



Search

exclusive online offer
 buy one **BlackBerry® Pearl™**
 or **Hue II™**, get a
 second one **FREE!**



Exhibit "A"
 Port Commission *Special*
 Meeting of *May 5, 2009*

- Mail
- Contacts
- Calendar
- Notepad

- Check Mail
- Compose

- Search Mail
- Search the Web



[Previous](#) | [Next](#) | [Back to Messages](#)

[Mark as Unread](#) | [Print](#)

- Delete
- Reply
- Forward
- Move...

Port of Seattle's Duwamish River Restoration Plan

Tuesday, February 10, 2009 3:06 PM

- Folders [Add - Edit]
- Inbox (2)
 - Drafts (1)
 - Sent
 - Spam (3) [Empty]
 - Trash [Empty]

"m.c. halvorsen" <teddy2halle@yahoo.com>
 gellings.j@portseattle.org
 bill.bryant@portseattle.org, john.creighton@portseattle.org,
 patricia.davis@portseattle.org, lloyd.hara@portseattle.org,
 gael.tarleton@portseattle.org, Yoshitani.T@portseattle.org,
 Blomberg.G@portseattle.org

- Search Shortcuts
- My Photos
 - My Attachments

Dear Mr. Gellings:

After reading the above subject document, I tried to call you to discuss it with you, but since you did not return my call, I decided to send this email. I will comment generally first and then specifically.

This plan first appeared about ten years ago and was discarded as unworkable. I do not know if you were at the Port ten years ago, but there are those around you that were and they should have so informed you.

The Duwamish is a working industrial, commercial, federal waterway, not a country stream. It was straightened between 1911 and 1916 as were many other rivers across the country. The other states appreciate their waterways while unfortunately the State of Washington in general and Seattle and the Port of Seattle in particular do not. When the straightening occurred, the artificial banks were fill, not dirt, approximately ten feet deep. Fill is like cement; nothing will grow in it. The Port of Seattle's proposal to plant native species will come to naught because they will not grow in the banks of the river. It would be like trying to grow flowers in cement. It is impossible. This proposal is a waste of time and money.

The Chinook salmon return in greater numbers to the Duwamish River than any other river in Puget Sound. Maybe what the other rivers need is industry because the Chinook certainly like it. In any case, the chinook like the river the way it is. Your are proposing to change the river. What effect will that have on the Chinook? If you change it and the fish do not like it, they will stop returning to the Duwamish. If the changes are a detriment to the river, then the Port of Seattle has not only wiped out the chinook run, the Port has done more harm than good.

As I pointed out to you in a previous letter, the United States Supreme Court, the final arbiter of what is the law in the United States, in *United States v. Chandler-Dunbar Water*

ADVERTISEMENT

Don't Pay for White Teeth
 The Secret Teeth Whitening Combo Discovered by A Mom Who Spent Under \$10
 Click to read how! ▶



kayiaswhiteteeth.com

Power Co., 33 S.Ct. 667, at p. 672 the Court said that the primary purpose of the use of the waters and the lands under them (the riverbed) (not just the channel) is for purposes of navigation. It is not fish. The Port of Seattle's proposal will interfere with navigation not in the channel, interfere with industrial shipping and interfere with interstate commerce, all of which is illegal.

In the same case and in *United States v. River Rouge Improvement Company*, 46 U.S. 144 the U.S. Supreme Court stated that it did not matter who owned the bed of the river. The riparian rights accrued to the property owners. Riparian rights are the rights of upland owners of rivers, lakes and streams to freely use the water in front of their properties. They can be traced back to the Middle Ages. They came to this country from England and are in all fifty states. The Port of Seattle would be directly defying the United States Supreme Court because the Port's plan interferes, in fact, abolishes the uplands' owners' riparian rights. This is unconstitutional.

To summarize, the Port of Seattle's plan is unworkable because the banks of the Duwamish River are fill and nothing will grow in them. It would waste money and time. The Port of Seattle's plan could destroy the Chinook salmon run, which would do more harm than good. The Port of Seattle's plan would interfere with navigation outside the channel, would interfere with shipping, would interfere with interstate commerce, all of which is illegal. The Port of Seattle's plan is unconstitutional as it would abolish the upland owners' riparian rights.

The priorities of the Port of Seattle are awry when fish become more important than people and the Maritime Industry; when the Port is willing to risk ruining the Chinook run in the Duwamish River; when the Port of Seattle is willing to proceed in an illegal and unconstitutional manner.

Specifically, my comments are as follows:

On Page 2: the 500' swath that the Port of Seattle claims is in error. The original lines from which to measure were base lines which are measuring lines. They are not property lines. The Duwamish Waterway at its entrance to Elliott Bay is 500' wide but narrows as it proceeds up the river. The Port of Seattle does not own beyond mean high water at any point along the Waterway. This is the way it is in Chesapeake Bay and all the other commercial waterways in the country.

On Page 4: This particular site is in the middle of a busy industrial area where large trucks are turning. In addition, the steps to the river are steps to a turning basin. When boats turn, there is a strong suction created. The Port of Seattle has failed to replace a sign that was there but was taken down for construction, warning people and small boats to stay away from the area as it would be dangerous for them. Not only that, but in heavy rainstorms raw sewage is dumped into the river and swimming and fishing there is prohibited. The sign prohibiting these activities was taken down for construction and the Port of Seattle has failed to replace it. The Port of Seattle has created a hazard at this location but will never be held responsible for the consequences.

To open up South Riverside Drive, which George Blomberg promised that the Port would not do, a very compliant Seattle Planning department cancelled leases businesses had had with the city for years and made them take down fences that protected their property. The Port of Seattle imposed greater safety and security concerns on the adjacent businesses without compensation to them, and again gets off scott free from any responsibility for the harm done. This is an example of what not to do.

On Page 7: Federal Law Context:

I am not one of the polluters so this does not affect me. However, the Duwamish River was straightened beginning in 1911. No original natural resources are left. It would be impossible for NOAA to determine natural resources damage since no record was taken in 1916 and there are no standards to compare today's resources with 1916.

On Pages 8-9: Natural History

It should be noted that the Chinook salmon return in greater numbers to the Duwamish River than any other river in Puget Sound. Maybe what the other rivers need is a little industry. The Chinook certainly like it. No study has been done, possibly none can be done, to see if the Port of Seattle's plan to change the river will negatively affect the Chinook. The Port is making assumptions that could very well hurt the Chinook. Then the Port of Seattle has done more harm than good.

On page 17: Working Waterfront

Policy: Sites which impose significant constraints from current or expected future water dependent business operations should be prohibited, not just avoided. This encompasses the whole waterway. This plan should be abandoned as it is unworkable.

On page 20: Shoreline zones and Habitats

This is very misleading. There are only seven "spots" along the Duwamish river that have natural vegetation. the rest of the bank is 10' fill that nothing will grow in. As the Area Habitat Biologist from Washington State Fish and Wildlife said, when i repaired my bulkhead and wondered about putting plants there, "It won't work. It would be like trying to grow flowers in cement!" This illustration gives the impression that any shrubby can be planted anywhere along the bank when that is not the case.

On page 21: Note

I have owned property on the Duwamish River since 1967 and have never seen the organisms described here. I don't believe that these communities exist on the river and am surprised that the Port of Seattle thinks they will magically appear.

On pages 22-23: Marsh Habitat

This would involve re-doing the complete river and would drive industry out of the river, but that is probably what the Port of Seattle has in mind.

On page 22: Riparian Buffers

Only seven unconnected spots on the river are capable of this and may be on private property.

On page 24:

Turning Basin 3 is there for boats to turn around. It is in the middle because that is the safest place for people. what exactly kind of expansion did the Port of Seattle have in mind?

On page 35:

I own property at Second Avenue South that the Port of Seattle announces that it intends to put plantings from the top of the bank. The Port of Seattle specifically does not have my permission to come upon the property for any reason and any attempt to do so will be trespassing. furthermore, any plantings in front of the property will interfere with my riparian rights, which is unconstitutional. I would be forced to take appropriate steps.

On Page 37: Opportunities Overview

I own property that adjoins the S. Southern Streetend. That is fill, 10' deep. The Port of Seattle does not have my permission to go upon my property at S. Southern Street and again, any attempt to do so will be trespassing. Any plantings in the river would interfere with my riparian rights, which is unconstitutional. I would be forced to take appropriate steps.

On page 38

The Port of Seattle owns to mean high water.

On page 42: Project 15

This is an industrial area with tugs and barges. The Port of Seattle's plan is unworkable.

On page 44:
See above at page 37.

M. C. Halvorsen

P.S. Part of this reply while I was still typing, suddenly was sent. I do not know why. This email is the complete reply. I intend to forward this to the Seattle City Council, members of the State Legislature whose district encompasses the Duwamish River, and businesses along the Duwamish River.

[Delete](#) | [Reply](#) | [Forward](#) | [Move...](#)

[Previous](#) | [Next](#) | [Back to Messages](#)

Select Message Encoding

[Full Headers](#)

[Check Mail](#) | [Compose](#)

[Search Mail](#) | [Search the Web](#)

Copyright © 1994-2009 [Yahoo!](#) Inc. All rights reserved. [Terms of Service](#) - [Copyright/IP Policy](#) - [Guidelines](#)
NOTICE: We collect personal information on this site.
To learn more about how we use your information, see our [Privacy Policy](#)