



City of Seattle
 Gregory J. Nickels, Mayor

Department of Planning and Development
 Diane M. Sugimura, Director

**CITY OF SEATTLE
 ANALYSIS AND DECISION OF THE DIRECTOR
 OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3007069
Applicant Name: Pete Stoltz, Glacier Northwest
Address of Proposal: 5975 East Marginal Way South

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to allow removal and replacement of a portion of the existing industrial ramp, conveyor, gravel barge off-load system, and steel pilings and towers located in the Slip 2 barge loading area of the Duwamish Waterway. Project includes installation of a new sheetpile wall and removal of aggregate material that has accumulated below the existing ramp conveyor.

The Seattle Municipal Code (SMC) requires the following approvals:

Shoreline Substantial Development Permit - To allow removal and replacement of an existing industrial ramp, conveyors, gravel barge off-load system, and steel pilings and towers in an Urban Industrial (UI) shoreline environment pursuant to Seattle Municipal Code (SMC 23.60.020 and 23.60.870).

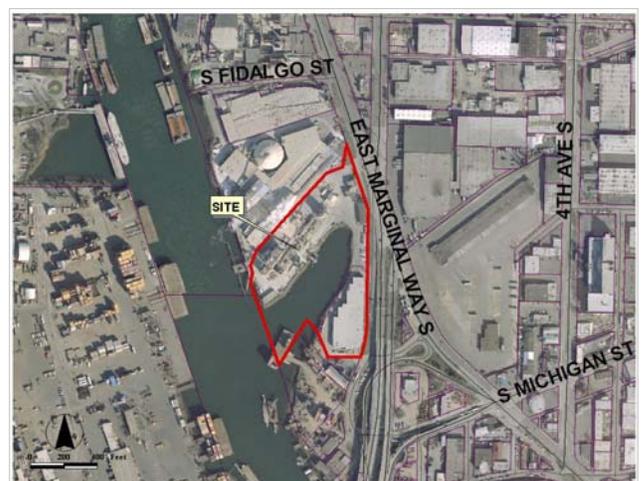
SEPA - Environmental Determination pursuant to SMC 25.05

SEPA DETERMINATION: Exempt DNS MDNS EIS
 DNS with conditions
 DNS involving non-exempt grading or demolition or
 involving another agency with jurisdiction.

BACKGROUND DATA

Site Description

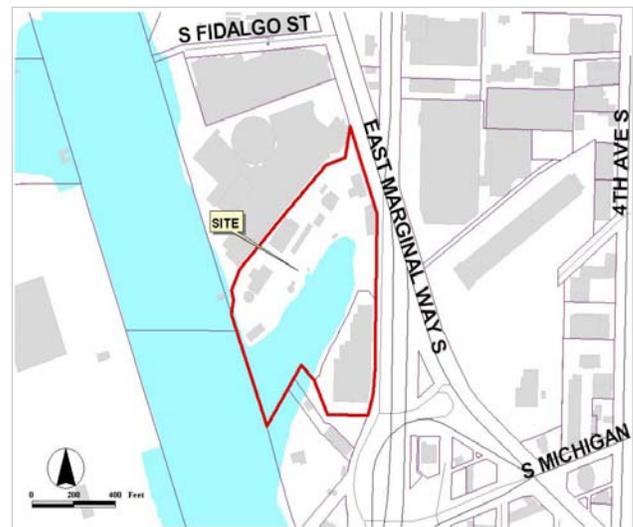
The subject site is located at the Glacier Northwest materials facility along the east side of the Duwamish Waterway, Slip 2, in the active industrial area south of downtown Seattle. The 469,000 square foot site is located in a General Industrial 1 zone with an eighty-five foot height limit (IG1 U/85) and in the Urban Industrial shoreline environment designation (UI). The upland portion of the site is developed with an



operating concrete production plant that includes two batch plants, storage facilities, and maintenance, warehouse, and office buildings. Surrounding uses include those that correspond with the IG1 zone; manufacturing, construction, warehousing, and marine related activities, such as James Hardie Gypsum Company (BPB Gypsum, Inc.), Consolidated Freight, and the Duwamish Marine Center. The Duwamish River flows into Elliott Bay and the Puget Sound.

Project Description

The project proposal is to remove the following Slip 2 barge loading components: ramp, ramp conveyor, hopper, head-frame, towers, a portion of the dock and abutment and several wooden piles. One of the current hoppers and sump will be relocated, and new steel piles, a ramp, three conveyors, new gantry and towers, additional abutment, and a 70 linear foot sheetpile wall will be installed. Aggregate material that has accumulated below the existing ramp conveyor will be excavated to as-built conditions. Bank material below the existing span will be removed to improve ramp clearance at all tidal heights. Construction activities will require use of land and barge-based cranes, vibratory and impact hammers, ready-mix trucks, rock hammers and excavators equipped with clamshell buckets. The work will include in-water work, extending from the upland top of bank to 16.0 feet mean lower low water (MLLW) along approximately 70 lineal feet of shoreline.¹



Public Comment

The public comment period for the Land Use Application ended on August 17, 2007. The Department received no public comments related to this land use application. Application documents and associated materials may be found in the Land Use Application file, which is available for review at DPD's Public Resource Center (PRC), 700 Fifth Ave, Suite 2000 (<http://www.seattle.gov/dpd/PRC/LocationHours/default.asp>).

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: A substantial development permit shall be issued only when the development proposed is consistent with:

¹ "Glacier Northwest Slip 2 Transfer Span Biological Evaluation". Grettee Associates, LLC. February, 2007.

- A. The policies and procedures of Chapter 90.58 RCW;
- B. The regulations of this Chapter; and
- C. The provisions of Chapter 173-27 WAC

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy seeks to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water. The proposed improvements to the Glacier Northwest facility, as conditioned, would not adversely impact the state-wide interest of protecting the resources and ecology of the shoreline, and the improvements would provide for the continued operation of a facility that is dependent upon its location in a shoreline of the state. The subject application is consistent with the procedures outlined in RCW 90.58.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on ensuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60 that also incorporates the provisions of Chapter 173-27, WAC. Title 23 of the Municipal Code is also referred to as the Land Use and Zoning Code. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions which have also been set forth in the Land Use Code.

In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the relevant criteria set forth in the Land Use Code. The Shoreline Goals and Policies, part of the Seattle Comprehensive Plan, and the purpose and locational criteria for each shoreline environment must be considered. A proposal must be consistent with the general development standards of Section 23.60.152, the specific standards of the shoreline environment and underlying zoning designation, any applicable special approval criteria, and the development standards for specific uses.

The proposed development actions occur on land classified as a waterfront lot and is located within an Urban Industrial (UI) shoreline environment (SMC 23.60.924). The proposed improvements are associated with manufacturing uses and as such are a permitted use in the UI shoreline environment and the underlying General Industrial 1 (IG 1 U/85) zone.

Shoreline Policies

All discretionary decisions in the shoreline district require consideration of the Shoreline Goals and Policies, which are part of the Seattle Comprehensive Plan's Land Use Element, and consideration of the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220. The policies encourage and support the retention and expansion of existing water-dependent business uses at the Glacier Northwest facility. An area objective for this portion of the Duwamish Waterway is to encourage industrial and port uses in this area, where such uses are already concentrated, while also protecting migratory fish routes (refer to Land Use Policies LU231 – LU270). The purpose of the UI environment as set forth in Section 23.60.220 C11 is to provide for efficient use of industrial shorelines by major cargo facilities and other water-dependent and water-related industrial uses. Views shall be secondary to industrial development and public access shall be provided mainly on public lands or in conformance with an area-wide Public Access Plan.

The proposed improvements to the Glacier Northwest facility would facilitate the continued and enhanced operations of the existing manufacturing uses, as supported by both the purpose of the UI shoreline environment and the policies set forth in the Land Use Element of the Comprehensive Plan. The ramp and dock facilities within the dredged slip allow barges to transport aggregate (composed of crushed rocks of varying sizes) to the Glacier Northwest materials facility.

The gantry, bridge, and conveyor system were last replaced in the early 1980's and have deteriorated from over 20 years of use.² The upgraded facilities will allow equipment to move safely from barge to shore, and vice versa, and will provide secondary containment of material that may spill from the conveyor used to carry material from barge to shore.

Thirty seven (37) creosote-treated wooden piles will be removed, in addition to a portion of the existing creosote ramp and wood dock (1,308 square feet). These will be replaced by a total of 11 steel piles, and 1,287 square feet of a new wider ramp. Removal of the creosote pile will result in improved water quality in the long-term. Net overwater coverage will decrease by 21 square feet based on the proposed project elements.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environments. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses are subject to the following:

- A. The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as paving and berming of drum storage areas, fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
- B. Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.

² Joint Aquatic Resources Permit Application Form (JARPA). June, 2007. Glacier Northwest, Inc.

- C. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage, vessel repair facilities, marine service stations and any use regularly servicing vessels with petroleum product capacities of ten thousand five hundred (10,500) gallons or more.
- D. The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
- E. All shoreline developments and uses shall minimize any increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catchbasins or settling ponds, interceptor drains and planted buffers.
- F. All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.
- G. All shoreline developments and uses shall control erosion during project construction and operation.
- H. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas including, but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.
- I. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.
- J. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.
- K. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.
- L. All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.
- M. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.

- N. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.
- O. Navigation channels shall be kept free of hazardous or obstructing development or uses.
- P. No pier shall extend beyond the outer harbor or pierhead line except in Lake Union where piers shall not extend beyond the Construction Limit Line as shown in the Official Land Use Map, Chapter 23.32, or except where authorized by this chapter and by the State Department of Natural Resources and the U.S. Army Corps of Engineers.

This maintenance-oriented project would not result in any long term changes in shipping or other industrial activities within the Action Area (construction site), the Duwamish Waterway, Elliott Bay, or Puget Sound. Because levels of these activities are expected to remain the same, the proposed project improvements and continued operations of the facility are not expected to change existing conditions for salmonids and bald eagles, or in any way affect killer whales, humpback whales, Steller sea lions, leatherback turtles, or Chinook salmon or bull trout critical habitat – all of which have been identified as members and elements of the immediate aquatic environment.³

As proposed and as conditioned below, the project complies with the above shoreline development standards. As conditioned, the short term construction related activities should have minimal effects on migratory fish routes and do not warrant further conditioning.

The proposal is subject to a Hydraulics Project Approval (HPA) permit from the Washington State Department of Fisheries and Wildlife; a 401 Water Quality Certification from the Washington Department of Ecology; and a Section 10 permit from the Corps of Engineers. It is expected that demolition and construction practices will adhere to the conditions imposed by these agencies.

The Stormwater, Grading and Drainage Control Code places considerable emphasis on improving water quality (SMC 22.800). In conjunction with this effort the Department developed a Director's Rule, 16-2000, to apply best management practices (BMPs) to prevent erosion and sedimentation from leaving construction sites or where construction will impact receiving waters. Due to the extent of the proposed work associated with removal and installation of the new conveyor and ramp, the potential exists for impacts to the Duwamish Waterway during construction. Therefore, approval of the substantial development permit will be conditioned to require application of construction best management practices (BMPs).

SMC 23.60.870 – Development standards for the Urban Industrial (UI) Environment

The proposal conforms to all of the development standards for the Urban Industrial (UI) environment.

Conclusion

SMC Section 23.60.064 E provides authority for conditioning of shoreline substantial development permits as necessary to carry out the spirit and purpose of, and assure compliance with, the Seattle Shoreline Code, Chapter 23.60, and with RCW 90.58.020 (State policy and legislative findings).

³ "Glacier Northwest Slip 2 Transfer Span Biological Evaluation". Grettee Associates, LLC. February, 2007.

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistency with WAC 173.27 and RCW 90.58.

Thus, as conditioned below, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

The Shoreline Substantial Development permit is **CONDITIONALLY GRANTED** subject to the conditions listed at the end of this report.

ANALYSIS – SEPA

The applicant submitted an environmental checklist dated June 27, 2007. The information in the checklist, information submitted by the applicant, such as construction plans and the biological evaluation, and the experience of the Department with the review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy clarifies the relationship between codes, policies, and environmental review (SMC 25.05.665). Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part *"where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation"* subject to some limitations. Under such limitations and circumstances, mitigation can be considered (SMC 25.05.665 D). Thus, a more detailed discussion of some of the impacts is appropriate.

Short-Term Impacts

Construction

Construction activities could result in the following adverse impacts: emissions from construction machinery and vehicles; increased dust levels associated with grading and demolition activities; increased noise levels; occasional disruption of adjacent vehicular traffic and small increase in traffic and parking impacts due to construction workers' vehicles. All of these impacts are minor in scope and are expected to be of short duration. Such construction-related impacts are mitigated by existing City codes and ordinances, such as the Stormwater, Grading and Drainage Control Code and Street Use Ordinance, and mitigating measures described above pursuant to the Shoreline Master Program. Since the proposal site is located in an industrial area, noise impacts would be sufficiently mitigated by the Noise Ordinance and no other measures or conditions are warranted.

Dredging Impacts

Dredging activities could result in the following adverse impacts: limited localized erosion of the bottom sediments; water degradation including an increase in turbidity; a decrease in dissolved oxygen levels and an increase in levels of contamination in the water column, chiefly petroleum hydrocarbons, heavy metals, and polychlorinated biphenyls (PCBs); a decrease in diversity and abundance of benthic and epibenthic organisms in the dredged area; increased energy consumption; potential petroleum-derived fuels and lubricant spills; increased noise; and increased truck trips.

The above dredging related impacts are mitigated by existing state and federal regulations. Specifically, these are the U.S. Army Corps of Engineers (USACE) Section 10/404 Permits; Washington Department of Fish and Wildlife (WDFW) Hydraulic Project Approval (HPA) including assuring dredging is not done during the salmonid juvenile migration period; Washington State Department of Ecology (DOE) Section 401 Water Quality Certification. Owing to the regulatory requirement of the above state and federal agencies, the impacts will be adequately mitigated (See SEPA 25.05.660 and 25.05.665).

Plants and Animals

Removal of existing infrastructure, pile, and bank material and installation of new infrastructure and pile may have adverse effects on essential fish habitat (EFH). Construction activities associated with removal of the existing infrastructure, pile, and bank material will result in temporary increases in turbidity, floating debris, and creosote sheen on the water. There is a nominal chance that an unintended release of fuel, lubricants, or hydraulic fluid could lead to adverse impacts to the water column EFH. Pile driving may result in temporary increases in turbidity. Construction activities would likely cause a short-term reduction in light penetration to the benthos due to increased turbidity, thereby diminishing the ability of visual foragers and detrimentally affecting invertebrates (salmonid prey) and photosynthesizers.

There are resident bald eagles in the area around the Duwamish Waterway and Elliott Bay. The closest bald eagle nest is greater than 1.5 miles from the project site. It is likely that bald eagles will be present in the Action Area during project activities, but they are expected to avoid locations where construction is occurring. Bald eagles could be temporarily disturbed by construction activities. However, given their large feeding territories, this localized and temporarily disturbance is not expected to impair foraging opportunities.⁴

Habitat conditions under the ramp and infrastructure are expected to improve with the proposed updates. By placing the new conveyor on top of, not adjacent to, the new ramp, spillage of barge-transported aggregate into the intertidal and shallow subtidal zones will be minimized; the installation of sheetpile along the shoreline would reduce bank erosion and subsequent water column turbidity; Future in-water work and construction disturbance will be reduced due to the overlapping of the new ramp and conveyor, as well as the sheetpile installation. Additionally, the removal of 37 creosote pile and net reduction in pile below MHW (from 28 to 8) would result in improved water quality and increased available substrate.

Water Quality

There may be temporary reductions in water quality due to turbidity and suspended sediment associated with demolition, pile driving, and shoreline debris and aggregate removal, but these would be localized within the mixing zone and would dissipate quickly upon construction completion. The project will result in the removal of 37 creosote wood pile from the aquatic environment. The new transfer span area will not include any creosote-treated wood, so the gross reduction in treated wood will benefit water quality in Slip 2.⁵

A Spill Prevention, Control, and Counter Measures plan shall be developed and submitted to the Director, shall be included with the building plan set submitted for this project, and shall be kept on-site for the duration of the construction project. Additionally, compliance with City codes and ordinances as mentioned above and with the terms, and conditions of state and federal agencies also listed above, will reduce or eliminate most adverse short-term impacts to area plants, animals, and water quality.

⁴ "Glacier Northwest Slip 2 Transfer Span Biological Evaluation". Grettee Associates, LLC. February, 2007.

⁵ *ibid.*

Long-Term Impacts

No new long-term impacts are anticipated by the proposal.

DECISION

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2)(C).

CONDITIONS - SHORELINE

Prior to Issuance of the Building Permit

1. Develop and submit to the undersigned Land Use Planner a Spill Prevention, Control, and Counter Measures plan to be used for the duration of the construction period; the plan will outline measures to be taken to prevent the release or spread of hazardous materials, including (but not limited to) gasoline, oils, and chemicals (refer to the *Glacier Northwest: Slip 2 Transfer Span Biological Evaluation*, section 6.2, p. 23).
2. A copy of the Spill Prevention, Control, and Counter Measures plan shall be included with the building plan set submitted for this project.

During Construction

3. Care shall be taken by the owners(s), builder(s), or responsible party(s) to prevent debris from entering the water during construction and dredging and to remove debris promptly if it does enter the water. Materials and methods shall be used which prevent toxic materials, petrochemicals and other pollutants from entering surface water during and after construction and dredging.
4. A Section 10 Permit from the Army Corps of Engineers, a Hydraulic Project Approval Permit from the Washington Department of Fish and Wildlife, and a Section 401 Water Quality Certification from the Washington State Department of Ecology shall be obtained and the terms and conditions of each permit shall be followed.
5. Best management practices as outlined in Director's Rule 16-2000, *Construction Stormwater Control Technical Requirements Manual*, including but not limited to Spill Control Planning and Cleanup, BMP C1.80, shall be followed.
6. A copy of the Spill Prevention, Control, and Counter Measures plan shall be kept on site and made available for project workers for the duration of the construction period.

7. All creosote material, pile stubs, and associated sediments must be disposed of in a landfill which meets the liner and leachate standards of the Minimum Functional Standards, Chapter 173-304 WAC.

CONDITIONS - SEPA

None.

Signature: (signature on file)
Catherine McCoy, Land Use Planner
Department of Planning and Development

Date: April 7, 2008