

Our Living Jewel - Cherry Point Aquatic Reserve



This special section compiled by Helen Brandt

photo: National Marine Protected Areas Center <http://www.mpa.gov/nationalsystem/nationalsystemlist/>

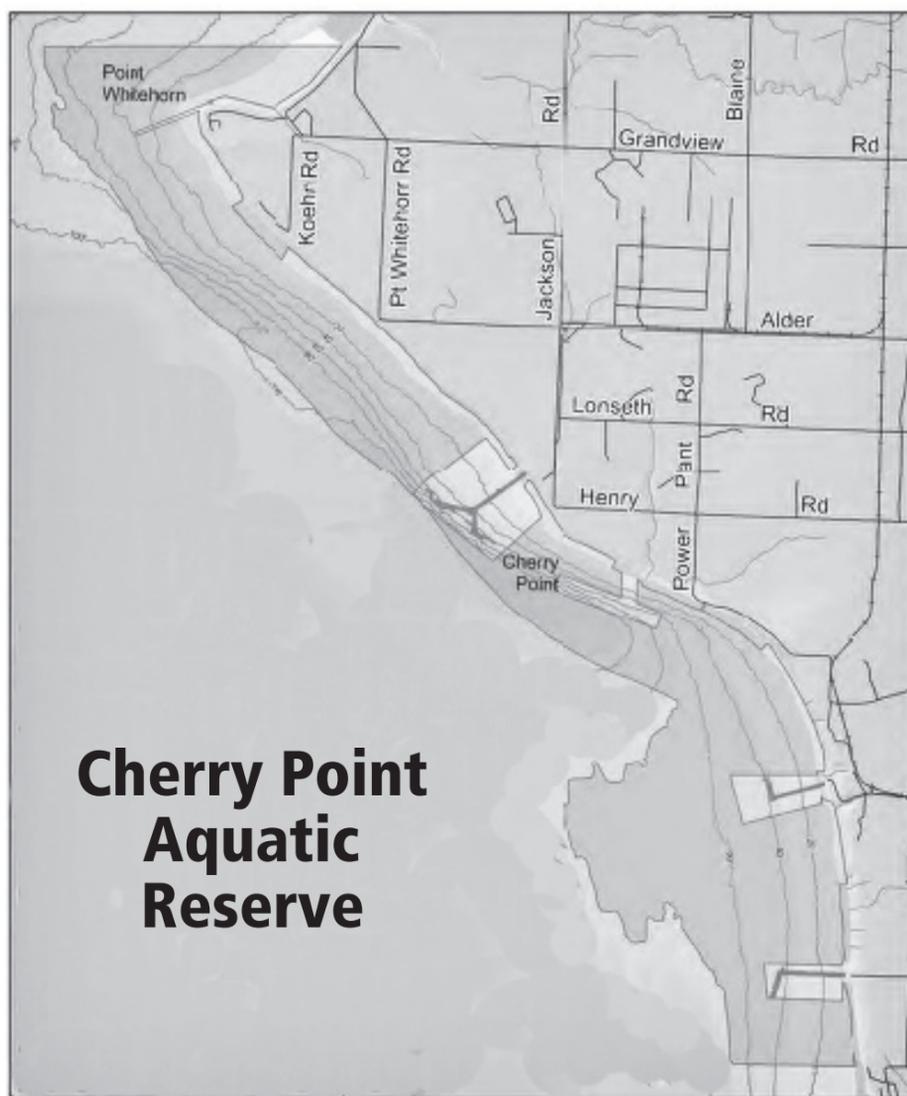
Introduction

Recent comment about the proposed Gateway Pacific coal terminal tends to center on the transport of coal by train to the Cherry Point site. Other aspects have received less attention. Those concern the marine environment off Cherry Point and the treaty rights of Northwest tribes.

The background information presented in the adjoining sections, is intended to help citizens in preparing their comments during the scoping process for the proposed Gateway Pacific Terminal.

Many of Whatcom County's current residents are likely to be unfamiliar with the events surrounding Cherry Point before 2000. The accompanying timelines (pages 18 and 19) give some of that history.

Northwest tribes, particularly the Lummi and Nooksack, are potentially affected by the proposed terminal at Cherry Point. Their treaty rights pertaining to the use of their accustomed areas in Whatcom County have been upheld by the U.S. courts.



credit: Washington State Department of Natural Resources

Cherry Point Aquatic Reserve

The Cherry Point Aquatic Reserve is a unique aquatic ecosystem located in the Strait of Georgia on the western shore of Whatcom County,

The offshore waters from Birch Bay State park on the north to Slater Road on the south, the Cherry Point Aquatic Reserve, are a U.S. National Marine Protected area. The Washington State Department of Natural Resources has primary responsibility for managing the reserve.

In 2000, the Department of Natural Resources recognized the need to protect the significant environmental resource of aquatic lands at Cherry Point. Because of the area's ecological importance, the Department of Natural Resources withdrew Cherry Point tidelands and ocean floor from competing uses, finalizing their decision in 2003. It designated those state-owned lands not already under a lease agreement, as the Cherry Point Aquatic Reserve.

In order to ensure long-term environmental protection, the Department of Natural Resources and its partners established a 90-year-management plan for the area, outlining specific goals that will protect the health of the unique aquatic environment within Cherry Point.

We hope you read the sections that strike you as interesting and significant. Then express your views during the scoping process.

Cherry Point's Valuable Ecological Resources

- ❑ High energy (storm, surf and wind exposure) nearshore environment
- ❑ Forage fish spawning habitat (including surf smelt and Pacific herring)
- ❑ Macro algae including eelgrass beds and kelp beds
- ❑ Migratory and resident bird aggregation areas (gather for feeding and/or migration)
- ❑ Freshwater wetland (adjacent to reserve)
- ❑ Salmon migratory corridors
- ❑ Bald eagle feeding and nesting areas
- ❑ Great blue heron rookery and associated resources
- ❑ Dungeness crab aggregation areas
- ❑ Ground fish rearing area (juvenile ground fish are rich and diverse)
- ❑ Marine mammals
- ❑ Shellfish (commercial, subsistence, and recreational)

Source:

"Represented Ecological resources identified for the Cherry Point Planning Area." Washington Department of Natural Resources 11-20-07. http://www.dnr.wa.gov/ResearchScience/Topics/AquaticHabitats/Pages/aqr_rsve_cherry_point.aspx

The Cherry Point Aquatic Reserve 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. The boundary for the aquatic reserve includes all state-owned tidelands and bedlands within approximately 5,000 feet of the marine shoreline and any adjacent state-owned bedlands within the -70-foot bathymetric contour as shown.

Residents of Cherry Point Aquatic Reserve

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:

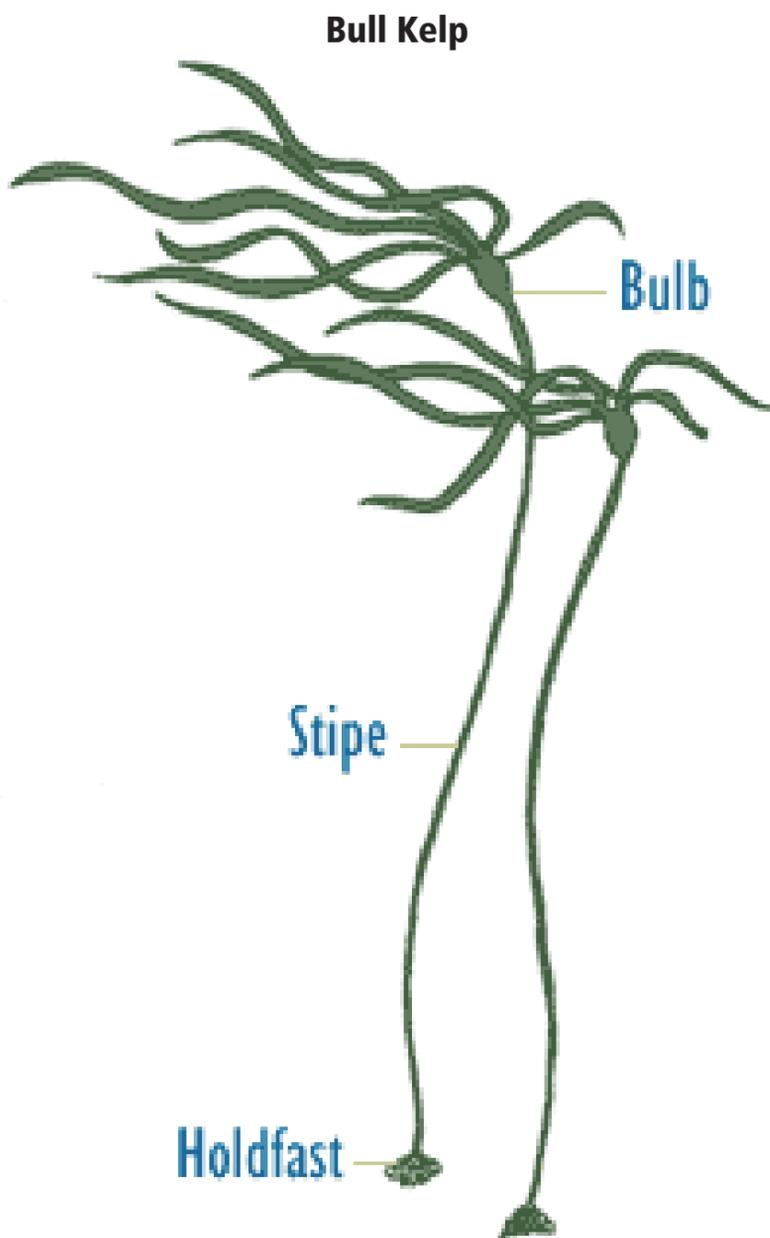
- Harbor seals
- Pacific harbor porpoises
- Dall's porpoises
- Steller sea lions
- California sea lions
- Gray whales
- Pacific Minke whales
- Southern Resident Killer Whales
- Humpback whales

Source: Cherry Point Environmental Reserve Management Plan, November 2010. Page 20.



Dall's Porpoise — *Phocoenoides Dalli*

photo: NOAA



Washington State Department of Ecology.

<http://www.ecy.wa.gov/programs/sea/pugetsound/species/kelp.html>

"There is something alive in a feather. The power of it is perhaps in its dream of sky, currents of air, and the silence of its creation. It knows the insides of clouds."*

Birds

Cherry Point is considered a significant bird habitat for all seasons. The following birds use the Aquatic Reserve:

- Marbled Murrelet. Federally and state listed as threatened.
- Common Loon. Washington State sensitive species.
- Double-crested and Brandt's Cormorants.
- Bald Eagle. Washington State sensitive species.
- Peregrine Falcon. A federal candidate and Washington state sensitive species.
- Common Murre.
- Surf Scoter.
- Great Blue Heron.
- Western Grebe.
- Osprey.
- Harlequin, Bufflehead and Common Goldeneye ducks.

Source: Cherry Point Environmental Aquatic Reserve Management Plan, November 2010.



Bald Eagle

photo: Joe Meche

*"Dwellings: A Spiritual History of the Living World" by Linda Hogan (W.W. Norton & Company, 2007) page 20.



Great blue heron

photo: Joe Meche

Underwater Plants

Submerged aquatic vegetation at Cherry Point includes eelgrass and attached macroalgae such as kelps, red algae such as Turkish towel, and green algae such as sea lettuce. The vegetation functions as rearing and forage habitat for many commercially important species such as juvenile salmon, forage fish and Dungeness crab.

Juvenile chinook salmon and other salmonids use eelgrass and macroalgae beds. The primary food sources for juvenile salmon are found in abundance within the vegetation. The physical structure of the plants provides refuge from predators. Pacific herring spawn on the nearshore eelgrass and kelp. Juvenile salmon prey on the eggs and larvae of herring and other forage fish.

Bull kelp is best known for the long, smooth, brown bullwhips that wash up on beaches in fall and winter. This long stipe, or stalk, leads on one end to a bulbous gas float, attached to long, flat, leaf-like blades. Bull kelp is the fastest growing seaweed in the world. It can grow from a tiny spore into a 200-foot-long plant in one summer!

Small crustaceans called isopods feed directly on the bull kelp blades. Underwater kelp forests shelter snails, crabs, shrimp, starfish, sea anemones, sea cucumbers, brittle stars and sea squirts. The abundant food and shelter from predators make kelp communities valuable habitat for juvenile salmon, rockfish and surf smelt.

The Cherry Point submerged aquatic vegetation habitat is in good health. This is largely due to the low impact along the shoreline.

Sources:

- Whatcom County Marine Resources Committee http://www.whatcom-mrc.whatcomcounty.org/Fact_Sheets/index.htm
- Washington Department of Ecology. Puget Sound Shorelines. <http://www.ecy.wa.gov/programs/sea/pugetsound/species/kelp.html>
- "Whatcom County Submerged Aquatic Vegetation Survey Final Report," Whatcom County Public Works Water Resources Division and, Whatcom County Marine Resources Committee. Prepared by Fairbanks Environmental Services, Inc. March 2005.



photo: Washington State Department of Fish and Wildlife

Chinook Salmon

These Fish Use Nearshore Waters

These species are listed under the federal Endangered Species Act:

- Puget Sound Chinook salmon,
- Nooksack Coastal cutthroat trout
- Puget Sound bull trout
- Puget Sound steelhead trout

The nearshore is also used by:

- | | |
|---|--|
| <ul style="list-style-type: none"> ■ Char ■ Cutthroat trout | <ul style="list-style-type: none"> ■ Groundfish ■ Dover sole ■ English sole ■ Rock sole ■ Starry flounder ■ Pacific and speckled sanddab ■ Butter sole ■ Lingcod |
|---|--|

Forage fish*

- Surf smelt
- Northern anchovy
- Pacific herring
- Sand lance

*eaten by larger fish, mammals and birds.

Source: Cherry Point Environmental Reserve Management Plan, November 2010.

Forage Fish are Sensitive to Contaminants

Pacific herring are exposed to a wide range of toxic contaminants in Puget Sound; in particular, persistent bioaccumulative and toxic (PBT) contaminants such as PCBs (polychlorinated biphenyls) and DDTs (dichlorodiphenyltrichloroethane) can accumulate in their bodies to high amounts.

Spawned eggs of Pacific herring may be exposed to and harmed by other contaminants such as polycyclic aromatic hydrocarbons (PAHs). This sensitive life stage appears to accumulate PAHs from local sediments where the eggs are spawned, a condition which may be linked to chronic spawn-mortality at some sites.

Surf smelt and sand lance spawning habitats are extremely vulnerable to degradation from direct impacts of oil spills. Spawning substrates are very porous, and will entrain and retain oil and spill breakdown products for long periods of time.

Surf smelt and sand lance are short-lived fishes, and may not be able to tolerate widespread spawning habitat contamination without threat of local extinctions of spawning populations. The potential impacts of various forms of oil-spill remediation may also be damaging to beach-spawning forage fishes and their critical habitats.

Sources:

“Marine Forage Fishes in Puget Sound, Technical Report 2007-03,” Dan Penttila, Washington Department of Fish and Wildlife.

“Pacific Herring Information Summary Biology,” Washington Department of Fish and Wildlife.

wdfw.wa.gov/conservation/.../PacificHerringInformation_121911.pdf

GPT Scoping Period

Two public sessions will be held to present an overview of the Gateway Pacific Terminal and Custer Spur projects and to afford all parties an opportunity to provide comments regarding the range of actions, alternatives, and potential impacts. There will be no formal presentation, it is an open house type meeting with people arriving and leaving as they choose.

Bellingham, Saturday October 27, 2012 at Squalicum High School, 3773 East McLeod Road, Bellingham, Washington 98226-7728 on Saturday, October 27, 2012, from 11 a.m. to 3 p.m.

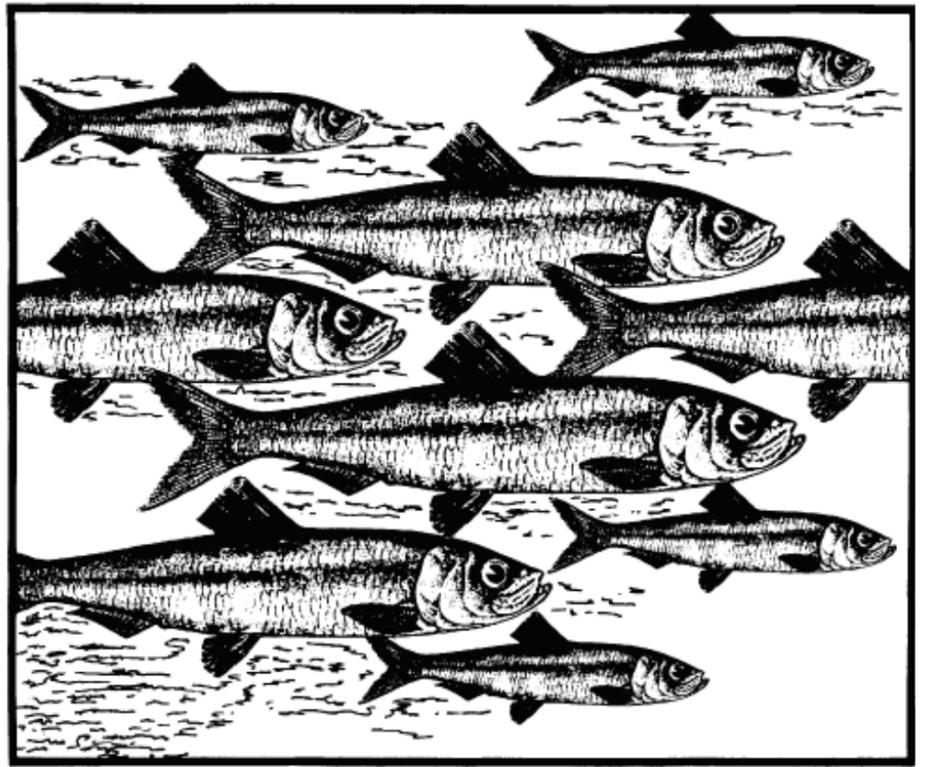
Ferndale, Thursday, November 29, 2012 at the Events Center, 5715 Barrett Road, Ferndale, Washington from 3 p.m. to 7 p.m.

Written comments regarding the scope of the Environmental Impact Statement (EIS) — including the environmental analysis, range of alternatives, and potential mitigation actions — should be received at the address below or submitted by email to: comments@eisgatewaypacificwa.gov by January 21, 2013.

Requests to be included on the EIS notification mailing list should be submitted to: Mr. Randel Perry, U.S. Army Corps of Engineers, Seattle District, Care of: GPT/BNSF Custer Spur EIS Co-Lead Agencies, 1100 112th Avenue Northeast, Suite 400, Bellevue, Washington 98004.

Further information: Contact Mr. Randel Perry via email at: randel.j.perry@usace.army.mil. Phone: (360) 734-3156.

Gateway Pacific Terminal Scoping Website: <http://eisgatewaypacificwa.gov/>



www.nwrc.usgs.gov/wdb/pub/species_profiles/82_11-079.pdf

Fish and Wildlife Service

U.S. Department of the Interior

Coastal Ecology Group
Waterways Experiment Station

U.S. Army Corps of Engineers

Cherry Point Herring

Cherry Point herring have a bluish-green back with silver-white sides and bellies. They grow to about 8-9 inches in length.

Historically, the Cherry Point herring spawning stock alone provided more than a third of the herring in the Puget Sound region. The region's eelgrass and red algae are perfect places for herring to lay eggs. Herring spawning biomass was as high as 15,000 tons in the 1970s and supported a large fishery.

All forms of the fishery were closed in 1996 when the herring populations dwindled rapidly, eventually reaching a low of 800 tons in 2000. The Washington Department of Fish and Wildlife estimates that approximately 3,200 tons of herring need to survive to spawn each year for long-term sustainability of the population.

Species that depend on (or at least appreciate) herring for food are: Pacific cod, Lingcod, halibut, Chinook salmon, harbor seals, herons, western grebes, common murrelets, rhinoceros auklets, tufted puffins, orca whales, seals, sea lions, Dall's porpoises and surf scoters.

An acoustic/trawl survey was conducted off Cherry Point the night of April 28-29, 2011. The survey utilized computer interfaced echo-sounding equipment to produce real-time estimates of total fish abundance. The estimates were apportioned to herring biomass based on trawl catch data. The estimated spawning biomass from the acoustic-trawl survey was 335 tons. Most of the herring collected were 2-3 years old. They tend to weigh less than similar age herring in past years. The trawl found fewer 4-9 year old herring compared to earlier years.

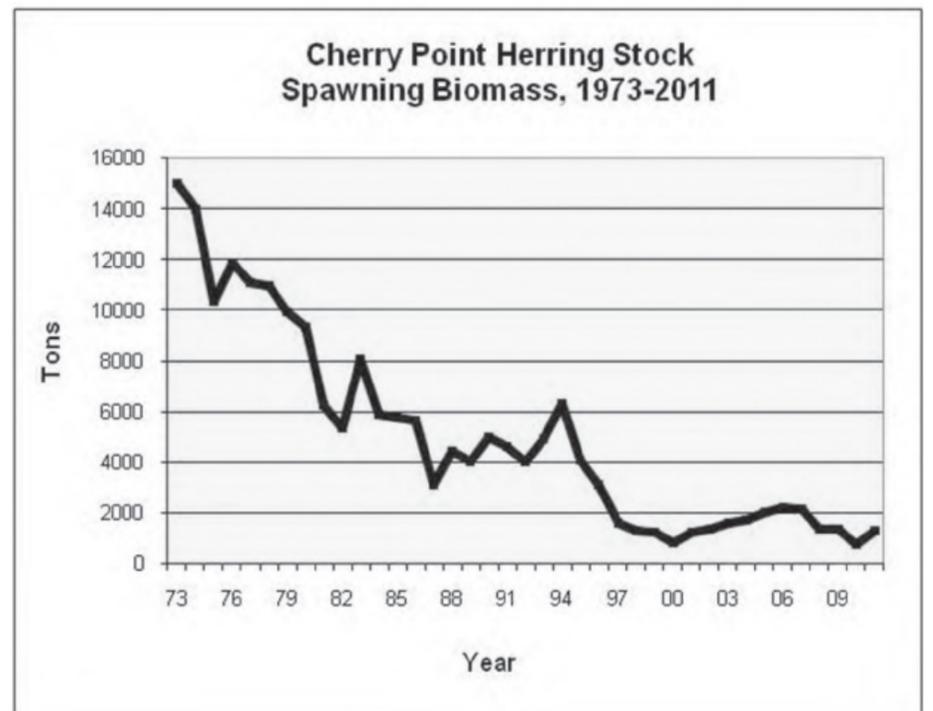
The Cherry Point herring stock continues to be at a critically low level of abundance, despite an increase from 2010.

Sources:

■ “Conserving Our Fishy Heritage at Cherry Point - State Prepares To Release Final Management Plan,” Matt Krogh. Whatcom Watch June 2010.

■ “Report to Washington Department of Natural Resources – Results of 2011 Cherry Point Herring Acoustic/Trawl Survey” Kurt Stick, Washington Dept. of Fish & Wildlife.

■ Gustafson R.G., J. Drake, M.J. Ford, J.M. Myers, E.E. Holmes, and R.S. Waples. 2006. Status review of Cherry Point Pacific herring (*Clupea pallasii*) and updated status review of the Georgia Basin Pacific herring distinct population segment under the Endangered Species Act. U.S. Dept. Commerce, NOAA Tech. Memo. NMFS-NWFSC-76, 182 p.



Source: Results of 2011 Cherry Point Herring Acoustic/Trawl Survey, Kurt Stick, State Dept. of Fish and Wildlife

Invisible World Cherry Point's Microplankton

Natura nusquam magis est tota quam in minimis. Pliny
(Nature is to be found in her entirety nowhere more than in her smallest creatures.)

Quoted in "The Fertile Fjord: Plankton in Puget Sound." Richard M. Strickland.

Richard Strickland has observed that Puget Sound is a bountiful body of water at the center of which is the invisible, anonymous proletariat of the plankton. True also at Cherry Point. Without these microscopic plants and animals floating in the seawater, the Orcas, salmon and seabirds would disappear.

"Plankton" is derived from a Greek word that means "free-floating." They are the original drifters. Some are plants (phytoplankton), others are animals (zooplankton) and some are bacteria.

Copepod plankton are essential food for forage fish including herring, surf smelt and anchovies. Most copepods are 0.02 to 0.08 inches long. They look rather shrimp-like, with segmented, torpedo shaped bodies, antennae and mouthparts at the front, and swimming appendages dangling below.

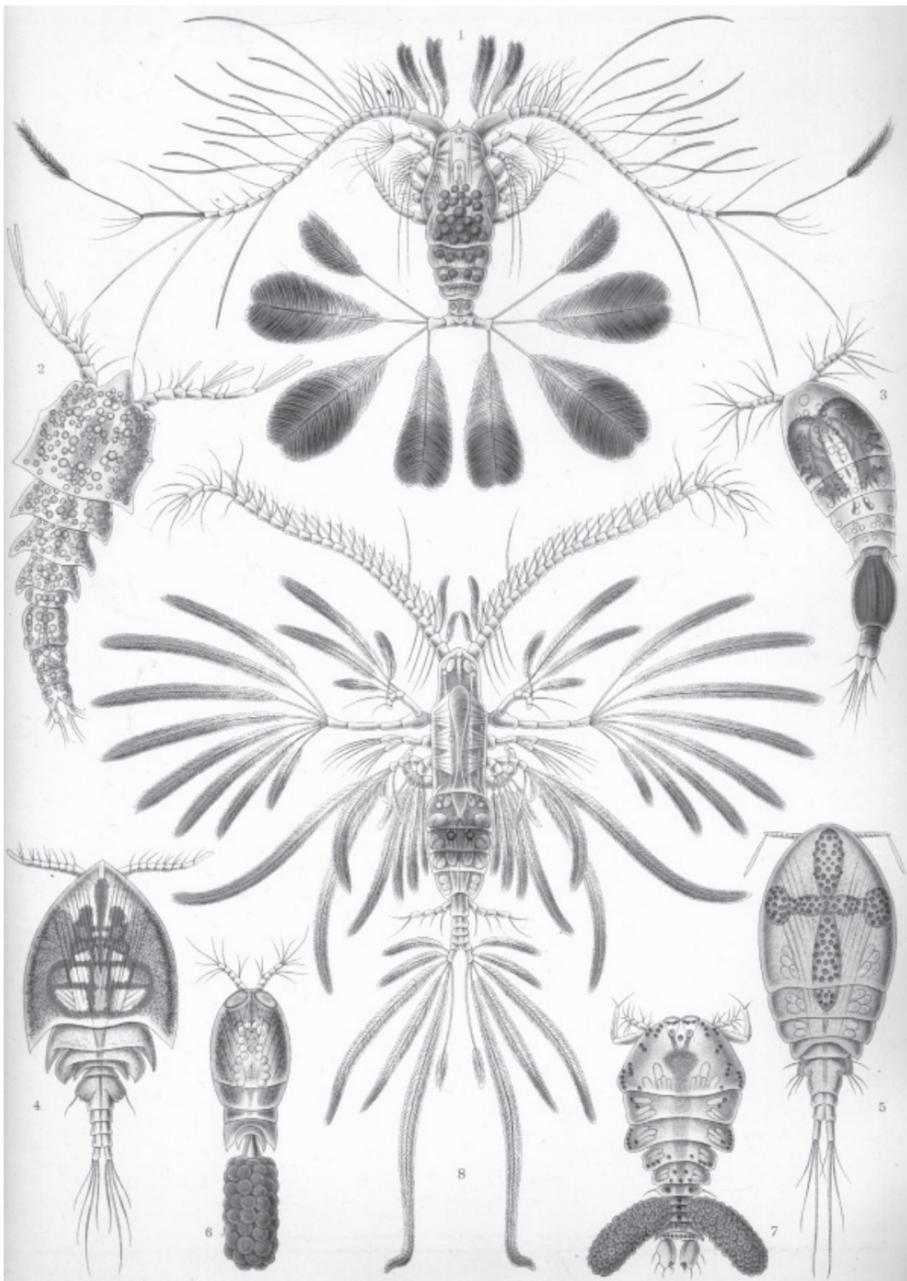
Sources:

- Puget Sound Partnership Resource Center: Forage Fish.
- http://www.psparchives.com/our_work/species/foragefish.htm
- <http://www.cev.washington.edu/lc/CLFISH497/bio.html>
- "The Fertile Fjord: Plankton in Puget Sound." Richard M. Strickland, Washington Sea Grant, Distributed by University of Washington Press, 1983.



Copepod with eggs.

photo: Matt Wilson/Jay Clark, NOAA NMFS AFSC



Ernst Haeckel Kunstformen der Natur (1904), plate 56: Copepoda Eight types of copepods.



Credit: Hans Hillewaert

Amphipod. Tiny plankton such as amphipods, copepods and decapods (ten legs) are essential food for juvenile salmon and herring.



photo: NOAA <http://www.glerl.noaa.gov/pubs/photogallery/Waterlife/pages/0737.html>

A healthy calanoid copepod. The calanoid copepods made up the bulk of the diet of juvenile herring and sand lance.

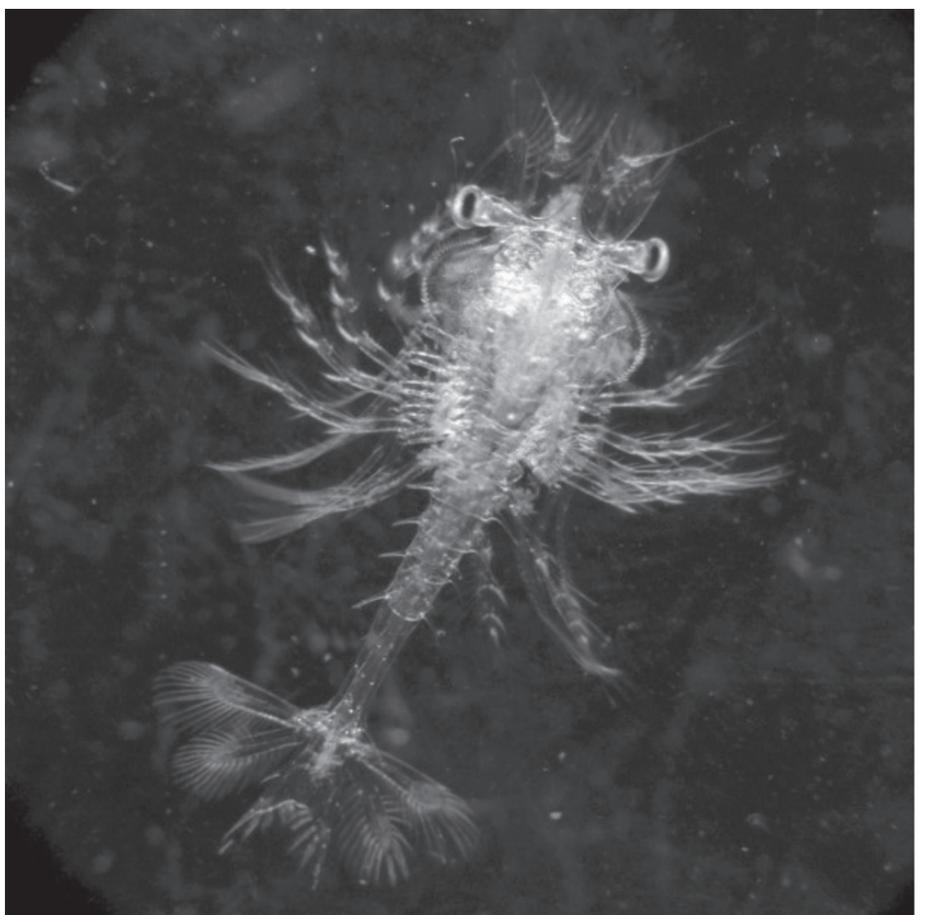


photo: Russ Hopcroft, Univ. of Alaska. CMarZ (Census of Marine Life Zooplankton) cruise

Decapod zooplankton have ten feet and are tiny, free-floating organisms. Herring and salmon eat them.



photo: Fairbanks Environmental Services, Inc. for Whatcom County Public Works Water Resources Division.

This photo was taken 2.3 miles south of Pt. Whitehorn; mixed coarse substrate with high density of turf algae. Typical of nearshore north of BP-Cherry Point pier.

Source: "Whatcom County Submerged Aquatic Vegetation Survey Final Report" March 2005.

The Proposed Pier

There will be a fifty-foot-wide trestle extending 1,250 feet out from the shore into the Aquatic Reserve.

At the end of the trestle, there will be a wharf 105 feet wide, 2,980 feet long. This will be used for loading ships. The pier will be able to berth three ships at a time, along with their associated tugboats.



photo: North Sound Baykeeper

The Alcoa Intalco Works loading wharf and pier at Cherry Point. Along the top of the pier is a covered conveyor belt. Huge pipes suspended under the pier discharge process water and stormwater into the Strait of Georgia.

Current Wharves:

Conoco/Phillips745 feet long
Alcoa Intalco Works962 feet long
BP2,448 feet long

Homeland Security 1500-foot Exclusion Zones surround each pier. The U.S. Coast Guard prohibits humans from entering the zones.

Piers Affect Spawning Habitat

Dredging

Dredging can destroy nearshore marine vegetation, to the detriment of herring spawning habitat. Dredging can alter nearshore seabed topography to accommodate deep-draft vessel traffic and moorage. The GPT website states no dredging would be needed.

Nearshore bottomlands are commonly dredged too deep to allow sufficient light for marine vegetation beds to re-colonize and survive, resulting in a net loss of habitat. Dredging is prohibited in herring spawning beds by the Washington Department of Fish and Wildlife under Washington Administrative Code 220-110-320(8).

Overwater Structures

Herring spawning habitat may be impacted by shading from overwater structures. There are few species of marine macro-vegetation that can tolerate the reduction in ambient light within the direct footprint of a typical overwater dock or pier, including plant species used by spawning herring.

Introduction of fixed overwater structures invariably results in a die-off of vegetation directly beneath and may also show negative impacts on either side.

At the present time, no technology exists to completely eliminate the impacts of a shading pier on marine vegetation beds.

Overwater structures and associated moorings must be designed and located to avoid adverse impacts to Pacific herring spawning beds (WAC 220-110-300 (6)).

Source:

"Marine Forage Fishes in Puget Sound, Technical Report 2007-03, Dan Penttila, Washington Department of Fish and Wildlife.

The Ships

The proposed wharf will be able to accommodate Panamax ships and Cape-sized ships able to carry 250,000 dry weight tons. Panamax ships are about 965 feet long, 106 feet wide and have a draft of 39.5 feet. Cape-sized ships are too big to use the Panama Canal locks which are 1000 feet long, 110 feet wide, and 85 feet deep.



photo: Capt. Jan Melchers, also listed on Shipspotting.com, and kindly made available for Wikipedia by him.

Cape-size ship MV Berge Athene, a bulk carrier of 225,200 DWT, built in 1979.

How Many Ships?

Initially 221 ships are expected each year (144 Panamax ships and 77 Cape-size ships), with 2 to 4 tugboats per ship. At full capacity about 487 ships with 2 to 4 tugboats per ship are expected.

The Fuel

The ships burn bunker fuel. Bunker "C" fuel oil is a sticky, black liquid similar in appearance and smell to asphalt sealing compounds. At 10 degrees Celsius (50 degrees Fahrenheit) it has a consistency of liquid honey or corn syrup. The burning of marine heavy fuel oil gives rise to high emissions of polycyclic aromatic hydrocarbons (PAH).

Diesel engines are used on ships and are used for loading bulk cargo. Diesel exhaust contains 40 toxic air contaminants listed by the Environmental Protection Agency (EPA), including acetaldehyde, benzene, 1,3-butadiene, formaldehyde, and polycyclic aromatic hydrocarbons (PAHs). Substances in the exhaust such as arsenic, benzene, formaldehyde and nickel have the potential to contribute to mutations in cells.



Photo taken by uploader. Williamborg 04:03, 22 July 2006 (UTC)

Panamax container ship SHENZHEN BAY transiting the Panama canal. Note that some containers have been offloaded and are transported by train over the isthmus to allow acceptable draught for the ship.

Sources:

Lummi Nation Awareness Project – Fisheries Impacts

- <http://gatewaypacificterminal.com/the-project/what/>
- <http://gatewaypacificterminal.com/the-project/f-a-q/#VesselTrans>

Ship size

- http://www.worldtraderref.com/WTR_site/vessel_classification.asp

Fuel

- <http://essaybank.degree-essays.com/environment/environmental-impact-and-sustainability.php>
- <http://www.globalsecurity.org/military/systems/ship/systems/fuel-oil.htm>
- Ahlbom, J. and Duus, U. (2003). Rent skepp kommer lastat. Göteborg, Sweden. (An English abstract is available at: www.gronkemi.nu/skepp.html)
- California Office of Environmental Health Hazard Assessment http://oehha.ca.gov/public_info/facts/dieselfacts.html
- Massachusetts Department of Environmental Protection <http://www.mass.gov/dep/air/diesel/healthenv.htm>

Cherry Point Key Events*

Time Immemorial – Ceremonial, subsistence, and commercial harvest of finfish and shellfish and other commerce by Native American Indians.

- 1855 Treaty of Point Elliot signed
- 1954 Mobil Oil (Tosco) constructs the first pier at Cherry Point.
- 1966 Intalco Aluminum constructs the second pier.
- 1971 Atlantic Richfield (Arco) constructs the third pier.
- 1972 Washington state voters pass the Shoreline Management Act.
- 1974 State herring sac roe fishery is opened
- 1976 The Whatcom County Shoreline Citizens' Committee designates the Cherry Point shoreline as a Conservancy. The Whatcom County Council approves the Shoreline Master Plan.
- 1977 Chicago Bridge and Iron proposes building offshore oil drilling platforms at Cherry Point. See the timeline on the next page for details on five years of discussions about the proposal.

- 1983 Peter Kiewit & Sons of Omaha, Nebraska proposes the upland fabrication of offshore oil and gas drilling platforms.
- 1984 Whatcom County grants Kiewit the necessary permits. The Washington State Departments of Ecology and Fisheries deny Kiewit the permits.
- 1987 The Whatcom County Council passes the Cherry Point Management Unit. The shoreline is rezoned from Conservancy to Industrial.

- 1992 The Cherry Point Industrial Park/Joseph Shekter proposes a pier stretching 2,000 feet into Georgia Strait.
- 1993 Five citizen groups appeal county-approved development permits for the Shekter proposal to the Washington State Shorelines Hearings Board. Washington State Departments of Ecology, Fish and Wildlife and Natural Resources join appeal.
- 1995 State Departments of Ecology and Fish and Wildlife reach an agreement with Shekter.
- 1996 Citizens' groups reach an agreement with Shekter.
- 1998 Whatcom County and Washington State adopt the 1998 Shoreline Program Update. It designates the Cherry Point Management Area and reaffirms the use of the reach for water-dependent industrial uses.
- 1998 Washington State Department of Fish and Wildlife, Ecology, Pacific International Terminal (PIT) and five citizen appellants negotiate a settlement agreement.
- 1999 In early July the parties sign a settlement with PIT.

- 2000 Department of Natural Resources (DNR) designates Cherry Point Aquatic Reserve. U.S. Army Corps of Engineers approves a permit to expand the ARCO-BP pier. Environmental groups, led by Ocean Advocates, sue U.S. Army Corps of Engineers regarding the permit for the pier expansion. They lose the suit.
- 2002 PIT requests pier proposal be put on hold.
- 2003 DNR starts discussing a management plan for the aquatic reserve.
- 2004 Management planning process put on hold temporarily. DNR attempts to address concerns by the Cherry Point industries regarding the continued designation of Cherry Point as an aquatic reserve.
- 2005 BP completes expansion of pier into deep-water trench.
- 2007 DNR sponsors collaborative work group to study and make recommendations on the Cherry Point Aquatic Reserve Management Plan. Whatcom County Council updates the Shoreline Master Program including protection of critical shoreline areas.
- 2008 Draft of Cherry Point Aquatic Reserve Management Plan provided to DNR by the work group. PIT convenes a community meeting to unveil the Gateway Pacific Terminal (GPT) plan. Parties to the settlement agreement start new discussions.
- 2010 SSA Marine, parent company of GPT launches public relations campaign.



photo: North Sound Baykeeper

Lummi Indian Nation

The shoreline at Xwe'chi'eXen (Cherry Point) was the primary home of many Lummi villages and Traditional Cultural Properties within the traditional homeland of the Lummi.

The development of the Cherry Point shoreline by Euro-Americans since the 1950's 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. The existing piers and associated vessel traffic preclude and/or interfere with the ability of Lummi tribal members to exercise their treaty-protected fishing rights to fish.

The Lummi, Nooksack, and Samish Indians now comprise the Lummi Indian Nation. The Lummi occupied coastal areas surrounding the mouth of the Nooksack River as well as several islands in Puget Sound. The Nooksack, meaning "mountain men," lived in the Nooksack River drainage. The Samish occupied additional islands in Puget Sound, including one that now bears their name as well as Guemes and Fidalgo islands.



photo: Helen Brandt

Totem Pole - Whatcom County Courthouse

Cherry Point: Legal Rights of Northwest Tribes

Cherry Point is located within the usual and accustomed areas of several federally recognized tribes, including the Lummi, Nooksack, Swinomish, Suquamish, and Tulalip Tribes.

The cultural resources department of each Tribe has specific interests in the long-term cultural resource protection and management of this area. Cherry Point is within the homeland of the aboriginal Lummi Tribe whose sole successor is the present-day Lummi Nation. Cherry Point contains homelands of the Lummi Tribe that were ceded to the United States in the January 22, 1855, Point Elliot Treaty for considerations, including the right to fish in common with the citizens of the territory at the Tribe's usual and accustomed fishing grounds and stations.

Tribes exercise their interest based on the specific location and particular impacts associated with local planning processes and project proposals. The federal government is obligated to protect the long-term interests of tribes by limiting permits that impact cultural objectives of tribes.

All projects and plans for this area shall require government-to-government consultation with appropriate tribal governments under the State Centennial Accord. Local entities are strongly advised to consult regarding permitted activities and local plans. It is essential that conservation goals and management standards be established in cooperation with these tribes. Regular discussions should be planned with affected tribes to ensure that this plan remains consistent with cultural resource goals and Treaty rights of the tribes.

*Source: Cherry Point Environmental Aquatic Reserve Management Plan 2010. Department of Natural Resources.

Site of the proposed Gateway Pacific Terminal. The wharf and pier would be larger than any of the others currently at Cherry Point. The pier in the distance belongs to the BP refinery.



photo: North Sound Baykeeper

Double-hulled crude-oil tanker *Polar Endeavor* at Cherry Point ConocoPhillips loading dock. Ship length 895 feet (273 meters), width 150 feet (46 meters).

Chicago Bridge and Iron Timeline*

Chicago Bridge and Iron proposed building Space Needle-sized oil-drilling platforms off Cherry Point. Today's approval process for the Gateway Pacific Terminal proposal is similar to that followed for the CBI proposal. The project would have required the filling of 22 acres of water with nearly a million cubic yards of rock and dirt. Proponents suggested that construction of the drilling rigs would create 2,300 – 4,000 high-paying jobs.

1977

- Spring Snelson-Anvil Corp. of Anacortes applies for permits to build off-shore units at Cherry Point.
- Fall Chicago Bridge and Iron Co. of Oakbrook, Ill. buys 270 acres at Cherry Point to build oil-drilling platforms; Snelson-Anvil will be a partner.

1979

- July 25 The draft environmental impact statement is released.
- September 4 A public hearing is held on the draft EIS at Shuksan Middle School.

1980

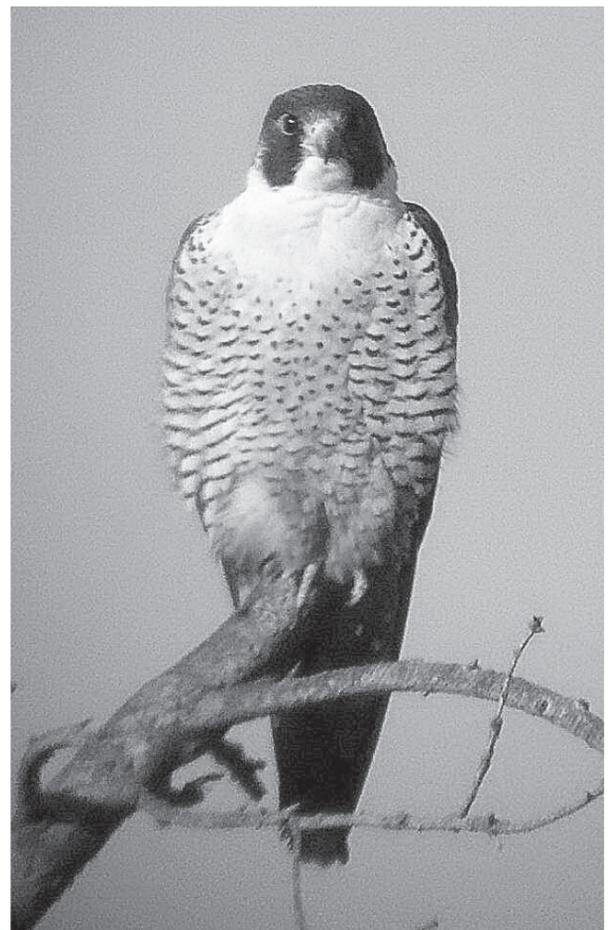
- April Citizens for Sensible Industry is formed to oppose the project.
- July 9 Huxley College students conduct a telephone survey of Whatcom County residents regarding the CBI project. Four hundred and seventy-eight people are called and 350 people participate in the survey. Of the people that participate, 69 percent approve the project. Thirty-six percent strongly approve and 33 percent somewhat approve. Thirty-one percent oppose the project; 17 percent strongly disapprove and 14 percent somewhat disapprove.
- July 17 Governor Dixie Lee Ray endorses the project.
- August 2 Jim McDermott, her opponent in the primary attacks the governor for supporting the project
- September 17 Governor Dixie Lee Ray is defeated in the primary. She is defeated by Jim McDermott who is defeated in the general election by John Spellman.

1981

- January 30 Whatcom County notifies CBI that it needs amendments to the Shoreline Management Act to build the drilling rigs.
- February 12 The final environmental impact statement is released.
- February 17 CBI files for eight changes to the Shoreline Management Act
- April 28 The county planning commission holds a public hearing on the amendments to the Shoreline Management Act
- May 22 Whatcom County Executive John Louws releases an economic study that says through the year 2000, the county would pay out \$4.2 million more than it would receive in benefits.
- July 8 The county planning commission votes 5-2 to approve the amendments to the Shoreline Management Act.
- August 20 The Whatcom County Council approves 15 amendments to the Shoreline Management Act by a vote of 4-2-1, with Don Hansey, C.J. "Corky" Johnson, Larry McIntyre and Shirley Van Zanten in favor; R.W. "Bob" Muenscher and Will Roehl opposed; J.V. "Jim" Hawley abstains because of conflicts with the state appearance of fairness law.
- October 8 A state hearing is held at Shuksan Middle School on amendments to the Shoreline Management Act.
- November 10 The state Department of Ecology rejects 11 the 15 proposed amendments to the Shoreline Management Act.

1982

- January CBI drafts a bill to create a "shoreline of statewide economic significance" to exempt Cherry Point from the Shoreline Management Act.
- February 16 The bill passes the state senate 34-13.
- February 27 The bill passes the state house 74-21.
- April 3 Governor John Spellman vetoes the bill. The Legislature fails to override his veto.



Peregrine falcon

photo: Joe Meche

Gateway Pacific Terminals Agreement

Note: The following are excerpts from an article that appeared in *Whatcom Watch* 13 years ago. The complete article can be accessed online at: http://www.whatcomwatch.org/old_issues/v8i8-9.html#story1

In early August [1999], a coalition of five citizens' groups joined two state resource agencies in reaching a settlement with Gateway Pacific Terminals related to efforts to develop a deep water, bulk cargo shipping and storage facility at Cherry Point in Whatcom County. The agreement establishes important conditions aimed at natural resource protection that will be implemented if, and when, the Gateway proposal moves forward with development.

In 1997, Gateway received shoreline development permits from Whatcom County to construct and operate their proposed facility. The Washington State Department of Ecology, Washington State Department of Fish and Wildlife, and a coalition of five environmental groups including the North Cascades Audubon Society, Washington Environmental Council, People For Puget Sound, and the Whatcom County Chapter of the League of Women Voters appealed the permits to the State Shoreline Hearings Board.

The basis of the appeals was the failure to adequately address and mitigate for likely environmental impacts from the project. After nearly 18 months of negotiations, the parties signed an agreement dealing with the limited issues that can be raised within the scope of a shoreline permit. The settlement gained important concessions and mitigation related to this single permit and how they will be enforced under shoreline laws — if and when the project receives all other permit approvals and actually goes forward to development.

During negotiations, several key areas of concern were identified by environmental groups and state agencies. Among these were impacts to habitat in the footprint of the pier from shading and ship operations; impacts to herring, particularly during spawning season; ballast water exchange; water quality deterioration from construction and operation of the facility; vessel traffic impacts; public access issues, and questions surrounding how many additional piers will be allowed at Cherry Point.

Continued on next page



photo: Fairbanks Environmental Services, Inc. for Whatcom County Public Works Water Resources

This photo was taken 0.3 miles south of Pt. Whitehorn; sand seaward of mixed coarse substrate with high density of turf algae. A narrow band of eelgrass.
Source: "Whatcom County Submerged Aquatic Vegetation Survey Final Report" March 2005.

*Compiled by Bill McCallum

Key Conditions of the Settlement

Following is a brief summary of key conditions, environmental safeguards and mitigation that was secured in the shoreline permit settlement:

1. The agreement preserves the right of environmental appellants to participate in the review processes before other agencies. Included in this will be analysis and comment on ongoing review of herring status and possible listing under the Endangered Species Act. In addition, the settlement does not limit the authority of state or federal agencies to require further conditions, and/or require studies in addition to those provided for in the agreement.
2. **Macroalgae Mitigation Plan:** Addresses shading from the pier and lost habitat. Replaces lost habitat at a three to one coverage area. Includes monitoring and mitigation contingencies for such effects as prop wash impacts. Plan and monitoring is funded by Gateway.
3. **Herring Monitoring Program:** Requires a comprehensive study and analysis to evaluate the effects of Gateway operations on herring behavior. Looks at behavior of herring in much more detail than ever before including schooling areas, migration corridors and spawning behavior. Establishes thresholds of impacts and protocol for contingencies in the event of impacts from facility operations including berthing, hours of berthing, vessel presence, vessel noise and lighting. Establishes levels of mitigation to be implemented if necessary. Includes use of hydroacoustics during herring spawning season to monitor herring and restrict facility operations and activities during key sensitive periods. Program is state agency monitored and Gateway funded.
4. **Ballast Water Protocol and Monitoring System:** Requires open ocean ballast exchange which greatly reduces the incidence of introduction of non-native organisms to local waters. Mandatory testing for all ships and barges utilizing facility. Gateway funded.
5. **Sediment, Tissue and Water Quality Monitoring:** Requires annual sampling of sediments, marine water and shellfish or other indicator tissue for assessment of water quality. Mitigation contingencies implemented if necessary. State agency monitored, Gateway funded.
6. **Vessel Traffic Analysis:** Requires a comprehensive analysis of impact Gateway will have in addition to other existing marine traffic. Issues include safety impacts of increased traffic, vessel traffic management, oil spill risk, hazards at the facility and bunkering (fueling) operations. Establishes a Vessel Traffic Safety Committee to recommend revised vessel operations protocols which will be regionally coordinated and integrated.
7. **Public Access:** Gateway gifted to Whatcom County areas of both beachfront and uplands, including a sensitive saltwater marsh, for the purposes of a public park. Gateway also conveyed fee title to one area of tidelands, and an easement to an additional area of tidelands. Agreement also acknowledges the state's rights to public access under the public trust doctrine.
8. **Single Additional Pier:** Agreement contains language addressing coordinated effort among jurisdictions to amend the Whatcom County Comprehensive Plan and Master Shoreline Program to restrict pier development at Cherry Point to, at most, one additional deep water structure.
9. **Wetlands and Habitat Mitigation Plan:** Satisfactorily mitigates impacts to upland wetlands and habitat areas insofar as possible considering changes to the environment from site alteration.

In summary, Gateway has agreed to additional studies, to continually monitor the effects of the project, to provide additional mitigation if necessary, and if something is wrong, to change the operation to address problems that may arise.

The ballast water exchange program and vessel traffic safety analysis, in particular, are huge gains toward overall protection of marine resources in Washington state waters. Regionally coordinated vessel traffic safety measures have been a long time goal for advocates of safer shipping practices throughout Puget Sound, the San Juan Islands and northern inland waters.

Gateway faces additional analysis and review before construction and operation can begin. Most notably, the Department of Natural Resources is currently conducting regional herring and salmonid studies. The studies include a regional risk assessment and an analysis of the cumulative impacts on the marine environment from the Gateway facility and existing industries and piers at Cherry Point.

Additionally, the National Marine Fisheries Service is commencing an analysis of the status of seven species of fish in the inland waters, including herring, for the purposes of potential listing under the federal Endangered Species Act. Herring have already been petitioned for listing under Endangered Species Act in Puget Sound.

"Cherry Point Pier Settlement Attains Additional Marine Resources Protection," by David M. Schmalz. Whatcom Watch September/August 1999, Volume 8 Issue 8/9.

Some Potential Impacts of Gateway Pacific Terminal

- Leaks or spills of fuel, oil, or other liquids from ships
- Coal spills into water during loading
- Coal dust blown into water or inhaled by mammals and birds
- Noise from ship engines and machinery
- Invasive species on the outside of vessels
- Interference with movements of marine life
- Increased risk of ship collisions

For information about potential impacts see the sources listed in right column.



Eelgrass

Photo: Jeff Gaeckle, Washington State Department of Natural Resources

Z. marina bed north of E. Sunset Beach Lane, Lynch Cove, Mason County.

Additional Sources for Scoping Comments

Guide to Writing Scoping Comments

- League of Women Voters of Bellingham/Whatcom County: lwvbellinghamwhatcom.org/files/Guide_to_Writing_Scoping_Comment_2.pdf
- Official EIS Website: www.eisgatewaypacificwa.gov/

Independent Journalism

- Transparency Report: www.jenniferkarchmer.com

Government Sites

- Official EIS Website: www.eisgatewaypacificwa.gov/
- Cherry Point Aquatic Reserve: www.dnr.wa.gov/ResearchScience/Topics/AquaticHabitats/Pages/aqr_rsve_cherry_point.aspx
- City of Bellingham: www.cob.org/features/2011-06-15-shipping-terminal.aspx
- State of Washington: www.co.whatcom.wa.us/pds/plan/current/gpt-ssa/
- Whatcom County: www.co.whatcom.wa.us/pds/plan/current/gpt-ssa/

Project Opponents

- Coal-Free Bellingham: coal-free-bellingham.org
- Coal Train Facts: coaltrainfacts.org
- Communitywise Bellingham: www.communitywisebellingham.org
- Get Whatcom Planning: getwhatcomplanning.blogspot.com
- Power Past Coal: www.powerpastcoal.org/overview-local/?cid=173
- Protect Whatcom: protectwhatcom.org
- ReSources for Sustainable Communities: www.re-sources.org/gpt
- Safeguard the South Fork: safeguardthesouthfork.org
- Whatcom Action Coalition: whatcomactioncoalition.weebly.com

Project Proponents

- Burlington Northern Santa Fe Railway: www.bnsf.com/
- Gateway Pacific Terminal: gatewaypacificterminal.com/
- SSA Marine: www.ssamarine.com/

Bellingham Public Library

- Bellcoal Cherry Point Bulk Export Terminal, Environmental Feasibility Report, 1982
- Cherry Point Industrial Park, Final EIS, 1993
- Chicago Bridge & Iron Co., Cherry Point Facility, Final EIS, 1981
- Gateway Pacific Terminal, Draft EIS, 1996