

#	Ord, 95 – 521 Condition	North Parcel Staff Report		Proposed Condition - South Parcel Project
1	<p>(1) Excavation should be limited to that necessary to implement the high conveyor route/open cut alternative. The bluffs along Puget Sound and Sequalitchew Creek shall otherwise be retained. Excavation and clearing of the bluff above Puget Sound is permitted as necessary to bring the conveyor and access road down the bluff face to the shoreline. To protect steep slopes, to ensure visual and noise buffering, and to provide wildlife habitat, an undisturbed buffer shall otherwise be retained as required in the previous Site Plan Approval. (Condition 4, Ord. No. 485), Shoreline Approval (Condition 2, Ord. No. 486), and the 1995 Comprehensive Plan.</p>	<p>6. To preserve vegetation and wildlife habitat, and to avoid adverse impacts to views, no mining shall occur in the 45-acre open space area located west of the mine area adjacent to Puget Sound. The geographic limits of the open space area shall be as shown on the mining plan (Exhibit 3). Consistent with the provisions of the 2011 Settlement Agreement (Section 3.5.2), a deed restriction, restrictive covenant, or conservation easement shall be executed prohibiting mining within this area and allow future public access for a pedestrian confer with other signatories and will follow the procedures trail. The City will set forth in the Settlement Agreement regarding finalizing dedication of the easement.</p>		Condition 1 of Ord 95-521 is Completed; No Change – No work is proposed on the bluffs or steep slopes along Puget Sound or Sequalitchew Creek.
	<p>(2) The applicant must obtain a Sensitive Areas Permit for work within the bluff and its buffer; work must be undertaken in compliance with terms and conditions of that permit. In addition, the applicant must meet the City's development standards for work undertaken on hillsides of greater than 15% (but less than 40%) slope.</p>	Not Applicable; no work proposed within the bluff and buffer		Condition 2 of Ord 95-521 is Completed; No Change - No work is proposed within the bluff and buffer
	<p>(3) Appropriate erosion control facilities and procedures shall be implemented during construction to reduce the potential for soil erosion. Disturbed soil surfaces shall be revegetated within 14 days of completion of construction.</p>	<p>8. Appropriate erosion control facilities and procedures shall be implemented consistent with requirements of the NPDES Sand and Gravel General Permit and the approved reclamation plan.</p>		Condition 3 of Ord 95-521 was Completed; No Change – Condition 8 from the North Parcel Staff Report will apply to the Expansion Area.
	<p>(4) Topsoil removed from the access road and conveyor alignments shall be stockpiled for reuse as cover soil over disturbed areas.</p>	Not Applicable		Topsoil from the access road and conveyor to the dock remain stockpiled as required by Condition 4 of Ord 95-521. No Change
	<p>(5) Erosion of exposed cut slopes shall be reduced by engineering measures such as grading cut surfaces to appropriate slopes (1.5H:1V), planting vegetation, and placing armor (riprap rock or fabricated elements), as needed.</p>	Addressed in DNR Reclamation Permit		<p>Engineering measures to address erosion were implemented during construction of the plant and barge-loading dock as required by condition 5 of Ord. 95-521.</p> <p>Erosion of cut slopes within the South Parcel Project area will be addressed in an approved DNR Reclamation Permit.</p>

<p>(6) The following slope stability measures will be required, and compliance will be verified as part of the grading permit process:</p> <ul style="list-style-type: none"> (a) Proper geotechnical engineering, design, and construction of temporary and permanent cut and fill slopes shall be used to reduce the potential for adverse impacts due to slope failures. Failures most likely in the soil conditions at the site consist of stormwater erosion, surface raveling, and shallow surface slides. Permanent cut slopes exceeding the natural angle of repose shall not be constructed, to reduce the potential for initiating a progressive failure at the toe of the cut. Permanent cut slopes shall be no steeper than 1.5H:1V (67 percent). (b) Any stockpiled material from construction of the conveyor should be located a minimum of 150 feet back from the top of the existing slope for excavated slopes and outside the buffer area identified in the 1995 Comprehensive Plan to prevent it from acting as a surcharge that could tend to destabilize the slope. (c) The access road shall be constructed using methods such as fill-bench cut and end-hauling of excavated material to prevent the placement of loose material on the slope that could fail and be transported downslope. The access road surface shall be sloped inward, toward the slope, with a ditch to direct storm runoff away from the outside road 	<p>shoulder and also to catch slope ravel and direct it back to the ditch line, thereby reducing maintenance and keeping the road clear of rocks. Check dams should be constructed at appropriate intervals (commonly 300 feet) in the ditch to control the amount and velocity of the water flow and erosion.</p> <ul style="list-style-type: none"> (d) The access road shall be constructed on the “moderate” stability section of the slope and shall be as short as possible to lower the overall impact. Locating the road on the moderate portion of the slope will require a short-radius switch back to traverse the slope and stay within property boundaries. (e) Minor grade work at the toe of the slope would require some fill placement. Fills should be placed using appropriate geotechnical methods to improve stability and reduce the potential for raveling and slope failure. Inclined surfaces to receive fill would be cut with a series of benches as filling progressed to help “key in” the fill to the native soil. Fills would be placed using construction methods such as incremental lifts of appropriate thicknesses and compaction equipment and thoroughly compacted to a firm and unyielding condition. 	<p>Addressed in DNR Reclamation Permit</p>	<p>Engineering measures to address slope stability were implemented during construction of the plant and barge-loading dock as required by condition 6 of Ord. 95-521.</p> <p>Stability of cut slopes within the South Parcel Project area are addressed in the submitted land use application. Slopes will be graded and vegetated in accordance with approved DNR Reclamation Permit.</p>
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	<p>(7) Concurrent clearing, mining and reclamation shall occur in maximum 40-acre increments. Mining shall follow the mining plan as approved by appropriate agencies. Restoration of the site will progress in increments and must include regrading, replacement of topsoil, and revegetation of the site as shown in the Pioneer Aggregates Mining and Reclamation Plan, a copy of which is included with the site plan application and transmitted herewith. The reclamation plan shall also be consistent with the City's landscape plan requirements. Any amendments to the reclamation plan required by the Department of Natural Resources (DNR) shall be communicated to the City, incorporated in the landscape plan, and shall be implemented by the applicant. Regrading and revegetation of each incremental mining area must be completed within two years of the completion of mining in that area. Any vegetation that dies within the first two years shall be replaced.</p>	<p>4. Mass clearing of the site shall not be permitted. Clearing, mining and reclamation of the site shall occur sequentially in approximate 40-acre segments. A maximum of approximately 120 acres may be in the process of being cleared, mined and reclaimed at any one time. Mining shall follow the mining plan as approved by DNR.</p>	<p>RCW 78.44.045 gives the Washington State Department of Natural Resources (DNR) the exclusive authority to regulate surface mine reclamation. Since the condition 7 of Ord 95-521 was written the policy and practices of the DNR has evolved. The DNR describes mine areas as "undisturbed", "disturbed", or "reclaimed", and requires disturbed areas associated with the mine to be covered by the mine reclamation permit. When the permit was written for the original mine, the processing area, the conveyor corridor, and the water treatment area were not included in the reclamation permit area. In 2009 DNR notified the Company that the reclamation permit must be revised to include these disturbed areas.</p> <p>The reclamation permit was revised and updated with the new application for the North Parcel mine area and approved by the DNR in 2014. This change substantially increased the number of disturbed acres covered under the reclamation permit over what was originally contemplated by the original mine reclamation plan. Because these areas are operational areas of the mine they will remain "disturbed" until the extraction is complete.</p> <p>The Surface Mining Act requires reclamation of all disturbed areas covered by the reclamation permit to be guaranteed by a bond. The DNR inspects the mine annually and adjusts the bond amount based on the number of disturbed acres remaining to be reclaimed. The amount of the bond is based on a formula designed to determine what it would cost the State to hire a contractor to reclaim the disturbed areas of the mine in the event that a permit holder fails to complete their reclamation obligation.</p> <p>Because of the assumptions made in the calculation, the amount of the bond is substantially higher than the actual costs the Company to complete reclamation on its own. The substantial cost of maintaining the</p>
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			increments. Mining shall follow the mining plan as approved by appropriate agencies. Reclamation of the site will progress in increments and must include regrading, replacement of topsoil, and revegetation of the site as shown in the Pioneer Aggregates Mine Reclamation Plan approved by the Washington Department of Natural Resources.
	(8) During the first five mining increments, the applicant shall submit an annual report to the City evaluating implementation of the reclamation plan. The report shall be prepared by a qualified, independent consultant approved by the City. The report shall identify how restoration of the site compares to the approved reclamation plan and whether any corrective action is contemplated by the applicant or required by DNR.	Addressed in DNR Reclamation Permit	Completed; no changes.
	(9) The bluffs along Puget Sound and Sequalitchew Creek shall be retained. To protect steep slopes, to ensure visual and noise buffering, and to provide wildlife habitat, an undisturbed buffer a minimum of 65 feet in width shall be retained along Puget Sound and 100 feet along Sequalitchew Creek. Based upon a field meeting of resource specialists of the applicable federal, state, and local wildlife resource officials, the Puget Sound buffer may be widened to a width not to exceed 100 feet, or as depicted in Appendix K, whichever is greater, depending upon the recommendations provided by the foregoing professionals. The buffer shall be measured from the top of the slope (i.e., the highest elevation of the bluff) to the limits of clearing for the conveyor and shall generally follow the alignment shown in the final EIS, Appendix K. The proposed buffer shown in Appendix K is greater than the 50-foot buffer required by the Sensitive Areas Ordinance and may vary from the widths depicted in the graphic.	6. To preserve vegetation and wildlife habitat, and to avoid adverse impacts to views, no mining shall occur in the 45-acre open space area located west of the mine area adjacent to Puget Sound. The geographic limits of the open space area shall be as shown on the mining plan (Exhibit 3). Consistent with the provisions of the 2011 Settlement Agreement (Section 3.5.2), a deed restriction, restrictive covenant, or conservation easement shall be executed prohibiting mining within this area and allow future public access for a pedestrian trail. The City will confer with other signatories and will follow the procedures set forth in the Settlement Agreement regarding finalizing dedication of the easement.	The buffers required by condition 9 of Ord 95-521 along the Puget Sound Bluffs and Sequalitchew Creek ravine remain in place. A conservation easement and trail easement were executed for the 45-acre open spaces area as required by condition 6 of the North Parcel Staff Report. No Change.
	(10) The buffer along the bluff shall be maintained so as to reduce the potential for wind throw of trees. Trees that blow down shall be replaced. Existing open, degraded or damaged areas on the bluff shall be replanted with native species of substantial or mature size. The applicant shall submit a report to the City outlining any incidents of wind throw, evaluating the health of the buffer, and providing recommendations. The reports shall be prepared by an independent, qualified consultant, approved by the City. A report shall be submitted to the City in alternative years, beginning two years after operations begin.	6. To preserve vegetation and wildlife habitat, and to avoid adverse impacts to views, no mining shall occur in the 45-acre open space area located west of the mine area adjacent to Puget Sound. The geographic limits of the open space area shall be as shown on the mining plan (Exhibit 3). Consistent with the provisions of the 2011 Settlement Agreement (Section 3.5.2), a deed restriction, restrictive covenant, or conservation easement shall be executed prohibiting mining within this area and allow future public access for a pedestrian trail. The City will confer with other signatories and will follow the procedures set forth in the Settlement Agreement regarding finalizing dedication of the easement.	Condition 10 of the Ord 95-521 has been fulfilled. A conservation easement and trail easement were executed for the 45-acre open spaces area. No Change.
	(11) No mining, construction or other activities shall occur in any portions of the Consent Decree area until authorized by the Department of Ecology.	Not Applicable	The Department of Ecology issued an Opinion letter under the Voluntary Cleanup Program dated February 2, 2021 regarding the Cleanup Action Plan prepared for the property and that addresses the Consent Decree area as well as the impacts of the Tacoma Smelter Plume. Ecology's Opinion Letter concluded that "cleanup of the

			property will reduce the concentrations of arsenic and lead to MTCA Method A cleanup levels for unrestricted land use," indicating that the land use restrictions of the Consent Decree would be eligible for being lifted following cleanup.
	(12) Engineering design shall reflect the presence of any geologically sensitive area(s). All structures, whether upland or marine, shall be designed and built in accordance with applicable building codes and regulations addressing slope stability, seismicity, environmental quality, and water quality.	No sensitive areas on site except for steep slope; buffer reduction per Condition No. 9	No geologically hazardous areas, are located within the Expansion Area. No Change.
	(13) The applicant shall pave the haul road, including the road shoulders, from the plant site to DuPont-Steilacoom Highway prior to commencing operations. During operation, this road will be swept and washed at least twice per week - and more frequently during summer months - to prevent dirt and dust accumulation. The City will monitor operations during the first summer of operation to determine the appropriate frequency of washing and/or sweeping; this could include multiple daily sweepings to mitigate dust impacts. Internal roads shall be sprayed with water or other dust-binding agents.	12. The applicant shall continue to implement its current operational best management practices to reduce air emissions, including but not limited to washing truck tires/wheels with a water-based cleaner before they exit the site, and washing and sweeping the haul road. The applicant shall operate the existing wheel wash in compliance with City and DOE requirements.	No Change
	(14) During construction and operation, truck tires/wheels shall be washed with a water-based cleaner before they exit the site to reduce dust emissions and to prevent exceedance of applicable quality standards.	12. The applicant shall continue to implement its current operational best management practices to reduce air emissions, including but not limited to washing truck tires/wheels with a water-based cleaner before they exit the site, and washing and sweeping the haul road. The applicant shall operate the existing wheel wash in compliance with City and DOE requirements.	No Change
	(15) Mining operations shall be operated in a manner designed to reduce dust emissions. This should include, but is not limited to, operational procedures that reduce the distance between the gravel loader and storage hoppers.	12. The applicant shall continue to implement its current operational best management practices to reduce air emissions, including but not limited to washing truck tires/wheels with a water-based cleaner before they exit the site, and washing and sweeping the haul road. The applicant shall operate the existing wheel wash in compliance with City and DOE requirements.	No Change
	(16) In accordance with PSAPCA regulations, "best available control technology" shall be used at the processing plant to ensure that no visible emissions occur. Such control measures shall be determined in compliance with PSAPCA standards and may include, but are not limited to, water spraying to prevent emissions at material transfer points and/or enclosing transfer points.	13. For logging and clearing operations, the applicant shall comply with PSCAA Regulation I, Section 9.15 regarding fugitive dust emissions, and shall implement reasonable precautions to prevent visible emissions as identified in that regulation.	No Change
	(17) The applicant shall maintain a high moisture content in sand and gravel material piles to minimize emissions of inhalable particulate matter. Periodic sampling may be required to verify that operations meet applicable particulate standards.	Existing conditions continue to apply to processing	No Change

	<p>(18) Storm water runoff shall be controlled according to an approved storm water management plan, prepared consistent with the Department of Ecology Storm Water Management Manual for the Puget Sound Basin, that provides adequate retention/detention, promotes infiltration, and provides water quality treatment. The plan shall also incorporate the following elements:</p> <ul style="list-style-type: none"> (a) Storm water runoff shall be directed to infiltration ponds located on-site. Ditches must be constructed on both sides of the main access road to collect runoff; ditches should be designed as biofiltration swales and shall be regularly and properly maintained. (b) No direct overland flow or discharge from the site to Sequalitchew Creek or the salt marsh shall occur. (c) Any runoff occurring in the mining area shall be routed to the lowest elevation, where it can infiltrate into the soil. 	<p>15. The applicant shall comply with all requirements of the NPDES Sand and Gravel General Permit and applicable regulations including preparation and implementation of a Stormwater Pollution Prevention Plan, an erosion and sediment control plan, monitoring stormwater, compliance with effluent limits, and implementation of applicable stormwater best management practices.</p> <p>16. The applicant shall adopt and implement spill control and cleanup procedures and shall monitor stormwater consistent with NPDES permit requirements. The use of materials that could generate contaminants will be handled in accordance with best management practices and the site-specific spill prevention and response plan.</p> <p>17. The mine's stormwater management system shall be designed consistent with City and DOE requirements. The applicant shall submit detailed engineering drawings to the City for review and approval.</p> <p>18. Stormwater shall be infiltrated in stormwater in ponds located on the mine floor. Maintain a minimum vertical separation of 5 feet between the pond bottom and the seasonal high groundwater table, consistent with Ecology standards for infiltration ponds. The stormwater ponds shall be constructed, operated and maintained consistent with Ecology and City standards.</p> <p>19. Runoff in the mine area shall be treated using two-celled wetponds constructed upstream of the infiltration ponds. The wetponds shall be constructed, operated and maintained consistent with Ecology and City standards.</p>	<p>Conditions 15 through 19 from the North Parcel Staff Report are applicable to management of stormwater runoff associated with the South Parcel Project.</p> <p>The South Parcel Project will also involve infiltration of groundwater collected at the toe of the eastern mine slopes, and managed by infiltration in a dedicated facility, separate from any stormwater infiltration ponds. The groundwater infiltration pond will be designed for the long-term infiltration of groundwater. Stormwater inputs to the groundwater infiltration pond will be minimized to the extent feasible, but may include stormwater from slopes above the groundwater collection system. A portion of the collected groundwater may also be directed through the mitigation wetland prior to infiltration.</p> <p>A minimum vertical separation of 5 feet between the bottom of the groundwater infiltration pond and the seasonal high groundwater table, will be maintained consistent with Ecology standards for infiltration ponds."</p>
	<p>(19) Clearing, mining and reclamation shall occur in the phased and incremental manner identified in Condition 7 and environmental documents. No mass clearing/grading of the site shall occur.</p>	<p>4. Mass clearing of the site shall not be permitted. Clearing, mining and reclamation of the site shall occur sequentially in approximate 40-acre segments. A maximum of approximately 120 acres may be in the process of being cleared, mined and reclaimed at any one time. Mining shall follow the mining plan as approved by DNR.</p>	<p>Please see comments and proposed change to condition 7 of Ord. 95-521 above.</p>
	<p>(20) Activities associated with conversion of the Sequalitchew Creek narrow gauge rail line to a trail shall be limited to the dry season (July 1 through October 31). Crushed rock shall be used for the trail.</p>	<p>Not Applicable</p>	<p>Not Applicable</p>
	<p>(21) Access from the mining site to the Sequalitchew Creek trail shall minimize the need for clearing and grading; no excavation shall occur in the canyon.</p>	<p>Not Applicable</p>	<p>Not Applicable</p>

	<p>(22) To minimize disturbance and potential impacts to Sequalitchew Creek, the existing narrow gauge rail tracks shall be left in place. Gravel shall be placed between and adjacent to the tracks to make the trail usable for emergency vehicles and pedestrians.</p>	Not Applicable		Not Applicable
	<p>(23) Mining operations shall be conducted consistent with applicable Best Management Practices (BMPs) drafted by the Washington Department of Ecology. Mining BMPs applicable to the project that shall be implemented include the following:</p> <ul style="list-style-type: none"> (a) Truck and equipment wash water shall be routed to approved retention and detention facilities equipped with oil-water separators prior to release to retention ponds; (b) Fuel handling facilities shall be located a minimum of fifty feet from the wash water retention facility; subject to fire department approval, fuel shall be stored above-ground in lined and bermed areas; run-off from these areas shall be routed to retention ponds for monitoring and clean-up in the event of a spill; (c) Internal drainage shall be used for recycling and to support groundwater recharge and minimize off-site discharges; (d) A fuel/hazardous waste management plan shall be prepared prior to occupancy; the plan shall be available on-site at all times and implemented; (e) Following any accidental spills, contaminated materials shall be removed and disposed of at an approved disposal site(s); (f) Excavation pits shall not be used as landfill disposal sites for unclassified or non-inert wastes; (g) If any underground storage tanks are hereafter approved for the facility, such tanks shall be double-walled to contain leaks; and (h) Any spills occurring at storage tank locations shall be contained by the use of concrete slabs and sumps. 	<p>15. The applicant shall comply with all requirements of the NPDES Sand and Gravel General Permit and applicable regulations including preparation and implementation of a Stormwater Pollution Prevention Plan, an erosion and sediment control plan, monitoring stormwater, compliance with effluent limits, and implementation of applicable stormwater best management practices.</p>		No Change
	<p>(24) A 25-foot separation shall be maintained between mining excavations and the seasonal high groundwater table except on slopes where a minimum 10-foot separation shall be maintained; vertical separation shall be shown on mining plan cross-sections. During mining, ongoing groundwater depth/elevation data, such as measurements from temporary piezometers, shall be generated and evaluated to guide planned mining activities. A groundwater elevation monitoring program, as described in the Final EIS Appendix E, shall be implemented. Groundwater elevations shall also be measured in on-site monitoring wells to detect any changes in vertical and/or horizontal groundwater flows. Operations in mining areas that are close to the seasonal groundwater table should reflect this proximity; procedures shall include such measures as moving vehicles that are not being used to other locations, not storing maintenance materials, and conducting maintenance activities in other locations.</p>	<p>Mine floor at 25 feet (29NGVD) to maintain a 10 ft separation from seasonal high groundwater table. Added requirement for test pits prior to mining each segment to confirm groundwater elevation.</p> <p>14. Mining shall occur above the seasonal high groundwater table. The seasonal high groundwater elevation is estimated at 10 to 12 feet; the mine floor shall be established at an elevation of 25 feet (NGVD 29) to maintain a minimum vertical separation and a soil buffer between the mine floor and groundwater of 10 feet. Operations in mining areas that are close to the seasonal groundwater table shall not involve storage of maintenance materials or conduct of maintenance activities, and should avoid parking of vehicles that are not being used in operations. Note: Ordinance 95-521, adopting conditions of approval for the Pioneer</p>		<p>This condition will need to be updated to reflect dewatering proposed for the South Parcel Project.</p> <p>Outside of the South Parcel Project area, no changes are needed to the conditions requiring a 10 ft separation from seasonal high groundwater table.</p>

		Aggregates mining project, requires a 25-foot separation from the seasonal high groundwater table and 10 feet on slopes (Condition No. 24). Staff notes that the source of the 25-foot requirement has not been identified in the 1993 Pioneer Aggregates Final EIS or associated technical reports. It is possible that a 25-foot mine floor elevation was misinterpreted as a recommended vertical separation.		
	(25) Water levels in existing and future wells on the site shall be monitored for the life of the project. The applicant shall prepare a monitoring program which shall be submitted to the Department of Ecology for review and approval. The program shall identify necessary actions if any significant impacts are detected, including but not limited to, modification of pumping rates. Lone Star Northwest proposes to pump groundwater from the deep aquifer, using test well TW-1 as a production well. (See Final EIS, page 117 and Figure 26 at page 110.) Subsequent to 25 years of operation of the gravel mining facility, or upon completion of the mining, whichever	Existing DOE – approved monitoring program for supply well at processing plant would continue to apply		No Change
	(26) The applicant shall, on an annual basis, monitor groundwater quality for chloride to detect chemical trends and the possibility of saltwater intrusion. Monitoring shall be consistent with the program attached to this report as Attachment 3.	Existing DOE – approved monitoring water quality monitoring program would continue to apply.		No Change
	(27) A water clarifying process shall be implemented to help reduce water consumed in processing through recycling.	Existing conditions continue to apply to processing		No Change
	(28) All facilities and activities shall be located, constructed and/or conducted in accordance with adopted federal, state and local regulations and guidelines to reduce the likelihood of spills of lubricants, fuels and chemicals employed in the processing and manufacturing processes proposed for the site.	15. The applicant shall comply with all requirements of the NPDES Sand and Gravel General Permit and applicable regulations including preparation and implementation of a Stormwater Pollution Prevention Plan, an erosion and sediment control plan, monitoring stormwater, compliance with effluent limits, and implementation of applicable stormwater best management practices.		No Change
	(29) To reduce the potential for groundwater contamination, the design of areas used for fueling, maintenance and washing equipment or vehicles shall include pavement aprons, retention systems and oil-water separators. A specified area for washing trucks shall be designated and shall be designed so as to contain wash water and prevent it from infiltrating to groundwater. Water-based cleaners shall be used.	Existing conditions continue to apply to processing		No Change
	(30) A long-term groundwater monitoring program, addressing water quality and quantity, shall be developed as required by the Department of Ecology in the context of water permitting.	Existing DOE-approved water quality monitoring program would continue to apply.		No Change
	(31) Pump tests shall be conducted if any additional wells are proposed to be developed. If the Delta aquifer is pursued as a water alternative, a groundwater monitoring program meeting Department of Ecology requirements, shall be developed.	Not Applicable		No Change – Not Applicable
	(32) As an interim measure, sanitary wastes shall be collected and hauled off-site. At such time as connection to the public sewer system is feasible, the project shall connect to the public system. The applicant shall construct all improvements necessary to connect to the public system according to City and Pierce County specifications.	Not Applicable		The project is connected to the public sewer system; Not Applicable
	<u>Environmental Health</u>			

	<p>(33) On-shore and marine structures shall be designed and constructed in accordance with applicable building codes and regulations addressing slope stability and water quality.</p>	<p>7. Earthwork for excavation and reclamation shall be in accordance with the U.S. Mine Safety and Health Act and the Washington Surface Mining Act. Reclaimed slopes shall be no greater than 2:1 (a ratio of 2 horizontal to 1 vertical). Working slopes shall be at the angle of repose.</p>		No Change
	<p>(34) Storm water runoff shall be controlled according to an approved storm water management plan, prepared consistent with the Department of Ecology Storm Water Management Manual for the Puget Sound Basin, that provides adequate retention/detention, promotes infiltration, and provides water quality treatment.</p>	<p>17. The mine's stormwater management system shall be designed consistent with City and DOE requirements. The applicant shall submit detailed engineering drawings to the City for review and approval.</p>		No Change
	<p>(35) The over-water portion of the conveyor shall be enclosed to prevent spillage of gravel.</p>	<p>Existing Conditions Continue to Apply to the dock</p>		No Change
	<p>(36) To prevent contamination of marine waters, the following measures shall be required:</p> <ul style="list-style-type: none"> (a) No fueling shall occur at the dock; no supplies, chemical or other materials shall be delivered to the site by water; (b) An emergency spill response plan for the facility shall be approved by the Department of Ecology prior to occupancy and implemented by the applicant; any amendments to the plan attached herein shall be transmitted to the City (see also Condition 42, below); (c) The applicant shall prepare information, in the form of a handout, advising its customers and tug companies that Coast Guard regulations prohibit the discharge of sanitary sewage, ballast tanks and bilge water from tugboats in the Nisqually Reach/Delta. These handouts shall be provided to customers with invoices and/or bills of lading; (d) Sanitary wastes shall be collected and hauled off-site; (e) Condition 38 below, required to mitigate impacts to marine sediments, shall also serve to identify the extent of gravel spillage in marine waters and to identify the need for corrective action, if any; and (f) The applicant shall develop for the Department of Ecology a water quality monitoring program for marine waters extending the life of the project. Numerical monitoring may conclude at a time agreed upon in the report if results demonstrate no project-related water quality exceedences. The report shall contain the following information: reporting requirements; recommended frequency of monitoring; water quality parameters to be evaluated; and remedial actions to be followed if appropriate. The program shall be prepared by a qualified consultant and shall incorporate additional information or criteria required by adopted Department of Ecology guidelines. 	<p>Existing Conditions Continue to Apply to the dock</p>		No Change

	(37) The applicant shall in good faith cooperate with any program implemented by state or federal agencies or the Nisqually Tribe to increase flows in Sequaltchew Creek.	Addressed in 2011 (2012) Settlement Agreement		No Change
	(38) The applicant shall sound water depths in the berth area and its approaches to monitor any impacts from aggregate spillage, or the effects of natural accretion. Such soundings shall be performed annually and documented in a report submitted to the City. The report shall be prepared by a qualified consultant.	Existing Conditions Continue to Apply to the dock		No Change
	(39) The applicant shall require tugs using the dock loading facility to use lower power settings during docking to reduce the potential for propeller scour of sediments.	Existing Conditions Continue to Apply to the dock		No change
	(40) Dust emissions shall be regulated during construction by PSAPCA Regulation 1, Section 15, requiring contractors to take all reasonable means to minimize dust emissions.	12. The applicant shall continue to implement its current operational best management practices to reduce air emissions, including but not limited to washing truck tires/wheels with a water-based cleaner before they exit the site, and washing and sweeping the haul road. The applicant shall operate the existing wheel wash in compliance with City and DOE requirements.		No Change
	(41) If any suspected contaminants or suspicious waste materials are discovered during clearing or construction, activity shall cease, Ecology and City of DuPont representatives shall be notified, and appropriate corrective actions shall be taken.	10. Topsoil/Tacoma Smelter Plume. The site is within the Tacoma Smelter Plume (TSP) and potentially contains soils that are contaminated and require clean-up. The following conditions respond to comments on the proposal from the Department of Ecology (Final EIS, Chapter 8) and shall be implemented by the applicant. a. The applicant shall operate the facility to meet health and safety requirements and to limit worker exposure to potentially contaminated soils. The applicant shall notify operators, employees and construction workers that the property is located within the Tacoma Smelter Plume (TSP) and may contain contaminated soils and duff. b. Before undertaking any topsoil removal, the applicant shall enter into a Voluntary Cleanup Program (VCP) with the Department of Ecology pursuant to the Model Toxics Control Act (MTCA) RCW 70.105D and WAC 173-340. c. The applicant shall develop a cleanup action plan for the disturbed area of the property consistent with Ecology requirements, and will include compliance sampling and a remediation plan for area of the property, approximately 20 acres, that are not proposed for mining or open space. The cleanup action plan will acknowledge that the 45-acre open space area will be addressed in the Settlement Agreement process. The cleanup action plan will also include d. Prior to initiating topsoil removal, the applicant shall obtain an opinion letter from Ecology for property areas outside of the open space area. The opinion letter will state that the proposed duff and soil remediation, and the human health and environmental protections, will likely result in no further action under MTCA. The opinion letter will also acknowledge that the open space area will be addressed later as part of the Settlement Agreement process.		Please see the Opinion Letter from Ecology VCP program dated February 2, 2021 regarding the Cleanup Action Plan for the Property.

	<p>e. City-permitted site development plans shall be consistent with the plans that Ecology reviewed and deemed consistent with MTCA.</p> <p>f. Because the soil and duff may be contaminated, appropriate best management practices (BMPs) shall be installed to avoid escaping dust, soil erosion and water pollution during clearing and grading activities.</p> <p>g. If contamination is left on the property, the applicant shall record a notice on title about the contamination to notify future buyers. The notice on title shall be recorded prior to any public access to the property, including the open space area.</p> <p>h. Prior to the public gaining any access to the property, including the open space area and any unmined areas, the property owner shall obtain a "No Further Action" determination from Ecology indicating that the remediation plan and protections for human health and the environment were successfully implemented under MTCA.</p> <p>i. Any imported soil shall follow the Tacoma Smelter Plume Model Remedies Guidance, Chapter 9: Imported Soil Sampling.</p>		
	<p>(42) A final, site-specific emergency spill prevention and response plan shall be developed and submitted to the Department of Ecology when the final design of the facility has been determined but prior to occupancy. The plan shall cover all elements and operations of the facility (marine and upland). Appropriate oil spill containment equipment shall be available at the dock site.</p>	<p>15. The applicant shall comply with all requirements of the NPDES Sand and Gravel General Permit and applicable regulations including preparation and implementation of a Stormwater Pollution Prevention Plan, an erosion and sediment control plan, monitoring stormwater, compliance with effluent limits, and implementation of applicable stormwater best management practices.</p>	No Change
	<p>(43) During construction and operation of the facility, spills or releases of oils, hydraulic fluids, fuels and other petroleum products, paints, solvents, and other potentially deleterious materials shall be contained and reported immediately to Ecology and the City of DuPont. Spills in marine waters shall be reported immediately to the Nisqually Wildlife Refuge and/or other agencies with jurisdiction. Removal shall occur in a manner that will minimize potential contamination of land, ground or surface water, or Puget Sound.</p>	<p>15. The applicant shall comply with all requirements of the NPDES Sand and Gravel General Permit and applicable regulations including preparation and implementation of a Stormwater Pollution Prevention Plan, an erosion and sediment control plan, monitoring stormwater, compliance with effluent limits, and implementation of applicable stormwater best management practices.</p> <p>16. The applicant shall adopt and implement spill control and cleanup procedures and shall monitor stormwater consistent NPDES permit requirements. The use of materials that could generate contaminants will be handled in accordance with best management practices and the site-specific spill prevention and response plan.</p>	No Change

	(44) To reduce the potential for spills of petroleum products into marine waters, no refueling of tugboats shall occur at the site. The applicant shall advise tug operations periodically of applicable vessel safety and overboard discharge regulations by providing handouts. Instructive information about special handling and best management practices for sewage, ballast tanks and bilge water shall be posted on the loading dock. Additionally, workers associated with the barging facility as well as tug/barge operators shall be advised of such information quarterly.	Existing Conditions Continue to Apply to the dock		No Change
	(45) The kettle wetland located in the eastern portion of the site shall be preserved. Impacts to the wetlands from mining activities shall be avoided. A 200-foot buffer (greater than 200-feet between the wetland edge and the eastern property boundary) shall be established around the wetland. The wetland and buffer shall be placed in a separate tract and protected by execution of a covenant or other technique acceptable to the City.	Not Applicable		The proposed project will remove and mitigate the kettle wetland and its buffer as described in the critical areas report and wetland mitigation report.
	(46) If the applicant pursues development of the Delta aquifer as an alternative water source, a wetland monitoring and contingency plan shall be prepared. The plans shall be prepared by a qualified independent consultant approved by the City. The plan shall follow the guidelines and contain the information required in the Sensitive Areas Ordinance.	Not Applicable		No Change – Not Applicable
	(47) If any enhancement of the salt marsh is proposed as part of the wildlife management plan required in Condition 54, a monitoring and contingency plan shall be prepared according to the requirements of the Sensitive Areas Ordinance.	Not Applicable		No Change
	(48) Pursuant to the Consent Decree entered under the Model Toxics Control Act, no portion of the site within the former black powder area within the Consent Decree area shall be mined, altered, or used until any known hazardous substances have been removed. The alternative mining sequence, identified in the Final EIS as Figure 4, shall be implemented unless mining in the Consent Decree area is permitted by the Department of Ecology.	Not Applicable		Please see opinion letter from Ecology VCP program dated February 2, 2021 regarding the Cleanup Action Plan for the property.
	(49) If any suspected contaminants or suspicious waste materials are discovered during clearing, construction or mining, activity shall cease, Ecology and City of DuPont representatives shall be notified and appropriate corrective actions shall be taken.	Program for Tacoma Smelter Plume (TSP) included in Condition No. 10		Please see opinion letter from Ecology VCP program dated February 2, 2021 regarding the Cleanup Action Plan for the property.
	(50) Above ground facilities for the storage or handling of fuel, petroleum products or chemicals shall be designed, constructed and managed in accordance with applicable federal, state and local regulations to reduce the risk of spills, fire or explosion.	Existing Conditions Continue to Apply to processing facility and dock		No Change
	(51) The storm water control plan shall include catch basins and oil-water separators at fuel handling areas.	19. Runoff in the mine area shall be treated using two-celled wetponds constructed upstream of the infiltration ponds. The wetponds shall be constructed, operated and maintained consistent with Ecology and City standards.		No Change
	(52) The area used for washing trucks shall be concrete and designed to prevent infiltration of wash water.	Existing Conditions Continue to Apply to processing facility		No Change
	(53) The tank for the proposed process water clarifying system shall be lined to prevent infiltration.	Existing Conditions Continue to Apply to processing facility		No Change
	Habitat			

	<p>(54) A wildlife management plan shall be prepared for the site. The plan shall be prepared by a qualified independent consultant and shall be submitted prior to issuance of any permits for construction. The consultant shall confer with the Washington Department of Wildlife and U.S. Fish and Wildlife Service. Wildlife management techniques identified in the plan and implemented on the site shall include, but are not limited to, the following:</p> <ul style="list-style-type: none"> - installation of eagle perch poles in appropriate locations; - retention of trees and snags along the bluff; - placement of bird nesting boxes off-site; - connection of on-site and off-site habitat if feasible, or planting of trees that provide substitute habitat for relevant species; and - enhancement of degraded portions to increase visual screening and improve habitat. 	<p>No impacts; management plan/techniques not necessary. Condition 23 requires coordination with WDFW</p>		No Change
	<p>(55) To reduce disturbances to wildlife, coniferous and deciduous trees shall be planted in openings on either side of the conveyor facilities to help screen or reduce noise and glare from lighting.</p>	Existing Conditions Continue to Apply to dock		No Change
	<p>(56) Dock repairs, pile driving and other in-water construction shall be timed to avoid impacts to juvenile salmon and local Treaty Fisheries and shall be limited to the period identified by the Washington Department of Fisheries.</p>	Existing Conditions Continue to Apply to dock		No Change
	<p>(57) Pilings shall be of non-creosote material.</p>	Existing Conditions Continue to Apply to dock		No Change
	<p>(58) Grated decking shall be used in the near-shore environment to minimize impacts from shading.</p>	Existing Conditions Continue to Apply to dock		No Change
	<p>(59) To minimize light reaching the water, the minimum levels of lighting possible on the dock shall be used consistent with interests of safety and the requirements of applicable laws. A lighting plan shall be prepared in accordance with Condition 73 below. Conveyor lighting shall be shaded or muted and would be directional and of the lowest intensity possible. <i>See also</i> Condition 74, below.</p>	<p>Existing Conditions Continue to Apply to dock Condition No. 26 addresses conveyor lighting</p> <p>26. The vegetated area along the Puget Sound bluff, west of the proposed mining area, screens the site from off-site views and shall be maintained consistent with Recommendation No. 6.</p>		No Change
	<p>(60) An undisturbed natural buffer shall be retained on the bluffs along Puget Sound and Sequalitchew Creek to provide wildlife habitat, protection of steep slopes, and visual and noise screening. The size and alignment of the buffer shall be as described in Condition 9 above.</p>	<p>6. To preserve vegetation and wildlife habitat, and to avoid adverse impacts to views, no mining shall occur in the 45-acre open space area located west of the mine area adjacent to Puget Sound. The geographic limits of the open space area shall be as shown on the mining plan (Exhibit 3). Consistent with the provisions of the 2011 Settlement Agreement (Section 3.5.2), a deed restriction, restrictive covenant, or conservation easement shall be executed prohibiting mining within this area and allow future public access for a pedestrian trail. The City will confer with other signatories and will follow the procedures set forth in the Settlement Agreement regarding finalizing dedication of the easement.</p>		No Change
	<p>(61) Clearing, mining and reclamation shall occur in a phased, incremental manner and sequence as described in Condition 7 above. Tree planting, monitoring and maintenance of plantings shall occur consistent with the reclamation plan and conditions 7 and 10. The reclamation plan shall include a corridor from Sequalitchew Creek to other forested areas.</p>	<p>4. Mass clearing of the site shall not be permitted. Clearing, mining and reclamation of the site shall occur sequentially in approximate 40-acre segments. A maximum of approximately 120 acres may be in the process of being cleared, mined and reclaimed at any</p>		<p>Please see comments and recommended change to condition 7 above.</p>

		one time. Mining shall follow the mining plan as approved by DNR.		
	(62) Trees within the buffers shall be maintained as described in Condition 10.	6. To preserve vegetation and wildlife habitat, and to avoid adverse impacts to views, no mining shall occur in the 45-acre open space area located west of the mine area adjacent to Puget Sound. The geographic limits of the open space area shall be as shown on the mining plan (Exhibit 3). Consistent with the provisions of the 2011 Settlement Agreement (Section 3.5.2), a deed restriction, restrictive covenant, or conservation easement shall be executed prohibiting mining within this area and allow future public access for a pedestrian trail. The City will confer with other signatories and will follow the procedures set forth in the Settlement Agreement regarding finalizing dedication of the easement.		No Change
	(63) Trees and snags along the bluff shall be retained to provide habitat.	6. To preserve vegetation and wildlife habitat, and to avoid adverse impacts to views, no mining shall occur in the 45-acre open space area located west of the mine area adjacent to Puget Sound. The geographic limits of the open space area shall be as shown on the mining plan (Exhibit 3). Consistent with the provisions of the 2011 Settlement Agreement (Section 3.5.2), a deed restriction, restrictive covenant, or conservation easement shall be executed prohibiting mining within this area and allow future public access for a pedestrian trail. The City will confer with other signatories and will follow the procedures set forth in the Settlement Agreement regarding finalizing dedication of the easement.		No Change
	(64) Yew trees harvested from the site shall be made available for medical research.	Not Applicable		Not Applicable
	(65) Sightings of eagles or peregrine falcons shall be documented and reported to the Washington Department of Wildlife.	24. The project proponent shall continue to coordinate with the Washington Department of Fish and Wildlife through the field season (July 1 – October 1) as appropriate to evaluate and document the presence/absence of Western gray squirrels prior to removing Douglas fir forest habitat in the North Parcel Project Area.		Not Applicable
	(66) Dust control measures identified in Conditions 13 through 17 shall be implemented to avoid indirect effects to white-topped aster.	Not Applicable		Not Applicable
	Noise			
	(67) Construction and operation of the facility shall comply with City noise standards, as contained in the City of DuPont Noise Ordinance.	24. The project proponent shall continue to coordinate with the Washington Department of Fish and Wildlife through the field season (July 1 – October 1) as appropriate to evaluate and document the presence/absence of Western gray squirrels prior to removing Douglas fir forest habitat in the North Parcel Project Area.		Not Applicable

	<p>(68) Pursuant to the terms of the Settlement Agreement, the Revised Project shall not cause an increase of more than 5 dBA over the existing measured Ldn (i.e. 24-hour noise level) at the eastern shore of Anderson Island. This standard shall be referred to as the Settlement Agreement Noise Standard. The existing baseline noise level Ldn at Cole Point on Anderson Island has been measured and is established as 53.5 dBA. The City and the applicant are members of a Cooperative Noise Compliance Committee (“CNCC”) established under the Settlement Agreement. Compliance with the Settlement Agreement Noise Standard shall be determined pursuant to a Monitoring and Compliance Program to be developed by the CNCC and shall be measured against the adopted baseline. The applicant shall abide by the terms and process established in the Settlement Agreement for assurance that the Settlement Agreement Noise Standard is met.</p>	<p>Noise Monitoring and Compliance Program is associated with the dock and would continue</p>		No Change
	<p>(69) During barge loading, the end of the loading conveyor shall be lowered to within five feet of the deck of the barge to reduce noise attributable to falling aggregates.</p>	<p>Existing Conditions Continue to Apply to dock</p>		No Change
	<p>(70) Noise from the site shall be further mitigated through site planning and operational considerations, including but not limited to, the following:</p> <ul style="list-style-type: none"> - All equipment shall be properly maintained; - Implement measures to mitigate pile driver noise by enclosing the driver, applying damping compound to steel pipes, shrouding the hammer, or muffling gas pulses from diesel hammers; and - Rubber or synthetic-coated screens and resilient pads shall be installed at transfer points along the conveyor route. 	<p>24. The project proponent shall continue to coordinate with the Washington Department of Fish and Wildlife through the field season (July 1 – October 1) as appropriate to evaluate and document the presence/absence of Western gray squirrels prior to removing Douglas fir forest habitat in the North Parcel Project Area.</p>		No Change
	<p>(71) State and City noise standards, as contained in WAC 173-60-040 and the City of DuPont Noise Ordinance, respectively, shall be met during construction and operation of the facility. Noise shall be limited accordingly. A noise monitoring, compliance and enforcement program, contained in Attachment 4 of Ord. No. 485, shall be implemented. The applicant shall comply with all procedures set forth in this program. Operating hours shall be limited or operations curtailed in the event of violations of the program.</p>	<p>24. The project proponent shall continue to coordinate with the Washington Department of Fish and Wildlife through the field season (July 1 – October 1) as appropriate to evaluate and document the presence/absence of Western gray squirrels prior to removing Douglas fir forest habitat in the North Parcel Project Area.</p>		No Change
	<p>(72) An undisturbed buffer of natural vegetation shall be retained around the perimeter of the site, consistent with Condition 9 and enhanced where degraded to reduce off-site noise impacts and screen operations.</p>	<p>Not Applicable</p>		<p>The condition will be updated consistent with Noise mitigation measures for the South Parcel Project.</p>
	<p>Lighting/Aesthetics</p>			
	<p>(73) A lighting plan shall be prepared and submitted to the City for review prior to building permit approval for the dock. The plan shall indicate the number, height, intensity and location of all lighting proposed for the dock and associated barge-loading facilities. The plan shall also include a discussion of effects of varying the height and number of lights as viewed from off-site locations. The plan should also specify operational measures, including but not limited to, directing light downward, using cut-off type lighting fixtures, turning off lights when facilities are not operating, and using the minimum lighting levels possible.</p>	<p>Existing Conditions Continue to Apply to dock</p>		No Change
	<p>(74) The lowest level of lighting consistent with safety and applicable regulations shall be used during dock operations. If permitted by federal regulations, dock lights shall be turned off when not needed for loading activities. Light reaching the water should be minimized. All light fixtures shall be directed downward and away from adjacent land uses.</p>	<p>Existing Conditions Continue to Apply to dock</p>		No Change

	(75) The conveyor shall be lighted only at transfer points and only when the conveyor is operating or being maintained. The minimum levels of lighting permitted shall be used on the over-water section of the conveyor.	26. The vegetated area along the Puget Sound bluff, west of the proposed mining area, screens the site from off-site views and shall be maintained consistent with Recommendation No. 6.		No Change
	(76) A landscaping plan incorporating the measures identified in Conditions 77-82 shall be submitted as part of building permit applications. It should contain provisions for monitoring success of the plan and identify contingencies for responding to failure of any measures.	Reclamation Plan		Condition 76 of Ord. 95-521 was fulfilled at the time of plant and dock construction Reclamation will be completed in accordance with the DNR approved reclamation plan
	(77) To mitigate impacts to aesthetics and wildlife, existing trees surrounding cut areas shall be preserved and disturbed cut and fill areas replanted with native vegetation. The new plantings should be vigorous and mimic the character of the existing bank. The initial plantings should consist primarily of aggressive "pioneer" plant species and evolve into relatively stable plant communities that are similar to the surrounding existing vegetation.	Site is proposed to be logged prior to mining		Condition 77 of Ord. 95-521 was fulfilled at the time of plant and dock construction. Trees in buffer areas will be retained as described in the Tree Report. Revegetation of mined areas including tree planting will be completed as prescribed in a Reclamation Plan approved by DNR.
	(78) The ground surface and soil shall be prepared by grading slopes no greater than 1.5H:1V (horizontal:vertical), with intermediate benches at least every 25 feet of vertical elevation. The alignment of the terraces should be somewhat irregular and random so as not to create long linear and unnatural-appearing bench lines in the landscape.	7. Earthwork for excavation and reclamation shall be in accordance with the U.S. Mine Safety and Health Act and the Washington Surface Mining Act. Reclaimed slopes shall be no greater than 2:1 (a ratio of 2 horizontal to 1 vertical). Working slopes shall be at the angle of repose.		Reclamation pursuant to DN- approved Reclamation Plan.
	(79) Seeding, consisting primarily of grasses, woody groundcovers, shrubs and trees should be applied to the ground surface within two weeks of completion of construction by hydroseeding or similar means. The hydroseed mix should contain suitable fertilizers, mulch and binding agents. Grasses should be primarily low-profile rye and fescue - which can establish quickly and allow future development into native species groundcovers. Woody plant species should be a mix of natives, such as salal, Douglas fir, and big-leaf maple.	11 Revegetation would occur pursuant to DNR approved Reclamation Plan		Reclamation pursuant to DNR-approved Reclamation Plan.
	(80) Deciduous seedlings (1-2 years old) and conifer seedlings (3-4 years old) shall be planted after the seeding is established. Salvaging and transplanting existing plant material should be used if more cost effective than using imported nursery stock. Transplant stock may include Western Red Cedar, Indian Plum, Oceanspray, Pacific Dogwood, Red Alder, Amelanchier, Douglas Fir, and Red Osier Dogwood.	11 Revegetation would occur pursuant to DNR approved Reclamation Plan 11. Subject to the procedures in Recommendation 10, topsoil shall be stockpiled and used for reclamation of mined areas, subject to the procedures in Recommendation 10. After application of topsoil, slopes shall be re-vegetated by plantings consistent with the requirements of the revised reclamation plan. Following the completion of reclamation, heavy equipment shall not operate on reclaimed slopes except for the construction or maintenance of pedestrian paths, access roads and other permitted facilities.		Reclamation pursuant to DNR-approved Reclamation Plan. Topsoil quality will be managed in accordance with the Cleanup Action Plan reviewed by the Washington Department of Ecology prior to their issuance of an Opinion Letter for the property.

	<p>(81) Seeding shall be undertaken to germinate within six weeks and provide a green cover over the slopes. Some taller and broader trees shall be transplanted to provide greater cover and screening of the slopes at the top of the bank. The majority of transplanted trees should be at the top of the bank and should be 10-12 feet tall; the balance shall be no less than 3 feet at planting. Transplanted trees should be planted at a density of 75 trees per acre to provide a good screen upon initial planting. Trees selected for transplant should be those which will mature to significantly cover the view in five to ten years. All transplanted material shall be maintained and replaced if it dies within a two year growing period.</p>	<p>11 Revegetation would occur pursuant to DNR approved Reclamation Plan; no transplanting required.</p> <p>11. Subject to the procedures in Recommendation 10, topsoil shall be stockpiled and used for reclamation of mined areas, subject to the procedures in Recommendation 10. After application of topsoil, slopes shall be re-vegetated by plantings consistent with the requirements of the revised reclamation plan. Following the completion of reclamation, heavy equipment shall not operate on reclaimed slopes except for the construction or maintenance of pedestrian paths, access roads and other permitted facilities.</p>		<p>Reclamation pursuant to DNR-approved Reclamation Plan.</p> <p>Topsoil quality will be managed in accordance with the Cleanup Action Plan reviewed by the Washington Department of Ecology prior to their issuance of an Opinion Letter for the property.</p>
	<p>(82) Seeding and planting should be accomplished in early September to late October, or early March to late April. This would allow relatively warm temperatures to germinate the seed, followed by periods of natural rainfall. In order to plant during these windows, finished grading should be planned to precede these periods as closely as possible. The barren-prepared slopes should be seeded within fourteen days of finished grading.</p>	<p>11 Revegetation would occur pursuant to DNR approved Reclamation Plan</p> <p>11. Subject to the procedures in Recommendation 10, topsoil shall be stockpiled and used for reclamation of mined areas, subject to the procedures in Recommendation 10. After application of topsoil, slopes shall be re-vegetated by plantings consistent with the requirements of the revised reclamation plan. Following the completion of reclamation, heavy equipment shall not operate on reclaimed slopes except for the construction or maintenance of pedestrian paths, access roads and other permitted facilities.</p>		<p>Reclamation pursuant to DNR-approved Reclamation Plan.</p> <p>Topsoil quality will be managed in accordance with the Cleanup Action Plan reviewed by the Washington Department of Ecology prior to their issuance of an Opinion Letter for the property.</p>
	<p>(83) All structures within 25-35 feet of MHHW shall be painted a light blue-gray hue that is a flat (low reflective) color. This color is similar to a hue that varies with the atmosphere and the water on Puget Sound and would significantly minimize the contrast of the facilities with their surroundings. Higher structures should be painted an olive gray green, dark charcoal, or a combination of the two to blend in with the background.</p>	Existing conditions continue to apply to the dock		No Change
	Historic			
	<p>(84) The applicant shall be subject to the procedures set forth in the Memorandum of Agreement (MOA) between the Nisqually Tribe and the Weyerhaeuser Real Estate Company. Any skeletal remains inadvertently unearthed during construction or mining shall be treated in accordance with the MOA.</p>	<p>27. The dock conveyor shall be lighted only at transfer points and only when the conveyor is operating or being maintained.</p> <p>28. The Applicant shall notify the cultural resources representative for the Nisqually Indian Tribe tribe at least 14 days prior to initiating any clearing or topsoil stripping in each mine segment. The Applicant shall make reasonable accommodations for the tribal Archaeologist, to observe all clearing and topsoil removal, and hire the tribal to write a closing report to the City and State Office of Archaeology and Historic Preservation documenting any contact with the Nisqually Indian Tribe and observed conditions.</p>		No Change

	(85) Construction activities shall be monitored to identify any historic resources. Any resources discovered shall be treated according to state historic preservation requirements; appropriate agency personnel shall be notified.	27. The dock conveyor shall be lighted only at transfer points and only when the conveyor is operating or being maintained		Not Applicable
	Transportation			
	(86) Lone Star shall require proof of insurance for towing contractors using the DuPont facility. Tug operators shall be advised annually prior to the drift net fishing	Existing conditions continue to apply to dock and barge transport		No Change
	(87) Vehicular use of the access road shall be limited to personnel needed for barge loading, operation, maintenance and emergencies.	Existing conditions continue to apply		No Change
	(88) The following procedures shall be implemented to address conflicts with tribal and recreational fishing: <ul style="list-style-type: none"> (a) Incidents of conflicts between tugs/barques and tribal and recreational fishermen shall be recorded and reported to the City as they occur. (b) The City shall confer with agencies with jurisdiction and determine if the frequency of conflicts warrants further corrective action. Such action could include construction of a lighted sign system to notify boaters of high fishing activity, and/or scheduling of maximum barge loading during daylight hours during the drift gill net fishing season. 	Existing conditions continue to apply to dock and barge transport		No Change
	(89) Lone Star Northwest shall assume the cost for construction of a rail crossing for the access road to reach the barge dock facility if deemed necessary by Burlington Northern Railways. The final determination will be made by the Tacoma Road Master's Office once Lone Star submits the required documentation at the Burlington Northern permit office.	Existing conditions continue to apply to dock		No Change
	(90) The mooring dolphin location shall be north of the barge loading facility and shall not conflict with the normal navigational channel.	Existing conditions continue to apply to dock and barge transport		No Change
	(91) The haul road, from the processing plant to DuPont-Steilacoom Road, shall be paved and maintained by the applicant.	Completed		Several commercial properties have been developed since Ord 95-521 was written that rely upon Wharf Rd. for access. Currently the property owners are working on a maintenance agreement for Wharf Rd. that will supersede the maintenance obligations in this condition.
	(92) Lone Star Northwest shall participate in near-term road improvements necessitated by its project. These shall include the following: <ul style="list-style-type: none"> (a) Changing the striping of the lanes on Barksdale Avenue between Wilmington and the I-5 southbound ramps to two lanes northbound (one left-turn/through lane and one right-turn-only lane), and two lanes southbound (one through lane and one right-turn-only lane). (b) Providing a right-turn-only lane on the Fort Lewis leg of the Barksdale/I-5 northbound ramp intersection. (c) Extending the left-turn lane on southwest-bound DuPont Steilacoom Road for vehicles headed for I-5 or Fort Lewis. 	No impact identified		Road improvements required by condition 92 of Ord. 95-521 were completed. <p>A Traffic Impact Assessment dated January 26, 2021 and submitted with the applications for the proposed project evaluated the potential transportation impacts associated with the South Parcel Project and compared those to impacts previously evaluated in the 2013 FEIS completed for the North Parcel Expansion. That assessment concluded that</p>

	<p>(d) Installing a traffic signal at the Barksdale/I-5 north-bound ramp intersection.</p> <p>(e) Interconnecting the three signals on Barksdale.</p> <p>Lone Star's share of these improvements, based on traffic generated, would have been eleven(11) percent. The cost of these improvements was estimated at \$180,000 if ramp metering is not required. The estimate was made prior to elimination of the concrete and asphalt plants. Based on the estimate, the applicant's share would be \$19,800. The applicant may submit revised estimates showing percentages without the eliminated plants, prior to building permit issuance. All funds shall be collected and administered according to state law.</p>			the FEIS statement that the South Parcel Project would not adversely affect traffic operations in the site vicinity is still reasonable. Therefore, the South Parcel Project is not expected to exacerbate transportation conditions in the study area and additional traffic mitigation is not warranted
	(93) Lone Star shall implement the conditions imposed by Pierce County relating to improvements to the County road system necessitated by the proposal, and if deemed necessary by Pierce County, Lone Star shall construct an extra southbound lane on DuPont-Steilacoom from the mining road entry to Davis Place.	Not Applicable		Not Applicable
	(94) The applicant shall document and report to the City annually regarding the relative proportion of material shipped by barge and by truck. If the proportion of truck shipments to total shipments in any consecutive two-year period is twenty-five percent or greater, an updated traffic report shall be submitted to the City. The report shall be prepared by a qualified independent consultant approved by the City. The report shall evaluate any additional traffic improvements necessitated in whole or part by the increase in truck traffic relative to total traffic attributable to the operation. Prior to building permit issuance, the applicant shall also submit a report verifying the number of truck trips from the Steilacoom site currently passing through Steilacoom.	31. In planning for future public access to the 45-acre open space area, the City, in cooperation with other parties to the 2011 Settlement Agreement, will consider potential impacts to the old mining area (Site 1494-1(H)).		No Change
	(95) Lone Star shall participate in City-sponsored traffic planning to identify lone-term improvements to the road system. If reconstruction of the I-5 interchange is required, Lone Star shall contribute its fair share of this improvement. Lone Star's contribution shall be calculated as its proportionate share of traffic generated to the intersection (using passenger vehicle equivalents or other agreed upon methods).	Not Applicable		Not Applicable. See Response to Condition 92 above.
Public Safety				
	(96) A fire protection plan, covering all project facilities and operations, shall be prepared. The plan shall be submitted to the Fire Department for City approval prior to building permit issuance.	Existing conditions continue to apply to dock and processing facility		Existing conditions continue to apply to dock and processing facility
	(97) Fire suppression systems meeting City requirements shall be installed at the loading dock.	Existing conditions continue to apply to dock		Existing conditions continue to apply to dock and processing facility
	(98) If the emergency access road to the dock is secured to restrict entry of non-authorized personnel, the City shall be provided with a key to permit entry.	Existing conditions continue to apply to dock		Existing conditions continue to apply to dock and processing facility
	(99) On-site security shall include fencing, lighting and an entry gate.	Complete; Existing conditions continue to apply		Complete; Existing condition continue to apply
	(100) Fire suppression systems meeting City requirements shall be installed at the processing plant. Fire alarms and sprinkler systems meeting Fire Code specifications shall be installed.	Existing conditions continue to apply processing facility		Complete; Existing condition continue to apply
	(101) If underground storage tanks are proposed or required, the applicant shall comply with applicable construction, safety and monitoring provisions.	Existing conditions continue to apply to processing facility		Complete; Existing condition continue to apply
Public Access				

	<p>(102) Public access shall be provided along the narrow gauge railway north of Sequalitchew Creek to the Puget Sound shoreline. The applicant shall in good faith cooperate and support in a non-financial way, the City's efforts to retain only the curved portion, extending approximately 100 feet from the shoreline, of the existing dock at the mouth of Sequalitchew Creek.</p>	Completed; Not Applicable		Completed; Not Applicable
	<p>(103) Under the Settlement Agreement, WRECO has agreed to dedicate to the City an area for public trail access along the existing narrow gauge rail on the north side of Sequalitchew Creek to the Puget Sound shoreline in the vicinity of the existing dock. Other improvements provided in connection with public access shall include the following:</p> <ul style="list-style-type: none"> (a) A cleared public parking area shall be provided in the general location shown in the Final EIS on Figure 22. An easement necessary to provide access shall be obtained from the Weyerhaeuser Company. (b) Educational signs shall be installed at intervals along the trail to notify the public of the sensitivity of this environment, particularly at and near the salt marsh. The existing buffer of the salt marsh along the Sequalitchew Creek shall be maintained. Prior to building permit approval, the applicant shall submit a plan that maintains visual access to the salt marsh but prevents intrusion by pedestrians through signs, plantings and other appropriate means. The City shall review and approve the design and location of all signs. Additional native plantings shall also be provided to discourage intrusion into the salt marsh. (c) To minimize disturbance and potential impacts to Sequalitchew Creek, the existing narrow gauge rail tracks shall be left in place. (d) The applicant shall provide picnic tables and trash cans for local use at two locations along the shoreline. Such locations shall be identified by the City. 	<p>Completed; 2011 (2012) Settlement Agreement and</p> <p>6. To preserve vegetation and wildlife habitat, and to avoid adverse impacts to views, no mining shall occur in the 45-acre open space area located west of the mine area adjacent to Puget Sound. The geographic limits of the open space area shall be as shown on the mining plan (Exhibit 3). Consistent with the provisions of the 2011 Settlement Agreement (Section 3.5.2), a deed restriction, restrictive covenant, or conservation easement shall be executed prohibiting mining within this area and allow future public access for a pedestrian trail. The City will confer with other signatories and will follow the procedures set forth in the Settlement Agreement regarding finalizing dedication of the easement.</p>		Completed; Not Applicable
	<p>(104) Until development is permitted in the Consent Decree area, or public access to the shoreline can be provided via the Sequalitchew Creek road, the applicant shall maintain the existing access down the bluff from the Longshoreman's trail and parking area.</p>	Not Applicable		Not Applicable
	<p>(105) Lone Star Northwest, in cooperation with Weyerhaeuser, shall submit a plan to the City prior to building permit issuance identifying areas to be dedicated to the public as parts of the open space and trails system. The plan shall include a schedule and any proposed conditions of education to meet the intent of Z/OPE 030.010.000. Pursuant to the foregoing section, Lone Star Northwest shall be required to dedicate to the City one-half of the buffer area for open space or trail purposes, to mitigate the potential impacts of development of the City's natural and recreational resources and to promote the public health, safety and welfare.</p>	<p>6. To preserve vegetation and wildlife habitat, and to avoid adverse impacts to views, no mining shall occur in the 45-acre open space area located west of the mine area adjacent to Puget Sound. The geographic limits of the open space area shall be as shown on the mining plan (Exhibit 3). Consistent with the provisions of the 2011 Settlement Agreement (Section 3.5.2), a deed restriction, restrictive covenant, or conservation easement shall be executed prohibiting mining within this area and allow future public access for a pedestrian trail. The City will confer with other signatories and will follow the procedures set forth in the Settlement Agreement regarding finalizing dedication of the easement.</p>		Completed

	<u>Sewer & Water</u>		
	(106) Lone Star shall purchase potable water for domestic use (8 up to 109 gpm) from the City water system. The applicant shall construct all on-site and off-site improvements necessary to connect to the City system.	Existing conditions continue to apply	Existing conditions continue to apply
	(107) As an interim measure, sanitary wastes shall be collected on-site and trucked to the Chambers Creek Treatment Plant. Lone Star shall connect to the public sewer system when such connection is feasible as determined by Pierce County. The applicant shall construct all on-site and off-site improvements necessary to connect to the public system.	Not Applicable	Not Applicable
	(108) Water conserving fixtures shall be installed in wash rooms.	Existing conditions continue to apply to processing facility and office	Existing conditions continue to apply to processing facility and office
	(109) All on-site facilities shall be designed to reduce fire flow requirements through use of alarms and sprinklers.	Existing conditions continue to apply to processing facility and office	Existing conditions continue to apply to processing facility and office
	<u>Solid Waste</u>		
	(110) The applicant shall encourage recycling of paper, metal and used old wastes.	Existing conditions continue to apply	Existing conditions continue to apply
	(111) Proposed methods of storing and disposing of fines (i.e. sand) shall be submitted to the City prior to building permit issuance. If possible, accumulated fines from the clarifier should be mixed with topsoil and used in reclamation.	Existing conditions continue to apply	Existing conditions continue to apply
	<u>Assurances & Enforcement</u>		
	(112) Lone Star Northwest shall post a bond, letter of credit, or other assurance device in the amount of five million dollars (\$5,000,000) in favor of the City. This shall be in addition to bonds of assurances required by any other conditions of approval of the project. The assurance device or security shall be in a form acceptable to, and shall be approved by, the City Attorney. In the event of default or non-compliance with any terms or conditions of this site plan approval, the Shoreline Substantial Development Permit, or the Conditional Use Permit, the City may apply the proceeds of the bond or other assurance device to enforce such terms or conditions.	34. The bonding requirements of Ordinance 95-521, Condition 112, shall continue in effect to ensure performance of and compliance with all conditions of approval applicable to North Parcel mining. The amount of bond may be reduced at the discretion of the City.	The amount of the bond should be adjusted to match the amount of a calculable expense the City can potentially foresee resulting from the project.
	(113) The applicant shall pay the cost of all plans, reports and monitoring programs required by these conditions of approval and for the time required by City staff to review such plans, reports and programs. These plans, reports and programs include the following: <ul style="list-style-type: none"> (a) Reclamation plan implementation (first 5 mining increments); (b) Temporary erosion and sedimentation control plan; (c) Forest management reports in alternative years; (d) Monitoring to determine road sweeping/washing frequency; (e) Amendments to emergency spill response plan; (f) Water quality monitoring program (life of project); (g) Groundwater elevation monitoring program; (h) Wildlife management plan; (i) Noise monitoring program/reports; (j) Lighting plan; (k) Mode split report; (l) Fire protection plan; and (m) Open space plan. City officials and representatives of Lone Star Northwest shall meet prior to issuance of any building permit and reanalyze the fiscal impacts of this site plan approval on all City Departments and the City's provision of municipal services. If there are negative fiscal impacts evident as a result of such meeting and analysis, then Lone Star Northwest shall meet with City of DuPont officials to discuss additional fiscal contributions to mitigate such unforeseen fiscal impacts.	35. The applicant shall pay the cost of all plans, reports and monitoring programs required by these conditions of approval and for the time required by City staff to review such plans, reports and programs	The applicant shall pay the cost of all plans, reports and monitoring programs required by these conditions of approval and for the time required by City staff to review such plans, reports and programs

	(114) Any changes to mitigating measures, the terms and conditions of the approval, and the scope of the project may be approved only by the City Council, and not by any other City official, during the entire term or duration of this permit or approval.	Not Applicable; City changed to Hearing Examiner process		Any changes to these , conditions shall be reviewed and approved through the City's' current regulatory approval process .