



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

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

Application Number: 3010217
Applicant Name: Matthew Boyle for Ash Grove Cement Company
Address of Proposal: 3801 East Marginal Way South

SUMMARY OF PROPOSED ACTION

Land Use Application to allow maintenance and repairs to three docks. Project includes the replacement of 9 steel piles on two docks, 14 wooden piles and an existing dolphin 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 and concrete manufacturing plant.

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

Proposal Description

The applicant proposes to perform maintenance repair of four separate structures within the Duwamish River water-ward of the minus 16-foot MLLW (Mean Low Low Water) as follows:

Dolphin Replacement: An existing 18-pile wooden creosote-treated timber dolphin north of the conveyor will be removed and replaced with a new dolphin consisting of five steel piles;

North Dock Repair: Up to 14 broken creosote-treated wood piles will be removed from the north dock extension and replaced with ACZA (Ammoniacal Copper Zinc Arsenate) treated timber piles. Approximately 300 lineal feet of broken wales on the water-ward side of the dock will also be replaced;

Stiff Leg Crane Dock Repair: Replace four of the existing 12-inch diameter steel piles on the dock face with two larger 24-inch diameter or four 12-inch steel piles (final diameter used must be determined at the time of work and is based on the ease of installation);

North Finger Dock Repair: Replace four partially broken 12-inch steel I-beams with four or five new beams of the same size; and

Repair of North Dock Wales: Repair of 300 lineal feet of waling above water.

All above work will be conducted during the fall / winter in-water work window beginning 2009 and completed prior to February 15, 2012. The work window is anticipated to be October 1st through February 14th or as approved by the Washington Department of Fish and Wildlife (WDFW) and Army Corps of Engineer's Permits.

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 April 22, 2009 along with certain conditions. (See Exemption No. 3010217 for conditions and below under *Analysis-SEPA, Water Quality.*)

Other associated approvals and permits associated with this proposal are:

- U.S. Army Corp of Engineers (The Corp) Section 10 Permit,
- Section 401 Water Quality Certification from the Washington Department of Ecology,
- Hydraulic Project Approval (HPA) 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 June 17, 2009.

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project was made in the SEPA environmental checklist dated April 6, 2009. 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

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.

The following temporary or construction-related impacts are expected:

- Water degradation from construction debris and an increase in turbidity from pile driving,
- Decreased air quality due to suspended particulates (dust) from excavation and construction, hydrocarbon emissions and greenhouse gas emissions (GHG) from construction vehicles, equipment, and the manufacture of the construction materials,

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.

Water Quality

Because the proposed work is taking place substantially over water, but also partially in water, there exists the potential for debris and other deleterious material to enter the water during this work as well as increases in water turbidity and its associated impacts to protected fish species.

Some construction impacts will be mitigated by restrictions on construction times and practices as required by the three permitting agencies and their permits listed in *Proposal Description* above. Additionally, further mitigation will be provided by compliance with the Best Management Practices (BMPs) conditions included in the proposal's Shoreline Exemption. These are:

- Refer to any applicable Hydraulic Project Approval permit for allowable in-water work timing.
- Appropriate Best Management Practices (BMPs) shall be employed to prevent deleterious material from entering the aquatic environment during construction.
- If floating debris enters the water, the debris shall be removed from the water daily, be stored on-site, and be disposed of at an appropriate upland facility.
- If heavy (sinking) debris enters the water during the proposed work, the location of this debris shall be documented in a log that is kept on site for the duration of the project. When the proposed work is completed, all sunken debris that has entered the water during construction shall be retrieved and be disposed of in an appropriate upland facility.
- Appropriate Best Management Practices (BMPs) shall be employed to minimize the amount of erosion at the shoreline caused by construction material storage and staging, and the proposed construction work.
- No treated wood other than ACZA may be used.
- If toxic material such as any petroleum product enters the water, this material shall be reported to the Department of Ecology, and shall be immediately contained using the appropriate equipment and material.
- Appropriate equipment and material for hazardous material clean up shall be kept at the site during construction.
- Piling to be removed shall be completely removed using a vibratory pile driving device. Any depressions in the substrate created by the removal of the piling shall be filled with clean native substrate that is of the same size and type of the existing substrate. Piling that breaks shall be cut 2-ft below the mud-line. The exposed end of the creosote treated pile shall be covered with a material cap to prevent creosote from entering the environment, and any depressions in the substrate created by the removal of the piling shall be filled with clean native substrate that is of the same size and type of the existing substrate.
- Any creosote material, pile stubs, and associated sediments, if any, shall be disposed of in a landfill that meets the liner and leachate standards of the Minimum Functional Standards, Chapter 173-304 WAC.

