

AN INVENTORY OF FILLED LANDS

IN

NETARTS BAY ESTUARY

July 1972

ADVISORY COMMITTEE TO THE STATE LAND BOARD

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Prepared by the Advisory Committee's  
Engineering Staff under the  
direction of

Stanley F. Hamilton, P.E.  
Staff Engineer  
Oregon Division of State Lands

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Act of 1971

Netarts Bay, seventh largest of Oregon's fourteen estuaries, lies just south of Tillamook Bay on Oregon's beautiful north coast.

The bay, which drains a watershed of only 13 square miles<sup>1/</sup> has an area of 2325 acres<sup>2/</sup> -- 1513 acres<sup>3/</sup> of submersible land or tideland and 812 acres of permanently submerged land. The navigable length of the bay is five miles<sup>4/</sup>.

At the present time, Netarts Bay is a relatively clean estuary, and it appears that concerted efforts are being made to maintain the status quo.

Oregon State University maintains a 150 acre estuary research center near the mouth of Whiskey Creek on the east shore. There is a viable commercial clam digging operation in the bay as well as salmon, perch, flounder and crab sport fisheries.

The vast majority of the tidelands in Netarts Bay are state-owned. Only 89 acres<sup>5/</sup> of tidelands have passed out of state ownership and into private hands.

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- 1/ Oregon State Water Resource Board
  - 2/ Oregon Division of State Lands  
(Area between M.L.W. and M.H.W.)
  - 3/ Oregon Division of State Lands
  - 4/ U.S. Army Corps of Engineers Data
  - 5/ Total acreage deeded to private owners by  
State Land Board

The purpose of this study was to determine the location, extent, ownership, history, owner of record and use of filled lands in Netarts Bay. Filled lands or "new lands" and related terms are defined by Oregon Statute Law which in many cases paraphrases English Common Law. A few of the more important definitions pertaining to filled lands are shown below.

274.905 Definitions for ORS 274.905 to 274.940.

As used in ORS 274.905 to 274.940, unless the context requires otherwise:

(1) "New lands" means those lands, as distinguished from bridges, wharves, quays and similar structures, protruding above the line of ordinary high water, whether or not connected with the adjoining or opposite upland or riparian lands on the same side of the thread of the stream, which have been created upon submersible or submerged lands by artificial fill or deposit.

(2) "Public body" means the State of Oregon or any port organized under the laws of this state or any dock commission of any city of this state.

ORS 274.005. (7) "Submerged lands," except as provided in ORS 274.705, means lands lying below the line of ordinary low water of all navigable waters within the boundaries of this state as heretofore or hereafter established, whether such waters are tidal or nontidal.

(8) "Submersible lands," except as provided in ORS 274.705, means lands lying between the line of ordinary high water and the line of ordinary low water of all navigable waters and all islands, shore lands or other such lands held by or granted to this state by virtue of her sovereignty, wherever applicable, within the boundaries of this state as heretofore or hereafter established, whether such waters or lands are tidal or nontidal.

Selected terms pertaining to tidelands and tidal boundaries are defined in Appendix A.

A brief summary of the procedure used to obtain information about the landfills in Netarts Bay is shown below.

1) Obtain copies of all U.S. Army Corps of Engineers (U.S.C.E.) permits for landfills or related projects in study area. Compile and tabulate data.

2) Obtain aerial photographs covering entire study area from U.S. Army Corps of Engineers, U.S. Forest Service, Oregon State Highway Dept., and other agencies.

3) Obtain reasonably complete set of U.S. Coast and Geodetic Survey (U.S.C.&G.S.) charts of study area.

4) Prepare a comparison overlay showing earliest and latest shorelines. Tentatively locate landfills on overlay using permit data, aerial photographs, and large changes in shoreline as shown by the overlay. The list of maps and charts used is shown at the end of this report.

5) Visit estuary to verify location of landfills. Document size, location, and use of fills.

6) Visit County Courthouse to obtain ownership and assessment data if available.

7) Compile and complete report.

Information collected during this study which pertains to landfill ownership will be found in the summary.

Plat I showing location and relative size of each fill is located at the end of the text. In addition, a detailed drawing of the single landfill parcel and a brief summary of pertinent data concerning this fill appears in Appendix B.

#### SUMMARY

There is only one landfill in the Netarts Bay region at the present time. This fill is located in Township 2 South, Range 10 West, Section 5 Tax lot number 1200. The parcel was originally owned by Ira L. Wills who on January 1, 1957 sold to Tillamook County. During the years 1957 through 1959 Tillamook County constructed a boat launch and public parking area on the property. A permit for the construction of these

facilities was issued by the Army Corps of Engineers [NPP800.6 (Netarts Bay - Misc.) -1]. None of this fill lies on submerged land. However, 5.0 acres does lie on submersible lands. Reference is made to the detailed sketch in Appendix B.

Considerable time and effort was required to determining if any of the property on which King Realty Inc. is located lies on submerged and/or submersible land. This property is located in Township 2 South, Range 10 West, Section 8, tax lot 18. Enlargements of aerial photographs dated 1939, 1962 and 1971 were compared for the purpose of this study. The area owned by King Realty Inc. (tax lot 18) was definitely constructed on upland and not on submerged or submersible land.

We wish to take this opportunity to thank all the people and agencies which provided portions of the necessary information enabling the completion of this report. In particular, we wish to extend our gratitude to the following:

U.S. Army Corps of Engineers, Portland District  
Oregon State Water Resources Board  
Oregon Division of State Land  
Tillamook County Assessor  
Tillamook County Surveyor  
Port of Tillamook Bay

Maps and Charts used in this Study

U.S.C. and G.S. chart for the year 1971  
U.S. Army Corps of Engineers aerial photos  
(1939-1962)  
Oregon State Highway aerial photos  
(1971)

APPENDIX A

DEFINITIONS OF TERMS PERTAINING TO  
TIDELANDS AND TIDAL BOUNDARIES

Definitions Used by  
U. S. Coast and Geodetic Survey  
from  
Shore and Sea Boundaries  
by  
Aaron L. Shalowitz

Mean Higher High Tide. - Same as Mean Higher High Water.

Mean Higher-High-Tide line. - Same as Mean Higher-High-Water line.

Mean Higher High Water. - The average height of the higher high waters over a 19-year period. See Higher High Water, Nineteen-year Tidal Cycle.

Mean Higher High Water Line. - The intersection of the tidal plane of mean higher high water with the shore. See Mean Higher High Water.

Mean High Tide. - Same as Mean High Water.

Mean High Water. - The average height of the high waters over a 19-year period. All high waters are included in the average where the tide is either semidiurnal or mixed. Where the type of tide is predominantly diurnal, only the higher high-water heights are included in the average on those days when the tide is semidiurnal. See mixed tides, semidiurnal tides, diurnal tides, Nineteen-year Tidal Cycle.

Mean High-Water Line. - The intersection of the tidal plane of mean high water with the shore.

Mean High-Water Mark. - Same as Mean High-Water Line.

Mean Lower Low Water. - The average height of the lower low waters over a 19-year period. The tidal plane used on the Pacific Coast as a datum for soundings on the hydrographic surveys and nautical charts of the Coast and Geodetic Survey.

Mean Low Water. - The average height of the low waters over a 19-year period. All low water heights are included in the average where the type of tide is either semidiurnal or mixed. Where the type of tide is predominantly diurnal, only the lower low water heights are included in the average on those days when the tide becomes semidiurnal.

Mean Low-Water Line. - The intersection of the tidal plane of mean low water with the shore.

Mean Sea Level. - The average height of the surface of the sea for all stages of the tide over a 19-year period, usually determined from hourly height reading. A determination of mean sea level that has been adopted as a standard for heights is called a sea level datum.

Mean Tide Level. - Same as Half-tide Level. A tidal datum midway between Mean High Water and Mean Low Water.

Ordinary High Water. - A nontechnical term considered by the Coast and Geodetic Survey to be the same as the tidal plane of mean high water.

Ordinary Low Water. - A nontechnical term considered by the Coast and Geodetic Survey to be the same as the tidal plane of mean low water.

Diurnal Tide. - Tides having a period or cycle of approximately one tidal day. Such tides exhibit only one high and one low water during a tidal day; the predominant type of tide in the Gulf of Mexico.

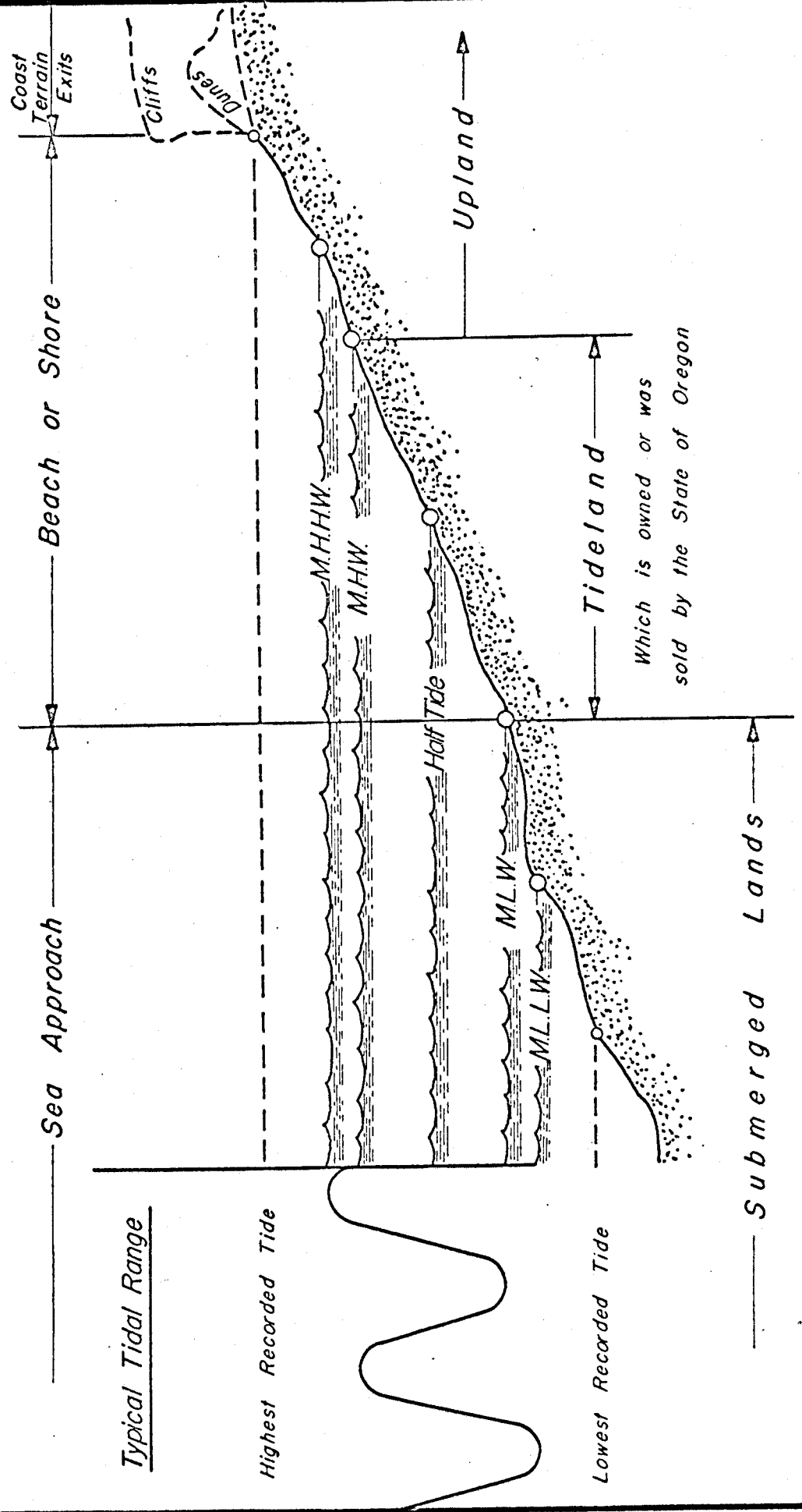
Semidiurnal Tides. - Tides having a period of approximately one-half a tidal day; the type of tide that is predominant throughout the world, with two high waters and two low waters each tidal day. Tides along the Atlantic Coast are of this type.

Mixed Tides. - Tides in which the presence of a diurnal wave is conspicuous by a large inequality in either the high or low-water heights, or in both, with two high waters and two low waters occurring each tidal day. Tides along the California (and Oregon) Coast are of the mixed type.



Tidelands. - The land that is covered and uncovered by the daily rise and fall of the tide. More specifically, it is the zone between the mean high-water line and the mean low-water line along a coast, and is commonly known as the "shore" or "beach." Referred to in legal decisions as between ordinary high-water mark and ordinary low-water mark. Tidelands presuppose a high-water line as the upper boundary.

# General Shore Profile Relationship to Tidal Range



APPENDIX B  
SKETCH PLATES OF LANDFILL PARCELS

Netarts Bay (T2S - R10W)

Total Area: 2325 Acres 1/  
Tidelands: 1513 Acres 2/  
Tideland Sold: 89 Acres 3/  
Navigable Length: 5.0 Miles 4/  
Tidewater: All -5.0 Miles 4/

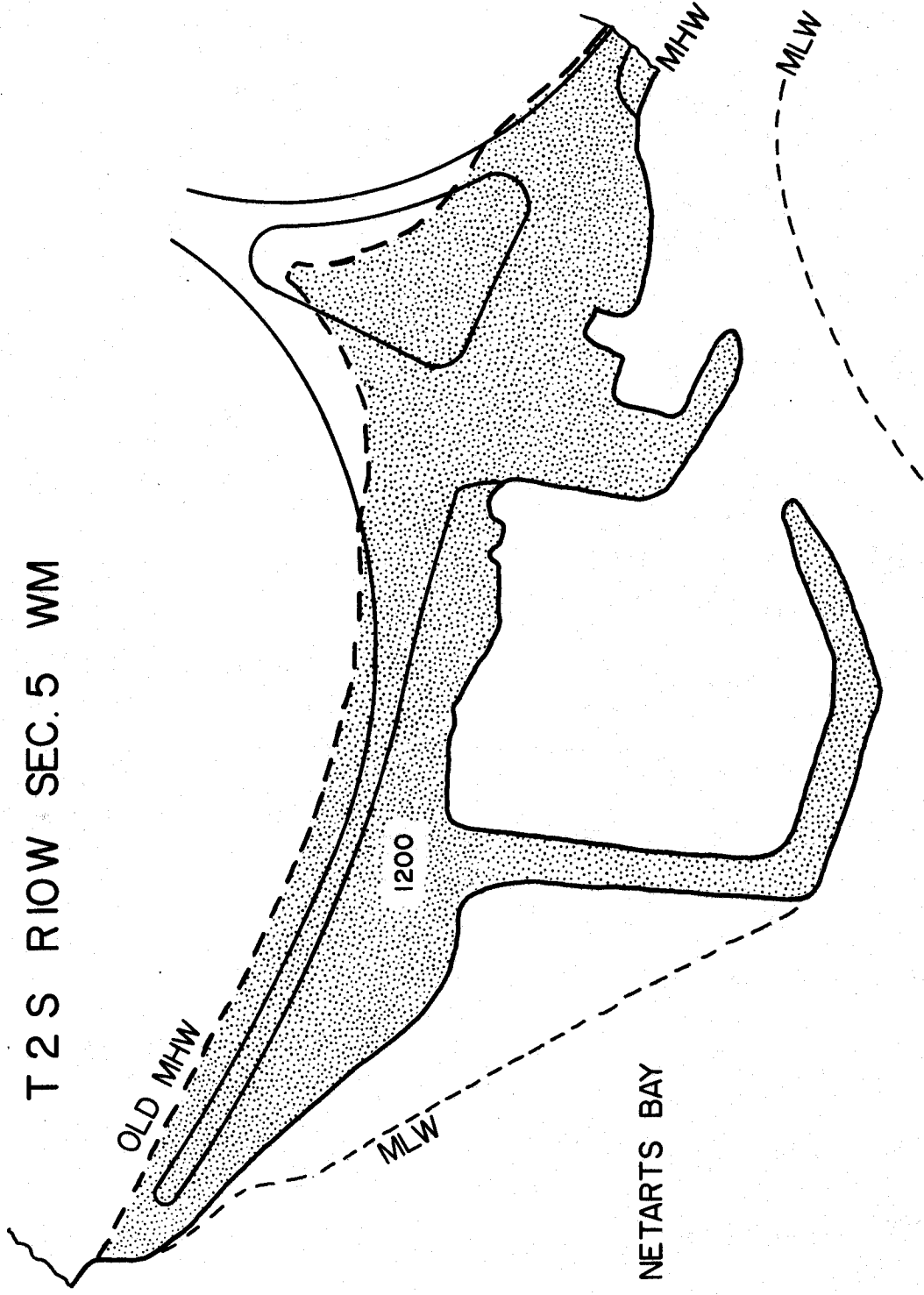
Tide Data

<u>Stage</u>	<u>Netarts</u>	
	<u>M.L.L.W.</u>	<u>M.S.L.</u>
M.H.W.	+6.8	+3.41
M.L.W.	+1.1	-2.29
M.L.L.W.	0.0	-3.39

Port District: Port of Tillamook Bay

- 1/ Oregon Division of State Lands
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T 2 S RIOW SEC. 5 WM



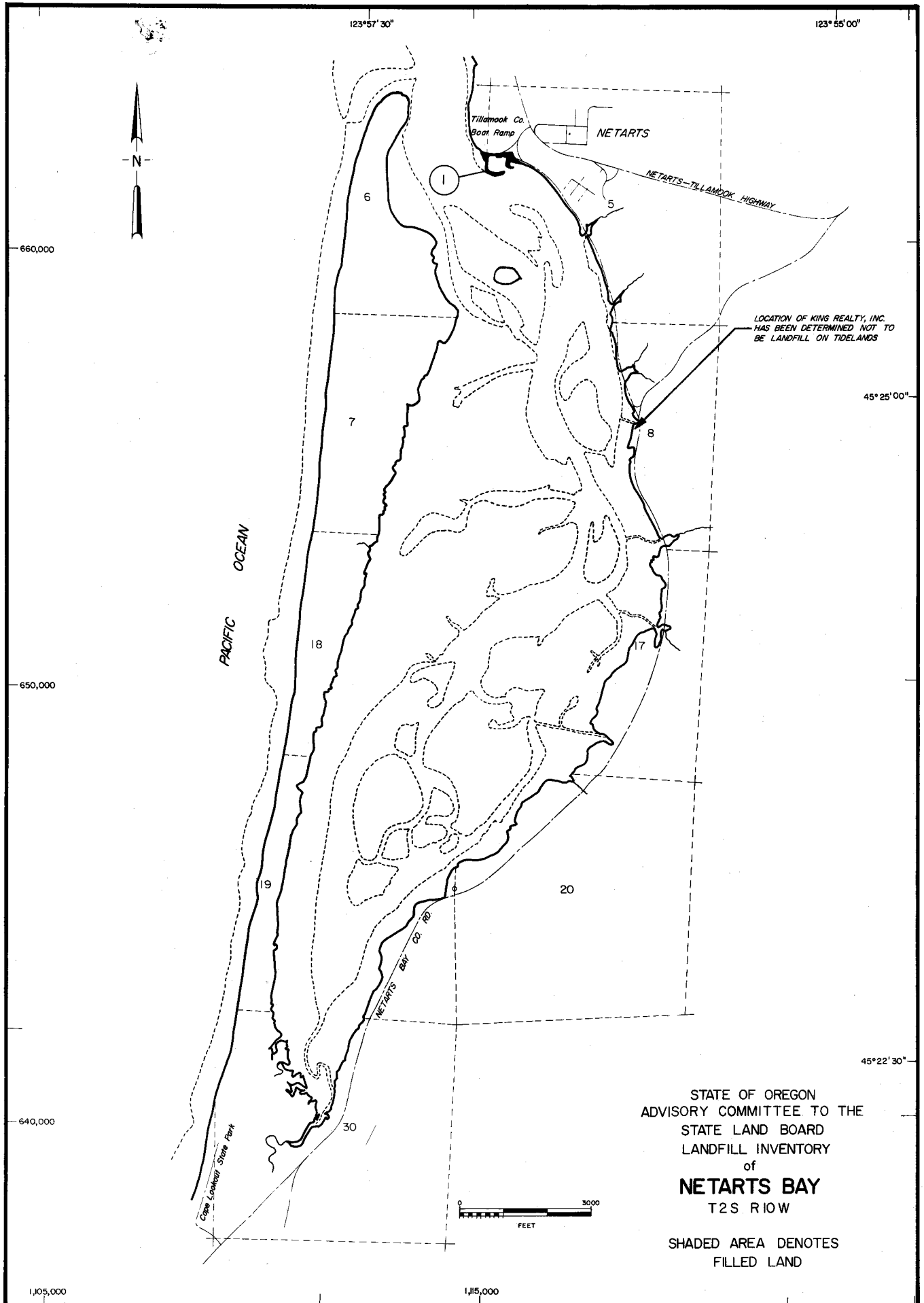
TOTAL FILLED AREA: 5.0 Ac.

Tax Lot 1-1200

Owner - Tillamook County

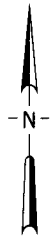
Construction Dates - 7/57 to 12/59

Constructed for use as a boat launch and public parking area.



123°57'30"

123°55'00"



660,000

650,000

640,000

1,105,000

1,115,000

45°25'00"

45°22'30"

Tillamook Co.  
Boat Ramp

NETARTS

NETARTS-TILLAMOOK HIGHWAY

LOCATION OF KING REALTY, INC.  
HAS BEEN DETERMINED NOT TO  
BE LANDFILL ON TIDELANDS

PACIFIC OCEAN

6

7

18

19

30

5

8

20

NETARTS BAY CO. RD.

Cape Lookout Stone Park



STATE OF OREGON  
ADVISORY COMMITTEE TO THE  
STATE LAND BOARD  
LANDFILL INVENTORY  
of  
**NETARTS BAY**  
T2S R10W

SHADED AREA DENOTES  
FILLED LAND