



Project No. 2010100420
Appeal Sequence No. 10-121601 VE

APPEAL OF AN ADMINISTRATIVE DECISION

TO THE THURSTON COUNTY HEARING EXAMINER COMES NOW Blind Dog Enterprises LTD, d/b/a Arcadia Point Seafood, on this day of July, 2010, as an APPELLANT in the matter of an administrative decision rendered on July 1 2010, by Thurston County Resource Stewardship Department (Mike Kain – Thurston County Planning Manager), relating to Project #2010100420; Request to Install a Geoduck Bed at Tax Parcel #11905230400; Thiesen.

THE APPELLANT, after review and consideration of the reasons given by the administrative official for his/her decision, does now, give written notice of APPEAL to the Hearing Examiner of said decision under the provision(s) of the ordinances marked below.

- | | |
|--|---|
| <input type="checkbox"/> 17.09.160 SEPA | <input type="checkbox"/> 18.10.070 PLATTING & SUBDIVISION |
| <input type="checkbox"/> 17.15.410 CRITICAL AREAS | <input checked="" type="checkbox"/> 19.12.010 SHORELINE PROGRAM |
| <input type="checkbox"/> 20.60.060 ZONING | <input type="checkbox"/> 21.81.070 LACEY UGA ZONING |
| <input type="checkbox"/> 22.62.050 TUMWATER UGA ZONING | <input type="checkbox"/> 23.72.190 OLYMPIA UGA ZONING |

STATE THE BASIS OF THE APPEAL AS OUTLINED IN SECTION "A" ON REVERSE SIDE OF THIS FORM.

See attached Notice of Appeal of Administrative Decision.

(If more space is required, please attach additional sheet.)

AND REQUESTS that the Hearing Examiner, having responsibility for review of such decisions will upon review of the record of the matters and the allegations contained in this appeal, find in favor of the appellant and reverse the administrative decision.

THURSTON COUNTY
RECEIVED

JUL 9 - 2010

DEVELOPMENT SERVICES

Steven Wilson

APPELLANT NAME PRINTED

Steven M. Wilson

SIGNATURE OF APPELLANT

Address SE 240 Arcadia Point Road, Shelton, WA 98584

Phone: 360-426-4367

Please do not write below - for Staff Use Only:

Filed with Development Services this 9 day of July 2010 by Cami Petersen
Filing fee deposit of \$1710.00*, receipt no. 96074 by LD.

*The filing fee deposit will cover staff time (for Planning, Environmental Health & Development Review), and Hearing Examiner time to hear the appeal and issue a decision.

SCANNED

BEFORE THE HEARING EXAMINER
OF THURSTON COUNTY

BLIND DOG ENTERPRISES LTD, d/b/a)
ARCADIA POINT SEAFOOD,)
) No.
)
Appellant.) NOTICE OF APPEAL OF
) ADMINISTRATIVE
) DECISION

I. IDENTIFICATION OF APPELLANT

1. Appellant. Appellant Blind Dog Enterprises Ltd., d/b/a Arcadia Point Seafood, is a Washington corporation. Arcadia Point Seafood's mailing address and telephone number are as follows:

Arcadia Point Seafood
c/o Steven Wilson, President
SE 240 Arcadia Point Road
Shelton, WA 98584
Telephone: (360) 426-4367
E-mail: wilson99APS@aol.com

2. Appellant's Representative. Name, mailing address, and telephone number for Arcadia Point Seafood's attorneys are as follows:

Samuel W. Plauché
Amanda M. Stock
Plauché & Stock LLP
811 First Avenue, Suite 320
Seattle, WA 98104
Telephone: 206-588-4188
Fax: 206-588-4255
E-mail: billy@plauchestock.com
amanda@plauchestock.com

II. DECISION APPEALED

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2 1. Arcadia Point Seafood appeals an Administrative Decision issued by
3 Thurston County's Resource Stewardship Department for Project #2010100420; Request
4 for Authorization to Install a Geoduck Bed at Tax Parcel #11905230400; Thiesen.
5 Thurston County issued the Administrative Decision in the form of a July 1, 2010, letter
6 from Mike Kain, Thurston County Planning Manager, to Steve Wilson, Applicant for the
7 above-referenced project. This letter is attached hereto as Exhibit A.

8 2. Thurston County issued the Administrative Decision in response to a
9 Master Application and supporting documentation Arcadia Point Seafood submitted to the
10 County on February 16, 2010, for a proposed geoduck aquaculture operation on private
11 tidelands. Despite Arcadia Point Seafood's position that a permit is not required for this
12 operation, it submitted these materials at the County's request so that the County could
13 initiate a review to determine whether it agreed with Arcadia Point Seafood's position. A
14 copy of the Master Application and supporting documentation is attached hereto as
15 Exhibit B.

16 3. Thurston County's Administrative Decision concluded that a Shoreline
17 Substantial Development Permit is required for Arcadia Point Seafood's proposed
18 geoduck aquaculture operation because that operation meets the County Shoreline Master
19 Program definition of "substantial development."

20 4. Arcadia Point Seafood, as the Applicant for Project #2010100420, is
21 significantly and adversely affected by the Administrative Decision.

III. ISSUES ON APPEAL

22
23 1. The County's determination that Arcadia Point Seafood's proposed
24 geoduck bed requires a substantial development permit is contrary to applicable law,
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including the Washington Shoreline Management Act (“SMA”) and the Thurston County Shoreline Master Program, and is not supported by the factual record before the County.

2. In addition, the County's Administrative Decision is the result of an improper and unlawful procedure that violated the Planning Enabling Act, the Thurston County Code, and the appearance of fairness doctrine. The process that led to the County's Administrative Decision denies Arcadia Point Seafood its constitutional guarantee of due process.

IV. GROUNDS FOR APPEAL

A. The County's determination that Arcadia Point Seafood's proposal constitutes "development" under the SMA is contrary to law and unsupported by the facts.

1. The County’s determination that Arcadia Point Seafood’s proposed geoduck bed requires a substantial development permit is inconsistent with applicable law, including the SMA. Under the SMA, a Substantial Development Permit is only required for activities that meet the definition of “development.” “Development” is defined in the SMA as follows:

a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level.

RCW 90.58.030(3)(s). As discussed in detail below, each of the County’s bases for determining that Arcadia Point Seafood’s proposed geoduck bed constitutes “development” is contrary to the SMA definition of that term.

2. The County's first basis for determining that Arcadia Point Seafood's proposed geoduck bed is "development" is that the placement of tubes and netting on the

1 beach constitutes “construction of a structure.” This issue was previously considered by
2 the Washington Attorney General in AGO 2007 No. 1 (January 4, 2007). In that Opinion,
3 the Washington Attorney General found that the placement of geoduck tubes and netting
4 on beaches does not constitute “construction of a structure” under the Shoreline
5 Management Act.

6 3. The County’s Administrative Decision cites to the definition of “structure”
7 in the County’s Shoreline Master Program, which is different from the definition of
8 “structure” in the Washington Department of Ecology’s Shoreline Guidelines. Ecology
9 Guidelines define “structure” as follows:

10 [A] permanent or temporary edifice or building, or any piece of work
11 artificially built or composed of parts joined together in some definite
12 manner, whether installed on, above, or below the surface of the ground
or water, except for vessels.

13 WAC 173-27-030(15). The County Shoreline Master Program provides a different, and
14 arguably broader, definition of “structure”:

15 Anything constructed in the ground, or anything erected which requires
16 location on the ground or water, or is attached to something having
location on or in the ground or water.

17 Thurston County Shoreline Master Program, Section 4.

18 4. The County’s Administrative Decision implies that these definitional
19 differences provide a basis for the County’s disregard for the conclusions in AGO 2007
20 No. 1. However, the County is constitutionally prohibited from adopting local ordinances
21 that conflict with the SMA. To the extent the County’s Shoreline Master Program
22 requires a Substantial Development Permit for activities that are not “development” under
23 the SMA, the County’s Master Program is unconstitutional.
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1 5. In addition, the County's use of the SMP definition of "structure" instead
2 of the definition of "structure" in Ecology's Shoreline Guidelines violates the County's
3 own SMP. The County's SMP prohibits application of Master Program provisions that
4 conflict with Ecology Guidelines and the SMA. In the event of a conflict between a local
5 or "Regional" rule and a WAC, the SMP provides that the WAC prevails. The County's
6 definition of structure is in conflict with the definition of structure in Ecology's
7 Guidelines and apparently resulted in a different result as to whether certain activities are
8 development (and therefore require a substantial development permit). Under the
9 County's own SMP, the definition of "structure" in Ecology's Guidelines should prevail.

10 6. The County's second basis for determining that Arcadia Point Seafood's
11 proposed geoduck bed is "development" is that the method of harvest will remove some
12 amount of sand and other minerals from the seabed. Again, the Attorney General
13 expressly rejected this argument in AGO 2007 No. 1, finding:

14 Finally, if sediment is disrupted during harvest, only a minimal amount
15 of sediment is actually removed with the clam. This minimal amount
16 of materials removed does not comport with a reasonable interpretation
17 of the statutory language concerning "removal of materials." *See*
Black's Law Dictionary 464 (8th ed. 2004), "*de minimis non curat lex*"
(the law does not concern itself with trifles).

18 In addition, the Department of Ecology has separately opined that the harvest of wild
19 geoduck, which employs the same method as that proposed by Arcadia Point Seafood,
20 does not constitute "development" under the SMA. In accordance with these authorities,
21 the harvest of geoducks, as proposed by Arcadia Point Seafood, does not constitute
22 "development" requiring a Substantial Development Permit.

23 7. Third, the County contends in its Administrative Decision that the tubes
24 and netting employed in geoduck farming "serve as an obstruction on the beach."
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1 However, the tidelands on which Arcadia Point Seafood proposes to place its geoduck
2 farm are privately owned tidelands. The Attorney General found, in AGO 2007 No. 1,
3 that even if a proposed geoduck farm hypothetically blocks passage on a beach, "it is not a
4 cognizable obstruction of the public, because the person is there at the farmer's express or
5 implied permission." That is because, under Washington law, "the private property
6 interest in a shellfish farm allows the farmer to restrain the general public from interfering
7 with the farm." AGO 2007 No. 1. Thus, the hypothetical obstruction on the beach posed
8 by geoduck tubes and netting does not constitute "development."

9 8. Finally, the County contends in its Administrative Decision that the tubes
10 and netting proposed for Arcadia Point Seafood's geoduck bed will potentially interfere
11 with the public's use of surface waters, particularly at low tide. When reviewing whether
12 a project interferes with normal public use of surface waters, the County must first
13 determine the nature of the public use at issue. The County failed to make that
14 determination; it has not engaged in the required analysis of the nature of the public use.

15 9. A review of the specific facts relevant to Arcadia Point Seafood's proposed
16 geoduck bed demonstrates that the farm will not interfere with the public's use of surface
17 waters, for a number of reasons, including: the farm's distance from public points of
18 access; the limited extent and duration of the operator's use of boats for harvesting
19 activities; and the limited use of gear on the project site (and the security of the gear that is
20 used). Arcadia Point Seafood will also not take any affirmative action to exclude the
21 public from using the surface waters in the area of its proposal.

22 10. Based on the foregoing, the County's Administrative Decision requiring
23 that Arcadia Point Seafood obtain a Substantial Development Permit for its proposed farm
24 is contrary to law and unsupported by the facts because Arcadia Point's proposal does not
25

1 constitute “development” under the SMA that would require a Substantial Development
2 Permit.

3 **B. The County’s determination was procedurally and substantively unlawful**
4 **and improper, and violated Arcadia Point Seafood’s due process rights.**

5 11. The County’s determination that Arcadia Point Seafood’s proposed
6 geoduck bed requires a substantial development permit is inconsistent with applicable
7 law, including the constitutional guarantee of due process, the Planning Enabling Act,
8 Thurston County Code, and the appearance of fairness doctrine. As discussed in further
9 detail below, the Administrative Decision that Arcadia Point Seafood’s proposed geoduck
10 bed constituted “development” was improperly made by Thurston County Commissioners
11 rather than Thurston County staff. County Commissioners directed County staff to
12 determine that Arcadia Point Seafood’s proposed project constituted “development” and
13 therefore required a Substantial Development Permit.

14 12. The process for administrative decisions and code interpretations is set
15 forth in the Thurston County Code. Those Code provisions implement various
16 Washington State laws, including the Planning Enabling Act (Ch. 36.70 RCW), the Local
17 Project Review Act (Ch. 36.70B RCW), and Shoreline Management Act (Ch. 90.58
18 RCW). Under County zoning regulations, the development services department is to issue
19 decisions on administrative decisions and code interpretations. Administrative decisions
20 and code interpretations are ministerial decisions subject to clear, objective, and
21 nondiscretionary standards or standards that require the development services
22 department’s exercise of professional judgment about technical issues. The staff decision
23 on such a code interpretation is appealable to the Hearing Examiner, and the Hearing
24 Examiner’s decision is further appealable to the Board of County Commissioners.

1 13. Here, the County failed to follow that process. Instead, the County
2 Commissioners, after conferring with project opponents, directed staff to make the
3 decision that the Arcadia Point Seafood proposal is “development.” Such willful and
4 unreasoning action constitutes unlawful and improper interference with established
5 County procedure for issuing code interpretations.

6 14. As demonstrated above, the Commissioners’ decision that Arcadia Point
7 Seafood’s project is “development” under the SMA was not based on applicable law.
8 Instead, after conferring with project opponents, the Commissioners directed the planning
9 department to determine that Arcadia Point Seafood’s project was “development” based
10 on policy determinations. As a result, the County’s action in issuing the Administrative
11 Decision is unreasonable, arbitrary and capricious, and unconstitutional.

12 15. If the Hearing Examiner’s decision in this appeal of the County’s
13 Administrative Decision is further appealed, that appeal will be heard by the Board of
14 Thurston County Commissioners. That the Commissioners have already weighed in on
15 the Administrative Decision by dictating its outcome demonstrates that the
16 Commissioners have prejudged the issue. That the Commissioners’ decision was made
17 after conferring with project opponents demonstrates, or at least creates an appearance,
18 that the Commissioners acted out of improper motives. For these reasons, Arcadia Point
19 Seafood will not be afforded the opportunity for a fair and impartial hearing on appeal.

20 16. Based on the foregoing, the County’s Administrative Decision requiring
21 that Arcadia Point Seafood obtain a Substantial Development Permit for its proposed farm
22 is contrary to law including the Planning and Enabling Act and Thurston County Code,
23 and was improperly issued in violation of the appearance of fairness doctrine and
24 constitutional guarantees of due process.

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V. RELIEF REQUESTED

Appellant requests the following relief:

1. An order and judgment that Thurston County's July 1, 2010, Administrative Decision for Project #2010100420 is contrary to law, not supported by evidence, is arbitrary and capricious, and was improperly issued;
2. An order and judgment reversing the Administrative Decision, and finding that Arcadia Point Seafood's proposed geoduck aquaculture operation is not substantial development under the Shoreline Management Act, and as such, does not require a Substantial Development Permit; and
3. Any other relief as the Hearing Examiner may find just and equitable.

Dated this 8th day of July, 2010.

PLAUCHÉ & STOCK LLP

By: 

Samuel W. Plauché, WSBA #25476

Amanda M. Stock, WSBA #38025

Attorneys for Appellant

EXHIBIT A



COUNTY COMMISSIONERS

Cathy Wolfe
District One
Sandra Romero
District Two
Karen Valenzuela
District Three

RESOURCE STEWARDSHIP DEPARTMENT

Creating Solutions for Our Future

Cliff Moore
Director

July 1, 2010

Steve Wilson
Acadia Point Seafood
240 SE Acadia Point Rd
Shelton, WA 98584

SUBJECT: Project #2010100420; Request for Authorization to Install a Geoduck Bed at
Tax Parcel #11905230400; Thiesen

Dear Mr. Wilson:

This letter will serve to formalize our recent discussions regarding the proposed geoduck bed on Henderson Inlet. The subject application was submitted so the county could evaluate and formally determine the appropriate review process for that proposal.

The county evaluates each shellfish project on a case by case basis. Each case is evaluated against the applicable sections of the Shoreline Master Program for the Thurston Region (SMP). Section One.II.A requires that any development that exceeds a specified dollar amount obtain a substantial development permit (SDP). That amount is currently set at \$5,718 by the state. The total cost of the proposed project easily exceeds that amount. The next consideration is whether the project is by definition, "development".

The SMP, in Section IV, defines development as:

A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level.

Also instructive is the SMP definition of structure:

Anything constructed in the ground, or anything erected which requires location on the ground or water, or is attached to something having location on or in the ground or water.

Based on the cost and these definitions, the county has determined that the proposed geoduck operation meets the definition of substantial development, therefore requiring an SDP.

Following are the specifics that compelled that determination.

1. The placement of tubes and netting on the beach constitutes construction of a structure.
2. The method of harvest will remove some amount of sand and other minerals from the seabed.
3. The tubes and netting serve as an obstruction on the beach.
4. The tubes and netting, even though temporary, will potentially interfere with the normal public use of the surface waters, particularly during low tides.

The process to move forward would require submittal of an additional fee of \$5,620 and a letter requesting conversion of the subject request into a substantial development permit application. Because the project is proposed on lands covered by water, WAC 197-11-800 would also require submittal of an environmental checklist. The SDP review process involves a public hearing before the county Hearing Examiner after an environmental determination is issued by staff.

If you wish to appeal this determination, please do so in writing on the enclosed administrative appeal form, accompanied by a nonrefundable fee of \$1710.00. Any appeal must be received in the Permit Assistance Center on the second floor of Building #1 in the Thurston County Courthouse complex no later than 4:00 p.m. on **July 15, 2010**. Postmarks are not acceptable. If your fee and completed appeal form are not filed by this time, you will be unable to appeal this determination. This deadline may not be extended.

If you have questions, I can be reached at (360) 786-5471 or kainm@co.thurston.wa.us.

Respectfully,



Mike Kain
Planning Manager

cc: Cliff Moore
Jeff Fancher



Project No. _____
Appeal Sequence No. _____

APPEAL OF AN ADMINISTRATIVE DECISION

TO THE THURSTON COUNTY HEARING EXAMINER COMES NOW _____
on this _____ day of _____ 20____, as an APPELLANT in the matter of an administrative decision rendered
on _____ 20____, by _____, relating to

THE APPELLANT, after review and consideration of the reasons given by the administrative official for his/her decision, does now, give written notice of APPEAL to the Hearing Examiner of said decision under the provision(s) of the ordinances marked below.

- ☐ 17.09.160 SEPA
☐ 17.15.410 CRITICAL AREAS
☐ 20.60.060 ZONING
☐ 22.62.050 TUMWATER UGA ZONING

- ☐ 18.10.070 PLATTING & SUBDIVISION
☐ 19.12.010 SHORELINE PROGRAM
☐ 21.81.070 LACEY UGA ZONING
☐ 23.72.190 OLYMPIA UGA ZONING

STATE THE BASIS OF THE APPEAL AS OUTLINED IN SECTION "A" ON REVERSE SIDE OF THIS FORM.

(If more space is required, please attach additional sheet.)

AND REQUESTS that the Hearing Examiner, having responsibility for review of such decisions will upon review of the record of the matters and the allegations contained in this appeal, find in favor of the appellant and reverse the administrative decision.

APPELLANT NAME PRINTED

SIGNATURE OF APPELLANT

Address _____

Phone: _____

Please do not write below - for Staff Use Only:

Filed with Development Services this _____ day of _____ 20____, by _____

Filing fee deposit of \$1710.00*, receipt no. _____ by _____.

*The filing fee deposit will cover staff time (for Planning, Environmental Health & Development Review), and Hearing Examiner time to hear the appeal and issue a decision.

THURSTON COUNTY
PROCEDURE FOR APPEAL OF ADMINISTRATIVE DECISION TO HEARING EXAMINER

NOTE: THERE MAY BE NO EX PARTE (ONE-SIDED) CONTACT OUTSIDE A PUBLIC HEARING WITH EITHER THE HEARING EXAMINER OR WITH THE BOARD OF THURSTON COUNTY COMMISSIONERS ON APPEALS (Thurston County Code, Section 2.06.030).

The following is a description of the rules of procedure for appeals before the Hearing Examiner.

A. A FILED APPEAL MUST BE IN WRITING AND CONTAIN THE FOLLOWING

1. A brief statement as to how the appellant is significantly affected by or interested in the matter appealed;
2. A brief statement of the appellant's issues on appeal, noting appellant's specific exceptions and objections to the decision or action being appealed;
3. The relief requested, such as reversal or modification.

B. PRE-HEARING CONFERENCE

1. All parties to an appeal hearing shall be prepared for a pre-hearing conference with the Thurston County Hearing Examiner. The pre-hearing conference is held to structure the scope of the hearing.
2. Pre-hearing conferences may be held by telephone conference call.
3. The Hearing Examiner shall give reasonable notice to parties of any pre-hearing conference. Notice may be written or oral.
4. All parties shall be represented at a pre-hearing conference unless they waive the right to be present or represented.
5. Following the pre-hearing conference, the Hearing Examiner may issue an order reciting the actions taken or ruling on motions made at the conference.

C. PARTIES REPRESENTATIVE REQUIRED

When a party consists of more than one individual, or is a group, organization, corporation, or other entity, the appellant shall designate an individual to be its representative, and inform the Hearing Examiner's office of the name, address and telephone number of the designated representative. The rights of such an appellant shall be exercised by the person designated as the party representative. Notice or other communication to the party representative is considered to be notice or communication to party.

D. PARTIES' RIGHTS AND RESPONSIBILITIES

1. Although Appellants and Applicants have the right to be represented by an attorney, representation by an attorney is not required. Attorney representation is not discouraged.
2. Where a party has designated a representative, the representative shall exercise the rights of the party.
3. All parties and others participating in and observing hearings shall conduct themselves with civility and deal courteously with all persons involved in the proceedings.

E. HEARING FORMAT

1. Appeal hearings, although generally informal in nature, shall have a structured format and shall be conducted in a manner deemed by the Hearing Examiner to make the relevant evidence most readily and efficiently available to the Examiner and to provide the parties a fair opportunity for hearing.
2. The order of an appeal hearing will generally be as follows:
 - a. Examiner's introductory statement;
 - b. Background presentation by Department;
 - c. Appellant's argument;
 - d. Department's presentation;
 - e. Applicant's presentation;
 - f. Rebuttal;
 - g. Closing argument of parties.

F. Hearing Examiner Decision will be issued within ten (10) working days of the hearing unless additional time is agreed to by the parties.

EXHIBIT B

Geoduck Clams
ARCADIA POINT SEAFOOD
On Totten Inlet, Puget Sound

February 16, 2010

Mr. Cliff Moore, Director
Development Services
Thurston County Courthouse
Building 1, Second Floor
2000 Lakeridge Dr. SW
Olympia, WA 98502

RE: Arcadia Point Seafood/Thiesen Tidelands, McClure Tidelands

Dear Mr. Moore:

This letter and the attached documents serve as notice to the Thurston County Planning Department by Arcadia Point Seafood of intent to establish two new geoduck farms in Henderson Inlet, Thurston County.

Following the recommendations of Mr. Mike Kain made during a phone conversation on 2/09/10, we have provided the County with a copy of our applications to the U. S. Army Corp of Engineers for the two new farm permits. Tideland ownership, location, and specific farming details can be found in the applications.

In December 2009, your department received notification from Taylor Shellfish Farms of a similar intent to farm in Henderson inlet. Included were documents providing information from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service related to evaluation of potential impacts from shellfish farming on the marine environment (Biological Opinions). Also included was a letter from Taylor's attorney outlining arguments why geoduck farming does not constitute "development" under the state Shoreline Management Act or Thurston County's Shoreline Master Program and therefore does not require a substantial development permit. Rather than restating the arguments and resubmitting the supporting documents, we would refer you to that notification.

Also at the request of Mr. Kain, we have not yet submitted our SEPA checklist for these farms although it is available if it is determined that we should do so. If you have any questions or would like us to provide additional information, please don't hesitate to contact us.

Sincerely,

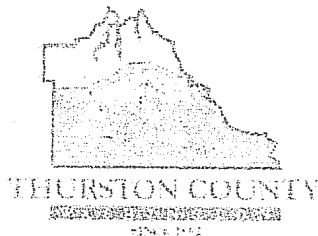


Steve Wilson

cc: Mike Kain

Steve & Vicki Wilson
240 SE Arcadia Pt Rd
Shelton, WA 98584

Phone: 360-426-4367
Fax: 360-432-9610
Cert #: WA-1359-SS



Thurston County Permit Assistance Center
 2000 Lakeridge Dr. SW, Olympia, WA 98502
 (360)786-5490 / (360)754-2939 (Fax)
 TDD Line (360) 754-2933
 Email: permit@co.thurston.wa.us
www.co.thurston.wa.us/permitting

MASTER APPLICATION

STAFF USE ONLY	DATE STAMP
<p>PLEASE NOTE: ALL APPLICATIONS AND SITE PLANS MUST BE COMPLETED IN BLACK OR BLUE INK ONLY</p>	<p>Intake by: _____</p>

The Master Application is required for all projects and shall accompany a project-specific supplemental application(s). The Master Application may not be submitted alone. Check the appropriate box for each supplemental application being submitted with this Master Application.

Type of Project (check all that apply):

Building:

- ☐ Residential (form SA001)
- ☐ Non-Residential (form SA002)
- ☐ Non-Residential Hood & Duct (form SA003)
- ☐ Non-Residential Sign (form SA004)
- ☐ Manufactured Home Placement (form SA005)
- ☐ Minor Permit (form SA006)
(Mechanical/Plumbing/Fire/Re-roof /Re-siding/Demo)
- ☐ Adult Family Home Inspection (form SA007)
- ☐ Fire Code Permit (form SA008 – SA012)

Roads:

- ☐ Encroachment Permit (form SA013)
- ☐ Construction Permit (form SA014)
- ☐ Variance (form SA015)
- ☐ Scoping Review Request (form SA015a)
- ☐ Access Permit (form SA015b)

Environmental Health:

- ☐ On-Site Sewage System (form SA016)
- ☐ On-Site Sewage System Abandonment (form SA017)
- ☐ On-Site Sewage Evaluation (form SA018)
- ☐ Water System Design (Group B or 2 Party) (form SA019)
- ☐ Well Site (form SA020)

PROJECT DESCRIPTION:

Planning:

- ☐ Administrative Variance (form SA021)
- ☐ Binding Site Plan (form SA022)
- ☐ Boundary Line Adjustment /Lot Consolidation (form SA023)
- ☐ Critical Area Review (form SA024)
- ☐ Design Review (form SA025)
- ☐ Division of Land (form SA026)
- ☐ Division of Land Final Map (form SA026a)
- ☐ Environmental Checklist (SEPA) (form SA027)
- ☐ Forest Practice Activities (form SA028)
- ☐ Innocent Purchaser (form SA029)
- ☐ Joint Aquatic Resources Permit Application (JARPA) (form SA030)
- ☐ Legal Lot Determination (form SA031)
- ☐ Other Administrative Actions (form SA032)
- ☐ Presubmission Conference (form SA033)
- ☐ Reasonable Use Exception (form SA034)
- ☐ Release of Moratorium (form SA035)
- ☐ Rezone, Comp Plan Amendment, Open Space (form SA036)
- ☐ Shoreline Administrative Variance (form SA037)
- ☐ Site Plan Review (form SA038)
- ☐ Special Use Permit (form SA039)
- ☐ Variance – Hearing Examiner (form SA040)

Property Tax Parcel Number(s): PARCEL # 11905230400

(Attach separate sheet if needed)

Lot # and Subdivision Name (if applicable): _____ Total Acreage: _____

Property Address: 8940 LIBBY RD NE City: OLYMPIA State: WA Zip Code: 98506

Directions to the Property:

ACCESS BY WATER ONLY; CONTACT APPLICANT TO ARRANGE FOR SITE VISIT.

Nearest Cross Street: _____

Property Access Issues (locked gate, code required, dogs or other animals): ☐ No ☒ Yes

Describe: ACCESS BY WATER ONLY; CONTACT APPLICANT FOR SITE VISIT
OWNER IS RESPONSIBLE FOR SECURING ANIMALS BEFORE SITE VISIT.

Property Owner(s):

(Attach separate sheet if needed) THOMAS & CAROLYN THIESEN (Type or Print)

Mailing Address: 8940 LIBBY RD NE City: OLYMPIA State: WA Zip Code: 98506

Phone #: _____ Ext. _____ Fax #: _____

Cell #: _____ E-mail: _____

Signature: _____ * Date: _____

Required for Planning Applications Only

Applicant (if different than owner): ARCADIA POINT SEAFOOD / STEVE WILSON (Type or Print)

Mailing Address: 240 SE ARCADIA POINT RD City: SHELTON State: WA Zip Code: 98584

Phone #: 360 426 4367 Ext. _____ Fax #: 360 432 9610

Cell #: _____ E-mail: WILSON99APS@AOL.COM

Signature: Steven M. Wilson * Date: 17 FEBRUARY 2010

Point of Contact: ☐ Owner ☒ Applicant ☐ Other (If "Other" complete this section)

Name: STEVEN M. WILSON / VICKI WILSON (Type or Print)

Mailing Address: 240 SE ARCADIA PT. RD City: SHELTON State: WA Zip Code: 98584

Phone #: 360 426 4367 Ext. _____ Fax #: 360 432 9610

Cell #: _____ E-mail: WILSON99APS@AOL.COM

Signature: Steven M. Wilson Date: 17 FEBRUARY 2010

*(Application is hereby made for a permit or permits to authorize the activities described herein. I certify that I am familiar with the information contained in the application and that to the best of my knowledge and belief, such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I hereby grant to the agencies to which this application is made or forwarded, the right to enter the above-described location to inspect the proposed, in-progress or completed work. I agree to start work **only** after all necessary permits/approvals have been received.)

NOTE: The point of contact will be the person receiving all County correspondence and invoices regarding this application.

Geoduck Clams
ARCADIA POINT SEAFOOD
On Totten Inlet, Puget Sound

March 4, 2009

Ms. Pam Sanguinetti
Regulatory, Seattle District
U.S. Army Corps of Engineers

Ms. Sanguinetti,

Please find enclosed two JARPA applications (#519853-09-01, McClure; #168797-09-01, Thiesen) for proposed new shellfish farms in Thurston County.

Included with each application are the following attachments:

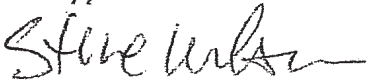
1. Driving directions to site.
2. Regional map (WDFW aquaculture management areas).
3. Area map with latitude/longitude.
4. Parcel map.
5. Parcel survey map.
6. Parcel plan view.
7. Parcel profile view.
8. Copy of lease.

As you and I discussed in an earlier conversation, when the biological assessment for the NWP 48 has been completed we will submit as additional attachments materials pertinent to geoduck culture along with site-specific biological data. Until that time, please hold these two applications on file with other new farm applications which have been submitted to you.

If you have the time for a cursory review of the two documents to identify major omissions, I would be very grateful.

I look forward to hearing from you.

Sincerely,



Steve Wilson

**2009**

WASHINGTON STATE

Joint Aquatic Resources Permit Application (JARPA) Form [\[help\]](#)

US Army Corps
of Engineers
Seattle District

AGENCY USE ONLY

Date received: _____

Agency reference #: _____

Tax Parcel #(s): _____

USE BLACK OR BLUE INK TO ENTER ANSWERS IN WHITE SPACES BELOW.

Part 1–Project Identification

Unique project information that makes it easy to identify. [\[help\]](#)**1a. Unique Project Identifier Number (UPI #)** [\[help\]](#)

- Don't have one yet? Get one at <http://www.epermitting.wa.gov> or call the Washington Governor's Office of Regulatory Assistance at (800) 917-0043.

168797-09-01

1b. Project Name (Examples: Smith's Dock or Seabrook Lane Development) [\[help\]](#)

Arcadia Point Seafood Shellfish Farm - Thiesen

Part 2–Applicant

The person or organization legally responsible for the project. [\[help\]](#)**2a. Name** (Last, First, Middle) and Organization (if applicable)

Wilson, Steve & Vicki (Owners – Blind Dog Enterprises LTD., DBA Arcadia Point Seafood)

2b. Mailing Address (Street or PO Box)

240 SE Arcadia Point Rd.

2c. City, State, Zip

Shelton, WA 98584

2d. Phone (1)

(360) 426-4367

2e. Phone (2)

()

2f. Fax

(360) 432-9610

2g. E-mail

Wilson99aps@aol.com

Part 3–Authorized Agent or Contact

Person authorized to represent the applicant about the project. (Note: Authorized agent(s) must sign 11b. of this application.) [\[help\]](#)**3a. Name** (Last, First, Middle) and Organization (if applicable)

Steve & Vicki Wilson

3b. Mailing Address (Street or PO Box)

240 SE Arcadia Point Rd

3c. City, State, Zip

Shelton, WA 98584

3d. Phone (1)

(360) 426-4367

3e. Phone (2)

()

3f. Fax

(360) 432-9610

3g. E-mail

Wilson99aps@aol.com

Part 4–Property Owner(s) [\[help\]](#)

Contact information for people or organizations owning the property(ies) where the project will occur. [\[help\]](#)

☒ Same as applicant. **Please contact owners through Arcadia Point Seafood** (Skip to Part 5.)

☐ Repair or maintenance activities on existing rights-of-way or easements. (Skip to Part 5.)

☐ There are multiple property owners. Complete the section below and use [JARPA Attachment A](#) for each additional property owner.

4a. Name (Last, First, Middle) and Organization (if applicable)			
Thomas and Carolyn Thiesen			
4b. Mailing Address (Street or PO Box)			
8940 Libby Rd NE			
4c. City, State, Zip			
Olympia, WA 98506			
4d. Phone (1)	4e. Phone (2)	4f. Fax	4g. E-mail
()	()	()	

Part 5–Project Location(s)

Identifying information about the property or properties where the project will occur. [\[help\]](#)

☐ There are multiple properties or project locations (e.g., linear projects). Complete the section below and use [JARPA Attachment B](#) for each additional property.

5a. Street Address (Cannot be a PO Box. If there is no address, provide other location information in 5n.) [help]			
8940 Libby Rd NE			
5b. City, State, Zip (If the project is not in a city or town, provide the name of the nearest city or town.) [help]			
Olympia, WA 98506			
5c. County [help]			
Thurston			
5d. Provide the section, township, and range for the project location. [help]			
¼ Section	Section	Township	Range
	5	19N	1W
5e. Provide the latitude and longitude of the project location. [help]			
• Example: 47.03922 N lat. / -122.89142 W long			
47° 09'41" N lat. 122° 50'29" W long.			
5f. List the tax parcel number(s) for the project location. [help]			
• The local county assessor's office can provide this information.			
Parcel # 11905230400			
5g. Indicate the type of ownership of the property. (Check all that apply.) [help]			
<input type="checkbox"/> State Owned Aquatic Land <input type="checkbox"/> Tribal <input checked="" type="checkbox"/> Private			
<input type="checkbox"/> Other publicly owned (federal, state, county, city, special districts like schools, ports, etc.)			

5h. Contact information for all adjoining property owners, lessees, etc. (If you need more space, use [JARPA Attachment C.](#)) [\[help\]](#)

Name	Mailing Address	Tax Parcel # (if known)
John C Lockhart (adjacent tidelands)	120 State Ave NE PMB 1191 Olympia, WA 98501	Parcel # 11905230300
William and Jeannie Evans (adjacent tidelands)	8928 Libby Rd. NE Olympia, WA 98506	Parcel # 11905230402
State of WA – Dept of Nat. Res. (adjacent tidelands)		

5i. Is any part of the project area within a 100-year flood plain? [\[help\]](#)

☐ Yes ☐ No ☒ Don't know (Thurston Co. GeoData Center identifies parcel as flood zone; project area is on tideland)

5j. Briefly describe the vegetation and habitat conditions on the property. [\[help\]](#)

The uplands of the subject and adjacent properties are typical of local rural residential, with native and exotic vegetation. The bank between the upland plateau and beach is woody brush, grass, or ground cover from the plateau to the surface of the concrete or rock bulkhead. The beach at the toe of the bulkhead begins as a mixture of fine grain sand and cobbles extending waterward between 20' and 40' before becoming fine grain sand and silt, which continues out past extreme low tide. The substrate of the project site (+2.0' to -4.5' tidal elevation) is predominately fine grain sand (>90% 0.075mm). Littoral vegetation found in the summer of 2008 was comprised primarily of Ulva and Enteromorpha. No eelgrass was observed.

5k. Describe how the property is currently used. [\[help\]](#)

The upland portion of the parcel is rural residential. The project site is used infrequently for recreational purposes, such as beach walking. The surface waters over the site are used seasonally for boating.

5l. Describe how the adjacent properties are currently used. [\[help\]](#)

The upland portions of the adjacent parcels are rural residential. During the summer of 2008, the adjacent sites were used infrequently for recreational purposes, such as beach walking. The surface waters over the adjacent sites were used for boating.

5m. Describe the structures (above and below ground) on the property, including their purpose(s). [\[help\]](#)

The tideland above +3.0' of the subject property has ten pilings that are no longer being used.
The tideland above +3.0' of the adjacent property to the south has dock and raft structures for recreational use.
Below the +3.0' elevation there are no structures on the subject or adjacent properties.

5n. Provide driving directions from the closest highway to the project location, and attach a map. [\[help\]](#)

See attachment

Part 6—Project Description

6a. Summarize the overall project. You can provide more detail in 6d. [\[help\]](#)

This project will establish a commercial intertidal geoduck clam aquaculture farm. Juvenile clams will be planted by hand and protected up to 24 months using PVC tubes in combination with individual and area netting. The expected growth period between planting and harvest is 5-7 years. The geoducks will be harvested during a 12-18 month period as size and markets dictate. Harvest will be accomplished with a high volume, low pressure water pump.

6b. Indicate the project category. (Check all that apply.) [\[help\]](#)

☒ Commercial ☐ Residential ☐ Institutional ☐ Transportation ☐ Recreational
☐ Maintenance ☐ Environmental Enhancement

6c. Indicate the major elements of your project. (Check all that apply.) [\[help\]](#)

<input checked="" type="checkbox"/> Aquaculture	<input type="checkbox"/> Culvert	<input type="checkbox"/> Float	<input type="checkbox"/> Road
<input type="checkbox"/> Bank Stabilization	<input type="checkbox"/> Dam / Weir	<input type="checkbox"/> Geotechnical Survey	<input type="checkbox"/> Scientific Measurement Device
<input type="checkbox"/> Boat House	<input type="checkbox"/> Dike / Levee / Jetty	<input type="checkbox"/> Land Clearing	<input type="checkbox"/> Stairs
<input type="checkbox"/> Boat Launch	<input type="checkbox"/> Ditch	<input type="checkbox"/> Marina / Moorage	<input type="checkbox"/> Stormwater facility
<input type="checkbox"/> Boat Lift	<input type="checkbox"/> Dock / Pier	<input type="checkbox"/> Mining	<input type="checkbox"/> Swimming Pool
<input type="checkbox"/> Bridge	<input type="checkbox"/> Dredging	<input type="checkbox"/> Outfall Structure	<input type="checkbox"/> Utility Line
<input type="checkbox"/> Bulkhead	<input type="checkbox"/> Fence	<input type="checkbox"/> Piling	
<input type="checkbox"/> Buoy	<input type="checkbox"/> Ferry Terminal	<input type="checkbox"/> Retaining Wall (upland)	
<input type="checkbox"/> Channel Modification	<input type="checkbox"/> Fishway		

☐ Other: _____

6d. Describe how you plan to construct each project element checked in 6c. Include specific construction methods and equipment to be used. [\[help\]](#)

- Identify where each element will occur in relation to the nearest waterbody.
- Indicate which activities are within the 100-year flood plain.

The farm site will be located between +2.0' and -4.5' tidal elevations. Planting activities will be conducted during the lowest tides of the summer and subsequent low tides into late fall.

To protect the juvenile geoduck clams from predators, 4" diameter, 10" long PVC tubes will be pushed vertically into the beach substrate at a density not to exceed one tube per square foot. Approximately 4"-6" of the tubes will be exposed at the surface of the sand. Juvenile clams will be placed into the tubes and a mesh cap placed over each tube, secured with a rubber band containing the compound EPDM, which allows the band to withstand UV light and saltwater. As the clams grow they will burrow deeper into the substrate until the bodies of the clams are deeper than the tube. During this growth period the clam siphons will be within the confines of protective tube. The projected amount of time to complete the planting will be 15-20 four-hour periods of low tide.

Nine to 12 months following the initial planting, the mesh caps will be removed. The tubes will be covered with area netting (3" stretched mesh or larger) to contain the tubes as the geoducks continue to grow and push the tubes from the sand. In 20-24 months following planting, the tubes and area netting will be removed from the beach. Depending on the proliferation of benthic predators, the area netting may be placed back on the sand.

The tubes as planted will be off-white in color, but within weeks become heavily fouled with marine organisms such as barnacles, mussels, tunicates, and macro algae and appear dark in color. The mesh caps are black or brown in color and also will blend well with the beach. The upper elevation of the farm site will be visible less than 20% of daylight hours between mid March and mid September. From mid September through mid March the farm site will be rarely visible during daylight hours as the lowest tides occur at night.

After the beach has been planted, inspection will occur on a regular basis as long as tubes are in the beach. This activity will entail site visits during low tides to ensure that tubes and netting are maintained in a neat and orderly manner.

Staffing needs during planting and tube/cap removal will require 12-18 workers on the beach per each low tide worked. Inspection visits will involve 1-4 individuals. Each site visit will be completed in about four hours.

Harvest of the market size clams will be accomplished by means of a vessel-mounted high volume, low pressure water pump with the clams extracted one at a time by hand. Harvest will occur by diving with surface-supplied-air, or from the beach during periods of low tides. Harvest will require 3-5 individuals during a four hour tide.

All materials, equipment, and workers access the beach by vessel, and no materials are stored on the beach.

To maintain the aesthetic quality of the area, noise levels from farm operations are kept below 50 dBA at 200 yards from the source, and lighting for nighttime work is limited to individual LED headlamps.

6e. What are the start and end dates for project construction? (month/year) [\[help\]](#)

- If the project will be constructed in phases or stages, use [JARPA Attachment D](#) to list the start and end dates of each phase or stage.

Start date: 2009 or when permits are secured

End date: an ongoing farm operation

☐ See JARPA Attachment D

6f. Describe the purpose of the work and why you want or need to perform it. [\[help\]](#)

This work is to establish a commercial shellfish aquaculture farm.

6g. Fair market value of the project, including materials, labor, machine rentals, etc. [\[help\]](#)

Estimated cost to plant and maintain 1.15 acres: (to be filled in later)

6h. Will any portion of the project receive federal funding? [\[help\]](#)

- If yes, list each agency providing funds.

☐ Yes ☒ No ☐ Don't know

Part 7–Wetlands: Impacts and Mitigation

- ☐ Check here if there are wetlands or wetland buffers on or adjacent to the project area.
(If there are none, skip to Part 8.) N/A

7a. Describe how the project has been designed to avoid and minimize adverse impacts to wetlands. [\[help\]](#)

☒ Not applicable

7b. Will the project impact wetlands? [\[help\]](#)

☐ Yes ☒ No ☐ Don't know

7c. Will the project impact wetland buffers? [\[help\]](#)

☐ Yes ☒ No ☐ Don't know

7d. Has a wetland delineation report been prepared? [\[help\]](#)

- If yes, submit the report, including data sheets, with the JARPA package.

☐ Yes ☒ No

7e. Have the wetlands been rated using the Western Washington or Eastern Washington Wetland Rating System? [\[help\]](#)

- If yes, submit the wetland rating forms and figures with the JARPA package.

☐ Yes ☐ No ☒ Don't know

7f. Have you prepared a mitigation plan to compensate for any adverse impacts to wetlands? [\[help\]](#)

- If yes, submit the plan with the JARPA package.

☐ Yes ☐ No ☒ Not applicable

7g. Use the table below to list the type and rating of each wetland that will be impacted; the extent and duration of the impact; and the type and amount of compensatory mitigation proposed. If you are submitting a compensatory mitigation plan with a similar table, you may simply state (below) where we can find this information in the mitigation plan. [\[help\]](#)

Activity causing impact (fill, drain, excavate, flood, etc.)	Wetland type and rating category ¹	Impact area (sq. ft. or acres)	Duration of impact ²	Proposed mitigation type ³	Wetland mitigation area (sq. ft. or acres)
Not applicable					

¹ Ecology wetland category based on current Western Washington or Eastern Washington Wetland Rating System. Provide the wetland rating forms with the JARPA package.

² Indicate the time (in months or years, as appropriate) the wetland will be measurably impacted by the activity. Enter "permanent" if applicable.

³ Creation (C), Re-establishment/Rehabilitation (R), Enhancement (E), Preservation (P), Mitigation Bank/In-lieu fee (B)

Page number(s) for similar information in the mitigation plan, if available: _____

7h. For all filling activities identified in 7g., describe the source and nature of the fill material, the amount in cubic yards that will be used, and how and where it will be placed into the wetland. [\[help\]](#)

No filling will occur in this activity.

7i. For all excavating activities identified in 7g., describe the excavation method, type and amount of material in cubic yards you will remove, and where the material will be disposed. [\[help\]](#)

No excavation will occur in this activity.

7j. Summarize what the compensatory mitigation plan is meant to accomplish, and describe how a watershed approach was used to design the plan. [\[help\]](#)

No mitigation is required for this activity.

Part 8–Waterbodies (other than wetlands): Adverse Impacts and Mitigation

In Part 8, “waterbodies” refers to non-wetland waterbodies. (See Part 7 for information related to wetlands.) [\[help\]](#)

X Check here if there are waterbodies on or adjacent to the project area. (If there are none, skip to Part 9.)

8a. Describe how the project is designed to avoid and minimize adverse impacts to the aquatic environment. [\[help\]](#)

☐ Not applicable

Farm activities will be restricted to the minimum amount of disturbance necessary to operate the farm. All work activities are manual labor; no machinery will operate on the beach, no petroleum derivatives will be allowed on the beach, no equipment will be stored at the site.

The farm site is situated below the spawning elevations of sand lance and surf smelt, and there is no eelgrass or vegetation necessary to attract herring spawn.

Harvest activities will disturb the substrate for short, intermittent periods to a depth of 36". Studies indicate that impacts are minimal and of short duration. The beach will quickly return to original condition.

8b. Will your project adversely impact a waterbody or the area around a waterbody? [\[help\]](#)

☐ Yes X No

8c. Summarize adverse impact(s) to each waterbody in the table below. [\[help\]](#)

Activity causing impact (clear,	Waterbody name	Impact location ¹	Duration of impact ²	Amount of material to be placed in or	Area (sq. ft. or linear ft.) of
---------------------------------	----------------	------------------------------	---------------------------------	---------------------------------------	---------------------------------

dredge, fill, pile drive, etc.)				removed from waterbody	waterbody directly affected
No adverse impacts will occur.					

¹ Indicate whether the impact will occur in or adjacent to the waterbody. If adjacent, provide the distance between the impact and the waterbody and indicate whether the impact will occur within the 100-year flood plain.

² Indicate the time (in months or years, as appropriate) the waterbody will be measurably impacted by the work. Enter "permanent" if applicable.

8d. Have you prepared a mitigation plan to compensate for the project's adverse impacts to non-wetland waterbodies? [\[help\]](#)

- If yes, submit the plan with the JARPA package.

☐ Yes ☐ No ☒ Not applicable

8e. Summarize what the compensatory mitigation plan is meant to accomplish. Describe how a watershed approach was used to design the plan.

- If you already completed 7j., you do not need to restate your answer here. [\[help\]](#)

Not applicable

8f. For all activities identified in 8c., describe the source and nature of the fill material, amount (in cubic yards) you will use, and how and where it will be placed into the waterbody. [\[help\]](#)

No fill will be used in this project.

8g. For all excavating or dredging activities identified in 8c., describe the method for excavating or dredging, type and amount of material you will remove, and where the material will be disposed. [\[help\]](#)

No excavation will occur in this project.

Part 9—Additional Information

Any additional information you can provide helps the reviewer(s) understand your project.

9a. If you have already worked with any government agencies on this project, list them below. [\[help\]](#)

Agency Name	Contact Name	Phone	Most Recent Date of Contact
		()	

9b. Are any of the wetlands or waterbodies identified in Part 7 or Part 8 on the Washington Department of Ecology's 303(d) List? [\[help\]](#)

- If yes, list the parameter(s) below.
- If you don't know, use Washington Department of Ecology's Water Quality Assessment tools at <http://www.ecy.wa.gov/programs/wq/303d/>.

☒ Yes ☐ No

Dissolved oxygen
Fecal coliform

9c. What U.S. Geological Survey Hydrological Unit Code (HUC) is the project in? [\[help\]](#)

- Go to <http://cfpub.epa.gov/surf/locate/index.cfm> to help identify the HUC.

17110019

9d. What Water Resource Inventory Area Number (WRIA #) is the project in? [\[help\]](#)

- Go to <http://www.ecy.wa.gov/services/gis/maps/wria/wria.htm> to find the WRIA #.

13

9e. Will the in-water construction work comply with the State of Washington water quality standards for turbidity? [\[help\]](#)

- Go to <http://www.ecy.wa.gov/programs/wq/swqs/criteria.html> for the standards.

☒ Yes ☐ No ☐ Not applicable ***not sure how to interpret

9f. If the project is within the jurisdiction of the Shoreline Management Act, what is the local shoreline environment designation? [\[help\]](#)

- If you don't know, contact the local planning department.
- For more information, go to: http://www.ecy.wa.gov/programs/sea/sma/laws_rules/173-26/211_designations.html.

☒ Rural ☐ Urban ☐ Natural ☐ Aquatic ☐ Conservancy ☐ Other _____

9g. What is the Washington Department of Natural Resources Water Type? [\[help\]](#)

- Go to http://www.dnr.wa.gov/BusinessPermits/Topics/ForestPracticesApplications/Pages/fp_watertyping.aspx for the Forest Practices Water Typing System.

☒ S ☐ F ☐ Np ☐ Ns

9h. Will this project be designed to meet the Washington Department of Ecology's most current stormwater manual? [\[help\]](#)

- If no, provide the name of the manual your project is designed to meet.

☐ Yes ☐ No N/A

Name of manual:

9i. If you know what the property was used for in the past, describe below. [\[help\]](#)

No prior use

9j. Has a cultural resource (archaeological) survey been performed on the project area? [\[help\]](#)

- If yes, attach it to your JARPA package.

☐ Yes ☒ No

9k. Name each species listed under the federal Endangered Species Act that **occurs** in the vicinity of the project area or **might be affected** by the proposed work. [help]

Endangered Species

Most likely in vicinity: Killer Whale

Least likely in vicinity: Leatherback sea turtle

Threatened Species

Most likely in vicinity: Puget Sound Chinook salmon, Puget Sound Steelhead, Marbled murrelet

Least likely in vicinity: Spotted Owl, Green sea turtle, Loggerhead sea turtle, Stellar sea lion, Spotted Owl, Bull trout (Dolly Varden)

9l. Name each species or habitat on the Washington Department of Fish and Wildlife's Priority Habitats and Species List that **might be affected** by the proposed work. [help]

Species on the PHS list: Pacific herring, Pacific sand lance, Surf smelt, Puget Sound steelhead, Puget Sound Chinook and Coho salmon, Bull trout (Dolly Varden), Coastal cutthroat trout, Killer whale, Gray whale, Harbor seal, California sea lion, Stellar sea lion, Green sea turtle, Loggerhead sea turtle, Leatherback sea turtle, Bald eagle, common murre, Marbled murrelet, Western grebe

Habitat On the PHS list: Puget Sound nearshore

Part 10—Identify the Permits You Are Applying For

Use the resources and checklist below to identify the permits you are applying for.

- Online Project Questionnaire at <http://apps.ecy.wa.gov/opas/>.
- Governor's Office of Regulatory Assistance at (800) 917-0043 or help@ora.wa.gov.

10a. Compliance with the State Environmental Policy Act (SEPA). (Check all that apply.) [help]

- For more information about SEPA, go to www.ecy.wa.gov/programs/sea/sepa/e-review.html.

☐ A copy of the SEPA determination or letter of exemption is included with this application.

X A SEPA determination is pending with Thurston County (lead agency). The expected decision date is _____.

☐ I am applying for a Fish Habitat Enhancement Exemption. (Check the box below in 10b.)

- Submit the Fish Habitat Enhancement Project form with this application. The form can be found at http://www.epermitting.wa.gov/Portals/_JarpaResourceCenter/images/default/fishenhancement.doc

☐ This project is exempt (choose type of exemption below).

☐ Categorical Exemption. Under what section of the SEPA administrative code (WAC) is it exempt?

☐ Other: _____

☐ SEPA is pre-empted by federal law. [help]

10b. Indicate the permits you are applying for. (Check all that apply.) [help]

LOCAL GOVERNMENT

Local Government Shoreline permits:

☐ Substantial Development ☐ Conditional Use ☐ Variance

☐ Shoreline Exemption Type (explain): _____

Other city/county permits:

☐ Floodplain Development Permit ☐ Critical Areas Ordinance

STATE GOVERNMENT

Washington Department of Fish and Wildlife:

☐ Hydraulic Project Approval (HPA) ☐ Fish Habitat Enhancement Exemption

Washington Department of Ecology:

☐ Section 401 Water Quality Certification

Washington Department of Natural Resources:

☐ Aquatic Resources Use Authorization

FEDERAL GOVERNMENT

United States Department of the Army permits (U.S. Army Corps of Engineers):

☐ Section 404 (discharges into waters of the U.S.) X Section 10 (work in navigable waters)

United States Coast Guard permits:

☐ General Bridge Act Permit ☐ Private Aids to Navigation (for non-bridge projects)

Part 11—Authorizing Signatures

Signatures required before submitting the JARPA package.

11a. Applicant Signature (required) [\[help\]](#)

I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate. I also certify that I have the authority to carry out the proposed activities, and I agree to start work only after I have received all necessary permits.

I hereby authorize the agent named in Part 3 of this application to act on my behalf in matters related to this application. _____ (initial)

By initialing here, I state that I have the authority to grant access to the property. I also give my consent to the permitting agencies entering the property where the project is located to inspect the project site or any work related to the project. _____ (initial)

Applicant

Date

11b. Authorized Agent Signature [\[help\]](#)

I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate. I also certify that I have the authority to carry out the proposed activities and I agree to start work only after all necessary permits have been issued.

Authorized Agent

Date

11c. Property Owner Signature (if not applicant) [\[help\]](#)

I consent to the permitting agencies entering the property where the project is located to inspect the project site or any work. These inspections shall occur at reasonable times and, if practical, with prior notice to the landowner.

Property Owner

Date

18 U.S.C §1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years or both.

If you require this document in another format, contact The Governor's Office of Regulatory Assistance (ORA). People with hearing loss can call 711 for Washington Relay Service. People with a speech disability can call (877) 833-6341.

ORA publication number: ENV-019-09

Part 11—Authorizing Signatures

Signatures required before submitting the JARPA package.

11a. Applicant Signature (required) [\[help\]](#)

I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate. I also certify that I have the authority to carry out the proposed activities, and I agree to start work only after I have received all necessary permits.

I hereby authorize the agent named in Part 3 of this application to act on my behalf in matters related to this application. _____ (initial)

By initialing here, I state that I have the authority to grant access to the property. I also give my consent to the permitting agencies entering the property where the project is located to inspect the project site or any work related to the project. _____ (initial)

Steven M. Wilson
Applicant

4 March 2009
Date

11b. Authorized Agent Signature [\[help\]](#)

I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate. I also certify that I have the authority to carry out the proposed activities and I agree to start work only after all necessary permits have been issued.

Authorized Agent

Date

11c. Property Owner Signature (if not applicant) [\[help\]](#)

I consent to the permitting agencies entering the property where the project is located to inspect the project site or any work. These inspections shall occur at reasonable times and, if practical, with prior notice to the landowner.

Thomas A. Thiesen
Property Owner

2-24-09
Date

18 U.S.C §1001 provides that Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years or both.

If you require this document in another format, contact The Governor's Office of Regulatory Assistance (ORA). People with hearing loss can call 711 for Washington Relay Service. People with a speech disability can call (877) 833-6341.
ORA publication number: ENV-019-09

PURPOSE:
Shellfish Aquaculture

DATUM:
USACE South Puget,
Henderson Inlet

**ADJACENT PROPERTY
OWNERS:** See numbered
Lots on Sheets 2 and 3

APPLICANT:
Arcadia Point Seafood
NWS-2009-261

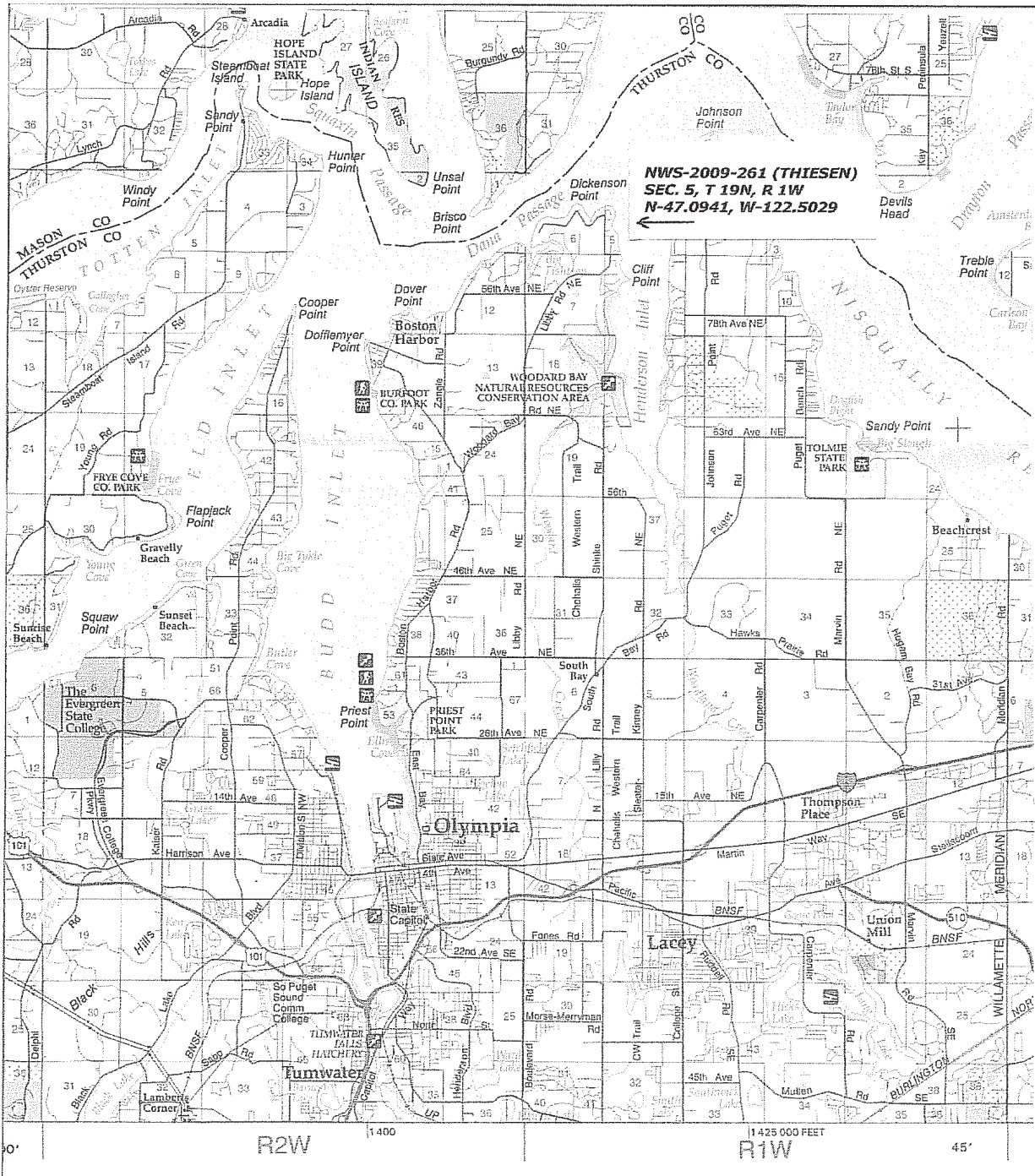
LOCATION ADDRESS:
8940 Libby Rd. NE
Olympia WA 98506
Thurston County
Parcel # 11905230400
N-47.0941 W-122.5029

PROPOSED:
1.5 Acre Intertidal
Shellfish Farm

IN/NEAR:
Henderson Inlet/
Olympia, WA

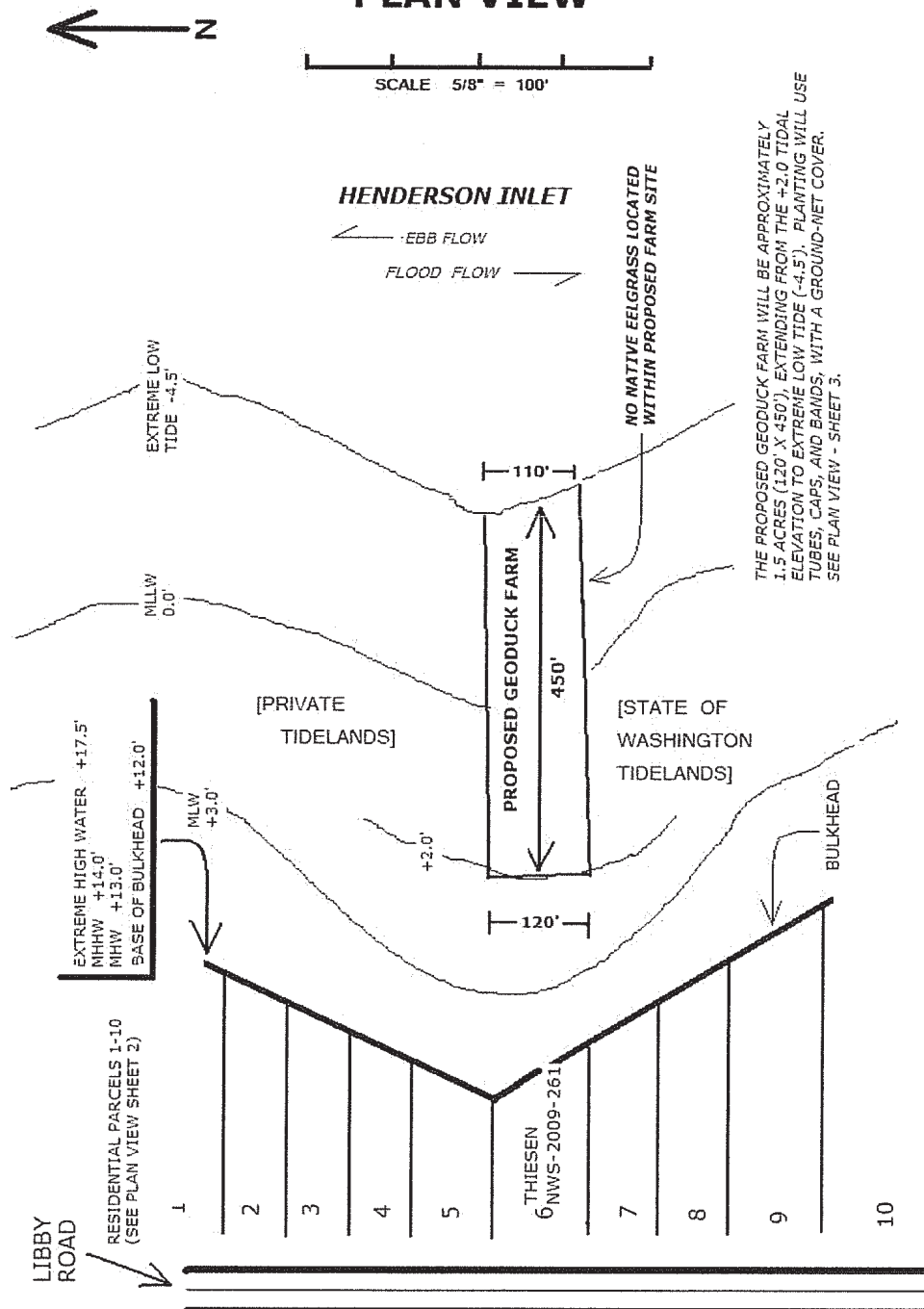
COUNTY/STATE:
Thurston/Washington

SHEET 1 OF 6; DATE 05-21-09



<p>PURPOSE: Shellfish Aquaculture</p> <p>DATUM: USACE South Puget, Henderson Inlet</p> <p>ADJACENT PROPERTY OWNERS: See numbered Lots on Sheets 2 and 3</p>	<p>APPLICANT: Arcadia Point Seafood NWS-2009-261</p> <p>LOCATION ADDRESS: 8940 Libby Rd. NE Olympia WA 98506 Thurston County Parcel # 11905230400 N-47.0941 W-122.5029</p>	<p>PROPOSED: 1.5 Acre Intertidal Shellfish Farm</p> <p>IN/NEAR: Henderson Inlet/ Olympia, WA</p> <p>COUNTY/STATE: Thurston/Washington</p> <p>SHEET 2 OF 6; DATE 05-21-09</p>
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PLAN VIEW



PURPOSE: Shellfish Aquaculture DATUM: USACE South Puget, Henderson Inlet ADJACENT PROPERTY OWNERS: See numbered Lots on Sheets 2 and 3	APPLICANT: Arcadia Point Seafood NWS-2009-261 LOCATION ADDRESS: 8940 Libby Rd. NE Olympia WA 98506 Thurston County Parcel # 11905230400 N-47.0941 W-122.5029	PROPOSED: 1.5 Acre Intertidal Shellfish Farm IN/NEAR: Henderson Inlet/ Olympia, WA COUNTY/STATE: Thurston/Washington SHEET 3 OF 6; DATE 05-21-09
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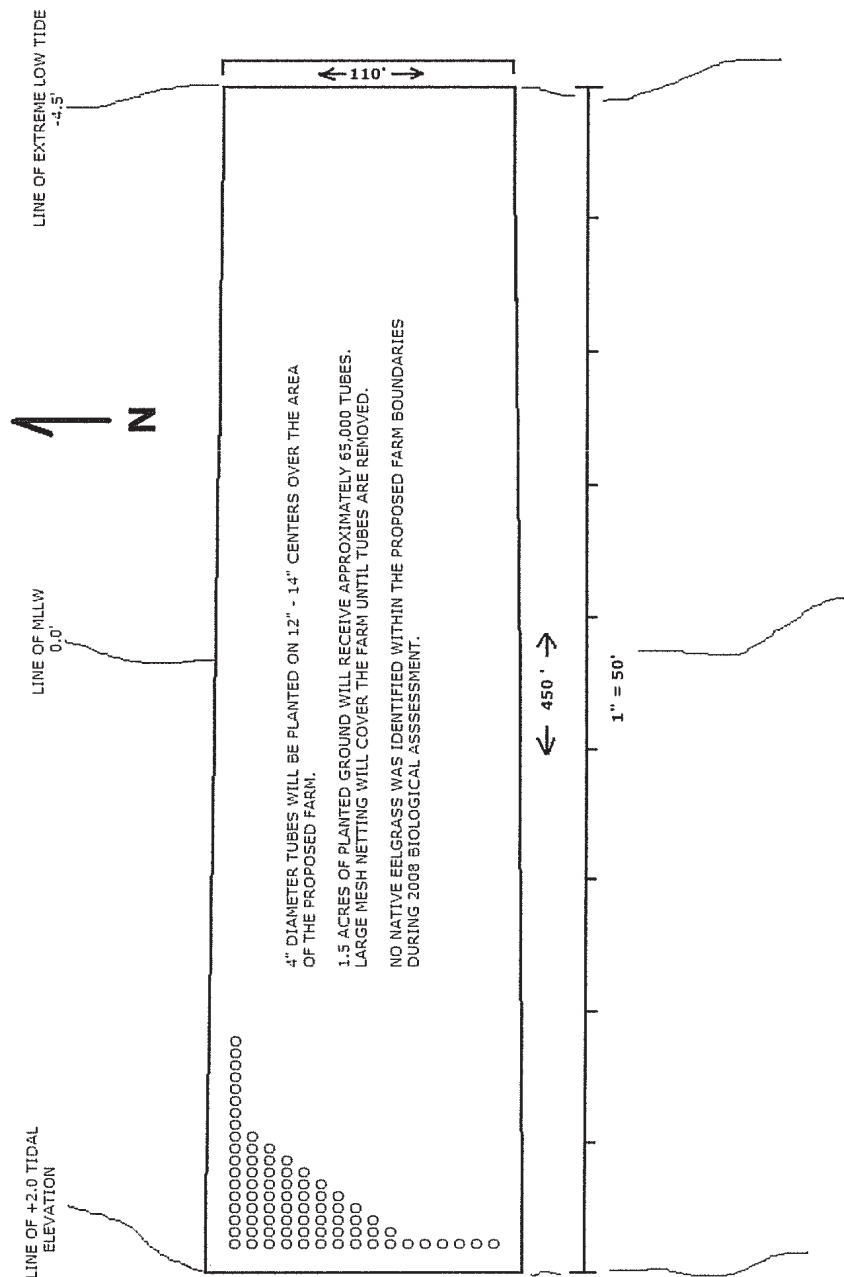
PLAN VIEW ATTACHMENT

UPLAND PARCEL OWNERS WITHIN 500 FEET OF NWS-2009-261

- | | |
|--|---|
| 1. Parcel #5980120010
(undeveloped)
John and Kammy Minor
3648 Lovejoy CRT NE
Olympia, WA 98506 | 6. Parcel #11905230400
(NWS-2009-261)
Thomas and Carolyn Thiesen
8940 Libby Rd. NE
Olympia, WA 98506 |
| 2. Parcel #59801200200
Mark Urmanski
9030 Libby Rd. NE
Olympia, WA 98506 | 7. Parcel #11905230402
William and Jeannie Evans
8928 Libby Rd. NE
Olympia, WA 98506 |
| 3. Parcel #11905230100
Paul Bunning
9026A Libby Rd. NE
Olympia, WA 98506 | 8. Parcel #11905230600
Kevin and Lilah Amos
8924 Libby Rd. NE
Olympia, WA 98506 |
| 4. Parcel #11905230200
Paul Bunning
9026A Libby Rd. NE
Olympia, WA 98506 | 9. Parcel #11905230601
Sarah Leisenring
8900 Libby Rd. NE
Olympia, WA 98506 |
| 5. Parcel #11905230300
John Lockhart
120 State Avenue NE
PMB 1191
Olympia, WA 98501 | 10. Parcel #11905230500
Hui and Mao Rong Xia
8822 Libby Rd. NE
Olympia, WA 98506 |

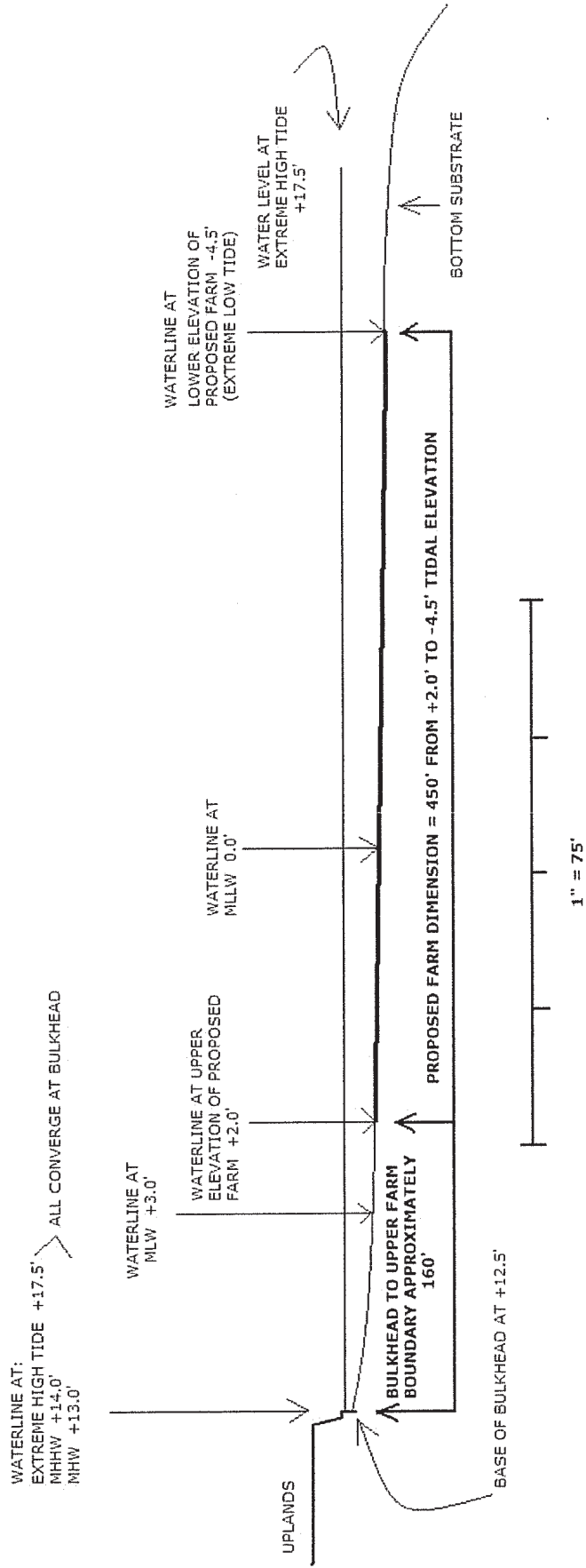
PURPOSE: Shellfish Aquaculture	APPLICANT: Arcadia Point Seafood NWS-2009-261	PROPOSED: 1.5 Acre Intertidal Shellfish Farm
DATUM: USACE South Puget, Henderson Inlet	LOCATION ADDRESS: 8940 Libby Rd. NE Olympia WA 98506 Thurston County Parcel # 11905230400 N-47.0941 W-122.5029	IN/NEAR: Henderson Inlet/ Olympia, WA
ADJACENT PROPERTY OWNERS: See numbered Lots on Sheets 2 and 3		COUNTY/STATE: Thurston/Washington
		SHEET 4 OF 6; DATE 05-21-09

PLAN VIEW ATTACHMENT FARM DENSITY LAYOUT



PURPOSE: Shellfish Aquaculture	APPLICANT: Arcadia Point Seafood NWS-2009-261	PROPOSED: 1.5 Acre Intertidal Shellfish Farm
DATUM: USACE South Puget, Henderson Inlet	LOCATION ADDRESS: 8940 Libby Rd. NE Olympia WA 98506 Thurston County Parcel # 11905230400 N-47.0941 W-122.5029	IN/NEAR: Henderson Inlet/ Olympia, WA
ADJACENT PROPERTY OWNERS: See numbered Lots on Sheets 2 and 3	COUNTY/STATE: Thurston/Washington	
SHEET 5 OF 6; DATE 05-21-09		

PROFILE VIEW

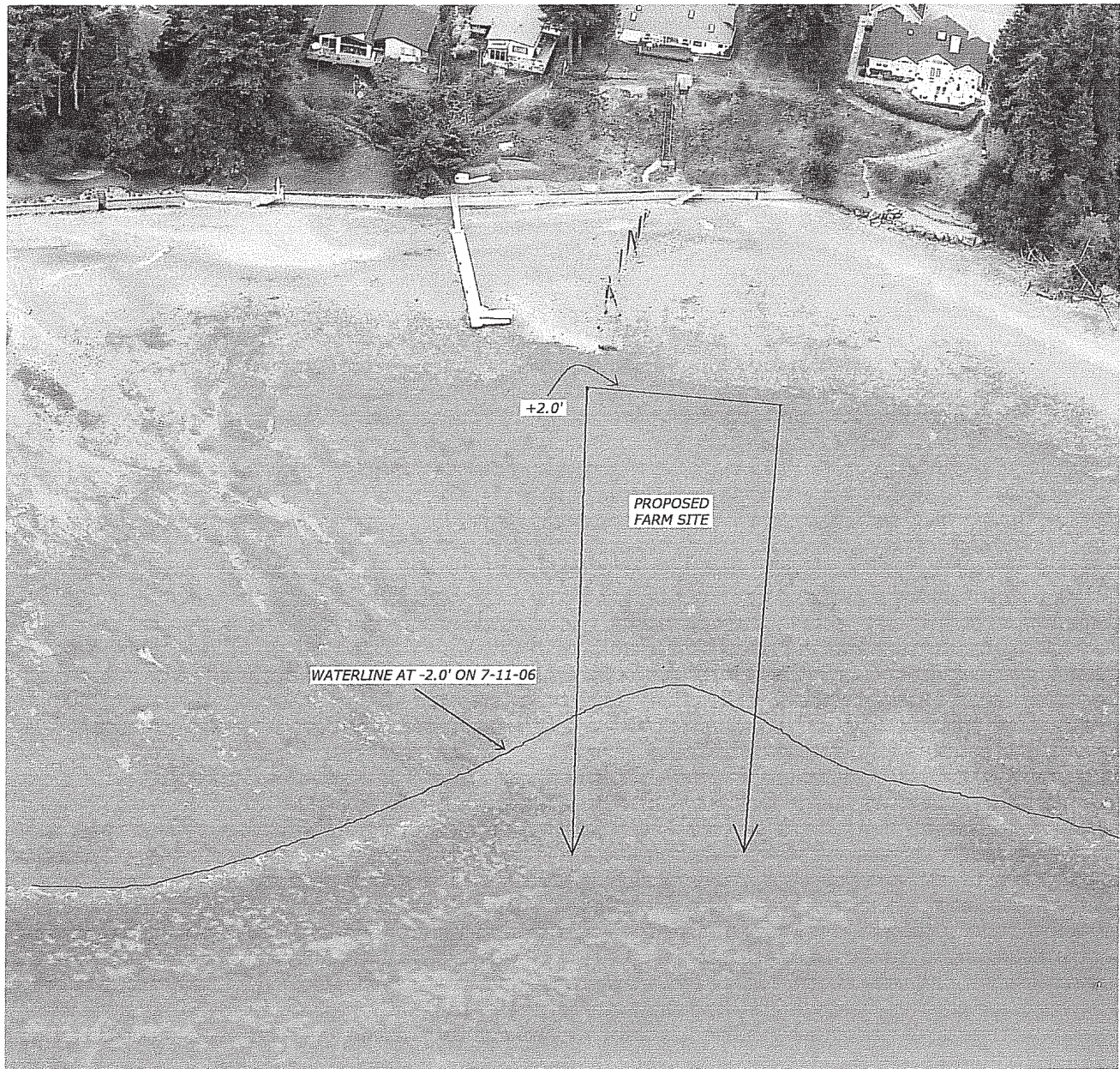


REFERENCE: NWS-2009-261
APPLICANT: Arcadia Point Seafood

PROPOSED: 1.5 Acre Intertidal Shellfish Farm
AT: Henderson Inlet/Olympia, WA; N-47.0941 W-122.5029

SHEET 6 of 6: DATE 05-21-09

FOR REFERENCE ONLY – NOT TO SCALE













MAPQUEST




Total Time: 20 minutes Total Distance: 10.13 miles

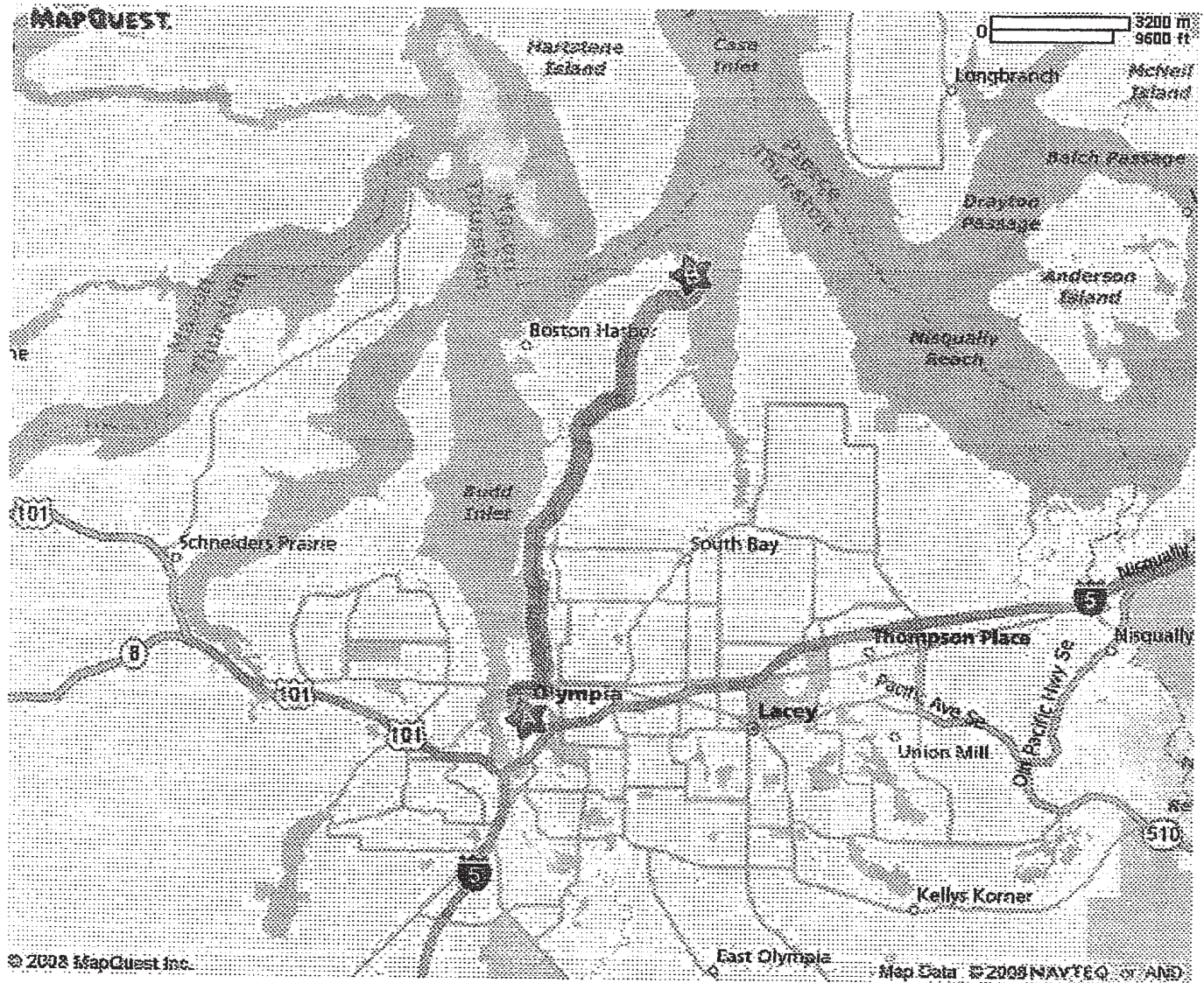
A: Natural Resources Dept: 1111 Washington St SE, Olympia, WA 98501, (360) 902-1000

- | | | |
|---|--|--------|
|  | 1: Start out going NORTH on WASHINGTON ST SE toward 11TH AVE SE. | 0.0 mi |
|  | 2: Turn LEFT onto 11TH AVE SE. | 0.1 mi |
|  | 3: Turn RIGHT onto CAPITOL WAY S. | 0.5 mi |
|  | 4: Turn RIGHT onto 4TH AVE E. | 0.4 mi |
|  | 5: Turn LEFT onto EASTBAY DR NE/PLUM ST SE. Continue to follow EASTBAY DR NE. | 0.7 mi |
|  | 6: EASTBAY DR NE becomes E BAY DR NE. | 1.2 mi |
|  | 7: E BAY DR NE becomes BOSTON HARBOR RD NE. | 3.3 mi |
|  | 8: Turn SLIGHT RIGHT onto WOODARD BAY RD NE. | 1.1 mi |
|  | 9: Turn SLIGHT LEFT onto LIBBY RD NE. | 2.9 mi |
|  | 10: End at 8940 Libby Rd NE Olympia, WA 98506-9637 | |

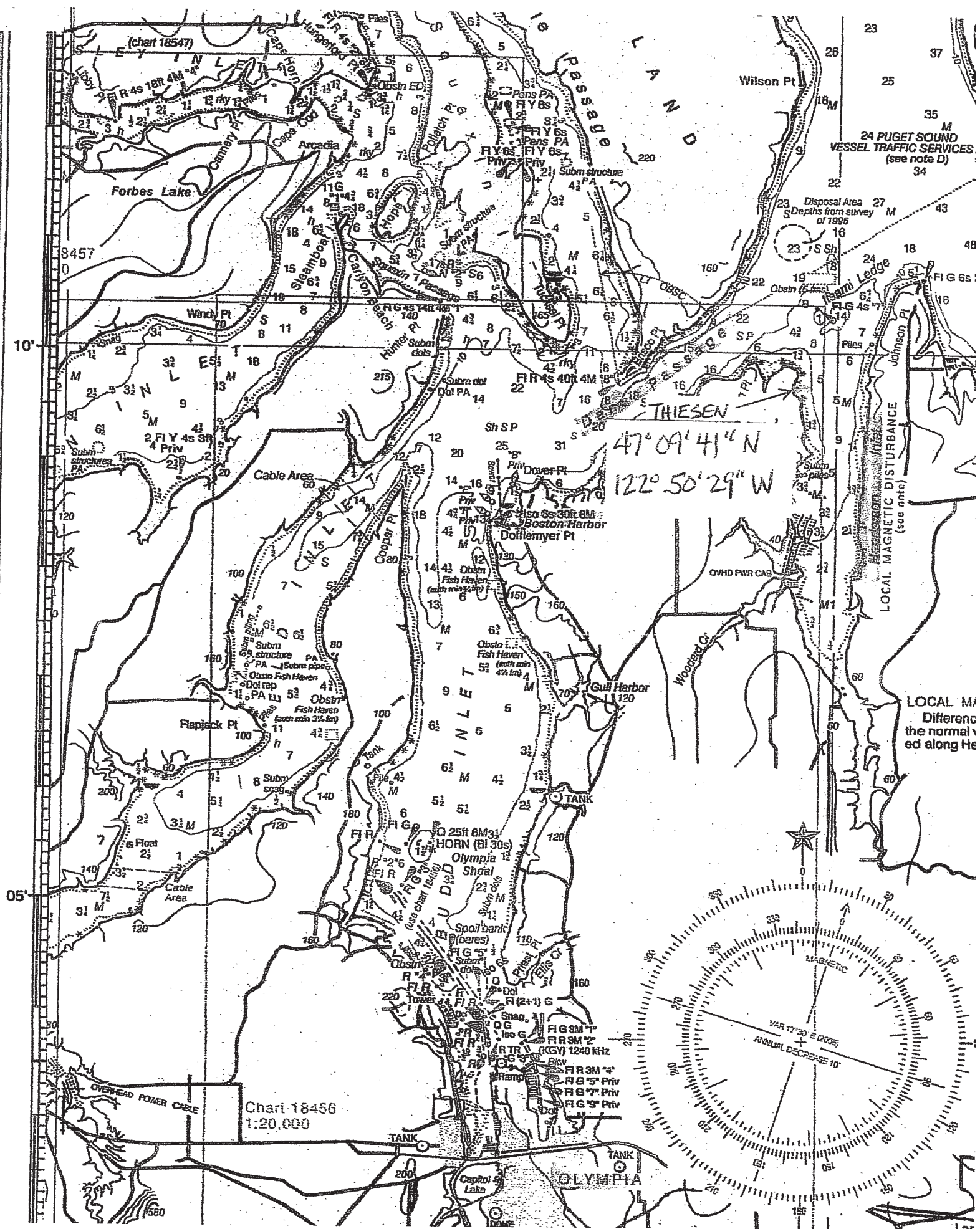
B: 8940 Libby Rd NE, Olympia, WA 98506-9637

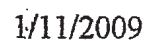
Total Time: 20 minutes Total Distance: 10.13 miles

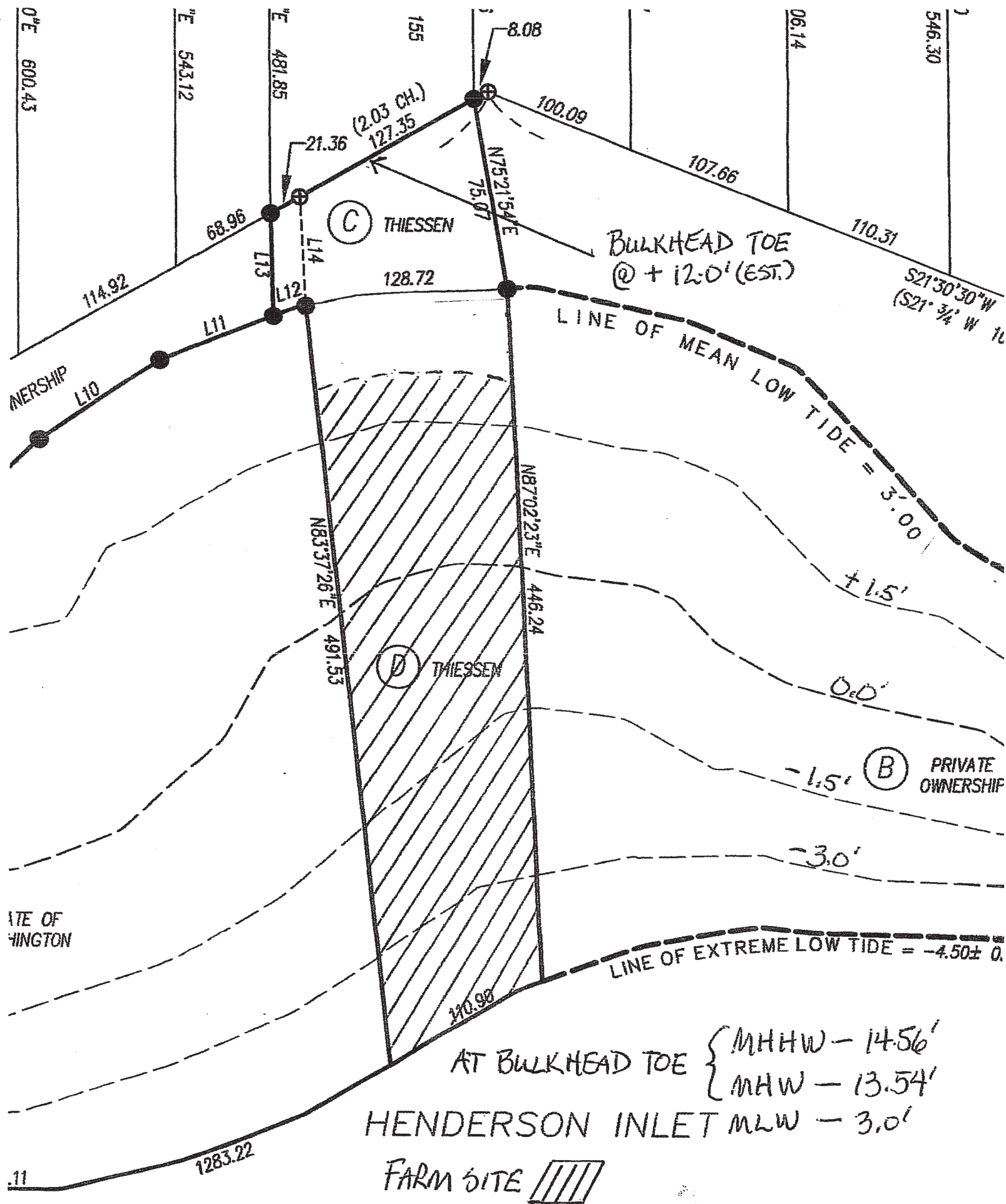
 Call **1-800-FREE411** (1-800-373-3411) and get MapQuest Directions via text message.



All rights reserved. Use subject to License/Copyright Map Legend
Directions and maps are informational only. We make no warranties on the accuracy of their content, road conditions or route usability or expeditiousness. You assume all risk of use. MapQuest and its suppliers shall not be liable to you for any loss or delay resulting from your use of MapQuest. Your use of MapQuest means you agree to our [Terms of Use](#)





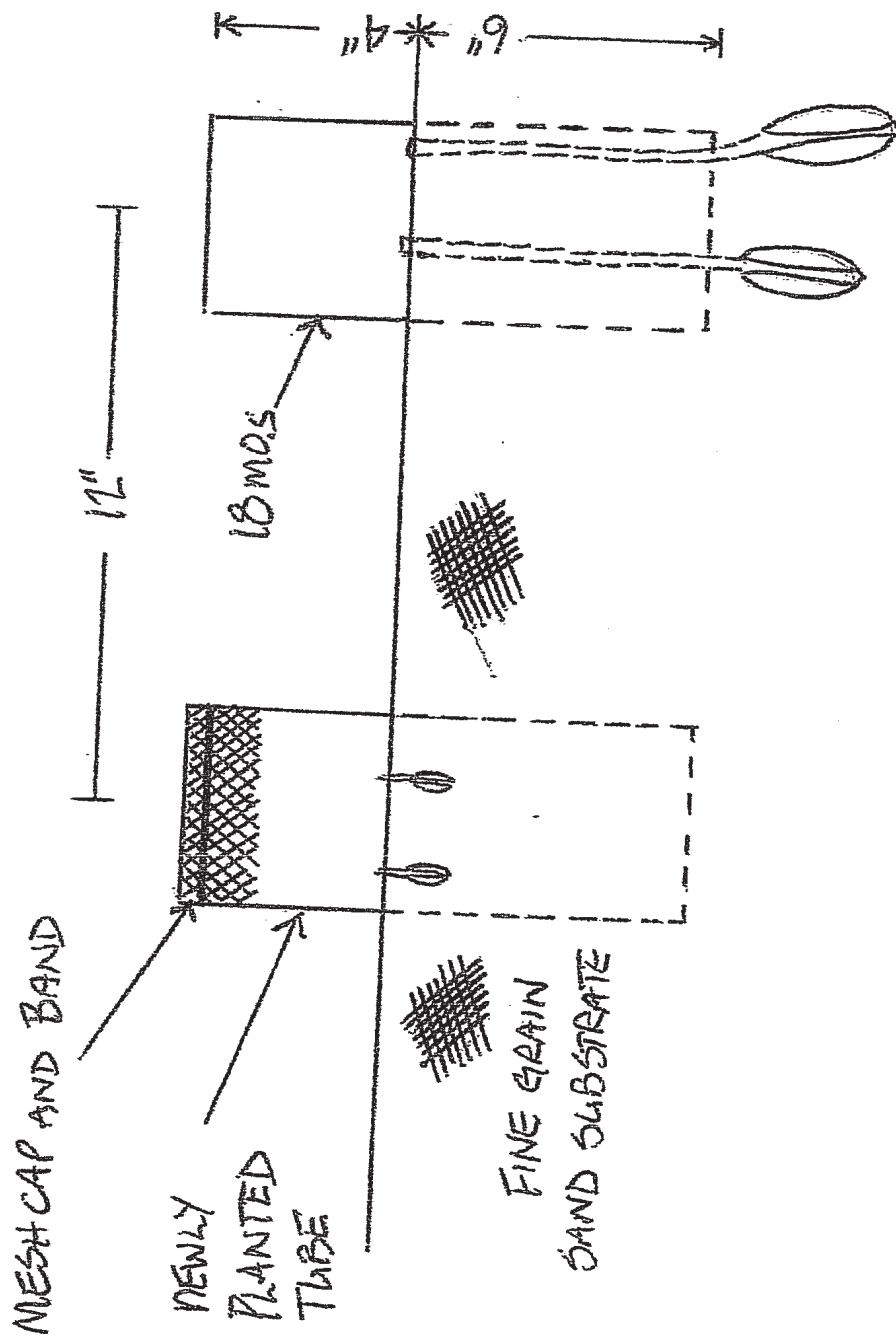
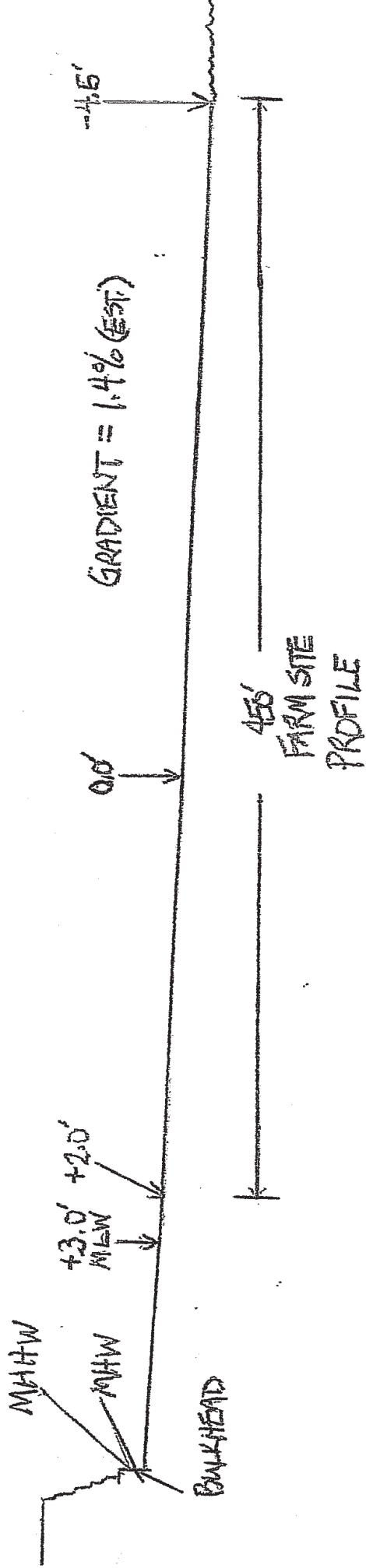


AT BULKHEAD TOE { MHHW - 14.56'
 { MHW - 13.54'
 HENDERSON INLET MLW - 3.0'

FARM SITE 

PLAN VIEW

UPI# 168797-09-01
 (THIESSEN)



UP1# 168797-09-01 (THIEN)

Name and

Return Address

ARCADIA POINT SEAFOOD
240 SE ARCADIA POINT RD.
SHELTON WA. 98584

DOCUMENT TITLE (S)

TIDELAND LEASE

REFERENCE NUMBER (S) of related documents

Additional Reference #'s on page _____

GRANTOR (S) Last, First and Middle Initial

THOMAS A. THIESEN
CAROLYN G. THIESEN

Additional Grantors on page _____

GRANTEE (S) Last, First and Middle Initial

STEVEN M. WILSON
ARCADIA POINT SEAFOOD

Additional Grantees on page _____

LEGAL DESCRIPTION (Abbr. Form: quarter/quarter, section, township & range, plat, lot, & block)

SEC 5, T19N, R1W

Additional Legal Descriptions on page _____

PARCEL NUMBER

11905230400

Return to:

Blind Dog Enterprises Ltd.
dba Arcadia Point Seafood
240 SE Arcadia Point Road
Shelton, WA 98584

LEASE AGREEMENT

THIS LEASE, made and entered into this 18 day of APRIL, 2008, by and between Thomas and Carolyn Thiesen, hereinafter Lessor, and Blind Dog Enterprises Ltd. (dba Arcadia Point Seafood), hereinafter, Lessee.

WITNESSETH:

That Lessor, in consideration of the mutual covenants and conditions as hereinafter provided, agrees to lease to Lessee the tidelands contained in the real property described in Sec 5, T19N, R1W as Parcel No. 11905230400, 8940 Libby Road NE, Olympia, WA 98506, Thurston County, State of Washington. The following terms and conditions shall apply:

1. This Lease shall commence on April 1, 2008 and end after the harvest of the first planting cycle is completed or on March 31, 2017 (nine years), whichever occurs first. The purpose of the lease is to permit the Lessee the exclusive right to harvest and plant geoduck clams in the area described above.

2. Lessee shall pay as annual rent \$250.00 per planted quarter acre of beach or portion thereof, payable within 90 days from date of commencement and every year thereafter until lease termination. Lessee shall also pay to Lessor an amount equal to 10% of gross sales of geoduck clams harvested by Arcadia Point Seafood, payable on a quarterly basis commencing with the first commercial harvest. Upon commencement of commercial harvesting, the Lessee shall furnish a monthly statement to the Lessor that shall indicate the total pounds harvested by Arcadia Point Seafood and gross sales for that month. The Lessee shall pay Lessor on a quarterly basis no later than 30 days following the end of the quarter. The first quarter shall be January through March, second quarter shall be April through June, third quarter shall be July through September and the fourth quarter shall be October through December.

3. The Lessee will use the property described only for the harvesting and planting of geoduck clams and agrees to abide by all governmental laws and regulations pertaining to such business. Lessee will take all steps and pay any costs in connection with same.

4005065

04/22/2008 03:42 PM Lease
Thurston County Washington
ARCADIA POINT SEAFOOD

Page 2 of 5

4. The Lessee agrees that it will indemnify, defend and hold and save Lessor whole and harmless of, from and against all suits, loss, cost, liability, claims, demand, actions and judgments of every kind and character for injury to person, including death, or property, (tangible or intangible, real or personal) arising out of, or in any way connected to, Lessee's performance of this agreement or activities of or by Lessee, their agents, invitees, licensees, contractors or employees. Lessee shall maintain general liability insurance of not less than one million dollars (\$1,000,000) combined single limit use.

5. Lessor shall pay the real estate taxes.

6. The Lessee shall not allow or cause waste to occur upon the property or in any way damage the ground except as is required in the course of conducting its business as described in paragraph 3 above.

7. Should the nonpayment of rent remain in default after written notice from Lessor to the Lessee at the Lessee's address, Arcadia Point Seafood, 240 SE Arcadia Point Road, Shelton, WA 98584, for a period of thirty (30) days, it shall be lawful for the Lessor to terminate this lease and to remove all persons and property belonging to the persons other than Lessor therefrom, being understood that in the event the Lessor exercises its right under this paragraph it will not waive or lose its right of action against the Lessee for all rentals due at the time of said removal.

8. At the expiration of the term of this Lease, the Lessee will surrender said premises and all property leased hereunder in good condition, ordinary wear and tear or ordinary damage by the elements expected:

9. Lessee shall be responsible for providing a physical survey of the tideland boundaries for the real property described above, if needed, and also shall be responsible for providing a biological assessment of the natural production of geoducks on the surveyed tidelands.

10. Tidelands covered by this lease are available to Lessor for conduct of normal activities excluding use of land-based motorized vehicles on the planted portion of the tideland.

11. Environmental Codes of Practice (ECOP) (referred to in this Lease as "best management practices" or BMPs) as currently adopted and/or prepared by Pacific Coast Shellfish Grower's Association ("Association") apply. If these BMPs are rescinded by the Association, then the BMPs as currently exist shall still be followed by Lessee (unless Lessor agrees in writing otherwise). If the BMPs are amended, then the amendment applies, but only if it is "stricter" than

the current BMPs. "Stricter" means the BMP that provides more protection to the natural environment.

12. If there is a successor association to the Association, and the successor association adopts and/or prepares BMPs, these BMPs shall apply, if stricter than the ECOP. If there is any conflict in terms of any BMPs, the "stricter" shall apply. Any issue regarding which BMP is stricter shall be resolved by Pacific Shellfish Institute.

13. Lessee shall give Lessor 20 days advance notice of when Lessee intends to begin commercial harvest of geoducks, and provide Lessor documentation that necessary permits and approvals have been obtained.

This Lease shall be binding upon the parties hereto, their heirs, executors and assigns.

IN WITNESS WHEREOF, the parties hereto have signed their names and the day and year first above written.

THIS AREA LEFT BLANK INTENTIONALLY.

LESSOR:

Thomas A. Thiesen

Print Name

Thomas A. Thiesen

Signature

Date Signed: 4/15/08

LESSOR:

Carolyn G. Thiesen

Print Name

Carolyn G. Thiesen

Signature

Date Signed: 4/15/08

STATE OF Washington

COUNTY OF Thurston

On this day personally appeared before me

known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.

DATED: 4-15-2008

Robin L. Buer

Type/Print Name

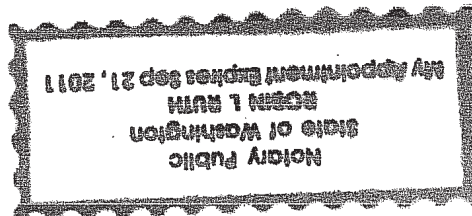
Robin L. Buer

Signature

Notary Public in and for the State of Washington

residing at: Thurston County

My Commission Expires: 9-21-2011



LESSEE:

Steven M. Wilson

STEVEN M. WILSON, PRESIDENT

BLIND DOG ENTERPRISES LTD.; dba ARCADIA POINT SEAFOOD

Date Signed: 15 APRIL 08

STATE OF WASHINGTON
COUNTY OF MASON

On this day personally appeared before me Steven M. Wilson, known to me to be the president of Blind Dog Enterprises Ltd., the company described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as a free and voluntary act and deed of said company for the uses and purposes therein mentioned.

DATED: April 18 2008

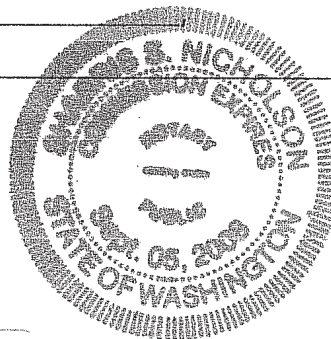
Sharris S. Nicholson

(Type/Print Name)

Notary Public in and for the State of Washington

residing at Thurston County

My Commission Expires: 9-5-2008



RECEIPT

Thurston County

Resource Stewardship Department
2000 Lakeridge Drive
Olympia, WA 98502
(360) 786-5490

Arcadia Point Seafood (Steve Wilson)
240 Arcadia Point RD
Shelton WA 98584

PAYMENT #: 91291

Project Type: JARPA - Exemption

Application/Permit #: 10101308

This number should be used to check the status of your project or when calling in for any inspection or information after a permit is issued.

Memo: 1110.00

Fee Description	Paid
Land Use Application - Planning	\$495.00
Land Use Application - Health	\$365.00
DevRev-Land Use Application	\$250.00
Paid:	\$1,110.00 (Check)

Received by: _____

T. Traeger
(Signature)

Date: February 18, 2010

10 101308 XL

Permit Type: JARPA - Exemption
Sub Type: Shoreline Stabilization
Work Type: New Construction

Site: **8940 LIBBY RD NE OLYMPIA WA 98506**

Assessor Property ID: 11905230400

Applicant: Steve Wilson/Arcadia Point Seafood
Owner: THOMAS A & CAROLYN G THIESEN



2010100420

10 101308 XL

Site Address: **8940 LIBBY RD NE OLYMPIA WA 98506**

Parcel #: **11905230400**

Thurston County

PAYMENT #: 96074

Project Type: Appeal

Application/Permit #: 10121601

This number should be used to check the status of your project or when calling in for any inspection or information after a permit is issued.

Memo: 3529

Fee Description	Paid
Land Use Application - Planning	\$495.00
Land Use Application - Health	\$365.00
DevRev-Land Use Application	\$250.00
Hearing Examiner Final Fee	\$600.00
Paid:	\$1,710.00 (Check)

Received by:

17

(Signature)

Date: July 9, 2010