Application for Use of State-owned Aquatic Lands

Applicant Name: Tulalip-Everett Joint Water Pipeline Board
County: Snohomish County
Water Body: Snohomish River, Union Slough, Steamboat Slough and Ebey Slough
Type of Authorization - Use: Easement – Construction of water line
Authorization Number: 51-084122
Term: 30 years
Description: This agreement will allow the use of State-owned aquatic lands for the sole purpose of constructing and maintaining a 40,000-foot-long water transmission line. It is located on the Snohomish River, in Snohomish County, Washington.

Date of Public Notice: 3/22/10
Figure 1-1
Tulalip Water Pipeline Vicinity Map
STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
DOUG SUTHERLAND, Commissioner of Public Lands

APPLICATION FOR AUTHORIZATION TO USE STATE-OWNED AQUATIC LANDS

I. SUBMISSION OF APPLICATION

NO WORK CAN BE STARTED ON THE PROJECT AREA UNTIL A USE AUTHORIZATION HAS BEEN GRANTED BY THE DEPARTMENT OF NATURAL RESOURCES.

Enclose a $25.00 non-refundable application processing fee with the application (this fee is not required for local, state, and other government agencies). This application form will be reviewed by the Department of Natural Resources upon receipt at the address given below. Applicants will be notified in writing if the application will be accepted for further review. However, this application may be rejected at any time before signed execution of a use authorization.

APPLICATION MUST BE SIGNED IN BLUE OR BLACK PEN

Please send the completed application form to your region land manager at:

Department of Natural Resources
[Region/District Address]
Northwest/ 919 N. Township Street, Sedro Woolley, WA 98284-9384

II. APPLICANT INFORMATION

Date of Application: October 2008

Authorization to be Issued To (how name is to appear in the lease document: Tulalip-Everett Joint Water Pipeline Board

Address: City of Everett Public Works Department, 3200 Cedar Street, Everett, WA 98201

Tulalip Tribes, 8800 Totem Beach Road, Tulalip, WA 98271

Telephone Number: Everett: 425-257-8800 Tulalip Tribes: 1-800-869-8287

FAX Number: Everett: 425-257-8882 Tulalip Tribes: NA

Applicant’s Representative: Jim Miller, City of Everett

Gus Taylor, Tulalip Tribes

Relationship to Applicant: City and Tribes representatives

Address: City of Everett Public Works Department, 3200 Cedar Street, Everett, WA 98201

Tulalip Tribes, 8800 Totem Beach Road, Tulalip, WA 98271

Telephone Number: Everett: 425-257-8800 Tulalip Tribes: 1-800-869-8287

FAX Number: Everett: 425-257-8882 Tulalip Tribes: NA

If Property will be used for business purposes, Applicants’ Washington Department of Revenue Tax Registration Number (Unified

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FOR OFFICIAL USE ONLY

Land Manager: Type: (20, 21, 22, 23, 31, 33)

Land Manager: x New Application □ Renewal Application

Land Manager: Initials [SBD] Aquatic Program Manager Initials

Support: Application Fee Received N/A Date

Land Records: New Application Number 51-084122

Land Records: Trust 15, 20, 21 County 31 AQR Plate No. See white cover sheet

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Business Identifier) is Required: Not required.

Which of the following applies to Applicant (Check One and Attach written authority to sign - bylaws, power of attorney, etc):

- Corporation
- General Partnership
- Sole Proprietorship
- Other

(State of Registration): ______ Government Agency City of Everett / Tulalip Tribes
Limited Partnership ______ (State of Registration): ______
Marital Community ______ (Spouse): ______
(Please Explain): ______

Has the site use been authorized before or is it currently under lease: ☐ Yes(#) ______  ☐ No  ☒ Don't Know

III. LOCATION
The Body of Water on which the state property is located: Snohomish River, Union Slough, Steamboat Slough, Ebey Slough
County in which the state property is located: Snohomish
Government Lot _______, Section _______, Township _______, Range ______ E/W

A LEGAL PROPERTY SURVEY INCLUDING THE LEGAL DESCRIPTION AND OTHER INFORMATION ABOUT THE PROPERTY IS REQUIRED TO OBTAIN A USE AUTHORIZATION. THE SURVEY REQUIREMENTS ARE DESCRIBED IN SECTION VII, PROPERTY SURVEY OF THIS FORM. THE SURVEY PLAT WILL BE ATTACHED TO THE LEASE AS EXHIBIT A. (DO NOT HAVE THIS SURVEY CONDUCTED UNTIL YOU HAVE BEEN NOTIFIED IN WRITING THAT THE APPLICATION HAS BEEN ACCEPTED FOR PROCESSING.)

The project runs through the following Sections, Townships, and Ranges:

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<th>% Section</th>
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<th>Range</th>
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</tr>
<tr>
<td>NW, SW</td>
<td>16</td>
<td>29N</td>
<td>5E</td>
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</table>

The center point of the water pipeline is at 48.025N latitude / 122.186 W longitude.

Physical description of Project Area (For example, Marsh, Tideflat adjacent to the Chehalis River, etc.): The pipeline will cross under the Snohomish River, Union Slough, Steamboat Slough, Ebey Slough, and adjacent tideflats and wetlands.

Name of Owner(s) of Uplands, Shorelands, and/or Tidelands shoreward and adjacent to the Property:
Name: Several owners – List attached.
Address: ______
City: ______ State: ______ Zip Code: ______ Phone Number: ______

EXCEPT FOR PROPERTY LOCATED WITHIN ESTABLISHED HARBOR AREAS, PROOF OF OWNERSHIP, OR AUTHORIZATION TO USE THE ADJACENT TIDELAND, SHORELAND, OR UPLAND PROPERTY MAY BE REQUIRED. IF THE APPLICANT IS THE OWNER OF THE ADJACENT LAND, ATTACH A COPY OF THE DEED OR CONTRACT OF SALE.

County Parcel No(s). for adjacent properties, upland, and/or adjacent tideland properties:

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### Tax Parcel Numbers for owners in the Project Area

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### IV. USE OF PROPERTY

1. Describe, in detail, the proposed use of the Property: The Tulalip - Everett Joint Water Pipeline Board proposes to construct an approximately 40,000 foot-long water transmission line from the City of Everett to the Tulalip Tribes Reservation near Marysville, Washington. The pipeline will be capable of delivering 36 million gallons of water per day. The transmission line alignment will tie into the City's main transmission lines near the Snohomish River. A 48 inch section of the line will be built under East Grand Avenue northward to the Burlington Northern Santa Fe (BNSF) Delta Rail Yard where it ties into a slippin section of the old WEFYCO line. Horizontal directional drills (HDD) will be used for undercrossing the Snohomish River, Union Slough, Steamboat Slough, and Ebey Slough with a 36 inch line. The above portion of the project is almost entirely in the City of Everett. However, there is a small area on Ebey Island in WSDOT ROW between northbound and southbound SR 529 that is in Snohomish County. The Ebey Slough undercrossing will exit onto the Tulalip Reservation at approximately 33rd Avenue. A 36 inch HDD will be used to cross under Quilceda Creek prior to an open trench installation on 27th Avenue. The pipeline continues northward on 27th Avenue to 88th Street NW.

2. Is or will the Property be subleased to another party?  □ Yes  ☒ No  (If yes, submit a copy of the sublease agreement.)

3. What are the current and past uses of the site? The project area is currently being used for urban and residential housing, commercial and heavy industrial businesses, and transportation corridors (I-5, SR 529, BNSF Delta Rail Yard).

4. Do you have any knowledge of contamination of the site by toxic or hazardous substances, or of past uses or practices that might have lead to contamination by such substances? If so, please explain: Files from the Washington State Department of Ecology were used to identify sites of potential environmental concern within the project corridor. Five sites in proximity to the pipeline alignment were identified as confirmed or suspected hazardous material sites. Based on the information obtained from the Washington Department of Ecology file review, the Kimberly Clark Riverside Mill, Rubitinos Truck Care, Lonestar Northwest Glacier Northwest, and Paschen Contractors would not likely affect the pipeline construction. Residual contamination from the gas manufacturing facility at the PSE Everett site may, but unlikely, be encountered during the installation of the pipeline. A plan detailing how to identify and handle the contaminated material, if encountered during construction, will be prepared prior to beginning work.

5. Do you know if any fill material has been placed on the property in question? If yes, please explain: No
PHYSICAL IMPROVEMENTS ARE STRUCTURES PLACED ON THE LAND THAT CANNOT BE REMOVED WITHOUT DAMAGE TO THE LAND. EXAMPLES OF SUCH STRUCTURES INCLUDE PILING, DOCKS, PIERS, WHARVES, PILING-SUPPORTED BUILDINGS, STRUCTURES BUILT ON FILM OR CONCRETE FOUNDATIONS, BURIED PIPELINES AND CABLES, AND SUPPORT STRUCTURES FOR BRIDGES.

V. IMPROVEMENTS

1. What physical improvements currently exist on the site? (Photos may be required.) There are various structures in the project corridor, including numerous pilings, bridge abutments, railroad trestles. None will be disturbed for the project.

2. If there are physical improvements currently on the site, who owns them? Most structures, excluding piles, are still in service.

3. If there are physical improvements currently on the site, describe their condition: None

4. Which, if any, of the existing physical improvements will be removed, remodeled, or reconstructed? Not applicable

5. Describe any physical improvements that the applicant is proposing to construct on the site: The water pipeline will be constructed underground. The primary improvements located throughout the project area include the Delta Rail Yard, I-5, SR 529, other roads, and bridges spanning the rivers and sloughs, concrete and compost production facilities.

6. Has any fill material been placed on the site? If Yes, please describe: Not applicable

VI. LOCAL, STATE, AND FEDERAL REGULATORY PERMITS

COPIES OF ALL GOVERNMENT REGULATORY PERMITS ARE REQUIRED BEFORE ISSUANCE OF A DNR USE AUTHORIZATION. YOUR PROJECT MAY REQUIRE SOME OR ALL OF THESE PERMITS.

Please include the following permit applications, permits, or waivers with the application:

JARPA (Joint Aquatic Resource Permit Application)

This one form is used to apply for all of the following individual permits, please check appropriate box(s):

1. ☐ Section 10 Permit (Required by the US Army Corps of Engineers for any work in or affecting navigable waters, e.g., floats, docks, piers, dredging, pilings, bridges, overhead power lines.)

2. ☒ Shoreline Substantial Development, Conditional Use, Variance Permit or Exemption (Issued by Local Government, and is required for work or activity in the 100 year floodplain, or within 200 feet of the Ordinary High Water mark of certain waters; and which included any one of the following: dumping, drilling, dredging, filling, placement or alteration of structures or any activity which substantially interferes with normal public use of the waters.)

3. ☒ Hydraulic Project Approval (Required by the Department of Fish and Wildlife if the project includes work that will use, divert, obstruct, or change the natural flow or bed of any fresh or salt water of the state.)

4. ☒ Section 404 Permit (Required by the US Army Corps of Engineers if your project will discharge or excavate any dredged or fill material waterward of the Ordinary High Water mark or the Mean Higher High Tide Line in tidal areas.)

5. ☒ Section 401 Water Quality Certification (Required by the Department of Ecology if a Section 404 permit is required.)

NPDES (National Pollutant Discharge Elimination System Permit)

Required by the Department of Ecology under delegated authority from the Federal Environmental Protection Agency for projects that include the discharge of fluid on or into surface water.

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SEPA (State Environmental Policy Act) Checklist and Environmental Assessments

When you submit a permit application to any agency, if the project is not exempt, the lead agency will ask you to fill out an environmental checklist. Based on checklist answers and the reviewers knowledge of the project site, agency personnel will determine the types of impacts the project may have on the environment. The agency assessments may be the following forms: Determination of Nonsignificance, Determination of Significance, scoping documents, draft or final Environmental Impact Statements (EIS) or others prepared for the purpose of compliance.

Describe any habitat mitigation required by any of the permitting agencies identified above and identify where such mitigation is proposed to occur. The project design follows the mitigation sequencing of the Clean Water Act. All impacts to navigable waters will be avoided. Tidal wetlands will be avoided on the Tulalip Reservation at Big Flats and at Quilecada Creek. No permanent impacts will occur to wetlands as a result of this project. Temporary wetland impacts will occur from the pipeline layout, staging areas, access roads, and construction. Considerable design modifications, including lengthy horizontal directional drill crossings, have been incorporated into the project to avoid permanent impacts and to minimize temporary impacts to critical areas. Most project impacts are considered temporary short-term impacts, because the wetland functions—in most cases only impacts to habitat functions—can be restored within a year or so. Only clearing impacts (0.71 acres) to forested wetlands on Ebey Island are considered long-term temporary impacts; e.g., those that last for several years. The total area of temporary wetland impacts is 3.21 acres. The areas will be restored once construction is completed.

VII. PROPERTY SURVEY

STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES
REQUIREMENTS FOR RECORDS OF SURVEY FOR LEASES AND EASEMENTS

Records of Survey are required for easements and leases granted by the department for:

- County roads
- Highways
- Easements across high value lands
- Easements across transition lands
- Utilities
- Upland leases
- Communication sites
- Other grants as determined by the department based upon site specific considerations

Drainage or irrigation easements
Railroads
Aquatic land uses: exemptions are provided for recreational docks and mooring buoys per RCW 79.105.430 and for those permits issued as a Right of Entry

The applicant is responsible for:
- All costs and work associated with creating, submitting, revising and recording the Record of Survey
- Submitting a preliminary Record of Survey for review and approval by the department prior to approval of the agreement.
- Recording the final Record of Survey with the county auditor’s office.
- Submitting a digital copy in AutoCAD.DWG or DXF (drawing exchange format) of the final survey.
- Submitting two full size copies and one 8 1/2 X 11" copy and of the recorded survey including the auditor’s recording information to the department.

A Record of Survey must: Will be provided as required during the final design phase of the project.

1. Be produced by a licensed surveyor.

2. Meet the requirements of Title 58 RCW and Chapter 332-130 WAC.

3. Include the name of the applicant, the purpose of the easement or lease and the DNR easement or lease number.

4. Clearly show easement or lease boundaries with distances and directions of all boundary lines.

5. Show the easement or lease area to an accuracy of (+) 0.5% of the total area or (+) 10 square feet, whichever is greater.

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6. (Not required for aquatic lands lease across the bed of Puget Sound or the Pacific Ocean) Indicate the acreage encompassed by the lease or easement within each quarter-quarter section or government lot.

7. Show distances and directions from two or more controlling corners of a recorded subdivision, recorded survey or government survey (GLO) corners.

8. Be related by meridian and coordinate to the Washington Coordinate System NAD’83(1991) by closed ties to NGS Control monuments, or the extension thereof. The designation of the control stations used shall appear on the plat.

9. Include a narrative legal description describing the servient estate (grantor's parcel) on the Record of Survey.

10. Show a detailed plan of improvements to be constructed or already existing on the easement or lease area. All improvements must be shown in sufficient detail to determine what they are used for and to ensure they are entirely within the easement area.

11. Show the location of any proposed utility.

12. (linear lease or easement) Show the linear footage along the centerline.

13. (linear lease or easement) Show the complete alignment information and width including any necessary curve data.

14. (Easements or leases crossing a section line or state ownership boundary, not required for aquatic lands lease across the bed of Puget Sound or the Pacific Ocean) Provide ties to the centerline of an easement along the section or subdivision line from the nearest appropriate Public Land Survey System (PLSS) section corner, quarter section or subdivision corner, where the easement enters and leaves the section or state ownership.

15. (Easements or leases falling entirely within one section and not crossing a section line or state ownership boundary) Provide ties from both end points of the linear easement to PLSS corners or other subdivision corners shall be provided.

16. (A lease which encroaches on a previously leased site) Show the boundary for the senior lease in the vicinity of the proposed lease shall also be shown, together with ties between the two leases sufficient to determine the full extent of the encroachments.

**Additional Requirements for Communication Site Leases**

17. Show ties to the corners of previously monumented communication sites adjacent to, or in the immediate vicinity of the proposed communication site.

18. Show access to the site.

19. Mark the corners of the communication site, as described and granted, with substantial permanent magnetically locatable monuments. The monuments shall be in place and obviously marked on the ground after the construction of installations and improvements.

20. Show the center of any communication site tower by Washington Plane Coordinates, NAD83 (1991), or latitude and longitude having an accuracy of and showing 3 decimals of a second.

21. On all communication sites where towers or beam paths are shown, an elevation is required at the base of the tower.

22. Show the tower height, and the height of the antenna or microwave dish and any beam path used shall have the diameter and tilt thereof shown.

23. The elevation shall be derived from an established benchmark in the vicinity of the site, or an elevation designated by the Department of Natural Resources.

**Additional Requirements for Aquatic Land Uses**

24. The lease of aquatic lands is often subject to preference rights. Applicants and surveyors should carefully determine the direction, and show details of the proration of coves and irregular shoreline.
25. (lease sites which contain existing or proposed structures and improvements that are classified as a non water-dependent or a water oriented use as described within RCW 79.105.060 and WAC 332-30-106) Provide the square footage of each structure and improvement.

Additional Requirements for Aquatic Land Uses (cont.):

26. Where applicable, the survey of aquatic lands must show the location of the following lines for:

a. Tidal areas—Government meander line, the original and current locations of line of mean high tide, line of mean low tide, and line of extreme low tide. The survey must include the name of tidal bench mark(s) used or describe the alternate method employed for determining a Tidal Datum. Lease areas which contain tidelands and bedlands at a minimum must show the location of the line of extreme low tide crossing the lease area. Lease areas containing bedlands exclusively may be required to show the relationship to the line of extreme low tide and the -18 foot contour line only.

b. Lakes—Government meander line, line of ordinary high water (original ordinary high water if the lake has experienced artificial raising or lowering of the water level), and line of ordinary low water (include source of data) and line of navigability if established.

c. Rivers—Line of ordinary high water and line of ordinary low water (include source of data) and line of navigability if established.

d. Lots and blocks of platted tide lands or shore lands, inner and outer harbor lines, waterway lines, street boundaries, any local construction limit lines, any dredge or fill areas, and easements of record within the lease site.

e. All lines must be shown in sufficient detail to compute and show the area of each area of State-owned bedlands, tidelands, shore lands, harbor area, or waterways included within the proposed lease site.

Include any other data necessary for the complete understanding of the information shown on the survey. If, in the opinion of the department, such information is lacking, the survey may be rejected.

Record of Survey Revisions:

27. Any differences between the as-built road and the regulation plat must be reflected in a revised Record of Survey and recorded with the county by the applicant.

28. When any portion of the completed improvements are located outside of the granted lease site, the as-built locations must be reflected in a revised Record of Survey and legal description. In this instance, a new application for an amended lease site may be required if the as-built location creates adverse impacts. In the case of linear leases across the bed lands of the sound or the ocean, an as-built Record of Survey and a revised legal description of the linear lease must be provided.

Survey Requirements updated July 2002.

All answers and statements are true and correct to the best of my knowledge.

Applicant 

[Signature]

(Please Print)

Signed 

[Signature]

(Applicant or Authorized Signature)

Title 

[Title]

Company 

[Tulalip Everett Joint Water Planning Board]

Form Date: June, 2005
For additional information contact one of the following region offices:

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<thead>
<tr>
<th>Region</th>
<th>Address</th>
<th>Phone</th>
<th>TTY</th>
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<tr>
<td>Southeast Region</td>
<td>713 Bowers Rd, Ellensburg, WA 98926-9341</td>
<td>509-925-8510</td>
<td>509-925-8527</td>
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<tr>
<td>Olympic Region</td>
<td>411 Tillicum Ln, Forks, WA 98331-9797</td>
<td>360-374-6131</td>
<td>360-374-2819</td>
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<td>Northwest Region</td>
<td>919 N Township St, Sedro-Woolley, WA 98284-9333</td>
<td>360-856-3500</td>
<td>360-856-1371</td>
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<tr>
<td>Northeast Region</td>
<td>P.O. Box 190, 225 S Silke Rd, Colville, WA 99114-0190</td>
<td>360-684-7474</td>
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<tr>
<td>Pacific Cascade Region</td>
<td>P.O. Box 280, 601 Bond Rd, Castle Rock, WA 98611-0280</td>
<td>360-577-2025</td>
<td>360-577-2025</td>
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<tr>
<td>South Puget Sound Region</td>
<td>950 Farman Ave N, Enumclaw, WA 98022</td>
<td>360-825-1631</td>
<td>360-825-6381</td>
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