US Army Corps
of Engineers
Seattle District

Public Notice of Application for Permit

Regulatory Branch
Post Office Box 3755
Seattle, Washington 98124-3755
Telephone (206) 764-3495
ATTN: Jessica Winkler, Project Manager

Public Notice Date: July 13, 2004
Expiration Date: August 13, 2004
Reference: 200400240
Name: Seattle, Port of

Interested parties are hereby notified that an application has been received for a Department of the Army permit in accordance with Section 10 of the Rivers and Harbors Act of March 3, 1899, and Section 404 of the Clean Water Act for certain work described below and shown on the enclosed drawings.

APPLICANT - Port of Seattle
Mr. George Blomberg
Post Office Box 1209
Seattle, Washington 98111-1209
Telephone: (206) 728-3194

LOCATION – In Elliott Bay at the Elliott Bay Puget Sound Dredged Disposal Analysis (PSSDA) unconfined open-water disposal site. The material to be disposed will be dredged from Terminal 25 on the southeast shoreline of the East Waterway under Environmental Protection Agency (EPA) Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) authority.

WORK - Dispose of up to 60,000 cubic yards (cy) of clean material in the Elliott Bay PSDDA open-water disposal site. EPA has ordered the removal of the clean material, as well as 200,000 cy of contaminated material from the East Waterway as part of non-time-critical removal action under CERCLA. The dredging and the disposal of the contaminated material fall under EPA's authority. The disposal of the clean material is the subject of this permit application.

PURPOSE – Disposal of clean dredged material.

PUGET SOUND DREDGED DISPOSAL ANALYSIS (PSDDA) –

a. Dredged Material Testing: The proposed dredged material has been tested according to the procedures specified in PSDDA, a multi-agency program for the evaluation of dredged material proposed for disposal at open-water sites in Puget Sound. The PSDDA evaluations may include both chemical and biological testing of sediments. For this project, the PSDDA agencies determined that all 60,000 cy were suitable for unconfined disposal at the PSDDA nondispersive, open-water disposal site in Elliott Bay. The sediment testing data are available at the U.S. Army Corps of Engineers (Corps), Seattle District, Dredged Material Management Office.

b. Disposal Site Use Conditions: The following standard site use conditions will be specified by the Corps and the Washington Department of Natural Resources as part of the Federal/State permitting processes: (1) during the periods of tribal fishing in the disposal site area, disposal will only occur during daylight hours; and (2) during the daylight hours, "navigation rules of the road" will apply to

the dredger in the event Indian treaty fishing is occurring at the disposal site. The dredger's permit will state that disposal is to occur when there is no treaty fishing occurring at the disposal site. Other appropriate special conditions may be added as a result of comments received during the public review period for this public notice.

ENDANGERED SPECIES - The Endangered Species Act (ESA) of 1973, as amended, requires assessment of potential impacts to listed and proposed species. The coastal/Puget Sound bull trout (*Salvelinus confluentus*), threatened, Puget Sound chinook (*Oncorhynchus tshawytscha*), threatened, Steller sea lion (*Eumetopias jubatus*), threatened, bald eagle (*Haliaeetus leucocephalus*), threatened, and marbled murrelet (*Brachyramphus marmoratus*), threatened in the state of Washington, may occur in the proposed project area. For marbled murrelet critical habitat has been designated.

The Corps has evaluated the potential impacts to the coastal/Puget Sound bull trout, Puget Sound chinook, Steller sea lion, and marbled murrelet in the Programmatic Biological Assessment for the PSDDA Non-Dispersive Sites. National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) have issued concurrence with the Corps' "may affect, not likely to adversely affect" determination on May 31, 2000, (NMFS reference number WSB-99-235) and May 17, 2000, (USFWS reference number 1-3-00-IR-1063) respectively. No further ESA consultation is required.

ESSENTIAL FISH HABITAT - The Magnuson-Stevens Fishery Conservation and Management Act (MSA), as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). EFH for Pacific salmon, groundfish, and coastal pelagic species occurs in the project area.

NMFS determined via letter dated June 2, 2003, (NMFS reference number 2002/00275) that the built-in PSDDA conservation measures would minimize adverse effects to EFH to the maximum extent practicable and that additional conservation measures were not necessary. No further EFH consultation is necessary.

CULTURAL RESOURCES - The District Engineer has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible and other sources of information. The following is current knowledge of the presence or absence of historic properties and the effects of the undertaking upon these properties:

> There are no recorded historic properties within the permit area. The permit area has been so extensively modified by modern development that little likelihood exists for the proposed project to impinge upon an undisturbed historic property.

The District Engineer invites responses to this public notice from Federal, Native American Nations or tribal governments, State, and local agencies, historical and archeological societies, and other parties likely to have knowledge of or concerns with historic properties in the area.

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

EVALUATION - The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative

effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

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

The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act. This evaluation will include an alternatives analysis.

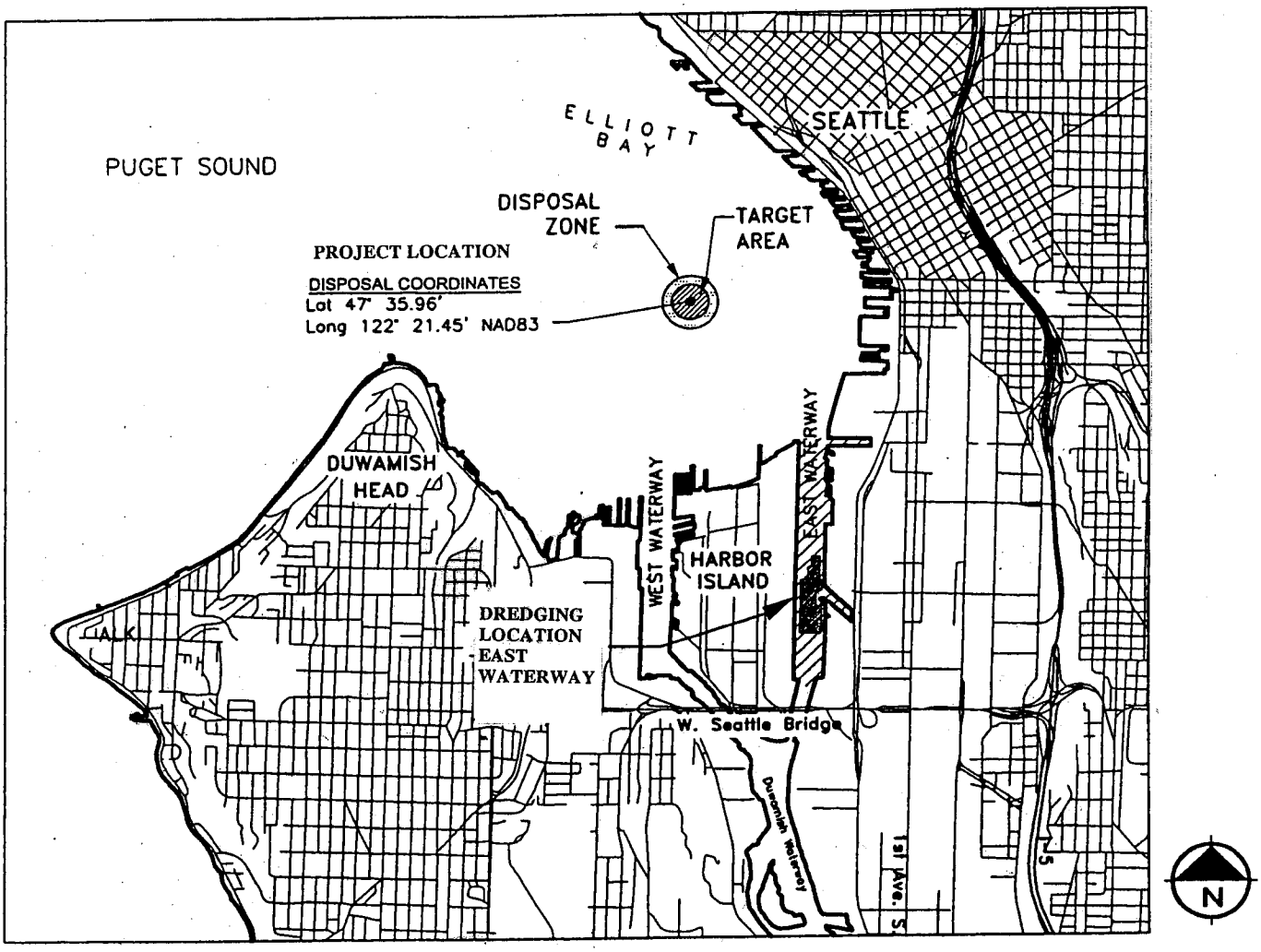
ADDITIONAL EVALUATION - The state of Washington is reviewing this work for consistency with the approved Washington Coastal Zone Management Program.

The city of Seattle has issued an exemption from the requirement of obtaining a Shorelines Substantial Development permit for this project.

COMMENT AND REVIEW PERIOD – Conventional mail or e-mail comments on this public notice will be accepted and made part of the record and will be considered in determining whether it would be in the public interest to authorize this proposal. In order to be accepted, e-mail comments must originate from the author's e-mail account and must include on the subject line of the e-mail message the permit applicant's name and reference number as shown below. All e-mail comments should be sent to Jessica.G.Winkler@nws02.usace.army.mil. Conventional mail comments should be sent to the U.S. Army Corps of Engineers, Regulatory Branch, Post Office Box 3755, Seattle, Washington 98124-3755. Both conventional mail or e-mail comments must include the permit applicant's name and reference number, as shown below, and the commentor's name, address, and phone number. All comments whether conventional mail or e-mail must reach this office, no later than the expiration date of this public notice to ensure consideration. Please include the following name and reference number:

Port of Seattle, 200400240

Encl
Drawings (1)



VICINITY MAP

Not to Scale

PROPOSED: DISPOSAL OF UP TO 60,000 CUBIC YARDS OF CLEAN DREDGED MATERIAL IN ELLIOTT BAY PSDDA UN-CONFINED OPEN-WATER DISPOSAL AREA

ELLIOTT BAY UN-CONFINED OPEN-WATER DISPOSAL SITE

Type:	Non-dispersive
Area:	415 acres
Depth:	300-360 feet
Site Dimension:	6200 feet by 4000 feet
Disposal Zone:	1800 feet diameter
Target Area:	1200 feet diameter
Barge Positioning Method:	VTS
NAD83 Location:	Latitude: 47 degrees, 35.96 minutes Longitude: 122 degrees, 21.45 minutes

PURPOSE:

DISPOSAL OF CLEAN SEDIMENTS FROM EPA DIRECTED DREDGING IN THE EAST WATERWAY

200400240

PROJECT NOTES

Port of Seattle
MARINE FACILITIES

EAST WATERWAY-PHASE ONE REMOVAL ACTION

SEDIMENT CLEANUP PROJECT –CLEAN SEDIMENT DISPOSAL AREA

ELLIOTT BAY
CITY OF SEATTLE
KING COUNTY

SHEET 1 OF 1

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
P.O. Box 47600 • Olympia, Washington 98504-7600
(360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Notice of Application for
Water Quality Certification
and for
Certification of Consistency with the
Washington Coastal Zone Management Program

Date: July 13, 2004

Notice is herby given that a request has been filed with the Department of Ecology, pursuant to the requirements of Section 401 of the federal Clean Water Act of 1977 (PL 95-217), to certify that the project described in the U.S. Army Corps of Engineers Public Notice No. 200400240 will comply with the Sections 301, 302, 303, 306, and 307 of the Act, and with applicable provisions of State and Federal water pollution control laws.

Notice is herby given that a request has been filed with the Department of Ecology, pursuant to the requirements of Section 307© of the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451), to certify that the above referenced project will comply with the Washington State Coastal Zone Management Program and that the project will be conducted in a manner consistent with that program.

Any person desiring to present views on the project pertaining to the project on either or both (1) compliance with water pollution control laws or (2) the project's compliance or consistency with the Washington State Coastal Zone Management Program may do so by providing written comments within 30 days of the above publication date to:

Federal Permit Coordinator
Department of Ecology
SEA Program
Post Office Box 47600
Olympia, Washington 98504-7600