

COMMISSIONER'S ORDER

NUMBER 202201

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Hilary Franz
Commissioner of Public Lands
Olympia, Washington 98504

WITHDRAWAL ORDER FOR SNOHOMISH WATERSHED KELP AND EELGRASS PROTECTION ZONE

In accordance with Article XVII of the Washington State Constitution, the State of Washington is owner of certain aquatic lands underlying navigable waters.

Under Title 79 of the Revised Code of Washington (RCW) and other constitutional and statutory mandates, the Department of Natural Resources (Department) is responsible for management of state-owned aquatic lands. Under RCW 43.30.105, the Commissioner of Public Lands is the administrator of the Department.

Under RCW 79.105.030, the Washington State Legislature directed the Department to manage state-owned aquatic lands to provide a balance of public benefits for all citizens of the state. Such benefits are varied and include encouraging public access, fostering water dependent uses, ensuring environmental protection, utilizing renewable resources, and generating revenue in a manner consistent with the foregoing benefits.

Under RCW 79.105.210(3), the Department may withhold from leasing lands which it finds to have significant natural value as wildlife habitat, natural area preserve, representative ecosystem, or spawning area.

With respect to the aquatic lands known as the Snohomish Watershed Kelp and Eelgrass Protection Zone and as hereafter described, the Department has made the following findings:

The State of Washington is owner of aquatic lands in the Snohomish River marine environment that are included as part of the Snohomish Watershed (Water Resource Inventory Area 7). Under statutory mandates, the Washington State Department of Natural Resources manages state-owned aquatic lands and has found the following attributes that identify priority aquatic lands that are critical for kelp and eelgrass protection:

The nearshore includes three priority sites where kelp and eelgrass have been documented and where vegetation is in decline or at risk of decline without additional protective measures. These priority sites are legally described in Attachment A to include:

- At the southern tip of Gedney (a.k.a. Hat) Island: Persistent bull kelp as part of an important habitat for rockfish and salmonids, with likely eelgrass and understory kelp.
- Along the Tulalip Shoreline and Snohomish River Delta: Dense eelgrass in the intertidal and shallow subtidal along the Tulalip Reservation and the delta includes an extensive eelgrass bed on the outer edge of the delta flat and is valuable habitat for Chinook and Chum Salmon.

Combined, these areas cover approximately 2,298.01 acres of aquatic lands where kelp forests and eelgrass meadows require additional protection and restoration activities.

The goal of establishing a Kelp and Eelgrass Protection Zone is to use the authorities of the Department to withdraw priority state-owned aquatic lands from leasing for the purposes of protecting and restoring kelp forests and eelgrass meadows, contributing to salmon recovery, enhanced ecosystem function in the marine environment, and improved water quality for wildlife and human benefit. The Snohomish Watershed Kelp and Eelgrass Protection Zone is subject to the following uses that will continue: a right of way easements 51-037184, an electrical transmission line, 51-076085 (pending), an outfall line, and 51-101635 (pending), a submarine telecommunications cable.

Therefore, the Commissioner of Public Lands being fully advised,

ORDERS and DIRECTS that the records of the Department of Natural Resources shall note in accordance with RCW 79.105.210(3) that the property described in Attachment A shall be withdrawn from leasing, except for uses compatible with habitat restoration or protection, or environmental education projects, for a term of fifty (50) years from the date of signature of the Withdrawal Order. This order shall not be construed to alter, amend, repeal, interpret or modify Tribal sovereignty, any treaty rights, or other rights of any Indian Tribe, or to preempt, modify or limit the exercise of, or claim to, any such rights. Any use or construction of this order to limit, prejudice, or otherwise affect such rights or claims or to use this order as precedent is unauthorized and improper.

Dated this 16th day of March, 2022



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Appendix A – Legal Description

Tidelands and bedlands of Possession Sound lying in front of Section 16, Township 29 North, Range 4 East, W.M., Snohomish County, Washington more particularly described as follows:

Commencing at NGS Station "Gedney North 3" (PID TR1090) with a published location of NAD 83/1991 Washington Coordinate System North Zone coordinate of North 375,176.32 East 1,276,112.77 (US Survey Feet) and a combined scale factor of 0.99994668, with all courses and distances following relative to said coordinate system;

thence South 45°49'36" East 6,612.97 feet to the True Point of Beginning;
 thence South 47°46'51" East 318.42 feet;
 thence South 76°47'58" East 119.35 feet;
 thence South 59°02'46" East 83.73 feet;
 thence South 52°01'08" East 98.96 feet;
 thence South 60°40'02" East 81.30 feet;
 thence South 69°49'16" East 81.62 feet;
 thence South 75°39'38" East 117.04 feet;
 thence South 73°29'32" East 91.16 feet;
 thence South 69°42'47" East 107.55 feet;
 thence South 78°27'50" East 69.62 feet;
 thence South 84°24'14" East 171.90 feet;
 thence South 80°53'25" East 96.56 feet;
 thence South 72°51'33" East 154.53 feet;
 thence South 69°05'47" East 201.13 feet;
 thence South 70°28'53" East 115.75 feet;
 thence South 71°23'09" East 168.45 feet;
 thence South 69°24'34" East 112.92 feet;

thence South 72°40'11" East 126.78 feet;
 thence South 75°43'09" East 242.65 feet;
 thence South 73°12'57" East 74.81 feet;
 thence South 67°16'15" East 68.46 feet;
 thence South 61°25'56" East 108.90 feet;
 thence South 64°30'01" East 68.35 feet;
 thence South 74°49'13" East 58.46 feet;
 thence South 87°23'13" East 63.85 feet;
 thence North 85°55'19" East 125.83 feet;
 thence South 82°33'43" East 98.62 feet;
 thence South 75°19'28" East 106.28 feet;
 thence South 73°36'24" East 140.49 feet;
 thence South 81°15'41" East 98.72 feet;
 thence South 88°16'41" East 117.25 feet;
 thence South 77°42'28" East 94.48 feet;
 thence South 65°00'23" East 134.23 feet;
 thence South 51°36'55" East 207.29 feet;
 thence South 52°45'12" East 240.38 feet;
 thence South 52°26'51" East 150.57 feet;
 thence South 47°13'32" East 168.14 feet;
 thence South 34°20'51" East 147.19 feet;
 thence South 24°38'55" East 97.00 feet;
 thence South 28°40'08" East 128.74 feet;
 thence South 40°54'47" East 86.87 feet;
 thence South 44°28'20" East 86.17 feet;
 thence South 33°02'00" East 81.67 feet;
 thence South 18°45'42" East 100.99 feet;
 thence South 15°59'00" East 105.46 feet;
 thence South 20°59'17" East 71.31 feet;
 thence South 13°18'31" East 70.76 feet;
 thence South 06°17'36" West 57.03 feet;
 thence South 23°51'27" West 150.00 feet;
 thence South 32°50'16" West 117.52 feet;
 thence South 44°16'35" West 106.00 feet;
 thence South 64°39'50" West 36.45 feet;
 thence North 72°43'11" West 42.65 feet;
 thence North 27°16'38" West 42.77 feet;
 thence North 17°48'43" West 87.02 feet;
 thence North 39°45'29" West 81.50 feet;
 thence North 77°46'14" West 28.87 feet;
 thence South 57°27'39" West 29.10 feet;
 thence South 25°28'23" West 86.38 feet;
 thence South 30°17'56" West 60.46 feet;
 thence South 61°25'59" West 69.45 feet;
 thence North 89°23'01" West 128.31 feet;
 thence North 88°13'28" West 161.49 feet;
 thence South 85°15'18" West 107.34 feet;
 thence South 73°58'22" West 93.86 feet;
 thence South 63°58'51" West 124.40 feet;
 thence South 57°34'09" West 175.86 feet;
 thence South 71°29'32" West 61.98 feet;
 thence South 84°34'35" West 41.65 feet;
 thence North 84°16'53" West 45.19 feet;
 thence North 80°29'42" West 80.20 feet;
 thence South 89°51'29" West 50.39 feet;
 thence South 67°10'13" West 126.79 feet;
 thence South 69°12'34" West 57.12 feet;
 thence South 86°00'04" West 51.93 feet;
 thence North 88°01'18" West 87.59 feet;
 thence South 78°23'55" West 90.58 feet;
 thence South 69°21'23" West 104.17 feet;
 thence South 75°15'09" West 54.45 feet;

thence South 85°42'59" West 87.90 feet;
 thence South 89°13'30" West 132.68 feet;
 thence South 87°16'08" West 154.72 feet;
 thence South 81°07'20" West 84.43 feet;
 thence South 63°46'32" West 187.81 feet;
 thence North 82°59'40" West 128.19 feet;
 thence South 88°21'43" West 159.30 feet;
 thence South 86°46'31" West 160.30 feet;
 thence North 79°44'53" West 120.84 feet;
 thence South 82°28'37" West 159.51 feet;
 thence North 86°27'16" West 65.51 feet;
 thence North 76°01'33" West 120.34 feet;
 thence North 86°02'30" West 40.02 feet;
 thence South 86°43'51" West 157.09 feet;
 thence North 85°37'01" West 221.09 feet;
 thence North 81°31'01" West 209.95 feet;
 thence North 88°46'16" West 101.38 feet;
 thence South 83°45'47" West 171.12 feet;
 thence North 88°13'58" West 303.08 feet;
 thence North 80°52'39" West 100.08 feet;
 thence North 72°18'15" West 225.37 feet;
 thence North 74°49'04" West 69.80 feet;
 thence North 80°11'19" West 102.35 feet;
 thence North 77°22'18" West 188.65 feet;
 thence North 79°31'43" West 316.78 feet;
 thence North 76°27'05" West 164.01 feet;
 thence North 51°39'13" West 251.21 feet;
 thence North 37°21'43" West 293.47 feet;
 thence North 15°44'22" West 264.85 feet;
 thence North 10°17'46" West 323.99 feet;
 thence North 06°19'51" West 199.62 feet;
 thence North 07°54'53" East 300.74 feet;
 thence North 21°35'10" East 343.56 feet;
 thence North 39°48'54" East 231.44 feet;
 thence North 45°00'00" East to the line of mean low tide in front of Government Lot 1, Section 16, Township 29 North, Range 4 East, W.M.;
 thence in an Easterly direction along said line of mean low tide to a point which is due West of the True Point of Beginning;
 thence North 90°00'00" East to the True Point of Beginning.

Together with,

Tidelands and bedlands of Possession Sound lying in front of Section 1, Township 29 North, Range 4 East, Sections 6, 7, 18 and 19, Township 29 North, Range 5 East, and Sections 27, 34, 35 and 36, Township 30 North, Range 4 East, W.M., Snohomish County, Washington more particularly described as follows:

Commencing at the west 1/16 corner of Sections 27 and 34, Township 30 north, Range 4 East, said point being identified as Monument #507 on that record of survey filed on December 17, 2014 und Auditor's File No. 201412175003, Records of Snohomish County, Washington;

thence North 90°00'00" West 3672.00 feet to a point at an approximate depth of 15 meters below mean lower low water in Possession Sound which is the True Point of Beginning;
 thence along the line of approximate depth of 15 meters below mean lower low water the following thirty two courses; South 42°56'47" East 818.91 feet;
 thence South 61°15'58" East 1905.00 feet;
 thence South 37°47'14" East 1291.41 feet;
 thence South 32°49'32" East 895.61 feet;
 thence South 08°57'28" East 802.40 feet;
 thence South 09°08'39" West 960.43 feet;
 thence South 02°45'14" West 1071.96 feet;
 thence South 12°50'20" West 2182.17 feet;

thence South 10°35'18" West 462.94 feet;
 thence South 02°53'59" East 667.21 feet;
 thence South 11°37'53" East 1034.76 feet;
 thence South 22°05'41" East 1434.54 feet;
 thence South 34°18'34" East 952.88 feet;
 thence South 29°07'02" East 642.22 feet;
 thence South 20°28'59" East 2611.28 feet;
 thence South 35°28'56" East 823.64 feet;
 thence South 40°07'57" East 200.39 feet;
 thence South 04°56'56" East 423.65 feet;
 thence South 22°41'42" East 1394.86 feet;
 thence South 43°08'31" East 545.98 feet;
 thence South 20°53'02" East 842.90 feet;
 thence South 06°34'22" East 755.32 feet;
 thence South 50°26'06" East 584.08 feet;
 thence South 59°41'12" East 1100.18 feet;
 thence South 34°29'28" East 358.14 feet;
 thence South 02°49'20" West 484.40 feet;
 thence South 26°59'05" East 686.42 feet;
 thence South 44°09'55" East 668.98 feet;
 thence South 56°46'17" East 590.98 feet;
 thence South 66°13'15" East 2845.52 feet;
 thence South 49°47'26" East 246.24 feet;
 thence South 31°18'06" East 524.70 feet to a point from which the quarter corner of Section 25, Township 29 North, Range 4 East and Section 30, Township 29 North Range 5 East bears South 19°52'00" East 4515.78 feet said quarter corner being identified as point #1636 on that record of survey filed on November 18, 2004 under Auditor's File No. 200411185323, Records of Snohomish County, Washington; thence leaving said line of depth North 7°00'00" East to the line of extreme low tide in front of Section 6, Township 29 North, Range 5 East; thence along the line of extreme low tide in front of said Section 6, and Section 1, Township 29 North, Range 4 East, and Sections 36, 35, 34 and 27, Township 30 North, Range 4 East to a point on the line of extreme low tide that lies North 90°00'00" East of the True Point of Beginning; thence North 90°00'00" West to the True Point of Beginning.

Excepting therefrom any portion of those lands within this description that may fall within those parcels sold by the State of Washington to The Everett Land Company or to W.J. and B.I. Rucker on February 4, 1893 described in State Record of Tidelands deeds Volume 1, Pages 29 through 34. And Also Excepting therefrom any portion of lands within this description that may fall within the boundaries of the Tulalip Indian Reservation. And Also Excepting therefrom lease to the Tulalip Tribe of Indians, number 20-010405 as executed on December 26, 1974, in the records of the office of Commissioner of Public Lands for a waste water outfall specifically described as: That portion of the bed of Possession Sound, owned by the State of Washington, situate in front of Government Lot 2, Section 34, Township 30 North, Range 4 East W.M., included in a strip of land 30 feet in width having 15 feet of such width on either side of the following described centerline: Commencing at the intersection of said Government Lot 2 and the centerline of Mission Beach Drive, and running thence S 65°30' E 441.2 feet; thence S 23°23' W 170 feet; thence S 45° W 500 feet, more or less to the line of extreme low tide and the true point of beginning of this centerline description, and continuing thence S 45° W 1,450 feet to the terminal point of this centerline description.

Containing 2,298 acres more or less.