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JUN 16 2008  
Washington State  
Department of Ecology  
Commissioners  
**George Barner**  
**Bill McGregor**  
**Paul Telford**

June 13, 2008

Department of Ecology  
ATTN: Rebecca Lawson  
Southwest Regional Office, TCP/SWRO  
PO Box 47775  
Olympia, WA 98504-7775

Subject: Berth sediments cleanup and maintenance dredging.

Dear Ms. Lawson:

Thank you for meeting with Joanne Snarski, Suzanne Dudziak, Cynthia Erickson and me at your office on June 3, 2008. This letter is intended to summarize what was discussed at that meeting, our follow up discussion on June 10<sup>th</sup>, and formalize our request for a collaborative process on an Interim Cleanup Action at our berths 2 and 3 in Budd Inlet. This letter should also be considered a formal request for an Agreed Order as defined by WAC 173-340-530(2). For the purposes of this Agreed Order and per the above cited rule, the Port of Olympia agrees to waive the procedural requirements of WAC 173-340-500 and accept our status as a Potentially Liable Party (PLP).

The purpose of the June 3<sup>rd</sup> meeting was to collaborate with you on developing an approach for entering into an Agreed Order for completion of the work. Additionally, we took time to go over our draft proposed plan for this action. The proposed plan is to remove approximately 10,000 cu/yds of material from the berth areas and dispose of all the materials in an upland disposal facility. The goal of the project is to: 1) complete mass removal of contaminants from the waterway; 2) restore the berth depth to the minimum necessary to maintain shipping operations; 3) ensure the action does not increase risk to human health or the environment; and 4) evaluate the feasibility of future removal actions.

During the meeting, you expressed concerns regarding the need to involve the DMMP agencies, your ability to provide the necessary staff to support the completion of a template Agreed Order, substantive permit coordination and Cynthia's availability to review our Interim Action Plan. At the follow up meeting you confirmed that you could commit Lisa Pearson to support the development of the Agreed Order. In order to address your other concerns, we have verified the permitting process and have developed a plan and schedule that will meet both our needs to make this a successful project (Attachment 1 and 2).

As you may recall, the Port initiated our request for an Interim Cleanup Action with Ecology in May 2007 for removal of 40,000 cu/yd. At that time, Ecology requested additional sampling in the area to support this action. Since then we have completed the necessary sampling and we have significantly reduced the proposed area for dredging in order to further facilitate what now needs to be an expedited action. As discussed on June 3, we are making the following requests:

1. Agreement on the proposed schedule.
2. Agreement to participate in pre-scheduled meetings with us to ensure we maintain communications so that the project can make timely progress.
3. Agreement to provide the necessary technical staff to participate in, and review and comment on draft plans at mutually agreed upon prescheduled times.
4. Ecology assumes the lead agency role for SEPA.

Please note that the Port of Olympia is committed to providing any necessary assistance to Ecology in order to complete this project. At a minimum, we intend to facilitate early and ongoing coordination with the local, state and federal agencies with jurisdiction to ensure this project is protective of human health and the environment.

We look forward to discussing our proposed schedule at your earliest convenience.

Sincerely,



Jeffrey A. Lincoln  
Director of Engineering

cc:

Cynthia Erickson, TCP, SWROWDOE  
Jim Pendowski, TCP, WDOE  
Lisa Pearson, TCP, SWROWDOE  
Ed Galligan, Port Executive Director  
Joanne Snarski, Environmental Programs Mgr  
Kim Seely, Goodstein Law Group



## **Attachment 1**

### **Applicable permits:**

- Corps permit: CWA Section 404 and Rivers and Harbors Act Section 10
- ESA compliance: Section 7 consultation with USFWS and NOAA (handled via the Corps permit)
- National Historic Preservation Act Section 106 compliance with Department of Archaeology and Historic Preservation (handled via Corps permit)

### **Substantive requirements:**

- SEPA determination (TCP, Ecology)
- Shoreline Substantial Development Permit (City of Olympia)
- Hydraulic Project Approval (WDFW)
- CWA Section 401 Water Quality Certification (Shorelines and Environmental Assessment Program, Ecology)

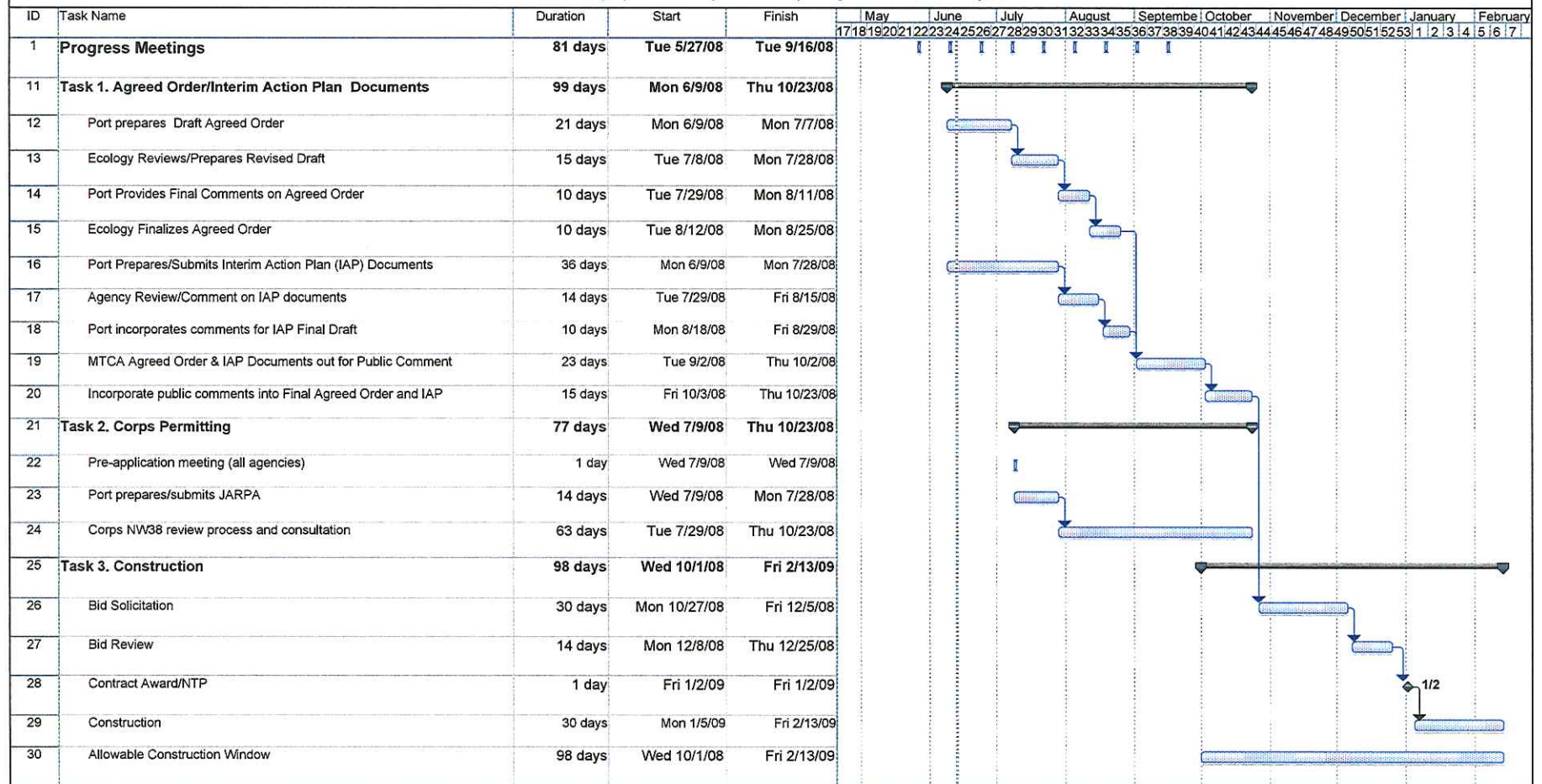
### **Proposed Plan:**

The intent is to complete an agreed order and Interim Action Workplan (IAP) simultaneously so that both can go out for public comment at the same time. A pre-application meeting is set at the Corps for July 9<sup>th</sup>. All agency representatives from the above listed jurisdictions will be invited to attend. This meeting will help ensure that our IAP will contain all the necessary information needed by Ecology and the Corps for final approvals.

Following the pre-application meeting, the Port plans to simultaneously submit the JARPA and IAP to all the agencies for review and comment. We have allowed for a 3-week comment period and intend to coordinate a meeting(s) during that time to go over the IAP and answer questions. Additionally, the Port will provide TCP a completed SEPA checklist at this time for your evaluation and eventual need to make a SEPA determination.

When comments are received, the Port will revise the IAP as necessary and resubmit to Ecology and the Corps for final approval and publication of the public notices. After the public comment periods close, the Port will work with Ecology to incorporate and/or address the public's concerns. Once the final approvals are provided, the Port intends to solicit bids for construction and complete the project before the end of this year's water work season, which closes on February 15, 2009. Please see the attached schedule for more detail.

**Attachment 2: Draft Schedule**  
**Port of Olympia West Bay Berth Deepening/Interim Action Project**



Project: DRAFT Interim Action Schedu  
Date: Fri 6/13/08

Task  
Split



Progress  
Milestone



Summary  
Project Summary



External Tasks  
External MileTask



Split

