



Meeting Notes

Gateway Pacific Terminal (GPT) Project Multi-agency Permit (MAP) Team MAP #4 Team Meeting

December 13, 2011

Please send corrections, edits, or additions to jane.dewell@ora.wa.gov

Locations Ecology Offices, link via video conference:

- Bellingham - Field Office (Groucho Room) – *Presentation Location*
1440 - 10th Street, Suite 102, Bellingham, WA 98225
- Bellevue - Northwest Regional Office (Room 2A)
3190 - 160th Ave. SE, Bellevue, WA 98008
- Lacey - Headquarters/Southwest Regional Office
(Room R3A-07)
300 Desmond Drive SE, Lacey, WA 98503

- Purpose**
1. Provide project updates since May.
 2. Engage MAP Team in active discussion of NEPA/SEPA status, process and next steps.
 3. Define next MAP Team meetings.
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Introduction

This meeting was organized by the Governor's Office of Regulatory Assistance (ORA) to discuss Gateway Pacific Terminal (GPT) project updates, the pending National Environmental Policy Act (NEPA)/State Environmental Policy Act (SEPA) process, and define next steps for the multi-agency permit (MAP) Team. Handouts and the attendance roster from the meeting are posted to the GPT MAP Team website:

https://secureaccess.wa.gov/ofm/iprmt24/site/alias_1357/22878/map_team.aspx.

The NEPA/SEPA co-lead agencies are the US Army Corps of Engineers (USACE) for NEPA, and Whatcom County (County) and WA Department of Ecology (Ecology) for SEPA.

Action Items

The following action items were identified during the meeting. A full summary of issues is contained in the sections below:

- Wetland violation:
 - Washington Department of Natural Resources (WDNR) and the County to explain their decisions regarding the wetlands violation on the GPT property.
 - Nooksack Tribe and the County will meet to discuss details of County's decision.



- WDNR will clarify Forest Practices determination for MAP Team.
- Applicant reports:
 - Reports will be provided to MAP Team for review prior to NEPA/SEPA scoping to facilitate agency comments during the scoping period.¹
 - Specific reports/information needs are included in the WDNR Cherry Point Plan.
- BNSF Railways:
 - Ecology and BNSF need to discuss and clarify the SEPA and permitting process for the BNSF proposal. The County asked to be included in SEPA conversations.
 - Tribes would like to be kept appraised of BNSF status.
- NEPA/SEPA co-lead panel discussion – the notes used by the co-lead agencies will be provided to the group (see Attachment 1).
- MAP Team subcommittees – the Tribes will be included on MAP Team subcommittees.
- Public engagement:
 - The NEPA/SEPA co-lead team needs to think about how to better support the public in being effective in the NEPA/SEPA scoping phase.
 - WDFW will submit public letters they've received to co-lead agencies when SEPA begins.
- Ecology and SEPA road map:
 - Ecology will develop clear SEPA process diagram and better explanation for website.
 - Co-lead agencies will assist in development/review of diagram.
- Wetland mitigation:
 - Meeting between applicants and agencies on wetland mitigation proposals should be sooner rather than later.
 - This would be a MAP Team review meeting and not part of NEPA/SEPA EIS review or scoping.
- Proposed future MAP Team meetings organized and supported by ORA to include the following:
 - BNSF Project Presentation.
 - Sediment Investigation and Results.
 - Wetlands.
 - Marine Environment.
 - Project Management Schedule.

¹ Randel Perry, USACE, stated that any studies and/or reports that PIT prepares may, or may not, be included in the EIS. The decision for this rests solely with the co-lead agencies.



Project Updates

A few questions were asked ahead of the meeting (see 'Discussion Questions' handout). A summary of project updates is provided:

- Where are we?
 - a. Phase I – pre-application.
- Major milestones & accomplishments (see 'Completed Milestones' handout):
 - a. ORA:
 - i. MAP Team set up, meetings, field trips, document reviews and comments.
 - ii. Website communication via iPRMT.
 - iii. Quarterly status reports.
 - b. Applicants:
 - i. Pacific International Terminals (PIT) submitted project information document (PID), JARPA, County permit applications. (2/28/2011, 6/6/2011)
 - ii. BNSF submitted JARPA to USACE. (8/15/2011)
 - iii. Summer field work plans – marine environment – and permit applications.
 - c. NEPA/SEPA:
 - i. USACE JARPA – USACE determination of need EIS. (6/13/2011)
 - ii. County permit – MPP (major project permit) and SSDP (shoreline substantial development permit) - incomplete applications and need new, not revised, SSDP (6/23/2011). (Note that County needs complete applications to issue determination of significance [DS] for SEPA.)
 - iii. USACE, County & Ecology – co-lead for joint EIS (memorandum of understanding [MOU]). (10/17/2011)
 - d. Other permit agencies:
 - i. Provided comments on PID and applications (as appropriate). (4/6-5/3/2011)
 - ii. Responded to marine field work permit requests and comments on work plans (1-3 weeks).
 - iii. Participated in MAP meetings – preparation, follow-up on action items.
- Highlights from executive meeting:
 - a. Need for schedule or some way to track project progress.
 - b. Need for clearer project management of the complex process.



- Permit highlights:
 - a. County status – PIT application determined to be incomplete. Waiting on complete MPP and new SSDP application, expected in January, need complete applications prior to DS for SEPA.
 - b. USACE status – PIT JARPA was submitted, additional wetland delineation will be conducted (field visit with County and Ecology planned for January), Parcel 14 information submitted by applicant.
 - c. Other agencies – Ecology waiting on JARPA from BNSF, issued one-year notice regarding PIT 401 application. BNSF JARPA submitted to USACE.
 - d. Schedule clarification from WDNR – PIT will need to submit a Forest Practices Application prior to starting any activity as defined in the statute (e.g., road clearing). Before reviewing the Forest Practice application, WDNR requires:
 - i. A declaration from the County that SEPA is complete and
 - ii. A release letter from the County that permits have been completed.
- Progress on GPT reports by PIT:
 - a. Marine sediment sampling – field work completed in the summer (July 2011), report being completed, will be provided to MAP Team at beginning of scoping. Laboratory analysis data will be provided with report, most likely as an appendix.
 - b. Wave, current, and tidal study – ready to deploy field equipment. Equipment acquired but waiting for boat. Anticipate beginning field work, probably next week. Anticipate 60 days to complete field work and expect completed by February. Report and data provided after that.
 - c. Vessel traffic study – scope has been completed, contractor selected, PIT waiting to hear confirmation from Ecology that scope and contractor are acceptable to meet settlement agreement (SA) requirements. Expect study will begin shortly.
- PIT Reports and providing to MAP Team for review:
 - a. Reports being prepared by the applicant and associated with the SA may potentially be useful to the NEPA/SEPA process. The decision for including various documents, including applicant reports, in the EIS rests solely with the co-lead agencies.
 - b. It is anticipated that reports being completed by the applicant will be provided to the MAP Team prior to NEPA/SEPA scoping process. Response to agency comments – this will be addressed in the reports as they are revised.
- BNSF Railways update:
 - a. Agencies request that BNSF conduct a detailed briefing for the MAP Team.
 - b. JARPA has been submitted to the USACE (but not to Ecology).



- Settlement Agreement (SA):
 - a. Ecology and WDFW are working on a project spreadsheet, designed by ORA, to help track the reports required under the SA.
 - b. The spreadsheet will need to be agreed upon by the SA parties, which is separate from the MAP Team (except for Ecology, WDFW and Whatcom County who are parties to the SA).
- Public and media attention:
 - a. There is a significant amount of public and media attention on the project.
 - b. The MAP Team website contains some letters and responses on the 'Communications' tab (Library). This is so MAP Team is aware of some of the communications, but it's not comprehensive.
 - c. Many of the agencies are receiving regular information requests, and there's a need to coordinate.

NEPA/SEPA Questions and Discussion

The NEPA/SEPA co-lead agencies provided an overview of process by responding to prepared questions, which are included in Attachment 1. Additional discussion included the following:

- NEPA/SEPA co-lead coordination:
 - The three co-lead agencies include Whatcom County and Ecology for SEPA, and USACE for NEPA. The agencies entered into a MOU to conduct a joint NEPA/SEPA environmental review process. They are currently completing the request for proposal (RFP) to hire a third party consultant to develop the EIS.
 - The next stage of the process is scoping. The third party consultant will assist in developing a public participation plan and in organizing scoping process and meetings.
 - The three co-lead agencies will make decisions about scoping, identify studies to be prepared, and work on schedule associated with scoping.
- Violation clarifications:
 - A request was made to WDNR and the County to explain their decisions regarding the wetlands violation on the GPT property. In particular, concern was voiced whether or not decisions were consistent with other, similar actions.
 - Nooksack Tribe and the County will meet to discuss details of County's decision.
 - WDNR will clarify Forest Practices determination for MAP Team.
- Applicant reports and data:



- Reports associated with the SA and potentially useful to the NEPA/SEPA process are being worked on by PIT team.²
- Reports will be provided to MAP Team for review prior to scoping to facilitate agency comments during the scoping period. Useful raw data, such as for sediment sampling, should be provided to facilitate agency review.
- WDNR has interest in this information for the Cherry Point Aquatic Reserve.
- Specific reports/information needs are included in the WDNR Cherry Point Plan.
- BNSF Railways:
 - JARPA was submitted to the USACE. Ecology has not received the BNSF JARPA (associated with 401 process).
 - Tribes would also like to be kept apprised of BNSF status.
 - Ecology and BNSF need to discuss and clarify the SEPA and permitting process for the BNSF proposal.
 - The County would like to be included in BNSF and Ecology conversation regarding SEPA.
- NEPA/SEPA co-lead panel discussion – the notes used by the co-lead agencies will be provided to the group (see Attachment 1).
- MAP Team subcommittees – the Tribes will be included on MAP Team subcommittees.
- Public engagement – need for robust process to engage public:
 - The NEPA/SEPA co-lead team needs to think about how to better support the public in being effective in the NEPA/SEPA scoping phase.
 - A public outreach effort will be led by the three NEPA/SEPA co-lead agencies along with 3rd party consultant.
 - Northwest Clean Air Agency (NWCAA) is issuing a statement clarifying that they “do not have a position” on the GPT project.
 - WDFW has received numerous letters with specific comments directed to the Commissioners. WDFW will not address the specific issues now since the project has not been fully vetted through SEPA.
 - WDFW will accumulate letters to submit during SEPA, and encourage senders to directly participate in the SEPA process.
- Ecology and SEPA road map:
 - Ecology is considering clear SEPA process diagram and better explanation for website. Need to clarify that the SEPA process will take time to complete.
 - Include three co-lead agencies in development/review of diagram.

² Randel Perry, USACE, stated that any studies and/or reports that PIT prepares may, or may not, be included in the EIS. The decision for this rests solely with the co-lead agencies.



- Wetland mitigation:
 - There will be two separate permit applications, one for GPT (by PIT) and one for BNSF. Each will identify wetland impacts and will need to propose wetland mitigation.
 - Proposals for wetland mitigation need to be included in NEPA/SEPA review.
 - Meeting between applicants and agencies on wetland mitigation proposals should be sooner rather than later.
 - This would be a MAP Team review meeting and not part of NEPA/SEPA EIS review or scoping.
 - The USACE clarified that currently there is no authorized in lieu fee program or certified mitigation bank available in Whatcom County. Mitigation plans will need to consider impact avoidance and minimization, or wetlands restoration, creation, and/or enhancement to meet mitigation requirements.
 - The County clarified that the intent of the Birch Bay watershed planning project doesn't include industrial development; only commercial and residential development. Transfer of impacts and wetland mitigation at offsite locations under this planning document are not allowed for industrial projects.

Next Steps – Next MAP Team Meetings

ORA will help to organize and conduct future meetings with input from MAP Team members. The following meetings were identified:

- Agency meeting to provide input for NEPA/SEPA process:
 - The MAP Team does not have an official role in the NEPA/SEPA process. Agency staff participating on the MAP Team will be able to provide input during the NEPA/SEPA process; however, the MAP Team and NEPA/SEPA are separate processes.
 - Suggest including all agencies participating in these meetings, not limited to MAP Team members.
 - Need to determine whether agency meeting will include the general public.
 - Suggestions to conduct agency meeting to provide NEPA/SEPA input after public scoping meetings are held so agencies can focus on technical aspects of their regulatory requirements while being aware of the issues brought up through the general public meetings
 - Question on what government agencies would be included since there is interest in the GPT project from cities and counties outside of Whatcom County.
- Technical Meetings:
 - BNSF project presentation:
 - Conduct for MAP Team.
 - Provide BNSF documentation prior to meeting.



- Team requested BNSF include proposed routes, impacts, mitigation, and other information.
- May be helpful to have USACE jurisdictional determination for wetlands completed before the meeting.
- Sediment Investigation and Results:
 - Conduct subcommittee meeting – Marine Environment.
 - Provide MAP Team with reports and data prior to meeting.
- Wetlands:
 - Conduct subcommittee meeting – Wetland and Stream Impact Mitigation.
 - Provide MAP Team with reports and data prior to meeting. Ecology, the County, and USACE have scheduled a site visit for January 17, 2012.
 - PIT needs more time to explore mitigation options. Revised mitigation plan will not be ready before March 2012.
- Marine Environment:
 - Conduct subcommittee meeting – Marine Environment.
 - Include local, state, and federal agencies involved in marine and aquatic impact review: National Marine Fisheries Service and US Fish and Wildlife Service, WDNR, WDFW, and Tribes.
 - Provide MAP Team with reports and data prior to meeting. Recommend meeting provide a detailed, in-depth discussion of data.
 - If possible, conduct meeting ahead of next herring spawning season
- Project Management Schedule:
 - Conduct meeting of NEPA/SEPA agencies and applicants to work out detailed project management schedule.
 - This issue was raised at Executive meeting.