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DIKING DISTRICT NO. 5, SNOHOMISH COUNTY

DEC 20 2021

20607 SR 9 SE, Snohomish WA, 98296 Tel. No.: (425)-402-9900

**COMMUNITY, PLANNING &
ECONOMIC DEVELOPMENT**

December 14, 2021

Via US Mail

Mr. Todd Gray
Natural Resources Department
6406 Marine DR NW
Tulalip, WA 98271

RE: Comment letter dated 7/9/2021

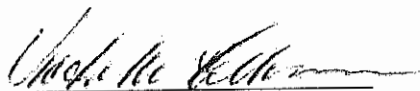
Project Name: Everett Public Works/Dike District 5 Dike Repair | SMA21-003 & SEPA 21-006

Mr. Gray:

In follow up to the District's letter to you of September 24, 2021, I am pleased to share with you our technical consultant's December 10, 2021 response to your comments. I am also sending this letter to Mr. Dennis Osborn of the City of Everett, for permitting consideration as well. We trust this addresses your concerns at this time. We would request you address any further comments to the City of Everett Planning Department within 30 days. Thank you.

Sincerely,

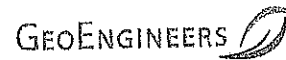
Diking Improvement District No. 5



Vic Loehrer, Chairman/Commissioner

Encl. (Dec. 10, 2021 GeoEngineer's letter by Mark Stamey and Joseph Callaghan).

cc: Dennis Osborn, Everett Community Planning and Economic Development



1101 South Fawcett Avenue, Suite 200
Tacoma, Washington 98402
253.383.4940

December 10, 2021

Diking Improvement District #5
20607 State Route 9 SE
Snohomish, Washington 98296

Subject: Response to Comments on Shoreline and
SEPA Permit Application Documents
for DID5's Downstream Dike Maintenance
Snohomish County, Washington
GEI File No. 0661-128-01

INTRODUCTION AND PROJECT UNDERSTANDING

GeoEngineers, Inc. (GeoEngineers) is under contract with the City of Everett (City) in support of Diking Improvement District No. 5 (DID5) to address comments received from the Tulalip Tribes regarding the use of the Smith Island Advance Mitigation Site (AMS) to compensate for impacts associated with their proposed Downstream Dike Maintenance. Mark Stamey, currently employed with GeoEngineers, has previously assisted the DID5 to prepare the Advance Mitigation Plan (AMP), as-built and monitoring reports for the AMS and has in-depth understanding of the permitting history behind the Smith Island Estuary Restoration Project that constructed the AMS.

GeoEngineers has reviewed the comments on DID5's Smith Island Downriver Dike Maintenance State Environmental Policy Act (SEPA) Checklist (COE 2021¹), and the Shoreline Report and Critical Areas Review (COE 2020²) documents. Based on our review of this material and background knowledge of the Smith Island Estuary Restoration, we have developed a response to the Tulalip Tribe's comments.

TULALIP TRIBE COMMENTS - FROM LETTER DATED 07/07/21

"The project proponents state that permanent category III depressional wetland impacts would be compensated for by creation of a replacement dike toe ditch at a 1:1 ratio. It is stated that areas being

¹ COE. 2021. SEPA Checklist - Smith Island Downriver Dike Maintenance. Smith Island, Everett, WA. City of Everett Public Works

² COE. 2020. Shoreline Report and Critical Areas Review - City of Everett Jurisdiction. Smith Island Downriver Dike Maintenance. Smith Island, Everett, WA. City of Everett Public Works

disturbed above the OHWM would also be revegetated with native plantings. However, to qualify for a 1:1 ration, compensation must include rehabilitation of natural or historic wetland functions, and reestablishment of former wetland, or creation of new wetland. (EMC 19.37.120.B.5) Please clarify.

"Dike repair types B and D mention riprap being placed on the waterward slope for scour protection and erosion control. Any addition of riprap below the OHWM results in direct, permanent loss of fish habitat, and cannot be mitigated for by wetland enhancement or bank credits. If impacts will occur below the OHWM, we'd like to see a plan that includes rehabilitation, reestablishment, or creation of in-stream fish habitat. Please advise us of any actions proposed that would accomplish this goal.

We would also like assurances that any and all mitigation plans will adhere to content required in EMC 19.37.075."

COMMENT RESPONSE

Thank you for reviewing the SEPA and Shoreline documents and submitting comments on the DID5 Downriver Dike Maintenance. Below we have briefly clarified the proposed mitigation for DID5's Downriver Dike Maintenance and will submit additional documentation as part of our permit applications.

The proposed mitigation approach is to avoid and minimize impacts to critical areas and use DID5's Smith Island AMS to mitigate for unavoidable impacts that cannot be restored on site. The Smith Island AMS was included in the larger Smith Island Estuary Restoration Project (NWS-2014-183) that restored over 400 acres of Smith Island from diked fallow pasture into an estuarine wetland complex. The AMS is the outer 50-foot strip of land along nearly 9,000 linear feet of Union Slough and approximately 9 acres of the 400-acre restoration. The Smith Island Estuary Restoration Project removed two large sections of the dike over 2,000 feet in length and constructed 16 tidal channels that reconnected Union Slough to the project site and restored tidal hydrology that floods the site twice daily. The AMS is just upstream of DID5's proposed dike maintenance and includes acres of rehabilitation and reestablishment of estuarine wetlands and aquatic tidal channels that provide fish habitat. The Smith Island AMS was constructed in 2018 and monitoring reports demonstrate the site is providing a full suite of estuarine habitat functions. The project site is also included in an estuary wide monitoring effort that has documented use of the AMS by Endangered Species Act (ESA) protected juvenile Chinook Salmon.

The intent of DID5 to develop the AMS was to provide a mitigation area that could be used to offset impacts from future dike maintenance and repair projects. Snohomish County worked on behalf of the DID5 to ensure the AMS was included in environmental documentation and permit applications for the Smith Island Estuary Restoration Project and that regulatory agencies and grant funders understood how the AMS was included in the larger project. Once the regulatory agencies indicated this as an acceptable mechanism to offset DID5 maintenance and repair needs, the DID5 Smith Island Restoration AMP was submitted and approved by regulatory agencies that included their intent to offset impacts under both Clean Water Act and ESA.

"DID-5 proposes to use credits generated from work done by the Project in DID-5's AMS as mitigation for impacts on aquatic resources regulated by the USACE and Ecology under Sections 404 and 401 of the Clean Water Act, as well as aquatic impacts on critical habitat for ESA-listed species and/or habitat impacts associated critical area buffers if/as required under other local, state and federal permits."

The AMP includes requirements to document baseline conditions and perform monitoring to document performance standards have been met. To advance the project DID5 is applying for construction phase permits, including Clean Water Act Section 404 and 401 permits from U.S. Army Corps of Engineers and Washington State Department of Ecology, a Hydraulic Project Approval from Washington Department of Fish and Wildlife, and local permits from the City of Everett and Snohomish County. Updated documentation describing the mitigation approach consistent with federal, state and local requirements, including a Mitigation Site Use Plan per DID5's approved Smith Island AMP, will be submitted for review and approval to the above regulatory agencies. The updated permit applications will describe how the proposed mitigation is consistent with the City of Everett Municipal Code, including provisions of 19.37.075.B.5. The Mitigation Site Use Plan will specifically include a description of how the AMS adequately compensates for unavoidable impacts on waters of the United States and aquatic species from DID5's proposed dike maintenance work.

Please let me know if you have any questions or need further explanation.

Sincerely,
GeoEngineers, Inc.


Mark T. Stamey
Senior Environmental Scientist



Joseph O. Callaghan, MS, PWS
Principal Fisheries Biologist

MTS:JOC:fm

One electronic copy submitted.

Disclaimer: Any electronic form, facsimile or hard copy of the original document (email, text, table, and/or figure), if provided, and any attachments are only a copy of the original document. The original document is stored by GeoEngineers, Inc. and will serve as the official document of record.

Exhibit 4
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