



City of Seattle

Department of Planning and Development

Diane M. Sugimura, Director

CITY OF SEATTLE ANALYSIS AND DECISION OF THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number: 3010548
Applicant Name: Port of Seattle by Jon Sloan
Address of Proposal: 2929 16th Ave SW

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to allow site improvements to Terminal 10 including: stormwater drainage improvements, installation of five 100 ft. tall light poles, striping for parking of cargo vehicles and container (10.2 acres) and 18,100 cu. yds. of grading. Project also includes replacement of perimeter fencing of site (11 acres.) Determination of Non-Significance issued by the Port of Seattle¹.

The following Master Use Permit components are required:

Shoreline Substantial Development Permit — to allow site improvements to a cargo terminal in the Urban Industrial (UI) Shoreline Environment — SMC 23.60.020

Shoreline Variance — to allow an intake and outfall that does not meet the development standards of SMC 23.60.194 — SMC 23.60.036 and WAC 173-27-170

SEPA — Environmental Determination — Seattle Municipal Code (SMC) 25.05

SEPA DETERMINATION: [] Exempt [X] DNS [] MDNS [] EIS
[] DNS with conditions
[] DNS involving non-exempt grading or demolition or, involving another agency with jurisdiction.

BACKGROUND DATA

Terminal 10 is located on the west shoreline of Harbor Island, at the east margin of the West Waterway, in southwest Elliott Bay. The Terminal 10 facility includes approximately 11 acres paved upland area and approximately 920 linear feet of shoreline. Harbor Island includes approximately 445 acres of marine industrial use area and infrastructure. Harbor Island was constructed approximately eighty years ago, consisting entirely of fill material placed in inter-tidal and sub-tidal aquatic area.

Upland, shoreline, and aquatic areas at the present Terminal 10 site were used as a ship building and repair facility for approximately four decades.

¹ The Port of Seattle has acted as lead agency and issued an Addendum to their SEPA Determination of Non-Significance (DNS) issued October 2005. Please refer to the Land Use Application file.

Use of the area as a shipyard ended in 1988. The site was purchased by the Port of Seattle in 1997 as an element of redevelopment and improvement of the Terminal 10, Harbor Island, container cargo transshipment facility. Upland and aquatic area cleanup and remediation actions, managed by the Environmental Protection Agency as an operable unit of the Harbor Island Superfund site, were completed in 2005.

At present, upland area consists of a paved impervious surface cap. Existing aquatic area conditions include a sediment cleanup cap, accomplished through removal of previous sediments and placement of a prescribed layer of clean imported cap materials (referred to as the Lockheed Shipyard Sediment Operable Unit sediment cap).



No upland structures are present. The site includes a limited existing storm water collection system and eight inch diameter storm water outfall. Two vehicle entrance/exit points are present and the site is partially enclosed with security fencing. The present site includes no lighting.

As a constructed, filled site, no native or un-altered shoreline or adjacent inter-tidal or shallow sub-tidal aquatic area is present at the Terminal 10 project site. Existing paved upland area at Terminal 10, in use as a marine industrial site, does not include substantial vegetation of any kind. It is important to note, however, that a small area of native riparian vegetation was installed at Terminal 10 as an element of a Harbor Island Superfund operable unit site cleanup and remediation action managed by the Environmental Protection Agency, completed in 2005. The riparian area, approximately 110 feet long and 30 feet wide, is located at the northwest corner of the Terminal 10 site. The riparian vegetation, including willow, cottonwood, and shrubs, is maintained by the port.

Inter-tidal aquatic area at the site consists of vertical bulkhead, riprap slope substrate buttress and sediment cap materials. Small amounts of surface algae growth are present in inter-tidal sediment cap areas. No emergent vegetation and no substantial inter-tidal or sub-tidal algal growth is present at the site.

The site is zoned IG1 and is within the UI shoreline environment; within a shoreline habitat and liquefaction prone — environmental critical area (ECA).

Proposal

The proposed Terminal 10 project includes improving upland infrastructure in order to provide more effective use of the site as a container cargo marshalling and truck drayage area. The proposed work includes: (1) limited upland grading, to correct site drainage profiles; (2) installation of a storm water management system, including new catch basins and an oil/water separator and treatment filter vault, connecting to a replacement storm water outfall/discharge; (3) installation of five light poles; (4) installation of security fencing; and, (5) installation of up to four inches of replacement asphalt pavement and striping of cargo marshalling and drayage areas.

Notice and Comment Period

Notice of the application was published on October 22, 2009. The required public comment period ended on November 20, 2009. No comments were received.

The Land Use Application file is available at the Public Resource Center located at 700 Fifth Ave, Suite 2000².

ANALYSIS — SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of this Chapter; and*
- C. *The provisions of Chapter 173-27 WAC.*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

A. THE POLICIES AND PROCEDURES OF CHAPTER 90.58.RCW

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the State to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against effects to public health, the land use and its vegetation and wild life, and the waters of the state and their aquatic life, while protecting public right to navigation and corollary incidental rights. Permitted uses in the shoreline shall be designed and conducted in a manner to minimize, insofar as possible, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines, adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60.

Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The proposal is subject to the Shoreline Policies of SMC 23.60.004 because the site is located within the shoreline district and the cost of the project exceeds \$5,000. The proposed development has been designed to ensure minimum impact to the public health, land and waters of the state, and their aquatic life. The location of the proposed work on the shoreland will not interfere with the public rights of navigation and corollary rights, thus providing for the management of the shorelines by planning for and fostering all reasonable and appropriate uses. Therefore, the subject application is consistent with the procedures outlined in RCW 90.58.

B. THE REGULATIONS OF CHAPTER 23.60

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program." In evaluating requests for substantial development permits, the Director must determine that a proposed

² <http://www.seattle.gov/dpd/PRC/LocationHours/default.asp>

use meets the approval criteria set forth in SMC 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special requirements use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064).

Pursuant to SMC 23.60.064C, in evaluating whether a development which requires a substantial development permit, conditional use permit, variance permit or special use authorization meets the applicable criteria, the Director shall determine that the proposed use: 1) is not prohibited in the shoreline environment and the underlying zone and; 2) meets all applicable development standards of both the shoreline environment and underlying zone and; 3) satisfies the criteria for a shoreline variance, conditional use, and/or special use permits, if required.

SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district. An economic objective for the shoreline is to "Encourage economic activity and development of water-dependent uses by supporting the retention and expansion of existing water-dependent businesses and planning for the creation of new developments in areas now dedicated to such use." (Please refer to Economic Development Goals, Policy LUG51). An area objective for this portion of the Duwamish Waterway is to "encouraging industrial and port uses in this area, where such uses are already concentrated, while also protecting migratory fish routes." (Please refer to Area Objectives for Seattle's Shorelines, Policy LU269 1d). The purpose of the Urban Industrial (UI) environment as set forth in Section 23.60.220.C.11 is to "provide for efficient use of industrial shorelines by major cargo facilities and other water-dependent and water-related industrial uses. Views shall be secondary to industrial development and public access shall be provided mainly on public lands or in conformance with an area-wide Public Access Plan".

Transportation Facilities (Cargo Terminals', water-dependent or water-related) are a water dependent use. As such, the proposal would be supported by both the purpose of the UI shoreline environment and the policies set forth in the Land Use Element of the Comprehensive Plan.

Development Standards³

The proposal is permitted outright in SMC 23.60.840 governing the UI shoreline environment and is therefore subject to:

1. *the general development standards for all shoreline environments (SMC 23.60.152);*
2. *the development standards for uses in the UI environment (SMC 23.60.870); as well as*
3. *the development standards for General Industrial zones (SMC 23.50).*

1. General Development Standards for all Shoreline Environments (SMC 23.60.152)

All uses and developments shall be subject to the following general development standards:

³ The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on protecting water quality. This generally takes the form of best management practices being required on building permits. This measure will be adequate to ensure protection of the shoreline from the limited construction that is proposed.

- A. *The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best Management Practices such as paving and berming of drum storage areas, fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.*
- B. *Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land*
- C. *Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage, vessel repair facilities, marine service stations and any use regularly servicing vessels....*
- D. *The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.*
- E. *All shoreline developments and uses shall minimize any increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catch basins or settling ponds, interceptor drains and planted buffers.*
- F. *All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.*
- G. *All shoreline developments and uses shall control erosion during project construction and operation*
- H. *All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas including, but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.*
- I. *All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.*
- J. *All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.*
- K. *Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.*
- L. *All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.*

- M. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.*
- N. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.*
- O. Navigation channels shall be kept free of hazardous or obstructing development or uses.*
- P. No pier shall extend beyond the outer harbor or pierhead line except in Lake Union where piers shall not extend beyond the Construction Limit Line as shown in the Official Land Use Map, Chapter 23.32, or except where authorized by this chapter and by the State Department of Natural Resources and the U.S. Army Corps of Engineers.*

The proposal meets the general development standards for the shoreline environment, however it does not meet the intake and outfall development standards of SMC 23.60.194 (see **ANALYSIS — SHORELINE VARIANCE** below).

2. Development Standards for UI Shoreline Environments (SMC 23.60.870)

The development standards set forth in the Urban Industrial (UI) Shoreline Environment relate to critical habitat protection, height, lot coverage, view corridors, setbacks, water-related uses on waterfront lots and public access. The proposal conforms to all of the development standards for the UI environment, with the exception of being visible at mean lower low water (refer to SMC 23.60.194).

Evaluation of the proposed intake/outfall — consistency with SSMP

The following evaluates the elevation and dimensions of the proposed Terminal 10 outfall/discharge with Seattle Shoreline Master Program requirements (SSMP), including: (1) General Provisions, Use Standards, Section 23.60.194, Standards for intakes and outfalls and (2) Criteria for Shoreline Variances, 23.60.036, including WAC 173-14-150 decision-making requirements.

The proposed Terminal 10 utility infrastructure improvement project is consistent with permitted uses listed in the Urban Industrial Environment (UI Environment, 23.60.840), as a water-dependent or water-related cargo terminal, including utility structures necessary for the marine cargo use. The Terminal 10 utility infrastructure improvement project is also consistent with the underlying General Industrial zone designation for the site, IG1/U85.

However, the proposed storm water outfall/discharge included in the Terminal 10 utility improvement project does not precisely match the specific vertical elevation requirements noted in General Provisions, Use Standards, Section 23.60.194, (A), Standards for Intakes and Outfalls.

- A. All intakes and outfalls shall be located so they will not be visible at mean lower low water.

The present outfall/discharge design (alternative three), includes a 30 inch diameter round concrete pipe extending from an existing steel sheet piling bulkhead into a concrete enclosure or headwall structure. The base of the headwall structure is approximately 0.0 feet MLLW and elevation of the top of the headwall enclosure is approximately plus nine feet MLLW. The bottom elevation of the outfall/discharge pipe is approximately plus 3.5 feet MLLW. Although the proposed outfall/discharge pipe enclosure has a base elevation of 0.0 feet MLLW, the concrete structure extends above MLLW and will be visible during tidal fluctuations. The base of the proposed discharge enclosure will experience approximately 95 percent average tidal inundation. The outfall/discharge pipe will be covered by tidally-influenced water levels between 80 and 85 percent of the time, based on tidal

inundation curve data. In contrast, the top of the concrete enclosure, at plus nine feet MLLW, will be covered by tide water approximately 35 percent of the time. It is expected, therefore, that the upper portions of the proposed outfall/discharge structure will often be exposed and visible above the level of the tide.

The intent of the third alternative outfall design is to: (1) avoid changes in cap surfaces that were designed in order to create fish and wildlife habitat substrate; (2) minimize disruption of existing capped sediments; and, (3) avoid impeding Treaty fishing access. Meeting these design criteria results in an outfall/discharge structure partially visible above MLLW.

The present alternative is located in a portion of the project bank line with a continuous riprap slope, successfully avoiding the potential for altering specially placed cap materials beneficial to fish and wildlife habitat. However, alternative three, located at the north margin of the site, requires a deeper profile, compared with previous alternatives, to provide gravity drainage from the south portion of Terminal 10 (the southeast catch basin is approximately 1200 feet from the proposed outfall/discharge). As a result, the excavation design penetrates the protective sediment cap requiring excavation of a modest volume of capped sediments. Previous design alternatives were located in higher inter-tidal locations in order to avoid excavation of contaminated sediments isolated beneath the existing sediment cap and minimize potential for release of Superfund sediments to the West Waterway. Agency reviewers were concerned that the first two designs would present a barrier to water flow over the sediment cap, with the potential to disrupt existing stable sediment cap materials. The elevation of the present design alternative avoids the possibility of destabilizing the sediment cap, but exposes capped sediments. The outfall elevation is the minimum depth required for storm water drainage from the 11 acre site. Placement of the outfall at a deeper tidal elevation, such that the outfall structure would be less visible at low water, risks excavation of substantially greater volumes of contaminated capped sediments, due to excavation side-slope requirements and structural shoring requirements, with increased potential for release of contaminants and environmental exposure. In addition, pushing the outfall structure to deeper tidal elevation increases the potential for impeding Treaty fishing activities. The outfall enclosure, although restricted to the slope profile, would be located in deeper aquatic area more critical to positioning of gill nets in the water column. Set nets used in the West Waterway are typically 30 to 50 feet deep. The gill nets are tied to shore and extend into deep sub-tidal water. The nets drape over inter-tidal and sub-tidal slope areas on the margins of the West Waterway and shift position with each tidal cycle. It is likely that placement of an outfall structure below MLLW, in contrast to inter-tidal slope areas, would increase the potential for obstruction of the in-shore or up-slope portions of fishing nets placed at the site. Finally, placement of the outfall structure in deeper tidal elevations would increase the duration of in-water construction activities.

The present design alternative balances the visibility of the outfall with the need to avoid disturbing specially installed cap substrate and capped sediments and the need to minimize placement of structures with the potential to impede treaty fishing activities in the West Waterway.

The proposed Terminal 10 storm water outfall/discharge is, however, consistent with Section 23.60.194, (B), intended to prevent entry of fish into the constructed utility.

B. All intakes and outfalls shall be designed and constructed to prevent the entry of fish.

The water-ward end of the 30 inch diameter discharge pipe will be fitted with a rubber check valve. The rubber valve functions as a "tide gate", allowing treated storm water to exit and preventing marine water from the West Waterway from entering the Terminal 10 storm water system, without the negative features of a mechanical tide gate equipment. The rubber check valve is approximately 61 inches high and 72 inches long. Unlike standard mechanical tide gate designs, the rubber check valve

opens in response to water pressure in the upland portion of the storm water system, with the dimension of the discharge opening proportionate to water flow. The check valve flow opening provides for storm water flow but does not allow a void space above the discharge flow common to mechanical tide gates. In addition, the check valve design eliminates entry of floating debris capable of lodging in the check valve, preventing conditions with the check valve held open by debris. The check valve design, therefore, prevents entry of fish into land-ward, subsurface portions of the proposed Terminal 10 storm water collection system.

As proposed and as conditioned below, the project will consistent with the above shoreline development standards.

3. Development Standards for Industrial Zone Uses (SMC 23.50)

The project proposal must meet the development standards of the underlying General Industrial 1 (IG1) zone. The development proposal has been reviewed by a Land Use Plans Examiner who has determined the project complies with the required development standards. The proposal meets the height, other related setback, screening and landscaping, venting, parking and access standards.

C. THE PROVISIONS OF CHAPTER 173-27 WAC

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local government s, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of the SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Summary

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms to the policies and procedures of the WAC and RCW and with the regulations of Chapter 23.60 of the Seattle Shoreline Master Program.

The project as proposed meets the specific standards for development in the UI environment, except for the intake and outfall standards. It also conforms to the general development standards, as well as the requirements of the underlying zone, therefore should be approved.

Pursuant to SMC 23.60.064C, in evaluating whether a development which requires a substantial development permit, conditional use permit, variance permit or special use authorization meets the applicable criteria, the Director shall determine that the proposed use: 1) is not prohibited in the shoreline environment and the underlying zone and; 2) meets all applicable development standards of both the shoreline environment and underlying zone and; 3) satisfies the criteria for a shoreline variance, conditional use, and/or special use permits, if required.

The Director's authority under Seattle's Shoreline Master Program, is to ensure that development proposals are consistent those policies and procedures, and conforms to specific development standards of the underlying zones. Having established that the proposal is consistent with the Seattle Shoreline Program, it is hereby conditionally approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The Shoreline Substantial Development Permit is **CONDITIONALLY GRANTED**.

CONDITIONS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

(As noted at the end of this document)

ANALYSIS AND CRITERIA — SHORELINE VARIANCE

Section 23.60.036 of the Seattle Municipal Code provides criteria for review of a shoreline variance and reads in part: *In specific cases the Director with approval of DOE may authorize variances from certain requirement of this chapter if the request complies with WAC 173-27-170.*

In evaluating whether a development which requires a variance permit the Director shall determine that:

- 1. The proposed use is not prohibited in the shoreline environment(s) and underlying zone(s) in which it would be located;*
- 2. The development meets the general development standards and any applicable specific development standards set forth in Subchapter III, the development standards for the shoreline environment in which it is located, and any applicable development standards of the underlying zoning, except where a variance from a specific standard has been applied for; and*
- 3. If the development or use requires a conditional use, variance, or special use approval, the project meets the criteria for the same established in Sections [23.60.034](#), [23.60.036](#) or [23.60.032](#), respectively.*

Decision-making criteria included in WAC 173-27-170 indicate that the purpose of a variance is limited to relief from specific bulk, dimensional or performance standards in state-approved shoreline master programs. Extraordinary circumstances must be present relating to the physical character or configuration of the project site, such that strict implementation of the master program decision-making requirements results in an unnecessary hardship. The following evaluates the criteria listed in WAC 173-27-170 with respect to the proposed Terminal 10 storm water outfall/discharge, describing the special circumstances that pertain to the site and demonstrating that no substantial adverse effect to the public interest is anticipated.

Since the proposed outfall/discharge is located waterward of the ordinary high water mark, or mean higher high water in tidally influenced areas such as the West Waterway, the following criteria under 173-27-170 apply: (3)(a), (b), and (c), (4), and (5).

WAC 173-27-170 — Criteria

(1) Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

The port is proposing to install a 30 inch diameter storm water outfall/discharge structure at Terminal 10, on the east shoreline of the West Waterway. The proposed outfall/discharge replaces an existing eight inch diameter outfall draining a portion of the site. The replacement outfall will connect with a new subsurface storm water collection and treatment system serving the entire 11 acre Terminal 10

site. The proposed storm water outfall/discharge includes a discharge pipe and check valve mounted in a concrete enclosure. The base elevation of the proposed outfall enclosure is approximately 0.0 MLLW. The bottom elevation of the outfall/discharge pipe, contained within the concrete enclosure, is approximately plus 3.5 feet MLLW.

The elevation of the proposed outfall/discharge does not precisely match the requirements stipulated in the Seattle Shoreline Master Program (SSMP), Section 23.60.194, Standards for Intakes and Outfalls, indicating that intakes and outfalls be located such that the structures are not visible at mean lower low water (MLLW).

The following describes: (1) the purpose and need for the Terminal 10 utility improvement project; (2) alternative outfall/discharge locations and configurations; and, (3) the location and elevation of the proposed outfall/discharge. The project design information, presented in (1) through (3), is followed by evaluation of the proposed project with SSMP and WAC requirements.

Terminal 10 utility improvement project — purpose and need: The proposed storm water outfall/discharge is an element of the Terminal 10 infrastructure improvement project. The objective of the Terminal 10 improvement project is to repair and replace upland pavement and drainage infrastructure in order to provide more effective continuing use of the site as a container cargo marshalling and truck drayage area. The proposed work includes: (1) limited upland grading, to ensure adequate slopes for drainage; (2) installation of a below-grade storm water management system, including new catch basins, conveyance pipe network, and an oil/water separator and storm water treatment/filter vault, consistent with existing storm water standards; (3) placement of a uniform pavement surface, with up to four inches of replacement asphalt pavement, serving as a comprehensive site cap and adequate for marine cargo use; (4) installation of five light poles, sufficient for safe 24 hour site use; (5) installation of security fencing and access gates for control/restriction of all site uses; and, (6) striping of cargo marshalling and drayage areas for efficient site use and restriction of cargo staging uses adjacent to the shoreline. Please note that the proposed outfall/discharge is the only in-water work element included in the Terminal 10 infrastructure project.

Planning and design for improvement of utilities at the Terminal 10 site has emphasized the need to establish infrastructure for continuing use as a marine cargo site. The status of Terminal 10, as a Superfund operable unit, was an essential existing site condition for all infrastructure design. Planning and design for infrastructure improvements at the former Lockheed shipyard emphasized: (1) use of the former shipyard must be consistent with Superfund soil and sediment management requirements and (2) improvement of utilities at the site must not disrupt recently completed cleanup actions. The port's objective is to improve the built and committed industrial shoreline site for continued effective economic use as a container cargo marshalling and truck drayage area. The infrastructure improvement work is intended to complement EPA Superfund actions, ensuring continuing use of a remediated existing industrial site.

Utility improvement design: Site design criteria included the following principal environmental and Superfund related elements: (1) avoid and minimize excavation of protective upland cap and underlying contaminated soils; (2) avoid and minimize potential disruption of site ground water conditions; (3) avoid and minimize excavation of protective aquatic area sediment cap and underlying isolated sediments; (4) install storm water structures, including treatment vaults consistent with existing storm water standards; (5) install a continuous, site-wide impervious upland surface; and, (6) ensure that all construction activities and long-term site uses avoid disruption of upland and aquatic area site conditions.

Preliminary design work indicated that continued use of the Terminal 10 site as an active marine cargo use area would require installation of an effective storm water conveyance system. An existing storm water drainage system, serving approximately 20 percent at the south margin of the site, was left in place as part of the 2005-2006 EPA-directed remediation of the former shipyard site. The existing system has limited capability, with storm water from the remaining 80 percent of the site discharging to the West Waterway as surface flow/sheet-runoff. Use of Terminal 10 as a marine cargo site requires installation of a site drainage system capable of effective storm water service for the entire 11 acre site. Site elevations require improvement in order to eliminate areas where surface water collects in standing water pools, including approximately 35 percent of the site, and allow for collection and routing all surface water at the site for treatment prior to leaving the site. As an outcome of re-grading the site for storm water conveyance, a uniform pavement cap surface would be installed. The pavement cap would provide for adequate vehicle and marine cargo use and serve as a continuous impervious cap in place of an existing combined patch-work of relic concrete pads (approximately 2.9 acres) and asphalt pavement areas (approximately 8.1 acres). It is important to note that the present site includes no storm water treatment.

Alternative outfall/discharge locations and configurations: Included in the application, is a summary of alternative storm drain outfall/discharge designs evaluated for use at Terminal 10, memorandum dated 1-5-10. This memorandum, updated a previous alternatives summary, dated 10-6-09. In combination, the 1-5-10 and 10-6-09 information summarizes existing conditions and utility design alternatives evaluated for the Terminal 10 utility improvement project. Briefly, the present outfall/discharge design is the third location and configuration proposed for the Terminal 10 site. The following describes the present design, alternative three, in detail.

Location and elevation of proposed outfall/discharge: A 30 inch diameter round concrete pipe is proposed to connect the new sub-surface upland storm water drainage system with the West Waterway. The concrete pipe would pass through an existing steel sheet piling bulkhead at the northwest portion of the site and enter a concrete discharge enclosure. The storm water outfall structure would extend approximately 17.5 feet water-ward of the bulkhead, emerging at approximately 0.0 feet MLLW. The storm water discharge would be fitted with an end-mounted rubber check valve, 30 inches in diameter and approximately five feet in height. Installation of the new outfall would require disruption of approximately 635 square feet of the existing sediment cap, including up to 115 cubic yards of excavation.

Please note that the location of the proposed storm water outfall/discharge affects a portion of the Terminal 10 shoreline where riprap buttress, placed as a slope protection measure, extends as a continuous surface from approximately plus 11 feet MLLW to between minus 30 and 35 feet MLLW. The location of the third design alternative resulted from design review with EPA, NMFS, USFWS, WDFW, WDNR, City of Seattle, and the Muckleshoot Indian Tribe. Project reviewers emphasized the need to avoid locations where the sediment cap was designed to be beneficial to fish and wildlife. The present riprap location accomplishes this.

The proposed outfall/discharge location will require up to 115 cubic yards of excavation between approximately plus 11 feet MLLW and 0.0 feet MLLW. Excavation necessary for installation of the proposed outfall will entail removal of previously placed aquatic area cap material installed at the direction of EPA as an element of the 2005-2006 Lockheed Shipyard Sediment Operable Unit (LSSOU) remediation action. The LSSOU cap consists of three layers of select fill material. Each layer would be removed in sequence, including the following: (1) approximately 45 cubic yards of riprap and armor layer consisting of riprap bedded into a mixture of sand and cobble; (2) approximately 20 cubic yards of geotechnical filter layer cap material, consisting of sand and small aggregate fill sediments; and, (3) approximately 35 cubic yards of chemical attenuation layer cap sand material.

In order to seat the bottom elevation of the proposed storm water discharge/outfall at 0.0 feet MLLW excavation of capped sediments will be required. Approximately 15 cubic yards of capped sediments will be removed and held in a drainage controlled upland receiving site for contamination testing and subsequent disposal at an approved landfill.

The proposed 30 inch diameter round concrete outfall pipe will extend approximately five feet water-ward from an existing steel sheet piling bulkhead. The bottom elevation of the concrete pipe is approximately plus 3.5 feet MLLW. The concrete pipe emerges into a concrete enclosure or headwall structure, with side and back walls one foot thick and the base or bottom two feet thick. The concrete enclosure is a tapered rectangular trapezoid. The rear wall measures seven feet wide and nine feet high. The water-ward end of the enclosure is approximately 14 feet wide and two feet high. The enclosure is approximately 13.5 feet long, measured rear to front. The headwall enclosure is expected to be a pre-cast concrete structure, eliminating the need for in-water concrete forming. However, if un-anticipated site conditions require, it may be necessary to form the headwall enclosure on-site, using leak-proof metal and wood forms and specialized concrete to prevent release of concrete mixture to the aquatic area. If the headwall enclosure requires forming on-site, approximately 15 cubic yards of rapid-set concrete would be used to fill leak-proof, site-fabricated forms. The concrete structure will be placed on a foundation pad of clean gravel/crushed rock/sand mixture, totaling up to ten cubic yards, to ensure level positioning of the structure. The proposed foundation pad gravel/crushed rock/sand mixture will serve as a protective layer during construction, forming a temporary cap for any sediments exposed beneath the LSSOU cap. In addition, the gravel/aggregate and sand portions of the bedding material will match the LSSOU geotechnical filter layer and attenuation cap materials. The foundation pad and cap replacement materials will be installed immediately following excavation in order to minimize any release of capped sediments from below the LSSOU cap.

Please note that the trapezoidal shape of the headwall enclosure allows the side walls of the enclosure to match the contour of the surrounding riprap slope. The headwall enclosure side walls will extend approximately ten to twelve inches above the surrounding riprap slope to ensure the stability of adjacent riprap.

The discharge end of the outfall pipe will consist of a rubber check valve, designed to allow storm water to exit the upland conveyance system and prevent water from the West Waterway from entering the storm water system. The proposed rubber check valve is approximately 61 inches high and 72 inches long. Please note that the storm water discharge check valve will be positioned entirely within the dimensions of the headwall enclosure. No portion of the check valve or connecting concrete pipe will extend beyond the edge of the headwall enclosure and the discharge will, therefore, not extend beyond the profile of the existing riprap slope. The installed dimension of the discharge, measured perpendicular to the bank line, from the water-ward edge of the steel sheet piling bulkhead to the lower edge of the headwall enclosure, is approximately 17.5 feet.

Finally, please note that the present site has limited storm water management and no storm water treatment. The proposed storm water improvements at Terminal 10 include installation of deep Type II, high capacity, catch basins throughout the site. Drainage from the entire 11 acre site would flow to a system of 14 catch basins and sub-surface pipes, entering a coalescing media oil/water separator, followed by treatment in a storm-filter vault, fitted with energy dissipater, baffles, and treatment cartridges, prior to discharge to the West Waterway. The proposed storm water system has been designed to meet existing Washington Department of Ecology and City of Seattle storm water discharge requirements.

The applicant has demonstrated that extraordinary circumstance exists and that the public interest shall suffer no substantial detrimental effect.

Public access to the shoreline, the natural character of the shoreline, and the public interest, in general, will not suffer substantial detrimental effect from the proposal. In all likelihood, the improvements and reduced environmental emissions will result in long-term benefits to the public.

(3)(a): That the strict application of the bulk, dimensional or performance standards set forth in the master program precludes all reasonable use of the property:

Information included above emphasizes balancing the need to provide efficient storm water utility improvements at Terminal 10, including treatment of storm water, with the need to avoid disruption of the protective sediment cap and capped contaminated sediments, has resulted in the present outfall/discharge design alternative. Construction of storm water conveyance infrastructure at an existing marine cargo facility is essential to continuing use of the site as a marine industrial asset. Installation of a storm water outfall/discharge in light of present regulatory programs, including fish and wildlife habitat, sediment contamination, and water quality matters that have emerged as critical development decision-making elements since adoption of the SSMP two decades ago, requires a design consistent with multiple complex, inter-related requirements. In addition, the Terminal 10 site has been the focus of recently completed Superfund clean-up actions, with associated long-term environmental protection requirements.

The present outfall/discharge design, the third alternative design presented for review, accomplishes the marine industrial use objective of the Terminal 10 infrastructure project and responds to environmental management requirements stipulated by state, federal, and Treaty tribe reviewers. The present design alternative, however, differs from the dimensional standard indicated in the SSMP. Although the present design is centered at MLLW, the upper portions of the outfall enclosure will be partially visible above MLLW. The present design is proposed as reasonable dimension accommodation in order to allow improvement of the existing site.

(3)(b): That the proposal is consistent with the criteria established under subsection (2)(b) through (f) of WAC 173-27-170:

(2)(b): That the hardship described in (3)(a) is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions:

The present design responds to unique conditions at the Terminal 10 site. The port acquired the former Lockheed Shipyard prior to Superfund clean-up actions. Interim use as a port marine cargo area has been limited by irregular grade and drainage conditions at the site. In order to improve the site for more effective marine cargo use, infrastructure changes are necessary, including up-to-date storm water conveyance, treatment, and discharge of surface water from the site. The discharge structure must: (1) do no harm to the Superfund sediment cap, including avoiding re-contamination of the cap and minimizing disruption of beneficial habitat substrate conditions; (2) do no harm to capped sediments; (3) avoid potential release of capped sediments; and, (4) avoid disruption of Treaty fishing activities in the West Waterway. The unique existing conditions at Terminal 10 require the location and dimension elements of the present outfall/discharge design alternative.

(2)(c): That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline;

The proposed outfall/discharge is an element of the Terminal 10 utility improvement project. The utility improvement project design submitted for DPD review has been planned and designed to be

consistent with the state-approved SSMP and underlying zone designations for the site, including general development standards for Urban Industrial shorelines and IG1/U85 industrial sites. The proposed project is supported by SEPA evaluations prepared by the port, distributed for public comment, and adopted following no receipt of public response. The utility improvement project includes installation of a storm water outfall/discharge, designed to enter existing riprap shoreline in the east margin of the West Waterway at a base elevation of approximately 0.0 MLLW. SSMP development standards require that intake/outfall utilities not be visible at MLLW. However, the bottom elevation of the proposed outfall pipe, is approximately plus 3.5 feet MLLW. The top elevation of the proposed headwall enclosure is approximately plus nine feet MLLW.

The proposed project, including the elevation of the outfall/discharge, is compatible with other authorized uses in the area and with uses planned for the area. Terminal 10 is located on the center-west shoreline of Harbor Island, at the east margin of the West Waterway, in southwest Elliott Bay. The Terminal 10 facility includes approximately 11 acres paved upland area and approximately 920 linear feet of shoreline, measured along the existing bulkhead top. Harbor Island includes approximately 445 acres of marine industrial use area and infrastructure.

Harbor Island was constructed more than ninety years ago, consisting entirely of fill material placed in inter-tidal and sub-tidal aquatic area. Shoreline and upland area throughout Harbor Island and the West Waterway is built and committed to marine industrial use. Upland, shoreline, and aquatic area at the present Terminal 10 site was used as a ship building and repair facility for approximately four decades. Use of the area as a shipyard ended in 1988. The site was purchased by the Port of Seattle in 1997 as an element of redevelopment and improvement of the Terminal 18, Harbor Island, container cargo transshipment facility. Upland and aquatic area cleanup and remediation actions at the former shipyard site, including removal of approximately 3.4 acres of over-water piling supported creosote pier area (combined perimeter dimension of approximately 1700 linear feet) and 1.6 acres of shipway structures and demolition of upland buildings, managed by the Environmental Protection Agency as an operable unit of the Harbor Island Superfund site, were completed in 2005-2006. At present, upland area consists of paved and concrete impervious surface cap with irregular slopes. Existing aquatic area conditions include a sediment cleanup cap, accomplished through removal of a portion of former shipyard sediment contamination and placement of a prescribed layer of clean imported cap materials (referred to as LSSOU sediment cap).

Existing aquatic area at Terminal 10 is not used by the port for the purpose of marine cargo transfer, with no dock or pier structures present at the site. The port uses the present 11 acre capped upland area for Todd Shipyard employee parking, marine construction materials lay-down and component assembly, and marshalling of chassis-mounted container cargo. No upland structures are present. The site includes a limited existing storm water collection system and eight inch diameter storm water outfall. Two vehicle entrance/exit points are present and the site is partially enclosed with security fencing. The present site includes no lighting.

Installation of a 30 inch diameter storm water outfall/discharge, replacing an existing eight inch diameter outfall, allows for continuing, efficient use of marine industrial cargo area at Terminal 10, consistent with surrounding industrial uses and activities in southwest Elliott Bay. Please note that an existing, approximately 48 inch diameter storm water outfall is located in riprap covered shoreline at the water-ward end of Southwest Lander Street, in public right-of-way, approximately 550 feet north of the proposed Terminal 10 replacement outfall. The Lander Street outfall is constructed on the east shoreline of the West Waterway with the lower edge of the discharge between elevations plus five feet and seven feet MLLW.

Similar to the Lander Street outfall, the proposed Terminal 10 outfall/discharge enters riprap shoreline. Both outfalls are necessary elements of storm water control in upland area of Harbor Island and are consistent with surrounding industrial upland and existing structurally stabilized aquatic area conditions.

The proposed Terminal 10 storm water outfall/discharge is compatible with surrounding marine industrial uses and activities and the vertical location of the proposed outfall is similar to a larger existing outfall previously constructed in public right-of-way adjacent and north of the project site.

The proposed project, including the elevation of the outfall/discharge, will not cause significant adverse effects to the shoreline environment. Existing marine industrial upland on Harbor Island, and in surrounding marine industrial locations adjacent to the West Waterway, is present as constructed, filled area. As a result, no native or un-altered shoreline or adjacent inter-tidal or shallow sub-tidal aquatic area is present in the area of the Terminal 10 project site. Existing paved upland area at Terminal 10, in use as a marine industrial site, does not include substantial vegetation of any kind. It is important to note, however, that a small area of native riparian vegetation was installed at Terminal 10 as an element of site cleanup and remediation managed by the Environmental Protection Agency. The riparian area, installed in 2005-2006, approximately 110 feet long and 30 feet wide, is located at the northwest corner of the Terminal 10 site, approximately 125 feet north of the proposed storm water outfall. The riparian vegetation, including willow, cottonwood, and native shrubs, is maintained by the port.

Inter-tidal aquatic area at the site consists of vertical bulkhead, riprap slope substrate buttress and sediment cap materials. Small amounts of surface algae growth are present in inter-tidal sediment cap areas. No emergent vegetation and no substantial inter-tidal or sub-tidal algal growth is present at the site.

The proposed replacement outfall will discharge to a structurally stable sediment cap, designed and installed to meet federal Superfund requirements for long-term confinement of contaminated sediments. The sediment cap extends from a top-of-slope metal sheet piling bulkhead to approximately minus 30-35 feet MLLW. The riprap bank surface at the proposed outfall location is continuous between the bulkhead elevation, approximately MHHW and the sub-tidal toe-of-slope. The existing riprap is present as an armor layer, protecting the five feet thick sediment cap. The riprap buttress and sediment cap have been in place for four years.

The proposed 0.0 to plus nine feet MLLW storm water outfall will require excavation of approximately 635 square feet of buttress riprap and cap material in order to extend the replacement outfall approximately 17.5 feet west of the bulkhead, including approximately 115 cubic yards of excavation. All riprap materials would be stock-piled on site in drainage controlled areas and replaced following installation. A total of approximately 70 cubic yards of cap materials and capped sediments will be excavated and stockpiled in drainage controlled areas, prior to being transferred to any approved off-site disposal facilities. Following outfall installation, all bank line contours would be restored to pre-construction configuration. Note that construction will be conducted during low-water periods, avoiding and minimizing potential adverse water column effects.

The proposed storm water outfall/discharge will provide drainage control for the entire 11 acre Terminal 10 marine cargo site. Installation of the outfall, together with discharge of storm water through treatment elements of the drainage system, will include an average flow rate of three feet per second. The maximum, 25 year, peak flow volume for the installed system is approximately 11.8 cubic feet per second. Please note that the entire LSSOU cap, including the riprap shoreline area affected by the present design alternative, was designed to be durable in the presence of wind

generated wave energy, wave energy deriving from vessel wakes, and propeller wash hydraulic forces. The clean sediment cap, in non-riprap areas, is designed to withstand: (1) wind waves 1.8 to 2.8 feet high, with a wave period up to 3.6 seconds; (2) vessel wakes up to two feet high, with a wave period of 3.5 seconds; and, (3) propeller wash currents up to 6.5 feet per second. Riprap locations have comparatively greater resistance to wind and vessel-generated waves and propeller wash. The maximum discharge velocity for the proposed 30 inch diameter outfall/discharge is approximately three feet per second, generating hydraulic forces substantially below water velocities used for LSSOU cap specifications.

The present storm water system serves approximately 2.2 acres of the 11 acre Terminal 10 site. No pre-treatment is present in the existing system and the remaining 8.8 acres of the Terminal 10 site has no drainage control or treatment improvements. The proposed storm water improvements at Terminal 10 include installation of deep Type II, high capacity, catch basins throughout the site. Drainage from the entire 11 acre site would flow through a coalescing media oil/water separator, followed by treatment in a storm-filter vault, fitted with energy dissipater, baffles, and treatment cartridges, prior to discharge to the West Waterway. The storm water system has been designed to meet existing Washington Department of Ecology and City of Seattle storm water discharge requirements.

Disruption of existing bank line habitat area, consisting of riprap and select sediment cap fill materials, necessary for placement of the proposed storm water outfall is expected to be minimal and temporary. No significant algal growth will be affected. No riparian vegetation is present at the outfall location. The proposed outfall/discharge is not expected to adversely affect existing physical or aquatic habitat conditions at the project site or in adjacent West Waterway locations. Further, placement of the required storm water outfall/discharge such that the entire outfall enclosure is located below MLLW, in order to avoid visibility of portions of the structure, would result in comparatively greater disruption of physical and aquatic habitat conditions and natural resource values at the site.

(2)(d): That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

The present storm water outfall/discharge includes inter-tidal elevations between 0.0 and plus nine feet MLLW. Numerous existing storm water discharges are present on Harbor Island and along the margins of the approximately 0.75 mile long, 78 acre, West Waterway. Many of the existing discharges are located beneath existing dock and pier structures and in vertical bulkhead areas, with elevations between plus four feet MLLW and MHHW. Two significant storm water discharges are noteworthy in the West Waterway: (1) Longfellow Creek/Delridge outfall—southwest corner of West Waterway, 96 inch diameter storm drain, discharging via a rectangular ten by 12 feet steel-grated concrete enclosure, with a base elevation at approximately 0.5 feet MLLW. (2) Southwest Lander Street outfall—approximately 550 feet north of proposed Terminal 10 replacement outfall, approximately 48 inch diameter, located at the water-ward end of Southwest Lander Street, in public right-of-way, with the lower edge of the discharge between elevations plus five feet and seven feet MLLW, and top elevation approximately plus nine to eleven feet MLLW. Both existing outfalls enter riprap shoreline and are subject to Superfund decision-making, however, neither discharge to recently cleaned-up sediment or sediment cap areas.

No new or replacement outfall structures have been proposed for the West Waterway in the past two decades. It is expected that any future outfall improvement proposals will be subject to environmental review requirements that have emerged in recent years, particularly sediment contamination matters. Subsequent outfall designs will require balancing environmental conditions with visual effects, similar to the present proposal. Installing the proposed Terminal 10 outfall with a MLLW bottom elevation is the result of particular environmental conditions at the West Waterway site and each subsequent

proposal would be required to meet the criteria and agency decision-making needs described above. Authorizing a dimensional variance at Terminal 10 responds to specific project requirements and does not result in a special privilege to the port's marine cargo facility.

(2)(e): That the variance is the minimum necessary to afford relief; and

The present alternative outfall design is proposed as the most effective means of installing an outfall structure at the Terminal 10 shoreline. The alternative design is intended to minimize: (1) disruption of surface substrate cap materials installed as beneficial habitat; (2) excavation and disruption of capped sediments; (3) obstruction of Treaty fishing access; and, (4) duration of in-water construction activities.

The dimension of the proposed outfall enclosure is the minimum necessary to accommodate the storm water pipe. The base elevation of the enclosure, 0.0 feet MLLW, combines adequate storm water conveyance, together with treatment, with a minimum of environmental disturbance. A higher outfall elevation would not provide necessary drainage and a deeper outfall elevation would likely result in substantially increased negative environmental effects.

(2)(f): That the public interest will suffer no substantial detrimental effect.

Two public interest matters pertain to the proposed storm water outfall/discharge: (1) Treaty fishing access in the West Waterway and (2) visual appearance of the structure.

As described above, placement of the storm water outfall enclosure with a base elevation of 0.0 feet MLLW in the West Waterway is not expected to adversely affect usual and accustomed fishing area, commonly used by Treaty fishers from the Muckleshoot and Suquamish Indian tribes. Location of a replacement outfall between 0.0 and plus nine feet MLLW has less potential for disruption of fishing areas than an outfall located entirely below MLLW.

The east and west shorelines of the West Waterway are entirely built and committed to marine industrial development. Residential areas with potential sight lines to the Terminal 10 project site are approximately 0.75 miles southwest of the site. Existing public shoreline access sites in the area of Terminal 10 are located at Terminal 5, approximately 3,250 feet northwest, and at southwest Harbor Island, approximately 3,900 feet south and east. Neither the Terminal 5 public shoreline access site nor the Terminal 18 public shoreline access site, located north of the low-level Spokane Street bridge, have direct sight lines to the Terminal 10 inter-tidal shoreline area proposed for outfall installation.

It is not expected that the proposed outfall, installed at elevation 0.0 to plus nine feet MLLW, will be visible from residential or existing public use areas. It is likely that the outfall will be visible from vessels or boats traveling in the West Waterway, however. Please note that the existing storm water discharge at Southwest Lander Street is similarly visible at bank line elevation plus five to seven feet MLLW. In addition, numerous surrounding outfall/discharge structures are visible in industrial bank line areas throughout the East and West Waterway and the Duwamish Waterway.

(3)(c): That the public rights of navigation and use of the shorelines will not be adversely affected.

Placement of the storm water outfall enclosure with a base elevation of 0.0 feet MLLW is not expected to adversely affect navigational uses in the West Waterway. Use of the waterway by small boats and large vessels might be impeded by an outfall located below MLLW, since the margins of the waterway are commonly used by small craft and larger vessels. The enclosure, entering the shoreline between 0.0 and plus nine feet MLLW, will not alter the slope or contour of existing riprap shoreline at the site and will not extend beyond the profile of the existing riprap bank line. The proposed outfall/discharge will not obstruct or impede vessel use at the site, extending only approximately 17.5

feet water-ward from the existing site bulkhead. Locating the outfall at a greater distance from the bulkhead and lower in elevation increases the potential for obstruction to small boat navigation. Small power boats and vessels moving in shallow water would be more likely to contact the outfall enclosure, if placed below MLLW.

Although public use of the shoreline in the project area is not common, it is possible to reach the shoreline via boat or by passing through the existing fence line at the west end of Southwest Lander Street. The protective cap installed at the site as an element of Superfund cleanup includes inter-tidal substrate slope areas walk-able at low water. Approximately 450 linear feet of walk-able bank line is present south of the proposed outfall location, with approximately 250 linear feet accessible north of the outfall. The location of the present alternative is in steep riprap bank line area difficult to pass on foot during any stage of the tide. Installation of a single 30 inch diameter outfall/discharge between 0.0 and plus nine feet MLLW would not alter existing public use conditions and would not result in a barrier to public use.

(4) In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

The Terminal 10 site conditions requiring the present storm water outfall/discharge design are particular to the site, located in a Superfund area. Please note that Harbor Island and the West and East Waterways are subject to Superfund decision-making and similar future outfall design matters may result. However, Harbor Island facilities are stable, with no future plans for changes in use or site improvements pending. Future storm water management activities on Harbor Island are expected to entail changes in treatment of surface water in upland portions of existing facilities prior to discharge, with little change in existing outfall structures anticipated.

No new storm water discharges have been proposed for Harbor Island in the past two decades. Re-development at the former Fisher Mills property at southwest Harbor Island, although undetermined at present, is possible in the future. If re-development of this area were proposed, it is likely that storm water re-design would be included, however, outfall details would require evaluation with respect to variance criteria, based on the individual details and merits of the design.

(5) Variances from the use regulations of the master program are prohibited.

The proposed Terminal 10 utility infrastructure improvement project is consistent with the use regulations in the SSMP. No use variance is required.

Summary/Conclusion

The development or use is a permitted use and meets all the applicable criteria and standards, or it can be conditioned to meet the applicable criteria and standards, the Director with approval of DOE.

In addition to the requirements provided in this chapter, the Director has attach to the permit or authorization conditions necessary to carry out the spirit and purpose of and assure compliance with this chapter and RCW 90.58.020. Such conditions include changes in the location, design, and operating characteristics of the development or use.

Nothing in this section shall be construed as limiting the Director's authority to condition or deny a project pursuant to the State Environmental Policy Act.

DECISION - SHORELINE VARIANCE

The Shoreline Variance is **CONDITIONALLY GRANTED**.

CONDITIONS - SHORELINE VARIANCE

(As noted at the end of this document)

SEPA ANALYSIS

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.554D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part: *“Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,”* subject to some limitations. Under such limitations/circumstances (SMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary construction-related impacts are expected: 1) decreased air quality due to the increase dust and other suspended particulates from building activities; 2) increased noise and vibration from construction operations and equipment; 3) increased traffic and parking demand from construction personnel; and 4) consumption of renewable and non-renewable resources. These impacts are not significant.

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically, these are: 1) Street Use Ordinance (watering streets to suppress dust, obstruction of the pedestrian right-of-way during construction, construction along the street right-of-way, and sidewalk repair); and 2) Building Code (construction measures in general, including best management practices). Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary for these impacts. The other short-term impacts not noted here as mitigated by codes, ordinances or conditions (e.g., increased traffic during construction, additional parking demand generated by construction personnel and equipment, increased use of energy and natural resources) are not sufficiently adverse to warrant further mitigation or discussion.

Long-term Impacts

Long-term or use-related impacts are also anticipated, as a result of approval of this proposal including: potentially increased marine traffic in the area and potentially increased activity related to the parking of cargo vehicles and containers. These impacts are minor in scope and appear capable of being easily absorbed in the industrial maritime area. They do not warrant conditioning pursuant to SEPA policies.

Greenhouse Gas

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery; and the movement of vehicles — themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the increased contribution of greenhouse gas emissions from this project.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 (2)(C).

CONDITIONS - SEPA

None.

CONDITIONS - SHORELINES

The owner(s) and/or responsible party(s) shall:

Prior to Building Permit Issuance

1. Plans shall include a copy of the best management practices to be used.

Prior to Commencement of Construction

2. Notify in writing all contractors and sub-contractors of the requirements and conditions of this permit.
3. During Construction

The following conditions to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

3. The owner(s), builder(s), and all responsible party(s) shall follow the best management practices as carried over to the approved construction set of plans.

CONDITIONS – SHORELINES VARIANCE

For the Life of the Project

4. The development shall be constructed and maintained per plan.

Signature: _____ (Signature on File)
Colin R. Vasquez, Senior Land Use Planner
Department of Planning and Development

Date: February 3, 2011