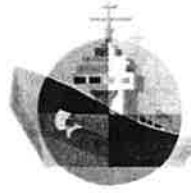


# PUGET SOUND SHIPBUILDER'S ASSOCIATION

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11/5/2015

Megan Duffy  
WSDNR  
1111 Washington Street SE  
MS 47001  
Olympia, WA 98504-7001

Ms. Duffy,

Re: DNR HCP Puget Sound Shipbuilders Association PSSA Draft Response

We agree with others that a broad, "one size fits all" HCP like the one presented by DNR last year is unacceptable and unworkable for the water-dependent industries in Washington. Shipyards in particular have substantial existing over water structures which need to be maintained, improved, and sometimes enlarged to enable repair of the nation's water based commerce network, and the onerous conditions in that draft HCP would create regulatory gridlock and obstacles to the industry.

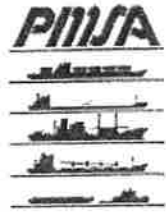
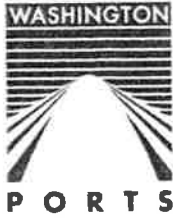
Our concerns mirror those of others that the draft HCP had the potential to unduly burden the water-dependent businesses that form the backbone of Washington's economy. While we are not supportive of a process that resurrects the draft HCP from last year, we are willing to have a dialogue with DNR regarding DNR's concerns and possible paths forward. That dialogue needs to begin with an honest assessment of ESA issues related to shipyards (if there are any, and the shipyards are not conceding that is the case), and progress through an assessment of all tools available under the ESA to address those issues. A narrowly tailored HCP for shipyards may end up being a good, pragmatic solution to issues raised in that assessment.

To be clear, the PSSA is not interested in a process that essentially validates the prior draft HCP, and would only support an HCP that was substantively very different than that last draft. To be successful, this process needs to start with all parties coming together in good faith to work through difficult legal and technical issues.

We look forward to collaborating with DNR in a focused manner and having an opportunity to discuss DNR's ESA concerns, and potentially shape the HCP process into something manageable and that strikes the appropriate balance between protection of natural resources and the ability of our water-dependent economy to do business in Washington.

Sincerely,

Al Rainsberger  
President  
Puget Sound Shipbuilders Association



November 5, 2015

Department of Natural Resources  
Attn: Megan Duffy,  
Deputy Supervisor for Aquatics & Geology  
111 Washington St. SE  
Olympia, WA 98504-1000

Re: Draft Aquatic Lands Habitat Conservation Plan

Dear Ms. Duffy:

This letter is in response to your e-mail dated October 15, 2015 seeking input to determine if pursuing a Habitat Conservation Plan (HCP) covering overwater structures and log booming is "a viable proposal and a wise investment of state's resources."

First of all, we would like to thank the Department of Natural Resources (DNR) for their outreach on the draft Aquatic Lands HCP. We appreciate that DNR has engaged in a more open and transparent process to discuss the possibility of pursuing a draft HCP on overwater structures and log booming and has reached out to many of the stakeholders on this letter.

However, as we communicated during the legislative session, we continue to believe that DNR's draft HCP covering overwater structures and log booming creates independent and potentially conflicting requirements within a well-established regulatory system. We request that DNR drop pursuit of the HCP.

The draft HCP's approach to activities such as log booms and over-water structures amounts to a new regulatory program in which DNR can decide, without reference to any specific standards, what prescriptions for construction, mitigation or operations that an applicant must provide to continue activities or utilize structures that may already exist on state-owned land. As demonstrated by the language in the draft HCP, these activities or structures are already significantly regulated and reviewed for impacts to endangered species. Creation of these new regulatory requirements goes far beyond DNR's statutory authority under RCW Title 79. Instead of providing certainty for the regulated community, the HCP may create more confusion and reduce certainty. It could also result in re-analyses of previously federally approved projects.

The current Section 7 consultation process with federal agencies required by the ESA is working. Project proponents use this method to secure approval for projects and are familiar with its implementation. Moreover, DNR can address its ESA liability concerns much more simply with lease terms requiring compliance with ESA and federal permits. Finally, the one size fits all facility design criteria applicable to all overwater structures is unrealistic, conflicts with other environmental protection requirements and goes well beyond existing ESA permit conditions established with the United States Fish & Wildlife Service and the National Marine Fisheries Service.

In summary, there does not appear to be a strong legal justification nor does there appear to be any value to lessees that supports the development of an HCP on overwater structures and log booming. As such, it is with strong conviction that our coalition of stakeholders respectfully ask that DNR stop the effort on the draft HCP covering overwater structures and log booming.

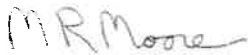
Sincerely,




Gerry O'Keefe  
Senior Director, Environmental Affairs  
Washington Public Ports Association



Anthony Chavez  
Government & Community Relations Manager  
Weyerhaeuser



Captain Michael Moore  
Vice President  
Pacific Merchant Shipping Association



Gary Chandler  
Vice President, Government Affairs  
Association of Washington Business



Mark Doumit  
Executive Director  
Washington Forest Protection Association



Tom Davis  
Director of Government Relations  
Washington Farm Bureau



Christian McCabe  
Executive Director  
Northwest Pulp and Paper Association

**RECREATIONAL BOATING ASSOCIATION of WASHINGTON**



*Voice of Northwest Boating*



November 5, 2015

Washington State Department of Natural Resources

ATTN: Ms. Megan Duffy, Deputy Supervisor for Aquatics & Geology

DNR Building Headquarters, MS 47000

Olympia, WA 98504-1111

**RE:** *Northwest Marine Trade Association (NMTA) & Recreational Boating Association of Washington (RBAW) input on Habitat Conservation Plan (HCP) for over-water structures*

Dear Ms. Duffy:

We are in receipt of your e-mail of Oct. 15, asking for stakeholder input by or before Nov. 6 on whether DNR should pursue the next phase of evaluation for a potential Aquatic Lands HCP to cover over-water structures. We are writing on behalf of both RBAW and NMTA to convey strong concerns and major questions from our Members over whether an over-water structures HCP is necessary or warranted.

In providing input, we are expressing our concerns that the necessity of an HCP has not been articulated in a way that stakeholders can understand; that DNR has not fully engaged with stakeholders; that key information requests have gone unanswered; and that costs have not been fully considered in your analysis.

- NMTA and RBAW are having a thorough technical review conducted for the proposed HCP. **This technical review, and information provided by DNR staff during the recent Phase 1 stakeholder engagement, strengthens our position that the HCP is unnecessary.** In earlier presentations, DNR staff noted one of the primary reasons for DNR to pursue Endangered Species Act (ESA) coverage through a HCP was that current Sec. 7 consultations only cover the construction, and not the operation, of over-water structures on state-owned aquatic lands. Yet in the recent "Phase 1" presentation, there was acknowledgement that Sec. 7 consultations and associated federal permits *do* cover operations and maintenance of these facilities as well as construction.

- There are numerous existing local, state and federal regulations designed to provide ESA protections and enhance related conservation efforts. These include the Shoreline Management Act (SMA); local Shoreline Master programs (SMPs); Washington Department of Fish and Wildlife Hydraulic Project Approvals (HPAs); and U.S. Army Corps of Engineers permitting. These regulatory processes provide sufficient ESA protections for over-water structures on state-owned aquatic lands.
- **The Sec. 7 consultation process with federal agencies is in place and is working.** Our Members may not like all aspects of the Sec. 7 process, but they know what it is and have built up familiarity with it.
- **We continue to have concerns about the added costs that DNR lease-holders would incur with the promulgating of an HCP.** We have asked DNR, repeatedly, to provide us with side-by-side analysis of the *current* costs borne now by leaseholders under a Sec. 7 process vis-à-vis quantified additional costs of HCP protection. We have not received any such analysis, nor have we been shown how or whether an HCP program would do anything to help or expedite permitting. DNR has suggested it can follow up, but nothing of the sort has occurred.
- Also on the cost side, **we are not aware of where DNR will obtain necessary resources to move ahead with implementation of what is a very complex, time-consuming, and expensive regulatory program.** Adequate funding is identified as a requirement for the federal government to issue an incidental take permit. DNR has not identified how it will acquire this necessary funding for the life of a 50-year plan.
- **RBAW's state lobbyist has asked Kristin Swenddal, on more than one occasion, for specific information on what regulations and requirements are currently being used with boathouses and docks under the current ESA Sec. 7 and regulatory construct.** We have asked for specificity and received only a list of general authorities DNR operates under. We need this information because our Members have a concern that they are being asked to meet *HCP* provisions in their lease renewals and boathouse upgrades. In order to show them that's not the case, we need a specific understanding of what is being required and under what authority.
- **NMTA and RBAW have requested that a stakeholder group comprised of private recreational dock owners be convened.** The HCP will provide additional requirements on the owners of these structures currently covered and allowed by RCW 79.105.430. To our knowledge, this stakeholder group (*DNR estimates a range of 9,000 to 19,000 owners*) and potentially affected individual users overall have not been adequately engaged in this process and are generally unaware of the HCP and likely impacts. We are aware that DNR has conducted a social marketing campaign to recreational dock owners in the past and could use contact information from that effort as an initial approach to engage with and reach a representative sample of this large and important stakeholder group.
- **As we have shared with you, we are very concerned about an uneven regulatory and subsequent cost-of-doing-business climate that would result from an HCP.** DNR readily acknowledges its HCP would only cover the state-owned aquatics land it controls, and yet a high percentage of the water-dependent facilities in our state are *not* under DNR control.

In short, while DNR is telling us it sees reasons for an HCP, we continue to have major questions as to whether one is necessary. We have been shown a Power Point presentation, and we have been told that other species could be declared endangered in the future. However, we believe the Agency is very short on specifics as to why this is needed and why the *existing* Sec. 7 process cannot provide ESA protection and predictability.

We appreciate DNR's outreach, time, and energy, and want to underscore that we remain a committed partner with your Agency on programs such as the Derelict Vessel Removal program. But the costs and significant resources that an HCP involves, and the fact that we have been given few if any specifics on why this is mission critical for leaseholders, leaves us with a significant body of concerns and questions.

Sincerely,



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Mr. George Harris, President  
NW Marine Trade Association (NMTA)  
(RBAW)



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Mr. Paul Thorpe, President  
Recreational Boating Assoc. of WA

TO: Doug Dixon  
Pacific Fisherman Shipyard

FROM: Randy Ray Gordon Baxter  
AEQUUS Corporation Count Consulting

RE: Moving the Puget Sound Shipyards forward in the WA State Governmental Arena

We have been asked to create a proposal to assist Puget Sound Shipyards Association to more effectively deliver information to key Legislative leaders, the Governor and state agencies, and collaborate with allies for the purpose of assuring beneficial changes for employers, employees and vendors in Washington state's Maritime Industry.

Politics moves in cycles. For decades, politicians and state agencies paid attention to the needs of one of the historical key anchor industries in the region - shipyards. Without shipyards, the necessary infrastructure for homeports for fleets goes away. Fleets must have builders and repairers; shipyards are the anchor industry that financially supports vendors, high paid workers, tech industry, food processing, warehousing, petroleum dealers and more.

Olympia doesn't understand the value added and necessity of the Maritime Industry and shipyards anymore. Fifteen years ago, the high-tech industry stole the spotlight. Government shifted the K-12 system and the regulatory pattern to benefit high-tech companies, and traditional companies were forgotten and often derided as dirty polluters.

Unknown to the Seattle/Redmond tech corridor -- traditional industries such as agriculture and the maritime industry are booming. Not so much in container traffic but in local fishing, workboats, passenger, supply and research vessels. Fleets have become the backbone of Puget Sound and the Columbia River. More surprising, the average workers in the Maritime Industry now make as much as 50-65% more than a college graduate six years out of college. The economy has shifted as the high-tech industry has flattened. The major growth in higher income jobs is now in maritime, food processing, and manufacturing. Thousands of jobs are available in this sector, with a problem of corresponding lack of trained candidates.

Next, as the Maritime Industry grows by millions of dollars a year, yards and fleets face pressure from regulators and activists with unreasonable regulations. The Habitat Conservation Plan is just the most recent target being put on shipyards.

Solutions exist. But, the industry has lost the collective voice of shipyards, workers, ports and vendors, plus the collective pieces of the fleets working in one direction.

Gordon Baxter of Count Consulting and Randy Ray of AEQUUS Corporation are proposing to put the collective voice back together. Many of those involved with the Puget Sound Shipyard Association remember when the voice worked very well. For this proposal, Mr. Baxter, a top Maritime Labor Union Lobbyist and founder of the Build Them in Washington Coalition (working with both Union and non-Union shipyards), and Randy Ray, an expert Maritime Lobbyist on numerous issues including career tech and carbon, believe their joint efforts can bring the pieces of the Maritime Industry together to create a strong voice to assure the needs of the industry will be heard and acted upon.

Please see the key issues, as we understand them listed on the next page. Issues involving zoning, transportation, freight mobility and deindustrialization are also important.

## **THE PUGET SOUND SHIPBUILDERS ASSOCIATION --- ISSUES FOR 2016 & 2017**

### **HABITAT CONSERVATION PLAN**

Last Session, the Department of Natural Resources (DNR) proposed Legislation to adopt a Habitat Conservation Plan. Water dependent industries freaked out (for good reason) as DNR had not taken time to get reactions from industry. The Maritime Industry pulled together and was able to stop the Legislation.

DNR then looked at reintroducing the Legislation and asked for comments. A comment from much of the water dependent industry was reactionary and did not bother to study the case. They simply said "No". Legal analysis by a member of the PSSA, however, showed a reasonable plan ~~adopted law~~ could avoid expensive litigation. Shipyard members know all too well the hundreds of thousands of dollars spent over extortion from water permits. Legal analysis showed habitat conservation could become the next piece of extortion. Unfortunately, a statewide business group led an effort to stop DNR again.

They succeeded. DNR has dropped the request for the Legislation. Shipyards are now targets with no protections. We believe we can fix this. But it will take the next twelve months of working directly with industry players, regulators and environmental groups. A path forward to develop protections exists.

### **WORKFORCE DEVELOPMENT**

Maritime businesses are desperate for qualified workers. Every manufacturer in the state is in the same boat. Group after group has popped up over the years saying they have a solution, but none have worked. Ballard High School built a new shop; it got turned into a computer lab. A new metal shop in Auburn is now a storage room.

The Legislature and past and current Governors have moved the K-12 system to college track only. Yet, only 18% of WA kids make it through community college and 4-year universities, leaving 82% of our young people with no career education. The dropout rate of qualified kids in WA State is booming. Ten years ago, WA state had the 32nd worst school system in the nation, today we have the 41<sup>st</sup> worst.

A potential answer has appeared. A new group called the WA Business Alliance is teaming with the League of Education Voters, unions, manufacturers across the State, skill centers, educators, Latino, African American, other ethnic groups, and Legislators to create a solution. They have gotten the Legislature's attention. They are looking at not just Legislative solutions, but also hope to expose students to the variety of jobs and internships with companies in manufacturing. They need help though. The Maritime Industry needs to engage.

### **CARBON**

Environmental groups, members of the Legislature, and the Governor are trying to pass a "carbon tax". Some groups include Maritime fuel in their tax plans, some don't. If it is included, the cost could be as high as an additional \$1.60 a gallon. For an industry that buys fuel by the ton, that gets expensive real fast and will drive boats out of state.

Again, an effort is underway to create a solution that reduces carbon, but keeps industries whole. More important, some of the new solutions being advocated could result in millions of dollars available to subsidize repowering older dirty vessel engines with cleaner engines. Essentially a path exists for the shipyards to support carbon reduction, not get taxed, and receive millions in subsidies for repowering to reduce carbon for the health of Puget Sound. But, shipyards have to get to the table and get involved.