

## **DMMP ISSUE PAPER**

### **DNR Disposal Fee Proposal**

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## **INTRODUCTION**

In 1988 the Puget Sound Dredged Disposal Analysis (PSDDA) program was instituted as a collaborative partnership between the U.S. Army Corps of Engineers (Corps), the US Environmental Protection Agency (EPA) the Washington Department of Ecology (Ecology) and the Washington Department of Natural Resources (DNR). The stated purpose of the PSDDA Program, now known as the Dredge Materials Management Program (DMMP), was to manage the disposal of dredged materials in the Puget Sound and eventually in the Grays Harbor, Willapa Bay, and Columbia River Management Areas. While managing these disposal sites, the DMMP agencies also protect the aquatic environment for the people of the State.

The Washington State Legislature charged DNR with the responsibility to manage and monitor open-water dredged materials disposal sites in Puget Sound, Grays Harbor, Willapa Bay and Columbia River. The monitoring program is funded solely by disposal fees paid by dredging proponents who use the open water disposal sites. Assessment is done through chemical, biological, and physical testing. The DMMP User Manual (updated July 2008) contains the protocol used to evaluate suitable dredged material.

Under RCW 79.105.500, the legislature directs DNR to provide, manage, and monitor aquatic land dredged material disposal sites on state-owned aquatic lands for materials dredged from rivers, harbors, and shipping lanes. The statute also states that “management and environmental monitoring of these sites are necessary to protect environmental quality and to assure appropriate use of state-owned aquatic lands...[and that] the creation of an aquatic land dredged material disposal site account is a reasonable means to enable and facilitate proper management and environmental monitoring of these disposal sites.” This dedicated account is authorized under RCW 79.105.510, which states that “the account shall consist of funds appropriated to the account; funds transferred or paid to the account pursuant to settlements; court or administrative agency orders or judgments; gifts and grants to the account; and all funds received by the department from users of aquatic land dredged material disposal sites.”

After appropriation, moneys in the fund may be spent only for the management and environmental monitoring of aquatic land dredged material disposal sites. Fees paid by users of the open water disposal sites are authorized under RCW 79.105.520, which states that “the department shall estimate the costs of site management and environmental monitoring at aquatic land dredged material disposal sites and may, by rule, establish fees for use of the sites in amounts no greater than necessary to cover the estimated costs.”

These fees are currently defined in the Washington Administrative Code (WAC 332-30-166).

**PROBLEM IDENTIFICATION**

**Program Costs**

As the manager of state-owned aquatic lands, DNR is responsible for management of the dredge material disposal sites. This responsibility includes:

- Managing the site monitoring contracts;
- Developing Request for Proposals (RFP);
- Administering the DMMP budget;
- Acquiring regulatory development (shoreline) permits;
- Granting site use authorization agreements to project proponents; and
- Confirming dredge disposal compliance and disposal volumes.

**Administrative Costs**

Administrative costs have been a relatively small and stable component of the Program. The largest category of Program expenditure is contracts to monitor sediment quality, as needed to ensure compliance with the Clean Water Act. Bioaccumulative organic compounds such as dioxin and PCBs (as well as emerging chemicals of concerns such as pharmaceuticals) are receiving more scrutiny by the regulatory agencies. The Program anticipates that costs of analyzing these compounds using high resolution techniques will substantially increase the overall future Program costs.

**DMMP Fund Balance Projection**

The following table is based on revenue projections for major dredging activities of Puget Sound ports and associated dredged material disposal at Commencement Bay, Elliott Bay, and Port Gardner Bay DMMP sites. The Program anticipates accommodating approximately 900,000 cubic yards of suitable material per year into the foreseeable future. The approximate volumes include 700,000 cubic yards per year from Port of Tacoma at Commencement Bay; 60,000 cubic yards per year from Port of Seattle at Elliott Bay; and 152,000 cubic yards per year from Port of Everett at Port Gardner Bay.

<b>Fiscal Year</b>	<b>Fund Balance</b>	<b>Expenditures</b>	<b>Revenue</b>
FY04 (actual)	\$458	\$292	\$403
FY05 (actual)	\$902	\$166	\$610
FY06 (actual)	\$1,180	\$373	\$651
FY07 (actual)	\$1,206	\$646	\$672
FY08 (actual)	\$815	\$527	\$137
FY09 (estimated)	\$704	\$210	\$98
FY10 (projected)	\$588	\$530	\$414
FY11	\$471	\$530	\$414
FY12	\$355	\$530	\$414
FY13	\$238	\$530	\$414
FY14	\$122	\$530	\$414
FY15	\$6	\$530	\$414

FY16	(\$111)	\$530	\$414
FY17	(\$227)	\$530	\$414
FY18	(\$344)	\$530	\$414
FY19	(\$460)	\$530	\$414

Beginning in 2015 or 2016, DMMP expenditures are projected to exceed revenue from disposal fees. Estimates are based on existing monitoring requirements. No consideration has been given to additional sampling requirements resulting from the proposed dioxin guidance or from changes in sampling and analysis costs. Projected expenditures are based on the following assumptions:

- Additional monitoring requirements will result in higher management costs.
- Additional permitting and associated environmental review will result in higher costs.

The DNR is preparing to initiate a formal rulemaking review for the DMMP, as provided for in WAC 332-30-166, to consider increasing dredge disposal fees and other financial options to cover Program costs.

**DMMP Disposal Fees**

The Program has maintained dredge disposal fees at a constant level since 1994:

- \$0.45 per cubic yard / Puget Sound disposal sites (with a \$2,000 minimum fee)
- \$0.10 per cubic yard / Grays Harbor and Willapa Bay disposal sites (with a \$300 minimum fee)
- No fee for beneficial use of sediments

As a result, Washington’s public ports have been able to cost-effectively dispose of over 15 million cubic yards of clean dredge material at open water sites since the inception of the interagency cooperative management effort which began in 1988. (Costs of upland disposal for sediments that don’t meet in-water disposal standards range from \$38 to \$130 per cubic yard.)

**Increased Monitoring Requirements**

At the same time, the Program will continue to encounter higher site management costs. Regulatory monitoring of additional chemical constituents in sediments, required to comply with the Clean Water Act, is substantially increasing the costs of sampling and analysis and producing full monitoring reports.

While current monitoring reports may cost as much as \$400,000 per year, the Program anticipates an additional \$60,000 in sampling and analysis expenditures to cover the cost of evaluating dioxin at the non-dispersive sites in Puget Sound. The DMMP may consider raising the soft triggers for monitoring frequency at specific dredged disposal sites such as Commencement Bay and Elliott Bay.

**Regulatory Permit Expenses**

Finally, local regulatory permits for disposal sites periodically must be renewed. Nine of the ten approved Puget Sound sites (includes Willapa and GH) have permits that are due

to expire on or before 2011. The DNR is initiating permit renewals at this time and it is very difficult to estimate costs of permit applications and associated environmental review. Application fees alone range from \$5,000 to \$20,000 per permit, not accounting for environmental review costs and supporting studies (if required). The DNR is projecting increased costs to cover permit application fees of roughly \$50,000 per year for the foreseeable future.

## **PROPOSED CHANGES**

The DNR is considering possible changes to the disposal fee structure through the public rulemaking process. Some *options* to be considered include:

- Clarifying and increasing the minimum fee
- Develop a tiered fee structure like that of the tiered testing protocols outlined in the “Dredged Material Evaluation and Disposal Procedures User Manual”. This approach would utilize a system already in place. It would burden the users triggering additional costs by disposing sediment from areas near known point sources and/or disposing at high volumes. This would also result in relief to small dredging projects
- Consideration for varying the site management and monitoring costs associated with different disposal sites. For example, those sites more frequently used may have a slightly higher disposal fee to shift the cost of monitoring towards the dredgers who frequently use the site.
- Develop and implement more cost saving guidelines. This may include revising the yearly disposal volume amount which triggers a monitoring event.
- Developing and/or clarifying intended cost recovery options. For an example, listing specific triggers when the burden for additional sampling costs will fall on the individual dredger. For instance when sampling must be done due to disposing outside the target zone, or disposing of material not characterize.
- Adding an administrative fee trigger when a dredger creates additional site management costs. Examples would be not giving proper notification or not providing disposal site reports and last minute applications which accrued overhead management costs or resulted in loss of revenue some where else.

The DNR is committed to providing cost-effective management of the in-water dredge disposal sites. Disposal fees have been maintained at the same level since 1994 amid increasing costs for monitoring, sampling, analysis, and regulatory compliance with multiple permit requirements. After 15 years, the DNR believes it is appropriate to revise the Program fees charged to dredge project proponents in order to maintain an adequately-funded account.

The rulemaking process will provide an open public forum to address emerging site management considerations and associated costs. The rule proposal will consider and address any concerns of project proponents that benefit from using the disposal sites and the regulatory management agencies charged with ensuring environmental compliance.

Once the current state budget deliberations are completed, the DNR will be finalizing a rulemaking proposal and schedule for public review. It is expected that the rulemaking process may take up to one year to allow for public input on alternatives, economic and small business impact analysis, and formal consideration of any recommended changes by the Board of Natural Resources.

## **REFERENCES**

1. CSMP, 1994. Interagency Agreement.
2. RCW 79.105.500 - .520 Aquatic land dredge material disposal site account.
3. WAC 332-30-166 Open Water Disposal Sites.
4. Review of Environmental Background and Monitoring Studies at the Dredge Material Management Program Commencement Bay Disposal Site, 1988 to 2007 - Final (March 21, 2008)
5. The DMMP User Manual (updated July 2008)
6. Commencement Bay Supplemental Environmental Impact Statement (April 2009)
7. DMMP Issue Paper – SMARM 2009 (April 29, 2009)
8. Dredged Material Evaluation and Disposal Procedures Users Manual. (July 2006)

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