



US Army Corps
of Engineers
Portland District

PUBLIC NOTICE

for Permit Application

Issue Date: April 14, 2004

Expiration Date: May 13, 2004

Corps of Engineers Action ID: 200300653

30-Day Notice

Oregon Department of State Lands Number: 31210-RF

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States, as described below and shown on the attached plan.

Comments: Comments on the described work should reference the U.S. Army Corps of Engineers number shown above and reach this office no later than the above expiration date of this Public Notice to become part of the record and considered in the decision. Comments should be mailed to the following address:

U.S. Army Corps of Engineers
CENWP-OP-GE (*Ms. Michele E. Hanson*)
1600 Executive Parkway, Suite 210
Eugene, Oregon 97401-2156

Applicant: Cell Tech Company (Co.)

Location: The site is located on the southeastern shore of Upper Klamath Lake off Lakeshore Drive, in Section 23, Township 38 South, Range 8 East; and in Klamath County, Oregon.

Project Description: The applicant proposes to discharge dredge and fill material in Upper Klamath Lake and adjacent wetland to construct an access channel and a marina to provide boat docking and storage for Cell Tech Co.'s algae harvesting fleet. Cell Tech Co. harvests blue-green algae from Upper Klamath Lake for sale as a nutritional supplement. The project would affect 1.76 acres of primarily palustrine emergent, seasonally flooded, diked wetlands, as well as part of Upper Klamath Lake.

The marina would be constructed on property currently used by Cell Tech Co. for maintenance operations by excavating to a depth 10 feet below the ordinary high water level of 4,143.17 above mean sea level (msl) in an area currently used as livestock pasture. Sheet pile would be driven around part of the marina perimeter. In areas with no sheet piling, slopes would be graded to 2:1 (H:V). A boat ramp would be constructed of pre-cast concrete tie-beams and a concrete walkway on the northwest end of the marina to provide access for boat maintenance and launching. The area surrounding the marina would be prepared for future paving to accommodate parking. A road approach would be constructed across a ditch at the north edge of the project area, and a 12-inch diameter culvert would be placed in the ditch to provide access for traffic into the marina site. A 12-foot deep channel, with a 60-foot wide top and 40-foot wide base would be excavated through an existing dike to provide access to the marina from the lake. The channel slopes would be revetted with rock riprap for stabilization.

All interior work would be completed before breaching the dike to the lake for the access channel. Prior to breaching the dike, water would be pumped from the lake to equalize the hydraulic head differential between the marina and the lake and to limit sediment disturbance. The applicant would install a floating silt curtain in the lake to prevent turbidity from entering the lake during construction.

Approximately 9,000 cubic yards (CY) of material would be excavated from wetland or below the ordinary high water line of Upper Klamath Lake and about 4,000 CY of fill material would be placed in wetlands. Excavated material would be temporarily stockpiled in the project area for use as fill material. Unused material would be disposed of in an upland location near the project area.

The fleet includes a main harvester comprised of four smaller boats hooked together to function as one unit. The remainder of the fleet includes three 12-foot wide by 34 feet long transport boats, two 8-foot wide by 24 feet long smaller transport boats, and a 34-foot long cooling boat. The overall dimensions of the "T-shaped" harvesting boat complex are 86-feet long by 74-feet wide, which includes two 4-foot wooden walkways.

Cell Tech, Co. currently uses a facility across the lake to anchor boats nightly or tie them to shore. However, locating the boats at this facility has made them vulnerable to wave action, wind, and ice damage. Boats would be docked in the proposed marina overnight during harvesting season and when they are not in use. In winter, boats would be winterized and docked or moored in the marina. The marina would provide a safe harbor, keep the boats from public view and access, and provide a permanent base of operations for Cell Tech's fleet.

Mitigation: The applicant has provided a proposed compensatory wetland mitigation plan for the loss of wetland functions and values that would occur as a result of this project. Onsite mitigation would involve enhancement of existing wetland by fencing off 5.19 acres of wet pasture/pond to prohibit grazing and other agricultural activities. The goal would be to allow native hydrophytes to re-establish, supplemented by seeding desirable species and periodic removal of undesirable species.

If a permit is issued, the Corps will determine what is appropriate and practicable compensatory mitigation. The amount of compensatory mitigation required shall be commensurate with the anticipated impacts of the project.

Purpose: The project would provide a central point of operations from which to operate the algae harvesting fleet. The marina would provide a safe harbor for fleet protection and facilitate ease of launching, retrieval of boats and off-loading of harvested product.

Drawings: (7) Seven drawings are attached.

Additional Information: Additional information may be obtained from Ms. Michele E. Hanson, Project Manager, U.S. Army Corps of Engineers at (541) 465-6878 or email at michele.e.hanson@usace.army.mil.

Authority: This permit will be issued or denied under the following:

Sections 404, Clean Water Act (33 U.S.C. 1344), for discharge of dredged or fill material into waters of the United States.

Water Quality Certification: A permit for the described work will not be issued until certification, as required under Section 401 of the Clean Water Act (P.L. 95-217), has been received or is waived from the certifying state. Attached is the state's notice advertising the request for certification.

Section 404(b)(1) Evaluation: The impact of the activity on the public interest will be evaluated in accordance with the Environmental Protection Agency guidelines pursuant to Section 404(b)(1) of the Clean Water Act.

Public Hearing: Any person may request in writing that a public hearing be held to consider this application within the comment period specified in this notice. Requests for public hearings shall state with particularity the reasons for holding a public hearing.

Endangered Species: Preliminary determinations indicate that the described activity may affect endangered species or their critical habitat designated as designated under the Endangered Species Act of 1973 (87 Stat. 844). A final permit decision will not be made until consultation as required under Section 7 of the Act is completed.

Cultural Resources: A review of available information indicates there are no recorded historic properties within the permit area. The permit area has been extensively modified for agricultural purposes and little likelihood exists for the proposed project to affect an undisturbed historic property or any other type of cultural resource.

This notice has been provided to the State Historic Preservation Office, interested Native American Indian Tribes, and other interested parties. If you have information pertaining to cultural resources within the permit area, please provide this information to the Corps project manager (identified on page 1 of this notice) to assist in a complete evaluation of potential affects.

Evaluation: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the described activity, will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership, and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Additional Requirements: State law requires that leases, easements, or permits be obtained for certain works or activity in the described waters. These State requirements must be met where applicable and a Department of the Army permit must be obtained before any work within the applicable Statutory Authority previously indicated may be accomplished. Other local governmental agencies may also have ordinances or requirements, which must be satisfied before the work is accomplished.

04

PUBLIC NOTICE
Oregon Department of Environmental Quality
Water Quality 401 Certification

Corps of Engineers Action ID Number: 200300653
Oregon Division of State Lands Number: 31210-RF

Notice Issued: April 14, 2004
Written Comments Due: May 13, 2004

WHO IS THE APPLICANT: Cell Tech Company (Co.)

LOCATION OF CERTIFICATION ACTIVITY: See attached U.S. Army Corps of Engineers public notice.

WHAT IS PROPOSED: See attached U.S. Army Corps of Engineers public notice on the proposed project.

NEED FOR CERTIFICATION: Section 401 of the Federal Clean Water Act requires applicants for Federal permits or licenses to provide the Federal agency a water quality certification from the State of Oregon if the proposed activity may result in a discharge to surface waters.

DESCRIPTION OF DISCHARGES: See attached U.S. Army Corps of Engineers public notice on the proposed project.

WHERE TO FIND DOCUMENTS: Documents and related material are available for examination and copying at Oregon Department of Environmental Quality, Water Quality Division, 811 S.W. Sixth Avenue, Portland, Oregon 97204-1390.

While not required, scheduling an appointment will ensure documents are readily accessible during your visit. To schedule an appointment please call Ms. Alice Kavajecz at (503) 229-6962.

Any questions on the proposed certification may be addressed to the 401 Program Coordinator, (503) 229-5845 or toll free within Oregon at (800) 452-4011. People with hearing impairments may call DEQ's TTY at (503) 229-6993.

PUBLIC PARTICIPATION:

Public Hearing: Oregon Administrative Rule (OAR) 340-48-0020 (6) states that "The Director shall provide an opportunity for the applicant, any affected state, or any interested agency, person, or group of persons to request or petition for a public hearing with respect to certification applications. If the Director determines that new information may be produced thereby, a public hearing will be held prior to the Director's final determination. Instances of doubt shall be resolved in favor of holding the hearing. There shall be public notice of such a hearing."

Written comments:

Written comments on the proposed certification must be received at the Oregon Department of Environmental Quality by 5 p.m. on **May 13, 2004**. Written comments should be mailed to Oregon Department of Environmental Quality, Attn: 401 Program Coordinator, 811 S.W. Sixth Avenue, Portland, Oregon 97204-1390 or faxed to (503) 229-6124. *People wishing to send written comments via e-mail should be aware that if there is a delay between servers or if a server is not functioning properly, e-mails may not be received prior to the close of the public comment period.* People wishing to send comments via e-mail should send them in Microsoft Word (through version 7.0), WordPerfect (through version 6.x) or plain text format at melville.tom@deq.state.or.us. Otherwise due to conversion difficulties, DEQ recommends that comments be sent in hard copy.

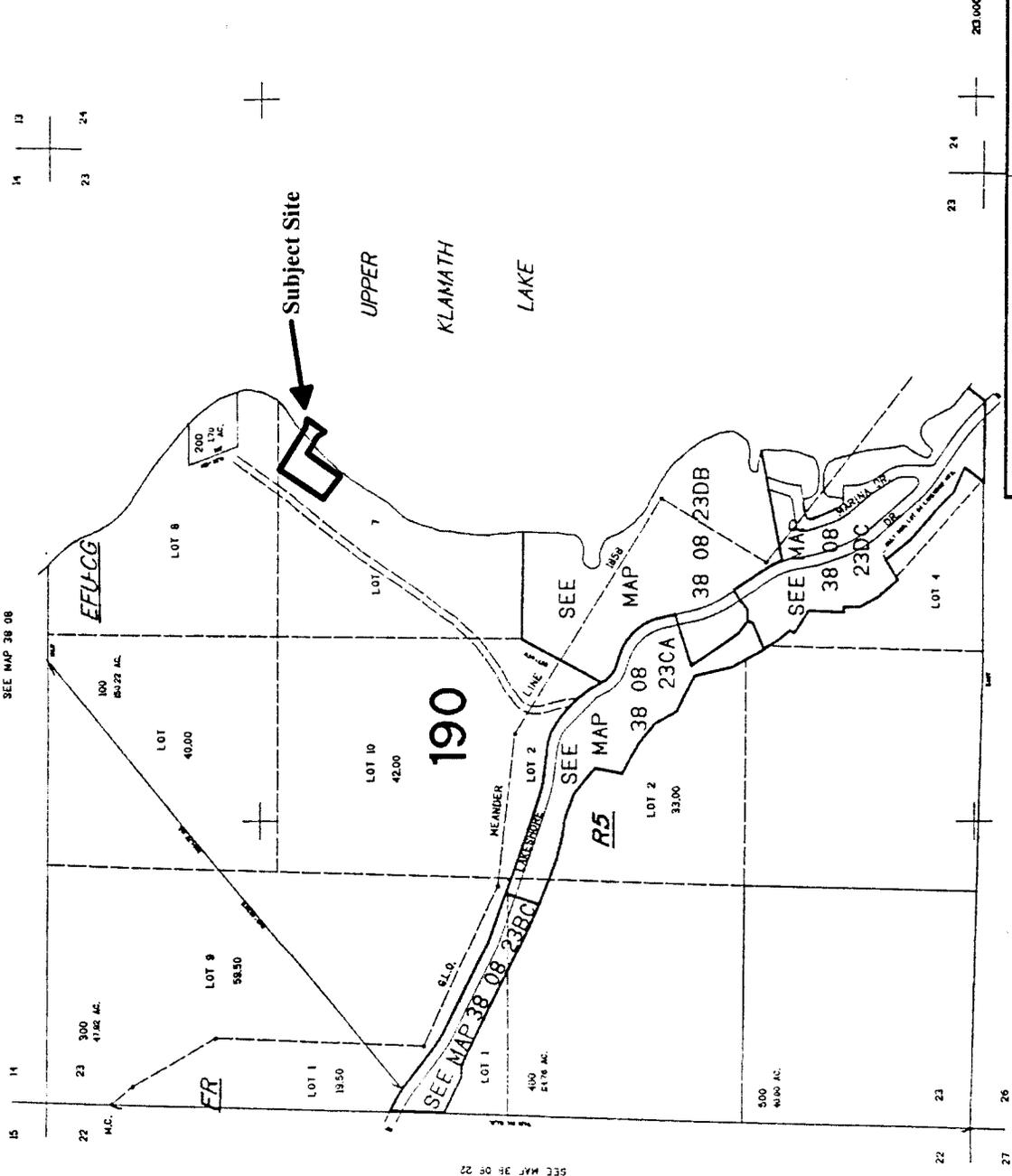
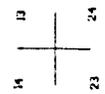
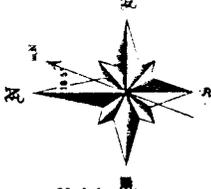
WHAT HAPPENS NEXT: DEQ will review and consider all comments received during the public comment period. Following this review, the permit may be issued as proposed, modified, or denied. You will be notified of DEQ's final decision if you present either oral or written comments during the comment period. Otherwise if you wish to receive notification, please call or write DEQ at the above address.

ACCESSIBILITY INFORMATION: This publication is available in alternate format (e.g. large print, Braille) upon request. Please contact DEQ Public Affairs at (503) 229-5766 or toll free within Oregon at (800) 452-4011 to request an alternate format. People with a hearing impairment can receive help by calling DEQ's TTY at (503) 229-6993.

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY.

SECTION 23 T.38S. R.08E. W.M.
KLAMATH COUNTY
1-100

38 08 23
& INDEX

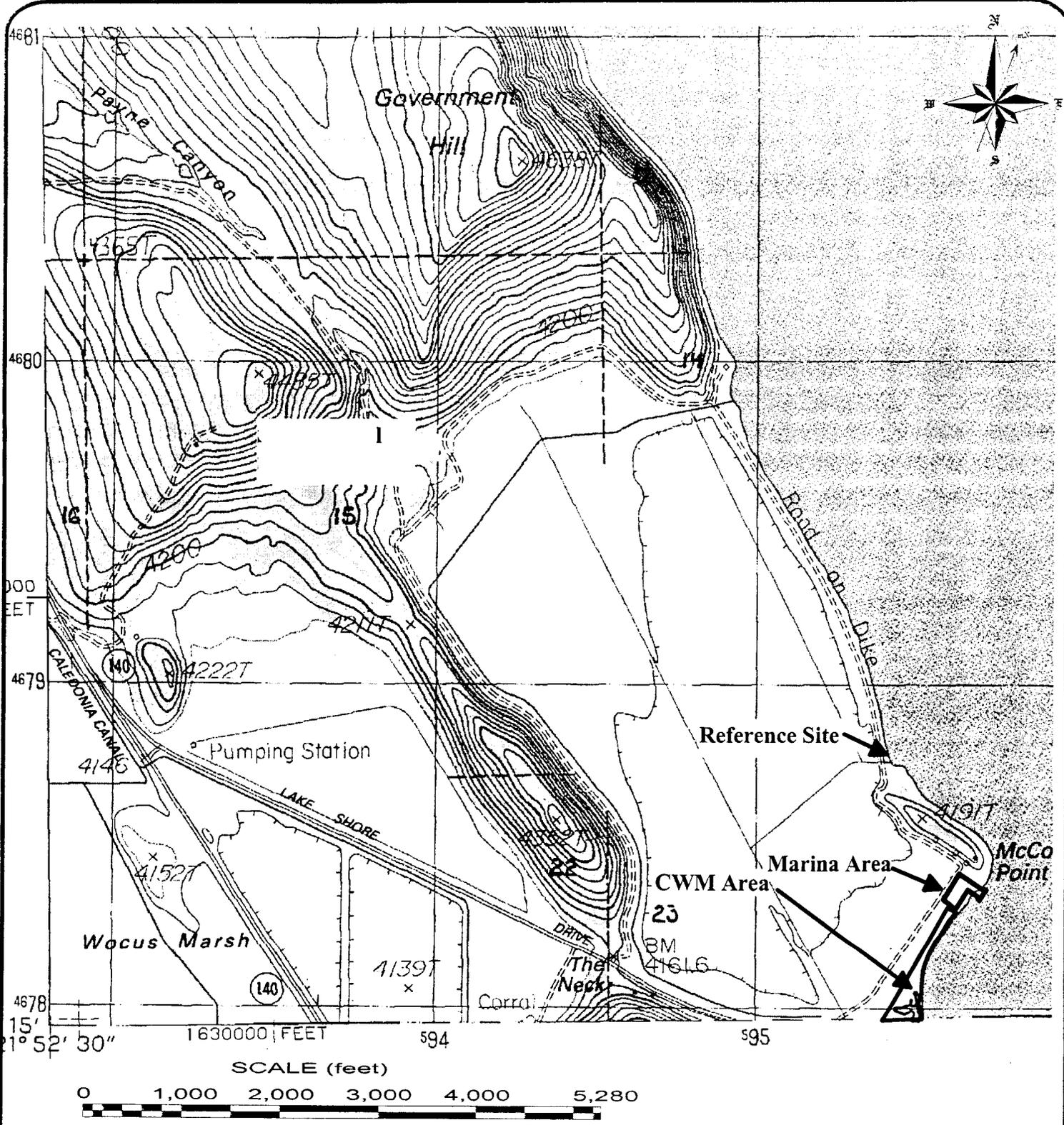


SEE MAP 38 08 26

23.000

EGR & Associates, Inc.
Engineers and Geologists.
2535 B Prairie Road
Eugene, Oregon 97402
Phone (541) 688-8322
FAX (541) 688-8087

Figure 1 :Adapted from
Klamath County
Assessors Map 233808

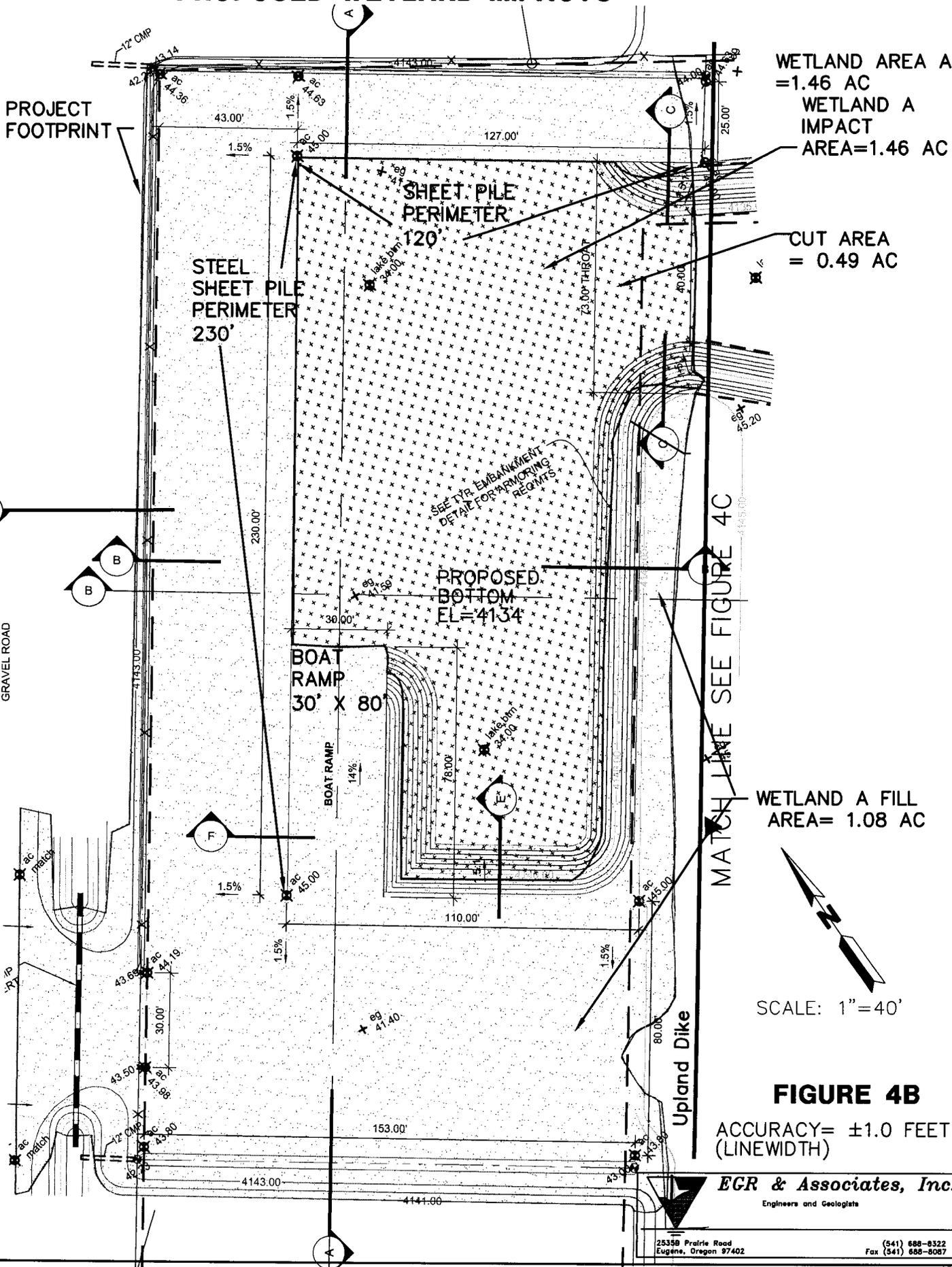


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 Eugene, Oregon 97402
 Phone 541 593-8322
 FAX 541 568-3037

Figure 6: Soil Disposal Site Location- Adapted from the USGS 7.5' Topographic Quadrangle for Wocus, Oregon

CELL TECH MARINA PROPOSED WETLAND IMPACTS

V:\5454-02-154 Zbinden Carter\drawings\Marina-2rev.DWG Apr 12, 2004 - 5:59pm LAYOUT=8.5x11-FIG4B



WETLAND AREA A
= 1.46 AC
WETLAND A
IMPACT
AREA = 1.46 AC

CUT AREA
= 0.49 AC

WETLAND A FILL
AREA = 1.08 AC

MATCH LINE SEE FIGURE 4C

FIGURE 4B

ACCURACY = ±1.0 FEET
(LINEWIDTH)

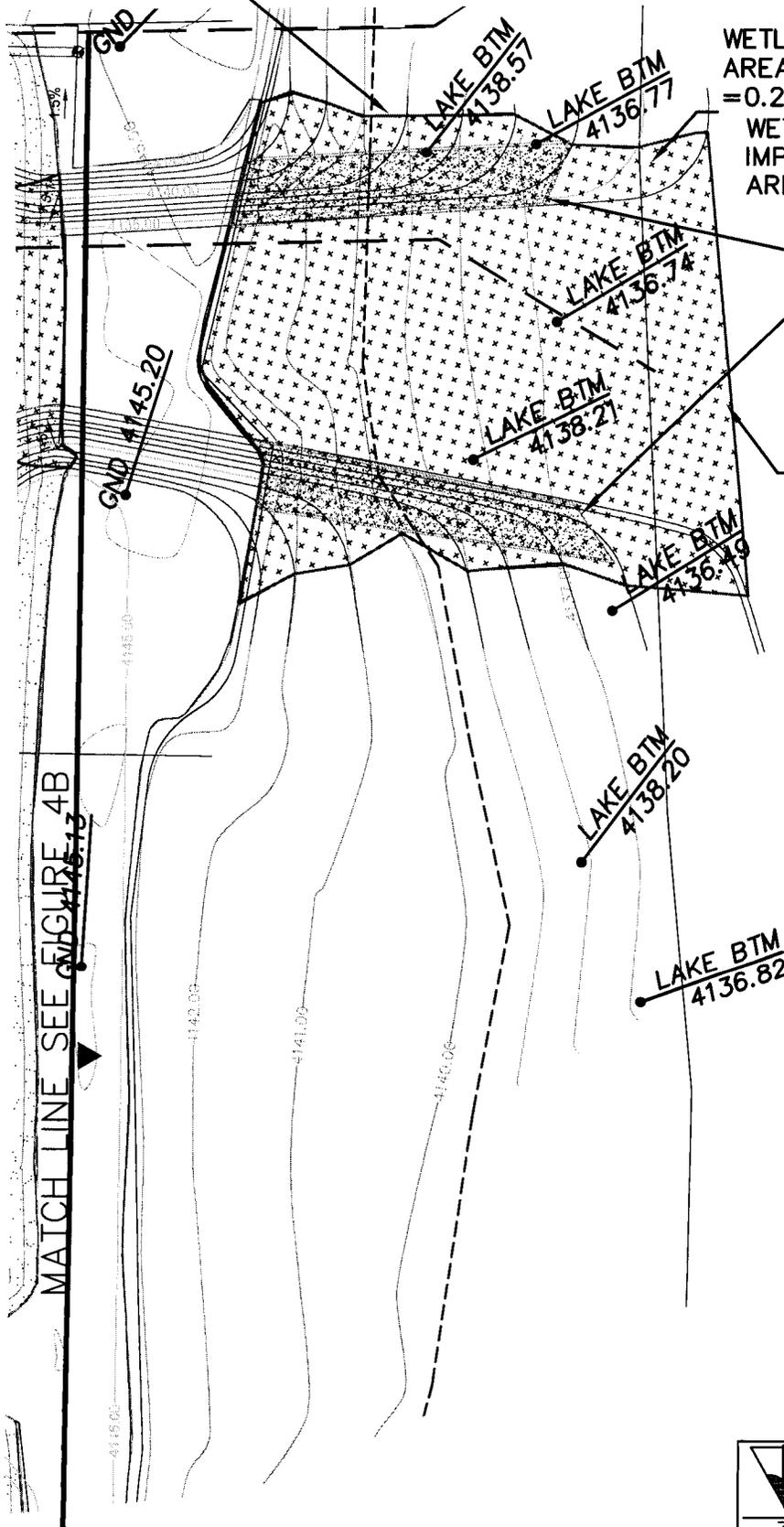
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CELL TECH MARINA WETLAND IMPACTS FIGURE 4C

PROJECT
FOOTPRINT

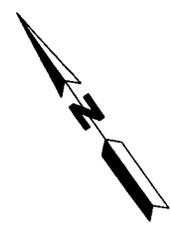


WETLAND
AREA B
= 0.27 AC
WETLAND B
IMPACT
AREA = 0.27 AC

FILL AREA
Extent of RipRap
= 0.05 AC
Approximate Volume
= 125 CY of
Class 50 Rip-Rap

CUT AREA
= 0.27 AC

MATCH LINE SEE FIGURE 4B



SCALE: 1" = 40'
ACCURACY = ±1.0 FEET
(LINWIDTH)

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CELL TECH
MARINA
WETLAND IMPACTS
FIGURE 4A

AREA TOTALS

TOTAL WETLAND A AREA= 1.46 AC
TOTAL WETLAND A IMPACT AREA= 1.46 AC
TOTAL CUT AREA A= 0.49 AC
TOTAL FILL AREA A= 1.08 AC
Wetland A OVERLAP = 0.06 AC

TOTAL WETLAND B AREA= 0.27 AC
TOTAL WETLAND B IMPACT AREA= 0.27 AC
TOTAL CUT AREA B= 0.27 AC
TOTAL FILL AREA B= 0.05 AC
Wetland B OVERLAP = 0.05 AC

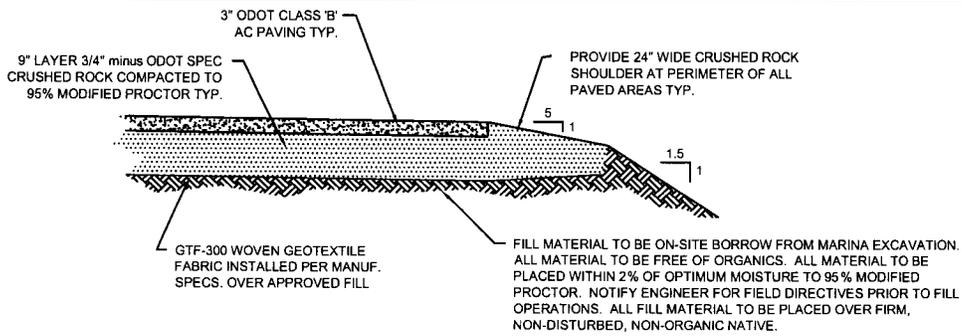
WETLAND A- HGM- SV OR RI
COWARDIN- PEMCH

WETLAND B- HGM- LfV
COWARDIN- PEM & LUB

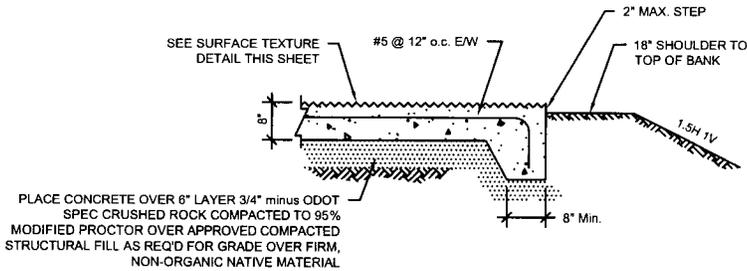
LEGEND

| | |
|---|---------------------|
|  | WETLAND AREA |
|  | WETLAND IMPACT AREA |
|  | PAVING LIMITS |
|  | CUT LIMITS |
|  | FILL LIMITS |

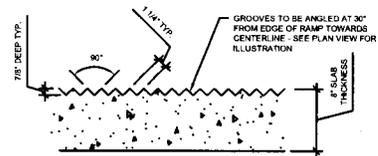
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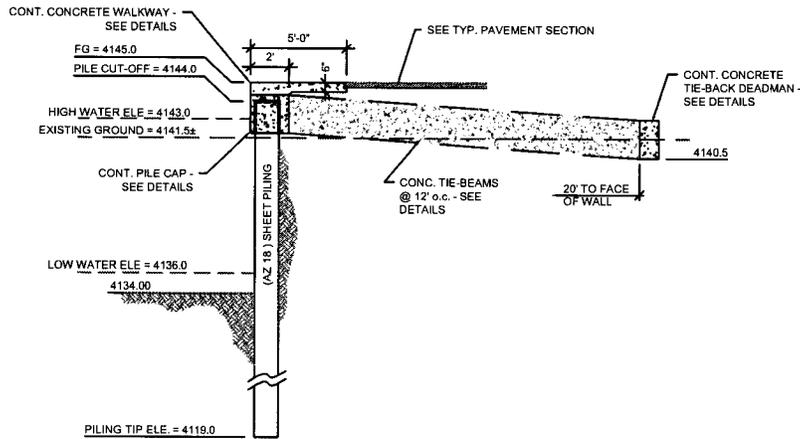
N.T.S. TYP. PAVEMENT SECTION
4 1/2" = 1'



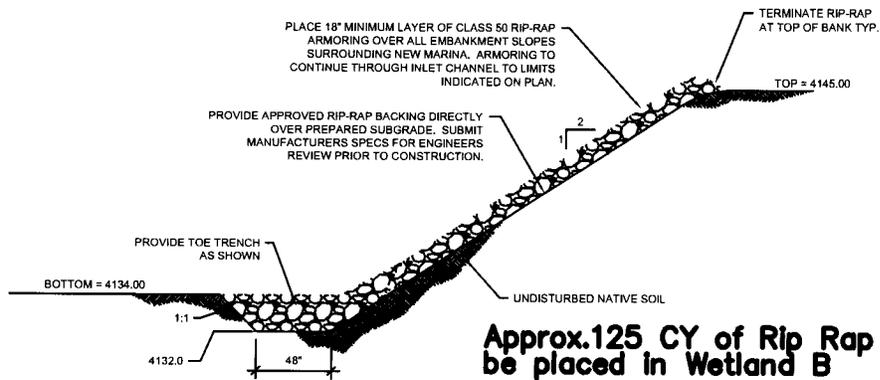
N.T.S. TYP. BOAT RAMP SECTION



N.T.S. BOAT RAMP SURFACE TEXTURE DETAIL
4" = 1'



N.T.S. SIDEWALK / PILING DETAIL
3/16" = 1'



Approx. 125 CY of Rip Rap to be placed in Wetland B

TYP. EMBANKMENT SECTION

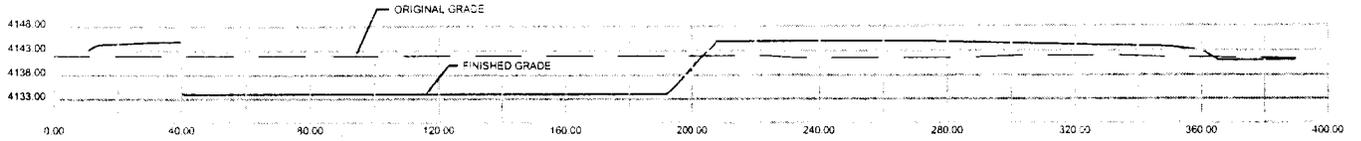
**FIGURE 5B
MARINA SECTIONS AND DETAILS**

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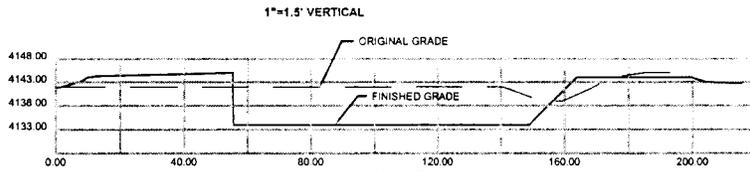
25360 Preble Road
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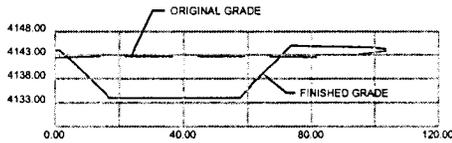
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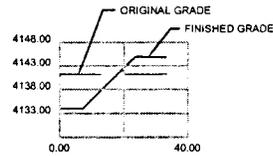
SECTION A
 HORIZONTAL 1" = 60'-0"
 VERTICAL 1" = 60'-0"



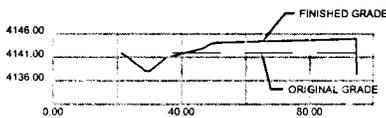
SECTION B
 HORIZONTAL 1" = 60'-0"
 VERTICAL 1" = 60'-0"



SECTION C
 HORIZONTAL 1" = 60'-0"
 VERTICAL 1" = 60'-0"



SECTION E
 HORIZONTAL 1" = 60'-0"
 VERTICAL 1" = 60'-0"



SECTION D
 HORIZONTAL 1" = 60'-0"
 VERTICAL 1" = 60'-0"



SECTION F
 HORIZONTAL 1" = 60'-0"
 VERTICAL 1" = 60'-0"

**CELL TECH
 MARINA
 SECTIONS AND DETAILS
 FIGURE 5A**

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