

50335.001	3/13/2014	10:00 am	001
Project Number	Date	Time	Number
Fisherman's Cove Working Waterfront Phase II	Lummi Community Center, Kwina Road		
Project Name	Meeting Location		
Lummi Nation	Jessie Fink		
Project Location	Prepared By		
Permit Process Agency Review Meeting			
Subject			

Attended	Name	Company	Phone	Email
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<input checked="" type="checkbox"/>	Margaret Boshek	SmithGroupJJR, Coastal Engineer		margaret.boshek@smithgroupjjr.com
<input checked="" type="checkbox"/>	Jessie Fink (By Phone)	SmithGroupJJR, Landscape Architect		jessie.fink@smithgroupjjr.com

- Note No** **Note**
- Overview from Lummi: This project has been a priority for the tribe for many years. In the 1970s, an EIS was done to look at a site that is now the site of the aquaculture beds. Although the project is being completed by the tribe, the project will go also through the full tribal permitting process.
 - Project overview by SmithGroupJJR:
 - Purpose and Need is a working harbor to consolidate the Lummi fishing fleet in a location close to the community center.

- Lummi is considering upgrading the current crab buying station into a fish processing facility. This would require a NPDES permit (EPA, Section 402) for point-source waste discharge. Because the outfall would extend past Lummi jurisdiction, this would also require an aquatic lands lease from the State for the entire impact area of the discharge plume.
- Alternatives were evaluated as shown on the slides. Gooseberry Point was selected as it avoid impacts to shellfish, minimizes dredging, and locates the harbor closest to the residences. The connection to the shore is trust land. Note: Location of Alternate B was the original location proposed in the 1970s EIS, which now is the site of the aquaculture facility.
- Entire area from MacKenzie Road to the shore is a cultural resource area. Some of the area is culturally rich and some areas are not as rich, but specific areas are unknown until site investigations are performed. The tidal zone is not considered a resource area as the natural fluctuations constantly shift the resources.
- Bathymetric survey was completed in 2010. Eelgrass mapping was completed within DFW approved survey window in 2011, and the outer boundary shown is conservative. Density generally decreases with depth, and the eelgrass extends to approximately -11.5.
- FEMA flood zone update is currently in progress, set for release in Spring 2015.
- Delineation between State and Lummi waters is Elevation -4.5 ft, which represents extreme low water. Tidelands have always been held in trust for the tribe, which has been settled by U.S. court decisions.
- Lummi has made a substantial investment in physical modeling of the concept to determine that a harbor in this location is feasible and will limit impacts from currents to the eelgrass.
- The ferry dock lease was renegotiated within the last few years. As a stipulation within that lease agreement, the County and Lummi agreed that the dock may need to be reoriented to allow for construction of a harbor. Reorientation may be beneficial to the ferry as it would have a better approach, load in deeper water, and have a more sheltered location from south winds.
- Boat launch design includes a panel break wall, which reduces the wave energy and has a small footprint on the bottom. A gap between the seabed and the bottom of the panel wall allows for movement of sediment and fish beneath the barrier.
- Phasing Plans: What is built will be a function of the funding available. Potential sequencing diagrams were presented assuming that the project would need to be phased. Phase 1 requires no change to the ferry alignment. The dashed breakwater at the southern end of the design indicates a second tandem breakwater. Modeling tested to 200-300 year design events indicated that it may be possible to eliminate the dashed breakwater. We intend to include construction of the dashed breakwater in the permitted design, but may phase the construction of that element to determine whether it is needed to produce an acceptable wave climate.
- Potential anchorage details were presented. With a 12-13' tide range, the thrash zone for chain and anchor systems is large. We intend to limit use of this system near the eelgrass beds to avoid impacts. Seaflex is a bungee-type system that we are exploring for deeper areas as the cable does not influence the seabed. For shallow water, we intend to use pile restrained structures to limit impacts. Ferry dock borings showed approximately 30-50' of soft material on the bottom, which may limit the selection of the attenuator anchorage to a buried passive resistance anchor system. The ferry dock borings were nearshore borings, and may not be indicative of the conditions in deeper water. Additional geotechnical investigations will be completed prior to design to establish conditions specific to the harbor construction.

3 Regulatory process discussion:

- USACE (Randel): Whichever agency starts the NEPA will be the lead through the entire process. So, if the NEPA is triggered by a permit submittal to USACE and funding later becomes available through another agency, USACE would remain the primary federal lead. USACE would provide the funding agency with whatever information is available for them to complete their own review.
- Coastal Zone Consistency Determination: Need both State and Lummi determinations.
- State Shoreline Management Act (Chad): Although it is a State law, County typically administers it at the local level.

Department of Ecology has no authority over it. However, this project is not clear. Land-side connection is Lummi trust land so the County has no local authority, but the majority of the structures are planned over State-owned aquatic lands which require authorization from CZM. The CZM is always implemented at the County-level for all State-owned aquatic lands. Needs clarification from the State - request a decision from the WA State Governor's Office of Regulatory Assistance.

- USACE process requirements (Randel): Regulates near shore fill, so will need to address eelgrass shading from structures. An EA document will likely be sufficient (not a full EIS), but that will be determined once the preliminary investigations are complete. Necessary components: ESA, Section 106 Historic Preservation (will be coordinated with Lena's review), 401 certification (State, Rebekah). Once complete, 30-day public notice is required. Coast Guard will be specifically contacted as part of the public notice to solicit their comment. An EPA NPDES for the processing facility would be separate from the USACE Section 404, but would also need to be commented on for this permit as related work. Details needed for the facility would be outfall type/location/diffuser and effluent discharge/volumes.
- Dept of Ecology (Rebekah): Need to coordinate with Lummi (Jeremy) between the State and Tribal 401 certifications. Would do public notice joint with USACE, asked if Lummi would also tie into that notice for their required session. CZM - need to determine if shoreline management act is applicable (Governor's Office review). Clarified that fish processing facility is on trust lands.
- Sediment transport: Questions on impact on long shore drift. Jack replied that because of distance of attenuators from shore, the impact is minimized. Also because of the unique geography of this area, Gooseberry Point functions as a nodal point that sediment does not move past. From the south, the sediment moves within that area, but there is not significant movement northward toward the project site. From the north, sediment is lost to deep water. Shoreline sand within the development area is trapped and stays in that general vicinity. Sand is generally fine textured and should remain that way post-construction. Agency staff asked for details on sediment transport to be included in the permit application.
- Biological Assessments (BA): Needed for impacts to species of concern: Herring, Surf Smelt, Salmon. Spawning needs to be addressed.
- Sediment contamination: Lummi stated there are no known sediment contamination issues. The refueling dock did have an underground storage tank that was removed a few years ago. All contaminated sediment was removed at that time. Details on this closed issue should be included in the permit application. Deep water of harbor = minimized sediment disturbance from prop wash. However, we need to specifically state in the application that the boat launch in shallower water will not stir up contaminated sediment as there are no known contamination issues.
- State that clean strategies / latest technologies will be used for new fuel dock.
- Address operations issues in permit application, not just construction.
- Eelgrass: Confident that no major impacts to eelgrass from energy/currents based on physical modeling. There will be direct impact from shading at extreme edge. Need to include information on density and light transmission of structures in application. DNR prefers avoidance first - look closely at the plan and try to eliminate impacts. Asked if project could be shifted 100' west to avoid impacts - challenges are deeper water, wave climate, channel. There are no typical mitigation ratios; all projects are evaluated on a case-by-case basis per densities and areas impacted. Mitigation goal is no net loss. Agencies will not necessarily require the same mitigation strategy. Mitigation must be completed in advance of construction and monitoring must prove to provide densities and habitat before the project will be allowed to proceed. May also require monitoring of existing eelgrass beds during and after construction. Glenn stated that there is often an increase in eelgrass in marinas, because prop wash cleans algae off the beds resulting in increased eelgrass production.
- ESA: Full project must be considered for assessment, including interactions and connectivity of upland development. State review places more emphasis on upland work connections; USACE is less concerned.
- Permit must look at full scope of the project including all facilities, not in a phased approach. Submit the full package, and the individual agencies will permit areas under their jurisdiction. Make sure demarcation line between Lummi and State is clear on the drawings. Primary issues for upland development are stormwater and cultural impacts; secondary issues are FEMA, traffic, etc. No wetland delineation has been performed, but likely only exist along the east shoreline not in the redevelopment site.
- Boat traffic: May increase in local area, but will decrease traffic in other harbors and long distance travel to fishing beds. Design of docks is driven entirely towards industrial boats, not recreational. No covered slips. Need enforcement or

deterrent to keep people from mooring off east side of dock to avoid eelgrass impacts. Note: that is still a deep water area (11' depths at low water) so impact would be transient from shading by boats.

- Vehicular access on docks: Size of east float is currently 20' wide in narrow sections with minimum 30' width turnarounds. Address water quality issue with stormwater runoff, leaking vehicles. May conflict with light penetration / eelgrass shading issue.
- Aquatic Lands Lease: Last permit issued after everything else is in place. Current turnaround time is unknown due to large case loads in DNR office and SEPA lead responsibilities. Cannot provide a time estimate.
- Substrate issues for anchorage: Soft material is not good for helical piles, but will be assessed when we have new geotechnical information. May be able to use them in deeper areas offshore. The existing docks are pile supported, but we do not currently have that design information. Fixed piles is our preference for near shore to handle the vehicle loading. Note: May need to do second eelgrass dive to assess proposed pile locations.
- Sanitary pumpout will be required.
- NPDES: Need to know location of discharge. Jeremy noted that this potential facility upgrade was just added to the agenda yesterday and has not yet been discussed with the planning director. Lummi just wanted to raise it as a potential issue. SmithGroupJJR noted that the currents in the area promote flushing. Dilution will occur quickly.
- Cultural resources: Lena does not see any immediate red flags with the project. Needs firm locations for planned improvements to perform detailed site investigations; does not want to unnecessarily disturb resources for preliminary plans.
- Coastal Zone Consistency: Need resolution on county shoreline jurisdiction issue. Lummi's position: "What is the Tribe's is the Tribe's. What is the State's is the State's." Rebekah responsible for CZM for State's portion; however, SEPA doesn't address the shoreline portion. She will check with her staff to see if there's a resolution.
- Timeline: USACE permit is good for 3 years after issue. Ideally could get a permit in 12 months, but more likely would take 18 months. ESA and 401 would fit within that 12-18 month window. Aquatic lands lease and NPDES are unknown factors.
- Agreed to distribute the sign in sheet to all participants.

End of minutes

If this report does not agree with your records or understanding of this meeting, or if there are any questions, please advise the writer immediately in writing; otherwise we will assume the comments to be correct.