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*Kevin Harada June 17, 2024*

BEFORE THE HEARING EXAMINER  
FOR CITY OF KENMORE

In re Appeal by

Patrick E. O'Brien

APPEAL

Of the City of Kenmore's SEPA Mitigated  
Determination of Non-Significance for  
Glacier Northwest Dredging; PRJ23-0025 /  
SEPA23-0027

**A. Appellant's Name, Address and Phone Number**

*The Petitioners:* (Herein defined as, Patrick E. O'Brien, acting for Concerned Citizen Partners, 6330 N.E. 181 Street, Kenmore, WA, 98028, 206-713-7311), , acting for Concerned Citizen Partners and Citizens After Pollutants Source [CAPS].

**B. Appellant's Statement Describing Standing to Appeal**

Mr. O'Brien and the groups he represents live, work, and/or recreate in the vicinity of the Glacier Northwest Barge facility in Kenmore. The petitioners will be adversely impacted by the City's MDNS, the dredging that is proposed to take place and the operations that will result from the dredging. Specifically, they will be exposed to the historical, cumulative and growing body of pollutants and contaminants within and about Lake Washington and its near and adjacent

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waters, including within or upon its shores, sediments, inflow streams, wetlands and other shoreline-associated habitats, environments, sites or locations.

**C. Identification of the Decision which is the Subject of the Appeal, Including Date of the Decision Being Appealed**

The Decision that is the subject of this appeal is the Mitigated Determination of Non-Significance for SEPA23-0027 (PRJ23-0025). The MDNS was approved on June 3, 2024. The MDNS states that the deadline to appeal the MDNS is June 17<sup>th</sup>, 2024. A Copy of the MDNS is attached to this appeal as Attachment A.

**D. Appellant's Statement of Grounds for Appeal and the Facts upon which the Appeal is Based**

1. Violation: The City of Kenmore is considered by The Petitioners to be in direct violation of the SMA as a result of its inadequate shoreline Toxics inventory, especially concerning pollutant data in Lake Washington.

2. Concerns with Dredging: There are concerns regarding proposed dredging activities by Glacier Northwest without adequate testing for the aforesaid Toxics, including Dioxins, PCBs, Lead, and Arsenic, at a bare minimum. Numerous studies have identified these contaminants in the Kenmore Federal Navigation Channel, Berthing Channel, and surrounding areas in North Lake Washington. The method proposed for dredging, past and

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present, is seen as potentially spreading the contaminants across even wider areas, further impacting aquatic and human life.

3. The appeal highlights various reasons why the Notice of Mitigated Determination of Non-Significance (MDNS) should be reversed or modified, including concerns about incomplete and incorrect information provided by the applicant and the potential for significant adverse environmental impacts, including adverse impacts on Human Health, for matters of environmental health are in fact matters of Public Health.

4. Violations are suspected or alleged to have occurred before, during and since the 2020 reporting update period, which has caused an on-going failure to hold Glacier NW to common, ordinary, reasonable and expected standards, as they request to dredge the berthing channel for their increased barge depth and bulk gravel quantities.

5. The proposed increased Glacier NW barging activities promote the deployment of barges with deeper draft through waterways with double loads of gravel, including at times with previously used concrete and asphalt wastes that lead to more unaccounted concrete and additional asphalt emissions, plus added Toxics to the sediments.

6. Without first fully testing more deeply and vastly wider and more frequently, both before, during and after the fact for legacy contaminants, as well as over larger areas for accumulated COC's and other relevant Toxics, there is an implied requirement for additional accurate data to be collected that will add to the DOE data collected with the intent to add

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data in a more comprehensive approach to determine the sources and locations of the multiple and various Toxics in the said waters, sediments and adjacent shorelines, and thereby and therefore, the SEPA requirements have not and will not have been fulfilled, with a mind to safety of the adversely affected citizens, much less to the sustainability of the affected wildlife.

**E. Relief Sought, Including the Specific Nature and Extent**

1. The Petitioners request the MDNS be declared void and invalid, the decision on the Shoreline Substantial Development Exemption be reversed, and any other appropriate and relevant relief be granted, including The Petitioners request for direct financial relief in the form of legal cost coverage.

2. The Petitioners seek to obtain from the City of Kenmore a comprehensive data set as derived by the use of objective state-of-the art sampling and testing methods that would reveal the results of a comprehensive qualitative analysis of the Toxics encountered in the sediments and the adjacent waters within a defined test area adjacent to the City of Kenmore, as described and defined by a testing plan to be created by the Petitioners, but without modification or interference by the City of Kenmore or the Washington State Department of Ecology, that could be construed to be for the benefit of Glacier Northwest Dredging. Objectivity in and of itself would be the objective, including to have testing and analysis

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performed by private firms not previously engaged by the City, the County, the State or by Glacier Northwest Dredging.

3. Before governmental agencies allow heavy industry to change their berthing channel bathymetry with dredging for deeper draft to accommodate heavier laden barges filled with gravel to sell not only to concrete producers but also to Kenmore Asphalt producers on site, their client, Heidelberg Materials, must do a thorough Toxics Inventory Investigation, which investigation was lacking because of the fact that they are working off of an inadequate and incorrect data base derived from a faulty sampling and analysis plan.

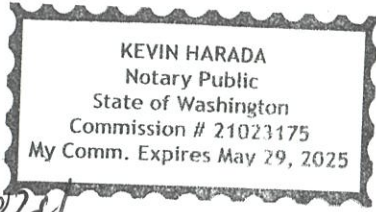
**F. Statement of Appellant**

Appellant has read the foregoing appeal and believes the contents to be true.

Date this 17<sup>th</sup> day of June 2024.

*Patricia E. Quinn*  
By: \_\_\_\_\_  
*June 17<sup>th</sup> 2024*

*Kevin Harada*  
Kevin Harada June 17th, 2024



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Patrick O'Brien <gomutgo@gmail.com>

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**IS THIS ITw: Glacier NW Dredging Discussion**

1 message

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**Janet Hays** <happyhaze@msn.com>

Wed, Jun 5, 2024 at 10:33 AM

To: Patrick O'Brien <patrickobrien859@gmail.com>, Patrick <gomutgo@gmail.com>

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**From:** Patrick O'Brien <patrickobrien859@gmail.com>

**Sent:** Wednesday, May 29, 2024 10:16 AM

**To:** Samantha Loyuk <sloyuk@kenmorewa.gov>; Rob Karlinsey <rKarlinsey@kenmorewa.gov>

**Cc:** Reilly Rosbotham <rrosbotham@kenmorewa.gov>; Debbie Bent <Dbent@kenmorewa.gov>; Janet Hays <happyhaze@msn.com>; Stacey Valenz <svalenz229@gmail.com>; Elizabeth <elizabeth.mooney@comcast.net>; Jim Myers <oda1959@comcast.net>

**Subject:** Re: Glacier NW Dredging Discussion

May 29th, 2024 9:57 A.M.

Hi Samantha:

Thank you for your note.

Since Monday was a holiday and I was out of town yesterday, it is highly important that the interested parties that we meet.

What I like to discuss is the items and methods that will be tested by an independent laboratory and results released to the public.

The tests that must be performed at a minimum are O2, turbidity, PCBs, dioxins, lead, and arsenic. Radioactivity, all solvents mainly from gasoline and other petrochemicals as well as Biologics would also be items that we could test for.

Since the applicant has doubled the size of the dredging area I think we need to also address the method of dredging.

A track ho scoping away at gelatinous muck is very inaccurate and mistakes can be made as to what the dredging is disturbing especially underwater when it's murky. Dredging may mistakenly be done in areas adjacent to the intended spot.

I propose you require a vacuum type dredge be done and the material can be brought immediately to the surface and screened and processed for the contaminants. I can expand on how that "mining operation" would better filter and test the media before being reintroduced into Lake Washington.



This will also keep the dredging in the permitted area away from the mistakes somebody with a large crane (scooping away at it" could make in removing the sediment on the bottom of the navigation channel.

As we know when dredging happens the sediment muck and mire quickly resettle to the lowest point and that action makes the dredging area slough into itself. So there needs to be in agreement on the area outside of the to be dredged area that will in all likelihood contribute material to the sloughing process.

Now for the issue of depth. Once again the vacuum form of dredging will let you control the depth you are actually penetrating to remove the material from the navigation channel.

If that vacuum method is not used then a standard of 6 feet below the area to be dredged in and out of the pit should be tested before, during, and after the dredging. A baseline measurement is part of any scientific analysis and not to require one is bad science and bad policy.

If the applicant is ready to accept these terms then the dredging may be more acceptable.

Further the goal for the navigation channel is multipurpose to not only facilitate shipping in the area but also to expand the knowledge base the city has of the hazards that lay in Kenmore waters.

What an excellent opportunity to get that information while we discover publicly what exactly the health risks are.

You understand that the state does not want to pay for the cleanup and that Gary Sgt. and others would be very put out to have to do the required testing and remedial actions needed to bring the navigation channel and adjoining property into compliance with ecological standards as well as the signed off on consent decree.

Unless we know what the risks are we cannot properly inform the public then form a suitable remediation plan.

Using current technology we may not be there yet with the desired technology to collect and destroy the hazardous materials.

That being said, all the alternative suggestions above are prudent and beneficial to the habitat, the citizens and especially any liability the City of Kenmore can avoid. Yes you should want and demand more information.

It's a hot cake.

So I wish you well, and I hope you see that there are other requirements to be made of this applicant.

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Collectively we only got one shot at doing it correctly. Once again let's not be in a rush and let's start the testing now before any thing else happens.

Trying to work it out before lawyers get involved is what's desired. Let's try to keep it that way.

Thank you very much and I look forward to our meeting possibly Friday? How's Debbie bent schedule this week?

Sincerely,  
Patrick E O'Brien  
Kenmore resident.

On Mon, May 27, 2024 at 8:33 PM Samantha Loyuk <sloyuk@kenmorewa.gov> wrote:

Hi Pat,

I'm following up on my email below. Did you want to schedule a meeting for Wednesday at 1:00 or 2:00pm? If I don't hear from you by tomorrow end of business (5/28, 5pm), I will assume that you do not want to meet. Thanks.

**Samantha (Sam) Loyuk** *Pronounced Low-Yuke*

Development Services Director | City of Kenmore

18120 68th Ave NE | Kenmore, WA 98028

Desk: (425) 984-6162 | SLOYUK@kenmorewa.gov

-----Original Appointment-----

**From:** Samantha Loyuk

**Sent:** Wednesday, May 22, 2024 8:34 AM

**To:** Reilly Rosbotham; Patrick O'Brien (patrickobrien859@gmail.com)

**Cc:** Debbie Bent; Janet Hays; Stacey Valenz

**Subject:** Canceled: Glacier NW Dredging Discussion

**When:** Wednesday, May 22, 2024 9:30 AM-10:30 AM (UTC-08:00) Pacific Time (US & Canada).

**Where:** Kenmore City Hall; Community Meeting Room

**Importance:** High

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Hi Patrick,

I'm canceling (rescheduling) this meeting based on the attached correspondence. Next week, City staff are available to meet on Tuesday afternoon at 1-2:00pm or 2-3:00pm. Please let me know if either of these times works and I will send a meeting request.



Also, please clarify if this meeting is to discuss future development of Lakepointe or dredging at Glacier NW. As mentioned on our website, the City anticipates issuing a SEPA determination of mitigated non-significance (MDNS). We will continue to update the website and will send notification to parties of interest when the decision is issued.

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18120 68th Ave. NE  
Kenmore, WA 98028  
(425) 398-8900

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DATE : 6/17/2024 10:18 AM  
OPER : E1ly  
TKBY : E1ly Gallo  
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Deposits/Other Deposits/Other 134.40  
Patrick O'Brian 134.40  
SEPA 134.40  
001.059.34581000 -134.40

Paid By:Patrick O'Brian  
Cash 134.40

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APPLIED 134.40  
TENDERED 134.40  
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