Work. Grantor hereby grants to Grantee, its agents, contractors, successors and assigns, a temporary, nonexclusive easement over and upon the Premises as shown on Exhibit A attached hereto for the exclusive purpose of performing the following work including rights of ingress and egress over and across the Property as depicted on Exhibit A (the “Permitted Uses”) consistent with the Foye Creek Reconnection site plans as part of the Tualco Valley Connectivity Project attached hereto as Exhibit B:

Construction staging area consisting of approximately 20,000 SF in support of relocation of Foye Creek into Riley Slough and including keying in a portion of a re-constructed berm to the existing historical railroad prism in a small portion of the NE corner of the parcel. Equipment to be used for the work authorized herein includes standard grading, earthwork construction equipment, such as excavators, dump trucks and tractors. In addition, the Permitted Uses include:

- (i) Installation of temporary erosion control BMPs at the edge of the disturbance area in the NE corner
- (ii) Stabilization and enhancement of existing construction access through the parcel.
- (iii) Use of a portion of the parcel as a potential staging area with no proposed clearing or grading.
- (iv) Seeding of access and staging areas post-construction for erosion control.

The Grantee will perform all construction work on the Grantor Premises during standard County working hours of 7:00 AM and 7:00PM, Monday through Friday, excluding County holidays. Project work may only occur outside of approved work hours only by written authorization of the Grantor. Grantee will timely notify and coordinate with the County on any “Substantial Changes” to the construction design elements located on the Grantor Premises and receive written approval from the Grantor prior to implementation. “Substantial Changes” is defined to consist of alterations that would modify the function of the Grantor Premises or require a contractor change order for approval.

Grantee may use the Premises for the Permitted Uses and for no other use or purpose without the Grantor’s written consent, which may be granted or withheld in the Grantor’s sole discretion. Grantee shall be responsible for all costs and expenses of construction. All work associated with the construction shall be performed in accordance with the standards of practice for the jurisdiction in which the work is to be performed.

Grantee shall not alter or remove any railroad material including the existing railroad hardware or ties without the prior consent of the Grantor, which may be granted or withheld at the sole discretion of the Grantor. In the event consent is granted by the Grantor for Grantee to remove all or any portion of the railroad hardware, the Grantee shall coordinate with Grantor for retrieval of the railroad hardware removed by Grantee.

2. Term. The term of this Easement will commence upon full execution by the GRANTOR and GRANTEE (“Commencement Date”) and will terminate January 4, 2028__ The work described in the Tualco Valley Connectivity Project, and site plans referenced in Section 1 above will be completed on or before January 4, 2028__

GRANTEE shall complete the work authorized by this Easement by November 30, 2027. GRANTEE shall work with diligence, speed, and due regard for the rights, interest, and convenience of the public and the GRANTOR. If, at the end of November 30, 2027, GRANTEE has not completed the work

authorized by this Easement, then the rights conferred on GRANTEE will terminate, unless an extension of time is approved as provided herein.

3. Consideration. The GRANTEE shall pay a one-time use fee in the amount of \$12,500.00 for the rights granted in this Easement. Grantor hereby shall apply a \$12,500.00 credit in lieu of payment from Grantee, for Grantee's work under this Easement to improve Grantor's trail(s) and the related creek and floodplain restoration work.

4. Notice to County. GRANTEE shall contact Tom Teigan, Director of Snohomish County Department of Conservation and Natural Resources, Parks and Recreation Division, located at 6705 Puget Park Drive Snohomish, WA 98296, by phoning 425-388-6600, at least 24 hours prior to entering upon the Property for the first time and to notify the GRANTOR that the work has commenced on the Premises.

5. Permitting Requirements. GRANTEE shall acquire all necessary permits required to perform the work under this Easement. GRANTOR does not warrant that any permit or license is necessary or not necessary.

6. Compliance with Easement Terms and Conditions. GRANTEE agrees to comply with all terms and conditions of this Easement. GRANTEE shall respect and protect all property, contracts, persons, and attendant rights that might be affected by the work authorized herein.

7. Indemnification and Hold Harmless GRANTEE agrees:

(a) As consideration for the rights granted hereunder, the GRANTEE agrees to indemnify, defend and hold harmless the Grantor from any and all third-party claims for injuries or damages (including reasonable attorneys' fees) that may in any manner directly or indirectly arise out of the construction, repairs, maintenance, appurtenances constructed or placed on the premises by GRANTEE or patrolling of the Property pursuant to this Easement or out of the operations of the GRANTEE pursuant to this Easement; provided, that the GRANTEE shall not be responsible to the Grantor for any injuries or damages suffered by any person or property caused by sole negligent acts or omissions of the Grantor, its officers, employees and/or agents.

(b) Solely and expressly for purposes of its duties to indemnify and hold harmless the Grantor as set forth above, the GRANTEE specifically waives any immunity, as respects the Grantor only, it might have under the state industrial insurance law, RCW Title 51, in the event that a claim is made against the Grantor for an injury to any employee of the GRANTEE. THE GRANTEE ACKNOWLEDGES THAT THIS WAIVER HAS BEEN MUTUALLY NEGOTIATED BY THE PARTIES.

(c) The provisions of this Section shall survive the expiration or termination of this Easement with respect to any event occurring prior to such expiration or termination.

(d) Nothing contained in this section or Easement shall be construed to create a liability or a right of indemnification by any third party.

8. Insurance. In satisfaction of the insurance requirements set forth in this Section 8, GRANTEE may self-insure against such risks in such amounts as are consistent with good utility practice. GRANTEE shall provide the GRANTOR with reasonable written evidence that GRANTEE is maintaining such self-insurance. Absent self-insurance, this Easement is subject to the following requirements:

(a) Insurance Required. GRANTEE shall procure, and maintain for the duration of this

Easement, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of work hereunder by the GRANTEE, its agents, representatives, employees and/or contractors/subcontractors. The GRANTEE or contractor/subcontractor shall pay the costs of such insurance. The GRANTEE shall require each of its contractor/subcontractors to furnish to the GRANTEE separate certificates of insurance and policy endorsements as evidence of compliance with the insurance requirements of this Easement.

The GRANTEE is responsible for ensuring compliance with all of the insurance requirements stated herein either by purchasing such insurance or by self-insuring. Failure by the GRANTEE, its agents, employees, officers, contractor/subcontractors to comply with the insurance requirements stated herein shall constitute a material breach of this Easement.

Where applicable, each insurance policy shall be written on an "occurrence" form; except that insurance on a "claims made" form may be acceptable with prior GRANTOR approval. If coverage is approved and purchased on a "claims made" basis, the GRANTEE warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of Easement termination, and/or conversion from a "claims made" form to an "occurrence" coverage form.

Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of the coverage afforded by said policies or self-insurance, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(s), where applicable. Nothing contained in this provision shall affect and/or alter the application of any other provision contained within this Easement.

(b) Risk Assessment by GRANTEE. By requiring such minimum insurance, the GRANTOR shall not be deemed or construed to have assessed the risks that may be applicable to the GRANTEE under this Easement, nor shall such minimum limits be construed to limit the limits available under any insurance coverage obtained by the GRANTEE. The GRANTEE shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

(c) Minimum Scope and limits of Insurance. Coverage shall be at least as broad as and with limits not less than the following:

1. (i) **Commercial General Liability Insurance** on a coverage form at least as broad as CG 00 01 current edition, including coverage for Premises and Operations; Products and Completed Operations; Broad Form Property Damage (including Completed Operations); Explosion, Collapse, Underground Hazards (including subsidence); Contractual Liability insurance obligations assumed in this agreement; Personal Injury and Advertising Liability, Severability of Interest Clause, Waiver of Subrogation endorsement in favor of County as required by contract.

Minimum Limits of Liability shall be:

\$ 2,000,000 Each Occurrence; OR the full per occurrence limit of the Contractor's policy, whichever is greater; and Personal Injury Liability;
 \$ 4,000,000 General Aggregate limit; and Products & Completed Operations Aggregate;
 Stop Gap shall be included (unless insured as Employers Liability under Part B. of a Workers Compensation Insurance Policy).

- (ii) Automobile Liability. Insurance Services Office form number (CA 00 01) BUSINESS AUTO COVERAGE (or self-insurance) symbol 1 for "any auto"; or the appropriate coverage

provided by symbols 2, 7, 8, or 9 of \$2,000,000 combined single limit per accident for bodily injury and property damage if the use of motor vehicles is contemplated.

(iii) Workers' Compensation. Workers' Compensation coverage (or self-insurance/Excess Workers Compensation), as required by the Industrial Insurance Act of the State of Washington

Umbrella/Excess Liability insurance is acceptable to meet the above defined CGL and Auto requirements

(d) Other Insurance Provisions. The insurance policies required in this Easement are to contain, or be endorsed to contain, the following provisions:

(i) All Liability Policies except Workers Compensation.

1.

Snohomish County and its officers, elected officials, employees, and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the GRANTEE in connection with this Easement, including Products and Completed Operations. Such coverage shall be primary and non-contributory insurance as respects Snohomish County and its officers, elected officials, employees, and agents. Additional Insured Endorsements shall be included with the Certificate of Liability Insurance, "CG 20 10" and "CG 20 37", or their equivalent are required.

(2) To the extent of the GRANTEE's/contractor's negligence, the GRANTEE's/contractor's insurance coverage shall be primary insurance with respect to the County, its officers, officials, employees, and agents. Any insurance and/or self-insurance maintained by the County, its officers, officials, employees, or agents shall not contribute with the GRANTEE's insurance or benefit the GRANTEE in any way.

(3) The GRANTEE's insurance shall apply separately to each insured against whom claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

(ii) All Policies. Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except by the reduction of the applicable aggregate limit by claims paid, until after 30 days prior written notice has been given to the GRANTOR. In the event of said cancellation or intent not to renew, the GRANTEE shall obtain and furnish to the GRANTOR evidence of replacement insurance policies meeting the requirements of this Section by the cancellation date. Failure to provide proof of insurance could result in suspension of the Easement.

(e) Acceptability of Insurers. Unless otherwise approved by the GRANTOR, insurance is to be placed with insurers with a Bests' rating of no less than A VII, or, if not rated with Bests, with minimum surpluses the equivalent of Bests' surplus size VIII. Any exception must be approved by the GRANTOR. If, at any time, the foregoing policies shall fail to meet the above requirements, the GRANTEE shall, upon notice to that effect from the GRANTOR, promptly obtain a new policy, and shall submit the same to the GRANTOR, with appropriate certificates and endorsements, for approval.

(f) Verification of Coverage. The GRANTEE shall furnish the GRANTOR with a certificate of insurance and Additional Insured Endorsements outlining the coverages required by this Easement

(g) Subcontractors. The GRANTEE shall include all subcontractors as insured under its policies or shall require separate certificates of insurance and policy endorsements from each subcontractor. If the GRANTEE is relying on the insurance coverage provided by subcontractors as evidence of compliance with the insurance requirements of this Easement, then such requirements and documentation shall be subject to all of the requirements stated herein.

9. No Interest in Property. GRANTEE agrees that GRANTEE does not and shall not at any time claim any interest or estate of any kind or extent whatsoever in the Property by virtue of this Easement or the work authorized by this Easement.

10. No Interference or Obstruction. GRANTEE agrees that it will not interfere or obstruct the GRANTOR'S use of the Property during the term of this Easement.

11. Nonexclusive Nature of Rights and Privileges. The rights and privileges granted under this Easement to GRANTEE are nonexclusive. This Easement does not prohibit GRANTOR from granting other Easements or rights of like nature to other public or private entities, nor shall it prevent GRANTOR from using any of its roads, streets, and real property for any and all public use or affect its jurisdiction over any part of them.

12. GRANTOR Revocation of Easement. This Easement may be revoked by GRANTOR, including by verbal notice effective immediately by contacting Jim Whitehead at 425-783-4498 at any time that GRANTOR determines that public health, public safety, the general welfare, or the interest of GRANTOR requires revocation. GRANTOR may revoke this Easement if GRANTEE violates any term or condition of this Permit by written notice in the mail to the following address:

Tulalip Tribes of Washington
6406 Marine Drive
Tulalip, WA 98271
ATTENTION: Brett Shattuck

13. GRANTEE Termination of Easement. The GRANTEE may terminate the Easement by written notice to the Grantor at this address:

SNOHOMISH COUNTY PROPERTY MANAGEMENT
3000 ROCKEFELLER AVENUE M/S 404
EVERETT, WA. 98201
ATTN: PROPERTY OFFICER

14. Erosion, Hazardous Waste, and Hazardous Materials. GRANTEE shall take all necessary measures and follow all applicable laws to prevent erosion and spills of any hazardous materials and noxious waste substances onto the Premises and to keep the Premises free from any debris and waste.

To the best of the GRANTOR's knowledge, the Premises is not in violation of any law, ordinance, rule or regulation relating to the environmental conditions thereon. Moreover, to the best of the GRANTOR's knowledge, there is no hazardous waste or other substance, including but not limited to those that would be a hazardous waste, material or substance, toxic substance, gas or pollutant, as defined under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et. seq., the Washington Model Toxics Control Act, RCW Ch. 70.105D, RCW Ch. 70.95, and the regulations promulgated thereunder or under any applicable local or state environmental ordinance, statute, law, rule or regulation ("Hazardous Substances"), on or about the Premises or on any parcels of land which abut the Premises. Further, to the best of the GRANTOR's knowledge: (i) there has

been no release, spill, leak, discharge, emission, leak or disposal, (ii) there are no substances or conditions, in or on the Premises or any other parcels of land which may affect the Premises or use thereof that may support a claim or cause of action under any federal, state or local environmental statute, regulation, ordinance or other environmental regulatory requirements and (iii) there is no asbestos, PCBs or underground storage tanks located on the Premises or which have been removed therefrom.

The GRANTEE agrees to indemnify, hold harmless and defend the County, its appointed officials, officers, employees, agents and representatives, from and against any and all claims, actions, suits, liability, loss, cost, expenses and damages of any nature whatsoever, including costs and attorneys' fees, which are caused by or arise out of (i) the existence of Hazardous Substances on the Premises or the migration of Hazardous Substances originally released or deposited on the Premises onto other parcels of land; (ii) the GRANTEE's failure or insufficient compliance with any federal, state or local laws applicable to Hazardous Substances; or (iii) any claim, in law or equity, brought by any third party or the GRANTEE's own officials, officers, employees, agents or representatives alleging any cause of action relating to the existence of Hazardous Substances on the Premises or any migration of Hazardous Substances originally released or deposited on the Premises onto other parcels of land, and, with respect to (i), (ii) and (iii), that existed, or in the case of migration commenced due to a condition that existed, as of or prior to the commencement of this Easement.

15. Restoration and Repair.

(a) In the event that any damage of any kind is caused by GRANTEE in the course of performing work authorized by this Easement, GRANTEE will repair the damage at its sole cost and expense on or before November 30, 2026 or earlier termination of this Easement. If the Property is not restored at the expiration or termination of this Easement, GRANTOR may complete the work and upon demand GRANTEE shall pay to the GRANTOR all reasonable and appropriate costs of such work, including materials and other expenses. GRANTEE agrees not to disturb any pre-existing critical areas on the Property except as authorized under applicable County and State law, including but not limited SCC 30.62A.510. Any disturbance of these areas by GRANTEE except as permitted by law will require GRANTEE to restore critical areas at GRANTEE'S sole cost and expense and upon final approval of GRANTOR.

(b) GRANTOR may at any time do, order, or have done any and all work considered necessary to restore to a safe condition any real or personal property left by GRANTEE in a condition that appears dangerous to life or property and upon demand GRANTEE shall pay to the GRANTOR all reasonable and appropriate costs of such work, including materials and other expenses.

16. Assignment, Successors and Assigns. This Easement may not be assigned, sublet or possession thereof transferred voluntarily or involuntarily by the GRANTEE. All of the provisions of this Easement shall be binding upon and inure to the benefit of GRANTOR, GRANTEE and their respective successors and assigns.

17. Compliance with Laws. GRANTEE shall comply with all federal, state and local laws, rules, and regulations, executive orders, policies, guidelines, and requirements applicable to GRANTEE's use and occupation of the Easement.

18. Prevailing Wage. To the extent any of the work performed on the Premises under the terms of this Easement meets the definition of a "public work" under RCW 39.04.010, GRANTEE and any subcontractors engaged in performing such work shall pay all workers, laborers, or mechanics an amount not less than the prevailing rate of wages established for each trade or occupation as established by the

Washington Department of Labor and Industries. GRANTEE shall be solely responsible to ensure compliance with all requirements of chapter 39.12 RCW and to determine the appropriate classifications and verify the applicable prevailing wage rates.

19. Complete Agreement. This Easement represents the complete agreement of the parties regarding the matters described herein. There are no other verbal or written agreements regarding the rights and obligations set forth herein, except as contained in this Easement. This Easement may only be modified by a written document signed by the parties.

20. Severability. If any provision of this Easement is prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, such provision shall not affect the validity of the remaining provisions of this Easement.

21. Governing Law and Venue. This Easement shall be governed by and construed in accordance with the laws of the State of Washington. The venue for any action to enforce or interpret this Easement shall lie in the Superior Court of Washington for Snohomish County, Washington.

22. Authority. Each party signing this Easement if on behalf of an entity, represents that they have full authority to sign this Easement on behalf of such entity.

24. Limited Waiver of Sovereign Immunity. The GRANTEE expressly reserves all of its inherent sovereign rights as a federally recognized Indian tribe, including sovereign immunity from suit in any state, federal or tribal court without the GRANTEE'S consent. By entering into this Easement, the GRANTEE hereby grants a limited waiver of sovereign immunity to the GRANTOR only, subject to and conditioned on the following:

(a) This limited waiver of immunity shall not extend to interpretation of the Treaty of Point Elliott, 12 Stat. 927, or the rights reserved by the GRANTEE under that Treaty. This waiver of immunity shall not extend to or be used for or to the benefit of any other person or entity of any kind or description whatsoever, including any successor or assign of the GRANTOR.

(b) To the extent that jurisdiction obtains, this limited waiver of immunity shall be deemed a consent to jurisdiction only of the Snohomish County Superior Court.

(c) This limited waiver of immunity in favor of the GRANTOR shall commence and become effective as of the effective date of this Easement and shall remain in effect and extend for three (3) years from the ending date under Section 2 or three (3) years from earlier termination of this Easement as set forth in Sections 12 and 13 herein. Notwithstanding any applicable statute of limitations or other law, upon expiration of the above three (3) year period that extends from the ending date or early termination of this Easement, this limited waiver of immunity shall be deemed withdrawn without further action by the GRANTEE or notice to the GRANTOR.

(d) Nothing contained in this Easement shall be deemed a consent to levy of

any judgment, lien or attachment upon any assets, property or interest of the GRANTEE except as specifically described herein.

(e) Nothing in this Easement nor any activity of the GRANTEE shall implicate or in any way involve the trust assets or credit of the GRANTEE or any of its members.

The GRANTEE hereby expressly provides a limited waiver of sovereign immunity to suit with respect to claims made relating to, or arising under, this Easement by GRANTOR, to interpret or enforce the terms of this Easement, or to a claim of indemnification by the GRANTOR. The limit for any claim of indemnification will be the insurance limit required by this Easement. The parties agree that in discharging this indemnification obligation, where the required insurance is procured, the GRANTOR shall look only to the proceeds of the insurance procured by the GRANTEE herein and GRANTEE agrees that it shall not assert a defense of sovereign immunity to a claim made under the policy to indemnify GRANTOR. The GRANTEE warrants its authority to and agrees to assign over to the GRANTOR, at its request, any and all of its rights against the insurer to effectuate a payment of its indemnification obligation.

THE SPACE BELOW IS LEFT BLANK INTENTIONALLY

GRANTOR: SNOHOMISH COUNTY

GRANTEE: TULALIP TRIBES OF
WASHINGTON

BY _____
Dave Somers, Executive

BY _____

TITLE _____

DATE _____

DATE _____

Approval as to form:

Deputy Prosecuting Attorney

Reviewed by Risk Management:

☐ Approved ☐ Other

Risk Management Signature

EXHIBIT A
THE PREMISES

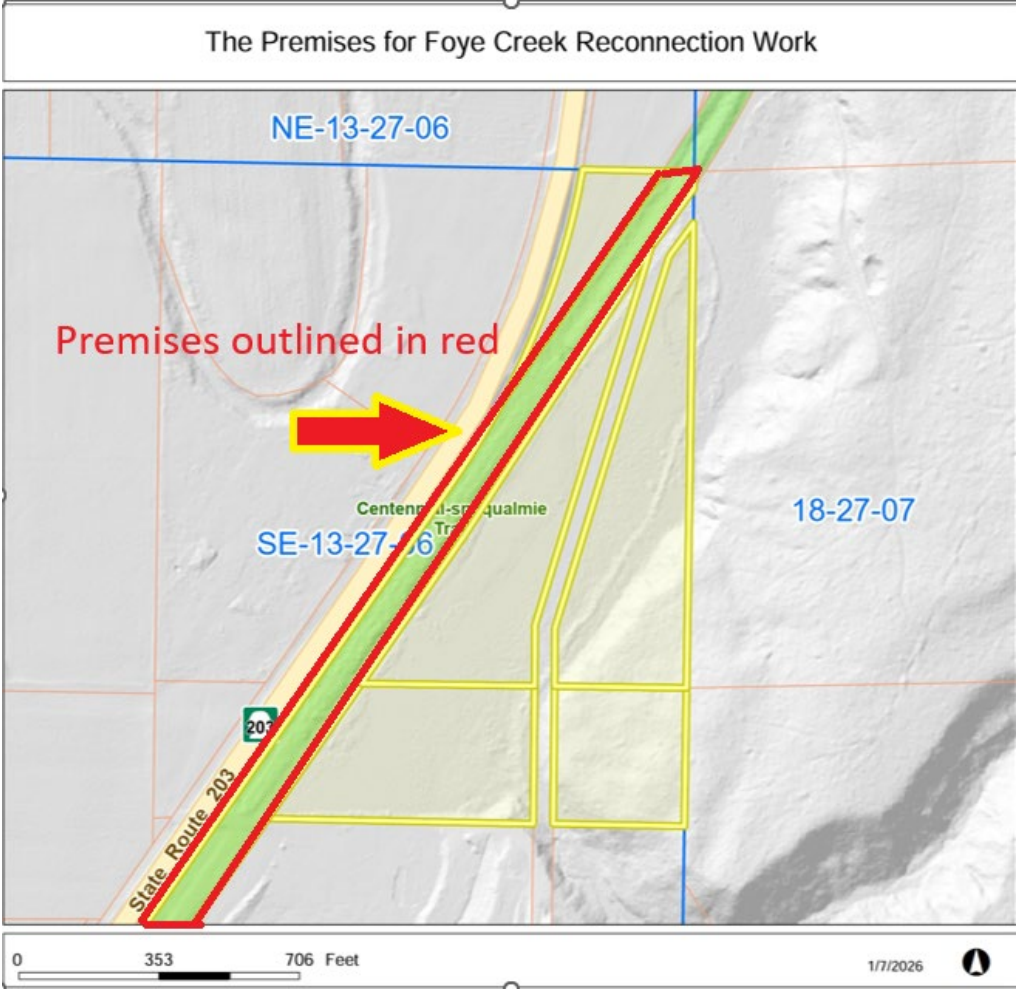


EXHIBIT B
FOYE CREEK RECONNECTION SITE PLANS

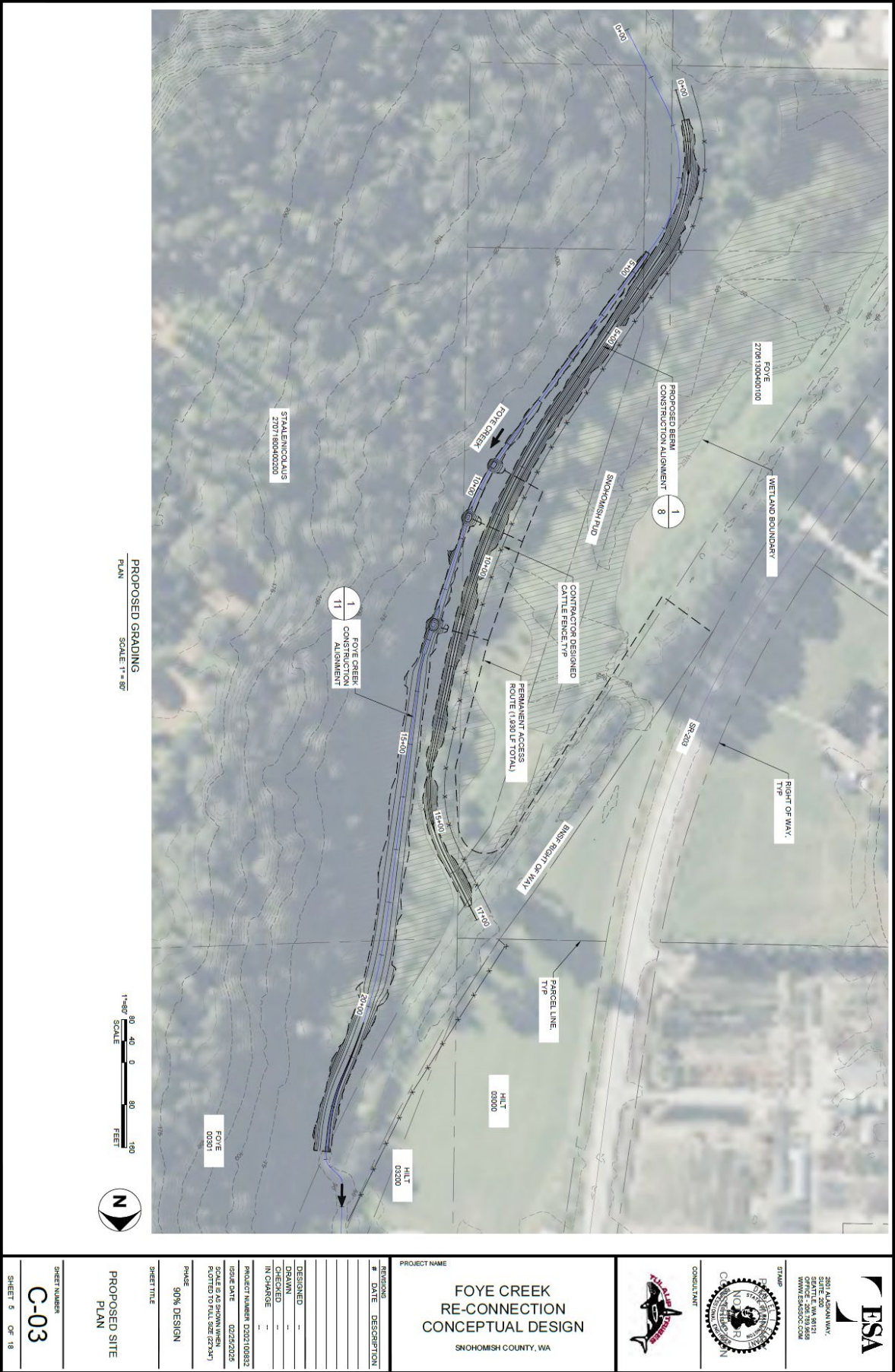


EXHIBIT F
Post-Project Monitoring

FOYE CREEK CONNECTIVITY RESTORATION PROJECT

MONITORING AND ADAPTIVE MANAGEMENT PLAN

PREPARED FOR NOAA FISHERIES RESTORATION REVIEW TEAM

MARCH 6, 2025



PROJECT SPONSORS



THIS REPORT PREPARED BY
Brett Shattuck, Tulalip Tribes

PROJECT MONITORING REVIEW TEAM
Natasha Coumou, Tulalip Tribes
Matt Pouley, Tulalip Tribes
Austin Richard, Tulalip Tribes

COVER PHOTO

Foye Creek avulsion in 2020 near Monroe, Washington

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1 Introduction

The Tulalip Tribes and partners propose to restore and enhance floodplain connections within the Tualco Valley, located in Snohomish County, Washington, about 2 miles southwest of the city of Monroe (figure 1). The primary goal of this effort is to implement feasible actions that will result in enhanced connectivity, quantity, and quality of priority salmonid habitat, while achieving a multi-benefit solution to incorporate fish, farm, and flood interests.

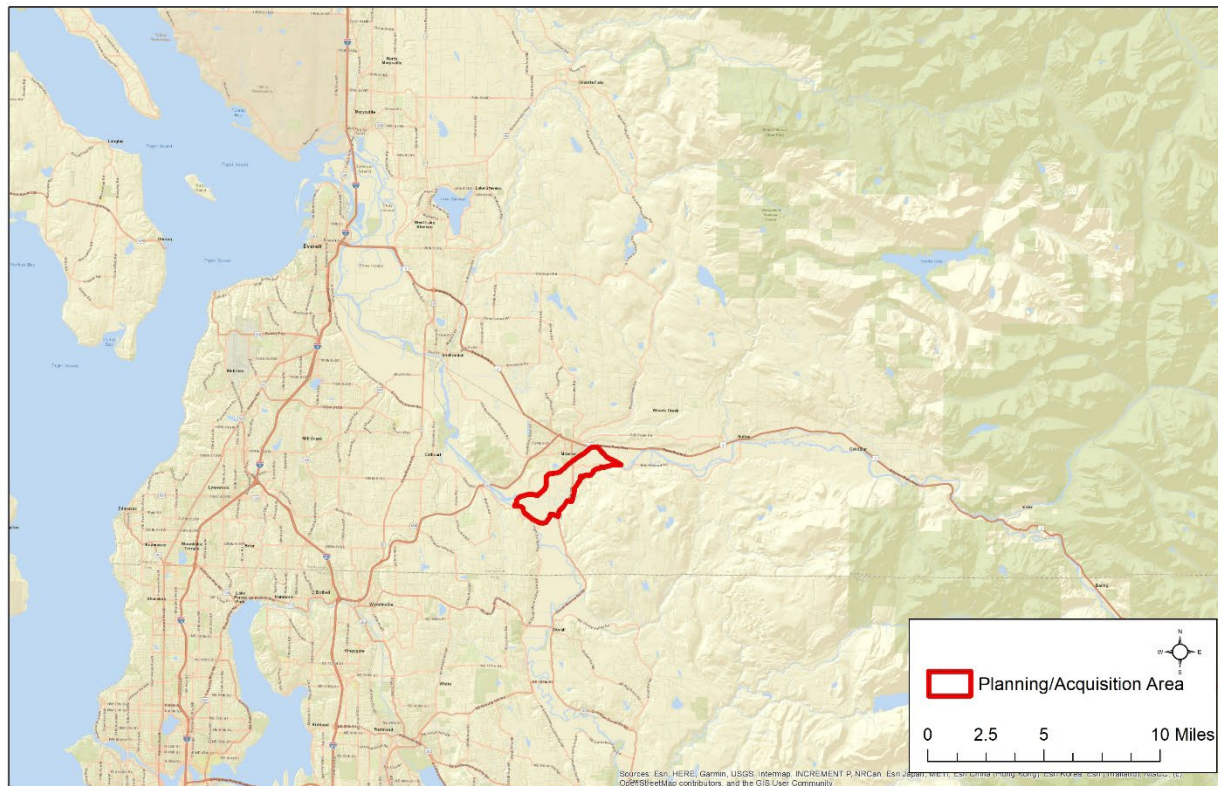


Figure 1. Vicinity map.

Riley Slough is a 6-mile-long side channel of the Skykomish River, located near Monroe, Washington in the Tualco Valley. Riley Slough begins approximately 1 mile south of the Haskell Slough inlet (Haskel Levee), and it enters into the Snoqualmie River approximately 1 mile upstream from the Snohomish River confluence (Figure 2).

Riley Slough and the Snohomish Confluence side channels historically provided critical spawning and rearing habitat for Coho salmon and other fish species. Over the past century, Riley Slough has become impacted by nearby land-use practices, including farming, water withdrawals, fish passage barriers, and channelization. Water quantity and drainage changes have altered the connectivity of Riley Slough within the Snohomish Confluence area. A lack of surface and groundwater flow, channel obstructions, and degraded riparian vegetation, among other factors, have limited the available fish habitat and significantly reduced salmonid use of Riley Slough.

Channel obstructions, reduced groundwater, and associated water quantity challenges have also posed problems for adjacent agricultural land uses.

Foye Creek is the southernmost of the three tributaries that flow into Riley Slough. Foye Creek drains approximately 1 square mile before entering the valley, making up approximately 25 percent of the drainage area that flows into Riley Slough (Figure 2). Foye Creek was historically an important contributor of hydrology to Riley Slough and provided critical spawning and rearing habitat. Over the past century, the connectivity, quality, and diversity of habitat within Foye Creek have been significantly impaired by development in the stream corridor, including residences, mining, and transportation-related infrastructure.

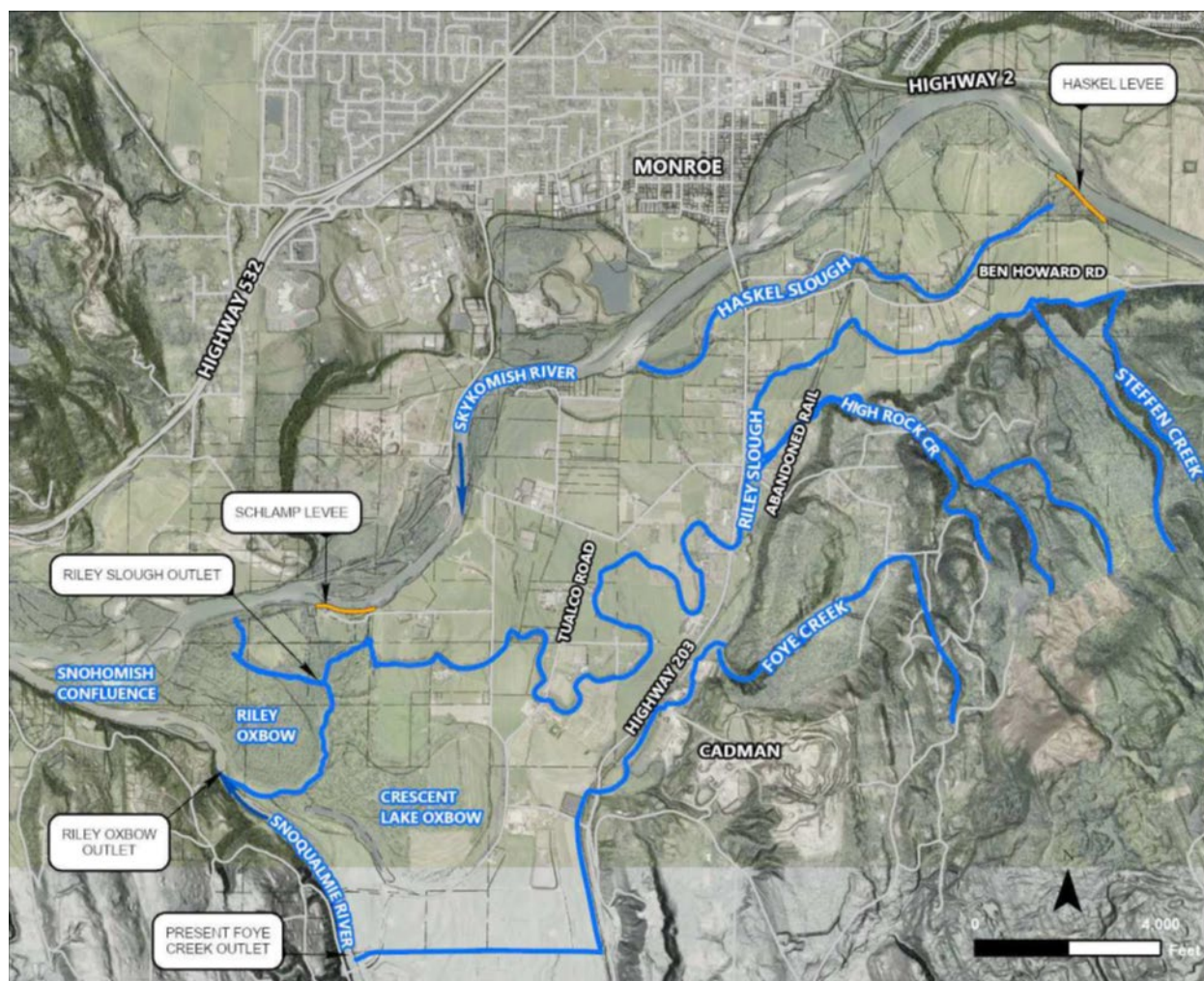


Figure 2. Vicinity Map of Riley Slough and Foye Creek Positioned within the Tualco Valley.

Upon entering the valley, Foye Creek transitions from a confined ravine into a broad alluvial fan, where it releases a high sediment load before flowing into Riley Slough. Over the latter half of last century, Foye Creek has been routed (forced) northeast by what is assumed to be a constructed berm. Analysis of historic photographs indicates that Foye Creek has been in that position since at least the late 1950s when Highway 203 was constructed through the Tualco

Valley. Prior to that time, Foye Creek entered Riley Slough immediately upstream from where Riley Slough currently crosses underneath Highway 203.

Foye Creek is no longer able to flow northeast and into Riley Slough; aerial imagery suggests that a change occurred in the early 2000s. High sediment loads have resulted in channel aggradation, overtopping, and avulsion of the previously mentioned berm. At present, the creek has become entrained and ponded against the abandoned railroad embankment (Figure 17) before disappearing through a series of culverts and roadside ditches that drain toward the southwest. The creek currently flows through highly degraded and disconnected habitats including industrial areas, mining operations, agricultural ditches, and flap-gate culverts prior to joining the Snoqualmie River at the High Bridge Boat Ramp. Due to infrastructure constraints and elevations, Foye Creek likely would not naturally re-join Riley Slough within the foreseeable future without action taken to restore either its original flow path or the flow path it had held until the early 2000s.

Restoring the surface water connection between Foye Creek and Riley Slough will directly increase the amount of water in Riley Slough at all times of the year and restore fish access to upstream. The reconstruction and setback of the historical berm is considered the most feasible action. The berm is proposed to run from where Foye Creek enters the valley and ties into the existing railway embankment. The alignment of the berm is intended to balance routing Foye Creek toward the previous railroad bridge, while still allowing some room for adjustment and migration as typically observed within an alluvial fan.

The following project actions are put forward for supporting reconstruction of the berm:

- The berm spans approximately 1,300 linear feet between the entrance to valley and the railroad
- The berm is constructed a minimum of 3 feet above the channel bottom, providing at least 1 foot of freeboard during the 100-year event, as simulated from preliminary hydraulic modeling
- Berm construction will include placement of an impervious core to limit seepage and piping of compacted materials
- Additional floodplain excavation is included to the channelization of Foye Creek as it approaches the rail grade crossing

As described below, Foye Creek likely remains a depositional zone and the long-term success of the project may require access for a small excavator and dump truck to access to remove gravel and perform repairs. The maintenance road should be at least 12 feet wide and is conceptualized to follow the southern toe of the rail grade embankment and include the top of the proposed berm. An overview of the Foye Creek project is shown in Figure 3, overlaid with shear stress mapping for the estimated bankfull discharge. Bankfull discharge represents a “channel-forming” condition when sediment is most frequently able to be mobilized; shear stress values average 0.1 psf, which is capable of moving 0.2 inches diameter gravels and finer. Hydraulic modeling suggests that Foye Creek will be capable of moving coarse sands and small gravels during the bankfull event, but larger gravels are still expected to be deposited within the project area (Fischenich 2001). As an alluvial fan, lower Foye Creek is still expected to remain a sediment

depositional zone over the long-term. Foye Creek thus is still likely to aggrade over time, and so adaptive management and periodic maintenance may be required. Based on USGS Streamstats, additional flow to be restored to Riley Slough is summarized in Table 7 (approximately 25 percent of the flow into Riley Slough).

Table 1. Summary of Estimated Flows within Foye Creek

Event	USGS Regional Regression (cfs)
1.01-Year	12
2-Year	34
10-Year	66
100-Year	108

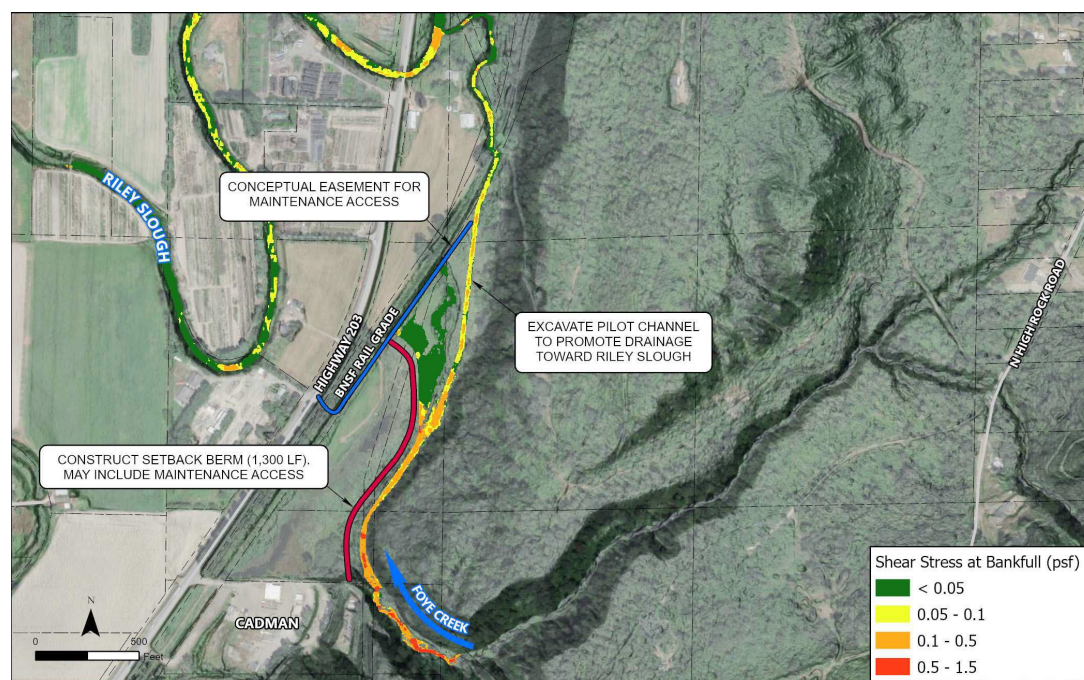


Figure 3. Overview of Foye Creek Restoration Project with Bankfull Shear Stress from Hydraulic Modeling

The purpose of this monitoring and maintenance plan is to track the effectiveness of the restoration activities completed at Foye Creek and if they are not functioning as intended, then to assess and complete intervention actions as needed. Project partners will ultimately decide on when/how extensive adaptive management actions will be implemented. The Project Monitoring Review Team has collaborated on the development of this monitoring and maintenance plan and will continue to provide review and evaluation of the plan and its findings.

1.1 Restoration Goals and Objectives

The restoration project seeks to restore hydrologic and salmon habitat connectivity in Foye Creek and Riley Slough.

S.M.A.R.T. objectives for the project include:

SMART Objectives	
Primary Response (Stream Processes)	
1	Hydrogeomorphic Connectivity: Increase water quantity in Riley Slough by approximately 25% upon project completion.
2	Hydrogeomorphic Connectivity: Create a channel that experiences minimal sediment deposition and storage from the as-built condition to 3 years after project completion.
3	Wood Dynamics: Place wood in a way that allows for low-to-moderate wood reorganization that results in minimal aggregation - within 3 years after project completion.
4	Wood Dynamics: Increase the proportion of wood jams by at least 100% immediately after project completion, and then sustain at least that proportion of functional wood jams 3 years after project completion.
Secondary Response (Habitat Characteristics)	
5	Streambed Substrates: Connect approximately 1.5 miles of quality spawning and rearing habitat with gravels suitable for salmonid and lamprey spawning and rearing following project completion.
Tertiary Response (Biological Community)	
6	Coho Salmon Spawning: Restore spring coho salmon spawning within the project area within 3 years of project completion.

1.2 Project Elements

The Foye Creek Connectivity Restoration Project consists of the following elements:

1. Installation of temporary staging sites, access roads, water crossings, and erosion control measures
2. Re-construction of approximately 1,700 feet of stream relocation berm
3. Approximately 2,200 feet of Foye Creek channel realignment excavation
4. Installation of large woody debris in the constructed channel
5. Diversion of water and aquatic organism salvage
6. Diversion of Foye Creek into the constructed realigned channel
7. Rehabilitation and seeding and/or replanting (with native species)
8. Non-native weed control



2 Project Implementation and NOAA Tier I Monitoring Plans

The Foye Creek Connectivity Restoration Project will complete implementation monitoring consistent with NOAA Restoration Center Tier I Hydrologic Reconnection metrics and methodology as shown in Table 1 (below). To support Tier 1 monitoring guidelines, The Tulalip Tribes will generate environmental information, including pre- and post-restoration assessments of channel characteristics (width, length, depth, area, substrate), habitat types and function, and large wood quantities and water flow connectivity during seasonally representative flow stages. Post-restoration topographic data, specifically, as-built surveys will be conducted by the construction contractor, the design consultant and Tulalip staff, conducted once, within one year of implementation, and will document areas of treated and planted vegetation.

Seasonal field survey of water surface elevations, channel characteristics, and sediment movement (3 times) potentially implemented in conjunction with project area UAV flights will be used to document flow connectivity (with photos) and extents in comparison with as-built information for one-year post-restoration. We propose to install low-cost staff gauges at 2 locations and deploy time lapse cameras to record (photos of staff gauges) seasonal water level.

Tulalip proposes to document channel and habitat metrics including channel widths, length, habitat units, depths, wood quantities, substrate size classes, and fish cover, and confirm visual observation of fish use of newly constructed/accessible habitats during 1-year post-implementation. The data collected and details about our methods will be available to the public upon request, including the Monitoring Plans, Data Sharing Plans, and Progress reporting.

Table 2. NOAA Restoration Center Tier I Hydrologic Reconnection metrics and methodology

Metric	Method	Pre-monitoring	Post-monitoring	Target Product
Land elevation	GIS analysis	Existing LiDAR DEM	As-built map of floodplain restoration	Target is 1 as-built map and documentation of cut and fill volumes.
Water Levels	Staff gauges and remote cameras and/or pressure transducers	Installed at a minimum of 2 locations in spring 2025	Up to 10 months post-project (October-July)	Target is 1 comparison documenting up to 8 months capturing high and low flow period(s) pre- and post-project.
Annual operating cost	Professional assessment	Calculate the expected cost over 5 years if the project were not completed.	Calculate the expected cost over 5 years post-project completion	Documentation of cost assessment under no-project and project implementation scenarios. Target is no change in annual operating cost.
Safety Hazards	Visual inspection (Figure 5)	Annual observations of wet-season flooding	Annual observations of diminished wet-season flooding	Reduced wet-season flooding of private property and adjacent to highway infrastructure.

Foye Creek Connectivity Restoration Project
Monitoring and Adaptive Management Plan

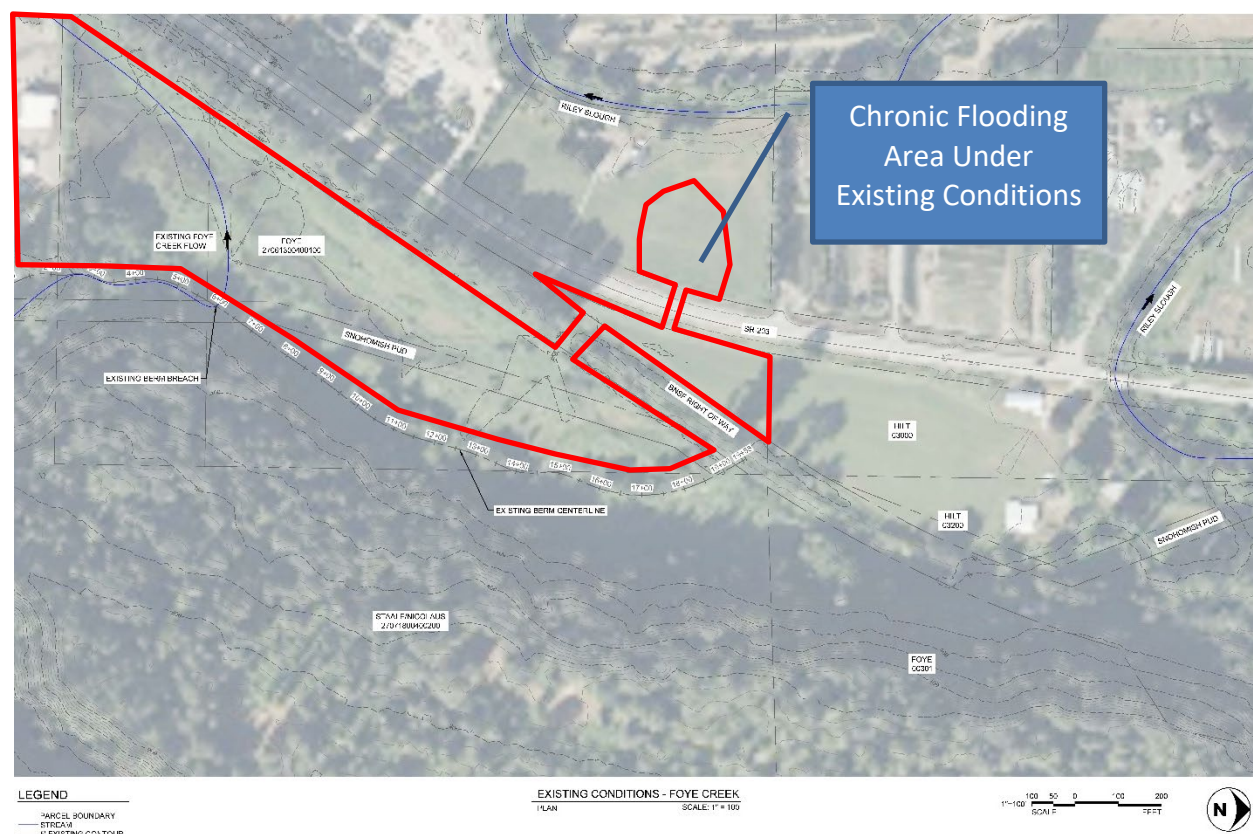


Figure 5. Areas that experience chronic flooding under existing conditions that will be observed as part of the Safety Hazard Tier I Monitoring.

The project will restore fish access to 1.5 miles of priority upstream habitat, and increase water quantity and quality downstream to approximately 2 miles of Riley Slough. Approximately 2.6 acres of stream and riparian habitat will be restored. These targets will be further assessed through the documentation of number of large wood pieces placed, acres planted, number of native trees and shrubs planted, and number of acres maintained for invasive vegetation. Targets for project implementation monitoring are listed in Table 3.

Table 3. Foye Creek Connectivity Restoration Project Implementation Monitoring.

Project Element	Metric	Method	Target
Stream Connectivity	Upstream habitat connected	GIS analysis	1.5 miles
Water Quantity	Water Quantity in Riley Slough	Staff gauges and remote cameras	25% increase
Stream restoration	Trees and logs placed	Visual inspection	25 features
Riparian restoration	Acres planted	GIS analysis	2.6 acres
Riparian restoration	Acres maintained	Visual inspection	2.6 acres

3 Project Compliance Monitoring Plan

During implementation, project partners will be actively monitoring for compliance with all permits. Policies and permits applicable to this project include:

- National Environmental Policy Act
- Section 7 of the Endangered Species Act
- Section 404 of the Clean Water Act
- Section 401 of the Clean Water Act
- Section 106 of the National Historic Preservation Act
- Snohomish County Flood Hazard Permit
- Washington Department of Fish and Wildlife Hydraulic Project Approval (HPA) through the Habitat Recovery Pilot Program (HRPP)

All project permit conditions, design criteria, and best management practices will be incorporated into the final construction contract and the contractor will be required to have a hard copy of all permits available onsite.

Prior to construction, partners will create a Compliance Monitoring Plan with all permit conditions, design criteria, and best management practices that shall be followed. A checklist will be created for onsite project managers to ensure that the contractor is implementing the plan accordingly.

4 Project Effectiveness Monitoring Plan

Effectiveness monitoring (EM) for this project is designed to measure progress toward achieving the project objectives, inform maintenance needs, and provide input into whether the restoration project is trending towards or away from achieving project goals. Based on the project goals and compliance with the Programmatic Restoration Opinion for Joint Ecosystem Conservation by the Services (PROJECTS) Biological Opinion (BiOp), physical and biological parameters will be monitored using standard field techniques.

Ultimately, the goal of our EM plan is to assess whether the project results in sustained connectivity of Foye Creek to Riley slough over time with sediment deposition rates that minimize adaptive management/sediment removal frequency. EM components include quantifying the hydrogeomorphic, habitat, and salmon spawning responses to restoration and using the results to inform if, how and when adaptive management is required.

Monitoring approaches for each of the six project objectives (Section 1.1) are grouped into six categories and described below.

4.1 Hydrogeomorphic Connectivity

We will evaluate the extent to which restoration across 2.6 acres of Foye Creek improves hydrogeomorphic connectivity in the long-term across 3 years or longer with triggers as described below. We will use that evaluation to refine appropriate monitoring metrics for future projects.

Hydrogeomorphic metrics, as indicators of restored fluvial processes, will be measured using a Before-After study design, utilizing remotely sensed data and data collected from field surveys. The Before-After study design will allow for comparison of pre-project to post-project conditions (i.e., short-term response) and multiple years of post-project data collection and analysis will elucidate trends in these indicators of restored hydrogeomorphic processes (i.e., long-term process activation). Lessons learned from data collection and analysis will help refine the utility of these metrics in future monitoring of restoration.

4.1.1 Monitoring Methods

Hydrogeomorphic metrics will be measured utilizing remotely sensed data (LiDAR and potentially Unmanned Aircraft Systems (UAS) imagery, and other satellite imagery) and data collected from field surveys of sub-reaches within the project areas. Hydrogeomorphic metrics will include volume of sediment erosion and deposition over time, and water quantity.

Sampling Frequency:

- Foye Creek sediment movement will be monitored monthly during the first wet season following construction (November-February), annually thereafter for 3 years, and after a 5-year or greater flow event within or after the 3 year period
- Remote camera and/or pressure transducer water level monitoring for up to 10 months post-project

4.2 Wood Function

We will evaluate the extent to which restoration across 2.6 acres of Foye Creek places wood in a way that enables moderate wood rearrangement without significant loss off-site and enables sufficient wood function (e.g., pool scour, etc.). Wood-related metrics, as indicators of restored fluvial processes, will be measured using a Before-After study design, utilizing remotely sensed data and data collected from field surveys.

4.2.1 Monitoring Methods

Wood-related metrics will be measured by data collected from field surveys. Wood-related metrics will include: proportion of wood retained within the project area; apparent mobility/stability; and proportion of wood jams with measurable geomorphic function (pool scour, bar deposition, or flow diversion into the floodplain).

Sampling Frequency:

- Monitored Annually

4.3 Salmon Spawning/Rearing

To evaluate salmon spawning response to restoration on Foye Creek, spawning surveys will be conducted within the 2.6 acre project area over 3 years.

4.3.1 *Monitoring Methods*

Surveys for spawning salmon will be conducted 1 time annually from October-January by Tulalip Tribes staff. The number of live and dead salmon and species will be documented along with any redds observed within the project area. Electrofishing surveys may also be conducted in April-May to determine juvenile salmon species presence.

Sampling Frequency:

- Spawning surveys conducted annually from October-January
- Electrofishing conducted annually as necessary from April-May

5 Project Monitoring Review Team Triggers

This EM plan includes select monitoring metrics and thresholds that will provide a feedback loop of the trends and trajectory of restoration outcomes (Table 4). The Project Monitoring Review Team will be notified if monitoring demonstrates values outside of the below outlined thresholds. If a Monitoring Metric is a “Pass”, then there is no action required. If, however, the Monitoring Metric is a “Fail”, then the Project Monitoring Review Team will make an evaluation of the failure and a determination of potential maintenance and/or corrective actions depending upon the severity and type of failure. Review periods will occur every 2 years following implementation, as monitoring data availability allows. Potential corrective or adaptive management actions may include actions such as sediment removal, berm maintenance, and additional planting.

Foye Creek Connectivity Restoration Project

Monitoring and Adaptive Management Plan

Table 4. Monitoring objectives, thresholds, and responses for selected metrics for Foye Creek.

Monitoring Metric	Method & Frequency	Project Objective	Thresholds	Decision Pathway
Re-constructed berm integrity	Method: Visual inspection Frequency: Monthly during the first wet season following construction, annually thereafter for 3 years, and after a 5-year or greater flow event within or after the 3-year period	Maintain functional and robust re-constructed berm that redirects Foye Creek surface water back to Riley Slough.	Berm functional (minimal erosion/seepage, etc.) and all Foye Creek surface water redirected to Riley Slough Creek	1. Yes (PASS) 2. No (FAIL)
Surface Water Connectivity	Method: Visual inspection and remote cameras and/or pressure transducers Frequency: Annually for 3 years, and after a 5-year or greater flow event within or after the 3-year period	Surface water connectivity at high and low flows between Foye Creek and Riley Slough.	Continuous surface water connectivity at high a low flows from upstream of the project area to the confluence with Riley Slough within 1 year of project completion.	1. Yes (PASS) 2. No (FAIL)
Sediment deposition/erosion	Method: Visual inspection Frequency: Monthly during the first wet season following construction, annually thereafter for 3 years, and after a 5-year or greater flow event within or after the 3-year period	Project shows minimal sediment deposition and storage (i.e., no significant rise in elevation) from the as-built condition to 3 years after	Channel thalweg bottom within 1' of berm top elevation	1. Channel lower than 1' below top of berm (PASS) 2. Channel higher than 1' below top of berm (FAIL)
Wood retention	Method: Visual inspection Frequency: Monthly during the first wet season following construction, annually thereafter for 3 years, and after a 5-year or greater flow event within or after the 3-year period	Retain at least 90% of placed wood within project reach within 3 years	10% of placed wood mobilized out of project reach	1. <10% of placed wood mobilized out of project reach (PASS) 2. >10% of placed wood mobilized out of project reach (FAIL)
Native plant survival	Method: Visual inspection Frequency: Annually for 5 years	Majority of planted native vegetation living and free to grow after 3 years.	50% plants living and free to grow.	1. >50% of plants living and free to grow (PASS) 2. <50% of plants living and free to grow (FAIL)

6 Monitoring of Potential Risks to Species and Habitats

Potential impacts and risks to species and habitats following restoration actions for this type of restoration project have been analyzed in the PROJECTS Biological Opinion:

Some potential negative physical and biological effects of channel modification include undesirable or unintended:

- *Incision or aggradation within the project reach or in upstream, downstream or tributary reaches*
- *Bank erosion due to changes in hydraulic forces or bank stability*
- *Mid-channel bar formation and widening*
- *Channel avulsion (sudden shift in channel location across the intervening floodplain)*
- *Flanking of in-stream structures*
- *Increased sediment delivered to downstream reaches due to post-project channel adjustments*
- *Decreased sediment delivered to downstream reaches due to reduction of bank erosion rates to below natural levels*
- *Altered patterns of flooding*
- *Creation of fish-stranding hazards*
- *Shifts in composition and distribution of riparian plant and fish species, including establishment of non-native species (Cramer 2012)*

To better understand the frequency and location of these occurrences, we will document and disclose in monitoring reports any visual observations of these conditions over time. We will also disclose them to the Project Monitoring Review Team, who will make an evaluation and a determination of potential maintenance and/or corrective actions depending upon the severity and type of occurrence.

EXHIBIT G
Form of Right-of-Entry

EXHIBIT G

SNOHOMISH COUNTY
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
MONITORING RIGHT-OF-ENTRY

I. Date:

II. Name: Tulalip Tribes of Washington, a federally recognized Indian Tribe (the "Permittee")

Address: 6406 Marine Drive
Tulalip, WA 98271

Contact: Brett Shattuck, Program Manager
Day Phone: (360) 716-4618

III. Purpose: The purpose of this right-of-entry is to allow the Permittee, its agents and employees, the right to use the hereinafter described lands ("Permitted Area") as depicted in Appendix B attached and incorporated herein by this reference, together with the right of ingress and egress, for post-construction re-vegetation, monitoring and maintenance of the Permitted Area as part of the Permittee's Tualco Valley Connectivity Project and as further described in the attached Appendix A.

IV. Premises Subject to This Right-of-Entry: As depicted in Appendix A.
County Property Tax Parcel Number: 27061300401700.

V. Total Fees: N/A – See Section VI.B

VI. Permittee MUST notify Snohomish County in the event of a change of address at:

Department of Conservation & Natural Resources
6705 Puget Park Drive
Snohomish, Washington 98296
Phone: (425) 388-6600

GENERAL TERMS AND CONDITIONS

Snohomish County (the "County" hereinafter) hereby licenses Permittee as designated on page 1, paragraph II above to use the property described on page 1,

paragraph IV above for the purposes set forth on page 1, paragraph III above. This right-of-entry is subject to the following terms and conditions:

A. Duration. This right-of-entry shall remain in effect from the last signature below (the "Effective Date") for as long as the Permitted Area described on page 1, paragraph IV is owned by Snohomish County and remains as part of the Centennial Trail South ("Trail"); the right-of-entry is used in conformity with the purposes stated on page 1, paragraph III; the uses permitted under this right-of-entry remain compatible with the primary purposes of the Trail; as long as all fees continue to be paid and terms and conditions of this right-of-entry are met; and for no longer than five (5) years from the Effective Date. In the event of a change in the conditions stated above, County shall have the right to terminate this right-of-entry at any time upon giving the Permittee thirty (30) days written notice of its intention to do so. Said notice shall be good if served upon Permittee or deposited post-paid in the United States Post Office, addressed to Permittee at Permittee's post office address above stated. No portion of any payments made hereunder will be refunded upon termination of this right-of-entry.

B. Consideration. In consideration of its grant of this right-of-entry, the County will receive post-construction re-vegetation, monitoring and maintenance of the Permitted Area, at no cost to the County, that will result in increased flood protection of the Premises.

C. Indemnification. The Permittee agrees, to the maximum extent permitted by law and except to the extent caused by the sole negligence of the County, to indemnify and hold harmless the County, its officers, officials, agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatsoever kind or natures arising out of, in connection with, or incidental to its use of the Premises. In addition, the Permittee shall assume the defense of the County and its officers and employees in all legal or claim proceedings arising out of, in connection with, or incidental to its use of the Premises: shall pay all defense expenses, including reasonable attorney's fees, expert fees and costs incurred by the County on account of such litigation or claims.

This indemnification obligation shall include, but is not limited to, all claims against the County by an employee or former employee of the Permittee or its Subcontractors, and the Permittee, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects the County only, under any industrial insurance act, including Title 51 RCW, other Workers' Compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim.

In the event that the County incurs any judgment, award and/or cost including attorney's fees arising from the provisions of this subsection, or to enforce the provisions of this subsection, any such judgment, award, fees, expenses and costs shall be recoverable from the Permittee.

In the event of litigation between the parties to enforce the rights under this subsection, reasonable attorney fees shall be allowed to the substantially prevailing party. In the

event the County incurs attorney fees and/or costs in the defense of claims under this provision such attorney fees and costs shall be recoverable from the Permittee.

In addition, the County shall be entitled to recover from the Permittee its attorney fees and costs incurred to enforce the provisions of this section.

The indemnification, protection, defense and save harmless obligations contained herein shall survive the expiration, abandonment or termination of this right-of-entry.

Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this right-of-entry.

E. Insurance Coverage. By the execution of this right-of-entry, the Permittee, at its' own cost, shall have procured and will maintain for the duration of this right-of-entry, insurance as specified below in Minimum Scope and Limits of Insurance. The Permittee shall furnish the County with certificates of insurance and endorsements required by this right-of-entry. The County reserves the right to require complete, certified copies of all required insurance policies at any time.

1. General. Each insurance policy shall be written on an "occurrence" form. By requiring the minimum insurance coverage set forth, the County shall not be deemed or construed to have assessed the risks that may be applicable to the Permittee under this right-of-entry. The Permittee shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.
2. No Limitation on Liability. The Permittee's maintenance of insurance as required by this right-of-entry shall not be construed to limit the liability of the Permittee to the coverage provided by such insurance, or otherwise limit the County's recourse to any remedy available at law or in equity.
3. Minimum Scope and Limits of Insurance; The Permittee shall maintain limits as broad as, and with no less than,
 - i. General Liability: \$3,000,000 per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$3,000,000 aggregate limit. CG 00 01 current edition, including Products and Completed Operations.
 - ii. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. CA 0001 current edition, Symbol 1.
 - iii. Workers' Compensation: Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington.
 - iv. Employers Liability – Stop gap: The protection provided by the Workers Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the General Liability policy.

4. Other Insurance Provisions and Requirements. The insurance coverage(s) required in this right-of-entry for all liability policies except workers' compensation, if applicable, must contain, or must be endorsed to contain the following provisions:
- i. The County, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Permittee in connection with this right-of-entry. Such coverage shall be primary and non-contributory insurance as respects the County, its officers, officials, employees and agents. Additional Insured Endorsements shall be included with the certificate of insurance, "CG 2026 07/04" and "CG 2037" current edition or equivalent are required.
 - ii. The Permittee's insurance coverage shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.
 - iii. Any deductibles or self-insured retentions must be declared to, and approved by, the County. The deductible and/or self-insured retention of the policies shall not limit or apply to the Permittee's liability to the County and shall be the sole responsibility of the Permittee.
 - iv. Insurance coverage is to be placed with insurers with a Best's rating of no less than A: VIII, or, if not rated with Best's, with minimum surpluses the equivalent of Best's surplus size VIII. Any exception must be approved by the County.
 - v. Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits until after forty-five (45) calendar days' prior written notice has been given to the County. If at any time any of the foregoing policies fail to meet minimum requirements, the Permittee shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements, for approval.

F. Nonexclusive Permit. This right-of-entry shall not be deemed or construed to be an exclusive right. It does not prohibit the County from granting other permits or rights of like nature to other public or private entities, nor shall it prevent the County from using any of its roads, streets, and public places for any and all public use, or affect its jurisdiction over any part of them.

G. Not a Property Interest. Permittee agree that they do not and shall not claim at any time any interest or estate of any kind or extent whatsoever in the Premises by virtue of this right-of-entry or their occupancy or use hereunder. In authorizing this right-of-entry, County makes no representations, express or implied, concerning the County's rights in real property, or the Permittee's access rights to open, constructed county road systems.

H. Assessments. Permittee shall be required to pay any general or special assessments incurred by the County which are directly attributable to or arising from any actions, occupancy, and usage authorized herein.

I. Right-of-Entry Conditions Must Conform to Law. Snohomish County may at any time change, amend, modify, amplify or terminate any of the conditions herein enumerated, so as to conform to any applicable local, state, or federal law or regulation pertaining to the protection of the environment, or the public health, safety and welfare, as presently exists or may hereinafter be enacted, adopted, or amended. Snohomish County may terminate this right-of-entry if Permittee fails to comply with any such changes.

J. Condition of Premises. Permittee shall restore, at Permittee's sole expense, the Premises to a condition which is equivalent in all respects to the condition they were in before starting work on Permittee's Tualco Valley Connectivity Project. Permittee shall not disturb or damage the Premises without prior written approval from the Department of Conservation and Natural Resources of the County.

K. Damage. In the event that any damage of any kind is caused by Permittee in performing work authorized by this right-of-entry, Permittee will repair the damage at their expense. Repair work shall begin without delay and continue without interruption at a rate acceptable to the County until completed.

L. County Work. The County may at any time do, order, or have done any and all work considered necessary to restore to a safe condition any real or personal property left by Permittee on the Premises in a condition that appears dangerous to life or property and upon demand Permittee shall pay to the County all costs of such work, including materials and other expenses.

M. Compliance with Terms and Conditions. Permittee agrees to comply with all terms and conditions of this right-of-entry. Permittee shall respect and protect all property, contracts, persons and attendant rights that might be affected by the work or use authorized herein.

N. Removal of Vegetation. Permittee will not remove from the Premises any standing, dead, down, or diseased trees or brush without first receiving specific written approval from the Department of Conservation & Natural Resources of the County, unless such trees or brush pose an immediate hazard to persons or property. Non-emergency removal of vegetation may be approved after the Department of Conservation & Natural Resources and Permittee have met on site and tagged the vegetation to be retained and/or removed. The Department of Conservation & Natural Resources may require replacement, at the Permittee's expense, of any vegetation removed by Permittee.

O. Removal of Debris. Permittee, at Permittee's expense, will be responsible for the removal and disposal of all debris associated with the permitted activity as required by the Department of Conservation & Natural Resources.

P. Removal Upon Revocation or Termination. Upon revocation or termination of this right-of-entry, Permittee shall remove at Permittee's expense all facilities placed on the Premises by Permittee and shall restore the Premises to a condition which is equivalent in all respects to the condition contemplated in the attached Appendix A. If Permittee has not accomplished removal and restoration at the end of a ninety-day period following the effective date of revocation or termination, the County may perform the work and charge all of the costs to Permittee, which costs shall be paid by Permittee upon demand.

Q. Change of Grade. When the county deems it advisable to change the alignment of grade of any real property or structure by grading, regrading, paving, improving, altering or repairing same, Permittee, upon written notice by the County, will at Permittee' sole cost and expense, raise, lower, move, change or reconstruct their facilities to conform with the plans of work contemplated or ordered by the County according to a time schedule contained in the written notice.

R. Other Persons and Property. Permittee agrees to obtain information from other operators of facilities on or about the Premises regarding the location and current status of their installations before starting work. Private property owners and other persons in proximity to the Premises shall be notified when such persons or property is exposed to the possibility of injury or damage through performance of work on the facility authorized by this right-of-entry. Permittee shall make all advance arrangements necessary to protect such persons or property from injury or damage.

S. Other Requirements. The granting of this right-of-entry does not in any way relieve Permittee of any obligation under applicable law, including any obligation arising out of other County permit requirements, relating to performance of the work authorized by this right-of-entry.

T. Access to Books/Records. The County may, at reasonable times, inspect the books and records of the Permittee relating to this right-of-entry.

U. Compliance with Laws. The Permittee shall comply with all applicable federal, state and local laws, rules, and regulations relating to their activities under this right-of-entry, including, but not limited to laws against discrimination.

V. Conflicts Between Attachment and Text. Should any conflicts exist between any attached exhibit and the text of this right-of-entry, the text shall prevail.

W. Governing Laws and Stipulation of Venue. This right-of-entry shall be governed by the laws of the State of Washington and the parties stipulate that any lawsuit regarding this contract must be brought in Snohomish County, Washington.

X. Non-discrimination. It is the policy of the County to reject discrimination which denies equal treatment to any individual because of his or her race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a

person with a disability as provided in Washington's Law against Discrimination, Chapter 49.60 RCW, and the Snohomish County Human Rights Ordinance, Chapter 2.460 SCC, which is incorporated herein by this reference. Execution of this right-of-entry constitutes a certification by the Permittee of the Permittee's compliance with the requirement of Chapter 2.460 SCC. If the Permittee is found to have violated this provision, or furnished false or misleading information in an investigation or proceeding conducted pursuant to Chapter 2.460 SCC, this right-of-entry may be subject to a declaration of default and termination at the County's discretion. This provision shall not affect the Permittee's obligations under other federal, state, or local laws against discrimination.

Y. National Pollutant Discharge Elimination System (NDPES). The Permittee shall comply with the NDPES Compliance Procedure attached hereto and incorporated herein as Appendix B.

Z. Limited Waiver of Sovereign Immunity.

1. The Permittee expressly retains and reserves all rights and benefits of its inherent sovereign rights as a sovereign tribe, including its rights as a federally-recognized tribe to sovereign immunity from suit in any state, federal or tribal court without Permittee's explicit consent. Nothing in this Agreement shall be deemed as a waiver of sovereign immunity or as increasing the Permittee's liability beyond any statutory or other limitation of liability, except as expressly stated herein.

The Permittee hereby expressly provides a limited waiver of sovereign immunity, subject to and conditioned on the following:

- (i) This limited waiver of immunity shall not extend to interpretation of the Treaty of Point Elliott, 12 Stat. 927, or the rights reserved by the Tribe under that Treaty. This limited waiver of sovereign immunity shall not extend to or be used for or to the benefit of any other person or entity of any kind or description whatsoever, including any successor or assigns of the County;
- (ii) To the extent that jurisdiction obtains, this limited waiver of immunity shall be deemed a consent to jurisdiction only in the United States District Court, Western District of Washington, and if that court lacks jurisdiction, a court of competent jurisdiction for the sole purpose of enforcing a final, binding arbitration award or decision in accordance with Section VI-Z(2)(iii) or for the purposes set forth in Section VI-Z(3).
- (iii) This limited waiver of immunity in favor of the County shall commence and become effective as of the effective date of this Agreement and shall remain in effect and extend for five (5) years from the ending date under Section VI-A or five (5) years from earlier termination of this Agreement as set forth in Section VI-A

herein. Notwithstanding any applicable statute of limitations or other law, upon expiration of the above five (5) year period that extends from the ending date or early termination of this Agreement under Section VI-A, this limited waiver of immunity shall be deemed withdrawn without further action by the Permittee or notice to the County.

- (iv) Nothing contained in this Agreement shall be deemed a consent to levy of any judgment, lien or attachment upon any assets, property or interest of the Permittee, with the exception that the Permittee consents to the levy of monetary arbitration judgments in favor of the County in accordance with Section VI-Z(2)(iii) and consents for the purposes set forth in Section VI-Z(3). Nothing contained in this Agreement, nor any activity of the Permittee, shall implicate or in any way involve the trust assets or credit of the Tribe or any of its members.
- (v) The Permittee hereby expressly provides a limited waiver of sovereign immunity to suit with respect to a claim of indemnification by the County in accordance with Section VI-Z(3) and to enforce a final, binding arbitration award in accordance with Section VI-Z(2)(iii). The Permittee's total liability to which this limited waiver of applies shall not exceed the Permittee's required insurance amount herein. The parties agree that in discharging this indemnification obligation, where the required insurance is procured, the County shall look only to the proceeds of the insurance procured by the Permittee herein and the policy of insurance obtained by the Permittee. The Permittee agrees that it shall not assert a defense of sovereign immunity to a claim made under the policy to indemnify the County. The Permittee warrants its authority to and agrees to assign over to the County, at its request, any and all of its rights against the insurer to effectuate a payment of its indemnification obligation to the County.
- (vi) The Permittee's limited waiver of sovereign immunity to suit is only with respect to claims:
 - (a) brought by the County to enforce the terms of the Agreement; or
 - (b) upon a claim of indemnification by the County due to third party claims against the County relating to, or arising under, the Agreement.

2. Dispute Resolution.

(i) This Dispute Resolution section applies only to disputes between the County and the Tribes, as referenced in Section VI-Z(1)(vi)(a). The County and the Tribes shall, if possible, first attempt to resolve any disputes through informal negotiations. If that is not possible or is unsuccessful, the County and the Tribe shall elect to resolve the dispute through binding arbitration.

(ii) Informal negotiations shall require the County and the Tribe to attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. Either the County or the Tribe may give the other party written notice of any dispute not resolved in the normal course of business. Within 15 days after delivery of the notice, the receiving party shall submit to the other a written response. The notice and response shall include with reasonable particularity (i) a statement of each party's position and a summary of arguments supporting that position, and (ii) the name and title of the executive who will represent that party and of any other person who will accompany the executive. Within 30 days after delivery of the notice, the executives of both parties shall meet at a mutually acceptable time and place. Unless otherwise agreed in writing by the negotiating parties, the above-described negotiation shall end at the close of the first meeting of executives described above. Such closure shall not preclude continuing or later negotiations, if desired. All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the parties, their agents, employees, experts and attorneys, are confidential, privileged, and inadmissible for any purposes, including impeachment, in arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation.

(iii) Arbitration. In the event the County and the Tribe are unable to resolve any controversy, claim, or dispute concerning Section VI-Z(1)(vi)(a). of this Agreement, the County and the Tribe shall resolve any such controversy, claim, or dispute through binding arbitration conducted under Judicial Arbitration and Mediation Services (JAMS) rules. Prior to invoking arbitration, the parties may agree to mediation, in which event the parties will use their best efforts to select a mediation as soon as possible. The mediator's costs and attendant costs of mediation shall be borne equally by the parties. Either party

may make a written demand for binding arbitration before a qualified arbitrator in Seattle, Washington, or at another place as the parties may agree in writing. Request for binding arbitration under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute, or completion of any informal negotiations conducted by the parties concerning the disputed action or position, whichever is later. A qualified arbitrator will mean a person generally familiar with the subject matter of the controversy, claim, or dispute with at least five years of arbitration experience, and knowledge of federal Indian law, if federal Indian law is part of the dispute. If the parties cannot agree on a single arbitrator, a three-person arbitration panel shall be selected as follows: each party shall select an arbitration panel member and the two selected panelists shall select a third. If the panelists cannot agree on a third arbitrator, the third arbitrator shall be selected by JAMS. The arbitration shall be administered by JAMS pursuant to its Expedited Procedures as now written or hereafter amended. Each party will pay for its own attorneys' fees and costs. The substantially prevailing party is entitled to reimbursement from the other party of all moneys it paid to the third arbitrator or JAMS related to the arbitration proceeding. The arbitrator's award shall be binding upon the parties and no appeal shall be permitted, except for a request to vacate under RCW 7.04A.230 or 9 U.S.C. § 10. The parties expressly agree that any arbitration judgment may be enforced in Snohomish County Superior Court.

(iv) In disputes between the Tribes and the County, each party shall bear its own attorneys' fees and costs.

3. Third Party Claims. The Tribes consents to the jurisdiction of a state or federal court of competent jurisdiction upon a claim of indemnification by the County, pursuant to Section VI-Z(1)(vi)(b), in the event of third party claims against the County relating to, or arising under, this Agreement.

THE SPACE BELOW IS LEFT BALNK INTENTIONALLY

VII. Permittee agrees to the terms and conditions contained herein.

DATED this _____ day of _____, 2026.

SNOHOMISH COUNTY

PERMITTEE

Joshua Dugan, Director
Conservation & Natural Resources

[Name] Title

Approved as to form only:

Deputy Prosecuting Attorney

Review By:
☐ approved ☐ other

County Risk Management

APPENDIX A
Monitoring
AND
Adaptive Management Plan

(See Exhibit F of the ILA)

Appendix B



Title: NPDES Procedure – All Parties

Document Information

1. Procedure Type: Department	Governing Department: Parks
2. Procedure Owner:	Todd McNeal, NPDES Lead
3. Status: FINAL	Next Review: 09/01/2027
4. Regulatory Source(s): OTHER Permit	Other: Phase I Municipal Stormwater
5. Retention Schedule: 3 Year	Designation: Essential

PURPOSE: This Procedure outlines responsibilities of all parties under any contractual agreement with Snohomish County Parks & Recreation Division in regards to the [National Pollutant Discharge Elimination System \(NPDES\) municipal stormwater permit](#) held by Snohomish County

THIS PROCEDURE APPLIES TO: This Procedure applies to all parties (PART(Y/IES)) under contractual agreement with Snohomish County Division of Parks & Recreation (PARKS). Contractual agreements covered by this procedure include, but are not limited to, construction contracts, lease agreements, facility license agreements, right-of entry permits, special use permits and interlocal and interdepartmental agreements.

PROCEDURE:

AUTHORITY: A Phase I Municipal Stormwater Permit, was issued to Snohomish County by Washington State Department of Ecology on July 1, 2024 as authorized by the State of Washington Water Pollution Control Law, Chapter 90.48 Revised Code of Washington (RCW), and the Federal Water Pollution Control Act. The permit requires the County to establish procedures that will eliminate, reduce or minimize pollutant discharges to surface waters.

COMPLIANCE WITH OTHER LAWS: Compliance with this procedure does not constitute waivers of the requirements of any other law or regulation; nor does it indicate compliance with any other law or regulation. Compliance with all applicable federal, state, and local laws and regulations is required.

COUNTY ACCESS: County personnel shall have reasonable access to all Park property to

conduct annual inspection and maintenance activities, perform audits of user activities, and respond as necessary to all spills or other emergencies.

SOURCE CONTROL: SCC Chapter 7.53 requires any person storing or using materials that may contain contaminants in a manner that could result in prohibited discharges to streams, lakes, groundwater or the County's storm sewer to implement source control BMPs. Source control BMPs include, but are not limited to those described in Volume IV of the county Stormwater Management Manual. The PARTY shall be responsible for utilizing all known, available, and reasonable methods of prevention, control and treatment (AKART) to prevent pollution from entering waters of the state, and for providing the proper training to all individuals engaged in such activities. The PARTY shall conduct all activities in a safe, responsible manner and in accordance with all governing regulations or laws. Activities that have the potential for being pollution generating and are subject to this requirement include, but are not limited to the following:

- Application of fertilizers and pesticides
- Building exterior cleaning and maintenance
- Chemical handling
- Cleaning of animal handling areas
- Dust control
- Fueling of equipment and vehicles
- Land disturbance activities (soil erosion)
- Landscape maintenance and vegetation disposal
- Maintenance of equipment and vehicles
- Paving operations
- Trash and pet waste management
- Vehicle washing
- Snow and ice control
- Maintaining roadside areas, including street sweeping

SPILL RESPONSE, CONTAINMENT AND REPORTING REQUIREMENTS: PARTIES that engage in activities that pose a risk of polluting waters of the state must have a spill response plan that addresses prevention, spill control, containment, cleanup, and response. A copy must be made available to PARKS at their request. Spill containment and cleanup kits must be readily accessible. All spills shall immediately be reported to PARKS by contacting the Parks NPDES Lead at (425) 309-6624 and to all appropriate agencies identified in the PARTIES Spill Response Plan.

REVISIONS TO PROCEDURE – This procedure shall be revised and updated as needed to adhere to Snohomish County Phase I Municipal Stormwater Permit revisions, or procedure modifications required by PARKS. All revisions shall be numbered and dated and provided to PARTIES.

RECORDS:

Records associated with this procedure include the authorizing contractual agreement

to which this procedure will be attached, documents associated with any spill reporting and any reports that staff generate associated with.

DEFINITIONS:

Definitions applicable to this Procedure:

- "Contaminant" means a solid, liquid, or gaseous substance that, if discharged to a drainage facility, natural drainage system, receiving waters or groundwater, will alter the physical, chemical, or biological properties thereof to the extent that the discharge will render the facility, system, or water harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life. Contaminants may include, but are not limited to the following: trash or debris; construction materials; petroleum products including but not limited to oil, gasoline, grease, fuel oil or heating oil; antifreeze and other automotive products; metals in either particulate or dissolved form; flammable or explosive materials; radioactive material; batteries; acids, alkalis, or bases; paints, stains, resins, lacquers, or varnishes; degreasers and solvents; drain cleaners; pesticides, herbicides, or fertilizers; steam cleaning wastes; soaps, detergents, or ammonia; chlorine, bromine, or other disinfectants; heated water; animal wastes; sewage; animal carcasses; food wastes; bark, soils, sediment, rock and other fibrous materials; collected lawn clippings, leaves, or branches; dyes, except as allowed in SCC 7.53.090(11); and wastewater generated by commercial or industrial activities.
- "Discharge" means to throw, drain, release, dump, spill, empty, emit, or pour any matter into receiving waters, groundwater, a natural drainage system, or a drainage facility, or to cause or allow matter to be thrown, drained, released, dumped, spilled, emptied, emitted or poured into receiving waters, groundwater, a natural drainage system, or a drainage facility, or to cause or allow matter to flow, run, or seep from land into receiving waters, groundwater, a natural drainage system, or a drainage facility.
- "Drainage facility" means any part of a man-made physical system designed or constructed to collect, treat convey, store, or control the flow of stormwater. Drainage facilities include, but are not limited to, storm water conveyance and containment facilities, including pipelines, constructed channels and ditches, infiltration facilities, retention and detention facilities, stormwater treatment facilities, erosion and sedimentation control facilities, and all other drainage structures and appurtenances.
- "Prohibited Discharges" means the following discharges to any drainage facility, natural drainage system, receiving water, or groundwater within Snohomish County except as allowed in SCC 7.53.090 or conditionally allowed in SCC 7.53.095: (1) Any discharge not completely composed of stormwater; (2) Any discharge that causes or contributes to a violation of State Water Quality Standards or State Sediment Management Standards;

(3) Any discharge that causes or contributes to a violation of any NPDES permit or State Waste Discharge permit issued to the county; (4) Any discharge that causes the county to be in violation of the State Underground Injection Control Program (Chapter 173-218 WAC); and (5) Any discharge that contains contaminants.

- “Source control best management practices” or “source control BMPs” means structures, equipment, supplies, or operations that are intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants.
- “Waters of the state” includes those waters as defined as “waters of the United States” in 40 CFR Subpart 122.2 within the geographic boundaries of Washington State and “waters of the state” as defined in Chapter 90.48 RCW which includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and watercourses including storm drainage systems and ditches within the jurisdiction of the state of Washington.

ACRONYMS:

BMP	Best Management Practice
CESCL	Certified Erosion and Sediment Control Lead
Ecology or DOE	Washington State Department of Ecology
IVM	Integrated Vegetation Management
NPDES	National Pollutant Discharge Elimination System
SCC	Snohomish County Code
SWM	Surface Water Management
SWPPP	Stormwater Pollution Prevention Plan

REVISION TABLE

Date	Description of changes
April 2024	Transferred to County template. Previously identified as 011b NPDES Procedure – All Parties.
Sept. 2024	Updated to reflect new permit, issued July 1, 2024

APPROVAL TABLE (highlighted area must always approve)

Role/Title	Approve	Notification of Change
Parks Division Director	X	
Parks Division Manager – Short Range	X	
Parks NPDES Lead	X	
DCNR Contract Specialist		X
Real Property Administrator		X
Operations Supervisor		X
Property Officer		X