



City of Seattle
Gregory J. Nickels, Mayor

Department of Planning and Development
D. M. Sugimura, Director

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

Application Number: 3008019
Applicant Name: Matthew Boyle
Address of Proposal: 3801 East Marginal Way South

SUMMARY OF PROPOSED ACTION

Land Use Approval for 570 cubic yards of maintenance dredging for Ash Grove Cement Company.

The following approvals are required:

SEPA - Environmental Determination - (SMC Chapter 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 and Vicinity Description

The subject site is located at 3801 East Marginal Way South on the east bank of the Duwamish Waterway just south of the south end of Harbor Island. The site is zoned Industrial General-1 with an 85 ft. height limit (IG1-U85'). The shoreline portion of the site is within the Urban Industrial (UI) shoreline environment.

The site is approximately 800 feet in length at the shoreline and primarily comprised of a man-made sloped bank. Two piers, for barge line securing and for barge access and an unloading conveyor system with support tower are located in an approximately 265 foot long area toward

the southerly portion of the site's shoreline. The pier and conveyor equipment is used to receive sand, gravel, and limestone for the associated cement manufacturing plant.

The surrounding uses include other industrial activities and warehouse and service buildings.

Proposal Description

The applicant proposes to perform maintenance dredging of approximately 570 cubic yards of spilled sand, gravel, and limestone from the bottom of the Duwamish River and to maintain the required depth for safe barge operation (-25 feet from Mean Lower Low Water). The removal activity will be limited to seven-tenths of an acre, a 40-foot by 60-foot area surrounding the conveyor system and support towers.

Dredging will be limited to recently spilled and deposited material. A one-foot buffer layer of spilled material will be left in place over the native sediment surface as required by the Dredged Material Management Program (DMMP) and Army Corps of Engineers (the Corp) "404" Permit No 2001-1-00155.

Dredge material will be placed on the barge, de-watered, and then off-loaded by the conveyor to be used for on-site cement production.

Best Management Practices will be utilized to prevent silt-laden water entrained in those dredged spoils from re-entering the Duwamish River and to reduce dredging impacts on river bottom sediments and associated benthic organisms.

Work in a shoreline environment requires a *Shoreline Substantial Development Permit* or a *Shoreline Exemption* (SMC 23.60.20). Normal maintenance and repair of an existing development can be exempted if such maintenance and repair does not cause substantial adverse effects to shoreline resources or environment. An *exemption* from the substantial development permit process is not an exemption from compliance with the Shoreline Management Act (SMA), the provisions of Seattle's Shoreline Master Program (SMP), or other regulatory requirements. Conditions may be attached to *exemption* approvals to assure consistency with the SMA and Seattle's SMP.

A *Shoreline Exemption* was applied for and granted October 17, 2007 along with certain conditions (Exemption with conditions filed under project #3008019).

Other approvals and permits associated with this proposal are:

- U.S. Army Corps of Engineers 404 Permit #2001-1-00155 (approved for all maintenance dredge cycles until 2013),
- A Biological Evaluation,
- Hydraulic Project Approval (HPA) #103568-1 from the Washington Department of Fish and Wildlife (WDFW).

Public and Agency Comments

No public comments were received during the public comment period, which ended on January 30, 2008.

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project was made in the SEPA environmental checklist dated December 14, 2007. The information in the SEPA checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision. The potential environmental impacts identified in the SEPA checklist are discussed below where mitigation under Seattle's SEPA Ordinance is warranted.

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. 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/circumstances (SMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-Term Impacts

Construction Impacts

The SEPA Overview Policy (SMC 25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675B) allow the reviewing agency to mitigate impacts associated with construction activities, such as dredging.

The following temporary or construction-related impacts are expected: limited localized erosion of the bottom sediments; water degradation including an increase in turbidity, disturbance of the aquatic environment and displacement of some fish wildlife species due to increased water turbidity levels, a decrease in dissolved oxygen levels and a potential increase in levels of contamination in the water column, 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; and increased noise. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC 25.05.794). Although not significant, these impacts are adverse and, in some cases, mitigation may be warranted.

The applicant's SEPA Checklist discloses that the proposed construction work will take place in the waters of the Duwamish Waterway. Because the proposed work is taking place in the water, there exists the potential for debris and other deleterious material to enter the water during this work. Best Management Practices (BMPs) should be employed to decrease the probability of debris or other deleterious material from entering the water during the proposed work. Debris that enters the water during dredging should be collected and disposed of at the appropriate upland facility.

Construction impacts to the Duwamish Waterway environment will be mitigated by construction company procedures and restrictions on construction times. Specifically, the dredging activity will occur from a floating barge and the dredged material will be stored on the barge until it is off-loaded as described above. The barge will not ground during the proposed work and the dredged material is proposed to be reused by Ash Grove Cement. If there is material that Ash Grove Cement cannot use, this material will be disposed of at an appropriate upland facility. Construction activity will be restricted to an in-water work window as required by the WDFW and the U.S. Army Corps of Engineers.

To reduce disturbance to benthic and epibenthic organisms and native sediments in the dredging area one foot of spilled material will be left in place to avoid disturbance as required by the Corps. To reduce return of sediment laden water to the river, straw bales and filter fabric will be deployed around the de-watering area. To reduce turbidity to the water column the dredge clam shell bucket will not be dragged over the waterway bottom, be slowly removed from the water, and if sediments are adhering to the bucket, the bucket will be rinsed in a containment tank for bucket cleaning before returning to the water. The dredge operator shall not exceed the authorized dredge cut depth or disturb native sediment.

Construction material and equipment pose some potential danger of water contamination. The contamination could lead to both water quality and aquatic habitat damage. In order to be prepared to provide a fast and effective response to spills or other actions which cause new contaminants to be introduced into the shoreline environment, the Shoreline Exemption conditions the project to require that, prior to commencing construction, Spill Prevention, Control, and Countermeasures (SPCC) Plan be developed and all necessary equipment be stocked on the site. It is also warranted to require the use of BMPs to minimize the potential for deleterious material from entering the Duwamish Waterway during construction and to minimize the negative impacts of the construction activities.

Water Quality

The project is conditioned so that the owner(s), builder(s), or responsible party(s) shall prevent debris from entering the water during dredging operations. Materials and construction methods shall be used which prevent toxic materials, petrochemicals and other pollutants from entering surface water during and after construction.

No further SEPA conditioning of potential short-term impacts appears to be warranted.

Long-Term Impacts

Plants and Animals

Long-term or use related impacts are also anticipated from the proposal and include: the continued removal of benthic material through future dredging, the continued presence of piling in the water and the disruption of the near-shore Duwamish River environment due to continued human activity in the shoreline environment. These impacts will lead to continued adverse impacts on fish habitat and fish migration routes.

It is anticipated the dredging will need to occur in the future because of the continued spillage of sand and gravel during the off-loading of material at the site. Because the repeated dredging disturbs the substrate and the aquatic invertebrate community living in and on the substrate, reducing the amount of spillage that occurs during the off-loading of material was investigated. The sand and gravel is spilled into the water during the transfer of material from barges to the land.

To reduce long term spillage Ash Grove Cement made the following modifications to its unloading operation to reduce spillage prior to the 2005 dredging:

- Installation of a large hopper with a vertical front wall and skirting that allows increased barge conveyor extension.
- Modification of the barge-mounted conveyor to increase conveyor extension approximately 14 inches.
- Installation of new conveyor covers to reduce dust emissions during summer (dry) months.
- Installation of new pre and secondary cleaners to reduce “carry-back” spillage.

In addition to these improvements, Ash Grove Cement shall check the conveyor skirting on a weekly basis and adjusting the operation appropriately to reduce the spillage of material.

However, maintenance dredging will continue to create impacts, which include disturbance of the near-shore habitat and the disruption of a threatened species by deepening its habitat and removal of benthic organisms vital to that species. As conditioned by the 2005 SEPA Threshold Determination, a vegetation planting, maintenance, and monitoring plan was required to mitigate impacts to the ESA listed species and other aquatic wildlife. The plan required the planting of native vegetation along the shoreline just north of barge off-loading area. This measure is intended to provide terrestrial input in the form of insects and detritus and will mitigate for the lost benthic life caused by the dredging activity. Ash Grove Cement Company has implemented the planting plan, and has to date met the required 80% survival rate. Because the previously required plan was applied to a five-year period beginning in 2006, no further conditioning related to vegetation planting is warranted for the current dredging.

Environmental Health

SEPA Policy 25.05.675-F provides the authority to mitigate impacts resulting from toxic or hazardous materials and transmissions. The location of the subject project is in the waters of the Duwamish Waterway. As noted earlier in this decision, there will be a SPCC plan prepared prior to dredging, as conditioned by the Shoreline Exemption.

DECISION - SEPA

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 requirements of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

