# Record of Decision

EDMONDS CROSSING

Connecting ferries, bus & rail

U.S. Department of Transportation
Federal Highway Administration
Federal Transit Administration

**July 2005**

U.S. Department of Transportation

# Record of Decision

For

# State Route 104, Edmonds Crossing

## Decision

Pursuant to 23 Code of Federal Regulations (C.F.R.) Section 771.127 and by this environmental Record of Decision (ROD), federal co-lead agencies, the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) find the requirements of the National Environmental Policy Act (NEPA) are satisfied, as noted herein, for the construction of the State Route (SR) SR 104, Edmonds Crossing Project. It is located in the City of Edmonds, Snohomish County, Washington. The FHWA and FTA, in coordination with the Washington State Department of Transportation (WSDOT or Washington State Ferries (WSF)), and the City of Edmonds, accept the Point Edwards Site (Modified Alternative 2) as the Selected Alternative.

The FTA, FHWA, WSDOT, and City of Edmonds, in cooperation with the U.S. Army Corps of Engineers, U.S. Coast Guard, Suquamish Tribe, Tulalip Tribe, Lummi Nation, Swinomish Tribe, and the Port Gamble S'Klallam Tribe concur the Selected Alternative meets the Purpose and Need of the SR 104 Edmonds Crossing Project. The Draft and Final Environmental Impact Statement (EIS) represents detailed statements required by NEPA and by 42 U.S.C. Section 4332 on:

- The environmental impacts of the proposed action; the adverse environmental effects which can not be avoided should the Selected Alternative be implemented;
- Alternatives to the proposed action; and mitigation measures required to minimize the harm of irreversible and irretrievable impacts on the environment should the proposed action be implemented;
- And find, on a project level, the requirements of NEPA and of 49 U.S.C. Section 5324(b) have been satisfied or met.

This decision is based on an evaluation of information presented in the Final EIS, project effects and alternatives, mitigation measures, the transportation needs of the project study area, public outreach and comments, and extensive interagency coordination. This ROD incorporates comments and responses received on the project during the 30-day comment period after the Notice of Availability of the Final EIS appeared in the Federal Register.

Additional basis for this decision is contained in the balance of this ROD document.

**Daniel M. Mathis, P.E.**
**Division Administrator**
**Washington Division**
**Federal Highway Administration**

Daniel M. Mathis 07/18/05
*Signature* **Date of Approval**

**R. F. Krochalis**
Acting **Regional Administrator**
**Region 10**
**Federal Transit Administration**

Linda M. Gehrke 14 July 2005
*Signature* **Date of Approval**

# Contents

## Project Purpose

The purpose of the proposed action is to provide a long-term solution to current operational and safety conflicts between ferry, rail, automobile, bus, and pedestrian traffic in downtown Edmonds.

### Project Definition

The solution will involve the relocation of the existing state ferry terminal from Main Street in downtown Edmonds approximately 0.66 mile south of Point Edwards farther from the downtown core. In the process, a multi-modal center will be established integrating the ferry, rail, and transit services into a single complex. The Edmonds Crossing project is intended to provide a long-term solution to current operations and safety conflicts between ferry, rail, automobile, bus, bicycle and pedestrian traffic in downtown Edmonds, Washington. (Final EIS, Figure S-1)

State Route (SR) 104, realigned from its current intersection with Pine Street will access the new complex by traversing the lower portion of the bluffs within the existing Union Oil Company of California (UNOCAL) property, cross over the railroad tracks, and extend along new piers to a three-slip ferry terminal. Up to eight (8)general-purpose lanes and a high-occupancy vehicle (HOV)/bypass lane leading to the ferry could be used during peak ferry travel periods to hold approximately 820 waiting vehicles, which approximates a four-boat wait (Jumbo class ferry vessels) at 8,000 to 10,000 passenger capacity. This multimodal center will be located in the lower yard portion of the existing UNOCAL property. The center will include a new railroad station with loading platforms on both sides of the railroad tracks; a bus terminal; a 460-space parking garage to accommodate park-and-ride and overnight commuters and a 90-space, short-term parking lot; a 30-space employee parking area, and 120 spaces for commuter rail passengers; a pedestrian walkway system to connect the various areas within the center; and a weather-protected moving sidewalk to facilitate pedestrian movement between the center and ferry terminal. (Pages xxiii-xxiv; S-1; 1-1)

## Environmental Review and Issuance of the Final Environmental Impact Statement

The proposed improvements are described in the FINAL ENVIRONMENTAL IMPACT STATEMENT (Final EIS), dated

October 22, 2004. The Notice of Availability appeared in the Federal Register on November 19, 2004. The Final EIS and Section 4(f) Evaluation and all findings therein are incorporated in this Record of Decision (ROD) by reference.

A 1992 study concluded that relocating the ferry terminal was feasible. The City of Edmonds, WSF, and Community Transit signed a Memorandum of Understanding (MOU) in November 1993. The MOU called for the cooperative development of solutions to the conflicts between the City's plans for growth and ferry traffic. Preliminary engineering and environmental analysis of alternatives began in late 1993.

In 1994 it was recommended that an alternative site be developed as a multimodal facility serving ferry, rail, bus, pedestrian, and bicycle travel needs. Two open houses were held in June 1994 to introduce the project to communities of interest; in addition, a Pre-EIS meeting with regulatory agencies was held in August 1994. A Notice of Intent (NOI) for the SR 104, Edmonds Crossing project was issued on March 16, 1995. Public and Agency Scoping Meetings were held in April and May 1995. In September 1996, a special Agency Meeting was held to discuss mitigation measures to be proposed in the EIS.

In 1997 it was determined that this project would become a part of the Signatory Agency Committee Agreement to Integrate Aquatic Resources Permit Requirements into the National Environmental Policy Act and the State Environmental Policy Act Processes in the State of Washington (SAC) process, formerly known as the NEPA/SEPA/404 Merger Agreement process. This committee consists of the following members:

Federal Highway Administration (FHWA) Washington Division;
National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA NMFS), Northwest Region;
U.S. Army Corps of Engineers (COE), Seattle District;
U.S. Environmental Protection Agency (EPA), Region 10;
U.S. Fish and Wildlife Service (USFWS), Western Washington and Upper Columbia Fish and Wildlife Offices;
Washington State Department of Ecology (DOE);
Washington State Department of Fish and Wildlife (WDFW); and
Washington State Department of Transportation (WSDOT).

Concurrence Point No. 1 (Purpose and Need and Criteria for Alternatives Selection) was completed in May 1997. Concurrence Point No. 2 (Alternatives to be Evaluated in the Draft EIS and Preliminary Preferred Alternative) was completed in September 1997.

Because the acquisition and development of portions of both Marina Beach Park and Olympic Beach Park would involve the use of Section 6(f) of the Land and Water Conservation Act funds administered by the

Washington State Office of the Interagency Committee for Outdoor Recreation (IAC), coordination with IAC has taken place throughout the EIS process.

The Draft EIS was issued by FHWA on February 25, 1998. A public hearing on the EIS was conducted on April 2, 1998. Over 200 individual comments were received by WSDOT on the Draft EIS. As part of the Draft EIS comment process, affected tribes pointed out that placing the proposed ferry pier in the Draft EIS "preferred" location would adversely affect their treaty fishing rights, could cause physical conflict between ferries and fishing boats, and potentially lessen the number of fish caught and, thus, impact the larger tribal economy. Based on this concern, an extensive government-to-government consultation/coordination process began on this issue with the Suquamish, Tulalip, Lummi, and Swinomish tribes. The result of these consultations led to modifications of the Preliminary Preferred Alternative (Alternative 2 Point Edwards) identified in the FHWA Draft EIS, and a proposed Memorandum of Agreement (MOA) between the Washington State Ferries, the City of Edmonds, and Tribes noted above. Mitigation measures in this ROD include those listed in the proposed MOA are listed below under Cultural Resources and Tribal Fishing.

Based on the comments received from the Tribes, the public, cooperating and regulatory agencies, and the SAC, a number of design modifications were made to the preliminary preferred alternative of the draft EIS (Alternative 2 Point Edwards) to avoid or minimize impacts and concerns while still maintaining the operational efficiency of the original proposal. This became the Modified Alternative 2 as the preferred alternative for the Final EIS.

To inform the public about the modification to Alternative 2 and to solicit input in those modifications, a newsletter was circulated to residents in the project area and a public open house was conducted on January 22, 2003. Approximately 125 residents attended. 59 individual comments were received. In February and March, 2003 presentations were made to the Town of Woodway Council, Edmonds City Council, and the Port of Edmonds Commission.

The Woodway Town Council passed a resolution expressing their support for a Modified Alternative 2 (Point Edwards). On March 10, 2003, the Port of Edmonds Commissioner's passed Resolution No. 03-01 expressing an endorsement of the Modified Alternative 2 (Point Edwards) and supporting final agency adoption, funding, and implementation. In response to a conversion request (of Marina Beach Park and Olympic Beach Park), the IAC indicated in a letter dated February 26, 2003 that the agency "will work with the City of Edmonds to finalize the conversion process prior to award of the construction contract for phase one of the Point Edwards alternative."

On April 4, 2004, a revised Section 4(f) Evaluation was circulated for a 45-day review. The SAC approved Concurrence Point No. 3 (Selection of a Preferred Alternative) in May 2004.

In accordance with 23 C.F.R. §771.129 (Reevaluation) and 23 C.F.R. §771.130 (Supplemental EIS), if a Final EIS is not issued within three years of the circulation of the Draft EIS (February 25, 1998), it is required that a reevaluation be conducted to determine whether a supplement to the Draft EIS should be prepared. On August 9, 2004, a reevaluation of the previous Draft EIS was completed. FHWA and FTA reviewed the reevaluation and concurred that:[1]

*"The changes noted in the re-evaluation do not qualify as substantial, and the 1998 Draft EIS demonstrated compliance with the current federal, state, and departmental regulations and directives regarding the NEPA process. FHWA also stated that (1) there would be no additional significant environmental effects not evaluated in the Draft EIS resulting from proceeding with the Edmonds Crossing Multimodal project and associated mitigation measures; and (2) new information or circumstances relevant to the environmental concerns and bearings on the proposed action or its impacts would not result in significant environmental impacts not evaluated in the Draft EIS. Modifications to the Point Edwards alternative, the preferred alternative, still meet purpose and need for the project, and results in less substantial environmental effects than the alternatives analyzed in the Draft EIS as will be documented in the Final EIS. For the foregoing reasons, a supplemental Draft EIS is not required".*

On August 30, 2004, a Biological Opinion was issued by the USFWS, thus completing the formal consultation process between agencies prescribed under Section 7 of the Endangered Species Act (ESA). On October 22, 2004, the Final EIS and Final Section 4(f) Evaluation was signed.

## Selected Modified Alternative 2

Modified Alternative 2 as described in this ROD and more fully in the Final EIS, which is incorporated herein by reference, was designated as the Preferred Alternative in the Final EIS and becomes the Selected Alternative in this ROD. The Final EIS Preferred Alternative is unchanged and is hereafter referenced in this ROD as the Selected Alternative.

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[1] **Due to potential funding by FTA, FTA notified the Environmental Protection Agency by letter of July 22, 2004, that FTA was adopting the FHWA Draft Environmental Impact Statement (Notice of Availability published in the *Federal Register*, March 13, 1998, under *EIS No. 980063.)***

Modified Alternative 2 is a modification of Alternative 2 identified in the Draft EIS as the preliminary preferred alternative. Both the original Alternative 2 and the Modified Alternative 2 were based on locating the new ferry terminal and multi-modal center at Point Edwards. Based on comments received on the Draft EIS related to proposed ferry operations in a popular tribal fishing area, and subsequent, extensive consultation with regulatory agencies, the SAC committee, and affected Native American tribes, the location of the ferry pier was moved from a proposed location parallel to the existing UNOCAL pier (Draft EIS preliminary preferred alternative) northward to where it will straddle the boundary between the City of Edmonds Marina Beach Park and the Port of Edmonds Marina (Final EIS Preferred Alternative). By doing so, ferries will operate along the north side of the Salmon Management Area (SMA) 9/10 boundary, thus eliminating potential tribal fishing conflicts in SMA 10. Modified Alternative 2 is described in this ROD along with the other alternatives considered in the Final EIS. A more detailed discussion of the alternatives considered and the tradeoffs between alternatives is contained in the Summary section of the Final EIS, as well as Chapter 2.

## Project Phasing

### *Coordination with Other Area Projects:*

In coordination with other area projects, this ROD includes the NEPA authority to construct interim improvements at the existing Edmonds train station site for Sound Transit Sounder commuter rail (as called out in Sound Transit's 1999 Final EIS and 2000 ROD. These improvements are required to ensure continued commuter rail service until such time that the permanent Sounder Station at Edmonds Crossing is constructed and operable.

### *Project Implementation:*

Because of the estimated costs associated with full build-out and current funding limitations, the actual implementation of the project may be phased over time. The initial phase of development ("Phase 1") will meet the following minimum operating facility requirements of the WSF:

- A ferry pier with two (2) landing slips
- A ferry pier structure grade-separated over the railroad tracks with at least five (5) lanes composed of two (2) boarding lanes, a HOV/bypass lane, and two (2) exit lanes, plus a sixth lane to accommodate a two-ended shuttle bus to transport walk-on passengers between the multimodal center and the ferries.

- Overhead loading for at least one slip or slips, as may be required, for compliance with ADA requirements.

- Four (4) toll booths

- A minimal multimodal center consisting of transportation facilities for at least two (2) buses, two (2) 1,200-foot canopied rail platforms, and 300 stalls of surface parking for commuters and overnight vehicles including approximately a 90-vehicle surface-parking area at the bus turnaround in the lower yard of the existing UNOCAL property.

- In addition to these minimum facility requirements, realigning and redesigning Willow Creek, the stormwater treatment pond, and bus stops and bus turnaround along Admiral Way (Modified Alternative 2 only) will occur in Phase 1.

- The ROD dated February 4, 2000, by FTA covering the Sound Transit Everett-to-Seattle Sounder commuter rail, specifically as it covers the Edmonds station and platforms, shall remain in affect until such time as WSF, WSDOT and Sound Transit shall determine that the Edmonds commuter rail station and platforms shall be relocated to the site indicated in Modified Alternative 2.

A second phase will complete the full build-out of the project and include the following facilities:

- The third landing slip: Only two (2) ferry slips would be in operation at any one time; the third slip would be used in the event of mechanical failure or when wind direction would require a different docking approach.

- Overhead loading facilities for the remaining two (2) slips, plus an overhead pedestrian walkway between the multimodal center and the ferries.

- Conversion of the shuttle bus lane to a vehicle holding lane.

- Alternatives Considered in the Final EIS

The Final EIS examined the following alternatives:

- Alternative A (No Action Alternative)

- Modified Alternative 2 (Selected Alternative)

- Alternative 3

## Basis for Designation of the Selected Alternative

### Alternative 1 – No Action

The No Action Alternative (Figure 2-1 in the Final EIS) assumed that the present single-slip ferry terminal would be maintained at the existing Main Street location. Only normal maintenance activities would occur as part of the No Action Alternative.

***Alternative 1 was not chosen as the selected alternative because:***

- The current dispersed nature of non-automobile transportation facilities in central Edmonds, that makes transfers between the modes inconvenient and time-consuming, will continue and thus discourage use of non-automobile modes and diminish opportunities for transfers and connections between such modes.

- Routine loading and unloading of ferry vessels will continue to result in disruption of the normal flow of vehicles and pedestrians between downtown Edmonds and the waterfront. These conflicts will occur more frequently after a third ferry vessel is assigned to the Edmonds-Kingston route, and ferry headways are reduced from 40 to 30 minutes.

- Ferry loading and unloading will continue to be interrupted by trains moving along the Burlington Northern Sante Fe Railroad (BNSFRR) tracks. These conflicts will occur more frequently as commuter rail service and other train traffic increases.

- The single ferry mooring slip is inadequate to serve current peak travel demands, limits operational flexibility, and creates difficulty in adhering to ferry schedules.

- The capacity of the vehicle loading area is insufficient to accommodate the efficient loading of vehicles onto the ferry. During peak traffic periods, vehicles queue along SR 104, creating congestion and safety concerns and reducing the capacity of the state highway.

- During ferry loading and unloading, non-ferry traffic and access to local businesses will continue to be interrupted.

- Resulting conditions will limit the City's ability to achieve planning goals by making it difficult to move between the downtown and waterfront, minimizing the value of the shoreline as a public resource and amenity, and adversely affecting the potential for redevelopment.

- The number of accidents will likely increase, particularly at the at-grade railroad crossing at Main Street, with the addition of a third ferry vessel and in the absence of improvements.

**Modified Alternative 2 – Point Edwards (Selected Alternative)**

This alternative proposes to relocate the ferry terminal and develop the multi-modal center at Point Edwards, approximately 0.66 mile south of the Main Street terminal. Realigning SR 104 to the west from its current intersection at Pine Street will provide access to, and, egress from the proposed complex. The realigned SR 104 will traverse along the lower portion of the bluff within the existing UNOCAL property, cross over the BNSFRR tracks, and begin an approximate three (3) percent decline toward the end of the ferry pier along the southern edge of the Port of Edmonds southern breakwater. Realigned SR 104 would meet appropriate WSDOT design standards including ADA compliant pedestrian facilities. West of the railroad tracks, the pier will be high enough above the existing ground level to allow for continued use of Port of Edmonds and Marina Beach Park activities beneath. The holding lanes between the Pine Street intersection and the toll booths, and between the toll booths and the end of the ferry pier, will hold up to 820 waiting vehicles during peak ferry travel periods, thus eliminating the need for vehicles to queue along the side of SR 104 south of Pine Street. The multi-modal center will be located in the lower yard of the existing UNOCAL property. The center will include a new railroad station with two loading platforms that will straddle double tracks, a bus terminal to accommodate up to two (10 at full buildout) standard 40 foot buses and six (6) to seven (7) various sized buses, a 460-space parking garage to accommodate park-and-ride and overnight commuters, a 90-space short-term parking lot, and 120 spaces for commuter rail passengers. An ADA-compliant, weather-protected walkway will accommodate pedestrian movement between the multimodal center and the ferry terminal.

At full buildout, the existing Main Street pier will be demolished for park development at the site and eelgrass restoration.

***Modified Alternative 2 was chosen as the Selected Alternative because it is the most desirable in terms of balancing functional efficiency and environmental, social, and economic impacts.***

- It best addresses the Purpose of and Need for the project by shifting both ferry and multimodal center traffic farther from the Edmonds downtown, thereby reducing congestion and improving air quality, and enabling the City of Edmonds to integrate the downtown core with the waterfront and improve public access to the shoreline.

- In addition to best meeting the Purpose and Need, Modified Alternative 2 will result in less substantial impacts to the surrounding biological and physical environment, when compared to the other build alternative (Alternative 3) including:
  - Less new impervious surface area;
  - Less pollutant loadings;
  - No impact to eelgrass and less impact to macroalgae habitat;
  - Less impact to wetlands and wetland buffers;
  - Less impact to upland forest habitat;
  - Less impact to shoreline parks;
  - No residential and business displacements;
  - Less impact to Port of Edmonds property; and
  - Lower cost.
- Modified Alternative 2 is identified as the preferred alternative by public entities with or representing jurisdiction of the project area:
  - The Project Technical Advisory Committee and the Project Oversight Committee in December 2002.
  - The Port of Edmonds passed a supporting resolution in March 2003.
  - The affected tribes.
  - The SAC concurred with the selection of Modified Alternative 2 as the preferred alternative in May of 2004.

**Alternative 3 – Mid Waterfront**

Alternative 3 proposed to relocate the ferry terminal and develop the multimodal center at a site roughly one-third of the way between the existing Main Street terminal and the Point Edwards site (Modified Alternative 2). Like Modified Alternative 2, access to the proposed ferry terminal would be provided by the realignment of SR 104 to the west from its current intersection at Pine Street. The realigned SR 104 would traverse along the lower portion of the bluff within the existing UNOCAL property, cross over the BNSFRR track, descend to ground level, run parallel to and west of the railroad tracks, and extend to a ferry pier immediately north of the Port of Edmonds northern breakwater. The holding lanes, between the Pine Street intersection and the end of the ferry pier, could hold up to 810 waiting vehicles during peak ferry travel periods, thus eliminating the need for vehicles to queue along the side of SR 104 south of Pine Street. The multimodal center would be located

adjacent to the BNSFRR tracks, north of Dayton Street, west of Edmonds Way, and south of James Street. Primary access for vehicles and buses would be on Dayton Street. The center would include a new railroad station with two loading platforms that would straddle double tracks, a bus terminal, a 490-space parking garage to accommodate park-and-ride and overnight commuters, and short-term parking. An overhead, ADA-compliant, pedestrian walkway would interconnect the parking garage, rail platforms, and the ferry terminal. To facilitate traffic movement along Dayton Street and to provide access to the Port of Edmonds, Dayton Street would be reconstructed under the railroad tracks and the ferry staging/egress roadway.

At full-buildout, the existing Main Street pier will be demolished for park development at the site and eelgrass restoration.

***Alternative 3 was not chosen as the selected alternative because:***

- It would have a similar effect as the No Action Alternative in separating the Edmonds downtown from the Waterfront.
- Buses and vehicles bound for the multimodal center would still need to travel through the downtown area, thus precluding the congestion-reduction benefits of the Selected Alternative.
- It would have more substantial impacts to the surrounding biological and physical environment, when compared to Modified Alternative 2 including:
  - Approximately 0.8 acre of eelgrass lost and 9 times more macroalgae loss;
  - Greater wetland and wetland buffer impacts;
  - Greater impact to upland forest habitat;
  - Would bisect Olympic Beach Park into two smaller sections;
  - Would result in the displacement of 3 single-family residences and 24 businesses;
  - Would require acquisition of 5 acres of Port Edmonds property between Admiral Way and BNSFRR tracks; and
  - Would cost $5 million more than the Selected Alternative.

## Measures to Minimize Harm

The following is a summary of mitigation measures and commitments imposed under this ROD for the Selected Alternative. This summary is provided to facilitate monitoring implementation of the mitigation measures and to give a sense of the nature of the mitigation actions and

associated impacts. The impacts and mitigation actions are described in more detail in the Final EIS, and incorporated herein by reference.

The Selected Alternative incorporates all practicable measures to minimize environmental harm. Implementation of the selected alternative includes all mitigation measures identified in Chapter 4 of the Final EIS, which are herein incorporated by reference. All mitigation measures or commitments identified in the Final EIS, or as amended in this ROD, are material conditions of this ROD and will be incorporated into any funding agreement that FTA or FHWA may award to WSDOT or the City of Edmonds for this project. FTA and FHWA find that with the accomplishment of these mitigation commitments, WSDOT will have taken all reasonable, prudent and feasible means to avoid or minimize impacts from the preferred alternative.

In addition to implementing these mitigation measures, WSF will develop and implement an appropriate long-term mitigation-monitoring program sufficient to achieve the mitigation measures required by this ROD, and as required by permitting agencies. WSF will submit information to FTA assuring compliance with ROD mitigation quarterly.

## *Mitigation Measures:*

### Air Quality

- Air quality regulations in Snohomish County will be adhered to, including those for controlling fugitive dust (Regulation 1, Section 9.15). (Page 4-183.)
- Although not stated specifically in the Final EIS, it is assumed that WSDOT will follow their normal standard procedures for Air Quality control during construction unless more stringent measures are required by Snohomish County regulations.

### Noise

- Construction operations will be conducted from 7:00 A.M. to 10:00 P.M. on weekdays and from 10:00 A.M. to 6:00 P.M. on weekends. If work is to be performed during nonexempt hours, a noise variance will be required from the local municipalities. (Pages 4-185 and 4-186.)
- All construction activities shall be in compliance with the Edmonds City Code, Chapter 5.30, and the Town of Woodway Code, Chapter 7.28. (Page 4-186.)

### Energy

- During construction vehicles and equipment will be turned off during periods of nonuse rather than idling. (Page 4-188.)
- Materials from demolished structures (such as asphalt, concrete, metal, and wood) would be recycled and/or reused. (Page 4-188.)

### Geology and Soils

- Native vegetation will be established to decrease erosion from surface runoff. (Page 4-21 and 4-192.)
- BMPs will be implemented during and after construction until site vegetation has been reestablished, (Page 4-21.)
- During construction, water quality will be monitored by WSDOT to ensure compliance with Ecology standards. (Page 4-21.)
- A detailed Erosion and Sedimentation Control Plan will be included as part of the contract specifications. (Page 4-192.)
- The project will be designed so that stability of the slopes will be maintained or increased. (Page 4-192.)
- A geotechnical study will be conducted as part of the design phase. The study will determine specific recommendations for subgrade preparation, roadway embankments, cut and fill, foundation design, retaining structures, mechanically stabilized earth walls, dewatering measures and long-term groundwater seepage control, and erosion control for approval by regulatory agencies. (Page 4-192-193.)
- Where groundwater seepage would be expected to occur in cuts into the hillside, the seepage will be directed away from the cut using cutoff or interceptor drains. (Page 4-193.)

### Waterways and Hydrological Systems

- Site runoff will be conveyed in the existing Willow Creek culvert, which would otherwise be abandoned once the new stream channel is constructed. (Page 4-37.)
- The proposed modifications to the Willow Creek channel adjacent to and downstream of the BNSFRR will include bank stabilization features, and will also provide greater flow conveyance capacity than the existing Willow creek culvert. (Page 4-39.)

- Hydraulic analyses will be conducted during the final design phase of the project to ensure that the proposed improvements will not adversely affect the conveyance capacity of local drainage systems. (Page 4-39.)

- Porous paving materials will be used where feasible to reduce the extent of runoff generated on the site. (Page 4-39.)

- Impervious surfaces, such as parking areas, buildings, and walkways, will be located as much as possible in areas where they will replace (or overlie) existing impervious surfaces or hard-packed gravel and earth. (Page 4-39.)

- The offshore floating breakwater will be designed to reduce wave heights from the strong winds from the south quadrant by at least one-half. (Page 4-39.)

- The Erosion and Sediment Control plan and the Stormwater Pollution Prevention plan will include details on site locations where certain BMP's are to be applied (Page 4-198.)

- Measures in the Erosion and Sediment Control plan and the Stormwater Pollution Prevention plan will be implemented to minimize quantities of off-site sediment transport and will include the following: (Page 4-199.)

  - WSDOT will assign one (1) or two (2) individuals to maintain and enforce erosion control measures;
  - Mark existing storm drain inlets and catch basins on the site prior to clearing and grading, and protect these inlets with filtration inserts or removable covers;
  - Establish parking and maintenance areas for vehicles and equipment as far from Willow Creek and Edmonds Marsh as possible, and away from storm drain inlets.
  - Cover the established parking and maintenance areas with gravel or other material to prevent erosion of underlying soil;
  - Limit construction site access roads to the absolute minimum necessary to reduce the extent of sediment tracked offsite.
  - Equip exit points from the site with a tire wash over a gravel pad, for use on all vehicles exiting the site.
  - Sweep regularly on SR 104 and other heavily used access roads during periods when excavation and backfill materials are transported on and off the site;

- Minimize the removal of vegetation wherever possible, and maintain vegetated buffers along the south edge of Edmonds Marsh;
- Revegetate areas of bare soil as soon as possible;
- Cover stockpiles of soil; and
- Inspect upon completion of construction activities, downstream conveyance systems and new stream channel culverts for evidence of sediment deposition, and remove accumulated materials as necessary.

- The permanent stormwater pond proposed on what is currently the UNOCAL site will be used as a large sedimentation pond for effective removal of eroded sediments in site runoff. (Page 4-199.)
- Following construction, the pond will be converted into a permanent water quality treatment facility without much difficulty. (Page 4-199.)
- In addition to the mitigation measures listed for full build-out, the following mitigation measures will be taken for a phased construction approach: (Page 4-200.)
  - Document problem areas identified and solutions developed during Phase 1 construction; and
  - Develop a plan to use permanent stormwater pond facilities for temporary sediment trapping that allows part of the pond area(s) to function for continuous treatment of runoff from Phase 1 facilities, while part of the area(s) serves as a sedimentation pond for subsequent construction.

**Water Quality**

- Project design will seek to incorporate low-impact development measures wherever feasible (e.g., bioretention systems and porous pavement) to help treat stormwater runoff and reduce the incidence of runoff. (Page 4-48.)
- Pollutant source control measures (BMPs) will be used during construction. (Pages 4-53.)
- Pollutant source control measures (BMPs) to be implemented during long-term operations and maintenance include the following: (Page 4-54)
  - Prepare a spill prevention, response, and containment plan for the multimodal terminal;

- Sweep clean traction and deicing materials from all affected areas as soon as it is safe to do so to reduce the amount of solids carried into the storm drainage system during wet seasons;
- Inspect all of the on-site stormwater treatment facilities in accordance with Ecology guidelines;
- Remove debris from treatment pond/outflow structures,
- Maintain healthy, non-invasive or noxious vegetation in aboveground treatment systems,
- Remove accumulated sediments in treatment systems;
- Clean underground catch basins frequently in accordance with current Ecology guidelines;
- Handle and dispose of sediments removed from treatment systems according to applicable local regulations;
- Sweep parking areas and material storage areas with a high efficiency or regenerative-air sweeper at least twice per month in the wet season, and at least once per month in the dry season;
- Post signs to remind ferry passengers to avoid littering and to avoid performing vehicle maintenance work in multimodal center areas;
- Develop and implement additional BMP's once the multimodal facilities are operating from the collaborative effort among operations and maintenance personnel with intimate knowledge of the facilities and potential pollution problems.

- The following measures will be taken to improve protection of surface-water quality: (Page 4-205.)
  - Stock cleanup materials for spills in the designated equipment parking area(s);
  - Provide designated disposal facilities (separately) for waste oil, ordinary garbage, and contaminated materials such as used engine parts;
  - Use mechanical methods of clearing vegetation rather than applying herbicides; and
  - Cleared vegetation will be recycled on the site for use as mulch in areas of bare soil. If vegetation contains purple loosestrife or other invasive species, the material will be bagged and moved offsite, and approved mulch material will be applied to the site.
- Mitigation measures for in-water construction activities on the Puget Sound shoreline will include the following: (Pages 4-205 and 4-206.)

- Before demolition of the existing UNOCAL pier and part of the existing ferry pier, develop a plan in consultation with the representatives of DOE and the WDFW for appropriate BMP's to prevent water quality impacts;
- Avoid or minimize the disturbance of marine sediments during ferry dock construction by using a four-point mooring construction barge that will minimize the use of tugboats;
- During new dock construction, store toxic materials such as paints, lubricants, oil, coatings, and solvents in a protected onshore location to minimize the potential for accidental spills in the water; and
- Prepare a Spill Prevention, Control and Countermeasures (SPCC) pan for construction work in and adjacent to the waterfront.
- Develop a dewatering plan for the UNOCAL site, which includes engineering controls to prevent withdrawal of existing contaminated groundwater beneath the Harbor Square development.

- In addition to the mitigation measures listed for full buildout, the following mitigation measures will be taken for a phased construction approach: (Page 4-206.)
  - Document problem areas identified and solutions developed during Phase 1 construction;
  - Develop a plan for a combination stormwater pond facility that allows part of the pond area to function as a wet pond or wetland for continuous treatment of Phase 1 facilities, while part of the area is set aside to serve as a sedimentation pond for subsequent construction;
  - Design stormwater management systems to ensure that adequate conveyance and treatment is provided for all Phase 1 facilities, while reserving capacity for runoff from additional areas developed as part of full build-out; and
  - Plan and design stormwater treatment facilities for eventual expansion rather than replacing, totally redesigning, or duplicating them for full build-out.

**Wetlands**

- Where impacts to wetlands and buffers are unavoidable, WSDOT will use the following measures:
  - Delineate and verify with the Corps of Engineers all wetland boundaries within the project area. (Page 4-60.) Enhance the

disturbed/fill area to the east of the stormwater pond by excavating the fill material, removing exotic species, and planting with native wetland species to provide additional wetland and wetland buffer area. (Page 4-60.)

- Enhance wetland and stream buffer vegetation along Edmonds Marsh, the drainage channel, and the daylighted portion of Willow Creek by planting desirable native species, removing nonnative invasive species, and placing snags and large woody debris. (Page 4-60.)
- Prepare a final mitigation plan during the Corps Section 404 permitting process for impacts to wetlands. The final mitigation plan will include landscape drawings, plant specifications, and a monitoring and maintenance plan. (Page 4-60.)
- Remove non-native species from the marsh and its buffer prior to construction. (Page 4-208.)
- Create a new tidal emergent wetland in the new daylighted section of Willow Creek, with a net gain of 0.57 acre, to mitigate for impact to tidal emergent wetland associated with the daylighting and relocation of the creek. (Page 4-208.)
- Flag or stake wetlands and wetland buffers before construction so that activities within these areas can be avoided. (Page 4-81 and 4-213.)
- Prohibit storage of all machinery, materials, stockpiled soils, and construction activity in wetlands/wetland buffer and shoreline areas. (Page 4-81 and 4-213.)
- Revegetate cleared upland areas as soon as possible after final grading to minimize erosion and sedimentation impacts. (Page 4-213.)
- Maintain existing wetland hydrology during construction as far as practical. (Page 4-213.)
- Runoff from any disturbed area will be conveyed to sediment ponds or interception ditches prior to introduction to wetland areas. (Page 4-213.)

**Vegetation, Fish, and Wildlife**

*Vegetation*

- Long-term design–related measures will include:
  - Avoid the introduction of nonnative invasive species, and remove established invasive plants, where practical. (Page 4-77.) Plant

mostly native shrubs and trees along the margins of the realigned SR 104 to mitigate, in part, for the loss of forested habitat associated with construction and to buffer surrounding habitats from human activity and glare associated with operation of the new multimodal center facility. (Page 4-77.)

- Replace snags and other woody debris within the riparian and wetland buffers, and plant native species of trees and shrubs to enhance the vegetative complexity of the habitat, as soon as possible following construction. (Place 4-77.)
- Landscaped areas will include trees, and unforested disturbed area between the Edmonds Marsh and the terminal access road will be forested. (Page 4-66.)
- Minimize areas to be cleared and clearly mark clearing limits prior to commencement of construction. (Page 4-221.)
- Revegetate disturbed areas with native vegetation as soon as practical following final grading. (Page 4-221.)

*Fisheries*

- Impact mitigation measures will include:
  - Remove Creosote-treated pilings during demolition of the UNOCAL and existing ferry terminal piers. (Page 4-77.) Wooden portion of the existing ferry pier will be dismantled and removed. (Page 4-77.)
  - Restore the shoreline and subtidal areas offshore to -30 feet mean lower low water (MLLW) at the existing terminal to its natural slope and contours with fill material suitable for eelgrass. Eelgrass will be planted over an area of 2.6 acres. (Page 4-77.)
  - Restore the reach of lower Willow Creek adjacent to the stormwater treatment pond, which will not be impacted by the project, from its present highly degraded condition. The channel will be made to meander slightly, and receive the full treatment described for the new channel section. (Page 4-78.)
  - Place interpretive signs throughout the terminal, which explain the improvements made to the salmon habitat and the uniqueness of the salt marsh to central Puget Sound. (Page 4-78.)
  - Place interpretive signs on the pier explaining the unique design of the pier. (Page 4-78.)
  - Conduct a study to investigate and evaluate the effects of ferry operations, if any, on under-pier salmon passage at the new terminal. The study design will be developed in collaboration with the jurisdictional agencies and tribal representatives. (Page 4-78.)

- Rebuild the culvert at Pine Street to restore salmon passage. The design will be a bottomless arch with a simulated stream channel configuration consistent with WDFW's *Fish Passage Design Manual* (2000). (Page 4-78.)
- Paint the underside of the ferry pier with reflective paint to take full advantage of light reflected upwards from the water at the underside of the decks. The wide spacing of pilings will allow for better light penetration and provides a lowered degree of obstruction to longshore drift. (Page 4-78.)
- Design stormwater treatment for 100 percent of the project surface area to discharge directly into the Puget Sound. (Page 4-81.)
- Maintain existing wetland hydrology during construction; runoff will be conveyed from all disturbed areas to sediment ponds or interception ditches prior to introduction to wetland areas. (Page 4-81.)
- Remove the riprap shoreline under the pier as part of the UNOCAL pier removal. The shoreline will then be pulled back and restored to match the contours of the adjacent shorelines. (Page 4-81.)
- Re-establish macroalgae beds in the nearshore area currently barren due to propeller-wash scour at depths beyond that of the eelgrass plantings. This will start at –30 feet MLLW contour extending out to –50 feet MLLW and covering an area of approximately 3.8 acres. A decision will be made whether or not to use cobble stone augmentation during the HPA permit process. (Page 4-81.)
- Incorporate all appropriate channel habitat enhancement features, such as large woody debris, boulder placements, and riparian vegetation planting, into the newly built Willow Creek stream channel. Riparian plantings will be made using native species and maintained promoting over-water cover. (Page 4-81.)
- Convert the existing outlet culvert for Willow Creek for subsequent use as the terminal's stormwater outfall. (Page 4-82.)
- Restore salt marsh function to the Edmonds Marsh by opening up the restrictive culvert. (Page 4-82.)
- Use the best available technology for underwater sound intensity reduction during pile driving. (Page 4-221.)
- Have a fisheries biologist present at the construction site when initial pile driving is commenced for each class of piles to conduct hydroacoustic monitoring. (Pages 4-221 and 4-222.)
- Conduct work within approved work windows to minimize the number of salmonids from coming in contact with construction

activities. The in-water work will be restricted to the period between July 16 and February 15. In-water work in Willow Creek will be restricted to the period between July 1 and September 30. (Page 4-222.)

*Wildlife*

- Wildlife is dependent upon on-site vegetation communities. Measures to mitigate impacts to revegetation will minimize impacts to wildlife. These measures include:
  - Use an oversized, bottomless culvert for the Pine Street overcrossing of Willow Creek. (Pages 4-85 and 4-86.)
  - Plant along the southern forested edges of Edmonds Marsh:
    - Wetland buffer vegetation with black cottonwood and Douglas fir trees to provide visual screening as well as additional roosting and nesting habitat. (Page 4-86 and 4-221.)
    - Install a fence along the terminal access road to limit access to this area by humans and pets. (Page 4-86 and 4-221.)
    - Mitigate impacts associated with human activity and glare using connected vegetated buffers along roads, parking areas, and terminal areas. (Page 4-86.)
    - Plant buffers densely with a variety of native evergreen species. (Page 4-86.)
  - Add educational signage describing nesting heron habits at the viewing platform on the north edge of the Edmonds Marsh. (Page 4-86.)
  - Plant the unforested area between the terminal access road and the Edmonds Marsh with Douglas fir trees and black cottonwoods following soil improvement and installation of a supplemental watering system. (Page 4-221.)
  - Also see additional mitigation measures provided as the resource agencies' terms and conditions under the Endangered Species Act finding hereinafter.

**Land Use**

- Property owners whose land may be acquired will be entitled to relocation assistance and compensation at fair market value. (Pages 4-101, 4-118, and 4-119.)
- WSDOT will coordinate with local planning agencies to identify potential modifications to comprehensive plans, zoning regulations, or capital facilities plans that would strengthen local planning

mechanisms to direct appropriate growth in the affected areas. (Page 4-101.)

- Permits and approvals will be acquired to ensure that the project is consistent with local comprehensive plans, zoning ordinances, and other applicable regulations. (Page 4-223.)

### Social

- All areas within Marina Beach Park disturbed during construction will be returned to pre-construction condition and usability. (Page 4-227.)
- Acquired parkland will be replaced with property of equal fair market values and recreational utility. Replacement land will be found in the informal recreational area south of Marina Beach Park. The replacement land will be integrated with the existing park. Interpretive signs will be installed within the larger park and along the daylighted sections of Willow Creek. The signs will describe the cultural history of the site, specifically tribes' traditional use of the area; natural resource features, possibly including tribes' traditional uses of native plants still growing in the area; and the role of the creek in salmon survival. (Page 4-132.)
- WSDOT will encourage provision of onsite recycling programs and onsite collection programs at the multimodal center for recyclable materials such as paper, cardboard, and glass. (Page 4-133.)
- WSDOT will coordinate with project-area water, stormwater, and sewer districts on potential relocations of mains, trunk lines, and other facilities. (Page 4-227.)
- WSDOT will mitigate crossing of overhead and underground transmission and distribution lines as follows: (Page 4-227.)
  - Replace wood transmission poles, as necessary, with tall steel poles to provide adequate roadway clearance; and
  - Coordinate with Snohomish County Public Utility District No. 1 on the locations of new transmission poles or subsurface lines to ensure that required transmission and distribution line relocations do not result in service interruptions.
- WSDOT will coordinate with Puget Sound Energy regarding the placement of cul-de-sacs and street undercuts, if necessary, and construction methods that would be least disruptive to customer service. (Page 4-227.)
- Crossings of gas pipelines will meet Puget Sound Energy standards for protection of pipelines. (Page 4-227.)

- WSDOT will work with Verizon Communications and Comcast to advise them in advance of the need to relocate trunk and distribution lines along and within the areas of proposed right of way.
- Coordination efforts will occur sufficiently in advance of construction to minimize any disruption in telephone or cable television service in the affected area. (Page 4-227.)

### Economics

- Signs and information about bus service from the multimodal center to the downtown/waterfront area will be posted to encourage passengers to travel downtown. (Page 4-148.)
- Access to businesses throughout the construction period will be maintained through careful planning of construction activities and maintenance of access during business hours. As part of construction management, access mitigation measures will be prepared and included in the contract specifications for the general contractor (Page 4-233.)
- Appropriate signs will be provided to communicate information, such as whether a business is open or how to get to the business (Page 4-233.)
- Daytime street closures will be minimized (Page 4-233.)

### Cultural Resources

- Although archaeological site 45-SN-310 will be unaffected by the project, any indirect effects on the site resulting from introduction of construction crews into the area will be mitigated by designating the area around the site as an "environmentally sensitive area" and restricting access to this area. (Page 4-235.)
- Archaeological monitoring of construction will be carried out in accordance with a Discovery Contingency Plan to be developed prior to construction. If historic archaeological sites are detected during construction, testing will be required to evaluate their National Register eligibility status. A draft Discovery Contingency Plan is located in the *Presence/Absence Testing for Archaeological Resources* Appendix D. (Page 4-235.)
- If previously undiscovered archaeological remains are encountered during construction activities, all work within 25 feet of the find will temporarily halt and the Office of Archeology and Historic Preservation (OAHP) will be notified immediately in accordance with R.C.W. 27.53.020 (Archaeological Resource Protection). In addition,

because the project includes road construction, Section 00170.50 of the Standard Specifications for Highway Construction requires the contractor to cease work immediately at the site of a discovery and to avoid further damages to the resources at the site. The contractor will notify WSDOT personnel, who, in turn, will contact the FHWA, FTA, OAHP, City of Edmonds and the affected Tribes. (Page 4-236.)

- If any human skeletal remains are discovered during construction, all work in the affected discovery area will stop, and appropriate agencies will immediately be notified (Medical Examiner, WSDOT, FHWA, FTA, and OAHP). The City of Edmonds and the affected Tribes would also be notified. If the remains are suspected to be of Native American origin, appropriate authorities will include OAHP and tribal authorities (in accordance with R.C.W. 27.44.040, Protection of Indian Graves). (Page 4-236.)

- During the project's final design stage and prior to the start of construction, WSF, FHWA, FTA, and the Army Corps of Engineers Cultural Resources Department, and the tribal parties, in coordination with the State Historic Preservation Office, will jointly develop a cultural resources protocol, to include but not limited to, appropriate pre-construction surveying and a protocol for addressing inadvertent discoveries during the construction of the project. This surveying and protocol shall be reflected in a Memorandum of Agreement (protocol MOA) executed by the parties

### Tribal Fishing

Based on comments received from the Suquamish, Tulalip, and Swinomish Tribes and the Lummi Nation, and extensive government-to-government coordination between circulation of the Draft EIS and issue of the Final EIS facilitated by the WSDOT Tribal Liaison Office, Modified Alternative 2 was developed to avoid impacts to the Usual and Accustomed fishing area at the north end of SMA 10.[2] In order to minimize potential effects to the Tribal treaty rights of the affected Tribes, WSF has agreed to enter into a tribal treaty fishing rights Memorandum of Agreement (tribal fishing MOA) with the City of Edmonds and the affected tribes to provide specific mitigation measures as described herein.

- Prior to or at the time the design and engineering of the Project is completed, WSF and the tribal parties will commence discussions to develop an Operating Protocol that seeks to coordinate ferry operations and tribal fishing activities consistent with Tribal treaty rights and with WSF safety, security, and other operational

[2] **During the government-to-government coordination process, the north end of SMA 10 was determined not to be the Usual and Accustomed fishing area for the Port Gamble S'Klallam, and the Tribe was not included as a party to the tribal treaty fishing rights MOA.**

requirements. The Parties shall establish an Operating Protocol by the commencement of construction of the Project. If this is not achieved, then the outstanding issues associated with establishing such a protocol shall be subject to mediation as will be provided in the Protocol MOA.

- Under the terms and conditions provided by the Tribal Fishing MOA, within 60 days of construction commencement, WSF will provide $5,000,000 of non-federal funds to be distributed among the four Tribes in the manner described therein. The payment is intended to mitigate or otherwise compensate for the effects of the project construction, and ferry operations on the continuing exercise of treaty fishing rights at and in the vicinity of the project. After all necessary federal, state and local regulatory approvals and funding of the project are received; payment will be made to the Tribes.

- The Tribal Fishing MOA will further provide that the funds will finance projects and activities intended to (1) restore or enhance the fishery resources in the project area; (2) undertake research or monitoring activities related to these fishery resources and their habitat; or (3) address the effects of the project on fishery or related cultural or community programs of the Tribes.

- The Tribal Fishing MOA will further provide that during the early portion of the in-water work window, structural elements located on the south side of the SMA 9/10 boundary will be constructed. Construction activity and associated barges will then be shifted to the north side of the terminal during tribal salmon fishery. In this way, all construction vessels will be on the SMA 9 side of the boundary and out of the way while fishing was conducted on the SMA 10 side. (Page 4-236.)

- The Tribal Fishing MOA will further provide that pile driving will be conducted during the day to avoid conflicts with nighttime gillnet fishing. (Page 4-236.)

### Hazardous Waste

- A SPCC Plan to use during construction, and in routine operation and maintenance will be adopted. (4-159 and 4-245.)

- Any long-term on-site treatment of contamination will not be allowed to pose a risk to public health or the environment. Routine monitoring will be required to assure no risk. (Page 4-159.)

- The project will be designed in a manner to avoid areas of known and unacceptable levels of contamination and, if avoidance is not possible, remedial measures will be incorporated into the project design that are protective of human health and the environment. (Page 4-159.)

- Buildings or structures to be demolished will be evaluated for the presence of asbestos-containing materials, lead-based paint (LBP), or other regulated materials (e.g., polychlorinated biphenyls [PCBs]).
- If any are identified, the materials will be abated or removed before demolition activities begin. (Page 4-244.)
- Applicable regulations pertaining to the handling and disposal of hazardous materials will be followed. (Page 4-244.)
- Prior to property acquisition, due diligence reviews will be conducted in accordance with WSDOT and USDOT procedures. (Page 4-244.)
- Undocumented underground storage tanks (UST's) and fuel lines will be identified before construction. (Page 4-244.)
- UST's located within the project site will be decommissioned and properly removed before general construction activities begin. (Page 4-244.)
- When relocating electrical utilities, electrical transformer oil will be handled and disposed of properly according to applicable regulations to avoid a release or accidental spill during the relocation of transformers. (Page 4-244.)
- If transformer oils encountered have not been certified as PCB-free, testing will be done. (Page 4-244.)
- Construction activities will be phased to follow cleanup activities. For specific areas where clean up is not confirmed, construction activities will be phased to avoid those areas by communication with responsible parties and the regulatory agencies to coordinate schedules to lessen environmental impacts (Page 4-244.)
- Coordination with liable parties from which cleanup costs may later be recovered will take place during design. (Page 4-244.)
- In areas near or over where contamination may still be present (e.g., offshore sediments, groundwater in the subsurface) that cannot be avoided, construction techniques to minimize disturbance to the subsurface and prevent the transport of contaminants to uncontaminated areas and to surface water will be implemented. (Page 4-244.)
- Sediments that are removed during construction will be tested to confirm the sediment quality. If contaminated sediment is encountered, WSDOT will follow regulatory requirements and Puget Sound Protocols and will work jointly with all interested agencies. (Page 4-244 and 4-245.)
- A comprehensive hazardous substance contingency and management plan and a worker health and safety plan will be prepared to minimize the effects of identified and unanticipated hazardous substance impacts

from contaminated soil, groundwater, and sediment. Protecting nearby residential and business areas will be addressed in this plan. (Page 4-245.)

- If previously undiscovered contamination is encountered during construction, state and federal response agencies will be notified as specified in state and federal regulations, and an appropriate investigation and possible cleanup will be coordinated. (Page 4-245.)
- The selected construction contractor(s) will be required to follow Washington State Storm Water Best Management Practices, applicable regulations, and specifications to protect against hazardous material spills from routine equipment operation during construction. (Page 4-245.)
- The construction contractor will maintain a current SPCC plan and will designate an individual on site as an emergency coordinator. (Page 4-245.)
- The contractor will be familiar with proper hazardous material storage and handling and know emergency procedures, including proper spill notification and response requirements. (Page 4-245.)

### Visual Quality

- The color scheme of the structures on top of the piers, including the overhead walkway, will be largely colors that are consistent with existing waterfront development, marine environment, and scenic landscape features visible beyond the terminal, such as the Olympic Mountains. (Page 4-180.)
- Vegetation, in keeping with the character of the surrounding area, will be placed at the base of the ferry pier's concrete supports. (Page 4-180.)
- Landscaping similar to the more natural character of the hillside will be planted along the access roadway. (Page 4-180.)
- Landscape design will emulate the vegetation types found in Edmonds Marsh and along the hillside. (Page 4-181.)
- The forms, materials, details, and colors of the multimodal center's architecture will be compatible with the general area context, including the waterfront and existing Edmonds development. (Page 4-181.)
- The overhead walkway enclosure will consist of translucent materials to reduce the obtrusiveness of the structure. (Page 4-180.)
- The Phase 1 surface parking lots at the multimodal center will be screened with landscaping. (Page 4-181.)

- Visual impacts during construction will be reduced by locating material and equipment storage in areas that are not prominent. (Page 4-246.)

# Determinations and Findings

The environmental record for the SR 104, Edmonds Crossing project includes the previously referenced Draft and Final Environmental Impact Statements, Re-evaluation and Section 4(f) Evaluations (February 1998 and November 2004, respectively). These documents, incorporated here by reference, constitute the statements required by NEPA and 49 U.S.C. Section 5324 (b) on:

- The environmental impacts of the project;
- The adverse environmental effects that cannot be avoided should the project be implemented;
- Alternatives to the proposed project; and
- Irreversible and irretrievable impacts on the environment that may be involved with the project should it be implemented.

Having carefully considered the environmental record noted above, the mitigation measures as required herein, the written and oral comments offered by other agencies and the public on this record, and the written responses to the comments, the FHWA and FTA have determined in accordance with U.S.C. Section 5324 (b) that adequate opportunity was offered for the presentation of views by all parties with a significant economic, social or environmental interest, and fair consideration has been given to the preservation and enhancement of the environment and to the interests of the communities in which the project is located; and all reasonable steps have been taken to minimize adverse environmental effects of the proposed project; and, where adverse effects remain, there exists no feasible and prudent alternative to avoid or further mitigate such effects.

## Environmental Justice

An analysis of Environmental Justice is included in Appendix G of the Final EIS. This analysis focused on the locations of potential impacts and examined the racial and income characteristics of the populations affected by these potential impacts. The percentage of minority and percentage of

low-income population residing in the study area was determined based on data from the 2000 U.S. Census using a Geographic Information System (GIS) on Census Block and Block Group maps. Public outreach was conducted with business owners to supplement the Census data.

The four points below summarize findings of the Environmental Justice analysis:

1. Through the implementation of effective mitigation measures the variety of environmental impacts sustained by the Edmonds Crossing project will be reduced or eliminated.
2. With exception of potential impacts to tribal fishing (Page 4-151), the project will not result in adverse effects predominantly borne by minority or low-income populations as indicated by the low percentages in Table G-1, Census data analysis and as reflected in the results of business owner interviews.
3. The project will generate a series of transportation benefits for the communities of Edmonds and Kingston, and the general traveling public, including minority and low-income individuals:
   - Improved overall safety through revised traffic circulation patterns and removal of the at-grade railroad crossing.
   - Accommodation of most of the 2030 peak vehicle queues within the proposed onsite staging and holding areas, as opposed to existing vehicle queuing on the side of Edmonds Way.
   - Increased passenger operations capacity resulting from a slip design that would accommodate the use of new larger ferry vessels.
   - Improved ferry schedule adherence and operations redundancy resulting from the increased loading capacity and the three-slip ferry terminal design.
   - Better integration of ferry, bus, and train travel modes due to the design of the ferry terminal.
   - Better integration of the downtown Edmonds areas with the shoreline areas resulting from ferry traffic being routed away from downtown.
4. The project, and the potential Tribal fishing impacts, may uniquely affect a minority population. This potential impact was addressed by WSF through intensive coordination and consultation with the affected Tribes resulting in the development of the Selected Alternative, and proposed execution of a plan for mitigation of effects to Tribal treaty fishing within the MOA referenced above.

Consistent with Presidential Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income

Populations" (February 1994) and FHWA Order 6640.23, "FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (December 1998), the FHWA and FTA have concluded that, after the mitigation measures to minimize harm are implemented and consideration of the project's benefits, no high and adverse human health or environmental effects are expected to fall disproportionately on minority or low-income populations as a result of implementing the Selected Alternative.

## Conformity with Air Quality Plans

An analysis of air quality, conformity with the Federal Clean Air Act (42 U.S.C. 7506 (c)), and regional conformity with the State Implementation Plan (40 C.F.R. Part 93 and W.A.C. 173-420) is included in the Final EIS. Results are presented in the *Air Quality* section of the Final EIS. Based on public comment and FHWA policy that project conformity is demonstrated prior to issuance of the ROD on projects for which FHWA is a lead agency, a project-level conformity analysis update was performed in 2003 and is included in Chapter 4 of the Final EIS.

The conformity analysis was completed using the latest regional planning assumptions, including emissions factors and an analysis year consistent with those used in the Puget Sound Regional Council's (PSRC) Metropolitan Transportation Plan (MTP) adopted in 2001 (*Destination 2030*) and reevaluated in the 2004 Review and Progress Report. The proposed project is included in PSRC's current MTP and the 2003-2005 Regional Transportation Improvement Program (TIP) (October 24, 2002, as amended through PSRC Regional TIP Amendment 2003-01, and corrected through 01-21-03). The MTP, TIP, and the project meet all requirements of 40 C.F.R. Part 93 and W.A.C. 173-420, and thus conform to the Puget Sound Air Quality Maintenance Plans. The Selected Alternative will not cause any new or contribute to any existing regional exceedances of the National Ambient Air Quality Standards (NAAQS).

## Endangered Species Act (ESA)

USFWS and NOAA Fisheries were initially contacted in 1995, and communications continued through 2004. The Biological Assessment for the project was originally submitted in April 5 of 2001. A revised BA was submitted on June 13, 2003. Formal consultation under the Endangered Species Act (ESA) began on July 31, 2003. The Biological Opinion (BO) was issued on March 25, 2004, from NOAA Fisheries, and on August 30, 2004, by the USFWS. These documents are herein incorporated into this ROD by reference.

*U.S. Fish and Wildlife Service Terms and Conditions*

Rapidly changing terms and conditions for ESA may, at a later date, require the re-initiation of consultation for pile driving with the U.S. Fish and Wildlife Service (USFWS). The USFWS stated in the BO of August 30, 2004, that the following Reasonable and Prudent Measure (RPM) is necessary and appropriate to minimize the impact of incidental take to bull trout and marbled murrelets:

1. Minimize and monitor the extent of adverse impacts to bull trout and marbled murrelets resulting from pile driving.

In order to be exempt from the prohibitions of Section 9 of the Endangered Species Act, FHWA/FTA and the designated nonfederal representative, WSDOT, must comply with the following terms and conditions, which implement the RPM described above. These terms and conditions are nondiscretionary.

The following terms and conditions are required for the implementation of RPM and are incorporated into the mitigation measures required under this ROD:

1. Limit impact pile driving activities to the period between October 1 and February 16.

2. The FHWA/FTA and WSDOT shall ensure that a plan is developed and implemented for hydroacoustic monitoring of the peak and RMS sound pressure levels generated during impact driving of steel piles. This plan must be implemented if no bubble curtain is used. The plan will be developed collaboratively between the USFWS and FHWA/FTA and WSDOT. No monitoring or sound attenuation measures will be required for piles driven in the beach exposed at low tides, vibratory driving of any type of pile, or impact driving of wood or concrete piles. During hydroacoustic monitoring, the hydrophone shall be positioned at mid-depths, 10 meters distant from the pile being driven.

    i. If, based on hydroacoustic monitoring results, SPLs exceed 150 dB (re: 1 μPa) (0.032 KPa) for fewer than 50 percent of the impacts and never exceed 180 dB peak (re: 1 μPa) (1 KPa), pile driving may proceed without further restriction; or

    ii. If, based on hydroacoustic monitoring results, RMS SPLs exceed 150 dB (re: 1 μPa) (0.032 KPa) for 50 percent or more of the impacts, or peak pressures ever exceed 180 dB, pile driving may continue, but only with the use of a bubble curtain. The design of the bubble curtain shall be approved in advance by the USFWS.

3. Within 60 days of completing the hydroacoustic monitoring at any site, a report shall be submitted to the USFWS in Lacey, Washington

(attn: transportation liaison). The report shall include a description of the monitoring equipment and for each pile monitored, the peak and RMS sound pressure levels with or without a bubble curtain, the size of pile, the size of hammer and the impact force used to drive the pile, the depth the pile was driven, the depth of the water, the distance between hydrophone and pile, and the depth of the hydrophone.

4. The USFWS and FHWA/FTA and WSDOT shall collaborate to develop a plan for monitoring the extent of incidental take of marbled murrelets and bull trout. At a minimum the plan should include the following:

   i. Monitoring for behavioral changes of marbled murrelets during impact pile driving activities.

   ii. Monitoring for injured/dead fish or birds during impact pile driving activities,

   iii. The submittal of a summary report including behavioral observations of marbled murrelets before and during pile driving activities, the estimated distances from the pile driving activity, and the number and species of any injured or dead fish/birds that are observed and the estimated distances from the pile driving activity.

The USFWS is to be notified within three (3) working days upon locating a dead, injured, or sick endangered or threatened species. Initial notification must be made to the nearest USFWS Law Enforcement Office at (425) 883-8122, or the USFWS's Western Washington Fish and Wildlife Office at (360) 753-9440. Notification must include the date, time, precise location of the injured animal or carcass, and any other pertinent information. Care should be taken in handling sick or injured specimens to preserve biological materials in the best possible state for later analysis of cause of death. In conjunction with the care of sick or injured endangered or threatened species or preservation of biological materials from a dead animal, the finder has the responsibility to ensure that evidence associated with the specimen is not unnecessarily disturbed.

The USFWS expects that incidental take of bull trout and marbled murrelets will occur. The areas described above are considered by the USFWS to be marine foraging, migratory, and overwintering habitat for bull trout, and marine foraging habitat for marbled murrelets. The RPMs, with their implementing terms and conditions, are designed to minimize the impact of incidental take that might otherwise result from the proposed action. If, during the course of the action, this level of incidental take is exceeded, such incidental take represents new information requiring reinitiation of consultation and review of the RPMs provided. The FHWA/FTA and WSDOT must immediately provide an

explanation of the causes of the taking, and review with the USFWS the need for possible modification of the RPMs.

*NOAA Fisheries Terms and Conditions*

Reasonable and Prudent Measures: National Oceanic and Atmospheric Administration (NOAA) Fisheries believes that the following RPMs are necessary and appropriate to minimize incidental take of Puget Sound Chinook and are incorporated into the mitigation measures required under this ROD:

- RPM No. 1. The FHWA/FTA and WSDOT shall minimize take from water quality degradation.

- RPM No. 2. The FHWA/FTA and WSDOT shall minimize take from inwater sound during pile driving.

- RPM No. 3. The FHWA/FTA and WSDOT shall minimize take from stormwater runoff caused by additional impervious surface.

- RPM No. 4. The FHWA/FTA and WSDOT shall minimize take from disturbance of marine nearshore vegetation caused by the construction activities of the pier, removal of the UNOCAL Pier, removal of the existing ferry infrastructure, and rehabilitation of nearshore areas.

Terms and Conditions: To comply with ESA Section 7 and be exempt from the take prohibition of ESA Section 9, the FHWA, FTA, and WSDOT, or all, must comply with the terms and conditions that implement the reasonable and prudent measures. Those conservation measures described in the BA, and summarized in this Opinion are incorporated here by reference as terms and conditions of this Incidental Take Statement and are incorporated into the mitigation measures required under this ROD. The terms and conditions are nondiscretionary.

To implement RPM No. 1 above:

- The contractor will implement the Temporary Erosion and Sediment Control (TESC) plan as shown in the contract documents and construction drawings. The plan will be implemented before the start of any ground-disturbing activities. The plan will be based on the proponents' current BMP plans and will include appropriate measures such as silt fences, straw bale dikes, mulching, water bars, slope breakers, and/or the construction of detention and retention facilities to prevent erosion and the discharge of sediment. A plan will also include arrangements for cleaning the treatment facilities during the construction period should a large spill occur.

- For the period from November 1 through March 1, disturbed ground areas greater than 5,000 square feet that are left undisturbed for longer than 12 hours will be covered with mulch, sodding, or plastic sheeting,

A construction phasing plan will be provided to ensure that control measures are installed prior to clearing and grading. Clearing limits will be delineated, staked, and flagged. Disturbed areas along the roadway will be hydroseeded as soon as practical after construction has been completed.

- To minimize the potential for accidents that may result in direct effects to Puget Sound, the proponents or their agent will inform and educate all crewmembers and all onsite personnel to implement environmental precautions. The contractor will develop and adopt an SPCC plan. These precautions must include clearly marking the work area and following all applicable laws and permit conditions. To minimize the potential for accidents resulting in direct effects to surface-water quality, construction equipment will be fitted with emergency spill kits and construction crews will be trained in their proper use.

- Prior to operating near the shoreline, all heavy equipment operating within 300 feet of any open water shall be checked on a daily basis for potential hydraulic leaks or other mechanical problems that could result in the accidental discharge of toxic materials. Any necessary repairs will avoid delivery of material to waters. The contractor shall maintain a daily inspection log/checklist.

To implement RPM No. 2 above:

- Inwater work will be conducted within approved work windows to protect salmonids from coming into contact with construction activities. Marine Inwater work will be restricted to the period between July 16 and February 15. Inwater work in Willow Creek will be restricted to the period between July 1 and September 30.

- The FHWA/FTA and WSDOT shall ensure that a plan is developed and implemented for hydroacoustic monitoring of the peak and rms sound pressure levels generated during impact driving of steel piles. The plan shall be reviewed and approved by NOAA Fisheries. No monitoring or sound attenuation measures will be required for piles driven in the dry beach at low tide, vibratory driving of any type of pile, or impact driving of wood or concrete piles. During hydroacoustic monitoring, the hydrophone shall be positioned at mid-depths, 10 meters distant from the pile being driven.

- If sound pressure levels exceed 150 dBrms (re: 1 μPa) (0.032 KPa) for fewer than 50 percent of the impacts and never exceed 180 dBpeak (re: 1 μPa) (1 KPa), pile driving may proceed without further restriction; or

- If RMS sound pressure levels exceed 150 dB for 50 percent or more of the impacts, or peak pressures ever exceed 180 dB, pile driving

may continue, but only with the use of a bubble curtain. NOAA Fisheries shall approve the design of the bubble curtain in advance.

  - The initial hydroacoustic monitoring to establish the sound pressure levels being produced will not be required if a bubble curtain is used for all piles.

  - If a bubble curtain is deployed, the level of sound attenuation will be determined through hydroacoustic monitoring according to a plan to be developed by the FHWA/FTA and WSDOT and submitted for approval by NOAA Fisheries.

- Within 60 days of completing the hydroacoustic monitoring at any site, a report shall be submitted to NOAA Fisheries, Washington Habitat Branch, Lacey, Washington. The report shall include a description of the monitoring equipment and for each pile monitored, the peak and rms sound pressure levels with and without a bubble curtain, the size of pile, the size of hammer and the impact force used to drive the pile, the depth the pile was driven, the depth of the water, the distance between hydrophone and pile, and the depth of the hydrophone.

To implement RPM No. 3 above:

- Design criteria for temporary and permanent stormwater treatment facilities shall meet or exceed current design standards in the Washington Department of Ecology Stormwater Manual for Western Washington (2001) for the treatment of stormwater quality and quantity.

- Construction runoff from disturbed areas will be transported to sediment ponds; interception ditches will be required along the base of all fills; and erosion control fences will be installed at the base of all disturbed areas.

To implement RPM No. 4 above:

- The shoreline and shallow sub-tidal areas out to –30 feet MLLW will be restored to their natural slope and contours with clean fine sand suitable for eelgrass. Eelgrass will be planted through this area for a net increase of 2.6 acres of eelgrass meadow. The probability for reestablishment success at this location is high. This action also increases habitat connectivity between two eelgrass beds divided by the ferry terminal and shallow subtidal propeller-wash-induced scouring action of the ferries.

- Macroalgae beds will be reestablished in the nearshore area currently barren due to propeller-wash scour at depths below those of the eelgrass plantings. This will start at the –30 feet MLLW contour and

extend out to –50 feet MLLW covering an area of approximately 164,201 square feet or 3.8 acres. A method that could be used is to scatter 6- to 8-inch rock at a density of two or three pieces per square meter. This will greatly improve the process of initial colonization of macroalgae.

- Continue a long-term monitoring program to track the effects, if any, of ferry operations on marine resources near the new terminal and recovery at the old terminal. This program will be established through consensus with the jurisdictional agencies. This information will serve to evaluate future and cumulative impacts for other new projects of the WSF System, region wide. Specifically, the pier design will provide opportunities to study the behavior of juvenile salmonids at piers, particularly the threshold level of illumination needed for passage under piers. The triangular shape of this central pier structure in the upper intertidal zone coupled with the 33-foot-wide pier to the south (all juvenile salmonids in south and central Puget Sound migrate north) gives a range of pier width and associated illumination conditions to incorporate into an experimental design. This is a crucial study need for Puget Sound Chinook salmon (NOAA Fisheries 2004).

## Magnuson-Stevens Act

The 1996 Magnuson-Stevens Fisheries Conservation and Management Act (MSA) amended federal fisheries management regulations to require identification and conservation of habitat that is "essential" to federally managed fish species. Essential Fish Habitat (EFH) is defined as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity". If an action will adversely affect EFH, NOAA Fisheries is required to provide the Federal action agency with EFH conservation recommendations (MSA 305 (b)(4)(A)). The consultation for this project was based, in part, on information provided by the Federal action agency and descriptions of EFH for Pacific salmon contained in Appendix A to Amendment 14 to the Pacific Coast Salmon Plan (August 1999) developed by the Pacific Fishery Management Council and approved by the Secretary of Commerce (September 27, 2000).

The Selected Alternative area includes habitat that has been designated EFH for various life stages of Chinook and Coho salmon. Because the habitat requirements (*i.e.*, EFH) for the MSA-managed species in the project area are similar to that of ESA-listed species, and because the conservation measures included in the *Biological Assessment* (WSDOT, June 13, 2003) were considered adequate to avoid, minimize, or otherwise offset potential adverse effects to designated EFH, NOAA Fisheries determined that conservation recommendations pursuant to

MSA (305(b)(4)(A)) would not be necessary, concluding consultation under the MSA (NOAA Fisheries, March 25, 2004).

## Section 106

Section 106 of the National Historic Preservation Act of 1966, as amended, and 36 C.F.R. Part 800, requires the review of federally assisted projects for impacts to districts, sites, buildings, structures, and objects listed in, or eligible for inclusion in, the National Register of Historic Places (NRHP).

The findings of the Cultural Resources sections of the Final EIS indicate that there are no prehistoric or historic archaeological sites in the area of potential effects; this conclusion is based on both surface reconnaissance and a subsurface presence/ absence testing program (October 1996) approved by SHPO and coordinated with interested tribes. SHPO also concurred with the determination of eligibility (in August 1996) that the UNOCAL Bulk Fuel Terminal lacks historic significance and historic integrity and is not eligible for inclusion in the NRHP.

In February 2001, FHWA initiated formal Section 106 consultation with federally recognized and non-recognized tribes pursuant to 36 C.F.R. 800.2(a)(4). Tribes contacted included Jamestown S'Klallam Tribe, Lower Elwah Klallam Tribe, Lummi Nation, Muckleshoot Tribe, Port Gamble S'Klallam Tribe, Skokomish Tribe, Suquamish Tribe, Swinomish Tribe, Tulalip Tribes, and Yakama Nation, as determined from review of the Usual and Accustomed Area maps (Governor's Office of Indian Affairs, May 1987, as updated). FHWA delegated responsibility to WSDOT to coordinate the report of findings with the SHPO for concurrence pursuant to 36 C.F.R. 800.4(d)(1). In May 2003, SHPO concurred with the determination of the Area of Potential Effect. On June 10, 2003, SHPO concurred with WSDOT's determination that "no historic properties will be affected by the current project as proposed." FTA has also reviewed and concurred with the WSDOT findings and determinations.

## Wetlands

Three major federal laws apply to wetland resources: the NEPA, the Clean Water Act, and the Rivers and Harbors Act. In addition to these Federal laws, the United States Department of Transportation (DOT) has committed to protection, preservation, and enhancement of the nation's wetlands to the fullest extent practicable during the planning, construction and operation of transportation facilities and projects (DOT Order 5660.1A; Executive Order 11990).

The Clean Water Act, administered by the COE and the EPA, includes two sections applicable to this project: Section 404 regulates placement of dredge or fill material into the waters of the U.S. including wetlands and is administered by the COE, Section 401 ensures that federally permitted projects are consistent with state water quality standards, certification for which is administered by the DOE. The Selected Alternative was designed to minimize direct impacts to Edmonds Marsh and to limit other wetland impacts (0.06 acre associated with the daylighting of lower Willow Creek). As a result of the wetland impact, a Nationwide Section 404 Permit and a 401 Water Quality Certification will be required.

Section 10 of the Rivers and Harbors Act, 33 U.S.C. 410 requires authorization from the COE for construction of any structure in or over any navigable water of the United States, the excavation/ dredging or deposition of material in these waters or any obstruction or alteration in a navigable water. A COE Individual Section 10 Permit, which is dependent on the Coastal Zone Management requirements, will be required.

The COE, DOE, and EPA have been involved in the development of the Selected Alternative as a member of the SAC Agreement process and concurred with the selection of the Preferred Alternative as part of Concurrence Point No. 3.

With the proposed wetland mitigation measures for the Selected Alternative, FHWA and FTA find that the SR 104, Edmonds Crossing project meets the federal wetland requirements as described above.

## Coastal Zone Management Act

Coastal Zone Management (CZM) certification is required for all Federally –licensed development, including Army Corps of Engineers Section 10 and 404 permits. In Washington State, the project proponents prepare the Coastal Zone Certification and submit it to the DOE for review. DOE reviews the information based on the state environmental and shoreline requirements. Before DOE issues a CZM certification, an approved water quality certification is required (also done by DOE) and shoreline permits from the local jurisdictions. WSDOT and the City of Edmonds are required to comply with all CZM requirements. A CZM Consistency Response (included with the 401 Water Quality Certification) from DOE will be required

## Floodplains

Pursuant to Executive Order 11988 Floodplain Management issued May 24, 1977, floodplains were assessed within the 100-year floodplains and floodways defined by the Federal Emergency Management Agency (FEMA) as well as for locations with reported flooding problems or within locally managed floodplains. All development associated with this alternative will occur outside the 100-year floodplain for Willow Creek and the associated marsh area (see Figure 4-7). Thus, in accordance with Executive Order 11988 (Floodplain Management), the project will not result in any loss of floodplain storage and will minimize any flooding related impacts to human, natural, or cultural resources.

## Section 4(f) Findings

Section 4(f) of the Department of Transportation Act of 1966, codified at 49 U.S.C. § 303, declares that as a matter of national policy, a special effort should be made to preserve the natural beauty of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and historic sites. Transportation projects that use such resources may not be approved by the Secretary of Transportation unless a determination is made that there is no feasible and prudent alternative, and that all possible planning has been done to minimize harm (see also FTA Regulations at 23 C.F.R. § 771.135).

Constructive use (as classified by 23 C.F.R. 771.135) would occur if proximity impacts are so severe that the projected activities, features, or attributes of the resource are "substantially impaired." Substantial impairment occurs when the projected activities, features, or attributes of the resource are "substantially diminished" (23 C.F.R. 771.135). Constructive use may include substantial increases in noise, impairment of aesthetic features, restriction of access, increased vibration, or ecological intrusion.

Based on the extensive evaluation of avoidance alternatives, FHWA, FTA, and WSDOT concluded that there were no feasible and prudent alternatives to the use of a total of 0.42 acres of the Marina Beach Park beneath the ferry pier (approximately 9 percent of the total park area) determined to be Section 4(f) property. The avoidance alternatives considered were found to not achieve the purpose of the project and/or to cause other environmental, social, economic, and/or cost impacts of an extraordinary magnitude. Based on consultation with FHWA and FTA, the Port of Edmonds, and the local official with jurisdiction regarding ownership and management of the affected Section 4(f) properties (the City of Edmonds), it was further concluded that while the Preferred Alternative was not an avoidance alternative, it was a feasible and prudent alternative. By their letter of January 6, 2005, the Department of

Interior has provided final comments to the determinations by FHWA and FTA, which are incorporated in the required mitigation under this ROD.

In addition, the Selected Alternative reflects all possible planning to minimize harm to Section 4(f) properties. To minimize impacts, several design refinements have been incorporated in the required mitigation measures of this ROD, such as follows:

- Narrowing the width of the ferry pier
- Elevating the ferry pier high enough above the ground level to allow continued use of the park beneath
- Eliminating a dedicated bus driveway along the western edge of Edmonds Marsh
- Shifting the terminal access road as far south as possible to avoid use of or proximity effects to the marsh

Where impacts are unavoidable, WSDOT is committed to the following mitigation measures:

- Replace acquired parkland with new land in the informal recreational area south of the park
- Integrate this new parkland with the existing park to create an integrated and more expansive recreational facility
- Install interpretive signs within the park and along the daylighted section of Willow Creek that describe the cultural history of the site, natural resource features, and the role of the creek in salmon survival
- Provide continued vehicular and handicap access to the park
- Provide stormwater treatment and control facilities to improve water quality in Edmonds Marsh
- Place appropriate plantings adjacent to the terminal access road to buffer habitat and interpretive areas

Based upon the above considerations, FHWA and FTA find that there is no feasible and prudent alternative to the use of land from the Section 4(f) properties, and the Selected Alternative includes all possible planning to minimize harm to the Section 4(f) properties resulting from such use.

## Monitoring and Enforcement

Washington State Ferries will develop and implement an appropriate long-term mitigation-monitoring program sufficient to achieve the mitigation measures required by this ROD, and as required by permitting agencies. WSF will, on a regular basis as determined by FTA, submit information to FTA assuring compliance with ROD mitigation.

The Tribes will maintain and make available to WSF, annual records for a 10-year period after the project payment occurs, or until the funds are fully expended, to document projects and activities related to the funding purposed outlined under Tribal Fishing herein. (Page 3 of the MOA)

# *Agency Permits and Approvals*

- U.S. Army Corps of Engineers
  - Section 10 of the Rivers and Harbors Act Permit (for work in navigable waters)
  - Nationwide Section 404 of the Clean Water Act Permit (for discharge of dredge or fill material in waters of the United States)
- Washington State Department of Ecology
  - Water Quality Certification, Section 401 of the Clean Water Act (for discharge into waters of the United States)
  - National Pollutant Discharge Elimination System Stormwater Permit Associated with Construction Activities (for construction activities affecting more than 5 acres of land and having a stormwater discharge to surface waters or a storm sewer)
  - Stormwater Site Plan (for construction activities creating erosion)
  - Coastal Zone Management Certification
- Washington State Department of Fish and Wildlife
  - Hydraulic Project Approval (for work that will change or use any waters of the state)
- Washington State Department of Natural Resources
  - Aquatic Use Authorization Permit

- Outer Harbor Line Relocation Approval (because the new ferry pier will extend beyond the existing outer line of Edmonds Harbor)

- City of Edmonds
  - Shoreline Substantial Development Permit (for construction activities within 200 feet of shorelines of the state)
  - Critical Area Determination
  - Clearing Permit
  - Building Permit
  - Noise Variance
- Sound Transit
  - This ROD includes the authority to construct interim improvements at the existing Edmonds Amtrak station site for Sound Transit Sounder Commuter Rail. (Page 8, Project Phasing of this document.)

# Comments Received on the Final EIS and Responses

The project has not changed as a result of comments received on the Final EIS. Below is a description of letters received. (See following pages for copies of the letters and responses to comments.)

## Tulalip Tribe Letter of 10/29/2004

The context of this letter indicated that the Tribe believes the Final EIS did not accurately represent the usual and accustomed fishing area of the Tulalip Tribes. The letter made reference to U.S. v. Washington, a court case in progress at this time, and other ethno-historical evidence regarding this issue. The enclosures to the letter included Appendix #1 of a paper titled: *Identity, Treaty Status and Fisheries of the Tulalip Tribe of Indians*, that was prepared for the U.S. Dept. of the Interior by Barbara Lane, PH. D., June 15, 1975.

## Port of Edmonds Letter of 12/8/2004

The Port forwarded a list of issues that had been previously discussed at the special commission meeting of December 6, 2004. This list will

facilitate follow-up during design and construction. The letter and list are included in the following pages along with responses to the list of concerns.

## Dept. of the Interior Letter of 1/06/2005

The Department of the Interior (DOI) suggested more comprehensive mitigation for the marsh to preserve the quiet character and ecological integrity of the refuge. DOI proposed a vegetative transition (composed of native plants and trees that enhance the ecological value of the marsh) extend from the roadside plantings to the marsh.

# Tulalip Tribe Comments on Edmonds Crossing Final EIS 10/29/2004:

LAW OFFICES
MORISSET, SCHLOSSER, JOZWIAK & McGAW
A PROFESSIONAL SERVICE CORPORATION

REGINA M. CUTLER (WA, OR)
FRANK R. JOZWIAK (WA)
KYME A.M. McGAW (WA, OK)
MASON D. MORISSET (WA)
THOMAS P. SCHLOSSER (WA)
ROB ROY SMITH (WA, OR, ID)

OF COUNSEL
SHARON I. HAENSLY (WA)

COMPTROLLER
M. ANN BERNHEISEL

1115 NORTON BUILDING
801 SECOND AVENUE
SEATTLE, WA 98104-1509

TELEPHONE: (206) 386-5200
FACSIMILE: (206) 386-7322

WWW.MSAJ.COM

**Via Electronic Mail**

October 29, 2004

Ms. Susan Powell
WSDOT NWR Environmental
P.O. Box 330310
Seattle, WA 98133-9710
E-Mail: PowellS@wsdot.wa.gov

Re: Erroneous Cultural Resource Ethnography Concerning Edmonds Crossing Camera-Ready Final EIS

Dear Ms. Powell:

On behalf of the Tulalip Tribes, we submit the following comments concerning erroneous cultural resource ethnography contained in the Edmonds Crossing Camera-Ready Final EIS (September 2004) ("Final EIS"). The Final EIS purports to find that "Edmonds lies within lands and waters once controlled by the Suquamish Indians." Final EIS at 3-96. This factual statement is not correct, and is directly contradicted by judicial findings in *U.S. v. Washington* and ethnohistorical evidence describing the use and occupation of lands in and around present-day Edmonds by the Tulalip Tribes' predecessor groups.

We urge the Washington State Department of Transportation to delete erroneous references to Suquamish presence in the Edmonds area and replace the "Ethnography" section of the Final EIS with correct factual data indicating that Tulalip Tribes' predecessor groups used and occupied the Edmonds area and its adjacent marine waters at and before treaty times (*i.e.* pre-1855).

**A. Usual and Accustomed Fishing Areas of the Tulalip Tribes**

The City of Edmonds and the adjacent marine waters are within the adjudicated usual and accustomed fishing area of the Tulalip Tribes, as recognized by the courts in the on-going Washington treaty-rights case, *U.S. v. Washington*.

The Tulalip Tribes are composed largely of people who are descendants of one or more of the groups now referred to as the Snohomish, Snoqualmie, and Skykomish tribes. *U.S. v. Washington*, 626 F. Supp. 1405, 1527 (W.D. Wash. 1985). These groups used and occupied territories along the Snohomish-Snoqualmie-Skykomish river systems and on adjacent islands including Whidbey Island and Camano Island. *Id.* These groups were parties to the Treaty of



Point Elliott. *Id.* These Tulalip predecessors, the Snohomish in particular, "traveled widely and frequently throughout most of the waters of the Puget Sound from Seattle northward." *Id.* at 1529.

Based on this and other evidence, the court was able to establish usual and accustomed fishing by Tulalip predecessors at a number of marine and freshwater locations, including:

1. Admiralty Inlet, including its Whidbey Island bays; Saratoga Passage, Penn Cove, and Holmes Harbor; Possession Sound and Puget Sound south of Whidbey Island to the present West Point Lighthouse, including Tulalip Bay and Port Gardiner (Lane TR and Dover Deposition);
2. Eastern shore of Puget Sound in the vicinity of Pt. Edwards;
3. The vicinity of Murden Cove at Bainbridge Island;
4. The entire Port Susan inlet except close to the mouths of the Stillaguamish River;
5. The waters off the west coast of Whidbey Island including those northerly and westerly from the West Beach shoreline from Deception Pass to Pt. Partridge.
6. Pt. Roberts, Birch Bay and adjacent waters now designated as Area 7A;
7. The waters of the San Juan Archipelago, Haro Strait and Rosario Strait, and the portion of the Straight of Juan de Fuca northeasterly of a line drawn from Trial Island to Protection Island; and
8. The waters of WDF Area 10.

*Id* at 1530 (Findings of Fact 380-31); *see also id.* 1531-32 (Conclusions of Law 94-101). The court also specifically noted that the Snohomish had place names for "locations on the eastern shore of the Puget Sound in the vicinity of Pt. Edwards and Pt. Wells, named *Stu-bus* and *Ile'i-s-tu-bus*." *Id.* (emphasis added). The Snohomish also had place names for other areas near Edmonds, including an especially flat area on the shore north of Edmonds known as *Blso3o'3al* or "full of cat-tails."

Indian place names for landmarks indicate tribal territories. Both Pt. Edwards and Pt. Wells are south of the City of Edmonds. In all, there are three places that Tulalip Tribes' predecessor groups named in the Edmonds vicinity that were noted by Dr. Barbara Lane in *U.S. v. Washington*. *See* B. Lane, *Identity, Treaty Status and Fisheries of the Tulalip Tribe of Indians* (June 15, 1975) (excerpts attached). The anthropological reports of Dr. Barbara Lane have been found by the court to be "highly credible" and "very helpful in determining by direct evidence or reasonable inferences" the location of usual and accustomed areas. *U.S. v. Washington*, 459 F.Supp 1020, 1059 (W.D. Wash. 1978). This evidence suggests that Tulalip Tribes' predecessor groups used the lands from south of present day Edmonds north into Possession Sound.

Accordingly, there is ample evidence that the predecessors of the Tulalip Tribes used and occupied the lands and adjacent marine waters of present-day Edmonds at and before treaty times. The Tribes' usual and accustomed fishing areas include areas south of Edmonds today. The Final EIS is simply wrong when it fails to discuss the use of the Edmonds area by the Tulalip Tribes' predecessor groups. We urge you to amend the "Ethnography" section of the

Final EIS to reflect the Tulalip Tribes' reliance on the marine waters adjacent to the City of Edmonds.

**B. Usual and Accustomed Areas of the Suquamish Tribe**

In stark contrast to the Final EIS's statement that "[t]he Edmonds waterfront area . . . would have been a most favorable location of one or more prehistoric or proto-historic Suquamish settlements," the Tulalip Tribes are aware of no archaeological or ethnographic evidence to suggest that the Suquamish had winter villages or fishing camps in the Edmonds area. Final EIS at 3-96 – 3-97. In fact, there is no evidence cited in the Final EIS to support this factual assertion. *Id.* That the Suquamish had "settlements" in the Edmonds area is pure conjecture.

What is known, as a matter of *U.S. v. Washington* case law, is that the Suquamish Tribe's adjudicated fishing area is limited to the western side of Puget Sound, not the eastern shore, as the Final EIS seems to indicate. The usual and accustomed fishing places of the Suquamish Tribe were found by the *U.S. v. Washington* court to include the "marine waters of Puget Sound from the northern tip of Vashon Island to the Fraser River, including Haro and Rosario Straits, the streams draining into the western side of Puget Sound and also Hood Canal." *U.S. v. Washington*, 459 F.Supp 1020, 1049 (W.D. Wash. 1978). Tellingly, all of the geographic markers used by the *U.S. v. Washington* court to describe the Suquamish's adjudicated usual and accustomed fishing area are on the western side of Puget Sound. The court's finding was based in part on Exhibit USA-73, Dr. Barbara Lane's *Identity, Treaty Status and Fisheries of the Suquamish Tribe of the Port Madison Reservation* (Dec. 15, 1974). A review of Lane's Report indicates that Suquamish held "the west side of Puget Sound from near the mouth of Hood Canal south to Vashon Island." Thus, as these and other passages indicate, Suquamish primarily fished the west side of Puget Sound.

In addition, the *U.S. v. Washington* court has expressly rejected the Final EIS's allusion to a relationship between the Duwamish and the Suquamish for fishing in the greater Seattle area. Final EIS at 3-97. In 1989, the court concluded that the Suquamish do not have usual and accustomed fishing rights on the eastern shore of Puget Sound, at least with respect to areas in Lake Washington, Lake Union, Lake Sammamish, the Black and Cedar rivers, and the lower White (or Duwamish) River below its junction with the Green River. *See* Order of Feb. 25, 1989 (adopting the findings of the Special Master assigned to decide the Suquamish's claims that the Suquamish are not a political successor in interest to the Duwamish).[1]

[1] The Suquamish abandoned its claim founded on allegations that the Suquamish had treaty-secured fishing rights in these areas of eastern Puget Sound after the completion of pre-trial discovery. This portion of their claim was dismissed with prejudice. *See* Order of Feb. 25, 1989 at 16 (Conclusion of Law # 104). This would seem to indicate that Suquamish could not support a claim of actual fishing in, at least, the Seattle area on the east side of Puget Sound.



Accordingly, the Suquamish do not have adjudicated fishing areas on the eastern side of Puget Sound, let alone in the Edmonds vicinity. Further, there is no evidence in the Final EIS to support the expansion of the Suquamish's pre-treaty territory and fishing areas into the Edmonds vicinity. Therefore, any reference in the Final EIS to Suquamish "settlements" in, or use of, the Edmonds area should be deleted in their entirety.

**C. Conclusion**

The Tulalip Tribes urge the Washington Department of Transportation to revise and recirculate the Final EIS to address the erroneous factual contentions concerning cultural resource ethnography.

Thank you for the opportunity to comment on the Final EIS. We trust that our comments will be appropriately considered and addressed in any final documentation for this proposed action. Please contact us if you have any questions or concerns.

Sincerely yours,

MORISSET, SCHLOSSER, JOZWIAK & McGAW

s/ Mason D. Morisset

Attorneys for the Tulalip Tribes

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mmc:10/29/04

## Response to Tulalip Tribe Letter of 10/29/2004:

There is evidence in the supporting material of the Final EIS for the statements regarding the Suquamish. The brief section of the Final EIS entitled Ethnography (pages 3-96 and 3-97) was intended to be a summary (as is appropriate for an EIS) highlighting the presence in the area of the project and the importance of the area to Native peoples and cultures. The text relied exclusively on readily available published information (Wessen and Stilson, 1987, and Larson and Lewarch, 1994). This section was not intended to be a definitive presentation of the Native American life immediately preceding and during the period of contact with non-Indians. The available secondary sources confirmed the Suquamish Tribe's strong ancestral (and modern day) connection to the Edmonds area and clearly indicates that the project area to be part of their Usual and Accustomed fishing area. To be precise, the Final EIS statement does not say that there were, in fact, Suquamish settlements in the Edmonds area, but merely that the area "*would have been a favorable location*".

Washington State Ferries understands that there may be a difference of views among several tribes on the topic of the usual and accustomed fishing grounds of the various Tribes in the general area. This EIS is not intended to prejudice those ongoing discussions among the Tribes one way or another. Washington State Ferries has conferred with the Office of the Attorney General on the subject of the existing delineation of tribal usual and accustomed fishing grounds in the vicinity of the project, and has on this basis confirmed that the description in the Final EIS is an accurate reflection of the current status of Tribal Treaty rights in the project area.

**Port of Edmonds – Comments on Edmonds Crossing Final EIS 12/08/2004**

EDMONDS

336 Admiral Way · Edmonds, WA 98020-7214 · (425) 774-0549 · (425) 774-7837 FAX

December 8, 2004

Mr. Stephen Clifton
Community Services Director
City of Edmonds
121 5th Avenue North
Edmonds, WA 98020

Dear Stephen:

Please find attached a copy of the issues that were discussed at the special Commission meeting of December 6, 2004. Most of the issues you should already be familiar with. I would be more than willing to sit down and discuss with you any of the issues that you may have questions about or need further clarification.

Sincerely Yours,

Christopher W. Keuss CMM
Executive Director

Port Commission

**PORT OF EDMONDS**
**Edmonds Crossing Project** Revised Dec. 6, 2004

Issues to Track:

1. **Property Line and structural coverage**
    a. Status: City consultants to show details to Port
2. **Footings and Pilings impacting Dry Storage Operations, Admiral Way, and the Breakwater**
    a. Status: City consultants to show details to Port
3. **South Breakwater – Corps of Engr. responsibility**
    a. Status: City is aware of Corps' interest in project and is to brief them on project
4. **Impact of Ferry Vessels on boaters leaving the entrance of marina**
    a. Status: Stephen reviewed issues with port and felt there would be no impact.
    b. Port still has concerns over impact to vessels leaving the marina and heading south. Port to review traffic pattern with WSDOT.
5. **Explore the expansion of Dry Storage Facility in relation with development of the Ferry Holding Lanes.**
6. **Concern over debris falling on top of boats in Stack Storage**
    a. Status: port to discuss with City and consultants
7. **Request by WSDOT to purchase / lease land**
    a. Status: port has discussed issues with Stephen and expressed port's interest in long term lease or exchange of property
    b. Status: Stephen has acknowledged the port's interest in port and WSDOT exchanging property with current ferry pier and develop day moorage and day cruise excursions landing slip.
    c. Other Possibilities: Exchange land for WSDOT land on SR104 (from Dayton St. to Pine St.)
8. **Explore the extension of the south marina with installation of new dolphins/pilings**
    a. Status: port has expressed interest of plan to Stephen
9. **Citing of Sound Transit Platform on West side of Tracks**
    a. Concern over platform on Port property and impacting dry storage programs.
    b. Status: Stephen has been made aware of this concern and has informed the port that this can be negotiated with the port and Sound Transit at the appropriate time.
10. **Buses on Admiral Way**
    a. Buses on Admiral Way are incompatible with Port programs
    b. Status: Stephen has informed port that a bus turn around is planned for Marina Beach area.
11. **Review Downtown Waterfront Plan in light of existing Ferry terminal area**
    a. Status: review of plan currently in progress
12. **Retain existing Train Depot**
    a. Retain train depot for Transit Oriented Development
    b. Sound Transit has no $$$ and no plans currently to retain the depot
13. **Resolve easement issue with City on Admiral Way**

14. **Mitigation Issues:**
    a. Architecturally Pleasing Entrance piece on holding lane viewed from Admiral Way
        i. Status: port has discussed issue with Stephen
    b. Address noise from construction and operations
    c. Address dust, particulate matter from construction
    d. Address visual impacts
    e. Address Dry Storage and launching operations during construction

## Responses to Port of Edmonds Final EIS Comments:

1. Property Line and structural coverage

    a. Status: City consultants to show details to Port

    **Response:** *This issue relates to the placement of columns/structures within Port of Edmonds property. The Edmonds Crossing project team will work with the Port of Edmonds during the design and permitting phase to minimize impacts.*

2. Footings and Pilings impacting Dry Storage Operations, Admiral Way, and the Breakwater

    a. Status: City consultants to show details to Port

    **Response**: *The Edmonds Crossing project team will work with the Port of Edmonds during the design and permitting phase to minimize impacts.*

3. South Breakwater -Corps of Engr. responsibility

    a. Status: City is aware of Corps' interest in project and is to brief them on project

    **Response:** *There has been continued coordination with the Corps throughout the environmental impact statement (EIS) process. The Signatory Agency Committee, responsible for the oversight of the EIS process, included representation from the Corps of Engineers.*

4. Impact of Ferry Vessels on boaters leaving the entrance of marina

    a. Status: Stephen (Clifton, City of Edmonds) reviewed issues with port and felt there would be no impact.

    **Response:** *Mr. Clifton never stated that there would be "no impact". A majority of recreational boaters travel north and northwest from the Port of Edmonds marina. When the existing ferry slips are removed at Main Street, and new slips are incorporated into the Edmonds Crossing project, the Edmonds/Kingston ferry route will no longer cross directly in front of the entry/exit point of the Port of Edmonds marina. This most likely will result in less ferry and recreational boater conflicts.*

    b. Port still has concerns over impact to vessels leaving the marina and heading south. Port to review traffic pattern with WSDOT.

    **Response:** *The project will improve the avoidance of vessel conflicts in the area. If the question is directed towards the northernmost slip, this slip will only be used when extreme winds would require a different docking approach. Presumably, during these events, pleasure boat trips would be at a minimum. If requested during final design, a statistical analysis could be run to determine approximately how many landings would occur in this slip in a typical year.*

5. Explore the expansion of Dry Storage Facility in relation with development of the Ferry Holding Lanes.

   **Response:** *The Port of Edmonds Planning Commission should address this issue as part of a process to amend the Port of Edmonds Strategic and Master Plans. The plans, once amended, can then be submitted to the City and reviewed as part of the City's annual Comprehensive Plan process. Once approved by the City Council, the Port's Strategic and Master Plans, as amended, are fully adopted by reference.*

6. Concern over debris falling on top of boats in Stack Storage

   a. Status: port to discuss with City and consultants

   **Response:** *The Edmonds Crossing project team will work with the Port during the design and permitting phase to minimize impacts where possible*

7. Request by WSDOT to purchase/lease land

   a. Status: port has discussed issues with Stephen and expressed port's interest in long term lease or exchange of property

   b. Status: Stephen has acknowledged the port's interest in port and WSDOT exchanging property with current ferry pier and develop day moorage and day cruise excursions landing slip.

   c. Other Possibilities: Exchange land for WSDOT land on SR104 (from Dayton St. to Pine St.)

   **Response:** *Although Stephen acknowledged the port's interest, he did not state the City has agreed to the Port's proposal. He only stated to the Port of Edmonds that he would convey their interest to City leadership. At this time, the City has not defined what the ultimate use of any excess right of way or remaining area between Bracketts Landing North and South Parks would be. Any negotiations would most likely involve the City and State (WSDOT) and could take place anytime during design, permitting, and construction and post construction. The Port of Edmonds is welcome to submit proposals to the City and State for consideration.*

   *The current draft Downtown Waterfront Plan states: "Redevelop the existing ferry terminal site (post ferry relocation) at the base of Main Street according to a master plan. This is a unique location, situated in the midst of a continuous park and beach setting, and provides opportunities for public/private partnerships. Ideas to be pursued include public "festival" entertainment or activity space, visitor moorage, park and public walkways, and other uses that would encourage this as to become a destination drawing people from south along the waterfront and eastward up into downtown. Redevelopment of this area should be done in a manner that is sensitive to and enhances the views along Main Street and from the adjoining parks and public areas."*

8. Explore the extension of the south marina with installation of new dolphins/pilings

    a. Status: port has expressed interest of plan to Stephen

    **Response:** *The Port of Edmonds has expressed this topic to the City. The Port would have to work with the State, City, and various agencies for this to happen. The City does not have exclusive authority over this proposal.*

9. Citing of Sound Transit Platform on West side of Tracks

    a. Concern over platform on Port property and impacting dry storage programs.

    **Response:** *The northern half of the westside railroad platform would be situated adjacent to the eastern edge of the dry storage area located between Admiral Way and the BNSFRR tracks. In other words, there would be no direct impact on the Port's use of this area.*

    b. Status: Stephen has been made aware of this concern and has informed the port that this can be negotiated with the port and Sound Transit at the appropriate time.

    **Response:** *The Edmonds Crossing project team will work with the Port of Edmonds during the design and permitting phase to minimize impacts. Agencies that will have to be consulted may include Port of Edmonds, City of Edmonds, Amtrak, Sound Transit, and BNSFRR.*

10. Buses on Admiral Way

    a. Buses on Admiral Way are incompatible with Port programs

    **Response:** *CT is ready to work with the Port and the City.*

    b. Status: Stephen has informed port that a bus turn around is planned for Marina Beach area.

    **Response:** *Per Mr. Clifton's conversation with Scott Ritterbush at Community Transit in September, this is something that does not have to happen, but it would be desirable to provide the flexibility to allow local service in the future if the City desires such. This means that local bus service could access the Multimodal terminal from SR104/Pine Street in the near term, and the City, Port and Community Transit can study the desire or necessity to serve the Port, via Admiral Way, in the distant future. This information was shared with the Port of Edmonds in September.*

11. Review Downtown Waterfront Plan in light of existing Ferry terminal area

    a. Status: review of plan currently in progress

Response: *The draft Downtown Waterfront Plan, currently under review by the Edmonds Planning Board, includes one section called "Downtown Vision." The vision states, "Taken together, the goals and policies for the Downtown Waterfront Activity Center present a vision for Edmonds downtown waterfront. By actively pursuing the ferry terminal's relocation, the City has set upon an ambitious and exciting course. It is a course that holds promise for the downtown waterfront, but it is one that will require concerted action by the entire community, including local, state and federal public officials, business groups and citizens. While the challenges presented in this effort are substantial, the possible rewards are even greater, for with its existing physical assets, future opportunities and the energy of its citizens, Edmonds has the potential to create one of the region's most attractive and vital city centers."*

*Components of the overall vision for the downtown waterfront area include development of the Edmonds Crossing multimodal transportation center which will provide convenient transportation connections for bus, ferry, rail, auto and bicycle riders and makes Edmonds an integrated node in the regional transportation system. The new terminal reduces negative impacts to downtown Edmonds while providing the community with varied transportation resources and an economic stimulus to the larger community.*

12. Retain existing Train Depot

    a. Retain train depot for Transit Oriented Development

    b. Sound Transit has no $$$ and no plans currently to retain the depot

**Response:** *The desire of the Port of Edmonds to retain Sounder and Amtrak service between Dayton and Main Streets has been shared with Sound Transit. At this time, Sound Transit does not currently plan to retain service at this location after it relocates its operation to the new Edmonds Crossing multi-modal center.*

13. Resolve easement issue with City on Admiral Way Response:

**Response:** *As a result of the City purchasing Marina Beach from UNOCAL, the city is the beneficiary of rights included in a Unocal/Port of Edmonds Easement (recording no. 200009130374) and effects all uses within the easement, including Admiral Way. Prior to the City taking any action on this matter, the Port of Edmonds should submit a specific request to the City for the City to prepare a response.*

14. Mitigation Issues:

    a. Architecturally Pleasing Entrance piece on holding lane viewed from Admiral Way

        i. Status: port has discussed issue with Stephen.

**Response:** *The Edmonds Crossing project team will consult with the Port to minimize impacts where possible during the permit and design phase of the project*

b. Address noise from construction and operations

**Response:** *Noise will be generated during the construction process. The City as part of the overall permit process will establish construction hours. Mitigation for noise impacts are presented on pages 4-185 and 4-186 of the Final EIS and include limiting construction activities to the hours between 7am and 10pm and requiring that all activities be in compliance with City of Edmonds and City of Woodway code requirements.*

c. Address dust, particulate matter from construction

**Response:** *As stated in the Final EIS on pages 4-183 and 4-184, a detailed erosion and sedimentation control plan will be implemented.*

d. Address visual impacts

**Response:** *As the project team proceeds with full design, the drawings will be a cooperative effort between affected parties/entities. Mitigation for visual impacts are presented on pages 4-180 and 4-181 of the Final EIS.*

e. Address Dry Storage and launching operations during construction

**Response:** *The Edmonds Crossing project team will work with the Port of Edmonds during the design and permitting phase to minimize impacts.*

United States Department of the Interior
OFFICE OF THE SECRETARY
Washington, DC 20240

TAKE PRIDE IN AMERICA

ER-98/149

JAN 6 2005

RECEIVED
JAN 14 2005
COMMUNITY SERVICES DIRECTOR

Mr. Stephen Clifton
Director, Community Services Department
City of Edmonds
121 Fifth Avenue North
Edmonds, Washington 98020

Dear Mr. Clifton:

This is in response to the request for the Department of the Interior's (Department) comments on the Final Environmental Impact Statement and Final Section 4(f) Evaluation concerning the SR 104, Edmonds Crossing project proposed for the City of Edmonds, Snohomish County, Washington.

**Section 4(f) Evaluation Comments**

Modified Alternative 2, the Point Edwards Site, has been selected as the Preferred Alternative.

The Department supports the mitigation measures to be taken for Marina Beach Park, including the acquisition of property of equal fair market value and of reasonably equivalent usefulness and location.

We also support the mitigation measures to be taken for Edmonds Marsh Wildlife Refuge, including placing appropriate plantings adjacent to the ferry access road to buffer habitat and interpretive areas of the refuge. Out of concern for preserving the quiet character and ecological integrity of the refuge, we recommend implementing an additional mitigation measure, a vegetative transition extending from the roadside plantings to the marsh.

Moreover, we suggest that the vegetative transition be composed of native plants and trees that enhance the ecological value of the marsh, rather than one that is composed of plants and trees valued primarily for their screening effects. This is not to say that screening effects are not important. The access road should still be minimally visible or have no visibility from the marsh. However, we believe that a more comprehensive mitigation plan should be implemented for the marsh.

Thank you for the opportunity to comment on this final document.

Sincerely,

Willie R. Taylor
Director, Office of Environmental
Policy and Compliance

## Response to Dept. of Interior Letter:

Vegetative transition (composed of native plants and trees that enhance the ecological value of the marsh) extending from the roadside plantings to the marsh that the access road would be minimally visible or have no visibility from the marsh.

**Response:** *The vegetative (visual screening) buffer between the roadway and the marsh will transition from a more uniform arrangement along the terminal access roadway to a natural buffer along the marsh. Native plants will be used to provide value to the natural habitat of the marsh.*

communitytransit
smile & ride

**Community Transit –Edmonds Crossing Project Concurrence**

7100 Hardeson Road
Everett, WA 98203-5834

www.communitytransit.org
425/348-7100 ph
425/348-2319 fax

Joyce F. Olson
Chief Executive Officer

June 24, 2005

Washington State Department of Transportation
Ben Brown
NW Region Environmental Program Manager
15700 Dayton Avenue North,
MS NB82-138
P.O. Box 330310
Seattle, WA 98133-6388

RECEIVED
JUN 30 2005
ENVIRONMENTAL

RE: Edmonds Crossing Project

Dear Mr. Brown,

Community Transit concurs with the size, scope and location of the proposed Edmonds Crossing multi-modal facilities. These facilities as envisioned in the preferred alternative (Modified Alternative 2) of the Final Environmental Impact Statement meet the general needs of our transit operations.

Community Transit's concurrence is made with the understanding that more specific details and refinements to the facilities will be made when the project enters the detailed design phase. However, in general, under Phase 1 and at full build-out, linear curb space appears sufficient within the bus area east of the railroad tracks to accommodate up to ten standard forty-foot buses with a "first-in first-out" operating concept. The area also appears sufficient for six or seven buses, of various sizes, to operate with an "independent arrival and departure" operating concept.

In addition, under Phase 1 and at full build-out, the concept of some or all local buses utilizing Admiral Way generally addresses the needs of transit operations. This concept is of particular importance in that it was developed to provide local routes with an alternative means of carrying customers to and from the multi-modal site without getting stuck in potential vehicle congestion at the main SR 104 entrance. We look forward to working with the Washington State Department of Transportation and the City of Edmonds in finding ways to provide transit buses a travel time advantage over other non-HOV vehicles whether that access to the multi-modal center is via Edmonds Way / SR 104 or via Admiral Way.

It is understood that the Edmonds Crossing facility will be a major destination for transit customers and that Community Transit will be modifying some or all of its Edmonds bus service to serve this new facility. As noted in the EIS the ultimate route alignments will

be defined as part of Community Transit's regular planning process. This process provides ample opportunity for public input and comment.

Community Transit appreciates the continued understanding, flexibility and cooperation that the Washington State Department of Transportation and the City of Edmonds have shown in addressing the requirements of transit operations. We are confident that the remaining infrastructure elements necessary for safe, reliable, flexible and convenient transit operations will be incorporated in the detailed design phase of this project.

Sincerely,

Joyce Olson
Chief Executive Officer

CC: Linda Gehrke, Deputy Regional Administrator, Federal Transit Administration, District 10
Stephen Clifton, Director of Community Services, City of Edmonds

SOUNDTRANSIT

RECEIVED
JUN 2 9 2005
ENVIRONMENTAL

June 22, 2005

Mr. Ben Brown
NW Region Environmental Program Manager
Washington State Department of Transportation
MS NB82 – 138
P.O. Box 330310
Seattle, WA 98133-9710

Dear Mr. Brown:

Thank you for the opportunity to review the draft Record of Decision (ROD) for the State Route 104, Edmonds Crossing Project. We have also reviewed the Final Environmental Impact Statement (FEIS) on the project issued on November 10, 2004.

Sound Transit concurs with the Edmonds Crossing project description in the November 10, 2004 FEIS and the ROD. We concur with the size, scope, and location of Sound Transit's commuter rail elements included in the Edmonds Crossing preferred alternative (Modified Alternative 2).

The EIS and ROD provide a general description of the commuter rail elements. Through the design process the rail facility design will be refined in consultation with Sound Transit to suit the needs of the agency at that time. We also agree with the Project Phasing as described in the ROD. Sound Transit will continue to operate commuter rail at the current location described in the ROD issued by the Federal Transit Administration on February 4, 2000 until such time as Sound Transit, Washington State Ferries, and Washington State Department of Transportation determine that the Edmonds commuter rail station shall be relocated to the site indicated in the preferred alternative, Modified Alternative 2, for the SR104, Edmonds Crossing project.

Sincerely,

Joni Earl
Chief Executive Officer

CC: Linda Gehrke, Deputy Regional Administrator, FTA
Stephen Clifton, Director of Community Services, City of Edmonds

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CHIEF EXECUTIVE OFFICER
Joni Earl

Central Puget Sound Regional Transit Authority • Union Station
401 S. Jackson St., Seattle, WA 98104-2826 • Reception: (206) 398-5000 • FAX: (206) 398-5499 • www.soundtransit.org