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# Paul Allen

From: Paul J Allen MD  
Sent: Wednesday, June 20, 2007 5:08 PM  
To: Lewis, Evan R NWS  
Cc: Kendall, David R NWS; Arden, Hiram T NWS  
Subject: Comments on the DRAFT ENVIRONMENTAL ASSESSMENT Olympia Harbor Maintenance Dredging and Minor Widening Federal Navigation Channel

Comments on the DRAFT ENVIRONMENTAL ASSESSMENT  
Olympia Harbor Maintenance Dredging and Minor Widening Federal Navigation Channel

To: "Evan R. Lewis" <Evan.R.Lewis@usace.army.mil>  
Environmental Resources Section  
U.S. Army Corps of Engineers  
P.O. Box 3755  
Seattle, Washington 98124-3755  
evan.r.lewis@usace.army.mil  
(206) 764-6922

CC: "Kendall, David R NWS"  
"Hiram T. Arden"

I oppose the proposed dredging project with minor widening at this time.

This area is contaminated with dioxin, a known cancer causing chemical.

The Washington State Dept. of Health and the EPA state that there is no acceptable human intake level for dioxin.

A small amount of a cancer causing chemical creates a small increased risk of cancer in the local population. A larger dose of dioxin creates a larger risk of cancer.

I recommend waiting until the Washington State Department of Ecology completes its study on the nature and extent of dioxin contamination in Budd Inlet/South Puget Sound before any dredging is carried out.

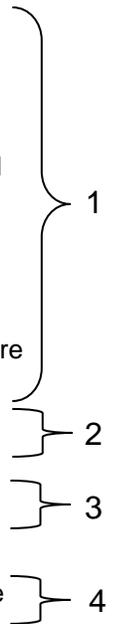
How much dioxin will be resuspended in the water column with the proposed dredging project?

What is the increased risk of cancer and other illnesses related to this increased risk of dioxin ingestion/absorption from this dredging project.

Until these basic questions can be answered from a human health perspective, no dredging should take place in this area.

Sincerely,

Paul J Allen MD  
2938 Limited Ln NW  
Suite B  
Olympia WA 98502



## Corps Responses to Comments by Paul J. Allen

1. The proposed dredging area has been tested by the Puget Sound Dredged Material Management Program (DMMP) and the sediments to be dredged from the Federal channel have been determined to be suitable for open water disposal at the Anderson Island non-dispersive disposal site, or at sites providing for beneficial uses of dredged material. The DMMP consists of representatives of both Federal and State agencies, including the EPA and the Corps, as well as the Washington Departments of Ecology and Natural Resources. On the other hand, the Department of Ecology “nature and extent” sampling covered areas outside of the areas tested previously by the DMMP agencies, and thus outside of the footprint of proposed Federal channel dredging, and will not provide new information on contaminants that may be disturbed by the proposed dredging. The proposed dredging is based on comprehensive sediment testing and no additional testing is necessary prior to accomplishing the work.
2. The proposed Corps dredging will remove sediments with very low levels of dioxin from the Federal channel. These sediments are not expected to increase dioxin levels in the water column during either the dredging or the disposal at the Anderson Island site. The initially proposed placement of material at a location within Budd Inlet for beneficial use is no longer part of the project, so any issues regarding placement of clean dredged material on top of contaminated surface sediments are moot.
3. The proposed work will result in contaminant levels at or below the current levels in sediments at both the dredge and disposal locations. Additionally, sediments that will be dredged and disposed do not contain contaminants in concentrations above levels that would make the material unsuitable for open water disposal due to concerns about acute or chronic ecosystem or health impacts, including bioaccumulation. Thus, the Corps does not expect that the proposed work will increase risks of dioxin ingestion or absorption.
4. Evaluation of the best available information, including comprehensive testing of the material that would be dredged, has resulted in interagency consensus that the proposed work will not adversely affect human health.

# Black Hills Audubon Society

Evan R. Lewis  
Environmental Resources Section  
U.S. Army Corps of Engineers  
Seattle, Washington 98124-3755

June 20, 2007

SUBJECT: Draft Environmental Assessment (EA), Olympia Harbor  
Maintenance Dredging and Minor Widening, Federal Navigation Channel

Thank you for the opportunity to comment on the above proposed project. Our comments cover 3 aspects of the proposal: Process for Public Notification; Economic Viability; and Environmental Impacts.

## Process for Public Notification

Public notification has been insufficient for this proposal. There was one article in the Olympian that gave the original comment period deadline and a link to the Corps of Engineers (COE) web site, from which the EA could not be downloaded. Although the COE was informed of this, no one from COE corrected this with the Olympian. Therefore most of the public was wrongly informed of the comment deadline and were not given access to the material. In addition, COE was asked to post the updated information in the Olympian, The Seattle PI, and the Tacoma Tribune. There was no update posted by the Olympian or the other newspapers that serve the Olympia area. Given the inadequate public notice process, this proposal should be withdrawn and the process started anew with clear instructions to the public, including an executive summary of the key findings of the EA and an economic benefit analysis, as suggested below.

1

## Economic Viability

The Black Hills Audubon Society, represented by Donna Nickerson, participated in a DMMP meeting in Olympia, where the above proposal was discussed. In follow up email correspondence with COE, copied to EPA and other participants of the meeting, she asked what level of activity (i.e., number of ships per year; net revenue, etc.) a port must have in order to qualify for maintenance dredging. No answer was received.

2

There is little shipping activity at the Port of Olympia. The Port of Olympia loses money each year on its shipping business. A Weyerhaeuser spokesperson has recently stated (quoted in the Olympian) that their ships would not require dredging. The Capitol Lake Adaptive Management Project – a federal, state, local initiative – is considering restoring the Deschutes River Estuary. There is a likelihood that the outcome of this project may change the way sediment moves within lower Budd Inlet. Given the number of uncertainties, the proposal for maintenance dredging on the navigation channel appears an unwise use of federal tax dollars at this time. Surely there is a greater need for the funds elsewhere. For example, repair of the levee system damaged by Hurricane Katrina.

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The EA states that the proposed dredging would benefit the local economy but does not explain how. Certainly a comprehensive economic analysis is needed before we can understand how the local economy would benefit. Attached is a net benefit analysis conducted for the state of Delaware on a similar question of the economic benefits of a COE dredging proposal. The conclusion was that the state economy would not benefit. We ask that you justify the above proposal with a similar comprehensive analysis. } 5

Environmental Impacts

First, the dredging proposal is ill timed and will likely result in negative environmental consequences because of this timing. While it may be within the Corps' purview to proceed with the above dredging proposal independently of the Port's dredging project for which the protocols are yet to be established, it creates a greater risk of stirring up contaminants, about which we are still trying to learn about from the site characterization work of the Department of Ecology and the Environmental Protection Agency. } 6

Although the Corps will only dredge sediments that have been determined to be suitable for open water disposal by the DMMP, maintenance dredging has the risk of releasing contaminants by the amount of water that is moved (sediments are some 65% water) and by the changes in benthic contours. Clearly maintenance dredging should not occur until the Sediment Sampling and Analysis Plan study and site cleanup designation are complete. We must not let the timing of funds available for the COE dredging project (this fiscal year) be more important than public safety and environmental protection. }

Second, the section on Endangered Species Act requirements indicates that a Fish and Wildlife (F&W) checklist is lacking for both Chinook Salmon and Steelhead. The F&W checklists must first be completed and made available to the public in the EA. } 7

In sum, for the above reasons, the draft EA is incomplete and the suggested improvements would need to be made before it is ready for public review. } 8

Sincerely,

Sue Danver, Chair, and Donna Nickerson,  
on behalf of the Black Hills Audubon Society Conservation Committee.

CC: Other Committee Members and BHAS President  
Senator Patty Murray  
Senator Maria Cantwell  
Congressman Brian Baird

## Corps Responses to Comments by the Black Hills Audubon Society

1. The public notification procedures for the proposal have been consistent with the relevant regulations. To summarize the notification process specific to the Olympia Harbor draft EA, we posted the document on our website on May 11, 2007, with a comment period until June 11, 2007, as noted in the May 14, 2007, erratum to the Navigation Public Notice. To make doubly sure (due in part to a typographical error in the draft EA website address contained in the newspaper article noted by the commenter) that the public received appropriate notification that the draft EA was available for comment, on May 21, 2007, we issued an draft-EA-specific notice which provided for public comment on the draft EA up until June 20, 2007 (30 calendar days from May 21). Shortly after both notices, the prompt responses of stakeholders via e-mail to the Corps and other agencies indicated that the notification process provided fully effective opportunity for participation in the NEPA process for the Federal dredging project. At the inception of the initial and the extended notice periods, a Notice of Availability of the draft EA was distributed to an extensive mailing list of parties interested in proposed in-water projects in Pierce and Thurston counties. This mailing list is the same one used by the Seattle District Regulatory Branch to distribute public notices concerning proposed non-Corps work that requires an individual Department of the Army permit for work impacting the waters of the United States. All notices regarding the project, its public comment period, and the various extensions to that period were also sent to the media in the Olympia vicinity. The Corps' regulations for the implementation of NEPA (33 CFR 230.11) require that public notification of the availability of draft EAs evaluating maintenance dredging projects follow the procedures for Public Notices; these public dissemination procedures are found, in turn, at 33 CFR 337.1(c) and 325.3(d). The Corps' public notification efforts conformed to the requirements of these published procedures. Beyond providing them information, the Corps does not exercise control over media outlets in the way that information regarding public participation in NEPA processes is presented.
2. The Corps navigation mission requires it to provide timely and safe navigation conditions in federally authorized navigation projects. The proposed work is operations and maintenance of one such federal project. The Olympia Harbor navigation project was authorized by Congress in 1927 via the Rivers and Harbors Act of 21 January 1927, and was modified via several subsequent legislative enactments. The applicable portion of the channel was completed to its present dimensions in 1939. In the legislative enactment that authorized the subsequent deepening of the channel to 30 feet below mean lower low water, the Federal government assumed the obligation to perpetually maintain the dimensions of the navigation channel and associated features. Unless and until the navigation project is formally de-authorized by Congress, the Corps remains authorized to ensure those dimensions are maintained. Maintenance dredging was previously conducted in 1948, 1963, and 1973. Utilizing funding appropriated by Congress and allocated by the Chief of Engineers, the Corps proposes to again dredge in the winter of 2007-08 to restore the dimensions of the navigation project as they were originally established through legislation. The economic justification for dredging the Olympia Harbor Federal channel was prepared, initially evaluated by the Corps, and accepted by

Congress at the time of initial project authorization. The Corps is not obligated, under NEPA or any other statutory mandate, to revisit that cost/benefit assessment, or to revalidate the economic justification, when conducting maintenance dredging pursuant to the Rivers and Harbors Act's operation and maintenance requirements. Given the size of ships that currently utilize the channel and current standards for channel dimensions, the maintenance and minor widening is necessary for the project to meet established standards for vessel safety.

3. The potential future restoration of the Deschutes Estuary is considered in the cumulative impacts section of the EA. The Corps agrees that restoration options that include removal of the Capitol Lake dam would alter sediment dynamics in and adjacent to the federal navigation project. The possibility of future changes in sediment transport processes does not alter the need to presently conduct dredging in order to restore the originally prescribed channel parameters for Olympia Harbor.
4. Congress has authorized and funded the Corps to conduct the proposed work. Maintenance dredging of Olympia Harbor was included as a specific line item in the President's fiscal year 2007 budget, and Congress appropriated operation and maintenance dredging funding in light of that request. Initiation of the work is contingent on complying with various regulations that apply to the proposal, again based on evaluation of the project-specific issues.
5. As discussed previously, the proposed work is an operations and maintenance project that is necessary to meet the authorized purposes of the federal navigation project. Unlike the referenced project in Delaware, the Olympia proposal will not improve the channel beyond the authorized limits. Pursuant to Corps regulations and procedures for operations and maintenance dredging, detailed economic analysis is not necessary. Likewise, NEPA does not require economic justification of such a project.
6. The proposed dredging area has been tested by the Puget Sound Dredged Material Management Program and the sediments to be dredged from the Federal channel have been determined to be suitable for open water disposal at the Anderson Island disposal site, or at sites providing for beneficial uses of dredged material. The DMMP consists of representatives of both Federal and State agencies, including the EPA and the Corps, as well as the Washington Departments of Ecology and Natural Resources. On the other hand, the Department of Ecology "nature and extent" sampling covered areas outside of the areas tested previously by the DMMP agencies, and thus outside of the footprint of proposed Federal channel dredging, and will not provide new information on contaminants that may be disturbed by the proposed dredging. The Corps expects that the proposed dredging of the clean sediments will not stir up contaminants since the sediments to be dredged have been determined to be suitable for unconfined aquatic disposal. Additionally, dredging the channel bend prior to remediation of other areas of Budd Inlet will not preclude potential clean-up options in the area, conducted by other parties such as the Port and the State.
7. Pursuant to Section 7 of the Endangered Species Act, we consulted with the NMFS and U.S. Fish and Wildlife Service and these Services concurred that the Federal maintenance

dredging project was not likely to adversely affect listed species or their critical habitat. Thus, the project fully complies with ESA requirements. Effects on Chinook salmon and steelhead have been addressed in the NMFS consultation for the proposed dredging and for the PSDDA program.

8. The draft EA provided the requisite elements to meet the letter and spirit of NEPA requirements. The final EA has been revised in response to public comments, again consistent with NEPA.

# Harry Branch

Sent: Wednesday, June 20, 2007 8:09 AM  
To: Arden, Hiram T NWS; Lewis, Evan R NWS  
Subject: Olympia Harbor Comments

Comments on the Proposed Dredging of Olympia Harbor

Submitted to the Army Corps of Engineers on June 20, 2007

Dear Army Corps of Engineers,

The proposed maintenance dredging of Olympia Harbor for shipping should not be confused with dredging to remediate contamination. Remediation should begin with an assessment of contamination, then complete a targeted assessment of hot spots, then a search for sources. Actual work would most sensibly happen in reverse, beginning with the sources.

We barely understand the hydrogeology of the Port Peninsula. We do know the area is a discharge zone for artesian aquifers and that the tide flows underground. The peninsula is a logical source of contamination of the shipping berths. If so this contamination will continue after the berths are dredged.

Dredging in shipping berths and channels is not necessarily going to reduce the bioavailability of dioxin and should not be considered a "cleanup". Not long ago a similar plan was undertaken in Sinclair Inlet. The Area Weighted Average (AWA) for PCBs increased by 3 mg/kg, exceeding the Remedial Action Objective by 7 mg/kg. The experiment can only be described as a dramatic failure. This experience was not unique.

Dredging the berths, turning basin and inner and outer shipping channels is described as maintenance dredging. But there is no indication that any were ever dredged to the length, breadth and depth they will be dredged. There have been no core profiles indicating that most of the material to be dredged will be anything other than natural sediments.

The Port of Olympia lies at the confluence of three streams and the Deschutes River. In response to the Port's last Environmental Impact Statement (EIS) done in 1994, the Washington Department of Fish and Wildlife (WDFW) states, "Marine tidelands and shorelines owned and administered by the Port of Olympia contain some of the most critical fish habitat areas in Budd Inlet." Juvenile surf smelt (*Hypomesus pretiosus*) and Pacific sandlance (*Ammodytes hexapterus*) spawn on the upper beach. Pacific herring (*Clupea pallas*) spawn and rear in adjacent waters. There are rock sole spawning beds, juvenile rockfish and lingcod settlement areas, shellfish beds, marine vegetation beds and Dungeness crab settlement, feeding, rearing and molting areas.

The ultimate goal of dredging 500,000 cubic yards of sediment would dramatically impact physical, chemical and biological parameters. Dredging would alter the structure of the estuary and its ability to maintain a healthy mix of phytoplankton and herbivores or remediate contamination, both of which happen best in shallow waters in the presence of abundant sunlight and oxygen. It would impact circulation of algae and herbivores and reduce the availability of atmospheric oxygen and sunlight, all of which increase the risk of eutrophication. It's the structure of estuaries that determines their viability.

Then there's the disturbing dioxin question. There's a prevailing mythology that dioxin is everywhere and not a concern. The chemical contamination of Budd Inlet actually poses an unusually serious problem. According to the Agency for Toxic Substance and Disease Registry, levels of dioxins in "uncontaminated areas" are generally "non-detectable".

Uptake of dioxin into the body through the skin is at least equal to that of ingestion. Dermal exposure is even more likely to cause squamous cell cancer (systemic and not confined to the spot of contact) at a

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lower dose than oral absorption. When a living organism comes in contact with a dioxin in the marine environment it will tend to adhere to the organism. Most people are exposed through food but that doesn't mean the risk to an individual isn't greater through dermal exposure. We need to do everything we can to reduce the bioavailability of dioxin by limiting human exposure and the entrance of dioxins into the food web.

Dioxins have been linked to nerve and endocrine damage, reproductive problems and birth defects. They've been linked to Diabetes, Parkinson's and cancers of the breast and brain. Mortality from these diseases has increased by an average of at least 1% per year over the past 30 years. Conversely, male fertility has been dropping at the same rate most logically due to hormone mimicking chemicals such as dioxin.

Dioxins aren't the only chemicals that cause us damage but they are among the worst. According to the EPA the effects of dioxin and related compounds have been observed at levels to which segments of the general population are exposed. There is no threshold, no level at which exposure is not a risk.

The next phase of the Budd Inlet Sampling Plan should move landward because that's where the sources are. We weren't generally making dioxin in the bay.

Landward, especially on public beaches, is also where the public is placed at greatest risk.

It should be apparent in looking at old photos that Olympia had a history comparable to that of places like the Thea Foss Waterway. The discovery of dioxin should have come as no surprise and it should not be taken lightly. We need to adhere to proven methods and not dredge prior to completion of a characterization of sediment contamination.

Ironically, conventional and container barges are in many ways more suited for shipping from Olympia Harbor. Most promising of all, LASH (Lighter Aboard SHip) barges are 385 ton barges that are loaded in local ports such as Olympia and pushed to enormous carriers lying offshore or in deepwater ports. The economic advantages of a port such as Olympia are numerous. There's no ship parked at the dock with the meter running. The ship is taken out of the combined ship and tug trip to Olympia saving money. The carrier ship can be as big as a super tanker saving more money through the economics of scale. There's no need to dredge because barges only draw eight feet. Barges can be handled by low emission hybrid tugs. And each LASH barge has a sealed bill of lading so Olympia can settle into high paying cargo.

In the currently proposed scenario logs are loaded onto barges in Canada and shipped to Olympia where they're offloaded and reloaded onto ships escorted by tugs. In the LASH scenario, barges are loaded in Canada and pushed to a mother ship lying at anchor off Port Angeles and loaded directly aboard for shipment overseas.

Evolving barge technologies have so many economic and environmental advantages for inland harbors like Olympia they must be the way of the future. Dredging Budd Inlet to accommodate larger ships will negatively impact the health of the bay. It's an endeavor that will probably be obsolete the day it's complete. Please reconsider the plan to do so.

Harry Branch  
239 Cushing St NW  
Olympia WA 98502

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cont.

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### Corps Responses to Comments by Harry Branch

1. The Corps acknowledges that the proposed Federal project is not remediation. As stated in the final EA, the project purpose is not to conduct a cleanup, but to restore the Federal

navigation channel to the initially authorized dimensions, and to provide minor widening at a channel bend for navigation safety purposes. The proposed dredging would not remove sediments with contamination levels high enough to require remediation or clean-up. The Corps proposes to dredge only the Federal channel, and would not dredge the Port berths area.

2. The proposed dredging would occur only at the channel bend of the entrance channel and consists of both removal of sediment accumulated since the last dredging of this area in 1973, as well as minor widening. The minor widening was generally authorized by the initial legislative enactment for the project, which gave discretion to the Corps to provide “suitable additional width at the bend” of the channel, and by 33 USC 562, which provides that specified channel dimensions are to be treated as permitting “increase at the entrances, bends, and turning places as may be necessary to allow of the free movement of boats.” The minor widening effort was approved as an appropriate operations and maintenance activity by local, regional, and national Corps offices. The Corps acknowledges that the areas of minor widening, required for reasons of navigational safety as detailed in the final EA, would require dredging of native sediments. The balance of the Federal dredging effort would be conducted in the precise footprint of initial dredging that was completed in 1939 and most recently maintained in 1973, and will result in a channel consisting of dimensions identical to those achieved on those prior occasions.
3. The final EA provides the Corps assessment of the potential environmental impacts of the proposed dredging and disposal of 101,000 cubic yards of clean material from the channel bend. This assessment includes an evaluation of the expected impacts of the proposed work on the ecology of Budd Inlet. Based on this evaluation, the Corps does not expect the proposed work to result in significant adverse environmental effects.
4. The proposed dredging area has been tested by the Puget Sound Dredged Material Management Program (DMMP) and sediments have been determined to be suitable for open water disposal at the Anderson Island disposal site or beneficial uses. As noted in the response to comment 1, the proposed dredging is not remediation because the sediments are suitable for unconfined aquatic disposal. The Department of Ecology “nature and extent” sampling covered areas outside of the areas tested previously by the DMMP agencies, and thus outside the footprint of the proposed Federal channel maintenance dredging, and will not provide new information on contaminants that may be disturbed by the proposed dredging. The proposed Corps dredging will remove sediments with very low levels of dioxin and thus is not expected to increase dioxin levels in the water column during either the dredging or disposal at the Anderson Island site. No sediments with contamination levels above DMMP thresholds for open-water disposal would be disturbed.
5. The proposed project is intended to maintain an existing navigation project, initially evaluated and authorized in 1927, to provide authorized channel depths and widths to provide reliable, efficient, and safe passage conditions for ships entering and leaving the Port of Olympia. Because the project will maintain depths and other parameters of a navigation channel as initially dredged and subsequently maintained, the maintenance

dredging project is neither intended nor expected to accommodate ships of greater draft than was contemplated at the time of initial legislative authorization of the Olympia Harbor Federal navigation project, nor to accommodate ships of larger draft and beam dimensions than those that presently utilize the waterway. Likewise, the maintenance dredging project is not intended to facilitate the passage of a greater volume of ship traffic than currently transits Olympia Harbor, and is not expected to generate any increase in traffic, as compared with the No Action alternative. Evaluation of alternative methods to ship cargo to and from the Port is outside of the scope of the project.

## Peggy Bruton

Sent: Wednesday, June 20, 2007 5:23 PM  
To: Lewis, Evan R NWS  
Cc: Kendall, David R NWS; Arden, Hiram T NWS  
Subject: DEIS, Olympia (WA) Harbor Dredging

I would like to place on the record my objection to the proposal for "maintenance dredging" in the Port of Olympia, because I believe it is likely to stir up toxic materials from bottom sediments.

I live directly on the shore of the Budd Inlet in Olympia, and am concerned about the dispersal of this toxic material, in particular, dioxins.

Thank you for considering my comments.

Peggy Bruton  
1607 East Bay Drive  
Olympia WA 98506

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### Corps Responses to Comments by Peggy Bruton

1. The proposed Corps dredging will remove sediments with very low levels of dioxin that are not expected to increase dioxin levels in the water column during either the dredging or disposal at the Anderson Island site. The initially proposed placement of material at a location within Budd Inlet for beneficial use is no longer part of the project, so any issues regarding placement of clean dredged material on top of contaminated surface sediments is moot. Levels of dioxin in areas adjacent to the dredging and disposal sites are not expected to change as a result of the proposed work.

## Jerry Lee Dierker, Jr. and Arthur West

June 16, 2007

TO: 1) Hiram T. Arden, U.S. Army Corps of Engineers Navigation Section's Project Manager for the Seattle District's 2007 Maintenance Dredging, Widening and Dredged Material Disposal Project on Olympia Harbor Federal Navigation Project, Washington, Reference Number CENWS-OD-TS-NS-23 being conducted in Budd Inlet of Olympia, Washington,

P.O Box 37755, Seattle WA 98134-3755, E-mail Hiram.T.Ardens@usace.army.mil;

2) Port of Olympia's Executive Director Ed Galligan, Engineering Director Jeff Lincoln, Senior Manager of Environmental Planning Andrea Fontenot, and Facilities Project Manager

Rod Hudson; and

3) Washington State Department of Ecology's (DOE) Rebecca Lawson, Site Manager for the Budd Inlet Sampling and Budd Inlet West Bay Berths 2 and 3 Interim Action toxic waste cleanup projects.

RE Comment on: 1) Corps' Seattle District's 2007 Maintenance Dredging, Widening and Dredged Material Disposal Project, Olympia Harbor Federal Navigation Project, being conducted in Budd Inlet of Olympia, Washington; 2) the Port of Olympia's Maintenance Dredging project; 3) the Port of Olympia's and the Washington State Department of Ecology's (DOE) joint Budd Inlet's West Bay Berths 2 and 3 Interim Action toxic waste cleanup project and related current DOE Budd Inlet Sampling project; and 4) on other physically and/or functionally related and/or connected actions, et seq., et al.

I, Jerry Dierker, of 1720 Bigelow St. NE, Olympia, WA 98502, 943-7470, Arthur West, 120 State Ave. N.E. #1497, Olympia, WA 98501 make the following Comment on the above noted integral and related projects, and on other physically and/or functionally related and/or connected actions, et seq., et al.

Pursuant to SEPA's WAC 197-11-635 and other relevant law, we incorporate by reference into this pleading:

1) Jerry Dierker's December 23, 2005 Administrative Appeal, Comment and Request for Withdrawal of the Mitigated Determination of Non-Significance (MDNS) for SEPA File No. 05-2 and all Port, U.S. Army Corps' of Engineers and other agencies environmental documents concerning the related and connected Berth Dredging and Shipping Channel Dredging projects noted in the May 3, 2007 Corps Public Notice, which are required by the Port's Lease with Weyerhaeuser for Weyerhaeuser's ships and barges of Weyerhaeuser's Westwood Shipping Line or other "chartered ships" and barges for import/export shipping operations for this Weyerhaeuser log, railroad tie and cargo import/export yard project;

- 2) the new information concerning dioxin contamination and toxic waste cleanup of Budd Inlet of Puget Sound from the Department of Ecology, the Department of Natural Resources, the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and other agencies with jurisdiction who are members of the Dredged Materials Management Program (DMMP);
- 3) Jerry Dierker's, Arthur West's, and others written pleadings and/or oral testimony given to the Port and/or the City of Olympia Hearings Examiner in the Cargo Yard paving case, the Cargo Yard Electrical conduit case, and the Weyerhaeuser Cargo Yard and Office case which is City of Olympia Hearings Examiner Case No. 05-2839;
- 4) the relevant portions of the Dec. 19, 2006 City of Olympia's Hearings Examiner's Decision on the Weyerhaeuser project in City of Olympia Case No. 05-2839;
- 5) Jerry Dierker's and Arthur West's relevant administrative and Superior Court pleadings and exhibits concerning the Port's SEPA Policy's administrative appeal provisions and its use by the Port in the administrative appeals of Port case numbers SEPA 06-2 and SEPA 06-3, which are the only two times that the Port's SEPA appeal process has been used by the Port;
- 6) Jerry Dierker's relevant administrative and Federal District Court and Ninth Circuit Court of Appeals Court pleadings and exhibits concerning the Port's Cascade Pole industrial toxic waste site which most of this Port/Weyerhaeuser project is being constructed on;
- 7) Jerry Dierker's, Arthur West's, and other persons' or organizations' various relevant supporting written and oral comments, requests for reconsideration and administrative appeal pleadings and/or testimony given previously to the Port, the City of Olympia, the various agencies with jurisdiction, the various Court, etc., on the SEPA 07-2 case, the City of Olympia's Hearings Examiner's Decision on the Weyerhaeuser project in City of Olympia Case No. 05-2839, the berth and shipping channel dredging, the Marine Terminal Rail Improvement projects, the sampling and cleanup of toxic contamination in Budd Inlet and berth and shipping channel areas, and/or other integral, related and/or connected matters as I and others have previously noted to the Port during the proceedings of the SEPA 07-2 case;
- 8) Arthur West's and Jerry Lee Dierker Jr.'s May 24, 2007 Second Addendum to their Request for Appeal/Reconsideration of the April 16, 2007 MDNS for Port Marine Terminal and Weyerhaeuser Log and Cargo Import Export Yard Proposal No. SEPA 07-2 submitted to the Port's Executive Director Ed Galligan and the Port's Andrea Fontenot;
- 9) Jerry Dierker's, Arthur West's and other persons' or organizations' various relevant supporting written and oral comments, requests for reconsideration and administrative appeal pleadings, statements to Port officials, and/or testimony given to the Port on our Request for Withdrawal and my prior Request for Reconsideration of the Port's SEPA MDNS issued for the related joint Port's Marine Terminal Improvement projects and the Weyerhaeuser Log and Cargo Import/Export facility project under Port Case No. SEPA File No. 07-2, such as those statements made to the Port's Ed Galligan during the the June 4, 2007 Reconsideration Meeting;
- 10) Jerry Dierker's June 6, 2007 Comment and Request for Withdrawal of the Port of Olympia's SEPA Mitigated Determination of Non-Significance (MDNS) issued for Port Case No. SEPA File No. 07-3, the Port of Olympia's Marine Terminal Rail Improvement project proposal being

built on the Port's Marine Terminal Cargo Yard area in the middle of Budd Inlet of Puget Sound of the Pacific Ocean, and Jerry Dierker's, Arthur West's, Patrisa DeFrancesca, and/or others' Request for Reconsideration of the Port of Olympia's SEPA MDNS on the SEPA 07-3 project, et al;

11) Jerry Dierker's, Arthur West's, and other Requestors' June 4, 2007 oral pleadings at the Port of Olympia's Reconsideration Meeting;

12) Jerry Dierker's, Arthur West's, Patrisa DeFrancesca, Jim Lazar, Stanley Stahl, Olympians for Public Accountability (OPA), Marissa Cacciari-Roy, Harry Branch, Dorothy Jan Mykland, Walter R. Jorgensen, Anne Buck, Suzanne Nott, and other persons or organizations various relevant supporting written and oral comments, requests for reconsideration and administrative appeal pleadings, statements to Port officials, and/or testimony given to the Port on the Port's related and connected Port Marine Terminal Improvement Project SEPA 07-2 and Port Marine Terminal Rail Improvement Project SEPA 07-3;

13) the audio-taped pleadings of the two sets of Requestors during the June 4, 2007 Reconsideration Meetings;

14) the videotaped information on this project and related projects given by the Staff and officials of the Department of Ecology, Thurston County, City of Olympia, and Port of Olympia at the Olympia City Council and the Port of Olympia Commissioners Joint Meeting of June 11, 2007;

15) any and all other information on the integral, related and/or connected Port Peninsular and Port Marine Terminal projects like the SEPA 07-1 Swantown Boatworks Expansion project, the East Bay Redevelopment Project that contains the new Olympia City Hall project Site and New Childrens Museum project site, and other integral, related and interconnected uplands, shorelands, and aquatic lands projects conducted to improve, maintain or support the Port's facilities and their use of the Port's Marine Terminal in Olympia Harbor of Budd Inlet of Puget Sound;

16) Jerry Dierker's, Arthur West's, and/or others' oral and written comments, pleadings, and claims made to the Corps, DOE's and other Federal and State agencies' Dredged Materials Management Program (DMMP) at their meetings and in writing over the past 2 years on this project;

17) any and all other related relevant evidence of official and judicial notice contained within local and regional newspaper articles, opinions, or reports on the chemical testing and cleanup of toxic waste in Budd Inlet and Puget Sound and on protected, threatened and/or endangered species in Budd Inlet and Puget Sound;

18) any and all other related relevant evidence of official and judicial notice, information, newspaper articles, legislative or other governmental actions, opinions, or reports, comments, requests for reconsideration, administrative appeals, testimony, evidence, exhibits, opposition, etc., concerning the State of Washington's so-called "Puget Sound Initiative" for the cleanup of Puget Sound;

19) Arthur West's prior E-mailed comments to the Corps on this Corps' dredging project, and

Arthur West's pleadings in the current Tacoma Washington U.S. District Case against the Corps and others; and

20) any and all other related relevant evidence of official and judicial notice, information, newspaper articles, opinions, or reports, comments, requests for reconsideration, administrative appeals, testimony, evidence, exhibits, opposition, etc., to this project and other related, connected or integral projects in this area, et seq., et al., from myself, Arthur West, Ms. Patrisa DeFrancesca, and/or other sources. (Id.; supra, see the agency records on this matter; see audio tape of pleadings of the two sets of Requestors during the June 4, 2007 Reconsideration Meetings; see videotapes of the City of Olympia City Council and the Port of Olympia Commissioners Joint Meeting of June 11, 2007, and the Port of Olympia Commissioners Meeting of June 11, 2007 and June 18, 2007, et seq.; and see videotapes and "streaming video" from the City of Olympia City Council Meetings of June 12, 2007, et seq.).

While we will provide the Corps with an "electronic" Emailed attachment with copies of at least part of our incorporated pleadings on this matter and these related matters, the Corps must also gain discovery of the rest of these incorporated pleadings from their U.S. Attorney, the Court's, the Port, the DMMP program, the Washington State Department of Ecology, and other agencies and/or places such information is maintained.

Besides the above noted incorporated reasons, arguments, issues, and claims that this proposal is improper that were previously noted in Jerry Dierker's, Arthur West's, Ms. Patrisa DeFrancesca's and others' oral, written and/or incorporated pleadings and exhibits, et al, on this and related plans, projects or proposal, we note the following problems with this project and it's review.

**Due to changes in circumstances related to this project over the last year and a half, the Corps' May 2007 Draft Environmental Assessment for this project, the Corps' November 2005 Biological Evaluation, and the U.S. Fish and Wildlife Services and National Marine Fisheries Services' (NMFS) May 15, 2006 ESA "Concurrence letter" will all have to be changed and updated before the Corps and the public's consideration of the impacts of this project can begin.**

Due to certain changes in circumstances occurring over the last year and a half in certain related and connected Port Marine Terminal projects and Budd Inlet Cleanup projects, and due to the recent "listing" under the ESA of new species in this area of Puget Sound that were not previously listed and due to the recent changes of the current ESA status of certain species in this area of Puget Sound, the Corps' May 2007 Draft Environmental Assessment for this project, the Corps' November 2005 Biological Evaluation, and the U.S. Fish and Wildlife Services and National Marine Fisheries Services' (NMFS) May 15, 2006 ESA "Concurrence letter" will all have to be changed and updated before the Corps and the public's consideration of the impacts of this project can begin, as follows.

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**A Joint NEPA/SEPA environmental review and determination is required for this Corps project and all of its related and connected projects.**

As part of NEPA's requirements to coordinate with state and local agencies on environmental review of certain projects, and comply with NEPA's provisions on cumulative impacts and connected actions, this Corps dredging project's environmental review must also comply with the provisions of Washington State Environmental Policy Act (SEPA) to make a joint NEPA/SEPA environmental review and determination of this project and all of the other related and connected projects in this Port area noted above to review the cumulative impacts of all of these connected actions.

A Joint NEPA/SEPA environmental review and determination is required for this Corps project, related Port Berth 2 and 3 dredging project, the DOE toxic waste cleanup project and changes to adjacent Port Marine Terminal shipping facilities, "ship-to rail" cargo facilities, cargo yard and cargo handling facilities projects, and other projects in this Port area noted above, that are related, connected and integral to the Corps Port Marine Terminal shipping channel and berth dredging and toxic waste cleanup project.

However, compliance with SEPA is erroneously **not** listed in Section 8 Environmental Compliance of the Corps' NEPA Draft EA here.

Further, there have been a number of changes to adjacent projects to improve Port Marine Terminal shipping facilities, "ship-to rail" cargo facilities, cargo yard and cargo handling facilities, and other proposed and planned construction or toxic waste cleanup projects which are related, connected and integral to the Corps Port Marine Terminal shipping channel and berth dredging and toxic waste cleanup project, and the cumulative impacts of all of these projects must be considered at the same time in one joint NEPA/SEPA environmental review and determination, **not in numerous "piecemealed" NEPA and SEPA environmental reviews and determinations.** (See my "piecemealing" pleadings within my December 2005 Comment and Appeal on the Berth Dredging SEPA 05-2, my recent Comment, Request for Reconsideration, and Appeal of the Port's SEPA 07-2 Port Marine Terminal Improvement Project, and my recent Comment on the Port's SEPA 07-3 Port Marine Terminal Rail Improvement Project; and see my recent Comments on DOE's Budd Inlet Sampling Program and DOE's Hardel Plywood Company's Interim Cleanup Action).

This "piecemealing" of these related, connected and integral projects has been done so that these agencies do not have to require the "larger" project to cleanup, maintain and improve the Port Marine Terminal shipping and cargo handling facilities a full NEPA/SEPA EIS style of environmental review, the Port's continuing "piecemealing" of the impacts of the logging and shipping operations which will lead from the Port's improvements of Marine Terminal facilities and leading from Weyerhaeuser log and cargo import/export yard move to Olympia from Tacoma, etc.

Clearly, this NEPA review of this Corps dredging project cannot be "piecemealed" from the these other projects and their required NEPA and/or SEPA reviews.

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## ESA listing changes

Evidence of official notice shows that the Corps' May 2007 EA on this project does not adequately assess impacts to "threatened" and "endangered" species.

While the Corps May 2007 EA did refer to the listing under the Endangered Species Act (ESA) of the Puget Sound Southern Resident Orca as an "Endangered Species" in November 2006, this evidence of official notice shows that the Corps' November 2005 Biological Evaluation (BE), and the U.S. Fish and Wildlife Services and National Marine Fisheries Services' (NMFS) May 15, 2006 ESA "Concurrence letter" did not consider this listing of the Puget Sound Southern Resident Orca as an "endangered" species under the Endangered Species Act (ESA).

New evidence of official notice also shows that on May 6, 2007 U.S. Government's National Oceanic and Atmospheric Administrations (NOAA) National Marine Fisheries Service (NMFS) listed the Puget Sound Steelhead as "threatened" under the Endangered Species Act (ESA). (See May 7, 2007 copyrighted article of the Associated Press titled Puget Sound Steelhead Get Protection under Endangered Species Act".

However, the Puget Sound Steelhead are **not** listed as "threatened" under the ESA in the Corps's May 3, 2007 Public Notice, the Corps's May 2007 Environmental Assessment (EA), the Corps' November 2005 Biological Evaluation (BE), or the U.S. Fish and Wildlife Services and National Marine Fisheries Services' (NMFS) May 15, 2006 ESA "Concurrence letter", nor listed as "threatened" under the ESA in environmental review documents for the related and connected Berth 2 and 3 Interim Action, Budd Inlet Sampling project, and Hardel Plywood Interim Cleanup Action of the Corp, the Port, and/or DOE, nor listed in the Port's SEPA 07-2 or SEPA 07-3 Environmental Checklists for those related projects. (Id.).

New evidence of official notice on a June 13, 2007 U.S. District Court ESA ruling on the Federal Government's counting of "hatchery fish" during consideration of the number of certain "wild" salmonids under the ESA, will impact this project and its related and connected projects noted above.

On June 13, 2007 U.S. District Court made rulings in 2 related cases that changes or will lead to changes of the Endangered Species Act (ESA) classification of Puget Sound Chinook Salmon and others from threatened to endangered, due to what the Federal Court found was the federal government's improper counting of hatchery fish to support the claim that the wild salmon were only threatened and were not endangered. (See June 14, 2007 The Olympia newspaper article titled "Judge rejects hatchery fish in counting salmon -- Ruling could change Endangered Species Act classification", by Gene Johnson of The Associated Press, on page A-2).

A review of the Corps EA, the Corps' May 2007 EA, the Corps' November 2005 Biological Evaluation (BE), and the U.S. Fish and Wildlife Services and National Marine Fisheries Services' (NMFS) May 15, 2006 ESA "Concurrence letter" do not and cannot have considered the changes which will now occur to the Puget Sound Chinook Salmon and other salmon species ESA "threatened" classifications due to a recent Federal Court decision, to not

allow Federal agencies to count “hatchery fish” when considering whether “wild” salmon are a “threatened” or “endangered” under the ESA, which may also affect the recent “threatened” classification of the Puget Sound Steelhead, since the Federal agencies ESA consideration of the impacts to Puget Sound’s “wild” Steelhead Trout also would consider the numbers of “hatchery” trout which move into the ocean after being planted into lakes and rivers of the Puget Sound watershed area, to become the sea-going Puget Sound Steelhead Trout listed under the ESA here.

Consequently, for this new May 7, 2007 Endangered Species Act listing of Puget Sound Steelhead, the ESA, NEPA and SEPA require that these Corps, Port and DOE dredging and toxic waste cleanup projects or the SEPA 07-2 and SEPA 07-3 project proposals of the Port are required to conduct a Biological Assessment of foreseeably likely impacts from these projects on Puget Sound Steelhead and its habitat in this area and which will describe mitigation measures needed to preserve the Puget Sound Steelhead and its habitat, **and** on all of these projects the Port and the Corps must have a “consultation under Section 7 of the ESA (Endangered Species Act) ... with U.S. Fish & Wildlife, and NOAA ... (that) will be completed prior to” beginning any of the construction and operation of these Corps, Port and DOE dredging and toxic waste cleanup projects or the SEPA 07-2 and SEPA 07-3 project proposals of the Port.

Further, as noted by the Federal Register Vol. 71, No. 229 of Nov. 29, 2006 U.S. Department of Commerce’s National Oceanic and Atmospheric Administration (NOAA) and National Marine Fisheries Service (NMFS) new ESA regulation Title 50 CFR Part 226, Docket No. 060228057-6283-02, I.D. 022206, RIN 0648-AU38, for Endangered and Threatened Species: Designation of the Critical Habitat for Southern Resident Killer Whale (Orca), the .

On June 13, 2007 U.S. District Court made rulings in 2 related cases that changes or will lead to changes of the Endangered Species Act (ESA) classification of Puget Sound Chinook Salmon and others from threatened to endangered, due to what the Federal Court found was the federal government's improper counting of hatchery salmon to support the claim that the wild salmon were only threatened and were not endangered. (See June 14, 2007 The Olympia newspaper article titled Judge rejects hatchery fish in counting salmon -- Ruling could change Endangered Species Act classification, by Gene Johnson of The Associated Press, on page A-).

Clearly, there are these and many other endangered, threatened, or otherwise legally protected species in areas outside of just the Budd Inlet area which will be impacted by the construction and shipping and logging operations allowed under this Port of Olympia SEPA 07-2 project proposal and SEPA 07-3 project proposal, but which were not considered by this project proposal’s EA etc., due in part to the Corps’, Port’s, and DOE’s continuing “piecemealing” of these related, connected and integral projects done to cleanup, maintain and improve the Port Marine Terminal shipping and cargo handling facilities into tiny pieces, these agencies claim are “unrelated” one minute and claim are “related” the next.

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**The many foreseeably likely significant adverse environmental impacts leading from this Corps project and its related and connected actions and projects in this area, require a single coordinated Joint NEPA/SEPA Environmental Impact Statement conducted by one NEPA/SEPA lead agency.**

As noted above, the many foreseeably likely significant adverse environmental impacts leading from this Corps' dredging project and all of these physically and/or functionally related and connected projects and actions in this area, the Corp should decide to coordinate with other state and local agencies and make require a single coordinated Joint NEPA/SEPA Draft Environmental Impact Statement conducted by one NEPA/SEPA lead agency for this Corps' dredging project and all of these physically and/or functionally related and connected projects, where the Corps acts as the NEPA/SEPA lead agency for this single coordinated Joint NEPA/SEPA Draft Environmental Impact Statement for this Corps' dredging project and all of these physically and/or functionally related and connected projects, at one time to avoid duplication of actions and save these governmental agencies valuable time and resources.

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#### **CONCLUSION AND RELIEF**

For the reasons noted above, due to the many foreseeably likely significant adverse environmental impacts leading from this Corps project and its related and connected actions and projects in this area, the Corps should not issue a CE or FONSI for this project, the Corp should decide to coordinate with other state and local agencies and make a single coordinated Joint NEPA/SEPA Draft Environmental Impact Statement conducted by one NEPA/SEPA lead agency for this Corps' dredging project and all of these physically and/or functionally related and connected projects.

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We certify the foregoing to be true and correct to the best of our knowledge, beliefs and/or abilities, under penalty of perjury of the laws of the State of Washington and the United States of America, this 19th day of June, 2007, in Olympia, Washington.

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// s //  
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Tel. 360-943-7470

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Arthur West  
120 State Ave. N.E. #1497  
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*NOTE FROM THE CORPS: A number of documents were electronically attached to the comment letter of Mr. Dierker and Mr. West. In each case, these documents were prepared for a principal purpose other than to comment to the Corps on the Public Notice or draft EA. Thus, none of these documents addressed primarily the Corps' maintenance dredging project. Only select portions of several of the documents could be construed as raising a specific comment or question regarding the Federal channel maintenance dredging, by addressing "the adequacy of the [NEPA document] or the merits of the alternatives discussed or both." 40 CFR 1503.3(a). As the attachments, viewed collectively, are voluminous they have been summarized for purposes of this final EA by excerpting the applicable portions.*



“The two (dredging) projects are independent of one another, with the exception that the Port and the Corps have jointly prepared a Biological Evaluation that evaluated both projects.” (Id.).

However, the Port’s Environmental Checklist (EC) also in answer to Question A7 at page 2, correctly notes that both Biological Evaluation (BE) and the “Bioaccumulation Data Report, PSDDA Sediment Characterization of Olympia Harbor” (BDR), are “incorporated by reference” into the Port’s EC on the berth dredging project here, and despite the Port’s claim from the EC above, **both BE and the BDR were jointly prepared for both the Port and the Corps for both of the dredging projects conducted by the Port and the Corps here.** (Id.).

Further, the Introductions in the first couple of pages of both the BE and the BDR here clearly show that these two project are merely two integral, interconnected, and related parts of one project to allow larger ships to use the Port of Olympia safely than those much smaller ships which have previously come to the Port of Olympia. (Id.; see below)...

[p.10-11 of Reference] ...It also clearly appears from evidence of official and judicial notice within the Port’s, the Corps’ and others’ files on this and the related matters here, that the two segmented environmental reviews for these two related, interconnected and integral parts of one “whole” combined project here have been unlawfully “fragmented” and/or “segmented” into two separate parts reviewed by two separate agencies in two different environmental determinations under two different sets of environmental laws, in violation of SEPA’s WAC 197-11-060(3)(b), et seq., and in violation of NEPA’s 40 CFR §1508.27(b)(7). (Id.; see Blue Mountains Biodiversity Project v. Blackwood, 161 F. 3d 1208, at 1215 (9th Cir. 1998); 40 CFR §1508.27(b)(7); see my Comment and Sue Danver’s Comment; supra; see also below; and see evidence of official and judicial notice on these matters, et seq.).

It also clearly appears from evidence of official and judicial notice within the Port’s, the Corps’ and others’ files on this and the related matters here, that this was done in this unlawful manner by these agencies of the local and Federal governments so as to prevent the issuance of a joint “integrated” NEPA/SEPA Environmental Impact Statement (EIS) which is normally required under SEPA and United States’ National Environmental Policy Act (NEPA), Title 42 USC § 4321 and 40 CFR et seq., in such circumstances where there area clearly foreseeably likely adverse environmental impacts leading from this proposal and since both local and federal agencies are jointly acting as “lead agencies” for this project and since both state and federal public funds and resources are being used to fund this “whole” interconnected project, as noted by Section 9.2 of the Department of Ecology’s “SEPA Manual” (Revised 1998) at page 93. (Id.; see Blue Mountains Biodiversity Project v. Blackwood, 161 F. 3d 1208, at 1215 (9th Cir. 1998); 40 CFR §1508.27(b)(7); see Ocean Advocates v. U.S. Corps of Engineers, 404 F.3d 846, at 867 - 869 (9th Cir. 2005); see West v. Secretary of Department of Transportation, 206 F. 3d 920 (9th

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Cir. 2000); see the attached copy of the Port's December 5, 2005 Press Release titled "Senator Murray to Visit Port of Olympia December 6" showing Federal money used for this dredging project and related projects, et seq.; see my Comment and Sue Danver's Comment; supra; see also below; and see evidence of official and judicial notice on these matters, et seq.).

Further, as noted below, it also clearly appears from evidence within the Port's, the Corps' and others' files on this and the related matters here, that the segmented environmental reviews for these interconnected and integral parts of one "whole" combined set of projects being done for the Port's underlying Marine Port expansion project here, which are also going to be used for the Port's Weyerhaeuser log shipping operation project here, and the one "whole" Port project has been unlawfully "segmented", "fragmented" or "separated" into separate parts, to be environmentally reviewed by the Port and the Corps in several different environmental determinations, if at all, in violation of WAC 197-11-060(3)(b), et seq., and this was apparently done so as to prevent the issuance of a joint "integrated" NEPA/SEPA Environmental Impact Statement (EIS) which is normally required under SEPA and United States' National Environmental Policy Act (NEPA), Title 42 USC § 4321 and 40 CFR et seq., in such circumstances where there area clearly foreseeably likely adverse environmental impacts leading from this proposal and since both local and federal agencies are jointly acting as "lead agencies" for this project and since both state and federal public funds and resources are being used to fund this "whole" interconnected project, as noted by Section 9.2 of the Department of Ecology's "SEPA Manual" (Revised 1998) at page 93. (Id., supra; see -- e.g.-- West v. U.S. Secretary of Department of Transportation, 206 F. 2d. 920 (9th Cir. 2000); see Blue Mountains Biodiversity Project v. Blackwood, 161 F. 3d 1208, at 1215 (9th Cir. 1998); 40 CFR §1508.27(b)(7); see my Comment and Sue Danver's Comment; supra; see also below; and see other evidence of official and judicial notice on these matters, et seq.)...

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[p.26 of Reference] ...It clearly appears that the allowed movement of an increased number of much larger ships with many more much larger "wakes" will foreseeably cause increased erosion of intertidal and shallow marine areas through all of the affected areas of South Puget Sound from Lower Budd Inlet all the way out through the at least to the Port of Tacoma Waterway, where the next "deep water port" for such large ships is currently legally sited and operated, et seq., to allow shipping into the rest of the Pacific Ocean (Id.; see also the Comment of Harry Branch).

It clearly appears that the allowed movement of an increased number of much larger ships with many more much larger "wakes" will foreseeably cause will cause increased "turbidity" of the water, which will cause loss of sunlight to shallow water plants due to the increased erosion of intertidal and shallow marine areas through all of the affected areas of South Puget Sound from Lower Budd Inlet all the way out through the at least to the Port of Tacoma Waterway from these many more much larger "wakes" from the movement of an increased

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number of much larger ships to the Port of Olympia. (Id.; supra; see also below)...

[p.27 of Reference] ...Evidence of judicial and official notice clearly shows that the State Dept. Of Fish and Wildlife, and others have already determined that increased erosion of intertidal and shallow marine areas due to increased “turbidity” of the marine water **has already** adversely impact “bait fish” populations of Sand Lances and Herring, which inhabit and/or breed in such intertidal and shallow marine areas of South Puget Sound, like those areas affected here from Lower Budd Inlet to the Port of Tacoma Waterway. (Id.).

Clearly, based on the above, the increased erosion of intertidal and shallow marine areas of South Puget Sound from Lower Budd Inlet to the Port of Tacoma Waterway from the Port’s and Corps’ related dredging actions and from the Port’s increased shipping operations of more larger ships through this area that is directly related to this “berth dredging” project, et seq., will clearly be foreseeably likely to significantly adversely impact “bait fish” populations of Sand Lances and Herring, which inhabit and/or breed in such intertidal and shallow marine areas of South Puget Sound from Lower Budd Inlet to the Port of Tacoma Waterway. (Id.; supra).

Sand Lances and Herring, are both “food” for the Bull Trout, Chinook Salmon, other Salmon, and other fish that we, the Orcas, the Bald Eagles and other species used as food sources, throughout all of the affected intertidal and shallow marine areas of South Puget Sound from Lower Budd Inlet to the Port of Tacoma Waterway. (Id.; supra).

Consequently, the Port’s and Corps’ related dredging actions and from the Port’s increased shipping operations of more larger ships through this area that is directly related to this “berth dredging” project, et seq., will clearly be foreseeably likely to significantly adversely impact “food sources” for the Bull Trout, Chinook Salmon, other Salmon, and other fish that the Orcas, the Bald Eagles, Stellar Sea Lion, and other species of these affected marine areas of South Puget Sound from Lower Budd Inlet to the Port of Tacoma Waterway use as food sources. (Id.; supra).

Consequently, the Port’s and Corps’ related dredging actions and from the Port’s increased shipping operations of more larger ships through this area that is directly related to this “berth dredging” project, et seq., will also clearly be foreseeably likely to significantly adversely impact “food sources” for the “endangered/threatened” Bull Trout, Chinook Salmon, the Orcas, the Bald Eagles, Stellar Sea Lion, and/or other “endangered/threatened” species of these affected marine areas of South Puget Sound from Lower Budd Inlet to the Port of Tacoma Waterway use as food sources, which constitutes a “taking” of such “endangered/threatened” species under the Endangered Species Act. (Id.; supra)...

[p.28 of Reference] ...Clearly, there are adverse “regional impacts” occurring outside of the immediate Port berth area of Budd Inlet which have **not** been properly considered in any of these various environmental reviews or failures to conduct such reviews of the foreseeably likely ultimate “regional” impacts occurring outside of the immediate Port berth area of Budd Inlet, as shown by just those “regional impacts” of the more larger ships moving through all of the

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affected areas of South Puget Sound from Lower Budd Inlet all the way out through the at least to the Port of Tacoma Waterway, noted above. (Id.; supra; see also below).

Further, the BE also did **not** properly consider all of the foreseeably likely ultimate adverse environmental impacts leading from the Port’s berth area dredging and the integral, connected and related Corps’ dredging of the navigational channel and turnabout area of Budd Inlet, including those “regional impacts”, from the increased number of larger ships moving through all of the affected areas of South Puget Sound from Lower Budd Inlet all the way out to the Port of Tacoma Waterway allowed by the Port’s and Corps’ integral, connected and related projects here, as noted above. (Id.; supra; see also below).

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Clearly, the BE that was done for these the Port’s and Corps’ two integral, connected and related projects here, must be redone:

- 1) to properly consider all of the foreseeably likely ultimate adverse environmental impacts leading from the increased number of larger ships moving through all of the affected areas of South Puget Sound from Lower Budd Inlet all the way out to the Port of Tacoma Waterway, which are leading from and/or allowed by the Port’s and Corps’ integral, connected and related projects here;
- 2) to consider these and other adverse impacts the increased number of larger ships moving through all of the affected areas of South Puget Sound which are part of the Nisqually National Wildlife Refuge area, which are leading from and/or allowed by the Port’s and Corps’ integral, connected and related projects here;
- 3) to consider all of the foreseeably likely ultimate adverse environmental impacts to the Orcas, a “listed” Endangered Species, which were not properly considered in the BE before, since the BE for these two projects and the EC for the Port’s berth dredging project did **not** consider that the Orcas are a “listed” Endangered Species under the Federal Endangered Species Act; and
- 4) to consider all of the foreseeably likely ultimate adverse environmental impacts to the Orcas, Bull Trout, and/or other endangered/threatened species living throughout all of the affected areas of South Puget Sound from Lower Budd Inlet all the way out to the Port of Tacoma Waterway, which are leading from and/or allowed by from the Port’s and Corps’ integral, connected and related projects here. (Id.; supra; see also below)...

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[p.32 of Reference] ...At best, this project and its related Federal channel dredging project here would send numerous clouds of toxic sediments into the waters of Budd Inlet and Southern Puget Sound near Anderson Island containing a cloud of toxic PCB’s, Poly Aromatic Hydrocarbons, Dioxins, Dibenzofurans, creosote, pentachlorophenol (PCP), contaminated aromatic and bunker oils, and other pollutants, which would clearly impact biological diversity of this area in general, and would directly or indirectly diminish the habit and number of the endangered or threatened species noted here such as the Orca, the Humpback Whale, Stellar Sea Lion, Bull Trout, Bald Eagle, Puget Sound Salmon, Marbled Murrelet, and would also impact

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these and other species of wildlife, including those these and other species which are dependent on other species as food sources that are impacted by this project, but which are not necessarily constant inhabitants of these areas, such as the Herring, migratory birds, and other species, et seq. (Id.; supra; see also below; and see evidence of official and judicial notice on these matters, et seq.).

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Some of these dredged materials will also have these “aromatic” pollutants moving as air pollutants into the air of the area during the dredging and transportation of the dredged materials, which would impact biological diversity of this area in general, and would directly or indirectly diminish the habit and number of the endangered species noted here such as the Orca, the Humpback Whale, Stellar Sea Lion, Bull Trout, Bald Eagle, Puget Sound Salmon, Marbled Murrelet, and would also impact other species of wildlife, including those species which are dependent on other species that are impacted by this project, but which are not necessarily constant inhabitants of these areas, such as the herring, migratory birds, and other species, et seq.(Id.; supra; see also below; and see evidence of official and judicial notice on these matters, et seq.)...

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[p.34-35 of Reference]...15. The Biological Evaluation (BE) of the Dredging of the Olympia Federal Navigation Channel and Minor Widening, of Nov. 22, 2005 cited by Environmental Checklist (EC) as also covering this proposal, does not adequately address the “cumulative” impacts and hazards of all individual and various different combinations of the many foreseeably likely pollutants which are to be found in these marine sediments to the Orca, Salmon, Bull Trout, and other such affected marine life and wildlife and the environment, and this failure appears to be based upon an incorrect, inadequate, unlawful, and/or incomplete investigation by the Army Corps of Engineers and upon the apparently incorrect, inadequate, unlawful, and/or incomplete chemical analysis done under PSDDA Sediment Characterization of Olympia Harbor, including the February 2000 Bioaccumulation Data Report (BDR), for the PSDDA Sediment Characterization of Olympia Harbor, cited by Environmental Checklist (EC) for this proposal, and since neither the BE nor the BDR adequately address both the “individual” and “cumulative” impacts and hazards to the Orca, Salmon, and other such marine life from all of these pollutants which are foreseeably likely to be found in these marine sediments of the Budd Inlet and Anderson Island area dump site area where Orca, Salmon and other marine life may be present, and, therefore, this MDNS must be withdrawn pursuant to WAC 197–11–340(3) as this is clearly a violation of the procedural review requirements of SEPA under WAC 197–11–080, WAC 197–11–090, WAC 197–11–100, WAC 197–11–310, WAC 197–11–315, WAC 197–11–330, WAC 197–11–335 and 350, et seq., RCW 43.21C.010, RCW 43.21C.020, RCW 43.21C.030, RCW 43.21C.034, are in violation of the Federal Endangered Species Act (ESA) and the Federal Clean Water Act, and appear to violate appellant’s other Due Process rights, et seq. (Id.; supra; see also below; and see evidence of official and judicial notice on these matters, et seq.)

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16. This proposal’s BE, EC, and this MDNS based upon them are incorrect, inadequate, unlawful, and incomplete, since with NOAA’s Federal Endangered Species Act (ESA) listing of the Southern Puget Sound Orcas as an “Endangered Species”, any “open-water” disposal of these 523,000 cubic yards of dredged materials from this site of the “whole” proposal into the waters of Southern Puget Sound near Anderson Island must now be considered a “taking” of habitat under the Federal Endangered Species Act (ESA), and therefore, this EC and the MDNS based upon it are clearly in violation of SEPA, and, therefore, this MDNS must be withdrawn pursuant to WAC 197–11–340(3) as this is clearly a violation of the procedural and substantive review requirements of SEPA under WAC 197–11–080, WAC 197–11–090, WAC 197–11–100, WAC 197–11–310, WAC 197–11–315, WAC 197–11–330, WAC 197–11–335, WAC 197–11–350, WAC 197–11–960, WAC 197–11–970, et seq., RCW 43.21C.010, RCW 43.21C.020, RCW 43.21C.030, RCW 43.21C.034, et seq., are in violation of the Federal Endangered Species Act (ESA), and appear to violate appellant’s other Due Process rights, et seq. (Id.; supra; see also below; and see evidence of official and judicial notice on these matters, et seq.)...

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17. This proposal’s BE, EC, and this MDNS based upon them are incorrect, inadequate, unlawful, and incomplete, since with NOAA’s Federal Endangered Species Act (ESA) listing of the Southern Puget Sound Orcas as an “Endangered Species”, since this proposal’s BE, EC, and this MDNS based upon them fails to consider any and all impacts from this dredging project and the dumping of these foreseeably contaminated marine sediments dredged from Budd Inlet into Southern Puget Sound near Anderson Island, to all of the salmon and other “food species” which the Orca eat and to all of the “bait fish” like herring, etc., which all of the salmon and other Orca “food species” eat which the Orca and they prey rely upon for their survival, and such a failure to consider such impacts which would constitute a unlawful “taking” of habitat under the Federal Endangered Species Act (ESA) cannot be justified by the Port or the Corps, and therefore, this proposal’s BE, EC, and this MDNS based upon them are clearly in violation of SEPA and the ESA, and, therefore, this MDNS must be withdrawn pursuant to WAC 197–11–340(3) as this is clearly a violation of the procedural and substantive review requirements of SEPA under WAC 197–11–080, WAC 197–11–090, WAC 197–11–100, WAC 197–11–310, WAC 197–11–315, WAC 197–11–330, WAC 197–11–335, WAC 197–11–350, WAC 197–11–960, WAC 197–11–970, et seq., RCW 43.21C.010, RCW 43.21C.020, RCW 43.21C.030, RCW 43.21C.034, et seq., are in violation of the Federal Endangered Species Act (ESA), and appear to violate appellant’s other Due Process rights, et seq. (Id.; supra; see also below; and see evidence of official and judicial notice on these matters, et seq.)...

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[p.36 of Reference]...19. As noted above, the February 2000 Bioaccumulation Data Report (BDR), which is part of the PSDDA Sediment Characterization of Olympia Harbor cited by the Environmental Checklist (EC) for this proposal appears to be incorrect, inadequate, unlawful, and incomplete, since it only tested for only one contaminate tributyltin (TBT), and it apparently

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did not adequately test at the proper levels for all of the foreseeably likely pollutants which are to be found in these marine sediments which have built up from 25 years of contaminated sediments moved into this area of Budd Inlet as noted above; since it does not adequately list the hazards of all of the foreseeably likely pollutants which are to be found in these marine sediments as noted above; since it does not adequately address the “individual” impacts or hazards of all of the foreseeably likely pollutants which are to be found in these marine sediments as noted above; since it does not adequately address the “cumulative” impacts and hazards to the Orca, Salmon, and other such marine life from all of these pollutants which are foreseeably likely to be found in these marine sediments of the Budd Inlet and Anderson Island area dump site area, and, therefore, this MDNS must be withdrawn pursuant to WAC 197-11-340(3) as this is clearly a violation of the procedural review requirements of SEPA under WAC 197-11-080, WAC 197-11-090, WAC 197-11-100, WAC 197-11-310, WAC 197-11-315, WAC 197-11-330, WAC 197-11-335 and 350, et seq., RCW 43.21C.010, RCW 43.21C.020, RCW 43.21C.030, RCW 43.21C.034, are in violation of the Federal Endangered Species Act (ESA) and the Federal Clean Water Act, and appear to violate appellant’s other Due Process rights, et seq. (Id.; supra; see also below; and see evidence of official and judicial notice on these matters, et seq.).

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20. It clearly appears from evidence of official notice and judicial notice that the Puget Sound Dredged Disposal Analysis (PSDDA) Sediment Characterization of Olympia Harbor including the full sediment characterization chemical testing done by Striplin Environmental Associates and the Corps and the Bioaccumulation Data Report (BDR) was clearly erroneous, arbitrary, capricious, fraudulent, incomplete, and/or inadequate here, and, therefore, this MDNS must be withdrawn pursuant to WAC 197-11-340(3), for a lack of adequate information on the impacts from this proposal, et seq., since:

- a) PSDDA guidance claims that the Olympia Harbor navigation channel area of lower Budd Inlet “is ranked an area of low concern for chemical contamination”;
- b) the full sediment characterization chemical testing claimed to only find “tributyltin” (TBT) in amount exceeding the trigger level requiring bioaccumulation tests, and
- c) the BDR only tested for “tributyltin” (TBT). (Id.; see BDR, Section 1.0 “Introduction” at page 1; supra; see also below; and see evidence of official and judicial notice on these matters, et seq.)...

[p.44 of Reference] ...However, as noted above, none of the chemical testing of this area for PSDDA was done **after** this “earthquake” and this “leak” occurred, and in any case since the BDR only tested for tributyltin, the BDR could not have found the PCBs, PAHs, Dioxins, Dibenzofurans, creosote, pentachlorophenol, heavy metals, and other contaminants which have formerly been found by various local, state and Federal agencies to be in this area of Budd Inlet of Puget Sound, and therefore the BDR and chemical testing done for the PSDDA are obsolete, et seq., and must be redone to look for “known” and foreseeably likely contaminants coming

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from this urban industrialized Port area into Budd Inlet. (Id.; supra; see also below; and see evidence of official and judicial notice on these matters, et seq.)...

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[p.48-49 of Reference] ...It also appears that this Port berth dredging project and the Corps' navigational channel and turning area dredging project **cannot** go forward until **after** the Port and the Corps can provide to DMMP such "additional sediment testing" information on the materials that are to be dredged by these two dredging projects in Budd Inlet showing that these materials are not contaminated with toxins under whatever "additional sediment testing requirements" DMMP will "impose" as part of DMMP's "decision" here, and **after** DMMP's "re-evaluating (the) sediment suitability determination" on this dredged material is completed, since it appears that DMMP has decided that "unsuitable" dredged materials "**cannot be placed into any of the disposal sites (DMMP) manage(s)**". (Id.; supra). ...

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### Reference #2

May 14, 2007

TO: Department of Ecology's (DOE) Rebecca Lawson and Lisa Pearson  
DOE's Southwest Regional Office's Toxic Cleanup Program

FROM: Jerry Lee Dierker Jr., 1720 Bigleow Ave. N.E., Olympia, WA 98506, Ph. 360-943-7470; and Arthur West, 120 State Ave. N.E., #1497, Olympia, WA 98501.

RE: DOE's Budd Inlet Sediment Sampling and Analysis Plan for DOE Facility Site #3097108,  
DOE's April 2007 Notice in DOE Publication 07-090-052, part of DOE's West Bay Interim Action Project, et seq.; and  
DOE's Hardel Mutual Plywood, Inc., Agreed Order for Remedial Investigation, Feasibility Study and Interim Actions Project, DOE's April 2007 Notice DOE Publication 07-090-056

### *RELEVANT EXCERPTS*

[p.3 of Reference]...2. The 53 ppt Dioxin contamination levels found by the DMMP's "composite" testing method of mixing large amounts of clean and contaminated sediments together and then taking a sample did not and does not accurately show how high the Dioxin levels are in the "contaminated" part of these sediments, and DOE needs to use a "stratigraphic" method of the "contaminated" part of these sediments, identifying "hot pots" for the proposed "cleanup" of this material by the Corps, Port's and DOE's "dredging" and West Bay Interim

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Action toxic waste cleanup project in Budd Inlet's West Bay, which this review of this DOE "Sampling" project has been "piecemealed" from.

As noted by the attached E-mails from Dr. Kate Jenkins, EPA's Chief Environmental Toxicologist who did such Dioxin and Pentachlorophenol (Penta or PCP) testing during 1985 and 1986 in this area as part of the EPA's Superfund (CERCLA) review of the Cascade Pole site and Budd Inlet, etc., Dr. Kate Jenkins determined that if the Penta was at 50 parts per million (ppm), Tetrachlorodibenzodioxins would be at 1-2 ppm and Hexachlorodibenzodioxins would be at 1,000 ppm.

These Dioxin levels are **hundreds of thousands and millions of times higher** than those found by the DMMP "composite" studies.

Consequently, the DMMP testing method did not adequately test for Dioxin or many other toxic materials which are foreseeably likely to be found in Budd Inlet.

Clearly, a much more extensive sampling and testing method is needed to protect the public and the environment from such pollution, as we and others have noted to DOE before. (See also attached E-mail from Carol Van Strum to Joe Cole)...

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cont.

#### **Reference #8**

May 9, 2007

TO: Port of Olympia Executive Director Ed Galligan, and  
Port of Olympia Public Works Director Andrea Fontenot

RE: Comment and Request for Withdrawal of the Mitigated Determination of Non-Significance (MDNS) for the joint, related and combined Port's Marine Terminal Improvement projects and the Weyerhaeuser Log Export facility project SEPA File No. 07-2, & Joinder with the April 25, 2007 Request for Reconsideration of Arthur West.

I, Jerry Dierker, of 1720 Bigelow St. NE, Olympia, WA 98502, 943-7470, make the following Comment and Request for Withdrawal of the Mitigated Determination of Non-Significance (MDNS) for SEPA File No. 07-2 pursuant to WAC 197-11-340(3)(a), and Joinder with the April 25, 2007 Request for Reconsideration of Arthur West for the following reasons.

#### *RELEVANT EXCERPTS*

[p.62-63 of Reference]...Further, at that April 2007 DMMP Meeting, the Corps's Dredging Unit agent David Kendall also said that this "dredging" part of the Port's Marine Terminal

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Improvement projects will have to be done Summer of 2007 at the same time as the construction for this SEPA 07-2 Marine Terminal Improvement project will occur in order to gain Federal funding for this dredging, and thereby, this “dredging” part of the Port’s Marine Terminal Improvement projects will need to be considered in this SEPA 07-2 environmental review as a connected and related project action, etc.

In fact, on May 3, 2007, the Corps sent a Public Notice with comment period to the Port stating that the Corps and Port was going to dredge the Port’s Marine Terminal’s Berths 2 and 3 and was going to dredge the “shipping channel”, and that the Corps was seeking from Department of Ecology’s Federal Permit Coordinator a Section 401 Water Quality Certification that this Corps’ dredging project will comply with Sections 301, 302, 303, 306, and 307 of the Federal Clean Water Act, and the Corps was seeking from Department of Ecology’s Federal Permit Coordinator a Certification Consistency with the Washington Coastal Zone Management Program under Section 307 the Federal Coastal Zone Management Act of 1972 Title 16 USC 1451. (Id.).

However, unlike last year when the Port and the Corps withdrew their two dredging projects party due to the two dredging projects being “piecemealed” from each other, this May 3, 2007 Public Notice for Corps’ “shipping channel dredging project” has **correctly integrated** into a single environmental review of the Corps’ “shipping channel dredging project” with the Port’s directly “connected” “berth dredging project”. (See Corps’ May 3, 2007 Public Notice for these dredging projects, at page es 4, 5, and Figures 1-5).

Clearly, the Corps and the Port knows that this Corps dredging project is in this “shipping channel” that is directly connected and is adjacent by aquatic lands and marine water to the Port’s “berth” area and the Port’s planned dredging of those berths, and these dredging projects are integral parts of this SEPA 07-2 proposal directly connected and related to this SEPA 07-2 proposal and to the rest of the many parts of the interconnected web of Port’s Marine Terminal Improvement projects. (See prior withdrawn SEPA MDNS on Port’s Berth Dredging Project noted above; see “**no piecemealing**” arguments; see SEPA’s WAC 197-11-060, et seq.).

Further, while this claims to be the Corps’ May 3, 2007 **Public Notice** on this Port of Olympia “shipping channel dredging project” that came from the Port’s own files, as of May 7, 2007 there has been **no “Public Notice”** of this Corps’ May 3, 2007 **Public Notice** sent to myself and the many other interested members of the “**Public**” and agencies with jurisdiction and expertise to give proper legal “**Notice**” those interested members of the “**Public**” who have expressed interest in such matters in the past or currently. (See SEPA’s “notice” and “circulation” requirements in SEPA’s regulations WAC 197-11; and see generally -- civil RCW 4 procedure statutes on notice and tolling of such notice; see also Doctrine of Fraudulent Concealment and the Discovery Rule Doctrine on tolling of statutes of limitations).

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In fact, the only reason I know of the Corps' May 3, 2007 is because Mr. Arthur West was going through boxes and files of Port documents under a Public Records Request as part of a "discovery process" for his Federal Court case which includes many of the Port's various interconnected interrelated, and integral Port Airport, Ship-to-Rail transportation system and Marine Terminal facilities improvement projects all part of the Port's "Intermodal Infrastructure Enhancement Project" as the Port has alleged to members of Congress, State Legislators, State and Federal agencies, members of the public, and others at various times often when asking for State and Federal money, while at other times the Port agents are claiming to the public and others in such SEPA documents an determinations there is "no" such large Port "Infrastructure Enhancement Project" going on at all. (Id.; see Federal Court Case file of Arthur West v. Port of Olympia, U.S. Dept. of Transportation, U.S. Federal Aviation Administration, the U.S. Army Corps of Engineers, Washington State Dept. of Transportation, et al).

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cont.

This lack of notice to Mr. West is especially bad since he is in that Federal Court case, and such failure of proper notice of such related actions in such Federal Court Cases is apparently obstruction of justice....

[p.63 of Reference]...Also, this Corps dredging of the shipping channel project has been included a part but not all of the Budd Inlet toxic clean up project, but most all of the discussion, the future testing, and the rest of the cleanup have only reached the "data gaps" stage and have not yet reached the "feasibility study" stage, and so these parts of this cleanup are unripe and still being "piecemealed" from this SEPA 07-2 project proposal's Port's Marine Terminal improvement project and Weyerhaeuser's log export and cargo yard facility project, etc. (See SEPA's WAC 197-11-060, et seq.).

Clearly, it appears these "dredging projects" are an integral related and connected part of the Port's Marine Terminal improvement projects, and/or are an integral related and connected part of the Weyerhaeuser's log export and cargo yard facility project itself, and it clearly appears that the Corps' review of dredging of the berths and shipping channel will be done at about the same time as the Port's review of this SEPA 07-2 proposal's Port's Marine Terminal improvement project and Weyerhaeuser's log export and cargo yard facility project. (See SEPA's WAC 197-11-060, et seq.).

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Also, since this Port and Corps dredging and DOE, Corps and Port cleanup project is a "joint" project by a Federal agency, a State agency, and a local Port agency, just this dredging and cleanup project clearly requires a joint NEPA/SEPA environmental review and determination, as noted herein.

Further, since this “new” SEPA 07-2 project includes the Port’s project to improve and expand the Port’s Marine Terminal facilities, and since the berth area and the shipping channel is clearly related to or connected to the Port’s Marine Terminal, these “dredging projects” are clearly related to or connected to the Port’s SEPA 07-2 projects to improve the Port’s Marine Terminal facilities, and these “dredging projects” must be considered in a single SEPA review of this Port’s project to improve the Port’s Marine Terminal facilities...

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## Corps Responses to Comments by Jerry Lee Dierker, Jr., and Arthur West

1. For this EA, we will address comments on the direct, indirect, and cumulative effects of the Federal maintenance dredging project, which is the sole subject of this NEPA evaluation.
2. Documents that are not physically provided to the Corps – electronically or in hard-copy form – during the public comment period will not be considered or responded to, including documents “incorporated by reference” but not actually submitted.
3. The draft EA reflected the status of ESA consultation as of mid-May 2007. At that time, the USFWS had concurred that proposed dredging in Budd Inlet was not likely to adversely affect bull trout, marbled murrelet, and bald eagle. No new circumstances with potential effects on listed species under the jurisdiction of the USFWS have developed since the USFWS concurrence. Since the draft EA release, the Corps has completed ESA consultation with the NMFS to address potential effects of the project on Chinook salmon, steelhead trout, and orca whales. All currently listed species or designated critical habitat that may occur in the vicinity of the proposed project have been addressed in the ESA consultations with the NMFS and USFWS. Consistent with the relevant NEPA requirements, the final EA addresses the completion of ESA compliance for the proposed work. Disposal of the dredged material at the Anderson Island site is addressed in the programmatic Section 7 ESA consultation for the PSDDA program which resulted in concurrence for the NMFS and USFWS that dredged material disposal at PSDDA sites is not likely to adversely affect listed species in the area.
4. The EA focuses on the proposed Corps maintenance dredging of the navigation channel since that is the federal action at hand. Per NEPA regulations, the EA considers other past, present, and reasonably foreseeable future actions (such as remediation in Budd Inlet and the proposed Weyerhaeuser log handling facility) in the vicinity of the proposed dredging in the cumulative impacts section. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment (40 CFR 1500.1(c)). The Corps believes that the final EA is the appropriate vehicle to meet these objectives and complies with relevant NEPA regulations. As a federal entity, the State Environmental Policy Act does not apply to proposed Corps actions, thus it is not mentioned in the Environmental Compliance section of the EA. While the Corps is permitted, at its discretion, to conduct joint environmental research and studies, and prepare joint environmental assessments in cooperation with a state or local agency, this only applies to the extent that duplication of effort between the two processes will be reduced accordingly. The Corps is the only entity conducting a review of the environmental consequences of the Federal maintenance dredging project, and the Port and State of Washington are evaluating under SEPA the distinct proposal of conducting a removal of sediments from the berths area for remediation purposes. Any overlap between the Federal and Port projects is reflected in the cumulative effects assessment, in full satisfaction of NEPA’s requirements. Because of the distinction between the two projects, there is no appreciable duplication of effort between the two evaluation

processes, and combination of NEPA and SEPA processes would not be of significant benefit to either party.

5. Documents that preceded the May 7, 2007 announcement of listing of Puget Sound steelhead do not refer to steelhead as threatened because the listing had yet to be promulgated on that date. The draft EA was released after the listing announcement and does indicate that Puget Sound steelhead are threatened, may occur in the project vicinity, and stated that consultation on species under jurisdiction of the NMFS, which include steelhead and orca whales, was in process. Since the draft EA, the consultation with NMFS has concluded and the Corps has received their concurrence that the proposed Corps dredging is not likely to adversely affect Puget Sound Chinook salmon, Puget Sound steelhead, Southern Resident killer whales, or designated habitat thereof. Disposal of the dredged material at the Anderson Island site is addressed in the programmatic Section 7 ESA consultation for the PSDDA program which resulted in concurrence for the NMFS and USFWS that dredged material disposal at PSDDA sites is not likely to adversely affect listed species in the area. The proposed project fully complies with the ESA.
6. The Corps believes that the final EA adequately evaluates the potential impacts of the proposed Corps maintenance dredging on fish and wildlife species with regards to project-specific direct, indirect, and cumulative effects.
7. The EA focuses on the proposed Corps maintenance dredging since that is the federal action at hand. Per NEPA regulations, the EA considers other past, present, and reasonably foreseeable future actions in the vicinity of the proposed dredging in the cumulative impacts section. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment (40 CFR 1500.1(c)). The Corps believes that the final EA is the appropriate vehicle to meet these objectives and complies with relevant NEPA regulations, and has concluded that there are not likely to be significant effects of the project on the quality of the human environment, such that preparation of an EIS would be necessary. The Corps is not obligated under NEPA to evaluate the project-specific direct and indirect impacts of actions by other parties. The Corps must include, and has included, in its final EA an evaluation of the cumulative impacts of the Federal maintenance dredging project, in conjunction with the reasonably foreseeable project proposals in the vicinity. NEPA does not require that the Corps conduct an environmental impact evaluation under both the Federal statute and a state's program such as SEPA.
8. The proposed project will remove only material determined suitable for unconfined aquatic disposal, and no longer involves any disposal activities consisting of placement over contaminated sediments. The final EA provides the Corps assessment of the degree of impacts of the proposed work, which the Corps believes is not a major Federal action significantly affecting the quality of the human environment and, therefore, does not require preparation of an EIS.

9. The EA focuses on the proposed Corps maintenance dredging of the navigation channel since that is the federal action at hand. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment (40 CFR 1500.1(c)). The Corps believes that the final EA is the appropriate vehicle to meet these objectives and complies with relevant NEPA regulations. While the Corps is permitted, at its discretion, to conduct joint environmental research and studies, and prepare joint environmental assessments in cooperation with a state or local agency, this only applies to the extent that duplication of effort between the two processes will be reduced accordingly. The Corps is the only entity conducting a review of the environmental consequences of the Federal maintenance dredging project, and the Port and State of Washington will be responsible for evaluating under SEPA other development proposals (i.e. removal of sediments from the berths area for remediation purposes) associated with Port and State activities. Any overlap between the Federal and Port projects is reflected in the cumulative effects assessment, in full satisfaction of NEPA's requirements. Per NEPA regulations, the EA considers other past, present, and reasonably foreseeable future actions (such as remediation in Budd Inlet and the proposed Weyerhaeuser log handling facility) in the vicinity of the proposed dredging in the cumulative impacts section. Because of the distinction between the two projects, there is no appreciable duplication of effort between the two evaluation processes, and combination of NEPA and SEPA processes would not be of significant benefit to either party. Additionally, the EA evaluation of the individual and cumulative impacts of the proposed dredging, which include consideration of other past, present, and reasonably foreseeable future actions in the vicinity, provides the basis for the Corps assessment that the proposed dredging is not a major Federal action significantly affecting the quality of the human environment and, therefore, does not require preparation of an EIS.
10. The proposed project is intended to maintain an existing navigation project, initially evaluated and authorized in 1927, to provide authorized channel depths and widths to provide timely and safe passage conditions for ships entering and leaving the Port of Olympia. Because the project will maintain depths and other parameters of a navigation channel as initially dredged and subsequently maintained, the maintenance dredging project is neither intended nor expected to accommodate ships of greater draft than was contemplated at the time of initial legislative authorization of the Olympia Harbor Federal navigation project, nor to accommodate ships of larger draft and beam dimensions than those that presently utilize the waterway. Likewise, the maintenance dredging project is not intended to facilitate the passage of a greater volume of ship traffic than currently transits Olympia Harbor, and is not expected to generate any increase in traffic, as compared with the No Action alternative. Accordingly, impacts accruing from increased ship size or traffic volume are not expected to be significant.
11. As stated in the draft EA, the USFWS has concurred that proposed dredging in Budd Inlet was not likely to adversely affect bull trout, marbled murrelet, and bald eagle. No new circumstances with potential effects on listed species under the jurisdiction of the USFWS have developed since the USFWS concurrence. Since the draft EA, the consultation with NMFS has concluded and the Corps has received their concurrence that

the proposed Corps dredging is not likely to adversely affect Puget Sound Chinook salmon, Puget Sound steelhead, Southern Resident killer whales, or designated habitat thereof. The consultation involved an assessment of the likely impacts, including indirect impacts, of the work on threatened and endangered species in the project vicinity and, with the completion of consultation for the dredging and for the PSDDA program, the proposed project fully complies with the ESA.

12. The proposed dredging area has been tested by the Puget Sound Dredged Material Management Program (DMMP) and the sediments to be dredged from the Federal channel have been determined to be suitable for open water disposal at the Anderson Island disposal site, or at sites providing for beneficial uses of dredged material. The DMMP consists of representatives of both Federal and State agencies, including the EPA and the Corps, as well as the Washington Departments of Ecology and Natural Resources. The proposed Corps dredging will remove sediments with very low levels of dioxin from the Federal channel and will result in contaminant levels at or below the current levels in sediments at both the dredge and disposal locations. These sediments are not expected to increase dioxin levels in the water column during either the dredging or the disposal at the Anderson Island site. Additionally, sediments that will be dredged and disposed do not contain contaminants in concentrations above levels that would make the material unsuitable for open water disposal due to concerns about acute or chronic ecosystem or health impacts, including bioaccumulation. Thus, the Corps does not expect that the proposed work will increase risks of dioxin ingestion or absorption, and therefore adverse ecological effects from contamination are not expected to occur.
13. The EA evaluates the potential impacts of the proposed project on air quality. The proposed dredging area has been tested by the Puget Sound Dredged Material Management Program (DMMP) and the sediments to be dredged from the Federal channel have been determined to be suitable for open water disposal at the Anderson Island disposal site, or at sites providing for beneficial uses of dredged material. We are not aware of any evidence that that dredged sediments can be an appreciable source of air pollution. Nevertheless, even under the most extreme conditions expected to occur during the dredging, the sediments to be dredged do not contain contaminants at concentrations or types that would be expected to volatilize.
14. The ESA consultation involved an assessment of the likely impacts, including indirect impacts, of the work on threatened and endangered species in the project vicinity and, with the completion of consultation, the proposed project fully complies with the ESA. The consultations with the USFWS and NMFS reflect the findings of the most recent sediment suitability determinations for Olympia Harbor sediments, which include the September 2006 analysis of dioxin/furan levels (which is not reflected in the 2000 suitability determination referred to by the commenter in a document which appears to have been prepared and submitted to the Port in January 2006). In particular, the proposed Corps dredging will involve only sediments that have been determined to be suitable for open water disposal at the Anderson Island disposal site, or at sites providing for beneficial uses of dredged material. Accordingly, potential effects on threatened and endangered species are expected to be inconsequential and discountable. As stated in the draft EA, the USFWS has concurred that proposed dredging in Budd Inlet was not likely

to adversely affect bull trout, marbled murrelet, and bald eagle. No new circumstances with potential effects on listed species under the jurisdiction of the USFWS have developed since the USFWS concurrence. Since the draft EA, the consultation with NMFS has concluded and the Corps has received their concurrence that the proposed Corps dredging is not likely to adversely affect Puget Sound Chinook salmon, Puget Sound steelhead, Southern Resident killer whales, or designated habitat thereof. Disposal of the dredged material at the Anderson Island site is addressed in the programmatic Section 7 ESA consultation for the PSDDA program which resulted in concurrence for the NMFS and USFWS that dredged material disposal at PSDDA sites is not likely to adversely affect listed species in the area.

15. Please see the response to Comment #2.
16. Please see the response to Comment #13. Additionally, the Corps has completed consultation with NMFS on the effects of the proposed work on essential fish habitat (EFH) for groundfish, coastal pelagic fish, and Pacific salmon; the NMFS concluded that the measures proposed by the Corps to minimize impacts to listed species are adequate to avoid, minimize, or otherwise offset potential adverse impacts to EFH. Pursuant to the ESA consultation for the project and the PSDDA program, the project will not result in a take of threatened or endangered species (including killer whales), or adverse modification of designated critical habitat for those species.
17. The 2000 bioaccumulation data report involved analysis of sediment units that are well outside of the footprint of the proposed Corps dredging. The bioaccumulation testing was conducted because two discrete sediment units exceeded the tributyltin (TBT) porewater bioaccumulation trigger in the initial PSDDA sediment characterization. The bioaccumulation testing results indicated that the tested sediments appeared to be suitable for open-water disposal. Subsequent to the 2000 testing, the DMMP agencies required additional testing of the Olympia Harbor sediments for dioxins/furans and, in several locations, partial retesting for polyaromatic hydrocarbons. This testing occurred in 2006 and, in a portion of the navigation channel, found levels of dioxin/furan contamination high enough to preclude open-water disposal of those sediments, which include the areas that were subject to the TBT bioaccumulation testing in 2000. Accordingly, the areas that are subject to concern by the commenter would not be suitable for open-water disposal regardless of the findings of the 2000 bioaccumulation data report. Those areas containing unsuitable sediments, based on the results of the 2006 sampling, are not part of the proposed Federal channel maintenance project.
18. Please see the response to Comment #16. Note that the most recent testing occurred in March 2006, 5 years after the 2001 Nisqually earthquake.
19. This comment appears to have been prepared and delivered to the Port in January 2006, and thus precedes the September 12, 2006 suitability determination for Olympia Harbor that includes analysis of dioxin/furan contamination. This most recent suitability determination concludes that the sediments that would be dredged under the proposed project are suitable for open water disposal at the Anderson Island disposal site or beneficial uses. Based on the 2006 determination that sediments in the berth areas

proposed for dredging are not suitable for open water disposal due to contamination, the Port continues to work with the Washington Department of Ecology to reach agreement on remediation of the berth areas pursuant to the Model Toxics Control Act.

20. It appears that the commenter is referring to dioxin levels in the top 4 feet of an area within the Port berthing area where analysis indicated dioxin levels as high as 53 parts per trillion (pptr) toxicity equivalence threshold (TEQ). This area is well outside of the footprint of the proposed Corps dredging. Sediments within the proposed Corps' dredging footprint have a weighted mean concentration of dioxins/furans of less than 3 pptr TEQ, well below the threshold of 3.8 pptr TEQ. Regardless, the sampling and analysis plan for all the 2006 testing, which included analysis of dioxins and furans, collected surface, and subsurface samples at 21 locations. The sampling and analysis plan was submitted to the DMMP agencies on February 28, 2006, and approved on March 3, 2006. As the regional technical experts, the DMMP agencies approved the sampling and analysis plan as a practical design that would sufficiently characterize the sediment quality in the navigation channel, turning basin, and berth areas.
21. Please see the response to Comment #3. Also, note that the Corps May 3, 2007, public notice explicitly states, "The Port's proposed work will be subject of a separate Federal and State permit process and is not a part of the Corps proposed dredging activity or this public notice." As expressly stated in the final EA and response to comments on the draft EA, the Port berth dredging is a separate and distinct action that, per NEPA, is appropriately addressed in the analysis of cumulative impacts of the Corps dredging.
22. The Corps utilized an extensive mailing list for both Thurston and Pierce counties for distribution of all public notices related to the proposed work. To summarize the notification process specific to the Olympia Harbor draft EA, we posted the document on our website on May 11, 2007, with a comment period until June 11, 2007, as noted in the May 14, 2007, erratum to the Navigation Public Notice. To make doubly sure (due in part to a typographical error in the draft EA website address contained in the newspaper article noted by the commenter) that the public received appropriate notification that the draft EA was available for comment, on May 21, 2007, we issued a draft-EA-specific notice which provided for public comment on the draft EA up until June 20, 2007 (30 calendar days from May 21). Shortly after both notices, the prompt responses of stakeholders via e-mail to the Corps and other agencies indicated that the notification process provided fully effective opportunity for participation in the NEPA process for the Federal dredging project. At the inception of the initial and the extended notice periods, a Notice of Availability of the draft EA was distributed to an extensive mailing list of parties interested in proposed in-water projects in Pierce and Thurston counties. This mailing list is the same one used by the Seattle District Regulatory Branch to distribute public notices concerning proposed non-Corps work that requires an individual Department of the Army permit, for work impacting waters of the United States. The Corps' regulations for the implementation of NEPA (33 CFR 230.11) require that public notification of the availability of draft EAs evaluating maintenance dredging projects follow the procedures for Public Notices; these public dissemination procedures are found, in turn, at 33 CFR 337.1(c) and 325.3(d). The Corps' public notification efforts conformed to the requirements of these published procedures. Subsequent to the

submitted document to which this response replies, which was dated May 9, 2007, and in response to e-mails concerning the project, the Corps e-mailed Mr. West copies of all public notice materials and the draft EA, and mailed copies of same to Mr. Dierker on May 21, 2007, which provided 30 days until the close of the comment period on the draft EA.

23. Please see the response to Comment #3. Also, note that the proposed Federal channel maintenance dredging work would dredge sediments determined to be suitable for unconfined aquatic disposal, and does not involve disturbance of contaminated sediments or their remediation. Remediation of contaminated sediments at the Port berthing areas is being evaluated by the Port and the Washington Department of Ecology as a separate project under the Washington State Model Toxics Control Act.

# Patrisa DiFrancesca and Jan Witt

June 19, 2007

Evan R. Lewis  
Environmental Resources Section

U.S. Army Corps of Engineers  
P.O. Box 3755  
Seattle, Washington 98124-3755

Following are our comments regarding the Environmental Assessment for "Olympia Harbor Maintenance Dredging and Minor Widening Olympia, Thurston County, Washington," issued May 2007.

1. The title of the project is misleading.

"Minor widening" is an inappropriate term for an undertaking that would result in removal of 163,000 cubic yards of material, representing nearly 1/2 of the total volume of material proposed to be dredged.

2. Long range impacts related to widening of the navigation channel are insufficiently addressed in this review - or not addressed at all.

The Biological Evaluation for this proposal (issued by the US Army Corps of Engineers, November, 2005) provides information that the Environmental Assessment does not.

For instance, the Biological Evaluation, pg. 5, clarifies that the widening would accommodate significantly larger vessels:

A minor widening of the channel from the existing 300 to 350 feet appears to be justified **since the beam of vessels using the channel has increased from less than 82' to approximately 100'** since the last channel maintenance. (emphasis ours)

The Environmental Assessment fails to identify environmental impacts that would occur if 'floodgates' of the navigation channel are opened via widening of the channel to accommodate larger vessels (of 100' beam) in all tidal conditions.

3. The Environmental Assessment does not discuss frequency of local inversion weather patterns.

Increased emissions (related to greater numbers of larger vessels and marine terminal expansion) would have greater impacts on air quality than would occur in areas where inversion weather patterns do not often occur.

4. The Environmental Assessment does not discuss the relatively small size of the harbor. **Any** widening of the shipping channel would bring vessels significantly closer to the shoreline and to residential areas.

Impacts of the proposal on human health, quality of life, aesthetics and residential property value have not been adequately assessed in the EA.

5. NEPA requires that cumulative impacts be assessed.

NEPA defines "cumulative impact" as:

the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what

agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

The EA discussion of cumulative impacts is inadequate; The analysis does not address cumulative impacts related to greater numbers of larger vessels in the harbor, in addition to expansion of Swantown Marina, expanded rail and an expanded log export facility.

6. According to Corps' regulations, dredging permits for shipping terminals require that the scope of review include uplands expansion projects.

The Port of Olympia has proposed numerous expansion projects. Those projects are at various stages of planning and/or environmental review and/or development. The Port has stated that two of the projects (enhanced rail and expanded log export facility) will significantly increase the amount of cargo crossing Port docks.

Impacts related to greater numbers of larger vessels in the harbor (due to channel widening) must be assessed along with impacts related to landside development.

7. Assessment /review related to proposed dredging of berths at the Marine terminal should also be included in this EA.

Dredging of the berths was proposed before reports of Dioxin in the sediment. Thus, impacts related to dredging of the berths cannot be separated from review of channel dredging simply because berth dredging also serve purpose of removal of contaminated sediment.

8. Noise impacts related to the proposal have been inadequately addressed.

Greater numbers of larger vessels in the harbor will result in more noise.

Cumulative noise impacts (of greater numbers of larger vessels, plus Marine Terminal landside development) have not been assessed.

The comment that the project area is "under the flight path of airline flights to and from Seatac International Airport" is misleading. Seatac airport is located nearly 60 miles away from Budd Inlet. Seatac flights rarely effect ambient noise levels in the project area. Additionally, most Seatac fights do not go directly over the area.

9. Regarding aesthetics (pg. 21, section 3.14), the statement that the "project itself will be performed at the submarine level and is therefore not otherwise visible" exemplifies inadequacy of the EA.

Aesthetic impacts related to greater numbers of larger vessels in the harbor are not considered in the EA.

The statement that "there would be no impact to aesthetics if this alternative were chosen" is untrue.

10. Because the EA fails to acknowledge that widening of the channel will result in greater numbers of larger vessels in the harbor, the EA assessment of impacts of the project on wildlife are unreliable.

11. The EA states (pg. 2): "The Port has received numerous letters from pilots that guide cargo ships into the Port voicing major concerns about the navigation channel being too narrow and shallow and having to wait for high tides to provide safe access to the Port."

According to information received via a recent public records request, the above statement refers to six letters received by the Port since June 2004.

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Two of the six letters were submitted by presidents of “Puget Sound Pilots” organization. Those letters expressed support for dredging, but did not express specific major concerns related to safety as the EA suggests. One of the letters does state that “the maritime industry is changing and larger vessels are being built, which results in deeper draft requirements.” The other letter states that “The shipping world has seen a dramatic increase in the size of vessels entering our ports.”

12  
cont.

One of the six letters was submitted by the President of the local longshore union (not a pilot.)

Four of the letters six letters contained 2 paragraphs of nearly identical wording. This suggests that the letters were not spontaneously submitted, but rather, solicited by the Port.

12. Conditions of the harbor that discourage use by larger vessels (due to inability to navigate the channel at lower tides) would result in fewer larger vessels in the harbor.

While the EA discusses economic benefits related to deepening and widening of the channel, the document fails to consider that the ‘no action / no widening’ alternative, which would result in significantly fewer numbers of larger vessels in the harbor in the future than the ‘preferred alternative’, would, in turn, result in fewer environmental impacts.

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13. Section 8.9 discusses Environmental Justice. The EA states: “The potentially affected community does include a minority and/or low-income population.” This is true.

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However, the statement that “no human health effects would occur” is not supported by evidence. Indeed, evidence indicates that adverse impacts on health as a result of the project are likely.

14. While the EA repeatedly discusses jobs, the EA does not acknowledge that the harbor and waterfront are precious commodities; Any lack of job growth that might occur were the channel to remain at the current width, would likely be offset by creation of waterfront-related jobs created in other sectors.

15

Thank you for the opportunity to comment on this Environmental Assessment.

Patrisa DiFrancesca  
110 Legion Way  
Olympia WA 98501

Jan Witt  
3012 Fir Street S.E.  
Olympia WA 98501

### Corps Responses to Comments by Patrisa DiFrancesca and Jan Witt

1. The degree of widening is characterized as minor based on the footprint of the widening in comparison to the footprint of the dredging in the existing channel. The widening would dredge about 2.1 acres, which constitutes approximately 8% of the 27.5-acre maintenance dredging footprint within the channel. The final EA has been revised to state the footprint of the respective dredging areas. The relative volume of dredging for the widening dredging is almost half of the total dredging due primarily to the limited reach of the existing channel that would be dredged for maintenance purposes in this year’s episode.
2. The commenter correctly observes that ship beam size has increased since the last maintenance dredging in 1973. The beam of vessels that currently use the channel is

about 100 feet. The depth of the Federal channel has not changed since 1973, and not since initial project authorization in 1927. A trend in the shipping industry has been observed since 1973: ships of unchanged draft dimensions are now exhibiting increased beam dimension. This industry trend is not limited to ships utilizing Olympia Harbor, and has arisen independently of the Federal navigation project in Olympia Harbor. The Corps' mission is to provide for the reliable, efficient, and safe navigation of the vessels that actually use the waterway in question. The Corps is not expanding the width dimension of the channel generally, but is conducting minor widening at one channel bend to assure that the vessels presently using the channel are afforded full opportunity for safe navigation at that single location along the reach of the federally maintained channel. The final EA appropriately characterizes the proposed work as operations and maintenance dredging that will provide safe navigation conditions for the types of ships that currently use the channel. The operations and maintenance dredging is neither intended nor expected to provide conditions suitable for an entirely new class of larger ships to utilize the Port of Olympia.

3. The final EA (Section 3.4.2) has been revised to discuss potential air quality impacts due to vessel traffic resulting from the proposed action. In summary, due to the low frequency of existing and expected vessels utilizing the area, more than minimal air quality impacts are not expected to occur as a result of the work. The maintenance dredging project is not intended to facilitate a larger number of vessel transits in Olympia Harbor, because the impetus for the project is to provide channel dimensions that permit the timely and safe passage of each vessel of the applicable draft and beam, regardless of the number of vessels doing so. The final EA acknowledges that, with or without maintenance dredging, a slight increase in the annual number of ship transits is anticipated. However, the EA concludes that the maintenance dredging project will not result in any increase in the number of vessel transits, as compared with the No Action alternative, and that the environmental impact on air quality would be insignificant. The project is neither intended nor expected to accommodate vessels of larger dimensions than presently utilize the channel. The Federal navigation project does not encompass any efforts by the Port of Olympia to expand the marine terminal. The Federal maintenance dredging project is rendered necessary by the requirements of the ships that presently utilize the channel, regardless of whether any Port marine terminal expansion efforts come to fruition.
4. The final EA has been revised to discuss the distance between the navigation channel edge and the shoreline in more detail. In summary, the existing western channel edge is about 1600 feet offshore of the west shoreline of Budd Inlet. The proposed project would decrease this separation by a maximum of 110 feet or about 7 percent. Given the slight degree of change and the transient nature of ship activity in the entrance channel, we believe that potential adverse impacts related to decreased distance between ships and the shoreline are unlikely.
5. The Corps believes that the final EA adequately captures the potential impacts on the identified resources.

6. The final EA has clarified that the cumulative impacts from Swantown Marina expansion and various Port marine terminal expansion efforts have been included in the cumulative effects analysis. Effects from vessels in the harbor are addressed in Section 3 of the EA. The additional past and future actions that are now expressly delineated as part of the analysis do not substantively affect the Corps' general conclusion that the aggregate effects on the project area will remain substantial. However, the incremental impacts of this maintenance dredging effort, when added to the aggregate effects of all past, present, and reasonably foreseeable future proposals in the immediate area, would not be significant.
7. The Federal channel maintenance project does not encompass the project-specific direct and indirect effects of the Port's berths dredging project, or the associated Corps permit. The effects of the issuance of any Corps permit or authorization will be addressed in separate and subsequent NEPA documentation, as appropriate. Per NEPA regulations, the cumulative effects section of the final EA addresses past, present, and reasonably foreseeable future actions in the project vicinity (including those identified by the commenter) that have been completed or proposed by the Port and others, including Corps-permitted activities.
8. The proposed berth dredging by the Port is an action that is distinct from and independent of the proposed Federal channel maintenance dredging proposed by the Corps. As a reasonably foreseeable future action in the project vicinity, the proposed dredging of the Port berths is appropriately incorporated into the cumulative effects section of the EA.
9. The Corps believes that the final EA adequately captures the potential impacts on the identified resources. As indicated previously, the Corps does not intend that the maintenance of the Federal channel at previously authorized dimensions, even taking into account the minor widening at a single channel bend, will accommodate a greater volume of shipping, and neither expects nor intends that the maintenance dredging will accommodate larger ships than currently utilize Olympia Harbor. The comment on the draft EA statement about potential noise effects of airline flights to and from SeaTac Airport is acknowledged and the subject reference has been omitted.
10. Section 3.14 has been revised to address ship traffic. In summary and as previously indicated, substantial increases in ship traffic or ship dimension are not intended or anticipated as a result of the proposed maintenance dredging, so any aesthetic impacts from vessel traffic are expected to be minimal under the proposed action.
11. The Corps believes that the final EA adequately captures the potential impacts on wildlife resources. As discussed previously, the operations and maintenance dredging will not substantially increase the intensity, duration, or size of vessel traffic in Budd Inlet, so impacts to wildlife are expected to be minor.
12. Section 1.4 (Purpose and Need) of the final EA has been revised to clearly state that the project need is to address safety concerns presented by the shoaled areas within the authorized federal navigation channel. In the final EA, the letters from ship pilots are discussed as one element of the rationale supporting the project need. To meet the need,

the project purpose is to allow timely and safe passage of the vessel types and sizes that currently utilize the Port. As the proposed work is operations and maintenance of the navigation channel, the maintenance of previously authorized channel dimensions, including the minor channel bend widening effort, is neither expected nor intended to result in more than minimal changes in the size of vessels that utilize the Port.

13. The EA evaluates potential impacts in comparison to the baseline of the “no action” alternative, as required under NEPA. The final EA states that, with or without dredging and as compared to the last several years, a slight increase in shipping activity is expected in the project area, but that the maintenance dredging project will not result in any increase in the number of vessel transits, as compared with the No Action alternative. The EA therefore concludes that adverse impacts are likely to be insignificant. The EA analysis indicates that the differences in individual and cumulative impacts between the “no action” alternative and proposed action are less than significant.
14. The proposed work would dredge sediments that have been determined by the inter-agency Dredged Material Management Program to be suitable for unconfined aquatic disposal, as discussed in more detail with regard to previous comments. The initially proposed placement of material at a location within Budd Inlet for beneficial use is no longer part of the project, so any issues regarding placement of suitable dredged material on top of contaminated surface sediments are moot. Accordingly, the Corps believes that any risk the work poses to human health is less than significant.
15. The Corps believes that the EA provides an objective analysis of the reasonably foreseeable socioeconomic effects of maintenance dredging of the Federal channel on maritime jobs associated with the marine terminal. The Corps finds no basis for the conclusion that the indirect socioeconomic effects of the no-action alternative would be an increase in “waterfront-related jobs created in other sectors” if the channel were to remain at its current width.

## Ronelle Funk

**Sent:** Thursday, June 21, 2007 8:07 AM  
**To:** Lewis, Evan R NWS  
**Subject:** dredging of port

Mr. Lewis-

I am against the dredging of the Port of Olympia and feel that a public forum is necessary. } 1  
Please contact me if you have any questions-

Ronelle Funk  
610 Cushing Street SW  
Olympia, WA 98502

### Corps Responses to Comments by Ronelle Funk

1. Comment noted. It is not clear whether the commenter is making a request for a public hearing. The comment period itself provides a forum for public participation in the NEPA process. As indicated in the public notice, any request for a public hearing must be accompanied by a statement of justification, indicating with particularity why a hearing is necessary to a decision on the matter. No such justification was provided. The Corps will not hold a public hearing on the project, as we believe that public hearing would not generate substantive new information that is necessary to reach a decision about proceeding with the proposed project.

## Zena Hartung

Sent: Thursday, June 21, 2007 2:34 AM

To: Lewis, Evan R NWS

Subject: Dredging of Bud Inlet

Dear Sir,

I write to you today to join those who bother to keep track of the activities and planned activities of government agencies.

I cannot count myself as one who is highly knowledgeable, unfortunately, about water columns, confluence of rivers, underground tidal flows or hydrogeology. However, I do know when I hear a bad idea. I do know when I learn that the activity is economy-driven and not adequately studied. I no longer trust that the government authorities charged with protecting our natural resources are considering the consequences of their actions. The reports I've read say there is a need for dredging, to permit large ships with deep drafts. But their access to our port does not trump our need to live here, nor the needs of the creatures abiding in the waters. Perhaps once there was ignorance of the damage to be done by dredging. Today that is no longer the case.

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Possible consequences of dredging:

1- throwing up into the water lots of sediment that has settled over the years, causing it to shift, to reveal contamination, to spread the damage, likely to shoreline. We are boaters and swimmers here, please remember. We may not see the animals living in the waters, but their needs must not be marginalized. Dredging will harm their habitat.

} 2

2- Some of the sediment may be harmless, but studies show that there are heavy metals and pollutants in that sediment. Pollutants that have long half-lives and potential for cancer-causing.

3- Leaving the sediment in place is not neglectful; it is perhaps the best course of action.

} 3

4- And again, moving the sediment is likely to bring unwanted consequences to habitat, to fish and crustaceans and the birds that feed on them, up and down the inlet, both below and above the surface

} 4

The Corps has a pledge, not unlike the medical profession to first, do no harm.

For these and more reasons, I am not convinced that dredging Budd Inlet is harmless. Indeed, the consequences may be devastating. To do nothing, to refuse to dredge, is a heroic decision. I hope you are instrumental in bringing about this result, this non-action, and protecting our waters, our shores and our habitat.

Sincerely,  
Zena Hartung  
27 year resident of Olympia

### Corps Responses to Comments by Zena Hartung

1. The final EA evaluates the consequences of the proposed dredging and disposal activities, and has adequately assessed the anticipated impacts of those activities on the quality of the human environment. The maintenance dredging of the navigation channel will remove sediments that studies have shown to be suitable for open water disposal. The work will be done in a manner which avoids or minimizes adverse environmental impacts. The project is neither intended nor expected to result in ships utilizing Olympia Harbor that are larger than those currently doing so. Finally, in response to comments on the draft EA, the Corps is no longer proposing to dispose of material in Budd Inlet for beneficial use, thus avoiding the potential for redistribution of contaminated sediments.
2. Comprehensive testing of the sediment by the inter-agency DMMP for a full suite of potential contaminants, including metals, indicates that the material to be dredged is suitable for open water disposal. As discussed in the final EA, the conduct of the work may result in short-term impacts to fish and wildlife during the dredging period, but no significant long-term adverse impacts to marine habitat are anticipated.
3. The proposed work is necessary to address safety concerns related to ongoing navigation in the authorized federal navigation channel. The Corps has balanced the potential impacts of the work with the benefits of the project as discussed in the final EA. Incorporating best management practices and other features of responsible implementation of the proposal, as the Corps intends, the dredging will be accomplished without significant environmental impacts.
4. Please see the response to Comment 1.

## Bob Jacobs

**Sent:** Sunday, June 10, 2007 5:28 PM

**To:** Lewis, Evan R NWS

**Cc:** Kendal, David R NWS

**Subject:** Comments on the DRAFT ENVIRONMENTAL ASSESSMENT Olympia Harbor Dredging

Mr. Evan R. Lewis  
Environmental Resources Section  
U.S. Army Corps of Engineers  
P.O. Box 3755  
Seattle, Washington 98124-3755

Dear Mr. Lewis:

Please accept this email as my formal comments on the DRAFT ENVIRONMENTAL ASSESSMENT, Olympia Harbor Maintenance Dredging and Minor Widening of Federal Navigation Channel.

I appreciate the opportunity to comment.

I do not understand why the Corps plans to dredge in the Olympia Harbor and Channel area.

The following three questions explain my concerns:

1. How can the Corps justify the cost of dredging for a port with such a low amount of shipping (currently and foreseeably)? Isn't there some threshold shipping volume (dollar value) required for the expenditure of our federal money?

2. How can this project pass the benefit/cost test today, when it failed this test approximately 12 years ago when the "Dredged Disposal Analysis" (or similar title) found dredging not cost-beneficial. If dredging was not cost-beneficial then, how can it be cost beneficial now, considering that shipments are lower and dredging costs higher today (due to the discovery of dioxin in the sediments)? It would seem that the dredging would be even less cost-beneficial now than it was when the DDA was completed.

3. How can the Corps assure that pollution problems will not be worsened by dredging? Research indicates that dredging often makes pollution problems worse than leaving the sediments where they are and assuring that they are capped with uncontaminated sediments. Recent testing indicates widespread dioxin pollution in Budd Inlet. This is a very serious pollutant for both fish and people.

Thank you again for the opportunity to comment.

please confirm receipt of this communication.

And please also notify me of additional opportunities to participate in the public involvement process on this proposed project.

Finally, please keep me informed of decisions regarding this proposal.

Sincerely,

Bob Jacobs  
720 Governor Stevens Ave. SE  
Olympia, WA 98501-3458

#### Corps Responses to Comments by Bob Jacobs

1. As discussed in more detail in response to previous comments, the Olympia Harbor navigation channel has been authorized by Congress to provide shipping access to the Port of Olympia. Maintenance dredging of Olympia Harbor was included as a specific line item in the President's fiscal year 2007 budget, and Congress appropriated operation and maintenance dredging funding in light of that request. The Corps' dredging proposal would accomplish the operations and maintenance element contained within the initial authorization of the project. The economic justification of the navigation project was developed and approved at the time of initial project authorization. The Corps's civil works planning principles do not require it to perform, and the Corps has not performed, a cost-benefit analysis of the operations and maintenance of an existing authorized project. Likewise, NEPA does not require a cost-benefit analysis of a proposed Federal action.
2. The inter-agency DMMP has determined that the sediments to be dredged in the proposed Federal maintenance dredging project are suitable for unconfined aquatic disposal. In response to comments in the draft EA, the Corps will dispose of all dredged material at the Anderson Island open water disposal site, thereby alleviating concerns as to potential disturbance of contaminated sediments at the originally proposed beneficial use site. With this modification to the proposal, the dredging and disposal activities proposed by the Corps would not disturb any contaminated sediment. Potential cumulative impacts related to nearby dredging of contaminated sediment proposed by the Port of Olympia are discussed in the final EA. The Corps recognizes concerns about disturbance of contaminated sediment and the need for parties undertaking those remediation activities to carefully evaluate and implement future proposals involving amelioration of contaminated sediments.

**E.L. Johnson**

**Sent:** Wednesday, June 20, 2007 4:04 PM  
**To:** Lewis, Evan R NWS  
**Cc:** Kendall, David R NWS; Arden, Hiram T NWS  
**Subject:** Dredging Port of OlympiaEvan R. Lewis

Evan R. Lewis  
Environmental Resources Section  
U.S. Army Corps of Engineers  
P.O. Box 3755  
Seattle, Washington 98124-3755

Subject: Comments on the DRAFT ENVIRONMENTAL ASSESSMENT Olympia Harbor Maintenance Dredging and Minor Widening Federal Navigation Channel

June 20, 2007

Dear Sir:

The idea that this is just maintenance is oft repeated and extremely misleading.

The project as designed will greatly increase the width and depth of the Port of Olympia to allow bigger ships to enter into this little harbor.

Letters received by the Port of Olympia were described as “from pilots that guide cargo ships into the Port voicing major concerns about the navigation channel being too narrow and shallow and having to wait for high tides to provide safe access to the Port.” On a open records request, these letters turned out to be solicited by the port and mostly stated that when boats get bigger Port of Olympia will need to be larger as well.

Enlarging the Port of Olympia (52% of this project) is a separate issue from maintenance dredging. Either way, the cost is enormous and paid by taxes, Federal, State and Local.

Under any circumstance, dredging should not be harmful to the citizens. Until absolute freedom from pollution can be assured, no dredging is appropriate. To test samples after the fact is not helpful.

Citizens count on their government agencies for integrity and protection.

Sincerely,

E. L. Johnson  
2221 Water Street SW  
Olympia WA

} 1  
}  
} 2

### Corps Responses to Comments by E.L. Johnson

1. The draft and final EA appropriately characterize the proposed work as operations and maintenance dredging that will provide reliable, efficient, and safe navigation conditions for the types of ships that currently use the channel. The operations and maintenance dredging is neither intended nor expected to provide conditions suitable for an entirely new class of larger ships to utilize the Port of Olympia. As discussed in greater detail in response to prior comments, the depth of the Federal navigation channel will not be increased beyond that initially authorized by Congress, and beyond the depth to which the channel has subsequently been maintained as recently as 1973. The width of the navigation channel will not be generally increased, but will be widened in only a discrete location to provide for the navigational safety of the vessels that already use Olympia Harbor. Section 1.4 (Purpose and Need) of the final EA has been revised to clearly state that the project need is to address timeliness and safety concerns presented by the shoaled areas within the authorized federal navigation channel. In the final EA, the letters from ship pilots are discussed as one element of the rationale supporting the project need. To meet the need, the project purpose is to allow timely and safe passage of the vessel types and sizes that currently utilize the Port.
2. The sediments within the proposed dredging footprint have undergone extensive testing for a full suite of potential contaminants. The regimen of testing conducted by the inter-agency DMMP demonstrated that the sediments to be dredged are suitable for open-water disposal. Potential impacts to water quality during the dredging are expected to be short-term and localized to the work area. No significant adverse effects from pollution, either individually or cumulatively, are expected to occur from the proposed work.

## Walt Jorgensen

Sent: Wednesday, June 20, 2007 3:34 PM

To: Lewis, Evan R NWS

Cc: Kendall, David R NWS; Arden, Hiram T NWS

Subject: Comments on the DRAFT ENVIRONMENTAL ASSESSMENT, Olympia Harbor Maintenance Dredging and Minor Widening Federal Navigation Channel

Wednesday, June 20, 2007, 3:34pm

Comments on the DRAFT ENVIRONMENTAL ASSESSMENT  
Olympia Harbor Maintenance Dredging and Minor Widening Federal Navigation Channel

To: "Evan R. Lewis" <Evan.R.Lewis@usace.army.mil>

Environmental Resources Section

U.S. Army Corps of Engineers

P.O. Box 3755

Seattle, Washington 98124-3755

evan.r.lewis@usace.army.mil

(206) 764-6922

CC: "Kendall, David R NWS" <David.R.Kendall@nws02.usace.army.mil>

"Hiram T. Arden" <Hiram.T.Arden@nws02.usace.army.mil>

The widening will result in a greater number of larger ships, the environmental impact of which was not addressed in your Environmental Assessment, including the no-action assessment.

} 1

You assert that the project itself will be accomplished at submarine level and will not impact the aesthetics above ground. Obviously the collateral activity and development will.

You haven't looked at cumulative impacts including expansion of Swantown marina.

NEPA requires that you look at land side as well as submarine and over water development.

} 2

The rail project will double cargo volume crossing port docks.

The link to the Weyerhaeuser project is not acknowledged as an integral and major component.

The proposed maintenance dredging of Olympia Harbor for shipping should not be confused with dredging to remediate contamination. Remediation should begin with an assessment of contamination, then complete a targeted assessment of hot spots, then a search for sources. Actual work would most sensibly happen in reverse, beginning with the sources.

We barely understand the hydrogeology of the Port Peninsula. We do know the area is a discharge zone for artesian aquifers and that the tide flows underground. The peninsula is a logical source of contamination of the shipping berths. If so this contamination will continue after the berths are dredged.

Dredging in shipping berths and channels is not necessarily going to reduce the bioavailability of dioxin and should not be considered a "cleanup". Not long ago a similar plan was undertaken in Sinclair Inlet. The Area Weighted Average (AWA) for PCBs increased by 3 mg/kg, exceeding the Remedial Action Objective by 7 mg/kg. The experiment can only be described as a dramatic failure. This experience was not unique.

Dredging the berths, turning basin and inner and outer shipping channels is described as maintenance dredging. But there is no indication that any were ever dredged to the length, breadth and depth they will be dredged. There have been no core profiles indicating that most of the material to be dredged will be anything other than natural sediments.

The Port of Olympia lies at the confluence of three streams and the Deschutes River. In response to the Port's last Environmental Impact Statement (EIS) done in 1994, the Washington Department of Fish and Wildlife (WDFW) states, "Marine tidelands and shorelines owned and administered by the Port of Olympia contain some of the most critical fish habitat areas in Budd Inlet." Juvenile surf smelt (*Hypomesus pretiosus*) and Pacific sandlance (*Ammodytes hexapterus*) spawn on the upper beach. Pacific herring (*Clupea pallasii*) spawn and rear in adjacent waters. There are rock sole spawning beds, juvenile rockfish and lingcod settlement areas, shellfish beds, marine vegetation beds and Dungeness crab settlement, feeding, rearing and molting areas.

The ultimate goal of dredging 500,000 cubic yards of sediment would dramatically impact physical, chemical and biological parameters. Dredging would alter the structure of the estuary and its ability to maintain a healthy mix of phytoplankton and herbivores or remediate contamination, both of which happen best in shallow waters in the presence of abundant sunlight and oxygen. It would impact circulation of algae and herbivores and reduce the availability of atmospheric oxygen and sunlight, all of which increase the risk of eutrophication. It's the structure of estuaries that determines their viability.

Then there's the disturbing dioxin question. There's a prevailing mythology that dioxin is everywhere and not a concern. The chemical contamination of Budd Inlet actually poses an unusually serious problem. According to the Agency for Toxic Substance and Disease Registry, levels of dioxins in "uncontaminated areas" are generally "non-detectable".

} 3

} 4

} 5

} 6

Uptake of dioxin into the body through the skin is at least equal to that of ingestion. Dermal exposure is even more likely to cause squamous cell cancer (systemic and not confined to the spot of contact) at a lower dose than oral absorption. When a living organism comes in contact with a dioxin in the marine environment it will tend to adhere to the organism. Most people are exposed through food but that doesn't mean the risk to an individual isn't greater through dermal exposure. We need to do everything we can to reduce the bioavailability of dioxin by limiting human exposure and the entrance of dioxins into the food web.

Dioxins have been linked to nerve and endocrine damage, reproductive problems and birth defects. They've been linked to Diabetes, Parkinson's and cancers of the breast and brain. Mortality from these diseases has increased by an average of at least 1% per year over the past 30 years. Conversely, male fertility has been dropping at the same rate most logically due to hormone mimicking chemicals such as dioxin.

Dioxins aren't the only chemicals that cause us damage but they are among the worst. According to the EPA the effects of dioxin and related compounds have been observed at levels to which segments of the general population are exposed. There is no threshold, no level at which exposure is not a risk.

The next phase of the Budd Inlet Sampling Plan should move landward because that's where the sources are. We weren't generally making dioxin in the bay. Landward, especially on public beaches, is also where the public is placed at greatest risk.

It should be apparent in looking at old photos that Olympia had a history comparable to that of places like the Thea Foss Waterway. The discovery of dioxin should have come as no surprise and it should not be taken lightly. We need to adhere to proven methods and not dredge prior to completion of a characterization of sediment contamination.

Ironically, conventional and container barges are in many ways more suited for shipping from Olympia Harbor. Most promising of all, LASH (Lighter Aboard SHip) barges are 385 ton barges that are loaded in local ports such as Olympia and pushed to enormous carriers lying offshore or in deepwater ports. The economic advantages of a port such as Olympia are numerous. There's no ship parked at the dock with the meter running. The ship is taken out of the combined ship and tug trip to Olympia saving money. The carrier ship can be as big as a super tanker saving more money through the economics of scale. There's no need to dredge because barges only draw eight feet. Barges can be handled by low emission hybrid tugs. And each LASH barge has a sealed bill of lading so Olympia can settle into high paying cargo.

In the currently proposed scenario logs are loaded onto barges in Canada and shipped to Olympia where they're offloaded and reloaded onto ships escorted by tugs. In the LASH scenario, barges are loaded in Canada and pushed to a mother ship lying at anchor off Port Angeles and loaded directly aboard for shipment overseas.

6  
cont

7

Evolving barge technologies have so many economic and environmental advantages for inland harbors like Olympia they must be the way of the future. Dredging Budd Inlet to accommodate larger ships will negatively impact the health of the bay. It's an endeavor that will probably be obsolete the day it's complete. Please reconsider the plan to do so.

} 7  
cont.

Any engineering in the littoral zone is destructive and that by definition everything you do is destructive.

The Corps did everything it could to avoid any assessment for dioxins before dumping sediments off Nisqually.

There should be a full characterization of contaminants and sediment flow and computer modeling of impacts. At this stage this is where the money should be going, not to dredging. Dredging for remediation of contaminants should be conducted, if at all, separately from navigation dredging.

} 8

Sediments are usually about 65% water. When we dig them with a clamshell we lose material. Withdrawing sediments hydraulically brings up even more water. Somewhere in the process water (and whatever is dissolved or in suspension) has to escape. Changes in benthic contours can also directly release contaminants.

How can the Corps justify the cost of dredging for a port with such a low amount of shipping (currently and foreseeably)? Isn't there some threshold shipping volume (dollar value) required for the expenditure of our federal money?

How can this project pass the benefit/cost test today, when it failed this test approximately 12 years ago when the "Dredged Disposal Analysis" (or similar title) found dredging not cost-beneficial. If dredging was not cost-beneficial then, how can it be cost beneficial now, considering that shipments are lower and dredging costs higher (due to the discovery of dioxin in the sediments)? It would seem that the dredging would be even less cost-beneficial now than it was when the DDA was completed.

} 9

How can the Corps assure that pollution problems will not be worsened by dredging? Research indicates that dredging often makes pollution problems worse than leaving the sediments where they are and assuring that they are capped with uncontaminated sediment.

} 10

Is the Corps under directive from the federal govt. to dredge the shipping channel to the port to improve and maintain accessibility for military access/cargo?

} 11

Sincerely,

Walter R. Jorgensen  
360-867-0138

## Corps Responses to Comments by Walt Jorgensen

1. The draft and final EA appropriately characterize the proposed work as operations and maintenance dredging that will provide safe navigation conditions for the types of ships that currently use the channel. As discussed in more detail in response to previous comments, the proposed project will not provide new depths beyond those to which the Federal channel was previously authorized, and beyond those to which the channel has previously been maintained. Similarly, the minor widening of a discrete portion of the Federal channel, at a single channel bend, would be provided to facilitate the navigational timeliness and safety of the ships already using the channel, and is not expected or intended to accommodate larger vessels in Olympia Harbor. The operations and maintenance dredging is neither intended nor expected to provide conditions suitable for an entirely new class of larger ships to utilize the Port of Olympia.
2. The final EA has clarified that an assessment of the cumulative impacts from Swantown Marina expansion and various other Port marine terminal expansion efforts has been included in the cumulative impacts analysis. These additional past and future actions that are now expressly delineated as part of the analysis, do not substantively affect the Corps' general conclusion that cumulative effects on the project area will remain substantial regardless of the individual impact of the proposed dredging and disposal.
3. The proposed Federal channel maintenance dredging work would dredge sediments determined to be suitable for unconfined aquatic disposal, and does not involve disturbance of contaminated sediments or their remediation. The initially proposed placement of material at a location within Budd Inlet for beneficial use is no longer part of the project, so any issues regarding placement of clean dredged material on top of contaminated surface sediments are moot. Accordingly, the Corps believes that any risk the work poses to human health is less than significant.
4. The proposed dredging would occur only at the channel bend of the entrance channel and consists of both removal of sediment accumulated since the last dredging of this area in 1973, as well as minor widening. The minor widening was generally authorized by the initial legislative enactment for the project, which gave discretion to the Corps to provide "suitable additional width at the bend" of the channel, and by 33 USC 562, which provides that specified channel dimensions are to be treated as permitting "increase at the entrances, bends, and turning places as may be necessary to allow of the free movement of boats." The minor widening effort was approved as an appropriate operations and maintenance activity by local, regional, and national Corps offices. As acknowledged in the final EA, the area of minor widening would require dredging of native sediments. The balance of the proposed Federal maintenance project would dredge the channel to dimensions previously authorized, initially completed in 1939, and subsequently maintained since – including as recently as 1973.

5. The Corps believes that the final EA adequately captures the potential impacts of the proposed Corps dredging on the marine environment, both individually and cumulatively. The alternative that would have consisted of maintenance dredging of 560,000 cubic yards of material from the entrance channel, channel bend, and turning basin has not been recommended for implementation.
6. The sediments within the proposed dredging footprint have undergone extensive testing for a full suite of potential contaminants. The testing conducted by the inter-agency DMMP demonstrated that the sediments to be dredged are suitable for open-water disposal. In response to comments in the draft EA, the Corps will dispose of all dredged material at the Anderson Island open water disposal site, thereby alleviating concerns regarding potential disturbance of contaminated sediments at the originally proposed beneficial use site. With this modification to the proposal, the dredging and disposal activities proposed by the Corps would not disturb any sediment contaminated with levels of dioxin or other pollutants that would cause the sediments to be unsuitable for unconfined aquatic disposal. Potential cumulative impacts related to nearby dredging of contaminated sediment proposed by the Port of Olympia are discussed in the final EA. The Corps recognizes concerns about disturbance of contaminated sediment and the need for parties undertaking those remediation activities to carefully evaluate and implement proposals involving amelioration of contaminated sediments.
7. The proposed project is intended to maintain an existing navigation project, initially evaluated and authorized in 1927, to provide authorized channel depths and widths to provide timely and safe passage conditions for ships entering and leaving the Port of Olympia. Because the project will maintain depths and other parameters of a navigation channel as initially dredged and subsequently maintained, the maintenance dredging project is neither intended nor expected to accommodate ships of greater draft than was contemplated at the time of initial legislative authorization of the Olympia Harbor Federal navigation project, nor to accommodate ships of larger draft and beam dimensions than those that presently utilize the waterway. Likewise, the maintenance dredging project is not intended to facilitate the passage of a greater volume of ship traffic than currently transits Olympia Harbor, and is not expected to generate any increase in traffic, as compared with the No Action alternative. Evaluation of alternative methods to ship cargo to and from the Port is outside of the scope of the project.
8. The final EA summarizes the most recent testing of sediments in the navigation channel and Port berth areas in Section 2. The sediments within the proposed dredging footprint have undergone extensive testing for a full suite of potential contaminants, by the inter-agency DMMP. The testing results show that the sediments to be dredged are suitable for open-water disposal. Disposal activities at the Anderson Island open water disposal site will be performed consistent with the requirements of the Puget Sound Dredged Material Management Program, which has previously evaluated the environmental impacts of use of the disposal site per the National Environmental Policy Act in the 1989 Final Environmental Impact

Statement, Unconfined Open-Water Disposal for Dredged Material, Phase II (North and South Puget Sound), with the Corps, EPA, Washington Department of Natural Resources, and Washington Department of Ecology as the principal agencies. As suggested by the commenter, remediation of contaminated sediments at the Port berthing areas is being evaluated by the Port and the Washington Department of Ecology as a separate project under the Washington State Model Toxics Control Act.

9. As discussed in more detail in response to previous comments, the Olympia Harbor navigation channel has been authorized by Congress to provide shipping access to the Port of Olympia. Maintenance dredging of Olympia Harbor was included as a specific line item in the President's fiscal year 2007 budget, and Congress appropriated operation and maintenance dredging funding in light of that request. The Corps' dredging proposal would accomplish the operations and maintenance element contained within the initial authorization of the project. The economic justification of the navigation project was developed and approved at the time of initial project authorization. The Corps's civil works planning principles do not require it to, and the Corps has not performed, a cost-benefit analysis of the operations and maintenance of an existing authorized project. Likewise, NEPA does not require a cost-benefit analysis of a proposed Federal action.
10. The proposed project does not disturb contaminated sediments. Potential impacts to water quality are expected to be short-term during the dredging and localized to the work area. Sediment quality will not be affected by the dredging or disposal activities. No significant adverse effects from pollution, either individually or cumulatively, are expected to occur from the proposed work.
11. The Olympia Harbor navigation channel has been authorized by Congress to provide shipping access to the Port of Olympia. Congress has also appropriated funds to allow the Corps to perform maintenance of the channel to ensure safe navigation conditions in the channel. The Corps authority is not specific to any type of cargo or shipping activity.

Dorothy Mykland

RECEIVED  
JUN 5 2007  
Lewis, ERS

May 31, 2007

To: Hiram Arden

From: Dorothy Jean Mykland

Re: Olympia Budd Inlet dredging

I am concerned about your Budd Inlet dredging plan. To do this project independently and before a comprehensive plan for the area (Budd Inlet and Capital Hill) has been made seems irresponsible and unreasonable. 1

It is important that we restore and protect this fragile waterway. We need to give priority to a more complete plan involving environmental protection, sustainability, and the health of Puget Sound.... not just using it for a dumping ground as done previously. 2

There are many issues and it seems harmful to do any projects before looking at the area as a whole.

The Olympia community deserves to have this done right! The health of Puget Sound comes first!!

Respectfully submitted

Dorothy Jean Mykland

PO Box 1392 Olympia, WA 98507-1392

(2 page article attached)

## PORT OF OLYMPIA UPDATE

### Dioxin in Budd Inlet:

### All we have to decide is what to do with the time and resources given to us

By PAUL J. ALLEN

We, the children of our predecessors, inherited a huge toxic legacy that continues to plague Budd Inlet. I am also concerned that elected officials making decisions on such complex issues may act hastily and in the self-interest of their specific agency, instead of the interest of the entire community's long-term ecologic and economic health.

Human and industrial waste has flowed into Budd Inlet since the late 1800s. Some of these industries created toxic chemicals that we now know cause cancer and other illnesses in humans. For example, raw human waste was dumped directly into the waters of the former Deschutes Estuary from a shantytown known as "Little Hollywood". This went on until the "urban renewal" project, which included placement of the Fifth Avenue dam that formed Capitol Lake reservoir in 1951.

Many industries used the Deschutes River and Budd Inlet as their free toxic waste dumping ground until growing environmental awareness led to such laws as the Federal Water Pollution Control Act in 1972. This later became known as the "Clean Water Act" (or CWA). In Washington State, the Department of Ecology (Ecology) monitors water quality in Puget Sound.

The Clean Water Act sets measurable targets for specific pollutants. Ecology lists water bodies in one of 5 categories recommended by the Federal Environmental Protection Agency (EPA). The categories range from Category 1, meaning the water body meets standards, to a Category 5, which is a polluted water body that

requires a "Total Maximum Daily Load" (TMDL) for a specific water quality violation. The 303(d) list is the traditional EPA list of impaired water bodies. Placement in Category 5 means that Ecology has data showing that the water quality standards have been violated for one or more pollutants, and there is no TMDL or pollution control plan. TMDLs are a key tool in the work to clean up polluted waters.

Industry played its part in contaminating Budd Inlet with a toxic legacy that will last longer than those of us alive today. As the Port of Olympia

states on their web site, from 1939 to 1957, numerous wood treating companies leased this land from the Port. The companies used two main chemicals - creosote and pentachlorophenol - to preserve structural wood products, primarily utility poles and railroad ties. These companies dumped toxic waste directly onto the soil or into Budd Inlet.

One of the most infamous industrial polluters of recent memory is Cascade Pole Company (CPC), once located on the Port of Olympia property. From 1957 until 1986, CPC operated on port property north of Farmer's

*continued next page*

#### The cancer-causing risk of major toxic chemicals found in Budd Inlet

Below is a list of toxic chemicals at dangerous levels found in Budd Inlet. We can make positive change with policymakers and port leadership when we know what these chemicals are, how they got there, and their impact on our health.

**Dioxin compound (TCDF) 2,3,7,8-TCDD**, recently found in high concentrations in sediment at Port of Olympia berthing docks, LOTT outside and other areas in the Budd Inlet channel.

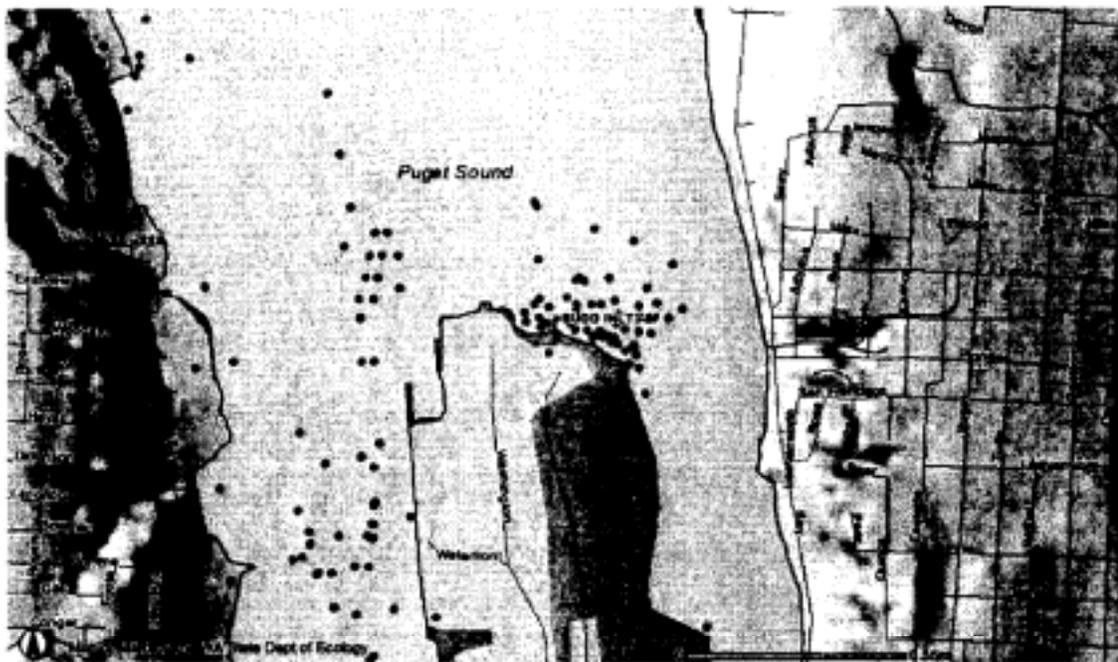
Many studies suggest that exposure to 2,3,7,8-TCDD increases the risk of several types of cancer in people. The World Health Organization (WHO) has determined that 2,3,7,8-TCDD is a human carcinogen. The Department of Health and Human Services (DHHS) has determined that 2,3,7,8-TCDD may reasonably be anticipated to cause cancer.

**Polychlorinated Biphenyls (PCBs)** found in Budd Inlet Silt and Rockfish

The EPA and the International Agency for Research on Cancer (IARC) have determined that PCBs are probably carcinogenic to humans. (Reference Agency for Toxic Substances and Disease Registry) Polychlorinated hydrocarbons (PCHs) found in mollusks (clams/shellfish) at the Cascade Pole site clean-up site at Port of Olympia.

The Department of Health and Human Services has determined that some PAHs may be carcinogenic. Some people who have breathed or touched mixtures of PAHs and other chemicals for long periods of time have developed cancer.

CP, L, H, FRS



This aerial image of Budd Inlet shows several Ecology testing sites, including BUDD INLT3-SF. Testing revealed significant levels of toxic contaminants in shellfish tissue, including dioxins and furans. These monitoring sites are next to the Cascade Pole Clean-up site on the Port of Olympia. Map courtesy of Washington Dept. of Ecology.

## Dioxin...

*continued from previous page*

Market. This site was determined to be a hazardous waste site under state law in the 1980s. The Port of Olympia (PO) worked with Ecology to develop a clean-up plan for this area. This clean-up plan includes periodic testing of fish and shellfish for toxic chemicals.

Several toxic chemicals known to cause diseases, including cancer in humans, were found in shellfish tissue at levels exceeding the Clean Water Act standards. The Category 5 list of toxic chemicals in inner Budd Inlet included total polychlorinated biphenyls (PCBs) in 1996, Benzo (A) Anthracene in 1986. A TMDL was established for these toxic pollutants among others.

Ecology retests the pollutant levels periodically to determine if the water body should remain on the 303(d) list of Category 5 impaired water bodies. Ecology Publication No. 06-03-026 states that in 2005, 12 open water sites in South Puget Sound and one intertidal area in inner Budd Inlet were re-assessed for prior violations under the Clean Water Act. High concentrations of several toxic chemicals that cause disease in humans were once again found in fish, mussel tissue and sediment samples from areas adjacent to Port of Olympia property, including sites that monitor the former Cascade Pole Company clean-up operation.

In the past, some of the specific toxic chemical water quality violations included elevated levels of PCBs and bisphenol A (BPA) found in sole and rockfish. The 2005

test results showed concentrations of PCBs in Puget Sound sole (fish) were low but exceeded the National Toxics Rule (NTR) criteria at all but one site. The contaminant BEHP was not detected and therefore did not exceed the NTR criteria. It was recommended to continue listing PCBs but to change BEHP from Category 5 to Category 1, since it fell within tested standards.

Prior water quality violations at the CPC site also included polynuclear aromatic hydrocarbons (PAHs) in shellfish. In 2005, Ecology found that concentrations of PAHs in mussel tissue from the CPC clean-up site were significantly lower than prior test results but still exceeded National Toxics Rule (NTR) criteria. Ecology recommends that the PAHs remain

*continued on page 21*

## Priorities ...

*continued from page 7*

possible, take your school-age children at least once this session. Introduce a subject of interest to them and track it in action from beginning to end. It is an effective, first-hand lesson in the democratic process. Pick up information such as House and Senate committee member rosters and committee meeting schedules at the State Capitol Building, First Floor.

If you can't make meetings, legislative committee meetings are aired on TVW, Washington State's public affairs network. See [www.TVW.org](http://www.TVW.org) for their schedules on television or via the internet. Call the Legislative Hotline at 1-800-562-6000 or visit [www.leg.wa.gov](http://www.leg.wa.gov). This is also the location to find your legislator and their contact information.

To write Governor Christine Gregoire a letter expressing your views, write to:

P.O. Box 40002, Olympia, WA 98504-0002, call (360) 902-4111, or email [www.governor.wa.gov/contact/default.asp](mailto:www.governor.wa.gov/contact/default.asp).

*Janine Gates has held several legislative staff positions and takes her kids to see the Legislature in action every year. She can be reached through her website at [www.janinegatesphotography.com](http://www.janinegatesphotography.com).*



## Port & Toxins...

*continued from page 15*

on the Clean Water Act 303(d) as a Category 5.

In 2005, Dioxins, Pentachlorophenol and furans were also analyzed at the Cascade Pole site, even though there were no previous 303(d) listings for these chemicals at the site. Pentachlorophenol was not detected. The highly toxic dioxin congener 2,3,7,8-TCDD was found to exceed NTR criteria and was recommended for Category 5. (See diagram on adjacent page.)

In 2006, additional testing by Ecology for dioxins in inner Budd Inlet found high levels of dioxins in sediment in the shipping channel in Budd Inlet, at the berthing docks at the port, near the LOTT discharge outfalls and in shellfish at the Cascade Pole clean-up site. Ecology is expanding the dioxin sediment analysis study to better characterize the types of dioxin. This ongoing study should help to determine the source of this dioxin.

The Port of Olympia wants to dredge a wider and deeper shipping channel down Budd Inlet and deepen the area at the berthing docks at the port. The dioxin-contaminated sediment will cost around \$100 per cubic yard to dispose of in a landfill. That would bring the estimate for removing dioxin-contaminated sediment to about \$25 million.

A more immediate health concern is that dredging will re-suspend the dioxin now buried in sediment and return it to the water column. Once in the water column, the dioxin has a greater chance of entering the food web via fish and shellfish. If people eat contaminated shellfish or fish, we will absorb the dioxin and other toxics into our body where they can do harm, like cause cancer.

One remediation method used to reduce the risk to humans and wildlife from dioxin-contaminated sediment

is to cap it with clean sediment. Another concern is the significant effort underway to explore the feasibility of restoring a naturally functioning Deschutes Estuary in place of Capitol Lake by removing the aging Fifth Avenue dam. Recent studies demonstrate that there will be enough tidal flow through the dam opening to allow a healthy and productive estuary to return to our state's Capitol area. In fact, estuary restoration fits well into Governor Gregoire's plan to restore Puget Sound health by 2020.

However, when the dam is removed, it is estimated that between 125,000 and 250,000 cubic yards of trapped sediment will flow into Budd Inlet. Most the sediment will move into the inlet during the first three years after the dam is removed. Several feet may end up at the Port of Olympia berthing docks that are now around 34 feet deep. The sediment in front of two of the Port of Olympia berthing docks has the highest levels of dioxin found thus far.

We do not know if the sediment in Capitol Lake reservoir is clean or if it contains dioxin or other toxic chemicals. A recommendation stemming from the Deschutes Estuary Feasibility Study is anticipated around 2008.

## Should the port dredge?

The Port of Olympia wants to start dredging the Budd Inlet channel in the summer of 2007. It makes economic sense for the Port to save our tax dollars for now and wait to learn the outcome of the Deschutes Estuary study before proceeding with dredging.

If the sediment in Capitol Lake is clean, then allowing the clean sediment to flow to the Port of Olympia berthing docks may save both time and money by capping the known contami-

*continued to page 22*

## Port & Toxins...

*continued from page 22*

nated sediment at the berthing docks. More specific testing of dioxin levels is needed.

It is important to understand that there are many different players in this game of Budd Inlet health besides the Port of Olympia. The City of Olympia has several sewage outfall lines that end in or around some of these same areas of relatively high dioxin concentration. LOTT sewage outfalls discharge into inner Budd Inlet. Also Thurston County, the Departments of Natural Resources, Fish & Wildlife, and other agencies play a role.

In Budd Inlet, we do not know where all the toxic chemicals have come from. We do know that Cascade Pole Company produced a significant number of toxics that linger today. Remediation is underway at CPC, but the area will never be completely free of toxics.

The bottom line is Budd Inlet and Puget Sound is very polluted with multiple toxic chemicals from many different sources. Bulkheads and human activity have permanently destroyed much of the waterfront habitat needed to promote a healthy Puget Sound. Most estuaries and wetlands are gone, with their river outlets dammed off, entrances covered by shoreline roads instead of bridges, and marshlands filled in for development.

The problems facing Budd Inlet and South Puget Sound are too large for any one agency to manage. Agencies, like the Port of Olympia, act in their own best interest according to their charter as perceived by their leadership. Look around Puget Sound at ports like Commencement Bay in Tacoma or the Port of Seattle. These are highly industrialized and highly toxic water bodies. Unfortunately, by design, these agencies put economic development over environmental pro-

tection and sustainability. The health of Budd Inlet habitat and wildlife are a secondary priority. The public needs to hold all agencies accountable for their actions.

### **Actions speak louder than words**

In December 2005, Governor Gregoire said; "...that more needs to be done to protect and restore the Sound. And it needs to be done now. "Cleaning and protecting Puget Sound must be at the top of our state agenda. The Puget Sound Partnership (PSP) was created to develop a long-term strategy to improve the health of Puget Sound. PSP released their plan to restore the health of Puget Sound by 2020 at a cost of billions of dollars. Legislation is underway to formalize the creation of PSP.

Budd Inlet needs a comprehensive restoration plan with an overriding principle that favors sustainable environmental and economic practices. Decisions like dredging in Budd Inlet, or maintaining Capitol Lake reservoir instead of restoring a beneficial estuary wetland cannot be made in isolation.

Local, state and federal agencies need to come together and put long-term protection and restoration of our public waterways as the first priority instead of the last. We need to use common economic and ecologic sense plus the best available science before decisions like dredging toxic laden sediment is allowed. The larger Budd Inlet restoration plan needs to incorporate the remaining natural ecosystems, (impaired as they are), consider the negative effects of human development, as well as the harm from toxic contamination by years of industrial abuse to the area.

It is up to us, the children of those who came before us, to step up to the plate and challenge government agencies and industry when they

choose actions that will harm our water bodies.

No one I know wanted this area to be as polluted and degraded as it is today but that is not our choice.

**All we have to decide is what to do with the time and resources given to us.**

*Paul J. Allen, M.D. is a SPEECH board member, Green Pages writer and local physician. He can be reached at pauljallenmd@mac.com.*

## A New Year...

*continued from page 2*

### **Thank You**

About 40 individuals have contributed over \$2200 to SPEECH as part of our winter donation drive, and more checks and notes of encouragement arrive in the mail each week. On behalf of the SPEECH board of directors, I want to thank our donors for your generosity. It is inspiring for all of us with the Green Pages to see such a strong level of support from the community, and helps us to remember that Green Pages is still an important community resource.

The funds our donors have provided will publish the next three or four editions of the Green Pages. We'll also use a small amount of the funds to modernize some of our office equipment and we may hire a web designer.

### **We Can Always Use More Help**

SPEECH depends on volunteer energy to thrive. Nobody associated with the organization makes a living from this project, and all of us contribute our time because we believe in keeping the Green Pages going. Take a look at the masthead on page 2 - it takes lots

*continued on next page*

Corps Responses to Comments by Dorothy Jean Mykland

1. The proposed dredging project would maintain channel depths that were authorized and completed in 1939. The project has been evaluated based on the best available information and will comply with all relevant laws and regulations prior to implementation. The project will not preclude future actions in the vicinity of Budd Inlet related to potential remediation of contamination or restoration of the Budd Inlet estuary.
2. Based on the evaluation of impacts in the final EA, the Corps does not anticipate significant individual or cumulative impacts to occur as a direct or indirect consequence of the proposed Federal maintenance dredging activities.

**Donna Nickerson**

From: D.J. Nickerson  
Sent: Wednesday, May 23, 2007 7:33 PM  
To: Arden, Hiram T NWS  
Cc: Heather Trim; Sue Danver; Kendall, David R NWS;  
Hoffman.Erika@epamail.epa.gov; jerome.parker  
Subject: RE: Clarification Required: Public Notice for Olympia Proposed Dredging

Hirum

I sent the Project proposal Notice, Extension Notice, and draft EA through one listserve today.

However, have you sent the new notices to those newspapers which I suggested in my last email? I copy here for your convenience. "In addition, an update notice from COE in the Olympian, as well as notices in the News Tribune and PI would be most important." } 1

I think the media would like to hear from the Corps directly!

Thanks.  
Donna

----- Original message -----  
From: "Arden, Hiram T NWS"

Hi Donna,

I confirmed that Heather Trim, HTrim@aol.com was included in the email distribution and in addition that the media is notified.

I have also attached pdfs for the documents

Thanks, Hiram

-----  
From: D.J. Nickerson  
Sent: Tuesday, May 22, 2007 10:16 AM  
To: Arden, Hiram T NWS  
Cc: Heather Trim; Sue Danver; Kendall, David R NWS;  
Hoffman.Erika@epamail.epa.gov; jerome.parker  
Subject: RE: Clarification Required: Public Notice for Olympia Proposed Dredging

Hirum,

Many thanks for your reply. I can help out by circulating the notice to the local environmental groups' aggregated listserves. This would give a broader and engaged audience, from today, the minimum time of 30 days for review of the EA.

If you could send the notice directly to People for Puget Sound (I have included Heather Trim of People for Puget Sound in this email to give you her add) so that they could also help in circulating it through their website and listserves if they find it appropriate to do so, that would be very helpful. They have one of the strongest direct connections to those individuals and organizations that would be interested in commenting and would likely be themselves interested.

In addition, an update notice from COE in the Olympian, as well as notices in the News Tribune and PI would be most important.

Could you also kindly reply with both the web links and attach the pdf files of the draft EA and the 21 May Notice to facilitate distributing the information.

Finally one question on the review - I don't understand why the project public notice has an earlier deadline than the EA. How would this work? And could you also please send the link to that document?

Thank you again and look forward to your reply on the above and also eventually on the question regarding guidance for maintenance dredging.

Sincerely,  
Donna

----- Original message -----

From: "Arden, Hiram T NWS"

Hi Donna,

Please see this Notice dated May 21, 2007 on the comment period.

Thanks, Hiram

1  
cont.



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
SEATTLE DISTRICT, CORPS OF ENGINEERS  
P.O. BOX 3755  
SEATTLE, WASHINGTON 98124-3755

Environmental Resources Section

May 21, 2007

RE: Comment Period Extension for Draft Environmental Assessment of the Olympia Harbor Maintenance Dredging and Minor Widening in Budd Inlet, Olympia, Washington

Dear Interested Party:

The public is invited to comment on the Draft Environmental Assessment (EA) and Draft Finding of No Significant Impact (FONSI) for proposed maintenance and minor widening of a portion of the Federal navigation channel in Budd Inlet, Olympia, Washington. The Draft EA/FONSI evaluates the potential impacts of the proposed maintenance dredging and minor widening of the channel bend of the Olympia Harbor Federal navigation project at Olympia, Thurston County, Washington. The proposed work is planned for winter 2007-2008.

The official comment period on this Draft EA/FONSI has been extended to **June 20, 2007** (extended from June 11, 2007 as indicated in the project public notice of May 11, 2007).

The draft EA/FONSI is available online under Olympia Harbor Maintenance Dredging and Minor Widening at:

[www.nws.usace.army.mil/ers/doc\\_table.cfm](http://www.nws.usace.army.mil/ers/doc_table.cfm)

All comments received during the review period will be addressed in the final EA. Please send comments, questions, and requests for additional information to:

Evan R. Lewis  
Environmental Resources Section  
U.S. Army Corps of Engineers  
P.O. Box 3755  
Seattle, Washington 98124-3755  
[evan.r.lewis@usace.army.mil](mailto:evan.r.lewis@usace.army.mil)  
(206) 764-6922  
206-764-4470 fax

Note that the comment period extension applies to the Draft EA/FONSI only. The June 11, 2007 deadline for the project public notice remains unchanged. The project public notice is available online at:

[www.nws.usace.army.mil/PublicMenu/documents/NAV/OlympiaPN23.pdf](http://www.nws.usace.army.mil/PublicMenu/documents/NAV/OlympiaPN23.pdf)

Thank you for your interest.

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From: D.J. Nickerson  
Sent: Friday, May 18, 2007 3:49 PM  
To: Arden, Hiram T NWS  
Cc: Sue Danver; Kendall, David R NWS; Hoffman.Erika@epamail.epa.gov;  
jerome.parker  
Subject: RE: Clarification Required: Public Notice for Olympia Proposed Dredging

Hiram,

Many thanks for your reply. I am just finding your email now and had replied to Erika last evening with a paragraph to you as well. And I see that you have extended the comment period by one week.

Do you think that it is still a short time period as the notice and accompanying environmental analysis has not yet been widely published in the media? Perhaps there is an opportunity to extend it further so that the results of the sediment study (in June) could be available to those commenting on the COE dredging proposal? This would enable the commenters to give better informed and more knowledgeable comments as they would have a comprehensive picture of what is happening in lower Bud Inlet and thus be able to identify any potential ecological linkages to the COE proposal. Such linkages may not have been considered previously by COE, EPA and Ecology etc, but may be discovered by a broader group of scientists that would comprise the pool of public commenters.

} 2

Looking forward also to your reply on the questions regarding how to determine what minimum level of activity (ie, number of ships per year; net revenue, etc.) a port must have in order to receive maintenance dredging. Is there a written COE guidance on this? Have you checked on their shipping activity and balance sheet over the past 1 or 2 years?

When I served last year as community representative on the Olympian Editorial Board, we interviewed Mr. Ed Galligan, Exe. Director of the Port of Olympia, and he confirmed in response to questions from others on the Board, that the Port of Olympia has had a long time loss of between a million to 2 million dollars/year in net revenue. I asked him which part of their businesses the loss is coming from and without hesitation he said from the marine terminal.

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The Black Hills Audubon Society had a presentation some months ago from a PhD candidate at the University of Washington. We invited the public with personal invitations to local governments. Ed Galligan came along with others. An early finding from the thesis was that small ports overcapitalize to try to compete with the large ports and the local taxpayers just end up losing all around as both the environmental, financial and social costs are paid by them. The small ports cannot

compete and it becomes a losing cycle. Any "maintenance dredging" would appear to be a part of this overcapitalization.

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cont.

Thank you for your comprehensive consideration of the issue. And thanks also to David Kendall and Carey Mellott who gave earlier replies in separate responses. However, David passed the larger questions on to you to answer later!

Look forward to your reply on the above questions and thanking you in advance.

Sincerely,  
Donna

----- Original message -----

From: "Arden, Hiram T NWS"

Hi Donna,

I understand that Carey Mellott helped you to access the Public Notice last week when I was out of the office. Anyway, I have attached a pdf of the Erratum / Public Notice #23 that extended the public notice comment period until June 11, 2007. I have also attached a link to the draft EA for the maintenance project.

[http://www.nws.usace.army.mil/ers/reposit/DraftEA\\_Olympia\\_5-11-07PublicVersion.pdf](http://www.nws.usace.army.mil/ers/reposit/DraftEA_Olympia_5-11-07PublicVersion.pdf)

Thanks, Hiram

-----  
From: D.J. Nickerson

Sent: Wednesday, May 09, 2007 12:33 PM

To: Arden, Hiram T NWS

Cc: Sue Danver; Kendall, David R NWS; Hoffman.Erika@epamail.epa.gov; jerome.parker

Subject: Clarification Required: Public Notice for Olympia Proposed Dredging

Hello Hiram,

Greetings after some time. I appreciated your helping to clarify issues last year and am turning to you again now to inquire about what appears to be news - largely by word of mouth down here in Olympia - of a proposal to dredge the Channel at the Port of Olympia in the very near future. Is this true and if so, is this proposed dredging one that the Corps is organizing? I have not seen a public notice about it and remember that you had assured me over a year ago that the public notice you were going to issue in Jan of 2006 would have a minimum 30 day review period.

} 4

I recently attended a meeting on 5 April, organized by Erika Hoffman, among others, with members of the DMMT, of which David Kendall was present. I represented the Black Hills Audubon Society and thus am copying Sue Danver, Chair of the Conservation Committee. During that meeting we discussed the Budd Inlet Sediment Sampling of the Department of Ecology, which is still under public review. I do believe that the thinking was that any decision to go ahead and propose dredging of the Channel would be well after the sampling results and public comments had been thoroughly analyzed. I would be most grateful if you would help us understand the process and any plans of dredging that the Corps may have.

5

In addition, is the Corps aware that the Port of Olympia is only infrequently visited by ships? I am curious how active a port needs to be in order to provide dredging maintenance of for a port. It would be prudent to consider the fiscal responsibility of scarce public funds in any dredging proposal. In addition as you are most likely aware, and a point I had also made at the 5 April meeting, is that federal, state and local government agencies (including the Port of Olympia) are studying, debating, and considering, along with the public, a potential restoration of the Deschutes River under the Capitol Lake Adaptive Management Plan (CLAMP). The outcome of the CLAMP will have implications on a number of issues, including dredging and toxin remediation in lower Bud Inlet.

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Finally, an article in today's Olympian newspaper cited a Weyerhaeuser official that the Weyerhaeuser log ships (a proposed new activity for the port which has been under SEPA review) would not require Olympia dredging.

8

Look forward to hearing from you and thanking you again for your help,

Donna Nickerson

PS I have copied others from that meeting who could help recall any facts and correct me where I might be wrong.

Corps Responses to Comments by Donna Nickerson

1. The public notification procedures for the proposal have been consistent with the relevant regulations. To summarize the notification process specific to the Olympia Harbor draft EA, we posted the document on our website on May 11, 2007, with a comment period until June 11, 2007, as noted in the May 14, 2007, erratum to the Navigation Public Notice. To make doubly sure (due in part to a typographical error in the draft EA website address contained in the newspaper article noted by the commenter) that the public received appropriate notification that the draft EA was available for comment, on May 21, 2007, we issued an draft-EA-specific notice which provided for public comment on the draft EA up until June 20, 2007 (30 calendar days from May 21). Shortly after both notices, the prompt responses of stakeholders via e-mail to the Corps and other agencies indicated that the notification

process provided fully effective opportunity for participation in the NEPA process for the Federal dredging project. At the inception of the initial and the extended notice periods, a Notice of Availability of the draft EA was distributed to an extensive mailing list of parties interested in proposed in-water projects in Pierce and Thurston counties. This mailing list is the same one used by the Seattle District Regulatory Branch to distribute public notices concerning proposed non-Corps work that requires an individual Department of the Army permit for work impacting the waters of the United States. All notices regarding the project, its public comment period, and the various extensions to that period were also sent to the media in the Olympia vicinity. The Corps' regulations for the implementation of NEPA (33 CFR 230.11) require that public notification of the availability of draft EAs evaluating maintenance dredging projects follow the procedures for Public Notices; these public dissemination procedures are found, in turn, at 33 CFR 337.1(c) and 325.3(d). The Corps' public notification efforts conformed to the requirements of these published procedures. Beyond providing them information, the Corps does not exercise control over media outlets in the way that information regarding public participation in NEPA processes is presented.

2. As discussed in the response immediately above, the draft EA was circulated for public comment during the period May 11 through June 20, 2007, with Notices of Availability distributed on May 11 and May 21. This circulation process was fully consistent with the Corps' requirements, and provided a fully adequate opportunity for public participation. The proposed maintenance dredging area in the Federal channel has been tested by the Puget Sound Dredged Material Management Program and sediments have been determined to be suitable for open water disposal at the Anderson Island disposal site, or for disposal for beneficial uses. The Department of Ecology "nature and extent" sampling covered areas outside of the areas tested previously by the DMMP agencies, and thus outside the footprint of the proposed Federal channel dredging, and will not provide new information on contaminants that may be disturbed by the proposed dredging. The proposed dredging is based on comprehensive sediment testing and no additional testing is necessary prior to accomplishing the dredging work. Further, the footprint of the proposed dredging has been specifically limited to only those areas that contain sediments that are suitable for open water disposal. In view of the rigorous processes and protocols to evaluate sediment quality, the Corps believes that the comprehensive testing that has been completed provides ample evidence that the proposed work does not pose a risk of spreading pollution or otherwise adversely affecting human or environmental health.
3. The purpose of the project is to maintain the existing channel for the reliable, efficient, and safe navigation of ships that currently utilize the harbor. As discussed previously in response to prior comments, at the time that the existing authorization of the federal navigation channel was initially enacted in 1927, the economic justification of the navigation project was developed and legislatively approved. The project purpose of providing for timely and safe navigation through maintaining a previously approved navigation channel does not rely on a positive economic return for shipping activities using the navigation channel or a positive net return on the

federal contribution. The Corps proposal is consistent with the authorization of the project and, as an operations and maintenance activity of an existing authorized project, the Corps is not required to and has not performed a cost-benefit analysis. NEPA does not independently impose a requirement of a cost-benefit analysis of a proposed Federal action.

4. Please see the response to Comment #1. The comment period for the navigation public notice was between May 3 and June 11, 2007. The comment period for the draft environmental assessment was between May 11 and June 20, 2007.
5. The public notice and the draft EA clearly described the Corps' dredging proposal. With regards to the sediment sampling by the Washington Department of Ecology, please see the response to Comment #2.
6. Please see the response to Comment #3.
7. The potential future restoration of the Deschutes Estuary is considered in the cumulative impacts section of the EA. The Deschutes Estuary Feasibility Study is scheduled to be completed in about 1 year. The study report will be considered by the Capitol Lake Adaptive Management Plan committee. The committee will then make a recommendation to the director of the Washington Department of General Administration on whether to proceed with the estuary restoration or to maintain a lake. Given that the feasibility study is still in progress and the alternatives being evaluated include a range of options from maintaining the lake to various restoration options, it is premature to speculate on the future operation of Capitol Lake and the potential individual cumulative impacts of the eventual selected alternative on the Budd Inlet area.
8. As indicated in further detail in response to prior comments, the purpose of the Corps dredging project is to restore and maintain channel dimensions that were initially legislatively authorized in 1927. Pursuant to the legislative authorization to provide a channel bend of suitable width, the project will also accomplish minor widening at the bend of the entrance channel. Data on vessel traffic in Olympia Harbor clearly indicate that ships that currently utilize the channel have beams of up to 105 feet and drafts of at least 30 feet. Given these vessel sizes and current standards for channel dimensions, the maintenance and minor widening is necessary for the project to meet established standards for vessel safety and timely passage.

## Suzanne Nott

**Sent:** Wednesday, June 20, 2007 4:32 PM

**To:** Lewis, Evan R NWS; David.R.Kendall@nws02.usace.army.mil;  
Hiram.T.Arden@nws02.usace.army.mil

**Subject:** Comments on Olympia Shipping Channel Dredging

One of my “hot buttons” is good use of taxpayer money on things that will have overall good and lasting benefit to the communities they impact. The dredging of the shipping channel to the Olympia marine harbor does not meet these criteria.

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With the Governor’s concern about the clean-up of Puget Sound, and International concern about global warming, it seems that NOW is the time to put the brakes on the dredging that will be harmful on both counts. It is the responsibility of the Army Corps of Engineers to ensure that “we” as a community, state, and nation do the right and sensible thing with our taxes when so much is at stake!

} 2

The dredging of the channel – while enhancing the opportunity for larger ships with deeper drafts to come to our port – will have deleterious effects in several ways.

First, as I am sure you are already aware, it will put known toxins (dioxin) into suspension, to the detriment of the aquatic life in the area. At least some of that toxic soup will wash onto the shoreline and beaches where people currently recreate.

} 3

Second, while the Port of Olympia and the Army Corps of Engineers assert that this is “maintenance dredging” which the Port has requested, the dredging is in anticipation of unsubstantiated hopes of expanding deep see transport commerce to be more competitive in that line of business. Toxicity studies begun by the Washington State Department of Ecology are not yet complete, and the Port has not completed a valid Project environmental impact analysis. This is a matter which has been challenged and will soon be in the courts. To date, there is no record of the channel depth being a hazard to current shipping. It would be prudent, in the very least, for the Army Corps of Engineers to wait until the toxicity studies are complete. It should “do no harm” by at least waiting until the environmental impact analysis has been completed.

} 4

In the same matter, the Port is being challenged as to whether there actually is a market for that kind of shipping in this area, and whether the community wants or needs it. I am a candidate for Port Commissioner, and in my outreach to the community, I’m finding that there’s a strong public interest in analysis of the economic environment before work begins. Again – we care about where and how our tax dollars get spent! For that reason, I am suggesting that the Army Corps of Engineers postpone commencement of dredging until these analyses are completed.

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Third, by deepening the channel, the Army Corps of Engineers will, through its own work, cause, and through the effects of its work, enable, a BIGcarbonFOOTprint!

} 6

Put the brakes on this now, before the damage is done.

Sincerely,  
*Suzanne Nott*

#### Corps Responses to Comments by Suzanne Nott

1. Through initial authorization of the Olympia Harbor navigation project in 1927, Congress determined that construction of a navigation channel of the prescribed dimensions was in the Federal interest. As discussed in response to previous comments in greater detail, periodic maintenance of that channel was incorporated into the initial authorization. As the President proposed and Congress appropriated funding for the maintenance dredging work this year, the President and Congress have concurred that the proposed work in Olympia Harbor is likewise in the national interest.
2. The proposed work will not pollute Puget Sound and will not substantially affect global climate change. The sediments within the proposed dredging footprint have undergone extensive testing for potential contaminants and been found by the inter-agency DMMP to be suitable for open-water disposal. In response to comments in the draft EA, the Corps will dispose of all dredged material at the Anderson Island open water disposal site, thereby alleviating concerns over potential disturbance of contaminated sediments at the originally proposed beneficial use site. Regarding potential releases of greenhouse gases, the proposed work will facilitate the continuation of cargo transport by ship, one of the most efficient shipping methods in terms of greenhouse gas outputs. The proposed work will not create additional cargo, but will facilitate continued use of the Port of Olympia – as contemplated by Congress when it initially authorized the Federal channel in Olympia Harbor – for shipping that cargo. The proposed channel maintenance is not intended to trigger an increase in the volume of shipped cargo or the number of vessel trips in Puget Sound or along the west coast, beyond conditions presently observed in Olympia Harbor.
3. The proposed work would dredge sediments determined by the inter-agency DMMP to be suitable for unconfined aquatic disposal. As discussed in more detail in response to previous comments, the initially proposed placement of material at a location within Budd Inlet for beneficial use is no longer part of the project, so any issues regarding placement of clean dredged material on top of contaminated surface sediments are moot. Accordingly, the Corps believes that any risk the work poses to human health would be less than significant.
4. As discussed in more detail in response to previous comments, the final EA appropriately characterizes the proposed work as operations and maintenance dredging that will provide timely and safe navigation conditions for the types of ships that currently use the channel. The operations and maintenance dredging is neither

intended nor anticipated to provide conditions suitable for an entirely new class of larger ships to utilize the Port of Olympia. Additionally, the proposed project has been evaluated based on the best available information, and the material to be dredged has been determined by the inter-agency DMMP to be suitable for unconfined aquatic disposal. The project will comply with all relevant laws and regulations prior to implementation.

5. The Corps navigation mission requires it to provide safe navigation conditions in federally authorized navigation projects. The proposed work is operations and maintenance of one such federal project. Given the size of ships that currently utilize the channel and current standards for channel dimensions, the maintenance and minor widening is necessary for the project to promote vessel safety. As discussed in more detail in response to previous comments, the Olympia Harbor navigation channel has been authorized by Congress to provide shipping access to the Port of Olympia. Maintenance dredging of Olympia Harbor was included as a specific line item in the President's fiscal year 2007 budget, and Congress appropriated operation and maintenance dredging funding in light of that request. The Corps' dredging proposal would accomplish the operations and maintenance element contained within the initial authorization of the project. The economic justification of the navigation project was developed and approved at the time of initial project authorization. The Corps's civil works planning principles do not require it to perform, and the Corps has not performed, a cost-benefit analysis of the operations and maintenance of an existing authorized project. Likewise, NEPA does not require a cost-benefit analysis of a proposed Federal action.
6. Please see the response to Comment #2.

## Jerome Parker – May 23, 2007

Sent: Wednesday, May 23, 2007 3:20 PM  
To: eran.r.lewis@usace.army.mil  
Cc: Kendall, David R NWS  
Subject: Announcements

Mr. Lewis:

I just received a copy of the most recent announcement of extension in the comment period for the "maintenance" dredging of Olympia Harbor (Budd Inlet).

While I value the extension, I remain perplexed about the Corps' efforts to manage the public involvement aspect of this proposed action.

Most of the interested persons with whom I cooperate on issues related to the Port of Olympia have not been notified directly, despite our well known and continuous involvement in issues related to the Port, including dredging.

I would appreciate a link to the Corps' statement of procedures for public notification of proposed actions and a brief summary of how this proposed dredging complies with such procedures.

Jerry Parker  
Olympia

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### Corps Responses to 5/23/2007 Comments by Jerome Parker

1. The Corps utilized an extensive mailing list for both Thurston and Pierce counties for distribution of all public notices related to the proposed work. To summarize the notification process specific to the Olympia Harbor draft EA, we posted the document on our website on May 11, 2007, with a comment period until June 11, 2007, as noted in the May 14, 2007, erratum to the Navigation Public Notice. To make doubly sure (due in part to a typographical error in the draft EA website address contained in the newspaper article noted by the commenter) that the public received appropriate notification that the draft EA was available for comment, on May 21, 2007, we issued a draft-EA-specific notice which provided for public comment on the draft EA up until June 20, 2007 (30 calendar days from May 21). Shortly after both notices, the prompt responses of stakeholders via e-mail to the Corps and other agencies indicated that the notification process provided fully effective opportunity for participation in the NEPA process for the Federal dredging project. At the inception of the initial and the extended notice periods, a Notice of Availability of the draft EA was distributed to an extensive mailing list of parties interested in proposed in-water projects in Pierce and Thurston counties. This mailing list is the same one used by the Seattle District Regulatory Branch to distribute public notices concerning proposed non-Corps work that requires an individual Department of the Army permit for work impacting the waters of the United States. The Corps' regulations for the implementation of NEPA (33 CFR 230.11) require that public notification of the availability of draft EAs evaluating maintenance dredging projects follow the

procedures for Public Notices; these public dissemination procedures are found, in turn, at 33 CFR 337.1(c) and 325.3(d). The Corps' public notification efforts conformed to the requirements of these published procedures.

2. On May 25, 2007, the Corps responded to the commenter's request for information on the regulations for public notification of proposed actions. To summarize the pertinent regulations, the Corps' procedures for implementing NEPA are found at 33 CFR Part 230, and the specific guidelines on notification of availability of Environmental Assessments are found at 33 CFR Section 230.11. The Corps' procedures for notifying the public of the availability of a draft EA for a maintenance dredging project are linked directly to the navigation project Public Notice process. Those Public Notice procedures regarding Corps maintenance dredging activities are found, in turn, at 33 CFR Parts 335, 336, and 337, with Public Notice procedures found at 33 CFR sections 337.1 and 325.3(d). The public notification procedures for the proposal (summarized in Response 1 above) have been consistent with the relevant regulations.

## Jerome Parker – June 20, 2007

To: Evan R. Lewis  
Environmental Resources Section  
U.S. Army Corps of Engineers  
P.O. Box 3755  
Seattle, Washington 98124-3755

From: Jerome Parker  
Olympia WA  
[jerome.parker@comcast.net](mailto:jerome.parker@comcast.net)

Date: June 20, 2007

Subject: Olympia Harbor Maintenance Dredging and Minor Widening Olympia,  
Thurston County, Washington Draft Environmental Assessment

### Definition of Project

The project description repeatedly states that “minor widening” of the channel is proposed. However, the volume of sediment to be removed from the “minor” widening (53,000 cy) exceeds the volume of sediment to be removed for the “maintenance” dredging (48,000 cy). (p. 1)

The synopsis fails to note the dredging of the Port of Olympia’s “berthing area”. This is covered in Appendix A (pp. 40,-45)

### Authority for Project

The draft EA provides discussion of the authority under which the proposed dredging is to occur. (p. 1) In consideration of the very low volume of deep water vessels visiting the Port of Olympia and the quite limited potential of the Port to compete against other Puget Sound and West Coast Ports, the final EA should provide the criteria by which the Corps determines dredging to be appropriate. Specifically, it would be appropriate to provide economic criteria by which the cost effectiveness of the dredging can be evaluated.

The draft EA asserts a cost of vessel delay in 2004 to be \$138,750. (p. 2) The final EA should evaluate this cost in relation to amortized cost of dredging by both the Corps and the Port. (Any benefit of the Corps dredging is dependent on concurrent dredging by the Port).

### Purpose of Project

The draft EA indicates concern among pilots for safety. (p.2) Given the rapid increase in the size of deep draft vessels, what determines the limits of future dredging to accommodate these larger vessels? The final EA should state whether dredging will proceed to make the Port of Olympia capable of accommodating all ocean vessels.

The draft EA characterizes the widening as “minor”. (pp. 2,3). However, the increase in width is not stated explicitly. Documents presented by the Port to the Congressional delegation describe the widening of the “inner channel) from 300 to 350 feet and the widening in the turning basin from 800 to 900 feet. (Budd Inlet Navigation Maintenance Project, January 2006). The final EA should clearly identify the channels and the proposed widening.

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Moreover, the draft EA describes the widening as “minor” yet reveals that the volume of sediment to be removed from widening exceeds the amount to be removed for “maintenance”. (p.3) This raises a question of just what constitutes “minor” widening, a question that should be resolved in the final EA.

### Alternatives

The draft EA notes the plans of the Port of Olympia to dredge the portion of the channel under its jurisdiction. (p. 3) The final EA should provide a clear graphic showing the respective Corps and Port jurisdiction.

The draft EA states: “The Port’s application for a Corps of Engineers authorization for this distinct project will be independently addressed under NEPA pursuant to the Corps regulatory program. “ (p.3) To those not familiar with the details of the Corps permitting procedures, this appears confusing and may well be a violation of the provisions in NEPA to address related actions in a single document. The final EA should provide a complete explanation of how two directly related projects can be evaluated in separate NEPA documents. The apparent consideration of related actions in separate documents or under separate procedures appears to constitute piecemealing.

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The significance of the proposed Port of Olympia dredging is described in the draft EA. (p. 8). Again, given the potential significance of this dredging by the Port and the fact that any purported benefits from the Corps dredging are completely dependent on the proposed Port dredging, separating NEPA review into two separate processes is not logical and appears to be a violation of federal law.

### Air Quality

The discussion of air quality from the proposed dredging is limited to impact of the dredging activity. However, the obvious result of such dredging is the accommodation of larger and, perhaps, more ocean vessels. While cumulative impacts are mentioned elsewhere in the EA, the cumulative or related impacts of the proposed dredging should be noted under each area of potential impact, e.g. air quality.

6

Socio-Economic Conditions

The description in the draft EA of the existing economic activity at the Port of Olympia is partial and skewed.(p. 19) First, it fails to describe what qualifies as “direct jobs in the community.” Are these jobs of Port employees that depend in large measure on public taxes? Are these jobs held by individuals who commute to the Olympia from Tacoma to work at longshore activities? What is the definition of “direct” jobs?

Perhaps an even greater flaw in the description of economic activity is the failure to consider opportunity costs. What amount of activity would occur on the Port site whether the Port were in operation or not? For example, employment at the restaurants and in the major office building are not dependent on maintenance of the navigation channel. Moreover, the use of the site for alternative activities would generate different and possibly greater employment. The analysis in the draft EA strongly suggests that the alternative to the limited marine vessel traffic at the Port is elimination of existing economic activity rather than the possible increase in such activity.

The draft EA provides very limited information on the revenues of the Port. The final EA should present a credible analysis of the net returns of the Port. In the past several years, the Port marine facilities have operated at a deficit. This deficit is covered by tax revenue secured by the Port.

The description of the effect of the “no action” alternative is likewise skewed (p. 19). Since the Port marine facility operates at a deficit, there is no reason to assume that increased activity would not result in increased deficit. There is no credible economic analysis to suggest that the costs of delays justify the investment in dredging and in infrastructure to accommodate larger ships.

Likewise, the draft EA strongly suggests that the “preferred alternative” of dredging would eliminate the costs of delay. The relevant question is “At what cost?” Failure to reflect net or aggregate analysis of costs makes this portion of the draft EA of less than little value. It confuses and distorts consideration of a major issue related to the proposed dredging.

(See below under “Land Use” for additional comment on major flaws in the economic analysis in the draft EA.)

Land Use

The draft EA correctly suggests that failure to dredge would reduce the viability of the Port’s marine terminal. However, it fails to suggest that the viability of the marine terminal may be far more influenced by changes in marine technology and that continued dredging at ever greater depths may be required for the Port to be physically capable of operating. Moreover, the draft EA fails to address the complex issues of economic geography that will determine the viability of the Port. In the absence of such analysis, proceeding with dredging is not justified. It would not be done in the private sector without a clear business plan to identify

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the rate of return on investment. It should only be done in the public sector if there are major non-market benefits to the public. These have NOT been identified in the draft EA.

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cont.

### Cumulative Impacts

The draft EA correctly observes the effect of the creation of Capitol Lake on the rate of sedimentation and on the related need to dredge the navigation channel. (p. 23). The final EA should note that the ability of Capitol Lake to serve a sediment repository has been exhausted. The consequence will be either the need to dredge Capitol Lake or to allow natural processes to transport accumulated sediment into Budd Inlet. This will demand far more frequent dredging. The final EA must evaluate the cost of such dredging in relation to the benefits thereof must be evaluated before proceeding with the proposed dredging.

10

The determination in the draft EA that dam removal is not feasible appears premature. (p. 24). Moreover, sea level rise is projected to effectively remove the dam within the next 30 years. (Presentation to Olympia City Council by City Public Works Department. Contact Rich Hoey)

11

The draft EA describes the projected dredging activity of the Port. (p. 23) Again, as has been noted previously in these comments, the final EA must explain and justify the separation of the proposed dredging by the Corps and the Port into two separate NEPA procedures.

12

The discussion of cumulative impacts in the draft EA correctly suggests that without continued dredging, the long term feasibility of the Port is unlikely. However, the discussion of cumulative impacts in the final EA must address the cumulative impacts of continued and, perhaps, expanded marine operations at the Port. These include but are not limited to: traffic congestion from up to 350 log truck trips per day to the proposed Weyerhaeuser log export facility, 24/7 operation of the log export facility(required in the lease), air quality degradation from the projected increase in log truck traffic to the Port and in the emissions from vessels using the Port. The draft EA fails to provide any discussion of these cumulative impacts.

13

### Environmental Compliance

The draft EA asserts that the project has no significant impacts on the environment and, therefore, does not require preparation of an environmental impact statement. (p. 28)

Given the failure of the draft EA to adequately consider the existing and projected economic activity at the Port, the failure to consider the cost of the project in relation to the purported benefits, and, most importantly, the failure to consider or even identify the major traffic, air quality, and noise impacts of the cumulative impacts resulting from the proposed dredging, the final EA must reconsider this conclusion that no environmental impact statement is required.

14

### Conclusion

As noted previously, the failure of the draft EA to incorporate into a single environmental determination the effects of the proposed dredging by the Port of Olympia that is required to justify the dredging by the Port requires that the final EA be significantly revise. Without improved analysis and without incorporation of the proposed dredging by the Port of Olympia into the final EA, the final EA will not meet the requirements of NEPA.

14  
cont.

#### Corps Responses to 6/20/2007 Comments by Jerome Parker

1. The degree of widening is characterized as minor based on the footprint of the widening in comparison to the footprint of the dredging in the existing channel. The widening would dredge about 2.1 acres, which constitutes approximately 8% of the 27.5-acre maintenance dredging footprint within the channel. The final EA has been revised to state the footprint of the respective dredging areas. The relative volume of dredging for the widening dredging is almost half of the total dredging due primarily to the limited reach that would be dredged in the portion of the Federal channel to be maintained. The Port berth dredging is not noted in the project description since the berth dredging proposal is not a federal action.
2. The proposed work is an operations and maintenance project that is necessary to meet the authorized purposes of the federal navigation project. As discussed in more detail in response to previous comments, the Olympia Harbor navigation channel has been authorized by Congress to provide shipping access to the Port of Olympia. Maintenance dredging of Olympia Harbor was included as a specific line item in the President's fiscal year 2007 budget, and Congress appropriated operation and maintenance dredging funding in light of that request. The Corps' dredging proposal would accomplish the operations and maintenance element contained within the initial authorization of the project. The economic justification of the navigation project was developed and approved at the time of initial project authorization. The Corps's civil works planning principles do not required it to perform, and the Corps has not performed, a cost-benefit analysis of the operations and maintenance of an existing authorized project. Likewise, NEPA does not require a cost-benefit analysis of a proposed Federal action.
3. The proposed work is operations and maintenance dredging that will promote reliable, efficient, and safe navigation conditions for the types of ships that currently use the channel. The operations and maintenance dredging is neither intended nor expected to provide conditions suitable for an entirely new class of larger ships to utilize the Port of Olympia. Without additional Congressional authorization, Corps dredging is limited to the current federally authorized limits of the Olympia Harbor navigation project. Future dredging that would substantially increase the depth and/or width dimensions of the existing navigation channel would require additional analysis pursuant to Federal statute and Corps regulations, which would include a cost-benefit analysis, more environmental studies, and additional opportunities for public participation.

4. As stated in Response 1 above, the degree of widening is characterized as minor based on the footprint of the widening in comparison to the existing channel. The area and width of the widening was stated in Section 2.3 of the draft EA and in Section 2.2 of the final EA. Figure 3 of the final EA depicts the proposed dredging areas graphically and provides the best representation of the “minor” nature of the widening area. No widening or maintenance dredging will be conducted in the entrance channel or the turning basin.
  
5. The site plan figure in both the draft and final EA show the locations of the Port’s proposed berth dredging in relation to the Corps dredging in the federal navigation channel. The EA focuses on the proposed Corps maintenance dredging since that is the federal action at hand. The EA will support a decision on whether or not the Corps maintenance dredging of the navigation channel represents a major Federal action significantly affecting the quality of the human environment. The federal action for the proposed Port dredging is the decision by the Corps Regulatory Branch concerning whether or not to issue a Department of the Army permit for the work. The evaluation of the Port’s permit application will be done pursuant to regulations described in 33 CFR Parts 320 through 330, once that application is complete. Judgment on potential significance of the Port berth dredging is appropriately reserved for consideration in the permit decision. The authorities under which the two projects are undertaken are not interdependent, because the channel dredging is conducted pursuant to a legislative authorization that was initially enacted in 1927, and the permit decision is prompted by a permit application submitted by the Port. Per NEPA, the Port berth dredging is a reasonably foreseeable future action that is appropriately addressed in the cumulative impacts section of the final EA for the Corps dredging. At this time, the Port’s permit application is not formally complete, and is thus not ready for a Corps decision, and the NEPA documentation for the Port berths dredging permit will take into account the status of the channel maintenance dredging at the time the decision is made, as appropriate. Contrary to the commenter’s suggestion, the berth and channel dredging are not physically dependent on each other. Even without the berth dredging, the proposed maintenance dredging and minor widening of the navigation channel by the Corps will serve to allow timely and safe passage for the vessel types and sizes that currently utilize the Port. Evaluation of the Corps maintenance dredging of the Federal channel in a separate NEPA document from the Port’s berth dredging is entirely consistent with the Corps’ implementing regulations for NEPA.
  
6. The proposed work is operations and maintenance dredging that will promote efficient, reliable, and safe navigation conditions for the types of ships that currently use the channel. As discussed in more detail in response to previous comments, because the project will maintain depths and other parameters of a navigation channel as initially dredged and subsequently maintained, the maintenance dredging project is neither intended nor expected to accommodate larger ships than those that presently utilize the waterway. Likewise, the maintenance dredging project is neither intended nor expected to accommodate ships of greater draft than was contemplated at the time of initial legislative authorization of the Olympia Harbor Federal navigation project,

nor to accommodate ships of larger draft and beam dimensions than those that presently utilize the waterway. Likewise, the maintenance dredging project is not intended to facilitate the passage of a greater volume of ship traffic than currently transits Olympia Harbor, and is not expected to generate any increase in traffic, as compared with the No Action alternative. The cumulative impacts discussion in the EA includes an assessment of the cumulative impacts of the proposed project, past actions, and reasonably foreseeable future actions on specific resource parameters, including air quality.

7. The socioeconomics section in the final EA clarifies that economic activity generated by the Port of Olympia marine terminal provided employment for about 130 people in directly related businesses in 2004. The final EA also provides a general breakdown of the types of businesses that are directly related to marine terminal operations. The Corps socioeconomic evaluation compares the likely impacts of the proposed dredging to meet the project purpose of providing safe navigation conditions for ships entering and leaving the Port of Olympia, against the no-project condition. Evaluation of alternative uses of upland properties is outside the scope of the project since these alternatives would not meet the project purpose of providing for safety of navigation of the vessels utilizing Olympia Harbor.
8. The purpose of the project is to maintain the existing channel for the reliable, efficient, and safe navigation of ships that currently utilize the harbor. As discussed previously in response to prior comments, at the time that the existing authorization of the federal navigation channel was initially enacted in 1927, the economic justification of the navigation project was developed and legislatively approved. The project purpose of providing for timely and safe navigation through maintaining a previously approved navigation channel does not rely on a positive economic return for shipping activities using the navigation channel or a positive net return on the federal contribution. The Corps proposal is consistent with the authorization of the project and, as an operations and maintenance activity of an existing authorized project, the Corps is not required to and has not performed a cost-benefit analysis. NEPA does not independently impose a requirement of a cost-benefit analysis of a proposed Federal action.
9. As discussed in greater detail in response to prior comments, the proposed channel maintenance project will dredge the channel to previously authorized and attained depths, and will not dredge Olympia Harbor “to ever greater depths.” The Corps action is predicated on providing safe conditions in the navigation channel for the types of vessels that currently utilize the Port facilities. Pursuant to express authority in the original legislative authorization, the Corps considers such operations and maintenance activities to provide safe conditions to be in the federal interest. Finally, the Corps believes that the land use section of EA provides an accurate assessment of the existing conditions and potential impacts of the two alternatives.
10. Studies on sediment transport indicate that Capitol Lake continues to trap much of the sediment carried by the Deschutes River. For example, modeling by the U.S.

Geological Survey (George *et al.* 2006) indicate that the lake continues to trap more than 95 percent of silt, sand, and gravel. This finding is consistent with observations that sediments accumulated in the navigation channel tend to be the finer grained silts and clays. In the absence of modification of the dam at the outlet of Capitol Lake, the Corps does not expect the rate of shoaling in the navigation channel and consequent maintenance dredging frequency to increase substantially in coming years.

11. The Deschutes Estuary Feasibility Study is scheduled to be completed in about 1 year. The study report will be considered by the Capitol Lake Adaptive Management Plan committee. The committee will then make a recommendation to the director of the Washington Department of General Administration on whether to proceed with the estuary restoration or to maintain a lake. Given that the feasibility study is still in progress and the alternatives being evaluated include a range of options from maintaining the lake to various restoration options, it is premature to speculate on the future operation of Capitol Lake and the potential individual cumulative impacts of the eventual selected alternative on the Budd Inlet area.
12. Please see the comment response 5 above.
13. The final EA has been revised to specifically include the proposed Weyerhaeuser log handling facility as a reasonably foreseeable future action. Given the current industrial nature and historic commerce at the Port peninsula, conversion of a portion of the peninsula to the log handling facility is not expected to greatly alter the cumulative impacts to the area. Section 3.4.2 of the EA has been revised to specifically discuss potential impacts to air quality from vessel traffic.
14. The Corps has considered all comments on the draft EA and revised the final EA to address substantive issues. The resulting final EA includes discussions of the need for the proposal, of alternatives, of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted. The proposed dredging by the Port of the vessel berths would be a distinct and non-interdependent action, and as such is evaluated in the cumulative effects section of the final EA. The Corps believes that the final EA meets the requirements of NEPA in that it provides sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

## Stanley Stahl

**Sent:** Wednesday, June 20, 2007 11:13 PM  
**To:** Lewis, Evan R NWS; Kendall, David R NWS; Arden, Hiram T NWS  
**Cc:** ss@stahlvacations.com  
**Subject:** Dredging Port of OlympiaEvan R. Lewis

To whom it may concern at COE,

I have not had time to thoroughly read your analysis and conclusions regarding the proposed dredging of the Budd Inlet shipping channel and turn around, but know the comment period ends today, and I know the essential conclusion you have come to on this, which I whole heartedly disagree with.

Your own 2006 testing of lower Budd Inlet showed up excessively high dioxin results in 4 to 12 ft. composite sediment samples up into over 50 ppt, when 3 ppt is the bar. If done in strata these samples would have hit some incredibly high spots in parts per billion or parts per million or even worse. Dredging, no matter how carefully done will mushroom up a cloud of this toxin into the water column to be injected by the marine life, contaminating our food source, and up on the beaches, exposing unwary people, mainly children to this harsh and irreversibly dangerous toxin, and to boaters both recreationally and commercial.

Beyond these undeniable negative test results are the results from the Brandie Ares-Miller Muscle tissue completed Nov 2005 in the immediate vicinity, with a recommendation of 303(d) cat 5 for dioxin in that area, the testing done at Priest Point Park beaches in recent years resulting in elevated dioxin levels in surface samples of up to 25 PPT, testing of Ground water and sediment in the Farmer's Market vicinity showing elevated dioxin levels. Even the Port staff freely admits the entire Port peninsula is pervasively loaded with dioxin.

This toxin is extremely dangerous to the environment and to people, and dubbing this proposed dredging as maintenance is outrageous. There is enough evidence that this is called for in the most recent Weyerhaeuser lease, and without a doubt calls for the entry of larger ships into our small Bay, belching and more diesel particulates which has been found to be one of the most dangerous elements in respiratory problems and cancer.

The advent of breaching the 5th Ave dam and capping this toxic waste from years of industrial discharge seems to be the safest way of dealing with this problem, and then floating cargo out to deeper parts of Puget Sound with tub boats if commercial shipping is to continue at our Port, which does so little and so inefficient business that it should be closed down, rather than continuing to sap the tax dollars of the local citizens to subsidize a losing operation. If it was a private business, with no subsidy, it would die a natural death. This way we get all the pollution from the ships and trucks and don't get a dam cent in sales tax. We suffer from all this contamination and get nothing to show for it. Jobs? baloney - the maritime jobs will follow the daily call at whatever ports need Other family wage jobs? - I don't think so - it would be a piece of cake to get more and better jobs for any number of

other uses that would also give back something to the community in the way of public places and public benefits. Basically we get the ass end of this industrial enterprise and no tangible positive gains. } 5 cont.

Why are you preemptively pushing ahead with dredging when the AE public comment period is still open, when the MTCA testing being done by DOE has still not been disclosed, when the comment period for the MTCA testing is not over, and when the DMMP results and the public comment period for the DMMP four agency introspection (of which you are one of the four agencies) on disposal of the dredging operation in Budd Inlet has not been finished??? Why bother having a public comment on any of these things if you don't heed the public, if you don't heed the studies costing tens of thousands of tax dollars? if you just go ahead and patronize the most prominent commercial enterprise which doesn't give a dam about public health and environmental health? } 6

If you purport to be cleaning up the Sound, I challenge that, since the source of contamination is still not being sought after, and the contamination is still and will still continue to leach out of the obvious places after you finish dredging. Obvious, being the UNTESTED and UNTREATED surface water in the form of stormwater discharge, as well as the UNTESTED and UNTREATED groundwater contamination from orphan industries from the past, who have left their dirt and crapazola behind. This stuff is slipping by the radar screen which DOE erroneously calls it's NPDES industrial stormwater permit. The contamination from groundwater is infiltrating the stormwater pipes which are below the high tide line, and have gone through 3 earthquakes, and have been ENGINEERED to bypass the monitoring site which is theroretically designated to be the representative site to determine toxicity. Even at that designated site it is in non-compliance about 30% of the time. } 7

The City of Olympia, DOE, PSAT, and TC Health Dept, TC Executive Director and TC Commissioners have all been apprised of this intentional illegal discharge into a distressed body of water, which you intend to cause to be even more distressed.

STOP, and do the right thing with our tax dollars.

Stanley Stahl, 120 State Ave NE, PMB #232, Olympia, WA 98501 (360) 481-4905

Corps Responses to Comments by Stanley Stahl

1. Testing conducted by the inter-agency DMMP has demonstrated that the sediments proposed for dredging from the Federal channel are suitable for open water disposal or beneficial uses. The Corps acknowledges the existence of dioxin in sediments elsewhere in Budd Inlet as demonstrated by comprehensive testing. Work continues by the Port and Washington Department of Ecology to fully characterize the nature and extent of contamination in those other areas within Budd Inlet, focusing on areas outside of the navigation channel. The Corps recognizes concerns about disturbance

of contaminated sediment and the need for parties undertaking those remediation activities to carefully evaluate and implement future proposals involving amelioration of contaminated sediments.

2. The Corps navigation mission requires it to promote safe navigation conditions in federally authorized navigation projects. The proposed work is operations and maintenance of one such federal project. Given the size of ships that currently utilize the channel and current standards for channel dimensions, the maintenance and minor widening is necessary for the project to meet established standards for vessel safety and timely passage. In response to comments in the draft EA, the Corps will dispose of all dredged material at the Anderson Island open water disposal site, thereby alleviating concerns over potential disturbance of contaminated sediments at the originally proposed beneficial use site. With this modification to the proposal, the dredging and disposal activities proposed by the Corps would not disturb any contaminated sediment.
3. The final EA appropriately characterizes the proposed work as operations and maintenance dredging that will provide safe navigation conditions for the types of ships that currently use the channel. The operations and maintenance dredging is not intended or expected to provide conditions suitable for an entirely new class of larger ships to utilize the Port of Olympia. Section 3.4 (Air Quality) has been revised in the final EA to state that, in comparison to the last several years, with or without the proposed dredging there is expected to be a slight increase in the number of vessels calling the Port each year, but the maintenance dredging is not expected to generate any increase in shipping traffic, as compared with the No Action alternative. Thus, the proposed maintenance dredging is not expected to result in more than minimal adverse impacts on air quality related to vessel traffic.
4. The proposed project is intended to maintain an existing, legislatively authorized navigation project to provide authorized channel depths and widths to provide timely and safe passage conditions for ships that presently enter and leave the Port of Olympia. Evaluation of alternative methods to ship cargo to and from the Port, or to manage Capitol Lake is outside of the scope of the project. As discussed in greater detail with respect to previous comments, the economic justification for developing and subsequently maintaining the Federal navigation project in Olympia Harbor was initially developed and adopted by Congress in 1927, and neither NEPA nor the Corps regulations implementing that statute require that justification to be revisited when maintenance dredging is conducted.
5. Evaluation of economic development alternatives designed to generate jobs in the local area or the region is outside the scope of the project.
6. The proposed maintenance dredging area in the Federal channel has been tested by the Puget Sound Dredged Material Management Program and sediments have been determined to be suitable for open water disposal at the Anderson Island disposal site, or for disposal for beneficial uses. The Department of Ecology “nature and extent”

sampling covered areas outside of the areas tested previously by the DMMP agencies, and thus outside the footprint of the proposed Federal channel dredging, and will not provide new information on contaminants that may be disturbed by the proposed dredging. The proposed dredging is based on comprehensive sediment testing and no additional testing is necessary prior to accomplishing the dredging work. Further, the footprint of the proposed dredging has been specifically limited to only those areas that contain sediments that are suitable for open water disposal. In view of the rigorous processes and protocols to evaluate sediment quality, the Corps believes that the comprehensive testing that has been completed provides ample evidence that the proposed work does not pose a risk of spreading pollution or otherwise adversely affecting human or environmental health. Based on comments received from public agencies in response to the draft EA, the disposal alternative that would have entailed placement of dredged materials at the Budd Inlet beneficial use site has been eliminated from consideration, and all dredged material will be disposed at the previously designated Anderson Island aquatic disposal site.

7. The proposed project is not intended to constitute a remediation activity, but is being conducted solely to maintain the dimensions of a previously authorized navigation channel. Since the material to be dredged has been determined to be suitable for unconfined aquatic disposal, dredging would not remove sediments with contamination levels high enough to require remediation or clean-up.

# Washington Department of Ecology



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000  
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

June 20, 2007

Mr. Evan Lewis  
Environmental Resources Section  
U.S. Army Corps of Engineers  
P.O. Box 3755  
Seattle, WA 98124-3755

**Re: Comments on the Budd Inlet Navigation Channel Dredging Proposal, Budd Inlet, Thurston County, Washington**

Dear Mr. Lewis:

Enclosed please find Ecology's comments on the proposed navigation channel dredging in Budd Inlet. This hard copy is the formal record of the comments that were sent to you electronically. We appreciate the opportunity to comment on this project, and look forward to working with you throughout the permitting process.

If you have any concerns or questions, please feel free to contact me at 360-407-6076 or [hpre461@ecy.wa.gov](mailto:hpre461@ecy.wa.gov).

Sincerely,

Helen Pressley  
Federal Permit Manager  
Shorelands and Environmental Assistance Program

HP: ds

cc: Laura Inouye, Ecology  
Russ McMillan, Ecology  
Rebecca Lawson, Ecology  
Loree Randall, Ecology

Attachments



## Attachment 1

### Ecology Comments on the Proposed Corps Dredging Project at the Federal Navigation Channel in Budd Inlet, Thurston County, Washington

June 20, 2007

1. The Corps project refers to Berths 2 and 3 in the Port as scheduled for maintenance dredging (alternatives introduction section); even though we understand it will be under a Model Toxics Control Act (MTCA) Agreed Order (AO) for cleanup (see attachment and e-mail chain below). Based on responses to the dioxin workshops that the Toxics Cleanup Program (TCP) funded the Dredged Material Management Program (DMMP) to conduct, the public is already quite confused over the relationships between the “nature and extent” studies in Budd Bay, the dioxin workshops, and various dredge projects. Consistency and clarification are needed to avoid (or at least reduce) public confusion and the resultant responses.
2. This proposed Corps dredging should avoid being connected to the separate Port of Olympia dredging project. The Corps should not plan to use the dredging equipment that the Port would then immediately use although this would substantially decrease mobilization costs. It is likely that the Port of Olympia project will be appealed and the Corps project should not be linked in to the delays that are likely to occur with the Port of Olympia project.
3. Second, the project still mentions use of the material for beneficial use. I suggest that beneficial use (BU) be removed as an option. Originally, it was thought that clean material could be used to fill a “hole” to bring the bottom into shallow water habitat zone (DMMP and the BU working group have both seen the proposed use of the material; following comments summarize the discussions). However, dioxins were found, and the thinking shifted to what looks like a “capping” type scenario. Since Budd Inlet is currently being scoped out for the extent of dioxin contamination, it would be foolhardy to allow burial without first knowing what will be planned for the general area after data on extent becomes available. Due to these issues, the hole being filled should not be considered as advanced mitigation for any project.
4. The order of presentation of the various alternatives- We suggest moving 2.3 (preferred alternative) to just behind the “no action”. While typical reviewers of this document would see the “preferred action” and have no problem, the public may react immediately upon reading that some material (238,000 cy) having elevated levels of dioxin that are being removed for upland disposal. Presentation of the preferred action first would probably reduce this type of over-reaction. In fact, if the 238,000 cy is from the berths (this is not clear in the text), this option can be removed if the AO goes into effect, since it will be part of a cleanup effort, not maintenance dredging. While the proximity to the contaminated berths should be mentioned, it should be clearly stated that they are not part of the maintenance dredging and minor widening project that this draft Environmental Assessment (EA) covers.

### Corps Responses to Comments by the Washington Department of Ecology

1. To minimize confusion, the final EA has been revised to characterize the proposed Port berth dredging in the context of the pending MTCA Agreed Order for cleanup.
2. The proposed Corps dredging is independent of the proposed Port dredging. Analysis of the potential impacts of the Corps proposal must consider cumulative effects, which necessarily include the proposed Port berth dredging. The potential for cooperation on equipment will remain an option, but does not provide any linkage between the projects except the potential financial advantage of minimizing the mobilization costs for the dredging. Any coordination of equipment usage would be done at the sole election of the Port as it conducts any subsequent dredging operations, and any economic and/or other benefits arising from this coordination would accrue exclusively to the Port. The timing and manner of dredging selected by the Port will have no effect on the Federal maintenance dredging effort. Delays that are specifically related to approval of the Port dredging will have no impact on the process and timeline for the Corps proposal.
3. Due to various concerns about the beneficial use component of the proposed action described in the draft EA, the Corps has modified the proposal to omit placement of material within Budd Inlet for beneficial use. At this time, no alternative beneficial use sites have been identified.
4. We've revised the order of the alternatives as suggested in order to accentuate that the alternative that would have involved dredging 238,000 cubic yards of unsuitable material from the Olympia Harbor entrance channel and turning basin is not the preferred alternative. Additionally, we have added text intended to clarify that the berths dredging would be the responsibility of the Port under any alternative.

# Washington Department of Natural Resources

June 20, 2007

Evan R. Lewis  
U.S. Army Corps of Engineers, Environmental Resources Section  
P.O. Box 3755  
Seattle, WA 98124-3755

Subject: Olympia Harbor Maintenance Dredging and Minor Widening, Olympia  
Thurston County, Washington.  
Draft Environmental Assessment, May 2007

Dear Mr. Lewis:

The Washington State Department of Natural Resources (WDNR) would like to thank you for the opportunity to provide input regarding the proposed Olympia Harbor maintenance dredging and minor widening of the navigation channel. The following comments pertain to the draft Environmental Assessment (EA) dated May 2007, prepared in accordance with the National Environmental Policy Act (NEPA) for this proposed maintenance dredging and channel widening project. These comments arise from the perspective of the Sediment Quality Unit, Aquatic Division, only.

The Washington State Constitution, the Revised Code of Washington, and the Washington Administrative Code define the nature of WDNR's land management responsibilities. The basis of the following comments stem from the authorities and requirements defined in these statutes, rules and regulations. We appreciate the U.S. Army Corps of Engineer's consideration of these and any future comments related to maintenance dredging, minor widening, and potential beneficial re-use of dredged material issues in Budd Inlet.

## General Comments

1. The State of Washington owns, and WDNR manages, the state-owned aquatic lands (SOALs) within Budd Inlet. As such, WDNR has an interest in proposed activities impacting SOALs, for example the placement of dredged material on a proposed beneficial use location on SOAL in West Bay. While WDNR is supportive of the concept and application of beneficial use overall, the example proposed in the EA is more problematic when factoring in the known and unknown dioxin concerns of Budd Bay.
2. The Department of Ecology is currently investigating the extent of dioxin and furan contamination throughout Budd Inlet. Results from this study are expected during the summer of 2007 and will produce a more complete characterization of the health of

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Budd Inlet sediments. Other than the sediment investigations completed in 2006 for the DMMP (plus some results from the Cascade Pole study), little is known of the extent of dioxin and furan contamination. Would it not seem reasonable to first evaluate the results of the large scale Budd Inlet characterization before moving ahead with any material deposition on state aquatic lands (e.g., the proposed beneficial use site in West Bay)? It may become clear after reviewing the data and the extent of contamination that beneficial use applications would be appropriate in Budd Inlet.

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3. WDNR is not convinced the proposed beneficial use location is, in fact, a beneficial use location. The expected benefit would be an increase in elevation within the confines of the previously dredged location from ~ early 1900's.
4. Please be advised that a proponent must enter into an agreement with WDNR if this or any other proposed beneficial use site on SOAL was to be used.

3

## SPECIFIC COMMENTS

The following comments are organized by sections in the draft Environmental Assessment.

**Section 1.0:** No comments

**Section 2.3:** Preferred alternative and proposed federal action

Statement in draft EA: "Disposal of clean dredged material at the beneficial use site would reduce surface concentrations of dioxin and furans from 20 to 25 parts per trillion (pptr) Toxic Equivalence (TEQ) to less than 1 pptr TEQ."

The data from the Supplemental Suitability Determination (CENWS-OD-TS-DM, Table 6, page 19) and the Integral Consulting Inc. maps produced for the Port of Olympia clearly show concentrations of dioxins in the proposed beneficial use site of between 20 and 25 pptr TEQ, as stated in the EA. These same data sources also report dioxin concentrations from sample locations within the area of the proposed maintenance dredging and minor widening as between 0.27 and 6.92 pptr TEQ, below the interim interpretive approach for PCDD/F (7.3 pptr TEQ maximum observed sediment value at the Anderson/Ketron disposal site, but higher than the Tier 2 limit for open water or beneficial use applications). What is unclear is how the value of "less than 1 pptr TEQ" would be achieved by depositing materials in the range of between 0.27 and 6.2 pptr in the proposed beneficial use location containing sediment in the range of 20-25 pptr? Please clarify the logic supporting this statement. How did you arrive at a "less than 1 pptr TEQ" value? The values appear to exceed the Tier 2 limit, please clarify.

4

**Section 3.3.1:** Existing Conditions, Geology and Sediment

Some of the language in this section clarifies my questions above, about the logic of achieving less than 1 ppt TEQ in the proposed beneficial use site after depositing materials from the maintenance and widening locations. It is clear that a weighted mean average was used for the 60,000 cubic yards proposed for beneficial use, resulting in a value of 0.47 ppt TEQ, below the 3.8 ppt TEQ Tier 2 limit. It would be useful to report this explanation earlier in the document, perhaps even in the summary.

Are there risks of re-suspending and re-distributing the finer sediment materials in the proposed beneficial use location (containing higher dioxin concentrations) when the clean material is bottom dumped from a barge, resulting in deeper strata of contamination after everything settles out?

**Section 3.6.2:** Impacts, Benthic Community

Advanced mitigation is discussed in this section. Please see the discussion in Section 5.2 (Mitigation), below, for WDNR comments.

**Section 5.2:** Mitigation, Conservation and Mitigation Measures

The proposed beneficial use site is presently contaminated with dioxins. Depositing uncontaminated dredged materials into this site would not be considered a mitigation measure for three important reasons: 1) the high likelihood for recontamination, 2) the potential need for ongoing maintenance, and 3) the potential for future remedial actions.

As a proprietary agency, the state's ability to protect the proposed beneficial use site (after dredged sediment is deposited) if future remedial actions are required would be inadequate. The deposition of dredged material on a site with known contamination could isolate biota from higher levels of contamination, but it would not be considered a feasible use of SOAL by our agency due to the high likelihood for recontamination and the potential need for ongoing maintenance.

Advanced mitigation can be proposed for habitat impacts as a result of infrastructure development on state-owned aquatic land when traditional compensatory mitigation activities are not practicable. Advanced mitigation will only be considered on SOAL in anticipation of a future known project(s) if greater benefits can result from an advanced mitigation scenario. The use of state-owned aquatic land could be authorized by DNR if the activity is chosen in consideration of the several criteria:

- All reasonable efforts to execute avoidance and minimization protocols have been attempted. It has been determined that traditional compensatory mitigation options are not available, or appropriate, to compensate for adverse impacts to the ecosystem or watershed.

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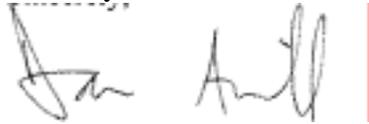
- Detailed pre-project designs, baseline monitoring information, and approved construction plans are available and sanctioned by the appropriate regulatory authority. Advanced mitigation that is completed without the oversight of the regulatory agency for future projects is done at the parties' own risk.
- Ultimately, the alternative mitigation benefits aquatic resource ecosystem impacted, and provides greater ecological benefit than traditional compensatory mitigation strategies and the site is within the area of the impacting project.
- The use and allocation of mitigation opportunities to the applicant is based on a regulatory framework, and complies with the applicable land use agreements, DNR management goals, and guidance.
- Long-term protection measures and monitoring and maintenance protocols have been established that protect the compensatory mitigation site from future development and recontamination.

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cont.

In short, compensatory mitigation on state-owned aquatic land would not be appropriate in this case due to the states inability to protect the site from ongoing contamination.

Again, thank you for the opportunity to comment on this draft Environmental Assessment. Please feel free to contact me at (360) 902-1676 or by email at [daniel.averill@dnr.wa.gov](mailto:daniel.averill@dnr.wa.gov) if you have any questions pertaining to my comments.

Sincerely,



Dan Averill, Environmental Specialist  
Sediment Quality Unit

c: Joanne Snarski, Sediment Unit Supervisor  
John Bower, Historical Geographer and Transaction Analyst  
Shannon Soto, Land Manager  
Margie Schirato, WDFW, Habitat Program  
SQU file

Corps Responses to Comments by June 20, 2007, Washington Department of Natural Resources

1. Due to various concerns expressed by Washington DNR and other commenters about the beneficial use component of the proposed action described in the draft EA, the Corps has modified the proposal to omit placement of material within Budd Inlet for beneficial use. At this time, no alternative beneficial use sites have been identified.

2. The Corps proposed beneficial use of the clean dredged material in an attempt to take advantage of the clean material that would be generated by the planned channel bend dredging, as opposed to disposing of that quantity of material in a designated unconfined aquatic site. The Corps affirms the commenter's suggestion that beneficial use applications may be appropriate in Budd Inlet in the future. However, the availability of clean material from nearby sources for beneficial uses from Federal dredging may be limited given the relatively long interval that typically occurs between Olympia maintenance dredging events.
3. Due to various concerns about the beneficial use component of the proposed action that was described in the draft EA, the Corps has modified the proposal to omit placement of material within Budd Inlet for beneficial use.
4. The proposed beneficial use would have utilized material dredged for the minor widening component of the Federal channel maintenance dredging project, which is composed of clean native sediments with contaminant levels that are even lower than those in other portions of the channel bend dredging. Regardless, the Corps has eliminated the Budd Inlet beneficial use disposal from the proposed work.
5. The initially proposed placement of material at a location within Budd Inlet for beneficial use is no longer part of the project, so any issues regarding potential disturbance of or immediate remediation goals for dioxin contamination at the beneficial use site are moot.

## Arthur West – May 21, 2007

**Sent:** Monday, May 21, 2007 1:03 PM

**To:** Arden, Hiram T NWS

**Subject:** CORPS DREDGING PROJECT IN BUDD INLET

Mr. Arden

Please regard this as a comment on the lack of proper public notice and opportunity to comment on the Corps Olympia dredging project.

Despite being known to the Corps as an interested party, I was not provided with a copy of the public notice. Additionally, the circulation of the Environmental Assessment document is not timely. It should have been included with the original public notice.

However, the EA appears to not even be available or referenced in the Corps website as is represented in the May 20 Olympian Article.

Proper procedure requires that the notice period be restarted when the EA is actually made available.

Also, since the State DOE is in the process of developing a testing project and cleanup plan, any federal project review or piecemeal dredging prior to the conclusion of the whole study is probably improper and potentially counterproductive.

It is my position that the Corps, the DOE, and the port should work together and that the NEPA and SEPA process should be coordinated in one document, including all interconnected actions of all related projects and activities as required by CEQ regulations. For a project with such potential for release of toxins, and with this magnitude of interconnected activities, and effect on regional trade patterns and economic activity it appears that an integrated EIS should be required in order to save time and make any further review as comprehensive and expedient as practicable.

Attached are some pleadings from West v. Secretary of Transportation which include references to the project. Please inform me of all further actions in regard to this project, and provide me with copies of all related documentation, including the EIS that is not yet available on your website.

Also, My associate Jerry Dierker has been involved with toxic contamination issues in Budd Inlet involving the Corps for many years and has not been informed of this project either. His address is 1720 Bigelow Ave. N.E. 98506. He does not have Internet access, and would like a hard copy of all relevant documents. For the purposes of the record, he concurs with the comments in this E-mail and the attachments.

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Sincerely,  
Arthur West  
120 State Ave. N.E. #1497  
Olympia, WA 98501  
360-292-9574

Corps Responses to 5/21/2007 Comments by Arthur West

1. The public notification procedures for the proposal have been consistent with the relevant regulations. To summarize the notification process specific to the Olympia Harbor draft EA, we posted the document on our website on May 11, 2007, with a comment period until June 11, 2007, as noted in the May 14, 2007, erratum to the Navigation Public Notice. To make doubly sure (due in part to a typographical error in the draft EA website address contained in the newspaper article noted by the commenter) that the public received appropriate notification that the draft EA was available for comment, on May 21, 2007, we issued an draft-EA-specific notice which provided for public comment on the draft EA up until June 20, 2007 (30 calendar days from May 21). Shortly after both notices, the prompt responses of stakeholders (including Mr. West) via e-mail to the Corps and other agencies indicated that the notification process provided fully effective opportunity for participation in the NEPA process for the Federal dredging project. At the inception of the initial and the extended notice periods, a Notice of Availability of the draft EA was distributed to an extensive mailing list of parties interested in proposed in-water projects in Pierce and Thurston counties. This mailing list is the same one used by the Seattle District Regulatory Branch to distribute public notices concerning proposed non-Corps work that requires an individual Department of the Army permit, for work impacting waters of the United States. All notices regarding the project, its public comment period, and the various extensions to that period were also sent to the media in the Olympia vicinity. The Corps' regulations for the implementation of NEPA (33 CFR 230.11) require that public notification of the availability of draft EAs evaluating maintenance dredging projects follow the procedures for Public Notices; these public dissemination procedures are found, in turn, at 33 CFR 337.1(c) and 325.3(d). The Corps' public notification efforts conformed to the requirements of these published procedures. Beyond providing information, the Corps does not exercise control over media outlets in the way that information regarding public participation in NEPA processes is presented.
2. The proposed dredging area has been tested by the inter-agency Puget Sound Dredged Material Management Program, and sediments have been determined to be suitable for open water disposal at the Anderson Island disposal site, or at sites providing for beneficial uses of dredged material. On the other hand, the Department of Ecology "nature and extent" sampling covered areas outside of the areas tested previously by the DMMP agencies, and thus outside of the footprint of proposed Federal channel dredging, and will not provide new information on contaminants that may be

disturbed by the proposed dredging. The proposed dredging is based on comprehensive sediment testing and no additional testing is necessary prior to accomplishing the work.

3. The EA focuses on the proposed Corps maintenance dredging of the navigation channel, since that is the federal action at hand. Per NEPA regulations, the EA considers other past, present, and reasonably foreseeable future actions in the vicinity of the proposed dredging in the cumulative impacts section. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment (40 CFR 1500.1(c)). The Corps believes that the final EA is the appropriate vehicle to meet these objectives and complies with relevant NEPA regulations, and has concluded that there are not likely to be significant effects on the quality of the human environment, such that preparation of an EIS would be necessary. While the Corps is permitted, at its discretion, to conduct joint environmental research and studies, and prepare joint environmental assessments in cooperation with a state agency, this only applies to the extent that duplication of effort between the two processes will be reduced accordingly. The Corps is the only entity conducting a review of the environmental consequences of the Federal maintenance dredging project, and the Port and State of Washington are evaluating under SEPA the distinct proposal of conducting a removal of sediments from the berths area for remediation purposes. The only overlap in the Federal NEPA evaluation process is reflected in the cumulative effects assessment. Because of the distinction between the two projects, there is no appreciable duplication of effort between the two processes, and combination of NEPA and SEPA processes would not be of significant benefit to either party.
4. We sent copies of the requested documents to Mr. West and Mr. Dierker on May 21, 2007.

## Arthur West – May 23, 2007

**Sent:** Wednesday, May 23, 2007 12:50 PM

**To:** Arden, Hiram T NWS

**Subject:** Re: CORPS DREDGING PROJECT IN BUDD INLET

Mr. Arden:

Thank you for the most recent alteration of supporting documents for the Environmental Assessment for the proposed Budd inlet dredging and toxic contamination cover up project.

There appear to still be a few major defects that require amendment for a procedurally and technically correct document.

1. The Biological Evaluation, Assessment, and concurrence letters that the EA is based upon are outdated, from November 2005-May of 2006. These documents predate the discovery and release of the preliminary information concerning dioxin contamination, as well as the listing of the Puget Sound Steelhead and the Orca. This requires the withdrawal of the draft EA and re issuance with complete current Biological evaluation, assessment, and concurrence letter covering all required species and including the new evidence of dioxin contamination, including the results of the current testing program of the State DOE. Without current biological information covering all listed species, the EA is facially defective.

2. The projected "cover up" of contaminated areas under the guise of "beneficial use" is also problematic. The EA fails to include any alternative where the contamination in the "Beneficial use" area is removed instead of covered up. This is a significant oversight, since the projected action could interfere with or cause further expense and complications for the proposed State testing and cleanup of the inlet. Additional testing should be completed to determine the level of contamination in the area proposed to be covered with dredged material, and to determine if it should be removed rather than covered up. This is particularly necessary as the EA only purports to state contamination levels for the first 10CM in the "beneficial use" area, when higher levels of contamination have been found at deeper levels. Also, the potential for migration of contaminants from the area and into the food chain due to greater amounts of benthic organisms and other aquatic life forms that will inhabit the area if it's depth is lessened has not been evaluated. Nor has the finding (EA, page 9) that the disposal of "clean" dredged material at the beneficial use site would reduce surface concentrations to less than 1ppt TEQ been explained or substantiated by any scientific evidence or data. This is especially problematic since the (DMMP) allowed level for in water disposal can be up to 3.8ppt. How dumping material contaminated by up to 3.8 ppt will reduce contamination to less than 1ppt is unclear and not articulated in the EA.

3. The project has potential significant impacts requiring an EIS. It is clear that the movement of this amount of contaminated material in listed species habitat areas poses a reasonable potential for significant environmental impacts. The EA itself admits that the project will have at least short term impacts to life forms in the area. The coverup of the toxic contamination in the "beneficial use" area has a potential for further long term impacts which

have not been considered at all. These matters are not internally consistent with the overall finding of no significant impact.

} 3  
cont.

4. Piecemealing and failure to co-ordinate with State and local agencies. It is apparent that this project has been improperly segmented or segregated from a number of related projects and actions required to be evaluated in context. The NEPA review being conducted by the Corps should be combined with the SEPA review of the Port marine terminal-Weyerhaeuser project which is contemporaneous and also requires dredging as part of the terms of the Weyerhaeuser lease and business projections (See previous attachment). Additionally, the State DOE testing and cleanup plan for the entire inlet and greater Puget Sound is still being formulated, and this project has the potential to seriously interfere with and compromise the goals of this testing and cleanup effort.

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Rather than waste more time with a facially defective EA, perhaps it would be most expedient to withdraw this present document and begin the process of actually co-ordinating with the Port and the DOE on one comprehensive joint NEPA-SEPA document for all of the contamination and project related issues in Budd inlet.

Thank you for your consideration.

Arthur West, May 23, 2007.

Corps Responses to 5/23/2007 Comments by Arthur West

1. The draft EA reflected the status of ESA consultation as of mid-May 2007. At that time, the USFWS had concurred that proposed dredging in Budd Inlet was not likely to adversely affect bull trout, marbled murrelet, and bald eagle. No new circumstances with potential effects on listed species under the jurisdiction of the USFWS have developed since the USFWS concurrence. Since the draft EA release, the Corps has completed ESA consultation with the NMFS to address potential effects of the project on Chinook salmon, steelhead trout, and orca whales. Consistent with the relevant NEPA requirements, the final EA addresses the completion of ESA compliance for the proposed work. Disposal of the dredged material at the Anderson Island site is addressed in the programmatic Section 7 ESA consultation for the PSDDA program which resulted in concurrence for the NMFS and USFWS that dredged material disposal at PSDDA sites is not likely to adversely affect listed species in the area.
2. Due to various concerns about the beneficial use component of the proposed action that was described in the draft EA, the Corps has modified the proposal to omit placement of material within Budd Inlet for beneficial use. Accordingly, any issues regarding impacts from beneficial use of the dredged material are moot.
3. The proposed project will remove only material determined to be suitable for unconfined aquatic disposal, and no longer involves any disposal activities consisting of placement over contaminated sediments. The final EA provides the Corps

assessment of the degree of impacts of the proposed work, which the Corps believes is not a major Federal action significantly affecting the quality of the human environment and, therefore, does not require preparation of an EIS.

4. The EA focuses on the proposed Corps maintenance dredging of the navigation channel, since that is the federal action at hand. Per NEPA regulations, the EA considers other past, present, and reasonably foreseeable future actions (such as remediation in Budd Inlet and the proposed Weyerhaeuser log handling facility) in the vicinity of the proposed dredging in the cumulative impacts section. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment (40 CFR 1500.1(c)). The Corps believes that the final EA is the appropriate vehicle to meet these objectives and complies with relevant NEPA regulations, and has concluded that there are not likely to be significant effects on the quality of the human environment, such that preparation of an EIS would be necessary. While the Corps is permitted, at its discretion, to conduct joint environmental research and studies, and prepare joint environmental assessments in cooperation with a state agency, this only applies to the extent that duplication of effort between the two processes will be reduced accordingly. The Corps is the only entity conducting a review of the environmental consequences of the Federal maintenance dredging project, and the Port and State of Washington are evaluating under SEPA the distinct proposal of conducting a removal of sediments from the berths area for remediation purposes. The only overlap in the Federal NEPA evaluation process is reflected in the cumulative effects assessment. Because of the distinction between the two projects, there is no appreciable duplication of effort between the two processes, and combination of NEPA and SEPA processes would not be of significant benefit to either party.

## Jana Wiley

**Sent:** Wednesday, June 20, 2007 2:53 PM  
**To:** Lewis, Evan R NWS  
**Subject:** Dredging of Budd Inlet

Dear Mr. Lewis,

Thank you for receiving comments on this topic. I hope that they will be considered.

Briefly, I am opposed the dredging of this waterway for several reasons.

1. It will stir up fine particulate matter that is laden with dioxin. (Dioxin is in highest concentrations on the smallest particles.) This sediment will then be released into the tidal flows for deposition into other areas around Budd Inlet. This is a tragedy, since no one has budgeted to monitor other beaches after the dredging takes place. The term, that is used so frequently by DOE when asked about dioxin, is "ubiquitous". Well, unfortunately, this dredging certainly ensures that this will be true. } 1
2. The reason for dredging is based on bringing in a business that also guarantees to pollute this region with more air borne carcinogenic substances. Unfortunately, this will not be followed up either as air quality for the region is recorded in Lacey. It is a fact that other ports (Seattle is one) are experiencing **significant** increases in air pollution. Advisories have been issued for people with asthma, COPD and other pulmonary diseases to **not live** in these areas. Seattle is attempting to remediate this problem by hooking ships up to electrical power sources when at dock vs. burning bunker fuel. At this point in time, Olympia does not have any plans to mitigate the airborne pollutants from Weyhauser ships. } 2
3. The citizens of Olympia are currently suing the Port of Olympia regarding its lack of environmental review with its projects. I do not believe that the intensity of their sentiments will die down. In fact, intensity is rising as more citizens are attending their meetings than ever before, with the majority questioning the leadership of the Port, its decisions and public processes. } 3

Please refer my comments on to those associated with this project. I feel that I am speaking for many, who feel similar to myself on the question of dredging, but do not know that the comment period ends today.

Sincerely,

Jana Wiley  
1020 Fifth Avenue S.W.  
Olympia, WA 98502

### Corps Responses to Comments by Jana Wiley

1. The proposed work would dredge sediments determined by the inter-agency DMMP to be suitable for unconfined aquatic disposal and, as such, will not disturb sediments that are contaminated with dioxin or other contaminants. The initially proposed placement of material at a location within Budd Inlet for beneficial use is no longer part of the project, so any issues regarding placement of clean dredged material on top of contaminated surface sediments are moot. Accordingly, the Corps believes that any risk the work would pose to human health would be less than significant.
2. The final EA (Section 3.4.2) has been revised to discuss potential air quality impacts due to vessel traffic resulting from the proposed action. In summary, due to the low frequency of existing and expected vessels utilizing the area, more than minimal air quality impacts are not expected to occur as a result of the work. As indicated in greater detail in response to previous comments, the purpose for conducting the Federal channel dredging is to maintain the dimensions of a navigation project that was initially legislatively authorized in 1927, and has been subsequently maintained to those parameters since, most recently in 1973. The purpose of the maintenance dredging project is not to “bring in a business,” and the maintenance dredging effort is neither intended nor expected to accommodate larger vessels in Olympia Harbor, nor is the project intended to increase the number of vessel transits.
3. We acknowledge the high level of public scrutiny of proposals involving the Port of Olympia and assure that the Corps has given utmost consideration of public input on the proposed dredging and disposal project.