



**Peter Goldmark**  
Washington State  
Commissioner of Public Lands

March 17, 2015

Eric Johnson  
Executive Director  
Washington Public Ports Association  
1501 Capitol Way S., Suite 304  
Olympia, WA 98501

Dear Eric,

Thank you for our recent constructive and collaborative conversations regarding the Department of Natural Resources' (DNR) proposed Aquatics Habitat Conservation Plan (HCP). I have appreciated your candor and your willingness to engage with my office on finding a mutually acceptable resolution to our discussions regarding the Washington Public Ports Association (WPPA) and the concerns it has with our proposed HCP.

At the beginning of these discussions, WPPA requested that DNR suspend work on its current draft aquatics HCP and commit to engaging in a new stakeholder engagement effort before continuing. Over the past few weeks, I have conducted my own internal assessment of the HCP process to date, and I have concluded that, in light of the widespread confusion and concerns regarding this proposal, DNR must reconsider elements of the HCP concerning overwater structures and log-booming with our stakeholders. As a consequence, I have informed the federal services that the sections of the existing draft HCP affecting these subjects is not viable and their review of the elements affecting overwater structures and log-booming should be permanently discontinued. I have further informed them that DNR will submit new sections of the draft HCP covering overwater structures and log-booming should our work with stakeholders bear fruit.

Effective immediately, I have directed DNR Aquatics staff to begin preparations for a new stakeholder engagement effort that will include, but not be limited to, consultations with the federally recognized tribes, WPPA, Washington Forest Protection Association, Association of Washington Business, Northwest Marine Trade Association, American Waterways Operators, Recreational Boaters Association of Washington, Puget Sound Maritime Trade Council, Washington Farm Bureau, floating home owners, and any concerned labor unions or other pertinent parties.

I have directed that this process be open-minded in discussing and assessing the advantages and disadvantages of adopting an HCP in the first place. Assuming that we proceed with an aquatics HCP, this process will also be utilized to assist in developing the substantive provisions of the plan and a list of priority science projects to be addressed in the adaptive management process.

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Since there are also many legal questions that have been raised during legislative session, I have also directed my staff to engage with the Office of the Attorney General on a broad review of the HCP concept as it relates to the aquatic environment. Specifically, I have asked my staff to confirm that the proposed HCP would protect both DNR and its lessees from liability under the federal Endangered Species Act. In addition, I have asked our counsel to review whether the HCP would result in new regulatory conditions or costs for covered facilities and activities that are already permitted under Section 7 of the Endangered Species Act.

We appreciate the strong legislative interest and guidance we have received this year. DNR staff will take into account the legislative feedback it has received as we proceed through this process. We will update the Washington State Legislature on our progress next legislative session.

In return, I am requesting that WPPA and associated stakeholder groups with concerns regarding the HCP commit to working with DNR on this new stakeholder engagement process in a spirit of open-mindedness and collaboration.

Thank you for engagement on this issue. Your continued partnership will be key to the success of future discussions.

Sincerely,



Peter Goldmark  
Commissioner of Public Lands

c:     Senator Kirk Pearson  
       Senator Brian Hatfield  
       Representative Brian Blake  
       Representative Vincent Buys  
       Eric Rickerson, US Fish and Wildlife Service  
       Bridget Moran, US Fish and Wildlife Service  
       Tim Romanski, US Fish and Wildlife Service  
       Scott Anderson, NOAA Fisheries