

Shoreline Substantial Development Permit
Skagit County Dike, Drainage and Irrigation District No. 12
Skagit County, WA

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Semrau Summary

This application is for a Shoreline Substantial Development Permit pursuant to WAC 173-27-040. This project involves work on the top and landward side of the levee. This project will be within shorelines of state-wide significance (RCW 90.58.030). Portions of this project will be within the Skagit River shoreline within a Rural Residential designation. The master program provision applicable to this development is the Skagit County Shoreline Management Master Program, SCC 14.26.

This project and application is submitted by Skagit County Dike, Drainage and Irrigation District No. 12. This Application for Permit is made for maintenance, elevation maintenance, repair, post-flood repair, backsloping, critical facility protection, installation of keyways, sheet pile walls, restoration, and to improve the existing Levee within Dike District 12 to conform to the plan, standards and specifications of the "City of Burlington and Dike District No. 12 Levee Certification Project." The Project is also known as the "Existing Northeastern Levee" or "Northeastern Area Project" and is the construction phase of the first Project Action identified within the "FINAL ENVIRONMENTAL IMPACT STATEMENT TO ADOPT A STRATEGIC PROGRAM FOR COMPREHENSIVE FLOOD HAZARD MITIGATION IN THE BURLINGTON URBAN AREA AND ADJACENT LAND WITH A RANGE OF STRUCTURAL AND NON-STRUCTURAL COMPONENTS," issued July 16, 2010 (EIS).

The purpose of this program is to reduce flood risk in the urban area while minimizing adverse impacts upstream and downstream of the levee system.

Strategic Goals Include:

- *Protect the existing urban built environment without further expansion into the floodplain.*
- *Reduce flood risk and improve safety for the 100-year flood event.*
- *Implement flood measures which minimize risk to adjacent communities, in addition to Burlington's urban area, to the maximum practicable extent.*
- *Ensure additional protection to the community by participating in the larger, regional planning effort for flood hazard mitigation.*

The levee system has existed for more than 100 years, and clearly existed prior to June 1, 1971 and WAC 173-27-040. This part of the Dike District No. 12 levee system was established in 1895.

Skagit River hydrology used for the design of this Project has been performed independently by the Corps of Engineers, Pacific International Engineering, and Northwest Hydraulic Consultants. A synopsis for the differences in their work can be found in the EIS. The measures considered in the final work by Northwest Hydraulic Consultants were defined in a series of meetings of the Skagit River Flood Risk Management General Investigation Study (Skagit GI) Project Delivery Team (PDT), and defined in discussions with several of the project stakeholders.

HEARING EXAMINER

EXHIBIT 16

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The investigation and analysis for the Project design is included in "Final Report, Geotechnical Investigation and Levee Analysis, City of Burlington and Dike District 12 Levee Certification Project, Burlington, Washington," prepared by Golder Associates Inc, November 20, 2009.

Demonstration of Endangered Species Act (ESA) and National Environmental Policy Act (NEPA) compliance has been addressed for this project in the EIS.

In September, 2008, the northwest Region of the National Marine Fisheries Service published a final Biological Opinion, pursuant to a judicial order, regarding the effects of elements of National Flood Insurance Program throughout the Puget Sound region. A series of Reasonable and Prudent Alternatives (RPAs) were included in the Biological Opinion.

Subsequently, FEMA has developed a model ordinance to provide guidance to local jurisdictions such as Burlington and Dike District 12 in implementing RPAs. The FEMA model ordinance proposed to meet RPA's has a definition of Protected Area that includes the Floodway, the Riparian Habitat Zone and the Channel Migration Zone/Area. The area in which the levees are located is classified as a Protected Area. Because no work will be undertaken on the waterward side of the levees, No Effect to listed species will occur to the Protected Area with the proposed action.

The "Floodway" (or "Flood-like Tool", Exhibit 6, pages 9 and 17) in Burlington and adjacent to the City, in accordance with the 1984 flood insurance study, is specifically limited to the area between the levees and extending landward from the toe a distance of 300 feet in the City and 500 feet in the County...

With the existing riverfront currently protected by a levee system, no changes are proposed to the Essential Fish Habitat, the Riparian Area, or the Floodway. There are two existing forested riparian habitat zones in locations where the existing levees are set back from the riverfront, a total of 1.29 miles out of a total of 4.6 miles of levee, or 28%. The remainder of the levees that are along the river frontage consist of mowed levee vegetation that is required to be maintained under Corps of Engineers levee vegetation maintenance standards, in order to maintain eligibility for emergency repairs under PL 84-99. Dike District 12 relies on this program to maintain its levees' structural integrity and to qualify for Corps of Engineers assistance during and after flood events.

Burlington and Dike District 12's proposal to achieve levee certification and subsequent FEMA accreditation without any changes on the river side of the existing levees is therefore expected to gain a "No Effect" on listed species or habitat.....

This Project relates strictly to the enlarging of both width and height of the existing levee in place for the 1.53 mile portion within Skagit County. Project extends from the Burlington City limits at Gardner Road north to the terminus south of the BNSF Railroad on Lafayette Road. Construction will occur on top of and landward of the existing levee. This Project is undertaken

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for the protection of life and property in the City of Burlington and Skagit County, and for maintenance of flood control facilities relating to the Skagit River.

The Levee Certification process has established a new design template for this portion of the levee system. The portion of the Project within the City Limits of Burlington is from Station 79+00 at Whitmarsh Road to Station 159+00 at Gardner Road as shown on Sheets 2 through 9 of the 24 sheet plan set prepared by Reichhardt & Ebe Engineering, Inc, March 3, 2011 (R&E). This portion of the Project has been submitted for a Shoreline Master Development permit through the City of Burlington.

The portion of the Project included in the plan between Stations 159+00 to 240+00 as shown on Sheets 9 through 17 is located in the County and is the portion of the Project seeking coverage under a Shoreline Master Development Permit through Skagit County.

There are three active Fill and Grade Permits in place that permit maintenance fill up to the level of the existing levee top from Stations 159+00 to 232+00.

Fill and Grade Permit BP 07-0267 was submitted on March 15, 2007 and issued for construction on May 15, 2010. BP 07-0267 represents work on the R&E plan from Station 159+00 to 204+00. This permit expires on May 14, 2013.

Fill and Grade Permit BP 03-0564\BP 06-0817 with Shoreline Exemption PL 03-0487 was submitted on May 16, 2003, reissued on July 27, 2009 and expires on 7/26/2012. This work is almost complete and will be done before the expiration of this permit. This permit represents work on the R&E plan from Station 204+00 to Station 228+00.

Fill and Grade Permit BP 07-1051 was submitted on August 24, 2007, issued on November 5, 2010, and will expire November 14, 2013. This permit represents work from Station 228+00 to 232+00.

The County portion of the Project requires import of fill totaling 178,425 cubic yards. Of this quantity, 86,000 cubic yards have already been permitted leaving 92,425 cubic yards to be permitted to raise the levee top. SEPA requirements for this fill quantity have been included and covered by the Final EIS.

Boundary Line Adjustments for additional right-of-way and associated annexation to the City limits will need to occur between approximate stations 150+00 to 158+00.