Application for Use of State-owned Aquatic Lands

Applicant Name: City of Bellingham
County: Whatcom
Water Body: Bellingham Bay
Type of Authorization: Harbor Area Lease
Authorization Number: 22-084455
Term: 30 years

Description: DNR plans to authorize a harbor area lease to the City of Bellingham to construct and maintain an overwater walkway for non motorized use that will extend a public trail system to connect downtown Bellingham with Fairhaven. This new lease will incorporate lands covered under harbor area leases 22-002351 (Boulevard Park) and 22-002483 (public access & wharf/dock facilities) into one agreement.
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]
Terry Carter, Land Manager,
San Juan/Whatcom County
DNR Aquatics Program
919 N Township Street
Sedro-Woolley, WA 98284

II. APPLICANT INFORMATION

Date of Application: February 18, 2009
Authorization to be Issued To: City of Bellingham, a first class municipal corporation of the State of Washington

Address
City: Bellingham State: WA Zip Code: 98225

Telephone Number: FAX Number:

Applicant's Representative: Le

Relationship to Applicant:

Address:
City: Bellingham State: WA Zip Code: 98225

Telephone Number:

FAX Number:

If Property will be used for business purposes,
Applicants' Washington Department of Revenue Tax
*Registration Number (Unified Business Identifier) is Required

FOR OFFICIAL USE ONLY

Land Manager: Type: (20, 21, 22, 23, 31) 22-002492 0025
Land Manager: ☑ New Application ☐ Renewal Application
Land Manager: Initials TMC Aquatic Program Manager Initials

Support: Application Fee Received Waived Date 4/20/09

Land Records: New Application Number

Land Records: Trust County AQR Plate No.

Form Date: June, 2005
Which of the following applies to Applicant (Check One and Attach written authority to sign - bylaws, power of attorney, etc):

☐ Corporation (State of Registration): ______ Government Agency ☒
☐ General Partnership Limited Partnership ______ (State of Registration): ______
☐ Sole Proprietorship Marital Community ______ (Spouse): ______
☐ Other (Please Explain): ______

Has the site use been authorized before or is it currently under lease: ☒ Yes(#) 2483, 2351 No ☐ Don’t Know

III. LOCATION
The Body of Water on which the state property is located: Bellingham Bay
County in which the state property is located: Whatcom
Government Lot: Bellingham, WA, Section 1 & 36, Township 37 & 38, Range 2E & 2F 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.)

Physical description of Project Area (For example, Marsh, Tideflat adjacent to the Chehalis River, etc.): The Project Area includes the Harbor Area adjacent to the Fairhaven and the New Whatcom Tide Lands as platted on Bellingham Bay, Whatcom County, Washington, plus the platted street right of ways, and areas previously leased under Harbor Area leases nos. 2483 & 2351 (see attached map).

Name of Owner(s) of Uplands, Shorelands, and/or Tidelands shoreward and adjacent to the Property:

Name: City of Bellingham (100%), BNSF RR (100%), Port of Bellingham/City of Bellingham (51/49%), Whatcom County (leased to the City of Bellingham)

Address: (see address breakdown on attached exhibit sheet)

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:

IV. USE OF PROPERTY
1. Describe, in detail, the proposed use of the Property: The proposed use of this property includes an 2,360-foot-long overwater segment, for nonmotorized public travel as a part of a larger park trail system. This overwater segment will be a multi-use trail that includes walking and biking from Boulevard Park to the Cornwall Avenue landfill. The filled upland area has: restrooms, picnic areas, park benches, asphalt walkways, playground, out-door performance theatre and a large recreational playfield. The overwater walkway uses may include: fishing, walking, biking, more park benches and crabbing.

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? Past uses include: lumber milling, log booming, municipal landfill, park use.

Form Date: June, 2005

2 of 7 Application for Authorization to Use SO/
Current uses include: The proposed lease area is partially occupied by a developed urban park located on a landfill. The open water portion of the proposed lease area is used for anchorage of boats and includes an timber pier and pilings. The small portion of the Pattle Land Claim located on the Cornwall Avenue landfill is vacant.

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: The City of Bellingham is aware of the placement contaminated dredge spoils on the aquatic portions of the site. The City of Bellingham is also aware of the contamination of the fill and uplands adjacent to this proposal area by products associated with the manufacture of coal gas on an adjacent site.

5. Do you know if any fill material has been placed on the property in question? If yes, please explain: Yes, fill materials have been placed on this site to create uplands during the late 1800s and 1980s. Harbor areas have also been partially filled from the disposal of dredge spoils from Whatcom Creek waterway. See the attached 'Conceptual Map of the Preliminary Lease Area' as an exhibit for additional clarification.

V. IMPROVEMENTS

1. What physical improvements currently exist on the site? (Photos may be required.) The physical improvements of this site are an existing dock - plantings, furnishings, lawns, restrooms, walkways, etc. Photos have been included in the exhibits for additional clarification of the site's physical improvements.

2. If there are physical improvements currently on the site, who owns them? The City of Bellingham owns the physical improvements on the site.

3. If there are physical improvements currently on the site, describe their condition: Please refer to the photo exhibits for determination of condition. The physical improvements of the timber pier, pier pilings and existing asphalt walkways are weathered and hold little to no economic value.

4. Which, if any, of the existing physical improvements will be removed, remodeled, or reconstructed? The existing physical improvements are a timber pier of about 1,240 square feet and five pier pilings that will be as construction during mitigation. Furthermore, a shoreline promenade walkway will be replaced and complemented with a soft-shore beach and backshore enhancement as part of this project. Backshore enhancements may include the removal of riprap and concrete rubble, along with the creation of a higher backshore area for dissipation of wave energy during storm conditions.

5. Describe any physical improvements that the applicant is proposing to construct on the site: The applicant is proposing to construct an 2,360-foot-long overwater segment connecting Boulevard Park to the Cornwall Avenue landfill to the north. This shall included the installation of 2 concrete abutments, each comprising of 74 square feet of reinforced concrete. The installation of 98 steel or concrete piles and the construction of a walkway superstructure, of 14-foot-wide together with 18 feet of seating nooks. Environmental enhancements such as the planting of native vegetation to reduce erosion and increase natural habitat maybe included as part of this project.

6. Has any fill material been placed on the site? If Yes, please describe: Yes, filled materials have been placed on this site to create the uplands between the late 1800s to 1980s. The Harbor areas have also been partially filled with dredge spoils from the Whatcom Creek waterways. Please see the South Hill & Boulevard Planning Areas Environmental Map for additional clarification.

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:

Form Date: June, 2005
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, piling, 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, filing, 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.

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 reviewer's 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. No study of habitat mitigation has been made by any permitting agencies as listed above, nor has any habitat mitigation been assessed as of yet.

VII. PROPERTY SURVEY (pending)

STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES  
REQUIREMENTS TO RECORD 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

The applicant is responsible for:

- All costs and work associated with creating, submitting, revising and recording the Record of Survey

Form Date: June, 2005
• 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 ½ X 11” copy and of the recorded survey including the auditor’s recording information to the department.

A Record of Survey must:

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.
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.

Form Date: June, 2005 5 of 7 Application for Authorization to Use SOA
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 lease must be provided.

Survey Requirements updated July 2002.

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

Applicant ____________________________
(Please Print) __________________________

Signed ________________________________
(Applicant or Authorized Signature)

Title Design & Development Manager

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

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