

MEMORANDUM OF UNDERSTANDING
 BETWEEN
 THE U.S. ARMY CORPS OF ENGINEERS, PORTLAND DISTRICT,
 PORT OF LONGVIEW, PORT OF WOODLAND, PORT OF KALAMA, PORT OF
 VANCOUVER, AND PORT OF PORTLAND
 FOR THE
 DEVELOPMENT OF THE ENVIRONMENTAL IMPACT STATEMENT
 FOR THE LOWER COLUMBIA RIVER FEDERAL NAVIGATION CHANNEL
 MAINTENANCE PLAN

This Memorandum of Understanding (MOU) is entered into by and between the United States Army Corps of Engineers, Portland District (Corps), Port of Longview, Port of Kalama, Port of Woodland, Port of Vancouver (collectively “Washington Ports”), and Port of Portland (“collectively Sponsor Ports”) collectively “Parties”.

I. PURPOSE

The purpose of this MOU is to establish and describe a collaborative effort and to define the roles and responsibilities between the Parties for the development of a joint environmental review document to address the Corps’ statutory responsibilities under the National Environmental Policy Act (NEPA) , 42 U.S.C. §§ 4321–4347, and the Washington Ports’ statutory responsibilities arising under chapter 43.21C Revised Code of Washington (RCW), the Washington State Environmental Policy Act (SEPA), for the dredged material management plan (DMMP) titled “Lower Columbia River Channel Maintenance Plan” (the “Plan”). The Corps is the lead agency for purposes of federal NEPA compliance. In the NEPA review process, the Sponsor Ports will serve as cooperating agencies within the meaning of 40 C.F.R. §1508.5. The Washington Ports will be co-lead agencies for purposes of state SEPA compliance pursuant to Washington Administrative Code (WAC) 197-11-926. The Washington Ports contemplate that the Port of Longview will serve as the nominal SEPA lead agency pursuant to WAC 197-11-942, -944. The Port of Longview, as the SEPA nominal lead agency, would also constitute the agency that will represent the Ports as NEPA cooperating agencies in the preparation of a joint NEPA-SEPA Environmental Impact Statement (EIS). For all purposes of this MOU, the Port of Longview is referred to and considered the SEPA nominal lead agency for the Washington Ports. Together, the Corps and the Port of Longview are the Joint NEPA-SEPA Lead Agencies.

II. INTRODUCTION

- A. The Portland District, U.S. Army Corps of Engineers (Corps) intends to prepare a DMMP, in accordance with Engineering Regulation (ER) 1105-2-100 Appendix E-15, for the Columbia River portion of the Columbia and Lower Willamette Rivers Federal Navigation Channel, Oregon and Washington. The title of the DMMP is “Lower Columbia River Channel Maintenance Plan”. The Sponsor Ports are stakeholders for the Columbia River portion of the Columbia and Lower Willamette Rivers Federal

Navigation Channel who engage on matters related to the dredging and maintenance of the Lower Columbia River FNC, upon which each of the Sponsor Ports rely. The Plan will ensure unimpeded maintenance of the 43-foot Lower Columbia River FNC for the next 20 years.

- B. Council on Environmental Quality (CEQ) regulations (40 CFR § 1506.2) direct federal agencies to cooperate with state and local agencies to the fullest extent possible to reduce duplication between NEPA and state or local requirements, including joint planning processes, environmental research and studies, public hearings, and environmental impact statements. Sections 197-11-610 and 197-11-640 of the WAC allow Washington agencies to prepare joint state-federal EISs under SEPA and NEPA to reduce duplication and paperwork and improve decision making. The Corps and the Port of Longview will be joint lead agencies under NEPA and SEPA, respectively, involved in a single planning process which complies with all applicable laws.
- C. This MOU will facilitate a joint environmental review process between the Corps and the Port of Longview, ultimately aiding the goals and missions of the Parties in the fulfillment of their environmental reviews and simplifying the public involvement process for the public. While the Parties will cooperate with each other to the extent practicable, it will ultimately be the responsibility of the Corps to comply with NEPA and the primary responsibility of the Port of Longview, as the nominal lead, to comply with SEPA.
- D. The EIS will be prepared in accordance with the requirements of 40 C.F.R. § 1506.5(c). The Port of Longview will provide and prepare input to be included in the joint EIS as a cooperating agency under NEPA and in accordance with the requirements of SEPA as the SEPA nominal lead agency. The Ports of Kalama, Woodland, Vancouver, and Portland will serve as cooperating agencies under NEPA, and the Washington Ports will be co-lead agencies under SEPA.

III. PARTIES

- A. The Corps is the lead federal agency in the preparation of the joint EIS for the DMMP titled "Lower Columbia River Channel Maintenance Plan", in accordance with NEPA.
- B. The Port of Longview is a local sponsor for the Columbia River portion of the Columbia and Lower Willamette Rivers Federal Navigation Channel and cooperating agency under NEPA, as an agency with special expertise with respect to environmental impacts involved with channel maintenance and dredge material placement, in this planning process and is also required to comply with and complete SEPA review prior to final agency action on the Plan. Pursuant to that February 25, 1999 Agreement between the Sponsor Ports, the Port of Longview is a SEPA co-lead agency and is the nominal SEPA lead agency for SEPA compliance purposes. The Port of Longview is the lead local

agency representing the NEPA cooperating agency Sponsor Ports and the nominal lead agency in the preparation of the joint EIS, in accordance with SEPA.

- C. The Port of Kalama is a local sponsor for the Columbia River portion of the Columbia and Lower Willamette Rivers Federal Navigation Channel and cooperating agency under NEPA, as an agency with special expertise with respect to environmental impacts involved with channel maintenance and dredge material placement, in this planning process and is required to comply with and complete SEPA review prior to final agency action on the Plan. Pursuant to that February 25, 1999 Agreement between the Sponsor Ports, the Port of Kalama is a SEPA co-lead agency for SEPA compliance purposes. Compliance can be achieved as a cooperating agency under NEPA and a co-lead agency under SEPA.
- D. The Port of Woodland is a local sponsor for the Columbia River portion of the Columbia and Lower Willamette Rivers Federal Navigation Channel and cooperating agency under NEPA, as an agency with special expertise with respect to environmental impacts involved with channel maintenance and dredge material placement, in this planning process and is required to comply with and complete SEPA review prior to final agency action on the Plan. Pursuant to that February 25, 1999 Agreement between the Sponsor Ports, the Port of Woodland is a SEPA co-lead agency for SEPA compliance purposes. Compliance can be achieved as a cooperating agency under NEPA and a co-lead agency under SEPA.
- E. The Port of Vancouver is a local sponsor for the Columbia River portion of the Columbia and Lower Willamette Rivers Federal Navigation Channel and cooperating agency under NEPA, as an agency with special expertise with respect to environmental impacts involved with channel maintenance and dredge material placement, in this planning process and is required to comply with and complete SEPA review prior to final agency action on the Plan. Pursuant to that February 25, 1999 Agreement between the Sponsor Ports, the Port of Vancouver is a SEPA co-lead agency for SEPA compliance purposes. Compliance can be achieved as a cooperating agency under NEPA and a co-lead agency under SEPA.
- F. The Port of Portland is a local sponsor for the Columbia River portion of the Columbia and Lower Willamette Rivers Federal Navigation Channel and cooperating agency under NEPA, as an agency with special expertise with respect to environmental impacts involved with channel maintenance and dredge material placement, in this planning process and is required to comply with and complete NEPA review prior to final agency action on the Plan. Compliance is intended to be achieved through cooperating with the Corps as lead federal agency.

IV. RESPONSIBILITIES

- A. The Joint NEPA-SEPA Lead Agencies mutually agree to:

1. Work together to ensure consistency and coordination in the development and preparation of a joint NEPA-SEPA EIS.
2. Work together to ensure involvement of other state and federal agencies, local governments and agencies, Indian tribes, non-governmental organizations, and other interested parties in public meetings and through public comment in the process of developing and preparing the joint NEPA-SEPA EIS.
3. Work together in apprising each other, and the Port of Longview apprising the SEPA co-lead agencies, as far in advance as possible, of any related actions or problems that might affect the environmental analyses and documentation process or that might affect any of the Parties to this MOU.

B. The Corps, as lead agency under NEPA, agrees to:

1. Prepare the EIS in accordance with NEPA.
2. Ensure that all Parties to this MOU are apprised of current events in relation to the joint NEPA-SEPA EIS.
3. Coordinate with all Parties to this MOU in identifying issues and defining the scope of the joint NEPA-SEPA EIS.
4. Coordinate with all Parties to this MOU to the extent practicable, in the development of the joint NEPA-SEPA EIS, consistent with the legal requirements and Corps' responsibilities as the lead federal agency under NEPA.
5. Coordinate with all Parties to this MOU to help identify and assess alternatives for the joint NEPA-SEPA EIS.
6. Provide the cooperating agencies an opportunity to review and comment on the draft and final joint EIS prior to issuance of these documents.
7. Consider the comments, recommendations, data, and/or analyses provided by the Parties in the joint EIS environmental review process, giving particular consideration to those topics over which it has jurisdiction by law or possesses special expertise to the fullest extent consistent with its responsibilities as lead federal agency under NEPA.
8. Assemble and maintain the administrative record for the NEPA decision-making process.

- C. The Port of Longview, as a cooperating agency and the local lead agency representing the cooperating agency Sponsor Ports under NEPA, and in its capacity as the SEPA nominal lead agency, agrees to:
1. Designate a qualified SEPA Responsible Official pursuant to WAC 197-11-910 that shall be responsible for discharging the duties and functions of the Port of Longview as the nominal SEPA lead agency.
 2. Identify and prepare information, data, and analysis in the joint EIS that may be needed to meet the requirements of SEPA and other applicable Washington laws and regulations.
 3. Ensure that all Parties to this MOU are apprised of current events in relation to the joint NEPA-SEPA EIS.
 4. Coordinate with all Parties in identifying issues and defining the scope of the joint NEPA-SEPA EIS.
 5. Coordinate with all Parties to this MOU, to the maximum extent possible, in the development of the joint NEPA-SEPA EIS, consistent with the legal requirements and the Port's responsibilities as the SEPA nominal lead agency and as the NEPA local lead agency representing the cooperating agency Sponsor Ports.
 6. Coordinate with all Parties to this MOU to help identify and assess alternatives for the joint NEPA-SEPA EIS.
 7. Provide to the Corps all relevant public documents that are not exempt from disclosure under chapter 42.56 RCW, the Washington Public Record Act, and any other materials for inclusion in the administrative record for the NEPA decision-making process.
- D. The Ports of Kalama, Woodland, Vancouver, and Portland, as NEPA cooperating agencies and the Ports of Kalama, Woodland and Vancouver, as SEPA co-lead agencies, each agree to:
1. Review the draft and final EIS and/or sections of draft and final joint EIS and provide the NEPA-SEPA lead agencies with comments and/or suggest text, as appropriate, related to the Parties' jurisdiction by law and/or special expertise.
 2. Provide responses to data requests pertaining to issues within its jurisdiction by law or special expertise.

3. Provide technical information and expertise directly associated with its responsibilities or related experience, including review of technical analyses of key subject areas, as requested by the joint NEPA-SEPA lead agencies.
4. Make available to the Corps and/or Port of Longview all relevant public documents that are not exempt from disclosure under chapter 42.56 RCW, and any other materials for inclusion in the administrative record for the NEPA-SEPA decision-making process.

V. DISPUTE RESOLUTION AND TERMINATION

- A. The Joint NEPA-SEPA Lead Agencies agree to try to make decisions by consensus throughout the joint EIS process in regard to scope, content, and timing. The Joint NEPA-SEPA Lead Agencies recognize that the EIS must contain sufficient environmental analysis and a reasonably thorough discussion of potential environmental impacts in order to adequately inform the decision-making of all agencies with jurisdiction and that there may be instances where legal requirements differ between NEPA and SEPA.
- B. In the event any dispute, controversy or claim between or among the Parties arises under this MOU or is connected with or related in any way to this MOU or any right, duty or obligation arising herefrom or the relationship of the Parties hereunder (a "Dispute or Controversy"), including, but not limited to, a Dispute or Controversy relating to the effectiveness, validity, interpretation, implementation, termination, cancellation or enforcement of this MOU, the Parties shall first attempt in good faith to settle and resolve such Dispute or Controversy by mutual agreement in accordance herewith.

1. In the event a Dispute or Controversy arises, either Party shall have the right to notify the other that it has elected to implement the procedures set forth in this Section V. Within fifteen (15) calendar days after delivery of any such notice by one Party to the other regarding a Dispute or Controversy, representatives selected by each Party shall meet at a mutually agreed time and place to attempt, with diligence and good faith, to resolve and settle such Dispute or Controversy.

2. Should a mutual resolution and settlement not be obtained at the meeting of the designated representatives for such purpose or should no such meeting take place within such fifteen (15) calendar day period, then any Party may by notice to the other Party refer the Dispute or Controversy to senior management of the Parties for resolution. Within fifteen (15) calendar days after delivery of any such notice by one Party to the other referring such Dispute or Controversy to senior management of the Parties for resolution, representatives of senior management of each of the Parties shall meet at a mutually agreed upon time and place to attempt, with diligence and good faith, to resolve and settle such Dispute or Controversy.

- C. Should mutual resolution and settlement not be obtained at the meeting of representatives of senior management of each of the Parties for such purposes or should no such meeting take place within such fifteen (15) calendar day period, then any Party may by withdraw from this MOU which shall be effective following notification to the other Party in writing of the issue under dispute. The conditions and requirements of Section VI shall survive termination and shall continue to apply after thereafter.
- D. The foregoing dispute resolution and termination provisions (V(A) through V(C)) shall equally apply to disputes among the remaining Sponsor Ports.

VI. TREATMENT OF DOCUMENTS

- A. The Parties to this MOU acknowledge that all supporting materials and draft documents may become part of the Corps' and Ports' respective administrative records and may be subject to the requirements of the Freedom of Information Act (FOIA), Washington's Public Records Act (RCW 42.56 RCW) and Oregon's Public Records law (ORS 192)). With the exception of documents responsive to a FOIA or state public records production request that are not exempt from disclosure, Sponsor Ports agree not to release these materials to individuals or entities other than the Parties to this MOU or their agents.
- B. The Parties to this MOU acknowledge that there will be some documents (e.g., notes, drafts, and other deliberative documents) produced during the course of drafting a joint NEPA-SEPA document that may be exempt from public disclosure under 5 U.S.C. § 552(b) of the FOIA and RCW 42.56.230-480, RCW 42.56.280, and ORS Chapter 192, or exempt from disclosure under the attorney-client privilege or other statute which exempts or prohibits disclosure of specific information or records. The Parties to this MOU agree to label such draft documents "Draft - Predecisional and Deliberative" or "Confidential – Subject to Attorney-Client Privilege" or with other appropriate confidentiality language, as the case may be.
- C. Any Party that receives a public records or FOIA request that relates to documents that may be protected as deliberative process will invoke the deliberative process, or other equivalent applicable exemption to the maximum extent possible. When any Party determines that all or portions of deliberative, privileged, or confidential documents should be released, that Party will consult with the other Parties to this MOU to discuss and inform them of the documents that are contemplated for release. After the consultation, if the Party subject to the request maintains its determination that the documents are to be released, then the Party will provide the Parties to this MOU timely notice prior to the release of the documents.

VII. ADDITIONAL PROVISIONS

- A. Authorities not altered. Nothing in this MOU shall be construed as limiting or affecting in any way the authority or legal responsibilities of the respective Parties. Nothing in this MOU binds the Parties to perform beyond their respective authorities.
- B. Financial obligations. This MOU is neither a fiscal nor a funds obligation document. Specific activities that involve the transfer of money, services, or property between the Parties shall require execution of separate agreements or contracts.
- C. Amendments. Amendments or supplements to this MOU may be proposed by the Parties and shall become effective upon written approval of all Parties.
- D. Effective date. This MOU shall become effective upon signature by all Parties. This MOU may be executed in one or more counterparts, each of which will be considered an original document.

VIII. CONTACTS

The Primary points of contact for carrying out the provisions of this MOU are:

For the Corps:

Primary POC: Project Manager (503) 808-4352

Alternate POC: Chief, Waterways Maintenance Section (503) 808-4345

For the Port of Longview:

Primary POC: Director of Planning and Environmental Services (360) 425-3305

Alternate POC: Chief Executive Officer (360) 425-3305

For the Port of Kalama:

Primary POC: Economic Development Manager, (360) 673-2325

Alternate POC: Environmental Manager (360) 673-2325

For the Port of Woodland

Primary POC: Executive Director (360) 255-6555

For the Port of Vancouver:

Primary POC: Director of Environmental Services (360) 693-3611

Alternate POC: Economic Development Project Manager (360) 693-3611

For the Port of Portland:

Primary POC: Senior Manager, Marine Security and Waterways (503) 415-6542

Alternate POC: Director of Marine Operations (503) 415-6732

IX. SIGNATURE

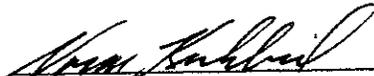
The Parties hereto have signed this MOU which shall become effective upon signature by all Parties.

For the Corps:

Jose L. Aguilar
Colonel, Corps of Engineers
District Commander

(Date)

For the Port of Longview:



Norm Krehbiel
Chief Executive Officer

15 June 2017
(Date)

For the Port of Kalama:

Mark Wilson
Executive Director

(Date)

For the Port of Woodland:

Jennifer Keene
Executive Director

(Date)

For the Port of Vancouver:

Julianna Marler
Chief Executive Officer

(Date)

For the Port of Portland:

Bill Wyatt
Executive Director

(Date)

The Parties hereto have signed this MOU which shall become effective upon signature by all Parties.

For the Corps:

Jose L. Aguilar
Colonel, Corps of Engineers
District Commander

(Date)

For the Port of Kalama:



Mark Wilson
Executive Director

31-May-17
(Date)

For the Port of Vancouver:

Julianna Marler
Chief Executive Officer

(Date)

For the Port of Longview:

Norm Krehbiel
Chief Executive Officer

(Date)

For the Port of Woodland:

Jennifer Keene
Executive Director

(Date)

For the Port of Portland:

Bill Wyatt
Executive Director

(Date)

The Parties hereto have signed this MOU which shall become effective upon signature by all Parties.

For the Corps:

Jose L. Aguilar
Colonel, Corps of Engineers
District Commander

(Date)

For the Port of Longview:

Norm Krehbiel
Chief Executive Officer

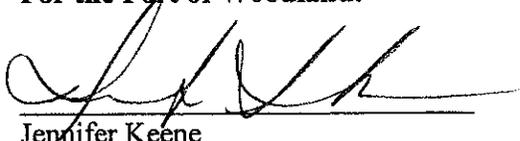
(Date)

For the Port of Kalama:

Mark Wilson
Executive Director

(Date)

For the Port of Woodland:



Jennifer Keene
Executive Director

6/16/2017

(Date)

For the Port of Vancouver:

Julianna Marler
Chief Executive Officer

(Date)

For the Port of Portland:

Bill Wyatt
Executive Director

(Date)

The Parties hereto have signed this MOU which shall become effective upon signature by all Parties.

For the Corps:

Jose L. Aguilar
Colonel, Corps of Engineers
District Commander

(Date)

For the Port of Kalama:

Mark Wilson
Executive Director

(Date)

For the Port of Vancouver:



Julianna Marler
Chief Executive Officer

5/31/2007
(Date)

For the Port of Longview:

Norm Krehbiel
Chief Executive Officer

(Date)

For the Port of Woodland:

Jennifer Keene
Executive Director

(Date)

For the Port of Portland:

Bill Wyatt
Executive Director

(Date)

The Parties hereto have signed this MOU which shall become effective upon signature by all Parties.

For the Corps:

AGUILAR.JOSE.L
UIS.1129737642

Digitally signed by
AGUILAR.JOSE.LUIS.1129737642
DN: c=US, o=U.S. Government, ou=DoD,
ou=PKI, ou=USA,
cn=AGUILAR.JOSE.LUIS.1129737642
Date: 2017.07.11 09:50:15 -0200

Jose L. Aguilar
Colonel, Corps of Engineers
District Commander

(Date)

For the Port of Longview:

Norm Krehbiel
Chief Executive Officer

(Date)

For the Port of Kalama:

Mark Wilson
Executive Director

(Date)

For the Port of Woodland:

Jennifer Keene
Executive Director

(Date)

For the Port of Vancouver:

Julianna Marler
Chief Executive Officer

(Date)

For the Port of Portland:

[Signature]
For: Bill Wyatt
Executive Director

June 23, 2017

(Date)

APPROVED AS TO LEGAL SUFFICIENCY
FOR THE PORT

By: *[Signature]*

Counsel for the Port of Portland

The Parties hereto have signed this MOU which shall become effective upon signature by all Parties.

For the Corps:

Jose L. Aguilar
Colonel, Corps of Engineers
District Commander

(Date)

For the Port of Longview:

Norm Krehbiel
Chief Executive Officer

(Date)

For the Port of Kalama:

Mark Wilson
Executive Director

(Date)

For the Port of Woodland:

Jennifer Keene
Executive Director

(Date)

For the Port of Vancouver:

Julianna Marler
Chief Executive Officer

(Date)

For the Port of Portland:

Bill Wyatt
Executive Director

(Date)