

DMMP/SMS ISSUE PAPER FUTURE OF THE “SMARM” PROCESS: REDUCING LEVELS OF EFFORT

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Introduction

The Puget Sound Dredged Disposal Analysis (PSDDA) agencies recognized early that “the state-of-the-art of dredged material testing and test interpretation is rapidly changing” and provided for annual program assessments (1). A general description of annual reviews and plan updates is described in the Phase I Management Plan (MPR, Section 9.4), with some details provided in the Management Plan Technical Appendix (MPTA, Section 7.4) (2,3). To summarize, the agencies agreed to a) evaluate overall program impacts, b) assess how effective and efficient the program was at meeting its goals and objectives, and c) determine if there was need for plan revisions based on both environmental and economic considerations. MPTA also listed issues that “annual reviews may include” and a “typical sequence of events” leading up to an annual review meeting. The latter was intended to be an open exchange of information potentially resulting in revisions to the program. The Annual Review Meeting (ARM) was considered fundamental to the success of the new and largely untested regulatory program, in part because it would help establish and maintain public trust.

Early ARMs provided an open, predictable and lively public forum for the agencies to a) summarize the overall status of program and the dredging year’s activities, b) present other technical and policy information, and c) recommend major and/or minor changes to program guidelines. They were also opportunities for the public to provide the agencies with important information and/or make their own recommendations for program changes. The annual review process and meeting have evolved over 17 years into a broader Sediment Management Annual Review Meeting (SMARM) that is now coordinated with Ecology’s Sediment Management Standards (SMS) and EPA’s Comprehensive Environmental Response, Cleanup and Liability Act (CERCLA) programs (4). Other aspects of the SMARM that have also evolved include timing, public notification, associated written documentation (e.g., reports, papers, minutes, decisions) and process for adopting program changes. But the process remains predictable, well-attended, and effective.

Problem Identification

All of the agencies involved in sediment management have long acknowledged the problem posed by increased regulatory demands that must be met with limited resources. For example, navigation dredging projects have increased in number¹ and complexity, the latter because projects are more frequently located in contaminated areas. Another example is that maturing contaminated sediment cleanup/source control programs, as reflected by greater staff expertise and more programmatic guidance, has led to a far greater number of active sediment cleanup and

¹ The three-year running mean for the number of navigation projects has nearly doubled during the past 17 years

discharge sites of concern². Finally, there are a growing number of projects that require either navigation dredging in an active cleanup area or remediation where navigational needs also exist (see companion Clarification Paper). “Hybrid” projects such as these sometimes require substantial effort for staff using multiple authorities to agree on the best approach to evaluating sediment quality and management options. Such increases in the demands placed on both the DMMP and SMS programs have not been met by similar increases in resources. In reality, program resources have declined in some years and remained stable in most other years.

Increased regulatory demands and stable or even decreased agency resources have precipitated “different ways of doing business”, but not all are positive. Regulatory processes have been streamlined by more than one agency and on more than one occasion. Staff has prioritized activities better and worked more efficiently. Non-essential tasks have been eliminated. Important reports have been delayed. The time required to complete other tasks has increased. Some examples of these follow.

- Efficiency/streamlining:
 - Data transfer capabilities (DAIS to SEDQUAL) that reduce duplication of data entry efforts were developed
 - Annual reports describing sediment evaluations and regulatory processing (Corps), disposal site use and monitoring activities (DNR) and management plan assessment (Ecology) were eliminated or combined into what is now the DMMP Biennial Report (5)
 - Biennial Reports/SMARM Meeting Minutes that were once printed and mailed at high cost are now provided on the Corps/DMMO website
 - Many projects that were at one time issued individual Section 10/404 permits now qualify for one of several nationwide permits that require less effort and time to process
 - Recent Ecology guidance is intended to reduce the time required to issue 401 water quality certifications
 - Access to technical information and sediment guidance documents has greatly improved via web sites, publications and increased contact with national experts
 - New communication/coordination tools, e.g., email, meeting schedulers, has improved general work efficiency
- Negative impacts
 - Sampling and Analysis Plan review times for navigation projects have remained similar but the time required to review data and prepare the final Suitability Determination Memorandum has increased
 - A regional guidance manual on beneficial use of dredged material has not been completed
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The DMMP agencies also proposed in 1991 to make the ARM a biennial event, but this was not adopted because commenters strongly asserted that the public still needed to participate in program reviews on an annual basis (6).

² The number of known or suspected contaminated sediment cleanup sites has increased from 49 in 1996 to nearly 150 in 2005.

Efforts to adapt to increasing regulatory demands continue, but the DMMP agencies all believe that resource constraints are now such that some major elements of the program must be re-examined. One potential change that would allow continued prioritization of routine activities over certain program updates, especially now that sediment management programs are more mature and trusted, is to reduce the level of effort associated with conducting the SMARM - the subject of this Issue Paper.

Options/Proposed Changes

- *Option 1. No Change.* The SMARM process would not visibly change. *Results.* This option could result in reduced review of Sampling and Analysis Plans, sediment quality data reports, feasibility reports, dredge plans, water quality and post-dredge monitoring plans. It could also lead to increased time required to review some of the aforementioned documents, or increased time to issue suitability determinations and/or permits. It could diminish time available for routine communication/coordination. It could further limit capacity to make adaptive management decisions, incorporate latest science or conduct regional planning; etc.
- *Option 2. Biennial SMARM, version 1.* This option would maintain most features of the current process, but with the agencies planning and conducting an ‘agency-sponsored’ SMARM every two years. During alternate years, a ‘publicly-sponsored’ SMARM could be planned and conducted by one or more external entities, e.g., consulting firm or a member of the regulated community. The focus of the latter SMARM would be to have regulators listen while external parties presented information and/or recommended changes to sediment management programs. *Results.* Regulatory staff efforts spent preparing for the SMARM would be reduced by roughly one-half.
- *Option 3. Biennial SMARM, version 2.* The agencies would plan and conduct a SMARM every other year. In alternate years, the agencies would prepare only minor program clarifications and status reports. These would be published on the internet and/or disseminated to interested parties by mail, followed by a brief public meeting/hearing held to answer questions and receive brief comments. *Result.* This option would likely result in a substantial reduction in level of staff effort, but perhaps not as much of a reduction as would Option 2.
- *Option 4. Web-based SMARM Process.* This option would replace the current annual sediment management program review process, including major annual meetings, with an almost entirely web-based program update process. Infrequent and irregular public meetings could be held to receive public comment/testimony regarding only “major” proposed program changes. *Result.* A substantial reduction in the level of staff effort associated with program updates is likely.
- *Option 5. Additional Resources.* This option would involve jointly requesting and receiving additional staff and/or financial resources to conduct normal program functions and continue the SMARM process. “New” resources might include one or more of the following (not prioritized): greater participation by EPA CERCLA program staff; Corps Regional Sediment Evaluation Team (RSET) resources, other Corps contract resources, DNR/Ecology contract resources, reprioritization of existing state resources to better support sediment management programs, state legislation providing new staff/funding for DNR/Ecology sediment programs and/or new DMMP staff funded by a stakeholder group. *Result.* This option would lessen

burden on existing staff and allow the current SMARM process and meeting to continue or even be developed further.

The agencies are committed to making changes to the SMARM process to reduce the level of effort required by current staff. We are particularly interested in exploring the feasibility of Options 3 and 5 above, or some combination of these two options, but have not selected a preferred SMARM alternative. Thus, atypically, we do not propose a specific change in this Issue Paper.

Instead, the agencies request public comment on the alternatives. Which is preferred? Are there other options not identified by the agencies and, if so, might they be preferred? We intend to weigh all public comments carefully and make a decision about how to reshape the SMARM process, e.g., public notification of program status and proposed changes, meetings, etc. by late summer or fall of this year.

References

1. PSDDA, 1988. Final Environmental Impact Statement.
2. PSDDA, 1989. Management Plan Report, Phase I.
3. PSDDA, 1989. Management Plan Technical Appendix.
4. DMMP, 1995. Sediment Management Annual Review Meeting (first multi-program event).
5. DMMP, 1992/1993. (First) Biennial Report.
6. PSDDA, 1991. Minutes to the 3rd Annual Review Meeting.