

Item: 6A

Date: 6/16/26

# Mouth of Hylebos – American Construction Habitat Area

## Amend Legal Agreement, Purchase and Sale Agreement for Mitigation Credits

**Rob Healy**

Director, Remediation & Water Quality

Port of Tacoma Commission Meeting

Date: June 16, 2026



1. Request authorization for the Executive Director or his delegate to execute the first amendment to October 2004 Agreement Regarding Hylebos Waterway Sediment Management Area 421-B RD/RA Activities and Excess NCD Site Capacity.
2. Request authorization for the Executive Director or his delegate to enter into an Agreement to Purchase Excess Hylebos Waterway Sediment Management Area 421-B Habitat Mitigation Acreage with the Hylebos Waterfront Property, LLC and American Construction Co., Inc.

## Consent Decree No. C-05-5103 FDB with the EPA for Remedial Actions associated with Port Parcel 56 and Adjoining Lands

Commission last authorized funding: February 19, 2015, for a total authorization of \$2,230,000

MIDs: 092134, 091934, 092135, 092653, 092685, 092836, and 101215.01

### Project Scope Items

- Cost recovery for completed remedy
- Baseline sediment monitoring
- American Construction's habitat area construction
- EPA approval of Habitat Remedial Action Construction Report (anticipated Q4 2026)

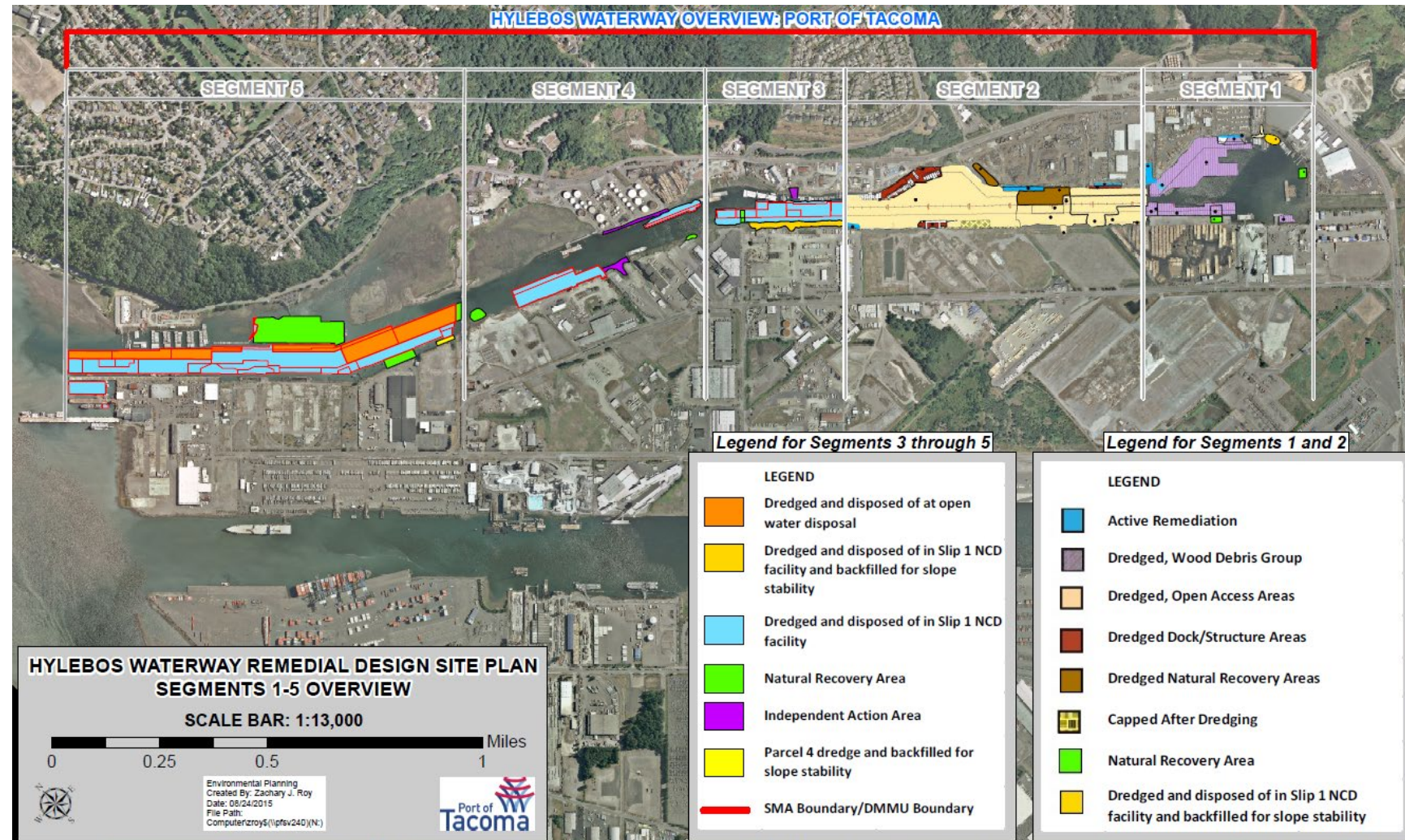
Cost to date for the project is \$1,492,386. Existing project authorization is sufficient to fund the purchase of HWP's excess mitigation credits.

**Strategic Plan Initiative:** EL-1 Remediate contaminated Port properties in a manner that ensures protection of human health and the environment while enabling economic development.



# Hylebos Remedial Actions

- Hylebos Remedial Actions began in 2001-2002 and were completed by 2008.
- ~360,000 cubic yards of contaminated sediments removed.
- Mouth sediments placed in the Slip 1 Confined Disposal Facility.
- Oxy and Port were lead PRPs for the Mouth Remedial Action.



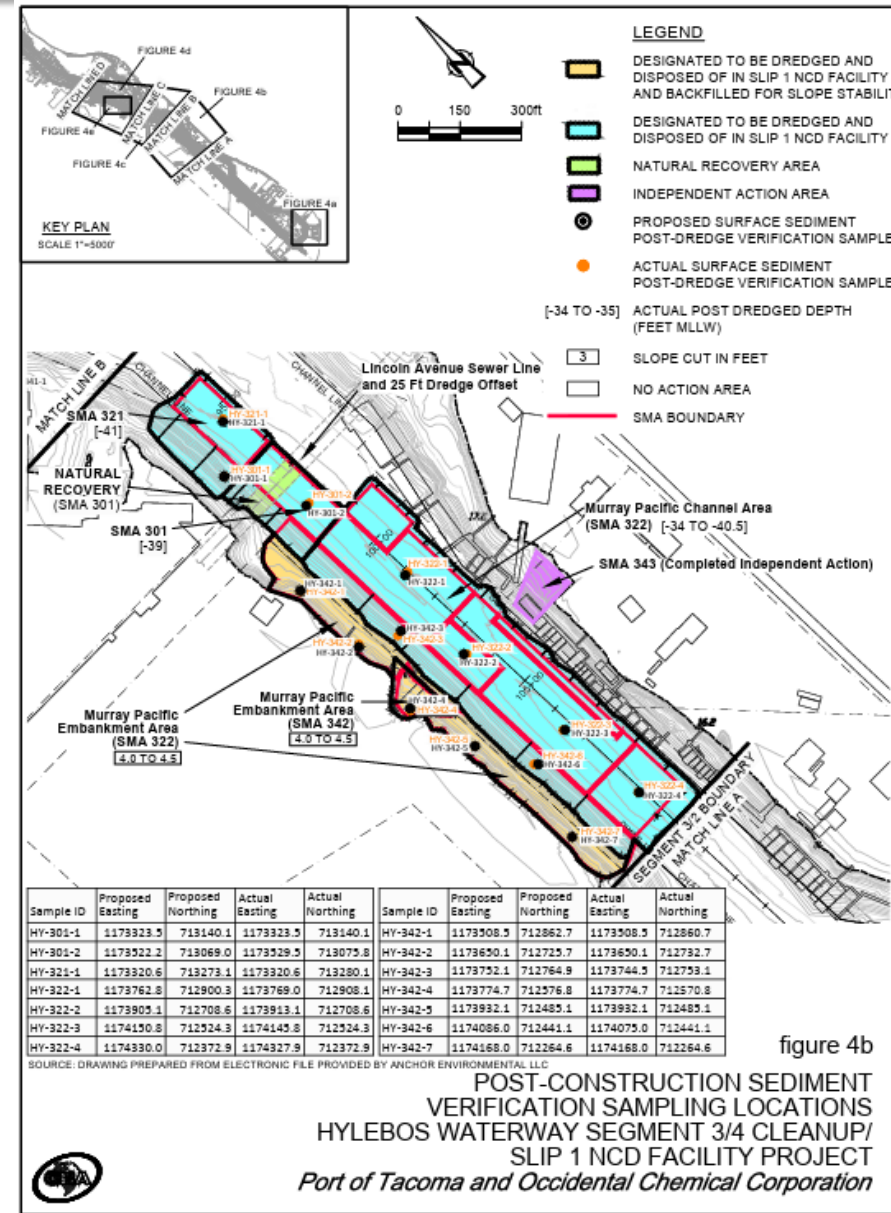
# Background

## 2004

- Hylebos Waterfront Property (HWP) owner, Steve Brannon, negotiated purchase of 1501 Taylor Way for American Construction
- HWP requested EPA approval to alter SMA 421-B remedy from capping to dredging with habitat mitigation
- Oct 2004: Port, Occidental, and HWP signed Agreement Regarding Hylebos Waterway SMA 421-B RD/RA Activities and Excess NCD Site Capacity

## 2004–2006

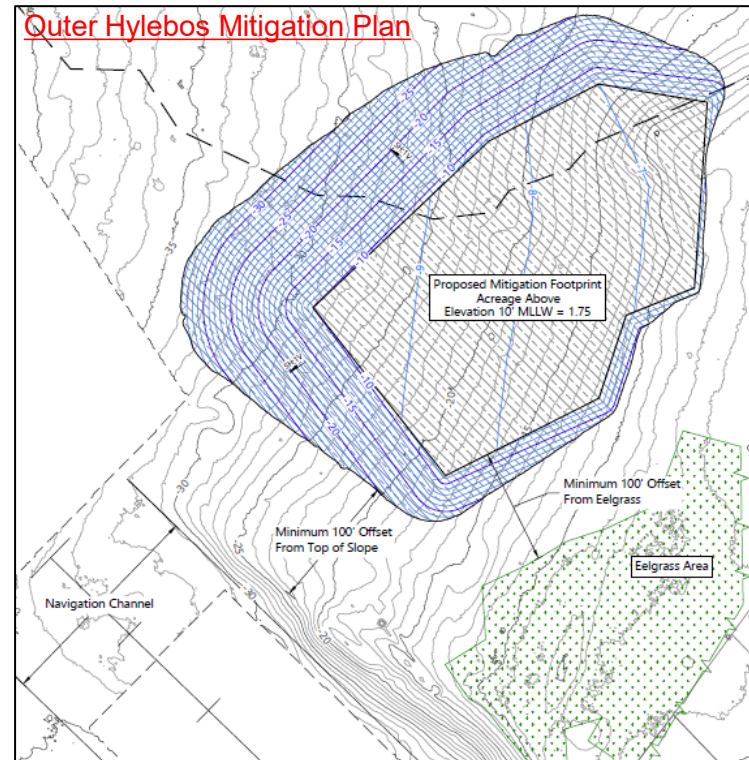
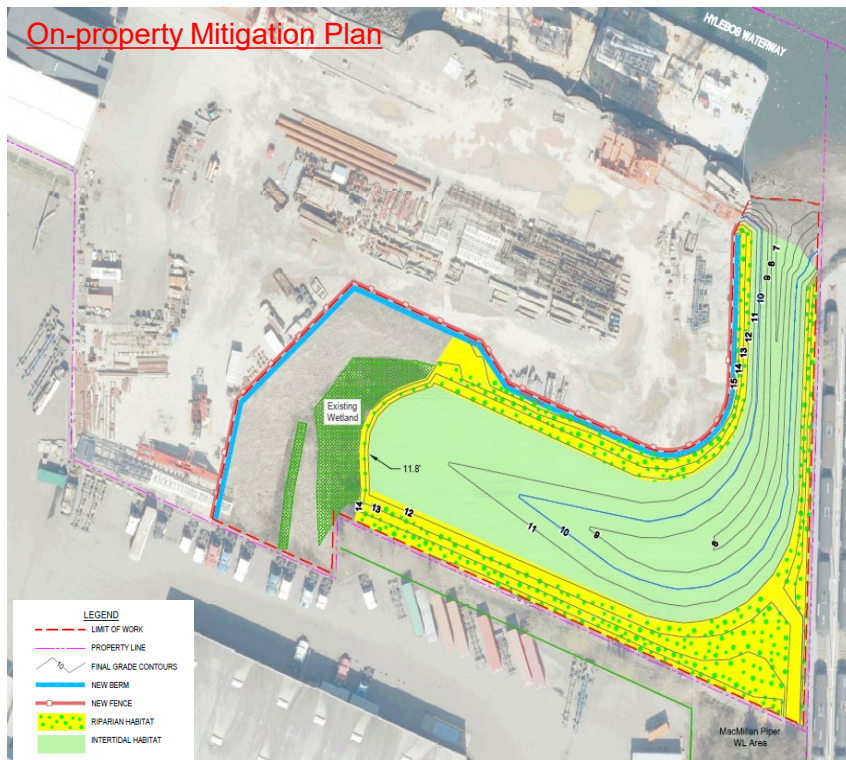
- Port & Occidental implemented Mouth of Hylebos sediment remedy
- American Construction dredged in front of property; contaminated sediment deposited in Port’s Slip 1 confined disposal facility
- American Construction posted \$1M performance bond to ensure completion of obligations



# Background (cont.)

## 2007 – 2021

- HWP & American Construction worked with EPA on habitat mitigation: 1.39 acres (American Construction) + 0.21 acres (with Oxy/Port oversight)
- Feb 19, 2015: Commission last authorized funding
- Multiple sites evaluated over the years



# Background (cont.)

## 2022–2024

- American Construction & EPA advanced mitigation at Dune Peninsula Mitigation Area at Ruston Point
- Mar 2024: EPA approved mitigation plan
- Dec 2024: Final construction completed (~1.6 acres, exceeding 1.39-acre obligation)

## 2025

- One-year monitoring period completed — no corrective actions required

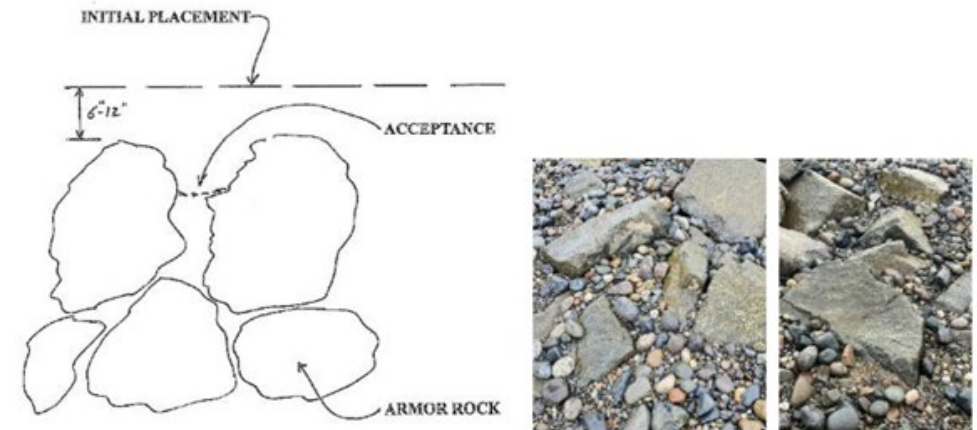
## 2026

- Apr 2, 2026: Port staff & Mr. Brannon met with EPA; informal concurrence on full 1.6-acre credit
- Excess 0.21 acres offered to Port at \$320,058 (~\$1.5M/acre vs. Port's ~\$1.9M/acre replacement cost)
- Formal EPA approval anticipated Q4 2026

Figure 3. Former Asarco Tacoma Smelter Breakwater Peninsula Habitat Mitigation Areas



Figure 4. Schematic and Photographs of Acceptable Habitat Mix Placement



# Summary of Agreement Terms

The Amendment to the 2004 Agreement and Agreement to Purchase Excess Hylebos Waterway SMA 421-B Habitat Mitigation Acreage include the following terms:

- The Port and Occidental shall deliver the fully executed Release of Bond to HWP, not more than 20 days after the Effective Date.
- Upon completion of the Remedial Action Construction Report and final approval of the same by the EPA, HWP and American shall have fully completed all the SMA 421-B RD/RA Activities as required under the Agreement and this Amendment.
- The Parties agree that upon completion of the Remedial Action Construction Report, HWP will promptly submit the report to the EPA for final approval to confirm that the Project satisfies the 1.39-acre mitigation requirement for SMA 431-B, and that the excess 0.21 acres of mitigation is credited to the Port to offset mitigation obligations for the Hylebos Waterway.
- Within 20 days after the Port's receipt of EPA's final written approval of the Remedial Action Construction Report, the Port shall pay HWP a total of \$320,058.

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# Thank You

## Questions & Discussion



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