

WRITTEN COMMENTS¹

RE: ACoE ACTION ID NWP-2007-832

Not being an expert in this field I can't offer a detailed critique of the Port of Newport's proposal, nor can I cite chapter and verse from the Clean Water Act or National Environmental Policy Act (NEPA). Nevertheless, it seems to me that much information necessary for evaluating the proposal is absent from it. At the very least, any decision on the proposed work should await at least one public hearing after a more complete application has been submitted and there has been an adequate period of time allowed for consideration and comment.

This application misrepresents its purpose. Although some 9,000 gallons of old fuel oil have been removed from the scuttled hulks it isn't clear from the provided documentation that anyone knows how much of what toxins and pollutants remain. By choosing to entomb an uncertain toxic burden instead of removing it as promised, the Port of Newport is, for all intents and purposes, proposing to construct a toxic waste dump on the shore of Yaquina Bay, and not just renovate an existing facility as it claims.

Other than building a dock on top of it, I don't see how this proposal differs in principle from abandoning a decommissioned underground fuel storage tank (UST). Oregon DEQ has rules and procedures for decommissioning USTs that might or should be applicable to this situation. This application does nothing to show that it is either exempt from those regulations or that the Port's plan complies with them. Compliance with standard rules and procedures governing decommissioned USTs should be adopted as the minimum acceptable standard for the proposed project.

There needs to be a proper and thorough inventory of soil, flora and fauna near the site in order to estimate possible impacts on fishery resources, ascertain compliance with NEPA and to serve as the baseline data against which the performance of the Port in protecting the environment will be measured. This data would also be necessary to more accurately assess the level and extent of any damage to the environment for which the Port will inevitably be held liable in the event of a failure to contain the contaminants; the Port should indemnify itself according to the value of the habitat it puts at risk as identified by the inventory.

An estimate of the practical lifetime of the proposed structure is necessary since the cumulative impact of the site over time, not just during its construction phase, needs to be considered in the overall evaluation. Unless there are plans for safely removing and disposing of the pollutants once and for all at the end of its lifetime, any safety claims concerning the proposed permanent installation of a toxic load on the shore of a sensitive salmon habitat should be rejected or viewed with extreme skepticism.

¹from: John Edstrom, Apt 1, 845 SW 10th, Newport, OR 97365