#### FOSTER PEPPER PLLC

#### May 10, 2017

#### Via Email to ben.perkowski@seattle.gov

Ben Perkowski City of Seattle Department of Construction and Inspections PO Box 34019 Seattle, WA 98124-4019

Re: Seattle Pacific University's Request for Shoreline Exemption for Float Repair

Dear Ben:

Thank you for the phone call to discuss the repairs Seattle Pacific University needs to perform on its float in the Fremont Cut. By this letter, the University asks for the City's confirmation that the project, described in more detail below, is exempt from shoreline permitting requirements under SMC 23.60A.020.C.1, "normal maintenance and repair."

The float-and-ramp in question serves the University's rowing team and provides water access to the public. The concrete float, which is held in place by two pilings, features a very low profile, which meets the needs of the crew but unfortunately leads to frequent submersion. After thirty years of wake wash, the concrete surface of the float has deteriorated badly.

The float, pilings, and ramp were fully permitted before they were installed in the mid-1980's. DCLU issued a MUP decision containing a shoreline substantial development element on October 25, 1983 under number 83-459. That MUP entitled the Metro Water Quality Lab and two docks, including the one at issue here. Copies of the relevant permit pages are enclosed with this letter for your review. The University also obtained federal permits, which are also enclosed.

The U.S. Army Corps of Engineers owns the bedlands and leases the space for the float to the University. Some months ago, the Corps' real estate personnel visited the site and expressed concern about the potential for safety hazards related to the float's current condition. The Corps directed the University to develop and submit to the Corps a repair and subsequent maintenance plan.

The University consulted with Bellingham Marine, Inc., which manufactured and installed the float, pilings, and ramp in the 1980's, and which will do the repair work. BMI dove on the pilings and confirmed they are in good condition. The existing ramp is also in good repair. After inspecting the float, BMI advised that the appropriate repair method is replacement. BMI will manufacture a replacement float offsite, then transport it to the site and install it before removing the existing float and disposing offsite. The on-site work will be short in duration and will require no dredging or fill. The project will not create any new overwater coverage.

The University has filed a JARPA seeking appropriate state and federal permits for the repair work. NOAA fisheries advised us that a "no effects" determination is appropriate, and the Army Corps of Engineers agreed. The University has also approached Washington Fish and Wildlife, and the University is now starting the entitlement process with the City.

Under certain circumstances, the City's SMP includes replacement as "repair":

Replacement of a structure or development is repair if such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance, and the replacement does not cause substantial adverse effects to shoreline resources or environment.

SMC 23.60A.020.C.1.b. BMI informs us that replacement is the common method of repair for a float, particularly one that has suffered the type of damage the University's float has. The replacement float will be comparable to the original float in every relevant way, including size, shape, configuration, location, use, and external appearance. The University does not intend to expand the dimensions of the float, and could not in any event because the new float must fit in the same space and connect to the existing pilings. The new float must also have the same low profile as the existing float, strong structural properties, and enough buoyancy to support the steel grate ramp and nine crew members carrying a 62-foot shell and equipment.

As an aside, the project is also categorically exempt from SEPA under SMC 25.05.800.C (repair, remodeling, and maintenance activities). As you pointed out on the phone, that provision specifically exempts "repair or replacement of . . . floats" from SEPA review.

May 10, 2017 Ben Perkowski Page 3

Thank you for your attention to this question. Please let me know if you need anything else from us to make the determination that this project is exempt from shoreline permitting requirements.

Sincerely,

FOSTER PEPPER PLLC

Steven J. Gillespie

Encl.

Cc: Colin Vasquez, SDCI

Dave Church, Seattle Pacific University

# Construction and Land Use Seattle Department of

What Judger PE, Drept Owns form March



November 1, 1983

NOTICE OF DECISION

Permit application described below and has issued the following decision. Interested parties may appeal this decision by filing an appeal in writing with the Office of the negative, 5th floor, 400 Yesler Building. Appeals must be received prior to 5:00 pm. of the appeal dealline incidented below and be accompanied by a \$25.00 filing fee in a feet payable to the City Treasurer. The appeal must identify the specific Raster Use Fermit component(s) being appealed, specify exceptions or objections to the decision, and the relief sought. Appeals must conform in content and form to the Hearing Examiner's Efrector of the Department of Construction and Land Use has reviewed the Master Use the relief sought. Apprules governing appeals. For esditional information, contact the Land Use Information Center, Rosm 402, Municipal Suilding (825-5209).

Application #63-459/(Kroll 021E) 322 WEST ENING STREET/(Zone IG/UD)

To demolish four buildings, docks and bulkhead and establish use for future construction of a mater quality laboratory dock and bulkhead. The Environmental review for this application was prepared by METRO.

following appealable decisions have been made baseu on submitted plans: 17.6

peri: : Shoreline Substantial Develor CCADITIONALLY GRANT: Shoreline Substantial Develor SEPA - to impose environmental conditions or the p

Appeals of this decision may be submitted through NOVEMBER 15, 1JB.

The shoreline component(s) of this decision are appealable to the Washington State Department of Ecology until at least NOVEMBER 24, 1983. For additional information on shoreline appeals, contact the Land Use Information Center, 625-5200.

CITY OF SEATILE PER-IT FOR SHORELINE MANAGEMENT SUBSTANTIAL DEVELOPMENT SHORELINE MANAGEMENT ACT OF 1971

Application No. NOTE - THIS FACE FOR LOCAL GOVERNMENT USE

10-25-83 8-18-83 Date Approved Date Received

E3-45c

Conditions - yes X

SE & Sect. 13. Tornstip 25 K, Range 3 to Type of action (check if appropriate) Development Fermit

Substantial D Conditional U

50 PURCUANT TO CRAFTER SC. 58 RCW, A PERMIT IS HEREBY GRANTED

METRO Applicant:

METEO Acdress: 821 O-TIET:

9E104

2nd Avenue, Scottle, Bashington

£21

Acetess:

THE FOLLOWING WORK IS AUTHORIZED SUBJECT TO THE ISSUANCE 2nd Avenue, Seattle, Washington 98104

OF A BUILDING To demolish four buildings, docks and bulkhead, and to construc, a water PERMITS

quality laboratory with docks and bulkhead per plan. Sixteen on-site perking staces and 30 off-site (across Eving Street) will be provided. All per plan

THE PROJECT WILL KITHIN 3rd Avenue Mest) (be/got be) SHORELINES OF STATEWIDE SIGNIFICANCE (RCW 90.58.030). 36.01 SEATTLE, KING COUNTY, KASHINGTON. THE PROJECT WILL 322 E. Eving St. (aka UPON THE FOLLOWING PROPERTY BE LOCATED

DESIGNATION. THE FULLOWING MASTER PROGRAM PROVISIONS ARE APPLICABLE TO THIS DEVELOPMENT 24.60.360. .555. .615.D1 & 4, .650, .703.C.1 & E, .715.F.2 Seattle Municinal Code. (environment) Ē K

(state the master program sections or page numbers)

PAGE 1 of 2



# Scatter Susber 13-459

### AMALYSIS AND DECISION OF THE DIRECTOR OF CITY OF SEATRE

THE DEPARTMENT OF CONSTRUCTION AND LAND USE

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Upplication Number	uplicant Hame	daress of Proposal

## SUMMER OF PROPOSED ACTION

To demolish four buildings, docks and bulkhead, and to satabilah use for future construction of unter quality laboratory with access docks and bulkhead per plan. The following approvals are required:

SEPA - To lapose environmental conditions - Section 25.04.190 Seattle Manicipal Code, Section 24.60.295 as asended by Grd, 109176, Section 15, Seattle Numbicipal Code.

Shoreline Substantial Development -

BACKGROUND DATA

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LU4/YA21 DA: 11d

Revised 82,09,24

ANALISIS - SUBSTANTIA, CEVELGIMENT MANIT

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See SEPA conditions.

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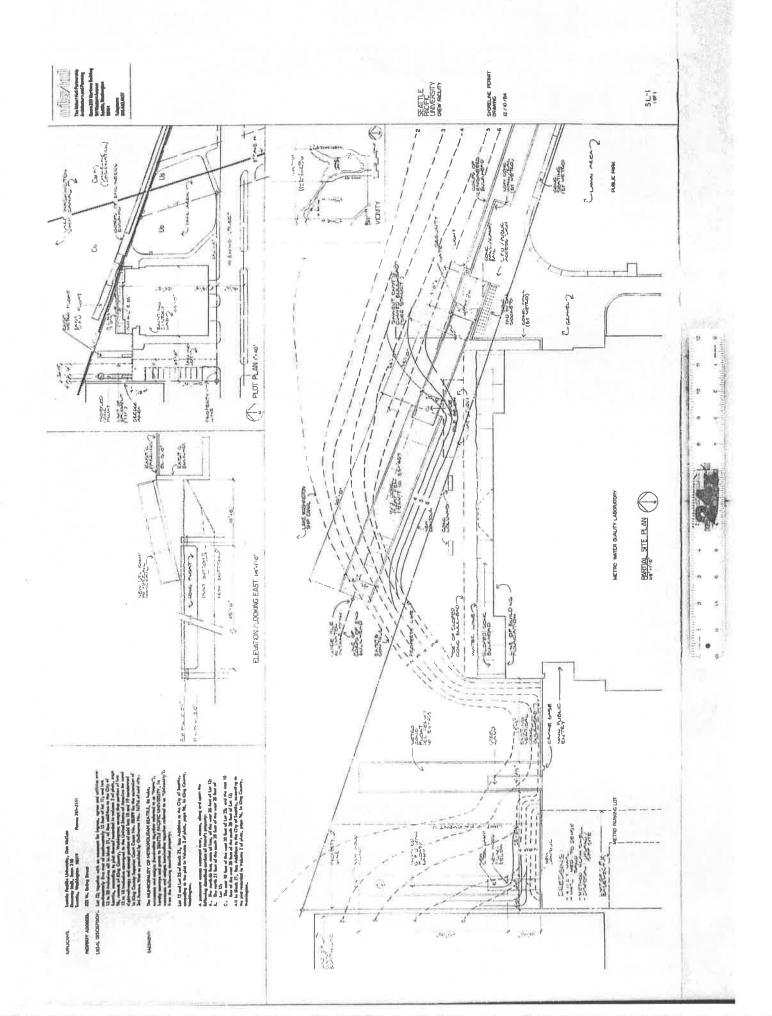
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Department of Construction and Land Care

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APPROVED PURPLE STATES R. Bond 37106 HIND RESUME . A. Sires W-13 2-20 07.2 EZIO-IUM THE FIELD CUT AS REGID 50-11/2 0 28/85 D MARTIN 701/6 NOTE: CLEATS ARE TO BE FILED ON INSIDE WALE -1 TIP 0 F 3 LAYOUT MARELAL LIST, WOOD, ASSEMBLY DEFINES WELDMENTS, FLOOMS, WELDMENTS, DEFAUS FLOATS, WELDMENTS, DEFAUS 1×3 1301/6 C-M-NOEX C 12 SOURCE FLING ("H" PILE) VERINT LOSANON 3-33-106 20 1-4 640 45: p 1.45: p



MAR 1 8 1985





COMMITTEE AND ADDRESS OF THE PARTY.

### This notice of authorization must be conspicuously displayed at the site of work.

United States Army Corps of Engineers

1 4 MAR 1985 1 9\_\_\_\_

A permit to <u>INSTALL A RAMP AND FLOAT (SMALL BOAT MOORAGE) IN THE LAKE</u> WASHINGTON SHIP CANAL

at SEATTLE, WASHINGTON

Address of Permittee \_\_seattle, WASHINGTON 98119

Permit Number

071-0YB-1-009915

ROGER F. YANKOUPE

District Commander COLONEL, CORPS OF ENGINEERS

ENG FORM 4336 , Jul 81 (ER 1145-2-303) EDITION OF JUL 70 MAY BE USED

(Proponent: DAEN-CWO)



#### DEPARTMENT OF THE ARMY

SEATTLE DISTRICT, CORPS OF ENGINEERS P.O. BOX C-3755

SEATTLE, WASHINGTON 98124 -2255

1 4 MAR 1985

Regulatory Functions Branch

MAR I 8 1985

Mr. T. D. Wollam Seattle Pacific University Seattle, Washington 98119

Reference:

071-0YB-1-009915

Seattle Pacific

University

Dear Mr. Wollam:

Reference your January 15, 1985 application for a Department of the Army permit to install a ramp and float in the Lake Washington Ship Canal at Seattle, Washington, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403). We have reviewed your application and have determined that the proposed work is minor in nature, will not have significant impact on environmental values, and should have no opposition. Consequently, your application has been evaluated under our "Letter of Permission" procedure, instead of being reviewed under the normal process for an individual permit.

You are hereby authorized to perform the work as shown on your January 15, 1985 drawings (enclosure 1), provided the General Conditions as noted in enclosure 2 are met.

Attention is drawn to General Condition "o" of enclosure 2 which specifies the expiration date for completion of work. You are requested to notify this office when the authorized work is completed.

You are cautioned that any change in the location or plans of the work will require submittal of a revised plan to this office for approval prior to accomplishment.

Nothing in this letter shall be construed as excusing you from compliance with other Federal, state and local statutes, ordinances or regulations which may affect this work. Hydraulic Project Approval from the Washington State Departments of Fisheries and Game and a Shoreline Substantial Development Permit determination from the City of Seattle shall be obtained prior to performing any work.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Roger F. Yankoupe

Colonel, Corps of Engineers

Gerald A Kelles

District Engineer



#### DEPARTMENT OF THE ARMY SEATTLE DISTRICT, CORPS OF ENGINEERS P.O. BOX C-3755

SEATTLE, WASHINGTON 98124

13 MAR 1985

Regulatory Functions Branch



Mr. T. D. Wollam Seattle Pacific University Third West and West Nickerson Seattle, Washington 98119

Reference: 071-0YB-1-009751

Seattle Pacific University

Dear Mr. Wollam:

Enclosed for your signature are Department of the Army permit forms for work described in the referenced public notice.

Please sign and date both forms and return them to this office with your check in the amount indicated below, made payable to the Treasurer of the United States. Your copy of the fully-executed permit will then be returned to you. Modification of standard permit form is not permissible and will delay issuance of the permit. The signed permit forms must be returned to this office within 90 days from the date of this letter or your application will be considered cancelled, and your file closed.

You are cautioned not to commence the work described in this permit until you receive the fully-executed document.

Sincerely yours,

And ARMA

		Xuerala // / Sercer
_2	Enclosures	Gerald A. Keller
	Permit (dupe)	Chief, Regulatory Functions Branch
2.	Envelope	
3.	Agency Letter(s)	Conditional
		Informational
		XX None
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NPS FL JUN 83 109 (Rev)



#### DEPARTMENT OF THE ARMY SEATTLE DISTRICT, CORPS OF ENGINEERS P.O. BOX C-3755 SEATTLE, WASHINGTON 98124

14 MAR 1985

Regulatory Functions Branch

Mr. T. D. Wollam Seattle Pacific University Third West and West Nickerson Seattle, Washington 98119

Reference: 071-0YB-1-009751

Dear Mr. Wollam:

Seattle Pacific University

Enclosed is a Department of the Army permit which authorizes performance of the work described in your referenced application.

You are cautioned that any change in the location or plans of the work will require submittal of a revised plan to this office for approval prior to accomplishment. Deviation from approved plans may result in imposition of criminal or civil penalties.

Your attention is drawn to conditions "o" and "n" of the permit which specify the expiration date for completion of the work and that you notify this office of the date the work is completed.

Sincerely yours,

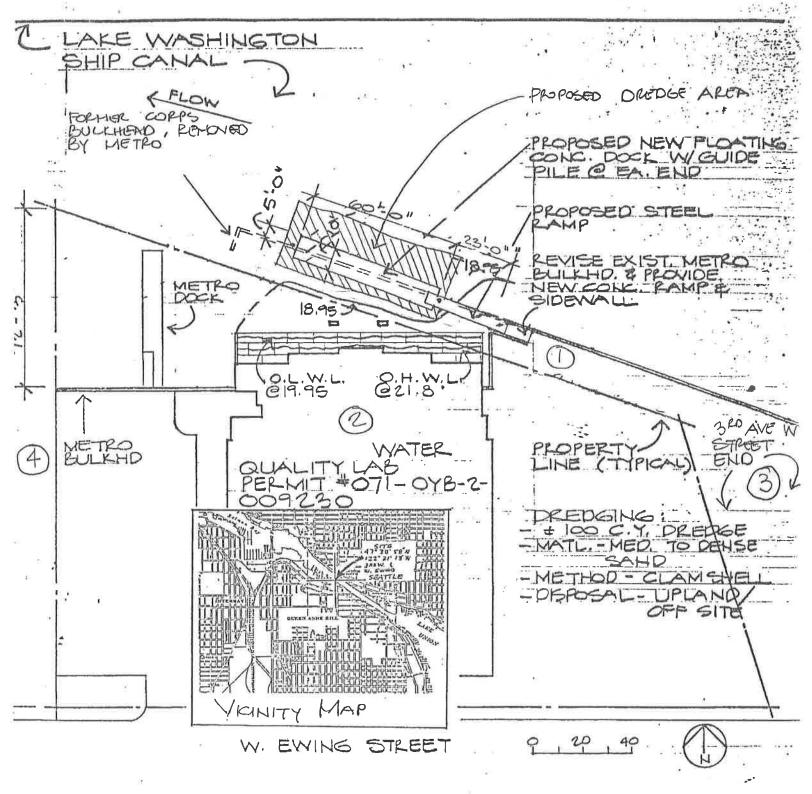
Gerald A. Keller

Gerald A Keller

Chief, Regulatory Functions Branch

Enclosure

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PURPOSE: CREW SHELL LAUNCHING FACILITY

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ADJACENT PROPERTY OWNERS: 1 CORPS OF ENGINCERS (4) PAN C. PETROPOULOS

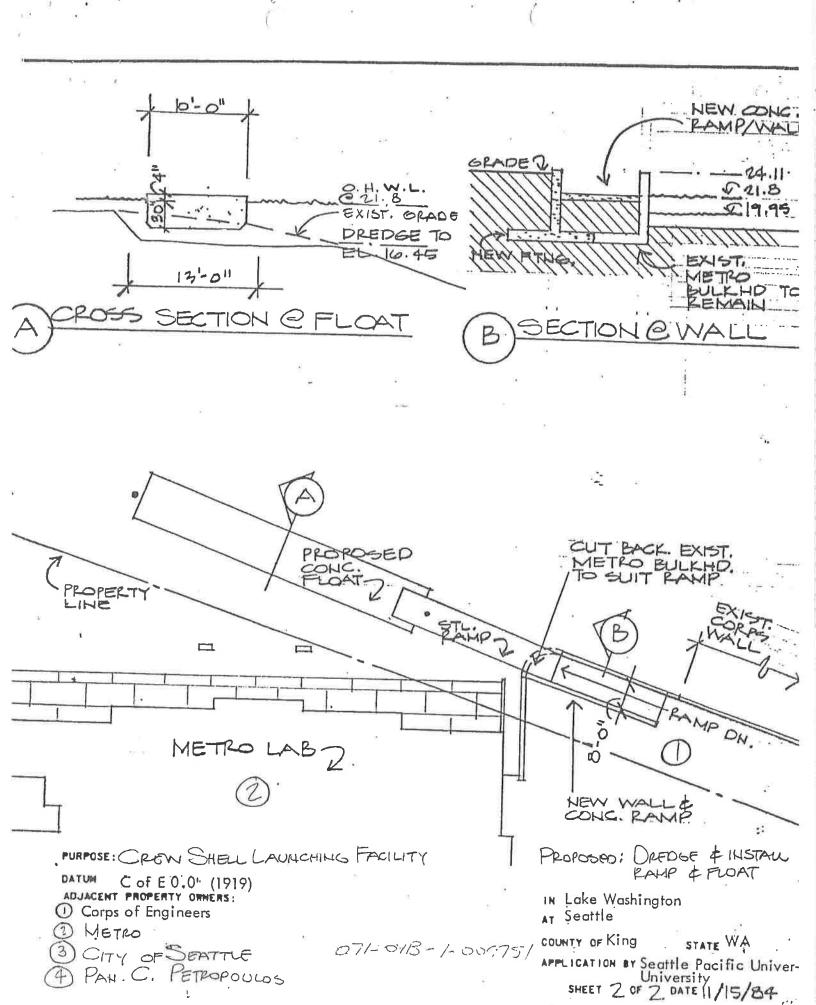
METRO

CITY OF SEATTLE

Proposed: DREDGE & INSTALL RAMP & FLOAT 07/- 0/8-/- 00975/ IN Lake Washington

AT Seattle

COUNTY OF King STATE WA APPLICATION BY Seattle Pacific Univer-University



NPSOP-RF		
Application No.	071-0YB <sup>(</sup> . 009751	(
Name of Applicant	Seattle Pacific University	The state of the s
Effective Date	1.4 MAR 1985	
Expiration Date (If app	pUcable)See General Condition "o"	
	DEPARTMENT OF THE ARM PERMIT	Υ
(X) Perform work in	equest dated <u>15 November 1984-</u> For a permit to: or affecting navigable waters of the United States, upon the Dof the Rivers and Harbors Act of March 3, 1899 ( <i>93 U.S.C. 40</i>	
( ) Discharge dredge Army acting through	d or fill material into waters of the United States upon the is the Chief of Engineers pursuant to Section 404 of the Clean W	suance of a permit from the Secretary of the ater Act (33 U.S.C. 1344);
Secretary of the Army	ed material for the purpose of dumping it into ocean water y acting through the Chief of Engineers pursuant to Section 12 (86 Stat. 1052; P.L. 92-532);	
Seattle Pacif	ic University	2.0

Third West and West Nickerson Seattle, Washington 98119

is hereby authorized by the Secretary of the Army: to dredge, with upland disposal, and shell launching facility)	install a ramp and float (provide a crew
in the Lake Washington Ship Canal	
at Seattle, Washington	
in accordance with the plans and drawings attached heretoings, give file number or other definite identification marks.)	o which are incorporated in and made a part of this permit (on draw-071-0YB-1-009751, 2 sheets

subject to the following conditions:

#### I. General Conditions:

a. That all activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit, in whole or in part, as set forth more specifically in General Conditions j or k hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended or revoked in whole or in

ENG FORM 1721, Sep 82

**EDITION OF 1 JUL 77 IS OBSOLETE** 

(ER 1145-2-303)

- b. That all activities authorized herein shall, if they involve, during their construction or operation, any discharge of pollutants into waters of the United States or ocean waters, be at all times consistent with applicable water quality standards, effluent limitations and standards of porformance, prohibitions, pretreatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1344), the Marine Protection, Research and Sanctuaries Act of 1972 (P.L. 92-532, 86 Stat. 1052), or pursuant to applicable State and local law.
- c. That when the activity authorized herein involves a discharge during its construction or operation, or any pollutant (including dredged or fill material), into waters of the United States, the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implementation plan contained in such revised or modified standards, or within such longer period of time as the District Engineer, in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances.
- d. That the discharge will not destroy a threatened or endangered species as identified under the Endangered Species Act, or endanger the critical habitat of such species.
- e. That the permittee agrees to make every reasonable effort to prosecute the construction or operation of the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife, and natural environmental values.
- f. That the permittee agrees that he will prosecute the construction or work authorized herein in a manner so as to minimize any degradation of water quality.
- g. That the permittee shall allow the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.
- h. That the permittee shall maintain the structure or work authorized herein in good condition and in reasonable accordance with the plans and drawings attached hereto.
- i. That this permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations.
- j. That this permit does not obviate the requirement to obtain state or local assent required by law for the activity authorized herein.
- k. That this permit may be either modified, suspended or revoked in whole or in part pursuant to the policies and procedures of 33 CFR 325.7.
- 1. That in issuing this permit, the Government has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be materially false, materially incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.
- m. That any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the United States.
- n. That the permittee shall notify the District Engineer at what time the activity authorized herein will be commenced, as far in advance of the time of commencement as the District Engineer may specify, and of any suspension of work, if for a period of more than one week, resumption of work and its completion.
- o. That if the activity authorized herein is not completed on or before 14th day of Mar., 1988, (three years from the date of issuance of this permit unless otherwise specified) this permit, if not previously revoked or specifically extended, shall automatically expire.
- p. That this permit does not authorize or approve the construction of particular structures, the authorization or approval of which may require authorization by the Congress or other agencies of the Federal Government.
- q. That if and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party pursuant to General Condition t hereof, he must restore the area to a condition satisfactory to the District Engineer.
- r. That if the recording of this permit is possible under applicable State or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to and interests in real property.

- s. That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.
- t. That this permit may not be transferred to a third party without prior written notice to the District Engineer, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferree subscribing to this permit in the space provided below and thereby agreeing to comply with all terms and conditions of this permit. In addition, if the permittee transfers the interests authorized herein by conveyance of realty, the deed shall reference this permit and the terms and conditions specified herein and this permit shall be recorded along with the deed with the Register of Deeds or other appropriate official.
- u. That if the permittee during prosecution of the work authorized herein, encounters a previously unidentified archeological or other cultural resource within the area subject to Department of the Army jurisdiction that might be eligible for listing in the National Register of Historic Places, he shall immediately notify the district engineer.
- II. Special Conditions: (Here list conditions relating specifically to the proposed structure or work authorized by this permit):

, 5

The following Special Conditions will be applicable when appropriate:

#### STRUCTURES IN OR AFFECTING NAVIGABLE WATERS OF THE UNITED STATES:

- a. That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.
- b. That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.
- c. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.
- d. That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.
- e. Structures for Small Boats: That permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to insure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.

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- a. That when the work authorized herein includes periodic maintenance dredging, it may be performed under this permit years from the date of issuance of this permit (ten years unless otherwise indicated);
- b. That the permittee will advise the District Engineer in writing at least two weeks before he intends to undertake any maintenance dredging.

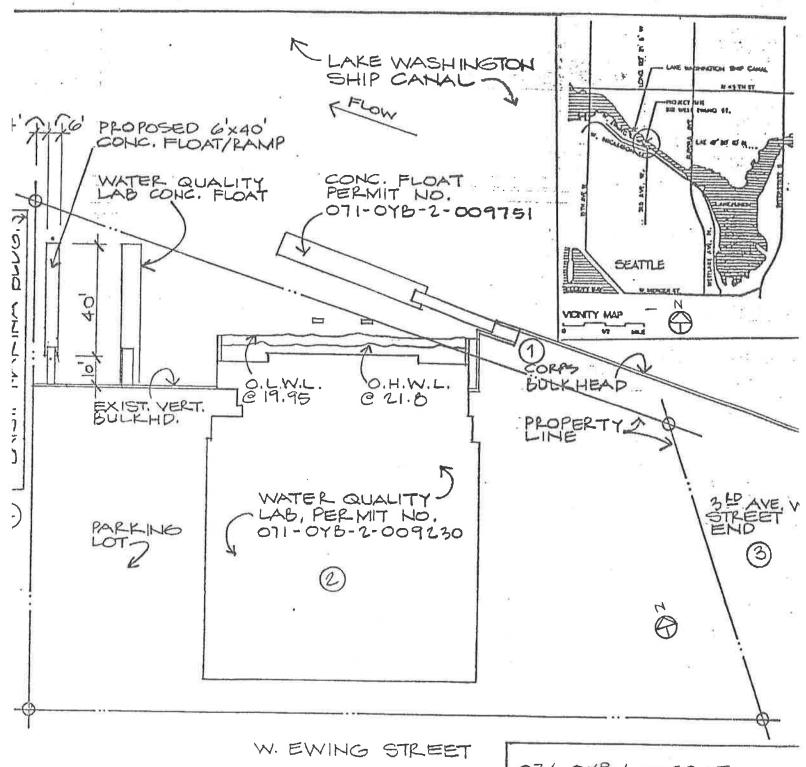
#### DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES:

- a. That the discharge will be carried out in conformity with the goals and objectives of the EPA Guidelines established pursuant to Section 404(b) of the Clean Water Act and published in 40 CFR 230;
  - b. That the discharge will consist of suitable material free from toxic pollutants in toxic amounts.
- c. That the fill created by the discharge will be properly maintained to prevent erosion and other non-point sources of pollution.

#### DISPOSAL OF DREDGED MATERIAL INTO OCEAN WATERS:

- a. That the disposal will be carried out in conformity with the goals, objectives, and requirements of the EPA criteria established pursuant to Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, published in 40 CFR 220-228.
- b. That the permittee shall place a copy of this permit in a conspicuous place in the vessel to be used for the transportation

b. That the permittee shall place a copy of this permit in a and/or disposal of the dredged material as authorized herein.	Conspicuous place in the vessel to be about 101 to the f
This permit shall become effective on the date of the District E	ngineer's signature.
Permittee hereby accepts and agrees to comply with the terms	and conditions of this permit.
& Jahller	X 14 MAR 1985
PERMITTEE	DATE
Seattle Pacific University BY AUTHORITY OF THE SECRETARY OF THE ARMY:	
Gerold A Kelles	14 Mar 85
ROGER F. YANKOUPE	DATE
Colonel DISTRICT ENGINEER.	
U.S. ARMY, CORPS OF ENGINEERS	
Transferee hereby agrees to comply with the terms and condi	tions of this permit.
TRANSFEREE	DATE



PURPOSE: SMALL BOAT MOORAGE

C of E 0.0" (1919) ADJACENT PROPERTY ORNERS:

() CORPS OF ENG.

2 METRO

@ CITY OF SEATTLE

@ PAN C. PETROPOLILOS

#### 071-048-1-009915

PROPOSED:

INSTALL FLOAT/RAMP

IN Lake Washington Ship Canal AT Seattle

COUNTY OF KING

STATE WA

APPLICATION BY Seattle Pacific SHEET | OF 2 DATE 1/15/85