



Meeting Notes

Gateway Pacific Terminal (GPT) Project

Executive Briefing

December 8, 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)
1440 - 10th Street, Suite 102, Bellingham, WA 98225
- Bellevue - Northwest Regional Office (Room 1A)
3190 - 160th Ave. SE, Bellevue, WA 98008
- Lacey - Headquarters/Southwest Regional Office
(Room R0A-36)
300 Desmond Drive SE, Lacey, WA 98503

Purpose Brief Agency Leadership on Status of Gateway Pacific Terminal Project and Multi-agency Permit Team

Introduction

This meeting was organized by the Governor's Office of Regulatory Assistance (ORA) to brief agency and applicant executives on the progress of the Gateway Pacific Terminal (GPT) project review. Materials and the attendance roster from the meeting are posted to the GPT Multi-agency Permit (MAP) Team website:

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

Action Items

The following action items were identified during the meeting:

- Many parties made the following request regarding MAP Team and National Environmental Policy Act (NEPA)/State Environmental Policy Act (SEPA) processes:
 - Create a defined schedule and more transparent communication process.
 - Have ORA, the NEPA/SEPA co-lead agencies (U.S Army Corps of Engineers [USACE], Whatcom County, and Department of Ecology [Ecology]), and applicant (Pacific International Terminals – PIT) meet to develop a structure to address project progress, including schedule, communication, organization and steps for scoping.
 - Include BNSF Railways in scheduling and communication meeting.
- Department of Archaeology and Historic Preservation (DAHP) recommended that the environmental impact statement (EIS) consultant be one the tribes will work with.



- DAHP requested information from the USACE on how the Section 106 process will proceed.
- Washington State Department of Transportation (WSDOT) requested route information from BNSF.
- Ecology and BNSF Railways will discuss permit requirements and how/whether SEPA applies to BNSF applications. This will include discussion of need for BNSF routes to be identified for the SEPA/NEPA process.
- Whatcom County stated that revised county applications need to be provided by PIT before a determination of significance (DS) can be issued.
- Washington Department of Fish and Wildlife (WDFW) stated that settlement agreement (SA) studies need to be moved forward and a schedule be developed.
- As part of the communication process, periodic updates with agency and applicant executives should be conducted, and ORA would take the lead in this.

Accomplishments in 2010-2011

The purpose of the GPT project MAP Team includes:

- To conduct early, coordinated project review among local, state, federal permit agencies.
- To coordinate the regulatory process and communication between agencies.

Accomplishments in the last year include the following (handout provided):

- ORA
 - MAP team set up and kickoff meeting. (11/30/2010)
 - Set up website network (iPRMT) for document sharing and communication.
 - MAP Meetings 1, 2, 3 with 4 coming up. (12/13/2011)
 - Wetland briefing. (3/31/2011)
 - Field trips to site and Westshore Terminal. (2/17/2011, 9/20/2011)
 - Quarterly status reports.
- Applicant
 - Request for MAP and participation in meeting planning and meetings.
 - Submitted project information document (PID), JARPA, County permit applications. (2/28/2011, 6/6/2011)
 - Summer field work plans – marine environment – for MAP review. (5/20-6/21/2011)
 - Permit applications or permissions for marine field work.
 - Challenge: not on a schedule, quick turnaround.
- NEPA/SEPA
 - USACE JARPA – USACE determination of need EIS. (2/29 to 6/13/2011)
 - County permits:
 - Major Project Permit (MPP) and Shoreline Substantial Development Permit (SSDP).
 - MPP incomplete, and need new SSDP application. (6/23/2011)



- USACE, County & Ecology – co-lead for joint EIS (Memorandum of Understanding [MOU]). (10/17/2011)
- Challenge: JARPA in Feb, *EIS notice in June, RFP expected in January*, still no Notice of Intent (NOI) or DS published.
- Challenge: Use of MAP team:
 - How to best involve other MAP agencies to support NEPA/SEPA.
 - How to navigate between transparency and protect the deliberative process with different agency requirements.
- Other permit agencies (WDFW, WA Department of Natural Resources, Northwest Clean Air Agency, US Environmental Protection Agency):
 - Provided comments on PID and applications (as appropriate). (4/6-5/3/2011)
 - Responded to marine field work permit requests and comments on work plans (1-3 weeks).
 - Participated in MAP meetings – preparation, follow-up on action items.

Complications include the following:

- Lack of accurate working schedule:
 - ORA attempted to compile a schedule early on, but delays in submittal of applications and information from applicants (both SSA Marine/PIT and BNSF), the clearing and grading violation, extended negotiation over settlement agreement requirements (see below), and negotiations among NEPA/SEPA co-lead agencies have slowed progress.
 - Currently track ‘completed’ and ‘pending’ milestones – about 3-4 months out.
- Violation – summer 2011:
 - Terrestrial geotechnical work (wetlands clearing) without proper permits.
 - Took significant time for USACE (with Tribes), County, DAHP, Ecology.
 - Progress is being made on corrections.
- Settlement Agreement (SA):
 - Negotiations ended in August 2011 with no changes to original SA (1999).
 - Need for SA studies to be completed – vessel traffic analysis is in the works.
 - Tracking progress of SA studies:
 - ORA (with Ecology and WDFW) developing project management (PM) tool so that SA requirements – studies and timing – can be tracked and coordinated with permit review pathways.
 - PM of this process needs to be worked out among SA parties.

NEPA/SEPA EIS Process and Status

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.

The USACE is working on letters for their cooperating agencies and will include the Lummi, Nooksack and Swinomish tribes. The DAHP suggested that the Samish tribe also be contacted.

Discussion – Moving Forward

The group discussion touched on the following topics:

- Create a schedule with defined steps and full time people dedicated to coordinate scheduling.
- Create a more transparent communication process.
- Clarify mechanisms for coordination.
- Develop a schedule that gets to scoping first, then toward close of scoping, develop the next stage of the schedule.
- ORA, the NEPA/SEPA co-leads and applicant need to discuss communication, organization and scoping. Include BNSF in scheduling and communication meeting as well.
- WSDOT inquired about the BNSF route to the terminal.
- Ecology and BNSF need to discuss federal permit requirements and applicability of SEPA. They will meet to discuss the following:
 - Section 401 and Coastal Zone Management Consistency determinations that need to be addressed.
 - BNSF routes to be identified for the SEPA/NEPA process.
- DAHP recommends that the EIS consultant chosen is one that the tribes will work with. WSDOT concurs with this recommendation.
- DAHP asked whether the Section 106 process will proceed separately or as part of the NEPA EIS. USACE will respond directly to DAHP to clarify process.
- Some requested that another executive meeting be held before scoping. Others felt they were getting the information that they needed via their MAP Team staff.
- The applicants need to define wetland mitigation issues. This will be important to the EIS and alternatives analysis.
- Whatcom County stated that the revised SSDP and complete MPP applications need to be provided before a third party consultant is hired and the DS is issued.
- WDFW asked that SA studies be moved forward and a schedule developed.