May 14, 2010

ENVIRONMENTAL CHECKLIST

Purpose of Checklist:

The State Environmental Policy Act (SEPA), Chapter 43.21 RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring the preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the question from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply". Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or to provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply." IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (Part D).

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable:

   This is a non-project action to approve the draft Cherry Point Aquatic Reserve Management Plan

2. Name of applicant: **Aquatic Resources Program, Washington Department of Natural Resources**

3. Address and phone number of applicant and contact person:

Kyle Murphy, Aquatic Resources Program, 1111 Washington St SE, P.O. Box 47027, Olympia, WA 98504-47027. (360) 902-1073.

4. Date checklist prepared: **12/28/2009.**

5. Agency requesting checklist: **Washington State Department of Natural Resources**

6. Proposed timing or schedule (including phasing, if applicable):
The proposed non-project action is to approve the management plan for the existing Cherry Point Aquatic Reserve in summer 2010, after consideration of public comments. This is part of a phased process. The prior phase was DNR adoption of the Aquatic Reserve Implementation and Design Guidance document in 2005. During this phase, DNR adopted guidance for establishing aquatic reserves and for managing aquatic reserves through site-specific management plans. DNR conducted SEPA analysis on the guidance and policies in 2002, and final guidance was adopted in 2005. This proposed management plan has been developed pursuant to that guidance.

Future phases related to this proposal would occur as the plan is updated every 10 years, and as project actions are implemented over the next 90 years. SEPA analysis for plan updates and site-specific project actions would be conducted as required and appropriate.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

None, except as explained under #6, above

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

Department of Natural Resources. 2002. Non-Project Final Environmental Impact Statement Aquatic Reserves Program Guidance. Olympia, WA.

Bloch, P. and D. Palazzi. 2005. Aquatic Reserve Program Implementation and Design Guidance. Olympia, WA. Aquatic Reserves Program, Washington State Department of Natural Resources.

In addition to the above information, the proposed Management Plan was developed using numerous studies. Please refer to the References section of the Cherry Point Aquatic Reserve Management Plan.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

Yes. A private landowner has proposed construction of an industrial, water-dependent pier within or adjacent to the boundaries of the Reserve. This application has undergone a separate SEPA process by Whatcom County. A Section 7 permit is presently being considered by the U.S. Army Corps of Engineers. This application will be subject to DNR lease approval for state-owned aquatic lands, and DNR will consider the application once this SEPA process is complete and the plan for the Cherry Point Aquatic Reserve is approved. This application could directly affect the property covered by this proposal, because shading, noise, artificial light, and vessel traffic associated with the new overwater structure has the potential to cause adverse impacts to submerged aquatic vegetation, salmon rearing and migratory corridors, Cherry Point herring spawning, prespawn holding behavior, birds, invertebrates, and other species that use this habitat. The application could directly affect water quality at the site, as significant amounts of ballast water and stormwater runoff could be released as a result.

10. List any government approvals or permits that will be needed for your proposal, if known.

This proposal would be approved/adopted under an order issued by the Commissioner of Public Lands. Habitat protection, restoration and enhancement projects undertaken as part of plan implementation could be subject to government approvals, permits, and SEPA review, but since they are only at the conceptual stage, the type or scope of approvals or SEPA review is not known. Project approvals would be subject to site-specific SEPA review unless the category of proposal has already been determined to be nonsignificant and exempt from SEPA review such as minor repair, remodel, replacement or removal of structures (e.g. pilings, ramps, mooring buoys, floats) or is for removing a nuisance or hazard to public

health or safety.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal . You do not need to repeat those answers on this page. (Lead agency may modify this form to include additional specific information on project description.)

The proposal is to approve the Cherry Point Aquatic Reserve Management Plan, which provides site-specific guidance for the long-term conservation of aquatic habitats at the Cherry Point Aquatic Reserve. Additionally, the proposal will rescind the existing Commissioner's Order originally designating the Cherry Point Aquatic Reserves, and approve a new Commissioner's Order which will designate the Cherry Point Aquatic Reserve and identify the Cherry Point Management Plan. If approved, the plan would be the primary guiding document for DNR's management of existing and proposed uses of state-owned aquatic lands within and adjacent to the Cherry Point Aquatic Reserve. It includes site-specific management actions for protection, restoration and enhancement, research and monitoring, and education and outreach. As stated on page 32 (Chapter 4) of the Cherry Point Aquatic Reserve Management Plan the Cherry Point Aquatic Reserve is designed to conserve (preserve, restore, and/or enhance) the aquatic habitats and species that make the site unique. The goals of the Reserve are formulated to conserve the site's natural aquatic communities, habitats, ecosystems, and processes, and the ecological services, uses and values they provide to current and future generations. The proposed management actions are focused on preventing impacts to fish and wildlife species and habitats from new and expanded uses on state-owned aquatic lands, encouraging voluntary actions towards reducing impacts associated with existing uses and activities, and encouraging voluntary and cooperative projects to protect, restore, and enhance ecological processes. Adoption of the Cherry Point Aquatic Reserve Management Plan will direct, enable, or encourage removal of structures in water; it will prohibit new residential docks; it will direct, enable, or encourage certain kinds of restoration activities. Proposed management actions are found in Chapter 5 (page 35) of the draft Cherry Point Aquatic Reserve Management Plan. DNR does not have regulatory authority over upland activities, recreational shellfish or finfish harvest, and certain other activities that may affect aquatic habitat and species targeted for conservation. For activities and uses that DNR does not have authority, such as upland recreation, land use, and other examples, the plan proposes that DNR coordinate with other resource agencies in order to promote actions that will conserve aquatic habitats at the reserve.

12. Location of proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographical map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any applications related to this checklist.

The Cherry Point Aquatic Reserve is adjacent to the western shores of Whatcom County, Washington, in the Strait of Georgia. It is bounded on the north by the southern boundary of Birch Bay State Park, and on the south by the northern boundary of the Lummi Indian Nation Reservation. Its landward boundary is the landward edge of all state-owned tidelands in the above mentioned area. The reserve does not include privately owned or tribal lands.

Please refer to page 10 of the Draft Cherry Point Aquatic Reserve management plan for a site map.

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountains, other _____.

The site is a saltwater environment, with cobble intertidal areas, submerged aquatic vegetation, and a steep gradient into deep water. High and low bluff beaches, rocky shores, and a tidal marsh are located upland (outside) of the reserve. Appendix A (page 97) includes a detailed description of the environmental elements found at the site.

b. What is the steepest slope on the site (approximate percent slope)?

Water depths reach more than 70 feet just offshore. The percent slope is unknown.

c. What general types of soils (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

Man-made, permeable = 28.3%
Sand flat = 22%
Sand and gravel flat or fan 7.8%
Mud flat 7.7%
Rock ramp, narrow 6.8%
Gravel beach, narrow 4.1%
Man made impermeable 4.0%
Organics/fines 3.9%
Sand beach 3.6%
Ramp with gravel beach 2.6%
Other types = Under 2.0%
(From Whatcom County Shoreline Inventory and Characterization Report, Volume I, 2006)

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

In the immediate vicinity, outside of the Reserve, marine landslide areas have been documented in the adjacent Birch Bay urban growth area (UGA), including most of Birch Point continuing past Cherry Point to the Lummi Reservation boundary. Much of this marine shoreline is characterized as unstable slope, with several locations where both recent and old slides have occurred. Two areas with significantly modified marine shorelines include the northwest portion of Birch Bay (Birch Bay Village) and the Cherry Point area (oil refineries) (Whatcom County, May 2009 UGA DEIS).

e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

No filling or grading is proposed as part of this proposal. However, the plan recommends actions to remove fill material, or replace hard armoring with alternatives that improve nearshore habitat. Recommendations in the plan are very conceptual at this point. Should these recommendations develop into site-specific proposals, they would be subject to a separate SEPA review. Recommendations are found in Chapter 5 (page 35).

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

Temporary erosion or turbidity may be associated with restoration and enhancement projects recommended in the plan, or allowed uses of the reserve, if approved.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

Does not apply. Generally, this plan does not propose or encourage new impervious surfaces.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

By statute, projects (including restoration and enhancement projects) occurring on state-owned lands are subject to DNR approval. Specific measures to reduce or control this erosion and prevent

impacts to the earth would be a condition of this approval. Measures would include use of best management practices, compliance with Clean Water Act requirements, and other provisions that will avoid impacts to the Reserve. SEPA review would be conducted unless the proposal is minor such as minor repair, remodel, replacement or removal of structures (e.g. pilings, ramps, mooring buoys, floats) or is for removing a nuisance or hazard to public health or safety.

If approved, this plan would provide site-specific guidance to DNR regarding how to limit impacts to the earth associated with uses in the Reserve. The proposal also identifies potential impacts to the earth that are likely to occur from actions located upland of the Reserve, and recommends coordination actions with those agencies that have regulatory authority to reduce impacts from these actions.

Agency analysis: If implemented, this plan could have minor, short term turbidity and erosion impacts on earth from plan-recommended actions.

2. Air

a. What types of emissions to the air would result from this proposal (i.e. dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

This proposal would not cause any direct emissions. Emissions occur from existing projects and could occur from future permitted site-specific projects within the reserve area.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

Existing condition:
The primary sources of emissions affecting the proposal are commercial marine vessels and stationary industrial sources. marine vessels account for 22 percent of nitrogen dioxide emissions, with light-duty vehicles responsible for 23 percent in the larger Georgia Basin (within which Cherry Point Aquatic Reserve is located),. Marine vessels are the largest single source of sulfur dioxide in the air shed, emitting 33 percent of emissions. Agriculture is the dominant source of particulate matter, along with space heating. Whatcom County has just 7% of the entire population in Georgia Basin, but also has several major industries, contributing 29 % of the-smog-forming emissions.

The Northwest Clean Air Agency (NWCAA) monitors Whatcom, Skagit and Island counties and produces annual emission inventories from large stationary industrial facilities within its jurisdiction, including those located within the Cherry Point site. The NWCAA reports that for the 2004 and 2005 years, for all of Whatcom County, the primary stationary sources of particulate matter, sulfur dioxide, nitrogen dioxide, volatile organic compounds, and carbon monoxide were the industrial facilities located at Cherry Point: Alcoa Primary Metals (Intalco), BP West Coast Products, and ConocoPhillips (NWCAA, 2006).

These facilities at Cherry Point contributed an average of 92% of all monitored industrial air pollutants from stationary sources in Whatcom County in 2005 and 2006. Results of monitoring showed that four of the five monitored pollutants decreased between 2004 and 2006 (NWCAA, 2004, 2005, 2006). The county is currently in attainment (meeting requirements) under EPA standards set forward by the Clean Air Act and administered by the NWCAA.

There is a risk of increasing airborne emissions over time as a result of increasing vessel traffic in the area.

Detailed descriptions of existing sources of emissions can be found in Appendix B (page 170) of the draft Cherry Point Aquatic Reserves Management Plan.

Atmospheric deposition:
Airborne pollution is deposited into the aquatic environment. These deposits adversely affect water

quality.

Climate change:
There is an existing trend of increasing pollutants globally and the resulting changes in climate which affects all elements of the environment. Both built and natural elements of this proposal would likely be affected. Some of the existing emissions in the area include pollutants that are connected to climate change.

Further information about existing sources of air emissions, atmospheric deposition, climate change is provided in the draft management plan in Appendix B, page 170.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

DNR is responsible for authorizing overwater structures on state-owned aquatic lands. Although information is lacking about the relationship of airborne pollution and atmospheric deposition to the health of the aquatic ecosystem and the organisms that rely on it, but limiting new overwater structures could indirectly prevent major sources of air emissions. The Whatcom County Shoreline Master Program and DNR policy limits the number of new overwater structures at Cherry Point to one additional pier. Once the process for this proposal is completed and a plan approved, DNR could move forward with consideration of the application for the new pier. During consideration of this authorization, and accompanying SEPA environmental analysis, DNR would determine specific avoidance and mitigation measures. The plan also recommends water quality studies to quantify air deposition monitoring to identify measures to reduce potential impacts of air pollution on aquatic ecosystems.

Beyond use authorizations for uses on state-owned aquatic lands, DNR does not have authority to regulate emission discharges from vessel traffic traveling through or adjacent to the Reserve or upland land uses like industrial facilities. Measures proposed to reduce or control emissions or other air impacts associated with these activities include enhancing coordination with resource agencies that have regulatory authority, and the regulated industries, to better identify risks and develop potential mitigation strategies. Please refer to Chapter 5 (page 35) of the draft Management Plan for additional information.

SEPA review would be conducted at the time a site-specific project is proposed unless the project is for minor repair, remodel, replacement or removal of structures (e.g. pilings, ramps, mooring buoys, floats) or is for removing a nuisance or hazard to public health or safety

Agency analysis: If implemented, this alternative would have minimal short-term impacts on air quality from site-specific projects. It may result in further restrictions associated with activities that adversely impact air quality and improve carbon sequestration in aquatic vegetation. This could reduce the net emissions to air, resulting in a net positive benefit on atmospheric deposition and climate change.

3. Water

a. Surface:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

The Aquatic Reserve is part of the marine surface water body known as the Strait of Georgia. Adjacent to the Reserve, several small un-named creeks exist near Henry Johnson Road, which provide freshwater input to a saltmarsh. Rivers and freshwater bodies located outside the Cherry Point Aquatic Reserve also influence the Reserve including: the Fraser River, the Nooksack, and Terrell Creek. Please refer to Appendix A (page 97) of the draft Management Plan for additional information.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

The proposed Cherry Point Aquatic Reserve Management Plan includes recommendations for habitat enhancement and restoration projects within the nearshore/marine environment. As described in response to Question B1, these recommendations are very conceptual at this point. Should these recommendations develop into site-specific proposals, they would be subject to a separate SEPA review. Recommendations for habitat enhancement and restoration can be found in Chapter 5 (page 35) of the draft management plan.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of the fill material.

The proposal includes recommendations to restore and enhance ecological processes of the Reserve, which may include removing fill in the intertidal and restoring/maintaining the natural character of the shorelines. As described in response to Question B1, these recommendations are very conceptual at this point. Should these recommendations develop into site-specific proposals, they would be subject to a separate SEPA review. Recommendations for enhancement of ecological processes can be found in Chapter 5 (page 35) of the draft management plan.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

No.

5) Does the proposal lie within a 100 year floodplain? If so, note location on the site plan.

This proposal is to approve a management plan for the Cherry Point Aquatic Reserve, which is an aquatic area located within the 100 year floodplain of the Strait of Georgia.

5) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

No.

b. Ground:

1) Will groundwater be withdrawn, or will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

No groundwater would be withdrawn or discharged as part of this proposal.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals . . .; agricultural; etc.). Describe the general size of the system, the number such systems, the number of houses to be served (if applicable), or the number animals or humans the system(s) are expected to serve.

No waste material would be discharged into the ground as part of this proposal.

c. Water Runoff (including storm water):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Four existing industrial and municipal outfalls regulated by the Washington Department of Ecology, discharge into the Reserve. No new outfalls are proposed as a result of this proposal.

Existing sources of stormwater runoff generated from outside the Reserve include industrial piers and buildings, roads, and residential development. Some residential properties use tightlines to pipe stormwater over bluffs onto the beach. No new runoff or discharge proposals are expected from this proposal. Once the management plan approval process is complete, DNR would consider authorization of one additional industrial pier. Construction and operation of this pier would likely generate stormwater runoff, unless mitigated. As described in response to Question 9, a DNR lease authorization and project level SEPA review would be required for the pier.

Additional information on runoff can be found in Appendix B, page 150, of the draft management plan.

2) Could waste material enter ground or surface waters? If so, generally describe.

No additional waste material would be discharged into the ground or surface waters as part of this proposal.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

DNR is responsible for authorizing uses on state-owned aquatic lands and implementing the Aquatic Reserve Program to conserve unique aquatic habitats that occur on them. A site-specific SEPA review would be required for any changes to existing operations that would result in runoff impacts, and DNR would require specific avoidance and mitigation measures based on the results of the impact analyses as a condition of approval. Applications for new use authorizations are on hold until the SEPA review and the planning process for this management plan is completed.

Should the proposed management plan be approved, new point discharge outfalls, increased discharge from existing permitted outfalls, and runoff associated with use authorizations would be prohibited until the effects to Cherry Point herring stock, aquatic habitat, and water quality are determined. The results of the study would be used to determine if now outfalls and discharges would be allowed, and if so, appropriate mitigation measures to be applied during the lease review process and project-specific SEPA review for new projects.

DNR does not have authority to regulate standards for runoff or discharges for upland land uses, so the plan includes recommendations for coordination with other resource agencies towards improving existing conditions or when developing best management practices or standards for new proposals towards reducing impacts. See Chapter 5 (page 35) of the draft management plan for additional information.

4. Plants

a. Check or circle types of vegetation found on the site:
deciduous tree: alder, maple, aspen, other
evergreen tree: fir, cedar, pine, other
shrubs
X grass (including seagrasses)
__ pasture
__ crop or grain
X wet soil plants: cattail, buttercup, bulrush, skunk cabbage, other
X water plants: water lily, eelgrass, bull kelp, milfoil, emergent wetland species surrounded by hardwoods (setback prevents successful woody debris recruitment)
X other types of vegetation – **typical wetlands species associated with brackish estuary habitat; invasive (non-native) species include spotted and meadow knapweed (Terrell Creek) and most likely**

reed canary grass – Terrell Creek feeds Lake Terrell, where reed canary grass has been documented, as has purple loosestrife (Whatcom County Shoreline Characterization, 2006).

In the marine areas, the non-native *Sargassum muticum*, or brown algae, has been found along up to 34% of Whatcom County's shoreline, including the Cherry Point Resource area (Whatcom County MRC, DNR ShoreZone data). Other marine vegetation includes kelp and eelgrass.

b. What kind and amount of vegetation will be removed or altered?

No native vegetation would be removed as a result of this proposal. The plan recommends restoration and enhancement of nearshore habitats, which could include removal of non-native vegetation. Should the plan be approved, a restoration plan would be required for any proposed restoration project and the restoration plan and project would undergo a separate project-level SEPA review.

Chapter 5 (page 35) of the draft management plan includes more information on restoration and enhancement of nearshore habitats.

c. List threatened or endangered species known to be on or near the site.

There are no listed plant species in the area. Certain habitats in the area (Riparian, Freshwater Wetlands, Freshwater Deeper, Instream and Puget Sound Nearshore) are all listed as state Priority Aquatic Habitats (WDFW 2008).

Submerged aquatic vegetation, including eelgrass, kelp beds, and Sargassum, are found at the Cherry Point Aquatic Reserve. These species provide important functions in the life histories of fish and wildlife species proposed for protection in the Reserve. Kelp and eelgrass beds are designated and protected as fish and wildlife habitat conservation areas under Whatcom County's critical areas ordinance and shoreline master program.

For further information on listed species know to occur at the site, refer to Appendix A (page 97) of the draft management plan.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

The proposal recommends restoration and enhancement of native habitats, which may include planting of native vegetation. These efforts would be established through a restoration plan that would undergo a separate project-level SEPA review.

One of the objectives of the proposal is to reduce existing impacts and prevent additional impacts from existing recreational, industrial, and residential uses, and new structures on aquatic vegetation, forage fish spawning, and fish migration. The proposal recommends DNR support Whatcom County and Marine Resources Committee proposals for restoration of native plant species most adapted to the local conditions in areas of freshwater or marine shorelines where riparian habitat has been either removed or eliminated as a result of past human activities. It recommends education regarding the sensitivities of the Cherry Point ecosystem with emphasis on avoiding trampling of aquatic vegetation, support of public education, outreach and incentive programs for the protection of existing native vegetation to maintain wooded buffers within the setbacks landward of the top of the bluff, and development of a plan addressing maintenance and restoration of bluff vegetation.

Chapter 5 (page 35) of the draft management plan includes more information on restoration and enhancement of native habitats.

5. Animals

a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

birds: **hawk, heron, eagle, songbirds**, other:

Cherry Point is considered one of 18 areas of significant bird habitat identified for the Strait of Juan de Fuca and Georgia Strait (Wahl et al. 1981). The area from Sandy Point to Point Whitehorn possesses important habitat during all seasons, supporting high numbers of fish-eating loons, grebes and alcids, along with diving ducks. It is an important wintering ground for migratory birds, including Brant, Harlequin duck, loons, and Surf Scoters. Historically, birders observed flocks of up to 25,000 scoters, Pacific loons, gulls, murres, and other species that come to feed on forage fish and eggs. Marbled Murrelet, listed as threatened under the federal Endangered Species Act, have been documented at Cherry Point, likely foraging on herring. Concurrent with declines in the biomass of spawning herring at Cherry Point, numbers of scoters observed foraging on spawn at Cherry Point have declined from about 60,000 to 6,000 in the period 1980–1999 (Nysewander, D. R., unpublished data.

Among the many terrestrial bird species that are found along the Cherry Point Aquatic Reserve are great blue herons, bald eagles, and peregrine falcons. Peak avian activity levels occur in late winter through early spring, coinciding with herring spawning activities in March through May when huge concentrations of birds, particularly scoters and gulls, feed along the shoreline.

Species listed as endangered, threatened or of concern include the following:

1) Marbled murrelet is federally and state listed as threatened.
2) Common loon is a state listed sensitive species.
3) Brandt's cormorants are listed as state candidate species.
4) Bald eagle is a state sensitive species.
5) Peregrine falcon is listed as a federal candidate and state sensitive species.
6) Common murre is on the state candidate species list.
9) Western grebe is on the state candidate species list.
10) Osprey is currently on the State Monitor list.

For more information on birds observed or known to use the site, refer to Appendix A (page 97) of the draft management plan.

Mammals:

Marine mammals that use the Cherry Point Aquatic Reserve, or could use the habitat based upon their presence in the southeast Strait of Georgia (Calambokidis and Baird 1994, WDFW 2007, Williams, 2007) include:

- **harbor seals (*Phoca vitulina*) - No state or federal listing**
- **Pacific harbor porpoise (*Phocoena phocoena*), - State Candidate, No Federal Listing**
- **Dall's porpoise (*Phocoenoides dalli*) – No state or federal listing**
- **Steller sea lions (*Eumetopias jubatus*) – State Threatened, Federally Threatened**
- **California sea lions (*Zalophus californianus*) - No state or federal listing**
- **Gray whales (*Eschrichtius robustus*) – State Sensitive, no Federal listing**
- **Southern Resident Killer Whales (*Orca orcinus*) - State Endangered, Federally Endangered**
- **Humpback whale - State Endangered, Federally Endangered**

(Source: Calambokidis and Baird 1994. Falcone et al. 2005; WDFW 2008).

A number of larger marine mammals frequent the area offshore and adjacent to the Cherry Point Aquatic Reserve. The fin whale (*Balaenoptera physalus*), blue whale (*Balaenoptera musculus*), the sei whale (*Balaenoptera boriealis*) are three examples (NOAA Office of Protected Resources, 2009).

fish: **bass, salmon, trout, herring, shellfish, other:**

Salmonid species that are listed and located within or migrate through the Cherry Point Resource Area include:

- **pink salmon (*Onchorynchus gorbuscha*) - No state or federal listing**
- **chum (*O. keta*) - State Candidate, Federally Threatened**
- **coho (*O. kisutch*) – State Candidate, Federal Species of Concern**
- **Chinook (*O. tshawytscha*) (including Nooksack Chinook) - State Candidate, Federally Threatened**
- **steelhead (*O. mykiss*) – Federally threatened**
- **sockeye salmon (*O. nerka*) – No state or federal listing for Kokanee; Candidate for Sockeye (Snake River, Ozette)**
- **coastal cutthroat trout (*O. clarki clarki*) – No state or federal listing**
- **Native Char – also known as Washington bull trout (*Salvelinus confluentus*) and the sea run Dolly Varden (sometimes referred to as *Salvenlinus malma*) – State Candidate, Federally Threatened**

Forage Fish include:

- **Pacific herring (*Clupea pallasii*) – State Candidate, Federal Species of Concern**
- **surf smelt (*Hypomesus pretiosus*) – No state or federal listing**
- **Pacific sand lance (*Ammodytes hexapterus*) - No state or federal listing**
- **northern anchovy (*Engraulis mordax*) - No state or federal listing**

Other species include:

Dover (*Solea sole*a), English sole (*Parophrys vetulus*), rock soles (*Lepidopsetta bilineata*), starry flounder (*Platychythyus stellatus*), and Pacific and speckled sanddabs (Palsson, personal communication). Also, adult butter sole (*Isopsetta isolepsis*) and Lingcod (*Ophiodon elongates).*

Invertebrates living in the sediment of the mixed cobble and sandy eelgrass habitats are dominated by annelid worms (capitellid polychaetes and oligochaetes), burrowing anemones (*Anthopleura artemisia*), amphipods, variety of bivalves, including cockles (*Clinocardium nuttallii*), native littleneck clams (*Protothaca staminea*), and butter clams (*Saxidomus giganteus*) (EVS 1999, Whatcom County 2006).

Softer mud subtidal habitat includes the sea pen (*Ptilosarcus guerneyi*), nudibranchs, Dungeness crabs (*Cancer magister*), tanner crabs (*Chinocetes* spp.), sea cucumber (*Eupentacta pseudoquinquesemita*), and small crangonid shrimp. Geoduck clams (*Panope abrupta*) have been identified in the area (EVS 1999).

b. List any threatened or endangered species known to be on or near the site.

Please see lists under (5)(a) and for more information, see Appendix A (page 97) of the draft Cherry Point Aquatic Reserve Management Plan.

c. Is the site part of a migration route? If so, explain.

Yes. The Cherry Point Aquatic Reserve includes the spawning grounds and a pre-spawning holding area for Cherry Point herring, which come to Cherry Point to annually spawn on submerged aquatic vegetation. Surf smelt also migrate annually across the Reserve to access spawning beaches. This is also a major stopover for birds, particularly marine birds, migratory waterfowl, and shorebirds. Many birds, such as scoter, have their migratory paths timed in such a way so that they can take advantage of the herring population as spawning occurs. Other birds, such as osprey, seek out nearby upland freshwater during breeding season and take advantage of the areas' fishery resource. Gray whales occur seasonally during the summer to search shallow coastal waters for food; other members may be part of a resident population that has developed since this species' recovery. Humpback whales have been seen more

frequently (including in the spring of 2009) in their historic feeding grounds along the Washington coast, which may include some coastal inland areas. The shoreline is a migratory and rearing corridor for juvenile salmon. The Southern Resident Killer Whale, or orca, follows its main prey – Chinook salmon– which migrates through the Reserve. Information on other migratory routes is described in the Cherry Point Aquatic Reserve Management Plan, under the respective species of interest.

d. Proposed measures to preserve or enhance wildlife, if any:

The overall purpose of the Cherry Point Aquatic Reserve Management Plan is to provide for the conservation and restoration of aquatic ecosystems and the fish and wildlife that rely on those ecosystems. A goal of the plan is to protect and help recover indicator fish and wildlife species and habitats, with primary focus on Cherry Point herring, Nooksack Chinook salmon, groundfish, marine mammals, seabird/duck and shorebird communities, Dungeness crab, and submerged aquatic vegetation.

The plan proposes numerous measures to protect, conserve and enhance plant and animal species and their habitats. These actions are focused on preventing impacts to wildlife and their associated habitat from new and expanded uses on state-owned aquatic lands, encouraging voluntary actions towards reducing impacts associated with existing uses and activities, and encouraging voluntary projects to protect, restore, and enhance ecological processes. Under the plan, the DNR will limit new uses in the Reserve to those that are consistent with the long-term goals and objectives of the Aquatic Reserve. New and existing activities authorized on state-owned aquatic lands within or adjacent to the reserve must implement actions that primarily serve the objectives of the reserve designation in support of the desired future conditions described in Chapter 4 (page 32). Under the plan, DNR will not approve proposals for expansion, modification, and lease renewals for existing facilities and approval of the new pier until studies identifying potential impacts to salmon and herring behavior and distribution due to the artificial light and noise from the piers at Cherry Point and addressing ways to reduce or eliminate any identified impacts. Under the plan, all future operations at Cherry Point must be designed to avoid and minimize noise and artificial light impacts based on the recommendations formulated in existing studies, future research and monitoring. The new pier and proposed modifications or expansion of existing overwater structures must minimize wave and light shading to the maximum extent feasible and avoid adverse impacts to areas with significant biological aquatic resource value, such as sediment transport processes, aquatic vegetation, spawning areas, prespawn holding areas and migratory corridors.

DNR does not have regulatory authority over upland activities, shellfish harvest, and certain other activities that may affect wildlife and aquatic habitat within the Reserve. For such activities, the plan proposes that DNR coordinate with other resource agencies to encourage protection of fish, wildlife and associated aquatic habitat. In such cases, other entities will likely be the lead for SEPA. Please refer to Chapter 5 (page 35) of the draft management plan for specific recommendations for actions.

6. Energy and Natural Resources

a. What kinds of energy (electrical, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

There are no energy requirements associated with this proposal.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

Not applicable.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

Energy conservation was not addressed in this proposal.

7. Environmental Health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? If so, describe.

No environmental health hazards are associated with this proposal.

1) Describe any emergency services that might be required.

Does not apply. This project will not require any emergency services.

2) Propose measures to reduce or control environmental health hazards, if any:

While this proposal, if implemented, will not result in any environmental health hazards, it should help reduce environmental health hazards. The plan identifies a number of toxic pollutant threats to the Reserve from outside sources, such as ballast water, groundwater, and oil spills. It proposes actions to: identify and minimize existing and potential future water quality impacts on the nearshore environment resulting from outfalls, runoff, groundwater contamination, ballast, and other discharges to the Reserve; protect the reserve from new sources of water pollution, including airborne sources; reduce the risk of oil and toxic spills and increase the capacity to respond; and, coordinate with resource agencies to maintain Clean Water Act standards for water and sediment quality. If approved, DNR would work with regulatory agencies such as the US Coast Guard, Environmental Protection Agency, Washington State Department of Ecology, Washington State Department of Fish and Wildlife, and others to reduce oil spills, pollution from ballast water, and other potential impacts. Please refer to Chapter 5 (page 35) of the draft management plan for specific actions.

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Underwater noise in the natural environment is strongly affected by currents; bottom topography; water density variation due to salinity, turbidity, and temperature; the presence of manmade structures; noise from other sources; and surface conditions (wind and wave). Noise levels increase in shallow, hard bottom habitats. In the Cherry Point Aquatic Reserve, seafloor topography may create an unusual hydroacoustic situation. Alden Bank borders the western portion of the vessel-approach path. Sound produced by traveling vessels may reflect off Alden Bank and continue to resonate between the shore and the bank over the southern portion of the herring spawning area (EVS 1999). The impacts of vessel noise at Cherry Point are not well studied. Other sources include construction project noise, such as pile driving, and loading and offloading of materials. Noise has been identified as a potential stressor on Pacific Herring (EVS 1999; Schwartz and Greer 1984); It is unclear how vessels frequenting herring spawning grounds affect herring spawning success, feeding behavior, or individual health.

2) What types and levels of noise would be created by or associated with the project on a short-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

As described earlier in Subpart B, the plan recommends the restoration and enhancement of ecological processes to support Reserve species. Restoration and enhancement activities could result in short-term noise impacts associated with construction machinery. Restoration and enhancement projects would require development of a restoration plan to minimize noise impacts and would be subject to project-level SEPA review.

The plan proposes to allow continuation of existing industrial uses and permit one additional water-dependent pier at the Reserve. These uses are not generated by the proposed management plan; rather, the plan seeks to reduce impacts of noise on fish and wildlife through specific management actions. Management actions associated with existing and potential future use authorizations can be

found in Chapter 5 (page 35) of the draft management plan.

3) Proposed measures to reduce or control noise impacts, if any:

The plan proposes that all future activities and operations be designed to avoid and minimize noise impacts. It recommends research and monitoring to assess the impact of current noise levels in order to develop appropriate mitigation measures. Any change in use, or new or expanded use at the Reserve would be reviewed separately through a project-level SEPA process. Through the review of the use authorization and site-specific SEPA analysis for the new pier, DNR would address noise impacts and appropriate mitigation measures. Future proposals would need to consider existing noise generation and be designed to mitigate adverse impacts of noise on fish and wildlife species. The plan also includes research and monitoring actions to better assess noise impacts and develop effective mitigation measures. Management actions associated with the reduction or control of noise can be found in Chapter 5 (page 35) of the draft management plan.

8. Land and Shoreline Use

a. What is the current use of the site and adjacent properties?

Current use of the Aquatic Reserve and adjacent aquatic areas:
Uses within or adjacent to the Reserve boundaries include three commercial piers and several discharge outfalls including those from the adjacent heavy industrial facilities and the discharge outfalls for the Birch Bay Water and Sewer District and the Lummi Reservation. Water-dependent uses associated with the commercial piers include offloading and loading petroleum and aluminum products. Offshore areas have traditionally been used for non-tribal fisheries and tribal commercial, ceremonial, and subsistence harvest of numerous species including salmon, herring, Dungeness crab, and bottomfish using a variety of methods, including gillnets, setlines, trawl, purse seine and crab pots.

Current use of areas upland of the Aquatic Reserve:
The bulk of the lands directly landward of the Reserve are privately owned and zoned for heavy industrial use. Much of the shoreline is undisturbed, and public recreational activities such as boating, fishing, shellfish harvest, swimming, and beach walking are popular. North of the industrial area, private residential lots exist with the exception of a small county-owned public access area just east of Point Whitehorn. Birch Bay State Park is located to the north of the residential lots. To the south of the Reserve is the Lummi Indian Nation Reservation.

Additional information on existing condition of the site can be found in Chapter 3 (page 22) of the draft management plan.

b. Has the site been used for agriculture? If so, describe.

No.

c. Describe any structures on the site.

As noted above, there are three large industrial piers and associated commercial discharge outfalls located at the site, and one municipal wastewater outfall. A small amount of fill located on (private) tidelands provides footings for the two southern piers. The footings extend into the intertidal and are heavily armored with riprap. Riprap also occurs along the shoreline at Gulf Road, and residential bulkheads are located at Point Whitehorn.

d. Will any structures be demolished? if so, what?

The plan recommends a number of habitat restoration and enhancement projects that may involve demolition for purposes of conserving ecosystem processes and water quality. These projects would

be reviewed under a project-level SEPA analysis. Detailed information on recommended habitat restoration and enhancement projects can be found in Chapter 5 (page 35) of the draft management plan.

e. What is the current zoning classification of the site?

Heavy impact industrial and residential – 5.

f. What is the current comprehensive plan designation of the site?

Major port/industrial urban growth area and residential (outside the urban growth area).

g. If applicable, what is the current shoreline master program designation of the site?

The aquatic lands are designated as aquatic. The majority of the shorelands are designated as Cherry Point Management Area. (WCC 23.100.17.A.1). North of that area, the shorelands are designated as conservancy. North of conservancy, surrounding Point Whitehorn, is shoreline residential. North of that, the shorelands are designed as urban conservancy and shoreline residential.

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

In 2000 the Commissioner of Public Lands Jennifer Belcher designated an environmental aquatic reserve for state-owned aquatic lands at Cherry Point not already under a lease agreement.

In 2007, Whatcom County designated and protected eelgrass and kelp beds, forage spawning areas, and listed species habitat (including salmon) as fish and wildlife habitat conservation areas under its critical areas ordinance and shoreline master program.

i. Approximately how many people would reside or work in the completed project?

Does not apply. This project will not result in an increased number of people working or residing in the project area.

j. Approximately how many people would the completed project displace?

This proposal would not displace any people.

k. Proposed measures to avoid or reduce displacement impacts, if any:

Does not apply. This project will not result in displacement of people

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

To ensure compatibility of the proposal with existing land uses and plans, the County's Shoreline Master Program (SMP) and Comprehensive Plan were reviewed in developing the Cherry Point Aquatic Reserve Management Plan, and a county representative participated on the Cherry Point Workgroup. Excerpts from the SMP are located in Chapter 1. The proposed plan is consistent with the Whatcom SMP with respect to protection of Fish and Wildlife Habitat Conservation Areas and inclusion of heavy industrial use at the site. If implemented, the plan would limit new hard shoreline armoring on state-owned aquatic lands and encourage the use of bioengineered alternatives on adjacent lands.

The draft management plan is consistent with the Whatcom SMP as it supports water-dependent uses at Cherry Point. The plan is consistent with County Code 23.100.17.A.1, which allows one

additional pier, but prohibits new residential piers in the Cherry Point Management Area. The plan supports continued industrial uses of the state-owned aquatic lands as established by Whatcom County zoning and shoreline programs. Industrial uses, so long as they meet the plan's objectives, are considered compatible and consistent with the proposal (please refer to Chapter 5 for specific criteria for determining consistency). The plan recognized the right of existing and future Tribal uses to continue. The plan allows recreational uses and educational opportunities to continue, so long as compatible with conservation of ecological habitats and targeted species.

New proposals or activities would be subject to a separate SEPA review, for any future site-specific proposals on state-owned aquatic lands within or directly adjacent to the Cherry Point Aquatic Reserve. In general no future use authorizations would be granted that alter, remove, and/or otherwise change any existing environmental or cultural characteristics of the Reserve, except for those use authorizations that primarily serve the objectives of the Reserve and are consistent with the plan. Use authorizations that were granted prior to the establishment of a reserve will be honored throughout the current leasing period; modifications or extensions to such leases would be evaluated as per the reserve objectives and the management plan. For any use of state-owned land within or adjacent to the reserve, DNR would work with regulatory agencies, Tribes, technical experts, and lessees to ensure that existing and future uses contribute to the management goals of this plan.

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle or low-income housing.

Does not apply. This project will not result construction of housing units.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

Does not apply. This project will not result in elimination of housing units.

c. Proposed measures to reduce or control housing impacts, if any:

Does not apply. This project will not result in housing impacts.

10. Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

Does not apply. This project will not result in any construction of structures.

b. What views in the immediate vicinity would be altered or obstructed?

No views would be obstructed as part of this proposal.

c. Proposed measures to reduce or control aesthetic impacts, if any:

The plan does not identify objectives for aesthetics nor does it set limitations. This topic would be considered again in detail, in separate SEPA reviews for any site-specific proposals within the Cherry Point Resource Area.

11. Light and Glare

a. What kind of light or glare will the proposal produce? What time of day would it mainly occur?

The proposal will not produce light or glare.

b. Could light or glare from the finished project be a safety hazard or interfere with views?

The proposal will not produce light or glare

c. What existing off-site sources of light or glare may affect your proposal?

Artificial light associated with existing or proposed uses within or adjacent to the reserve may affect the species proposed for conservation in the reserve. Nighttime attraction to artificial lighting by certain fish species, including salmon, and congregation of salmon predators, is of particular concern. Further information on potential impacts of off-site light and glare can be found in Appendix B (page 157) of the draft management plan.

d. Proposed measures to reduce or control light and glare impacts, if any:

The plan proposes to reduce impacts of light or glare that is determined to alter species behavior and distribution at the Reserve. The plan requires studies of the potential impacts of lighting on salmon and herring, and incorporation of mitigation measures prior to approval of the new industrial pier or any changes to existing facilities. Any change in use, or new or expanded use would be reviewed separately through a project-level SEPA process. Additional information on proposed actions to reduce or control light and glare can be found in Chapter 5 (page 35) of the draft management plan.

12. Recreation

a. What designated and informal recreation opportunities are in the immediate vicinity?

Beach walking, beach fires, taking your dog to the beach, digging for shellfish, boating, fishing, diving in designated areas, birding, whale watching (offshore).

b. Would the proposed project displace any existing recreational uses? If so, describe.

Chapter 5 (page 35) of the draft Cherry Point Aquatic Reserves Management Plan describes numerous measures to ensure sustainable public recreation at the site can continue. The plan recommends that dogs or beach fires not be allowed, as they may adversely affect the sensitive habitats and species found at the site, however, DNR does not have authority over these activities, therefore, changes to these activities depend on the willingness of the Washington State Department of Fish and Wildlife and Whatcom County to follow the Plan's recommendations. The plan proposes that existing recreational activities related to shellfish digging are conducted lawfully. Existing shellfish laws require that holes be refilled after digging; the holes degrade herring spawning habitat. Approval of the plan would prompt DNR to encourage Washington State Department of Fish and Wildlife to increase education and outreach related to refilling holes. DNR would also seek opportunities to provide signage at appropriate locations specifying regulations and interpretive education information related to impacts of recreational shellfish harvest. Since the law pertaining to filling holes is already in effect, actions to increase compliance would not displace existing lawful recreational uses. The plan would also not allow recreational docks to be constructed on state-owned aquatic lands within the Aquatic Reserve. This could adversely affect potential recreational activities associated with recreation docks. However, there are no existing recreational docks within or directly adjacent to the Cherry Point Aquatic Reserve, so no existing recreational activities would be displaced.

c. Proposed measures to reduce or control impacts on recreation, including recreational opportunities to be provided by the project or applicant, if any:

To avoid impacts to marine vegetation and species, the plan would discourage new individual recreational overwater structures within the Reserve. However, because of the severe weather conditions at the site it is unlikely that recreation docks would be proposed at the site in any case. The impacts of this policy on new recreational opportunities are expected to be minor, because

weather conditions limit the likelihood of dock proposals, and similar policies limiting new individual docks are already in place under the adopted Whatcom County SMP. The SMP prohibits new individual docks unless associated with a plat developed prior to 1993, documentation that a mooring buoy is not feasible, and other factors. Further, the majority of land upland of the Reserve is in industrial use, and new residential piers in the Cherry Point Management area are already prohibited by the SMP.

Should the plan be approved, DNR would support Whatcom County, State Parks and others to preserve and enhance opportunities for shoreline public access, where consistent with environmental protection and not in conflict with security or public safety issues related to adjacent industrial development. Specifically, the plan recommends that WDFW and Whatcom County prohibit dogs and beach fires at the new public access site near Point Whitehorn. Since these new restrictions would apply to a very small area of the beach where there previously has not been public access of any kind, impacts to existing recreational uses would be minor. Decisions related to recreational use by WDFW and Whatcom County would be subject to a separate SEPA review.

Lastly, this proposal may increase recreational opportunities through associated conservation measures which will enhance fish and wildlife species and their habitat, resulting in increased opportunities for wildlife viewing and recreational fishing and shellfishing.

13. Historic and Cultural Preservation

a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

The Cherry Point Aquatic Reserve has been formally recognized by the National Oceanic and Atmospheric Administration for inclusion on the National List of System Marine Protected Areas (http://mpa.gov/national_system/nationalsystem_list.html)

The shoreline within the Cherry Point Resource Area was the primary home of many Lummi villages and Traditional Cultural Properties (TCPs) within the traditional homeland of the Lummi. This area is an important component of the Lummi usual and accustomed grounds and stations used since time immemorial for hunting, fishing and gathering. The development of the Cherry Point shoreline by Euro-Americans since the 1950's has resulted in the elimination of fishing and gathering grounds and stations, village sites, landing sites, and locations where commerce was conducted. This development has also resulted in the filling of previously extensive and productive natural tidelands and has caused the contamination of previously pristine waters and sediments due to the operation of industrial and commercial facilities (Lummi Indian Nation, 2008).

b. Generally describe any landmarks or evidence of historic, archeological, scientific, or cultural importance known to be on or next to the site? If so, generally describe.

There are historic and cultural sites in the Cherry Point Aquatic Reserve. Some have already been identified and recorded. Others may not yet be known. Much of this information is not publicly available; these types of locations are not public sites.

c. Proposed measures to reduce or control impacts, if any:

Cherry Point is located within the usual and accustomed areas the Lummi, Nooksack, Swinomish, Suquamish, and Tulalip tribes. Tribes exercise their interest based on the specific location and particular impacts associated with local planning processes and project proposals. This proposal recommends that DNR ensure that existing and proposed restoration and development activities on state-owned aquatic lands comply with all applicable laws relating to cultural and tribal protection prior to approving any lease authorizations. DNR would initiate government-to-government consultation on agency proposals in this area with appropriate tribal governments as required under

the State Centennial Accord. Regular discussions would be planned with affected tribes to ensure that this plan remains consistent with cultural resource goals and Treaty rights of the Tribes.

The proposal recommends DNR work with the Lummi Indian Nation and Nooksack Tribe and the State Historic Preservation Office, and the U.S. Army Corps of Engineers, jointly develop a Cultural Resources Protection Protocol. The protocol would include but is not limited to requirements for appropriate pre-construction surveying, procedures for addressing inadvertent discoveries during clean-up and construction, and procedures for repatriation or re-interment. Any site –disturbance would be subject to separate, project level SEPA review.

14. Transportation

a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans if any.

Does not apply. This project will not result in changes to transportation.

b. Is the site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

No. The nearest bus stops are in Birch Bay, north of the site, or Ferndale, east of the site.

c. How many parking spaces would the completed project have? How many would the project eliminate?

Does not apply. This project will not result in construction of parking spaces.

d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

This proposal would not require new roads or streets, or improvements to roads or streets.

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

Water transportation currently utilizes the existing aquatic reserve. These include recreational and commercial vessels. Many of the commercial vessels utilize existing industrial piers in the vicinity, If adopted. The Cherry Point Aquatic Reserves Management Plan limits construction of new industrial piers except the plan would allow the construction of an additional industrial pier adjacent to the reserve, if this proposal obtains all necessary permits. The addition of one more pier to the area would probably significantly increase the amount of vessel traffic into the Aquatic Reserve. Chapter 5 (page 35) of the plan describes several management actions that, if implemented, would allow DNR to better understand the potential impacts of increased vessel traffic at the site. However, the addition of one pier to the site is not dependent on the adoption of this management plan.

f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

Does not apply. This project will not result in increased vehicle traffic.

g. Proposed measures to reduce or control transportation impacts, if any:

Does not apply. This project would not result in increased transportation impacts.

15. Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police

protection, health care, schools, other)? If so, generally describe.

Does not apply. This project would not result in an increased need for public services.

b. Proposed measures to reduce or control direct impacts on public services, if any.

Does not apply. This project would not result in an increased need for public services.

16. Utilities

a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

The Aquatic Reserve does not supply any utilities. However, the above utilities are available upland of the Reserve, and these upland utilities may provide services to the piers owned by heavy industrial industries.

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

Does not apply. This project does not propose new utilities.

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: _____

Prepared by: Kyle Murphy

Title: Aquatic Reserves Program Manager

Date: 5-18-2010

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS
(Do not use this sheet for project action)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

There would be no direct discharges to water, emissions to air, production, storage or release of toxic or hazardous substances from this proposal. The proposal recommends enhancement or restoration projects that may require in-water work, or cause temporary, localized noise production during the construction phase.

Proposed measures to avoid or reduce such increases are:

The proposal includes management actions aimed at preventing new direct discharges, storage or release of toxic or hazardous substances, and noise production. Should these recommendations result in site-specific proposals, they would be reviewed under a separate, project level, SEPA review. DNR authorizations of such projects would include conditions to avoid or reduce such impacts. Information on proposed management can be found in Chapter 5 (page 35).

2. How would the proposal be likely to affect plants, animals, fish or marine life?

This proposal would provide significant benefit to plants, animals, fish and marine life. The proposal would provide a strategic framework to guide management decisions for the conservation of aquatic habitats in the Cherry Point Aquatic Reserve. (Please refer to response under Part B.5 for information on species and habitats). Implementation of the plan is expected to sustain and improve conditions for these species and their habitats.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

Under the proposal, within its statutory authority, DNR would manage existing and new uses in the Reserve, and prohibit uses that are incompatible with Reserve objectives. The plan would result in application of specific standards for uses that will be allowed at the reserve: new uses must result in no net loss of habitats and species, and existing uses must reduce impacts of their activities over time. The Plan recommends voluntary restoration and enhancement projects to restore and sustain ecological processes that support plants, animals, fish or marine life. It recommends research and monitoring efforts based on the site-specific analysis, thus ensuring such actions will be strategic, and allowing for course corrections to ensure actions will be effective. The plan would inform local, state, and federal agencies as they make regulatory decisions that affect the reserve, and provide a framework for coordinated decision-making.

3. How would the proposal be likely to deplete energy or natural resources?

The proposal is not expected to deplete natural resources. Rather, it would benefit natural resources. The proposal contains management actions that seek to improve eelgrass and kelp beds, water quality and the health of shellfish, salmon, forage fish and other commercially and recreationally caught species. If successful, these management actions over time would be expected to result in cleaner water, larger eelgrass forests, and healthier populations of clams, oysters, salmon, and fish. This, in turn, would provide more opportunities for recreational or commercial opportunities. Healthier eelgrass and kelp habitat would support larger populations of fish.

There is no impact to energy resources – does not apply.

Proposed measures to protect or conserve energy and natural resources are:

Does not apply.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designed (or eligible or under study) for governmental protection: such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

This is a proposal to approve a management plan for the Cherry Point Aquatic Reserve, which was designated in 2000 by DNR for protection under the aquatic reserve program. The Reserve includes shoreline critical areas protected under the Whatcom County Shoreline Master Program. If implemented, the proposal would provide direct benefits to the environmentally sensitive areas, threatened or endangered species habitat, and species and habitats and habitats identified for conservation in the Cherry Point Aquatic Reserve. (A number of these species and habitats have also been identified for protection by other government agencies, such as Whatcom County, National Marine Fisheries Service, and U.S. Fish and Wildlife Service, and Washington State Department of Fish and Wildlife. Please refer to Section A, questions 4 and 5).

Proposed measures to protect such resources or to avoid or reduce impacts are:

Under the proposal, within its statutory authority, DNR would manage existing and new uses in the Reserve, and prohibit uses that are incompatible with Reserve objectives. The plan would result in application of specific standards for uses that will be allowed at the reserve: new uses must result in no net loss of habitats and species, and existing uses must reduce impacts of their activities over time. The Plan recommends voluntary restoration and enhancement projects to restore and sustain ecological processes that support plants, animals, fish or marine life. It recommends research and monitoring efforts based on the site-specific analysis, thus ensuring such actions will be strategic, and allowing for course corrections to ensure actions will be effective. The plan would inform local, state, and federal agencies as they make regulatory decisions that affect the Reserve, and provide a framework for coordinated decision-making.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

   As described in Response to Part B, 8.l, the plan is not likely to allow or encourage land or shoreline uses incompatible with existing plans.

   Proposed measures to avoid or reduce shoreline and land use impacts are:

   This plan was developed in coordination with the land and shoreline uses established in the adopted Whatcom County Comprehensive Plan and the Shoreline Master Program. It was developed and reviewed by other resource agencies to ensure compatibility with other plans and programs, including the Washington Department of Ecology, Washington Department of Fish and Wildlife, and Tribes. The emphasis of the plan is to limit new uses that are incompatible with the Aquatic Reserve, and reduce the impacts of existing uses over time. New proposals or activities would be reviewed separately through a project-level SEPA process.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

   The proposal is not likely to increase demands on transportation or public services and utilities.

   Proposed measures to reduce or respond to such demand(s) are:

   Does not apply.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

   This plan would augment, rather than conflict, with any existing local, state or federal environmental protection laws. Please refer to Chapter 2 of the proposed plan.